

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

4 **September 2, 2009**  
5 **7:00 P.M.**

6 **Hopkinton Town Hall**  
7 **One Town House Road**  
8 **Hopkinton, Rhode Island 02833**

9 **CALL TO ORDER:**

10 The September 2, 2009 Hopkinton Planning Board meeting was called to order at 7:07  
11 P.M. by Chairman Alfred DiOrio.

12 **MEMBERS PRESENT:**

13 Alfred DiOrio, Howard Walker, Ray Cox, Hazel Douthitt, Joseph Escher and Donald  
14 Simmons.

15 Also present were: James Lamphere, Town Planner; Barbara Capalbo, Town Council  
16 Liaison; Harvey Buford; Conservation Commission.

17 **APPROVAL OF MINUTES**

18 MR. WALKER MOVED TO APPROVE THE MINUTES OF THE AUGUST 5, 2009 MEETING  
19 AS SUBMITTED.

20 MS. DOUTHITT SECONDED THE MOTION.

21 Messrs. DiOrio, Escher, Cox and Ms. Douthitt approve. Mr. Walker abstains.

22 *Motion passes.*

23 **OLD BUSINESS**

24 **Review/Update/Extension – Major Land Development - Kenney Hill Farm, Plat 20**  
25 **– Lot 1A, Kenney Hill Road and Grassy Pond Road. Hopkinton Associates, Inc.**  
26 **LLC and Aubleen Farm, LLC, applicants.**

27 Attorney Vincent Naccarato, representing Aubleen Farm, requested that the review of  
28 the project be continued to the November meeting.

29 Mr. Lamphere said that at the September 3, 2008 meeting, the Planning Board moved to  
30 continue the Preliminary approval of this subdivision to July 1, 2009 and to move the  
31 consideration of the application to May 2009 for establishment of the bond for  
32 improvements to Grassy Pond Road. This application may have expired on July 1 and  
33 has not been extended at this point.

34 Mr. Walker said he has heard that this property was to be purchased by the Land Trust,  
35 DEM, or Nature Conservancy and asked if there was any truth to that.

36 Mr. Naccarato said he is not at liberty to disclose any negotiations.

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2 MR. WALKER MOVED TO CONTINUE THIS APPLICATION TO THE NOVEMBER 4, 2009  
MEETING.

4 MR. COX SECONDED THE MOTION.

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

6 *Motion passes.*

8 **Advisory Opinion – Ground Water Map – Consideration of Future Amendments to  
10 the Groundwater and Wellhead Protection Map and Ordinance**

10 Mr. Lamphere requested that this item be moved to later in the agenda, after the Pre-  
12 application from Hopkinton Plaza.

14 The Board approves.

16 **NEW BUSINESS:**

18 *Mr. DiOrio recuses and Mr. Walker assumes the Chair.*

20 **Preliminary – Andaloro Minor Subdivision – Plat 8, Lot 16, Tomaquag Road.  
Sandra S. Andaloro and Jennifer York, applicants.**

22 Sandra Smith Andaloro said the parcel is now known as Magnolia Ridge Farm. Jennifer  
24 York, her daughter, is operating a working farm on the property and will continue to do  
26 so. The integrity of the farm will remain intact. They are proposing three new lots  
leaving 34 acres for the farm. They have DEM approval for the 3 new lots. There will  
28 be a no-cut zone in the front setback. Lots 3 and 4 will share a driveway. The eastern  
boundary of the three proposed lots is three feet away from the stone wall which will be  
30 preserved. There is a small family cemetery along the perimeter of the hayfield in the  
woods. They will restore the cemetery and make repairs to the fence. The deeds will  
32 include the use of working farm equipment. This parcel has special use permits with  
conditions for the previous owner. She has worked with Mr. Lamphere and Mr. Ward  
34 and has reached a decision regarding the special use permits that will be implemented  
prior to the mapping of this property.

36 Mr. Lamphere said that at least two special use permits were granted for this property:  
December 2002 for a church and June 2004 to construct a twenty foot by thirty-three foot  
38 (20' X 33') single family home with the existing home to be offices, eliminating the one  
house per lot rule in town. Another structure on the property was at one time a stable  
40 open on three sides; it has been closed in used for habitation. There is the potential for  
three buildings to be used as dwelling units.

42 Mr. Walker asked if they planned to take advantage of any of the special use permits.

44 Ms. Andaloro answered no.

46 Mr. Walker asked if they would agree to revoke the special use permits.

48 Ms. Andaloro said she would have no objection; they want to use the property as a  
50 working farm.

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2 Mr. Lamphere said Mr. Ward has informed him that the special use permit runs with the  
4 entirely of the land. In creating the three lots, the special use permits apply to those three  
6 lots as well. Mr. Ward recommended that we approve this subdivision. Before he would  
issue a building permit for any of the three lots, they would have to renounce the special  
use permits.

