CITY PLAN COMMISSION

Cranston City Hall
869 Park Avenue, Cranston, RI 02910

Minutes

Monday, March 20th, 2023 – 5:30PM

3rd Floor - City Council Chamber, 869 Park Avenue, Cranston RI

CALL TO ORDER

Chairman Smith called the meeting to order at 5:38 p.m. in the Council Chamber, 869 Park Avenue.

The following Commissioners were in attendance for the meeting: Chairman Michael Smith, Richard Bernardo, Thomas Barbieri, Robert Coupe, David Exter, Steven Frias, Kathleen Lanphear, Lisa Mancini *(arrived 5:54 p.m.)*, and Thomas Zidelis. No Commissioners were absent.

The following Planning Department members were in attendance: Jason M. Pezzullo, AICP, Planning Director; Douglas McLean, AICP, Principal Planner; Alexander Berardo, Planning Technician; and Amelia Lavallee, Planning Department Intern.

Also attending: Steve Marsella, Esq., Assistant City Solicitor.

SUBDIVISION AND LAND DEVELOPMENTS

- **"Natick Avenue Solar"** **PUBLIC INFORMATIONAL** (vote taken)
  MASTER PLAN - Major Land Development
  30 Acre / 8MW Solar Farm on 64-acre site
  Natick Avenue
  AP 22, Lots 108 and 119

  Continued from the February 7th 2023 regular City Plan Commission agenda

  PREVIOUS MASTER PLAN APPROVAL VACATED AND REMANDED BACK TO THE CITY PLAN COMMISSION FOR FURTHER PROCEEDINGS

At the outset, Solicitor Marsella asked Mr. Coupe to confirm that he'd read the entire record, since he had not been present for the beginning of the Natick Avenue Solar hearing during the February 7, 2023 regular City Plan Commission meeting. Mr. Coupe then confirmed he had. The hearing then resumed where it had left off in February, with Mr. Frias posing a series of questions to Ed Pimentel, AICP, Planning Expert retained by the applicant.

Mr. Frias asked Mr. Pimentel about comments he made in his report regarding the potential fiscal impacts of residential development on the site. He asked whether all residential developments represented net-negative fiscal impacts on the City; Mr. Pimentel said efficiency (smaller, one bedroom) units tend to have a net positive impact, but 2- or 3-bedroom units do not, the difference being these units' capacity for

accommodating children. Mr. Frias then asked why Mr. Pimentel's general argument against housing for the site didn't run counter to Housing Goal 4 in the City's Comp Plan, to which Mr. Pimentel replied that a given zoning district usually allows multiple uses, so there can be several allowed and appropriate uses from which to choose for a given parcel. Mr. Frias also asked if the need for more housing units had grown more acute in the years since the project was first proposed; Mr. Pimentel said the need was particularly for more affordable housing.

Mr. Frias then asked Mr. Pimentel several questions concerning Land Use Principle 1.3, specifically the concept of "land-banking." He asked if Mr. Pimentel considered this project an example of land-banking, whether the term is generally understood to encompass the clear-cutting of land or to be more synonymous with open space conservation, and whether solar farms are considered a type of development. Mr. Pimentel said anything that causes a land disturbance would count as development, but the City's Comp Plan considered the installation of solar farms as a means of land-banking. He further described land-baking as a non-permanent use of a property, drawing a distinction between solar and residential uses, the latter of which also requires land disturbances, but represents a permanent use.

Turning to the report prepared by the opposition's Planning Expert, Paige Bronk, AICP, Mr. Frias asked Mr. Pimentel's opinion on whether he agreed with a comment made by Statewide Planning that the references to land-banking should be deleted or clarified from the Comp Plan. Mr. Pimentel said he has no opinion on that matter and that it does not impact his assessment of the proposal's consistency with the Comp Plan.

