



JANET T. MILLS
GOVERNOR

STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
LAND USE PLANNING COMMISSION
106 HOGAN ROAD, SUITE 8
BANGOR, MAINE 04401

AMANDA E. BEAL
COMMISSIONER

STACIE R. BEYER
ACTING EXECUTIVE DIRECTOR

Memorandum

To: LUPC Commissioners
CC: Stacie R. Beyer, Acting Executive Director
From: Karen Bolstridge, Senior Regional Representative, Downeast Regional Office ^{KEB}
Date: January 31, 2022 (for February 09, 2022 Regular Business Meeting)
Re: Amendment A to Zoning Petition ZP 776, Three Corners Solar, LLC., Unity Township, Kennebec County, Maine

This memorandum presents a staff recommendation on the pending Amendment A to Zoning Petition ZP 776 application submitted by Three Corners Solar, LLC for rezoning in Unity Township, Kennebec County, Maine.

AMENDMENT A TO ZONING PETITION ZP 776

Zoning Petition ZP 776, approved by the Commission on September 11, 2019 and effective on September 26, 2019, authorized the rezoning of approximately 748.1 acres within 13 parcels in Unity Township from M-GN, P-SL2, and P-WL3 subdistricts to a D-CI subdistrict to allow for the construction of a grid-scale solar energy generation facility, otherwise known as the Three Corners Solar Project.

Based on wetland and stream delineation data, detailed boundary line survey data, and improvements to the proposed Project layout, the Applicant now proposes to revert 42.5 acres of the previously approved D-CI subdistrict to the original M-GN subdistrict to account for corrected property boundary lines and lands determined to be unsuitable for development. Additionally, to ensure the proposal has enough land area rezoned to D-CI subdistrict to accomplish the proposal's goals, allow adequate area for buffering of resources, and allow for refinement of the location of certain project elements, the Applicant proposes to rezone an additional 119.3 acres from M-GN, P-SL2, and P-WL3 subdistricts to a D-CI subdistrict.

REVIEW CRITERIA

The Commission's general criteria for adoption or amendment of land use district boundaries are provided in 12 M.R.S. § 685-A(8-A) of the Commission's statute and restated in Section 10 § 10.08(A) of the Commission's *Land Use Districts and Standards*, 01-672 C.M.R. Ch. 10, last

revised November 01, 2021 (Chapter 10). The criteria specify that a land use district boundary may not be adopted or amended unless there is substantial evidence that the proposed land use district is consistent with the standards for district boundaries in effect at the time, the comprehensive land use plan (CLUP) and the purpose, intent and provisions of Chapter 206-A, and there is substantial evidence that the proposed land use district has no undue adverse impact on existing uses or resources or a new district designation is more appropriate for the protection and management of existing uses and resources within the affected area.

Additionally, to demonstrate the amendment of the development subdistrict is consistent with the portions of the CLUP that address the location of development (also known as the adjacency principle), the Commission must find that Three Corners Solar, LLC has satisfied the relevant location of development criteria in Chapter 10, § 10.08(B), which requires that: there is adequate provision for emergency services; the proposed development is compatible with other uses and resources; the development will not unreasonably alter the character of the area; the proposal is located in an areas eligible for rezoning for development in accordance with Chapter 10, § 10.08-A; and the proposed development has a legal right of road access from a public road.

The draft decision document presents the criteria for approval and land use standards, analysis, and findings that are most relevant to the zoning petition. The staff analysis determined that all of the relevant criteria and standards have been met.

STAFF RECOMMENDATION

Staff recommends that the Commission approve the amendment request of Three Corners Solar, LLC. Specifically, and as outlined in the draft decision document, staff recommends that the Commission approve the petition of Three Corners Solar, LLC to rezone approximately 119.3 acres to Commercial Industrial Development subdistrict and 42.5 acres to General Management subdistrict to allow for the construction of a grid-scale solar energy generation facility in Unity Township, Kennebec County, Maine.

Attachments:

- Attachment A – Amendment A to Zoning Petition ZP 776 Draft Decision Document
- Attachment B – Location Map/Zoning Map
- Attachment C – Google Earth Map

Attachment A

Amendment A to Zoning Petition ZP 776

Draft Decision Document

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PERMIT

COMMISSION DECISION IN THE MATTER OF

Three Corners Solar, LLC

Findings of Fact and Decision

AMENDMENT A TO ZONING PETITION ZP 776

The Maine Land Use Planning Commission (Commission), at a virtual meeting held on February 09, 2022, after reviewing the petition and supporting documents submitted by Three Corners Solar, LLC (Applicant) for Amendment A to Zoning Petition ZP 776, review of agency and staff comments, and other related materials on file, pursuant to 12 M.R.S. Sections 681 *et seq.* and the Commission's Land Use Standards and Rules, finds the following:

- Applicant:** Three Corners Solar, LLC
Attn: Michael Alvarez, Chief Operating Officer
330 Congress Street, 6th Floor
Boston, Massachusetts 02210
- Landowner:** Bessey Development Company (Landowner)
Attn: Ethan Bessey, President
P.O. Box 96
Hinckley, Maine 04944
- Agent:** Stantec Consulting Services, Inc.
Attn: Eben Baker
30 Park Drive
Topsham, Maine 04086
- Complete for processing date:** November 04, 2021
- Location:** Unity Township, Kennebec County, Maine
Maine Revenue Service (MRS) Map KE001, Plan 01,
Lots 7, 8, 9, 10, 11, 12, 14, 17, 18, 19, 20, 22, and 23

6. **Current zoning:** Commercial Industrial Development Subdistrict (D-CI)
General Management Subdistrict (M-GN)
Shoreland Protection Subdistrict (P-SL2)
Wetland Protection Subdistrict (P-WL3)
7. **Proposed zoning:** Commercial Industrial Development Subdistrict (D-CI), 119.3 acres
General Management Subdistrict (M-GN), 42.5 acres

I. PROJECT DETAILS AND PUBLIC PROCESS

8. **Administrative history:** Zoning Petition ZP 776, approved by the Commission on September 11, 2019 and effective on September 26, 2019, authorized the rezoning of approximately 748.1 acres within 13 parcels in Unity Township from M-GN subdistrict (729.1 acres), P-SL2 subdistrict adopted primarily to protect certain freshwater wetlands (14.2 acres), and P-WL3 subdistrict (4.8 acres) to D-CI subdistrict to allow for the construction of a grid-scale solar energy generation facility, otherwise known as the Three Corners Solar Project. Because this proposal is an amendment to the existing approved zoning petition, the Commission has reviewed and takes notice of the non-confidential agency records of Zoning Petition ZP 776.

The Three Corners Solar Project would be partially located in the organized towns of Benton and Clinton and in unorganized Unity Township. The solar project would provide up to 122.5 megawatts (MW) of renewable energy to Maine's electrical grid. The generating capacity within Unity Township would be approximately 87 megawatts. The solar project would connect to the Central Maine Power transmission system at the Albion substation located approximately 5 miles to the southwest of the project, via a new 115-kV generator lead and the current transmission route located in the Town of Benton.