8 Mr. Walker said the applicant should renounce the special use permits before the  
10 subdivision takes place and before coming back for final.

12 Ms. Douthitt said the applicant still needs the special use permit to cover the two  
buildings that will remain with the farm.

14 Mr. Buford said the yellow house is not a residential use and should be returned as a  
16 legal residence. He asked if they were looking to abandon the other house or if it will  
remain as a residence.

18 Ms. Andaloro said they would like it to remain a residence for an eventual manager to  
20 help with the farm.

22 Mr. Buford recommended the applicant check the Town's Farm Viability Ordinance that  
has provisions for working farms to have additional residences.

24 Mr. Escher commented that there were three possible dwellings because there is also a  
26 guest house.

28 Ms. Andaloro said they could rent one those houses to help with the cost of the farm.  
Once the farm is productive they would turn the little home into a store, farm stand or  
processing room.

30 Mr. Buford said running a farm business is also addressed in the farm ordinance and  
32 added that the size of the farm allows for the number of buildings.

34 Mr. Walker said he would assume there would be no difficulty in abandoning,  
36 renouncing or otherwise terminating the special use permit for all four lots as the special  
use permit pertains to the operation of a church. He asked if they would also be willing  
to abandon or terminate a special use permit for the three smaller lots they are creating.

38 Ms. Andaloro said they will do whatever the town wants them to do to solve this  
40 situation.

42 Ms. York said they are now operating the farm under special use permit and the yellow  
44 house is abandoned.

46 Susan Rittling, an abutter on the east side of the property, believes the wall is their  
boundary and is not clear who owns the wall. She does not know if her deed references  
48 the wall.

50 Mr. Buford said if it is the boundary wall is not to be touched.

52 Mr. Walker commented that the wall is a judicial issue not within the jurisdiction of the  
Planning Board.

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2 Ms. Rittling said the 13 houses that went in along the north end of Tomaquag Road have  
4 removed their no-cut zone and asked if there is any guarantee that the no-cut zone will  
remain on these lots.

6 Mr. Walker said the Board is aware of the mistakes made on Deer Creek and will make  
sure it does not happen on this side of the road.

8  
10 David Woods, 287 Tomaquag Road, asked about the stream that runs through the  
property.

12 Ms. Andaloro said it will remain as part of the farm.

14 Richard Coppa, 279 Tomaquag Road, asked the status of the existing special use permit  
16 stating that the older meeting minutes say that one condition on that property is that any  
future development goes back before the Zoning Board for approval. He questioned why  
18 it was before the Planning Board. He sees that the special use permit is still intact and  
should be ironed out first.

20 Mr. Walker said we will devise a means to take care of that.

22 Mr. Coppa said he opposed the second special use permit which allowed the additional  
structure on the one lot. He suggests subdividing the existing structure and new home.  
24 He said both the new home and second home are tied to one septic system which was  
designed as an office and a residence and that the guest house has a separate septic  
26 system in close proximity to the yellow house. He believes this is the time to clean up  
the issues created on this property.

28  
30 Mr. Walker said in these circumstances it would not be prudent for the Board to rule on  
this Preliminary submission until they have additional information on the special use  
32 permits as well as any available minutes of the Planning Board and Zoning Board. He  
recalls the recommendation to the Zoning Board on the use of the church but has no  
34 recollection of the one allowing two houses. He said we need to understand exactly what  
the situation is there and fashion a remedy that would make sense to the applicant and to  
the town. He suggests this matter be continued to the October meeting.

36  
38 Mr. Lamphere said to reiterate the advice he received this morning, it is fine to approve  
the plan as is; they will deal with the issue of residences down the line and will separate  
40 any special use conditions from the three lots as recommended by Solicitor Todd  
Romano and Building and Zoning Official, Brad Ward. He believes Mr. Walker's  
42 approach is probably the best possible way but does understand, as well, that the  
applicant has buyers for these lots.

44 Ms. Andaloro said that since she just learned of the special use permits, she comes  
46 prepared tonight only to address the issue of the subdivision. If they subdivide the  
large farm parcel, it will no longer be taxed as a farm.

48 Ms. York added it would add a financial hardship to the farm. Some of the requirements  
50 for the farm itself, the application process and everything approved for the farm,  
excluded the three lots. If the house in back were split off from the farm, they would lose  
52 their orchard, another financial hardship.

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2 Mr. Walker asked what would cause them to lose their orchard.

4 Ms. Andaloro said the farm has to be so many acres for her daughter to get grants and help from the state.

6 Ms. York said it is a lot more difficult when you have two pieces of land and where one  
8 is residential. The orchard is zoned residential. She wants to put up deer fencing to keep the deer out of her orchard and the state will have to assist her to get the fencing.

10 Mr. Walker asked if a one month continuance of this matter to permit this Planning Board  
12 to consider this other information, cause a hardship?

