

**PULLMAN  
& COMLEY<sub>LLC</sub>**  
ATTORNEYS

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September 26, 2017

**VIA E-MAIL AND U.S. MAIL**

Jesse A. Langer  
Robert M. DeCrescenzo  
Updike, Kelly & Spellacy, P.C.  
One Century Tower  
265 Church Street  
New Haven, CT 06510

**Re: Petition No. 1313 - Petition of DWW Solar II, LLC for a Declaratory Ruling that no Certificate of Environmental Compatibility and Public Need is Required for a 26.4 Megawatt AC Solar Photovoltaic Electric Generating Facility in Simsbury, Connecticut**

Dear Mr. Langer and Mr. DeCrescenzo:

In connection with the above-referenced Petition, I am enclosing a copy of DWW Solar II, LLC's first set of Interrogatories to the Town of Simsbury, Connecticut.

Should you have any questions, please feel free to contact me at your convenience.

Sincerely,

  
Lee D. Hoffman

Enclosure

cc: Service List, Petition 1313 (by e-mail)

**STATE OF CONNECTICUT**  
**CONNECTICUT SITING COUNCIL**

DWW SOLAR, II, LLC PETITION )  
FOR DECLARATORY RULING )  
THAT NO CERTIFICATE OF )  
ENVIRONMENTAL )  
COMPATIBILITY AND PUBLIC )  
NEED IS REQUIRED FOR A 26.4 )  
MEGAWATT AC SOLAR )  
PHOTOVOLTAIC ELECTRIC )  
GENERATING FACILITY IN )  
SIMSBURY CONNECTICUT )

PETITION NO. 1313

SEPTEMBER 26, 2017

**DWW SOLAR II, LLC'S FIRST SET OF INTERROGATORIES**  
**TO THE TOWN OF SIMSBURY, CONNECTICUT**

The petitioner, DWW Solar II, LLC (“DWW”), respectfully submits this First Set of Interrogatories to the Town of Simsbury, Connecticut (“Town”), a party in the above-referenced Petition. Please respond to these interrogatories by October 3, 2017.

- Q1:** Please refer to the “Northern Gateway” section of the Simsbury 2007 Plan of Conservation and Development (POCD), which can be found at: [https://www.simsbury-ct.gov/sites/simsburyct/files/file/file/adopted\\_pocd.pdf](https://www.simsbury-ct.gov/sites/simsburyct/files/file/file/adopted_pocd.pdf). The Northern Gateway section begins on p. 85 of the POCD. Please also refer to the map entitled “Special Areas Reference Map” which can be found at: [https://www.simsbury-ct.gov/sites/simsburyct/files/file/file/special\\_areas\\_ref.pdf](https://www.simsbury-ct.gov/sites/simsburyct/files/file/file/special_areas_ref.pdf), and is attached as Exhibit A hereto. Please describe the types of projects the Town is seeking to have developed as part of the Northern Gateway targeted development.
- Q2:** Please refer to the Economic Development section of the POCD (starting on p. 105) and the map entitled “Economic Development Plan,” which can be found at: [https://www.simsbury-ct.gov/sites/simsburyct/files/file/file/economic\\_development.pdf](https://www.simsbury-ct.gov/sites/simsburyct/files/file/file/economic_development.pdf), and is attached as Exhibit B hereto. Is the industrially-zoned area of the map labeled “North End” available for industrial development? Would such industrial development be consistent with the POCD? Why or why not?
- Q3:** The Town has labeled “various tobacco fields and barns: Firetown Road, Hoskins” on its list of “Character Places” on p. 46 of the POCD. Please confirm that a portion of this particular “Character Place” is zoned for industrial development by the Town of Simsbury.

