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STATE OF RHODE ISLAND

CITY OF CRANSTON

PLAN COMMISSION

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

DATE: March 20, 2023
TIME: 5:30 P.M.
PLACE: Cranston City Hall
Council Chambers
Cranston, RI

BEFORE:

- MICHAEL E. SMITH, CHAIRMAN
- ROBERT COUPE
- 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 5:39 P.M.)

2 CHAIRMAN SMITH: Welcome, everyone, and
3 thank you for being out here again. I know this is
4 a long process, but it's important that everyone
5 has a right to be heard, and we want to ensure that
6 everybody has that opportunity and we will. I'd
7 like to call the meeting to order. There is only
8 one item of business on the agenda tonight and this
9 is public informational hearing on, as you all
10 know, Natick Avenue Solar. The master plan
11 approval had been vacated by the courts and
12 remanded back to the city plan commission for
13 further proceedings and that is why we are here
14 this evening.

15 Okay, at this point, I'd like to ask if --
16 does the applicant wish to make an initial
17 statement? If not, we can continue -- yes,
18 absolutely. We can continue on with where we left
19 off the last time.

20 MR. NYBO: Yes, Mr. Chair. Nick Nybo,
21 Revity Energy. I think we can pick up with Mr.
22 Pimentel. I believe Mr. Frias had some questions
23 for him.

24 MR. MARSELLA: And just for the record,
25 Ron, Mr. Coupe, you weren't here the last time, but

1 you were provided a copy of the record; is that
2 correct?

3 MR. COUPE: Yes, it is.

4 MR. MARSELLA: And you've read the entire
5 record and are ready to --

6 MR. COUPE: I've read the entire record.

7 CHAIRMAN SMITH: Okay. You may proceed
8 then. Commissioner Frias, you have the floor when
9 we adjourned last time -- or continued last time.

10 MR. FRIAS: Good evening, Mr. Pimentel.
11 We were talking about the Comprehensive Plan, and
12 so I'll just continue on where I was last time.

13 On Page 2 of your report, you indicated
14 towards the bottom of the last paragraph, I'll read
15 it out loud so you know what I talking about. You
16 say here, regardless of the referenced wetlands
17 present, the property is, nevertheless, quite
18 suitable for other forms of development, most
19 notably being fiscally draining residential
20 development. And then on Page 8 of your testimony,
21 you -- at the last sentence of the second
22 paragraph, I'll read it out loud for you, these
23 include roadway infrastructure, vast land clearing,
24 and potentially negative economic impacts, i.e.,
25 education. So my first question to you in regards

1 to those comments is, you know, really, aren't
2 nearly all residential developments fiscally a net
3 negative for the city?

4 MR. PIMENTEL: Fiscally negative or not
5 negative?

6 MR. FRIAS: Net negative.

7 MR. PIMENTEL: No. A lot of the -- a lot
8 of the current developments that are actually being
9 put forth in communities, these smaller unit,
10 efficiency units, the smaller one-bedroom units are
11 actually realizing positive fiscal because they're
12 not generating children on the levels that
13 developments used to realize. If you're talking --
14 if you're talking about a true single-family
15 residential, three-, four-bedroom house
16 development, then typically there's going to be a
17 net loss. But across the board, those are not the
18 majority of the type of residential developments
19 that are being realized statewide.

20 MR. FRIAS: Would a residential
21 development, meaning an apartment, for example,
22 that has, for example, two- or three-bedroom
23 apartments in it that have children, could those be
24 a net negative as well?

25 MR. PIMENTEL: That's correct.

1 MR. FRIAS: Okay. Thank you. Now,
2 Mr. Pimentel, you're, I know, generally familiar
3 with the city's Comprehensive Plan. And one of the
4 goals in it is Housing Goal 4. I'll read it, more
5 or less, or paraphrase. The first, to promote
6 housing opportunities for a wide range of household
7 types of income levels. And so -- and I also
8 believe there's a statute about -- in the law about
9 providing housing choices for all income levels and
10 ages. Doesn't the rationale that you don't want
11 this development because you want to be -- you
12 don't want a residential development because it
13 will be fiscally draining run somewhat counter to
14 the goal of providing housing choices for different
15 income levels?

16 MR. PIMENTEL: No. The reason why you can
17 balance different types of uses in a residential
18 district and including solar is to give people
19 alternatives and choices. So you could
20 residentially develop this property, but an
21 alternate choice is you can introduce a solar
22 development. Clearly, that was a clear decision of
23 the legislative body of this community to make that
24 determination, but you can have alternative
25 appropriate uses in a residential district. It

1 doesn't simply have to be residential land usage.
2 So, it's a balanced program. There is no one
3 particular zone that only allows one particular
4 land use.

5 MR. FRIAS: Some planners believe there's
6 a lack of housing in the state of Rhode Island.
7 Are you one of those?

8 MR. PIMENTEL: I -- half my consulting
9 career is housing development.

10 MR. FRIAS: Wouldn't having more kind of
11 housing, almost of any kind, including
12 single-family homes increase the supply of housing
13 and, therefore, reduce the lack of housing in this
14 state?

15 MR. PIMENTEL: In general, adding more
16 housing assists with the housing need, sure.

17 MR. FRIAS: In your opinion, has the
18 apparent lack of housing in Rhode Island become
19 more acute or serious since, let's say, 2017 or
20 2018?

21 MR. PIMENTEL: Yes, but I would put a
22 caveat on that that what's really lacking is
23 affordable housing.

24 MR. FRIAS: But more housing in general
25 would probably lower the price of housing in

1 general?

2 MR. PIMENTEL: That hasn't been proven to
3 be the case. In 2004 when they amended the
4 affordable housing statute, well prior to we had
5 the housing crisis, every city and town that did
6 not meet their so-called fair share, which is the
7 statutory requirement of 10 percent, those
8 communities went crying to the State saying that
9 they shouldn't be mandated in a downward direction,
10 and they should have the decision making as to
11 where affordable housing should go, what the
12 strategy should be, and the State amended the
13 Affordable Housing Statute and gave the communities
14 the right to do so. There was only like five or
15 six communities at the time. So the remaining 33
16 or 34 communities offered affordable housing plans.
17 Here we are 20 percent later, and they've all been
18 stagnant, other than very few. Point being is even
19 with outside the housing crisis when houses are
20 being developed, affordable housing is not being
21 produced. So that runs counter to that argument.

22 MR. FRIAS: Going to Page 5 of your
23 testimony.

24 MR. PIMENTEL: And by the way, I'm trying
25 to follow -- I think what happened was I think it

1 got distorted without the pictures. So I'm trying
2 to follow. When you say Page 5, sometimes --

3 MR. FRIAS: Okay. And by the way, most of
4 the time, I'm just going to read it out loud --

5 MR. PIMENTEL: Sure. Thank you.

6 MR. FRIAS: -- we're on the same page,
7 more or less. You cite Land Use Policy 1.3 from
8 the Comprehensive Plan. It refers to temporarily
9 removing the development potential through land
10 banking. I assume you consider a solar farm a form
11 of land banking, right?

12 MR. PIMENTEL: I do so because the
13 Comprehensive Plan says so.

14 MR. FRIAS: In the planning profession
15 nationwide, is the term land banking usually
16 synonymous with the idea of cutting down trees,
17 possibly leveling the ground and putting up a solar
18 farm.

19 MR. PIMENTEL: Land banking as used in
20 this context means land being -- land used for a
21 permanent disturbance. A residential development
22 would also realize clear cutting of all the trees,
23 but it would be a permanent disturbance on the land
24 in that it could not be used for other purposes
25 because the home sites have to be put in place, the

1 roadway infrastructure, and all the others.

2 Whereas, a solar project is not a permanent usage
3 of a property. So in that regard, you're still
4 saving the land resources for alternate use in the
5 future.

6 MR. FRIAS: I understand why you're saying
7 it's a land banking -- why you believe it's a form
8 of land banking. My question was, the national
9 level in the planning profession is the term, "land
10 banking" used in the context of solar farms?

11 MR. PIMENTEL: I'm saying that the term
12 "land banking" as it talks about preserving land
13 resource for alternate use in general is not
14 putting a permanent usage on the property, and
15 that's what solar accomplishes. If you're talking
16 about preservation of land for open space purposes,
17 then you have to find alternate means of doing
18 that. Typically, you know, you need funding for
19 that. You need to acquire the necessary funding
20 for either for a local community to purchase the
21 development rights or some alternate state or
22 Federal agency.

23 MR. FRIAS: So this really -- so this
24 isn't really a form of conservation land banking,
25 then?

1 MR. PIMENTEL: If you want to preserve the
2 trees, no.

3 MR. FRIAS: Would you agree that a solar
4 farm is a form of development?

5 MR. PIMENTEL: Everything that requires
6 disturbing the land is going to be some kind of
7 development, absolutely.

8 MR. FRIAS: Thank you. You're familiar
9 with the report by the abutters' expert witness --

10 MR. PIMENTEL: Mr. Bronk?

11 MR. FRIAS: Mr. Bronk. Sorry, I'm at the
12 stage in my life where I should do reading glasses
13 and the glare is bothering me. On Page 10 of her
14 report --

15 MR. PIMENTEL: His.

16 MR. FRIAS: I'm sorry. On Page 10 of the
17 report, there's a discussion about how Statewide
18 Planning believed that these aspects in the
19 comprehensive plan regarding land banking should be
20 deleted or clarified. Have you read that?

21 MR. PIMENTEL: I have.

22 MR. FRIAS: Do you agree with Statewide
23 Planning's viewpoint?

24 MR. PIMENTEL: I have no opinion on the
25 matter. That would be between the community and

1 the state as to how they want to address that
2 particular requirement in meeting because statewide
3 planning purposes.

4 MR. FRIAS: So you don't want to express
5 an opinion on it then?

6 MR. PIMENTEL: It has no --

7 MR. FRIAS: Just curious. You thought
8 there was merit to their --

9 MR. PIMENTEL: Once again, that is an
10 opinion from the State directed to the community.
11 It has no impairment on my opinion as to the
12 appropriateness of this development.

13 MR. FRIAS: Okay. Again, you're probably
14 familiar with our city's Comprehensive Plan.
15 There's a provision there called Land Use Goal
16 Number 9, and I'll read it or paraphrase it to the
17 best of my abilities. It says, "To protect and
18 stabilize existing residential neighborhoods." And
19 Land Use Principle Number 4, again, try to
20 paraphrase here more or less, "Protect and
21 stabilize existing neighborhoods by basing land use
22 decisions on neighborhood needs and quality of
23 life." How does a solar farm protect and stabilize
24 the abutting neighborhood further its needs and
25 quality of life?

1 MR. PIMENTEL: Well, that's assuming that
2 somehow the solar project was a detriment to the
3 residential neighborhood. Other than the
4 visuals -- other than the visuals, most people
5 don't like the look of the solar. A solar does not
6 need any infrastructure. It doesn't generate
7 traffic. It doesn't need resources like sewer and
8 water. It's not an environmental degradation, and
9 these are all things that would result from
10 residential. So if you want to protect the rural
11 character of the neighborhood, the last thing you
12 want to see is more residential development. That
13 would definitely be a detriment to that type of --
14 to that particular goal and objective. But to
15 argue that solar doesn't meet those needs, I would
16 disagree with that.

17 MR. FRIAS: Just to be clear, I wasn't
18 asking about -- the question here was not about
19 rural neighborhoods, simply an existing
20 neighborhood. Do you believe that a reduction in
21 property values could lead to a destabilization of
22 a neighborhood?

23 MR. PIMENTEL: You'd have to ask the
24 consultant who was the license in that particular
25 area.

1 MR. FRIAS: So any questions about
2 property values is another witness that would be
3 handling that?

4 MR. PIMENTEL: We have a licensed
5 appraiser in real estate.

6 MR. FRIAS: Okay. Just want to
7 understand. At a prior -- in your testimony the
8 other time, you were citing various -- citing is
9 not the right term. You referenced some court
10 cases here in Rhode Island. So -- I know you're
11 not an attorney, so I'm not asking for an
12 interpretation. Okay. I'm just asking if you're
13 aware.

14 MR. PIMENTEL: Yes. I have knowledge of
15 the particular cases that address any particular
16 issue.

17 MR. FRIAS: Correct. Are you aware of any
18 Rhode Island cases that have defined solar farm
19 equipment as manufacturing facilities?

20 MR. PIMENTEL: Yes. Portsmouth case.

21 MR. FRIAS: Are you aware -- that's fine.
22 Is it a generally accepted planning practice to
23 keep manufacturing facilities away from residential
24 neighborhoods?

25 MR. PIMENTEL: True manufacturing

1 entities?

2 MR. FRIAS: I said manufacturing.

3 MR. PIMENTEL: That's -- that is at the
4 discretion of the legislative body. Typically, you
5 would not allow industrial type operations in a
6 residential district.

7 (MS. MANCINI ENTERS MEETING)

8 MR. FRIAS: Okay. Wasn't a reason --

9 MR. MARSELLA: Can I just address -- just
10 for the record, Miss Mancini came into the meeting
11 at 5:54, and I'll make sure that she's provided any
12 and all testimony for the same period from when we
13 started the meeting at 5:40 to 5:54. Go ahead.

14 MR. FRIAS: It was just a lot of questions
15 anyway.

16 MR. MARSELLA: I'll make sure she gets all
17 your questions.

18 MR. FRIAS: So wasn't -- so I can
19 understand your answer a little bit better, and
20 then I'll ask another follow up is, generally, you
21 do keep manufacturing facilities, I'm not talking
22 about this legislative body, I'm talking about
23 generally, traditional planning practice to keep
24 manufacturing facilities away from residential
25 neighborhoods, correct?

1 MR. PIMENTEL: Entities that are typically
2 defined as manufacturing or industrial nature are
3 in an industrial district.

4 MR. FRIAS: Okay. And keeping
5 manufacturing facilities away from residential
6 neighborhoods was a reason -- a reason, why zoning
7 was adopted more than a century ago; is that pretty
8 much understood?

9 MR. PIMENTEL: 1929.

10 MR. FRIAS: Well, it was a little bit --

11 MR. PIMENTEL: Well, Supreme Court
12 decision.

13 MR. FRIAS: In our Comprehensive Plan,
14 there's a land use goal Number 14, which I'm going
15 to paraphrase again, or more or less quote, refers
16 to preserve scenic landscapes. Could you explain
17 to me how cutting down forest land is consistent
18 with this goal.

19 MR. PIMENTEL: Cutting down forest in this
20 land for any particular use would be contrary to
21 that goal. So if someone comes forward with a
22 residential development, based on that goal, it
23 should be denied. I mean, land usage is a balance.
24 If you want to preserve scenic landscapes, you can
25 impose overlay districts on property. You can

1 impose restrictions to make sure you're done to the
2 zoning regs. This particular property can, as a
3 matter of right, be used for residential
4 development, and be used for solar development.

5 MR. FRIAS: I remember our first line of
6 questioning was about how a Comprehensive Plan
7 sometimes have competing goals.

8 MR. PIMENTEL: Competing broad based
9 visions and goals and objectives, right, and those
10 visions, goals, and objectives have been
11 effectuated through the zoning regulations, but
12 somehow here we're losing sight of what the
13 right -- by-right nature of the zoning regulation.

14 MR. FRIAS: One of the things I have to go
15 through is the Comprehensive Plan and whether or
16 not it adequately satisfies any inconsistencies.

17 MR. PIMENTEL: Correct.

18 MR. FRIAS: Right? Thanks. And you would
19 agree that the goal of preserving scenic landscapes
20 are applicable to Cranston residents who happen to
21 abut this property?

22 MR. PIMENTEL: Yeah. I'm sure it's
23 important to everybody to preserve a portion of the
24 City of Cranston for scenic purposes.

25 MR. FRIAS: I got -- it's probably not for

1 you. It's probably for -- we have somebody here
2 who's going to deal with the buffer landscaping
3 aspects --

4 MR. PIMENTEL: Yes. We have a landscape
5 architect.

6 MR. FRIAS: Okay. That's another
7 question. I am turning to Page 4 of your
8 supplemental report on the Comprehensive Plan, and
9 I'll read it into the record so you know what I'm
10 going to be asking about. On Page 4, it states,
11 "The City of Cranston has acknowledged the need for
12 a well balanced energy program that incorporates
13 both renewable and non renewable energy." I just
14 want to understand what your interpretation of this
15 is. Do you mean that Cranston somehow has to
16 become completely energy self-sufficient or produce
17 all its own energy or become a hundred percent
18 renewable?

19 MR. PIMENTEL: No. What I meant by that
20 is by the actions taken in amending the zoning
21 ordinance and then following up with amendments to
22 the Comprehensive Plan, and, quite honestly, the
23 Comprehensive Plan amendments solidified it, it
24 wasn't necessary because once you've adopted a
25 zoning regulation or ordinance, then it's as a

1 matter of right, but what it showed was that the
2 City of Cranston clearly wanted to do what it could
3 in its fair share way to contribute to the
4 governor's and the community's objectives to
5 realizing a certain percentage of energy from
6 renewable.

7 MR. FRIAS: And in Cranston, produce
8 renewable energy, say -- let's say through roof top
9 solar through individual homeowners or business
10 businesses, correct?

11 MR. PIMENTEL: That's one method.

12 MR. FRIAS: And this approach would not
13 have any significant impact on scenic views, right?

14 MR. PIMENTEL: That would depend on the
15 group you're talking to, because I've had
16 objections to that, too.

17 MR. FRIAS: But it wouldn't likely result
18 in the cutting down of forest land, right?

19 MR. PIMENTEL: Rooftop solar? No. That
20 doesn't require cutting trees down, if you're
21 talking on existing structures. We've done
22 developments where we've had multi purposes where
23 you put structures, you're clear-cutted a property
24 for structures for other purposes and you put
25 rooftop.

1 MR. FRIAS: And it wouldn't also reduce
2 the amount of land available for housing needs,
3 right?

4 MR. PIMENTEL: Well, I don't know if
5 that's true --

6 MR. FRIAS: Rooftop solar.

7 MR. PIMENTEL: Once again, we've developed
8 residential property for alternate uses and done
9 roof. So --

10 MR. FRIAS: On the same page, you have the
11 sentence, I'll read it.

12 MR. PIMENTEL: Which page again?

13 MR. FRIAS: Page 4 of your supplemental.
14 "It," I assume you mean Cranston, "also understands
15 that solar power is by far the most productive
16 means of achieving such a program." When you use
17 the word productive, are you making it synonymous
18 with solar is the most efficient way of producing
19 renewable energy? I'm trying to understand what
20 you mean by productive.

21 MR. PIMENTEL: Sure. I have done -- I've
22 done wind energy. I've done solar, and I've even
23 done a little with hydro, and we have mapped the
24 entire state for wind. It's not very efficient.
25 It doesn't produce energy on the level that we

1 need. So solar is the most efficient and
2 productive to help realize the program that we're
3 trying to accomplish with the state.

4 MR. FRIAS: Do you know what a capacity
5 factor -- the term capacity factor, what that
6 means?

7 MR. PIMENTEL: I do not.

8 MR. FRIAS: So you don't know what the
9 typical capacity factor of a solar farm is here in
10 New England?

11 MR. PIMENTEL: No.

12 MR. FRIAS: To the best of your knowledge,
13 -- excuse me, I'll phrase it differently. Sorry.
14 One of the ideas behind this proposal is that a
15 solar farm is an alternative to a housing
16 subdivision, correct?

