



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  
SAMANTHA HORN  
ACTING EXECUTIVE DIRECTOR

COMMISSION DETERMINATION  
IN THE MATTER OF

Three Corners Solar, LLC

Findings of Fact and Decision

**ZONING PETITION ZP 776**

The Maine Land Use Planning Commission (Commission), at a meeting held on September 11, 2019, in Brewer, Maine, after reviewing the petition request and supporting documents submitted by Three Corners Solar, LLC (Petitioner or Three Corners) for Zoning Petition ZP 776, review 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 facts:

- Petitioner:** Three Corners Solar, LLC  
Attn: Matt Kearns, Chief Development Officer  
330 Congress Street, 6<sup>th</sup> Floor  
Boston, Massachusetts 02210
- Landowner:** Bessey Development Company  
Attn: Ethan Bessey, President  
PO Box 96  
Hinckley, Maine 04944
- Agent:** Stantec Consulting Services, Inc.  
Attn: Brooke Barnes  
30 Park Drive  
Topsham, Maine 04086
- Complete for Processing Date:** May 28, 2019
- Location:** Unity Township, Kennebec County, Maine  
MRS Map KE001, Plan 01, Lots 7, 8, 9, 10, 11, 12, 14, 17, 18, 19, 20, 22, and 23  
(parcel size per MRS is 1,774 acres; parcel size per Petitioner is 1,593 acres)
- Current Zoning:** General Management Subdistrict (M-GN)  
Shoreland Protection Subdistrict (P-SL2)  
Wetland Protection Subdistrict (P-WL3)



7. **Proposed Zoning:** Commercial Industrial Development Subdistrict (D-CI)

**PROPOSAL SUMMARY**

8. The Petitioner proposes to rezone approximately 748.1 acres within 13 parcels in Unity Township from M-GN subdistrict (729.1 acres), P-SL2 subdistrict emplaced primarily to protect certain freshwater wetlands (14.2 acres), and P-WL3 subdistrict (4.8 acres) to Commercial Industrial Development (D-CI) subdistrict to allow for the construction of a grid-scale solar energy generation facility. The Petitioner stated that the Three Corners Project (the Project) would provide up to 122.5 Megawatts (MW) of renewable energy to Maine's electrical grid.

**SUMMARY OF REVIEW CRITERIA**

9. **Land Use Districts and Standards:**

- A. Pursuant to *Land Use Districts and Standards*, 01-672 C.M.R. 10 (September 20, 2018 revision<sup>1</sup>) (Ch. 10 or Chapter 10), sec. 10.02,201, a solar energy system is defined as a device or structural design feature, or group of devices or structural design features, a substantial purpose of which is to provide for the collection, storage, and distribution of solar energy for space heating or cooling, electricity generation, or water heating.
- B. Pursuant to Ch. 10, sec. 10.02,200,a, a grid-scale solar energy generation facility is defined as a solar energy system that is primarily or solely intended to generate electricity for commercial sale for off-site use, occupies an area of one or more acres, and has a nameplate capacity of more than 250 Kilowatts.
- C. Pursuant to Ch. 10, sec. 10.21,A,1, 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.
- D. Pursuant to Ch. 10, sec. 10.21,A,3,c,(18), a grid-scale solar energy generation facility not 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 from the Commission pursuant to 12 M.R.S. § 685-B, subject to the applicable requirements set forth in Sub-Chapter III.
- E. Pursuant to Ch. 10, sec. 10.21,A,3,d,(1), 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 as a special exception upon issuance of a permit from the Commission pursuant to 12 M.R.S. § 685-A(10), and subject to the applicable requirements set forth in Sub-Chapter III, provided that the applicant shows by substantial evidence that (a) upon decommissioning of the facility all structures and

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<sup>1</sup> Chapter 10 was last revised June 17, 2019. This zoning petition request was complete for processing prior to the June 17, 2019 rule change; therefore, the Project was evaluated under the September 20, 2018 revision of Chapter 10.

materials associated with the development will be removed, and affected soils will be replaced or restored to a state such that they could be utilized for active agricultural production; and (b) such other conditions are met that the Commission may reasonably impose in accordance with the policies of the Comprehensive Land Use Plan.

- F. Pursuant to Ch. 10, sec. 10.21,A,2,b, areas the Commission determines meet the criteria for redistricting to a D-CI subdistrict, pursuant to Section 10.08, are proposed for development that is consistent with the purposes of the D-CI subdistrict, and are generally suitable for the development activities proposed.
- G. Pursuant to Ch. 10, sec. 10.21,A,2,b,(2), a person petitioning the Commission to establish a D-CI subdistrict for the purpose of allowing a grid-scale solar energy facility, establishes a presumption that the area proposed for redistricting is consistent with the portions of the Comprehensive Land Use Plan related to the location of development, upon demonstrating the area to be redistricted is: (a) accessible from a public road by a legal right of access that would allow construction, operation, maintenance, and decommissioning of the facility; (b) located within one mile of the proposed point of interconnection with the existing transmission grid and no other area suitable for the facility and closer to a point of interconnection is reasonably available to the petitioner, unless the petitioner demonstrates that redistricting an area no more than three miles from the point of interconnection would result in a project location that is compatible with current land uses and does not expand the pattern of development beyond already developed areas; and (c) located a reasonable distance from emergency service providers to allow for adequate response in the event of an emergency.

If no presumption is established, the proposed redistricting will be reviewed for consistency with the portions of the Comprehensive Land Use Plan related to the location of development in a manner similar to other commercial and industrial uses.

