

Lee D. Hoffman
90 State House Square
Hartford, CT 06103-3702
p 860 424 4315
f 860 424 4370
lhoffman@pullcom.com
www.pullcom.com

February 23, 2021

VIA ELECTRONIC MAIL

Melanie Bachman
Executive Director/Staff Attorney
Connecticut Siting Council
10 Franklin Square
New Britain, CT 06051

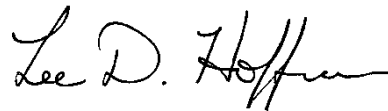
Re: Petition No. 1426 - East Windsor Solar One, LLC Petition for a Declaratory Ruling, pursuant to Connecticut General Statutes §4-176 and §16-50k, for the proposed construction, maintenance and operation of a 4.9-megawatt AC solar photovoltaic electric generating facility located west of the Ellington town boundary at 341 East Road, East Windsor, and associated electrical interconnection.

Dear Ms. Bachman:

I am writing on behalf of my client, East Windsor Solar One, LLC, in connection with the above-referenced Petition. With this letter, I am enclosing East Windsor Solar One, LLC's response to the Connecticut Siting Council's (Set Two) Interrogatories, dated February 9, 2021.

Should you have any questions concerning this submittal, please contact me at your convenience. I certify that copies of this submittal have been made to all parties on the Petition's Service List as of this date.

Sincerely,



Lee D. Hoffman

Enclosures

**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

East Windsor Solar One, LLC Petition for a Declaratory Ruling, pursuant to Connecticut General Statutes §4-176 and §16-50k, for the proposed construction, maintenance and operation of a 4.9-megawatt AC solar photovoltaic electric generating facility located west of the Ellington town boundary at 341 East Road, East Windsor, and associated electrical interconnection.

Petition No. 1426

February 23, 2021

EAST WINDSOR SOLAR ONE, LLC'S RESPONSES TO THE CONNECTICUT SITING COUNCIL'S (SET TWO) FEBRUARY 9, 2021 INTERROGATORIES

The petitioner, East Windsor Solar One, LLC ("East Windsor Solar One" or "the Petitioner"), respectfully submits this response to the Council's (Set Two) Interrogatories, dated February 9, 2021, in the above-referenced Petition. In response to the Council's Interrogatories, East Windsor Solar One states as follows:

59. Of the letters sent to abutting property owners, how many certified mail receipts were received? If any receipts were not returned, which owners did not receive their notice? Were any additional attempts made to contact those property owners?

On August 5, 2020, East Windsor Solar One sent, via certified mail, seventeen (17) letters to abutting property owners to the Project Site.¹ East Windsor Solar One received all seventeen (17) certified mail receipts for the letters sent. Exhibit A provides a mailing log that documents (i) the abutting properties to the Project Site, (ii) their corresponding owners, and (iii) the record of the notice mailings and returns.

60. Referencing the Town of East Windsor's comments and attachment dated December 1, 2020:

a) What is the distance and direction of the nearest portion of the proposed facility to the Jessie Lane subdivision?

As shown on the *Proposed Conditions Map*, attached hereto as Exhibit B, the nearest portion(s) of the proposed Facility to the Jessie Lane subdivision is the fencing and visual screen plantings for the Project, located in the northeastern-

¹ Several of the abutting property owners owned more than one abutting property.

most-corner of the proposed array. If installed, these site features would be located approximately fifty (50) feet south of the nearest lot line within the Jessie Lane subdivision, and 300 feet from the nearest home within the Jessie Lane subdivision.

- b) Has the Petitioner discussed the proposed facility with the current owner and/or developer of the Jessie Lane subdivision? Has the current owner and/or developer of the Jessie Lane subdivision provided any comments on the proposed facility?**

On or about June 11, 2020, East Windsor Solar One initiated the public outreach campaign for the Project. During this time, East Windsor Solar One sent introductory letters and Project fact sheets (collectively, the “Public Outreach Correspondence”) to several abutters to the Project Site, including Hamlet Homes, LLC, the developer of record for the Jessie Lane subdivision. Although East Windsor Solar One believes that Hamlet Homes, LLC received the Public Outreach Correspondence, Hamlet Homes, LLC did not provide the Petitioner with any comments and/or feedback regarding the Project. East Windsor Solar One also notes that, it gave a presentation of the Project to the East Windsor Planning and Zoning Commission on June 23, 2020. Although notice for this meeting was published publicly on the Town of East Windsor’s website, members of the public did not participate in the meeting and/or provide East Windsor Solar One with comments regarding the Project.

- c) Do any of the photosimulations provided in the record show potential views from the Jesse Lane subdivision? If so, which photosimulation(s)? If not, please provide photosimulations and a narrative characterizing the potential views of the proposed facility from Jessie Lane subdivision.**

Yes; Appendix H to the Petition, *Viewshed Analysis Map*, contains three (3) photo simulations that show potential Facility views from the Jessie Lane subdivision.