Mr. Frias asked how the applicant's proposal would achieve Land Use Goal 9 or meet Land Use Principle 4; Mr. Pimentel said those questions assume the solar facility would be a detriment to the neighborhood and restated that solar facilities do not generate traffic, require utility connections, or represent permanent environmental degradation in the way that housing development does. Mr. Frias then asked if a reduction in property values would represent a destabilization of a neighborhood, but Mr. Pimentel said the question was better directed to a professional appraiser. He also asked about consistency with Land Use Goal 13; Mr. Pimentel said any use would be contrary to that goal, residential included, but in the grand scheme of things, land use is a balance. Mr. Frias recalled that they had spoken about competing Comp Plan goals in the previous meeting; Mr. Pimentel said it's important to bear in mind what is allowed by-right, and this property can be used by-right for residential and solar developments.

Next, Mr. Frias asked if Mr. Pimentel was aware of any case law in which solar farm equipment had been defined as manufacturing facility; Mr. Pimentel recalled a case concerning a facility in Portsmouth. Mr. Frias asked if keeping manufacturing uses away from residential uses was a generally-accepted planning practice and the original motivation for creating zoning districts; Mr. Pimentel confirmed the matter's relationship to the origins of zoning, but said communities decide which zones should be adjacent to one another on an individual basis. *(Ms. Mancini joined the meeting at 5:54 p.m.)*

Mr. Frias asked what Mr. Pimentel meant by his reference to the City's need to balance renewable and non-renewable energy in his report. Mr. Pimentel said the City intended to generate a certain portion of its energy needs through renewable means. Mr. Frias also asked whether rooftop solar could allow both residential and solar uses to exist on the site without impacting views for the neighborhood in the way a solar farm would; Mr. Pimentel said impacts on views are by nature subjective and depend on where the viewer is located. Mr. Pimental also stated that solar energy was the most efficient type of renewable energy. Mr. Frias asked what the typical capacity factor of a New England solar farm would be, but Mr. Pimentel said he did not know that or what a capacity factor is.

In his final series of questions for Mr. Pimentel, Mr. Frias first asked if a subdivision had ever been approved for this property or any of the other sites that ultimately became solar farms in Western Cranston; Mr. Pimentel said he was unsure, at which point Atty. Nick Nybo noted that Gold Meadow Farm had initially been approved for a 39-lot subdivision and Director Pezzullo added that Hope Solar had proposed a 29-lot subdivision. Lastly, Mr. Frias asked if Mr. Pimentel had ever testified that a solar farm was inconsistent with a community's Comp Plan. Mr. Pimentel replied that he had not.

Ms. Lanphear asked Mr. Pimentel why he felt confident in saying that solar represented a non-permanent land use. Mr. Pimentel said solar farms typically have 25- or 30-year lifespans, and the community's

appetite for renewing the contract generally determines how “permanent” the use ends up being – whether the solar panels are replaced or taken down so the land can be replanted. Ms. Lanphear also asked if the lease agreements usually include clauses for renewal; Mr. Pimentel said such clauses can be negotiated if the host community is inclined to see the land dedicated to solar use for additional terms. Atty. Nybo said the Natick Ave Solar contract was a 25-year lease with two potential 5-year extensions.

Following the conclusion to Mr. Pimentel’s testimony, Atty. Bob Murray then introduced John Carter, a registered Landscape Architect in Rhode Island, Connecticut, and Massachusetts. Mr. Carter began by describing his professional background and experience, noting that he had appeared before the Commission multiple times over the past 25-30 years.

Atty. Murray asked Mr. Carter to confirm he had been involved in the full course of the project’s original permitting path, including its associated Ad Hoc Committee and DPR processes, and that the original Master Plan hearing focused on plans that were much more conceptual than the ones presently before the Commission (which had the benefit of incorporating input from neighbors, Planning Staff, and a Landscape Architect peer review), which he did.

