

**TOWN OF HOPKINTON  
PLANNING BOARD**

**REGULAR MEETING**

**Wednesday, July 21, 2021**

**6:00 p.m.**

**Hopkinton Town Hall  
1 Town House Road, Hopkinton, RI 02833**

**CALL TO ORDER:**

Mr. DiOrio began to call the meeting to order at 6:04 p.m., but “was rudely interrupted by technology” – a poor internet connection in the Town Hall Chamber. Those in attendance in Town Hall rejoined the meeting at around 6:06 p.m.

**MEMBERS PRESENT:**

Chairman Al DiOrio, Town Planner Jim Lamphere, and Senior Planning Clerk Talia Jalette participated in the Zoom meeting in person from the Town Hall Chamber. Planning Board Vice Chairs Emily Shumchenia and Ron Prellwitz, members Carolyn Light and Keith Lindelow, as well as alternate John Pennypacker joined via Zoom. Planning Board Solicitor Maggie Hogan and Conservation Commission Liaison Deb O’Leary also participated via Zoom. Town Council Liaison Sharon Davis did not attend.

**ROLL CALL:**

Mr. DiOrio asked the Board to state if they were in attendance through a roll call vote. All replied.

**PRE-ROLL:**

Mr. DiOrio asked the Board to state if they would be in attendance at the August 4, 2021 Regular Planning Board meeting. All members stated that they would be present.

**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 asked if he could “impose on Jim [Lamphere] for just a quick recap of where [the Board] left off and where [they were] going.” Mr. Lamphere agreed. He explained that at their last meeting on July 7<sup>th</sup>, they had been “searching for some sort of an indication from the Planning Board as to which way they were leaning, might be leaning, in terms of a decision” so that the Planning Board Solicitor could “craft a skeleton, uh,

decision”. He stated that Ms. Hogan had completed said draft, but that it was “expected that it’s going to be amended, uh, to some degree”, and that the Board was “prepared to go through that this evening”. He explained that the Planning Department had received “a couple of comments from Planning Board members” that they had then forwarded to Ms. Hogan “for incorporation, uh, into it”. He said that it called “for some discussion”, but that they were “at motion time right now.” Mr. DiOrio responded.

Mr. DiOrio: “Okay, so, we heard from the applicant. We’ve heard from any, uh, other involved parties. We’ve heard from the public, and it’s down to the Planning Board in a discussion of a possible motion.”

Mr. Lamphere noted that the Public Informational Meeting was still open, and that he did not “see the harm in, uh, just, you know, giving a last call for any public comments prior to decision time.” Mr. DiOrio agreed.

Mr. DiOrio: “So, if there’s anyone in the audience, uh – applicant, opposition, uh, those interested parties, that hav-, would like to put anything else on the table, this would be your opportunity before the Planning Board deliberates.”

Mr. Skwirz, the attorney for the abutting objector, asked if it would be “an appropriate time for [him] to make some final comments on the, um, draft decision.” Ms. Jalette explained to Mr. DiOrio that it was Mr. Skwirz who was speaking. Mr. DiOrio responded.

Mr. DiOrio: “Uh, so, the, the decision, really, isn’t on the table yet, so, I, I think, certainly, would like to hear your comments, but it might be just a whisker premature.”

Mr. Skwirz said that he could “hold off until, uh, the appropriate time.” Mr. DiOrio “respectfully suggest[ed] that maybe the motion needs to be put on the table before we start talking about discussions.” Ms. Hogan interjected.

Ms. Hogan: “Um, so, before the Board begins, um, I, I want to make the, uh – I want to put it on the record that it – I, I prepared, um, a draft motion for this matter, and also for another matter on the agenda this evening. Um, I, I finished it in the wee hours of the morning, and I very mistakenly forwarded the draft motion for this matter to the attorney on the other matter, and Mr. Skwirz did not receive this draft motion until just shortly before, really, moments before tonight’s meeting began, so, I would like to offer to him, on the record, my sincerest apologies for that oversight. It certainly was not intended. It was sent to all, um, members of the Board and the, and the Planning Department, and I, and I, and I messed up and sent it to the wrong attorney, so I do apologize.”

Mr. Skwirz: “And Mr. Chairman, uh, and, uh, to your Solicitor, I’d say, you know, it’s not an issue. I know that you’re a consummate professional, and so, you know, uh, I’m looking over it now, and as long as I have some time to comment on it, um, that’s quite alright.”

Both Mr. DiOrio and Ms. Hogan thanked Ms. Skwirz. Ms. Hogan said that it was “very honorable”. Mr. DiOrio said that Ms. Hogan had reminded him that he had something that he needed to put on the record as well.

Mr. DiOrio: “It was recently brought to my attention – on this particular project, that I was not in attendance, uh, during the March and April 2021 Planning Board meetings. Uh, my memory is engaged these days, and in all likelihood, I was before the Westerly Planning Board if, uh, if that decrepit memory serves me correctly. That said, once this was brought to my attention, I immediately reviewed the videos of both of those meetings – that’s March 2021 and April 2021 – to familiarize myself with the proceedings regarding this particular application. So, I needed to put that on the record to be clear, and, uh, with that, let me continue with my offer, uh, to, uh, hear anyone else in the audience that wishes to put anything else on the table regarding this application.”

Ms. Jalette explained that, thus far, there were two members of the public who wanted to comment. She asked Mr. DiOrio if he wanted to go directly to the public, or if he wanted to hear from the applicant. He replied that “the offer was, uh, to every-, anybody out there, so let’s get to ‘em.”

The first caller was Eric Bibler, of Woodville Road.

Mr. Bibler: “Yeah, I’d like to – you know, I’ve listened to all the, to the entire hearing and, um, there were some points that came up that were argued on both sides, but, um, I didn’t see that they were settled, and I just wanted to clarify – I want clarification from the Planning Board and/or the Planning Solicitor as to how these issues are going to be resolved. Um, as you will recall, um, the objectors to this project, uh, noted that, um, the applicant has requested some waivers from the application requirements. Uh, Mr. Skwirz maintained that the, uh, only the Planning Board has the power to grant those waivers. The, uh, the administrative officer cannot grant them – I, I hope I’m representing these positions faithfully, this is my understanding. I believe Mr. Landry, uh, maintained that these waivers could be, uh, granted at some future date, and didn’t necessarily need to be granted now, but what I took away from that discussion, in my layman’s understanding – I’m obviously not an attorney – was that while it may be possible for, um, for some of these requirements to be waived, I don’t think the point was resolved as to whether or not it requires action on the part of the Planning Board. So, I didn’t hear the Planning Board take any action to grant these waivers. You know, if it’s true that only the Planning Board can grant the waivers, then I would suggest that, uh, it would be appropriate that, uh, the Planning Board take that action, uh, rather than leaving this dispute hanging. Um, more generally, um, you know, I just want to reiterate that, uh, something that we’ve said before, that we’ve been trying to, trying to – a point that we’ve been trying to make for, uh, the past three years, on all of these solar projects. Um, the Planning Board is granted an immense amount of authority to make determinations as to whether any land development project is consistent with the Comprehensive Plan, in the opinion of the Planning Board, and if the members of the Planning Board, uh, took the time to revisit the, uh, any, any pla-, any decision for any Planning Board appeal, but, specifically, the, uh, the one that the Planning Solicitor has circulated to all of you, uh, *Boon Street Presby*

versus, uh, [Town of] *Narragansett* is a good example. If you read the standard of review for any appeal, of any of your decisions, for any land development project, particular as it relates to your Findings of Fact, um, that standard of review, that boilerplate language that is in every single one of these appeals says that, um, when the Board of Appeals – I’m reading from this *Boon Street Presby* decision, it dictates – the Subdivision and Review Enabling Act of ’92 dictates that when the Board of Appeals reviews the decision of a Planning Board, it shall not substitute its own judgment for that of the Planning Board -”

Here, some loud dogs began barking, and interrupted Mr. Bibler’s comments. He continued after the barking had ceased.

Mr. Bibler: “But must consider the issue upon the Findings of Fact and record of the Planning Board and administrative officer. And, further down, it says – this is Judge Taft-Carter’s decision, quoting the appropriate statutes, ‘shall not substitute its judgement for that of the Planning Board as to the weight of the evidence on questions of fact’, and then it goes on to list the areas where the Court may overturn or remand the decision, and all of them have to do with, um, unlawful procedure, errors of law, um, clearly erroneous, uh, uh, expert testimony, and that kind of thing. So, I just – I don’t know what decision you’re going to make tonight. You haven’t voted yet. I know you took a straw poll last month. Um, the bottom line is, if the Planning Board does – agrees with the expert testimony that’s been presented on behalf of the objectors, and agrees with the comments of residents that don’t want this project, and if the Planning Board doesn’t believe this represents our collective vision for the future as expressed in the Comprehensive Plan – if you make an honest and good faith statement of that, as a finding in fact, that it’s not consistent with the Comprehensive Plan, that will likely hold up. So, in the, in the context of all of that, in the context of the authority that you do have, if you refuse to approve this, based on the scale, and the scope, and the environmental risk, and the fact that it is, uh, wholly inconsistent with the State solar siting guidelines – uh, the state wouldn’t even buy the power from this plant, uh, if the developer wanted to sell it, based on their recent RFP [Request for Proposals] language. Um, they’re gonna cut down approximately 100 acres or so of unfragmented forest, to put in an 81-acre solar panel field. I, I’m at a loss, after three years, going to dozens and dozens of meetings, listened to residents plead with you, and the Town Council, not to approve any more of these industrial power plants in the residen-, in, in our, in our Town, uh, not to turn Hopkinton into solar city. We’ve already got Alton-Bradford Road, Maxson Hill, Skunk Hill’s on the agenda – these are all massive projects. As you know, there has been almost, almost no one that did not have an economic interest in any of these projects that has spoken in favor. I cannot, for the life of me, understand how the members of this Planning Board, who have been witnesses through three years of this, who have heard, loud and clear, from your constituents, who are supposed to be independent judges, and not team players and agents of the Town – I cannot fathom how any of you are gonna put your name to an affirmative vote to approve an 81-acre solar project, to clear cut unfragmented forest, uh, and say that that’s consistent with the Comprehensive Plans, though I’m pleading with you that you have the authority to say no. You’re not gonna put Planning Board or the Town in any kind of legal jeopardy – really between you and your conscience, whatever you think, and, and I,

also, urge you not to place any value on the idea that you need to have a unanimous opinion, or act as a team. You should all act individually and vote your consciences, so that's my, that's my plea to you tonight. Thank you."

Mr. DiOrio: "Very good. Thank you."

Mr. Bibler: "And I would like the point resolved, please. I would like the Solicitor to comment on the waiver, 'cause the Planning Board has not taken a position."

Mr. DiOrio: "Yep. We'll get to that. Next up?"

Ms. Jalette then asked the next member of the public to state their name for the record. It was Joe Moreau, of Old Depot Road.

Mr. Moreau: "Hi, this is Joe Moreau. Um, I just – good evening to everyone, first of all. I, I also am not an attorney either, and I won't try to be one. I will only talk about the Stone Ridge project. I will not mention any other projects. This property was rezoned in 1990. I don't know how long some of the abutters have lived in their homes, but it is obvious that the parties involved in this project have worked with our Town and abutters to improve their proposal. The landowner could cut a hundred acres of trees, could build commercial buildings, pave most of his land, if he chose to do so. He had different plans in the beginning, with a medical building, other buildings, etcetera. He decided against that mainly because of the residents concerned with traffic and other reasons. I've spoken to some residents in the area recently who are not opposed to this project. There was opposition from residents in the area when there was a proposal for the golf course, hotel, conference center and so forth. I have a quote from, uh, our Town's e-mailer, who said that the Planning Board has every right to deny the project based upon a finding that the scope of the project is inconsistent with the Comprehensive Plan, and based upon environmental concerns, citing the expert testimony provided by abutters. All I can say is, really, 'Wow.' That is not what I read. I know there is a lot of information for the Planning Board to read on these projects. I pointed out in a recent e-mail to members to read under the section 'Materials from Applicant' – Regulatory Review Analysis, from the Pimentel Consulting. Those are the facts. They're not just opinions. I've heard testimony from true experts in their field at many, many meetings. With all due respect to abutters, I have never heard expert testimony provided by abutters. Companies like Crossman Engineering and Pimentel Consulting are the experts. Our Town's e-mailer is certainly not an expert. Thank you for your time. I appreciate it."

Mr. DiOrio thanked Mr. Moreau for his comments. Ms. Jalette asked the next member of the public to state their name for the record. It was Colleen Stephan, of Lisa Lane.

Ms. Stephan: "I'm a resident of Hopkinton, and now I'm a passionate resident. Uh, I'm speaking to you from my heart. I wasn't going to pipe up this early, uh, but I do feel that I, I need to tell you what I'm feeling. Uh, this type of massive development is inconsistent with the Town's Comprehensive Plan. It denatures our best resources – when I read, uh, of the loss of over 100 acres of forests, it's, uh, we are losing our forests and rural life, and so, not only these tangible resources, but the intangible characteristics that make this project so offensive, and you can speak to, to expert testimony of those who are invested in the pros, uh, but at the real heart, is this the goal of what we're trying to meet

for this Town? Um, I just wanted to, to urge you to consider that when you're making a decision tonight, and to take the Comprehensive Plan and its goals for the current, future projects at heart, when you make these tough decisions, uh, tonight. So, thank you."

Mr. DiOrio thanked Ms. Stephan. Ms. Jalette then stated that there were not any other members of the public who had raised their hands at that time, but that Mr. Landry had "raised his hand". She stated that he was unmuted, so he could "speak at will." He replied that he had "a couple of very, very brief things to add" that were not "directly related to the draft decision" before the conclusion of the discussion. Mr. Landry asked Mr. Cherenzia to answer "a couple of questions about the waiver issue that one of the public members, uh, waived."

Mr. Landry: "May I inquire, Mr. Chair?"

Mr. DiOrio: "Yes, go right ahead."

Mr. Landry: "Thank you. Uh, there was some discussion at the last meeting about drainage, uh, calculations, and the possible need for a waiver. Do I understand correctly that the original application included a waiver for, uh, the item of detailed drainage plan and computations, uh, which I believe, uh, Mr., um, uh, the, the, uh, Tow-, from Crossman Engineering indicated was, was unusual for Master Plan level – but do I understand correctly that after the Crossman Engineering presented their, uh, comments, that our team did, in fact, provide an engineering, uh, plan, related to drainage, including, uh, computations, correct?"

Mr. Cherenzia: "That is correct."

Mr. Landry: "And that – and were those, those submittals consistent with a Master Plan type, conceptual submission on the issue of, of drainage and calculations?"

Mr. Cherenzia: "Yes."

Mr. Landry: "Okay. And is it, is it impractical, in your opinion, to have more detailed, uh, calculations or design parameters than were provided, given all of the variables that are not resolved at the Master Plan level, but at the Preliminary Plan level?"

Mr. Cherenzia: "Yeah, in my experience, uh, we've, we've met or exceeded, uh, the, the Master Plan level – what is typically required at Master Plan level."

Mr. Landry: "Okay, so, we, we, my – do I state it correctly that we don't think we need a waiver, uh, at this point, from that checklist requirement? We did receive a certification of completeness, but, in the event that, uh, it was determined that a waiver was required by the Board, uh, it's our belief that, uh, that would be, uh, consistent with good planning, uh, practice, uh, including the sequenced approach to approvals that, that goes along with a, uh, Major Land Development project of this sort, where the concept is presented first, and then the engineering, uh, occurs in detail thereafter."

Mr. Cherenzia: "That's correct."

Mr. Landry: "Alright. Second issue, uh, also, very briefly. There was concern about dealing with large stones, boulders and so forth, uh, that appear on the site. Uh, have you experienced – have you worked with conditions, uh, in which boulders need to be, boulders and rocks and outcroppings, uh, need to be managed in order to accommodate new development?"

Mr. Cherenzia: "Uh, yes."

Mr. Landry: “And are – what are some of the approaches that your firm has taken to managing that condition where, where it appears?”

Mr. Cherenzia: “Um, so, I will just mention, in conjunction with our, our site engineering company, we also have a site excavation company that op-, operated quarries locally in Westerly for a number of years, uh, which have recently been, been sold, but, um, we know, we know a lot about, um, moving, uh, rock, moving, um, blasting ledge in certain instances – which is not required here, um, but, uh, moving large, large portions of rock and, and processing it on site, um, our company still maintains portable crushers, and we do a lot of processing on site. So, um, to get to your, your, your question, um, with regards to what options there are, um, one option is to, uh, excavate those boulders where they need to be excavated, and, uh, run them through a processing equipment, and a crushing – and creating a processed material that can be used, uh, for fill, and, uh, other, other, uh, uses, such as subgrade roadways, driveways, um, anything that needs, needs, uh, stable, uh, structural fill, um, and it’s a very controlled material that we can create and use on site. It’s part of the construction process. Um, that would be a limited pro-, limited timeframe and process of, of when we would, when that would be done, uh, phasing in, in the project. Um, the other option is to, uh, move those boulders and, and bury them in certain areas that require fill on site, larger, larger, uh, excavations, uh, the, the boulders could simply be buried, so they don’t have to go through the process of, of being, uh, processed on site, um, or, uh, we could use some of the, some of the rocks and boulders to line some of the paths, and use them as barriers or, um, just kind of aesthetic features, that follow some of the paths, uh, through the, through the site, so, there’s a number of options that we can do, that we can implement, um, that will limit the amount of export, import, of rock, um, in, in and out of the site.”

Mr. Landry: “Another would be to leave the rock in place, in areas, and, and work the solar array, uh, around it, or over it, which is an option that’s not available for most other types of commercial development, correct?”

Mr. Cherenzia: “Yeah. Most other commercial developments require excavation for u-, utilities, underground utilities, uh, foundations for buildings, um, that quite, uh, frankly just require you to excavate. Um, we have a[n] opportunity here, and I should’ve mentioned – that is the first option we try to exercise, is limit the amount of grading on the site, and just work with the, uh, the grades on the site that we have, um, to, uh, because we can, uh, place solar panels, uh, with the undulation of the, uh, of the topography, to a certain extent. Um, I believe anywhere between – I think it maxes out between 15 and 20% slope, which is considerable, and we do have some slopes on this site, but the first thing we would try to do is, is work the land as least amount as possible, uh, from a, that, that’s, that’s from a cost effective and, and, um, and logistical standpoint, but also, it would be beneficial – so we don’t have to, uh, move as much material, uh, have as much, uh, activity, uh, disturbing soils, um, that, that sort of thing, and, and, you know, processing on site as well. So, yes, the first instance, we would try to avoid at all costs.”

Mr. Landry: “And one more question: Is the project, uh, engineering and landscaping team prepared to, uh, put together a detailed plan, uh, at the Preliminary Plan stage, or in advance thereof, that addresses just how, uh, it, it - after field analysis of the different areas of the site – how it proposes to crush, process, move, work around, or, or, uh, or bury, uh, the stones that do appear, together with a proposed construction timetable?”

Mr. Cherenzia: “Yes. Yep. We, we would, we would be willing to put that, that plan, uh, and present it as part of our Preliminary, or in advance of filing for a Preliminary. Would – usually that comes in conjunction with our, our Preliminary design, our detailed design, so, um, it would come very close to, to that filing, um, along with our, uh, our State permitting.”

