TOWN OF HOPKINTON
PLANNING BOARD

SPECIAL MEETING

Wednesday, July 15, 2020
7:00 p.m.
Hopkinton Town Hall
1 Town House Road, Hopkinton, RI 02833

CALL TO ORDER:

Chairman Alfred DiOrio called the July 15th Special Meeting of the Hopkinton Planning Board to order at 7:10 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 Town Hall. Planning Board members Carolyn Light, Ronald Prellwitz, Keith Lindelow, and Emily Shumchenia, as well as Town Council Liaison Sharon Davis, Conservation Commission Liaison Deb O'Leary, and Town Solicitors Kevin McAllister and Sean Clough were in attendance via Zoom.

OLD BUSINESS – CONTINUATION OF JULY 1, 2020 PLANNING BOARD MEETING:

Development Plan Review – Photovoltaic Solar Energy System – Revity Energy, LLC – AP7, Lots 62, 62A & 63, 15 Frontier Road. Revity Energy, LLC., applicant.

Mr. DiOrio called the meeting to order, and stated that the "first and only agenda item" on the docket was a continuation of the July 1st Planning Board meeting's discussion of the proposed project. He laid out some of the ground rules for discussion.

Mr. DiOrio: "Now, before we get down to the meat of this evening's meeting, I just want to take the opportunity to exercise a little Chairman's authority here. It's a little past seven o'clock. This is our only agenda item this evening. This is a special meeting that we put together at the request of the applicant – no problem doing that, of course, but I want to caution that if we have to get to the ten dot zero, that will be the end of this evening's meeting. So, I issue this warning only to caution and respectfully request that everyone in the audience: the applicant, the applicant's witnesses, Planning Board, members of the public who may be listening, please, if you would, consider the time, and keep your comments and testimony as brief and concise as possible. I certainly would appreciate your cooperation. So, just in terms of, perhaps, a little bit of structure to this evening's meeting, I have the following thoughts, and I would be looking to the Planning Board members to concur that this is a good idea. A little bit of structure would be a

review of the current plans. This would be by the applicant, or the applicant's representatives, and this review, by the way, I would like to categorize this as an executive summary. I'm not looking for an hour's worth of testimony. I just need a brief overview of the current status of the most revised version of the plan. Then, I would be suggesting that we should hear from Crossman concerning the status of the current revision to the plan, and then I would like to open it up to the Planning Board members as to their comments about some general categories, and we'll get this in a little bit more detail at that time. But, Planning Board members, does that sound like a reasonable approach to this evening's meeting?"

Mr. Prellwitz agreed that it did. Ms. Shumchenia did as well. Mr. Lindelow thanked Mr. DiOrio for "putting everything together so organized." Ms. Browning, the attorney for the applicant stated that, while they certainly agreed with the general flow of the meeting as outlined by Mr. DiOrio, that they had "one small point."

Ms. Browning: "We do have Tom Sweeney with us to testify as to real estate valuations, specifically as to the abutting properties, and also your Planner had requested previously that we provide additional testimony on the topic of environmental, and we do have someone from Sage to testify with that respect. I do believe that both of those experts would be very brief in their testimony, and I simply request that we be able to present that at some point tonight."

Mr. DiOrio asked if either of the experts had "already presented reports", to which Ms. Browning replied that they had provided reports, but not testimony. Mr. DiOrio responded.

Mr. DiOrio: "So what we don't need is someone reading their report to us. We have the reports. You have done a wonderful job, by the way. Lots of good information. So, again, I don't think that what we need is anybody reading their report to us and calling it testimony. If there is something unusual, something that's not captured by their report, perhaps that qualifies as additional testimony, but are you getting my point?"

Ms. Browning said that she understood, and that "I think maybe that we could agree that both of these individuals will summarize their conclusions and maybe take one or two questions from me, if needed, and that would be it." Mr. DiOrio said that he could agree to that, but that they should not waste more time, and begin the "overview of the current version of the revisions to the current plan."

Ms. Browning began by stating that this is a "proposed solar project on Frontier Road", where the zoning is Manufacturing, and "solar use is allowed by right." She then turned it over to David Russo, of DiPrete Engineering.

Mr. Russo explained that the application entailed a "9.25 megawatt D/C ground mount solar system", which would be "surrounded by a seven-foot fence." The development would be accessed by using the "existing curb cuts" from the property's previous uses. They have a "pending application with DEM in regards to the storm water", and they

have “analyzed this site and upgraded the ponds on the site to conform to the new regulations” around storm water containment. The applicant has worked with the Town’s engineering firm, Crossman Engineering, and they have “completed a thorough review of the project.” Mr. Russo stated that it was the applicant’s “understanding that the drainage and engineering design component has been completed”, but that there are still some outstanding items. Mr. Russo explained that there is a well on the property that served the restaurant(s) that had operated there, but that the most recent establishment to operate from that locale was defunct. He said that, according to Crossman Engineering, “if the well was active, the Department of Health would require a radius on that”, and the applicant was not in disagreement with that. He said that “the applicant is working with the Department of Health in regards to that, and prior to any building permit that that will be resolved with the State.” He said that there were “also existing utility poles, located on the east side of the property”, which had an easement, and that they had “designed the plan, assuming National Grid will allow those to be relocated within the roadway”, and that they are working with National Grid to move them. He stated that “if either the agency can’t move the poles, or the Department of Health requires a radius, the applicant will remove the panels in those areas” that would interfere with the utility poles and the well. He said that DiPrete Engineering provided a decommissioning estimate, which included “an analysis by We Recycle Solar”, who are the applicant’s “experts in recycling solar panels.” DiPrete also added their estimates for “labor, seeding, minor erosion and As-Builts, and engineering and oversight.” Their total was $266,837. He said that Crossman has also prepared their own estimate, which came to $278,064. Mr. Russo said that “those two estimates were in the range of each other, and the applicant has found the Town’s engineer’s estimate to be acceptable.”

Mr. Russo also detailed the applicant’s discussions with Town fire personnel. He said that the applicant had met with the “fire department in the early phases of this, back in December”, that they are “aware of the project”, and that, in the Department’s discussions with the Town Planner, “they’re planning on completing a final review, assuming all Town approvals are granted.”

Mr. Russo then began to explain where the project would be connected to the grid. He said that “interconnection for this development will be located at the first entrance”, and that there would be “above-ground utility poles entering the site”, but that after the poles, “all of the electric will be underground.” He stated that the “solar field layout conforms to all of the Zoning Ordinance setbacks”, including a voluntary “100-foot setback to all of the residential zones” on the eastern and northern sides of the site. He stated that a Class I survey had been conducted by DiPrete, and that wetland flagging had been done by Natural Resource Services and Scott Rabideau. This concluded Mr. Russo’s general overview of the project.

Mr. DiOrio asked, “from the applicant’s perspective, are we good, or may I move on to Crossman’s comments and overview of their interpretation?” Ms. Browning asked if she could be unmuted when their representatives were speaking, and Ms. Jalette explained to her that she had been muting herself. Ms. Browning said that if it was her mistake, that she would try to correct that, to which Ms. Jalette directed Ms. Browning to not worry

about it, to which she laughed, and then stated that she had one question for Mr. Russo, for the record.

Ms. Browning: “Mr. Russo, is it your testimony that the application before the Board tonight conforms to the applicable Town standards and Ordinance requirements?”
Mr. Russo: “Yes, it does.”

At this point, Ms. Browning asked that “all reports, plans, and updates submitted to this point be made part of the record.” Mr. DiOrio replied, “Of course.” Ms. Browning then stated that reports from Sage Environmental, Public Archeology Labs, and Natural Resource Services had been submitted, and that Nicole Mulanaphy and John Clark from the former were in attendance to “testify as to the environmental impact” of the project, as well as the “requested materials that were requested on environmental impact.” She asked Mr. DiOrio if he preferred if they Ms. Mulanaphy and Mr. Clark went forward with their testimony, or if they should pivot to discussing Crossman’s comments. Mr. DiOrio responded that “when we get to the Planning Board’s inquiries concerning the myriad topics that could conceivably come up, things like general layout, landscaping, decommissioning, et cetera, I think if there is a question for those experts, then that would be the time to have them present testimony. So, in the instance where no one has a question for those experts, I would be suggesting that their written reports would stand as the record.” Ms. Browning said that she agreed, but “with the caveat that there may be an instance in which I may want to question one or more of the applicant’s witnesses”, which Mr. DiOrio said was “perfectly acceptable.” He said that he was “certainly not trying to squelch your abilities to get things on the record”, but that he was “simply looking to keep us in line with our time limit.” Due to this directive, Ms. Browning said that “then, I would submit that we move forward with Crossman.” Mr. DiOrio asked the representatives from the Town engineer, Crossman, for their “comments or interpretation as to the current status of the revisions to the plan, and, again, I’m going to categorize this as an executive summary.”

Steve Cabral, an engineer with Crossman Engineering, appeared before the Board. He said that he would “quickly summarize the status of our comments and, basically, our last official memo” which was dated June 24, 2020, “because of the timing of the submissions we didn’t want to submit a new memo based upon the plans that are dated July 7.” Mr. Cabral said that many of their comments had already been touched upon by Mr. Russo from DiPrete. Mr. Cabral said that Crossman’s first concern was that “on the east side of the property, there is an existing, overhead electric power line, that cuts through an area where there will be solar panels, and the reason we pointed that out is we know that that power line has to be relocated in order for the panels to be installed.” Mr. Cabral brought it up because “if and where those lines are relocated, basically, if it results in additional clearing that’s not depicted on the plan, we want to make sure that the Town is made aware of that before construction occurs.” According to Mr. Cabral, the easement is still “a pending issue”, but that DiPrete was working on addressing it.
Mr. Cabral then discussed the issue of the well.

Mr. Cabral: “The issue is that because of the restaurant use, the applicant had to obtain a public well permit. Basically, it’s called a transient non-community public water system, and that permit to operate that well exists. Whether or not the restaurant is open or closed isn’t the issue, it’s the fact that there is a public well permit, and the State has the 200-hundred-foot setback and the 400-hundred-foot protective radius that’s centered on the well, and we understand that because this is a Development Plan Review, the applicant doesn’t need to have all of their State permits in advance, but the reason we mention this is that in the Town’s Solar Ordinance, it does state that the design has to meet all local, state, and federal standards. So, in order to build the solar field as depicted, the applicant would have to void their public well permit, or they’d have to get approval from the State Department of Health to install the solar panels in the protective radius. Now, in the past, we have been a consultant to the Department of Health, and it is our opinion, from experience, that the DOH, the Department of Health, is not in favor of solar panels inside the protective radius. So, for me, it’s our opinion that in order to meet the Town Solar Ordinance, which requires conformance with State regulations, we really can’t have the panels in the protective radius unless that well was – that well permit was voided.”

He then began discussing the landscaping plans as proposed. He said that “on past solar projects, the buffering has been provided with an abundance of vegetation and plantings of different heights and materials.” This project proposes a stockade fence, which Crossman initially questioned, but, “in the Town Ordinance, it does state that the applicant has an option of installing a fence in lieu of plantings”, but that there is also a phrase within the Ordinance that “states that the Planning Board may require vegetation to be used for understory cover that may serve to further screen the project.” While Mr. Cabral “agree[d] that the landscape design does meet what’s required in the Ordinance, I believe the Ordinance does give the Planning Board some authority to, you know, to require additional plantings if they feel it’s necessary.”

Mr. Cabral said that issues within the operation and maintenance plan “have been addressed”. He then discussed the decommissioning estimate – both DiPrete’s, and their own.