9. **Proposal:** Based on wetland and stream delineation data, detailed boundary line survey data, and improvements to the proposed project layout, the Applicant now proposes to revert 42.5 acres of D-CI subdistrict to the original M-GN subdistrict to account for corrected property boundary lines and lands determined to be unsuitable for development. Additionally, to ensure the proposal has enough land area rezoned to D-CI subdistrict to accomplish the proposal's goals, allow adequate area for buffering of resources, and to allow for refinement of the location of certain project elements, the Applicant proposes to rezone an additional 119.3 acres from M-GN, P-SL2, and P-WL3 subdistricts to a D-CI subdistrict. Combined, the changes to the D-CI and M-GN subdistricts are herein referred to as the Project.
10. **Site visit:** Commission staff completed a general site review with the Applicant and landowner on June 27, 2019, as part of the review process for Zoning Petition ZP 776.
11. **Kennebec County and adjacent organized towns:** The Kennebec County Commissioners received a copy of the petition and submitted no comments. Commission staff corresponded with the adjacent towns of Albion, Benton, Burnham, Clinton, and Unity to verify any additional project information needs and to document any project concerns that would require Commission review.

12. **Public comments and public hearing:** The Commission received one comment letter from two interested persons in opposition to this proposal. At the time, the commentors jointly owned a lot adjacent to the proposed solar project. Subsequent to submitting the comments, these landowners negotiated sale of their property to Bessey Development Company¹, the underlying landowner of the proposed solar project parcels. The Commission did not receive any requests for a public hearing on the proposal.

II. RULES OF PRACTICE

13. Notice requirements:

- A. Standard: Notice as described by Sections 4.04(B)(3)(a)(2) and (3) of the Commission's *Rules of Practice*, 01-672 C.M.R. Ch. 4, last revised November 01, 2021 (Chapter 4), is required for applications for zone changes, except those proposing to change a development subdistrict designation to a management or protection subdistrict designation, and applications addressing clerical corrections. Chapter 4, § 4.04(B)(3)(a)(1).
- B. Analysis: On October 29, 2021, the Applicant provided notice of filing of the application for zone change by certified mail to all persons owning or leasing land within 1,000 feet of the Project; the Board of Selectmen for Benton, Clinton, and Unity; the area's State Representative and Senator; and the Kennebec County Commissioners. The application for zone change was submitted to the Commission on November 01, 2021, three days after the notice of filing of the application was provided.
- C. Finding: The Commission finds that the application for zone change was properly noticed by the Applicant in accordance with the applicable sections of Chapter 4, § 4.04(B)(3)(a)(1),(2) and (3).

14. Title, right, or interest:

- A. Standard: Unless otherwise provided by law, the Commission will not accept an application as complete for processing unless and until the applicant demonstrates, to the Commission's satisfaction, legally enforceable title, right or interest in all the property proposed for development or use sufficient to evaluate the proposed development and use of the property, including closure and post closure care, where required. Chapter 4, § 4.05(A)(3).
- B. Analysis: The Project parcels are currently owned by the Bessey Development Company (Landowner). On March 15, 2018, the Landowner entered into a *Memorandum of Lease Option Agreement* (Lease) with LSH Land Holdings, LLC (LSH), its successors or assigns.² The Lease will expire March 15, 2022. On April 18, 2018, LSH entered into an *Assignment and Assumption of Lease Option Agreement* with the Applicant, which conveyed the Lease title, right, and interest, and the Lease obligations to the Applicant³. On April 02, 2019, the

¹ Kennebec County Registry of Deeds, Book 14314, Pages 147-148.

² Kennebec County Registry of Deeds, Book 12861, Pages 325-329.

³ Kennebec County Registry of Deeds, Book 12887, Pages 103-104.

Applicant and Landowner entered into an *Amendment to Lease Option Agreement*, which amended and modified the real property that is subject to the Lease⁴.

- C. Finding: The Commission finds that the Applicant has demonstrated legally enforceable title, right, or interest in all the property proposed for development in accordance with Chapter 4, § 4.05(A)(3).

III. GENERAL CRITERIA FOR ADOPTION OR AMENDMENT OF LAND USE DISTRICT BOUNDARIES

A land use district boundary may not be adopted or amended unless there is substantial evidence that the proposed land use district is consistent with the standards for district boundaries in effect at the time, the comprehensive land use plan and the purpose, intent and provisions of Chapter 206-A, and there is substantial evidence that the proposed land use district has no undue adverse impact on existing uses or resources or a new district designation is more appropriate for the protection and management of existing uses and resources within the affected area. 12 M.R.S. § 685-A(8-A) of the Commission's statute and restated in Section 10 § 10.08(A) of the Commission's *Land Use Districts and Standards*, 01-672 C.M.R. Ch. 10, last revised November 01, 2021 (Chapter 10).

15. Consistency with the standards for district boundaries:

A. District standards:

- 1) *D-CI subdistrict*: The purpose of the D-CI subdistrict is to allow for commercial, industrial and other development that is not compatible with residential uses. Designation of commercial, industrial, and other similar areas of intensive development as D-CI subdistricts will ensure that other land values and community standards are not adversely affected and will provide for the location and continued functioning of important commercial and industrial facilities. Chapter 10, § 10.21(A)(1). Areas the Commission determines meet the criteria for redistricting to a D-CI subdistrict, pursuant to Chapter 10, § 10.08, are proposed for development that is consistent with the purposes of this subdistrict and are generally suitable for the development activities proposed. Chapter 10, § 10.21(A)(2)(b). A grid-scale solar energy generation facility not located on soils recognized by the U.S. Department of Agriculture as prime farmland soils, and a grid-scale solar energy generation facility located on soils recognized by the U.S. Department of Agriculture as prime farmland soils, and related accessory structures, may be allowed within a D-CI subdistrict upon issuance of a permit or a permit by special exception, respectively, from the Commission pursuant to 12 M.R.S. § 685-B, subject to the applicable requirements set forth in Sub-Chapter III. Chapter 10, §§ 10.21(A)(3)(c)(16) and 10.21(A)(3)(d)(1), respectively. Areas that qualify for inclusion in a P-WL subdistrict may remain in an existing development subdistrict or be included in a new development subdistrict. Chapter 10, § 10.23(N)(2)(d).

⁴ Kennebec County Registry of Deeds, Book 13184, Pages 55-62.

- 2) *M-GN subdistrict*: The purpose of the M-GN subdistrict is to permit forestry and agricultural management activities to occur with minimal interferences from unrelated development in areas where the Commission finds that the resource protection afforded by protection subdistricts is not required. Chapter 10, § 10.22(A)(1). Also included within M-GN subdistricts are areas which do not qualify for inclusion in any other subdistrict. Chapter 10, § 10.22(A)(2).
- B. Analysis: The proposed modifications to the subdistricts are based on site specific wetland and stream delineation data, detailed boundary line survey data, and improvements to the proposed grid layout. The area proposed to be rezoned to a D-CI subdistrict would be an expansion of an existing D-CI subdistrict, which was specifically rezoned for a grid-scale solar energy generation facility. The additional area of D-CI subdistrict is intended to ensure the proposal has enough land area rezoned to accomplish the proposal's goals, allow adequate area for buffering of resources and residences, and to allow for refinement of the location of certain project elements. Additionally, as a result of the site specific surveys, the Applicant found some areas, which are currently D-CI subdistrict, that either are not under their Lease area or that are unsuitable for ground mounted solar panels due to topography, soils, or natural resources. The Applicant is proposing to revert these areas back to the M-GN subdistrict.
 - C. Finding: The land uses proposed for the D-CI and M-GN subdistricts are consistent with the purposes of, meet the descriptions of, and are allowed uses in the D-CI and M-GN subdistricts. The Commission finds that the proposed uses and subdistricts are consistent with the standards for district boundaries in effect at this time in accordance with 12 M.R.S. § 685-A(8-A) of the Commission's statute and in Chapter 10 § 10.08(A).

