

**TOWN OF HOPKINTON
PLANNING BOARD**

Wednesday, September 2, 2020

7 p.m.

**Hopkinton Town Hall
1 Town House Road, Hopkinton, RI 02833**

CALL TO ORDER:

Chairman Alfred DiOrio called the September 2, 2020 Planning Board meeting to order at 7 p.m.

MEMBERS PRESENT:

The meeting was conducted remotely. Chairman Alfred DiOrio, Town Planner James Lamphere, and Senior Planning Clerk Talia Jalette were present in the Council chamber. Planning Board members Carolyn Light, Ronald Prellwitz, Keith Lindelow and Emily Shumchenia, as well as Town Council Liaison Sharon Davis, Conservation Commission Liaison Deb O'Leary, and Attorney Sean Clough attended via Zoom.

APPROVAL OF MINUTES:

MR. LINDELOW MADE A MOTION TO APPROVE THE MINUTES AS WRITTEN. THIS WAS SECONDED BY MR. PRELLWITZ.

IN FAVOR: DIORIO, PRELLWITZ, LINDELOW, LIGHT, SHUMCHENIA

ABSTAIN: NONE

OPPOSED: NONE

5-0, MOTION PASSED.

PUBLIC HEARING:

Advisory Opinion to the Town Council – Request for Comprehensive Plan/Zoning Map Amendments – AP 2, Lot 73 – 0 Chase Hill Road. Comolli Granite Company and Centrica Business Solutions, applicants.

Before the Board opened the Public Hearing, Mr. Lamphere explained that another applicant, Revity Energy, had “wanted to, um, be first on this agenda, to pick up where they, uh, last left off”. Mr. Lamphere said that changing the order of the agenda would be a “decision of the Planning Board”, as “normally, we have public hearings first, and we do have a public hearing scheduled tonight”. He asked if any representatives from Revity were available to “explain to the Board why [they], um, want to go first on the agenda”, and to detail “exactly what your need is”. He said that “after that, the Board can vote” on whether or not they wanted to change the order of the agenda “if they so choose.” Ms.

Jalette directed the applicant to dial *9 to be recognized in the Zoom platform. Ralph Palumbo, as well as Attorney Kerin Browning, called in to provide Revity's response. Ms. Browning said that while she was not at the last meeting, her "understanding, um, based on review of the transcript was that, uh, we had hope to, uh, certainly move this matter towards a vote, um, and that we had very limited, uh, information, uh, to present, um, tonight, and, given, you know, the numerous meeting we have had, um, we were looking forward to, um, you know, getting this, getting this done." Mr. DiOrio thanked the applicant for their response, but said that it did not explain why they were "forwarding a request to be moved up, up the agenda."

Mr. DiOrio: "Customarily, we take our public hearings first, so, do you have some extenuating circumstance that you'd like to present to the Board?"

Mr. Palumbo: "So, Chairman DiOrio, this is, uh, Ralph Palumbo. Thank you for the opportunity to, to speak, and I, I get it, uh, you know, we're here, we've, we've, uh, worked closely with the Planning Board, I know you guys have worked very, very hard on this, and we've, uh, extended on numerous occasions, uh, at the request of the Planning Board, and that's really why we're asking for, to be heard first, so we don't run out of time again, Mr. DiOrio, and there's a balance in everything, and I, I do, you know, respect that there are other items on the agenda, and I do respect that your Board has been very helpful, but I, I think it's either three, or three or four extensions we've made, Mr. DiOrio, and that's why we're asking for this."

Mr. DiOrio: "Okay, good enough. So, uh, Planning Board members, you're, uh, you're in the audience, you're hearing this, uh, as well as I am, uh, please give me your, uh, thoughts if we need to revise."

Mr. Prellwitz said that after listening to Mr. Palumbo, he didn't "understand where they're a reason to upset our normal order of having public hearings first", so he would say that the Board should "do the public hearing, and then get on with the rest of our lives." Ms. Shumchenia agreed, stating that she wanted to follow the "agenda as written." Mr. Lindelow said that he "concur[red]" with Mr. Prellwitz and Ms. Shumchenia. Mr. DiOrio asked Ms. Light for her comments, but she did not provide any. Mr. DiOrio said that there was already "a consensus" to "hold the agenda the way the way it is right now", as the Board was "burning daylight", and he didn't "want to spend too much time on this."

At this juncture, Mr. DiOrio recused himself from the Public Hearing, as the "applicant [had] been a client" of his in the past, and though he did not have any association with the project, "at the direction of the Ethics Commission, and out of an abundance of caution" he felt that it was appropriate to recuse. Ms. Jalette accepted his recusal notice. He requested that Mr. Prellwitz, Vice Chair, step in as Chair. Mr. Prellwitz said that the protocol was not familiar to him, but that he guessed that the Board needed to make a motion to open the Public Hearing, though any insight from the Planner would be appreciated. Mr. Lamphere replied that that would be the first step, but that even before the Public Hearing began, he wanted to "mention that there's three items on this agenda tonight, that, any one of which could consume the entire evening". He wanted to "suggest that the Planning Board members keep in mind, as a guideline, giving one hour, roughly,

to each one of these” agenda items, to “try to get our business conducted within that time frame.” He also mentioned that he also wanted the Board to have time to work on Ms. Light’s proposed agenda item if there was time available at the end, so he asked the Board, and the public, to “make your thoughts as succinct as possible, so that we can get through what we need to do and conduct our business tonight.”

MR. LINDELOW MADE A MOTION TO OPEN THE PUBLIC HEARING. IT WAS SECONDED BY MS. SHUMCHENIA.

Mr. Prellwitz began to conduct the Public Hearing, but Mr. Clough interjected, as the Board had to take a roll call vote in order to proceed with the discussion.

IN FAVOR: PRELLWITZ, LINDELOW, SHUMCHENIA
ABSTAIN: NONE
OPPOSED: NONE

3-0, MOTION PASSED.

Mr. Prellwitz said that it was three out of three, and proceeded with the discussion. Ms. Light did not vote. Mr. Prellwitz continued by asking Mr. Lamphere a question about the property.

Mr. Prellwitz: “For over sixty years, that was an operating business, on that property, as an auto sales and secondhand parts slash junkyard. When was it changed to an RFR-80, or does it automatically go to that, or how did that, that happen?”

Mr. Lamphere replied that he did not “know the history on when that property was zoned RFR-80”, but that he did “know that all of the uses on that property are legal, nonconforming uses”. He said that “at some point, the uses preceded the zoning of RFR-80.” He said that “maybe the applicant’s attorney” would have more information in that regard, as he thought “these types of questions should be directed to the applicant, who should know the property in very great detail.” Mr. Prellwitz then said that he was going to direct his questions to the applicant’s attorney. There was some technical difficulty in getting the applicant to appear, but, ultimately, Attorney Joelle Rocha appeared before the Board. She said that while she would usually do an introduction, she wanted “to address the Chair’s question right away.” She said that the owner of the property was on the call, and that she was “not familiar, exactly, when the Ordinance did change”, but that she would “echo the Town Planner’s comments” about how the current uses taking place on the land condominium were “nonconforming”. She said that she wasn’t sure if the property owner could provide any “history on the zoning” of the property, but that after that clarification, they would “get back to [their] presentation”. Mr. Prellwitz then asked if it was “nonconforming to the residential area”, or if it was “nonconforming to that fact that it was an automotive business for over sixty years.” Attorney George Comolli, “one of the principals of Comolli Granite Company, Inc.”, responded to Mr. Prellwitz’s questions.

Mr. Comolli: “It is nonconforming in two ways. Number one, there is a quarry that is in existence, and has been in existence prior, probably early 1900s, and then there’s Perry’s Salvage Yard. That was there, and operated for over fifty years, and, approximately seven years ago, Mr. Grills purchased it, uh, portions of the salvage yard in the front still exist.”

Ms. Rocha also responded to her interpretation of Mr. Prellwitz’s question. She said that it was nonconforming “because none of those uses are allowed in the RFR-80 zone.” Mr. Prellwitz said that “as [he was] understanding [her] answer, uh, Perry’s Motors was there, illegally, for the time that they were there – they did not conform to the zoning.” Ms. Rocha said that she could not answer that question, but Mr. Comolli said that he could. Mr. Comolli explained that the automotive aspect was “there prior to zoning”, as the Town “didn’t have a Zoning Ordinance when Perry’s opened.”

Mr. Comolli: “You can’t say they were illegal, because they opened the junkyard, and there was no zoning that would prohibit it, so they’re operating as a legal, nonconforming use, once you pass the zoning line.”

Mr. Prellwitz: “Okay, that’s, that’s still a little bit of a gray area in my mind. I apologize if I’m not up to the speed on, on the laws.”

Mr. Comolli endeavored to explain. He compared it to when there is a “gas station that was put there in 1940, and it’s in the middle of a residential neighborhood, and then, all once you pass zoning laws, you can’t say it’s an illegal use, because it’s there. It’s in existence, and it was there prior to zoning, so it’s considered a legal, nonconforming use.” Mr. Prellwitz said that he understood, and that what had been a “gray area” was that “it was used as a business for all those years, and then, now, it’s RFR-80.” He said he was “just curious how it became zoned as RFR-80.” Ms. Rocha then began her presentation.

She said that she had heard the Planner “loud and clear” in regards to operating within a certain time frame, and that she did not intend to have a long presentation. She said that the “Planning Board, along with the Town Council, has considered a vast amount of solar projects over the last several years”, and that she thought that the “all have an understanding of what’s involved with these types of projects”. She then explained that the parcel itself is “approximately thirty-nine acres”, and that they were “here for a Comprehensive Plan Amendment for the Future Land Use Map, as well as a Zoning Map change, to bring the property to Commercial Special.” She said that the application before the Board was “unique”, as it has a “legal, nonconforming use as a junkyard and as a gravel pit.” Ms. Rocha said that in the “Ordinance, [and] along with a lot of communities, this, this is usually the preferred reuse for those types of sites, along with landfills”. She said that the Town’s “Ordinance had the foresight to build into it” language that “encourages PSES on formal – former – gravel banks, brownfields, and landfills.” She read that the placement of PSES on “such locations shall be consistent with the Hopkinton Comprehensive Plan”, as this siting would “strive to minimize the visual impacts of these systems from streets and neighboring properties.”

Ms. Rocha said that the “main question on a zone change, and, potentially, the only question, is consistency with the Comprehensive Plan”, though she was of the opinion that the Town’s Ordinance “built that in”, so she would not “belabor that point”. She said that she thought it was clear, from both the Ordinance and the Comprehensive Plan, “that this is a unique situation, and that, while the underlying zoning is Residential, the uses on the site are now, and have, historically, been these types of nonconforming uses”. She said that she wanted to focus the presentation on “discussing a little bit more about the, the uses, the current uses at the site, and focus on the visual impacts of these systems from the streets and neighboring properties, which is the target of, of your, of the Town’s Ordinance.” Mr. Comolli was on-call to “discuss the property itself”, as well as the project’s engineer, Jason Gold, who could speak to the design of the site. She also mentioned that drone footage of “the site itself, the clearing, the gravel bank, which, a large portion of this array will be located in both those areas”, was available on the Town website. This content was filmed by Mr. Comolli. Ms. Rocha then turned the presentation over to Mr. Comolli.

Mr. Comolli began by thanking the Planning Board, and explained that he was one of the principals of Comolli Granite Company. He said that they were “the owners of this thirty-nine-acre property”, which was the “former home of Perry’s Salvage Yard - a portion of which exists in the front, a large steel building, weigh station, and there is heavy equipment there currently.” He said that there is also a quarry, “where [they] continue to take minor amounts of jetty stone, curb stone, and stair stones.” The quarry, according to Mr. Comolli, “dates back to the 1900s, and is one of the reasons you have a road that runs over to the Polly Coon Bridge.” He said that the “reason that [they] have not aggressively mined this particular site are threefold.”

Mr. Comolli: “First, Chase Hill Road is not conducive to heavy equipment or heavy traffic. If you drove down there, everyone could understand that. Secondly, the stone that is at the quarry is neither Westerly blue-white, which is famous throughout the world, or Westerly pink, which is perfect monument stone. The stone there is mostly wall stone, curb stone, and jetty stone. Jetty stone is referred to as ‘armor stone’ – it’s stone that you would see in the jetties down in Weekapaug, and it’s becoming more and more in demand as our economy is struggling to recreate its infrastructure. The third reason is this particular site, though there is a quarry, the previous Perry’s Salvage Yard, if everyone took the chance to look at that particular footage, you can see that there’s a field there that nothing grows on. You will never see a residential home there. You will never see an agricultural use. It just won’t grow, nor will it be allowed. We’re suggesting that, pursuant to your Comprehensive Plan, and the best and highest use of this property would be for a solar facility, and the abandonment of those uses that are existing there now. I believe that there are some opponents who may suggest differently, but if you look at the footage, and you talk to the neighbors, who are not in opposition to this project, you cannot see this proposed solar system unless you took a five-minute hike. You could not locate this solar system unless you had a drone. Thirdly, and most importantly, there is no traffic that will be generated down Chase Hill Road, which is a residential road. The property in the front is owned by Michael Grills, so I salute – if you ever had the opportunity to see the beautiful walls he has constructed there, and if you have had the

opportunity to be able to drive behind his home and see the beautiful trails he's built, as well as the trails towards the river, I believe these are all assets, and the proposed use will only generate an asset. As well, it'll address many of the concerns of our environment, many of the concerns of our economic system, and, most importantly, your Comprehensive Plan. I'll be glad to answer any questions you may have."

Mr. Prellwitz was the first member of the Planning Board to respond to Mr. Comolli. He said that he had "personally been into that part of the property for the past fifty-five, sixty years", and that he agreed with Mr. Comolli in that the property slopes downhill from the road, and that "it would be completely out of sight." He then asked if there were any other Board members wishing to weigh in. Mr. Lindelow said that there were not any at that time for him. Ms. Shumchenia had some questions.

She said that she understood "the applicant's, uh, desire to frame this as, you know, in the Town's best interest," but she "had some questions, though, about the application that [made her] a little bit worried about that proposition." She wanted the applicant to "provide some insight as to why the Zone Change Application cites the 2010 Hopkinton Comprehensive Plan, and not the current, 2016 version." Mr. Comolli said that he would defer to Ms. Rocha. Ms. Rocha replied that "obviously, that's a typo", but that she was "not sure if it's a typo with" regards to the content of the citation, or just the year, as she did not "have [the Town's] whole Comprehensive Plan in front of [her] right now." She said that she did not "want to go, go down the road [the Board has] heard a million times," as she was "sure" the Board is "abundantly familiar" with the document and the "new renewable energy section", where the "focus is on trying to come up with creative solutions on allowing solar in Residential zones". She said that she thought that "there have been such projects approved", but she would "go back to the idea that this is – it's not a residential use, like Mr. Comolli said." She said that "it's not suited for a residential use, and it's really targeted at what's the best adaptive reuse of this property, short of what it's currently zoned for, under the residential use, since that's not a realistic use of the property, given, given its current and past uses." Ms. Rocha said that "despite the typo", if the Board looked to the "current, 2016 Comprehensive Plan, that focused on allowing for renewable energy and its goals, [she believes] it is, it is consistent with the, the actual Comprehensive Plan". She apologized "for that typo in the application."

Ms. Shumchenia then asked Ms. Rocha if she could "provide some explanation about the setbacks chosen, um, for this, and their consistency with our Ordinances about, our provisions about, abutting residential land". She said that when there is a zone change from Residential to Commercial, the Board has had "multiple discussions about, in multiple projects, about the appropriate setbacks for those particular boundaries." She asked Ms. Rocha to "explain the ones in [the applicant's] plan." Ms. Rocha said that the project engineer was on the call to answer questions of that nature, and that he could either answer her question now or during his presentation. Ms. Rocha said that she understood the Town's Ordinance, "and the need for – actually, you know, we exceed the Ordinance – but [that she would] have him, uh, go through what the exact measurements are", as "it's a point [she] would like to emphasize, as to the distance this is to abutting, um, residential properties." Ms. Shumchenia said that she had "one more quick question"

before they pivoted to Mr. Gold's presentation. She brought up the fact that the Hopkinton Land Trust is one of the abutters, as they own "one of the parcels to the south east." She said that "probably less than five hundred feet from the panels, in the sort of southern portion of the property, um, is the Pawcatuck River, and the Grills Wildlife Preserve and Sanctuary". Ms. Shumchenia said that she "did a quick measurement in GIS [Geographic Information System]", which showed that "it's definitely less than five hundred feet from the panels". She was "just curious" if the applicant had "some comment about the placement of panels so close to a wildlife preserve, so close to, um, the Polly Coon Bridge, which is actually covered by a label in [the applicant's] plan". She said that the "abutting property is not only um, you know, very close to this Hopkinton Land Trust area", and that "right across the river is Westerly Land Trust owned property, and their portion of the Grills Preserve". She "noticed that in [the applicant's] list of abutters, [the applicant] included, you know, two-hundred-foot buffer. If the buffer is increased, you know, just to five hundred feet, you start getting into, you know, some pretty significant sets of interests in terms of the Hopkinton Land Trust, and, um, probably some other Westerly properties". She said that "because it's so proximal to the Town border, um, I would request, first of all, that the list of abutters is expanded to include Westerly Land Trust, to make sure they know about panels being this close to one of their, um, assets". Ms. Shumchenia said that, "at minimum", the applicant should include the Westerly Land Trust. She then asked for the applicant's thoughts in response to this line of questioning. Mr. Comolli responded.

