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STATE OF RHODE ISLAND

CITY OF CRANSTON

PLAN COMMISSION

PROCEEDING AT HEARING :  
IN RE: :  
NATICK AVENUE SOLAR :

DATE: February 7, 2023  
TIME: 6:30 P.M.  
PLACE: Cranston City Hall  
Council Chambers  
Cranston, RI

BEFORE:

- MICHAEL E. SMITH, CHAIRMAN
- STEVEN FRIAS
- THOMAS ZIDELIS
- LISA MANCINI
- KATHLEEN LANPHEAR
- DAVID EXTER
- THOMAS BARBIERI
- RICHARD BERNARDO
- JASON M. PEZZULLO

PRESENT:

FOR THE APPLICANT . . . . . ROBERT MURRAY, ESQUIRE  
NICHOLAS NYBO, ESQUIRE  
FOR THE PLAN COMMISSION . . . . . STEPHEN H. MARSELLA,  
ESQUIRE

1 (COMMENCED AT 8:50 P.M.)

2 CHAIRMAN SMITH: Okay. Thank you,  
3 everyone, and we'll, at this point, we'll reconvene  
4 and the next item on the docket is the remand of  
5 the Natick Avenue Solar, and let me turn this over  
6 to Director Pezzullo.

7 MR. PEZZULLO: Thank you, Mr. Chairman,  
8 This is an application that's -- the public is very  
9 familiar with, though the Commission is not all  
10 that familiar with it. I think there's only two  
11 members who are here when we did the original  
12 master plan. That would be you and Commissioner  
13 Coupe.

14 So just a quick recap. We started this  
15 application back in 2018. We did a site walk of  
16 the site. We did a couple of extra meetings with  
17 the commission, and it was approved early 2019.  
18 After that process completed, it was appealed both  
19 to the planning board and to Superior Court, but  
20 the applicant decided to move forward.

21 One of the conditions was that we had to  
22 do an ad hoc design process for the landscape  
23 buffering plan, and it had to be inclusive of the  
24 residents, neighbors, members of the commission,  
25 and that process -- we were able to get through

1 that process over Zoom during the COVID issue.  
2 That's -- we handled development plan review with  
3 the development plan review committee, and then we  
4 heard this with the planning commission for  
5 preliminary plan. So we dealt with many of the  
6 items that were landscaping and engineering,  
7 drainage, utility connections, things like that.  
8 That decision was -- it was an approval decision  
9 that was eventually appealed to Superior Court as  
10 well. The applicant moved forward and submitted a  
11 final application. Basically, everything that was  
12 required as part of the preliminary and final was  
13 completed. That final decision was finalized.

14 We're here because the original master  
15 plan appeal brought this back to the commission  
16 because there was a problem with the process when  
17 we did the original master plan. So this is a very  
18 unique situation. One that I've never been in, the  
19 commission, I believe, has never been in where we  
20 have master plan in front of us that is -- has all  
21 the hallmarks of essentially a final plan. Fully  
22 engineered. So we are here square one for master  
23 plan, just like any other master plan. So with  
24 master plan very fully fleshed proposal.

25 So let's take a quick look at the

1 application as it stands right now. This is the  
2 zoning map in the area. This is the 400-foot  
3 radius -- I'm sorry, that's the 400-foot radius.  
4 Here's the site in context to Western Cranston.  
5 This is the street view on Natick Avenue. This map  
6 shows the areas of steep slopes in yellow. And  
7 this is the overall site layout, one that you've  
8 seen and have been working with for quite some  
9 time. This is the site development plan to the  
10 areas that have been noted throughout the site, the  
11 storm water management areas, and the applicant's  
12 team can speak to those.

13 This was the transect plan, detailed all  
14 of the different view sheds based upon topography,  
15 landscaping plan, and the buffering plan which we  
16 worked for quite a while on. This is one of the  
17 cross sections. This plan actually shows the  
18 planting plan, the different species, the mix, the  
19 density, the expected heights that would achieve  
20 those buffering of views from the proposal. And  
21 I'm sure the applicant will speak to that as well.

22 So our recommendation is the same as it  
23 always ever was. Mr. Chairman, I think that --  
24 that's a brief overview of what you already have,  
25 and I think that the applicant can make their

1 presentation and then we will discuss what the  
2 final points about Comprehensive Plan, the zoning  
3 after that. This memo that was posted to the web  
4 site has a number of appendices. Those appendices  
5 are not new. Those go back to the original master  
6 plan. They're very lengthy, but they go right to  
7 the heart of what we were trying to say back in  
8 2018, 2019, which really hasn't changed. So with  
9 that, Mr. Chairman.

10 CHAIRMAN SMITH: Okay. Thank you,  
11 Director Pezzullo. Before I call on the applicant,  
12 I just want to mention since -- well, a couple of  
13 housekeeping items that when you come up to speak,  
14 please state your name and address for the  
15 transcriptionist; and if you would, if you could  
16 spell your last name and address, I know that would  
17 help greatly. And -- because this is going to be  
18 transcribed, if nobody would speak too quickly, I  
19 know that would be very much appreciated as well.

20 The -- because I know there are a number  
21 of people who want to be heard and we want  
22 everyone's voice to be heard, I would just ask  
23 everyone keep their comments within a reasonable  
24 amount of time. I'm not going to set any suggested  
25 guidelines. We will continue at least until 10:30;

1 and at that point, we will consult with the members  
2 of the commission if they want to continue the  
3 discussion if it is still going on to a further  
4 date or if they want to continue this evening.

5 So, with that, let me call upon the  
6 applicant.

7 MR. NYBO: Good evening, Mr. Chair,  
8 planning board commissioners. My name is Nick  
9 Nybo. I'm senior legal counsel for Reivity Energy,  
10 LLC. Address is 117 Metro Center Boulevard,  
11 Suite 1007, Warwick, Rhode Island. I'm also senior  
12 legal counsel for affiliate Natick Solar, LLC, who  
13 is the co-applicant here. I'm joined this evening  
14 by my co-counsel who needs no introduction, given  
15 his general participation, as well as his  
16 participation in other proceedings tonight, Bob  
17 Murray of Taft and McSally as well as Reivity's  
18 President, Ralph Palumbo; Reivity's general counsel,  
19 Kyle Palumbo. We also have with us this evening  
20 the engineer for this project, Dave Russo of  
21 DiPrete Engineering. The landscape architect for  
22 this project, John Carter, and our planning expert,  
23 Ed Pimentel. We have submitted for the record  
24 reports from all three of those professionals  
25 regarding both the contours of this project, as

1 well as its compliance with the city zoning  
2 ordinances. In a moment, Attorney Murray and  
3 myself will introduce all three of them to walk  
4 through their reports and certainly answer any  
5 questions that the commission has for any and all  
6 of them.

7 Additionally, we do have the report in the  
8 record of Thomas Sweeney, real estate appraiser.  
9 He was unable to join us this evening. I know  
10 we've got a lot of get through. So he will be  
11 available at a later date. His report is in the  
12 record, and he's certainly happy to supplement our  
13 presentation this evening with the appropriate  
14 credentials so that the commission can consider his  
15 report.

16 Before we get started with the  
17 presentation tonight, I would like to take five  
18 minutes of the commission's time to sort of table  
19 set how we got here this evening. I certainly  
20 appreciate Mr. Pezzullo's presentation and won't  
21 belabor the points he made, but I think there's  
22 just a few elements of detail that require further  
23 context.

24 Really, the purpose of me articulating  
25 some of the history here is to give the commission

1       some context for where we've been and how we got  
2       here tonight, but also to show, as Mr. Pezzullo  
3       said, that this plan is a plan that has gone  
4       through copious vetting, refining, and work. And  
5       as Mr. Pezzullo said, we are at master plan here.  
6       We have started back at square one, but these plans  
7       are not conceptual. These are in the final plan  
8       form and have received all appropriate approvals to  
9       get them to final plan form.

10               With all that said, we are at master plan,  
11       and we will go through the master plan proceedings.  
12       As at least two of you know, we filed this  
13       application for master plan back on November 13,  
14       2018, and received certificate of completeness that  
15       same year. We have conducted -- the planning  
16       commission has conducted already three meetings in  
17       2018 and 2019 on master plan. It approved master  
18       plan after making the appropriate findings about  
19       this project. That approval went up to the zoning  
20       board for appeal; and then after affirmance, went  
21       to the Superior Court. We did proceed on subject  
22       to the appeal for preliminary plan at our risk, as  
23       Mr. Pezzullo said. We had -- well, let me back up  
24       for a moment. Mr. Pezzullo mentioned the advisory  
25       committee meetings. That was a committee that



1 consisted of five members, two members of the  
2 abutter group, one of our representatives, a former  
3 member of this commission, as well as a third party  
4 landscape architect that was hired by the city,  
5 paid for by Revity, Sara Bradford.

6 We had three Zoom meetings, after which  
7 Ms. Bradford reported back to the commission  
8 regarding her conclusions about the landscape and  
9 buffering plan. Revity submitted a landscape  
10 buffering plan that complied with Ms. Bradford's  
11 report. The planning commission, thereafter,  
12 conducted four preliminary plan meetings. It was  
13 really five, but one had to be continued because  
14 some Zoom technical issues, which I'm sure we're  
15 all happy to be avoiding now. So there was four  
16 substantive meetings, after which we are now in  
17 2021. There's was approval of preliminary plan.  
18 That approval was taken up by the abutters on  
19 appeal to the zoning board, affirmed, and taken up  
20 on appeal to the Superior Court. We then proceeded  
21 again at our own risk to final plan. Final plan  
22 was approved in 2022. After the appropriate  
23 findings on final plan, an appeal matriculated to  
24 the zoning board. The zoning board affirmed the  
25 approval and that affirmance was, again, taken up

1 on appeal to the Superior Court.

2 I want to speak briefly about the decision  
3 that brings us back here today, Judge Vogel's  
4 May 27, 2022 decision remanding the case back to  
5 the planning board. The remand was based on the  
6 planning commission's closing of public comment  
7 prior to the acceptance of all the evidence in the  
8 record; and, essentially, what happened was during  
9 the original master plan presentation, there was a  
10 request to move 500 of the roughly 20,000 panels in  
11 the field to a different location. They were a  
12 little close to the wetlands for some commission  
13 members' liking, and they asked that they be moved.  
14 Revity agreed to move them. There was public  
15 comment about the entire project. After public  
16 comment was closed, commission -- a member of the  
17 commission asked that we submit a site plan that  
18 reflected where we move those 500 panels. Public  
19 comment was not reopened to discuss that site plan.  
20 Nearly three years after approval, the judge, Judge  
21 Vogel, found that that was improper procedure.

22 So that's what brings us back here today.  
23 There was some significant procedural wrangling and  
24 some motion practice with Judge Vogel to fully  
25 understand the extent to which we needed to restart

1 this entire process or whether we could simply come  
2 back for a meeting or two on a remand and preserve  
3 our approvals that followed on preliminary plan and  
4 final plan. At the end of the day, we decided that  
5 the safest measure here was to go back to square  
6 one.

7 But this is still our application from  
8 2018. I have seen no suggestion that it is not  
9 vested under the 2015 solar ordinance and expect to  
10 hear -- hope to hear no suggestion as we go through  
11 these proceedings to the contrary. So that's a  
12 summary of how we got here this evening.

