



April 5, 2024

Town of Northfield Zoning Board
21 Summer Street
Northfield, NH 03276

**Re: Variance Request Table 2 (G)
Proposed Solar Facility
Forrest Rd (Tax Map U5 – Lot 7)**

To the Zoning Board,

On behalf of Northfield Solar, LLC and Aegis Renewable Energy, Inc, Hoyle Tanner is pleased to submit the attached request for a zoning variance. The request is for relief from the Northfield Zoning Ordinance Table 2 Section G “Interstate 93 Buffer Zone” to allow the removal of some of the trees in the buffer zone to allow the construction of and prevent shading of the solar panels to be installed outside of the buffer. This narrative provides a general overview of the approved project, detailed summaries of the proposed changes to the approved plan, and describes any potential impacts the changes may have on the Town.

Project Overview

The proposed development will be located on Forrest Road on a 16.07-acre lot, which is identified as Map U5 Lot 7. The project includes the construction of a ground mounted solar array with security fencing, a gravel access drive, stormwater ponds, and an electrical connection to the existing infrastructure. The site will occupy approximately 6.5 acres of the 16.07-acre lot. The project was previously approved for a Site Plan Review and has received an NHDES Alteration of Terrain permit and wetlands permit with permit numbers AoT-1970 and 2021-00383. A variance was granted to construct solar panels located on Forrest Road in the C/I zone at the ZBA on October 26, 2020.

In addition to the original variance granted in 2020 to allow the Solar Use we are requesting the following to be allowed by granting partial relief from the specific requirements of Table 2 Section G of the Northfield Zoning Ordinance;

1. To allow the construction of a new driveway to access to the upland portion of the lot which will be partially located in the Interstate 93 Buffer.

**It was determined in 2020 that this did not require a buffer as a driveway is not a building or structure in accordance with the definition in the ordinance, nor would the driveway remove more than 50% of the basal area of trees. However, as we studied the ordinance for the second part of this request, we felt it prudent to add this to the relief sought.

2. To allow the removal of all trees (no stumping or grubbing) within a portion of the Interstate 93 Buffer to a point 70' from the highway right-of-way to the on-ramp to 93 south. This would allow access to selectively cut tall trees from the buffer to 50' of the said right-of-way without destroying the remaining trees.
3. To allow the selective cutting of taller trees (over twenty feet tall) within a portion of the Interstate 93 Buffer to within 50' of the said right-of-way.
4. To allow the addition of utility poles and associated clearing adjacent to and accessing the existing power line through the buffer.

**2 & 3 as described above is to prevent shading of the solar panels and allow the full efficiency of the array.

Variance Criteria:

1. The variance is not contrary to the public interest.

For 1. Above; the driveway location was selected to minimize wetland impacts in accordance with state law. To construct the driveway outside of the buffer would significantly increase the impact to the wetland resource and have much greater impact to the environment of Northfield; therefore, the relief is in the public interest.

For 2,3 & 4 Above; The cutting of the trees is intended to remove only those trees that would shade the solar panels and/or provide safety to the overhead utility lines. Much of the buffer will remain intact. The property is located in the commercial district and could support a significant commercial use that would have the potential to generate significant noise and traffic. With the exception of the occasional mowing of grass, the proposed use will generate no noise and less traffic than a typical single-family home. The removal of this small portion of the buffer would also allow for the most efficient use of passive, non-fossil fuel electrical generation for the town of Northfield. For these reasons the request is not contrary to the public interest.

2. The spirit of the ordinance is observed;

For 1 above; The proposed driveway replaces the existing access which will be permanently abandoned. The buffer to be removed for the driveway is adjacent to over two hundred feet of forested buffer that will not be disturbed as a result of this project. This forested area is preserved between the highway and the nearest residential abutter providing a much greater buffer than this ordinance requires.

For 2, 3 & 4 above, The use proposed generates very little noise or traffic, less than a cemetery. The loss of the visual and noise barrier provided by these few trees will not negatively affect the closest residential abutter which is over 440 feet away from the buffer cutting. In addition the panels make no noise providing a reasonable alternative to the removed trees.

3. Substantial justice is done;

For 1 above; The driveway will minimize environmental impacts while preserving the spirit and intent of the ordinance.

For 2, 3 & 4 above; By allowing the minimal cutting of trees in the buffer the passive environmentally prudent generation of solar electricity will be of the maximum efficiency while having negligible impact on any one. The proposed tree removal is along the on-ramp to the highway, not the highway itself. There currently exists a substantial vegetative buffer to the highway (more than 160' wide). The spirit and intent of the ordinance is preserved by the unique character of the property and the proposed use. For these reasons substantial justice would be done by granting the variance.

