

**TOWN OF HOPKINTON
PLANNING BOARD**

REGULAR MEETING

Wednesday, July 7, 2021

6:00 p.m.

Hopkinton Town Hall

1 Town House Road, Hopkinton, RI 02833

CALL TO ORDER:

Planning Board Chairman Al DiOrio called the July 7, 2021 Hopkinton Planning Board meeting to order at 6:16 p.m. after dealing with some microphone-related difficulties.

MEMBERS PRESENT:

Chair Al DiOrio, Town Planner Jim Lamphere, and Senior Planning Clerk Talia Jalette participated in the meeting from the Town Hall chambers. Planning Board Vice Chairs Emily Shumchenia and Ron Prellwitz, as well as Planning Board members Keith Lindelow, Carolyn Light, and Planning Board alternate John Pennypacker joined via Zoom. Town Council Liaison Sharon Davis, Conservation Commission Liaison Deb O’Leary, and Planning Board Solicitor Maggie Hogan also participated via Zoom.

ROLL CALL:

Mr. DiOrio asked the Board to announce that they were in attendance. All replied.

PRE-ROLL:

Mr. DiOrio asked the Board members if they would be available on the 21st of July for a special meeting. All members stated that they would be in attendance.

APPROVAL OF THE MINUTES:

Mr. DiOrio asked for a motion for the June 2nd Regular Meeting minutes and the June 16th Special Meeting minutes.

Ms. Light made a motion to approve the June 6th and June 16th Meeting Minutes.

Mr. DiOrio asked if she meant “2nd”, and Ms. Jalette confirmed that Ms. Light had said “6th”. She amended her motion to state “June 2nd.”

Mr. Prellwitz seconded the amended motion.

Mr. DiOrio asked if there was further discussion. Hearing none, he conducted the vote.

In Favor: DiOrio, Prellwitz, Lindelow, Light, Shumchenia

Abstain: None.

Opposed: None.

5-0, the motion passed.

OLD BUSINESS:

Third Master Plan – Public Informational Meeting – Major Land Development Project – Stone Ridge at Hopkinton – AP 11, Lot 47A, 0 Palmer Circle. RI-95, LLC., applicant.

Mr. DiOrio explained that before the Board began their discussion, he wanted to talk “about the schedule doing forth this evening.” He said that as there were “four agenda items” for the Board to tackle, he wanted to “suggest one hour for Items 1, 2, and 4, with a half hour for Item 3.” He asked the Board what they thought. Mr. Prellwitz and Ms. Light spoke at the same time, but Mr. Prellwitz deferred to Ms. Light. She replied that she thought that course of action would be “acceptable”, though she continued.

Ms. Light: “I am just, uh, concerned with how we end that one hour. That’s, that’s always the, um, cliffhanger.”

Mr. DiOrio joked that that was why he made “the big bucks”, and said that he was “afraid that if we don’t ask the applicants and the audience to adhere to some, uh - even if it’s a loosely agreed upon schedule, we’re just gonna get buried this evening.” He said that he would “be asking the applicants, the representatives, and the public to adhere to that time frame”, and that he would “be calling [them] after one hour”. He asked those assembled to “do [their] best to get it done” within the allotted time. He then said that if “everybody’s in agreement with that, we’ll move forward.” Mr. Prellwitz, Ms. Light, and Mr. Lindelow all agreed. Ms. Shumchenia nodded.

Mr. DiOrio asked Mr. Lamphere for a “brief recap”, and said that he was going to “suggest that one of the first items on the agenda for this project needs to be discussion of an extension beyond this evening.” Mr. Lamphere began.

Mr. Lamphere: “I would like to say that on October 7th of 2020, we had our first Master Plan Public Informational Meeting. Since that meeting, we have had continued Master Plan review, uh, at a, as a Public Informational Meeting on March the 3rd, 2021, April 7th, 2021, May 5th, 2021, May 19th, 2021, and here we are at July 7th, 2021. The applicant’s representative, Mr. Landry, has agreed to an extension through the meeting of tonight, so, if we are to continue this to the July 21st meeting, special meeting, we would need to have, uh, an agreement on an extension of the time period until that, to that point. My, my, uh, suggestion, and looking at the work that the Planning Department has before it, as the Chairman mentioned, we have four items on the agenda tonight. One is very

simple. It's a Minor, 2-Lot Minor Subdivision. We have, uh, the first two items on the agenda, we've, we've looked at for a while – Stone Ridge much more, but, I would suggest that what we do tonight with, especially with Stone Ridge, is try to determine where the Planning Board stands on this – which way you're leaning. Towards approval, approval with conditions, or a denial – and, and put your, give your thoughts to, uh, get your thoughts together as a group, give them to our Solicitor, and maybe we can bring this back for an actual, uh, decision on the 21st, once, once she writes up a final decision that reflects the, uh, predominant thinking on the Board – and I would suggest maybe we do the same thing with the next item on the agenda as well. That way there, um – I don't know how much we're gonna get to the fourth item on the agenda tonight, but I'm looking at the 21st meeting, maybe, possibly, uh, two decisions, and then the rest of the evening devoted to the fourth item on the agenda tonight. So, that's the way I see us, possibly, getting some daylight, and getting through some of the work that we have in front of us. E-, even after that work is done, believe me when I tell you, there's a lot of work in the pipeline that we got to get through here, and, in August, we're gonna have one meeting, and, beyond that, I don't know if we're gonna go back to two or not, but it's gonna be extremely challenging to get all of the work done that we need to get done with one meeting a month, but we're gonna give it a try, but it – a lot's gonna depend upon the progress that we make with tonight's agenda.”

Mr. DiOrio thanked Mr. Lamphere, and said that he “very much like[d Mr. Lamphere's] idea”. He continued.

Mr. DiOrio: “Uh, personally, I am prepared to, uh, make a statement as to my position on this project. Then, if we think that's the direction that we're going to move in, I'm prepared to do that. So, Planning Board members, do, do we feel that our, uh, let me call it a poll, if you will of, uh, our respective positions on this is appropriate at this time, or does someone feel that there's further discussion that we need to engage in on this particular application?”

Mr. Prellwitz spoke first.

Mr. Prellwitz: “This is Ron [Prellwitz]. I guess I'll go first. As I said before, the applicant has done everything that they've been asked to do. Uh, I think the best way to keep us out of trouble is to listen to that and they – they're following the law. Whether we like this thing, or we don't like this thing personally, they've followed everything that they need to follow, and, that's, that's my opinion. They, they've done everything accordingly.”

Mr. DiOrio thanked Mr. Prellwitz, and then asked if there were any other Board members who “need[ed] to weigh in on this”, as, otherwise, he was “prepared to follow Jim [Lamphere]'s suggestion.” Ms. Light said that she did not have any comments. Mr. DiOrio continued.

Mr. DiOrio: “Right. Moving forward – so, again, this is, this is Al DiOrio's personal opinion with regards to the project. I, personally, am in favor of an approval. However, as a, as a condition of my position, I would be directing the applicant to sort out his business

with the abutting property owner. I have correspondence – bear with me – correspondence from, uh, Mr. Mancini on behalf of the Gregorys, and I, I take this concern seriously. So, again, as a condition of any decision that I’m in, I’m going to either be in favor of or something else, it’s incumbent upon the applicant to work that detail out to our satisfaction.”

Ms. Jalette explained to Mr. Landry that he had been unmuted, so if he wanted to speak, he could do so. She also stated that she had made him a panelist, so he would not have to raise his hand to be recognized. Mr. Landry thanked Ms. Jalette, and said that he did not want to interrupt Mr. DiOrio, but stated that he did not believe that the hearing had been closed, and he had “a couple of tiny things [he] wanted to put on the record, when, when and if we get the opportunity to, to do that.” He continued.

Mr. Landry: “There was a tremendous amount of public input that we really haven’t had a chance to respond to, and I, I think I could do it in a minute or a minute and a half or two, but I, I, I think we’ve still got an open public hearing here, and -”

Ms. Hogan: “Yes.”

Mr. Landry: “If the Board sees fit to allow that, I’d like to have the opportunity to do it.”

Mr. DiOrio replied that he was sure the Board could “work that in”, but said he was going to “wade through this Planning Board poll, if you will” and then “get right to you.” He then asked the other Planning Board members to let him know what they thought.

Ms. Shumchenia responded, and asked Mr. DiOrio to elaborate on what he was asking for.

Ms. Shumchenia: “This is Emily [Shumchenia]. What are you asking for at this point, Al [DiOrio]? Uh, feedback on what you just stated about the abutters, or questions about the project more broadly? I, I’m, I’m not clear where we are.”

Mr. DiOrio: “Well, so, in general, I, I’m prepared to vote in favor of this project. However, there’s been a concern expressed by an abutting property owner that I don’t think the applicant has adequately addressed. I want that addressed before a final decision is reached - and this is specifically with regards to the Gregory property. Are we clear on the issue?”

Ms. Shumchenia replied that she was, and thanked Mr. DiOrio for his clarification. She explained that she had had that point on her “list as well, of questions, after seeing the materials in the packet and the letter, um, from the representative of the Gregorys as well.” Ms. Light then weighed in.

Ms. Light: “I had the pleasure of being on the site walk with Sergio [Cherenzia] and Jim [Lamphere] and Ron [Prellwitz], and we took a deep look at the Gregory property situation, and it was my position that the building itself doesn’t create that dramatic loss of view to the Gregory property, and there is a lot of, uh, forest that isn’t going to be clear cut in the line of view. Um, in addition to that, I did make a joking suggestion to Sergio [Cherenzia] that maybe they could paint the building camouflage, and Sergio [Cherenzia]

said, 'We're willing to accommodate them. If we have to do that, we can paint it brown, we can paint it green.' So, in, in my opinion, uh, it does have to be worked out between the two parties, but I, uh, my, my opinion that, is that it – it's not a crisis that requires, uh, an attorney, and, you know, good for them that they have one on board, but, uh, I, I don't think it's as dramatic as it could be, and maybe Jim [Lamphere] could jump in on what we were looking at on the site walk, or maybe Sergio [Cherenzia] could."

Mr. DiOrio replied.

Mr. DiOrio: "Okay, other Planning Board members, we need to get to, uh, a consensus on, uh, whether – which direction we're moving in. That's really all I'm looking for at this point."

Ms. Light: "This is Carolyn [Light]. I'm on board with the – moving forward with the project, and with an approval."

Ms. Shumchenia: "This is Emily [Shumchenia]. Um, in terms of, you know, conditions of approval, I, you know, I, I want to let me fellow Board members know, and I won't be too long-winded about this, but, it, you know – this is for the public's benefit, as well. In terms of the conditions, in terms of the conclusions of law, and our required findings, I spent a lot of time looking at this project and thinking hard about those required findings, um, and the one that – you know, there's some elements that are, are really difficult calls to make, um, given the situation with this, with, uh, you know, the existing zone change that we were handed, from, you know, that existed since the early 90s. Um, one of the conditions in particular, I wonder if – could, there could be some conditions of approval that address my concerns, and those concerns are related to environmental impact. Um, the site walk was very illuminating in understanding the nature of the site, the extent of what the development would look like, um, really just the, the magnitude of the development, and, you know, I, I also look to the Comprehensive Plan for guidance on this, and the Comprehensive Plan is very clear that the Town of Hopkinton, you know, identified areas around Exit 2, which this property is located near, as places for potential future commercial development, um, and that was, you know, stated numerous times throughout the Comprehensive Plan. The scale of the development is also something contemplated in the Comprehensive Plan, and talked about by some of our expert witnesses, that, that provided testimony about consistency with the Comprehensive Plan. The scale issue also feeds into this idea of environmental impact, and one thing that really struck me about this site walk was the amount, the quantity of natural boulders and large stones, literally throughout that property at a very high density, um, and when we, you know, noted this on the site walk - and there were some moved aside, some really large boulders, moved aside, as machinery had to get in there to even explore different parts of the site – we asked, you know, 'Well, what is gonna happen with all these boulders?', and then, you're walking by these boulders – they're taller than you – and also, there's many that are still buried. It's clear that this site is just full of them, um, and, uh, Mr. Cherenzia noted that, essentially, the site would, that the site work would include processing these boulders, on site, prior to being able to do any installation of, you know, posts and racks and all that for solar panels, it, to, essentially, help with grading of the site. And that, to me, was just a striking statement – to think about, for a little while, this site will turn into, like, a little mini, you know, processing plant for these enormous rocks, which, t-, to my

knowledge, I think, they just get busted up into smaller pieces, and they haul them out as gravel in trucks. Um, so I'm looking to hear from the applicant and the engineer about how this impact – not just for the abutters and the neighbors that have to sort of – I mean, I know there's not very many close by, but this is a huge disturbance to a site. Um, you might argue that, 'Okay, it's a commercial site. This type of activity is expected no matter what the commercial development,' but I would question whether that would be necessary if you didn't have a use, such as the one that's proposed, that will clear, and have to process boulders over, over 106 acres. Um, so just thinking about the magnitude of that landscape change gives me pause, and I'm looking for something from the team to, to help us out here, in a condition of approval, we can potentially tack on that would allow me to make a finding of fact that there would be no negative environmental impact.”

Here, Ms. Jalette suggested to Mr. DiOrio that the Board should take a five-minute break, as the IT professional, Jeff Frenette, had arrived to fix the microphones. Mr. DiOrio, Ms. Jalette, Mr. Lamphere, and Mr. Frenette spent the next few minutes working with the microphones to return them to working order. After the microphones were fixed, Ms. Jalette introduced those assembled to Mr. Frenette, and asked them to thank him for his assistance. The Board then proceeded with their discussion, with Mr. DiOrio reiterating that the Board was still polling where they “stood on the project.” Mr. Landry interjected.

Mr. Landry: “I think that, uh, um, Emily [Shumchenia] has, has raised a, a very legitimate, uh, issue, and, and one that we are, most certainly, gonna have to incorporate as part of this process. I think that Mr. Cherenzia, uh, is the most qualified person to, to state, briefly and succinctly what is ahead of us in managing the issue of, uh, removal of rocks, uh, where they need to be removed, how they'll be identified in relation to the area, uh, of the array, and, uh, I want to let him do that, and ask him to do that, but I, I also want to point out, um, that the required findings on environmental impacts, um, are that the environmental issues - there has to be a finding of no significant adverse environmental impacts at the Final Plan, uh, approval stage. That's in the §45-23-60, uh, criteria that's repeated in the Town's Ordinance – and I, I don't say that to, to suggest that it's not important, uh, but that's quite a lift, to, to have a, a detailed plan for how to, how to manage this – we've got, you know, we've gotta, we've gotta do the same thing with the full storm water management plan. Uh, Crossman [Engineering], uh, Mr. Cabral from Crossman [Engineering] mentioned how, at the conceptual level, you identify the challenges that need to be worked through with specific plans that can be evaluated by Crossman [Engineering] at the Preliminary Plan stage. He mentioned, um connecting the landscape architecture with the engineering, uh, maybe having some channel, stone channels in place, to help with the drainage across slopes – that all of these de-, those precise details are managed at the Preliminary Plan stage, primarily, and then, again, before the Final Plan stage before that final, uh, finding has to be made at that stage. So, I, I don't think we're going to be able to give you something tonight at the conceptual level, uh, that is greatly penetrating, other than, uh, Sergio [Cherenzia] sort of explaining how this happens in other projects, and how it would happen if there was a different commercial type of project that was on the site, and how you manage large rocks and plan around them, but, I'm, I'm anticipating that that the real answer to that, uh, you

know, will come at the next levels where we can, we can present a, a very detailed plan on how that gets done. That can be peer reviewed by, uh, by Crossman [Engineering], and certainly, uh, any Master Plan motion that's considered should have an emphatic, uh, condition that that issue be addressed, and addressed in – at the Preliminary Plan stage. But, I would, with your permission, Mr. Chair, just ask Mr. Cherenzia to generally explain what the approach will be between now and, and, and the Preliminary Plan stage, in addressing that issue specifically.”

Mr. DiOrio: “Okay, so let me interrupt. Um, perhaps I was not clear in my objective here. What I'm trying to get to is a consensus, or at least a litmus test of where the Planning Board members stand on this project. I'm not prepared to delve into things like moving rocks around. I wanna know where we're going so that, hopefully, we can have a vote to direct the Solicitor to prepare a draft motion. So, that's what I'm trying to get to. I really only need to hear from Planning Board members at this stage. You certainly will have the opportunity to discuss whatever it is you want after I get what I need. Are we clear?”

Mr. Landry thanked Mr. DiOrio. Mr. DiOrio then asked his fellow Planning Board members to “please step up.” Mr. Lindelow and Ms. Shumchenia spoke at the same time. Mr. Lindelow deferred to Ms. Shumchenia. She said that she had “one more thing” to ask.

Ms. Shumchenia: “I just had one more issue that was on my radar that I did want to raise, that could be addressed as a condition, perhaps, and that was a concern raised by, um, a citizen at a recent – I think the last discussion we had in May on this project – about projects of this size elsewhere in Town. Um, our Town has limited staff, and we, you know – during a large construction project that this, you know, proposed project would require – our Town doesn't have the, the staff and the infrastructure to ensure that plans are being followed to the letter, and that abutters aren't being impacted in ways that, you know, upset them, and, and things like that. We've see in other projects that there have been disturbances to the community that folks really care about, and they brought those comments to the public comment period about this project, and so, I have concerns that a project of this scale could result in some undesirable impacts, just as, you know, ‘Oh, we, we messed up, and we drove through that wetland,’ or something. Um, that we don't have the ability to monitor as a very small Town, and so I'm looking for some plan or some proposal from the applicant to communicate frequently with the Town, or require, uh, you know, offer, uh, additional staffing time or something like this to help our Town, which is – the Planning Department consists of two people, and a volunteer Board – to help ensure things go according to the plans, um, and that we have some additional capacity to deal with a project of this magnitude, which we currently do not have.”

Mr. DiOrio replied that that was “an excellent idea.” He continued.

Mr. DiOrio: “That strikes me as a condition that we would add onto the project, and let me just give you, uh, an idea. I was involved with the closure of Phase II of our landfill in Town. It's – it was a big project. There was a lot of stuff going on, and what the Town did was they contracted with an independent clerk of the works. That person was there to look out for the best interests of the Town. He was an employee, if you will, of the Town.