Mr. Landry thanked Mr. Cherenzia, and said that those were all the questions that he had for him. Mr. Landry then said that he did “have one question” for the landscape architect. Mr. Skwirz interjected that he wanted to “ask some questions of Mr. Cherenzia”. He stated that he “could wait, to a more appropriate time, um, or, or do it now”, depending upon what the Chair and the Board would want. Mr. DiOrio responded.

Mr. DiOrio: “Uh, would it be acceptable if, uh, Mr. Landry presents his, uh, what I understand to be his last question of, of his last witness, and then we can come to you for – you can question whatever witnesses you’d like?”

Mr. Skwirz: “Uh, yes. Thank you, Mr. Chairman.”

Mr. DiOrio: “Mr. Landry, proceed.”

Mr. Landry asked Ms. Iannuccilli to speak before the Board. Ms. Jalette explained that she was going to promote her to the role of panelist. She also stated that Steve Cabral, of Crossman Engineering, was in the audience. She said that if they wanted Mr. Cabral to weigh in, he could. She also mentioned that there was another member of the public who had raised their hand, “just to keep [the Board] apprised of” what was happening. Mr. DiOrio said that he appreciated that, and that he recognized Mr. Cabral was in the audience. He said that the Board would “look forward to any input” that Mr. Cabral would have “at the appropriate time.” Mr. Landry then turned to Ms. Iannuccilli for “a question about buffering and screening of the Gregory property.”

Mr. Landry: “Uh, there was some discussion last time about robust buffering and screening of that property, uh, that would be presented as part of the Preliminary Plan application. Since that meeting, have you actually put pen to paper and developed a concept of how, uh, the engineering and architectural team would approach effective buffering and screening of that property from the building on our site?”

Ms. Iannuccilli: “Yes. We have actually studied a couple different options, and have selected what we feel is the best, uh, direction, and, uh, created a plan to show that.”

Mr. Landry asked Ms. Iannuccilli if she could screen share the proposed plans. Ms. Jalette explained that she had given all of the panelists the ability to screen share, so Ms. Iannuccilli could do so. Ms. Iannuccilli then presented the applicant’s screening plan.

Ms. Iannuccilli: “So, um, the concern – which we obviously took very, very seriously – was berming from the Gregory property, which is, uh, 10 Red Fox Lane. It’s this property right here, if everyone can see my mouse. So, the concern here was buffering to the new building, uh, and then the detention areas over here. So, we studied a couple different options of how best to buffer that building, and looked at if it was a concern at all. So, we looked at potentially providing additional planting along the property lines. Um, this is at

a much lower elevation than the actual structure, and would also require removing existing vegetation, which we found counterintuitive, and probably not as effective. So, the solution we came up with is to create a large, uh, bermed area here, adjacent to the building. It would be at the same elevation as the building, and we can make that berm up to eight to ten, almost twelve feet, and then on top of that, we can plant, um, twelve or greater foot arbor-, arborvitaes, spruce, pines, or evergreens that can create that buffer. So, I think what you see here, on this second elevation, you have almost 1,300 feet from the property to this proposed structure. Uh, a good portion of that is vegetated, and then, since doing this diagram, we've also suggested that we'll add additional vegetation, in here, to create more of, um, that buffering, and then, you can also see this new proposed berm that's being planted here. So, if you look, all the way through, where this little person is located on the adjacent property, 1,300 feet to the proposed structure, uh, we feel like we can very successfully create a buffer that will eliminate any views to this, uh, new building."

Ms. Iannuccilli then asked if she could answer any questions on the design. Mr. Landry replied that he had "just one more" question.

Mr. Landry: "Uh, that the - whether it's this particular proposal or something else that gets worked through at the Preliminary Plan stage of review, are you confident that that building, and the project, uh, can, could be successfully, uh, and effectively screened from the Gregory property?"

Ms. Iannuccilli: "Absolutely, and I think that's pretty clear with the sections, and why we do them, but I'm very confident that we can buffer about this building."

Mr. Landry thanked Ms. Iannuccilli, and stated that that was all he had. Mr. DiOrio replied that before the Board went "to the other folks", he wanted "to return to the waiver issue", if he could.

Mr. DiOrio: "I, I just want to be clear. Uh, this is like a new wrinkle – I don't think I heard this before, so let me just make sure I have this clear in my own mind. Uh, I'm sure other people will be grappling with the same question. So, when the application was submitted, there was a waiver request for the storm water issue. For some reason, you felt that that need not be presented at this time. Is that correct?"

Mr. Landry replied that it was "more a deferral request than a waiver". Mr. DiOrio replied that he understood, and that it was more "a question of timing". Mr. Landry replied that that was correct. Mr. DiOrio continued.

Mr. DiOrio: "Now, subsequently, storm water comp[utation]s have, in fact, been submitted?"

Mr. Landry: "They've been submitted at a conceptual level, uh -"

Mr. DiOrio: "Understood."

Mr. Landry: "There, there were calculations and watershed maps, and a whole st-, storm water packet that was submitted and reviewed, uh, by Crossman [Engineering], recognizing that the Preliminary Plan stage would require something more detailed."

Mr. DiOrio: “Understood. So, is the waiver for that information still active?”

Mr. Landry: “Well, I, I don’t think we need it, Mr. Chair, but, you know, to, to, to hedge our bets here – if somebody – out of good, good measure, the, the Board might consider, uh, that even if a waiver is required, uh, the Planning, under the Statute, regarding the planning waivers, uh, good planning practice, reasonable, sound, planning practice, uh, can give rise to, uh, to a waiver, and, and would certainly give rise to a deferral, which is all we’re asking for. Uh, you know, the planning practice is, is set out in the process that we’re following – conceptual review, Preliminary review – that has detailed engineering and then Final review, and we’re following that sequence, and I think the thrust of what Mr. Cherenzia was saying is that it’s, it’s really not good planning to be guessing at things at the Master Plan stage, and providing detailed calculations that aren’t rooted in the real science that gets developed at the Preliminary Plan stage. It was testimony that the, the wetland edges, uh, and, and the whole wetland, uh, situation will come into focus, much greater. There’ll be site engineering, about moving rocks and boulders and, you know, that, that all will have an impact on storm water management, and, and we think it’s consistent, and, and contributory to good planning practice to do these things in a certain sequence and logical order, and, and that’s what the process that we’re going through is, was really built for.”

Mr. Landry: “Uh, I, I, I hear it. I understand it. Uh, I’m in favor of it. Uh, we’re, we’re all cognizant of the fact that a concept submission is, in fact, just that. Nobody’s asking, uh, nobody’s thinking about holding you to Preliminary submission requirements at the Master Plan level. However, I’m sure you can appreciate that if we, if we made the waiver issue go away, uh, we will have satisfied another party, and I – that’s just a, one less issue that the Planning Board has to grapple with. Uh, so, once again, I just need to ask: Is the waiver issue still legitimately active?”

Here, Mr. Skwirz began to interject. Mr. DiOrio interrupted him to ask him to “hold on”, as he was “looking for a response” from Mr. Landry. He said that after the Board received the response from the applicant, the Board would “get to” Mr. Skwirz. Mr. Landry replied.

Mr. Landry: “Yeah, again, I, I, I don’t think the waiver is necessary, but I do think, out of an abundance of caution, the Board should approve the waiver, to the extent that it’s necessary for all the reasons that we’ve just described.”

Mr. DiOrio: “Okay. Very good. Thank you. That’s the response I needed.”

Mr. DiOrio then said that he noticed Mr. Lamphere had “his hands up”, and that he was “going to entertain his comment.” Mr. Lamphere said that he wanted to “expound a little bit on what Sergio [Cherenzia] and Mr. Landry said.” He continued.

Mr. Lamphere: “Um, I think that the Planning Board should rely on the testimony by Crossman Engineering. Um, Cherenzia and Associates did provide, uh, a report, Master Plan Storm Water Evaluation, dated March of 2021, and that was submitted under a cover letter that was dated March 26, 2021. And this report, storm water report, contains the calculations that people are looking for. There’s a hydroCAD analysis in here. There’s mapping. It’s all in a bound report that I believe the Planning Board has been presented,

uh, in their April 7<sup>th</sup> packet. So, Steve Cabral from Crossman [Engineering] has, I believe, has looked at this as well. I would – if I was the Planning Board member, I would rely on – I would ask Mr. Cabral if this meets the checklist requirements for the Master Plan, and whether he thinks a waiver is necessary or not, because, in my view, I, I – personally, as the Planner, can't see where a waiver is even necessary. This, this is Checklist Item #57 right here, so.”

Mr. Skwirz: “Mr., Mr. -”

Mr. DiOrio: “I'm gonna embrace that approach. I, I hear you, uh, but, again, we're gonna to get to you, so, just hold on. Mr. Cabral, you out there?”

Ms. Jalette: “He is indeed.”

Mr. DiOrio: “May I impose on you to, uh, if you heard that last comment from Mr. Lamphere, may I impose on you to elaborate for us?”

Ms. Jalette explained that Mr. Cabral just had to “unmute himself” by pressing \*6. Mr. Cabral then spoke before the Board.

Mr. Cabral: “Oh, hello. Yes, this is Steve Cabral from Crossman Engineering, and the, the issue with the waiver actually is the result of a contradiction in the, the Hopkinton [Land Development and] Subdivision Regulations, and, and the reason there's a contradiction is the definition of Master Plan, in the overall Master Plan requirements are, as the Chairman described, and as the Town Planner described – the requirements for Master Plan are conceptual, and more general in nature, and do not require detailed design – but the contradiction comes about in item, Checklist Item 57, where there's a notation that, if storm water controls are proposed, uh, detailed calculations and plans are required. So, that's why, in my most recent memo, I referred to the waiver, but, the truth is, the level of detail of the storm water package that was submitted by the applicant does exceed what normally would be provided at the Master Plan level. So, if the Planning Board does agree, and concur, that at – the intent of Item 57 is to provide a level of detail that's more general in nature, and not a final design, then I would agree that a waiver would not be needed – and I also agree that 100% of my experience over the past 40 years is that the detailed drainage plan does require detailed grading plans, and that's not performed until after the concept, Master Plan, is approved, and it's performed, as everyone stated, at the Preliminary stage.”

Mr. DiOrio: “Very good. Thank you, Steve [Cabral]. That makes things, at least, much clearer for me. Appreciate that.”

He then said that he knew that one of the attorneys had been “trying to get a word in edgewise”, and apologized. Ms. Jalette stated that it was Mr. Skwirz. Mr. DiOrio replied that it was now time for Mr. Skwirz's opportunity. Mr. Skwirz thanked Mr. DiOrio, then proceeded. He said he wanted to “start by asking a question of Mr. Cabral”. Mr. DiOrio told Mr. Skwirz to “go right ahead.” He continued.

Mr. Skwirz: “Um, so, Mr. Cabral, um, I'd like to, um, refer you to the May 6 memorandum, uh, from you to, uh, James Lamphere – um, are – you're familiar with that, correct?”

Mr. Cabral: “Yeah.”

Mr. Skwirz: “And, um, on Page 2 of that memorandum, uh, you, you have a section that lists checklist waivers, correct?”

Mr. Cabral: “Ye-, yes.”

Mr. Skwirz: “And then, in that section, you do reference, uh, a waiver required for Master Plan Checklist Item 57, which requires detailed drainage plans, correct?”

Mr. Cabral: “Yeah.”

Mr. Skwirz: “Okay. And so, when you drafted that menu, memo, it was your conclusion, at the time, that a waiver was required for Master Plan Checklist item 57, correct?”

Mr. Cabral: “Yes. It all depends upon the, the Town’s interpretation of what’s considered ‘detailed’ at the Master Plan level, because, as stated, in the Regulations, Master Plan level definition is clearly general in nature, and not detailed. So, as I stated earlier, there is a contradiction in the verbiage between the definition of Master Plan, the requirements of Master Plan, and the Checklist Item 57, and so, when I prepared that memo, I based it on the exact wording of Item 57, recognizing that the Planning Board would be the ones to make the final decision on what the intent of that checklist -”

Mr. Skwirz: “Okay. Just, just to clarify, so I understand your reasoning, that went into the memo, um, following the, the language of Item 57, which calls for detailed drainage plans, um, if you apply that language, um, that was why you concluded a waiver would be required? Is that correct?”

Mr. Cabral: “Well, plus, plus, plus I had the applicant’s request for a waiver, so, at the time, yes. But I also recognized that it, it’s not possible to prepare a detailed drainage plan without doing a detailed, you know, grading plan, and pretty much a final design package, so that’s why, again, I stated there seems – there’s a contradiction -”

Mr. Skwirz: “Well -”

Mr. Cabral: “In Checklist 57 versus the normal requirement -”

Mr. Skwirz: “So -”

Mr. Cabral: “But yes, you are correct.”

Mr. Skwirz: “Okay, um, and so, I guess – the Planning Board certainly has the authority to admi-, advi-, revise, prospectively, their Master Plan checklist items, and not ask for detailed drainage plans in the future, correct?”

Mr. Cabral: “Oh, certainly.”

Mr. Skwirz: “Okay. Alright.”

Mr. Cabral: “Or, to clarify the intent.”

Mr. Skwirz: “Right. Um, okay, um, and, Mr. Chairman, if, if I, um, uh, could just ask some questions of Mr. Cherenzia, I would appreciate that as well.”

Mr. DiOrio: “Yes. Go forward.”

Mr. Skwirz: “Thank you. Uh, Mr. Cherenzia, um, you, um – when the application was originally filed, there was a waiver requested from Item 57, uh, requiring detailed drainage plans, correct?”

Mr. Cherenzia: “Correct.”

Mr. Skwirz: “Okay. Um, and although you’ve provided, um, general, general concept level drainage plans, um, you haven’t provided detailed drainage plans at this stage? Is that correct?”

Mr. Cherenzia: “Um, it’s - depends on what your definition of ‘detailed’ is. Uh, I think they’re sufficient for Master Plan level, uh, and they’re detailed to the Master Plan level, but no, they’re not Preliminary level.”

Mr. Skwirz: “Well, I mean, I guess the question – I got, let, let me follow up on that, because, you know, you can look up the definition of detailed, and that would be, you know, uh, ‘having many details or facts; showing attention to details’, uh, you know, ‘showing the fact that were’ -, the, ‘the high level of specificity and facts’ in a drainage plan. Uh, the plans that you’ve submitted don’t do that, correct?”

Mr. Cherenzia: “Um, at a Master Plan level, they do.”

Mr. Skwirz: “Um, let, let me switch on to, uh, a different topic – well, then, if that’s the case, why did you – you requested a waiver from this item, right?”

Mr. Cherenzia: “I think we’ve established that the waiver’s not required.”

Mr. Skwirz: “Okay. Uh, well, let, let me switch on to something else. Mr. Cherenzia, what’s your area of expertise?”

Mr. Cherenzia: “I’m a professional engineer with a, uh, I have a degree in, uh, civil engineering, and I’m a professional engineer.”

Mr. Skwirz: “Okay, and, um, you testified on, uh, under questioning from Mr. Landry that, um, to the extent a waiver is required, um, it should be granted because granting a waiver would be good planning practice, uh, correct?”

Mr. Cherenzia: “I, I don’t recall.”

Mr. Skwirz: “So, uh, as you sit here now, you don’t, uh, you don’t recall having an opinion on whether or not this would be good planning practice?”

Mr. Cherenzia: “I don’t recall making that statement. I’d have to go back to the record, but I can tell you, at that point, um, we did not provide it, so the waiver was legitimized, uh, but, subsequently, we got comment from the, uh, Town engineer peer review, and, uh, we provided the additional detailed drainage calculations, so the waiver would not be warranted.”

Mr. Skwirz: “Okay, and last point – um, uh, not being an expert planner, uh, you wouldn’t be qualified to provide an expert opinion on what a good, uh, what a, um, uh, good planning practice is, and that’s ultimately up to the Planning Board to decide, correct?”

Mr. Cherenzia: “Uh, I, I do weigh in on planning matters. I do have, uh, experience in, uh, planning, per se, of, of projects, uh, like this, uh, but no, I’m not a, I’m not a planner. I’m a, uh, civil engineer.”

Mr. Skwirz: “Okay. Um, and so, uh, I guess, to the Board – I could make some comments now on this issue. Uh, I’d also like to make some closing remarks at a, at a certain point, uh, which also would touch on some of the issues with the draft waiver – uh, I’m sorry, with the draft motion, um, but I’ll, I’ll defer to the Chair, and to the Board of, of when the appropriate time to make those comments are – whether to make them in separate times, based on the issues addressed, or whether just to make them all at once now.”

Mr. DiOrio thanked Mr. Skwirz, and then asked Ms. Jalette if there were any other members of the audience who wanted to be heard. Ms. Jalette replied that there was still a member of the public who was “wishing to speak.” Mr. DiOrio stated, “Let’s get to that person.” Ms. Jalette read of the last four digits of the caller’s phone number, and asked them to state their name for the record after pressing \*6. The caller was Kevin Gregory, of 10 Red Fox Lane.

Mr. Gregory: “So, so, uh – first of all, thank you for, uh, for hearing me, and, um, also, I, um, I hate to backtrack on this, this subject, but, you know, I, I listened to the, um, I listened to the, um, you know, the solution to the issue that I’m having with this project, and I, I’m not even 100% sure where they come up with their math, you know, as far as the distance from where this – you know, this is in regard to the metal structure, and the, um, you know, and another feature, one of the retention ponds. Um, as far as, you know, the 1,300-foot number, you know, I guess, maybe, from the building to my back door is 1,300 feet, but, you know, early on, you know, with one of these, uh, with a, um, with, um, one of the Zoom meetings, I suggested that maybe some of the, the members of the Board can actually come to my property, and take a look, and see exactly what I’m referring to, but, you know, unfortunately, nobody decided to take me up on that offer, but, my issue is it’s – first of all, it’s, it’s significantly less than 1,300 feet. I mean, I physically measured where this is going to be, and I did get permission to go onto the property and do this – well, I got permission to go onto the property, and one of the things I did was the actual dimension. So, as far as dimensionally, it’s 621 feet from the corner of the building to my property line, and my point of reference isn’t going to only be from just looking out my back window of my house. My backyard is clear, and, you know, when I did have a, uh, I, I did have, uh, a meeting, um, you know, on my property with, um, with Walter Manning, and, uh, Sergio [Cherenzia] came by, and, I mean, it’s undeniable – I mean, I really have very little buffer from where my house is to where that corner, where that 621 feet mark is drawn on the plan. So, in as far as, you know, plantings – I mean, everybody on the Board, and everybody that can hear this – we’ve all seen plantings around solar fields, and we’ve all seen how effective they are, and I just – I don’t know. I’m just not convinced that, that anybody is on my side, with trying to, to rectify these issues. So, I mean – I don’t know. I guess, in, in – also, from what I understand, this thing is gonna happen whether or not I speak up or not, but I was just hoping that the Board would, you know, at least – you know, view my concerns, and maybe offer some, you know, some more suggestions, or maybe even some viewings on the property to see where I’m coming from, but, and, uh – yeah. So, I wait to hear a response.”

