

**TOWN OF HOPKINTON
PLANNING BOARD**

Wednesday, July 1, 2020

7:00 p.m.

Hopkinton Town Hall

1 Town House Road, Hopkinton, RI 02833

CALL TO ORDER:

Chairman Alfred DiOrio called the July 1, 2020 Hopkinton Planning Board meeting to order at 7:03 p.m.

MEMBERS PRESENT:

As the meeting was conducted remotely, Chairman Alfred DiOrio, Town Planner Jim Lamphere, and Senior Planning Clerk Talia Jalette were the only people present in the Chamber. Planning Board members Carolyn Light, Ronald Prellwitz, Keith Lindelow, and Emily Shumchenia, as well as Town Council Liaison Sharon Davis and Conservation Commission Liaison Deb O’Leary, were present via Zoom. Attorneys Sean Clough and Kevin McAllister were also in attendance via Zoom.

APPROVAL OF MINUTES:

Ms. Jalette made two amendments to the minutes.

Ms. Jalette: “I have two amendments to make to the minutes. This is Talia Jalette, Senior Planning Clerk. As I was reviewing them [the minutes] again, I noticed on page three and four of the minutes, I wrote that the vote was out of five. It was actually four, as Mr. DiOrio recused himself. Those are the only change to the minutes that I think need to be made.”

Mr. DiOrio: “Very good, thank you.”

A MOTION WAS MADE BY MR. PRELLWITZ, AND SECONDED BY MR. LINDELOW, TO APPROVE THE MINUTES FROM THE JUNE THIRD MEETING, AS AMENDED.

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

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 1 – 10-A Crandall Lane #B – Centrica Business Solutions and Maitland Fothergill, applicants.

Mr. DiOrio recused himself, and provided a notice of recusal to the Senior Planning Clerk. He explained that he had done surveying work for the applicant in the past, and that while he was not involved in this project, he felt “it would be in everyone’s best interest” for him to recuse himself. Mr. Prellwitz, Vice Chair, stepped into the role of Chairman for this agenda item. Attorney Steven Surdut, representing the applicant, appeared before the Board.

Mr. Surdut: “This application has, I think, unfortunately for all parties, been a long time coming to the Board, due to delays that have been addressed in my letter to the Board, regarding a probate and regarding the COVID delays, so we are eager to move forward with this project and obtain some opinions from the Board. Tonight, I will, with the Board’s permission, have a short recap and summary by our site engineer, who represents ESS Group Engineering, Jason Gold. And, I do want to state that we, I’ve, I include, I send out a mailing to all of the abutters, advising them that I would be conducting an informational hearing, and, as well as, taking phone calls and other requests regarding any questions, concerns that they have regarding, with regards to this project. I did have that over the weekend, and I have a couple of upcoming meetings with additional abutters, and we are working diligently to do what we can to address their concerns and their requests. Some of them require additional levels of permitting beyond what we are able, beyond simple map changes, so we are working on those. And are hopeful, and are eager to hear, any and all thoughts the Board has in regards to current concerns or things we can do to address those concerns. So, with that being said, I will make a request of Jason Gold to walk through the plan set, which was available on the internet, and I believe the members all have hard copy in full size, so, Jason, I’ll turn the mic over to you.

Mr. Gold: “My name is Jason Gold. I’m a civil engineer with ESS Group. I’ll just give you a brief overview of the project and I’d be happy to take any more specific questions. The project is approximately a 3.9 megawatt, D/C, ground-mounted photovoltaic solar energy system, which also includes the equipment pad, and several utility poles – excuse me – it will interconnect with an existing pole on Old Hopkinton Cemetery Road. The property is a 46.6-acre property, off of Crandall Lane, which is a private road. It’s zoned RFR-80. It’s mostly a wooded site, mostly woods and wetlands. There is also two single-family homes on the property. The site’s a hill. The high point of elevation, about one-twenty-seven, and it slopes down from that high point. Slope’s generally ranging from about seven to eighteen percent. The eastern portion of the site is comprised of wetlands, it’s a swamp, there’s an intermittent stream, and an associated fifty-foot primary wetland, and one-hundred-foot riverbank wetland – you see that on the east side of the plans that you have. There’s also a utility easement that crosses the site, north to south, right along the edge of the wetland. The property is not located with any historic districts, state-designated scenic areas, unfragmented forest tracts, or any state-designated greenway corridors. It is located within a primary, a groundwater primary protection zone. It is not, I wanted to point out, it is not located within a natural heritage area. The plan that you

have does show a natural heritage area boundary, that boundary's actually been changed recently, since these plans were prepared, so it's actually no longer within a natural heritage area. The proposed array, the concept that you see in front of you, the array itself, covers about 13.3 acres, which is about twenty-nine percent of the entire lot. The area within the fence will be grass. The setback, pretty far from Old Hopkinton Cemetery Road. It ranges from about two-hundred and ninety feet at its closest, to seven hundred and seventy feet. From the other street nearby, is Amelia Street, and that's pretty far away, too. It's about five hundred and forty feet to the closest panel. From the nearby residences, the abutting properties and houses, generally ranges from more than two hundred, to three hundred feet, from the residences. The project will be designed in accordance with the Solar Ordinance. All the distribution lines will be underground. All the yard setbacks will be met. That's a sixty-foot front, twenty-five-foot side, and fifty-foot rear setbacks. The project will be surrounded by a minimum six-foot high chain link fence. It will be locked with a Knox Box to provide emergency access. And the bottom of the fence will be raised six inches above ground to provide space for animals to pass beneath it. There's no exterior lighting proposed. The panel heights will not exceed twelve feet above final grade, and the vegetated buffer will be maintained within the yard setbacks. In the final design, the storm water controls will be designed in accordance with our own storm water manual, and the Hopkinton Land Development Subdivision Regulations. We're thinking that there's probably gonna be about seven detention basins at the base of the hill, because the hill, you know, slopes in all different directions, so we'll have basins at the bottom of that to capture the low runoff and make sure that storm water runoff matches existing conditions. This is a concept plan. When we, when we prepare the fully designed, permit-level plans for design plan review will also include a noise study and a decommission plan, as well as a detailed storm water report and sediment control plan. The site will be accessed from Crandall Lane. I think I mentioned, it's a private street. There's an existing driveway, and the site will be accessed from that road. So, those are the general highlights of the project. I'd be happy to take any more specific questions, if you have them."

Mr. Prellwitz was the first Planning Board member to ask the applicant a question, which was about what they were proposing for plantings within the buffer. Mr. Gold and Mr. Surdut responded.

Mr. Prellwitz: "So far, there's been no mention of the vegetative barriers that you plan to put in place. Do you have any information on that, or is that going to be brought forward at a later permitting stage?"

Mr. Gold: "Yes, at this point, it's just that the buffers will be vegetated as required. As far as more specific details, that'll be at the next stage."

Mr. Surdut: "Uh, Mr. Chairman, I believe that was you speaking. I can tell you that the areas currently are, there are pine trees and, primarily, lo-, occupying the buffer areas, and we would maintain those to the best of our ability, as well as supplementing ground-based plants, built upon the viability of them surviving underneath the existing pine trees."

Mr. Prellwitz: "Okay, thank you, Steve."

Mr. Prellwitz then asked Mr. Surdut if there would be any other representatives or experts for the applicant who would be speaking in regards to the project. Mr. Surdut replied that Charles Kovacic, a representative from Centrica Business Solutions, was in attendance. Mr. Surdut then stated that he was available to answer “specific questions in regards to the energy aspect of this site”, but otherwise, the applicant was willing to “turn it over to the Board and the public” if they had further questions.

Mr. Lindelow stated that he did not have any questions for the applicant. Ms. Shumchenia stated that she had “a couple of questions” for them.

Ms. Shumchenia: “You mentioned there’s two, single-family homes on the property. Looking at the map, there also appears to be like, a hole, cut out of the middle of the property, with another couple homes in there, I believe 11 and 12 Crandall Lane? So if this property is rezoned Commercial, I assume, I’m trying to, you know, deduce this from the map, the map and the plans you’ve provided, you propose this subdivision. Basically, what I’m getting at it is, are those existing structures gonna be accessing their home from this subdivision, or will they be traversing commercially zoned land in order to get to their driveways and their homes?”

Mr. Surdut and Mr. Gold attempted to answer at the same time, and spoke over each other, before Mr. Surdut told Mr. Gold to “go ahead” and answer Ms. Shumchenia’s question.

Mr. Gold: “Yeah, no, that’s a good question. Thanks for bringing that up. I forgot to mention the subdivision. Yeah, so, the subdivision – you can kind of see the dashed line on the plan – so the residential, the existing residences on the property would be subdivided off, and so, that lot, and Crandall Lane, would remain residential, and the solar array is accessed from that subdivision. Those other two houses that you mentioned, those are their own lot, and they are accessed over an easement across Crandall Lane.”

Ms. Shumchenia: “So, the solar array is accessed through the subdivision? The residential subdivision?”

Mr. Gold: “Right.”

Ms. Shumchenia: “Okay. I have one more question. Mr. Surdut mentioned some permit issues. I’d like to know more about those.”

Mr. Surdut: “We don’t have any issues right now, there have been some requests in my conversations with abutters that are – we have to determine our - the viability of those requests, and if we would have to obtain, what permits we would have to obtain, from entities such as DEM, and the Department of Public Works, before I can give them an answer. I don’t have them at this time. I am looking into the requests of abutters, which actually include those, some of the landowners that are in that bubble area, the two lots that are accessed by the easement.”

Ms. Shumchenia: “Okay.”

Ms. Light asked Mr. Surdut if it “would be inappropriate to ask you what those requests from the abutters are?”. He replied that he would “prefer to have that conversation directly with them, as it wasn’t vetted out in public.” He said that he “would have no

problem if those folks are on here, and they wish to bring them up, I will address it. I would, out of respect to those conversations, request to keep those conversations between myself and them at this time, and then it will certainly be vetted out as we go through the Town Council and Development Plan Review process.” Ms. Light also had another question.

Ms. Light: “Centrica is a familiar name around the community, so I want to ask them why they are proposing thirteen plus acres on a residential zoned, you know, change the zones, to commercial, at more than the three percent or the three acres that exists in our Solar Ordinance.”

Mr. Surdut: “This project was filed under the previous Solar Ordinance, so that is the reason that, and that is the reason that our request exceeds three percent, or three acres.”

Ms. Light: “Jim, is - can you confirm that?”

Mr. Lamphere: “This is Jim Lamphere, Town Planner. Yes, that is correct, Carolyn. It is grandfathered-”

Ms. Light: “Thank you.”

Mr. Lamphere: “- under the previous Solar Ordinance.”

Ms. Light: “Okay, so does grandfathering cover twenty-five foot setbacks?”

Mr. Lamphere: “The, um, the setbacks are governed by the Solar Ordinance, which is a specific Ordinance created for solar arrays. So, the twenty-five-foot setback applies. There have been some misconceptions out there that there’s supposed to be a one-hundred-foot separation. That is not a requirement of the Solar Ordinance. And, specific ordinances, generally, overrule a general, broad ordinance. The more specific trumps the general. So, while the one-hundred-foot setback is in there for industrial structures, for a residential zone, that’s in our Zoning Ordinance, the larger Zoning Ordinance, but our Solar Ordinance was created specifically for solar arrays, given the nature of the arrays themselves. So, that’s the interpretation that we have applied, that Town staff has applied. We arrived at that interpretation from a conversation with our Zoning Official and Town Solicitor, and that, that is the position that we feel as though that we can defend, based upon the wording of the Solar Ordinance.”

Ms. Light: “Hmm, Okay. Bells ring from a Town Council Meeting, such a long time ago, where it was even suggested that, because of the dense, residential population, surrounding this potential plan, that they be three-hundred-and-fifty-feet. I’m not suggesting that, but I am suggesting that I am, I’m not a fan of a twenty-five-foot setback, in a densely populated residential zone. There are too many abutters that are going to be impacted, and we’ve seen, had experiences, where a twenty-five-foot setback is – it just doesn’t work. So, I, you know, those are my, my, my, my comments, as, as far as what I’m seeing on the plans.”

Mr. Surdut: “Thank you, Ms. Carolyn. We’ll work to address those concerns.”

Mr. Prellwitz began to open the agenda item up for public comment, but Mr. Lamphere quickly interjected.

Mr. Lamphere: “I want to mention to everyone – I’m not even sure if the Planning Board is aware of this. We did have some confusion. The, the plan that was submitted in January [2019] or prior to the adoption of the current Solar Ordinance, which was

grandfathered, has a different configuration, layout, of the solar panels than what you were provided in the, in your packet. Now, that, that is what was presented at that time, and that is what is grandfathered. People, people were notified to come to the Clerk's Office, and view copies of the proposed plan. The plan that you've been provided in your packet differs from what they saw in the Clerk's Office. I did, I did have a comment from one gentleman, who actually is responsible for bringing this to my attention, is that the solar panels actually have been moved closer to his property on the plan that the Planning Board has received. He says he, he, he told me that, he would tend to favor the first one that was given to the Town, rather than this, this second one. I don't know, from a legal standpoint, exactly, what's grandfathered here or not. I'll let the applicant handle his own presentation, his own application, but, I would say, that maneuvers such as this really confuse the public a great deal, so..."

Ms. Jalette: "I'd also like to quickly mention – this is Talia, Senior Planning Clerk – the plans that were posted on the website are the same plans that were, that were sent to the Planning Board, just to clarify that. But, they are, as Jim has said, different from the ones that were originally filed with the Clerk's Office."

Mr. Lamphere: "I'd also like-"

Mr. Prellwitz: "Thank you, Talia."

Mr. Lamphere: "I'd also like to mention, as well, that the, the the concern that Carolyn just raised is a, in my view, a valid concern, and would be one sufficient to vote against the project. I mean, the fact of the matter is, the twenty-five-foot setback does apply to these, these arrays, however, if you look at the plan, and you're not in favor of going forth with something like this, under these set of regulations, I would say it would be grounds to deny it. But, I would, I would like to ask the Board members, when it comes time for their deliberation, after the public has a chance to speak, please include some references to the Comprehensive Plan, because, actually, what's being proposed here tonight is an amendment to the Future Land Use Map of the Comprehensive Plan, in addition to a Zoning Ordinance change. So, please reference the Comprehensive Plan, with specific examples of whether you believe this is consistent with the Comp Plan, or inconsistent with the Comp Plan, and please include those as your reasons for your vote. It will be especially helpful to the Town Council. I know in past Advisories – past Advisories, the Council wants to see an explanation, they want to see reasons why the Planning Board either approved or rejected something, and they weren't happy with a mere vote, you know, 'Yes' or 'No' and a tally of votes. They want to see what was said about it, what your objections are, so, be as, be as comprehensive and thorough in your explanation for your vote as possible. Thank you."