So, all he was there to make sure was that the contractor was doing exactly what the design plans called for. That's the kind of thing that I think we could easily incorporate into this project, and have it as a condition should you be so inclined."

Ms. Shumchenia: "Okay. Fantastic. Thanks."

Mr. Prellwitz spoke next. He explained that he was retired, and that he "could just play the part of a watchdog – if it's legal to have a volunteer do that stuff, or oversee these things for the Planning Board, just to make the report back." He continued.

Mr. Prellwitz: "Or whatever you think is, is appropriate. I mean, that would be between you and Attorney Hogan, but I'll volunteer my time if it's an appropriate thing to do."

Mr. DiOrio replied that that was a "very nice invitation", and he thanked Mr. Prellwitz, but he continued by stating that he did not "want to get bogged down in what could be a condition of the motion." He asked for comments from other Planning Board members on how they felt about moving forward with a motion as he was "trying to get to the end" of that particular discussion. Mr. Pennypacker spoke next.

Mr. Pennypacker: "Um, I would also bring up the – under the, under the findings that we have to make, I struggle with Number 1, but I can go either way on it – but it's the, the Number 3, in addition to the rocks that Emily [Shumchenia] brings up, uh, the Town Council and the Planning Board have committed to, uh, preserving a quarter mile of space around the Canonchet Brook, um, and so I, I have a hard time reconciling that. Granted, I'm an alternate, so I probably won't be voting on this, but there's my two cents."

Here, Ms. Jalette and Mr. Frenette directed Mr. DiOrio to move the microphone closer to where he was sitting. Mr. DiOrio replied to Mr. Pennypacker that that was an "excellent idea", but that, "again, [he saw] this as a potential condition of a motion."

Mr. DiOrio: "Uh, I don't want to get bogged down in it. If this is an important element – let's just presume for a moment that there's a motion to approve – one of the conditions is you're maintaining a quarter mile protective area around this feature, period. Done. So, if I, if I'm missing something, please let me know. If the applicant needs to modify their plan to adhere to that condition, well, that's, that's part of the approval. Just an idea."

Here, Ms. Jalette interjected that Peter Skwirz, the attorney for the objectors, had just arrived. She asked Mr. DiOrio if he wanted her to make him a panelist. Mr. DiOrio replied in the affirmative, and then asked if there were any other Planning Board members who wanted to "come on board with" moving forth with a motion. Mr. Lindelow replied.

Mr. Lindelow explained that "personally, [he had] trouble finding a way to support this whole project" because of "the scope." He said that he had "spent a lot of time trying to find where it does or doesn't meet with the Comprehensive Plan." He continued.

Mr. Lindelow: “Um, you know, a lot of, a lot of my issues, I guess, will come at another stage, when we talk about decommissioning and things like that, but you know, the, the sheer volume of public opinion, I, against this, um, you know, if, if, from a legal basis, if, if the alternative is everything’s done correctly and I need to support my Board and the Chairman, then, um, then that may be the case, but I’m, I’m having trouble, struggling with, uh, finding a reason to support this, based on just, uh – call it ‘gut feeling’, call it, you know, the, the, the impact – there, there’s a lot of unknowns with this project once we start to thread the needle through the hole here, and, and make sure everything works correctly, and I have a lot of concerns, and where we’re going to end up with, so, is it this stage – again, without getting into specific conditions and, you know, things like Emily [Shumchenia] was bringing up – the rocks, a simple thing, and, um, I’m just - I don’t know. I guess I, I’m more against than for at this point, if – we’re not taking a vote or making a motion, but you wanted to take a, a poll of where we were at, so that’s where I’m at.”

Mr. DiOrio: “There we go. Very good. Easy. I appreciate it.”

Mr. DiOrio then asked if the Planning Board members who cared to weigh in had done so, as he hadn’t been keeping track. Ms. Hogan replied in the affirmative. She said that she “believe[d] all of the Planning Board members, um, have spoken.” Mr. DiOrio replied.

Mr. DiOrio: “So, do that mean we have four possible yeses and one possible no? If my math is correct?”

Ms. Hogan: “That roughly looks like that.”

Here, Mr. Skwirz interjected. He explained that he had some difficulty entering the meeting, and wanted to know if public comment was going to be taken at that meeting. Mr. DiOrio replied that it would, and then returned to Ms. Hogan. He said that the Board was “not unanimous in [their] thinking at this point, so a little bit of guidance as to [their] next step” would be appreciated. He continued.

Mr. DiOrio: “I, I’m reluctant to suggest that we start crafting a motion if we’re not necessarily all on board, but, you know, maybe we’re not going to be all on board. I don’t know. Let me know what you think.”

Ms. Hogan replied.

Ms. Hogan: “Um, okay, so, uh, as the Board knows, and so that the public is aware, uh, I have prepared for the Board, uh, the beginnings of a draft motion, which is, uh, decision neutral. It’s factual findings about the – basically, the progress, the procedure of the application – who testified for what party, um, basic facts about the, um, about the application, and so, this evening, uh, is the opportunity for the Board members to flesh out, as you’ve just been doing, uh, how they’re feeling about it, what concerns they might have, if they have specific findings of fact that they would like to offer, that could be incorporated into the draft decision, and my recommendation to the Chair was that, uh, upon conclusion of this evening’s meeting, we hoped that we would be in a position

where I would be in a position to have a pretty good idea where the Board is going, uh, consensus-wise, without taking an actual vote, uh, to prepare a, a draft decision for, uh, review by the Board and, um, uh, adoption or amendment at the, at the continuation of the meeting. But certainly I couldn't draft a, a motion without knowing where the Board is going with the, uh, decision. My other recommendation, Mr. Chairman, would be to, um – the applicant has indicated that he has some answers for you. He also wanted to, uh, respond to some other things that were – have not been responded to in the record, and that may, in fact, answer some of the questions that the Board members still have lingering, um, so I would recommend that within the time frame allowed for this, um, application, um, that he be, uh, allowed to proceed. I have, in, uh, my notes, that we started the actual application at 6:20 p.m.”

Mr. DiOrio thanked Ms. Hogan, then spoke.

Mr. DiOrio: “So, with that thought, and having heard some of the concerns from my fellow Board members, uh, Mr. Landry, I think you have a few things that you'd like to talk about, and then Mr. Skwirz has some comments that he would like to [talk about]. So, Mr. Landry, why don't you take the floor first?”

Mr. Landry thanked Mr. DiOrio, and explained that he would “try to be as compact as possible.” He then continued.

Mr. Landry: “I'm not sure – uh, in, in the order that the issues were raised, uh, by the, by the Planning Board members hap-, happened to coincide – first one, at least, with, with the comments I wanted to make. I'm not sure what – when, what the date is on Mr. Mancini's letter. I know he did one, you know, three or four weeks ago, but, uh, Mr. Cherenzia and, uh, Walter Manning from our, our development team went out and met with Mr. Gregory, uh, and looked at his property, uh, and recommitted that the project plans already show for this one-story building, which is hundreds and hundreds of feet away from the back of the property, to be buffered, and, and that a suitable buffering screen would, would go there, and we would, we could paint the building camouflage, but it's better to have natural buffering there and can easily be done with a one-story building, hundreds and hundreds of feet away, uh, and they recommitted to, uh, to that. Uh, it's already on the plan. It can be made better, stronger, more effective. There are large trees behind, uh, Mr. Gregory's house, uh, that serve as a very effective buffer to a cleared area, which apparently is a riding area for, uh, ATVs [All-Terrain Vehicles] and shooting and so forth, and it's from that area that's already buffered from view that one might be able to see this building hundreds of feet away if they were not buffering, but we, we invite the same, uh, type of condition that we have proposed – that, like any other good neighbor, even though not everybody is guaranteed that they're not gonna see anything that happens on another property, you know, hundreds and hundreds of feet, uh, away – that, that we be required to, uh, incorporate into the plan a ro-, robust buffering and screening of that, uh, of that building. So, that's, that's something we were already well underway on. Uh, I'm not sure – and I can't represent – that Mr. Gregory was completely in agreement that buffering and screening would be totally effective, but, you know, for a 25, you know, 20 to 25-foot building, that far away – it would be

extraordinary if we can't provide a suitable vegetative buffer there, and, and we, we persist in our commitment to, to do that, as part of the Preliminary Plan submission, and, and, to stay with this issue as this process proceeds. Uh, with respect to, uh, Emily [Shumchenia]'s suggestion, un, concerns about the rock formation, I've already given you my own comments. I won't go beyond that. I would like, with your permission, Mr. Chair, to have Mr. Cherenzia address, very briefly at this time, what the general approach would be, toward, uh, uh, a, a definitive, uh, engineering plan for the Preliminary Plan stage for review by, by peer review – how would one go about doing that.”

Mr. DiOrio replied that that would be fine. Mr. Cherenzia then spoke before the Board.

Mr. Cherenzia: “For the record, uh, Sergio Cherenzia, with Cherenzia & Associates, um, to, uh, hopefully succinctly, uh, address, um, Emily [Shumchenia]'s concern. Um, first off, I would, uh, state that the, it – during our site walk, there definitely was a lot of boulders, uh, that were visible, that were excavated as a result of creating, um, access ways to the storm water areas, which need to be tested with, uh, soil evaluations. Um, as a result of that, along it – the, the boulder, uh, the boulders that were, were excavated, uh, very close to the surface, uh, needed to be removed in order to, uh, level out, uh, a trail, or a path, if you may, for the, uh, excavators, uh, to run through, um, and, uh, resulting in a lot of those boulders to be at that surface, an-, and excavated and put aside. Um, that being said, most of the boulders we, uh, uh – most of the testing that resulted in these boulders being removed from the earth, uh, were in the western portion of the property. Um, so, uh, there will be, uh, some excavation that needs to be done on this property, but, largely, we anticipate that, um, we're gonna be able to grade this site with minimal, minimal cuts and fills. Um, we have worked on other sites where ledge has been a factor – where you can't move the rock, and, uh, the DEM [Department of Environmental Management] generally, uh, does not want you to do ledge removal nor does, uh, any, uh, adjacent property owners, because of the disturbance it, it does cause. Uh, in this case, there's no ledge on the site, uh, just a lot of large rock, which can be removed, and, uh, we would anticipate anything that does get removed would be processed on site, um, however, I would want to state that it would be, um, minimal to just what needs to be excavated, which would include, uh, detention basins, which, which require significant excavation. However, the rest of the site, uh, we would hope that we could fill over these, uh, boulder areas. We – we're not gonna have to, uh, do extensive cuts and fills, or at least, we don't anticipate it, as that adds cost to the project. It causes more disturbance. Uh, the, the opportunity we have with solar fields is that we don't need to grade in, um, a lot of code complying roads, like we would with, uh, uh, an, with a, like a typical residential or commercial development. We don't have to excavate for foundations. Everything is at surface grade, and when the, uh, solar panels are installed, uh, they basically drill, or auger in the posts, so that they can go through rock, um, they can go through ledge. They go through rock, um, and, into, into dirt, depending on whatever that subsurface is, uh, they, they can typically get those, uh, poles in. So, uh, first instance is that we would minimize the amount of excavation on this site, so that we would not have to remove those boulders – they could stay in place. Uh, secondly, the ones that we would have to remove, um – it's, it's not uncommon on a project, especially of this size, to set up an on-site processing, and this is really to the advantage of the neighbors, and, I

believe, and the, to the Town, that you don't have trucks going in and out, and construction vehicles coming in and out to transport rock off site, and bring it, uh, suitable fill. Um, we can – what we can do is come up with a specific processing plan that, um, is, uh, safe, environmentally sound, and, uh, is acceptable that, you know, the neighbors won't be hearing a lot of crushing and jackhammering, uh, throughout, uh, the, the project duration, and take care of, um, those areas that need – that's, like, a level of excavation, stockpile all that material so that it can be used on site to limit the construction traffic in and out, um, and do so in an environmentally sound manner, where we can stockpile, make sure that there's appropriate erosion controls in place, and really use that, that material right on site to build the, the roadway – gravel, the gravel roadway systems, uh, for the subgrade. Um, so, I hope that addresses your, your questions and your concerns, but I, I think, uh, I'll, I'll defer to Attorney Landry, but, um, I don't think it's un-, un-, uh, unheard of to have a condition to make sure that type of plan is in place, um, in, in accordance, or in, in, in conjunction with our, uh, Preliminary or Final Plan.”

Mr. Landry: “One other question, Mr. Cherenzia. Was, was my representation to the Board about the, the commitment the project has to, uh, Mr. Gregory accurate, and the, the feasibility of appropriate buffering for him, for, uh, between his house and that building?”

Mr. Cherenzia: “It – that is, uh, what we represented to Mr. Gregory, and as we are moving into a Preliminary phase, we, uh, made, did make the commitment to, um, appropriately buffer, uh, his, his line of sight into the project, as well as, um, uh, work with, uh, making sure that we avoid, uh, placing any of these, uh, site features within his line of sight to the maximum extent practicable, um, so, I think we've made the representation that we would work with him, um, on, on that in the next stages of development.”

Mr. Landry: “Thank you. With respect to the clerk of the works, uh, issue, uh, I, I would, uh, just ask our – the project owner, uh, Mr. Marano. I had one other quick question that I had of him, anyway, that I could also get out of the way here, but, uh, I, I would like to ask him to confirm whether he's open to, uh, uh, a con-, a working with the Town to have some type of, uh, a clerk of the works, some supervisory, uh, uh, function here, that would be, uh, funded, uh, reasonably, of course, by the applicant to try to bridge this gap in, in, in resources, between the development team and the Planning Department, uh, and to work, in good faith, to try to find a, a reasonable mechanism for monitoring, uh, this project as it proceeds. Now, that – recognizing that construction would not take place, obviously, until after the building permit stage, after Final Plan approval, but presumably during the Preliminary Plan stage, we would have to craft the extent, uh, of this oversight, this supervision, you know, and, and, and what it, what it would potentially cost, and, and work those issues out, but I'd like Mr. Marano to affirm, on the, on the record what his position is about, uh, working with the Town toward that end.”

Ms. Jalette explained that she had made Mr. Marano a panelist, and that he would be able to speak before the Board. Mr. Marano explained that he was a “principal of RI-95, LLC.” He said that his intention was “always an honorable intention”, and that he was willing “to work with the Township.” He continued.

Mr. Marano: “I think we have demonstrated that, and I think our intention was to, uh, always preserve whatever natural features was on that property, uh, whether it was the historical features of the stones, as, uh, Mrs., uh, Emily [Shumchenia] is concerned about, uh, whether it was the Narragansett Trail, or whether it was the cemetery – but, more important to me is the nature of the project. I like nature. I like trees. I liked the property, so I bought it, uh, and I want to preserve as much as, as possible, and we’ve done that. I think – we believe that we’ve done that, in our design. I think our team has done an excellent job in addressing a lot of these issues. So, my commitment to the Town is, is a true commitment that whatever is reasonable, and whatever we could accommodate, that, you know, we’ll, we’ll do it. You have my word on that. Uh, to date, we’ve spent a lot of money to get to this point, and I know, probably, you know, it has to be tweaked here and there a little bit more, and we understand that. As far as the neighbor next door, we gave him our assurance that – even if I got to put those big boulders on the property line to hide his, uh, site – even if we have to plant more evergreens, I’ll – whatever we have to do, we’re willing to do and accommodate them. But, again, the emphasis is – and I want to repeat it – was always our intentions to work with the Town, and make this project a model project for the solar, where everybody could get on board. And I understand that some of the Board members, you know, have their doubts, but you have to understand – and there’s a lot of misquoting as to the area that’s being disturbed. We have 252 acres. Per your zoning, we could build in 180 acres. We’re not doing that. We’re only disturbing – all you need for the solar is three acres per megawatts. We’re only disturbing 70 acres. So, it’s not a big deal that we’re making it, and the rest is gonna stay all natural, and that’s the way I would want it, and that’s, hopefully, the way we could put it together. And I appreciate where we are today, and I appreciate the support that some of you have given us, and, again, we give you our word, as the owner of the property, whatever we have to do to work with the Town, and the abutters, neighbors, we’re willing to do. Thank you very much.”

Mr. Landry then said that while he had Mr. Marano on the line, he wanted to ask him a question that he thought would “eliminate...the need to, to ask any additional questions of any other witness”.

Mr. Landry: “On, on the whole issue of the, the zoning, uh, representations, uh, made by the Zoning Officer, and others, with respect to the zoning status of the property – d-, do, do I understand correctly that those occurred both before and after you actually purchased the property, and, and that you actually delayed the purchase of the property to get the answers to those questions – that is, the, the content of the zoning certificate that’s part of the record – the December 27, 2019 zoning certificate that the property would be, is zoned the way that adjoining properties, uh, that came out of the Brae Bern development initially was approved, that that would be applied to this project. Those same representations were made by the Zoning Official both before and after you closed on the property, correct?”

Mr. Marano: “That’s correct. Yeah.”

Mr. Landry: “And the total cost acquisition, and, and permitting so far, uh, you know, based on that is approximately two million dollars?”

Mr. Marano: “That’s correct.”

Mr. Landry: “That’s all I have. Uh, thank you, Mr. Marano.”

Mr. Landry then explained that “the only other thing” that he wanted to address was “the comment about the, uh, Scenic, uh, River, and wildlife, uh, values.”

Mr. Landry: “Uh, you know, I, I think that that was a, uh, you know, an innocent overstatement of what the Stewardship Plan actually provides. Even the Stewardship person who prepared the letter to the Planning Board did not suggest that it was code or, or any other type of requirement, to stay a quarter of a mile from, uh, the Canonchet Brook. Quite the opposite. Their recommendation was that there’d be a testing program of water quality. Uh, that’s not code – that quarter mile thing is not code. By all accounts, this project more, more, more, much more than adequately observes all actual setbacks and buffers. Uh, there may be an aspiration, you know, to protect the one-quarter acre area, but that doesn’t mean that that gets to apply, -ply it as a land use decision. The Town can acquire properties and do a lot of other things to accomplish the acquisition of open space. This property is not designated in the Comprehensive Plan as open space. It’s designated for commercial, uh, development. So, we agreed to do the buffering. We had our landscape architect go out there and confirm that no one’s going to even be able to see this, uh, solar array, uh, from the Canonchet Brook area, and it’s also in the record that, as part of the negotiations with the Appalachian Mountain Club, the Conservation Commission, uh, of the Town of Hopkinton itself, you know, very enthusiastically, uh, we worked with them, and, and got a very enthusiastic response, to restore the Narragansett Trail, and actually create something that doesn’t exist right now - that is public access through this property to, to, to reestablish, substantially, the original Narragansett Trail, restore historic features, and provide an access point for, for walkers and hikers, uh, to the Canonchet Brook area, to actually enhance that area, and not injure it, but, but – even the, the Stewardship folks, they’re never suggested that there’s some type of quarter mile, uh, setback applicable to this, uh, particular project.”

