

**TOWN OF HOPKINTON
PLANNING BOARD**

REGULAR MEETING

Wednesday, March 3, 2021

7:00 p.m.

Hopkinton Town Hall

1 Town House Road, Hopkinton, RI 02833

CALL TO ORDER:

Ms. Jalette explained that the Planning Department had received word from Mr. DiOrio that he “would be late in arriving” due to a prior professional commitment. Therefore, the Board would have to “elevate” Mr. Pennypacker from an alternate member to a full member, and determine who would be the Chair for the evening. Mr. Prellwitz asked Ms. Jalette how that would happen. Ms. Hogan interjected that she had spoken with Mr. DiOrio “just before the meeting”, and that he said that Mr. Prellwitz should “take the reins, and that, uh, going forward, to avoid any confusion, we’re gonna work out a process where we know, uh, which of the Vice Chairs will be serving.”

Mr. Prellwitz then called the March 3, 2021 Regular Meeting of the Hopkinton Planning Board to order at 7:02 p.m.

MEMBERS PRESENT:

Town Planner Jim Lamphere, and Senior Planning Clerk Talia Jalette, conducted the meeting from Town Hall. Members Emily Shumchenia, Carolyn Light, Ron Prellwitz, Keith Lindelow (Mr. Lindelow arrived at approximately 7:05 p.m.), and John Pennypacker participated via Zoom, as did Conservation Commission Liaison Deb O’Leary, Town Council Liaison Sharon Davis, and Town Solicitor Maggie Hogan. Chair Al DiOrio was absent.

ROLL CALL:

Mr. Prellwitz asked for a motion to open the meeting. Ms. Hogan replied that the Board did not need a motion to begin, and that he would “just call it to order.” She then explained that the Board would have a roll call. Mr. Prellwitz said that he was in attendance. Ms. Hogan then explained that Mr. Prellwitz would have to “call on each one of” the Board members so they could respond. He then began the roll call again. He stated that he was in attendance, then asked Ms. Light if she was in attendance. Ms. Hogan replied that the members on the Zoom call could see that Ms. Light was participating from her phone and her computer, and that it looked like she was “attempting to get on” to the call from two methods, so he could return to her later in the roll. Ms. Light then spoke, and said that she was there. Mr. Prellwitz then asked if Ms. Shumchenia was in attendance. She replied that she was. Mr. Prellwitz asked if Mr.

Lindelov was in attendance. Ms. Jalette replied that he was not yet available. Mr. Prellwitz replied that at that moment, Mr. Lindelov was absent, so he moved on to ask Mr. Pennypacker if he was available. Mr. Pennypacker replied in the affirmative.

PRE-ROLL: PROSPECTIVE MEMBER ATTENDANCE FOR APRIL 7, 2021

Ms. Hogan explained that this was a “new item on the agenda”, and that Mr. Prellwitz would want to “go through all the names again” to see who from the Board would be in attendance at their April 7, 2021 meeting. Mr. Prellwitz then said that he planned on being in attendance. He then asked Ms. Light if she would be available. She replied that she would be. Mr. Prellwitz then asked Ms. Shumchenia if she would be in attendance. Ms. Shumchenia replied in the affirmative. Mr. Prellwitz asked if Mr. Lindelov was in attendance. When he did not hear from Mr. Lindelov, he began to move on to Mr. Pennypacker. Ms. Jalette interject that Mr. Lindelov had just entered the meeting. In the meantime, Mr. Pennypacker stated that he did intend to attend the April 7th meeting. The Board did not hear from Mr. Lindelov nor Mr. DiOrio, as the former had just arrived, and the latter was unable to attend.

APPROVAL OF MINUTES:

Mr. Prellwitz asked for a motion.

MS. LIGHT MADE A MOTION TO APPROVE THE MEETING MINUTES FROM THE FEBRUARY THIRD MEETING.

Mr. Prellwitz asked for a second. Ms. Shumchenia interjected to include the workshop minutes as well.

MS. LIGHT ADDED ‘AND WORKSHOP’ TO HER MOTION.
THE MOTION, AS AMENDED, WAS SECONDED BY MS. SHUMCHENIA.

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

5-0, THE MOTION PASSED.

ADVISORY OPINION:

Advisory Opinion to the Town Council – Amendments to the Zoning Ordinance District Use Table – Appendix A “Zoning”, Chapter 134, Section 5 (filed on October 18, 2020). The proposed amendments would prohibit any additional gasoline diesel service stations, and to allow electric charging stations in Neighborhood Business, Commercial, and Manufacturing zones, including the two existing gas stations. Proposed and sponsored by former Town Councilor Sylvia Thompson.

Mr. Prellwitz read the agenda item, and then asked the Board if they had any comments. Ms. Light spoke first.

Ms. Light: “Um, I’m in favor, I’m, I’m in favor of, uh, not expanding the gas diesel service stations in our community. I’m not in favor of prohibiting electric charging, charging stations for residents. I am in favor of promoting, uh, electric charging stations in other, in commercial environments. I, I, I – we’ve had a lot of discussions about solar for residential applications at the Town Council level, and I’m of the, uh, firm belief that, uh, it would alienate potential, uh, people in our community if they didn’t have the authority to install electric charging stations at their homes. It’s very popular. Globally, it’s the trend, and I don’t think we want a reputation for, uh, eliminating that opportunity to bring green energy into a household and a family. It’s a big money-saving, uh, effort, when a resident decides that they want to do something like that. I just don’t think we can, uh, stop people from doing the right thing on their property.”

Mr. Prellwitz thanked Ms. Light on her comments, and said that he wanted to “expand” on her point “a little bit.”

Mr. Prellwitz: “I can’t see how anybody would think that we have any right at all to tell people what they can plug into their wall. If they want to use their electric car, and they have a plug in their wall to plug it in, that’s their business, not ours. That’s just my opinion.”

He then asked for other comments from the rest of the Board. Ms. Hogan interjected. She explained that “the proposed Ordinance does not, um, address, uh, residential charging stations.” She continued.

Ms. Hogan: “I agree with you, um, and I believe that those would be permitted, um, as, as, as of right, in a home. This Ordinance is dealing specifically with, uh, Commercial, Manufacturing, and Neighborhood Business zones for the, um, electric charging stations.”

Mr. Prellwitz thanked Ms. Hogan, and said that that was what he understood the Ordinance to mean “after reading it, but [he] thought perhaps [he] had missed something.” Ms. Light replied that she was “looking at the District Use Table that was presented” with the amendments, which said “559 – Electric Start Charging Stations, RFR-80 and RES-1, no, prohibited.” She continued.

Ms. Light: “And that’s, that’s where I got my guidance from, so maybe I’m in, I’m wrong, but -”

Ms. Hogan: “I, I think what they mean by, and perhaps it’s unclear, so I’m glad you’ve clarified it, but I believe what they mean are charging stations that are available to the public, so those would not be available in the Residential zone. Um, for residential, personal, residential use, uh, I don’t believe it needs to be in the Zoning Code. It would be like plugging in a, um, a hot tub, or any other kind of accessory to your, uh, residential use. But, to the extent that there’s any, um, any confusion, and this needs clarity, you

could certainly include, uh, your statement that you've already made previously, that, that you would sub-, that the District Use Table – if it needs to be clarified – should be clarified to allow personal, residential use, of a personal charging station.”

Ms. Light: “Um, or we could, uh, say that we, well, I, personally, object to category use 559.”

Ms. Hogan: “Oh, you object to them being allowed anywhere?”

Ms. Light: “No, I'm, I'm, I, I promote, I do not object to the installation on Neighborhood Business[es], Commercial, Manufacturing [zones], um, I, I promote them. I would want, uh, a 'P[ermitted]' under RFR-80 and RES-1.”

Here, Mr. Pennypacker began to weigh. Ms. Jalette interjected to ask him to state his name for the record. He replied, “Of course.” She responded that all of the Board members were “getting used to doing that”, and thanked him. He continued.

Mr. Pennypacker: “Um, I think – so I, in principle, I agree with the spirit of this, but I'm, I'm thrown by the, I think, the same issues that, that Carolyn [Light] has [been] thrown by, and that I don't believe these are clearly defined, so, I think that, you know, 'gasoline/diesel', I'm wondering if 'fuel' is a better way of putting it? I don't know if that overlaps with electric or not, and I think that 'electric charging stations' is vague. I think what – I, I'm only guessing – I think the intention here was, you know, like, Cumberland Farms, with electrical outlets. Um, what I would rather see is the, uh, permission for town businesses, and even homes, to install charging units. So, there could be a charging station in the parking lot of a restaurant, in the parking lot of the Park-and-Ride, or other places. I'm very much in favor of, of the small scale, individual units, uh, in individual businesses that – and that could be residential – but I don't like the idea of setting up a ten stall charging station in an RFR-80 zone, um, because of, you know, a misunderstanding in the language, so, I'm for the spirit, but I don't like the way it's written.”

Mr. Prellwitz thanked Mr. Pennypacker, and asked if he “could throw [his] two cents worth back in here.” He continued.

Mr. Prellwitz: “The way that I interpreted this was to prohibit it from the RFR-80 zone – that would be a stand-alone charging station, not a home charging station, but, that's, like I said before, that's just my opinion. If somebody's got one in their home, good for them. I mean, they have to charge these things somewhere. They have very limited use and if they can't get back and forth to work, they don't have viable means of transportation.”

He then asked the other Board members for their thoughts. Ms. Shumchenia responded. She explained that she was “glad” that the rest of the Board “brought this up and read it in this fashion”, as she “hadn't even considered the idea about, you know, the, the prohibition of charging stations for personal use”. She said that she “agree[d] that the way to solve this is to, to modify the language, and be very specific about what is meant by 559 – Electric Charging Stations.” She continued.

Ms. Shumchenia: “What's the intended use of that actual use?”

Ms. Shumchenia said that “another thing [she] had a question about” was the footnote included “that talks about non-conforming development.” She continued.

Ms. Shumchenia: “It says the addition, enlargement, expansion, replacement, or intensification of a non-conforming development shall be allowed by Special Use permit, and there’s inserted text, in red italics, ‘unless prohibited in the District Use Table.’ Um, I looked at the Zoning Map, and one of the two gas stations in Town is actually in an RFR-80 zone, the Spicer [Gas Station], um, on Main Street, and so it’s my interpretation of this footnote that because it’s in a non-conforming, uh, area, it’s a non-conforming development in an RFR-80 zone, that they sought to replace any of the equipment related to, you know, a gasoline or diesel service station – that they would be prohibited from doing so because, if this District Use Table were approved, it would be a non-conforming, or it would be prohibited in that, in that RFR-80 zone. So, I just wanted to, you know, first check, um, with you all, and Maggie [Hogan] especially, if my interpretation of that is correct, check, um, that zone designation of that gas station- I was just using the, you know, GIS [Geographic Information System] stuff from the Town, um, and ask if, if that would cause an issue. And, so, my concern here is this: we’re transitioning from a fossil fuel economy to a renewable economy. We want to be able to encourage people to use electric charging stations, and have electric cars, and all that, but in the meantime, you know, hundreds of people this week were on gas generators because we had power outages, so you need – this is a critical piece of infrastructure in Town, if we have two gas stations, so we can’t, you know, if there’s something in disrepair that needs to be replaced, we can’t be prohibiting it in our District Use Table because it, you know, kind of a critical infrastructure issue, a survival issue, real-, really. So, that’s what I wanted to raise.”

Ms. Hogan began to speak, but was interrupted by Mr. Prellwitz thanking Ms. Shumchenia for her comments. Ms. Hogan then continued. She explained that the “language, as written, would indeed have that effect, because this red language, ‘unless prohibited in the District Use Table’ is new language, and so, there is an intention here to, uh, not allow, uh, nonconforming development to, to do anything.” She continued.

