



**TOWN OF PORTSMOUTH  
PLANNING BOARD**

2200 East Main Road  
Portsmouth, RI 02871  
401-683-3717

**PORTSMOUTH PLANNING BOARD  
Special Meeting  
Continuation of the Regular Meeting of June 9, 2021  
July 14, 2021**

**Members Present:** Guy Bissonnette, Luke Harding, Edward Lopes, Kathleen Wilson, David Garceau, Ryan Tibbetts and Seth Pilotte

**Members Absent:** none

**Others Present:** Leon Lesinski, Administrative Officer, Portsmouth Planning, Gary Crosby, Town Planner, Michael Asciola, Assistant Town Planner and Atty. Kevin Gavin, Town Solicitor

The Zoom Meeting was called to order in the Town Council Chambers by Mr. Bissonnette at 7:00 p.m.

**1. Agenda Continuances/Modifications:**

**MOTION:** Mr. Harding made a motion, seconded by Mr. Tibbetts, to continue Agenda Item 6: *Request for Advisory Opinion to the Town Council regarding proposed amendments to the Solar Ordinance* to the next regular meeting, scheduled for August 11, 2021. All in favor. So voted.

**2. Approval of minutes for Planning Board meeting of May 12, 2021**

**MOTION:** Mr. Harding made a motion, seconded by Mr. Tibbetts to approve the May 12, 2021 meeting minutes. Mr. Harding noted that the minutes reflect the changes requested by David Howard in his email, dated June 18, 2021, to Leon Lesinski, Administrative Office, Portsmouth Planning Board. All in favor. So voted.

**3. Applicant: Nimali Power RI, LLC, Owner: 2340 West Main Realty, LLC – AP 56, Lot 6 (2340 West Main Road) – Master Plan application for the development of a large scale solar project.**

Mr. Harding recused himself from the hearing of this petition.

Edward Sappin, Nimali Power RI, LLC, One West Exchange St., 3<sup>rd</sup> Floor, Providence, RI, appeared to present a request for Master Plan approval for a large scale solar project to be located on the east side of West Main Road at Union Street on the Patriot Petroleum Gas Station property. He explained that Nimali is an east coast based, developer and investor of renewable energy. He

noted that the proposed site is zoned commercial. He stated that the project received a Renewable Energy Growth Certificate and an interconnection agreement from National Grid.

Lyn Small, P.E., Northeast Engineers and Consultants, Inc. 6 Valley Road, Middletown, RI, project engineer, presented a review of the proposed plan. She noted that portions of the sixteen-acre site fall within the watershed protection district but the other portions of the site are intended for development. Access to the solar array is from an extension of Water Department Union Street curb cut. Ms. Small anticipates receiving approvals from RIDOT and RIDEM soon. The project already has RIPDES approval. She noted the proposed plan limits the solar array to the "UD" Watershed Protection District and the Commercial Zone, and to outside the "A" Watershed Protection District. Ms. Small explained that meadow grass is intended for the vegetation in the array and that surrounding, existing vegetation is retained and supplemented to provide adequate screening from the abutters. The plan indicates a centrally located drainage feature to capture run off from the access roadway that surrounds the array. She noted that while the type of fence is to be determined, it will allow for the passing of small animals to-and-from the array area. Mr. Sappin explained that the project is approximately 1.5 MW or 4000 panels.

In response to Mr. Bissonnette, Ms. Small explained the proposed drainage plan and its features. She stated that the run-off calculations meet the state criteria for the 2-, 10- and 100 year storms and have been approved by RIDOT and RIDEM. In response to Mr. Lopes, Mr. Sappin noted that he has not seen the Design Review Board's (DRB) letter from its June 21, 2021 hearing on the project. He spoke on the advantages of a solar development on a commercial site, in terms of carbon offset, as opposed to a fossil fuel project.

In response to Mr. Pillotte, Ms. Small confirmed that the setback from the property line to the array is a minimum of fifty feet and that the vegetative buffer within the setback is thirty feet along the southern and northern areas of the site. Referring to the ordinance, Michael Asciola, Assistant Town Planner confirmed that the indicated setback and buffer complies with the ordinance.

Kevin Alverson, Landscape Architect, 360 Annaquatucket Road, Wickford, RI stated that the applicant engaged his services to assess the existing vegetation in order to determine necessary supplemental plantings within the indicated thirty-foot vegetative buffer around the array. He noted that he did not yet have a plan to present to the Planning Board. He stated that he would refer to the DRB letter of June 21 in completing the landscape design for the project.