Mr. Pennypacker: “If I may – I – you’re correct. It is not code, however, it is one of two bullet points in the letter from the, uh, uh, Wood, uh, Pawcatuck Wild and Scenic Rivers group – just so I’m not misunderstood either.”

Mr. Landry: “Understood.”

Mr. DiOrio thanked them, and then asked the Planning Board if there was “anything else to add.” Mr. Landry replied that he did not think so, “recognizing the limit that you asked us in good faith.” He continued.

Mr. Landry: “I could add a lot of things, but I’ll resist the temptation to do that, and respect your time table.”

Mr. DiOrio replied that he appreciated that, and thanked him. He then asked if Mr. Skwirz was in the audience. He replied that he was. Mr. DiOrio replied that he wanted to give him the opportunity to speak before the Board. Mr. Skwirz then began. He thanked the Chairman and the Board, and said that he would “try not to take up too much of” the Board’s time.

Mr. Skwirz: “Um, I would like to go back, and, and highlight a discussion that occurred at the last meeting, towards the end of the last meeting, with your, um, consulting engineer from Crossman [Engineering], um, and that was the discussion about the waiver request, uh, particularly with regard to the waiver for storm water design, uh, plans and computation, um, and there was a comment that, that your consulting engineer made, um, that, um, he said, in his experience, a waiver is not ordinarily granted in the absence of hardship, and that comment’s correct, not only as a matter of experience, um, but it’s required, by State statute, um, and so I just wanted to, to point out, and put on the record that, uh, State law – that’s Rhode Island General Laws §45-23-62 (b), is the, uh, authorizing statute that allows local Planning Boards to grant waivers, and that statute states, uh, ‘the only grounds for waivers or modifications are where the’ little – ‘literal enforcement of one or more provisions of the regulations is impracticable and will exact undue hardship, because of peculiar conditions to the land in question or with a waiver or modification is in the best interest of good planning practice or design, as evidenced by consistency with the Municipality’s Comprehensive Plan and Zoning Ordinance.’ Uh, so, so the reason I’m raising that is because every finding you have to make in your decision, whatever it comes down to be, uh, the applicant has to put forward evidence to support each finding that you’re required to make. One of those required findings is that they’re entitle to the waivers that they’re asking for, and I haven’t heard any testimony, uh, before the Board, as to why it would be impracticable, or an undue hardship on the developer to spend the money and have these plans made, and, and I think that’s an important point. You know, I, I don’t think it’s just some superfluous point to make because not only have, have we presented a respected and reputable environmental engineer¹, saying that there’s gonna be significant negative environmental impacts from this project, but you also had abutters, and those abutters said, ‘We are concerned about drainage. We’re concerned about what this will do to our land.’ Now, uh, I, I know that, um, Mr. Landry, uh, he made a statement when he was giving his presentation, about the amount of money and time that the developer put into this, and I understand that, uh, but when they submitted this application, they had no, um, they had no guarantee to get this project. They took a risk that they may or may not, uh, get approval, and one of the risks they took is that they submitted an application with the request for a waiver, and, you – they can only get that waiver if they can show undue hardship – it would be impracticable to get these plans, and I think that would set a bad precedent for the Board, in the face of our expert engineer², but also in the face of abutters, saying, ‘We’re concerned with storm water. We’re concerned with drainage.’ To say, ‘We’ll grant this waiver to the applicant’ – when they haven’t even put out evidence to say there’s undue hardship or that it’s impracticable, or that they couldn’t have just prepared these plans as part of the package that was submitted to you. Um, so, I just wanted to hit that point from last time, um, and, and that’s a point that just – it adds on to all the other points that, that we’ve made. I won’t, I won’t go over them in detail, um, but there are a lot of concerns with this project. Uh, you have conflicting expert opinion with regard to consistency with the Comprehensive Plan. You have conflicting expert opinion based on, uh, the

¹ [Clerk’s Note: The Objector has provided two expert witnesses for the Board’s consideration – Peter Friedrichs, a planner, and Linda Steere, a wetlands and wildlife biologist. They did not provide a “respected and reputable environmental engineer.”]

² [Clerk’s Note: The Objector did not provide an engineer for the Board’s consideration.]

environmental impact. There's a dispute over the zoning on this parcel, um, which, I know that was resolved on an estoppel motion, uh, but it, you know – the merits weren't reached, and I think the merits of that dispute are, um, I'll just say in doubt, at this point, but, I won't revisit that here. Um, I think that adds on – on top of all of that, to say – well, with all these issues, we're gonna grant a waiver that's concerning an abutter, that could very well affect that abutter, um, you know, um, it could affect that abutter significantly, um, without the showing that's required by statute. I think that would be a, a huge mistake, an-, and I respect Mr. Landry a lot. I, I've, I've been in these hearings with him before. I can anticipate what he would respond to, by saying, 'Well, we'll get that for you at the Preliminary Plan', but, the fact is, once you grant the Master Plan, you know, now, you bought, now you've bought the project. There's a reason that you have a checklist for Master Plan items, and this is on it, because this is something you wanna know up front. Um, so, I would add that concern to the list of other concerns, and I would ask that the project be denied. Thank you."

Mr. Landry asked Mr. DiOrio if he could "just have 15 seconds on that, to respond." Mr. DiOrio granted Mr. Landry's request.

Mr. Landry: "We got a certificate of completeness for this project from the, from the Planning Department. Uh, Mr. Crossman's actual representation was quite different than my friend, Mr. Skwirz, has described. He says drainage calculations come in at the Preliminary Plan stage, that – not at the Master Plan stage. The State law doesn't require them at the Master Plan stage. We don't usually see them at the Master Plan stage, and he's looking forward to – there could be five different design changes that happen between now and Preliminary, uh, and they'll all be driven by very sophisticated engineering that comes later. Mr. Cross-, Mr., uh, Cabral had no issue whatsoever, and said, 'That's, that's not something that can be avoided by any stretch of the imagination, but it occurs at the Preliminary Plan stage of review, not the Master Plan, and we did get a cert-, certification of completeness for this project that we had submitted everything we were required to submit, and then we spent five months submitting additional thing that we weren't required to submit, and that will continue on at the, uh, Preliminary Plan state."

Mr. Skwirz: "So, I, I just have to jump in, Mr. Chairman. I mean, if there is an inaccuracy there, the applicant is requesting a waiver. That wasn't submitted, and it's required in your Master Plan checklist. You know, whether or not you prefer to have it at Preliminary Plan stage, what other Towns do, at the end of the day, that is a required part of your Master Plan checklist, and the applicant is requesting a waiver for those items."

Mr. DiOrio interjected that the Board had "heard from both parties", and that the Board was "approaching the, uh, witching hour." He continued.

Mr. DiOrio: "What is your desire?"

When he did not hear from the Board, Mr. DiOrio said, "Hello?" After another pause, Mr. Prellwitz began to speak. Here, Ms. Shumchenia's internet connection began to act

up due to the thunderstorms in the area. She said that she was going to be “quick” in her comments, and that she would “then hand it over” to Mr. Prellwitz.

Ms. Shumchenia: “I’m supportive of, um, having some input from our -”

Here, Ms. Shumchenia’s internet cut out. Ms. Jalette reported that she thought that she was “having, um, technical difficulties at her home because the screen for her is frozen.” As Ms. Jalette was explaining the situation, Ms. Shumchenia’s internet connection returned. She explained that she was going to “call in so it’s more stable.” Mr. DiOrio asked for input from other Planning Board members in Ms. Shumchenia’s absence. Mr. Prellwitz spoke.

Mr. Prellwitz: “I would agree with Chairman DiOrio, that we should proceed with this, with a favorable as well. Thanks. Oh – with the conditions that they resolve with Mr., uh, Gregory’s issue about the building.”

Mr. DiOrio thanked Mr. Prellwitz. He then continued.

Mr. DiOrio: “So, just to be clear, what I have suggested is that we instruct the Solicitor – our Solicitor – to draft a motion, after hearing some of our concerns, uh, that we would be prepared to discuss, in greater detail, at our next meeting. I am not suggesting a vote on the application this evening. So, just to be clear.”

Mr. Prellwitz: “Understood.”

Mr. DiOrio: “So, Ron [Prellwitz], may I interpret your response to say that you would be in favor of that direction?”

Mr. Prellwitz: “Yes, that is correct.”

Mr. DiOrio: “Okay. Very good. Thank you.”

Mr. DiOrio then asked the rest of the Planning Board members how they wanted to proceed. Ms. Light spoke next.

Ms. Light: “Okay, I’ve got some, uh, storm noise going on in the background. I apologize. I, I’m in favor of, um, having Maggie [Hogan] proceed with a motion for our next meeting.”

Mr. DiOrio thanked Ms. Light. Mr. Lindelow spoke next.

Mr. Lindelow: “Keith [Lindelov] here. I agree, too, that she should move forward with the proper motion.”

Mr. DiOrio thanked Mr. Lindelow as well. He said that Ms. Shumchenia “may choose to weigh in, uh, momentarily” but he wanted to make sure that the Board was “moving in the right direction”, per Ms. Hogan.

Mr. DiOrio: “Are we giving you adequate instructions?”

Ms. Hogan: “Yes. I believe so, Mr. Chairman. I, I, I sense a consensus to move for a, a motion to approve the application with conditions, uh, incorporated, and comments that were made this evening, um, so, I, I feel comfortable so far.”

Mr. DiOrio: “Thank you.”

Ms. Hogan: “That, that motion, of course, is subject to change by the members when you review it, and, um, adding additional findings of fact at the meeting itself. Uh, is – it is a, a work-in-progress. As everyone knows, this is an extensive application – covered a series of meetings, extensive testimony, exhibits in the record, so it is the kind of, uh, motion that does require some substantial, uh, off-screen, uh, out-of-meeting time to craft, and then bring it back into your realm for review.”

Mr. DiOrio thanked Ms. Hogan and said that the Board appreciated that. He said that while the Board was waiting for Ms. Shumchenia to return, they should “talk about, uh, an extension beyond this evening.” He said that this was a “topic that we touched upon earlier”, and that Mr. Landry has been “very cordial in the past on this.” He continued.

Mr. DiOrio: “Clearly, we’re moving in the direction of, of, uh, of gaining some ground here, and would be optimistic that you’re gonna give us a little bit more time to pull all this together.”

Mr. Landry replied that they “absolutely” would. He said that they “were anticipating” that there would be a draft decision at the second meeting in July or at the August meeting. He continued.

Mr. Landry: “So, we were prepared to grant an extension past the August meeting, uh, of the Board, uh, but, certainly go, you know, a week after the July meeting or whatever, whatever the Board feels comfortable with in the near future.”

Mr. Lamphere interjected that he, “ideally”, would have “the, let’s say, more contentious projects on a second meeting”. He thought that Mr. Landry was asking to skip the meeting on the 21st. Ms. Jalette interjected that she did not believe that that was what Mr. Landry was trying to communicate. Ms. Hogan concurred, as did Mr. DiOrio. Mr. DiOrio said that he thought that the “indication was we had not yet discussed” the second meeting in July “at the last time we dealt with this application.” They then discussed whether the Board was going to have a meeting on the 21st. Ms. Jalette confirmed that they were. Mr. Lamphere reiterated that there was a “tremendous amount of work” before the Board, and he could not “have people pick and choose” when they appeared before the Board. He explained that the work was not limited to solar project, but extended to “relatively, you know, small, Minor Subdivisions that need to come before the Board.” He said that he did not know “how to get this work done that, that the Planning Department is faced with.” Mr. DiOrio asked Mr. Landry how he felt about “August 18th.” Ms. Jalette interjected that she thought that “he was saying that he wanted to be on for the July meeting – the 21st.” Mr. DiOrio said that he concurred, as did Ms. Hogan. Mr. Landry interjected that “it certainly wasn’t [his] idea to force an accelerated schedule on the Board.” He continued.

Mr. Landry: "I just said we'd be willing to grant an extension of the Board's time to act to August, in the hope that we get it done in July, but now – we're trying not to, not to aggravate anybody here, not, not - the opposite."

Mr. DiOrio replied that they were on the same page, and suggested "an extension to August 18th, with the, with the hope that we can resolve this on the 21st." He said that "sometimes things go sideways", and that he was "reluctant to keep asking" Mr. Landry for extensions. He wanted to "just have a little bit of breathing room." Mr. Landry replied, "Yes." Ms. Hogan interjected that she understood that there would be a second meeting in July, but that she had already let the Planning Board know that she would not be available for a second meeting in August, as she already had "something scheduled for those, um, weeks" which could not be moved. Mr. DiOrio replied that he hoped that they would not "have to use this extension period", but that he was "trying to be cautious." Ms. Hogan said that she understood. Mr. Skwirz interjected.

Mr. Skwirz: "I'm also cognizant of the fact that both – at the end of the last meeting, before you scheduled the site visit, um, and, at the beginning of this meeting, there was, um, it was left open for additional public comment, um, so, I, I, I just ask that, um, that the time frame, uh, that you allow for this, that it does allow for, um, additional comment after, um, there was this discussion tonight, and the, um, uh, further discussion with regard to the site visit, etcetera."

Mr. DiOrio thanked Mr. Skwirz, and asked Mr. Landry "to agree to a date certain." Mr. Lamphere asked to "interject one second." He wanted to remind the Board that the Public Informational Meeting was "still open at this point", and that it should be continued to a date certain. Ms. Hogan replied that that was correct. Mr. DiOrio turned to Mr. Landry. Mr. Landry replied that he hoped that the Board "would continue it to July 21st – whatever the date of that meeting is", and that everyone would "make every effort to have it concluded then". He said that if the Board "asked for another extension, for, for a good reason at that time, we would grant it", but that their "preference is to get it all resolved the third week of, uh, July." Mr. DiOrio replied that they were "all on the same page, but, in the event that that meeting does not occur," the Board could not "risk the extension expiring". He said that the extension could be set to the 4th of August or the 18th, with the latter being his preference. Mr. Landry agreed. Mr. DiOrio said that it would be continued until July 21st, "hopefully to get a decision." Mr. DiOrio then asked for a motion from the Board.

Mr. Prellwitz made a motion that the Board would continue the discussion until July 21st.

Mr. DiOrio asked if they needed to include a time. He then asked Mr. Prellwitz to amend his motion to include a start time of 6:00 p.m.

Mr. Prellwitz amended his motion to include that the Board would continue the discussion until July 21st at 6:00 p.m. It was seconded by Ms. Light.

There was not any further discussion on the motion.

In Favor: DiOrio, Prellwitz, Lindelow, Light, Shumchenia
Abstain: None.
Opposed: None.

5-0, the motion passed.

Master Plan – Public Informational Meeting – Major Land Development Project – Comolli Solar – AP 2, Lot 73, 0 Chase Hill Road, Unit 2. Centrica Business Solutions, applicant.

Mr. DiOrio began by explaining that he was recusing himself from the next agenda item, as his firm had performed services for the applicant in the past. He submitted a recusal form, which was accepted by Ms. Jalette. He asked Mr. Prellwitz to serve as Chair due to his “experience” in serving in that capacity for “this particular application.”

Mr. Prellwitz asked if the applicant was present. Ms. Jalette replied that they were, and that she had made Joelle Rocha, the attorney for the applicant, and Jason Gold, the engineer for the applicant, panelists. She then asked Ms. Rocha if there were any other people she wanted to have elevated to the role of panelist. She declined. Ms. Rocha thanked the Board and then began her presentation.

Ms. Rocha: “As you know, uh, we spent the last couple months with the Board. Um, at, at the last meeting, we really finished our presentation, but for conducting a site visit for any members who had not yet seen the site, um, and we were able to do that. I think this, this is a unique application that lends itself to a site visit. Um, it, it’s our team’s opinion that the site visit itself really brings home, um – you hear, this Board, often hears, uh, the appli-, you know, the project won’t be seen, um, about the veg-, vegetation, so on and so forth, um, the topography, but, really, getting out there, at this specific site, in our opinion, really brings that home – um, that it’s not seen, it won’t be seen from the road. It’s in this, um, mostly clear, uh, cleared area already, um, and that the, really – the natural features of the river and the bridge, um, will not be visible from it. So, hopefully, that was the takeaway, um, from the site visit. I know, um, some members were already familiar with the site, be it, um, historically, or by attending the Conservation Commission walk that occurred previously. Um, we do have our team here tonight. I don’t want to take a ton of time. I, I’m – if there – we’re happy to get into questions. I did submit a letter, kind of circling back around on, I think, some of the key issues, including the environmental issue, and just letting you know that, you know, we’ve, we’ve discussed with our client, and, um, the, the testing that will, will be done before this project is up, um, if we get the approvals obviously. Again, just echoing – we have a long way to go in this, with respect to the engineering and the details and the State approvals, which – we’ve started that process, but, um, we’re certainly not, not done with it. So, um, happy to have a discussion with the Board, um, or proceed however you want us to proceed.”

Mr. Prellwitz thanked Ms. Rocha, and asked the Board if they had “any questions or comments.” When he did not hear from the Board, he said that he thought that the Board could “move on to Mr. Gold, and hear what he has to say.” Mr. Prellwitz asked if Mr.

Gold was in attendance. Ms. Rocha said that she thought that they “did complete his presentation”, and that she did not know if Mr. Gold had anything additional to add, though he was “certainly available for questions.” Mr. Gold said that he agreed, but that he would be “happy to answer any questions.” Mr. Prellwitz suggested that they hold Mr. Gold’s comments and hear from the Board.

