

STATE OF CONNECTICUT

SITING COUNCIL

PETITION OF TRITEC AMERICAS, LLC : PETITION NO.: 1583
FOR A DECLARATORY RULING THAT :
NO CERTIFICATE OF ENVIRONMENTAL :
COMPATIBILITY AND PUBLIC NEED IS :
REQUIRED FOR THE CONSTRUCTION, :
OPERATION, MAINTENANCE, AND :
DECOMMISSIONING OF A 0.999 MW AC :
SOLAR PHOTOVOLTAIC PROJECT IN :
BETHANY, CONNECTICUT : JULY 26, 2023

**RESOLUTION OF THE BETHANY BOARD OF SELECTMEN ADOPTING
A PUBLIC STATEMENT OPPOSING THE PETITION OF TRITEC AMERICAS, LLC
FOR A DECLARATORY RULING THAT NO CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AND PUBLIC NEED IS REQUIRED FOR THE CONSTRUCTION,
OPERATION, MAINTENANCE, AND DECOMMISSIONING OF A 0.999 MW AC
SOLAR PHOTOVOLTAIC PROJECT IN BETHANY, CONNECTICUT AND REQUEST
FOR A PUBLIC HEARING TO BE HELD AT THE BETHANY TOWN HALL**

WHEREAS, on August 18, 2022, TRITEC Americas, LLC (“TRITEC”) first contacted the Town of Bethany (the “Town”) through its Zoning Enforcement Officer to schedule a consultation meeting regarding its plan to construct, operate, maintain and decommission a 1.375 MW AC Solarvoltaic electric generating facility in the Town (the “Original Proposal”);

WHEREAS, on August 18, 2022, TRITEC provided the Town with an electronic link that contained electronic copies of the plans of the Original Proposal. The Town requested that TRITEC provide it with paper copies of the plans for the Original Proposal;

WHEREAS, on September 9, 2022, TRITEC held a Zoom videoconference with Town Officials about the Original Proposal;

WHEREAS, TRITEC failed to present the Town with reports concerning the site selection process alternate sites during its meeting on September 9, 2022;

WHEREAS, on September 22, 2022, about four (4) weeks following the request for the production of paper plans, TRITEC provided the Town with paper copies of the Original Proposal;

WHEREAS, the Town advised TRITEC that it wanted to conduct a public meeting to receive input from the public on TRITEC’s proposal;

WHEREAS; on October 6, 2022, TRITEC held a public meeting for the purpose of receiving input from the public, but TRITEC blocked the Town Officials from participating in that public meeting;

WHEREAS, on July 11, 2023, TRITEC filed a petition with the Connecticut Siting Council ("CSC") seeking a declaratory ruling that no certificate of environmental compatibility and public need is required for the construction, operation, maintenance and decommissioning of a 0.999 MWAC Solarvoltaic electric generating facility (the "Petition") in the Town of Bethany (the "Town");

WHEREAS, on July 12, 2023, the CSC provided notice of the Petition to the Town, with instruction to submit written comments to the CSC by August 10, 2023;

WHEREAS, the Petition proposes to construct, operate, maintain and eventually decommission a 0.999 MWAC Solarvoltaic electric generating facility on property located 0 & 428 Bethmour Road in the Town Bethany and State of Connecticut (hereinafter collectively referred to as the "Properties");

WHEREAS; the Properties are located in a residential zone (R-65), and consists of two parcels totaling 21.7 acres. The first parcel, parcel no. 113 / 1, consists of 19.65 acres of undeveloped land. The second parcel, parcel no.113-1-A, consists of 2.05 acres and presently has three structures located on it;

WHEREAS, the Properties are surrounded by nineteen (19) established residential dwellings. *See Petition at Exhibit A, Abutters Maps, Notice of Petition to CSC;*

WHEREAS, the abutting parcels consist of single-family dwellings whose occupants include the Town's youngest residents;

WHEREAS, the Properties are about 2,038.5 feet from the Amity Regional Middle School's southern property boundary line located 190 Luke Hill Road, Bethany, CT;

WHEREAS, "In response to a very clear citizen mandate, clearly documented environmental constraints on development and a lack of developed infrastructure, the plan adopts preservation of rural character and protection of open space as key guiding principles. The basis for this Commission's recommendations on land use in Bethany is an analysis of Bethany's present development patterns with consideration given to the natural constraints imposed on the future use of Bethany's land by its soils, slopes, wetlands and flood plains. This analysis has taken place within the context of the needs of the region and has taken into account the pervasive desire to preserve Bethany's rural character, protect Bethany's regional importance as a public water supply watershed, maintain its identity as a rural community providing environmental and recreational benefits to surrounding communities, and promote sustainable development." *See Bethany POCD at page 13; and*

NOW THEREFORE, for the foregoing reasons the CSC should deny the Petition.

