

**Planning Commission  
Minutes of November 18, 2015 Meeting**

1670 Flat River Road  
Coventry, RI 02816

Meeting Called to order at 7:03 pm by Chairman Russell Crossman.

Members Present: Chairman Crossman, Vice-Chairman Mr. Nunes, Secretary Mr. Flynn, Mr. Crowe, Mr. Mattson, Mr. Bouchard, Mr. Osenkowski, and Ms. Fagan-Perry.

Members Absent: Mr. Kalunian

Also Present: Attorney Assalone, Mr. Sprague, Mr. Joyal, Mr. Peabody

*Mr. Crossman reviewed the exits in the room in case of an emergency. He announced to the audience the **Jardin DPR Subdivision** petition would not be on tonight's agenda; it has been postponed to the December 16, 2015 Planning Commission meeting. The **Village at East Shore** will also not be on tonight's agenda; it also has been continued to the December 16, 2015 Planning Commission meeting. Mr. Sprague noted that both continuances have been posted to the Town's website and will not be advertised.*

Approval of Minutes:  
October 21, 2015

*Mr. Bouchard made a motion to approve the meeting minutes. Mr. Nunes seconded. All members were in favor. Motion passed.*

(Mr. Mattson questioned how he would be notified if a site walk is cancelled. Ms. Fagan-Perry said she would be the one to call members.)

**NEW BUSINESS**

**PUBLIC INFORMATIONAL MEETING**

Master Plan: ***"Green Farm Estates" f/k/a Old North Road Subdivision;*** North Road Land Development Company, LLC  
*Proposed 19 Lot Major Subdivision w/Street Creation*  
AP 24, Lots 26 & 31; Zone R20  
Old North Road

Paul Green, 45 Lime Rock Drive, East Greenwich, is both Principal and Counsel for this subdivision. He stated that during the pre-application of this 19 lot major subdivision there were major conceptual changes including the addition of sewers which better serve the dwellings rather than septic systems. Ben Cato, PE, of Fieldstone Engineering, Warwick, also representing the applicant. He explained that this 19-lot proposed sub-

division is on vacant property with frontage on Old North Road. He noted that two lots (#26/#31) are adjacent lots that were combined as part of the process. The two lots combined are twelve (12) acres in a R20 zone. The proposal is for 19 lots. Each of these lots meets the regulations for an R20 zone as well as other plot divisions of the code. There is approximately 1600 ft. of roadway. There are two proposed entrances to the development on Old North Road. Each house is to be serviced by utilities including Kent County Water and public sewers. During the preliminary approval stage of drainage, approval is sought from DEM RIPDES, KCWA, and the Coventry Sewer Subcommittee for sewer connection.

At this time, the applicant is requesting waivers for the two (2) entrances; the right-of-way width to be less than the required 60 feet on both these roadways. Mr. Flynn questioned what the footage would be on the two entrances. Mr. Cato answered the proposed footage to the North is 50 feet (10 feet less than the requirement) and the other entrance is roughly 55 feet (5 feet less than the requirement). Mr. Nunes questioned how the drainage was going to be designed. Mr. Cato stated they preferred above-ground facilities and were planning the design of significant drainage structures. Mr. Nunes commented that there should be zero net increase. Mr. Cato concurred as it is required by DEM.

*Mr. Bouchard made a motion to open the proposed project to public hearing. Ms. Fagan-Perry seconded the motion. All members in favor. Motion passed.*

Bruce Hanson, 39 Old North Road, addressed the Board. He pointed out the location of his property on the map and noted the elevation of  $\frac{3}{4}$  foot berms. He questioned if the road would be lower than his property, and if so, what will be built on both sides of the road – a wall or a berm. He commented that he does not favor a berm because storm water drainage would affect his septic system. He also noted that he has experienced encroachment in the past and according to his measurements regarding the plans he received from the Planning Department, the roadway appears to be over his septic system. Mr. Crossman stated the road would only be 24 feet wide from curb to curb with sidewalks and a grassy area that would not cover Mr. Hanson's septic.

Mr. Cato addressed Mr. Hanson's elevation concerns by assuring him the roadway grade change design issue will be resolved at the next phase of design. Mr. Cato said the applicant would like to keep the grade gradual to accommodate sight distances and meets the regulations of the Town. He pointed out the drainage adjacent to the road will also be addressed at preliminary. Flow-off water from the access road will be treated as there is space to include small water treatment quality areas. Per Mr. Sprague's request, Mr. Cato explained to the audience the concept of no net increase of storm water drainage means the current volume of run-off will remain the same. Underground storm water storage will mitigate overflow. Mr. Cato commented upon Mr. Hanson's concerns of encroachment over his septic system. He assured this will also be resolved during the design phase and there will be a clearer picture of roadway elevations and utilities.

Mr. Crossman asked Mr. Joyal if the sewer line ends on Sweet Fern Lane. Mr. Joyal answered in the affirmative.