17 MR. PIMENTEL: It's one alternative, sure.

18 MR. FRIAS: And to the best of your
19 knowledge, has a subdivision ever been approved for
20 the Rossi property?

21 MR. PIMENTEL: I don't know if it had. I
22 did the general yield plan, but I don't know if one
23 has actually ever been approved, no.

24 MR. FRIAS: Were you involved in any of
25 the other solar farm projects in western Cranston?

1 MR. PIMENTEL: Not that I can recollect.

2 MR. FRIAS: You weren't involved in -- the
3 four projects I'm talking about are the one on Hope
4 Farms; the one on Lippitt Ave., which I believe
5 Southern Sky was the predecessor; Seven Mile Road
6 Solar I and II. You don't recall being involved in
7 any of those.

8 MR. PIMENTEL: I've been involved in quite
9 a few of them, but I don't recall Cranston. I've
10 done mostly in Hopkinton. I don't recall any
11 others. I mean, if I were, I could go check my
12 computer. I don't recall.

13 MR. FRIAS: So you can't speak to any of
14 the -- whether or not there was subdivisions
15 approved for any of those solar farms prior to
16 their being proposed?

17 MR. PIMENTEL: I wouldn't have that
18 knowledge.

19 MR. FRIAS: There's other ways to get that
20 information on the record. As you were just
21 stating, you testified all over the State of Rhode
22 Island in numerous proceedings regarding solar farm
23 projects, correct?

24 MR. PIMENTEL: That's correct.

25 MR. FRIAS: And you testified about their

1 consistency with the local Comprehensive Plan of
2 those communities, correct?

3 MR. PIMENTEL: Correct.

4 MR. FRIAS: And have you ever testified
5 that a solar farm was inconsistent with a local
6 Comprehensive Plan?

7 MR. PIMENTEL: I have never objected to a
8 solar facility.

9 MR. FRIAS: That's the questions I have
10 for you.

11 MR. NYBO: Mr. Frias, really quick, would
12 you like the answer to whether a subdivision had
13 ever been approved for a prior solar farm in
14 western Cranston? I do have the answer for at
15 least the one that Revity's predecessor was
16 responsible for. I'm not the expert on the matter.
17 If you just want to let his testimony stand, I'll
18 sit down.

19 MR. FRIAS: You want me to ask him
20 questions?

21 MR. NYBO: I don't.

22 MR. MARSELLA: Although Mr. Frias does
23 like to take the lead, can you just direct
24 everything through the Chair.

25 MR. NYBO: Of course. Mr. Chair, if the

1 commission would like the answer to that question,
2 I can provide it. If the commission wants to stick
3 with the expert's answer of he doesn't know, I will
4 sit down.

5 CHAIRMAN SMITH: I think it would be
6 helpful in this context to provide the answer.

7 MR. NYBO: So Gold Meadow Farms, which was
8 a project developed by Revity's predecessor,
9 Southern Sky, did have a residential subdivision
10 approved prior to solar. It had 39 lots approved
11 for the project. I can't speak to the others. It
12 wasn't a Revity project. So --

13 CHAIRMAN SMITH: Thank you.

14 MR. PEZZULLO: Mr. Chairman, the other
15 piece of information of that question, Hope Solar,
16 that had a previous approval for, I believe, 29
17 units. It's called Farm House Lane. So that's the
18 other -- that was the other subdivision.

19 CHAIRMAN SMITH: Okay. Thank you.

20 MR. FRIAS: That's the questions I have
21 for Mr. Pimentel. I don't know if anybody else has
22 questions for him.

23 CHAIRMAN SMITH: Okay. Are there any
24 other questions at this point from any other
25 commission member for this witness? I want to make

1 sure -- yes, Commissioner Lanphear.

2 MS. LANPHEAR: Just one quick question.
3 Hello, Mr. Pimentel. You testified earlier that
4 you found that this was consistent with the
5 Comprehensive Plan because the -- it is a form of
6 land banking that temporarily preserved the land.
7 On what facts did you base your conclusion that it
8 was a temporary situation?

9 MR. PIMENTEL: So solar facilities
10 typically are traditionally are a 25- to 30-year
11 improvement on the property. I don't know what's
12 going to happen subsequent to that. Projects I
13 have been involved in are probably about 5 to 10
14 years in age. That's typically -- the life of them
15 are 25 to 30 years. And then subsequent to that,
16 either the solar panels -- because it's always
17 a program -- as part of the program, there's a plan
18 that has to be put into place as to how the land is
19 going to be cleared of the solar panels. You need
20 to reforest it or put to some alternate use. So
21 it's a temporary, and from that perspective, as to,
22 once again, speaking -- answering Mr. Frias, if
23 you're doing a residential development or if this
24 were a commercial property, you're putting in the
25 infrastructure, you putting the actual physical

1 home sites or building sites, that's a permanent
2 disturbance on the property.

3 MS. LANPHEAR: Are you -- in your
4 experience, are you aware of whether or not
5 contracts provide for extensions of that initial
6 30-year period?

7 MR. PIMENTEL: That can be negotiated
8 between the community and the developer.

9 MS. LANPHEAR: And do you know to what
10 extent, how many more years?

11 MR. PIMENTEL: That, again, I would rely
12 to the experts of the solar because the panels are
13 always getting more efficient. When I got involved
14 in solar development approximately, like I said,
15 probably about seven to ten years ago, it was a
16 rule of thumb that it was 5 acres plus for a
17 megawatt. We got them down to 2 1/2, 3 acres per
18 megawatt. That's how quickly and more efficient
19 this is becoming in this industry. It's going to
20 get to some point where the efficiency reaches its
21 maximum, but that would be something that you'd
22 have to ask the solar developer.

23 MS. LANPHEAR: So would it be accurate to
24 say that your opinion is based on the 30-year
25 initial period?

1 MR. PIMENTEL: Well, it's also based on
2 not only the life cycle of the solar, but it's also
3 based on the negotiated process between community
4 and developer whether you want to continue it, the
5 property to be used for solar purposes. Because at
6 the end of its life, a community also may decide
7 they don't want to see it continued.

8 MS. LANPHEAR: But your conclusion that it
9 was temporary was based on that 30-year period?

10 MR. PIMENTEL: That life cycle, 25 to 30
11 years.

12 MS. LANPHEAR: Thank you.

13 CHAIRMAN SMITH: Other members of the
14 commission questions for Mr. Pimentel? Thank you
15 so much.

16 MR. NYBO: Mr. Chair, again, I'm happy to
17 provide the answer to Commissioner Lanphear's
18 question regarding the building structure for the
19 contractor.

20 CHAIRMAN SMITH: Please do.

21 MR. NYBO: Sure. For this, it's a 25-year
22 lease for Mr. Rossi. It has two extension years --
23 extension periods, exercisable by Revity, 5 years
24 apiece. So 35 years total for a possible life.

25 CHAIRMAN SMITH: Okay. Thank you. Okay.

1 Commissioner Frias, do you have questions along
2 another line?

3 MR. FRIAS: They can present their next
4 witness. I think we're going to --

5 CHAIRMAN SMITH: Okay. Okay. Certainly.
6 The applicant may present.

7 MR. MURRAY: Good evening, Mr. Chairman,
8 members of the planning commission. Again, just
9 for the record, Robert Murray, representing the
10 applicant and owner of the property before you this
11 evening for the Natick Avenue solar project. With
12 me this evening to make a presentation on
13 landscaping and buffering is John Carter. John is
14 a registered landscape architect in the state.
15 He'll talk a little bit more about his background
16 and experience in a moment. But he is, I think,
17 known to many members of the commission and has
18 appeared before you as an expert on this project
19 over the last four or five years and others. And
20 with your permission, I'll make some general
21 inquiries and then allow him with the hope that we
22 have the site plan on the screen, Jay -- Doug, I'm
23 sorry. Okay. You want to reboot or --

24 (PAUSE)

25 MR. MURRAY: John, just for the benefit

1 of -- we have some new members who weren't here in
2 previous matters on this project. Just briefly
3 introduce yourself, talk a little bit about your
4 background and experience, and then we'll talk
5 about your involvement with this project.

6 MR. CARTER: I will. Thank you. My name
7 is John Carter. I'm a registered landscape
8 architect in the State of Rhode Island, as well as
9 Massachusetts and Connecticut. I have appeared
10 before this board over 25 or 30 years on numerous
11 occasions, and I was engaged at the beginning of
12 this project. So over the last four or five years
13 for the few board members that remain, I've been
14 involved in presenting in front of this board also.

15 I've been working for about thirty years.
16 My office is at 960 Boston Neck Road in
17 Narragansett, and I have been involved in several
18 projects, solar projects, with Reivity. I don't
19 believe any of them were in Cranston to my
20 recollection.

21 MR. MURRAY: Thank you, John. So, just so
22 we're clear, roll back the tape a little bit,
23 obviously we're here tonight at a remand of a
24 master plan level application, but you were
25 involved from the inception of the original master

1 plan through the final plan approval in 2022,
2 correct?

3 MR. CARTER: Yes, that's correct.

4 MR. MURRAY: And so when we first appeared
5 at the initial master plan, that was clearly a more
6 conceptual level plan than we're talking about here
7 tonight?

8 MR. CARTER: That's correct, yes.

9 MR. MURRAY: And your testimony at that
10 time was more at a, my term, 30,000 foot level
11 because we had not yet got through our DEM
12 application, and you hadn't yet begun a real
13 detailed proposal for the community and for the
14 developer for landscaping and buffering, correct?

15 MR. CARTER: That is correct. And at the
16 master plan level, we typically don't have the
17 benefit of the board's input and hearing from
18 neighbors, hearing from the staff, and so forth.
19 So we just are putting forth our best effort and
20 then responding to that over the course of the next
21 few hearings and discussion.

22 MR. MURRAY: Just sticking with the travel
23 of this case, am I correct that following the
24 initial master plan approval in 2019, you
25 participated in the direction from the planning

1 commission for the so-called ad hoc committee of
2 neighbors and a team of representatives to review
3 landscaping and buffering for this project,
4 correct?

5 MR. CARTER: That's correct, yes.

6 MR. MURRAY: And that took place over the
7 summer, August, September, and October of 2020 as I
8 recall. You also participated with the applicant
9 through the development plan review process which
10 reviewed this project also; is that correct?

11 MR. CARTER: That's correct, yes.

12 MR. MURRAY: And through the ad hoc
13 committee process and at the direction of the
14 planning commission, they engaged the services of a
15 peer review landscape architect, correct?

16 MR. CARTER: Yes.

17 MR. MURRAY: And that was Sara Bradford, a
18 colleague of yours in the landscape architect
19 field, correct?

20 MR. CARTER: That's right.

21 MR. MURRAY: And a lot of what's before
22 the board this evening is a reflection of the
23 collaborative effort that you and her engaged on
24 behalf of the applicant and the committee -- the
25 commission to develop a recommended landscaping

1 plan that ultimately was approved by this
2 commission, correct?

3 MR. CARTER: That's correct. There was
4 considerable conversation back and forth,
5 discussions, guidance, input, and so forth from not
6 just the board, the Conservation Commission in the
7 city, and with Sara Bradford.

8 MR. MURRAY: And those efforts were
9 culminated in the preliminary plan approval that
10 this board on an 8-to-1 vote approved in April of
11 2021, correct?

12 MR. CARTER: That's correct, yes.

13 MR. DOUGHERTY: Mr. Chairman, may I be
14 recognized just for a point of procedure with
15 respect to this application and the proceedings
16 going on here this evening? Just for purposes for
17 an objection --

18 MR. MARSELLA: You'll have your
19 opportunity to --

20 MR. DOUGHERTY: It will be too late. It
21 will be too late.

22 MR. MARSELLA: You'll have your
23 opportunity on the record. You'll have as much
24 opportunity as you wish to speak for as long as --

25 MR. DOUGHERTY: But all of the evidence

1 will already be in that should not be in as part of
2 the master plan proceeding. I'm hearing -- I'm
3 seeing prior decisions that have been placed before
4 this board that should not be before this board on
5 a master plan proceeding. I'm hearing about events
6 that were not part of the master plan
7 application -- this is an objection for the record.

8 MR. MARSELLA: Correct. Correct.
9 Correct. Sit down.

10 MR. DOUGHERTY: Don't tell me what to
11 do --

12 CHAIRMAN SMITH: We cannot have a debate
13 here. Everyone will have an opportunity to speak,
14 and we'll just go one at a time. Please proceed,
15 Mr. Murray.

16 MR. MURRAY: Thank you. I'm pretty much
17 wrapped up. All I was trying to do was to describe
18 the travel of the case as it related to
19 Mr. Carter's involvement. With that, Mr. Chairman,
20 members of the board, John, you have as part of the
21 plans that we submitted, we have a detailed plan
22 set for this master plan, but we also have about
23 six sheets of yours that are at the end of the plan
24 in PowerPoint that's on the board, and those plans
25 reflect your efforts on behalf of the applicant to

1 propose a landscape plan for this project, correct?

2 MR. CARTER: Correct, yes.

3 MR. MURRAY: And the plan represents the
4 various efforts you just described to the
5 commission in the history of this project, correct?

6 MR. CARTER: Yes.

7 MR. MURRAY: I'm going to ask you to, at
8 your leisure or your direction, guide us through
9 the landscape plan, but my last series of
10 questions -- first of all, obviously you're
11 familiar with the property owned by Ronald Rossi,
12 which is the subject matter of this petition,
13 correct?

14 MR. CARTER: I am, yes.

15 MR. MURRAY: You've been on site?

16 MR. CARTER: Several times, yes.

17 MR. MURRAY: And you're familiar with the
18 existing conditions and topography of the property?

19 MR. CARTER: I am, yes.

20 MR. MURRAY: And you are familiar where
21 the proposed solar project is to be built at the
22 Natick Avenue end of Mr. Rossi's property?

23 MR. CARTER: I am, yes.

24 MR. MURRAY: With that, John, I'm going to
25 ask you to, in narrative fashion, describe the plan

1 that's before the commission, understanding that,
2 you know, we're not out in the field. Do your
3 best, if you would, to describe, first, the
4 existing conditions, and then we'll talk about
5 what's proposed for the project. Thank you.

6 MR. CARTER: I'll do that. So, thank you,
7 and I think Bob did a good job of laying the
8 groundwork. I understand most of you have not been
9 through the process with us. So I would like to
10 just explain quickly and as clearly as I can just
11 using this plan, what this site looks like and what
12 the surrounding uses are. Typically when we're
13 engaged to work on a project, the first thing we do
14 is an analysis of the site, which includes the
15 adjacent uses, the vegetation, the topography, and
16 the current use of the property.

17 The current use of the property is it's
18 the Rossi Tree Farm that fronts on Phenix Avenue
19 and a large portion of the property is manned --
20 Mr. Rossi grows trees. I don't want -- he farms on
21 it. I don't know all his activity. He's got
22 gravel out there. He's got trucks. He's got all
23 kinds of farm equipment. He's cutting trees in
24 places that I've seen. But I think his primary
25 function is he grows -- for his Christmas trees and

1 sells them.

2 With that said, this end of the property
3 which is really the east end, this -- in this
4 drawing, north is up. This section, the topography
5 slopes from the northwest, which on this would be
6 upper left. See if my little pointer thing works.
7 Sometimes they don't work on these screens. Well,
8 yeah, there we go. So the topography slopes from
9 that corner in sort of a southeasterly fashion down
10 this way towards Natick Avenue and the property
11 below. It probably drops, I would say, not
12 probably, say approximately drops about 125 feet
13 over that area. It is vegetated predominantly with
14 deciduous trees with some understory shrubs, mostly
15 oaks and maple trees. There are some red cedars
16 which are evergreen or pine looking plant. And the
17 panels -- somebody's got to wake it up, but in the
18 meantime, I'll do my best. So the -- in this
19 drawing to the west, which is to the left, is
20 Phenix Avenue. The panels are approximately 2400
21 feet. So there's a lot of topography and a lot of
22 uses and vegetation from the panels to Phenix
23 Avenue. They're approximately five to six hundred
24 feet from Natick Avenue. So Natick -- this little
25 -- Natick Avenue is on the right, and you can see

1 the space between Natick Avenue and the panels, and
2 that's -- it varies, but there's -- it's probably
3 about five to six hundred feet, approximately.

4 In the lower right corner of this site,
5 there's a wetland. There's a little intermittent
6 stream that has a hundred foot parameter, and
7 there's a wooded swamp that has a 50-foot buffer
8 applied to it, and that has all been reviewed and
9 verified by DEM, and -- so that will remain in
10 untouched condition. The -- obviously the goal
11 when we go out to the site and we look at it and we
12 access it is to try to understand what is being
13 impacted and how it will be impacted. So the
14 obvious would be to the north, there's a row of
15 residential homes that abut this property. And we
16 focused on that area. And then to the lower right,
17 which is the southeast, there's a couple of homes
18 down there that we focused on those also when we
19 developed our mitigation plan.

20 So what we did initially, the first thing
21 we did after the site analysis was -- and the site
22 walk is we developed a series of transect lines
23 that you can see on that plan, and the purpose of
24 those was just as a study to understand how this
25 proposed project would impact the adjacent

1 residential uses, so that we would have an
2 understanding of the distance between the house and
3 the solar farm, the vegetation that existed, and --
4 between the houses and the solar farm, as well as a
5 topography. Because in areas where one object is
6 lower than the other, sometimes you can't see it.
7 Sometimes it's higher, and it's more prominent. So
8 we developed a series of those transects, not only
9 to understand that -- what existed, but also to
10 help us with our design of how to address the
11 screening. And before we change the -- well,
12 actually, go -- can you just flip it, Doug, please,
13 to the first transect page. So just -- I'm not
14 going to walk you through all these because they're
15 a lot of work and difficult to put together. But
16 they're very telling in what they tell. So if you
17 look at -- let's say we look at the top one. And
18 to the lower right, so first of all, what you're
19 seeing there is the ground plain. You're seeing --
20 it's a cross section. It's cut through the ground.
21 It's sloping from the upper left to the lower
22 right. You can see the panels. They kind of come
23 out black on this screen, but those are all the
24 panels. So we wanted to determine how far the
25 house is from the panel, what the difference in

1 elevation was between the panel and approximate eye
2 level at the house, and these are approximate, to
3 the best we can do, given the information
4 available, but they do give us a lot of information
5 going forward. And then what vegetation existed,
6 what the height of it is.

7 So on the right-hand side of one of those
8 cross-sections, you can see, if you can, I can't
9 really see it, but the house, and then the
10 vegetation, and the dash line indicates a line of
11 sight to the panels. So what that did is that
12 allowed us to understand the relationship between
13 the house and the project and give us a little
14 direction what we could do to try to help mitigate
15 some of those views.

16 So what we proposed was to come up with a
17 buffer planting. There's various widths. There's
18 various grade changes, and so forth. Doug, can you
19 go back to the previous plan, just one up there.
20 Thank you. So what you're seeing there now makes a
21 little more sense. All those -- it's the site
22 plan, it's got the solar panels imposed on it, and
23 all those lines going across it are these transacts
24 that we looked at.