1. ***TRITEC Americas, LLC, failed to comply with its statutory obligations. Its petition is therefore incomplete and should be denied.***
 - a. ***TRITEC Americas, LLC, failed to provide the Town with alternate site locations at the time of its consultation with the Town in violation of Conn. Gen. Stat. § 16-50l 2(e).***

Section 16-50j-39a (a) of the Connecticut State Regulations provides that:

No declaratory ruling shall be issued to any person until a complete petition containing all information deemed relevant by the Council has been filed. Relevant information shall at a minimum include that listed in Section 16-50j-39 of the Regulations of Connecticut State Agencies unless an explanation of irrelevancy is provided for any item omitted from a petition. The Council will reserve final judgment of an item's relevancy.

Section 2(b) of Conn. Gen. Stat. 16-50l provides in relevant part that:

Each application shall be accompanied by proof of service of a copy of such application on: (1) Each municipality in which any portion of such facility is to be located, both as ***primarily proposed and in the alternative locations listed***, and any adjoining municipality having a boundary not more than two thousand five hundred feet from such facility, which copy ***shall be served on the chief executive officer of each such municipality*** and shall include notice of the date on or about which the application is to be filed, and the zoning commissions, planning commissions, planning and zoning commissions, conservation commissions and inland wetlands agencies of each such municipality, . . .

TRITEC first communicated with the Town on August 18, 2022. On that date, TRITEC contacted the Town's Zoning Enforcement Officer and requested a Zoom meeting be scheduled with Town officials.

Also on August 18, 2022, TRITEC provided the Town with an electronic link that contained electronic copies of the plans of the Original Proposal. The Town requested that TRITEC provide it with paper copies of the Original Proposal plans. On September

22, 2022, about four (4) weeks later, TRITEC provided the Town with paper copies of the plans of the Original Proposal.

TRITEC failed to provide the Town with alternate sites during its consultation with the Town on September 9, 2022. TRITEC admits in its Petition that the discussion regarding alternative sites originated during TRITEC's Zoom remote meeting with the public that was held on October 6, 2022. *See Petition at pages 3 to 4.* The fact that TRITEC sent an alternative Project Site Plan to the First Selectwomen, *See Petition at page 4,* is of no moment.

TRITEC was statutorily obligated "***at the time of consultation,***" to "provide the chief elected official with any technical reports concerning the public need, the site selection process and the environmental effects of the proposed facility." *See Conn. Gen. Stat. § 16-50l 2(e).* TRITEC's failure to comply with its statutory obligations is a fatal deficiency that cannot be corrected at this time. Accordingly, in accordance with § 16-50j-39a (b) of the Connecticut State Regulations, the CSC should notify TRITEC that its petition is incomplete and is being refused for lack of proper submission.

b. TRITEC failed to engage in good faith efforts to meet with the chief elected official of the Town in violation of Conn. Gen. Stat. § 16-50l 2(e)

The Town requested that a public meeting be held as permitted by the statute so that it could listen to the concerns of the public. *See Conn. Gen. Stat. §16-50l (2)(E).* TRITEC scheduled the Zoom public meeting and issued access notices to the public and the public officials. The public was able to access the Zoom conference call without issue, but every public official, including the undersigned was blocked from participating in the meeting.

Not only did TRITEC violate Conn. Gen. Stat. § 16-50l(2)(e), TRITEC's actions violated the open meeting requirements under the Freedom of Information Act. § 1-200, *et seq.* TRITEC had a statutory obligation to engage in good faith efforts to consult with the Town. It failed to do so. Accordingly, its petition should be considered incomplete, and in accordance with § 16-50j-39a (b) of the Connecticut State Regulations, the CSC should notify TRITEC that its petition is incomplete and is being refused for lack of proper submission.

