

**TOWN OF HOPKINTON
PLANNING BOARD**

November 5, 2008

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

CALL TO ORDER

The November 5, 2008 meeting of the Hopkinton Planning Board was called to order by Chairman Al DiOrio at 7:05 P.M.

ATTENDANCE

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

Also present: James Lamphere, Town Planner and Scott Levesque, Town Solicitor.

APPROVAL OF MINUTES

MR. WALKER MOVED APPROVAL OF THE MINUTES OF THE OCTOBER 1, 2008 MEETING AS CIRCULATED.

MS. DOUTHITT SECONDED THE MOTION.

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

Motion passes.

Mr. DiOrio recuses. Mr. Walker assumes the Chair.

OLD BUSINESS

Master Plan Public Informational Meeting Con't. – Major Land Development – Cedar Hollow, Plat 4 – Lot 13A, Main Street (Rt. 3) & Wellstown Road. S.M. Trombino Properties, applicant.

Anthony Nenna of On-Site Engineering, Paul Azzinaro, Principal of Azzinaro Larson Architects, and Stano Trombino, applicant, were present.

Mr. Nenna did a recap of the October 1 meeting where the Board asked for additional information on the variances sought. The first variance the applicant is requesting is on building height due to the unique characteristics of the lot. The lot is approximately ten (10) feet below Main Street with 1.8 acres of wetlands in the rear of the property. The wetlands total 3.4 acres. There are several site constraints. The leach field is a substantial size and can not be driven on. The applicant is asking for a three (3) foot height variance on the main structure and a thirteen (13) foot height variance to include the cupolas. The cupolas occupy six hundred forty-eight (648) feet of area. He presented the Board with rear and north side elevations of the building that show a seven (7) pitch on the roof.

Mr. Walker asked how much of the building is visible to traffic on Main Street.

2 Mr. Azzinaro said the first and second floors, but not the lower level, are visible from
4 Main Street. The lowest level is visible only from the back of the building. The upper
6 part of the lot is roughly at elevation thirty-seven (37) and the building floor is at
8 elevation thirty-six (36). In good design practice you do not want the first floor lower
than Main Street; the middle of the site is basically the floor line. The back of the
building will not be seen until you physically drive around into the rear parking lot.

10 Ms. Douthitt asked if the rear is going to be like the end.

12 Mr. Azzinaro indicated the elevation that you would see from Route 3 and as you turn
14 down Wellstown Road. He said the variance is the smallest triangle which goes three (3)
feet above the forty (40) feet. The total structure height is forty-three (43) feet with an
16 additional ten (10) feet for the main tower. The maximum variance requested is thirteen
(13) feet for the tower; the cupolas are about eight (8) feet. The foot print is seven
thousand (7,000) square feet for a twenty-one thousand (21,000) square foot building.

18 Ms. Douthitt asked if the elevator is in the tower.

20 Mr. Azzinaro said the elevator is in the core of the building, not in the tower as misstated
last time.

22 Mr. Nenna said the second variance request is for a reduction in parking. He met with
24 the Zoning Official to review the parking, who agreed with the calculations that are
in the packet. Space has been broken into use categories and he has created Table I that
26 lists parking by building levels. Total parking required is ninety-one (91) spaces. They
are providing seventy-two (72) spaces which means they need a variance of nineteen (19)
28 spaces. They then computed parking spaces based on the proposed Exit One ordinance
which would require seventy-four (74) spaces, or a variance of two (2) spaces.

30 Mr. Nenna continued, the third request by the Board was for detail on lighting. He
created a preliminary site plan showing proposed lighting with a legend, a list of lights
32 and their location. The lighting may change. He has listed the Design Standards they
will follow, to include: one to two foot candles in the parking area; dark sky compliant
34 lighting; light directed downward toward parking area or toward signs. He presented a
display showing the site plan for the parking area and examples of lighting at Westerly
36 Crossing and South County Commons. They may use goose neck lights with side
shields directed downward toward the signs. There will be no light overflow beyond the
38 property line. A natural buffer along the northern edge will be maintained to block
light from the property to the north. There will be some lighting during non-operational
40 hours for security.

42 Mr. Walker stated that lighting is serious to this Board. One condition that may be
imposed as part of the Preliminary will be that the plans be reviewed by a qualified
44 lighting engineer or designer who will certify to this Board that it will in fact be dark sky
compliant and that there will not be undesirable leakage on to neighboring properties.
46 This review will be at the applicant's expense.

48 Mr. Nenna said the fourth issue is signage and has included a detail of their proposed sign
in the package. They are seeking a variance for location of the main sign so it will fit on
50 the south corner of the lot. This is necessary because the driveway leading to the rear
imposes on the area for placing the sign.

2 Mr. Walker asked where, exactly, will the sign be located and what is the variance
needed.

4
6 Mr. Nenna's response was that the sign will be on the south corner of the lot. They are
seeking a five (5) and a nine (9) foot variance.

8 Ms. Douthitt asked if the variance was for the posts or for the sign itself.

10 Mr. Nenna said the variance is for the sign itself.

12 Mr. Walker asked if they need a setback variance.

14 Mr. Nenna responded correct. The front yard setback is ten (10) feet and the side is
fifteen (15) feet; they are providing five (5) feet off the front and six feet off the side.

16
18 Mr. Azzinaro said the state owns approximately twenty (20) feet on both sides. They are
dealing with the property owned by the state and are trying to get the sign located so that
it can be read on the elevation of the road.

20 Mr. Cox asked if it will be a neon sign.

22
24 Mr. Azzinaro responded no; there will be a flood light from the ground up toward the
sign.

26 Mr. Cox said there is an existing problem with the sign setbacks in Ashaway.

28 Mr. Nenna said the sign should not obstruct the site line. DOT will review this as part of
their physical alteration permit. He had a letter from Brad Ward, Town Building Official
30 that he showed to the Board.

32 Mr. Walker read from the letter from Mr. Ward stating that "he reviewed the reports
submitted by On-Site Engineering dated October 27, 2008, and concurs with the variance
34 requirements as outlined with respect to the height and parking requirements. The sign
location at this stage is conceptual. It appears the representations made in the above
36 report are accurate, however a stamped site plan is required to properly evaluate the relief
necessary. Neither Mr. Ward nor the Fire Marshall has reviewed construction drawings
38 for code compliance issues". Mr. Walker commented that all Mr. Ward is saying in the
memo is that the requirements stated in Mr. Nenna's report are correct but offers no
40 opinion as to whether the Zoning Board should grant the variances or whether the
Planning Board should recommend they grant them.

42
44 Mr. Ward said he can not guarantee whether the [Zoning] Board will offer any relief of
this project. With respect to the height variance request, the cupolas are not for
46 expansion of use or occupation activities, but for aesthetics. He said many municipalities
have regulations for mixed use parking, such as this, a shared parking requirement to
48 allow for flow. He was not able to pick any concrete location for the sign, with respect to
property lines to evaluate its location, but would concur with the relief that has been
stated. He has no objection at this stage with the uses that are proposed as indicated.

50 Ms. Douthitt asked if there was any way of placing the sign without needing a variance.

2 Mr. Nenna's response was that they tried to make it aesthetically pleasing with the
4 stonework on the side. They may build up a wall or platform area. They also wanted to
ensure it did not interfere with the driveway.

6 Mr. Azzinaro said if done as per ordinance, the sign would be against the access drive.
8 Because the state owns so much land, this would be the perfect spot for the sign. A wall
would be too close to the access drive. To put the sign on the corner would allow for no
10 visual from the corner. As proposed, the sign is at least twenty (20) feet and twenty-five
(25) feet off the corner. There is also drainage in that area that has to be diverted. They
are proposing to be six (6) feet off the lines at the corner.

12
14 Mr. Walker asked if the sign would be visually set back more than required from the
street because of state property.

16 Mr. Azzinaro said it will be back about thirty (30) feet.

18 Mr. Nenna said there will also be drainage in that area and would not want the sign on
20 either a pipe or an outflow.

22 Ms. Douthitt asked if the sign could be hit by state plows.

24 Mr. Nenna responded no.

26 Mr. Levesque commented that during the presentation the applicant indicated that the
Town believes the current parking requirements are excessive. A change is proposed that
28 reduces the number of spaces. That proposal has not yet been accepted and does not
mean that because there is a proposed change, the Town regulations are somehow
deemed excessive.

30
32 Mr. Walker said, in terms of procedure, what the applicant needs from the Board is
conditional approval of the Master Plan submission and approval of advisory opinions
34 from the Planning Board to the Zoning Board regarding requested variances for building
height, parking spaces and sign placement. He would propose to deal with them in that
36 order, with traditional Master Plan approval followed by motions to act upon requested
variances.

38 Mr. Cox commented that the request for a height variance is only a few feet, not another
40 story and he does not have a problem with it.

42 Ms. Douthitt commented that the lighting plan looks adequate to her.

44 Pat Sowinski, North Road, said the same discussion was made for the pavilion and asked
why this is being discussed now and what responsibility the Town will have in ten years
46 for something that is kaput.

48 Mr. Walker responded that the Town does not have any responsibility and that Ms.
Sowinski is raising a rather speculative hypothetical. It is not the Town that is proposing
50 this. The applicant owns a piece of real estate that he is entitled to use. If you come
before us to build on your land, should we turn you down because of the speculative

2 possibility that your house will become vacant in ten years and the Town might somehow
4 have responsibility for it?

6 Ms. Sowinski asked what are the responsibilities as far as taxes.

8 Mr. Walker said we are doing this because the applicant has applied to conduct a legal
10 use on his land; a use that requires certain kinds of regulatory approvals from the Town.
12 The applicant proposes to invest his money in developing a building and using it for
14 commercial purposes which the applicant believes will be successful and the applicant
16 may or may not prove right.

