CALL TO ORDER:
The March 7, 2018 meeting of the Hopkinton Planning Board was called to order at 7:08 P.M. by Chair Al DiOrio.

Mr. DiOrio opened the meeting by stating that the inclement weather forced a difficult decision to hold the meeting as scheduled, and that everyone present should attend to their safety when consider whether to remain at the meeting. Applicants were welcome to request a continuance if they would prefer to leave.

MEMBERS PRESENT:
Al DiOrio, Amy Williams, and Tom Holberton were present.

Also present were: John Pennypacker, Conservation Commission; James Lamphere, Town Planner; Kevin McAllister, Town Solicitor; and Sean Henry, Planning Board Clerk.

APPROVAL OF MINUTES:
MS. WILLIAMS MOVED TO APPROVE THE MINUTES OF THE FEBRUARY 7, 2018 PLANNING BOARD MEETING, AS AMENDED.
MR. HOLBERTON SECONDED THE MOTION.
MR. DIORIO, MS. WILLIAMS, AND MR. HOLBERTON APPROVED. MOTION PASSED.

OLD BUSINESS:

Mr. Holberton asked where the property was in relation to the Town’s groundwater and wellhead protection zone. Mr. Buford said he doesn’t believe the property is in the primary recharge area. Dave Russo, DiPrete Engineering stated that the property was not in the groundwater recharge protection overlay district for the town, but it is within the DEM groundwater protection area. Mr. Holberton’s second concern was that he felt, based on his local knowledge of the land, he was not in favor of developing the property due to environmental concerns. He felt that DEM’s assessment does not represent the Town’s interests. Mr. Russo replied that DEM had walked the site and that the recent article regarding
the Richmond solar project was due to the contractor not building the site correctly. At this project, weekly soil erosion reports are required and inspections are triggered by 0.25” of rain.

Mr. Holberton said that nobody was monitoring the project on behalf of the town and neighbors. Attorney Vincent Naccarato added that he sent a proposal to the Town Planner to hire an independent engineer at the applicant’s expense to monitor the wetlands every five years for deficiencies. Mr. Holberton said that he would be more comfortable with a traditional construction bond. Mr. Delvicario stated that construction bonds are already required by their financer, and that an independent engineer could provide monitoring for a longer time period and the applicant would abide by their recommendations. Mr. Holberton stated that he was not sure he was comfortable with the project from a developmental standpoint, despite the fact that the applicants provided a great level of detail and quality information in their application. He didn’t feel that the property could handle most types of development that the Town had considered in the past.

Ms. Williams agreed that the configuration of the solar panels between the wetlands would result in a cumulative negative effect of fragmentation. Mr. Delvicario said that as part of their plan was to plant over a thousand trees to add to their vegetation. They want to give the town a good project and they are willing to pay for the monitoring to give the Town a level of comfort that the plan will be built as written. Mr. DiOrio cautioned that a positive finding would give the applicant an indication that the Planning Board is conceptually accepting of the project.

Questions from the Planning Board:

Mr. Holberton: How much space there is between the rows of panels?
Mr. Russo: They are separated by about 13’, with grassy areas in between.

Mr. Holberton: Even in areas with slopes, that is enough to retain the water?
Mr. Russo: That is correct.

Mr. Holberton: What happens before the vegetation takes hold?
Mr. Russo: During construction, there will be temporary swales and basins once the vegetation has stabilized. They have many temporary measures for erosion depending on the time of year of construction.

Mr. Holberton: This is assuming it has been built correctly: Do your calculations take into account when the ground is frozen?
Mr. Russo: We don’t analyze the ground as frozen, that would be the whole site as impervious area.

Mr. Holberton: In Hopkinton, the ground could be frozen for two months a year.
Mr. Russo: We don’t analyze the whole site, but we do evaluate the pond areas. If the system failed, we’re required to have emergency spillways. We’re required to build for a 200-year storm, and that the water will go into the emergency spillway as designed.

Ms. Williams: Can someone tell me about how the property has been petitioned for zone change in the past?
Mr. Lamphere: The property was initially RFR-80. There was a study done for the Exit 1 area, and there was a proposal to change the zone to a Mixed Use Village zone. The proposal did
go the Town Council, but it was tabled for further study. Mixed Use Village was never adopted as a zone, so the zone remains RFR-80 for legal purposes.