2. *TRITEC Americas, LLC did not present the Town with alternate site locations; however, the Town believes that the UniRoyal site would serve as a viable alternative site.*

TRITEC proposes to locate an incompatible industrial use on 6.59 acres in a residential zone. The specific site chosen by TRITEC centers nineteen (19) abutting single-family homes. The insanity of TRITEC's selection leaves this Board dumbfounded.

Since its incorporation in 1832, the Town has worked to protect its residential zone incompatible land uses. Renewable energy, such as wind and solar, can be sited on land that has been or is perceived to be polluted and is now underused. These properties, called brownfields, may be particularly attractive because these types of renewable energy installations may require large sites, and brownfields are usually large sites located in areas with the existing infrastructure needed to support development. Additionally, tax incentives and financing may be available to increase the attractiveness of siting renewable energy on brownfields in Connecticut.

A potential alternate site, generally referred to as UniRoyal located at 74 Amity Road, is listed by the State of Connecticut as potentially contaminated property. *See List of Contaminated or Potentially Contaminated Sites, Hazardous Waste Facilities" as defined by §22a-134f of the Connecticut General Statutes, at pages 34 and 35.* The

UniRoyal site is zoned commercial and would be an ideal location for this proposed development.

3. **The proposal to establish honeybee colonies within the fence line of the proposed project has created a substantial adverse environmental effect on the immediate area, created a nuisance to adjoining property owners, is interfering with the use and enjoyment of the adjoining properties and risks the general health, safety and welfare of the Town.**

This Council has not approved any activity on the subject site, yet the petitioner has already begun to establish the colonies of bees that is proposed in its petition. On July 19, 2023, the Town's Zoning Enforcement Officer received a complaint from the owner of 3 Glenwood Court, an adjoining property owner to the proposed site location.

According to the complaint, in mid-June, three hives were installed near the corner of Bethmour Road and the backyard of 3 Glenwood Court. Since that time honeybees have been swarming the two birdbaths near the patio as well as the swimming pool located at 3 Glenwood Court.

The owner of 3 Glenwood Court consulted a beekeeper. She was advised that the bees are seeking fresh water ... something responsible beekeepers always provide near the hive. TRITEC is already demonstrating a total disregard for its responsibilities related to this project and a lack of respect for its neighbors.

According to the complaint, the complainant has been stung once, and her family is afraid to go near the pool. A copy of the July 19, 2023, email complaint is attached hereto as Exhibit A.

If the proposed activity is part of a petition that is pending before this Council, no proposed activity should be conducted on site until this Council has finalized its review and issued its approvals. Otherwise, what is the purpose of this process? TRITEC's disregard

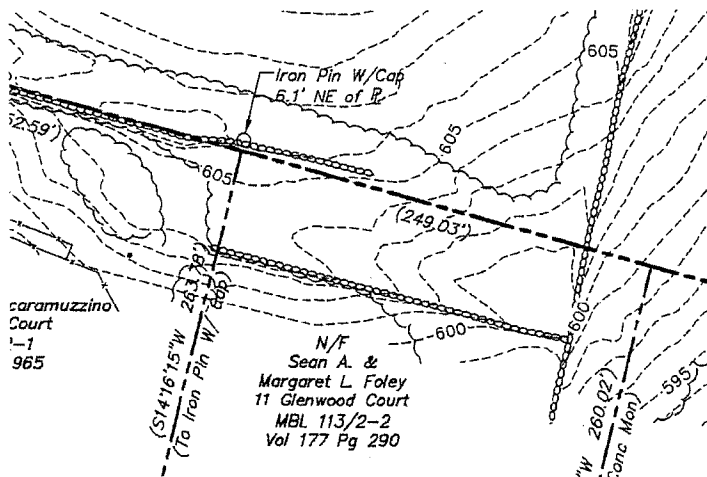
for this body's process, and the neighbor's use of their property supports a denial of its petition.

4. Upon information and belief, the proposed TRITEC development encroaches on adjoining properties.

On July 20, 2023, the Town was informed by one of the adjoining property owners that the proposed development of TRITEC encroaches on his property. [See *diagram below*] Upon reflection back to the petition of TRITEC, it is notable that the Petitioner fails to accurately describe the proposed sites.