13 I do want to say one last thing about -- I  
14 do want to say two last things about public comment  
15 here tonight. I'm well aware that there's a group  
16 of abutters here this evening who oppose this  
17 project and certainly have every right to do so.  
18 I would ask, based on Judge Vogel's decision, that  
19 public comment be reserved to the end of the entire  
20 presentation for fear that we have public comment,  
21 public comment is closed, and some additional  
22 discussion is had, that walks us into the issue we  
23 found ourselves in with Judge Vogel's decision in  
24 May of 2022. So, I think obviously the solicitor  
25 sitting over here will advise the commission how to

1 proceed -- the best way to proceed in his mind; but  
2 in light of Judge Vogel's decision, that seems to  
3 be the safest route.

4 The second comment I will make about  
5 public comment here is I would respectfully caution  
6 the commission with respect to any suggestions by  
7 the abutters that they want a better project. And  
8 the reason I say that is that we have been in  
9 fourteen, between master plan, ad hoc, preliminary  
10 plan, final plan, and the public works committee,  
11 fourteen public meetings about this project, almost  
12 all of which have had a public comment component.  
13 The advisory committee had two abutter  
14 representatives who had -- there was copious back  
15 and forth about what they were looking for in terms  
16 of setbacks and buffering and moving panels and  
17 landscaping and, you know, all of their concerns.  
18 We accommodated nearly all the concerns that  
19 financially could work and could work for the  
20 project. And even in light of those  
21 accommodations, the meetings that followed, there  
22 was the same opposition to this project. You know,  
23 we have spent hours and hours over the last four  
24 years enhancing buffers, changing landscaping,  
25 shifting panels, and so on and so forth; but,

1 ultimately, the only thing that the abutters here  
2 are going to want is the application to be denied.  
3 And, you know, the fact of the matter here is that  
4 there's going to be an appeal regardless of what  
5 this planning commission finds. I'll be frank  
6 about that. If it's an approval, the last four  
7 years indicate that there will be an appeal of that  
8 approval. And I'll be honest, if there's a denial,  
9 we will certainly be appealing that.

10 So we understand the importance of proper  
11 process here today. Obviously, we have an interest  
12 in expediency, given, you know, when this  
13 application was first filed, if someone said the  
14 word "corona," we'd all be thinking of a beer on  
15 the beach. So it's been a long time. We're  
16 interested in expediency, but we, you know, we want  
17 an approval and want an approval that's going to  
18 survive proper legal challenge. So certainly we  
19 are here to answer all of the questions that the  
20 commission has about this project. We are here to  
21 respond to whatever abutter's counsel has to  
22 present to make sure the commission understands our  
23 position. But, ultimately, the request of abutters  
24 is not going to be for a better project. It's  
25 going to be for denial, and that's just the fact of

1 the matter.

2 So, without further adieu, unless there  
3 are any questions for me, on that brief, hopefully  
4 brief, opening salvo, Mr. Murray, I think, is going  
5 to begin our presentation. Thank you very much.

6 CHAIRMAN SMITH: Thank you.

7 MR. MURRAY: Thanks, Nick. Again, for  
8 the -- for this record, Robert Murray, 21 Garden  
9 City Drive in Cranston. I'm here tonight on behalf  
10 of Revity Energy and Natick Solar, LLC, as well as  
11 I also represent Ronald Rossi, who is the owner of  
12 the subject parcel before you this evening.  
13 Mr. Rossi asked me to extend his regrets. He had  
14 an out-of-state business conference he needed to  
15 attend to. He certainly will be here at future  
16 meetings, and he was present throughout the last  
17 several years in support of this project.

18 Nick has talked about the travel, where we  
19 started, where we went, how we got back here. So,  
20 I'm not going to -- that's not my purpose tonight.  
21 I am going to introduce Dave Russo from DiPrete  
22 Engineering in a moment to offer up testimony and  
23 an explanation of the meat of this application.

24 I just want to note that in our submission  
25 we've included many things in addition to the plans

1 themselves. Just for the record, the previous  
2 approvals of this commission have been submitted.  
3 We did go through the development plan review  
4 process, which is a technical review committee of  
5 city, the city departments. We did that prior to  
6 preliminary approval and that development plan  
7 approval is in the record.

8 Ed Pimentel is going to testify shortly.  
9 His reports are part of this record. In order to  
10 get preliminary approval, we also had to get our  
11 wetlands permit from DEM, and Dave Russo will talk  
12 about that. That's in the record, as well as John  
13 Carter's work in terms of landscape and buffering  
14 and the various reports prepared by DiPrete  
15 Engineering.

16 This parcel is off Natick Avenue.  
17 Mr. Rossi owns -- well, he owns in excess of a  
18 hundred acres, but what you're looking at there on  
19 the screen is Assessor's Plat 22, Lot 108 and 119.  
20 119 is that small square up at the top of the plan.  
21 Revity Energy, Natick Solar have entered into a  
22 lease agreement with Mr. Rossi to lease about 26  
23 acres of the 64 acres there for the purposes of the  
24 installation of an approximately 8.1 megawatt solar  
25 array field, which will have access off Natick.

1           The remaining portion of Mr. Rossi's  
2           property is part of his tree farm and his -- and he  
3           farms, with his excavation company, and what you  
4           see on the screen, and what Mr. Russo and the  
5           others will testify is the limits of what we're  
6           proposing here. It's the -- I think Nick Nybo  
7           suggested about 20,000 panels. That is correct;  
8           but the point I want to emphasize is that at the  
9           time, 2018, when we first applied, when we got our  
10          certificate of completeness, solar farms, for lack  
11          of a better word, were permitted in the A80 zone.  
12          That is no longer true today. We acknowledge that.  
13          The city council amended the ordinance. But for  
14          today's purposes -- tonight purposes and future  
15          meetings, we need to put our 2018 hats on in terms  
16          of what was applicable to this project. And we  
17          complied with the zoning ordinance back then, and  
18          this plan still meets that test as evidenced by the  
19          fact it's the -- it's really the final plan that  
20          this city approved in 2022.

21                 And as Mr. Pimentel will testify, the  
22                 Comprehensive Plan, while there's been some  
23                 amendments to it, again, it is our position we  
24                 complied with that. So -- at the time and we  
25                 continue to do so.



1           The last thing I just want to say is that  
2           there is -- there are other aspects of this project  
3           that we're going to talk about. We're not  
4           necessarily going to get into it tonight, but we're  
5           available to talk about it at any time.

6           Ultimately, the goal of this project is to sell the  
7           electricity that's generated by it to National Grid  
8           to be put into the marketplace available for not  
9           only Cranstonians, but everybody in the National  
10          Grid system. That requires what's called an  
11          interconnection with National Grid. That will  
12          involve, once the electricity leaves this site at  
13          Natick Avenue, that driveway there, it will travel  
14          down Natick Avenue, all the way to Wilbur Avenue,  
15          up Wilbur, eventually to the Laten Knight Road  
16          substation. None of that really involves a lot of  
17          additional work that anyone would notice except for  
18          the fact that part of this process will include the  
19          replacement of utility poles on Natick Avenue. And  
20          while that's not necessarily within the domain of  
21          this commission, I want to put that on the record  
22          that we've worked hand in hand with National Grid  
23          on these type of interconnections, and that would  
24          be a process that will unfold once all approvals  
25          are obtained or appeals are exhausted and final

1 decisions are made with respect to the construction  
2 of this project.

3 I think that's all I want to say right  
4 now. We have, as Nick noted, Ralph Palumbo is  
5 here. He will testify perhaps somewhat later; but  
6 just by way of background, Reivity Energy is one of  
7 the largest solar developers in Rhode Island and  
8 southeastern Massachusetts, multiple projects. As  
9 the State of Rhode Island moves towards renewable  
10 energy 2035, their plans, solar arrays like this  
11 are a critical component to generate the type of  
12 renewable energy that society wants, the state  
13 encourages, and for all our benefit. But Reivity  
14 Energy is in this business. We have multiple  
15 projects in Cranston, including one off Lippitt  
16 Avenue called Gold Medal Farms. It's a 21-megawatt  
17 project. They have four projects right now,  
18 smaller projects, on Seven Mile Road. And so we  
19 are -- we're qualified. Reivity is a leader in this  
20 field, and ultimately the plan is to bring this  
21 project on line. We have many man hours -- we do,  
22 the commission does, city officials, we -- and the  
23 public also. And we appreciate the commitment that  
24 everybody's making for the timely and professional  
25 review of this project.

1           With that, Mr. Chairman, I'd like to call  
2 up Dave Russo from DiPrete Engineering. David,  
3 I'm going to let you testify in narrative fashion  
4 to save time, but let me just do a couple of  
5 preliminary things. The plans that are before the  
6 board this evening for the Natick Avenue solar  
7 project are plans you're familiar with?

8           MR. RUSSO: Yes, I am.

9           MR. MURRAY: And you've had a direct  
10 involvement in their preparation with your  
11 colleagues at DiPrete Engineering?

12          MR. RUSSO: Yes, I have.

13          MR. MURRAY: And for the record, you have  
14 been involved with this project since day one's  
15 inception, going back to 2017, 2018, correct?

16          MR. RUSSO: That is correct.

17          MR. MURRAY: And you have specific  
18 knowledge of Mr. Rossi's property on Natick Avenue?

19          MR. RUSSO: That is correct.

20          MR. MURRAY: And you were involved at  
21 every previous level of approval and consideration  
22 that this project has had; is that correct?

23          MR. RUSSO: Correct.

24          MR. MURRAY: In addition, you participated  
25 with the applicant in the review of the project by

1 the Cranston Conservation Commission?

2 MR. RUSSO: Correct.

3 MR. MURRAY: And we have a letter in the  
4 file of their approval of the plans, correct?

5 MR. RUSSO: Correct.

6 MR. MURRAY: You also participated through  
7 the development plan review committee process with  
8 the technical review by the city departments; is  
9 that correct?

10 MR. RUSSO: Correct.

11 MR. MURRAY: And so at every prior stage  
12 of the normal major land development process, you  
13 were the project engineer and lead engineer for  
14 Revity Energy?

15 MR. RUSSO: That's correct.

16 MR. MURRAY: And, lastly, that included  
17 work with the Department of Environmental  
18 Management in obtaining the insignificant  
19 alternation wetlands permit we obtained?

20 MR. RUSSO: Correct.

21 MR. MURRAY: So with that, Mr. Chairman,  
22 I'll allow Mr. Russo to give a general overview of  
23 the project. With Jason's assistance, we might  
24 flip back and forth on some screens. But we'll --  
25 I'll let Dave decide which one he wants to start

1 with. Thank you.

2 MR. RUSSO: For the record, my name is  
3 David Russo. I'm a professional engineer with  
4 DiPrete Engineering.

5 This property is -- the total acreage of  
6 this property is 64.03 acres. DiPrete Engineering  
7 has completed a Class 1 survey of this property.  
8 There's two frontages on Natick Avenue -- there's  
9 two frontages on the east side of the plan.  
10 There's a 50-foot frontage strip along Natick Ave.,  
11 and then there's also a 223-foot strip just south  
12 of that. South of the main entrance where you see  
13 the road coming in, there's a flagged wetland. You  
14 can see the flags on the plan in front of you.  
15 There's also a 50-foot buffer shown on that  
16 wetland. That was flagged by Scott Rabideau of  
17 Natural Resource Services, who's a professional  
18 wetland biologist.

19 The topography on this site, the high  
20 points are the northwest, which pointing to would  
21 be the top left of this page that you're looking  
22 at. That elevation is approximately 236 to 240, in  
23 that range. And then as you go down towards the  
24 wetlands, it gets down to about Elevation 114.  
25 Generally, most of this land, I'd say about 80

1 percent of it, slopes down to that wetland in some  
2 fashion. There's a small wetland in the bottom  
3 left corner, and there's a topography that kind of  
4 goes to that bottom left. It doesn't make the  
5 wetland area. But, overall, most of this land does  
6 slope down towards that wetland area.