18 Ms. Sowinski asked if this is really something that this Town needs to address and what
20 good this will this serve the community.

22 Mr. Walker responded that the question is not whether the Town needs this; the applicant
24 has a piece of property that the applicant owns and is entitled to use in a lawful way. The
26 Town has no right to deprive a property owner of the right to use his property in a lawful
28 way simply because the Town thinks the proposed use might be economically infeasible.

30 Pat Fontes asked if this is a lawful use, why are they asking for variances. She said it is
32 not a lawful use; it is an excess of lawful use. You can't prevent the applicant from using
34 his land within the setback and height regulations and ordinances that tell him what he
36 can do with his property. He is asking to do something over and above what he is
38 permitted to do.

40 Mr. Walker explained that is why the applicant is here and why the applicant has to
42 present information that would be required to support his request for variances.

44 Ms. Fontes said the applicant is asking for a benefit from the Town. She asked what
46 benefit the Town gets in return for giving him this benefit.

48 Dorothy Gardiner said, in defense, the applicant is only asking for exceptions to his legal
50 use for aesthetic value. The applicant is asking for variances for the aesthetic value of his
increased height which is of value to the Town because it increases the beauty of the
building. He is not going to profit from it other than it is going to cost him more money
and enhance the attractiveness of his building.

Mr. Walker said there is a showing that an applicant has to make to get what is known as
a dimensional variance. This is not a use variance which is a variance that allows a use
for property that would otherwise be forbidden. He is asking for a dimensional variance
to build a building that is three (3) feet higher than would normally be permitted, one that
has a few fewer parking spaces than would normally be required, and to place a sign
where it would not normally be permitted to be placed, which are among the things the
applicant has to show and on which the applicant has introduced evidence on the record
before us. Whether it is sufficient or not, is for the Planning Board to determine when
they get to considering that. The applicant has to show: that these requested variances
are consistent with the Town's Comprehensive Plan; that the hardship from which the
applicant seeks relief is due to the unique topography of the site and not to some prior
action of the landowner himself that has created the hardship; that the requested change is
consistent generally with the overall Comprehensive Plan and the Zoning Regulations of

2 the Town; that the requested variance will not alter the character of the surrounding
neighborhood or create some impediment to the public health and safety; and, that the
4 relief requested is the minimum relief necessary to relieve the hardship which the
applicant would otherwise suffer. So, the applicant is required to show that the requested
6 variances are consistent with the best interests of the Town and that the Town derives
some benefit from the requested variances and that the benefit to the applicant is not
8 purely in making his property more valuable or more profitable. These are all
considerations taken into account by this Board and by the Zoning Board. Tonight, the
10 Planning Board will make a recommendation to the Zoning Board either to grant or to
deny the requested variances based on the record the applicant has presented to the
12 Board.

14 Ms. Sowinski said that was a lot of mumble jumble and again asked what benefit this is
to the Town. She said the applicant is taking an opportunity to put in a structure that is
16 not a benefit to the Town.

18 Mr. Walker said Ms. Sowinski's comments are duly noted for the record.

20 Carol Baker, Ashaway, said it appears from the building footprint that the applicant is
totally maximizing the development of this property. She asked if the Board has
22 considered approving fewer number of units, and therefore the applicant would not have
to ask for a variance in parking. If the building had two stories instead of three, he would
24 not have to ask for a variance in height.

26 Mr. Walker said it has been considered. If a two story structure was built, the view from
Route 3 would be of the roof and not particularly attractive.

28
30 MR. WALKER ASKED FOR A MOTION FOR APPROVAL OF THE MASTER PLAN
SUBMISSION, SUBJECT TO THE FOLLOWING CONDITIONS:

- 32 1) THAT THERE BE A BUILDING HEIGHT VARIANCE GRANTED BY THE
ZONING BOARD;
- 34 2) THAT THERE BE A PARKING VARIANCE FROM THE ZONING BOARD;
- 36 3) THAT THERE BE A SETBACK VARIANCE GRANTED BY THE ZONING
BOARD WITH RESPECT TO THE SIGN;
- 38 4) THAT ALL REQUIRED STATE LICENSES FOR WETLANDS, ISDS, AND
CURB CUTS, WILL BE IN PLACE;
- 40 5) ALL LIGHTING FOR THE PROJECT WILL BE DARK SKY COMPLIANT AND
CONFINED TO THE PROPERTY AS CERTIFIED BY A LICENSED LIGHTING
DESIGNER OR ENGINEER TO BE ENGAGED BY THE PLANNING BOARD AT
THE APPLICANT'S EXPENSE.

42 THE APPROVAL IS BASED ON THE FOLLOWING FINDINGS OF FACT:

44 THAT THE PROPOSED DEVELOPMENT, ASSUMING ALL CONDITIONS ARE
MET,

- 46 1) IS CONSISTENT WITH THE TOWN'S COMPREHENSIVE PLAN,
PARTICULARLY PLANS FOR THE COMMERCIAL DEVELOPMENT AT EXIT
48 ONE, IN A MANNER CONSISTENT WITH THE TOWN'S RURAL
CHARACTER;
- 50 2) IT COMPLIES WITH THE STANDARDS AND PROVISIONS OF THE TOWN'S
ZONING ORDINANCE, EXCEPT FOR THE VARIANCES AS NOTED;
- 52 3) WILL CAUSE NO SIGNIFICANT NEGATIVE ENVIRONMENTAL IMPACTS IF
BUILT AS SHOWN ON THE ULTIMATE FINAL PLAN WITH ALL THE
REQUIRED CONDITIONS;
- 54 4) WILL NOT RESULT IN THE CREATION OF ANY NEW LOTS;

- 2 5) THE LOT HAS ADEQUATE AND PERMANENT PHYSICAL ACCESS TO A
PUBLIC STREET, NAMELY MAIN STREET AND WELLSTOWN ROAD;
4 6) PROVIDES FOR SAFE CIRCULATION OF PEDESTRIAN AND VEHICULAR
TRAFFIC, FOR SURFACE WATER RUNOFF CONTROL, FOR THE
6 PRESERVATION OF NATURAL FEATURES THAT CONTRIBUTE TO THE
ATTRACTIVENESS OF THE COMMUNITY, PARTICULARLY THE VIEWSCAPE
8 AT EXIT ONE;
7) THE DESIGN OF THE SITE, THE LOCATION OF THE SITE, INCLUDING THE
10 PROPOSED UTILITIES AND DRAINAGE IMPROVEMENTS AND OTHER
IMPROVEMENTS SHALL MINIMIZE FLOODING AND SOIL EROSION.

12 MR. COX MADE A MOTION TO APPROVE MASTER PLAN, WITH CONDITIONS, AS
READ.

14 MS. DOUTHITT SECONDED THE MOTION.

Messrs. Walker, Cox, Escher, Santilli and Ms. Douthitt approve the motion.

16 *Motion passes.*

18 MR. WALKER ASKED FOR A MOTION TO ADOPT AN ADVISORY OPINION TO THE
ZONING BOARD RECOMMENDING THAT IT GRANT THE REQUESTED THREE FOOT
20 MAIN ROOF AND THIRTEEN FOOT TOTAL BUILDING HEIGHT VARIANCE BASED ON
THE FOLLOWING FINDINGS:

- 22 1) THE HARDSHIP FROM WHICH THE APPLICANT SEEKS RELIEF IS DUE TO
THE UNIQUE TOPOGRAPHY OF THE SITE WHICH WOULD NOT PERMIT A
24 CONFORMING BUILDING TO BE BOTH VISIBLE FROM MAIN STREET AND
AESTHETICALLY PLEASING AND HARMONIOUS WITH THE SURROUNDING
26 AREA;
2) THAT THE HARDSHIP DOES NOT RESULT FROM ANY PRIOR ACTION OF
28 THE APPLICANT OR PRIMARILY FROM THE DESIRE TO REALIZE
GREATER FINANCIAL GAIN;
30 3) THAT THE REQUESTED VARIANCE WILL NOT ALTER THE GENERAL
CHARACTER OF THE SURROUNDING AREA, AND THE RESULTING
32 BUILDING WILL BE MORE ATTRACTIVE AND HARMONIOUS WITH THE
SURROUNDING AREA THAN A CONFORMING BUILDING LIKELY WOULD
34 BE;
4) THE RELIEF REQUESTED IS THE LEAST NECESSARY TO ACHIEVE THE
36 DESIRED PURPOSE.

MS. DOUTHITT MAKES THE MOTION TO ACCEPT THE FORESAID CONDITIONS.

38 MR. COX SECONDS THE MOTION.

Messrs. Walker, Cox, Escher, Santilli and Ms. Douthitt approve the motion.

40 *Motion passes.*

42 MR. WALKER ASKED FOR A MOTION TO ADOPT THE ADVISORY OPINION TO THE
ZONING BOARD RECOMMENDING THAT IT GRANT THE REQUESTED NINETEEN (19)
44 SPACE PARKING VARIANCE BASED ON THE FOLLOWING FINDINGS:

- 46 1) THE HARDSHIP FROM WHICH THE APPLICANT SEEKS RELIEF IS DUE TO
THE UNIQUE CHARACTERISTICS OF THE SUBJECT LAND, BECAUSE OF
48 WETLANDS AND THAT PART OF THE LAND SET ASIDE FOR THE SEPTIC
LEACH FIELD REDUCING THE AREA AVAILABLE FOR PARKING;
2) THE HARDSHIP DOES NOT RESULT FROM ANY PRIOR ACTION OF THE
50 APPLICANT OR PRIMARILY FROM THE DESIRE TO REALIZE GREATER
FINANCIAL GAIN;
52 3) THE REQUESTED VARIANCE WILL NOT ALTER THE GENERAL
CHARACTER OF THE SURROUNDING AREA AND INDEED THE RESULTING
54 REDUCTION IN THE AMOUNT OF IMPERVIOUS PAVING WILL
ACTUALLY IMPROVE THE APPEARANCE OF THE PROJECT;

2 4) AND FINALLY, THAT THE RELIEF REQUESTED IS THE LEAST NECESSARY
TO ACHIEVE THE DESIRED PURPOSE.