Mr. Comolli: "Emily, I, I'm a mountain biker. I'm out there every week, and I know just what you're talking about. Uh, the Polly Coon Bridge is, if you went, it goes, slopes downhill, and between the Polly Coon Bridge and our property is the existing quarry. If we continue to quarry it, we would be slowly heading in that direction. Immediately going towards the Pawcatuck River is the other lot, owned by Michael Grills, who made some spectacular trails in there – if you get a mountain [bike], that's pretty nice – they go right down to the River. Uh, I, I would suggest that the applicant has no problem giving notice to everyone within a thousand feet. There's no one around us. If you look at that footage, there's no residential home. There's just nobody. I mean the – and we thought it was the highest and best use, rather than to continue to quarry the site. That's my only comment."

Ms. Rocha said that Mr. Gold would talk about the impact during his presentation, though she would "probably jump in as well". At this interval, Mr. Lamphere interjected.

Mr. Lamphere: "I just want to remind the Planning Board that the, the issue before you right now is 'Do you want to change the Future Land Use Map of the Comprehensive Plan in a manner that changes the character of that area?' I, I would, I would be a little hesitant to get too deep into the site plan details here, because, as Emily [Shumchenia] just pointed out, the applicant has put a twenty-five-foot side yard setback on here. Um, the Planning Board, as you know, we've, we've done many projects like this. The Planning Board can set a one-hundred-foot setback, okay, so, um, I just want to be careful that, when the applicant goes, and goes forth and puts forth plans like this, to the Planning Board, and then they're going to carry this same thing to the Town Council –

which they've already given the Council, okay, twenty-five-foot setback is not necessarily gonna hold here. The Planning Board has the power to kick this back one hundred feet from a residential zone, so, that, that's one aspect of a site plan that I really wish you folks would not get too concerned about, at this point. The issue is 'Do you want to change the zoning on this parcel to accommodate a solar array?' Is this the thing you should be thinking about is, is this particular parcel suitable for this type of solar array to be put on it, is it going to be harmful, in general, to the, to the area around it? Is this a suitable parcel, or not? Without getting too deep into access roads, uh, interconnections, things of that nature, and, again, I say that, in the interest of conserving time here, so that we can really get to the, to the heart of the matter, which is giving the Council an Advisory Opinion on the two requests that are being put to you tonight. So, with that, I'll, I'll rest."

Ms. Shumchenia then responded to Mr. Lamphere's comments. She said that, as "the applicant is asking the Planning Board to waive the requirements in the Solar Ordinance for a zone change from Residential to Commercial of coverage maximum of three percent or three acres for this project because of its unique features", therefore, she was "merely trying to dig into what some of those unique features are, both on the positive and negative side for this neighborhood, because this project, we were being asked to make an exception for these unique features, could set a precedent for any future project, where a residential parcel is requesting a zone change to Commercial, much like this one is, and is going to list out all the reasons why it's a good idea for that particular piece of land, and we just have to be really careful in examining these types of applications, because of their ability to set a precedent that other people will immediately go out and follow, and we should just be very – we have been, and we continue to be – very careful about these changes of an isolated parcel, in the middle of a residential neighborhood to Commercial use." She said that she "completely [understood] all the history of this, this particular parcel, and the land use on it," so she thought "it's just really important that we think about what's going on here and actually not proceed too quickly." She said that she also understood that the Board has "lots going on, but each one of these needs to be very carefully considered".

Mr. Prellwitz then asked the other representative for the applicant to speak. Mr. Gold, a professional engineer with ESS Group, called in. He said he was going to "keep it brief" and "stick to the high points", though he wanted to "address one of the comments regarding the notice in Westerly." He said that the "radius map that [the applicant] had submitted was two hundred feet from the condo unit", though they have "since been asked to change that [to] six hundred feet from the property line, so that, that's pending". He said that "that does extend over into the Westerly Land Trust, so they will be notified." Mr. Gold explained that there were a couple of links on the website that could be accessed by the public, but that he was going to reference the one entitled "Comolli Solar Planning Board Presentation – 2020-08-05". He said that these were "just some select figures, taken from the complete application that's been submitted". He said that they had already touched upon the existing conditions on-site, but that he wanted to add that "the wetlands that are shown in the plans, those are delineated in June 2019", and

that the “site’s not within a natural heritage area”, though it is “within [the Town’s] Groundwater Primary Protection Zone”.

Mr. Gold explained that it is “an approximately 3.4 megawatt D/C array that’s being proposed”, and that the proposed PSES would occupy “approximately 7.8 acres”. He said that it would be “surrounded by a[n] approximately 9.48-acre fence, that includes the array and a couple of detention basins as well.” He said that this would “include the equipment pad”, and that there was also an access road proposed. He said that there would be “approximately nine utility poles”. He said that the “area inside the fence will be grass”, and that “shade trees will be cut, but not grubbed.” He said that the array was set “pretty far back” – roughly “nine hundred and eighty-nine feet back from Chase Hill Road”, and “horizontally, vertically, it’s about a thirty to eighty-two foot, uh, difference lower than that, um, entrance at Chase Hill Road.” He said that the proposed project would be “over six hundred feet from the nearest residence, and it’s surrounded by, surrounded by woods.”

Mr. Gold: “So, visually, we’re trying to find, you know, the worst case, where you could – if there was any chance of seeing this, uh, really would be down the driveway, uh, where there’s no woods, since the site is, um, so wooded and surrounded by woods, so, uh, if you look on P2, which is the last page, we did a sight line profile, looking from Chase Hill Road, down the driveway, trying to find an alignments with the minimal trees, and it’s actually kind of tough to find a, to find a way to look down the driveway, without being obstructed by existing buildings on unit one, without being obstructed by trees, so, there’s this one, narrow path that you can see at the top of P2. In the center of that sheet, you’ll see the sight line profile, and you can see the little dash on the left hand side in the sight line, and that shows that, if you were to stand on Chase Hill Road, and try to look down the driveway to see the site. The project, the topography of the project area drops, drops below the sight line, and the site is actually obstructed by the existing topography, so you can see that it raises up, and then drops back down, so, just, even forgetting the woods, just, topographically, uh, you won’t be able to see this from Chase Hill Road, and then the bottom of the page, uh, that’s just a Google street view, to give you a sense of what it would look like, looking through that driveway.”

He said that the “project will be designed in accordance with the Solar Ordinance”, that “all the distribution lines will be underground”, and that the “yard setbacks will be met”. Mr. Gold said that, “again, by Ordinance, the Commercial setbacks are sixty-foot front, twenty-five-foot side, fifty-foot rear, um, and, again, we’re showing, you know, on the west side, two hundred and eighty feet, uh, five hundred feet on the north side, and, uh, even more than that on the, on the south side.” He said that “on the east side, we do have the twenty-five-foot setback, and again, that side is, um, furthest away from anything, so this site is uh, you know, we located this to be, where there’d be the least the clearing, uh, required, because that area is all grass already, and, uh, topographically, and um, difficult to see.” He said that project would be “surrounded by a seven-foot high, chain link fence, locked with a Knox Box for emergency access, and the bottom of that fence is raised six inches above the ground.” He said that “no exterior lighting is proposed”, and that the “panel heights will not exceed twelve feet above final grade.” The storm water basins

“will be designed in accordance with the Rhode Island Storm Water Design Installation Manual”, as well as the Town’s Land Development and Subdivision Regulations. He said that there are two proposed “detention basins” that are “pretty small”, as they are “all that [the applicant] expect[s] that [they]’ll need, based on, uh, the topography and the existing conditions”.

Mr. Gold said that future work that will take place if approved will be “advance[ing] the permit level design”, conducting a noise study “that will show that you, uh, won’t exceed forty decibels at the property line”, as well as a Storm Water Report, the Soil and Sediment Erosion Set-up Control Plan, and the Decommissioning Plan. Mr. Gold said that he was available to answer questions about the site plan, but the members of the Board did not have anything further for him. Mr. Prellwitz began to pivot to the public comment portion of the discussion, but Ms. Rocha interjected. She wanted to “attempt to address the issue” of the proximity to the Hopkinton Land Trust property, as well as the “three percent issue”.

Ms. Rocha: “I will say that, this, as I understand the Ordinance, the ability to go beyond that is, is limited to these types of sites – the gravel banks, uh, landfills, and so on. I think that flexibility is in there for a couple of reasons, and that’s because some of these current uses, like a quarry, are, um, more valuable than a very small solar, or three percent or three acre solar array, so, in giving up those nonconforming uses, which the Town really wants to get rid of, um, as do most Towns, um, there has to be this type of balance. Um, I do think that, even though it’s near a wildlife preserve, and you know, hopefully, we get approved and we’re back before you to discuss the intimate details of this, and um, DEM, or any other reviews that are required, that also look at this, but, um, it is probably the least intrusive use you can propose with those surrounding, um, Land Trusts and, and types of, types of properties, so, um, that was all I wanted to add, with respect to that point.”

Mr. Prellwitz then allowed public comment. Eric Bibler of Woodville Road was the first member of the public to call in. He said that he had a “number of concerns”.

Mr. Bibler: “First of all, with the respect to the idea of, uh, preexisting, nonconforming use, um, if, if there’s a preexisting, nonconforming use, the only right that pertains to that, is to right, is the right to continue the same use. Um, I don’t think that, um, DEM would look kindly on, uh, continued use of, um, of the property as an unregulated salvage yard, so I don’t think that’s going to happen. Um, as far as the quarry, uh, Mr. Comolli said that the, the Comollis are still quarrying, um, material there. I think the issue there, in terms of whether solar constitutes a more attractive use than existing use is whether or not the existing quarrying activity is actually obnoxious or not. Um, obviously, there was quite a lot of controversy over some quarrying operations over the past few years in Westerly, which, uh, caused quite a bit of disruption to the neighbors, but if this use is being pursued, and it’s not, uh, disrupting the lives of the neighbors, then it isn’t anything obnoxious that is advantageous to you, for us, to have cease. So, that’s one thing. Secondly, um, I’m not sure who mentioned it, but the, there was an issue mentioned about the notices, and whether or not it was the correct radius or whether or not every

interested party was actually provided with a notice, and then, I'm not sure who said it, but someone on behalf of the applicant said that there was a request to notice additional parties, and that you're in the process of doing that. Well, I would argue that this is a public hearing, and I think you have a defective notice if you haven't, if you have not provided, um, notice, to every party that might take an interest in this hearing. You can't just approve, or you can't issue a recommendation on this without having invited to this hearing, the opportunity, you know, all the people that, um, legally should be allowed to be here, so if, if that's defective, I would, uh, respectfully say that you can't decide this tonight. I think you're going to have to continue it until you can notice those people. Um, third, there are some, um, aspects of this plan which I find very concerning. Um, one of them is, um, I know that the Town Planner, Mr. Lamphere, said he didn't want to get stuck on this, but I think it's worth mentioning that um, these setbacks are completely insufficient. Um, we've got multiple, um, abutters here, uh, the Palmers, the Wrights, the Coles, and the Land Trust, just to name a few, I don't think that's all of them, where the paneled area is going to come right up to, within, about, twenty-five feet of their properties. Now, I know that this array might be many more feet distant from their homes, but developers – we can't fall into this – developers cannot get credit for the buffer that exists on the abutters' property. That property owner has the right to have a buffer to his property line. We don't know what future owners might want to do with these properties, and they should have a full hundred-foot buffer between their residential property and their arrays, so let's not get into the habit of measuring distances to existing residences, and those really have to be one hundred feet. Finally, I think I want to echo, um, Planning Board member Emily Shumchenia's concerns about setting precedents. You know, there are aspects of this, um, mixed use – this is a mixed use plan here, or, kind of a split zone, although it's a little odd because it has condominium units on it. If you look at this plan, the road, the access road, which is part of the commercial plan here, and the poles, and the interconnection, run across unit one of this condominium, so this project is not confined to unit two. It also traverses unit one, and some of the prime components, including these very tall poles and wires are on unit one, and there is a boundary between unit one and the Palmer family on Plat 2, Lot 72, um, where these poles are going to be, looks like, maybe, at most, fifty feet from their lot lines, so they're going to have this industrial structure pretty close to their lot line, and also visible from the road. Um, you're not going to go underground with the wires to the roads, so, when you drive by, you know, that's what you're gonna see, um, but the other issue that this raises is, I don't know what existing buildings are on unit one, there was a reference to existing buildings, but the plan here is to allow it to remain as RFR-80, which is a Residential zone, and put this Commercial road, and poles on top of it. Now, we already saw this with a proposal for the, uh, project on Woodville Road for Carapezza. We've seen this with the other project on Chase Hill Road for Cherenzia, and we've seen this idea on Crandall Lane, for a split zone, uh, where the, um, you know, you'd have, you'd have a road on a, on a Residential property, or you know, nearby. So, that's a precedent that I don't think we want to see, where we say it's okay for part of the, uh, Commercial installation, this industrial installation, to be on a Residential property that either has a residence on it, currently, or, which could be developed with a residence on it in the future. I just don't think that we should be putting these industrial solar installations on

Residential property, or any part of them on the property. So, those are my concerns, and I'd appreciate it if they were all addressed, or at least considered. Thank you."

The next person to call in was Elaine Caldarone, of Maple Court. She wanted to "address the proximity of the parcel, especially the 1.88-acre parcel, to the Pawcatuck River."

Ms. Caldarone: "I'm speaking today as the Hopkinton Town Representative to the Wood-Pawcatuck Wild and Scenic Rivers Stewardship Council, and just a little background: in March 2019, the Wood-Pawcatuck Watershed was designated as part of the National Wild and Scenic River System. Now, this is a huge honor. Less than one percent of streams in the U.S. can claim this designation. But, along with this honor comes responsibility. The twelve towns retained in the Watershed have a shared responsibility to ensure continued protection of this nationally recognized area for future generations. As outlined in Chapter Six of the Stewardship Plan, new, alternative energy systems should be carefully cited to minimize any disturbance within the recommended one-quarter mile area along these nationally designated water bodies. The application before you includes a 1.88-acre solar array within a few hundred feet of the Pawcatuck River. It's hard to imagine how this location will not adversely impact rivers of outstanding and remarkable value, which, as recognized by the Congress includes exceptional ecosystems, hydrological, geological values, and scenic, recreational value from the River. So our goal, our Stewardship Council, is for the Boards and Councils of the towns to assess and consider the potential impact of proposed project to our National Wild and Scenic Rivers' outstanding and remarkable values. Thank you for your time."

Cynthia Johnson, of Hope Valley, spoke next. She stated that she is a member of the Hopkinton Land Trust.

Johnson: "At our July 28th meeting, we discussed this project, and while we don't have the expertise or the role to play, to decide whether or not there should be a solar array here, we would be willing to support the solar array if, in fact, the Planning Board, and the Town Council are willing to let it be in this spot. We are more concerned, at this time, as is our mission, to protect the rural characters, the natural heritage, and to protect the wetlands and the Open Space, so, we're really interested more in the land below the right-of-way, that it be protected, and that we should, perhaps, be able to negotiate, somehow, to have that to protect the Polly Coon Bridge, to protect all of the Grills Wildlife Sanctuary that's there. So, we're looking at this project with that in mind, and are willing to work to the end to, uh, to secure that for that end. So, from our perspective, I think if we, we would be willing to allow the solar in, and to preserve the River frontage as kind of an environmental compromise. We feel that the project is being recommended on land that has, as long as I can remember, and I've lived here for fifty-five years, has been environmentally compromised, and has not been in a pristine state in the whole time that I've been here, so, um, that's it. Just wanted to make those comments for your consideration tonight at the meeting."