Atty. Murray then asked Mr. Carter to speak to his familiarity with the existing and proposed conditions of the subject parcel. Mr. Carter said his analysis typically begins with a site analysis that accounts for the subject parcel’s current use, topographical conditions, existing vegetation, and adjacent parcels’ uses. He said the site is primarily a Christmas tree farm, with the eastern end of the property sloping from the northwest down to the southeast (toward the Natick Ave end of the parcel) by about 125 feet. Existing vegetation consists primarily of deciduous trees with some shrub understory. Speaking to the proposal, Mr. Carter said the solar panels would begin about 500-600 feet west of the parcel’s frontage on Natick Ave; that the necessary buffers surrounding a wetland, intermittent stream, and wooded swamp on site have all been flagged, reviewed by RIDEM, and incorporated into the site plan design to ensure they will be left undisturbed; and that the residential homes abutting the subject parcel on both the northern and southern sides were a main focus of mitigation through the landscape plan.

Mr. Carter displayed several graphics showing invisible “transect lines” that were drawn across the property, explaining that this was a technique used to aid the designing of a mitigation strategy (vegetated screening) based on variations in distances, vegetation, and topography between various points on the subject parcel and abutting properties. The proposed vegetated buffer would have varying grade changes and widths and would take the form of a perimeter buffer, after discussions with neighbors ruled out the use of a solid fence and given the inherent difficulties associated with planting within existing vegetation. A 50-foot buffer of existing vegetation will be left untouched, followed by an additional 10-foot buffer with a planting scheme consisting of a mixture of native coniferous and deciduous species.

Atty. Murray asked Mr. Carter to confirm the applicant’s proposal had to be fully vetted by RIDEM before permits were issued, which he did, adding that the plan was also reviewed by the City Plan Commission, the Conservation Commission, the peer reviewer (Bradford Associates LLC), Planning Staff, and others. He said there is no question that the applicant’s proposed mitigation solution was thoroughly vetted and agreed upon by all parties. He noted information on the specific plantings proposed were provided.

Finally, Atty. Murray asked if Mr. Carter could speak to the landscape plan’s relation to the pipeline along the southern side of the property. He said the land included in the pipeline easement is maintained as cleared on the surface, so the applicant was not proposing to plant in that area. He added that there was a much lower density of development on the parcel’s southern side anyway.

Mr. Frias asked Mr. Carter if the applicant intended to plant just outside of the pipeline easement on the southern side of the property; Mr. Carter said there is a strip of plantings to screen a single house on that side, but otherwise no additional plantings were proposed. Mr. Frias asked if there would be space for more plantings if the solar farm were reduced in size, but Mr. Carter said a certain amount of clear space needs to be factored in between the nearest trees and the solar panels, especially on the farm’s southern exposure, which is the most critical for catching sunlight. When asked how much distance would need to be between the panels and potential plantings along the southern property line, Mr. Carter said he was unsure; Atty. Murray said his understanding was that the panels have to be set back a distance

equivalent to three times the height of the nearest trees. Atty. Murray took a moment to ask Mr. Carter to confirm there were some large trees already standing on that property line today, which he did.

Mr. Frias also asked whether some abutters would be able to see the solar farm at certain times of the year; and whether he or his firm had been involved in Southern Sky's Lippitt solar farm project. In response, Mr. Carter said the vegetated buffer probably wouldn't completely obscure the solar panels as viewed from any given angle at any given time of year. He also said he was not involved in the Lippitt solar project.

Ms. Lanphear asked why transect lines hadn't been prepared for two of the houses abutting to the northwest. Mr. Carter said transect lines were prepared for the properties that stood to be most impacted, and suspected the houses she referenced were probably lower in elevation or had other characteristics that would have served as mitigating factors. She then asked for a more precise review of the buffer's varying widths, which Mr. Carter provided verbally while pointing to separate areas shown on the landscape plan as a visual reference.