As Mr. Lamphere was speaking, a dog began barking in the background of the Zoom Call, which was a disruption. Ms. Light asked that that person "help us maintain some quietness, so we can hear the speakers without interruption." Mr. Prellwitz concurred, saying that it "would be a large help." The dog was eventually quieted. The discussion continued.

Mr. Prellwitz: "So, Jim, if I may – this is Ron again. What are the setbacks on the original plan, that have been changed to the twenty-five-foot? Can you elaborate on that, or is that something that needs to be left alone for right now?"

Mr. Lamphere: "I don't believe the setbacks themselves were changed, Ron, but the layout has changed. For example, if you look at the plan, in the southwest corner of the property, you will see, you will see solar panels there. On the initial plan that was submitted to the Town, they were not in the southwest corner. They were in the northeast corner, closer to the wetlands. And I--"

Mr. Prellwitz: "Understood. I see where it's near Mr. Vredenburg's property, it's one hundred and seventy-six feet to his house, to the, I guess that's to the buffer zone, to the south. Okay. Understood. Thanks, Jim."

Mr. Gold: "Jim, I can speak to that, a little bit, if, if, if you'd like? The reason the plan changes – the original plan that was submitted back in January of 2019 was all GIS-based, and since then, we've had a survey done, so we updated the plan and the layout. So, normally, right, normally, we submit a concept that's based on GIS, and then, as the design progresses, we get survey, and the layout changes as we need, to fit actual conditions. What happened here is that, because there's been such a long delay, we've had that survey done, so, you're actually just seeing a more advanced concept since the original one was submitted, because now we have a survey, now we have an actual flagged wetland, so the base plan itself changed, and the layout changed, to accommodate that. That, that's the reason for the difference."

Mr. Prellwitz: "Okay, thank you."

Mr. Lamphere: "If I could just respond to that - That's all well and good, Jason, one could expect to see plans change, layouts change over the course of a review. However, when you're, if you're submitting things, and asking people to come in and look at plan sets, that differ from one, what you've submitted to one agency to another, it, it, it leads to confusion. And, and when these people come in, and we supply them with your latest change, and they're not seeing this in the Clerk's Office, well, they object to the panels being, I mean, the first plan that they saw, that they were asked to come in and look at, it's not showing panels near their house. So, one might be inclined to not be, not be in opposition to something like that, but when the Planning Board is given a, a set of plans, and asked to render an advisory opinion on it, in a public hearing like this, and now, all of a sudden, we're faced with solar panels in the gentleman's, you know, much closer to his back yard, that, that could change his opinion. Now, if his opinion, if this wasn't picked up, if someone has an opinion based upon the first thing that they saw, that they might not have any objection to, they might say to themselves, 'Well, hey, I don't have any objection to the plan, there's no, there's no purpose in me going to the Planning Board meeting to participate in this, or the Town Council, I'm fine with it.'" But now, when the Planning Board is given another plan, and has the panels closer to his back yard, he'll say, 'Hey, wait a minute! You know, maybe I do have an objection to that.' So, I don't care how or why these things changed. There's a certain point in time that's appropriate to make an adjustment, and that is after everybody in the public, whether it's given to the Town Council public hearing, or a Planning Board, we start off with the same plan. You should have brought this change or iteration back for the course of review before the Board."

Ms. Light then asked the applicant if the footprint for the project has increased due to the changes in the layout.

Ms. Light: “So, when you – I don’t have access to those previous plans – has the footprint increased?”

Mr. Lamphere: “I’ll let the applicant speak to that, the engineer, you ought to be able to, you can address that question.”

Mr. Gold: “Yeah, I’m sorry, there was a cough or something, I didn’t hear the actual question.”

Ms. Light: “The question was, ‘Has the footprint increased?’”

Mr. Gold: “The... no. Hold on, one second, actually, I’ll pull up the other one. The size of the array itself is pretty much the same. Well, I mean, it was 3.9 megawatts, and it’s 3.9 megawatts now, so that hasn’t changed, it’s just shifted around.”

Mr. Lamphere: “There’s a little, by my calculations, or my view of this, there’s almost four hundred more modules in the new, I’m sorry – there’s four hundred -”

Mr. Gold: “Less.”

Mr. Lamphere: “Four hundred less, I’m sorry. The number of modules looks like it’s actually shrunk.”

Mr. Gold: “Yeah, yeah, the first one has eleven thousand, nine forty, this new one has eleven five eighty-eight. What happened is the wetlands got bigger, so we shoved everything over.”

Mr. Prellwitz then asked Mr. Lamphere if he had any additional comments, which he did not. The meeting was again interrupted by a loud and persistent rustling noise, but the source was not identified. Ms. Light asked participants to mute themselves if they were not speaking to address these impositions. Mr. Prellwitz then opened the period for public comment on the topic. Town Council Liaison Ms. Davis was the first to participate.

She began by asking if Lots 1A and 1B on the plans were “owned by someone other than Fothergill.” There was then some confusion about whether or not Ms. Davis could be heard, as the applicant did not immediately respond. Mr. Lamphere responded that he thought “the applicant could answer that question.” Mr. Surdut stated that if Ms. Davis was referring to the two single-family homes on the property, those are presently owned by the Fothergill family. Ms. Davis asked if they were “proposing a subdivision as well as a Comprehensive Plan amendment and a Zoning amendment, all at the same time.” Mr. Surdut responded that that was the concept. Ms. Davis said that under the “old” Solar Ordinance, which governs the proposal, that “there could not be any residential houses left on that property” if the zone change was granted. Mr. Surdut responded that there would be “one single use on the property”, and there would be two lots, and they would “not be creating a multi-use lot”, which would conflict with Zoning regulations. Ms. Davis replied that she thought the applicant was “going in defiance of the old way” and that they were trying “to get around the old rules” by making a subdivision. Mr. Surdut refuted by stating that the applicant was “creating a new lot, yes, because there’s appropriate frontage there.” Ms. Davis replied that that “was not the point” that she was trying to make, but that she understood. She then asked the Planner if “there is any way for the Planning Board or, if the Town Council were to accept this, excuse me, accept this project, that they, we could edit the dimensional regulations so that, you know, we could increase them.” Mr. Lamphere said that while he would have to take another look, his understanding of the “new” Solar Ordinance, “which does not apply to this” particular

project, contained language that would empower the Planning Board to “increase the setbacks when they abut residential zones”, but that he didn’t think there was a way of doing that for projects grandfathered under the “old” Solar Ordinance. He restated that, “if anyone has an objection to what is being proposed here, under the rules that apply to it, then you merely don’t have to go along with the Zone change and the Comprehensive Plan change.” Ms. Davis responded that “in order to protect the abutters, that I would not go for the subdivision, and I would not go for the minimum requirements under the old plan, so I guess I would not be for this project.” Mr. Surdut asked Ms. Davis what her “requests would be regarding setbacks”, and she said that she would like to “go with the new ones, a couple hundred feet, three hundred feet, four hundred feet, whatever.” She continued, stating that the “abutters have really, really suffered” under “these dimensions in the past”. Mr. Surdut said that he would “take that into account, and do what we can to address those concerns, that you’ve raised, and look to address that in any way that we can while still maintaining a viable project.” Ms. Davis said that, while she understood what he was saying, “what I’m hearing is that you’re still talking to abutters, you haven’t finished satisfying their concerns, and you’re asking for the Planning Board to make a decision when not all of the information is known.”

Mr. Lamphere then interjected to explain that Lots 1A and 1B were actually separate lots, so they were not the parcels that would have been the subject of the proposed subdivision. He thought that she had been asking if the Fothergills owned Lots 1A and 1B already, as the subdivision that was proposed would carve the two existing structures on Lot 1 off from the area for the proposed array. Mr. Lamphere then asked Mr. Surdut and Mr. Gold knew who owned 1A and 1B. There seemed to be a little confusion between the pair, as Mr. Surdut initially said “No”, though Mr. Gold said that they did know. Mr. Surdut then changed his response by stating that “we know that they [Lots 1A and 1B] are not owned by the Fothergills” but that they “know who the owners are” and that they “noticed them with a proper abutter’s noticing.” Ms. David said that they “would be totally surrounded by this”, and she asked if they were in favor of the project. Mr. Surdut refuted that assessment, as “one side of the property” would be abutted by the array, so it would “certainly not surround them”. Ms. Davis then said that maybe she was confused, as she thought that 1A and 1B were part of the proposed subdivision. Mr. Gold replied that those lots had already been subdivided. It was eventually clarified for Ms. Davis. She responded that she was concerned about “setting a precedent” by allowing a project like this to move forward.

Mr. Prellwitz also had some questions. He wanted to know how the lot(s) to be subdivided would be categorized, as “there’s not enough area for them to be two lots, and be RFR-80.” Mr. Surdut stated that there would be one lot, not two, with two residences on it. Mr. Lamphere had to interject at this point.

Mr. Lamphere: “This is Jim Lamphere. I just want to mention something. Just for clarity, there are four residences that currently get access from Crandall Lane, okay, the two owned by the Fothergills, and then 1A and 1B, okay. And then, also, before we start talking about a subdivision, basically, we’re not here tonight to review a subdivision, but as long as we’re thinking, contemplating one, I’d like to have – I don’t wanna, I don’t

wanna proceed under the assumption that this is acceptable to our Zoning Official, because what we're doing is, we're creating a ninety-seven thousand square foot lot, two acres, with two dwelling on it. I just want to make sure that we have the minimum acreage, frontage. How, how is this going to be done? I mean, where is the frontage coming from, for this, for this lot? Is this going to be done as a compound, off of Crandall Lane? I'd like to know who owns Crandall Lane, who maintains Crandall Lane. These are things, these are things that we would have to iron out in the course of reviewing a subdivision, so to assume, to just look at this concept plan, and assume that it's viable, as this point, is a little premature."

Mr. Prellwitz agreed. He said, "I agree. In my mind, there's questions that need to be answered, about the subdivision and about the actual ownership of the road. The road doesn't look like it's been maintained hardly at all, for years and years." At this point, Mr. Surdut offered to continue the Planning Board vote, "subject to me obtaining that information and bringing it to the Board." Mr. Surdut stated that he could provide "documentation to that effect, regarding the ownership of the road, the maintenance of the road, the history of it, the history of the properties in general, and get some clarity from your Zoning Official." Mr. Lamphere responded.

Mr. Lamphere: "Because we're not reviewing the subdivision right now, I don't know if it's appropriate to spend that time doing that. The issue that is before the Planning Board tonight is whether to change the Comprehensive Plan Future Land Use Map, and the Zoning Map from RFR-80 to Commercial, to allow a solar array. So, basically, that is what's on the table right now. Do we change the zoning on this parcel, or do we leave the zoning as it is? That's what's before the Board tonight."

Mr. Surdut said that he "totally agreed" with the Planner, but that he "still stood by his offer to the Board."

Ms. Light spoke again, about how the parcel was located in a "densely populated, residential neighborhood." She was "concerned that there is nothing jumping out of the plan that says 'This is where maintenance and emergency vehicles will be able to access the site.' So, that needs to be addressed." She stated that she was "sad that it is not there now." Mr. Surdut said that the existing roadway would be the point of access, which "will be maintained to a twenty-foot width". He then stated that he had had "enough conversations with the Public Official to know that, that, that will be sufficient for emergency vehicles to get down there, and then from there, their hoses to be run to what they need." Ms. Light asked if there would be "emergency access around the entire site". Mr. Surdut said he believed it would be sufficient for emergency vehicles to reach the site via Crandall Lane, "based on my discussions with them, and the way that they handle access to, and if there was an emergency inside of this property." He also stated that "as we move forward, I'll certainly get that in writing." Ms. Light said responded.

Ms. Light: "Okay, I'm confident that you can do that, it's something that the residents need to be able to approve."

Mr. Surdut: “Certainly, I, I have no objection to that, and as we move forward, that would be something that we would do in the normal course. Emergency access is important to all parties.”

Ms. Shumchenia then had some additional comments and questions for the applicant. Mr. Prellwitz also weighed in.

Ms. Shumchenia: “This has just raised and crystalized a couple other questions for me, and one of them is, you know, this road, Crandall Road [Clerk’s note: it’s Crandall Lane, not Road] is a private road. It’s currently, I believe, included in this proposed subdivision, to be zoned some form of residential, to be determined by conversation with the Zoning Official. I don’t understand how we could allow access to Commercial property through a residential, private road. Furthermore, I don’t understand this sequence of events. Um, if, if, for example, the Planning Board were to vote, or give a positive opinion, to the Town Council to rezone this property as Commercial, and the Town Council went through their process, held their hearing, and approved the zone change to Commercial, the entire property would become Commercial, yet there would be two homes on it, at that time. So, I’m, I’m concerned about the sequencing of events – the subdividing of the property, and simultaneously asking for a zone change, in this really tight, spatial overlap between residential areas and commercial areas in this entire plan. I think it’s really muddy, and that, that concerns me greatly.”

Mr. Prellwitz: “I would like to mirror those ideas. It almost seems, in my mind, the future status of these homes, on 1A and 1B, up in the corner there, right on Crandall Lane, I think that needs to be established before we go any further, and go ahead and okay this, to be pushed to the next level, and turning that into a commercial property. I’m, I’m really concerned about muddying the waters, and giving those people a harder life than it really needs to be.”

Mr. Surdut responded that he had had conversations with them, and that he was hopeful that he would be able to address their concerns, but that he has to “address permitting issues, beyond municipal issues, to get to that place, and we are investigating how we can make sure to address the concerns of those property owners.”

The public was then allowed to comment on the project. Callers were identified by the last four digits of their phone numbers, and they were asked to state their name for the record. Kirsten Storey, of Jacobson Trail, was the first person to speak. She was curious about how this solar project would benefit her

Ms. Storey: “I’m just curious on how the solar farms behind my grandfather’s property, that I have lived on my whole life – my maiden name is Jacobson – my grandfather built this road – it’s always been farmland, gardens – how is this gonna benefit me?”

Mr. Surdut asked if she was directing her question to the applicant, or to the Board, and Ms. Storey replied that she was asking the Board. She said that she “didn’t get it”, and that there are solar farms “all over Town”, and that she did “not understand this.” She then asked, “Can you explain this to me, why you want to do this on Crandall Lane?” Ms.

Jalette interjected to explain that that was more of a question for the applicant than the Board, though she was welcome to direct her questions to both the Board and the applicant. She continued to ask what the purpose of the project was. Mr. Surdut replied that the purpose “is to utilize this property in the most efficient way for the landowner. This is a choice that they have made in regard to property that they have owned for quite some time.” Ms. Storey then asked who owned property behind her, if it was the Fothergills, and Mr. Surdut replied that yes, it was the Fothergill property. Ms. Storey then asked if the Fothergills were benefitting from the project, to which Mr. Surdut replied that “I would say yes. Most, I mean, people don’t do things on their land that they don’t benefit from, I don’t, so, yes, they’re going to benefit from it.”

