

<p>PETITION NO. 1592A– Santa Fuel, Inc. petition for a declaratory ruling, pursuant to Connecticut General Statutes §4-176 and §16-50k, for the proposed construction, maintenance and operation of a 3.85-megawatt AC solar photovoltaic electric generating facility located at 159 South Road, Somers, Connecticut, and associated electrical interconnection. Reopening of this petition based on changed conditions pursuant to Connecticut General Statutes §4-181a(b).</p>	<p>} Connecticut</p> <p>} Siting</p> <p>} Council</p>	<p>March 28, 2025</p>
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Draft Findings of Fact

Introduction

1. On September 19, 2023, Santa Fuel, Inc. (SFI) submitted a petition to the Connecticut Siting Council (Council), pursuant to Connecticut General Statutes (CGS) §4-176 and §16-50k, for a declaratory ruling for the construction, maintenance, and operation of a 3.85-megawatt AC solar photovoltaic electric generating facility located at 159 South Road in Somers, Connecticut, and associated electrical interconnection (Petition 1592 Project). (Council Administrative Notice Item No. 35 – Petition 1592, Finding of Fact [FOF] #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. (CGS §16-50k (2024)).
3. The Council has exclusive jurisdiction over electric generating facility sites throughout the state. A facility site is defined as 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. (CGS §16-50i(a)(3); CGS §16-50x (2024); Regulations of Connecticut State Agencies (RCSA) §16-50j-2a(29) (2024))
4. Pursuant to §16-50x, the Council has exclusive jurisdiction over the construction, maintenance and operation of the proposed solar photovoltaic electric generating facility. (CGS §16-50x (2024))
5. SFI is a Connecticut company with its principal office located at 154 Admiral Street, Bridgeport, Connecticut. SFI would own and operate the proposed facility. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #3)
6. The party to the original Petition No. 1592 proceeding was SFI. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #5)
7. The Petition No. 1592 Project would be a “grid-side distributed resources” facility under CGS § 16-1(a)(37). (CGS § 16-1(a)(37)(2024))
8. The Petition No. 1592 Project would generate renewable electrical energy from solar power. Solar power is considered a Class I renewable energy source. (CGS §16-1(a)(20)(2024); Council Administrative Notice Item No. 35 – Petition 1592, FOF #9)
9. 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 (2024))

10. During the proceedings held on Petition 1592, as a result of comments from the Town, SFI revised the Petition No. 1592 Project by enhancing site screening and specifying a pollinator-friendly wildflower seed mix within the array area. (Council Administrative Notice Item No. 35- Record)
11. At a public meeting held on March 14, 2024, the Council voted to deny the Petition No. 1592 Project on the bases it will have an adverse effect on water quality by not including adequate buffer areas to on-site wetlands and waterbodies with a diverse amphibian population, insufficient information regarding the potential redesign of the site to create buffers to an abutting residential property and South Road, and insufficient information regarding a potential redesign of the interconnection route to either eliminate utility poles or place them in an area with less of a visual impact. (Record; Council Petition No. 1592 Final Decision, dated March 15, 2025; Council Administrative Notice Item No. 35)
12. On September 18, 2024, SFI submitted a Motion to Reopen and Modify (Motion to Reopen) the Council's March 14, 2024 final decision not to issue a declaratory ruling to SFI for the 3.85 MW AC solar electric generating facility based on changed conditions pursuant to CGS §4-181a(b). (SFI 1 – Motion to Reopen)
13. In its Motion to Reopen, SFI proposed modifications to the Petition 1592 Project, including, but not limited to, a revised the site layout, revised interconnection, larger buffers to South Road and an abutting residence, and an analysis of project impacts to on-site wetlands and waterbodies (hereinafter referred to as the **Petition 1592A Project**). (Record; SFI 1)
14. On September 18, 2024, the Council issued a memorandum indicating it would vote on the Motion to Reopen during its regular meeting scheduled for October 10, 2024. (Record)
15. At a public meeting held on October 10, 2024, the Council voted to grant SFI's Motion to Reopen, and to schedule a public hearing in accordance with CGS §4-176 and 4-181a(b). The Council assigned this proceeding Petition No. 1592A. (Record; Council Meeting Minutes, dated October 10, 2024; Council Memorandum, dated October 10, 2024)

Administrative Procedures

16. On October 18, 2024 the Council provided notification to SFI that it will refrain from considering any pending and future matters filed by SFI for non-payment of invoices per Regulations of Connecticut State Agencies (RCSA) §16-50v-3. (Record; Council Correspondence to SFI dated October 18, 2024)
17. During a public meeting held on October 24, 2024, the Council voted to table the schedule for the public hearing on Petition 1592A. (Record; Council October 24, 2024 Meeting Minutes)
18. On November 7, 2024, SFI submitted payment in full per RCSA §16-50v-3. On November 13, 2024, the Council notified SFI that it would resume consideration of pending and future matters filed by SFI in accordance with RCSA §16-50j-40. (Record; Council Correspondence to SFI dated November 13, 2024)
19. During a public meeting held on November 21, 2024, the Council approved the schedule for a public hearing to be held on January 30, 2025 for Petition No. 1592A. (Council November 21, 2024 Meeting Minutes)
20. Hearings shall be held at times and locations specified by the Council. (CGS §16-50m (2024); RCSA §16-50j-20 (2024))

21. CGS §1-225a 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.” (CGS §1-225a (2024); CGS §1-200, *et seq.* (2024))
22. CGS §1-225a 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
 - d) All speakers taking part in any such meeting shall clearly state their name and title before speaking on each occasion they speak.(CGS §1-225a (2024))
23. Pursuant to CGS §16-50m, on November 22, 2024, the Council sent a letter to the Town of Somers (Town) to provide notification of the scheduled public hearing via Zoom remote conferencing. (Record)
24. 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 (2024))
25. Pursuant to CGS §16-50m, the Council published legal notice of the date and time of the public hearing in the Journal Inquirer on November 25, 2024. (Record)
26. 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 Notices dated December 7, 2023 and November 22, 2024; Council Administrative Notice Item No. 71 – *Manor Development Corp. v. Conservation Comm. of Simsbury*, 180 Conn. 692, 701 (1980); Council Administrative Notice Item No. 72 – *Grimes v. Conservation Comm. of Litchfield*, 243 Conn. 266, 278 (1997))
27. During the proceeding held on Petition No. 1592, in lieu of an in-person field review of the proposed site, the Council requested that SFI submit photographic documentation of site-specific features into the record intended to serve as a “virtual” field review of the proposed site. On December 20, 2023, SFI submitted such information in response to the Council’s interrogatories. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #20)
28. On January 8, 2025, 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. SFI participated in the pre-hearing conference. Procedures for the public hearing via Zoom remote conferencing were also discussed. (Council Pre-Hearing Conference Memorandum, dated December 31, 2024)