Mr. Prellwitz: “I agree that it seemed pretty comprehensive – that we covered a lot, a lot of things the last time, and in my mind it, it seems pretty near conclusion, if not absolutely at conclusion. So, Planning Board members, any questions, comments, concerns?”

Here, Ms. Hogan and Ms. Light spoke at the same time. Ms. Hogan deferred to Ms. Light. Ms. Light said that she did not “have any, uh, questions, for the team.” Here, Ms. Hogan and Mr. Prellwitz spoke at the same time. He deferred to Ms. Hogan. Ms. Hogan explained that she wanted to “identify for the record that [she had] prepared for the Board, uh, a skeletal motion.” She continued.

Ms. Hogan: “It is, uh, similar to, uh, the one I referenced in the last application. This is a, uh, decision neutral, uh, motion. It, it, uh, right now, it has the basic background of the application, the procedure, uh, who testified, etcetera. Uh, so the Board, um, I would suggest, Mr. Chair, that you proceed similarly to the last application. Kind of get a sense from folks where they are, and I think, specifically, if we could focus on, uh, Ms. Rocha’s, uh, memo, dated June 25th, where she addresses, uh, uh, elements of the Comprehensive Plan and suggests areas where she believes it might be consistent with the Comprehensive Plan if, if the Board were to, um, identify generally if, if it’s in agreement with, uh, those representations – that may go a long way to putting some more meat on the bones for that motion, and, again, I would recommend that we treat this one similarly to the other one, uh, aft-, after the conclusion of this evening’s meeting, I would have sufficient information to complete a draft motion, which then the Board would consider at your next meeting, with the hopes of concluding it, um, as well, uh, like the previous application.”

Mr. Prellwitz thanked Ms. Hogan, and began to reference Ms. Rocha’s memo to the Board.

Mr. Prellwitz: “Alright – Board members – uh, in Ms. Rocha’s, uh, memo, uh, letter, Item #4 – ‘the Comprehensive Plan’ – does anybody have anything to say about, uh, all the things that she has listed here? Uh, four. Board members – any input?”

Ms. Shumchenia spoke first. She apologized for not having her video on, and said that her internet was “pretty slow tonight.” She continued.

Ms. Shumchenia: “I am, uh, you know – I made some additional notes on Maggie [Hogan]’s draft motion about findings of fact that were somewhat related to this, um, the considerations about the Comprehensive Plan and while, you know, any commercial development I wouldn’t really call that out as being supportive of conservation goals or

natural resource goals, I will note that, you know, the total area of Unit 2 is 38.9 acres, and the limit of disturbance on the final plan is 11.5 acres, so 27.4 acres of Unit 2, which includes a bunch of wetlands, to be undisturbed development, or, according to the plans, will remain undisturbed, and, to that effect, I think there is a measure of consistency with conservation goals and natural resource preservation goals in the Comprehensive Plan, considering that a large -”

Here, Ms. Shumchenia cut out again. She returned a few seconds later. Ms. Hogan told her that she would need to turn off her other device to prevent a feedback echo. She thanked everyone for bearing with her. She said that she had lost her train of thought during her transition from laptop to phone, but that she was “basically coming around to saying, um, you know, there’s a significant portion of the site that is already disturbed.” She continued.

Ms. Shumchenia: “There will be some destruction of natural resources in order to install this project, but the applicant has made an effort to preserve a large portion of natural resources on the site, and the site visit also made that clear, um, and was illuminating to that effect, so, for a majority of the findings that Joelle [Rocha] included in her letter, um, related to the natural resource goals and conservation goals, I tend to agree. Um, whether or not, you know, this project promotes energy self-sufficiency by the Town and things like that, I’m not sure I agree, um, but I don’t think that we’re required to agree with all, uh, you know – the, the project needs to be consistent with every single goal in the Comprehensive Plan in order to satisfy at least one of the goals, um, so I wanted to open a conversation about that with fellow Board members.”

Mr. Prellwitz thanked Ms. Shumchenia, then asked if there were any other comments from Board members. Mr. Lindelow spoke next. He said that he was “in favor of, uh, giving the Solicitor permission to draft a motion going forward”, but that he was “not indicating [his] approval or disapproval of this project.” Mr. Prellwitz thanked him for his comments. He then noted that the Board had not heard from Ms. Light or Mr. Pennypacker, so he asked for their “thoughts, concerns, questions, answers.” Ms. Light said that she was “in favor of moving forward with, uh, Maggie [Hogan] coordinating a motion for us.” She explained that she had gone on the site walk with the Conservation Commission, and said that Ms. Shumchenia’s comment about the site walk being “illuminating” was an “appropriate comment.” She continued.

Ms. Light: “This project seems to be well-suited for the space that it’s gonna be in, and the fact that it’s not gonna be visible to anybody outside of the area is a big bonus for the neighborhood. I, I’m, I’m satisfied with the work that’s been done to date, so I think we’re in good shape to move forward.”

Mr. Prellwitz thanks Ms. Light. Mr. Prellwitz noted that that left Mr. Pennypacker. Mr. Pennypacker then spoke before the Board. He said that the site walk “was informative”, and that “it is in a spot that’s very hard to see.” He continued.

Mr. Pennypacker: “It’s, you know, this is mired in, in lots of weird, uh, details. Um, I will say that I’m, you know, after, after seeing the condition of the ground, um, I’m a little disappointed in that, you know, we don’t have, uh, sharper teeth when it comes to, uh, testing and remediation, but I think I’m backed into a corner. Um, I don’t, I, I don’t have any objection to the facts that we have to find on this one, so, guess that’s a thumbs up.”

Both Ms. Light and Ms. Shumchenia interjected. Ms. Shumchenia spoke first, and responded to Mr. Pennypacker.

Ms. Shumchenia: “I had a, a related comment about the, about the, um, condition of the site, and any potential remediation that would need to be done, and it does address, um, on the bottom of Page 2, in Joelle [Rocha]’s letter, where she says ‘the design and siting of the Project helps to preserve the important natural resources and is the least intensive use that could be proposed at the site. Importantly, subsequent to the decommissioning of the Project will become a permanent asset to the Land Trust as an endowment for the public and future of the Town and due to the proximity to existing Land Trust property will expand the network of existing trails.’ I think to fully agree with this assertion, I would propose that a condition of approval be added that the applicant will perform any and all remediation required by Rhode Island DEM [Department of Environmental Management] if any is necessary for the eventual use of the property, as a Land Trust holding to, you know, for activities, such as trails and additional recreational uses. So, right now, the applicant has agreed to do any and all remediation required for the proposed use, which is solar, and so, the threshold of contaminated material remediation for proposed use of solar may be quite different from a proposed use of recreation – I don’t know – but this is what I’m thinking, John [Pennypacker], as a way to address your concern – and it also protects the Town from needing to expend, in the future, this expense of remediating the site again, further, in order to enable this use as a permanent asset, um, and an endowment for the public for the future.”

Mr. Prellwitz thanked Ms. Shumchenia. He said that has he understood her, Ms. Shumchenia wanted “to see something included that would put a little bit of teeth into the fact that they’re gonna make sure – well, we’re gonna make sure – that there’s, uh, public access, is cleaned up, and safe and appropriate in the future.” Ms. Shumchenia replied that that was more or less what she had said. He replied that his comments were more of “the Reader’s Digest version.” Ms. Light asked if she could speak again. She explained that she is a “big proponent of the rem-, remediation of the land, and I wanna remind everybody – the Town Council did place a condition, and the condition was – well, there are a couple of conditions – and one of them is that the quarry operation needs to cease and desist.” She said that she believed she had “heard a comment on our site visit that the quarry operation was not gonna cease and desist until Master Plan approval, so, we’d like to have that considered.” She continued.

Ms. Light: “You don’t have to comment on it now, but it’s something that the Town Council required when they made the decision to proceed with the Ordinance, and I’m optimistic that remediation requirements by DEM [Department of Environmental Management] are going to include the disturbance of the land, its proximity to the river,

uh, so, so that, uh, we're all protected here, and I agree completely with, uh, Emily [Shumchenia] and John [Pennypacker] that this is a high profile, high sensitive mat-, it's a very sensitive issue for this project, and I'm hopeful that the, uh, developers, and, and everybody involved here is, is hearing how concerned we are about that, um, and, and, you know, perhaps include your documentation from DEM [Department of Environmental Management]. Uh, we'd like to know what the process is to actually do the remediation. I, I don't know if, if, uh, you have to provide that, but it would certainly be helpful to give us a sense of comfort, especially as the project develops. If, if we could understand exactly where that is at, because I think that's the biggest sticking point for you guys."

Mr. Prellwitz thanked Ms. Light. He then spoke.

Mr. Prellwitz: "Uh, as far as where the DEM [Department of Environmental Management] is concerned – is that something that will naturally be part of the public record? I would address this to Attorney Hogan – or is it something that we need to include?"

Ms. Hogan: "You mean as far as a requirement for DEM [Department of Environmental Management] to review the – review and propose any remediation?"

Mr. Prellwitz: "That, and to keep us up to speed on what they actually plan to do, or what they're going to be requiring the applicant to do, is a better way to put it, I think. Uh, certainly we could put – we could put a condition in that that, um, that the applicant ensure that the Town is copied on all correspondence, uh, coming from RI DEM [Department of Environmental Management]. I think there's an open question, honestly, though, as to whether or not DEM [Department of Environmental Management] will require remediation generally on this site if there are – if there's no hazardous materials on the site, they're not necessarily going to order a remediation of, cleanup of glass and pieces of metal and things of that nature, which – I'm getting the sense that that's what the Planning Board is hoping for."

Ms. Light replied that the site was, "for all intents and purposes, a junkyard for 50 or 60 years, when there wasn't any oversight as to what was being, uh, dumped into the soils." She continued.

Ms. Light: "So, the community is concerned that there may be remediation requirements – and what those are, none of us are qualified to say. So, at a minimum, we do want a survey, conducted by the proper authorities, who are going to give the, uh, the applicant, um, you know, the direction in which they need to go, and I'm sure they're going to be areas of the property that are, are, are not touched by potential contamination, uh, and then others that could be saturated. We don't know that, but that's – it's something we should know, and we shouldn't, uh, make the mistake of potentially stepping over it. And the other, um, comment that I would make, on the heels of what Ron [Prellwitz] proposed, uh, you know, see, seeing the Planning Board on the communications with DEM [Department of Environmental Management] – we'd also like the communications forwarded to the – maybe it has to be the Town Council – I'm not sure, because they put the condition on the Ordinance, um, that the quarry operations are stopping upon

approval of the Master Plan. Um, and, and that's something, uh, that has to be worked out, outside of this, but it, it was a condition, and it certainly does need to be honored and addressed. Thank you."

Ms. Rocha asked if she could "just have a minute on that topic." She said that she knew the Board was in the middle of a discussion, and asked for them to let her "know if that's appropriate or not." Mr. Prellwitz told her to go ahead. She then spoke before the Board.

Ms. Rocha: "So, on the quarrying, um, the condition of approval from the Council says, um, well, it's a little confusing, but, essentially says, before commencement of the construction of the, um, facility, the solar facility at the site, um, I think that, at the site visit – at least the one I was at – some of the materials have to be quarried to be removed and graded, um, so, I think that's really what you'll see. Uh, I don't think there's any plan for this to be a quarry in the future. Um, perhaps George [Comolli] can weigh in on that, but the – I think, from what I heard at the site visit, um, it was that some of that quarrying is gonna have to be done to remove some of that rock and level the site. Um, but, it's certainly, um, going to be – that use will be stopped prior to the commencement of construction of the solar facility."

Ms. Light thanked Ms. Rocha "for clarifying." Ms. Rocha also had a comment on "the DEM [Department of Environmental Management] point."

Ms. Rocha: "Um, so, DEM [Department of Environmental Management] – I think I said this before – won't just unilaterally come out. That's why we propose the Phase II, um, because if there is reportable concentrations from the Phase II uh, that is – that triggers, um, reporting to DEM [Department of Environmental Management], and that's when the process begins, and there's, uh, you know, a plan proposed, and has to be approved by DEM [Department of Environmental Management]. We can certainly see, you know, keep the Town in the, in the loop if we get to that point, um, but that's – it's, it's really that triggering – the Phase II triggering, um, for the site for DEM [Department of Environmental Management]."

Mr. Prellwitz thanked Ms. Rocha, and said that, as he understood it, "any soil samples that will be required will be by DEM [Department of Environmental Management] during Phase II." Ms. Rocha responded.

Ms. Rocha: "No. So, the Phase II is done, the Phase II is done, and, and Jason [Gold] can probably describe this better than I can. Um, the Phase II is done by environmental engineer. So, they will do, um, the appropriate study of the site, and then it's that triggering – whatever comes out of that, that will determine, you know, if there's a reportable concentration on something, then it goes to DEM [Department of Environmental Management]."

Ms. Rocha then asked Mr. Gold to elaborate, as she is a lawyer and he is an engineer. Mr. Gold said that what Ms. Rocha said was "exactly correct."

Mr. Gold: “So, the Phase II environmental assessment – those are the initial samples. That is voluntary, essentially. If concentrations that exceed reportable limits are detected then that needs to be reported to Rhode Island DEM [Department of Environmental Management], and then they get involved, and they drive additional sampling or investigation that needs to be required to their satisfaction.”

Mr. Prellwitz thanked Mr. Gold, and said that that was the answer that the Board was looking for. He then asked if there was anything else that the Planning Board had “any questions or concerns about.” Mr. Pennypacker spoke. He thanked Ms. Shumchenia for her explanation, and he said that he had been concerned “about, uh, contaminants in the, in the soil, or, or groundwater.” He said that he expected that “surface debris” would be dealt with by the owners, and “that there wouldn’t be, you know, chunks of scrap metal all over the place.” He said that he took “that for granted”, but that he would “spell it out” if necessary. He said that the site “should look like a clean facility and not, um, not like something on top of an old junkyard.” Mr. Pennypacker then said that he did not “expect someone to be out there picking up every piece of, you know, glass that blends into the gravel either.” Mr. Prellwitz thanked Mr. Pennypacker. He then asked if Mr. Lamphere had any comments. Mr. Lamphere said that the Board was “in the process of having a Public Informational Meeting” that was open, so he recommended “a continuation of this to a date certain”. He said that it was his “understanding that, uh, the extension for a decision” was in effect until the 18th of July, so the Board would need “an agreement on the extension to the 21st”. Ms. Rocha replied that that would not be a problem. Mr. Prellwitz asked the Board how they felt about “extending this to the 21st.” Ms. Light and Ms. Shumchenia spoke at the same time. Ms. Light said that she approved of doing that. Ms. Shumchenia stated that she also agreed, but that she also wanted to mention a “minor technicality”, which was that a segment of the parcel had been mislabeled on the Master Plan map as RFR-80 instead of Commercial Special. She said that she “wanted to make sure that was captured correctly”. Ms. Rocha thanked Ms. Shumchenia and said that that was correct. Ms. Hogan suggested that Mr. Prellwitz “could take a motion” to continue the matter. He then asked for a motion.

Ms. Shumchenia made a motion to extend the Public Informational [Meeting]³ for the Comolli Solar Major Land Development project for consideration of a draft motion of approval at that time to July 21st at 6:00 p.m. It was seconded by Ms. Light. There was not any further discussion.

In Favor: Prellwitz, Lindelow, Light, Shumchenia, Pennypacker

Abstain: None.

Opposed: None.

5-0, the motion passed.

Mr. Prellwitz incorrectly stated that there had been four yeses and one no. The vote was unanimous. He then said that he had not called for any public comment, as he thought “that would be more appropriate before we make the actual vote on this”, so that they

³ Ms. Shumchenia referred to the Public Informational Meeting as a Public Informational Hearing.

could “let everybody digest what’s going on, and give them plenty of an opportunity at that point before we vote, so that it’s fresh in everybody’s minds at that point.” Ms. Hogan said that the Board could “certainly take any public comment at that meeting as well, because it continues to be an Informational Meeting.” Mr. Prellwitz thanked Ms. Hogan, and turned the meeting back over to Mr. DiOrio.

NEW BUSINESS:

Preliminary Plan – Public Informational Hearing – 2-Lot Minor Subdivision – Pierce Family Plat – AP 2, Lot 7, 86 Oak Street. Douglas G. Pierce, Executor of the Estate of George A. Pierce, Jr., applicant.

Mr. DiOrio returned to his role as Chair. He asked if the applicant or their representative was in attendance. Ms. Jalette replied that Tyrel Rhodes, of A.R.M. Engineering, was in attendance, as was Douglas Pierce. Mr. DiOrio asked them to provide a “brief presentation” of their application.

Mr. Rhodes explained that A.R.M. Engineering had “prepared the plans for this Minor Subdivision.” He said it was “a 14-and-a-half-acre piece of land” that contained an “existing, uh, family residence of, uh, George and Marie [Pierce], who have passed away.” He explained that the deceased members of the Pierce family had left “the land to their two children, one being Susan, and the other being Douglas Pierce.” He explained that Mr. Pierce “currently resides, uh, abutting this piece of property to the north, uh, which is Assessor’s Plat 2, Lot 7A.” He said that Ms. Pierce would be “moving into the existing dwelling that the parents lived in, and that’s the way they’ve divided the estate, uh, with Douglas [Pierce] receiving most of the raw land, and Susan [Pierce] cutting off the, the, the original house.” He said that that house would go to Ms. Pierce, and that the “intent is just to subdivide that one lot – not to build on it today.” Mr. Rhodes continued.

Mr. Rhodes: “Uh, Mr. Pierce has assured me he has no intent to build on it, but, unfortunately, in order to, uh, make the lot, uh, his lot a buildable lot, that’s saleable, Mr. Pierce, bein’ 70, or in his 70s – they, they need that for, uh, their retirement, should something happen. They may want to sell it, but, at this time, they have no intentions of even selling it.”

Mr. Rhodes explained that they had “prepared two septic systems”, one if which was a “repair on the existing dwelling, uh, which is required by” the Department of Environmental Management. He explained that if there is “an existing house, containing a cesspool or a, uh, noncurrent system”, that was required. He stated that that had been approved and was included in their submission package. He said that they had also “prepared a new septic system for the imaginary lot, and the conceptual development of that lot, which are also approved.” Mr. Rhodes then said that he believed that they had “provided all of the information that’s necessary.” He then detailed some of the present site conditions.