25 What we did, then, was the concept was to

1 design a -- some kind of visual buffer, and we
2 explored a few things and discussed it at meetings.
3 One was a solid fence which seemed to be rejected
4 by all involved. We talked about trying to plant
5 within the existing vegetation. That's a difficult
6 thing to do, horticulturally to go into a forest
7 and dig holes and plant things and have them
8 survive. So it was decided we would put a
9 parameter buffer of additional planting on the
10 buffer that will remain.

11 So on this drawing you're looking at on
12 the top, there's a 50-foot -- what's called a
13 no-cut buffer. So 50 feet from the property line
14 onto the site will remain in its existing
15 condition. And going into the future, there won't
16 be any cutting allowed. There won't be any cutting
17 allowed now. So whatever trees and shrubs are
18 there now will remain and won't be managed.
19 They'll just be allowed to naturalize. In addition
20 to that 50 feet is an additional 10 feet within
21 which we've got a planting scheme that's a mixture
22 of evergreens, trees, shrubs, and deciduous trees
23 and deciduous shrubs. And it's detailed on the
24 last page which I won't go into unless you've got
25 specific questions. I'd be happy to, but I'm

1 trying to -- I don't want to get too detailed and
2 lose everybody. So the idea is to leave the
3 existing 50 feet of vegetation and then do
4 additional vegetation. It will be a mixture of
5 plants that are native to the area, that are hardy
6 to the area. We understand the problem of deer,
7 which is a big problem when we're trying to screen
8 anything with evergreens these days because they
9 will eat them, and then they don't serve their
10 function. So all those came into our
11 decision-making process, and that was something
12 that was reviewed with the board, with the
13 conservation commission. We had extensive
14 conversations with the peer reviewer, and guidance
15 from her that we incorporated into the drawings.

16 And the idea behind this was we didn't
17 want to just suggest like a suburban site where we
18 would just plant a row of evergreens. And first of
19 all, it would look inappropriately. Secondly,
20 they'd probably get eaten by the deer and, thirdly,
21 it's better off to have a mixture of plants so that
22 you're not at the mercy of one particular condition
23 that might wipe them out. So if you have an insect
24 or disease or something that went after one of
25 these plants, these are kind of a Darwinism where

1 sort of the stronger plants survive and the other
2 ones, I guess, won't.

3 So that was a concept. So it's kind of
4 a -- it's a little different in our approach.
5 It's what I call scalable. It's something you can,
6 you know, the approval of the plans included the
7 sheet that has a plant schedule. It has specific
8 genus species, size at installation, and
9 quantities. So it's not open for interpretation.
10 It's -- that was what was agreed to and what would
11 be planted. Where they go along this additional
12 buffer strip, we had talked about with us and with
13 the input of the peer review landscape architect
14 actually trying to place them after the site was
15 cleared, and we could assess better where there's,
16 in some places, there will be holes in the existing
17 vegetation, and they'd be better served to put them
18 there than to put them in places where maybe
19 existing vegetation does a good job on its own.
20 And the intent is to have it mature and naturalize
21 and not require care, not require any sort of
22 maintenance because it wouldn't get it out in an
23 area like this. Just over time become an opaque
24 screen. So it would help mitigate and buffer a lot
25 of the views.

1 And as I said in the beginning, these
2 plans are a result of considerable conversations
3 with staff, with -- we heard from -- comments from
4 conservation, and a peer reviewer was very involved
5 and offered a whole lot of suggestions. So we
6 spent quite a bit of time on that.

7 So in conclusion, these plans have been
8 thoroughly vetted and approved by all levels,
9 including a peer reviewer, the conservation
10 commission, and this board.

11 MR. MURRAY: John, a couple of follow-ups.
12 First, can you just talk briefly, in the lower
13 right corner of the screen, there's a large swamp
14 there, and that's -- that is -- is it fair to say
15 that's a wetlands on Mr. Rossi's property?

16 MR. CARTER: That's the wet -- yes.
17 That's the wetland that I described. Yes. It's a
18 wooded swamp with a 50-foot buffer assigned to it.

19 MR. MURRAY: And the landscape plan as
20 presented here complies with the conditions of the
21 DEM permit that was obtained for this project,
22 correct?

23 MR. CARTER: That's correct.

24 MR. MURRAY: And we're -- anything we're
25 proposing in that area is in compliance with the

1 proposed wetlands permit or insignificant
2 alteration permit that was obtained, correct?

3 MR. CARTER: That is correct, yes.

4 MR. MURRAY: I apologize if we went into
5 this; but on the lower part of the screen to the
6 south, the adjoining property, but particularly the
7 Tennessee Gas pipeline there, we don't have any --
8 can you just briefly talk about that.

9 MR. CARTER: Sure. So there's a buried
10 pipeline underneath the ground with an easement.
11 And it runs right along the southerly property
12 line. So there's a clearing -- it's cleared. It's
13 maintained cleared over the top of it. In other
14 words, it's just a mowed surface over the top of
15 it. So there's no planting proposed on that
16 southern property line because we can't plant over
17 the gas line. There's also a much lower, as you
18 can see in that area photo, a significantly lower
19 density of development. There's only a couple of
20 houses down there. I'm not minimizing those
21 couple, but there's only two.

22 MR. MURRAY: Just so everybody here
23 understands, the areas that -- on this plan that
24 we're looking at in the red and green area, those
25 are the areas where enhanced buffering will occur

1 and additional plantings will be done?

2 MR. CARTER: That's correct. Along the
3 northerly property line -- northerly project line,
4 and down the easterly line, and then down along the
5 edge of the wetland in some cases.

6 MR. MURRAY: And the detail of that, as
7 you said, are on the last few pages of the site
8 plan with the species, the number, the quantity,
9 the height; is that correct?

10 MR. CARTER: That's correct.

11 MR. MURRAY: I have no other questions of
12 Mr. Carter right now, Mr. Chairman. Happy to have
13 him answer any other questions from the commission.

14 CHAIRMAN SMITH: Are there any questions
15 from members of the commission for Mr. Carter?
16 Yes, Commissioner Frias.

17 MR. FRIAS: Good evening, Mr. Carter.

18 MR. CARTER: Good evening.

19 MR. FRIAS: So just a couple of -- this
20 isn't my strong suit, understanding this, but I'm
21 just going to have a couple of basic questions. So
22 there's not -- because of the Tennessee pipeline
23 situation to the south, is there going to be any
24 trees outside of the easement, any sort of
25 shrubbery, any sort of cover, or is it that's not

1 going to be the case?

2 MR. CARTER: In the lower right, there's
3 an area that we propose planting -- I'm just going
4 to walk up there.

5 MR. FRIAS: That's no problem as long as
6 the stenographer can hear you.

7 THE REPORTER: I can't hear you from
8 there. You're not on the microphone, I can't hear
9 you.

10 MR. CARTER: Okay. So if you look in the
11 lower right corner of our project, there's a little
12 red strip, that will be planting, and that was done
13 to respond to the home that's to the -- that has
14 the three transects coming out of it down there.
15 So it comes down and it wraps that corner there.
16 Running along there, no, there's not additional
17 planting.

18 MR. FRIAS: There's not?

19 MR. CARTER: No. And then there's a
20 little piece you can see that has an A on it, and
21 that's not part of the application. That was
22 something between Revery and the owner there.

23 MR. FRIAS: So there will be -- so on some
24 parts of the abutter's property, they will be able
25 to see the solar farm at certain times of the year?

1 MR. CARTER: I've been very clear over the
2 last five years that I am not saying you will not
3 be able to see this. So, yes is the answer.

4 MR. FRIAS: The answer is yes. I very
5 much appreciate the forthrightness and clarity.
6 Couple of follow-ups. I think I heard your answer
7 before, but I just what to understand. Were you at
8 all involved in the Lippitt Avenue project for
9 Southern Sky?

10 MR. CARTER: No, I was not.

11 MR. FRIAS: Okay. And your firm was not
12 in any way?

13 MR. CARTER: No.

14 MR. FRIAS: Okay. All right. I
15 appreciate it. Thank you.

16 MR. CARTER: Thank you.

17 CHAIRMAN SMITH: Any other members of the
18 commission have questions for Mr. Carter?
19 Commissioner Lanphear.

20 MS. LANPHEAR: Thank you. Hello,
21 Mr. Carter, how are you? Just a quick question.
22 The two houses that are at the north that have
23 no -- actually there are -- that have no transects,
24 the north and west, is there a reason for that,
25 that there was no transect to look at what their

1 view would be?

2 MR. CARTER: Correct. Thank you.

3 Probably the better way to answer that, there were
4 reasons for the two that have the transects and
5 that's because they were the closest and would be
6 possibly the most affected; but at some point --
7 no. The only answer is at some point, we didn't
8 pick every single house and they seem to have a
9 significant separation and vegetation between them
10 and the project.

11 MS. LANPHEAR: And what would your answer
12 be with regard to the -- there's one house on the
13 northern side in the middle, it's kind of in the
14 middle of a triangle with no transects coming from
15 it?

16 MR. CARTER: Pretty much the same reason,
17 just distance. These -- just to be clear, well,
18 you've been through the whole process, right, so we
19 weren't asked to do this. We developed this sort
20 of to aid our thinking and analysis so we were
21 actually making some sensible and reasonable
22 suggestions on how to address it. I believe that
23 house is a little lower in elevation, and I believe
24 the topography comes up a little bit and then drops
25 down again. So in other words, think of it like in

1 a little hole almost. So we didn't include that,
2 and these were just meant so that we, as I said
3 earlier, we had -- we could understand without
4 looking, instead of flat, two-dimensional plan or
5 standing out in the middle of the woods and looking
6 at the woods, we wanted to say, well, when this is
7 cleared and this is built, what's the relationship
8 both vertically and horizontally between the house
9 and the panels as well as how much vegetation would
10 remain and where should we put new vegetation.

11 MS. LANPHEAR: And one last question, and
12 I'm sure it's in the materials, but could you just
13 refresh my recollection on how wide the buffering
14 of -- I'll call it a strip, the red and the green,
15 is on the north and on the east and on the
16 southeast.

17 MR. CARTER: Yes. The north, the red
18 strip, is 10 feet, and behind that there's 50 feet
19 of existing. On the northeast side, we have a
20 variable width planting area of 20 to 40 feet wide
21 and the 25-foot no-cut buffer. And in the
22 southeast, we have a -- that's Area D, and this is
23 on our plan set, so that's also a 10-foot wide
24 planting strip.

25 MS. LANPHEAR: Thank you. Thank you,

1 Mr. Chairman.

2 CHAIRMAN SMITH: Yes, Mr. Murray or is it
3 Commissioner Frias.

4 MR. FRIAS: Yeah. This is just a
5 follow-up I was thinking. Mr. Carter, the reason
6 you said you can't have trees and shrubbery on the
7 south side is because of the pipeline situation,
8 right?

9 MR. CARTER: That's correct.

10 MR. FRIAS: If the solar farm was slightly
11 reduced in size, would there be space for shrubbery
12 on the south side and trees?

13 MR. CARTER: Well, yes.

14 MR. FRIAS: Okay. Thank you.

15 MR. CARTER: I just -- if I could, I'd
16 like to just elaborate. These things need sun to
17 work -- the solar panels need sun to work. So
18 these parameters around the sites are critical of
19 no trees, and the southerly border is the most
20 critical because that's the most sun. So that's
21 why there's nothing over the pipeline and there's
22 nothing up close to the panels planted because it
23 would cast shade on the panels.

24 MR. FRIAS: How much more space in order
25 to have a southern tree -- line of trees and

1 shrubs, how much more space would you need so that
2 there's adequate sun for the trees and for the
3 solar panels?

4 MR. CARTER: I can't give you a solid
5 answer on that.

6 MR. FRIAS: Okay. Thank you.

7 MR. MURRAY: Mr. Chairman, through the
8 Chair, to the best of my recollection in response
9 to that last question, I think you need twice the
10 distance of the height of the tree. So that's
11 why -- and obviously shade is the most unfriendly
12 aspect of a solar facility -- three times. I've
13 been corrected. Three times the distance.
14 Mr. Carter, if you know, otherwise we're going to
15 have Dave Russo speak -- am I also correct that
16 there's a stone wall along the -- now I'm
17 confused --

18 MR. CARTER: The southerly --

19 MR. MURRAY: -- the southerly border?

20 MR. CARTER: There is, yes. And there's
21 several large trees along that wall that are sort
22 of in the wall, half in and out of the wall, that
23 would remain.

24 MR. MURRAY: If you know, one of the
25 commissioners asked you about those two houses up

1 off of Ridgewood Road, I think. Those last two
2 there where there are no transects, do you know
3 what the approximate distance would be from those
4 lots to the, you know, approximate?

5 MR. CARTER: I don't because I don't have
6 a measurable plan. This is a reduced plan, but the
7 last transect, which is Number 14, the last one
8 before we come to those two houses, is 410 feet
9 from the panel to the house. So it would be more,
10 and then even more on the next --

11 MR. MURRAY: And if you know, the
12 characteristics of Mr. Rossi's property between
13 those two houses and the panels, is there any
14 covering there existing, if you know?

15 MR. CARTER: I can't speak to that. I
16 have to look at the topographic plan. I believe
17 they're higher than the panels. The Ridgewood
18 Drive is higher than the panels, at a higher
19 elevation.

20 MR. MURRAY: I have no other questions at
21 this point, Mr. Chairman.

22 CHAIRMAN SMITH: Okay. Thank you,
23 Mr. Murray.

24 MR. CARTER: Thank you.

25 MR. MURRAY: We're going to alternate

1 here. Our next witness will be presented by
2 Mr. Nybo.

3 CHAIRMAN SMITH: Okay. Thank you.

4 MR. NYBO: Our next witness is Tom
5 Sweeney. Could you state your full name and
6 address, please.

7 MR. SWEENEY: Sure. Thomas, Middle
8 initial O, Sweeney, S-W-E-E-N-E-Y. Our business
9 address is One Turks Head Place, Providence, Rhode
10 Island.

11 MR. NYBO: Mr. Sweeney, could you explain
12 to the commission your background, professional
13 background.

14 MR. SWEENEY: Yes. I've been involved in
15 the real estate business since 1983. I'm a
16 certified real estate appraiser in the State of
17 Rhode Island. I am a licensed real estate broker
18 in the State of Rhode Island and the State of
19 Massachusetts. I have appeared before this and
20 almost every planning and zoning board in the State
21 of Rhode Island over the past 40 years. In front
22 of this board, I would think, at least 15 to 20
23 times on various projects, subdivisions, single
24 family dwellings. This is in anticipation of a
25 question. The only time I've testified on a solar

1 project within the town of -- I mean with the City
2 of Cranston. I have been accepted as an expert
3 witness in front of all those boards as well as the
4 State Superior -- Rhode Island Superior Court, U.S.
5 District Court, U.S. Bankruptcy Court. I have
6 completed appraisals for individual residential
7 properties, commercial properties, financial
8 institutions, accounting firms, et cetera, well in
9 excess of a thousand appraisals, if not two
10 thousand appraisals over those 40 years.

11 MR. NYBO: Have you had the opportunity,
12 in your professional work to study the effects of
13 renewable energy facilities on residential real
14 estate values?

15 MR. SWEENEY: I have. While I have not
16 completed a full study myself, there are a number
17 of resources that were available. As the board, I
18 believe, knows, this type of development has really
19 started kicking off since the mid teens and has
20 accelerated over that time with the passing of
21 various laws to promote this type of development.
22 There were three comprehensive studies done in 2018
23 and '19 by real estate appraisers in the state of
24 North Carolina, Indiana, and Illinois. Those
25 studies comprised paired sales analysis, which is

1 essentially you take a property that has a certain
2 characteristic, compare it to a similar property
3 that does not have that same characteristic and
4 determine whether there is any impact due to that
5 characteristic. Those studies showed -- what they
6 did was attempt, and I believe accomplished, they
7 took properties that were in close proximity to
8 solar farms of this size, if not larger, and
9 compared them to properties similar in those
10 counties there were not in proximity to the solar
11 facilities and all -- I think it's four studies in
12 total done by real estate appraisers determined
13 that there was no measurable impact of solar
14 facilities, taking into consideration that they are
15 screened. There has -- I will be the first to
16 admit it. There's no screening and you're looking
17 into a solar facility, there's an impact. But
18 these studies all show that there is little or no
19 impact from -- if the projects are properly
20 screened.

21 In the fall of 2020, Dr. Corey Lang, as
22 everybody I'm sure is aware, did a study with
23 another person at the University of Rhode Island.
24 They studied, I believe, at the end of the day,
25 77 -- 78,000 property sales in Rhode Island,

1 Massachusetts, and Connecticut and determined from
2 their statistical analysis only, they did not go
3 and inspect properties, they did not go and inspect
4 projects, they determined that, on average, there
5 was a 1.9 impact for properties in proximity to
6 solar facilities. Recently, I think it was just
7 released in the last month, there was a study done
8 by, I can't remember, and I can provide the article
9 to the board, a study done on multi-states,
10 including Massachusetts and Connecticut, study of
11 1.8 million property sales in and around solar
12 facilities. That came to a conclusion that in
13 Rhode Island, well, excuse me, in Connecticut and
14 Massachusetts, I believe in Connecticut it was
15 actually a positive impact. In Massachusetts, it
16 was 1.7 percent negative impact, and it changed and
17 varied as you went to these other states. But at
18 the end of the day, their conclusion was while we
19 can't definitively say in everything because we are
20 again doing a statistical analysis here, the amount
21 of decrease in value due to proximity of properly
22 screened solar facilities is negligible in the
23 grand scheme of things.

24 I've got more, but I believe you want to
25 pass something out.

1 MR. NYBO: Through the Chair, I have a
2 copy of the study that was just referenced by
3 Mr. Sweeney I'd like to present each member of the
4 committee, and I will provide a copy to Mr.
5 Dougherty as well.

6 CHAIRMAN SMITH: Yes. We'll accept that.

7 (HANDS OUT DOCUMENTS)

8 MR. SWEENEY: And, finally, as you can see
9 from this document, and it's a very long one; but
10 at the end the day, it does reach a conclusion that
11 it's less than 2 percent impact. Anecdotally, I
12 also did some of my own research using Statewide
13 MLS and sales. Revity has another project that's
14 going down -- going on being developed in West
15 Greenwich. I attempted to isolate the impact of
16 those solar farms which are significantly -- entire
17 project is bigger than this one -- on the real
18 estate values. I did it by a number of ways. I
19 looked at what the average sale price per square
20 foot was in the immediate area of the solar farm in
21 2019 before the project was started, and then
22 compared it to 2000 -- a recent statistics today to
23 find out what the change in overall value had been
24 for properties in the immediate proximity. I then
25 compared that to what sales in other parts of the

1 town of West Greenwich were both -- mostly town
2 wide but also away from the projects there, and the
3 delta in changing in overall square -- per square
4 foot value average was identical. It was, I think
5 maybe it was between 34 and 35 percent over the
6 four years that -- the time period I looked at. So
7 both for the properties in close proximity and
8 those that were no where near a solar farm.

