



**TOWN OF PORTSMOUTH  
PLANNING BOARD**

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

**PORTSMOUTH PLANNING BOARD  
Regular Meeting  
August 11, 2021**

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

**Members Absent:** none

**Others Present:** 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 pm.

**1. Agenda Continuances/Modifications:**

Mr. Harding made a motion, seconded by Mr. Lopes, to continue Agenda Item 8: Applicant: West Main Solar 1, LLC, Owner: Zaugg Mation Trustee & Regal LLC, Location- AP 44, Lot 15 West Main Road (less than 0.1 miles north of Russo Road)- Preliminary Plan application for the development of a 3.16 MW, ground-mount, solar photovoltaic facility to the next regular meeting, scheduled for September 8, 2021. All in favor. So voted.

Mr. Harding made a motion, seconded by Ms. Wilson, to continue Agenda Item 9: Applicant: Nimali Power RI, LLC, Owner: 2340 West Main Realty, LLC, Location- AP 56 Lot 6 (2340 West Main Road)- Master Plan application for the development of a large scale solar project to the next regular meeting, scheduled for September 8, 2021. All in favor. So voted.

Mr. Harding made a motion, seconded by Mr. Tibbetts, to continue a previously scheduled Agenda Item that was inadvertently left off this agenda, 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 to the next regular meeting, scheduled for September 8, 2021. All in favor. So voted.

Mr. Harding made a motion, seconded by Mr. Tibbetts, to continue a

previously scheduled Agenda Item that was inadvertently left off this agenda, Applicant: Aquidneck Country Club, Inc., AP 27, Lot 1 (95 West Main Road)- Preliminary Plan application for minor 4 lot subdivision to the next regular meeting, scheduled for September 8, 2021.

Mr. Lopes continued his recusal from this item due to his association with the applicant.

All in favor. So voted.

**2. Approval of minutes for Planning Board meeting of June 9, 2021**

Mr. Harding made a motion, seconded by Mr. Tibbetts to accept the minutes and place on file. It was noted that Ms. Wilson's name should be removed from the Members Present section and left in the Members Absent section because she in fact was not in attendance at the meeting. All in favor. So voted.

**Approval of minutes for Planning Board meeting of July 14, 2021**

Mr. Harding made a motion, seconded by Mr. Tibbetts to accept the minutes as written. All if favor. So voted.

**3. Applicant: Mark Horan, Owner: Elaine Raduano, Trustee – AP67, Lot 138 (273 Indian Avenue)- Approve Preliminary and Final Plan Decision for a two lot minor subdivision;**

Mr. Harding made a motion, seconded by Mr. Garceau to approve the decision as previously written. All in favor. So voted.

**4. Applicant and Owner: Silvia Holdings LLC (formerly IMS Realty Holdings, LLC) – AP 47, Lot 2A (0 Schoolhouse Lane) – Approve Advisory Opinion to the Town Council to rezone Lot 2A from residential (R20) to Light Industrial (LI) with the ultimate goal of merging AP47, Lot 2A with AP53, Lot 18J;**

Mr. Tibbetts recused himself from this opinion.

Mr. Lopes made a motion, seconded by Mr. Harding to approve the opinion as written. All in favor. So voted. Mr. Tibbetts abstaining.

**5. Applicant and Owners: John Carlone and Margaret Carlone (Life Estate) – AP31, Lot 4 (22 + 24 Dexter Street) – Approve Advisory Opinion to the Town Council to rezone AP31, Lot 4 from Commercial to Residential (R20);**

Mr. Tibbetts made a motion, seconded by Mr. Lopes to approve the

advisory opinion to the Town Council. All in favor. So voted.

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

Mr. Lopes recused himself from this application.

Mr. Cort Chappell did not have any additional comments to make for this application.

Mr. Harding made a motion, seconded by Mr. Pilotte to approve the Master Plan Decision for the development of a large-scale solar project. All in favor. So voted. Mr. Lopes abstaining.

**7. Applicant West Main Solar 1, LLC – AP 44, Lot 15 - Approve Master Plan Decision for a Major solar project;**

Mr. Harding is recusing himself because he is an abutter.