Ms. Storey then stated that she had spoken with Mr. Surdut “this weekend” [the weekend of June 27-28], and questioned the landscape maintenance methods that he had suggested could take place.

Ms. Storey: “And then we talked about, like, okay, maintenance, on the property? Like, goats and sheep? Seriously?”

Mr. Surdut: “Yup, that’s something that we’re exploring, that utilizing, instead of the, using lawn mowers to potentially have, um, animals come in, or utilize a more natural method of maintaining the vegetation.”

Ms. Storey: “And then the sheep come down one, to two times a year, to maintain it?”

Mr. Surdut: “Yes, Miss.”

Ms. Storey: “Okay, I have an issue with that. I really do. Because, like, say if there’s a lightning strike on one of those solar panels? What happens?”

Mr. Surdut: “I would, I would, if Chas [Charles Kovacic], who is on this call, if I’m incorrect, please correct me, there are sensors, and if something goes wrong, there will be an immediate response-”

Ms. Storey: “Right.”

Mr. Surdut: “But there is just regular-”

Ms. Storey: “Right. Say if one of those walls break down, over the Alan Ali, the guy that was in the meeting with us this weekend?”

Mr. Surdut: “I’m not sure what you mean.”

Ms. Storey: “I, I, I just, I don’t. I don’t trust it.”

Mr. Surdut: “You’re talking about the viability of the panel, and if the panel, and if there’s something wrong with the panel? Somehow the panels proves an environmental hazard?”

Ms. Storey: “This whole process. My issue is with the whole process. Like -”

Ms. Surdut: “Well, I’m sorry. I apologize.”

Ms. Storey: “I don’t know, from Point A, to the end of twenty years, ‘cause you said they’re going to be there for twenty years.”

Mr. Surdut: “Correct – that’s the general lifespan of these panels.”

Ms. Storey: “I don’t know what the process is during those twenty years. I’m going to be here, twenty years from now.”

Mr. Surdut: “Um, You’re - what do you mean by ‘the process’? They’ll be maintained on a regular basis, there will be vegetation below them-”

Ms. Storey: “Well, you said, once or twice a year, they’re going to come down, and then, it was, ‘Well, if it gets overgrown, they’re going to put, like, goats or sheep’-”

Mr. Surdut: “No. I, I apologize if you thought I was, if and when, no, there’s regular maintenance of the vegetation underneath, yes.”

Ms. Storey: “They need to come down at least four times a year.”

Mr. Surdut: “If you would prefer them to come down more often, we can address that, certainly. We try to minimize the amount of times we’d come to the site.”

Ms. Storey: “I don’t know what I would agree upon, to that, because they’re fucking – oop – I’m sorry, foreign language – clear cutting the land behind my house. And they’ve done this all over Town. It’s a small town. That, that’s my issue. Like, what is the purpose of this? You said, like ‘to keep the grid strong’, but, this Town was built on country. This Town was built on farmland, and just, doing the best for-”

At this point, another strange noise interrupted the Zoom meeting. Ms. Storey was unsure if the line was still viable, but Mr. Surdut responded that he was there and that he was listening.

Ms. Storey: “This is the Town. It’s not built on solar energy, it’s not built, it’s built on good, old-fashioned sustainable living. Like, we built our gardens. We built our farms. We have this. And now, you’re putting solar panels in our backyards? I just – I have an issue with that. I really do.”

Mr. Surdut: “Understood, Ms. Storey.”

Ms. Storey then said that she had tuned into the Town Council meeting, and that she was “glad that more residents gave their voice”, and that she just didn’t like the project. Mr. Prellwitz responded, “Thank you, understood.” Ms. Storey continued.

Ms. Storey: “I mean, when Alan and I walked out of Attorney Surdut’s office last weekend, he was just like – The reason why I moved to this Town was because of the country, was because everyone came together, you know. It seems like it now, everyone’s kind of, like, torn apart by this. That’s not Ashaway. That’s not Hopkinton. It’s not. We had Huck Finn Day at the Crandall House. We don’t do that anymore. To me, that’s a huge blow to the Town.”

At this interval, the next speaker had to be introduced, as a number of other callers were interested in commenting on the project. Ms. Jalette thanked Ms. Storey, but explained that other callers would like to speak in regards to the issue, and that if she had any further questions, she would be welcome to contact the Planning Office. The next person to speak was Mr. Peter Skwirz, an attorney with Ursillo, Teitz & Ritch, Ltd., representing Susan Haley, as well as Robert and Judith Vredenburg, of 37 Old Hopkinton Cemetery Road, abutters to the parcel being discussed. Mr. Skwirz stated that the confusion surrounding the current versus former plan sets had “impeded our ability to prepare for this hearing”, and he encouraged the Planning Board to “definitely consider that when you act on this tonight.” He then began his presentation.

Mr. Skwirz: “The first issue I’ve, I’ve raised is, really, a procedural issue – and it’s a notice issue, too. So, the notice for tonight’s public hearing was advertised as the Planning Board giving an advisory opinion to the Town Council, request for a Comprehensive Plan and Zoning Map Amendment, which was submitted by Fothergill. Now, the issue with that, is that with the Zoning Ordinance Amendment, yes, that is what the Planning Board’s authority is to do. If you are under the Zoning Enabling Act, it’s your responsibility, under statute, to provide an Advisory Opinion to the Town Council, based on whether the proposed amendment is consistent with the Comprehensive Plan. But, with regards to the Comprehensive Plan, and the Comprehensive Planning and Land Use Act, the role of the Planning Board is not advisory. And, in case the applicant’s counsel is on the line, I’m gonna cite the statute for him. It’s Title 45, Chapter 22.2, Section 8, and subsection A 1. This provides that the Planning Board, and I’m gonna quote here, ‘has the sole responsibility for performing all those acts necessary to prepare a Comprehensive Plan for a municipality.’ So, based on that language, you don’t advise on an applicant’s request to a Comprehensive Plan, you have the sole responsibility for creating a Comprehensive Plan. And, that, that’s key, and it goes to the purpose of what the Comprehensive Plan is. And, I’ll try to be brief, but I’ve give you a little history of the Comprehensive Planning to lay the groundwork for that. So, prior to the enactment the Comprehensive Planning and Land Use Act, in 1988, Rhode Island Courts would look at Zoning Ordinances and Zoning Ordinance amendments, and they’d, basically, on an ad hoc basis, determine whether the amendment was spot zoning, or was within a Comprehensive Plan, spoke in quotes, for the Town. Now, the ad hoc nature of that inquiry was not best planning practices. By passing this statute, the General Assembly created a mechanism to ensure that all Zoning Ordinance amendments would be passed in accordance with the Plan that was created ahead of time, before the application came in. So, under the Comprehensive Planning Act, it’s your job to create the Comprehensive Plan, and the standards you use to measure Zoning Ordinance amendments also. Now, if you were to allow an applicant to come and request to amend the Comprehensive Plan, and now I’ll stop and pause here for a minute, I know that in other towns, and perhaps, in the past, in this Town, this procedure has been used, but, by statute, it’s not the right procedure, and if you allow this procedure to be used, where the applicant can be the impetus for a Comprehensive Plan amendment, which they then use to ask for a Zoning Ordinance amendment, you essentially have no standard with which to advise the Town Council on whether it’s consistent with your Comprehensive Plan. The Comprehensive Plan is supposed to be that standard guideline to determine whether or not a use is allowed. It’s not supposed to be amended every time an applicant comes in and they want to do something different. If you could do that, then there’s really no reason to have a Comprehensive Plan. So, I think that really creates an advertising issue, because it has been advertised only as an Advisory Opinion to the Town Council, when, in reality, this Comprehensive Plan amendment should not proceed, at all, unless the Planning Board votes to pass it. And, really, it shouldn’t. You can, you can take advice from other parties. Many Towns hire outside consultants to help them, the Planning Board, propose Comprehensive Plan amendments, but at the end of the day, if the Planning Board is not loath to propose an amendment, then no Comprehensive Plan amendment should be made. So, that’s kind of the hundred foot, procedural issue that I would raise with this, but, you know, there are substantive issues as well. I know that your Planner addressed

the hundred foot, the general hundred-foot setback for Commercial and Industrial buildings from a Residential zoning district, and I know that your Solicitor's office has opined that that is overridden, essentially, by the Solar Ordinance amendment, and they rely on the method of statutory interpretation that the specific covers the general, and I'm not going to get into that in too much detail, because I know you have the opinion from your Solicitor's office, but, for the record, I disagree with that, and the reason I disagree with it is the specific versus general rule is not trigger here, because these provisions are not inconsistent. On one hand, you have a twenty-five-foot setback for solar arrays, from the property line, regardless of where the property line is, and, on the other hand, you have a one-hundred-foot setback from the Residential zoning district. Now, here, it just so happens, because they're essentially spot-zoning a Commercial zone into a residential area, that they need to comply with that one-hundred-foot setback because they're right on the border with the Residential district. So, but, the second point that is really just a point of inquiry that I'd add, I know that the applicant mentioned that the access was off of Crandall Road [Clerk's Note: It's Crandall Lane], and I just want to confirm that that is, in fact, going to be the only point of access, or whether or not there will be any additional access off of Old Hopkinton Cemetery Road. So, in summary, I think there are a number of procedural issues tonight, but the main issue is that this applicant is asking the Town to take a one-off change to its Comprehensive Plan, to essentially squeeze a nonresidential use into what would otherwise be a Residential zone. It's not appropriate as a matter of policy, and it's not appropriate according to the procedures set out in the Comprehensive Plan and Land Use Act. And then, finally, the last procedural issue, which you've all hit on, which I won't belabor, but this new plan, that, that was not available in the Clerk's Office, bring solar panels real close to my client's property, when it wouldn't otherwise be that close to my client's property. I think that's a big issue as well. With that, I know you have a lot of people to get through, I'd be happy to answer any questions, but that, that's the end of my speech."

The next member of the public to comment on this proposed project was Eric Bibler, 119 Woodville Road. He said that he was going to mention some of the things that Mr. Skwirz had already stated, and that he thinks that there are "glaring procedural issues." He said that "you simply cannot send a notice to abutters for one set of plans, and then come into a Public Hearing, and entertain a completely different set of plans than the ones that they either received or were told was available at the Town Clerk's Office." Mr. Bibler then stated that the Planner "referred to some misguided information, or something that had been said" in reference to the one-hundred-foot setback issue. He said that he knew that there was an opinion rendered by the Town's Solicitor that "the Planning Board's gonna feel obligated to follow", but that the information in the Town's Zoning Ordinance indicated that "in the event that the Commercial property abuts a Residential property, in that instance, for every Commercial property, then the setback is one-hundred-feet." He then said that he "just finds it completely maddening" that "somehow, through some convoluted means we can ignore the setback - the Zoning provision, that are meant to protect our own residents from Commercial development in every instance." He then stated that "the real issue at hand here" is that "whether or not this is consistent with the Comp Plan". He said that he agreed with Mr. Skwirz, in that there is "no point in having a Comp Plan if you're going to contemplate spot zoning every time you receive a

proposal from a developer.” He said that the map “looks a lot like Skunk Hill”, another proposed solar project, in that there are a number of residential lots around a property that would be rezoned to Commercial. He said that the plan “had a little, you know, misdirection in it”, as there are “multiple dimensions of the distance from the resident homes, that are abutters, to the, uh, to the, uh, boundary line for the project itself.” Mr. Bibler then stated the simple fact that the abutters “own every inch of their property” so “dimensions that matter are the distances from their property, not the distance from their living room windows”. He then said that “the developer doesn’t get credit for however far back from their own property line their house is situated.” He then finished by providing information about how the Cape Cod Commission, a body that provides Planning expertise to fifteen towns in Massachusetts, has kept solar farms from being installed on “greenfields”. The body has “discouraged or disallowed” any solar proposal that would result in the “cutting down of woods, or putting it on undeveloped land, farm land, that sort of thing.” He said that while the Town’s Comp Plan was not as specific, “we have numerous citations that have been made this Board, on previous solar projects as a reason to deny them.” He then began reading some of the goals and objectives, verbatim, that are listed in the Comp Plan. He then said that the proposal “does terrible violence to the Comprehensive Plan”, as it “ignores all of these goals”.

The next person to speak was Phil Brencher, of 25 Old Hopkinton Cemetery Road, an abutter to the proposed project. He stated that he went to the Town Hall, and saw the plans that were in the Clerk’s Office, which was “different from this plan”.

Mr. Brencher: “If you look in the center of this plan, where it says ‘Solar Array’, that plan, in the Town Hall, that area to the right was much longer. Went underneath the right, the uh, the right-of-the-way for the power lines, and went closer to the wetlands, and down at, at [Lot] 55A, it was nonexistent, and not too bad in [Lot] 55. The other thing is: this revision was filed on June 11th. The letter was sent out by the Town Clerk on the 12th.”

The next person who spoke was Robert Henninger III, of 24 Edgewood Ave, and another abutter to the proposed project. He said that he was “100% opposed to this” proposal. He said that is it “absolutely ridiculous that we keep on having meetings about these solar arrays going in in our Town”, as it is “quite clear that the Town’s people do not want this.” He continued, saying that “the fact that they’re going into Residential zoned areas, as Commercial, is absolutely ridiculous.” He said that the project was in a “protected area”, as it was in a wellhead “protection zone”. He said that there is a stream that abuts the back of his property, that “has contact with the groundwater”, so his question was, “when something happens with these solar panels, or when the land is disturbed back there and something’s stirred up that may have been dumped years ago when it was a farm, what’s to keep all of these chemicals from running directly into the groundwater source, and contaminating all our wells?” He said that he knew that “there are catchment basins that are supposed to go in”, but he then stated that “water seeks its own level”, and that it will “eventually make its way into the groundwater system, and pollute our water.” He said that there were wetlands, and animals behind his property living within the wetlands, and that “we don’t need to lose more sections of woods that are a safe haven

for our wildlife.” He said that there are “bobcats back here, there’s deer back here, there’s pileated woodpeckers – you name it, they’re all back here, and to, basically, knock down fifteen acres of forest, shove a fence around it that will house, maybe, if you’re lucky, rabbits, if they’ll utilize it, is absolutely ridiculous.” He then said that he has seen what has taken place at other solar projects throughout Town, and that “no matter what the plan actually says, it always seems to be gone again”, and brought up “the devastation that’s been happened” on Maxson Hill, where it has been “clear-cut right up to people’s backyards, with one tree left between, you know, a person’s property line and a massive solar array.” He said that he is in “serious doubt” that “this particular company will adhere to what they’re supposed to.” He said that if the project would go through, he would “be in contact with DEM wetlands, and make sure that none of this is touched.” He closed by urging the Planning Board to deny the project.