**MOTION:** Mr. Lopes made a motion, seconded by Mr. Harding, to accept the letter from the Portsmouth Design Review Board, dated June 21, 2021, on Nimali Power RI,

LLC, Owner: 2340 West Main Realty, LLC – AP 56, Lot 6 (2340 West Main Road) as Exhibit 1 to the hearing. All in favor. So voted.

Mr. Bissonnette called for public comment.

Christian Sullivan, abutter, 799 Union Street, Portsmouth raised several concerns with regard to the petition including the sustainability of cutting down a forest and replacing it with a large solar development, and the placement of the development in a watershed protection district. He also asked for verification on the legal procedures of the application, questioning how specific steps appeared to be taken out of order. He also raised concern that proper notification to abutters may not have been made for the evening's meeting and that minutes from the previous meeting are not posted to the RI Secretary of State's website as required.

Mr. Bissonnette explained that the purpose of the evening's Master Plan review is to determine the feasibility of the project so that, if approved, the developer may carry forward with a detailed, technical design to be presented at the preliminary review. He confirmed that Master Plan review is the first stage of the application process. In response to Mr. Bissonnette, Ms. Small and Mr. Sappin confirmed that the abutters list was submitted to the Planning Board and that notification was sent out to abutters within the proper timeline prior to the June 7, 2021 meeting. Mr. Bissonnette noted that since the evening's meeting is a continuation of the June 7 meeting, additional notification is not required.

Mr. Sullivan questioned the suitability of the DRB review, suggesting it is out of order. Mr. Asciola noted that it is a concept review and that the applicant has to go back to the DRB for a full plan review. Mr. Bissonnette noted that the Planning Board entered the DRB letter of June 21 into the record and will continue to refer back to it at the project's preliminary review.

Richard Munch, 775 Union Street, Portsmouth raised his concerns with regard to the petition including the removal of trees that currently make up a forest, the negative impact to the wildlife habitat in the area and the soil retention in a watershed protection district which downslopes to the reservoir from the proposed project site. In calculating the peak elevation with the height of the solar panels, as compared to that of the vegetative buffer with the tree height, he concluded that the current, forested perspective from the east and the west would be replaced by a view of solar panels.

Mr. Sappin stated that the vegetative buffer will be developed in the landscape plan to obstruct views of the project and this matter will be further addressed at a when the full plan is completed.

Ms. Small stated that the existing vegetation from the proposed project site to the rear of the gas station is substantially more than thirty feet in height. She also stated that the trees elsewhere in the proposed vegetative buffer are taller than 10 feet and would further obscure the views of the panels. She noted, that given the property is commercially zoned with underlying development rights, the solar project is a passive use for the site. She emphasized that every step will be taken to screen the project and minimize views for the abutters and neighbors.

In response to Mr. Lopes, Ms. Small stated that the gravel access driveway is minimized in the Watershed Protection UD zone. She confirmed that panels are located in the UD zone but are situated on pervious ground with the meadow grasses. She noted that the vegetative buffer covers a large portion of the UD zone. She stated that if the project goes forward, she will present figures to indicate how much of the project drains westward toward the reservoir. She noted that the plan indicates no negative impact to the area from a storm water perspective.

Mr. Bissonnette commented on the property development rights of owners of commercial property. He also noted that solar projects, like the one proposed come with federal and state funding and that state law supports alternative, renewable energy development.

Mr. Munch stated that there are better locations for solar development and that the proposed development is “distressing ecologically-wise”. He spoke on his time living in the area, enjoying the views and walking trails. He spoke favorably of Mr. Sullivan who has contributed to the protection of the reservoir and the wildlife corridor.

David Howard, 36 Mariel Rose Drive, Portsmouth expressed support for Mr. Sullivan’s comments on the petition. He noted a consensus among concerned citizens who are confused by the application process and have difficulty accessing back up materials. He asked the Planning Board members to consider their perspective. He regrets that the discussion on the proposed amendments to the solar ordinance is continued to the August 11 meeting. He is worried that applicants are rushing to submit petitions under an ordinance that he feels is “deeply flawed.” He expressed concern for the lack of representation on the Board and the Town Council of west side residents and suggested that the Board members’ perspective depends on where they live.