4 MR. ESCHER MAKES THE MOTION AS STATED. MR. COX SECONDS THE MOTION.
Ms. Douthitt and Messrs. Escher, Walker, Cox and Santilli approve the motion.

6 *Motion passes.*

8 MR. WALKER ASKED FOR A MOTION TO ADOPT AN ADVISORY OPINION TO THE
10 ZONING BOARD RECOMMENDING THAT IT GRANT THE REQUESTED SETBACK
VARIANCES FOR THE SIGN BASED ON THE FOLLOWING FINDINGS:

- 12 1) THAT THE HARDSHIP FROM WHICH THE APPLICANT SEEKS RELIEF IS
DUE TO THE UNIQUE TOPOGRAPHY OF THE SITE WHICH WOULD NOT
14 PHYSICALLY PERMIT A SIGN TO BE ERECTED IN CONFORMITY WITH
THE LITERAL REQUIREMENT OF THE ZONING BOARD OR OF THE
ZONING REGULATION;
- 16 2) THAT THIS HARDSHIP DOES NOT RESULT FROM ANY PRIOR ACTION OF
THE APPLICANT OR PRIMARILY FROM THE DESIRE TO REALIZE
18 FINANCIAL GAIN;
- 20 3) THAT THE REQUESTED VARIANCE WOULD NOT ALTER THE GENERAL
CHARACTER OF THE SURROUNDING AREA AND WOULD BE CONSISTENT
AND AESTHETICALLY PLEASING WITH THE SURROUNDING AREA;
- 22 4) THE RELIEF REQUESTED IS THE LEAST NEEDED TO ACHIEVE THE
DESIRED PURPOSE.

24 MR. SANTILLI SO MOVES. MR. COX SECONDED THE MOTION.

Messrs. Santilli, Cox, Walker and Escher and Ms. Douthitt approve the motion.

26 *Motion passes.*

28 *Mr. DiOrio returns and resumes Chair. The Board takes a five minute break.*

30 **Expiration of Approval – 4 Lot Minor Subdivision – Panther Orchard Farm, Plat 8**
32 **- Lot 22, Tomaquag Road. Panther Orchard Farm, LLC, applicant.**

34 Mr. Lamphere said this application received approval in August of 2007. According to
state statutes, expiration of Preliminary approval is within ninety (90) days. At the last
Board meeting an application was extended and the applicant paid a two hundred dollar
(\$200) extension fee. He recommends the same action be taken here.

36 MR. WALKER MOVED TO APPROVE THE EXTENSION OF THE FINAL APPLICATION
38 APPROVAL TO NOVEMBER 5, 2009, SUBJECT TO PAYMENT BY THE APPLICANT OF
THE TWO HUNDRED DOLLAR (\$200) EXTENSION FEE.

40 MS. DOUTHITT SECONDED THE MOTION.

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

42 *Motion passes.*

44 **Expiration of Approval – 3 Lot Minor Subdivision – McNulty Plat, Plat 5 – Lot 102,**
46 **Collins Road. Margaret R. McNulty, applicant.**

48 Mr. Lamphere said this application was approved February 6, 2008. They have failed to
record a Final plan in the ninety (90) day approval period.

50 MR. WALKER MOVED TO APPROVE THE EXTENSION OF THE FINAL TO NOVEMBER
5, 2009, SUBJECT TO THE PAYMENT BY THE APPLICANT OF THE TWO HUNDRED
DOLLAR (\$200) EXTENSION FEE.

52 MS. DOUTHITT SECONDED THE MOTION.

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

54 *Motion passes.*

2 **NEW BUSINESS**

4 **Pre-Application – Major Land Development – Love’s Travel Stop and Country**
6 **Store, Plat 7 – Lot 59, Main Street (Rt. 3). Love’s Travel Stops and Country Stores,**
8 **Inc., applicant.**

6 Attorney Vincent Naccarato represented the applicant. Also present was Christopher
8 Duhamel, Professional Engineer and Land Surveyor with DiPrete Engineering and
10 Project Engineer; Rick Shuffield, Director of Real Estate and Development for Love’s
Travel Stops and Country Stores, Inc.; Judy Zimmerman, Traffic Engineer from RAB
Engineering; Tom Daly of LFR; and, Joe Lombardo, Planning Consultant.

12 Mr. Naccarato said that since this was a Pre-Application, no notice has been given. He
14 has a number of witnesses here that will speak in the narrative. Materials submitted to
the Board include a hydrology analysis and a traffic study. The witnesses will touch on
16 major points rather than go into detail.

18 Mr. DiOrio suggested that we follow the Board’s format which means the applicant puts
on their presentation and the Board will entertain questions when they are finished.

20 Mr. Naccarato said this land is located at the northeast quadrant of the Exit One
22 interchange with Route 95. It is presently owned by the Gingerella family. The lots were
truncated by the condemnation of the land for I-95. The Gingerellas also owned the land
24 that was sold to American Kuhne across the street. The property is presently zoned
manufacturing and has been since zoning was created in Hopkinton in the early 1970’s.
26 The American Kuhne property is also zoned manufacturing, directly to the west of this
property. Directly to the north is approximately 28 acres owned by the Palmer family;
28 half is zoned manufacturing. Directly to the south is the Park and Ride owned by the
State of Rhode Island and directly to the northeast is the Interstate 95 corridor. This
30 property is flanked by manufacturing zone property as well as directly across the street;
there is residential property if you go in a northerly direction along Route 3. The project
32 site is approximately 18.3 acres. There a proposal by Love’s, which is the applicant,
along with the Gingerella family, to construct a travel stop on the site.

34 Mr. Duhamel said he will present the civil site, environmental design for the Love’s
36 Travel Stop. This project is designed to comply with all Town Zoning and Planning
Regulations and all State and Federal Environmental Regulations. It is an involved
38 process; a process defined on the Town level with the Pre-Application plan tonight and a
subsequent Planning Board Master Plan and an advisory opinion for the zoning to the
40 Zoning Board for a special use permit, an aquifer protection permit, conservation review,
and staff review with the Fire Chief, Zoning Official, Police, and Planning. This is quite
42 an involved review process just on the town level. On the state level we have the RIDEM
Office of Water Resources for freshwater preliminary determination, an onsite
44 wastewater treatment system, OWTS, groundwater quality certification, and underground
injection control, all with the RIDEM Waste Management Group. The RIDOH permit
46 for a non-community public well is required on this site as well as a USEPA review
concurrent with the UST review with DEM for the spill prevention control and counter
48 measure plan, the SPCC. All these environmental permits will be complied with. It is a
long process to demonstrate compliance. It is meant to protect the wetlands on the site,
50 not to alter any wetlands and to protect the groundwater on the site. The RIDOT
approvals have to do with traffic safety level of service analysis and safe stopping
distance for ingress and egress to the site.

2 Mr. Duhamel continued, as an overview of where the property is in relation to the Town
of Hopkinton and Route 95, he presented a map with the Town outlined, showing Route
4 95 diagonally across the town. The site is one-half mile into town, directly adjacent to
Exit One, as was shown on a 2004 aerial photograph with the site outlined. It is an
6 eighteen (18) acre site located on the parcel AP 7, Lot 59. There is six hundred fifty
(650) foot frontage on Main Street, Route 3, which is a state right-of-way. The property
8 also is bounded to the south by the southbound lane of Route 95. Exit One is
immediately south of that. The federal highway line, that is one of the abutters to the site,
10 is a Park and Ride. Across the street are American Kuhne and ProSystems, a project that
went through over the last two years, is now constructed, and went through a
12 Comprehensive Plan Review, a Zone Change Review, and a whole Development Plan
Review. This site, on the other hand, is zoned manufacturing. We don't have the same
14 constraints and is permitted under the Zoning Code, as Mr. Naccarato has said. There are
several overlay districts that are present on the property. There is, within the Town of
16 Hopkinton, the Aquifer Protection Ordinance that defines two districts; the Primary
Overlay District and the Secondary Protection District. There is a blue line that is
18 delineated on the plan that shows the boundary; the red line is the boundary of the
Primary Aquifer Protection District. The site is completely outside of that. The site is
20 within the Secondary Aquifer Protection District. There are DEM groundwater
protection areas that are denoted; the community wellhead protection area is shown in
22 green. Again, they are off the site one hundred percent (100%). There are no DEM
Groundwater Protection Zones on this property or within the vicinity of the property.
24 Zoning for the site is manufacturing. The subject site and to the north is manufacturing;
south of the property is the Federal right-of-way for Route 95, the interchange for Exit
26 One. Across the street is manufacturing for American Kuhne. Within the radius is
residential zoning across the street, to the north of Main Street. He then showed a more
28 descriptive view of the site, showing the existing boundaries of the site, 18 acres of the
parcel, 650 foot of frontage on Main Street, the Park and Ride that is abutting the site, the
30 Federal rest stop, and 95 to the south as one of the abutters. It also showed the site
conditions including the topography; the wetlands are delineated by Natural Resources
32 Services that surveyed the map. There are about four (4) acres of wetlands that exist on
the property out of the 18 acres. They have done test holes across the site to delineate the
34 soils. Some of the soils were found to be disturbed, apparently historically disturbed
when they were building Route 95. The site now is completely wooded and vegetative.
36 The best soils on the site were found along Main Street. They were undisturbed soils and
have two (2) to six (6) foot water tables; this would be the most suitable area for an onsite
38 wastewater treatment system. There is a FEMA flood plain that is mapped, within the
wetland itself. The wetland drains northerly, drains around the site, northerly drains
40 across Main Street and off to the north and down the ramp. Parmenter Brook is the
ultimate destination of the immediate wetland.