While the solar arrays and accompanying equipment may only "cover" about 6.59 acres, the total of the two sites, according to the tax assessor's records is 21.7 acres. The first parcel, parcel no. 113 / 1, consists of 19.65 acres of undeveloped land. The second parcel, parcel no. 113-1-A, consists of 2.05 acres. See field cards attached hereto as Exhibit

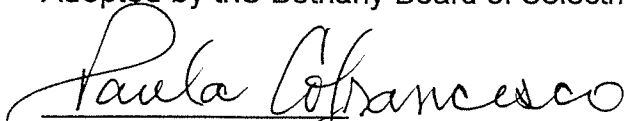
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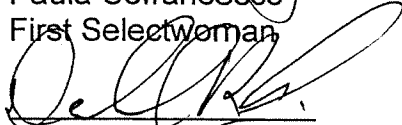
Conclusion

For the foregoing reasons, the Board of Selectmen for the Town of Bethany respectfully requests on behalf of the Town of Bethany that the Petition of TRITEC be denied. In the alternative, the Board requests that the CSC schedule this matter for a public hearing to permit the Town and the public the opportunity to create a record that protects the interests of all the stakeholders and provides this body with the opportunity to be fully informed on this matter.

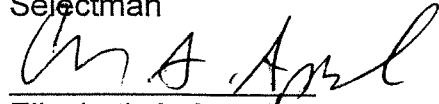
Adopted by the Bethany Board of Selectmen on the 26th day of July 2023



Paula Cofrancesco
First Selectwoman



Donald R. Shea, Jr.
Selectman



Elizabeth A. Appel
Selectman

EXHIBIT A

Vincent Marino

From: Paula Cofrancesco <pcofrancesco@bethany-ct.com>
Sent: Wednesday, July 26, 2023 3:40 PM
To: Vincent Marino
Subject: Fwd: [EXTERNAL]Zoning Regulations-Beekeeping

Sent from my iPhone

Begin forwarded message:

From: Mary Lachman <lachmanmf@aol.com>
Date: July 19, 2023 at 6:52:44 AM EDT
To: Lina Frazer <LFrazer@bethany-ct.com>
Cc: Paula Cofrancesco <pcofrancesco@bethany-ct.com>
Subject: [EXTERNAL]Zoning Regulations-Beekeeping

Good morning Lina.

I would like to file a complaint. I am being harassed by owner of the neighboring property (428 Bethmour Road, the site of the proposed solar project, PETITION NO. 1583 with the CT Siting Council) who installed three hives on his property (near the corner abutting of Bethmour Rd and the backyard of 3 Glenwood Court) in mid-June 2023.

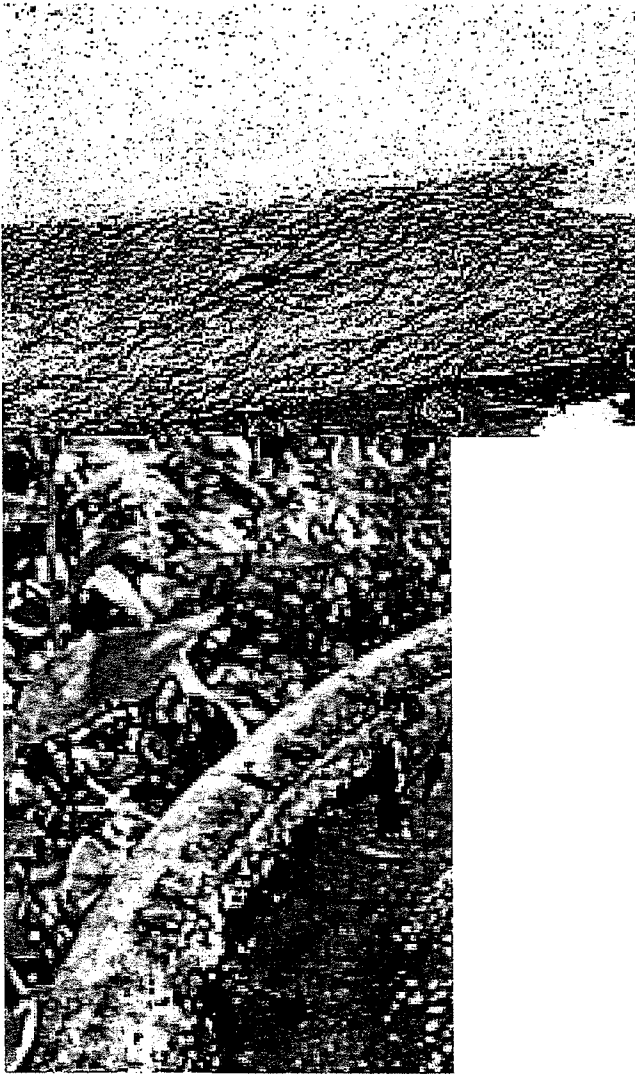
Since that time honey bees have been swarming my two birdbaths near the patio as well as the swimming pool. I consulted a beekeeper who told me that the bees are seeking fresh water something responsible beekeepers always provide near the hive.