Mr. Bissonnette and Mr. Lopes took exception to Mr. Howard’s comments. Mr. Lopes stated that he is a life-long islander and that Planning Board members must uphold the ordinances set forth before them regardless of where they live.

Mr. Howard inquired as to whether anyone from the town spoke with the US Navy regarding screening of its solar development on East Main Road. Mr.

Bissonnette replied that the development sits on federal land outside of the town's jurisdiction. Mr. Howard asked the Planning Board to actively hear and consider the amendments to the solar ordinance which incorporate the recommendations from Growth Smart RI. Mr. Bissonnette advised Mr. Howard to seek out representatives from Growth Smart RI and have a presentation placed on a Planning Board agenda for a future meeting.

Mr. Sappin commented that his firm and his representatives will work with the Planning Board and the local community as much as possible.

David Crostin, 118 Sweet Farm Road, Portsmouth spoke to the testimony of citizens to the Planning Board and the Town Council prior to the approval of the solar ordinance in November of 2020. He noted that the proponent of the ordinance described it to the Planning Board, the Town Council and residents as adhering to a minimum of standards. He suggested that the testimony from residents at the time of the ordinance review is applicable to the current petition and that the petition is ill prepared for a decision by the Planning Board. Mr. Croston emphasized that the proponent of the ordinance made assurances that the Planning Board is the "last stop" for residents to have their concerns heard and that the members would stand up for them in the case of a petition that should go beyond meeting minimum standards. Acknowledging the property rights of commercial property owners, Mr. Croston noted that the Planning Board must evaluate the petition based on what makes sense for the town particularly with regard to the protection of the town's only watershed district. He expressed concern that the ordinance does not speak to old growth trees or the environment. He asked that the Planning Board to continue the petition until a point when the applicant can demonstrate the storm water flow into the watershed. He asked that the Planning Board to consider if its members have the power to properly establish the setback to the watershed.

Expressing respect for Mr. Croston's comments, Mr. Sabbin noted that the petition has received approval of the drainage calculations from RIDEM and that he is working within the letter of the law.

Ms. Small noted that under Master Plan approval, storm water analysis is not normally required. She noted areas on the plan where the setback and the vegetative buffer exceed the minimum standards of the ordinance. In response to Mr. Bissonnette, Ms. Small stated that Newport Water Department will be notified of the petition and solicited for feedback.

Mr. Croston submitted to the Planning Board, an opinion letter that he commissioned from an AICP in Rhode Island with respect to RI Law Chapter 45-24, Zoning Ordinances.

William Komm, 1089 West Passage Drive, Portsmouth raised concern that there exists some ambiguity on the term "setback". Mr. Asciola noted that, according

to the Zoning Ordinance, a minimum setback is determined from the site property line. Mr. Komm felt that the solar ordinance is not clear on the definition of setback for solar developments.

Mr. Sullivan, abutter, spoke again, making an impassioned plea to the Planning Board to consider the long-term damage to the existing wildlife in the area. Noting the financial benefits to himself if he were to subdivide his property for residential development, he would not take that step because his property is at the bottom of the town's water supply. He emphasized that the damage to the wildlife corridor, as a result of the proposed project, would take "lifetimes" to rehabilitate with extensive effort. He asked the Planning Board to think about the message that would be sent to other developers if the proposal is approved.

In response to Ms. Wilson, Ms. Small noted that grading to the site is at a minimum and reserved to what is necessary for the stormwater drainage features and the gravel roadway.

Janet Rosa, 780 Union Street, Portsmouth asked the Planning Board to listen Mr. Sullivan's comments noting that he rehabilitated a run-down property and made it beautiful. She supports what Mr. Sullivan is explaining to the Board with regard to the environment in the area.

Rosemary Davidson, 175 Frank Coelho Drive, Portsmouth, expressed her agreement with concerns of the neighbors in the in the area. She stated she cannot fathom the direction the town is going with the proposed development that places 4000 solar panels above the town's reservoir. She asked the Planning Board to listen to the objections raised by the public.

Robyn Younkin, 49 West Passage Drive, Portsmouth, noting that she grew up in Portsmouth, expressed concern for how the town has lost much of the beauty she experienced when she was younger and asked the Planning Board to preserve what remains. She expressed concern for how the solar ordinance was passed during the Covid-19 pandemic, inviting corporations to take up open land for development. She supported Mr. Sullivan's position, saying that solar development should not be located next to a reservoir. She is concerned that since the inception of the solar ordinance, there have been no dissenting votes from the Town Council, the Zoning Board of Review or the Planning Board. She asked the Planning Board to stop action under what she feels is a weak ordinance that should be amended in order to protect the town.

