PETITION NO. 1598 – 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 3.0-megawatt AC solar photovoltaic electric generating facility located at 445 River Street, Windsor, Connecticut, and associated electrical interconnection.	}	Connecticut
	}	Siting
	}	Council
		May 9, 2024

Findings of Fact

Introduction

1. On November 13, 2023, Windsor Solar One, LLC (WSO) submitted a petition to the Connecticut Siting Council (Council), pursuant to Connecticut General Statutes (CGS) §16-50k and §4-176, for a declaratory ruling for the construction, maintenance, and operation of a 3.0-megawatt AC solar photovoltaic electric generating facility located at 445 River Street in Windsor, Connecticut, and associated electrical interconnection (Petition or Project). (WSO 1, p. 1)

2. Pursuant to CGS §16-50k, the Council shall, in the exercise of its jurisdiction over the siting of generating facilities, approve by declaratory ruling any distributed resources facility with a capacity of not more than 65 MW unless the Council finds a substantial adverse environmental effect. (Conn. Gen. Stat. §16-50k (2023)).

3. WSO is a limited liability company with its principal place of business at 124 LaSalle Road in West Hartford, Connecticut. It is a subsidiary of Verogy Holdings, LLC (Verogy). Verogy is a developer and operator of solar generating facilities. (WSO 1, p. 5; Transcript 3 – March 19, 2024 - 2:00 p.m. [Tr. 3], pp. 84-86)

4. The parties to this proceeding are WSO, Town of Windsor (Town), and Keith and Lisa Bress (Bress). (Record)

5. The Intervenors to this proceeding are Leslie D. Harrison, and William Williams and Jennifer Williams. (Record)

6. Under the Uniform Administrative Procedure Act (UAPA), an intervenor's participation in a proceeding may be limited to designated issues in which the intervenor has a particular interest and, at the discretion of the Presiding Officer, may be restricted, including the rights to inspect and copy records, to introduce evidence and cross-examine, so as to promote the orderly conduct of the proceedings. (C.G.S. §4-177a (2023); Record)

7. On December 11, 2023, Leslie D. Harrison and Diane Lehan requested Intervenor status. On December 12, 2023, William and Jennifer Williams requested Intervenor status. (Record)

8. On December 21, 2023, the Council grouped the following intervenors with the same interests pursuant to CGS §16-50n(c): Leslie D. Harrison, Diane Lehan and William and Jennifer Williams (Grouped Resident Intervenors). (Record)

9. On February 7, 2024, the Council received correspondence from Diane Lehan withdrawing from intervenor status in the proceeding. (Record)

10. Under Regulations of Connecticut State Agencies (RCSA) §16-50j-16, the Council may add parties and intervenors at any time during the pendency of a proceeding. Any person granted status is responsible for obtaining and reviewing all materials for the proceeding. (RCSA §16-50j-16 (2023))

11. There are no Connecticut Environmental Protection Act (CEPA) Intervenors in this proceeding. (Record)

12. On October 18, 2023, pursuant to RCSA § 16-50j-40, WSO provided notice of the Petition to all abutting property owners by certified mail and to all federal, state and local officials and agencies listed in CGS §16-50*l* (b). (WSO 1, p. 14-15, Appendix I)

13. WSO has a 20-year lease for the proposed site with the option for up to three additional five-year lease extensions and would own the proposed facility. The host parcel is owned by Steven Stosonis. (WSO 1, p. 4; WSO 3, response 12)

14. If WSO transfers the solar facility to another entity in the future, WSO would provide a written agreement as to the entity responsible for any outstanding conditions of the declaratory ruling and quarterly assessment charges under CGS §16-50v(b)(2) that may be associated with the facility, including contact information for the individual acting on behalf of the transferee. (WSO 3, response 7; Tr. 3, pp. 55-60)

15. The proposed Project would be a "grid-side distributed resources" facility under CGS § 16-1(a)(37). (CGS § 16-1(a)(37)(2023)

16. The proposed Project would generate renewable electrical energy from solar power. Solar power is considered a Class I renewable energy source. (CGS §16-1(a)(20)(2023); WSO 1, pp. 8, 13)

17. The State legislature established a renewable energy policy under CGS §16a-35k that encourages the development of renewable energy facilities to the maximum extent possible. (CGS §16a-35k)

18. Pursuant to CGS §16-50x, the Council has exclusive jurisdiction over the construction, maintenance and operation of the proposed solar photovoltaic electric generating facility. (CGS §16-50x (2023))

Procedural Matters

19. Upon receipt of the Petition, on November 14, 2023, the Council sent a letter to the Town and the Town of Windsor Locks, which is located within 2,500 feet of the proposed facility site, as notification that the Petition was received and is being processed, in accordance with CGS §16-50k(a), and invited the municipalities to contact the Council with any questions or comments by December 13, 2023. (Record)

20. Local zoning regulations do not apply to facilities under the exclusive jurisdiction of the Council. Pursuant to CGS §16-50x, the Council has exclusive jurisdiction over solar facilities with a generating capacity greater than 1 MW throughout the state. It shall consider any location preferences provided by the host municipality as the Council shall deem appropriate. (CGS §16-50x (2023))

21. On December 11 and 18, 2023, Bress and the Town, respectively, submitted requests for a public hearing. (Record)

22. During a public meeting held on December 21, 2023, the Council granted the requests for a public hearing. (Record)

23. On January 4, 2024, during a public meeting, the Council approved a public hearing schedule. This extended the public comment period to 30 days following the close of the evidentiary record. The evidentiary record closed on April 9, 2024. The public comment record closed on May 9, 2024. (Record)

24. Public Act (PA) 22-3 took effect on April 30, 2022. It permits public agencies to hold remote meetings under the Freedom of Information Act (FOIA) and the Uniform Administrative Procedure Act. FOIA defines "meeting" in relevant part as "any hearing or other proceedings of a public agency." (Council Administrative Notice Item No. 70; CGS §1-200, *et seq*. (2023))

25. PA 22-3 allows public agencies to hold remote meetings provided that:
    a) The public has the ability to view or listen to each meeting or proceeding in real-time, by telephone, video, or other technology;
    b) Any such meeting or proceeding is recorded or transcribed and such recording or transcript shall be posted on the agency's website within seven (7) days of the meeting or proceeding;
    c) The required notice and agenda for each meeting or proceeding is posted on the agency's website and shall include information on how the meeting will be conducted and how the public can access it any materials relevant to matters on the agenda shall be submitted to the agency and posted on the agency's website for public inspection prior to, during and after the meeting; and
    e) All speakers taking part in any such meeting shall clearly state their name and title before speaking on each occasion they speak.

    (Council Administrative Notice Item No. 65)

26. Pursuant to CGS §16-50m, on January 5, 2024, the Council sent a letter to the Town and the Town of Windsor Locks to provide notification of the scheduled public hearing via Zoom remote conferencing. (Record)

27. Pursuant to CGS §16-50m, the Council published legal notice of the date and time of the public hearing via Zoom remote conferencing in the Hartford Courant on January 9, 2024. (Record; Transcript 1 – February 8, 2024 – 2:00 p.m. [Tr. 1], p. 4; Transcript 2 – February 8, 2024 – 6:30 p.m. [Tr. 2], p. 4)

28. The Council's Hearing Notice did not refer to a public field review of the proposed site. Field reviews are neither required by statute nor an integral part of the public hearing process. The purpose of a field review is an investigative tool to acquaint members of a reviewing commission with the subject property. (Council's Hearing Notice dated January 5, 2024; Council Administrative Notice Item No. 66 – *Manor Development Corp. v. Conservation Comm. of Simsbury,* 180 Conn. 692, 701 (1980); Council Administrative Notice Item No. 67 – *Grimes v. Conservation Comm. of Litchfield,* 243 Conn. 266, 278 (1997))

29. On January 9, 2024, in lieu of an in-person field review of the proposed site, the Council requested that WSO submit photographic documentation of site-specific features into the record intended to serve as a "virtual" field review of the proposed site. On January 23, 2024, WSO submitted such information in response to the Council's interrogatories. (Record; WSO 3, response 51)

30. Pursuant to CGS §16-50p(g), the Council shall in no way be limited by WSO already having acquired land or an interest therein for the purpose of constructing the proposed facility. (CGS §16-50p(g) (2023); Council Administrative Notice Item No. 70 - *Corcoran v. Conn. Siting Council*, *284 Conn. 455 (2007)*)

31. The Council's evaluation criteria under CGS §16-50p does not include the consideration of property ownership or property values nor is the Council otherwise obligated to take into account the status of property ownership or property values. (CGS §16-50p (2023); *Westport v. Conn. Siting Council*, 47 Conn. Supp. 382 (2001); *Goldfisher v. Conn. Siting Council*, 95 Conn. App. 193 (2006); Tr. 2, p. 6)

32. On January 17, 2024, the Council held a pre-hearing conference on procedural matters for parties and intervenors to discuss the requirements for pre-filed testimony, exhibit lists, administrative notice lists, expected witness lists, and filing of pre-hearing interrogatories, as well as the order of party and intervenor appearances and cross examination during the hearing. WSO, the Town, Bress and the Grouped Resident Intervenors participated in the pre-hearing conference. Procedures for the public hearing via Zoom remote conferencing were also discussed. (Council Pre-Remote Hearing Conference Memorandum, dated January 10, 2024)

33. In compliance with RCSA §16-50j-21, WSO installed a four-foot by six-foot sign in the vicinity of the proposed access drive to the site. The sign presented information about the proposed solar facility, the public hearing date and contact information for the Council. (Council Pre-Remote Hearing Conference Memorandum, dated December 10, 2024; WSO 2; Tr 1. p. 4; Tr. 2, p. 4)