Mr. DiOrio thanked Mr. Gregory, and asked Ms. Jalette if they were “clear out there.” She replied in the affirmative. Mr. DiOrio then turned to Ms. Hogan, and asked if he could “impost on [her] for, uh, some guidance.” She said yes. Mr. DiOrio then stated that he knew that the Board had a “draft decision for consideration.” He continued.

Mr. DiOrio: “My, my question is, uh, do we debate the components of the decision now, which seems a little out of step for me, or do I ask for a Planning Board member to make a motion, in which the decision is elaborated upon, and then we debate it? Give me a little input.”

Ms. Hogan said that she would suggest that the Board take the latter course of action. She stated that the “draft decision is based upon the generalized discussion at the last meeting, and, so, then, presumably, uh, one of the Board members finds it sufficient enough to move it for consideration, and this is a motion to approve.” She said that it would then

need to be seconded, and that then the Board could discuss it. She said that how the Board discussed it would be “up to all of [the Board members].” She continued.

Ms. Hogan: “I would note that in that decision, we do address this, uh, issue, if you will, of waiver. Um, I, I believe that, quite frankly, what you’re, what the – at this stage of the game, what the Board is really looking at, if, at anything, would be a deferral of, as Mr. Landry indicated, of the detailed, further detailed drawings. I, I, I have to concur with, uh, the Town’s, uh, consulting engineer, that it – and, and the applicant’s engineer – that makes no sense for, uh, an applicant to submit detailed calculations on drainage at the conceptual, Master level, uh, uh, stage of, of approval. Um, it’s not consistent with State law, um, and I would draw your attention to, um, the section in your [Land Development and] Subdivision Regulations that the opposing counsel has cited in some of the papers that, you know, the Board can’t grant this unless they’re, um, uh, unless the applicants show literal enforcement would be impractical, and exact undue hardship. That, that section, I believe, speaks to a permanent waiver of addressing a subject. That’s not what’s before the Board. This is, ‘Look, we’re not saying that we’re going to not deal with drainage calculations. We’re saying it needs to come at the appropriate stage of review.’ So, for purposes of, uh, you know, that particular issue, if you find it a threshold issue, if you find that it needs to be incorporated, we have some draft language in the decision on that matter, but I would point your attention to Section 11.2, which has been cited by, um, counsel -”

Here, someone on the call coughed very loudly, and made the end of Ms. Hogan’s final sentence unintelligible. Mr. DiOrio thanked Ms. Hogan, and said that he had one last question. He said that his “experience is that when we have a motion on the floor, it’s been seconded, and the discussion ensues.” He continued.

Mr. DiOrio: “Typically, that discussion is between the Planning Board members, for the purpose of fleshing out and refining the ultimate decision. So, in this particular instance, it, it appears that we’re going to hear from other folks, and I, I guess I don’t object to that, except that, once we have that kind of discussion, we’re back in the Public Hearing format. I, I don’t really want to go there. So, do I have the, uh, do I have the flexibility to curtail, uh, discussion outside of the Planning Board members?”

Mr. Skwirz responded before Ms. Hogan could weigh in. He asked “if [he] could volunteer”, and stated that he “would be willing to make [his] comments now, before a motion is made – kind of give the final summation”. He would “let Mr. Landry close”, as he was sure that he “would like to make a couple final comments”, and that, after that, he would “be happy not to make any comments” while the Board debated. Mr. DiOrio asked Mr. Skwirz to not “misunderstand, please”, and stated that it wasn’t that he did not “want to hear [Mr. Skwirz’s] comments”, but that he “simple want[ed] to, Number 1, hear them at the correct time”. He asked if he “could just get a consensus from both” Mr. Skwirz and Mr. Landry that their “commentary on the decision will be as brief as possible”, which would make him “more than happy.” Ms. Hogan interjected.

Ms. Hogan: “So, Mr. Chair, I would say that, um, I have received an e-mail from Mr. Landry with, um, some proposed, you know, tweaking language of, uh, some of the paragraphs of the proposed decision. Mr. Skwirz, of course, has not had [that] opportunity due to my error. Um, as you go through it, though, if we get to, uh, you know, one of the sections where Mr. Landry has an issue, I could certainly present to you what he has sent to me in an e-mail. If you wish to do it in that manner, and then, you know, finalize this, then, the way to do that would be to accept the motion to close the Public Hearing now, and then you would move into – it would just be solely Board discussion and, uh, and legal, your legal counsel, me, discussing that with you. Um, that would then short-circuit any other additional folks from the public jumping in as to the language of the decision in itself, which is probably a place you don’t really want to go. They’ve already had the opportunity to opine this evening, and you’ve heard from them.”

Mr. DiOrio said that he understood, and asked how he would “get Attorney Skwirz into the, uh, into the mix”, because he “certainly want[ed] to afford him the same opportunity that Mr. Landry has had.” Ms. Hogan said that she understood. Mr. Skwirz said that he could “make the comments now”, and that he would be “happy to do” what the Board preferred. He said that his comments “may touch a little bit on the draft motion”, though, “obviously”, he had not been able to “review it in depth”. Mr. DiOrio responded.

Mr. DiOrio: “Well, you know – again, now that I’m thinking about this, if Mr. Landry has had the opportunity to provide comments in advance of the motion being on the floor, I, I guess, I guess I’m prepared to allow you the same latitude. So, why don’t you go ahead and make your comments, and then my suggestion will be, uh, it’s only a Public Informational Meeting – I, I don’t really – Maggie [Hogan], tell me if I’m incorrect – I don’t have to close this – it’s public information, it’s not a Public Hearing, an-, and then we can go to the motion? What do you think?”

Mr. Skwirz: “Okay.”

Mr. DiOrio: “What do you think?”

Mr. Skwirz: “Thank you, Mr. Chairman. I, I can do that now, if you like.”

Mr. DiOrio: “Yeah, let’s do it.”

Mr. Skwirz began by thanking the Board “for taking the time to consider this, and to hear all the testimony, not only from the applicants, but from the abutters”, and included himself and the experts he had introduced. He continued.

Mr. Skwirz: “Um, I’d just like to touch on some discussion at the last meeting, when the straw poll was being taken, um, and I, I recall there was some comment, not from all members, but from some members, um, that were hesitant to vote to approve the application, um, but they felt that they, um, for what-, for one reason or another, that they ought to approve the application – um, I’d just like to start by encouraging them to, to, to vote in accordance with your judgment on the application, and, and I, I paraphrase a quote from Edmund Burke on, uh, on being a public official, which was, you don’t owe anybody your vote. You don’t owe it to anybody. Not to me, not to Bill [Landry], not to anybody, but, you do owe the public your judgment. So, if your, in your judgment, you look at the standards you’re supposed to apply, and you feel that, uh, one of them have

not been met, I would just ask that you, that you vote to deny on that basis. Now, I-, I'll just briefly, uh, go over the points, um, to, uh, discuss how you could deny this application. I know you have a draft motion, which would approve, but, you could vote to deny if, in your judgment, you felt that one of the elements were not met, and I'd just like to briefly go over where you could vote, uh, uh, to deny it. Uh, the, the first required finding that you'd have to make is about consistency with the Hopkinton Zoning Ordinance, and here's where I'll touch on your draft, um, your draft motion a bit. Uh, so, on Page 9, Paragraph 2, under the section titled 'Conclusions of Law', uh, so, this is where that finding is, is in draft form, uh, submitted to you, um, and I'd note that the finding that is there states that the proposed development is consistent with the Hopkinton Zoning Ordinance. I, I pause to note that, um, that that is not consistent with the discussion up to this point in that that finding was addressed when there was a motion on estoppel – basically saying there was detrimental reliance, and, therefore, this concept of estoppel prevents us from deciding this on a blank slate, and therefore, uh, we're going to, uh, uh, you know, that would preclude a negative finding on that. But, I would note, in your draft motion, it doesn't mention estoppel. Uh, in, in my opinion, and I argued it before – I won't hide it, uh, I think although it would reflect your, your rationale, in reaching a negative opinion on this, to mention estoppel, um, on appeal, uh, I would argue that estoppel doesn't apply, um, uh, because, so, and I, I made that argument before, um, so, if you were to stick with your rationale, you would put estoppel in there, and then I would argue, both before you, and on appeal, that estoppel doesn't apply. But, if you're not going to apply this estoppel, then I think you need to, to apply your independent judgment about whether or not this is consistent with the Zoning Ordinance, and that requires you to exercise your independent judgment about whether or not this is consistent with the, uh, commercial special zoning, and we've submitted a legal brief on this, we've submitted minutes from the Brae Bern application, where they proposed to change the zoning to commercial special, um, and, and it was perfectly clear – both the conditions on the, uh, Ordinance that passed, and the statements from the applicant at the time, that this commercial special zone change, um, was tailored to only the Brae Bern project. It didn't allow general commercial, um, uh, usage. So, if you're not going to apply estoppel, I'd ask you to exercise your independent judgment on that point, and, if you determine, yeah, you know what, despite the fact that, um, you know, not your current Solicitor, but prior Solicitors have given, uh, you know, inconsistent opinions, and, uh, you know, prior Building Officials – when I look at this, there's no way to escape it. Commercial special was commercial special for Brae Bern, and it's not just general commercial. So, that's the first point, where you could vote to deny if, in your judgment, you determine it should be denied. Now, if you don't want to touch that point, or, in addition to that point, the second, uh, area, where you, uh, could vote to deny is with regard to consistency with the Comprehensive Plan. Now, I know there was a comment made by the public that abutters did not present expert witnesses, um, but, we did, in fact, present, uh, an expert planner, uh, Preter, Peter Friedrish, uh, Friedrichs. He, um, is not only a professional planner currently, but he has a Masters in Planning<sup>1</sup>, spent, uh, a long time acting as a Planner. Uh, in his opinion, which he had the, um, uh, uh, uh,

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<sup>1</sup> Clerk's Note: Mr. Friedrichs does not have a Masters in Planning. According to his resume, which was submitted to the Planning Department and the Planning Board, he has a "Bachelor of Arts in Architectural Studies, with a Minor in German Studies". He has not received a Master's Degree.

written report to back this up, citing to the Comprehensive Plan, uh, but his opinion was that, because of the size and scope of this project, regardless of whether or not it's consistent with the Zoning Ordinance, it's not consistent with the Comprehensive Plan, because the Comprehensive Plan did not contemplate utility-scale solar, particularly when it has a substantial amount of residential, uh, prop-, property zone, uh, residential zone property around it. Uh, and if you agree with that, if you agree with his point, and you, uh, wanted to make a finding on that, you could simply vote that, uh, you do not think it's consistent with the Comprehensive Plan, and you can rely on, and incorporate his testimony, and his written report if, in your judgment, you feel it's not consistent. And, I would say, if it's appealed, um, uh, reviewing Courts are highly deferential to the Board when there are matters of conflicting expert opinion, and here, there's conflicting expert opinion. The applicant has one, uh, planning expert that says it is consistent. We have another that says it's inconsistent. If, in your judgment, you think our Planner has the more persuasive, in all likelihood, that would be upheld on appeal. Um, and then, the la-, another point where you could vote to deny, either in tandem with the prior point or independently, we also submitted the, uh, testimony of, uh, an environmental expert, Linda Steere, um, and, uh, I think everyone on the Board would recognize she's certainly qualified in the field to testify as an expert, and she opined that, in this level of clear cutting, there's, there's gonna be a significant negative environmental impact, um, and so, I don't think there's any way you could avoid it, um, and there's no way you could mitigate it later down the line on the, on, um, Final Plan or the Preliminary Plan, um, you know, when, when you're talking about this type of project, in this size of unfragmented forest. When you clear cut, you're gonna have a ne-, significant negative environmental impact, and if, if you were, if you agree with that, if you agree with her expert opinion, um, you could simply vote to deny on that basis, and incorporate, um, incorporate her expert testimony on that point, and, and use that as a basis of your finding. Uh, finally, there's the waiver issue. Um, I feel like we've, we've gone into that in some depth, um, but I would simply note, you know, this application was proposed as requiring a waiver because it required detailed, uh, drainage plans. There's been concerns about drainage, um, not only from an abutter, um, so, you know, but that's also another finding you can make – but, I focus on the first three. First is zoning. The draft decision does not rely on estoppel, and if, if you're gonna go on estoppel, I would, I would ask that you put it in there, so that that would allow us, and I'll, I'll be up front about it – that would allow us to take the appeal, um, and say, 'Look, they relied on estoppel, and, uh, we don't think estoppel applies, so please send it back, and have 'em take a fresh look.' But, if you're not gonna rely on estoppel, I'd ask you to take a fresh look at the zoning, and if you don't feel that commercial special supports this use, I'd ask you to deny on that basis. Second, if you don't feel that this is consistent with the Comprehensive Plan, you can rely on our expert, Peter Friedrichs, uh, and incorporate his testimony and report and make a negative finding on that basis, and third, um, you could make a, uh, uh, a finding that it will have significant negative environmental impacts, based on the testimony of our environmental expert, Linda Steere. One last point – you know, what's gonna happen after you make your decision today? Um, I would, I would be willing to bet, um, that no matter how you vote, um, this, this is gonna be appealed, uh, and so, what happens when it's on appeal? It will go to the Zoning Board first. They'll take a deferential look to what you've decided on the fact, and, and then, take a fresh look on the law, um, and then, from the Zoning

Board, it will go to Superior Court, um, and, at that point, all that will happen is either the Zoning Board and/or the Court will say, you know, either ‘They got it right’, or ‘They got it wrong.’ If they think you got it right, then your decision stands. If you got it wrong, um, then, they’ll either send it back to you, to, to do it again, uh, or, they’ll, they’ll flip your decision. So, really, there’s nothing to be afraid of from an appeal. Um, it will turn out however it turns out, so at, at the end of the day, I would just ask that, if, in your judgment, uh, that you feel that this does not meet the standards that you’re required to make, I’d ask that you make a negative finding. Um, that’s all I can ask you to do, um, and I, I think that the public, that you represent, as a public official sitting on, on the Planning Board, I, I think, you know, they owe that independent judgment for each of you to exercise, and so, I thank you, again. I’d ask you to exercise that judgement, and, uh, good luck on your deliberations.”

Mr. DiOrio thanked Mr. Skwirz. Ms. Jalette alerted Mr. DiOrio to the fact that there was a member of the public who had “just raised their hand”, and asked if he wanted to “entertain their comments” or hear from Mr. Landry first. Mr. DiOrio replied.

Mr. DiOrio; “I’d like to go to Mr. Landry. I, I think the public had their opportunity, and we’re deeper into the decision-making process. Mr. Landry, closing comments?”

Mr. Landry replied that he was going to “make it as concise as I can”. He continued.

Mr. Landry: “There was nothing that Mr. Skwirz just covered that hasn’t been said before. It’s gonna be hard for me to say anything that hasn’t been said before, so I’ll make it really simple. We’ve got a by right project here. Uh, it’s a commercial area. Uh, by all accounts, what’s proposed here would be benign in relation to other types of commercial development of, of many sorts that could occur by right, like this project, on this site, involved much more land disturbance. This site is over 250 acres, can be very effectively screened. The solar component is in about a third of that, uh, the site is, is not zoned for open space or conservation or forest. It’s zoned for commercial development. Uh, the, uh – this is an applicant that’s done everything the Board has asked it to do. It took its time. Uh, it looked at all of the impacts that, that were of concern to the Board, found a way to work with the Conservation Commission, did more than other applicants have done on solar projects, or probably any other kinds of projects in Hopkinton. Worked hand-in-hand with the Conservation Commission, that’s most concerned about conservation impacts, worked a way to get the public on this site, to reestablish the Narragansett Trail, made certain, uh, and demonstrated to you that this cannot – this project can’t even be seen from the Canonchet Brook, much less, uh, adversely impact it. In fact, it will benefit it by creating, creating for some public access, walking access there, trail access there, that doesn’t exist today. They took every issue very, very seriously, including buffering and screening of, of the neighbors, uh, in a very emphatic way, and have committed to continue, uh, working hand-in-hand with the Town, and addressing all of their concerns at the Preliminary Plan stage, and it is important that we are not at the Preliminary Plan stage. We’re at a concept stage right now, and these environmental, alleged environmental issues, that no expert witness really addressed in any, any substance, uh, uh, certainly are, are not even before the Board at this Master

Plan stage. That was one thing that their wetland, uh, wildlife expert said – that all of her testimony really relates to the, to the Preliminary Plan stage of review, and so, it's not over, in terms of environmental impacts. The, the, the applicant is still burdened with continuing to establish that the science that's developed at the Preliminary Plan stage bears out the concept, and our predictions about the concept that have been made in this stage of, of review. Uh, and, finally, you know, the – most of the argument here by the objectors and opposing counsel is how, you know, the Town's not gonna get in big trouble, somehow, if they, uh, take a chance, and, and deny this project, but, obviously, this is not a fixed project or a done deal. We have no connections with the Town. All we do is try to provide, uh, a good project, and that's what we've done, and what we've done is present a record, and the, the testimony, the overwhelming weight of the testimony, uh, that's been presented here by, by experts, addressing real issues is that, from a Master Plan, conceptual point of view, every single one of the required criteria is satisfied, uh, and is satisfied in, in spades. Uh, uh, the whole business about the, the zoning consistency, and the Compre-, Comprehensive Plan consistency – Mr. Pimentel's report is very extensive on those issues. The Town is, for more than 15 years – regarded this site as one that's zoned for solar. That's been very consistent. Some very, very, very good law firms have all come to the same conclusion on that issue, over a long period of time, and they did so because that conclusion happens to be correct. I thank you all for your, your patience, and, and consideration throughout this process. I did have a couple of minor, uh, nits that Attorney Hogan did mention. I'm perfectly happy to, uh, to, to, uh, leave that for the deliberative process, where those can be, uh, simply noted as the Board moves through the draft.”

Mr. DiOrio thanked Mr. Landry. He then asked Ms. Jalette if the member of the public who wanted to comment still had their hand raised. She replied that they did not, then retracted that statement after Mr. DiOrio began to speak again. The “hand” was then lowered again, and then raised again. Ms. Jalette apologized. Mr. DiOrio replied that he was “trying to give everybody a fair shot at this”, and that they would listen to the caller. It was Jeff Rossi, of Woodville Alton Road.

Mr. Rossi: “I just want to comment, uh, my, uh, opposition to this. I remember, uh, when the application was first made, I was at that meeting. Chairman, uh, DiOrio couldn't understand how we went from it being zoned for a golf course, a special zoning, to now, uh, a huge solar farm, uh, the largest that's gonna be all around. It, uh, will dwarf the one that's on [Alton] Bradford Road, and that, that, that's just hideous. Um, I just, uh, I'm worried about the storm abatement. I know it's been – our, uh, people say that it's, uh, adequate, but I remember the, uh, floods from 2011. That golf course was an absolute lake. Uh, 80 acres taken down, all of those trees are sponges. Where is that water gonna go? I don't believe they could make enough storm abatement to contain that water. I really prevail upon the Planning Board to resist granting a go-ahead on this. It's gonna have a very major effect. Uh, I appreciate you taking my hand, uh, I raced to get home to come to this meeting, uh, and, uh, thanks for hearing me out.”