Ms. Hogan: “Uh, no expansion, no intensification. That normally is, as you can see in the black, is allowed by Special Use permit, uh, heard by the Zoning Board of Review, so this is, that is a substantial, um, change, and it’s also not affecting just this. That is a general change, uh, against all nonconforming development, and I’m not entirely sure that you have enough information before you to, um, to think that that’s necessarily a good idea. Um, there’s no one here to present the, um, the proposal, uh, I don’t think, or to speak on it and what is the basis for it, etcetera, so, um, that’s a pretty, um, that is a pretty, um, tough addition to a Zoning Ordinance. We’ll put it that way.”

Mr. Prellwitz thanked Ms. Hogan for her explanation, and then asked for “any other thoughts or comments” from the Board. Mr. Lindelow spoke.

Mr. Lindelow: “Yeah, Keith [Lindelow] here. It’s, you know, it says ‘electric charging stations’, but do we need to specify passenger vehicles or what type of vehicles? You

know, we wouldn't want somebody, you know – buses are electric. Do we want somebody charging a bus in a residential neighborhood? I don't know if we need to, to clarify what 'electric charging stations' means, and what type of vehicles – yeah, again, a lot of things are kind of vague here.”

Ms. Hogan replied that she could “add something to” the points Mr. Lindelow had raised.

Ms. Hogan: “So, the State of Rhode Island, um, in the, in the last rate case for National Grid approved, um, several programs for D/C fast charging, and they also improved – approved and encouraged, um, fleet conversion from, um, fossil fuel to electric for trucks and fleets. Um, they're encouraging municipalities in the State to convert their fleets, so, I believe it is the State's intention that, um, they would want, uh, electric charging stations to be available to, um, all types of vehicles that needs to get an electric charge.”

Mr. Lindelow: “Sure. I guess I'm just – we're all interpreting this – are, are we trying to, to limit where those type of vehicles are gonna be charged? Do they need to be -”

Ms. Hogan: “Well, the proposed Ordinance does, in fact, do that, and that's why I think there's some confusion -”

Mr. Lindelow: “Yeah.”

Ms. Hogan: “I don't think – I think that, I think the concept of 'electric charging station' is a Commercial electric charging station, one that either a) charges for that charge, or b) is a, um, is one that's come in through, uh, the rate case, and is not charging oh a, uh, temporary basis, anyway, as a pilot program. I believe the proposed 'N' in the electric charging station line item for the Residential areas is because they don't want these char-, um, a Commercial charging station in those zones, um, and now that we've had the question raised about, 'Well, what about Residential use? Personal, Residential use?' I do believe there's a difference, and I don't think that this ha-, the, the document has been clear in that.”

Mr. Lindelow: “Right. I agree. Thank you.”

Mr. Prellwitz then spoke. He said that his opinion was that the proposed amendments were “a little bit vague”, and that it needed “to be ironed out.” He said that they would “need to figure out exactly what we're saying and why we're saying it.” He continued.

Mr. Prellwitz: “One thing is our Police Force, and our Town garage, across the street from each other. What's the zoning there? If we change to all electric, and the guys can't plug their equipment in at night, there's a problem. So, we, we definitely need some, some clarification here. I agree with Attorney Hogan – this is something that needs to be discussed at length, and kind of figured out where we, where we're going with this. On the surface, it sounds like a great idea, but is it gonna do harm in a lot of cases instead of good, but, there again, that's just my opinion.”

Mr. Prellwitz then asked Mr. Lamphere and Ms. Hogan how the Board “should proceed”. He asked if the Board should “call for a workshop” or “continue with this discussion”, and asked for “the general consensus.” Ms. Hogan replied she thought that the Board “could, um, sort of do it line item by line item, and see how far we get”. She said that if the Board needed “to go further”, the Board could “do that.” She continued.

Ms. Hogan: “So, for instance, uh, Use Code 554 – ‘Gasoline/Diesel Service Stations’, the proposed change is to not permit it in Commercial, Manufacturing, and Overlay, so, basically, not – no new gas stations, or, or diesel stations anywhere in the Town. So, if you have a consensus on that, you could take a vote on that particular component of it, and then we could move down to the next item.”

The next few minutes were spent explaining which document the Board would be referring to, as Mr. Prellwitz was confused. Ms. Jalette interjected that the page that Mr. Prellwitz had in his possession was the only page that was “associated with this agenda item.” He said that he was “finding it, in [his] mind, difficult to follow line items when [he didn’t] have those in front of [him].” Ms. Hogan interjected that “perhaps [she had] described it incorrectly”, and asked if he was looking at the Use Table. He replied that he was, and she, again, said that that was the document that they were discussing. She continued.

Ms. Hogan: “So, look up above – you’ll see in the three categories that have a red ‘N’ – look above them in that other line. That’s the existing Zoning Code – ‘Permitted’, ‘Special’, and ‘A’ – I don’t know what ‘A’ is – oh, that’s your, uh, aquifer thing. So, those are the changes, those three red ‘Ns’, so, so, the gasoline/diesel service stations would no long-, new ones would no longer be permitted in the Town of Hopkinton.”

Mr. Prellwitz then understood, and began to read through the rest of the proposed changes to the District Use Table. Ms. Hogan suggested that they focus “on that [Use Code] 554 – Gasoline/Diesel Service Stations, the line in the middle with the three red ‘Ns’.” She encouraged the Board to “see if [they had] a consensus with [their] group.”

Ms. Hogan: “Is there anyone opposed to that change, I guess is the way to ask it?”

Mr. Pennypacker replied that he was “opposed, after hearing Emily [Shumchenia]’s point of view.” He continued.

Mr. Pennypacker: “This is – it is still critical infrastructure. I would – I’d be in favor of Special Use permit[s], but I don’t think we’re at a time where we can just outright ban fueling stations in the Town.”

Mr. Prellwitz thanked Mr. Pennypacker for his comments, and said that he would “agree”. He then continued.

Mr. Prellwitz: “We’re many, many years away from being electric car capable, even. I mean, there’s just, just a long, long road to haul on this, so I would agree with John [Pennypacker] on that.”

Here, Ms. Hogan and Ms. Light spoke at the same time, twice. Ms. Hogan then spoke again. She explained that there were “two components to that.” She continued.

Ms. Hogan: “One is the creation of new stations, which is the 554 use code, the one in the middle, and then further down, the one that’s the existing stations. So, if you’re opposed, if, if you’re opposed to any, uh, if you agree with not allowing any new gasoline/diesel service stations, then you could agree, and you could vote for the changes on that middle row, but if you, if you don’t agree with that, you think that additional gasoline stations should be allowed to come into Town, then you would vote ‘No’ on that.”

Mr. Prellwitz: “Okay.”

Ms. Light asked if she could “chime in.” She said that she “attended the Town Council meeting where there was some discussion over this”, and she thought that it was former Town Council member Sylvia Thompson’s “intention to recognize diesel service stations, so, uh, [Ms. Thompson was] requesting we add diesel to that use category, and then we see the changes to Commercial, Manufacturing, and the overlay Secondary.” She continued.

Ms. Light: “So, I think that is the one that we should be focusing on, um, and it’s, it – the diesel is in addition, it is an amendment, so when we consider that category, uh, we’re recognizing, uh, just, uh, service gasoline, and, and diesel, for, for commercial businesses or, or people who own diesel-run vehicles, etcetera, and I, uh, am in favor of allowing them, maybe Special Use permit, but not prohibiting them, and, thank you, Emily [Shumchenia] for bringing that to our attention.”

Mr. Prellwitz thanked Ms. Light for her comments. He said that he “would agree with Carolyn [Light], that they should be considered – technology-wise, we’re much closer to a hybrid, a diesel electric, like the trains, than we are to something that’s all electric.” He continued.

Mr. Prellwitz: “You know, the, the ‘Ns’ in the diesel part of it, that’s maybe we’re overstepping there, just a little bit. I mean, people have to service their modes of transportation, and get where they have to go. That’s just a fact of life. Uh, it seems to me that by putting these ‘Ns’ here, we’d be prohibiting the two gas stations from selling diesel fuel. I think this one here in Ashaway – Spicer’s – I think they sell diesel fuel, but I’m not one hundred percent sure. I’m not a diesel fuel user, so I don’t pay attention to those things, but – any other comments?”

Ms. Hogan replied that she needed “to jump in, just to be clear about this.” She continued.

Ms. Hogan: “The 554 – Gasoline/Diesel Service Stations – Carolyn [Light] has rightly pointed out that the addition of ‘diesel’ to that use code is one of the changes. The other changes are the ‘P’ to an ‘N’, the ‘S’ to an ‘N’, the ‘A’ to an ‘N’. That would, that – if you voted for that particular change, that one, uh, row, that would not prohibit existing stations from selling diesel fuel or gasoline. It only would prohibit anyone from, uh, creating a new station for those purposes, okay?”

Mr. Prellwitz: “Okay. Understood.”

Ms. Hogan: “Try to do it like one subject at a time, and I think we can get through it, so what, what I’m hearing you say now is that people are, are, are against the idea of prohibiting new gas stations. Is that correct?”

Mr. Prellwitz: “No. No, that’s not my intent. I’m in a mode where I should probably apologize if that’s the idea that I put across. Uh, I can agree that the Town, most of the people in Town don’t want to see any new gas stations. I mean, that’s their right – the small Town, we’ve got two, that’s probably gonna be enough. It’s the, uh, the limiting of, of what we already have.”

Ms. Hogan: “Okay. So, let’s take them one by one then, because this middle row is dealing with the addition of, of a new station, okay? This would prohibit any new gasoline or diesel service stations from coming into Hopkinton. That’s what this middle row -”

Mr. Prellwitz: “Okay.”

Ms. Hogan: “Would do.”

Mr. Prellwitz: “Okay. Understood. No new stations.”

Mr. Prellwitz asked if there were any other comments. Ms. Hogan asked if there was “a consensus on that”. She continued.

Ms. Hogan: “Is that what, what, um, people are looking to have happen or no? John [Pennypacker], I’m not quite clear on yours.”

Mr. Pennypacker: “Sure, this is John [Pennypacker]. I’ll clarify. I, I don’t think I’m prepared to say we cannot have any new gas stations. Um, I, I don’t – obviously, I don’t want them near the aquifers. I want them sited appropriately, but, you know – and that’s why I’m thinking maybe Special Use permit is the way to go to make sure that there’s, there are some barriers and some controls in place. Um, I have no objection to changing the name from ‘gasoline service station’ to ‘gasoline/diesel service station’. I didn’t realize that that was an important distinction, but that’s – sure, that’s fine. Does that add clarity?”

Ms. Hogan replied that it did. She continued.

Ms. Hogan: “So, currently, the, in the Commercial zone, currently, these stations are, uh, permitted, and, in the Manufacturing zone, currently, it’s by Special Use permit, so the question is – Do you wish to keep those designations?”

Mr. Pennypacker: “Well, John [Pennypacker] again. If, uh, I mean, if I were just gonna pick and choose, I would, I’d make them all – I would, I would change Commercial to ‘S’ and leave Manufacturing alone.”

Ms. Hogan: “So, only allow them in the Commercial district by Special Use permit?”

Mr. Pennypacker: “If the, uh -”

Ms. Hogan: “New ones.”

Mr. Pennypacker: “Yeah -”

Ms. Hogan: “Right?”

Mr. Pennypacker: “If I’m, if I’m just making magic happen, sure -”

Ms. Hogan: “Well, yeah, sure, that’s, that’s part of the discussion, right? So, John [Pennypacker] says he thinks it should be Special Use permit, only in the Commercial

zone, not allowed in the Manufacturing zone, and then the 'N' – currently, it's an 'A' in the overlay Secondary. Jim [Lamphere], could you clarify – I'm sorry, what's an 'A'?"