16. Consistency with the *Comprehensive Land Use Plan (CLUP)*:

- A. Goals and policies of the CLUP: Pursuant to 12 M.R.S. § 685-C(1), the Commission has adopted a *Comprehensive Land Use Plan*, ver. 2010 that guides the Commission in developing specific land use standards, delineating district boundaries, siting development, and generally fulfilling the purposes of the Commission's governing statute. The CLUP includes goals, policies and principles that address, among other items, the location of development, the value of economic development, and energy resources, which the Commission evaluates regarding a proposal's consistency with the CLUP.
- B. Analysis:
 - 1) *Location of Development*: The location of development goal outlined in the CLUP guides the location of new development to protect and conserve forest, recreational, plant or animal habitat and other natural resources, to ensure the compatibility of land uses with one another, and to allow for a reasonable range of development opportunities important to the people of Maine, including property owners and residents of the unorganized and deorganized townships. CLUP, pg. 6. One policy is to guide development to areas near existing towns and communities and in other areas identified as appropriate development centers. CLUP, pg. 6. With respect to siting energy facilities, the CLUP provides that

facilities are best located in areas on the edge of the jurisdiction with good existing road access but low natural-resource values. CLUP, pg. 142.

To demonstrate the adoption or amendment of a development subdistrict is consistent with the portions of the CLUP that address the location of development (also known as the adjacency principle), the Commission must find that the Applicant has satisfied the relevant location of development criteria in the Commission's Chapter 10 rules requiring that: there is adequate provision for emergency services; the proposed development is compatible with other uses and resources; the development will not unreasonably alter the character of the area; the proposal is located in an areas eligible for rezoning for development in accordance with Chapter 10, § 10.08-A; and the proposed development has a legal right of road access from a public road. See Findings 19 - 23 for Commission analysis and findings on the location of development criteria.

- 2) *Economic development:* The economic development goal outline in the CLUP encourages economic development that is connected to local economies, utilizes services and infrastructure efficiently, is compatible with natural resources and surrounding uses, particularly natural resource-based uses, and does not diminish the jurisdiction's principal values. CLUP, pg. 7.

The Applicant indicated that solar projects offer a particular type of economic development opportunity important to landowners and local economies. The primary land use within Unity Township is commercial forest management. The Applicant stated that with the continued decline in the value derived from timber and fiber production, the solar project would be an additional source of economic value to the underlying landowner thereby allowing continued forest management uses on the remainder of the timberlands, rather than selling these remaining parcels of productive timberlands for residential development. The Applicant stated that the solar project is expected to provide local employment opportunities through short-term employment during construction and long-term positions during the operations and maintenance phase of the facility, and the project would likely contribute approximately \$9.8 million in local taxes over its 30-year lifespan. Further, the Applicant indicated that: there are existing service providers willing and able to provide fire and ambulance services (see Finding 19); some of the internal infrastructure is in place for the project and no new public road infrastructure would be required (see Finding 20(B)(6)); there is an existing transmission line near the project site (see Finding 20(B)(6)); and no undue adverse impact is anticipated on existing uses or resources (see Findings 18 and 20).

- 3) *Energy resources:* The energy resources goal in the CLUP provides for the environmentally sound and socially beneficial utilization of indigenous energy resources where there are not overriding public values that require protection. The relevant policies are to: support indigenous, renewable energy resources as part of state and national efforts to promote energy independence, diversity and long-term sustainability; recognize that new renewable energy projects displace electrical energy provided by fossil fuels and thus carry the following benefits: reduction of Maine's dependence on imported fuels; improvement of environmental quality; enhancement of state and regional security; and progress toward meeting Maine's renewable energy and greenhouse gas reduction objectives; accommodate energy generation installations that are consistent with state

energy policies, are suitable in proposed location(s) and minimize intrusion on natural and cultural resources and values; and allow emerging energy technologies when they will not have an undue adverse impact on existing uses and natural resources. CLUP pg. 13.

The Applicant stated that solar development is a clean, renewable form of energy generation that harnesses renewable solar power without creating air pollution. The Applicant indicated that they expect the project to provide indigenous, renewable energy to Maine's electrical grid, help decrease carbon emission from power generation, and support the clean energy goals of the region. The Applicant further stated that the Project would increase the potential for energy diversity in the state and help Maine meet its commitments under the Regional Greenhouse Gas Initiative, which establishes limits for emission associated with the generation of electricity.

- C. Finding: The Commission, having considered the location of development, economic resources, and energy resources goals, policies and principles highlighted in this decision document, as well as the various provisions of the CLUP more generally, finds the rezoning is consistent with the Commission's *Comprehensive Land Use Plan*.

17. Consistency with 12 M.R.S., ch. 206-A:

- A. Statutory purpose, intent, and provisions: A land use district boundary may not be adopted or amended unless there is substantial evidence that the proposed land use district is, among other criteria, consistent with the purpose and intent of 12 M.R.S. ch. 206-A. 12 M.R.S. § 685-A(8-A)(A) and Chapter 10, § 10.08(A)(1). The purpose and scope of 12 M.R.S. ch. 206-A includes principals of sound planning and zoning, and development. Whether a project is financially practicable and has solid waste and sewage disposal options available are important considerations for a single large-scale development project such as described herein.

B. Analysis:

- 1) *Financial practicability*: Three Corners Solar, LLC is a Limited Liability Company of Delaware with a State of Maine good standing status and is a wholly owned subsidiary of Longroad Energy Holdings, LLC. Longroad Energy Holdings, LLC and Subsidiaries provided an independent auditor's report outlining their capacity to finance project construction, as well as decommissioning of the Project within any prime farmland soils. The Applicant stated that a detailed financial capacity review for permitting, constructing, maintaining and decommissioning of any proposed development would be evaluated during the Project's state and federal permitting process.
- 2) *Solid waste and sewage disposal*: Solid waste disposal would be provided by Waste Management Disposal Services of Maine at the Crossroads Disposal facility located in Norridgewock, Maine. The Applicant has contacted A.A.A. Portable Toilets, located in Albion, Maine, to provide wastewater handling services during construction.

- C. Finding: The Commission finds, in general, that its determination on consistency with the CLUP establishes consistency with the purpose and scope of the statute under which the CLUP must be adopted. This finding is based on the following: The purpose and scope of Chapter 206-A are embodied in the broad goals of the CLUP, and in accordance with 12 M.R.S. §685-C(1), “[t]he [C]ommission must use the [CLUP] as a guide in ... generally fulfilling the purposes of this chapter.” In addition, given the above analysis for this project, the Commission finds that the proposed solar project is financially practicable and has solid waste and sewage disposal options available; the redistricting represents sound planning and zoning; and the development is otherwise consistent with the purpose and intent of the statute.

18. No undue adverse impact:

- A. Criteria: Pursuant to 12 M.R.S. §685-A(8-A), a land use district boundary may not be adopted or amended, among other criteria, unless there is substantial evidence that the proposed land use district has no undue adverse impact on existing uses or resources or a new district designation is more appropriate for the protection and management of existing uses and resources within the affected area.