14 Ms. Andaloro said there are people interested in the lots. She would like Preliminary  
16 approval for the subdivision tonight with the stipulation that all is straightened out at final.

18 Mr. Lamphere reminded the Board that this application is a combined Preliminary/Final  
20 approval.

22 Mr. Walker said the Chair would like someone to present the motion that:

24 WE APPROVE THE PRELIMINARY PLAN SUBMISSION SUBJECT TO SEPARATE  
26 LATER APPROVAL OF THE FINAL AND THAT PRELIMINARY APPROVAL WILL BE  
28 CONDITIONAL ON THE FOLLOWING: THE ABANDONMENT OR OTHER  
30 TERMINATION IN A FORM SATISFACTORY TO THE TOWN AND TO THE SOLICITOR  
32 OF BOTH OF THE SPECIAL USE PERMITS AS TO THE PROPOSED LOTS 2, 3 AND 4,  
34 AND THE SPECIAL USE PERMIT AS TO THE USE OF THE PROPERTY AS A CHURCH  
36 WOULD BE ABANDONED OR OTHERWISE TERMINATED AS TO ALL FOUR OF THE  
LOTS; WITH THE SPECIAL PERMIT REGARDING THE TWO DWELLING UNITS ON THE  
PROPOSED LOT 1 TO BE RESOLVED IN A MANNER SATISFACTORY TO THE TOWN  
AND TO THE SOLICITOR AND THE ZONING OFFICER; SUBJECT ALSO TO THE  
CONDITION THAT THERE IS AN INVIOABLE FIFTY FOOT NO-CUT ZONE ALONG  
THE FRONTAGE OF LOTS 2, 3 AND 4. THIS PRELIMINARY APPROVAL IS BASED ON  
THE FOLLOWING FINDINGS:

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

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2 MS. DOUTHITT SO MOVES.

4 Mr. Lamphere said that Building and Zoning requested that the existing buildings be  
6 labeled in consistency with the special use permit. He cautioned having those plans  
recorded. He asked if the Board wished to have the Final brought back to the Board.

8 Mr. Walker responded, correct.

10 Mr. Lamphere said, relative to the no-cut zone, the Planning Board did approve a  
Conservation Easement and asked if the Board wants that applied.

12 The Board indicates yes.

14 Mr. Lamphere said last October the Planning Board approved a water notation stating  
16 that the applicant has investigated the water source proposed to be adequate and asked if  
the Board wants that applied to the plan.

18 The Board indicates yes.

20 Mr. Lamphere said he would also suggest that in addition to re-labeling the buildings, the  
22 location of the historic cemetery be placed on the plans.

24 MR. WALKER MOVES TO APPROVE THE MOTION AS AMENDED.  
MR. COX SECONDS THE MOTION.

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

28 *Mr. DiOrio returns and resumes Chair.*

30 **Preliminary – Pukas Minor Subdivision – Plat 27, Lot 197, Nichols Lane. Stanislaw  
32 and Brenda I. Pukas, applicants.**

34 Attorney Vincent Naccarato represented the applicants. Mr. and Mrs. Pukas were also  
present.

36 Mr. Naccarato said this is a two lot minor subdivision in a R-1 zone at the intersection of  
38 Mechanic Street and Nichols Lane. The additional lot they are creating will be 60,000  
plus square feet, fronting on Nichols Lane, a town road. The remaining 3.2 acre lot is the  
40 Pukas' residence with outbuildings and will remain the same. Test holes and soil  
evaluation has been completed and approved by DEM and meets all town and state  
42 requirements.

44 Ms. Douthitt said she read the letter from the neighbors complaining about the lack of  
water and would like to hear from the neighbors.

46 Mr. Naccarato and the applicants were given a copy of the letter sent to the Board by  
Shin Ae Tassia and Ethan Gold, with Donald Vandyke and Jan Saad.

48 Mr. Lamphere said after reading this correspondence he suggested the Board approved  
50 water notation be put on the plan stating that the applicant has investigated the water  
source and certifies there is adequate water supply to serve the proposed dwelling.  
52

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2 Ms. Douthitt commented that the down street areas do not have water.

4 Mr. DiOrio said Mr. Naccarato and the applicants have had an opportunity to read the  
6 memo dated August 28 regarding neighbors' concerns. Septic location has been  
approved by DEM and asked if subdivision suitability has been acquired.

8 Mr. Naccarato said if it has not been submitted by Mr. Harrington, then it has not been  
10 approved.

12 Mr. DiOrio said that subdivision suitability would go a long way to address the  
neighbors' comments including proximity of well, proximity of systems, types of  
14 systems, etc.

16 Mr. Walker said that if DEM subdivision suitability is the only thing necessary, the  
planner could handle Final administratively.

18 Mr. DiOrio said a water note will go on the plan stating that the applicant has taken  
20 diligence appropriate to insure adequate water.