John Tworog, 232 Tiogue Avenue, approached the Board. He noted his property was located above the proposed development and he was concerned the proposed roads would be blocking off Tiffany Road, limiting access to Tiogue Avenue. He asked that the two entrance roads proposed by the applicant be extended to open up to his property allowing better access. Mr. Sprague noted moving lot lines were another consideration. Mr. Tworog pointed out that emergency vehicles would also have difficulty accessing the elderly housing complex in that area. Mr. Crossman agreed it would be good planning for the developer to leave the right of way intact. Mr. Crossman clarified the developer would not construct the roadway – he would just leave it so a road could be built in the future.

Mr. Tworog pointed out an area on one of the entrances where a right of way could be possible. Mr. Nunes commented that there is enough square footage on some of the lots that could also provide a right of way. Mr. Sprague and Mr. Peabody noted that a small variance of the setbacks could be allowed to provide a right of way. Ms. Fagan-Perry stated the developer should be sure to design road access for Mr. Tworog. Mr. Osenkowski questioned if there was a proposal for development that Mr. Tworog had for the future. Mr. Tworog said there were no concrete plans to develop his property but he wanted to make sure access to his property was not sealed off. Mr. Cato added that during the concept phase different roadway options were considered and lot 150 did have frontage on both Tiffany and Tiogue. The Assessors map appears to have an intended right of way but it would be very tight even with waivers in place. He asked the Board to please keep this in mind. Attorney Green approached the Board with his concern that with this relatively modest subdivision of 19 lots if access is opened up to Old North Road, there could possibly be another 75 residents traveling through this subdivision.

Pauline Kelling, 48 Old North Road, approached the Board. Her property is located across from the proposed development. She is concerned the proposed roadway at the top of the hill would be a hazard because visibility is limited. The main road is already dangerous and there have been numerous accidents. She reiterated access to the senior housing would be limited. She questioned the location of the second entrance to the development. Mr. Peabody pointed out a location on Sweet Fern Lane where the second entrance is proposed. Mr. Crossman further clarified that it would be located between the Beranski and Calenda properties. Ms. Kelling also questioned why so many houses are being constructed in such a small area. Mr. Crossman explained the proposed development meet the minimum 20,000 square foot lots in an R20 zone. Ms. Kelling questioned if there was any way a roadway could come in from the other side instead of Old North Road. Mr. Crossman said the developer has no other access. Ms. Kelling further questioned how excess runoff of rain water would be prevented from coming down the hill and flooding the properties at the bottom. Mr. Crossman noted as previously stated by Mr. Cato, a design submission would be made to DEM proving there would be zero net increase of storm water runoff from this property. If DEM is not satisfied, they will not approve this plan. Ms. Kelling also asked if the name of North

Road Development was just for this project and how long they have been an established business. Mr. Green explained the name is “North Road Land Company, LLC.” Ms. Kelling further questioned the increase in traffic and she has requested the Department of Public Works to post larger speed limit signs for better visibility to motorists. She commented that trailer trucks from Tiogue Avenue often use the area of Old North Road as a through way and she fears the traffic from this proposed development would increase. She stated that residents of this development would require more schools resulting in higher taxes. Mr. Sprague did agree that the Town loses money on these types of projects. Mr. Crossman agrees this project is certainly not a windfall for the Town. Ms. Kelling stated her opinion that there were far more negatives than positives to this project.

Charles Calenda, 29 Old North Road, approached. He stated that he had first hand experience that there is very little room to put a road which will be a main source of egress for this development, putting more strain on traffic flow. He elaborated that Old North Road is an exceptionally dangerous road – there is absolutely no visibility whatsoever where the first road is proposed. Adding 19 homes, each home with a conservative estimate of two cars, will add a substantial amount of traffic to an area that cannot handle the amount of traffic it already has. Mr. Calenda stated he could foresee the damage to his property that will be incurred with trash dumped from passing cars, which he personally witnesses on a daily basis. He feels this is an ill-conceived development plan which requires more study.

Susan Falcone, Tiffany Road, approached the Planning Commission. Ms. Falcone noted she had just left a meeting of the Conservation Commission regarding another development planned for the East Shore and now she is here regarding this development of 19 homes that is in very close proximity. She feels the addition of 50 new homes in this area will take away acres and acres of land that supports wildlife. She stated she implored the Conservation Commission to purchase this development via a Land Trust in order to preserve it for open space for the deer, turkey, hawk and other animals that inhabit this space.

Linda Kalenkiewicz, 47 Old North Road, stated she agreed with Ms. Kelling and Mr. Calenda regarding the amount of traffic and dangerous conditions of the road.

Mr. Crossman clarified that as part of the preliminary stage of design, the applicant is required to present a traffic impact study (if the Planning Commission requires a study) proving that there will be no potential problems. Mr. Crossman feels a traffic study should be done at the Master Plan stage not at the Preliminary stage because once an applicant receives Master Plan approval, they are technically vested. Ms. Fagan-Perry questioned if the Commission could ask for a traffic study at this point. Mr. Crossman stated a study could be requested. Other members of the board were in agreement.

Ron Kelling, approached the podium a second time to state that his home used to be the only home in the area. Within the last few months he noted that between the morning hours of 5am – 7am, he counted over 100 cars begin the morning commute. This traffic

often wakes him up, especially the motorcycles. The “no-thru” traffic signs are too small to be noticed. Mr. Crossman questioned if the posting is enforceable. Mr. Kelling was unsure. Mr. Crossman stated the Planning Commission would be able to see what the numbers are when the traffic study is completed.