Specifically,

1. Photo Simulation 1 shows potential views from the southeast corner of the Jessie Lane subdivision, looking southwest at the proposed Facility;
2. Photo Simulation 2 shows potential views from the southwest corner of the Jessie Lane subdivision, looking southeast at the proposed Facility; and
3. Photo Simulation 3 shows a potential view from the interior of the Jessie Lane subdivision, along Jessie Lane, looking south at the proposed Facility.

- d) Please provide an aerial photograph identifying the proposed facility and the Jessie Lane subdivision.**

An aerial photograph identifying both the proposed Facility and the Jessie Lane subdivision is included in Exhibit B, *Proposed Conditions Map*.

61. Since the Petitioner's December 11, 2020 letter with attached Public Outreach Record, did the Petitioner receive any additional abutter or neighbor comments on the proposal? If so, provide a summary of the comments received.

No; since the Petitioner's December 11, 2020 letter (with attached Public Outreach Record), East Windsor Solar One has not received any additional comments, phone calls, emails, or letters from neighbors or abutters regarding the Project proposal.

62. Do the proposed solar modules pass the Toxicity Characteristic Leaching Procedure (TCLP) test? Please submit the specifications that indicate the proposed solar modules are not characterized as hazardous waste. If the project is approved, would the Petitioner commit to the installation of solar modules that pass the TCLP test?

East Windsor Solar One does not believe that it is appropriate to base its module selection on whether the modules pass the TCLP test. East Windsor Solar One notes that no other types of project the Siting Council reviews is asked questions about TCLP compliance. Cellular antennas, fuel cell facilities, natural gas cogeneration facilities and distribution and transmission lines all may be constructed with materials that would fail the TCLP test. This make sense, since, as is discussed in greater detail below, the TCLP test is only used to determine how a particular substance should be disposed of. Thus, until the modules are to be disposed, the TCLP test does not come into play.

The reason for this is that the TCLP test is designed to simulate the reactions a waste would undergo if it were landfilled. The material is crushed into a fine powder and rainwater simulations are undertaken to simulate how the material will behave in landfill conditions and whether hazardous substances will leach from the material. *See* 40 CFR section 261.24. Almost any electronic equipment would therefore have the potential to fail the TCLP test, including computers, phones and television sets. Obviously, these material can all be used safely during their useful lives, however, they must be disposed of more carefully.

Therefore, it is only when the items have reached the end of their useful life and need to be disposed of that the TCLP test comes into play. There are several reasons for this. First, the TCLP test is only for wastes, not for useful items that are still being utilized. Secondly, it is only for those items that, due to their chemical composition, may become hazardous waste when they are disposed of. Depending of the chemical composition of the item in question, the TCLP test may not even be warranted, as can be seen from an excerpt of the TCLP test itself, contained on the next page. In that excerpt, one can see that if individual chemicals are present in a waste at sufficiently low levels, "the TCLP need not be run."

METHOD 1311

TOXICITY CHARACTERISTIC LEACHING PROCEDURE

1.0 SCOPE AND APPLICATION

1.1 The TCLP is designed to determine the mobility of both organic and inorganic analytes present in liquid, solid, and multiphase wastes.

1.2 If a total analysis of the waste demonstrates that individual analytes are not present in the waste, or that they are present but at such low concentrations that the appropriate regulatory levels could not possibly be exceeded, the TCLP need not be run.

Based on this background, it becomes clear that East Windsor Solar One will only need to accomplish TCLP testing if it wishes to landfill the panels and the panels contain a sufficient amount of hazardous constituents such that the TCLP test would be appropriate under section 1.2 of Method 1311.

Perhaps most importantly, the TCLP test is not an appropriate metric for the installation of solar panels. It is only a test for waste to be disposed under the requirements of RCRA. RCRA, however, provides for exemptions to what constitutes a waste, including recycled materials. Scrap metal, for example, is not subject to RCRA hazardous waste regulation when recycled. *See* 40 CFR section 261.6(a)(3)(ii). Similarly, shredded circuit boards that are recycled (provided that they are stored in containers sufficient to prevent a release to the environment prior to recovery and are free of mercury switches, mercury relays and nickel-cadmium batteries and lithium batteries) are excluded from the definition of hazardous waste under RCRA. *See* 40 CFR section 261.4(a)(14).

Given that East Windsor Solar One intends to recycle the materials comprising the Project—most of which will be scrap metal—it is unlikely that the solar modules will constitute a waste, much less a hazardous waste. If, at the time of disposal, East Windsor Solar One wishes to landfill these panels, it will conduct any required testing at that time and ensure that such panels meet all such relevant standards.

63. Referring to the response to Council interrogatory number 45, what is the status of the DEEP Stormwater Permit?

On February 22, 2021, Mr. Neal M. Williams informed East Windsor Solar One that the Connecticut Department of Energy and Environmental Protection (“CTDEEP”) Stormwater Division completed its review of the Project’s Stormwater Permit application (and associated registration materials), and that Project registration can be authorized as soon as the Stormwater Division receives the Letter of Credit for the Project.