9 Lastly, the last thing I did was look --
10 the properties are located on the -- the farms are
11 located off of a road called Robin Hollow Road. I
12 looked at a sale of a piece of property there from
13 2019, compared it to a sale today that just
14 happened on the same road. While they're not
15 identical houses, they're pretty close and probably
16 would be used as comparable properties to each
17 other, and the per square foot price there from
18 2019 to today has changed approximately 34 percent.

19 So in my opinion, based upon all of these
20 factors, a well screened project similar to this
21 one will not have a negative impact on property
22 values.

23 MR. NYBO: Okay. Do you have any sense --
24 have you had the occasion in your practice to gain
25 an understanding of what potential impact on

1 property values a new residential development
2 coming into an area can have?

3 MR. SWEENEY: Well, coincidentally,
4 Dr. Corey Lang has produced an additional study
5 where he went out and, again, trying to quantify
6 the impact of solar on properties and the people's
7 relation to it, he did a survey after his first
8 study, and one of the things that came out of that
9 study was, yes, everybody, if you have a choice
10 between no development, leave it as it is, or a
11 solar farm, you're going to choose no development,
12 but he did go a step further and said, well, what
13 if you have a choice between a solar farm or a
14 residential subdivision on the property. And the
15 conclusion in his study was that people were
16 willing to pay more to have -- not to have a
17 residential subdivision, but would prefer a solar
18 farm. I believe, you know, there is impact --
19 anything that goes on this site is going to have
20 impact. But, again, my opinion, what is proposed
21 here will not have a negative impact.

22 MR. NYBO: Can you take a look at the
23 report that I handed you. This is a report that I
24 handed out to the -- all of the commissioners. And
25 look at Page 12, which unfortunately this report is

1 not paginated. So I'll give everybody a chance to
2 count it out. I believe it should have Table 8 at
3 the very top of the page for reference. I want to
4 direct your attention in this report to Section 5,
5 which is entitled "discussion." The third full --
6 the third paragraph begins, second, we ask, and I
7 want to look at the second sentence of that
8 paragraph. That second sentence reads, "When
9 looking at individual states in our sample, we
10 observed no effects on sale prices in California,
11 Connecticut, and Massachusetts, but find sale
12 prices reduction for homes zero to a mile and a
13 half away from LSPVP." I would represent to the
14 commission that that acronym in this report stands
15 for large scale photovoltaic project. "LSV -- PVP,
16 4 percent, 5.8 percent, and 5.6 percent in
17 Minnesota, North Carolina, and New Jersey,
18 respectively." In your practice, Mr. Sweeney, are
19 you more likely for real estate appraisal comps to
20 use properties in the State of Massachusetts and
21 Connecticut than you are to use properties in
22 Minnesota, North Carolina, and New Jersey?

23 MR. SWEENEY: Yes. They're both New
24 England states, so absolutely yes.

25 MR. NYBO: And does this finding, due to

1 the fact that there is no impact on sales in those
2 states, comport with the research that you had come
3 across previous to this report being issued?

4 MR. SWEENEY: Yes, sir.

5 MR. NYBO: The last thing I want to ask
6 you under same page, Section 6, limitations and
7 future work, the second sentence of that paragraph
8 reads, quote, "The impact of local energy
9 development are also shaped by local tax revenue
10 and employment impact which, I think, consistently
11 found to result in positive benefits, skip
12 citations, as well as by LSPVP ownership
13 structures." Do you see that sentence?

14 MR. SWEENEY: I do.

15 MR. NYBO: Does that finding by the report
16 match your experience in your real estate practice?

17 MR. SWEENEY: Yes, sir.

18 MR. NYBO: I don't have any other
19 questions, Mr. Chair. Thank you.

20 MR. SMITH: Thank you very much.
21 Commissioner Frias.

22 MR. FRIAS: Okay. Threw a lot of
23 information right now, and so we'll go through a
24 whole bunch of questions. Number 1, start with the
25 basic, do you agree with me that if property values

1 decrease, that could destabilize the neighborhood?

2 MR. SWEENEY: If there's a negative impact
3 on the property neighborhood, yes.

4 MR. FRIAS: Thank you. You cited three
5 appraisal studies in three different states. I
6 believe they were Illinois, Indiana, North
7 Carolina; is that correct?

8 MR. SWEENEY: Correct.

9 MR. FRIAS: And those are appraisal
10 studies. They're not academically peer review,
11 correct?

12 MR. SWEENEY: They're done by real estate
13 appraisers, yes, sir.

14 MR. FRIAS: Yes. And those appraisals
15 were probably done, I assume, by -- on behalf of
16 the solar developer or solar entity.

17 MR. SWEENEY: I would assume so, yes, sir.

18 MR. FRIAS: Thank you. The academic peer
19 reviewed -- the academic study that was done at
20 URI, that was not done by a solar -- on behalf of a
21 solar developer or funded by a solar developer, to
22 the best of your knowledge?

23 MR. SWEENEY: No, it was not.

24 MR. FRIAS: Are you familiar with the
25 Texas -- a study done in Texas, in Austin, Texas,

1 regarding solar farms and the effect on property
2 values?

3 MR. SWEENEY: I believe I have seen it,
4 and it has the same conclusion.

5 MR. FRIAS: Okay. It has a conclusion
6 that -- let me try to phrase it. If you disagree
7 with how I characterize it, that's fine. That the
8 closer you are to the project and the larger the
9 project, the more likely your property value will
10 decline.

11 MR. SWEENEY: I would disagree because,
12 again, I'm not sure that, as with Dr. Lang's study,
13 does not -- it looks at just purely numbers. It
14 doesn't look at properties.

15 MR. FRIAS: And when you say looking
16 purely at numbers, you're talking about the numbers
17 of -- you're talking about sale values?

18 MR. SWEENEY: Correct.

19 MR. FRIAS: Okay. So those are the
20 numbers we're talking about, the value of a home
21 when it's sold and when it's bought, right?

22 MR. SWEENEY: Yes, and all the other
23 things that go into it.

24 MR. FRIAS: Correct. You reviewed the URI
25 study, correct?

1 MR. SWEENEY: I have reviewed it. I've
2 listened to Dr. Lang's -- when he released it, I've
3 had multiple conversations with Dr. Lang. Yes,
4 sir, I'm familiar with the URI study.

5 MR. FRIAS: Okay. And the URI study
6 showed that within a certain radius, I can't
7 remember if it was a mile, of a solar farm in
8 Massachusetts and Rhode Island, the property value
9 would decline by approximately 1.7 percent; is that
10 correct?

11 MR. SWEENEY: That was on -- that's what
12 their conclusion was based on numbers, sir, yes.

13 MR. FRIAS: And within one-tenth of a
14 mile, I believe the decrease was more significant.
15 It was 7 percent. Do you recall that?

16 MR. SWEENEY: I do.

17 MR. FRIAS: Okay. And that study is the
18 only study to the best of my knowledge, I ask if
19 you know something, that reviewed Rhode Island home
20 values in relation to solar farms, correct?

21 MR. SWEENEY: A statistical study, yes,
22 sir.

23 MR. FRIAS: Thank you. And would you
24 agree with me that Rhode Island is more densely
25 populated than many of the states that are being

1 reviewed in these other studies.

2 MR. SWEENEY: It is the second most
3 densely populated state in the country, sir, yes.

4 MR. FRIAS: Thank you.

5 MR. SWEENEY: And actually -- but it is
6 close to Massachusetts and Connecticut, and it's
7 actually funny that the more -- less densely
8 populated states, except for New Jersey, had higher
9 impacts.

10 MR. FRIAS: And the URI study reviewed
11 both Massachusetts and Rhode Island, right?

12 MR. SWEENEY: Correct.

13 MR. FRIAS: Hold on one second. Do you
14 agree that people sometimes buy a home due to the
15 visual esthetics of the area in which they will be
16 residing in?

17 MR. SWEENEY: Yes.

18 MR. FRIAS: Do you believe that the visual
19 esthetics of a neighborhood or area can add value
20 to the property of that home -- I mean the value of
21 that home and that property?

22 MR. SWEENEY: I would, but I would caveat
23 that by saying that view, if you own that view,
24 yes, that's your view. If this property was
25 developed with something else other than a solar

1 farm, there would be an impact.

2 MR. FRIAS: I understand, my question was
3 simply --

4 MR. SWEENEY: Yes.

5 MR. FRIAS: Thank you. Because I just
6 received this study, I reserve the right to ask
7 questions at a later time. I have to digest this
8 whole thing, but I think you got the gist of all my
9 questions. And so thank you very much.

10 MR. SWEENEY: Thank you.

11 CHAIRMAN SMITH: Okay. Any other
12 questions from members of the commission for
13 Mr. Sweeney? Seeing none, thank you.

14 MR. MURRAY: I just have one question of
15 Mr. Sweeney, if I might. Mr. Sweeney, if you know,
16 you keep taking his name in vain tonight, Dr. Lang.
17 Do you know if he ever visited the Natick Avenue
18 solar project property?

19 MR. SWEENEY: I don't -- he might have
20 driven by it, but that's about it. I don't think
21 so.

22 MR. MURRAY: All right. I have no other
23 questions for Mr. Sweeney.

24 CHAIRMAN SMITH: Okay. Thank you,
25 Mr. Murray. Thank you, Mr. Sweeney.

1 MR. MURRAY: Mr. Chairman, at this point,
2 subject to the right to present additional
3 testimony as needed, we have nothing further this
4 evening or at this point in the discussion.
5 Obviously, we'll stand available to answer any
6 questions. I do want to note, again, for the
7 record, the principal of Revity Energy, Ralph
8 Palumbo, is present. While he's not planning on
9 formally testifying, he is available to answer any
10 questions. I don't want -- I meant to note his
11 presence earlier in the evening.

12 With that, we'll let you segue to your
13 next portion of the meeting and stand ready to try
14 and answer any questions.

15 CHAIRMAN SMITH: Thank you, Mr. Murray.
16 Commissioner Frias.

17 MR. FRIAS: Yeah. I thought we were going
18 to have the expert on blasting tonight.

19 MR. MURRAY: He's not available tonight.
20 I apologize.

21 MR. FRIAS: I had a lot of stuff for him.
22 That's okay. We'll do it another time.

23 MR. MURRAY: I don't doubt for a moment
24 you had quite a bit of information available.

25 MR. FRIAS: Could I --

1 MR. MURRAY: But I will refresh the
2 commission's memory, Dave Russo, our first
3 engineering expert who testified, he testified
4 extensively about our discussions with Kinder
5 Morgan, the manager of the Tennessee Gas pipeline,
6 their requirements as to blasting, and the notes
7 that they required us to put on their plan -- on
8 our plan. And, lastly, for the record, Mr. Rossi
9 has, on a number of occasions, got blasting permits
10 issued by the state fire marshal for his property
11 as recently in -- within the last twelve months.
12 So -- but as Mr. Russo testified, blasting is an
13 action of last resort, not first resort. And we'll
14 try and work with the property without the need for
15 blasting. Thank you, Mr. Chairman.

16 Mr. Nybo reminds me, Andrew Dufore from
17 Maine Blasting & Drilling did testify at a previous
18 session. I can make that testimony available
19 through the transcript, if that will help,
20 Mr. Frias.

21 MR. FRIAS: Just to be clear, I'd like to
22 ask him some questions that were not asked in the
23 transcript, number one. And I know he's not here,
24 and I'll schedule a meeting to have him be here
25 because I think the blasting issue is something

1 that's important. I understand that it's been
2 talked about before. I do have a question for
3 Mr. Russo since he's involved with the engineering
4 aspect of the project. It won't take long, but I
5 still think we need to have the blasting person
6 here.

7 MR. NYBO: Just to be clear, I had made a
8 comment to -- I'm sorry. I had made a comment to
9 Mr. Murray about last time Mr. Dufore came to
10 preliminary plan. I was not clear with Mr. Murray.
11 So he interpreted my statement as something
12 different than what I intended. What I meant by
13 that was the last time we went through this, we
14 received master plan approval without the blasting
15 testimony. We did the blasting testimony at
16 preliminary plan. A lot of people are here to
17 provide public comment tonight, I think, and we
18 will be prepared, if preliminary plan went forward,
19 subject to -- with approval on master plan,
20 Mr. Dufore would be made available the same way we
21 did the last time around. And I think that the
22 blasting testimony is probably most relevant to the
23 preliminary plan examination compared to the master
24 plan examination. This is a very developed plan
25 because of the travel of this matter. But, again,

1 we're still at master plan. So, we're still at
2 that conceptual review, and I think it's probably
3 most appropriate at preliminary plan, assuming we
4 get there with an approval on master plan. So that
5 was the point of my comment to Mr. Murray, and I
6 put that on the record.

7 MR. RUSSO: Good evening. For the record,
8 David Russo, professional engineer with DiPrete
9 Engineering.

10 MR. FRIAS: Mr. Chairman, may I proceed?

11 CHAIRMAN SMITH: Please do.

12 MR. FRIAS: Just for the record, in the
13 master plan transcript, the blasting expert was
14 testifying in the -- testified during the master
15 plan phase. Mr. Russo, how are you?

16 MR. RUSSO: Good.

17 MR. FRIAS: Just a couple of basic
18 questions. Again, this is not my strong suit. Did
19 you do work on the Lippitt Avenue project?

20 MR. RUSSO: I did.

21 MR. FRIAS: Okay. I'll just ask this this
22 way. It's a simple question. It may be a
23 difficult answer. Were there any mistakes or
24 errors made when you did that project, in
25 hindsight, that you would do differently now

1 because you're going to be doing this project now.

2 MR. RUSSO: In terms of ledge?

3 MR. DOUGHERTY: Any mistakes or errors in
4 hindsight --

5 MR. RUSSO: I think there was some
6 confusion on -- and there's been testimony in the
7 past about this site compared to Gold Meadow Farms,
8 and Gold Meadow Farms had a section when you kind
9 of entered that that was -- I'm estimating. I
10 don't have it front of me -- 30-, 40-foot piece of
11 ledge rock sticking out, very visible. The grading
12 plans that we had shown had that shown being cut
13 down. We had to for the solar development. I
14 don't think it being one of the newer solar farms
15 in the state, more or less, I don't think it was --
16 everyone was focused on blasting and the extent of
17 it. So I don't think it was as looked at as it is
18 for this project. This project is not even in the
19 same realm in terms of blasting for that. This
20 has, as I stated, on that left southwestern side,
21 there's some visible knobs. We're not cutting as
22 much as Gold Meadow Farms, and it was -- that ledge
23 on Gold Meadow Farms had to be cut out to be able
24 to get the field in that site. This one it's more
25 getting rid of that -- the knob areas to get rid

1 of. It's not a wall of ledge.

2 MR. FRIAS: So you think the -- looking
3 back in hindsight on Lippitt Avenue, the mistake
4 was you underestimated the amount and elevation of
5 ledge.

6 MR. RUSSO: No, I don't think there was
7 any mistake. I just think it was -- no one really
8 -- if anyone looked at our plans, they would
9 recognize that there was -- that was getting cut
10 down 30 feet. I just think it was -- solar was
11 new. No one was looking at it as detailed. We
12 knew that was coming down, but, you know, it wasn't
13 -- blasting, I believe, was discussed during that,
14 but it wasn't as harped on during the review
15 process.

16 MR. FRIAS: Is there anything in hindsight
17 in regards to the blasting and the relation to that
18 that you wish you had done differently that you
19 would do differently now in this project?

20 MR. RUSSO: They're two different sites.
21 On Gold Meadow Farms, that had to be done for that
22 site to be able to be built the way it was. On
23 this site, the ledge is not like that it was over
24 there. I mean, like I said, there's some knobs
25 here. That was a wall of ledge. I mean, you could

1 walk up to the top of it and it was, you know,
2 you're looking down off of a cliff of ledge almost
3 on that site. And it shows up on those plans. If
4 you go back to those design plans, that ledge is --
5 that's being cut down, it just wasn't a point of
6 focus like it is on the newer sites coming through.

7 MR. FRIAS: Okay. That's my questions. I
8 don't know if anybody else has anything.

9 MR. RUSSO: Thank you.

10 CHAIRMAN SMITH: Okay. Any other
11 questions from commission members? Okay.

12 MR. NYBO: So, again, we do not have
13 Mr. Dufore here this evening. I want to state,
14 Mr. Frias, I misspoke. He was presented at master
15 plan last time. I stand by my position that,
16 notwithstanding the history, I think that assuming
17 we get to preliminary plan, the blasting can be
18 thoroughly examined on preliminary plan and that
19 the witnesses that we presented are sufficient to
20 meet our burden on this conceptual phase, this
21 master plan phase. But he's not here this evening.
22 So the only issue with him not being here this
23 evening to the extent that the commission believes
24 that he is required for us to meet our burden on
25 master plan is that if we do public comment, and I

1 know there's a lot of people here, and I hesitate
2 to even suggest this, but if we do public comment
3 and then Mr. Dufore is presented, based on what
4 we've learned from Judge Vogel's decision during
5 Round One, I think there will need to be a second
6 round of public comment. Attorney Marsella is free
7 to disagree with me, but that is my view of Judge
8 Vogel's decision. There will need to be a second
9 round of public comment after Mr. Dufore testifies
10 because it is additional evidence in the record,
11 and that was the issue that led us to come back
12 here this time around.

13 So I will leave it for discussion, but I
14 think that's sort of the position we find ourselves
15 in here and obviously we did not bring Mr. Dufore.
16 So we bear some responsibility on that.

17 CHAIRMAN SMITH: Okay. Thank you.

18 MR. MARSELLA: So for the record, we have
19 two ways to go about this. There's people here it
20 looks like, for and against, and then there's, I'll
21 call it, there's an attorney here who has a group
22 of clients that is in opposition. Based upon my
23 discussion with the Chair, we think that it's
24 most -- because the opposition and the attorney
25 have experts here, that they should be able to be

1 presented first, and then we'll take individual
2 comments, either for or against after the
3 objector's testimony.

4 CHAIRMAN SMITH: Okay. Mr. Dougherty, are
5 you representing -- you have the floor.

6 MR. DOUGHERTY: Thank you, Mr. Chairman.
7 Is this the appropriate time to inform the board of
8 my prior point of order and procedure and
9 objection?

10 CHAIRMAN SMITH: Yes.

11 MR. DOUGHERTY: Mr. Chairman, we're back
12 before this commission on a remand, and because the
13 members on the board have largely be reconstituted,
14 there was the remand for the board to, in
15 accordance with Justice Vogel's decision, for the
16 board to reopen the public hearing, let the public
17 comment on the additional testimony that had been
18 taken in after the close of the public comment
19 portion of it, and then have a vote done. Because
20 the board has been reconstituted, you were not
21 able, in accordance with the Coderre v. Zoning
22 Board of Review of the City of Pawtucket, 239
23 Atlantic 2d 729 Rhode Island 1968, this board was
24 not able to just simply review the record, but had
25 to have a rehearing of the matters that were before

1 it at the master plan, and I think, unfortunately,
2 we just created another great appeal for maybe even
3 a Supreme Court decision on the procedure that has
4 occurred here.

5 I tried to stem that at the beginning of
6 this -- when we started getting into this, but
7 there's nothing in the Coderre decision and there's
8 nothing in any of the case law that I'm aware of
9 that allows the expansion of the record of the
10 master plan application that you have seen before
11 you in these proceedings this evening.