Mr. DiOrio thanked Mr. Rossi, and said that he was “glad we were able to, uh, to get [Mr. Rossi] in the door.” Mr. DiOrio then continued, and stated that even though it was a Public Informational Meeting, he had been advised that he should close it.

Mr. Prellwitz made a motion to close the Public Informational Meeting. It was seconded by Mr. Lindelow. There was not any discussion.

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

5-0, the motion passed.

Mr. DiOrio then explained that that brought the Board “to decision making time”, and he asked if there was a Board member “that would like to put forth a motion, either for or against.” When there was an extended pause, Mr. DiOrio said that, “Somebody gotta do something.” After another extended pause, Ms. Light spoke up. She stated that the Board had received Ms. Hogan’s draft, and asked if the Board should “go through the entire thing, beginning with the Findings of Facts, etcetera.” She said that she would “do it”, but that she wanted to know “where to jump in.” Mr. DiOrio replied that his call was “for a motion, one way or the other”, and then there would be “a call for a second and then there’ll be a call for discussion, at which time, the motion can be revised, uh, until we get to something that we can all agree upon.” Ms. Light began.

Ms. Light moved to approve RI-95, LLC.’s application for Master Plan for a Major Land Development Project, “Stone Ridge at Hopkinton”, located at AP 11, Lot 47A, based on the following Findings of Fact and Conclusions of Law:

She then joked, and asked if everyone was awake, as it would “take a while”. Mr. DiOrio laughed, and told Ms. Light to take her time.

#### FINDINGS OF FACT:

1. The subject property, located off Palmer Circle, (also known as Assessor’s Plat 11, Lot 47A) consisting of 251.96 acres, is zoned Commercial Special, by virtue of a zoning amendment dated July 2, 1990, a copy of which is attached as Exhibit A. The zone change encompassed Lots 47, 47 A, 47 D, 38 and 39 on Assessor’s Plat 11.
2. On January 8, 2011, the Assistant Town Solicitor, Todd J. Romano, issued an opinion to Brad Ward, the Hopkinton Building and Zoning Official. In that opinion, Attorney Romano advised that any of the uses permitted by right or by special use permit in a commercial district are applicable to Plat 11, Lot 47D. (Romano opinion attached hereto as Exhibit B.)

3. In reliance on Assistant Solicitor Romano's January 8, 2011 opinion, the Zoning Official issued a letter to Mr. Roy Dubs wherein he advised that the July 2, 1990 Amendment "permits not only those uses allowed in a Commercial Zone in 1990 (referencing Article II, Section 3, subsections 1-15 of the 1971 Code as Reprinted in 1989 with Amendments), but also the mixed use planned development as created by the amendment." Mr. Ward also found that Plat 11, Lot 47D may also be used "as permitted by right, in the Zoning Code (Chapter 134, adopted December 19, 1994) in a Commercial Zone." (Ward letter attached hereto as Exhibit C.)
4. On April 4, 2018, the Hopkinton Planning Board granted Development Plan Review approval for a Photovoltaic Solar Energy System (PSES) for Plat 11, Lot 47D (also known as "Palmer Circle I"). This property was part of the subject property that received the zone change on July 2, 1990, referenced in Paragraph 1 herein.
5. On May 1, 2019, the Hopkinton Planning Board granted Development Plan Review approval for a Photovoltaic Solar Energy System (PSES) for Plat 11, Lot 47 (Palmer Circle II Solar)." This property was part of the subject property that received the zone change on July 2, 1990, referenced in Paragraph 1 herein.
6. At the July 7, 2021 hearing, Mr. Vincent Marano testified that he inquired with Town officials as to whether the proposed use of PSES was a permitted use for the subject property. He stated that he was advised that the use was indeed permitted. He further stated that he actually delayed the closing on the property until after the Town had issued its zoning certificate. He also testified that he has spent approximately \$2.0 million to date on this project.
7. December 27, 2019, the Town's Zoning Official issued a Zoning Certificate for the property and on December 31, 2019 issued an amendment to the Certificate, indicating that Use Code 486, commercial solar installation, was a permitted use for the subject property. (Building Official's supplemental memo attached as Exhibit D.)
8. On February 5, 2020, the Planning Board conducted a pre-application meeting for the subject development. At that time, the Applicant conceptually proposed five commercial buildings and a solar facility of approximately 148 acres. The Applicant had not identified which commercial uses might be proposed and was seeking community feedback.
9. On March 30, 2020, the Hopkinton Town Solicitors issued a written opinion which concurred with prior legal opinions and Zoning Official opinions that the proposed solar array was a permitted use under zoning. (Exhibit attached as Exhibit E).

10. On June 15, 2020, RI-95, LLC. (“Applicant”) submitted an application for Master Plan stage of review.
11. After a resubmission, to include missing materials and amendments, the application was certified complete on September 8, 2020. The resubmission indicated that the project would include a 102.6-acre solar array and one 50,000 square foot warehouse building.
12. On October 7, 2020, the Planning Board conducted the first Master Plan Public Informational Meeting.
13. Natural Resource Services Inc. completed a freshwater wetlands delineation report on the subject property. The report, dated December 23, 2019, was submitted as an Exhibit for the October 7, 2020 Public Informational Hearing.
14. The Master Plan Review was continued through several additional hearings conducted on March 3, 2021, April 7, 2021, May 5, 2021, May 18, 2021, and July 7, 2021.
15. Mason & Associates, Inc. prepared a Wildlife Habitat Assessment. (Dated February, 2021, submitted as an Exhibit for the March 3, 2021 Public Informational Hearing.) On March 19, 2021, a revised report was prepared and submitted as an Exhibit for the April 7 Public Informational Meeting.)
16. Ed Pimentel, a Planning Consultant, submitted an undated report addressing planning concerns and offering his opinion. This report was submitted as an Exhibit for the March 3, 2021 Public Informational Hearing. On March 19, 2021, a revised report was prepared and submitted as an Exhibit for the April 7 Public Informational Meeting. On April 18, 2021, a revised report was prepared and submitted as an Exhibit for the May 5, 2021 Public Informational Meeting.
17. A landscape plan was prepared by Traverse Landscape Architects. This report was submitted as an Exhibit for the March 3, 2021 Public Informational Hearing. In April, 2021, a revised landscape plan was submitted.
18. On March 2, 2021, the Wood-Pawcatuck Wild & Scenic Rivers Stewardship Council issued a letter questioning the appropriateness of elements of the proposed plan and offering mitigation measures should the Planning Board approve the Master Plan.
19. Avizinis Environmental Services, Inc. conducted forty soils examinations and submitted a report dated January 29, 2021.

20. Cherenzia & Associates prepared the Storm Water Evaluation dated March 2021, This report was submitted as an Exhibit for the April 7, 2021 Public Informational Hearing.
21. The ESS Group prepared a Noise Impact Assessment dated April 21, 2021. This report was submitted as an Exhibit for the May 5, 2021 Public Informational Hearing.
22. On April 7, 2021, the Hopkinton Conservation Commission issued a letter to the Planning Board addressing the following topics: Open Space, Groundwater, Solar Performance Enhancement, Trails, Fencing, Ceremonial Stone Landscape, Stone Walls, Easements, Wildlife, and Warehouse.
23. On April 15, 2021, Hopkinton Police Chief, David S. Palmer send an email to the Applicant's representative indicating that the Police Department expected no traffic problems with the project.
24. The Hope Valley-Wyoming Fire District Fire Marshall issued a letter indicating no problems with the plans at the present time and stated that a more in-depth review would take place as permitting progressed.
25. The Narragansett Chapter of Appalachian Mountain Club submitted a letter on April 23, 2021 outlining its purposes and its involvement with the Applicant and efforts to restore the Narragansett Trail, a 44-mile long hiking trail. The letter identified that a section of the well-established Narragansett Trail flanked on both sides by stone walls and other significant features, such as large rock piles and stone foundations had been identified for preservation. As a result of consultations with representatives of the Hopkinton Conservation Commission and the Appalachian Mountain Club, the Applicant revised its plans in the Spring of 2021. The trail is proposed for partial relocation, but will avoid wetlands and wetlands buffers.
26. As amended and reduced, the project consists of an approximately 81-acre solar array, and one 15,000 square foot building dedicated to storage of the solar related materials and battery storage.
27. A solar array is almost entirely a passive use that is visited only occasionally for maintenance purposes, requires little or nothing in the way of municipal services, such as trash removal, police, fire or other public safety services. There will be no adverse fiscal impact to the Town for school-aged children. The battery storage building will be minimally occupied at any one time with only 4 or 5 employees. The solar array may be assessed for tangible property tax purposes at \$5 per KW, in addition to the assessed valuation of the underlying real estate and the battery storage building.

28. At the May 5, 2021 meeting, prior to commencing the evidentiary hearing on the final master plan, the Board found that the proposed solar use was in fact a permitted use, citing the Town's long standing interpretation of the 1990 zoning amendment, prior approvals for solar on land that was also part of the 1990 zoning amendment, and the applicant's reliance on the Town's repeated interpretations.
29. At the May 5, 2021 meeting, the Applicant presented testimony from: Sergio Cherenzia, Professional Engineer; Ashley Iannuccilli Cullion, Landscape Architect; Edward Pimentel, Land Use Planner/Consultant; Joseph McCue, Wildlife Biologist; Scott Rabideau, Wetlands Biologist; Ed Avizinis, Soil Scientist & Wetlands Scientist; Mike Ernsting, Environmental Engineer; and Vince Marano (Owner).
30. Mr. Cherenzia described the overall development, including the reduction of the proposed building from 50,000 square feet to 15,000 square feet; the existing natural features and the areas for development and preservation; the extensive discussion and cooperation between the Applicant, the Hopkinton Conservation Commission and the Appalachian Mountain Club; and the requirement for future RIDEM approvals, including stormwater mitigation. He indicated that impacts would need to be mitigated to the Canonchet Brook. He stated that the Applicant was not seeking waivers from any of the requirements of the PSES Ordinance. He stated that the Applicant had submitted a lighting plan that was dark-sky compliant, as required. Mr. Cherenzia's testimony was un rebutted.
31. Ms. Iannuccilli Cullion described the landscape buffering for the new trail system and abutters, the bio-retention areas, and the storm water management areas, and views. She explained that the majority of the site is buffered by wetlands and that with the plan revision reducing the solar array by twenty or so acres; a good portion of the southern site was saved. She indicated that although the 100-foot setback is being maintained, that some of the trees in there were deciduous, so they were proposing to add additional drought-tolerant evergreen screening. She further stated that the screening was proposed to buffer the trail (and the hikers) from seeing the solar array. The retention areas were designed as bio retention areas to be planted with combinations of a wet mix that's all native plant materials – combinations of grasses – fescues, sedges, wildflowers, and native New England species. All disturbed areas will be seeded with a wildflower mix. There will be between 800 and 1,000 feet of forested buffer to the Brook. Ms. Iannuccilli Cullion's testimony was un rebutted.
32. Mr. Pimentel testified that he had submitted an extensive report. He referenced the fact that other uses could use a significantly greater portion of the subject property and would have far higher impacts as permanent structures. He maintained that the community will benefit from a tax base,

while assuring the property owner rights to use his property. Yet, the proposal takes into consideration the concerns of neighbors and other pertinent agencies.

33. Mr. McCue testified as to the potential wildlife impacts from site disturbance and mitigating measures. The first mitigation was a reduction of the development by twenty acres and the preservation of substantial portion of stone walls (by relocation) and stone features. He testified that the project is avoiding areas of steep slope, with large boulders that provide denning habitats for mammals such as foxes and coyotes, despite disturbance. He stated that the proposed fence, which will be elevated 6 inches off the ground will allow small animals to traverse habitat freely. He also stated that whenever he had a suggestion for the project team, they responded without hesitation.
34. Mr. Rabideau explained that his firm delineated the wetlands on the entire 252-acre site and that took five days to complete. He stated that the next step would be to submit to the RIDEM. His testimony was un rebutted.
35. Ed Avizinis testified that he conducted approximately 40 soil evaluations on the property so that the engineers could design the bio-retention areas which will attenuate, treat, and promote infiltration of any storm water generated from the site. Those designs are based on the soil properties. His testimony was un rebutted.
36. Mr. Erstling testified that the sound levels for this type of equipment for solar projects is extremely low. This project will have pad-mounted utility scale inverters and transformers. He stated that the maximum decibels was 33 - at the property line - not accounting for any additional vegetation. He described the noise as background and essentially imperceptible. His testimony was un rebutted.
37. Mr. Murano testified that he called the Town to find out the zoning before the purchased the property, with the original intent of developing it as a medical facility. He explained his background as having developed the Morristown Medical Center with 550,000 square feet of space for the Atlantic Health Group. He originally thought that with Rhode Island's aging population, this would be a needed facility. In later development, he thought he might develop 900,000 square feet. He testified that someone in the Town suggested that he pursue solar instead. He stated that he had negotiated a 25-year lease with an energy company with 2 ten-year options to renew. His testimony was un rebutted. The proposal now includes just one 15,000 square foot building.
38. At the May 19, 2021 meeting, the Abutters presented two witnesses: Peter Friedrichs, a Planning Consultant and Linda Steere, a wetlands and wildlife biologist.

39. Mr. Friedrichs testified that although the reduction in the size of the proposed array was an improvement, in his subjective opinion, the application still was not consistent with the comprehensive plan in several areas.
40. Ms. Steere was accepted as an expert in wetlands and wildlife. She concluded that the proposed project would have a significant impact, on the wildlife habitat. She described the area as a five hundred acre unfragmented forest in a 2015 amendment to the Rhode Island Wildlife Action Plan. She explained that birds such as scarlet tanagers, wood thrush, a number of warblers need these large unfragmented pieces for nesting habitat. She noted that a portion of the site has a groundwater recharge area and wellhead area nearby. She noted that the Nature Conservancy has identified the site as a “climate corridor” designed to protect carbon sink. She stated that there would be loss of wildlife habitat. She concluded that this loss of habitat (approx. 100 acres) would have a very large, significant impact. On cross examination, she acknowledged that she was not aware of the mitigation testimony provided by the Applicant’s witnesses. She further understood that the RIDEM review process had not yet begun because that doesn’t occur at the Master stage of review.
41. On May 19, 2021, a letter of concern about the proximity of the proposed building to an abutting property owner was submitted by legal counsel.
42. The line of view between the proposed building and the abutting property owners, extends several hundred feet.
43. At the July 7, 2021 meeting, the Applicant indicated that it met with the abutting property owner and expressed its commitment to provide robust screening/buffering, including, if necessary, a heavily vegetated berm.
44. On June 9, 2021, four Planning Board members, in two separate groups of two visited the site with a representative of the Applicant’s engineering firm. The Planning Board site walks revealed that there are a substantial amount of massive boulders throughout the acreage proposed for the development.
45. At the July 7, 2021 meeting, the Applicant’s engineer, Mr. Cherenzia, described the plans for dealing with the many boulders. He explained that most of the boulders observed during the site walk had been excavated during the soil evaluation process, and that he did not anticipate a substantial increase in the number of boulders, due to construction. The areas that will require additional excavation are the detention basins. Boulders excavated during that process, together with the ones already excavated, will be broken up and processed on site.

In the middle of Ms. Light’s reading of Item 45, a loud thunderclap interrupted her. Ms. Light asked what it was, and Ms. Jalette explained that it was “thunder right over the

Town Council Chambers.” Ms. Light replied that she had “thunder over here, too.” She then continued.

46. There is an historic cemetery (Worden Lot HP 043) located on the property, extensive stone walls, and a portion of hiking trail- the “Narragansett Trail.” There are 53.23 acres of wetlands, 22.63 acres of perimeter and riverbank wetland, and 176.2 acres of upland.
47. Crossman Engineering served as Engineering Consultant to the Town for peer review of the project. Crossman issued multiple memoranda throughout the course of the Master Plan review process. Crossman indicated specifically that the drainage plans submitted at this stage of review was sufficient for review and that significantly greater detailed plans come at the preliminary stage of review.
48. The Applicant has agreed to re-create the Narragansett Trail over the site and to allow public access to the site for recreational hiking. The public presently has no rights to enter the property, as it is privately owned.
49. At the July 7, 2021 meeting Mr. Cherenzia testified that to install the solar arrays, drilling can be done right into surface and subsurface rocks and boulders, so that many of them will not require removal. There is no ledge on site that would require blasting.
50. The application was formally opposed by abutting property owners represented by counsel. Competing legal memoranda were submitted by the Applicant and the Abutters about a variety of issues.
51. The Board accepted oral and written comments from multiple members of the public during the course of the proceedings.
52. The Town of Hopkinton is inadequately staffed to provide sufficient regular oversight of the proposed construction to ensure compliance with the Town’s regulations and ordinances. Board Member Prellwitz offered to serve as a volunteer to assist the town in reviewing the construction.
53. The Town of Hopkinton has imposed work time restrictions for other solar array projects which limit construction to weekdays, from 8:00 a.m., to 5:00 p.m.
54. Mr. Vincent Marano testified at the July 7, 2021 hearing and expressed his intent to work with the Town as much as possible with the goal of making this project a “model” solar project. He pledged his commitment to do what was necessary to provide adequate screening of the project from the abutters and agreed to work with the Town to ensure sufficient oversight of the eventual construction process.

55. The solar array is anticipated to be a temporary, albeit, long-term temporary use of the parcel of approximately 25-30, or 40 years.
56. A solar array decommissioning plan was not submitted at the Master stage of review, but will be required at Preliminary.

#### CONCLUSIONS OF LAW:

1. The proposed development is consistent with the following components of the Comprehensive Community Plan:
  - a. Natural Resources Policy 5: Promote energy self-sufficiency using renewable energy and energy conservation;
  - b. Conservation Policy 7: Concentrate major development and community facilities in the established villages within the environmental limitations of these areas, primarily Ashaway and Hope Valley, and with Exits 1 and 2;
  - c. Economic Development Goal 1: To provide for the expansion of the Town's tax base by encouraging development of new and existing light and/or heavy industrial & office/commercial business;
  - d. Public Services and Facilities Policy 17: Encourage renewable energy projects in the private sector; and,
  - e. Natural Resources Goal 1: To preserve, conserve, and protect the significant natural resources of Hopkinton as an endowment for the future of the Town.
2. The proposed development is consistent with the Hopkinton Zoning Ordinance, and the Town's long-held and relied upon interpretation of the July 1990 zone change and is the same use that the Town has already approved for two prior applications for solar arrays on land that was part of the 1990 zone change. The proposed structures and building comply with the dimensional regulations of the ordinance and no variances or waivers are required.
3. At present, there appears to be sufficient assurances that there will be no significant negative environmental impacts from the proposed development. However, this issue is one that will be addressed in detail at the Preliminary Plan stage of review and the Board reserves all rights to make a final determination on this issue and to impose additional conditions, all at the Preliminary Plan stage of review.

