ConnectGen Montgomery County LLC

Mill Point Solar I Project

Matter No. 23-00034

STATEMENT OF JUSTIFICATION FOR LOCAL LAW WAIVER REQUESTS

APPENDIX 24-5

Revised December 2024

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Acronym List

CLCPA	Climate Leadership and Community Protection Act
CO2	Carbon dioxide
HDD	Horizontal directional drilling
In	Inch
kW	Kilowatt
kV	Kilovolt
MW	Megawatt
NRCS	Natural Resources Conservation Service
NYCRR	New York Codes, Rules and Regulations
NYS	New York State
NYSAGM	New York State Department of Agriculture and Markets
NYSDEC	New York State Department of Environmental Conservation
ORES	Office of Renewable Energy Siting
PEA	Panel Exclusion Area
POI	Point of Interconnection
PV	Photovoltaic
ROW	Right-of-way
SF	Square feet
Siting Board	New York State Board on Electric Generation Siting and the Environment
SWPPP	Stormwater Pollution Prevention Plan
USACE	United States Army Corps of Engineers
USDA	United States Department of Agriculture
VIA	Visual Impact Assessment
VP	Viewpoint

The Applicant has designed the Facility to comply with the local substantive requirements to the maximum extent practicable as demonstrated in Revised Exhibit 24, nevertheless the Applicant is requesting waivers of applicable substantive requirements and standards contained within certain sections of the Town of Glen local laws as identified below. These requirements and standards are unreasonably burdensome because, if the Facility had to comply, it could not be constructed and operated as proposed. Consequently, the Facility would be incapable of delivering the numerous benefits it brings to the State in the form of clean renewable energy and the overly stringent nature of these local requirements jeopardizes the feasibility and positive environmental impact intended by the proposed 250-megawatt (MW) Facility. In addition, compliance with some of these requirements and standards would impose additional, unnecessary costs which would make the Facility unfeasible to construct and operate. Finally, the requirements and standards are more restrictive than the uniform standards and conditions contained in 19 New York Codes, Rules and Regulations (NYCRR) Part 900-6.1 et. seq. and Section 94-c regulatory standards that have already been determined to minimize potential impacts to public health and the environment. The potential impacts imposed on the community if waivers are granted in these circumstances are minor to nonexistent, and the costs of applying these provisions outweigh any benefits which may be achieved. Waiving the provisions of the local law identified below ensures renewable energy facilities, such as the proposed Facility, can continue to contribute to the State achieving its climate energy mandates and goals without the limitations and costs of these requirements.

Revised Exhibits 17 and 18 of the Application describe the Facility's environmental benefits, consistency with the state's energy policy, and contribution toward Climate Leadership and Community Protection Act (CLCPA) mandates; those discussions are incorporated by reference herein to support the waiver of the provisions identified below. In adopting the CLCPA, the legislature characterized climate change as an existential threat to the "economic well-being, public health, natural resources, and the environment of New York" (CLCPA Section 1(1)). The environmental and social harms posed by global climate change have long motivated the State's aggressive clean energy policies, as have the potential economic harms, which have gained recent attention in the New York State Department of Environmental Conservation's (NYSDEC's) efforts to estimate the value of carbon as part of the agency's implementation of the CLCPA. For example, experts estimate that air pollution and climate change cost each American on average $2,500 per year in health care, the burden of which fall disproportionately on vulnerable communities. As demonstrated in this Application, renewable energy facilities such as Mill Point Solar I offer significant environmental, public health, and community benefits, and will aid the State in

transitioning from carbon-emitting electric generation which has negative impacts on wildlife, birds, and human health, toward a carbon-free energy future. As further described in Revised Exhibit 17, the Facility will benefit the State of New York in contributing to the CLCPA targets, as well as consumers who will benefit from clean renewable energy generation. It is estimated that at least 217,280 tons of carbon dioxide (CO2) emissions will be offset by the proposed Facility per year, which is enough power to meet the annual electricity needs of 33,724 homes. See Revised Exhibit 17 for further information regarding the Facility's consistency with energy planning objectives.

In designing the Facility, the Applicant conducted a comprehensive site assessment starting with a preliminary screening to identify areas with favorable conditions suitable for solar energy generation. The Town of Glen was identified as suitable for utility scale solar given its proximity to existing transmission infrastructure with available capacity to support the Facility (National Grid's existing Marcy to New Scotland 345 kilovolt (kV) transmission line) and a strong solar resource. Once the potential parcels within the Town were identified, the Applicant initiated negotiations with landowners for the acquisition of necessary land rights through leasing or other agreements. Upon securing participation from a sufficient number of landowners throughout the proposed Facility Site, the Applicant then proceeded to conduct a more detailed environmental assessment of the identified parcels including conducting the necessary pre-application surveys and studies required by the Section 94-c regulations (i.e., wetland and stream delineations, avian surveys, and cultural surveys). Once the environmental assessment was complete, the Applicant began designing the Facility, positioning arrays, developing access roads, and determining the locations of collection lines and other essential infrastructure. The design process was highly comprehensive, taking into account factors such as avoidance of environmentally sensitive resources, adherence to local regulations, cost to build, potential energy production, and compliance with the stringent requirements of Section 94-c.

It was through this process that the Applicant was able to optimize a layout that would maximize energy production efficiency while balancing these other factors. The Facility has been refined extensively based on input from stakeholders and the results of key resource studies and environmental assessments. The Facility Site (acres of parcels participating in the Project) acreage totals 2,665.59 acres and through the design process the Applicant was able to efficiently site the Facility fence line on 1,124.09 acres, essentially reducing the size to 42.2 percent of the Facility Site. The siting process considers Section 94-c setbacks, local laws and setbacks, and environmental constraints. See Revised Exhibits 2 and 17, and Revised Appendix 15-3 for further details on the iterative design process and the Applicant's efforts to avoid, minimize, and mitigate

impacts through careful Facility design. Areas without panels are either areas with other environmental resources (i.e., wetlands) or are panel exclusion areas (PEAs). PEAs represent areas within the Facility Site where the Applicant lacks necessary real property rights to install photovoltaic (PV) panels (See Revised Figure 6). These may represent areas where the landowner has agreed to an easement only agreement and/or areas where the participating landowner did not provide the Applicant with rights to construct aboveground facilities and/or areas where the Applicant agreed not to site panels based on feedback from the Town of Glen and the local community.

In addition, as mentioned above, the Facility was designed to avoid the Hamlet District and the Glen Historic District to comply with Section 5(1) of the Town of Glen Solar Law (2022), see the PEA on Revised Figure 5 and Revised Figure 6.

The iterative process does not look at each local law or each environmental impact in a vacuum. Instead, the Applicant reviews the Facility Site as a whole, determining where to best place components while minimizing environmental impacts and adhering to local laws to the maximum extent practicable. The Applicant also must ensure the Facility is efficient and economic. As the Applicant demonstrates below, imposing stringent local regulations that limit the placement of components or scale of the Facility would result in a decrease in its overall capacity and put its economic viability at risk. Reducing the Facility's production, for an unreasonably burdensome local law, directly undermines the Facility's potential to generate the maximum amount of clean, renewable energy. Consequently, less renewable energy would be available for the State's energy consumers, hampering progress toward the State's renewable targets and reducing the positive environmental impact of the Facility overall. In turn, this would also cause the State to need more energy facilities to achieve its goals, resulting in an overall increase in environmental impacts across the State, as no project can be built with zero impacts.

Pursuant to Section 900-2.25(c), an Applicant seeking a waiver of local laws must justify, with facts and analysis, that the burden imposed on the Facility by the local law is unreasonably burdensome. This justification requires a discussion of the degree of burden caused, why the burden should not be borne by the Applicant, that the request cannot reasonably be obviated by design changes to the Facility, that the request is the minimum necessary, and that the adverse impacts of granting the request are mitigated to the maximum extent practicable. Requests may be based on existing technology, factors of costs or economics and/or the needs of consumers for the Facility. Each request below is based upon these considerations, although the Applicant did identify the main

consideration for each request, the Applicant's request for waivers overall is grounded in the need to balance local requirements with broader environmental and regulatory objectives, including real property and environmental constraints and achieving the CLCPA mandates. The Applicant provided language at the beginning of each waiver request identifying if the waiver requested was a full, limited, or partial request. The Applicant used the term "full" when requesting a waiver to the totality of the section of the local law as outlined in Appendix 24-1. The term "partial" is used for when the Applicant is asking for a waiver for part of a local law. The term "limited" is used when the Applicant is requesting a waiver on specific parcels or resources, dependent on the wording of the local law.

Overall, as shown below, the Town of Glen Solar Law (2022) includes provisions which individually and collectively are unreasonably burdensome on the Facility. The Applicant has prepared Revised Figures 1 and 5, which highlight these siting constraints and demonstrate that it would be impossible to build the Facility and comply with these provisions, and that compliance with one provision would correspondingly increase impacts to another provision. For example, reducing impacts to forests would increase impacts to agricultural lands and vice versa. In order to achieve the Project Sponsor's proposed 250 MW nameplate capacity, the Facility simply cannot be constructed or designed in a manner to eliminate the need for the below waiver requests. If the waivers are not granted, as the analysis below demonstrates, the Facility would only be able to achieve a fraction of its currently proposed size needed to economically develop and interconnect the Facility, making the below laws unreasonably burdensome as every MW of renewable energy and every ton of carbon emissions avoided is critical. At least one Section of the Town of Glen Solar Law (2022) (Section 5(4) regarding agricultural use) would eliminate approximately 90 percent of the proposed Facility, and another (Section 5(2)(b)(i) regarding setbacks) would eliminate more than 128 MW from the Facility. In essence, complying with these provisions individually is challenging from a design standpoint, but when combined, they effectively prohibit utility scale solar in the Town, see Revised Figure 5. Regardless, as set forth below for each waiver request, the Applicant has demonstrated the efforts taken to meet the Town's requirements to the maximum extent practicable and has designed the Facility to avoid and minimize impacts where possible.

In addition, it's important to note that areas without panels are either areas with environmental resources (i.e., wetlands and areas of slopes greater than 15%) or are PEAs. (i.e., collection easement only, Hamlet District of Glen or other areas requested to be excluded by landowners,

see Revised Figure 6). In addition, the Facility was designed to avoid the Hamlet District to comply with the Town of Glen Solar Law (2022).

A statement of justification for each local substantive requirement requiring a waiver identified by the Applicant is below. The statements of justification demonstrate the degree of burden caused by the requirement, why the burden should not reasonably be borne by the Applicant, that the request cannot reasonably be obviated by design changes to the Facility, that the request is the minimum necessary, and that the adverse impacts of granting the request are mitigated to the maximum extent practicable consistent with applicable requirements set forth in the Section 94-c regulations.

This Statement of Justification is based upon the exhibits in the Application, which have been prepared by qualified experts in their fields (e.g., sound, visual, and engineering) and upon the experience of Mill Point Solar I, including but not limited to the below members of the Mill Point Solar I team, who helped prepare this Statement of Justification:

- Andrew Barrett, Manager of Development at Repsol
- Nicole Tran, Preconstruction and Engineering Manager at Repsol
- Kala Laughlin, Senior Manager, Environmental Affairs at Repsol
- Casey Pearce, Senior Environmental Scientist at TRC
- Tegan Kondak, Strategic Account Director at TRC
- Barry Masterson, Senior Visualization Specialist at TRC
- Aesa Kailas, Senior GIS Analyst at TRC
- Patrick Martin, PE, Civil Engineer at TRC

The Applicant submits that the provisions identified below are unreasonably burdensome in view of the CLCPA targets and environmental benefits of the proposed Facility – some provisions would threaten the feasibility of the Project, while others impose additional costs which are unnecessary and not in line or in conflict with State standards. By contrast, the burdens imposed on the community if a waiver were granted for these provisions are minor to nonexistent, as described more fully below. Overall, the waivers requested include waivers of local law provisions pertaining to setbacks, lot coverage, slopes, clear cutting, visual screening, and decommissioning requirements. For the reasons outlined herein, ORES should grant the waivers requested.

Waivers sought of the Town of Glen Solar Law (2022) due to technological limitations

Each of the below listed waivers were identified as environmental and design constraints which limit the Applicant's ability to comply with the local laws identified below while maintaining energy production. Reducing the Facility's energy production, for an unreasonably burdensome local law, directly undermines the Facility's potential to generate the maximum amount of clean, renewable energy. As the Applicant demonstrates below, imposing stringent local regulations that limit the placement of components or scale of the Facility would result in a decrease in its overall capacity. Consequently, less renewable energy would be available for the State's energy consumers, hampering progress toward the State's renewable targets and reducing the positive environmental impact of the Facility overall.

A. Section 5(2)(b)(i). Setback requirements

Section 5(2)(b) states:

b. Setback

i. The following table provides parcel line setback requirements for Large Scale (Utility) solar energy systems.

ii. Fencing, access roads, stormwater measures, electrical wiring and conduit (both above and below ground) and landscaping may occur within the setback. The perimeter fencing shall be at least 7 feet high and shall allow for the movement of small wildlife by using fixed-knot woven wire or other wildlife-friendly fencing. Fencing for electrical and mechanical equipment shall be at least seven feet high, as required by the National Electrical Code.

iii. The setbacks for wetlands, ponds, and streams are 100 feet except where streams and or wetlands may need to be crossed by access roads or underground or above ground utilities (100 feet)

iv. Lots owned by Participating Neighbors are considered a single lot for the purposes of the setbacks.

Zoning District	**Front**	**Side**	**Rear**
Rural Residential	500'	500'	500'
Industrial	50'	25'	25'
Commercial	50'	25'	25'
Hamlet	Not Allowed	Not Allowed	Not Allowed

As shown in Revised Exhibit 24, Section 24(f), Table 24-2, Facility components are located only in the Town of Glen's Rural-Residential District. The Facility Site has three parcels partially in the Hamlet District and partially in the Rural-Residential District. However, there are no Facility components sited within the Hamlet District and all components are located in the Rural-Residential District.

In accordance with the Town of Glen Solar Law (2022), the parcels within the Rural-Residential District would require a 500-foot setback around the entire solar arrays. Fencing, access roads, stormwater measures, electrical wiring and conduit (both above and below ground) and landscaping may occur within the setback. The Applicant is requesting partial relief from the Town of Glen Solar Law Section 5(2)(b)(i). Setback requirements. The Applicant is requesting relief from the 500-foot setback requirement for all parcels in the Facility Area where aboveground facility components are sited within the Rural Residential zoning district that are outside of the Hamlet of Glen, see Table 1 below. As stated above, the Applicant is complying with the law with respect to the Facility being sited outside the Hamlet of Glen.

Analysis

Section 94-c requires that for each request that the Applicant show (1) the degree of burden caused by the requirement, (2) why the burden should not reasonably be borne by the Applicant, (3) that the request cannot reasonably be obviated by design changes to the facility, (4) that the request is the minimum necessary, and (5) that the adverse impacts of granting the request shall be mitigated to the maximum extent practicable consistent with applicable requirements set forth in Section 94-c.

(1) Degree of Burden

Revised Figures 1, 2 and 5 show participating parcels and the Facility with a 500-foot setback from non-participating parcels. In accordance with Section 5(2)(b)(iv), "Lots owned by Participating Neighbors are considered a single lot for the purposes of the setbacks"; therefore the 500-foot setback is applied to the outside border of a contiguous block of participating parcels as necessary.

Limiting the Facility to minimum setbacks of 500 feet from parcel boundaries imposes a technological restriction on the Project, making it impossible to build as proposed. As seen in Revised Figures 1, 2 and 5, once the 500-foot setback is applied to the parcels, there remains little

buildable area on the participating parcels, such that the Project cannot be constructed as proposed. For example, the 500-foot setback would eliminate any panels on parcels 52.2-17.111, 67.-1-11, and 67.-3-1. The Project has a proposed generating capacity of 250 MW. Taking into consideration environmental constraints and setbacks, the Project requires a 2,665.59-acre Facility Site area to carefully site the number of solar panels and supporting components necessary to reach this 250 MW generating capacity. Applying a 500-foot setback to non-participating landowners would make at least 1,114.81 acres (42%) of the 2,665.59-acre Facility Site unbuildable for solar. (1,114.81 acres is the area between the applicable Section 94-c "Table 2: Setback Requirements for Solar Facility Components" and the Town law's 500-foot setback requirement from non-participating property lines). The proposed Facility design is composed of multiple PV arrays, each array comprised of a PV "string" sitting atop a tracker. A string is a group of 27 modules connected in-series. A single string of panels is about 30 meters long (approximately 100 feet). If any portion of a given 100-foot string is within this 500-foot setback area, that entire string must be removed from the Project. For example, if 10 feet of a string crosses into the 500-foot setback area, the constraint creates 90 feet of unused space in the buildable area, due to the removal of the full string. Revised Figure 2 shows the areas where the panels overlap the 500-foot setback and Figure 5 shows the strings lost from the Project, if it were to comply with all constraints. Table 1 shows the number of strings and MW loss from the Project, if it were to comply with this law. As shown in Table 1, over 10,500 strings of panels would be lost with full compliance with this setback or 128.66 MWac.

In providing the requested parcel by parcel analysis below, and to avoid confusion, the Applicant has calculated the specific MWac amount lost on each individual parcel and summed them to a total of 128.66 MWac. In rendering 1,114.81 acres of the Facility Site unbuildable for solar panels and eliminating 128.66 MWac of the Project, this 500-foot setback requirement represents, on average a ratio of 8.66 acres lost per 1 MWac lost, in this specific case. Given that ratios of acres lost per MWac lost can vary by parcel and project, and by how a given project developer defines "Facility Site acres" or "buildable acres" or "fence line acres" or some other definition, the Applicant tried to avoid any confusion with this parcel-by-parcel analysis and the actual MWac loss that would result from this 500-foot setback requirement.

Although each project is unique, the Uniform Standards and Conditions have been designed to support safe, reasonable guidelines for solar projects in New York, and ORES has waived similar local laws in other similar proceedings. In the *Homer Solar Energy Center* proceeding (Matter No. 21-00976) the Towns had various setback provisions, including the Town of Solon which had a

500-foot setback from non-participating property lines, which ORES waived as unreasonably burdensome. In the *Bear Ridge Solar* proceeding (Matter No. 21-02104) the Town of Cambria had a 300-foot setback and a 600-foot setback provision, which ORES waived as unreasonably burdensome.

Previous New York Public Service Law Article 10 precedent is also instructive. The New York State Board on Electric Generation Siting and the Environment (Siting Board) has stated that local laws which would prevent a project from being constructed as proposed would be unreasonably burdensome *per se*, and similar prohibitions and limitations inconsistent with State law and policy have been considered unreasonably burdensome. *See* Application of *High River Energy Center*, Case 17-F-0597, Order Granting Certificate of Environmental Compatibility and Public Need, with Condition, Issued and Effective March 11, 2021, pg. 110 (Applicant demonstrated that limiting a large/commercial-scale solar energy system to minimum setbacks of 500 feet from parcel boundaries and 200 feet from wetlands, ponds, and streams imposes a technological restriction making it impossible to build as proposed); Application of *Flint Mine Solar*, Case 18-F-0087, Order Granting Certificate of Environmental Compatibility and Public Need, with Condition, Issued and Effective August 4, 2021, pg. 70; and Application of *Hecate Green*, Case 17-F-0619, Order Granting Certificate of Environmental Compatibility and Public Need, with Condition, Issued and Effective September 28, 2021, pg. 16.

(2) The Burden Should Not Reasonably Be Borne by the Applicant

This request should not be borne by the Applicant as applying the setback would render the Facility unbuildable as proposed. Adherence to this setback would require that the Applicant eliminate approximately 50 percent of the Facility's generation capacity for no clear benefit, as impacts which the setbacks would address are already minimized and mitigated (i.e. visual impacts, See Revised Exhibit 8 and Revised Appendix 5-2). The Applicant has proposed a 250 MW Project at this location because of the existing and available 345 kilovolt (kV) transmission line, which allows larger utility scale projects to more readily and economically interconnect to the transmission grid. The 345 kV line allows applicants such as Mill Point Solar I to take advantage of existing transmission infrastructure that can support larger scale projects, without significant and costly upgrades, thereby helping the State achieve its CLCPA goals more efficiently. Reducing the size of the Facility to comply with the Town setbacks would negate the benefits of the existing transmission infrastructure, penalize the State's consumers, who demand clean renewable energy, and would ultimately require more projects across the State to meet the State's clean energy goals. Ensuring

the Facility can meet its proposed 250 MW capacity without unreasonable burdens such as excessive setbacks aligns with the State's clean energy mandates and allows the Applicant to take advantage of the existing 345 kV transmission line, allowing a more efficient and effective path towards fulfilling the CLCPA mandates.

(3) Request Cannot Reasonably Be Obviated by Design Changes

The Facility cannot be designed to satisfy this requirement. The setbacks are tied to property boundaries and are five times the minimum setbacks established under the Section 94-c regulations (100 feet from nonparticipating property lines). It would be difficult to apply this setback and retain any developable parcels for utility scale solar in the Town and it would be impossible to redesign the Facility in a way to achieve the Applicant's goals and maximize clean energy generation at the Facility Site.

Moreover, the Applicant has carefully designed the Facility to avoid and minimize other environmental impacts including but not limited to wetlands, streams and water bodies, New York State (NYS) threatened and endangered species, visual resources, agricultural resources, and cultural and historic resources in addition to complying with other provisions of the Town of Glen Solar Law (2022) (i.e., avoiding the Hamlet District). The location of the proposed Facility is constrained by these other environmental resources and other provisions of local laws. Therefore, design changes to comply with the Town's 500-foot setback would be impractical and lead to additional environmental impacts, as more parcels would be needed to achieve the Project's energy production goals. See Revised Figures 1-5. See also Revised Exhibit 2 which provides an overview of the Applicant's avoidance, minimization, and mitigation efforts.

(4) Request Is the Minimum Necessary

The request is the minimum necessary as the Applicant has designed the Facility to comply with the 500-foot setbacks to the maximum extent practicable. See Revised Figure 2. There are 1,114.81 acres within the Facility Site that fall within the 500-foot setback (excluding the ORES setbacks). As depicted in Revised Figures 2 and 5, there are 10,554 strings either fully or partially within the setback that would need to be removed from the Facility in order to fully comply with the Town setback. Areas in the Facility Site within the 1,114.81 acres of overlap without panels are either areas with other environmental resources (e.g.. wetlands; slopes) or are PEAs (collection easement only, the Hamlet District, or areas requested to be excluded by landowners, see Revised

Figure 6). In addition, as mentioned above, the Facility was designed to avoid the Hamlet District to comply with this provision of the Town of Glen Solar Law (2022). See Revised Figure 5.

Parcel by Parcel Analysis

Table 1 shows a parcel-by-parcel analysis of only parcels within the Facility Site where a waiver is being requested, the number of strings lost, and the MW loss by parcel if this waiver is not granted. In many cases, 50-100% of a given parcel would become unusable, reducing the MW size of the project by more than 50% and eliminating several parcels from participating in the Facility entirely (see Revised Figures 2 and 5). PEAs represent areas within the Facility Site where the Applicant lacks necessary real property rights to install PV panels, see Revised Figure 6. These PEAs may represent areas where the landowner has agreed to an easement only agreement and/or areas where the participating landowner did not provide the Applicant with rights to construct aboveground facilities and/or areas where the Applicant agreed not to site panels based on feedback from the Town of Glen and the local community. See Revised Figures 1 through 5 and Revised Figure 6 for PEAs.

Table 1: Parcel by Parcel Analysis of Waiver for Town of Glen Solar Law (2022) Section 5(2)(b)(i) – Setback Requirements

Parcel ID	Waiver Requested (Y/N)	Acreage of Facility Site Lost	Number of PV Strings Lost[2]	MWdc Lost[3]	MWac Lost[4]
51.-1-10	Y	73.84	465	6.78	5.67
51.-1-11	Y	63.44	687	10.02	8.37
51.-1-36.1	Y	52.91	466	6.79	5.68
51.-1-4.22	Y	31.74	316	4.61	3.85
51.-1-4.24	Y	24.82	261	3.81	3.18
51.-1-4.34	Y	5.04	8	0.12	0.10
51.-1-4.81	Y	9.07	33	0.48	0.40
52.-2-17.111	Y	104.54	470	6.85	5.73
67.-1-11	Y	14.76	419	6.11	5.11
67.-1-13.2	Y	83.74	1,088	15.86	13.26
67.-3-1	Y	62.01	335	4.88	4.08
68.-1-22	Y	31.47	579	8.44	7.06
68.-1-23.2	Y	44.00	623	9.08	7.59
68.-1-25.11	Y	48.19	476	6.94	5.80
68.-1-26.1	Y	39.10	259	3.78	3.16
68.-1-26.2	Y	1.56	21	0.31	0.26
68.-1-29.12	Y	81.66	805	11.74	9.81

Parcel ID	Waiver Requested (Y/N)	Acreage of Facility Site Lost	Number of PV Strings Lost[2]	MWdc Lost[3]	MWac Lost[4]
68.-1-34	Y	141.23	1,830	26.68	22.31
68.-1-9.111[1]	Y	38.44	0	-	-
68.-2-1	Y	18.96	160	2.33	1.95
68.-3-1	Y	6.37	15	0.22	0.18
68.-3-3	Y	37.71	83	1.21	1.01
68.-3-5	Y	44.56	543	7.92	6.62
68.-4-2	Y	28.72	220	3.21	2.68
69.-1-1.112	Y	26.93	392	5.72	4.78
Total		**1,114.81**	**10,554**	**153.88**	**128.66**

1 The substation, POI and O&M building are proposed on this parcel. As proposed, the O&M building is over 500 feet from the parcel boundary, however, the substation and the POI are 100 feet from the parcel boundary. There are no panels proposed on this parcel.
2 Each PV string is about 100 feet in length.
3 The MWdc Lost calculation is calculated by multiplying the number of PV Strings Lost by 0.0146, which is the amount of MWdc produced by a single string.
4 MWac is calculated from MWdc, assuming 1.196 Project DC/AC ratio.

(5) Adverse Impacts of Granting the Request Shall Be Mitigated to the Maximum Extent Practicable

The adverse impacts of granting the request are mitigated to the maximum extent practicable as the Facility complies with the setback requirements under Section 94-c which include:

- 100 feet from non-participating residential property lines
- 50 feet from the centerline of public roads and non- participating non-residential property lines
- 250 feet from non-participating occupied residences.

A waiver of the 500-foot setback to non-participants will not result in an increase in potential environmental impacts, as impacts have been mitigated to the maximum extent practicable given the Facility's compliance with the Section 94-c regulations and uniform standards and conditions. The setbacks set forth in the Section 94-c regulations promote safe siting of solar facilities. A setback of 100 feet from non-participating residential property lines and the proposed visual screening plan will minimize and mitigate potential visual concerns (see Revised Exhibit 8, Visual Impacts) and the Facility will meet noise limits (See Exhibit 7 and Appendix 7-10, Noise and Vibration). If the Facility were to comply with this Town law and lose the 1,114.81 acres of the

Facility Site, as detailed above, Mill Point Solar I would, at a high-level, have to find approximately 1,114.81 additional acres to supplement this severely reduced project area and maintain the Project's 250 MWac generating capacity for the New York State grid. The large amount of additional land required reflects the fact that a large, majority portion of the Facility Site that does not directly host solar panels, but is comprised of land that avoids environmentally sensitive areas, complies with 94-c setbacks, respects landowner and local community exclusions, and hosts other Facility components (access roads, fences, buffers, stormwater infrastructure, panel spacing, etc.) that comprise a full and carefully sited utility scale solar facility.

. Finding approximately 1,114.81 additional acres for Mill Point Solar I would require finding many additional landowners in the Town of Glen interested in participating in the Project, and then avoiding the constraints on those additional parcels, which could correspondingly increase other environmental impacts including but not limited to impacts to NYS threatened and endangered species habitat, visual resources, and agricultural resources, making compliance with this requirement more impactful to resources and potential receptors than waiving the requirement.