Sheldon Clark, 49 Old North Road, approached. He was concerned about the elevation of the road grade and how much it would be reduced. He questioned how much water would run off and if it would all be all caught. He pointed out on one of the maps where it shows a water retention area. He also wanted to know if it would be an open retaining pond. Mr. Crossman replied in the affirmative; that is what the applicant is proposing. Mr. Clark said torrential rains at some point would cause water to run off onto his property if the elevation is changed, especially with a retention pond being located behind his home. Mr. Clark also urged a traffic study to be conducted.

Mr. Tworog, approached the podium again to confirm that while he expects owners of the property to develop their land, there are some things that need to be improved in the plans such as signage and the addition of a blinking light. He noted the proposed roads seem to be somewhat narrow and suggested some of the house lots could be reduced in size to make the roadways wider.

Ms. Kelling also approached the podium again and asked the Planning Commission how soon the traffic study could be completed. Mr. Crossman said the study would be done now and there will be another public hearing. Mr. Sprague added State Law states Master Plan is conceptual and Preliminary Plans contain the engineering.

*Ms. Fagan-Perry made a motion to continue the Public Hearing portion of this project to the January 27, 2016 Planning Commission meeting, at which time a traffic impact study and trip generation study will be completed. Also noted was there will be no more advertising or notification for this development project. Mr. Nunes seconded.*

*Discussion: Mr. Cato, representing the applicant, addressed Mr. Peabody’s suggestion to expand the traffic study to include the future development of surrounding properties. Mr. Cato stated he was hesitant to address future development in this area claiming restrictions of zoning do not necessarily dictate density for roadway inter-linkage. There were too many ‘what-ifs’ to conduct a comprehensive study. Mr. Crossman was sensitive to this fact and he agreed it puts an unfair burden on the applicant. Mr. Osenkowski agreed with Mr. Crossman that if a through road was to be considered, it would factor into the numbers. Mr. Sprague stated it would be an issue for any future developer wishing to build on surrounding property. Mr. Cato stated that there are two separate items being presented. A hypothetical through road recommended by the Planning Commission is something his client may agree to provide with a piece of land dedicated to the Town. If the topography allows, this property will be undeveloped and may never be used. At this point there are too many unknowns to come up with an accurate study, not to mention design parameters in the future may also change. Mr. Cato stated a traffic study should be based upon what is **known** to be developed currently.*

*Mr. Nunes suggested the motion stand. All members approved the motion proposed by Ms. Fagan-Perry. Motion passed.*

## **PUBLIC HEARING**

Development Plan Review “Dunkin Donuts”; Dan’s Management Company  
*Proposed 2,200 sf Dunkin Donuts w/ 1,200 sf Retail Office*  
AP 7, Lot 16; BP  
2285 New London Turnpike

*Chairman Crossman recused himself from this item on the agenda. Vice-Chairman Nunes resumed the meeting.*

Attorney Thomas Cronin, 1070 Main Street, Coventry, representing the applicant. He explained a site walk was conducted in September to move a Dunkin’ Donuts restaurant on New London Turnpike to the opposite side of the street. In 2006, the zoning in the area has been changed from Industrial to Business allowing for a 2200 square feet Dunkin’ Donuts restaurant with an adjacent 1200 square foot retail building for a low impact, low visitor type of business use. There is will be access to the facility from both Gay Street in the rear of the property and New London Turnpike in the front. A pork chop configuration will allow for a right hand turn only exit and there will be no change in the current level of traffic from this restaurant. However, the applicant is requesting the following waivers:

1. An old historic cemetery is located on the property. The town ordinance zoning requires that a building be setback 50 feet from an existing cemetery. The applicant is requesting a distance of 30 feet as the proposed building is a site previously developed which had a 30’ setback from the cemetery. The applicant wishes to build in the same footprint.
2. The entrance to the adjacent Cumberland Farms exit is 100 feet. The ordinance is 150 feet but the minimum allowed is 100 feet.
3. Reduce the number of parking spaces required. The requirement is excessive for this type of business. Customers only spend a small amount of time inside this kind of fast food restaurant. Less parking area and more space for the drive-thru queue is what is required.
4. Reduce the setback requirement from Gay Street which is currently 19 feet; the setback from New London Turnpike is 26 feet. The applicant’s plans provide for landscaping and clearing of brush within the 10’ requirement.
5. Waiver of the suggestion that parking lots adjacent to a public street should provide a buffer. A landscape design of low growth plantings will provide an adequate buffer from Cumberland Farms.

Brian King, Crossman Engineering, 151 Centerville Road, Warwick, representing the applicant. He explained the curb cut proposed layout which continues access to the two streets. The driveway off New London Turnpike will be a right turn in left turn-in. The egress will be a right-turn only. Signage for right turn out and pavement markings will be provided. The driveway off Gay Street will be a full service in and out. This proposed Dunkin' Donuts will have a drive-up window, which is a separate designated lane, that is 12 feet wide and wraps around building. Drive-thru signage and pavement marking identifies the separate travel lane. The perimeter of the side is edged by concrete curb and islands are located in the front of the building.