Atty. Nybo then invited Tom Sweeney as the next witness. Mr. Sweeney introduced himself as a certified real estate appraiser and broker in Rhode Island who had conducted probably 2,000 appraisals over the course of his career. He estimated he had previously appeared before the Commission around 15 or 20 times and said he had been accepted as an expert witness at various municipal, state, and federal bodies.

Mr. Sweeney said his report examined findings from three comprehensive studies conducted by appraisers in North Carolina, Indiana, and Illinois during the last decade, specifically comparative analyses between properties near solar farms of this size vs. properties not in proximity to solar farms. He said the results showed that when solar farms are properly screened, they have no measurable impacts on residential property values.

Mr. Sweeney said he had reviewed a 2020 study produced by URI Prof. Corey Lang, which found through statistical analysis of 78,000 property sales that parcels in proximity to solar farms experienced a 1.9% reduction in value, but noted another study released last month used a sample size of 1.8 million properties near solar farms and found proximity to solar facilities actually led to a slight increase in value in Connecticut, while a 1.7% reduction in value was observed in Massachusetts. He said that study also relied on statistical analysis and said the changes in value were small enough to be negligible in the grand scheme of things.

Atty. Nybo said he would submit the study Mr. Sweeney referenced for the record and then asked Mr. Sweeney to offer clarification on two questions. First, he asked Mr. Sweeney if he had looked into the possible impacts of residential development on abutting residential properties; he said he did, as did Prof. Lang, who found through a survey that prospective buyers appeared willing to pay more for a property when its "neighbor" was a solar farm as opposed to another residence. He then asked about the more recent study, whose large data set of 1.8 million properties was drawn from several states nationwide, and asked if Mr. Sweeney's choice to highlight Connecticut and Massachusetts results would be the typical approach of appraisers trying to determine which states would produce the most relevant comps to review. Mr. Sweeney said yes.

Mr. Sweeney also said he used MLS to conduct his own study, which aimed to isolate the impacts of a solar farm in West Greenwich (which is larger than the applicant's proposal) on house prices by comparing houses in close proximity with those not in proximity to solar farms on the basis of sale price per square foot in 2019 (prior to construction) vs. post-construction of the solar farm. He found no meaningful difference. He said he also studied the area around the Robin Hollow solar farm and found the same situation – he concluded that a well-screened solar farm does not seem to have an impact on abutting residential properties.

Mr. Frias first asked Mr. Sweeney if he agreed that decreasing property values destabilize neighborhoods; he said he did. Next Mr. Frias asked whether the three appraisal studies he cited were peer-reviewed as academic studies or commissioned by solar developers; Mr. Sweeney said they had been commissioned by solar developers. Mr. Frias asked the same question of Prof. Lang's study; Mr.

Sweeney said that one was peer-reviewed. Mr. Frias then asked if Mr. Sweeney was familiar with a study in Austin, Texas, which found that the larger the solar project and the closer the residential property is in proximity to the solar facility, the more the property's value declines. Mr. Sweeney said he believed he had heard of the study but didn't know that he agreed with its findings. Mr. Frias asked if Mr. Sweeney was aware of any other studies comparable to Prof. Lang's that had been conducted for Rhode Island, and he said he was not. Mr. Frias finally asked if the aesthetics of the surrounding area add value to a residential property; Mr. Sweeney said yes, but more so if the residential property also owns the surrounding area that lends it the aesthetics. Mr. Frias said he reserved the right to ask further questions at a later point, since he hadn't had much time at that point to fully digest Mr. Sweeney's full report.

Atty. Murray said that with the conclusion of Mr. Sweeney's testimony, the applicant team had presented its case.

Mr. Frias said he had a few additional questions for Dave Russo, P.E., who provided his testimony during the February 7th meeting (when the matter was previously heard). After Mr. Russo took the stand, Mr. Frias asked him whether he worked on the Lippitt solar project and if he would have done anything differently if he had a chance to work on it again – specifically if he felt the applicant made a mistake in underestimating the amount of ledge on site that would require blasting. Mr. Russo said the Gold Meadow Farms solar site a 30- to 40-foot piece of ledge sticking up and grading plans showed it being cut down, but the Natick Ave Solar project would not require anywhere near as much blasting as was required for the Gold Meadow project. He also said he didn't think the way it was handled was a mistake, but rather reflected that blasting was not as heavily scrutinized then as it is now.

