

STATE OF RHODE ISLAND

CITY OF CRANSTON

PLAN COMMISSION

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

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

BEFORE:

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

PRESENT:

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

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

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

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

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

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

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

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

25 So let's take a quick look at the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 on appeal to the Superior Court.

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

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

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

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

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

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

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

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

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

1 the matter.

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

6 CHAIRMAN SMITH: Thank you.

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

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

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

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

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

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

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

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

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

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

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

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

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

8 MR. RUSSO: Yes, I am.

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

12 MR. RUSSO: Yes, I have.

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

16 MR. RUSSO: That is correct.

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

19 MR. RUSSO: That is correct.

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

23 MR. RUSSO: Correct.

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

1 the Cranston Conservation Commission?

2 MR. RUSSO: Correct.

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

5 MR. RUSSO: Correct.

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

10 MR. RUSSO: Correct.

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

15 MR. RUSSO: That's correct.

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

20 MR. RUSSO: Correct.

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

1 with. Thank you.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 CHAIRMAN SMITH: Wait until the --

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

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

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

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

19 MR. RUSSO: That is correct.

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

25 MR. RUSSO: Correct.

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

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

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

19 MR. RUSSO: That's correct.

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

1 MR. RUSSO: Correct.

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

6 MR. RUSSO: That's correct.

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

9 MR. RUSSO: That is correct.

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

12 MR. RUSSO: Correct.

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

18 MR. RUSSO: That's correct.

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

22 MR. RUSSO: That's correct.

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

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

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

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

11 MR. RUSSO: That's correct.

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

16 MR. RUSSO: Correct.

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

19 MR. RUSSO: That's correct.

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

24 MR. RUSSO: That's correct.

25 MR. MURRAY: And that also includes, the

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

5 MR. RUSSO: That's correct.

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

12 MR. RUSSO: That's correct.

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

15 MR. RUSSO: Correct.

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

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

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

1 water management report, correct?

2 MR. RUSSO: Correct.

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

5 MR. RUSSO: Correct.

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

9 MR. RUSSO: Correct.

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

15 MR. RUSSO: Correct.

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

20 CHAIRMAN SMITH: Thank you. Commissioner
21 Frias.

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

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

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

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

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

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

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

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

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

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

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

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

22 MR. RUSSO: Um-hum.

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

25 MR. RUSSO: Essentially, yes. If you

1 can't remove it mechanically.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 got a lot more earth work.

2 MR. FRIAS: Excuse me. What?

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

1 months.

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

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

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

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

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

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

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

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

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

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

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

13 MR. RUSSO: That is correct.

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

16 MR. RUSSO: Correct.

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

20 MR. RUSSO: Correct.

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

23 MR. RUSSO: Correct.

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

1 normally see in a residential subdivision?

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

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

11 CHAIRMAN SMITH: Thank you.

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

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

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

25 CHAIRMAN SMITH: Thank you.

1 MR. NYBO: Name and address --

2 MR. PIMENTEL: Sure. Edward Pimentel.
3 That's P as in Paul, I-M-E-N-T-E-L, Cranston,
4 Rhode Island.

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

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

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

22 MR. PIMENTEL: 30 to 60 megawatts.

23 MR. MURRAY: 30 to 60?

24 MR. PIMENTEL: Yeah.

25 MR. NYBO: And this is 8.7?

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

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

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

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

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

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

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

23 MR. NYBO: Are you finished --

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

1 MR. NYBO: Okay. Consistent with --

2 MR. PIMENTEL: The Comprehensive Plan.

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

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

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

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

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

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

12 MR. PIMENTEL: Correct.

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

15 MR. PIMENTEL: That's correct.

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

21 MR. PIMENTEL: I am aware of that.

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

25 MR. PIMENTEL: Yes.

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

4 MR. PIMENTEL: I have.

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

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

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

1 state --

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

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

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

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

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

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

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

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

11 MR. PIMENTEL: These other two cases --

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 MR. PIMENTEL: I have.

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

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

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

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

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

15 MR. PIMENTEL: Yes.

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

1 to say you disagree with that conclusion?

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

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

6 MR. PIMENTEL: Yes.

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

18 MR. PIMENTEL: Thoroughly.

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

20 MR. PIMENTEL: Absolutely not.

21 MR. NYBO: Why not?

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

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

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

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

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

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

10 MR. PIMENTEL: Correct.

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

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

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

17 MR. PIMENTEL: I have.

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

21 MR. PIMENTEL: It does.

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

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

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

11 CHAIRMAN SMITH: Yes, Commissioner Frias.

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

14 CHAIRMAN SMITH: Yes.

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

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

20 MR. FRIAS: You got more questions?

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

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

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

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

17 MR. PIMENTEL: That is absolutely true.

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

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

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

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

17 MR. PIMENTEL: Yes.

18 MR. FRIAS: Okay. Thank you.

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

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

1 generation," correct?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 MR. PIMENTEL: Yes.

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

1 opinion?