- Q4:** Please refer to p. 3 of Ms. Heavner’s written testimony. Please describe in detail all of the Connecticut “public money” and/or “incentives” that are being provided to the Project.
- Q5:** Please refer to p. 3 of Ms. Heavner’s written testimony which discusses “supporting sustainable energy and preserving open space, forests and farms.” What processes in the Siting Council’s certification proceedings would afford a higher level of review for the issues of “preserving open space, forests and farms” than is currently being provided in this Petition process? Please describe in detail the higher level of review for these three areas that would be provided through a certification proceeding.
- Q6:** Please describe in detail all state incentives and benefits the current owner of the Project site received under Public Act 490 as referenced on p. 3 of Ms. Heavner’s written testimony.
- Q7:** Please explain your rationale for the contention, as articulated on p. 4 of Ms. Heavner’s written testimony, that a shading study will be of assistance to the Siting Council as it evaluates this Petition.
- Q8:** Please refer to p. 4 of Ms. Heavner’s written testimony, as well as the “Historic Resources” section of the POCD, which can be found at: [https://www.simsbury-ct.gov/sites/simsburyct/files/file/file/adopted\\_pocd.pdf](https://www.simsbury-ct.gov/sites/simsburyct/files/file/file/adopted_pocd.pdf). The Historic Resources section begins on p. 33 of the POCD. Please also refer to the map entitled “Historic Points and Places” which can be found at: <https://www.simsbury-ct.gov/sites/simsburyct/files/file/file/nrhp.pdf> and is attached as Exhibit C hereto. Please identify all historic structures that are located on the Project site and are specifically delineated as historic points and places in either the text of the POCD or the map of historic points and places attached hereto as Exhibit C.
- Q9:** Please provide all mechanisms by which the Town can limit the use of the property that is the subject of this Petition to agricultural uses only.
- Q10:** Please refer to p. 5 of Ms. Heavner’s testimony. Please provide all information in the Town’s possession concerning Dr. Martin Luther King’s: 1) work at or 2) use of, the barns located on the Project site.
- Q11:** To the Town’s knowledge, is any portion of the Project site registered with the National Register of Historic Places?
- Q12:** If the answer to Interrogatory Number 11 is no, please provide the justification for standards used by the Simsbury Historic District Commission in its August 9, 2017 evaluation of the Project.
- Q13:** Why has the Town not submitted a “multiple property nomination for Simsbury’s historic farm buildings” as articulated by the Simsbury Historic District Commission in its August 9, 2017 evaluation of the Project, even though this issue has been recognized since at least 2009?

- Q14:** Please refer to the January 16, 2012 *Middletown Press* article entitled, “Martin Luther King Jr.’s Time in Simsbury Evokes Awe,” which can be found at: <http://www.middletownpress.com/news/article/Martin-Luther-King-Jr-s-time-in-Simsbury-evokes-11828680.php> and is attached as Exhibit D hereto. According to that article, a dormitory in which Martin Luther King, Jr. lived while he worked tobacco fields in Simsbury “was destroyed by fire in February 1984 as part of a training exercise for volunteer firefighters.” Please provide, as articulated by the Simsbury Historic District Commission, all of the “consideration of cultural resources” that was “an integral part of the town planning and design review” that was completed prior to the Town’s decision to use Dr. King’s dormitory as a training exercise.
- Q15:** The *Middletown Press* article notes that information concerning the burning of the dormitory was available on the Simsbury Fire Department website. Is such information still available on the website? If so, please provide the website address where such information is located.
- Q16:** If the information related to the burning of the dormitory is no longer available on the Simsbury Fire Department website, please provide the following:
- The date such information was first placed on the website;
  - The date such information was removed from the website;
  - The rationale for removing the information from the website;
  - The individual(s) responsible for the removal of such information from the website;
  - A copy of any iterations of the website, whether “live” internet pages or archived, that contain information related to the burning of the dormitory; and
  - Any descriptions and/or pictures in the possession of the Town of Simsbury that relate to the burning of the dormitory used by Dr. King.
- Q17:** The *Middletown Press* article references claims by Ernest G. Shaw that Dr. King did not work in the tobacco fields in Simsbury, Mr. Shaw contends that Dr. King worked in the dormitory that was the subject of that article. Please provide all information in the Town’s possession that refutes that statement by Mr. Shaw.
- Q18:** How many tobacco barns in the Town are currently slated for demolition? Why are they being slated for demolition?
- Q19:** How many tobacco barns in the Town have been demolished in the past ten years? Why were they demolished?
- Q20:** How many tobacco barns in the Town have been demolished or destroyed in the past ten years as a result of neglect, vandalism or fire?
- Q21:** Does the Town building inspector, Public Works, or Planning and Land Use Departments have policies, memoranda or official documents regarding the

treatment of the tobacco barns, including the potential safety situations and/or criminal activity involved with these sites? If so, please provide copies of such materials.