4. The values of surrounding properties are not diminished;

For 1 above; The closest residential use is over 490 feet from the proposed buffer impact. This residential use is buffered by over 200' of protected forest on the subject property and an additional 170' of forest beyond the subject property. In addition, the existing access road is being moved more than 90' away from any residential use. For these reasons the proposed access drive will have no effect on the abutting property.

For 2, 3 & 4 above; The property is located in the commercial zone and other uses that generate significant noise and traffic which are permitted by right could be constructed on the property. There is no evidence that reducing the substantial buffer that exists, both on the property and off by 30 feet will have any negative affect on housing values. In addition, the closest residential use is over 200 feet from the proposed relief and the relief is sought to the on-ramp not the highway itself.

5. Literal enforcement of the ordinance would result in unnecessary hardship. Unnecessary

hardship can result in either of two ways:

First is to show special conditions of the property that distinguish it from other properties in the area:

(a) There is no fair and substantial relationship between the general public purpose of the ordinance provision and the specific application of that provision to the property;

For 1 above; The property is unique in that the wetland resource extends across the entire width of the property and widens significantly as it leaves the buffer. For sound environmental reasons the only suitable location for the driveway is in the buffer where wetland impacts can be minimized. In addition, the large wetland is a protected vegetative buffer under the ordinance so no matter where the driveway is located a buffer would be impacted.

For 2, 3 and 4 above; The proposed use requires unfettered access to the maximum amount of sunshine as possible. The provision of this ordinance is unfairly restrictive to this use while allowing other uses by right that would have the exact negative impact this provision intends to protect. The proposed use, to a significant degree replaces the buffering effect intended by the provision, a visual and noise barrier to the highway. In addition, this property is unique in that it abuts the on-ramp to the highway not the highway itself. Although the provision of the ordinance does not distinguish between the two, the intent of the ordinance to buffer view and noise from the highway is substantially different for a low traffic on-ramp as compared to the south bound lane of Interstate 93.

And;

(b) The proposed use is a reasonable one;

For 1 above; The proposed driveway replaces the existing access to the property in an environmentally responsible way.

For 2, 3 & 4 above; As stated above the proposed use requires sunlight to operate efficiently and by its unique nature makes no noise and replaces much of the function of the buffer as stated in the provision.

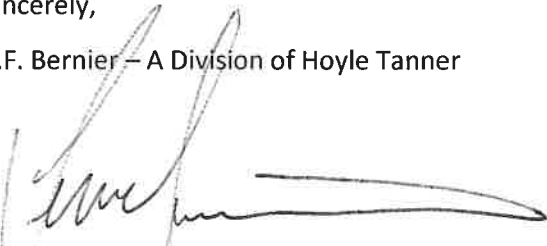
The alternative allowed to unnecessary hardship provides the opportunity to argue that the property could not be reasonably used in strict conformance with the ordinance. We understand the property has other uses that are allowed by right and would not impact the buffer; however, those permitted uses would also include increased traffic and typical noise that would be generated by a commercial use. Due to the unique nature of the property these things would be in contrast to the intent of this provision of the ordinance, a contrast that does not exist with this proposed use.

Thank you for considering our request for a variance.

Should you require additional information, please contact me at (603) 224-4148 or via email at tbernier@hoyletanner.com.

Sincerely,

T.F. Bernier – A Division of Hoyle Tanner

A handwritten signature in black ink, appearing to read 'Timothy F. Bernier', with a long horizontal flourish extending to the right.

Timothy F. Bernier, PLS, LLS, CWS

Project Manager

cc: Jonathan Crowdes; jcrowdes@hoyletanner.com

Nils Behn; Aegis, nbehn@aegis-re.com

Chris Knight; Northfield Solar, Cknight1@gmail.com



Town of Northfield
APPLICATION FOR A VARIANCE

What is a Variance? A variance is an authorization to use your property in a way that is not permitted under the strict terms of the zoning ordinance. Under state law the ZBA may grant a variance if the applicant shows that the proposal meets five criteria established by the state.