Mr. Cabral: “Number five was the decommissioning estimate, and in the Ordinance, basically, it states that the Town’s engineer is to review and find opinion, and, basically, review the applicant’s estimate. So, we did review the applicant’s estimate, but we went a step further, and we actually prepared out own, independent estimate, just to see if the order and magnitude of numbers were in line, and the primary question that we always had was, in the Ordinance, it states that the decommissioning shall include the total removal of the PSES, including any underground and aboveground utilities, structures, et cetera. The unknown item, that’s not clear, in the Town’s Ordinance is whether or not we are allowed to subtract the salvage value, but in the wording of the Ordinance, it’s not clear if that can be included, because in the Ordinance it just mentions the costs.”

Mr. Cabral said that their comments on infiltration pond A, in the northwest corner, had been addressed, as well as their comments on the outlet pipes. There were still remaining concerns over infiltration pond B.

Mr. Cabral: “Infiltration pond B is another concern, which is in the northeast corner, and our primary concern with infiltration pond B was the original landscape plan showed that there would be trees plants on the detention, the infiltration pond’s embankment, and over time, the root growth tends to impact the stability of the embankment, and in the latest plans the landscape designed did a good job. They removed all of the trees on the berm, and actually moved them to the southerly side of pond B.”

He also had concerns about infiltration pond D, which had been addressed. He then said that he wanted to “quickly take a step back” to reflect on the previous uses of the property and their implications for the proposed project. Mr. Cabral said that the site had originally been permitted “by DEM as a recreational golf facility, and when that golf facility was designed and permitted, there was approximately three infiltration, detention, ponds that were permitted, and during the review process, and working with the applicant, who was very informative and responded to every request we made, we found that those ponds were not built in accordance with the original DEM permit.” According to Mr. Cabral, “one of the benefits of the project is that the applicant is actually going to be upgrading all of those detention ponds that were never built properly, so there will be a benefit over existing conditions, just by bringing those original ponds into conformance.” He had concerns with infiltration pond C as well, which is in the southwest corner. He said that “through a series of iterations, the applicant has addressed our concerns by raising the height of the embankment.” He said that the only remaining item is in relation to infiltration pond C.

Mr. Cabral: “There is a piping network that actually flows to infiltration pond F, which is at the extreme southwest corner, and the applicant has stated that they have surveyed all of the drain lines in the area, and they’ve confirmed that it was built in accordance with the original golf course design, but our observation of the latest plans was that survey data wasn’t depicted on the plan. So, all we’re asking is that the survey data that has been performed be added to the plan, just so that we can all see that the piping network was built in accordance with the original design.”

Mr. Cabral also recommended that the applicant build stone trenches parallel to the slope “in areas where the solar arrays were running perpendicular to the contours.” His reasoning is that “in a typical solar field, the solar arrays run parallel to the slope, so as the rainfall cascades off the panels, they flow in a sheet flow through the grass below, but, in this case, we have areas where the solar arrays actually run perpendicular to the slope”. He was “concerned that as the water cascaded off the panels, we would have a linear flow running along the face of the solar arrays, which would increase the likelihood of erosion.” He said that the applicant had “agreed to install periodic stone trenches that would run parallel to the slope, perpendicular to the solar arrays, and this resolves that concern because as water reaches those intermittent stone channels, the water will be able to disperse through the stone.”

Mr. Cabral then discussed access to the site. He said that “there seems to be limited access for emergency vehicles to access all of the arrays.” He said that he understood that that issue was “in the hands of the Fire Marshal, but as of today, we have not seen

comments from the Fire Marshal", so they "don't know if his concerns are satisfied." He also wanted to note that Crossman had been working with the applicant extensively over the course of many months, and that "it's never been an issue where they would push back and fight when we had a suggestion", so he wanted to "give credit to the applicant for doing that."

Mr. DiOrio thanked Mr. Cabral for his insight, and then gave further suggestions to the Planning Board in regards to the structure of the discussion moving forward. He wanted the Board to focus on specific topics, like layout, landscaping, and decommissioning, and that during the discussion for each topic, "that all members [would] provide their input, comments, concerns, [and] questions" for that specific item, then repeat the process for the rest of the topics. Mr. Prellwitz found that acceptable, as did Ms. Shumchenia, and Ms. Light. Mr. Lindelow did not comment, but Mr. DiOrio took the affirmative responses of the three other members as a consensus to proceed.

Mr. Prellwitz was the first Board member to comment. He said that he would "like to applaud both Steve Cabral and Dave Russo for working together as diligently as they have", and that he did not have any concerns, as "it seems like they're both operating in a professional manner, and they've come to an equitable agreement." Ms. Light asked Mr. DiOrio if she could bring up her comments about setbacks during the discussion. Mr. DiOrio said that, because her comments were in reference to the plans, that it "would be the opportunity to deal with it." Ms. Light responded.

Ms. Light: "Okay. Then, on that note, I would like to say that I would like to see an increase in the setbacks all around the project design to a minimum of one hundred feet."
Mr. DiOrio: "Okay, and can you elaborate on your reasoning, please?"
Ms. Light: "I'm thinking out of the box. I'm thinking of the sea of solar projects that are occurring in this particular neighborhood. We don't have anything official on the Board for Ashaway Investments across the street, but Mr. Palumbo has already put us on notice that there is a plan for a project across the street, on Main Street. With all of this development, it's clear to me that, with the weather changes, et cetera, there needs to be concern about the exposure of the project to the neighborhood. One of my comments, well, this particular comment also includes the area that abuts Maxson Hill, where we have a limited 100-foot setback, but further in the plans, we see that they are considering the need for a sound barrier. I have a question about the sound barrier. Why would we need – why would we potentially need a sound barrier? So, in my mind, it's looking like the setbacks should be considered, and I would also like them to talk about the potential need for a sound barrier."

Ms. Browning asked Mr. DiOrio if the applicant could respond, and he said that he thought it would be "appropriate, when a question comes up, a question or concern, absolutely, you should be the one to respond to that inquiry." Ms. Browning responded.

Ms. Browning: "Okay, so as to the setbacks, we hear the comment. It's something that I know we have heard more than once on this project, and I have to say, again, that this project complies with your Ordinance, and that is as to every respect, including setbacks.

We hear the concern about the exposure to neighbors. I would, respectfully, ask that at this time, we be allowed to present short testimony from Tom Sweeney, who we have engaged to research and opine on this very issue."

Ms. Light responded that she was not "questioning the real estate values", and Mr. DiOrio also said that he wasn't sure of "the validity of real estate, if I have that correct, a real estate appraiser coming in to testify concerning the setbacks." Ms. Browning responded that the "Ordinance and requirements do say that a part of your review is to determine that the use is compatible with surrounding land uses, and that there is a sufficient effort to minimize any adverse impact on adjacent land uses." She said that she thought it was "important to hear from Mr. Sweeney as to both of those ordinance requirements." Ms. Light answered that "unless there is direct comment towards the seventy-five-foot buffer, and there is an empty lot across the street right now, I would prefer that you respond to my question about the potential sound barriers." Ms. Browning said that, as there were three points that were raised, one about increased setbacks, one about exposure to the neighbors, and one to the sound barriers. She said that representatives from Sage Environmental would be available to answer questions about the sound barriers, but that it was important, "for the purposes of this application, and for the record" to include Mr. Sweeney's testimony. Mr. Lamphere had a comment in regards to setbacks.

Mr. Lamphere: "Jim Lamphere, Town Planner. As long as the issue of setbacks is being raised, I think it's appropriate for me to weigh in on it now, so we can get that straight. In the interest of being consistent with how we have looked at all of the other solar projects to date in this Town, the Ordinance says that setbacks will – the setbacks for the underlying Zone will apply to the PSES. We have never used the requirement that's in the Zoning Ordinance for Commercial or Manufacturing structures to be at least one hundred feet away from a Residential Zone. I see that that's something that they've put on this plan on their own, but I would like to mention that in the northern part of this array, right by where the wetlands are, there is an access road, and the way we have interpreted access roads in the past is they are part of the PSES, and that access roads are not supposed to be in the setback. So, I guess my question here is for the applicant here. They are claiming a one hundred-foot setback, which I don't think they really need to. I'm not even sure what that is right now, whether it is a side yard or a rear yard. It doesn't really – it's not labeled as such, but if you're going to use seventy-five feet, for example, of a rear yard, the edge of that road is seventy-five feet from the property line. Now, if the Planning Board wants to impose a greater setback on this, which by our legal advice here they're advised that they can go to a maximum of one hundred-feet for a setback, if the one hundred-foot setback applies as it is shown on that plan, then that access road has to be moved outside of that. If you're going to use seventy-five feet or fifty feet for a setback here, I believe the road is fine where it is. So, that's my comment on setbacks here."

Mr. DiOrio thanked Mr. Lamphere for his input. Mr. DiOrio then responded to Ms. Browning in regards to how he expected the applicant's representative to proceed. Ms. Browning responded.

Mr. DiOrio: “Listen, as I mentioned before, I’m not trying to squash anybody’s ability to put things on the record. I’m prepared to allow the testimony, but I have got to tell you that the focus of that has got to be on setbacks. This is not a wide-open invitation to start talking about real estate values in the area. That’s not – that’s not the question that was raised. Are we clear?”
Ms. Browning: “I hear the comment, but in response to that, I think there were three points raised, and one was certainly setbacks. One was exposure to neighbors, which raises the issue of effect on the surrounding area and adverse impact on adjacent land uses, and those are things that this applicant has prepared before, has testimony ready to address those standards. The third, as to the sound barrier, again, we can get to that, and we do have Sage [Environmental] here to testify as to that. So, the setback issue is part of it, but I think the bigger issue is the exposure to the neighbors, which is an issue that was raised.”

Mr. DiOrio said that he was “prepared to allow the testimony”, but requested that the expert “be as brief and concise as possible.” The expert, Mr. Tom Sweeney, was sworn in by the Chair. Both his resume and his report for the Board was entered into the record. Mr. Sweeney is a “Principal with Sweeney Real Estate and Appraisal in Providence, Rhode Island”, located at One Turks Head Place. Mr. Sweeney has “been involved in real estate for over thirty-five years”, and he is a “certified Real Estate Appraiser in the State of Rhode Island and a Licensed Real Estate Broker in both Massachusetts and Rhode Island.” He stated that he has been before “most, if not all, Zoning Boards and many Planning Boards throughout the State of Rhode Island”, and that he has “been accepted as an expert witness in front of them and in front of most of the courts, including Federal, District, Superior Court, Family Court, and Federal Bankruptcy Court.” Ms. Browning asked Mr. DiOrio to be “qualified as an expert in real estate values and appraisal”, to which he responded “consider that done.” Mr. Sweeney then began his testimony.

Ms. Browning asked Mr. Sweeney if he was familiar with the application, and if he had had an opportunity to visit the site. He responded in the affirmative in regards to both questions. She also asked him if he was familiar with the surrounding neighborhood, and he said that he was. Mr. Browning then asked him if he had reviewed the “plans that have been submitted, inclusive of the landscape plans”, which he had. She also asked him if he had conducted any other research. He responded.

Mr. Sweeney: “Besides my general investigation of the site and the neighborhood surrounding it, I also did some additional research, internet research into finding studies that have been done about the impact of solar farms on surrounding residential properties.”
Ms. Browning: “And what did you find?”
Mr. Sweeney: “I found three different studies. While none have been completed in Rhode Island and Massachusetts, the three most current studies have been done in North Carolina, and Illinois, and I can’t think of the third state right now, but all three utilizing paired sales have concluded that solar arrays do not have negative impact on surrounding residential properties.”