B. Section 5(2)(b)(iii). Setbacks for wetlands, ponds, and streams

Pursuant to the Town of Glen Solar Law (2022), the setbacks for wetlands, ponds, and streams are 100 feet except where streams and/or wetlands may need to be crossed by access roads or underground or above ground utilities (100 feet). Fencing, access roads, stormwater measures, electrical wiring and conduit (both above and below ground) and landscaping may occur within the setback. See Appendix 24-6, Town of Glen Code Interpretation for Wetland Setback.

Per Section 5(f) of the Town of Glen Solar Law (2022), a wetland is defined as "any jurisdictional or mapped Wetland identified by the NYSDEC pursuant to Article 24 of the Freshwater Wetlands Act or the United States Army Corps of Engineers (USACE) pursuant to the federal Clean Water Act" and a stream is defined as "Any protected stream or navigable water body identified by the NYSDEC pursuant to Article 15 of the Environmental Conservation Law or regulated by the USACE pursuant to the federal Clean Water Act." Ponds are not defined in the Town of Glen Solar Law (2022).

As described further below, the Applicant has designed the Facility to be sited 100 feet from wetlands, ponds, and streams as defined by the Town of Glen Solar Law (2022) to the maximum extent practicable, see Revised Figures 1 and 5. The Applicant provided a wetland delineation report for the Facility Site, see Appendix 14-1. Any ponds that were delineated during that survey

are considered palustrine unconsolidated bottom wetlands (PUB) and are included as necessary in Table 2. Since ponds are not defined in the Town of Glen Solar Law (2022), the Applicant has provided information in Table 2 for both jurisdictional and non-jurisdictional pond features. There are certain limited areas where it was not possible to site components 100 feet or more from wetlands, ponds, and streams, see Table 1. The Applicant is requesting limited relief from the Town of Glen Solar Law Section 5(2)(b)(iii). Setbacks for wetlands, ponds, and streams. The Applicant is requesting relief from the wetlands, streams, and ponds outlined below in Table 2.

Analysis

Section 94-c requires that for each request that the Applicant show (1) the degree of burden caused by the requirement, (2) why the burden should not reasonably be borne by the Applicant, (3) that the request cannot reasonably be obviated by design changes to the facility, (4) that the request is the minimum necessary, and (5) that the adverse impacts of granting the request shall be mitigated to the maximum extent practicable consistent with applicable requirements set forth in Section 94-c.

(1) Degree of Burden

Revised Figure 1 shows all wetlands and streams within the Facility Site that are considered federally regulated, and/or State-regulated as defined by the local law, with a 100-foot buffer to illustrate the Town of Glen Solar Law (2022). Table 2 below shows the distance from each regulated wetland or stream, and each pond from which the Facility is sited and highlights any waivers requested under this provision.

Figure 14-3 of Revised Exhibit 14 and Table 2 below, demonstrate that the POI switchyard is sited 83 feet away from State-regulated wetland (W-NSD-01). Aside from this Facility component, there are no other Facility components sited within 100-feet of a State-regulated wetland, except those allowed under the local law (i.e., fencing, access roads, stormwater measures, electrical wiring and conduit and landscaping). For additional information on state jurisdictional wetland impacts, avoidance and minimization see Revised Exhibit 14.

With respect to federally regulated wetlands and streams, Table 2 below shows the distance from each federally or state regulated wetland and stream, as well as all ponds from which the Facility is sited, highlights any waivers requested under this provision, and shows that the Facility has been sited to minimize the need for waivers from this provision of law. In no instances are prohibited Facility components sited inside delineated wetland boundaries and in all instances the Facility

components are sited at least 50 feet from state and federally regulated wetlands and streams and from all ponds except a man-made pond near the substation (see Table 2). For additional information on federally jurisdictional wetland and stream impacts, avoidance, and minimization see Revised Exhibits 13 and 14.

Table 2. Facility Components and Wetland and Stream Setbacks

Wetland ID	Jurisdiction	Facility Component	Facility Component Setback from Wetland or Stream (feet)	Waiver Requested (Y/N)	Facility Site Acreage Lost	Number of PV Strings Lost [1,2]	MWdc Lost[3]	MWac Lost[4]
Wetland Analysis								
W-JMP-11	USACE	Array Panels	53	Y	3.08	27	0.39	0.33
W-JMP-30	USACE	Array Panels	51	Y	1.44	11	0.16	0.13
W-JMP-31	USACE	Array Panels	51	Y	1.66	22	0.32	0.27
W-JMP-45	USACE	Array Panels	51	Y	19.07	90	1.31	1.10
W-KCF-9	USACE	Array Panels	54	Y	5.60	41	0.60	0.50
W-KCF-14	USACE	Array Panels	52	Y	2.42	25	0.36	0.30
W-NSD-1	USACE/ NYSDEC	POI Switchyard	83	Y	5.21	N/A	N/A	N/A
W-NSD-4	USACE	Substation	74	Y	6.07	N/A	N/A	N/A
W-NSD-23	USACE	Array Panels	53	Y	7.13	49	0.71	0.60
W-NSD-28	USACE	Array Panels	54	Y	1.00	17	0.25	0.21
W-NSD-30	USACE	Array Panels	65	Y	3.10	32	0.47	0.39
W-NSD-32	USACE	Array Panels	98	Y	0.87	1	0.01	0.01
W-NSD-33	USACE	Array Panels	92	Y	1.23	1	0.01	0.01
W-NSD-35	USACE	Array Panels	52	Y	3.45	21	0.31	0.26

Wetland ID	Jurisdiction	Facility Component	Facility Component Setback from Wetland or Stream (feet)	Waiver Requested (Y/N)	Facility Site Acreage Lost	Number of PV Strings Lost [1,2]	MWdc Lost[3]	MWac Lost[4]
W-NSD-56	USACE	Array Panels	94	Y	2.68	2	0.03	0.02
Subtotal Wetland					**64.01**	**339**	**4.94**	**4.13**
Stream Analysis								
S-CIW-2	USACE	Array Panels	55	Y	12.21	20	0.29	0.24
S-CIW-9	USACE	Array Panels	56	Y	1.56	10	0.15	0.12
S-JMP-10	USACE	Array Panels	54	Y	3.47	4	0.06	0.05
S-JMP-14	USACE	Array Panels	54	Y	2.91	13	0.19	0.16
S-KCF-5	USACE	Inverters and Array Panels	54	Y	7.77	9	0.13	0.11
S-KCF-7	USACE	Array Panels	63	Y	0.06	0	0.00	0.00
S-MLM-11	USACE	Array Panels	91	Y	2.84	2	0.03	0.02
S-MLM-12	USACE	Array Panels	86	Y	7.70	7	0.10	0.09
S-NSD-3	USACE	Array Panels	89	Y	10.72	7	0.10	0.09
S-NSD-13	USACE	Array Panels	68	Y	6.25	6	0.09	0.07
S-NSD-16	USACE	Array Panels	54	Y	6.21	18	0.26	0.22
S-NSD-17	USACE	Array Panels	51	Y	6.49	29	0.42	0.35
S-NSD-22	USACE	Array Panels	50	Y	9.57	56	0.82	0.68
S-NSD-23	USACE	Array Panels	51	Y	9.88	18	0.26	0.22

Wetland ID	Jurisdiction	Facility Component	Facility Component Setback from Wetland or Stream (feet)	Waiver Requested (Y/N)	Facility Site Acreage Lost	Number of PV Strings Lost [1,2]	MWdc Lost[3]	MWac Lost[4]
S-NSD-24	USACE	Array Panels	50	Y	2.79	20	0.29	0.24
S-NSD-41	USACE	Array Panels	57	Y	1.21	6	0.09	0.07
S-NSD-42	USACE	Array Panels	52	Y	10.29	112	1.63	1.37
S-NSD-43	USACE	Array Panels	54	Y	0.45	5	0.07	0.06
Subtotal Stream					**102.38**	**342**	**4.99**	**4.17**
Pond Analysis								
W-NSD-69	USACE	Array Panels	50	Y	11.44	23	0.34	0.28
W-CIW-1	NON-JURISDICTIONAL	Array Panels	58	Y	1.41	12	0.17	0.15
W-JMP-15	NON-JURISDICTIONAL	Array Panels	58	Y	1.3	4	0.06	0.05
W-JMP-29	USACE	Array Panels	57	Y	3.40	24	0.35	0.29
W-NSD-54	USACE	Array Panels	59	Y	4.61	44	0.64	0.54
W-NSD-57	NON-JURISDICTIONAL	Array Panels	65	Y	3.81	9	0.13	0.11
W-NSD-59	NON-JURISDICTIONAL	Array Panels	83	Y	1.58	5	0.07	0.06
W-NSD-70	NON-JURISDICTIONAL	Array Panels	58	Y	1.88	14	0.20	0.17
W-NSD-3	NON-JURISDICTIONAL	Substation	32	Y	2.29	N/A	N/A	N/A
Subtotal Total Pond					**31.77**	**135**	**1.97**	**1.65**

Wetland ID	Jurisdiction	Facility Component	Facility Component Setback from Wetland or Stream (feet)	Waiver Requested (Y/N)	Facility Site Acreage Lost	Number of PV Strings Lost [1,2]	MWdc Lost[3]	MWac Lost[4]
Total (Wetlands, Streams, Ponds)					**198.16**	**816**	**11.90**	**9.95**

[1]For PV strings which are overlapped by multiple 100-foot buffers, the allocation of strings lost is assigned to one feature only, favoring a wetland over a stream.
[2]Each PV string is about 100 feet in length.
3 The MWdc Lost calculation is calculated by multiplying the number of PV Strings Lost by 0.0146, which is the amount of MWdc produced by a single string.
4 MWac is calculated from MWdc, assuming 1.196 Project DC/AC ratio.

(2) The Burden Should Not Reasonably Be Borne By The Applicant

The Applicant cannot design the Facility in all circumstances to meet the Town's requirements. As explained throughout this Application, the Facility was designed to avoid and minimize impacts to various environmental resources. Complete avoidance of federal and state wetlands, streams, and their adjacent areas is not achievable due to the topographical constraints, land access, and the presence of other sensitive resources that were considered for avoidance. See Revised Exhibits 13 and 14 for more details on the Applicant's avoidance, minimization and mitigation to water and wetland resources. The Applicant went through a thorough design process to locate the Facility in the least impactful locations overall, considering all the siting constraints that the Applicant must consider including resource availability and environmental impacts. Therefore, in order to meet the Town's wetland and stream setbacks and not increase other environmental impacts, the Facility would have to remove capacity to accommodate the Town of Glen Solar Law (2022). Otherwise, relocation of the Facility to accommodate the law could increase impacts on other parcels that will also have environmental considerations, as more parcels will be needed to meet the proposed generation capacity of the Facility. For example, extending the setback to follow the Town law for wetland W-JMP-45 would remove over 1,000-kilowatt (kW) of installed capacity from that single location which would then need to be located elsewhere to achieve the Facility's proposed capacity (see Table 2). Extrapolated across the Facility Site, additional acres would be required in order to build the Project. This is due to the buildable area and the length of Facility equipment. The proposed Facility design is composed of multiple PV arrays, each array comprised of a PV "string" sitting atop a tracker. A string is a group of 27 modules connected in-series. A single string of panels is about 30 meters long (approximately 100 feet). If any portion of a given 100-foot string is within this 500-foot setback area, that entire string must be removed from the Project. For example, if a single string tracker is about 30 meters long (approximately 100 feet) and 10 feet of this length crosses the setback area, the constraint creates 90 feet of unused space for the Project. This multiplies across the site for the multiple areas where panels may cross into the 100-foot buffer for wetlands. Overall, the Facility would lose 198.16 acres of the Facility Site and 9.95 MWac if panels were required to be removed to comply with this local law. Revised Figures 1 and 5 and Table 2 demonstrate the areas where features have been avoided and where impacts are unavoidable.

Moreover, the Town's setbacks do not necessarily provide further protection to wetlands and streams. For example, USACE-jurisdictional wetland W-NSD-69 is not a forested wetland, nor does it have steep banks; it does not have sensitive ecological features on its periphery. Applying a 100 feet setback to this wetland would not reduce impacts to the wetland and would only serve to create

areas of unusable land for no additional benefit. Nor is this a requirement under Federal law. On balance, there are a myriad of State and Federal wetland and stream laws and regulations designed to ensure protection of those resources and permit programs that allow impacts in certain instances with commensurate mitigation. The Applicant expects the provisions of State and Federal law to minimize potential impacts.

(3) Request Cannot Reasonably Be Obviated By Design Changes

As explained above and in Revised Exhibit 14, wetlands within the Facility Site are widespread and occur in a broad range of types including large wetland complexes, swales, forested and shrubby wetlands, ditches, depressions, and ponds. While the Applicant made several changes to the Facility design throughout the design process in order to avoid and minimize impacts to State- and Federally-regulated wetlands and State-regulated adjacent areas, due to the wide-ranging extent of wetlands within the Facility Site, and other constraints such as topography, sensitive resource areas, and land access, complete avoidance of wetland resources and meeting the Town's setback requirements is not feasible. Additional avoidance of wetlands within the Facility Site would result in the disturbance of forested land by requiring tree clearing and grading (see Revised Exhibit 11 for a discussion of the extent of tree clearing at the Facility Site) which would also conflict with the Town of Glen Solar Law (2022) or would reduce the array coverage which would reduce the Facility's proposed generating capacity.

(4) Request Is The Minimum Necessary

The request is the minimum necessary as the Applicant sited the Facility to comply with the local law to the maximum extent practicable and has avoided, minimized and mitigated impacts to wetlands and streams to the maximum extent practicable. In no instance will components covered by this setback requirement be closer than 50 feet to any jurisdictional stream or wetlands. For additional information on wetland and stream impacts, avoidance and minimization see Revised Exhibits 13 and 14. As shown in Table 2 above, the request is the minimum necessary.

(5) Adverse Impacts Of Granting The Request Shall Be Mitigated To The Maximum Extent Practicable

The Applicant has avoided, minimized and mitigated impacts to wetlands and streams to the maximum extent practicable, in accordance with the requirements of the Section 94-c regulations. With respect to wetland impacts, the Applicant has prepared a Draft Conceptual Wetland Mitigation Plan to compensate for permanent impacts to State regulated wetlands and their associated 100-foot adjacent areas. (See Revised Appendix 14-4). For additional information on wetland and

stream impacts, avoidance and minimization see Revised Exhibits 13 and 14 of this Application. The adverse impacts of granting this waiver request are no greater than the impacts analyzed in Revised Exhibits 13 and 14 and no additional minimization or mitigation is required.

C. Section 5(2)(c)(a). Maximum Lot Coverage

Section 5(2)(c)(a) states:

The same Maximum Lot Coverage for Public or Private Utility Facility without buildings (20 percent) shall apply. By way of example, lot coverage would be calculated as follows:

- Each Panel = 89.96 inches (in) Long by 44.61 in Wide
- 89.96 in @ 25deg mounting angle = 81.53 in
- 81.53 in x 44.61in = 3637in sq = 25.26 SF (square feet)
- 25.26 SF x 12,688 modules = 320,499 SF = 7.357 Acres
- 7.357 Acres / 47.658 acres = 15.44%

According to the Lot Coverage definition in the solar law, the lot coverage restriction is to address storm water runoff. Lot Coverage – For Solar Only is defined as:

> "Solar panels are considered a disconnected impervious surface when water running off a panel is discharged to a pervious surface (e.g. turf, crop, perennial vegetation). Although the surface of solar panels is considered to be impervious, the solar panels as a whole qualify as disconnected impervious when a) there is pervious surface between each panel, and b) there is pervious surface beneath each panel. As rainfall drips off the solar panel's surface, some of it will infiltrate the pervious surfaces before it reaches an impervious surface such as a gravel path or road. Since Ground-Mounted Solar Energy Systems generally do not include much impervious surface, and since lot coverage requirements are designed, in large part, to reduce impervious surfaces and the run-off they create, this Solar Law measures lot coverage for a Ground-Mounted Solar Energy System by its actual impervious footprint, which results in a smaller measurement than the square footage of the solar panels."

The Applicant is requesting either full relief as the local law is written for a technology that is not being proposed for the Project or limited relief from the Town of Glen Solar Law Section 5(2)(c)(a). Maximum Lot Coverage if the Office will apply this local law to tracking panels. As it is outlined below the local law is written for a fixed-tilt solar panel whereas the Applicant is proposing a tracking panel for the Facility. If the Applicant applies a 0 percent tilt assumption on the tracking panels,

four parcels (67.-1-11, 67.-1-13.2, 68.-1-26.2 and 68.-1-22) would be over maximum lot coverage allowed under this law, see Table 3.

Analysis

Section 94-c requires that for each request that the Applicant show (1) the degree of burden caused by the requirement, (2) why the burden should not reasonably be borne by the Applicant, (3) that the request cannot reasonably be obviated by design changes to the facility, (4) that the request is the minimum necessary, and (5) that the adverse impacts of granting the request shall be mitigated to the maximum extent practicable consistent with applicable requirements set forth in Section 94-c.

(1) Degree of Burden

The mounting angle of tracking panels, such as the technology proposed for the Facility, is not a fixed angle making compliance difficult to calculate given the example provided in the Town of Glen Solar Law (2022). Throughout the day the panels for this Facility will be at various different angles and there is no set mounting angle, therefore is it technologically impossible to comply with this provision of the law and calculate lot coverage since it may change throughout the day. At maximum tilt (60 degrees), none of the parcels hosting panels would exceed the 20 percent lot coverage. At zero-degree tilt, 4 parcels would be between 20 and 29 percent lot coverage, see Table 3. Assuming a stationary mounting angle of 25 degrees, as the example provides in Section 5(2)(c)(a) of the Town of Glen Solar Law (2022) law, one parcel (68.-1-26.2) would exceed 20 percent lot coverage. This parcel is only 2 acres in size which accounts for the higher percentage of coverage. The landowner of this parcel should not be penalized just because they have a smaller lot size, especially by a law that does not apply to the technology being used. However, again the Facility will not remain stationary at any mounting angle and will move according to the needs of the Facility to generate maximum energy.

(2) The Burden Should Not Reasonably Be Borne By The Applicant

This request should not be borne by the Applicant as the tracking panels are not stationary such that a lot percentage can be reliably and equitably calculated under the law. The lot coverage requirement in the local law implies that the solar panels will be stationary throughout the day, however the Applicant is proposing tracking panels that will adjust their orientation and tilt throughout the day to maximize energy production. This dynamic technology contradicts the

stationary nature mandated by the lot coverage requirements, making it challenging to calculate compliance with this Section of the Town of Glen Solar Law (2022).

(3) Request Cannot Reasonably Be Obviated By Design Changes

As explained above, the Applicant cannot design the Facility to meet the Town's requirements as the Facility is installing tracking panels and does not have a set mounting angle. Even if the Applicant were to assume a stationary mounting angle, for purposes of calculating the lot coverage, redesigning the Facility to meet an arbitrary calculation could lead to an unreasonable and inequitable result, potentially resulting in the loss of production or an increase in environmental impacts as the Applicant would be required to use additional parcels to meet the production goals of the Facility. Forcing the Applicant to redesign the Facility to comply with a requirement that is not applicable to the specific technology being installed would be inherently unreasonable.

(4) Request Is The Minimum Necessary

The request is the minimum necessary as the Facility has been designed to install tracking panels which increase water infiltration, minimizing the impact of stormwater runoff compared with traditional fixed solar panels. Tracking panels support better established vegetation by allowing more sunlight to consistently reach the vegetation as the panels rotate. Additionally, the changing position of the panels changes the drip lines, contributing to improved water distribution around the vegetation. The tracking panels themselves will address some of the Town's concerns regarding stormwater runoff and the Facility will adhere to stormwater management practices as explained further below. Moreover, as outlined above, only one parcel would exceed the lot coverage requirements assuming the stationary calculation (assuming 25 percent tilt) under the local law.

Parcel by Parcel Analysis

As discussed above, if the Applicant applies a zero percent tilt assumption on the tracking panels, four parcels (67.-1-11, 67.-1-13.2, 68.-1-22, and 68.-1-26.2) would be over maximum lot coverage allowed under this law. Table 3 shows a parcel-by-parcel analysis of these four parcels and the lot coverage for zero percent tilt, 20 percent tilt, 40 percent tilt and 60 percent tilt using the equation provided in the Town Law. As stated further above, given that the Applicant is proposing tracking panels for the Facility, even these four parcels may only exceed the 20 percent maximum lot coverage allowed under this law during limited time periods, given that the tilt angle of the tracking panels will change throughout the day, and not remain static at zero percent tilt.

Table 3: Parcel by Parcel Analysis of Waiver for Town of Glen Solar Law (2022) Section 5(2)(c)(a) – Maximum Lot Coverage

Parcel ID	Parcel Acreage	Waiver Requested (Y/N)	Lot Coverage Assuming 0 Percent Tilt	Lot Coverage Assuming 20 Percent Tilt	Lot Coverage Assuming 40 Percent Tilt	Lot Coverage Assuming 60 Percent Tilt
67.-1-11	34.61	Y	20.12%	19.14%	16.28%	11.83%
67.-1-13.2	148.80	Y	21.05%	19.52%	16.60%	12.06%
68.-1-22	100.69	Y	21.49%	20.44%	17.39%	12.64%
68.-1-26.2	2.00	Y	28.42%	27.04%	23.00%	16.71%

(5) Adverse Impacts Of Granting The Request Shall Be Mitigated To The Maximum Extent Practicable

Unlike buildings, solar panels do not lead to excessive runoff of rainwater which could cause flooding and erosion. Pervious land cover vegetation will be established beneath the solar arrays and within the overall Facility Site, which will allow for continued infiltration of stormwater runoff. In areas of the Facility Site that are currently used for agricultural purposes, the proposed vegetated ground cover beneath the arrays will allow for greater infiltration and treatment than areas regularly disturbed by agricultural practices. See Revised Exhibit 13. Moreover, the adverse impacts of granting the request are mitigated to the maximum extent practicable as the Applicant will adhere to the Facility's Stormwater Pollution Prevention Plan (SWPPP) and the Facility will be designed in accordance with the New York State Stormwater Management Design Manual to manage stormwater runoff from the developed Facility. The preliminary SWPPP (Revised Exhibit 13, Revised Appendix 13-3) provides information on stormwater management practices, including erosion and sediment control (temporary and permanent vegetative and structural measures), construction phasing and disturbance limits, waste management and spill prevention, and site inspection and maintenance.

D. Section 5(4). Agricultural Resources

Section 5(4) states: "For projects located on agricultural lands and in accordance with the Comprehensive Plan, the Town of Glen does not support conversion of productive farmland to

support grid-supply facilities. When proposed on an active farm located within the New York State (NYS) Certified Agricultural District in Glen, a utility-scale solar energy system may occupy up to 20% of any farmed parcel but in no case shall exceed 10 acres. Arrays shall be located on a parcel in such a manner as to avoid, to the maximum extent feasible, soils classified as prime farmland by the United States Department of Agriculture (USDA), NYS, or the Natural Resources Conservation Service (NRCS)."

The Applicant is requesting partial relief from the Town of Glen Solar Law Section 5(4). Agricultural Resources. As it is outlined below in Table 4, the application of this local law would impact every parcel that the Facility is currently sited on and would result in detrimental loss of MW for the Facility with respect to the lot coverage portion of the law. The Applicant has located arrays on parcels in a manner to avoid, to the maximum extent feasible, soils classified as prime farmland by the USDA, NYS or the NRCS (see Revised Exhibit 15 for details).

Analysis

Section 94-c requires that for each request that the Applicant show (1) the degree of burden caused by the requirement, (2) why the burden should not reasonably be borne by the Applicant, (3) that the request cannot reasonably be obviated by design changes to the facility, (4) that the request is the minimum necessary, and (5) that the adverse impacts of granting the request shall be mitigated to the maximum extent practicable consistent with applicable requirements set forth in Section 94-c.

(1) Degree of Burden

The Applicant is seeking a waiver of the lot restriction portion of the Town of Glen Solar Law (2022) which states: “When proposed on an active farm located within the New York State (NYS) Certified Agricultural District in Glen, a utility-scale solar energy system may occupy up to 20% of any farmed parcel but in no case shall exceed 10 acres”.

As outlined in Revised Exhibit 15, the Applicant has avoided and minimized impacts to active farmland to the maximum extent practicable. However, the 20%- or 10-acre limitation outlined in Section 5(4) of the Town of Glen Solar Law (2022) is unnecessarily restrictive and like the Town’s proposed setback provisions, requires additional acreage to accommodate the Facility as more land will be required to meet the energy production goals for the Facility. Moreover, this provision conflicts with other sections of the law, which prohibit tree clearing and placement of panels in wetland areas, for example.

Much of the suitable land for solar development in the Town of Glen is active agricultural land, located within the NYS Certified Agricultural District and classified as USDA-NRCS prime farmland soils. The few areas in the Town not located in a NYS Certified Agricultural District, include the Hamlet District, which the Town precludes solar from being located in. In fact, much of the land within 5 miles of the Facility Site is in a NYS Certified Agricultural District. Figure 3-6 in Revised Exhibit 3 depicts agricultural district land within the Facility Site and 5-mile Study Area.

Of the 37 parcels within the Facility Site, 34 parcels are located within the Montgomery County Agricultural District 3, and of those, 25 are classified as both a NYS Certified Agricultural District and are field-verified active agricultural land (i.e., defined in Section 900-2.16(b)(1) as lands involved in the production of crops, livestock, and livestock products for three (3) of the last five (5) years). Active farmland was determined though onsite observations, the Agricultural Landowner Survey conducted by the Applicant, and historic aerial imagery via Google Earth.

Table 4 outlines the 25 parcels within the Facility Site that are designated as both a NYS Certified Agricultural District and active agricultural land and indicates the allowable acreage of Facility according to Section 5(4) of the Town of Glen Solar Law (2022). For each parcel, 20% of parcel acreage or 10 acres (if 20% of a parcel's acreage is greater than 10 acres) was considered the usable acreage. The usable acreage multiplied by the project average Acres/MW value (4.08 acres/MWdc) determined the allowable MWdc that could be sited on a parcel's usable acreage under the Town Law. Each parcel's allowable MWdc was subtracted from the parcel's MWdc in the Issued for Permit design to determine the MWdc lost from each parcel. The MWdc lost of each parcel was divided by the project DC/AC ratio (1.196) to determine the MWac lost on each parcel.

Table 4. Agricultural Resources

Parcel ID	Parcel Acreage	Acreage Within Fence Area	Percent of Parcel	Allowable Acreage According to the Local Law[1]	Allowable Percentage According to the Local Law[1]	MWac Lost	Waiver Requested (Y/N)
51.-1-10	206.43	87.86	42.56%	10.00	5%	21.57	Y
51.-1-11	112.50	56.98	50.65%	10.00	9%	13.22	Y
51.-1-36.1	92.65	37.96	40.97%	10.00	11%	5.00	Y
51.-1-4.24*	36.39	20.20	55.51%	7.28	20%	2.24	Y
51.-1-4.34*	8.64	1.21	14.00%	1.73	20%	0	N
51.-1-45	135.87	-	-	10.00	7%	Collection Lines	N/A
52.-2-17.111*	199.10	37.44	18.80%	10.00	5%	5.66	Y
67.-1-11	34.61	21.54	62.24%	6.88	20%	3.51	Y
67.-1-12.113	1.96	-	-	0.42	20%	Collection Lines	N/A
67.-1-13.2	148.80	85.27	57.31%	10.00	7%	19.48	Y
67.-1-7	19.87	-	-	4.01	20%	Collection Lines	N/A
67.-3-1	98.32	31.68	32.22%	10.00	10%	1.88	Y
68.-1-22	100.69	68.89	67.62%	10.00	10%	13.25	Y
68.-1-23.2*	117.19	71.97	71.48%	10.00	9%	14.17	Y
68.-1-25.11*	102.27	45.03	44.03%	10.00	10%	7.11	Y
68.-1-26.1	118.26	63.95	54.08%	10.00	8%	10.04	Y
68.-1-26.2	2.00	1.65	82.50%	0.40	20%	0.39	Y
68.-1-29.12	160.09	53.27	33.28%	10.00	6%	12.11	Y
68.-1-34	391.10	223.32	57.10%	10.00	3%	51.87	Y
68.-1-9.111	70.20	4.89	6.97%	10.00	20%	POI Switchyard	N/A
68.-2-1	83.60	45.30	54.19%	10.00	12%	6.96	Y
68.-3-1*	7.07	0.62	8.79%	1.41	20%	0	N
68.-3-3*	70.71	21.71	30.70%	10.00	14%	2.76	Y
68.-3-5	105.84	66.65	62.97%	10.00	9%	12.15	Y
69.-1-1.112	44.75	31.36	70.08%	8.99	20%	4.04	Y
Totals	**2,468.91**	**1,078.75**	**43.69%**	**204.87**	**11%**	**207.41**	**-**

[1] Local Law refers to Town of Glen Solar Law (2022), Section 5(4).
*Indicates that active agricultural land was determined via the Landowner Survey conducted by the Applicant, all others were identified as active agricultural land during onsite field surveys.
For the purpose of this analysis, entire parcels were considered to be active agricultural.
Minor impacts (a total of 1.2 acres) outside of the fenced area calculation above will come from the access roads.

