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**TOWN OF HOPKINTON  
PLANNING BOARD MEETING**

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**October 7, 2009  
7:00 P.M.**

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**Hopkinton Town Hall  
One Town House Road  
Hopkinton, Rhode Island 02833**

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**CALL TO ORDER:**

The October 7, 2009 Hopkinton Planning Board meeting was called to order at 7:02 P.M. by Chairman Alfred DiOrio.

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**MEMBERS PRESENT:**

Alfred DiOrio, Ray Cox, Joseph Escher and Donald Simmons were present. Hazel Douthitt arrived at 7:13 P.M. Howard Walker was absent.

Also present were: James Lamphere, Town Planner; Scott Levesque, Town Solicitor; Barbara Capalbo, Town Council Liaison; and, Harvey Buford; Conservation Commission.

**APPROVAL OF MINUTES**

MR. ESCHER MOVED TO APPROVE THE MINUTES OF THE SEPTEMBER 2, 2009 MEETING AS AMENDED.

MR. SIMMONS SECONDED THE MOTION.

Messrs. DiOrio, Escher, Cox and Simmons approve.

*Motion passes.*

**OLD BUSINESS**

*Mr. DiOrio recuses and Mr. Cox assumes the Chair.*

**Extension of Preliminary Plan – Minor 3 Lot Subdivision, with street creation – Sarah Land Company, Plat 25 – Lot 54, Maple Court. Sarah Land Company, LLC, applicant.**

Joe Morrone, the applicant, was present to renew Preliminary approval of a three lot subdivision with a one year extension.

Mr. Escher asked what has been done on the property in the last year.

Mr. Morrone said he started grading the slope from the southeast to the east side and has imported approximately 10,000 yards of top soil to revegetate.

Mr. Lamphere said that on October 1, 2008, Mr. Morrone was granted a one year extension of this application with the payment of a two hundred dollar extension fee. The applicant did get in the request for a renewal extension prior to the expiration date of October 1 of this year. He would recommend the same be done.

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2 Mr. Levesque said one of the conditions of approval was to prepare an easement for  
4 drainage and detention. He suggested Mr. Morrone contact Mr. Lamphere for conditions  
that remain unfulfilled and the time frame in which they will be accomplished.

6 MR. SIMMONS MOVED TO GRANT A ONE YEAR EXTENSION OF PRELIMINARY WITH  
THE FEE PAID FOR THE EXTENSION.

8 MR. ESCHER SECONDED THE MOTION.

Messrs. Simmons, Escher and Cox are in favor.

10 *Motion passes.*

12 **Final Plan – Andaloro Minor Subdivision – Plat 8 - Lot 16, Tomaquag Road.  
Sandra S. Andaloro and Jennifer York, applicants.**

14 Attorney George Comolli represented the applicant for the 3 Lot Minor subdivision,  
16 stating it is the intent of Ms. Andaloro and her daughter, Jennifer York, to create a  
working farm at this location. The larger parcel would have 34 remaining acres. The  
18 issue that arose is that there are three residential structures that remain. They are  
proposing, pursuant to the Farm Viability Ordinance which will allow the use of two of  
20 the buildings as dwellings for farm use and the smaller guest cottage as a retail farm  
building, all of which comply with the ordinance. There was concern about a family  
burial plot on the property. They will agree to any other conditions, within reason.

22 Mr. Buford said he believes this is what the Farm Viability Ordinance was written for.

24 Mr. Comolli said he would agree with Mr. Buford. With a minimum of 30 acres, they  
26 qualify for federal and state grants. It is their intent to have free range chickens and cattle  
and to eventually have a farm stand there.

28 Mr. Lamphere said he sees this as a fine solution to an existing condition.

30 Mr. Levesque said there is a special use permit that allows the church to be on the  
32 property and another that allows multiple dwellings to be on one lot. The applicant has  
already agreed to give up the special use permits and abandon those uses. Something  
34 appropriate was to be filed in the chain of title indicating that they intend to abandon the  
church use and the multiple residences on the particular lot.

36 Mr. Comolli said they intend to abandon that use and there will be something in the Land  
38 Evidence Records that indicates that. He added that could be made a condition of this  
subdivision.

40 MR. ESCHER MADE A MOTION TO APPROVE THE FINAL PLAN SUBMISSION  
42 SUBJECT TO THE FOLLOWING CONDITIONS: THE ABANDONMENT OR OTHER  
TERMINATION IN A FORM SATISFACTORY TO THE TOWN AND TO THE SOLICITOR  
44 THAT WHICH BOTH OF THE SPECIAL USE PERMITS WOULD BE ABANDONED AS TO  
THE PROPOSED LOTS 2, 3, AND 4, AND THE SPECIAL USE PERMIT AS TO THE USE  
46 OF THE PROPERTY AS A CHURCH WOULD BE ABANDONED OR OTHERWISE  
TERMINATED AS TO ALL FOUR OF THE LOTS; WITH THE SPECIAL PERMIT  
48 REGARDING THE TWO DWELLING UNITS ON THE PROPOSED LOT 1 TO BE  
RESOLVED IN A MANNER SATISFACTORY TO THE TOWN AND TO THE SOLICITOR  
50 AND THE ZONING OFFICER; SUBJECT ALSO TO THE CONDITION THAT THERE IS  
AN INVOLABLE FIFTY FOOT NO-CUT ZONE ALONG THE FRONTAGE OF LOTS 2, 3  
52 AND 4.

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2 THIS FINAL APPROVAL IS BASED ON THE FOLLOWING FINDINGS:

- 4 1. To the extent that there is any potential for further subdivision of Lot 1, the  
6 applicant's proposed use of that entire lot for agricultural purposes make it  
8 inappropriate to consider, at this point, the impact of what is now a purely  
10 hypothetical future subdivision;
- 12 2. All proposed four lots have adequate and safe access to a public street, namely  
14 Tomaquag Road;
- 16 3. That all four lots are physically accessible from the street on which they front,  
18 Tomaquag Road, and are accessible to police, fire and other emergency  
20 vehicles;
- 22 4. This is not a state designated scenic highway;
- 24 5. The proposed lots conform to the Zoning Ordinance as supplemented by  
whatever special use permits are currently in force;
- 26 6. The proposed lots conform to the Comprehensive Plan;
- 28 7. The proposed lots minimize conflict of adjacent uses, driveways, buildings  
and other structures, streets, hills, curves and other existing features; and,
- 30 8. That existing stone walls be preserved in the manner that the applicant has  
32 indicated they would be.

34 MR. SIMMONS SECONDED THE MOTION.  
36 Messrs. Escher, Cox, Simmons and Ms. Douthitt approve.  
38 *Motion passes.*

40 *Mr. DiOrio returns and resumes Chair.*

### 42 **Master Plan – Comprehensive Permit – Rockville Mill – Plat 30 – Lot 43, Canonchet 44 Road. Rockville Mill, LLC, applicant.**

46 Attorney Robert Berkelhammer represented the applicant. The applicant also had a court  
48 stenographer present.

50 Mr. Berkelhammer said the mill is recognized in the housing element of the  
52 Comprehensive Plan. Due to financial realities of the project, eight (8) units did not  
make sense and they could not move forward. They are now proposing fourteen (14)  
units and have expanded the portion of the mill available for housing to a larger section  
so housing is spread out. They will also restore the back building. They will be seeking a  
waiver of certain fees which is in the Board's discretion. This has been funded in part  
through community grants. Mr. Berkelhammer requested the application package be  
marked as Applicant's Exhibit 1.

54 Marek Zamojski, owner of the property, said he was initially planning an office building.  
56 They now have some offices, woodworking and manufacturing. He said he was  
58 approached by former Town Planner, Jason Pezzullo, to help the town with affordable  
housing. They originally were planning twelve apartments but applied for eight because  
their previous financial advisor said that eight apartments would not need a  
sprinkler system. He believes it is a great project with a beautiful building to restore and  
that this project will serve the community well.

60 Geoffrey Marchant, Community Development Consortium Director, said they knew they  
62 needed historic tax credits and got the mill listed on the National Register of Historic  
Places. They have multiple funding sources and multiple approvals. They had a joint

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2 meeting with DOH, DEM wetlands and DEM wastewater and worked out a compromise  
4 where the collection of stormwater will be managed on either end of the lot which  
6 resulted in their wetlands approval. They have been to the DOH for a variance on their  
8 wellhead protection radius which was granted and which should give them source water  
10 approval. Bill Gordon, looked at the numbers and saw that the eight units would not  
12 work. Approval of this project redevelops an existing site served by cesspools, which  
14 would be replaced with a bottomless sand filter. He said this project takes a blighted  
16 building, the small mill, repairs it, and puts it back to productive service. The larger mill  
18 will be restored to Department of Interior standards putting a piece of Hopkinton back in  
20 Rhode Island history for the purpose of 100% affordable housing, for profit.