Mr. Frias then said he wanted to question the applicant's expert on blasting, but Atty. Murray said he was not present for the meeting that evening. Atty. Nybo said in the proposal's original permitting path, testimony on blasting had been provided at the Preliminary Plan phase and suggested Mr. Frias hold his blasting-related questions for that point in time. Mr. Frias stated that the blasting expert had been previously asked questions at the Master Plan phase of the project and he said he had new questions that had not been posed when the proposal was originally heard and wanted an opportunity to pose those questions. Atty. Nybo expressed concerns with the idea of the Commission potentially opening public comment that evening, before the blasting expert could testify, given that the application had been remanded last May because information was added to the record after public comment had been closed. Solicitor Marsella said the Commission could decide how it wanted to handle the matter, but after discussing it with Chairman Smith, they felt the opposition's case should be heard before taking public comment.

Chairman Smith then invited Atty. Patrick Dougherty to address the Commission and introduce the opposition's case.

Atty. Dougherty began by arguing that since the Commission has been reconstituted with mostly new members in the years since the Natick Ave Solar application was originally submitted, it cannot simply review the record, but instead needs to re-hear the matter as it did during the original Master Plan phase. Insofar as the Commission has not done that, Atty. Dougherty suggested they put themselves at risk for another appeal. He argued the Commission's review has been tainted by the improper inclusion of evidence, such as the Commission's prior decisions on the project's original permitting path and the fact that the Master Plan application now before the Commission is more detailed in its engineering than it was at the time of the original Master Plan hearings, and took issue with all testimony concerning matters that were reviewed following the original master plan stage. He also asked the Commission consider allowing the public to be heard before the opposition began presenting its case in earnest, given that they had now sat through multiple hours of testimony across two meeting dates.

Solicitor Marsella reiterated that the Commission had the right to decide whether to allow the (organized) opposition or the general public speak first. To Atty. Nybo's concerns over avoiding the same procedural error from before, Mr. Frias said he did not mind hearing two rounds of public comment. Mr. Coupe asked if it were possible to limit the topics of discussion in a potential second round of public comment to new information introduced following the initial round of public comment, but Solicitor Marsella advised against that course of action. Ultimately, the Commission proceeded with hearing the opposition's case first.

Atty. Dougherty first introduced Kaki Martin, a licensed Landscape Architect, and asked her to speak to her credentials. Ms. Martin, who works with Klopfer Martin Design Group in Boston, said she had been practicing for 28 years and worked in a wide variety of contexts over hundreds of projects of her own as well as reviewing others' projects. Atty. Dougherty reviewed her other credentials and asked that she be accepted as an expert; Chairman Smith said the Commission does not have a formal process of certifying expertise but would ensure her credentials and experience were noted for the record.

Atty. Dougherty asked Ms. Martin to confirm she'd heard Mr. Carter's testimony and knew what plantings the applicant proposed for its buffer, which she did. He then asked a series of questions about the City's landscape design standards, through which Ms. Martin said she felt the applicant's proposed landscape plan was not compatible with the surrounding area (as is the overarching goal of the City's landscape design standards); the buffer would be inadequate because its width and reliance on deciduous trees mean the applicant cannot guarantee the solar facility will be totally obscured at all times or block glare from the solar panels; and that the applicant didn't appear to have made the maximum effort possible to preserve existing vegetation on site because it hasn't undertaken a tree inventory that would have identified specimen trees and prioritized them for protection.