12 First off, I think we have an entirely new
13 application here now that's not entitled to vested
14 rights. There's a road in the mix. There are a
15 number of other things, and the application
16 materials that have been submitted here and that
17 the board has been exposed to now are -- go far and
18 way beyond what was before the board back when the
19 master plan application was submitted. And,
20 unfortunately, I think now the board's review and
21 approval has been tainted by the addition, improper
22 addition, of evidence that should not be before
23 this board. The first two things -- the first
24 three items of which are the prior decisions of the
25 planning commission.

1 This board should not have before it the
2 prior decisions of the master plan approval, the
3 preliminary plan approval, or the final plan
4 approval. It's simply improper to be included in
5 the record and as part of a review of an
6 application at master plan which is a conceptual
7 overview and an idea that is voted on by the plan
8 commission to determine whether or not, A, the
9 proposed project is consistent with the
10 Comprehensive Plan; and, B, whether or not this is
11 consistent with the ordinances in effect and the
12 standards governing the development plan review.
13 So I believe -- I believe the applicant and the
14 city have committed error that is prejudicial, and
15 I believe we've got another great issue for appeal.

16 That being said, I take issue with all of
17 the testimony that has occurred with regard to
18 events that occurred after the master plan hearing.
19 It's not in conformance with the remand order of
20 the Superior Court and, unfortunately, I think it's
21 tainted these proceedings. But we will, with that
22 stated objection and a motion to strike all that
23 stuff from the record, which I don't even feel is
24 going to be adequate to address the prejudice that
25 has been visited upon my clients as a result of the

1 improper inclusion of that evidence in the record
2 and the application, we will proceed forward under
3 a reservation of rights.

4 Another thing that I would like to take
5 into account here is that we have a number of
6 people that have showed up, and they were here at
7 the last hearing, people that I don't represent,
8 and I know that there are many people that would
9 like to speak in opposition to this project. They
10 were here until the late hours the last hearing,
11 and I think if there are some people that want to
12 be heard in opposition, the board -- I don't think
13 there will be that many that I don't represent, but
14 I think out of respect to those people who showed
15 up, sat here for hours the last time, that they
16 should be allowed at least to put their comments in
17 the record, and then I can take up the hours that
18 it's going to take for my client's expert witnesses
19 to testify.

20 MR. MARSELLA: And as long you take people
21 in both -- non represented people for and against.

22 MR. NYBO: I'm sorry -- can I speak?

23 MR. MARSELLA: Well --

24 MR. NYBO: Suggestion?

25 MR. MARSELLA: We had two choices.

1 Choices were to allow I'll call it the general
2 public to speak, and then I'll call it the
3 organized opposition to speak. The other way was
4 have the organized opposition speak and then the
5 general public to speak. Mr. Dougherty has
6 deferred, with all due respect, he's deferred that.
7 It was my thought that he had experts sitting here.
8 It's up to the Chair, but my advice would be if
9 we're going to let I'll call it the unorganized
10 public speak, then as long as it's for and against,
11 then give them their time.

12 MR. DOUGHERTY: And one other additional
13 point that I'd like to throw into the mix as well
14 is that you will recall, and this is in furtherance
15 of my earlier comments, you will recall that in the
16 fall there was a motion or a request to combine the
17 application with master and preliminary, which was
18 denied. And yet everything that was contained in
19 that preliminary plan has already been into this
20 record before the board -- before the commission.

21 MR. NYBO: Mr. Marsella, the suggestion
22 about -- I don't have a conceptual issue with it
23 and I'm sympathetic to the -- to what Mr. Dougherty
24 raised about the group of abutters that he does not
25 represent, having been here late the other night

1 and being here late again. My concern is that
2 based on Judge Vogel's -- what Judge Vogel said in
3 her decision was there was additional information
4 placed in the record during Round One and public
5 comment was not reopened. I assume that
6 Mr. Dougherty is going to place additional matters
7 into the record. We may place additional matters
8 into the record to respond to Mr. Dougherty. And
9 if the public's already commented, the public,
10 based on that decision, is going to need, in my
11 reading of it, to be allowed to comment again after
12 that happens, or we're going to have another issue.

13 I don't -- I guess I don't have a problem
14 with two rounds of public comment, but I think
15 we're going to inject an actual procedural issue,
16 not what Mr. Dougherty said a real one, if we do
17 not recognize the public's right to comment after
18 the record has been fully -- based on Judge Vogel's
19 decision. So I'll just put that on the record
20 potential poison pill that's being introduced.

21 MR. DOUGHERTY: You know, I can actually
22 -- I can relate to that, and I think that's a point
23 worthy of consideration.

24 CHAIRMAN SMITH: Commissioner Frias, did
25 you have a --

1 MR. FRIAS: I just wanted to say I don't
2 have a problem with two rounds of public comment.
3 I'm going to want to have a blasting expert to be
4 testifying anyway --

5 MR. MARSELLA: I would say, Mr. Frias,
6 it's not up to you to determine what experts that
7 we have going forward.

8 MR. FRIAS: Just giving you my two cents.

9 CHAIRMAN SMITH: Commissioner Coupe, did
10 you have --

11 MR. COUPE: I have no idea if this is
12 feasible. It's just an idea. I'll throw it out
13 for our solicitor. If we were to follow the plan
14 of having comment now and then new evidence is
15 introduced, could we limit the public comment in
16 the second round only to the new evidence?

17 MR. MARSELLA: I would not do that.

18 MR. COUPE: Just a thought.

19 MR. MARSELLA: It's up to you,
20 Mr. Chairman.

21 CHAIRMAN SMITH: Okay. Well, I mean,
22 obviously, I don't think anybody knows how this
23 will all unwind. We are still taking testimony,
24 and we will continue to take testimony until
25 everybody has had an opportunity to offer their

1 questions, concerns, responses. As -- in my
2 discussions with counsel, we thought that if the
3 organized opponents did have experts to testify,
4 that we would extend the courtesy for them first,
5 but it really does not --

6 MR. MARSELLA: Go ahead, Mr. Dougherty.

7 MR. DOUGHERTY: That's fine. I'd like to
8 call Kaki Martin, please. Ms. Martin, could you
9 please tell the board what you have for an
10 educational background.

11 MS. MARTIN: Yes. I'm a -- well, I'm a
12 licensed landscape architect with -- again, my name
13 is Katherine Martin, and I'm a licensed landscape
14 architect. I've been practicing for 28 years.

15 MR. DOUGHERTY: And where do you currently
16 hold offices?

17 MS. MARTIN: I have an office in Boston.
18 I'm registered in the states of Rhode Island,
19 Connecticut, Massachusetts, New Hampshire, and
20 Maine.

21 MR. DOUGHERTY: Can you tell the
22 commission what certifications that you have
23 obtained in the course of your work as a landscape
24 architect.

25 MR. MARTIN: Well, I'm licensed in those

1 states, and I'm also the current past president of
2 the Boston Society of Landscape Architects, and I'm
3 a fellow of the American Society of Landscape
4 Architects.

5 MR. DOUGHERTY: I'm presenting Ms. Martin
6 as an expert in the area of landscape architecture,
7 and I'd like the board to accept her as such.

8 CHAIRMAN SMITH: The board doesn't have a
9 procedure for certifying expert testimony, but we
10 do ensure that the description of anyone who
11 testifies based on their qualifications will be
12 entered into the record so that their expertise can
13 be inferred by the members of the commission, but
14 we don't have a formal, and we have never had a
15 formal procedure for doing that.

16 MR. DOUGHERTY: Okay. If I may, then,
17 I'll just ask a few more questions so you get to
18 her background. Ms. Martin, could you describe the
19 extent of your work that you have done in the
20 course of the 28 years in terms of types of
21 projects that you have engaged in.

22 MS. MARTIN: Our practice focuses on a
23 wide range of project types. We work in urban
24 environments, in rural environments, in public
25 property, and private development as well.

1 MR. DOUGHERTY: And in the course of your
2 work over the last 28 years or so, have you had the
3 occasion to prepare landscape plans and designs?

4 MS. MARTIN: Yes. I'm -- over hundreds of
5 projects, yes.

6 MR. DOUGHERTY: And in the course of your
7 work, have you also had a chance to review other
8 landscape plans and designs?

9 MS. MARTIN: Yes.

10 MR. DOUGHERTY: Now, have you had an
11 opportunity to review the landscape -- the
12 landscape materials that were supplied in
13 conjunction with this application for master plan?

14 MS. MARTIN: Yes. I'm not sure that the
15 plans that I saw on the screen are the same ones I
16 reviewed, but, yes.

17 MR. DOUGHERTY: But you were here at the
18 last meeting, correct?

19 MS. MARTIN: Yes.

20 MR. DOUGHERTY: An you were listening to
21 the testimony at the last hearing?

22 MS. MARTIN: Yes.

23 MR. DOUGHERTY: And you were here this
24 evening to hear the testimony of Mr. Carter?

25 MS. MARTIN: Yes.

1 MR. DOUGHERTY: And did you have a good
2 view of the plans that were on the screen?

3 MS. MARTIN: Yes, as well as I could have,
4 yes.

5 MR. DOUGHERTY: All right. Now, have you
6 reviewed the landscape -- developing and landscape
7 design standards for the City of Cranston?

8 MS. MARTIN: Yes.

9 MR. DOUGHERTY: Okay. And are you aware
10 that the -- one of the purposes of the landscape --
11 development and landscaping design standards is to
12 preserve the character and scale of neighborhoods
13 by requiring a development to be compatible with
14 the existing character of the area?

15 MS. MARTIN: Yes.

16 MR. DOUGHERTY: And in the course of your
17 review of these plans, are these plans, are they
18 compatible with the existing character of the
19 surrounding area?

20 MS. MARTIN: No. I'd say that generally
21 speaking, clear cutting large swaths of woodlands
22 in a wooded, more rural neighborhood is not
23 consistent.

24 MR. DOUGHERTY: Now, are you aware that
25 another purpose, Number 3 of the development and

1 landscaping design standards, is to mitigate
2 environmental, visual, and other impacts by
3 requiring adequate buffer?

4 MS. MARTIN: Yes.

5 MR. DOUGHERTY: And do you believe, based
6 upon your review of the landscape plans for this
7 particular project, that there is adequate
8 buffering for this property?

9 MS. MARTIN: No, and the reasons have been
10 stated earlier tonight that they don't -- can't
11 guarantee the buffer.

12 MR. DOUGHERTY: And, again, the reasons
13 that you're referring to are what?

14 MS. MARTIN: That a -- well, I mean, I
15 think the width of the buffer is -- and the fact
16 that it's deciduous, and that we live in a four
17 season environment, there's not a way to confirm
18 that there will be -- not be sight lines. I
19 appreciate all of the transects. I am not aware
20 that transects are also taking into account second
21 stories of homes and views from second stories. So
22 I think there's another sort of component of height
23 that would need to be further looked at.

24 MR. DOUGHERTY: All right. Now, I'm going
25 to ask you about another standard, Number 5, and

1 I'm going to restrict it to the aspect of glare.
2 But Number 5 of the development and landscaping
3 design standard purposes is to minimize noise,
4 dust, pollution, and glare that may be generated by
5 a development. Are you aware of that standard?

6 MS. MARTIN: Yes.

7 MR. DOUGHERTY: All right. Have you seen
8 anything in the landscape plans that would minimize
9 the glare that may be generated by this solar
10 project?

11 MS. MARTIN: No. There doesn't seem to be
12 a way to know that.

13 MR. DOUGHERTY: All right. Now, in the
14 landscaping standards from general requirements,
15 Subsection 1B, it states that a minimum of 15
16 percent of a development's parcel shall be
17 landscape. Have you been able to -- is it your
18 opinion that you can clearly see that 15 percent of
19 the development's parcel is landscaped with respect
20 to this project?

21 MS. MARTIN: No.

22 MR. DOUGHERTY: And were you able to see
23 anything to that effect in the plans that you
24 reviewed?

25 MS. MARTIN: No.

1 MR. DOUGHERTY: And as far as the plans
2 are concerned, you're aware that this involves more
3 than one lot, correct?

4 MS. MARTIN: Yes.

5 MR. DOUGHERTY: And what has been at issue
6 for the landscape plans has been just a leased
7 parcel. Are you aware of that?

8 MS. MARTIN: Yes.

9 MR. DOUGHERTY: Have you seen any
10 landscape plans for the remaining areas of the lots
11 outside of the leased parcel?

12 MS. MARTIN: No.

13 MR. DOUGHERTY: So you can't tell what
14 efforts have been taken, if any, to minimize glare
15 and to make it compatible with the surrounding
16 area, other than what efforts have been put forth
17 with regard only to the leased area, correct?

18 MS. MARTIN: Correct.

19 MR. DOUGHERTY: Do you think it would be
20 important to know the conditions of the surrounding
21 parcel outside of the leased area that are
22 contiguous to the actual lots that are to be --
23 that are on the development?

24 MS. MARTIN: Yeah, I think that would be
25 very helpful.

1 MR. DOUGHERTY: And why would that be
2 helpful?

3 MS. MARTIN: Well, it's, you know, land --
4 I mean, it's a continuous -- although there's legal
5 differences between properties, the land, right,
6 connects and so unless you're also looking at the
7 adjacency, you can't really know fully the
8 impact -- yeah. You can't fully know the impact.

9 MR. DOUGHERTY: Now, you were here when
10 you heard the presentation of all the other
11 witnesses for the applicant at the prior hearing
12 and this evening, correct?

13 MS. MARTIN: Yes.

14 MR. DOUGHERTY: Now, in Number 2 under the
15 landscape standards involves site activities, have
16 you reviewed the site activities section that I
17 provided you with respect to the landscaping
18 standards?

19 MS. MARTIN: Yes.

20 MR. DOUGHERTY: And Subsection C of that
21 section states, "Protection of existing plantings.
22 Maximum effort shall be made to preserve existing
23 vegetation on site, especially specimen trees." Is
24 it your opinion that the landscape plans and
25 designs and the plans for the development of the

1 property you heard the testimony of in the prior
2 hearing and this evening have taken the maximum
3 effort to preserve existing vegetation on site,
4 especially specimen trees.

5 MS. MARTIN: No. There's no evidence of
6 that.

7 MR. DOUGHERTY: All right. And what would
8 you need in terms of evidence to determine whether
9 or not maximum effort had been made to preserve
10 existing vegetation on the site, especially
11 specimen trees?

12 MR. MARTIN: Well, an example might be
13 taking a site survey which would have every tree
14 documented on it individually that would be over
15 the size of, say, 6 inches in caliper. There would
16 be a plan that has those mapped and registered by a
17 surveyor. And then they would be -- would have
18 been assessed on site by walking the site, and
19 there would be a plan that sort of clarifies what
20 trees are of that high value. And it would be
21 marked that they should be -- remain, and there
22 would also be details and plans getting at how
23 those would be protected to remain.

24 MR. DOUGHERTY: Now, is there any way for
25 you to tell, and I'm going to refer you to

1 Subsection C1 of the landscaping standards under
2 Subsection 2, site activities, is there any way for
3 you to tell if, as I'm going to quote, "If specimen
4 trees are removed, they shall be replaced in kind
5 in accordance with a landscape plan." Have you
6 seen any evidence of that being undertaken with
7 regard to the landscape plans that have been
8 presented?

9 MS. MARTIN: No. That level of
10 specificity has not been presented.

11 MR. DOUGHERTY: And with regard to slopes,
12 it talks about -- although that's probably -- are
13 you familiar with slopes and cuts?

14 MS. MARTIN: Yes.

15 MR. DOUGHERTY: All right. Another
16 Subsection B, it says, "slopes. All cuts and
17 fills, terraces, and right-of-way embankments with
18 slopes greater than 1:3 shall be landscaped, so as
19 to prevent erosion." Have you seen any evidence of
20 that?

21 MS. MARTIN: I -- I mean, possibly --
22 possibly. I mean, obviously there's topography on
23 these plans. I can't exactly determine if what
24 you're saying has been covered in these plans.

25 MR. DOUGHERTY: Okay. Now, there's

1 another subsection that's very important with
2 respect to the -- my clients in particular. Under
3 Subsection 6, buffer strips. Have you reviewed
4 those standards?

5 MS. MARTIN: Yes.

6 MR. DOUGHERTY: And I provided you
7 those --

8 MS. MARTIN: Yes.

9 MR. DOUGHERTY: And with regard to the
10 buffer strips, under Subsection A, it states, "All
11 developments shall provide an approved year round
12 buffer, a minimum of 8 feet in height, consisting
13 of fencing, vegetation, berms, rocks, boulders,
14 mounds, or combinations thereof to, one, shield
15 abutting properties from negative impacts from the
16 developer." Have the buffer strips that have been
17 designed and shown in the plans before the
18 commission here, are they adequate to shield the
19 abutting properties from the negative impacts of
20 this solar development?

21 MS. MARTIN: I characterize what's been
22 presented as a strategy, and given the sensitivity
23 of the site, there's been mention of ledge. We've
24 already talked about the existing tree canopy that
25 has not been fully documented. I think what's been

1 presented is a strategy that may work in some
2 places and may not work in other places. With the
3 ledge, there could be places where that buffer
4 isn't even possible because there's ledge and
5 there's no planting possible. So there's like
6 another level of information that seems to be
7 missing.

8 MR. DOUGHERTY: Okay. Now, with regard to
9 Subsection C of the buffer area dimensions, it
10 says, "The planting shall provide maximum
11 protection to abutting properties and avoid damage
12 to existing plant materials." Can you see whether
13 or not that has been -- that standard has been met
14 with regard to the landscape plans?

15 MS. MARTIN: It does not appear to have
16 been that yet, anyway.

17 MR. DOUGHERTY: Do you have any other
18 comments that you'd like to add with respect to
19 what you've seen here, based upon your experience
20 as a landscape -- a registered landscape architect?

21 MS. MARTIN: Well, I mentioned the ledge
22 locations, I think, would need to be fully mapped
23 and understood at a degree that's beyond what has
24 been expressed so far in order to prove that that
25 buffer can be planted and succeed. And I just

1 think that generally there's a lack of specificity
2 about how to -- how the buffer's being designed to
3 actually guarantee that a buffer could do what it's
4 being asked to do in this case.

5 MR. DOUGHERTY: And in this case, from
6 what you've seen, will there be a negative impact
7 upon the abutting properties from a landscaping
8 perspective in terms of what the abutting
9 properties will be faced with with regard to this
10 development?

11 MS. MARTIN: Yeah. I mean, my first
12 comment is in general this amount of clear cutting
13 obviously has a negative impact on the abutters.

14 MR. DOUGHERTY: And insofar as all of your
15 testimony thus far this evening, have you made
16 these statements and brought these conclusions to
17 light based upon a reasonable degree of expertise
18 in the area of landscape architecture?

19 MS. MARTIN: Yes.

20 MR. DOUGHERTY: Thank you. I have no
21 further questions. Thank you.

22 MR. MURRAY: Procedurally, will we be
23 allowed to question Ms. Martin?

24 MR. MARSELLA: Hold on. Ms. Martin,
25 before you go, I don't know if the board has any

1 questions.