7 The average slope across this site from  
8 that top left corner to the wetland is about a  
9 little over 10 percent. There are areas, there's a  
10 map shown before, where we're required to show 15  
11 percent slopes, which are considered constraints in  
12 the Cranston ordinance. Just for the 10 percent  
13 average, the city requirements for a public road,  
14 the max is 10 percent. So it's not -- it's not  
15 aggressively slope existing, but there are some  
16 undulations in it out there. And I talk about that  
17 further in the design. On the south side of the  
18 site, there is a 50-foot wide gas easement, and  
19 that runs from Natick Ave. and it goes all the way  
20 west, across this property, and then keeps going  
21 west toward Phenix.

22 The soils on the site, we've done a lot of  
23 testing on this site. A lot of the soils out here  
24 were fine sandy looms, and I go ever some more of  
25 the soil testing that we did in term of design.

1 The area that you see here is an 8.1 megawatt DC  
2 ground mounted fixed solar array. So they're fixed  
3 panels. They don't move. They don't rotate.  
4 They're just fixed on posts which are the ones that  
5 you see on the Hope Solar and the Gold Medal on the  
6 solar. They'll sit about 3 feet off the ground.  
7 The front lift and the back lift is  
8 approximately -- can range from 8 to 10 feet.

9 The site will be accessed off Natick Ave.  
10 You can see the proposed roadway on the sheet.  
11 That's an existing access way that Mr. Rossi uses  
12 today to access his property. We'll be utilizing  
13 that as our main entrance. That roadway will come  
14 in. It will head west. Then it will wrap north up  
15 towards the northern area, and then it will head  
16 west and we will enter the solar site kind of at  
17 the midpoint of that road that runs down the middle  
18 of the sheet. So there will be one roadway that  
19 runs down the middle of the solar to access the  
20 equipment which is put in the middle of the solar  
21 field.

22 This site has, which is odd to be at  
23 master plan, but we do have a full DEM permit for  
24 this site. It was fully engineered. DEM did a  
25 complete review of this project. They reviewed the

1 wetlands, the wetland flagging. They reviewed all  
2 the engineering, and we had to meet all the  
3 requirements as part of that. So we -- other  
4 requirements for DEM is we had to show that we're  
5 not impacting the abutting wetland. We had to show  
6 no increase in storm water to that wetland. We had  
7 to meet water quality requirements they have, and  
8 also provide them with a soil erosion control plan  
9 for construction purposes. And also the operation  
10 and maintenance manual for post construction and  
11 the maintenance of any of the storm water systems  
12 on the site.

13 The solar field will be surrounded by  
14 6-foot high chain link fence. The fence is going  
15 to be raised 6 inches off the ground. That's a --  
16 to allow wildlife, obviously smaller wildlife, but  
17 to get in and out of the area as needed. That's  
18 a -- it's now a DEM requirement. At the time when  
19 this was originally permitted, I think it was more  
20 of a recommendation, but now we're just -- it's  
21 part of the requirements for solar fields.

22 The -- during the initial phase, the  
23 initial design, there was a lot of concern on this  
24 site about the grading and the disturbance on this  
25 site; and when we first started this project, the



1 constraint for the solar field to be able to  
2 install it was 15 percent. And during the initial  
3 process, there -- we looked at the grading, how we  
4 can improve that, and the advancement -- it took so  
5 long that the advancement with the technology and  
6 the racking systems that they had, we were able to  
7 go up to 20 percent slopes. So what we need to do  
8 when we look at a site is we look at where we have  
9 to grade to get rid of anything that's over 20  
10 percent or in excess of 20 percent.

11 And the plan in front of you that you're  
12 looking at, you can see the darker lines on the  
13 property, and there's a lot more to the left on  
14 this page. Those are proposed grading lines.  
15 That's where we're proposing to grade on the site.  
16 Majority of the grading is where the ponds are  
17 because we have to create berms to hold back the  
18 water. So there's a portion of grading there, but  
19 then there's also a portion where we have to create  
20 that maximum 20 percent slope so panels can get  
21 installed in those area.

22 There was concern about the ledge in some  
23 of these areas. We did additional testing during  
24 that initial preliminary because of that concern,  
25 and what we found was just in the bottom left

1 corner, there's some knobs that are visible. You  
2 can see them coming out. So we knew that there was  
3 ledge there. But then we did some testing around  
4 that and that ridge line, there's definitely ledge  
5 in that area. The problem is it's variable. So at  
6 one point, it might be on the surface; and then you  
7 do a test hole 15 feet away, and it's 5 feet down.  
8 So it's hard to determine where it goes. It would  
9 be -- definitely be a, you know, a vein I'll call  
10 it of ledge in that area. And there's the ledge  
11 cuts, and we -- at the time, we did a cut fill map  
12 for DPW, and it's a different -- DPW engineer at  
13 the time, and we gave them a cut and fill map that  
14 they looked at and they ultimately approved. And  
15 what a cut and fill map is is it highlights the  
16 colors of where your largest cuts are or fills; but  
17 in this case, it's mostly cuts. It highlights  
18 where the deeper ones are compared to the shallow  
19 ones.

20 On average this site, most of the cuts  
21 range between 0 and 5 feet on average. The area in  
22 the bottom left where I said the knob was coming  
23 out, that area is the area that we have to go the  
24 deepest, and that cut is approximately 14 feet.  
25 When I say cut, that doesn't necessarily means

1       there's ledge there. It just that's how deep we  
2       have to go, and that's the deepest point. So let's  
3       say 0 to 5 feet. That's a cut down on average; but  
4       like I said, that area of ledge at 0 really went  
5       away, and it was 5 feet down. So, you know, the  
6       amount of blasting, mechanical means to get rid of  
7       that ledge is really difficult to determine, but we  
8       reduced the grading as much as possible. We've  
9       done testing on the site which tried to improve  
10      that concern.

11               The Tennessee Gas line located along the  
12      south, there is concerns about the earthwork and  
13      potential blasting in the area of that gas line.  
14      And during the master plan phase, we had somebody  
15      from Maine Drilling & Blasting attend the meeting,  
16      and then at preliminary phase, we met with Kinder  
17      Morgan who oversees the Tennessee Gas line, and we  
18      actually met them on site to show them these plans  
19      and have these plans. Their only concern or it's  
20      more process was if you're doing any blasting  
21      within 300 feet, you have to submit an application  
22      to them, and there's a review process with it. No  
23      matter what, they going to be involved. We'd have  
24      to do pre-construction meeting with them. They  
25      requested very specific notes which are on these

1 plans about construction and what they'd like to  
2 see to protect that gas lane. So if any work is  
3 done in that area, it would be overseen by Kinder  
4 Morgan.

5 The area under these panels will  
6 ultimately be -- it will be seeded. There will be  
7 a grass -- a vegetated growth. The goal on this  
8 site is they will -- the areas that aren't graded,  
9 we're trying to maintain the existing grades out  
10 there as best we can. So the areas that we're not  
11 proposing grading are typically just -- we'll strip  
12 the top soil, we'll screen it, and they'll put it  
13 back down in those areas. This plan, the other  
14 thing with this site is we kept the grades and the  
15 topography as much as we could to keep it going in  
16 the same direction versus trying to -- some people  
17 think that solar fields need to be flat. That's  
18 not the case. So, we've worked with the contour as  
19 best we could, and I think the grading of it is  
20 pretty minimal to what it could have been. We're  
21 still at 20 percent.

22 Traffic on the site, during construction,  
23 you're going to have your typical traffic any  
24 development would have, residential, commercial,  
25 solar, you're going to have construction traffic.

1 After construction, the solar field, the only  
2 traffic there is is maintenance vehicles to cut the  
3 vegetation and inspect the equipment. So very  
4 minimal traffic after it's built. There's no  
5 lighting proposed. There's no sewer or water or  
6 anything to it -- proposed utility proposed.

7 I think that's -- that's a general  
8 overview. Be happy to answer any questions the  
9 board may have.

10 MR. MURRAY: I was going to ask a few more  
11 questions, but if you want --

12 CHAIRMAN SMITH: Sure. Are there any  
13 questions at this point?

14 MR. FRIAS: I have questions, but --

15 CHAIRMAN SMITH: Wait until the --

16 MR. MURRAY: I just have a few questions.  
17 Mr. Russo, I just want to talk about a couple of  
18 things. First, the -- we just talked about briefly  
19 that the road network that will be around the  
20 field. I know you talked about the middle of the  
21 field, but just talk about access around the  
22 facility.

23 MR. RUSSO: There's a -- as I stated,  
24 there's that entrance road off Natick Ave. There  
25 will be -- there's a gate there today. There will

1 be gate there after. And then that entrance road  
2 comes in, it hooks north, and then it heads west.  
3 You can see the access road going north to south in  
4 the middle of the solar field. There'll be a gate  
5 right where that meets up with the T-intersection  
6 I'll call it on the northern part of the page. So  
7 that solar field area, itself, will be fenced in,  
8 and then there will be a gate at that northern  
9 access road location.

10 MR. MURRAY: And as part of this  
11 submission and review, have you had occasion to,  
12 even though they reviewed it at the initial master  
13 plan stage, we met with the fire marshal and had  
14 him, since we have a new fire marshal, we met with  
15 him to discuss the plans and what approaches the  
16 fire department would have had in the unlikely  
17 event that ever had to respond to this; is that  
18 correct?

19 MR. RUSSO: That is correct.

20 MR. MURRAY: And the -- not only would the  
21 fire department have access through the Natick  
22 Avenue entrance and the road that circulates around  
23 the facility, Mr. Rossi has frontage all the way  
24 out on Phenix Avenue, correct?

25 MR. RUSSO: Correct.

1           MR. MURRAY: And if the fire department  
2 wanted to come in from that direction, they would  
3 certainly have access coming in off Phenix Avenue,  
4 correct?

5           MR. RUSSO: That's correct. There's  
6 actually a gravel road right above where it says  
7 site on this plan in front of you. Right north of  
8 that, we can see the tree line's kind of cut,  
9 there's a gravel -- a well established gravel road  
10 going through that area.

11           MR. MURRAY: Talking a little bit about  
12 the -- I want to talk about the Tennessee Gas  
13 pipeline. You mentioned, you know, Tennessee Gas  
14 pipeline, there is an easement running through  
15 Mr. Rossi's property. Said it runs from Natick  
16 Avenue through his property. It is part of his  
17 property that they have the right to have the gas  
18 line going through, correct?

19           MR. RUSSO: That's correct.

20           MR. MURRAY: And after the initial master  
21 plan approval, we met with residents concerned  
22 about potential blasting near the pipeline, and we  
23 had several discussions with Kinder Morgan, which  
24 is the company that manages the pipeline; is that  
25 correct?

1 MR. RUSSO: Correct.

2 MR. MURRAY: And you said whatever  
3 concerns they express or procedures they wanted to  
4 be followed, you've incorporated that information  
5 on the plans.

6 MR. RUSSO: That's correct.

7 MR. MURRAY: But I want to emphasize that  
8 there could be blasting there, correct?

9 MR. RUSSO: That is correct.

10 MR. MURRAY: But blasting is a kind of a  
11 last step or a last resort.

12 MR. RUSSO: Correct.

13 MR. MURRAY: In terms of removal of ledge  
14 or any outcroppings that may interfere with the  
15 installation of the posts for the panels, there are  
16 other mechanical means that can be utilized,  
17 correct?