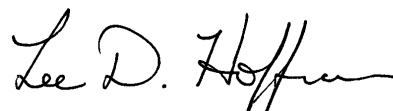
64. Referring to the response to Council interrogatory number 22, at what point would procurement of the solar panels be accomplished?

East Windsor Solar One has already procured the solar panels for the Project. Specifically, East Windsor Solar One secured (i) 15,990 modules with a 395-watt power rating and (ii) 3,354 modules with a 380-watt power rating. The majority of the system, approximately eighty-two percent (82%), will be comprised of the denser, more powerful 395-watt modules.

65. Referring to the response to Council interrogatory number 29, please confirm that Skylark and Ellington Airports are federally-obligated airports. If not, would Bradley International Airport be the nearest federally-obligated airport? What is the distance of Bradley International Airport from the proposed facility?

Neither Skylark Airpark (“Skylark”) nor Ellington Airport (“Ellington”) are federally-obligated airports. An airport is considered “federally-obligated” when the airport owner has accepted federal funds to purchase land or develop or improve the airport. To that end, the Federal Aviation Administration (the “FAA”) maintains a database, *FAA Airport Improvement Program Grant Histories*, of all airports that received such funding, and correspondingly, are considered “federally-obligated.” East Windsor Solar One’s review of said database revealed that neither Skylark nor Ellington received federal funds for the purposes of purchasing land or developing or improving the respective facilities. As such, they are not considered “federally-obligated” airports. The nearest federally-obligated airport to the Project Site is Bradley International Airport, which is located approximately 9.3 miles away.

Respectfully Submitted,
East Windsor Solar One, LLC



By: _____

Lee D. Hoffman
Amanda G. Gurren
Pullman & Comley, LLC
90 State House Square
Hartford, CT 06103-3702
Juris No. 409177
860-424-4300 (p)
860-424-4370 (f)
lhoffman@pullcom.com
Its Attorneys

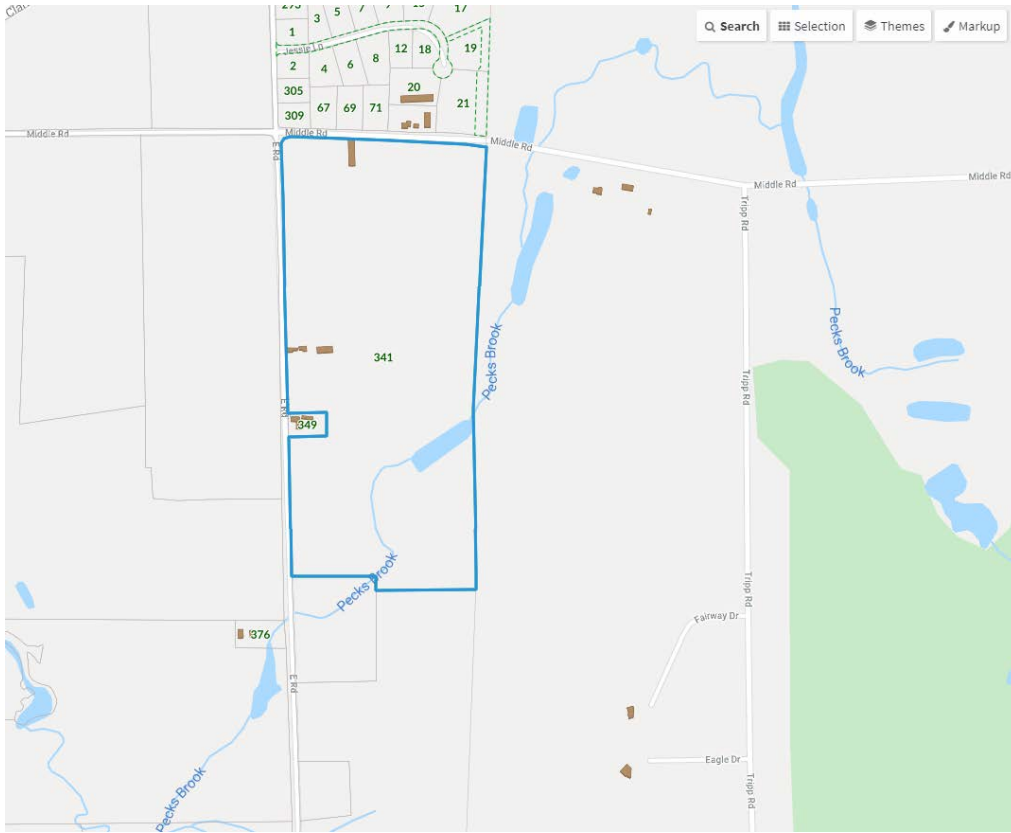
EXHIBIT A

VEROGY – East Windsor Solar One, LLC, 341 East Road East Windsor AND 146 Tripp Road, Ellington ABUTTER NOTIFICATION VIA CERTIFIED MAIL