Before Mr. Lamphere answered Ms. Hogan's question, he said that he "thought [he] just heard [her] say that John [Pennypacker] wanted it not to be allowed in Manufacturing". Mr. Lamphere explained that he thought that he had heard Mr. Pennypacker say that "he wanted to leave Manufacturing alone, with the 'S' in there." He continued.

Mr. Lamphere: "So, I think, I think John [Pennypacker] wants an 'S' in both Commercial and Manufacturing."

Ms. Hogan: "Okay."

Mr. Lamphere: "Is that correct?"

Mr. Pennypacker: "This is John [Pennypacker]. Yes, that's, that's correct."

Mr. Lamphere: "Okay, so, now to address your question, Maggie [Hogan], um, the uh, the 'A' at, that's currently there, that means that an aquifer protection permit is necessary in the Secondary zone. The 'N' which is there, in the Primary zone, means that, despite there being 'S's in Commercial and Manufacturing, the fact that an 'N' – it means it's not allowed in the Primary zone, period. Okay?"

Ms. Hogan: "Right."

Mr. Lamphere: "So, so, uh, so, coming, coming down here, to where we are now, with the new, uh, amended row, okay – if we're gonna have an 'S' and an 'S' in Commercial and Manufacturing, uh, the question is – I would say you'd want, um, I would say you'd want an 'A' where the red 'N' is right now, because -"

Ms. Hogan: "Mhmm."

Mr. Lamphere: "If that stands, then what that means is it's not allowed in anywhere in Town."

Ms. Shumchenia commented that "the reason for that is the entire Town is within either a Primary or Secondary Aquifer Protection area." She said that if there were 'Ns' in either of the Primary or Secondary columns, "that essentially means the use is prohibited." Mr. Lamphere replied that that was what he had said, and Ms. Shumchenia said that she "just wanted to clarify" that point.

Mr. Lamphere: "That is correct. So, so, if there's two 'Ns' there, I don't care what precedes it – they're not allowed in Town. You could, you can put, you can put 'Ss' across the Board, but if there's two 'Ns' on the far right, it's not, it's not allowed. So, it's not consistent. You have to be, uh – if you're gonna allow it anywhere in Town, you'd have to, you'd have to either put a, um, put a 'P' or an 'A' in the Primary and Secondary. 'P' means you don't need an Aquifer Protection Permit, right? For example, in the electric, 'Electric Charging Stations' row, they get two 'Ps' there. You don't need an Aquifer Protection Permit for electric charging stations. That's what's being proposed. So, I would think, again, I would think, if you want 'Ss' there, John [Pennypacker], then you would probably want, you probably want an 'A' in the Secondary zone."

Mr. Pennypacker: "Uh, John [Pennypacker] here. Yes, given that – yes, now knowing now that the entire Town is, is in the Secondary, then that would necessarily have to be an 'A', if, if, you know, in order to allow the potential of a new station."

Mr. Prellwitz said that that was “where [the Board was] stand[ing] right now”, they were looking at the middle row, and they were going to say “‘N’, ‘N’, ‘N’, the question mark for an ‘S’, the question mark for an ‘S’ on Commercial and Manufacturing, and ‘A’ and ‘A’.” He asked if that was what Mr. Pennypacker was thinking. Mr. Pennypacker replied that he thought that the last two would be ‘N’ and ‘A’. He continued.

Mr. Pennypacker: “So, completely prohibited on the Primary Aquifer areas, and then with a special Aquifer [Protection] permit – Aquifer Protection permit anywhere else.”
Mr. Prellwitz: “And the Secondary? Is that what you’re saying? A permit in Secondary?”
Mr. Pennypacker: “Yes.”

Mr. Prellwitz then said that he thought “that it would probably be a good idea, for any of these – if they want to add any kind of a liquid fuel, any kind of a hazardous liquid, whether it’s fuel or whatever it may be, that an Aquifer Protection permit would be prudent to be included in their paperwork, no matter what, whether they’re using it for fuel or if they’re using chemicals to make hockey pucks, whatever they’re doing, they should have that protection permit, so that they’re under some sort of a regulation from the DEM [Department of Environmental Management], or another form of the, of the State or federal government.” He asked the Board if they had “any thoughts on that.”

Mr. Lamphere explained that the ‘N’ “in the Primary Aquifer zone means that it’s not allowed, period.” He continued.

Mr. Lamphere: “So, if, if you have a parcel in the Primary zone, it’s not allowed. Even if you have a Commercial property that, that you’re gonna try and use a Special Use permit for, you can’t use a special permit if your parcel is in a Primary zone. So, um, now – if you change that ‘N’ to an ‘A’, that would open up the Primary zone to Special Use permits.”

Ms. Jalette added that the Board could not “put an ‘A’ in any section beyond the Primary or the Secondary”, as that was the purpose of “the last two columns.”

Ms. Jalette: “So, you would never be putting an ‘A’ underneath, like, R-1, correct?”
Mr. Lamphere: “Correct. The, the ‘A’ only belongs, the ‘A’ – ‘A’ only belongs in either the, the f-, the far – two right columns.”

She said that she just wanted to “expand” upon what Mr. Lamphere had said, and asked Mr. Prellwitz if that “clarif[ied] it a little bit”. He replied that it did. Mr. Prellwitz then asked what the other Board members thought about Mr. Pennypacker’s proposal.

Mr. Prellwitz: “We’re looking at pretty much all ‘Ns’ across the Board, leaving it like it is. Am I correct in assuming that?”
Ms. Hogan: “Are we talking about the middle row, then – Maggie Hogan -”
Mr. Prellwitz: “Yes, the middle row.”

Ms. Hogan: “Okay, so, I – what I have so far now, after that discussion – for the middle row is ‘N’, ‘N’, ‘N’, ‘S’, ‘S’, ‘N’, ‘A’. John [Pennypacker], is that what your understanding was?”

Mr. Pennypacker: “If – this is John [Pennypacker], yes – at least, that’s my, my, my preference, but, you know, I’m the newest guy here, so -”

Ms. Hogan: “Right. So, you have a proposal. Is that a motion, John [Pennypacker]? Sounds like a motion to me.”

Mr. Pennypacker: “Sure, um, I, I will – how about, how about that.”

MR. PENNYPACKER MADE A MOTION THAT THE MIDDLE ROW WOULD, WOULD BENEFIT FROM CHANGING [FROM “GASOLINE SERVICE STATIONS] TO “GASOLINE DIESEL [SERVICE STATIONS]”, AND THAT THE VALUES IN EACH CELL WOULD BE ‘N’, ‘N’, ‘N’, ‘S’, ‘S’, ‘N’, ‘A’.

Use Category	RFR-80	RES-1	Neighborhood Business	Commercial	Manufacturing	Aquifer Primary	Overlay Secondary
554 Gasoline Diesel Service Stations	N	N	N	S	S	N	A

[District Use Table – P = Permitted, N = Prohibited, S = Special Use Permit, A = Aquifer Protection Permit]

MS. SHUMCHENIA SECONDED THE MOTION.

Here, Ms. Light experienced some technical difficulties. Ms. Jalette explained that Ms. Light had gone from “being unmuted to muting herself”, and that she had asked her to unmute. “In the meantime”, she asked Mr. Pennypacker if he would “like to vote on [his] motion. He did so. Mr. Prellwitz then said that “whether she gets back on or not, [the Board had] four ‘yesses’ on that”. Ms. Light did return to the call, and joked that this was “how [she] got to entertain [the Board], and the Board laughed. She also noted that she was a “yes” for the motion.

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

5-0, MOTION PASSED.

Ms. Hogan then had a suggestion for the Board “on how to deal with the next line”.

Ms. Hogan: “Okay, just – so, let’s assume, for the moment, that what this means is not the charging stations attached to residences – that this means a station, where somebody

would pull in and be able to charge, okay? Just go with me for that for the moment, and then that's -"

Mr. Prellwitz: "Sure."

Ms. Hogan: "If that's the case, it's being proposed that it's not allowed in the two Residential zones, and, uh, permitted in all of the other zones. And if you have a consensus on that, we can add some clarity to the Residential thing, we, when, when it goes to the Council, you would make it clear that, 'Look, us prohibiting a charging station in the Residential zone does not apply, does not mean personal residences. It means an actual station.'"

Mr. Prellwitz: "Okay – that sounds good. I like that."

Ms. Hogan: "You want to treat it that way. You might be able to get consensus rather quickly, based upon the conversation this far."

Mr. Prellwitz replied that that sounded "great", and asked what the Board had to say about that approach. Ms. Jalette interjected that Ms. O'Leary, the Conservation Commission Liaison, wanted to weigh in.

Ms. O'Leary: "The one thing that I see in that final row, electric charging stations is not allow it – because we're having so much trouble with the Farm Viability Ordinance right now, and solar right now, I don't want to see that farmers couldn't have a char-, charging station. They have more equipment [that] needs to be charged. Would that be considered as a Residential or as – it might have to be a larger unit, for them. I'm, I'm just – I'm thinking way in the future now, this is, but, this is where the rules get made, and I just, I just wonder about that, Maggie [Hogan]. If -"

Ms. Hogan: "It's a great question, Debbie. Um, if the farms are located in Residential districts – that it looks as though, on its face, it would prohibit it, however, I, I would have to look at your, your Farm [Viability] Ordinance to see if, what, exceptions are allowed, and I wasn't prepared to do that."

Ms. O'Leary: "Okay, this – I'm just looking ahead at this point, Maggie [Hogan]. Thank you, Ron [Prellwitz]."

Mr. Lamphere asked to interject.

Mr. Lamphere: "I want to pretty much agree with, uh, Solicitor Hogan here. Um, the uses that are being proposed right now are in the District Use Table under 'Retail', um, 'Services'. So, basically, these – when you're talking about gasoline diesel service stations, or electric charging stations, you're, you're looking at something like a service station. Like, these electric charging stations, if, uh, you know, you're gonna have a commercial one, you, for public use, that's a retail operation. That's what it is. I would think, myself personally, I'm not the Zoning Official, but if a farm wanted to put a charging station on their farm, that's an accessory to the allowed use of a farm. That's accessory to a farm. If a - residents wanted to do it in their garage – if I wanted to put a charging station in my garage, and charge my truck up at night, because I don't believe there's anything going to prohibit me from doing that. This is – these things here apply to commercial ventures, for-profit ventures. So, that's the way I read it."

Mr. Prellwitz thanked Mr. Lamphere, and said that he agreed with him, “that this does look like commercial stuff, after that first discussion we had about the ‘N’” in the RFR-80 Zone. He asked if any Board members had “any disagreement with that, with this being pretty much allowing homes and private, private entities like farms, from being exempt from this.” Mr. Pennypacker responded that he was “completely in favor of putting charging stations in parking lots and driveways, and, you know, in farms that are for the use of the residents, or, you know, occupiers of those properties”. He continued.

Mr. Pennypacker: “Um, so, that’s all great with me. What I do object to in this line, and, you know, this might require a little bit more thought – I know that from doing solar projects, transformers on the property often use hazardous materials in the transform-, in the equipment. I’m wondering if we want to tighten up a little bit around the Primary Aquifer, um, given that they’re – I don’t know enough about the, the materials in these stations, so, rather than saying, ‘Sure, go nuts’, do we want to – is there a way to kind of back off, and, and approach that a little bit more cautiously?”

Mr. Prellwitz replied that that was “a good point”. Mr. Lamphere suggested that the Board could “put an ‘A’ in, uh, either one or both of those columns on the right hand side.” He continued.

Mr. Lamphere: “Because, first of all, this would apply to Commercial uses, number one, and if we’re worried about the batteries – I don’t know enough about ‘em, either, John [Pennypacker], to be honest with you, but, if, if, if we feel as though they pose some sort of a hazard to the aquifer, then have someone get an Aquifer Protection permit.”

Mr. Prellwitz asked for the thoughts of the other Board members. Ms. Shumchenia replied that she “agreed with that.” Mr. Lindelow and Ms. Light began to speak at the same time, and they each deferred to each other before Ms. Light encouraged Mr. Lindelow to speak.