22 Geralyn Small, Civil Engineer, Northeast Engineers and Consultants, presented her  
24 resume as Applicant's Exhibit 2. She said Moscow Brook runs through the northern  
26 portion of the site and is greater than ten feet wide so it is subject to a 200 foot perimeter  
28 wetland buffer through RIDEM, and which covers a majority of the site, about 75%.  
30 They are using the existing footprints of the buildings that exist on the property. They  
32 will be fixing the parking areas giving the site a drainage system that it does not  
34 currently have and will improve the septic system that is on site by proposing to install an  
36 advance treatment system that includes an AX100 system that will go into a bottomless  
38 sand filter. The AX100 system has been approved as a nitrogen reducing technology  
40 through the State of Rhode Island. They are expecting the normal level of nitrogen  
42 removal will get down to less than 10 milligrams per liter for improvement toward the  
44 wetlands on site. They will replace the two existing wells on site with a new public well  
46 that has been approved for location through the DOH. They can control the point source  
48 pollutants in the area which will control 80% of the 200 foot radius associated with the  
50 public well. There is no existing drainage system and all stormwater now drains toward  
52 the Moscow Brook. It will continue that way but they have ensured that they will supply  
water quality control so that sediments will run out with the stormwater and will  
discharge a cleaner surface water toward the wetlands area at two different points. The  
drainage system has been designed to reduce the peak runoff that is associated with up to  
a one hundred year storm meeting all new regulations. They are proposing to improve  
parking. Fire access will be from all four sides and the building will be sprinklered.

36 Ron Wood, Principal of Urban Design Group, architect for the project, presented his  
38 resume as Applicant's Exhibit 3. The initial design concept for the mill was for eight  
40 units. The fire code would allow six units in the main building without sprinklers. They  
42 are now planning 12 units in the main building and 2 ADA units in the smaller mill.  
44 The majority of the parking will be in the front which will be redesigned, striped and  
46 landscaped for 32 parking spaces, one which is a handicap space for the post office and  
48 one handicap space and two additional spaces at the small mill. Twenty-eight spaces  
will be for the apartment units and six spaces reserved for the post office. With the new  
plan, the post office remains. The building is currently 26% occupied with the post  
office, two commercial spaces, and the owner's workshop in the basement. The main  
mill is in good structural condition; the smaller mill is in poor condition.

48 Mr. Berkelhammer presented a plan of the size of the units as Applicant's Exhibit 4.

50 Mr. Wood continued, there is circulation around the building to provide fire access.  
52 There is a location for a dumpster and the site will be extensively landscaped with  
benches and lighting. The large mill has a partial basement currently used by the owner  
as a workshop that will used for mechanicals space and storage. The smaller mill's ADA

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2 apartments will have their own laundry. The entrance to the post office on the first floor  
4 remains. Current commercial space will be used for residential. There are two fire stairs  
6 to serve all three floors providing direct egress to the outside. The second floor stairs  
8 provide two means of egress as provided by fire code. All apartment sizes exceed Rhode  
10 Island Housing standards. Most of the outside of the building will not visually change.  
12 The stonework is to be cleaned and repointed. There will be a new asphalt shingle roof,  
14 new wood cladding on the monitor roof, all windows will be replaced and the chimneys  
16 repointed. The roof structure in the small mill will have to be rebuilt, as will the floor  
18 system. They are applying for tax credits which means that beyond their meeting  
20 building and fire code, they have to meet rehab standards of the National Park Service.  
22 All work proposed for the building has to go through the Rhode Island Historic  
24 Commission for review and approval.

26 Mr. Berkelhammer asked, when the unit number increased from 8 to 14, what did that do  
28 to the size of the units?

30 Mr. Wood's reply was, not much. The new units are absorbing the ground floor space  
32 which is currently commercial and storage.

34 Mr. Berkelhammer asked if the site and building design is related to the surrounding area.

36 Mr. Wood said it captures the structure and puts it to more productive use.

38 Bill Gordon, consultant and financial expert, said he works with both non-profits and  
40 profits with developing affordable housing, using initiatives to finance, and he identifies  
42 sources of financing. He presented past projects he has found financing for as  
44 Applicant's Exhibit 5. He was brought into the project to find an investor for the historic  
46 tax credits. He said he first studied it as an eight unit project and the numbers didn't  
48 work. He reworked the numbers and was able to get an investor committed to buying  
50 both the state and federal historic tax credits. Mr. Gordon said this is a 3.7 million dollar  
52 project. The eight units had over a \$400,000 financing gap. There is still a small gap but  
the developer is willing to give up some of his development fee. There will be 14 units  
and the post office producing income. The more units enable them to spread out the  
fixed costs through the larger number of units. Upgrading the fire system was an  
additional cost which is mitigated by the ability to raise the historic tax credits. HUD  
and RI Housing, which would provide most of the financing, said eight units was too  
small. The USDA is guaranteeing the first mortgage, but would not give him a loan on  
an eight unit project. Most of their financing is approved. Mr. Zamojski is a for-profit  
developer acting like a non-profit developer. The non-profit developer would be allowed  
a 10% developer fee by RI Housing. The developer fee here comes to less than 10%,  
\$324,000. He presented Applicant's Exhibit 6, Developer Fee Analysis which shows that  
Mr. Zamojski's profit will be about 4.5%

Mr. Berkelhammer asked if this project went below 14 units, could it be feasibly  
constructed.

Mr. Gordon replied that they wouldn't get financing.

Edward Pimentel, AICP, Pimentel Consulting, presented his resume as Applicant's  
Exhibit 7. He said the town is doing well in it's elderly affordable housing but needs  
one-half of its affordable housing for family, both rental and owner occupied, and the

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2 town needs slightly over 10% for special needs by the year 2025. The town has exceeded  
4 by 53% the need for elderly affordable. The town only has 10% of the need for family  
6 housing and a third meeting the needs of special needs groups. This project is unique in  
8 that it will meet the needs for all the groups and provide units toward the Town's needs  
10 of family affordable. The housing element says affordable family rental is the greatest  
12 need in the town. The project itself will help to increase from 7.34% to 7.74 %  
14 affordable housing in town. Family affordable would go from 10% to 15%. The  
16 variances and waivers associated with this project are pre-existing conditions. They have  
18 a pre-existing mill site that is going to be restored and rehabbed. There will be little or no  
disturbance to the property because the building is already there. The most glaring  
variance is the density requirement. Multi family is a permissible use. The property is in  
an RFR-80 zone and the site is approximately 3 ½ acres that have already been improved.  
Balancing that, there will be little disturbance of the parcel, restoring and preserving a  
documented historic mill site, and will provide much needed affordable family rental  
housing in ten of the fourteen units. He said the project clearly meets the affordable  
housing statutes.

18 Joseph Lombardo, Land Use and Planning Consultant, JDL Enterprises, presented his  
20 resume as Applicant's Exhibit 8. Mr. Lombardo did the fiscal impact study showing that  
22 the cost per Hopkinton resident is \$737 per person; \$9100 per student. He foresees 28  
24 occupants and three school age children. The total revenue to the community will be  
26 just under \$15,000. It will cost the town \$48,000 for all encompassing, all municipal  
services. Some additional revenue may come to the community through upfront fees,  
although those might be waived, leaving an approximate \$30,000 shortfall to the Town, a  
number which will fluctuate.

28 Mr. Lamphere said the applicant is asking for a significant density bonus. Any density  
30 bonus that the Board would consider here should not be a precedent for any other project.  
32 This project is unique because there is an existing building. The applicant is attempting  
34 to introduce needed family affordable housing in a manner that does not consume a lot of  
36 land. Mr. Lamphere commented that Mr. Lombardo predicted 3 school age children  
38 while Mr. Pimentel projected 5 with possibly one or two more children. Mr. Lamphere  
40 said he would suggest the yield could be as many as 14 children and noticed that it  
42 appears that Mr. Lombardo did not compare similar housing. The intention here is family  
44 housing. He feels Mr. Lombardo's projection of \$30,000 could be way off the mark. A  
46 side benefit of this project is that it is preserving a historic asset of the town. He said that  
48 as a town we are not into granting density bonuses for preserving a historic asset; the  
50 purpose of the comprehensive permit is to produce affordable housing. This project does  
52 do that without consuming a lot of land, does not affect the rural character and fits nicely  
into the area. He would look at it first for its affordable housing benefit. With a few  
caveats, he supports this project. He is concerned that if not done properly, it could land  
itself to becoming a project. He wants to see safeguards in place that it does not become  
overpopulated. HUD has a standard of one person per room. He wants to see a good  
monitoring agent and managing company overseeing it so that the neighborhood is not  
blighted; then it could be a very beneficial project. He stressed that this must be done the  
right way. He said the engineer said they are moving a cesspool and putting in a  
denitrification system but would like the engineer to provide how the substantial  
additional flow would protect neighboring wells. Mr. Wood has indicated the playground  
location has been located next to the bottomless sand filter of the septic system and Mr.  
Lamphere believes a better place could be found.

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2 Mr. Levesque asked when the Master Plan submission was certified complete.

4 Mr. Lamphere said the submission was certified complete on September 23. The Board  
has until January 21, 2010 to render a decision on the Master Plan.

6  
8 Ms. Douthitt said she sees the need for an area for children to play and asked if they  
would have a fenced area for the children and what agency will monitor the size of  
10 families that will go in, stating that there are waiting lists of families to be placed in  
rentals.

12 Mr. Wood said initial location for the playground was adjacent to the septic system which  
is relatively flat ground. They are looking at a different location, closer to the well.  
14 Traffic past the parking area would be minimal, basically for the two back units. They  
may put in speed bumps in that area. He assumes there will be a management company  
16 to maintain the landscaping.