22 Mr. Naccarato said adding the water notation is fine.

24 Mr. DiOrio said the next item on the memo is risk to existing water supply and  
commented that no one can know what will happen to the water underground. The  
26 applicant must engage in best management practices when setting the well.

28 Neighbor Tara Moniz, 18 Nichols Lane said there is actually a lot of traffic on Nichols  
Lane which is used as a cut-through to Switch Road. Their houses are close to the road.

30 Mr. Naccarato said the impact is minimal from one house. There is not much they can do  
with traffic cutting through Nichols Lane. This lot is much larger than all the R-1 sites  
32 and there is plenty of room to build a house, observing all setbacks.

34 Mr. DiOrio asked if they have an idea of the location of the driveway. The memo states  
that the neighbors are not in favor of a Hill Street driveway.

36 Mr. Pukas said the logical location for a driveway would be off Nichols Lane.  
38

40 Mr. Lamphere said it would be difficult to access the property from Hill Street because  
of a block wall. Hill Street is actually elevated along most of that lot.

42 Mr. Naccarato said they wouldn't have any objection to using Nichols Lane for access.

44 Mr. DiOrio said the next item on the memo was concern about loss of privacy, residents  
of 9 Highview, 12 Hill Street and 14 Hill Street. He asked about considering no-cut, and  
46 honoring existing vegetation stating that this is not a normal request of a 60,000 square  
foot site. He asked the applicant if they would entertain something like this.

48 Mr. Naccarato said the lot is designed to be sold. It is an R-1 zone, almost an acre and a  
50 half. To put restrictions on the lot makes it more difficult to sell. He would be remiss if  
he agreed to a no-cut zone.  
52

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2 Mr. Lamphere said having walked the site, he would tend to agree with Mr. Naccarato.  
4 This is not a primarily rural area. There is not enough vegetation along Nichols Lane to  
warrant a no-cut zone. Surrounding properties on Nichols Lane have yard area in front  
and this too can also be developed in a very nice way without no-cut. The Board agrees.

6  
8 Mr. DiOrio asked if the building will stay within the building envelope.

10 Mr. Naccarato said he believes a house can be built on the site without requesting any  
dimensional relief.

12 Pat Peabody, 18 Highview Avenue, said her lot is 1/8 acre and she has a shallow dug well  
14 in her basement that occasionally goes dry in August. She is concerned if using water  
above her will take away the little water she has.

16 Ms. Moniz speaks about lost well water in the summer.

18 Mr. DiOrio said he appreciates that this is an issue for more than one person. He added  
20 that this issue of something that might happen as a result of someone setting a new well.  
He does not see denying this application for something that might happen.

22 Mr. Walker said suppose someone proves it would cause a problem. Would that be legal  
24 grounds for us refusing approval? As long as they comply with septic regulations, then  
water is a DEM issue.

26 Chris Kam, 22 Nichols Lane, said people already have water problems on the hill.

28 Mr. Walker said that problem has already been addressed by requiring a certificate from  
30 the applicant to the purchaser of the proposed lot that the well water has been tested and  
is adequate.

32 Dolores Gacioch, 20 Nichols Lane, is concerned where the driveway will come out.

34 Mr. Naccarato said that is something the purchaser will decide.

36 Mr. Pukas said along the wall on Hill Street is the most level piece.

38 MR. WALKER MOVED TO APPROVE THE PRELIMINARY SUBMISSION SUBJECT TO  
40 THE FOLLOWING CONDITIONS: THAT THE APPLICANT RECEIVE A DEM  
SUBDIVISION SUITABILITY APPROVAL; THAT THE APPLICANT INCORPORATE INTO  
42 THE PLANS AND TO ANY DEEDS TO THE BUYER FOR THE PROPOSED NEW LOT, A  
WATER AVAILABILITY CERTIFICATE IN THE FORM THAT THE PLANNING BOARD  
44 HAS APPROVED; AND, THAT THE ACCESS TO THE LOT BE FROM NICHOLS LANE  
NOT FROM HILL STREET. THIS APPROVAL IS BASED ON THE FOLLOWING  
46 FINDINGS OF FACT:

- 48 1. There will be no potential for further subdivision of either of these lots;
- 50 2. Both lots will have adequate and safe access to a public street, namely  
Mechanic Street and Nichols Lane;
- 52 3. Both lots are physically accessible from the street on which they front,  
Nichols Lane and be accessible to police, fire and other emergency vehicles;
5. This is not a state designated scenic highway;

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- 2                   6. The proposed lots conform to the Zoning Ordinance and the Comprehensive  
Plan; and,  
4                   7. They minimize conflict with adjacent uses, driveways, buildings and other  
structures and existing features.