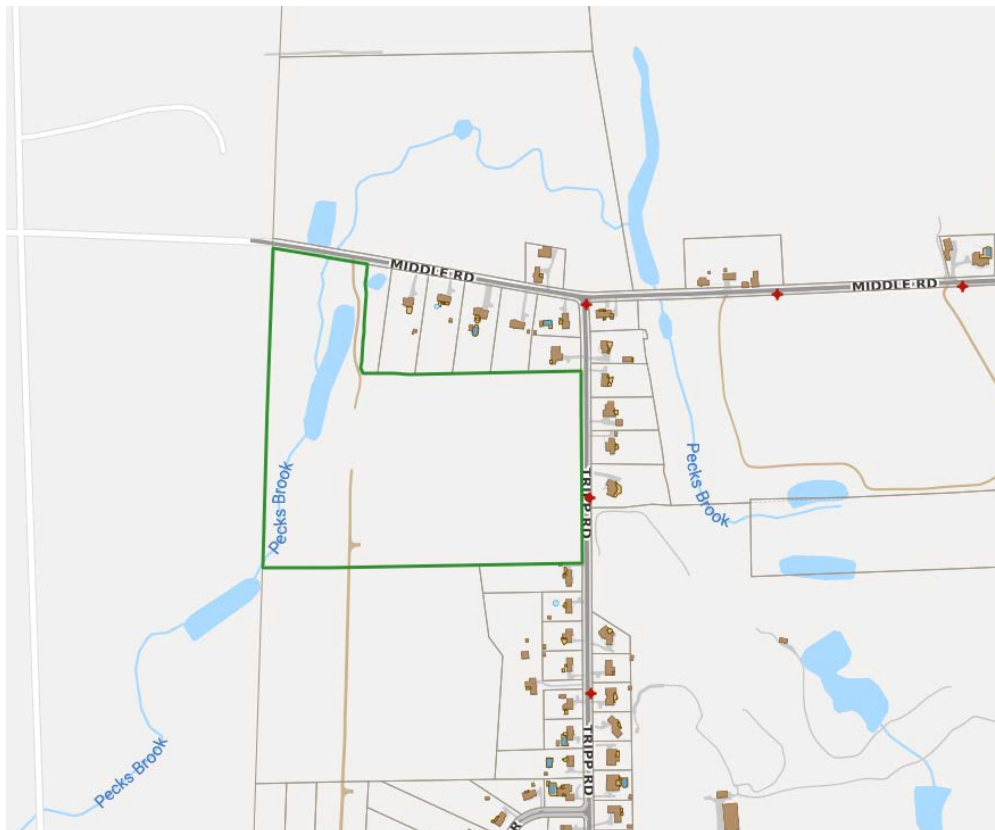
<u>SITE ADDRESS</u>	<u>ABUTTERS:</u> ADDRESS PROPERTY ID	<u>ABUTTING PROPERTY OWNER</u> (MAILING ADDRESS FOR NOTIFICATION)	<u>MAILED</u> From P & C via Certified Mail	<u>RETURN RECEIPT BACK</u> [Green Card]	<u>NOTES:</u>
341 East Road, East Windsor M/B/L = 050 83 001 UID = 00490500 73 acres Zone – R-3	OWNER OF SITE PROPERTY: Catholic Cemeteries Association of The Archdiocese of Hartford Inc.	CATHOLIC CEMETERIES ASSOCIATION PO BOX 517 700 MIDDLETOWN AVE NORTH HAVEN, CT 06473	08/05/2020	08/12/2020	SITE PROPERTY
	349 EAST RD. MB/L = 040 83 002 UID = 00491000	NELSON & MARGARET UNGEWITTER 349 EAST RD. BROAD BROOK, CT 06016	08/05/2020	08/12/2020	
	EAST RD. MB/L = 040 83 004 UID = 00467000	WILLIAM O'DONNELL 66 CHILTON ST. #3 CAMBRIDGE, MA 02138	08/05/2020	08/24/2020	
	425 EAST RD. MB/L = 040 83 005 UID = 00492500	RUTH HASTILLO 425 EAST RD. BROAD BROOK, CT 06016	08/05/2020	08/12/2020	
146 Tripp Road Ellington ID = 041-001-0000 42.19 acres Zone RAR	OWNER OF SITE PROPERTY: Catholic Cemeteries Association of The Archdiocese of Hartford Inc.	CATHOLIC CEMETERIES ASSOCIATION PO BOX 517 700 MIDDLETOWN AVE NORTH HAVEN, CT 06473	08/05/2020	08/12/2020	SITE PROPERTY
	MIDDLE RD. ID = 041-002-0000	TOWN OF ELLINGTON 55 MAIN ST. ELLINGTON, CT 06029	08/05/2020	08/12/2020	
	130 MIDDLE RD. ID = 041-002-0011	DAVID & ROBIN LUCE 130 MIDDLE RD. ELLINGTON, CT 06029	08/05/2020	08/12/2020	
	128 MIDDLE RD. ID = 041-002-0010	STEFANO & ANNALISA MACCHIARELLA 128 MIDDLE RD. ELLINGTON, CT 06029	08/05/2020	08/12/2020	
	126 MIDDLE RD. ID = 041-002-0009	KANU & KARUNA PATEL 126 MIDDLE RD. ELLINGTON, CT 06029	08/05/2020	08/12/2020	