Timothy Ferreira, 810 Union Street, Portsmouth stated that he would not have known about the project if a neighbor had not alerted him to the petition. He noted that the project will be completely visible from his house. He expressed concern for the complete lack of communication from the town on the project. He feels that notification should be sent out to all Portsmouth residents and he is concerned for the wildlife in the area.

David Magee, abutter, 829 Union Street, Portsmouth expressed support for Mr. Sullivan's position on the petition. He inquired as to what would be the benefit to the Portsmouth community in terms of jobs and preserving the beautiful nature of the town. Mr. Sappin stated that the project would create jobs during construction as well as provide an ongoing tax benefit to the town during the operating period. He stated he will provide clarification of these benefits further in the application process.

Heather Olson, 785 Union Street, Portsmouth stated that she spent considerable effort gathering public information for the hearing of the petition, much of which she could not gain access. She expressed concern that the minimal requirements are being met, such as short notices, making the process "impossible" for citizens to follow. She echoed the sentiments expressed by the public with regard to the development and raised concern for displaced wildlife.

Mr. Sappin expressed appreciation for consideration of the petition by the Planning Board.

Mr. Bissonnette closed the public comment portion of the hearing. He expressed his position that the Planning Board continue the petition to the August 11, 2021 regular meeting in order for the applicant to address the watershed issue and obtain comment from the Newport Water Department, and further, for the Planning Board to obtain opinion from Atty. Gavin, Town Solicitor on the letter submitted by David Croston.

Mr. Tibbetts agreed with Mr. Bissonnette. Concerned about the "particular theme" of public sentiment, he also clarified the Planning Board's purview is to evaluate if the petition is allowable under the current regulations.

Mr. Lopes expressed his appreciation for the public comment as well as the comments from Mr. Tibbetts. He noted that the property has unique characteristics particularly as a watershed area. He agreed with a continuation of petition until comment is available from Newport Water.

**MOTION:** Mr. Lopes made a motion, seconded by Mr. Garceau, to continue Nimali Power RI, LLC, Owner: 2340 West Main Realty, LLC – AP 56, Lot 6 (2340 West Main Road) to the August 11, 2021 regular meeting in order to allow for the following to be completed:

1. The Planning Board Administrative Officer requests and receives written comment with regard to the petition from Newport Water Department.
2. The Town Solicitor reviews and provides opinion on the letter submitted to the Planning Board by David Croston.
3. The applicant provides a view shed analysis from the east, from West Main Road (west), and from Union Street (south).

In response to Mr. Pillotte and Mr. Munch, Mr. Sappin agreed to provide the view

shed analysis as defined. All in favor. So voted.

**4. Applicant: 1200 West Main Road, LLC, Owner: P & G Realty, LLC – AP 44, Lots 7 & 8 (1200 West Main Road) – Master Plan application for a Planned Retail/Service Development**

Atty. J. Russell Jackson, Miller Scott Holbrook & Jackson, 112 Touro Street, Newport, RI appeared representing the applicant with a request for Master Plan approval for a Planned Unit Development (PUD) for retail/service use, located on the east side of West Main Road (1200 & 1220 West Main Road), just north of West Passage Drive and east of the Cotta farm property.

Greg Coe, applicant, 1 Trimble Road, Middletown, RI stated that he is a local builder on Aquidneck Island who, through communication with individuals in the trades industry, learned of the need for storage and workspace on the island. He noted that when he became interested in the proposed site, he learned of the history of drainage problems from the site to the abutters and began discussions with them to rectify those issues. He noted that he intends to own and lease the units in the project with no plans to subdivide the site.

Mr. Coe presented a review of the plan layout. He noted that site has a steep grade up from West Main Road but it levels out progressing to the east or back portion of the property. The plan indicates two retail buildings with storefront parking to the west which face West Main Road. Mr. Coe stated that the three back buildings are traditional contractor storage space buildings which will be no taller than a typical residential structure, 20-26 feet. He noted that these buildings will involve less activity and intense use than the retail buildings. They are oriented to keep activity and noise away from the residential abutters to the south on West Passage Drive. Vehicular access to the storage buildings is by a central corridor. He intends to clad all the buildings with a combination of materials like steel, stone and glass with the more visible facades treated with more pleasing design. Mr. Coe has engaged a landscape architect to design a plan for a tree buffering to obscure views of the project from the abutters. He noted that all aspects of the project design will meet town regulations.