34. Pursuant to CGS §16-50m, the Council gave due notice of a public hearing on February 8, 2024, beginning with the evidentiary session at 2:00 p.m. and continuing with the public comment session at 6:30 p.m. via Zoom remote conferencing. The Council provided information for video/computer access or audio only telephone access. (Council's Hearing Notice dated January 5, 2024; Tr. 1, p. 5)

35. The 6:30 p.m. public comment session afforded interested persons the opportunity to provide oral limited appearance statements. Interested persons were also afforded an opportunity to provide written limited appearance statements at any time up to 30 days after the close of the evidentiary record. Limited appearance statements in this proceeding, whether oral or written, were not provided under oath nor subject to cross examination. (Tr. 1, pp. 6-7; Tr. 2, pp. 5-6; CGS §16-50n(f) (2023))

36. During the public comment session of the Council's hearing held on February 8, 2024, three persons made oral limited appearance statements about the proposed facility. (Tr. 2)

37. The Council continued the evidentiary hearing session via Zoom remote conferencing on March 19, 2024 beginning at 2:00 p.m. (Council's Continued Hearing Memoranda dated February 9; Tr. 2, pp. 18-19; Tr. 3, p. 4)

38. The Council scheduled a continued evidentiary hearing session via Zoom remote conferencing for April 2, 2024. The continued evidentiary hearing session was subsequently canceled and rescheduled to April 9, 2024 beginning at 2:00 p.m. (Record)

39. In compliance with PA 22-3:
    a) The public had the ability to view and listen to the remote public hearing(s) in real-time, by computer, smartphone, tablet or telephone;
    b) The remote public hearing was recorded and transcribed, and such recordings and transcripts were posted on the Council's website on February 8, March 19, April 9 and February 23, March 28, and April 17, 2024, respectively;
    c) The Hearing Notice, Hearing Program, Citizens Guide for Siting Council Procedures and Instructions for Public Access to the Remote Hearing were posted on the agency's website;
    d) Prior to, during and after the remote public hearing, the record of the proceeding has been, and remains, available on the Council's website for public inspection; and
    e) The Council, parties and intervenors provided their information for identification purposes during the remote public hearing.

(Hearing Notice dated January 5, 2024; Tr. 1; Tr. 2; Tr.3; Transcript 4 – April 9, 2024 - 2:00 p.m. [Tr. 4], Record)

40. The purpose of discovery is to provide the Council, parties and intervenors access to all relevant information in an efficient and timely manner to ensure that a complete and accurate record is compiled. (RCSA §16-50j-22a (2023))

41. In an administrative proceeding, irrelevant, immaterial or under repetitious evidence shall be excluded, and an agency has the right to believe or disbelieve the evidence presented by any witness, even an expert, in whole or in part. (CGS §4-178 (2023); *Dore v. Commissioner of Motor Vehicles*, 62 Conn. App. 604 (2001); R.C.S.A. §16-50j-25 (2023))

42. Pursuant to CGS §16-50n(f), at the conclusion of the evidentiary hearing session held on April 9, 2024, the Council closed the evidentiary record for Petition 1598 and established May 9, 2024 as the deadline for the submission of briefs and proposed findings of fact. (Tr. 4, p. 104)

43. Leslie D. Harrison and Lisa Bress submitted post-hearing briefs on May 9, 2024. (Record)

State Agency Comments

44. Pursuant to RCSA §16-50j-40, on November 15, 2023 and January 5, 2024, the following state agencies were requested to submit written comments regarding the proposed facility: DEEP; Department of Agriculture (DOAg); Department of Public Health (DPH); Council on Environmental Quality (CEQ); Public Utilities Regulatory Authority (PURA); Office of Policy and Management (OPM); Department of Economic and Community Development (DECD); Department of Emergency Services and Public Protection (DESPP); Department of Labor (DOL); Department of Administrative Services (DAS); Department of Transportation (DOT); the Connecticut Airport Authority (CAA); and the State Historic Preservation Office (SHPO). (Record)

45. On December 13, 2023, the Council received comments from CEQ[1] related to wildlife, farmland, and visibility. Wildlife, farmland, and visibility, among other environmental concerns, are addressed in the Environmental Effects and Mitigation Measures section of this document, pursuant to CGS §16-50p. (Record; CGS §16-50p (2023)

46. While the Council is obligated to consult with and solicit comments from state agencies by statute, the Council is not required to abide by the comments from state agencies. (Council Administrative Notice Item No. 75, *Corcoran v. Conn. Siting Council*, 284 Conn. 455 (2007))

Municipal Consultation

47. On September 29, 2023, WSO met with the Town Planner and Economic Development Director, who requested WSO present the Project to the Town Staff Development Team that consists of Town department members associated with local permitting and development. On October 17, 2023, WSO presented the Project to the Town Staff Development Team. Based on this meeting, WSO modified portions of the Project including, but not limited to, relocation of the access drive and interconnection point. (WSO 1, p. 14)

[1] https://portal.ct.gov/-/media/CSC/3_Petitions-medialibrary/Petitions_MediaLibrary/MediaPetitionNos1501-1600/PE1598/ProceduralCorrespondence/PE1598_CEQCommentsRecd_a.pdf

48. On October 23, 2023, WSO sent a Project Fact Sheet and other related information about the Project, to abutting property owners. (WSO 1, p. 14)

49. WSO established a Project website at http://www.verogy.com/windsor-solar-one (WSO 1, p. 14)

State of Connecticut Planning and Energy Policy

50. Section 51 of Public Act (PA) 11-80 requires that DEEP prepare a Comprehensive Energy Strategy (CES) every three years that reflects the legislative findings and policy stated in CGS §16a-35k. As such, this statute consolidated Connecticut's energy planning for the first time. The final version of the state's inaugural CES was published on February 19, 2013 (2013 CES). It advocated smaller, more diversified generation projects using renewable fuels, as well as smaller, more innovative transmission projects emphasizing reliability. (CGS §16a-3d (2023))

51. The CES examines future energy needs and identifies opportunities to reduce ratepayer costs, ensure reliable energy availability, and mitigate public health and environmental impacts. CES Strategy No. 3 is "Grow and sustain renewable and zero-carbon generation in the state and region." The state Integrated Resource Plan assesses the state's future electric needs and a plan to meet those future needs, including, but not limited to, pathways to achieve a 100 percent zero carbon electric supply by 2040. (Council Administrative Notice Item Nos. 42 and 43)

52. The proposed facility will contribute to fulfilling the State's Renewable Portfolio Standard and Global Warming Solutions Act as a zero emission Class I renewable energy source. (Council Administrative Notice Item No. 42)

53. CGS §16-245a establishes Connecticut's *Renewable Portfolio Standards* (*RPS*). Currently, RPS requires that 26 percent of Connecticut's electricity usage be obtained from Class I renewable resources by 2024. These percentage increases annually and reaches 40 percent by 2030. (CGS §16-245a (2023))

54. The Global Warming Solutions Act (GWSA) sets a goal of reducing greenhouse gas (GHG) emissions by 80 percent by 2050. (CGS §22a-200 (2023))

55. The proposed facility will contribute to fulfilling the State's RPS and GWSA as a zero emission Class I renewable energy source. (Council Administrative Notice Item No. 42)

Competitive Energy Procurement

56. The Project bid into the statewide Shared Clean Energy Facility (SCEF) Program, which is a competitive procurement process administered by the state's electric distribution companies to develop utility scale renewable energy. New or incremental Class I renewable generation projects ranging in size from 100 to 5,000 kW* AC are eligible to bid into the SCEF Program for a Tariff Terms Agreement (TTA) with a 20-year term. The first SCEF procurement occurred in 2020.

*Projects selected during Years 1 through 3 ranged in size from 100 kW to 4,000 kW. The size limit was increased to 5,000 kW beginning in Year 4.

(Council Administrative Notice Item No. 63; WSO 1, pp. 4,8)

57. The Project was selected in the SCEF program. WSO was awarded a 20-year contract for 3.0 MW AC. The electricity and renewable energy credits (RECs) produced by the facility would be sold to Eversource in accordance with the TTA. A REC certifies that one megawatt-hour of renewable electrical energy has been generated. (Council Administrative Notice Item No. 43 – Petition 1558 Finding of Fact #50; WSO 1, p. 4)

58. Under the TTA, Eversource would own the capacity rights of the facility. Thus, WSO would not participate in an ISO-New England, Inc. (ISO-NE) Forward Capacity Auction during the term of the TTA. (WSO 2, response 23)

Public Benefit

59. A public benefit exists when a facility is necessary for the reliability of the electric power supply of the state or for the development of a competitive market for electricity. (CGS §16-50p (2023))

60. The Project would be a distributed energy resource facility as defined in CGS §16-1(a)(49). CGS §16a-35k establishes the State's energy policy, including the goal to "develop and utilize renewable energy resources, such as solar and wind energy, to the maximum practicable extent." (CGS §16-1(a)(49) (2023); CGS §16a-35k (2023))

61. PA 05-1, An Act Concerning Energy Independence, established a rebuttable presumption that there is a public benefit for electric generating facilities selected by the Department of Public Utility Control (DPUC, now known as PURA) in a Request for Proposals. (PA 05-1; CGS§16-50k (2023))

62. Under the SCEF program, approximately 60% of the total facility capacity will be supplied to low-and-moderate-income customers and approximately 40% of the total facility capacity will be supplied to small business customers and other customers identified by Eversource that are eligible for enrollment. (WSO 1, p.4; WSO 3, response 33; Tr. 3, p. 86)

63. The electricity produced by facility would be distributed by Eversource based on its needs. The monetary credits associated with the electricity are assigned per the TTA. (Tr. 3, pp. 55-56)