Mr. Henninger III: “The fact that the plans have been changed last minute, and none of the townspeople surrounding this area were aware of these changes, alone, should scrap its entire plan. If that is the case, I suggest that it has to fall under the new Solar Ordinance, not the old Solar Ordinance, when it was originally submitted.”

Tim Stedman, of 28 Edgewood Avenue, an abutter to the project, called in to communicate that he was “100% against this solar project.” Mr. Stedman stated that he believes that there are “so many solar projects in Town – Ashaway and Hopkinton, right now, that it’s not Ashaway any longer.”

Mr. Stedman: “You drive down Route 3, and all you see is these commercial power plants – that they say they’re not power plants, but they’re power plants – and they just don’t belong in our Town. You know, they oughta put them in, you know, gravel banks, or farms, that they’re already been cut, they’re not clear cutting, you know, hundreds and hundreds of acres to keep putting them solar plants in, and the wildlife has to go somewhere, and they just don’t belong in residential neighborhoods, and it seems like everybody goes to the meetings, and everybody complains about them, somehow, they’re getting squeezed through, and this one, in particular, when you’re trying to – it’s just got bad news written all over it. Hopefully, the Zoning Board will take everyone’s opinions [Clerk’s note: This is a Planning Board meeting] into account, and absolutely deny this project.”

Jean Clemente, of Tomaquag Road, called in next.

Ms. Clemente: “I live on Tomaquag Road, and I’m urging the Board to reject this project. I’m totally against any more solar development to go into the Town. I’m against the clear-cutting of any more forest. I’m concerned about our groundwater, our wetlands, and our quality of life here in general. I think we have had enough solar come into this Town, and it’s, um, I’m just hoping that they don’t put this through, and they realize that enough is enough, and this is not what the people in this Town have wanted, and this isn’t, certainly, why I moved here a year and a half ago, and I feel like, you know, put this on a parking lot somewhere, out in the middle of nowhere, where it’s not ruining the quality of life, and I thought everyone knew that you don’t take down a tree, you know, to put up

solar panels. Just doesn't seem right to me, it defeats the purpose, and I'm – that's about all I have to say.

David Gever, of Anna Drive, called in next. He was also against the project, and explained that he was living in a situation “that is very, very similar to this.” He asked the applicant “what the minimum size” would be for a solar project to be “viable”. Mr. Surdut said that “there are a lot of considerations that go into that – it's all the net potential costs, all of the potential construction costs, outlays, property acquisition, landowner fees, I, I, I, it would be hard for me to give you, off the cuff, that answer.”

Mr. Surdut: “We will certainly take under advisement everyone's opinion here tonight, and look to address those concerns. Obviously, one of those concerns is size, and distance from abutters' property lines.”

Mr. Gever: “The concept that has prompted me to ask that question is a general one for this Town. When, when will the Town be satisfied with enough solar arrays to satisfy its fiscal requirements? I've never gotten an answer for that, but this one contributes to that, and so I'm just wondering what the size of this project must be for the folks that want to build it are finding it no longer viable to build it, you know? You guys, you folks should be able to – in fact, someone made that calculation to make this proposal to begin with. Thank you.”

The final caller to weigh in on the proposal was Joe Moreau from 32 Old Depot Road. He said that it was “so refreshing to hear an attorney bring up some of points that we have been saying for two years, siting these solar projects”, including “not being consistent with the Comprehensive Plan, the one-hundred-foot setback, and the spot zoning”. He said he agrees “wholeheartedly with what the attorney said”. He said that the presentation made by the applicant had been “the most confusing presentation in the two years that I've been a part of all this, just ridiculous.” He asked if a new set of plans would make it so that the proposal would then be governed by the revised Solar Ordinance, instead of the original Ordinance. He also commented on Mr. Surdut's statement that the existing vegetation on the property would serve as a buffer.

Mr. Moreau: “I hope he's not considering using existing pine trees. As we all know, you see mostly trunk, and the growth is at the top of these pine trees. A vegetated buffer is not the trunk of pine trees. I would suggest that the attorney, as was pointed out to me at the last meeting, do some homework, and do some research, and come back to answer all of these questions. Thank you for your time.”

After Mr. Moreau spoke, Ms. Jalette stated that there would only be three additional speakers for the topic, as there were a number of other agenda items that had to be addressed before the close of the meeting.

The next person to call in was Alan Ali, of 21 Old Hopkinton Cemetery Road. His understanding was that when a solar project is installed “they strip the land, they take the top soil away, and what's left is the solar panels and ground cover.” He continued by asking what will become of the property in twenty years, after the solar panels have

“expired”, and the “technology is probably so antiquated” that they won’t be replaced, and all that will remain will be “a barren piece of land.” He said that if the applicant were to replant trees there, that it would “cost quite a bit of money”, and it would be another twenty years before the “scar” from taking down the trees would be healed. He also said that “living on this lower section, we get run off, so if they’re going to guarantee I’m not going to have any problem with my well water, that’s an important thing for me.” He was concerned about run off from the array generally. He wanted to “appeal to” the Board’s “general nature”, and asked if they would want to “look out your back window, and see, you know, twenty-five-feet away, or twenty yards away, rather, just solar panels.” Mr. Ali that he came to this area “because it was residential, zoned Residential, not Commercial, and I expected it to stay that way.” He closed by saying that the array would affect the valuation of homes surrounding it, and that “if we ever sell this place, we’ll be losing money.”

Brian Wood called in next.

Mr. Wood: “So, if the whole property is zoned Commercial, and they’re only going to build roughly fifteen acres of solar panels, what happens, down the road, to the rest of the commercial property? Can they add more solar panels at their leisure? Can stores be built? I mean, I grew up on the property. I’m totally against it, but, what happens to the whole commercial property, versus the fifteen acres?”

Mr. Surdut: “Steven Surdut - from the applicant’s perspective, we would not be able to add any additional panels by, beyond those allowed by the Development Plan Review process and the Town Council amendment, and it is our proposal that the remaining, the wetlands, would remain untouched, and that there would be a significant portion, or there’s a portion of the site, adjacent to the wetlands, which will remain as they are now.”

Mr. Wood: “So, are you saying that all of this will be documented, that they will not add solar panels ever again, beyond what you’re proposing?”

Mr. Surdut: “They would not be – there would be no additional solar panels added to the site beyond – no additional modules added to the site. Is, can a module be swapped out for a newer technology? Yes. But there will be no additional modules added to the site beyond what would be allowed in the Development Plan Review process.”

Mr. Wood: “And that’ll all be in, all documented?”

Mr. Surdut: “Yes, sir.”

Ms. Light then asked if she could “add some clarification to that statement”, and asked if it would be “appropriate for me to do that”. Mr. Wood said that it was okay with him, and Mr. Prellwitz gave Ms. Light the go-ahead.

Ms. Light: “So, the applicant has – this is, this is just for clarification for the residents – the applicant has proposed to change Residential land – RF-80 [Clerk’s note: Ms. Light meant RFR-80] to Commercial. At the end of life, which is proposed to be twenty years, but we all know that the average life of a solar farm could be as much as twenty-five to thirty years – once the end of life has come to that solar project, the land is zoned Commercial. It is not going to revert back to Residential, RF-80 [Clerk’s note: again, Ms. Light meant RFR-80], and once it’s zoned Commercial, it’s a Commercial opportunity.

So, the person owning the land, and the project, has the right to reinvest their solar aspirations, to continue the project life. They also have the option of ending it and decommissioning it. And, I suggest that we have Jim Lamphere or the attorney present, add further clarification, if there are questions on that.”

Mr. Wood then continued.

Mr. Wood: “Mkay, well, first of all, I’ve listened to the whole meeting from the start, and there’s been a lot of ‘I’ll look into that’, ‘I’ll make sure that’s okay’, ‘I’ll’, you know, so, how can you guys vote tonight to move forward without documentation, in writing, for all the, the, the, the unknowns. That’s my first question. Secondly, when I called the Town Hall, and spoke to the Town Clerk, on the 18th of this month – of June, excuse me – she sent me a copy of the plan. Then, this past Thursday, the 25th, she sent, she said to me, ‘We was, we were introduced to a new plan today’, meaning that day, Thursday, the 25th, into the Town Hall. So, has everybody seen that plan, or is this all the controversy tonight, that everybody hasn’t gotten the new plan, and that’s where we’re voting or looking to vote on tonight?”

Ms. Light responded that she would “like to make an additional comment”, which Mr. Wood said would be fine, on “something that completely needs to be addressed by the Solicitor”. She said that “the plans that the Planning Board are looking at are not noted as revised plans.”

Ms. Light: “It is dated January 4, 2019, so if these – I would like to know what the true date of what these plans are, because, as Jim stated, there was a plan, from January 2019, that was grandfathered in, and these plans are not the same as those grandfathered plans. So, I think there’s some legal issues involved here that need to be tended to. I’ll leave it at that.”

Mr. Wood then continued.

Mr. Wood: “Can I, can I ask this? Thursday, the 25th, the Town Clerk sent me an e-mail, and said that a new plan was submitted that day. I have the e-mail, showing a revised plan, of where the solar panels were going. That’s the new plan that everybody is looking at?”

Mr. Lamphere began to respond before Ms. Light interjected, and stated that the plans that the Planning Board received should have a revision date on them. Mr. Gold then interjected that there was, in fact, a revision date on the plans. Mr. Prellwitz then pointed out that “if you look under the date that Carolyn mentions, it says ‘Survey added 6/11/2020’”. Mr. Wood said that when the Town Clerk e-mailed him, “on, last Thursday, the 25th, her, her exact words were, ‘We got a new, revised plan in the office today’, which would have been Thursday, the 25th – last Thursday.” He wanted to know if that was “the current plan”. He then asked if the “attorney was still on board” to answer questions. The attorney responded that he was still in attendance.

Mr. Wood: “So, is that the plan? The most recent plan – last Thursday, was submitted to the Town Hall?”

Mr. Surdut: “There was a plan – we submitted our plan as, uh, to the Planning Department, I believe on, it was either June 9th or 10th or 11th – I can’t recall. There was a disconnect between that plan set going to the Town Clerk, so I apologize for that confusion. We were – there was no intent on our regard to have anything other than this plan set – the appropriate plan set, and the most up-to-date, and most accurate, plan set provided to all parties, and the proper plan was advertised with this hearing. And that is the one you can view through the agenda and through the Planning Department.”

Mr. Wood: “Okay, so, my mom lives at 20 Amelia Street, Lot 47, and received all this documentation prior to the 18th of June. On the 18th of June, I called, and spoke to the Town Clerk. She e-mailed me a copy of the plans. Now, you said it was the 11th of June, that the most recent one was done. Then, on Thursday, June 25th, she sent me a newly revised plan, and said, ‘This was entered into our office today.’ I can send you the e-mail. So, I’m not - I’m just confused about – you’re saying the 11th, I called on the 18th, then on the 25th, there was a different plan-”

Mr. Surdut: “I said plans were submitted to the Planning Department. You’re speaking about your conversations with the Town Clerk, so that’s where the discrepancy is.”

Mr. Wood: “Okay. So, are the ones that I’m reviewing, on the 25th, that she sent me, the latest?”

Mr. Surdut: “If it is the same plan that has, uh, the survey added and layout adjusted 4/3/2020, and is sheet labeled C-1, and is the plan set that was available through the agenda and was posted by the Planning Department, then yes.”

Mr. Wood: “Okay. The last question I have, because I know there’s another person, so, my mom – supposedly, you have a twenty-five-foot setback, but the panels are gonna to be four hundred and some feet, according to the attorney, when my younger brother went to meet with you this Saturday – how much, from the panels, to my mom’s property line, will be cleared? Can you go all the way to the twenty-five-foot setback?”

Mr. Gold said that he could speak to that. He said “that’s north of the array, so there aren’t any shade trees there, there’d be no reason to clear that.” Mr. Wood wanted to know if that would “come in writing, or if you guys just say and do” what they’d like. Mr. Gold said that he could respond to these questions.

Mr. Gold: “I can kind of address a lot of – whether or not it’s in writing has been asked a couple of times, so I can kind of speak to that – and Steve [Surdut] can step in if I misspeak, because it’s kind of, uh, it kind of borders on the legal process and the engineering process. What we’re showing here is the concept plan. Assuming that the Zoning change and all that went through, the next design step would be to come back to the Planning Board with design plans, right. So, all these things, like the question you’re asking about whether or not it’s going to clear, the actual limits of clearing, and some of these other questions about screening and changing the array layout, that would all have to be presented to the Planning Board for the actual Design Plan Review, right? So this is the first step in the whole process. I don’t know if that was explained earlier in the meeting. So, this is the first step in the whole process. Once the Zone – the – there’s nothing really designed until the Zoning’s changed. So, if the Zoning’s changed, then we

come back with a more detailed design, that addresses the concerns that are being brought up today, and any concerns that are brought up by the Town Council, so that's your 'writing', is the actual design plan review plans, that are approved. That's what, that's what documents are gonna-

Mr. Wood: "Okay. We have to back up to the first question, and, somebody interrupted. Can you add more solar panels, down the road?"

Mr. Gold: "And, again, so, that would - with the plans that are permitted, is what Steve [Surdut] had mentioned, so, assuming it's at the Design Plan Review stage, those plans would have an array, and a fence, and a footprint. Once that's approved, that's it. That's what's approved. So, if anything needed to be - see, say, further down the line, somebody wanted to add more, it would have to, it would need a new permit. So, it wouldn't be allowed as part of the permit."

Mr. Wood: "Right, but because it's zoned Commercial, all it needs is a permit, to extend?"

Mr. Gold: "It would have to come back to the Planning Board. There'd be another process just like this."

Mr. Wood: "Okay."

Mr. Gold: "Actually, and to get into more details - I mean, this is what Grid, National Grid's allowed, so there's another - there's many layers of revisions that would be needed."

Mr. Wood: "I'm very naïve to all of this. Why wouldn't they, I'm just throwing it out, but why wouldn't they only make the area that you're putting the solar panels in zoned Commercial? And leave the rest Residential?"

Ms. O'Leary: "Because you'd have to subdivide the property."

Mr. Wood: "Well, they're subdividing it anyway."

Ms. O'Leary: "Uh, not the-"

Mr. Wood: "That's how they're splitting the two houses off."

Ms. O'Leary: "Hmm."

Mr. Wood: "So, why wouldn't the Town-"

Mr. Prellwitz: "You're not allowed-"

Mr. Wood: "Wait a minute-"

Mr. Prellwitz: "Go ahead."

Mr. Wood: "Why doesn't the Town just say, 'We'll give you,' if they're going to do this - I'm against it, but, if it has to happen, why doesn't the Town just say, 'We'll give you the fifteen, whatever it is, acres, Commercial, and the rest of it has to stay Residential,' so that, down the road, if they decided to expand, they'd have to go through the process again?"

