

At the newly established Wareham Solar By-Law study Committee's meeting on Dec 8th I presented information from the town of Shutesbury's Historical Commission. From there home page, and i quote "Per the town Solar Zoning Bylaw and the Historical Commission's mission, the commission is consulting with the planning board and solar developer in order to identify and preserve historical and cultural resources within the area affected by the proposed development. Should these project areas be subject to Section 106 of the National Historic Preservation Act, the commission will also seek to consult with relevant federal agencies." The section titled "Solar Zoning Bylaw" and I quote "With the planned development of several new large scale solar projects in Shutesbury, the community has begun duscussing issues such as our town's zoning bylaws. In the report below, entitled Historical Preservation And Solar Development in Shutesbury the Historical commission offers guidance on how our current zoning provides essential tools for equitable and appropriate historical preservation with large-scale development projects."

Here is an opportunity for our community, for the Wareham Planning Board, The Conservation Commission, The Solar Bylaw Committee and the Historical Commission to come together to help establish proper guidelines and Bylaws for the appropriate placement of large scale solar development projects and to protect and preserve our indgenious, cultural and historical heritage.

Welcome to the Shutesbury Historical Commission Home Page

The Historical Commission's Mission

New Projects

2021 Amp Solar Projects: Per the Town Solar Zoning Bylaw and the Historical Commission's mission, the Commission is consulting with the Planning Board and Solar Developer in order to identify and preserve historical and cultural resources within the area affected by the proposed development. This review includes both pre-colonial and colonial/settler resource areas. Should these project areas be subject to Section 106 of the National Historic Preservation Act (NHPA), the Commission will also seek to consult with the relevant federal agencies.

Massachusetts Historical Commission

June 11, 2021 Letter from MHC to AMP Solar
October 19, 2021 Letter from MCH to AMP Solar

Leverett Road West Project

Massachusetts Historical Commission Response
Amp Letter to Tribal Historic Preservation Officers
Historical Commission's Report on Leverett Road West Project

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Karen Czerwinka
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Henry Geddes
Chair
Janice Stone

Minutes

09/29/2021
07/21/2021
06/23/2021

[More Minutes](#)

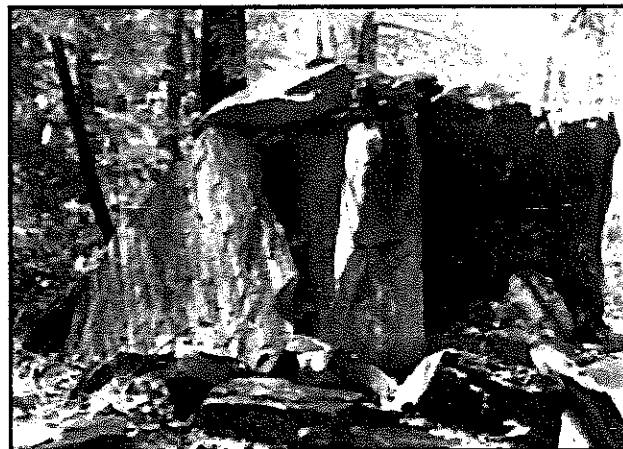
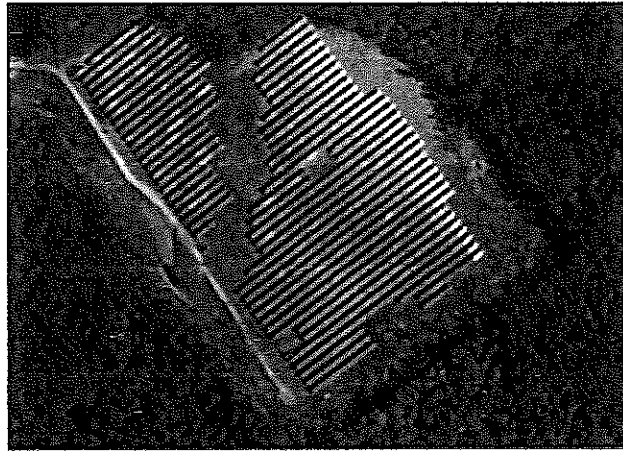
Indigenous Cultural Sites in Shutesbury

Over the past several months, the Historical Commission has been exploring how we can best preserve Indigenous cultural sites in Shutesbury. We have been conducting research and working with consultants in order to deepen our understanding of Indigenous history in our region. We are planning educational programming for the public in the near future and have produced an introduction to Indigenous Cultural Sites in Shutesbury. This report addresses a number of issues, including Indigenous land use, social justice, as well as the effects of Eurocentric bias in historical preservation. We hope this report and future programming will heighten awareness of Indigenous heritage sites in this region and respect for the continuing presence of our Indigenous neighbors. Additional educational materials are planned for later release. See link below for additional information about Native American cultural heritage and preservation.

