

## 26.0 LAND USE PLANNING COMMISSION

### 26.1 Project Location and Description

Three Rivers Solar Power, LLC proposes to develop a 100 megawatt utility scale solar facility located in Township 16MD, BPP, Hancock County, Maine (Project). The project parcel is approximately 1,115 acres in size. 696 acres within the parcel has recently been rezoned from General management Subdistrict (M-GN), Wetland Protection Subdistricts (P-WL 1, 2, and 3), and Shoreland Protection Subdistrict (P-SL2) classification to Commercial Industrial Development Subdistrict (D-CI) allowing utility scale solar projects and is considered the Project Area. See Exhibit 26-1 for the signed LUPC Rezoning Petition.

LUPC identifies the lot as Map HA007, Plan 01, Lots 1.3, 4.1 and 13.1. The parcel deed book 6020, page 38. Please refer to the site location map found in Section 1.0, Development Description, labeled Exhibit 1.1 of this application.

Approximately 10 miles of gravel roads exist within the parcel. 1.5 miles of road is utilized by the public as a thoroughfare between Eastbrook and Deblois and is identified as Road A on attached plans. Approximately 17,400 feet of existing roads are not needed to support the project and will be revegetated. To meet the stormwater standards 19,400 feet will be regraded to promote stormwater to flow to treatment buffers.

The Project Area is a mixture of forestland and agricultural field. The agricultural part of the project area is currently used for cultivation of wild blueberries. Most of the forestland appears to have been harvested within the past 10 years, however, some harvests appear older than that. The area contains several topographic "hills" that are dominated by well and moderately well drained glacial till and glacial outwash sediments. Within the Project area are six individual areas which have been selected for the installation of solar panels, associated equipment and construction of a substation. The six solar fields total approximately 465 acres.

A tap and a collector substation are proposed to support the project. The combined footprint of the substations is approximately 1.8 acres and is located in the southwest portion of the project area. Approximately 95 acres of panels will be installed throughout the six fields. Panels will be set a minimum of 4 feet above grade and a maximum of eight feet above grade. In addition, the project includes 35 inverter units totaling 0.3 acres.

Surface waters within the Project Area includes; scrub-shrub, isolated forested and emergent wetlands along with three unnamed streams. Surface water abutting the site include West Branch Narraguagus River and Colson Branch. Please see the Protected Natural Resource report prepared by Atlantic Resources for specific details.

### 26.2 Land Division History

Land division history was performed by Verrill Dana and is attached as Exhibit 26-2.

### 26.3 Development in Flood Prone Areas

Development will not occur in flood prone areas. FEMA has identified the location as an area of minimal flood hazard. No project elements are located within any mapped 100-year flood zone. Accordingly the project will not cause or increase flooding or flood hazard in compliance with LUPC Chapter 10.25.T.

### 26.4 Vegetation Clearing (outside of NRPA resource areas)

A portion of the Project Area contains standing timber that may be removed to allow development of the site. None of the clearing associated with the Project will take place: 1) within 50 feet of the right-of-way of a public road; 2) within 75 feet of the normal high water mark of any body of standing water less than 10 acres in size, or any coastal wetland or flowing water draining less than 50 square miles; or 3) within 100 feet of the normal high water mark of a body of standing water 10 acres or greater in size or flowing water draining 50 square miles or more.

As a result, the timber removal associated with the project is not subject to LUPC Chapter 10.27,B vegetation clearing standards.

### 26.5 Vehicular Circulation, Access and Parking

Just over 10 miles of gravel roads exist within the project area. All roads will be utilized for the construction of the project and will not cause any congestion. Road A, as identified on the plans, will remain open during construction and, once the project is online, allow through traffic as it does today. During construction, parking will be allowed within the 2.5-acre laydown area and the existing roads except Road A. Required parking once online is limited and provided within the footprint of the substation. No new roads are proposed. See LUPC Chapter 10.25,D.

### 26.6 Lighting

There will be two Holophane Predator Large LED lights on the south end of the collector substation. They will be 20 to 35 feet above grade and used as needed. Such lighting will comply with the relevant standards contained in LUPC Chapter 10.25,F,2.

### 26.7 Signs

"Private Property: No Trespassing" signs will be installed 3-5 feet off the ground and no more than 100 feet apart. Standard "High Voltage" signs will be installed along the fence around the substation and on the fence around the inverters. One project sign will be mounted at each end of Road A, the thoroughfare road that runs along the western boundary of Field 1, crosses Field 1, and exits on the southeast side of Field 1. The size of the two project signs will be 4' x 8' in compliance with LUPC Chapter 10.27,B.

### 26.8 Dimensional Standards

- **Minimum Lot Size:** The minimum lot size for commercial/industrial development with one or more buildings is 40,000 square feet. LUPC Chapter 10.26,A. The proposed project does not include any buildings. Even so, the project parcel is 1,115 acres so is well in excess of the lot size requirement.
- **Minimum Shoreline Frontage:** For parcels bordering a flowing water draining less than 50 square miles or a standing waterbody less than 10 acres, the minimum shoreline frontage for commercial/industrial development including one or more buildings is 200 feet. For parcels bordering a flowing water draining more than 50 square miles or a standing waterbody greater than 10 acres, the minimum shoreline frontage for commercial/industrial development including one or more buildings is 300 feet. LUPC Chapter 10.26,B. The proposed project does not include any buildings so these frontage requirements do not apply.
- **Minimum Road Frontage:** For commercial/industrial development including one or more buildings, the minimum frontage along roads used by the public is 200 feet. LUPC Chapter 10.26,C. The proposed project does not include any buildings so this frontage requirement does not apply. Even so, Road A, which is considered a public road, contains 7,061 feet of frontage within the project parcel.
- **Setbacks:** All project access roads will be gated at public/private intersections. All structures (including panels) are at least 75 feet from Road A (the private road accessible by the public). All structures are at least 150 feet back from any streams and waterbodies. All structures are at least 25 feet from side and rear property lines. As such, all setbacks within LUPC Chapter 10.26,D will be met.

- **Maximum Lot Coverage:** Total lot coverage is approximately 103 acres or 9% (of the 1,115 full parcel area). That total includes approximately 95.5 acres of solar panels and 7.6 acres of impervious area. As such, the lot coverage requirements within LUPC Chapter 10.26,E will be met.
- **Maximum Structure Height:** The solar panels will be mounted with their highest point at approximately 20 feet above the ground. The highest elements of the substation will be approximately 50 feet above the ground. As such, the maximum structure height requirements within LUPC Chapter 10.26,F will be met.

## **Exhibit 26-1**

Three Rivers Solar Signed LUPC Rezoning Petition



PAUL R. LEPAGE  
GOVERNOR

STATE OF MAINE  
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY  
LAND USE PLANNING COMMISSION  
22 STATE HOUSE STATION  
AUGUSTA, MAINE 04330

WALTER E. WHITCOMB  
COMMISSIONER

NICHOLAS D. LIVESAY  
EXECUTIVE DIRECTOR

COMMISSION DECISION  
IN THE MATTER OF

Next Phase Energy Services, LLC  
Elliot Jordan & Son, Inc.