42 Mr. Duhamel continued, the site development that is being proposed of the Love's Travel
Stop is a rest area; it is an optimum location for a rest area and it is zoned properly for the
44 intended use, a gasoline service station. A special use permit is required and an aquifer
permit is required for that. It is zoned for an eating place. They have a ten thousand
46 (10,000) square foot building that has within it the restaurant facility, the restrooms, a
drive-thru that is being proposed on the site, and a travel gift shop that is also being
48 proposed within this building. The site itself is designed primarily as the rest stop. There
are eight (8) gasoline service auto filling stations located on the front of the site. There is
50 ingress for the gas service station and egress along the same access. There is a separate
ingress and egress for the tractor trailer trucks that can enter the site and go in a one-way
52 direction through to the filling stations that are proposed. There is parking proposed for

2 the restaurant, gift shop, and the rest rooms. This parking for seventy-five (75)
4 automobiles is located in the front; there are sixty-nine (69) parking spots for the tractor
6 trailer trucks. A total of one hundred forty-four (144) parking spots are being designed.
8 The site is to be serviced by the onsite wastewater treatment system that would be in a
10 location where the optimum soils are. They are considering using denitrification
12 technology that would provide the most purified effluent quality. They would also
14 incorporate UV disinfection that would have greater protection of the groundwater.
16 A community is well being proposed. Tom Daly can speak to the capacity of the well.
18 OWTS loading rates are within five thousand (5000) gallons a day; the well is being
20 proposed to yield just less than ten thousand (10,000) gallons a day as a safety measure to
22 provide for adequate water, but it is not required to be at that level. Mr. Daly has done all
24 of his analysis based on the upper figure. The location of the well is such that it meets all
26 Department of Health requirements. There is an ownership of a two hundred (200) foot
28 radius on the site that is to be undisturbed. There is a four hundred (400) foot radius that
30 is required and any pollutant sources have to be denoted within that four hundred (400)
32 foot radius; outside of that radius any underground storage tanks, any drainage infiltration
34 structures. The drainage system is designed to control the water on site, to clarify the
36 water to meet the strict standards, the best management standards where 80% total
suspended solids are removed from that water source, from that discharge. The increase
in runoff generated by the impervious surfaces is moderated on site by the drainage pond.
This is something the Board has seen readily on every design project. This would
comply with DEM and Town of Hopkinton requirements. The service station design,
itself, is meant to comply with very strict standards of the RIDEM. The EPA spill
prevention, control and countermeasure plan is provided where all the components are
doubly designed. The piping and the onsite storage tanks have double walls. Within the
double walls are electronic leak detection monitors to alert of any breach of the first wall.
There are monitors on the second wall as well and monitors around the site to monitor the
groundwater table so it still meets the ambient conditions. This is something that would
have to be reviewed and delineated through the DEM through the UST process. LFR and
Tom Daly will be participating in that with them. Those are the major items that they are
presenting tonight. There are many other details that will have to be reviewed, including
the pavement design, site grading, parking striping, aisle widths, the DOT review and
approval of the entrance and egress, lighting design, signage, and dumpster location.
There is much work that would have to be worked out over the period of the following
meetings and they could certainly answer any questions that you would have tonight.

38 Mr. Shuffield distributed folders with brochures on the Love's Travel Stops to the Board
40 since they do not have much exposure in this general area. His company is based out
42 of Oklahoma City and was founded in 1964 by Tom Love. The Love name is for real; it
44 is not just a gimmick. He is actively involved with the company as well as his sons and
46 daughter. They operate what they call travel centers, that most call truck stops. The
48 difference between the two, and the difference as far as what they are proposing, is that in
50 this particular project, which is fairly prototypical of what they do, they normally build
52 out an eight (8) or ten (10) acre development that encompasses an approximately ten
thousand (10,000) square foot building. Their goal is to provide services to the motoring
public. As part of that goal, they try to pick locations that are uniquely identified to be
able to provide very easy ingress and egress in a safe and prudent manner. This
particular site fits those characteristics. One of the differences between a truck stop and a
travel center is the size. A typical Petro or Truck Stops of America, or other larger truck
stop chain, is going to be sitting on somewhere between twenty (20) to twenty-five (25)
acres in size and typically will park between two hundred fifty (250) to three hundred

2 fifty (350) trucks. They service more on a full-service scale, meaning, they will have a
full-service restaurant, provide TV lounges for the drivers, encouraging that to be the full
4 oasis. Whereas Love's service model is really more of the in and out service. Their
model is predicated on a normal basis on cheaper fuel prices and less amenities, provide
6 what the driver's cars or RV's need, whether it be fuel, fast food, a coke or what have
you; they can get their service and move on. Hence the scale down. Because they build
8 a smaller project, they don't have as much capital so they can usually afford to sell the
fuel at a lesser price. As previously indicated, this project will have a convenience store,
10 gift shop and the restaurant. The restaurant has not yet been determined, but most likely
will be an Arby's restaurant which is what they are thinking at this point. It will have
12 fueling for cars, trucks and RV's. Mr. Duhamel indicated there were eight pumps, that
is correct, but there is actually fuelling for sixteen vehicles at a time because you can fuel
14 on both sides. The trucks will only be fueling eight at one time because they will occupy
the whole aisle way; they will have both satellite and master where they can fuel the
16 saddle and the main tank at the same time. The information that he provided is what
he thought might be prudent. He told the Board they were welcome to ask any questions
18 relative to his company and the day to day operations. What he has included in that
package is an overview of where Love's are; the closest in this general area are two
20 locations they operate in Pennsylvania, soon to open up another one. This is their first
foray into the northeast. He has provided a map of their locations, a little history of the
22 company, a little biography of the ownership, some elevations, and typical floor plans.
He also included the elevations which are strictly a general view. It has been his history
24 to work with various municipalities relative to what they would like to see architecturally.
Just like McDonald's who has to have that M somewhere, they will have to have their
26 logo in some places but are certainly willing to work with the community as it relates to
the architectural standards, certainly the dark sky. He's accustomed to dealing with the
28 lighting issues, shielding, providing photo metrics and doing this where it is a first class
project.

30 Mr. Naccarato said he would like to point out that this is one of those applications that
32 require approval also from the Zoning Board of Review. They have filed with the
Zoning Board an application for a special use permit for the following uses: a gasoline
34 service station which is permitted in the manufacturing zone by special use permit,
eating places because the restaurant as Rick has described it would be a restaurant with
36 no liquor served; and the gift, novelty, souvenir shop and convenience store accessory to
the gasoline station are all uses that are going to require Zoning Board approval. This is
38 the type of application that comes before the Planning Board first for recommendation
and then to the Zoning Board; the Zoning Board would then rule on the special use
40 permit, and if that were favorable, then it would come back to the Planning Board for the
follow-up on the major development plan. This is not something that this Board can
42 decide in and of itself; it has to have Zoning Board approval as well. At the very end it
needs an aquifer protection permit as well from the Zoning Board of Review. The
44 process is very long, requires a number of public hearings, not only before this Board, but
also the Zoning Board of Review. That is besides the state permitting that Mr. Duhamel
46 has outlined from DOT, Department of Health because of the well, and ISDS because of
the septic system onsite. There is a myriad of permits that are required in a project of this
48 nature. This is the very first step at the Pre-application stage.

50 Judy Zimmerman, Senior Transportation Engineer with RAB Professional Engineers, a
Registered Professional Engineer in Rhode Island and Connecticut and Certified
52 Professional Traffic Operations Engineer. She briefly reviewed their traffic study. They

2 conducted a review of the project site plans to determine the adequacy of the proposed
access location to ensure the safe ingress and egress of property. They conducted
4 numerous site visits at various times of the day. They are very familiar with the area and
have done several traffic studies including one for American Kuhne across the street.
6 They inventoried the project area including the land use, existing roadway conditions
including the horizontal and vertical alignment and the site distances of the existing
8 roadway network. As a result of this analysis they recommended that the driveway to the
site be located immediately north of the park and ride northern driveway as this provides
10 the best site distances in both directions. They completed traffic data collection
including obtaining 24-hour automatic traffic recorder counts from the Rhode Island
12 Department of Transportation and also conducted a manual turning movement count at
the intersection of Main Street with the Park and Ride driveway. They developed trip
14 generation estimates for the proposed facility using several ways. When they originally
did their traffic study, the restaurant was going to be some sort of donut shop so that part
16 will have to be revised now that it is going to be a fast food restaurant as the traffic
conditions will be different. A donut shop has more traffic in the morning whereas a fast
18 food restaurant would have more traffic in the afternoon. They used mainly the trip ITE,
Institute of Transportation Engineers, Trip Generation Manual Land Use Code 945 which
20 is a gasoline service station with a convenience mart. Then, according to data provided
by Love's, they increased the traffic by 25% to account for truck traffic that would be
22 occurring at this site and then they also included the donut shop. They originally
estimated three hundred forty-four (344) trips in and out during the morning peak hour
24 and three hundred twenty-eight (328) trips in and out during the afternoon peak hour
which changed somewhat based on the use of a fast food restaurant versus a donut shop.
26 They also analyzed the capacity of the site driveway with its intersection with Main
Street and found that the level of service would be acceptable and that one to three cars or
28 trucks would be waiting to exit the driveway at any one time. In conclusion they
recommended that the driveway be located as they said, that there be a secondary
30 driveway for the trucks entering so they could circulate around the site in a one way
pattern and that they concluded that the site would have adequate and safe access
32 provided to a public street and that there would be no detrimental effect on public safety
or welfare.