David Croston, 118 Sweet Farm Road, is looking for clarity for everyone: Is this the final approval for the plan?

In response, Mr. Bissonnette explained that an application has multiple steps to go through. The first step is to receive an approval of the Master Plan. This is approving the concept of the proposed application. Then it moves to the next step of the Preliminary Plan application, which the applicant can then get into the details of the project.

Larke Roderigues, 73 West Passage Drive, wants to know if she is wasting her time showing up to the Planning Board meeting as an abutter. Mr. Bissonnette, told her she is absolutely not wasting her time and that she should continue to show up for any notification she receives.

Mary Cepal, 144 West Passage Drive, is this petition approved and good to go in these localities. Mr. Bissonnette said the idea of this petition is able to go in this location. Mr. Asciola explained that this item agenda is to approve the decision for the Master Plan from the meeting held in May 2021. Mr. Harding further explained that there will be no details at this meeting but there will be at the next scheduled meeting at which time everyone can get up to speak at that meeting.

Amy Stowe, 287 Vanderbilt Lane, wanted to know if public hearings have been held in which health and safety reports have been asked for?

Specifically, in regards to the electromagnetic radiation effects on the residents who live near the arrays? Mr. Bissonnette replied no, this issue has not come up yet. In addition, is the Town receiving any state or federal subsidies?

In response to Ms. Stowe, Mr. Bissonnette said the developer should be here in order to answer any questions about details so the question posed about subsidies would best be asked at the next meeting when the applicant is present.

Robyn Younkin, 49 West Passage Drive, wants to know why the solar ordinance amendments are after a couple of applications for solar arrays on the agenda. Seems to her that the agenda items are out of order.

In response to Ms. Younkin, Mr. Bissonnette replied that there does not seem to be a particular reason one item is placed on the agenda before another. The applications already submitted will be following the ordinance that is currently in place even if the Board was to recommend a change.

Ms. Younkin said that when the ordinance was voted in that they were told that there were only two minor solar arrays proposed and to her that means that should have been a starting point for a discussion for the ordinance and if any residents had any issues with it. Mr. Bissonnette stated that the ordinance was advertised and put into effect. Ms. Younkin said it was put into effect during a pandemic. It was put into effect in May and then challenged in the Fall. Mr. Bissonnette replied that it stayed and was put into effect and that it is law and applies to everyone.

Ms. Younkin believes there should be a moratorium.

Mr. Tibbets made a motion, seconded by Mr. Lopes to approve the Master Plan Decision for a major solar project. All in favor. So voted. Mr. Harding abstaining.

- 8. Applicant: West Main Solar 1, LLC, Owner: Zaugg Marion Trustee & Regal, LLC, Location – AP 44, Lot 15 West Main Road (less than 0.1 miles north of Russo Road) – Preliminary Plan application for the development of a 3.16 MW, ground-mount, solar photovoltaic facility.**

Motion to continue was made under Agenda Item #1: Agenda Continuances/Modifications

**9. Applicant: Nimali Power RI, LLC, Owner: 2340 West Main Realty, LLC, Location - AP 56, Lot 6 (2340 West Main Road) – Master Plan application for the development of a large scale solar project (continued from July 14, 2021 meeting);**

Motion to continue was made under Agenda Item #1: Agenda Continuances/Modifications

**10. Request for Advisory Opinion to the Town Council regarding proposed amendments to the Solar Ordinance (continued from the May 12, 2021 meeting);**

David Croston, 118 Sweet Farm Road, mentioned he was the one that helped coordinate the person from Grow Smart who presented an opinion letter to the Town Council last fall. The ordinance addresses a major concern about unrestricted growth of medium and large solar arrays in residential districts. By any reading of the Community Comprehensive Plan, there is no way to get A to B. If we do not do anything then some citizen will challenge this Town relative to the Community Comprehensive Plan.

Mr. Bissonnette advised that Mr. Croston speak to the proposed amendments.

Mr. Croston, challenges that the Town (although may not be perfect), may have to revise setbacks and buffers but by no means do we want medium or large arrays in our residential areas unrestricted. Mr. Croston challenges that this ordinance goes against the Comprehensive Community Plan.