Through Atty. Dougherty's questions, Ms. Martin further stated that the applicant's proposal did not appear to meet the City's standard for landscaping 15% of the site, as there are no plans for landscaping outside of the portion of the site that will be leased for the solar farm's use, nor did it meet the terracing standards or the minimum standards necessary for the buffer strip to adequately shield abutters from negative impacts. She described the applicant's proposal as a strategy that might work well on some portions of the site but not in others, such as those areas where the presence of ledge would make buffer planting difficult or impossible. Overall, she said she didn't believe the applicant's landscaping plan had enough detail yet and believed the impacts of the project on neighbors would be negative from a landscaping perspective.

Mr. Barbieri asked Ms. Martin if she had any experience in landscape design for solar farm projects and if she had walked the subject site to observe the existing conditions. She said she had driven past the site, but not entered it, and she had not worked on projects involving solar proposals before.

Mr. Coupe asked Ms. Martin which landscaping standards she was referring to throughout her testimony. Atty. Dougherty said they were found in Section 17.84.140, Subsection C of the Development Plan Review standards. Mr. Coupe asked if she could speak specifically to the standard requiring 15% of the area to be landscaped and what her assessment was. She felt the applicant had not met that standard, which led to further questions from Mr. Coupe surrounding whether the standard should be applied only to the leased area or the entire subject parcel. Turning from that matter, Mr. Coupe noted the Commission had approved plenty of projects that required clear-cutting to develop the land and asked how any developer could be expected to avoid that; Ms. Martin said mitigation strategies, like conducting tree surveys, can be done, but when Mr. Coupe asked if she knew of any such cases in Cranston, she said no.

With Ms. Martin's testimony completed, Atty. Dougherty called Paige Bronk to the stand. Mr. Bronk said he has been AICP-certified since 1996 and has 30 years of experience working in the Planning and Development sphere in Rhode Island as well as other states.

Atty. Dougherty asked Mr. Bronk if he had reviewed the applicant's proposal, Mr. Pimentel's report, and all documents submitted to the Commission for the record, which he did. He then asked Mr. Bronk if he agreed with Mr. Pimentel's conclusions; he said he did not, at which point Atty. Dougherty asked him to summarize his own findings.

Mr. Bronk said he reviewed the 2010 Comp Plan and its 2017 amendment, the Subdivision Regulations, the Zoning Code, the Master Plan application, and the subject site's context before coming to his conclusions. He found that the site is a rural/residential property and roughly two-thirds of the site will be impacted by development, which will necessitate significant land disturbance and removal of vegetation, which will in turn create runoff, erosion, and sedimentation problems.

Speaking first to Comp Plan consistency, Mr. Bronk said he primarily used the 2010 Comp Plan as his benchmark because it is the most recent full update of the City's Comprehensive Plan. (He said the 2017 amendment concerned specific items, rather than constituting a full update, and Comp Plan consistency should be considered holistically.) To that end, Mr. Bronk cited a series of Goals and Policies from the 2010 Comp Plan with which he found the applicant's proposal to be inconsistent. These included Land Use Goal 1 and sub-policies 1.1-1.4, 3, 5, 9-11, and 13; Housing Goals 1 and 3 and sub-policy 3.2; Economic Development Goals 1 and 3 and sub-policies 1.7-1.8 and 3.2; and Open Space Goal 3 and sub-policy 3.3.

As for the 2017 amendment to the Comp Plan, which dealt specifically with solar development, Mr. Bronk noted that Statewide Planning informed the City it would not approve the amendment because the full Comp Plan had expired by that point. Statewide Planning instead offered to comment on the amendment as if it were in draft form. Mr. Bronk said Statewide Planning also took issue with the City's stance that solar farms did not constitute a form of development and its use of the phrase "without limitation" (describing the City's embracing of solar development). Mr. Bronk said he agreed with both concerns that Statewide Planning raised on the grounds that in the former case, solar farms are not temporary developments because cleared land cannot be restored precisely to its pre-solar farm condition, and in the latter case, the phrase "without limitation" raises questions as to how many of the A-80 zoning standards should be superseded when solar development proposals come forward.

