

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

6 **Wednesday, March 7, 2018**
7 **7:00 P.M.**

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

10 **CALL TO ORDER:**

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

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

18 **MEMBERS PRESENT:**

19 Al DiOrio, Amy Williams, and Tom Holberton were present.

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

24 **APPROVAL OF MINUTES:**

25 MS. WILLIAMS MOVED TO APPROVE THE MINUTES OF THE FEBRUARY 7, 2018 PLANNING BOARD
26 MEETING, AS AMENDED.

27 MR. HOLBERTON SECONDED THE MOTION.

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

30 **OLD BUSINESS:**

31 Advisory Opinion to Town Council – **Request for Zoning/Future Land Use Map Amendments** –
32 Photovoltaic Solar Energy System – AP 4 Lot 25 – Main Street – RI Solar Renewable Energy LLC &
33 Maxson Hill LLC, applicant

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35 Mr. Holberton asked where the property was in relation to the Town’s groundwater and
36 wellhead protection zone. Mr. Buford said he doesn’t believe the property is in the primary
37 recharge area. Dave Russo, DiPrete Engineering stated that the property was not in the
38 groundwater recharge protection overlay district for the town, but it is within the DEM
39 groundwater protection area. Mr. Holberton’s second concern was that he felt, based on his
40 local knowledge of the land, he was not in favor of developing the property due to
41 environmental concerns. He felt that DEM’s assessment does not represent the Town’s
42 interests. Mr. Russo replied that DEM had walked the site and that the recent article regarding
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2 the Richmond solar project was due to the contractor not building the site correctly. At this
project, weekly soil erosion reports are required and inspections are triggered by 0.25" of rain.
4 Mr. Holberton said that nobody was monitoring the project on behalf of the town and
neighbors. Attorney Vincent Naccarato added that he sent a proposal to the Town Planner to
6 hire an independent engineer at the applicant's expense to monitor the wetlands every five
years for deficiencies. Mr. Holberton said that he would be more comfortable with a
8 traditional construction bond. Mr. Delvicario stated that construction bonds are already
required by their financier, and that an independent engineer could provide monitoring for a
10 longer time period and the applicant would abide by their recommendations. Mr. Holberton
stated that he was not sure he was comfortable with the project from a developmental
12 standpoint, despite the fact that the applicants provided a great level of detail and quality
information in their application. He didn't feel that the property could handle most types of
14 development that the Town had considered in the past.

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

24 Questions from the Planning Board:

26 Mr. Holberton: How much space there is between the rows of panels?

Mr. Russo: They are separated by about 13', with grassy areas in between.

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

Mr. Russo: That is correct.

30 Mr. Holberton: What happens before the vegetation takes hold?

32 Mr. Russo: During construction, there will be temporary swales and basins once the
vegetation has stabilized. They have many temporary measures for erosion depending on the
time of year of construction.

34 Mr. Holberton: This is assuming it has been built correctly: Do your calculations take into
account when the ground is frozen?

36 Mr. Russo: We don't analyze the ground as frozen, that would be the whole site as impervious
area.

38 Mr. Holberton: In Hopkinton, the ground could be frozen for two months a year.

40 Mr. Russo: We don't analyze the whole site, but we do evaluate the pond areas. If the system
failed, we're required to have emergency spillways. We're required to build for a 200-year
storm, and that the water will go into the emergency spillway as designed.

42 Ms. Williams: Can someone tell me about how the property has been petitioned for zone
change in the past?

44 Mr. Lamphere: The property was initially RFR-80. There was a study done for the Exit 1 area,
and there was a proposal to change the zone to a Mixed Use Village zone. The proposal did

2 go the Town Council, but it was tabled for further study. Mixed Use Village was never
adopted as a zone, so the zone remains RFR-80 for legal purposes.

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

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

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

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

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

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

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42 MS. WILLIAMS MOVED THAT THE PLANNING BOARD IS NOT SUPPORTIVE OF A ZONE CHANGE OR
FUTURE LAND USE MAP AMENDMENT ON AP 4 LOT 25 FROM RFR-80 TO COMMERCIAL SPECIAL
WITH REGARDS TO INSTALLING PHOTOVOLTAIC CELLS.