Finding of Fact and Decision

ZONING PETITION ZP 772

The Maine Land Use Planning Commission (the LUPC or Commission), at a meeting held on August 8, 2018, at Orono, Maine, after reviewing the petition and supporting documents submitted by Next Phase Energy Services, LLC and Elliot Jordan & Son, Inc. (Petitioners) for Zoning Petition ZP 772, review agency and staff comments, and other related materials on file, and pursuant to 12 M.R.S. Sections 681 et seq. and the Commission's standards and rules, finds the following facts:

1. *Petitioner*                      Next Phase Energy Services, LLC  
   Attn: Dave Fowler, President  
   143 Highland Shores Road  
   Casco, Maine 04015
  
2. *Petitioner*                      Elliott Jordan & Son, Inc.  
    *and Landowner*                      Attn: Duane Jordan, President  
   382 Cave Hill Road  
   Waltham, Maine 04605
  
3. *Completed Petition*              June 21, 2018
  
4. *Property Location*              T16 MD BPP, Hancock County, Maine  
   Maine Revenue Service Map HA0007, Plan 01, Lots #1.3, #4.1 and #13.1  
   (parcel size 1,115 acres)
  
5. *Current Zoning*                      General Management Subdistrict (M-GN), Wetland Protection Subdistricts (P-WL1, 2, and 3), and Shoreland Protection Subdistrict (P-SL2)
  
6. *Proposed Zoning*                      Commercial Industrial Development Subdistrict (D-CI) (696 acres)



7. *Affected Waterbodies.* West Branch of the Narraguagus River, Mahanon Brook, an unnamed stream, and Colson Branch

The West Branch of the Narraguagus River borders the east side of the parcel to be rezoned. Mahanon Brook borders the north side; the unnamed stream borders the west side; and Colson Branch borders the south side of the parcel. The West Branch of the Narraguagus River is classified by the Maine Department of Environmental Protection (MDEP) as a Class AA flowing water. The other three streams are designated as Class A flowing waters. All four streams are located within the area designated as critical habitat for Atlantic salmon by the U.S Fish and Wildlife Service.

### **Proposal Summary**

8. The Petitioners propose to rezone approximately 696 acres of General Management (M-GN) subdistrict, which includes several small inclusions of Wetland Protection (P-WL1, P-WL2, and P-WL3) subdistricts and a segment of a Shoreland Protection (P-SL2) subdistrict along a small stream, to Commercial Industrial Development (D-CI) subdistrict to allow the construction of a grid-scale solar energy generation facility in T16 MD BPP, Hancock County, Maine. The remaining 419 acres of the 1,115-acre parcel would retain the existing zoning. The Petitioners state that the Three Rivers Solar Project (the Project) would provide up to 100 megawatts of renewable energy to the New England regional electrical grid. The solar panels would cover approximately 500 acres of the 696 acres proposed for rezoning. The Project would connect to the New England regional electrical grid at the existing Bull Hill substation, which sends power to the grid via Emera Maine's existing 115 KV transmission line. The Bull Hill substation is located approximately three miles from the Project site.

### **Standards and Commission Review Criteria**

9. In accordance with Chapter 10, section 10.02(199)(a), a grid-scale solar energy generation facility is defined as "a Solar Energy System that is primarily or solely intended to generate electricity for commercial sale for off-site use, occupies an area of one or more acres, and has a nameplate capacity of more than 250 Kilowatts."
10. In accordance with Chapter 10, section 10.21,A,1, "[t]he purpose of the D-CI subdistrict is to allow for commercial, industrial and other development that is not compatible with residential uses. Designation of commercial, industrial and other similar areas of intensive development as D-CI subdistricts will ensure that other land values and community standards are not adversely affected, and will provide for the location and continued functioning of important commercial and industrial facilities."
11. In accordance with Chapter 10, section 10.21,A,3,c,(17), a "grid-scale solar energy generation facility not located on soils recognized by the U.S. Department of Agriculture as prime farmland soils" and related accessory structures may be allowed within D-CI subdistricts upon issuance of a permit from the Commission.
12. In accordance with Chapter 10, section 10.21,A,2,b, the D-CI subdistrict shall include "[a]reas the Commission determines meet the criteria for redistricting to [the D-CI] subdistrict, pursuant to Section 10.08, are proposed for development that is consistent with the purposes of this subdistrict, and are generally suitable for the development activities proposed."
13. In accordance with Chapter 10, section 10.21,A,2,b,(2), "[a] person petitioning the Commission to establish a D-CI subdistrict for the purpose of allowing a grid-scale solar energy [generation] facility, establishes a

presumption that the area proposed for redistricting is consistent with the portions of the *Comprehensive Land Use Plan* related to the location of development, upon demonstrating the area to be redistricted is:

- (a) Accessible from a public road by a legal right of access that would allow construction, operation, maintenance, and decommissioning of the facility;
- (b) Located within one mile of the proposed point of interconnection with the existing transmission grid and no other area suitable for the facility and closer to a point of interconnection is reasonably available to the petitioner, unless the petitioner demonstrates that redistricting an area no more than three miles from the point of interconnection would result in a project location that is compatible with current land uses and does not expand the pattern of development beyond already developed areas; and
- (c) Located a reasonable distance from emergency service providers to allow for adequate response in the event of an emergency.”

“If no presumption is established, the proposed redistricting will be reviewed for consistency with the portions of the *Comprehensive Land Use Plan* related to the location of development in a manner similar to other commercial and industrial uses.”

14. In accordance with 12 M.R.S. § 685-A(8-A)(A) of the Commission’s statute, and restated in section 10.08,A,1 of *Land Use Districts and Standards*, 01-672 C.M.R. Ch. 10 (last revised March 05, 2018) (Chapter 10), a land use district boundary may not be adopted or amended unless there is substantial evidence that “[t]he proposed land use district is consistent with the standards for district boundaries in effect at the time, the comprehensive land use plan and the purpose, intent and provision of this chapter.”

15. In accordance with 12 M.R.S. § 685-A(8-A)(B) of the Commission’s statute, and restated in Chapter 10, section 10.08,A,2, a land use district boundary may not be adopted or amended unless there is substantial evidence that “[t]he proposed land use district has no undue adverse impact on existing uses or resources or a new district designation is more appropriate for the protection and management of existing uses and resources within the affected area.”

## **CLUP Goals and Policies**

16. The Commission’s *Comprehensive Land Use Plan (CLUP)*, last revised in 2010, includes goals and policies that address, among other things, the location of development and the value of energy resources, plant and animal habitat resources, and water resources:

### *A. Location of Development (CLUP, Chapter 1, Section 1.2, Subsection I, A; pg. 6)*

Goal: “Guide the location of new development in order to protect and conserve forest, recreational, plant or animal habitat and other natural resources, to ensure the compatibility of land uses with one another and to allow for a reasonable range of development opportunities important to the people of Maine, including property owners and residents of the unorganized and deorganized townships.”