Public Act 17-218

64. PA 17-218 requires, "for a solar photovoltaic facility with a capacity of two or more megawatts, to be located on prime farmland or forestland, excluding any such facility that was selected by DEEP in any solicitation issued prior to July 1, 2017, pursuant to section 16a-3f, 16a-3g or 16a-3j, the DOAg represents, in writing, to the Council that such project will not materially affect the status of such land as prime farmland or DEEP represents, in writing, to the Council that such project will not materially affect the status of such land as core forest." (Record)

65. By letter dated October 4, 2023, DEEP's Bureau of Natural Resources determined that the proposed solar facility would not have a material impact on the status of core forest. (October 4, 2023 DEEP CGS §16-50k No Material Impact to Core Forest Determination Letter)

66. The site does not contain prime farmland soils. By letters dated October 3, and November 27, 2023, DOAg, determined that the proposed solar facility would not have a material impact on the status of prime farmland with the condition that the proposed on-site agricultural co-use to graze sheep is implemented for the life of the Project. (October 3, 2023 and November 27, 2023, DOAg CGS §16-50k No Material Impact to Prime Farmland Determination Letters)

67. The lease agreement with the property owner does not contain provisions for agricultural co-uses at the site. (WSO 3, response 13)

68. PA 17-218 does not confer the Council's exclusive jurisdiction upon DOAg or DEEP nor does it permit DOAg or DEEP to impose any enforceable conditions on the construction, maintenance and operation of solar photovoltaic electric generating facilities under the exclusive jurisdiction of the Council. (CGS §16-50k and 16-50x (2023); Tr. 3, p. 123)

69. PA 17-218 also requires that the Council not find a substantial adverse environmental effect in its exercise of jurisdiction over facilities eligible to be approved by declaratory ruling under CGS §16-50k. There are no exemptions from this provision of PA 17-218. (CGS §16-50k (2023))

70. PA 23-163 relating to a decommissioning bond and agricultural site restoration requirement does not apply to the proposed solar facility as it was submitted to the Council as a Petition for a Declaratory Ruling rather than an Application for a Certificate. (CGS §16-50k (2023))

71. WSO developed a Decommissioning Plan for restoration of the site at the end of the Project's useful life. Decommissioning would occur within 2 years of the cessation of facility operation. All Project components would be removed except the access drive and fencing unless the property owner requests their removal. Disturbed areas would be seeded to stabilize vegetative cover. (WSO 1, Appendix D; Tr. 1, pp. 132-133)

72. WSO would consider performing pre-construction environmental testing of the site and testing upon project decommissioning to determine suitability of the site for future agricultural use. (Tr. 1, pp. 133-137)

Site Selection

73. WSO selected the host parcel for the solar facility site based on availability, suitability, environmental compatibility, and proximity to electrical utilities for interconnection. (WSO 1, p. 6; WSO 5, response 2)

74. WSO examined alternatives, including but not limited to, a 3.0 MW carport canopy-mounted solar facility which was not pursued due to economic costs associated with the interconnection route. (WSO 5, response 2)

75. Pursuant to CGS §16-50p(g), the Council has no authority to compel a parcel owner to sell or lease property, or portions thereof, for the purpose of siting a facility. (Council Administrative Notice Item No. 77 - *Corcoran v. Connecticut Siting Council*, 284 Conn. 455 (2007))

Proposed Site

76. Pursuant to RCSA §16-50j-2a(29), "Site" means a contiguous parcel of property with specified boundaries, including, but not limited to, the leased area, right-of-way, access and easements on which a facility and associated equipment is located, shall be located or is proposed to be located. (RCSA §16-50j-2a(29)(2023))

77. The Council does not have jurisdiction or authority over any portion of the host parcel beyond the boundaries of the facility "site." This includes portions of the host parcel retained by the property owner and portions of the host parcel the property owner may lease to third parties. Once a facility is

decommissioned, the Council no longer has jurisdiction or authority over the facility "site." (CGS §16-50p(g) (2023))

78. Under CGS §16-50p, the Council's evaluation criteria does not include the evaluation and/or determination of rights under any lease with the property owner of the proposed site nor does it include the evaluation of property values. (CGS §16-50p (2023); Tr. 2, p. 6)

79. Pursuant to a lease agreement with the property owner, WSO proposes to construct the solar facility on an approximate 13.5-acre site on an approximate 47.1-acre host parcel at 445 River Street, Windsor. (WSO 1, p. 4; WSO 3, response 9)

80. The host parcel is zoned Agricultural and is currently used as a commercial farm. (WSO 1, p. 6)

81. The host parcel has frontage on River Street to the west and south, and contains farm fields, forested areas, and a farm pond. A farmhouse and associated outbuildings are also located in the southwestern portion, accessed from a driveway extending from River Street. The property owner conducts hay farming and cattle ranching on the parcel. (WSO 1, p. 6, Figure 2; Tr. 1, pp. 29-30)

82. WSO's site lease does not include the portions of the host parcel occupied by the existing farmhouse and outbuildings. (WSO 1, p. 6, Figure 5)

83. Land use surrounding the site includes consists of a condominium complex to the north and west, a forested area and an Amazon distribution facility to the east, and an existing farm and related structures on the host parcel to the south. (WSO 1, p. 6, Figure 5)

84. The site is generally flat slightly sloping to the south and southeast, with ground elevations ranging from approximately 82 feet above mean sea level (amsl) in the northern portion to approximately 70 feet amsl in the southern portion. (WSO 1, App. A Site Plan Sheet 3)

Proposed Facility

Solar Array

85. The proposed Project consists of 7,280 photovoltaic panels rated at 520 Watts. The panels are not parabolic and do not concentrate light to a specific point. (WSO 1, p. 7; Tr. 1, pp. 36-37)

86. The panels would be installed on a single-axis tracker system supported by posts. At maximum tilt, the panels would be 8.25 feet above grade at the highest point and 2.75 feet at the lowest point. (WSO 1, App. A, Site Plan Sheet 5.0)

87. The racking posts would be driven into the ground to an approximate depth of 8-10 feet. (WSO 5, response 60)

88. The tracker system would rotate along the north-south axis to a maximum angle of 60 degrees. (WSO 1, App. A, Site Plan Sheet 5.0)

89. Approximately 110 tracker motors are proposed, powered through an electrical connection at the transformer pad. (WSO 3, response 29; WSO 9f; Tr. 1, pp. 42-43)

90. The panels would be arranged in linear rows in a north-south direction, separated by an 8 to 11.2-foot vegetated aisle, depending on the angle of the panel. (WSO 3, response 27)

91. Two 60-foot by 25-foot side-by-side equipment areas would be installed on the east side of the site to support electrical transformers, switchgear and inverters. The transformer and switchgear would be installed on concrete pads. The inverters would be installed on a frame racking system supported by posts. (WSO 6, response 2; WSO 9 d; Tr. 3, pp. 99-100)

92. If the Project is approved, equipment specified within the Petition may change given the date of the commencement of construction in the future and frequent changes in equipment technology. Modifications to specified equipment would be submitted to the Council for review and approval. (WSO 6, response 25)

93. The Project would be enclosed by a 7-foot tall agricultural style perimeter fence to match the agricultural use of the host parcel. (WSO 9 d; Tr. 1, pp. 38-39)

94. The perimeter fence was initially designed to a distance of 7 feet from the nearest property line at 178 Eastwood Circle and 80 feet from the nearest residence at 166 Eastwood Circle (Bress property), both located to the north of the site. (WSO 1, App. A, Site Plan C-2.0)

95. During the proceeding, WSO redesigned the facility site to increase the distance of the perimeter fence to the abutting properties and nearest residence by relocating panels from the northwest to the southeast portion of the site. (WSO 9 d, e; Tr. 1. pp. 20-22, 97, 125-128, 143-144)

96. With the redesign, the distance of the perimeter fence to the 178 Eastwood Circle property line increased from approximately 7 feet to 110 feet. The distance of the perimeter fence and solar panel to the residence at 166 Eastwood Circle increased from approximately 80 feet to 185 feet and 105 feet to 200 feet, respectively. (WSO 3, response 20; WSO 9 d, e; Tr. 3, pp. 13-14)

97. Also with the redesign, the nearest property line from the perimeter fence is approximately 35 feet to the east (Amazon.com LLC property). The nearest residence to a solar panel is approximately 170 feet to the west of the facility site at 113 Brighton Circle. (WSO 9 d, e; Tr. 3, p. 170)

Site Access

98. The Project would be accessed by a new 16-foot wide, 600-foot long gravel access drive extending east from River Street to the transformer/switchgear pads. It would consist of a 6 to 10 inch gravel base installed on existing grades. The new access drive is opposite the midpoint of Sunrise Circle to the west. (WSO 1, p. 7; WSO 9d; Tr. 1, p. 70)

99. An existing catch basin on River Street is adjacent to the proposed access drive. WSO would protect the catch basin during construction and replace the catch basin top, if damaged. (WSO 9d; WSO 3, response 53)

Electrical Interconnection

100. The Project is comprised of one metered system with a design capacity of approximately 3.00 MW AC. It would interconnect to an Eversource 23-kV overhead electric distribution line on River Street. (WSO 1, pp. 7-8; WSO 5, response 28)

101. From the electrical pad, the interconnection line would extend west along the access drive for approximately 530 feet, turning south on the host property for a distance of approximately 900 feet. At this point, it would transition to overhead, supported by three new utility poles (two on the host property and one in the River Street right-of-way). The line would transition back to underground, extending south for 360 feet to a new utility pole at the corner of Old River Street and River Street. (WSO 9e; Tr. 1, pp. 27, 50-51, 62)

102. The proposed utility pole at the corner of Old River Street and River Street would support Eversource's recloser. The three poles in the southwestern portion of the host parcel would support Eversource's primary meter, and a customer-side gang operated air brake switch and recloser, respectively. (WSO 9e; Tr. 1 pp. 50-52)