- H. Pursuant to 12 M.R.S. § 685-A(8-A)(A) of the Commission's statute, and restated in Ch. 10, sec. 10.08,A,1, 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 provision of Chapter 206-A.
  - I. Pursuant to 12 M.R.S. § 685-A(8-A)(B) of the Commission's statute, and restated in Ch. 10, sec. 10.08,A,2, a land use district boundary may not be adopted or amended 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.
10. **Comprehensive Land Use Plan:** The Commission's *Comprehensive Land Use Plan* (last revised in 2010) (CLUP) includes goals and policies that address, among other items, the location of development and the value of agricultural resources, energy resources, plant and animal habitat resources, scenic resources, and wetland resources.
- A. Location of Development:
    - 1) *Goal (CLUP, Chapter 1, Section 1.2, Subsection I, A; pg. 6):* Guide the location of new development in order 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.

- 2) *Relevant policy (CLUP, Chapter 1, Section 1.2, Subsection I, A; pg. 6)*: Provide for a sustainable pattern of development, consistent with historical patterns, which directs development to suitable areas and retains the principal values of the jurisdiction, including a working forest, integrity of natural resources, and remoteness.
- 3) *Relevant rezoning principle (CLUP, Chapter 4, Section 4.3, Subsection 4.3.B; pgs. 61 and 62)*: Encourage orderly growth within and proximate to existing, compatibly developed areas; otherwise known as the adjacency principle. The Commission generally interprets adjacency to mean that most rezoning for development should be no more than one mile by road from existing, compatible development – i.e., existing development of similar type, use, occupancy, scale and intensity to that being proposed. The Commission recognizes that there are certain instances in which a great or lesser distance may be appropriate in measuring distanced to existing development.
- 4) *Relevant energy facility principle (CLUP, Chapter 4, Section 4.9, Subsection 4.9.G; pg. 142)*: With respect to major new energy facilities, generally these facilities are best located in areas on the edge of the jurisdiction with good existing road access but low natural-resource values.

**B. Infrastructure (CLUP, Chapter 1, Section 1.2, Subsection I, D; pg. 8):**

- 1) *Goal*: Ensure that infrastructure improvements are well planned and do not have an adverse impact on the jurisdiction's principal values.
- 2) *Relevant policy*:
  - a) Consider the capacity of existing infrastructure and services to accommodate proposed development, as well as the costs associated with the provision of these services to proposed development.
  - b) Discourage the construction or establishment of major new public roads that would degrade the natural character of remote areas.
  - c) Require that new utility lines, pipelines and associated facilities be (a) located or co-located within or adjacent to existing utility or public road rights of way to the extent practicable; (b) constructed and landscaped so that they do not degrade natural values; and (c) located so as not to inappropriately encroach upon or change the character of remote areas, or produce an intensity of use that is inappropriate for a particular area.

**C. Agricultural Resources (CLUP, Chapter 1, Section 1.2, Subsection II, A; pg. 11):**

- 1) *Goal*: Conserve and protect working farms, encourage the development of new farming enterprises, and conserve agricultural soil resources.
- 2) *Relevant policy*: Discourage land uses that can be destructive of prime, highly productive or other significant farmlands.

**D. Energy Resources (CLUP, Chapter 1, Section 1.2, Subsection II, E; pg. 13):**

- 1) *Goal*: Provide for the environmentally sound and socially beneficial utilization of indigenous energy resources where there are not overriding public values that require protection.
- 2) *Relevant policy*:
  - a) Support indigenous, renewable energy resources as part of state and national efforts to promote energy independence, diversity and long-term sustainability.

- b) 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.
  - c) 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.
  - d) Allow emerging energy technologies when they will not have an undue adverse impact on existing uses and natural resources.
- E. Plant and Animal Habitat Resources (CLUP, Chapter 1, Section 1.2, Subsection II, H; pg. 16):
- 1) *Goal:* Conserve and protect the aesthetic, ecological, recreational, scientific, cultural and economic values of wildlife, plant and fisheries resources.
  - 2) *Relevant policy:*
    - a) Coordinate with and support agencies in the identification and protection of a variety of high-value wildlife habitats, including but not limited to: habitat for rare, threatened or endangered species; rare or exemplary natural community and ecosystem types; native salmonid fish species; riparian areas; deer wintering areas; seabird nesting islands; waterfowl and wading bird habitats; shorebird nesting, feeding and staging areas; and significant vernal pools.
    - b) Regulate land use activities to protect sensitive habitats, including but not limited to habitats for fish spawning, nursery, feeding and other life requirements for fish species.
    - c) Protect wildlife habitat in a fashion that is balanced and reasonably considers the management needs and economic constraints of landowners.
    - d) Regulate land use activities to protect habitats, including deer wintering areas and coastal bird nesting sites, ecosystems, food sources and other life requisites for wildlife species to maintain biodiversity in the jurisdiction.
- F. Scenic Resources (CLUP, Chapter 1, Section 1.2, Subsection II, J; pg. 18):
- 1) *Goal:* Protect the high-value scenic resource of the jurisdiction by fitting proposed land uses harmoniously into the natural environment.
  - 2) *Relevant policy:* Regulate land uses generally in order to protect natural aesthetic values and prevent the incompatibility of land uses.
- G. Wetland Resources (CLUP, Chapter 1, Section 1.2, Subsection II, L; pg. 19):
- 1) *Goal:* Conserve and protect the ecological functions and social and economic values of wetland resources.
  - 2) *Relevant policy:* Ensure that development avoids alteration of wetland areas. If avoidance is not feasible, ensure that development minimizes alteration. If loss of wetland functions is unavoidable, require actions to restore, reduce or gradually eliminate lost or degraded wetland functions. If necessary, require compensation for lost or degraded wetland functions through protection of wetlands of equal or great value.