Mr. Lindelow: “It almost seems that we should put the charging stations in a separate category altogether. We’re talking about gasoline and diesel, and then we’re then – we’re kind of taking a turn, and then we’re talking about electric charging stations, which could go anywhere. It’s almost like there should be an Ordinance against gasoline and diesel, and then we should address the charging stations separately. We don’t want to waste more time on anything, but I think that’s kind of muddying the waters for me.”

Ms. Hogan replied that what was on the table was “an amendment to” the District Use Table, and that it was “separate”. She continued.

Ms. Hogan: “This is a separate use code – Electric Charging Stations. They do not exist as a use code currently in Hopkinton -”

Mr. Lindelow: “Okay.”

Ms. Hogan: “So this particular use code is being added, proposed to be added under these categories – ‘N’, ‘N’, ‘P’, ‘P’ – all the way across the board.”

Mr. Lindelow: “Sure. Thank you.”

Ms. Light spoke after Mr. Lindelow.

Ms. Light: “Okay. Um, I, I can’t tell you with all certainty, but, these electric charging stations – I believe it would kind of be the equivalent of running lines for, uh, an electric dryer, or a gas range. I’m not sure of what the voltage or the plugs look like, but these, to my knowledge are hardwired sources that are drawing down on the electricity resource that you bring energy into your home with. So, if you’re using electric from the grid, you’re going to have a plug for your car, just like you have a plug for your dryer, and the energy doesn’t require – this isn’t going to require transformers or inverters. So, I don’t think it’s a battery, chemical issue, um, that, that’s what I know, but I don’t have any documentation to assist. I just wanted to assist with the thought process for that, and I am of the opinion, uh, without the clarification that all of us are asking for, for the definition of this electric charging station, if this District Use Table is a retail, um, table, like Jim [Lamphere] said, we need to know that, and, and if it’s not, I don’t, I don’t agree with putting ‘N’s in the RFR-80 and the RES-1. I, I’d like to see ‘P’s across the board over there.”

Mr. Prellwitz thanked Ms. Light for her comments. He then suggested that the other Planning Board members visit the Park and Ride, located at Exit 1, as there are “charging terminals there.” He continued.

Mr. Prellwitz: “There are no transformers or anything like that, which tells me they’re using either 110 or 220 [volts]. A 480 [volt] line is highly restricted, so I’m thinking it’s not a 480 [volt] line, but it may be. Anyway, back to that – it’s, it’s just like a plug in the wall. It’s just standing up by itself. So, that being considered, it doesn’t seem to pose any kind of a hazardous problem, to the, to the environment or anybody around it. It’s, like Carolyn [Light] said, it’s like plugging in your dryer. So that, I hope, ease’s everybody’s mind about the, uh, uh, transformers and whatnot.”

Mr. Prellwitz then asked if the Board members had “any other thoughts.” Hearing none, he said that he “agree[d] with Carolyn [Light], that there should be ‘P’s all the way across”. Mr. Lamphere said that he believed that the use code was for “retail use.” He continued.

Ms. Lamphere: “So, if you had ‘P’s, across the board, in Residential, that would mean that I could set up a commercial – in my yard – a commercial charging station, and maybe put five or six of these things in, and just have people come in and charge ‘em up. Is that, that – would you want to see, in a Residential district? Your neighbor, your neighbor having cars comin’ in and out all day, charging their vehicles? Because that’s what this is -”

Mr. Prellwitz: “Okay.”

Mr. Lamphere: “This is like, this is like a gas station, but instead of putting gas in the vehicle, you’re putting electric, electricity in there. So, think of it that way.”

Mr. Prellwitz then suggested that the Board could keep “the ‘N’s in the first two columns”, and would include “some sort of, uh, an amendment or disclaimer or whatever,

that this doesn't apply to homes or other private use, such as farms." Ms. Hogan replied that that was "actually what [she] had suggested, that [the Board] think of this line being" in reference to retail establishments. She also recommended that the Board include such language in their Advisory Opinion, so that "it would be abundantly clear" that the Board "was dealing strictly with retail, commercial uses, and not addressing home/personal use, um, or farm use of" electric charging stations. Mr. Prellwitz then asked the Board if a member wanted to make a motion. Mr. Pennypacker said that he wanted to "go back and revisit" the issue of the Aquifer Protection permit.

Mr. Pennypacker: "How arduous is it to obtain an Aquifer Protection permit? Only because, you know, when they put those, those charging units it, I know they dug a big hole. I know there's a big silver box off to the side. I just don't know what it is, and I – that's why I'm wondering. I, I would, I would feel terrible if I signed off on, 'Sure, you can put this right over our clean water', without knowing what it is."

Mr. Lamphere replied that one "would think of an Aquifer Protection permit similar to a, um, Special Use permit." He continued.

Mr. Lamphere: "Uh, first of all, it's issued by the Zoning Board of Review, so it's the same Board that you'd go before, and also, keep in mind that, um, the only people that would be required to do this would be commercial operations, the way, you know, this line item, the way it's set up right now."

Mr. Pennypacker: "John [Pennypacker] again, so, if I wanted to open up a Cumberland Farms, with electric charging stations. I would be asked to put in for that permit. So, I'd be inviting public traffic onto my property, and some of them will fill up their car, some may use an accessory business – I, I'm just imagining what people might apply for, um, they would just go before the Zoning Board to get an Aquifer Protection permit, and that would offer the Town assurance that they're going to put protections in place, to keep any, any liquid from leaking or seeping into the soil. Is that fair?"

Mr. Lamphere: "I guess, John [Pennypacker], you could put, you could feel comfortable putting two 'A's there, if you wanted. 'A' in the Primary and 'A' in the Secondary, so that if any, any commercial operation, whether it's in the Neighborhood Business, Commercial, or Manufacturing – if they want to establish that, they have to get an Aquifer Protection permit. So, if that's what you want to do?"

Ms. Hogan: "So, Maggie Hogan here – one other item to consider is, um, if this were a new electric charging station, which is – that's what this is proposed, um, an applicant would be before you for Development Plan Review. They would have to get a conditional approval, then they'd have to go to the Zoning Board for the Aquifer permit – Protection, Protection permit, sorry - and then come back to you, um, under your, under your Subdivision Regulations. So, both Boards will be having their eyeballs on it."

Mr. Prellwitz: "Now, in my mind, that doesn't seem like that's a bad thing."

Ms. Hogan: "No."

Mr. Prellwitz: "You know, the second pair of eyes, on, on anything that anybody does is good, because things get overlooked from time to time."

Ms. Light: "And, this is, this is Carolyn [Light]. This is new technology, uh, so there's a lot of unknowns, and I support putting 'A's in both of those columns."

Mr. Prellwitz asked Ms. Shumchenia and Mr. Lindelow if they had any thoughts. Ms. Shumchenia stated that she was “in agreement”, and Mr. Lindelow said that he was as well. Mr. Prellwitz said that it sounded like it was “unanimous again”. Mr. Lamphere interjected.

Mr. Lamphere: “Yeah, Mr. Chairman, Jim Lamphere, again, Town Planner. Um, I was just wondering – I’d like to throw this out for your thoughts here – I know that, uh, Solicitor Hogan mentioned, um, a notation, saying that this wouldn’t apply to residential use or farm use. Might we want to phrase that, um, if it’s an accessory use to the principal use of the property? For example, let’s say we had, let’s say we had an industrial park – I’m thinking of an industrial park, or an office park in Town. If they were to put in charging stations for the, for the benefit of their employees that are there, would, would that be considered in the same light? I mean, it’s, it’s, it’s probably not commercial in nature. It’s not open to the general public. I just want – maybe, get your thoughts on that, just so we can phrase a pr-, an appropriate, um, Advisory Opinion to the Town Council.”

Mr. Prellwitz replied that that was a “valid point” and a “good point”. He continued.

Mr. Prellwitz: “So, as I’m understanding what you’re saying – if Mr. Quinlan wanted to put electric charging stations at his facility over here, on, uh, Wellstown Road, that may fall under private, or it may fall under commercial?”

Mr. Lamphere said that he thinking of the amount of equipment in that area, so he had been thinking of a facility owner putting “it in his building for all of his equipment to charge up”, but that he would have to “think a little bit about this”. He continued.

Mr. Lamphere: “I guess if he was going to offer his employees charging for nothing, without a fee, but, you gotta be careful. As soon as he, as soon as he opens up a charging bank of stations, and he’s gonna be charging for that, I think that falls into the Commercial or Manufa[cturing], you know, you know, retail category.”

Ms. Hogan: “I think that would, too.”

Mr. Lamphere: “So, um, so – that would – it’s like, maybe that wouldn’t be deemed an accessory use. I’ll, I’ll defer to Solicitor Hogan on this one. She knows this area pretty well, uh -”

Ms. Hogan: “Um, Maggie Hogan, um – I, you’ve drawn an excellent distinction, Jim [Lamphere]. If, if an employer put in a, a charging station, uh, and it was not charged to the em-, well, if it was charged or not charged to the employees, and only the employees were using it, it’s clearly an accessory use, okay? Whether they charge them or not charge them, it’s an accessory, used to the primary use of, of the place of employment. If they added a, um, you know, a charging station, and then, uh, and members of the public could come and use it, for free, which, I’m not sure why they would do, but there are some incentives out there, through National Grid, and, and, and, the State programs, where, where, um, they are incentivized – employers are incentivized to install these things. So, if that were the case, and the public were using it, free of charge, I think it’s a little gray area, but if the public were coming and using it, and there was a charge, then I think that, that vaults it into a, a, you know, a[n] electric charging station under the use

code, so, um, you know, for instance, at my day job, they, the State installed, or created a, uh, a solar canopy, and then down below it, it's of eight or ten charging stations, and they are available for, uh, used for free to anybody who wants to use them, um, and I would, if that, if, if it were zoned thing, I would call that an accessory use."

Mr. Prellwitz thanked Ms. Hogan for her comments, and then asked the Board what their thoughts were "on opening this up to general public, for, for comment", or if they wanted to "form" their next vote. Ms. Hogan interjected that the Board had "one more item to consider." She also noted that they had seemed to come to a consensus on the electric charging station line item, but they could have a formal vote. Mr. Prellwitz agreed that it seemed unanimous, but that the Board should "go ahead and have a vote on that." Mr. Prellwitz began to vote, but Ms. Jalette interjected that a Board member "should make a motion before" they voted. Mr. Prellwitz thanked Ms. Jalette, and then asked for a motion. Ms. Shumchenia offered to make a motion.

MS. SHUMCHENIA MADE A MOTION THAT IN THIS DISTRICT USE TABLE, UNDER USE CATEGORY 559 – ELECTRIC CHARGING STATIONS:

THAT RFR-80 AND RES-1 ARE BOTH PROHIBITED, LISTED AS 'N' AND 'N',

THAT NEIGHBORHOOD BUSINESS, COMMERCIAL, AND MANUFACTURING ARE 'P', 'P', 'P', OR PERMITTED,

AND AQUIFER PRIMARY AND OVERLAY SECONDARY ARE AMENDED TO READ 'A', 'A', INDICATING THE NEED FOR A SPECIAL AQUIFER [PROTECTION] PERMIT.

MR. LINDELOW SECONDED THE MOTION.

Ms. Light had a comment. She asked if the Board could add to their recommendation.

Ms. Light: "Um, can we include, in our recommendation to the Town Council that, uh, for Category 559, RFR-80 and RES-1, the 'N's be specific to, uh, resale of the electric." Ms. Hogan: "You'd have to amend the motion."

MS. SHUMCHENIA SAID SHE WOULD AMEND THE MOTION TO SPECIFY THAT IT'S [THE BOARD'S] RECOMMENDATION THAT THE 'N'S UNDER RFR-80 AND RES-1 ARE CONTINGENT ON THERE BEING NO RESALE OF THE ELECTRIC AT THOSE CHARGING STATIONS.