18 Mr. Berkelhammer said the Westerly Housing Authority has agreed to be the monitoring  
agent. Rhode Island Housing qualifies the company that manages the property. State  
20 money carries with it safeguards in terms of how this will be operated. He said that from  
experience, people that will move here may likely be local residents. With federal money  
22 involved, it can not be limited only to local residents.

24 Mr. DiOrio said no one has said whether there would be a manager on site to monitor  
who is living, how they are living, too many, too few. He asked who is taking care of all  
26 that.

28 Mr. Gordon said there will not be an onsite manager living there, but there will be a  
professional management company hired who will have to be approved by RI Housing.  
30 There are deed restrictions, income restrictions, and family size issues that they monitor  
and do the paperwork. They have to make sure they are conforming to all the  
32 affordability deed restrictions. The management company will be there every day and be  
responsible for landscaping, snow plowing, trash removal, and making sure common  
34 spaces are clean. They will be there virtually every day, maybe not on Saturday and  
Sunday. They will be there every week, available with a twenty-four hour emergency  
36 number, and will have a system set up; if something happens, it will be addressed right  
away.

38 Mr. Cox said there are two parking spaces per apartment for the residents and asked  
40 where visitors will park.

42 Ms. Small said 36 spaces are provided. According to the Zoning Ordinance, there are no  
residential requirements addressed for parking in Hopkinton. They have provided two  
44 spaces per unit and an additional six spaces that can be used by the post office. There  
will be some shared parking with the post office. Should the post office require more  
46 than six spaces, there is going to be available spaces from the units.

48 Mr. Cox said in these situations, people have their own spaces and expect them to be  
available when they come home from work. He asked where the mail trucks will park.

50 Ms. Small said she has not done a parking usage analysis but according to studies done  
52 previously, most towns encourage overlapping usage.

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2 Mr. Cox said he could see this as a problem.

4 Mr. Pimentel said typically, most towns want shared parking. He used Rumford Baking  
6 in East Providence as an example where shared parking works and reduces the amount of  
impervious surface.

8 Ms. Small said there is a loading dock for mail which is outside of the parking area.

10 Mr. Cox said he would like to see something from the fire department that this  
12 arrangement is acceptable to them.

14 Mr. Wood said they have met with the Fire Marshal and Fire Chief for review.

16 Mr. DiOrio asked for an elaboration on the sewerage disposal and how big the sand filter  
will be.

18 Ms. Small said the septic system is not approved by DEM at this point. The intention is  
20 to provide the sand filter with an AX100 treatment system, sized and designed in  
accordance with the regulations. The design flow is for just over 3,000 gallons per day.

22 Mr. DiOrio said the bottomless sand filter has an expected life after which it will need to  
24 be replaced. He asked how they propose this affordable project pay for the maintenance  
of the system and how replacement of the system will be handled.

26 Mr. Berkelhammer said Rhode Island Housing requires reserves to keep the project  
going.

28 Mr. DiOrio said, what he hears is somebody will be assessing what these projected fees  
30 will be over the life of the project and somehow these monies will be set aside.

32 Mr. Gordon said they start with the belief that it will be 25 years before something  
34 substantial will happen. About \$5000 per year goes into a replacement reserve,  
accumulates, and is there for replacing significant items. There is money in the operating  
36 budget that is set aside every year for use 20 years from now. Rhode Island Housing and  
the managing agent monitor it and do a yearly audit that is provided to the entities that  
provided the financing.

38 Mr. DiOrio asked what happens to the traffic once it leaves the site.  
40

42 Ms. Small said they plan on doing a traffic analysis of the project prior to the Preliminary  
submission.

44 Paul Toracinta, 320 Spring Street, Rockville, wants to see the mill revitalized but thinks  
46 even eight units are too much on 3 acres. He said water is hard to come by and asked  
how it will affect him. He was on the Chariho School Committee and said that every  
48 October they do a census of students. Moderate to low income rentals had 2.2 kids per  
household. He doesn't agree with any of the numbers he's heard. State agencies are  
50 providing financing, not banks. He moved to Rockville from Main Street in Hope Valley  
to get away from the low to moderate income kids that were vandalizing his property.

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2 Ms. Capalbo said 14 apartments will never have an onsite manager and nothing will  
4 happen quickly when the management is contacted. Page A-0-1 shows parking for two  
ADA units but has only one ADA parking space.

6 Mr. Woods said there were 2 ADA spaces at the smaller mill, one on each level.

8 Ms. Capalbo said three washers and two dryers are not enough for 14 apartments. She  
wants to know how the laundry will affect septic, water and wells. Page A-0-2 shows  
10 the three bedroom apartments with rooms 8 foot by 11, and 8 foot by 9 in a two bedroom  
which she believes is too small. She asked how the town is indemnified in case of  
12 default; where are the town's risks and responsibilities; where does the town get the  
money if payment is required; and, what is the town supposed to do if the project is in  
14 default? The town has put in \$223,000 and \$98,000 through CDBG, for this project. The  
fiscal impact report shows three kids at \$33,500. She commented that Mr. Pimentel's  
16 report said 48% of the homes in Hopkinton have children so that would mean 6 or 7  
children. Therefore, that will be over \$100,000 per year for Chariho. We have done  
18 affordable housing for the elderly and that is not rented. She asked why this could not be  
eight units at rent control and six at market rate.

20 Mr. Pimentel responded saying affordable housing is top heavy for elderly in Hopkinton,  
22 which is why it is empty. There is opposition to family affordable because of the impact  
on the school system but it has to be balanced by meeting the need in the affordable  
24 housing plan and in the housing element of the Comprehensive Plan He said the need is  
offset by what the town is trying to accomplish as a greater goal, the needs of the  
26 residents.

28 Mr. Gordon said mixed-income affordable meets a need. The financing they need to pay  
for this and subsidized costs to make it feasible is tied to the number of affordable  
30 units. There is not much difference in rents between fair market rates and Section 8 or  
subsidized rent; rents are based on what is called the fair market rent. In this community  
32 they are very comparable. The size of a bedroom is a personal decision and a tradeoff for  
the ability to pay the rent. All bedroom units exceed all Rhode Island Housing and the  
34 state minimum standards for size.

36 Mr. Lombardo said Mr. Toracinta's number of 2.2 school age children was generated in  
the 1960's and 70's.

38 Mr. Toracinta said the numbers are from 1998.

40 Mr. Lombardo said there continues to be a decline in household size. In Rhode Island it  
42 is under 2.5 persons per household. Mill complex units and apartments do not attract  
families with children because these types of buildings do not accommodate the needs of  
44 families. One and two bedroom units do not attract families with children, no matter  
what the income range. The law is the Low and Moderate Income Housing Act. The  
46 range of income varies. The folks that will be the potential tenants here are not  
necessarily low income. Moderate income is \$40,000 to \$50,000 as a family.

48 Peter Marek, Rockville, asked why the fiscal impact and scrutiny on this project when  
50 this kind of scrutiny is not given to the larger developments, single family two acre or  
cluster developments, which have historically proven to be an incredible cost to the town.  
52 That type of development holds far more impact and an uncontrolled number of children.

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2 With the restricted incomes and the cost of having families, there is an issue on areas for  
4 children to play. With 48% of the households in Hopkinton having children these  
6 children will not be restricted to stay on this property. Density with Canonchet Woods, a  
8 recent project with a low income component, was to have 30 houses. A portion was  
10 given to Women's Development Corporation who was allowed to put in 20 affordable  
units. They were given a bonus of 4 houses with along with the 30 original houses  
bringing it up to 34 market rate houses to make it economically feasible, and in addition,  
the building cap was waived. There is a discrepancy in density and what is being  
allowed in different areas.

12 Annie Rice, 226 Canonchet Road said there is a lot of traffic at times with trucks carrying  
14 lumber. The access from Route 138 has two small bridges and she is concerned about  
16 how much they can support, asking how this project will affect the condition of the road;  
will it support this?

18 Ms. Small said they have yet to complete a traffic study.

20 Ray Ainsworth, Rockville, said he lives near the mill and rented it for 6 years. He is  
22 concerned about it being a project and the traffic. There is a bus stop on the corner,  
outside the parking lot. You can not see traffic from the left. Controls must be in place  
so the town doesn't go down hill and he will lose his property value.

24 Christopher Tanguay, 328 Canonchet Road said his property borders the mill property on  
26 two sides; the other two sides are roads. He is concerned about trespassing on his land. It  
has happened before and he has been vandalized in the past. He is concerned about what  
28 he will be dealing with and the occupancy level. He asked if there will be a fence  
and a buffer zone for sound, to protect his property.

30 Mr. DiOrio said that since they have no answers now, that will be put in their impact  
32 statement.

34 Mr. DiOrio said there are three items he would like to see covered: the fee issue; if the  
36 Planning Board is interested in a site visit before there is a decision on the Master Plan;  
and, an impact statement that covers a number of concerns that have been raised this  
evening.

38 Mr. Lamphere said he will do research on the fees.

40 Mr. DiOrio asked the Board if they wanted a site visit and they agreed there should be  
42 one before the next meeting. Mr. Lamphere will arrange that with the applicant.