Ms. Browning: “So, in your expert opinion is the proposed solar use compatible with the surrounding land uses?”
Mr. Sweeney: “It is. It’s a non-intrusive use. The applicant is uh, proposing screening on, on all sides. In my opinion, with the screening and based upon the studies that I have seen in the neighborhood in general, there will be no negative impact.”
Ms. Browning: “And is it your expert opinion, uh, that the proposed plan is sufficient to minimize any adverse impact on adjacent land uses?”
Mr. Sweeney: “Uh, in my opinion, it is. The screening is the manufacturing zone. I believe the applicant has, had proposed, uh, enough screening to limit, if any, impact on the surrounding properties, which I don’t think there will be.”
Mr. Browning: “And, finally, is it your opinion that approval of this application will not substantially or permanently injure the appropriate use of the property in the surrounding area?”
Mr. Sweeney: “It, it is. I believe that the applicant has addressed the screening and buffering issues to screen the property, the use, from the surrounding residential uses, primarily.”

At this time, Ms. Browning stated that she did not have any further questions for Mr. Sweeney, and she asked the Chair if it would “make sense to have Sage Environmental respond to the question on sound barriers?” Ms. Light interjected.

Ms. Light: “Excuse me. Keeping consistent with what Al [DiOrio] offered at the beginning of the meeting, I think now is the time for us to question the expert.”

Ms. Browning said that if any of the Board members had questions for Mr. Sweeney, they would be able to ask him. Ms. Light was the first Planning Board member to question Mr. Sweeney.

Ms. Light: “Mr. Sweeney, I’m going to dig into your research in other states. Were those projects conducted in neighborhoods that already had one hundred and thirty-four acres worth of solar panels in the neighborhood?”
Mr. Sweeney: “Um.”
Ms. Light: “I’ll refer you to right at the end of Frontier, and west about a mile and, you know, solar impact there, and I agree that the development of this project isn’t going to impact real estate values in the neighborhood any more than it already has been impacted.”
Mr. Sweeney: “I believe that the projects that were analyzed, and I don’t have the exact studies in front of my right now, but I believe all of the projects that were analyzed were significantly larger than what is proposed even here.”
Ms. Light: “That is a side step. I specifically – I don’t need you to answer this, but I’m specifically saying the neighborhood already has over one hundred and thirty acres of solar panels in it. So, any impact to real estate values from this project is nominal. So, I don’t see the value in what you’re presenting, and when I say the neighborhood, I’m not talking about physical houses. I’m talking about the traffic community. I’m talking about everything that happens in a neighborhood.”
Mr. Sweeney: “I’m not sure how I should respond to that.”

At this point, Mr. DiOrio said that it "doesn't have to be a debate", and that "folks are going to stand where they stand", and asked other Planning Board members if they had any questions for Mr. Sweeney. Mr. Prellwitz did not. Mr. Lindelow had a comment.

Mr. Lindelow: "Keith Lindelow. Just more of a comment, not to discredit the realtor and his opinion, but until something has been solar in that neighborhood, that's the true value in the future, and we don't have that, so it's just an opinion that we either choose to agree with or not agree with. That's my opinion."

Mr. DiOrio thanked Mr. Lindelow for his contribution, and moved back to Ms. Light's recommendation of a "one hundred-foot setback surrounding the property." Mr. DiOrio said that, according to the site plan, he was seeing "that the applicant has already proposed, with the exception of Jim's relevant comment, the better part of a one hundred-foot setback on the northeastern sides of the project, leaving southerly, Frontier Road, and let me call it westerly interstate sides at something less than one hundred." He asked Ms. Light if she was "seeking to increase the seventy-five [foot setback] to one hundred along an interstate." Ms. Light said that she was. Mr. DiOrio then asked the applicant if they had any questions about the one hundred-foot setback proposed by Ms. Light. He then asked them if they intended to "maintain the one hundred-foot setback in a vegetated condition." Ms. Browning had Mr. Russo respond. There was further discussion between Mr. Russo, Mr. DiOrio, and Ms. Light.

Mr. Russo: "So, as the Chair stated, we provided a one hundred-foot setback along the eastern edge of Maxson Hill Road. We have proposed a landscape berm along that entire stretch to buffer the system, to visually buffer it. The vegetation between that visual buffer and the roadway, the proposal is to remove the large trees that could cast shade on the system, and a low-lying vegetation would need to be removed. As you move north to where the existing infiltration basin is, the berm, the landscape berm, carries in that area slightly and then it converts to vegetation, a planted vegetation for screening, and we held that one hundred-foot setback all along the southern property line of [Lot] 55A, and then as you get to the western side of Lot 55A where Mr. Lamphere commented, we've shown the solar panels one hundred feet away. The roadway meets the underlying zoning setback of fifty-feet, and we've also proposed a berm in that area to visually screen that section of the development. As you go to the north, the wetland area is there, buffering the northern section of the property, and then, as you get toward the western line, which abuts Interstate 95, the panels are set back a minimum of seventy-five feet from the Interstate on-ramp. Along that entire stretch along the Interstate, there is a landscape berm that will visually screen the panels in that area. The landscape berm carries all the way down the western property line towards the entrance of the development. And, then, along the southern line of Frontier Road, there is an existing wetland and buffer. Those panels on the southern line are much greater than one hundred-feet off of Frontier Road, and all of that vegetation and that wetland is to remain and has a very thick existing buffer along that southern edge."
Mr. DiOrio: "Good. Thank you, David. Carolyn, getting back to your comment. I would like to endorse it, however, in light of what the applicant has already out forth, I would be focused more on requiring vegetation in the current one hundred-foot setback, and we'll

get around to talking about this berm when we talk about landscaping, but along the Interstate, I would be looking for vegetation, and not, necessarily, an additional twenty-five-foot buffer that, as much as I like to screen projects from the Interstate, because I consider that an important visual impact, I don't know what an additional twenty-five-feet of linear space is going to do that vegetative buffer couldn't accomplish."

Ms. Light asked who owns the berm, and Mr. Russo responded that the berm would be on the applicant's property. Ms. Light then asked about "the current berm, along that exit ramp", and wanted to know if that was on their property. Mr. Russo said that they were proposing the berm. Mr. Palumbo then indicated that he wanted to respond, by "raising" his hand, and the Clerk unmuted him. Mr. DiOrio said that he was "with Carolyn right now", and that he wanted to hear the rest of her thoughts before hearing from the applicant. He said that he wanted to "discuss the berm under landscaping", and that he wanted to "just try and focus on the magnitude of the setbacks", which had been Ms. Light's initial question.

Ms. Light said that the "seventy-five-foot vegetated buffer on the west is agreeable", but that she was asking about the existing berm, not the proposed berm. Mr. Russo responded that the berm that Ms. Light was referring to was "really close to the property line", and that "there is quite a bit of existing vegetation, that's on the straight land, that the applicant cannot touch and will remain in that area." He said that "on our property, there is quite a bit of vegetation that we are not proposing to touch, and the berm is going on the inside of that vegetated area." Ms. Light then asked if the applicant was "proposing an additional berm on the west side, along the on-ramp." Mr. Russo replied.

Mr. Russo: "On the east side, yeah, if you're driving on the on-ramp, it would be on the east, on your right side, and that came about because at the Pre-Application meeting, it was stressed multiple times that the Board did not want to see this field, but with that we thought the berm was the best option."
Ms. Light: "Okay. So, you're going to be installing an additional berm in that area. So, that answers my questions regarding the seventy-five-foot rear setback. I agree - I'm satisfied that the seventy-five-foot rear yard setback is acceptable now that it's been clarified that there is going to be additional berm provided to keep the visual impact where it is."

Mr. DiOrio then summarized Ms. Light's comments, which was that she was "okay with seventy-five feet on the west", which she said was correct. Mr. DiOrio said that he was "okay with the applicant's one hundred-foot setback around the rest of the site with a couple of additional considerations." His recommendations were that that they "have got to move that roadway outside of the one hundred-foot setback" to the west, and that the one hundred-foot setback be vegetated, though he conceded that they "can talk about removing the large trees", as well as "removing the understory", though "there will be the necessity for a vegetated landscape plan in that area so as to screen the site." Ms. Light said that she was on the same page as Mr. DiOrio. Mr. DiOrio then asked the other Planning Board members if they had any further comments on the general layout. Mr. Prellwitz said that he agreed with the Chair and Ms. Light that the "seventy-five feet is

adequate", as "it's still quite a ways from the on-ramp, and at that point, anybody that has any driving etiquette at all, they're more interested in looking to their left to see if they can actually merge with the traffic than looking at the berm, so I agree that the seventy-five feet is adequate, with the proposed screening." Mr. Lindelow said that he was in agreement that "the buffering is more important than the setback." Ms. Shumchenia said that she was good on the setbacks, but that she had a general comment on the plan.

Ms. Shumchenia: "So, actually, what I'm about to bring up, I realize there might be some pros and cons, and there might be some discussion here. I'm very curious what the other Board members think. My comment is about the grading and cutting that we talked about very briefly two weeks ago. I appreciate that the applicant was able to get another – further opinion and ideas from Sage, the consultant, and that's included in the packet that we have, a July 7th letter, about the environmental impact statement revision and update. What I'm trying to reconcile is the statement there, um, that they made on July 7th that says, 'if groundwater is found, grading modifications may occur. The cut area would be reduced. The location of the solar equipment would remain unchanged', and I'm trying to reconcile this with our Development Plan Review standards under soil erosion and storm water control that say 'construction and other development plans calling for cutting and filling or stripping of vegetation may not be approved by the Planning Board if it is determined that the proposed land uses could be supported with less alteration of the natural terrain and vegetation.' So, it just seems to me that Sage's letter states just that, that they're able to install these solar panels without doing this extraordinary cutting that might render the groundwater a little bit more susceptible or vulnerable to alteration. So, first of all, I'm curious if, if that's something that could be agreed to, but I also recognize that if they're not going to do such drastic cutting that we are talking about – they were talking about removing eight feet of material here, the panels are now going to be eight feet higher, or some other height higher, right, so they're not going to be able to cut down some of these hummock-y areas, that were artificial anyway. So, I'm not really concerned about, like, altering the natural landscape. I'm concerned about the exposure of the groundwater. So, if you're not going to do this cutting, the panels are going to be higher up, It's already a higher elevation part of the property – is that going to render them more exposed, and is that more undesirable of an outcome than having vulnerable groundwater? That is, that's my question, sort of framing that for the discussion, but, maybe, first, I'm curious if the applicant agrees they're able to do what they need to do and install panels without doing this very drastic cutting."
Mr. Russo: "I can respond. Dave Russo. So, the upper area on the east side of this property, as you stated, was heavily developed as a golf course. Part of the installation with the solar panels is you can have slopes, but they can't be as drastic as that manufactured golf course was, so a lot of the larger cuts in that area are to remove a lot of these mounds that were created for that practice facility in that area. The statement that Sage made is, you know, and this is any construction, we could, potentially, go out there, and one area might be slightly different. We may have to modify the grading very slightly, but we are not expecting to modify it very significantly. What was shown on the plan is what we plan on building, and the material, we envision with the material on-site, is a lot of the material that's on the east side of the site that was created with the golf course, we envision a lot of that being pushed onto the steep slope that goes from the east

to the west to try to make that slope, consistent slope, so that the panels, when they're installed, have a consistent slope, and they're not wavy in nature and, you know, they don't go up and down. The natural terrain out there, because it's a manufactured golf area, it does have a lot of up and down and undulation, so we believe the grading plan that we created will be able to be constructed, but with any construction, you may run into some field modification that may need to be made."