Mr. Naccarato: I participated in these hearing with the Town Council. There was a petition to change the zone to Mixed Use Village about twelve years ago and it did not pass.

Ms. Williams: So at Exit 1, the property is Mixed Use Village on the Future Land Use Map, but RFR-80 for zoning?

Mr. Lamphere: That is correct. In the study done, the area around Exit 1 was designated as a receiving area for affordable housing projects. So if the zone is changed here, that would mean we would lose that ability to have affordable housing projects at Exit 1 to get the town to the state-mandated 10% affordable housing number. Sooner or later the state will ask us to identify another viable area for affordable housing.

Mr. Pennypacker: I have a few thoughts: I wanted to point out that the current assessment of the property is about $500,000 of tax revenue, and we’re not sure how that will change if the property’s use is changed. There was also mention of the Town getting a benefit from the electricity generated. It might make sense to have a report of the financial benefits to the Town that take the tangible tax into account. I don’t think we’ve had any speculative retail or office development in the area. I also noticed that the setbacks for Commercial and Manufacturing zones are significantly different. In Manufacturing zones, no structure can be closer than 100’ to a residential property line, and in Commercial it is much less than that. I also wanted to look at the Comprehensive Plan, specifically the Economic Development goals. Nothing about this project seems to support the objectives listed there, so I don’t see how it helps the Town there. And in terms of re-zoning, I get nervous about re-zoning properties to accommodate a particular use.

Ms. Williams asked Mr. McAllister to clarify what the Planning Board needed to provide in their advisory opinion. He replied that the opinion could be positive, negative, it could take no position one way or the other, and that it could be positive with conditions attached, such as supporting it provided that the applicant to go through with the proposal to hire an independent engineer. He advised the Board to decide using whatever the honest views that they may have and communicate that to the Town Council. Mr. McAllister also said that the Planning Board has to have enough affirmative votes to satisfy a quorum of the entire body, meaning three of the five votes. With only three members present, any motion that falls short of three votes would automatically fail.

Ms. Williams said that she did not support the zone change today because of the scale of the environmental impact of this property. Mr. DiOrio agreed that he is not supportive of the project.

Ms. Williams moved that the Planning Board is not supportive of a zone change or Future Land Use Map amendment on AP 4 LOT 25 from RFR-80 to Commercial Special with regards to installing photovoltaic cells.

Mr. Holberton seconded the motion.
MR. HOLBERTON MOVED TO AMEND MS. WILLIAMS’ MOTION TO INCLUDE THAT THE PLANNING BOARD RECOGNIZES THERE ARE SOME ECONOMIC BENEFITS TO THE PROJECT, BUT THEY ARE OUTWEIGHTED BY THE ENVIRONMENTAL CONCERNS THE BOARD HAS FOR THIS PROPERTY, THE SURROUNDING PROPERTIES, AND SURROUNDING ROADS.

MS. WILLIAMS SECONDED THE MOTION.

MR. DIORIO, MS. WILLIAMS, AND MR. HOLBERTON APPROVED. AMENDMENT MOTION PASSED.

MR. DIORIO, MS. WILLIAMS, AND MR. HOLBERTON APPROVED THE ORIGINAL MOTION, AS AMENDED. MOTION PASSED.


Mr. DiOrio recused himself from this agenda item because the applicant had been a client of his on another project. Because the Board would then be left with only two members, the Board could not hear this application and it was continued to the next meeting.

NEW BUSINESS:


Andrew Vardakis, project engineer from Amec Foster Wheeler (AFW), presented on behalf of the applicant. He described the existing conditions of the property as an RFR-80 zoned area with wetlands that had been field-located. Visual data on the plans came from RIGIS. The system the applicant is proposing is 250kw, surrounded by a 6’ chain-link fence. Two new poles are proposed on Tomaquag Road. The proposed tree area to be cut is about 1.8 acres, which will be stumped. The project is not in a wetlands buffer zone, but the applicant has filed with DEM for a RIPDES permit.

Questions from the Planning Board:

Mr. DiOrio: Why isn’t the project more to the west, in the cleared area?

Mr. Vardakis: My understanding is that the property owner would like to continue farming that area.