APPLICANT INFORMATION

Name Aegis Renewable Energy, Inc.
Applicant's Address 340 Mad River Park, Suite 6 Waitsfield VT 05673
Tel. # 802-560-0055 Email address nbehn@aegis-re.com

PROPERTY OWNER Same as Applicant Yes No

Name Northfield Solar, LLC
Applicant's Address 7 Merrimack Street Concord NH 03301
Tel. # 617-645-5170 Email address cknight1@gmail.com

PROPERTY INFORMATION

911 address: Forrest Road

Tax Map and Lot Number: U5 / 7 Size: 16.07 Acres acres

Zoning District (Circle all that apply) R1 R2 Comm/Ind Conservation Ground Water Protection

Is the property in the Groundwater Protection District Yes X No

Please attach a sketch of your property showing property lines, measurement of the lot, all roads, rights of way and easements, foot print of existing and proposed construction, distance from proposed construction to the property lines and areal map showing abutting structures and property lines

PROJECT INFORMATION

Please describe your project: Remove trees and establish electric transmission lines with a transformer in association with a 1 megawatt solar array in a portion of the Interstate 93 Buffer Zone

What is the property used for now?

- XX The property is currently vacant Business
Single Family Home Residence and Business
Multi Family Home Agricultural

Are you proposing that the use of the property be changed?

No, we are not seeking to change the use of the property
Yes, if approved this construction will change the use of the property:

- XX We want to build on vacant land
We want to add a new residence
We want to add a business use

Table with 4 columns: Setbacks, Existing, Proposed, and a final value. Rows include setbacks for front, rear, and side property lines.

I am requesting a variance from article Table 2 section G of the Zoning Ordinance. I believe that granting this variance is allowed under state law as it meets the criteria established by the state (please contact the assessor's office with any questions):

Criteria #1 Granting the variance would not be contrary to the public interest because:

See Attached

Criteria #2 If the variance were granted, the spirit of the ordinance would be observed because:

See Attached

Criteria #3 Granting the variance would do substantial justice because:

See Attached

Criteria #4 If the variance were granted, the values of the surrounding properties would not be diminished because:

See Attached

Criteria #5 Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:

- i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:

See Attached

and

- ii. The proposed use is a reasonable one because: See Attached

or

Explain how, if the criteria in 5 i and ii are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

See Attached

Please use this sheet for your sketch

See Attached Plans

VARIANCE CRITERIA GUIDELINES

Statutory Requirements (RSA 674:33, I(b)) <i>APPLICANT MUST SATISFY ALL OF THE</i>	Explanation
1. The variance is not contrary to the public interest.	The proposed use must not conflict with the explicit or implicit purpose of the ordinance, and must not alter the essential character of the neighborhood, threaten public health, safety, or welfare, or otherwise injure “public rights.”
2. The spirit of the ordinance is observed.	As it is in the public’s interest to uphold the spirit of the ordinance, these two criteria are related.
3. Substantial justice is done.	The benefit to the applicant should not be outweighed by harm to the general public.
4. The values of surrounding properties are not diminished.	Expert testimony on this question is not conclusive, but cannot be ignored. The board may also consider other evidence of the effect on property values, including personal knowledge of the members themselves.
<p>5. Literal enforcement of the ordinance would result in unnecessary hardship. Unnecessary hardship can be shown in either of two ways:</p> <p>First is to show that because of special condition of the property that distinguish it from other properties in the area:</p> <p>(a) There is no fair and substantial relationship between the general public purposes of the ordinance provision and the specific application of that provision to the property; and</p> <p>(b) The proposed use is a reasonable one.</p> <p><i>Alternatively</i>, unnecessary hardship exists if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.</p>	<p>The applicant must establish that the property is burdened by the zoning restriction in a manner that is distinct from other land in the area.</p> <p>(a) Determine the purpose of the zoning restriction in question. The applicant must establish that, because of the special conditions of the property, the restriction, as applied to the property, does not serve that purpose in a “fair and substantial” way.</p> <p>(b) The applicant must establish that the special conditions of the property cause the proposed use to be reasonable. The use must not alter the essential character of the neighborhood.</p> <p><i>Alternatively</i> the applicant can satisfy the unnecessary hardship requirement by establishing that, because of the special conditions of the property, there is no reasonable use that can be made of the property that would be permitted under the ordinance. If there is any reasonable use (including an existing use) that is permitted under the ordinance, this alternative is not available.</p>



Abutters List
ZBA Variance Request – Northfield Solar
Tax Map U-5 Lot 7
Forrest Road Northfield