Mr. Rhodes stated that it was “probably second stage forest” on the property that had “grown up pretty good.” He referred to it as a “wood lot”, and noted that it’s “kind of quiet up there on Chase Hill.”

Mr. Rhodes: “And that’s it! Unless you have some other questions.”

Mr. Rhodes said that he was “not quite sure how to work” the Zoom meeting, so he asked for someone to “yell at [him] and tell [him] what [he’s] gonna do next.” Mr. DiOrio asked the Planning Board members for “questions of the applicant.” Ms. Light spoke first.

Ms. Light explained that she did not “necessarily have a question for the applicant, as much as [she was] looking for” Mr. DiOrio’s guidance. She continued.

Ms. Light: “A lot of the documentation and certifications that we’re looking at in her-, in the package date back to 2014, 2015, um, and, uh, I know we had another project before us where the documentation was almost ten years old, so, I, I just wanted to ask you if the, the documentation in this package complies with our requirements for our checklists, or if any of that work would need to be reviewed in the current period.”

Mr. DiOrio: “Uh, let’s, uh – I appreciate that opportunity. Uh, I’m looking, uh, very briefly at a few things. I’ve got a subdivision suit-, uh, suitability, dated ’16. That – hmm – Terry [Rhodes], please correct me – that’s probably expired. You’ve got a soil evaluation dated ’14. That’s still acceptable with an affidavit. Um, Terry [Rhodes], do you have uh, individual sewage disposal approval for this lot?”

Mr. Rhodes: “Yes, I do. Both of ‘em.”

Mr. DiOrio: “Are they both -”

Mr. Rhodes: “And they’re in your package.”

Mr. DiOrio asked Mr. Rhodes if they were “both current”, and he replied that they were. Mr. DiOrio said that that sounded “like the answer to your question, Carolyn [Light].” Ms. Light agreed, and added that Mr. DiOrio had begun to sound a “little distant”. Mr. Rhodes thought that he had to answer a question. Ms. Jalette explained that that comment had been directed at Mr. DiOrio, not Mr. Rhodes. Mr. Rhodes thanked her. Mr. DiOrio asked if the rest of the Board had any questions for the applicant. Mr. Prellwitz asked if the property of Frank and Susan Sposato, direct abutters to the project, had been included for any “particular reason” or if that was “part of the subdivision proposal.” Mr. Rhodes responded.

Mr. Rhodes: “We, we, originally – because Doug Pierce – uh, the son’s lot is Assessor’s Plat 2, Lot 7A, and then, when this piece came in, we cut – it was, uh, Assessor’s Plat 2, Lot 7. We cut off the house lot. We called it Assessor’s Plat 2, Lot 7C. We – at some point, we thought that, maybe, this would become, uh, the large portion of the land would become Assessor’s Plat 2, Lot 7B. Then we would have A, B, and C, but that designation would be handled, probably by the Planner and their records people. It isn’t really up to us to pick the designations of the lots, but that’s where that came from.”

Mr. Prellwitz: “Okay. Thank you.”

Mr. DiOrio interjected that he thought that “some of that confusion might stem from the fact that, on Sheet #5, um, what appears to be new lot lines is represented as Lot 7C, but on Sheet 6, that same piece of geometry is identified as Lot 7B.” He said he did not know if that was “part of the confusion or not.” Mr. DiOrio then had a question of his own. He asked for the Board and the applicant to turn their “attention to Sheet #8.” He continued.

Mr. DiOrio: “I was going to suggest that the front setback line include a no cut zone, and yet, for some reason, there’s a rain garden out near Oak Street. Can I ask why that is? Why is that rain garden so far away from the rest of the improvement?”

Mr. Rhodes: “The reason that, the reason that is there is because – required by State law – you have to retain the first one inch of rain that, uh, is, uh, compiled by the driveway on a house, and if you see how that slopes, you have no other place to put it, the rain garden, to pick up the driveway, the proposed driveway water – the first inch of rain – other than down near Oak Street, because it’s all downhill. There’s no other way to, to pick it up down there. I would be missing probably half of it if I try to keep it up on top.”

Mr. DiOrio replied that he would be “suggesting a vegetated swale instead of all that disturbance.” Mr. Rhodes replied that if that was their “preference, uh, it is a vegetated swale.” He said that one “hardly would even see that”. He continued.

Mr. Rhodes: “That, that particular pond is, uh, really – that being a short embankment before Oak Street, and, uh, that would be about 49 feet in width, and then, in back of it, that’s only a foot deep, that little pond of a 132 square feet – that’s not very big, and that all gets planted as a part of this, uh, erosion control plan that goes with it. And, uh, in any rate, it’s a conceptual layout for a house that’s not gonna be built for, certainly, a few years, and, and I’m sure that no matter what you wanted to build in there, it would all change. But, you’re going to end up with some kind of, uh, storm water control down at Oak Street, because that’s the law today – that you, that you have to include it, even though it’s a gravel driveway, it still has to be treat as though it’s impervious. Those are the regulations.”

Mr. DiOrio: “Yes, I’m familiar with them. My concern is I’m looking to minimize the amount of vegetated clearing adjacent to that driveway between -”

Mr. Rhodes: “He has -”

Mr. DiOrio: “Between the front setback line -”

Here, Mr. DiOrio and Mr. Rhodes spoke at the same time. Mr. Rhodes then spoke again.

Mr. Rhodes: “One house lot, of twelve acres of woods. I don’t think he’s disturbin’ very much at all.”

Mr. DiOrio: “This isn’t a debate. So, anyway, that would be my recommendation. Uh, I would be prepared to include that as a condition of any approval. Those are my comments.”

Mr. Rhodes: “Okay.”

Mr. DiOrio then asked if there were any other Planning Board members who wanted to comment on the proposal. Mr. Pennypacker said that he had a “question about future

development.” He said that he noticed that “there’s a good bit of space between the proposed Lot 7C, I guess, and, uh, existing 7B”. He said that he knew “that there aren’t any firm plans in the future”, but he wanted to know if there was “any intentionality behind that.” He asked if it was a “design decision.” Mr. Rhodes replied that that was “a decision between the family, that that land would, uh, surround the house, and not be used as development – to stay just the way it is.” He said that if Mr. Pennypacker thought they were going to “put another house in there” that that was “not their intention.” Mr. Pennypacker thanked Mr. Rhodes. Mr. DiOrio thanked Mr. Pennypacker, and asked if there were any other comments from the Board. Ms. Shumchenia “had a clarification” on Mr. DiOrio’s condition, as she wanted to ensure that she “understood it correctly”, as Mr. DiOrio’s audio has been “unclear”. She asked if the condition of approval would “be something like ‘disturbance and cutting along Oak Street would be minimized’, and, uh, or, ‘minimized through the use of vegetated swales or other vegetated storm water control measures as might be necessary’? Something like that? Is that what you were saying?” Mr. DiOrio replied that that was “a good one”, and that he was “really just trying to minimize the clearing”, with a focus on, “essentially, the visual impact between, or from, Oak Street onto the site.” He continued.

Mr. DiOrio: “So, contrary to the applicant’s representative’s representation, I, I’ve gotta presume that this is gonna be built tomorrow, and so, as a result, whatever we can do to minimize that visual impact would seem to be good planning. So, anyway – yeah. Something along that line would be just fine.”

He said that if there were not any other comments from Planning Board members, he would turn to the Planner for his comments. Mr. Lamphere stated that he didn’t have anything to add. Mr. DiOrio then asked Ms. Hogan if she had any comments. She said that there was “nothing” from her in relation to the proposal. He then asked if Ms. O’Leary was available. Ms. Jalette replied that she was. He asked Ms. O’Leary if the Conservation Commission had anything to add. When he did not hear from Ms. O’Leary, he said that he assumed “no.” Mr. DiOrio then asked if there were any members of the public who wanted to be heard. There were not any members of the public who wanted to comment on the proposal. Mr. DiOrio asked a member of the Board to put forth a motion.

Ms. Shumchenia made a motion to approve the Preliminary Plan application of the Estate of George A. Pierce, Jr. for a two-lot Minor Subdivision, Pierce Family Plat, located at 86 Oak Street, AP 2, Lot 7.

Findings of Fact:

1. The Estate of George A. Pierce, Jr. is the Applicant and owner of the subject property.
2. The subject property has 21.6 acres of land and over 1,200 feet of frontage on Oak Street.
3. The property is located in an area of minimal flood hazard.

4. In 2015, Ecotones Inc. conducted a freshwater wetlands delineation of the property and found no wetlands on site.
5. The subject property is not designated as part of the Farm, Forest, and Open Space Tax program.
6. Rhode Island DEM has issued Permit No. 2014-1051 for a 3-bedroom septic system for a proposed dwelling.
7. Both lots meet the dimensional requirements of the Zoning Ordinance.

Conclusions of Law:

1. The proposed development is consistent with the Comprehensive Community Plan and/or has satisfactorily addressed the issues where there may be inconsistencies.
2. The proposed development complies with the Hopkinton Zoning Ordinance.
3. There will be no significant negative environmental impacts from the proposed development as shown on the Final Plan, with all required conditions of approval.
4. The subdivision, as proposed, will not result in the creation of individual lots with such physical constraints to development that building on those lots, according to pertinent regulations and building standards, would be impracticable because lands unsuitable for development are excluded from development.
5. All proposed land developments and all subdivision lots shall have adequate and permanent physical access to a public street.
6. The proposed development provides for safe circulation of pedestrian and vehicular traffic, for surface water run-off control, for suitable building sites, and for preservation of natural, historical, and cultural features that contributes to the attractiveness of the community, with required conditions of approval.
7. The design and location of streets, building lots, utilities, drainage improvements and other improvements in the proposed development minimizes flooding and soil erosion, with required conditions of approval.

Order:

1. The proposed Preliminary Plan for the Estate of George Pierce is approved with the following condition of approval:

That visual impact of development from Oak Street will be minimized by reducing tree clearing and cutting of vegetation, which could be accomplished by preservation

of existing vegetation or addition of vegetated soils or other vegetated storm water control measures that might be necessary.

Mr. DiOrio asked for a second. Mr. Prellwitz seconded the motion.

In favor: DiOrio, Prellwitz, Lindelow, Light, Shumchenia

Abstain: None.

Opposed: None.

5-0, the motion passed.

Here, Mr. Rhodes spoke to the people who he was with to state that he wanted the Final to be done “in house, and you shut me up”. He then stated that he didn’t “want to go back to another meeting.” Mr. DiOrio asked Mr. Rhodes if he was requesting “that the Final Plan be handled administratively.” He replied that he was. Mr. DiOrio said that the Board could “manage that.” Mr. Rhodes said that he wanted to “do the changes to the drainage, and submit it back to the Planner without going to another meeting, if that’s possible.” Mr. DiOrio said that they could “work that out” if his fellow Board members were “in agreement” with Mr. Rhodes’ request. He thought that the request was reasonable. He asked for a second motion to accommodate Mr. Rhodes’ request.

Ms. Shumchenia made a motion that the applicant make the required revisions and amendments to the plan, and submit their Final Plan for approval to the Town Planner. It was seconded by Mr. Prellwitz. There was not any further discussion.

In Favor: DiOrio, Prellwitz, Lindelow, Light, Shumchenia

Abstain: None.

Opposed: None.

5-0, the motion passed.

Mr. Rhodes thanked the Board, and remarked that that proceeding via Zoom had been “interesting.” He then wished the members a “nice night.”

Master Plan – Public Informational Meeting – Major Land Development Project – Skunk Hill Road Solar – AP 18, Lots 8, 13, and 14, 0 Arcadia Road, 0 Lisa Lane, and 145 Skunk Hill Road. Skunk Hill Road Solar, LLC., applicant.

Mr. DiOrio returned to his role as Chair, and he asked if the applicant or their representatives were in attendance. Ms. Jalette replied that they were, and explained that she had just made Bob Craven, the attorney for the applicant, a panelist. Mr. DiOrio said that before the Board began, there were “a couple of things” he wanted to do. He asked Mr. Lamphere “for just a brief overview, of, uh, how the project has gotten before us”, and Ms. Hogan for “some information” on the “legal issues surrounding this application”. He said that they would hear from the applicant after hearing from those two parties.

Mr. Lamphere explained that the application was before the Board “for a Public Informational Meeting”, and that it was the “initial, uh, review of this project before the Board.” He stated that he “did issue a couple of letters of incompleteness before this, before this got to this point”, but that the applicant “finally did get” one on “April 29th, ultimately.”

Mr. Lamphere: “It was, uh, submitted on January 27th of this year. So, uh, based upon the date of completeness, uh, the Master Plan is due for a decision by July 28th. We had a couple of delays due to, uh, defective notice, and that’s been remedied and corrected, and it’s properly noticed for this evening, to proceed with the Public Informational Meeting, and I guess my hope for tonight would be for the applicant to go as far with their initial presentation as possible, and if time allows, allow for, uh, public comment.”

Mr. DiOrio thanked Mr. Lamphere, then asked Ms. Hogan to provide the Board with “a little bit of background” on the “legal issues associated with this particular project.” Ms. Hogan then spoke before the Board.

Ms. Hogan: “Um, so, the first thing I just wanna point out for, um, the members of the audience who are listening in, since this is the first time this is going to be - being presented, and, um, what it’s important for everyone to understand – and we’ve had, we’ve seen some letters, uh, on this, and e-mails, and, um, some folks are, are quite persistent in some of the information that they submit to the Board. What everyone needs to understand is that this application comes before the Board with a zone change granted by the Town Council of Hopkinton. Uh, the Planning Board had indeed made a negative Advisory to the, uh, Town Council for that zone change, however, the Town Council, uh, saw fit to, uh, exercise its legislative discretion and, um, granted a change to, uh, the Comp Plan and the, granted the, the zoning, uh, amendment, and so, uh, the Planning Board’s has, has no authority to overrule the Town Council’s decision. Um, that function is, uh, solely vested within the Superior Court, uh, and that zone change amendment has, in fact, been appealed, uh, by interested parties. Uh, it is my understanding from the Town Solicitor today that, uh, a motion is going to be heard in a little less than two weeks’ time, uh, uh, at what’s called a motion for summary judgement in the Superior Court, um, case, and what does that mean? A motion for summary judgement is a motion that says, uh, there are no – as, as a matter of law, we should win because of this particular legal issue, and so, there’s, uh, there’s been a lot of memos that the Board’s received over the last number of months about the precedence of approvals, uh, statutes, uh, set forth in State law, and so that question – that very specific question has, in fact, been submitted to the Superior Court, and there’s going to be, uh, a hearing on that in a couple of weeks. Whether or not the Court actually decides that issue in a couple of weeks is unclear. Sometimes, a judge will make a decision on the bench that day, and sometimes the judge will take it under advisement, uh, so there’s no determination as to when that actually might occur, but what I wanted to make very clear was that’s – it’s not the Board’s role, as the Planning Board, to address that question, and I would strongly advise you to not wade into legal areas where, um, you have no authority – and I just felt that was important for everyone on the Board to understand, and for the members of the public to understand, that those – there are certain issues that the, the Board’s hands are

Uh, they, they are subject to follow the, um, decision of the Town Council in regards to the zone change. Um, Mr. Chairman, you and I spoke briefly this afternoon – also, as I looked through the packet, there was, um, a letter from one of the abutting property owners, dated the end of May, uh, that talks about, um, uh, digging or construction that’s being - taking place on the property, so I think you’re gonna be wanting to ask the applicant, this evening, what’s happening that. Um, I think that was it – was it, Mr. Chairman?”

Mr. DiOrio replied that he thought that that was it, and asked Ms. Hogan to chime in if the Board came a “little bit too close to the margins.” Mr. DiOrio then stated that, “with that backdrop”, the applicant could “take the floor and give us a presentation”. Mr. Craven appeared before the Board.

Mr. Craven explained that he “represent[ed] the applicant and the corporation that is, uh, responsible for putting forth this project”, and that he “agree[d] with the recitation of the law that” had been “set forth” by the Planning Board Solicitor. He said that he would “get to the substance of this application”, and that they were “going to present several witnesses” who would “be available for questioning”. The applicant’s first witness was Sergio Cherenzia, a civil engineer. Mr. Craven explained that Mr. Cherenzia was going to provide “an overview”, and would be followed by “an engineer, a landscape architect, the forestry consultant, and the project developer”. Mr. Craven noted that he would “be happy to answer any questions that might be of a legal nature, as it relates to, uh, to any of the testimony” provided by the project’s witnesses. He then stated that the Board already had the “Master Plan report, which includes, uh, existing site conditions, the proposed development, the storm water management, and then the design review guidelines and standards”. He said that Mr. Cherenzia would take the Board “through the highlights of the project.”

Here, Ms. Jalette asked Mr. Cherenzia if he was going to need screen sharing capabilities. He replied that “that would be helpful.” Mr. Cherenzia then began.

He explained that he was going to be “going through the presentation of the, uh, um, of the plans” and the slides, and that he would run that component for the other presenters. He stated that he would “do [his] best to navigate to the pages and the locations and point things out that they’re describing.” Ms. Jalette replied that she had granted Mr. Cherenzia screen sharing access, and that he could go ahead with his presentation.

Mr. Cherenzia explained that he had “been engaged” by Energy Development Partners, and that he had been working with them “for some time now, in the development of these plans, uh, but in a land survey capacity, preparing the base plans, um, documenting the location of wetlands, uh, preparing, uh, existing topography, planometrics, uh, well locations, um, on adjacent parcels, um, all those things that, uh, are required for an effective and efficient, um, engineered site plan.” He said that he did “want to make just one clarification”, which was that he was “not the engineer of record”. He explained that the engineer of record, Woodard and Curran, were in attendance, and that he had “been working with them closely in a survey capacity, uh, to, uh, facilitate their drawings and

their design”, as their firm had “been, uh, the principal engineer and designer of, of record, um, for the, um, design and layout of this, uh, photovoltaic solar facility.” He then stated the names and occupations of the parties who would also present testimony on behalf of the applicant. He introduced Stephanie Kaiser, “the, um, representative engineer for Woodard and Curran” who is a licensed engineer in the State of Rhode Island. He explained that the plan that he would be presenting “were, uh, prepared under her responsible charge”. He said that Ms. Kaiser would be available for questions. He said that he was going to be giving a “broad brush overview of the plan and then, uh, be welcoming any comment or questions” from the Board, and that he was going to take Mr. DiOrio’s cue on “brevity, and, uh, hopefully hit the highlights of this application.”

