

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 21-3587-NMP

Petition of Norwich Upper Loveland Solar, LLC. for a certificate of public good, pursuant to 30 V.S.A. §§ 248 and 8010, authorizing the installation and operation of a 500 kW (AC) group net-metering solar electric generation system in Norwich, Vermont	
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Order entered: 04/26/2024

**ORDER REQUIRING CONFIRMATION OF TOWN SUPPORT AND
CONFIRMATION THAT NO ORAL ARGUMENT IS REQUESTED**

This case involves an application filed with the Vermont Public Utility Commission (“Commission”) by Norwich Upper Loveland Solar, LLC (“Applicant”) for a certificate of public good (“CPG”) to construct and operate a 500 kW solar electric generation project in Norwich, Vermont (the proposed “Facility”). In this Order, we direct the Applicant to provide the Commission with confirmation from the Norwich Planning Commission and the Norwich Selectboard (“Municipal Entities”) that the Municipal Entities have reviewed the final site plan and continue to support the final Facility layout. We also ask Intervenors Stephen Gorman, John and Heather Benson, Jayoung Joo and Samin Kim, Dan & Jenn Goulet, Larry Ufford, and Joy Kenseth (“Intervenors”) to confirm that they are not requesting an oral argument.

On March 27, 2024, the hearing officer circulated a proposal for decision recommending that the Commission approve the Facility and issue a CPG.

On April 12, 2024, the Vermont Department of Public Service, the Vermont Agency of Natural Resources, and the Intervenors filed comments on the proposal for decision.

We have reviewed the proposal for decision, the parties’ comments, and some portions of the evidence referenced in the parties’ comments.

Intervenors’ Request for Site Visit and to Reopen Evidentiary Record

In their comments, the Intervenors request that the Commission conduct a second site visit. The Intervenors also request that the evidentiary record be reopened to further investigate the potential for increased stormwater runoff and flooding due to tree clearing on the steep slopes

along and below the ridgeline within the limits of disturbance of the Facility. The Intervenor did not request an oral argument.

We do not grant the Intervenor's request for a second site visit. We also decline to reopen the record to address stormwater runoff concerns as requested by the Intervenor at this time. The parties have submitted a large volume of evidence addressing the issues in this case. We will review the parties' comments, briefing, the proposal for decision, and the existing evidentiary record as needed.¹ To the extent we conclude that further input from any party is required, we will request it at that time.

We also ask that the **Intervenor** confirm that they are not requesting oral argument on the proposal for decision by **May 10, 2024**.

Confirmation of Preferred Site from Norwich Municipal Entities Required

The Intervenor challenges the hearing officer's findings and conclusions regarding the preferred-site letter process that took place before the Municipal Entities. We are concerned that there are ambiguities in the record related to whether the Norwich Planning Commission and the Norwich Selectboard intend their preferred-site letter to apply to the Facility as finally proposed and currently before the Commission.

The Applicant presented the Facility to the Norwich Planning Commission at a meeting on July 13, 2021. During the presentation, the Applicant described the Facility as occupying approximately six acres with approximately 500 feet of screening, and explained that "the array would not be visible from any public roads or houses so it maintains the ridgeline protection viewshed." The Norwich Planning Commission explained that its responsibility was to "make sure that the installation isn't impinging on any ridgeline scenic view" and to ensure "that there is no ridgeline impact of this project."² The Planning Commission was told by the Town Manager at that time that "if the area of impact for the proposed project changes dramatically as a consequence of the wetland scientist's input, then the applicant is obligated to come back to the planning commission and notify them of those changes."³ The Applicant also told the Planning Commission that it would be "happy to come back and present" on any changes that occurred.⁴

¹ To clarify, a site visit is not part of the evidentiary record in a case.

² Intervenor's Comments at 21 (citing exh. NN-JK-21 at 6, 8).

³ Exh. NN-JK-21 at 7.