Lyn Small, P.E., Northeast Engineers & Consultants, Inc., 6 Valley Road, Middletown, RI presented an overview of the plan. She noted that the site is accessed from a central curb cut at West Main Road. She explained that due to the topography, most stormwater drainage flows east to west toward West Main Road with another portion of drainage going south to the residential abutters. She noted that access and parking is designed to minimize asphalt surfacing. The site is serviced by town water. Ms. Small stated that the test holes results are suitable for a septic system, which is located in the east portion of the site. The plan indicates three areas for drainage structures. Ms. Small stated that the drainage system is pending full design. She has not submitted for RIPDES, Stormwater or Erosion Control permits from RIDEM. She noted that the RIDOT physical alteration permit application will include a drainage plan review because

the stormwater flows toward West Main Road. She explained that she is aware of the significant stormwater drainage issues associated with the property and the abutting farm and homes on West Passage Drive. She intends to complete a full grading and drainage analysis in order to design to a solution to those issues. Ms. Small confirmed that the two lots, 7 & 8 that comprise the site will be merged under the design. She noted that the house on lot 8, to the south will be removed but that she has not determined whether the plan will retain the secondary egress on Lot 8 for fire and safety purposes. Ms. Small confirmed that the Design Review Board (DRB) did not review project lighting and signage plans during its hearing of the project on June 21, 2021. She stated that the DRB will review the detailed plan at a later date prior.

**MOTION:** Mr. Lopes, made a motion, seconded by Mr. Tibbetts, to accept the letter from the Portsmouth Design Review Board, dated June 21, 2021, 1200 West Main Road, LLC, Owner: P & G Realty, LLC – AP 44, Lots 7 & 8 (1200 West Main Road) as Exhibit 1 to the hearing. All in favor. So voted.

Mr. Bissonnette expressed serious concern for the existing Cease & Desist Order from the Town Building Inspector that was issued in 2019 to P & G Realty, LLC, the property owner, for the drainage to the West Passage Drive residential properties. He inquired as to the nature of the current drainage issues as opposed to what they were prior to the current owner's actions. Atty. Jackson stated that Mr. Coe is under a contract to purchase the property from the owner. During the course of the due diligence, they became aware of the Cease & Desist Order, at which point Mr. Coe entered into discussions with the abutters on West Main Road and Mr. Cotta. Atty. Jackson stated that Mr. Coe is committed to designing a stormwater management system that will resolve the drainage issues and the existing conditions that gave rise to the Cease & Desist Order. Mr. Coe also stated his commitment to fixing the drainage problems but expressed his need for reassurance that he can go forward with the project by way of Master Plan approval.

Mr. Bissonnette stated that Cease & Desist Order poses a legal matter for P & G Realty and gives rise to the longstanding problem for the abutters. He stated that matter has nothing to do with the application and should be addressed before approval. He told Mr. Coe that he is not necessarily against the petition but that the town should enforce the order and resolve the legal matter first. Mr. Harding spoke in support of Mr. Bissonnette's position.

In response to Mr. Bissonnette, Ms. Small stated that the owner built a berm along the southern boundary, which forces the storm water through the West Passage Drive abutters' properties. She agreed that the action increased run-off from the proposed site to the abutting properties. She noted that the master plan design and approval request is to provide Mr. Coe assurance that his proposed project is viable. Mr. Bissonnette called for public comment.

David Croston, 118 Sweet Farm Road, Portsmouth submitted the complete compliant and request made by the abutters and neighbors to the town regarding the drainage issues from Lot 8 to the residential properties on West Main Road. He stated that he would also send Mr. Lesinski the full RIDEM Compliant and Request for Assistance, dated April 22 – June 5, 2014. He expressed his opinion that the Town bears responsibility to take P & G Realty to court. Acknowledging Mr. Coe's graciousness with the neighbors, he noted the difficulty with which they receive his support and accept the petition when there has been no enforcement of the Cease & Desist Order.