Use Category	RFR-80	RES-1	Neighborhood Business	Commercial	Manufacturing	Aquifer Primary	Overlay Secondary
559 – Electric Charging Stations	N*	N*	P	P	P	A	A

[District Use Table – P = Permitted, N = Prohibited, S = Special Use Permit, A = Aquifer Protection Permit]

*No resale of electricity from charging stations.

MR. LINDELOW SECONDED THE AMENDED MOTION.

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

5-0, THE MOTION PASSED.

Ms. Hogan then said that “the final thing” the Board would need to vote on was “that language in red, under Section 8 – Nonconforming development”, which was “the added language of ‘unless prohibited in the District Use Table.’” Mr. Prellwitz asked for a motion, and Ms. Shumchenia said that she would make one.

MS. SHUMCHENIA MADE A MOTION THAT ‘UNLESS PROHIBITED IN THE DISTRICT USE TABLE’ BE STRICKEN ENTIRELY FROM THIS PROPOSAL.

THE MOTION WAS SECONDED BY MR. LINDELOW.

Mr. Pennypacker, Ms. Light, and Mr. Lindelow all tried to second the motion at the same time. Mr. Prellwitz then asked if Ms. Light had another comment, and that if she did, he would be “more than happy to hear it.” She replied that she did not.

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

5-0, MOTION PASSED.

Ms. Jalette told Mr. Prellwitz that there was a member of the public who wanted to comment on the agenda item. She asked him if he wanted to entertain it. He replied in the affirmative. Ms. Jalette explained that she was going to read off the last four digits of the caller’s phone number, and then she was going to ask them to state their name for the record.

The caller was Barbara Capalbo, of Lynn Lane.

Ms. Capalbo: “Um, I was listening to the comments, and, and I think it’s, it was an interesting discussion, especially because, in the future, um, certainly in the next ten years, we’ll be addressing, um, the electric cars, but, I’m wondering if you’re working at cross purposes to your Council, who is addressing the PSES Ordinance, Solar Ordinance, and they are specifically discussing ground-mounted solar in RFR-80, not R-1 zones,

specifically to allow people to have charging stations for their personal electric cars. So, they're planning on most of the residences, or at least in RFR-80, having electric charging stations, which I think it probably something that will be, um, uh, certainly coming to fruition in the next ten years. Uh, some are on Aquifer Primary, some are on Aquifer Secondaries, some are not, um, but they're all RFR-80, so, I, I think you might want to address the future, by, uh, you're, obviously – I think - going to have to allow the electric cars, and for people to have their own charging stations. You can't guarantee they won't see their electricity, or use their electricity for their neighbors or friends, and, and make money on it, um, because you sell electricity - you don't just give it away free. So, I, I think it needs to be addressed further. I, I do think it's the right direction, but, indeed, if ground-mounted solar is allowed, specifically because people want to change over from fossil fuels, including their car and the charging stations, that should probably be addressed in your Ordinance, or in this particular part of the Use Table. So, it's just a comment. I think the discussion is interesting. I'm glad you're being careful with farms, because you're going to need a lot more of it, and I'm also glad that you're keeping the diesel, because we've always been a farming and an industrial community, um, and there are a lot of businesses here, still, who use the heavy diesel, um, and certainly, in an emergency, you will want diesel. You won't have electricity. Um, so, thank you. I'm glad you're addressing this.”

Mr. Prellwitz thanked Ms. Capalbo for her comments, and asked Mr. Lamphere how the Board should proceed. He replied that the Board could “go to the next agenda item.”

OLD BUSINESS:

Second Master Plan – Major Land Development Project – Stone Ridge at Hopkinton – AP 11, Lot 47A, Palmer Circle. RI-95, LLC., applicant.

As Mr. Prellwitz began to read Mr. Lamphere's memo, Mr. Lamphere interjected. He explained that William Landry and Sergio Cherenzia would be representing the application before the Board, and that, “after speaking with them”, it was his “understanding that they want[ed] to provide [the Board with] a brief status report, as to the latest developments on this project.” He continued.

Mr. Lamphere: “What, what is on the website right now – it is my understanding – is going to be reconfigured for the next time they come before the Board. So, it's going to be – it's my understanding, it's going to be downsized, uh, somewhat. Um, they've met with the Conservation Commission at the site, I believe, three times, and they've, um, tried to accommodate the Appalachian Trail group, and, and the Conservation Commission, so, uh, I, I would, I would suggest that the Board, um, listen to the, uh, status report by Mr. Cherenzia first, and, and, uh, their attorney.”

Mr. Prellwitz replied that he understood, and asked if the applicant's team was in attendance. Ms. Jalette explained to Mr. Landry and Mr. Cherenzia that they would need to press *9, then unmute themselves. Mr. Cherenzia said that he thought that Mr. Landry was going to begin, and that he was going to “kind of fill in, with additional detail, um, of

what has transpired” since the applicant was last before the Board, and what they had “been doing [to] coordinate our, our site plan, with other entities within the Town.”

Mr. Landry then spoke before the Board.

Mr. Landry: “We were going to make a request, uh, that this matter be continued, uh, to the next meeting, or, or whenever, uh, the Board is able to, to hear it. I understand it’s a pretty full agenda next month, uh, but we wanted to give the Board a courtesy, of letting them, uh, letting you know what we’ve done since we were last before you on this application. Uh, it’s been a few months, and I know you’ve had a lot of project in between, but this, this is one in which we have not actually made a presentation, uh, on our Master Plan yet. Uh, we were asked, at the first Public Informational Meeting session – and we agreed, and thought it was a good and, and fair idea – uh, to not do the usual presentation, and have all of the, uh, neighbors, and, and people interested respond to that, but to take input, uh, from the Board and from the members of the public, and come back with a presentation that responded to the issues of, of most importance, that were, uh, identified, and there were several, uh, at the time, uh – there was a, a study, a peer review of the entire project, and it is a substantial project, that was begun by Crossman Engineering. They had not had an opportunity to evaluate the project, and we were asked to, to provide some response to their report, when their report was issued, and have those issues nailed down, uh, before we made a comprehensive presentation on the project. Uh, several of you also made specific requests that the project be, uh, geared to, to satisfy certain interests. There was a desire for a very robust, uh, landscaping plan, um, one that would address issues such as viewsapes, the view toward, uh, I-95, and that would be comprehensive as to the issue of removal of trees, because we know that’s been, uh, an issue in the past. We were asked, uh, to try to, uh, meet, or at least explain what we were going to be trying to do, to meet, uh, a threshold of forty percent of our site being dedicated to open space. Uh, you know, I think it’s not at all clear that that is a requirement, but it was – I identified as an aspiration, uh, of the Board. It does apply to certain types of mixed uses in this, uh, Commercial zone. We took that request seriously, and we, uh, we have been, we believe we have accomplished, uh, that, uh, objective. Uh, we also were asked to conduct a wildlife migration study, which we did. So, we provided, uh, all the response[s], we got the report from Crossman [Engineering], provided all of their responses. Uh, there have been hundreds of hours that have gone into this, at tens of thousands of dollars of expense in, in all of these areas, commissioned a very strong landscaping firm to carry out those, uh, those aspirations. Uh, looked, uh, tweaked the design of the project, uh, and then, over the last two months or so, we have concentrated on another ask, uh, that has kind of developed a project within a project, and this was the request that we consider a design that accommodates the reestablishment of the Narragansett Trail in this portion of the Town, which, at one time, as you may know, actually crossed what’s now, uh, Route 95, and our two hundred and fifty acres, uh, it appears, is strategically located in a way that could facilitate, very substantially, the connection, uh, of other parts of the Narragansett Trail, and the eventual reestablishment of most of that system. Um, we met over the last couple of months with Harvey Buford from the Conservation Commission, and several folks from the, uh, Appalachian Mountain Club, who are in, leading this effort, on the AMC’s part. It’s called the, the, uh,

Narragansett Trail Restoration Project. They're very enthusiastic about the potential for this site, to open up a new area, uh, but they have asked us to downsize the project in a way that would create, uh, substantial acreage for, uh, reestablishment, relocations of portions of the trail, so that required us to really understand, you know, what the priorities were. There were references to stone structures, uh, remnants of dwellings, uh, ceremonial stone formations that were of interest to the AMC, uh, and the possibility that the trail could be reestablished in ways that could permit people to view those features, and that we could restore those features. Uh, nobody had a real inventory of what those features were, or where they were, so we have now, three different times over the last several weeks, gone out to the site. Uh, I went on one of the meetings for about four hours, and, and traipsed through the, through the snow, and got an education. We, we found many of these features, uh, GPSed them with folks from the American, from the Appalachian Mountain Club, and with Mr., uh, Buford, GPSed them, put, uh, Mr. Cherenzia was very, very much involved in that, and began working on an inventory of the key features out there, and the ways in which, uh, our design could possibly be modified to accommodate what is a very ambitious project, but what has increasingly grown on us as a very interesting, uh, project. My client, uh, is very much in favor of, of this type of conservation, uh, his son is a, is an enthusiast, and accompanied everybody on, on these, uh, on these walks. So, we have completed, uh, the process of inventorying those items, plotting them out on, on, on our plans, and tha-, this piece of the puzzle, uh, is gonna change, uh, many of our responses to Crossman [Engineering]. Uh, it's going to modify the content of the wildlife migration pattern, uh, impact memo, and, and moderate, uh, what had been a, a modest impact to begin with. Uh, it will seal, uh, for sure – we think our ability to provide at least forty percent open space, and it will provide more buffering from certain neighboring, uh, properties as well. So, we got very close to having this whole, uh, package together for presentation tonight. Uh, we decided we, we weren't gonna make it, when, uh, the Narragansett Trail Restoration initiative got wrapped into the rest of the project, and that we were gonna miss it by a couple of weeks. It, it's our preference, and, and I think, perhaps, yours, that we present a project efficiently, that answers all, if not most of all the questions that were asked that night, and it has specific changes that we've made to the project to moderate it, uh, to carry this out. I've got a client here – I, I am – Mr. Cherenzia and I are the only persons here to provide this update. Um, you know, we have other people on the project team that you haven't met yet, that are responsible for other distinct portions of this, but in, in forty years of doing this, I'm not sure I've ever had, uh, a client that's been more communicative. They've been in regular contact with the Planner, with other Town officials – certainly with Mr., uh, Buford, and have established a nice relationship, very deferential, very, uh, earnest, in their desire to try to have a good project that everybody will be happy with, so, uh, I know Sergio [Cherenzia] may add – he's, he's spent a lot more of those hundreds of hours on this over the last several months than, uh, that I have. I may have missed something, but our message to you – we want it to be that, you know, we're, we're not sitting around, doing nothing on this project or losing interest in it – quite, quite the opposite. We think we've developed something that, uh, will hopefully be, will be much more satisfactory, and, and hit all of the, the buttons that you asked us to hit at the, uh, at the last meeting. I do understand you've got a bottleneck in April. Uh, we'll work around that. I was very clear from the beginning of this process, not only with, uh, the Planner,

but with the folks who are in opposition to the project, including their counsel, that we're not standing on ceremony here with any deadlines for the Board to act on this. We've, we've agreed to extend the time for the Board to act on the Master, uh, Plan, uh, until such time as they, the Board, feels comfortable, they've had an opportunity to fully review what we've been, uh, presenting. So, um, [if] there are any questions of me, I'm happy to answer them, and, and I, I would ask, with your permission Mr. Chair, if Mr. Cherenzia, uh, has something he'd like to add that I might have overlooked."

Mr. Prellwitz thanked Mr. Landry for his comments, and then requested that the Board members "hold [their] questions" until after Mr. Cherenzia had spoken. He explained that he wanted to get "through this as efficiently as possible." Mr. Cherenzia then spoke before the Board.