Mr. DiOrio interjected. He said that the Board "understand[s], fully, that construction projects undergo on-site modifications." His concern was that "the complexity here is the Planning Board isn't going to know about those." He said that he would "like to have a mechanism where there is some oversight on behalf of the Town to ensure that we don't have compromised groundwater, and if that means inspections by the Town engineer, which I believe are already incorporated, I'm somewhat comfortable." He asked Ms. Shumchenia how she felt about that kind of arrangement. She agreed that "inspections are critical for this issue", and that her "concern is that cutting occurs, groundwater becomes exposure vulnerable."

Ms. Shumchenia: "Really, the engineering information that's provided here, you know, you got to a certain depth, didn't find groundwater, but I assume you're going to be driving, driving stakes deeper than the depth that you were able to explore and sample. So, it's just such a high likelihood that something could happen. I think this is a really critical area of the site that we somehow need to come up the with framework where we're, we're kept, you know, really abreast of what's happening, or that the engineer, I see that the engineer, our Town engineer is going to be onsite every two weeks. I mean, if we can figure out how to ensure that they're there throughout the phase of the construction where this area of the site is being worked on, basically, to keep an eye on how things might be modified, I think that's really critical."

Mr. DiOrio asked Ms. Shumchenia is she would be "comfortable with an idea, or somewhere along the line, of rather than create an inspection program that's done by time, an inspection program by the Town engineer based on what's happening on the site. For example, if there is a cut that exceeds, pick a number, four feet, the Town engineer has to be notified." Ms. Shumchenia said that she thought that that was a good idea. Mr. DiOrio asked is that "alleviate[d] your concerns about the grading", which Ms. Shumchenia replied that it did. Mr. DiOrio then said that the Board would "certainly get to the issue of panels being higher than we anticipated, and, therefore, more visible when we get around to talking about landscaping" before asking the other members if they had any additional comments on the general layout of the project. At this time, Ms. Browning interjected. She said that the Solar Ordinance "does allow for inspections at any time already", so she was "not sure that a further condition would be necessary", as the "applicant is already subject to those inspections at any time." Mr. DiOrio replied.

Mr. DiOrio: "Thank you very much for that thought. Unfortunately, I'm a big conditions guy. So, you're likely to get a whole bunch of them. So, yes, we're simply-"
Ms. Browning: "And as long as they're consistent with the Ordinance, Mr. Chair, we probably won't have an objection."

Mr. DiOrio: “I am sure that you won’t. We will be consistent.”

Ms. Light then asked the applicant if they could “get back to addressing the need for a potential sound barrier.” Mr. Browning had Nicole Mulanaphy, a registered Professional Engineer in Rhode Island with Sage Environmental, speak to those concerns. Ms. Mulanaphy stated that she had conducted the noise evaluation for the site, and that “when we were doing the evaluation, we found that there was a potential for a need of a sound barrier that would go around the inverters at this site”. This is because “they’re slightly larger, [and] they emanate slightly more sound”. Ms. Mulanaphy said that “to keep with the conservative sound limitation of no sound exceeding forty decibels off the property line, the modeling performed put a sound barrier that went around each one of the inverters, the larger inverters.” She explained that there “are two types of inverters on this site”.

Ms. Mulanaphy: “The larger one being referred to as the SG250HX, and so on three sides of the inverter, we put sound barriers with an NRC rating of .2. What an NRC rating is – it’s the ability of the materials to absorb the sound, so something that would be comparable with a .2 rating would be wood, so a wood barrier around that. It could be various, different products that, as long as it is graded with an NRC of .2, and doing that reduces the sound uh, from the site so it does not exceed forty decibels at the property line. The greatest sound was actually 37.7 decibels.”

Ms. Mulanaphy said that it was “important to note that this modeling does not incorporate any of the landscaping berms that are part of this project, because it was done at the same time as the berms being created. So, we excluded those from the noise modeling. And landscaping berms, because they’re, in this case, they’re higher than the location of the inverters and transformers, and so those are the two pieces of equipment, or groups of equipment, that would be emanating the sound.” She said that the “landscaping berms are going to absorb a lot of the sound emanating from the site.” She cited “DOT studies [where] landscaping berms can absorb up to fifteen decibels [of sound], which that absorption is greater than the necessary absorption needed for – with these wooden barriers that we had used in the modeling.” She said that after the site has been constructed, “what we’re proposing is that, within ninety days of that, we do an environmental noise assessment, where we go and we collect actual noise emanating from the site and determine if it does exceed that forty decibels, and, if it does, in those areas where it needs to be further reviewed, the sound barriers would be placed around the inverters to then further reduce the sound.”

Ms. Light replied that “it doesn’t seem practical that a sound barrier would be manufactured out of wood, because it would be a fire hazard.” She wanted to know if this was a “traditional recommendation” to use materials of this nature. Ms. Mulanaphy responded.

Ms. Mulanaphy: “So, my understanding is no, because of the distance that it would be placed from there, but it would be something – the material construction for the sound barrier, it would be evaluated to ensure there are no safety concerns. There are other sound barrier options.”

She explained that “there are jackets that are fire retardant that can go around there”, and that there are also “slate systems that are fire retardant”, but that “the wooden fence is not expected to be, because it’s not going to be right on top of the equipment, there will be space between there, based on the manufacturing recommendations of what needs to be – the distance it needs to be away from the equipment, and, off the top of my head, because I looked into verifying that that we could use something of this nature, and I believe it was just a couple of feet that it needed to be from it.”

Mr. DiOrio asked Ms. Light if her questions had been answered. Ms. Light said that they had been. She then asked where the location of Transformer 1A was, as she could see where Transformers 1B and 1C were. Ms. Mulanaphy explained that she was looking at a zoomed in sheet within the plan set. Ms. Light also had questions about the location of the transformers, transformer pads, and inverters. Ms. Mulanaphy explained where they were located.

Mr. DiOrio had one additional question, and it as about the well on the property. He said that he was “aware that the restaurant is currently not open”, but that he was “fairly confident that [the] community would endorse that facility opening again, so it’s probably not going to be dormant.” He said that the Board was “certainly not going to ask anybody to give up their Department of Health permit for the well.” He brought up Mr. Cabral’s recommendation that “the solar panels not be allowed in this radius” of the wells. He asked “how much area we’re talking about if that well radius were to be respected”, and then wanted to know “why haven’t we simply pulled the panels out of the radius area already.” He asked the applicant if they thought “the Department of Health is going to render a contrary opinion.” Mr. Russo responded that the “applicant is working with DOH in regards to that with a few different options.” He said that “that well could be relocated”, and that there is “still a chance that that well may not be used as a public well.” He then said that, because of that chance, the plans were “showing the panels within the two hundred-foot radius that DOH – if that well is to remain, that they’ll remove the panels, and – that DOH requires.” Mr. Russo explained that the applicant was “still working with DOH with regards to that, and prior to any building permit for this, that would have to be resolved and shown on the final plans, what the final design is in relation to that.” Mr. DiOrio said that was he was hearing from the applicant was “that the Department of Health recommendation as to what to do here has got to be incorporated on the final plan”, and he asked if he was correct in the assumption, then, that the Board was “still working with, essentially, an interim plan.” Ms. Browning replied that she did not “know that that’s correct”, and said that it was “not necessarily an interim plan”, but maybe it could be categorized as “a plan subject to DOH’s final review.” She said that, per Mr. Russo, “there is an option to relocate the well, and that is something that could be explored if Department of Health felt that, and the applicant couldn’t come to some sort of an agreement, but worst case, for the applicant, they would

have to simply remove the panels." She said that, "in any case, the applicant would have to comply with State law, [and] that includes Department of Health prior to pulling a building permit." She requested that the applicant "be allowed to continue to work with DOH and have this matter resolved by the time [the] building permit is requested." Mr. Palumbo also weighed in on the issue. He said that "this is really a business decision from Revity's standpoint," in that, "if the restaurant shows that they can become – revive itself, become economically functioning, and it can maintain its responsibilities on the property, we will remove the panels, not put panels there in the first place, not remove them, not put panels there in the first place and respect the well, and that may happen." He also said that "if that doesn't happen, and it can be decided with full resolution before we start construction, we'll put panels there." He said that the third option would be that they "may find a way to put the well closer to the restaurant", which would "eliminate the need for the pump house in that section that has been identified." Mr. Palumbo said that it was "a multifaceted decision process", and that "not all of the information is readily available right now."

Mr. DiOrio said that while he appreciated Mr. Palumbo's input, he was "hearing some things that are a little bit different than what was initially represented." He said that he didn't "care for the idea that a decision like this is going to take place prior to the issuance of the building permit", as that "takes the Planning Board out of the loop", and that he wasn't sure that he liked that idea. He was also concerned about the "idea of the viability of the restaurant, that, that, that was never discussed." He said that he was "not going to do anything that compromises somebody else's viability to benefit your project." He said that he didn't "know if that was [the applicant's] intimation, but that's certainly the way it sounded." Mr. Browning began to say that she did not think that that was what the applicant had been trying to communicate, but then Mr. Palumbo spoke up. He said that Mr. DiOrio "interpreted my statements incorrectly", and that the applicant did not "plan to do anything to impair the restaurant."

Mr. Palumbo: "If they show that they're not gonna to perform at their full ability, we'll put panels there. It's that simple. If they do perform, then we don't put panels there."

Ms. Browning then said that, under Development Plan Review, State permits are "not required until, um, the time of the building permit." She said that "there is no requirement, as this stage, that the State permits be in place." She stated that she understood that that applicant had "to provide them, and we will provide them, uh, but they will be provided at the appropriate time, but in this case, it's prior to building permit."

Ms. Light had a couple of questions. Mr. DiOrio facilitated. Ms. Browning and Mr. Palumbo responded.

Ms. Light: "Are the owners of the property involved in these negotiations with DOH?"
Mr. DiOrio: "You're referring to the owners of the restaurant facility, Carolyn?"
Ms. Light: "Yes."
Mr. DiOrio: "Applicant have an answer for that?"

Mr. Palumbo: “They’re not.”
Ms. Light: “Okay. Then, from my perspective, I don’t think there is any opportunity for any of us, particularly me, my position is there is no negotiation in how you manage somebody else’s property and whether that restaurant is going to be viable. That is not part of the solution here. You’re raising other questions and other problems that are completely inappropriate with what the Planning Board is trying to accomplish, and if we were to allow you to proceed, we would be allowing a terrible precedent to be set for future development. I think it’s really inappropriate for you guys to have three options that are involving somebody else’s property. If the owners aren’t involved, then who would bear the brunt of moving this well?”
Ms. Browning: “So, if I can respond-”
Ms. Light: “Not the owners.”
Ms. Browning: “So, there is an agreement that’s in place – Ms. Light, there is an agreement that exists among the parties, and that is something that would need to be abided by and governs the situation. So, I want to be clear that we would not be setting a precedent or, you know, violating a third party’s rights. There is already an agreement in place that protects that third party.”
Ms. Light: “Then that agreement should have been introduced.”
Ms. Browning: “Well, that’s a private agreement among the parties that, that we would need to abide by, and really, the goal here is to ensure that this application conforms to all of the Hopkinton Town Ordinances and Regulations, as this is, as you know, this is a DPR review, and also to abide by the Department of Health Regulations, so that we can get their stamp of approval on the project as well. Both of those standards are being met, and especially as to the Department of Health, will have to be met before we can break ground and do any sort of construction.”
Ms. Light: “Okay, I’m seeing a lack of transparency in what’s occurring here with a well. It’s not a house, it’s not a shed. It’s a well. And, I appreciate your confidential agreement with a property owner, but I think there is a lack of transparency, and I don’t support that.”