The site was designed with storm water management system in accordance with DEM regulations. Catch basins for storm water are located on the site to collect water flow from the parking areas which pipes into two (2) underground filtration systems. Prior to storm water flowing into the underground systems, there is a water quality treatment system required by DEM. These underground systems will provide additional water quality groundwater recharge standards. These plans have been submitted to DEM for a UFC permit. There are some existing utilities to the site from the prior building. There is an existing sewer tie-in and the applicant proposes to tie-in to existing gas and water on Gay Street.

There is a landscape plan designed to work in existing trees and add more shade trees off Gay Street. Included are plans to widen the right-of-way; currently it is overgrown and unattractive. The applicant will remove scrub brush and plant low-lying (3 feet in height or less) shrubbery in the area along Gay Street. The plans will be submitted to Coventry Sewer Subcommittee and Kent County Water for approval for connections.

Mr. Nunes pointed to the right side of building where there is a lot curve height varying 1 – 3 feet. He questioned if this was due to Cumberland Farms being higher. Mr. King stated the reason the applicant didn't want the grades too steep was due to handicap parking accessibility.

Mr. Flynn was concerned with improvements to Gay Street and the monies being provided for said improvements. Mr. Nunes stated the offsite improvements on Gay Street will be negotiated with the Town. Mr. Sprague claimed it was up to the Planning Commission as Cumberland Farms also gave money for these road improvements to be made on Gay Street. Mr. Nunes stated the Planning Commission will most likely be seeking monies from the applicant to contribute to the Gay Street improvements as well.

Attorney Cronin requested a concrete proposal be made by the Planning Commission as to the amount to be given by the applicant for road improvements. Mr. Joyal stated Cumberland Farms put \$15,000.00 toward Gay Street and Dunkin' Donuts would be required to commit roughly the same amount as both establishments were nearly equal in size. Mr. Cronin disagreed; he claims the size of the Dunkin' Donuts property was not similar in size to the Cumberland Farms. He would like a better determination of the monies required before discussing this issue with his client.

James Cronan, Crossman Engineering, briefly outlined the traffic report of New London Turnpike being affected by the proposed move of the Dunkin' Donuts. He noted it was a four (4) lane arterial road with traffic signals and each intersection has dedicated left turn lanes. In front of the Dunkin' Donuts property, New London Turnpike is approximately 60 feet wide. Gay Street to the rear is approximately 20 feet wide.

At the intersection of Arnold Road and New London Turnpike a traffic study was conducted from 7am – 9am and from 3pm – 6pm. From these counts the peak traffic hours were determined. Traffic numbered 1,258 vehicles during morning peak travel hours and 1,690 vehicles during afternoon peak travel hours.

Full access to both Gay Street and New London Turnpike is available to the proposed Dunkin' Donuts location. There will be a counterclockwise movement around the building with a minimum 10 cars in the queue lane without any impact to the parking spaces. At the intersection of Gay Street and Arnold Road with a posted speed limit of 35 mph, there is over 400 feet of sight distance for safe stopping which is more than the required 305 feet. There is a retaining wall on the southwest corner which requires motorists to pull into shoulder so traffic on Arnold Road will not be impacted.

Anticipated projected traffic from the proposed development will increase by 10% (from 158 vehicles in the morning to 174 and from 51 vehicles in the afternoon to 56). The adjacent business will open after peak travel time in the morning. The study indicates the proposed Dunkin' Donuts will not have a detrimental impact on surrounding roadways. There will be no degradation in the level of service between existing conditions and build-out of the development.

Mr. Sprague indicated on page 5 of the traffic study there was a level of delays level per 18.5 seconds delay and 19.2 seconds delay on Arnold Road. Mr. Cronan claimed the reason is more right turns; traffic is not new to the area – 80% of the traffic is already on their commute.

Mr. Nunes questioned if the current Dunkin' Donuts is open 24 hours and, if so, will the new Dunkin' Donuts also be opened 24 hours. Attorney Cronin answered in the affirmative to both parts of the question.

*Mr. Bouchard made a motion to open this property development plan to the public. Ms. Fagan-Perry seconded. All members in favor. Motion passed.*

No one approached the Planning Commission.

*Mr. Bouchard made a motion to close the public hearing portion for this project. Ms. Fagan-Perry seconded. All members in favor. Motion passed.*

Attorney Cronin asked to be able to proceed administratively from this point forward. Mr. Flynn restated his desire to see improvements made to Gay Street. Mr. Nunes agreed with Attorney Cronin that the property was smaller in size than the Cumberland Farms;

however the Commission did feel that there should be some discussion between the applicant and the Town for improvements to Gay Street. Mr. Sprague suggested the engineers speak to each other with respect to the amount of cash to be stipulated for improvements to Gay Street.