34
36 Tom Daly of LFR addressed some of the water resource issues that are associated with
this project. They took a preliminary, non-specific look, at the questions of water
availability to see if the aquifer will have sustainable yield to support the project.
38 They analyzed the potential impacts that the use of a public well will have on the
groundwater and aquifer system and took a brief look, to create a summary of the
40 groundwater protection measures that will be required for this project. The first thing
they looked at to evaluate the water resources was the geology at the site, existing yields
42 of area wells to compare them with the needs for water for the project, and a water
budget evaluation to compare the water that enters into the system on the property as
44 opposed to the water withdrawn, comparing the three in post development scenarios. The
soils are basically glacial till. Bedrock conditions are granite and gneiss which is
46 typical of southeastern Rhode Island. From that perspective, there are no special
concerns as far as water quality, water availability for the project. The proposed well or
48 wells on site, depending on the yield, will be bedrock wells which essentially are drilled
into the bedrock and sealed with a steel casing into the bedrock. The well itself, is an
50 open borehole into the bedrock and obtains its water from flow through the fractures in
the bedrock. DEM has guidelines relating to depth and to yield rates for bedrock wells.
52 The way it works, is that the shallower the well, the higher they yield has to be. For

2 example, if you had a one hundred (100) foot deep well to be a permitted DEM well, you
4 would need a five gallon per minute flow rate to be a private drinking water well. If you
6 had a half gallon per minute flow rate, you would have to drill your well four hundred
8 fifty (450) feet deep. The reason for the change of depth with a yield is that a deeper well
10 provides a volume of storage of water that can be drawn off over time whereas a shallow
12 well doesn't have that volume available and needs more of a constant flow at a higher
14 rate. They went to DEM to review well completion logs, forms filled out by a well
16 driller, generally for private wells. All the ones they looked at were for private wells in
18 the area. The well drillers fill out these forms that state how deep the well is as well as
20 the depth of bedrock, flow rate of the well, and the geometry and other facts about the
22 well. They found thirty-two (32) completion reports that they identified as being in the
24 vicinity of the proposed project. Their act for yield summary when they took the median
26 and average of these wells, was approximately four times the DEM requirement. The
28 median well depth for the area was about two hundred three (203) feet which is actually
30 fairly shallow for Rhode Island. They have done a number of these studies in many
32 towns across Rhode Island and Massachusetts, and in general, the private well depths are
34 usually closer to three hundred (300). The median depth of the well being more shallow
36 indicates that this particular area yields a little better groundwater than a lot of the
38 bedrock aquifers in Rhode Island. They looked at water availability through a water
40 budget calculation; essentially that is just counting all the water entering into the site, and
42 subtracting the water withdrawal and seeing if you end up with a surplus of water or if
you are depleting the aquifer. In pre-development conditions, the water inputs include
precipitation, infiltration of precipitation to the groundwater; outputs include the evapor-
transpiration which is evaporation and uptake by plants and also runoff of any
precipitation that runs off the site. In the post-development, the input is the same but the
outputs will include evapor-transpiration of runoff and also the consumptive use of the
water for the well on the property. It must be considered that onsite wastewater
treatment will be used. In general, 85% of water that is used from a private well on a site
is recycled into the onsite wastewater treatment system so of the actual water pumped out
of the well, 15% is lost through consumptive use and 85% is recycled back into the
natural system. Based on their calculations, the existing conditions show that 8.4 million
gallons per year is the net surplus of water entering the site. Under their proposed
conditions they showed a 6.6 million gallon per year net gain of water. There is a
reduction in the gain of water at the site so the site will continue to be a positive
contributor to the aquifer and the surrounding area and will not result in the depletion of
the water resources in the area. Groundwater protection measures will be necessary in
order to permit this project. There is a protective radius of two hundred (200) feet that is
required by the Rhode Island Department of Health. That radius is required to be under
control by the applicant or the owner of the well. In this case, the entire radius is on the
property and so they can effectively control the kind of activities that can take place
within that two hundred (200) foot radius.

Mr. Daly continued in addition, the well will have to go through the permitting process,
a two step process with the Department of Health. The first step is to get source
approval where they send in the location of the well, what the proposed use of the site is,
what the proposed area uses are or what the existing area uses are, and an evaluation of
the siting of the well for water quality purposes. Once that is obtained, you go into the
nuts and bolts of getting the final permit. That entails doing the final engineering,
proposing the exact specifications of the well or wells proposed, and the detail that goes
along with it. As far as RIDEM is concerned, the groundwater quality regulations
establish a seventeen hundred fifty (1750) foot wellhead protection area radius around
this type of well. Within this radius are certain uses that are not allowed; specifically

2 solid waste landfills, hazardous waste treatment storage and disposal facilities, will not be
4 allowed within seventeen hundred fifty (1750) feet of the proposed well. The
6 underground storage tank division of DEM has a 200 foot separation distance
8 requirement in addition to the strict monitoring and leak detection systems, such as
10 double walled tanks, piping, interstitial electronic leak monitoring and spill response
equipment onsite, and tightness testing of the tanks that has to be done periodically.
Additionally, the USEPA requires spill control and a counter measure plan to be kept on
site that outlines what the operating procedures of the facility would be, and if there was
any kind of leak, the control measures and the counter measures that would be adopted.

12 Joe Lombardo did a fiscal impact study that he will be presenting to the Board at Master
14 Plan. He said that according to Mr. Shuffield, this project will probably be in the four
16 million dollar (\$4,000,000) range once it is completed. Assuming an assessed value of
18 four million dollars and the current tax rate of \$14.50, this project would generate
20 revenue of \$58,000 to the community. There will some expenses incurred by any land
22 use in the community. In this particular instance, there might be some increased police
24 calls or emergency services calls. Typically, cost of services for this type of use is
26 requiring about 30% or thirty cents on the dollar collected. The \$58,000 is the gross
28 revenue collected less the 30%, or \$17,400, there will be about \$41,000 of net revenue to
the community if this project is built as presented. Mr. Shuffield indicated to him that the
restaurant will probably gross sales of two million dollars; with 1 ½ % return by the state
on the meals tax, that would be and additional \$30,000 in tax revenue to Hopkinton. The
combination of the property tax and the meal tax would total \$71,000 annually in 2008
dollars. Mr. Shuffield anticipates 57 full-time employees; seven (7) managers and fifty
(50) full-time positions. Mr. Lombardo will be providing the Board with a finalized
version of this report when the project is submitted at that stage. He will also be
providing information on his opinion relative to the Comprehensive Plan and the
application to the Zoning Board for the special use permit.

30 Mr. Levesque asked Mr. Lombardo his qualifications on fiscal impacts.

32 Mr. Lombardo responded that he is a member of the Institute of Certified Planners, has a
34 Masters degree in Community Planning from the University of Rhode Island, was the
36 Town Planner in Hopkinton for about 6 years, Town of Richmond for about 6 years,
38 and Town of Westerly for about 2 years. He also worked in the towns of Groton and
Preston, Connecticut, and for the past 18 years he has been doing land use planning and
consultant services to a wide variety of private developers as well as municipalities
around the state.

40 Mr. Levesque asked if he had training as an accountant.

42 Mr. Lombardo responded no.

44 Mr. Levesque asked if the figures presented were based upon information that he was
46 provided by Love's.

48 Mr. Lombardo responded yes; a combination of that and town tax numbers.

50 Mr. Levesque asked if that is information that they derived using other truck stops that
52 they own.

2 Mr. Lombardo responded yes.

4 Mr. Levesque asked if he had a hand in preparing any of those.

6 Mr. Lombardo responded no.

8 Mr. Levesque asked what the intended hours of operation are for this business.

10 Mr. Shuffield responded twenty-four (24) hours.

12 Mr. Levesque asked if he had checked into whether or not that is permitted.

14 Mr. Naccarato said he knows of nothing that prohibits 24 hour operation. He thinks there
16 is something about the sale of dairy products that has a quirk to it that he may have run
into before.

18 Mr. Levesque said he just wanted to make that upfront with the applicant because there
20 may be snags that they may run into with a twenty-four (24) hour operation; it may
not be permitted and suggested the applicant look into that more carefully and certainly
22 we may have to do the same thing. He asked if there is any proposal in this project for
the storage of trailers or trailer trucks, on anything like that on any kind of basis.

24 Mr. Shuffield said no, they discourage that. It is part of the manager's routine that when
26 they come on shift they are to walk the lot and keep a log of the trucks. If there is a
truck there for any extended period of time, the obligation is for the manager to start
28 tracking it down as far as the ownership goes. The only exception would be if there was
an emergency situation and they are told about it. If somebody breaks down and they
30 have to drop their trailer there while they're doing whatever they're doing, they have
granted in those cases, but it is very much the exception.

32 Mr. Levesque asked how long is too long.

34 Mr. Shuffield said twenty-four (24) hours. To clarify that, within twenty-four hours of
36 operation, the managers are checking it and typically they will check it when they go on
and check the location prior to leaving. If there is something that appears out of the
38 ordinary or a truck looks familiar, been there, they will then log it and also tell the
manager coming on duty that they need to be aware of that particular vehicle

40 Mr. Levesque said so at the expiration of twenty-four (24) hours, is the first instance
42 where your business raises an issue with that particular trailer.