Joe Moreau, of Old Depot Road, was the next caller. He had a few comments.

Mr. Moreau: “Mr. Comolli mentioned how gorgeous Chase Hill Road is, with the stone walls, the Grills Preserves, and other things he talked about, and I agree with him. I go up and down that road quite a bit, so, um, what do we want to do with this gorgeous property? We want to change it from Commercial, uh, from Residential – I’m sorry - to Commercial. Um, you know, some of the questions I have, uh, I don’t expect the answers tonight because of the time constraints, but with, um, the three-phase power – is that going to be coming in from Chase Hill Road? Uh, how many poles are we going to be looking at? Uh, you go down [Route] 216 – there’s a project you’ll never see, but you do see it, you see the six, eight, ten poles, whatever it may be. The most important point, I think, is, is to Emily [Shumchenia]’s point: um, we are setting a precedent here. If this is approved, again, other, uh, residential homeowners could ask the same thing. This is another project that we’re constantly being told that you’ll never see it. Just drive around Hopkinton, and let me know all the projects that you don’t see. Three of our Town Council members have already said, and I agree one hundred percent with them: enough is enough. Please, stop trying to change Residential property to Commercial, for an industrial, manufacturing plant, especially – in any area, but especially the gorgeous Chase Hill Road. Thank you, I appreciate your time.”

Carol Desrosiers, of Pleasant View Drive, called in after Mr. Moreau.

Ms. Desrosiers: “I also wanted to emphasize that this really does set a precedence, regarding the Solar Ordinance, and I don’t think that should be taken lightly, um, and I also would reiterate with [what] Joe Moreau said around public view. We’re talking about nine new poles. Those will clearly be visible from Chase Hill Road, and look very industrial, um, and also, even though we’re not getting into the detail, again, the setbacks are important. You know, as presented, they are not adequate for the abutting neighbors. So, that’s my summary. Thank you.”

After Ms. Desrosiers, Mr. Prellwitz asked Ms. Jalette if there were any other members of the public wishing to be heard. She replied that there were not. Mr. Prellwitz then asked the Planning Board members if they had any additional questions or concerns. Ms. Light said that she had a concern.

Ms. Light: “Well, my first comment is: it is residential. Um, the Comprehensive Plan is firm, and I don’t think we can afford to keep making exceptions every time somebody says they need one. While I agree that the site seems conducive to what we’re trying to do over here, I don’t think that we can keep switching, changing the rules, for every applicant that comes along. So, with that said, a Comprehensive Plan is only going to permit 1.17 acres for the entire project, including the fencing. Second, uh, George [Comolli] had made a comment, also, that there was not going to be any traffic on Chase Hill Road, and that Chase Hill Road, uh, isn’t strong enough to support heavy construction vehicles, so, on that note, um, we have to address that, because there certainly is going to be a requirement for vehicles to get on site for quite a while, and they are heavy, construction vehicles. And, the other comment that I want to make is something else that George brought up, um, that the area of land where the solar panels are to be installed is what you’re calling a ‘brownfield’, but I’m calling it potentially

contaminated soil, and that's why nothing grows there, so, I think the potential for contamination, especially giving the history of the salvage yard, going back fifty or sixty years. I think we need to talk about how we want to look at that, and view that, and, if it is, in fact, a contaminated area, then I would encourage it to be cleaned up, at a minimum, because of its proximity to the Pawcatuck River and the Land Trust for both Westerly and, uh, Hopkinton. That, that's all I have right now.

Mr. Prellwitz thanked Ms. Light for her comments, and then asked Mr. Lindelow if he had anything to add. He said that he did not have any. He then asked Ms. Shumchenia if she had any additional questions. She said that she was all set. Mr. Prellwitz, noting that Ms. Light was also obviously in attendance, asked Mr. Clough if the Board was allowed to take a vote. Ms. Rocha interjected before Mr. Clough could respond. She wanted to address "some concerns [that were] brought up".

Ms. Rocha: "Just for the record, um, you know, we're, we're bringing this presentation to you, and I'm not going to beat a dead horse, because of the uniqueness of the current uses of the property, um, and, and really, that – there's no precedent being set. It's not gonna – it – but it's not gonna be the last project before you that, um, attempts this, whether it be a landfill, you know, a private, or a Town project, or, uh, another gravel bank, and I, I think that is in your Ordinance, and it's encouraged, um, what, what is difficult is, you know, if, if there's another project in front of you, it's not going to be three acres, and it's not going to be three percent on those types of sites. Um, what, uh, just, just to – there's no, uh, as to the notice issue, you know, I don't want to go too far down that road, but um, with this, this project, and the notice requirement complies with both the Zoning Enabling Act and the Comprehensive Planning Act, and, um, we're merely, um, at the Town Council level, um, complying with a request to notice additional area, which we don't have a problem doing, including as, um, one of your members requested, the Westerly Land Trust. That's fine, but I think what is, what is telling is hearing from the Hopkinton Land Trust, who I hope, you know, if we can get an approval, and we proceed to Major Land Development approval in front of you, that I hope that they're part of the conversation, as to the remaining portions of this site, and, and what we can do, in partnership with them, um, but it is, like she said, an environmentally compromised site. I, if, if we do get to Major Land Development review, we will do what we need to do, um, testing, and so on and so forth. But, we're not talking about a residential use, either, but, certainly, there will be requirements, whether they, you know, and we'll comply with whatever DEM needs us to do for this solar use. Um, we've done it on other sites, um, that I've worked on, and uh, we don't, we won't shy away from that, but, what you're looking at is, this, this property remaining, in, in the state it's in, and the uses it has, um, just because it just really doesn't have another choice. It's not going to go Residential, uh, anytime soon, in the near future or the far future, um, so, the, the best thing you can do is put this up for thirty years, and um, and hope that, in the long term, that this is, it, it's a use that is permitted under, um, and, and encouraged by the Town in the future."

At this point, Ms. Light mentioned to Mr. Prellwitz that the Board was nearing its self-imposed one-hour mark. Mr. Prellwitz said that he wanted to "let everybody in the audience have their say, and let the presenters have their say without going too far", but

he did agree that they were “coming to the end of time here.” Ms. Jalette stated that Sharon Davis, Town Council Liaison wanted to make a comment. She then spoke.

Ms. Davis: “I really agree that, that this would set a precedent, um, it should only – it shouldn’t be because it’s in a residential area, number one, and number two, if anybody had any idea that they wanted to do something different, it absolutely exceeds everything, it, I agree with all of the comments that have been made, that it, it, um, traverses other residential areas. I do not think that this is a good thing. Thank you.”

Mr. Clough then provided a recommendation to Mr. Prellwitz. He explained that “if the applicant has finished their presentation, and there’s no more public comment, that you, uh, entertain a vote to close the public hearing, and then, then you have a second vote as to the Advisory Opinion”. He also mentioned that he wanted to remind the Board that “we’ve discussed a lot of, uh, several things about the application tonight, [but] the legal question that is before the Planning Board this evening is related to the giving of an Advisory Opinion to the Town Council, as to whether the Planning Board believes that they’re requesting this zone change and change to the Future Land Use Map would be consistent with the Comprehensive Plan, so, essentially, if, if you all believe that it would be consistent, you would give a positive Advisory Opinion, and, um, if you believe the changes would be inconsistent, then you give a negative Advisory Opinion”. In response to this guidance, Mr. Prellwitz asked the applicant if they had “presented everything that you need to present”, and if they were “comfortable with us moving on.” Ms. Rocha replied that she was, but that she wanted to say, “for the record” that she understood that “this will go to the Council for review”, but that she was “a little, um, disturbed by, uh, Council people weighing in at this portion”. She thought it was “not appropriate at this time”, and that she “wanted to put that on the record.” Mr. Prellwitz interpreted Ms. Rocha’s comments as a question, and replied that Ms. Davis is the Liaison from the Town Council to the Planning Board. She replied that she understood, but that “it, wasn’t, it wasn’t a question”. Mr. Prellwitz then asked for a motion to close the public hearing.

MS. LIGHT MADE A MOTION TO CLOSE THE PUBLIC HEARING. IT WAS SECONDED BY MR. LINDELOW.

IN FAVOR: PRELLWITZ, LIGHT, LINDELOW, SHUMCHENIA

ABSTAIN: NONE

OPPOSED: NONE

4-0, MOTION PASSED.

Mr. Prellwitz then asked for a motion for the Advisory Opinion.

MS. SHUMCHENIA MADE A MOTION TO ADVISE THE TOWN COUNCIL THAT A REZONE OF THIS PROPERTY, LAND CONDOMINIUM UNIT NUMBER TWO, ON PLAT 2, LOT 73, LOCATED NEAR 136 CHASE HILL ROAD, AND A CHANGE IN THE FUTURE LAND USE MAP IS NOT CONSISTENT WITH THE HOPKINTON COMPREHENSIVE PLAN FOR THE FOLLOWING REASONS:

IT'S NOT CONSISTENT WITH THE CONSERVATION OF HOPKINTON NATURAL RESOURCES, PARTICULARLY THE PROTECTION OF THE GROUND AND SURFACE WATERS (GOAL CON 1);

IT'S NOT CONSISTENT WITH THE CONSERVATION OF HOPKINTON'S MAJOR NATURAL FEATURES, AND OF ITS TRADITIONAL, RURAL CHARACTER (GOAL CON 2);

IT IS NOT CONSISTENT WITH THE PRESERVATION, CONSERVATION, PROTECTION OF THE SIGNIFICANT, NATURAL RESOURCES OF HOPKINTON AS AN ENDOWMENT FOR THE FUTURE OF THE TOWN (GOAL NR 1);

IT IS NOT CONSISTENT WITH THE INTENT FOR HOPKINTON TO BE CHARACTERIZED BY SAFE, SECURE, AND ATTRACTIVE RESIDENTIAL NEIGHBORHOODS (GOAL H 1);

IT'S NOT CONSISTENT WITH THE PROTECTION OF THE QUALITY OF LIFE AND RURAL CHARACTER OF HOPKINTON (GOAL LU 1);

IT IS NOT CONSISTENT WITH THE PRESERVATION OF EXISTING FARMS, WILDLIFE, AND WILDLIFE HABITAT (GOAL LU 4);

IT'S NOT CONSISTENT WITH ECONOMIC DEVELOPMENT GOALS RELATED TO REDUCING THE TOWN'S LONG-TERM ENERGY COSTS, INCREASING THE TOWN'S ENERGY INDEPENDENCE, OR CREATING LOCAL JOBS.

MR. LINDELOW SECONDED THE MOTION.

Voting began, and Ms. Light, Mr. Lindelow, and Ms. Shumchenia weighed in before Mr. Prellwitz, who wanted to make a few comments before his vote. He said that there are some things in the Comprehensive Plan that "could go either way, however, staying with the, uh, the flavor of keeping Hopkinton rural, I vote yes as well."

APPROVE: LIGHT, LINDELOW, SHUMCHENIA, PRELLWITZ

ABSTAIN: NONE

OPPOSED: NONE

4-0, MOTION PASSED.

Mr. Prellwitz continued, by stating that there were "some hurdles that the applicant has to, to address, and, as we have seen, this doesn't always mean the Town Council's going to follow our recommendation." Mr. Prellwitz then invited Mr. DiOrio to return to his position as Chair.

OLD BUSINESS:

Development Plan Review – Photovoltaic Solar Energy System – Revity Energy, LLC. – AP 7, Lots 62, 62A& 63 – 15 Frontier Road. Revity Energy, LLC., applicant.

Kerin Browning, the attorney for the applicant, came before the Board to present.

Ms. Browning: “As you know, we’ve come before you, uh, several times, uh, we’ve worked really have together, uh, to get to this point. Um, we have, we were last before you on August 5th, um, where, uh, we narrowed, um, the issues, and, uh, we’ve also worked, uh, with your Planner, uh, to identify some, uh, conditions, uh, to place, um, on a, um, potential, uh, approval of this project. Um, as a matter of, uh, housekeeping, and, for the record, I just want to make sure, Mr. Chair, that two items, which have been, um, sent to the Town and circulated among the members have made their way into the record. Uh, I’d request, at this time, that the letter from Adler, Pollock, and Sheehan, addressed to Solicitor, um, McAllister, and also, uh, the landscape plan, which has been updated as of, uh, August 20th, 2020, um, I’d request that both of those items be entered into the record.”

Mr. DiOrio: “Duly noted.”

Mr. DiOrio said that his “recollection of our last discussion is that, uh, we had, uh, we covered significant ground.” He said that there were “maybe a couple of, uh, a couple of details that needed, uh, attending to, and we’re prepared to drill down on, uh, the conditions associated with a motion.” He asked the other Planning Board members if his recollection was accurate, and if they were in agreement. Mr. Prellwitz and Ms. Shumchenia said yes, as well as Mr. Prellwitz and Ms. Light. Mr. DiOrio said that the items before him, from looking at Mr. Lamphere’s memo of August 26th, “these have to do with, uh, decommissioning, in our decision as to what to do with the value there”, as well as the “issue of the landscaping plans and the landscaping buffer”. He said that they would then “be on to our conditions of a motion”. He asked the Board to “take them in order”, and that Mr. Lamphere had put decommissioning “up front there”, as “there was some discussion on, uh, on how we would be handling this.”

Mr. DiOrio: “We have an opinion from our Solicitor. Planning Board members: do you have any thoughts or comments on this particular topic?”

Mr. Prellwitz was the first Planning Board member to ask a question. He said that in the “decommissioning note here, the figures that are listed – now, if my memory is as clear as I think it is, at some point, the applicant had agreed to \$343,254.85. Is that correct, or was I not hearing?” Mr. DiOrio replied that he would “concur with [Mr. Prellwitz’s] recollection, but the applicant is out there.” Mr. Prellwitz said that it was “just a point of clarification”, and that the Board could “move on”. Mr. DiOrio asked Mr. Prellwitz if there was “something about that number that you wanted to – or were you just seeking, uh, consensus that that was an agreed upon value?” Mr. Prellwitz said that he was “seeking the consensus that it was an agreed upon value.” Mr. DiOrio then asked if the Planning Board members had “anything else to add to that topic.” Ms. Shumchenia said that she had a quick comment.

Ms. Shumchenia: “I just have a quick comment, Al. This is, it’s not a question, or, you know, even meant to open discussion, but, I just, before we close the issue entirely, um, I understand that, you know, according to the legal guidance provided by the Town Solicitor, the Planning Board, we must rely on this expert testimony that’s been introduced into the record, um, which is, you know, essentially, the estimate provided by Crossman Engineering, with this additional twenty-five percent contingency added – that’s what Ron was just talking about. But, I think it’s important that we also understand that the expert testimony introduced to the record also describes a level of uncertainty about the future cost of decommissioning that is pretty unsettling. Um, the estimate that Crossman prepared assumes, for example, that the costs of decommissioning are going to be offset by an estimated salvage value that is entirely speculative, and I inserted the word ‘entirely’ but, that’s, other than that, that it’s a direct quote from Mr. Cabral from Crossman Engineering. Um, he also stated it would be offset further by selling fifty percent of the panels for reuse at the end of their life. Um, Crossman also assumed that the other fifty percent of the panels would be recycled. Um, they are the experts, uh, but Mr. Cabral stated himself, numerous times, that all these details are entirely speculative. So, in other words, even though we all acknowledge that no one knows any of the conditions that will set the stage for what decommissioning will cost in twenty-five years, we’re going forward with this number, knowing full well that there’s a really good chance that none of the panels could be resold at all, which would increase the decommissioning cost by a few hundred thousand dollars, for example, so I just, I’m just worried that we’ve got this fairly inflexible framework here, where, if any of this is wrong, and we’re all admitting that we’re probably wrong, the Town of Hopkinton could be on the hook to front a significant amount of money at the time of decommissioning, and, as a taxpayer who is planning to still be around in twenty-five years, um, that makes me really nervous, and, to be honest, pretty unhappy. So, I just wanted to say that. Thanks.”

Steve Cabral, an engineer from Crossman Engineering, interjected, and asked Mr. DiOrion if he could “just clarify one item” from Ms. Shumchenia’s comments.