Mr. Prellwitz: "If I may, you're only allowed to have so much of a percentage of the property, on Commercial property, as solar panels. You have to have some of it that is not."

Mr. Wood: "Okay. The problem-"

Mr. Prellwitz: "As clear as I'm thinking it-"

Mr. Wood: "We're out-"

Mr. Prellwitz: "You can't put it on the whole property. There's, there's a certain percentage that you're allowed to use, and it's zoned just that - seventeen? What is it,

fifteen acres? Then they would have to put a much smaller piece. Am I making it, uh – the way that I’m thinking about it.”

Mr. Wood: “What is that percentage?”

Mr. Prellwitz: “Jim Lamphere, could you jump in here?”

Mr. Lamphere: “Uh, thank you, Ron. Jim Lamphere – Town Planner. I’d love to jump in, and I’m gonna, I’m gonna, um, attempt to abbreviate this, um, discussion, if I can, facilitate the end of it, because we’re approaching two hours on this particular subject right now, and we have two, major applications to follow it. So, with me jumping in, I’d like to stress to the Planning Board one thing. It’s partial reiteration of what I just said, but I want to clarify it, and emphasize it. Tonight, you’re being presented with an opportunity to prevent, uh, to provide, an advisory opinion, which will help the Town Council make a decision on this matter. And, basically, it is: ‘Do we, does the Planning Board want to make a change to the Comprehensive Plan, and the Zoning Ordinance, that will ultimately serve to change the nature of the character of that neighborhood. So, I would suggest that the Planning Board not get hung up on the details of, of this site plan that’s here. Look at this from a thirty-thousand, uh, uh, -foot level, and say, ‘Is this area – and there may be some areas in Town that are zoned RFR-80, which could be rezoned, to accommodate a solar array, which would not, which would not adversely impact hardly anyone.’ So, I guess, my question is to the Planning Board, ‘In this particular instance, do you see making these changes to the Comp Plan and the Zoning Ordinance, drastically, you know, altering the nature of the character of this neighborhood, in such a fashion that we don’t want to tolerate it?’ That is the question that you’re being provided with. Do you wanna make-”

Ms. O’Leary: “Right.”

Mr. Lamphere: “a high-level, Comprehensive Plan change, or not. If you don’t, if you don’t think it’s suitable for that area of Town, with the, with the people that live around it, then, your, your, your decision is very simple here tonight. So, that’s, that’s, that’s what I’d offer you, broadly.”

Ms. Jalette then allowed one final person to call in to comment on the project, “as I stated I would allow them to do so”, but she asked them to “please be brief”, as the meeting had nearly hit the two-hour mark. This caller was Ron Bryant. He had a couple of questions.

Mr. Bryant: “In the legend, it says the front setback is sixty feet. They took liberties - is a nice of way putting it - sixty feet on the driveway. There should be a minimum sixty feet from all those residences along that long side. Earlier in the presentation, it said that everything’s gonna be underground, yet it shows along Crandall Lane that you have those large poles that you see at all the other solar sites as well, so, they’re not underground, it is, in fact, on poles. Everything that’s underground is inside the fenced in area, where, in theory, you can’t see it anyway. And, in the last one, you’ve got a sixty-foot setback for the rear. On that property, 1A and B, you’ve got twenty-five feet of setback, not fifty feet of setback. So, in my mind, this is demonstrative of that all of the rules will be bent and broken, as necessary, to maximize the value of the solar field, not for what’s best for the Town or the neighborhood. In light of this, in black-and-white, that all of these rules are being stretched to the absolute limit, I strongly suggest that the Planning Board vote ‘No’,

even though, obviously, you'll be overridden by the Town Council. That's all I have to say."

Mr. Prellwitz then asked the Board if they had any thoughts or questions about the project, but Mr. Lamphere suggested that they close the public hearing prior to beginning their discussion.

MS. LIGHT MADE A MOTION TO CLOSE THE PUBLIC HEARING. IT WAS SECONDED BY MS. SHUMCHENIA. A ROLL CALL VOTE WAS TAKEN.

IN FAVOR: LIGHT, LINDELOW, SHUMCHENIA, PRELLWITZ

ABSTAIN: NONE

OPPOSED: NONE

4-0, MOTION PASSED.

Neither Ms. Light nor Mr. Lindelow had any further comments during the period for Planning Board discussion. Ms. Shumchenia said that she had "a bunch of things" that she wanted to comment on and ask the applicant about.

Ms. Shumchenia: "First, you know, I think the discussion just now, it really didn't matter what plan we saw today. I would think that the plan presented for this property, to propose a solar array of this size, in this neighborhood, would be inconsistent with the Hopkinton Comprehensive Plan. So, while the procedural issues are really important, and it's really important that when a developer or an applicant comes to the Planning Department with a plan, that it is well-conceived – and this one, truly, was not, it's, it's really important that we have a high standard, so that the public isn't confused, that things aren't changing when they, the applicant, gets additional information, and that everyone has proper notice to be able to react to plans like these, which are, as Jim noted, huge changes to the character of our neighborhood. So, I just want to reiterate that, um, there's a number of reasons why I think this is not consistent with the Comprehensive Plan. One, it is not consistent with the conservation of Hopkinton's natural resources, particularly the protection of the ground and surface waters, which is Comprehensive Plan Goal CLN-1. It's not consistent with the conservation of Hopkinton's major natural features, and of its traditional, rural character. That's Plan Goal CLN-2. It's not consistent with the preservation, conservation, and protection of the significant natural resources of Hopkinton, as an endowment for the future of the Town. That's Goal NR-1. Notably, the eastern portion of this property is wetlands, as numerous commenters noted, and there are soils classified as prime agriculture and farm land over in the northwest corner. It's not consistent with the intent for Hopkinton to be characterized by safe, secure, and attractive residential neighborhoods. That's Goal H-1. It's not consistent with the protection of the quality of life and rural character of Hopkinton. That's Goal LU-1. As a property in Ashaway, and near the historic Hopkinton Cemetery, it's not consistent with the preservation of the historic character of the villages and surrounding undeveloped areas. That's Goal LU-2. It's not consistent with the preservation of existing farms, wildlife, and wildlife habitat. That's Goal LU-4. If you did want to try to look at

some of the positives towards development like this, in economic terms, this project does not address the Town's long-term energy costs, it does not decrease the Town's energy dependence, it does not create local jobs. The value of the forest in Hopkinton, in terms of both the ecosystem services they provide to us, and how they save the residents and the Town money, are really important to consider here. The Rhode Island Department of Environmental Management just put out a report about the value of our forests. Each acre of forest that drains into a public water source, for example, all thirteen acres of this property that are going to be developed, each acre filters 543,000 gallons of drinking water per year, which meets the needs of nineteen people, which has an average, annual value of \$2,500 per acre. So, we're talking about thousands and thousands of dollars of important ecosystem service that this land is serving this neighborhood. We can go on and on. Air filtration, um, the carbon storage, that these types of forest hold, and how much cooling they provide in hot, dry weather. You know, one tree can reach the equivalent of five air conditioners running for twenty hours. I encourage you to read about some of these really important services. The storm water absorption that we've observed, even just from the last few days, with the very intense storms that we've had in Town. If we continue to remove forests of these size, we will be paying, literally and figuratively, for decades. Thank you."

Mr. Prellwitz then said that, in the Comprehensive Plan, "there are a lot of places that it doesn't follow the guidelines", and that there are "actually only two places that encourage or promote solar – Promote energy self-sufficiency using renewable energy and conservation, that's Policy NR-5, and the next one is encourage renewable energy, Policy PSF-17."

Mr. Prellwitz: "The negatives, in my opinion, greatly outweigh any positives."

Mr. Prellwitz then asked for a motion. Ms. Shumchenia made the motion.

MS. SHUMCHENIA MADE A MOTION TO PROVIDE A NEGATIVE ADVISORY OPINION TO THE TOWN COUNCIL FOR THE REQUEST FOR COMPREHENSIVE PLAN AND ZONING MAP AMENDMENTS ON AP 2, LOT 1, 10 CRANDALL LANE #B, CENTRICA BUSINESS SOLUTIONS AND MAITLAND FOTHERGILL, APPLICANTS, FOR THE REASONS STATED:

INCONSISTENCY WITH THE CONSERVATION OF HOPKINTON NATURAL RESOURCES (GOAL CON-1);

INCONSISTENCY WITH THE CONSERVATION OF HOPKINTON'S MAJOR NATURAL FEATURES AND OF ITS TRADITIONAL, RURAL CHARACTER (GOAL CON-2);

INCONSISTENCY WITH PRESERVATION, CONSERVATION, AND PROTECTION OF THE SIGNIFICANT NATURAL RESOURCES OF THE SIGNIFICANT NATURAL RESOURCES OF HOPKINTON AS AN ENDOWMENT FOR THE FUTURE OF THE TOWN (GOAL NR-1);

INCONSISTENCY WITH THE INTENT FOR HOPKINTON TO BE CHARACTERIZED BY SAFE, SECURE, AND ATTRACTIVE RESIDENTIAL NEIGHBORHOODS (GOAL H-1);

INCONSISTENCY WITH THE PROTECTION OF QUALITY OF LIFE AND RURAL CHARACTER OF HOPKINTON (GOAL LU-1);

INCONSISTENCY WITH THE PRESERVATION OF THE HISTORIC CHARACTER OF THE VILLAGES AND SURROUNDING UNDEVELOPED AREAS (GOAL LU-2);

INCONSISTENCY WITH THE PRESERVATION OF EXISTING FARMS, WILDLIFE, AND WILDLIFE HABITAT (GOAL LU-4).

MR. LINDELOW SECONDED THE MOTION.

There was then some confusion about how the votes should be rendered. During the roll call vote, Ms. Light stated that she was “against this project development”, so she was a “no”. Mr. Lamphere said that each member should “be careful how you vote because you’re voting on a motion, you’re voting on a motion that was made by Emily [Shumchenia]. You either approve that motion, or you not approve that motion.” Mr. Clough also stepped in, and said that “the motion on the floor was to make, have the Planning Board make, a negative recommendation, so, just to, just to explain: a ‘aye’ vote, or ‘in favor’, to send a negative recommendation to the Town Council, a ‘nay’ vote would be to vote against making a negative recommendation to the Town Council.” Ms. Light thanked Mr. Clough and clarified her vote.

Ms. Light: “Thank you. This is Carolyn [Light]. Let me clarify. I am voting ‘yes’ to the motion that is on the floor.”

MR. PRELLWITZ CONTINUED THE VOTE. MS. SHUMCHENIA VOTED YES. MR. LINDELOW SAID THAT HE WAS “A VERY EMPHATIC ‘YES’, I AGREE WITH THE MOTION TO DENY”, AND MR. PRELLWITZ ALSO VOTED YES.

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

4-0, MOTION PASSES.

OLD BUSINESS:

Approval of Reforestation Plan and Setting of Reforestation Cash Escrow Bond – Major Land Development – Photovoltaic Solar Energy System – AP 4, Lot 25 – 310 Main Street – 310 Hopkinton Main Realty, LLC, (successor in interest to Maxson Hill, LLC) and GD Hopkinton

Main I, LLC, (successor in interest to Rhode Island Solar Renewable Energy II, LLC, c/o Anthony DelVicario).

Mr. DiOrio returned to serve as Chair. Mr. Prellwitz returned to his role as Vice Chair.

Ms. Light asked to make a statement before the discussion got underway. Mr. DiOrio gave her the floor.

Ms. Light: "I am recusing myself from this portion of our meeting, and I'd like to give a little bit of insight as to why I am doing that."

Ms. Jalette: "Go ahead."

Ms. Light: "Okay. Early this evening, an e-mail was sent to Mr. DiOrio, Mr. Lamphere, and our Solicitor, Mr. McAllister, with receipt on it. It was the formal recusal from the Maxson Hill hearing, and I'd like to give you guys a little bit of insight into what occurred. In, in 2018, my husband and I, uh, decided that we were going to support an organization called Hopkinton Residents for Responsible Planning. We gave a financial contribution to the organization, to support their efforts to bring attention to what we, at that time, perceived to be an incorrect movement by the Town Council. Since then, I decided that it was my responsibility to better support my community by participating in Planning Board activities. Ultimately, I was supported unanimously by the Town Council to become a permanent member to the Planning Board. In November of 2019, an e-mailed letter from Attorney Mancini was sent to all the members of the Town Council and the members of the Planning Board, and our Solicitor, outlining the reasons why 'Carolyn Light should recuse herself from the Maxson Hill project hearing'. I'd like to point out that a letter that I sent to the Ethics Commission explains my position was about the behavior of the Town Council, and it was not in, um, opposition to solar development. A letter was eventually served to me by a Constable the following week. Mind you, the Planning Board and the Town Council had this letter for, probably, five days, before a Constable came to my home and served me. And, I'd just like to point out this letter is going to be available to anybody who would like to read it, since it was eventually leaked to the Press, but I'll, I'll just give you some bullet points that stand out: 'Mrs. Light conducted [unintelligible]... Ms. Light failed, either negligently or purposefully, to indicate her financial contribution to the Ethics Board.' This statement – the communication – was not true. If Mr. Mancini had paid better attention, he would have noticed, that in the second paragraph to my letter to the Ethics Commission, I disclosed that information. Additional comments: 'extreme levels of bias and violations of fundamental tenets of Rhode Island General Law', another comment: 'conduct and actions of Mrs. Light are unprofessional and prejudicial, going beyond an appearance of impropriety.' It points out that I 'can be prosecuted in RI Superior Court if I don't recuse myself, and the petitioner reserves his right to proceed to Superior Court, for a declaration of the respective parties' rights.' With my interest, in my community, and my support for our community, I'm not going to taint the hearing tonight by participating in the hearing. I am formally recusing myself. I trust that the Planning Board has the intelligence, the ethics, the moral stability, and all of the information they need to make an appropriate decision on behalf of the Town of Hopkinton. Thank you, and I'm signing off."

Mr. DiOrio then asked Mr. Lamphere to give “a little introduction” to the agenda item before the Board began to “delve into the facts”.