- Q22:** Please provide a summary of all emergency service calls, including calls to the police and/or fire departments relating to tobacco barns in Simsbury, including vandalism, trespassing and fire complaints.
- Q23:** Please provide a summary of all noise complaints, trespassing complaints and similar complaints received by the Town for the Project site for the last five years as those complaints may relate to the unauthorized use of the Project site by persons other than the owner and/or operator of the Project site.
- Q24:** Please provide examples of previous uses of tobacco sheds for “interpretive exhibit space” by the Town of Simsbury.
- Q25:** In his August 3, 2017 letter to Jerome Shea, Mr. Robert Carr states that “environmental and property use information for the Meadowood property may be pertinent to the proposed solar facility project.” Is the reliance on the information related to the Meadowood property permissible for determinations under the Connecticut Remediation Standard Regulations (RCSA §§ 22a-133k-1 through 22a-133k-3) and/or the Connecticut Site Characterization Document promulgated by the Connecticut Department of Energy and Environmental Protection?
- Q26:** If the answer to Interrogatory Number 25 is yes, please provide the legal and/or regulatory basis for such reliance.
- Q27:** Please provide a list of all chemicals that were used at the Project site and a list of all chemicals that were used at the Meadowood site.
- Q28:** Please provide all environmental testing and/or environmental reports in the possession of the Town or the possession of Zuvic Carr and Associates relating to the Project site or the Meadowood site.
- Q29:** Please provide all information in the possession of the Town or the possession of Zuvic Carr and Associates that demonstrates that the Project site is an “establishment” as that term is defined by the Connecticut Transfer Act, Conn. Gen. Stat. §22a-134 *et seq.*
- Q30:** If the site would not be considered an “establishment” under the Connecticut Transfer Act, please identify all statutes and regulations which would require the undertaking of any remedial actions at the Project site, based on information in the possession of the Town or Zuvic Carr and Associates.
- Q31:** On p. 2 of his July 27, 2017 letter to Jerome Shea, Mr. Robert Carr states that the Phase I Environmental Site Assessment (“ESA”) performed by DWW “was conducted as a requirement by law (i.e., CGS Section 16-50k, 22a-134a-134g, etc.).

**Please provide the basis for that statement. Specifically, please provide the following information:**

- **A citation to where in section 16-50k it states that DWW, or any applicant, must conduct a Phase I ESA;**
- **The basis for the implication that DWW is subject to the requirements of section 16-50k;**
- **A citation to where in sections 22a-134a-134g it states that DWW must conduct a Phase I ESA; and**
- **Any information in the possession of the Town or Zivic Carr and Associates that DWW will be a “certifying party” as that term is defined under the Transfer Act.**

**Q32: Did Mr. Chad Frost attend a meeting of concerned abutters, hosted by Mr. James D. Rabbitt, on July 26, 2017 for the purpose of discussing potential visual impacts associated with the Project and desired landscaping of the residents in the area? If so, please provide a summary of Mr. Frost’s impressions of that meeting.**

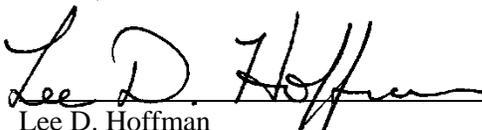
**Q33: Please provide a summary of the issues that were discussed at the July 26, 2017 meeting referenced in Interrogatory Number 32.**

**Q34: Please refer to p. 3 of Ms. Heavner’s written testimony. What is the basis for the summary statement “As we understand the State’s rationale, the Simsbury site was not optimal for promoting renewable energy in Connecticut because it is located on prime agriculture soils and the cost for the energy produced was too high.”**

**Q35: Please provide an estimate of costs for the landscaping proposal recommended by Mr. Chad Frost.**

**Q 36: Please provide the name and employer of every individual who prepared or assisted in the preparation of the responses to these interrogatories.**

Respectfully Submitted,  
DWW Solar II, LLC

By:   
Lee D. Hoffman  
Pullman & Comley, LLC  
90 State House Square  
Hartford, CT 06103-3702  
Juris No. 409177  
860-424-4300 (p)  
860-424-4370 (f)  
[lhoffman@pullcom.com](mailto:lhoffman@pullcom.com)  
Its Attorney

**CERTIFICATION**

I hereby certify that on September 26, 2017, the foregoing was delivered by electronic mail and/or regular mail, postage prepaid, in accordance with § 16-50j-12 of the Regulations of Connecticut State Agencies, to all parties and intervenors of record, as follows:

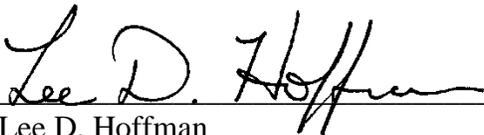
Jesse A. Langer  
Robert M. DeCrescenzo  
Updike, Kelly & Spellacy, P.C.  
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New Haven, CT 06510  
Counsel for the Town of Simsbury

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Counsel for the CT Dept. of Agriculture

Jason Bowsza  
Connecticut Department of Agriculture  
450 Columbus Blvd.  
Hartford, CT 06103

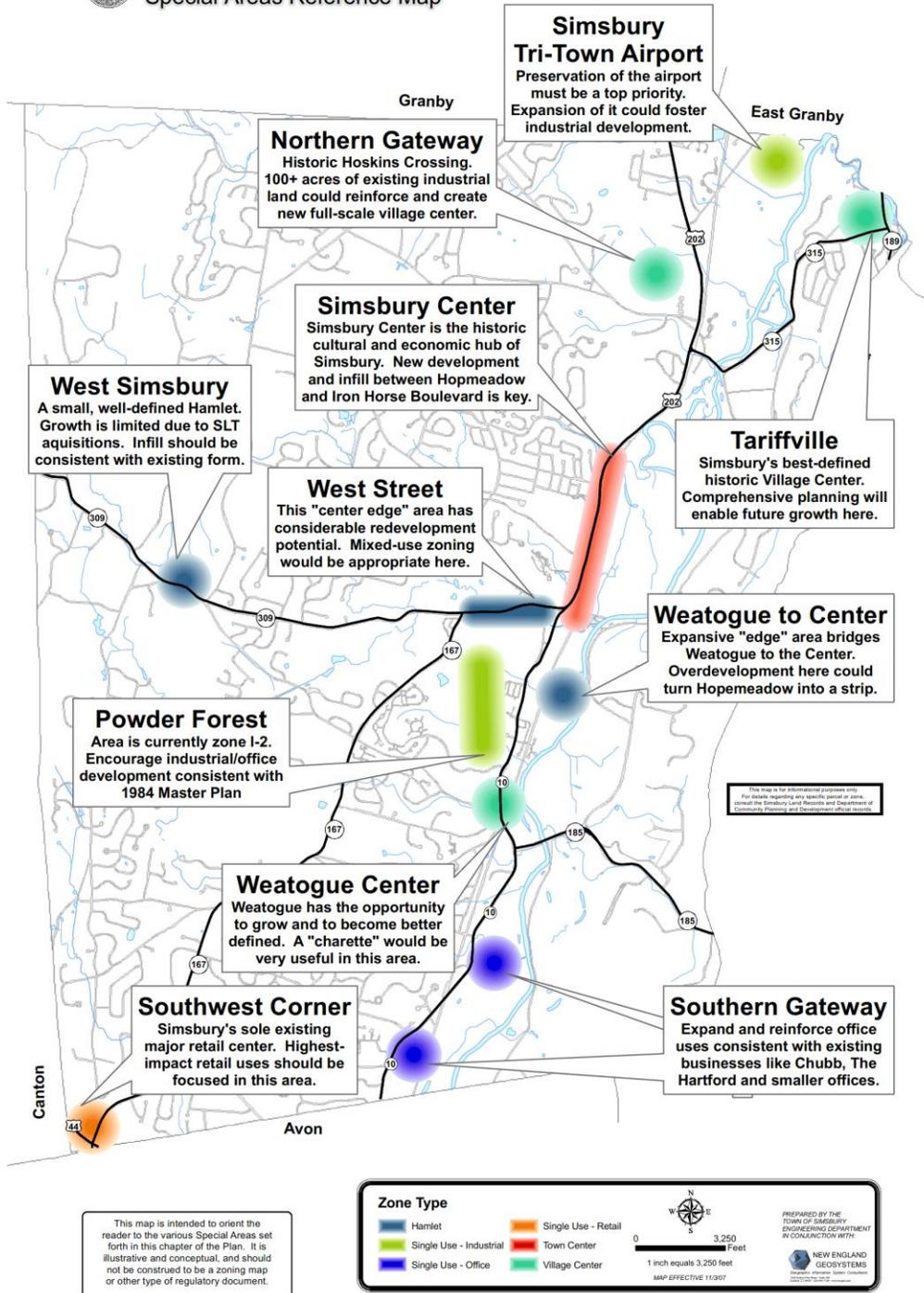
Alan M. Kosloff  
Alter & Pearson, LLC  
701 Hebron Avenue  
P.O. Box 1530  
Glastonbury, CT 06033