<u>SITE ADDRESS</u>	<u>ABUTTERS:</u> ADDRESS PROPERTY ID	<u>ABUTTING PROPERTY OWNER</u> (MAILING ADDRESS FOR NOTIFICATION)	<u>MAILED</u> From P & C via Certified Mail	<u>RETURN</u> <u>RECEIPT</u> <u>BACK</u> [Green Card]	<u>NOTES:</u>
	124 MIDDLE RD. ID = 041-002-0008	CLIFFORD & LORI SCOFER 124 MIDDLE RD. ELLINGTON, CT 06029	08/05/2020	08/12/2020	
	180 TRIPP RD. ID = 041-002-0006	ROBERT & MARY CROWLEY 180 TRIPP RD. ELLINGTON, CT 06029	08/05/2020	08/12/2020	
	144 TRIPP RD. ID = 032-013-0000	THOMAS & CAROLYN JONES 144 TRIPP RD. ELLINGTON, CT 06029	08/05/2020	08/12/2020	
	TRIPP RD. ID = 032-005-0000	CATHOLIC CEMETERIES ASSOCIATION PO BOX 517 700 MIDDLETOWN AVE NORTH HAVEN, CT 06473	08/05/2020	08/12/2020	OTHER SITE PARCEL
Tripp Road Ellington ID = 032-005-0000 29.62 acres Zone RAR	OWNER OF SITE PROPERTY: Catholic Cemeteries Association of The Archdiocese of Hartford Inc.	CATHOLIC CEMETERIES ASSOCIATION PO BOX 517 700 MIDDLETOWN AVE NORTH HAVEN, CT 06473	08/05/2020	08/12/2020	
	144 TRIPP RD. ID = 032-013-0000	THOMAS & CAROLYN JONES 144 TRIPP RD. ELLINGTON, CT 06029	08/05/2020	08/12/2020	ABUTS BOTH ELLINGTON PARCELS
	136 ½ TRIPP RD. ID = 032-009-0000	MICHAEL & MELANIE HITCHCOCK 136 ½ TRIPP RD ELLINGTON, CT 06029	08/05/2020	08/12/2020	
	132 TRIPP RD. ID = 032-006-0000	MARK & KAREN DONZELL 132 TRIPP RD ELLINGTON, CT 06029	08/05/2020	08/12/2020	
	3 FAIRWAY DR. ID = 032-001-0010	DAVID & LISA FITZGERALD 3 FAIRWAY DR ELLINGTON, CT 06029	08/05/2020	08/12/2020	
	5 FAIRWAY DR. ID = 032-001-0009	JOHNEY & DIANE PAPPAS 5 FAIRWAY DR ELLINGTON, CT 06029	08/05/2020	08/12/2020	
	7 FAIRWAY DR. ID = 032-001-0008	GIANFRANCO & ANN CONTI 7 FAIRWAY DR ELLINGTON, CT 06029	08/05/2020	08/12/2020	