Solar Zoning Bylaw

With the planned development of several new large-scale solar projects in Shutesbury, the community has begun discussing issues such as our Town's Zoning Bylaws. In the report below, entitled *Historical Preservation and Solar Development in Shutesbury*, the Historical Commission offers guidance on how our current zoning provides essential tools for equitable and appropriate historical preservation with large-scale development projects. We hope town committees and residents alike will find this analysis helpful in understanding some of the more complex aspects of historical preservation.

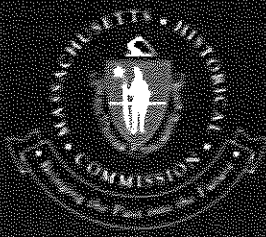
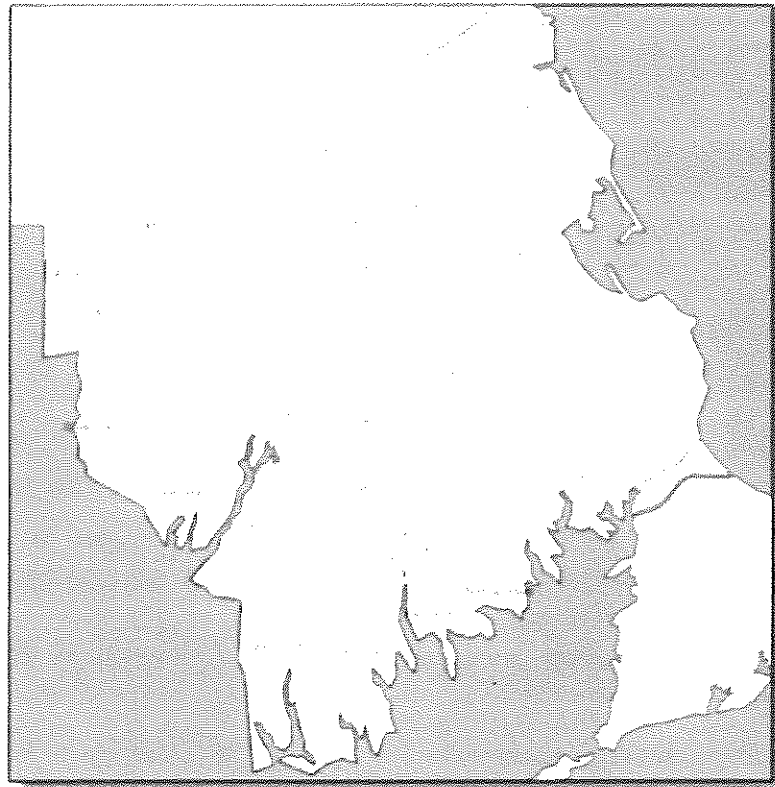
HISTORICAL PRESERVATION AND SOLAR DEVELOPMENT IN SHUTESBURY, MASSACHUSETTS



SHUTESBURY HISTORICAL COMMISSION
MARCH 2021

HISTORIC & ARCHAEOLOGICAL RESOURCES OF SOUTHEAST MASSACHUSETTS

A Framework for
Preservation Decisions



MASSACHUSETTS
HISTORICAL COMMISSION

William Francis Galvin
Secretary of the Commonwealth
Chair, Massachusetts Historical Commission