Policy relevant to this proposal: “Provide for a sustainable pattern of development, consistent with historical patterns, which directs development to suitable areas and retains the principal values of the jurisdiction, including a working forest, integrity of natural resources, and remoteness.”

### *B. Energy Resources (CLUP, Chapter 1, Section 1.2, Subsection II, E; pg. 13)*

Goal: "Provide for the environmentally sound and socially beneficial utilization of indigenous energy resources where there are not overriding public values that require protection."

Policies relevant to this proposal:

- (1) "Support indigenous, renewable energy resources as part of state and national efforts to promote energy independence, diversity and long-term sustainability."
- (2) "Accommodate energy generation installations that are consistent with state energy policies, are suitable in proposed location(s), and minimize intrusion on natural and cultural resources and values."
- (3) "Allow emerging energy technologies when they will not have an undue adverse impact on existing uses and natural resources."

C. *Plant and animal habitat resources (CLUP, Chapter 1, Section 1.2, Subsection II, H; pg. 16)*

Goal: "Conserve and protect the aesthetic, ecological, recreational, scientific, cultural and economic values of wildlife, plant and fisheries resources."

Policies relevant to this proposal:

- (1) "Regulate land use activities to protect sensitive habitats, including but not limited to habitats for fish spawning, nursery, feeding and other life requirements for fish species."
- (2) "Protect wildlife habitat in a fashion that is balanced and reasonably considers the management needs and economic constraints of landowners."

D. *Water resources (CLUP, Chapter 1, Section 1.2, Subsection II, K; pg. 18)*

Goal: "Preserve, protect and enhance the quality and quantity of surface waters and groundwater."

Policies relevant to this proposal:

- (1) "Protect the recreational and aesthetic values associated with water resources."

## Proposal

### 17. *Administrative Process and Public Comments*

- A. *Notice of Filing.* Notice of filing of the zoning petition was properly made to appropriate parties and the public as required under Rules of Practice, 01-672 C.M.R. Ch. 4 (last revised October 18, 2013).
- B. *Public hearing.* No requests for a public hearing were received.
- C. *Public comments.* Maine State Representative Richard S. Malaby submitted comments in support of the rezoning for the purpose of developing a grid-scale solar energy generation facility.

18. The Petitioners propose to rezone approximately 696 acres of the 1,115-acre parcel from M-GN subdistrict, which includes small areas of mapped P-WL 1, 2, and 3 subdistricts, and a P-SL2 subdistrict bordering a segment of a mapped minor flowing water, to D-CI subdistrict to allow for the construction of a grid-scale solar energy generation facility in T16 MD BPP, Hancock County, Maine. The remaining 419 acres of the 1,115-acre parcel would retain the existing zoning. The Petitioners state that the Project would provide up to 100 megawatts of renewable energy to the New England regional electrical grid. The solar panels would cover approximately 500 acres of the 696 acres proposed for rezoning.

- A. *Interconnection to the New England regional electrical grid.* The Project would interconnect to the grid at the existing Bull Hill Wind Project substation, which is connected to Emera Maine's existing 115 KV transmission line. The Bull Hill substation is located three miles from the Project site and only a small expansion of the substation would be needed to accommodate the Project. Although Emera Maine's 115 kV transmission line passes through the Project area, to interconnect at that point would require additional clearing and construction of a new substation and above-ground transmission line. The Petitioners propose to install underground collector lines along the existing roads from the Project to the Bull Hill substation, eliminating the need for construction of a new substation and most of the clearing for a segment of a new transmission line. Alternatively, moving the Project to a site closer to the Bull Hill substation would require clearing a large area of forest land for the solar panels. The proposed Project site is already cleared.
19. *Existing conditions.* The Project area generally consists of commercial wild blueberry fields with some mixed forests, surrounded by commercial forest land. Portions of the area to be rezoned have been developed for cultivating commercial wild blueberry crops over the past five years (but no harvests have occurred). The Petitioners stated that they intend to continue to cultivate blueberries on any of the land within the Project area that is not used for solar panels.
- A. *Roads.* The area proposed to be rezoned includes several existing land management roads used for timber harvesting and blueberry field development that connect to a network of land management roads.
- B. *Existing development.* Emera Maine's existing 115 kV transmission line runs through the lower portion of the parcel, but the Project area within the Petitioners' parcel is otherwise undeveloped.
- C. *Soils and slope.* The soils within in the Project area are primarily stony, gravelly, or silt loams that range from poorly drained in the small wetland inclusions to excessively drained in the upland areas, with low rolling hummocks. The slope of the land in the Project area ranges from 0% to 15%. There are nine soil complexes mapped by the Natural Resources Conservation Service (NRCS) within or adjacent to the Project area. These include two soil complexes that are described as "mucks" (poorly drained wetland soils, or peat) along the streams; four that are described as well to excessively well drained upland bouldery, stony, or gravelly loams; and three that are described as silty or sandy loams.
- D. *Prime farmland soils.* Of the 1,115-acre parcel, there is a soil complex (Pushshaw-Swanville) that is rated as a prime farmland soil that is present at three locations around the edge of, but outside the Project area proposed for rezoning: specifically, along a portion of the West Branch of the Narraguagus River, and along two sections of Colson Branch.
20. *Wetlands and streams.* The Petitioners propose to avoid all mapped or unmapped wetlands and streams when installing the solar energy generation facility, to maintain and expand where possible the existing forested buffer along the streams bordering the site, and to maintain a minimum 100-foot wide vegetated buffer along any streams within the Project area.
- A. *Wetlands.* The area proposed to be rezoned contains several inclusions of small mapped P-WL subdistricts. Of the mapped wetlands, there is one 0.37-acre P-WL1 wetland of special significance, which is an active beaver dam located at the eastern edge of the area to be rezoned. There is also an area of mapped P-WL1 wetland along a small mapped stream within the Project area. The remainder of the mapped wetlands are P-WL2 (scrub shrub) or P-WL3 (forested) wetlands.
- B. *Streams.* Bordering the parcel, but outside the area to be rezoned, several Class AA or Class A streams are present. There is one mapped P-SL2 subdistrict along a minor flowing water that is a tributary to

Colson Branch within the Project area. There is also a wet meadow along Colson Branch south of the site, outside of the Project area. Several areas of Inland Wading Bird and Waterfowl Habitat (IWWH) identified by the Maine Department of Inland Fisheries and Wildlife (MDIFW) are present along the streams bordering the parcel (*see* Findings #7 and #27,D).

