

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

6 **November 4, 2009**
7 **7:00 P.M.**

8 **Hopkinton Town Hall**
9 **One Town House Road**
10 **Hopkinton, Rhode Island 02833**

12 **CALL TO ORDER**

13 The November 4, 2009 Hopkinton Planning Board meeting was called to order at 7:07 P.M. by
14 Acting Chairman Howard Walker.

16 **MEMBERS PRESENT**

17 Howard Walker, Ray Cox, Joseph Escher, Hazel Douthitt and Donald Simmons were present.
18 Alfred DiOrio was absent.

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

22 **APPROVAL OF MINUTES**

24 MS. DOUTHITT MOVED TO APPROVE THE MINUTES OF THE OCTOBER 7, 2009 MEETING AS
25 SUBMITTED.

26 MR. COX SECONDED THE MOTION.

27 Messrs. Escher, Cox, Simmons and Ms. Douthitt approve. Mr. Walker abstains.

28 *Motion passes.*

30 **NEW BUSINESS**

31 **Amendment to Approved Site Plan – Hopkinton Industrial Park, Plat 4 – Lot 9, Gray Lane
32 and Wellstown Road. Hopkinton Industrial Park, LLC, applicant.**

33 Attorney George Comolli represented the applicant. Lydia Teixeira of Hopkinton Industrial Park
34 was also present.

36 Mr. Comolli said the originally site plan for Phases I and II have been approved and constructed
37 and are, or will be, occupied in the near future. They are asking for a minor modification of the
38 site plan for a seventy-five hundred (7,500) square foot addition on the south wing of the facility,
39 within the building envelope and on the construction pad. There is a tenant lined up, L-3
40 Chesapeake Bay, who needs the facility to expand.

42 Mr. Cox asked for clarification; was this to be one extension or two off the wing?

44 Mr. Comolli responded just one; Phase II has already been done.

46 Mr. Walker said the main issue before us is whether this modification of the approved site plan is
47 to be considered minor, in which case, the approval can be delegated to the Planner
48 administratively. This sounds like a big area but when compared to the existing building, it is
49 quite small and I would find this to be a minor modification.

50

2 Mr. Walker said he would entertain a motion to designate this as a minor modification to the
approved Final plan and delegate approval administratively to the Planner.
4 MS. DOUTHITT SO MOVED. MR. SIMMONS SECONDED THE MOTION.
Messrs. Simmons, Cox, Escher, Walker and Ms. Douthitt approve.
6 *Motion passes.*

8 **OLD BUSINESS**

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

12 Mr. Lamphere read the letter he received a letter from Mr. Zamojski requesting continuation of
the Public Informational Meeting to December 2, stating that the continuation is necessary to
14 provide the traffic study requested by the Board at the October 7 meeting. They anticipate no
delay in having this available in time for the December agenda.

16 Mr. Walker said it was made known to those who were present at the site walk on October 29,
18 that the applicant would be requesting this continuance that would most likely be granted.

20 Mr. Lamphere suggested the Board consider granting this request with the condition that the
applicant provide the Board with an additional thirty day extension of the review period, if found
22 to be needed, as a result of this not being held tonight. Mr. Lamphere said a decision has to be
made by January 21.

24 Captain Bader, Fire Marshal, said he had a meeting scheduled for Monday with the applicant's
26 engineers who did not show up. He has questions on the sprinklers.

28 Germaine Gremma said traffic testing is being conducted on Canonchet Road and that access to
the site is actually off 138. She said to conduct a proper study, she would imagine that we would
30 need to have the same testing conducted off of 138 and Canonchet Road.

32 Mr. Walker said we will presume we will have a traffic study in hand in time for the December 2
meeting that will be publicly available. If Ms. Gremma's concern remains, the issue can be
34 raised at the December 2 meeting.

36 Ms. Gremma said a Phase I environmental study was conducted and asked for it be made public;
they were made aware on October 29, that there is lead in the building that will be disturbed.

38 Mr. Walker said it was assumed by the applicant that the building contained lead paint and they
40 were going to conduct themselves as if that were the case. They have engaged a lead remediation
contractor. That will become part of the record.