Mr. Cabral: “Again, the previous speaker is correct, because I know, I did say it, many times, is that, that there is an unknown as to what a value of certain material will be twenty, or twenty-five years in the future, so, the previous speaker is correct. I have said that, and I made sure that the Board was aware of that, because I wanted to make sure everyone understood that there is a speculative, speculative nature of forecasting the value of materials in the future, but, when it comes to the resale, the resale value that we provided is \$175,000, so that – I just want to clarify – the resale estimate that we provided was not in the \$300,000 range, and the value that we used for the resale is actually based upon the research that we found, that even though the lifespan of this facility may be twenty to twenty-five years, data does show that the solar panel can be expected to, to be productive for thirty to forty years. As time goes on, their efficiency does diminish, and the real value of those future panels is really going to depend upon the technology twenty-five years in the future. For example, will panels, being produced twenty-five years from now produce more energy than the panels being produced today, and we took that into consideration when we utilized a sale price per panel of only fifteen

dollars per panel. So, even though all the numbers are speculative as to what value will be twenty years from now, or twenty-five years, we did use numbers that we feel are on the conservative side, based upon historical trends. So, I, I just wanted to clarify that, those items.”

Mr. DiOrio thanked Mr. Cabral for his comments. He said that he “certainly would share Emily’s concern about this, this topic”.

Mr. DiOrio: “I’m really not pleased with the way it’s been handled – no criticism of anyone involved, uh, just walking away from it, uh, a little disappointed in the way, you know, we’ve been forced to come to a conclusion. I feel that, uh, some of the Board’s knowledge and intentions and authority have been, uh, usurped here, a little bit. Again, I’m just not really pleased with that. I don’t need to reopen this discussion. Uh, you know, the, uh, folks, folks have spoken, and, you know, the deed is done, but I’d like to also go on record expressing a little bit of dismay over the final outcome.”

Ms. Light commented as well. She said that she was “formally going on the record” that she agreed with Ms. Shumchenia and Mr. DiOrio.

Ms. Light: “I’m making the decision to – I feel like my hand is being held over a fire, to pull the trigger, to satisfy something, and I don’t feel comfortable with the decision that we’re being forced into, and that’s basically what it comes down to. So, we’ll have to do what we have to do, but, at some point, I’d like to know that our attorneys are going to be able to present the Planning Board with a thorough explanation as to why this has occurred the way it has, because, like Jim said, we’re going to be confronted with solar projects for the next couple of years, and I don’t want to enter into another – I don’t want to engage in a project, knowing that, as much work as we put into this, is ultimately gonna come back to the same thing, where we’re being forced, to, uh, make a decision that’s not comfortable with. Thank you.”

Mr. DiOrio thanked Ms. Light for her comments, and asked if any other Planning Board members wanted to “weigh in on this one.” Mr. Prellwitz said that he did. He said that he agreed with Mr. Cabral’s statement, as it “is true that we don’t know what’s going to happen in twenty-five years”.

Mr. Prellwitz: “The only thing that we do know that’s gonna happen is that if the \$343,000 was put into an interest-bearing account, in twenty years, or twenty-five years, we’re talking a serious increase in value. That being said, junk prices go up and down, salvage values go up and down. It’s a gray area that we – there’s no way that we can quantify it. Thank you.”

Mr. DiOrio thanked Mr. Prellwitz, and said that his comments sounded “like a concurrence that we’re doing the best that we can do, and, you know, looking twenty-five years into the future – I don’t know who else can do that.” He said that he didn’t need to “belabor this”, and asked the Board if they were “good on decommissioning”, as, “at some point, we’ll, uh, wrap this into a motion”. Mr. Lindelow responded.

Mr. Lindelow: “Yeah, Keith Lindelow here. Everyone said it pretty well, and I, I agree with everyone said, and, you know, it’s – we know almost exactly what’s going to happen at the beginning. We have a little, a surety, of what’s going to happen, twenty-five, thirty years from now, because there’s no one, anyone, could know that, so, it’s, um, it’s frustrating for me to sit through all this when we’re starting something that, that the next generation is gonna have to deal with.”

Mr. Lindelow then joked that he “hope[d he’d] be around that long, too, but I know you [Mr. DiOrio] will be.”

Mr. DiOrio then stated that it sounded as though the Board was “pretty well done on decommissioning”, and asked if they could move onto discussing the “landscape and landscape plans and landscape buffer”. He said that he didn’t “mind leading the discussion here”, as it had “been one of those contentious issues throughout”. He said that he thought that the “applicant has been, uh, you know, very forthcoming in working with the Board”, and he thought that “we’ve nailed down a lot of things around this project”. He said that the “one outstanding area of concern” was the “Maxson Hill Road side” of the project.

Mr. DiOrio: “I’ve had the opportunity to review, uh, Crossman’s recent memo – August 25th. Uh, as I look this over, I gotta tell you, this is entirely different than what I would have supported when we use the term ‘selective clearing’. I have an entirely different definition of this in my mind, and, well, candidly, this ain’t it. So, you know, I’m going to look to the very last paragraph here. It’s on page three of, uh, of Crossman’s memo, and this is my proposal: that in the Maxson Hill Area, we have a one-hundred-foot vegetated buffer area, set forth in the Ordinance. Uh, my suggestion here is the one-hundred-foot vegetated buffer stays, as is. There’s no clearing allowed within that area. So, Planning Board members, you can take this opportunity to put a hole in my thinking, or give me an alternative, or agree with me, but, let’s hear what you have to say.”

Ms. Light was the first Planning Board member to weigh in. She said that she thought that the developer for this project “mentioned at our last meeting that it was their intention to plant cedars and white pines to accommodate this.” She said that they’ve had “a little bit of debate about the understory, and then, while [she] was pondering all of this in review for tonight’s meeting, what [she] noted was that the developer and the Town are both agreeing that full-grown trees in that buffer zone are appropriate.”

Ms. Light: “So, why cut down what’s there, and plant new growth, when thirty or forty years down the road, you’re going to have the mature trees that we’re all looking for? It’s a, I think it’s a short-sighted view, uh, and it really shouldn’t be up for debate, because their long-term goal is to have full, mature growth, which does not contradict what we’re saying, to maintain all of the growth in that one-hundred-foot buffer zone. That, that’s it. Thank you.”

Mr. Lindelow said that he agreed with Ms. Light “one hundred percent”. Ms. Shumchenia said that she also agreed.

Ms. Shumchenia: “No clearing, uh, to be consistent with our Ordinance and the recommendation of the Solicitor on this topic. Um, really not interested in finding out some of the details that are proposed as an alternative, like tree heights determined by a solar matrix. That sounded terrible. Let’s just not cut anything. Thanks.”

Mr. Prellwitz said that, in his mind, “they, they’ve already agreed to that, when they put ‘as much as feasible’.”

Mr. Prellwitz: “Now, there’s a couple of trees there that are dead and hanging and could be a danger. In my mind, those should probably go, but they’ve already stated in Section Thirteen that they’re going to leave as much as they can, not cut anything, so that’s just my two cents worth.”

Mr. DiOrio said that he had “this highlighted in” his copy, and “the only thing that’s not highlighted, and has a strikeout, is the word, are the words ‘as much as feasible’.”

Mr. DiOrio: “So, that kind of language – that doesn’t fly. It starts with the preferred buffer, so there’s no clearing. I concur with Ron, that dead and dangerous vegetation, um, even DEM allows that to be removed without, uh, without a permit, so, I don’t have a problem with dead and dying, but, I, we’re not going to leave this to the applicant to decide what’s ‘feasible’, what’s ‘reasonable’, ‘to the extent possible’. This – that language is throughout the, uh, tentative conditions. Those, those things are going to be stricken as far as I’m concerned. Uh, this is a black and white issue. It’s going to have to be enforced by Jim [Lamphere] at some point in the future, and I don’t expect any gray areas here. So, I’m looking for definitive black and white, yes or no, you’re going to cut it, you’re not going to cut it, and that’s the kind of language that I’d like to see in the – any decision.”

Mr. Prellwitz said that he liked that, and that he would agree with that. Mr. DiOrio then asked the Board if they were “all in agreement that, at least as far as the, uh, Maxson Hill Road area is concerned, this is a vegetated buffer that is not going to be cut.” At this interval, Ms. Browning asked if the applicant would “have a chance to respond”. Mr. DiOrio responded. The Board then elected to begin discussing the aspects of a motion.

Mr. DiOrio: “Um, I’m sure that you will at some point.”

Ms. Browning: “Okay.”

Mr. DiOrio: “Okay, Planning Board members, are we all in agreement?”

Ms. Light: “Carolyn, yes.”

Mr. Lindelow: “Keith, yes.”

Mr. Prellwitz: “Ron, yes.”

Ms. Shumchenia: “Yep.”

Mr. DiOrio: “Okay, so, then, according to my notes, we’re ready to move into the, to hashing out the details of a possible motion, and I would suggest that this might be the time that the applicant, as we go through these various issues, or items, I should say, this would be the time that the applicant might want to chime in, in terms of any concerns that they might have. Sound reasonable to everybody?”

Mr. Lindelow: "Yeah."

Mr. Prellwitz: "Yes."

Ms. Browning: "Mr. Chair, Kerin Browning. Again, just so we're clear, does it make sense for us to respond to landscaping issues now, and then move on to conditions?"

Mr. DiOrio: "Um, well, one of the proposed conditions, I, I don't mean to, uh, take anything away from my colleagues here, but as I look toward a proposal that's been put in, put, put forth, I'm looking at page three, item number five, uh, vegetation is one of those things we're going to talk about, so I would say that when we get to item number five, uh, the Planning Board has already reached a consensus, but, if you'd like to introduce some evidence at that point, that would be the appropriate time."

Ms. Browning: "Okay."

Mr. DiOrio said that there was a proposed motion, which was included in Mr. Lamphere's memo, dated August 26th. Mr. DiOrio said that "items one through five are fairly straightforward", as it was "kind of templated stuff". He asked the Board if all were "okay with those." Mr. Prellwitz and Mr. Lindelow replied in the affirmative, as did Ms. Light and Ms. Shumchenia. Mr. DiOrio thanked the Board members, then reminded them that "someone's gonna have to read this into the record", as he was working in "an effort to save a little time here", and to "just get consensus on the ones that we can all agree on". He said that they could "hash out the ones that, uh, might be a little bit more complicated." He then began to move on to the third page of Mr. Lamphere's memo, which had "another whole series of proposed conditions", but Ms. Browning interjected.

Ms. Browning: "Kerin Browning, on behalf of the applicant. We have one suggested change to the first paragraph before, uh, numbers one through five, which highlight, which is, uh, titled 'Motion'."

Mr. DiOrio: "Okay, go right ahead."

Ms. Browning: "Uh, within that paragraph, it states 'Hopkinton Planning Board approves the overall site layout plan'. I think it's important, uh, that we be clear about what is being approved. It's not just the one, overall site layout plan. It's actually a series of plans and documents that were submitted for approval."

Mr. DiOrio: "Alright, that's, uh, that's a good point. Uh, so, do we want to, uh, uh, create a list of those plans that we're actually approving, with their correct dates?"

Ms. Browning: "I have a list. Um, I'll leave it up to you, Mr. Chair. We can certainly provide that list on the record, um, or we can provide it, you know, after, um, it's going to match all of the plans that were submitted. It's up to you."

At this point, Mr. Lamphere said that what had been suggested to him "by the applicant's attorney today, Tenessa Azar" was that "the applicant would be willing to write up a proposed motion to approve this project, and it would be my expectation that, in that proposed motion, would include all of the documents that, um, Kerin Browning is mentioning right now." He said that "one suggestion that [he] might have for the Board tonight, to get through this is: Let's go through, and tentatively approve, uh, items, you know, conditions one through twenty-five, amend them as the Board feels necessary, and once we have a tentative agreement on each one of these points, we could always come back, at the next meeting, with, with all that tentative agreements in place, and a motion,

and we could probably wrap this up, uh, quite quickly, depending upon how the landscape plan irons out, when we get to that, that item, right there.” He said that he “would probably suggest that we go through these numbers, one through twenty-six, and, um, at least get some kind of, uh, uh momentum going, positive momentum, and tentative agreements, and then, let’s, uh, then remaining would be the items that we need to really focus, focus on from there”. He said that he was not sure if the Board was “prepared for an official motion”, but his “sense on this particular project is that it is so important, so sensitive, there are so many elements to this project, and clearly, you know, the applicant has had a couple of law firms now weigh in on this already, so, that, that shows how closely the applicant is watching everything that the Planning Board does”. He said that, “with that in mind, [he thought] it’s very important that we meticulously, as a Planning Board, look at everything, and make sure that we’re all on the same page, we know what we’re agreeing to, there’s no ambiguities, no vagueness, and, maybe the next meeting, we come out with a, with a definite approval.” Mr. DiOrio replied that that “sound[ed] like a reasonable suggestion”, and then asked what the other Planning Board members thought “about this idea.” Mr. Prellwitz said that he agreed with Mr. Lamphere, as “Ms. Browning said they had things that they want to put in to Jim’s office, so if we look at all of that, so we see what we’re agreeing to, and make our suggestions, and they look at our suggestions, and they agree to that, then we can move forward from there.” Mr. DiOrio then asked if any other Planning Board members wanted to “weigh in on this”. Mr. Lindelow replied.

Mr. Lindelow: “I think that, not to drag it out, but I think that our diligence is the correct thing to do, and Jim’s suggestion is very good.”

Mr. DiOrio: “Okay, I say we do that. I’m in agreement. Okay, so, then, uh, the issue of the exact plans, a plan set that we’re going to approve, that’s one of those items that, uh, I’m going to let the applicant and Jim work out. Uh, we’re gonna have a set of approved plans that we’re all agreeing on. That’s, those are the ones that are going to be recited in the motion.”

Mr. DiOrio began with the first item again. He said that it had to do with “the decommissioning estimate”, which was “in the amount of \$343,254.85”. Mr. Prellwitz said that he was in agreement. Ms. Light said that she was “uncomfortable with the word, the word, uh, represents the ‘complete’ cost of removal, uh, but, given that this isn’t going to be able to be changed, then [she] would be in agreement with it as well.” Mr. DiOrio asked if the Board could “insert the word ‘speculative’ cost, in terms of ‘complete’, since we’re all in agreement that we’re taking our best shot at this.” He continued, saying that he was “being partly facetious”, and that he concurred with Ms. Light.

Mr. DiOrio: “This, that’s not exactly the word that I would use here, because it seems to endorse the fact that we have this thing nailed down tightly, when, in fact, we’re all admitting that it’s about as loose as it can possibly be. So, can we just strike the whole idea that, you know, we think this is the complete cost?”

Mr. Lamphere: “How about substituting the word ‘estimate’?”

Mr. DiOrio: “Here we go, yep.”

Mr. Lamphere: "It represents the estimated cost."

Mr. DiOrio: "Yep. I'm in agreement with that."

Ms. Browning asked Mr. DiOrio to repeat that, as she did not "catch" the "proposed edit to that, number one." Mr. Lamphere replied that they had suggested "striking the word 'complete', and, uh, substituting 'estimated' – 'represents the estimated cost of removal'." Ms. Browning replied "okay." Mr. DiOrio then asked the Board if they were "okay with number one." All do the Board members replied in the affirmative. Mr. DiOrio then said that, as "some of these are going to be templated", "how about if we just say that, as we just look at number two, for example, if anyone object – if a Planning Board member objects, or, this would apply to the applicant, too, if you object, just sing out, otherwise [he was] gonna presume that you're okay with that language." Mr. Prellwitz replied that he understood. Mr. DiOrio then moved to item number two, and asked anyone who objected to speak up, "otherwise, that language stays". Ms. Jalette asked if Mr. DiOrio wanted "to do a roll call to facilitate", but he replied that, as the Board was "only seeking consensus on the items, [he] was really not looking for a vote."

Mr. DiOrio: "I'll tell you what. I'll give you, I'll give everybody five seconds. If I don't hear anything, I'm moving on to the next item."

Mr. Lamphere asked if Mr. DiOrio wanted to read the items in their entirety, and then ask if anybody objects, "rather than you just call it out by number".

Mr. Lamphere: "You want to make sure that the Board has all these things in front of them, that they're looking at, as you read them, and it might, that'll take up a little bit of time to begin with, okay, and it'll ensure that the Board heard every word."

Mr. DiOrio: "I understand. It's also good for the public, because I'm not sure that everybody has this document. Okay. I will do that. I'll read the item, I'll give everybody a few seconds. If I don't hear anything, I'm gonna move on to the next one."

Mr. DiOrio then began to read the conditions, one by one.

Mr. DiOrio read: "The applicant shall post financial security in the form of an interest-bearing, escrow account in the amount of \$343,254.85 (as described in more detail in the Crossman decommissioning estimate of June 12), which represents the estimated cost of removal in the event or its contractor must remove the PSES." Hearing no objections, Mr. DiOrio went on to number two.