Mr. Cherenzia stated that the project was at the Master Plan stage, and that he would, hopefully, get into the relevant details of the application. He then introduced George Gifford, the landscape architect for the project, who would “be presenting plans, uh, most, uh, prominently the, uh, plans that identify the buffering and screening, visual screens, um, as well as the, the selection of, of, uh, of vegetation that, that has been selected for, um, solar array areas, um, uh, different types of, uh, species advantageous to the environmental and habitat, uh, health of the, uh, the property, um, in addition to those, those screening, um, uh, concerns.” He then introduced Marc Tremblay, the forestry expert for the applicant and a consultant. Mr. Cherenzia explained that Mr. Tremblay would “further, um, discuss, uh, some of the forestry, obviously, aspects of this application, and, uh, also em-, embellish a little bit on the, uh, the proposed, uh, vegetation, um, and comment on the, um, the viability of this project with respect to, uh, those items.” He then stated that he wanted to “give just a brief overview of the site.” He pulled up a plan set that identified the three parcels that were the subject of the proposal. He then provided “a little bit of history” of the project. He stated that, as Ms. Hogan had mentioned, “this project, uh, was subject to a zone change, um, by the, by the Town Council”, and there were “uh, 20 conditions of approval”. Though he was “not going to go through each one of those”, he would “identify that, uh, we have, um, a statement of compliance, uh, for each, and if there’s any concern that we are not complying with, with one of those, uh, we’d be happy to address that, um, if there’s any question or comment regarding that, and how we can, we can accommodate it, uh, but we feel that we’ve – with this design that we’re gonna be putting forward to you this evening – that we have met the, the, the conditions, or the spirit of those conditions.” He said that the last time the Board had seen the plans was at the Pre-Application for the project, which had been “submitted in July of last year”, and was before the Board in October of last year. He said that in that time, “this has gone through some iterations of making sure that this application was deemed complete.”

Mr. Cherenzia: “We know how important that is, um, to make sure that we have a complete and thorough application, uh, before it gets to this Commission, and we feel that we’ve met that requirement, as certified by your Town Planner. Um, as such, there’s three, three properties, which we, uh, is the subject of this application, um, spanning from Skunk Hill Road, um, a relatively large parcel, or the largest parcel, uh, 97.99 acres, not to be, um, or to be exact, um, the, um – which we call the Tefft, uh, parcel, or the, um, Hopkinton Land I, LLC parcel. Uh, the – this, the two other parcels, uh, which we, uh,

are known as the, the, uh, the Gordon, uh, parcels, uh, one being just under 52 acres, and the other one being, uh, around 18.76 acres. Um, uh, the one, uh, of the Gordon parcel being accessed off of Lisa Lane – believe that the condition of that approval was that that access would be abandoned – um, that the Town Council conditioned. Um, and then the, the Gordon Excavating, uh, parcel, the southernmost parcel, uh, accessed off Arcadia Road. Um, it’s important just to note that, you know, the – how these lots are situated, um, as I get into, uh, the design of the arrays, how they’re laid out, and, um, and how they are accessed.”

Mr. Cherenzia then stated that, as the Board knew, “this project was subject to a zone change”, and that the surrounding properties were zoned residential, which was “densified” around certain areas. He stated that the applicant had done their “best to accommodate a visual screen, uh, for, for these adjacent residential owners.” He then brought up the plan set sheet that depicted the existing conditions on the site, “which highlights, uh, the environmental features, uh, namely, the wetlands on the property.” He said that there are “a significant amount of uplands, uh, but also, um, you know, a, a considerable amount of wetlands on this property.” When the properties were combined, “it’s just over 34 acres of wetlands that’s, uh, you know, fractured through this site, um, and subject to some, some stream flow.” He stated that the upland was “in the northern portion” of the lot formerly identified as the Tefft lot, which was “bifurcated by some, uh, wetlands, um, the wetlands complex.” He said that “south of that”, there was another upland area on the lot formerly identified as the Tefft lot. Moving to the lot formerly identified as the Gordon lot, “a good portion of that, to the south, um, southwest” was also upland, which “will be subject to another array, um, accessed from the Arcadia Road side.”

The next sheet Mr. Cherenzia presented “actually, uh, identifies the arrays”, and that the Board had “seen a plan similar to this” at the Pre-Application meeting in October 2020. He started “at the northerly portion of the property” and referred to the array in that area as the “northerly array”, which was off of Skunk Hill Road. He said that that array would be “accessed off of Skunk Hill Road”, and that there was “a main drive that, that runs north to south, uh, into the property” that would continue “south with the, uh, the solar array, uh, to the west.” He explained that there was a “network of, of some drives and some turnaround areas” were on the former Tefft lot. He said that as the roadway continued south, it led to their “first, uh, wetlands crossing.” To “achieve access” to the south and southwest portion of the project area, Mr. Cherenzia explained that they would be “crossing the most – what we, uh, believe is the most narrow portion of the wetlands”, which, “typically”, would be “the most conducive area if you are going to introduce, um, a crossing, um, through a, uh, through a wetlands” would be to “take the path of least resistance”, and “avoids impact to the greatest extent possible.” He said that the reason for the crossing was to “gain access to the upland on the southerly side, uh, to get to the, uh, the array, um, just, uh, on the southern portion of the, um, Hopkinton Land I, LLC property.” Mr. Cherenzia stated that as they moved further south, the third array, which would be primarily on the Gordon parcel, would appear. He stated that the access would be “coming from the Gordon Excavating, uh, Inc., parcel, Plat 18, Lot 8”, and would go to “Arcadia Road”, over an existing access way that the applicant “would, um, be using

and, and widening as necessary, uh, to gain access, um, to the array, on the southerly portion of this project, uh, on the, on the Gordon, uh, parcel.” He stated that there was a second crossing of “three different series of wetlands” – “the H series to the north”, as well as a “J series and an, uh, I series” on the south. He said that there was “an existing, uh, traveled way, access way through” the wetlands, which had been established in the past, and that they would “continue to use once again.” He said that this would cause “the least impact, uh, to the wetlands”, and would be “subject to Rhode Island” Department of Environmental Management and Rhode Island Pollutant Discharge Elimination System approvals “through a storm water permit.”

Mr. Cherenzia noted that since the Pre-Application, the applicant had “made some changes” to the project, “based on some commentary” from that stage of review, and as “design development advanced” and “further analysis was done”. These changes were made to “accommodate things such as storm water”, as well as “relocation of roads that were more conducive”, and he wanted to “highlight each one of those, um, so that it’s very clear” that, since the Board last saw the proposal, the project had changed.

Mr. Cherenzia: “So, the access drive off of Skunk Hill has been relocated. Um, the previous plan had that access drive, uh, more closely, um, hugging the property line, um, and, uh, in this, uh, this berm here, um, and I think it’s, it’s been, uh, it’s been relocated further into the site, um, as opposed to, uh, um, hugging that, uh, that area – I’m sorry – and so – it’s the other way around, I believe. Um, excuse me – this one, no – I’m sorry – that it’s been, uh, relocated, um, further into the site, um, for, up – to get more efficiency out of the panel array and the storm water, uh, conveyance system. Um, the second area I’ll bring your attention to is, uh, more of less a reduction in the, uh, in the arrays, um, on the, the middle, uh, the southerly panels, um, to accommodate, uh, storm water, a storm water basin, uh, and to accommodate some storm water swales, um, for, uh, to, to better, uh, to address the, uh, storm water concerns on the site. As we get into, uh, the application, you’ll see that as plans advance, uh, it’s, it’s not atypical to have these arrays adjust and change and, and shrink in size as we get, uh, further along with our storm water design. Um, the, uh, third spot I’ll bring your attention to – just one moment please – is the, uh, along the southern edge of the, of the array, um, and, uh, a portion of this array, uh, actually bumped out further to the south here. Um, this has also been, um, been removed, uh, because of, um, just some inefficiencies of having panels in that area. Uh, the, uh, reduction of cleared area and, uh, mo-, moved the panels away from what I believe is known as, uh, Goat Rock in, in this area, which is a, uh, a historical, uh, or an area that’s, uh, that was slated for conservation. Um, the panels, uh, also, uh, in, in this area here – now we’re on the southern ar-, array – um, you can see where it says ‘proposed utility pole’, ‘transition overhead electrical pole’, um, also, once again, some more, um, panel array shape change to, due to the refinement of the storm water. Um, same thing along the southerly edge, uh, some of the steep slopes, uh, over on this area, um, and also to accommodate, uh, more storm water, uh, facilities. Um, and then, finally, um, the, uh, the driveway, um, for – at, at your, at the Pre-App, uh, hugged the northern property line here, and, uh, now actually, uh, follows the existing access way, hugging the, uh, the southerly property line, and then coming up and, and going over to that crossing. Um, I will note that, uh, with this Master Plan, uh, Woodard and Curran has

done a very good job in, uh, providing a detailed, uh, relatively detailed, uh, drainage design. Um, it is by no means, uh, um, completed. Uh, we-, we're still – there's still going to be some refinement to it. Um, the, the DEM [Department of Environmental Management] has, um, has provided, has just recently issued, within the last couple weeks, um, their, uh, formal guidance, um, for, for, um, for solar facilities, as far as, uh, storm water, uh, management goes. Um, so, uh, although we've been keeping up with the, with projects that we've worked on, um, constantly working with the DEM [Department of Environmental Management], um, as you may or may not know, uh, it, the, the, uh, regulations for solar, you know, are, are still relatively new, and, uh, DEM [Department of Environmental Management] has been trying to catch up with these projects, uh, with, with good, good, good, and best management engineering practices, and, and the consultants have been trying to, uh, at least the ones, um, the projects that I've been on, have been trying to keep up with them on, um, you know, providing good feedback on what's working, what's not working, uh, making sure that site, sites are stabilized properly, they're phased out properly, and we, of course, want to, um, be a, uh, um, be part of the solution and not part of a problem, and, especially, you know, especially in light of this project, and, so, um, we have submitted - the plans have been submitted to Rhode Island DEM [Department of Environmental Management], um, and we received comment, uh, within the last week, um, and we would, we will be addressing those comments. I will note – as we've, uh, heard before, that, that will be more of, uh, something that is going to be addressed at Preliminary Plan, but I, I will say that we are, uh, I, I feel that we're, uh, significantly, uh, ahead of the game, um, in that, uh, we've made a submittal and re-, received comment from DEM [Department of Environmental Management], and are able to work with them and the Town contemporaneously, along parallel paths to make sure that this project is, um, construct – is, is designed and, um, approved with both, you know, Town input and State input, to make sure that there is no adverse im-, impact to any of the, uh, natural resources and wetlands, uh, to this area. Um, I'm not gonna, uh, take George [Gifford]'s, uh, thunder, but will note that the, uh, the berms along the northerly and northeasterly, uh, portions of the site, um, that's, uh, will, uh, provide as buffers as well as all the landscaping, so, um, I will let, uh, George [Gifford], uh, identify that. Um, just a few, uh, housekeeping things – we're not in a natural heritage area, um, so, uh, no, no, uh, issues with, uh, that we're should be concerned with, with any endangered species. We are within a wellhead protection area, uh, at least a significant portion of the lot is, however, um, we don't anticipate that this type of development, um, will have any impact on the groundwater aquifer, um, especially since we'll – we're going to be managing and mitigating our storm water, uh, making sure that it's both, uh, treated for water quantity and water quality, uh, prior to, uh, infiltration back into the ground, or discharged to the wetlands, uh, protecting that groundwater resource. Um, we've identified that the, uh, the zone change was approved, and we're going to be meeting all applicable zoning setbacks. Um, we're using the existing infrastructure and, uh, cleared site areas to the greatest extent practicable, um, as any solar project's, uh, most, most solar project, we're gonna require some clearing, uh, to accommodate, um, these solar panels that will be installed as part of the proposed, as part of the proposal, uh, but, making sure that we, uh, we, uh, abide by, and, and observe all applicable setbacks and buffers, which, uh, which we believe this plan has achieved, and we'll continue to do so as we move to Preliminary, assuming that this Master Plan is

approved. Um, we're – are not within a flood zone, uh, we're in a Zone X I believe, uh, which does not have any flood impact, um, and, uh, we have not identified – I don't believe there's any, um, historical or archaeological sig-, significant features on the site, um, and that, uh, that, uh, that will be addressed as, as required. Um, there's no, um, open space, uh, required, uh, requirements, uh, that we're aware of, uh, for this, for this project or any, uh, scenic or green spaces that, uh, that are applicable, uh, to, to this site. Um, there should be no, uh, really stressor, uh, on any public facilities, as most of you know, uh, solar facilities do not ta-, are not a tax on any, uh, existing infrastructure, as they don't require any sanitary, sewer, septic, um, any really water, water source, um, and, uh, are very low impact as with respect to traffic, um, and, considering that, um, the, uh, the maintenance on such a, of, um, facility is, is periodic at best. Um, they're very [unintelligible], self-sufficient, um, I believe probably mostly remote. Um, uh, the principles of, of, the, uh, the solar, uh, developers are, are here this evening, uh, John Schroeder and Frank Epps, if there's any, uh, detailed questions on, on the solar arrays themselves, or the technology that is gonna be used and implemented, uh, with, with the solar facility. Um, with that, I think I've hit most of the, the high points of this, uh, proposal. Um, if, if I, um, if I may, I, I would, uh, defer any questions, um, towards the end of the presentation. I would like to, uh, pre-, uh, have, uh, George Gifford and Marc Tremblay present, uh, and then, um, open it up to, uh, while – and then have, uh, Mr. Epps, uh, say a few words, uh, unless it pleases the Commission to, um, focus on, uh, the engineering aspect of it, if they have any questions for myself or Stephanie Kaiser, the engineer of record.”

Ms. Jalette explained that she had just made Mr. Gifford and Mr. Tremblay panelists. Mr. Cherenzia thanked her, and asked Mr. Gifford if he was ready to present his landscape plans. He replied that he was. He then began.

Mr. Gifford explained that he is a licensed landscape architect, and that as such, his “task was to address, really, two landscape issues.” The first was “to specify various seed mixes so that, uh, upon completion, all disturbed soils on this site, uh, would become stabilized”, and the second was, as Mr. Cherenzia mentioned, “to address the, uh, the landscape planting issues, uh, uh, specifically regarding woody landscapes as they apply to the screening of this project to, to abutters.” Mr. Gifford stated that both of those “two issues had to be addressed within the parameters of the, uh, zoning approval.” The first sheet of the Landscape Plan that he referenced was L-1. He stated that it served as a “key plan, uh, because the project as a whole, when shown on one sheet, is at 200-scale, and that scale is much too small to, um, to prepare landscape planting plans, so it simply orients, uh, the person reviewing the plan set, and it identifies, um, three different areas, uh, where we get more detailed in the, um, in, in displaying the landscape plantings.” He said that L-1 was “oriented similarly” to the plans prepared by the engineer of record, Woodard and Curran, and featured Skunk Hill Road to the north and Arcadia Road in the southeast. He then asked Mr. Cherenzia to turn to Sheet L-4, which was the sheet that “addresses the soil stabilization” objective that he had mentioned earlier. He said that it “identifie[d] three different seed mixes”, and that “one mix will be used, uh, uh, really, for the most part, throughout the entire site.” He explained that they referred to that mix as a “meadow mix”, which is a “very hardy, adaptable, and easily managed mix”, with a

“small percentage of annual rye in it”, which would serve as a “nurse seed, to establish very quickly and stabilize the soils.” He reiterated that that mix would “cover the majority of the site upon completion.” The next seed mix Mr. Gifford discussed would be specifically “utilized within the drainage facilities.”

Mr. Gifford: “These are the areas that are shown in the darkest tone, the small areas in the darkest tone. Those drainage facilities, we anticipate, will, uh, need to, um, uh, have certain periods of inundation when, uh, the soils will be very wet, so we had to specify some seed varieties, some, uh, herbaceous plant varieties that can take periodic, uh, inundation.”

He explained that the third seed mix would be “the pollinator habitat mix”, which would address “one of the concerns of the, uh, the Zoning Ordinance”, which was “to incorporate, with this project, some pollinator habitat areas”. Mr. Gifford stated that the “most appropriate areas to specify the pollinator habitat is the berm areas” that he would be “talking about next.” He said that the berm areas would “provide a dual purpose”, as they would “provide screening within the north and northeast areas of the project” and also “provide this habitat for, uh, nectaring and feeding of pollinator insect species.” He said that all of the “pollinator habitat species” that had been selected would all be “native species” with “a blend of, um, of flowering times from early in the season to late in the season.” Mr. Gifford said that the pollinator habitats would “also address feeding of insects and, and, um, uh, insects that, that may need to do some over wintering, uh, so these, these plant types are, um, are, are designed for that use.” He then asked Mr. Cherenzia to move to Sheet L-2 so they could “talk about the screening”.