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

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

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

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

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

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

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

9 MR. PIMENTEL: Nor am I.

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

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

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

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

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

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

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

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

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

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

6 MR. FRIAS: No way.

7 CHAIRMAN SMITH: So --

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

13 CHAIRMAN SMITH: Commissioner Lanphear.

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

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

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

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

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

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

1 is going to --

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

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

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

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

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

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

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

20 (VOICE VOTE: PASSED)

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

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

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

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

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

Ronald M Ronzio, Notary Public

RONALD M. RONZIO, NOTARY PUBLIC/CERTIFIED COURT REPORTER

MY COMMISSION EXPIRES: July 24, 2025

IN RE: Natick Avenue Solar

DATE: February 7, 2023

OWNERS/SELLERS AFFIDAVIT

(To be executed by Seller or Owner In Possession)

FILE NO. 23-1054

Policy, Binder or
Commitment No.

FOR RESIDENTIAL MORTGAGE PURPOSES ONLY

The undersigned, being duly sworn according to law and intending to be legally bound hereby, depose(s) and say(s) as follows:

- (1) I/We am(are) of full legal age and under no legal disability.
- (2) I/We am(are) the owner(s)/seller(s) of all that certain property known as 12-14 Pendleton Street situated in the Town/City of Cranston and County of Providence and State/Commonwealth of Rhode Island Assessor's Plat 8-2 Lots 806 & 807
- (3) I/We have owned the property now being sold or mortgaged by me/us continuously for _____ years last past, and my/our enjoyment thereof has been peaceable and undisturbed and the title to said property has never been disputed or questioned to my/our knowledge, nor do I/we know of any facts by reason of which the title to, or possession of, said property might be disputed or questioned, or by reason of which any claims to any of said property might be asserted adversely.
- (4) No party other than the Owner(s)/Seller(s) is/are in possession of all or any portion of the property above described under any unrecorded leases, tenancy at will or otherwise.
- (5) The Owner(s)/Seller(s) during the time of ownership of the property above described has/have conveyed no portion of the property nor done any act or allowed any act to be done which has changed or could change the boundaries of the property.
- (6) The Owner(s)/Seller(s) has/have allowed no encroachments on the property above described by any adjoining land owners nor has/have the undersigned encroached upon any property of adjoining land owners.
- (7) The Owner(s)/Seller(s) has/have allowed no easements, rights of way, continuous driveway usage, drain, sewer, water, gas or oil pipeline or other rights of passage to others over the property above described and has/have no knowledge of such adverse rights.
- (8) No persons, firm or corporation has/have furnished any labor, services or materials in connection with the construction, erection, alteration or repair of any buildings or improvements on the herein described property within the statutory lien period of 200 days for which a lien could be filed.
- (9) The Owner(s)/Seller(s) has/have no knowledge of any old highways, abandoned roads, lanes, cemetery or family burial grounds, springs, streams, rivers, ponds, or lakes bordering or running through said property.

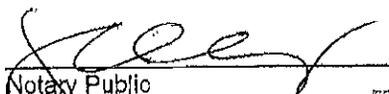
EXCEPT: NONE

(If none, Please state "NONE")

This Affidavit is made for the purpose of inducing Commonwealth Land Title Insurance Company to issue its Loan Policy of title insurance, well knowing that they will do so only in complete reliance upon the truth and accuracy of the statements contained herein.

Subscribed and sworn to before me
This 24th day of February
A.D. 2023.


Patrick J. Scanlon


Notary Public
Notary Number:
My Commission Expires:

Jessica L. Dominguez #756367
Notary Public, State of Rhode Island
My Commission Expires 04/28/2026


Mary S. Scanlon

NOTE: (If Owner/Seller is a corporation, it is understood and agreed that the corporation officer executing this affidavit does so based upon facts within his personal knowledge and belief.)

FOR RESIDENTIAL MORTGAGE PURPOSES ONLY



One State Street
Providence, Rhode Island 02908

**FOR RESIDENTIAL MORTGAGE PURPOSES ONLY
TITLE AFFIDAVIT AND INDEMNITY AGREEMENT TO BE SIGNED BY
OWNER/SELLER AND BUYER IN CONNECTION WITH THE ISSUANCE OF A
TITLE INSURANCE POLICY**

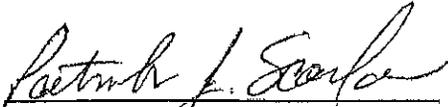
The undersigned (collectively, the "Owner"), being first duly sworn under oath according to law and intending to be legally bound hereby, depose(s) and say(s) as follows:

1. I am of full legal age and under no legal disability.
2. I am the owner of that certain real property (hereinafter referred to as the "Property") located at 12-14 Pendleton Street, Cranston, Rhode Island, also designated as Tax Assessor's Plat 8/2 Lot 806 and 807 and that title to said Property is vested in Patrick J. Scanlon and Mary S. Scanlon (name of title holders), as Tenants by the Entirety (type of tenancy/ownership).
3. The Property is a 1-4 family owner-occupied dwelling or condominium unit.
4. I have owned the Property now being sold or mortgaged by me continuously for the past _____ years.
5. During my ownership of the Property, my enjoyment thereof has been peaceable and undisturbed and the title to said Property has never been disputed or questioned to my knowledge, nor do I know of any facts by reason of which the title to, or possession of the Property might be disputed or questioned, or by reason of which any claim to any of the Property might be asserted adversely.
6. No party other than the undersigned is in possession of all or any portion of the Property under any unrecorded leases, tenancy at will or otherwise.
7. During the time of ownership of the Property, I have conveyed no portion of the Property nor done any act or allowed any act to be done which has changed or could change the boundaries of the Property.
8. I have allowed no encroachments on the Property by any adjoining land owners nor have I encroached upon any property of adjoining land owners.
9. I have allowed no easements, rights of way, continuous driveway usage, drain, sewer, water, gas or oil pipeline or other rights of passage to others over the Property and have no knowledge of such adverse rights.
10. No persons, firm or corporation has furnished any labor, services or materials in connection with the construction, erection, alteration or repairs of any buildings or

improvements on the Property within the statutory lien period for which a lien could be filed.

11. If the Property is subject to any restrictions, covenants, restrictive covenants and/or protective covenants, I certify that they have not been violated.
12. I have no knowledge of any violations of any zoning or subdivision ordinances affecting the Property.
13. I have no knowledge of any old highways, abandoned roads, lanes, cemetery or family burial grounds, springs, streams, rivers, ponds, or lakes bordering or running through the Property.
14. I have no knowledge of any defects, liens, encumbrances, adverse claims or other matters first appearing in the public records, and attaching against me individually or against the Property, between the date of the last rundown of title and the date of recording of the deed and/or mortgage or other instrument to be insured ("Gap Matters") and I agree to indemnify Chicago Title Insurance Company, Commonwealth Land Title Insurance Company and Fidelity National Title Insurance Company (individually or collectively, "FNTG") for any and all liability, loss, cost or damage, including attorney's fees and expenses, resulting from any Gap Matters, including reasonable attorneys' fees and expenses incurred in enforcing this agreement.

This Affidavit is made for the purpose of inducing FNTG to issue its Loan and/or Owner's title insurance policy knowing that it will do so only in complete reliance upon the truth and accuracy of the statements contained herein.



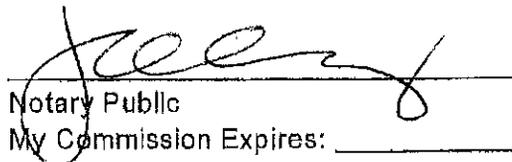
Owner/Mortgagor



Owner/Mortgagor

Owner/Mortgagor

Subscribed and sworn to before me this 27th day of February, 2023



Notary Public

My Commission Expires: _____

Jessica L. Dominguez #756367
Notary Public, State of Rhode Island
My Commission Expires 04/28/2026

SPECIFIC POWER OF ATTORNEY
FOR THE SALE OF REAL ESTATE

KNOW ALL MEN BY THESE PRESENTS we, **Patrick J. Scanlon and Mary S. Scanlon**, Sellers of the real property and improvements located at 12-14 Pendleton St, Cranston, RI 02920, hereby appoint and constitute, **Jessica Dominguez**, of 46 Rangeley Rd, Cranston, RI 02920, to be our lawful attorney-in-fact, giving and granting upon said **Jessica Dominguez**, as our attorney, full power and authority to sign, execute, or acknowledge any and all documents incidental or necessary, including but not limited to Deeds, Mortgages, Riders, Promissory Notes, Assignments of Rents and Leases, Settlement Statements, Affidavits, Agreements, Disclosures, Drafts and Checks, and any other related documents, and to do any and all other acts incidental or necessary, to effectuate the **SALE** of the property located at **12-14 Pendleton Street, Cranston, RI 02920**, in the amount of **Four Hundred Five Thousand AND 00/100 DOLLARS (\$405,000.00)**, **AND ONLY WITH RESPECT TO SAID PROPERTY**, as we might or could do if personally present with full power of substitution and revocation, hereby ratifying and confirming all that our said Attorney, as our said attorney, shall lawfully do or cause to be done by virtue hereof. This power of attorney is specific and shall continue for a period of **SIXTY (60)** days from the date of execution of this instrument notwithstanding the incapacity if incompetency of the undersigned until revoked by the undersigned in the manner prescribed by law. All parties may rely on the authority granted by this power of attorney.

I have hereunto set my hand this 27th day of February, 2023.

Patrick J. Scanlon
Patrick J. Scanlon

Mary S. Scanlon
Mary S. Scanlon

STATE OF Rhode Island
COUNTY OF Washington

In N. Kingstown, in said County and State, on the 27th day of February, 2023, before me personally appeared the above-signed Patrick J. Scanlon and Mary S. Scanlon, to me known and known by me to be the parties executing the foregoing instrument, and they acknowledged said instrument, by them executed, to be their free act and deed.

MEGAN FERGUSON
Notary Public, State of Rhode Island
My Commission Expires 09/04/2024

Megan Ferguson 765789
Notary Public: Megan Ferguson
My commission expires: 9/4/24