<u>MAP</u>	<u>LOT</u>	<u>OWNER</u>
U-5	7	Northfield Solar, LLC 7 Merrimack Street Concord, NH 03301
U-3	13	J. Wayne Zwaagstra 14 Forrest Road Northfield, NH 03276
U-4	3	Sharon A. Barclay Revocable Trust Sharon A. Barclay, Trustee 30 Forrest Road Northfield, NH 03276
U-4	4	Benjamin A. Bradley Jr. 38 Forrest Road Northfield, NH 03276
U-4	5	Alexander J. Goff Eleanor F. Ferrera 46 Forrest Road Northfield, NH 03276
U-4	6	Maria G. Bartolomeu 11 Disamar Road Taunton, MA 02780
U-4	7	Muehlen Properties, LLC 111 Ayers Road Canterbury, NH 03224
U-4	8	Howard M. Mallory Joanne M. Mallory PO Box 493 Tilton, NH 03276

Abutter List
Northfield Solar, LLC

U-4	9	Robert & Marat Morrill 78 Forrest Road Northfield, NH 03276
U-5	3	John Day III & Kelly Jean Robinson Trustees of J.K.J.K.J. Robinson Family Trust 130 Forrest Road Northfield, NH 03276
U-5	6	National Propane, LP c/o AmeriGas Eagle Propane LP PO Box 798 Valley Forge, PA 19482
U-5	8	William Settipane 39 Cummings Ave. Revere, MA 02151
U-9	1	Town of Northfield 21 Summer Street Northfield, NH 03276
U-9	1-F	Tilton-Northfield Fire District 12 Center Street Tilton, NH 03276
U-9	1-F	Wireless Edge Towers II LLC New Cingular Wireless PCS P.O. Box 63 Rhinebeck, NY 12572
(Across I-93)		
U-5	1B	Kara L. Dennen Kode K. Gallagher 31 Highland Mountain Road Northfield, NH 03276
U-9	19	Daniel J. Hardy 70 Summer Street Northfield, NH 03276
U-9	20	Jesse & Melissa Bourque Family Trust Jesse C. & Melissa N. Bourque, Trustees 96 Caveney Road Northfield, NH 03276

U-10	1, 2	Steven R. & Cynthia L. Roy 19 Highland Mountain Road Northfield, NH 03276
U-10	4	P&S Currier Family Trust Peter K. Currier & Shirley A. Currier, Trustees 3 Highland Mountain Road Northfield, NH 03276
U-10	11	Wayne P. Robichaud and Kimberly M. Robichaud 2021 Trust Wayne P. & Kimberly M. Robichaud, Trustees P.O. Box 30 Tilton, NH 03276

(Railroad)

State of New Hampshire
Department of Transportation
Bureau of Rail & Transit
P.O. Box 483
7 Hazen Drive
Concord, NH 03302-0483

(Interstate 93)