He read: "The applicant shall construct, operate and maintain the PSES in accordance with all applicable federal, state, and local requirements." Hearing no objections, Mr. DiOrio continued to item number three.

He read: "Regarding the well located on the site and servicing the abutting restaurant property, if the well remains active on the site, the applicant shall obtain Rhode Island Department of Health approval to implement the overall site development plan, approved

by the Hopkinton Planning Board, or, relocate the well to another location acceptable to DOH.” Hearing no objections, he moved to number four.

He read: “The applicant will adhere to all setbacks as indicated on the approved plan.” Hearing no objections, he went to number five.

He read: “To the extent possible, the understory vegetation along Maxson Hill Road will remain in place, and be supplemented with additional planting of evergreen trees, of a minimum of six feet in height at the time of planting, as set forth on the approved landscaping plan.” Ms. Shumchenia weighed in. She said that, for this item, she would “strike the ‘to the extent possible.’” Mr. DiOrio said that he concurred. Ms. Light said that she concurred as well. Mr. DiOrio then said that he “might go so far as to strike the following two words: ‘the understory’.”

Mr. DiOrio: “Uh, I believe our intention here is to maintain the vegetation in its entirety, in its current condition. So, we’re not just talking about the understory. We’re talking about all the vegetation.”

Ms. Shumchenia: “Yup, agreed. This is Emily.”

Mr. Lindelow and Ms. Light said that they agreed. At this interval, Ms. Browning asked if the applicant could respond.

Mr. DiOrio: “Yes, of course, this would be your opportunity.”

Ms. Browning: “So, a couple of items, um, and then I think it’s important, um, that the Board hear from, um, our landscape architect. Um, first of all, and I know this was brought up at the last meeting – I’m going to reiterate our legal objection, for the record, that the interpretation, um, that the Board is following, uh, with regard to the language in the Solar Ordinance is incorrect. Um, the, if, it goes against not only case law, uh, which is very clear, uh, on the way that Courts have instructed, uh, Board, uh, to apply and interpret their Ordinances, um, in favor of the property owner, um, but also, um, just on its face, the way this, the Ordinance is written, uh, that provision is meant for, uh, RFR-80 parcels that have been rezoned. As stated at the top of the meeting, uh, an additional, uh, letter, uh, was sent, uh, by, um, Adler, Pollock, and Sheehan, and to the Solicitor on this issue. I, I won’t read the letter into the record; we’ve already agreed that that letter has been, uh, made part of the record, um, I do, however, renew our objection at this time. Um, I also want to point out that your Ordinance, um, for this property, which, you know, is zoned Manufacturing, um, does not place this type of restriction on any other use that would be allowed at the property. To take that one step further, by Ordinance, this project has a maximum solar coverage amount of seventy-five percent. What that means is that we could cover approximately seventy-five percent of this property because it’s Manufacturing zoned. The Planning Board’s interpretation of this provision flies in the face of that requirement. We are basically saying that, if you were to enforce this the way you’re trying to do, you would, in fact, be going against your own Ordinance, which allows seventy-five percent of coverage. You’d be restricting that coverage. You’d be bringing it down. Those two things don’t add up. I also want to be clear: the set back – excuse me for just a second – there’s a difference between buffers and setback. Um, the

setback is only fifty feet in the underlying zoning. The one hundred foot is for structures only. At this point, I think it makes sense to have our landscape architect talk to you about, um, a very productive site visit, which we had with your engineering consultant, Crossman, uh, where we went to the site, we viewed the Maxson Hill Area, and we discussed, um, what I feel, uh, is a very sophisticated and science-based compromise, um, that will not only protect the Town's interest, and, what I'm hearing from the members' interest, in protecting, um, the setback, the trees, the environment, um, but also, allow this project to go forward, because, let's be clear, the applicant is not seeking to clear trees for the sake of clearing trees. They are seeking only to clear trees that will affect the shading on the panels. If solar panels are shaded, and the sun does not reach them in an efficient manner, the project suffers, and it is only for that reason, and with that goal in mind, that clearing, any clearing at all, is proposed in this area. So, at this time, I would like John Carter from, uh, Carter Landscaping to talk a little about what happened at the site visit, and also what was, uh, decided, and, and ultimately, updated on the landscaping plan, so that the Board has a full understanding of, of what we are proposing."

Mr. Carter then began to speak before the Board.

Mr. Carter: "What I'd like to just do, and I know you're on a time constraint, so, be concise, uh, we did have a meeting, um, on the 18th, and we met with, uh, representatives from Crossman Engineering, as well as, uh, myself and Dave Russo, the engineer, uh, and a couple of the Revity principles, and, uh, Linda Rogers, who's a landscape architect who, uh, consults with Crossman Engineering was there as well as, Doug [Allam], who was an engineer. And, the first thing is that – to describe the conditions along, uh, Maxson Hill Road, on the westerly side of Maxim, Maxson Hill Road, between the edge of the pavement and the, uh, uh, property, the subject property, um, it's a primarily an overstory of, uh, deciduous trees, with a fairly dense understory of, um, deciduous shrubs. There's some evergreen, white pine, uh, that are filling in on their own in the understory, sort of a successional, but I think that the general consensus was that, from the road, the overstory did not provide significant screening, uh, it was the understory, that any of the plants from like, ground level up to ten or fifteen feet, um, and, what the applicant would like to do, what he's proposing, and as Karen [sic] said, is based on a, uh, sort of scientific, it's not just a, a whim or need to get more space, but it has to do with reducing the impact of shade on the panels because the panels won't work in the shade. So, there's a ratio between the distance from the panels to the height of, uh, the trees, in this case, or whatever object would be blocking the sun, and it's basically, uh, the panels need to be set back a distance of, uh, twice, but the, um, height of the object blocking elements, in this case, the trees, so, this is not a proposed clear cutting of – it's a, uh, selective tree removal based on the impact, by shade, and that can be, that's not a gray area. That can be documented, uh, very easily, both during the process when the trees would be removed, and, in the future, if there was clipping or cutting or maintaining, to maintain that, uh, uh, you know, the benefit of that. So, what we showed, so we, so we were all, that was the conversation among everybody, uh, and Mr. Lamphere was there also – excuse me – um, and we participated, and, and, uh, the Crossman people participated and so forth. So, that was what we talked about. In my opinion, it seemed to be a con[sensus] [audio was muffled] – that's what [audio was

muffled again] was some discussion about, ‘Well, how do you monument that on a plan?’, so the Board would be comfortable with what they were approving, so, that going forward, uh, the Town could enforce this. So, the drawing that we did, the, uh, profile, with the, uh, matrix on it, with the height to the horizontal and, and vertical, uh, grid, with the height, distance, is documented. That could be documented on the ground. We did put a stake on the ground, and stood there, and looked at, uh, and it would, it can be enforced going into the future. Um, so, we received the, uh, memorandum, which is dated August 24th, and, general, uh, we’re in agreement with, um, last, number thirteen, that I believe, um, Chairman DiOrio referred to, sort of hanging on the end of this thing, and it kind of contradicted what this said, because it says, it’s, that, uh, you know, the, the heights of the trees to be maintained at the height determined by the solar matrix and so forth, so, it describe all that, and then, at the end, it made some suggestions, uh, the one through thirteen, uh, most of which we’re [audio was muffled again] - with there’s a couple of, of words to maybe modify, if that’s adopted, but I will leave that, I won’t drill down on that. Um, so, I left the meeting, and, I believe, the rest of the, at least I know the Revity people did, the engineer did, and I thought we were all in a consensus that this is a reasonable balance between maintaining and supplementing. We did talk about additional plantings to be added, and, um, so maintaining what’s there, supplementing it as necessary, and then presenting it in sort of a diagram that could be understood and verified and, going into the future, so it was able to be, uh, enforced, and everybody understood what they agreed to. So, it’s not a clear cutting of the vegetated area. It would leave, uh, a strip of vegetation, with some trees of varying height, deciduous trees of varying height, uh, and all the understory to the best of our ability while we’re working in there. So, that’s sort of a summary of the meeting and what I thought was the tenor of the meeting and the understanding and the agreement that, uh, we all had, when we left the meeting.”

Mr. DiOrio: “Okay, thank you.”

Mr. Cabral: “Oh, Mr. DiOrio, if I may, this is Steve Cabral -”

Mr. DiOrio: “Yes, Steve -”

Mr. Cabral: “ – from Crossman. Yeah, there are just two, you know, two issues that I just want to point out. One is the, as you all, and the applicant discussed, the legal issue of what’s allowed in the buffer. I, I won’t comment on that, but we know that is certainly a primary concern of the Planning Board. And the other issue is that when we originally looked at the shade analysis, the maximum tree height, which is depicted on the upper right corner of sheet three of four, of, uh, John Carter’s landscape plan, it, you know, initially, we had the impression that there are trees there that would be remaining, you know, based upon this diagram, but, then, as we examined the details, we realized that the actual height of the trees were never identified, so, we don’t know, we honestly don’t know, if all of the trees would be cut within the land between the panels and Maxson Hill Road, because we don’t believe, or, it’s our understanding, is that the height of the existing trees were not yet measured, and if they weren’t measured, it’s unknown which ones have to be cut. The diagram looks good on the plan, but those trees, showing to remain, may not remain if they’re above a certain height.”

Mr. Carter: “Now, this is John Carter, if I could reply. I think, uh, Steve is correct in some respects, but we have, we’ve had that discussion. If we went, and we all were standing there, saying that, that, uh, no trees would be cut until the Town had an opportunity to see which ones were going to be cut, but, really, that would have to

happen at some point further in the project, uh, before anything was cut, they could be identified and flagged, but, uh, or, spray painted or otherwise marked, so, everybody was in agreement that they did, in fact, meet this, um, uh, the, the intent of this, uh, diagram that we did. It would be difficult to do that now, and I'm not sure if would even be that, uh, enlightening, in terms of the effect it would have."

Mr. Cabral: "Again, as, Steve Cabral. What it would tell us is whether or not the, they would tell the Board whether or not all the trees in that area would be removed, or if most of them would stay. If we knew the height of those trees today, then everyone would be able to understand what trees would remain. Right now, it sounds as though you're proposing that 'Don't worry about it, it'll be determined. We'll let you know which ones we're going to cut, after the fact.', and I think that's a little too late. That's why we inserted their comments, the recommendations on page two and three of the August 24, 2020 memo, because, as we learned more about the proposal, we wanted to make sure that the Planning Board members were aware of the potential cutting, if it was to proceed based upon this diagram."

Mr. Carter: "Uh, John Carter, again, and - So, in the, in the letter that we received, um, let me just walk through, quickly, some of the, some of the, uh, observations we had, with some of the language in it, based on what we understood, uh, if I may - and I don't know if people have this August 24, 2020 in front of them, but, uh, I'll kind of read it if you don't, or, if you have it, you can read along. Uh, under the, uh, title 'Areas Designated for Selective Clearing', number one, 'there's existing trees and understory vegetation to remain in their existing state along the street frontage, Maxson Hill Road'. Well, I believe the intent of that sentence is within the road right-of-way. Several trees along the road, and shrubs that are in the road right-of-way, and, uh, it goes without saying, no matter their height or their impact on shade or anything, they're, they're going to remain -"

Mr. Cabral: "Oh, oh John. Oh, John, I don't, I don't mean to disturb you or interrupt, but I just want to clarify, and maybe this will change your reading of this. The intent of the first two pages was just to reiterate what the proposal was. It does not indicate that that's what we were agreeing to. Our comments are at the bottom of page two, where it states 'Comments', and those comments are based upon our consideration of your newest plans and the proposal."

Mr. Carter: "Yeah, thank you, I, I understand that, but, um, but, as you said, those are your understandings and we agree with most of what you said, and we were all there, um, well, I was there, certainly, but that clarification that I just made, I think it's important that that, that was, we were proposing, and that should be read. It was, it may be minor, but that's what we're saying, that it would be within the road right-of-way, not along the frontage on, uh, Maxson Hill Road, and then, um, again, number two, yes, that's correct, that's what we proposed, and what we discussed. Uh, we did say that, um, so this would be in according with this matrix that we drew, um, the understory plant would stay-"

At this interval, Mr. DiOrio interjected. He said that he was "not going to have [Mr. Carter] read this document to me", as "the Planning Board ha[d] this memorandum", as well as Mr. Carter's landscaping plan.

Mr. DiOrio: "We understand that you met in the field, that you, you all reached some consensus. Good. That's great. Good for you. Uh, I believe the Planning Board is taking a

contrary position here, so, while it's great that this is in evidence, it's on the record. We don't have to hear it again, and, especially in light of the fact that the Planning Board has already opined on their position here, I, I kind of feel like you're beating a dead horse – forgive the uh, forgive that encapsulation. So, again, I don't mean to cut you short, uh, Counsel, I don't mean to, uh, abbreviate any testimony that you want to put on the record, but, we're burning daylight.”

Ms. Browning responded. She said that their team had “put an enormous amount of effort and work to take the comments that we have heard from the Board members, and square that against the fundamental need of this project to succeed, which is the ability to have panels that don't have shade on them, and it is important that we have a discussion about the meeting that was had, the changes to the landscaping plan, and our comments to the memo that was received from the Town's, uh, engineer, which, as Mr. Carter pointed out, uh, we are largely in agreement with.”

Ms. Browning: “I see this issue as coming down to two parts. The first part is the matrix that was proposed, as a matter of maintenance to the property, meaning: once the panels are installed, and this project is under construction, if we agree that we want the panels to be functional, fully functional, without shade, there has to be some sort of a plan in place that protects us, and protects the Town, so, that going forward, everybody is on the same page, and that is in response to the Board's concerns and the comments that we heard. So, that's the first issue. The second issue that I'm hearing has to do with which trees, as an initial part of the project, would be cut, in order for that matrix to then take over. So, again, I think it's imperative that Mr. Carter be allowed to go through the very few comments that we have on the Crossman report, and then explain the changes that were made to the landscaping plan, so that the Board members who have concerns about this issue can understand not only the level of effort that we have put into this, but also gain a level of comfort, that this area will be protected, it will be supplemented, it will be maintained, and it will be monitored, well into the future.”

Mr. DiOrio: “I hear your thoughts. Planning Board members, help me out here. I, I'm, uh, I certainly don't want to uh, to abbreviate the applicant's right to put anything they want on the record, but, I, this is running in a circle for me, so, please, chime in. Let me know what you would like to do here.”

Mr. Prellwitz said that he agreed with Mr. DiOrio, that “we should be moving on a little bit”, as he was of the opinion that the Board had “pretty much heard everything that needs to be said.” Ms. Light said that she thought the Board was “ready to move on”, as “this discussion is approaching an hour”, and she would “like the, uh, attorney for the applicant to recognize the fact that the Planning Board, plus all those people that are on the team, have also invested an awful lot of time, and we've stated our opinion”. She said that she was “ready to move forward.” Ms. Browning replied.

Ms. Browning: “With all due respect, um, and we don't disagree – everybody's put a lot of effort into this. Uh, we've already, um, explained that we disagree with the Board's interpretation on this issue. However, and despite that, we are trying to come to some sort of an agreement, um, especially given the level, and sophistication of this compromise.

We would expect that the Board would want to hear us out. As I said, the remaining comments on the Crossman Engineering report, and the few changes to the landscaping plan should not take that long, um, and, and I think it's important that the Board hears from our landscaping architect on that issue."

Mr. DiOrio: "With all due respect, Counselor, I think that, uh, I think that you've heard from the Board members. We, we have your information. We certainly appreciate the level of effort that you put into this, but, uh, I think I'm ready to move on. If you have concerns, uh, especially on the issue of our interpretation of the Ordinance, uh, there's a different forum for that, and this is not that forum. So, unless I hear something else, I'm prepared to move to item number six."

Here, Mr. Clough weighed in. He said that he wanted to make sure than he understood Ms. Browning correctly.

Mr. Clough: "Um, are you saying, uh, Kerin, that you have additional, relevant evidence that you would like to put on, on the record, as it relates to this selective clearing? And I thought, um, am I understanding that correctly?"

Ms. Browning: "That is correct. We have comments to the Crossman Engineering report, and we also have made changes to the landscaping plan, which were made after the last hearing, and after we had the site visit. So, the answer to your question is yes."

Mr. Clough: "Right. Mr. Chairman, with all due respect, uh, I do think that, to allow the applicant to present, uh, their application, uh, in full, in the comments to this, um, newly, uh, added memorandum, from August 24th, I would say to the, to the applicant, and all involved that, given the late hour, that this, these comments, be, um, addressed as quickly as possible. I don't think the Planning Board needs a reading of the entire memo into, into the record, since the memo has been placed on the record, but, uh, brief and, uh, concise comments, I think, would be necessary, but, of course, I leave that to the Chairman."