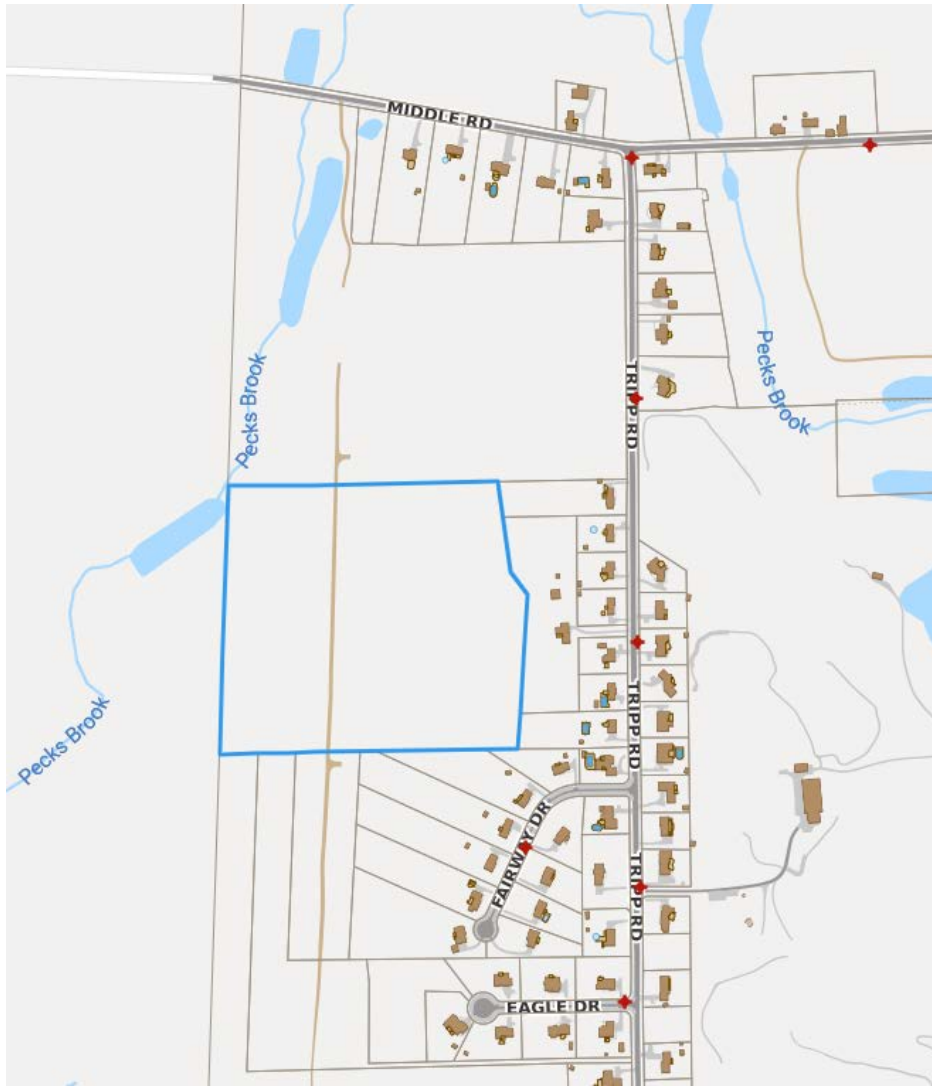
<u>SITE ADDRESS</u>	<u>ABUTTERS:</u> ADDRESS PROPERTY ID	<u>ABUTTING PROPERTY OWNER</u> (MAILING ADDRESS FOR NOTIFICATION)	<u>MAILED</u> From P & C via Certified Mail	<u>RETURN RECEIPT BACK</u> [Green Card]	<u>NOTES:</u>
	TRIPP RD. ID = 023-004-0270	CL&P PROP. TAX. DEPT. PO BOX 270 HARTFORD, CT 06141	08/05/2020	08/12/2020	
	TRIPP RD. ID = 023-001-0009	TOWN OF ELLINGTON 55 MAIN ST. ELLINGTON, CT 06029	08/05/2020	08/12/2020	
	TRIPP RD. ID = 023-001-0000	HASTILLO PROPERTIES LLC 425 EAST RD BROAD BROOK, CT 06016	08/05/2020	08/12/2020	