4. The proposed land developments will have adequate and permanent physical access to a public street.
5. 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. Specifically: the project has been substantially reduced in scope; the project is unlikely to be visible to any degree to any surrounding residential property; the Applicant has committed to substantial screening to the one abutting property owner that otherwise might have a glimpse of the storage building. Several stone foundations and features will be preserved and the Narragansett Trail will be preserved in part and relocated in part.
6. At present, there appears to be sufficient assurances that 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. However, this issue is one that will be addressed in further detail at the Preliminary Plan stage of review and the Board reserves all rights to make a final determination on this issue and to impose additional conditions, all at the Preliminary Plan stage of review.
7. The review of the project as a Major Land Development project, requiring Master Plan, Preliminary Plan, and then Final Plan stages of review, as opposed to the singular Development Plan Review, was appropriate because the project, as originally submitted, was not simply a Photovoltaic Solar Energy System (PSES), but rather included other commercial uses and structures. In addition, reviewing the project as three stages allows the Planning Board an extended period of time for a graduated level of review, consistent with the needs of the Town.

**ORDER:**

1. RI-95, LLC.'s application for waivers from any unsatisfied Master Plan checklist items is hereby approved for this stage of review only. The Applicant is not seeking and the Board is not waiving any requirements for ultimate development plan approval and all aspects of existing drainage, circulation, relationship of buildings to each other, landscaping, buffering and lighting will be reviewed and determined at the Preliminary stage of review.
2. RI-95, LLC.'s application for Master Plan is hereby APPROVED with the following conditions of approval, to be developed at the Preliminary Plan stage of review.
  - a. The Applicant is directed to prepare a detailed plan for the Preliminary stage of review that addresses how it plans to crush/process boulders,

rocks and other materials on site, together with a proposed construction timetable.

- b. The Applicant is directed to prepare a plan for the Preliminary stage of review that stage adequate expenses to provide supervisory personnel to observe and ensure compliance with the proposed construction.
- c. The Applicant shall submit a dedicated access easement to the historical cemetery for the Preliminary stage of review.
- d. The Applicant shall address the Wood-Pawcatuck Scenic Rivers Council's recommendations and incorporate as many of its recommendations as possible at the Preliminary stage of review.
- e. The Applicant shall present a detailed plan and supporting legal documents for the Preliminary stage of review that will identify, explain and confirm the Appalachian Mountain Club's future role in maintaining the re-routed Narragansett Trail.
- f. The Applicant shall submit a decommissioning plan at the Preliminary stage of review.
- g. The Applicant shall include pollinator habitat in the landscaping plan at the Preliminary stage of review and shall develop a plan that requires a minimal amount of fertilization, or other chemical maintenance.
- h. The Applicant shall, for the Preliminary stage of review, cooperatively develop a plan of robust screening for the abutting property owners that might otherwise have a view of the proposed solar array or building.
- i. The Applicant shall anticipate and expect that the Planning Board will, at the Preliminary stage of review, contemplate the imposition of work time restrictions to be consistent with the conditions imposed on other solar arrays: with construction limited to Monday through Friday, 8:00 a.m. to 5:00 p.m.
- j. The Applicant shall anticipate and expect that the Planning Board will, at the Preliminary stage of review, consider the imposition of a performance bond, to ensure strict compliance with the terms of any approval, especially in regards to the amount and location of tree cutting and onsite topsoil preservation.

The motion was seconded by Mr. Prellwitz. Ms. Hogan interjected, and asked if they had “[lost] the Town.” Mr. Pennypacker and Ms. Light said that they thought that they had.

From, approximately, the 1:58:51 mark on, the Town was no longer connected to the Zoom meeting.

Ms. Hogan asked those assembled to “stand by” while she contacted Ms. Jalette. Ms. Light asked if she was going to have to reread her motion, and Ms. Hogan replied that she did not think that she would, because it was “still recording”. She said that she had received a text from Mr. DiOrio that there were “tech issues in progress – a mess”. Ms. Hogan then muted herself so she could call those assembled in the Chamber. Mr. Lindelow complimented Ms. Light on her reading of the motion as they waited to hear from the Chair, the Planner, and the Senior Planning Clerk. At the 2:03:33 mark, Ms. Hogan explained that she had Mr. DiOrio on the telephone.

Ms. Hogan: “Uh, they had a very large crack over the Town Hall, and they do not have communications. I’ve explained to Al [DiOrio] that we can all still hear and see each other out here, uh, and that it appears that the, uh, video is still recording. Talia [Jalette] is able to confirm that she gets a message that it’s recording, but they cannot see or hear us. So, Al [DiOrio], you wanna jump in there?”

Ms. Hogan then put Mr. DiOrio on speakerphone. Mr. DiOrio said that he “appreciate[d] the alternative arrangement here”, and that, for those in the Chamber, the “world, uh, blew up with a lightning flash in the vicinity”. He said that those in the Chamber were not live on the Zoom call any longer, but that “apparently, you folks can communicate with each other, and that’s great” – even though those in the Chamber were “out of the loop.” Mr. DiOrio said that in discussing the situation with Ms. Hogan, they were going to give it some time, and that if things were not resolved by then, the meeting would have to be adjourned. Mr. Skwirz interjected that the Planning Board did have an alternate, “and a motion on the floor”. He continued.

Mr. Skwirz: “Um, I would ask, if you can’t get the technical issues together, you know, maybe, maybe it would be appropriate to, uh, have the ultimate vote.”

Ms. Hogan: “Uh, I don’t, I don’t, um – I don’t think that’s an appropriate, uh, option under the circumstances. Um, I don’t know, quite honestly, whether or not the rest of the, the public is excluded from this meeting. I, I am concerned with the Open Meetings component of things. If I’ve got the Chair, who’s now precluded from chairing the meeting, I’m not comfortable with that. So, I would suggest that we do what, uh, the Chair has recommended, and that is, ‘Let’s wait for 15 minutes.’ It may be that the, um, it may be that the, uh, technical issues are resolved. They do have a new fellow for the Town that could be called. He came in, if you recall, the last meeting. Um, so, let’s give it a 15-minute break here, and see if we can’t put our heads together and figure out the plan.”

Mr. DiOrio then stated that Ms. Jalette was in communication with Mr. Frenette, the IT professional for the Town, but that he could “only do so much.” Ms. Hogan then stated that they were going to “be in recess now until 8:25.” Mr. DiOrio asked Ms. Hogan to call him at that time if he did not communicate with her prior to that point. Ms. Hogan instructed the participants to turn off their mics and their videos.

In the meantime, Mr. Prellwitz asked if they would have to sign in again. Ms. Light replied to him that she was leaving her phone on. He concurred. Ms. Hogan replied that that would be fine, and that she had given that directive because if a participant began to talking with another member of their household, they would be heard by the other meeting participants. Ms. Light thanked Ms. Hogan for her testimony on behalf of the Planning Board at the Zoning Board meeting, and said that she had done a “great job.” Ms. Hogan thanked her.

Zoom capabilities were restored to those in the Chamber around 2:09:19. Ms. Jalette asked if the meeting had continued to record. Mr. DiOrio replied that that was what Ms. Hogan had indicated to him. Ms. Hogan replied that she was “fielding a number of messages here from a variety of the parties here”, but that, in their “screens, out here in cyber world” the recording button could be seen blinking, which suggested “that it is being recorded.” Ms. Hogan noted that there was a court reporter in attendance, “so, in the event that the, the local recording has failed, there is a level of recording of the meeting”. She explained that they would have to stay in recess until 8:25 p.m., as that was the directive she had given to those assembled.

Mr. Frenette then appeared. He asked if he could “interrupt for a second.” Ms. Jalette replied that he could, as they were on recess for the next ten minutes. Mr. Frenette confirmed that the meeting was being recorded. He also stated that the Town was having a problem with its internet connection, and that it was unstable at that time. He said that there was nothing that he could do that would “stabilize it”. He said that he had looked into their internet service provider, and that they had communicated that there were issues in the area. He said that it “could happen again”, but that he would walk Ms. Jalette through the process so that she could rejoin the Zoom in the event that that occurred. Ms. Light said that she had participated in a Zoom meeting last year by candlelight. Mr. Frenette said that he hoped that that would not have to happen. Mr. Prellwitz joked, and asked if Ms. Light had participated in a meeting or a séance. Mr. DiOrio told Mr. Frenette that they greatly appreciated his efforts, and Ms. Jalette concurred.

At around the 2:21:35 mark, participants began to return. Mr. DiOrio said that as more people filtered in, the first order of business would be to have Ms. Hogan fill them in on “what the hell transpired while we were out of commission.” Ms. Hogan stated that Ms. Light had finished reading the draft decision, and that it had been seconded by Mr. Prellwitz, but “that’s where everything stopped.” Mr. DiOrio then spoke.

Mr. DiOrio: “Okay, so, we have a motion. We have a second.”

Ms. Hogan: “Yes.”

Mr. DiOrio: “Time for, time to call for a discussion on the motion. First of all, I’ll, I’ll look at Talia [Jalette] here – do you think everybody’s back?”

Ms. Jalette: “No. I, I know, definitively, that not everyone is back. Mr. Landry has not turned his camera back on, and neither has Sergio [Cherenzia]. Mr. Landry just turned it on, so I’m assuming he was just waiting at his desk to turn it back on, so -”

Mr. DiOrio said that he was “going to presume that the principal players are back on board”, and that, again, he understood that there had been “a completion of the motion”, as well as a second, and that it was “time for discussion on the motion.” Mr. Lindelow spoke, and asked if he could be heard. Ms. Jalette said that he could be heard. Mr. Lindelow then spoke before the Board. He said that he was “not the most eloquent of speakers”, but that he had “tried to voice some opinion” at the last meeting where the project was discussed. He thought that he had “a better mindset of how to, uh, describe what [he was] thinking”. He said that “there’s some debate about, uh, Findings of Fact #39, size and scope, #40, whether there is or isn’t negative impact on the environment”, and that “those are some things that, um, especially the environmental impact – [that] we wouldn’t know for years to come”. He then began to reference #55 – “the solar array is anticipated to be a temporary, albeit long-term temporary” use - when the court reporter interjected to ask Mr. Lindelow to “speak a little, um, louder into the mic”. He continued.

Mr. Lindelow: “So, I just want to talk about Item 55, under Findings of Fact, where it mentions that, that it’s a known fact that the solar array is anticipated to be a temporary, in, in the words of, um, Item 55 – ‘albeit long-term temporary’, but I would argue that it’s really a short-term use of, of the, the, the, uh, I guess the project, and, and, if we focus on – and maybe my assumptions are wrong, but, but solar is in place to, um, kind of take the place of our current energy sources, and then, um, you know, if a solar project only lasts 20 to 25 years, or maybe, in this case, for 40 years, then, I guess, what we’re setting ourselves up for in the future is – what do we do after that? How do we replace all these – especially these large-scale solar projects – how, what, what are the future generations, or any of us that are around back then, where are we turning to replace what we’re replacing our current energy source with, and, to me, it just creates a big unknown, and I, I don’t know that, for me, it’s not something that, uh – it sounds like we’re, we’re taking a big risk, where we’re going to turn in another direction, and then, in 25 to 40 years, we’re gonna have to turn back another direction, either go back to what we have now, or, who knows what the future brings to us, so, that’s the underlying concern, where I’m having trouble supporting not only this project, but, but many other solar projects – because there’s just this great unknown out there, that it, it’s new, and some of it’s attractive, that, you know, in concept, we’re going to get rid of fossil fuels, and have a new renewable energy source, but, then it goes away, and then what do we do? So, that’s, that’s the only fault with me. I, I just – doesn’t make sense that we’re gonna enact something for 20 years, and we have to come up with another issue, or, or our predecessors, or, I mean, people after us are gonna have to figure it out, so, that’s my problem.”

Mr. DiOrio thanked Mr. Lindelow. Ms. Shumchenia spoke next, and said she wanted to “offer some opinions.”

Ms. Shumchenia: “So, uh, I, I prepared my thoughts ahead of time, so I would not ramble too much. Um, after reading the compilation of facts, and the resulting Conclusions of Law on the findings required of us to make, I found that several facts prevent me, personally, from making some of the required findings, and I want to explain those just real briefly. The first finding that I’m unable to make is on consistency with the Comprehensive Plan, and the second is on environmental impact. These are intertwined

in my mind because of the broad scale of this project. Uh, the abutters' witness, Peter Friedrichs, reminded us that the Comprehensive Plan states, in the public services and facilities section, Recommendation 17, on Page 123, 'adopt regulations that encourage small-scale renewable energy installations.' There are no further recommendations in the Comprehensive Plan regarding the size or siting of renewable energy installations – only the intention to encourage small-scale installations. Obviously, and as the applicant's planning expert, Mr. Pimentel, has pointed out, uh, the words 'small' and 'large' are subjective, but this project would be the largest in Town by about 20% - uh, 81 acres, versus Maxson Hill, which is about 68 acres. A project of this size is simply not consistent with the Town's intentions as expressed in our Comprehensive Plan on Page 123. Uh, further, I acknowledge that every development will have some degree of negative environmental impact, and most of our land use decisions involve balancing the positives with the negatives. We heard testimony from Ms. Linda Steere about the negative environmental impacts of this project, including the fragmentation of a 500-acre contiguous forest. I'll note that from my own research, on the Rhode Island DEM [Department of Environmental Management] mapping website, this area of contiguous forest is identified as approximately 1,055 acres. In addition, Ms. Steere noted disturbance to a recognized climate corridor, which provides value, value as a carbon sink, and protects connectivity of the landscape, as well as disturbance to a groundwater recharge area, and losses of wildlife habitat. We heard also from – we heard testimony, expert testimony from Ms. Elaine Caldarone from the Wild and Scenic River Stewardship Council, who noted the potential disturbance of this development to the natural hydrology of the area. The applicant's expert testimony described mitigation measures taken by the applicant, which addressed some elements of wildlife habitat, reducing the overall footprint of required clearing by 20 acres, and preserving stone structures, but have not adequately addressed negative impacts caused by clearing over 80 acres of forest to the hydrology of the watershed, or to groundwater, which are natural resources that belong to all Hopkinton residents, and provide critical infrastructure. The stated mitigation measures are efforts in the right direction, but not enough, in my opinion, to allow me to agree that there will be no significant environmental impacts resulting from this project."

Mr. DiOrio thanked Ms. Shumchenia, then asked for "any other comments or thoughts" from the Board. Mr. Lindelow spoke. He said that he wanted to "remind" the Board, particularly Ms. Light, about Ms. Light's granddaughter, who had appeared at one of the meetings, and "spoke so eloquently about the environmental impact", which "kind of moved us all to, to vote no on that particular project". He said that if Ms. Light's granddaughter was in attendance, she would be "saying the same thing about this one."

Mr. Lindelow: "Hopefully you can agree with that, Carolyn [Light]."

Ms. Light: "Absolutely. She's, um, an advocate for, um, maintaining, uh, the existing conditions everywhere. I am, too. Um, none of that has changed. Um, in, in my personal opinion, position right now, uh, this is a project that can happen because there have been, uh, extreme measures taken to take into account the disruption that's going to occur, and, for those of you [who] don't know, this is down the street from me, so it is sensitive to my neighborhood and what I perceive to be the grounds that I like to walk around on, and

what I like to see, and, uh, I'll be honest with you guys. My granddaughter, Liliana, and I trespassed on that property, and we had a great time, and we had great talks about the things that we were seeing there, um, but, inevitably, because of the way this property is zoned, there has to be some kind of a give, and, in my mind, in my position, and in my discussions with my granddaughter, I would rather have a passive neighbor that's gone above and beyond to address the conditions of the Appalachian Trail, the Narragansett Trail, the historical landmarks that are buried in that property. Um, this is, quite honestly, um – I think if every project development approached all of these items as proactively as this team has, it would be a lot easier to be a Planning Board member, because you've taken care of all of those things, and, uh, I, I'm, I'm a proponent of solar if it's sited well, and I'm a proponent of this project because of that. Uh, if, if there was a lot of pushback from the other side of the table, it would be really hard to bite this bullet, but I, you know, like Keith [Lindelov] mentioned, I, I'm, I'm, I'm a grandmother to a little girl who's growing up, and I was part of the reason why she decided she was gonna ground herself in animals and wildlife and, and everything that goes along with it. So, I'm, I'm not going to break my trust with my granddaughter, but, in this particular instance, I can defend my decision here. Thank you."

Mr. DiOrio thanked Ms. Light. He then asked if there was "anything else from Planning Board members." When he did not hear from the rest of the Board, he said he had "a couple of thought to get out on the table."

Mr. DiOrio: "Uh, I was conflicted when this project first came before us. I was perhaps the only Planning Board member who was actually a part of this initial rezoning application. I was more than a little disappointed when this project came before us. I really didn't feel that it, it belonged here. Uh, didn't much care what the legal folks had to say. I, I was around and they weren't, uh, so I felt that I knew best, and this wasn't a fit for me. However, I was then reminded that, uh, the horse had really left the barn on that particular topic, and I would recite, or I would direct your attention to Items 4 and 5 in the decision – that solar applications and projects have been approved on this very parcel, uh, well before this applicant has arrived on our doorstep, and, although I didn't participate in those proceedings, uh, the time for the fight that has been, uh, raised by the opponents would have been much more appropriate when those applications were before the Planning Board, because then, cogent argument could have been made that this use does not belong on this property. However, that's a done deal, and that was the – that was one of the pivotal arguments that brought me on board with this project. Uh, so, while it would not have been my preference, uh, I think it's inappropriate to raise some of the arguments that I've heard at this late stage, uh, for this particular applicant, when other applications have been approved on the same site. So, as a result, uh, I'm, uh, I'm a yes on this proposal."

After Mr. DiOrio concluded his remarks, Mr. Prellwitz asked if the Board was "at the voting stage now." Mr. DiOrio replied that they would "be shortly", and that they were "kind of at the stage where we're discussing the motion". He said that if there were "revisions" Mr. Prellwitz wanted to make to the motion, or a "foundation" for his decision, he thought that "this would be the time." Mr. Prellwitz thanked him. Mr. DiOrio

then asked if he “could impose on” Ms. Hogan to alert the Board to the existence of “any housekeeping issues with the decision.” Ms. Hogan responded that “there were some suggested, uh, changes to the verbiage, if you will, of the motion, um, by Mr. Landry’s Office”, and that she did not know how the Board wanted to “handle that”. She said that it would depend on “how the Chair wants to call it.” Ms. Light asked if she could make a comment. She then did so.

Ms. Light: “Uh, I, I want to speak to Mr. Gregory’s concerns. Um, while we were on our site walk, uh, in attendance was Sergio [Cherenzia], Jim Lamphere, and Ron Prellwitz and myself. A lot of attention was paid to the proximity of your property, your view to the site, and it was a much detailed discussion. A lot of attention was paid to protecting your position on your property and your rights. So, uh, the decision that we are reviewing tonight isn’t slighting your needs. A lot of attention was paid to you as a resident, and I just want – I don’t know if that gives you any comfort, but the Planning Board is doing its best to make sure that your concerns are addressed -”

Ms. Hogan: “Okay -”

Ms. Light: “Uh, we don’t perceive as frivolous.”

Ms. Hogan: “Carolyn [Light], I’m terribly sorry to interrupt, but I’ve just gotten a text from Al [DiOrio] that they’re out again, so everybody standby, please, and Talia [Jalette] is, uh, attempting to reconnect.”