⁴ *Id.*

The Applicant's July 13, 2021, presentation to the Norwich Planning Commission was based on a site plan that the proposal for decision refers to as the second Facility layout. The final site plan that the Applicant filed with the Commission and that is under review in this case represents a fourth proposed layout that differs from the second Facility layout in significant respects:

- The limit of disturbance, including tree clearing, increased from approximately 6 acres to 8.2 acres.
- The current proposal reduces the 500 feet of screening described to the Norwich Planning Commission to approximately 250 feet of screening between the array and the nearest residence on Upper Loveland Road.
- The Facility will now clear the trees on the ridgeline, and the clearing will extend down the upper one-third of the eastern slope facing Upper Loveland Road and Interstate 91.
- The tree clearing on the ridgeline and eastern slope will likely be visible from Upper Loveland Road and Interstate 91, particularly during seasons when the remaining trees do not have leaves.

Because of the significant changes to the Facility's site plan, which now proposes clearing the ridgeline and eastern slope; the Planning Commission's statements regarding its duty to ensure no impact on the ridgeline; the statements to the Planning Commission that the Applicant would return to the Planning Commission to present any changes; and the uncertainty surrounding whether the Applicant did return and notify the Municipal Entities of the Facility changes and whether the Municipal Entities reviewed a Facility layout that included the full extent of the proposed ridgeline clearing, we find that confirmation of the Municipal Entities' support is warranted here.⁵ We do not reopen the evidentiary record beyond this clarification.

We direct the Applicant to file evidence demonstrating that the Norwich Planning Commission and Norwich Selectboard have considered the Facility as currently proposed and as presented to the Commission in the fourth site plan,⁶ including the limits of clearing extending

⁵ The timing of the Applicant's presentation of the second Facility layout to the Norwich Planning Commission on July 13, 2021, and release of the third Facility layout the next day also raises concerns that the Applicant did not present the Municipal Entities with the most current site plan and information regarding the clearing for the Facility. The Applicant has an obligation to provide forthright information both to the Commission and to municipal and regional entities when seeking a preferred-site letter or providing any evidence on which its applications are based.

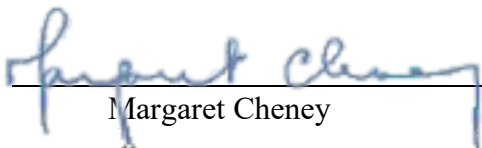
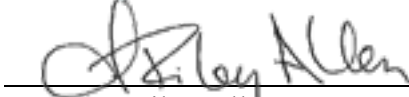
⁶ Exh. NUL-MS-2 (rev. 4/26/23).

over the ridgeline, and continue to support a determination that the proposed Facility location is a preferred site. We recognized that the Applicant's response will require coordination with the Municipal Entities and will be subject to the Municipal Entities' schedules. For that reason, we have not set a deadline by which the Applicant must file its response.

We are also sending a copy of this Order and the current site plan directly to the Norwich Planning Commission and the Norwich Selectboard.

SO ORDERED.

Dated at Montpelier, Vermont, this 26th day of April, 2024.

 _____	)	
Edward McNamara	)	PUBLIC UTILITY
	)	
 _____	)	COMMISSION
Margaret Cheney	)	
	)	
 _____	)	OF VERMONT
J. Riley Allen	)	

OFFICE OF THE CLERK

Filed: April 26, 2024

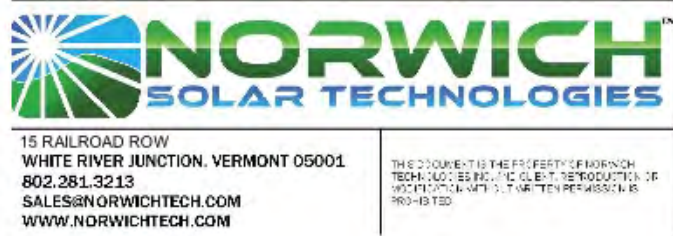
Attest: 

Clerk of the Commission

Notice to Readers: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Commission (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: puc.clerk@vermont.gov)