## ADMINISTRATIVE PROCESS AND PUBLIC PARTICIPATION

11. **Notice of Filing:** Notice of filing of the zoning petition was properly made to appropriate parties and the public as required under *Rules of Practice*, 01-672 C.M.R. Ch. 4 (last revised October 18, 2013).
12. **Public Hearing:** No requests for a public hearing were received on the petition.
13. **Public Comments:** No public comments were received on the petition.
14. **Kennebec County Commissioners:** The Kennebec County Commissioners reviewed the petition and commented that they would like assurances that Palmer Road would not be further deteriorate by the proposed project.
15. **Adjacent Organized Towns:** On June 5, 2019 and June 6, 2019, 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.
16. Commission staff completed a general site review on June 27, 2019.

## PROPOSAL

17. The Petitioner proposes to rezone approximately 748.1 acres within 13 parcels in Unity Township from M-GN subdistrict (729.1 acres), P-SL2 subdistrict emplaced primarily to protect certain freshwater wetlands (14.2 acres), and P-WL3 subdistrict (4.8 acres) to Commercial Industrial Development (D-CI) subdistrict to allow for the construction of a 122.5 MW grid-scale solar energy generation facility; the landowner's remaining acreage would retain the existing zoning.
  - A. Current Project Area Conditions: The general topography of the Project area is rolling hills with 0 to 8 percent slopes; forested, scrub-shrub, emergent and unconsolidated-bottom wetlands, where impacts would be avoided or minimized; upland mixed forest with evidence of recent timber harvesting and regeneration; upland second growth mixed forests dominated by northern hardwood species or balsam fir, white pine and eastern hemlock; and an active agricultural field.
  - B. Dimensional Requirements: The landowner's parcels contain approximately 3,897 feet of forested water frontage on unnamed perennial streams; the Project area does not directly impact any flowing waters (see Finding of Fact #22,B). Additionally, the Project area has over 200 feet of road frontage on both Palmer Road and Bessey Lane; both roads connect to State Route 139.
  - C. Access: Access to the Project would generally be via Bessey Lane, Palmer Road and an unnamed access road. Bessey Lane and the Palmer Road terminus would need limited improvements; the unnamed access road would need moderate improvements (replacement of culverts and resurfacing). Bessey Lane, the unnamed access road and the terminus of Palmer Road are private and owned by the landowner.

- D. **Interconnection:** The Project would connect to the Central Maine Power transmission system at the Albion substation approximately 5 miles to the southwest of the Project, via a current transmission route, in the town of Benton. A 115-kilovolt (kV) generator lead would be constructed in Benton to deliver the power from the Project to the electric grid.
- E. **Design:** The solar array would be made up of photovoltaic panels mounted on fixed-tilt axes sited to maximize solar energy production during the year. The panels would be supported by fixed vertical driven pile post foundations; however, in some areas, depending upon subsurface conditions, other foundation technologies may be implemented including screws, rock pins, or ballast.
- F. **Sufficient Land Area:** The Project's solar arrays are expected to occupy approximately 5 to 6 acres for each MW. The Petitioner stated that the propose rezoned acreage would allow flexibility when designing a layout to comply with applicable setback requirements and to minimize impact to natural resources identified in the siting and permitting phase of the Project.
18. **Title, Right, or Interest:** The Project parcels are currently owned by Bessey Development Company. On April 02, 2019, Three Corners Solar, LLC entered into a certain amendment to lease option agreement (expires March 15, 2022) with the landowner. To demonstrate Title, Right or Interest in the area to be rezoned sufficient to pursue this rezoning, the Petitioner submitted copies of Bessey Development Company deeds and a copy of the amendment to lease option agreement between Bessey Development Company and Three Corners Solar, LLC.
19. **Financial Capacity:** Three Corners Solar, LLC is a Limited Liability Company of Delaware with 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, as distinctively required by the Commission's Rules and Standards. The detailed financial capacity review for permitting, constructing, maintaining and decommissioning of any proposed development would be evaluated as part of the development permitting process.
20. **Services:** 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 site. 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 site. Solid Waste Disposal would be provided by Waste Management Disposal Services of Maine at the Crossroads Disposal facility located in Norridgewock, Maine. The Petitioner has contacted A.A.A. Portable Toilets, located in Albion, Maine, to provide wastewater handling services during construction.
21. **Location of Development and Existing Uses:** The Petitioner submitted supporting documentation and an analysis of the location of development and existing uses 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:

- A. Location of Development: Unity Township is located at the edge or fringe of the Commission's service area and is surrounded by the five organized towns of Albion, Benton, Burnham, Clinton, and Unity, which have a total population of 11,522. Unity Township is also located within 20 miles of 44 organized towns. Since Unity Township is isolated from the remainder of the areas served by the Commission, general land uses in the five organized towns were provide as regional context. These towns are economic centers with significant existing development and energy infrastructure that 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 15,722.

The Petitioner indicated that the Project area is located north of State Route 139 with the majority of the Project area located within one mile of State Route 139. The Petitioner also indicated that the land uses directly surrounding the Project area are a mix of commercial forestry management tracts, residential and commercial development, small agricultural areas, and infrastructure (roads, electrical transmission, communications infrastructure).