18 MR. RUSSO: That's correct.

19 MR. MURRAY: You could use equipment to  
20 chip away, there's drilling, there's a variety of  
21 means that could be utilized prior to blasting?

22 MR. RUSSO: That's correct.

23 MR. MURRAY: You talked essentially about  
24 the contours of the land. I just want to emphasize  
25 that one of the goals on solar arrays like this is



1 to try and work with the existing conditions,  
2 correct?

3 MR. RUSSO: That's correct, and I believe  
4 one of the -- one of the ordinance requirements was  
5 reducing the grading as minimal as possible for a  
6 solar site, which I believe we've achieved.

7 MR. MURRAY: And, in fact, even back in  
8 2018 and '19 when the master plan was initially  
9 approved, Cranston did have a solar performance  
10 standard ordinance, correct?

11 MR. RUSSO: That's correct.

12 MR. MURRAY: And while we have a new one  
13 now, at the time of the certificate of completeness  
14 in the initial master plan, we were aware of the  
15 conditions, correct?

16 MR. RUSSO: Correct.

17 MR. MURRAY: And the plan as submitted  
18 would meet those conditions?

19 MR. RUSSO: That's correct.

20 MR. MURRAY: And if we were to proceed  
21 forward with construction, we will honor all the  
22 requirements of that performance standard  
23 ordinance.

24 MR. RUSSO: That's correct.

25 MR. MURRAY: And that also includes, the

1 last phase, a decommissioning bond that has to be  
2 posted with the city in the event the solar array  
3 field is either discontinued or abandoned,  
4 correct?

5 MR. RUSSO: That's correct.

6 MR. MURRAY: So as part of the building  
7 permit process, we will collaborate with the  
8 building official and make a determination on what  
9 the appropriate amount of funds need to be  
10 established in the event the field was abandoned  
11 and had to be removed.

12 MR. RUSSO: That's correct.

13 MR. MURRAY: And that's already in process  
14 in the ordinance.

15 MR. RUSSO: Correct.

16 MR. MURRAY: And you've done those  
17 calculations for other projects, not only in  
18 Cranston, but around the State of Rhode Island?

19 MR. RUSSO: It's done all over the state,  
20 correct.

21 MR. MURRAY: Just with respect to the DEM  
22 permit that we obtained as part of the record,  
23 while I didn't identify them specifically, you  
24 alluded to them. As part of the DEM application  
25 and this submission, we've given the city a storm

1 water management report, correct?

2 MR. RUSSO: Correct.

3 MR. MURRAY: A soil erosion and  
4 sedimentation control plan?

5 MR. RUSSO: Correct.

6 MR. MURRAY: And an operation and  
7 maintenance plan for storm water management after  
8 construction?

9 MR. RUSSO: Correct.

10 MR. MURRAY: And all those things are  
11 designed and is a burden on the applicant and the  
12 operator to make certain that there aren't any off  
13 site problems with storm water or drainage after  
14 construction?

15 MR. RUSSO: Correct.

16 MR. MURRAY: Mr. Chairman, I don't have  
17 any other questions right now for Mr. Russo. I  
18 might have another one later, but I'll defer to the  
19 commission at this point.

20 CHAIRMAN SMITH: Thank you. Commissioner  
21 Frias.

22 MR. FRIAS: Thank you, Mr. Russo, for that  
23 presentation. I'm an attorney by profession. I'm  
24 not an engineer. So bear with me if I make  
25 mistakes in my discussions on this topic with you.

1           First of all, as you explained earlier,  
2           this is a four-acre piece of development here. But  
3           how much of this is actually having solar panels on  
4           it?

5           MR. RUSSO: So the panels themselves, the  
6           actual panels, so you can see there's spacing  
7           between the rows. Just the panels themselves is  
8           about 12 acres, which is 19 percent coverage.

9           MR. FRIAS: Of the land on the western  
10          portion of this, what will occur there? Is there  
11          going to be any changes there? It's going to be  
12          left in its current condition?

13          MR. RUSSO: We're not proposing anything  
14          in this. I don't know --

15          MR. FRIAS: I just want to understand  
16          that. Okay. From this side, when you are  
17          making -- you're going to be developing it for  
18          solar farm, can you describe the current condition  
19          of the land. It is primarily -- has it already  
20          been clear cut, is it basically woodlands, you  
21          know, explain a little bit to me of its current  
22          situation.

23          MR. RUSSO: That's a good question and  
24          comment. So, it's mostly wooded. There's a trail  
25          system through there. I would say the owners

1 maintained some of the trails. There's like a  
2 clear meadow area, kind of where that -- a bit to  
3 the right where it -- it's a mixture of wooded  
4 trails, a little bit of meadow. During the master  
5 plan, I believe it was the master plan, planning  
6 board members and the abutters, we went out on the  
7 site and drove, like, mini busses around the  
8 pathways. So you can trudge right through this  
9 area.

10 MR. FRIAS: You were speaking about the  
11 grading. You believe that you will need to --  
12 understand clearly your testimony -- you will need  
13 to do some grading, but not a significant amount?  
14 Can you characterize the amount of grading you  
15 perceive being necessary to do this.

16 MR. RUSSO: So this is our proposed  
17 grading plan. So this is what the applicant will  
18 work with their contractor on and the  
19 contractor's -- and the equipment now is pretty  
20 amazing. They take our files, and they build it  
21 per our files. So what we're showing in that plan  
22 is what they would build. And as I stated, most of  
23 the area that is cut out here is that 0- to 5-foot  
24 range, which is common. There's that one --  
25 there's that one knob, kind of like where that red

1 line is right now, the red line -- so you can see  
2 that red line going across the site on the middle,  
3 that's the offset for the gas line. That's was one  
4 of the things they wanted the preliminary  
5 originally to put on there to show the 300-foot  
6 setback. Where that crosses, that proposed grading  
7 on the left over there, that area, if this was  
8 ledge, is like a big ledge knob. I mean, it's --  
9 with ledge, it' really unknown. And it's not just  
10 this site. You see that on a lot of sites. Ledge  
11 goes up and down. It's not consistent. So we went  
12 around these areas where we're doing the grading  
13 and did some additional testing, trying to get an  
14 estimate of where that was present, and that was  
15 the worst spot right there. There's a -- there's a  
16 pocket in the east. There's ledge at surface, but  
17 until you start getting -- digging it all out,  
18 you've seen up there, it's really difficult to  
19 quantify.

20 MR. FRIAS: So you're talking about  
21 blasting with a possibility thereof, correct?

22 MR. RUSSO: Um-hum.

23 MR. FRIAS: Is the blasting necessary  
24 because of the ledge?

25 MR. RUSSO: Essentially, yes. If you

1 can't remove it mechanically.

2 MR. FRIAS: Okay. Where is the  
3 Tennessee -- the interstate Tennessee Gas pipeline?  
4 Can you just kind of -- is it the dotted red line  
5 at the middle --

6 MR. RUSSO: No. It's right along that  
7 southern border. So you can see the -- like the  
8 property line where it kind of changes, it goes  
9 from white -- that's the southern property line.  
10 There's that 50-foot easement through there and the  
11 Tennessee Gas line's right through there.

12 MR. FRIAS: And the blasting would occur  
13 potentially where the ledge is, and the ledge,  
14 where you see the most problematic ledge is, can  
15 you kind of -- where is the most --

16 MR. RUSSO: It's right where that red  
17 line -- that red line is, and it meets the  
18 proposed -- keep going right on that red light.  
19 That's a knob. It's visible in the field.  
20 Engineers see that in the field, which is the big  
21 knob of ledge. We tested around it to try to  
22 figure out, but like I said, it drops to 5 feet --  
23 the problem is it drops to 5 feet. So it can go up  
24 and down.

25 MR. FRIAS: And how -- from a -- how far

1 is that knob of ledge to the Tennessee Gas  
2 pipeline?

3 MR. RUSSO: That red line is that 300-foot  
4 setback.

5 MR. FRIAS: Three hundred feet. Okay. We  
6 talked about your experience in doing solar farm  
7 developments across the state. Have you ever had  
8 one with a Tennessee Gas -- interstate gas pipeline  
9 in it?

10 MR. RUSSO: I haven't, but our firm worked  
11 on Citizens Bank. And they testified -- it's in  
12 the testimony originally, Maine Drill & Blasting  
13 did that. They blasted over a hundred thousand  
14 cubic yards within 250 feet of the Tennessee Gas  
15 line. To try to put that into perspective, this  
16 site, as a whole, only has about -- as a whole, I'm  
17 not saying blasting, that was a hundred thousand  
18 cubic yards of blasting. This site, as a whole,  
19 only had 12,000 yards of cut. So that's not  
20 blasting. That's just cut. So you're talking --  
21 Kinder Morgan, you know, we met them on site. They  
22 weren't concerned with it. Just have to follow  
23 proper procedure. Maine Drilling & Blasting,  
24 they're professionals in this, and so there was a  
25 lot of research done into that.



1           MR. FRIAS:  And are you -- can you  
2           basically speak to -- you mentioned a couple of  
3           times the protocol and procedure for blasting  
4           within certain distance of a interstate gas  
5           pipeline.  Do you -- can you kind of summarize what  
6           the process and procedure is for blasting within  
7           certain feet of an interstate gas pipeline.

8           MR. RUSSO:  I mean, so there's -- with  
9           Kinder Morgan, who oversees the line, they have  
10          procedures they wanted.  And their procedures are  
11          more -- they want to see the application.  They  
12          want to see the project.  Their main concern with  
13          that Tennessee Gas line, they don't -- no traffic  
14          on it, but it's kind of difficult when you're going  
15          to be working there.  So they said if there was any  
16          traffic, you have to put mats down.  They wanted  
17          that protected with like a snow fence, that orange  
18          fence.  So those notes are directly on our plans,  
19          on the general notes exactly what they wanted, and  
20          that was worked -- we worked with them on those and  
21          the planning staff at the time.  So that's in terms  
22          of Kinder Morgan.

23                 In terms of the blasting that gets done,  
24                 Maine Drill and Blasting testified to this.  I'm  
25                 not a blasting expert, but I know enough of the

1 procedure, and then it goes -- state fire marshal  
2 is one that oversees it. They -- they'll do an  
3 analysis if they did have to blast, and they'll  
4 look at, you know, where to blast, how to blast.  
5 They obviously have insurance. They're looking at  
6 surrounding area, and somebody, I think it might  
7 have been Mr. Vincent, he even asked, it was in  
8 the testimony, he asked the question. Mr. Vincent  
9 asked Mr. Dufore, who's from Maine Drill and  
10 Blasting, in your 50 years of experience, have you  
11 ever encountered any damage to septic systems or  
12 wells in the vicinity of your blast sites.  
13 Mr. Dufore said no. So, I mean, this Maine  
14 Drilling & Blasting, in 50 years' experience, and  
15 he never had an issue with wells or septic.

16 MR. FRIAS: Going in a slightly different  
17 aspect of discussion, talking about grading, the  
18 amount of blasting you have to do to put a solar  
19 farm here, one of the things I read in the  
20 application is that a solar farm should go here  
21 because otherwise a residential development can go  
22 here. How difficult would it be actually for a  
23 residential development in this area?

24 MR. RUSSO: I mean, a residential  
25 development can go anywhere. I don't see -- you've

1 got a lot more earth work.