Mr. Lamphere: “Sure. Let me attempt to summarize what we have. In your packet, we’ve provided you with a whole ton of information. But the charge, the charge for the Planning Board tonight, is, first, to approve a reforestation plan, and then approve a dollar amount to implement that plan. Now, what we’ve, what we’ve seen, provided to us in the past, was: a reforestation plan, that was dated back in June, I believe, of 2019. That, that plan was amended, with a date on it: October 3, 2019. It was prepared by Mr. Marc Tremblay, and, on page five of that amended plan, he estimated the cost of that to be \$96,276, with a twenty percent cost estimate, contingency cost, which brought it to a total of \$115,531. So, that is the amended plan that we have with a cost estimate. Now, we then went out and procured the services of Mr. Scott Hobson, who took a look at that amended plan, to see it [unintelligible], and that, that determination is in your packet as well. It was a Crossman memo, dated November 25, 2019. So, so, we have, we have someone who prepared a plan, the amended plan, someone – a biologist – who looked at the plan, and approved it, we have dollar amounts associated with it. Crossman [Engineering] went out and procured the services of a Christopher Riely, from Sweet Birch Consulting, who did his own, independent, third party cost estimate, to implement that amended plan, and the total of that, including a twenty percent contingency cost, was \$136,645.38. Um, so, those are, those are basically the numbers that we have to come up, to implement this plan, and I would ask the Planning Board to consider, consider those, as a starting point. I’m sure we must have representatives of the application here to speak as well, so I’ll let them take over from here. Um, that’s basically, in a nutshell, what the Planning Board has to deliberate on tonight. Thank you.”

John Mancini, an attorney for the applicant, was the first representative to speak before the Board. He said that Mr. Lamphere “did a good job in giving a recitation of the facts”, but that he “wanted to add a few other points.”

Mr. Mancini: “We have two experts with us this evening. One is Marc Tremblay, who, as Mr. Lamphere noted, prepared the plan, and has been working with us with respect to the restoration plan, along with the numbers that establish the restoration bond. I also have Nicole Mulanaphy, who has been with the project from the beginning. She’s with Sage Engineering, and she can also enlighten us with some other points to the restoration plan, as well as answer any questions. Importantly, the plan was reviewed by your consultant, your peer-reviewer, Crossman Engineering, in conjunction with Marc Tremblay. The plan, and restoration bond was all reviewed, and then Crossman Engineering and Mr. Tremblay elected to choose a third party, independent reviewer, and that is Sweet Birch Consulting. They further reviewed the plan, and they developed a restoration bond number in the amount of \$136,645.38. We don’t disagree with that number. We are, we accept it. We don’t disagree with any changes or comments made by Sweet Birch Consulting. We also are accepting that, made by Crossman Engineering, we know that this has been, kind of, up since October 2019, where it started at \$115,000. Crossman also did another cross-section and conceptual cost estimate plan, in December of 2019, in the amount of \$220,113, and, again, that was further reviewed by Mr. Tremblay and

Sweet Birch Consulting. So, with that, I have Mr. Tremblay with us, he's on the line. I think it'd make sense to walk through, a) the process, and, and, and b) the, the numbers themselves, and he, I think, could probably best work with the Board, some of the variations that have caused the changed number, why the original number is one fifteen, which Sweet Birch recommended one hundred and thirty-six thousand. So, with that, unless the Board has any questions of me or the process in which we undertook in compiling these numbers, we're prepared to have Mr. Tremblay speak further on."

Mr. Tremblay then spoke before the Board. He said that he had "put together" the reforestation plan, "the original one, a year and a half ago or so", and "amended it after one of the Planning Board hearings to incorporate some additional information that was from the input at the meeting." He said "that resulted in my October 3rd amended, and cost estimate." He stated that the changes "basically, increased the, the amount of the contingency to twenty percent, and incorporated a couple of other cost factors in there." Mr. Tremblay then said that "after Crossman Engineering had had their engineer perspective, engineering perspective, to apply to this, they ended up with some much higher labor costs, than, than, than Mr. Riely and I had, from the USDA cost estimates, and they also included removal of the tree tubes, that are part of the process. So, there's a, several steps, to the, to the reforestation plan, as you can see, if you've had time to review the plan, but it includes a supervising forester, who will oversee the project, it, it involves purchasing the plants, and some four-foot-tall tree tubes, that you put around the plant to protect them from, what is very likely going to be deer browse problems, and, you know, the labor and the equipment are listed for a hand-planting crew, which, this is not very common in southern New England, and, you know, I had to go abroad, so to speak, down South, and through where I used to work, the state of Mississippi, and I used to supervise, in effect, planting crews, back in another lifetime, my early years as a forester for the state of Mississippi, and this is my experience, and I seriously doubt there's any other forester here in Rhode Island that has that similar experience, but I'm, this is how I based my estimate, is that there are companies that have tree planting, contracting, tree planting crews, that travel around the country, and they plant trees in the down South in the Winter, and they come up, come up, and they plant trees in Maine and Nova Scotia and different places during the Spring. So, the idea would be to grab one of those crews, at their rates, which is where I got my labor rates." He said that this was "much different than what you would pay a landscaping, a landscaper, a local landscaper, to, to, to plant trees. It's not the, certainly not the same type of operation, and someone on the Planning Board brought up-"

At this interval, Mr. Tremblay was interrupted by a meeting participant who began baby-talking to their dog. The person was briefly muted so that Mr. Tremblay could continue. He then began again.

Mr. Tremblay: "the local, union requirement, which could be a factor, you know, perhaps, twenty-five, thirty years from now, perhaps even more so, who knows, but, so, so, that would have to be included, you know, probably hiring a supervisor from a local union to supervise these planting crews would, likely, the resolution to that."

Mr. Tremblay said that they had “factored that in, and increased the labor rate” in the estimate. He then said one thing that is included, and “maybe speaks to a little bit of a difference between my estimate and Mr. Riely’s estimate and the Crossman estimate was the cost of removing some of those tree tubes in the future, two, three, four years after they’re planted.” He explained that “you often will have to go through, and will strip those plastic tree tubes off, so they don’t choke the tree as it does develop.” He said that “there’s some additional cost for that, which would be factored in.”

Mr. Tremblay then asked if the Board members had any questions. Mr. Lindelow wanted to know “what happens to the tubing if we don’t take those out.” Mr. Tremblay said that the “plastic basically degrades in sunlight, so there are some cases where if you don’t remove the tubing, it might, you might have a little bit of ingrown wire or tubing, which could girdle the tree down the road.” He said it is “not necessarily the tubing itself, it’s the wire that holds the tubing and the stake around the tree.” Mr. Lindelow asked if they were “proposing that we just leave it all there.” Mr. Tremblay responded that someone would “just go through and clip the wires, and knock off any tubing that is still on the tree.” Mr. Lindelow asked if “there was a cost for that is your estimate”, and Mr. Tremblay said that “in my estimate, there was not.” He said that it was “something that I had overlooked, and that was brought up by the Crossman Engineering firm.” He then said that Crossman Engineering “had included a cost of \$16,000 dollars to do that.” Mr. Tremblay said that that cost was “high, but it’s fairly, it’s reasonable. It’s about 10,000 of them, that you’ve got to walk through, you’ve got to have a crew of two to three guys, just walking through, cutting wire for, you know, a week’s worth of time, over for 10,000 of these trees.” Mr. Tremblay said that “if you add that to my, my cost estimate, you’d end up with about \$130,000, which is pretty close to what Sweet Birch’s cost is.” Mr. Lindelow said that when he looked at Crossman’s estimate, it read \$77,000 for the removal of tree tubing. Mr. Tremblay said that “they [Crossman Engineering] revised that” down to “\$16,000 for removal”. Mr. Tremblay said that his “planting cost included the labor for installing those tree tubes.”

It turned out that the most recent estimate from Crossman Engineering had, erroneously, been left out of the Planning Board’s packet. Mr. Tremblay said that he had met with Crossman, and that in the most recent estimate, Crossman Engineering had removed “several items that were beyond the scope of this reforestation plan.” The numbers were adjusted to reflect the “actual number of tree tubes that needed to be done, and a couple other things”, so Crossman’s bottom line “on December 13th was \$224,000 and change.” Mr. Tremblay said that they had discussed the cost differences with Crossman, “and came up with a much more reasonable, more accurate number, and then Sweet Birch Consulting was also hired, on top of that, to do his report.” Mr. Lamphere said that he did not have the revised number, but that he had the original, which was “\$436,000 – quite off the mark from what you prepared, Mr. Tremblay.” Mr. Tremblay said that at the December Planning Board meeting, they had compared notes with Crossman Engineering, where “we got on the same page with the work items in the reforestation plan, and they came up with \$224,000.” Mr. Lamphere said that he did not have that spreadsheet in front of him, and Mr. Mancini said that it was e-mailed to him in December, and that these conversations, between Crossman Engineering, the applicant,

and Sweet Birch had resulted in the \$136,000 total. Mr. Mancini said that it was critical that the Board received that information. Mr. Lamphere asked Mr. Mancini if they would be “in favor of accepting that, that number.” Mr. Mancini said that they were “amenable to the \$136,645,” but “if you wanted us to accept the \$224,119”, if Crossman Engineering “prefer the two twenty-five over the one thirty-six, then we’d want to know why, because they’re the ones that appointed Sweet Birch Consulting.” Mr. Mancini said that “we don’t have any indication from Crossman that they disagree with that number.”

Mr. Lamphere said that “the first step is: do we have an amended landscape – reforestation plan, that the Board is satisfied with. That’s the first thing. Then we can talk about what number to apply. I mean, we got, we have enough experts here today. We have Mr. Tremblay, we have Mr. Riely, we have Crossman, who’s going to weigh in, even on the next, the next plan here, tonight.” Mr. Tremblay said that at the Planning Board meeting in December, “I don’t think anybody had any issue with the reforestation plan itself. The discussion was the bond amount.” Ms. Shumchenia said that she did have “some concerns about the plan itself, and the difference from the Crossman estimate, that haven’t been addressed.” Mr. Tremblay wanted to make sure that the discussion was “about the plan itself, versus the cost estimates.” Mr. Tremblay said that the plan is “the process we go through to have - make sure the site is ready to be, you know, planted on, acquire the number of trees, the species of trees that we would require, the hiring the consultant to oversee the process, a restoration, a year or two later if there’s a certain percentage of failure – all those kind of procedural issues is the plan. The cost estimate is what we’re discussing here, I believe.” Mr. Lamphere said that “we’re discussing both”, and asked Ms. Shumchenia is she was “prepared to tell us what your issues are with the amended reforestation plan, and we can assess them, and maybe determine some sort of a dollar amount that these experts might be able to agree to? Such that we can come up with an amended, amended plan tonight? And, also, an appropriate dollar amount for that? I’d like to see if we couldn’t conclude this tonight, if possible, with all of the people we have here.” Ms. Shumchenia said “yes, absolutely.”

Ms. Shumchenia: “I mean, you’ve basically outlined it, Jim. The material before us, there is no single document that captures everything, I think, that we’re trying to look for. We have an amended plan that is incomplete because it doesn’t include a line item to remove tubes, stakes, and ties. I also mentioned at the last in-person meeting that I thought that the post-planting monitoring period that the Crossman estimate included for five years, to take a look at the success of the plantings, evaluate them, that that was something I was interested in seeing in a final reforestation plan, and there is no, in Mr. Tremblay’s plan, there is no line item for a guarantee, as is included in the Sweet Birch plan, or you know, something of that nature. Basically, in the Sweet Birch plan, he says they’ll replant up to twenty acres of, of plants, and include the labor for that during some subsequent year, to account for, you know, up to thirty percent mortality, or something. So, there’s elements of the Sweet Birch plan that are good, that should be put into this. There are elements of the Crossman plan that are good, that should be put into this, but the, the amended plan, that we have in our packet does not have those components I just noted, and, therefore, I can’t agree to it. It’s incomplete in my mind.”

Mr. Mancini said that “we incorporated those in that twenty percent contingency issue, so, in the mark up of the Crossman Engineering, we don’t have a disagreement with respect to removal and installation of the tree tubes, the post-planting monitoring for a minimum of five years, or the one year guarantee minimum, so, that can be incorporated into the restoration plan. We don’t have a problem with that. That was, those were the comments that were also made by Crossman. We agreed with them. We, we, I believe, we believe those are already incorporated in Sweet Birch’s comments, so we don’t have an issue with that. We thought that there were already contemplated in the twenty percent, which was part of the, part of what was provided, so we can agree to that.” Ms. Shumchenia said that she “disagree with that”, as the Sweet Birch plan “includes a separate twenty percent contingency, on top of that, you know, one year, twenty acre guarantee. So, I think they’re quite separate, so I think it’s a separate line item.” Mr. Mancini said that the “dollar amount is the twenty percent for those items. We can do, we can agree to, Crossman’s itemization in its, in its conceptual, in what is known as the Conceptual Engineers’ Cost Estimate for Restoration Plan. Those items, those items one through eleven, we agree with, and they will be in the plan, and then those that have also been quantified with numbers, and I believe that that’s also been carried through in the Sweet Birch estimates, and in their quote – I mean, they’re here this evening, and Crossman’s your engineer. They’re your peer reviewer. They’ve proposed it, and we’ve agreed with it.

Ms. Shumchenia said that “the items, one through eleven, in the Crossman thing, the Crossman estimate, their Conceptual Engineers’ Cost Estimate, I do not see a one through eleven in the Sweet Birch estimate, and I don’t see the one through eleven in your amended plan, either. You know, there just has to be one plan, with all this stuff in it, for us to look at.” She continued, saying that the Board has been “asked to look at like, multiple documents and mix and match.” Mr. Mancini said that “we can agree to the Crossman Engineering Conceptual Engineering Cost Estimate Restoration Plan, one through eleven, we don’t have an issue with those items.” Ms. O’Leary said that “they’re not in your plan.” Mr. Tremblay asked to make sure that all parties were talking about the same plan, and Mr. Mancini said that the items that Ms. Shumchenia was requesting could be “incorporated into your plan”, to which Mr. Tremblay said “of course.” Mr. Tremblay said that he “could re-amend my plan, if that’s the proper word, to incorporate those specifics, if you’d like.” He could also determine a final number, which he said would be “close to this \$200-and-plus-thousand bond proposal.”

Mr. DiOrio asked Ms. Shumchenia if she was “pushing for a document, a revised document, that you’d like to have before you say ‘yes’ or ‘no’”. Ms. Shumchenia said yes, and Mr. Lindelow said that he agreed with Ms. Shumchenia. Mr. DiOrio then asked if “folks are uncomfortable with the admission that the applicant is prepared to accept these revisions, again, I’m only looking to endorse Jim’s idea of finalizing tonight, if at all possible. I don’t want to do that at the risk of making people uncomfortable. So, give me some direction. If this is what you want, this is what, we’ll make it, we’ll make it happen.” Ms. Shumchenia replied that “we haven’t seen that December 13th version of this spreadsheet, we’re looking at November 25th. I would love to have this, you know, finished tonight, of course, we want this wrapped up as quick, as quick as possible, but I

mean, I haven't seen that document. I would feel really uncomfortable agreeing to something I haven't seen." Mr. Lindelow said he wasn't sure "what Mr. Mancini's agreeing to". Mr. DiOrio continued.

Mr. DiOrio: "If a couple of Planning Board members feel that we need a revised document, then let's not waste each other's time. Get the right document. Put it all in one place, the way Emily [Shumchenia] suggested, and we'll move forward based on that."