Mr. Cherenzia: “Now, I’m going to address the landscape planting component, specifically as it address screening. Those of you who may have read through the approved Zoning Ordinance, you’ll see that a landscape berm is specifically outlined in that Ordinance, uh, for screening purposes, and that berm is specified to be 12 feet high, so I thought it would be appropriate, on this plan, to prepare a cross-sectional diagram, uh, in order to help all of us, including myself, to understand the scale of this berm. Uh, a 12-foot high berm, uh, this means that the, uh, the effective screening of the solar array begins immediately after the land form is completed on this project. It, it means that the project will be afforded a 12-foot high screen even before the trees are planted on top. Um, I placed in this diagram, in the bottom right hand corner, the image of a six-foot high person, uh, just to help us, um, uh, visualize the importance of a 12-foot high berm, and then the landscape plantings that will go on top of this berm will be installed at a minimum height of four to five feet. Sergio [Cherenzia], let’s scroll up to the top there. So, along what you see there, that, uh, uh, is, is indicating paral-, paralleling Skunk Hill Road, uh, just south of the road, and then again, on the eastern side, uh, running alongside the entry road to this project is this landscape berm with, uh, evergreen plantings located at the pinnacle of the berm. The plantings are, uh, a mixture of evergreen trees. We’re specifying four different types of trees, uh, and it’s, it’s appropriate to specify a mixture, just so that we’re not getting caught in uh, uh, a monoculture situation, uh, where the, the potential for any diseases could come along and, and wipe out the entire, uh, evergreen screen. Uh, additionally, these trees have been specified so that the, the density of the

evergreen branches remain from the top of the tree all the way down to the, to the base of the tree. There are, uh, numerous evergreen trees sometimes utilized, uh, in which their natural habit is to get very thin in the lower regions of the tree as time goes on, but all these trees will remain dense from top to bottom. Um, they're also, of course, all deer resistant, so that they won't, um, be damaged by foraging deer. I'd like to point out, a-, again, on that screen, uh, which I have lost -"

Ms. Jalette stated that the screen sharing should still be allowed, and she was not sure why it had disappeared. She said that it could have been because Mr. Cherenzia was "no longer in the meeting". Ms. Jalette asked Mr. Craven if he had "the ability to contact" Mr. Cherenzia. He replied that he did, and that he would call him. Ms. Jalette thanked him. They waited for a few minutes before Mr. Cherenzia rejoined the meeting. Ms. Jalette made him a panelist again, and explained that screen sharing was still available. Mr. Cherenzia apologized for the delay. Mr. Gifford began again.

Mr. Gifford: "So, I would like the Board to look at the entrance to this project off of Skunk Hill Road. Uh, this was something that I worked closely with the project engineer, Woodard and Curran, uh, in order to develop an appropriate screening of the solar array, uh, uh, around that entrance, and I would add that, uh, my recollection is that this proposed entrance falls directly within the, uh, the alignment of the existing entrance as it comes off the, the edge of the roadway. So, so those of you that are accustomed to driving by this site, where you see the existing entrance – that is where the proposed entrance will be, off of Skunk Hill Road. Now, in order to, uh, uh, screen, thoroughly, the solar array, from the road, it presents a minor design issue, because, obviously, you need to provide an entrance, and this could also create a visual corridor from the road into the array, and so, uh, what we have devised, you'll note, that the proposed roadway has a little bit of a wiggle in it, and that allowed us to overlap the two screening berms a little bit, and where we couldn't overlap the two berms, we, uh, were, were able to overlap the landscape evergreen trees more thoroughly, bringing them down, uh, along the side of each berm and abutting them up to the roadways so that the, the trees overlap more thoroughly, and, of course, because these trees were coming down the side of the berm, uh, those trees have been specified at a higher installation height than the trees going at the top of the 12-foot berm. Uh, so let's move on to the, the next screen, Sergio [Cherenzia]. So the next screen, uh, address-, identifies further screening. There's the, the, uh, the detail to the left, uh, is an additional berming that, that extends along the east side of the property, and the same technique was used there with a, uh, large, 80-foot wide by 12-foot high landscape berm, stabilized with pollinator habitat seeding, and topped with evergreen trees, with a mixture of four different types of evergreens. The other detail, landscape detail, uh, in the top right hand corner there, uh, addresses some additional screening to neighbors, uh, um, closer to Arcadia Road. Here, we aren't, ut-, utilizing the berm. There simply isn't any room, uh, and I don't think it's necessary. Um, we aren't screening solar arrays at this point – we are simply trying to minimize any potential visual impact there may be to the roadway. So, we're placing a mixture of evergreen trees alongside the roadway to create a dense, uh, evergreen barrier, uh, uh, visual barrier, uh, from those abutting that portion of the project. So, that, that concludes my presentation."

Mr. Cherenzia said that he wanted to “add that, um, these areas are in addition to some existing, uh, vegetation that you’re proposing to leave in-, intact”. Mr. Gifford replied that that was correct, and that the site “has significant vegetation all over it”. He asked to return to Sheet L-4, which “was a sheet that was, uh, initially prepared” as the “soil stabilization sheet.” He continued.

Mr. Gifford: “I would only want to add that, um, the, the planning director, Mr. Lamphere, requested that I add a third, uh, layer on this sheet, and that’s the area that’s identified in green. The green areas are those forested areas that will be removed, uh, so that’s the only, uh, layer on this sheet that indicates, uh, uh, an activity that will happen prior to the landscaping. Uh, and I, and I understand why your planning director wanted me to do this. Uh, it, it’s a, it’s an appropriate tool, to be able to see these areas at a glance, uh, but it, it is a heavily wooded site in general.”

Mr. Cherenzia thanked Mr. Gifford, and said that he wanted to mention that the proposed area to be cleared would equal “about 40, 40 acres, and the remaining wooded area is gonna equate to about 90 acres, um, that, that will be preserved, uh, in addition to the additional buffering” Mr. Gifford had mentioned. Mr. Cherenzia then asked Mr. Tremblay to appear before the Board.

Mr. Tremblay asked Mr. Cherenzia to return to the first plan set that he had shown the Board, which he identified as C-100, which provided “a good aerial view of the forest that’s there.” Mr. Tremblay then explained that he is a “consulting forester here in Rhode Island, Mass[achusetts] and Connecticut”, and that he is “licensed in each state.” He stated that he had appeared before the Planning Board before on other projects, but for this particular project, he “did a forest assessment”, and he was there “to broadly explain, um, what the existing forest cover looks like, uh, what it’s comprised of”. He said that “in [his] forest assessment report, [he] broke the three areas up”. He said that the “northern area includes a few acres at the southern end of the field that would be cleared as part of the arrays”, and noted that there was “mixed hardwood in there – some red maple and oak.” He continued.

Mr. Tremblay: “Uh, that’s just a few acres there – I think maybe three or four acres there. Uh, the area two, on the southwest side of the project area is mostly upland oak, or mixed oak, um, with, uh, an area – some very heavy, thick mountain laurel understory, and, as you can see from this aerial image that’s up here, this, I believe was taken in 2016, because you can see the extent of the gypsy moth defoliations in the spring of 2016. That’s why the woods, um, to the, the left side of the screen, or, or the image, are, uh, uh, look brown, and, uh, y’all remember the gypsy moth defoliations from a few years ago, and now it’s been a couple of years since I’ve been out here, and my report identified scattered dead oaks in the, in the forest, and I suspect there’s probably more now, since we’ve had periods of drought and subsequent attacks by the two-line chestnut borer on some of the stressed trees that would be in there, uh, but it’s, uh, heav-, heavily stocked, uh, oak, mixed oak stand with, like I said, a, a heavy understory of mountain laurel. The, uh, the wooded area on the lower right portion of the project is, uh, predominantly white pine. There’s some, there’s some hardwoods mixed in with it, uh, but particularly to the

southern half of that area it's, uh, predominantly white pine. Um, there are a number of access trails that cut through there, so, I'm sure the folks in the neighborhood, um, have seen the pine, uh, on these, on this, uh, property, and, um, like I said, the northern half of it tends to be a mix of oak and, and pine, and you can see some light discoloration, um, on that. It's right in the middle of that southern portion of the property there, to the left of that white block that shows, uh, defoliation in there, so you can always tell where the, where the oaks are, based on how the gypsy moth follows thro-, follows them through the woods. Um, and, so, those are my observations. I, I was, uh, I'm not sure, exactly, the number of acres that are gonna be cleared. I heard, just heard Sergio [Cherenzia] say 40. I thought it was maybe a little bit more, but we'll get a final number on that, um, as we move forward. I think some of the areas that I first reviewed have been cut back, as per his presentation earlier, so it must be closer to 40 acres that's going to be cleared for the project, um, and, uh, if anybody has any questions, I'd be glad to answer them, um, following our presentation."

Mr. Cherenzia thanked Mr. Tremblay, and said that before the applicant opened it up for questions and comments, he wanted "to make a quick point of clarification." He continued.

Mr. Cherenzia: "Um, that, uh – before I had indicated that the drives, the Skunk Hill drive, and George [Gifford] uh, very, uh, precisely indicated, you know, that the, the, um, the entrance on Skunk Hill is gonna remain in the same location, but it's gonna meander, and actually pushed closer to the berm that we presented, not further away, so I made a mistake there. You can see – there's an existing, uh, road, roadway that we were previously following, and, actually, was shifted over, um, towards the berm, so we'd be cutting a new, a new, uh, roadway, so that it opens this area for more contiguous panel space, um, as opposed to trying to bifurcate it, um, and – but still remaining outside the appropriate wetland, uh, and riverbank, uh, uh, uh, buffers. Um, so I just wanted to make that point of, uh, of, uh, clarification. Um, also, uh, the crossing which I alluded to earlier is an existing, uh, crossing – the one that, um, runs, uh, on the, what we call the Tefft land or the Hopkinton Land 1. Um, it, it is an existing, uh, crossing that we are going to, to, um, improve, uh, for the purposes of the solar facility, uh, and I did also want to make, uh, make the, uh, um, the point that, uh, we – this has been reviewed by the, uh, the Fire Department, Fire Marshal, and, uh, as the, as in similar project, uh, they are requiring – I believe this plan represents, or, uh, indicates, an 18-foot wide, uh, main drive, and, uh, we will be required, uh, per the Fire Department, I believe – applicable fire code, to have a 20-foot drive, so that drive will get a couple feet bigger, uh, than what is portrayed on this site plan, but should not have a substantial impact. Um, so, given, uh, those points of clarification, I believe, uh, Frank Epps, uh, one of the, uh, principles of EDP [Energy Development Partners], um, wanted to say a few words, uh, regarding the project."

Mr. Cherenzia then asked if Mr. Epps was on the call. Ms. Jalette explained that she had to elevate him to the role of panelist. Mr. Epps then spoke before the Board.

Mr. Epps began by stating that he appreciated Mr. Tremblay's "professionalism in the presentations", and then introduced himself. He stated that he is a principle of Energy

Development Partners, as well as “a member of the land ownership of Hopkinton Land 1, LLC.” He stated that they had “purchased the land from the, uh, from the Tefft family”, and closed on it “between 2017-2018.” He stated that they also have “a purchase and sale agreement with Mr., uh, Donald Gordon for the purchase of the, of the properties shown on the maps, uh, that have been presented.” He continued.

Mr. Epps: “Uh, the Solicitor brought up a, uh, a issue, concerning, uh, what was ca-, what was, uh, considered to be, from, I understand, some letters that I have rec-, that I have received and reviewed, uh, from, uh, Mr. and Mrs. Dube and Mr. and Mrs., uh, Bryant concerning some construction activities that happened, uh, down on the Arcadia Road area, and, and, Sergio [Cherenzia], if you could, just, uh, the access road, uh, for Arcadia [Road], if you don’t mind just bringing that up.”

Mr. Cherenzia pulled up Sheet C-200 on the Master Plan at Mr. Epps’ request. Mr. Epps then continued his testimony.

Mr. Epps: “So, um, one, one issue that came up, and, uh, was that the current owner of this property started to do some excavating, uh, in the northern portion of this lot that you see, that, uh, and it was, it was thought to be a, an issue concerning a possible movement of the, uh, of the access road. I’m here to tell you that, uh, as we found out that that, uh, uh, activity was going on, we put a halt to it. That was – it, it had nothing to do with the solar facility, and the road, uh, the access road is not, uh, being put in, in that area that, uh, the owner had ex-, excavated. The access road is going to be as shown on this plan, and, and will remain accordingly. Uh, we have, uh, also been asked to make sure that there is additional, um, buffers, if you will, uh, like a row of evergreen trees from Mr. and Mrs. Dube, uh, that, uh, that we will make sure that uh, if, if not already incorporated in the plan, but I believe George [Gifford] has shown, uh, an additional screening. We, uh, we will – I have, I do agree, and we will make sure that takes place as well, if it’s, if it, if not appropriate on the plan. So, I wanted to make sure that I had, that I addressed this issue. Um, I, uh, again – we put a stop to the, the excavation of, of, that was being done, uh, by the current owner, and it had, uh, really nothing to do with the, uh, with, with the solar facility itself, and, uh, although we’re not responsible for it, I just want to apologize, uh, for that, that, that that happened, um, and that, again, we did, uh, take, uh, appropriate action immediately on it. So, other than that, um, I’m here to answer any questions, uh, that the, uh, the Planner, uh, excuse me – the Planning Board might have – the Chair and the Planning Board might have, um, and I thank you very much for, uh, for your time.”

Mr. DiOrio thanked Mr. Epps. Mr. Cherenzia then stated that he thought that that concluded their presentation, but that they were “open for, uh, any other questions.” Mr. DiOrio thanked the presenters generally. He then asked if there was “legal counsel on the other side of this argument.” Ms. Jalette replied that there was. Mr. DiOrio said that he would “afford that, uh, that party the opportunity to, uh, do a presentation next”, and then he would turn to the Planning Board members, the Planner, the Solicitor, the Conservation Commission Liaison, then the general public.

Mr. DiOrio: “That, of course, will not all happen this evening, so if, uh, the folks on the other side of this argument would like to get started with their presentation, you’ve got, uh, you know, say, 30 minutes to, uh, at least get started, and then there’ll be the inevitable continuation.”

Mr. S. Paul Ryan, the attorney for the objectors, appeared before the Board. He said that he was going to “present the testimony of Mr. Friedrichs if he’s available tonight”, but that “some of the material” that he had “sent into the Board has not been in their packets”, so he “respectfully reserve[d] the opportunity at the next meeting, whenever that is, uh, to have submitted some written materials and do some follow-up.” Mr. DiOrio replied that the Board could “accommodate that.” Mr. Ryan then called Mr. Friedrichs to testify. Mr. Ryan noted that the Board had “certified him, or recognized him, as a, um, expert in municipal planning” when he had appeared before the Board earlier than evening, so he asked the Board to “recognize Mr. Friedrichs as a municipal planning expert.” Mr. DiOrio said that they could do that. Ms. Jalette then told Mr. Friedrichs that he had been unmuted and that he could begin whenever he was inclined to do so.

Mr. Friedrichs stated that he had provided the Board with a report that was “focused on the findings of fact required to be made by the Board prior to reaching a decision on this matter in accordance with Rhode Island law.”

Mr. Friedrichs: “So, starting with Finding 1 – consistent, consistency with the Comprehensive Plan. Um, I, this, uh, the, the designs presented for this solar farm in this site, this development will radically transform unfragmented forest and agricultural land and negatively impact scenic Skunk Hill Road. The buffering is insufficient, and I cite specific goals, policies, and objectives that, uh, which this proposed development is inconsistent with in my report, and I welcome the Planning Board to adopt any of these in its finding. I want to further state that the Planning Board has to make findings of fact and conclusions of law. It’s your job to make the required findings from an administrative and judicial perspective. Siding with the developer is not a victim, victimless crime, as the abutters have a right to an impartial Planning Board, fairly applying the law, and voters have a right to spur their elected officials to action, as we just saw with the State’s pyrolysis ban. The Comprehensive Plan amendment for this petition was never acted on by the Planning Board as stipulated by Rhode Island law. Therefore, the amendment is not valid, and the 2017 version of the Future Land Use Map for this area applies. I will note that I worked on a 200-page Comprehensive Plan amendment in Newport to justify adding residential uses to Newport’s commercial industrial zone. It’s simple improper for the Hop-, Hopkinton Planning Board to keep approving massive solar farm developments without any justification in its Comprehensive Plan. Excuse me. Addressing Finding 2, compliance with the standards and provisions of the Zoning Ordinance – the same require to make – findings of fact and conclusions of law applies here. The abutters with rights to appeal, and the electorate, wants to see the law fairly and impartially applied. Voters changed the Council and the Council changed the Solar Ordinance ten days before the application was certified complete. That is the Ordinance that must be applied to this project. The applicant for Stone Ridge appears to have successfully argued that the Zoning Map amendment was subject to future zone changes. Now, the applicant for this

project is claiming the exact opposite. It can't be 'heads I win, tails you lose.' Findings 3 and 5 can be addressed at a later review stage – if the project advances, which it should not, because it does not meet the required findings. Finally, I will conclude that participating faithfully in a land development project review isn't intended to expose you to great financial liability, either as an applicant, a member of the public, or the municipality. With that, I will make myself available for any questions from the Board. Thank you.”

Mr. DiOrio thanked him, and told Mr. Ryan that he still had the floor. Mr. Ryan said that he did not know how the Board was “going to take the questions of Mr. Friedrichs”, as they had not questioned the applicant’s representatives yet, but that he thought that the Board could ask Mr. Friedrichs “now since he’s available tonight.” Mr. DiOrio asked Mr. Ryan if there was anyone else that they would be presenting. Mr. Ryan replied that he wanted to have Mr. Friedrichs written report “incorporated into the record as an exhibit”, but that he was going to “defer [his] presentation to the next meeting”, and that he would “turn the meeting over, uh, to the abutters who may want to speak at this time.” Mr. DiOrio thanked Mr. Ryan, but stated that turning the meeting over was “[his] role”. He reiterated his earlier inquiry about whether or not Mr. Ryan had any other experts prepared. Mr. Ryan replied that they had “no other experts”. Mr. DiOrio said that that brought the “opportunity for Planning Board members, uh, to ask questions of both the applicant and, uh, Mr. Ryan’s experts.”

Mr. DiOrio began. He had a question “directed to the applicant”.

Mr. DiOrio: “And, uh, it was touched upon by Ms. Hogan a little bit earlier this evening. So, um, there’s this issue of, uh, the application not necessarily following a certain procedure, and I understand that, uh, this is not within the purview of, um, of the Planning Board, but my question to the applicant, which I presume has already been addressed, uh, in your [unintelligible], is can you tell us why you believe this application is properly before the Planning Board? Given it, given its earlier route.”

Mr. Craven asked Mr. DiOrio if he wanted him to “address that”. Mr. DiOrio replied in the affirmative. Mr. Craven then responded.