George Matthews, abutter, 48 West Passage Drive, Portsmouth explained his experiences since 2010 with Mr. Russo of P & G Realty. Mr. Russo leveled trees and removed brush along the southern boundary of the proposed site. The residents had to endure a long period of noise from chain saws. This action resulted in increased run-off to the abutting properties on West Passage Road which flooded backyards and a swimming pool with water and sediment. In 2018, under a temporary permit issued through National Grid, more disturbances associated with noise, vibration and dust occurred in the same area. The same year, Mr. Russo filled in a gully and built a berm along the southern boundary which further exacerbated the run-off problem. Mr. Matthews stated that he called the Town several times to complain, with no recourse. He stated that he was also threatened by Mr. Russo for taking this step. He played a recording of the chain saw noise which he took from his back yard. He expressed his opinion that even though Mr. Coe has been cordial and shows commitment to resolving the drainage problems, the petition should not be approved until the Cease & Desist Order is enforced and a remedy is made by the owner. He fears that Master Plan approval may result in further exploitation of the regulations. In studying the Zoning Ordinance, he has become wary of the lot merger in that the development could be shifted further south and what is now a seventy foot setback (the width of Lot 8) to his property could be reduced to a lesser allowable setback. He stated his concerns that the merger would result in an increased lot coverage and the warehouse building could become larger. He questioned the types of activities that would occur in the warehouses. Mr. Bissonnette referred him to the ordinance use tables for Light Industrial (LI) zoning. Mr. Matthews voiced his concern for the negative impacts associated with the proposed development to the abutting campground, the residential development and the farm, in terms of increased traffic, security, run-off and noise.

Atty. Jackson argued that under a Preliminary Plan application, the applicant will flush out the issues expressed by Mr. Matthews and other abutters and that the proposed use is permitted under LI zoning. He also argued that the applicant is not seeking any relief or variances to the ordinance in terms of structures, setbacks or lot coverage. He emphasized that Mr. Coe has put his best foot forward to reassure the abutters. He argued that Mr. Coe wants to construct a development that is appropriate for the site and respectful to the neighbors.

Mr. Bissonnette noted to Mr. Matthews that many of the details that he addressed are worked out in the preliminary approval phase

Mr. Harding spoke on his experience operating his business out of a tradesman center like the proposed use. He stated that Mr. Matthews is justified with concerns for traffic during the morning and late afternoon hours. He noted that his center is quiet during the middle of the weekdays and throughout the weekends. He approved of the layout of the plan in which the warehouse doors are centralized and not located on the southern sides of the structures toward West Passage Drive. He also noted that larger and taller warehouse structures are not cost effective under the proposed use.

James Banks, abutter, 26 West Passage Drive, Portsmouth stated that he and the other abutters on West Passage Drive have been abused by P & G Realty for about eight and a half years. He described the significant and constant run-off problem into his yard and swimming pool and the associated costs incurred to clean up his yard for years prior to the Cease & Desist Order. He noted that while the "illegal" berm installed by the owner fixed his problem, it redirected the run-off to his neighbors' backyard at 70 West Passage Drive. He expressed concern and his displeasure with the views of the warehouses and the noise of trucks that is associated with the proposed use when his backyard and second story views are important features of his home life. He expressed concern for the negative effect the project could have on the property values along West Passage Drive. He expressed appreciation for Mr. Coe's efforts to work with the neighbors but stated that the drainage problem and the Cease & Desist Order must be resolved before the project approval.

Mr. Harding suggested that the neighbors attend the DRB review of the detailed plan and voice their concerns about the building facades. Atty. Jackson commented that the project is positive and that he and Mr. Coe will do everything possible to work with the neighbors.

Dale Yates-Berg, abutter, 70 West Passage Drive, described the drainage issues to his backyard and basketball court that have ensued since the construction of the berm by the owner. He voiced many of the same concerns for the proposed plan as Mr. Banks. He stated that he fails to see the benefit of the proposed project to the Town and the residents. He expressed appreciation for the seriousness with which Mr. Bissonnette is approaching the matter of the Cease & Desist Order which he feels should be rectified by the current owner before any development of the proposed site. He noted that the Town has not followed through on reassurances that the problem would be mitigated.

William Komm, 108 West Passage Drive, Portsmouth described his experience with the drainage and noise problems associated with P & G Realty's actions on the proposed site. He stated that the berm has created a standing water issue

which gives rise to the risk of the spread of disease by mosquitos. He noted that he is underwhelmed by the Town's response to his concerns and is pleased with the seriousness with which the Planning Board is addressing the matter.