6  
MS. DOUTHITT SECONDS THE MOTION.  
8 Messrs. Escher, Cox, DiOrio, Walker and Ms. Douthitt approve.

10 MR. WALKER AMENDS THE MOTION FOR FINAL TO BE DONE ADMINISTRATIVELY.  
MS. DOUTHITT SECONDS THE AMENDED MOTION.

12 All approve. *Motion passes.*

14 **Pre-Application – Major Land Development – Hopkinton Plaza – Plat 25, Lot 155A,  
Main Street (Rte. 3) KSL Realty Cranston, LLC, applicant.**

16 Attorney Vincent Naccarato, Caroline J. Doyle, Engineer with Cherenzia and Associates,  
and Mr. Haronian were present.

18  
20 Mr. Naccarato said there is an existing shopping center with a liquor store and restaurant  
currently on the property. Tim Hortons is separately owned. The parcel is six and a half  
22 (6 1/2) acres at the intersection of Cemetery Road and Route 3. There will be no change  
to the existing building except for conversion from two to three stores. What is proposed  
24 is the construction of a large building in the rear of the property which will conform to all  
dimensional regulations. The liquor store will move to the new building which will have  
four additional stores.

26  
28 Ms. Doyle said they were last before the Board in June 2007. The proposed building is in  
the same area. It is thirty-three thousand (33,000) square feet. Previously there were two  
30 buildings which they have combined into one. The have reduced the parking by 40  
spaces. The previous submittal had loading docks in the rear of the building that  
32 encroached on the 100 foot setback area in the back. The loading docks have been  
removed and they now comply with the 100 foot setback from residential for all corners  
34 of the building. The current plan has advanced significantly from the last plan. They  
graded the lot and changed the entrance slightly. There is one-way traffic around the  
building, specifically for loading dock use. There is a large detention basin to  
36 accommodate the additional paved area along with the existing catch basin and  
additional drainage that accommodate the existing paved area for the existing buildings.  
38 The drainage has been designed to accommodate a 100 year storm. They do not want  
any runoff to residential lots that are at a lower elevation. There are no wetlands on site.  
40 Overflow will be into the existing catch basin system near Route 3. Roof drainage for the  
proposed building will go into subsurface infiltration located in the parking lot. A large  
42 septic system is designed for 6985 gallons per day to accommodate the Tim Hortons, the  
existing building, as well as the new building. They are proposing an Advantex  
44 denitrofication system which has been approved by DEM. The existing septic system  
will be abandoned. An existing public well will maintain use. A study was done on the  
46 well with recommendations. Access to the site will be through the existing curb cut.  
They will get a traffic engineer involved before returning.

48  
50 Mr. Naccarato asked about reference made to Tim Horton’s septic system and the cross  
access of the septic.

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2 Ms. Doyle said they are in the existing septic system now and also get their water from  
4 the public well which will continue in the future. The new septic has been designed to  
6 accommodate Tim Hortons as well. Based on square footage and use in the buildings,  
8 they need 162 parking spaces and are currently showing 177. Lighting and landscaping  
will be incorporated into the plan. The proposed building will be outside the 100 foot  
residential setback buffer. This is a permitted use in a commercial special zone. They  
need no dimensional relief for the proposed building.

10 Mr. Lamphere said he has received a dimensional variance request.

12 Mr. Naccarato said there was a request but they no longer think relief is needed. The  
14 older building is not conforming in its location and they are not expanding that building.

16 Mr. Lamphere asked explanation of the vegetative buffer relief they applied for.

18 Ms. Doyle said that was also for the existing building.

20 Ms. Douthitt said the existing traffic is already a problem. The increased amount of  
22 customers with the new businesses has her concerned about the safety of the people  
coming around the blind corner. She said all businesses in that area would be well served  
by a traffic light.

24 Ms. Doyle said the traffic engineer would look at traffic reports for this intersection and  
26 traffic counts.

28 Mr. DiOrio said he reiterates that concern. It is a problem now and will be exacerbated  
with additional traffic and must be addressed.

30 Mr. Walker said the Board can not responsibly approve the increase in intensity that is  
32 being proposed, without something being done to modify the existing traffic situation.

34 Mr. Naccarato said Mr. Haronian has started the process of traffic control.

36 Ms. Capalbo said there are five angles; control of traffic must be solved in a combination  
of ways.

38 Mr. Cox said the last time the applicant came to us the traffic issue came up. He has  
40 gone to Chief Scuncio; the flow of traffic has to be monitored. There are no traffic lights  
in the town.

42 Mr. DiOrio asked what for an explanation of the proposed traffic pattern.

44 Ms. Doyle said the truck traffic is intended to go around the building and will be routed  
46 one way to Cemetery Road.

48 Mr. DiOrio expressed landscape concerns about the buffer around the outside and with  
parking in front.

50 Ms. Doyle said they are intending to plant in the islands and there is natural vegetation  
52 around the outside of the property.

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2 Mr. Simmons asked about plans for the northwest corner where this property is close to  
4 the cemetery and near some wetlands.