29. On January 17, 2025, in compliance with RCSA §16-50j-21, SFI 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 31, 2024; Transcript 1 – January 30, 2025, 2:00 p.m. [Tr. 1] pp. 39-41; Transcript 2 – January 30, 2025, 6:30 p.m. [Tr. 2] pp. 5-6)
30. Pursuant to CGS §16-50m, the Council gave due notice of a public hearing on January 30, 2025, 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 November 22, 2024; Tr. 1, p. 4; Tr. 2, p. 4)
31. 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, p. 7; Tr. 2, p. 6; CGS §16-50n(f) (2024))
32. During the public comment session of the Council's hearing held on January 30, 2025, no person made oral limited appearance statements about the proposed facility. (Tr. 2)
33. In compliance with CGS §1-225a:
 - a) The public had the ability to view and listen to the public hearing in real-time, by computer, smartphone, tablet or telephone;
 - b) The public hearing was recorded and transcribed, and such recordings and transcripts were posted on the Council's website on January 30, 2025 and February 5, 2025, 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 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 public hearing.(Hearing Notice dated November 22, 2024; Tr. 1; Tr. 2; Record)
34. 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 (2024))
35. 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 (2024); *Dore v. Commissioner of Motor Vehicles*, 62 Conn. App. 604 (2001); R.C.S.A. §16-50j-25 (2024))
36. The Council's experience, technical competence, and specialized knowledge may be used in the evaluation of evidence. In accordance with the Council's November 21, 2024 completeness review, the Council determined this Project would not require an outside consultant. (Record; CGS §4-178 (2024))
37. SFI's witnesses in this proceeding prepared, supervised and/or assisted in the preparation of exhibits. During the evidentiary hearing session, the Council cross examined SFI's witness panel on their respective exhibits. (Record; Tr. 1)

38. Pursuant to CGS §16-50n(f), at the conclusion of the evidentiary hearing session held on January 30, 2025, the Council closed the evidentiary record for Petition 1592A and established March 1, 2025 as the deadline for the submission of briefs and proposed findings of fact. (Tr. 2, pp. 11-12)
39. SFI did not submit a post hearing brief. (Record)
40. Constitutional principles permit an administrative agency to organize its hearing schedule so as to balance its interest in reasonable, orderly and non-repetitive proceedings against the risk of erroneous deprivation of a private interest. It is not unconstitutional for the Council, in good faith, to balance its statutory time constraints against the desire of a party, intervenor or CEPA intervenor for more time to present their objections to a proposal. (*Concerned Citizens of Sterling v. Conn. Siting Council*, 215 Conn. 474 (1990); *Pet v. Dept. of Public Health*, 228 Conn. 651 (1994); *FairwindCT, Inc. v. Conn. Siting Council*, 313 Conn. 669 (2014))
41. Pursuant to CGS §16-50p(g), the Council shall in no way be limited by SFI already having acquired land or an interest therein for the purpose of constructing the proposed facility. (CGS §16-50p(g) (2024); Council Administrative Notice Item No. 74 - *Corcoran v. Conn. Siting Council*, 284 Conn. 455 (2007))
42. 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 (2024); *Woodbridge Newton Neighborhood Env't Trust, et al v. Conn. Siting Council*, 2024 Conn. LEXIS 163 (2024); *Goldfisher v. Conn. Siting Council*, 95 Conn. App. 193 (2006))

Municipal Consultation

43. SFI provided **Petition 1592A** Project site plans to the Town. (SFI 2, response 1)
44. On January 22, 2025, the Town First Selectman Timothy Keeney submitted correspondence¹ to the Council that detailed a Board of Selectmen meeting held with SFI on January 16, 2025. Concerns regarding water quality, stormwater, soil testing, access road and interconnection revisions were addressed. (Town comments dated January 22, 2025)
45. The Town is in support of the **Petition 1592A** Project. (Town comments dated January 22, 2025)

Neighborhood Concerns

46. Pursuant to CGS §16-50m, the Council, after giving due notice thereof, held a public comment session on January 30, 2025 at 6:30 p.m. via Zoom remote conferencing. (Record; Tr. 2, p. 4)
47. No members of the public signed up to speak at the 6:30 p.m. public comment session. (Record; Tr. 2, p. 6)

¹ https://portal.ct.gov/-/media/csc/3_petitions-medialibrary/petitions_medialibrary/mediapetitionnos1501-1600/pe1592a/sac_comments/pe1592a_pubform_somers_a.pdf?rev=fedb7defccb64333a227f8f1b88ae141&hash=2098E3B5AAC5FB8BBD592D8B788DD0CA

48. The Council received five written limited appearance statements regarding the Petition 1592A Project. Concerns relevant to the Council's statutory review criteria include, but are not limited to, the following: wildlife, noise, stormwater, visibility, **interconnection access drive location on Mountain View Road**, geology and tree clearing. These concerns are addressed in the Public Health and Safety and Environmental Effects and Mitigation Measures sections of this document, pursuant to CGS §16-50p. (Record)

State Agency Comments

49. Pursuant to RCSA §16-50j-40, on November 22, 2024, the following state agencies were requested to submit written comments regarding the proposed facility: Department of Energy and Environmental Protection (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); the Office of Consumer Counsel (OCC); and the State Historic Preservation Office (SHPO). (Record)
50. On January 23, 2025, the Council received revised comments from DEEP² regarding existing site conditions, tree clearing, wetlands, stormwater permit requirements, wildlife, visibility, noise, and core forest. These concerns, 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 (2024))
51. 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. 74, *Corcoran v. Conn. Siting Council*, 284 Conn. 455 (2007))

Public Act 17-218

52. Pursuant to Public Act (PA) 17-218, codified at CGS §16-50k(a), the Council shall approve by declaratory ruling ... the construction or location of any customer-side distributed resources project or facility or grid-side distributed resources project or facility with a capacity of not more than sixty-five megawatts, as long as: (i) Such project meets air and water quality standards of DEEP, (ii) the Council does not find a substantial adverse environmental effect, and (iii) ***for a solar photovoltaic facility with a capacity of two or more megawatts***, to be located on prime farmland or forestland, 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.” (Emphasis added) (CGS §16-50k(a) (2024))

²https://portal.ct.gov/-/media/csc/3_petitions-medialibrary/petitions_medialibrary/mediapetitionnos1501-1600/pe1592a/sac_comments/pe1592a_deep-revcommentsrecd_a.pdf?rev=64e3072c088842e4a90d82864cc7be26&hash=6E42839ECA958B74F860EDBA5B3FEA2B

53. Pursuant to CGS §16-50x, the Council has exclusive jurisdiction over the construction, maintenance and operation of solar photovoltaic electric generating facilities throughout the state. 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 (2024))
54. PA 17-218 does not require agricultural activities at solar photovoltaic electric generating facility sites. (CGS §16-50k(a) (2024))
55. The Petition 1592A Project site does not contain prime farmland soil. Therefore, SFI did not seek a written determination of no material impact to prime farmland from DOAg under PA 17-218. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #54)
56. Upon decommissioning of the facility, the prior agricultural use of the site can resume. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #59)
57. By letter dated March 8, 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. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #52; DEEP revised comments dated January 23, 2025)
58. 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 (2024))