In response, Mr. Pilotte says that it is not a developer's right to put a solar array in a residential area. There are requirements in place to get a special use permit before the developer can put a solar array in a residential area.

Mr. Croston wants to see a greater setback and buffer for the developers to follow.

Mr. Croston states that the comprehensive community plan does not address ground-mounted solar arrays except for as an auxiliary use. Solar arrays in commercial districts or light industrial districts could be OK with restrictions and is opposed to medium and large solar arrays in residential districts that do not meet the comprehensive community plan.

Mary Cepal, 144 West Passage Drive, agrees with Mr. Croston.

Amy Stowe, 287 Vanderbilt Lane, wants to know if any health & safety studies have been done in regards to the electromagnetic radiation effects of a large solar array 30 feet from a home.

Mr. Harding stated that he spoke with someone, individually, who said that there is no evidence that a solar array poses negative health risks.

Mr. Asciola stated that this ordinance was drafted under the State's guidance for solar.

Richard Younkin, 49 West Passage Drive, stated that  $\frac{1}{4}$  mile north from his house is the cox array,  $\frac{1}{4}$ - $\frac{1}{2}$  mile southwest from his house is the Navy array, 1- 1.5 miles from the Chase Farm array and if the array for agenda item #7 is approved, it would be 200 yards south from his house. Four arrays in about a mile circumference, if this is happening near him, where else is this happening.

Christian Sullivan, 799 Union Street, questions in regards to the Planning Department memo to the Planning Board. He understands that adopting all the recommended ordinance changes would eliminate almost all zones that are capable of handling large solar arrays and the memo says to not accept any changes. Could a compromise be made? Mr. Bissonnette replied it is all of the recommended changes or none. Mr. Sullivan said that if the changes were to be made then that would allow the Planning Board to retain the ability to use site specific restrictions based on individual criteria.

David Howard, 36 Marial Rose Drive, read an email from Ann Marie Van Hoff 60 Sweet Farm Road because she was not able to attend. Ms. Van Hoff strongly objects to solar arrays replacing healthy forestland. She believes all projects should have to wait until the ordinance is adjusted. She also state that solar arrays decrease property value; a study has shown that values could be decreased by up to 7%. She thinks that solar is important too but should not have to cut down healthy forested land.

Mr. Howard stated that he sent in a letter, which many of the topics have been covered, and that he also agrees with Mr. Croston. Mr. Howard thinks a 50 foot setback is inadequate. Mr. Howard believes that developers should be encouraged to build on open areas and not forest.

Mr. Harding stated that everyone should also be mindful of what could go into these areas other than solar (ie. junkyards, etc).

Wayne Christianson, 60 Young Drive, for those that are opposed wants to know what do we do next?

Mr. Bissonnette stated that one way or another, the Planning Board will make a recommendation to the Council. He said that he as an individual not as a board member, has trouble with a few of the provisions for the agenda and would not mind seeing the Town Council host a workshop.

Tom Ginly, 19 Chelsea Drive, supports the changes that are proposed. He believes that the ordinance as it currently is written is too easy. He would also like to see a moratorium. He does not want to see arrays in neighborhoods that are not in line with the comprehensive community plan.

Bruce Fay, 84 Sweet Farm Road, believes that people are opposed to pieces of the ordinance, not the entire thing. Is the plan to build nothing but solar arrays in open space? Is he the only one that sees a problem with the fact that the Town did not write the solar ordinance and that an attorney did and he wrote it to benefit his clients and himself.

Robyn Younkin, 49 West Passage Drive, expressed that something needs to be done before she is living next to a 20-acre solar array. She believes that the ordinance is weak and there needs to be a moratorium and a workshop.

Mr. Harding said that he mostly agrees with Ms. Younkin. He would argue against the arrays that decrease property values and that tear down trees.

Bill Komm, 108 West Passage Drive, after the advisory opinion is given to the Town Council, when will a workshop be if there was one?

Mr Bissonnette stated that a workshop would be up to the Council and that they would schedule that. Any citizen has the right to put any item onto the Council agenda or the idea of a moratorium on the solar arrays.