4 Ms. Doyle said that area will not be disturbed. All runoff is channeled into the detention  
6 pond.

8 Mr. DiOrio said the last time there was an issue with the view from Route 3 and the  
10 buffering of the visual of the buildings.

12 Ms. Doyle said that was when it was a proposal for mini storage.

14 Mr. DiOrio asked if they have made any tenant selection.

16 Mr. Haronian said nothing yet.

18 Mr. Cox asked if this would be a New England style building.

20 Ms. Doyle referred him to his package for a conceptual elevation.

22 Ms. Capalbo would like to see a continuing of the row of arborvitaes that currently  
24 buffers Tim Hortons. The cemetery is historic and the grange is on that side along with  
residential. She would like to see the buffering as strong as possible.

26 Mr. Lamphere said Ms. Doyle mentioned the new detention basin was designed for a 100  
28 year storm. He asked, in the event of an overflow, would it be directed to the existing  
catch basin and if it could handle the overflow?

30 Ms. Doyle said they did not design the original catch basin and were unable to get  
32 calculations. That is why the new basin accommodates a 100 year storm, rather than a 25  
year storm, which is excessive.

34 Mr. Buford asked if the well that is there now is transient or non-transient; it is in a  
primary zone.

36 Ms. Doyle said there is a report in the package but they did not prepare it; she will get  
38 the answer.

40 Mr. Buford asked how the parking spaces were determined.

42 Ms. Doyle said they used the gross square footage of the building which includes some  
receiving and storage area and a back hall.

44 Mr. Buford asked if the runoff of the detention basin would only be in a 100 year storm  
46 event?

48 Ms. Doyle said the detention basin will infiltrate all flows through a 100 year storm.  
Anything in excess of a 100 year storm will have an overflow structure pipe it down to  
the existing catch basin system.

50 Mr. Buford asked if the method of infiltration is just seepage through the soil.  
52

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2 Ms. Doyle responded yes. They have done test holes to document the infiltration area.

4 Mr. Buford asked if the plan for lighting has considered the neighbors.

6 Ms. Doyle said it is typically full cut-off lighting.

8 Ms. Capalbo asked if you are over a 100 year storm and you are sending water to the  
10 other catch basin, isn't it already full? Where is all the water going when all the catch  
basins are already full?

12 Ms. Doyle said the connection between the two basins is empty because it is only for  
14 overflow. It will come up through the grate and end up on the ground away from  
adjacent properties, flooding the intersection.

16 Mr. DiOrio said the bottom line is when all the catch areas are full, water will end up on  
the street and into the state's drainage system.

18 Ms. Doyle responded correct.

20 Mr. Lamphere asked if the catch basin is on the property, why they wouldn't investigate  
22 the capacity of the existing catch basins.

24 Ms. Doyle said when they looked at the size of the basins and the area that is going into  
them, they felt it wasn't worth the additional engineering study to find their capacity.  
26 She sees no additional capacity in those basins and doubts if they were oversized.

28 Mr. Lamphere asked if their public well is labeled as Ashaway Village Association, in  
which case, that is a transient non-community well.

30 Mr. Naccarato said they have direction and will go to the next step.

32 **Return to: Advisory Opinion – Groundwater Map – Consideration of Future**  
34 **Amendments to the Groundwater and Wellhead Protection Map and Ordinance**

36 Mr. Lamphere said the groundwater memo and proposed ordinance that is to go before  
the Council are in their packets. Page 7 shows what uses would have varying  
38 requirements should property go from a secondary zone to a primary zone. There are 44  
uses that would be prohibited that are now allowed with an aquifer protection permit. A  
40 total of 161 uses would undergo some change once a primary zone; either they would  
have to get an aquifer permit or become one of 24 uses would be outright prohibited.  
42 Most are identified in the letter from Harvey Buford.

44 Mr. Escher asked if the existing would be grandfathered or would they have to make the  
change and if there are any existing that would be impacted.

46 Mr. Lamphere said he would tend to think they would be grandfathered.

48 Mr. Walker said if not grandfathered it would essentially close them down. That would  
50 be a taking and would require just compensation.

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2 Mr. DiOrio said he has no problem with being more restrictive to most of the uses on Mr.  
4 Buford's memo.

6 Ms. Douthitt said poisons associated with metal plating, tanning, wrecking and  
demolition, ready mix concrete, asbestos are uses better gone.

8 Mr. Escher asked if gravel banks would be grandfathered since we have only one  
10 licensed gravel bank. We will need clarification.

12 Mr. DiOrio said some uses will be impacted; some more than others. No one seems to be  
opposing this idea.

14 Mr. Buford said the Conservation Commission discussed other issues including language.  
16 If a project is proposed that would not be allowed in a primary zone but is allowed in a  
secondary zone, you would be asking the Planning Board to approve a project that as  
18 soon as it is approved, would no longer be allowed. The Commission has suggested  
some language changes; if some element of a project is not compatible with a primary  
20 zone there should be language to the effect that you can not create that situation.