Changed Conditions

59. In its **September 18, 2024** Motion to Reopen, SFI noted several changed conditions from the Petition No. 1592 Project including, but not limited to, the following:
 - a) **The Project output was reduced from 3.85 MW to 3.57 MW;**
 - b) The array was shifted to the north and 442 panels eliminated from the southern and southwestern portions of the array to increase buffers to nearby property lines;
 - c) The buffer to 187 South Road was increased from 57 feet to 172 feet and the buffer to South Road increased from 123 feet to 178 feet;
 - d) Stormwater management basin #2 was relocated from 34 feet to 198 feet from South Road, and the riprap slope adjacent to the road was eliminated;
 - e) **Evaluation of water quality impacts to adjacent wetlands and waterbodies;**
 - f) Landscaping was extended to include the western edge of the fence line between the array and South Road;
 - g) Tree/orchard clearing was reduced by 1.75-acres;
 - h) Site disturbance was reduced by 0.5 acre;
 - i) **Site access to the solar array for routine maintenance was relocated to the north end** of the host property;
 - j) The point of interconnection was relocated from South Road to Mountain View Road, eliminating visual impacts on South Road and reducing the length of off-site interconnection improvements;
 - k) **Addition of an access drive extending from Mountain View Road that will only serve the interconnection utility poles;**
 - l) **A permanent sight line easement was obtained from the property owner for the interconnection access road entrance to conform to DOT intersection design criteria;**

- m) Equipment pad #2 (northern pad) was relocated to increase the distance from the eastern property line from 80 feet to 137 feet;
 - n) Sound mitigation measures were included at the inverter locations to reduce noise levels at the east property line; and
 - o) The chain link fence was replaced with an agricultural style fence.
- (SFI 1, pp. 4-5, Site Plans)

State of Connecticut Planning and Energy Policy

- 60. 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 (2024))
- 61. 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. 45 and 46)
- 62. 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. 45)
- 63. 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 (2024))
- 64. The Global Warming Solutions Act (GWSA) sets a goal of reducing greenhouse gas (GHG) emissions by 80 percent by 2050. (CGS §22a-200 (2024))
- 65. 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. 45)

Public Benefit

- 66. Pursuant to CGS §16-50p(c), 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. Public benefit exists if the Council finds and determines a proposed electric generating facility contributes to forecasted generating capacity requirements, reduces dependence on imported energy resources, diversifies state energy supply mix and enhances reliability. (CGS §16-50p(c)(2024); *Preston v. Conn. Siting Council*, 20 Conn. App. 474 (1990); *Preston v. Conn. Siting Council*, 21 Conn. App. 85 (1990))
- 67. The Petition 1592A 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) (2024); CGS §16a-35k (2024))

68. 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 (2024))
69. SFI intends to the to sell the power via a retail supply contract with a wholesale provider that is an ISO-New England, Inc. (ISO-NE) Market Participant. SFI anticipates it will secure a 20-year power purchase agreement with options for contract extensions. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #50; SFI 1, responses 2 & 3)
70. SFI may participate in an ISO-NE Forward Capacity Auction if the executed contract requires such participation. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #51)

Site Selection

71. The host parcel was selected by SFI for the solar facility site due to availability; suitability in terms of parcel size, topography, lack of sensitive environmental resources; and proximity to electrical utilities for interconnection. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #60)
72. 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. 74 - *Corcoran v. Connecticut Siting Council*, 284 Conn. 455 (2007))

Proposed Site

73. 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)(2024))
74. 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) (2024))
75. 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 (2024); *Woodbridge Newton Neighborhood Env’t Trust, et al v. Conn. Siting Council*, 2024 Conn. LEXIS 163 (2024))
76. SFI has a 25-year lease for the proposed site and would own the proposed facility. The host parcel is owned by the Nancy B. Edgar Revocable Trust & Dianne Bordeaux Lenti. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #6)
77. Pursuant to a lease agreement with the property owner, SFI proposes to construct the solar facility on an approximate 16.8-acre site on an approximate 108.5-acre parcel at 159 South Road in Somers. (SFI 1, Site Plan 4)
78. The host parcel is zoned Residential (A-1) and has frontage on South Road to the west and Mountain View Road to the south. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #66)

79. The host parcel contains fields in the northeastern portion, abandoned orchards in the western portion, and forest in the southeastern portion. A farmhouse and associated outbuildings are also located in the western portion, accessed from a driveway extending from South Road. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #67)
80. The host parcel owner currently harvests hay in the fields and on an abutting property to the north, owned by the Nancy B. Edgar Revocable Trust (one of the landlords). (Council Administrative Notice Item No. 35 – Petition 1592, FOF #68)
81. Land use in the surrounding area consists of residential to the west and south, land trust and undeveloped properties to the east, Geissler's Supermarket and land owned by Nancy B. Edgar Revocable Trust to the north. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #69)
82. The site slopes generally from the southeast to the northwest, with ground elevations ranging from approximately 270 feet above mean sea level (amsl) in the northwestern portion to approximately 350 feet amsl southeastern portion in the portion. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #70)

Proposed Facility and Associated Equipment

Solar Array

83. The proposed Petition 1592A Project consists of 8,268 mono-facial photovoltaic panels rated at approximately 550 Watts. (SFI 1, Site Plan Sheet 4)
84. The panels would be installed on a single-axis tracker system supported by posts. At maximum tilt, the panels would be approximately 15 feet above grade at the highest point and 3 feet at the lowest point. (SFI 1, Site Plan Sheet 8)
85. The tracker system would rotate along the north-south axis to a maximum angle of 60 degrees. The tracker motors are self-powered using a solar panel between the racking tables. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #73; SFI 1, Site Plan Sheet 8)
86. The panels would be arranged in linear rows in a north-south direction, separated by 11.2-foot wide vegetated aisles. (SFI 1, Site Plan Sheet 8)
87. Two 30-foot by 10-foot concrete pads would be installed on the east side of the site adjacent to the access drive to support an electrical transformer and switchgear. An inverter pad would be installed adjacent to the electrical equipment pad to support string inverters mounted on a racking system. (SFI 1, Site Plan Sheets 5 and 6)
88. A weather station would be mounted to the southernmost equipment pad to monitor the amount of irradiance, temperature, wind speed and other parameters that may affect system performance. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #76)
89. The Petition 1592A Project would be enclosed by a 7-foot tall agricultural-style fence. (SFI 1, Site Plan Sheet 8)
90. The nearest property line and residence (not owned by the host parcel owner) to the proposed solar array perimeter fence is approximately 172 feet and 214 feet, respectively, to the south at 187 South Road. (SFI 1, Site Plan Sheet 6; Council Administrative Notice Item No. 100)