42 Paul Toracinta, Rockville, said most Phase I's are a walk-through, there is no testing, and it is a
44 visual, on-site inspection. He said the mill formerly had machinery, barrels of oil and chemicals,
bleaches, dyes, and nitrates that go along with textile mills. The mill in Shannock went through
46 Phase I and Phase II in cleanup and a textile mill in Burrillville just got a quarter million dollars
for cleanup, adding the Rockville Mill is the same period of time and the same kind of mill. He
48 wants to make sure this is not overlooked as children will be there. Lagoons, with a type of
underground sewerage way under the parking lot, is still there. He questioned what will happen
50 when they start digging; will it be disturbed and get into their water?

2 Mr. Walker said all of these points will be duly considered in the ordinary course on the record
with the applicant present.

4 Mr. Walker said he will entertain a motion to continue this matter to our December 2 meeting,
6 subject to the condition that the applicant agrees to the thirty day extension on the deadline for
our consideration.

8 MS. DOUTHITT SO MOVES. MR. COX SECONDS THE MOTION.
10 Messrs. Cox, Walker, Escher, Simmons and Ms. Douthitt approve.
Motion passes.

12 **Pre-Application, con't. – Comprehensive Permit – Brushy Brook, Plat 32 – Lots 1 through**
14 **71, Dye Hill Road. LR 6-A, LLC, applicant.**

16 Christopher Duhamel was present for the applicant. He said they presented an overview for the
Pre-application plan last month. They had asked that we establish a special meeting at a larger
venue and to set a sitewalk date. The letter that was submitted by Mr. Landry is with regards to
18 the Rhode Island Homes availability letter. There is no subsidy being requested for this project.
The subsidy that is funding the majority of the project is the density bonus. They are asking for a
20 waiver of the requirement of a Letter of Eligibility from Rhode Island Homes.

22 Mr. Lamphere said the letter that he gave the Board was sent yesterday stating that the application
is incomplete due to the lack of the Letter of Eligibility from Rhode Island Housing. Mr. Landry
24 responded today via fax. Mr. Lamphere said that he basically concurs with Mr. Landry's findings
which controverts what Mr. Landry said at the last meeting, that the application was incomplete.
26 They are not seeking state or federal subsidy, but are asking for a density bonus as their subsidy,
which is a municipal subsidy. Jim is ready to certify the Master Plan application complete or
28 have it automatically deemed complete at the end of the thirty day period, which is Friday.

30 Mr. Levesque said it is his understanding they are not asking for a waiver of that requirement. He
asked, you're asserting that you meet the requirement and are asking for a density bonus?

32 Mr. Duhamel said yes.

34 Mr. Levesque asked Mr. Duhamel if he agreed that the thirty days we have to certify it complete
36 ran from the last Pre-app meeting, October to November?

38 Mr. Duhamel said certainly.

40 Mr. Levesque said that means November 7 would be the deadline to certify the project complete.

42 Mr. Duhamel responds yes.

44 Mr. Levesque said that means the 120 days is going to run from November 7 for us to decide the
Master and have the public hearing.

46 Mr. Duhamel said he would believe that to be true. Attorney Landry can correct him.

48 Mr. Levesque said if he said anything incorrect, Mr. Duhamel should have Mr. Landry call him
50 right away. The special hearing that you are asking for, is that because you anticipate that you are
going to need more than three meetings to achieve the master public information?

52

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2 Mr. Duhamel said yes, it would facilitate the many abutters for the project and would allow the
4 full meeting to hear the witnesses. They don't anticipate a lot of time at that first meeting for
their witnesses but abutters might want to have a lot of input.

6 Mr. Levesque asked how many witnesses he anticipates they will have and how much time they
will need to present.

8
10 Mr. Duhamel said it is not going to be a long presentation. There will be maybe four witnesses:
the planner, civil engineer, hydrologist, traffic engineer. The reports are all submitted currently in
the record.

12 Mr. Levesque asked, do you think that will be one meeting, currently, for your presentation?

14 Mr. Duhamel responded, yes, one or less.

16 Mr. Levesque said so the remaining three meetings after the special would be for input from the
18 public.

20 Mr. Duhamel responded yes, if they could have a dedicated meeting where they could potentially
go through the whole presentation.