21. *Access.* The nearest public roads to the Project area are Rt. 9 at 6.5 miles north of the site, Rt. 193 at 3.9 miles from the site, Rt. 182 at 5.9 miles from the site, and Sugar Hill Rd. at 4.1 miles from the site. There is an existing network of private land management roads that provide access to the Project area. Currently, the use of these land management roads by the public is light. The Project area is accessible by motor vehicle from Rt. 9 via existing private land management roads 73-00-0, 77-00-0, and 75-00-0; from Route 182 via existing land management roads 75-27-0 and 75-00-0; and from the Sugar Hill Road in the Town of Eastbrook via land management road 75-00-0. Elliot Jordan & Son, Inc, has legal right of access over these roads. Although there are these three potential access routes, Petitioners propose to access the Project area over two of these routes, one from Route 9 and the other from the Sugar Hill Road in Eastbrook. Petitioner Next Phase Energy Services, LLC has entered into a Lease Option Agreement with Petitioner Elliot Jordan & Son, Inc. for the entire 1,115-acre parcel; the lease would include legal right of access to the property. No road improvements are planned.
22. *Frontage.* The parcel that contains the area to be rezoned includes 13,300 feet of frontage on the West Branch of the Narraguagus River and Mahanon Brook. Land management road 75-00-0, which leads to the Project area, connects to 9.5 to 10 miles of existing small gravel roads within the parcel.
23. *Services.* The Town of Eastbrook Volunteer Fire Department, which is located 5.2 miles from the Project, stated they would provide fire and ambulance services to the Project area. They believe the Project will have minimal impact on the services they provide and will not require any additional resources from the department. Police services are provided to the Project area by the Hancock County Sheriff's Department, and solid waste disposal will be at the Juniper Ridge Landfill in Old Town, Maine. The Petitioners have a contract with Ray Plumbing & Heating Co., located in Ellsworth, Maine, to provide wastewater handling services during construction.
24. *Title, Right, or Interest.* The 1,115-acre parcel is currently owned by Elliot Jordan & Son, Inc (landowner). On April 15, 2017, Next Phase Energy Services, LLC obtained a Lease Option Agreement (expires March 31, 2019) from the landowner. To demonstrate Title, Right or Interest in the area to be rezoned sufficient to pursue this rezoning, the Petitioners submitted a copy of the Elliot Jordan & Son, Inc. deed and a copy of the memorandum for the Lease Option Agreement held by Next Phase Energy Services, LLC. The parcel to be rezoned is not subject to the wind energy easement on the land adjacent to the parcel.
25. *Financial Capacity.* Financial capacity associated with proposed development is evaluated as part of the development permitting. The Petitioners provided a statement regarding their capacity to finance the proposed solar energy Project, which will cost approximately \$120 million to develop, construct, and operate. Both Petitioners will provide equity for the Project, and Next Phase Energy Services will secure construction financing once all permits are obtained. The President of Next Phase Energy Services has previous experience with successfully obtaining financing for and constructing projects such as the Bull Hill Wind Project, the Hancock Wind Project, and Emera Maine's Downeast Reliability Project. Elliot Jordan & Son is an established company that provides commercial scale site work, excavation, and forestry. If the Project area is rezoned and subsequently not developed within a reasonable period with a grid-scale solar energy generation facility, in accordance with Section 10.21,A,2,b(2) of the Commission's Chapter 10 rules, "the D-CI subdistrict shall automatically revert to the prior subdistrict designation."

26. *Existing Uses and Resources, and Anticipated Impacts.* The land surrounding the area to be rezoned is used primarily for timber harvesting activities, blueberry cultivation, natural resource conservation, and grid-scale wind energy development (*i.e.*, the Bull Hill Wind Project and the Hancock Wind Project).

- A. *Wind power projects.* The closest wind turbine to the proposed Project area is less than one mile northwest of the site and the farthest is less than six miles away. There is a total of 36 wind turbines between the two wind power projects. Both wind projects include underground collector lines along several of the land management roads.
- B. *Peat mining.* An active commercial horticultural peat mining operation is located approximately one mile east of the Project area. A biomass energy generation facility that was closed as of 2017 and has since been removed, was also located at this site.
- C. *Wildlife habitat.* The land surrounding the Project area contains the following wildlife habitat designated by the MDIFW:
  - (1) IWWH along Colson Branch and the unnamed stream on the southwest side of the parcel, and the West Branch of the Narraguagus River on the north side;
  - (2) Atlantic salmon spawning and rearing habitat along the West Branch of the Narraguagus River on the east and southeast side of the parcel; and
  - (3) Upland sandpiper habitat located approximately two miles south of the Project area.

The existing forest between the Project area and the streams bordering the site that contain Atlantic salmon habitat and IWWH, as proposed, could be maintained, or increased where possible, to buffer the view of the solar facility, and to protect the water quality of the streams (*see* Finding #20).

- D. *Recreation.* The public uses the general vicinity of the Project area for recreation, such as ATV use, hunting, fishing, and other water related activities. The Petitioners stated that recreational use of the areas surrounding the Project area is light and is not likely to be adversely impacted by the Project. The existing road running through the Project area is proposed to remain accessible to recreationalists and others using the areas surrounding the Project.
- E. *Residential use.* The closest year-round residences are eight miles west of the site on Sugar Hill Road in the Town of Eastbrook. There are six seasonal camps primarily used for hunting and fishing within two miles of the Project area. The closest camp is located along the southeastern parcel boundary by permission of the landowner. There are two camps located within timber land that is now conservation land approximately 0.75 miles from the Project area. One of the camps located approximately 1.5 miles from the Project area within a forested area is on conservation land, and the other is in private ownership. There is one camp owned by petitioner Duane Jordan, President of Elliot Jordan & Son located approximately 1.9 miles southwest of the Project area within an active blueberry field. All of the camp owners or lessees have been made aware of the proposed Project.
- F. *Conservation property.* The parcel proposed for re-zoning abuts an approximately 13,800-acre property acquired by The Conservation Fund in April 2018 that is proposed for acquisition by The Nature Conservancy as an expansion of the 9,700-acre Spring River Preserve, which is located approximately 1 mile south, and which is itself directly adjacent to the Donnell Pond Unit of Maine Public Reserved Lands. The pending "Spring River – Narraguagus Forest" acquisition by TNC will expand upon the existing ecological reserve (Spring River and Donnell Pond), allowing development of old forest conditions, and will contribute to large-scale forest habitat connectivity and climate resilience in Downeast Maine.