103. The four proposed utility poles would be approximately 40-45 feet above ground level. The poles cannot be reduced in height due to Eversource design standards. (WSO 5, response 9)

104. There is an existing underground distribution circuit on River Street between the host parcel and the condominium development. Eversource directed WSO to interconnect the facility at the 23-kV circuit adjacent to the southwest corner of the host parcel. (Tr. 1, pp. 51-52)

105. The interconnection design at the corner of Old River Street and River Street was developed in consultation with the Town to avoid having new utility poles clustered at the access drive entrance on River Street, across from the condominium complex. (WSO 1, p. 14; Tr. 1, p. 97)

106. The facility interconnection was reviewed and approved by both Eversource and ISO-NE. (WSO 1, p. 8; WSO 3, response 31)

107. No off-site upgrades to the existing distribution system are required. (WSO 3, response 32)

108. The projected capacity factor of the proposed solar facility is 21.6 percent, accounting for losses from wiring, inverters, switchgear, transformer, and other protective equipment. The power output would decline by approximately 0.5 percent on an annual basis. (WSO 1, p. 8; WSO 3, response 24; WSO 5, response 44)

109. WSO has no plans to incorporate a battery energy storage system on the Project site at this time. (WSO 3, response 21; WSO 5, responses 39, 40, 76 & 79; Tr. 3, pp. 14, 19-20)

Cost

110. The estimated construction cost of the Project is $6 to 7 million. (WSO 3, response 4)

111. Neither the Project nor any portion of the Project is proposed to be undertaken by state departments, institutions or agencies, or to be funded in whole or in part by the state through any contract or grant. (WSO 3, response 5)

Public Safety

112. The proposed facility would be designed to comply with the current Connecticut State Building Code, National Electrical Code, the National Electrical Safety Code (NESC), and the National Fire Protection Association code. (WSO 3, response 35)

113. In the event of a fire or other emergency, the facility can be disconnected remotely or by manual switches. (WSO 3, response 38; WSO 5, response 77c, d)

114. Emergency responders would be provided access to the site via a "knox box" at the single access gate to the facility. (WSO 1, p. 9; WSO 5, response 77b; WSO 6, response 43)

115. Prior to commencement of operation, WSO would meet with local emergency responders and provide training and information regarding facility operations, and equipment. WSO would be willing to cover costs associated with the training of emergency responders. (WSO 3, response 37; WSO 5, responses 77a, 78)

116. A solar panel/electrical component fire would be contained using methods prescribed by the fire department. Typically, fires are allowed to burn out while keeping the fire from spreading to adjacent areas. (WSO 3, response 38)

117. The facility would be remotely monitored 24/7 by a data acquisition system, including but not limited to site operation and performance and local weather conditions. (WSO 1, p. 9, App. C)

118. Operation of the Project is not anticipated to cause interference with cell phone or internet service. (WSO 5, response 71; Tr. 1, p. 36)

119. No permanent lighting of the facility is proposed. (WSO 6, response 4)

120. The site is not within a Federal Emergency Management Agency (FEMA)-designated 100-year flood zone. The nearest flood zone is associated with the Farmington River, approximately 500 feet to the west. (WSO 1, App. E; WSO 5, response 3)

121. The Federal Aviation Administration (FAA) requires a glare analysis for on-airport solar development at federally-obligated airports. Federally obligated airports are airports that receive federal funding. (Council Administrative Notice Item Nos. 17 & 18)

122. The nearest federally-obligated airport from the facility is Bradley International Airport, located approximately 1.7 miles north-northwest of the site. Construction of the Project would have no effect on the airport or aviation safety. (WSO 1, p. 19, App. K; WSO 3, response 43)

123. The proposed transformers would utilize a biodegradable insulation oil. The transformers would be equipped with a remotely monitored alarm system that can detect abnormal oil levels. (WSO 1, p. 16; WSO 3, response 42)

124. Site identification/contact and caution signs would be installed on the agricultural-style perimeter fence. (WSO 9d; Tr. 3, pp. 107-108)

Noise

125. Noise emissions from the solar facility would be from the operation of inverters, transformers, and tracker motors during daytime operational hours. The facility would not operate at night. (WSO 3, response 40; WSO 7, response 4; WSO 9f; Tr 1. p. 93)

126. The primary source of noise would be from the inverters. The transformers and tracker motors, although noise emitting, would contribute a negligible amount of cumulative noise from the facility. (WSO 3, response 40)

127. The proposed facility would include 2 transformers and 24 inverters, arranged in two pad areas within the electrical equipment area on the east side of the facility, and 110 tracker motors dispersed throughout the site. The inverters and transformers are located approximately 640 feet east of the nearest residence (109 Sunrise Circle). (WSO 1, p. 7; WSO 5, response 22; WSO 9d, f; Tr. 3, p. 126)

128. A noise analysis determined the operation of the facility would produce a sound level of 49 dBA at the nearest property line (Amazon.com Services LLC), thus, it would be in compliance with the DEEP Noise Control Standards. (WSO 9f; Tr. 3, pp. 147-148)

129. Project noise levels at the residences north and west of the site would range from 35 to 47 dBA. The calculated noise levels include existing, pre-construction ambient noise. (WSO 9f)

130. WSO does not intend to install a noise dampening enclosure around the transformers and inverters given that the operation of the Project would comply with DEEP Noise Control Standards. (Tr. 3, pp. 128-129)

131. Noise from the proposed Project differs from a Council approved facility at 341 East Road, East Windsor, Connecticut (Petition 1426 -East Windsor Solar One) in that the distance to the inverters to the residences is much farther (640 feet vs 180 feet) and the proposed inverter model has a lower noise profile than the model used at the East Windsor Solar One facility. (WSO 9d; Tr. 3, pp. 84-85, 101-102, 125-128)

132. Construction noise is exempt from DEEP Noise Control Standards. (RCSA §22a-69-108(g))

133. WSO would be willing to notify the abutting residents of the commencement of, and type of, construction activities. (Tr. 3, pp. 47-48)

Environmental Effects and Mitigation Measures

Air and Water Quality

134. The proposed Project would meet DEEP air quality standards and would not produce air emissions of regulated air pollutants or GHG. (WSO 1, p. 18)

135. During construction of the proposed Project, air emissions from the operation of machinery would be temporary in nature. Dust resulting from construction activities would be controlled through the use water and/or calcium chloride. (WSO 1, p. 18; Tr. 1, pp. 35-36, 49)

136. As applicable to any proposed jurisdictional facility site, the Council's Filing Guide for a Petition for a Declaratory Ruling for a Renewable Energy Facility requires the submission of plans for erosion and sedimentation control consistent with the *Connecticut Guidelines for Erosion and Sedimentation Control* (E&S Guidelines); Water consumption and discharge rate; FEMA Flood Zone information and associated flood mitigation plans; Proximity to DEEP Aquifer Protection Areas; DEEP groundwater classification underlying the site; Wetland and Watercourse Analysis Report and map, and associated Wetland and Watercourse Impact Mitigation Plan; Vernal Pool Analysis Report and Map, and associated Vernal Pool Impact Mitigation Plan. (Record)

137. Water would not be used during operation of the facility. Water used during construction would be delivered to the Site by truck. (WSO 1, p. 23)

138. The site is not located within a DEEP-designated Aquifer Protection Area. No known private wells abut the site. (WSO 1, p. 9; WSO 3, response 44)

139. Fuel may be stored at the site during construction. WSO has developed a preliminary Spill Prevention, Control, and Countermeasure (SPCC) Plan that includes, but is not limited to, measures for prevention, containment, cleanup and reporting. The SPCC would be finalized once the contractor is selected. (WSO 1, p. 16, App. L; WSO 10*l*; Tr. 1, pp. 46-49; Tr. 3, p. 28)

140. The sheep grazing program would be managed with an appropriate number of sheep per acre and rotated throughout the fenced facility within temporary paddocks to ensure areas are not over grazed. Additionally, the site would be located over 100 feet from wetlands, leaving a significant riparian buffer to help filter stormwater runoff from the site. Thus, water quality is not expected to be affected by grazing sheep. (WSO 3, response 47; October 3, 2023 DOAg CGS §16-50k No Material Impact to Prime Farmland Determination Letter)

Stormwater

141. Pursuant to CGS Section 22a-430b, DEEP retains final jurisdiction over stormwater management and administers permit programs to regulate stormwater discharges. DEEP regulations and guidelines set forth standards for erosion and sedimentation control, stormwater pollution control and best engineering practices. (CGS §22a-430b; DEEP General Permit for the Discharge of Stormwater and Dewatering Wastewaters from Construction Activities. (DEEP-WPED-GP-015)

142. The DEEP General Permit for the Discharge of Stormwater and Dewatering Wastewaters from Construction Activities (General Permit) requires implementation of a Stormwater Pollution Control Plan (SWPCP) to prevent the movement of sediments off construction sites into nearby water bodies and to address the impacts of stormwater discharges from a proposed project after construction is complete. In its discretion, DEEP could require an Individual Permit for discharges and hold a public hearing prior to approving or denying any General or Individual Permit (Stormwater Permit) application. (CGS Section 22a430b; CGS Section 22a-430(b))

143. The SWPCP incorporates project designs consistent with the E&S Guidelines and the *Connecticut Stormwater Quality Manual* (Stormwater Manual). Both of these documents were updated, effective March 30, 2024. WSO would consult with DEEP during the Stormwater Permit review process to determine which version to follow during project construction. (DEEP-WPED-GP-015; Tr. 4, p. 96)

144. DEEP has the authority to enforce proposed project compliance with its Individual or General Permit and the SWPCP, including, but not limited to, the installation of site-specific water quality protection measures in accordance with the E&S Guidelines and Stormwater Manual. (CGS Section 22a-430b (2023))