*Mr. Bouchard made a motion by reading the Finding of Fact:*

*The proposed project is consistent with the Town's Comprehensive Community Plan. The future Economic Development Element of the Plan encourages business revitalization and expansion in target areas.*

*The project will not have a significant negative impact to the environment. Incorporation of landscape at the site will reduce the amount of storm water runoff. Property will be serviced by public water and sewers.*

*The proposed project meets the minimum standards of the Zoning Ordinance.*

*The project will not have a detrimental impact on vehicular or pedestrian traffic in the area. The applicant shall install a pork chop exit onto New London Turnpike.*

*Stipulations:*

*The applicant shall provide for unobstructed access to the existing cemetery on the site.*

*Approval from Kent County Water Authority to connect to public water.*

*Approval from Coventry Sewer Subcommittee to connect to public sewers.*

*Applicant will need a U.S.C. permit from RI DEM.*

*The applicant is granted a waiver with respect to the number of parking spaces.*

*Applicant's waivers as to set back from existing cemetery, 10' setback of parking from street, distance between driveways and buffering of public streets are granted.*

*Monies for improvements to Gay Street be procured from the applicant – to be negotiated with the Planning Department.*

*The application hereafter to proceed administratively.*

*Mr. Flynn seconded the motion.*

*Discussion: Mr. Osenkowski requested to amend the motion to state if a dispute regarding the money to be allocated for improvements for Gay Street arises between the applicant and the Town Engineer, the matter will then come before the Planning Commission and not continue administratively.*

*Mr. Bouchard amended his motion to include Mr. Osenkowski's request. Mr. Flynn seconded the motion. All members in favor. Motion passed.*

Vice-Chairman Nunes granted a recess at 8:44pm.

Meeting resumed by Chairman Crossman at 8:54pm.

**PLANNING DEPARTMENT RECOMMENDATION TO THE TOWN COUNCIL  
Amendment to the Zoning Ordinance to allow for reasonable siting of solar energy  
facilities**

This matter comes before the Planning Commission for a recommendation to the Town Council respecting a proposed amendment to the Town's current zoning ordinance respecting the siting, protocol and requirements of a solar energy system. The proposed ordinance embellishes upon this by distinguishing between a major and a minor installation of solar energy generators. A minor generator would have an output of 25 kwh or less and a major generator would have an output above 25 kwh. This proposed ordinance would address smaller installations servicing 3 – 8 houses with a rooftop installation being the typical scenario. Major generators in a residential zone would require a Special Use Permit.

Currently, there is no energy element within the Town's Comprehensive Plan; however, the Natural Resources Implementation Element of the Plan encourages the Town to develop policies to adopt zoning for renewable energy by identifying certain districts that are preferable over others in order to preserve open space and maintain the Town's environmental quality while working towards the State's renewable energy goals.

Mr. Crossman was curious about Land Use Table #16 stating that solar energy is permitted in every zone with a Special Use Permit. He questioned the I2 in which solar generators were not permitted on the Mills in Town. Mr. Sprague pointed out it may be a matter for the Coventry Historic Commission. Mr. Crossman stated that solar panels could be complimentary to the design of the mills. Mr. Nunes commented that the way the ordinance is currently written, an applicant could not even ask to have the zoning changed. Mr. Crossman questioned if solar generators were allowed to be built in other historical areas. Mr. Peabody clarified that at present solar generators were not permitted in general business zones.

Ms. Fagan-Perry questioned why general business was not allowed to place solar generators on rooftops. Mr. Peabody explained it would be possible to state in the ordinance that solar generators are permissible on rooftops only or on large structures covering parking areas (he cited Bristol Community College as an example). Mr. Crossman recalled these solar generators at BCC were generating enough electricity to meet their needs. Mr. Peabody said there were even companies willing to construct the structures for free although there was a question of storm water runoff and snow removal

would be handled. Mr. Osenkowski voiced his concern that the solar generators would become the primary use of property and not as an ancillary use.

Mr. Crossman then read the Planning Department's recommendation:

"The Planning Department suggests that the Planning Commission make a positive recommendation to the Town Council to approve the proposed amended ordinance & Article 20 subject to the following conditions:

The proposed solar ordinance is consistent with the Town's Comprehensive Community Plan and State Guide Plan 120. The Natural Resources Implementation Element of the Plan encourages the Town to develop policies on protection of groundwater & wetlands resources; to modify regulatory standards to protect environmental quality; to maintain the Town's environmental quality and preserve open space.<sup>1</sup>

The Community Services & Facilities Implementation Element of the Plan encourages the Town to provide adequate educational facilities, protect the Town's groundwater and surface water and to effectively and cost efficiently carry out the Town's administration.<sup>2</sup>

The proposed ordinance is also consistent with State Plan Guide #120 inasmuch as it adopts zoning and siting standards for renewable energy projects.

The Planning Department recommends that the Planning Commission require Development Plan Review approval of all major solar installation systems and that a Rhode Island arborist and/or licensed R.I. landscape architect submit stamped plans with respect to land clearance & deforestation.<sup>3</sup>

Consideration may also be given to requiring a cash bond for decommissioning (rather than a surety bond) of a major solar installation which amount shall be determined by the Town Engineer and deposited with the Town's Finance Office prior to final approval of a major solar installation plan.