- B. Residential Uses: The Petitioner noted that over 70 residential housing units, many in adjacent organized towns, are located within one mile of the Project area. The Petitioner further noted that the population of Unity Township is estimated to be 43 persons with 19 residential housing units and that most of the residential housing units are located within one mile of the Project area. The closest residential lot is located on Palmer Road approximately 0.25 miles from the Project area.
- C. Commercial and Industrial Uses: Commercial and industrial uses are located within one mile of the proposed Project area including small-scale agriculture, small-scale commercial business, and large-scale commercial businesses. In Unity Township, Parsons Small Engine & Gun Shop is located 0.5 miles from the Project area in a 24-acre General Development (D-GN) subdistrict at the junction of Palmer Road and State Route 139, and the Hawk Ridge Compost facility is located approximately 0.75 straight line-miles or 1.25 road-miles in a 49-acre D-CI subdistrict on Reynolds Road. Two telecommunication towers (one in Clinton and one at the end of Palmer Road) are located within one mile of the Project area and one permitted 20-MW solar facility (Winslow Solar LLC) is located approximately one mile west of the Project area in Clinton. The Petitioner also provided, for Unity Township and the five surrounding organized towns, a comprehensive list detailing seven commercial use/businesses within 1 mile of the Project Area and twenty commercial use/businesses within 3 miles of the Project area.

Infrastructure Uses: The Petitioner outlined that infrastructure components for energy construction, production and transmission are present within one mile of the Project area. The Petitioner specifically noted the existing 115-kV transmission line that bisects Unity Township and State Route 139, a main thoroughfare between surrounding communities that also provides access to nearby service centers and Interstate Highway 95. The Petitioner also noted that energy production is a prevalent land use within the local area with six operational hydroelectric facilities and five proposed or operational grid-scale solar power projects within 15 miles of the Project area.



- D. Recreational Uses: Current recreational uses are limited in the Project area by the accessibility of Bessey Lane, the terminus of Palmer Road and an unnamed access road, all of which are private with no formal public access; Bessey Lane is gated. The predominate recreational use currently allowed by the landowner on the Project area is hunting. Palmer Road is not gated but there are no known ATV, snowmobile or hiking trails from this access point. No significant change in public recreation is expected in the Project area.

## 22. **Natural Resources:**

- A. Maine Department of Inland Fisheries and Wildlife (MDIFW): Maine Department of Inland Fisheries and Wildlife (MDIFW) staff met and communicated with representatives of Three Corners and LUPC staff on several occasions to discuss natural resources on and near the Project area as well as means to avoid or minimize potential adverse impacts. These communications included site visits with a Regional Wildlife Biologist, a preliminary review of MDIFW jurisdictional features on September 7, 2018, and a meeting with Commission staff on June 25, 2019. MDIFW noted that all comments provided are related to the request for rezoning only and are not comments on a final review of any proposed project itself. As such, all comments should be considered preliminary until a permit application and final plans with all proposed project infrastructure indicated, including transmission line routes, have been received and reviewed by the Department.

### 1) *Deer Wintering Area (DWAs):*

- a) In the MDIFW review comments, MDIFW indicated that the June 25, 2019 meeting involved DWAs on and adjacent to the proposed project site. In an onsite meeting with the Petitioner's representatives, the Regional Wildlife Biologist noted that in the western portion near the town line, the lower slope area provides good winter cover for deer while the higher slope area contains dead and dying beech trees. The Regional Wildlife Biologist suggested that the project would be better located in the higher slope beech area. The Regional Wildlife Biologist also indicated that the northern portion of DWA 021043 contains good cover for deer. Preliminary indications suggest that the Petitioner intends to incorporate this input to avoid or minimize impacts to the DWAs to the extent practicable. Additionally, Wildlife Management District (WMD) 23, in which this Project area is located, contains several other DWAs and a deer population above management objectives. As such, MDIFW believes that if the project is designed to avoid/minimize its impacts to the DWAs to the extent practicable, it will likely not represent significant impacts to DWA habitat in the Project area or in WMD 23.
- b) The Petitioner indicated that the proposed rezoning would impact approximately 86 acres of moderate quality DWAs in the northern portion of the Project area. Additionally, the Petitioner indicated that through consultation with MDIFW, 550 acres of DWAs that were impacted in the original proposal have been removed from the Project area and avoided, and that 0.45 miles of DWAs were avoided by relocating the attachment line.
- 2) *Other Resources Under MDIFW Programs and Responsibilities*: In preliminary and rezoning review comments, MDIFW noted several other resources that need to be considered and addressed by the Petitioner in its final design and permit application for

the Three Corners Solar, LLC project. These resources included, but were not limited to, Bats, Inland Waterfowl and Wading Bird Habitats (IWWHs), Significant Vernal Pools (SVPs), stream buffers, and stream crossing standards. MDIFW recommended that the Petitioner review the information provided for these and other resource types and design the project with an aim toward avoiding and minimizing impacts to these resources, conduct resource surveys during appropriate seasons, and submit SVP survey forms for MDIFW review as soon as possible and before Three Corners submits a permit application.

MDIFW stated that the Department encourages the Petitioner to continue to work with its staff as the Project area is designed in preparation for its pending Maine Department of Environmental Site Location of Development application. Further, MDIFW recommended that the Petitioner contact the U.S. Fish and Wildlife Service (USFWS) for guidance on the northern long-eared bat, which is listed as a Threatened Species under the Federal Endangered Species Act and on the bald eagle, which continues to be protected under the federal Bald Eagle and Golden Eagle Protection Act, as well as other federal laws. The Petitioner indicated that contact has been made with the U.S. Fish and Wildlife Service; additionally, the Petitioner indicated that the project would be designed to minimize adverse impacts on fish and wildlife resources.