  
\_\_\_\_\_  
Lee D. Hoffman  
Commissioner of the Superior Court

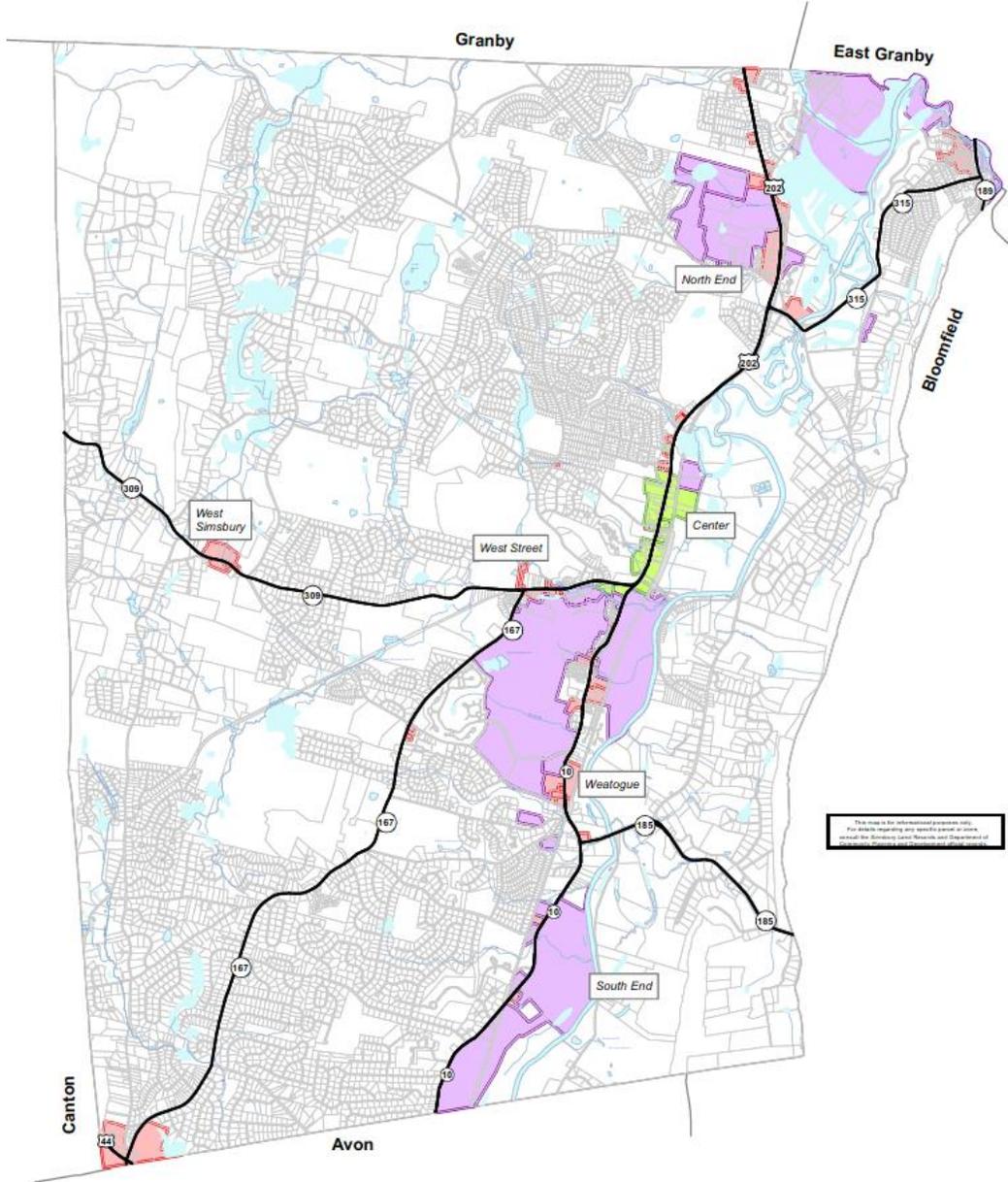
# Exhibit A

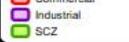


## Town of Simsbury Special Areas Reference Map



# Exhibit B

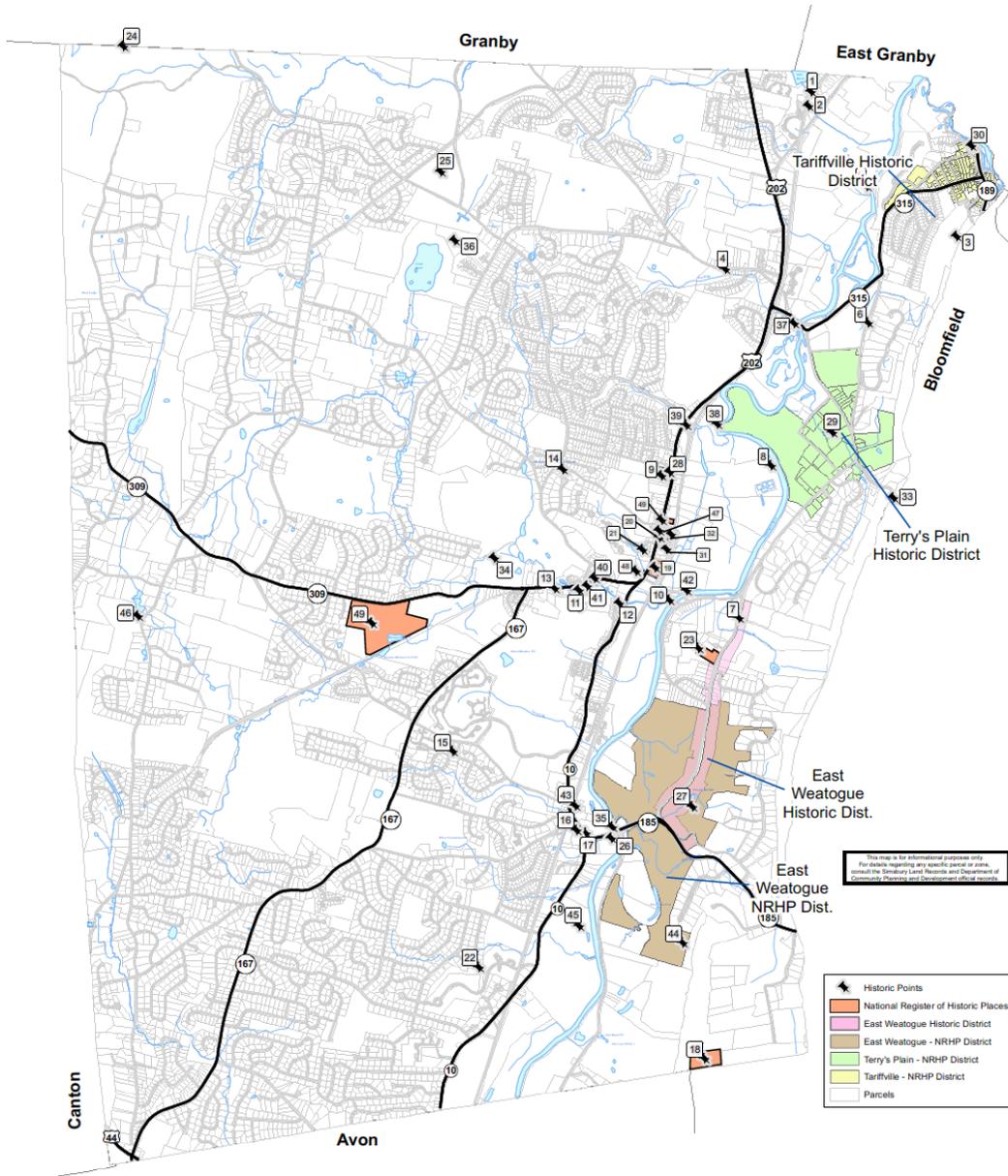


<b>Legend</b>		 0 3,250 Feet 1 inch equals 3,250 feet MAP EFFECTIVE 11/3/21	DESIGNED BY THE TOWN OF SIMSBURY ENGINEERING DEPARTMENT 45 COLKINGTON RD. #10 NEW ENGLAND GEOSYSTEMS 2021/07/20/2021
Zoning Class at Present Time Commercial Industrial SCZ			