## 27. Agency Review

- A. *Hancock County Commissioners*. The Hancock County Commissioners received notice of the petition, included review of the zoning petition on their June 25, 2018 agenda, and offered no comments on the proposal.
- B. *Maine Natural Areas Program (MNAP)*. MNAP reviewed the proposal and searched the Natural Areas Program's Biological and Conservation Data System files for rare or unique botanical features on or in the vicinity of the proposed Project. MNAP stated that according to their current information there are no known rare botanical features within the Project area, but in the general vicinity of the Project there are two known occurrences of Canada mountain rice-grass (S2) and one domed bog (S3).
- C. *Maine Historic Preservation Commission (MHPC)*. MHPC reviewed the proposal prior to submittal to the LUPC and stated that there are no known archaeological sites on this parcel, and no architectural or historic archaeological resources will be affected by the Project. However, certain land forms and areas of the parcel have a high to medium probability of containing prehistoric archaeological sites. As such, a Phase I prehistoric archaeological survey is recommended within 200 yards of the West Branch of the Narraguagus or the Colson Branch, and on the crest of the Colson Branch Hill above the 260-foot contour. After the petition was submitted to LUPC, MHPC did not offer additional comments, stating they had not received a report or any indication that the work is going to be completed, and referred back to their earlier comments.
- D. *Maine Department of Inland Fisheries and Wildlife (MDIFW)*. MDIFW reviewed the proposal and stated that the rezoning, in and of itself, of the proposed 696-acre Project area will not negatively impact the resources it is concerned about, including numerous wild brook trout streams and associated 100-foot riparian buffers, one or more rare species of migratory birds during spring and fall migrations, and the species and habitats described below. While MDIFW databases do not indicate the presence of other State-listed Endangered, Threatened, or Special Concern Species in Project area, to its knowledge no formal surveys have been conducted and it is possible that other rare species may be resident or transient in the Project area based on location, habitats present, and life history requirements. MDIFW's search area extends beyond the Project area.
- (1) *Bats*. MDIFW stated that while it is likely that one or more protected bat species are present in the vicinity of the Project, it does not anticipate significant impacts to any of these as a result of the Project. All eight species of bats in Maine are listed as Endangered, Threatened, or Special Concern.
  - (2) *Inland Wading Bird and Waterfowl Habitat (IWWH) (Significant Wildlife Habitat)*. Based on National Wetland Inventory (NWI) data, there are several moderate or high value IWWH that appear to be adjacent to or intersected by the proposed Project. IWWH habitat areas, by definition, include both the wetland and a 250-foot wide upland buffer adjacent to the wetland. Both the wetland and the buffer should be avoided, including no clearing within the 250-foot upland buffer. MDIFW recommends field verification of the IWWHs and their exact boundaries as part of project design.
  - (3) *Significant Vernal Pools*. Surveys for important natural resources, such as Significant Vernal Pools (SVPs), are typically conducted as part of project planning and preparation for permitting. Because of this, there is no preexisting, comprehensive statewide inventory of SVPs and, at this time, MDIFW Significant Wildlife Habitat maps do not contain information on SVPs in the area. MDIFW recommended that prior to construction, the Project area, including up to 250 feet outside the Project area, be surveyed for the presence of vernal pools.
  - (4) *Fisheries*. MDIFW recommended that a 100-foot wide vegetated buffer be maintained along the mapped streams within the Project area to protect water quality and temperature, provide natural input of woody debris, and support various forms of aquatic life necessary for many fish species. Stream crossings should be avoided, but if that is not possible, then any new or upgraded crossings

should be constructed to allow for fish passage. Crossings should be sized to allow at least 1.2 times the bankfull width of the stream, and should be open-bottomed or backfilled to provide streambed-type habitat. Construction Best Management Practices should be closely followed, and any instream work should be conducted between July 15 and October 1.

- (5) *Upland sandpipers*. Upland sandpipers, a State Threatened species, have been documented within the search area. Upland sandpipers are protected under Maine's Endangered Species Act and, as such, are afforded special protection against activities that may cause "Take" (kill or cause death), "harassment" (create injury or significantly disrupt normal behavior patterns), and other adverse actions.

MDIFW encourages Next Phase Energy Services, LLC to work with its staff as the Project is designed in preparation for its pending DEP Site Location of Development application.

- E. *U.S. Fish and Wildlife Service (USFWS)*. USFWS reviewed the proposal and noted that the West Branch of the Narraguagus River, Colson Branch, and Mahanon Brook all provide important Atlantic salmon habitat. As such, USFWS recommended the Petitioners increase the size of the forested buffers along these streams wherever possible. USFWS also recommended that any new or upgraded stream crossings to be installed for Project roads be sized to 1.2 times the stream's bankfull width and to pass the 100-year flood.
- F. *State Soil Scientist*. The State Soil Scientist reviewed the proposal and stated that he has no objections to the proposed Project because it will be located on cleared blueberry fields and will use existing gravel roads.

28. The facts are otherwise as represented in the application for Zoning Petition ZP 772 and supporting documents.

**Based upon the above Findings and the following analysis, the Commission concludes:**

1. *Consistent with purpose of D-CI subdistrict*. The rezoning is intended to accommodate future permitting and development of a grid-scale solar energy generation facility. Such a use is consistent with the purposes of the D-CI subdistrict as required by Section 10.21,A,2,b. Such a land use is expressly identified as allowed within the subdistrict, Section 10.21,A,3,c(18), and is the type of commercial, industrial, or intensive development for which the D-CI subdistrict was established. Ch. 10.21,A,1.
2. *Location of development*. The Petitioners have demonstrated the Project area to be rezoned satisfies Section 10.21,A,2,b(2). Specifically:
  - A. *Access*. The Project area is accessible from public roads via land management roads that the Petitioner Elliot Jordan and Son, Inc. has, and Petitioner Next Phase Energy Services, LLC will have upon execution of the lease option, a legal right to use, including for the construction, operation, maintenance, and decommissioning of the proposed Project.
  - B. *Distance to point of interconnection*. Although the Project will be located more than one mile from the point of interconnection with the New England regional electrical grid, the area to be rezoned is located no more than three miles from the point of interconnection at the Bull Hill substation. The location of the area to be rezoned is compatible with current land uses and does not expand the pattern of development beyond already developed areas. In addition to limited residential development in the area, and commercial forestry and blueberry operations, existing nearby land uses include wind power development to the west and northwest and active peat mining and former biomass to the east. A 115 kV

transmission line currently runs through the area to be rezoned. While a new substation could be built on or closer to the Project area to be rezoned, this would require additional clearing, land work, and construction of the new substation and in order to connect to the 115 kV line running through the Project area. By installing underground collector lines along the existing roads and connecting to the existing substation, only a small expansion of the Bull Hill substation will be required. There are already existing underground collector lines along several of the land management roads to serve the wind power projects, and very little additional clearing will be required along the road edges to place the underground line for this Project. A wind energy facility, by itself, does not necessarily establish a pattern of development for the purposes of the location of a D-CI subdistrict for solar energy generation. However, this parcel is in an area that is easily accessible from multiple public roads and used for agriculture and ongoing large-scale resource extraction, and is not in a remote part of the Commission's service area. In that context, the presence of wind energy development near the Project area is considered as one part of the overall pattern of development.

- C. *Availability of services.* The Project area to be rezoned is a reasonable distance from fire and emergency service providers, which will allow for adequate response in the event of an emergency. Specifically, the Eastbrook Volunteer Fire Department, which will supply fire and emergency services, is located 5.2 miles from the Project area and stated they would be able to provide service to the area for the Project.