Atty. Dougherty asked Mr. Bronk whether he heard Mr. Pimentel's earlier discussion of the Siciliano v. Town of Exeter case, which he confirmed he had. Through another small series of questions from Atty. Dougherty, Mr. Bronk argued that the case dealt with a full Comp Plan, and not simply an amendment, so it did not apply in the case before the Commission. He cited several Statewide Planning Council rules that supported his claim.

Mr. Bronk then discussed the purposes of zoning and said he found that the proposal does not align with the purpose of the A-80 zone (single-family houses on minimum 80,000 ft^2 lots), but it does meet the City's definitions of the terms "development" and "structure." He argued the proposal should have to comply with the setback and maximum 10% lot coverage requirements of the A-80 zone.

Regarding the applicant's erosion and sedimentation control plans, Mr. Bronk said the City's standards for land disturbance where slopes exceed 10%, area exceeds 10,000 ft^2, and grading exceeds 2 feet of cut and fill in any single instance are all points of concern that should draw due attention. He further noted that he could not find information on whether there had been any archaeological findings on site or what associated neighborhood impacts might be, but the Engineering Report said all runoff would be discharged down to the brook via various discharge points. Mr. Bronk noted the grade change is fairly significant, describing it as a 150-foot drop over a distance of about a quarter-mile, and said the water table in that area is high.

Atty. Dougherty then returned to the stand to ask Mr. Bronk a series of questions. He first asked him to speak to Statewide Planning's request that the City delete or clarify a statement contained in its 2017 Comp Plan that referenced passive alternative energy generation as a means of temporarily preventing development. Mr. Bronk said the nature of Statewide Planning's concern was that they considered the comment to represent an inference on the City's part that solar development should be treated as a land-preservation technique. Likewise, in his own review, Mr. Bronk said he found the proposal does not represent a conservation program, but rather a type of land development.

Atty. Dougherty then asked several questions on the topic of Development Plan Review. He first asked whether the review usually concerns an entire parcel or a smaller portion within a parcel (such as a leased area). Mr. Bronk said the lot of record is the standard unit of consideration and City regulations pertain to full lots as opposed to portions of lots. He raised the point that impacts of development do not necessarily end at a parcel's boundaries as an explanation for the rationale behind reviewing and applying standards to lots in their entirety. Atty. Dougherty then asked Mr. Bronk whether he felt the Master Plan application was incomplete because it did not encompass the entire subject lot, to which he responded that it was deficient since it is common planning practice to examine the entire lot. Atty. Dougherty further asked whether the Commission should have received information regarding how the property might be developed for residential uses to supplement their review and consideration of the

Master Plan application; Mr. Bronk said yes, because an accounting of future uses is usually part of the review process.

Mr. Coupe asked why Development Plan Review standards were being discussed before the Commission, as opposed to the Development Plan Review Committee. Mr. Bronk said DPR standards inform the City's Subdivision Regulations and the Commission has the authority to vote on the proposal at all three phases. Mr. Coupe said the Development Plan Review phase usually follows the Master Plan phase.

Mr. Frias asked if Mr. Bronk's finding that the proposal was inconsistent with the Comp Plan referred to both the 2010 Plan and its 2017 Amendment, which Mr. Bronk confirmed. Mr. Frias asked about consistency with the 2015 zoning ordinance that concerned solar; Mr. Bronk said he believes the use is allowed by zoning because of that amendment, but since associated dimensional requirements were not addressed, he believes that any requirements that were not explicitly changed remain in effect.

Mr. Frias then asked if Mr. Bronk felt solar development was considered a form of land-banking among planning experts; if it was common practice to keep manufacturing facilities away from residential uses; and whether solar farms were consistent with Land Use Goal 9 and/or Housing Goal 4. Mr. Bronk said he was unaware of solar facilities ever being considered a form of conservation land-banking; it is common practice to separate manufacturing from residential; and solar farms were inconsistent with both goals Mr. Frias had cited.