44 Mr. DiOrio said the Board has the authority to request an impact statement and has  
46 identified some topics that would warrant further attention: freshwater wetlands; noise  
and air quality; schools, because of difference of opinion in numbers; traffic/roads which  
48 should include bridge concerns, bus stop, parking; vegetation, specifically with regards to  
landscaping, and to address the southerly abutting property owner; groundwater; police,  
50 fire; and, lighting. He added, he will suggest, per Mr. Lamphere's reference, Article III,  
General Requirements, Section E, Impact Statement, that we are required to inform you  
that we would like you to do an impact statement at the Master Plan stage.

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2 Mr. Levesque asked that the transcript be provided to us so that it could be incorporated  
4 into the minutes.

4 Mr. Berkelhammer said they have to make a decision if they are going to get it  
6 transcribed. If they do, they will make a copy available to the Board.  
8 Mr. Levesque asked when he expects to make that decision. Before the next meeting?

8 Mr. Berkelhammer's response was not necessarily.

10 Mr. DiOrio said we will put another thing in the forefront, that will be whether the  
12 transcript is going to be provided.

14 Mr. Lamphere said the Board is going in a good direction, open minded but with no  
16 adverse impact to the surroundings. There will be a public hearing as part of Preliminary.  
18 Mr. DiOrio said he would entertain a motion to continue this Master Plan for  
20 Comprehensive Permit to our next meeting, November 4 at 7:00 P.M.

18 MS. DOUTHITT SO MOVES.

20 MR. ESCHER SECONDS THE MOTION.

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

22 *Motion passes.*

### 24 **Return to: Advisory Opinion – Groundwater Map – Consideration of Future 26 Amendments to the Groundwater and Wellhead Protection Map and Ordinance**

26 Mr. Lamphere said he took a second look at the text he gave the Board last month and  
28 realized it was the wrong text amendment. The Town Council only wanted an update of  
30 the map. This much shorter text amendment is what he gave to the Council. A public  
32 hearing has been scheduled for November 2 for the update of the map and the ordinance  
with includes this text. There was a slight change on the groundwater map as well, in the  
northeast corner of the town. He wants the line exactly as it exists today. That update is  
only for the four new wells. Mr. Lamphere would like a motion on that.

34 Mr. DiOrio asked if he could move this advisory lower on the agenda to fit in the Pre-  
36 application still on the agenda.

38 Mr. DiOrio also wanted some direction on the Dark Sky Ordinance.

40 Mr. Lamphere said he would think it prudent, because of the complexity of the Dark Sky  
Ordinance, to put it off to a later date and focus on the Pre-application of Brushy Brook.

42 Mr. DiOrio suggested they move the Pre-application for Brushy Brook up to next on the  
44 agenda and move the advisory opinion for the groundwater map which needs an opinion  
this evening, and the advisory on the Dark Sky Ordinance will move to next month's  
46 agenda

### 48 **NEW BUSINESS:**

50 **Pre-Application - Comprehensive Permit – Brushy Brook – Plat 32 – Lots 1 through  
52 71, Dye Hill Road. LR 6-A, LLC, applicant.**

Attorney William Landry, a partner with Blish and Cavanagh in Providence, represented  
the applicants. Also present was Christopher Duhamel, DiPrete Engineering.

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2 Mr. Landry said this is not a subsidized project; there is a private developer that has no  
subsidy money. There may be a token subsidy of \$1000 per unit simply to satisfy the  
4 statutory requirements. The subsidy for this type of project is the density bonus that goes  
along with the application. They provide the affordable housing to the town; what they  
6 get is a density bonus. The density bonus in this case on a percentage basis is very  
moderate compared to almost every other private sector comprehensive permit; certainly  
8 much more moderate than the one involved in the Clarks Falls Road project. They are  
starting with a three hundred fifty-eight (358) acre site. The town's affordable housing  
10 plan emphasizes creating affordable housing through special density zones, planned unit  
development zones. In the past the town has used these planned unit development zones  
12 to concentrate density for particular purposes. That is exactly what they are dealing with  
on this site. The site is presently zoned as a planned unit development district as base R-  
14 80 zone but there was a zone change in 1997 that officially rezoned it from rural farm  
residential 80 to planned unit development district. It was an unusual approval. There  
16 was a Master plan associated with it but it was a highly evolved approval to the point  
where lots were actually created for the single family dwellings and the property has been  
18 taxed based on that approval for 12 years. They have seventy-one (71) lots that emerged  
from that 1997 approval which remains the approval regiment for the project. They are  
20 basically looking at something a little greater than two times base density, a total of three  
hundred (300) units, twenty-five percent (25%) of which would be moderate income  
22 units. Because they do not have subsidy money, they can not promise they will be able to  
deliver low income units. They are looking at moderate income units and the percentage  
24 of the income, based on median income, that will occupy these units, is going to depend  
on which program they ultimately go under with Rhode Island Housing. It will be  
26 anywhere from 80 % of median income in this area to 120% of the median income in this  
area. In either case, these are working families generally earning \$50,000 to \$60,000 a  
28 year or more. It is a home ownership project. The project design, which he will get to  
conceptually tonight, contemplates about two hundred (200) acres of open space being  
30 preserved. There is no infrastructure in the area so they would have onsite waste water  
treatment systems and private wells. The waivers that would be required are basically  
32 dimensional waivers, lot size, frontage, setback waivers, all listed in their application.  
They are asking for a fee waiver of the Master Plan fee for a project of this size would  
34 amount to over \$30,000. They are not proposing to take more than a couple of meetings  
to present this so they do have a waiver of that which doesn't need to be addressed by the  
36 Board right now but they will be proceeding to the Master Plan stage with that request for  
a waiver of that fee or a reduction of that fee, whatever is more typical for comprehensive  
38 permit projects in other municipalities. They have a request pending with Rhode Island  
Housing for a Letter of Eligibility. His understanding is that they are approaching letters  
40 of eligibility differently than in the past. They communicate with the towns first and  
almost thought someone from RI Housing would be here tonight. He doesn't know if  
42 they contacted Mr. Lamphere or not. It is unclear when they will actually issue that  
letter. Hopefully it will be shortly, but it may not be. To his knowledge, that may be the  
44 only outstanding item on the checklist for the comprehensive plan submission. The  
request was made earlier this summer. The previous speakers on the other project  
46 [Rockville Mill] aptly addressed the dearth of family housing in Hopkinton. His  
understanding is that out of 3,000 housing units, there are three low or moderate income  
48 family units in Hopkinton. He made the same presentation three or four years ago on  
Clarks Falls Road, that there are only three family units; there are still only three family  
50 units. This project is not designed to provide more elderly housing, although there may  
be elderly people that choose to live here. It is primarily concentrated on family housing,  
52 a good portion of it, because that is what the housing plan says the need is.

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2 Mr. DiOrio said he sees the project as too dense with lots that are too small. He's thrilled  
4 that there is a tremendous amount of open space. He can candidly express the feelings of  
6 the Town Council that have been handed down to him when the Planning Board tried to  
do small lot projects and ordinances; the feelings are that 20,000 or 30,000 square foot  
lots just don't fit here. He did study the phasing of the project, as best he could. He  
asked if they were clear that affordables were to be distributed throughout the project.

8  
10 Mr. Landry said they are proposing low and moderate income units in every housing  
type. It's not the same percentage, of course, for all housing types, but there are  
12 low/moderate income units for every proposed housing type. There are three housing  
types: you've got single family houses, we've got duplexes and we've got quads.

14 Mr. DiOrio said that if Mr. Landry was involved with the original approval, there was a  
concern at that time about a single point of access. Is there still one or do you have  
16 another access there?

18 Mr. Landry said there are limitations to access. They have a full traffic report that has  
been submitted by Paul Bannon of RFP Engineering for traffic work, circulation work.

20  
22 Mr. Duhamel said there would be the same access as the PUD had; the main entrance and  
there also was emergency access.

24 Mr. DiOrio asked if the emergency access is that gated or not fully improved. What do  
you envision there?

26 Mr. Duhamel said in this case it is gated.

28 Mr. DiOrio asked, emergency folks would have the ability to access it, but that's about it?

30 Mr. Duhamel said they could either have a key or a crash gate.

32 Mr. DiOrio asked, but the average inhabitant of this development will not be using that  
34 for routine access?

36 Mr. Duhamel said that is correct.

38 Mr. Landry said the abutters list is quite extensive. He is unable to guess at the interest in  
40 this project by abutters. There may be some consideration for a larger venue for the  
meetings. That has been a problem in the past. There are a couple of hundred names on  
42 that abutters list. He would hate to see a situation where they arrive for a public  
information meeting that has to be canceled because people can't fit in this room as  
nicely as it has been redecorated.

44 Mr. DiOrio said they would probably think about a different location.

46  
48 Mr. Landry said, in terms of scheduling that Master Plan informational meeting, would  
the Board need to be involved in that or should we deal with Mr. Lamphere directly on  
that? He understands that Mr. Lamphere has thirty (30) days to certify the application as  
50 complete. They filed it back in August. He assumes the town is operating under the  
assumption that this Pre-application meeting had to take place. That seems like a  
52 reasonable assumption, but at some point fairly soon, they will be at that point where they

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2 will be ready for the hearing; some point very soon. So if you want to pick a special  
4 night, I don't know if your agendas these days, if this is typical or not or if you have  
6 mostly clear sailing, if this is anywhere near typical, it would be unfortunate to have all of  
our professionals here and not be heard. They would ask for a dedicated night for that  
purpose as the Board has done in the past.