Elizabeth Fitzgibbon, 96 Hilltop Drive, believes that people would be in favor of a ordinance that is in between what we currently have and the proposed amendments. She also stated that there are many applications coming in and they are coming in for the same area. Ms. Fitzgibbon wants to find a middle ground for this ordinance but would be in favor of the amendments.

Larke Roderigues, 73 West Passage Drive, believes that there should be bigger setbacks and that if there were then developers may not want to build in Portsmouth because the buildable area would be smaller. She believes that setbacks are key.

Louie Letendre, 94 Sweet Farm Road, Where do we go from here? He

would like to see bigger setbacks and wants to make sure that water runoff is taken into consideration when building these arrays.

Mr. Bissonnette stated that one way or another, the Planning Board will make a recommendation to the Council and then it would be in the Council's hands.

In response to Mr. Letendre, Mr. Pilotte stated that storm water runoff is taken care of on site and there is not supposed to be any runoff that affects other properties.

Shelley Nicholas, 59 Marial Rose Drive, would also like to see a moratorium and to possibly push all applications until the ordinance is fixed.

Mr. Bissonnette stated that the Planning Board cannot declare a moratorium, they can only make a recommendation to the Council.

Cort Chappell, 80 Evans Way, mentioned that the Town has had the Cox solar array for years without anyone knowing that it was there. He stated that he took the model ordinance from the State and researched other Town's ordinances in order to create Portsmouth's solar ordinance. He also states that this ordinance is not developer friendly.

Mr. Chappell explains a few sections of the Solar Ordinance:

Under Section G: Medium, Large and Utility- Scale SES Siting Requirements

"Section 1.a. General Siting: Solar Energy Systems shall be located, constructed, installed , and operated to minimize potentially adverse impacts to nearby properties, natural resources, and or individuals." Mr. Chappell stated natural resources like the water supply.

He also states that solar energy is more restricted than any other use in the history of Portsmouth.

Section 1.d: Land Clearing: Wherever practical clearing of natural vegetation shall be limited to what is necessary for the construction, operation, and maintenance of the solar energy system...

Disturbance and removal of topsoil is regulated. No other use of land says to use the minimal amount of land for the project that is being completed and the rest is preserved.

Section 1.f: Buffer Areas and screening: Natural vegetation or additional

landscape screening shall, not may, be provided as determined by the Zoning Board of review or Planning Board depending upon the existing land use.... The Zoning Board of Review or Planning Board shall have the authority to set site specific width of buffers- Mr. Chappell comments that the 50 foot buffer is just a minimum and the developer could be required to have a larger buffer. A reasonable balance needs to be reached for the developers rights of any type of project and the abutters rights not to see what is going on at the project next door.

Mr. Chappel explains why a 200 foot buffer does not work for all projects. He goes on to explain why the ordinance should not exclude all residential areas for solar array placement. Mr. Chappell explains how the Planning Board has the power to increase the buffer or setbacks for any project. He also explains the process of the Master Plan approval and the Preliminary approval and how all the details will be given in the Preliminary stage of the application process.

Public Comment was closed.

Mr. Lopes referenced the Memo submitted by the Planning Department dated 5/5/21, in which he concurs with the last paragraph. Mr. Lopes stated that he will not make or vote on a motion in regards to the recommendations.

Mr. Pilotte would like to see the Town Council have a workshop where all of the recommended changes can be discussed. Mr. Harding concurs with Mr. Pilotte.

Mr. Bissonnette states that he will not support the recommended amendments. He would also like to see a workshop and wants to adopt the Planning Department's memo as part of his opinion.

Mr. Harding made a motion, seconded by Mr. Tibbetts to not recommend the proposed amendments to the Town Council. All in favor. So voted. Mr. Lopes abstaining.

#### **11. Approve August 11, 2021 Monthly Project Status Report, Administrative Subdivisions and Plat Plan Recording.**

Mr. Lopes made a motion, seconded by Ms. Wilson to receive and place on file. All in favor. So voted.

**MOTION:** At 9:45 p.m. a motion was duly made and seconded to adjourn the meeting. All in favor. So voted.

Respectfully submitted:  
Tracy Adams  
Recording Secretary for:

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Leon Lesinski  
Administrative Officer