It is also suggested that typographical changes be made with respect to "Planning Commission" rather than "Planning Board" and "Town of Coventry" rather than "Town of Foster."

Ms. Fagan-Perry pointed out if the proposal of a major solar farm was to be constructed on the ground it should come before the Planning Commission for a site walk and the Town should receive remuneration to offset schools, the DPW, etc. Mr. Bouchard noted that any solar generator with an output of more than 25 kwh would also have to come before the Planning Commission. He agreed with Ms. Fagan-Perry that the Town should receive compensation. He suggested the provision of electricity to the Town's buildings

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1 Comprehensive Community Plan , Implementation Action Program, § 6.2, 6.3, 6.4, 6.9

2 Id, § 5.1, 5.6 & 5.7

3 R.I.D.E.M., Division of Forest Environment, Rules & Regulations for Licensing and Registration of Arborists

would be adequate. Ms. Fagan-Perry agreed free electricity to schools or municipal buildings would be acceptable. Mr. Crossman also agreed that any major installation should come before the Planning Commission for developmental plan review.

Ms. Fagan-Perry suggested that solar panel installation applicants should be charged an application fee. Mr. Crossman stated an applicant is already charged a development plan review fee totaling \$450.00. Mr. Peabody further noted there was also a special use permit application fee of \$750.00 and all fire and town taxes had to be paid in full.

*Mr. Nunes made a motion for a favorable recommendation by reading the "Finding of Fact":*

"The Planning Commission recommends that the Town Council enact the proposed solar energy ordinance subject to the following stipulations:

The Solar Energy Ordinance is consistent with the State Guide Plan #120 inasmuch as it develops zoning & siting standards for renewable energy projects.

The Community Services & Facilities Implementation Element of the Plan encourages the Town to provide adequate educational facilities, protect the groundwater and surface waters and cost efficiently, carry out the Town's administration.

Solar farms on Town property or solar facilities that provide a net payment to the Town will assist in funding educational and municipal facilities.

The Natural Resources Implementation Element of the Plan encourages the Town to maintain the environmental quality of the community. "Green Energy" such as solar farms is a means to avoid the negative environmental consequences of carbon emissions to the atmosphere while still providing a means of energy for the public.

Consideration of Purposes of Zoning:

The proposed Solar Farm Ordinance is consistent with the following general purposes of zoning ordinances:

It promotes the safety and welfare of the public by providing energy without increased carbon emissions to the atmosphere.

Solar facilities provide for a wide range of energy uses and intensities.

The solar farm ordinance protects valuable natural resources by reducing the Town's "carbon footprint"

The proposed ordinance protects air quality through the use of renewable, non-carbon energy.

The proposed ordinance promotes a high quality of design in the development of private and public alternative means of production of energy.

Additional Recommendations:

In regards to the zoning of General Business and Industry, the zoning changes to Special Use Permit for rooftop units only.

Increase of 25 kwh for single unit buildings.

In situations such as large industrial or commercial buildings, the Town Council may consider increasing the maximum output in excess of 25 kwh for a ‘minor solar installation’.

It is suggested that a cash bond (Section C.10) be posted rather than a surety bond.

It is suggested that typographical errors (i.e. “Board” “Foster”) be changed.

It is suggested that setbacks and height be clarified as to whether it refers to primary or accessory structures. In the situation where a dwelling house is located on the property, the Town Council should clarify as to whether the setbacks apply to the solar far, the house, or both.”

The “Planning Board” changed to “Planning Commission” for review.

The Planning Director’s recommendations are incorporated into this motion.

In instances where solar generators are proposed on municipal property, it will come before the Planning Commission for review.

Restriction of solar generators will be to rooftops only.

A monetary agreement with the developer of a major solar installation shall be made to benefit the Town.

*Ms. Fagan-Perry seconded the motion. All members in agreement. Motion passed.*

**PLANNING DEPARTMENT RECOMMENDATION TO THE TOWN COUNCIL**  
*Latest revisions to the Wind Turbine Ordinance Article VI District Use Regulations,  
Section 4, Item 15.*

Attorney Brusini, representing the Wind Energy Development Corporation, introduced himself to the Planning Commission Board and stated he would like to make a

presentation. Mr. Crossman stated to the audience the Planning Commission is only charged with determining if wind turbines are consistent with the Town's Comprehensive Plan. He asked if the presentation would be beneficial in helping them make this determination. Attorney Brusini said he felt his brief presentation would be helpful to the Planning Commission. He also apologized for hand delivering an informational packet to the Planning Commission just prior to the start of the meeting rather than at an earlier date.

Mr. Brusini stated he was very familiar with the three (3) steps of the administrative process:

1. The Planning Department conducts a study of the relevant zoning issues and creates a first draft ordinance;
2. The Planning Commission engages in extensive review of and revisions to the proposed ordinance and the supporting research and study information with expert testimony and multiple meetings often occurring for complex ordinances
3. After the study has been completed, a recommendation and advisory opinion is sent to the Town Council.

Mr. Brusini quoted from his informational packet, "Wind Energy Development (WED) is concerned that the Commission may have been improperly advised by proponents of the Wind Ordinance at its 6/24/15 meeting that it should only be approving "the concept" of the Wind Ordinance. In fact, the legal requirements are quite the opposite.