8 Mr. Levesque said that just on that point Mr. Landry, he understands the Certificate of  
10 Completeness for this project should have been sometime in September, probably mid-  
September, would you say?

12 Mr. Landry said that sounds right.

14 Mr. Levesque said and we have one hundred twenty (120) days from then to have the  
16 public informational meeting and to make a decision. He said it would seem to him that  
they have November and December to tackle it. He asked Mr. Landry if he was  
18 suggesting they may need more time to do it.

20 Mr. Landry said no. He doesn't. He thinks that is a reasonable assumption that  
November...

22 Mr. Levesque said and if we arrive in November at a point where we think that we may  
24 need additional meetings that go beyond one hundred twenty (120) days, what is you  
feeling about granting an extension of that time?

26 Mr. Landry responded, he would have to see what the circumstances are. He will be  
frank. The Clarks Falls Road experience was very well conducted by the chair but that  
28 went a year; there were 12 meetings, one a month. Abutters came and said the same  
thing every month and it became clear that it took on a life of its own and they are not  
30 going to do that again. They are going to come in very efficiently and present their  
professionals. They are at a Master Plan stage. They don't have an engineered plan.  
32 They don't have drainage calculations. Everything they've got they've already  
provided to town. They have provided the traffic study in advance. They have provided  
34 the hydrology study in advance. They have provided the planning study in advance.  
Many of those things are developed almost to the Preliminary stage, well beyond Master  
36 Pan, so there are no surprises here. They've presented everything. They are going to  
present their witnesses as efficiently as they can. They are going to field questions and  
38 he thinks they are going to accomplish what they want to accomplish very efficiently.

40 Mr. Levesque said he just wants to get one other thing out on the record. You are  
operating under the assumption that the PUD is still a valid PUD.

42 Mr. Landry responds yes we are.

44 Mr. Levesque asks, have you looked into whether or not that has lapsed for some reason.

46 Mr. Landry responds, yes he has.

48 Mr. Levesque said he seems to recollect that question raised in some context and coming  
50 to a conclusion that there may have been a problem with it still in existence.

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2 Mr. Landry said there was no sunset date in the zone change and the zone change was not  
4 rescinded. It may have been a little odd. There was a different solicitor, a different  
6 everything probably, but it was a little odd in that the zoning was changed before any  
8 plan was finally approved. But the zoning was changed. The text of the zone change  
10 was that the zoning is hereby changed from rural farm 80 to planned development  
district, and that is how it remains today and in fact, is how his client is taxed and the lots  
were created at that time. How that happened, he is not sure, but the lots are there and the  
zoning hasn't been changed by the Council since it was changed to planned development  
district.

12 Mr. Levesque said that what he would propose, just so they don't go down this road too  
14 far and you operate under that assumption and it is not true, they should both  
communicate before the next time we see him.

16 Mr. Landry said he would encourage Mr. Levesque, I could provide them to you, it is not  
18 a voluminous set. He visited Mr. Lamphere's office earlier this year and looked at the  
20 zone change documents, the Planning Board advisory, the actual Town Council zone  
22 change; it is not voluminous and there is no sunset date in there and there is no record of  
the Council ever changing the zoning back from planned development district to  
something else. He thinks there is a planned development district zone but no  
corresponding plan that ever went to final approval.

24 A women in the audience asked when the traffic study was done.

26 Mr. Landry said in was within the last three months.

28 An abutter at 116 Dye Hill Road said the fact that the emergency access for the  
30 previous developer had the approval of the Fire Chief, they will be asking for that same  
32 concession in that the emergency access road stays as long as the Fire Chief is okay with  
34 it. Secondly, and no less importantly, the setbacks from their property are grossly  
inadequate and unprecedented for a project like this. You give us seventy-five (75) feet  
approximately for a buffer zone. He has horses along the rear of his property. There are  
eight (8) potential units on the hill. Horses are a natural curiosity for children. Those are  
the two issues they will be asking for. This will be an enormous impact on them. They  
feel the setbacks should be at least 400 to 500 feet. The previous developer was going to  
leave 450 feet as a buffer along with the emergency road which would be undisturbed.

38 A gentleman in the audience said those are two issues they will be back on.

40 Ms. Capalbo asked the Planning Board if they were encouraging a community well rather  
42 than private wells.

44 Mr. DiOrio said it would certainly be a question he would ask. He noticed the individual  
46 septic systems and the wells and questioned why they are doing that and why.

48 Mr. Escher commented that the wells as shown scaled off within 20 or 30 feet of each  
other, four or five in a row.

50 Mr. Duhamel said the hydrology study that will be presented shows that the site can  
support individual wells and that individual wells have less demand per system. He said

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2 it is easier to meet DEM requirements for depth, volume and yield and have been  
developed along DEM and DOH guidelines.

4 Mr. Escher asked if that was the study they were already given.

6 Mr. Landry said yes, the LFR study.

8 Ms. Capalbo said that is not the point. It is not the point that it is okay to do them. The  
10 point is one well can be controlled and protected better than one hundred wells.

12 Mr. Duhamel said they can work it out in greater detail, but essentially there is not a  
large [inaudible] source in a residential development. The protection of a well, the  
14 protection of 100 feet or 200 feet of a well, in residential development, onsite septic  
feeding systems without having any [inaudible] source, without having any industrial or  
16 commercial uses, it is good design to have many wells rather than just a single well.

18 Ms. Capalbo said you can have one well; you can have 3 or 4, but you can protect  
them better.

20 Mr. Landry said it is a legitimate question. They have anticipated the issue. They have  
22 had it here before, and as it has been before, there are good reasons why you would want  
a community well. There are good reasons why you wouldn't want a community well. If  
24 you have a community well and the well fails, a whole development fails. You have  
individual wells, it's a safer scenario. You have a little less control. What they prefer in  
26 most of these developments are the individual wells but with covenants and  
homeowner's association documents that ensure that you don't have to have 300 different  
28 homeowners responsible for 300 different wells. There is an operation and maintenance  
program, there is an overall budget and so forth, and there is a program where even  
30 though there aren't individual lots, there is something beyond the individual owner to  
make sure these are properly maintained. You have a balance of those two extremes.  
32 They have hired, they think, the best consultants possible in the country. The LFR people  
have done an extensive report; they have a lot of confidence in their work and they think  
34 this is a very good program that can be supplemented with deed restrictions and  
covenants that almost get you to the equivalent of the single well situation.

36 John Melany said this property borders his on three sides. He talked to Chief Stanley  
38 regarding the emergency road. If the emergency road has asphalt, it will be a playground  
for the kids, next to his property. The setbacks are too close with three or four houses  
40 right up behind his. His well is 28 feet deep; he worries about the septic systems of the  
new houses being so close to his well. He said there are 1000 parking spaces up there  
42 and the roads can't handle that traffic. Woody Hill Road and Saw Mill Road both have  
one lane bridges. He said it is time to take a look at the bridges and the school system.

44 An abutter said the impact will obviously be enormous. The preceding application  
46 [Rockville Mill] had concern for a \$100,000 cost to the town. This is enormously more  
and concern is for impact on the budget and the fiscal impact and its effect on property  
48 taxes and the effect on the schools.

50 Mr. DiOrio said that if memory serves correctly, there was a lot of discussion spent on  
the various routes that folks were planning. As a result, some off-site improvements were  
52 agreed upon for the last project.

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2 Mr. Duhamel said traffic engineers have suggested other improvements that will be a  
point of discussion.

4 Mr. DiOrio said he was going to suggest that in your traffic report, we would be very  
6 interested in all various routes that folks may take to and from this project so we can get a  
8 handle on which roads are going to be affected, how are they impacted, what are the  
restraints, etc.

10 Mr. Duhamel said it is addressed and can tell you RFP did address that.

12 Captain Bader said the plans show detention ponds. They need retention ponds on site to  
supply water. There is no water supply for fire fighting. That has to be incorporated into  
14 the plan. He met with the chief this morning, and they both agree retention supply for  
hydrants should be added and they should meet with the applicants to straighten this out.  
16 He and the chief feel that the layout of the emergency access road with housing up the  
side, that their trucks would have to back in and turn out to get to it. It was designed  
18 before for a golf course. Their other concern would be the turning access for their trucks  
to get on to the road. That all needs to be worked out.

20 Mr. Buford asked to see the portions of the border that are common with Arcadia. He  
22 asked what past approvals from the town and the state for this site from previous versions  
of proposed projects on this site, carry over to this project.

24 Mr. Landry said there was a DEM wetlands edge determination on a 1998 plan that they  
26 are seeking to utilize in terms of state approvals. The only local approval was the zone  
change that contemplated a unit mix of 134 units: 66 single family houses, 68 condos and  
28 an 18 hole golf course. Those were the previous approvals.

30 Mr. Duhamel said a DEM freshwater wetlands significant alteration approval for the  
development and the road network is near identical, same location, the road is clear.  
32 They tried to keep that same location and the site has suitability approval for the previous  
use which was 140 units plus a clubhouse and other amenities for the golf course. It had  
34 just about all final approvals.