Mr. DiOrio: "Okay, I hear the advice, uh, although it's against my better judgement, that the applicant should proceed."

Mr. Carter then replied that he would be "quick", as he could "hear what people are saying" about the late hour.

Mr. Carter: "So, back to the memo, if I may. Uh, on the first page, number three, we just proposed that, at the end of that, it would say 'to the extent possible'. Um, on number four, 'to the extent possible' also needs to be amen-, addended [sic] to, because, the, the, the desire is to maintain, and, and remain, uh, leave behind as much understory as possible. What we suggest, it would all stay there, it would be there to the, as much possible, during the, uh, clearing, and, then, to the next page, seven, uh, where it talks about drip line protection, and yes, that would be, would be done along the limit of the clearing, in order to, uh, protect the tree border at the toe of the berm. Moving down, under the proposed berm areas. Number four, the fence. We think it should designate, it should state, the chain link fence, because that's a change we proposed on the plan that I'll point out. Then, we get underneath the 'Comments'. Um, the last sentence says, 'Therefore, a more exact tree removal proposal is needed for understanding the proposal.' That's what I believe Mr. Cabral was referring to, um, and we think that it would be

appropriate to say that, prior to the tree clearing, that the trees to be removed will be identified, so that the, the Town, through its representative, you know, look at them, so it's simply an addendum, trees would be identified--"

Ms. Browning: "John, this is Kerin Browning. Can you be clear about that? How would the trees be identified?"

Mr. Carter: "With any of the trees with, that qualified for removal in the matrix that we've suggested, if that's approved, any trees proposed to be removed would be identified based on their height and location, and either flagged with a ribbon, or painted, or have some sort of marker put on them, so we could go look at them, you know, ahead of time. Those are the trees proposed to be removed, and then, on, uh, uh, the last page, under the one through thirteen on the 'Comments', number four, we just suggested that it says 'leaves the applicant's sole discretion to remove vegetation and add trees. The Town's involvement is recommended.' And it was suggested that that be stricken off, because it's open-ended. What is the involvement of the Planner, or whoever the designated person, and what are they, would they even know what it is they're supposed to be doing? We, we're not, it's not 'our sole discretion'. It would be an agreed upon, uh, number of trees, based on the matrix, based on them being identified and approved that, yes, in fact, those big [audio was muffled], and then number ten, uh, again, it talks about, um, dripline protection, and I know, in the conversations at the site with the lan-, with your landscape architect and so forth, concern about impact on the trees that are gonna remain, and that's a valid impact, um, 'heavy machinery or equipment should be prohibited from these areas within the dripline protection zone.' We just want to state that that is contrary to what we're proposing, if we're proposing to remove the trees. Equipment would have to go in there to take the trees out, so, that would be inappropriate for that to be there [audio was muffled]. It was really just a matter of, of, of language, I think would benefit the Town and the applicant as time went on. Number twelves says 'Arborvitae with extensive deer damage should be replaced at the Town's discretion'. Well, the Town's discretion is wide open, both for the Town and the applicant and everybody. Uh, I believe that, that a requirement that plants be maintained, and that the warranty, after one year or two years, uh, is appropriate. The deer are obviously a concern. That deer are obviously going to cause some damage, uh, to the trees, but, if the buffer is to be maintained, it'll be maintained, and it doesn't need that to say 'at the Town's discretion'. That kind of leaves it wide open for everybody, and nobody really knows what that means. So, that's the comments on the memorandum. Just, quickly, we, based on the last meeting, based on the feedback, the understanding, and our meeting on the site, and our discussion, and my understanding, with us, uh, we went forward and made some revisions to the plan. One of them was we took the wooden fence out. That seemed to be -- we put that in, originally, in response to comments. Took it out in response to the Board comment. They didn't want the wooden fence. There'll be a chain link fence. There'll be a berm, and there'll be evergreen plantings on top of the berm. That, in itself, will provide a significant buffer from Maxson Hill Road side on the plans. We also, as you're all aware, we put this, calculated this, uh, shade matrix. We removed the matrix and added some underneath it that described the process and the responsibilities of the developer, uh, to develop this buffer in accordance with this approved plan. Those are primarily [momentarily muffled by background noise from

other calls] and that, that concludes my, uh, comments.”

When Mr. Carter concluded, Mr. DiOrio asked Ms. Browning if there was any “new evidence” that she would “like to put forth”. She replied that she “would just ask that, uh, Mr. Palumbo be given a chance to speak, um, from Revity Energy, if he has anything to add.” Mr. DiOrio asked if Ms. Browning meant in regards to this particular item. She replied that Mr. DiOrio was correct. Mr. Palumbo said that the Board could move on, and that he was “all set”. Mr. DiOrio continued.

Mr. DiOrio: “Okay, so, I guess, Planning Board members, in light of the new evidence, I’d like to bring your attention back to item number five. Are we still in agreement that item number five stands, or would you like to make some amendment to item number five. Please advise.”

Ms. Light: “I believe that we – this is Carolyn – still need to strike ‘to the extent possible’ in the understory.”

Mr. Lindelow: “I agree.”

Ms. Shumchenia: “This is Emily. I agree.”

Mr. DiOrio said that there was a “consensus” among the members when Mr. Prellwitz chimed in. He said that he was “just agreeing with everybody” in regards to item number five. Mr. DiOrio replied.

Mr. DiOrio: “Good! Okay. Number five, done. Moving on to number six.”

Mr. DiOrio then began to read the items again.

Mr. DiOrio: “The applicant shall comply with all applicable responsibilities and obligations of the Hopkinton Zoning Ordinance, including, but not limited to, Chapter 246, entitled ‘Non-residential Photovoltaic Solar Energy Systems Ordinance’, adopted January 22, 2019.”

As there were not any comments in regards to item six, Mr. DiOrio moved on to item number seven, and, when there were not any comments in regards to item number seven, he continued to item number eight. When Mr. DiOrio did not hear any comments in regards to item number eight, he read item number nine.

Mr. DiOrio: “The proposed PSES shall be designed and constructed in accordance with all applicable fire codes, as such may be interpreted by the Fire Marshal. The construction of any PSES will not be allowed until a design has been approved by the Fire Marshal.’ Number eight is: ‘The establishment of the proposed PSES will not prevent the normal and orderly use, development, or improvement of the adjacent property for uses permitted in the district. Item number nine: ‘The applicant and/or current project owner shall avoid any disruption, interference with, or loss of radio, telephone, television, or similar signals, and shall mitigate any such harm caused by the PSES.’”

As he did not hear any comments in regards to item number nine, he read item number ten. There were not any comments in regards to item number ten, so he read item number eleven.

Mr. DiOrio: “‘All reasonable precautions must be taken to protect neighboring properties from exposure to any radiation produced as a result of the PSES, including, but not limited to, high levels of radio frequency, electromagnetic radiation.’ Item number eleven: ‘Sound emitted by the PSES will not exceed forty decibels as measured at the property line. The applicant has indicated that mitigation measures may be required to meet this requirement. Within ninety days of the solar farm becoming operational, the applicant and/or current property owner will conduct a post-construction, environmental noise assessment to determine if mitigation is necessary, and to verify that sound emitted by the PSES shall not exceed forty decibels as measured at the property line. The Town shall select independent engineers to review the post-construction environmental noise assessment for completeness and accuracy, at the applicant and/or current property owner’s expense.’”

After not hearing any comments on item number eleven, Mr. DiOrio went on to item number twelve.

Mr. DiOrio: “Item number twelve: ‘No blasting shall be conducted on the parcel in conjunction with any activity related to the construction of the PSES, including land preparation.’”

After not hearing any comments on item number twelve, Mr. DiOrio went on to item number thirteen.

Mr. DiOrio: “Item number thirteen: ‘The PSES and equipment shall not have a significant adverse impact upon the soils, water resources, air quality, or other natural resources of the land or surrounding area.’”

Ms. Light said that she would like to see the word “adverse” struck from the item. Ms. Browning replied that the language in item number thirteen was taken from the Town’s Ordinance.

Ms. Browning: “It’s a direct quote. We would object to changing the language.”

Ms. Light said that in the “points that Jim had sent us earlier, it was stated as ‘significant’ impact.”

Ms. Light: “This one is suggesting ‘adverse’, and it doesn’t necessarily have to be adverse, but to still create an impact. I’d like to get it back to just a general impact, uh, because nobody is gonna be on-site to actually define what ‘adverse’ is or not. We just need to leave it at a more general state, and I would prefer ‘significant’ instead of ‘adverse’.”

Ms. Browning: “Again, Mr. Chair, Kerin Browning, uh, the purpose of DPR [Development Plan Review], as you know, is to compare the standards that are set forth in your Ordinance to the application. It is not to change the standards. That would be a change to the standard as set forth by Ordinance. We would object.”

Mr. DiOrio said that he understood. Mr. Lamphere said that he agreed with Ms. Browning’s statements, and that he “would leave the word ‘adverse’ in there.” Mr. DiOrio asked Mr. Lamphere if the word “adverse” was in the Ordinance, and he replied that he believed that it was. Mr. DiOrio responded to Ms. Light.

Mr. DiOrio: “Carolyn, I’m going to say that, uh, as much as, uh, you might not like that word, if it’s in the Ordinance, I’m going to be suggesting that we’ve all been adhering to the Ordinance all along – let’s be consistent.”

Mr. Lamphere: “I might add – Jim Lamphere, Town Planner, again – I might add that, uh, Carolyn, if you look at those conditions, uh, one through five, if you look at number two, um, it pretty much covers it right there anyway – ‘the granting of approval will not result in conditions inimical to public health’, so, basically, that, that covers it. Harmful – it means harmful.”

Ms. Light said that she was going to “scroll through the Ordinance”, but that the Board could “move on”, as she was “not stuck there.” Mr. DiOrio then read item number fourteen.

Mr. DiOrio: “Item number fourteen: ‘All appurtenant structures and equipment shall be screened from view by vegetation, and joined or clustered to avoid adverse visual impacts to any adjacent property that is residentially zoned, and/or used for residential purposes. The visual screen shall be maintained in a manner consistent with the original approval, and approved landscape plan that reasonably and effectively shields the project until the PSES is decommissioned. The owner of the PSES and any successors shall maintain the screen and understory cover. In the event that the screening is not constructed or maintained consistent with the approved landscaping plan, the Town may contract with a registered landscape architect, currently licensed and authorized to practice in the State of Rhode Island, and at the applicant and/or current property owner’s expense, to review said screening and to recommend solutions to rectify the inadequacy and/or failure. Upon notification, the applicant and/or current property owner shall promptly work with the registered landscape architect to ensure screening is consistent with the approved landscaping plan.’”

After not hearing any comments on item number fourteen, Mr. DiOrio went on to read item number fifteen. As Mr. DiOrio did not hear any comments in regards to item number fifteen, he went on to item number sixteen. When there were not any comments on item number sixteen, Mr. DiOrio read item number seventeen. As there were not any comments on item number seventeen, Mr. DiOrio continued to item number eighteen.

Mr. DiOrio: “Item number fifteen: ‘any equipment to use all-’, I’m sorry, ‘utilizes fluid shall be outfitted with a containment mechanism sufficient to contain at least one hundred

and twenty-five percent of said fluid in which prevents said fluid contact with the ground.’ Item number sixteen: ‘Throughout the life of the project, the owner of the PSES will provide copies of all correspondence with federal and state agencies pertaining to project permits and regulatory requirements.’ Item number seventeen: ‘The applicant and or current property owner shall submit an as-built plan, prepared, stamped, and signed by a registered, professional land surveyor, licensed and currently authorized to practice in the State of Rhode Island, showing the actual location of any installed solar energy equipment. If the equipment is not installed as permitted, the Town may order its removal, and/or its relocation as appropriate.’ Item number eighteen: ‘The applicant and/or current property owner shall maintain the PSES in a neat, clean, and operable condition at all times, ensuring the structural and technical integrity of the facility. All maintenance shall be performed in a timely manner. Maintenance shall include, but not be limited to, structural repairs, and integrity of security measures, fencing, and vegetative buffers.’”

As there were not any comments on item number eighteen, Mr. DiOrio read item number nineteen. When there were not any comments on item number nineteen, Mr. DiOrio continued to item number twenty. Mr. DiOrio went on to item number twenty-one when there were not any comments on item number twenty.

Mr. DiOrio: “Item number nineteen: ‘Site access shall be maintained to a level acceptable to the Fire Chief or Fire Marshal and Emergency Medical Services.’ Item number twenty: ‘The applicant owner and/or current property owner shall be responsible for the cost of maintaining the PSES and any access road, unless adapted as a public way, and shall bear the cost of repairing any damage occurring as a result of operation and construction.’ Item number twenty-one: ‘The Town engineer or designee shall inspect the PSES at the expense of the applicant and/or current property owner on a weekly basis during construction and during the month of April each year after completion of construction. Said inspection will include a review of any and all reports, as required by the State of Rhode Island and the Town of Hopkinton and the federal government. The applicant and/or current project owner shall reimburse the Town for any cost incurred as specified in the Storm Water Facility Maintenance Agreement.’”

As there were not any comments on item number twenty-one, Mr. DiOro read item number twenty-two. When there were not any comments on item number twenty-two, Mr. DiOrio went on to item number twenty-three. Mr. DiOrio then read item number twenty-four, as there were not any comments on item twenty-three.

Mr. DiOrio: “Item number twenty-two: ‘Any time during the project construction, the Building/Zoning Official and Town engineering consultant may inspect the PSES to ensure compliance with the provisions of the PSES Ordinance.’ Item number twenty-three: ‘The final design of the containment mechanisms for any equipment that utilizes fluid, designed to contain at least one hundred and twenty-five percent of said fluid, will be included in the application for the building permit by the applicant and/or current property owner. Such plans must be prepared, stamped, and signed by a registered, professional engineer, licensed and currently authorized to practice in the State of Rhode

Island. The applicant and/or current property owner will formally agree to implement those containment mechanisms during project construction.’ Item number twenty-four: ‘Equipment pads that house equipment that utilize fluid are to be sealed using material that is chemically compatible with the fluid utilized in the equipment.’”

When Mr. DiOrio did not hear any comments in regards to item number twenty-four, he went on to read item number twenty-five.

Mr. DiOrio: “Item number twenty-five: ‘The applicant shall provide to the Town Planner specifications and equipment’ – I’m sorry - ‘specifications and information related to the maintenance schedule of the transformed used on the site.’ End of document.”

When Mr. DiOrio finished reading the items, he said that the aforementioned items were “going to be the tentative motion, subject to some of the discussion that we’ve had, uh, most importantly, perhaps, including and identifying more precisely the exact plans, with their current dates that are being approved by the Planning Board.” He asked if his fellow Board members were in agreement. Mr. Prellwitz, Mr. Lindelow, and Ms. Shumchenia all said yes. Ms. Light asked if it was “appropriate to restrict the construction hours for this project, to Monday to Friday, eight [a.m.] to five [p.m.]” Mr. DiOrio said that that suggestion sounded “appropriate to me”, and asked Ms. Light if she wanted to “include that” in the eventual motion. He said that if she was interested in including that, she should “just elaborate and be specific for the record, so we can get that into the motion.”

Ms. Light: “Okay, I would like these conditions to include that ‘All site work be performed Monday through Friday, between the hours of eight a.m. and five p.m. EST.’ We don’t want construction being conducted after, in the evening hours, uh, in the early morning hours, or on the weekend.”

Mr. DiOrio: “I understand. Good suggestion.”

Ms. Browning asked Mr. DiOrio if the applicant would have an opportunity to respond. Mr. DiOrio replied that they could “go right ahead.” Ms. Browning then asked Mr. Palumbo to “explain [his] construction schedule needs.”

Mr. Palumbo: “Yeah, well, aside from my needs, what, what is the current Ordinance allow, right now? Can anyone tell me?”

Mr. Lamphere replied that he didn’t think “that appears in the current Ordinance”, as “that, that condition stems from a condition that the Town Council placed upon the, uh, zone change for 310 Main Street.”

Mr. Lamphere: “That was a special condition put on to 310 Main Street project, by the Town Council. I don’t think you’ll find that in the Solar Ordinance anywhere.”

Mr. Palumbo asserted that because the 310 Main Street project “needed a zone change”, they were subject to special conditions. As his project was not asking for a zone change, Mr. Palumbo said that “that’s a horse of a different color.” He continued.