91. Installing a 600 watt or higher wattage solar panel at the site would not necessarily reduce the Petition 1592A Project footprint given that the panels would have a larger surface area than the proposed 550 watt panels. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #80)
92. If SFI transfers the solar facility to another entity in the future, SFI 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. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #7)

Site Access

93. Site access to the solar array would utilize an existing 630-foot long gravel drive extending east from South Road along the north property line. At the end of the existing drive, SFI would construct a new 15-foot wide, 1,850-foot long access road along the north property line, turning east to access the two equipment pads. This access road would be used for routine maintenance of the solar array. (SFI 1, Site Plan Sheet 4; SFI 2, response 7; Tr, 1, pp. 35-36)
94. To access the interconnection area at the south end of the site, SFI would construct a 15-wide, 135-foot long access road extending north from Mountain View Road. The interconnection access road dead ends at a turnaround area and does not connect to the solar array. (SFI 1, Site Plan Sheet 6)
95. To address concerns related to sight lines for vehicles entering the interconnection access drive, SFI designed the entrance area to conform to DOT standards, re-grading the hillside near the entrance and obtaining a 373 square-foot easement on the abutting parcel to the east at 27 Mountain View Road. (SFI 2, response 13)

Electrical Interconnection

96. The Petition 1592A Project is comprised of one metered system with a design capacity of approximately 3.575 MW AC. It would interconnect to an Eversource 23-kV overhead electric distribution line on Mountain View Road. (SFI 1, p. 6, Site Plan Sheet 6; Tr. 1, pp. 21-22)
97. The interconnection includes the installation of six new utility poles at the south end of the interconnection access drive. Three of the poles would be on the customer side with the remaining three on Eversource's side. (SFI 1, Site Plan Sheet 6)
98. The proposed utility poles are approximately 35 to 40 feet above ground level. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #85)
99. The facility interconnection was approved by Eversource and will utilize the point-of-interconnection on Mountain View Road. (SFI 2, response 9)
100. The interconnection will be reviewed by ISO-NE with an expected completion in the fourth quarter of 2025. (SFI 2, response 11)
101. The projected capacity factor of the proposed solar facility is 19 percent. The power output would not measurably decline on an annual basis. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #90)

102. SFI has no plans to incorporate a battery energy storage system on the Petition 1592A Project site. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #91)

Cost

103. The estimated construction cost of the Petition 1592A Project is \$9.6 million, inclusive of interconnection costs. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #92)
104. The estimated cost savings for the revised interconnection design is approximately \$80,000 to \$120,000. (SFI 2, response 10)
105. SFI does not anticipate replacing panels based on advancements in solar panel technology. Project economics are based on the anticipated service life of the selected solar panels. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #93)

106. The 1592A Project is not proposed to be undertaken by state departments, institutions or agencies, and is not to be funded in whole or in part by the state through any contract or grant. SFI is a private entity. (Council Administrative Notice Item No. 35 – Record)

Public Health and Safety

107. 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. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #94)
108. In the event of a fire or other emergency, emergency responders would be able to shut down the facility via a disconnect switch. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #95)
109. Emergency responders would be provided keys to the access gate. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #96)
110. Prior to commencement of operation, SFI would meet with local emergency responders and provide training and information regarding facility operations, emergency response and location of the disconnect switch. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #97)
111. A solar panel/electrical component fire would be contained using methods prescribed by the fire department. Typically, fires are allowed to burn out with fire suppression efforts focused on preventing the fire from spreading to adjacent areas. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #98)
112. The facility would be remotely monitored by a data acquisition system. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #99)
113. Operation of the Petition 1592A Project would not interfere with internet, cable or phone service to nearby properties. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #100)
114. No permanent night lighting of the facility is proposed. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #101)
115. The site is not within a Federal Emergency Management Agency (FEMA) designated 100-year flood zone. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #102)

116. 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)
117. The nearest airport to the facility is Ellington Airport located approximately 3.1 miles south of the site. It is not a federally-obligated airport. No glare analysis is required to comply with FAA policy. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #104)
118. Notice to the FAA would not be required for the solar facility. Notice to the FAA may be required if a crane is utilized at the site during construction. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #105)
119. The proposed transformers would utilize FR3 oil, a non-toxic and biodegradable oil. The transformers would be equipped with a remotely monitored alarm system that can detect abnormal oil levels. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #106)

Noise

120. The facility would only operate during the daytime. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #107)
121. Noise emissions from the solar facility would be primarily from the operation of two transformers and 14 inverters. Two electrical equipment pads/areas are proposed, each containing 7 inverters and one transformer. (SFI 1, Attachment B)
122. Each inverter and transformer would produce a maximum sound level of approximately 80 dBA and 61 dBA, respectively, at a distance of 3.3 feet. The noise level of each inverter would decrease from 80 dBA to 63.8 dBA after startup (<15 minutes). (SFI 1, Attachment B)
123. The nearest property line from the north and south equipment pads is 137 feet and 209 feet to the east respectively, to an undeveloped forested parcel owned by the Northern Connecticut Land Trust. It is used for passive recreation. (SFI 1, Attachment B, Site Plan Sheet 4)
124. Operational startup of the facility would produce noise from the northern and southern equipment pads at sound levels of 58 dBA and 54 dBA, respectively, at the property line. After startup, noise levels would be below 43 dBA at the property line. (SFI 1, Attachment B)
125. State standards specify a noise level of 55 dBA from a commercial/industrial use to a Class A noise zone (recreational); however, operational startup lasting less than 15 minutes qualifies for a temporary 3 dB increase in noise level to 58 dBA, thus the project meets state standards. (SFI 1, Attachment B)
126. Although the Petition 1592A Project meets state standards, SFI is proposing to install noise mitigation around the inverters consisting of noise blankets on fencing to reduce noise levels to less than 48 dBA during project startup. The noise blankets are gray in color and are expected to last the life of the facility. (SFI 2, response 16)
127. The operation of the facility would produce a sound level of approximately 46 dBA at the nearest developed residential property line, 206 feet to the south at 187 South Road, thus, it would be in compliance with the DEEP Noise Control Standards. (SFI 1, Attachment B)