R.I.G.L. Section 45-24-51 governs the procedure to be followed for the adoption or amendment of zoning ordinances. It states that all proposals for the adoption, amendment, or repeal of a zoning ordinance are to be referred to the Town's Planning Commission "**for study and recommendation**" and that the Planning Commission, in turn, must "**seek the advice of the City or Town's Planning Department.**"

In a nutshell, the statute requires that Coventry seek the advice of its Planning Department and have its Planning Commission study the ordinance **not the concept**. However, my understanding is that the Planning Department has **not** been involved at all with respect to the Wind Ordinance and the Commission's involvement to date has been limited to 20 minutes of discussion at the end of an already long meeting held on 6/24/15, at which it was lobbied heavily by a proponent of the Wind Ordinance to make a positive recommendation on the "**concept**" of the ordinance."

Attorney Brusini disagreed with the approval of a "concept". It is simply not the law.

Attorney Brusini also cited R.I.G.L. Section 45-22-7 which governs the duties of Planning Commissions. "It states that the Planning Commission is required to "submit an advisory opinion and recommendation on all zoning matters referred to it." "An advisory opinion and recommendation are in no manner conceptual, and in fact require meaningful study of the proposed ordinance."

Attorney Brusini further stated from his report, “The Town’s Resolution No. 10-15-4597 dated January 12, 2015 created a 12-month study moratorium on the siting of wind turbines in order to allow the Town to “act carefully and circumspectly” with respect to the rapidly evolving area of wind energy and to “undertake a deliberative public legislative process” in establishing its wind turbine policy.

If the Planning Department and Planning Commission, as the most knowledgeable bodies with respect to zoning, have been essentially removed from the process, WED questions who, if anyone, has in fact conducted the required study and how the Wind Ordinance could satisfy the Moratorium’s own requirements of acting “carefully and circumspectly” and engaging in a “deliberative public legislative process”.

Attorney Brusini also wished to address consistency with the Town’s Comprehensive Community Plan citing R.I.G.L. Section 45-24-52 which governs consistency of proposed zoning ordinances with a town’s CCP. It states that a Planning Commission’s recommendation must include a statement that the proposed zoning ordinance is generally consistent with the City/Town’s Comprehensive Plan, “including the goals and policies statement, the implementation program, and all other applicable elements of the Comprehensive Plan”.

He claims that WED has the following specific concerns:

- a. The Town’s Comprehensive Community Plan, Category C.1, Land Use, Objective 1.10 calls for the Town to promote the conservation of farmland, open space, and natural resources via zoning incentives.
- b. The Town’s Comprehensive Community Plan, Category C.6, Natural and Cultural Resources, Objective 1.4 calls for the Town to promote the preservation of natural and cultural resources via zoning incentives; and
- c. The Town’s Comprehensive Community Plan, Category C.7, Open Space and Recreation, Goal 2 calls for the Town to: (i) utilize all available federal, state and local assistance to secure long-term preservation of large open space areas (Objective 1.4); and (ii) explore the possibility of using innovative methods in acquiring open space (Objective 1.5).

Attorney Brusini claimed that, “Wind turbines provide an excellent opportunity to conserve farmland, to preserve open space, and to preserve natural and cultural resources, as the turbines disturb and occupy only a very small portion of land (typically no more than 400 square feet up to the base. Wind turbines also help to preserve farmland for future generations and to avoid loss of that farmland to residential development by providing income to rural property owners. WED is concerned that an overly restrictive Coventry wind turbine ordinance will have a chilling effect on wind energy by placing such strict limitations and zoning disincentives on turbine development so that wind turbines could not or would not be located anywhere in Town because they wouldn’t be viable.”

He then introduced Lisa Keaton, a certified wind energy project manager and a Certified Wind Energy Planner from CUBE Engineering (a consulting firm engaged by WED) to present her findings.

## **Noise Level**

Town of Coventry

Chapter 169-7 Noise: Maximum permissible sound levels; exceptions

*Provides sound level limits for all uses in Town with a maximum decibel level of 65 or 70dBA, depending on whether a residential, commercial, or industrial use, but the Wind Ordinance requires wind turbines to comply with a completely different standard of no more than a 5db increase over ambient noise levels;*

Ms. Keaton's conclusion to the current ordinance:

"We consider the implementation of the ambient noise method to be a hindrance to wind power while providing no significant benefits in terms of ease of administration by the Town, ease of performance by wind turbine planners or the protection of landowners from excessive noise. Ms. Keaton "recommends allowing wind turbines to be classified as an **industrial** use according to the Town's current noise code."

Mr. Sprague referred to the statewide interim guidelines suggesting the 5db over ambient noise. Ms. Keaton insisted it was too complicated to be a workable guideline and it was a complicated way to get the same result. Mr. Osenkowski commented that the Planning Commission would be hard pressed to go against current State guidelines. Attorney Brusini interjected the state guidelines have been updated substantially and the results would be published in January.