At this interval, Sharon Davis, the Town Council Liaison, weighed in.

Ms. Davis: “Sharon Davis, the Town Council Liaison to the Planning Board. The Town Council is considering a liquor license for that property. So, I would think they would want their well to be, you know, in good order, and I think that, probably, you do need to just go ahead and remove the panels. I’m sorry to interrupt, but, that, I just wanted to get that out. Thank you.”

Mr. DiOrio thanked Ms. Davis for her comments, and said that she was “right on point.” He said that, “in responding to your most recent comment and to Carolyn’s concern, my suggestion here would be, listen, as a condition of the approval, you identify the radius around the well. You pull the panels out.” He continued, stating that “if the applicant subsequently finds that they can put panels there, then I might be okay to do that at the issuance of the building permit”, but that the Board would have, preemptively, “taken the more conservative approach in removing the panels and protecting the well.” He said that that option seemed “pretty simple” to him, and said that he was just going to “put that out

as an idea." Mr. Palumbo said that Mr. DiOrio's recommendation was "logical", and that "it accomplishes the same thing that I was trying to accomplish", so "that's just fine."

Mr. Prellwitz then asked the applicant for a little clarity on the location of the well and the pump house. His assumption was that "the well is where the pump house is", and that there are "already panels that have been pulled back from that area." He said that he was looking at "something that is pretty much equal distance between Infiltration Basin Charlie [Infiltration Basin C] and Infiltration Basin Delta [Infiltration Basin D], where it curves around the wetland." Mr. Russo responded.

Mr. Russo: "The pump house that you're speaking of, Ron, is the existing pump is currently connected to, there is a small building on the east side of the property, which is used as part of the golf facility. There is a well on that property fed into that pump house, which is attached to that building, and then that restaurant fed the water back down to the restaurant. So, part of the process that we looked at was relocating that pump facility off that building and off that ridge, ridge line."

Mr. Prellwitz then said that Mr. Russo's response did not "answer the question where the well is", and he asked if it is "at the pump house." Mr. Russo responded that it was "in that vicinity, yes." Mr. DiOrio asked Mr. Russo what the radius of it was, "where does it take place, and how much area is impacted." Mr. Russo said that "where we're proposing the pump house is where the existing well is", and that "it would be two hundred-feet located off of that area where the well is, and the well is right next to the pump house." He said that on sheet eight of the plan set, "you can see the pump house", as it is labeled, and that the "well is just east of that, just next to it, so the two hundred-foot radius would be off of that."

After this discussion, the Board was ready to move onto the discussion around landscaping. Ms. Light asked if this was the time to talk about the berm, and Mr. DiOrio said that it was the time to discuss the berm. Ms. Light said that she "would like some definition" on the "details of the berm, what they're proposing." John Carter spoke on behalf of the applicant.

Mr. Carter, a registered Landscape Architect at 960 Boston Neck Road, Narragansett, spoke. He wanted to review how the landscaping plan had progressed to this point.

Mr. Carter: "At the initial Board meeting, we presented a landscaping plan, where we were proposing to use a lot of the existing, native vegetation that's on the site, which is primarily eight to ten-foot high red cedars and white pines, and we propose to do sort of an in-fill planting along the on-ramp, and to do that along the Maxson Hill Road side and a couple of other places. We were told – I left that meeting having been told two things, one, we don't want to see this. Well, the chairman said 'I don't want to see this', which is a high barrier, and, in addition, we're designing, to the best of our ability so we don't see it, but the standard we're meeting is a standard that's in the Ordinance, and so I was also told, well, we don't want to wait for the plants to grow. So, a vegetated buffer is not a, a rigid barrier. It's a dynamic barrier, and plants grow. Some grow faster than others. We

deal with, you know, the mechanics of transplanting and survivability, and water, and storm damage, insects, pests, deer, and so forth. So, I said, 'Okay, what are we going to do in lieu of that?' So, in the Ordinance, it allows a fence, a fence no less than six-feet high, but a six-foot fence is not going to be effective all around this site, and there is a variety of views, as you know, onto this site. So, we looked at using, basically, a combination of an earthen berm, which would be material that would be, be left over from the grading on the site, so an earthen berm that would be vegetated, with erosion control seed mix, to hold it in place and to eventually cover it in vegetation, a fence, and, then, in some cases, additional planting down around the restaurant and so forth, we that that where the entrance into the restaurant is, and the reason for that is that we would be able to control the height of it, the location of it, and we took some representational transects, up level views, from different spots around the site and tried to develop a barrier that would be a physical and immediate visual barrier onto the site. So, it would be constructed of that earthen berm, a fence, and, in some places, some additional vegetation. That's how we got to where we got, and that is what we're proposing, and it does, in my opinion, the best that we can, meet the Ordinance's guidelines that we provide a visual screen and minimize views, and so forth."

Mr. DiOrio asked Ms. Light if that satisfied her concerns. She said that it did not, and that she had been asking about the "berm that would be on the east side of the property." She wanted to know "how the east side of the property is going to be handled, if you're not leaving the vegetated buffer, and you're going to be putting in a berm." She wanted to know how high the berm was going to be, what it was going to look like, and if it "is going to cover the height for the neighbors across the street over there" on Maxson Hill Road. Mr. Carter said that the "panels will be set back one hundred-feet from the property line", and that there is part of the landscape plan that "indicates the various proposed uses of the landscape buffer." He explained that the "crosshatched area indicates an area that the tall trees that cast shade onto the panels will be removed", but that "all of the existing vegetation there, all the understory vegetation there, which is actually the most effective for screening, will remain in place." Mr. Carter then said that "if you move inward toward the site, there is going to be an earthen berm, and it's indicated in yellow with a fence on top of it." He said that, in his opinion, this would be a "very effective screen from Maxson Hill Road". He said that because "a couple of the neighbors are elevated quite a bit above the road," ultimately, "it wouldn't be possible, in my opinion, to put an immediate screen there, because it would be, it would have to be impractically tall, and there is a necessity for not putting shade onto the panels, so they don't work." He said that the "six transects that we did was really representational of different points of view onto the site", and that they had "did actually, I believe, at the Board's request look at one of the lots across the street, Lot 52, which would be transect five and then transect four and transect three from the road, looking into the site." He said that there "will be vegetation", and that "it will be an earthen berm, that will be vegetated, and then, on top of that, there will be a fence." Ms. Light asked Mr. Carter how tall the berm would be. He said that it would be variable in height.

Mr. Carter: "Well, in that particular case, where the transect is drawn, transect number five, we have a berm height of about, probably, five feet on one side? Because the grade

naturally goes up, the berm would be steeper down on the road side. The grade, actually, from Maxson Hill Road, drops down slightly, and then goes back up again. So, it would be about five feet on the back side and on the inland side. It would be seven or eight feet tall on the road side, with a berm – a fence on top of it, which would accomplish eleven feet, or twelve, or fourteen, depending on where it is. The berm is intended to be somewhat variable in height, because the views onto the site are not fixed. They're dynamic, and they change as you move around, so it gives an opportunity to adjust it to be effective in terms of blocking the views onto the site."

Mr. DiOrio had a couple of comments about the designs proposed by Mr. Carter.

Mr. DiOrio: "Thank you, John. Any other thoughts or comments there? If not, I would like to weigh in on the fence. So, John, I want appreciate - to express my appreciation for identifying myself as the person who told you that I don't want to see this thing. Thank you very much. However, I was really hoping you would accomplish this by vegetation, and not a stockade fence, which I am not in favor of. So, I think you can still do this by vegetation. A stockade fence is completely out of character here. We have made an exception. I will certainly admit to that. But I think the - there were some extenuating circumstances on that, and that has not been the kind of fencing that we typically approve for these projects. I want to go back to the actual verbiage of the Ordinance, it was butchered a little bit by Steve earlier. There is a requirement for a perimeter fence, I agree, 'of a style to be determined by the Planning Board', and I think that gives us a significant discretion as to whether there is fencing and what type it is. So, I just want to weigh in. While I appreciate that you had to dig deep into your trick bag to accomplish the screening of this, I think we can do a little better, in my personal opinion."

He then asked for comments from the rest of the Planning Board. Mr. Prellwitz said that he agreed, "that a vegetated barrier would look, to my eye, much more appealing", but that he would "leave it up to the rest of the Planning Board and whoever else decides exactly what they want to put there." Ms. Light said that, based on "past experiences with fences and berms", "they still are exposing the site dramatically, and with the property owners so close to the project, I think would - it's beneficial that we find a better way to handle that buffer zone." She also said that she would have "like[d] to have heard something like, 'We are going to have a vegetated buffer that's going to be seven-feet tall, with trees on top of it. That's, that's what I envision as an appropriate berm, kind of like what we see on the north side of the property along [Interstate] 95."

Ms. Browning interjected that she wanted to ensure that all parties were "all looking at the same language here." She said that her reading of it was that "the ground level facility shall be enclosed by a perimeter fence", and that, "in addition to the fence, to further obstruct the view, the Planning Board may approve a vegetated buffer." Mr. DiOrio replied that "the fence issue is not being disputed", but that it was the "type of fence". Ms. Browning answered that she thought "it's important to mention that, as part of the application, we did need to consult with the Town Fire", and that "the Fire Department may have a life safety consideration on the fence consideration." She asked Mr. Russo to provide any insight that he may have had in regards to what the Fire Department had

approved in the past. Mr. DiOrio replied that, “Respectfully, we don’t have to go any further than the Ordinance, stating ‘of the style to be determined by the Planning Board’. Ms. Browning responded that that was the case, “except if we do then submit this to the Fire Department, there may be a risk of having to go back and forth, and to the extent that we can eliminate that, I think that should be on the record.” Mr. Russo said that, in his experience, the Department has “approved various types of fence – stockade, chain link, and seven-foot height is what they require as part of that.”

Mr. Lamphere then had an additional question for Mr. Carter. He wanted to know more about the “northernmost solar array area”, which features a berm with a chain link fence. He said that he did not “see any vegetation associated with the berm.” He wanted to know what Mr. Carter had planned for that area. Mr. Carter said that the way Mr. Lamphere described it was how it had been designed, that “it is supposed to be an earthen berm”, which, according to Mr. Carter, is “a considerable distance from the home there, and the grade is such that it actually drops down from the residence”, so that there was, in fact, “a berm with a perimeter fence on top of it.” Mr. Russo also weighed in. He said that the “topography over there goes down toward the wetland”, and that the “panels in that area, it’s between elevation one sixty-two to one sixty-eight”, so the “top of the berm is at one eighty-four, on average”, making it so that “the berm is much higher than the panel area.”