- B. Bodies of Standing Water, Flowing Water, and Freshwater Wetlands: No lakes, pond, or streams<sup>2</sup> are located within the Project area. The Sebasticook River and multiple streams are located in Unity Township. The Sebasticook River is over 1,000 feet from the Project area. The Project area contains several inclusions (4.8 acres) of mapped P-WL3 forested freshwater wetlands and inclusions of the associated P-SL2 subdistrict (14.2 acres) emplaced primarily to protect those wetlands. The Petitioner indicated that a detailed wetland and watercourse delineation survey would be conducted as part of any development permit application and that any project subsequent to the rezoning would be designed to minimize adverse impacts on water resources, including extensive protection measure to protect water quality.
- C. Soil Suitability:
- 1) *Predominant Soils*: Soil map unit data were obtained and reviewed 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. Additionally, a preliminary geotechnical assessment was completed on the Project area. The predominant soils in the Project area are generally mapped as Woodbridge (WsB), a moderately well drained very stony fine sandy loam with 3 to 8 percent slopes; Lyman-Tunbridge (HrB), a somewhat excessively drained and well drained rocky complex with 0 to 8 percent slopes; and Monarda (MrA), a poorly drained very stony silt loam with 0 to 3 percent slopes that meets the hydric soils criteria. The Petitioner outlined six additional soils within or adjacent to the Project area including two soils that meet the hydric soils criteria.
  - 2) *Prime Farmland Soils*: Of the six additional soils within or adjacent to the Project area, two are described as Prime Farmland Soils. The Prime Farmland Soils are located at the

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<sup>2</sup> One P-SL2 stream is mapped in the northeastern part of Project area; however, field reconnaissance indicated that the stream is incorrectly mapped and would not be impacted.

end of Palmer Road where the current land use includes small-scale agriculture. The impact to Prime Farmland Soils is estimated to be approximately 25 acres. The Petitioner stated that at decommissioning of the project, at a cost of approximately \$115,000, all structures and materials would be removed so the affected Prime Farmland Soils could be used for active agricultural production.

- 3) *State Soil Scientist*: The State Soil Scientist reviewed the petition and indicated that some of the Project area is currently mapped as having Monarda soils that are hydric and, if mapped correctly, could indicate the presence of wetlands.
- D. Maine Natural Areas Program (MNAP): MNAP reviewed the petition and searched the Natural Areas Program's Biological and Conservation Data System files for rare or unique botanical features on or in the vicinity of the Project area. MNAP stated that according to their current information there are no known rare botanical features that will be disturbed within the Project area. MNAP indicated that a site inventory by a qualified field biologist prior to construction would ensure that no undocumented rare features are inadvertently harmed. The Petitioner stated that botanical surveys would be conducted during the project permitting process and that steps would be taken to protect any significant natural communities or State-ranked critically imperiled (S1) or imperiled (S2) plant populations documented during the surveys.

### 23. **Historic Resources:**

- A. Maine Historic Preservation Commission (MHPC): MHPC reviewed the petition and indicated that an architectural survey is recommended to identify and record information on all resources within the area of potential effect that are at least 50 years old, and that a site-specific Phase I archaeological survey for potentially significant historic and prehistoric archeological sites is recommended within the Project area. The Petitioner stated that a contractor qualified to create a survey scope and, pending the survey scope's approval by MHCP, initiate surveys before development occurs or as necessary for a permit to be granted.
- B. The Houlton Band of Maliseet Indians: The Houlton Band of Maliseet Indians reviewed the petition and indicated no concerns within the Project Area.
- C. The Penobscot Nation: 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.

24. **Scenic Resources**: The Petitioner provided a visual impact analysis within an Area of Potential Effect (APE) of 3 miles from the Project area; a more detailed visual impact assessment will be conducted and evaluated during the Project permitting process. The analysis was conducted to identify potential Project visibility from local public access and scenic/recreational resources. 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 at the border of Unity Township. 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 on any public land trust parcels (Sebasticook Regional Land Trust) and the ITS trails would be limited to open fields areas along high points adjacent to State Route 9 and 202 and Prairie Road in Unity. 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 Project area, due to forest cover. Small portions the Sebasticook River may have potential lines of sight to the Project were the river runs perpendicular to the Project and is located adjacent to open fields. The Petitioner indicated that the visibility of the Project within 3 miles is sporadic and 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.

Based upon the viewshed analysis and the forested buffers, the Applicant anticipates that the Project would have limited impact on the scenic resources within the 3-mile assessment area, and concluded that the Project is expected to fit within the surrounding landscape given the siting of the project away from existing residential development and public roads, the existing development subdistricts near the Project area, the presence of existing grid-scale solar facilities within the area, and the forested buffer.

25. **Positive Impacts and Negative Impacts:** The Petitioner 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 Project is expected to provide employment opportunities through short-term jobs during construction and long-term positions during operation and maintenance of the Project. Additionally, the Project would be a source of economic value for the forest landowner as the value derived from timber and fiber production continues to decline and contribute to local tax revenue. Further, the Petitioner indicated that some of the internal infrastructure is in place for the project and no new public road infrastructure would be required, and no new long-term demands on public road services would be required. Lastly, the Petitioner anticipates no undue adverse impact on existing uses or resources (See Findings of Facts #21 to #24).
26. The facts are otherwise as represented in the application for Zoning Petition ZP 776 and supporting documents.