145. The Council may impose a condition that requires subsequent compliance with DEEP standards and regulations. (Council Administrative Notice Item No. 70 – *FairwindCT, Inc. v. Connecticut Siting Council*)

146. The Project would require a DEEP-issued Stormwater Permit prior to commencement of construction activities as defined in the General Permit. (CGS Section 22a-430b)

147. The General Permit requires the designing qualified professional to conduct the SWPCP Implementation Inspection that confirms compliance with the General Permit and the initial implementation of all SWPCP control measures for the initial phase of construction. The SWPCP also requires a qualified inspector to inspect the work areas at least once per week and within 24-hours after a rain event that meets certain permit criteria. The qualified soil erosion and sediment control professional or a qualified professional engineer would inspect the area and confirm stabilization and compliance with the post-construction stormwater management requirements. (DEEP-WPED-GP-015; WSO 6, responses 5, 6, & 7)

148. Per the Stormwater Permit, the contractor has the responsibility to follow the SWPCP. The Project engineer has the obligation to perform regular inspections of the site and prepare inspection reports. A separate DEEP-approved E&S control inspector will conduct weekly inspections of the site. The regional conservation district would also conduct inspections of the site and document its findings. (WSO 5, response 19; Tr. 3, pp. 52-54, 102-104)

149. On September 6, 2023, WSO met with the DEEP Stormwater Division to discuss the proposed stormwater management design and E&S control plans for the facility. DEEP did not comment on the proposed plan. (WSO 1, p. 14)

150. WSO has not filed an application for a Stormwater Permit to date. (WSO 3, response 52; Tr. 3, pp. 51-52)

151. WSO prepared a stormwater analysis for the Project that concluded no permanent stormwater detention basins are necessary as the proposed post-construction site conditions (meadow) would be an improvement over its existing condition (agricultural field). Predevelopment drainage patterns would be maintained to the extent feasible. (WSO 1, pp. 9-10, App. E; Tr. 1, p. 31)

152. The Project has been designed to comply with DEEP Stormwater Permit Appendix I. (Council Administrative Notice No. 51; WSO 1, App. E)

153. Construction of the Project would require a temporary sediment trap located at the southwest edge of the solar field footprint. It is designed to collect stormwater and sediment from most of the central and western array construction area. (Tr. 1, pp. 22-23)

154. The sediment trap would be excavated into a gentle slope, to a depth of two feet. It would feature a 5 to 6-foot side berm, stabilized by erosion control blankets, to retain stormwater. A 20-foot wide riprap emergency outflow structure would direct flows downgradient to an intermittent watercourse. (Tr. 1, pp. 22-23, 71-74)

155. The sediment trap has been sized to meet DEEP's water quality criteria. (WSO 9g; Tr. 3, pp. 145-146)

156. To reduce the likelihood of turbid water from being discharged from the sediment trap during large volume rain events, WSO could install baffles to lengthen the water discharge flow before it reaches the outflow structure, subject to approval by DEEP. (Tr. 1, pp. 74-76)

157. Excavated soils to construct the sediment trap would be stockpiled on the site in a location determined by the construction contractor. The stockpile would be enclosed by E&S controls. The stockpile would be used to backfill the sediment trap once construction is completed. (Tr. 1, pp. 74-78)

158. No temporary sediment trap is required for the eastern portion of the array construction area due to its smaller drainage area, per DEEP Stormwater permit requirements. Flows within in this area can be mitigated by perimeter E&S controls. (Tr. 1, pp. 23-24)

159. The proposed gravel access drive would not affect existing stormwater flows. Stormwater runoff onto River Street is not anticipated. (Tr. 1, pp. 69- 70)

160. There are no anticipated odors associated with the temporary sediment trap. The trap is not designed to retain standing water. It would be cleaned in accordance with requirements of the DEEP Stormwater Permit. (Council Administrative Notice No. 51; WSO 6, response 3)

161. The Project would be constructed in one phase. WSO intends to install E&S controls, then proceed with tree clearing and grubbing where necessary, followed by construction of the access drive and temporary sediment trap. Foundation posts would be installed followed by installation of tracker/racking system, modules, and electrical wiring. The exact starting point and sequence component installation is not yet known and would be determined by the installation contractor depending on available labor and equipment and delivery of equipment. Once installation is complete, the site would be seeded for stabilization. (WSO 9d; Tr. 3, pp. 105-107)

162. The Inland Wetlands and Watercourses Act (IWWA), CGS §22a-36, *et seq.*, contains a specific legislative finding that the inland wetlands and watercourses of the state are an indispensable and irreplaceable but fragile natural resource with which the citizens of the state have been endowed, and the preservation and protection of the wetlands and watercourses from random, unnecessary, undesirable and unregulated uses, disturbance or destruction is in the public interest and is essential to the health, welfare and safety of the citizens of the state. (CGS §22a-36, *et seq*. (2023))

163. The IWWA grants regulatory agencies with the authority to regulate upland review areas in its discretion if it finds such regulations necessary to protect wetlands or watercourses from activity that will likely affect those areas. (CGS §22a-42a (2023))

164. The IWWA forbids regulatory agencies from issuing a permit for a regulated activity unless it finds on the basis of the record that a feasible and prudent alternative does not exist. (CGS §22a-41 (2023))

165. Under the IWWA:
    a) "Wetlands" means land, which consists of any of the soil types designated as poorly drained, very poorly drained, alluvial, and floodplain by the National Cooperative Soils Survey, as may be amended from time to time, of the Natural Resources Conservation Service of the United States Department of Agriculture;
    b) "Watercourses" means rivers, streams, brooks, waterways, lakes, ponds, marshes, swamps, bogs and all other bodies of water, natural or artificial, vernal or intermittent, public or private, which are contained within, flow through or border the state; and
    c) Intermittent watercourses are delineated by a defined permanent channel and bank and the occurrence of two or more of the following characteristics: (A) Evidence of scour or deposits of recent alluvium or detritus, (B) the presence of standing or flowing water for a duration longer than a particular storm incident, and (C) the presence of hydrophytic vegetation. (CGS §22a-36, *et seq*. (2023))

166. A wetland inspection of the site and adjacent areas was performed on July 17 and August 31, 2023. Two streams were identified on the host parcel. No potential vernal pools were identified. (WSO 1, App. G)

167. An intermittent stream is located approximately 225 feet south of the nearest solar panel and 125 feet south of the temporary sediment trap, at the base of a dirt farm road. It originates as a cobbly ground water seep associated with a high-water table. (WSO 1, App. G; WSO 9d, e; Tr. 1, pp. 54-55)

168. A permanent stream with bordering wetlands is located approximately 85 feet southeast of the construction limit of disturbance and 150 feet from the nearest solar panel. It flows southwest along a forested corridor to a farm pond on the host parcel. (Council Administrative Notice Item No. 94; WSO 9d, e)

Forests and Parks

169. Development of the Project would require approximately 0.2 acres of tree clearing in the eastern portion of the site, along the edge of the existing field. Most of the clearing would occur north of the proposed electrical equipment pad. (WSO 9d- Site Plan Sheet 2.0; Tr. 1, p. 121; Tr. 3, pp. 67-68)

170. No known core forest exists at, or in proximity to, the site. The proposed solar facility would not have a material impact on the status of core forest. (WSO 1, p. 22; January 29, 2021 DEEP CGS §16-50k No Material Impact to Core Forest Determination Letter)

171. There are no state parks or forests within 1.0 mile of the Site. (Council Administrative Notice Item No. 95)

Scenic, Historic and Recreational Values

172. WSO performed a Phase 1A and Phase 1B historic and archeological survey of the site. No evidence of intact cultural features were found and no resources are eligible for listing on the National Register of Historic Places. No additional survey work was recommended. (WSO 1, App. F; WSO 9c; Tr. 1, pp. 142-143)

173. WSO would submit the survey results to the SHPO for comment at a later date. Submission of the survey to SHPO is required as part of the DEEP Stormwater Permit. (Council Administrative Notice No. 51; WSO 1, App. F; WSO 9c)

174. The site would be visible from River Street to the west and the abutting developed residential properties to the north and west. The residencies to the north and west are approximately 1 to 2 feet higher than the elevation of the site. (WSO 1, p. 18; Tr. 1, pp. 81-87)

175. The density of existing vegetation along northwest property line varies; it becomes denser towards the east. Evergreens are present in the northwest corner of the site, abutting the Bress property. The evergreens would not be removed to develop the Project. (WSO 9e; Tr. 1, pp. 57-58, 118-121)

176. A strip of mostly deciduous vegetation occurs along the west edge of the field, adjacent to River Street. The vegetation varies in quality and height and generally becomes denser towards the south. WSO would remove some of the damaged and sparse vegetation as well as some of the invasives, such as bittersweet, and install new landscaping. (WSO 1, Figure 5; WSO 3, Exhibit A; WSO 9a; Tr. 1, pp. 33-35)

177. An existing wire fence adjacent to the vegetated strip would remain in place. (WSO 9a; Tr. 1, p. 35)

178. WSO developed an initial landscaping plan, designed by a landscape architect, that featured native plantings on a portion of the west side of the site. During the proceeding, a revised landscape plan was developed based on concerns from the parties and intervenors and the Council. The revised landscaping plan consists of plantings along the entire west side of the site and along the northwest corner, abutting several condominium units. (WSO 1, App. A, Site Plan Sheet L-1.1; WSO 6, response 11; WSO 9d; WSO 10b; Tr. 1, pp. 31-33, 98-101, 111-112; Tr. 3, pp. 80-82, 108-109, 132-133)

179. Plantings would consist of 18 deciduous trees and 75 evergreens (7-8 feet tall at planting) and 113 native shrubs (2-4 feet tall at planting), arranged in a staggered pattern but with enough spacing to allow for sufficient growth. They would be installed on existing grades, approximately 30-40 feet from River Street. (WSO 10b; Tr. 1, pp. 116-118; Tr. 3, pp. 76-79)