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

Electric and Magnetic Fields

129. Electric fields (EF) and magnetic fields (MF) are two forms of energy that surround an electrical device. Transmission lines, for example, are a source of both EF and MF. (Council Administrative Notice Item No. 30- Petition 754)
130. EMF is produced whenever voltage is applied to electrical conductors and equipment. Electric fields are typically measured in units of kilovolts/meter. As the weight of scientific evidence indicates that exposure to electric fields, beyond levels traditionally established for safety, does not cause adverse health effects, and as safety concerns for electric fields are sufficiently addressed by adherence to the NESC, as amended, health concerns regarding EMF focus on MF rather than EF. (Council Administrative Notice Item No. 30- Petition 754)
131. MF is produced by the flow of electric currents. The magnetic field at any point depends on the characteristics of the source, the arrangement of conductors, the amount of current flow through the source, and the distance between the source and the point of measurement. Magnetic fields are typically measured in units of milligauss (mG). (Council Administrative Notice Item No. 30- Petition 754)
132. International health and safety agencies, including the World Health Organization, the International Agency for Research on Cancer (IARC), and the International Commission on Non-Ionizing Radiation Protection (ICNIRP), have studied the scientific evidence regarding possible health effects from MF produced by non-ionizing, low-frequency 60-Hertz alternating currents in transmission lines. Two of these agencies attempted to advise on quantitative guidelines for mG limits protective of health, but were able to do so only by extrapolation from research not directly related to health: by this method, the maximum exposure advised by the International Commission on Electromagnetic Safety (ICES, part of IARC) is 9,040 mG, and the maximum exposure advised by the ICNIRP is 2,000 mG. Otherwise, no quantitative exposure standards based on demonstrated health effects have been set world-wide for 60-Hertz MF, nor are there any such state or federal standards in the U.S. (Council Administrative Notice Item No. 30- Petition 754)
133. Operation of the Petition 1592A Project would produce EMF levels in the same range as electrical appliances and wiring found in most homes and buildings. The Petition 1592A Project is expected to generate a MF level of less than 0.5 mG at the property line, well below ICNIRP and IARC recommended public exposure levels. (Council Administrative Notice Item No. 35, Petition 1592 - Record)
134. The proposed Petition 1592A Project is designed to interconnect to the existing distribution system rather than a higher voltage transmission system and therefore, the Council's EMF Best Management Practices for the Construction of Electric Transmission Lines in Connecticut and the ICES and ICNIRP MF guidelines would not apply. (Council Administrative Notice Item No. 30- Petition 754)

Environmental Effects and Mitigation Measures

Air Quality

135. The Petition 1592A Project would meet DEEP air quality standards and would not produce air emissions of regulated air pollutants or GHG. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #114)

136. During construction of the Petition 1592A Project, air emissions from the operation of machinery would be temporary in nature. SFI would deploy temporary mitigation measures to reduce emissions, where necessary. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #115)

Water Quality

137. 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 Sediment 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)
138. Water would not be used during operation of the facility. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #117)
139. Private water wells serve the residences in the area. Vibrations from the installation of the racking system are not expected to cause sediment releases, and thus, no disruption to well water flow or quality is expected. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #118)
140. The site is not located within a DEEP-designated Aquifer Protection Area. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #119)
141. No on-site fuel storage is proposed during construction or operation. Machinery and equipment would be refueled using dedicated vehicles brought to the site. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #120)
142. SFI developed a Spill Response and Control Plan (SRCP) that includes, but is not limited to, measures for prevention, containment, cleanup and reporting. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #121)
143. SFI would amend its SRCP once a contractor is selected. It would include worker training and contact information including, but not limited to, regulatory agencies, spill cleanup contractors, and local responders. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #122)

Stormwater

144. Pursuant to CGS §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)
145. 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 §22a-430b (2024); CGS §22a-430(b)(2024))

146. The SWPCP incorporates project designs consistent with the E&S Guidelines and the *Connecticut Stormwater Quality Manual* (Stormwater Manual). (DEEP-WPED-GP-015)
147. 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 §22a-430b (2024))
148. The Council may impose a condition that requires subsequent compliance with DEEP standards and regulations. (Council Administrative Notice Item No. 72 – *FairwindCT, Inc. v. Conn. Siting Council*)
149. The **Petition 1592A Project** would require a DEEP-issued Stormwater Permit prior to commencement of construction activities as defined in the General Permit. (CGS §22a-430b)
150. 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)
151. SFI prepared a SWPCP that concluded post-construction stormwater could be controlled by perimeter swales and two stormwater management infiltration basins located on the west side of the site. The management system is designed to maintain existing drainage patterns. (SFI 1, Attachment C)
152. SFI met with the DEEP Stormwater Program on August 16, 2023 to discuss the Petition 1592 Project. DEEP did not request changes to the proposed design. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #135)
153. SFI would submit a General Permit application to DEEP if the Petition 1592A Project is approved by the Council. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #136)
154. The northern stormwater basin is located in an existing agricultural field. The southern stormwater basin is located within an abandoned orchard. (SFI 1, Site Plan Sheets 4, 5 and 6)
155. The outflow from the southern stormwater basin would be directed via an underground pipe to a riprap outfall structure on the host property, adjacent to South Road (State Route 83). An existing swale along the east side of road would direct stormwater south to a catch basin and a culvert that extends under the road, discharging on the west side. (Council Administrative Notice Item No. 35, FOF #133; SFI 1, Site Plan Sheet 6; Tr. 1, pp. 19-21)
156. There would be no increase in water discharge from the southern stormwater basin that would affect the existing South Road swale/culvert system. The site stormwater management system is designed to retain excess stormwater during storms and discharge it at a rate that does not exceed pre-existing conditions. (Council Administrative Notice Item No. 35, FOF #134; SFI 1, Attachment C; Tr. 1, pp. 19-22)

157. A DOT encroachment permit or notification regarding the outflow structure is not required. The outflow structure is on the host parcel and there would be no increase in off-site stormwater flows that would affect DOT infrastructure. (SFI 1, Attachment C; Tr. 1 pp. 15-16)
158. The outflow from the northern stormwater basin would be directed via underground pipe to a riprap outfall structure 50 feet from a pond. Relocating the outfall structure to increase the distance to the pond is not possible due to site topography. (SFI 1, Attachment C; Tr. 1, pp. 12-13)
159. The Petition 1592A Project would be constructed in one phase. SFI intends to install E&S controls, then proceed with tree clearing, grubbing and grading where necessary, followed by construction of the permanent stormwater basins and site infrastructure. The stormwater basins would not be used as sediment traps but would be cleaned of sediment at the end of the construction phase, if necessary. (SFI 1, Site Plan Sheet 7; Council Administrative Notice Item No. 35 – Petition 1592, FOF #138)
160. Temporary wood chip berms would be installed on the hillside in the southeast corner of the site to reduce stormwater velocities. Wood chips would also be spread on disturbed areas of the site to reduce erosion during construction. (SFI 1, Site Plan Sheet 6; Council Administrative Notice Item No. 35 – Petition 1592, FOF #139)
161. 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.* (2024))
162. 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 (2024))
163. 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 (2024))
164. 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.* (2024))
165. A wetland inspection of the host parcel was performed on December 22, 2022. Two ponds are located in the western portion of the property, north of the farmhouse. The ponds are permanent features with bordering wetlands that were created by past excavation. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #144)