Mr. Palumbo: “We will need to work on Saturdays. We constantly – all our projects – we have field personnel out there, but, whether it’s Monday or Saturday, we respect the same conditions of construction that the Town puts on us, but we need to be out there on Saturday and we need to be out there, sometimes, beyond five o’clock, uh, so, these projects have, uh, a determinative, uh, schedule, that we need to keep, and it rains and does things like that, and we have winter conditions and we have to make up time, so, it’s important that we not be restricted, uh, for that schedule.”

Ms. Browning: “Also, Mr. Chair, I would point out that you do have a Noise Ordinance in the Town of Hopkinton, uh, which is enforced, um, and I would say that if, for some reason, which I would highly doubt, but if, for some reason, a project like this, uh, were to um, rise to the level of a Noise Ordinance violation, that is squarely before your enfo-, that’s an enforcement issue, enforcement issue, which is, would be, squarely before the Town to monitor and enforce. I don’t think that there’s really any need, and I haven’t certainly heard any evidence of any need whatsoever to restrict construction hours. There’s just no legal basis on the record here.”

Mr. DiOrio replied. Mr. Clough also weighed in.

Mr. DiOrio: “Well, if our Solicitor is out there listening, if you have some guidance, this would be the time. Otherwise, I’m inclined to accept it as a tentative condition of our motion. If somebody wants to wrestle with us later on, there’s a forum for that.”

Mr. Clough: “Um, Mr. Chairman, Sean Clough, uh, I’m looking through the Ordinance. I don’t see, uh, any legal ability that the Planning Board has to place that type of restriction, uh, on the, on the applicant and on this project, uh, in terms of the construction, uh, hours. With that, uh, with that said, um, if we are continuing to a further meeting and not having a formal vote tonight, I’d be happy to elaborate, um, to a greater extent on that, and, if necessary, revise my comments. However, at this time, if you’re asking for a recommendation, my, uh, recommendation would be, uh, that you do not have that authority.”

Mr. DiOrio: “So, how about if I turn that around and say I’m going to include it as a tentative condition of our motion, and you can work with a Town Planner, and convince him that we don’t have that authority.”

Mr. Clough: “Certainly.”

Mr. DiOrio: “There we go. Listen: the Planning Board has – I’m pretty sure this language is in the Development Plan Review Ordinance. We have a responsibility to the neighborhood, and work hours and noise and traffic, and all the other stuff that we’ve been putting up with for years – not criticizing this particular project – but, folks in this neighborhood have been putting up with a lot. I see the Planning Board’s role as looking out for their best interest, and I don’t think it’s unreasonable to suggest that a project of this magnitude have some limitations. To say that we can’t operate without any restrictions at all, or the fact that we can’t tolerate any restrictions on our ability to build a project, I think that’s unreasonable. So, enough said. I don’t need to be on my soapbox. So, all that put together, we’re going to continue this. Before we do that, we’re going to request an extension from the applicant, and, again, it would be an extension in adherence to our last thinking – to several days beyond our next meeting, and, uh, let’s all hope that

we can come to terms and issue our final motion, uh, at our next regular meeting. Am I missing anything?"

Ms. Browning asked Mr. DiOrio when the date of the next regular Planning Board meeting would be. Mr. Lamphere replied that it was going to be on October 7th. Mr. Palumbo asked Ms. Browning "how many extensions have we already grant, were already sent it to, on, on this project?" Ms. Browning said that "in terms of the actual number, [she]'d have to go back and check", but that she knew "that this original, uh, application came before the Board in November of 2019."

Ms. Browning: "We're getting close to a yeah, uh, now, that we're in September. I, the Planning Board has seven months to make a decision – that would have been June of 2020. Uh, we have extended, um, up to this point, so, a few. At least, since June, we, it would have been three months, and if we were to again tonight, it would have been an additional four months."

Mr. Palumbo: "Okay, so, Mr. Chairman, we'll assent to it, um, and, but you're asking for beyond the next meeting, and so I need to understand that a little bit better, what you're asking for."

Mr. DiOrio said that "we had talked about this last time around", then Mr. Lamphere chimed in, and suggested that they may want to continue to the November meeting, "just in case we needed – that, that would obviate the need to have a special meeting to do any work". He said that "hopefully, hopefully, this will get done October 7th." Ms. Browning said that she would "defer to [her] client on this", but that, "for the record", she could not "imagine that this matter would have to go yet another two meetings." Mr. DiOrio responded.

Mr. DiOrio: "Well, I'm certainly behind you there, Counselor. I would have been thinking that we would have been making a motion this evening, but that's not the way it came together."

Ms. Browning: "Us as well, Mr. Chair."

Mr. DiOrio said that, "to the applicant specifically, the answer to the question was, you recall some of our last discussion – the extension really needs to be, at the minimum, beyond the next meeting, because something unforeseeable could come up, and we're not issuing default approvals here."

Mr. DiOrio: "So, uh, I would ask, I would be asking, for something beyond the October meeting. Jim makes a very reasonable case for extending to the November meeting just in case. Boy, I sure hope it doesn't go that far, but, I leave it up to you. Either one is okay with me."

Ms. Browning: "Could I, could I offer, um, a compromise, Mr. Chair? If we were to agree to, uh, a date of 10/7 or whatever, a couple of days after that – I understand your concern, I don't think that's an issue, uh, with the understanding that if we were to go beyond the October meeting, we would at least have the option of going on for a special meeting. It should be quick, um, but I think, at this point, um, we should at least have our

own meeting, so that we can hash out these items and not, um, you know, be, be, um, you know, caught in what, um, Hopkinton appears to be, which is a very busy time for you.”

Mr. DiOrio: “Understood. I appreciate your position. How about if we agree, as a compromise, on October 14th as the extension date?”

Ms. Browning: “I would defer to my client. Ralph, do you have a, will you accept that date?”

Mr. Palumbo: “So, just so I understand, that is one week after the next meeting, right, Chairman?”

Mr. DiOrio: “That’s correct.”

Mr. DiOrio said that his “game plan” would be, if Mr. Palumbo was “thinking the same way”, the Board would “look forward to getting this done on the 7th”. He said that “if things blow up, we, we, we’re going to come back and ask for either another extension or, if the Board members are in agreement, we’ll try and wrestle a special meeting out.”

Ms. Browning said that “we certainly appreciate that.” Mr. Palumbo said that he appreciated it as well, but, that last time, when granting an extension, he had requested that he “be first on the agenda, because these are complex issues”. He said that he “thought we had some general agreement to that, but it turned out to be ‘No’, and I, and I, and I skipped a special – the opportunity for a special meeting that you had offered me, and I said, ‘No, I don’t want to do that to the, for the Board, for the Council’, because you guys are working hard and in good faith. I want, you know, I wanted to keep it in motion.” He then said that he just wanted “to say that, so, we’re working hard, we’re with you, uh, so, I think it’s a good compromise, the 14th on it, and we’re willing to do that.” He also said that “as you say, if things blow up, then we have a week to organize ourselves for a special meeting to make sure that we get it done, so that makes sense to me.”

Mr. DiOrio said that they had “an agreement in concept on an extension to October 14th.”

Ms. Light said that she was okay with that. Mr. DiOrio then asked, more specifically, if the applicants were in agreement. Mr. Palumbo said yes, and agreed to the extension. Mr. DiOrio thanked Mr. Palumbo, and asked for a motion to be made by one of the Board members to “continue this to a date certain”. Mr. Prellwitz began to make a motion, but initially stated the wrong date, the 14th. He was redirected by Mr. DiOrio and Ms. Jalette to make a motion to continue to the 7th.

MR. PRELLWITZ MADE A MOTION TO CONTINUE THIS TO A DATE CERTAIN, OF OCTOBER 7. IT WAS SECONDED BY MR. LINDELOW.

IN FAVOR: DIORIO, PRELLWITZ, LINDELOW, SHUMCHENIA, LIGHT

ABSTAIN: NONE

OPPOSED: NONE

5-0, MOTION PASSED.

Development Plan Review – Photovoltaic Solar Energy System – 40 Maxson Hill Road - AP 4, Lot 38 - 40 Maxson Hill Road. Centrica Business Solutions, applicant.

Mr. DiOrio stated that, while he did not have “association with this project”, as the applicant “has been a client of [his] in the past”, he was going to recuse himself. Ms. Jalette collected his recusal form. He asked Mr. Prellwitz to “take the helm one more time”. Ms. Jalette asked the applicant to identify themselves and indicate their desire to speak by keying in *9. Before Mr. Prellwitz or the applicant could weigh in, Mr. Lamphere asked if he could interject. He said that the clock indicated that it was almost ten p.m. He then began to explain the history of this project, which “came to the Board back in May of this year for a pre-application.”

Mr. Lamphere: “Since that time, I believe the applicant has worked with, uh, abutting property owners, uh, to come up with a revised, uh, configuration for this, uh, site plan, and, um, this project has never been peer reviewed yet, so, in an effort to expedite this, this conversation tonight a little bit, I would, I would suggest that what we do is entertain a brief presentation by the applicant’s attorney, to, to, to explain exactly what’s been done, and then, uh, have the Planning Board entertain a motion to direct the applicant to have this project peer reviewed by Crossman Engineering, um, for compliance with the PSES Ordinance, and, uh, also to investigate the storm water drainage issues. Um, I think, I don’t really think we need to, um, dwell on this, uh, project too much tonight, in the absence of any, uh, comment from Crossman on this. I think it’s probably more appropriate to bring it back to the Board when we have all this information in tow, uh, and then the abutting property owners can have something to reflect on and comment on as well. So, I think we can wrap this whole thing up within twenty minutes tonight, myself.”

Mr. Prellwitz thanked Mr. Lamphere for his comments, and then began. He said that “looking over the paperwork that we have in our packet, it looks like the applicant and their attorneys have completed the checklist that they need to complete”, and that “they’ve submitted the paperwork that they need to submit.” He also said that it appeared that “they’ve been in contact with the abutting neighbors”, and that “the story that [he was] getting [was] they’ve come to agreements with all of them”. As such, Mr. Prellwitz said that he would “agree” with Mr. Lamphere that the Board “could move on”, “get a peer review, and then continue this after that has been completed.” He asked his fellow Board members what they thought. Ms. Shumchenia replied that what she heard from Mr. Lamphere was that the Board “would hear from the project proponent about all of that first”, and that she “would like to hear that.” Mr. Prellwitz laughed, excused himself, and agreed that the Board “should hear their presentation, as long as they’re gonna be brief”, and that the Board “shall continue”. Mr. Lindelow said that he agreed, and then mentioned that it was actually ten minutes of ten, not twenty. Ms. Jalette said that that was correct. Mr. Prellwitz then asked Ms. Light for her opinion, as the only Board member who had not yet commented. Ms. Light replied, “Let’s go! Let’s go for a quickie and, uh, move on.” Mr. Prellwitz said he understood, and then asked the applicant to present their project.

Steven Surdut, the attorney for the applicant, spoke before the Board in regards to this project. He said that he wanted to echo “the comment of your Planner” in regards to seeking peer review. He said he also wanted to make a comment about it being ten

minutes to ten, “but your Board members stole my thunder on that joke.” He said that his presentation “does include, primarily, information from our engineer, uh, Jason Gold, of ESS Group”, and that he would “hold off on presenting him to the Board to the following meeting.” He said that “at the last meeting, there were a number of abutters that raised issues”, and he “asked those abutters to provide information to your Clerk, uh, if they would like to speak with us, and what their concerns were, and that we would like to meet with them, uh, individually, and address those concerns.” He said that they had been able to discuss with one party “who corresponded with us”, Mark Couture and his wife. Mr. Surdut said that the applicant’s team was able to “meet at the site with him a couple of times”, and that they had a “number of correspondence”. He said that, ultimately, the applicant and Mr. Couture had “an agreement that we are actually in the process of memorializing, uh, in writing”, and that said agreement would be presented to the Planning Department “between now and the next meeting.” He continued.

Mr. Surdut: “It is our goal here to put a, uh, relatively small project. We have actually been able to shrink the project from the original application, based on efficiencies that have, uh, been, uh, we’ve been able to incorporate in the technology itself, so, it is certainly our goal to minimize the in-, the potential impact of this project. We believe that it is, uh, not, does not impact the surrounding properties, as our witnesses will go into great detail on, when we do our full explanation. Uh, we, uh, we believe we have complied with all aspects of your, uh, Farm Viability Ordinance, and ultimately, uh, the, in seeing your agenda here tonight, and understanding the complex nature of a number of these projects, we’re hopeful that we would get sent to peer review, and then get the opportunity to come back in front of you, um, which we are hopeful for here tonight. And, uh, if there are any specific questions that the Board members have, uh, between, we’d be happy to, uh, hear those, so that we could properly address them.”

Mr. Prellwitz thanked Mr. Surdut, then asked the Board if they had any questions or comments. Ms. Light said that she would like to “have our Town Solicitor give the, um, thumbs up to the notification we have in our packets from the Ashaway Volunteer Fire Association.” She continued.

Ms. Light: “Since Mr. Sposato is the Chief, um, we need some confirmation that it was appropriate to have the First Assistant Chief provide that documentation to us. And, the second comment that I would make is, like the last time, we heard a Farm Viability [Ordinance] presentation, we’d like confirmation that this land does, in fact, qualify for what they’re proposing. Thank you.”

Mr. Prellwitz said he understood, and then asked Mr. Lamphere if the applicant had “completed all the paperwork” to ensure that their status as a farm “has been qualified.” Mr. Lamphere responded.

Mr. Lamphere: “I think we can safely say that this qualifies as a farm. We have a zoning certificate from the Zoning Official. We have all of the documentation required for a farm. We have Schedule F IRS, Schedule Fs for the years 2018 and 2019. We have a farm tax number from the State of Rhode Island, tax exempt, from paying taxes, um, so, I

think we can put that issue to rest right now, that this is a legitimate farm, qualifying under our Ordinance.”

Mr. Prellwitz thanked Mr. Lamphere for his insight, and asked if the Board could “move on to the request for a peer review, and put this to bed to our next meeting.” Ms. Shumchenia said that she “just had one, additional, very quick question”. She wanted to know about the “abutters that have been engaged with”.

Ms. Shumchenia: “Is that the abutter to the immediate north of the project, the one that is the closest in proximity?”

Mr. Surdut: “Uh, Mr. Chairman, if I may, Steven Surdut.”

Mr. Prellwitz: “Go ahead.”

Mr. Surdut: “Yeah, uh, I, um, direction is relative, but it is Mr. Mark Couture, who I believe to be the most, uh, adjacent abutter, yes.”

Ms. Shumchenia: “Okay, thanks.”

Mr. Prellwitz thanked Mr. Surdut for his response, and Ms. Shumchenia for her question. Mr. Clough then interjected to return to Ms. Light’s line of questioning. He asked her to repeat her question, and said that while he might not be able to get her an answer for this evening, that he would be able to get her an answer “as quickly as possible.” Ms. Light restated her question, which was if it was appropriate for the First Assistant Chief to provide the assessment that there are “basically no issue with the access driveway on an annual basis”.

Ms. Light: “But my immediate concern is that there could be a potential conflict of interest that would void that communication. So, what we’d like to know is if, in fact, this letter qualifies for what it is that’s required here.”

Mr. Clough: “Understood, and I’ll take a look at the letter and get an answer, uh, uh, back to you and the Board as quickly as possible.”

Mr. Surdut asked Mr. Prellwitz if the applicant “could just be included in that communication, so that if there is additional information that’s requested, that we could address it immediately.” Mr. Prellwitz said he understood, and asked Mr. Clough if he “agree[d] with that” request. Mr. Clough said that “to the extent that our communication falls under attorney client privilege”, they would provide it to the “extent that, uh, we can, and the Board so chooses to include that information to the applicant”. He said he thought that would be “appropriate and fine from the Solicitor’s office.” Mr. Prellwitz thanked Mr. Clough, and then stated that he would “like to entertain a motion” so that the Board could “get some more facts and figures and get all ducks in a row, and then be able to move on.” Mr. Lamphere asked if the Board had decided on a peer review or not. Ms. Jalette interjected that the Board would need an extension, and that Ms. Davis was interested in commenting on the project. Ms. Davis then interjected and said that she had gotten her answer, as she wanted to know if the applicant had produced the correct tax information, which was confirmed. Mr. Lamphere misunderstood Ms. Jalette’s request for an extension, and said that the seven-month stretch between when the applicant first appeared before the Board in May would end in December, but that he didn’t “know how

fast [Crossman Engineering] can turn around a peer review”, so an extension from the applicant would be fine. Ms. Jalette elaborated and explained that she meant that she needed an extension for the meeting, as the stated adjournment time was 10:00 p.m. Mr. Lamphere joked that he didn’t worry about that, and that he would be “good to go to midnight”.