ORES has waived lot restriction requirements in other proceedings as such severe restrictions are contrary to the State's renewable energy goals. For example, in *ConnectGen Chautauqua County*

LLC aka South Ripley Solar (Matter No. 21-00750), ORES waived a restriction of 15 percent, which would have resulted in the loss of 674 buildable acres and a loss of 143 MW. Here, as demonstrated below, the loss would be 873.88 acres and 207 MW. In the *Horseshoe Sola*r proceeding (Matter No. 21-02480) ORES waived a local law that required that no more than 50 percent of Designated Farmland be developed on any individual parcel, or on contiguous participating parcels containing project components. This restriction eliminated 1,166 buildable acres in the Town of Caledonia. Similarly, here the restriction in the Town of Glen would eliminate 873.88 acres from the Facility Site, *alone*, the acres across the Town would be much higher. ORES has also waived a 40 percent lot coverage restriction in *Greens Corners Solar* (Matter No 21-00982), which would have eliminated 109 acres and 15 MWs of capacity, which is less than would be lost here.

(2) The Burden Should Not Reasonably Be Borne By The Applicant

This request should not be borne by the Applicant as 873.88 acres (1,078.75 acres minus 204.87 acres, see Table 2) and approximately 207 MW, accounting for 83 percent of the Facility, would be lost, if the Facility were to comply with the local requirement, making it infeasible for the Project to meet capacity and design goals. The application of the local requirement would prevent the development of this Facility. As can be seen in Table 4 this local law severely limits the available acreage for the Facility on participating parcels and compliance with the local law would render the Facility unbuildable. Only two of the 25 parcels identified in Table 4 can meet the local requirements. Table 4 also highlights that smaller parcels become nearly unusable for the Project, as they are limited to 20 percent of the land, which penalizes landowners with smaller parcels, and also simultaneously highlights how restrictive 10 acres is for larger parcels, allowing larger landowners to only use a small fraction of their land, in one case allowing only 3 percent of the land to be used for the Facility. By having both a 20 percent and 10 acre maximum, the Town has essentially banned utility scale solar on active farmland. The local law greatly reduces the available acreage in the Town to build solar projects, such as the proposed Facility, and the Town's limitation not only impacts the scale of the proposed Facility but also places an undue burden on landowners.

(3) Request Cannot Reasonably Be Obviated By Design Changes

The Facility simply cannot be built to accommodate this Section of the Town of Glen Solar Law (2022), as the Applicant would need to find approximately 850+ buildable acres on parcels that are not currently participating in the Project in order to meet the production and design goals for the Facility. Not only would the Applicant need to find additional acreage, but those acres would also

be subject to the same lot restrictions, resulting in even more parcels being needed for the Facility. As outlined in Revised Exhibit 3 and 15, over 60 percent of the acres within the 5-mile study area are enrolled in a certified agricultural district, making it likely that any additional acreage would be subject to the Town's coverage limitations.

(4) Request Is The Minimum Necessary

The request is the minimum necessary as the Applicant has designed the Facility to avoid and minimize impacts to active farmland, including MSG 1-4 soils, to the maximum extent practicable. Moreover, the Applicant has worked with participating landowners to identify areas for continued agricultural production. See Revised Exhibit 15, Figure 15-4. Of the 2,468.91 acres of field verified active agricultural parcels within an Agricultural District in the Facility Site, 1,390.16 acres (56.31 percent) of land will be available for continued or new agricultural use outside of the fence line. Of the 1,078.75 acres of active agricultural parcels in an Agricultural District within the Facility fenced area, 169.63 acres (15.72 percent) will be impacted during the life of the Facility. The total acreage of active agricultural parcels within an Agricultural District impacted for the development of the Facility represents 0.15 percent of active agricultural land in Montgomery County, and 0.11 percent of agricultural land within the three NYS Agricultural Districts discussed in the Revised Exhibit 15. See Revised Exhibit 15, Section 15(a)(1) and Table 15-2.

For additional information regarding impacts to agricultural land, refer to Revised Exhibit 15, Sections 15(a)(1), 15(a)(4), 15(a)(7), 15(a)(8), 15(b)(6), and 15(c). For further information on land to be retained for agricultural use within the Facility Site, see Revised Exhibit 15, Sections 15(b)(2) and Section 15(b)(3).

Secondly, the Applicant complies with Section 5(4) of the local law which states that "Arrays shall be located on a parcel in such a manner as to avoid, to the maximum extent feasible, soils classified as prime farmland by the USDA, NYS, or NRCS." Within the Facility Site, there are 329.07 acres of USDA NRCS classified prime farmland soils. In effort to comply with this local requirement, the Applicant sited arrays on only 52.53 acres (or 15.96 percent) of prime farmland soils within the Facility Site – thereby, avoiding array panels on 276.54 acres or 84.04 percent of USDA NRCS classified prime farmland soils within the Facility Site. For further information on prime farmland soils within the Facility Site, see Revised Exhibit 15, Sections 15(a)(3) and 15(a)(8).

Throughout the design process for Mill Point Solar I Project, the Applicant worked closely with landowners to site components on specific fields to ensure continued agricultural use in the Town

of Glen and general project area. Based on landowner and community feedback, the Facility has been sited and designed to prioritize the placement of Facility components on contiguous parcels to reduce the fragmentation of agricultural fields and to ensure that agricultural production can remain in production outside of the fence line, for the life of the Facility. Additionally, some landowners have requested PEAs in portions of their leased parcels to continue agricultural practices adjacent to the Facility, therefore, the Applicant did not site components within these areas, which can be seen on Figure 15-4 of Revised Exhibit 15 and are further discussed in Revised Exhibit 15, Section 15(b)(3). Furthermore, the Facility's financial benefits to the landowners provides local farmers with a source of income that will greatly benefit their farming operations by allowing them to continue their farming operations and having a secondary source of income.

(5) Adverse Impacts Of Granting The Request Shall Be Mitigated To The Maximum Extent Practicable

The potential adverse impacts associated with granting this request, to waive the 20%- and 10-acre lot restriction, have been avoided or minimized to the maximum extent practicable by the proposed Facility design. See Revised Exhibit 15 for a discussion on the Applicant's efforts to avoid, minimize and mitigate impacts to active agricultural lands. The total acreage of active agricultural land in a NYS Agricultural District impacted by the development of the Facility represents just 0.15 percent of active agricultural land in Montgomery County, and 0.11 percent of agricultural land within the three NYS Agricultural Districts discussed in the Revised Exhibit 15. Therefore, the 2,468.91 acres of the Facility Site that is composed of active agricultural land within an Agricultural District presents a small fraction of the overall Agricultural District land within the 5-mile Study Area. Designing the Project to meet the local law lot restriction is virtually impossible and would require much greater site control across a much wider area, spreading the Facility across numerous additional parcels, which would only increase environmental impacts, including increased wetland impacts, more agricultural land removed from production, more trees cleared to accommodate the Project and wider spread visual and noise impacts. In efforts to comply with elements of this local requirement, the Applicant avoided or minimized siting solar arrays on USDA NRCS classified prime farmland soils to the extent practicable, resulting in only 52.53 acres (or 15.96 percent) of prime farmland soils under solar arrays – thereby, avoiding arrays on 276.54 acres or 84.04 percent of prime farmland soils within the Facility Site. In addition to avoiding or minimizing impacts to USDA NRCS prime farmland soils, the Applicant has further avoided to the maximum extent practicable impacts to Mineral Soil Groups (MSG) 1-4. Within the Facility Site,

approximately 329.07 acres (12.35 percent) of soils are classified as NYS Agriculture Land Classification's MSG 1-4. Of the 329.07 acres of active agricultural land within MSG 1-4 in the Facility Site, approximately 161.71 acres are within the Facility fenced area and will be limited for agricultural production for the life of the Facility. This is approximately 49.14 percent of the MSG 1-4 within the Facility Site.

Any impacts to these active agricultural lands will be mitigated as the Facility will comply with the Agricultural Plan and New Your State Department of Agriculture and Markets (NYSAGM) Guidelines for Solar Energy Projects – Construction Mitigation for Agricultural Lands (Revision 10/18/2019) (NYSAGM Guidelines) as discussed in Revised Exhibit 15. Mitigation measures include the full restoration of temporarily disturbed land in accordance with the Agricultural Plan and NYSAGM Guidelines. The Project will employ an Environmental Monitor (EM) to be onsite during construction to conduct daily inspections to ensure compliance with agricultural guidelines and best management practices. Following the Agricultural Plan will ensure the Facility avoids, minimizes or mitigates impacts to active agricultural lands within the Facility Site, including those classified as MSGs 1-4. Underground collection lines will be installed at a depth of 48 inches below ground in active agricultural fields to further minimize impacts to active agricultural land. Once installed and the Facility is operational, farmers will be able to continue regular agricultural operations within buried collection line rights-of-way located outside of the solar array fence. Internal access roads have been sited in areas that are not actively used by farmers to the maximum extent practicable. In addition, the Applicant worked with landowners to identify areas of continued agricultural production on Facility parcels, and several Facility parcels will continue some level of agricultural production on their lands during Facility construction and operations. See Revised Exhibit 15 Section 15(B)(3) for more information on these parcels.

Additionally, restored agricultural areas will be seeded as specified by the landowner to maintain consistency with the surrounding areas. Before, during, and after construction soils will be managed with Best Management Practices (BMPs) (silt fence, watered, groundcover, etc.) to minimize erosion. Revised Exhibit 13 describes the BMPs that will be utilized to minimize erosion are depicted on the design drawings in Revised Appendix 5-1.

Moreover, the Applicant has sited the Facility to meet the Town's requirement to avoid and minimize arrays located on soils classified as prime farmland by the USDA, NYS, or the NRCS, to the maximum extent practicable.

See Revised Exhibit 15, Section 15(a)(8) for further information regarding the Applicant's efforts to avoid and minimize arrays located on prime farmland soils.

E. Section 5(5)(a). Slope.

Section 5(5)(a) stats: "Large Scale (Utility) solar energy systems are prohibited in areas that land has slope greater than 15 percent." Solar energy systems are defined under the local law as "as system of components and subcomponents intended for the collection, inversion, distribution of solar energy...this term includes Solar Panel and Solar Energy Equipment". Given the definitions in the local law this provision prohibits components such as solar arrays, fencing, inverters, and collection on slopes greater than 15 percent.

The Applicant is requesting limited relief from the Town of Glen Solar Law Section 5(5)(e). Slope. As outlined below and in Table 6, the Applicant was able to site the majority of the Facilities outside of steep slope areas; however as outlined below and identified in Revised Figure 3; it is impracticable to fully site outside of these areas.

Analysis

Section 94-c requires that for each request that the Applicant show (1) the degree of burden caused by the requirement, (2) why the burden should not reasonably be borne by the Applicant, (3) that the request cannot reasonably be obviated by design changes to the facility, (4) that the request is the minimum necessary, and (5) that the adverse impacts of granting the request shall be mitigated to the maximum extent practicable consistent with applicable requirements set forth in Section 94-c.

(1) Degree of Burden

The Facility has been designed to comply with these requirements to the maximum extent practicable, however there are areas of the design which need to be in areas with slopes greater than 15 percent, therefore there are limited areas were the Applicant is seeking a waiver. Table 3 discusses and Revised Figures 1, 3, and 5 show the areas within the Facility Site where slope is greater than 15 percent. As depicted in purple in Revised Figure 5, complete avoidance of all slopes greater than 15 percent results in an additional significant reduction of buildable area for panel placement. See also Revised Exhibit 10, Figure 10-1 Existing Slopes.

Table 5. Facility Components Sited on Slopes Greater Than 15 Percent

Facility Component	Acreage on Slopes Greater than 15 Percent
Substation	0.02*
Panel Arrays	8.67
Inverters	0.01
Fence	0.41
Total Acreage	**9.11**

*This impact is a result of the substation fence line, which extends into the man-made berm adjacent to the substation.

Throughout the Facility Site, there are a total of 354.13 acres of solar panel arrays, therefore, only 8.67 acres (or 2.45 percent of all solar panel arrays) proposed for the Facility are sited on steep sloped areas.

(2) The Burden Should Not Reasonably Be Borne By The Applicant

This request should not be borne by the Applicant as the Facility has already been designed to comply with this requirement to the maximum extent practicable while still maintaining generating capacity of 250 MW. Complete avoidance of slopes greater than 15 percent for panel arrays would cause islands of unusable land, causing more than just a 9-acre impact (as described in Table 5) to the buildable area due to the length of Facility equipment (panel array trackers). For example, if a single string tracker is about 30 meters long (approximately 100 feet) and 10 feet of this length crosses an area with slope greater than 15 percent, the constraint creates 90 feet of unused space for the Project. This multiplies across the site for the multiple areas where panels may cross a steep slope. See also Revised Exhibit 10, Figure 10-1 Existing Slopes. Calculating the total acreage loss and MW impact from full compliance of this local law would require a complete engineering redesign and is therefore difficult to provide. The MW loss outlined in Table 6 below only includes the direct loss of acreage and panels from removal of full strings as outlined above. Part of the redesign may identify areas where large portions of the Facility Site would become unusable due to the size of contiguous usable land left after considering all setbacks and constraints.

(3) Request Cannot Reasonably Be Obviated By Design Changes

As explained above, the Applicant cannot design the Facility in all circumstances to meet the Town's requirements. In order to avoid slopes greater than 15 percent with panel arrays, the Applicant surveyed the topography of the site with 1 meter contour resolution. With this data, the

Applicant avoided siting trackers on slopes that exceeded 15 percent. However, in select instances, the end of a tracker overlaps with the start of an area with 15 percent slope; for all intents and purposes, the solar trackers are not sited on 15 percent slopes. This Section of the Town of Glen Solar Law (2022) does not apply to access roads, and roads may be sited within areas of 15 percent slope or greater (approximately 1.7 acres). However, the access roads themselves are limited to 12 percent grade or less, in some cases via grading. See Revised Exhibit 5, Section 5(f)(1)(b) for further details on access road design and grading requirements. Routing Project access roads around areas of slopes greater than 15 percent would further increase the amount of additional land required to maintain the Project size, ultimately resulting in more impacts. See also Revised Exhibit 10, Figure 10-1 Existing Slopes.

(4) Request Is The Minimum Necessary

The request is the minimum necessary as the Applicant has avoided slopes greater than 15 percent to the maximum extent practicable. Revised Figure 3 demonstrates that panel arrays and other components have been designed to avoid these areas as much as possible in order to comply with the local law provision. There are a total of 384.66 acres in the Facility Site with slopes greater than 15 percent, however as demonstrated in Tables 5 and 6 Facility components are only located on 9.11 acres of these areas. See also Revised Exhibit 10, Figure 10-1 Existing Slopes.

Parcel by Parcel Analysis

Table 6 shows a parcel-by-parcel analysis of the acreage of each parcel that contains slopes greater than 15 percent, the acreage of the Facility Site lost, and the MW lost if this waiver is not granted.

Table 6: Parcel by Parcel Analysis of Waiver for Town of Glen Solar Law (2022) Section 5(5)(a) – Slope

Parcel ID	Waiver Requested (Y/N)	Facility Component within Slopes > 15 percent	Acreage Where Facility Components are sited on Slopes > 15 Percent (Acreage of Facility Site Lost)	MW Lost
51.-1-10	Y	Array Panels and Fence Line	0.44	0.09
51.-1-11	Y	Array Panels and Fence Line	0.07	0.00
51.-1-36.1	Y	Array Panels and Fence Line	0.25	0.00
51.-1-4.1	N	-	-	0.00
51.-1-4.2	N	-	-	0.00
51.-1-4.22	Y	Array Panels and Fence Line	0.32	0.09
51.-1-4.24	Y	Array Panels and Fence Line	0.59	1.03
51.-1-4.25	N	-	-	0.00
51.-1-4.3	N	-	-	0.00
51.-1-4.34	Y	Array Panels and Fence Line	0.01	0.00
51.-1-4.35	N	-	-	0.00
51.-1-4.4	N	-	-	0.00
51.-1-4.5	N	-	-	0.00
51.-1-4.81	Y	Array Panels and Fence Line	<0.00	0.00
51.-1-4.82	N	-	-	0.00
51.-1-45	N	-	-	0.00
52.-2-17.111	Y	Access Roads and Fence Line	0.30	0.09
67.-1-11	Y	Array Panels	0.16	0.00
67.-1-12.113	N	-	-	0.00
67.-1-13.2	Y	Access Roads and Fence Line	0.12	0.02
67.-1-7	N	-	-	0.00
67.-3-1	Y	Array Panels and Fence Line	0.05	0.00
68.-1-22	Y	Array Panels and Fence Line	1.09	0.13
68.-1-23.2	Y	Array Panels and Fence Line	0.99	0.69
68.-1-25.11	Y	Array Panels and Fence Line	0.21	0.35
68.-1-26.1	Y	Array Panels, Fence Line, Inverters	0.51	0.11
68.-1-26.2	Y	Fence Line	<0.00	0.00
68.-1-29.12	Y	Array Panels and Fence Line	0.16	0.18
68.-1-34	Y	Array Panels, Fence Line, Inverters	1.46	0.34
68.-1-38.1	N	-	-	0.00
68.-1-9.111	Y	Substation and Fence Line	0.02*	0.00

Parcel ID	Waiver Requested (Y/N)	Facility Component within Slopes > 15 percent	Acreage Where Facility Components are sited on Slopes > 15 Percent (Acreage of Facility Site Lost)	MW Lost
68.-2-1	Y	Array Panels, Fence Line, Inverters	0.75	0.23
68.-3-1	N	-	-	0.00
68.-3-2	Y	Fence Line	<0.00	0.00
68.-3-3	Y	Array Panels and Fence Line	0.11	0.00
68.-3-5	Y	Array Panels and Fence Line	1.40	0.25
68.-4-1	N	-	-	0.00
68.-4-2	Y	Array Panels and Fence Line	0.06	0.01
69.-1-1.112	Y	Array Panels, Fence Line, Inverters	0.06	0.23
* The steep slopes associated with the substation parcel are from a man-made berm to a pond on the property.				

(5) Adverse Impacts Of Granting The Request Shall Be Mitigated To The Maximum Extent Practicable

The adverse impacts of granting the request are mitigated to the maximum extent practicable as the Applicant has sited panel arrays outside of slopes greater than 15 percent to the maximum extent practicable and Facility components and associated construction areas generally avoid steeper slopes. In areas with slopes greater than 15 percent the Applicant will grade to achieve a maximum slope of 15 percent. See Revised Exhibit 5, Appendix 5-1, Sheets MPS-C-102-01 through MPS-C-102-46. In addition, the Facility will be designed in accordance with the New York State Stormwater Management Design Manual to manage stormwater runoff from the developed Facility. The preliminary SWPPP (Revised Exhibit 13, Revised Appendix 13-3) provides information on stormwater management practices, including erosion and sediment control (temporary and permanent vegetative and structural measures), construction phasing and disturbance limits, waste management and spill prevention, and site inspection and maintenance.

F. Section 5(5)(c). Clear cutting.

Section 5(5)(c) states: Large Scale (Utility) solar energy systems are prohibited in areas with clear cutting of more than nine acres of trees that are six inches diameter at breast height.

The Applicant is requesting full relief from the Town of Glen Solar Law Section 5(5)(c). Clear Cutting. As outlined below in order to balance the siting constraints of the Town of Glen Solar Law and Section 94-c regulations, tree clearing is minimized but required as part of the Facility Site.

Analysis

Section 94-c requires that for each request that the Applicant show (1) the degree of burden caused by the requirement, (2) why the burden should not reasonably be borne by the Applicant, (3) that the request cannot reasonably be obviated by design changes to the facility, (4) that the request is the minimum necessary, and (5) that the adverse impacts of granting the request shall be mitigated to the maximum extent practicable consistent with applicable requirements set forth in Section 94-c.

(1) Degree of Burden

This provision conflicts with other sections of the law, which discourage the siting of solar projects on farmland, for example, and the Applicant needs to seek a waiver from this provision to accommodate the Facility design. Tree clearing will be limited to the minimum necessary for Facility construction and operation, and the Facility has been designed to minimize tree clearing in areas where existing forested lands provide visual screening from public highways, or within 500 feet of a non-participating residence. However, the Facility as proposed will require more than 9 acres of tree clearing.

Revised Figure 1 shows areas where there are forested lands within the Facility Site. Revised Figure 4 shows areas where tree clearing will be required to accommodate Facility design. Revised Figure 5 shows forested areas as a buildable area constraint. The Facility Site was placed to the maximum extent possible outside of forested areas. However, the Applicant is proposing 100.31 acres of tree clearing within the Facility Site. Note, not all of the 100.31 acres will be trees that are six inches diameter at breast height. However, this clearing is considered forest clearing which includes deciduous and mixed deciduous and coniferous forest. See Revised Exhibit 11(b) for details on forestland within the Facility Site.[1]

[1] Of these 100.31 acres, 0.5875 acres are found within W-NSD-1 which is a wetland feature associated with NYS wetland ID TH-17. These 0.5875 acres of vegetation found within the wetland will be cleared by way of selective clearing. This area is found underneath the proposed transmission line right-of-way (ROW) and only trees that propose a safety risk will be removed from this area (See Figure 14-3, in Revised Exhibit 14).

(2) The Burden Should Not Reasonably Be Borne By The Applicant

This request should not be borne by the Applicant as the Facility has already been designed to comply with this requirement to the maximum extent practicable while still maintaining generating capacity of 250 MW. Prohibiting tree clearing over 9 acres would make at least 91.31 acres (100.31 acres of tree clearing in the Facility Site minus the 9-acre limit) of land in the Facility Site unbuildable for solar, eliminating at least 12.5 MW of energy generation capacity of the proposed Facility if not more. The Applicant has already sited the Facility to avoid as much tree clearing as possible, especially to core forest blocks, however some clearing is needed to site Facility components and ensure the safety of equipment and personnel. For example, 6.32 acres of tree clearing is required for the substation and POI switchyard, which includes access roads, grading, transmission poles and the right-of-way under the proposed generation tie line. To protect this equipment and personnel working in these areas a buffer is required around these components to avoid the risk of falling trees and limbs, and there must also be clearance under the above ground lines to avoid the risk of trees causing interruption to the lines and other serious risks.

(3) Request Cannot Reasonably Be Obviated By Design Changes

As explained above, the Applicant cannot design the Facility in all circumstances to meet the Town's requirements. Revised Figure 4 highlights the areas of tree clearing needed to design the Facility. This clearing is needed to maintain capacity and ensure the Facility can be efficiently sited on the parcels hosting components. Moreover, as stated throughout this Statement of Justification, changing the Facility design to meet the Town's tree clearing requirements would necessarily increase impacts to other resources which would conflict with other provisions of the Town of Glen Solar Law (2022) (i.e. limits to impacts to agricultural land). See Revised Figure 1, which highlights all the constraints imposed by the local law, which make compliance with the provisions unreasonably burdensome, and Revised Figure 5 which highlights the combined constraints of the Town of Glen Solar Law (2022) including forested areas. Moreover, the location of the substation and POI switchyard was chosen due to its proximity to the existing transmission lines, and to minimize impacts to wetlands and visual and noise impacts to neighboring residences. Relocating the substation and POI switchyard to avoid tree clearing would also not be possible due to the location of the existing transmission line, which, as Revised Figure 4 depicts, is located in an area surrounded by core forest blocks and trees. The Applicant has carefully sited the Facility to comply with the local law to the maximum extent practicable and has limited tree clearing to the minimum necessary.

(4) Request Is The Minimum Necessary

The request is the minimum necessary as the Applicant has limited tree clearing to only what is necessary for the construction and operation of the Facility and has largely avoided clearing trees in core forest blocks. 425.11 acres of forestland will remain within the Facility Site following construction of the Facility. Again, applying the Town's tree clearing limit would necessarily increase impacts to other resources and require more land across more parcels in the Town. These additional lands would also have to meet the local law requirements or more waivers would be needed, as highlighted throughout this Statement of Justification.

Parcel by Parcel Analysis

Table 7 shows a parcel-by-parcel analysis of the acreage of clear cutting proposed in each parcel within the Facility Site.

Table 7: Parcel by Parcel Analysis of Waiver for Town of Glen Solar Law (2022) Section 5(5)(c) – Clear Cutting

Parcel ID	Facility Component Requiring Clearing	Acreage of Forested Land	Proposed Acreage of Clearing[1]
51.-1-10	Access Roads, Array Panels, Inverters, Fence Line	69.34	11.19
51.-1-11	Access Roads, Array Panels, Inverters, Fence Line	24.16	4.88
51.-1-36.1	Access Roads, Array Panels, Inverters, Fence Line	6.54	1.61
51.-1-4.1	-	4.79	0.37
51.-1-4.2	-	3.37	0.14
51.-1-4.22	Access Roads, Array Panels, Fence Line, Inverters	7.96	2.21
51.-1-4.24	Access Roads, Array Panels, Fence Line, Inverters	11.79	1.53
51.-1-4.25	-	4.23	0
51.-1-4.3	-	4.20	0.29
51.-1-4.34	Access Roads, Array Panels, Fence Line	1.53	0.36
51.-1-4.35	-	1.58	0
51.-1-4.4	-	3.45	0.15
51.-1-4.5	-	0.18	0.09

Parcel ID	Facility Component Requiring Clearing	Acreage of Forested Land	Proposed Acreage of Clearing[1]
51.-1-4.81	Array Panels, Fence Line	1.61	0.25
51.-1-4.82	-	0	0
51.-1-45	-	18.20	0.65
52.-2-17.111	Access Roads, Array Panels, Fence Line, Inverters	101.76	12.36
67.-1-11	Access Roads, Array Panels, Fence Line, Inverters	2.37	0.03
67.-1-12.113	-	0.17	0
67.-1-13.2	Access Roads, Array Panels, Inverters, Fence Line	4.64	0.85
67.-1-7	-	0.19	0.02
67.-3-1	Access Roads, Array Panels, Fence Line, Inverters	27.28	0
68.-1-22	Access Roads, Array Panels, Fence Line	14.07	4.34
68.-1-23.2	Access Roads, Array Panels, Inverters, Fence Line	1.21	0.56
68.-1-25.11	Access Roads, Array Panels, Inverters, Fence Line	4.51	1.77
68.-1-26.1	Access Roads, Array Panels, Fence Line, Inverters	32.57	3.93
68.-1-26.2	Array Panels and Fence Line	0	0
68.-1-29.12	Access Roads, Array Panels, Fence Line	35.89	1.44
68.-1-34	Access Roads, Array Panels, Fence Line, Inverters	37.80	15.50
68.-1-38.1	-	0	0
68.-1-9.111	Access Roads, POI Switchyard, Substation, Fence Line	30.51	11.69
68.-2-1	Access Roads, Array Panels, Fence Line, Inverters	34.74	11.09
68.-3-1	Array Panels, Fence Line	2.52	0
68.-3-2	Fence Line	0	0
68.-3-3	Access Roads, Array Panels, Fence Line	20.69	3.73

Parcel ID	Facility Component Requiring Clearing	Acreage of Forested Land	Proposed Acreage of Clearing[1]
68.-3-5	Access Roads, Array Panels, Fence Line	6.85	1.10
68.-4-1	-	17.93	1.63
68.-4-2	Array Panels, Fence Line	3.84	2.33
69.-1-1.112	Access Roads, Array Panels, Fence Line, Inverters	5.43	3.53

[1]The 0.78 acres that is not shown for tree clearing onsite is attributable to land along roadway rights-of-way and parcel boundary line minor discrepancies.