This property owner has not provide the bees with water and they are looking for it in my backyard.

Not only are there collections of bees rimming the birdbaths but they are gathering along the edge of the chlorinated pool (and falling in and dying as a result). I have already been stung once. My family is afraid to go near the pool. Please see attached images.

I do not believe that the owner has any real interest in raising honeybees but has established these hives only to give the impression of being an environmentalist so he label his PETITION NO. 1583 an 'Agrivoltaic' project in the eyes of the CT Siting Council. If he were concerned his honeybees would have fresh water and would not be dying in the chlorinated water next door.

Sincerely,
Mary Lachman
3 Glenwood Court
Bethany

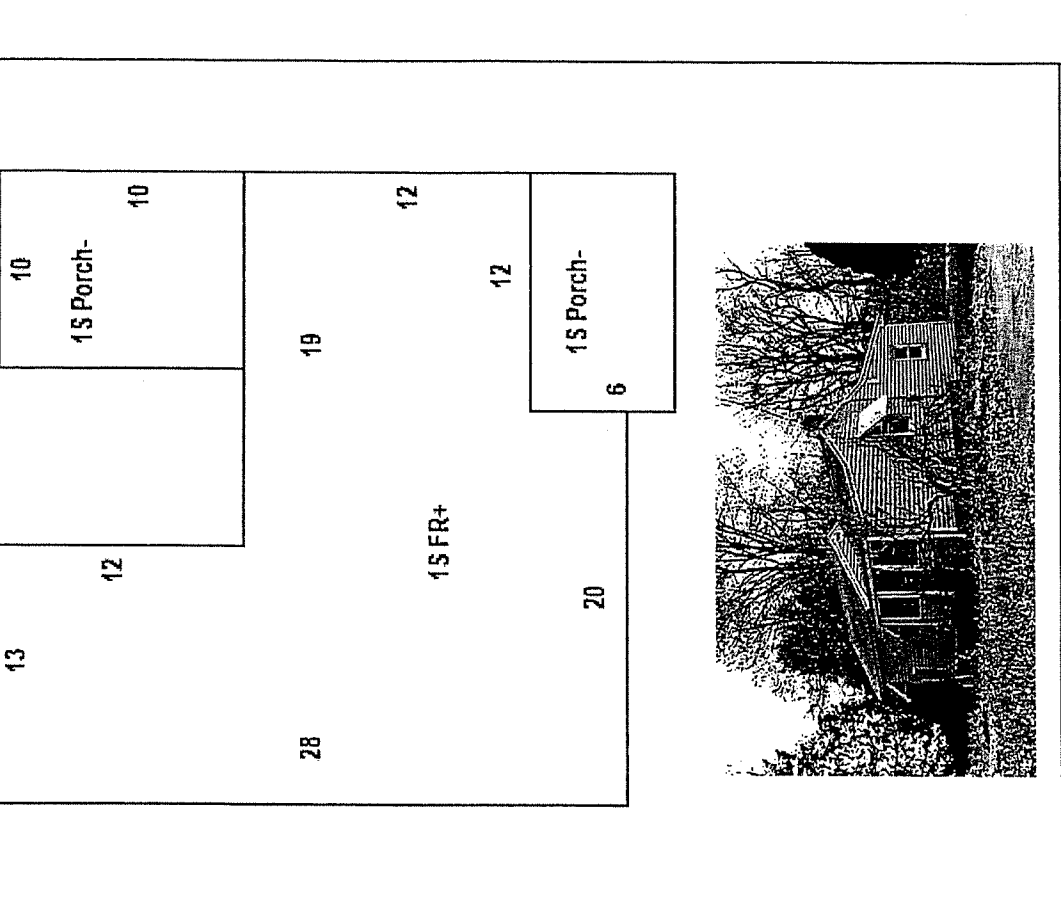


Sent from my iPad

EXHIBIT B

Location: 428 BETHMOUR RD		Map Id: 113/1-A	Zone: R-65	Date Printed: 7/26/2023
		Neighborhood: 4A		Last Update: 7/26/2023
Owner Of Record		Volume/Page	Date	Sales Type
THE NEVAR COMPANY		0215/0543	11/25/2020	Warranty Deed
PO BOX 743, CHESHIRE, CT 06410				Exempt
Prior Owner History				
KELLY DONNA 50% & KELLY JUSTIN 16.67% & KELLY JOSHUA 16.67% & KELLY JESSICA 16.6		0000/0000	9/25/2019	No
KELLY DONNA M 150% PAR 1-37.5 % PAR 2)		0204/0919	3/23/2017	No
MULLEN PATRICIA ET ALS		0177/0035	10/14/2008	No
MULLEN PATRICIA ET ALS		0177/0035	10/14/2008	No
JANTZ MANFORD AND KELLY JOSHUA E		0177/0035	10/14/2008	No
Permit Number	Date	Permit Description		
Supplemental Data				
490 App Date				
Census/Tract				
Dev Map ID	A1069			
GIS ID				
Route				
District				
Utilities				
		Acres		Appraised Value
				Total Land Value 125,300
				Total Building Value 40,862
				Total Outbdg Value 2,915
				Total Market Value 169,077
		State Item Codes		Quantity
Land Type	Acres	490	Total Value	Value
House Lot	1.50	0.00	85,400	85,400
Excess	0.55	0.00	28,600	28,600
			2,310	2,310
			2,040	2,040
Total			125,300	
Assessment History (Prior Years as of Oct 1)				
	2023	2022	2021	2020
Land	87,710	87,710	87,710	87,710
Building	28,600	28,600	28,600	28,600