2 MR. FRIAS: Excuse me. What?

3 MR. RUSSO: You'd have a lot more earth  
4 work. You'd have to bring in -- you'd have to  
5 bring in a public road. That would be one concern.  
6 You're increasing all the pavement. You'd increase  
7 runoff with that road. You'd increase polluted  
8 loadings going to the wetlands. So, in terms of  
9 the roadway construction, it would be pretty  
10 significant. In term of the house build-out, there  
11 was a lot of testimony prior about three houses to  
12 the northeast of this that just recently got built,  
13 and there was a lot of testimony from various  
14 people throughout the testimony that the amount --  
15 the length of time it took them to build those  
16 houses over there due to all the ledge and they  
17 were chipping away at the ledge in that area. So  
18 in terms of a residential development out here, you  
19 could do it. It's just -- you may end up with,  
20 instead of three houses, you may end up with twenty  
21 houses getting built out over -- if you build three  
22 houses, and you took six to eight years, you get  
23 the longer build out. You get more disturbance.  
24 These solar sites -- a solar site like this, I  
25 mean, this will be built out in under twelve

1 months.

2 MR. FRIAS: But -- so I understand this,  
3 you believe that it would be -- it could be done,  
4 but it would be difficult, and it would be very --  
5 it would be costly to put a residential development  
6 there?

7 MR. RUSSO: I think you can put a  
8 residential development there. I mean, if  
9 someone -- I always look at it if someone put one  
10 right there next to it to the north, why couldn't  
11 you put one here. The land doesn't change that  
12 much.

13 MR. FRIAS: Are you the expert that would  
14 be discussing kind of, like, the buffering for the  
15 visual impact in the area, or is that somebody  
16 else?

17 MR. RUSSO: Mr. John Carter will do that.

18 MR. FRIAS: Okay. Okay. Thank you.  
19 That's the questions I have for now.

20 MR. MURRAY: Mr. Chairman, can I just  
21 follow up on a couple of points Mr. Frias  
22 mentioned. First, as David alluded, blasting is --  
23 falls within the jurisdiction of, say, fire  
24 marshal, licensing, bonding requirements. That's  
25 all set forth in state procedures. You know, it's

1 public record, Mr. Rossi within the last two years  
2 has done blasting on his property. So not  
3 necessarily in this area. So blasting is for his  
4 tree farm and the follow up on that question about  
5 the rest of the acreage, you know, right now  
6 Mr. Rossi's plan is to continue to farm this  
7 property and utilize it for his tree business. He  
8 just planted another 3,000 trees on his property.  
9 He lost quite a few of them to the draught, but  
10 we're going to keep going. But -- so this is the  
11 extent of the solar farm that Natick Solar and  
12 Revity's interested in, and Mr. Rossi is agreeable  
13 to. This is not -- this is not Phase 1 of a solar.  
14 This is the first and last phase of the solar. But  
15 the fire marshal process is well known, and it does  
16 require pre-blast inspection. It requires, you  
17 know, neighbors to be made aware of when there's  
18 blasting. And I will make a representative of  
19 Maine Blasting & Drilling available to this  
20 commission at the next meeting to talk about  
21 specifically their experience working near the  
22 Tennessee Gas pipeline, and I apologize they  
23 weren't here tonight.

24 I believe the last time, Mr. Russo, am I  
25 correct, I thought we presented a conceptual

1 subdivision plan to the commission to show, in  
2 fact, that this property could be developed,  
3 however challenged the site conditions and the  
4 wetlands, you know, there could be a residential  
5 subdivision on this property, correct?

6 MR. RUSSO: I wouldn't see why there  
7 couldn't put one.

8 MR. MURRAY: And the tradeoff with this  
9 particular project versus a subdivision is all the  
10 costs associated to the municipality that comes  
11 with a residential subdivision do not apply in this  
12 case, correct?

13 MR. RUSSO: That is correct.

14 MR. MURRAY: So we don't have impact on  
15 schools?

16 MR. RUSSO: Correct.

17 MR. MURRAY: We don't have impact on the  
18 city maintaining the roads once they're accepted by  
19 the city, correct?

20 MR. RUSSO: Correct.

21 MR. MURRAY: We don't have the need for  
22 extensive police or fire protection?

23 MR. RUSSO: Correct.

24 MR. MURRAY: And there would not be the  
25 need for trash removal or trash pickup as you would

1 normally see in a residential subdivision?

2 MR. RUSSO: That's correct. You also  
3 wouldn't have the traffic associated with a  
4 subdivision; and more likely than not, a  
5 subdivision like this, it would be -- the fire  
6 department would more likely require us to connect  
7 to Ridge -- is that Ridgewood Road up on the north  
8 end?

9 MR. MURRAY: That's all I wanted to ask,  
10 just to clear up a point, Mr. Chairman. Thank you.

11 CHAIRMAN SMITH: Thank you.

12 MR. MURRAY: Are there any other questions  
13 for this witness?

14 CHAIRMAN SMITH: Any questions from the  
15 commissioners for the applicants at this point?

16 MR. MURRAY: Okay. Next up, Mr. Nybo is  
17 going to examine Mr. Pimentel about this work, the  
18 Comprehensive Plan, and land use analysis. Just to  
19 follow up on Mr. Frias' question, John Carter, our  
20 landscape architect will -- I'll come back up with  
21 John, and he'll do an extensive presentation on the  
22 landscape buffering plan for this project, the  
23 history, how it got there, and we'll be happy to  
24 answer any of those questions.

25 CHAIRMAN SMITH: Thank you.

1 MR. NYBO: Name and address --

2 MR. PIMENTEL: Sure. Edward Pimentel.

3 That's P as in Paul, I-M-E-N-T-E-L, Cranston,  
4 Rhode Island.

5 MR. NYBO: So, Mr. Pimentel, you're  
6 resume's in the record. So, I'm certainly not  
7 going to go through it. I think many people are  
8 familiar with your work, but could you just provide  
9 the commission some highlights, specifically solar  
10 related.

11 MR. PIMENTEL: Sure. I've been a  
12 continuous municipal planner for 30 plus years.  
13 Consulting 20 plus. Probably in the last 8 to 10  
14 years is when I got heavily involved in solar,  
15 somewhere between two and three dozen projects,  
16 maybe more, from very large, I mean very large, to  
17 very small. I would say -- the size of this one is  
18 probably less than mid level size of the ones I've  
19 worked on.

20 MR. NYBO: What's the largest project you  
21 remember working on?

22 MR. PIMENTEL: 30 to 60 megawatts.

23 MR. MURRAY: 30 to 60?

24 MR. PIMENTEL: Yeah.

25 MR. NYBO: And this is 8.7?



1 MR. PIMENTEL: Correct. I always get  
2 consulted on the -- of a power plant. So, I work  
3 on a lot of energy projects.

4 MR. MURRAY: Could you describe the scope  
5 of your work on this application.

6 MR. PIMENTEL: Sure. So dating back to  
7 2017 when I was initially involved, I thoroughly  
8 reviewed the Comprehensive Plan. It's pretty much  
9 the same Comprehensive Plan, unless, of course, the  
10 fact of the vested language, supporting solar  
11 development, and that was in foundational support  
12 of the ordinance. Review the zoning ordinance.  
13 Because this is a land development, I've done the  
14 plan review. I also, as a precautionary measure,  
15 reviewed the subdivision land development regs.  
16 And then as is typical, my typical methodology, in  
17 addition to reviewing the neighbor -- the  
18 neighborhood, doing an analysis of the surrounding  
19 residences, an idea of visual and so forth,  
20 although that's more so in the forte of Mr. Carter,  
21 I also ran a -- did a thorough review of all the  
22 requisite solar documentation that's put out by the  
23 State to show by community such as the city of  
24 Cranston, has put forth ordinances to help support,  
25 establish this balance that we want, this program

1 that we want statewide for renewal and nonrenewable  
2 energy, and they're all documented in my report.

3 MR. NYBO: Okay. We're going to -- I'm  
4 going to touch upon some of the points made in your  
5 report. I'm certainly not going to go line by line  
6 because it's in the record. The Commission is  
7 certainly capable of doing that. Can you provide  
8 the Commission just sort of your top line  
9 conclusion that you reached in your report.

10 MR. PIMENTEL: Sure. So my experience  
11 with solar in the vast majority of communities,  
12 especially during the period of 2015 and 2016  
13 through, probably through until up to COVID was  
14 that there was a real desire to assist the state in  
15 helping to meet these objectives, these thresholds  
16 of renewable energy. The areas where the greatest  
17 solar facilities could be developed, clearly, were  
18 more in rural communities because that's where the  
19 larger acreage existed. Furthermore, most of the  
20 rural communities, because of most of their acreage  
21 is undeveloped, they do one of two things. They  
22 either zone it open space or they zone it in some  
23 kind of residential manner. Open space, typically,  
24 on public land or the recreational resources  
25 because otherwise you would deprave someone's

1 property rights, and the majority residential zone.  
2 And now those communities realize the only way they  
3 can assist in meeting these objectives was to  
4 either allow it by-right or by special use. I  
5 mean, anecdotally, probably about two-thirds of the  
6 communities impose a special use permit criteria.  
7 The other third, a by-right, much like the city of  
8 Cranston. So ultimately what the City of Cranston  
9 did -- and by the way, this was also with the  
10 assistance of statewide planning. So statewide  
11 planning, in meeting the Governor's objectives of  
12 trying to produce a balanced energy program, put  
13 together modern ordinances and guidance for the  
14 communities and then had a meeting with these  
15 communities, City of Cranston being one, City of  
16 Cranston put together an ordinance. The ordinance  
17 permitted solar facilities as a matter of right in  
18 the district; and in addition to that, prepared  
19 foundational language in the Comprehensive Plan to  
20 provide precise evidence of consistency with that  
21 ordinance. Not that it was necessarily required,  
22 but they did do that and made my job easy.

23 MR. NYBO: Are you finished --

24 MR. PIMENTEL: It reaches a conclusion  
25 that it was more consistent and right.

1 MR. NYBO: Okay. Consistent with --

2 MR. PIMENTEL: The Comprehensive Plan.

3 MR. NYBO: Okay. A few questions on what  
4 you just said. First, you referred to acreage with  
5 respect to this, you know, areas out west and solar  
6 farms. In your experience, have you come to  
7 understand a general acreage breakdown, if  
8 necessary, for a solar farm?

9 MR. PIMENTEL: Sure. There's always  
10 greater efficiency being discovered when it comes  
11 to solar facilities; but as rule of thumb, it's  
12 approximately about 3 to 5 acres that are necessary  
13 to generate the megawatt of solar. So when you  
14 take that into consideration of the quantity of  
15 acreage that's required to realize an economically  
16 feasible and practical solar project, you know, you  
17 typically need 30, 40, 50 acres, outside of the  
18 area that you're going to use for visually  
19 screening and buffering, et cetera.

20 MR. NYBO: Understood. You mentioned the  
21 Comprehensive Plan. Which Comprehensive Plan are  
22 you referring to when you say that solar in the A80  
23 zone is consistent with the Comprehensive Plan?

24 MR. PIMENTEL: Well, the one that they  
25 adopted the language which made it absolutely

1 precise was in 2017, vesting. The ordinance vested  
2 on the 2017 amendment. But even if you review the  
3 2010 going forward, there's nothing that would  
4 otherwise realize inconsistency. There's nothing  
5 contrary to the ordinance that was adopted. So  
6 whether the 2010 or the language in 2017, they're  
7 both consistent, one being generally consistent,  
8 the other being absolutely, given the foundations  
9 that fought for the ordinance amendment.