Mr. Cherenzia explained that he was the lead engineer on the project, and that Mr. Landry had hit "all the high points". Here, Ms. Jalette interjected to ask Mr. Cherenzia if he was in the same room as Mr. Landry, as there was some feedback. Mr. Cherenzia replied that they were not, but Mr. Landry said that he would mute himself. She explained that she didn't want "that feedback", and asked Mr. Cherenzia to continue. He said that he thought that it was better, and asked if the Board could hear him. Mr. Prellwitz replied that they could. Mr. Cherenzia then continued.

Mr. Cherenzia: "Attorney Landry has pretty much hit all the high points. I just wanted to, uh, add in that we've been working very collaborative, collaboratively with the AMC, and, uh, Mr. Buford. Uh, done multiple site visits, um, and, uh, trudging through the snow, identifying some of the relics on site, and, uh, it's, it's been a very collaborative effort, uh, thus far, and we, we intend to continue to do so. Um, I plan on meeting, um, with Mr. Buford, uh, to identify some of the more critical areas, and we fully, uh, intend to have, uh, some sort of endorsement, or at least letter of understanding to bring to your Board, um, prior to, uh, the meeting that we have next, uh, to present. Um, I've also been corresponding with your peer reviewing engineer, um, and, uh, and, with the advisement, uh, of the Town Planner to make sure that, um, our application is technically sound. We've responded to some of the comments, but I requested today that he hold off on any further, uh, review until we have our, our revised plan, which, um, as Bill [Landry] had mentioned, has significantly reduced the amount of the array to just what we, uh, you know, we really can't reduce it much, any more, uh, but we think we've, uh, in earnest, uh, provided, now, a plan that's going to, um, be acceptable to accommodate, uh, buffers, and also to, um, compromise on, uh, preserving the Narragansett Trail, among some of the other trails on site, um, as well as some of the other historical relics, and maintain some significant buffers. Um, so, with that being said, um, we, we do fully intend to present this, this new plan, and, uh, make sure that we have the appropriate sign-offs, uh, from some of the other, uh, Town staff, uh, in conjunction with working with the Town Planner on, on that, and making sure that, uh, we have all those things for you, and have a very complete application, um, with, with, the, uh, the other, the additional information that you've requested. Um, so, with that, I'll, I'll defer back to the Chair, uh, if there's any questions."

Mr. Cherenzia then explained that he did have to “get on to another meeting”, but that Mr. Landry would be in attendance, and that he would “try to stick around to answer any questions” that the Board had.

Mr. Prellwitz replied that it sounded to him that the applicant “would like a little bit of time” to get their “ducks in a row”, their “facts and figures” ready, and their “sign offs” completed, as well as all of their “documentation” before they would “proceed with this.” Mr. Landry replied that that was correct. Mr. Prellwitz then asked the Board if they had any questions. Ms. Light began to speak, but Ms. Jalette explained that Ms. Light had muted herself. When she unmuted herself, she spoke again.

Ms. Light: “Uh, just for clarification – uh, based on what Mr. Landry and Sergio [Cherenzia] said, this is not the forum for us to ask questions, based on the plans and documentation that we’ve been provided for tonight’s meeting?”

Mr. Landry replied that he was not sure he “heard that”, and he asked her to “re-ask that question.” Ms. Light did.

Ms. Light: “You’re, you’re telling us that there’s another revision, uh -”

Mr. Landry: “Yes.”

Ms. Light: “In the pipeline, that will be applicable, and, for all intents and purposes, the information we have for tonight’s meeting isn’t relevant. Some of it might be relevant, but, you’re – are you asking us to postpone any Board member questions and comments?”

Mr. Landry: “I – if there are comments folks would like to make, I am – that’s certainly up to the Chair. We’re not trying to discourage anything, but I, I do want to -”

Ms. Light: “Okay.”

Mr. Landry: “Let you know that there is a, a very different plan, that you’ll, you’ll see for our next, uh, encounter, and, you know, you may want to save the questions, but that’s, that’s up to you, how you would like us to, to help you tonight, beyond what we’ve presented.”

Ms. Light: “Okay. I, I have some – I have some questions that are not relevant to what the plans look like tonight or next month, um, and, and, the first question that I have, I direct it to Maggie [Hogan]. Um, it’s Article IV of the Land Development and Subdivision Reg[ulation]s. Um, I don’t know if you’re familiar with it – are you?”

Ms. Hogan: “Sorry, I was muted. Um, I certainly have a copy of that here this evening, uh not -”

Ms. Light: “Okay.”

Ms. Hogan: “But I can get it. What, what’s the question?”

Ms. Light: “Well, okay, you know, for, for everybody listening, this is the dedication of land for public purposes, and, uh, our Article IV – 1.1 says the Planning Board may require that Major Land Developments and Subdivisions dedicate a portion of the land for open space, conservation, park and recreational land, and/or facilities to serve present and future residents of the proposed land development or subdivision, open space, conservation, recreation lands, etcetera. So, this definitely applies to the project that we’re talking about right now, and it’s, it, it’s my thought process that the Planning Board

– even though this is a by-right project, the Planning Board has the ability to direct the project development peeps to the open space that we would like them to preserve, or dedicate, or pay [a] fee in lieu of. And, and, I was just looking for feedback from the team and from Maggie [Hogan] as to how that applies to what we’re doing here tonight, considering all of the effort that the applicants have put into conserving the Narragansett Trail, etcetera. So, something you probably can’t answer tonight, but I’m feeling that, uh, we, we have some allowances in our jurisdiction that can help support, uh, the, uh, salvaging of the Narragansett Trail, and, and the historical cemetery, and perhaps some of the stone walls that, uh, go through the property? Uh, so that, that would be my, my first comment, um, because I, I, uh, noticed in the notes that, uh, the applicant recognizes that, um, many stone walls are gonna be taken down. Um, I, I had a general question for the applicant. There’s been heavy equipment on the site. Uh, it was there for a couple of months – not there over the last couple of weeks, but I, I was curious as to what that heavy equipment was actually doing there – kind of a mystery? Could, could you tell us what, what the science projects might have been occurring there?”

Mr. Landry: “I’m gonna have to defer to, to Sergio [Cherenzia] on that. I know there were a number of test holes that we dug. I’m not sure if that was equipment associated with the test holes or not. Uh, there had to be some paths, that, that had to be created to get to certain areas that were not easily, uh, passable, but I, I’m not sure what the equipment was, if Sergi-, if Mr. Cherenzia is still on-”

Ms. Light: “Okay.”

Mr. Landry: “I know he did have -”

Mr. Cherenzia: “Bill [Landry], Bill [Landy], I’m on -”

Ms. Light: “Looks like it was for digging really big holes.”

Mr. Cherenzia: “Bill [Landry], Bill [Landry], I’m on -”

Ms. Light: “Big, giant test holes! Go ahead, Sergio [Cherenzia].”

Mr. Cherenzia: “I can, I can address – sorry, uh, the - Sergio Cherenzia, uh, for the applicant. Um, yes, the uh, the equipment that was required, uh, to get onto the site and navigate the site was rather large, but it was to excavate, soil evaluation, test pits, uh, to support drainage design, um, and -”

Ms. Light: “Okay.”

Mr. Cherenzia: “And it was the request of, uh, of the peer reviewing engineer, and I’m not sure if it was this, this Board as well that, uh, we, um, advance our, our plans to a point where we had more, more comfortable with our drainage design, so, um, in advance of that, we did get to the site, and, um, it’s a rather, uh, rocky site. It’s difficult to navigate. There’s not easy paths, so it did require some, uh, fairly large, uh, excavators to, um, to get into the site, and we stuck to existing paths to the best we could, limited the disturbance to that, to the best of our ability, uh, in trying to navigate to the locations on the site, uh, to excavate those test pits.”

Ms. Light: “Okay. Thanks for filling us in. There are a lot of curious people in the neighborhood. I, I have, uh, another question for the applicant. Um, you’re proposing, based on the documents we have, a fifty thousand square foot building for battery storage. Is your desire to have battery storage, in that location, dependent on the solar array? If we, if the Town said you cannot put a hazardous facility in that area, what does that do to your interest in putting the solar project in?”

Mr. Landry: “I, I think I can, uh, I think I can respond to that. I, I, I thought we had established this, uh, at the last hearing, but maybe we didn’t – it might have been some communications in between, but, uh, uh, we’re not lying on the railroad tracks, uh, for battery storage in that, in that building. Um, uh, if that’s not a desired use, our, our intent had been to have some, some battery storage associated with solar, that would be a compatible use, but our, our leaning right now is more toward a general warehouse, uh, type support building that would not, uh, involve battery storage. That’ll be clarified with greater precision as part of our modified plan, but that’s my understanding of the direction that the owner is, is, uh, taking at this point.”

Ms. Light: “Uh, okay. Um, it, it’s, um, um, I’ll, I’ll just bring to those listening, and the applicants – in my mind, it wouldn’t be desirable, to have fifty thousand square feet of batteries, uh, located anywhere in the community, and as of October 27, 2020, FEMA [Federal Emergency Management Agency], uh, published an article named ‘Emerging Hazards of Battery Energy Storage [System Fires].’ Um, I, I suggest that if, you know, battery storage is still on the wish list for the applicants, that you read that, uh, and I encourage everybody listening to read it, but, it doesn’t sound, to me, that it’s desirable, uh, basically because, uh, we don’t have resources anywhere in Rhode Island that would be able to address the failure of one single battery in a facility like that, and one single battery ignites a major explosion, so, uh, that’s where I’m going with that, so, you know, breaking those two apart – it works for me, and as long as the solar project is independent on storing batteries, that, that’s great. Um, and the other – it might be a petty comment, but we’ve been talking about, uh, two hundred and fifty plus acres of land that this project is gonna be sited on, but when I did my due diligence, according to my own wish list – we’re only taxing you guys for 245.6 acres, so, I’m wondering where the extra acreage is coming from. Somebody’s wrong here. Maybe it’s the Town – I don’t know, maybe it’s you guys, but a little over six acres of error could mean the difference for a resident, or an abutter somewhere, so, I’d like to know what the actual, uh, size of the land, the scope of the land is that, that we’re talking about tonight, and, those are the only comments I have for you guys. Thank you.”

Mr. Prellwitz thanked Ms. Light. Mr. Landry asked Mr. Cherenzia if he wanted to address Ms. Light’s concerns. Mr. Cherenzia asked if he was “addressing the, the land, uh, area” question. Mr. Landry replied that he thought the applicant had “been using that as a good, close, round number”, but that he was “not sure.” He continued.

Mr. Landry: “We were trying to provide survey, uh, parameters, but I, I think Mr. Cherenzia might be better able to clarify.”

Mr. Cherenzia: “The, the lot had, has been surveyed, uh, and has a certified boundary, Class 1 Survey. Um, the land acreage, per that survey, is 251.96 acres, or, if you will, ten million, nine hundred and seventy-five thousand, two hundred and twenty-six square feet, um, give or take. So, uh, that would have to be addressed with the, uh, the Assessor’s Office, I’m assuming, if they have been being – if my client has been being taxed on less land, uh, that would have to be, uh, addressed and concurred with, um, I’m assuming, with the Tax Assessor’s Office. Does that answer your question?”

Ms. Light: “Yeah. Sure.”

Mr. Cherenzia: “Okay.”

Mr. Prellwitz then asked if there were any other Board members who wanted to comment on the project. Mr. Pennypacker spoke next.

Mr. Pennypacker: “I don’t have any questions, but I just wanted to say to the applicant that I’m delighted to hear that you’re engaging with the Town, and the Conservation Commission, in an effort to preserve the cultural heritage of the, uh, the area, and I look forward to your presentation.”

Mr. Prellwitz then said that it sounded “like the developers and the engineers have done a great deal of work.” He continued.