East Windsor Parcel – 341 East Road – shares eastern boundary with below

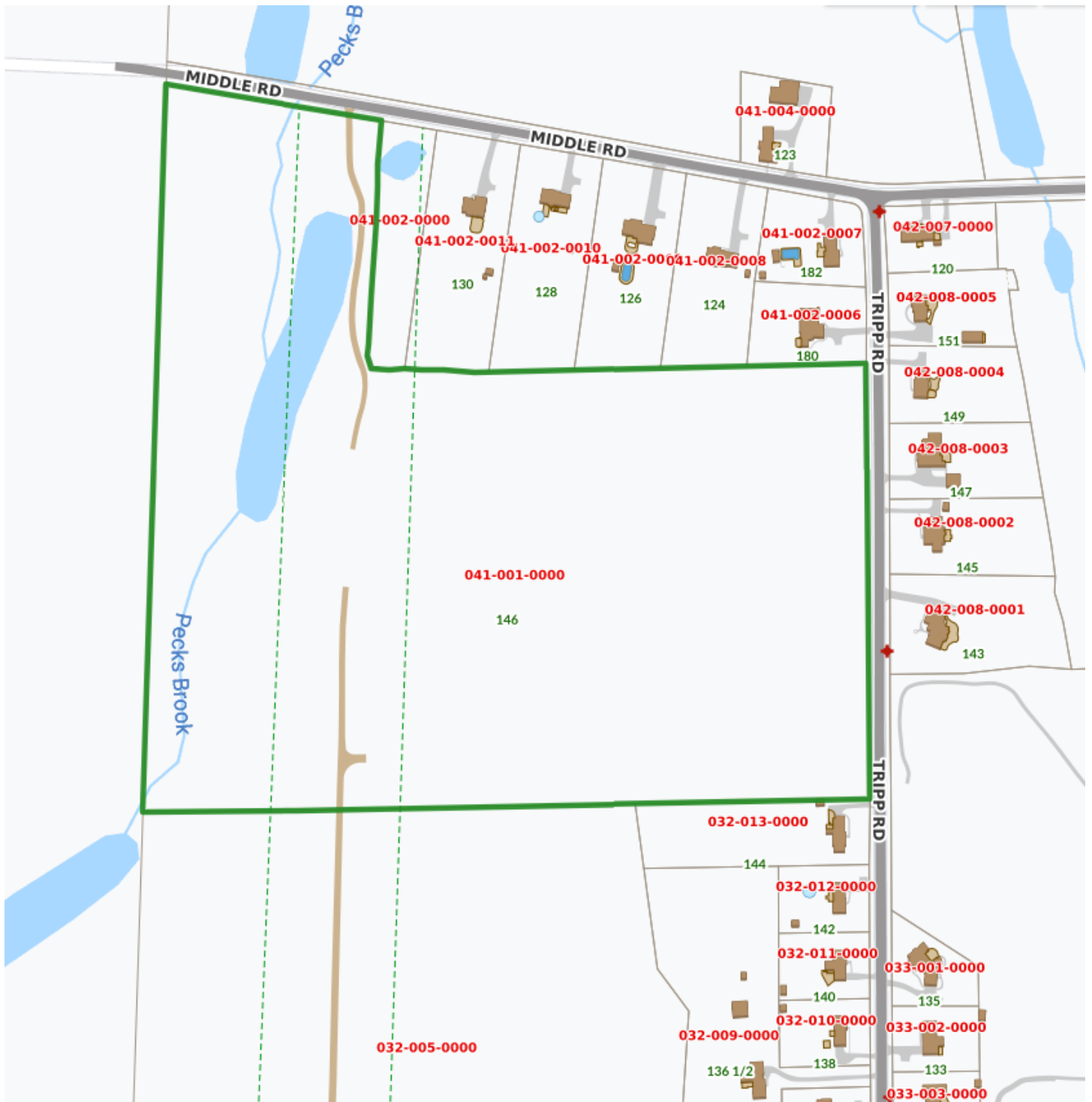


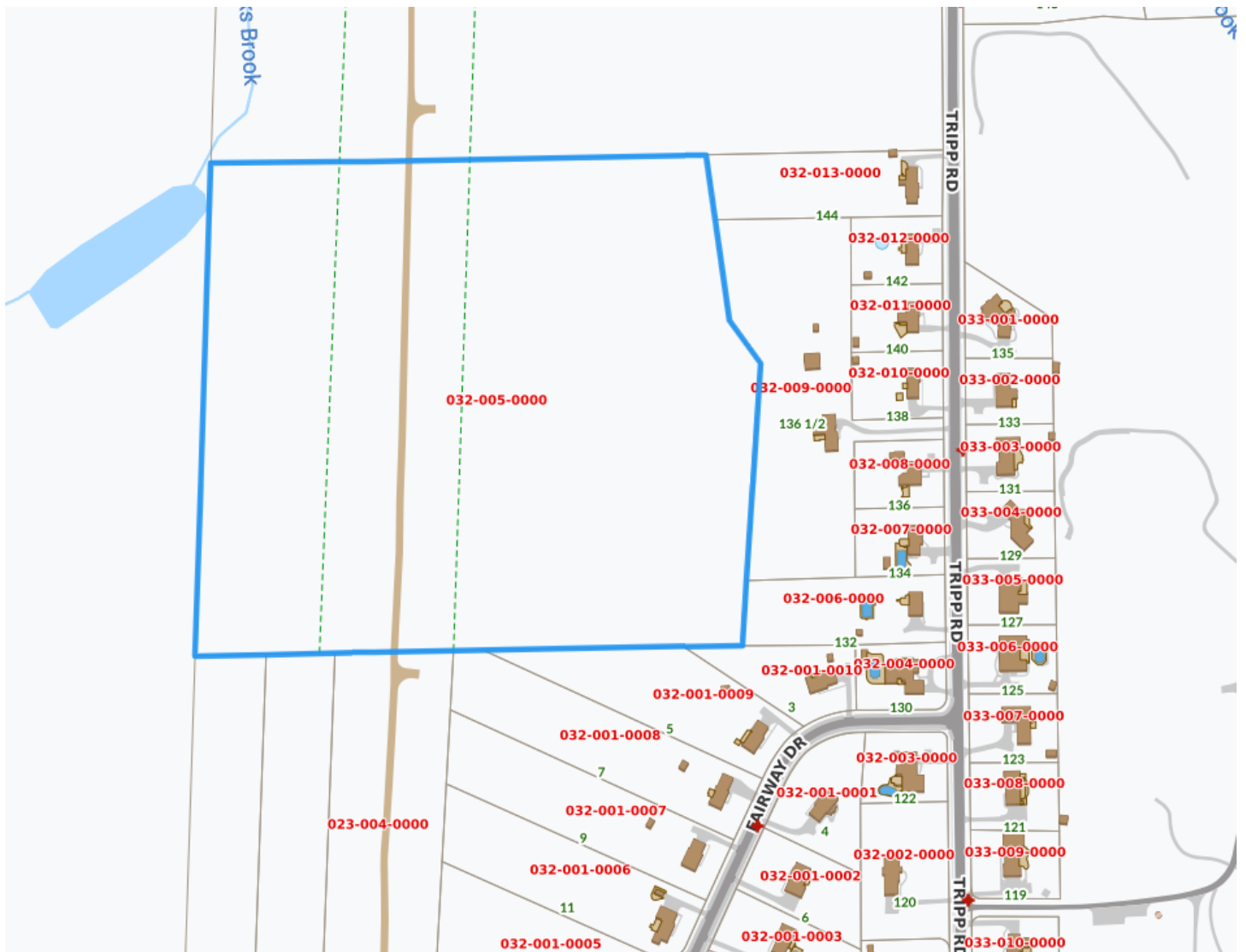
Northerly Ellington Parcel – 146 Tripp Road – shares western boundary with East Windsor parcel.