22 Mr. Levesque said that during the last meeting he discussed with Mr. Landry, the possibility that
24 the PUD has lapsed.

26 Mr. Duhamel said he knows Mr. Landry feels otherwise.

28 Mr. Levesque asked if Mr. Duhamel knows if Mr. Landry has looked at the opinion that was
delivered by his office in November or December of 2008.

30 Mr. Duhamel said he doesn't know if he has.

32 Mr. Levesque said he would suggest he raise that issue again with Mr. Landry. He is more than
34 happy to share that opinion with him to the extent that it wasn't already in the records that he
reviewed at Mr. Lamphere's office and it may well impact their decision as to what to do with
36 this project.

38 Mr. Walker asked how much time he anticipates they will need for their presentation,
uninterrupted.

40 Mr. Duhamel said he believes it would be two hours for the four witnesses and they have
42 everything on the record to begin with. The Board can read that and ask questions if they wish.

44 Mr. Walker asked if their presentation without questioning by the Planning Board can be done in
two hours.

46 Mr. Duhamel said yes.

48 Mr. Walker said the Planning Board questions will take at least three hours, maybe more and an
50 unknown amount of time to deal with a rather extensive list of abutters to comment on this. He
asked if anyone has a sense of how large an attendance we are likely to get for a public
52 informational meeting on this.

2 Mr. Lamphere said it has been uncommonly quiet. Included in Mr. Landry's fax today is that he
needs two weeks in advance to notice the meeting.

4 Peter Marek asked if this was to extend the Pre-application or do you go for Master at this
6 meeting?

8 Mr. Walker said this is the public informational meeting, so it is at Master.

10 Mr. Lamphere said the public informational meeting might be more productive if we had the site
walk prior. It would be a public meeting so it would require 48 hour notice.

12 Mr. Duhamel said you could walking around the loop road to get a feel for the terrain.

14 Mr. Walker said he would entertain a motion that we establish a site walk for this project on
16 November 17 at 3:00 P.M. at the site and that the first session of the public informational hearing
on Master plan be set for Tuesday, November 24 at 7:00 P.M. at the Ashaway School.

18 MS. DOUTHITT SO MOVES. MR. SIMMONS SECONDS THE MOTION.

20 Ms. Douthitt and Messrs. Simmons, Cox, Walker and Escher approve.
Motion passes.

22 **Pre-Application, con't. – 3 Lot Residential Compound, Grey Rock Court, Plat 5 – Lot 5,**
24 **Tomaquag Road. Fred Cindrich, Superstructure Building Co., applicant.**
Terry Rhodes of A.R. M. Engineering and the applicant were present.

26 Mr. Rhodes said it is his understanding that the Board requested that the wetlands be determined
28 in the back of the property. He was notified by Mr. Cindrich that the Board also asked for a letter
from the Fire Marshal regarding the private road and submitted the letter as Applicant's Exhibit 1.
30 He said Sheet 6 shows the wetland area as it was determined by William P. Green, PhD.
Approved determination by wetlands and the agreement, is on the last page of the supplemental
32 package. There are forty-nine hundred (4900) square feet of wetlands on the property.

34 Mr. Escher asked what the triple orange flags denote.

36 Mr. Rhodes said they had to go back out there and flag a path for wetlands to get back down in
there.

38 Mr. Escher said then his guess would be that is the back hoe trail.

40 Mr. Walker said the issue the last time is if they have enough buildable acreage to satisfy the
42 requirements. He said the conclusion based on the wetlands flagging is that they do have the
required area. Mr. Walker said the applicant indicated he wanted the Board to consider the right
44 of way.

46 Mr. Lamphere, on page 5, questioned the location of the fifty foot right-of-way which extends on
to Parcel 3 and why it was necessary to do that rather than stop it at the property line. He would
48 suggest that the line indicating the end of the right-of-way be extended further so as to encompass
both of the driveways going to the properties.

50 Mr. Rhodes said they would have no objections to changing the right-of-way. They were trying
52 to reach the thirty foot needed.

2 Mr. Walker said that no action needs to be taken on this Pre-application tonight. The Board is
4 putting the applicant on notice that the Planner would like to discuss with the applicant and
surveyor, the extension of the right-of-way and the curtailment of a small portion of it. Once that
is straightened out, it should be ready for Master Plan.