44 MR. HOLBERTON SECONDED THE MOTION.

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

6 MS. WILLIAMS SECONDED THE MOTION.

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

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

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14 Development Plan Review – **Plan Submission** – Photovoltaic Solar Energy System –Palmer
Circle – AP 11 Lot 47D - Oak Square Partners, applicant

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

20 **NEW BUSINESS:**

22 Development Plan Review – **Pre-application meeting** – Photovoltaic Solar Energy System – AP 23
Lot 34 – 15 James Road – Econox Renewables, Inc., applicant

24
26 Andrew Vardakis, project engineer from Amec Foster Wheeler (AFW), presented on behalf
of the applicant. He described the existing conditions of the property as an RFR-80 zoned area
with wetlands that had been field-located. Visual data on the plans came from RIGIS. The
28 system the applicant is proposing is 250kw, surrounded by a 6’ chain-link fence. Two new
poles are proposed on Tomaquag Road. The proposed tree area to be cut is about 1.8 acres,
30 which will be stumped. The project is not in a wetlands buffer zone, but the applicant has
filed with DEM for a RIPDES permit.

32 Questions from the Planning Board:

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

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

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

44 Mr. Vardakis: We’re working with Barry and his niece to resolve those issues. Both of their
lawyers are negotiating and we expect a resolution with those issues before this moves
forward.

2 Mr. Holberton: As I've stated before, I support preserving farmland and allowing farmers to
4 use their land, but I am absolutely opposed to this one acre spot zoning of an industrial
6 electricity producer in the middle of these farms. The regulations don't require anything
beyond DEM regulations, so I am opposed to this project. I would support a moratorium on
this section of the Farm Viability Ordinance until we can work out the details at the town.

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

12 MR. HOLBERTON MOVED THAT THE APPLICANT RETURN FOR DEVELOPMENT PLAN REVIEW
14 CONDITIONAL TO THE APPLICANT RESOLVING THE OWNERSHIP DISPUTE BETWEEN MR. JAMES AND
MS. DEANGELO, AND TO THE APPLICANT OBTAINING ALL REQUIRED PERMITS.

16 THERE WAS NO SECOND TO THE MOTION

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

22 MS. WILLIAMS MOVED TO HAVE THE PROJECT CONTINUE UNDER DEVELOPMENT PLAN REVIEW.

24 MR. HOLBERTON SECONDED THE MOTION

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

26 Questions from the public:

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

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42 Development Plan Review – **Pre-application meeting** – Photovoltaic Solar Energy System – AP
11 Lot 17 – 711B Main Street – Southern Sky Renewable Energy RI, LLC, applicant

44 Dave Russo, of DiPrete Engineering, presented for the applicants. He described the project
for the Planning Board as a 250kw solar project coming in under the Farm Viability

2 Ordinance. The owner sited the project in a clear area with an existing driveway. There are
4 no cuts proposed along Main Street. There will be some selective clearing along the east side
of the project.

6 Questions from the Planning Board:

8 Mr. DiOrio: I can't discern the existing tree line on the plans. How much is being cleared?

10 Mr. Russo: It is the gray area on the plans. We proposed a clearing of about a quarter acre of
selective large shade trees and leave the stumps in place.

Mr. Holberton: Do you have any plans for the runoff from the solar panels?

12 Mr. Russo: No, a RIPDES permit would not be required for this project. The hydrology for the
14 grass area means the conditions wouldn't be changed by adding the panels. Posts aren't
considered to be impervious surface.

16 Mr. DiOrio: The applicant could be obligated to implement a rigorous erosion control plan
during construction.

18 Mr. Russo: Because of the lack of site work on this project, I expect the erosion control could
be wrapped up quickly.

20 Mr. DiOrio: The reason that we're asking applicants to come back is because we're going to
be paying more attention to these erosion control programs. We're going to require how these
22 measures are stated in the plans, and when the construction companies will be required to
have them.

Ms. Williams: Can you tell what this will look like from the road?

24 Mr. Russo: You're not going to be able to see this from the road, based on the cut of the hill
and the vegetation.

26 Questions from the public:
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Barbara Hegedus: What about the noise from the site for the neighboring properties?