Mr. Coupe asked Mr. Bronk if, given his argument that the 2017 Amendment to the Comp Plan is invalid because Statewide Planning did not accept it, he believed that all Master Plan approvals involving Comp Plan amendments that the Commission has approved post-2017 are also invalid. In response, Mr. Bronk said Statewide Planning has final authority over which amendments are approved, and in instances in which they directly advise that they will not accept an amendment, a Commission should not take on relevant projects until the Comp Plan receives a full update. Mr. Coupe asked whether the City should not have made any changes to its Comp Plan since 2010 and if it needed state approval to act on any amendments it decided to pass in the time since. Mr. Bronk said a major amendment can be similar to a full update, but the 2017 amendment was more narrow in focus and the Comp Plan was already out of date by then.

Mr. Coupe asked Mr. Bronk how solar would constitute a more intensive use for the subject parcel than residential; Mr. Bronk pointed to the levels of land disturbance, lot coverage, and stormwater runoff impacts that the proposal would entail, adding that he believes residential development could better accommodate the natural topography of the site than solar could. Mr. Coupe asked if the proposal represented a means of increasing the tax base with minimal disturbance in a part of the City where the Comp Plan calls for the lowest residential density. Mr. Bronk reiterated that a proposal must be evaluated against the Comp Plan in a holistic manner, taking into account Goals and Policies across multiple elements (not just Economic Development, for example), and given the site's constraints, a reasonably-scaled residential development would be more consistent than a solar farm at the scale the applicant is proposing. Mr. Coupe countered that the Commission does not vote on competing proposals for a given site, but considers whatever proposal is made against the City's standards.

Atty. Nybo asked if it was possible to cross-examine Mr. Bronk after the close of his testimony. Solicitor Marsella said it wasn't the Commission's policy to allow cross-examination, but Atty. Nybo could instead call Mr. Pimentel back up to the stand to ask his opinions of Mr. Bronk's statements. Atty. Dougherty then said he had no additional witnesses to call upon at that time.

Chairman Smith asked if the Commission wanted to continue the hearing to the regular April Plan Commission meeting. Mr. Frias and Ms. Lanphear both expressed a preference for scheduling another Special Meeting instead. Solicitor Marsella asked what the April regular meeting's agenda would look like; Chairman Smith suggested the matter could be heard first, and Mr. Bernardo asked if the meeting could begin any earlier in the evening that day, but Director Pezzullo said it wouldn't be advisable to take the matter first and because of the BOCAP meeting happening in the Council Chamber just before, they probably couldn't gain any more than a half hour if they tried. He also noted it was budget season, which also creates an additional layer of uncertainty surrounding the Council Chamber's availability since the

Council schedules multiple budget meetings and does not defer to other boards when time and venue conflicts arise.

Director Pezzullo suggested April 17th, 19th, or 20th could potentially work. City Council President Jessica Marino, who was in attendance for the meeting, said the Council wouldn't be scheduling meetings on Wednesdays in April, so the Commission settled on an April 19th Special Meeting and decided to maintain the 5:30 p.m. meeting time.

UPCOMING MEETINGS / ADJOURNMENT (vote taken)

- Tuesday, April 4th, 2023, 6:30PM – **Regular City Plan Commission Meeting** – City Hall Council Chambers, 869 Park Avenue

Upon motion made by Mr. Frias, and seconded by Mr. Exter, the City Plan Commission voted unanimously (9-0) to continue the matter to a Special Meeting on Wednesday, April 19th, at 5:30 p.m. in the Council Chambers, 869 Park Avenue.

Finally, upon motion made by Mr. Coupe, and seconded by Mr. Bernardo, the City Plan Commission voted unanimously (9-0) to adjourn the meeting at 9:24 p.m.