44 Mr. Shuffield said that is correct.

46 Mr. Levesque asked how long after that is it that the trailer will be removed.

48 Mr. Shuffield said it depends on the circumstances, but what will happen is after the
twenty-four hour period, a call to the company, the trailer owner, or whatever the case
50 may be, will be taken at issue by the store and they will normally get directions or
explanations as to when they will be there to remove it and take care of the problem. He
52 added, it happens very rarely that there is anything left there for any length of time.

2 Mr. Levesque said Mr. Shuffield made a distinction in his presentation between this and
4 a truck stop and asked, you are not intending that people who operate tractor trailers are
going to stay on site overnight; is that true?

6 Mr. Shuffield no; he cannot tell you they will not. With the current regulations for a
8 short haul, the current regulations meaning the hours of operation that the truck drivers
can drive legally, there are times when they will be parked there, if you call it overnight,
10 it could be from 10:00 in the morning, they take a ten hour break and may leave at 8:00 in
the evening with a vehicle parked there that entire period of time. There could be some
12 overnight parking; there's no doubt about that.

14 Mr. Levesque said Mr. Naccarato did mention the transition between this Board and the
Zoning Board. Do you mean to suggest that you are asking for that recommendation this
16 evening?

18 Mr. Naccarato said no. He realizes the Board cannot make a decision on Pre-application.
The application has to be publicly advertised.

20 Harvey Buford, Conservation Commission, would like a site walk to understand the
22 property better than what can be told from these early plans. He would like the applicant
to show all the public well heads and well radius in the area of Exit One. A number of
24 wellheads have been put it with the obvious development in the area. He said the future
land use map called for this area to be mixed-use village. He was involved in the Zoning
26 Ad Hoc Committee where they have been studying the possible rezone of Exit One and
were constrained with how we would supply community water for a mixed-use type
28 development. They concluded they could not have that kind of water practically on the
north side of 95. That led to the decision to move this area to a technology campus and
30 the kind of manufacturing seen across the street as something that fits that zone. He said
he is trying to understand the scale of the project. When he looked at the district use
32 table categories, this does not seem to look like a gas station and there is no use in the
district tables that fits this. He asked what the volume of fuel is that is pumped through a
34 typical Love's Stop in the course of a year.

36 Mr. Shuffield said one and a half to two million gallons of gasoline on average and ten
million gallons of diesel, on average, per year. He said to keep in mind when you are
38 referencing gallons in diesel, an average fill takes more than 150 gallons per fill. If you
equate that back in, you are really looking at gas station volume levels of diesel. The
40 actual traffic generation at their locations is four to five cars to one truck. The issue is the
trucks are very large, very noticeable, very cumbersome and visible so they seem to
42 overwhelm the facility. The driving size, if you look at the development is parking and
turning units for the truck because, from a safety standpoint, it is utmost important that
44 they utilize all that paved area to get them off the street and make sure we don't create
any safety hazards and create loss of turning movements in there because they are so
46 large and cumbersome.

48 Mr. Buford said he saw a representative of Love's a year or so ago in North Stonington;
they were looking to put in a travel stop at 93. He asked if this was an alternative to that
50 or if they are looking for two locations.

52 Mr. Shuffield said North Stonington put on a moratorium before they put in an
application. He understands that moratorium is till going on. From a developmental

2 standpoint, there is a fairly substantial difference in the fuel tax in the State of Rhode
4 Island as compared to Connecticut which would give this site a much larger advantage,
6 plus the turning movements at this site are much safer and better. That interchange with
8 93 is very convoluted and almost scary. They would have had to do some massive
redesign on that based on the way they would on and off with the corresponding frontage
roads, the stop signs, and so on. They were looking at that but they are committed to this
site; there's not two. They are only doing one.

10 Mr. Buford said he would like the site walk to get a grasp of the property.

12 Ms. Douthitt asked where they guaranteed there wouldn't be an impact on the area with
14 controlling measures to prevent spill from reaching navigable waters or counters to
contain cleanup, what do you have to show about preventing spills or measures to clean
16 up, especially when you're going to have not only cars that come in that will have people
pumping and gas spilling from the pumps. She added, not everybody's car is in great
18 condition; they leak oil on the pavement as do trucks. There is going to be not
necessarily spillage in the tanks which you say you can control, but the trucks that come
20 in don't always have good maintenance; they will be dripping oil, gasoline from their
vehicles. What are you going to do to control that kind of thing if something leaks?

22 Mr. Shuffield said they are required to use best practices as well as to clean up chemicals
if you have any sort of oil spills, whatsoever. Their site is specifically designed to
24 contain any spills that might happen. Spills are pretty rare. If they have a spill on the
site, most of the time that spill happens if a truck pulls up and he has a leaking tank.
26 Instead of pulling off on the side of the road and letting it run all over, they pull into their
facility that is lit and try to address it. Part of the design in the diesel base is they are
28 built in with a catch basin that is sloped down and has an oil/water separator so that all
fuel and any water runs through this oil/water separator that is a dual setup that allows
30 the water and oil to go down into this tank and separate.

32 Ms. Douthitt asked if that is under the pavement in the parking lot.

34 Mr. Shuffield said all the piping is but when they come in to fuel, which is where
typically if they have a leaking tank, they will either park or come up to one of their
36 islands; they hope they come up to one of the islands. If it is still leaking, we direct them
to go up to one of the islands so the fuel will be caught in the catch basins and go down
38 into this oil/water separator which never is discharged; it goes into a holding container
and they monitor that on a weekly basis for levels and they have it maintained and
40 pumped out as needed. If you have a spill on site, part of the grading and drainage that
they do is designed to drain, whether it be a spill or whether it be the water runoff,
42 whether it be a drain catch basin or whether it be a flow over, the store is equipped with
booms and pads which are specially designed materials that will catch the fuel or any
44 type oil product and keeps it so the oil cannot go through, like a dam. If there is water
flow at the same time, the material lets the water flow through. In each store, when it
46 gets designed, they have an environmental department and a part of the environmental
department comes up to the store prior to the opening and trains the maintenance
48 personnel, management personnel, as well as leaves the written spill prevention and
containment booklet that goes through all these scenarios. They also have a DVD that
50 they watch and are required to update and train any new personnel that comes to the site.
They do everything they practically can to control it because it is not only the right thing
52 to do but monetarily, but you want to keep any problems on your own property. As part

2 of the overall site design, all of these measures are taken into account on the front end.
3 Can there be accidents? Sure it's no different than a tanker can fall over or have a wreck
4 and spill out. Things do happen but they have a system in place for what they think are
5 any inevitable spills. They also contract locally at each one of their locations, a specialty
6 firm to handle an emergency situation. In the event it happens at 3:00 in the morning, the
7 signal would go to their guys in Oklahoma City and also go to the local to deal with the
8 issue. They contract that issue out at all of their locations.

10 Ms. Douthitt asked, so you have a hazardous material program and disposal setup that is
11 all ready and going to be published or handled or whatever.

12 Mr. Shuffield said that is right. It will be in the store and readily available at any time
13 and they train the personnel on how to utilize it. It is a very big deal; obviously, they
14 need to protect the environment.

16 Ms. Douthitt commented, you do here. We'll have to know what it is going to be. It will
17 have to be a part of your plan and published.

20 Mr. Shuffield said it will be and it will be very site specific. Keep in mind as we are
21 going through this, there may be some tweaks relative to how this site plan is laid out
22 once we get into the real heavy duty portion of the engineering. The DOT may tell us
23 they disagree with our analysis on the driveways so shifting that could possibly shift a lot
24 of things and we have to keep everything under the specific guidelines as far as setbacks
25 and the like. Things could change; I don't think they will substantially change. Once
26 they have what they think is a fairly firm site design, they will do a spill prevention plan
27 that will be part of what they present to the Board.

28 Ms. Douthitt said even though you might not have an aquifer underneath you, downhill
29 from you, there is a lot of very clean water and people have plans for doing things with
30 that. If a truck pulled into your facility and the tanker, for instance, had hazardous
31 chemicals, pulled in there for gas or whatever and their tanker leaked hazardous material,
32 some plan would have to be made to take care of dealing with that. That is part of your
33 responsibility too.

36 Mr. Shuffield said sure, right. You could hypothetical a lot of situations and that is
37 really one of the reasons we decided, as a company, to go with an outside firm who
38 deals with nothing but environmental emergency responses. They are experts in what
39 they do. If we have a situation like that, I wouldn't want to count on my manager
40 on duty or shift manager to be able to handle such a scenario so we have that covered in
41 that other capacity.

42 Ms. Douthitt said that is something that you might want to discuss with our fire
43 department, with hazardous material.

46 Mr. Duhamel said one more safeguard that might be of interest is that the entire site is
47 going to be graded to drain to one location. This two acre detention basin as shown, is to
48 discharge over one hundred (100) feet or more to the wetland, overland, which also has
49 some removal capacity of hydrocarbons. At the pond itself, you can do the boom truss
50 within the impervious surface of the pavement. If this is breached it has the capacity of
51 a two (2) acre feed of six hundred fifty (650) gallons; the first foot of that is sixty
52 thousand (60,000) gallons. This is another stop gap that can be considered.

2 Mr. Walker asked if the use they are calling this is a gas station.

4 Mr. Naccarato replied, yes, that is the category.

6 Mr. Walker said he hasn't researched what constitutes a gas station. By calculations, he
8 said, you are going to be dishing out about ten million (10,000,000) gallons of gasoline
and diesel fuel a year. How does this get brought to the site?