For parcels identified in Table 7 above that do not have any "Facility Components Requiring Clearing" the proposed clearing on these parcels is attributable to clearing activities for the following reasons: safety, shading, and collection. The Applicant is committed to the protection of the personnel working in these areas and the safety of the Facility; therefore, additional clearing was necessary to avoid the risk of falling trees and limbs. Clearing of trees is an industry standard practice to reduce the potential effect of tree shading. If trees are located immediately adjacent to the Facility fence line, there is the possibility natural tree shading would cause shading on the solar arrays, thereby reducing the efficiency of the Facility. Therefore, clearing of trees for shading purposes is proposed. In some cases, tree clearing is proposed in areas where no above ground Facility components are sited because of the activities associated with the installation of underground Facility components. The collection lines that run from the inverters to the substation will require tree clearing for the safe and efficient installation of the collection lines throughout the Facility Site.

(5) Adverse Impacts Of Granting The Request Shall Be Mitigated To The Maximum Extent Practicable

The adverse impacts of granting the request are mitigated to the maximum extent practicable. While 100.31 acres of tree clearing will be required to site Facility components, an additional 425.11 acres of forestland will remain within the Facility Site following construction of the Facility. Tree clearing is focused on the edge of forest blocks to facilitate the siting of solar arrays. By focusing clearing efforts in these areas, fragmentation of forested habitat will be limited and impacts to forestland will not be widespread. In addition, the Applicant left existing hedgerows and vegetative barriers where possible, as well as stumps when applicable. Additional information regarding tree clearing can be found on Sheets MPS-C-101-01 through MPS-C-101-46 of the Design Drawings

(Revised Appendix 5-1) and in the Visual Impacts Minimization and Mitigation Plan in Revised Exhibit 8, Revised Appendix 8-1, Section 11.

Of the 100.31 acres of trees proposed to be cut, 14.44 acres will be temporarily disturbed, 83.19 will be permanently converted to other cover types, and only 7.11 acres will be permanently lost due to the siting of components such as access roads, substation and POI switchyard. Temporary disturbance includes clearing for grading and collection line installation during construction that will be restored post-construction, allowing the forestland to naturally re-vegetate during Facility operation. See Revised Exhibit 11, Table 11-2. The majority of the tree clearing proposed is fragmented throughout the Facility Site and is not concentrated in areas of heavy forests, see Revised Figure 4. Of the 66.00 acres of core forest blocks (patches of forest greater than 100 acres) within the Facility Site, only 3.45 acres (or 5.2 percent) of trees are proposed to be cut. See Revised Exhibit 11(c) for additional details on impacts to forestland and the Applicant's efforts to avoid and minimize impacts to forestland. Overall, the design of the Facility minimizes impacts to interior forests, forested wetlands, and early successional forests, resulting in only marginal impacts to these areas, and the Applicant has mitigated these impacts by leaving large areas of core forest blocks in and around the Facility Site undisturbed.

G. Section 5(21)(ii). Site restoration for buried utilities.

Section 5(21)(ii) states, "The site shall be restored to as natural a condition as possible within 12 months of removal. Any disturbed area must be reseeded, and all footings, concrete bases, underground/buried utilities and roadways must be removed, and the property restored to preconstruction condition. Notwithstanding, the property owner may ask the Planning Board for permission to retain the roadways on the site if they have a use for the roadways."

The Applicant is requesting partial relief from the Town of Glen Solar Law Section 5(21)(ii). As outlined below and in Table 24-1 of Revised Exhibit 24 and in Revised Exhibit 23 and Revised Appendix 23-1. Most underground collection lines will be buried less than four (4) feet below ground and will be fully removed at decommissioning. Select Facility components will be buried at a depth of greater than four (4) feet which are primarily horizontal directional drilled (HDD) collection lines crossing beneath roadways, wetlands, or other sensitive features, as well as the concrete pier foundations located at the Project substation and would remain after decommissioning of the Project. The Applicant intends to remove all buried utilities that are part of the Facility site with the exception of utilities buried greater than 48 inches in depth which are related to the boring of collection lines under sensitive resources. These locations are outlined below in Table 8 and in

Revised Exhibit 10, Section 10(a)(4), and Revised Exhibit 5, Revised Appendix 5-1, Sheets MPS-E-401-1 through MPS-E-401-19. In addition, the Applicant commits to the items within the local law with respect to “restor[ing] to as natural a condition as possible within 12 months of removal”.

Analysis

Section 94-c requires that for each request that the Applicant show (1) the degree of burden caused by the requirement, (2) why the burden should not reasonably be borne by the Applicant, (3) that the request cannot reasonably be obviated by design changes to the facility, (4) that the request is the minimum necessary, and (5) that the adverse impacts of granting the request shall be mitigated to the maximum extent practicable consistent with applicable requirements set forth in Section 94-c.

(1) Degree of Burden

Section 5(21)(ii) requires the removal of all above and below-ground equipment, structures, and foundations. The Applicant will remove all aboveground equipment and buried components down to a depth of 48 inches below grade in agricultural lands and 36 inches in non-agricultural lands. However, removal of Facility components that are buried below these depths (mainly collector cabling) would result in significant impacts to the resources beneath which those components are located. Requiring removal efforts to such extensive depths would also extend the scope and duration of decommissioning activities, which would have a disruptive impact on the surrounding host community in the form of additional and prolonged earth disturbance, noise, traffic, additional road impacts from hauling cable and other unnecessary impacts, with no notable benefit to them from doing so. Removal of HDD lines and concrete pier foundations at decommissioning would result in significant impacts to aboveground resources since the removal activity could involve potentially larger excavations under public roads and delineated waterbodies. In addition, their removal would increase the scope and duration of decommissioning activities as any potential unforeseen excavation work could require additional permits.

This concept is recognized by the NYSAGM Guidelines which only requires removal of underground facilities if less than 48 inches deep. It is common practice throughout the state and county to leave underground components in place for this reason.

Few Facility components will be buried at a depth of greater than 48 inches; the components that would exceed that depth are primarily horizontal directional drilled (HDD) or bored collection lines crossing beneath roadways, wetlands, or other sensitive features. Removal of HDD lines at

decommissioning would result in significant impacts to those resources—precisely the kinds of impacts which the Applicant sought to avoid by employing HDD for avoidance. For typical onsite HDD activities, bores begin at the depth of the surrounding collection trench (ranging from 42 to 48 inches). The maximum depth of each HDD bore is customized and variable at each location but will be a minimum of 48 inches below the protected resource.

Removing deep foundation piers and collection conduit installed via HDD beneath roadways, utilities, and wetlands would require additional time, budget, and resources such as haul trucks and wire spools. In addition, removal of the HDD conduit at the time of decommissioning could result in significant impacts to the crossed resources, including impacts that were originally avoided during construction by utilizing HDD for underground installations (see Revised Exhibit 10, Section 10(4)(v) and Revised Exhibit 5, Design Drawings). When removing a bored (via HDD) collection line, a qualified contractor will excavate both ends of the installed conduit, pull the cable from the PVC conduit, and then attempt to remove the conduit from the earth. Removing conduit involves higher risk of surface impact than leaving conduit in place. Given the age of the conduit at the time of decommissioning, it is likely to break or separate at a joint when being pulled out of the ground. This would leave a section of conduit remaining under the road, utility, or wetland that would need to be excavated (via surface trenching) from the stuck position – potentially hundreds of feet from the terminus of the bore. Excavating an isolated section of conduit from under important infrastructure or ecological feature will significantly impact the subject surface feature, potentially requiring road closures, additional permitting and approvals, and enhanced safety measures required for the removal of components at such depths. Even if the conduit is successfully pulled from the borehole, it would create an underground void that could lead to subsidence. Moreover, PVC conduit is not a danger to the natural or built environment and should be left in place. Deep concrete pier foundations, planned only at the project substation, will be 10-25 feet deep. Removing the entire foundation will require a significant excavation around each pier, requiring major ground disturbance. Removing concrete pier foundations only to a depth of 48 inches ensures that the foundation's impact to agricultural activities will be prevented should a property be converted back to agriculture, while minimizing the ground disturbance required to remove the full pier.

(2) The Burden Should Not Reasonably Be Borne By The Applicant

This request should not be borne by the Applicant or consumers who demand renewable energy. The justification for this assertion is grounded in both financial considerations and the technical practical implications associated with this removal requirement. As demonstrated above, the

practical implications of removing the components are more impactful than leaving them in place. Disrupting the existing underground infrastructure may lead to unintended environmental consequences, such as soil disturbance, potential groundwater impacts (see Revised Exhibit 5), and disruption of ecosystems that will have regrown following construction. Leaving components below grade as proposed minimizes environmental impacts overall.

(3) Request Cannot Reasonably Be Obviated By Design Changes

The Facility cannot be designed to avoid the need for this waiver, as the depth of removal of buried Facility components does not relate to design, collection cannot be designed to avoid removal under this Section of the Town of Glen Solar Law (2022).

(4) Request Is The Minimum Necessary

The request is the minimum necessary as the Applicant will remove all Project specific above ground equipment and buried components to a depth of 4 feet below grade in agricultural land which is in compliance with the requirements set in the Section 94-c regulations and NYSAGM Guidelines. The Applicant goes above NYSAGM Guidelines and will remove all ground components with the exception of the piers at the substation at depths greater than 48 inches and all buried collection lines with the exception of HDD bores which alleviates the need for waivers except for those requested in Table 8, below. Leaving components in place below these depths avoids additional and unjustifiable environmental impacts to land resources that would result from the complete removal of buried components, especially since some of these components have been buried to avoid impacts to sensitive resources.

Parcel by Parcel Analysis

Table 8 shows a parcel-by-parcel analysis of the length of underground Facility components to remain in place after decommissioning within each parcel in the Facility Site due to the buried depth over 48 inches.

Table 8: Parcel by Parcel Analysis of Waiver for Town of Glen Solar Law (2022) Section 5(21)(ii) – Site Restoration for Buried Utilities

Parcel ID	Protected Resource	Waiver Requested (Y/N)	Length of Bore (ft)
51.-1-10	N/A	N	0
51.-1-11	N/A	N	0
51.-1-36.1	WJMP45, WKCF16	Y	436.16

Parcel ID	Protected Resource	Waiver Requested (Y/N)	Length of Bore (ft)
51.-1-4.1	N/A	N	0
51.-1-4.2	W-NSD-77	Y	166.96
51.-1-4.22	W-NSD-69	Y	16.83
51.-1-4.24	N/A	N	0
51.-1-4.25	N/A	N	0
51.-1-4.3	N/A	N	0
51.-1-4.34	N/A	N	0
51.-1-4.35	N/A	N	0
51.-1-4.4	W-NSD-72	Y	72.75
51.-1-4.5	N/A	N	0
51.-1-4.81	W-NSD-69	Y	60.49
51.-1-4.82	N/A	N	0
51.-1-45	W-JMP-45, S-MLM-1	Y	184.27
52.-2-17.111	W-NSD-1, W-NSD-4, S-NSD-5, S-NSD-7	Y	1,702.45
67.-1-11	N/A	N	0
67.-1-12.113	N/A	N	0
67.-1-13.2	W-MLM-7, W-KCF-13	Y	119.27
67.-1-7	W-MLM-7, S-MLM-2	Y	382.99
67.-3-1	Public Road	Y	3.01
68.-1-22	Public Road	Y	23.08
68.-1-23.2	N/A	N	0
68.-1-25.11	N/A	N	0
68.-1-26.1	N/A	N	0
68.-1-26.2	N/A	N	0
68.-1-29.12	S-CIW-2	Y	506.47
68.-1-34	Public Road, Landowner Access	Y	104.65
68.-1-38.1	N/A	N	0
68.-1-9.111 *	N/A	Y*	0
68.-2-1	Landowner Access	Y	104.65
68.-3-1	S-MLM-12	Y	115.23
68.-3-2	N/A	N	0
68.-3-3	S-CIW-3	Y	383.23
68.-3-5	S-MLM-12	Y	64.75
68.-4-1	S-NDS-1	Y	306.26
68.-4-2	N/A	N	0
69.-1-1.112	N/A	N	0

* A waiver is requested on parcel 68.-1-9.111 where concrete piers at the substation will be removed to a depth of 48 inches.

(5) Adverse Impacts Of Granting The Request Shall Be Mitigated To The Maximum Extent Practicable

The adverse impacts of granting the request are less than not granting the request since more adverse impacts will occur by removing the components and the Applicant will abide by the decommissioning requirements in Section 900-2.24(c) and 900-10.2(b)(1).

Waivers sought of the Town of Glen Solar Law (2022) due to economics

Each of the below listed waivers were identified as the requirements of the local law place an undue economic burden on the Facility. The project must be economically feasible to attract investment and ensure financial sustainability. If compliance with local laws imposes excessive costs, for no clear benefit, projects will become unviable, as high compliance costs deter potential investors, making it difficult to secure necessary funding for construction of projects. Moreover, for energy projects, higher construction and operational costs directly impact the cost of electricity production. When the costs to build and maintain a facility rise, these additional expenses are ultimately passed down to energy consumers. Over time, projects with high operational and maintenance costs will inflate the cost of electricity and may ultimately result in high energy costs and less projects willing to enter the New York market.

H. Section 5(21)(b). Decommissioning Surety Bond

Section 5(21)(b) states “Prior to the start of construction, a surety bond to cover the full cost of the removal and disposal of the utility-scale solar collector system and any associated accessory structures shall be provided by the owner/operator. The owner/operator shall provide an updated Decommissioning Cost Estimate, accounting for anticipated rates of inflation, prepared by a Town designated NYS Licensed Engineer every five (5) years, and the surety bond shall be adjusted, if necessary, to reflect the then current decommissioning cost. Any such surety bond must be provided pursuant to a Decommissioning Agreement with the Town, approved by the Town Board and Town Attorney as to form, sufficiency and manner of execution. All surety bonds must not lapse before decommissioning is complete and must be provided by an A rated, or better, institution.”

The Applicant is requesting full relief from the Town of Glen Solar Law Section 5(21)(b) for reasons outlined below.

Analysis

Section 94-c requires that for each request that the Applicant show (1) the degree of burden caused by the requirement, (2) why the burden should not reasonably be borne by the Applicant, (3) that the request cannot reasonably be obviated by design changes to the facility, (4) that the request is the minimum necessary, and (5) that the adverse impacts of granting the request shall be mitigated to the maximum extent practicable consistent with applicable requirements set forth in Section 94-c.

(1) Degree of Burden

The Facility will update the decommissioning estimate every five years, however the above does not state that salvage value may not be taken into consideration in determining the estimated cost of decommissioning. Not taking salvage value into consideration is inconsistent with other local laws being adopted by local municipalities in New York and inconsistent with the regulations adopted by ORES. Applying this local law provision, which is in conflict with the standards set pursuant to Section 94-c (Section 900-6.6 and 900-2.24(c)), creates an unnecessary and unjustified financial hardship for developers of renewable energy facilities, and undermines the standards set in the regulations, effectively frustrating the achievement of the CLCPA goals. Accounting for salvage value of materials is standard decommissioning practice across the industry. Excluding salvage value would result in an overestimate of decommissioning costs, which would cause the Applicant to incur additional financial costs for the Project which acts as a financial disincentive with no actual provide benefit to the host community.

(2) The Burden Should Not Reasonably Be Borne By The Applicant

A cost estimate for decommissioning has been provided in Revised Appendix 23-1, Decommissioning and Restoration Plan. There is no basis to impose additional financial burdens on the Facility by requiring more financial security than ORES has already judged to be unnecessary. The Plan includes a protocol for removal of panel arrays in the event of abandonment and a net decommissioning/site restoration based on the estimated costs associated with removal and restoration of facilities within the Town. The Applicant followed the requirements of Section 94-c when preparing the net decommissioning and site restoration estimate. Because the Applicant is preparing the Decommissioning and Site Restoration Plan based on Section 94-c requirements, which supplant the Town's local laws, the Applicant requests ORES elect to not strictly apply this regulation considering the benefits of the Facility and the directives of the CLCPA.

(3) Request Cannot Reasonably Be Obviated By Design Changes

This request cannot be obviated by design changes as the Project design is not dependent on decommissioning costs.

(4) Request Is The Minimum Necessary

The request is the minimum necessary as the Applicant will follow the decommissioning requirements set for in Section 94-c which includes a 15 percent contingency, that will be periodically reviewed to adjust for any estimated decommissioning cost increases and/or salvage value decreases.

(5) Adverse Impacts Of Granting The Request Shall Be Mitigated To The Maximum Extent Practicable

The adverse impacts of granting the request are mitigated to the maximum extent practicable as the Applicant will be required to provide decommissioning financial security to protect the Town in the event that the Facility owner does not conduct decommissioning and site restoration on its own. In the very unlikely event that the Applicant does not decommission the Facility and the Town must carry out decommissioning of the Facility, the Applicant would forfeit its facility equipment and the Town could use this value to offset decommissioning costs. Finally, the security will be reviewed by ORES and will be updated after one year of operation and every firth year thereafter per Section 900-10.2(b)(2).

Waivers sought of the Town of Glen Solar Law (2022) due to economics and due to technological limitations

Each of the below listed waivers were identified as the requirements of the local law place an undue economic burden on the Facility, and there are environmental and design constraints limit the Applicant's ability to comply with the local laws identified below while maintaining Facility production.

I. Section 5(7) and Section 5(8). Visual Screening Requirements

On May 29, 2024, the Town of Glen submitted a comment letter to the Office, which among other things, stated that the Applicant's proposed Landscape Plan (Revised Appendix 5-2) does not comply with Section 5 (7) of the Town's Solar Law at the Interconnection Facilities or around the proposed arrays.

Section 5 (7) of the Town Solar Law (Appendix 24-3) states:

Large Scale (Utility) solar energy systems shall be sited, to the maximum extent practicable, to ensure that the solar array is not visible to surrounding non- participating property owners or those who pass by the array on public rights of way. Solar facilities, including any proposed off-site infrastructure, shall be located & screened to avoid or minimize visual impacts as viewed from:

- Publicly dedicated parkland, roads, highways and rights of way (e.g. rail trails and public hiking paths)
- Existing non-participating residential dwellings located on adjacent or contiguous parcels, including those on the opposite side of any public rights of way.

Section 5 (8) of the Town Solar Law (Appendix 24-3) states[2]:

All associated structures shall be screened, placed underground, depressed, earth bermed or sited below the ridgeline to the greatest extent feasible, particularly in areas of high visibility. To the greatest extent possible, all such solar facilities will not be sited in areas of high visibility

Due to the Town of Glen's response to the Facility proposed landscaping plan, the Applicant is requesting full relief from the Town of Glen Solar Law Section 5(7) and 5(8). As explained further below, the Applicant has designed the Facility and associated structures to be screened to the maximum extent practicable.

Analysis

The Applicant disagrees with the Town's assessment that the Facility has not been designed to comply with the Town's screening requirements, nevertheless, out of an abundance of caution, given the Town's letter the Applicant seeks a waiver of these provisions to the extent the Office were to determine that the Applicant's Landscaping Plan does not comply with the local law. To require the Applicant to comply with the Town's conservative and strict reading of Section 5(7) and 5(8) of the Solar Law would be unreasonably burdensome upon the project.

Neither Section 5(7) or 5(8) of the Solar Law require that the project be invisible or completely avoid visual impacts as the Town letter indicates, but instead require that to the *maximum extent practicable*, the Applicant [must] visually screen the Facility from surrounding non- participating property owners and public rights of way. The Applicant has designed the Facility to comply with

[2] The Town's letter did not directly reference Section 5(8) however Section 5(7) and Section 5(8) have similar requirements.

this requirement to the maximum extent practicable. The visual impact of the facility has been effectively screened, as described in the Visual Impact Assessment (VIA; Revised Exhibit 8, Revised Appendix 8-1), and the screening proposed at this Facility is in line with other similar facilities permitted by the Office. With respect to the Town's request that "to the greatest extent possible, all such solar facilities will not be sited in areas of high visibility", the Town does not identify a definition of high visibility areas. Due to the siting process, described above, and the balance of environmental, engineering, and visibility constraints, as well as the topography of the region, there is a chance that the Facility, as currently designed, could be sited in high visibility areas. The Applicant has sited the Facility to minimize and mitigate for visual impacts including a robust landscaping plan and siting considerations.

The Applicant's proposed a comprehensive Landscape Plan that incorporates existing vegetative screening along with three distinct vegetation template types (or modules). The modules encompass approximately 91,210 linear feet (approximately 17 miles comprising 2,277 deciduous trees, 4,254 evergreen trees, and 9,240 deciduous shrubs) (See Revised Exhibit 8, Revised Appendix 8-1, Revised Attachment 6A, and Revised Exhibit 5, Revised Appendix 5-2). The Applicant's proposed Landscape Plan is estimated to cost $ 2,713,000.00.

In collaboration with their visual consultants, the Applicant thoroughly reviewed the potential visual impacts of the Facility and carefully applied these three modules to minimize visual impacts effectively. As outlined in Revised Exhibit 8 and below, each module was designed to specifically address certain impacts with maximum screening for non-participating residences, medium density for roads, and naturalized screening in areas that do not contain non-participating residences, sensitive receptors, or roads. Viewpoint (VP) 38 was prepared as a photo-simulation in vicinity to a non-participating residence to document the effectiveness of proposed landscaping in screening Facility views within a reasonable timeframe of 5-years post-construction (see Revised Exhibit 8, Revised Appendix 8-1, Attachment 3).

The Type A module provides the highest density of plantings for maximum screening effect. This module is proposed for use for viewshed screening at sensitive receptors and non-participating residences. This complies with the Town requirements to screen and minimize visual impacts from existing non-participating residential dwellings located on adjacent or contiguous parcels, including those on the opposite side of any public rights of way. Approximately 3,283 evergreens trees, 1,001 deciduous trees, and 5,238 deciduous shrubs will comprise the Type A landscape module and will

be implemented along 37,285 linear feet of the Facility perimeter, approximately 41% of the overall proposed installed landscaping length.

Type B module provides a medium density proposed for use mostly along roads that traverse the Facility or as a buffer for viewsheds that do not contain a sensitive receptor or an adjacent resident. This complies with the Town requirements to screen and minimize visual impacts from roads, highways and rights of way. A total of approximately 971 evergreens trees, 1,276 deciduous trees, and 4,002 deciduous shrubs will comprise the Type B landscape module and will be implemented along 24,860 linear feet of the Facility perimeter, approximately 27% of the overall proposed installed landscaping length.

Type C module consists of a naturalized screening effort with an emphasis on installing native and pollinator-friendly grasses for wildlife, pollinators, and songbirds. This planting scheme is proposed for use in areas along the Facility perimeter that do not contain a non-participating resident, sensitive receptor, or road. This naturalized planting template will be implemented along approximately 29,065 linear feet of the Facility perimeter, approximately 32% of the overall installed landscaping length.

In addition to these three modules the Applicant has also maintained existing vegetative screening where possible, ensuring that the Facility Site as a whole has adequate visual screening around every array and the Interconnection Facilities. As discussed in Revised Exhibit 8, Revised Appendix 8-1, Section 10.3.5, the Part 4 visual contrast rating of the Facility with 5-year landscaping resulted in simulated viewpoints receiving a reduction in visual contrast to levels that range between moderate to very weak. If averaging all of the part 4 contrast ratings for simulated locations, the proposed landscaping provides a collective visual contrast rating of 8.7, meaning the average contrast rating between all photo-simulations with 5-year landscaping is weak.

(1) Degree of Burden

The Town contends in its letter that the Applicant has failed to comply with Section 5 (7) and should enhance year-round screening of the Facility, including the Interconnection Facilities. The Town suggests that in addition to the Landscaping Plan the Applicant should plant more matures trees, site components in depressed areas or below the ridgeline, and create berms. In essence the Town argues for costly and excessive mitigation measures to make the Facility invisible to non-participating residents and travelers along the public rights of way. The Town's strict interpretation

of its screening requirements is more restrictive than the requirements under Section 94-c which requires minimization with planting plans that are appropriate for the facility setting.

With respect to creating berms, berms require a significant amount of land, involve substantial earthmoving, require constant and costly maintenance to preserve from erosion, can increase runoff and soil erosion, and can have the undesired effect of blocking other visually appealing views or vistas from residences. Vegetative landscaping is proposed as mitigation because it is considerably more natural looking than manmade berms. Berms also act as a shelf, which breaks the continuity of a slope and changes the path and flow characteristics of stormwater across a Facility Site. Installation of permanent berms would require significant re-evaluation of the stormwater characteristics of the Facility Site. Use of a berm on the steep slopes in the Facility Site could result in significant channelization of stormwater runoff and result in erosion and sedimentation off site. Significant erosion could also result in permanent ponding. Sediment trapping devices, such as a sediment basin, would be required at the outlets of the berms to collect any transported sediments to prevent impacts to downstream areas.

Given the topography if the site, it would be impossible to create berms to block the view of the Facility. Such an undertaking would require significant ground and earth work.

With respect to planting more mature trees, tree farms and nurseries do not typically sell mature trees, however young species are retained as stock for transplanting. Healthy mature trees would need to be identified on private properties. However, even if candidates are identified, the activities of digging, spading, and transplanting plant material within forested areas is not a feasible option as conditions must be suitable for access of specialized equipment and large tractor trailers and cranes. Most importantly, the survival rate of transplanting mature trees is low given that the root structure of mature trees is extensive and intertwined with other trees.

Finally with respect to increasing setbacks to minimize visual impacts, the Facility as explained above is already 100 feet from nonparticipating property lines and public roads. The 100-foot setback provides enough space to implement the planting modules and reduce visual impacts. The Applicant has not identified, and the Town has not alleged that there are any uniquely sensitive receptors that would require a greater setback than other projects in the State to address visual setbacks.

(2) The Burden Should Not Reasonably Be Borne by the Applicant

Application of the Town's strict interpretation of their law, as outlined above, would require the disturbance of additional land at a significant increase in cost. In addition, the Town's strict interpretation would increase the potential environmental impacts of the project and the overall cost of the visual mitigation.

Compliance with Section 5 (7) and 5 (8) of the Town Solar Law (Appendix 24-3), in accordance with the Town's letter, would necessitate adding additional vegetative screening beyond the 91,210 linear feet (approximately 17 miles comprising 2,277 deciduous trees, 4,254 evergreen trees, and 9,240 deciduous shrubs) already proposed (See Revised Exhibit 8, Revised Appendix 8-1, Revised Attachment 6A, and Revised Exhibit 5, Revised Appendix 5-2). This includes creating a wider landscape buffer and utilizing larger planting sizes, which would increase project costs by approximately 2 to 5 million dollars. Furthermore, adjusting the width of the proposed landscape modules to accommodate more plantings would have several implications. It would expand the limits of disturbance for the Project, affecting stormwater management and design, and in areas where current landscaping space is limited, such as wetlands, rights of way, and existing utilities, the increased width could also necessitate the removal of solar panels or additional permitting. This would not only complicate the Project but would also reduce its overall efficiency and capacity or increase costs.

Requiring that the Applicant render the Facility invisible would significantly increase the costs related to both the construction and ongoing maintenance of the Facility. This increased financial burden would undermine the Facility's feasibility and viability. The more facilities cost to construct and maintain, the more costly the energy is to produce. Such a requirement stands in direct opposition to the interests of the State's energy consumers and the broader energy goals of the State. The Applicant has not identified any uniquely sensitive resource that would require this Facility to be screened in such a costly manner, as compared with other similar projects throughout New York State.

(3) *Request Cannot Reasonably Be Obviated by Design Changes*

As discussed above, the design changes proposed by the Town, including the addition of berms and costly plantings are unreasonable. The Applicant sited the Facility to comply with the local law to the maximum extent practicable and has avoided, minimized and mitigated visual impacts to the maximum extent practicable using various landscaping modules. The proposed Landscape Plan

will minimize and mitigate potential visual concerns (see Revised Exhibit 8, Visual Impacts and Revised Appendix 5-2).