B. Analysis:

- 1) *Fish and wildlife resources*: The Applicant consulted with the Maine Department of Inland Fisheries and Wildlife (MDIFW) and the U.S. Fish and Wildlife Service (USFWS) regarding the possible presence of rare, threatened or endangered species, and significant wildlife habitat. According to USFWS mapping, the federally listed threatened northern long-eared bat (*Myotis septentrionalis*) and endangered Atlantic salmon (*Salmo salar*) potentially occur within the Project area. According to MDIFW mapping, the state listed endangered little brown bat (*Myotis lucifugus*), endangered northern long-eared bat (*Myotis septentrionalis*), threatened eastern small-footed bat (*Myotis leibii*), threatened yellow lampmussel (*Lampsilis cariosa*), and threatened tidewater mucket (*Leptodea ochracea*) potentially occur within the Project area. With regard to these federal and state threatened and endangered species, the yellow lampmussel, tidewater mucket, and Atlantic salmon have no suitable habitat within the Project area.

According to the MDIFW’s significant wildlife habitat mapping, deer wintering areas (DWAs), inland wading bird and waterfowl habitat (IWWHs), and significant vernal pools are located on and in the vicinity of the solar project site. DWAs and IWWHs are present in the proposed Project area. The MDIFW recommended that the Applicant continue to consult with MDIFW regarding DWA’s, other significant wildlife habitat, and protected natural resources regarding impacts and mitigation recommendations for the entire project prior to submitting state and federal permit applications. In reference to the current amended Project area, the MDIFW noted that it is difficult to assess the extent to which the refined proposal would impact these resources until further efforts toward avoidance are undertaken. The MDIFW further stated that the MDIFW encourages the Applicant to ensure that suitable areas for development are sufficiently available within appropriately zoned areas to allow for relocation of any portions of the proposed development that would impact these important resources.

The Applicant stated that they would continue to consult with the USFWS and the MDIFW throughout the permitting process to ensure adequate protection of the species and habitats present. In response to the MDIFW's comment regarding sufficient land area for development, the Applicant responded that it is anticipated that the solar project would require approximately 5-6 acres of land per megawatt. The generating capacity within Unity Township is estimated at 87 megawatts. Utilizing the conservative 6 acre per megawatt ratio, the solar project would require approximately 522 acres of D-CI zoned land to attain the proposed capacity. Given that the proposed zoning amendment would result in more than 522 acres of D-CI subdistrict, the Applicant stated that they anticipate having sufficient D-CI subdistrict area to provide necessary flexibility during the permitting phase to address any wildlife habitat concerns via avoidance, minimization, and/or mitigation.

- 2) *Historic resources:* The Maine Historic Preservation Commission (MHPC) reviewed the petition and recommended that an architectural survey and a Phase I archaeological survey for potentially significant historic and prehistoric archaeological sites be conducted for the array sites as well as any transmission line. Additionally, the Houlton Band of Maliseet Indians reviewed the petition and indicated no concerns within the Project area, and the Penobscot Nation reviewed the petition and indicate that the Project area appears to have no impact on a structure or site of historic, architectural or archaeological significance to the Penobscot Nation as defined by the National Historic Preservation Act of 1966, as amended. The Applicant stated that a qualified consultant has been contracted to conduct the field surveys, which have been initiated. The Applicant also indicated that the final results of the recommended surveys would be reviewed by the MHCP as part of the Project's state and federal permit applications.
- 3) *Plant species and communities:* The Maine Natural Areas Program (MNAP) reviewed the petition and searched MNAP's Biological and Conservation Data System files for rare or unique botanical features in the vicinity of the Project area and indicated that according to their current information there are no rare botanical features that would be disturbed within the updated Project area. Additionally, the Applicant conducted rare, threatened, and endangered plant surveys and significant natural community surveys on July 27, 2020 and August 06, 2020. No occurrences of rare plants or significant natural communities were identified in Unity Township within the Project area.
- 4) *Mountain areas, geologic resources, and soils:* Unity Township is in a low-elevation area with the majority of the township less than 300 feet in elevation. There are no mountain areas or significant geologic resources identified within the township. Soils were reviewed using onsite soils surveys of the Project area conducted in October 2020, and soil map unit data obtained using the U.S. Department of Agriculture's (USDA) National Resource Conservation Service's (NRCS) Soils Survey Geographical database for the Kennebec County Area, Maine. The Applicant indicated that the predominate mapped soil unit within the Project area would be Peru-Colonel Complex fine sandy loam, which does not meet the hydric soil criteria, and that the extent of identified wetland or hydric soils is limited within the Project area.

Additionally, the Applicant outlined that prime farmland soils occur near the terminus of Palmer Road where the current land use includes small-scale agriculture. The Applicant proposes 3.3 acres of new D-CI subdistrict within the prime farmland soils. The Applicant also proposes to revert 2.4 acres of existing D-CI subdistrict in prime farmland soils back to the M-GN subdistrict. The Applicant indicated that it is expected that prime farmland soil disturbance would be limited to post foundations for solar arrays and that upon decommissioning of the solar project, all structures and materials would be removed so that the affected prime farmland soils could be used for active agriculture production. The prime farmland soils decommissioning cost is estimated to be \$16,000. The Applicant acknowledged that during the state and federal permitting process for the solar project, a decommissioning plan, including a funding provision for prime farmland soil rehabilitation, would be developed and analyzed by the permitting agency.

- 5) *Bodies of standing water, flowing water, and freshwater wetlands:* The Applicant stated that there are no lakes or ponds in Unity Township and that based on stream delineation data, there would be no streams located in the Project area. From the Unity Township solar project area, the Sebasticook River is 875 feet to the northwest. The Applicant noted that there would be wetlands within the proposed Project area and that vegetation would be cleared within some of these wetlands to minimize solar array shading, dependent upon final site design. The Applicant also stated that management practices, such as removal of vegetation by hand cutting or with low ground pressure tree harvesting equipment, clearing during dry or winter conditions, and refueling and maintaining equipment at least 100 feet from the wetlands, would be used during vegetation clearing of wetlands. The Applicant stated that final project design would include measures to protect water quality and to minimize adverse impacts on water related resources.
 - 6) *Significant sand and gravel aquifers, and water supplies:* The Project area would not be located on a significant sand or gravel aquifer nor near any public drinking water wells in Unity Township.
- C. Finding: Given that the Applicant has agreed to continue working during the Project's state and federal permitting process with the USFWS and the MDIFW to evaluate, minimize and mitigate impacts to listed species, DWA's, other significant wildlife habitat, and protected natural resources, and with the MHPC to complete all recommended architectural surveys and Phase I archaeological surveys for potentially significant historic and prehistoric archaeological sites, and the Commission's findings on compatibility with existing uses (See Finding 20), the Commission finds that the proposed rezoning will not have an undue adverse impact on existing resources and uses.