10 MR. NYBO: The generally consistent one is  
11 the 2010 Comprehensive Plan?

12 MR. PIMENTEL: Correct.

13 MR. NYBO: And a more specifically solar  
14 focused one is the 2017 Comprehensive Plan?

15 MR. PIMENTEL: That's correct.

16 MR. NYBO: Okay. Are you aware in this  
17 case that there's a suggestion that the 2017  
18 Comprehensive Plan is legally ineffective, for lack  
19 of a better phrase, because it was not adopted by  
20 the state government? Are you aware of that?

21 MR. PIMENTEL: I am aware of that.

22 MR. NYBO: All right. You're aware that  
23 there's a counter planning expert presented in this  
24 case, Mr. Bronk has made that suggestion.

25 MR. PIMENTEL: Yes.

1           MR. NYBO: Have you reviewed Mr. Bronk's  
2 report and, specifically, that suggestion in his  
3 report?

4           MR. PIMENTEL: I have.

5           MR. NYBO: Okay. Without stepping into  
6 the territory of a lawyer, what's your sense, as a  
7 former town planner, that suggestion that because  
8 the state has yet to adopt the 2017 Comprehensive  
9 Plan, it does not have effect here in the planning  
10 commission?

11           MR. PIMENTEL: Sure. When you have an  
12 answer that's grounded in both Rhode Island General  
13 Law and case law, there's no reason to give  
14 opinion. Opinion is opinion. The answer to that  
15 question is actually in the Rhode Island General  
16 Law, and there's a pertinent case law that actually  
17 evidences that once a local municipality, the  
18 elected officials have adopted a Comprehensive Plan  
19 amendment, an ordinance, that it's at that point  
20 locally -- it's locally binding for local  
21 decision-making purposes, and that's clearly  
22 evident in Rhode Island General Law and case laws.

23           MR. NYBO: Okay. What's it -- if it's not  
24 adopted by the state, what's it not binding or  
25 effective to do? There must be something for the

1 state --

2 MR. PIMENTEL: Sure. It would be for  
3 state-making decision purposes. For example, if  
4 there was a particular project involving the city  
5 or community or if you were seeking state funding  
6 for some purpose, then there would be an issue  
7 because they haven't formally adopted either the  
8 Comprehensive Plan in its entirety or that  
9 amendment in question. But once again for  
10 local-making decision purposes, once adopted by the  
11 local regulatory body, the council, then it's  
12 binding on local decision-making purposes, and like  
13 I said before, not only is it in Rhode Island  
14 General Law, but there's -- that very question has  
15 been brought several times to the courts, and the  
16 courts have actually addressed that issue.

17 MR. NYBO: Okay. So -- and just to put a  
18 fine point on this, even if it were the case that  
19 the 2017 Comprehensive Plan was not effective in  
20 this tribunal, this planning commission, is it your  
21 opinion that solar in the A80 zone, this project,  
22 is consistent with the 2010 Comprehensive Plan?

23 MR. PIMENTEL: That is correct. So to  
24 further one particular case in which it was -- the  
25 argument was that because the state had not

1 approved it, it should null and void, the Court  
2 stated --

3 MR. NYBO: So this is talking about the  
4 2017 plan?

5 MR. PIMENTEL: Correct. The courts  
6 declared that a municipally adopted Comprehensive  
7 Plan is null and void without state approval when  
8 the clear language in the statute dictates  
9 otherwise. I mean, that's right out of the  
10 decision. And there's others decisions here, too.  
11 Furthermore, and I note it in my supplementary  
12 report, there was a Supreme Court case, I'm very  
13 familiar with, it involved my community and it  
14 involved me as well as my board who affirmed the  
15 planning board's decision, that addressed this very  
16 issue about the consistency between Comprehensive  
17 Plan and zoning ordinance. Subsequent to that  
18 decision, the state legislature amended the Rhode  
19 Island -- the zoning enabling legislation which  
20 stated that when there is this inconsistency, and  
21 the reason why they did this, if you take it from a  
22 practical perspective, an ordinance amendment is a  
23 much easier route to accomplish, whereas the  
24 Comprehensive Plan, that's very difficult for us  
25 because it entails a lot more review. So the point



1 being there was that if there's an ordinance  
2 amendment and it's locally adopted, it becomes  
3 enforceable, even if there -- it were inconstant  
4 with the Comprehensive Plan, which there isn't in  
5 this case, until at such time the Comprehensive  
6 Plan is amended and enforced. In either case, once  
7 the ordinance supported solar facility was adopted,  
8 it was enforceable.

9 MR. NYBO: Can I see the case that you  
10 just read from.

11 MR. PIMENTEL: These other two cases --

12 MR. NYBO: I'm just going to read the  
13 citation into the record from the case that  
14 Mr. Pimentel -- and I will provide copies of the  
15 case this evening, more likely tomorrow morning, so  
16 that they can be made part of the record, but -- so  
17 we have it on the record. It is Sicilinaano,  
18 S-I-C-I-L-I-N-A-A-N-O, Sicilianaao, v Town of  
19 Exeter zoning board of review. West Law Citation  
20 2006 WL 557148, and, again, I will make copies of  
21 that available to plan commission so that can be  
22 incorporated into the record.

23 So, Mr. Pimentel, I want to go back to  
24 your discussion -- well, frankly, it was discussion  
25 by Mr. Russo about residential subdivision.

1 Mr. Russo answering Commissioner Frias' question,  
2 you know, he gave the engineering answer about a  
3 residential subdivision. I'd like your town  
4 planning answer about whether a residential  
5 subdivision could go on the parcel that we're  
6 looking at here this evening.

7 MR. PIMENTEL: Sure. So a rule of thumb,  
8 first of all, you would apply the zoning  
9 requirements, the two-acre zone. Another rule of  
10 thumb is somewhat between 10 and 15 percent.  
11 Typically, you would subtract for infrastructure  
12 and then improvements. So doing the math, you  
13 could probably end up, rough numbers, between 20  
14 and 32 house lots. It's my experience, actually,  
15 the more difficult the site, and I refer to  
16 engineering as to how difficult it would be to  
17 develop it, my experience is the more difficult the  
18 site, the more you're really going to maximize the  
19 number of home sites because you'll have to offset  
20 your costs and the expenditures. So you would max  
21 out or maximize development of this property at the  
22 two-acre zoning. The reality that, though, is that  
23 two-acre lots within a stated home is going to  
24 provide a greater value anyway. So you're not  
25 going to avert the number of home sites you could

1 otherwise realize under zoning, unless, of course,  
2 you can work with the community on some kind of  
3 cluster style development to preserve land use.  
4 But even in that regard, typically there's some  
5 kind of density bonus to offset because you're  
6 offering something back to the community.

7 So I would say, yes, my experience you can  
8 development this property residentially.

9 MR. NYBO: Okay. Can I have you flip to  
10 your report. I'm just going to highlight a few  
11 limited sentences, and have you expound and then we  
12 will move on. Page 8 of 12. And just for the sake  
13 of the record here, I'm looking at your December 3,  
14 2018 report. So that was the report issued round  
15 one. If you look at the second sentence, on  
16 Page 8, it reads, quote, "The proposed solar  
17 facility development, unlike other permissible land  
18 uses, such as a residential subdivision, will  
19 occupy the property for some period of time, but it  
20 is not permanent." I'm actually going to combine  
21 my question with three sentences later, you state,  
22 quote, "The subject solar facility development  
23 maintains the rural landscape and averts straining  
24 otherwise non present municipal resources, i.e.,  
25 water and sewer, while attaining reasonable

1 economic development." So my first question is  
2 about those two statements. What do you mean by  
3 solar development is non permanent? What are you  
4 comparing it to, and what do you mean by that?

5 MR. PIMENTEL: Sure. So unlike most types  
6 of development, whether it be residential,  
7 commercial, industrial, that would be permanent  
8 scarring on the land resources that you would  
9 utilize into development. So, A, you're clear  
10 cutting the property. You're introducing the  
11 requisite infrastructure, that would be sewer,  
12 water, roadway, and then, of course, the facilities  
13 themselves, whether it's home sites or commercial  
14 business, or industrial facility. That would be  
15 permanent disturbance on the property. Once that's  
16 in place, down the road 30, 50, a hundred years,  
17 yes, you could raze a structure, but the  
18 infrastructure is always going to be in place, so  
19 you're going to redevelop it in that same vein.

20 A solar facility is not a permanent  
21 disturbance on the land. We call it a temporary  
22 land banking. In some situations, it becomes more  
23 permanent and others not. The typical life cycle  
24 of a solar facility is 25 to 30 years; but during  
25 that period, it's being utilized for that purpose

1 if there's land banking, the property in that you  
2 have not introduced a permanent disturbance on the  
3 land, which would be there in perpetuity. That's  
4 what we mean by temporary land banking.

5 MR. NYBO: Okay. That sentence also --  
6 the second of the sentences that I read states that  
7 solar development, quote, "Averts straining  
8 otherwise non present municipal resources, i.e.,  
9 water and sewer." Again, are you comparing that to  
10 residential?

11 MR. PIMENTEL: Correct. So the issue with  
12 solar facilities typically being located in the  
13 more rural areas is because, once again, that's  
14 where the larger acreage is. It is also typically  
15 also where there's more limited infrastructure. So  
16 you're going to be doing a lot more disturbance to  
17 either bring sewer lines in if they're in proximity  
18 to the property or introducing OWTS, on site waste  
19 treatment systems, bringing in water lines, et  
20 cetera. A solar facility development doesn't  
21 require any of these infrastructure improvements.  
22 You don't need sewer. You don't need water. You  
23 don't typically bring in a roadway system. Most of  
24 the projects I've worked in, you know, it's a  
25 glorified driveway, many times it's pervious, as

1 long as it meets the fire department's needs. And  
2 that's why we say it's temporary, and it's not  
3 disturbing.

4 MR. NYBO: Okay. I mean, there's been  
5 some assumption here. I mean, probably more than  
6 an assumption, to have, you know, there's two  
7 alternatives, it's either solar or residential. I  
8 assume somebody's going to say the third  
9 alternative, don't touch the land.

10 MR. PIMENTEL: All land resources  
11 eventually are going to be developed and utilized.  
12 I think land's a premium. Not only is land a  
13 premium, but half my practice now in the last  
14 several years has been totally dedicated to housing  
15 development, and a good portion of that has been  
16 affordable housing development. It's the greatest  
17 need for the State of Rhode Island. We not only  
18 need residential density, but we greatly need  
19 affordable housing. And in the rural communities,  
20 because every city and town is required by statute  
21 to meet their so called fair share, 10 percent,  
22 they're scrounging because their affordable housing  
23 plan was supposed to be completed by -- in 20  
24 years, in 2004 (sic), we're at the deadline, and  
25 they're starting to develop every piece of land

1 resource that's possibly out there in rural  
2 communities, including the rural areas, and that's  
3 the problem. Land's a premium. We need density.  
4 We need housing. We need affordable housing. We  
5 need renewable energy. They end up going where  
6 it's most appropriate. And, therefore, it is my  
7 opinion, given the great market demand for housing,  
8 if not solar, this would be developed  
9 residentially. I feel strongly about that.

10 MR. NYBO: I want to look briefly at your  
11 supplemental report which was issued January 11,  
12 2023. Again, it's in the record, so I won't  
13 belabor the point. I have one question about a  
14 sentence in that report. If you could turn to  
15 Page 4 of 7. I'm looking at the sentence beginning  
16 immediately after the section, regulatory specific  
17 consistency analysis, the first two sentence  
18 there -- sentences there read, quote, "The City of  
19 Cranston has acknowledged the need for well  
20 balanced energy programs that incorporates both  
21 renewable and non renewable energy. It also  
22 understands that solar is by far the most  
23 productive means of achieving such a program while  
24 also realizing other noteworthy objectives such as  
25 land preservation, averting fiscally draining

1 residential development in the near term (land  
2 banking) and attracting true economic value." What  
3 I want to ask you is that first sentence about the  
4 city acknowledging the need for a well balanced  
5 energy program. What's that based upon in that  
6 conclusion?