Ms. Shumchenia had a few questions about selective clearing. She said that it seemed like there was “selective clearing on the east side, which is really close to most residences on Maxson Hill.” She understood that “the reason given for selective clearing was to clear tall trees that might shade the panels”, but that she “cannot imagine how tall trees that far away from the panels, to the east of the panels, would cause any shade.” She said that it was “really, really critical that trees in that area stay, in order to buffer the view and maintain some semblance of the existing condition for the residences that immediately abut that part of the site.” Mr. DiOrio said that he concurred, and that he “thought we had covered the ground that the one hundred-foot setback was going to be in a vegetated state.” He said that Mr. Carter’s plans did not seem to reflect that, but that it was “no problem”, as it could become a condition of approval “should the Board decide to move in that direction.” Mr. Carter said that “in some places, there is one hundred-feet of vegetation along Frontier Road,” and that “rounding the corner to Maxson Hill Road, there is one hundred feet.” He said that “along Maxson Hill Road, there is not one hundred feet.” He said that it was “one hundred feet to the panels, and the same along the entrance ramp where it would be a seventy-five-foot setback to the panel from the property line.” He also said that “there is a grade change”, as well as a berm on the state highway, which is “heavily vegetated.” He said that “there is not, on those two areas, there’s not a one hundred-foot vegetated buffer inside the property line.” Mr. DiOrio thanked Mr. Carter for his clarification, and that “what I think I’m suggesting is that’s what will happen in the next iteration.”

Ms. Browning replied to Mr. DiOrio that in the Town’s Solar Ordinance, there is a “limit on clearing”. She brought up how, when a Zone is changed on a parcel to accommodate a solar array, “the maximum amount that can be cleared is forty percent of the total area of

the parcel." She said that this was not the case here, as the property had already been zoned Manufacturing, and that "the area that we are proposing to clear is approximately nine acres, a little over nine acres", which translated to "14.1% of the lot." She said that "even by the strictest standard in your Ordinance, of forty percent of clearing, we are still well below that, and that's forty percent, again, doesn't apply." She said that "there is no requirement in the Ordinance that would support a condition that we're talking about now." Ms. Light said that "we are all clear that we are not talking about a Zone change, so it's not important to hear what happened if this is RFR-80 to Commercial. It's specifically for this project." Ms. Browning said that she thought it was "important to note that your Ordinance and your Town Council set forth a requirement for RFR-80 parcels", but did not do so for a Manufacturing parcel, and "even if you were to assume that that requirement was meant to be the most conservative, we are still well below it." Mr. DiOrio responded that he heard her comment, but that he was "suggesting it as a condition of approval". Ms. Browning replied that, in the applicant's opinion, "that would not be in keeping with the requirement under your Ordinance or, and this Board's charge, which is to evaluate a DPR application compared to the Ordinance, and if it meets the Ordinance, that is the end of the charge. That would justify an approval." Mr. Lamphere responded that the next sentence of the Ordinance read that "clearing of any existing vegetation within the front, rear, and side yard setback is prohibited unless explicitly approved by the Planning Board." He then said that that language seemed "unambiguous" to him.

Mr. DiOrio then said that they didn't "need to debate this", and that it was obvious that he had a different opinion from the applicant, and that he didn't "need to spend a lot more time on this", and that he was "ready to move on." Ms. Light agreed, as did Mr. Prellwitz and Mr. Lindelow. The next topic was decommissioning.

Mr. DiOrio began by saying that he was "familiar with what we're supposed to be doing", and that he was going to direct some of his discussion towards Mr. Cabral.

Mr. DiOrio: "So, and, just, let me be candid, and, if I'm stepping out of line, please, let me know – but, so, you're operating as the 'Town Engineer'. I'm putting that in quotes. So, I don't necessarily view the 'Town Engineer' as a person, of course. I interpret the Town Engineer as an entity, a party, a firm, such as yours. Your firm is operating as the Town Engineer. So, I'm fully aware that we are looking for you to verify the decommissioning values, and we're obligated to go along with your representation. I'm perfectly okay with all of that. So, what I had been hoping was going to transpire was that, because decommissioning is, you know, still, at least in my naïve approach, a little bit of an unknown science, I guess I was hoping that your firm would procure the services of, let me put the word 'expert' in quotes, because we'll get around to that, to delve into decommissioning as a task and give us a report, accordingly. It would still be under your auspices, of your firm, hence the 'Town Engineer'. That's what I was hoping was going to transpire. I think I recollect accurately that that did, in fact, take place, but there were, let me call them 'complications' as to why we didn't really get to that point, but what confuses me is, why didn't we procure the services of another, quote, 'expert' firm in decommissioning? So, can we get an answer to that question first? Steve, please."

Mr. Cabral responded. He explained that "when it comes to estimating the cost for decommissioning", there are "three major components". The first is the manual labor of removing the racks, which is "nothing special", as it is "strictly manual labor." The second is the "earthwork associated with fixing areas that may have been eroded or that need landscaping, loaming, and seeding." The third is "the salvage value, and, as an engineer that has been practicing for almost, I'd say almost forty years now, the first two components, the manual labor, and the earthwork, are relatively straightforward." He said that the "major concern that we have is the salvage value", and that, "in all honesty, we don't believe, we have not found, an expert who can certify, with any accuracy, what the salvage value of the equipment is going to be in twenty-five years." He said that this was "based upon discussions with companies that are involves in that field", and that they did "get some rough numbers", but that they did not "use their salvage numbers, because we disagreed with them." He said that one of the unknowns is that they cannot know if "any of the panels or the racks [can] be sold and reused, or do they all have to be recycled or disposed." They did receive information from "one theoretical expert", who said that, "if the material could be reused at a lower capacity, they had estimated that the value could be up to $1.2 million". He then said that this expert had said "if you broke down the amount of steel, aluminum, copper in the entire system, they felt that the minimum would be in the three to $600,000 range", but that "as an engineer, I know that there is no one that can certify what the salvage value will be twenty-five years from now." Mr. Cabral said that "the natural thought would be to use today's values, and assume it's going to have a future growth or decrease in the same manner as the past, but that's not going to give anyone any sense of comfort, because, in the future, there may be, you know, plastic or high density polyethylene-type racking system." He said "there are so many unknowns when it comes to decommissioning", but that they were "confidence in the manual labor aspect as well as the earthwork aspect." In regards to the salvage value, Mr. Cabral said that they "used what we feel is a low number, based upon talking to the theoretical 'experts', if there is such a thing, and I don't say that in a joking manner, but that's my honest opinion, that there is no expert that can certify salvage values twenty years from now, and the applicant probably feels the same way." He said that "it's an estimate", and that, when he reads the Ordinance, "the primary question that we had is the Ordinance states that the cost needs to be provided, but it's silent when it comes to credit for the salvage value."

Mr. DiOrio thanked Mr. Cabral, and said that his testimony provided him with "some things here that I was certainly not aware of." He asked Mr. Cabral if his representation was that "for the bulk of decommissioning, in terms of estimating its cost, this is largely an engineering number crunching task." Mr. Cabral replied that it was. Mr. DiOrio then asked Mr. Cabral if he had a "firm grasp of what these costs will be", which he said that he was. He said that they looked as "research available from other states, so it's not as though we just estimated independently." He said that New York state has "good guidelines for estimating decommissioning costs, and there was the commonality when it comes to the labor cost." Mr. DiOrio asked Mr. Cabral if he had reached out to others in his field "to support some of your conclusions", and he said that he had, and "actually, the input we received was given a higher salvage value that we didn't feel we could

defend." Mr. DiOrio said that Mr. Cabral's testimony had touched on some "important points that I was not aware of", and that it made him "feel much more comfortable." He had some additional questions for Mr. Cabral.

Mr. DiOrio: "Given the uncertainty of what's going to transpire in twenty-five years, and I could list a whole pile of concerns that I have about where we're going to be in twenty-five years, with a bazillion panels suddenly reaching their anticipated lifespan, and the fact that the Planning Board's charge here in developing this estimate is to err on the side of protecting the Town, I'm not interested in protecting the applicant here. The applicant has got to fend for himself. He's in the development business, and that's what he does. My job is to ensure that the Town doesn't take on undue risk, and, of course, you're with me in that task as the Town Engineer. So, my question to you is: Why aren't we simply deleting salvage value from the equation?"

Mr. DiOrio's thought process was that if the applicant would be able to make money from the salvage value in the future, that would be beneficial to them, but if the applicant did not make any money, that would be too bad for them. He questioned why the Town was "taking a part in this projection of salvage value." Mr. Cabral responded that they had explicitly "identified a separate line item so that discussion could occur", as in the estimates they had seen, "it's common to state the salvage value as a cost reduction, but, as I said, the Town Ordinance is silent on whether or not that can be done." He made another note that there is a segment of the site is wooded, but he was not sure if the Planning Board was going to require that that area be reforested, so they "made a footnote that our estimate does not include reforestation of that area."

Mr. DiOrio then asked the other Planning Board members for their comments on the decommissioning discussion. Ms. Light asked Mr. Cabral how they were able to determine the process of removing one panel, if "you just detach it?" Mr. Cabral said that that was essentially it, "unscrewing and detaching the individual panel", done "in a manner that you don't damage them." He also included that there would be "wires throughout the site that have to be pulled and stockpiled." He said that "one good source that we found" was in New York, but he found another in Massachusetts. He said that the Massachusetts study "developed a unit cost for decommissioning of a typical, two megawatts solar facility", and that "their research was that unit rate could be prorated for different sizes." He said that when he "used their values on a per megawatt basis, it was in line with the estimates that we, as well as DiPrete, had, for the removal process." Ms. Light then asked if Crossman had reviewed the "removal of the panels as the removal of electronic waste." Mr. Cabral responded that it had not been reviewed "as waste, because that would all come into the net salvage value." Ms. Light replied that that was not necessarily the case. Mr. Cabral then said that when he was referring to labor costs, he was referring "specifically [to] the labor of doing the work, not the disposal or recycling cost benefit."

Ms. Light then brought up the topic of the disposal of electronic waste. She said that the EPA has "regulations regarding disposal of electronic waste, and solar panels, at the commercial level, are the elephant in the room". She said that, at this time, "Rhode Island

is not prepared to accept electronic waste even for two megawatt projects." She commented that her research shows that "removal of the panels includes the following: collection of the serial numbers from each panel, from each piece of equipment – the inverters, transformers, identify how many modules will be processed, how and where they will be packaged, shipped, stored, the total waste impound for the module has to be taken into consideration." She wanted to know if there were "third-party logistics required for the shipment", which she said is the current case. She said that "it's not just taking the panels back, and putting it on a pallet, and putting it on a truck", that "it's a lot more detailed." She said that "the labor is completely underestimated as far as I'm concerned, because it wouldn't just be a waste disposal company that would come clear the property. It would have to be a much more sophisticated process." Mr. Cabral replied that it would be, and then gave a little more insight into his background. He explained that, on top of being an engineer with Crossman, he was also "a Commissioner of a municipal utility company that provides electric power to a community with 28,000 people", and that their income was "about thirty million dollars a year, and we're responsible for overseeing all of the finances." He said that this "includes the capital expenditures, the budgets, as well as the disposition of waste products." He said that while Ms. Light was "implying that everything is waste, but from a practical point of view, we tend to find ways to reuse material." Mr. Cabral said that there was a "perception that transformers are all hazardous waste", but that he had "an employee that actually refurbishes transformers, and we reuse them."

Mr. Cabral: "So, I don't believe that everything is going to be a waste product, and when it comes to the salvage, we can give you the pounds of modules, the pounds of racking. We have a summary of all of that, but the point that the salvage being unknown is that it's the net of disposal and recycling value. And, I admit, as I responded to the Chairman's question, that's a big unknown as to what that salvage will be."

Ms. Light said that she agreed, and that she was looking at it from a "recycling perspective that includes repurposing equipment." She said that "not all of the panels are going to be damaged", and that "they can be repurposed somewhere else, and there is lots of opportunity out there, but what I am suggesting is that it's not merely the removal of a panel from a rack. It's traceability."