Cort Chappell, 80 Evans Way, Portsmouth spoke on his professional knowledge of the drainage issues on West Passage Drive. He noted solutions in engineering design including a system of drainage structures in the southeast and southwest corners of the proposed site and Mr. Cotta's farm, respectfully, which could be tied into the West Passage Drive drainage system by way of easement agreements with some of the residential abutters. He noted that the Farm Bureau conducted some detention pond engineering for Mr. Cotta. He suggested that the applicant evaluate the West Passage Drive drainage system for this solution.

Atty. Jackson stated that Mr. Coe needs to be vested in the project with a Master Plan to start spending money on engineering. He noted that if Mr. Coe has to wait for the Cease & Desist to be resolved, everyone is relying on the good faith of Mr. Russo. Mr. Bissonnette stated that the problem with going forward with Master Plan approval, without a resolution to the Cease & Desist Order, is that the Planning Board and the abutters are banking on a solution that they know nothing about at this point in time. Mr. Bissonnette closed the public comment of the hearing.

Mr. Bissonnette stated that he is reluctant to grant approval without a resolution to close the Cease & Desist Order. He suggested that the application be continued and that Atty. Gavin, Town Solicitor be directed by the Town to take measures to address the order included having the Town sue P & G Realty.

Mr. Harding apologized to the West Passage Drive neighbors for the lack of response from the Town. He suggested a measure by which, in the course of the sale to Mr. Coe, Mr. Russo has to place money in escrow to fund the solution for the drainage problem. He supports continuing the petition for another month to give time to developing a solution to the drainage problem.

**MOTION:** Mr. Harding made a motion, seconded by Mr. Lopes, to continue 1200 West Main Road, LLC, Owner: P & G Realty, LLC – AP 44, Lots 7 & 8 (1200 West Main Road) to the August 11, 2021 regular meeting on the condition that Town Council directs the Town Solicitor to investigate the next actions to enforcing the Cease & Desist Order issued by the Town Building Inspector to P & G Realty, LLC., dated January 28, 2019. All in favor. So voted.

**5. Agenda Item 7: Applicant: Aquidneck Country Club, Inc., AP 27, Lot 1 (95 West Main Road) – Preliminary Plan application for minor 4 lot subdivision.**

Mr. Lopes recused himself from this agenda item due to his association with the applicant.

**MOTION:** Mr. Harding made a motion, seconded by Ms. Wilson, to postpone the hearing of Agenda Item 7: Aquidneck Country Club, Inc., AP 27, Lot 1 (95 West Main Road) to the August 11, 2021 regular meeting. All in favor. So voted.

**6. Agenda Item 5: Applicant: West Shore Solar, LLC, Owner: Carnegie Trails, LLC – AP 26, Lot 13 (226 West Shore Road) – Master application for the development of a large scale solar project**

Mr. Lopes recused himself from this application due to his association with an abutter.

Atty. Cort Chappell, co-owner and abutter, 171 Chase Road, Portsmouth appeared on behalf of Carnegie Trails LLC of which he is a member. His farm and residence abutt the 36 acre, proposed site which is zoned Heavy Industrial and is the former location of Pearson Yachts. He noted that the plan indicates a 15 acre solar array and 21 acres of open land. He presented a history of the parcel prior to its transfer to Carnegie Trails. He considers solar appropriate for the site which resolves his concerns about alternate, more intense use on the site. Referring to aerial photographs, Atty. Chappell reviewed the existing conditions and former industrial conditions on the site. He stated that portions of the site were dumps that have been cleaned out under Carnegie Trails ownership. He stated that a solar developer inquired with him and his partners about constructing a development on the site. He explained that under the development, the funding from certain sources would be used to clean up the property so that the much of the remaining property could still be restored to its natural state. Noting that he intends to present an appropriate plan with details for drainage, setbacks, site circulation at a future preliminary hearing, Atty. Chappell chose to present prospective viewsheds under the proposed master plan so that the Planning Board could see the major concept for the development and address the concerns for what would be seen by the neighbors. In one photo, he showed a dump area and a large, remaining concrete pad from a former industrial building. He noted that 80 percent of the solar array is in the area of the concrete pad. He noted that the plan retains open space completely around the array with open corridors along the shared boundaries with Carnegie Heights, an open area to the west of the concrete pad, complete open areas along 500 feet of waterfront and 400 feet of wetlands and an abutting farmland the east of the pad. The closest the array is to a house is over 200 feet and, in most cases, 400-500 feet.