A moment after Ms. Hogan made that announcement, those in the Chamber were able to rejoin the meeting. Ms. Jalette explained that it had disconnected around 8:42 p.m., “and then it automatically tried to reconnect”. She said that it “reset some of the settings” when that happened, which she had to correct. She apologized for the delay. Mr. DiOrio thanked her. He then spoke.

Mr. DiOrio: “So, the last thing I heard was Carolyn [Light] was trying to interject with a comment.”

Ms. Light joked that he had “missed all the good stuff”, and truncated her explanation of the sentiments she had expressed when those in the Chamber were offline. She said that “during the site visit” that she had attended with Mr. Cherenzia, Mr. Lamphere, Mr. Prellwitz, “a lot of attention was paid to, uh, Mr. Gregory and, uh, the proximity of his home, his property, and his views.” She continued.

Ms. Light: “I just wanted to let him know that we weren’t dismissing his concerns – that they were taken into consideration.”

Mr. DiOrio replied that the Board would “continue” to take Mr. Gregory’s concerns “into consideration”. Ms. Light concurred, and said that she was excited to return to in-person meetings again. Mr. DiOrio then returned to “grappling with the topic of whether there was housekeeping to attend to as a result of, uh, some of Mr. Landry’s comments.”

Mr. DiOrio: “Maggie [Hogan], I have to defer to you here. If you suggested that we would entertain them, yeah, let’s get them out in the open, uh, or if Planning Board

members would prefer not to do that, and are prepared to go with the decision as written, uh, I'm okay with that, too. Your preference entirely."

Ms. Hogan stated that she would "review them briefly", and that it was "really kind of wordsmithing", and that there weren't "substantive things." She said that in Item 6, the last sentence was reworded to say that, uh, "delayed the closing on the property until after the Town made such a confirmation, and he did not proceed with the development proposal until the Town issued the zoning certificate described in Paragraph 7." She continued.

Ms. Hogan: "The next proposed change – give me a moment, I'm scrolling – was in Item 26. The last three words – 'and battery storage' - have been stricken, and it says 'or other storage permitted under the Zoning Ordinance.' In Item 2-, uh, Paragraph 27, the word 'battery' is stricken from storage building in two places. In Item, uh, Paragraph 37, he corrected my spelling of Mr. Marano. I apologize, Mr. Marano. And, also, um, the last sentence says 'the proposal now includes just one 15,000 square foot building in addition to the solar array structures.' Uh, Paragraph 48, um, after the words in the second line, 'recreational hiking' has a parentheses, and, and – pardon me, a comma, and says 'subject to agreements being finalized with the AMC [Appalachian Mountain Club].' In Conclusion of Law #7, on the bottom of Page 9, the word 'multiple' is included before structures, so it's, it'll say, 'but rather included other commercial uses and multiple structures.' Uh, the most substantive proposed change is in the Order, Paragraph #1, and it says, uh, on the second line, for, 'for this stage of review only', and added ',as a deferral, as opposed to a permanent waiver', and then, uh, a few sentences added to the end of that paragraph, which state, 'it is noted that the need for a waiver is doubtful as to drainage design and calculations, as the information supplied is in line with what is expected at the conceptual Master Plan stage of review, where precise design parameters are generally not available. To the extent that any deferral is deemed a waiver, it is reasonable and within the general purpose and intent of the regulations, and in the best interest of good planning practice, particularly the staged approach required for a Major Land Development project, for a project consistent with the Comprehensive Community Plan and Zoning Ordinance.' And that is it. So, Mr. Chairman, if, if the Board members who are inclined to, uh, approve this motion are, uh, comfortable with those proposed changes by Mr. Landry, the motion could be amended to incorporate those changes, and they you could proceed."

Mr. DiOrio thanked Ms. Hogan, and asked his fellow Board members how they felt "about these proposed revisions." Ms. Light said she did not have any objections. Mr. Lindelow and Mr. Prellwitz spoke at the same time. Mr. Lindelow concurred with Ms. Light, as did Mr. Prellwitz. Ms. Hogan asked Ms. Light if she wanted to make a motion to approve the amended motion, and asked Mr. Prellwitz if he would second it. She said that at that point, the Board would be "in position to vote on the entire amended motion."

Ms. Light amended her motion to include the housekeeping matters that were requested by Attorney Landry, and proposed by Attorney Hogan. It was seconded by Mr. Prellwitz. Mr. DiOrio asked if there was any further discussion on the amended motion or the "final

decision itself.” Ms. Light said she had nothing else. Mr. DiOrio called for a vote. Ms. Hogan asked him to do so by roll call vote. He did.

In Favor: DiOrio, Prellwitz, Light

Abstain: None.

Opposed: Lindelow, Shumchenia

3-2, 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 explained that he was going to recuse, as he had in the past, as his surveying firm had “performed surveying services for this applicant”. He stated that he was “not involved in any aspect” of the project. He asked Mr. Prellwitz to step into the role of Chair, due to his “familiarity with this application.” Ms. Jalette accepted Mr. DiOrio’s recusal form.

Mr. Prellwitz asked Mr. Lamphere to “bring us up to speed, so everyone in the audience knows where we stand with this”. Mr. Lamphere spoke before the Board.

Mr. Lamphere: “At the last meeting of the Planning Board, again, um, we attempted to, uh, divine the intent of the Board – inclinations as to how they might want to vote on this application. We’ve heard, uh, the entire presentation from -”

Here, Mr. Lamphere’s mic cut out. Ms. Hogan said that she thought that those in the Chamber had lost their connection. It returned after Ms. Hogan’s comment. Mr. Lamphere continued.

Mr. Lamphere: “We’ve heard public comments on this, and so, we have, uh, a motion – a proposed motion to approve, that was prepared by our Solicitor, based upon the, uh, input that we received at the last meeting of July 7<sup>th</sup>, and I think that’s, uh, I would suggest we start there, and, and do what we did on the last application – is, um, solicit public input, and, uh, exhaust that, and then go into the proposed motions.”

Ms. Hogan interjected.

Ms. Hogan: “Mr. Chairman, uh, it’s Maggie Hogan. So, before the Board proceeds, um, you know that I have provided a, for you, a draft motion, as well as a draft memorandum that’s presently internal only, for the Planning Board members, um, simply because it’s not finalized, um, but I’m prepared to finalize that and issue it within the next couple of days so that everyone knows what the advice has been. Um, but I’d like to go over that because it, it, it speaks to this – the issue that you’ve heard raised again and again, uh, about the issue of vesting and the appropriate Ordinance, uh, for review.”

Mr. Prellwitz said that he understood, and asked Ms. Hogan if she wanted to do that now. She continued.

Ms. Hogan: “Yeah, I, I would like to, and I’d also like to note that when we get to the motion, please strike, uh, under the Findings of Fact Paragraph, um, 2.”

Mr. Prellwitz said that he understood, and returned the floor to Ms. Hogan. She clarified her earlier statements, as the “memorandum that [she] want[ed] to speak to is on the next project”, so the Board could “go ahead, and go to the, um, the motion” that had been prepared. She reiterated that Paragraph 2 should be stricken, “because it does refer to a different project.” She added that Ms. Rocha, the attorney for the applicant, had “sent in some proposed, again, uh, minor revisions” that the Board could “handle in the same way” that they had “handled the last one.” She said that she was “not entirely sure that the proposed revisions [were] consistent” with the notes that she had about various dates, but she said that those were “minor issues” that the Board could get to. She said that the Board was “in a position now to consider the drafted motion.” Mr. Prellwitz asked the Board if there was a member who “would like to make the motion.” Ms. Rocha asked to be heard “for a minute” before the Board began their deliberations.

Ms. Rocha: “I don’t know if we’re taking additional public comment like the last one? I was gonna reserve – I just have a very brief, um, summation to do, but I, I was gonna save that, in case you wanted to open it to [the] public. I’m – it doesn’t matter to me. This has been pending for some time. Um, I thought about, since Carolyn [Light] did such a great job reading that very long decision, I thought about sending, you know, six more pages over so we picked up a lot more time, but, no, I, I will be very brief, um, but I’ll, I’ll do whatever, however you want to proceed.”

Mr. Prellwitz asked who had spoken, and Ms. Rocha replied. Ms. Hogan interjected that, in hearing Ms. Rocha’s comments, she had “some recollection that we would be handling this matter the same way” they had handled the Stone Ridge matter – namely, that if the public had “any additional commentary, it would be a good time to take it.” She continued. She said that she thought that the Board had heard all of the comments, but that the Board could give the public that opportunity. Ms. Jalette asked those in the audience to press \*9 if they wanted to comment on the proposal, and then press \*6 to unmute themselves. The first caller was Eric Bibler, of Woodville Road.

Mr. Bibler: “Um, I’d like to ask the Planning Solicitor to provide some, uh, clarification to the Board. I’d like to ask, through the Chair, if that’s possible. I’d like to ask some questions that I’m unclear about.”

Mr. Prellwitz allowed him to move forward with his questions.

Mr. Bibler: “First of all, when the Town Council passes an Ordinance, does the Town Council have to comply with it?”

Ms. Hogan: “Mr. Chairman, that’s not an appropriate question for me to be answering. He can ask the Town Solicitor that question.”

Mr. Bibler: “Okay. Um, well, here’s one that does pertain to this, uh, project. Um, as you know, Sec-, in Section 6, of the, uh, Zoning Code, uh, lays out various, uh, dimensional regulation, uh, setbacks. They’re called dimensional regulations, and they include things like setbacks from front, rear, side setbacks and coverage ratios, and so forth. So, it’s my understanding that, um, these regulations, in Section 6, which is a Town Ordinance, passed by the Town Council, that, um, the, you know, all applications have to conform to these regulations, and that the Town Council is not able to issue a waiver, uh, for any of these dimensional regulations. A waiver, for any of these aspects of, of this Town Ordinance and others like it, uh, need to be granted by the Zoning Board. Is that – am I correct in the understanding that it requires a waiver, uh, from the Zoning Board in, in order to, uh, get relief from any of these conditions? So, that wouldn’t be the Planning – the Planning Board is not able to grant those waivers, nor is the Town Council, is my understanding?”

Ms. Hogan: “Uh, Mr. Bibler, I don’t think I’m entirely following what your question is, but I would suggest to you that the Town Council enacted an Ordinance in – I believe it was November of 2020 – in regards to this application, and that particular Ordinance, uh, have not been, um, overturned by a Superior Court, and this body is now bound by the components of that particular legislative act.”

Mr. Bibler: “Right, and I understand that -”

Ms. Rocha: “I, I just wanted to add something, Mr. Chair. This project’s not asking for any variances, so, unless there’s a specific question as the application, uh, you know, I’m not gonna weigh in for the Solicitor, but I would object to any hypothetical questions. We’re – this project isn’t asking for zoning relief.”

Mr. Bibler: “Right -”

Mr. Prellwitz: “Okay. Understood.”

Mr. Bibler: “What I’m trying, what I’m trying to understand is that we had a, uh, existing master Solar Ordinance on the books – I think it’s Chapter 246 – but it was enacted January 22<sup>nd</sup>, 2019, and I don’t think there’s been any controversy that that is the applicable, you know, Ordinance for review of this solar project, and, in that Solar Ordinance, uh, there’s a limitation that’s similar to these dimensional regulations that says that the maximum coverage ratio of the solar project is 3% or 3 acres. Now, I do understand that the Town Council, uh, voted an Ordinance that says that they’re okay with the idea, in their zoning approval, their conditional zoning approval, they did say, in their Ordinance, that they do not object to a project that’s 9 acres, which is not in compliance with master Solar Ordinance. The same paragraph in the Solar Ordinance actually states that the Town Council may, uh, consider, uh, a more generous lot coverage ratio if the Planning Board recommends it, and when I asked this direct question during those hearings, uh, Attorney Rocha admitted that the Planning Board never did recommend anything other than the, um, 3% tolerance, and, in fact, they didn’t recommend approval – they actually, uh, did not refer any com plan – they did not refer any, uh, recommendation whatsoever to the Town Council, that any Comp[rehensive] Plan amendment be made. So, I’ve asked this question before, and we, we always fall short of connecting the dots here – what I don’t comprehend is, if the Town Council writes an Ordinance that says the maximum coverage ratio is 3% or 3 acres, and if the Town Council writes the same Ordinance for itself, that says that it may consider, uh, a different tolerance if the Planning Board recommends it, and if the Planning Board did

not recommend it, how it is that the Town Council has the authority to ignore the Ordinance and to just arbitrarily approve whatever acreage they, they like, and it seems to me that, you know, in other, similar regulations, that the Zoning Board has to grant a waiver, you know, the Town Council cannot simply ignore, you know, things like dimensional regulations or anything else, so, I'm just trying to help, get some help, and have the Planning Board understand how it is that, uh, we got from Point A to Point B, and why the Planning Board should make a po-, positive finding – they need to make a positive finding that this complies with all the applicable Ordinances. I can't see how this complies with Chapter, uh, 246. Thank you.”

Ms. Hogan: “Mr. Chair, I'd like to address – first of all, the Town, the Town Council's zone change decision for this site is not, and I repeat, is not, a conditional zone change. It was a zoning change. All of the elements of that zone change, to the extent that they conflict with any other prior Ordinance – those prior Ordinance provisions are superseded by the Town Council's action in the zone change in this matter. Whether we agree as a Planning Board or members of the community as to whether or not the Town Council followed the appropriate procedures in adopting that Ordinance – that issue is not before you. You are not the Superior Court, and it is my understanding we'll be discussing, at the next application, that very issue was discussed and dismissed at the Superior Court just a few days ago. So, what you have before you is a zoning amendment, in November of 2020, by the Town Council. Those conditions are paramount. To the extent that there's an unanswered question by that, the underlying PSES Ordinance, in effect from 2019, will be the next document that you would review, and then, of course, any underlying zoning issues, uh, not addressed by the two of those in the, uh, Zoning Ordinance as a whole.”

Mr. Prellwitz thanked Ms. Hogan, and said that her response cleared the situation “up quite a lot, actually.” He then asked if there were any other members of the audience who wanted to comment. She replied that there were not. Mr. Prellwitz began to return to Board member comments when Ms. Rocha asked if she could “just be heard briefly.” He told her that she could.

Ms. Rocha: “So, just to, just to summarize – and I promise I will be brief – um, the project has been before you for several months, as you're well aware. You've seen the site. Um, we've revised the design at the Council level after you had seen the project for the first time. We provided you with the design. We revised the design based on feedback from your Board, um, during this process, and we've presented Master Plan level design, including storm water and reports regarding the vegetation at the site, and the vegetation to be removed. We've also had some significant conversations with the Land Trust, reaching a tentative agreement, with conditions subject to the Planning Board approval of this prop-, process, of the project. I've gone into the issues on the record, and, in my correspondence, raised by Mr. Bibler. We had a legal determination made, which was only further confirmed by Superior Court, um, yesterday, on a different – on the case that's before you next, um – which I'm sure, as you know, you'll hear about later this evening. We've talked about the Comprehensive Plan. Mr. Bibler has again noted that this Board recommended denial of the zone change, based on the Comprehensive Plan. As you're aware, that was a different analysis, based on the use. Um, I've heard

comments, um, earlier this evening about, ‘there should be no more solar on this project.’ What you haven’t heard from is any abutters opposing this project. Um, unlike the previous application, this property’s zoned solely for solar, as a result of the zone change that was just discussed. Uh, it’s a matter of working through, with this Board, um, a what the, the project – that the site’s going to look like. We certainly, um, submit, and we’ll work, work with you, hopefully, going forward, that, um, the siting of this project presents the best design and location for the project possible, and consistent with design standards, and your Comprehensive Plan and zoning. The only remaining issue seems to be, at least in the, um, proposed decision, um, the remediation at the site, and, and don’t get mad at me until I finish, ‘cause it’s good at the end, but, um, we have talked a lot about some hypothetical conditions, that may or may not exist at the property because of the previous use, um, and what might need to be done, depending on the results of the testing, and the findings before the project’s constructed. There are a couple issues I do want to point out. Um, the project before you is for solar at the site. This, the, the site’s zoned commercial special, no longer residential. Many of the proposed conditions target the future use of the property by the Land Trust. It’s certainly atypical, um, and outside the scope of the project, to have conditions or limitations targeted at a use not in front of the Planning Board. To the extent you relate the use to the Findings that need to be made – that there is no significant environmental impacts, um, from the proposed development, as shown on the Final Plan, um – you’ve heard the emphasis, and previ-, other projects, that this is focused on it – the Final Plan, and then the reason for that being that there’s a lot more due diligence done between now and in the next stage, really. Um, I want to be careful of considering issues and broad conditions at the Master Plan stage that involved any alleged environmental issues, while allowing us – without allowing us, and your peer reviewer, to look at the detail at the next stage, in an effort to provide, uh, thoughtful solutions and ideas regarding potential remediation – or lack thereof. Um, we also want to remind the Board that we’ve had numerous discussions with the Land Trust as the abutter and future own-, future, um, steward of the property. We, we did so, um, on a number of occasions. We came to a list of terms and conditions – one of which, uh, was an understanding that there may be pockets of this site that may not be able to be used, um, for public use. The issue regarding the status of the property and condition of the property was contemplated in these discussions. That all being said, we’ve reviewed the decision – we object to the conditions, but we do think some term clarification, and on the conditions, um, as to one of the conditions, Condition F, just to be a little – just to be more technical – it says the same thing for F, um, as well as some clarification of Condition B. We’re here, we’re happy to discuss those things, uh, we didn’t tear it apart, so we’re not talking about some significant changes – um, the lan-, some of the language’s targeting clarification, so the parties understand, um, moving forward, but, again, um, you know, we’re in this for the long haul, if you let us be, so, um, there’s certainly gonna be a lot more detail to talk about on this issue and all of these issues moving forward, um, so, we are here for questions – if not, um, I would ask that you approve this at the Master Plan stage.”

Mr. Prellwitz thanked Ms. Rocha, and then spoke before the Board.

Mr. Prellwitz: “Something that’s going through my mind is we’re being asked opinions, and what we could possibly do, the way I understand it, from, uh, members of the, of the community who have spoken tonight. The zone change – that’s entirely in the hands of, of the Town Council. We have no control over what goes forward, as far as their decisions. I mean, we, we have two attorneys on here – please correct me if I’m wrong. Uh, at this point, the Master Plan is a conceptual idea of what you propose you’re gonna do, and from my understanding, as a, as the Planning Board, we need to have input, or we have the potential opportunity, to have input, and to discuss this, and to fine tune everything that goes from here forward. Uh, I mean, if I’m wrong, please, let me know, but there’s a lot of things that are being discussed that are really no concern of the Planning Board. We have no control over it. Whether we like it or not, it’s not our position to change it, or do anything about it, really. That’s the rules. We have to follow the rules. Okay.”

Ms. Hogan: “Mr. Chairman, Mr. Chairman – Maggie Hogan. I -”

Mr. Prellwitz: “Sure.”

Ms. Hogan: “You’re absolutely correct. Um, so, you, you, you’ve been handed a project that has a lot of conditions attached, and, and parameters attached to it that, not – you don’t normally have that situation. A lot of those issues are things that are – you would normally handle from start to finish. The Town Council’s zone change, uh, preempted your, uh, your governing, if you will, in those areas. Yes, you can still discuss those areas, but you can’t override something that the Town Council has said, um, is appropriate for this site.”