**Based upon the above findings of fact and the following analysis, the Commission concludes:**

1. **Consistency with the purpose and standards of the D-CI subdistrict in effect at the time:**  
The Project area to be rezoned is intended to accommodate future permitting and development of a grid-scale solar energy generation facility. This type of land use is consistent with the purpose of the D-CI subdistrict noted in Ch. 10, sec. 10.21,A,1, and meets the description of that subdistrict under Ch. 10, sec. 10.21,A,2,b,(2). This type of commercial, industrial, or intensive development land use is the type of use that the D-CI subdistrict was established to accommodate and is expressly identified as allowed within the D-CI subdistrict with a permit, and by special exception if located on soils recognized by the U.S. Department of Agriculture as prime farmland soils, Ch. 10, secs. 10.21,A,3,c,(18) and 10.21,A,3,d,(1), respectively. Therefore, the proposed land use district is consistent with the standards for district boundaries in effect at the time and meets the applicable provisions in 12 M.R.S. § 685-A(8-A)(A) of the Commission's statute and in Ch. 10, sec. 10.08,A,1.

2. **No undue adverse impact on existing uses and resources:** The proposed amended land use district boundary meets the provisions of 12 M.R.S. § 685-A(8-A)(B) and Ch. 10, sec. 10.08,A,2 as the proposed rezoning to a D-CI subdistrict to accommodate a grid-scale solar energy generation facility will not have an undue adverse impact on existing uses or resources. Specifically:
- A. Residential, Commercial and Industrial Land Uses: There are 19 sporadically placed housing units located in Unity Township with the closest year-round residence located 0.25 miles from the northeastern portion of the Project area on Palmer Road; other housing units are located generally along State Route 139 and Reynolds Road in Unity Township, and in Clinton and Burnham. It is expected that forested buffers will limit views of the Project area from residences. Further, the proposed solar development is consistent with and compatible with neighboring commercial development such as the 115-kV transmission line, State Route 139, forest management activities, Parsons Small Engine & Gun Shop, the Hawk Ridge Compost facility, and 26 other additional commercial use/businesses identified within 3 miles of the Project Area in the five adjacent organized towns. The Commission anticipates that the proposed rezoning will not have an undue adverse impact on neighboring residential, commercial or industrial uses.
  - B. Recreational Uses: There are no formal public recreational uses in or near the Project area. Since there are no formal public recreational uses in or near the Project area, the Commission anticipates that the proposed rezoning will not have an undue adverse impact on recreational uses.
  - C. Natural Resources: The Petitioner is actively working with MDIFW and USFWS to avoid and minimize impacts to natural resources including, but not limited to: deer wintering areas, bats, inland waterfowl and wading bird habitats, significant vernal pools, stream buffers, and other wildlife and fisheries habitat. The Petitioner has substantially modified its original design to avoid, minimize or eliminated impacts to certain resources such as deer wintering areas, streams and wetlands. Additionally, MNAP recommended that a site inventory for certain botanical resources be completed by a qualified field biologist prior to construction. The Petitioner stated that botanical surveys would be conducted during the project permitting process and that steps would be taken to protect any significant natural communities or State-ranked critically imperiled (S1) or imperiled (S2) plant populations documented during the surveys. Therefore, as long as the Petitioner continues to work with resource agencies to avoid, minimize or mitigate impacts to natural resources, and as long as the acknowledged resource surveys are completed during the development permitting process, the Commission anticipates that the proposed rezoning will not have an undue adverse impact on natural resources.
  - D. Historic Resources: MHPC recommended that an architectural survey and a site-specific Phase I archaeological survey for potentially significant historic and prehistoric archeological sites be completed. The Petitioner stated that a contractor qualified to create a survey scope and, pending the survey scope's approval by MHCP, initiate surveys will be engaged before development occurs or as necessary for a permit to be granted. Therefore, as long as the acknowledged resource surveys are completed during the development permitting process and impacts to any historic resources will be avoided or minimized, the Commission anticipates that the proposed rezoning will not have an undue adverse impact on historic resources.

- E. Scenic Resources: Based upon the viewshed analysis and the existing forested buffers adjacent to the Project area, it is anticipated that the project will have limited impacts on the scenic resources within the 3-mile assessment area and it is expected that the Project will fit into the surrounding landscape, given the siting of the project away from existing residential development and public roads, and the presence of existing development subdistricts and existing grid-scale solar facilities within the area. A more detailed visual impact assessment is expected during the Project permitting process. Therefore, as long as the acknowledged detailed visual impact assessment is completed during the development permitting process, and adequate visual buffers are incorporated as applicable, the Commission anticipates that the proposed rezoning will not have an undue adverse impact on scenic resources.
3. **Consistency with the *Comprehensive Land Use Plan's* (CLUP) goals, policies and principles:** The proposal meets the provisions of 12 M.R.S. § 685-A(8-A)(A) and Ch. 10, sec. 10.08,A,1 with regard to consistency with the CLUP. Specifically:
- A. Location of development:
- 1) The proposed Project area will be accessible from a public road by a legal right of access and will be located a reasonable distance from emergency service providers to allow for adequate response in the event of an emergency. However, the proposed point of interconnection with the existing transmission grid is greater than 3 miles from the Project area; therefore, pursuant to Ch. 10, sec. 10.21,A,2,b,(2), no presumption is established for locating a grid-scaled solar energy generation facility, and the proposed redistricting must be reviewed for consistency with the portions of the Comprehensive Land Use Plan related to the location of development in a manner similar to other commercial and industrial uses. In addition, if the Project area is rezoned and subsequently not developed within a reasonable period with a grid-scale solar energy generation facility, in accordance with Ch. 10, sec. 10.21,A,2,b,(2), the D-CI subdistrict will automatically revert to the prior subdistrict designation.
  - 2) A central tenet of the CLUP is to encourage orderly growth within and proximate to existing, compatibly developed areas. The requirement that new development be located near existing development is referred to as the “adjacency” principle, and the Commission has generally interpreted it to mean that most rezoning for development should be no more than one mile by road from existing, compatible development, or a village center, although the Commission recognizes that there are certain instances in which a greater or lesser distance may be appropriate in measuring distance to existing development. With respect to energy facilities, the CLUP specifically recognizes that energy facilities are best located in areas on the edge of jurisdiction with good existing road access but low natural resources values. The CLUP encourages the siting of energy facilities to the edge or fringe of the jurisdiction. In these locations, facilities are better situated near compatible uses, existing infrastructure such as roads or transmission lines, and away from more remote undeveloped locations within LUPC jurisdiction. Similarly, the infrastructure policies encourage new utility lines and similar infrastructure be (a) located or co-located within or adjacent to existing utility or public road rights of way to the extent practicable; (b) constructed and landscaped so that they do not degrade natural values; and (c) located so as not to inappropriately encroach upon or change the character of remote areas, or produce an intensity of use that is inappropriate for a particular area.