# Exhibit C



## Town of Simsbury Historic Points and Places



- |  |   |  |   |
|--|---|--|---|
| 1. Town Farm Cemetery                    | 13. Cooper Smelter and Steel Mill         | 26. Manto Meadow                             | 39. Probable Location of Potash Works   |
| 2. Stone Railroad Arch at Town Farm      | 14. Mindwell Adams Marker                 | 27. Old Fuse Factory                         | 40. Stone Quarry                        |
| 3. Bartlett Tower                        | 15. Jared Bradley Marker                  | 28. Militia Training Ground                  | 41. Calvin Barber Stone Quarry          |
| 4. Cullman Brothers Inc. Dormitory       | 16. Civil War Monument                    | 29. Militia Training Ground                  | 42. Ferry Site 1673                     |
| 5. Governor's Bridge Railroad Crossing   | 17. White Memorial Fountain               | 30. Carpet Company                           | 43. Probable Location of Indian Fort    |
| 6. Stone Quarry at Quarry Road           | 18. Heublein Tower - NRHP                 | 31. Central New England Station - NRHP       | 44. King Phillip's Cave                 |
| 7. Russell Marker                        | 19. Cannon Medical Center - NRHP          | 32. New Haven and Northampton Station - NRHP | 45. American Sumatra Tobacco Plantation |
| 8. Peat Road Ferry                       | 20. Eno Memorial Hall - NRHP              | 33. Wintonsbury Road                         | 46. Stoddard Reservoir 1907             |
| 9. Horace Belden/ Central Schools - NRHP | 21. Englewood (Simsbury 1820 Home) - NRHP | 34. Wire Mill                                | 47. Simsbury Bank and Trust - NRHP      |
| 10. Old Drake Hill Bridge - NRHP         | 22. Farmington Canal - NRHP               | 35. 1734 Toll Bridge                         | 48. Boy Scout Hall - NRHP               |
| 11. Saw and Grist Mills at Hop Brook     | 23. John Humphrey House - NRHP            | 36. Cullman Brothers Inc. Plantation         | 49. Massaso Forest Pavilion - NRHP      |
| 12. Canal Arches Over Hop Brook          | 24. Pifferside Cider Mill                 | 37. Bissell's Landing                        | 50. Phelps Tavern - NRHP                |
|  | 25. First Fairground                      | 38. 1788 Bridge                              |   |

This map is for informational purposes only. For details regarding any specific parcel or area, consult the Secretary Land Records and Department of Community Planning and Development official records.

**Legend:**

- Historic Points
- National Register of Historic Places
- East Weatogue Historic District
- East Weatogue - NRHP District
- Terry's Plain - NRHP District
- Tariffville - NRHP District
- Parcels

Scale: 1 inch equals 3,250 feet

Map Effective 11/3/07

## Exhibit D

The Middletown Press

<http://www.middletownpress.com/news/article/Martin-Luther-King-Jr-s-time-in-Simsbury-evokes-11828680.php>

### Martin Luther King Jr.'s time in Simsbury evokes awe

Clennon L. King Published 12:00 am, Monday, January 16, 2012



IMAGE 1 OF 4

In February 1984, Simsbury volunteer firefighters set fire to "The Morehouse" where King lived as a teenager, as part of a training exercise. Contributed photo

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SIMSBURY -- Lynne Sloan never lived in civil rights battlefields like Atlanta, Montgomery, Birmingham, Selma or Memphis.

But the registered nurse, wife and mother from Simsbury was pinching herself last week at the thought that the Rev. Martin Luther King Jr., as a teenager, lived, worked and preached on the footprint of her subdivision.

<http://www.middletownpress.com/news/article/Martin-Luther-King-Jr-s-time-in-Simsbury-evokes-1182868...> 9/25/2017

"It's really amazing," said Sloan, who, with her husband, Mark, lives across the street from 8 Scarborough Road, outside town in the heart of what was once a shade tobacco farm where King worked at age 15 and later as an 18-year-old. "We were feeling like we are walking in the same footsteps as he once walked."

According to the Simsbury Fire Department website, King lived in a tobacco workers' dormitory owned by cigar maker Cullman Brothers Tobacco in the summers of 1944 and 1947. The building was the summer home to scores of students attending Morehouse College in Atlanta, who worked on the tobacco farm as a way of earning money for college.

The dormitory was destroyed by fire in February 1984 as part of a training exercise for volunteer firefighters. Pictures of the three-story building engulfed in flames are on the department's website, along with a map of the dormitory, showing where King lived, worked in the kitchen and preached.

The footprint of where the dormitory once stood is in the backyard of 8 Scarborough Road, according to Simsbury High School Principal Neil Sullivan, who lives two doors down.

Sullivan learned of the historic significance of the lot after history teacher Rich Curtiss, who was working on a student documentary about King's time in Simsbury, shared an old photo of the dorm's location, which he compared in relationship with the subdivision.