Norwich Upper
Loveland
Solar LLC

201 Upper Loveland Road
Norwich, Vermont



ISSUED FOR PERMIT REVIEW
NOT FOR CONSTRUCTION

SOURCE DATA LEGEND

MAPPING SOURCE DATA USED FOR PLAN COMPIATION

Electrical Design:

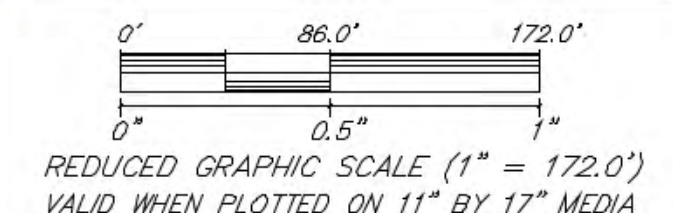
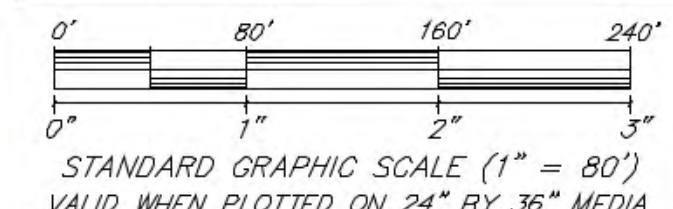
Norwich Solar Technologies
15 Railroad Row
White River Junction, Vermont 05001

Civil Engineering:

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164 Main Street, Suite 201
Colchester, Vermont 05448

Environmental:

Arrowwood Environmental
950 Bert White Rd
Huntington, Vermont 05462



Proposed
Solar Array

REV	REVISIONS/COMMENTS	DATE
1	Revised Impervious area in Impact Area Table	01-17-23

Drawing Title:

PRELIMINARY
SITE PLAN

DATE of Issue: 8/27/2021

Drawn by: JBC

Checked by: JBC

Project No.: 21298

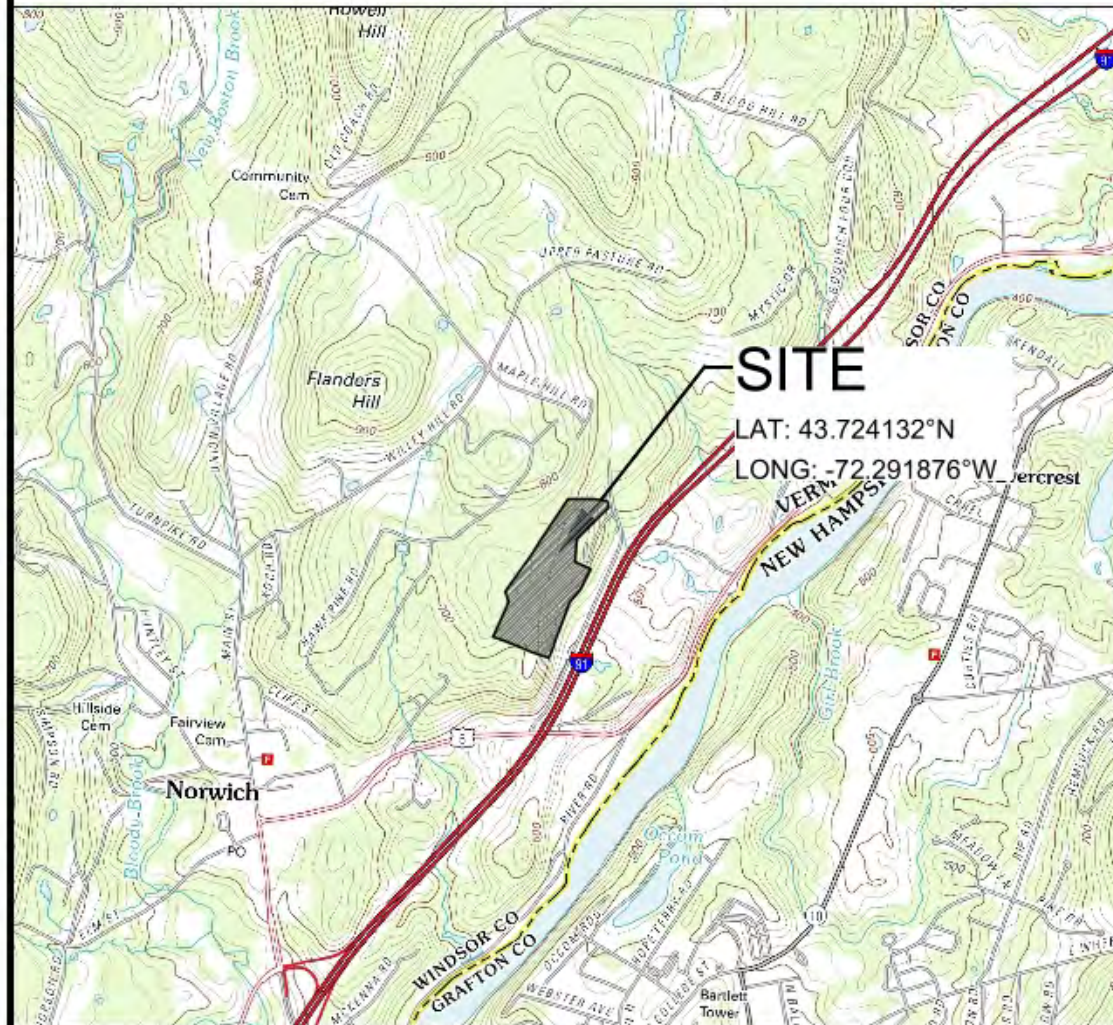
Scale: 1" = 80'