166. The construction limit of disturbance (LOD) for the northern stormwater basin and associated swale is approximately 50 feet from both ponds at its closest point. (SFI 1, Site Plan Sheets 5 and 6)
167. The Petition 1592A Project has been designed to comply with DEEP Stormwater Permit Appendix I. As required by Appendix I, the design maintains a 50-foot wetland buffer from the stormwater basins and a 100-foot wetland buffer from the solar panels. (SFI 1, Attachment C, Site Plan Sheets 5 and 6)
168. The outflow from the northern basin towards the northern pond would have no effect on water quality. The stormwater basin provides water quality treatment prior to discharge. (SFI 1, Attachment C, Attachment D)
169. A survey for specific amphibian species within the ponds was not conducted as the northern stormwater basin and associated swale are in an agricultural field, which provides little suitable habitat for amphibians. Construction of the Petition 1592A Project would have no impact on amphibian populations. (SFI 1, Site Plan Sheets 5 and 6; SFI 2, response 18, Attachment 2)
170. The ponds do not exhibit vernal pool characteristics and no vernal pools were identified on the host parcel. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #145; SFI 2, response 18)

Forests and Parks

171. Development of the Petition 1592A Project would require the removal of approximately 2.9 acres of edge forest in the southeast portion of the site. (SFI 1, p. 5, Site Plan Sheet 6)
172. The edge forest borders an approximate 360-acre DEEP-designated core forest block. Removal of the edge forest would decrease the core forest block by approximately 2.9 acres. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #149)
173. Development of the Petition 1592A Project would also require approximately 3.7 acres of clearing in an abandoned orchard in the southwest portion of the site. (SFI 1, p. 5, Site Plan Sheet 6)
174. The site is approximately 0.9 mile northwest of the Shenipsit State Forest at its closest point. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #151)

Scenic, Historic and Recreational Values

175. SHPO submitted correspondence to SFI on July 25, 2023, stating that the proposed Petition 1592 Project would not affect any historic or archeological resources. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #152)
176. Existing vegetation (orchard trees) would remain between the site and the abutting residence to the south (187 South Road), and between the site and residences along the west side of South Road. To provide for additional site screening from these areas, SFI would install 46 white spruce, 4 to 5 feet high, along the southwestern corner of the perimeter fence. (SFI 1, Site Plan Sheet 6)
177. White spruce grows at a rate of one to two feet a year and is deer resistant. It may be necessary to top/trim the spruce trees if they reach a height where it would shade the facility. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #154)
178. Landscape plantings are typically warranted for up to one year and would be replaced if necessary. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #157)

179. There are no town or state designated scenic roads near the site. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #158)
180. Due to topography and the angle of the panels, solar panel glare is not expected at the residences on the west side of South Road. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #155)
181. South Road is heavily traveled, especially near the Geissler's Supermarket area. Relocating the utility poles to Mountain View Road eliminated the visibility of the interconnection poles from South Road and adjacent residences. (Tr. 1, pp. 21-22, 35)
182. There are no “blue-blazed” hiking trails maintained by the Connecticut Forest and Park Association within one mile of site. (Council Administrative Notice No. 93)
183. The Northern Connecticut Land Trust McCann Farm Reserve abuts the site to the east. The preserve features several hiking trails, one of which extends through a forest along the property line with the host parcel. The site is approximately 140 feet to the hiking trail at its closest point and would be visible from the trail. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #160)
184. No comments were received from the Town, OPM or DEEP regarding impact to scenic quality or resources. (Record)
185. The Petition 1592A 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 Item No. 35 – Petition 1592, FOF #162)

Fish, Aquaculture and Wildlife

186. The site is not within a DEEP NDDB buffered area, thus, no consultation with the DEEP NDDB program was conducted. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #163; Council Administrative Notice Item No. 89)
187. 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 Somers. By letter dated October 2, 2023 the U.S. Fish and Wildlife Service determined that the **Petition 1592A Project** would not likely have an adverse effect on the NLEB, and no additional action is necessary. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #164)
188. The perimeter agricultural style fence would be raised 6-inches above grade to allow for small wildlife movement. (SFI 1, Site Plan Sheet 8)
189. The solar array would be seeded with a wildflower and grass mix. The stormwater detention basins would be seeded with a stormwater specific plant mix. (SFI 1, Site Plan Sheet 7)
190. **The site is within the watershed of Abbey Brook, a DEEP-designated cold-water stream. In accordance with the DEEP Stormwater Permit, the Petition 1592A Project is not within 100 feet of the cold-water stream. (Council Administrative Notice Items Nos. 52 & 53)**

Agriculture

191. Most of the northern portion of the Site was previously mined for gravel. Existing soils at the site consist of sand, gravel and sandy loams. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #167)
192. 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)
193. 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. 62 – Climate Change Preparedness Plan)
194. 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. 62 – Climate Change Preparedness Plan)
195. 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.*; Council Administrative Notice Item No. 35 – Petition 1592, FOF #171)
196. 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))
197. 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. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #173)
198. 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)
199. Prime farmland soils are not present at the site. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #175)

Facility Construction

200. If the **Petition 1592A Project** is approved by the Council, the following permits would be required for construction and operation:
a) DEEP Stormwater Permit; and
b) Town Building/ Electrical Permit.
(Council Administrative Notice Item No. 35 – Petition 1592, FOF #176; Tr. 1, pp. 15-16)
201. Construction of the solar facility would maintain existing grades through a majority of the site except for the hillside in the southeast corner where an approximate 5-acre area would be regraded to attain slopes of 15 percent, and grading required to construct the stormwater management system. (SFI 1, p. 6, Site Plan Sheets 5 and 6)
202. Construction of the facility would require a small export of material off-site. There will be no net loss of topsoil at the site. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #178)
203. Site construction would disturb an approximate 21.6-acre area. (SFI 1, p. 5)
204. The tracker support posts would be driven to a depth of approximately 12 feet. The posts would typically be driven into the ground utilizing track-mounted driving equipment. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #181)
205. Due to the presence of gravel and sandy soils, ledge is not expected and blasting is not anticipated. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #182)
206. Construction of the facility is expected to take 6 months. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #183)
207. Construction hours would be Monday through Saturday from 7:00 AM to 7:00 PM, and Sundays, if necessary. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #184)

Traffic

208. The Petition 1592A Project would not create traffic concerns for South Road (Route 83). (Council Administrative Notice Item No. 35 – Petition 1592, FOF #185)
209. Once operational, the site would be visited a few times per year for maintenance and inspections. The site would not be permanently staffed. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #187)

Facility Operations and Maintenance

210. SFI provided a post-construction Operations and Maintenance (O&M) Plan that includes, but is not limited to, provisions for remote monitoring, equipment maintenance, and site safety and security. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #188)
211. Vegetation within the array would be managed by mowing a few times per year. Landscaping and shrub growth around the site perimeter would be pruned and cut as necessary. The stormwater basins would be inspected and cleaned of debris and leaves, when necessary. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #189)