180. WSO would be willing to enhance the landscape plan by installing more evergreens (blue spruce and scotch pine) along the west side of the site. (Tr. 4, pp. 55)

181. WSO may need to install different plantings than those specified on the landscape plan if there are limited quantities of certain species at the time of procurement. If this is the case, WSO would obtain plantings of a similar species. (WSO 10b; Tr. 4 pp. 67-69)

182. The landscaping would be installed by a contractor overseen by WSO. (Tr. 4, pp. 64, 81)

183. Initially, the plantings would not form a solid wall of vegetation as they would have to grow in to enhance visual screening. The selected species have a moderate grown rate, and once established after 2-3 years, could grow 6 to 12 inches a year. (Tr. 1, pp. 112-113; Tr. 3, pp. 71-75, 110-111)

184. The landscape plantings are warrantied for up to one year and would be replaced by the contractor if there is die off in this timeframe. Plantings that die off after the warranty would be replaced for the life of the Project. (Tr. 1, pp. 114-116)

185. Replacement plantings would be installed when ambient temperature and soil moisture content promotes vegetative growth. Plantings needing replacement would be installed within one year. (WSO 6, responses 19 & 20)

186. WSO is responsible for inspection of the landscape plantings. Once the plantings are established, inspections would occur per the routine site inspections per the Operations and Maintenance (O&M) Plan. (WSO 1, App. C; WSO 6, response 15; Tr. 4, pp .64-65)

187. Landscape watering could be conducted by a contractor or the sheep grazer, depending on how WSO contracts the work. The plantings would be watered frequently, depending on weather conditions, for a period of one year to ensure survivability. WSO would be willing to ensure new plantings are watered for a period of two years. (WSO 10 b; Tr. 4, pp. 63-67)

188. The Town initially requested a 2,000 foot-long berm to be constructed along the west side of the site to enhance screening. WSO does not intend to install a berm due to the large amount of soil that would need to be imported to the site as there is no net cut of material. Additionally, a berm that is 4 to 6 feet high would not be of sufficient height to screen the facility. The fence and panels would be 7 feet and 8 feet tall, respectively. (WSO 1, App. A, Site Plan Sheet 5.0; WSO 5, response 6; Tr. 1, pp. 58-59. 116-117)

189. A glare analysis determined there would be no effect on abutting properties. (WSO 5, response 73; Tr. 4, pp. 79-81)

190. The nearest public recreation area is River Street Park, adjacent to the Farmington River, located approximately 780 feet to the west of the Facility. The site would not be visible from the park due to topography and intervening forest. (WSO 1, pp. 17-18)

191. The site is approximately 0.18 mile east of the Farmington River at its closest point. This section of the river has been designated as part of the Lower Farmington River and Salmon Brook Wild and Scenic River. Construction of the Project would not affect the river. (Council Administrative Notice No. 92; WSO 5, response 74; Tr. 3, pp. 25-28)

192. There are no "blue-blazed" hiking trails maintained by the Connecticut Forest and Park Association within one mile of site. (Council Administrative Notice No. 90)

193. There are no scenic roads within one-mile of the site. (WSO 1, p. 19)

194. No comments were received from OPM or DEEP regarding impact to scenic quality or resources. (Record)

195. The Project would be consistent with the State Plan of Conservation and Development as it would be a Class I renewable zero emissions electric generation facility that is compatible with state goals for environmental protection and minimization of potential impacts to historic, agricultural and scenic resources. (Council Administrative Notice No. 57, p. 15)

Fish, Aquaculture and Wildlife

196. The site is not adjacent to a DEEP-designated cold-water habitat. (Council Administrative Notice Item No. 50)

197. DEEP Natural Diversity Database (NDDB) maps show approximate locations of state-listed endangered, threatened, and special concern species and are used to find areas of potential conservation concern. (Council Administrative Notice Item No. 84)

198. On January 23, 2024, DEEP issued a Preliminary NDDB Determination letter for the proposed facility, identifying one threatened species (American rubyspot), three special concern species (low frostweed, eastern box turtle, American kestrel) and one critical habitat (sand barren) as potentially occurring in the general area of the site. (WSO 9b)

199. DEEP requested on-site surveys for the low frostweed, American rubyspot, and the critical habitat. DEEP recommended the implementation of protection measures for the box turtle and kestrel. (WSO 9b)

200. WSO would conduct the requested surveys and incorporate the protection measures in the Project design. WSO is required to obtain a Final NDDB Determination as part of their Stormwater Permit application. (Tr. 3, pp. 67-70, 143-145)

201. The northern long-eared bat (NLEB), a federally-listed and state-listed Endangered Species occurs in Connecticut. However, there are no known occurrences of NLEB in Windsor. (Council Administrative Notice No. 86)

202. WSO would enclose the solar array with an agricultural-style fence with a 4 to 6 inch mesh size, allowing for the passage of small wildlife. (WSO 9d; Tr. 1, pp. 38-39; Tr. 3, pp. 135-137)

Agriculture

203. Existing soils at the site consist of sandy loams. (WSO 1, p. 20)

204. The statutory mission of the Governor's Council for Agricultural Development (GCAD) is to develop a statewide plan for Connecticut agriculture. In 2012, GCAD recommended DOAg create an agriculture-friendly energy policy that includes, but is not limited to, on-farm energy production to reduce costs and supplement farm income, agricultural net metering for power production and transmission, and qualification of agricultural anaerobic digestion projects for zero-emissions renewable energy credits. (Public Act 11-189; GCAD First Annual Report December 2012)

205. Agriculture in Connecticut is likely to be adversely impacted by climate change. It is most affected by changes in temperature and both the abundance and lack of precipitation. The top five most imperiled agricultural products are maple syrup, dairy, warm weather produce, shellfish and apple and pear production, but there are opportunities for production expansion with the future climate, including, but not limited to, biofuel crops, witch hazel and grapes. (Council Administrative Notice Item No. 59 – Climate Change Preparedness Plan)

206. Adaptation strategies for climate change impacts to agriculture include promotion of policies to reduce energy use, conserve water and encourage sustainability. (Council Administrative Notice Item No. 59 – Climate Change Preparedness Plan)

207. Pursuant to CGS §22-26aa, *et seq.,* DOAg administers the Statewide Program for the Preservation of Agricultural Land, a voluntary program to establish a land resource base consisting mainly of prime and important farmland soils. A permanent restriction on non-agricultural uses is placed on the deed of participating properties, but the farms remain in private ownership and continue to pay local property taxes. The host parcel is not enrolled in this program. (CGS §22-26aa, et seq.; WSO 3, response 18)

208. Public Act 490 is Connecticut's Land Use Value Assessment Law for Farm Land, Forest Land and Open Space Land that allows land to be assessed at its use value rather than its fair market or highest and best use value for purposes of local property taxation. (CGS §12-107a through 107-f (2023))

209. The host parcel is currently enrolled in the Public Act 490 Program for agricultural land tax abatement. Once constructed, the solar facility site portion of the host parcel would not be eligible for the program. (WSO 3, response 17)

210. The host parcel is currently farmed by both the property owner and by a third party. The property owner uses portions outside of the proposed site for livestock grazing (black angus cattle) and uses greenhouses to grow plants. A third-party farmer has had a verbal commitment from the landowner to farm portions of the host parcel, historically growing tobacco. (WSO 3, response 15)

211. The existing farm has access to the barns and other farm-related structures by an access drive south of the Project site. The existing barns are not located within the Project lease area. (WSO 3, responses 10 & 11)

212. Prime farmland soils are defined by the United States Department of Agriculture National Resources Conservation Service as the most suitable land for producing food, feed, fiber, forage, and oilseed crops. (Council Administrative Notice Item No. 14)

213. No prime farmland soils occur at the site. (WSO 1, p. 20)

214. DOAg's March 23, 2023 No Material Impact to Prime Farmland letter for the proposed facility references sheep grazing within the fenced solar array. (October 3 and November 27, 2023 DOAg CGS §16-50k No Material Impact to Prime Farmland Determination Letters)

215. WSO developed an agricultural co-use plan for the proposed facility site to include sheep grazing within the solar array perimeter fence. Grazing would not be permitted in areas outside of the perimeter fence. (WSO 1, App. C; WSO 3, responses 46 & 47)

216. The property owner is amenable to livestock grazing within the leased area. (WSO 3, response 13)

217. Sheep grazing would be conducted by establishing four temporary paddocks within the solar array, isolated by temporary electric fencing. The electric fence would be powered by a 12-volt battery attached to a solar charger that is independent of the proposed solar electric generating facility. (Tr. 1, pp. 45-46)

218. The electric fence solar battery cannot energize any permanent structure and would not pose a fire risk. (WSO 3, response 45)

219. The sheep would graze within one paddock at a time, allowing for previously grazed areas to regenerate. The paddocks are approximately 3.3 acres in size. (October 3, 2023 DOAg CGS §16-50k No Material Impact to Prime Farmland Determination Letter)

220. The site can support up to 33 sheep in a 45-day rotation. The actual number of sheep would depend on vegetation growth and other factors as determined by the sheep grazer. (October 3, 2023 DOAg CGS §16-50k No Material Impact to Prime Farmland Determination Letter)

221. Sheep would be on-site from April to October. (WSO 6, responses 48 & 49)

222. Signs would be installed at the front gate of the solar facility alerting emergency personnel of the use of the facility for grazing and the use of temporary electric fencing. The sign would also include contact information for the solar grazing entity to assist emergency personnel regarding removal of the electric fence equipment and sheep, if necessary. (WSO 3, response 14; October 3, 2023 DOAg CGS §16-50k No Material Impact to Prime Farmland Determination Letter)