Ms. Williams: Within the packet we received with the plan we also received a letter from Jennifer J. DeAngelo stating that the author of the letter is a co-executor of the estate of the property, which is still being adjudicated in Hopkinton probate court. In addition, the property lines have not yet been determined, and that she was not made aware of the project by the applicants.

Mr. Vardakis: We’re working with Barry and his niece to resolve those issues. Both of their lawyers are negotiating and we expect a resolution with those issues before this moves forward.
Mr. Holberton: As I’ve stated before, I support preserving farmland and allowing farmers to use their land, but I am absolutely opposed to this one acre spot zoning of an industrial electricity producer in the middle of these farms. The regulations don’t require anything beyond DEM regulations, so I am opposed to this project. I would support a moratorium on this section of the Farm Viability Ordinance until we can work out the details at the town.

The Board discussed the Farm Viability Ordinance with the applicant and what led to its passage. Mr. Lamphere asked what direction the Planning Board had for the applicant.

**Mr. Holberton moved that the applicant return for Development Plan Review conditional to the applicant resolving the ownership dispute between Mr. James and Ms. DeAngelo, and to the applicant obtaining all required permits. There was no second to the motion.**

Ms. Williams stated that she is supportive of the project, noting that the project is in compliance with the Town’s Comprehensive Plan, and that the Board’s responsibility was to follow that Plan and the zoning ordinance. Mr. DiOrio stated that he is not supportive of the project, but at the pre-application stage, the Board does need to provide some direction to the applicant. The Board discussed clarifying their direction to the applicant.

**Ms. Williams moved to have the project continue under Development Plan Review. Mr. Holberton seconded the motion. Mr. DiOrio, Ms. Williams, and Mr. Holberton approved the motion. Motion passed.**

Questions from the public:

Mr. Buford described the nature of the property where the project is taking place, and stated that the quality of the wooded area of the proposed project area was low and that he would prefer to see the project in the proposed area. He didn’t think that small area was a major loss of a resource. He thought leaving the field open to be farmed was a benefit for the farm owner. Mr. DiOrio stated that the Board has seen the cumulative effects of siting in wooded areas, and that they all required clearing of trees. Ms. Capalbo said that she was concerned that the farm projects weren’t subject to the same screening and visual rules that the other solar projects were required to follow. They need to be buffered from view and held to the same standards. Mr. DiOrio asked if a moratorium could be considered by the Board. Mr. McAllister replied that with properly advertised notice it could be considered by the Board at a future meeting.

David Russo, of DiPrete Engineering, presented for the applicants. He described the project for the Planning Board as a 250kw solar project coming in under the Farm Viability Ordinance.
Ordinance. The owner sited the project in a clear area with an existing driveway. There are no cuts proposed along Main Street. There will be some selective clearing along the east side of the project.

Questions from the Planning Board:

Mr. DiOrio: I can’t discern the existing tree line on the plans. How much is being cleared?
Mr. Russo: It is the gray area on the plans. We proposed a clearing of about a quarter acre of selective large shade trees and leave the stumps in place.
Mr. Holberton: Do you have any plans for the runoff from the solar panels?
Mr. Russo: No, a RIPDES permit would not be required for this project. The hydrology for the grass area means the conditions wouldn’t be changed by adding the panels. Posts aren’t considered to be impervious surface.
Mr. DiOrio: The applicant could be obligated to implement a rigorous erosion control plan during construction.
Mr. Russo: Because of the lack of site work on this project, I expect the erosion control could be wrapped up quickly.
Mr. DiOrio: The reason that we’re asking applicants to come back is because we’re going to be paying more attention to these erosion control programs. We’re going to require how these measures are stated in the plans, and when the construction companies will be required to have them.
Ms. Williams: Can you tell what this will look like from the road?
Mr. Russo: You’re not going to be able to see this from the road, based on the cut of the hill and the vegetation.

Questions from the public:

Barbara Hegedus: What about the noise from the site for the neighboring properties?
Mr. Russo: There will be inverters on site, which emit the noise. The system is approximately 100’ from the property line. The inverters are rated at 50db at about 10’, so by the time you get to the property line you won’t be able to hear it over the traffic.
Ms. Capalbo: There is nothing in the solar ordinance about noise from the property line. The only thing in these pertaining to noise is 55db at 10’ from the inverters.