7 MR. PIMENTEL: Once again, my methodology  
8 is to review all documentation and objectives  
9 downloaded directly from the state to the local  
10 municipalities. And in doing my research, when the  
11 statewide planning -- and in one of their handbooks  
12 because when you craft a Comprehensive Plan, there  
13 are different elements you need to address. Energy  
14 is one of those elements. And there are handbooks  
15 that go with that that provide guidance to the  
16 municipalities. And when they would download it  
17 directly to the municipalities to assist in  
18 establishing this balanced program, Cranston was  
19 one of the creators, and Cranston, then, followed  
20 up in preparing an ordinance and adopting necessary  
21 language in accordance with that showing their  
22 design to help the state in meeting established  
23 programs. So that's what that sentence is about,  
24 and then it follows what the Cranston's actions  
25 were in response to that with the adoption of the



1 necessary -- of the -- all to form, foundational  
2 language in the Comprehensive Plan, as well as,  
3 most important, the ordinance permitted solar  
4 facilities in the A80 district where most of the  
5 acreage is located.

6 MR. NYBO: The second sentence here states  
7 that it, by it you mean Cranston, I believe, in the  
8 context here, also understands that solar power is  
9 by far the most productive means of achieving such  
10 a program. What's that conclusion based upon?

11 MR. PIMENTEL: Sure. So there are  
12 different -- there are several different sources to  
13 realize renewable energy, non fossilized energy.  
14 There's solar, wind. You got geothermal, et  
15 cetera, et cetera. The state has mapped out for  
16 wind purposes, other than a few locations, it's  
17 really not economically viable that I issued with  
18 wind. I've been involved in a few of those. If  
19 you look at -- if you pin it down, solar is the  
20 most productive, the most efficient of helping to  
21 realize that objective and goal. So that's why I  
22 note that sentence in my report.

23 MR. NYBO: Okay. Thank you. The last  
24 document I want you to speak about is Paige  
25 Bronk's, and that is the land use expert hired by

1 Attorney Dougherty. His report, which is also in  
2 the record, January 26, 2023. You've had the  
3 opportunity to review that?

4 MR. PIMENTEL: I have.

5 MR. NYBO: Okay. I'm going to ask you  
6 about two sections, and then I'll be finished. If  
7 you look at Page 6 of this report.

8 MR. PIMENTEL: I reviewed it before, and I  
9 don't have a copy --

10 MR. NYBO: You don't have a copy of his  
11 report.

12 MR. PIMENTEL: I've read his report.

13 MR. NYBO: Here you go. (Hands document  
14 to witness). So Page 6 of that report.

15 MR. PIMENTEL: Yes.

16 MR. NYBO: The first full paragraph, the  
17 third sentence in that paragraph, Mr. Bronk says,  
18 quote, "The passage of the 2017 amendment does not  
19 supersede the legal precedence held by the full  
20 2010 Comprehensive Plan document. In actuality,  
21 the 2010 plan holds more weight than the 2017  
22 amendment, especially through the issues raised by  
23 Rhode Island Statewide Planning specific to the  
24 solar amendment." I don't want to belabor the  
25 points about amendment ratification, but is it fair

1 to say you disagree with that conclusion?

2 MR. PIMENTEL: I vehemently disagree based  
3 on Rhode Island General Law and case law.

4 MR. NYBO: Okay. The other section I want  
5 you to take a look at is on Page 16.

6 MR. PIMENTEL: Yes.

7 MR. NYBO: The first full paragraph under  
8 that chart that is laid out there reads, "Maximum  
9 lot coverage, maximum," my word in, "the district  
10 is 10 percent for the entire parcel. The  
11 development appears to exceed this 10 percent  
12 threshold. However, no accurate lot coverage  
13 calculations have been provided on the plans. Lot  
14 coverage calculations typically involve all manmade  
15 structures, including foundations related -- and  
16 related infrastructure." You've reviewed this  
17 conclusion?

18 MR. PIMENTEL: Thoroughly.

19 MR. NYBO: Okay. Do you agree with it?

20 MR. PIMENTEL: Absolutely not.

21 MR. NYBO: Why not?

22 MR. PIMENTEL: So, having been a municipal  
23 planner for 30 plus years, a consulting planner for  
24 20 plus years, the last 23 years doing zoning  
25 enforcement, zoning interpretation, you come to

1 learn all the uses are unique in their own right.  
2 They all have these nuisances. You cannot be an  
3 expert at all uses. So what you do is you do the  
4 necessary research to find out what are the unique  
5 aspects of that particular land use, and this is  
6 what statewide planning did. So statewide planning  
7 knew that solar facilities are a unique land use  
8 unto themselves, and that's why they authored these  
9 documents and then download directed to the  
10 municipalities so that when they were putting  
11 together their ordinance, they understood how they  
12 needed to do and address the introduction of solar  
13 facility. Right out of the State of Rhode Island  
14 Renewable Energy guidelines, this is solar energy  
15 systems model ordinance templates, zoning and  
16 taxation. This is what gave guidance to the  
17 municipalities as to what the solar facility is.  
18 And I'm going to read nice and slow. "Lot  
19 coverage. The term lot coverage is not described  
20 in the zoning enabling act as the term lot building  
21 coverage is defined. Coincidentally, in the  
22 Cranston zoning ordinance that, likewise, is true.  
23 They define building coverage, but not necessarily  
24 lot coverage regardless. Lot building coverage is  
25 defined as that portion of a lot that is or may be

1 covered by buildings and accessory buildings." And  
2 now I further quote, "Solar energy systems are not  
3 buildings. Therefore, municipalities must  
4 distinguish between lot building coverage and  
5 define another lot coverage standard for solar  
6 energy systems." Think of the practicality of  
7 this. If you were to accept, if he were to accept  
8 that that 10 percent requirement was applicable,  
9 that means you would need a hundred acres to  
10 utilize 10 acres to realize potentially just 2.2 --  
11 upwards of 2 as a maximum of megawatts of energy.  
12 It's not practical. It's not economically  
13 feasible. That is why the guidance provided by  
14 statewide is that if communities wish to regulate  
15 how much of a property can be covered by a primary  
16 solar energy system, they should adopt a new  
17 definition of calculating a separate lot -- a  
18 separate lot coverage standard because clearly you  
19 state a typical building coverage percentage in  
20 your ordinance would not be applicable because it  
21 would render it impracticable.

22 My analogy is that I allow you to put a  
23 house on your lot. It's permitted by-right, but  
24 then I'm going to prescribe the dimensional  
25 criteria that renders the building ablo. (Phonetic)

1 and extinguished. What would be the point of that?  
2 So clearly you can't apply a criteria from the  
3 outset you could never comply with. It just  
4 wouldn't be practical, economically feasible. It  
5 just doesn't -- it lacks sense. And this proves  
6 it.

7 MR. NYBO: Have you had the opportunity in  
8 doing this report to review the 2015 solar  
9 ordinance that we're vested under?

10 MR. PIMENTEL: Correct.

11 MR. NYBO: Okay. Does that solar  
12 ordinance define maximum lot coverage?

13 MR. PIMENTEL: No, it doesn't.

14 MR. NYBO: Okay. Have you had the  
15 opportunity to review the 2019 solar ordinance that  
16 came after our master plan application?

17 MR. PIMENTEL: I have.

18 MR. NYBO: Okay. Does that solar  
19 ordinance define maximum lot coverage as it applies  
20 specifically to solar projects?

21 MR. PIMENTEL: It does.

22 MR. NYBO: Okay, and under that ordinance,  
23 granted, A80 development is not allowed, but how  
24 does that -- the current solar ordinance deal with  
25 maximum lot coverage?

1 MR. PIMENTEL: It acknowledges that it's  
2 made to use a sizeable portion of the property to  
3 realize a by-right solar facility development. I  
4 think one is like up to 85 percent, I believe in  
5 one of the categories, but the point being this, it  
6 acknowledges that the 10 percent in the building  
7 could not possibly be applicable. It wouldn't make  
8 any sense.

9 MR. NYBO: Okay. That's all I have,  
10 Mr. Chair. Thank you very much.

11 CHAIRMAN SMITH: Yes, Commissioner Frias.

12 MR. FRIAS: This is the time to ask  
13 Mr. Pimentel questions?

14 CHAIRMAN SMITH: Yes.

15 MR. FRIAS: It's 10:25, and my series of  
16 questions is going to be a long time. So about  
17 10:30, if you want to stop me, that's totally fine.  
18 This will probably take an hour.

19 MR. NYBO: I forgot to mention this --

20 MR. FRIAS: You got more questions?

21 MR. NYBO: No, I do not have more  
22 questions. Just a record matter. Mr. Pimentel  
23 made reference to the statewide planning document  
24 and along with the case that was cited, I will  
25 provide Mr. Pezzullo with copies. It's a public

1 record but I'll provide a copy of that, again, more  
2 likely tomorrow.

3 MR. FRIAS: Good evening, Mr. Pimentel.  
4 So my line of questioning in general is going to be  
5 about one of the statutory requirements that, you  
6 know, this project has to be consistent with the  
7 Comprehensive Plan and we must satisfactory  
8 address any inconsistencies. Any questions I do  
9 ask you is going to only be, when I ask for an  
10 interpretation, only be in your capacity as an  
11 expert planner. I'll never be asking you as a  
12 lawyer because you're not a lawyer.

13 So, first question I have is would you  
14 agree with me that the Cranston Comprehensive Plan,  
15 as most Comprehensive Plans, have competing goals  
16 and objectives?

17 MR. PIMENTEL: That is absolutely true.

18 MR. FRIAS: And at times these goals and  
19 objectives can be in conflict with one another,  
20 correct?

21 MR. PIMENTEL: No. I would disagree with  
22 that. A Comprehensive Plan is a guiding visionary  
23 document that balances all of the requisite land  
24 resources and uses that a community requires to  
25 survive and thrive. So when we say that something



1       may be incongruent with one another, because that  
2       was a question thrown at me many times in many  
3       developments, Mr. Pimentel, you're coming forward  
4       for a solar development, but how can you do that  
5       when we want to protect the rural character of  
6       western Cranston and you're cutting trees down. My  
7       argument is is that it doesn't say that all of  
8       western Cranston should be preserved in perpetuity  
9       as open space. You've got property rights issues.  
10      It's zoned residential, you need housing, et  
11      cetera. So, it's a broad document, and then how  
12      you bring that -- those vision goals to light or  
13      flush them out is through your zoning regulations.

14               MR. FRIAS:  Would it then be another way  
15      of saying you don't like the word "conflict," that  
16      the -- you must balance these competing goals?

17               MR. PIMENTEL:  Yes.

18               MR. FRIAS:  Okay.  Thank you.

19               MR. PIMENTEL:  And the Comprehensive Plan  
20      and with your zoning ordinance does do that.

21               MR. FRIAS:  Now, the 2017 amendment to the  
22      Comprehensive Plan, you dealt with solar  
23      generation.  Do you believe that -- and you believe  
24      that the goal of that Comprehensive Plan amendment  
25      in 2017 was, quote/unquote, "To promote solar

1 generation," correct?

2 MR. PIMENTEL: It was absolutely specific  
3 to providing the foundational language to support  
4 solar -- renewable energy.