(4) Request is the Minimum Necessary

The request is the minimum necessary as the Applicant is not requesting to eliminate visual screening but has already sited the Facility to comply with the local law to the maximum extent practicable and has avoided, minimized and mitigated visual impacts to the maximum extent practicable. The proposed Landscape Plan will minimize and mitigate potential visual concerns (see Revised Exhibit 8, Visual Impacts and Revised Appendix 5-2).

(5) Adverse Impacts of Granting the Request Shall be Mitigated to the Maximum Extent Practicable

As explained above, the Applicant has minimized visual impacts to maximum extent practicable, the Town's strict interpretation of their law which would require more than what the Applicant has already provided would be unreasonably burdensome. (see Revised Exhibit 8, Visual Impacts and Revised Appendix 5-2).

J. Town of Glen Land Use Management Plan Law Section 7.16 Public Utility Facility

In addition, to the above screening requirements outlined in the Town of Glen Solar Law Section 5(7) and 5(8), Section 7.16 of the Town of Glen Land Use Management Plan (Appendix 24-2-A) states:

Public utility substations and similar structures shall comply with the following:

1. Facility shall be surrounded by a fence set back from property lines in conformance with district regulations for front, side and rear yards.
2. Landscaped area at least 20 feet wide shall be maintained in front, side and rear yards.
3. There shall be no equipment visible from surrounding property.
4. Public Utility Services' line poles and attendant lines will be allowed, as necessary, in all districts.

The Applicant is requesting full relief from the Town of Glen Land Use Management Plan Section 7.16 for reasons outlined below.

Analysis

Section 94-c requires that for each request that the Applicant show (1) the degree of burden caused by the requirement, (2) why the burden should not reasonably be borne by the Applicant, (3) that

the request cannot reasonably be obviated by design changes to the facility, (4) that the request is the minimum necessary, and (5) that the adverse impacts of granting the request shall be mitigated to the maximum extent practicable consistent with applicable requirements set forth in Section 94-c.

(1) Degree of Burden

The Facility will include a new substation, POI switchyard, and Transmission Structure (defined as transmission poles and wires) Poles, as more fully described below:

- Substation: Several underground 34.5 kV collection lines within the Facility Site will gather power from the solar arrays and transport it to a new substation that will step up the voltage to 345 kV. The substation is approximately 3 acres in size and will be located adjacent to solar panels in the northeast portion of the Facility Site. Access to the substation will be via a new access road from Ingersoll Road near the existing Marcy – New Scotland 345 kV Transmission Line. Section drawings of the substation can be found in Revised Exhibit 8, Revised Appendix 8-1, Revised Attachment 6B. A single H-frame takeoff structure (60-foot height) will facilitate the connection to the POI switchyard (generation tie line). Plans and sections of the substation are available in Revised Exhibit 8, Revised Appendix 8-1, Revised Attachment 6B and Revised Exhibit 5, Revised Appendix 5-3.
- POI Switchyard: Electricity from the substation will be routed immediately south to the POI switchyard. Two additional 70-foot h-frame takeoff structures within the southern interior of the POI switchyard will route overhead conductors to newly proposed transmission structures (see below; Transmission Structures) where the interconnection is completed. The total area of the POI switchyard is approximately 1.8 acres; sectional drawings of this switchyard can be reviewed in Revised Exhibit 8, Revised Appendix 8-1, Revised Attachment 6B as well as in Revised Exhibit 5, Revised Appendix 5-3.
- Transmission Structures: Three discrete transmission lines are proposed to facilitate interconnection from the Facility to the existing Marcy - New Scotland 345 kV Transmission Line. One will consist of a generation tie line comprised of two new (gray) galvanized steel dead-end structures (135 feet in height) that will connect the substation to the POI switchyard over a span of 0.27 miles. From the POI switchyard, two transmission lines span 691 and 607 linear feet and connect to the existing Marcy –

New Scotland 345 kV Transmission Line. Each transmission line will be comprised of two new galvanized steel structures (two at 200 feet, one at 180 feet, and one at 145 feet in height). One of the 200-foot structures will replace an existing (195-foot) steel transmission structure. These transmission lines will each initiate from a 70-foot takeoff structure within the POI switchyard and terminate at the existing Marcy- – New Scotland 345 kV Transmission Line. Plans and sections of the Transmission Structures and associated transmission lines are available in Revised Exhibit 8, Revised Appendix 8-1, Revised Attachment 6B and Revised Exhibit 5, Revised Appendix 5-3.

The substation and POI switchyard will be surrounded by a fence set back from property lines in conformance with zoning district regulations for front, side, and rear yards and landscaped with an area at least 20 feet wide in the front, side, and rear yards. However, given the height of some of the structures, it is impossible to design these components such that no equipment will be visible from surrounding property. Simulations for this area are provided in the VIA as VP 68 and 69 (see Revised Exhibit 8, Revised Appendix 8-1, Sections 10.1.2, 10.2.1.8, and 10.2.1.9 and Attachment 3). For a full assessment of the potential visibility of the substation, POI switchyard, and Transmission Structures see Section 10.1.2 of Revised Appendix 8-1.

(2) The Burden Should Not Reasonably Be Borne By The Applicant

As explained above, the design of the Facility will require certain tall structures between 60 to 200 feet tall to connect the substation to the POI switchyard and then again to connect the POI switchyard to the existing Marcy – New Scotland 345 kV Transmission Line. Overall, the tallest components consist of the proposed Transmission Structures (135 to 200 feet in height), therefore, most visibility is anticipated to be a result of these structures. Simulations for this area are provided in the VIA as VP 68 and 69, which demonstrate the visibility of the pole structures from Ingersoll Road (see Revised Exhibit 8, Revised Appendix 8-1, Sections 10.1.2, 10.2.1.8, and 10.2.1.9 and Attachment 3). As shown in several photographs (VPs 6, 50, 92, and 93; see Revised Appendix 8-1, Attachment 2) and photo-simulations (VPs 42, 44, 61, 80, and 94; see Revised Appendix 8-1, Attachment 3), views of the existing Marcy – New Scotland 345 kV Transmission Line are abundant within the region due to the tall heights of the existing transmission structures.

It is impossible to integrate the Project to the existing high voltage transmission system without these lines, and they must be above ground to connect the Project. For example, installing the High Voltage line that connects the POI Switchyard to the existing Marcy – New Scotland 345 kV Transmission Line underground would require the installation of a concrete vault to house the lines

underground. This would require significant wetland impacts that can be avoided by running the line overhead and installing poles to reduce wetland impacts.

(3) Request Cannot Reasonably Be Obviated By Design Changes

The substation, POI switchyard, and Transmission Structures were sited adjacent to existing transmission right-of-way for immediate interconnection to the electrical grid. The Town of Glen Land Use Management Plan's requirement that "no equipment be visible from surrounding property" would require both the generation tie (gen-tie) line between the POI switchyard and Project substation and the new, proposed interconnection transmission lines between the existing overhead Marcy – New Scotland 345 kV Transmission Line and the new POI switchyard be installed underground or very close to the ground. Installing the gen-tie underground would result in increased wetland impacts and would be multiple times more expensive than running the line overhead, and the new, proposed interconnection transmission lines cannot be installed underground because the existing Marcy – New Scotland 345 kV Transmission Line is above ground and overhead. The Facility gen-tie line is currently sited above ground on monopole tower structures. Siting the gen-tie above ground allows for improved heat transfer of the conductor cables, allowing for smaller cables to be used. Additionally, underground high voltage lines require concrete joint vaults at every cable joint, plus cement stabilized sand and concrete covers along the length of the cable to ensure the safety, thermal insulation, and electrical isolation of the cable. Underground lines require much more space between each phase cable because air is a much better insulator than cable sleeves and sand wetlands. The result of wider spacing is significantly more ground and wetland disturbance in the wider right of way for the gen-tie which would need to be trenched through State-wetland W-NSD-01, see Revised Exhibit 14, Figures 14-1 and 14-3. In a January 2015 analysis, National Grid estimated that as much as 14 times more excavation is required for an underground line compared to an overhead line[3] (National Grid, 2015). More excavating, specialized cables, concrete jackets, and more make undergrounding a high voltage line several times more expensive than an overhead line.

Installing the lines just above the ground would pose a significant safety risk as the lines could be accessed by individuals that would be subject to electrical shock if contacted. Additionally,

[3] National Grid (January 2015, Issue 4). Undergrounding high voltage electricity transmission lines, The technical issues. National Grid Group. Available at: https://www.nationalgrid.com/sites/default/files/documents/39111-Undergrounding_high_voltage_electricity_transmission_lines_The_technical_issues_INT.pdf. Accessed June 2024.

individuals would be exposed to strong electric and magnetic fields if the lines were above ground near ground level.

(4) Request Is The Minimum Necessary

The request is the minimum necessary as the substation, POI switchyard, and Transmission Structures have been designed to comply with the local law to the maximum extent practicable. Moreover, the substation, POI switchyard, and Transmission Structures were sited adjacent to the existing transmission right-of-way for immediate interconnection to the electrical grid, reducing potential visual impacts of longer spans of overhead structures.

(5) Adverse Impacts Of Granting The Request Shall Be Mitigated To The Maximum Extent Practicable

The visual impacts associated with the substation, POI switchyard, and Transmission Structures have been minimized to the maximum extent practicable. The substation, POI switchyard, and Transmission Structures were sited adjacent to the existing Marcy – New Scotland 345 kV Transmission Line to circumvent and lessen the number of necessary transmission structures for interconnection purposes. The POI switchyard components are also sited in proximity to an existing forest that will provide natural screening benefits (see Section above on forest clearing for additional details). Moreover, the location of the substation and POI switchyard was chosen to minimize impacts to wetlands and visual and noise impacts to neighboring residences. In addition, the Applicant is proposing a landscaping plan for the POI switchyard and substation (Revised Exhibit 5, Revised Appendix 5-2). Due to the existing visual prominence of the existing Marcy – New Scotland 345 kV Transmission Line, and associated structures, it is anticipated that the proposed POI components will be visually absorbed by the existing and adjacent Marcy – New Scotland 345 kV transmission structures, and as a result, the existing landscape character will remain intact. The resulting visual contrast would be minor in context to the prominence of the existing Marcy – New Scotland 345 kV transmission line (see Revised Exhibit 8, Revised Appendix 8-1, Section 10.1.2 and Revised Appendix 8-1, Attachment 3).

K. Local Law Designating Scenic Byways in Montgomery County (Legislature) (Local Law 3 of 2021)

As stated in Revised Exhibit 24, Montgomery County Local Law 3 of 2021 designates certain County roadways as scenic byways (“Byway Law”). This local law pertains specifically to certain County owned roadways and designates 51 County roadways as scenic byways. The Bylaw Law further sets forth the process for designating roadways as scenic byways (Sections 1-5), these

sections are procedural and not applicable to the Facility. In addition, Section 6 of the Byway Law sets forth standards and guidelines applicable to scenic byways in Montgomery County. With respect to standards, Section 6 of the Byway Law states:

> A. Vistas. Roadside views of near and distant scenic landscapes are vital to the quality of life and economy of Montgomery County and shall be preserved and, where possible, enhanced through vegetative management and selective cutting to maintain or open up such views. Roadside views from scenic byways shall remain visually consistent with the views at the time of designation. For the purposes of this paragraph, visually consistent shall mean not obviously different from or in sharp contrast to views at the time of designation taking into consideration the scale and context of the existing conditions at the time of designation.
>
> B. Vegetation. Vegetation on the side of the road shall be maintained in such a way as to preserve the scenic value and beauty of existing flowers, shrubs, and trees.
>
> C. Grades. Hills and valleys and corresponding changes in typography and road grades are correlated with scenic values. Changing grades through cuts and fills shall be undertaken only when necessary for road maintenance and safety.

Counties do not have inherent zoning power.[4] Under County Law, counties have certain powers related to planning, but they do not have the authority to adopt zoning regulations. The County adopted the Byway Law pursuant to "Municipal Home Rule law and Article 2 of the Montgomery County Charter". Although Article 2 of the Montgomery County Charter[5] does not specifically mention the authority to adopt scenic byways, it states that the County Legislature has the power to "exercise all powers of local legislation in relation to enacting, amending or rescinding local laws, Charter laws, legalizing acts or resolutions." This provision presumably serves as the basis for the County's assertion of authority to adopt the Byway Law. However, the adoption of the Byway Law does not grant the County zoning authority or expand its existing powers. Therefore, the language in the Byway Law can only be intended to regulate what the County can do within the County roadways and rights of way, but it cannot regulate what can be done on private property within the Town of Glen. In other words, the County Byway Law is limited to county-controlled areas and does not extend to the Facility Site. Notably, if the County Byway Law were to be read to restrict all forms

[4] https://nyassembly.gov/comm/StateLocal/20070823/planzone.pdf
[5] https://www.co.montgomery.ny.us/documents/charter/MontgomeryCountyCharterAdoptedCharter_8-14-12.pdf

of development along scenic byways, like the proposed Facility, then arguably no new development or changes to existing uses can occur along County Scenic Byways throughout the County. This result would clearly be outside the County's jurisdiction.

Nevertheless, to the extent that the County and/or ORES assert that the County Byway Law is applicable to the Facility, the Applicant seeks a waiver of such application as such law is broadly written such that the Facility could not be built as proposed, and the Applicant will work with the County to enter into a Road Use Agreement (RUA) to address any concerns the County may have with the Facility's use of County roads, including any vegetation and grading concerns.

Insofar as the standards in Section 6 of the County Byway Law are applied to restrict where Facility components, including landscaping can be placed, these restrictions would effectively ban the Facility along County Scenic Byways. Specifically, Section 6(a) of the Byway Law states that "roadside views shall remain visually consistent with the views at the time of designation." (Section 6(a)). For the purposes of the law visually consistent means not obviously different from or in sharp contrast to views existing at the time of designation taking into consideration the scale and context of the existing conditions at the time of designation. Interpreted strictly, this could mean any changes to the scenery, including the addition of new structures or landscaping, or even residential development and/or signage, are prohibited if they alter the appearance of the existing view at the enaction of the Byway Law. The introduction of the Facility will inevitably alter the views along the Scenic Byways that intersect with the Facility. As a result, the roadside views could be considered by the County to no longer be visually consistent with the views at the time of the County's designation.

Further, the Scenic Bylaw of Montgomery County is contradictory in nature. Section 6(a) of the County Byway Law encourages enhancement of vegetation management and selective cutting to maintain open views, however, Section 6(b) conversely requires the preservation of existing vegetation to "preserve the scenic value and beauty of existing flowers, shrubs, and trees". Because of the ambiguous and contradictory nature of the Bylaw, it is unknown whether Facility vegetation removal in vicinity of the Byway would be encouraged or impermissible.

While it is acknowledged that the Scenic Bylaw of Montgomery County was established to protect the economy and quality of life of residents. It is also understood that travelers utilizing these elected county scenic byways are few (AADT; 527 (Auriesville Road), 194 (Fisher Road), and 99 (Ingersoll Road), meaning limited economic benefit would be realized. For context, the New York State Revolutionary Trail Scenic Byway contains an ADDT of 4,089. Moreover, throughout the rural

uplands of the entire Mohawk Valley Region, there are a multitude of roads, without such county scenic designation, that provide a comparable vista to the distant landscape.

Several local roadways within the Facility and visual study area, are designated as County scenic byways:

- Auriesville Road (CR 122)
- Fisher Road (CR 118)
- Hickory Hill Road (CR 33)
- Hyney Hill Road (CR 123)
- Ingersoll Road (CR 117)
- Logtown Road (CR 110)
- Noeltner Road (CR 164)
- Noeltner Spur (CR 166)
- Stone Arabia Road (CR 34)
- Van Epps Road (CR 116)

For a full assessment of the visibility of the Facility from these roadways see Revised Exhibit 8, Revised Appendix 8-1, Section 10.1.1.4 Visibility of Solar Arrays from Public Roads. If the Applicant was required to remove the Facility components visible from these roadways, the Facility would not be able to be built as proposed.

As discussed at length in the Revised VIA (Revised Exhibit 8, Revised Appendix 8-1) landscaping has been proposed as minimization to reduce visibility of the Facility along these roadways. The intent of the proposed landscaping is to minimize and mitigate the visual impact of the Facility by blending the Facility with the surrounding environment. However, it is important to note that the landscaping itself constitutes a change to the roadside views. The introduction of new plantings, trees, and other elements will alter the appearance of the area from its current appearance at the time of the Scenic Byway designation. Therefore, while the landscaping is designed to lessen the visual impact of the Facility, it also results in a modification of the views, potentially conflicting with the requirements of Section 6(a).

Moreover, it is important to recognize that certain views of the Facility are dictated by existing topography. In areas where the elevation of the roadway is lower than the elevation of the solar array, the visual impact from the Facility cannot be fully mitigated. The natural contours and elevation differences mean the Facility will remain visible from certain vantage points along the Scenic Byways, regardless of the proposed landscaping. This topographic limitation further

complicates compliance with Section 6(a), as it is impossible to maintain original visual consistency and still construct the Facility.

In summary, it is impossible to build the Facility as proposed and comply with the County's Byway Law. The Facility will represent a change to the existing roadside views and although landscaping will minimize and mitigate the visual impacts of the Facility it cannot prevent the Facility from changing the existing roadside views.

L. A Local Law Requiring Avoidance or Adequate Mitigation of Cumulative Impacts of Industrial Solar Arrays (Legislature) (Local Law 3 of 2024)

On October 22, 2024, the Montgomery County Legislature passed Resolution 262, Introductory Local Law C (Local Law 3 of 2024) titled "A Local Law Requiring Avoidance or Adequate Mitigation of Cumulative Impacts of Industrial Solar Arrays". While, the Applicant has been unable to verify if this law was properly and formally adopted by the County Executive, the passage of the resolution by the Legislature is acknowledged.

Montgomery County Local Law 3 of 2024 requires developers to assess cumulative impacts of all existing and proposed industrial solar arrays within Montgomery County, and to avoid, minimize, and mitigate cumulative adverse impacts to the maximum extent practicable. This local law aims to regulate and control the development of industrial solar arrays – defined as any solar energy facility with a nameplate capacity greater than 20 megawatts- within the County. By establishing restrictions on how these facilities are developed, this law functions as a form of zoning regulation.

As outlined further below, this law should not be applied to the Facility as (1) the County lacks jurisdictional authority to adopt such a law, (2) the law is overly broad and vague and violates due process and (3) the law is inherently procedural and therefore supplanted by Article VIII.

However, to the extent the law is applicable, the Applicant has (4) assessed cumulative impacts and has demonstrated throughout the Application that cumulative impacts have been avoided, minimized and mitigated to the maximum extent practicable. Requiring any (5) additional cumulative assessments and additional avoidance, minimization and mitigation would be unreasonably burdensome.

1. The County Lacks Jurisdiction to Adopt Zoning Regulations

Counties do not have inherent zoning power.[6] Under County Law, counties have certain powers related to planning, but they do not have the authority to adopt zoning regulations. The County adopted Local Law 3 of 2024 pursuant to "Municipal Home Rule law and Article 2 of the Montgomery County Charter". Although Article 2 of the Montgomery County Charter states that the County Legislature has the power to "exercise all powers of local legislation in relation to enacting, amending or rescinding local laws, Charter laws, legalizing acts or resolutions" this provision does not inherently grant zoning authority to the County.

This provision generally means the County has the authority to pass laws and regulations affecting County operations and address issues *within* the County's jurisdiction. The scope of this authority includes administrative and operational matters but does not extend to zoning, which is specifically designated to municipalities such as cities, towns and villages under New York State law.

The Montgomery County Charter establishes a Department of Economic Development/Planning and Tourism, but none of the powers and duties of this Department include zoning authority or authority to review and issue permits related to solar development in the County[7]. Therefore, there is nothing in the County Charter that grants the County zoning authority as they are attempting to do with Local Law 3 of 2024.

Additionally, the Municipal Home Rule law does not provide counties with zoning authority.[8] Instead, the Municipal Home Rule law explicitly states that counties may adopt a county charter to "set forth the structure of the county government and the manner in which it is to function." This framework does not extend to granting zoning powers.

As the County lacks jurisdiction to enact zoning laws such as Local Law 3 of 2024, the law is jurisdictional defective and should not be applied to the Facility. Any zoning-related regulations or restrictions imposed by Local Law 3 of 2024 are beyond the legal authority of the County and should be considered invalid.

2. Local Law 3 of 2024 is Overly Broad and Vague and Violates Due Process

The law states its objective is to "provide substantive standards applicable [sic] to industrial solar arrays for the minimization, mitigation or avoidance to the maximum extent practicable..." (Section

[6] https://nyassembly.gov/comm/StateLocal/20070823/planzone.pdf
[7] Section 5-A.02 of Montgomery County Charter
[8] Municipal Home Rule Chapter 36-A, Article 4, Part 1, Section 33.

3). However, it fails to specify clear standards or criteria for developers to follow. Instead, the law broadly mandates that "adverse impacts of all existing and proposed industrial solar arrays on health and human safety, tourism, agriculture, economic development, minority groups, cultural resources, and the environment within Montgomery County as a whole shall be avoided, minimized or mitigated to the maximum extent practicable." (Section 4(2))

The law does not provide detailed guidelines or benchmarks for how a project would meet this standard. The law mandates an analysis of cumulative adverse impacts but fails to specify the criteria or methodology for conducting this analysis. For example, the law provides no guidance on what would qualify as a "proposed industrial solar array". Does this requirement apply to any project that has informally approached a municipality in the County, or does it only apply to projects that have submitted applications to ORES? Presumably the assessment would apply only to projects that have submitted applications to ORES, however again the law provides no details on how such cumulative impact assessment should be conducted or how a facility would demonstrate compliance with the law's requirements, making compliance with the law impractical, if not impossible.

Any assessment of cumulative impacts relies heavily on the availability and accuracy of information about other projects. Future proposed projects, especially those in the early stages of development, often lack detailed, publicly available information, making a thorough cumulative impact assessment impossible. Without access to comprehensive data, applicants cannot accurately predict cumulative effects of all potential future projects. Nor is such an assessment likely to be useful in predicting actual impacts given the evolving nature of projects in early development. Even projects that have submitted applications under Article VIII include confidential data regarding certain sensitive environmental impacts such as cultural and threatened and endangered species that are not accessible to other applicants.

Due process requires that laws provide fair notice of what is required and that laws are not so vague that they can be arbitrarily enforced. When a zoning ordinance is vague to the extent it lacks clear criteria by which to distinguish what is allowed or not allowed, it invites arbitrary application of the ordinance and therefore lacks a rational relationship to legitimate goals and is facially invalid (*Genesis of Mt. Vernon, Inc. v. Zoning Bd. Of Appeals*, 152 Misc. 2d 997, 1004 [NY Sup Ct 1991] [Finding that the zoning ordinance is facially invalid because it lacks clear criteria by which to distinguish a "boarding house" from a "family" use, thereby inviting arbitrary application]). The law's broad and undefined requirements do not provide adequate guidance for developers, leading to potential violation of due process rights. Applicants cannot reasonably ascertain what is necessary

to comply with the law, making a determination on whether a project complies with the provisions of the law ambiguous at best, and would subject developers to arbitrary enforcement.

Other provisions of the law are similarly vague. Section 4(3) of the law which prohibits segmentation does not define what constitutes “segmentation” of an industrial solar array project. It is unclear whether a proposed project that is seeking to phase construction is considered segmentation or if segmentation is when a single developer seeks to develop multiple projects within the County? Is the law an attempt to prevent developers from proposing more than one project in the County? Likewise, the law fails to define what the term “phases” means, whether the term refers to separate construction phases, operational phases, or both. Without a precise definition, developers cannot be certain about what constitutes segmentation leading to potential confusion and inconsistent application of the law.

Lastly the law dictates what does not qualify as minimization, avoidance and mitigation and states “[n]o industrial solar array shall demonstrate avoidance, minimization, or mitigation of impacts as required by this Section by demonstrating the adverse impacts of a single industrial solar array, or a single phase of a segmented industrial solar array, have been minimized, avoided, or mitigated, without regard to the impacts of all other planned or existing industrial solar arrays in Montgomery County.”

This appears to mandate that developers collaborate to ensure that avoidance, minimization and mitigation strategies are applied collectively across multiple projects, as a single project cannot claim it has effectively avoided, minimized or mitigated adverse impacts without considering the cumulative effects of all other planned and existing industrial solar arrays in the County. However, it remains unclear how ORES, the County, or individual developers would demonstrate compliance with this requirement. Moreover, this requirement fails to recognize that avoidance and minimization strategies for a single project inherently contribute to the avoidance and minimization of impacts from multiple projects.

Effective avoidance and minimization strategies for a single project already contribute to reducing cumulative impacts. For instance, if each individual project implements robust measures to protect wildlife and minimize land disturbance, the combined effect will naturally be a significant reduction in overall impacts for all projects.

Mandating that developers collaborate and account for the cumulative impacts of all existing and planned projects, places an unrealistic and excessive burden on projects, especially considering how vague the law is. The level of coordination that the law seems to require would again require

extensive data sharing, joint planning sessions, and potentially synchronized timelines, all of which can be logistically challenging and financially burdensome. This requirement is particularly unfair when compared to the regulatory landscape in other counties across the state, which do not have a similar requirement, and if applied, would discourage investment and development in Montgomery County at a time when every MW counts towards the State's energy goals.

As Local Law 3 of 2024 is overly broad and vague, making compliance with the law impractical, if not impossible, it should not be applied to the Facility.

3. Local Law 3 of 2024 is Procedural and Supplanted by Article VIII

In addition to being jurisdictionally defective and impermissibly vague, it is evident that the law is fundamentally procedural and lacks any definable substantive requirements, thereby making it supplanted by Article VIII requirements.

Article VIII explicitly states that "no other municipality or political subdivision or any agency thereof may…require any approval, consent, permit, certificate, contract, agreement, *or other condition* for the development, design, construction, operation, or decommissioning of a major renewable energy facility…" (emphasis added) NY PSL Article VIII Section 144(2).

The requirement to conduct a county-wide cumulative impact assessment is a condition that is superseded by Article VIII. The law is clearly an attempt to impose an obligation on ORES to require an assessment that is otherwise not required under Article VIII. Notably the law does not specify when the cumulative impact analysis must be conducted, and there's no guidance on how this analysis will be reviewed, by whom, and what the consequences of the findings might be. This is because as outlined above, the County does not have permitting or review authority over industrial solar arrays, and the County is simply attempting to dictate the content of what is to be included in Article VIII applications. ORES has established detailed guidelines and regulations that developers must follow, including what impacts to assess and how to assess said impacts. These standards are intended to ensure that all projects across the State meet consistent criteria and avoid, minimize and mitigate impacts. The County cannot undermine ORES's regulatory authority by adopting a law that dictates application requirements and even dictates how ORES assesses impacts as required by Article VIII.

Again, the requirement to conduct an assessment is procedural and therefore supplanted by Article VIII, making the law inapplicable to the Facility. Article VIII establishes a comprehensive framework for the regulation and oversight of major renewable energy facilities, explicitly precluding any other

municipality or political subdivision from imposing additional procedural requirements. This preemption extends to the procedural requirement of conducting a cumulative impact assessment as outlined in the law.

As the requirement to conduct the assessment is procedural, any substantive standards that would flow from the assessment are also supplanted and inapplicable to the Facility. To require otherwise would allow municipalities to impose conditions on projects by labeling them as substantive outcomes of procedural mandates.

4. Applicant Has Assessed Cumulative Impacts to the Maximum Extent Practicable

Nevertheless, the Applicant has assessed cumulative impacts, to the maximum extent practicable, in accordance with specified study area distances outlined in 16 NYCRR Section 1100-2.3. The study areas specified in the Article VIII regulations are reasonable and appropriate to study potential impacts, including cumulative impacts. These distances go beyond assessing impacts on a Town or County level, as they are tied to the distance at which impacts are expected to occur, rather than specific geographical locations.