IV. LOCATION OF DEVELOPMENT CRITERIA

Chapter 10, § 10.08(B) includes the location of development criteria that an applicant must meet to demonstrate that the adoption or amendment of a development subdistrict is consistent with the portions of the CLUP that address location of development. In regard to location of development for this Project, the Commission must find that the following criteria have been met:

19. **Emergency services:**

- A. Criteria: The county, a nearby municipality, or other service provider must be willing to and will be able to provide fire and ambulance services, for the land uses allowed in the proposed subdistrict. For the purposes of this criterion, Lifeflight is not considered an ambulance service. Chapter 10, § 10.08(B)(2)(a).
- B. Analysis: Clinton Fire and Rescue, located approximately 3.25 miles from the Project area, indicated that they would be available to respond to any emergency, either fire and/or medical at the Project area. The Kennebec County Sheriff's Office provides law enforcement services for Unity Township and indicated that the office does not foresee any issues with providing law enforcement service and would be able to handle any incident that may occur at or near the Project area.
- C. Finding: The Commission finds that the Applicant has demonstrated that the county, a nearby municipality, or other service provider is willing to and will be able to provide fire and ambulance services, and therefore has met the requirements of Chapter 10, § 10.08(B)(2)(a).

20. **Compatibility:**

- A. Criteria: The land uses allowed in the proposed subdistrict must be compatible with other uses and resources, and reduce or minimize land use conflicts. Chapter 10, § 10.08(B)(2)(b).
- B. Analysis: The Applicant submitted supporting documentation and an analysis of the existing uses and existing natural resources based upon a review of landscape-level, publicly available information, and field reconnaissance of the Project area and surrounding landscape. The documentation is summarized below and in Finding 18 (existing resources):
 - 1) *Existing uses:* The Applicant indicated that the Project area would be located north of State Route 139, with the majority of the Project area located within one mile of State Route 139. The land uses directly surrounding the proposed Project area are a mix of commercial forestry management tracts, residential and commercial development, small agricultural areas, and infrastructure (roads, electrical transmission, communications infrastructure). There are no existing structures within the Project area.
 - 2) *Regional uses:* Unity Township is located on the periphery of the Commission's service area and is surrounded by five organized towns including Albion, Benton, Burnham, Clinton, and Unity, which have a total population of 11,479. Unity Township is also located within 20 miles of 44 organized towns. Since Unity Township is isolated from the remainder of the Commission's service area, general land uses in the five organized towns

were provided as regional context. These towns are economic centers with significant existing development and energy infrastructure, which include multiple state and interstate road systems, residential development, commercial development of various intensity, a manufacturing center, a permitted grid-scale solar power project, a hydroelectric power plant, numerous power electric corridors, and Unity College. Benton and Clinton to the west and southwest are bedroom communities to Waterville, which is a regional service center that is 8 miles southwest of the Project area and has a population of approximately 15,828. Energy production is a prevalent land use within this local area with six operational hydroelectric facilities and five proposed or operational grid-scale solar power projects within 15 miles of the Project area.

- 3) *Residential uses:* The Applicant stated that there would be over 70 year-round, residential dwelling lots, many in adjacent organized towns, located within one mile of the Project area. The Applicant further noted that the current population of Unity Township is estimated to be 36 persons and that there are 18 residential dwellings in the township, the majority of which would be located within one mile of the Project area. The closest year-round residential dwelling would be located approximately 0.21 miles southeast of the Project area, off Palmer Road. The Applicant indicated that it is anticipated that this residence would have very limited project visibility, if any, due to topography and existing vegetation. Additionally, there are four parcels in the northwestern corner of the project off Bessey Lane, adjacent to the Project area and the Clinton town line. These four parcels have hunting camps utilized seasonally by the landowners. To buffer the Project area from these parcels, the Applicant stated that the project limits would be setback a minimum of 100 feet from parcel boundaries. The Applicant also stated that an access agreement would be executed for three of these parcels to ensure the owners can continue to utilize their seasonal hunting camps. The fourth parcel landowners have negotiated sale of the property to Bessey Development Company, the underlying landowner of the proposed solar project parcels.
- 4) *Commercial and industrial uses:* Commercial and industrial uses are located within one mile of the proposed Project area. The uses include small-scale agriculture, small-scale commercial business, large-scale commercial businesses, utility facilities, and commercial forest management. The Applicant stated that active commercial forest management is the predominant land use in Unity Township. In Unity Township, Parsons Small Engine & Gun Shop, located in a 24-acre General Development (D-GN) subdistrict at the junction of Palmer Road and State Route 139, would be located 0.5 miles from the Project area, and the Hawk Ridge Compost facility, New England's largest compost facility, located in a 49-acre D-CI subdistrict on Reynolds Road, would be approximately 0.75 straight line-miles or 1.25 road-miles from the Project Area. Two telecommunication towers, one in Clinton and one at the end of Palmer Road, would be located within one mile of the Project area; and the 20-MW Winslow Solar, LLC solar facility would be located approximately one mile west of the Project area in Clinton. The Applicant also provided, for Unity Township and the five surrounding organized towns, a comprehensive list detailing six commercial use/businesses within 1 mile of the Project area and twenty commercial use/businesses between 1 mile and 3 miles of the Project area.
- 5) *Public and institutional uses:* The Applicant indicated that the Clinton Solid Waste Transfer Station, a municipal service, would be located within 1 mile of the Project area.

- 6) *Infrastructure uses:* The Applicant stated that there is existing infrastructure within or directly adjacent to the proposed Project area, including Bessie Lane and Palmer Road. The Applicant also outlined that infrastructure components for energy construction, production and transmission would be present within one mile of the Project area. The Applicant specifically noted the existing 115-kV transmission line that bisects Unity Township, and State Route 139, which is a main thoroughfare serving surrounding communities and providing access to nearby service centers and Interstate Highway 95. It is expected that the solar project would not increase traffic on the public roads, except during construction, and would not exceed any road's vehicle capacity or create unsafe conditions. The solar project would require the construction of new project access roads, which would utilize existing land management roads when possible; however, no new public roads would be constructed. No project solar arrays would be sited directly adjacent to public roads, which would limit any visual impacts to existing public roadways.
 - 7) *Recreational uses:* The Applicant stated that the predominate recreational use currently allowed by the landowner within the Project area is hunting. Current recreational use is limited by the accessibility of Bessey Lane and the terminus of Palmer Road. Bessey Lane is a private, gated road with no public access. The terminus of Palmer Road, while not gated, is private. There are no known ATV, snowmobile, or hiking trails from either road. The Applicant also stated that there are recreational opportunities within the surrounding organized towns, including trail networks and opportunities for both motorized and non-motorized activities, but that these networks and opportunities are disconnected from recreational opportunities available within Unity Township and the solar project area. Subsequently, no significant change or impact to public recreation is expected within the Project area.
- C. Finding: Based upon review of the intensity and location of existing land uses proximate to the solar project, the described vegetation and setback allowances for the nearest residential dwelling, seasonal camps, and public roads, the Commission expects that the proposal can compatibly co-exist with the existing uses in the area. Given the above analysis of known existing uses, the existing resources as described in Finding 18, and these expectations, the Commission finds that the proposed Project area will be compatible with existing uses and existing resources in the area in accordance with Chapter 10, § 10.08(B)(2)(b).