22 Mr. Lamphere said the problem in the past was that everyone was going by the ground  
water map, to see if they were in either a primary or secondary zone. When they see a  
24 parcel is currently in the secondary, they have the green light to go ahead. If we amend  
the map such that it includes transients, non-transient, community, and non-community  
26 wells, basically all of the major well heads would be under that umbrella..

28 Mr. Buford said there should be some wording that the map is a guideline and should be  
updated quarterly and that it is up to the applicant to check out the latest wellheads  
30 approved by DEM and DOH.

32 Mr. Lamphere said the ordinance that is in package and the proposed language says any  
newly created or redefined community or non-community water supply wells, including  
34 their associated wellhead protection areas, as defined by the Rhode Island Department of  
Environmental Management, shall be automatically designated as part of the primary  
36 groundwater and wellhead protection zone overlay district. The groundwater and  
wellhead protection area map will be amended on a quarterly basis. It also says that due  
38 to changing conditions this map may not fully and completely capture those areas that are  
defined as being in a primary groundwater protection zone. If someone proposes a  
40 project that has a non-transient, non-community well, which is the most we protect today,  
and that has one of those wells associated with it, then automatically it is primary. If we  
42 go forward tonight and decide to approve the transient, non-community wells, then we  
can add that language to the text as well as the map. He continued, next Tuesday,  
44 September 8, the update of the existing groundwater map, which adds four wells, is on  
the Town Council agenda. The Council may set a public hearing date that would also  
46 take into consideration this text as well. He is confident they will at least authorize the  
update the map because we are not changing policy. If the Planning Board recommends  
48 to the Town Council that we should include transient, non-community wells as well, that  
would take another action by the Town Council. When that next step is taken and we can  
50 amend this language in the text to include transient, non- community wells, or any newly  
created wells.

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2 Mr. Buford said his letter of July 30 states, “We would also like to add clarification to the  
4 ordinance that any new businesses in Hopkinton that will require a well type that finds it  
6 is belonging in a primary protection zone, must meet all the requirements of the primary  
protection zone as part of the approval.” If you come before the Planning Board with a  
project and your well has been moved into the primary zone you should only be allowed  
to do what is permitted in a primary zone.

8  
10 Mr. Lamphere said that wording goes beyond what he read from the text as it refers to  
any newly created wells. The point at which that well is created may be the tipping  
12 point. He asked Mr. Buford where he would suggest putting that language; in the text  
going to the Town Council?

14  
16 Mr. Buford said the next meeting is just to add the four wells, no text change at all.

18 Mr. Lamphere said there will be some text changes as well describing when the map gets  
updated and a disclaimer as to what the map covers. There is not going to be a vote on  
20 this; it is on the agenda for disposal.

22 Mr. Buford said if the Planning Board decides to recommend that transient wells be  
included in a primary zone, that too will have to go before the Town Council.

24 Mr. Lamphere said Mr. Buford is pointing out that if a project walks in the door right  
26 now and covers something in a secondary zone and if their proposed well is going to be  
in a primary zone, then that project’s uses can only be what are allowed in primary. We  
are trying to capture something before the fact.

28  
30 Mr. DiOrio suggested Mr. Buford take that language and insert it into the document at a  
place that would be most appropriate.

32 Mr. Lamphere said it would probably have to go some place in zoning as it would change  
the uses. Mr. Lamphere will discuss it with Mr. Levesque and work it in the document.  
34 He said we have already decided to go forward with the update of the map; are you  
suggesting that we recommend to the Town Council that we include the transient wells?  
36 Board indicates it should be added.

38 Ms. Capalbo asked if this was for projects that would come before the Board that are not  
already in process.

40  
42 Mr. DiOrio said if the Town Council sees fit to adopt this, he doesn’t see how you can  
make it retroactive for a project already in the door. He asks for a motion to send a  
44 positive advisory opinion to the Town Council to include transient, non-community wells  
in a primary protection zone.

46 MR. COX SO MOVES.

MS. DOUTHITT SECONDS THE MOTION.

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

*Motion passes.*

50

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

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2 Mr. Lamphere said Mr. Levesque asked for this to be on the agenda. Since Mr. Levesque  
4 is not present, he asked to continue this to next month when he could be present.

6 This item will appear on next month’s agenda.

**PLANNER’S REPORT:**

8 ☞ Mr. Lamphere said on September 8 there will be a groundwater map update  
10 disposition before the Council

12 ☞ The dates for the Zoning appeals hearings regarding Love’s have been passed  
14 out:  
16 Thursday September 17, the appeal of the Planning Board decision will occur;  
18 Thursday October 15 they will hear an appeal of the Zoning Certificates that  
20 were issued.