2 CHAIRMAN SMITH: Commissioner Barbieri.

3 MR. BARBIERI: Hi. Good evening and thank
4 you for being here with us tonight. Just a
5 question, have you ever worked with any other
6 landscape design or reviewed any landscape design
7 for any solar farms before?

8 MS. MARTIN: No, not for solar farms.

9 MR. BARBIERI: And my second question,
10 have you ever walked this particular site to see
11 the site and to gain perspective of the
12 recommendation that you're making here to us
13 tonight?

14 MS. MARTIN: I've driven past it, but I
15 don't trespass on private property. So, no, I have
16 not had a tour of the site.

17 MR. BARBIERI: Thank you.

18 CHAIRMAN SMITH: Other questions from the
19 commission, if any? Yes, Commissioner Coupe.

20 MR. COUPE: Hi. Could you explain or
21 clarify the standards that you're commenting on,
22 what are those standards again? There was a lot
23 going on I missed.

24 MS. MARTIN: I don't know those specific
25 names.

1 MR. DOUGHERTY: These were taken from the
2 Cranston Subdivision Development Plan Review
3 Standards, Section 17.84.140, Development and
4 Landscape Design Standards.

5 MR. COUPE: So those are for the
6 Development Plan Review Committee?

7 MR. DOUGHERTY: It's for Development Plan
8 Review.

9 MR. COUPE: Okay. I haven't heard these
10 standards before -- our commission before. So I'm
11 trying to put them in perspective. In the
12 beginning, your first comment was that it seems
13 like this project is not compatible because
14 there'll be clear cutting. We've approved many
15 projects that involve clear cutting. So I'm not
16 sure how someone could develop any wooded area
17 without clear cutting. So --

18 MS. MARTIN: Actually, a lot of projects
19 can, again, with the same things I talked about
20 earlier, an assessment of the existing tree canopy.
21 There are many projects that are modified to
22 protect existing habitat, existing trees. That
23 happens frequently, increasingly. So, actually
24 with climate change and other issues.

25 MR. COUPE: Okay. Are you familiar with

1 any housing developments in the city of Cranston
2 where they've not clear cut wooded areas and tagged
3 individual trees?

4 MS. MARTIN: No, not in Cranston, but
5 there are projects that I work on that that is
6 certainly the case.

7 MR. COUPE: Okay. And then there was
8 discussion of 15 percent of the lots need to be
9 landscaped. I got lost in that discussion a little
10 bit. Could you clarify what you were -- what your
11 conclusion was there.

12 MR. DOUGHERTY: Just for your edification,
13 Mr. Coupe, we were referring to Section 17.84.140,
14 Subsection C, Landscape Standards, and below that,
15 1B, a minimum of 15 percent of a development's
16 parcel shall be landscaped.

17 MS. MARTIN: Yeah. It's not clear that 15
18 percent is landscaped.

19 MR. COUPE: So your opinion is that 15
20 percent of the entire leased parcel would have to
21 have landscape covering?

22 MR. DOUGHERTY: I don't believe that's
23 what she testified to.

24 MR. COUPE: That's what I'm trying to get
25 at. So what is the conclusion there?

1 MR. DOUGHERTY: Well, the issue is, if I
2 may, Mr. Coupe, the issue is that it's a mandatory
3 15 percent of a development's parcel shall be
4 landscaped. Parcel does not refer to leased area.
5 Parcel is when it's used interchangeably with the
6 lot or lots. And there was, I believe, you -- and
7 I ask you, Ms. Martin, can you opine that 15
8 percent of the development's parcel is landscaped,
9 in this instance?

10 MS. MARTIN: No. There's not a way for me
11 to know that.

12 MR. COUPE: So that parcel would include
13 the tree farm?

14 MR. DOUGHERTY: That's our argument. Our
15 argument from day one has been that this project is
16 not being reviewed properly because you're looking
17 -- you're looking at an artificially leased area.
18 When all the development regs and all the grants of
19 right from zoning and planning run with the land,
20 with the lot, there's no way to carve out, unless
21 you subdivide the lot, the leased area from the
22 entirety of the lots. You're looking at a
23 microcosm that's not true, and there's going to be
24 a lot more testimony about that coming up from
25 Mr. Bronk.

1 MR. COUPE: Okay. Fine. That's well
2 beyond the scope of my question, which is simply a
3 tree farm, I would say, is potentially landscaped.

4 MR. MARSELLA: Is that question for Mr.
5 Dougherty or to the expert?

6 MR. COUPE: It was to the expert, and I
7 think I understand it now. So thank you.

8 CHAIRMAN SMITH: Any other questions from
9 commission members? Commissioner Barbieri.

10 MR. BARBIERI: I just want to be clear.
11 Your testimony is based off of just driving by and
12 what you've seen on the maps. You didn't go to
13 the -- you didn't -- you said you couldn't go on
14 the property, obviously.

15 MS. MARTIN: Right. My job is I read
16 surveys, I read planting plans. I -- this is what
17 I do for a living is read landscape plans. So we
18 often work not having walked the site. So that's
19 part of our expertise.

20 MR. BARBIERI: All right.

21 CHAIRMAN SMITH: Okay. Other questions,
22 commission members? Okay. Thank you very much,
23 Ms. Martin.

24 MR. DOUGHERTY: Mr. Chairman, I'm not sure
25 what the commission's pleasure is. Mr. Bronk is

1 going to be a rather lengthy testimony. I don't
2 know what you were thinking of in terms of a break.
3 I know that Mr. Couple has just stepped out. I
4 don't if the commission -- it's up -- again, I'm
5 just making a --

6 CHAIRMAN SMITH: Yeah. Out of
7 consideration to our transcriptionist who is doing
8 all the heavy lifting here tonight, what is your --
9 would you like to take a quick break? Okay. Five
10 minutes.

11 (SHORT RECESS)

12 CHAIRMAN SMITH: Okay, everyone. Thank
13 you again for your patience. We're going to
14 continue the testimony, but I do want to be
15 cognizant of everybody's time and that everybody
16 will have an opportunity to speak and make
17 comments, ask questions. With the number of people
18 we have to testify, it is, I think, pretty
19 obviously -- obvious we're not going to be able to
20 do all of that tonight. So I just wanted to alert
21 anybody we're going to take the next expert
22 testimony and look to finish up tonight between 9
23 and 9:30. And then whatever has not been done, we
24 will continue to the meeting of April 4th, but
25 we'll have to take a vote on that. Again, I know

1 that no one's happy about that, but this is -- in
2 order to do this right, it is going to take the
3 time. So thank you for your patience. Okay.

4 Mr. Dougherty.

5 MR. DOUGHERTY: Thank you, Mr. Chairman.

6 I'd like to call Paige Bronk to the stand.

7 Mr. Bronk, could you please state your full name
8 and give the board your background in terms of your
9 education and training.

10 MR. BRONK: Sure. Paige Bronk, 24
11 Weatherly Avenue, Newport, Rhode Island. In terms
12 of my education, about 30 years of community
13 planning and development experience. I'm a
14 certified planner, certified 1996. About half of
15 my experience is in Rhode Island. The other half
16 in other states, Connecticut, Kentucky, and
17 Georgia. That covers it.

18 MR. DOUGHERTY: And, Mr. Bronk, after your
19 name on your resume, you have the initials AICP.
20 Would you please tell us what that is.

21 MR. BRONK: American Institute of
22 Certified Planners.

23 MR. DOUGHERTY: And how long have you been
24 certified by the American Institute of Certified
25 Planners?

1 MR. BRONK: Since 1996.

2 MR. DOUGHERTY: Mr. Bronk, your resume
3 that is part of the record before the commission,
4 is that a true and accurate representation of your
5 professional highlights, your professional
6 experience and training?

7 MR. BRONK: Yes.

8 MR. DOUGHERTY: I'm presenting Mr. Bronk
9 as an expert in planning. Now, Mr. Bronk, have you
10 had the opportunity to review this project and the
11 master plan application?

12 MR. BRONK: I have.

13 MR. DOUGHERTY: And did you have an
14 opportunity to review Mr. Pimentel's report and
15 supplemental report with respect to the consistency
16 with the Comprehensive Plan?

17 MR. BRONK: Yes.

18 MR. DOUGHERTY: And did you have an
19 opportunity to review all of the documents that are
20 submitted as part of the application here before
21 the commission?

22 MR. BRONK: Yes.

23 MR. DOUGHERTY: All right. Do you agree
24 with the conclusions that are contained in
25 Mr. Pimentel's report and supplemental report?

1 MR. BRONK: No, I do not.

2 MR. DOUGHERTY: Okay. Have you had an
3 opportunity to draw your own analysis or
4 conclusions with respect to this project, the
5 procedure, and the consistency with the
6 Comprehensive Plan?

7 MR. BRONK: Yes.

8 MR. DOUGHERTY: Mr. Chairman, for purposes
9 of brevity, I think it would be good to allow
10 Mr. Bronk to expound in narrative form rather than
11 me asking a question. I could do either, whatever
12 the pleasure is, but I think it would be more
13 streamline.

14 CHAIRMAN SMITH: That would be acceptable,
15 certainly.

16 MR. DOUGHERTY: Very good. Mr. Bronk,
17 would you summarize for the board some of your
18 points and what you did in connection with
19 preparation for giving your testimony here this
20 evening.

21 MR. BRONK: Conducted a site visit, of
22 course not the private property itself, but the
23 neighborhood and the surroundings. I have looked
24 at the Comprehensive Plan. I've looked at the 2010
25 Comprehensive Plan, the 2017 Comprehensive Plan

1 amendment, zoning, the subdivision and land
2 development regulations, in particular the master
3 plan.

4 MR. DOUGHERTY: Okay. So now, Mr. Bronk,
5 would you please summarize your findings and
6 conclusions with respect to the inquiry that you
7 made with regard to this particular project.

8 MR. BRONK: In summary, my focus has been
9 on the Comprehensive Plan and the zoning and my
10 findings in doing a fairly thorough review of those
11 documents, in particular the 2010 Comprehensive
12 Plan, is that the request, the project request, is
13 not consistent. Also, I'm prepared to make
14 comments regarding the 2017 amendment, with a heavy
15 emphasis on information provided by the State, the
16 two main concerns that the State had with that
17 amendment, and then, lastly, some comments
18 regarding zoning and the master plan.

19 MR. DOUGHERTY: Please proceed.

20 MR. BRONK: As stated, I have conducted a
21 site plan, a site review for the plan. Also have
22 done basically my own inspection on the property.
23 I did find that it's a rural residential property,
24 west of Natick Avenue. As was indicated by the
25 plan tonight, basically, the land area roughly two-

1 thirds of it closest to Natick is impacted by this
2 development. I also found that overall there are
3 site constraints on the property, and that the
4 development proposes to basically eliminate most of
5 the forested area. There would be significant land
6 disturbance, grading infrastructure, roadways,
7 trenching, berms, and storm water collection
8 systems.

9 Through my analysis, I basically came to
10 the conclusion that this is not a conservation
11 program. This is indeed a physical land
12 development project. I'll touch on that shortly.
13 The general concern is the scale of it, the land
14 disturbance, the steep slopes, removal of all
15 vegetation, which would exacerbate storm water flow
16 and cause issues with erosion, sedimentation, and
17 increased water runoff.

18 Existing conditions, as I stated, there
19 are significant constraints on this property. This
20 property hasn't been developed historically. It's
21 been in this state for centuries. It is surrounded
22 by residential structures and neighborhoods. The
23 current zoning, A80, which is basically 2 hour -- 2
24 acre zoning for residential structures. There's
25 also mention there's an active tree farm in the

1 upslope area. There are numerous rock outcroppings
2 and boulders, steep slope, grade change which was
3 testified earlier. I just would like to point out
4 and it's referenced on Page 3 in my report. I'm
5 not going to go into that detail, but the level of
6 slope, the grade change on this site, is fairly
7 significant. It goes from about -- basically, it
8 goes 150 feet traversing down in elevation. My
9 report on Page 3 shows a nice illustration of that
10 slope particularly in the middle of the land area
11 with 5 foot increments. That's 150 foot change in
12 grade over a 1200 foot horizontal change. That's a
13 fairly -- that's roughly a quarter mile. It's a
14 short distance that a 150 foot drop would occur.
15 Highest point on the site is about 250 feet, and
16 the lowest is about 105 feet, which is down near
17 the wetlands.

18 The applicant site plan itself classifies
19 the property as having a moderate to steep slope.
20 On one of the site plan sheets provided by the
21 engineer, you'll find that that's highlighted in
22 yellow. It is quite obvious. Due to the slope and
23 the drainage, that creates that lower wetland area,
24 which is in the southeastern area. That wetland
25 was created a long time ago. It's naturally

1 formed. The engineering documentation also states
2 that all storm water from the site eventually
3 discharges to an existing wetland system, which
4 finally discharges to the Meshanticut Brook. The
5 report also states that there are four design
6 points which have been identified within the
7 proposed development area. Each one of these
8 design points is classified as a water receiving
9 area. The engineering report also states that
10 there's a high water table ranging from 0 to 78
11 inches. That would be below grade, about 6 feet
12 below grade. So high water table that is fairly
13 close to the surface of the land.

14 Just working on the Comprehensive Plan, as
15 I stated, I'd like to touch on the 2010
16 Comprehensive Plan and also the 2017 amendment. So
17 the City of Cranston last updated its Comprehensive
18 Plan in 2010, updated not amended, updated meaning
19 full update, all the elements. Statewide Planning
20 for the State of Rhode Island has indicated that
21 the plan has expired. There certainly were some
22 amendments that were made in 2017, but they did not
23 touch on all of the elements, they did not touch on
24 the maps. They did not deal with the Comprehensive
25 Plan in its entirety. Actually, the 2010 plan,

1 since that was the last plan that was updated, that
2 actually holds greater weight than the amendment in
3 2017. And the reason is that the plan has to be
4 reviewed holistically. It's not -- it's not really
5 appropriate to cherry pick certain areas --
6 sections of the Comp. Plan and use it for a
7 project's benefit. The entire plan, all of the
8 elements, all the maps, and its entire holistic
9 manner is supposed to be used in evaluating
10 projects. This would include goals and policies,
11 the land use element, housing element, economic
12 development element, natural resources element,
13 historic preservation element, services and
14 facilities element, open space and recreation
15 element, circulation element, and also
16 implementation section.

17 So all of the relevant goals and policies
18 from the 2010 Comp. Plan I've included in my report
19 found on Pages 6 through 9. I'd like to touch on a
20 few of the highlights that are particularly
21 relevant. The largest element that pertains is the
22 land use element.

23 Land use Element Goal 1, preserve the
24 rural quality and critical resources of western
25 Cranston through appropriate land use controls.

1 With that, there's Land Use Policy 1.1, promote
2 residential land use patterns that concentrate in
3 compact development and maintain significant
4 percentage of open space.

5 The second policy, 1.2, preserve
6 insignificant tracks, 20 percent of the remaining
7 open space in Western Cranston or 500 acres,
8 exclusive of wetlands through restrictions
9 associated with clustering of future development or
10 through purchase.

11 Another policy, 1.3, preserve existing
12 farmland and recreational open space areas through
13 land use regulation and taxation policies. Another
14 policy, 1.4, preserve and enhance the quality of
15 existing valuable resources, including wetlands,
16 surface water, groundwater, wildlife habitats, and
17 migration corridors, historic sites, scenic views,
18 and unique cultural resources.

19 Land use Goal 3, locate new commercial
20 development in western Cranston in highly
21 accessible strategic locations.

22 Land use Goal 5, ensure that redevelopment
23 of major sites for economic development
24 incorporates the protection of environment and
25 neighborhood character.

1 Land use Goal 9, protect and stabilize
2 existing residential neighborhoods. Land use Goal
3 10, ensure future residential growth in western
4 Cranston conforms to conservation subdivision
5 design. Of course, that pertains to residential.
6 Land use Goal 11, enhance services and facilities
7 in western Cranston that support future growth.
8 Land use Goal 13, preserve scenic landscapes and
9 view sheds.

10 The Housing element. Housing Goal 1,
11 ensure that future residential development in
12 western Cranston is consistent with the capacity of
13 the area's natural resources and infrastructure and
14 preserves community character. Housing Goal 3,
15 achieve a balance between economic development and
16 housing in the city. With that, Policy 3.2,
17 maintain the stability of established neighborhoods
18 in connection with continued economic development
19 and revitalization, in particular, protect
20 neighborhoods abutting the city's major commercial
21 corridors from adverse impacts arising from
22 incompatible uses.

23 Economic development element. Goal Number
24 3, add to the city's taxable property base by
25 constructing industrial and commercial structures

1 which are properly designed and sited in keeping
2 with environmental, planning, and design
3 considerations. Goal 11, target sites for
4 industrial and commercial projects. Under that
5 goal are several policies that are specific.
6 There's the reference to former trolley barn site,
7 Route 2 corridor. There's reference to easy access
8 to T. F. Green Airport. There's reference to Park
9 Theater redevelopment in Rolfe Square. There's
10 also reference to redeveloping the Pastore Center.
11 Specific. Does not reference the site for economic
12 development.

13 Natural and cultural resources element.

14 Goal 1, protect and enhance Cranston's natural
15 environment and resources, establish a balance
16 between natural resource protection and
17 growth-related needs. With that, Policy 1.7,
18 preserve and protect environmentally sensitive
19 natural resource areas, including prime farmlands,
20 steep slopes, flood plains, watersheds, aquifers,
21 shorelines, and coastal and inland wetlands.
22 Policy 1.8, direct new growth away from
23 environmentally sensitive areas such as wetlands,
24 steep slopes and soils that have severe limitations
25 for onsite wastewater disposal. Goal 3, protect

1 and enhance the quality of Cranston's ground and
2 surface water resources and supplies in order to
3 meet, or where appropriate, exceed State and
4 Federal water quality standards. With that Policy
5 3.2, require construction practices that minimize
6 runoff, soil erosion, and sedimentation.

7 The last element, open space and
8 recreation, Goal 3, undertake administrative and
9 management actions that support recreation and open
10 space programs through partnerships. With that
11 Policy 3.3, adopt and encourage use of zoning
12 regulations that support conservation of open space
13 and residential development.

14 Regarding the mapping, the most important
15 map in the Comprehensive Plan would be the future
16 land use map that guides where a community is
17 intending to -- where they want to end up and where
18 they want to make their future implementation,
19 typically through zoning or a land regulation.
20 Map 2.1 is the future land use map. Within it, it
21 classifies as neighborhood and subject property as
22 residential, and specifically calls out a density
23 on that map of less than one unit per acre.

24 What's important to realize, this is
25 actually the least density out of all the

1 categories on the map with the exception of open
2 space and water, of course, which typically don't
3 have any development, but this is the least density
4 out of any category or land use on that map.

5 So specific to the 2010 Comprehensive
6 Plan, I find that the solar proposal is not
7 consistent with this plan, mainly because the
8 proposed land use is residential with a density of
9 less than one residential dwelling per acre. The
10 land use element never contemplates using
11 residential for -- residential large lot properties
12 for commercial uses. Also what's particularly true
13 is that there's a focus in western Cranston over
14 and over. This is a geographically specific area
15 that's referenced for protection or selective
16 neighborhood development.