21. Character:

- A. Criteria: The land uses allowed in the proposed subdistrict shall not unreasonably alter the character of the area. Chapter 10, § 10.08(B)(2)(c).
- B. Analysis: The Applicant provided a visual impact assessment within an area of potential effect (APE) of 3 miles from the Project area, based on desktop analysis and field surveys; a more detailed visual impact assessment would be conducted and evaluated during the Project permitting process. The assessment was conducted to identify potential Project visibility from roadways, scenic byways, major waterbodies, coastal wetlands, permanent trails, or public property. No scenic resources were identified in Unity Township such as lakes, ponds, scenic byways, state or national parks, viewpoints within national forests, trails maintained for

public access, or structures on the National Register of Historic Places. The closest recognized scenic resource in the area is the Kennebec River, located 5.5 miles west of the Project area. There are no scenic byways or turnouts within three miles of the Project area. The analysis showed that the Project area may be visible from portions of public roads where relative topography or cleared areas may result in a line of sight to the Project area; however, no project solar arrays would be sited directly adjacent to public roads. Within Unity Township the solar arrays may only be visible from segments of State Route 139, Reynolds Road, and Palmer Road. Potential visibility of the Project area from any public land trust parcels (Sebasticook Regional Land Trust), the ITS trails, or the Sebasticook River is not anticipated. There would be no predicted visibility from the one known hiking trail located on the Moulton Mills Preserve, which is approximately 700 acres in size and located approximately 1 mile from the solar project area, due to forest cover. Overall, the Applicant indicated that the visibility of the Project within 3 miles is sporadic as there are limited areas located at greater elevations than the Project area and much of the Project area is surrounded by a forested buffer.

- C. Finding: Based upon the viewshed analysis above, the presence of existing grid-scale solar facilities within the nearby area as described in Finding 20(B)(2), the forested buffers and the siting of the project away from most existing residential development and public roads as described in Findings 20(B)(3) and (6), the existing development subdistricts near the Project area as described in Findings 20(B)(4) and (5), and the expectation that a more detailed visual impact assessment will be conducted and evaluated during the Project's state and federal permitting process, the Commission finds that the proposal will not unreasonably alter the character of the area in accordance with Chapter 10, § 10.08(B)(2)(c).

22. Area for development:

- A. Criteria: Proposed D-CI subdistricts must be located in a primary location unless the proposed subdistrict is a D-CI subdistrict intended to accommodate a land use that requires access to three-phase power as provided in Chapter 10, § 10.08-A(D)(3). Chapter 10, § 10.08(B)(2)(d). D-CI subdistricts for commercial or industrial facilities that require three-phase power for operation may be established in any location that is consistent with the locational criteria of Chapter 10, § 10.08(B)(2). Chapter 10, § 10.08-A(D)(3).
- B. Analysis: The Applicant stated that the proposed D-CI subdistrict is intended to accommodate a grid-scale solar energy generation facility that requires access to three-phase power for operation. The analysis relevant to consistency with all the location of development criteria in Chapter 10, § 10.08(B)(2) is included in Findings 19-23.
- C. Finding: The Commission finds that the Applicant has demonstrated that the grid-scale solar energy generation facility use meets the requirement of Chapter 10, §§ 10.08-A(D)(3) and 10.08(B)(2), satisfying Chapter 10, § 10.08(B)(2)(d).

23. Access to development:

- A. Criteria: The land within the proposed subdistrict shall be accessible from a public road by a legal right of access in accordance with Chapter 10, § 10.08-A(E). Chapter 10, § 10.08(B)(2)(e). A legal right of access by road exists when the land proposed for rezoning

abuts a public road or is part of a larger parcel in common ownership that abuts a public road or benefits from an easement, appurtenant to the land, that provides for vehicular access. Under either option, if the road over which legal access is provided does not exist, it must be reasonable that the road could be built. Additionally, the access must be sufficient to support the land uses allowed in the proposed subdistrict, including any associated construction, maintenance and use of structures, and decommissioning. Chapter 10, § 10.08-A(E).

- B. Analysis: The Applicant stated that the Project would be accessed via Bessey Lane, the terminus of Palmer Road, and other newly constructed project access roads. Bessie Lane is a private road that meets State Route 139 in Benton. The lands through which Bessie Lane passes are subject to the Lease. The Project area abuts the terminus of Palmer Road, which is a public road. The solar project would also require the construction of new project access roads, which would utilize existing land management roads when possible. The Applicant stated that they have a legal right to access all existing and new Project roads.
- C. Finding: The Commission finds that the Applicant has demonstrated legally enforceable right of access from State Route 139 to the Project area and from the terminus of Palmer Road to the Project area. The Applicant has further demonstrated that new Project access roads could be reasonably built to meet project goals. Therefore, the proposal meets the access to development criteria in accordance with Chapter 10, § 10.08-A(E) and Chapter 10, § 10.08(B)(2)(e).

24. The facts are otherwise as represented in the application for Zoning Petition ZP 776 and supporting documents, and the application for Amendment A to Zoning Petition ZP 776 and supporting documents.

V. FINAL CONCLUSIONS

Based upon the above analysis and findings:

1. The Commission concludes that the Applicant has provided substantial evidence (see Finding 15) that the proposed land use districts are consistent with the standard for district boundaries in effect at this time, satisfying the corresponding portions of 12 M.R.S. § 685-A(8-A)(A) and Chapter 10, § 10.08(A)(1).
2. The Commission concludes that the Applicant has provided substantial evidence (see Finding 16) that the proposed land use districts are consistent with the *Comprehensive Land Use Plan*, satisfying the corresponding portions of 12 M.R.S. § 685-A(8-A)(A) and Chapter 10, § 10.08(A)(1).
3. The Commission concludes that the Applicant has provided substantial evidence (see Findings 18 and 20) that the proposed land use districts have no undue adverse impact on existing uses or resources, satisfying the corresponding portions of 12 M.R.S. § 685-A(8-A)(B) and Chapter 10, § 10.08(A)(2).
4. The Commission evaluated the petition with respect to consistency with 12 M.R.S. ch. 206-A and the principles of sound planning, zoning, and development. Having considered the location of the solar proposal, the existing uses and resources, the type and intensity of the development that the

rezoning is intended to foster, the review agency comments, the waste disposal services in the area, the financial practicability of the project, and the record as a whole, the Commission concludes approval of the petition would be an act of sound land use planning, and that the proposed rezoning is consistent with the purpose, intent and provisions 12 M.R.S. ch. 206-A, satisfying the corresponding portions of 12 M.R.S. § 685-A(8-A)(A) and Chapter 10, § 10.08(A)(1).