For instance, the cumulative noise evaluation includes noise from any solar facility existing and proposed at the time of filing the application and any existing sensitive receptors within a 3,000-foot radius from any noise sources proposed for the facility. The 3,000-foot distance was used to ensure that total potential noise impacts from all contributing solar facilities are considered.[9] This distance was chosen because noise impacts beyond 3,000 feet are not expected to occur. In response to public comments on the regulations ORES reviewed various comments on the study areas and cumulative impacts and determined that the various study areas were reasonable and appropriate for assessing impacts.[10]

The general 5-mile Study Area for the Facility encompasses 96,784.84 acres and consists of the Town of Glen, Town of Amsterdam, Town of Mohawk, Town of Florida, Town of Perth, Town of Johnstown, Town of Palatine, Town of Root, Town of Charleston, Village of Fort Johnson, Village of Fonda, Village of Fultonville, and City of Johnstown.

The Applicant's assessment of impacts within these specified study areas demonstrates that cumulative impacts have been avoided, minimized and mitigated to the maximum extent practicable.

[9] Assessment of Public Comments, Office of Renewable Energy Siting pg. 48.
[10] Assessment of Public Comments, Office of Renewable Energy Siting pgs. 33, 54, 55, 69, 96.

- ***Health and Human Safety***

  Development, construction, and operation of the Facility is not expected to result in significant adverse impacts on public health or community safety and the Applicant consulted with the Glen Volunteer Fire Department, the Montgomery County Sheriff and the Montgomery County Emergency Management Office in developing its Safety Response Plan and Site Security Plan (Exhibit 6).

- ***Tourism***

  While Article VIII does not explicitly require an assessment on tourism,[11] the Applicant has assessed the impacts of the Facility on local tourism destinations within and near the Facility Site. In the Montogomery County Travel Guide,[12] the following resources are considered to be popular local tourism destinations: orchards and agritourism; historical markers and sites; restaurants, breweries, and bed and breakfasts; and recreational trails. Upon the Applicant's review of Facility impacts on local tourism destinations, it is evident that the Facility is not anticipated to significantly impacts popular tourism destinations in Montgomery County. Specifically, the Applicant conducted a visual impact analysis of the Facility on local resources, such as Bellinger's Orchard, and various historical markers and sites (Appendix 8-1, Section 10.1.1.3). The results for this analysis yielded that the visual impact to these resources are not anticipated to significantly impact visitors to these resources. In addition, Facility components have been cited wholly outside of the Hamlet of Glen, to avoid impacts to this historic district.

  Furthermore, the Applicant conducted an impact analysis on local recreational land uses and built environments such as restaurants, breweries, and bed and breakfasts (Exhibit 3, Section 3(k) and Section 3(s), respectively), and this analysis concluded that the Facility

[11] In response to Public Comments ORES acknowledged that tourism-related impacts are addressed in qualitative terms in the regulations. (Assessment of Public Comments, Office of Renewable Energy Siting pg. 92). The ORES regulations are expansive, but do not specifically require an examination of tourism impact's indicating that when it promulgated such regulations, ORES did not find persuasive comments that tourism impacts alone were relevant to a determination under the statute. See e.g. Application of High Bridge Wind, LLC for a Certificate of Environmental Compatibility and Public Need Pursuant to Article 10 to Construct an Approximately 100 MW Wind Powered Electric Generating Facility, CASE 18-F-026 ("Here, neither Article 10 nor the implementing regulations require or even mention the impact of property values as an issue to be examined in the application. Additionally, the Siting Board's Article 10 regulations are quite expansive, but do not require examination of such impact indicating that when it promulgated such regulations, the Siting Board did not find persuasive comments that property values were relevant to a determination under PSL Article 10. Based on the foregoing, Guildford Coalition's request for interlocutory review is granted and the Examiners' Issues Ruling excluding evidence of property value impacts is affirmed.")

[12] https://visitmontgomerycountyny.com/?r3d=travel-guide

will not impact these local tourism resources since they are all located entirely outside of the Facility Site boundary.

Overall, projects like the Facility are low profile and are not generally sited in areas of high tourism, and therefore do not tend to impact tourism.

- ***Agriculture***

  Exhibit 15 includes an assessment of agricultural resources located within the 5-mile Study Area including but not limited to New York State (NYS) Certified Agriculture Districts, Real Property Agricultural Value Assessment, Zoning Districts, Agricultural Land Use Compared to Non-agricultural Land Uses, Existing Energy Infrastructure and Completed Renewable Energy Facilities, and Active Agricultural Businesses, Facilities, and/or Infrastructure.

  The total acreage of active agricultural parcels within an Agricultural District impacted for the development of the Facility represents only 0.15 percent of active agricultural land in Montgomery County (based on the 2017 Census for Agriculture for Montgomery County; see Section 15(a)(6)), and 0.11 percent of agricultural land within the three NYS Agricultural Districts in Montgomery County.

  In addition, within Montgomery County, approximately 39,762.80 acres (15.14 percent) of soils are classified by the USDA NRCS as 'prime farmland soils.' Within the Facility Site, approximately 329.07 acres (12.35 percent) are classified as prime farmland which accounts for only 0.83 percent of Montogomery County's prime farmland. Of these prime farmland soils in the Facility Site, approximately 52.53 acres will be covered by panel arrays during the life of the Facility (0.13 percent of prime farmland within Montgomery County). Overall, the Facility Site impacts less than 1 percent of prime farmland within Montgomery County.

  The Applicant prepared an Agricultural Plan, consistent with the NYSAGM Guidelines for Solar Energy Projects – Construction Mitigation for Agricultural Lands (Revision 10/18/2019), which is included as Revised Appendix 15-3 to this Application. The Agricultural Plan was prepared to avoid, minimize, and mitigate impacts to active agricultural lands to the maximum extent practicable during all phases of the Project, including through Facility construction, post-construction restoration, operational phase, and decommissioning.

- ***Economic Development***

  As outlined extensively in Exhibit 18 the proposed Facility is anticipated to have local, countywide, and statewide economic benefits, including job creation, purchases of local materials and services, and direct revenue to local municipalities in the form of Payment in Lieu of Taxes (PILOTs) agreements. The Applicant estimates a total of 218 full time jobs will be generated during construction of the Facility and 3.5 full time jobs will be created once the facility is in operation. Additional contributions associated with the Facility are solar leases, easement agreements, and good neighbor agreements to local residents and landowners which provide owners of agricultural lands a steady stream of income that can provide needed security against fluctuating commodity prices and support continued farming in the vicinity of the Facility Site. These benefits will only be multiplied across the County if more projects are developed.

- ***Minority Groups***

  The Application includes an Environmental Justice evaluation in Exhibit 19 which identifies and evaluates significant and adverse impacts of the Facility on defined communities or populations, as set forth in Section 1100-2.20 of the ORES Regulations. Based on the analyses detailed in Exhibit 19, no significant and adverse disproportionate effects on populations in the Potential Environmental Justice Area or Disadvantage Communities are expected to arise from the construction and operation and maintenance of the Facility.

- ***Cultural Resources***

  The Applicant consulted with the New York State Historic Preservation Office (SHPO) to develop the scope and methodology for cultural resource studies. Based on the consultations with SHPO and the results of the architectural and archaeological surveys, the Facility will not result in an adverse effect to significant cultural or archeological resources, including potential visual impacts to aboveground historic properties. (Exhibit 9)

- ***Environment***

  The Facility is estimated to generate enough renewable energy to power approximately 65,000 New York State (NYS) households according to the U.S. Environmental Protection Agency's (EPA's) Greenhouse Gas Equivalencies Calculator (EPA 2023). The Project is compatible with NYS policies mandating the generation of electricity from renewable energy, including the 2015 New York State Energy Plan (SEP), the Clean Energy Standard

(CES), and the Climate Leadership and Community Protection Act (CLCPA) of 2019. The Project aligns with the energy policies of NYS and will contribute to lowering greenhouse gas emissions, which directly aids in efforts to end climate change and improve overall environmental well-being.

The Applicant designed the Facility through an iterative process, including careful consideration of avoidance and minimization of impacts across environmental resource areas. Each Exhibit outlines specifics on the avoidance and minimization efforts for that specific resource area. The Applicant has minimized, avoided, and mitigated impacts through careful Facility design and by adhering to the USCs (Section 1100-6 of the ORES Regulations). For more information, see Exhibit 2 for a summary and material facts analysis.

Overall, as outlined above, the Application adequately assesses the Facility's cumulative impact and has demonstrated throughout the Application that cumulative impacts have been avoided, minimized and mitigated to the maximum extent practicable.

To the extent that the County and/or ORES assert that the County Law includes substantive standards applicable to the Facility, the Applicant has met those standards by complying with the ORES regulations and conducting the required cumulative assessments and adequately avoiding, minimizing and mitigating impacts.

5. If the County Law is Applicable, it is Unreasonably Burdensome

To the extent that the County and/or ORES assert that something more is needed to meet the requirements of the County Law such assertation is unreasonably burdensome for all the reasons explained above and as summarized below.

(1) Degree of Burden

The Applicant has already conducted extensive cumulative impact assessments as part of the ORES Application process. This involved a comprehensive evaluation of the potential environmental impacts of the Project within specified study areas. These assessments were performed according to the guidelines and methodologies established by ORES under Article VIII.

Local law 3 of 2024, however, attempts to impose additional vague requirements for cumulative impact assessments. The County law mandates that developers must avoid, minimize, and mitigate cumulative adverse impacts to the maximum extent practicable. However, it does not provide clear guidelines or methodologies for how to conduct these assessments or determine

compliance. The law broadly requires consideration of cumulative impacts across various categories without specifying the criteria or benchmarks that developers should follow.

This lack of clarity means that compliance is difficult to determine and would require extensive and potentially impossible data collection and coordination among multiple, potentially competing projects.

(2) The Burden Should Not Reasonably Be Borne by the Applicant

As explained above, the County lacks jurisdictional authority to enact zoning laws, which includes Local Law 3 of 2024. Counties, including Montgomery County, do not have inherent zoning power. The jurisdiction to adopt zoning regulations resides with municipalities such as cities, towns, and villages under New York State law. Therefore, the County lacks jurisdiction to impose zoning related regulations, rendering local law 3 of 2024 jurisdictionally defective. The Applicant having already complied with the comprehensive requirements of Article VIII, should not be subjected to additional burdens imposed by a law that exceeds the County's legal authority.

Moreover, the Applicant submitted an Application to ORES on February 12, 2024. Requiring the Applicant to now undertake a completely new assessment under Local Law 3 of 2024 would not only be redundant but could also significantly delay the project. This delay would be contrary to the CLCPA's objectives which require 70% renewable energy generation by 2030 and a zero-emissions electricity sector by 2040. Imposing additional assessments would delay the overall project timeline, thereby slowing the state's progress towards these critical deadlines.

(3) Request Cannot Reasonably be Obviated by Design Changes

The vague and overly broad nature of Local Law 3 of 2024 makes it impracticable to achieve compliance through design changes. The law’s requirements for cumulative assessments lacks clear criteria, making it impossible to determine specific design changes that would ensure compliance. The existing design has already avoided, minimized, and mitigated impacts to the maximum extent practicable as required under the ORES regulations.

(4) The Request is the Minimum Necessary

The Applicant’s compliance with the ORES regulations and the assessments conducted as part of the Application process are more than adequate to address cumulative impacts. The study areas specified by Article VIII are based on reasonable distances tied to the expected range of impacts. Many of these assessments cover a general five-mile study area encompassing multiple towns and villages, which is extensive enough to address potential cumulative impacts on a regional

scale. Therefore, the requirements imposed by Local Law 3 of 2024 are largely redundant and exceed what is necessary and reasonable to adequately assess potential cumulative impacts.

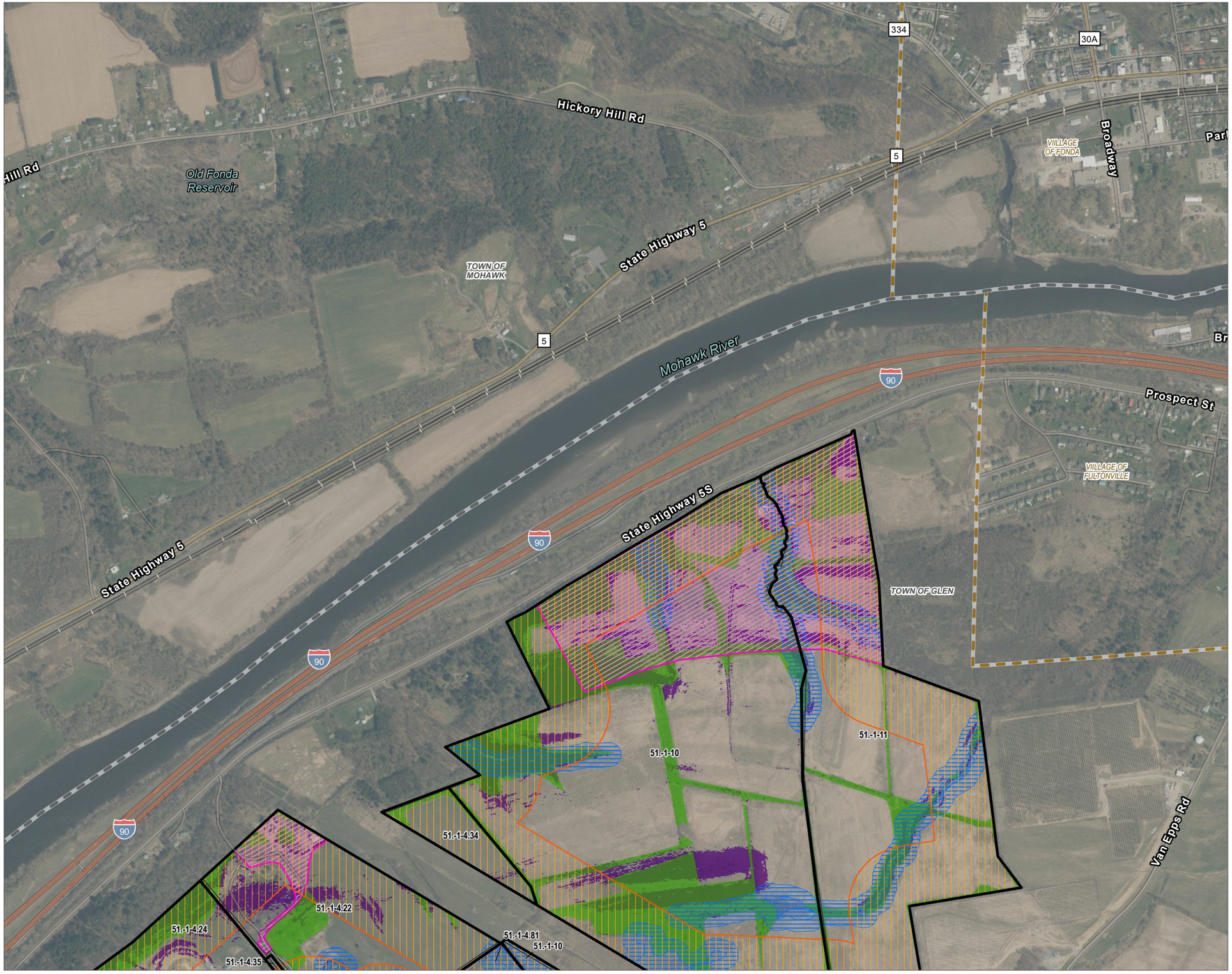
(5) Adverse Impacts of Granting the Request Shall Be Mitigated to the Maximum Extent Practicable

The Applicant has already implemented comprehensive measures to avoid, minimize, and mitigate adverse impacts, including adverse cumulative impacts, to the maximum extent practicable. These measures are documented throughout the Application and include extensive consultations with relevant agencies and stakeholders, including County stakeholders. For example, the safety response plan and site security plan were developed in consultation with the Montgomery County sheriff and the Montgomery County Emergency Management office to ensure public health and safety.

Overall, the Applicant has demonstrated that all adverse impacts have been avoided, minimized and mitigated to the maximum extent practicable, and therefore there is no adverse impact to granting the Applicant's request.

Figures

Figure 1. Total Constraints



PARCEL BOUNDARIES

PANEL EXCLUSION AREAS

FACILITY SITE

LOCAL SETBACKS

500FT SETBACK FROM NON-PARTICIPATING PARCELS

100 FT SETBACK ON SELECT WETLANDS AND STREAMS

FORESTED LANDCOVER

FORESTED WETLANDS

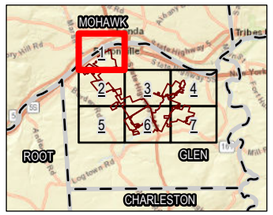
SLOPE 15%+

TOWN BOUNDARY

VILLAGE BOUNDARY

NOTE: PANEL EXCLUSION AREAS (PEAS) REPRESENT AREAS WITHIN THE FACILITY SITE WHERE THE APPLICANT LACKS NECESSARY REAL PROPERTY RIGHTS TO INSTALL PHOTOVOLTAIC (PV) PANELS.

BASE MAP: ESRI WORLD IMAGERY SERVICE (3/30/2022)
DATA SOURCES: ESRI, USGS, NYS GIS, TRC



1:9,600
1" = 800 Feet

0 400 800 FEET

PROJECT:
CONNECTGEN MONTGOMERY COUNTY LLC
MILL POINT SOLAR I
TOWN OF GLEN, MONTGOMERY COUNTY, NY

TITLE:
TOTAL CONSTRAINTS MAP

DRAWN BY:	A. KAILAS	PROJ. NO.:	411360
CHECKED BY:	C. PEARCE		
APPROVED BY:	T. KONDAK		
DATE:	DECEMBER 2024		

REVISED FIGURE 1
MAP 1 OF 7

TRC
3 CORPORATE DRIVE
SUITE 202
CLIFTON PARK, NY 12065
PHONE: 518.348.1190

FILE: MILL_POINT_94C_EX24.APRX

Coordinate System: NAD 1983 StatePlane New York East FIPS 3101 Feet; Map Rotation: 0
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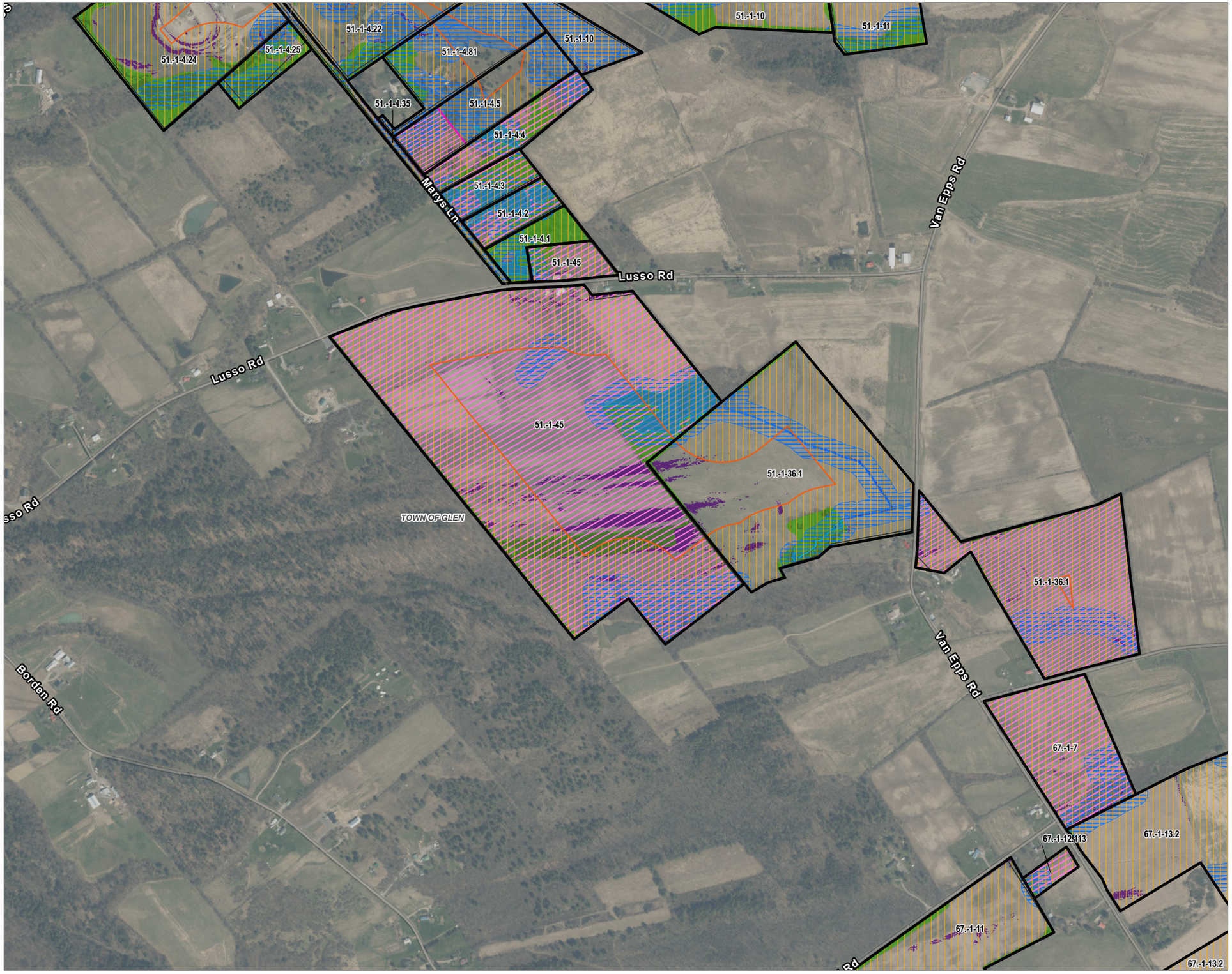

- PARCEL BOUNDARIES
- PANEL EXCLUSION AREAS
- FACILITY SITE

LOCAL SETBACKS

- 500FT SETBACK FROM NON-PARTICIPATING PARCELS
- 100 FT SETBACK ON SELECT WETLANDS AND STREAMS
- FORESTED LANDCOVER
- FORESTED WETLANDS
- SLOPE 15%+
- TOWN BOUNDARY
- VILLAGE BOUNDARY

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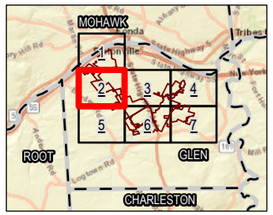
DATA SOURCES: ESRI, USGS, NYS GIS, TRC



1:9,600
1" = 800 Feet

0 400 800 FEET

PROJECT:
CONNECTGEN MONTGOMERY COUNTY LLC
MILL POINT SOLAR I
TOWN OF GLEN, MONTGOMERY COUNTY, NY

TITLE:
TOTAL CONSTRAINTS MAP

DRAWN BY:	A. KAILAS	PROJ. NO.:	411360
CHECKED BY:	C. PEARCE		
APPROVED BY:	T. KONDAK		**REVISED FIGURE 1** MAP 2 OF 7
DATE:	DECEMBER 2024		

TRC
3 CORPORATE DRIVE
SUITE 202
CLIFTON PARK, NY 12065
PHONE: 518.348.1190

FILE: MILL_POINT_94C_EX24.APRX

Coordinate System: NAD 1983 StatePlane New York East FIPS 3101 Feet; Map Rotation: 0
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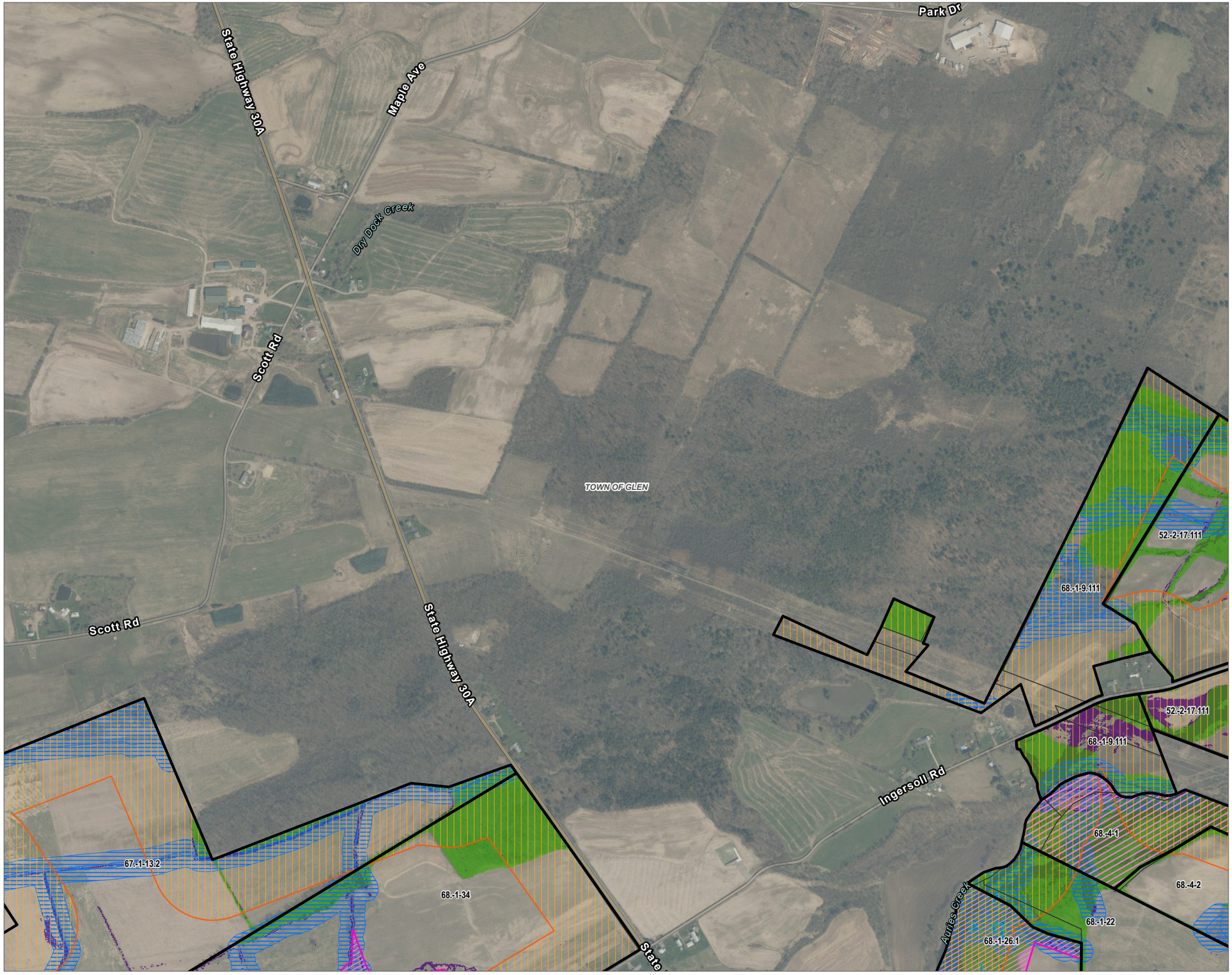

PARCEL BOUNDARIES

PANEL EXCLUSION AREAS

FACILITY SITE

LOCAL SETBACKS

500FT SETBACK FROM NON-PARTICIPATING PARCELS

100 FT SETBACK ON SELECT WETLANDS AND STREAMS

FORESTED LANDCOVER

FORESTED WETLANDS

SLOPE 15%+

TOWN BOUNDARY

VILLAGE BOUNDARY

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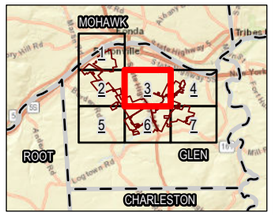
DATA SOURCES: ESRI, USGS, NYS GIS, TRC