By demonstrating the area to be rezoned satisfies the three components of Section 10.21,A,2,b(2), the Petitioners establish a presumption that the rezoning is consistent with the portions of the CLUP related to the location of development.

3. *No undue adverse impact on existing uses and resources.* The rezoning meets the provisions of 12 M.R.S. § 685-A(8-A)(B) and Chapter 10, sections 10.08,A,2. The proposed rezoning to a D-CI subdistrict to accommodate a grid-scale solar energy generation facility will not have an undue adverse impact on existing uses or resources. Specifically:
- A. *Residential uses.* The closest year-round residences are in the Town of Eastbrook, eight miles from the Project area. The closest seasonal camp is located along the southeastern border of the Petitioner's parcel, and there are five other seasonal camps within two miles of the parcel. With the exception of the seasonal camp located along the parcel boundary, which is not leased but is there by permission of the landowner, the Project will not be visible to any of the other year-round residences or seasonal camps. As such, the rezoning will not have an undue adverse effect on residential uses in the area.
- B. *Commercial uses.* The proposed solar development is consistent with and compatible with neighboring wind energy development, peat operations, forestry, and commercial blueberry harvesting. The rezoning will not have an undue adverse impact on neighboring commercial or industrial uses.
- C. *Recreational uses.* Hunting, fishing, ATV riding, and water related activities are the primary recreational activities in the area. The rezoning will not block access to existing land management roads and buffers can be retained to limit the visibility of the proposed project from streams used for boating and fishing. The rezoning will not have an undue adverse impact on recreational uses.
- D. *Habitat, wildlife, and other natural resources.* There are some wetlands and streams in and around the area to be rezoned. Commenting resource agencies also noted Atlantic salmon habitat in the West Branch of the Narraguagus River, Colson Branch, and Mahanon Brook; fisheries resources more generally; potential presence of significant vernal pools; IWWH; likely presence of protected bats; and upland sandpipers in the vicinity. The presence or likely presence of this wildlife and habitat, and these natural resources, within or around the area to be rezoned is not of a nature or extent that would make

the Project area unsuitable for rezoning. The review comments indicate the rezoning will not have an undue adverse impact on existing habitat, wildlife, or other natural resources. Impacts that could occur through subsequent development of the Project are of a nature that may be appropriately and adequately addressed through the permitting process.

- E. *Historic resources.* MHPC commission did not identify any historic or archeological resources or any concerns with rezoning the Project area, noting that Phase I prehistoric archaeological survey could be appropriate in limited areas. These types of surveys may be conducted during the permitting phase of project development. Rezoning the Project area will not have an undue adverse impact on historic resources.
4. *Consistency with the CLUP.* The proposal meets the provisions of 12 M.R.S. § 685-A(8-A)(A) and Chapter section 10.08,A,1 with regard to consistency with the Commission's *Comprehensive Land Use Plan*.
- A. *Location of development.* As concluded above (see Conclusion #2), the rezoning satisfies Section 10.21,A,2,b(2). As a result, the Petitioners have established a presumption that the rezoning is consistent with the portions of the CLUP related to the location of development. The Commission finds nothing in the record that sufficiently rebuts or overcomes this presumption. Therefore, the Commission concludes the rezoning is consistent with the portions of the CLUP related to the location of development.
- B. *Energy resources.* Grid-scale solar energy generation facilities are an emerging energy technology that produce indigenous, renewable energy. As addressed in Conclusions #3 and #4a, above, the rezoning is in a suitable location, minimizes intrusion on natural and cultural resources and values, and will not have an undue adverse impact on existing uses and natural resources. As a result, the rezoning is consistent with the energy resource goals and policies of the CLUP.
- C. *Plant and animal habitat resources and water resources.* The CLUP contemplates a development permitting process, focused on individual development projects, that is protective of plant and animal habitat resources, as well as a zoning process that focuses more generally on whether a proposed subdistrict is proposed in an appropriate location. As addressed in Conclusion #3, above, the proposed rezoning will not have an undue adverse impact on natural resources, including plant and animal habitat resources. The rezoning is consistent with the plant and animal habitat resource goals of the CLUP.

The CLUP contains a range of goals and policies and sometimes these goals and policies conflict. The Commission, having considered the goals and policies highlighted here that are most relevant to the present review, as well as the various provisions of the CLUP more generally, concludes the rezoning is consistent with the Commission's *Comprehensive Land Use Plan*, satisfying the corresponding portions of 12 M.R.S. § 685-A(8-A)(A) and Chapter section 10.08,A,1.

5. *Consistency with the standards for district boundaries.* The proposal meets the provisions of 12 M.R.S. § 685-A(8-A)(A) and Section 10.08,A,1 of the Commission's Chapter 10, in that the proposal is consistent with the standards for the D-CI subdistrict boundaries that are in effect at this time. Specifically, the rezoning is for the purpose of accommodating subsequent permitting and development of a grid-scale solar energy generation facility and such a facility is a land use allowed with a permit in the D-CI subdistrict. Section 10.21,A,3,c(18). Additionally, as stated in Conclusion #2 above, the rezoning satisfies Section 10.21,A,2,b. The rezoning is consistent with the standards for the D-CI subdistrict.
6. *Consistency with Chapter 206-A and generally suitability of the area.* The proposal meets the provisions of 12 M.R.S. § 685-A(8-A)(A) and Chapter Section 10.08,A,1 that require the proposed subdistrict to be

consistent with the purpose, intent and provision of Chapter 206-A. The Project area to be rezoned also is generally suitable for the proposed Project. Ch. 10.21,A,2,b. The Commission evaluated the petition with respect to consistency with Chapter 206-A and principles of sound planning, zoning, and development. Having considered the location of the Project area, the surrounding uses and resources, the type and intensity of the development that the rezoning is intended to foster, the review of agency comments, and the record as a whole, the Commission concludes approval of the petition would be an act of sound land use planning, and that the proposed rezoning is consistent with the purpose, intent and provisions of Chapter 206-A. Additionally, the area to be rezoned is generally suitable for the proposed solar project.

**Therefore, the Commission approves the petition of Next Phase Energy Services, LLC and Elliot Jordan & Son, Inc. to rezone approximately 696 acres of M-GN General Management subdistrict, P-WL Wetland Protection subdistrict, and P-SL2 Shoreland Protection subdistrict to D-CI Commercial Industrial Development subdistrict, as shown on the attached map, to allow for the construction of a grid-scale energy generation facility in T16 MD BPP, Hancock County, Maine.**

In accordance with 5 M.R.S. § 11002 and Maine Rules of Civil Procedure 80C, this decision by the Commission may be appealed to Superior Court within 30 days after receipt of notice of the decision by a party to this proceeding, or within 40 days from the date of the decision by any other aggrieved person. In addition, where this decision has been made without a public hearing, any aggrieved person may request a hearing by filing a request in writing with the Commission within 30 days of the date of the decision.