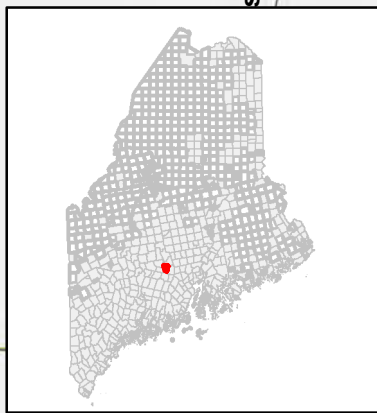
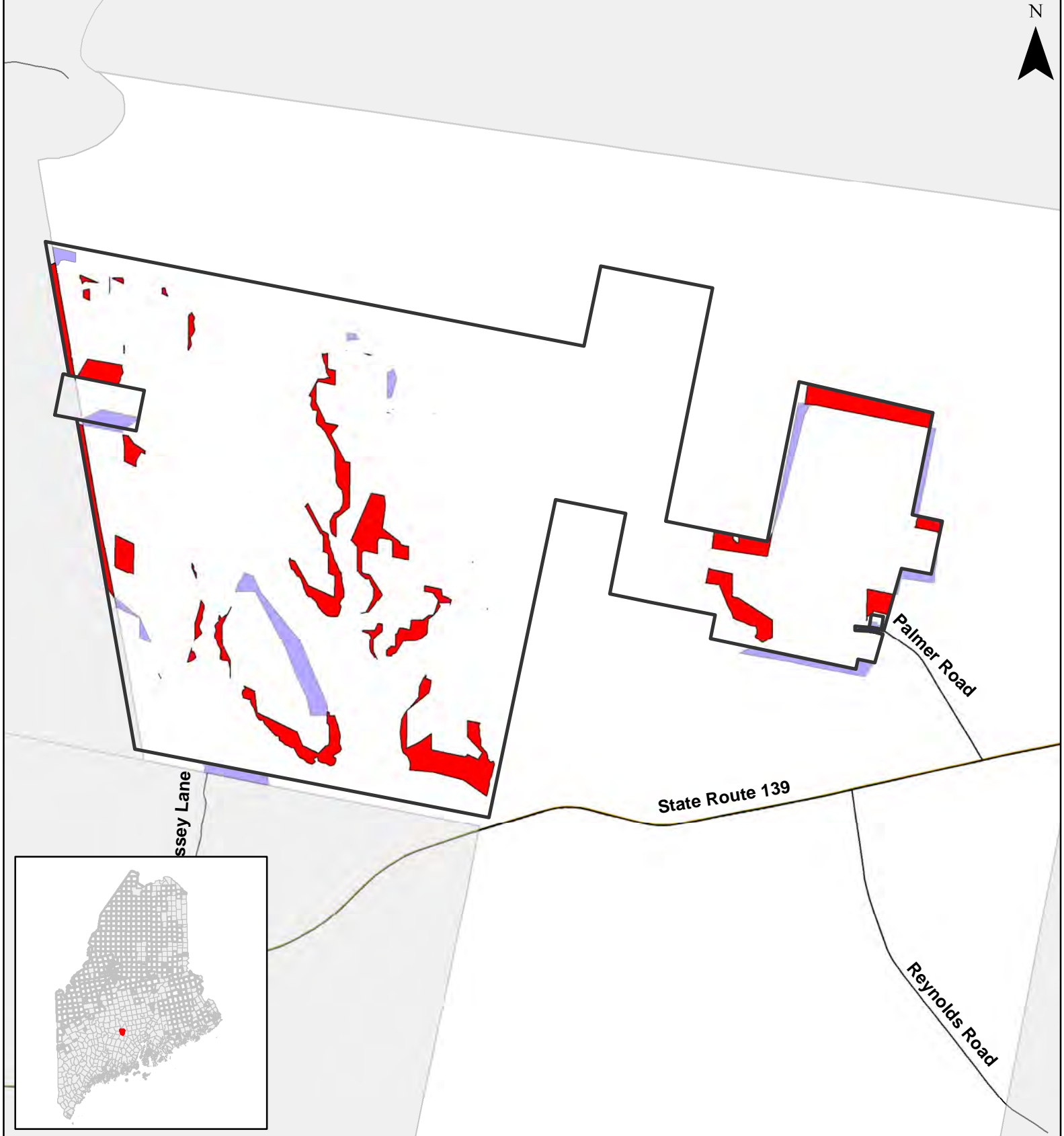
Therefore, the Commission approves the petition of Three Corners Solar, LLC to rezone approximately 119.3 acres to Commercial Industrial Development subdistrict and 42.5 acres to General Management subdistrict, as shown on the attached map, to allow for the construction of a grid-scale solar energy generation facility in Unity Township, Kennebec County, Maine.

In accordance with 5 M.R.S. § 11002 and Maine Rules of Civil Procedure 80C, this decision by the Commission may be appealed to Superior Court within 30 days after receipt of notice of the decision by a party to this proceeding, or within 40 days from the date of the decision by any other aggrieved person. In addition, where this decision has been made without a public hearing, any aggrieved person may request a hearing by filing a request in writing with the Commission within 30 days of the date of the decision.




DONE AND DATED AT A VIRTUAL COMMISSION MEETING
THIS 9TH DAY OF FEBRUARY 2022.

By: _____
Stacie R. Beyer, Acting Executive Director

This change in subdistrict designation is effective on February 24, 2022.



Zoning Petition ZP 776-A
Unity Township, Kennebec County, Maine
February 09, 2022

-  PlisgaDay Surveyed Parcel Boundary
-  Proposed M-GN: General Management
-  Proposed D-CI: Commercial Industrial

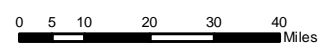
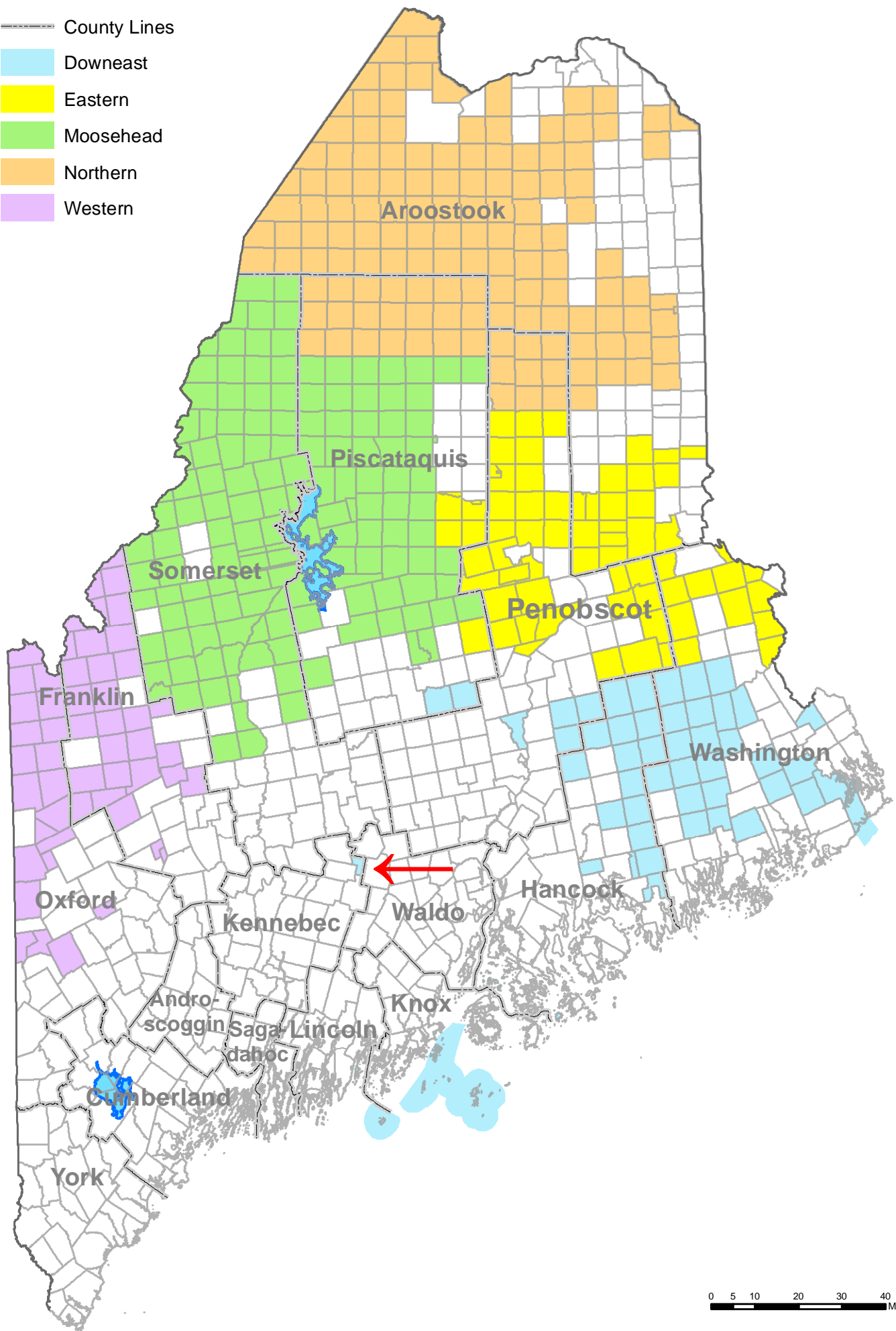
Attachment B