In applying these goals, policies and principles holistically, the Project area is consistent not only with the adjacency principle, but other goals and policies outlined in the CLUP. Specifically, Unity Township is located on the periphery of Commission's service area and is surrounded by 5 organized towns keeping with the CLUP's express location of development goal to guide development to areas near existing towns and communities. These towns are economic centers with significant existing development and energy infrastructure.

The land uses surrounding the proposed rezoning areas are a mix of commercial forestry management tracts, residential and commercial development, small agricultural areas, and infrastructure (roads, electrical transmission, communications infrastructure). Many of these areas of commercial development and infrastructure are located within one mile of the Project. The Petitioner outlines that the proposed Project area and use fits within the current pattern of use, scale and intensity of land uses currently existing or proposed within the immediate vicinity of the Project area based upon the existing and proposed land uses proximate to the Project. The presence of a 24-acre D-GN subdistrict, 0.5 miles away, and a 49-acre D-CI subdistrict, 0.75 straight line-miles or 1.25 road-miles away, as well as a permitted 20-MW solar facility (Winslow Solar, LLC) approximately one mile away, provide evidence of compatible adjacent land uses. Additionally, there is an existing utility right-of-way and State Route 139 less than 0.25 miles from the Project area.

Rezoning the Project area in Unity Township to a D-CI subdistrict would further the location of development goal articulated in the CLUP. The Project area is proposed in a type of location contemplated from a policy perspective where grid-scale solar power can compatibly co-exist with existing land uses (Unity Township contains certain high-value natural resources, including deer wintering areas and inland waterfowl and wading bird habitat, but most will be avoided by the proposed layout. There are no high-value lakes or ponds, or important scenic resources or features), discourage growth that results in scattered and sprawling development patterns, and allow a particular type of economic development opportunity important to landowners and residents of Maine.

Finally, a conclusion that this specific grid-scale solar development in this specific location meets the location of development goal in the CLUP is consistent with the Commission's finding that Milton Township, which like Unity Township is surrounded by organized towns and has good existing road infrastructure, was a "suitable location for [energy development] and the type of place that the CLUP envisions energy and utility facilities should be located." December 17, 2016, *Maine Land Use Planning Commission Memorandum of Decision*, Milton Removal Petition, at p. 5.

Therefore, the Commission concludes that the proposal meets the provisions of 12 M.R.S. § 685-A(8-A)(A) and Ch. 10, sec. 10.08,A,1 in regards to location of development and consistency with the CLUP.

- B. Plant and Animal Habitat, Agricultural, Wetland and Scenic Resources: The CLUP contemplates a development permitting process, focused on individual development projects, that is protective of plant and animal habitat resources, agricultural resources, wetland resources and scenic resources as well as a zoning process that focuses more generally on whether a proposed subdistrict is proposed in an appropriate location. As addressed in Conclusion #2, above, the proposed rezoning will not have an undue adverse impact on these

existing resources and, therefore, the rezoning is consistent with the relevant resource goals of the CLUP.

- C. **Energy Resources:** Grid-scale solar energy generation facilities are an emerging energy technology that produce indigenous, renewable energy. Energy facilities are generally best located in areas on the edge of the jurisdiction with good existing road access but low natural-resource values. As addressed in Conclusions #2 and #3,A, above, the rezoning is in a suitable location, minimizes intrusion on natural and cultural resources and values, and will not have an undue adverse impact on existing uses and natural resources. As a result, the rezoning is consistent with the energy resource goals and policies of the CLUP.

The CLUP contains a range of goals, policies and principles and sometimes these goals and policies conflict. The Commission, having considered the goals, policies and principles highlighted here that are most relevant to the present review, as well as the various provisions of the CLUP more generally, concludes the rezoning is consistent with the Commission's Comprehensive Land Use Plan, satisfying the corresponding portions of 12 M.R.S. § 685-A(8-A)(A) and Ch. 10 sec. 10.08,A,1.