"It was pretty stunning," said Sullivan. "I brought the aerial photos home to show my kids and took a walk up there."

Last spring, Pat and Christine Egan moved onto the historic site as the third owners of the 5,000-square-foot, seven-bedroom home at 8 Scarborough Road.

"It's nice that we are in some way connected to an important figure in history," Pat Egan said.

"It just seems so amazing that we are living on the same property that Dr. Martin Luther King walked on," said Karen Somerville, a neighbor of the Egans.

In two of four 1944 letters, with misspellings and poor punctuation, King hints at life at the dormitory, which, according to the Fire Department website, was referred to as "The Morehouse."

In a June 11 letter to his mother, Alberta Williams King, he wrote, "Sunday morning we had church in the boat house and I lead it," adding, "I an the religious leader I have to speak on some text every Sunday to 107 boys we really have good meetings."

<http://www.middletownpress.com/news/article/Martin-Luther-King-Jr-s-time-in-Simsbury-evokes-1182868...> 9/25/2017

A week later, on June 18, King wrote again to his mother, saying, "My job in the kitchen is easy I just do the extra work I give out the lunches and serve what ever they have to drink"

The three-story dorm was constructed in 1938 by the late John Mirrick, a former Simsbury fire chief and general contractor, who put an addition on the building in 1946.

Pictures of a similar tobacco workers' dormitory that Mirrick built for Cullman Brothers are featured in the student documentary film, "Summers of Freedom: the Story of Martin Luther King Jr. in Connecticut."

The film, produced by Simsbury High School students, which the Sloans' daughter assisted with, will be screened today as a part of Simsbury's second annual King Day festivities.

The program, which begins at 1 p.m. at Eno Memorial Hall on Hopmeadow Street, is free and open to the public.

Attorney T.J. Donohue, trustee of the Simsbury Free Library, which is co-sponsoring the film, said this year's program will include a special announcement of a gift to build a permanent memorial to King.

The need for the monument appears justified, since few know of King's presence in Simsbury nearly 70 years ago.

William M. Hayes, president of the Greater Boston Morehouse Alumni Association, thought the famous alumnus first came to New England in the '50s to attend Boston University's divinity school, not in the '40s to work in the tobacco fields of Connecticut to earn money for college.

Hayes wasn't alone.

Tobacco heiress Susan Cullman of Stamford, whose late father, Edgar, ran the family-owned tobacco farming empire, admitted that she had no knowledge of King working for her family.

Simsbury High School 11th-grader Damali Scipio, 16, who moved to town three years ago with her Trinidad-born mother, Corrine Wilson, said King's historic ties to her new hometown was news.

"Yes, I'm surprised, because it's a predominantly white area," said Scipio.

In a town with an African-American population still less than 2 percent, Simsbury has always been tolerant of black tobacco workers, including the Morehouse students, said resident Ernest G. Shaw, 82.

<http://www.middletownpress.com/news/article/Martin-Luther-King-Jr-s-time-in-Simsbury-evokes-1182868...> 9/25/2017

Shaw, who is six months younger than King would have been, and was living in Simsbury in 1944 and 1947, remembers Morehouse students visiting his congregation at First Church of Christ, Congregational, which King had attended.

"The colored boys, they came in and sang to us in church, and they did something I never saw before," he said. "They made change out of the collection plate."

However tolerant, local authorities, according to Shaw, enforced an ordinance at the time that prohibited the tobacco workers, who had no cars, from venturing on or into private property or businesses.

"They didn't want these kids in people's yards," Shaw said. "They wanted them to stay on the highway unless they had business in the store."

Shaw, who was familiar with the Scarborough Road dormitory site, also questioned its historic significance in relationship to the 15-year-old King.

"He didn't do anything special," said Shaw, noting King didn't work in the tobacco fields. "It's (the dormitory) immaterial."

Principal Sullivan disagreed. "If the dorm was still there, we'd save it," he said.

Attorney Donahue echoed Sullivan's sentiments about King.

"He is the most important person who walked here in Simsbury."

*Clennon L. King is a freelance journalist and photographer. An Albany, Ga., native, King spent the bulk of his career as a TV news reporter and later anchor in Dallas, Atlanta, Miami and Jacksonville. A father of two, he lives in Plymouth, Mass.*

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**H E A R S T**

<http://www.middletownpress.com/news/article/Martin-Luther-King-Jr-s-time-in-Simsbury-evokes-1182868...> 9/25/2017