223. A shelter for the sheep is not proposed. Sheep can shelter under the solar arrays. (WSO 5, response 50; Tr. 3, pp. 117-118)

224. The solar facility features lightning protection and thus, harm to sheep from a lightning strike on the solar arrays is not anticipated. (Tr. 3, pp. 117-118)

225. The proposed fence design would deter predatory animals from entering the array and paddocks. Guardian animals, such as llamas or donkeys, may also be deployed to provide further protection for the sheep. (Tr. 3, pp. 119-120)

226. Water to support sheep grazing would be brought into the site by the sheep grazer (Hillview Farm). (October 3, 2023 DOAg CGS §16-50k No Material Impact to Prime Farmland Determination Letter; WSO 5, response 49)

227. WSO is proposing to conduct rotational sheep grazing to maintain the existing agricultural use of the site and to maintain vegetation within the array. (WSO 3, response 46; Tr. 4, p. 73)

228. The cost of sheep grazing to maintain site vegetation is approximately the same as the cost of mechanical vegetation maintenance. (Tr. 1 pp. 37-38)

229. The solar array would be seeded with a mix that provides sufficient forage for livestock and the promotion of pollinator species. (Tr. 1, pp. 38-39; Tr. 3, pp. 120-121)

230. Sheep manure would be allowed to decompose across the site. There would be no stockpiling of manure on the site. (Tr. 1, pp. 40-41)

231. Sheep manure would not affect downgradient water resources. (WSO 3, response 47)

232. Bress and Grouped Resident Intervenor Leslie Harrison are not in favor sheep grazing at the site due to animal welfare and odor concerns. The Town and Grouped Resident Intervenor William and Jennifer Williams did not have concerns regarding sheep grazing. (Tr. 4, pp.11-12, 25, 47-48)

Facility Construction

233. If the Project is approved by the Council, the following permits would be required for construction and operation:
    a) DEEP Stormwater Permit;
    b) Town Building Permit; and
    c) Electrical Permit

(WSO 3, response 3)

234. Construction of the site would maintain existing grades throughout the site, except for the installation of the temporary sediment trap. The trap would be backfilled upon completion of construction and site stabilization. (WSO 1, p. 10; WSO 5, response 61; WSO 9d)

235. Approximately 250 cubic yards of topsoil would be removed to construct the access drive. The soil would be relocated to other areas of the site. There will be no net loss of topsoil at the site. (WSO 5, response 31)

236. Wood waste resulting from tree clearing would either be removed from the site or used as wood chips for temporary stabilization of disturbed areas. (WSO 6, response 17)

237. Site construction would disturb an approximate 17.5-acre area. (WSO 9d; Tr. 3, p. 13)

238. The tracker support posts would be driven to a depth of 8 to 10 feet. (WSO 1, p. 7; WSO 5, response 60)

239. Construction of the facility is expected to occur over a 4-to-6-month period. (WSO 5, response 42)

240. Construction hours would be Monday through Friday from 7:00 AM to 6:00 PM, and Saturday from 7:00 AM to 5:00 PM. (WSO 1, p. 10)

Traffic

241. Construction vehicles would access the site from the proposed access drive on River Street. (WSO 9d)

242. Construction vehicles would include but are not limited to, standard pickup trucks, heavy-duty pickup trucks, earth moving equipment, and equipment delivery vehicles. No road closures are anticipated during construction. (Tr. 3, pp. 29-31)

243. WSO does not anticipate the need for traffic control measures during construction with the exception of the utility interconnection along River Street where a flagger or a police detail may be needed to ensure the safety of work crews, at the discretion of Eversource. (Tr. 3, pp. 30-33)

244. Once operational, the site would be accessed by the sheep grazer and by maintenance personnel. (Tr. 3, pp. 29-30)

Facility Operations and Maintenance

245. WSO provided a post-construction O&M Plan that includes, but is not limited to, provisions for remote monitoring, equipment maintenance, and site safety and security. (WSO 1, App. C; Tr. 1, p. 95)

246. WSO is responsible for O&M procedures. WSO would retain a third-party contractor to monitor and maintain the facility. (WSO 1, App. C; WSO 6, response 38)

247. Vegetation within the array would be managed by sheep grazing. Site mowing and trimming of vegetation would be conducted as necessary. Landscaping would be pruned and cut as necessary. (WSO 1, App. C; Tr. 4, p. 97)

248. When necessary, the solar panels would be washed using water and bristle brooms. No chemicals would be used. (WSO 1, App. C)

249. The inverters have a lifespan of 15 to 20 years and would be replaced as necessary. The tracker motors are anticipated to last for the life of the Project. (WSO 3, response 55)

250. Spare panels would be stored in an off-site location. (WSO 3, response 55)

251. Manual snow removal from the panels is not anticipated. The tracker system can orient the panels at a steep angle to reduce snow accumulation. (WSO 1, App. C; WSO 6, response 40; Tr. 3, pp. 94-95)

252. Tracker motors are designed to operate in northern climates, such as Connecticut. (WSO 6, response 41)

253. If WSO sells the Project to another entity, that entity would be responsible for Project O&M. (Tr. 3, pp. 88-89)

Decommissioning

254. The facility has an anticipated life of 35 years. (WSO 1, App. D)

255. At the end of the Project's lifespan, it will be decommissioned and removed from the property. The site would be regraded and disturbed areas re-vegetated. (WSO 1, App. D)

256. After decommissioning, the site could be used for agricultural production. The landowner would decide what the future use of the site would be. (Tr. 4, p. 74)

257. The site access drive and perimeter fencing may remain in place at the discretion of the property owner. (WSO 1, App. D)

258. WSO intends to recycle Project materials, including solar panels, to the maximum extent practicable. Project materials that cannot be recycled would be removed from the site and disposed of at a licensed disposal facility. (WSO 1, App. D)

259. Pursuant to CGS §16-50p(g), the Council has no authority to evaluate, amend and/or determine rights under any lease with the property owner of the proposed site, including, but limited to, the restoration of the soils to prime farmland status. (CGS §16-50p(g) (2023))

260. The lease agreement with the property owner includes provisions related to decommissioning and site restoration at the end of the Project's useful life. (WSO 1, p. 12, App. D)

261. WSO has selected solar panels for the Project that meet current Toxicity Characteristic Leaching Procedure (TCLP) criteria[2] for characterization as nonhazardous waste in the event the solar panels are not recycled at the end of the Project's life. If a different panel is selected at the time of procurement, WSO would submit a TCLP test report for the selected panels. (WSO 1, p. 8, App. B; Tr. 3, p. 95)

Neighborhood Concerns

262. Based on neighborhood concerns regarding potential noise from the facility, WSO modified the proposed facility by conducting a noise study, selecting a different inverter model than the one used at the East Windsor Solar One (Petition 1426) facility, and locating inverters near the abutting Amazon.com LLC property and at least 600 feet from any residential property line. With respect to neighborhood visibility concerns, WSO revised the landscaping plan to include additional plantings and more evergreen species, relocated panels from the north end of the array to the south end, provided visual simulations of the facility, and included an agricultural style fence and an electric interconnection that avoided the installation of utility poles adjacent to residences. (WOS 1, App. A; WSO 9a, d, e, f; WOS 10b, d)

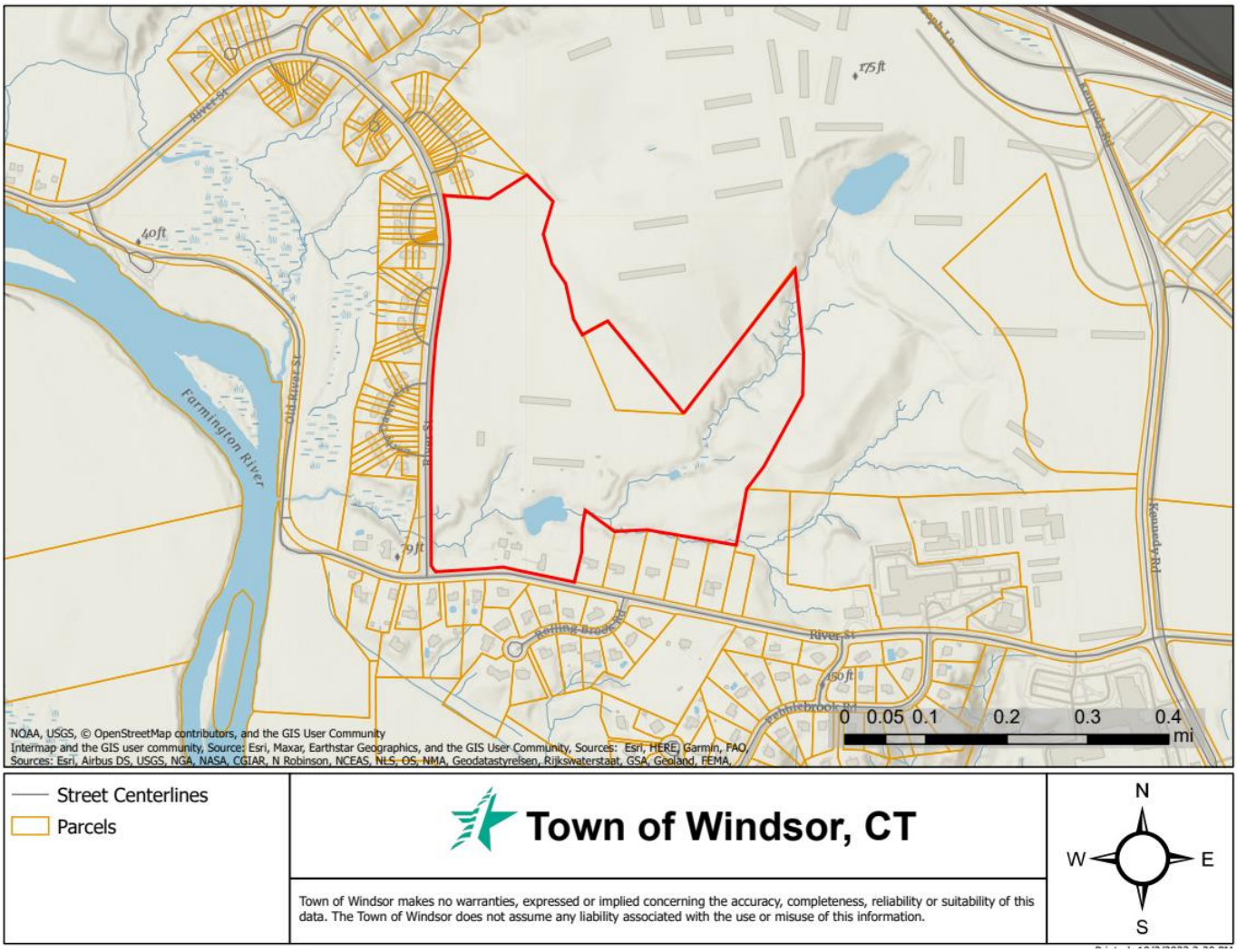
263. Pursuant to CGS § 16-50m, the Council, after giving due notice thereof, held a public comment session on February 8, 2024 at 6:30 p.m. via Zoom remote conferencing. (Record; Tr. 2, p. 2)