Mr. Lamphere: “I just want to get the work done!”

Mr. Lamphere asked for a member of the Board to make a motion, and asked if it the extension could be until 10:30 p.m., “because we do have another item on the agenda that, that we really should not give short shrift to”, referring to “Carolyn’s initiative here”. Ms. Light joked that her husband said no, and Mr. Prellwitz jokingly thanked Ms. Light’s husband. She said that she didn’t “have any objection if we need to move this on to the next meeting”, but Mr. Lamphere replied that they would have to discuss it at this meeting, because “next meeting – you don’t want to know what the next meeting” was shaping up to be.

Mr. Lamphere: “Keep in mind that a lot – not only do we have a packed meeting for October 7th, but we’re carrying over things from tonight, and packing it more. So, I mean, I mean, let’s, let’s get this work done.”

Ms. Light said that she would be “on board with fifteen minutes”, as she didn’t think “we’re going to need more than that”, barring the fact that the other Board members could “tell us different”.

MS. SHUMCHENIA MADE A MOTION TO EXTEND THE MEETING UNTIL 10:15 P.M. IT WAS SECONDED BY MR. LINDELOW.

IN FAVOR: PRELLWITZ, LIGHT, LINDELOW, SHUMCHENIA

ABSTAIN: NONE

OPPOSED: NONE

4-0, MOTION PASSED.

Jeff Light, Ms. Light’s husband, jokingly yelled “thirteen minutes”, as it was now 10:02 p.m. Mr. Prellwitz asked if Mr. Surdut was still there. Mr. Surdut replied that he was. Mr. Prellwitz then asked the Board if they were in agreement to postpone the discussion “until the next meeting”, and elaborated that he was asking the applicant and the Planner. Mr. Surdut said that he was “requesting that the matter be sent to peer review, and that a motion be taken, undertaken to that effect.” Mr. Prellwitz then asked for a motion.

MS. LIGHT MADE A MOTION TO EXTEND THE DISCUSSION TO THE NEXT MEETING, AND DIRECT THE APPLICANT TO REQUEST A PEER REVIEW FROM CROSSMAN ENGINEERING. MR. LINDELOW SECONDED THE MOTION.

IN FAVOR: PRELLWITZ, LINDELOW, LIGHT, SHUMCHENIA

ABSTAIN: NONE
OPPOSED: NONE

4-0, MOTION PASSED.

Ms. Light mentioned that Mr. Lamphere had recommended that the Board “direct the applicant, uh, to submit a plan for storm water management”, which she thought “our motion should include that.” Mr. Lamphere responded that he didn’t think the Board needed to amend the motion “because when Crossman peer reviews this, they’re going to be looking at it from a storm water perspective, so, that, that’ll all be done in the course of that.” Mr. DiOrio asked Mr. Prellwitz if the Board was “squared away” on that issue. Mr. Prellwitz replied that they were, and invited Mr. DiOrio to resume his role as Chair.

NEW BUSINESS:

Advisory Opinion to Town Council – Zoning Ordinance Text Amendment to the District Use Table to allow a Compassion Center in the Manufacturing Zone by Special Use Permit – AP 14, Lot 47 - 813 Main Street. Albert I. Hawkins, applicant.

Mr. DiOrio said that “this item was, uh, actually deleted from our agenda”, as the applicant withdrew their request to the Town Council, negating any need for an Advisory Opinion.

Mr. DiOrio: “This applicant is not appearing before us this evening. If anybody has been waiting for this, I, again, I apologize, I, I should have gotten to it at the beginning of the meeting, and I simply got wrapped up. So, that item is not presently before us.”

He then moved on to the next agenda item.

Discuss possible scheduling of an agenda item at either a future Special Planning Board meeting, or a future Regular Planning Board meeting, regarding discussion of reforestation issues, as requested by Planning Board member Carolyn Light.

Mr. DiOrio asked that, before Ms. Light “launch[ed]” into her presentation, Mr. DiOrio wanted to “make sure that we’re all clear” that “this was a discussion about scheduling the agenda item”.

Mr. DiOrio: “We’re not delving into the, uh, substance of the proposal or your objectives. I’m just looking to – one of the reasons that we put this on the agenda was to just, uh, garner the Planning Board’s thoughts on whether thing kind of thing should be the subject of further discussion. So, at that, Carolyn, why don’t you open up the discussion, then we’ll go to the Planning Board members.”

Ms. Light began. She said that she hoped that the Planning Board members had “time to review the draft” she submitted, and that, at the last meeting, she had “explained that we need some consistency with decisions that we’re making”, and that this “one points to

forestation”. She continued by stating that she believes that the Town also needs “consistency” in their “decommissioning approaches, because they, they, it seems to flounder a bit”, but that this was specifically focused on forestation.

Ms. Light: “I think what we’ve heard from our community is that there is a value to our forest, and I think we need to decide how much value we have, um, rather than leave it up to landscape, licensed landscape architects, etcetera. We have a lot of valuable forests here, and this approach is just a very broad brush at a mechanism that we might be able to employ to put a value on our trees and preserve our forest. In addition, it also provides assets, in the form of money, to the Town, to administer the maintenance of these forestation projects that we’re talking about with every solar discussion. Um, this isn’t limited to the work that is done in the solar arena. This is, uh, something that would be applicable to commercial projects and whatnot. So, with, with that said, I am just going to pass the torch to the rest of the Board, and I, I’m interested in your comments, and I respect whatever it is that you have to offer on this matter. Thank you.”

Mr. DiOrio thanked Ms. Light for her explanation, and said that he had “no problem leading off here.” He said that he was in “full support of, uh, any proposal that a fellow Planning Board member wants to bring forth for further discussion”, but that he was “not saying that I’m necessarily on board with the item itself”. He said that he was in support of “the opportunity to discuss and explore”, which he said he thought “should always be available to Planning Board members.”

Mr. DiOrio: “That’s really what we should be doing, so I would be an advocate for, of having this as an agenda item. Now, whether we do it as a special meeting or regular meeting, I think that’s something that we need to rely on, uh, on the Planner to help us with, because, you know, he’s the one that’s really, uh, I mean, the rubber meets the road in his office, so I would just look for his guidance. So, anyway, that’s my two cents worth.”

Mr. Prellwitz said that he, too, “would like to have [his] two cents worth”. He said that he agreed with Mr. DiOrio, and that “all the different, uh, opinions that we get are always good.”

Mr. Prellwitz: “The more laid out in black and white, what people are being required to do, that’s always good. I think this should go into another meeting, and, as Al said, we’ll leave it up to, uh, for our Planner. Perhaps a meeting when there’s light response on everything else, we could put this in as an agenda item, or we could hash it right out, and get to the bottom of it. Thank you.”

Ms. Shumchenia agreed that “it’s a great topic to add to a future agenda.” Mr. Lindelow said that he agreed.

Mr. Lindelow: “That the, the part that keeps sticking in me is that we just don’t talk about the end life of these projects enough. You know, we talk about decommissioning and then what, but we never talk about these projects renewing themselves, and, and where

does the Town go, if there's a decommissioning we've approved – this temporary power, and then it goes away, and, and how are we supposed to replace that, once that solar is in, so, for me, it's, it's, it's not just reforestation, but what do we do at the end of these projects? Is that, I guess that's we did keep mentioning. We have this money and then, then, what, what happens after that? Do we seek alternate power? Do we go back to what it was thirty years previously, before the solar panel was in place? It, it's just not a single topic, I think. Reforestation is part of it, but the whole what happens after these projects go away is, is, is the larger discussion for me.”

Deb O’Leary, Conservation Commission Liaison, weighed in next. She said that she thought that this was an “excellent idea, to start a conversation about the value of our forest areas, and about trying to keep our contiguous forest areas together, and not break them up environmentally for the animals”. She said that there was a study, though she did not have it before her as she spoke, “that talked about the value of forested areas”, not for renewable energy, “but for keeping us all healthy”, as forest land “serve a purpose as well.”

Mr. DiOrio asked if he could make a recommendation, though he would need the “concurrence of both Jim and Carolyn”.

Mr. DiOrio: “I’d like to suggest that this be added to the regular Planning Board meeting agenda, with the caveat that there’s a really good chance we’re not going to get to it, but, in the event, in the event that there’s, uh, like tonight, we had an applicant pull out – and there’s an opportunity that a hole might develop, and, if it’s on the agenda, we have the latitude to enter discussion. If we don’t put it on the agenda, well, then, even if there’s an opportunity, we’re not going to be allowed to talk about it. So, if Carolyn is okay with putting it on the agenda with the understanding that it might not get heard this, this next meeting, but maybe it’s the meeting after, or whatever, that, that would be my suggestion for how we tackle this as promptly as we can.”

Ms. Jalette interjected that a member of the public wanted to be heard in regards to this topic, so she asked Mr. DiOrio if he would entertain it. Mr. DiOrio replied that he wanted to hear Mr. Lamphere’s “thought on how he wants to handle it, then we’ll go to that person.” Mr. Lamphere said that he was “fine with going along with Al’s suggestion”, as he thought “it was a good one.”

Mr. Lamphere: “We’ll certainly give it a try. Um, I think, you know, truthfully, I think something like this probably deserves a special meeting by itself. Um, the draft, the draft that Carolyn put forth is, uh, significant enough to, uh, and, and the other issues that I hear, the various people bringing up here, larger issues, that probably need to be, you know, hashed out. I think, you know, ideally, I think it would call for a special meeting, but I, I think one way to achieve, to achieve what Al is suggesting here – I’ll throw this idea out, is that ask the – I’d like to ask the Planning Board members to do a little bit of homework in advance, okay? Look at, look at the draft that Carolyn prepared, read it thoroughly, and write, just write a little, uh, you know, your own little comments and report on it, and, if I had one of those each, from each of you, individually, I could

compile them, and put them in, in your next packet, for the next meeting, and, um, so that you all can read what each one of you have to say about this particular topic, and then maybe, if we can find ten or fifteen minutes on a future agenda, to, to deal with this, maybe we could, maybe, uh, deal with it a little bit more efficiently that way. So, I, I guess that's my comment."

Mr. DiOrio said that he "like[d] that thought", and said that the Board should "plan on doing that, uh, in advance of the next meeting". He said that, to "piggyback on to Jim's concern", that he did not want Ms. Light to think "that this is just gonna go on forever".

Mr. DiOrio: "Why don't we keep it on the agenda, we see if it, we let it roll for a month or two. If we don't get to it in two months, then let's talk about setting a special meeting just to deal with this topic and, as Keith mentioned, maybe there are some larger issues that we can thrash around as well. Does that sound equitable?"

Ms. Light replied that that was equitable, and that the comments that Mr. Lindelow had, "even though they weren't specifically applicable to this draft that you're looking at, those comments are things that I would like to hear, um, when they're available." She thanked the Board. Mr. DiOrio then thanked Ms. Light, and said that he appreciated her "taking the initiative".

Mr. Bibler was the member of the public who wanted to comment, but he said that he had wanted to make some comments during the public forum. Ms. Jalette replied that that point in the agenda had not yet been reached. He said that he would make some "quick comments at the end" during that period.

SOLICITOR'S REPORT:

None.

PLANNER'S REPORT:

None.

CORRESPONDENCE AND UPDATES:

None.

PUBLIC FORUM:

Mr. Bibler spoke during the public forum. He said that he wanted to "applaud that the Town Planner and the Planning Board are starting to make, uh, most of these documents that relate to your deliberations available online, but, um, it's most, and not all of them". He said that "it's really helpful to have these documents, to be able to, uh, follow along and prepare for the meeting, and, uh, have any meaningful input". He said that at the previous month's meeting, the Board had received "some memoranda that were not

posted to the website”, which he later asked for in a public records request, though he said “it’s kind of late for that now”, as it “relates to the August meeting.” He said that “Carolyn’s draft, whatever it is, on this last agenda item was not posted to the, uh, website”, therefore, he “would just ask you to please try to, you know, post any, any materials that are relevant to your deliberations on the website so that members of the public can have meaningful input.” He also said that he was “concerned by how packed your agenda, your agendas have become”, though this was “not a criticism of the Planning Board in any way”. He said that he thinks that the “Planning Board should give whatever attention is required, you know, to every single one of these, uh, projects”. He said that he did not feel “that the Planning Board should feel rushed in terms of, you know, you’re sort of in a fiduciary capacity, and, uh, shouldn’t feel rushed in being able to do the job that you think that you need to do”. He then said that he was “not sure what’s to be done about that”, though, but that it made him “a little concerned”. He added that he thought that the “public, also, should always have a chance to have a little bit of input on these things.” His final comment was in regards to questioning Mr. Cabral during his testimony. He said that he tried to raise his hand at the August meeting “when conversation ensued” on the topic of decommissioning. He said that he knew that the issue was “moot”, but that “this is gonna be important for future projects”. He said that due to the Board having remote meetings, “there’s no way to stand up in the audience and object”, and that “if you’re not recognized, then you don’t have any input on that project”.* He said that he “had been hoping, today, to be able to ask” Mr. Cabral a question, but he was no longer on the call “apparently”. He said that what he had “heard universal dissatisfaction on the part of every single Planning Board member” in regards to the accepting the decommissioning reserve, and that “they essentially felt that they’d been instructed by the Town Solicitor that that was their only option”. Mr. Bibler said that this was “a form of risk analysis”, and said that “no one knows” the potential worth of a solar panel “thirty years from now”, and if it “can be repurposed, or whether it’s just junk”. He said that the Board had “received documents from the applicant’s expert that said that the cost of recycling every single solar panel was forty-four dollars and twelve cents, and then, you received an estimate that if panels could be resold, they would be worth eleven dollars, in an estimate.” He said that this was a “single assumption” that “two thirds of the panels could be sold”. He said that reselling was an “avoidance”, a means to evade the costs associated with recycling. He said that the cost to recycle the panels “would have been well over a million dollars”, when the reserve was, to his knowledge, less than \$400,000. He said that these are “big numbers”, and that it is “important to get this right”. He said that he thought that if he had been able to “get through in the meeting last August, and if I had asked our Town Engineer, Steven Cabral, if he could guarantee that any of these panels could be sold, if he referenced this, uh, report, that said they’re going to be seventy-eight million metric tons of solar panel waste in 2050, if I asked him, ‘Mr. Cabral, is there a chance, is there any possibility that none of these could be repurposed, can you guarantee that won’t be true?’”, or if he could have asked Mr. Cabral to tell the Board that “the probability of their having any value is greater than the probability of their having zero value, I don’t think he could answer that question.” He said that it was “entirely speculative”. He said that “if we had gotten those questions on the record, that, uh, he just doesn’t know, and it’s equally probable that they would have no value, that would have been the expert testimony that the Planning Board

needed to be able to, you know, be prudent”. He said that when one is “doing a risk analysis, you can’t just take one set of assumptions and hope that they’re true”. He said that one would have to “admit that the Town has to insure itself against these risks, and not allow the develop to transfer those risks”. He said that he did not get Mr. Cabral to be “explicit that there was no way to guarantee that any of them could avoid being recycling, and that it’s quite entirely possible that one hundred percent of them needed to be recycled”. He said that if that had been put on the record, “then the Planning Board would have had the expert testimony it needed to require one hundred percent recycling”. He said that there are municipalities in Rhode Island that have, within their Ordinances, the “assumption that the panels need to be recycled one hundred percent”.

Joe Moreau, of Old Depot Road, also called in during the period for public comment. He said that he appreciated that he had the opportunity to speak, even though the Board had gone past both their original adjournment time and their extension. He said that he had read the letter from the Ashaway Volunteer Fire Department, and that he, too, believed “that there should be another opinion from outside of our Town to review access in the driveway from the Fire Department officials”. He said that he was glad that the Town Solicitor was going to be “checking into it”, as he thought that it would be a conflict of interest. He also joked that the Planning staff and Board members should put in for “half an hour of overtime”.

DATE OF NEXT REGULAR MEETING: October 7, 2020

ADJOURNMENT:

MR. PRELLWITZ MADE A MOTION TO ADJOURN THE MEETING AT APPROXIMATELY 10:25 P.M. IT WAS SECONDED BY MR. LINDELOW.

IN FAVOR: DIORIO, LIGHT, PRELLWITZ, LINDELOW, SHUMCHENIA

ABSTAIN: NONE

OPPOSED: NONE