36 Mr. Landry said they are not suggesting they don't have to go back, if that was your  
question, on leap-frogging any state approvals; that whole round would have to occur  
38 after master plan.

40 Mr. Buford asked if you can alter a PUD that was approved; do you have to build the golf  
course?

42 Mr. Landry said that just like the previous comprehensive permit [Rockville Mill]  
44 they are seeking to bury the current land use regimen applicable to the property and in  
this case it happens to be a PUD.

46 Mr. Buford asked if you could explain how this proposal conforms with the State Guide  
48 to Land 20-25 particularly regarding retaining rural areas and directing density of  
development to areas with water, sewer and existing development.

50 Mr. Landry said they will get into that a little more fully. They do have a planning report  
52 from Ed Pimentel but as he's sure he knows, any comprehensive plan you look at,

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2 whether it be a municipal plan or a state plan, has various aspirations: there is always an  
4 open space aspiration; an agricultural aspiration; and, then there's an affordable housing  
6 aspiration. The way the state law is set up, when you get to the 10% then you can start  
8 worrying real hard about the other aspirations. They're all in conflict. They have tried to  
10 reconcile them here by preserving 200 acres of open space. They are not blind to issues  
12 of open space. But their feeling is that as long as the town is under the 10%, Hopkinton  
14 hasn't added an affordable unit since 2007, they are only 46% of the way of complying  
with a five year affordable housing projection that was made 5 years ago. There are two  
months left to achieve those units and they're not half way there. The town has rejected  
other projects that would have gotten them closer to that goal and there is no affordable  
housing. Their position is that it is a balance and that the overarching priority, statewide  
and under the act, is to get to the 10 % and to try to do that without neglecting other  
priorities but concentrating first on the housing.

16 Mr. Buford said he is concerned with the impact on Arcadia Management Area because  
18 most of the open space appears to be interior to the project.

20 Mr. Landry says correct.

22 Mr. Buford said the most logical place for providing use that would be valuable to or a  
24 buffer to Arcadia, would be to put the open space more along the perimeter. For  
26 instance, there is a requirement that you can't discharge a firearm for hunting within 500  
28 feet of a house. He did the math on that years ago and there are about 50 acres of  
Arcadia Management Area that essentially would not be allowed to be hunted upon  
anymore because of that distance. He said they are having a big impact on land that the  
state has protected and he would certainly like to see the open space put around as a  
buffer to Arcadia. He would like to see that unless that can be addressed right now.

30 Mr. Landry said he will take note of it but is not sure they can help him much on that.  
32 They're blessed here to have Arcadia as a buffer. Putting open space next to Arcadia is a  
34 little bit like building a pond on the beach. They are fortunate to have that kind of open  
space around them and are not interfering with it. A lot of the interior areas, there are  
wetland limitations on developing those areas. It's not a sensible approach to concentrate  
the development on the inside and then leave a buffer against thousand of acres of buffer.  
It is not a plan that he thinks they would be open to. There is nothing that is off the table,  
but that is pretty close.

38 Mr. Duhamel said this plan pretty much matches what the town asked for.

40 Mr. Buford said he is not sure he would agree that this is what the town asked for, but he  
42 understands what they are saying is that they are pretty much copying their rough attempt  
44 to put a road in. He asked, regarding the impact statement, how long can that be deferred  
before more is explained? He might come up with some questions that he would like  
46 addressed in an impact statement but doesn't know the logistics.

48 Mr. Landry said they to try to anticipate all of the impacts. They have provided an  
50 impact statement; they have a report from the engineer; they have a report from the  
52 planner; they have a report from the groundwater hydrologist; they have a report from the  
traffic engineer. They are going to address issues of wetlands and satisfy that they are  
observing all required setbacks, noise and so forth. He thinks they can be handled  
through testimony of a residential development on 300 acres. There is not a lot of

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2 mystery there in terms of unusual noise creation; it's not like the racetrack proposal that  
4 we had here a couple of years ago. Their impact statement is their Master Plan  
6 presentation and it will be developed at least to or beyond the stage required of the  
8 Master Plan level. They don't have an engineered plan; they won't be engineering a plan  
10 at this level. A lot of the design features are conceptual. A lot of the drainage program  
is conceptual that has to be sized and engineered. They have anticipated every impact  
that is relevant to a comprehensive permit and if they haven't addressed it already in their  
binder, they will be addressing it at the Master Plan level. But, if there is some unique  
issue that is not in that binder we should know about it.

12 Mr. Buford said he thought the Planning Board would decide what is in the impact  
14 statement and instead, it sound like the applicant has decided what will be included in the  
impact statement.

16 Mr. Landry said he went through the subdivision regulations and identified the issues that  
18 impact statements address and tried to cover all of them.

20 Thomas Buck, Ashaway, said one of his concerns is, you are talking about impact  
22 statements. Something the size of this project is not going to impact just the residents. It  
will impact the entire town of Hopkinton. What does that do to the school system? At  
\$16,000 per student, 300 houses at 2.5 kids per house, that will impact the entire town,  
not just the residents. Keep that in consideration.

24 Ms. Douthitt asked if there is an alternate density design for a plan with fewer houses.  
26

28 Mr. Landry said no, there is no alternate plan. They tried to come up with a design that  
made sense with all of the impacts. One thing that they haven't completely nailed down,  
they are proposing one hundred (100) multifamily units, duplexes and quads. They  
30 would like to have some of those be three bedroom units rather than two. They look at  
what is in the housing plan and it is calling for hundreds of units of family housing in this  
32 town, and by definition that means children. That's the housing plan.

34 Ms. Douthitt said and you're going to answer it in one sweep.

36 Mr. Landry said that would save you from a lot of other comprehensive permits. The  
property is already zoned for half of these units and with inclusionary zoning, you're not  
38 that far away from what you can do there as a matter of right. It is a huge site and he  
thinks with some planning there could be a proper balance. You've got two bedroom  
40 units that don't attract children that are actually net money generators for the town. And  
we included that element as an offset physically to the other units. That is not an issue  
42 we have to address. It is not covered under the comprehensive permit act. The act  
assumes that if you have to have ten percent of your housing stock affordable, and a  
44 healthy percentage of that had to be for families, that you'd have families. That ten  
percent requirement is as much a socioeconomic and cultural element as it is a housing  
46 element. They are not going to stand here an apologize for bringing children into some  
of these units. That sort of goes along with the reasons for having this requirement in the  
48 first place. He said they will try to assess what we've got here, but they can't guarantee  
there aren't going to be kids. That's just not the way it works.  
50

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2 An abutter said the fiscal impact address that and shows a net cost to the town of \$1.8  
4 million per year. Property tax owners need to take that in and be aware of it and go from  
there.

6 Mr. Buck asked what is the penalty if we don't meet the 10% of affordable housing,  
adding that Hopkinton is one of the highest percentage-wise in the state.

8  
10 Mr. DiOrio said he doesn't have an answer but does know that if you don't like what  
you see, we must change it. We have learned that if we say no here, they are going to  
12 take it upstate and we are going to get overturned. The applicant has to have a  
different set of ground rules and then the game is different.

14 Ms. Capalbo said she likes the smaller lots and doesn't mind some areas being  
condensed, and likes the idea of condos or brownstone concept. She sees no problem  
16 with the way they have condensed areas. After Mr. Buford's comments she wonders if  
we should get an impact statement from Arcadia, asking instead of how this impacts us,  
18 asking how this impacts a federal and state preserve. She feels this is a good way to  
gather a true cluster instead of scattering them around.

20  
22 Mr. Buford asked when do we want to use our engineering consultant to look at the  
project to give us an independent opinion. An example is for wells. He assumes these  
24 are all bedrock wells so he knows they are not likely to put one well down and get  
enough water for a thousand people. He likes the idea of a community well but doesn't  
26 know the practicality of the issue. There might be some areas where you would like to  
have an independent view.

28 Mr. DiOrio said he thinks an independent study is a great idea that should certainly be on  
the table. He said he benefits most from those kinds of studies early in the game but  
30 doesn't think we'll have time. If you say we'll do such an analysis after the Master Plan,  
the deal is done; they have already decided where they want to put things. He questioned  
32 when you do get an independent consultant in this particular context with the time  
budget so tight.

34  
36 Mr. Lamphere said he would like to address the time limits. In this particular case, we  
had a Master Plan dropped off in the office, August 27, but that's not normally the way  
38 you see things go. In major land development projects, you see a Pre-application come  
into his office first. The way he reads things, Mr. Landry is pretty much expecting  
40 to have that Master Plan certified complete within 30 days. You're almost taking out  
one part of the review process by not allowing us to have a Pre-app first when you  
42 submitted the Master Plan a couple of months ago. You have to give us time to analyze a  
project like this. This is not a little deal. This is a big deal and we need a certain time to  
analyze the problem.