Mr. Prellwitz thanked Ms. Hogan. He then asked his fellow Board members if they had any questions or comments. Ms. Light spoke. She said that she wanted “everybody to keep in mind, uh, the, the, uh, unique characteristics associated with this project, in that, the proposed solar project is scheduled to be constructed on a site that was formerly a junkyard.” She continued.

Ms. Light: “Um, it’s – that was an interesting commercial application, and for 50 or 60 years, there wasn’t any objection to it being a junkyard. Maybe the wildlife in the area had some objections, but nobody heard, so, this project is taking into consideration the potential contamination issues that might exist, and they are unknown, and I’m a personal believer that there must be some pretty interesting, um, conditions in the soils over there that, potentially, continue to affect the river. So, while we walk through this opportunity, uh, just like us to keep in mind that we have an opportunity to correct a wrong that was done previously, and, again, allow a passive neighbor to coexist. Um, and, and, and more so, than any other project, I think that this is a win-win for our community, and the habitat, and the river, and the Land Trust, etcetera. Thank you.”

Mr. Prellwitz thanked Ms. Light. He then spoke. He said that he agreed with Ms. Light “wholeheartedly”, and that the “remediation issue really cannot be addressed” until the Department of Environmental Management reviews the site. He said that remediation was something “that’s in the hands of the DEM [Department of Environmental Management]”, and until they knew what was going on, the Board couldn’t make “a judgment or a suggestion to the applicant”.

Mr. Prellwitz: “I mean, we could have a, a really broad one, that they’re gonna do everything that the DEM [Department of Environmental Management] says, which, actually, they have to do, otherwise they don’t get any building permit. So, that being said, that’s my two cents worth.”

He then asked if there were any other Board members who had comments. Mr. Pennypacker spoke next.

Mr. Pennypacker: “Um, when we talk about the consistency with the Comprehensive Plan, I think part of that – and I’m gonna agree with, uh, my colleagues, Ron [Prellwitz] and Carolyn [Light] here - that the, the potential for remediation and for righting a wrong is, is, to me, what speaks to the conservation goal. I don’t think conservation is only paving part of the property. I think it’s, you know, finding a way to make sure that it’s ultimately in good shape for its ultimate use, because I think that ultimate use speaks to another, uh, issue, with compatibility, with the Comprehensive Plan, and that this become, uh, you know, something for all of the Town’s people. So, in the interest of making sure that the Town inherits something that is, um, a wonderful, natural resource, um, I think these issues are critical, um, and I think that they need to be addressed not with, you know, ‘We’ll, we’ll make a plan’, but with, you know, definitive action.”

Mr. Prellwitz thanked Mr. Pennypacker. Ms. Shumchenia spoke next, and said that she would “just add a few things.”

Ms. Shumchenia: “Um, fully aware that my comments on the last application can kind of be used in the opposite fashion to support this one. Um, you know, I – it is a small scale project, um, there’s, uh, you know, no abutters that have spoken out against this project publicly, um, and the environmental impact, as we’ve just been discussing, is, you know, not nonexistent, but it’s minimal, considering, and it will improve the status of the subject property over the long term. Um, I, I do want to talk a little bit about the recommend, recommended edits to this Condition B, about the remediation, just because – so, what we – maybe it’s more appropriate to talk about this after we make the motion, but, just quickly, because I have a question about it. Um, you know, we’re sort of suggesting that remediation occur with an eye towards the eventual use, which is owned by the Land Trust, so that residents can use the land, and not worry about whatever contamination might exist, um, and some of the edits that the applicant is proposing here is that, in the initial phase of this project, they would remediate whatever is required for their proposed use, because that is customary, and they would, essentially, defer additional remediation until after the project is decommissioned, and if there’s additional remediation needed at that time, before the Land Trust takes over ownership, there’ll be some sort of remedial action work plan to ensure that that remediation takes place. I’m okay with that. My question is: do we have any sense for when that will be? Um, in one of our previous applications, we heard that the applicant had a contract with, uh, I don’t know what it was – an energy provider or the, you know, energy company or whatever, to sell energy to them for 25 years, and the option to extend for two 10 year periods. That sort of gives us a bound for, like, how long are we talking about locking up this land use on this parcel, for this use, before it could ever be anything else ever again. I don’t believe I could find

mention of that level of detail from this applicant so far. I'm curious if there's any information they can share about that, um, and one of my suggested, uh, additions to the conditions, which may be appropriate at a later stage, when we actually work on a decommissioning plan, is to be really clear about the date of decommissioning, and state it, um, so that Hopkinton residents know when this, you know, return on their sort of investment in this project will bear fruit for them. So, that's my question."

Mr. Prellwitz thanked Ms. Shumchenia, and asked her if her intent was "to have Attorney Rocha comment on that." She replied, "Sure." Ms. Rocha responded.

Ms. Rocha: "Um, I hate that I sound like a broken record, but, um, we're not at that level yet. I know these projects typically go 25 – that's, that's your typical set-up, 10-year renewals aren't your, what I've seen, but, five years are – like, two five-year periods is typically what you see in these leases. 25, or 20, and then two fives. Um, we haven't, we haven't gotten there yet. Um, we're working through those negotiations. Uh, that can certainly be a topic of discussion, and we can definitely make a note, should we get to Preliminary Plan, and have that, um, conversation. I think it's coupled with technology moving so quickly on this, um, but that can definitely be something to have a conversation about going forward, and get you some information."

Both Ms. Shumchenia and Mr. Prellwitz thanked Ms. Rocha. Mr. Prellwitz then asked the Board members if they had "anything else." Ms. Light said that she wanted to "echo Emily [Shumchenia]'s concerns." She said that what she had brought up "were sticking points" with her as well. She said that she had her "eye on the, on the grounds being remediated, as they impact the wildlife and the plantings, uh, understory, overstory, river".

Ms. Light: "Um, that's what I'm eyeing. I'm not interested in hearing that this 50 square foot piece of property is subject to remediation, and that's it. I, I'd like to know that the scope of this agreement and relationship is gonna cover the overall concerns of the property, in question, that is gonna be, ultimately, turned over to the Land Trust, and, and we're not going to be here 25, 30, 40, 50 years from now, but, a good neighbor would take that into consideration, and I don't think it's a big stretch. Uh, there's opportunity for grant funding to support a proper cleanup, and we'd like to know that all efforts have been made to address that – and I don't want to the Planning Board to get boxed in, somehow, so that the bigger issue isn't addressed, um, and that's all I have to say on that. Thank you."

Mr. Prellwitz thanked Ms. Light. He then asked a question.

Mr. Prellwitz: "Along those lines – at the end of the project life, if there was something put in place – now, this is a question I'm forming here for Attorney Hogan, and Attorneys Rocha. At the end of the project life, if there's something put in place that they have to certify through the DEM [Department of Environmental Management] that it's been remediated to the standards at that time, would that be an acceptable condition?"

Ms. Rocha: “So, that would be how it would work anyway. Um, so, once there is a triggering ev-, uh, testing event, for lack of a better term, um, to DEM [Department of Environmental Management], it goes through this stepped process, which there’s probably some table on the internet about it, um, where you submit a re-, remedial action work plan, and then you basically get a certificate at the end, of no further action, or, like, sort of like a closure, um, where that’s certified, at the end, meaning, you know, you’re off the hook, you did what we asked you to do in the plan, and, and that’s it. So, that’s, that’s how it works in, in theory. So, once that remedial action work plan is done, it’s not like, oh, you submit it, and maybe you do it, maybe you don’t – it’s, uh, once, once that’s triggered, the whole process has to be completed.”

Ms. Light commented that she had “some personal experience with remediation of some hazardous waste”, and that, at the end of the day, she still had the certificate from the “company that removed the waste.” She continued.

Ms. Light: “And, I was also told – don’t ever lose it. So, I, personally, know that it is a thorough process. I am just chiming in some extra thoughts on that. Thank you.”

Mr. Prellwitz thanked Ms. Light, and asked if there was anything else. Mr. Pennypacker commented again.

Mr. Pennypacker asked how the Board would “ensure that there is money to pay for a remediation effort as this site is decommissioned.” He said that they would need to “understand the scope of the remediation work before putting anything into the ground”. He continued.

Mr. Pennypacker: “We’re going to identify the, uh – there’s going to be a test, and if there’s a reportable concentration of any substance, that gets reported to DEM [Department of Environmental Management]. DEM [Department of Environmental Management] outlines what needs to be done, and, at that point, the applicant decides, ‘This is worth it’, or ‘This is not worth it’. Is that about right?”

Mr. Prellwitz said that it was his “understanding that when DEM [Department of Environmental Management] comes in, and they do their testing now, they will have reports on file, and the applicant, and/or owner would keep those on file themselves.” He continued.

Mr. Prellwitz: “Whatever’s in that ground, we’ll know. When they pull up all of their posts, and they decide they, they’re all done, they’re gonna move away, another DEM [Department of Environmental Management] team comes in and says, ‘You have additional things in there that you need to take care of.’ That would be the focal point.”

Ms. Rocha replied that she thought Mr. Pennypacker’s question was more about “who’s hold the bag at the end of the day on this”. She said that that was something that the applicant had “preliminarily talked about, how to work this.” She continued.

Ms. Rocha: “We, we did come to the conclusion that, at, you know, it’s so, it’s so early that, I think, there’s some mechanism that can be in place. Um, we do feel like all the stakeholders – once we have more information at the next phase, including, you know, our team, the Town’s peer reviewer, and the Land Trust, can probably work towards that, addressing that issue. Um, it, it’s hard now, to have – we’ve got these hypothetical, you know, concerns, which may be concerns – we don’t know to what level, but, um, I think that’s a, certainly a conversation, because it goes hand-in-hand to the stuff you have to review at Preliminary Plan anyway, um, that it is – trust me, it’s, it’s starred in the notes of, of things we need to do, and talk about, at the next phase.”

Mr. Lamphere asked to “interject a little bit”. Mr. Prellwitz replied, “Absolutely. You’re more than welcome.” Mr. Lamphere then spoke before the Board.

Mr. Lamphere: “I, I’ve seen literature, uh, on this case, where the Hopkinton Land Trust was going to get access to this property at some point by easement. Uh, by easement, I, I wouldn’t have any objection to, but when it comes to any agency of the Town of Hopkinton actually taking ownership of any of this property, I, I would, uh, I don’t think I would, uh, agree with that. I don’t see the, where there’s anything to gain from the Town of Hopkinton, from owning this. Uh, currently, the Town does not own it. It is owned by a private party, who is responsible for whatever may be in that ground, who is responsible to remediate things, should DEM [Department of Environmental Management] say it needs remediating, and who would be responsible, going into the future, for monitoring – possible groundwater monitoring, gas monitoring. I would not have the Town of Hopkinton take ownership of any of this property. Right now, they own it, and they’re gonna be responsible, going into the future for it. That, that would be my advice, based upon what, what I’ve encountered on the Stubtown Landfill that, uh, the Town already owns, and the responsibilities that the Town already has – the expenses that we have, to, to make – not only close these things out, but to monitor them on an ongoing basis. That – there is nothing at all in, in it, for the Town of Hopkinton, to take ownership of any of this property. That’s my opinion.”

Mr. Prellwitz thanked Mr. Lamphere, and said that he made “a very good point”. He then asked the Board members how they wanted to proceed. Ms. Rocha asked “to clarify one thing”. She said that the zone change enacted by the Town Council “conditioned an easement”. She continued.

Ms. Rocha: “Um, in our conversations with the Land Trust, they preferred ownership, but that’s not – there’s no signed agreement. We, we do have terms, um, but that’s – can be an open conversation going forward as well, in conjunction with this whole other issue. So – but I, I, I hear Jim [Lamphere]’s point.”

Mr. Lamphere replied that he would not take ownership of the property in question “unless our Town Solicitor approved it.” He continued.

Mr. Lamphere: “That would, that would have to get, get legal, uh, review, of it from, from my standpoint.”

Mr. Prellwitz said that, even if it made him sound “pig-headed”, the applicant was “in the conceptual stage now”, so “all this ownership and all that other stuff can be ironed out later, you know, before the final go-ahead or don’t-go-ahead”. He said that the ownership discussion would “happen in the future”. Mr. Lamphere interjected.

Mr. Lamphere: “Mr. Chairman – Jim Lamphere, Town Planner. The only reason why I bring it up is because it’s in the proposed motion that’s gonna be on the floor for a discussion, so, it says ‘ownership’ right there, so?”

Mr. Prellwitz: “Oh, okay. I’m sorry. I didn’t – I skipped over that part, I guess. I apologize.”

Ms. Rocha: “Yeah, I, I didn’t read that as like, it has to be, that the Town has to own it, so, I – you know, you guys can amend that if you need to, but that’s, that’s not our reading of, of it.”

Mr. Lamphere: “I would avoid it. Abundance of caution.”

Mr. Prellwitz thanked Mr. Lamphere for his comments. He then asked the Board if anyone wanted to make a motion. Mr. Lindelow began to speak, but Ms. Jalette interjected. She explained that there was another member of the public who wanted to comment. She also noted that the Board had closed the public informational meeting for the previous agenda item, and suggested that they close it for the present one. She asked the Board if they wanted to entertain the comment from the public, and if they wanted to make a motion. Mr. Prellwitz replied affirmatively. Ms. Jalette read of the last four digits of the caller’s phone number, and asked them to state their name for the record. The caller was Joe Moreau, of Old Depot Road. He said that he wanted to thank Ms. Hogan, Ms. Rocha, and the Chair “for setting the record straight, and pointing out the inappropriate question by the first speaker.” He continued.

Mr. Moreau: “Scott Bill Hirst continues to receive criticisms, criticism for his approval of this project. He voted ‘Yes’ mainly to clean up the problems, especially with the junkyard, and I’m glad to hear that that issue will be taken care of, uh, and I agree with what the Planning Board members said – that the DEM [Department of Environmental Management] will be involved, and we can rest assured that that project will be cleaned up. Again, thank you for your time. I appreciate it.”

Mr. Prellwitz thanked Mr. Moreau.

Mr. Lindelow moved to close the Public Informational Meeting. It was seconded by Ms. Light.

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

Abstain: None.

Opposed: None.

5-0, the motion passed.

Mr. Prellwitz then said that they could return to motion-making.

Mr. Lindelow moved to approve Centrica Business Solution's application for Master Plan for a Major Land Development Project, "Comolli Solar", located at 136 Chase Hill Road, AP 2, Lot 73, Unit 2, based on the following Findings of Fact and Conclusions of Law:

**FINDINGS OF FACT:**

1. The subject property, located off Chase Hill Road, consisting of 38.8 acres, is zoned Commercial Special, by virtue of a zoning amendment, with development conditions dated November 2, 2020, a copy of which is attached as Exhibit A. The Planning Board had previously recommended denial of the zoning amendment.
2. The Master Plan application was filed on December 18, 2020 and a Pre-Application meeting was conducted on January 6, 2021.
3. On April 19, 2021, prior to the Town of Hopkinton's adoption of Chapter 279 of the Zoning Ordinance, the Applicant submitted the last document required for the Master Plan review checklist.
4. Subsequent to the Applicant's supplemental submission to the Town's Planning Department on April 19, 2021, the Hopkinton Town Council repealed the Town's Photovoltaic Solar Energy System Ordinance dated January 2019 and enacted Chapter 279.
5. The Planner issued an administrative Certificate of Completeness on April 29, 2021.
6. The proposed site is 38.8-acre Land Condominium Unit (Unit 2 of 3), accessed by an existing gravel road that passes through Unit 1. The site was historically used as an automobile junkyard for approximately fifty years and for quarrying.
7. The subject property has numerous areas of jurisdictional freshwater wetlands and is located in a Hopkinton Primary Protection zone for groundwater protection.
8. The proposal is to construct a 3.46 MW direct current (DC) ground mounted Photovoltaic Solar Energy System (PSES) occupying 8.1 acres, associated electrical equipment and install approximately 9 new utility poles, all surrounded by a chain link fence. The proposed array will be located 989 feet south of Chase Hill Road.
9. The proposed solar array will not be visible from any passers-by on Chase Hill Road, nor from the Polly Coon Bridge or any adjacent residential dwelling.
10. The proposed solar array will be constructed on a site that has been substantially disturbed due to a long-time use as an automobile junk yard.

11. On January 21, 2021, ESS Group submitted an analysis of the feasibility of development on an abutting property in the vicinity of the solar array, concluding that development was not likely to be permitted by RIDEM's Freshwater Wetlands section.
12. The Hopkinton Conservation Commission submitted notes from a site visit conducted on March 29, 2021.
13. On December 31, 2020 and February 8, 2021, the Hopkinton Land Trust submitted correspondence.
14. On April 22, 2021, the Applicant submitted revised plans showing the solar array as being set back 100 feet from the property line. Correspondence with the submission stated that this setback was not conceded as a requirement, but was being set forth as an illustration. Correspondence also indicated that if the solar array was set back 100 feet from the property line, the Applicant would be seeking to clear some portions of the 100-foot setback.
15. On May 19, 2021, the Applicant presented testimony from: Jason Gold, Engineer; Edward Pimentel, Land Use Planner /Consultant; and Kelly Connelly, Landscape Architect.
16. Mr. Gold testified that as result of the pre-application meeting, the applicant had made changes to the driveway design, the stormwater design, and grading. Additionally, the size of the fenced in area also decreased from 9.07 acres to 8.1 acres. The number of panels decreased by a little more than 1,000 panels, from 8,764 to 7,758.
17. Mr. Pimentel testified that the development of this site for a solar array was consistent with State efforts to encourage the pursuit of solar in areas that have been zoned commercial or industrial, or on sites that have previously been disturbed such as brownfields, quarry sires, sand pits, and contaminated sites. He further averred that the eventual transfer of the property to the Town's Land Trust was unique and was a worthy goal.
18. Ms. Kelly testified as to the existing vegetation and site topography and the proposed landscaped condition.
19. On June 3, 2021, two Planning Board members visited the site with a representative of the Applicant's engineering firm. Other members of the Planning Board had previously visited the site with the Hopkinton Conservation Commission. Three members described these visits as "illuminating" and confirmed in their minds that the solar array will not be visible from off-site.
20. The Board accepted oral and written comments from members of the public during the course of the proceedings.

## CONCLUSIONS OF LAW:

1. The Application for Master Plan was substantially complete for purposes of Article 12 of the Hopkinton Zoning Ordinance on April 19, 2020, prior to the enactment of Chapter 279. The Application's review is vested to proceed under the terms of Chapter 246 as well as with the terms and conditions of the November 2020 zoning amendment.
2. The proposed development is consistent with the Comprehensive Community Plan and/or has satisfactorily addressed the issues where there may be inconsistencies. Specifically, the project is consistent with:
  - (a) Conservation Goal #1- to promote conservation of natural resources by limiting the development of the site to 11.5 acres of a total 38.8 acres.
  - (b) Natural Resources Goal #1- to preserve, conserve and protect natural resources as an endowment to the Town, by donating the ownership of the property to the Hopkinton Land Trust, after decommissioning.
3. With the 100-foot setback amendment to the plan, the proposed development is consistent with the Hopkinton Zoning Ordinance, as further amended on November 20, 2020.
4. At present, there appears to be sufficient assurances that there will be no significant negative environmental impacts from the proposed development. However, this issue is one that will be addressed in detail at the preliminary plan stage of review and the Board reserves all rights to make a final determination on this issue and to impose additional conditions, all at the preliminary plan stage of review.
5. The proposed land developments will have adequate and permanent physical access to a public street, Chase Hill Road.
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. Specifically, the development was reduced in scope to prohibit any view of the solar array from the Polly Coon Bridge or the adjacent land trust property. Upon decommissioning of the solar array, the ownership of the property will be conveyed to the Hopkinton Land Trust for the benefit of Hopkinton residents.
7. The design and location of the improvements in the proposed development minimizes flooding and soil erosion, with required conditions of approval. This issue is one that will be addressed in further detail at the preliminary plan stage of review and the Board reserves all rights to make a final determination on this issue and to impose additional conditions, all at the preliminary plan stage of review.