Mr. Craven: “Um, I agree with your Counsel’s, uh, suggestion – that this matter is now before the Court in Washington County, uh, Superior Court on this very issue, but I don’t believe that it would be completely inappropriate for me to at least generally answer your question. In the scheme of, uh, of the law, as it relates to, uh, this particular application, uh, when one, uh, applies for, uh, a, uh, zone change, as you know, Mr. Chairman, from your experience as Chair of the Board, it requires a Planning Board up or down recommendation to the Town Council, and that happened in this instance, and, uh, I believe it was your own words to Mr. Epps that you didn’t believe that the project was a bad project, you just believed that you didn’t have the authority, given the Comprehensive Plan. Um, since then, uh, the Town Council disagreed, made findings of fact, and, in fact, granted both a change to the Comprehensive Plan that is consistent with what we’re applying for, as well as, uh, the zone change for this particular use, with 20,

um, uh, 20 conditions to be, to be applied. The, uh, law that is concerning, uh, the parties here is the law related to, uh, these precedent of approval. Uh, we have submitted, uh, a brief to the Superior Court, and that will be, uh, heard, uh, before, uh, Judge Sarah Taft-Carter in a couple of weeks, where we described, in great detail, why that particular law doesn't apply in these circumstances, and the, uh, objecting Counsel, uh, that you just heard from, Mr. Ryan, uh, thinks he's correct, and I believe that, uh, I'm correct, and the ultimate decision will be made by Judge Sarah Taft-Carter. So, uh, you could hear me argue or debate the issue with Mr. Ryan, but I believe the best, uh, evidence, uh, would be – since, I guess, our next appearance would be somewhere inside of the next couple of weeks, maybe a little longer, I'm not positive whether the next day would be available. We may, in fact, have a bench decision from Judge Taf-, Sarah Taft-Carter, which would put this issue to rest – or we may not. Uh, but, uh, I believe that, uh, the law is very much on the side of, uh, the applicant. So, if there are any further questions, I'd be happy to answer them, but, it would get into a legal discussion that would be a back and forth with - in all likelihood – between myself and Mr. Ryan, who would not want me, my assertions to be un rebutted.”

Mr. DiOrio said that Mr. Craven's overview “was appreciated”, and that he just needed Mr. Craven's “address of that topic.” Mr. DiOrio then asked another question, and said that he was going to be “completely candid.”

Mr. DiOrio: “Have you considered a reduction in the scope of your project, and would you be amenable to such a request?”

Mr. Craven: “Uh, well, I, I'm answering a question that, uh, that I don't know what it is – as far as ‘the scope’ of the reduction you're referring to.”

Mr. DiOrio asked Mr. Craven if the applicant would be open to eliminating Sections A and B. Mr. Craven replied that he would let Mr. Cherenzia answer “in reference to what the parameters – what the amount of, uh, solar, uh, uh, that would be covered by A and B”. Mr. Craven asked Mr. Cherenzia if he had “some sense as to” that. Mr. DiOrio interject that he was “only asking if [the applicant] would consider a reduction.” Mr. Craven responded.

Mr. Craven: “We will consider everything that the Board requests of us, um, if it is consistent with what our goals are. We're not here to, uh, to shove it down anyone's throat, uh, and I know that's kind of a crude way of putting it, but that's usually the way that, uh – at least, in my experience – from hearing, uh, people address solar, uh, projects in the past that we've presented, uh, before Hopkinton citizens. I think this, uh, company did its best to calm some of those waters to, to, uh, have people feel as though we're listening to you. We do not want it to impact your neighborhood. We don't think it should be visual, it, it should impair your visual, uh, acuity in your neighborhood to see it, to have, to, uh, put up with it. Uh, now you're asking it to be reduced. I, I, I can't say we wouldn't consider it, but I say that it would, uh, substantially, uh – without talking to the clients – it would be substantially, uh, dictated by the amount of, of what it is you're suggesting, that would reduce the size of the project, and then the, the income from the project, and the production of, uh, solar electric-, electricity, which would be sold to

National Grid. You may have heard, Chair, Mr. Chairman, that, uh, there was, uh, some talk, uh, there was a bill that was vetoed by the Governor today, or at least it was reported today, uh, in reference to, uh, charges that are being passed on, uh, without reconciliation and without explanation by National Grid to connect to the grid. Um, so, when we received this approval back in June of 2019 from the Town Council, it was a much less expensive proposition than it is today, and, obviously, there would be some considerations given by the company as to whether or not, uh, the financial viability of the project, uh, would be impacted by what you are suggesting, um, as a reduction. So, uh, I'm open to it – I just think I've outlined the, uh, categories of concerns that we would have, and if that helps you, Mr. Chairman, uh, to articulate what it is you're looking for, and the likelihood of whether we would agree with you, I hope that helps, but we are open-minded to, uh, what your suggestions might be.”

Mr. DiOrio said that Mr. Craven's response answered his question. He then told the other Planning Board members that this was their opportunity to ask questions. Ms. Light spoke next. She said that she wanted “to address an issue that came up last fall, and in January”. She said that Ms. Hogan had “reviewed [her] inquiry regarding who the actual applicant is”, and she wanted to “just pick that up”. She said that Ms. Hogan could “elaborate on it, but, on behalf of the Planning Board”, she needed to see “an affidavit indicating who the project's owner is.” She continued.

Ms. Light: “We've seen about a half a dozen LLCs named throughout the duration of the presentations, both to the, uh, Planning Board, uh, to the Town Council, and back to the Planning Board, and with the presentation of the maps this evening, it's, uh, clearly been identified as, as three parcels of land, and our thinking is that this is one owner, but three parcels of land. We need to know who's going to be responsible for the project going forward, um, and I'm not going to elaborate anymore because I don't play a lawyer on TV, but I, I would hope that Maggie [Hogan] could jump in and help, uh, elaborate on what we might need to have from the applicant.”

Mr. DiOrio thanked Ms. Light, and said he didn't know if Ms. Hogan was “going to address that right now”. He said that if she was not, other Planning Board members had the opportunity to ask questions. Ms. Light said that she had “one other question”, which “related to the 10-foot wide access road that's going over the wetlands”. She was wondering if “legally, that's too small.”

Ms. Light: “Is that going to be accommodated to 20 feet? Is, is that where we're going with this?”

Mr. Craven asked if Mr. Cherenzia or Ms. Kaiser could answer Ms. Light's question. Mr. Cherenzia said that he could “probably address that”, and that Ms. Kaiser could correct him if he was wrong. Mr. Cherenzia said that he believed “that 20 feet will be required, uh, throughout, uh, throughout the site, so, um, those, those crossings that were narrowed to, uh, accommodate the wetlands will likely have to be widened, uh, to meet, uh, 20 feet, um, width.” He continued.

Mr. Cherenzia: “So, this, this plan – please do take the, the driveway widths, or the drive, the access widths with a grain of salt. Uh, when we go to the next, uh, phase of our design development plans, um, those drives will all be widened to 20 feet for the, for the need for the fire code.”

Ms. Light and Ms. Jalette spoke at the same time. Ms. Light deferred to Ms. Jalette. Ms. Jalette stated that she had made Ms. Kaiser a panelist, so if she wanted to “speak in regards to that”, she would be “able to do so.” Mr. DiOrio asked if Ms. Light had something else to add. She said that she did. She said that “the elephant in the room is the actual buffering for the abutters, the residential community, and that was discussed a lot, uh, throughout all of the hearings and testimony”. She said that she wanted to “know what the feel for that situation is” now that the applicant was before the Planning Board. Mr. Craven called for Mr. Cherenzia. He asked Ms. Light if that was a question for the applicant, and if it was, what the question entailed, as he was not sure he understood what Ms. Light’s question was.

Ms. Light stated that her attention had been “drawn to the Lisa Lane area on the maps, and there is a lot of potential exposure there”. She wanted to know what the applicant observed in that “line of sight from the project to the abutters in that particular area.” Mr. Cherenzia stated that there was going to be a “pretty significant” area in that vicinity that was “not going to be disturbed”, which had “some, some forested area that will act as a, a buffer.” He continued.

Mr. Cherenzia: “If they’re – if you’re speaking of the northerly, uh, portion of Lisa Lane, um, we’ve presented testimony tonight and, and within our plans and, uh, exhibits that, uh, there will be a berm, uh, with, with, uh -”

Ms. Light: “Yup.”

Mr. Cherenzia: “Vegetation at the top, which, which you heard this evening.”

Ms. Light: “Yes.”

Mr. Cherenzia: “Um, if there’s a specific area of concern, we’d be happy to entertain that, and see if there’s any visual corridor that’s, that’s more important that’s, that, uh, is, uh, it may be, may be lacking, but, a-, at this point, I think, um, our landscape architect and, uh, the engineer, uh, and, and they’re on – they can comment, but that, uh, with – we’ve done what we feel is a, a satisfactory, uh, job, to make sure that those residents along Lisa Lane are buffered, visually, from the arrays, given the 12-foot berm and the additional, uh, screening, if, if that does -”

Ms. Light: “Yep.”

Mr. Cherenzia: “Does not seem to be adequate, we would be happy to indulge in, and see if there’s specific areas that are of concern. Um, we try to take a, you know, a pretty broad brush, um, approach to making sure that it’s screened by, uh, making the, the buffer continuous throughout. Uh, if there’s areas that are lacking, with specifically, you know, with certain people’s vantage points, it’s something that we can, uh, look into.”

Ms. Light asked if the buffer was “going to be 80-foot wide” – if that was “what we heard tonight.” Mr. Cherenzia said that he believed so, but asked Mr. Gifford to weigh in. He did so.

Mr. Gifford: “Uh, when you, uh, combine both the berm and the landscape plantings on top of the berm, uh, yes, the buffering will be 80 feet wide. The berm itself is 80 feet wide by 12 feet high, and then the plantings sit on the top of that.”

Ms. Light: “Okay. That’s a big berm.”

Mr. Gifford: “It’s a huge berm.”

Ms. Light: “Thank you.”

Mr. DiOrio asked if any other Planning Board members had any thoughts. Ms. Shumchenia spoke next.

Ms. Shumchenia: “Um, am I reading the plans correctly in seeing that there are, um, some fencing – the road coming off of Arcadia Road, the access road, and some of these berms that are set within this 100-foot residential district buffer boundary?”

Mr. Cherenzia asked Ms. Kaiser if she was available to answer Ms. Shumchenia’s question. She did.

Ms. Kaiser: “Yeah, so, the project does propose to have, um, the, the solar arrays essentially enclosed within a, um, a fenced area, and that area generally is set back so, um, the fencing, for example, along the Skunk Hill, um, frontage – that proposed fencing is on the back side of the berm, so it’s, it’s interior, um, to the, the site development portion of things, and, similarly, on the eastern portion of the Hopkinton Land 1 parcel. Um, again, the proposed fencing is, generally speaking, it’s proposed to be on the, the left-hand side of the berm, so, the opposite side from the abutting residential properties, um, and then it does, does follow through kind of continuously around the, the different panel array areas on the various project sites.”

Ms. Kaiser then asked if that answered Ms. Shumchenia’s question. Ms. Shumchenia said she was referring to “the area of overlap with the 100-foot setback” in regard to the fence “is in the western portion of the, the set of properties.”

Ms. Shumchenia: “I’m looking at the dotted blue line on Plan Set C-200, and I see that it, it passes over and within some of those fences. I’m just, just highlighting that so, you know, structures should be placed well within this boundary – and the real concern for me is the road, coming off of Arcadia Road. Um, the access road is, you know, right up against the property line. It doesn’t even try to be with, you know, 100 feet from the property line, and so, I think that’s a concern – if, if I’m reading the plans correctly.”

Mr. Cherenzia said that he wanted to be sure that he was clear on what Ms. Shumchenia was asking. He pulled up Plan Set C-200, and asked her if the blue line he was pointing to was the one she was referring to. Mr. Cherenzia asked Ms. Kaiser if that was the 100-foot. She said that it was. Mr. Cherenzia said that he believed Ms. Shumchenia’s point was that “the fence follows right on top of, or maybe even across a little” the 100-foot buffer. She referred to it as “undesirable overlap” when the fence line was on top of the 100-foot buffer line. She also asked if the “massive berms should be considered, um, you know, a structure associated with this development that we would want to see inside this

100-foot buffer.” Mr. Cherenzia asked if she meant “between the 100-foot and the property line, or outside the hundred foot.” She replied that it she was wondering if it “should be like, in the interior - more towards the interior of the property.” Mr. Cherenzia said that the applicant could “take that into consideration to make those, those adjustments, um, as we refine the, um, the, the design development.” Ms. Shumchenia said that she had just wanted to “raise that” point. He said that he appreciated that, and wanted to address her second comment as well.

Mr. Cherenzia: “Uh, we do acknowledge that the, uh, the proposed drive does follow, uh, the property line pretty tightly along the southerly, uh, property boundary. That’s, that’s an existing, um, access way. Uh, was, the decision was made to follow that, as I alluded to in the, or mentioned in the – my first part of my presentation. It originally had come in along the north, um, and now it’s, it’s following an existing access way to the south, so, um, I would have to speak with my client, but, uh, we could give some consideration to relocate that, potentially, but, um, we need – I would need to speak with them.”

Mr. DiOrio asked if there were going to be any other Planning Board member comments. When he did not hear from the rest of the Board, he noted that it was 10:00 p.m., which was a “convenient break point” if the rest of the members agreed. Ms. O’Leary interjected that she agreed. Mr. DiOrio did not understand her at first, and Ms. Jalette told him that Ms. O’Leary had said that she agreed, and that she would reserve her comments for the next time. Mr. DiOrio asked her if she had anything she wanted to say. She said that she had been looking where Ms. Shumchenia had earlier, and she wondered “what the abutters would have to say about that road being right on the property line”, and that she would like to hear from them. Mr. DiOrio replied that he was “sure” that the Board would hear from them. Mr. DiOrio asked the Board how they felt about getting a motion on the floor to continue the discussion until a later date. Mr. Prellwitz said that he would agree with that.

Ms. Light made a motion that the Board continue the Skunk Hill Road Solar Hearing until the July 21st meeting at 6:00 p.m. It was seconded by Mr. Prellwitz.

In Favor: DiOrio, Prellwitz, Lindelow, Light, Shumchenia

Abstain: None.

Opposed: None.

5-0, the motion passed.

SOLICITOR’S REPORT:

1. Review of the Letter from Rhode Island Attorney General Peter Neronha to Lauren Clem, North Smithfield Resident, and David V. Igliazzi, Esq., Town Solicitor for the Town of North Smithfield, RE: Clem v. North Smithfield Planning Board and North Smithfield Conservation Commission.

2. Review of the Rhode Island Attorney General’s Annual Report of Complaints Received Pursuant to Rhode Island General Laws Section 42-46-1, Et Seq., The Open Meetings Act for 2020.

Mr. DiOrio explained that they had some administrative details to attend to. Ms. Hogan explained that she “provided, uh, two documents, uh, this month.” The first was an “interesting Open Meeting decision”, which was about a Planning Board “going on solar site visits.” She said that she thought the Board “might find that interesting.” She said that the “key takeaway” was that ensuring that if “a quorum of Planning Board members actually attend such a site visit, then they should not be engaging into, in any discussions”. She noted that because of the recent issues associated with the COVID-19 pandemic, which required streaming of public meetings, they could not “have a majority on site anyway”. She said that the Board had handled the most recent visits going “two by two”, and that had “seemed to work pretty well.”

She said that she also provided the Board with the Attorney General’s report from 2020 “on Open Meetings, uh, complaints that they’ve received and adjudicated, as well as public records requests.” She explained that that report is published annually, and that, typically, there is an Attorney General Summit in the first week of August “all about open meetings”. She said that the summit usually took 3 hours, but that members of the public could “also view those proceedings on their, their website.” She stated that these kinds of reviews were important, as the Board had “had a few instances where” Planning Board members had received “e-mails from members of the public directly to them, and not going through, um, the Planning Board.” She said that it would be a “violation” of the Board’s ethical duties “to have ex parte communications with members of the public outside the scope of the public hearing.”

Ms. Hogan: “So, um, I just suggest that when folks have some comments that they want the Planning Board members to consider, that, if they send an e-mail, or a letter, to send it to Talia [Jalette] as the Clerk, and then she can transmit it to everyone in an e-mail, and then it would go up on the, um, website as communication to be accepted into the record, and place on file.”

Mr. DiOrio asked to return to “the case on the solar site visits.” He said that he had heard that the Board was “going to be returning to our business as usual” shortly, and he wanted to know if that would impact “all site visits going forward.” He, essentially, wanted to know that if they returned to in-person meetings, would they return to in-person, group site walks. She said that in the decision that she referenced “there was a majority of Planning Board members on site at a visit”, and that the key thing “is basically to be listening, and not discussing” the project at hand. Mr. DiOrio asked if that would still be a public meeting.

Ms. Hogan: “It is a public meeting, but the landowner, again, does not, is not required to let the public on its property, and so, in the event that the public meeting were to go forward, someone would need to be taking notes, uh, and creating minutes of that meeting, and, you know, not word for word, but, basically saying, you know, the

applicant or the site per-, person, whatever, uh, directed us to this particular portion of the lot. We saw this, we saw that, you know, etcetera.”

PLANNER’S REPORT:

Mr. Lamphere stated that he had nothing to report.

CORRESPONDENCE AND UPDATES:

- 1. Letter from Eric Bibler – 6/11/21 – RE: RI Supreme Court Dismisses Unfounded Complaint against Bibler**
- 2. Letter from Richard Noel – 6/24/21 – RE: Upcoming Meeting**

Mr. DiOrio read the titles of the correspondence into the record.

PUBLIC FORUM:

Colleen Stephan, of Lisa Lane, spoke during Public Forum. As an abutter to the Skunk Hill Road Solar Project, she wanted to thank the Board for their time, and said that she would return on the 21st with her “complete thoughts”. She said that she understood that the Board “did not go after this change” to the Comprehensive Plan, and thanked them for that. She said she “just wanted to acknowledge” the Board and state that she was in attendance at the meeting.

Mr. DiOrio thanked Ms. Stephan and said that he looked forward to hearing her input later on.

DATE OF THE NEXT SPECIAL MEETING: July 21, 2021 (6:00 p.m.)

DATE OF THE NEXT REGULAR MEETING: August 4, 2021

ADJOURNMENT:

Mr. Prellwitz made a motion to adjourn the meeting. It was seconded by Ms. Light.

In Favor: DiOrio, Prellwitz, Lindelow, Light, Shumchenia

Abstain: None.

Opposed: None.

5-0, the motion passed. The meeting was adjourned at 10:11 p.m.

By: Talia Jalette, Senior Planning Clerk, 8/2/21