17 As I mentioned, the economic development
18 section lists specific properties for
19 consideration. This is not one of them. The
20 natural resources -- natural and cultural resources
21 element talks about an open space preservation
22 strategy for western Cranston, promotes
23 concentration of residential development in compact
24 areas such as cluster zoning to protect land. It
25 did not reference the promotion of commercial

1 activity in residential zones.

2 Lastly, the open space and recreation
3 element talks about conservation of open space with
4 development, primarily residential. Regarding the
5 2017 Comprehensive Plan amendment, which I believe
6 many are aware of, most are aware of, that
7 amendment definitely dealt with solar as well. It
8 was submitted to the State of Rhode Island, but was
9 not accepted. There's a memo that's dated
10 September 12, 2017, that was provided from the
11 State to the City of Cranston, particularly the
12 planning department. My report on Page 10 has
13 certain excerpts from that memo. I will touch on
14 some of that here. But in short, the State
15 indicated that it cannot approve the proposed
16 amendment since the full previously approved
17 Cranston Comprehensive Plan had expired. That is
18 straight from their language. Within the memo that
19 was provided to the city, the State attempted to be
20 helpful, basically stating that they would be
21 willing to provide comments on much of the language
22 to assist Cranston in the future when Cranston
23 works on doing a full update to the Comprehensive
24 Plan, but it was clear that the proposed amendments
25 could not be approved by the State because the

1 document plan had expired.

2 I'm just going to read a couple of lines
3 from that State memo, basically says from the
4 State, granting State approval of an amendment to a
5 Comprehensive Plan that does not have State
6 approval would run contrary to the goals and intent
7 of the act, State statute basically, and,
8 therefore, would have to be denied. The State was
9 forced to actually make a determination on approval
10 or denial, it would have been a denial. Carrying
11 on, they say, however, the rule also states that
12 the amendment they reviewed under the same process
13 that is used to review draft material. Using this
14 process, my office, the State, is able to provide
15 comment and technical assistance intended to ensure
16 that the material covered in the amendment would
17 not be an impediment to State approval when the
18 full plan is updated and submitted for review.

19 Additionally, the State offered some
20 guidance and they provided two comments, and they
21 basically wanted to provide some assistance to
22 Cranston and offering some guidance with -- when
23 this language moves forward.

24 The first comment, this is from the State,
25 the amendment, the one provided by Cranston,

1 contains the following statement: Permit the
2 development of renewable energy production
3 facilities in appropriate areas including, without
4 limitation, in the A80, MI -- I'm sorry, M1, M2,
5 and S1 zoning districts. We, the State, recommend
6 that the city delete or clarify the phrase "without
7 Limitation" so as to make clear that the siting of
8 any form of development, including renewable and
9 alternative energy production facilities, needs to
10 be context sensitive and appropriately regulated to
11 protect both the public and the environment.
12 That's the first comment.

13 The second comment from the State, delete
14 or clarify statements that could be interpreted to
15 mean that the city does not consider renewable
16 alternative energy production facilities to be a
17 form of development. The amended language includes
18 statements that appear to say that such facilities
19 should not be considered development. So the State
20 takes issue with that, and they provide examples,
21 which you can read in my report.

22 My analysis on the first item dealing
23 with -- without limitation for these projects, I
24 definitely agree with the State that their
25 interpretation is correct, that the term "without

1 limitation" is not commonly found in planning or
2 land development documents. The term "without
3 limitation" is vague. It offers no clarity on any
4 of the dimensional standards, no context, no
5 meaning. It's unclear as to the legislative intent
6 that supersede all of the other zoning or just a
7 part of it. It's unclear what standards might have
8 applied to it.

9 Just to kind of back test that, if such a
10 facility was to be allowed without limitations,
11 they wouldn't need to go through a process. They
12 wouldn't need to be before you and evaluate what's
13 appropriate, what's too big, where might it go, how
14 are we going to adjust this? Of course -- of
15 course, it's not without limitation.

16 Regarding the second comment that energy
17 production facilities are development. This is the
18 State's comment. I also agree. I think that's
19 correct. The reference to removing development
20 potential for energy development is conflicting.
21 The state found it conflicting. It is conflicting.
22 A development does not prevent development.
23 Temporary development is a form of development.
24 Solar development is not land protection,
25 particularly when it involves significant land

1 disturbance and infrastructure. Once this land is
2 disturbed, it will never be returned to its
3 previous undeveloped state. It doesn't matter what
4 the length of the lease is. Once it's developed,
5 it's developed.

6 As I mentioned before, this land has not
7 been -- it's been undeveloped for centuries,
8 predating zoning. The reason is due to its
9 constraints, due to some of the limitations that
10 are on this property. It's a difficult site.
11 Regarding residential development on this site, any
12 hypothetical future use, it would probably be less
13 intensive than this proposal.

14 So in conclusion, regarding 2017's Comp.
15 Plan, basically it does not protect the property or
16 remove development potential, but it catalyses the
17 intense development in a manner that exceeds what
18 would occur under normal circumstances that would
19 be any residential development.

20 Two last points I'd like to make dealing
21 with the zoning. It is an A80 zoning, single
22 family, two-acre lot, as I mentioned. The zoning
23 has zoning purposes, and those are stated on
24 Page 14 in my report. It's a long list. It deals
25 with public health, safety, morals, and general

1 welfare, orderly growth and development,
2 recognizing natural characteristics of land,
3 including soils, topography, susceptibility to
4 surface and groundwater pollution, wetland. It
5 does not align with those purposes. It does align
6 with Cranston's definition of development. Page 15
7 of my report provides that definition. In short,
8 development, in Cranston, is a manmade change to
9 improved or unimproved real estate. That's what's
10 occurring. It's a development.

11 This proposal also does meet Cranston's
12 definition of structure. Page 15 of my report
13 provides that. A structure is a combination of
14 materials to form a construction for use, occupancy
15 or ornamentation whether installed on, above, or
16 below the surface of a land or water. Permits
17 would be required for both development and a
18 structure. This project is not a passive land
19 activity nor a conservation activity. Therefore,
20 it should comply with the existing A80 residential
21 zoning district regulations. Those regulations,
22 those standards, are listed on Page 16 of my
23 report. They include a 10 percent lot coverage and
24 setback requirements.

25 The last point, master plan review, that's

1 a good part of what is being discussed conceptually
2 at this point in time. There is a listing of
3 purpose statements similar to zoning. You'll find
4 those in my report, and I did find that the
5 proposal does not meet them in entity. There are
6 significant constraints on the site, and the
7 project should be carefully reviewed in
8 consideration of those constraints. Also, I
9 couldn't find information that should be provided
10 as part of the requirements, Cranston's
11 requirements. Archeological significance, any
12 public land that should be dedicated, if any at
13 all. Maybe there wouldn't be any. And also
14 neighborhood impacts. One might be a visual glare.

15 Two final points regarding the erosion and
16 sedimentation control plan. Due to the severity of
17 the cuts that were described at the last meeting
18 that we had, basically those cuts would remove
19 large segments of rock and soil within steep
20 slopes, and they're within pretty close proximity
21 to natural drainage ways, ultimately feeding the
22 wetland. There should be care given to that
23 particular plan.

24 And the last point, aligning with the
25 regulations, there are certain thresholds that were

1 identified in the regulations that would trigger
2 consideration, extra concern. I just raise these
3 for your consideration, basically, land disturbance
4 on slopes that exceed 10 percent. Much of the site
5 has moderate to steep slopes, some of which exceed
6 10 percent.

7 Language dealing with land disturbance of
8 greater than 10,000 square feet, that certainly is
9 occurring with all of the cuts and the installation
10 of the storm water system, et cetera. And then
11 language dealing with grading that exceeds two feet
12 of cut or fill at any point in time combined with
13 concerns for high volumes of fill. Thank you.

14 MR. DOUGHERTY: Not yet. I have a few
15 more questions, Mr. Bronk. Mr. Bronk, I'd like you
16 to just detail in particular the Comment 2 from
17 Division of Statewide Planning where they
18 recommended the deletion or clarification of
19 certain statements in what was proposed as an
20 amendment to the Comp. Plan back then, in 2017 I
21 believe it was. They recommended that it was
22 either deleted or clarified, this particular
23 statement. Use the development of, quote, "Passive
24 alternative energy generation such as solar power
25 as a means of removing the development potential of

1 the land." Is it your opinion that Statewide
2 Planning felt that that was an inappropriate
3 statement in the proposed amendment to the
4 Comprehensive Plan?

5 MR. BRONK: Yes. Yes. They took issue
6 with the proposed language as inferring that the
7 development is preserving the land when, in fact,
8 the development would develop the land.

9 MR. DOUGHERTY: And, again, there was
10 another -- in particular, another comment that the
11 language that they referred to, preserve existing
12 farmland and developable land that is currently
13 undeveloped by temporally -- it says temporally but
14 I believe it's temporarily removing the development
15 potential through land banking by allowing the land
16 to be used for passive alternative energy
17 generation such as solar power. Was that another
18 proposed -- language in the proposed amendment that
19 Statewide Planning found objectionable should have
20 been deleted or further clarified?

21 MR. BRONK: Yes.

22 MR. DOUGHERTY: All right. And then,
23 lastly, temporarily removing the development
24 potential of the land located in western Cranston
25 (land banking) by allowing the land to be used for

1 passive alternative energy generation such as solar
2 power. Is that another one of the statements that
3 Statewide Planning recommends be deleted or
4 clarified?

5 MR. BRONK: Yes.

6 MR. DOUGHERTY: And is that based upon the
7 statements you made that this alternative energy
8 generation and solar project in general are
9 developing?

10 MR. BRONK: That's correct.

11 MR. DOUGHERTY: Now, Mr. Bronk, I'd also
12 like to just ask you a couple of questions about
13 the development plan review. Have you engaged in
14 development plan review in the course and conduct
15 of your work as a certified planner?

16 MR. BRONK: Yes.

17 MR. DOUGHERTY: Doesn't development plan
18 review generally look at the entirety of the lot
19 upon which the development is being undertaken?

20 MR. BRONK: Yes. Lot or lots.

21 MR. DOUGHERTY: And is it important for
22 development plan review to examine the entirety of
23 these lots at issue?

24 MR. BRONK: Yes.

25 MR. DOUGHERTY: And why would that be the

1 case? And if you could, with regard to this, for
2 instance, there's a leased area within a couple of
3 lots here, and we're only looking at the leased
4 area. Why would it be important to look at the
5 entirety of the lots upon which the leased area is
6 located from a development plan review perspective?

7 MR. BRONK: Two reasons. First and
8 foremost, the requirements that are found either in
9 zoning or land development regulations pertain to
10 the entire lot of record or lots of record, if
11 possibly they'd be combined. Secondly, it deals
12 with the impact itself. Impacts from developments
13 are not contained simply to a fraction of a lot or
14 a parcel. There could be impacts that extend
15 beyond. Regarding the lease, people lease and
16 sublease properties all the time. Municipalities
17 are governed by the lot of record, not some
18 fraction of the whole.

19 MR. DOUGHERTY: Now, Mr. Bronk, I'm going
20 to just throw this out there for you to review and
21 comment on the next question. There is a lease of
22 this property. It's public record, and it will be
23 placed in the record of these proceedings. It
24 references the potential for future development of
25 housing on the lots in question. Would it be

1 important for this commission in any development
2 plan review to know the extent of what is being
3 contemplated with respect to development on the lot
4 when analyzing this particular solar project?

5 MR. BRONK: Definitely. And, typically,
6 separate and apart from this project, but typically
7 a larger master plan would have to identify the
8 proposed uses for all areas; and if there's a
9 fraction that is yet -- if there's a fraction
10 that's not known, it could be labeled for future
11 development or if there's a particular future use,
12 that would be labeled as well. But, typically,
13 there is an accounting for all of the land areas on
14 that parcel as to what their future use would be.

15 MR. DOUGHERTY: And would you consider the
16 master plan application for development plan review
17 to be defective and incomplete as a result of the
18 failure to acknowledge and show the entirety of the
19 lots at issue?

20 MR. BRONK: It's common planning practice
21 to expect that all areas will be addressed in some
22 fashion with a master plan. I'm unaware of any
23 past interpretations that the City of Cranston has
24 made. Based on my experience and the places I've
25 worked, I would find it deficient.

1 MR. DOUGHERTY: Okay. Now, with respect
2 to the testimony and the report that you have
3 placed into the record here for purposes of this
4 public comment and hearing -- public meeting
5 rather, are the conclusions made and the work
6 undertaken and the statements made based upon your
7 professional experience to a reasonable degree of
8 certainty based upon your certifications in
9 planning and expertise in planning?

10 MR. BRONK: Certifications, but I would
11 say experience, expertise, yes.

12 MR. DOUGHERTY: Okay. Thank you. Turn
13 him over to the commission.

14 CHAIRMAN SMITH: Thank you. Other
15 questions for Mr. Bronk from members of the
16 commission. Commissioner Frias.

17 MR. FRIAS: I just actually have a few
18 questions for you, Mr. Bronk. Good evening. I
19 just want to -- first, a clarification. I know you
20 distinguish, excuse me, you discussed a 2017
21 amendment. You note that Statewide Planning did
22 not approve it, and the faults that you have
23 indicated that were with it, that amendment, but my
24 question is when you find -- in your testimony, you
25 said that this solar project is inconsistent with

1 the Comprehensive Plan. When you make that
2 statement, do you also include the 2017 amendment?

3 MR. BRONK: Yes.

4 MR. FRIAS: Thank you. When, on some
5 zoning questions, you go at length in your
6 testimony to talk about how this is not consistent
7 with general purposes in the zoning ordinance, but
8 you don't discuss the zoning ordinance -- the
9 amendment to the zoning code in 2015, the ordinance
10 that dealt with solar. Would you -- do you believe
11 that this solar project is consistent with that
12 zoning ordinance, or you just -- I'll ask that.

13 MR. BRONK: I'm going to stop short of
14 providing any legal advice, but I will say my
15 opinion at the moment is the use is likely allowed
16 by zoning as a result of those amendments, the
17 zoning amendment. However, there were no changes
18 of any specificity to the zoning ordinance that
19 addresses any dimensional requirements, namely, lot
20 coverage. So I would take the position if there
21 weren't changes, everything that wasn't changed is
22 still valid. I'll stop there.

23 MR. FRIAS: I understand. I understand
24 the rest of your testimony, that you have problems
25 with how it doesn't comply with other aspects of

1 the zoning code, but I just wanted to understand
2 that particular aspect of the zoning code. Now,
3 I'm just going to ask you a few question you
4 probably heard me ask the other planning expert,
5 Mr. Pimentel. Do you believe that the idea --
6 excuse me -- is the concept of land banking
7 commonly defined as something involving solar
8 development in the planning profession at the
9 national level?

10 MR. BRONK: Land banking in general?

11 MR. FRIAS: Is solar development --

12 MR. BRONK: Solar?

13 MR. FRIAS: Yes. When the term "land
14 banking" is used amongst planners generally at the
15 national level, does that concept include solar
16 farms?

17 MR. BRONK: I actually don't necessarily
18 think I'm an expert in that. I'm aware of land
19 banking, but not in a solar context.

20 MR. FRIAS: Can you explain to me what
21 your definition of -- what your understanding is
22 land banking as a professional planner?

23 MR. BRONK: My experience has been land
24 banking is used for development -- a long-term
25 development goal. It could be housing. Maybe a

1 community desires to create future industrial
2 development, et cetera. That's my experience.

3 MR. FRIAS: Has a solar farm -- in your
4 experience as a planner, has solar farm development
5 ever been considered a form of conservation land
6 banking?

7 MR. BRONK: No.

8 MR. FRIAS: In your opinion as a planner,
9 is it generally common practice to keep
10 manufacturing facilities away from residential
11 developments?

12 MR. BRONK: Generally, yes.

13 MR. FRIAS: You've reviewed our
14 Comprehensive Plan. Obviously, you referenced Land
15 Use Principle Number 9 about protecting stabilized
16 neighborhoods. Are solar farms, solar
17 developments, consistent with that land use goal?

18 MR. BRONK: No.

19 MR. FRIAS: Are you also aware as you, I
20 think you said in your testimony, the housing goal
21 Number 4 about promoting housing opportunities for
22 a wide range of household types is trying to
23 quote/unquote "land bank" land so there's not
24 subdivision of single-family homes. Is that
25 consistent with that goal?

1 MR. BRONK: I do not believe so.

2 MR. FRIAS: Okay. That's all I've got for
3 you.

4 CHAIRMAN SMITH: Questions from other
5 members of the commission for Mr. Bronk? Any --
6 yes, Commissioner Coupe.

7 MR. COUPE: Hi. If we could just take a
8 step back, I want to understand. Your opinion is
9 that the 2017 amendment to the Comp. Plan is not
10 valid because it wasn't accepted by the State. Is
11 that right? Am I understanding that correctly?

12 MR. BRONK: That's correct.

13 MR. COUPE: Okay. Does that mean every
14 amendment to the Comp. Plan that this commission
15 has recommended and the City Council has approved
16 is also invalid since that 2010 plan expired?

17 MR. BRONK: I would say, just to make it
18 simple, the State has the final authority as to
19 which amendments are to be approved. I'm not aware
20 of any other amendments that have gone to the
21 State. If the State received an amendment and
22 approved it, then I would say it's approved. But I
23 would say that ultimate -- the ultimate authority
24 rests in this state with those amendments.

25 MR. COUPE: So would you say the

1 corollary, if the State did not approve it, then
2 this commission should not have allowed any --
3 should not have approved any master plan in
4 accordance with any amendment to the Comp. Plan?

5 MR. BRONK: Can you repeat that question.
6 I'm sorry.

7 MR. COUPE: Sure. I think you're arguing
8 that the 2017 amendment to the Comp. Plan was
9 invalid because the State didn't accept it, and I'm
10 asking if there were any other amendments that were
11 not accepted by the State, were those also invalid
12 and should we not have approved any master plans or
13 any other plans related to those other amendments?

14 MR. BRONK: Well, I think, first, I can't
15 speak for the -- for this board, this commission.
16 And I would say, though, from a professional
17 planning standpoint, if the State advises directly
18 and proactively as clearly as they did, they cannot
19 accept the amendment to the Comp. Plan and they
20 offer guidance, I think that's shot across the bow
21 that possibly projects should not advance until the
22 Comprehensive Plan is brought into order in a form
23 that the State can approve.

24 MR. COUPE: Is it your opinion that the
25 City of Cranston should not be -- should not have

1 amended its Comp. Plan once the 2010 plan was
2 considered expired by the State?

3 MR. BRONK: I think it's a matter -- I
4 think it's a gray area actually. I think, you
5 know, a major amendment to a Comp. Plan is a fairly
6 heavy lift, and you're getting awfully close to a
7 full update. This is a fairly narrow sliver of an
8 amendment that was sent to the State which was
9 basically complicated by the fact that you -- the
10 municipality had gone far beyond its expiration. I
11 think the State may have been more lenient if it
12 was within the time frame that Cranston was doing
13 the update. I'm not privy to all that information
14 between Cranston and the State. I have to believe
15 that Cranston had been notified by the State that
16 your plan is out of date, and it's really incumbent
17 upon Cranston to do the update. So as time goes
18 on, I would say amendments probably should not be
19 advanced to the State until that update is
20 completed.