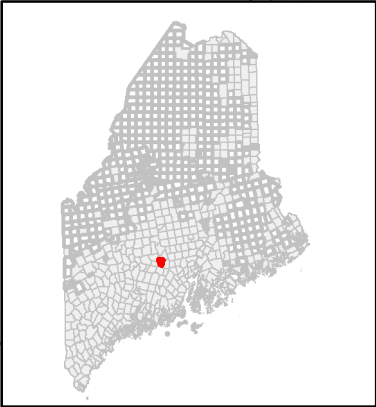
Location Map/Zoning Map

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- County Lines
- Downeast
- Eastern
- Moosehead
- Northern
- Western

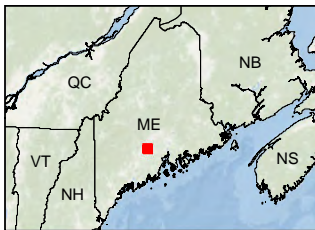
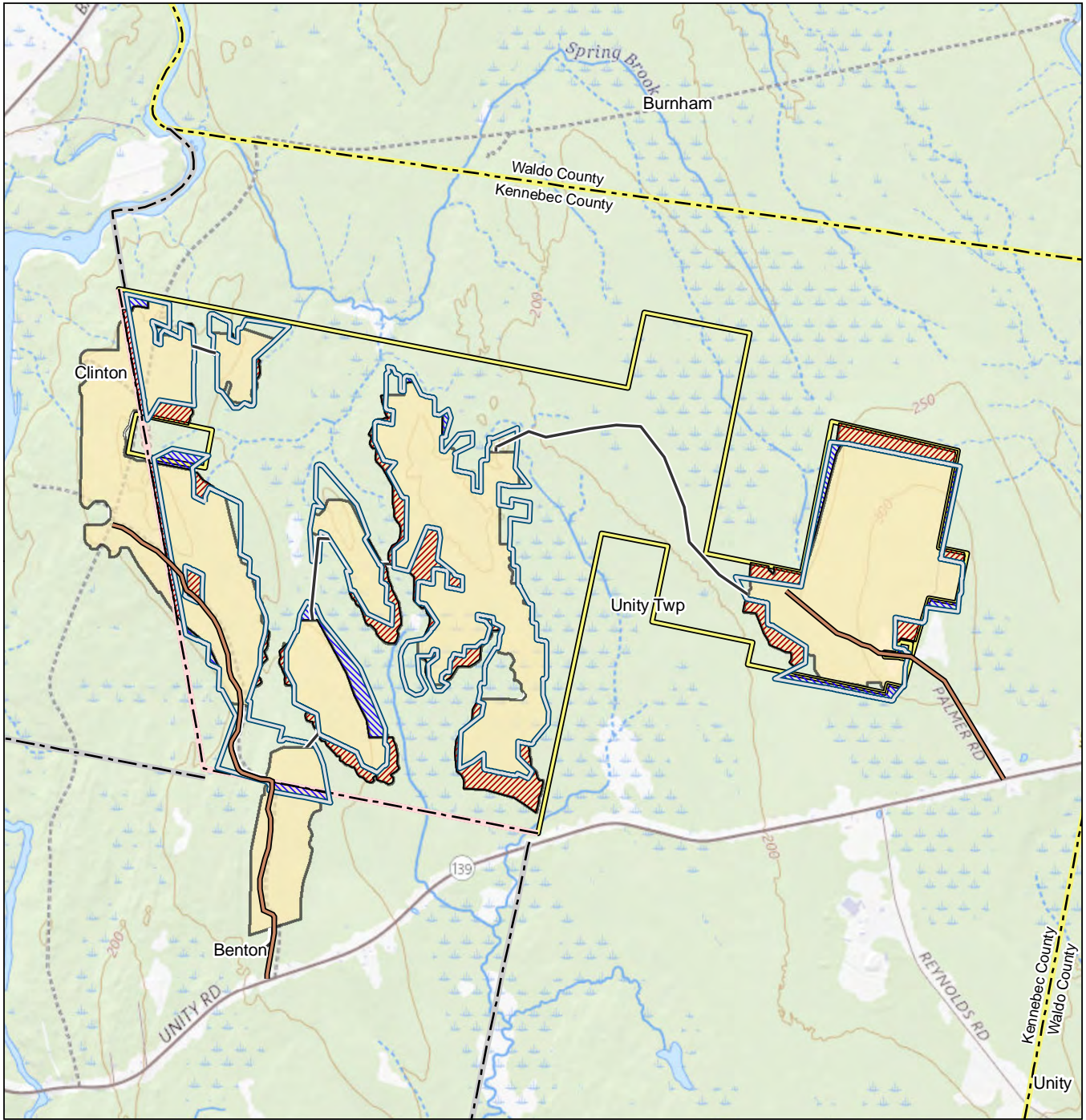




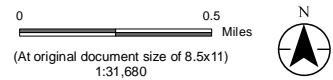
Zoning Petition ZP 776-A
Unity Township, Kennebec County, Maine
February 09, 2022

-  PlisgaDay Surveyed Parcel Boundary
-  Proposed M-GN: General Management
-  Proposed D-CI: Commercial Industrial
-  Existing D-CI: Commercial Industrial
-  Existing D-GN: General Development

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- Legend**
- Project Area
 - Existing D-CI
 - Proposed D-CI
 - Proposed M-GN
 - Collector Line Route
 - Existing Access Road
 - Plisga & Day Surveyed Parcel Boundary
 - Plisga & Day Surveyed Township Boundary
 - County Boundary
 - Town Boundary



Project Location
 Unity Township, Clinton and Benton
 Kennebec County, Maine

Prepared by GC on 2021-12-15
 Reviewed by EB on 2021-12-15

Client/Project
 Three Corners Solar, LLC
 Three Corners Solar Project

195601453

Figure No.
1-1

Title
Project Location Map - REV1

- Notes**
1. Coordinate System: NAD 1983 UTM Zone 19N
 2. Data Sources: Plisga and Day Land Surveyors, LUPC, MEGIS
 3. Background: USGS The National Map

Disclaimer: This document has been prepared based on information provided by others as cited in the Notes section. Stantec has not verified the accuracy and/or completeness of this information and shall not be responsible for any errors or omissions which may be incorporated herein as a result. Stantec assumes no responsibility for data supplied in electronic format, and the recipient accepts full responsibility for verifying the accuracy and completeness of the data.

Attachment C
Google Earth Map

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Three Corners Solar, Unity Township, Kennebec County, Maine

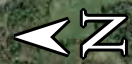
Parsons Small Engine & Gunshop

New England Organics

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Google Earth