ORDER:

1. Centrica Business Solutions application for Master Plan is hereby APPROVED with the following conditions of approval, to be developed at the preliminary plan stage of review.
  - a. All conditions of the zone change approval dated November 2, 2020 are specifically incorporated herein and made a part hereof. (See Exhibit A.)
  - b. The Applicant shall be required to conduct all remediation deemed necessary by the RIDEM for the eventual use of the property as land trust property to be owned by the Hopkinton Land Trust for the benefit of Hopkinton residents.
  - c. Upon approval of the Master Plan, the Applicant shall verify in writing to the Town that it has ceased commercial quarrying operations on the property. Non-commercial quarrying hereafter shall solely limited to site preparation for the installation of the solar array and shall thereafter permanently cease.
  - d. The Applicant shall be required to remove all obvious junk and surface debris on the site such that it is not apparent that the site was once a junkyard. This requirement shall not be construed as to require fine-tooth combing of the property.
  - e. The Applicant shall correct a notation on the Sheet R-1 plan as to the appropriate zoning for the subject parcel.
  - f. The Applicant shall undertake a Phase II Environmental Study and submit the results of that analysis to the Town prior to or at submission of the Preliminary Plan application. In addition, the Applicant shall copy the Town Planning Department on all correspondence to and from RIDEM or any other governmental agency in regards to environmental issues on site.
  - g. The Applicant is directed to consult with and work with the Hopkinton Land Trust on the required decommissioning plan and reforestation plan.
  - h. The Applicant is directed to prepare a plan for the preliminary stage of review to provide 3rd party supervisory personnel, at the Applicant's expense, to observe/oversee compliance and ensure compliance with the proposed construction.
  - i. The Applicant shall anticipate and expect that the Planning Board will, at the preliminary stage of review, consider the imposition of a performance bond, to ensure strict compliance with the terms of any approval, especially in regards to the amount and location of tree cutting and onsite topsoil preservation.

- j. The Applicant shall submit a decommissioning plan at the preliminary stage of review.
- k. The Applicant shall include pollinator habitat and wildflowers in the landscaping plan at the preliminary stage of review and shall develop of plan that requires a minimal amount of fertilization, or other chemical maintenance.
- l. At the preliminary stage of review, the Applicant shall address all items set forth in the letters from the Hopkinton Land Trust dated December 31, 2020.

Ms. Light began, and said that, based on the previous discussion, that the Board may “want to consider amending, um, some of this.” The first thing she pointed to was an element in the Conclusions of Law.

Ms. Light: “Paragraph 6 – we don’t have line numbers here, but, um, let’s go to the third, third line to the bottom – ‘upon decommissioning of the solar array, the potential ownership of the property may be conveyed to the leng-, Hopkinton Land Trust, for the benefit of Hopkinton residents’ -”

Here, Ms. Hogan interjected that the motion could not really be discussed until it was seconded. She explained that there would be a second, then a discussion, then the amendments could be made “all at one time.” Ms. Jalette said that she thought that Ms. Light had seconded it. Ms. Hogan said that she had not heard her second it, and Ms. Light denied doing so. Ms. Light then seconded the motion anyway, and returned to her earlier comment. She read the line within the Conclusions of Law about the conveyance again, and then touched on Item 1B within the Order.

Ms. Light: ““The applicant shall be required to conduct all remediation deemed necessary by the Rhode Island DEM [Department of Environmental Management] for eventual’ – this should be changed to ‘potential’ use of the property, as Land Trust easement, by the Hopkinton Land Trust, for the benefit of Hopkinton residents. Those are, uh, based on Jim [Lamphere]’s comments, and I guess the Planning Board needs to have some chatter on that. Thank you.”

Mr. Prellwitz thanked Ms. Light. Mr. Pennypacker spoke next.

Mr. Pennypacker: “I’m, I’m with Carolyn [Light], and what she’s saying, but I, I kind of want to wordsmith this a little bit. Can we use – for example, ‘ownership’ or ‘stewardship’, um, that way, we’re not talking about ‘potential’ ownership, we’re talking that – it’s basically saying that the Land Trust is going to have authority over the land, whether it’s via easement, through stewardship, or whether it’s via, you know, some ownership plan. Um, that strengthens the – that doesn’t weaken the Land Trust position, at least, from my perspective, um, and I think we could, you know, do ownership/stewardship in, in both examples. Thoughts?”

Ms. Light joked that that was why Mr. Pennypacker was “paid the big bucks”. Ms. Hogan then stated that she had “a series of minor amendments as well, that came in from Attorney Rocha”. She explained that they were “basically errors that need to be corrected.” She continued.

Ms. Hogan: “And in Paragraphs 4, 5, and 6, the date – the dates are all March 18, okay?”  
Mr. Prellwitz: “Okay.”

Ms. Hogan: “The, the, um – and in Paragraphs 1 and 7, the number, the size of the property is, uh, ‘38.9+/-’ not ‘38.8’, and in Paragraph 17, she proposes the plus or minus as to all those acreage, which is – that’s fine. And on Paragraph 20, uh, and I think this is accurate as well – there was one Planning Board member – I believe that was Emily [Shumchenia] – visited the site. Um, I kept thinking that John [Pennypacker] was with us, but that was the other site. Um, also in Conclusions of Law, the date changed from April 19 to March 18. Um, and then, in the Ordering paragraph, the one that you folks are speaking with, there are some proposed, kind of some substantial changes there, so I’ll read that paragraph in just a moment – see if you like it with your changes – and then there’s a proposed change in Paragraph F of the Order, corresponding to B. So, that’s it for the technical elements.”

Mr. Pennypacker asked if he could “weigh in again”. He said that he thought that the technical amendments were “no brainers”, and that he had a “couple of doozies as well”. He asked if the Board should “approve these amendments in batches.” Ms. Hogan replied, “Sure.”

Mr. Lindelow moved to approve the proposed amendment changes as read by Attorney Hogan. It was seconded by Mr. Pennypacker. Ms. Shumchenia said that she wanted to be sure what she was voting on. Ms. Hogan explained that they were voting on “amending the draft motion”, for “draft purposes”. She said that she believed that Mr. Pennypacker had some “additional amendments”. Ms. Shumchenia said that she wanted to be “super clear” on what was transpiring.

Ms. Hogan: “So, this is a technical amendment to the motion. You’re not voting on the amended motion.”

Ms. Shumchenia: “Got it.”

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

Abstain: None.

Opposed: None.

5-0, the motion passed.

Mr. Pennypacker asked if that motion included “the ownership/stewardship amendment”. Ms. Hogan replied that she believed “they would.” Mr. Prellwitz said that it seemed as though there was a unanimous vote for the amendments, and addressed Ms. Hogan. He asked if the Board was “good to go ahead and vote” on the motion. Ms. Hogan replied in the negative, as the motion was “not fully amended yet”. She continued.

Ms. Hogan: “Those were technical. Now, I believe, John Pennypacker has some substantive amendments that he would like to make. Is that correct?”

Mr. Pennypacker: “That is correct.”

Mr. Pennypacker then presented his amendments.

Mr. Pennypacker: “So, as it is stated currently, um, I’m under Conclusions of Law 2A. I can’t agree, or I cannot – I cannot vote for this motion the way it’s worded currently. I don’t believe that limiting development is, meets a conservation goal. However, I do agree that addressing remediation issues and concerns, or potential remediation issues and concerns, does agree with the Comprehensive Plan, so I propose that 2A read: ‘Conservation Goal #1 – to promote conservation of natural resources by addressing potential remediation issues and concerns’, and if that needs to be worded more clearly, I would defer to the Solicitor. Second, um – we covered the, that one. Second is, uh, again, under Conclusions of Law, Item 2C – sorry, I’m cross-referencing documents here – oh, no, there’s no C. I, I’d like to propose that we add a third item. Um, it offers a little bit of consistency with the previous decision, and that would be, uh, ‘C – Economic Development Goal #1 – to provide for the expansion of the Town’s tax base by encouraging development of new and existing light industrial, and office and commercial business’, and the reason I propose that, that third one, um, I think it more closely aligns with the intention that the Town Council, uh, created, when it changed the zoning of this property, um, and I think it’s in line with the, the previous decision. So, those are my two suggestions.”

Mr. Prellwitz thanked Mr. Pennypacker. He then asked Ms. Hogan if they would “need another motion to accept, or approve” Mr. Pennypacker’s amendments. She replied.

Ms. Hogan: “So, right now, he’s got a, uh, a substantive change, and I – and we can come back to it, and, and – because I think there’s probably another substantive change that could be coming – well, could be. I’m gonna propose to you the substantive change that Ms. Rocha has sent to us, and that’s in the Order, Paragraph 1B, um, and I’ve – have forwarded this to everybody by, by e-mail, you know, prior to the meeting, late in the day, today, but, this is how it reads, um, as amended by Ms. Light and now, as proposed, uh: ‘if reportable concentrations of hazardous’ sub-, ‘substances are detected, the applicant shall be required to conduct all remediation deemed necessary by the RIDEM [Rhode Island Department of Environmental Management]’s Office of Land Revitalization and Sustainable Materials Management Site Remediation Program (OLSMMSRP) for the proposed use of the property. Additional remediation, to the extent it is required by RIDEM [Rhode Island Department of Environmental Management] OLSMMSRP [Office of Land Revitalization and Sustainable Materials Management Site Remediation Program] shall accommodate the potential use of the property as Land Trust easement, to be held by the Hopkinton Land Trust for stewardship, benefit of Hopkinton residents, shall be addressed in a remedial action work plan at decommissioning, prior to the transfer of property’, uh, pardon me, ‘prior to the

creation of any easement in the property to the Hopkinton Land Trust.’ Is that what you anticipate, Rocha, uh, Joelle [Rocha] – is that, did I get that correct?”

Ms. Rocha: “So, I think it can sta-, just my opinion, I think it can still say ‘transfer’, because -”

Ms. Hogan: “Okay.”

Ms. Rocha: “Whether it’s an easement, or it’s, um -”

Ms. Hogan: “True.”

Ms. Rocha: “At the end, at the end of the decommissioning, I don’t, I don’t know that it matters, just to not -”

Ms. Hogan: “That’s correct.”

Ms. Rocha: “Muddy it up more.”

Ms. Hogan: “Yep. That’s fine. Are people comfortable with that proposed language?”

Mr. Prellwitz said that he was. Mr. Pennypacker said that he felt the opposite. He continued.

Mr. Pennypacker: “I don’t see how that strengthens the Town’s position in any way. So, convince me that it, it makes the Town, uh, convince me that it’s better for Hopkinton, and I’ll get on board.”

Ms. Hogan: “So, as I understand the changes here, basically it identified the specific office, and then added ‘additional remediation’, so, I – what, what was your concern, John [Pennypacker]? I’m not -”

Mr. Pennypacker: “So, alright – so, it starts off with a conditional – ‘if reportable concentrations are detected’ -”

Ms. Hogan: “Yeah.”

Mr. Pennypacker: “I, I think that’s the standard operating procedure for that process anyway, so it, I, I, I don’t know why it needs to be duplicated, um -”

Ms. Hogan: “Correct.”

Mr. Pennypacker: “And then we get into the specific office within, uh, DEM [Department of Environmental Management]. That office is two years old. Um, is it gonna change? What if another office within DEM [Department of Environmental Management] has authority over this? It, it – I don’t know that naming the specific office within the Division offers us anything, other than it just limits our, it limits our ability to act in the future if a different office, within DEM [Department of Environmental Management] says, ‘Oh, wait – you have an issue.’”

Ms. Hogan: “Well, of course you could put an ‘or any successor’, but, again, it’s more language. It, I mean, if you, if your position is, ‘Look, let’s just go with the language as, as originally proposed’, you know, you could certainly make that suggestion.”

Ms. Rocha: “But, if you – just a suggestion – you could just say that ‘RIDEM [Rhode Island Department of Environmental Management] office with jurisdiction’. That gets a lot of language out – a lot of words out.”

Ms. Hogan: “A lot of letters.”

Mr. Prellwitz asked where the Board stood, and asked Mr. Pennypacker if he was happy with that proposed language. He replied that he was happy with “‘office with jurisdiction’” within the Department of Environmental Management. Mr. Prellwitz

thanked him, then asked if there were “any other comments or concerns from the Board.” Ms. Hogan stated that the Board would “need a motion now to add the substantive amendments to the main motion”. They would vote on that, and then they would be “ready to vote on the entire motion.” Mr. Lindelow and Mr. Prellwitz spoke at the same time. Mr. Pennypacker had one last question. He said that this motion prescribed that any remedial action that would take place before the end of the project. He asked if that needed “to be decided here.” Ms. Hogan replied that it did not, and that the Board could “decide that at the Preliminary stage”. He asked if that was the case even if the Board approved the motion “with this potential amendment.” She replied that, as this was the Master Plan stage of approval, if the Board was going to “create that condition now”, and the applicant was going to “rely on it”, the Board would not want to “go back on it.” She explained that if the Board was “not ready to commit to when these things should be done”, that they could state that the applicant would “need to conduct remediation”, and that the particulars would be “determined at the Preliminary stage of review.” Mr. Pennypacker replied that that made him “happier”, and that he felt that the “Town has more options”. He said that there were “a lot of unknowns”, which made him “reluctant to commit to a particular plan of action at this phase, given – just given the uncertainties.” Ms. Hogan said that her understanding of what Mr. Pennypacker wanted was to “strike Paragraph B as written”, and that he would support “something along the lines of: ‘the applicant shall’, uh, be, ‘shall, shall submit a remediation report and plan at the Preliminary stage of review for the Board’s action.’” Mr. Pennypacker responded favorably to that language. Mr. Prellwitz asked for a motion to approve the amendments.

Mr. Lindelow moved to approve the substantive amendment changes as proposed by John Pennypacker, and suggested by Attorney Hogan. It was seconded by Ms. Light.

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

Abstain: None.

Opposed: None.

5-0, the motion passed.

Ms. Hogan explained that now the Board would make a motion on “the decision, as amended twice”.

Mr. Lindelow moved to approve the motion as twice amended. It was seconded by Ms. Light.

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

Abstain: None.

Opposed: None.

5-0, the motion passed.

**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. Skunk Hill:**

Mr. Prellwitz turned the meeting back over to Mr. DiOrio. Mr. DiOrio asked those assembled to direct their “attention to the clock.” He continued.

Mr. DiOrio: “Uh, I show 10:10, so the third item on our agenda this evening, in all likelihood – let’s see – let me, we have some instructions here – we’re close enough to the 10:15 mark, so that, from a practical perspective, this application is not going to be heard this evening. So, we’re going to, uh, need a motion to continue. However, before we get there, since the motion would need to contain a date and time certain, uh, I would just ask Jim Lamphere to suggest to us, uh, when we need – where we need to continue this to, and then, I’m going to ask the applicant’s counsel to – or maybe Jim [Lamphere] can handle this, but, in concert with the applicant’s counsel, to ensure that we have an appropriate extension in place to cover us to that date certain. So, Jim [Lamphere], if you would.”

Mr. Lamphere explained that he “probably [had] five items on the agenda for August the 4<sup>th</sup>”, and one of them was going to “take quite a bit of time to go through”. He said that he did not know how much the Board could “get done with Skunk Hill” if it was continued to August the 4<sup>th</sup>, and they were not going to have a second meeting in the month of August. He said that the first meeting in September would be September 1<sup>st</sup>. Mr. DiOrio asked Mr. Lamphere if it was his recommendation that the Board continue the application to that date. Mr. Lamphere said that he wanted to hear from the applicant’s attorney for their perspective. Mr. DiOrio was concerned that Skunk Hill would not be heard in August, either. He said that he knew that the meeting had gone “sideways” at points, but that they couldn’t “control everything”. Mr. Lamphere replied that he thought that August 4<sup>th</sup> would not be available. Mr. DiOrio said that the only “remaining business item” would be to ensure that the Board had an “extension, on the record, to get [the Board] to, at least, September 1st.”

Attorney Robert Craven, the counsel for the Skunk Hill applicant, appeared before the Board. He said that, based on Mr. Lamphere’s explanation of the upcoming meeting, he would be “okay with September 1<sup>st</sup> as the next available date.” Mr. DiOrio asked for Mr. Craven’s “concurrence” that the Board would have an extension to “a week beyond September 1<sup>st</sup>, just in the likelihood that, you know, things go sideways on us.” Mr. Craven said that that would be acceptable, and that he would say it in a “full, uh, sentence.”

Mr. Craven: “I agree that, uh, the matter, as far as the time frame is concerned, under the statute, can be continued to, to September 8<sup>th</sup>.”

Mr. DiOrio then asked the Board for a motion to continue the application to their meeting on September 1<sup>st</sup>. He asked Mr. Lamphere if they were going to continue to begin at 6:00

p.m. When Mr. Lamphere suggested that they do so, Mr. DiOrio expanded upon his motion request to include the time.

Mr. Prellwitz made a motion to continue the application to September 1<sup>st</sup> at 6:00 p.m. It was seconded by Ms. Light. There was not any discussion.

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

Abstain: None.

Opposed: None.

5-0, the motion passed.

#### **NEW BUSINESS:**

Mr. DiOrio noted that there was not anything listed under New Business.

#### **SOLICITOR'S REPORT:**

Mr. DiOrio noted that there was not a Solicitor's Report.

#### **PLANNER'S REPORT:**

Mr. Lamphere noted that the current members of the Planning Department met the former Senior Planning Clerk, Sean Henry, for lunch that day. Mr. Lamphere said that they "learned a lot as to what they're doing in North Kingstown these days, so it was a working lunch". Mr. Lamphere then said that Mr. Henry had asked him to say hello to the Board members. Mr. DiOrio said that that was "very nice", and asked Mr. Lamphere to reciprocate the pleasantries when they met again.

#### **CORRESPONDENCE AND UPDATES:**

Mr. DiOrio noted that there was not anything listed under "Correspondence and Updates."

#### **PUBLIC FORUM:**

Eric Bibler, of Woodville Road, had raised his hand to speak during Public Forum, but when he was called upon, he explained that it was a mistake. Ms. Jalette told him to not worry about it. There were not any other callers.

**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. There was not any further discussion.

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

5-0, the motion passed. The meeting was adjourned at approximately 10:18 p.m.

By: Talia Jalette, Senior Planning Clerk, 8/25/21