Mr. Prellwitz: “They’re going above and beyond to accommodate all the different organizations. Uh, I think we would be remiss in moving on from here, other than to postpone, at their request, until they have everything set. They have a new plan coming out. We should see that. I mean, we can’t ask questions on something that we don’t know about. Uh, any thoughts on that, Board members? Or Jim [Lamphere], or Solicitor Hogan?”

Mr. Lamphere replied that he agreed with Mr. Prellwitz.

Mr. Lamphere: “Um, if they’re through with their presentation and their update tonight, I think we should, uh, fall back and wait for them to come in with something more concrete, so the Board can consider it.”

Mr. Prellwitz thanked Mr. Lamphere, and said that he would “entertain a motion” to close the agenda item, and the move on to the next one. Ms. Hogan replied that the Board did not “need a motion to, to move on to the rest of [their] agenda.”

Ms. Hogan: “You just thank the applicants for appearing, and move on to your next item.”

Ms. Jalette began to speak when Mr. Prellwitz began to thank the applicant. The applicant began to leave the meeting, but Ms. Jalette interjected that there were “a couple members of the public who’d like to comment, and so, if the applicant would like to stay on the call to hear them, that is probably a good idea.” Mr. Landry thanked Ms. Jalette. Mr. Prellwitz said that they would hear from them, but that his thoughts were “still in place, that there’s really nothing for them to comment about, but if they have something to say, we’ll be more than happy to hear it.” She explained that they had “about five people” had raised their hands, and that some had decided to participate via phone, while others had elected to use the computer. The first person to speak was Elaine Caldarone, of Maple Court.

Ms. Caldarone: “I’m the Hopkinton representative to the Wood-Pawcatuck Wild and Scenic Stewardship Council, and I noticed when I was reading the supporting documents for this project that neither the applicant, the Town engineer review, the land use planning consultant, nor the wildlife habitat assessment addressed or even mentioned the

National Wild and Scenic River status of the watershed, and of Canonchet Brook. So, I let the Stewardship Council know about that, and they wrote and submitted a two-page letter to the Planning Board, which, unfortunately, did not arrive in time for this meeting, but, hopefully, will be in the packet for your, your next April meeting, but I would like to just, uh, mention a few key points in that letter, and a very brief, one sentence background that, in March 2019, the seven major rivers of the Wood-Pawcatuck Watershed, and their tributaries were designated as Wild and Scenic Rivers by Congress. Canonchet Brook, which abuts the proposed Stone Ridge PSES site is one of those federally designated tributaries. So, the Stewardship Council has concerns about this PSES proposal. Uh, the first is destruction of a large amount of forest cover, and the second is pr-, protection of the Brook. The stewardship plan, which was adopted by the Hopkinton Town Council, and supported by Hopkinton's Conservation Commission, Land Trust, and Planning Board recommends that a one quarter mile, undisturbed, naturally vegetated buffer be maintained around then nationally recognized rivers and tributaries. So, in the letter, uh, we suggest that, going forward, if, uh, this plan does go forward, we would like to encourage the Planning Board to require the applicant to, first of all, minimize disturbance within this one quarter mile area along the Brook, and that includes maintaining as much of the natural vegetation as possible; second, to minimize any potential impact to the Brook through proactive mitigation measures and controls, and third, require frequent monitoring of the Brook's water quality prior to, during, and after construction, and, as a corollary to that – if the water quality tests indicate a negative trend, the developer should be required to take measures to prevent further degradation. The Stewardship Council feels that the applicant should be responsible for assessing the potential impacts of its project on the Wild and Scenic River values, and make every effort to avoid or diminish these impacts. The Council is always available. We're here to help provide input, support, expertise – and I'm sure we all have the mutual goal of protecting and preserving this national treasure that we have within our Town. Thank you for your consideration.”

Mr. Prellwitz thanked Ms. Caldarone for her input. He then asked Ms. Jalette for the next caller, and joked that it “almost sounds like a game show”. The next called was Peter Skwirz, an attorney with the law firm Ursillo, Teitz & Ritch, Ltd., who had been retained by Dr. Thomas Sculco and his wife, Cynthia, “who own Plat 8, Lot 38, and Plat 11, Lot 42, immediately to the south.” He spoke before the Board.

Ms. Skwirz: “Since the last time this was here, um, I submitted, uh, a written report from our Planner, who's here tonight, but I won't spend any time on that, since it sounds like, um, he's gonna have to have a, a review of the new plan once it comes in, um, but, um, that he will have comment on that, when it comes in, uh, but also since the last time I was here, we were here, I submitted a, uh, memo to the Board about the Commercial Special zoning, um, because the last time I was here, there was, we brought that up, and it wasn't fully, um, determined by the Board at that point by a vote, um, and, um, your prior Solicitor, as you know, gave an opinion that although the vote of the Council limited the Brae Bern rezoning to a, a hotel, a golf course, and, uh, other limited uses, which didn't include solar, uh, your prior Solicitor had opined that even though it didn't say this, the intent of the Council was to include solar. Um, so, in light of that, I decided to go back

and pull up the old meeting minutes from the, um, uh, the, um, Planning Board, when the Brae Bern project was heard, um, an-, and what, what was there, uh, in my mind, made very clear that the intent was not to allow, um, any Commercial use, uh, but was only to allow that specific Commercial use for the Brae Bern project, um, so, uh, I'll just quote from those minutes now, briefly, but, ultimately, what I would ask is that you have a new Solicitor now, um, that would be able to give you a fresh set of eyes on your prior Solicitor's opinion, uh, because, at the end, ultimately, you are going to have to vote on whether or not this complies with Zoning, um, and if it, if it's the case that, it determines that he's not in compliance with Zoning, I think it's probably better to let the applicant know, up front, so they don't spend more money revising their plans. With that said, the first quote that I found in the march 14th, 1990 Planning Board meeting, uh, Brae Bern's attorney, Vincent Naccarato, was presenting to the Board, and he's quoted as say-, the following is quoted in the minutes: 'Mr. Naccarato stated that they are seeking to per-, permit specific uses, allowed in a specific ordinance, a particular ordinance. There is no intention of picking up additional permitted Commercial uses.' So, then, on April 25th, 1990, um, ah, Brae Bern came back to the Planning Board, and the Planning Board gave its recommendation to the Council, and in those minutes, where the recommendation was go-, given, it says: 'Please note that the applicant has agreed to revise the application as follows: 1) That under application item Number 16, the permitted Commercial uses, one through fifteen be deleted.' So, I think, based on that, it was pretty clear that the Planning Board did not want to allow any Commercial use. They wanted to narrow it to that specific Commercial use, and the applicant for this particular rezone, the Commercial Special, revised their application, saying that was all they were seeking, so then, you go back to the meeting of the, uh, Council, on July 2nd, 1990, and in those minutes, it says that rezone has the following condition: 'The maximum number of structures and uses in this zone, permitted in connection with this project, shall be as proposed: one hotel, one conference center, have a combined total of two hundred rooms, one country club, one hundred and sixty-five units of residential housing, and one eighteen-hole golf course.'" So, I, wha-, to me, it's abundantly clear that this Commercial Special zone does not permit this use. That being said, if the applicant wants to put together a project, and the Town thinks it's a good project, he has a, a mechanism to seek to have it used that way, but he should know, up front, that he's going to have to ask the Council for a rezone of this land, which the Council has complete discretion to either grant or deny. Um, so, again, I know it's being continued tonight. I would just ask that, um, the memo that I submitted with those quotes, it could be circulated to the Board, and that also your new Solicitor, um, give a second opinion, so to speak, on this issue, um, because I – one way, the another, um, I think it's likely that it would be appealed, um, and I, I think, it's, the, the more eyes we can get on this up issue, up front, the better. Uh, so, thank you for your time, um, if there's any questions of me, I'd be happy to answer."

Mr. Prellwitz thanked Mr. Skwirz, then asked Ms. Jalette for the next caller. It was Joe Moreau, of Old Depot Road.

Mr. Moreau: "First thing I want to say is that the, uh, Planning Board did a great job, initially, with your conversations on the first agenda item. Um, I'm one of those people that drive by that project every day. I live in that area, and I did notice the, uh,

excavators, the backhoes, and the traffic there. Uh, one of the concerns I have is that there was a gate that was across that property, and that gate has been laying on the ground for about a month or so now. Um, the initial plans that I had looked at, there was a proposal for – it was either four or five twenty-five hundred square foot buildings, and then Commercial buildings, then that was changed to the fifty thousand square foot, um, building and battery storage. Uh, I have the same concerns that Carolyn Light had mentioned, with the battery storage in that area. There's wetlands in that area. There's a pond in that area, which is another concern with the gate being down, if any, uh, children get into that area, but, um, I'm glad to see that they are considering the, uh, historical, um, issues with that property, um, but that's basically what I want to talk about. My main concern is with the battery storage, and I'd like to know, at the next meeting, uh, if it's not gonna be battery storage, what is gonna be in that fifty thousand square foot building. Do they plan on renting it out? Could it become a construction, uh, heavy equipment, diesel repair building? Um, there's an awful lot of questions about that building, and that's my, my major concern, and, again, thank you for your time. You guys have done a great job."

Mr. Prellwitz thanked Mr. Moreau, and asked Ms. Jalette for the next caller. She apologized to the caller if she mispronounced their last name, and directed them to state their name for the record after pressing *9. It was Peter Conopask, of Friel Farm Way.

Mr. Conopask: "I was on the Planning Board from, uh, of roughly 1980 through 19-, uh, -92-93. I was in the room when Brae Bern came into the Town, and I want to just make a few points. The Planning Board that I was on in the [19]80s, we were the first Board, one of the first Boards in the State to produce a Comprehensive Plan for the Town of Hopkinton. There were many people involved in this, for the first initiative. It was difficult. There were a lot of people in the Town that came to the meetings. There were a lot of discussions about Commercial zones. Spot zoning was a big issue. Protecting the aquifers were a big issue. Increasing our tax base was a big issue. It took us several years to develop the first Comprehensive Plan, and I was also fortunate to be part of this first revision of the Comprehensive Plan. When Brae Bern came in, we had already had zoned that whole area. Part of the issue of the zoning of that area was to keep open space. John Chafee, our late Senator, talked about the 'green pathway', coming from [I]-95 South to 95 North as you entered Rhode Island, and what a great place it looked like, in the 'green pathway', going up toward Providence. The second thing was, or primarily was, to eliminate spot zoning, and to make zoning more of a uniform approach to growth and development – controlled growth and development in our Town. And another important aspect was to protect the aquifers that this parcel is above, and, and, the aquifers are below it. I happen to live about several miles east of this, um, project, and I've had my water tested several times over the forty-five year that I've lived here, and I get back some [of] the most incredible results, of the water quality that we have. So, all of these things that I just mentioned were very high points in trying to protect our zoning. I want to make sure that you fully understand the intent of the Town Council, and the people of Hopkinton in the early [19]90s, when Brae Bern came in. We made a special exception to Commercial, or they call it Commercial Special, because we did not want any other type of Manufacturing or Commercial zones. We looked at the tax base. We thought it was a

good thing. The Town Council was – thought it was a good thing. It was right off [I]-95. It would have limited impact on the Town, but it would provide a, probably, a very positive tax base, which was a major driver. So, when we look at the whole picture, I implore you to understand that the intent of the zoning was for a resort, a golf course, aquifer protection, and retail shops, and very limited in Manufacturing or other types of Industrial activities in this area. It was basically a one-off, and the - any other, uh, uses of the land was, was going to be prohibited. The Town Council, and the Town, did not want to see that happen, and I'm telling you that because I was there, and it was not a one, one-night meeting. We spent a lot of nights, in the Town Council, with the Planning Board, with the zoning, and having public meetings, so I think it's very important that I bring this message to you, because I am saddened by some of the zoning that has taken place in the past few years with the solar craziness that's going on. It's a special interest, spot zoning issue, and I really implore the Planning Board to take a stand on this, because we're basically ripping apart the Comprehensive Plan for a very few individuals that are gonna profit from it, and not the Town. And, I also would like to say that, when you take a look at how we describe the Commercial zone, it's for the community betterment, not for one person. It's right in our zoning. Commercial development is for the betterment of the whole community, not one individual. One other thing I'd like to leave you with, and that's: we had to deal with this, probably for, uh, when I was on the Board for twelve years – when Brae Bern came in, they came in in their Brooks Brothers suits – and I was in management consulting, so I wore a Brooks Brothers suit, so I'm just saying that - it's kind of a tongue-in-cheek type of thing. They came in, to this little old country place, out in Hope Valley, Hopkinton, and they were gonna put on the biggest show in Town. They told us about all the money they were spending to do their development, and at the end of the day, we should not make a decision, or be influenced by how much money a prospective applicant is spending. That is their decision. We should not be influenced by the fact that we should bend to them because they're spending a lot of money. We need to take a look at a Comprehensive Plan, and what we want to do in Hopkinton, to grow in a controlled environment. So, I implore you to think about, and read the intent of what the Town Council in Hopkinton meant back in 1990, when they put this Commercial Special use in. It was not to cut down hundreds of acres of trees, and put in solar panels and batteries. So, I would, please, implore you to consider this in your decision. [Respectfully] submitted. Thank you.”