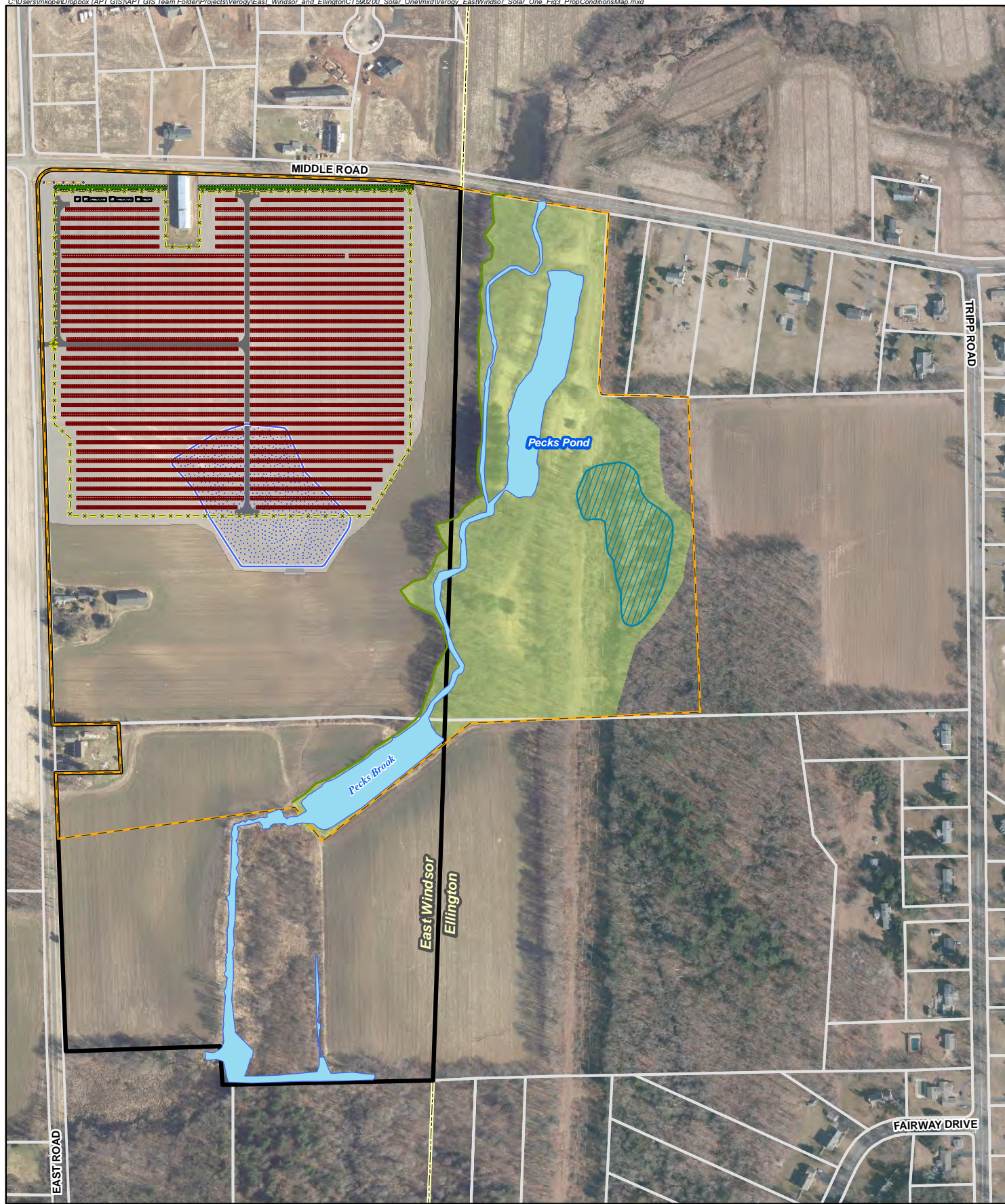


Southerly Ellington Parcel – Tripp Road – shares western boundary with East Windsor parcel.









Parcel Boundary	Delineated Wetland Boundary	Conc. Equipment Pad	Perimeter Fence
Municipal Boundary	Wetland Area	Gravel Access Road	Interconnection Path
Site	Vernal Pool	Stormwater Basin	Interconnection Pole
Study Area	Waterbody/Watercourse	Stormwater Overflow Gravel	
Limit of Disturbance	Landscape Screening	Solar Modules	

Figure 3
Proposed Conditions Map
 Proposed Solar Facility - East Windsor Solar One
 341 East Road
 East Windsor, Connecticut

East Windsor Solar One, LLC

Map Notes:
 Base Map Source: CTECO 2019 Aerial Photograph
 Map Scale: 1 inch = 400 feet
 Map Date: August 2020