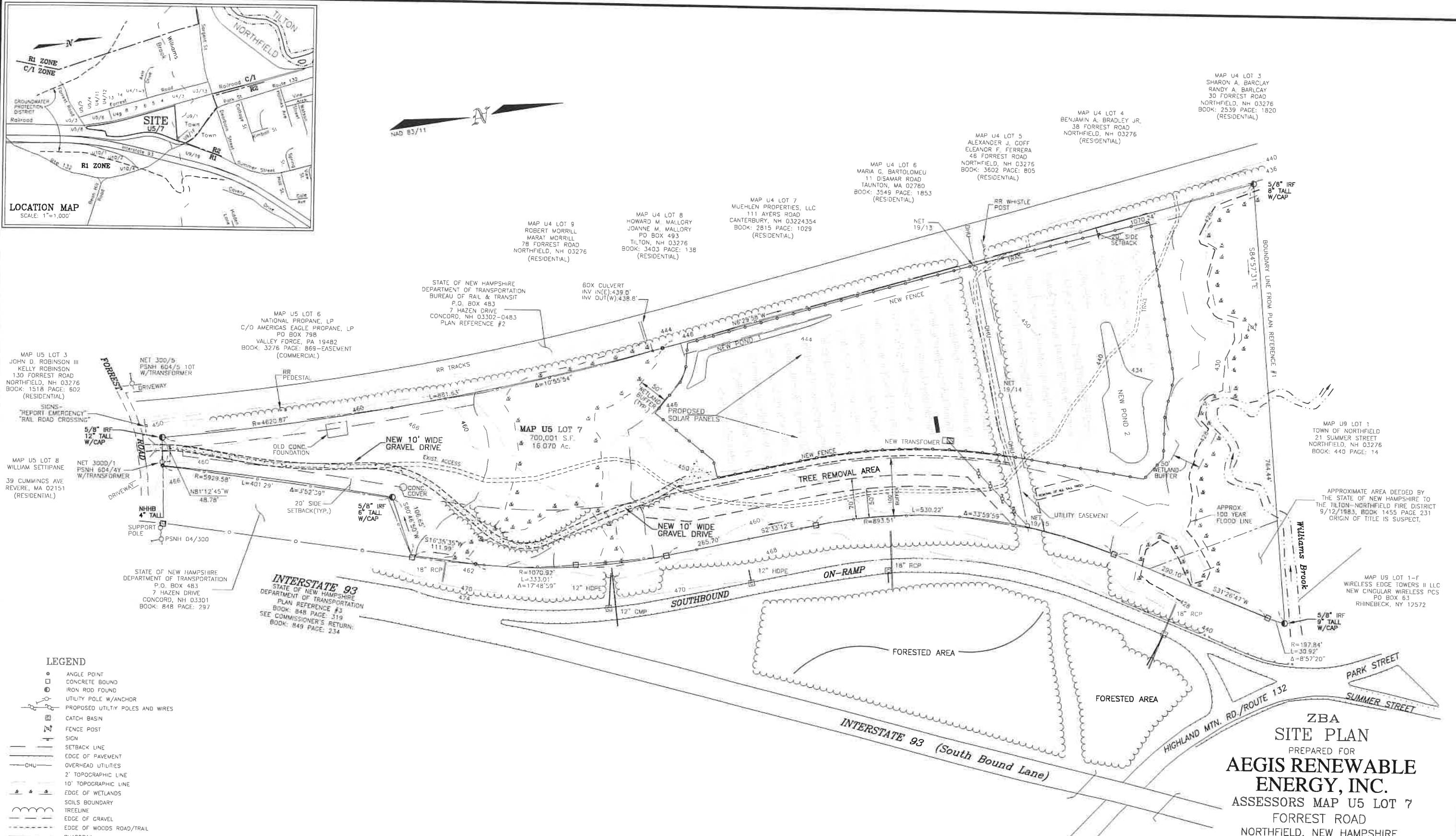
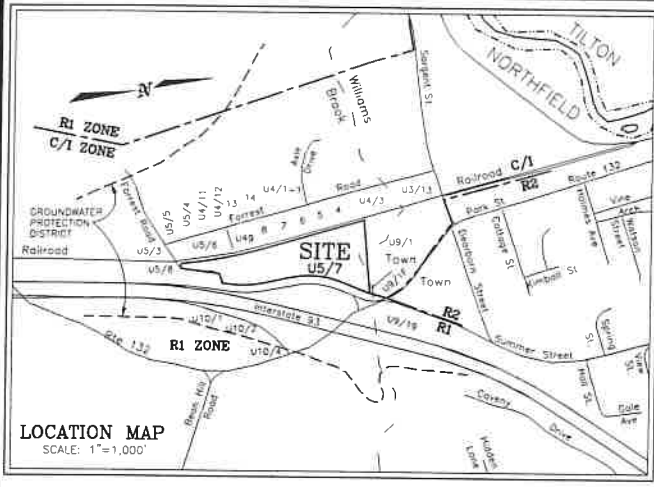
State of New Hampshire
Department of Transportation
P.O. Box 483
7 Hazen Drive
Concord, NH 03302-0483

Professional Consultant

Timothy F. Bernier, LLS, CWS
T. F. Bernier- A Division of Hoyle Tanner
50 Pleasant Street
Concord, NH 03301

Applicant

Northfield Solar, LLC
7 Merrimack Street
Concord, NH 03301



MAP U5 LOT 3
JOHN D. ROBINSON III
KELLY ROBINSON
130 FORREST ROAD
NORTHFIELD, NH 03276
BOOK: 1518 PAGE: 602
(RESIDENTIAL)

MAP U5 LOT 8
WILLIAM SETTIPANE
39 CUMMINGS AVE
REVERE, MA 02151
(RESIDENTIAL)

STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION
P.O. BOX 483
7 HAZEN DRIVE
CONCORD, NH 03301
BOOK: 848 PAGE: 297

INTERSTATE 93
STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION
PLAN REFERENCE #3
BOOK: 848 PAGE: 319
SEE COMMISSIONER'S RETURN:
BOOK: 849 PAGE: 234