30 Mr. Russo: There will be inverters on site, which emit the noise. The system is approximately
100' from the property line. The inverters are rated at 50db at about 10', so by the time you
32 get to the property line you won't be able to hear it over the traffic.

34 Ms. Capalbo: There is nothing in the solar ordinance about noise from the property line. The
only thing in these pertaining to noise is 55db at 10' from the inverters.

36 No vote is required for a pre-application meeting.

38 Development Plan Review – **Pre-application meeting** – Photovoltaic Solar Energy System – AP 14
40 Lot 47 – 813 Main Street – Southern Sky Renewable Energy RI, LLC, applicant

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

2 Questions from the Planning Board:

4 Mr. Holberton: What triggered the RIPDES permit?

6 Mr. Russo: The additional earth work required over the other project because the solar field is located in a wooded area.

8 Mr. McAllister: The Town Planner and I had a conversation about the zoning for this property, and we believe it is Manufacturing, not Commercial.

10 Mr. Lamphere: I believe it is Manufacturing, it was re-zoned for the countertop place. Either way, it is allowed by right. I spoke with the Zoning Officer about this, and the only thing the Town Council did was exclude a few specific uses when they re-zoned it.

12 Mr. Holberton: What exists there now?

Mr. Naccarato: There was a house there, but it burned down.

14 Ms. Williams: That parcel is very high up from the road. I think screening would be a major concern for the surrounding residences. As well as sound being a concern for us being so close to residential areas.

Mr. Russo: We can have a sound engineer look at those issues.

18 Mr. DiOrio: I'm having the same trouble seeing the existing tree line on these plans.

20 Mr. Russo: There are some older trees along the Canonchet Cliffs side, but less in the middle of the property. The rest of the site is entirely vegetated.

22 Mr. Holberton: The plans shows your service entrance coming off the Canonchet Cliffs driveway. Did the Canonchet Cliffs people approve your construction entrance off their driveway?

24 Mr. Russo: It showed up as a town road on the research that I've done. We can look into it further.

26 Mr. Pennypacker: Most of that side of Route 3 is zoned RFR-80. I wanted to point out that this land was re-zoned as an exception, and it appears something else entirely is going to be there now.

28 Mr. Lamphere: I also wanted to add that this site is very visible from Route 3, so some screening will definitely be needed.

30 Questions from the public:

32 Ms. Andrews: I live right across this property at 790 Main Street. The gradation of this property is definitely a concern for us. And not just with this property itself, but I don't know if there is an effect of multiple projects on the area. Are there any run-off co-efficients that account for the vegetation?

34 Mr. Russo: The run-off from this property would have no effect on the property across the street. There is a swale and culvert on this side that would capture run-off and bring it down the hill. We're not allowed to add to the right-of-way, so any stormwater from the site wouldn't impact across the street.

38 Mr. Andrews: What about effects on the wildlife in the area? If there was damage to the panels, would there be environmental impacts on the area?

40 Mr. Russo: If any commercial development were to go in here, which would involve parking and a septic system, it would have a far greater impact than the solar array.

2 Mr. DiOrio: This project is before us as a pre-application. That means that the applicant is not
4 required to thoroughly vet the project at this point. Those are good questions to ask. They
would be addressed at the next stage of Development Plan Review, so I would advise that
you follow this project for when it comes back to the Planning Board.

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

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

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Ms. WILLIAMS MOVED TO CONTINUE REVIEW UNDER DEVELOPMENT PLAN REVIEW.

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MR. HOLBERTON SECONDED THE MOTION

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

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SOLICITOR'S REPORT:

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None

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PLANNER'S REPORT:

None

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CORRESPONDENCE AND UPDATES:

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None

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PUBLIC COMMENT:

None

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DATE OF NEXT REGULAR MEETING: April 4, 2018

28

ADJOURNMENT:

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MR. HOLBERTON MOVED TO ADJOURN THE MEETING

MS. WILLIAMS SECONDED THE MOTION

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

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

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Attest: _____

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Sean Henry, Planning Board Clerk