Mr. Nunes questioned if the limit was 5db over ambient, the level would be higher in more densely populated areas rather than quieter section of Town in the Western end; i.e. ambient noise is relevant. Ms. Keaton said it was solvable with setbacks of a couple of hundred meters determined during the planning process.

Additionally, Ms. Keaton recommended instituting the following two (2) policies:

1. The "noise receptor" (the point at which noise is calculated) should be defined as the point(s) on the adjacent property line(s) closest to the wind turbine, at a height of 5 feet above ground.
2. The relevant property lines should be defined as those property lines in existence on the date of zoning approval of the wind turbine.

## **Shadow Flicker**

The Ordinance states, "The presence of Shadow Flicker Effect shall be determined with pre-application test of said effect measured at the property boundary lines and at locations within 2500 feet of the Wind Energy Facility".

Ms. Keaton stated that a pre-application calculation of shadow flicker will allow the Town to understand the situation before the turbines are erected. She also stated that in contrast to the noise issue, shadow flicker is considered a nuisance, not a health risk. She recommended that the Town strike the requirement for measurement of shadow flicker and reinstate the sentence “Shadow flicker shall not exceed ten (10) hours per year.” And amend it to specify that the maximum astronomically possible shadow flicker shall not exceed 30 hours per year.” Finally, the last thing Ms. Keaton recommends is “defining shadow receptors as residences, schools, hospitals, and similar residential-type institutions such as nursing homes, which are closest to the wind turbine at the time of zoning approval.”

### **Safety Setback**

The ordinance states “The developer must provide calculation of potential hazards such as ice throw and blade throw in the event that such was to occur.”

Ms. Keaton claimed that blade throw is not a significant issue with wind turbines and she recommends that “the Town instead identify certain commonly available international certificates as to the manufacture and structural safety of wind turbines which should be submitted with the permit application as such certifications will reduce the risk to an acceptable level.”

### **Fall Zone**

The current ordinance states “The minimum fall zone shall be 200% of the total turbine height of the tower plus one rotor length...”

Ms. Keaton recommends that the fall zone be defined as 100% of the total height of the wind turbine; however, as it is conceivable that pieces of a fallen turbine can land outside this zone, a study should be conducted and an alternative zone implemented based upon the analysis of the study.

Attorney Brusini then referred the Planning Commission to the use of public roads requiring applicants for wind projects to identify all public roads to be used within the Town to transport equipment and parts for wind turbines, to pay for an engineering study of road conditions, and to be responsible for the repair of any road damage caused by such transportation. He questioned why this equipment would be more likely to damage roads than any other type of equipment as well as decibel noises apply to wind turbines and not to any other type of noise such as a boom-box.

Attorney Brusini referred the Planning Commission to the informational packet he hand delivered a few minutes prior to the meeting. He re-iterated the Town has an existing wind turbine moratorium in place which is set to expire on January 12, 2016. He stated that WED respectfully requests the Commission to recommend to the Council that the moratorium be extended another 6 months to allow for an adequate and meaningful study

period including a site visit to the North Kingstown wind turbine and to identify serious flaws in current Town ordinances.

Chairman Crossman asked Attorney Brusini why he was making a presentation to the Planning Commission and not the Town Council. Attorney Brusini answered he will also be making a presentation to the Town Council but tonight he thought it was appropriate to provide information to the Planning Commission to aid in their recommendation to the Town Council as he was concerned with the administrative procedure.

Ms. Fagan-Perry questioned how much noise there will be generated by wind turbines vs a lawn mower or a chainsaw. She noted this machinery can be turned off but a wind turbine cannot. Mr. Nunes was in agreement. He used Attorney Brusini's example of a boom-box which can also be turned off.

An unidentified man from the audience commented that the Board members should go to the North Kingstown turbine and listen to the noise it generates. Mr. Crossman pointed out that an area such as North Kingstown located on the coast generates far more wind than Greene. Mr. Osenkowski stated he did not agree with all the recommendations for changes made by CUBE and he would have a problem with voting this evening. Ms. Fagan-Perry was in agreement. She said there was not enough time to review all the information presented this evening.

Mr. DePasquale, owner of Turbine Development, asked the Planning Commission to study the actual data regarding the noise decibel level. He also suggested extending the moratorium. He emphasized that wind turbines would help landowners, such as the Capwells, to preserve their land. Mr. Sprague stated that this issue would affect all land owners, not just turbine owners.

Chairman Crossman suggested scheduling a special meeting of the Planning Commission to further discuss this matter. Mr. Nunes was concerned with repercussions if a recommendation to the Town Council was not approved in time for the next Town Council Meeting. Mr. Crossman agreed that the Board should assist the Council in meeting their goals.

*Mr. Nunes made a motion to hold a special meeting on December 8, 2015 of the Planning Commission to discuss this matter at 7:00PM. Ms. Fagan-Perry seconded. All members in favor. Motion passed.*

Public Works Director

None

Planning Director Report

None

Public Comment

*A motion was then made by Mr. Bouchard to adjourn the meeting. Mr. Osenkowski seconded. All members in favor. Motion passed.*

Meeting adjourned at 10:37 pm.

Minutes prepared by Susan Volpe