1:9,600
1" = 800 Feet

0 400 800
FEET

PROJECT:
CONNECTGEN MONTGOMERY COUNTY LLC
MILL POINT SOLAR I
TOWN OF GLEN, MONTGOMERY COUNTY, NY

TITLE:
TOTAL CONSTRAINTS MAP

DRAWN BY:	A. KAILAS	PROJ. NO.:	411360
CHECKED BY:	C. PEARCE		
APPROVED BY:	T. KONDAK		
DATE:	DECEMBER 2024		

REVISED FIGURE 1
MAP 3 OF 7

TRC
3 CORPORATE DRIVE
SUITE 202
CLIFTON PARK, NY 12065
PHONE: 518.348.1190

FILE: MILL_POINT_94C_EX24.APRX

Coordinate System: NAD 1983 StatePlane New York East FIPS 3101 Feet; Map Rotation: 0
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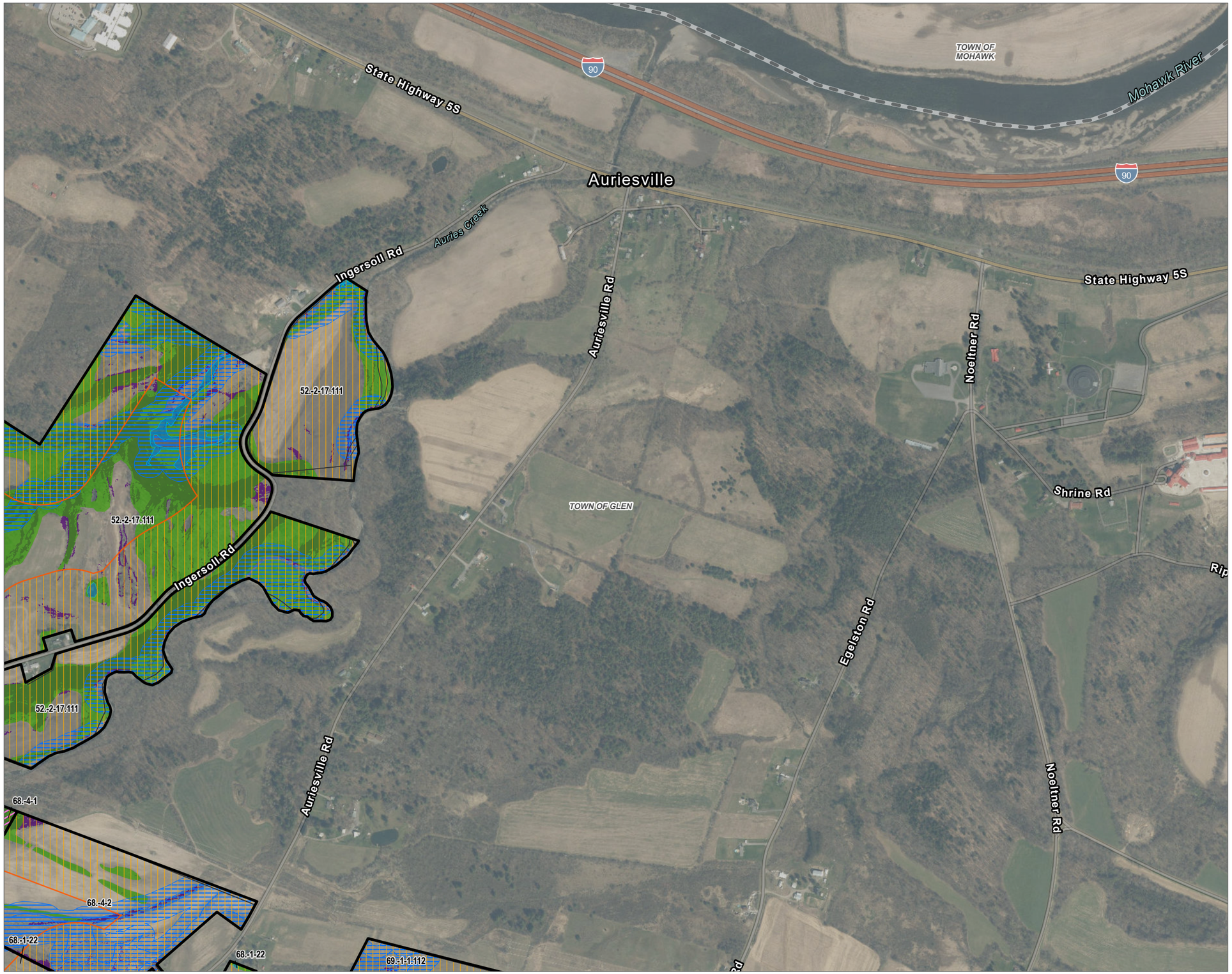

PARCEL BOUNDARIES

PANEL EXCLUSION AREAS

FACILITY SITE

LOCAL SETBACKS

500FT SETBACK FROM NON-PARTICIPATING PARCELS

100 FT SETBACK ON SELECT WETLANDS AND STREAMS

FORESTED LANDCOVER

FORESTED WETLANDS

SLOPE 15%+

TOWN BOUNDARY

VILLAGE BOUNDARY

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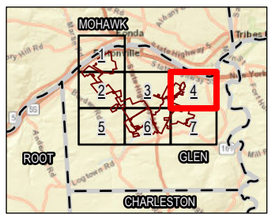
DATA SOURCES: ESRI, USGS, NYS GIS, TRC



1:9,600
1" = 800 Feet
0 400 800 FEET

PROJECT:
CONNECTGEN MONTGOMERY COUNTY LLC
MILL POINT SOLAR I
TOWN OF GLEN, MONTGOMERY COUNTY, NY

TITLE:
TOTAL CONSTRAINTS MAP

DRAWN BY:	A. KAILAS	PROJ. NO.:	411360
CHECKED BY:	C. PEARCE	**REVISED FIGURE 1** MAP 4 OF 7	
APPROVED BY:	T. KONDAK		
DATE:	DECEMBER 2024		

TRC
3 CORPORATE DRIVE
SUITE 202
CLIFTON PARK, NY 12065
PHONE: 518.348.1190

FILE: MILL_POINT_94C_EX24.APRX

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PARCEL BOUNDARIES

PANEL EXCLUSION AREAS

FACILITY SITE

LOCAL SETBACKS

500FT SETBACK FROM NON-PARTICIPATING PARCELS

100 FT SETBACK ON SELECT WETLANDS AND STREAMS

FORESTED LANDCOVER

FORESTED WETLANDS

SLOPE 15%+

TOWN BOUNDARY

VILLAGE BOUNDARY

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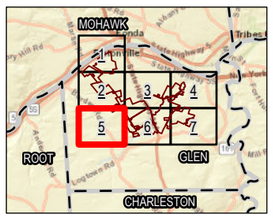
BASE MAP: ESRI WORLD IMAGERY SERVICE (3/30/2022)
DATA SOURCES: ESRI, USGS, NYS GIS, TRC

1:9,600
1" = 800 Feet

0 400 800
FEET



PROJECT:
CONNECTGEN MONTGOMERY COUNTY LLC
MILL POINT SOLAR I
TOWN OF GLEN, MONTGOMERY COUNTY, NY

TITLE:
TOTAL CONSTRAINTS MAP

DRAWN BY:	A. KAILAS	PROJ. NO.:	411360
CHECKED BY:	C. PEARCE		
APPROVED BY:	T. KONDAK		
DATE:	DECEMBER 2024		

REVISED FIGURE 1
MAP 5 OF 7

TRC
3 CORPORATE DRIVE
SUITE 202
CLIFTON PARK, NY 12065
PHONE: 518.348.1190

FILE: MILL_POINT_94C_EX24.APRX

Coordinate System: NAD 1983 StatePlane New York East FIPS 3101 Feet; Map Rotation: 0
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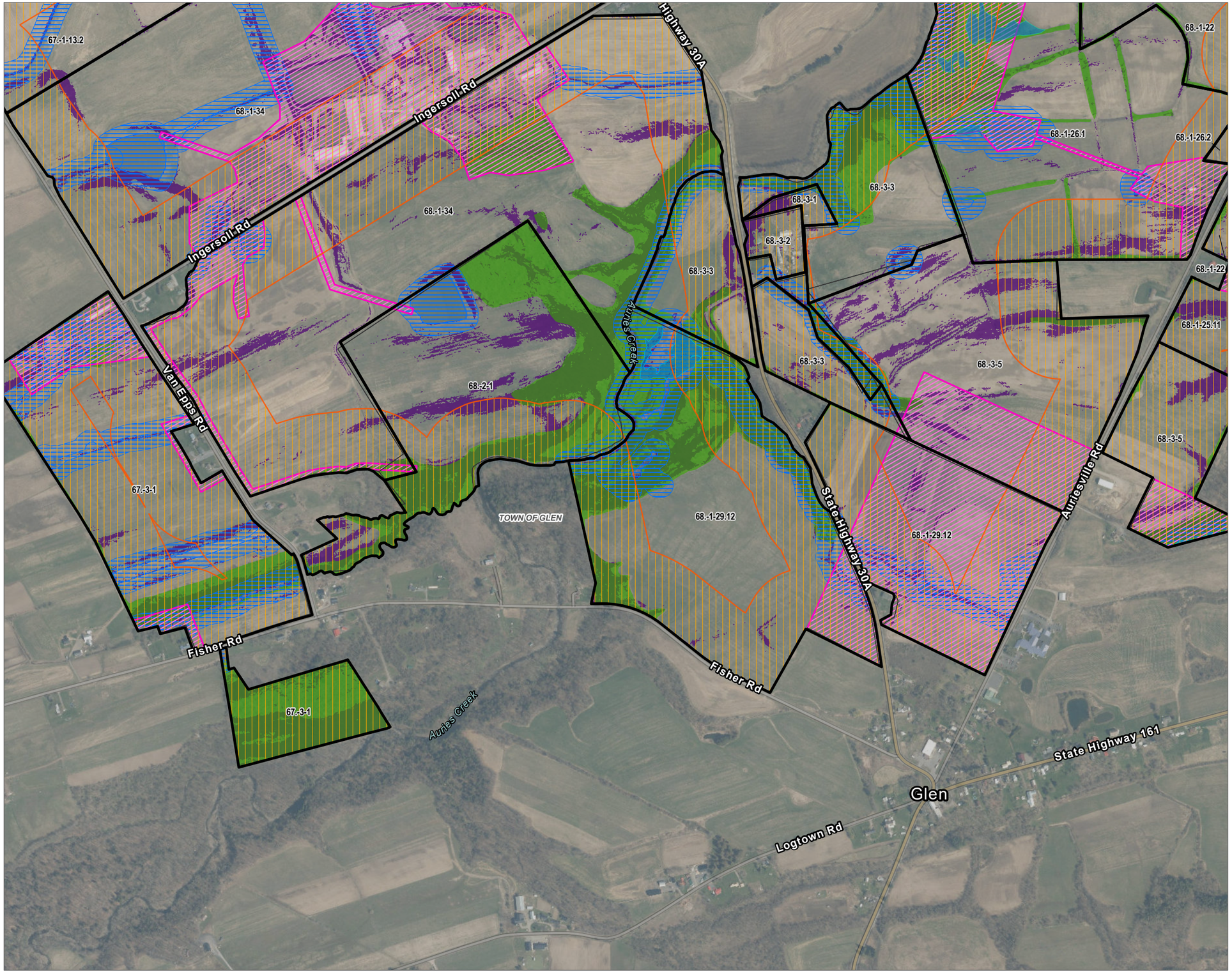

PARCEL BOUNDARIES

PANEL EXCLUSION AREAS

FACILITY SITE

LOCAL SETBACKS

500FT SETBACK FROM NON-PARTICIPATING PARCELS

100 FT SETBACK ON SELECT WETLANDS AND STREAMS

FORESTED LANDCOVER

FORESTED WETLANDS

SLOPE 15%+

TOWN BOUNDARY

VILLAGE BOUNDARY

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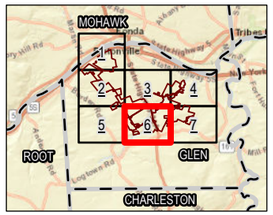


1:9,600
1" = 800 Feet

0 400 800 FEET

PROJECT:
CONNECTGEN MONTGOMERY COUNTY LLC
MILL POINT SOLAR I
TOWN OF GLEN, MONTGOMERY COUNTY, NY

TITLE:
TOTAL CONSTRAINTS MAP

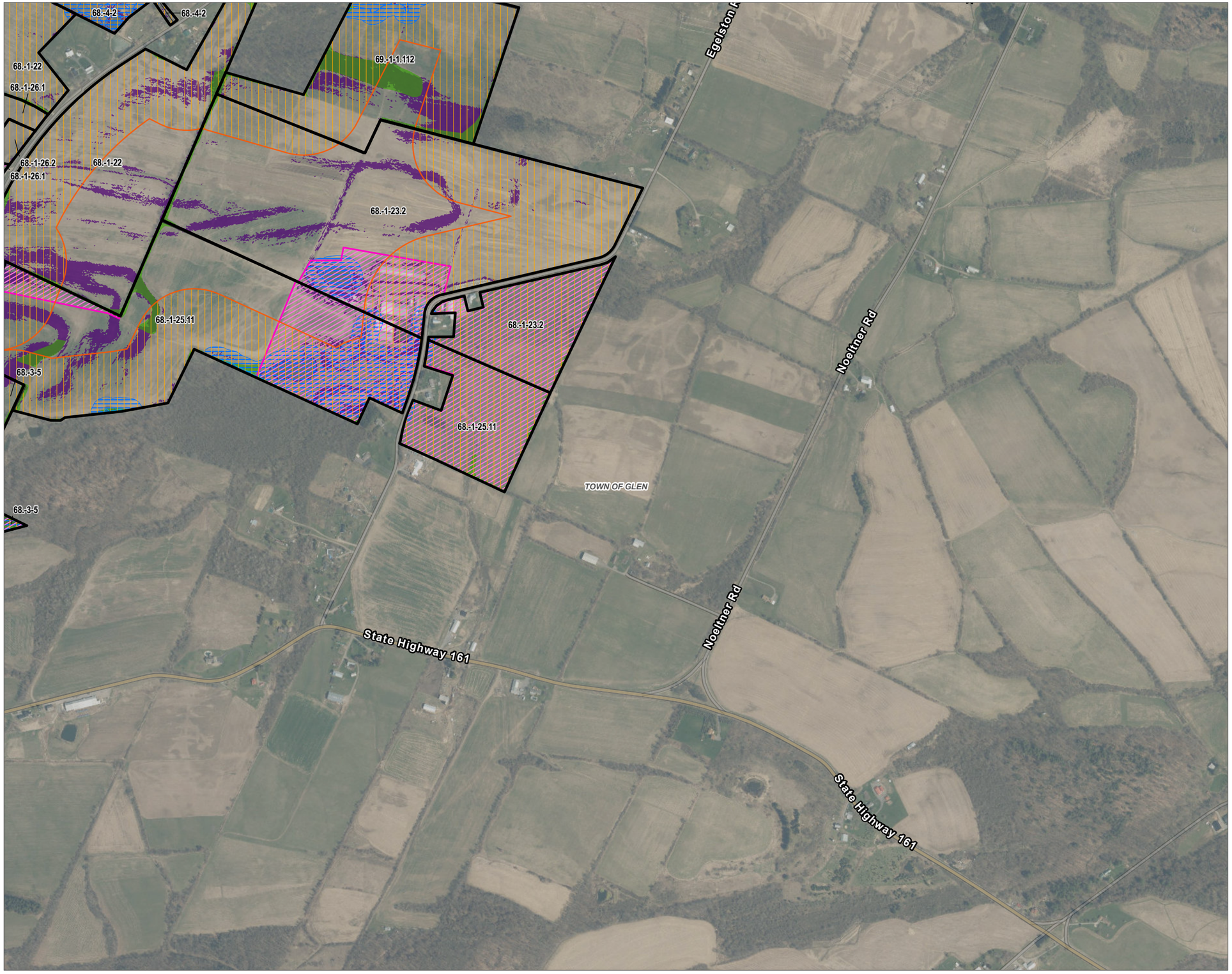
DRAWN BY:	A. KAILAS	PROJ. NO.:	411360
CHECKED BY:	C. PEARCE		
APPROVED BY:	T. KONDAK		
DATE:	DECEMBER 2024		

REVISED FIGURE 1
MAP 6 OF 7

TRC
3 CORPORATE DRIVE
SUITE 202
CLIFTON PARK, NY 12065
PHONE: 518.348.1190

FILE: MILL_POINT_94C_EX24.APRX

Coordinate System: NAD 1983 StatePlane New York East FIPS 3101 Feet; Map Rotation: 0
Saved By: TLATHAM on 12/9/2024 1:43:25 PM; File Path: T:\1 PROJECTS\ConnectGen\411360-Mill Point, Solar\2-APRX\Mill_Point_94C_Ex24.aprx; Layout Name: MP1_Appendix24_Figure_1_Total_Constraints_11x17L



PARCEL BOUNDARIES

PANEL EXCLUSION AREAS

FACILITY SITE

LOCAL SETBACKS

500FT SETBACK FROM NON-PARTICIPATING PARCELS

100 FT SETBACK ON SELECT WETLANDS AND STREAMS

FORESTED LANDCOVER

FORESTED WETLANDS

SLOPE 15%+

TOWN BOUNDARY

VILLAGE BOUNDARY

NOTE: PANEL EXCLUSION AREAS (PEAS) REPRESENT AREAS WITHIN THE FACILITY SITE WHERE THE APPLICANT LACKS NECESSARY REAL PROPERTY RIGHTS TO INSTALL PHOTOVOLTAIC (PV) PANELS.

BASE MAP: ESRI WORLD IMAGERY SERVICE (3/30/2022)
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1:9,600
1" = 800 Feet

0 400 800
FEET

PROJECT:
CONNECTGEN MONTGOMERY COUNTY LLC
MILL POINT SOLAR I
TOWN OF GLEN, MONTGOMERY COUNTY, NY

TITLE:
TOTAL CONSTRAINTS MAP

DRAWN BY:	A. KAILAS	PROJ. NO.:	411360
CHECKED BY:	C. PEARCE		
APPROVED BY:	T. KONDAK		
DATE:	DECEMBER 2024		

REVISED FIGURE 1
MAP 7 OF 7

TRC
3 CORPORATE DRIVE
SUITE 202
CLIFTON PARK, NY 12065
PHONE: 518.348.1190

FILE: MILL_POINT_94C_EX24.APRX

Coordinate System: NAD 1983 StatePlane New York East FIPS 3101 Feet; Map Rotation: 0
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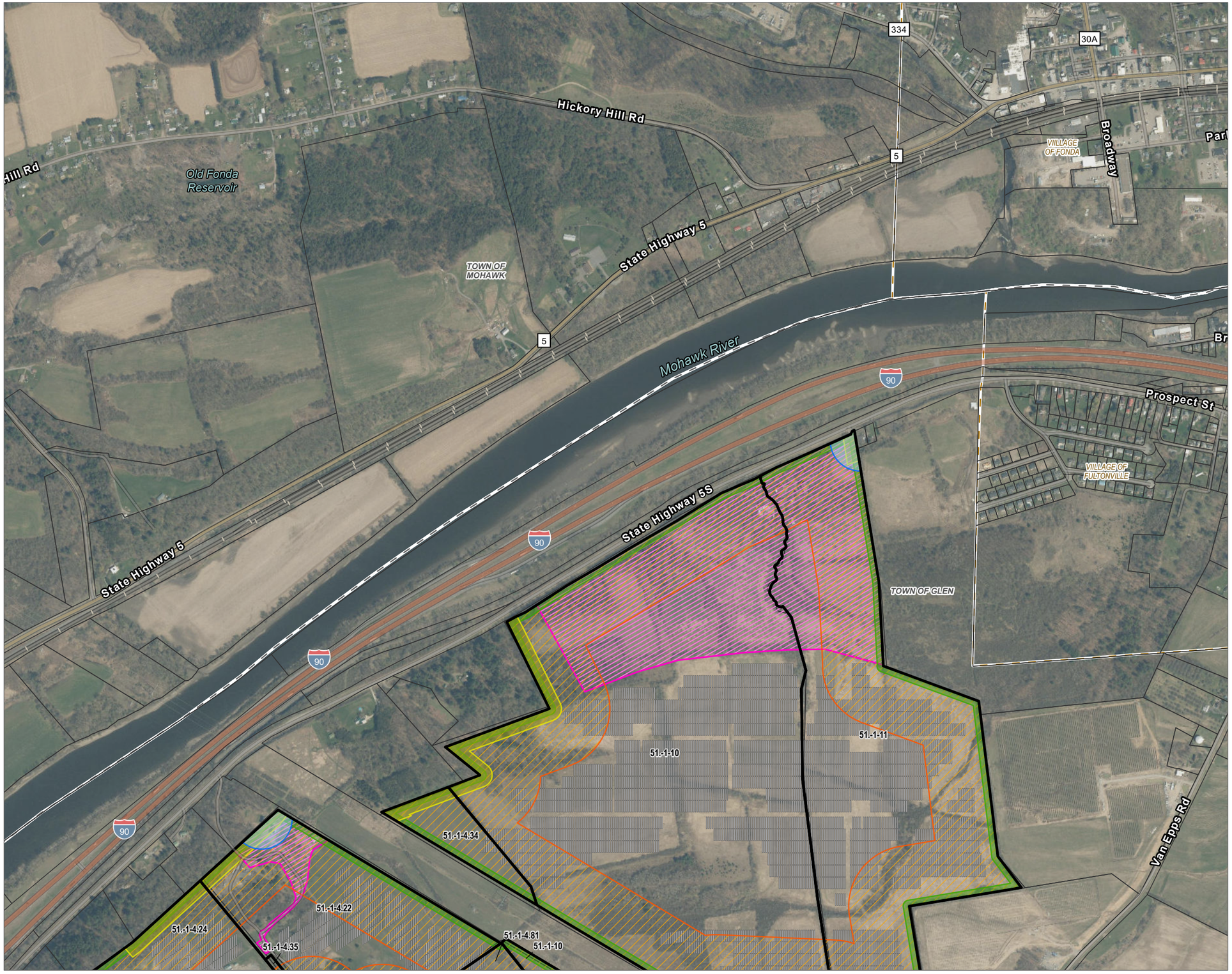
Figure 2. Local Setbacks



LOCAL SETBACKS

- 500FT SETBACK FROM NON-PARTICIPATING PARCELS

ORES SETBACKS

- 250FT SETBACK FROM NON-PARTICIPATING OCCUPIED RESIDENCES
- 100FT SETBACK FROM NON-PARTICIPATING RESIDENTIAL PROPERTY LINES
- 50FT SETBACK FROM NON-PARTICIPATING PROPERTY LINES (NON-RES)
- 50FT SETBACK FROM PUBLIC ROADS
- ARRAY PANELS
- PANEL EXCLUSION AREAS
- FACILITY SITE
- PARCEL BOUNDARIES
- TOWN BOUNDARY
- VILLAGE BOUNDARY

NOTE: PANEL EXCLUSION AREAS (PEAS) REPRESENT AREAS WITHIN THE FACILITY SITE WHERE THE APPLICANT LACKS NECESSARY REAL PROPERTY RIGHTS TO INSTALL PHOTOVOLTAIC (PV) PANELS.

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1:9,600
1" = 800 Feet
0 400 800 FEET

PROJECT:
CONNECTGEN MONTGOMERY COUNTY LLC
MILL POINT SOLAR I
TOWN OF GLEN, MONTGOMERY COUNTY, NY

TITLE:
LOCAL SETBACKS

DRAWN BY:	A. KAILAS	PROJ. NO.:	411360
CHECKED BY:	C. PEARCE		
APPROVED BY:	T. KONDAK		**REVISED FIGURE 2**
DATE:	DECEMBER 2024		**MAP 1 OF 7**

TRC
3 CORPORATE DRIVE
SUITE 202
CLIFTON PARK, NY 12065
PHONE: 518.348.1190

FILE: MILL_POINT_94C_EX24.APRX

Coordinate System: NAD 1983 StatePlane New York East FIPS 3101 Feet; Map Rotation: 0
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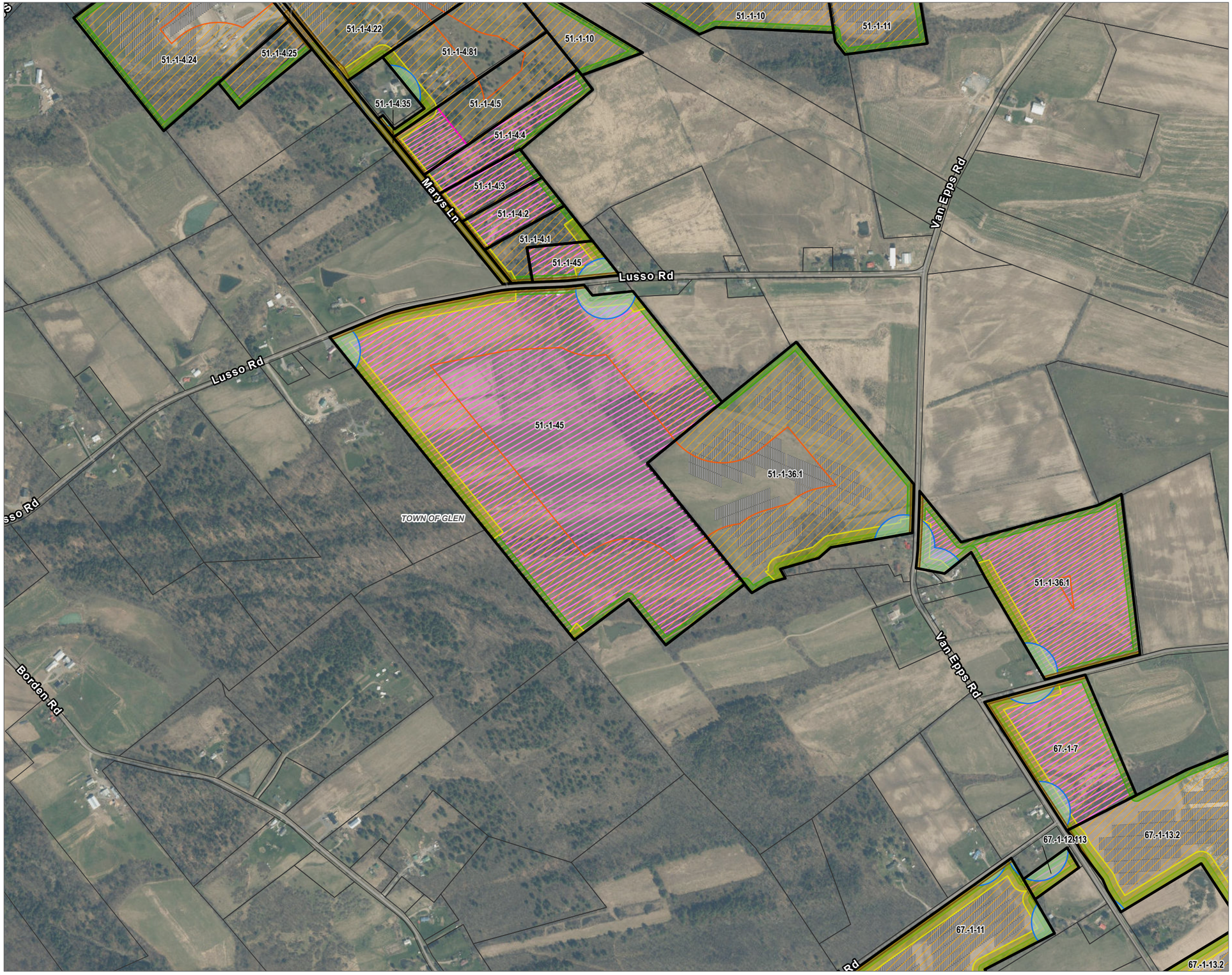

LOCAL SETBACKS

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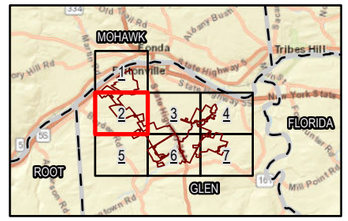
BASE MAP: ESRI WORLD IMAGERY SERVICE (3/30/2022)
DATA SOURCES: ESRI, USGS, NYS GIS, TRC