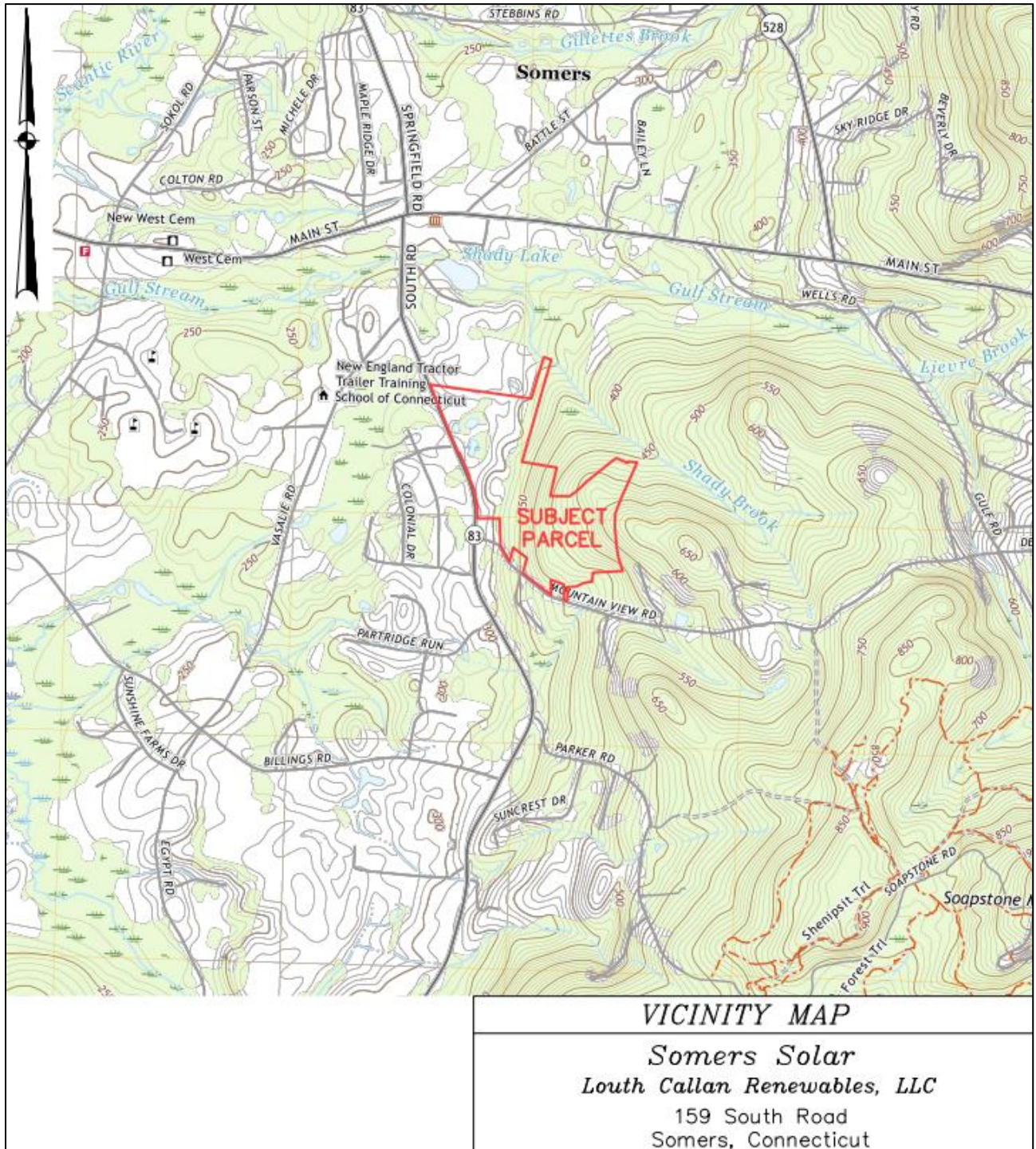
212. When necessary, the solar panels would be washed using water. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #190)
213. The inverters and tracker motors have a lifespan of 10 to 15 years and 10 to 20 years, respectively, and would be replaced as necessary. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #191)
214. Spare equipment, such as inverters or panels, would be stored off-site. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #192)
215. SFI would retain a third-party contractor to monitor and maintain the facility. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #193)
216. The tracker system can orient the panels at a steep angle to reduce snow accumulation. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #194)
217. It is possible the tracker motors/system would be temporarily disabled during extreme cold or icing events. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #195)

Decommissioning

218. The facility has a life of 30-35 years; however, the Project may be decommissioned after 25 years based on the lease arrangement if a new lease is not executed. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #196)
219. At the end of the Project’s lifespan, it will be decommissioned and removed from the host parcel. The site would be regraded and seeded. The stormwater management system would remain in place for use by the host parcel owners. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #197)
220. SFI 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. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #198)
221. 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) (2024))
222. In coordination with the host parcel owner and the lease agreement, SFI developed a Decommissioning Plan for restoration of the site at the end of the Project’s useful life to facilitate the host parcel owner’s future intended use of the site. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #58 and 200)
223. SFI has selected solar panels for the Project that meet current Toxicity Characteristic Leaching Procedure (TCLP) criteria³ for characterization as nonhazardous waste in the event the solar panels are not recycled at the end of the Project’s life. (Council Administrative Notice Item No. 35 – Petition 1592, FOF #201; SFI 2, response 8)

³ <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-I/part-261/subpart-C/section-261.24>

Figure 1 – Host Parcel and Site Location



(Council Administrative Notice Item No. 35 – Petition 1592)