5 MR. FRIAS: Correct. It helps. Thank you  
6 for that clarification, renewable energy. And do  
7 you believe that that amendment, the goal of  
8 promoting renewable energy, do you think that  
9 amendment trumps all the rest of the Comprehensive  
10 Plan and has to be read holistically with the rest  
11 of the Comprehensive Plan?

12 MR. PIMENTEL: Oh, yeah. Yeah. There's  
13 nothing about one element trumping another element.  
14 Even if you read the Rhode Island General Law  
15 regarding the construct of the Comprehensive Plan,  
16 it talks about each respective element building  
17 upon each other, culminating in the land use  
18 element, and then culminating the future land use  
19 map. So -- but they all work in conjunction with  
20 one another.

21 MR. FRIAS: Thank you. Now, the 2017  
22 amendment permitted renewable energy facilities in  
23 quote/unquote, "In appropriate areas, including  
24 without limitation in A80, M1, M2, and S1," and I'm  
25 paraphrasing more or less the language, but it's in

1 your report on Page 4. The phrase, "Without  
2 limitation," do you interpret that phrase to mean  
3 that you can put a solar facility anywhere and the  
4 commission cannot put conditions on it?

5 MR. PIMENTEL: You have to repeat that  
6 question. I'm sorry.

7 MR. FRIAS: Okay. The phrase "Without  
8 limitation," do you interpret that phrase, "Without  
9 limitation" to mean that the commission cannot put  
10 conditions upon a solar generation facility?

11 MR. PIMENTEL: Any conditions in limiting  
12 a solar facility would have been prescribed in the  
13 zoning ordinance. So this here, the Comprehensive  
14 Plan, provides, like I said, a broad-base vision,  
15 and then your zoning ordinance would have had the  
16 more specifics as to, A, where they can be located,  
17 and, B, what the maximum mass and scale density,  
18 and other site design criteria associated with  
19 that.

20 MR. FRIAS: Okay. So the phrase "Without  
21 limitation" doesn't necessarily mean that the  
22 commission does not have some legal authority to  
23 put conditions in certain circumstances?

24 MR. PIMENTEL: You'd have to be more  
25 specific. I'm not understanding that particular

1 question. In other words, let's use an analogy to  
2 see if I can understand this. If, for example, it  
3 said in the sentence that residential development  
4 is allowed without limitation in the A80, and the  
5 zoning ordinance says that the A80 requires 2  
6 acres, for the board to says, well, it says 2  
7 acres, but we're going to make you buy 4 acres for  
8 your lot, I would say that's wrong. That's  
9 incorrect.

10 MR. FRIAS: So you don't think the  
11 commission has the ability to put conditions, for  
12 example, that meet various goals in the  
13 Comprehensive Plan?

14 MR. PIMENTEL: I think the board has the  
15 right to apply the standards that come about with a  
16 land development or development plan review. There  
17 are standards there that could potentially impact  
18 the property, I guess. For example, put  
19 development constraints on that, but that's why we  
20 have engineering experts and landscape architect  
21 experts and traffic experts to explain why we feel  
22 we can meet those standards.

23 MR. FRIAS: One of the amendments -- the  
24 amendment in 2017 also included a statement for  
25 NRP 1.9. I'm looking at Page 6 of your report.

1 And it said, "Encourage the development of  
2 renewable energy facilities, quote/unquote, 'in  
3 appropriate locations.'" Do you believe everywhere  
4 in A80 is an appropriate location?

5 MR. PIMENTEL: No. I'm sure there's got  
6 to be properties in the A80 that could not support  
7 solar development.

8 MR. FRIAS: So there would be instances  
9 that would not be appropriate to put a solar  
10 facility in an A80 zone?

11 MR. PIMENTEL: I'm sure there's properties  
12 out there with such constraints that it would be  
13 inappropriate for development. Sure.

14 MR. FRIAS: Mr. Nybo, he asked you some  
15 questions about the report by the abutters'  
16 planning expert. And do you have that report in  
17 front of you?

18 MR. PIMENTEL: Yes.

19 MR. FRIAS: Okay. On Page 10 of that  
20 report, the -- she listed -- she provided the  
21 comment from statewide planning in response to the  
22 2017 amendment in which statewide planning stated  
23 that the amendment needed to be, in regards to the  
24 phase "without limitation," needed to be deleted or  
25 clarified. Do you agree with statewide planning's

1 opinion?

2 MR. PIMENTEL: Statewide planning's  
3 comments, once again, have no bearing on local  
4 decision making.

5 MR. FRIAS: Well, I understand that. I'm  
6 asking you as an expert planner. Do you agree with  
7 that -- Statewide planning's opinion?

8 MR. PIMENTEL: No. I actually disagree  
9 with that opinion. I think if you wanted to  
10 clarify that, you need to do that within your  
11 zoning regulations.

12 CHAIRMAN SMITH: Commissioner Frias,  
13 opposed as I am to curtailing the discussion, I did  
14 mention that I would be checking with the  
15 commission members at 10:30, and I just wanted to  
16 get a sense whether the commission wants to  
17 continue this evening or continue this matter to  
18 the meeting of the 28th, March 28th, which is also  
19 the meeting in which we will be considering capital  
20 budget -- February 28th, because obviously this is  
21 a very important matter and obviously people need  
22 to be heard. At a certain point, I know that --

23 MR. FRIAS: I mean, as I ask -- keep  
24 asking questions for a while. So I know it's late.  
25 Mr. Pimentel may want to sit down and rest. It's

1 up to everybody if they want to keep hearing me  
2 going for about another half hour or 45 minutes.  
3 Wait until February 28 is fine and then the other  
4 commissioners may have questions afterwards, too.

5 MR. MURRAY: Mr. Chairman, can I just  
6 interject that Mr. Carter, my landscape architect  
7 who is going to testify is not available on the  
8 28th --

9 MR. PIMENTEL: Nor am I.

10 MR. FRIAS: I guess we're going to  
11 continue the date --

12 MR. MURRAY: We want to work with the  
13 Commission. I just -- in fairness, I know you're  
14 trying. I decided to put that out there for your  
15 consideration.

16 MR. PEZZULLO: So Mr. Chairman, so we  
17 have -- March, you know, the city never sleeps.  
18 So, March is going to be a full agenda, you know.  
19 We don't have a big gap in the agenda for March.  
20 That's why the suggestion was to tack it on to our  
21 special meeting for the capital budget. So, you  
22 know, I don't want us to be here next month and  
23 it's 10 P.M. and we start this discussion again.

24 MR. FRIAS: We could do a special meeting  
25 in March. We have a special meeting -- back in the

1 beginning of this process around the fall and the  
2 summer, we discussed having a special meeting  
3 dedicated to Natick Solar. So we should have a  
4 special meeting dedicated to Natick Solar, schedule  
5 it in March because --

6 MR. MARSELLA: Mr. Frias, that's just your  
7 opinion.

8 MR. FRIAS: I know, but I remember that I  
9 said it. Kathleen Lanphear agreed with me and a  
10 couple of other commissioners agreed at the time.  
11 They're no longer here. So my thing is, like, we  
12 should just have a meeting dedicated in March and  
13 deal with the whole thing.

14 MR. MARSELLA: I respectfully disagree  
15 with that. I mean I'm here for special meetings,  
16 regular meetings, extra meetings. I don't care,  
17 but I think it should be continued to the next  
18 regular meeting and see how much we get through.  
19 It's going to be more than one -- it's going to be  
20 more than one meeting, I can guarantee you. We're  
21 only on the second expert. There's going to be  
22 many other experts. We have objectors with  
23 experts. It's probably going to be a three  
24 meeting, and then everyone has to deliberate. We  
25 have to hear from planning again. So you're



1 probably talking at least a three meeting hearing  
2 window.

3 CHAIRMAN SMITH: I think -- my point is  
4 that it's clear that we're not finishing this  
5 tonight.

6 MR. FRIAS: No way.

7 CHAIRMAN SMITH: So --

8 MR. FRIAS: If the other commissioners --  
9 sorry. Other commissioners can speak up. It's,  
10 you know, to me it makes more sense to have special  
11 meeting in March and trying to put in about five or  
12 six hours into this thing and get close to the end.

13 CHAIRMAN SMITH: Commissioner Lanphear.

14 MS. LANPHEAR: Mr. Chairman, I would  
15 reiterate what Commissioner Frias said regarding  
16 some commission members requesting that this be  
17 scheduled on a date all its own. There is a lot of  
18 information being brought to new commissioners and  
19 even some of us who were here before but still need  
20 to hear it and digest it and understand it. I want  
21 to be able to do that while I am awake enough to do  
22 that and to follow it, and I don't think it's fair  
23 for the applicant or the commission or for those  
24 who oppose it to put anybody in that position. I  
25 would prefer it be scheduled on its own night so

1 that we're not parceling this out more than you  
2 already are. And I also think that we should set a  
3 time when we will stop and try to stick to that,  
4 but I understand you may want someone to finish  
5 their questioning. But I think that if there's  
6 some uniformity, it's best for commission members,  
7 it's best for those who are testifying, and it's  
8 best for the members of the public to have some  
9 predictability.

10 CHAIRMAN SMITH: We're just checking on  
11 some dates. Three dates that are, in conversing  
12 with Director Pezzullo, that appear to be available  
13 in March are the 15th, 20th, and 22d; and because  
14 we have to continue this to a date certain, we do  
15 need to make the choice tonight which of those  
16 dates --

17 MR. FRIAS: Could you give the day of the  
18 week.

19 MR. PEZZULLO: So looking at the calendar  
20 for next month, it looks like March 15th, which is  
21 a Wednesday; the 20th, which is a Monday; and the  
22 22d, which is a Wednesday.

23 MR. NYBO: Applicant could have everybody  
24 here the 20th certainly. Mr. Pimentel has some  
25 limitations on the 15th and the 22d, and clearly he

1 is going to --

2 MR. FRIAS: I'm okay with March 20th  
3 myself. I can figure it out. Let me just go  
4 around. Everyone okay with March 20th? I see a  
5 lot nodding heads. Okay. All right.

6 MR. PEZZULLO: March 20th. Do we want to  
7 start earlier than our normal time? We normally  
8 start at 6:30, but I was just thinking do we want  
9 to start earlier?

10 MR. FRIAS: Everybody okay with 5:30?

11 MR. PEZZULLO: 5:30, March 20th.

12 CHAIRMAN SMITH: Okay. So I will accept a  
13 motion, then, to continue this matter to Monday,  
14 March 20, 5:30 P.M. here.

15 MR. FRIAS: I make that motion March 20th,  
16 5:30 p.m. in city hall.

17 CHAIRMAN SMITH: Motion made by  
18 Commissioner Frias. Seconded by Commissioner  
19 Mancini.

20 (VOICE VOTE: PASSED)

21 CHAIRMAN SMITH: Ayes have it, and we will  
22 continue the matter. Thank you, everyone, and I  
23 know they'll want to make sure this is done right  
24 away.

25 (ADJOURNED AT 10:44 P.M.)

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## C-E-R-T-I-F-I-C-A-T-E

I, RONALD M. RONZIO, Notary Public, do hereby certify that I reported in shorthand the foregoing proceedings, and that the foregoing transcript contains a true, accurate, and complete record of the proceedings at the above-entitled hearing.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 27th day of February, 2023.

*Ronald M Ronzio, Notary Public*

RONALD M. RONZIO, NOTARY PUBLIC/CERTIFIED COURT REPORTER

MY COMMISSION EXPIRES: July 24, 2025

IN RE: Natick Avenue Solar

DATE: February 7, 2023