10 Mr. Shuffield responded by tanker trucks, similar to any other gas station.

12 Mr. Walker said a typical 18-wheeler tanker truck is about nine thousand (9,000) gallons.

14 Mr. Shuffield said he doesn't know for this state, but that is a safe assumption.

16 Mr. Walker said that's like eleven hundred (1,100) more truckloads of fuel per year that
would come in here.

18 Mr. Shuffield said that's about four (4) a day.

20 Mr. Walker responded, at least that many. He added, you are proposing at this gas
22 station, parking spaces for sixty-nine (69) tractor trailers and seventy-five (75) cars and it
looks like this presumably [Mr. Walker holds up picture of a typical Love's Travel Stop
24 from the brochure folder distributed by Mr. Shuffield]. He said this is the first time he's
seen a picture of this tonight. Mr. Walker said this is not what he would call a gas
26 station; it is what he would call a truck stop. He has questions that are answerable, but
whether they can be answered favorably to the applicant, he doesn't know, as to whether
28 this is, in fact, a permitted use in a manufacturing zone. It seems to be a bit of a stretch to
call this proposed use a gas station. Even supposing that it is a gas station, can it be made
30 to appear one under the law? He said he personally has no doubt that if the applicant
wanted to spend enough money to get engineers to design all kinds of safety and
32 environmental safeguards, you could make this as good a truck stop as a truck stop can
be. If we do go forward, he told the applicant, you can be sure that it will become the
34 best truck stop that a truck stop can be. That you can take as a given. But, even
assuming that this is a gas station, and therefore is a legally permissible use in this zone,
36 it seems that there is another issue which has to be addressed; that this is not buildable of
right, even in a manufacturing zone. It is permitted by special use permit only, as you
38 are aware. The first issue that will be before the Planning Board, as part of Master
Plan approvals, will be for this Board to render an advisory opinion to the Zoning Board
40 as to whether, in our opinion, the Zoning Board ought to grant a special use permit,
which will require us to consider whatever evidence you and other interested parties may
42 present. In order to rule in your favor and recommend that the Zoning Board grant a
special use permit, this Board would have to find: that your proposed project is
44 compatible with neighboring uses and will not adversely affect surrounding neighbors
use and enjoyment of their property; that it will be environmentally compatible with
46 neighboring properties and the protection of property values; and, that it will be
compatible with the orderly growth and development of the Town and will not be
48 environmentally detrimental therewith. These are the things that we have to be satisfied,
by legally competent evidence, will be true statements. He added that he is open minded
50 on the point and will happily sit here and listen to whatever evidence the applicant wants
to present, but must tell you upfront that, in his opinion, that is going to be a tough
52 burden to meet; not impossible maybe, but tough. This is not what he had in mind for

2 Exit One and strikes him as something that would be a lovely project for Exit 3 and has
4 difficulty in seeing this kind of a use as being compatible with Exit One. We are at a
6 conceptual stage here and you're presenting us with a concept and asking us whether
we like it or we don't. He said he would be less than honest if he told you otherwise than
he does not, adding, it is a great project, but for someplace other than Exit One.

8 Mr. Cox asked if it was a total of eighteen (18) acres.

10 Mr. Shuffield responds yes.

12 Mr. Cox asked how many acres of blacktop.

14 Mr. Duhamel responds, eight and a half (8 ½) acres of blacktop.

16 Mr. Cox said he has probably been to the Love's in Pennsylvania, and to be honest with
18 them, that what he sees there, he would not want to live there. He said he knows what
20 this is. He can't say yes or no right now and added that the name is Love's, but there is
not enough love, right now for him, right up front. If you want to go on fine; but that is
how he honestly feels.

22 Mr. DiOrio thanked the applicant for a comprehensive introduction to their project saying
24 it was well done and speaks to what he presumes will be their efforts to build a good
case. The Pre-application process is an opportunity to share both ways. The applicant
26 has told us a little bit about their project and now they will hear a little bit about what we
have to think about it. He said that for those that know me, I like to think that I am
28 relatively fair, and have been striving to do that for 25 years, but said he also has to be
very blunt. This is not what he envisions at Exit One and, as a matter of fact, this is about
30 the worst thing that he would see there. While he too is prepared to listen to the evidence
here, to their experts, ask as many questions as he can, he thinks they have an uphill
32 battle.

34 Dorothy Gardiner said she has been to a Love's Travel Stop before, the one in
Pennsylvania. They are very clean, they're well lighted and she felt it was safer to stop
36 there with a camper than it would be to stop along side the road. But, she added, she does
believe, it would be better suited for Exit 3 which is busier, seems to be more industrial,
38 has less green. Her concern is also for the trucks that would be parking in the parking
lot adding that we live in an area where the climate has cold weather. In order for the
40 truck drivers to stay warm, they usually leave their motors running, so you're talking
about diesel fumes, you're talking about noise, and she would also be concerned about
42 the lighting because they would propose to be open 24 hours because that is part of their
livelihood, to be available 24 hours. She added, she remembers Canob Park, a residential
44 neighborhood that was contaminated by a gas leak from a gas station. None of the water
in Canob Park, which is a development of some 50 to 100 houses, is potable. After
46 multiple lawsuits, the company had to build a public water system for that end of town.
She would prefer not to see a Canob Park here. Ms. Gardiner concluded, even though
48 she has visited Love's Travel Stops and has been happy to stop there, she would prefer to
see it at Exit 3.

50 Carol Baker said that while she is a member of the Land Trust, she is speaking as an
individual and not on behalf of the Land Trust. She asked Mr. DiOrio to tell her briefly,

2 exactly what the process of a Pre-app is saying that he said the purpose is to hear the
project and to give back basic feedback.

4
6 Mr. DiOrio said there is an introduction, an exchange of details, information. There is no
action required by the Planning Board as it is a relatively informal process.

8 Ms. Baker said they have already made an application to the Zoning Board and asked it is
was a formal application.

10
12 Mr. DiOrio said he did get a notice from the Zoning Board that there had been an
application.

14 Ms. Baker asked, a formal application?

16 Mr. DiOrio responded, yes.

18 Ms. Baker asked, and for an aquifer protection permit?

20 Mr. Naccarato answered, special use permit.

22 Ms. Baker asked at this time, is Love's is vested or not vested in terms of current Zoning
Regulations, Land Use Regulations and things like that?

24
26 Mr. DiOrio said he would defer to the solicitor on that.

28 Mr. Levesque said it would be his opinion they are not vested.

30 Ms. Baker said with that in mind, she has lived in Hopkinton for 20 years. She usually
only comes to these hearings when there is a big project on hand, though she reads the
Sun and Chariho Times avidly and added that she has never been prouder of the Planning
32 Board here and the statements she's heard from you them today. She added that she
can't say she's always agreed with some of the Planning Boards decisions, but she
34 wholeheartedly agree with what she heard. In her Quaker faith they have a saying, "That
man speaks my mind," and added that this Board speaks her mind. The Town has
36 worked very hard and she is very proud of how we have tried to develop Exit One and
this not what we had in mind. Fifty-one (51) minimum wage jobs for pumping gas and
38 being a waitress at Arby's is not the sort of jobs that we need. We need jobs from the
light industry that has come to Exit One. She questioned the economic impact on the gas
40 stations already in Ashaway. Stormwater runoff and catch basins; she finds it interesting
that they are going to have eight and a half (8 ½) acres of blacktop that's going into a
42 catch basin that is going into the wetlands which then goes into a brook. There are no
stormwater drains in that area. If this does go forward, she would like to revisit some of
44 the issues that Mr. Buford has brought up, particularly as to the new wells in area and
the wellhead protection areas that surround those wells.

46
48 Ann Renehan of Clarks Falls, as a very close neighbor and as an architect, said she has
followed for the last four or five years, the planning efforts for Exit One, and thinks
Hopkinton has done a wonderful job, and should be complimented. She thinks it is
50 wonderful what has been attracted so far and North Stonington is kind of envious. While
following Exit One for four years, she has followed their Exit 93 for 45 years. The truck
52 stop which they have, preexisted zoning and was the very first use at that exit. In forty-