Ms. Light: "If there are ten panels that are damaged, it's hazardous waste, and there has to be a traceability feature included in the removal of the waste."

Mr. Cabral replied that he agreed that Crossman's labor cost "did not include the cost of repurposing" the items, as "that was all factored into that net unknown, that net salvage value."

Mr. Palumbo then interjected. He said that "solar panels are not e-waste", that they are "solid waste." He said that he knew this "firsthand, because, in the construction process, every job, we have panels that, when they ship they get damaged – they get run over." He explained that the J.R. Vinagro Corporation, "a solid waste transportation facility,

they've taken them with no issues, and they do all of it in a professional way, so it is simple."

Mr. Palumbo: "You call up Vinagro, they come, they pick up job scraps from the job site, including wire and metal and panels. They take it. So it is simple. We recycle it. We gave you a recycling expert's report, and that is in the record, and also Vinagro's report and quote is in the record."

He said that, in regards to the salvage value, he could "appreciate" the points being made, about how "twenty-five years is very unpredictable", but that he believes that the removal of the panels in that time frame will become "very automated", and "very inexpensive, just like tree cutting years ago". He again reiterated that panels were "not e-waste, it's solid waste", and that "it's accepted right here in Rhode Island."

Ms. Light responded that the technical data sheet provided by the applicant to the Board, from the manufacturer, "classified them as electronic waste." She said that "coming from the manufacturer's mouth and coming from all of the research that I have done, it is electronic waste", like a cell phone. Mr. Palumbo responded that he would "just beg to differ" with Ms. Light. Mr. DiOrio asked the Board if there were any additional comments, but Ms. Browning interjected that there was "an additional response from Sage on that issue of e-waste." Ms. Mulanaphy responded. She said that the term "e-waste, electronic waste, comes from – in the environmental regulations, it's referred to as RCRA regulations." She said that "the 40 CPR, Section 273 is where universal waste is defined, and so there is not a classification for solar panels in that regulation." She said that "certain things, as batteries being e-waste, lamps being e-waste, those are all true, but panels, solar panels, are not part of that classification." She said that "they don't consider them electronic waste, because they're actually generating the electricity", not using it. She said that she had heard Ms. Light say that it was in one of the data specification sheets, but that she was "not sure which one you're referring to, because I haven't seen where it's been stated for that."

Ms. Mulanaphy also provided date on the contents of the panel. She said that once a material has been determined to be a solid waste, that then an analysis is conducted of the material, where "they take a sample of the material, and it simulates what the material would be if it were to go into a landfill, and over time, would any of the toxic – any toxic components leak out and create toxicity to the landfill." She said that that was done for these solar panels, so it was "ground up into very small pieces, and then it was submitted for the TCLP analysis, and it came back showing that none of the toxicity thresholds for EPA as well as RIDEM were exceeded, which would mean it's not a hazardous waste." She said it would "just be classified as solid waste", though, in Rhode Island, there is an exemption for some electronic materials that cannot be disposed of in a landfill, and those are specific to televisions, computers, which they include monitors, computer-powered laptops, and tablets, and then mercury-added products." She said that, "from the standpoint – from a regulatory perspective, and a client's standpoint, the panels can be looked at as solid waste."

Ms. Light said that at one of the previous meetings, “it was noted by your team that the safety data sheet for these panels is not yet available”, so she looked at the safety data sheets “that were available for the previous series of the same two cells, and on those safety data sheets, on those technical data sheets, the manufacturer notes, in fine print, that they’re e-waste.” She said that she did not “see Vinagro in the position, without approval from the State of Rhode Island, accepting a thousand solar panels.” She then said that she had called the State of Rhode Island, and said that she was a resident who wanted to get rid of her solar panels on her Residential property, and that she wanted to know where she could dispose of them. She said that the State told her that they could not answer that question. She then said that, “from a Residential perspective, I was confused. From a Commercial perspective, Rhode Island needs to a do a lot of work to be able to support continued development on solar projects throughout the state.” She said that she was “not picking on this project”, but that, as the Chair had mentioned earlier, “our responsibility are to the risks that the Town of Hopkinton could potentially incur forty years down the road, thirty years down the road, when these projects have met their end of life, and I hope you can appreciate where that’s coming from.” She said that “other research that I have done is in conjunction with what Crossman Engineering says, where the potential decommissioning costs could be extremely high.” Ms. Light then said that her “responsibility is limited to the community of Hopkinton. It’s not the financial viability of this project.”

Ms. Light: “It’s to the long-term development of what we’re trying to accomplish, and that, in itself, is not limited to a commercial program like solar, or a restaurant, or a house. This is across the board, our job is to make sure that these investments are going to protect the future of our community, and, in my mind, if every solar project in the Town of Hopkinton were abandoned in twenty-five years, the Town would go bankrupt. That’s what we’re responsible to look out for, and I don’t see that our Solicitor or our Town Council President or that our Financial Manager would disagree that our responsibility is to make sure that we, we have to take the right steps to ensure the future of this community and not turn it into a big solar wasteland.”

Mr. DiOrio thanked Ms. Light for her comments, and let the Planner make some comments as well. Mr. Lamphere said that “we’ve heard a lot of various opinions tonight about decommissioning”, but he wanted to “remind everyone that, in terms of the Ordinance, we have followed it fairly well here.” He explained the process.

Mr. Lamphere: “The applicant prepared an estimate from Dave Russo, a qualified engineer in the State of Rhode Island, of $226,000, roughly. We had the Town’s Engineer, who’s also licensed to practice in the State of Rhode Island, and a qualified expert to review this, he prepared his estimate, and it came in at $278,000. Our Solicitor had considered both of these with respect to the Ordinance, and he has given us advice that we can increase that amount, if we are not comfortable with it, up to one hundred and twenty-five percent. Let’s just go through Crossman’s numbers for a second. They come down here with a cost of $434,000 and change to actually dismantle this system. They built in a ten percent contingency for unexpected, whatever, salvage value, you know, factor, or whatever, and then that came up to $478,000. They subtracted a conservative

$200,000 for salvage value, and they came up with $278,064. Now, if you're not comfortable, the Planning Board, with that number, and these are provided by expert witnesses – so that, just keep in mind, if you were to go to an appellate body on this, that's what you're going to be – if you're going to have to refute that with another expert testimony, not just your opinion or your research. We need expert, experts, to provide testimony on this. Okay. We have two of them right now, and we also have our Solicitors, that say we can increase this by one hundred and twenty-five percent. I did some calculations as to what the Planning Board might consider doing with this. Taking the base cost provided by Crossman of $434,603.88, if you take twenty-five percent of that, that's $108, 650.97. Add them together, you get $543,354.85, subtracting the salvage value of $200,000, Planning Board, our Solicitor says that the Planning Board could legally impose $343,254.85. So, that's a premium over what Crossman has provided in its estimate. So, I would ask the Planning Board to consider the advice rendered by our Solicitor as to what we can legally do, without any complications, and make your decision based on that."

Ms. Light asked if she needed to "lean on the We Recycle Solar estimate that says the salvage was a negative $77,000 and change". Mr. DiOrio said that he could "see where [Mr. Lamphere was] coming from", and that he "applaud[ed his] thought process." He said that he was "inclined to simply strike the estimate salvage value."

Mr. DiOrio: "I don't think I need to hearing anything more than what Steve [Cabral] has already put on the record as an expert that this is the complete unknown. I certainly appreciate that he feels that he needs to put something in there, but I would just strike the two hundred and go with the result in value, my personal suggestion."

He asked the Board if they had any thoughts. Mr. Lindelow said that he "agree[d] about the re-salvage being a separate conversation altogether." He said that "it has nothing to do with decommissioning", and "if they can establish a salvage value years from now, that should be a process at the time of decommissioning."

At this time, Mr. Lamphere had a question for the applicant. He had a "thought to throw out there that [he] came up with" earlier that day, and he wanted to know "who owns that parcel or those parcels of land today." Mr. Palumbo replied that the individual was Joe Rando, and that he "believe[d] the name of the entity is Hopkinton Investments, LLC." Mr. Lamphere said that that was correct, "which leads me to a couple of other questions." He said that there "are two operation and maintenance plans associated with this submission", the storm water operation and maintenance plan, and the operation and maintenance plan – both of which the owner of the property would be responsible for maintaining. He asked the applicant what they "envision for the future" in terms of ownership of the land. Mr. Russo said that "DEM reviews those operation and maintenance manuals for storm water", and that "they require us to put an owner on there." He said that "if we are working on a project, and it's going through the DEM process, and the ownership may change at a later date, they require us to put the current owner on there. So, that document will be a document that will get updated in the future prior to construction that we have to ultimately complete prior to construction." Mr.

Palumbo then stated that "we will purchase the property prior to the commencement of construction, and David [Russo] will substitute Revity Energy in, or our real estate entity is Revity Real Estate, in for Hopkinton Investments." Mr. Lamphere said that he "noticed that an addition was made that no module washing will be performed, but I did not see in the operation and maintenance plan any contact information, whatsoever", and that the binder provided by the applicant did not provide "any point of contact if you had any issues down the line." Mr. Russo responded that it was an "ongoing document", which "doesn't get finalized until prior to construction". He said that "all of that information, very similar to soil erosion people, the contractor that is going to build the site, and we don't really finalize it until they start the construction and that's all clear." Mr. Lamphere said he wanted to get those "two housekeeping things out of the way" before going into his "thought for the day."

Mr. Lamphere: "To make up an additional amount that would satisfy the Planning Board, would the Planning Board consider an irrevocable letter of credit that attaches the parcel itself? So that would give you an additional land value there in addition to the cash escrow amount that would, that would, hopefully, be commensurate to give you enough assurance that we can decommission the thing. That's another way to get around this, such that the Town can have some assurance, and the applicant, it's a little bit easier on them than to put up that money upfront. That's my thought."

Ms. Browning asked if Mr. Lamphere was "proposing a letter of credit in addition to, say, the escrow amount in the amount of – what was the amount you stated before, $343,254." Mr. Lamphere said that he was, as the "amount that I came up with didn't seem to satisfy some of the Planning Board members, so they wanted to just take away the $200,000 salvage value." He said that he was "trying to make up this discrepancy between what we can do legally and what we might need to do to satisfy the Planning Board at little cost, at little cost to the applicant." He said that all the applicant would be doing would be "basically putting up the land", which is "not going anywhere, and it's not going to really be any cost to you, and yet, it's something that the Town could go after if we had to, in addition to the cash escrow." He said that he was "not suggesting an either/or scenario here", but a "combination of cash escrow and to make up the difference of the land." Mr. Palumbo responded that that was "a creative idea that we haven't explored just yet", and that he "would entertain it", but that discussion would be subject to the approval of his capital partners, and there would be a mortgage on the property. He said that "so as long as it is subject to the mortgage that would be fine, but I'm not sure it would be acceptable to the Town." He also said that he appreciated Mr. DiOrio's comment on excluding the salvage value, but that he was "paid to speak from experience."

Mr. Palumbo: "On thirty other projects and thirty other decommissioning plans, including decommissioning plans in the very Town of Hopkinton, that allowed the salvage value reduction for decommissioning, both for my projects, but I know other projects in Town, in state and out of state, it's very consistent and widely accepted to do, and I think it's reasonable. The salvage value is based on commodity metals, so to take that away, that value – it's just not logical. It has true value today as we look at it, and you'll have true value in the future."