4. **Consistency with the purpose, intent and provision of Chapter 206-A:** The proposal meets the provisions of 12 M.R.S. § 685-A(8-A)(A) and Ch. 10, sec. 10.08,A,1 that require the proposed subdistrict to be consistent with the purpose, intent and provision of Chapter 206-A. The Commission evaluated the petition with respect to consistency with Chapter 206-A and principles of sound planning, zoning, and development. Having considered the location of the Project area, the surrounding uses and resources, the type and intensity of the development that the rezoning is intended to foster, the review of agency comments, 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 of Chapter 206-A.

**Therefore, the Commission approves the petition of Three Corners Solar, LLC to rezone approximately 748.1 acres of M-GN General Management subdistrict, P-WL Wetland Protection subdistrict and P-SL Shoreland Protection subdistrict to D-CI Commercial Industrial Development subdistrict, as shown on the attached map, to allow for the construction of a grid-scale 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.

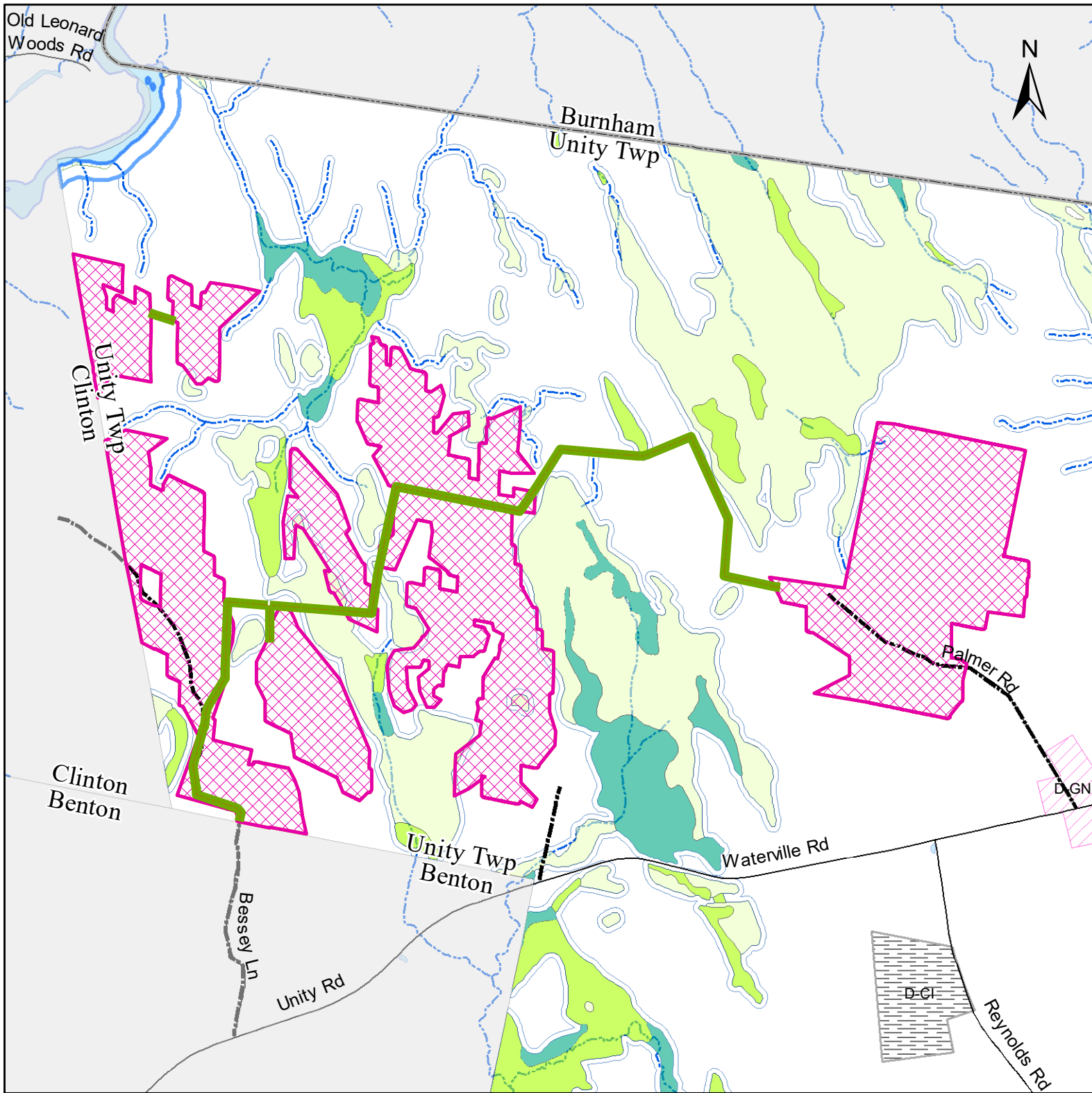
DONE AND DATED AT BREWER, MAINE, THIS 11<sup>TH</sup> DAY OF SEPTEMBER 2019.



By: \_\_\_\_\_  
Samantha Horn, Acting Executive Director

This change in subdistrict designation is effective on September 26, 2019.





## Unity Twp, Kennebec County - ZP 776

- |                                  |            |   |
|----------------------------------|------------|---|
| Proposed D-CI                    | E911 Roads | D-CI: Commercial Industrial             |
| Approximate Collector Line Route | Stream     | D-GN: General                           |
| Existing Access Road             | Waterbody  | P-FP: Flood Prone                       |
|                                  |            | P-SL1: Shoreland - 250'                 |
|                                  |            | P-SL2: Shoreland - 75'                  |
|                                  |            | P-WL1: Wetlands of Special Significance |
|                                  |            | P-WL2: Scrub-shrub Wetlands             |
|                                  |            | P-WL3: Forested Wetlands                |