No vote is required for a pre-application meeting.

Dave Russo, engineer of DiPrete Engineering, presented on behalf of the applicants. He described the project as a being located at Main Street and Canonchet Cliffs Drive. He said that, like the previous project, there would be selective cutting of shade trees to accommodate the solar use. There would be landscaping plans to put vegetative screening in place. The project would require a RIPDES permit.
Questions from the Planning Board:

Mr. Holberton: What triggered the RIPDES permit?
Mr. Russo: The additional earth work required over the other project because the solar field is located in a wooded area.
Mr. McAllister: The Town Planner and I had a conversation about the zoning for this property, and we believe it is Manufacturing, not Commercial.
Mr. Lamphere: I believe it is Manufacturing, it was re-zoned for the countertop place. Either way, it is allowed by right. I spoke with the Zoning Officer about this, and the only thing the Town Council did was exclude a few specific uses when they re-zoned it.
Mr. Holberton: What exists there now?
Mr. Naccarato: There was a house there, but it burned down.
Ms. Williams: That parcel is very high up from the road. I think screening would be a major concern for the surrounding residences. As well as sound being a concern for us being so close to residential areas.
Mr. Russo: We can have a sound engineer look at those issues.
Mr. DiOrio: I’m having the same trouble seeing the existing tree line on these plans.
Mr. Russo: There are some older trees along the Canonchet Cliffs side, but less in the middle of the property. The rest of the site is entirely vegetated.
Mr. Holberton: The plans shows your service entrance coming off the Canonchet Cliffs driveway. Did the Canonchet Cliffs people approve your construction entrance off their driveway?
Mr. Russo: It showed up as a town road on the research that I’ve done. We can look into it further.
Mr. Pennypacker: Most of that side of Route 3 is zoned RFR-80. I wanted to point out that this land was re-zoned as an exception, and it appears something else entirely is going to be there now.
Mr. Lamphere: I also wanted to add that this site is very visible from Route 3, so some screening will definitely be needed.

Questions from the public:

Ms. Andrews: I live right across this property at 790 Main Street. The gradation of this property is definitely a concern for us. And not just with this property itself, but I don’t know if there is an effect of multiple projects on the area. Are there any run-off co-efficients that account for the vegetation?
Mr. Russo: The run-off from this property would have no effect on the property across the street. There is a swale and culvert on this side that would capture run-off and bring it down the hill. We’re not allowed to add to the right-of-way, so any stormwater from the site wouldn’t impact across the street.
Mr. Andrews: What about effects on the wildlife in the area? If there was damage to the panels, would there be environmental impacts on the area?
Mr. Russo: If any commercial development were to go in here, which would involve parking and a septic system, it would have a far greater impact than the solar array.
Mr. DiOrio: This project is before us as a pre-application. That means that the applicant is not required to thoroughly vet the project at this point. Those are good questions to ask. They would be addressed at the next stage of Development Plan Review, so I would advise that you follow this project for when it comes back to the Planning Board.

Ms. Andrews: Are there any special concerns for having the solar farm located so close to the health services facility?

Mr. Russo: No, I don’t believe there is anything in the zoning ordinance that separates health services from other uses.

**MS. WILLIAMS MOVED TO CONTINUE REVIEW UNDER DEVELOPMENT PLAN REVIEW.**
**MR. HOLBERTON SECONDED THE MOTION**
**MR. DIORIO, MS. WILLIAMS, AND MR. HOLBERTON APPROVED. MOTION PASSED.**

**SOLICITOR’S REPORT:**
None

**PLANNER’S REPORT:**
None

**CORRESPONDENCE AND UPDATES:**
None

**PUBLIC COMMENT:**
None

**DATE OF NEXT REGULAR MEETING:** April 4, 2018

**ADJournMENT:**
**MR. HOLBERTON MOVED TO ADJOURN THE MEETING**
**MS. WILLIAMS SECONDED THE MOTION**
**MR. DIORIO, MS. WILLIAMS, AND MR. HOLBERTON APPROVED. MOTION PASSED.**

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

Attest: ________________________________
Sean Henry, Planning Board Clerk