44  
46 Mr. Landry said he didn't establish the deadlines. They provided a lot more information  
than they were required to at the Master Plan level. Truth be told, they could have  
48 arrived at the Master Plan Public Informational Meeting with the traffic guy, the  
hydrologist, the wetlands guy, and provided the reports that night. We didn't want to do  
that. The whole package is there. They well exceeded the submission requirements.  
50 They are very familiar with the checklist requirements for a comprehensive permit. It  
doesn't take long to see that the only thing not there on that list is the Rhode Island  
52 Housing eligibility letter; everything else is there. In terms of completeness, it took them

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2 less than 30 days to prepare this submission. That is not a big deal. In terms of outside  
consultants, they're a tie-breaker. The state permitting process is a tie-breaker process  
4 for design issues that people might have different opinions about. Is the soil suitable for  
these septic systems? Are there going to be adverse wetlands impacts? Well guess what?  
6 That is what DEM determines when you present the process and do the DEM vetting.  
That is why they are only required to provide conceptual information now. So what we  
8 are going to tell you at this stage is that our soils are suitable and that conditions on this  
site are typical for systems of the type we are proposing to be approved routinely at  
10 DEM. Same thing with the wells. The traffic guy has done a traffic analysis. The roads  
haven't been designed but he's going to be able to tell you what their traffic impacts will  
12 be. The hydrologist will be able to tell you that there is plenty of water in the ground to  
support wells for the number of homes that they are proposing and that the conditions are  
14 very favorable to that. Now, that's probably all they're going to be able to tell the Board.  
It seems unlikely that there will be some other hydrologist who's going to say that there  
16 isn't enough water there or some wetlands guy who's going to say that the flags are off  
by 200 feet there. These are not issues that get too fine at this stage and we've given you  
18 everything we got. There is another public hearing at the Preliminary stage and if  
somebody wants to challenge the state approval process at that point they're free to do  
20 that if it appears that there is something irregular. But, they are not proposing to finance  
some round of speculation before a final design, as to what the impacts are on the  
22 obvious issues, the issues that will be ultimately resolved by DEM no matter what either  
of our experts think.

24  
26 Mr. DiOrio said let's make sure we are not just focusing on DEM. He said he can  
certainly envision that a traffic person could look at your take on impact to our road  
systems and come up with a completely different take. That doesn't seem far fetched.

28  
30 Mr. Landry said it does to him because they all work from the same traffic generation  
manuals, they are all doing the same speed studies, they are all measuring the same site  
distances.

32  
34 Ms. Capalbo when looking at a long road like that, you don't think teenagers are going to  
race on it, you're wrong. You can't imagine that every teenager is going to go 50 miles  
per hour, not a traffic study that says they will be going 20 miles per hour here, and that  
36 is simply not true. It is common sense.

38  
40 Mr. DiOrio said enough to say that at some points there might be room for another  
perspective.

42  
44 Mr. Landry said that is up to the Board. There is always room for another perspective.  
They paid for one traffic study; they are not going to pay for another one, I guess that's  
what I'm suggesting.

46  
48 Mr. DiOrio said okay. I guess that's a line in the sand.

50  
52 Mr. Lamphere said he would agree with Mr. Landry that in many areas, the Master Plan  
that they submitted was thorough. Back to the point that tonight we are entertaining a  
Pre-application and not the first meeting on the Master Plan. We have eaten up at least a  
month of that 120 day period, because we are taking these things that you submitted  
prematurely, and have lost a month of the review process. You also submitted a Master  
Plan, that by your own admission, doesn't have a Letter of Eligibility from Rhode Island

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2 Housing, a requirement. Mr. Lamphere asked why did you submit a Master Plan without  
4 that letter? That's one of the first things that you get in a submission.

6 Mr. Landry said it was suggested to him by Rhode Island Housing, that they have a new  
8 procedure where, in reviewing the Letter of Eligibility, they like to get input from the  
10 town. If the town doesn't get the application, the same application they do, the town  
12 doesn't know what you are proposing. So, what is more typical now is that those things  
14 are submitted much more closely in time to permit them to get that feedback. He said he  
16 is not trying to rush anybody here; we're not asking for anybody to go faster. The law  
18 says you file an application. Within thirty (30) days somebody looks to see if everything  
20 is there that is supposed be there. It's not a qualitative assessment of your project. It's  
22 simply a review of a checklist and what you would do if you did that is to find that the  
24 application at this moment is incomplete because it doesn't have the Rhode Island  
26 Housing Letter of Eligibility. As soon as that arrives, it is complete and that could be  
tomorrow. Mr. Landry said he called them today to see where that was. That's not a big  
mystery. The Rhode Island Housing review usually doesn't get into the planning merits  
as much as it does whether your affordability provisions are correct. Are you proposing  
that 80% of the units be restricted? Did you give them the right kind of deed restriction?  
Have you proposed a monitoring agent? Have you listed the right types of programs?  
This is not the first time they've done this. Mr. Landry said they've issued dozens of  
these on projects they've been involved in usually, and they usually try to get those  
pieces of the application right so that is not a huge mystery. That particular piece.  
They're not saying they approve the project. They're saying the project is eligible for a  
subsidy.

28 Mr. Levesque said just to jump on that point Mr. Landry, are you suggesting that you  
agree that the application is not complete at present.

30 Mr. Landry said yes. He thinks the honest answer is that Mr. Lamphere could  
32 tomorrow issue a Certificate of Incompleteness on that one issue. They said that in their  
submission that we don't have that yet.

34 Mr. Levesque said it is only important to him because obviously the one hundred twenty  
36 (120) days begin after that point.

38 Mr. Landry said, after that point, and I think I said before, Jim may not have caught this,  
40 but I'm not sure that the statute reads this way but I think it is a fair interpretation of the  
42 statute that the thirty (30) days doesn't start running until we've had the Pre-application  
44 conference, so I think you have an extra thirty (30) days. It is going to take them more  
46 than thirty (30) days to get through this. I don't want anyone to feel we're trying to  
shove anything down anybody's throat. But at the same time, we're not going to do this  
for a year like we did on Clarks Falls. Presenting the same information every month and  
having the same abutters have the same concerns and go through an enormous budget  
only to find that the state was thoroughly satisfied with what we presented in the first two  
nights. So, we're going to be much more efficient here in making our presentations.

48 Mr. Lamphere said he would like to go back to the fact when he said this is not a little  
50 project; this is a huge project, probably the largest project this town has ever seen  
52 in its history. A Master Plan is very important because it locks a project in. To approve  
a Master Plan before the town has an opportunity to have its own independent  
engineering firm take a look at it, at the applicant's expense, particularly if the Board

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2 decides to grant the waiver of fees, it is appropriate to have the applicant pay for that  
4 review. He thinks to approve anything before that would be a mistake. He said he  
6 understands Mr. Landry's point that he certainly wants a little bit shorter time frame to  
8 get an answer on this, and respects that and thinks it is right. Mr. Lamphere would  
like to see Mr. Landry up front here agree to a certain period of time, almost an extension  
up front so it will give us time to hire that consultant and get the job done. If you, Mr.  
Landry, say we are thirty (30) days behind now, we really should pin this down.

10 Mr. Levesque said he doesn't think that is what Mr. Landry is saying. I think he is  
12 agreeing the application is incomplete at present; the one hundred twenty (120) days are  
not ticking. Once we get the letter from the appropriate authority, the housing authority,  
then we can worry about the time ticking. Do you agree with that Mr. Landry?

14 Mr. Landry replies, yes he does.

16 Mr. Buford said he would like a site walk when the time is right. Because of the size of  
18 the property, he would suggest we contact some people in town who have horses and  
20 wagons to tour the property.

22 Mr. DiOrio said that the site walk might be something to put on the checklist and could  
be worked out with the applicant.

24 Mr. Landry said they work with the Planner directly on those logistics. Whatever you  
26 formally or informally suggest to him, they will make themselves available.

28 John, a neighbor of the site, said some of that paper work goes back to the 90's.

30 Mr. DiOrio asked, for this submission? They can use anything for this Pre-application  
submission. It is a very informal approach.

32 Captain Bader said he would like to meet with the applicant at his office to get the issues  
34 straightened out.

36 Mr. Duhamel said he will do that.

38 *Mr. Cox leaves the meeting.*

### **Return to Groundwater Advisory**

40 Mr. Levesque said the Board voted last time to ask the Council merely to update the map  
42 so that it adequately reflected what the status was at state level and have our language in  
the ordinance declare that's what is required. He said Mr. Lamphere submitted some  
44 other proposals that we were playing with previously. The plan at this point was voted  
on already. We asked the Council to do just that. Whatever submissions Mr. Lamphere  
46 gave to the Board at that time didn't impact the vote.

48 Ms. Douthitt said she thinks he worded it a little bit more explicitly here than what they  
did the last time. He's just trying to pull it together, making it more clear.

50 Mr. Buford asked what are Mr. Lamphere's thoughts for dealing with the other issues, the  
52 ones we are trying to go forward with. What will we do regarding them after this vote  
tonight?

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2 Mr. Lamphere said his first thought is to get the current groundwater map updated. This  
4 is a simple updating that should be done. He did not want to complicate this issue with  
6 the issue of including the transient non-community wells. That's a bigger issue and may  
entail a lot of discussion. He supports the decision of the Planning Board and would  
speak before the Town Council on that, should the opportunity come up.

8 Mr. Buford said we also had the clarification regarding an applicant coming in for  
10 a project that would result in them being moved into the primary zone.

12 Mr. DiOrio said he would entertain a motion to send out a positive advisory opinion to  
the Town Council on Mr. Lamphere's most recent solution.