Mr. Mancini asked if representatives from Crossman Engineering were on the line, as "they would know, they prepared the plan, I mean, they can tell us what they have and what they've submitted." He said that he "could make it very easy", and that they were okay with incorporating the items to the reforestation plan, and that "Crossman can confirm it, and the matter is complete." Mr. DiOrio responded that he understood that, but "that's not what the Planning Board members are directing us to do." Mr. Mancini asked "that the Board direct us, because Crossman is not our engineer. We, we don't have control over Crossman, so, we'd ask that, that the Board ask Crossman, to give them a recommendation of that, with a complete plan, and we'll, we'll - give that to us and we'll finalize that." Mr. Cabral weighed in, stating that "the item numbers one through eleven are essentially identical from November and the December cost estimates, and the reason the numbers are different is that the original estimate was based on more of an engineering perspective, with, you know, typical union rates, and typical landscape companies and their forests, and, at the suggestion of the, of the Town, we did meet with the applicant's professional forester, and we had a lengthy meeting, where we discussed, you know, the process and the forestry profession and the type of labor that would be used, and so we did amend our estimate in December, with lower rates, but the actual item numbers one through eleven stayed the same." Mr. Cabral continued, stating that "because our numbers were higher than the applicant's, it was agreed upon to hire an independent, professional forester, a Mr. Chris Riely, to prepare his own estimate." "What we did do," said Mr. Cabral, "is we did not give him our estimate, because we wanted his to be completely independent. So, that's why, in the Chris Riely estimate, he doesn't have the same exact numbers, because that's really not what we were looking for. We wanted a complete, independent evaluation, by a professional forester."

Mr. Mancini asked Mr. Cabral "what the number was that you came to, on your December 13, 2019 plan or estimate." Mr. Cabral replied that it was \$224,113. Mr. Mancini asked if that "was submitted to the Board, or to the Planner." Mr. Cabral said that, "in all honesty, I don't recall who it was e-mailed to last Nov- last December." Mr. Lamphere said that he would check his e-mails when he returned to the office, but that he didn't recall seeing it, though "I'm not going to say" that he did or did not receive it. Mr. Cabral then said that what he believed was happening at that time was that "because there was still a big difference between our numbers and the applicant's, that it was decided that we weren't going to, essentially, push our numbers. We wanted, we're more interested in the independent forester's number, Mr. Riely." Mr. Lamphere said that that was his recollection as well, and "that's how we got the independent, third party person to begin with". Mr. Cabral said that it may be possible that Mr. Lamphere did not have the document "because, at the, at the time, it wasn't, it wasn't relevant." Mr. Cabral then

said that “certainly, tonight, I wish I did e-mail it, if I didn’t.” Mr. DiOrio recapped the discussion.

Mr. DiOrio: “Gentleman, you’ve got to put all your eggs in one place, so that the Planning Board has a single document to review and accept. So, I don’t care how it happens, I just want you to make it happen. Work with the Planner, get it sorted out, get it back before us, and let’s get this done. We’re good?”

Mr. Mancini: “Yeah, yeah, that’s simple. We can do that. We can work with Steve [Cabral], and, and ensure that this document from December 13, 2019 document gets to the Town with the amended reforestation plan.”

Mr. DiOrio: “Outstanding. Planning Board members, are you with me on this? I don’t mean to, uh, usurp anyone’s thinking, but if you object to the strategy that I’m proposing, please let me know.”

Mr. Lindelow: “My question is: if Crossman has eleven line items, and Sweet Birch, on the front page mentions, six line items are, are some of those – I guess I want to be able to compare where things are combined and what we’re removing from Crossman’s list of eleven items to these six items that I’m seeing on their cover page. I don’t know how to compare those two things.”

Mr. Tremblay said that he will “prepare the amended - re-amended – reforestation plan.” He said that he is “not going to touch the reforestation plan itself. I will a page that details the work items. I’ll make sure that they correspond with the Crossman estimate from December that is, is in people’s inboxes, I’m sure, by tomorrow.” He then stated that then it will “be clear to everybody that we’re talking apples and apples here, and incorporating the different viewpoints that have been processed through this.” Mr. Lamphere interjected.

Mr. Lamphere: “It’s my understanding, from listening, from Emily [Shumchenia], okay, she wants elements of all of them, so what, what is wrong with taking the spreadsheet from Crossman, the Sweet – the additional items that Sweet Birch put in their estimate, put them into the amended reforestation plan, and let’s come back with a spreadsheet from Crossman that has a recommended number to do that, right? We’re trying to make an amalgamation of all these plans, right? Look, I think we’ve made tremendous progress tonight, okay. I think we know where we need to go, just get it done, and it should be a five-minute meeting at the Planning Board meeting, as I see it. I mean, this is, this is not rocket science.”

Mr. Mancini: “Jim, Jim - we can absolutely – that, that’s exactly what we’ll do on, and we’ll have it over to you. That’s, that’s – that can be done.”

Mr. DiOrio: “Okay, very good. So, again, if Planning Board members are okay with this, let’s have a motion to continue this until August – bear with me-”

Mr. Lamphere: “5th.”

Mr. DiOrio: “Thank you, August 5th.”

MR. PRELLWITZ MADE A MOTION TO CONTINUE THE DISCUSSION UNTIL THE AUGUST 5, 2020 MEETING. IT WAS SECONDED BY MR. LINDELOW.

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

4-0, MOTION PASSED.

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

Mr. DiOrio asked the Planning Board members to consider how they wanted to proceed, as it was nearly 10:00 p.m., and the agenda called for adjournment at 10:00 p.m. The Board had the opportunity to extend the meeting beyond the 10:00 p.m., or close the meeting for the evening. Mr. Prellwitz was the first to weigh in. His opinion was that because “there’s gonna be a lot of input, coming from the audience”, so he thought “we should probably postpone this to another time. It’s going to be a lengthy conversation.” Ms. Light said that it would be “unfair to the applicant to put these kinds of time constraints on their presentation”, so she was not in favor of extending the meeting. Kerin Browning, the attorney for the applicant, said that all parties were there, and that they were looking forward to presenting, though they noticed the time and did acknowledge the 10 p.m. adjournment, though she ultimately “respectfully request[ed] an extension past ten o’clock, even if it’s just to start the presentation”, but she left that up to the Board. Mr. DiOrio said that he appreciated Ms. Browning’s comments, but that he hadn’t heard from all of the other Planning Board members yet, but that he had his own stance.

Mr. DiOrio: “My day starts at three o’clock in the morning. You get to ten or eleven o’clock, I’m running on fumes. So, I certainly don’t mind starting, or having you start your presentation. My concern for you is we’re eventually going to get to the point where I’m gonna drop the curtain and, if you’re okay with doing a piece of it, I guess I would be okay, as long as you don’t feel compromised. Kerin? Feedback?”

Ms. Browning: “I, I appreciate that we’re all tired, um, and I, I certainly don’t want to extend anyone’s night any longer than it has to go. I guess, I, I, I leave it up to the Board, respectfully.”

Mr. DiOrio: “Okay, let’s hear from the other Planning Board members, then. Who else would care to weigh in on this?”

Mr. Lindelow: “Keith here. I, I’d just prefer to start fresh from the beginning, and not start tonight.”

Mr. DiOrio: “Okay, I’ve got three.”

Ms. Shumchenia: “And, uh, this is Emily. I had in my notes about this. There was still an outstanding question about – on this project – a note from Jim, actually, about approval from the Fire Marshal. There’s some other items identified in the Crossman review of, of the plans that, I think, unless the applicant planned on, you know, rectifying all of that for us tonight, I think that giving them some extra time to address those things before they come before us again would be a good thing.”

Ms. Browning: “So, if, if I could respond to that: the Fire issue has been addressed and Fire has been in contact with Planning. The Crossman comments – it’s my understanding that everything has been addressed, or will be discussed during the presentation, um, and,

and resolved. We have continued this matter, already, once, and I know that everybody on your side, and on our side, is looking forward to getting this done, um, and I don't, don't – what I'm trying to do is avoid another, um, another wait, of another month. Would it be possible to do a Special Meeting sometime before your next scheduled meeting of August 5th?”

Mr. DiOrio: “I'm going to defer to the Planner for that kind of discussion.”

Mr. Lamphere: “Uh, okay, Jim Lamphere, Town Planner. I would, I would certainly be amenable to, personally, to any number of meetings necessary to get the work done that I gotta get done in my Office, okay. I already see one thing coming back tonight, from tonight to next month. I see this is definitely coming back next month. I already have four things for next month, regardless of this, and with more to come. So, um, I know solar has taken up a tremendous amount of our Planning Board's time lately. There are other residential projects that have to get through the system, so, making this short, just so that we don't have a total waste of everybody's time and an evening here, okay, it's almost ten o'clock, if we could just get an extension to ten fifteen, with the, with the, with the purpose of – now, the Planning Board has been provided with a tremendous amount of information, okay. One of the things, we have a memo from Crossman, stating that, you know, a good number of the issues have been resolved between DiPrete [Engineering] and Crossman, okay? Um, but not all of them. So, I would ask the Planning Board members, just so that we can give the applicant some direction, based upon how you feel about this project, I mean, I, I see that there's potentially a number of open-ended things that the Planning Board hasn't even contemplated yet. They've mentioned them in the past, but they haven't really delved into them. And, and, I'm thinking about things like, I don't know if any of the Planning Board members have taken advantage of the invitation extended to them to visit the site. I don't know how – now let me finished – I don't know if the Planning Board, how, how the Planning Board might feel about potentially kicking this back from a Residential zone. That, that really hasn't been fleshed out yet. We have the public to hear from on this, so, again, do you, do you think the Planning Board would be comfortable, tonight, based upon the information that you've been provided in your packet, the site plans you have, the landscape plans, are there any issues that you would like this applicant to further develop before we come back, in August 5th, so that we don't waste a month getting right back to the spot where we are right now.”

At this interval, Ms. Jalette reminded the Board and the Planner that, as it was now ten o'clock, it would be prudent for the Board to vote to extend the meeting until ten fifteen.

Mr. DiOrio: “Al DiOrio – I kind of like Jim's idea. I can, uh, I can gather up the fortitude to go for a small amount longer, ten fifteen, ten thirty is okay with me, and I'd very much like Jim's idea of, again, presuming that the applicant is okay with this, giving the applicant Planning Board feedback. So, that means the applicant doesn't do a presentation tonight. Instead the Planning Board members, uh, I'm sure, have made notes. Let's give those ideas to the applicant so when we get together next, we can be more productive. What do we think about that?”

Ms. Light and Ms. Shumchenia agreed. Mr. Prellwitz said that he would agree to ten fifteen.

MS. LIGHT MADE A MOTION TO EXTEND THE MEETING UNTIL TEN FIFTEEN. THIS WAS SECONDED BY MR. PRELLWITZ.

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

4-0, MOTION PASSED.

Mr. DiOrio asked Ms. Browning if the applicant was amenable to this plan of action. Ms. Browning asked if Ralph Palumbo would be able to speak. Ms. Jalette said that he would have to “raise his hand” by pressing *9 to be recognized on the call, which he had not done. Ms. Browning said that she was texting Mr. Palumbo to assist him in calling into the meeting. Ms. Jalette reiterated that he would only have to press *9, which was the directive for all parties to be recognized on a call. Mr. Palumbo finally “raised his hand”, and began to speak.

Mr. Palumbo said that he appreciated the time constraints and Mr. Lamphere’s suggestion “so we have some productivity from this”, and that he welcomed “constructive guidance from the Board at this time.” Mr. DiOrio said that he was “ready to lead on this”, and began.

Mr. DiOrio’s first comments “had to do with the Sage Report, 6/10/2020.” His comments were that “there’s some discussion about modifications to the construction plans. I think I need clarification on just how you plan to pull that off. Are you coming back to the Planning Board? Is this going to be worked out with the Town Planner? The Town Engineer? I think there needs to be some clarification. You can’t just have folks making adjustments to construction plans, uh, all helter-skelter.” He then had comments on the Crossman report, dated 6/24/2020, “which I think speaks to the same topic – ‘conditions requiring improvements’ – I think we need, I need a little more clarification on that particular topic.” He also commented on the landscaping details.

Mr. DiOrio: “You’ve also got some landscaping details that incorporate fences. I don’t know where this idea came from. This is not Cranston, and I know, so fences don’t really belong here. Now, I know that we’ve made an exception to this rule. It had to do with Main Street. In hindsight, I’m not sure that was the best idea. I’d like you to take another look at how you’ve arranged your fencing on the berms, and see if we can get back to using landscaping as buffering, instead of putting fences up.”

Ms. Browning interjected for a “point of clarification”, as the Solar Ordinance states that a fence “would be required” around the array. Mr. DiOrio replied that he would “need to review that”, but that it the applicant may have “done the right thing” and that he may be “misjudging”. Ms. Browning said that that they’ll make a point of having that discussion, and Mr. DiOrio said that he would “go back, and review that myself.”

Mr. DiOrio: “And then, my last comment here, the rather volatile topic of decommissioning. So, I gotta, just two comments. First, who are the experts? I got stuff flying all over this package, but I’m not sure who the expert is, and I’m referring to our ex- - I’m gonna put the term expert in quotes – our ‘expert’ as well. Someone put together a piece of information, but just because you’ve got P.E. after your name, in my opinion, is not going to be enough to designate you as an expert on decommissioning -”
Ms. Browning: “So, if I could just, again, clarify for that, that point, um, your Solar Ordinance actually requires that the project engineer, a licensed, Rhode Island engineer, submit a decommissioning estimate, so that was done, and, in addition to that, We Recycle Solar has been retained by the applicant to testify in addition, as, as the project expert. I’ll take it one step further – we have had discussions, obviously, your peer reviewer, Crossman, has reviewed all the information we’ve provided, and, um, they have their own estimate as well.”

Mr. DiOrio: “And I’m actually – it’s the latter that concerns me.”

Ms. Browning: “The Crossman estimate?”

Mr. DiOrio: “Correct. I’m, I’m well aware that you have an expert, in, on your, on your team, and we have a report from them, and we’ll get into their areas of expertise at the appropriate time, but I’m looking for Crossman to step up and say, ‘Why are you the expert here?’ And so, those are my only comments, as far as I got in reviewing your significant package. I’ll look forward to other Planning Board members chiming in with their concerns.”

Mr. Prellwitz stated that he “had no more concerns at this time.” Ms. Light had a few thoughts that she wanted to share with the applicant.

Ms. Light: “I, I gotta tell you, I am impressed with where this project is going. I like, uh, the effort for the setback. Um, the landscaping plan is nice to see, and I think that we have a strong possibility that we can all get to the same place at the end of the day. I do have a question, which would be, how come we can’t do a hundred-foot setback around the entire site, and the other question, well, it’s not much of a question: I’d like to see a State permit that indicates that the Vinagro facility is approved to accept electronic waste. Per the technical data sheet that was supplied to us in our binders, at the end of the day, it indicates that it’s e-waste.”