Drawing No.:

Rev No.:

C-100

- LEGEND:**
- EXISTING / PROPOSED POWER POLE
 - EXISTING GRADE CONTOUR LINES (10 FOOT INTERVALS)
 - EXISTING GRADE CONTOUR LINES (2 FOOT INTERVALS)
 - EXISTING OVERHEAD POWER LINES
 - APPROXIMATE PROPERTY LINES
 - APPROXIMATE PROJECT PROPERTY LINES
 - SETBACKS TO SOLAR PANEL RACKING
 - WETLANDS (LOCATED BY AE)
 - WETLAND BUFFER
 - VERNAL POOL (LOCATED BY AE)
 - VERNAL POOL BUFFER
 - MAPPED SOIL BOUNDARY (VCGI)
 - STREAM (LOCATED BY AE)
 - STREAM TOP OF BANK (LOCATED BY AE)
 - RIPARIAN BUFFER
 - PROPOSED 12' GRAVEL ACCESS ROAD
 - PROPOSED UNDERGROUND POWER
 - PROPOSED OVERHEAD POWER
 - PROPOSED PERIMETER FENCE
 - PROPOSED FIXED SOLAR PANEL RACKING
 - PROPOSED STAGING AREA
 - PROPOSED CLEARING AND LIMIT OF DISTURBANCE (LOD)