Referring to a photo of the concrete pad from Carnegie Heights looking northward, Atty. Chappell pointed out proposed areas intended for tree removal, which consists of choke cherry trees and briars. He noted that all the trees to the west down to the shoreline will remain under the proposed plan. He also highlighted the distances from the houses on the abutting properties to the south along Carnegie Heights Drive and the vegetative berm on the other side of the road that was constructed to buffer the view of the previous 36-foot-tall industrial

structure. He noted that the pad cannot be seen from the road. Atty. Chappell stated that representatives from Carnegie Heights have offered to augment the berm and work with the project landscape architect to increase the buffering from the solar array. He noted that the entire waterside is almost 500 feet of forest and that the pad cannot be viewed from the water.

Referring to a photo of the proposed site from Baker Road looking southward, Atty. Chappell noted that there is over 550 feet of natural vegetation from the road to the concrete pad. He noted that since much of this area is intended for abutting farmland, the landscape plan incorporates green colored fencing and arborvitaes in a buffer. Atty. Chappell reviewed the intended screening from West Shore Road.

Kevin Alverson, Landscape Architect, 360 Annaquatucket Road, Wickford, RI shared the proposed landscape plan for the project. Referring to the plan, Atty. Chappell highlighted the vegetative buffer along West Shore Road and other screening aspects of the landscape plan. He noted that array fence is at least sixty feet from West Shore Road. He spoke on the south east corner of the proposed site which is intended for future development.

Atty. Chappell noted that development will consist of anti-glare panels. He stated that the development will operate under a 25 year lease and that the underlying real estate and personal property taxes are currently set very high. He also spoke on the intended features for a drainage plan, the workings of the decommissioning bond and the application to National Grid.

Michael Barone, abutter, 161 Carnegie Heights Drive, Portsmouth and President of his homeowners' association, expressed support for the proposed solar development as opposed to another industrial development on the site.

Christian Sullivan, 799 Union Street, Portsmouth and abutter to proposed solar development at West Main Road and Union Street, heard earlier in the evening, commented that Mr. Chappell's petition makes sense because of the site location.

D'Andrea Donato Andre, 8 Madeline Drive, Newport, RI and owner, 93 Baker Road, Portsmouth as one of the closest landowners to the site spoke in support of the proposed solar development.

David Howard, 36 Mariel Rose Drive, Portsmouth, spoke in favor of the proposed solar development, noting its preferred location on an unused, industrial property. He noted that he has investigating the tax assessments of some of the properties that

have been proposed for solar development. He is concerned that the town may not be getting a fair value in tax revenue from the developments. He inquired as to why the proposed sited experienced a reduction in assessment. Mr. Chappell explained that the removal of the industrial building reduced the value of the land. Mr. Howard inquired as to the elevation of the development, raising concern for its proximity to the shoreline. Mr. Chappell provided an estimated elevation. He made closing comments.

**MOTION:** Mr. Harding made a motion, seconded by Mr. Tibbetts, to accept the letter from the Portsmouth Design Review Board, dated June 21, 2021, West Shore Solar LLC; Owner: Carnegie Trails LLC; Tax Assessor's Map 26, Lot 13, District HI: 226 West Shore Road, Portsmouth, RI 02871 as Exhibit 1 to the hearing. All in favor. So voted. Mr. Lopes abstaining.

**MOTION:** Mr. Harding made a motion, seconded by Mr. Tibbetts, to grant Master Plan approval to West Shore Solar, LLC, Owner: Carnegie Trails, LLC – AP 26, Lot 13 (226 West Shore Road). All in favor. So voted. Mr. Lopes abstaining.

**7. Approve July 14, 2021 Monthly Project Status Report, Administrative Subdivisions and Plat Plan Recording.**

**MOTION:** Mr. Lopes made a motion, seconded by Mr. Harding, to accept the Portsmouth Planning Board Monthly Project Status Reports, Administrative Subdivisions and Plat Plan Filings, July 14, 2021 and to place it into the record. All in favor. So voted.

At 11:33 p.m., a motion was duly made and seconded to adjourn the meeting. All in favor. So voted.

Respectfully submitted:  
Dede Walsh  
Recording Secretary for:

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Leon Lesinski  
Administrative Officer