6 Mr. Rhodes asked if they need a Master Plan approval on this or if they to go directly to
8 Preliminary.

10 Mr. Lamphere said Preliminary.

12 Mr. Rhodes said they would like to start Preliminary if the Board is in agreement that they have
14 completed what was asked for from the last meeting, to move into Preliminary and site suitability,
and to finish the road out. The rest will be based on what has been drawn.

16 Mr. Lamphere asked the applicant to put a note on the Preliminary Plan to indicate what party is
responsible for flagging the wetland area.

18 Mr. Rhodes said he will get that, the date, when he did it, and certified.

20 Mr. Lamphere said he did not get a letter. He would like to get a letter from him as well.

22 Mr. Rhodes said there's got to be a letter of findings and he will get that for Mr. Lamphere. That
24 was submitted to wetlands.

26 Mr. Lamphere said he has a letter from DEM.

28 Mr. Rhodes said they would have to have received data him for Mr. Lamphere to get the letter
30 from DEM indicating what they have found and what was inside of those flags that he placed. He
does not have that with him but can get that information.

32 Mr. Cox asked if he has consulted with Chief Williams of the fire department about fire apparatus
going in.

34 Mr. Rhodes said Mr. Cindrich met with Chief Williams and he gave Mr. Lamphere the letter
36 tonight, stating that he has no problems with it at this time.

38 No action was taken on this application.

40 **Review and Update – 76 Lot Residential Cluster, Kenney Hill Farm, Plat 20 – Lot 1A,**
42 **Kenney Hill Road & Grassy Pond Road. Hopkinton Associates, LLC/Aubleen Farm, LLC,**
applicants.

44 Attorney Vincent Naccarato represented Aubleen Farms, the new owner. Judy Tefft was also
present.

46 Mr. Naccarato said that in July, Aubleen Farms and Jeffrey and Judy Tefft, purchased this
property from Hopkinton Associates. Pending before the Board at that time, was a letter from
48 Attorney Brunero on behalf of the previous owner, regarding an update on the project. Mr.
Naccarato asked for the application to be continued to allow the new owners time to gather their
50 information to prepare a presentation as to what was going on with the property and what his
client's intentions were. The Tefft's are in negotiations with a conservation group regarding the
52 disposition of this property. An appeal is also pending, taken by Mr. Marek on the wetlands

2 approval issued by DEM, regarding the upgrade of Grassy Pond Road. Because that permit was
4 in the process of expiring, Aubleen Farms, along with the Town of Hopkinton as well as
6 Hopkinton Associates, requested an extension of that permit from DEM and is presently pending
8 before DEM. Mr. Marek's appeal for a decision from the Administrative Division of DEM on the
10 issuance of the permit regarding the upgrade on Grassy Pond Road, is currently pending in
12 Superior Court before Judge Silverstein. There is a hearing scheduled for later this month to
14 remand the matter back to DEM. Mr. Naccarato said that with all these matters taken into
16 consideration and the uncertainty of what is going to happen with the property regarding his
18 clients' intentions, they are requesting a one year extension of the Preliminary Plan approval of
20 the subdivision. Mr. Naccarato said that since this matter was approved by the Planning Board,
22 the vesting period has been extended by State's statute in July of 2008 from a two year vesting
24 period to a four year vesting period. Assuming that applies to this particular application for good
cause shown, there can be further extensions granted. He added, with an appeal pending before
the court, there would be no developer who would go forward, because a precursor to the
development of this property is being able to upgrade of Grassy Pond Road. They are hopeful
that their negotiations with a conservation group will materialize into what will be a final
culmination, and perhaps, redevelopment of the property as presently approved by the Planning
Board, would not be necessary. They would like to keep their options open, have the matter
extended so that if negotiations did break down or were not fruitful, that this applicant would not
have to start over again with an application before this Board. Based upon the general economy
and the appeal that is pending before the Superior Court, Mr. Naccarato said that is adequate
cause for a further extension of the approval of the Preliminary Plan.