14 MS. DOUTHITT SO MOVES. MR ESCHER SECONDED THE MOTION.  
16 Messrs. Escher, DiOrio, Simmons and Ms. Douthitt approve.  
*Motion passes.*

### 18 **Advisory Opinion – Dark Sky Ordinance – Recommendation to the Town Council regarding development of a “Dark Sky” ordinance.**

20 Mr. Buck said he has pushed for this “Dark Sky” Ordinance because of development  
22 coming into town. He said to take a look at Renova Lighting Systems. Their parking lot  
has lights on that look awesome, fantastic. He is concerned that when you are writing  
24 this ordinance for the Council to look at, he would like to see if it is possible in five years  
that everyone in town becomes compliant; there is no grandfather clause. If we work to  
keep the town in a rural character, everyone should come into compliance.

26 Mr. DiOrio said he wants to give this its due justice. He will keep Mr. Buck in the loop.  
28

### 30 **Comments from Solicitor Levesque:**

32 Mr. Levesque commented that he was not at the last meeting and wanted to speak on  
advice that he had given previously. He read the meeting minutes from the last meeting  
and noticed some comments that were exchanged during the meeting that essentially  
34 raised an issue. Some people were wondering why the solicitor, better still the  
representative of the Planning Board, wasn't present during the Platting Board of  
Review's, review of the Love's project. Further, the impression was created that nobody  
36 was present to represent the Planning Board. He said he has spoken to a number of  
people on this Planning Board in the past, about what this Board's role is in projects and  
38 in particular, in this instance, Love's. He thought he had made it clear that this Board is a  
neutral board that reviews projects based on its merits, decides what to do with those  
40 projects, yea or nay, and then moves on to the next project. We're not advocates as  
this Planning Board, for any view. We're not advocates for a plan or project. We're not  
42 advocates against a plan or a project. We review it, make our decision, it stands or falls  
on its merits. When it moves to another level, that next level analyzes it. We don't  
44 advocate, it's not our position; it's our decision. It is much like a judge in the Superior  
Court making a decision of who wins, who loses. That judge doesn't go up to the  
46 Supreme Court and say, ladies and gentlemen of the Supreme Court; I move to support  
my decision. It stands or falls on its own merits. He said he was taken aback to read  
48 these comments and a little disturbed by them, particularly in light of his previous advice.  
Mr. Levesque said he raises this because he doesn't want anymore misunderstandings.  
50 Mr. Romano represents the Zoning Board and the Platting Board of Review. Mr.  
Levesque said his office represents this town and its interests. They don't represent any  
52 particular pieces or arms or any particular positions on projects. He said Mr. Romano

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2 does an excellent job in representing the Town's interests before the Zoning Board and  
4 the Platting Board of Review and would be superfluous for him to be present. He added,  
6 don't think for one instance that he and Mr. Romano do not communicate on all the  
8 issues, because they certainly do. Mr. Romano has the Town's interest in hand. So,  
10 again, it is not appropriate for this Board or its members to be advocates for its decisions,  
particularly before the Platting Board of Review; this Board's interests, to the extent of  
the Town's interests, are already represented by Mr. Romano. If anyone here has any  
questions for me right now on the issue, tell me and I'll answer them. But I think that  
clarifies it.

12 Ms. Douthitt said, so whatever decisions that we make, when the people either get turned  
14 down or go ahead, then we have no more to say about it.

16 Mr. Levesque responded, you said your piece. You have given a decision that is in  
writing and is binding on the applicant until somebody else says something about it.

18 Ms. Douthitt asked how other people can have an influence to change it. Under what  
20 reason would they have to change it? If there was a good reason for us to turn it down,  
what would make it different? How can somebody else change it?

22 Mr. Levesque asked, you mean if it is brought up on appeal and that appealing board  
24 reviews it, how do they change our decision? They change it by following the law by  
saying this Planning Board violated the law because they did X. And X can be a number  
26 of things: it can mean the Board breached their constitutional rights by failing to provide  
them with adequate notice of something; by failing to allow them adequate time to  
28 present their case; by predetermining something, which is a big problem. He said that is  
why he has stressed over and over again, that this is a neutral board. We do not prejudice  
anything. We judge on the merits based upon what we hear in this place when it is  
30 presented. The Board's decision is clear, and in fact in the Love's case, it is quite  
extensive. The motion was very lengthy and Mr. Walker did an excellent job presenting  
32 it. It is clear and precise and the Platting Board of Review has everything it needs to  
properly evaluate what this Board did. There are transcripts of all of your concerns right  
34 there. Don't think that that's not something they're looking at. They are looking at all of  
them. They have advice from his office as to what that means. They are not simply  
36 thrown into the mix without anything from you. They have everything that happened  
before them presented with legal advice to back it.

38 Ms. Douthitt said, so it doesn't come back around or we have no other input other than  
40 what we did when we did it and that's it.

42 Mr. Levesque said if you follow this to its logical conclusion, if you are right in your  
44 decision, you will never see the project again. It will move through the channels and  
hopefully we'll see a decision from the Platting Board that will support this Board's  
46 decision. From there, the applicant will have a decision to make: are they going to bring  
it to the Superior Court and ask for further review there. If they do, I will anticipate that  
48 the Superior Court will support your decision. If the Superior Court does that, the  
applicant will have the opportunity to decide, is it important enough to bring to the  
Supreme Court. If they do that, and they can do it and we can be brought up before the  
50 Supreme Court and hopefully they will support your decision there. If the Supreme  
Court supports it, it is over.

52

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2 Ms. Douthitt but we as individuals don't have to defend ourselves, personally.

4 Mr. Levesque said no you shouldn't.

6 Mr. Escher said because it is conjecture after the fact and can only be used against you, no matter what your opinion is, one way or the other.

8  
10 Mr. Levesque and the review of this project that we are talking about is confined to the record, so even if you thought you have one more thing that you want to add, a pure gem, it wouldn't make a difference. We are confined to the record. You have done your job.

12  
14 Mr. Lamphere said I understood what you said, but just for my own edification could you clarify this? You have a case going to the Zoning Board or the Platting Board of Review on appeal. The applicant is there to make their case. Suppose the Zoning Board, even  
16 though they have our complete record and everything we talked about, in evaluating what they have before them, has a question about what happened at the Planning Board  
18 meeting. There isn't really anybody there to answer it. You have Mr. Romano there but he wasn't party to our meetings either. So, how, even though he consults with you,  
20 without him having first hand knowledge and being there when the decision was reached, how could the town answer any questions the Zoning Board has before they vote?

22  
24 Mr. Levesque said that is the beauty of the law, particularly on appeal. We are confined to the record. If it isn't there, it is not part of the appeal. If I were to say, well I  
26 know it is not on the recorded transcript, because every minute was transcribed, and I say well it happened, it is not part of the record. That's the beauty of it.

28 Ms. Douthitt said that's why it is so important that everything that we say and do is written in all the notes taken.

30  
32 Mr. Levesque said every exhibit that was introduced to you is part of that record. the entire transcript of every comment that was made, was taken down word for word by the  
34 stenographer, that's why we incorporate it in the minutes and that's why it is up on appeal now. They have every word that was said on the project on the record.

36 Mr. Escher said as long as it was said here, it was on the record.

38 Lynda St. Amour said the Planning Board's concern was that they were not given time to ask their questions. It was all one-sided and I think everyone felt that they didn't get their  
40 fair share.

42 Mr. Escher said that was part of the record too; that we didn't get our chance.

44 Mr. Levesque said that's another link in the chain supporting why we did what we did. That doesn't distract from it. And while he understands that they wanted a shot at asking  
46 their questions, what happened had to happen.

48 Mr. DiOrio said that since he was one of the folks that asked that question originally, he wants to thank Mr. Levesque for having his associate make a comment before the second  
50 hearing. His greatest concern was, the public does not know this. The public is in the dark. The public was looking at, at least two, perhaps three Planning Board members  
52 sitting in that audience, not saying a word. They had no idea about your advice to us,

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2 the way we are supposed to conduct business, and what the Planning Board does or  
4 doesn't do. This is an unusual situation. The Planning Board just doesn't meet. No one  
6 knows the rules. He's not criticizing the public but his concern was the statement went a  
8 long way to allay his concerns that folks in the audience, perhaps people in the  
community, may have felt that the Planning Board should have been taking a more active  
role at those hearings. To hear it from the Solicitor, well that's not just what we do.

10 Mr. Levesque said he thought that Mr. DiOrio's concern was enough to have Mr.  
Romano make comment.

12 **PLANNER'S REPORT:** None

14 **CORRESPONDENCE AND UPDATES:** None

16 **PUBLIC COMMENT:**

18 Barbara Capalbo said that during a previous application this evening, the applicant was  
asked whether he had moved forward with this project. She felt with the economy the  
way it is, she is glad the Board extended his approval for him.

20 **DATE OF NEXT REGULAR MEETING:** November 4, 2009

22 **ADJOURNMENT**

24 MR. DIORIO MOVED TO ADJOURN THE MEETING.

26 MR. ESCHER SECONDS THE MOTION.

All approve.

28 The meeting adjourned at 11:10 P.M.

30 Attest: \_\_\_\_\_  
32 Lynda St. Amour, Planning Board Clerk

34 Approved:  
36  
38