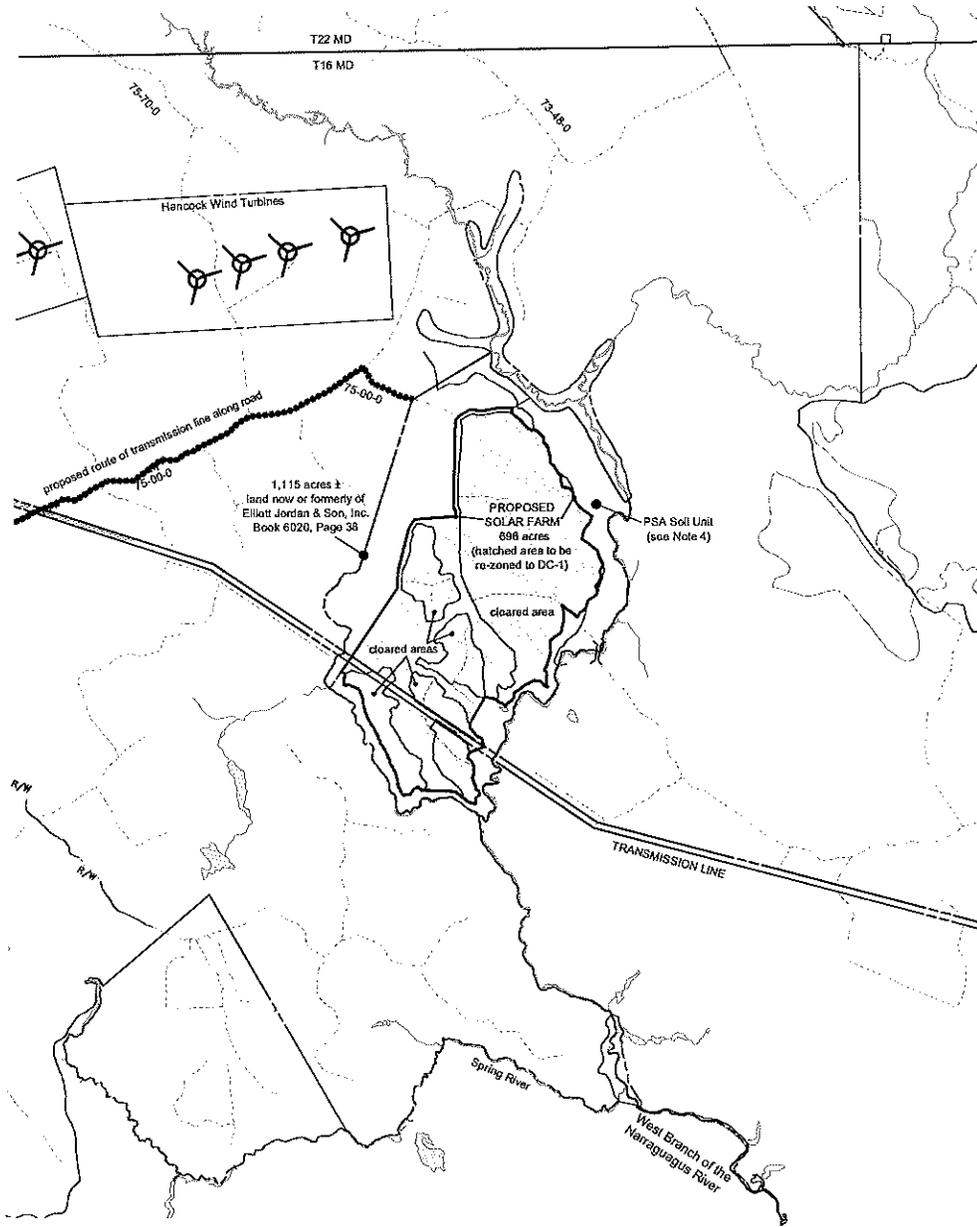
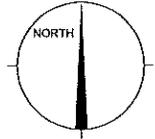
DONE AND DATED AT ORONO, MAINE, THIS 8<sup>th</sup> DAY OF AUGUST, 2018.

By:   
\_\_\_\_\_  
Nicholas D. Livesay, Executive Director

This change in subdistrict designation is effective on August 23, 2018

**NOTES:**

- (1) Documents referenced on this plan are recorded in Hancock County Registry of Deeds unless otherwise noted.
- (2) This plan does not represent a Standard Boundary Survey, all boundaries are approximate.
- (3) The purpose of the sketch is to depict the location of the proposed solar farm.
- (4) The location of PSA Soil Unit boundary is approximate and has been digitized from a Soil Map titled "Web Soil Survey National Cooperative Soil Survey". PSA soils will be field verified and avoided during construction.



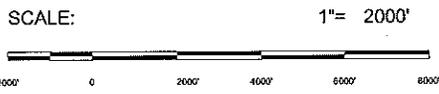
**SYMBOLS LEGEND**

- Edge pavement/gravel
- Property line

**PLISGA & DAY**  
**LAND SURVEYORS**  
 72 MAIN STREET  
 BANGOR, MAINE  
 DATE: June 5, 2018  
 PROJ. NO. 10039

Email: info@WeMapIt.com  
 Phone: (207) 947-0019  
 Toll-Free: 1-800-734-0019

DRAWING FILE:  
[www.WeMapIt.com](http://www.WeMapIt.com)



Proposed Solar Farm  
 for  
 Land Use Planning Commission (LUPC)  
 and  
 Three Rivers Solar  
 in  
 Township 16 MD, Maine

## **Exhibit 26-2**

### Project Parcel Land Division Use History

## MEMORANDUM

To: David Fowler, Next Phase Energy Services, LLC

From: Anthony M. Calcagni, Verrill Dana, LLP

Date: January 12, 2018; *updated through September 30, 2019*

Re: Township 16 MD – Land Division History

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Dave, attached to this Memorandum is a copy of LUPC Advisory Ruling AR 14-04, dated June 23, 2014 (“AR 14-04”), regarding lands in T16 MD BPP, Hancock County. We have done an on-line title search at the Hancock County Registry of Deeds through *April 11, 2018*, to update the land division history from the April 11, 2013 conveyance to Elliott Jordan & Son, Inc. (Bk 6020 Pg 38) listed as item P in Section 3 (Land Division History) of the AR 14-04, and find as follows:

1. April 12, 2013: Property Easement (allowing sound/shadows) from Lakeville Shores, Inc. to Hancock Wind, LLC dated April 20, 2013 (Bk 6020 Pg 47); Amendment to Land Lease Agreement between Lakeville Shores, Inc. and Hancock Wind, LLC dated April 12, 2013 (Bk 6020 Pg 52); Partial Release of Easement from Hancock Wind, LLC to Elliott Jordan & Son, Inc. dated April 12, 2013 (Bk 6020 Pg 57); and Confirmation of Property Subject to Easement by and between Elliott Jordan & Son, Inc. and Lakeville Shores, Inc. dated April 23, 2013 (Bk 6022 Pg 320). These clarify that the 1,115-acre Elliott Jordan parcel (Bk 6020 Pg 38) is subject to Hancock Wind’s Property Easement (Bk 6020 Pg 47), but not subject to Hancock Wind’s Land Lease Agreement (Bk 5793 Pg 270) or Collection Facilities Easement (Bk 5793 Pg 276).
2. June 23, 2014: Quitclaim Deed with Covenant from Lakeville Shores, Inc. to Joseph P. Romance and Pamala D. Romance dated June 23, 2014 (Bk 6241 Pg 89) of 2,950-acre parcel. This is the conveyance of the parcel that was the subject of AR 14-04. The Deed contains (a) a covenant that the parcel “shall be managed solely for forest management, agricultural management or conservation of natural resources unless and until . . . approval from the Commission for a change in use is not required under Maine law, or the Commission’s rules and regulations,” and (b) a prohibition of any division for five years.
3. June 23, 2014: Property Easement (allowing sound/shadows) from Lakeville Shores, Inc. to Hancock Wind, LLC dated June 23, 2014 (Bk 6241 Pg 84); Second Amendment to Land Lease Agreement between Lakeville Shores, Inc. and Hancock Wind, LLC dated June 23, 2014 (Bk 6241 Pg 101); and Partial Release of Easement from Hancock Wind, LLC to Joseph P. Romance and Pamala D. Romance dated June 23, 2014 (Bk 6241 Pg 107). These clarify that the 2,950-acre Romance parcel (Bk 6241 Pg 89) is subject to

Hancock Wind's Property Easement (Bk 6241 Pg 84), but not subject to Hancock Wind's Land Lease Agreement (Bk 5793 Pg 270) or Collection Facilities Easement (Bk 5793 Pg 276).

4. September 4, 2014: Recording of "Boundary Sketch of the 2950 Acres± subject premises to be conveyed" prepared by Plisga & Day. This is a survey plan of the 2,950-acre Romance parcel.
5. October 17, 2014: Memorandum of Wind Energy Easements and Easement Option Agreement by and between Everpower Maine, LLC and Joseph P. and Pamala Romance dated October 17, 2014 (Bk 6338 Pg 184). This is a grant of an option "to acquire a windpark Wind Energy Easements" on the 2,950-acre Romance parcel. There is no record evidence that the option has been exercised.
6. December 22, 2014: Easement Agreement by and between Lakeville Shores, Inc. and Weaver Wind, LLC dated December 22, 2014 (Bk 6347 Pg 15). This is an easement for electrical transmission/collection lines over Lakeville Shores, Inc. lands on the west side of T16; does not affect subdivision analysis.
7. March 24, 2015: Quitclaim Deed with Covenant from Joseph P. Romance and Pamala D. Romance to Wild Ridge Blueberries, LLC dated March 24, 2015 (Bk 6371 Pg 311). This deed conveys the entire 2,950-acre Romance parcel, subject to the same covenant/prohibition mentioned in #2 above.
8. June 25, 2015: Third Amendment to Land Lease Agreement by and between Lakeville Shores, Inc. and Hancock Wind, LLC dated June 25, 2015 (Bk 6422 Pg 241). This amends Hancock Wind's Land Lease Agreement (Bk 5793 Pg 270) by reducing the leased Premises to a 528.60-acre portion of Lakeville Shores' remaining land in T 16 MD BPP. The effect of this reduction of the leased Premises is discussed in the AR 14-04 (*see, e.g.,* Section 6.A "Other Considerations").
9. June 25, 2015: Access Easement by and between Lakeville Shores, Inc. as grantor and Hancock Wind, LLC as grantee dated June 25, 2015 (Bk 6422 Pg 247). This is an access easement to use certain roads; does not affect subdivision analysis.
10. June 25, 2015: Property Easement (allowing sound/shadows) from Lakeville Shores, Inc. to Hancock Wind, LLC dated June 25, 2015 (Bk 6422 Pg 256). This is an easement allowing sound/shadows from Hancock Wind's wind power project; does not affect subdivision analysis.
11. September 3, 2015: Easement from Worcester Peat Co., Inc. to Wild Ridge Blueberries, LLC dated September 3, 2015 and rec. in Book 6458, Page 85. This is an access easement over a certain road, for access to the 2,950-acre parcel sold by Romance to Wild Ridge Blueberries, LLC; does not affect subdivision analysis.

12. October 6, 2015: Easement from Lakeville Shores, Inc. to Julie A. Curtis and Christopher A. Curtis dated October 6, 2015 (Bk 6480 Pg 58). This is an easement for a septic leach field; does not affect subdivision analysis.
13. *November 8, 2017: Amendment to Easement Agreement between Lakeville Shores, Inc., Hancock Wind, LLC, and Blue Sky East, LLC dated November 8, 2017 (Bk 6876 Pg 955). This amends a 2012 Easement Agreement (Bk 5793 Pg 276) to more specifically describe the location of the "Hancock Wind Easement Area."*

*There were no other conveyances affecting the Lakeville Shores, Inc. "parent parcel" (including the 1,115-acre Jordan parcel and the 2,950-acre Romance parcel conveyed by Lakeville Shores, Inc.) during the five-year period from April 11, 2013 through April 11, 2018.*

Based on the foregoing, I expect that LUPC will agree that: (a) the April 11, 2013 conveyance to Elliott Jordan & Son, Inc. (Bk 6020 Pg 38) created a 1,115-acre parcel that will be clear, and not counted for subdivision purposes for the larger parent parcel owned by Lakeville Shores, Inc., after April 11, 2018; and (b) after April 11, 2018, Elliott Jordan may lease a portion of the 1,115-acre parcel for purposes of Next Phase Energy Services, LLC's proposed solar project.

*The following is a land-division history of the 1,115-acre parcel conveyed to Elliott Jordan & Son, Inc. (Bk 6020 Pg 38), based on an on-line title search at the Hancock County Registry of Deeds from April 11, 2018 through September 30, 2019:*

- a) *Memorandum of Lease Option Agreement from Elliott Jordan & Son, Inc. to Next Phase Energy Services, LLC dated March 31, 2017, recorded April 24, 2018 (Bk 6885 Pg 215). This is a memorandum of an option to lease the entire 1,115-acre Elliott Jordan & Son, Inc. parcel.*
- b) *Assignment and Assumption of Option to Lease Real Estate from Next Phase Energy Services, LLC to Three Rivers Solar Power, LLC dated December 1, 2018 (unrecorded). This is an assignment of the Optionee's interest under the aforementioned option to lease.*

*Based upon AR 14-04 and the foregoing, there have been no unauthorized divisions of the 1,115-acre Elliott Jordan & Son, Inc. parcel during the last twenty years.*

Please let me know if you or the folks at LUPC have any questions.

Attachment: LUPC Advisory Ruling AR 14-04 (June 23, 2014)