24 Mr. Lamphere asked the Board to consider an extension fee that would go along with this request.
26 September 3, 2008, the Board moved to continue this Preliminary approval valid to July 1, 2009.
28 There is also have a prior decision by the Board that extended the approval to a date 45 days after
30 final administrative action from which the aggrieved party can take an appeal to the courts. That
particular motion is a little vague. He reviewed the minutes and believes the intent of the Board
at that time was to have that date be the date of an administrative decision at DEM. That motion
didn't foresee all the possible appeals that could be taken relative to this application. He said it
might be advisable, at this point, for the Board to reaffirm a date certain for this application to be
valid and would suggest a \$200 extension fee would be appropriate. This application has received
a number of extensions over the years and there is no record of extension fees assessed.

36 Mr. Walker said he recalls when the last extension was done our expectations at that time
38 was that some kind of definitive administrative action would be taken in a relatively short
40 period of time. He thinks Mr. Lamphere's point about a date certain is well taken. The
\$200 fee payable to the town is an eminently sensible condition for this application.

42 Attorney Gary Blais was present for his client, Peter Marek. He said Mr. Naccarato is
44 correct in his request for the continuance; they do have proceedings. Mr. Levesque has
46 been advised by correspondence, currently planned before Judge Silverstein on
48 November 19, under the circumstances in Mr. Naccarato's proper presentation. Although
he objects in the technical sense, he does not object substantially to a continuance. As
Mr. Lamphere pointed out, he believes this would be the sixth or seventh continuation of
this matter before the Board. In that regard the object is only technical. However, they
understand Mr. Naccarato's opportunity to prepare, being a new transferee of this
property, they would accord him an extension of time to do whatever he needs to do.

50

2 Mr. Marek said with this continuance, as far as he was aware, the subdivision suitability
4 from DEM has expired. He asked if that will that be a condition, that it is restored, to
keep this application alive.

6 Mr. Levesque said it is a condition to the permission to develop the property that does not
go away. If they can't meet that condition, they can't go forward, no matter what. Mr.
8 Naccarato mentioned a point that he is not familiar with; the state law changed from two to four
years.

10

Mr. Naccarato said he has a copy of the July 2008 amendment that extended the vesting period on
12 Master Plan and Preliminary Plan approvals from two years to four years. He gave a copy to Mr.
Lamphere. He supposes it was because the economy was such that no one wanted to put
14 inventory out there; there were delays in development so the vesting period was extended. He
has a letter from a division of the state saying it was an absolute right to have it extended for four
16 years and is not discretionary with the Planning Board. Any further extensions beyond the four
years are discretionary with the Board.

18

Mr. Levesque said it seems the statute is one of substantive right, and therefore would not be
20 retroactive for this application, meaning there would not be a four year guaranteed vested right in
this particular application. Perhaps any applications going from 2008 forward the adoption of
22 that statute might get that benefit. The request before the Board is for a one year extension which
seems reasonable.

24

Mr. Walker said he would entertain a motion to extend the Preliminary Plan approval application
26 to November 4, 2010 subject to the payment of a \$200 extension fee.

28 MR. COX SO MOVES. MR. ESCHER SECONDS THE MOTION.
Messrs. Cox, Escher, Walker and Simmons, and Ms. Douthitt approve.
30 *Motion passes.*

32 **Development of “Dark Sky” Ordinance**

Mr. Lamphere said the first cut of the proposed ordinance is the combination of the best elements
34 of several towns. He also included an excerpt from our existing *Design Review Standards*,
Simple Guidelines for Lighting Regulations for Small Communities. Mr. Simmons has provided a
36 draft of a model lighting ordinance that was produced by the International Dark Sky Association.
He said we are very fortunate to have Mr. Simmons on the Board as he is quite knowledgeable in
38 lighting and would recommend the Board listen to him on this issue. In addition, Mr. Simmons
did supply us with a specifier bulletin for Dark Sky applications.

40

Mr. Simmons said we should seriously consider lighting zones to match zoning with allowable
42 light levels and trespass levels for the lighting in different zones. Strictly rural zones would be
much different from commercial and industrial. We should also consider some kind of guidelines
44 that controls light fixtures that can be used. The specifier bulletin did that, actually grading
fixtures according to their IES output file which is basically zone illuminance escaping from a
46 fixture that means you have a Christmas tree pattern of light coming out, keeping light directed to
where you want to use it. Different zones would have different allowable classifications of
48 lumens and you would match luminance classifications to your lighting zones. The draft doesn't
do enough to address the actual fixtures. Badly designed fixtures could still have light seeping
50 out.