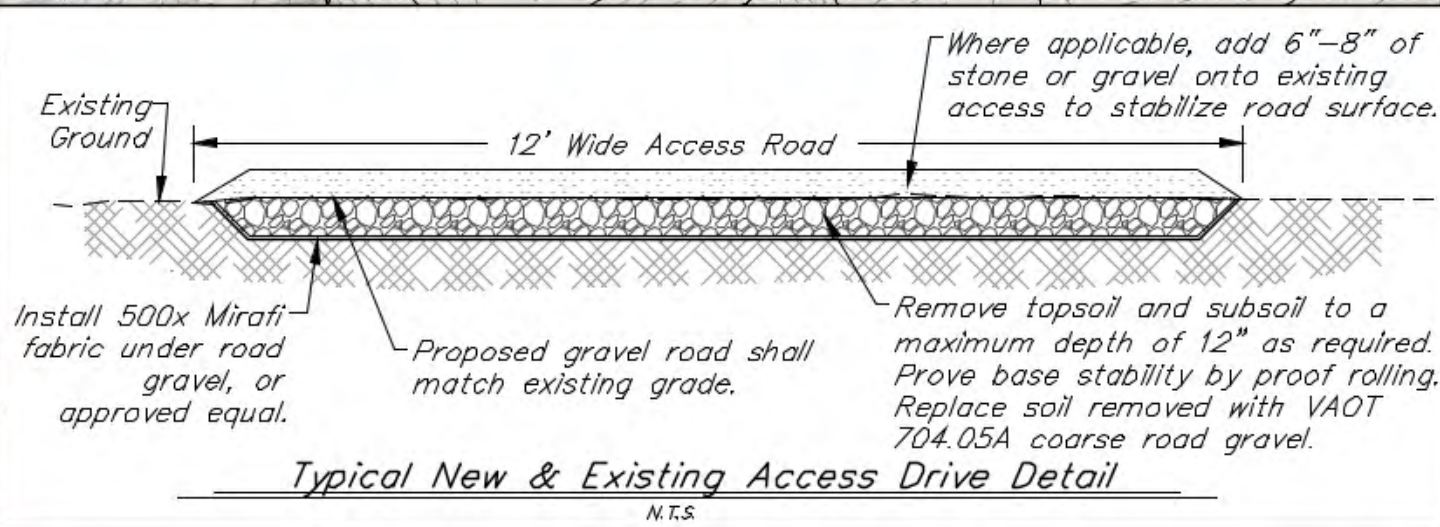
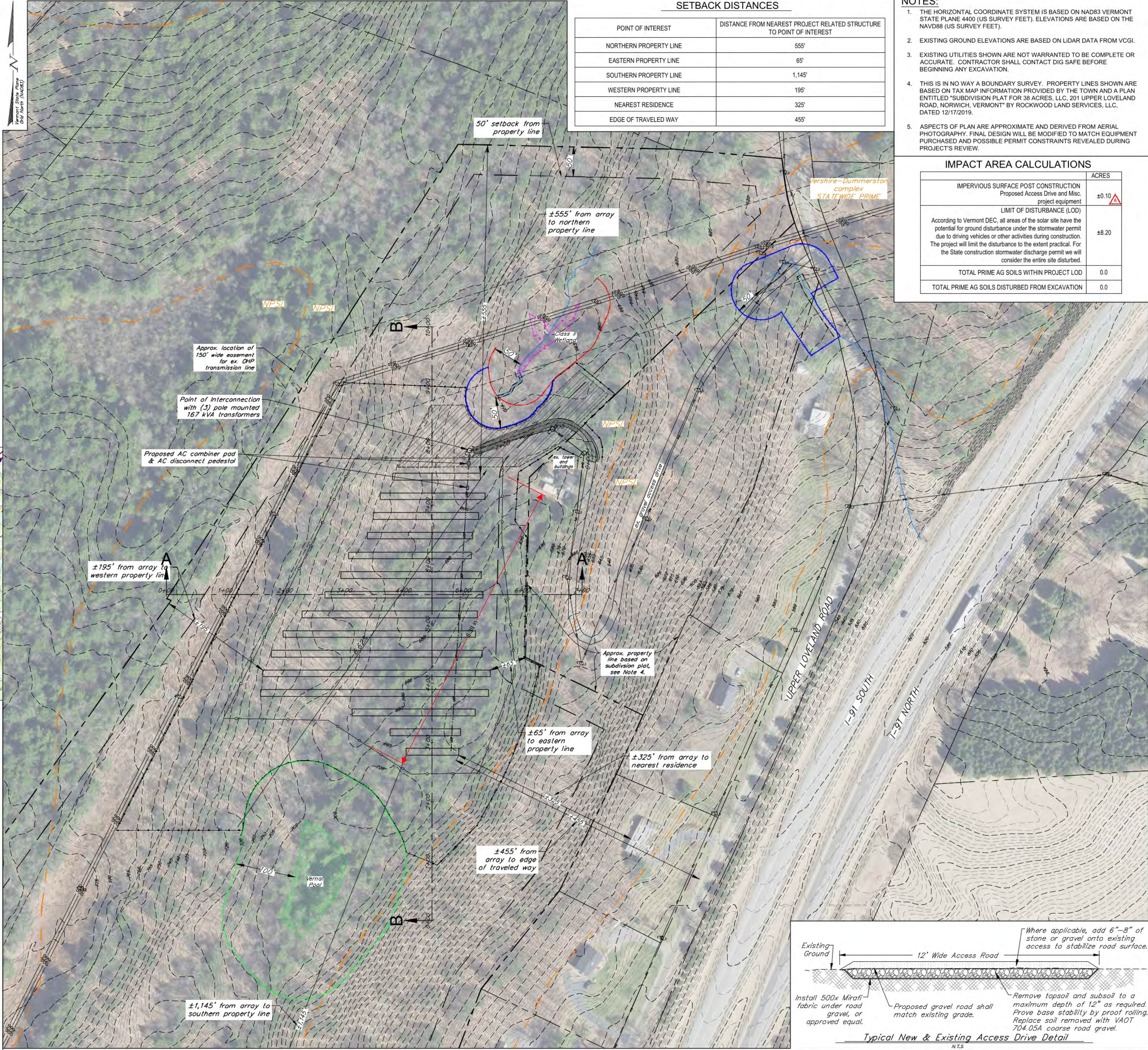
SETBACK DISTANCES	
POINT OF INTEREST	DISTANCE FROM NEAREST PROJECT RELATED STRUCTURE TO POINT OF INTEREST
NORTHERN PROPERTY LINE	555'
EASTERN PROPERTY LINE	65'
SOUTHERN PROPERTY LINE	1,145'
WESTERN PROPERTY LINE	195'
NEAREST RESIDENCE	325'
EDGE OF TRAVELED WAY	455'