1:9,600
1" = 800 Feet

0 400 800
FEET

PROJECT:
CONNECTGEN MONTGOMERY COUNTY LLC
MILL POINT SOLAR I
TOWN OF GLEN, MONTGOMERY COUNTY, NY

TITLE:
LOCAL SETBACKS

DRAWN BY:	A. KAILAS	PROJ. NO.:	411360
CHECKED BY:	C. PEARCE		
APPROVED BY:	T. KONDAK		
DATE:	DECEMBER 2024		

REVISED FIGURE 2
MAP 2 OF 7

TRC
3 CORPORATE DRIVE
SUITE 202
CLIFTON PARK, NY 12065
PHONE: 518.348.1190

FILE: MILL_POINT_94C_EX24.APRX

Coordinate System: NAD 1983 StatePlane New York East FIPS 3101 Feet; Map Rotation: 0
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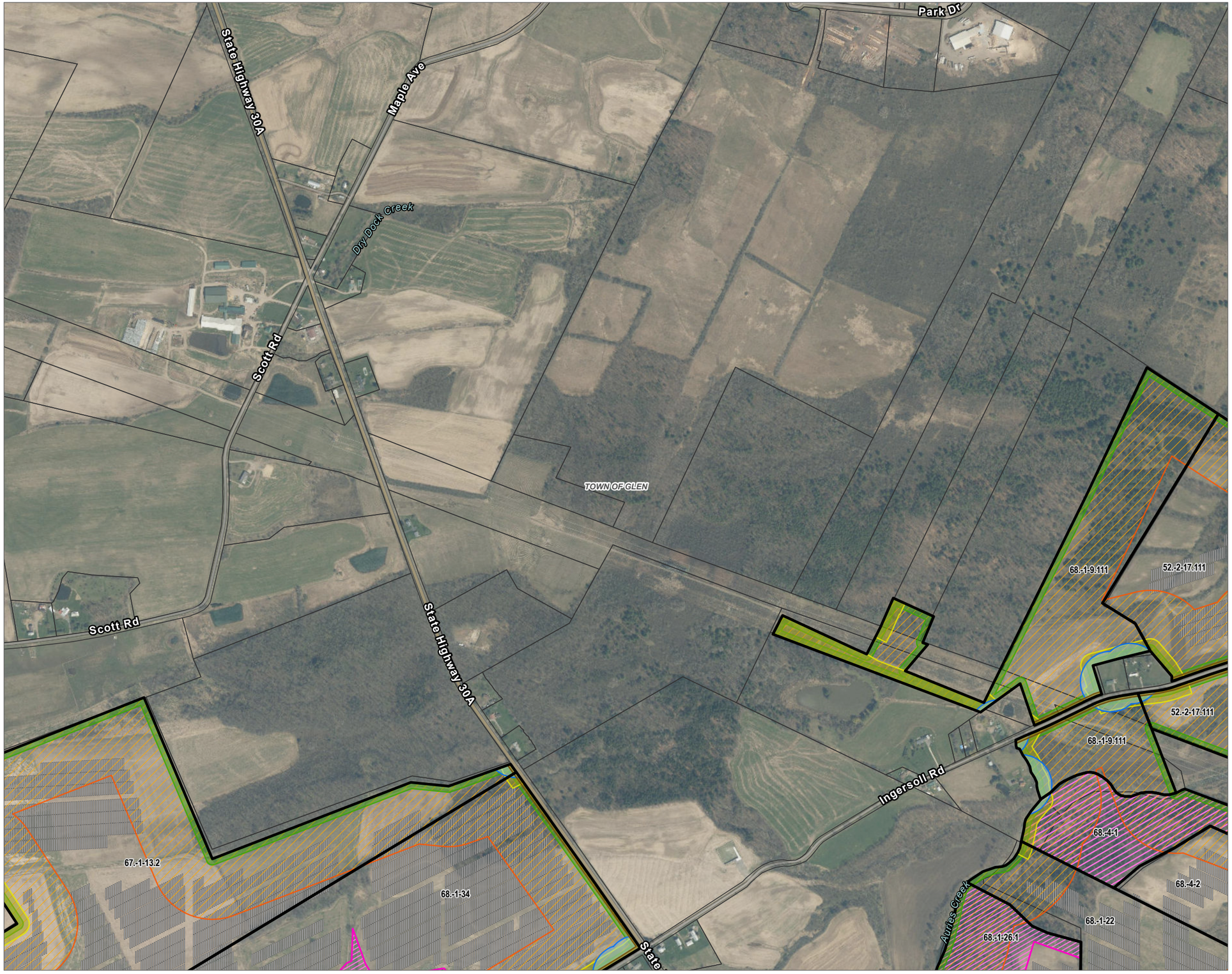


LOCAL SETBACKS

- 500FT SETBACK FROM NON-PARTICIPATING PARCELS

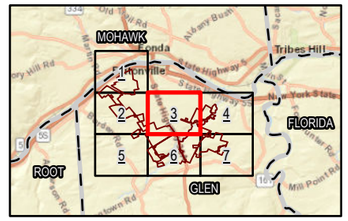
ORES SETBACKS

- 250FT SETBACK FROM NON-PARTICIPATING OCCUPIED RESIDENCES
- 100FT SETBACK FROM NON-PARTICIPATING RESIDENTIAL PROPERTY LINES
- 50FT SETBACK FROM NON-PARTICIPATING PROPERTY LINES (NON-RES)
- 50FT SETBACK FROM PUBLIC ROADS
- ARRAY PANELS
- PANEL EXCLUSION AREAS
- FACILITY SITE
- PARCEL BOUNDARIES
- TOWN BOUNDARY
- VILLAGE BOUNDARY

NOTE: PANEL EXCLUSION AREAS (PEAS) REPRESENT AREAS WITHIN THE FACILITY SITE WHERE THE APPLICANT LACKS NECESSARY REAL PROPERTY RIGHTS TO INSTALL PHOTOVOLTAIC (PV) PANELS.

BASE MAP: ESRI WORLD IMAGERY SERVICE (3/30/2022)
DATA SOURCES: ESRI, USGS, NYS GIS, TRC

1:9,600
1" = 800 Feet
0 400 800
FEET



PROJECT:
CONNECTGEN MONTGOMERY COUNTY LLC
MILL POINT SOLAR I
TOWN OF GLEN, MONTGOMERY COUNTY, NY

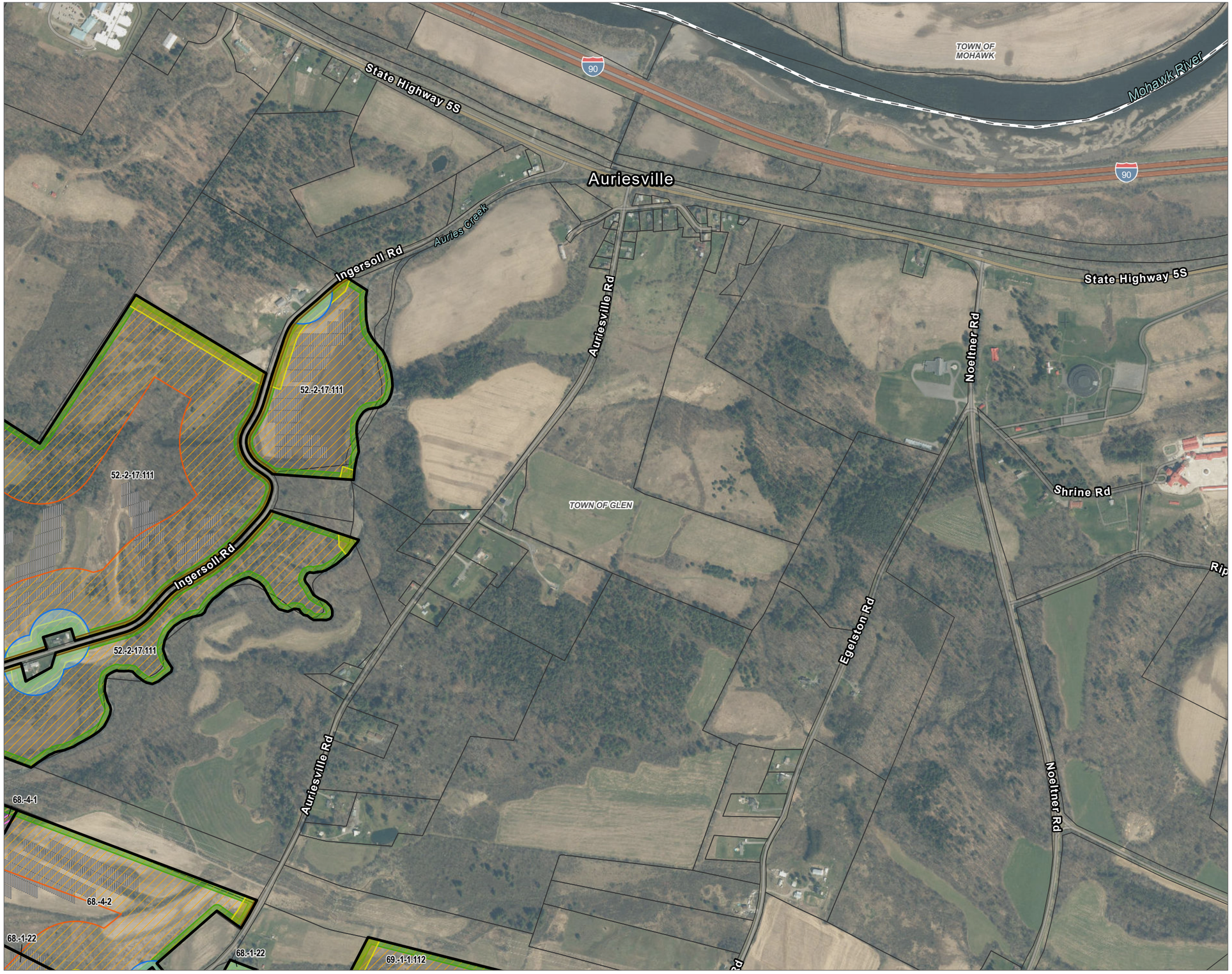
TITLE:
LOCAL SETBACKS

DRAWN BY:	A. KAILAS	PROJ. NO.:	411360
CHECKED BY:	C. PEARCE	**REVISED FIGURE 2**	
APPROVED BY:	T. KONDAK	**MAP 3 OF 7**	
DATE:	DECEMBER 2024		

TRC
3 CORPORATE DRIVE
SUITE 202
CLIFTON PARK, NY 12065
PHONE: 518.348.1190

FILE: MILL_POINT_94C_EX24.APRX

Coordinate System: NAD 1983 StatePlane New York East FIPS 3101 Feet; Map Rotation: 0
Saved By: TLATHAM on 12/9/2024 1:45:47 PM; File Path: T:\TRC\ECS\Connect\GEN\411360-Mill Point Solar\2-APRX\Mill_Point_94C_Ex24.aprx; Layout Name: MP1_Appendix24_Figure_2_Local_Setbacks_11x17L



LOCAL SETBACKS

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- 250FT SETBACK FROM NON-PARTICIPATING OCCUPIED RESIDENCES
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BASE MAP: ESRI WORLD IMAGERY SERVICE (3/30/2022)
DATA SOURCES: ESRI, USGS, NYS GIS, TRC

1:9,600
1" = 800 Feet
0 400 800
FEET

PROJECT:
CONNECTGEN MONTGOMERY COUNTY LLC
MILL POINT SOLAR I
TOWN OF GLEN, MONTGOMERY COUNTY, NY

TITLE:
LOCAL SETBACKS

DRAWN BY:	A. KAILAS	PROJ. NO.:	411360
CHECKED BY:	C. PEARCE		
APPROVED BY:	T. KONDAK		**REVISED FIGURE 2**
DATE:	DECEMBER 2024		**MAP 4 OF 7**

TRC
3 CORPORATE DRIVE
SUITE 202
CLIFTON PARK, NY 12065
PHONE: 518.348.1190

FILE: MILL_POINT_94C_EX24.APRX

Coordinate System: NAD 1983 StatePlane New York East FIPS 3101 Feet; Map Rotation: 0
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LOCAL SETBACKS

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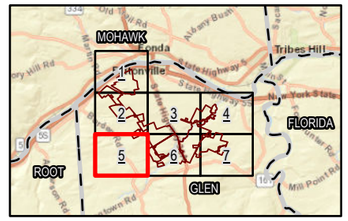
BASE MAP: ESRI WORLD IMAGERY SERVICE (3/30/2022)
DATA SOURCES: ESRI, USGS, NYS GIS, TRC

1:9,600
1" = 800 Feet
0 400 800 FEET



PROJECT:
CONNECTGEN MONTGOMERY COUNTY LLC
MILL POINT SOLAR I
TOWN OF GLEN, MONTGOMERY COUNTY, NY

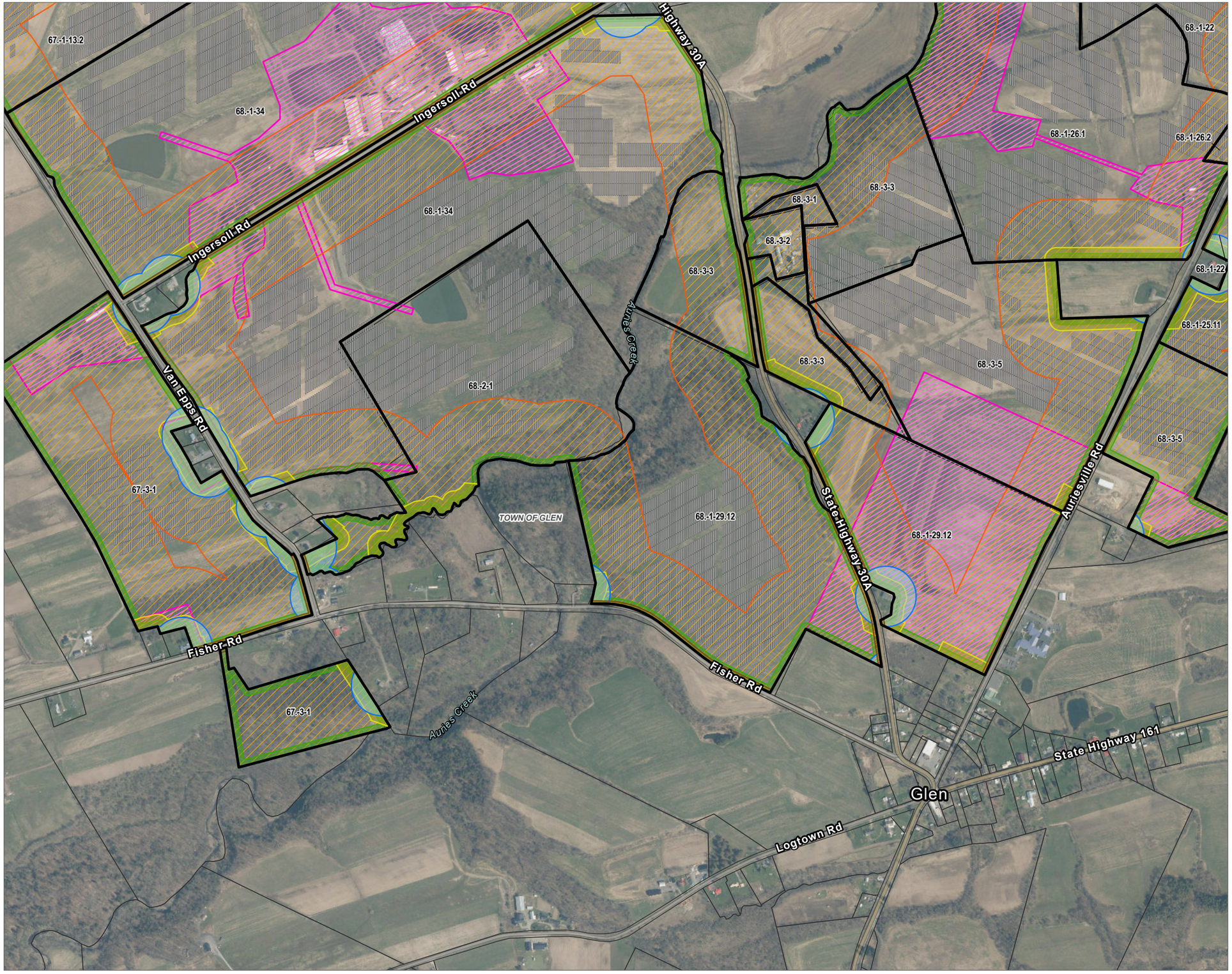
TITLE:
LOCAL SETBACKS

DRAWN BY:	A. KAILAS	PROJ. NO.:	411360
CHECKED BY:	C. PEARCE	**REVISED FIGURE 2**	
APPROVED BY:	T. KONDAK	**MAP 5 OF 7**	
DATE:	DECEMBER 2024		

TRC
3 CORPORATE DRIVE
SUITE 202
CLIFTON PARK, NY 12065
PHONE: 518.348.1190

FILE: MILL_POINT_94C_EX24.APRX

Coordinate System: NAD 1983 StatePlane New York East FIPS 3101 Feet; Map Rotation: 0
Saved By: TLATHAM on 12/9/2024 1:45:47 PM; File Path: T:\1 PROJECTS\ConnectGen\411360-Mill Point, Solar\2-APRX\Mill_Point_94C_Ex24.aprx; Layout Name: MP1_Appendix24_Figure_2_Local_Setbacks_11x17L



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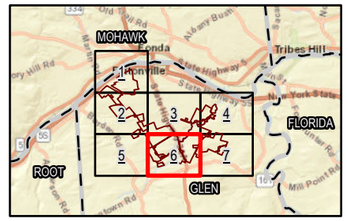
BASE MAP: ESRI WORLD IMAGERY SERVICE (3/30/2022)
DATA SOURCES: ESRI, USGS, NYS GIS, TRC



1:9,600
1" = 800 Feet
0 400 800 FEET

PROJECT:
CONNECTGEN MONTGOMERY COUNTY LLC
MILL POINT SOLAR I
TOWN OF GLEN, MONTGOMERY COUNTY, NY

TITLE:
LOCAL SETBACKS

DRAWN BY:	A. KAILAS	PROJ. NO.:	411360
CHECKED BY:	C. PEARCE		
APPROVED BY:	T. KONDAK		
DATE:	DECEMBER 2024		

REVISED FIGURE 2
MAP 6 OF 7

TRC
3 CORPORATE DRIVE
SUITE 202
CLIFTON PARK, NY 12065
PHONE: 518.348.1190

FILE: MILL_POINT_94C_EX24.APRX

Coordinate System: NAD 1983 StatePlane New York East FIPS 3101 Feet; Map Rotation: 0
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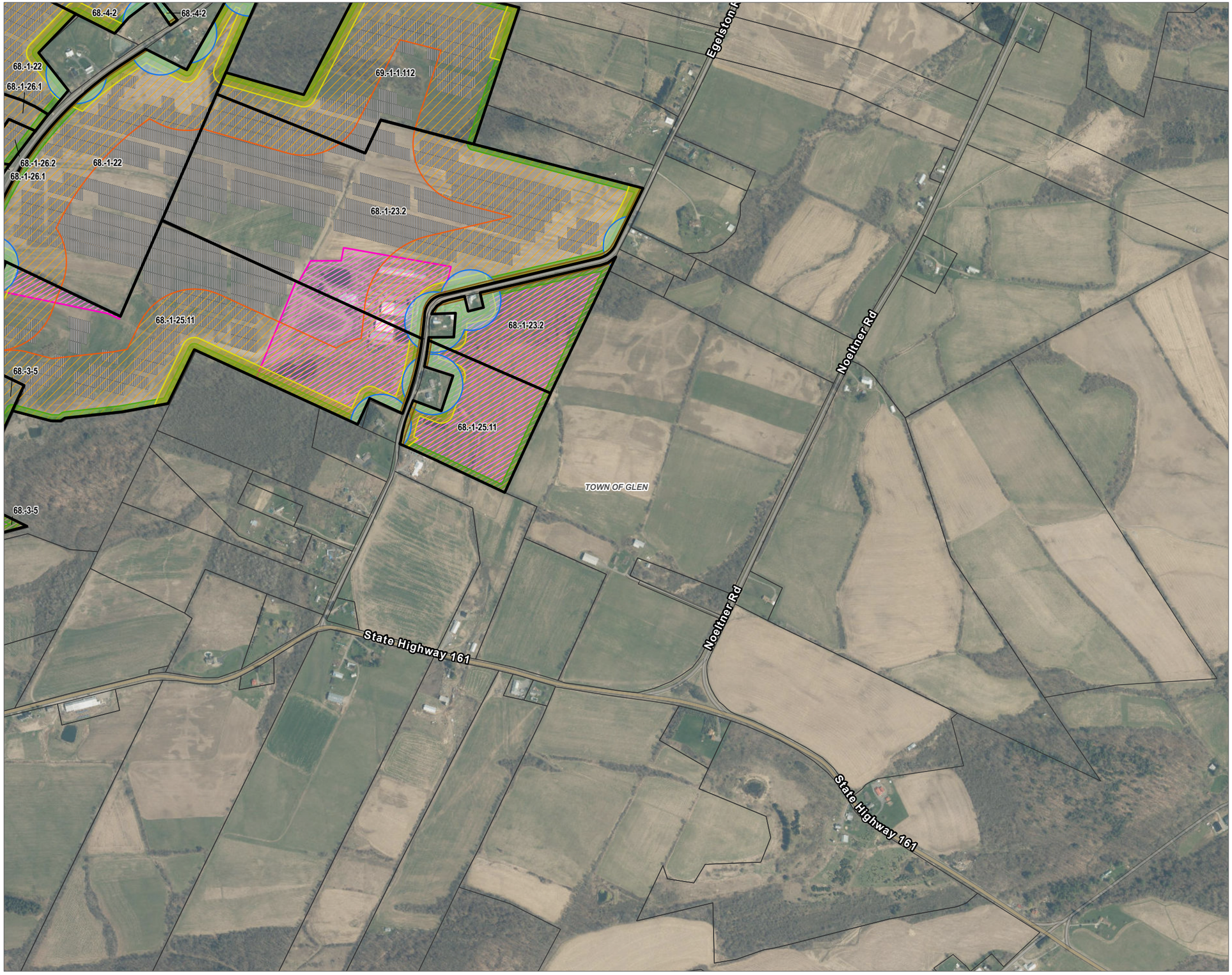

LOCAL SETBACKS

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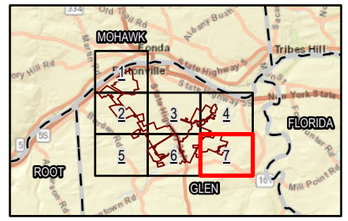
BASE MAP: ESRI WORLD IMAGERY SERVICE (3/30/2022)
DATA SOURCES: ESRI, USGS, NYS GIS, TRC

1:9,600
1" = 800 Feet
0 400 800 FEET



PROJECT:
CONNECTGEN MONTGOMERY COUNTY LLC
MILL POINT SOLAR I
TOWN OF GLEN, MONTGOMERY COUNTY, NY

TITLE:
LOCAL SETBACKS

DRAWN BY:	A. KAILAS	PROJ. NO.:	411360
CHECKED BY:	C. PEARCE		
APPROVED BY:	T. KONDAK		**REVISED FIGURE 2**
DATE:	DECEMBER 2024		**MAP 7 OF 7**

TRC
3 CORPORATE DRIVE
SUITE 202
CLIFTON PARK, NY 12065
PHONE: 518.348.1190

FILE: MILL_POINT_94C_EX24.APRX

Coordinate System: NAD 1983 StatePlane New York East FIPS 3101 Feet; Map Rotation: 0
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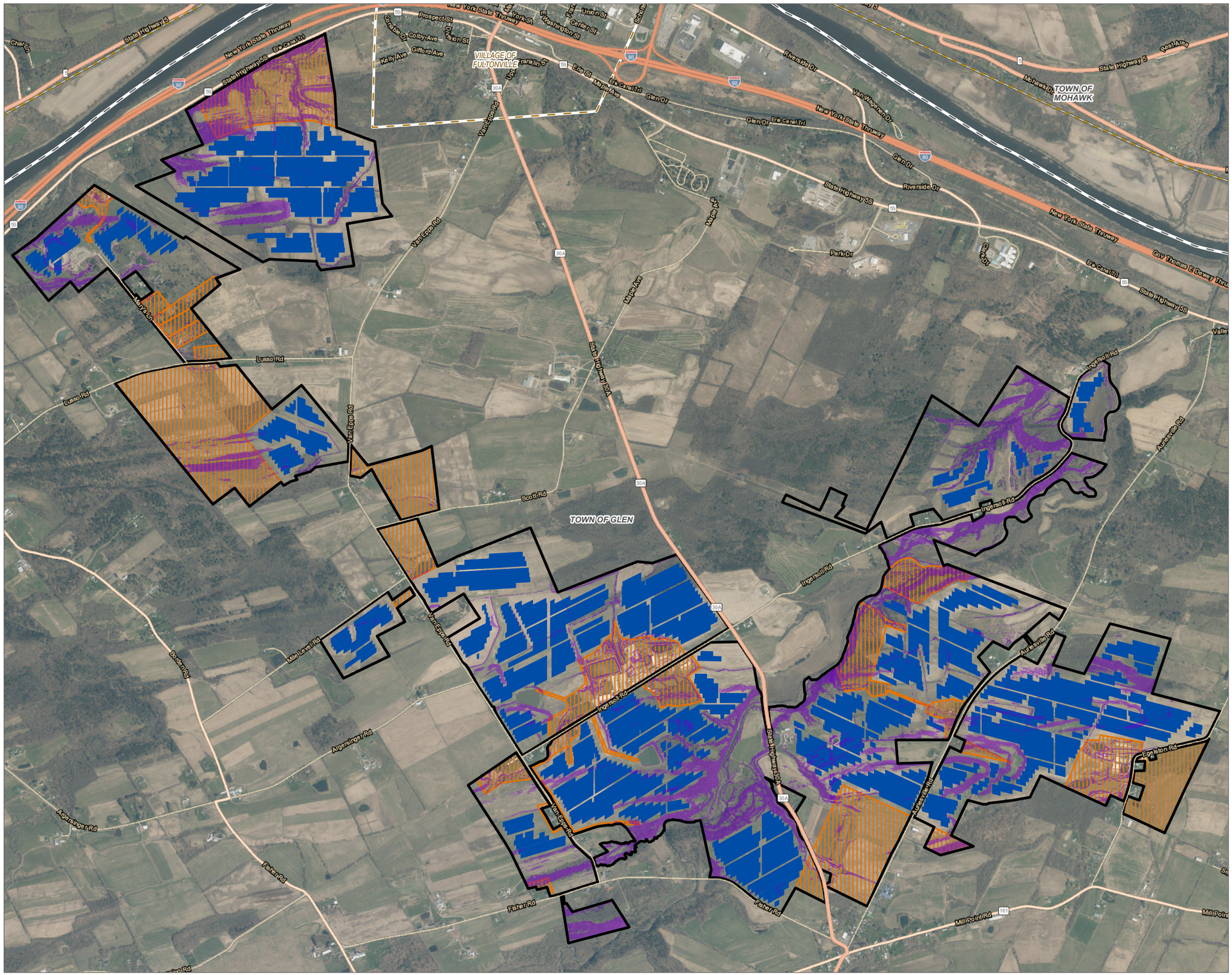
Figure 3. Slopes



FACILITY SITE

SLOPE 15%+

ARRAY PANELS

PANEL EXCLUSION AREAS

TOWN BOUNDARY

VILLAGE BOUNDARY

NOTE: PANEL EXCLUSION AREAS (PEAS) REPRESENT AREAS WITHIN THE FACILITY SITE WHERE THE APPLICANT LACKS NECESSARY REAL PROPERTY RIGHTS TO INSTALL PHOTOVOLTAIC (PV) PANELS.

BASE MAP: ESRI WORLD IMAGERY SERVICE (3/30/2022)
DATA SOURCES: ESRI, USGS, NYS GIS, TRC

1:24,000
1" = 2,000 Feet

0 1,000 2,000
FEET

PROJECT:
CONNECTGEN MONTGOMERY COUNTY LLC
MILL POINT SOLAR I
TOWN OF GLEN, MONTGOMERY COUNTY, NY

TITLE:
SLOPES

DRAWN BY:	A. KAILAS	PROJ. NO.:	411360
CHECKED BY:	C. PEARCE		**REVISED FIGURE 3**
APPROVED BY:	T. KONDAK		
DATE:	DECEMBER 2024		

TRC
3 CORPORATE DRIVE
SUITE 202
CLIFTON PARK, NY 12065
PHONE: 518.348.1190

FILE: MILL_POINT_94C_EX24.APRX

Coordinate System: NAD 1983 StatePlane New York East FIPS 3101 Feet - Map Rotation: 0
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