2 Mr. Levesque said we need to be clear on our purpose. An ordinance that may fall into a zoning
4 classification would be to put some teeth into enforcement so people don't deviate from what is
6 required. He feels the purpose should be, what we as a Planning Board do when we review
projects through the *Design Standards* to address Dark Sky compliance. He said it sounds like
we're talking about the zoning side.

8 Mr. Simmons said, even from a planning side, if you have these lighting zones laid out, when
10 people come in with a preliminary plan, they come in with a foot candle study that is dark sky
12 compliant. A foot candle study does nothing to prove compliance without an accompanying
14 fixture schedule. He said that is where your BUG rating, backlight, uplight, glare rating, comes
in, where you get your teeth, because now you have a way to access whether the fixtures adhere
to that rating.

16 Mr. Levesque asked, so there are things we could add to this draft proposal to achieve your
purpose?

18 Mr. Simmons said definitely, in his opinion, yes.

20 Ms. Douthitt asked what about developments where people have spotlights outside their house
that brightens the whole area.

22 Mr. Simmons said the model ordinance addresses that, in your residential zones you are allowed
24 so many lumens per acre.

26 Ms. Douthitt asked, do we have the right or the power of discretion to tell new housing
28 developers that the houses have to have certain kinds of outside lighting?

30 Mr. Levesque said if a new project comes before the Board, we have the responsibility to ask
32 what they are doing with their lighting. The problem comes in when you try to make the new
ordinance apply to existing conditions.

34 Mr. Buford said if someone adds a bright light, the person who can deal with it is the zoning
officer.

36 Mr. Levesque asked if we have an idea what other municipalities are doing to apply this
ordinance so they don't interfere with existing uses.

38 Ms. St. Amour said there is very little available. The draft incorporates the municipalities with an
40 ordinance.

42 Mr. Lamphere said it is going to be difficult to enforce this on existing homeowners. The trigger
44 there would be when someone comes in for a permit.

46 Mr. Walker said the draft ordinance had a provision that existing light fixtures would be
grandfathered for five years.

48 Mr. Marek asked, with the five year clause, would you take an inventory of the town. Neighbors
50 could start calling on each other.

52 Ms. Capalbo said she is glad we are addressing this and believes there are some easier answers.
The area that has been doing the best work on this is Block Island. They not only have a good

2 ordinance but people are working together. The problem with residential is not the fixture as
4 much as major glare. There is a list of accessories, or different fixtures, that can be recommended
6 to someone to control glare. The Zoning Officer can help correct the problem with a list of ways
8 to solve this between neighbors without the town getting involved on anything that is
10 grandfathered. She said you don't want to do an ordinance that doesn't allow for the growth of
12 new and better lighting, such as compact florescent bulbs, LED's and OLED's. There are many
14 things coming forward; you don't want to lock yourself into one kind of lamp. The level of light
is important because older people need more light. IESNA recommended practices have nothing
for dark sky. The Dark Sky Ordinance will be ongoing as things progress and as they dovetail
with the IES. The Planning Board can definitely do time control for how long something is on.
There are applications where the sky must be lit but can still have a time control. There are
fixtures with great glare control that have the light needed and we should remember to use them.

14 Ms. Douthitt said we have to be careful how we word things as far as the types of lighting so the
16 effect is what we want.

18 Ms. Capalbo said correct. Mr. Simmons is talking about the zonal cavities, where is it actually
20 hitting.

20 Mr. Simmons said you give the applicant either a prescriptive or performance method to choose
22 from. The prescriptive method is how many foot candles you get, how many lumens you get,
24 these are the rated fixtures you can use. The performance level has a lighting designer giving you
a layout that shows what the foot candle readings are. There are ways now to do electronic
trespass studies.

26 Ms. Douthitt said sometimes more light in a parking lot would lower candle power and gives you
28 more light than one or two bright lights.