21 MR. COUPE: Okay. And I -- not that it
22 matters for this question, but the commission and
23 the planning staff are working on a new Comp. Plan;
24 but in the meantime, it's your professional opinion
25 that we cannot make any amendments to our Comp.

1 Plan?

2 MR. BRONK: It's my position that the
3 State likely will not approve them.

4 MR. COUPE: And without State approval, we
5 cannot act, is that your opinion?

6 MR. BRONK: No, it's not my opinion.

7 MR. COUPE: Okay. So your opinion is we
8 can act without State approval?

9 MR. BRONK: I can't govern this
10 commission. So --

11 MR. COUPE: On planning -- but you're an
12 expert on Rhode Island planning; and as an expert
13 on Rhode Island planning, if this commission wanted
14 to make an amendment to our Comp. Plan, are we
15 entitled to do that?

16 MR. BRONK: I think that the commission
17 can study, analyze, develop plans, make amendments
18 at their will. Really, the question comes down to
19 the legality of it.

20 MR. COUPE: Okay. I'm not going to go
21 through all the -- all the goals of the Comp. Plan,
22 but I'm just going to look at a couple. You did
23 say -- I believe you said it was your opinion that
24 this use is more intensive than residential on this
25 parcel would be.

1 MR. BRONK: Yes.

2 MR. COUPE: Could you explain that.

3 MR. BRONK: Mainly based on the level of
4 land disturbance, lot coverage that's proposed and
5 likely impact to storm water. My sense is if and
6 when there was any single family residential
7 development, it likely, given the constraints on
8 site, would likely be designed in a way that
9 respected the natural terrain, topography, storm
10 water, wetlands. I'm certainly not an architect,
11 but I've seen many residential structures that are
12 kind of built into the hillside. So I do believe,
13 rather than altering wholesale the existing natural
14 conditions, a residential development probably
15 would fit within that site, and it would meet the
16 10 percent lot coverage, maximum lot coverage
17 requirement.

18 MR. COUPE: Does that take into
19 consideration roads that need to be built,
20 utilities that need to be installed?

21 MR. BRONK: Yes.

22 MR. COUPE: Okay. Given the fact that the
23 Comp. Plan calls for density of less than one unit
24 per acre, I -- yeah, I'm sorry, I'm trying to
25 calculate in my head how many potential house lots

1 could be placed on that site. But I think when you
2 compare that level of intensity without new roads,
3 new driveways, new impervious solutions -- new
4 impervious surfaces with the pretty passive use
5 once the lot has been -- once the development has
6 been finished, and you look at the goal of adding
7 to the tax base, do you not think it's possible
8 that you could achieve two of those goals, keeping
9 minimal -- minimally intensive use while increasing
10 the tax base?

11 MR. BRONK: I think the solar farm
12 actually could exist at this site at the
13 appropriate scale that would more satisfy the
14 Comprehensive Plan. I think that's possible. The
15 issue is the existence of significant constraints
16 on the site combined with the proposal, the
17 intensive proposal, on site. So the other point I
18 want to make is that it's not a matter of whether
19 one or two Comprehensive Plan goals or policies can
20 be met. A proposal, a project, has to be evaluated
21 in its entirety. It's not just an economic
22 element, but really all of the -- all of the
23 relevant elements. So, apples to apples, if you
24 had to compare a reasonably scaled residential
25 development to the proposed solar development

1 today, I think a reasonably scaled residential
2 development will be more in compliance with the
3 Comp. Plan.

4 MR. COUPE: Okay, but, you know, we don't
5 get to vote one project over another. So we look
6 at a project that's in front of us and we say is it
7 clearly outside the scope. So, yes, you may say a
8 project may fit other goals, but is it reasonable
9 to say that this project fits some of the goals?

10 MR. BRONK: I think there could be a goal
11 or two within the economic development section, as
12 you said, grow tax base. I mean, every community
13 is looking to do that. But, really, the question
14 is whether or not it holistically is consistent
15 with the Comp. Plan.

16 MR. COUPE: Okay. Just one -- again, I'm
17 confused. I asked the last witness. I'm going to
18 ask you again. We're talking about standards for
19 the development plan review process. We are not
20 the Development Plan Review Committee. I'm
21 wondering why we're talking about standards that
22 are in place for DPR in front of the planning
23 commission.

24 MR. BRONK: Because your regulations
25 dealing with subdivision and land development, the

1 decision on a master plan focused on the -- from
2 those regulations rests with this commission. You
3 may receive guidance from others; but at the end of
4 the day, this commission is going to have vote up
5 or down on the master plan at one level and then
6 later, the preliminary, and then later the final.

7 MR. COUPE: And we're at the master plan
8 stage now.

9 MR. BRONK: Correct.

10 MR. COUPE: And the development plan
11 review typically comes after the master plan,
12 correct?

13 MR. BRONK: Typically. My comments
14 pertain to the master plan requirements.

15 MR. COUPE: Okay. All right. Thank you.

16 CHAIRMAN SMITH: Okay. Any other further
17 questions? Mr. Dougherty, yes.

18 MR. NYBO: Mr. Chairman, the applicant
19 would request that Mr. Bronk -- a few questions. I
20 will be brief. But we would ask to inquire of
21 Mr. Bronk.

22 MR. MARSELLA: Well, certainly we have not
23 allowed cross-examination of --

24 MR. NYBO: No one's asked. So I'm
25 asking --

1 MR. DOUGHERTY: I was told to sit down.

2 MR. MARSELLA: However -- yes, he's
3 correct.

4 MR. NYBO: I heard that part.

5 MR. MARSELLA: Why don't we let
6 Mr. Dougherty continue with his case.

7 MR. NYBO: That's totally fine.

8 MR. DOUGHERTY: Thank you. Mr. Bronk,
9 just turning your attention to some of the
10 questions and clarifications that were requested
11 here. With regard to the amendments -- were you
12 here at the last hearing, you heard the recitation
13 of some case law that was alleged to be controlling
14 on this type of situation?

15 MR. BRONK: I was here.

16 MR. DOUGHERTY: All right. Supplemental
17 in the materials before the board was the Siciliano
18 case versus Town of Exeter. It was presented to
19 the board as part of -- and in that situation --
20 and I believe that was what they referred to in the
21 cover letter that was presented last meeting. Now,
22 this is a Superior Court case. It's not a Supreme
23 Court, but it talks about when a town has adopted a
24 Comprehensive Plan that has not yet been adopted or
25 approved by Statewide Planning. That's not the

1 situation we find ourselves in with regards to the
2 2017 amendment to the Comprehensive Plan, correct?

3 MR. BRONK: That's -- yeah, that's
4 definitely correct. The Comprehensive Plans were
5 required by the State early '90's. So all
6 municipalities were required at some point in time
7 to go through a fairly rigorous process and then
8 periodically they're required to do amendments over
9 time. So to my knowledge, every single
10 municipality in Rhode Island has a Comprehensive
11 Plan.

12 MR. DOUGHERTY: And in the comments from
13 Statewide Planning to the City of Cranston with
14 regard to the 2017 amended -- expired Comprehensive
15 Plan, 2010 expired Comprehensive Plan, they cited
16 State Planning Council Rule 1.45 -- 1.4.5.D,
17 amendments to Comprehensive Plan that do not have
18 current state approval states that, quote,
19 "Granting State approval of an amendment to a
20 Comprehensive Plan that does not have State
21 approval would run contrary to the goals and intent
22 of the act and, therefore, would have to be
23 denied." Do you recall that? That's in your
24 report. And you reviewed that in your comments to
25 Statewide Planning. That's not the case where you

1 have -- and I'm talking just referencing the solar
2 amendment to the Comprehensive Plan. That is not
3 an entire Comprehensive Plan that's been adopted by
4 the City Council and pushed off to Statewide
5 Planning for approval, correct?

6 MR. BRONK: That's correct.

7 MR. DOUGHERTY: So under what your
8 interpretation of the State regs is based upon your
9 report and the State Planning Council Rule 1.4.5.D,
10 the solar plan amendment, and any amendment, to
11 that effect, to the Comprehensive Plan that has
12 been expired in the City of Cranston would have to
13 be denied, correct?

14 MR. BRONK: I would believe the State
15 would deny it, yes.

16 MR. DOUGHERTY: Okay. And, therefore,
17 it's not the same situation where you have soup to
18 nuts Comprehensive Plan duly adopted by the City
19 Council, approved and sent to Statewide Planning
20 for their stamp and approval, correct?

21 MR. BRONK: That's correct. An update is
22 an extensive process. Full public input, reviewing
23 new data, new maps, A to Z. That's an update.
24 Quite different than an amendment.

25 MR. DOUGHERTY: And in following with that

1 rule, the solar amendment could not possibly be
2 considered being properly adopted because you can't
3 have an amendment to an expired Comprehensive Plan,
4 correct?

5 MR. BRONK: That's correct. That's what
6 the State stated.

7 MR. DOUGHERTY: Okay. Thank you.

8 MR. NYBO: Before you address my request,
9 I will confess I heard some -- I heard the
10 exchange, but I did not hear every point of the
11 exchange. Was it the case that Mr. Dougherty
12 requested to examine and inquire of the witness and
13 he was denied that ability?

14 MR. MARSELLA: No. So Mr. Dougherty
15 had -- when he was speaking before had to do with
16 specific objections that were going on. It's been
17 the policy of this board to allow the applicant to
18 put on its testimony first and then obviously any
19 objector can certainly put on their testimony and
20 to not allow cross-examination. We have never
21 allowed cross-examination in the 15 years that I've
22 been here. Although it is legally permitted, this
23 board has never allowed cross-examination.
24 However, Mr. Nybo, two things. One is you
25 certainly can bring your own expert back up and ask

1 him any questions that you may ask this expert and,
2 obviously, the board can ask any questions of this
3 expert.

4 MR. NYBO: As it is this board's policy,
5 I'm withdrawing my request for the ability to
6 inquire. Thank you.

7 MR. MARSELLA: I'm sorry, Mr. Dougherty,
8 do you have any more experts? I just kind of --
9 we're just looking at time.

10 MR. DOUGHERTY: I do not have any more
11 experts here this evening, and I have argue --
12 plenty of argument to make, but I can do that at
13 the appropriate time when you wish.

14 CHAIRMAN SMITH: We will -- out of respect
15 to everybody's time, I think -- including the fact
16 that the board has been here since 5:30, that if
17 the board so chooses, we can continue this to the
18 date of our regular next meeting. It -- yes.

19 MR. FRIAS: Can we have a little
20 discussion about that?

21 CHAIRMAN SMITH: Absolutely. I'm putting
22 that as a suggestion.

23 MR. FRIAS: All right. I count about
24 thirty people here. If each person talks about
25 five minutes, that's going to be about two and a

1 half hours of public comment, and that doesn't
2 include Mr. Dougherty's arguments. When you put
3 this on a full regular meeting, they're going to be
4 at the end after we deal with zoning, after we deal
5 with -- what's this big thing coming up?
6 Printworks. That's what's coming up. They won't
7 be heard until about maybe nine o'clock. So my
8 suggestion would be to put this on a special
9 meeting, like we did this one, and then we can
10 start at about six o'clock. Mr. Dougherty does his
11 argument. Hopefully, these guys bring the blasting
12 expert so I can ask him questions, and then these
13 people have the public comment. That's my
14 suggestion. Let's see if these people -- I will
15 listen to my fellow commissioners, but that's --
16 that's my opinion, Chairman. Otherwise, these
17 people are going to be waiting until about nine
18 o'clock, 9:30 to go start making public comment a
19 couple of weeks from now.

20 CHAIRMAN SMITH: I do appreciate that
21 point, but we can and have tailored the agenda in
22 such a way that we can put this at the top of the
23 agenda after minutes and administrative pieces. I
24 just think that we'll be getting better decisions
25 from people if people are a little bit more

1 refreshed. We've taken in a lot of testimony.
2 I've seen a lot of note taking, and I'm sure that
3 members will be developing questions in addition
4 for that. But I would be willing to do whatever
5 the board -- the board feels. Is there any other
6 thoughts? Commissioner Lanphear.

7 MS. LANPHEAR: Thank you, Mr. Chairman. I
8 would agree that -- with you that we should do this
9 when there is adequate time and we have the
10 wherewithal to listen to everyone and take
11 everything that they are saying into account. But
12 I also agree with Commissioner Frias that it's very
13 difficult to do that on a regular meeting night.
14 My concern is that if we put this as the first
15 agenda item, that might carry us until 9:30 or ten
16 o'clock, and then we're going to be compelled to
17 address the other matters that are on the agenda,
18 and I'm not sure that we can do that in an
19 appropriate way if we start at 9:30 or ten at
20 night. I would defer to the majority of the
21 commissioners, but that's my opinion on that issue.

22 MR. MARSELLA: Jason, I don't know if you
23 want to, for this record, do you want to sneak in
24 on what it looks like on April --

25 MR. PEZZULLO: We wouldn't be able to put

1 this on first because we have to get through zoning
2 and ordinances so that those meetings can happen,
3 you know, as a trail of things. So an April budget
4 season is unpredictable in terms of us picking a
5 specific date and place where we would continue
6 this. So even if we pick a date right now, I'm
7 looking at the calendar, I can't guarantee that we
8 could guarantee the place that we picked for a
9 continuance of this. So --

10 MR. MARSELLA: So, it's probably best to
11 continue it to April 4, try to move this
12 calendar --

13 MR. PEZZULLO: We'd have to clear the
14 calendar as quickly as possible, and then we would
15 be able to hear this. I just think the
16 unpredictability of putting this on a date certain
17 right now is just going to cause problems, and we'd
18 have to -- we could have to re-advertise or
19 re-notify if we did that.

20 CHAIRMAN SMITH: Director Pezzullo, let me
21 just clarify. In terms of moving to a date
22 certain, do you mean a date other than the regular
23 scheduled meeting or --

24 MR. PEZZULLO: Right. Right. A date,
25 time, and place certain is what we'd have to do.

1 And given the unpredictability of budget season and
2 the needs of this chamber, say we did pick the date
3 and the time, but the place is wrong, you know,
4 that's going to cause problems for notification.
5 So we have to be certain that we would have the
6 chamber, and I can't, obviously, standing here, I
7 can't guarantee that based upon us, you know, going
8 right into budget season.

9 MR. FRIAS: Mr. Chairman, I really think
10 you could schedule a date in April other than the
11 4th and work with the City Council and ask them not
12 to schedule a budget meeting for that night. I do
13 not think that is going to --

14 MR. MARSELLA: This board has never
15 deferred to this board --

16 MR. FRIAS: You don't think -- I would say
17 you do that. That's my suggestion because these
18 people are going to be sitting here late. I don't
19 know what the problem is always this thing about
20 having a special meeting for this thing. I don't
21 understand why there's such a problem --

22 CHAIRMAN SMITH: Commissioner Bernardo.

23 MR. BERNARDO: Is there any compromise to
24 maybe just start our meeting earlier than the 6:30
25 time. Typically, the only thing that happens

1 before out meeting is the BOCAP meeting which is at
2 5:30 and normally lasts for five or ten minutes at
3 the most. So we might be able to grab an extra
4 hour just by starting earlier.

5 CHAIRMAN SMITH: That could be a good
6 compromise.

7 MR. PEZZULLO: We would get maybe a half
8 hour if we did that because, yeah, BOCAP still has
9 to meet, and then we have to do the room setup and
10 everything else like that. So it's possible we can
11 do six o'clock.

12 CHAIRMAN SMITH: We could start at six.

13 MR. PEZZULLO: I would just say, you know,
14 right now, this is not -- we're here at 9:15 right
15 now. This is late, but this is not super late,
16 you know. It's rare to get everybody together, You
17 know. We have time right now, but -- so if we want
18 to schedule a special meeting, we can look at the
19 calendar and see what we think might be available.

20 MR. FRIAS: Could you provide that option,
21 Jason?

22 CHAIRMAN SMITH: I mean, you know, I'll
23 defer to whatever the majority of the commissioners
24 say, but my thought is that we schedule it for the
25 regular meeting; and if we need to schedule it

1 beyond that, which we might, we don't know, then
2 we'll deal with that when we come to it. Would
3 that be possible --

4 MR. PEZZULLO: Possibly April 17th looks
5 like a possibility. It's the same night as
6 tonight, which would be the third Wednesday -- I'm
7 sorry the third Monday.

8 MR. FRIAS: I was going to say -- I
9 suggest April 17. Okay. And just do it on
10 April 17. We'll get the public comment. You get
11 this. And, hopefully, they will bring their
12 blasting expert. That's my suggestion. I'm ready
13 to make a motion to say move it to April 17th at
14 5:30.

15 MS. LANPHEAR: I'm just saying I'm not
16 available on the 17th. I'm going to be out of
17 state, but I can read the transcript.

18 MR. FRIAS: Is there any other dates,
19 Jason?

20 MR. PEZZULLO: Right now I'm not sure if
21 all of the meetings have been entered into the
22 calendar, but that week of the 17th -- possibly the
23 19th, possibly the 20th. But I couldn't -- I
24 couldn't guarantee that those are going to be open
25 nights.

1 MR. FRIAS: I understand. We could work
2 it out. Does anybody have a problem with 19 or 20?
3 Okay, so why don't we do April 19.

4 MR. MARSELLA: Hold on. I need a motion.

5 MR. FRIAS: Okay. I'll make a motion.
6 How about the 20th? Okay. Anybody have a problem
7 with the 20th? Do you have a problem, Steve?

8 MR. MARSELLA: Wednesday, the 19th is
9 fine.

10 MR. FRIAS: How about the 20th?

11 CHAIRMAN SMITH: That's a Thursday.

12 MR. EXTER: Can we push it into May?

13 MR. PEZZULLO: I just heard from Council
14 President reached over -- Wednesday the 19th. Is
15 that what you said, Council President? Wednesdays
16 in April are open. So that would mean either the
17 19th or the 26th.

18 MR. FRIAS: Anybody got a problem with the
19 19th? Okay. Let's just do it on the 19th. I'll
20 make a motion that -- April 19th at 5:30 at
21 Cranston City Hall, Council Chambers, I'd like to
22 make a motion to move the next meeting on the
23 Natick Solar application.

24 CHAIRMAN SMITH: Motion is made. Do I
25 hear a second? Okay. Motion is seconded by

1 Commissioner Exter. All in favor of continuing
2 this meeting on April 19th at 5:30 we said, please
3 say aye.

4 (VOICE VOTE: PASSED)

5 CHAIRMAN SMITH: The Ayes have it. Motion
6 passes. And a motion to adjourn is made by
7 Commissioner Coupe, seconded by Commissioner
8 Bernardo.

9 (VOICE VOTE: PASSED)

10 CHAIRMAN SMITH: Ayes have it. We are
11 adjourned. Thank you, everyone.

12 (MEETING ADJOURNED AT 9:26 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 17th day of April, 2023.

Ronald M Ronzio, Notary Public

RONALD M. RONZIO, NOTARY PUBLIC/CERTIFIED COURT REPORTER

MY COMMISSION EXPIRES: July 24, 2025

IN RE: Cranston Plan Commission/In Re:
Natick Avenue Solar

DATE: March 20, 2023