Mr. Prellwitz thanked Mr. Conopask for his comments, and asked Ms. Jalette for the next caller. Ms. Jalette directed the caller to state their name for the record after pressing *6. The caller was Barbara Capalbo, of Lynn Lane.

Ms. Capalbo: “Um, my, um, comment is to Jim Lamphere. Um, I would like to have the, um, attorney or the applicant's, um, phone number if I could, for Hopkinton Historic – we have a small cemetery on that property, and I am sure, since they've been doing so much work, um, that they probably, um, know where it is, and address it. We just want to make sure that it's, you know, guarded and gated and marked, um, and kept safe, so, if that's okay with Jim [Lamphere], if I could get that for the attorney or the applicant, just so I could take a look at their plans and see what they're planning to do for the small cemetery that is on that property.”

Mr. Lamphere: “Jim Lamphere, Town Planner. You will have that.”

Ms. Capalbo: “Thank you so much.”

Mr. Prellwitz thanked Ms. Capalbo, and asked Ms. Jalette if there were any other members of the public who wanted to comment. She replied that there was “one more” caller. It was Eric Bibler, of Woodville Road. He said that he “would like to, um, underscore something that Attorney Skwirz touched upon, and that is to, um – and also Peter Conopask – and that is to implore the Planning Board to please read, very carefully, some of the materials that have already been provided and, namely, um, I think, some of the most important materials are the meeting minutes from the Planning Board in 1990 and the Town Council in 1990, which described in, um, very great detail what the thought process was of the Planning Board and the Town Council, and what they were approving and why.” He continued.

Mr. Bibler: “And the other document that, um, I hope that you will contrast that with is a very highly suspect legal opinion from our former Town Solicitor, which ignores the plain language of the Ordinance that was actually approved in 1990, and also ignores all of the meeting minutes that I just referenced, and then embarks on this flight of fancy, to say that, in his opinion, it was clearly the intent [of the] Town Council in 1990 not merely to approve a finite list of, um, Commercial uses, um, but, in fact, that it was their intent that he divined that they meant to, uh, approve all commu-, all Commercial uses that might be approved in the future, and this was approximately twenty-four years before Hopkinton ever approved a solar project, you know, before anyone ever dreamed of approving a solar project, so, this idea [that it] was the intent of the Council to, um, bless the idea of, in clear cutting one hundred and two acres of forest, to put in this massive, solar power plant, uh, that no one could have imagined, um, and then you contrast that with all the care they took to specify not just that the open space requirement was not merely forty percent of the parcel – it was forty percent after subtracting the, um, wetlands, and, included in this open – excluded from the open space, where the golf tees, the golf greens, and all the fairways, right? So, I think, I don’t think it takes a genius to understand that the nature of the project that the, uh, Town Council was willing to approve in 1990 was very different, and as Mr. -, as Attorney Skwirz noted, um, in the minutes, there’s a conflict. In the minutes, they, um, actually note, officially, for the record, that the applicant, um, withdrew this list of uses from their plan, and the actual number of uses that the Planning Board approved anyway was just the, the structures that, uh, pertain directly to the project plan. Um, one other thing, because I’m not sure which is definitive, you know, the Ordinance that was recorded in the Land Evidence, Land Evidence Records doesn’t seem to match the meeting minutes of the Town Council, but, if you get a copy of Chapter 110, which is the, the Ordinance that was recorded as having been passed by the Town Council in, on July 2nd, 1990, that actually does include the, uh, the fifteen uses that were in the Commercial zone at that time. The Ordinance says that the, uh, applicant shall be allowed to do any of these specific uses listed on the attached, you know, list, but, what I think you should focus on here, too, is the fifteenth item on the list of specified uses that might be permitted – Number 15 is ‘such other uses as the Zoning Board of Review may determine to be similar, not more objectionable, and not specifically listed in Items 1 through 12 above.’ So, if you want to accept this version of,

of what was actually approved on July 2nd, 1990, if it's not in Items 1 through 12 above, and, by the way, Items 13 and 14 are just parking and signs, the 15th Item, the catch-all item is such other uses as the Zoning Board of Review may determine to be similar, not more objectionable, and not specifically listed in Items 1 through 12 above, so I cannot imagine how our former Town Solicitor can issue an opinion for you to rely upon that, that posits the idea that this Ordinance, um, means to, um, foretell that the Town Council, thirty years forward, uh, meant for, um, any developer to come along and, and propose uses that were never heard of, like solar development. At the very least, you know, you've gotta submit this to, uh, you know, to this, to this final test, but I would submit as, uh, as, as Mr. Conopask has stated, that, you know, this is clearly so far incompatible with the Comprehensive Plan that you ought not to consider it, and I would also express, um, my appreciation to Elaine Caldarone for calling attention to the, uh, the tributary, um, of the, you know, in the Wild and Scenic River program, and frankly, my dismay that, once again, the Conservation Commission's contribution of, uh, trying to preserve the Narragansett Trail is appreciated, but I just don't understand how it is that, you know, the Conservation Commission, yet again, seems to be involved in a transactional approach to a development project, um, where typically, they are happy to get a piece of land in exchange for their blessing for some gigantic industrial project. Here we are again, um, apparently receiving their blessing, you know, we're going to preserve the Narragansett Trail, but the trade-off is that we're going to have a hundred-acre solar project that I think might be the largest in New England. So, I just urge you to consider all those things, and especially pay attention to the record, and I would, again, echo Mr. Skwirz's request that our Planning Solicitor and our Town Solicitor take a very close look at this, and see if they agree with this, uh, assessment, this legal opinion. Thank you."

Mr. Prellwitz thanked Mr. Bibler for his comments, and asked Ms. Jalette if there were any other callers wishing to be heard. She replied that there were not. He then moved to the next item on the agenda.

NEW BUSINESS:

The Board did not have any new business to entertain.

SOLICITOR'S REPORT:

Ms. Hogan explained that she had provided the Board with a "number of items".

1. Advise Planning Board of pending legislation, requiring education for Planning and Zoning Board members (Rhode Island House Bill 5392).

Ms. Hogan explained that there was "a proposed, uh, House Bill 5392" which has "been held for study". She said that the Bill "would be a statute requiring initial and continuing education for both Planning and Zoning Board members, uh, and this training would be in addition to the two hours of, uh, flood training that's, uh, already required." She said that she would "keep [the Board] posted as it works its way through the legislative

season”. She said that it was “supportive” of what the Board had “talked about already”, and that “the next agenda item follows nicely right into that.”

2. Discuss “Conducting Effective Land Use Reviews” – Grow Smart RI Land Use Training Collaborative (2014).

Ms. Hogan explained that, “in an effort to provide some, uh, Board education for both new and seasoned Board members, um, [she] spoke with the Chair and the Planner about, um, you know, the possibility of, of, of having the Board be able to attend some training workshops.” She continued.

Ms. Hogan: “Of course, COVID changes, um, things significantly for us right now, um, but Grow Smart, um, a Rhode Island entity has, in the past, conducted trainings regularly, uh, for land use, uh, Board members, and, um, one of the Solicitors, the other Town Solicitors, was kind enough to send me, e-mail me a copy, um, and which has been forwarded to all of you, so I would encourage you to, um, peruse that document. Um, there’s a lot of topics that are covered, um, and you might find it effective, and, um, if, if you, if we want to, at some point in the future, if we have a little time on an agenda or a workshop, where we can go through some of those items, um, you know, you might find it helpful.”

3. Review of recent Court case: *Boon Street Presby, LLC. v. Town of Narragansett Zoning and Platting Board of Review*. WC: 2-18-0489.

Ms. Hogan explained that she had provided the Board “with a copy of a recent case out of Narragansett [that] was just decided in February.” She said that that case “caught [her] eye for a couple of reasons.”

Ms. Hogan: “One was because they talked about, um, a Hopkinton case from a number of years ago, with the Love’s Truck Stop, um, and how the statute, uh, has changed since that time, uh, where now the Board, when it makes its decisions has to make a finding that the application is consistent, not only with a Comprehensive Plan, but is consistent with the, the Zoning Ordinance, and back in those days, they didn’t. The other reason that I, I thought this was an interesting case for us to read, and I apologize if it was too long, but, um, it, and, it, it talked about, um, the Court expressed some reservations about a – the decision that was written, uh, by the Planning Department after the Board made its decision, and was – the Court was critical of the fact that the decision, as written was not in compliance with what the Board had, um, actually said at the hearing, and that the Court was clearly, um, concerned about that. So, that ties into the things that we’ve been talking about a few months ago, about making findings of fact and conclusions of law, and trying to work with the worksheets that I’ve provided to you so that you can, when we get to the point of having to make a motion, you’ve kind of put all the pieces together and, you know, you’re not, um, A) relying on administrative staff to do it after a meeting is over, um, or anything of that nature. So, I thought it was an interesting case – Did anybody have any questions about it?”

When she did not hear from the Board, Ms. Hogan continued.

4. Revity Energy, LLC.'s appeal to the Zoning Board was cancelled due to the winter storm on Thursday, February 18, 2021. It was continued to March 18, 2021. All Planning Board members should have received a copy of the Planning Board's Reply Memo, filed on February 16, 2021.

Ms. Hogan explained that the Zoning Board meeting had been cancelled due to "the winter weather we had a week or two ago." She said that it would be "continued to March 18th", and that she had "filed a memorandum, and then a reply memorandum to the, to the applicants." She said that all of that was "on file" with the Board, and that she would be "happy to answer any questions" if the Board had any.

5. The Solicitor's Office issued a memorandum, dated January 29, 2021, concerning the question of the Applicant's name for the Skunk Hill Solar application.

Ms. Hogan explained that she had issued a memorandum to the Board "concerning the question of the applicant's name for the Skunk Hill Solar application". She said that she "believe[d] [the applicant had] been in contact with the Planner's Office", and "that matter is currently not, not complete".

Ms. Hogan: "And I believe one of the items, uh, was the documentation – pardon me – in compliance with, um, the requirement that the applicant be the intended owner of the PSES."

She then said that that was all she had for the evening.

PLANNER'S REPORT:

The Planner did not have anything to report.

CORRESPONDENCE AND UPDATES:

The Board did not receive any correspondence or updates.

PUBLIC FORUM:

There were not any members of the public who wanted to speak during Public Forum.

DATE OF NEXT REGULAR MEETING: April 7, 2021

ADJOURNMENT:

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

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

5-0, THE MOTION PASSED. THE MEETING WAS ADJOURNED AT
APPROXIMATELY 9:27 P.M.

By: Talia Jalette, Senior Planning Clerk, 3-18-21