Outbuilding	2,040	2,040	2,040	2,040
Total	118,350	118,350	118,350	118,350
490 Appraised Totals				
	2019	2020	2021	2022
Land	87,710	87,710	87,710	87,710
Building	28,600	28,600	28,600	28,600
Outbuilding	2,040	2,040	2,040	2,040
Total	118,350	118,350	118,350	118,350
Comments				
9/25/2019 10/1/2019 SPLIT FROM 113/1 PER MAPS AND DEED RESEARCH				
Application Date: 0.00 Expiration Date: 0				

Location: 428 BETHMOUR RD
 Map Id: 113/1-A



Total Building Value: 40.862

General Description		Description	Area/Qty	
Building Use	Single Family			
Units	Average/Fair		620	
Overall Condition	07		620	
Class	1.00		1	
Stories	Ranch			
Design (Style)	Wood Frame			
Construction	1949			
Year Built	100			
Percent Complete				
Finished Area	620			
Foundation				
Basement Area	620			
Finished Basement	0			
Garage Bays	0			
Outside Entry	No			
Sump Pump	No			
Attached Components				
Type	Year	Area		
Enclosed Porch	1949	100		
Enclosed Porch	1949	72		
HVAC				
Heating Type	FHA			
Fuel	Oil			
Cooling Type				
Interior				
Floors	Composite			
Attic Access	No			
Walls	Panel			
Bath Cond				
Kitchen Cond				
Exterior				
Exterior	V/Invl			
Roof Cover	Asphalt			
Roof Type	Gable			
Special Features				
Type		Count/Area		
Detached Component Computations				
Type	Year	Condition	Area/Qty	
Average Shed	1980	Poor	200	
Frame Garage	1952	Poor	528	
Room Summary				
Total	Bedroom	Kitchens	Full Baths	Half Baths
4	2	1	1	0

Location: BETHMOUR RD

Map Id: 113/1

General Description	Description	Area/City
Building Use		
Units		
Overall Condition		
Class		
Stories		
Design (Style)		
Construction		
Year Built		
Percent Complete		
Finished Area		
Foundation		
Basement Area		
Finished Basement		
Garage Bays		
Outside Entry		
Sump Pump		
HVAC	Attached Components	Year Area
Heating Type		
Fuel		
Cooling Type	Interior	
Floors		
Attic Access		
Walls		
Bath Cond		
Kitchen Cond	Exterior	
Exterior		
Roof Cover		
Roof Type		
Special Features		Count/Area
Type		
Total Building Value:		
Detached Component Computations		
Type	Year	Condition
Area/Qty	Area/Qty	Area/Qty

Room Summary		
Total Bedroom	Full Baths	Half Baths