NOTES:

- THE HORIZONTAL COORDINATE SYSTEM IS BASED ON NAD83 VERMONT STATE PLANE 4400 (US SURVEY FEET). ELEVATIONS ARE BASED ON THE NAVD88 (US SURVEY FEET).
- EXISTING GROUND ELEVATIONS ARE BASED ON LIDAR DATA FROM VCGI.
- EXISTING UTILITIES SHOWN ARE NOT WARRANTED TO BE COMPLETE OR ACCURATE. CONTRACTOR SHALL CONTACT DIG SAFE BEFORE BEGINNING ANY EXCAVATION.
- THIS IS IN NO WAY A BOUNDARY SURVEY. PROPERTY LINES SHOWN ARE BASED ON TAX MAP INFORMATION PROVIDED BY THE TOWN AND A PLAN ENTITLED "SUBDIVISION PLAT FOR 38 ACRES, LLC, 201 UPPER LOVELAND ROAD, NORWICH, VERMONT" BY ROCKWOOD LAND SERVICES, LLC, DATED 12/17/2019.
- ASPECTS OF PLAN ARE APPROXIMATE AND DERIVED FROM AERIAL PHOTOGRAPHY. FINAL DESIGN WILL BE MODIFIED TO MATCH EQUIPMENT PURCHASED AND POSSIBLE PERMIT CONSTRAINTS REVEALED DURING PROJECT'S REVIEW.

IMPACT AREA CALCULATIONS

	ACRES
IMPERVIOUS SURFACE POST CONSTRUCTION Proposed Access Drive and Misc. project equipment	±0.10
LIMIT OF DISTURBANCE (LOD) According to Vermont DEC, all areas of the solar site have the potential for ground disturbance under the stormwater permit due to driving vehicles or other activities during construction. The project will limit the disturbance to the extent practical. For the State construction stormwater discharge permit we will consider the entire site disturbed.	±8.20
TOTAL PRIME AG SOILS WITHIN PROJECT LOD	0.0
TOTAL PRIME AG SOILS DISTURBED FROM EXCAVATION	0.0



PUC Case No. 21-3587-NMP - SERVICE LIST

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Other Entities Receiving Copy of Order via
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selectboard@norwich.vt.us

Norwich Planning Commission
planner@norwich.vt.us