The stenographer who was hired by the applicant then asked Ms. Light to repeat what she said, as it was not clear whether she was saying “indeed waste” or “e-waste”. Ms. Light explained that she meant “e-waste”, or electronic waste. She then continued.

Ms. Light: “And then, further, I had to do a little more research, and I learned that Rhode Island is prepared to accept more residential-size electronic waste in its facilities, there’s – when I called the Department of Environment, the DEM, I was told that they don’t know the answer to how one would dispose of a residential solar panel, not, not even the commercial, so, I’m, I’m asking for some verification that the facility these would be sent to is licensed in the State of Rhode Island to handle that waste. And, that’s all I have to say. But I’m, I really am excited with the, the development of the plan and the direction

that it's going. I guess you'll have to address these other strong issues at a later date. Thank you."

Ms. Browning: "If I could just respond briefly, um, regarding the setbacks. The setbacks proposed at this point do comply with your Ordinance. Um, there was a reference to the Vinagro, I believe the Vinagro report that was submitted. Um, we want to be clear that the pre-decommissioning estimate and the We Recycle Solar estimate were, or are, the ones that the applicant's relying on. The Vinagro was provided only as additional support. Also, it's my understanding that e-waste does not typically include solar. If it's not hazardous, there may not be specific licensing requirements. But, if you'd like--"

Ms. Light: "I hate to interrupt you here, and ask you to refer to the technical data sheet, that was provided us, to us, in our packets, because the tech – the TDS, does clearly state that it's e-waste."

Ms. Browning: "Okay. We will check that. Thank you."

Ms. Shumchenia also had a few comments for the applicant.

Ms. Shumchenia: "Aside from the other issues that have already been raised, I noticed in the cover letter to the environmental impact statement, it talked about the grading that's proposed, and, um, it mentioned that there's an area to be graded to 7.25 feet, where groundwater was found at 8.5 feet, and I interpreted this to mean after grading, essentially, the groundwater would be within fifteen inches of the surface. Similarly, in another area, the grading would be 10.7 feet. Groundwater was found at nine feet, and, in this case, groundwater would be within twenty-one inches of the surface after this grading, so, you know, I would be concerned. I have a background in environmental science, I understand that soils are very well-draining, sandy, stony. It seems to me that, with this little material left before groundwater, there's a lot of risk, um, to the groundwater supply from any kind of contamination. I also don't even know what the stability of those types of soils is, you know. You guys have the engineers; can you drive heavy machinery over a groundwater reservoir that's just fifteen inches from the surface? I don't know. You know, and, obviously I mentioned, if anything spilled, this is nearly, immediately gonna reach the groundwater, so, erosion would also be a concern in this situation, where you've only got a thin veneer of, of soil. I think this is the scenario that the plan mentioned, you know, if they encounter groundwater, shallower than this, they're gonna to have to make some construction plans and change them, and that's what Al [DiOrio] was referring to, is, how are you going to do that? So, I would just highlight that one issue that concerns me. Um, another, and this is my final one, is the plan notes there's 9.8 acres of trees to be cleared, which is an increase over the initial estimate. The plan notes that this increased as well. I just think it would have been really awesome, you know, gesture to the Town to not clear any trees on a Commercial property, a Commercial-scale solar development. It would have shown really good faith. It would have been a really nice example that we could all point to that you can have solar development in Town, in existing, cleared land, and you don't have to do any destruction to forests, so I was disappointed to see this 9.8 acres of trees to be cleared, which, again, was an increase over some of your initial estimates, and I hope there's something you can do to address that. Oh, and one final thing in my notes: you did mark out and map the stone walls. The archaeological assessment had some really nice maps of the stone walls

as well. I'm wondering if you're removing them, and that pertains to the ones in the middle of the property, and along the edges of the property in the south and, I think, eastern sides of the property. Thanks."

At this interval, Ms. Jalette told Mr. DiOrio that it was 10:16 p.m. She asked Mr. DiOrio how he would like to proceed. Mr. DiOrio responded.

Mr. DiOrio: "I just want to make sure that everybody gets their comments out. Have we heard from all of the Planning Board members who care to say anything? Anyone left?"

Mr. Lindelow: "I'm fine for tonight. I have some real concerns about the decommissioning, but that's – there, there's a lot – too much unknown. Like you said, 'Who's the expert?' I know you guys want to hear some more from whoever that expert is."

Mr. DiOrio: "Okay, good. Any other Planning Board members? Otherwise, I'm gonna start turning off the lights."

Ms. Browning has a question for Mr. DiOrio. She wanted to "be clear about the issue that, of the expert, on the Town's side."

Ms. Browning: "It appears as though the Town, or – just the questions that have been raised in the past couple of minutes, seems to be wondering about who the Town's expert might be. That, is that, a correct characterization?"

Mr. DiOrio: "Yes, it is."

Ms. Browning: "Okay, so-"

Mr. DiOrio: "So, I, in, in, in offering that up, excuse me, I didn't mean to interrupt. Go ahead."

Ms. Browning: "No, it's quite alright. I just want to make sure that we're all on the same page, that when we do come back before you, we have, and we'll take all of these comments, obviously, into consideration, but on this particular issue, the Solar Ordinance is very clear that the decommissioning estimate is determined by the Town engineering consultant. I'm not sure that another expert, on the Town's side, is required."

Mr. DiOrio: "We might, we might disagree on that point. So, listen, the idea that – let me, I don't mean to be, to carry this on longer than we have to – this is, this is supposed to be the litmus test of decommissioning in our Town. Are we on the same page? I don't think I'm springing this on you. This is what we expressed to the public, that your project was going to be an example of how we handle decommissioning."

Ms. Browning: "That said, as an applicant, we are focused on compliance with your ordinances."

Mr. DiOrio: "Yeah, yes, I understand. And you're doing a laudable job, don't get me wrong. But, on our side, I just want to make sure that the folks that we're relying upon have the proper experts on their team. That's all. And since we're all here, all listening to the same thing at the same time, I just wanted to make sure that I get that, I get that out."

Ms. Browning: "No, I think that's important, that, to get that out, and I appreciate that. I just want to be absolutely crystal clear, for, again, for when we come back, that the

Ordinance states the amount of security shall be based on the estimated cost of removal at

the end of the useful life of the facility, as determined by the Town engineering consultant.”

Mr. DiOrio: “I - I’m well aware of what the statement says, yes.”

Ms. Browning: “Okay.”

Mr. DiOrio: “We’re good? Okay.”

At this time, Mr. Lamphere had a comment to make. He wanted to touch upon the topic of decommissioning, “in an effort to facilitate movement of it.” He said that he wanted to look at the Solar Ordinance, particularly the paragraphs about decommissioning, to “see if we’ve made any progress here”. He began reading from the Ordinance, which states that “the applicant will establish and maintain a financial security instrument, covering the PSES from commencement of operation through decommission completion. Such instrument may be an escrow amount, cash or surety bond, or any other form acceptable to the Planning Board.” He continued, reading that “the security must be sufficient to cover the complete cost of removal, in the event the Town or its contractor must remove the PSES, in a form and amount determined to be reasonable by the Planning Board. In no event shall a security exceed one hundred and twenty-five percent of the estimated cost of the removal.” He also read that “the applicant shall submit a fully inclusive estimate of the costs associated with removal.” He said that he believes the applicant has submitted an estimate in accordance with the Ordinance. According to the Ordinance, the estimate has to be verified by the Town’s engineering consultant. Mr. Lamphere stated that he would “maintain that that’s been done as well”, as Crossman, who, according to Mr. Lamphere, “stands by the decommissioning estimate” given to the Planning Board. He wanted to know “if we can, at least, accept that as a starting point for going forward.” He said that, “again, the Board’s going to determine that”, but that, as he reads the Ordinance, “the Board has, it’s within its power to increase that number” by as much as one hundred and twenty-five percent. Mr. Lamphere said that “also, like you just read, okay, that amount of the security shall be based on the estimated cost of removal at the end of the useful life”, with a “mechanism for estimating the anticipated increased cost over the lifespan” of the project, so “we wanted to factor in what it’s gonna be in, thirty years, let’s say.” He said he wasn’t sure if they had done that yet, but he asked the applicant to address that, then “take it to the Planning Board, and see if the Planning Board is fine with that.” He said that, “at the end of the day, we have to adhere to this Ordinance.” He stated that, “by and large”, the applicant had already done so.

Mr. Lamphere: “To be, to take this in any radical direction at this point, I don’t think we’re on very solid ground, so, I’d love to hear what the Planning Board says about that. Are we in the ballpark, with a decommissioning estimate, or do, do people want to take this in directions that I can’t, I can’t fathom? Because, you know, I’d like, I’d like to know that you folks have done, have come most of the way on this here. I’m not saying we’ve arrived at the final number yet, but we have to be somewhat in the ballpark, I would think.”

Mr. Lamphere also had to ask Ms. Browning for an extension on this project. One had already been granted by the applicant, but Mr. Lamphere said that it was “fair to assume that we’re gonna need, you know, additional time to look at this application, even more

than one more month – I don't know, the way it's going." Mr. Prellwitz agreed that it would be beneficial to see what the estimate would be for thirty years down the road.

Mr. Palumbo said that he thought that it had been "an extremely productive twenty-three minutes", and that he "appreciated [the Board] hanging in there" despite the late hour. He said that he had "done decommissioning in multiple states, and thirty projects, and that, I will tell you, this project is approaching \$30,000 a megawatt", which is the "highest I've ever seen", so he thinks that the Town "is vigorously, to this point, represented themselves, and has done a prudent job of protecting itself." He continued, saying that he had seen many towns, in Massachusetts and Rhode Island, "approve a lot of different decommissioning amounts, and none of them has approached \$30,000." He said that the decommissioning amount was the highest that he had seen, and he wanted to "let the Town know, that you're in a position that's a lot better, than a lot, than all of the other communities I've worked in." He said that he will continue to work with the Town, and that he has, what he believes, "the most pronounced expert in this industry, in a very sophisticated way, of decommissioning with solar", which is We Recycle Solar. He said that they are a "local, very experienced contractor" who they "do a lot of work with", and that they "can remove, repair, truck, recycle, dispose – they can do everything here in Rhode Island." He said that the cash placed in the escrow account is then invested, "so that money grows over that thirty years, and the interest earnings equate to whatever inflation there is, technically, and that's how we've addressed that." He then said that he recognized that it was getting late, but that he appreciated the Board extending their time, and that he wanted to be before the Board again "as soon as possible." He said that he would leave the issue of the extension up to Ms. Browning. Ms. Browning then spoke before the Board.

Based on the "volume of information here, and the detailed nature of it, and the pointed and very good comments that we've received tonight from the Planning Board", Ms. Browning asked if it made sense "for this matter to come back before you for a Special Meeting?" Mr. DiOrio said that he had "heard Jim's concerns about the upcoming workload", and stated that he was "fine with a Special Meeting." He said that "it's not something we do all the time, but these are different conditions." He said he was "prepared to roll with it if the other members of the Planning Board are as well." Ms. Light said that she was "on board" to have a Special Meeting. Mr. Prellwitz said that he would "support whatever the Board decides." Mr. Lindelow said that he "would agree also" to a Special Meeting. Ms. Shumchenia said that she also agreed.

Mr. DiOrio asked Mr. Lamphere how they would go about arranging a Special Meeting. Mr. Lamphere said that they would need to see when the Council Chambers would be available. Mr. DiOrio asked if Mr. Lamphere could "work this out with the applicant, can we leave it at that?" Mr. Lamphere said that they should ask for an "official, minimum, of a one-month extension" from the applicant, and that "in the interim, we could probably fit you in some Wednesday." He asked the Planning Board members if they were generally available on Wednesdays. There was universal agreement. Mr. Lamphere then said that the Planning Office would set up a meeting "as soon as we can get it set up, some

Wednesday, before August 5th.” He said that “we’ll just keep hammering away, until we keep making progress on this thing.”

Mr. Lamphere: “We got issue after issue to iron out, and we’ll get ‘em, one at a time. We’re not going to do this unless we keep at it. So, let’s go.”

Mr. DiOrio asked Ms. Browning for an official, verbal extension for another month. She responded.

Ms. Browning: “Could we, could we do this? Could we, say, that a Special Meeting on the 15th [of July], with a thirty-day extension for decision, which would bring us to your next planned Board meeting, which is, I believe, August 5th? So that would, that would give us some time, if we needed to go one more meeting. A Special Meeting, the 15th, with a full, thirty-day extension to August 5th.”

Ms. Jalette: “At this point, we don’t know if the Chamber will be available for a meeting.”

Ms. Browning: “Okay.”

Mr. Lamphere: “We’ll just-”

Ms. Light: “This is Carolyn – this is Carolyn. I’d like to say, if the Chamber is available, then I’m good with the 15th.”

Mr. DiOrio: “Al DiOrio’s good for the 15th, if things work out.”

Mr. Lindelow: “Same here, Keith Lindelow.”

Ms. Shumchenia: “Same – this is Emily.”

Mr. Prellwitz: “I will let Jim know I am hearing ‘hands being raised’ in the home, so I’ll have a home conference on the 15th.”

Mr. DiOrio: “So, we’ll use that as a target, yes?”

Mr. Lamphere: “Yeah, we’ll strive for that, and, and we’ll see, we’ll see if we can make some kind of progress anyway on the 15th, and if we need to come back for August 5th, Ron will be back on board, and we’ll continue to plug along.”

Mr. DiOrio: “So, then, do we have an extension ‘til August 5th?”

Ms. Browning: “Yes. Agreed, on behalf of the applicant.”

NEW BUSINESS:

None.

SOLICITOR’S REPORT:

None.

Planner’s Report:

Administrative Subdivision – AP 11, Lots 115A and 116A, Woodville Alton Road. Classic Acres, Inc. (Wes and Kathleen Thompson), applicants.

Mr. Lamphere said that in the Board's packets, he had included the administrative subdivision that he had completed for Classic Acres. It was a "very simple shift of a lot line."

CORRESPONDENCE AND UPDATES:

None.

PUBLIC FORUM:

Mr. Joe Moreau from Old Depot Road wanted to thank the Board for "doing the right thing, on not being pushed into something that you're uncomfortable with, as far as the requirements." He also commented on how it was "amazing" to him that "some attorneys and developers will do whatever they can to remove members of the Planning Board or the Town Council that they perceive as a 'no' vote."

DATE OF NEXT REGULAR MEETING: August 5, 2020

ADJOURNMENT:

MR. PRELLWITZ MADE A MOTION TO ADJOURN. IT WAS SECONDED BY MR. LINDELOW.

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

MOTION PASSED, 5-0. MEETING WAS ADJOURNED AT 10:34 P.M.