22 ☞ Mr. Lamphere has been working with the consultants on the Comprehensive Plan  
24 update. They have been in contact with Rhode Island Housing and have been working  
26 with Statewide Planning. He expects to have a document that will be ready to give to  
28 Statewide Planning and Rhode Island Housing for a final review on September 11. If that  
30 document is radically different from what the Council has seen, he will ask the Council  
32 for a workshop to adopt it and wants to see it adopted by the state before 2009 comes to a  
34 close.

36 ☞ The Board was given the information received for a Comprehensive Permit for  
38 Brushy Brook. This application will be on the agenda for Pre-application in October.

40 **CORRESPONDENCE AND UPDATES:** None

**PUBLIC COMMENT:**

32 ☞ Ms. Capalbo said regarding the problems the neighbors are facing with well  
34 levels as indicated during the Pukas application, recently before the Council is an Alton,  
36 Bradford, Hopkinton combination looking at addressing the water issues in that area.  
38 She said this is a perfect opportunity for a number of houses in a small area to get  
40 together and create an organization or association to buy land for a public well. If we can  
42 work with CDBG, perhaps there is grant money to help them develop a way to solve their  
44 well problem. The Town Council is following up on that.

46 ☞ Peter Marek said that when he last spoke to the Board he showed them the  
48 surveys for the Grassy Pond Road application and the fact that it does not match any  
50 other survey. The deed that went along with the sale of the Kenney Hill property, does  
not match Commonwealth’s depiction of the survey; it matches Richard Greene’s.  
Therefore the original engineering by Richard Greene was the one he originally  
contested. Mr. Marek hired Cherenzia who matched theirs exactly. Commonwealth  
came in to replace the engineering and their survey had the drill mark indicated on the  
map but didn’t use it. Instead the put the drill mark down in his property by an estimate  
of two and a half feet. The sale shows the drill mark used and a cross. Commonwealth  
has told the Board it was completely off his property. He said you must use the deed to  
establish a survey.

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2 Mr. DiOrio asked, the deed matches the Greene/Cherenzia line but not the  
Commonwealth line.

4

Mr. Marek said the Commonwealth line is encroaching his property.

6

Mr. DiOrio asked, the Commonwealth plans are the ones before us?

8

10 Mr. Marek said the Commonwealth plans are the ones endorsed by the Board, signed by  
Town Manager, approved by DEM and do not show the legal boundary because  
12 Commonwealth's survey is not recorded with anyone. He also checked the deed from  
Burdick to Hopkinton Associates and all the metes are consistent and match; the one  
14 Commonwealth submitted stating that it was completely off his property is in fact not.  
The position of the new road is from 2 to 5 feet on his property. He questions the whole  
16 application. The property was sold and the legal description of the property does not  
match what was approved.

18 Mr. DiOrio said, so the issue would only be if they walked in with the Commonwealth  
plan again.


20

22 Mr. Marek said the issue is the permit was granted by DEM based on the Commonwealth  
plan, it still stands, and is not being addressed as corrected.

24 Mr. DiOrio said we have been advised. We will see what happens in November.

26 Mr. Marek said the road permit expires in October. Subdivision suitability has already  
expired.

28

30  Mr. Buford asked if at the Love's appeal of the Planning Board decision, was it  
appropriate for members of the Planning Board to make comments on what is on the  
32 record, as it seems like the Board doesn't have an advocate at the hearing and there is a  
one-sided presentation. He added, we don't know if we will be adequately represented  
by Mr. Prentiss.

34

36 Mr. Walker said Mr. Prentiss is a savvy lawyer and will present our side along with  
presenting his own client's case.

38 Mr. DiOrio said Mr. Buford raises a good question. While sitting in the audience he  
couldn't help but wonder where the Planning Board's attorney was. We took a couple of  
40 hard shots at that meeting but he didn't see anyone representing the Planning Board.

42 Mr. Walker said the technical answer would be that the Town is not involved in this  
appeal; the Town is considering it. At this point, the Platting Board of Review is the  
44 Town, so there is nothing for the Town to be advocating for itself. Therefore, it is the  
aggrieved applicant and potentially the aggrieved objectors that are arguing before the  
46 Platting Board. Once the Platting Board renders a decision one way or the other, that  
then becomes the decision of the Town and if the aggrieved party or parties appeal in the  
48 courts, then the Solicitor will represent the interests of the Town.

50 **DATE OF NEXT REGULAR MEETING:** October 7, 2009

52

**Town of Hopkinton Planning Board Meeting – September 2, 2009**

**2 ADJOURNMENT**

MR. WALKER MOVED TO ADJOURN THE MEETING.

**4 MS. DOUTHITT SECONDS THE MOTION.**

All approve.

**6 The meeting adjourned at 9:56 P.M.**

**8**

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

**10**

**12**

Approved:

**14**

**16**