2 five years, as much as they tried to improve the exit, to attract really nice uses that would
be beneficial to the town, what have they gotten? In 40 years they've gotten four gas
4 stations, two went out of business, two restaurants, both went out of business, two minor
quality motels, three fast food places, and two, believe it or not, both north and south, two
6 places that sell fireworks, and that's it. She lives very close by and really tried, brought a
lot of people there, and basically, a truck stop is a truck stop, whatever you might call it.
8 Their truck stop has put up a very fancy building and it is calling itself some sort of a
plaza. But it still is a truck stop. It now has a parking lot for 116 trucks and they are not
10 parking more; the top number was 60. They begged with petitions that the truck stop not
be approved. However, the Planning and Zoning Board in North Stonington felt they
12 couldn't do anything about it because it was a preexisting use, and felt that anything
would be better than what we had. That new building might be better architecturally, she
14 questions that, but, there are three things, with as many experts as you might get as far as
water and whatever, she knows that this particular expert group would not have even
16 considered the site unless they could prove to you from every point of view, they could
make it. But there are three things they do not consider. One is air pollution and noise.
18 They were very fortunate that they were able to get their PZC to pay attention to that and
made a requirement that the trucks that are parking have to plug in and not be allowed to
20 idle. Trucks are generally allowed to idle for three minutes by the Environmental
Protection Agency. The truck stop owner had to go after a system which is called Idle
22 Air which didn't quite work out. They found another one, Cab Aire, which has been
installed. She said, do you think the truckers plug in? No, and added, that is the next
24 thing you have to consider; truckers are a very independent group of guys. They park
where they want to park. They do what they want to do. They don't like particularly to
26 walk from the parking lot to a facility and this layout is outright dangerous. The truckers
park on the side of the road. Their zoning officer had to go to the extent of mandating
28 that the truck stop owner hire 24/7 surveillance so that they would be sure to plug in.
They have monitored the air so they have a base value before the truck stop opened. They
30 are going to monitor it again as the air pollution is a very dangerous component. Every
traffic expert retained by the applicant will be able to prove to you, from a traffic point of
32 view, this is safe. The one thing they do not consider is what happens actually on I-95
before they get to the truck stop? She is proof that it is a very dangerous thing. She was
34 getting off at Clarks Falls, coming from Providence and was hit by a truck. Her car was
completely demolished and she had about ten months of recuperation and a year and a
36 half of fighting the truck company to prove that they were wrong. The danger is on the
ramp, not where your traffic engineer will show you on the map. The danger is on I-95
38 because the trucks stop, they try to get off, and there are very short ramps. There is now
bus traffic coming from Providence to go to the casino. Two busses and three trucks and
40 there's a back up on I-95. She told the Board to look for traffic safety and said the Board
has done an excellent job in planning that area, attracting attracted some really good
42 quality industry. There is going to be a workforce and it should be questions where that
workforce comes from. Once that area is developed, there will be much more intensive
44 workforce traffic. The last thing the Town will need is to combine that truck traffic.
Ms. Renehan continued saying she has theory that should be thought about. When the
46 interstate highway was started by Eisenhower, it was to connect states for traffic to go
quickly through. What has happened in the meantime, in the Boston to New York
48 corridor, is that I-95 has become the Main Street of all the communities. When one
community starts developing commercially, developers can't afford the land and they
50 develop a bedroom community. You have to really think about what you have planned
for so very well and attracted such good development at Exit One; how is it going to
52 grow? From their experience at Exit 93, once you get a truck stop in there you're not

2 going to get more of the kind of development you are hoping for for Exit One. A truck
stop is a truck stop. Sixty-nine trucks is a lot of trucks. She continued, her theory, and
4 she would like to suggest this to Love's, is that the best thing for truck stops, is to put
them just like they put McDonalds along the highway, just for through traffic, leaving the
6 interchange for the communities so that we can get in and out, go to work and wherever
we have to. She suggested they make a deal with McDonalds. If you want to have a
8 truck stop, you are providing a very good service, a very important service, but do it at
your own exit; don't mix it up with a community. Once they go in, it is going to be very
10 difficult for these planners to really keep developing that exit the way they were hoping.

12 Malcolm Grant, Hope Valley, endorses comments made by other members of the
community. However, he is here in his capacity of President of the Wood-Pawcatuck
14 Watershed Association. That organization's charge is to promote and protect the
integrity of the Wood River and Pawcatuck River watersheds which extend into
16 Connecticut and through much of the southern part of Rhode Island. This site is about
smack dab in the middle of that system. The concerns he will express and the issues he
18 thinks his group would like the Board to focus on among their other concerns are going to
be water related, water quality related issues. There are really three things he would urge
20 the Board to question very carefully regarding this proposal: 1) the impact on
groundwater recharge which is getting rain water back into the groundwater system, by
22 paving eight and a half acres of a system that includes wetlands in it and thereby
eliminating that recharge capacity or impairing it anyway; 2) the second thing, a very
24 difficult issue and one that he would certainly be skeptical as to whether the applicant can
satisfactorily address, which is the threat of groundwater contamination from runoff,
26 from parking lots and fueling pads, fuel spills, tank leaks. There is a whole lot of
plumbing involved in pumping systems for gasoline and diesel, and those systems
28 leak; 3) the third area, and one of grave concern, is that this site is directly over the sole
source aquifer that supplies water to every well in Ashaway, and sustains the natural
30 environment in that part of the community. This site is very close to that aquifer and
their position is that with all the issues related to fuel handling, vehicles coming and
32 going, that abuse of this sort represents an unacceptable risk to that sole source aquifer.
He would urge the Board to be very vigilant in pursuing those issues.

34
36 Gordon Oakes, Knight Street, Ashaway, said he drove tractor trailers for 31 years, and to
address Ms. Renehan's concern, truck drivers don't like McDonalds; they just have big
38 parking lots. He said truck stops, when you're hauling steel out of Pennsylvania and
Chicago and going as far south as Richmond, Virginia, are a great things to see. There's
40 plenty of room to park, usually good food, diesel fuel, showers, etc., but he just feels very
strongly. He's been retired for fifteen years, so Love's Truck Stop doesn't hold any
special meaning for him other than the fact that he does not feel it belongs at Exit One.

42
44 Mr. DiOrio said that on the checklist, the applicant has the opportunity to respond,
question, further dialog, and asked what was their your preference.

46
48 Mr. Naccarato responded that at this point, the Pre-application stage, they appreciate the
comments and the comments from the public. They will take them in advisement and
decide how they will proceed.

50
52 Mr. DiOrio said Pre-application does not require any action on the Board's part and
thanked everyone for attending this evening.

2 **PLANNER’S REPORT**

3 * **Administrative Business**

4 Mr. Lamphere said he is updating the Comprehensive Plan and has given copies to a
5 number of boards and commissions.

6
7 Mr. DiOrio said the last time the Comprehensive Plan was in the spotlight, there were
8 some questions about whether people had legitimate copies or preliminary copies. He
9 thinks he has a real copy but he doesn’t really know. If this is something we should be
10 looking at he would be happy to take one on a disk, but he would like an official copy of
11 what we currently have as our Comprehensive Plan.

12 Mr. Lamphere said it is available on the web.

13 Mr. DiOrio said he would like to somehow verify that there is an official version.

14
15 Mr. Lamphere said we should have a consultant onboard sometime in December. We did
16 direct mail a number of consultants. They will be meeting with the Planning Board
17 directly. The Board will have about two or three months to look at the Comprehensive
18 Plan and come up with any suggestions or modifications.

19 * **Groundwater & Wellhead Protection Map Update**

20 Mr. Lamphere said that in their packets he has provided a map of a portion of the town
21 where DEM has a few additional wells and where new wells are located that should have
22 protective radii around them. If that was updated, the current aquifer protection map
23 would probably render some uses not allowable. Melanie Benda-Joubert has made a
24 copy of the entire town that reflects the updated DEM data. It would be prudent to get
25 that local map updated to reflect these new wells as soon as possible. It might be helpful
26 to have some direction from the Planning Board to the Town Council expedite this
27 update. Mr. Lamphere suggested a motion would be in order to request that the Town
28 Council immediately adopt an amended groundwater and wellhead protection map that
29 reflects the latest data that DEM has that goes back to 2005 as well as some other DEM
30 updates that were made as of October 20, 2008.

31 Mr. Levesque proposed that he and Mr. Lamphere discuss the procedure and get it
32 properly before this Board goes any further.

33 Mr. DiOrio said he fully supports that but when we use terms like immediate, that should
34 probably be laid out so that, presuming this gets to the Town Council, they know how
35 quickly they need to act. Mr. DiOrio would like this on next month’s agenda.

36 Mr. Levesque said assuming he and Mr. Lamphere can confer and get that done, he’s sure
37 that can be accomplished.

38 Carol Baker said the reason this is so important and why both she and Mr. Buford
39 mentioned this in terms of the truck stop, is that the old map which we are working on
40 has the truck stop property not within a primary recharge area. She emphasized it is
41 within a primary recharge area in which case, their application is moot because it is
42 prohibited. She said half of the property is within the community wellhead protection
43 area so by state DEM, underground storage tanks and groundwater regulations prohibit
44 the use of new underground storage tanks. However, as was on his map, the primary
45 aquifer recharge area has this property as not in it, for whatever reason. There are new
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2 wells that have come in. They have expanded the radius on the Frontier Campground
4 well because the pumping rate is higher than originally thought. Basically, it precludes
6 all the Exit One area from any underground storage tanks for truck stops, gas stations,
8 whatever you want to call them.

6 Mr. Buford said then this would be the same thing as a zoning change; the Planning
8 Board gives a recommendation to the Town Council for the Council's action.

10 Mr. Levesque said what they will do is get it properly on the agenda for next month and
12 action can be taken by this Board. Tonight it is on the agenda under Planner's Report,
14 not under business.

14 **CORRESPONDENCE AND UPDATES**

16 Mr. Levesque said Mr. Marek's attorney has filed a motion to send his Superior Court
18 appeal matter back to the DEM for further evidence and will be heard on November 20th.

18 **PUBLIC COMMENT**

20 Mr. Marek had a question about the extension on two items with no applicants present.
22 He asked if this review was done as procedural.

22 Mr. Lamphere said two letters were submitted requesting the extensions.

24 Pat Fontes asked why a motion can't be made to send to Town Council. She asked why
26 the Town Planner, after conferring with the lawyer, couldn't go to the Town Council
28 himself and make a recommendation to the Town Council.

28 Mr. DiOrio said it is not the usual course of action and he prefers to see it as for every
30 other applicant, no matter what their scope or their project. This is the way business has
32 been done. As soon as we single out an applicant as being atypical and we start doing
34 things differently for or to that applicant, that's when we're going to get slapped and
36 that's not the way we've done business for almost twenty-five years. We follow a
38 sequence; the sequence has treated us well.

36 **DATE OF NEXT MEETING:** December 3, 2008

36 **ADJOURNMENT:**

38 MR. WALKER MOVED TO ADJOURN THE MEETING.
40 MS. DOUTHITT SECONDED THE MOTION. ALL APPROVE.
42 The meeting adjourned at 10:05 P.M.

44 Attest: _____
46 Lynda St. Amour
48 Planning Board Clerk

48 Approved: _____