Mr. DiOrio asked if there were any other questions or comments from the Board in regards to decommissioning. Ms. Shumchenia said that she thinks "we should strike the salvage value." Mr. Prellwitz said that the Town had hired Crossman "because we believe that they're capable of doing the job for us." He said that "if we didn't think that their estimates were accurate, and we didn't have faith in them, we should get another company." He continued.

Mr. Prellwitz: "That being said, they put in $200,000 for salvage value, which the steel and stuff alone in twenty years, as the previous gentleman said, we don't know what it's going to be. I think it's going to be a little bit low. If we went with that $200,000 still in there, $278,064.26, in twenty years, according to this estimate that's in the binder that was supplied to us, that's $513,000 and a little bit. That comes up to a nice piece of change. In the estimate that they have, there is a few things on there that, in my mind, I would not agree with. Four inches of loam supplement, which is, what, $70,000 – no, that's $40,000 - the loam is already there. It's in all of our guidelines in the Solar Ordinance that all soil has to stay there. There is already top soil there that's going to be in use, so why do we have to bring in more? The next thing is trucking the recycle. If we take away the salvage value, we don't have to truck it to recycle, because it's not going anywhere. It's a whole different operation. As-Built survey? That's questionable. Inspections, we got a $10,000 for As-Built survey, and $11,400 for inspections. In my mind, they overlap, so one of those needs to go away. The final report, okay, that's something that needs to be records, $3,040, it doesn't seem outrageous, but, you know, it's in there. So, if we take all of those things into consideration, we are down to $384,000, excuse me, $384,922, instead of the four hundred and seventy-eight. Those are my thoughts on the matter, and thank you for your time."

Ms. Browning responded.

Ms. Browning: "Mr. Chair, this is Attorney Browning. I just want to make a comment, and I think it's very important to note here. It's kind of in line with what the Planner said earlier. Your ordinance is very clear. This amount is to be determined by the Town Engineering Consultant, and I think the purpose for putting that language in there is for this reason, that it is not to get into this sort of discussion on numbers and what comes in and what comes out by the Planning Board. You have hired an engineer, Crossman. They have done an extremely thorough job on all fronts, and they have submitted the required decommissioning estimate, and that estimate includes the salvage value, and it includes a host of other items. That is that estimate that the final amount calculated shall be based on in accordance with your Ordinance. I think it's important that if there are questions for Crossman, or certainly for DiPrete, on their decommissioning information, or on the We Recycle Solar report, those are all, you know, opportunities to learn more about decommissioning. So, when it comes to actually setting the value, the value is set by your Engineering Consultant through this estimate that have been submitted to the Board."

Mr. DiOrio said that he heard Ms. Browning's comment, but that "our expert has already opined that the salvage value is a wild card", which "opens up the door for the Planning Board to question that value." He said that he is "not inclined to go digging through the

rest of the estimate, because I take Steven's word for it." He said that "if these are the numbers that he wants to assign to it, that's great, but when we get an open admission, and this is not a criticism by the way, Steve, that the salvage value is an unknown quantity, then I think the Planning Board has some latitude here, so it is not simply the estimate as determined by the Town Engineer."

Ms. Browning responded again.

Ms. Browning: "And I hear what you're saying, however, the estimate that was submitted for purposes of this hearing, for purposed of this application, in accordance with your Ordinance, includes the $200,000 estimated salvage value. That is the estimate that was put forth by your expert. Now, I will also just state, for the record, that there is a mechanism in your ordinance that, should the Town, in the unlikely event that they have to go in and decommission the project or the property, there is an additional provision in your Ordinance that covers you in terms of saying, if there is additional monies that's expended by the Town to do that, the Town has the right to then seek those monies and collect those monies, I believe. It also says, also, attorney's fees, so I get the Town's concern. I get the Planning Board's concern, but, again, the Ordinance is very, very clear. This is the estimate that was submitted by your Engineer. We looked at it. We had conversations about it, and I think that this is the estimate that needs to be relied on."

Mr. DiOrio responded that he heard Ms. Browning's comment. Mr. Clough then asked him if he could chime in. Mr. Clough, the acting Town Solicitor responded. He and Ms. Browning discussed. Mr. Lamphere also weighed in.

Mr. Clough: "In terms of the Crossman Engineer and the value provided, and how the Ordinance reads, the value that has been submitted is $278,064 and change, as you all see. There are certainly questions regarding the estimated salvage value as has been put on the record by the expert, so the Planning Board is well within its rights to question that value, however, the lining or zeroing out of that line item itself may be beyond the scope of the Planning Board's authority under the Ordinance, however you would certainly be within your right when considering the one hundred and twenty-five increase cap to take into consideration the lack of the accuracy or precision, if you will, of the estimated salvage value when coming to a number above and beyond the two hundred and seventy-eight thousand."
Ms. Browning: "Sean, just so I can clarify on that. The one hundred and twenty-five percent would be an additional, it would be an additional twenty-five percent on top of the bottom line number. That's your understanding? It's not a hundred, you know, double it. It's not one hundred and twenty-five percent.
Mr. Clough: "Yes."
Ms. Browning: "And then, just to be clear, as well, the estimate that was submitted by Crossman includes the ten percent contingency already, and I think Mr. Lamphere alluded to this earlier, to the extent that the Planning Board wanted to increase that up to ten percent up to a total of twenty-five percent, that's something to be discussed, but this engineering estimate already includes the contingency of ten percent, so you would not get the benefit of both."

Mr. Lamphere: “This is Jim Lamphere, Town Planner. That is correct. It would be twenty-five percent of the base cost. So we would subtract that ten percent right off the get-go and do a fresh calculation based upon that.”
Ms. Browning: “Thank you.”
Mr. Clough: “Yes. Kerin, that is correct.”

Mr. DiOrio then asked if the Board had concluded their discussion on decommissioning. Ms. Light said that they had not, as there were line items that she was concerned about.

Ms. Light: “Earlier, the applicant admitted when Emily questions that the grading is still TBD, to be determined, so on that note, we have a line item there of trimming and fine grading disturbed areas. On June 10th, Crossman suggested that that amount should be $125,500, and it was ultimately reduced to $78,437. I think it’s an open item, and we can’t put a big number on that, because the applicant admitted that it’s unknown. The other question I have is why was the R & V for the access road removed? It was only $5,615, but on June 10th that was there, and on June 12th it disappeared, and I would like to highlight the other comment that Steve Cabral made, forestation of some of the land is not included in this. So, I don’t think that this is a number we can rely on, because, admittedly, by the applicant and Crossman Engineering, there are some holes in this.”

Mr. Lamphere interjected as it was approaching 10 p.m., and at the outset, the Board had stated that they would end the meeting at 10 p.m. He also mentioned that they needed another extension from the applicant. He said that “we were granted a thirty-day extension, and that was on July 1st, so that just takes us to the end of July. We need to go at least until August 5th, which is the next regular meeting of the Planning Board.” Ms. Browning said that it was their “understanding that at the last meeting, we extended a total of thirty days, which would bring us to your next meeting date of August – I forget the date, the 5th. I believe it’s the 5th, so we are clear through the next meeting date.” Mr. Lamphere responded that “well, there is thirty-one days in July, and August 5th is out next meeting, so that’s more than thirty days, so I don’t want to get caught on a technicality here.” Ms. Browning said that, “for the record, we extend through the next meeting date of August 5th.”

Mr. Lamphere also stated that he believed that a lot of work had been done there, but that “there is probably some items still open for discussion”, but that there were already “six items on the August 5th agenda, and this is one that I have penciled in, because I figured we’d carry it over, but you can see how long it takes to go through all of the details on these things.” Ms. Browning asked if it would “make sense to extend this meeting a little bit longer, to 10:30, perhaps?” Mr. DiOrio polled the Planning Board members. Mr. Prellwitz said he disagreed, because “ten o’clock is what we have originally agreed on.” Mr. Lindelow agreed that ten o’clock was the limit. Ms. Light agreed to ten as “we have already extended three hours longer than we really wanted to.” Mr. DiOrio said that it sounded as though there was a consensus, and “as much as I would like to bring this to resolution, I’m afraid that’s not going to happen this evening”, though he applauded the efforts of the participants and that he thought “we made some tremendous progress here.” Mr. Prellwitz asked Mr. Lamphere if there would be a way to have an additional meeting

in August, "so as not to muddy the waters of the August 5th" meeting. His concern was that "if we do this again August 5th, one of those projects are going to get kicked back." Mr. Lamphere responded that that's why he "tried to get an appropriate discussion going", as he "appreciate[s] the discussion", as "these are difficult, difficult things that we are going through right now." He said that, as some point, though, "we have to stop working in a circular motion here and focus in on, and hone in on a decision, otherwise, there's going to be no end to this thing, and the queue is going to get longer and longer." He explained what was coming to future agendas.

Mr. Lamphere: "There are – I just want to say one thing: that I know there is possibly several of you people that were interested in becoming Planning Board members because of the solar issue. I can tell you this – if that's what you're interested in, your thirst for those types of projects are going to be satisfied to no end, because the stuff we are going through tonight, and we have been going through, we're actually prepping ourselves for the projects that are going to be coming forth. We're going to have a lot of solar over the next two years, so get ready for it, and that's what I'd like to see us really – I know this is difficult stuff. I wouldn't want to be in your position, but I think it's really important that we, that we see the light, if you will, okay, and see where we are from a legal perspective, recognize early what it is we can do without undue legal morass, and get to it, and just get it done. Get it done. We'll be better off for getting it done down the line, so that's my little thing for tonight."

Mr. DiOrio wanted to express his thoughts, but Mr. Palumbo interjected to thank the Board, the Planner, and the "other team members for the Town of Hopkinton for granting this special meeting and this robust debate." Mr. DiOrio thanked Mr. Palumbo for his comments. He suggested that the issue be continued to the next meeting, but that he "would very much like Planning Board members to begin to think about what they would like to see in a motion, because I don't think this is the kind of action – I'm presuming an approval here, but that may be speculative on my part, I don't think this is the kind of motion that's going to come out of thin air." He said that though they had "covered a lot of ground", that "there are a lot of things that still need to be sorted out." He said that he wanted the members to "give those things some thought and come in with some cogent language such that it could be incorporated into a motion."

At this point, Ms. Light interjected that something had "been bugging [her] all night", which was that the applicant "has been presenting a 9.25 megawatt project to us, and our agenda is consistent with pointing to a 15.125 megawatt project, so I would like to see that corrected in some capacity." Mr. Palumbo responded that 9.25 is the A/C measure, and the 10.125 is the D/C measure, but that they would "clean up anything we need to clean up with it".

Mr. DiOrio then asked the Planning Board what their thoughts were. Mr. Prellwitz said that he would like to make a motion to close the meeting. Mr. Lindelow moved to second it. Ms. Browning then jumped in, to ask if the matter was going to be continued to the next meeting. Mr. DiOrio asked Mr. Prellwitz to amend his motion. He did. A roll call vote was taken.

MR. PRELLWITZ MADE A MOTION THAT WE CONTINUE THIS MATTER UNTIL OUR NEXT PLANNED MEETING OF AUGUST 5TH, AND THAT WE ADJOURN THE MEETING OF JULY 15TH. MR. LINDELOW SECONDED THE MOTION.

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

5-0, MOTION PASSED.

Mr. DiOrio then stated that it was "unfortunate we did not get the opportunity to take public comment", but that he urged anyone wishing to comment to "call back in at the August 5th meeting", where he would be "happy to entertain any questions or comments that you might have."

MEETING WAS ADJOURNED AT 10:08 P.M.

Talia Jalette, Senior Planning Clerk