Figure 2 – Original Petition No. 1592 Project Layout

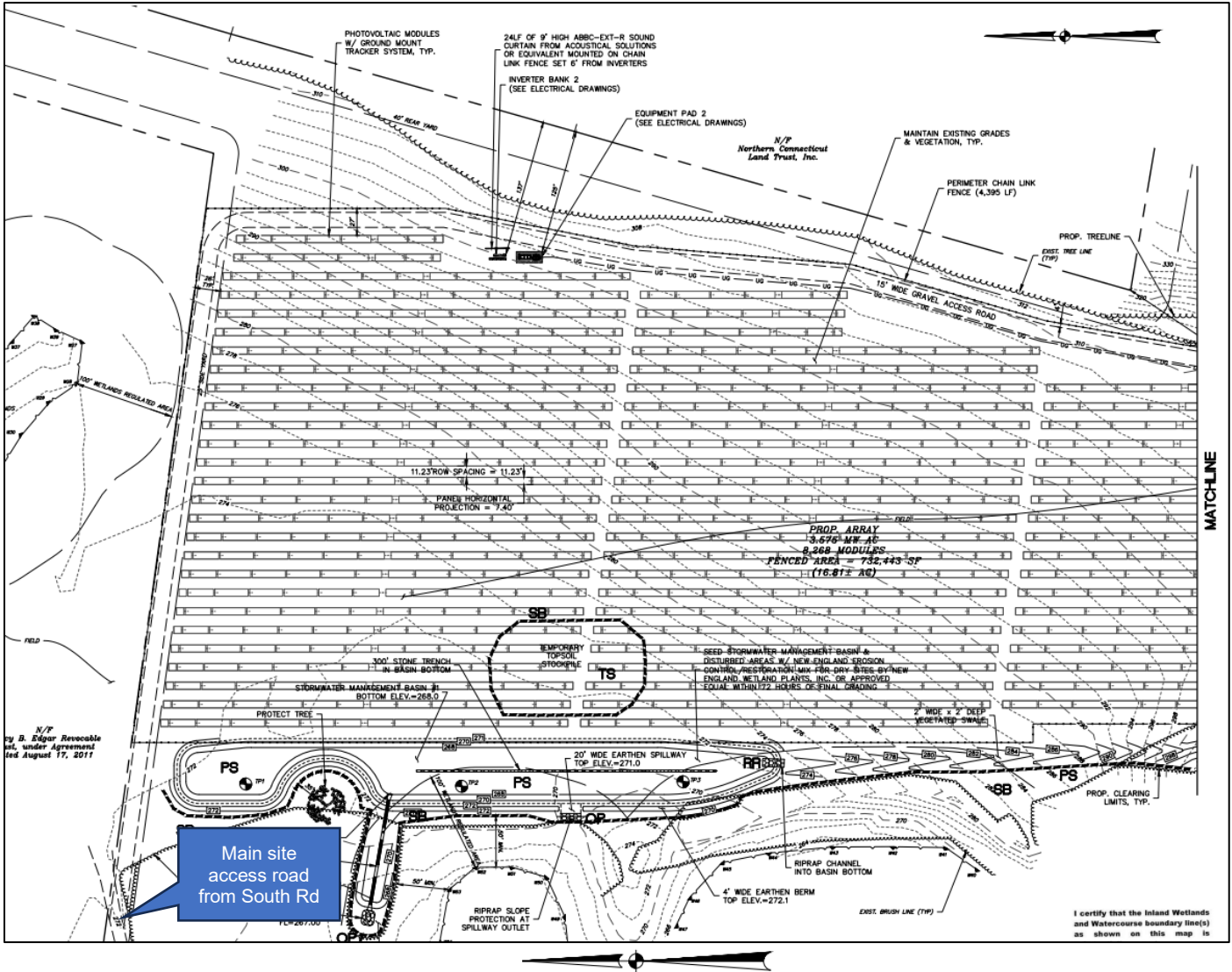


Figure 3 – Revised Petition No. 1592A Project Layout



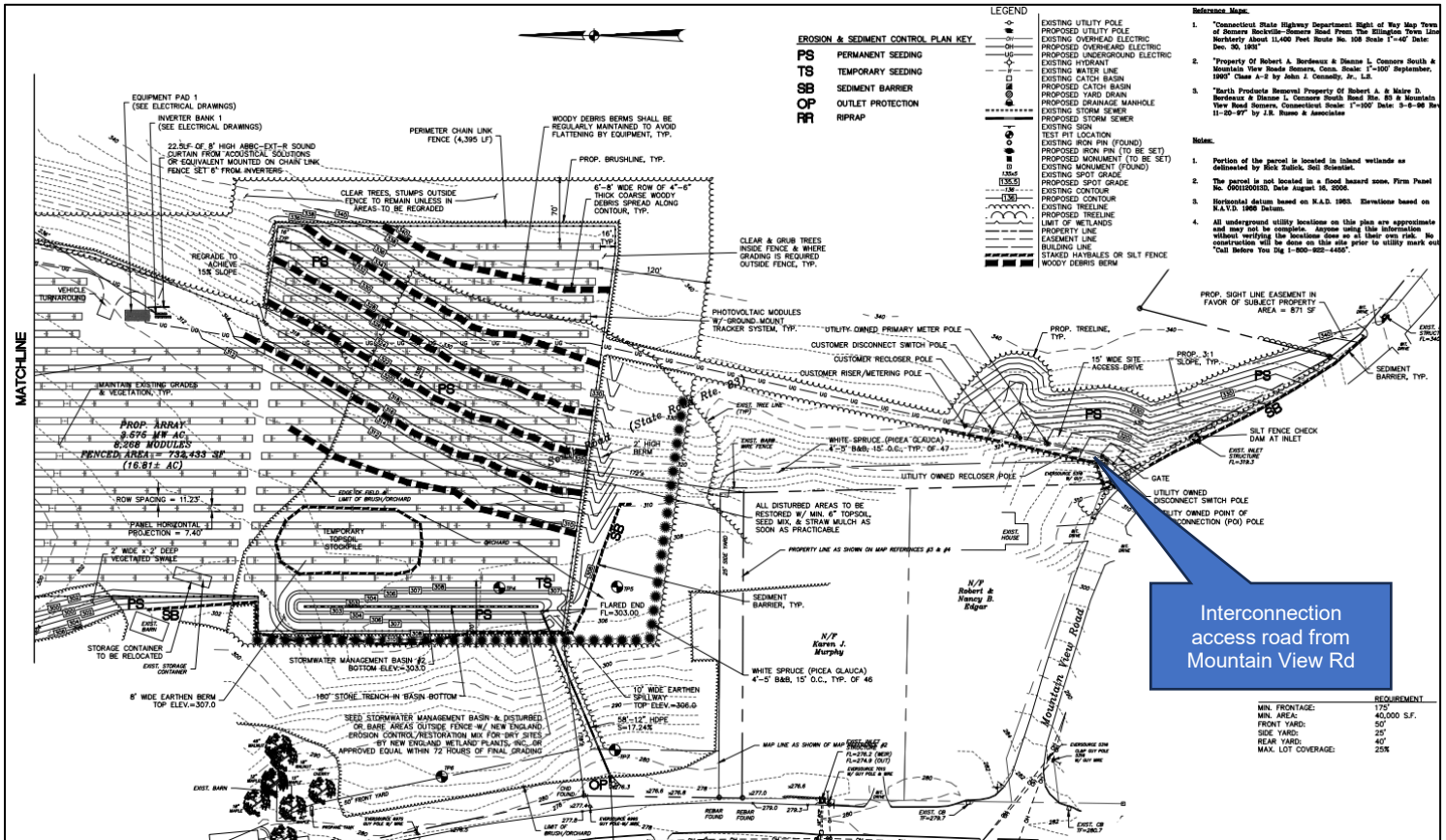
(Council Administrative Notice Item No. 35 – Petition 1592; SFI 1, Site Plan Sheets 1 & 5)

Figure 4A - Petition No. 1592A Project Site Plan- North Side



(SFI 1, Site Plan Sheet 5)

Figure 4B - Petition No. 1592A Project Site Plan- South Side



(SFI 1, Site Plan Sheet 6)