MAP U5 LOT 6
NATIONAL PROPANE, LP
C/O AMERICAS EAGLE PROPANE, LP
PO BOX 798
VALLEY Forge, PA 19482
BOOK: 3276 PAGE: 869-EASEMENT
(COMMERCIAL)

STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION
BUREAU OF RAIL & TRANSIT
P.O. BOX 483
7 HAZEN DRIVE
CONCORD, NH 03302-0483
PLAN REFERENCE #2

MAP U4 LOT 9
ROBERT MORRILL
MARAT MORRILL
78 FORREST ROAD
NORTHFIELD, NH 03276
(RESIDENTIAL)

MAP U4 LOT 8
HOWARD M. MALLORY
JOANNE M. MALLORY
PO BOX 493
TILTON, NH 03276
BOOK: 3403 PAGE: 138
(RESIDENTIAL)

MAP U4 LOT 7
MUEHLEN PROPERTIES, LLC
111 AYERS ROAD
CANTERBURY, NH 03224354
BOOK: 2815 PAGE: 1029
(RESIDENTIAL)

MAP U4 LOT 6
MARIA G. BARTOLOMEU
11 DISAMAR ROAD
TAUNTON, MA 02780
BOOK: 3549 PAGE: 1853
(RESIDENTIAL)

MAP U4 LOT 5
ALEXANDER J. COFF
ELEANOR F. FERRERA
46 FORREST ROAD
NORTHFIELD, NH 03276
BOOK: 3602 PAGE: 805
(RESIDENTIAL)

MAP U4 LOT 4
BENJAMIN A. BRADLEY JR.
38 FORREST ROAD
NORTHFIELD, NH 03276
(RESIDENTIAL)

MAP U4 LOT 3
SHARON A. BARCLAY
RANDY A. BARCLAY
30 FORREST ROAD
NORTHFIELD, NH 03276
BOOK: 2539 PAGE: 1820
(RESIDENTIAL)

MAP U9 LOT 1
TOWN OF NORTHFIELD
21 SUMMER STREET
NORTHFIELD, NH 03276
BOOK: 440 PAGE: 14

APPROXIMATE AREA DEEDED BY
THE STATE OF NEW HAMPSHIRE TO
THE TILTON-NORTHFIELD FIRE DISTRICT
9/12/1983, BOOK: 1455 PAGE: 231
ORIGIN OF TITLE IS SUSPECT.

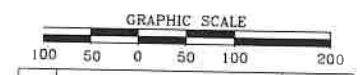
MAP U9 LOT 1-F
WIRELESS EDGE TOWERS II LLC
NEW CIRCULAR WIRELESS PCS
PO BOX 63
RHINEBECK, NY 12572

- LEGEND**
- ANGLE POINT
 - CONCRETE BOUND
 - IRON ROD FOUND
 - UTILITY POLE W/ANCHOR
 - PROPOSED UTILITY POLES AND WIRES
 - CATCH BASIN
 - FENCE POST
 - SIGN
 - SETBACK LINE
 - EDGE OF PAVEMENT
 - OHU OVERHEAD UTILITIES
 - 2' TOPOGRAPHIC LINE
 - 10' TOPOGRAPHIC LINE
 - EDGE OF WETLANDS
 - SOILS BOUNDARY
 - TREELINE
 - EDGE OF GRAVEL
 - EDGE OF WOODS ROAD/TRAIL
 - GUARDRAIL
 - EXISTING HIGHWAY/RAILROAD WIRE FENCE
 - PROPOSED WIRE FENCE

AREA IN INTERSTATE BUFFER
TO BE CLEARED OF TREES

AREA IN INTERSTATE BUFFER
TO BE CLEARED OF TALL TREES

OWNER OF RECORD
MAP U5 LOT 7
NORTHFIELD SOLAR, LLC
7 MERRIMACK STREET
CONCORD, NH 03301
BOOK: 3746 PAGE: 0070



NO.	REVISION	DATE

**ZBA
SITE PLAN**
PREPARED FOR
**AEGIS RENEWABLE
ENERGY, INC.**
ASSESSORS MAP U5 LOT 7
FORREST ROAD
NORTHFIELD, NEW HAMPSHIRE
SCALE 1"=80' DATE: APRIL 2024
SHEET 1 OF 2



A Division of Hoyle Tanner

50 Pleasant Street • Concord, NH 03302
(603) 224-4148 • www.hoyletanner.com

DESIGNED BY	DRAWN BY	CHECKED BY	F.B.	P.C.	JOB #
					580-07