30 Mr. Simmons said it is all on how you use it. Some kind of luminare classification system
32 should be in conjunction with a classification system so the applicant does something decent with
the luminaires that they have to use.

34 Ms. Capalbo said if it dovetails with IES and A recommendations and dark sky illumination, you
would have recommended practices that are mathematical.

36 Mr. Walker said one possibility is the two aspects, enforcement and design. From the standpoint
38 of zoning where you are setting up lighting districts as part of zoning codes, enforcement can be
40 with fines for violations. You will want to define terms of performance; so much trespass is
42 allowable in a particular zone. Designation of fixtures might be more appropriately put in the
Design Regulations for consideration with the Planning Board. He suggests Mr. Simmons rework
the draft into an ordinance and bring it back to the Board for consideration and discussion.

44 Mr. Lamphere said Council President Tom Buck made two points at the last meeting. Within five
46 years, he would like to see all exiting lighting brought up to this standard. He used Renova
Lighting as an example for others to follow.

48 Mr. Lamphere concured that Renova's lighting works for him. Spicer Gas' canopy lighting
seemed kind of bright, but thought it may be adequate for the use. He suggested the Golf
50 Pavilion, Renova and Spicer be used as examples. He said Mr. Simmons got him thinking that a
full cut off fixture may not be adequate; it's the rating of the light as well. Perhaps Mr. Simmons
52 could come up with something to apply to our existing zones, where the Planning Board will be

2 reviewing projects that come in those zones and will have the most impact on the town. He may
4 have some suggestions on how to light a hypothetical project in each particular zone, including residential.

6 Mr. Walker said what you would wind up with would be something in the Zoning Code for each
8 zoning district which would be equivalent to setback requirements. There may be provisions for getting a variance by going before the Zoning Board.

10 Mr. Walker said we'll leave it at this, Mr. Simmons will come back to us with an ordinance that
12 looks like he thinks it ought to look and present it to the Board to see how it sounds, and get Ms. Capalbo's input

14 **PLANNER'S REPORT**

16 ⌘ Love's will be before the Zoning Board of Appeal on November 19 when a decision may be made on the Planning Board's decision.

18 ⌘ Mr. Lamphere attended a workshop on Writing Sound Decisions and a copy of the
20 information received was distributed to the Board. The handout includes information on specific citations of the Comprehensive Plan when voting on a decision and concrete reasons why something is consistent with the Comp Plan or not. Writing a sound decision is important to
22 prevent something from going to court.

24 **CORRESPONDENCE AND UPDATES**

26 ⌘ Mr. Levesque said the groundwater and wellhead map was adopted. The new map is now part of our ordinance as is the new definition section that first achieved the requirement of a biannual update of the map and the definition of secondary is simplified; whatever is not primary is secondary. We are still considering moving forward on the rest of it, to redefine or recapture some other wells, non-community, and non-transient.

30 ⌘ Mr. Levesque said the Planning Board received a lawsuit pertaining to the Love's project. He
32 told the Board to call him with any questions and concerns.

34 **PUBLIC COMMENT**

36 ⌘ Mr. Buford said we were burned on the time frame with the Love's project We now have a comprehensive permit application that we have to be careful about the time frame, too. The applicant at the first Master Plan public hearing is going to give their presentation. Does the
38 Planning Board need to think about what the issues will be up front to best utilize time? He said an example would be whether the PUD is still in effect. He has notes from old meeting agreeing that that had expired.
40

42 Mr. Walker said that in light of the Love's experience, the Board should re-examine our policy of having the applicant present their entire case before the Planning Board before the public has an
44 opportunity for comment. It does expose us to the possibility that the applicant uses up all the time with their own witnesses. He suggested we have the applicant put on one witness at a time
46 and be questioned

48 Mr. Levesque suggested allowing Love's to move through the process, then consider addressing our procedures.
50

52 **DATE OF NEXT REGULAR MEETING December 2, 2009**

2 **ADJOURNMENT**

MR. ESCHER MOVED TO ADJOURN THE MEETING. MR. COX SECONDED THE MOTION.

4 All approve.

6 The meeting adjourned at 8:47 P.M.

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Attest: _____
Lynda St. Amour, Planning Board Clerk

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Approved:

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