264. During the public comment session, three members of the public made oral limited appearance statements about the proposed facility. Concerns include, but are not limited to, the following: noise issues, health effect, inappropriate location and the need to address climate change. (Record; Tr. 2, pp. 10-18)

265. The Council received 23 written limited appearance statements regarding the proposed facility. (Record)

[2] https://www.ecfr.gov/current/title-40/chapter-I/subchapter-I/part-261/subpart-C/section-261.24

Figure 1 – Site Location

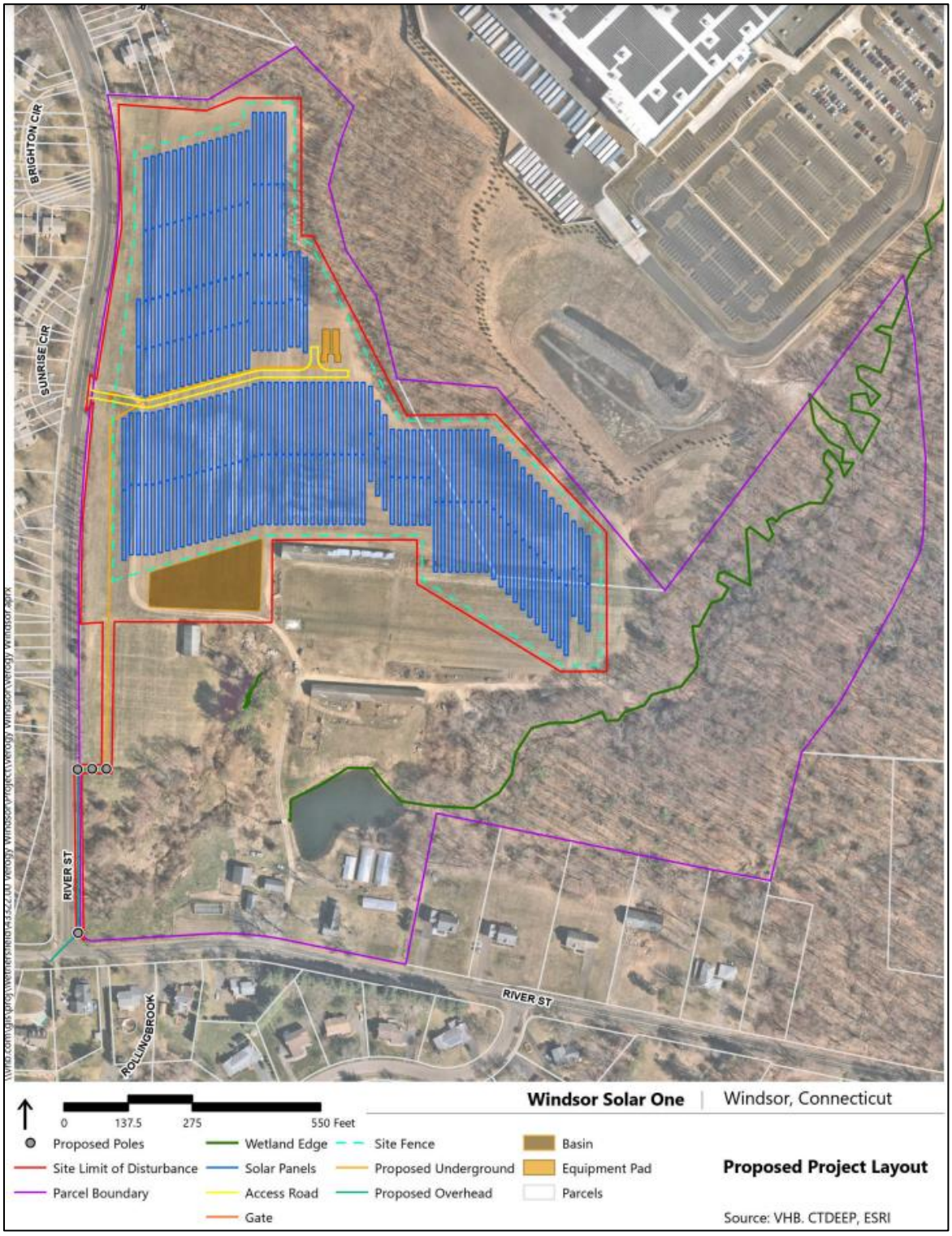


(WSO 1, Figure 2)

Figure 2- Existing Site Conditions

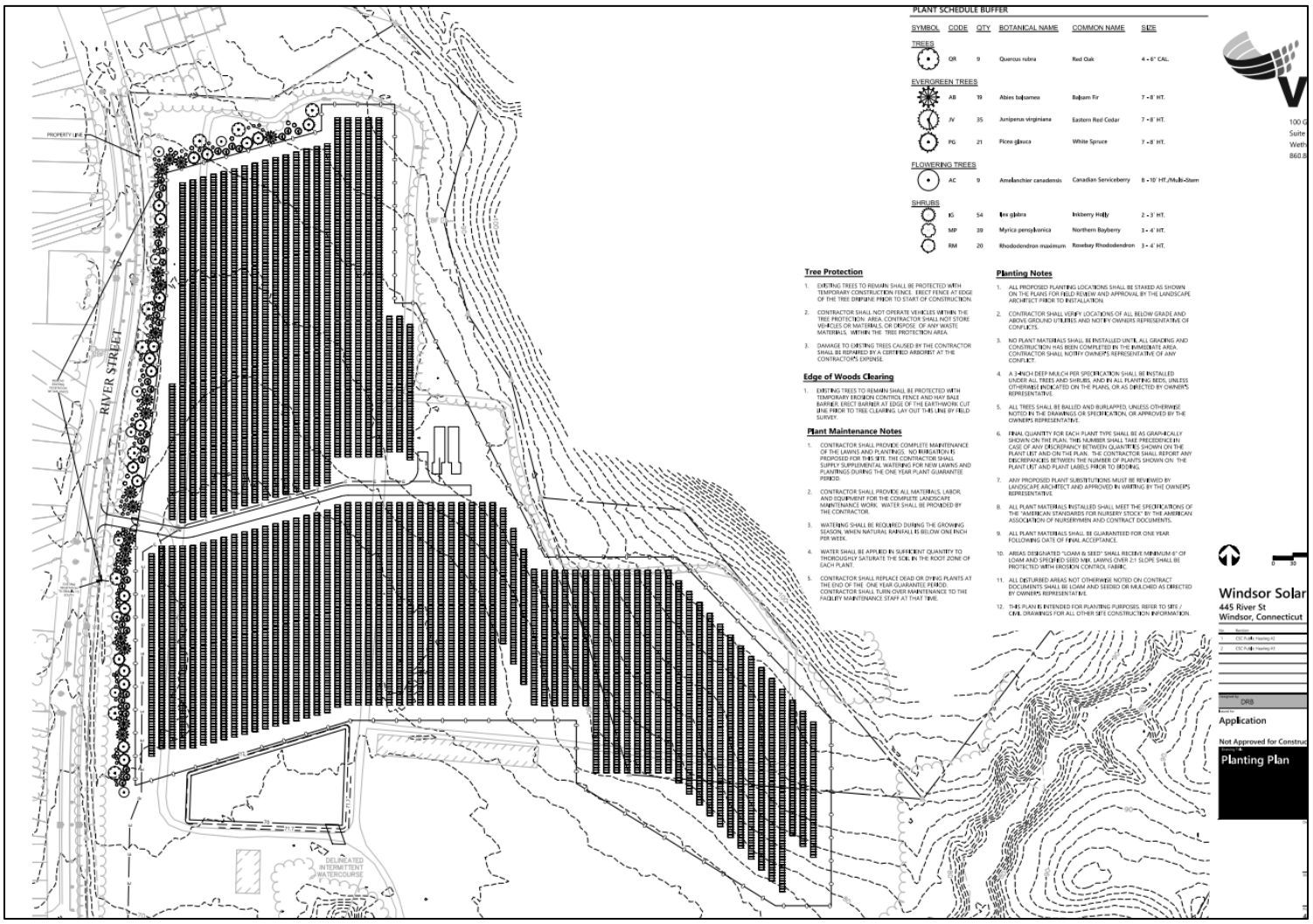
(WSO 1, Figure 3)

Figure 3 – Proposed Facility Layout (Revised*)



Site layout was revised on March 28, 2024. (WSO 9, 9e)

Figure 4 – Proposed Landscape Plan



(WSO 10b)