HISTORIC & ARCHAEOLOGICAL RESOURCES OF SOUTHEAST MASSACHUSETTS

A Framework for Preservation Decisions

Massachusetts Historical Commission State Survey Team

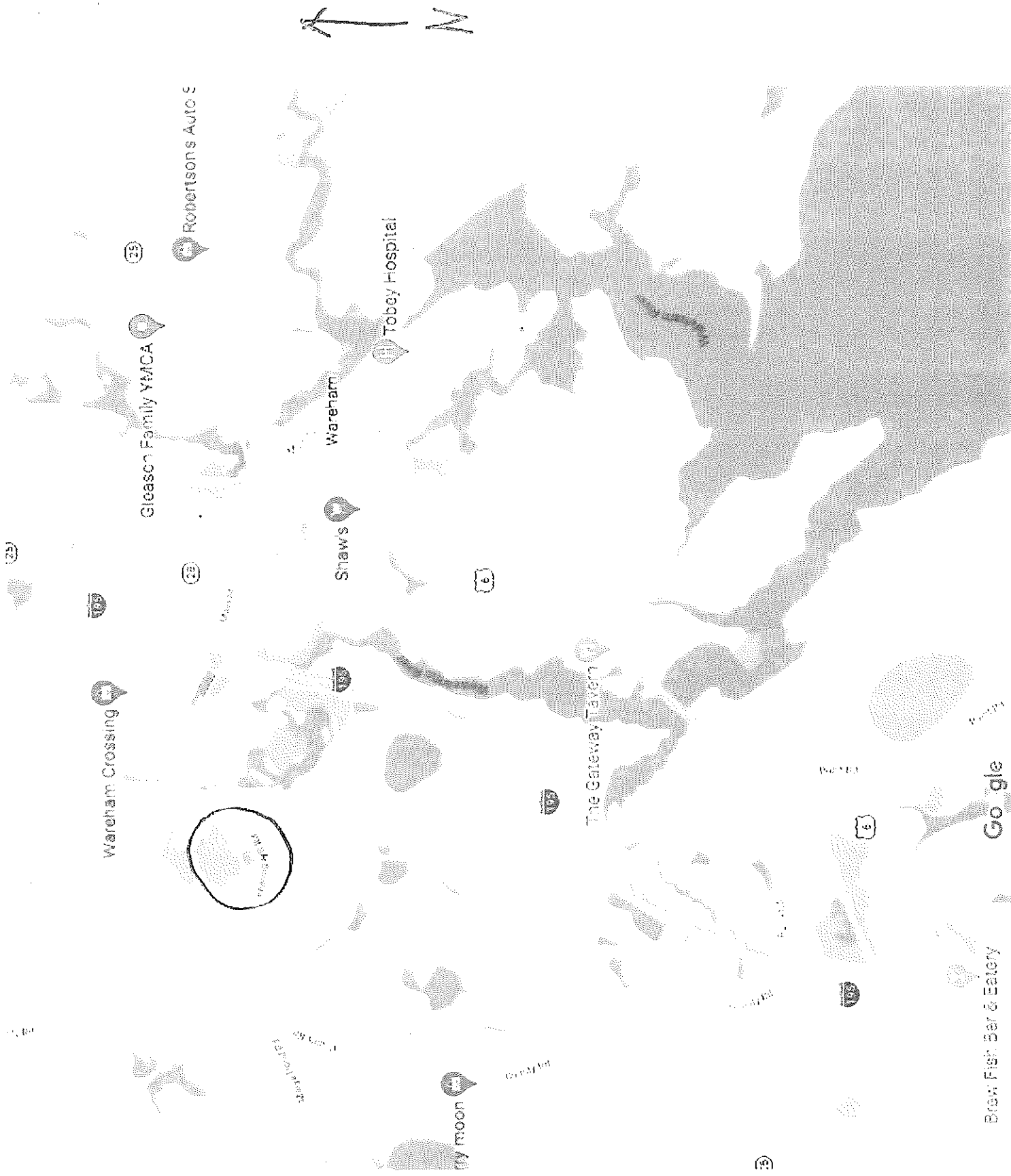
Neill DePaoli, Historical Archaeologist
Maxine Farkas, Geographer
Peter Stott, Industrial Historian
Sarah Zimmerman, Architectural Historian
James W. Bradley, Survey Director

Maps by Shirley Southworth and Ellen Starr

Published by:

The Massachusetts Historical Commission
William Francis Galvin
Secretary of the Commonwealth
Chair, Massachusetts Historical Commission

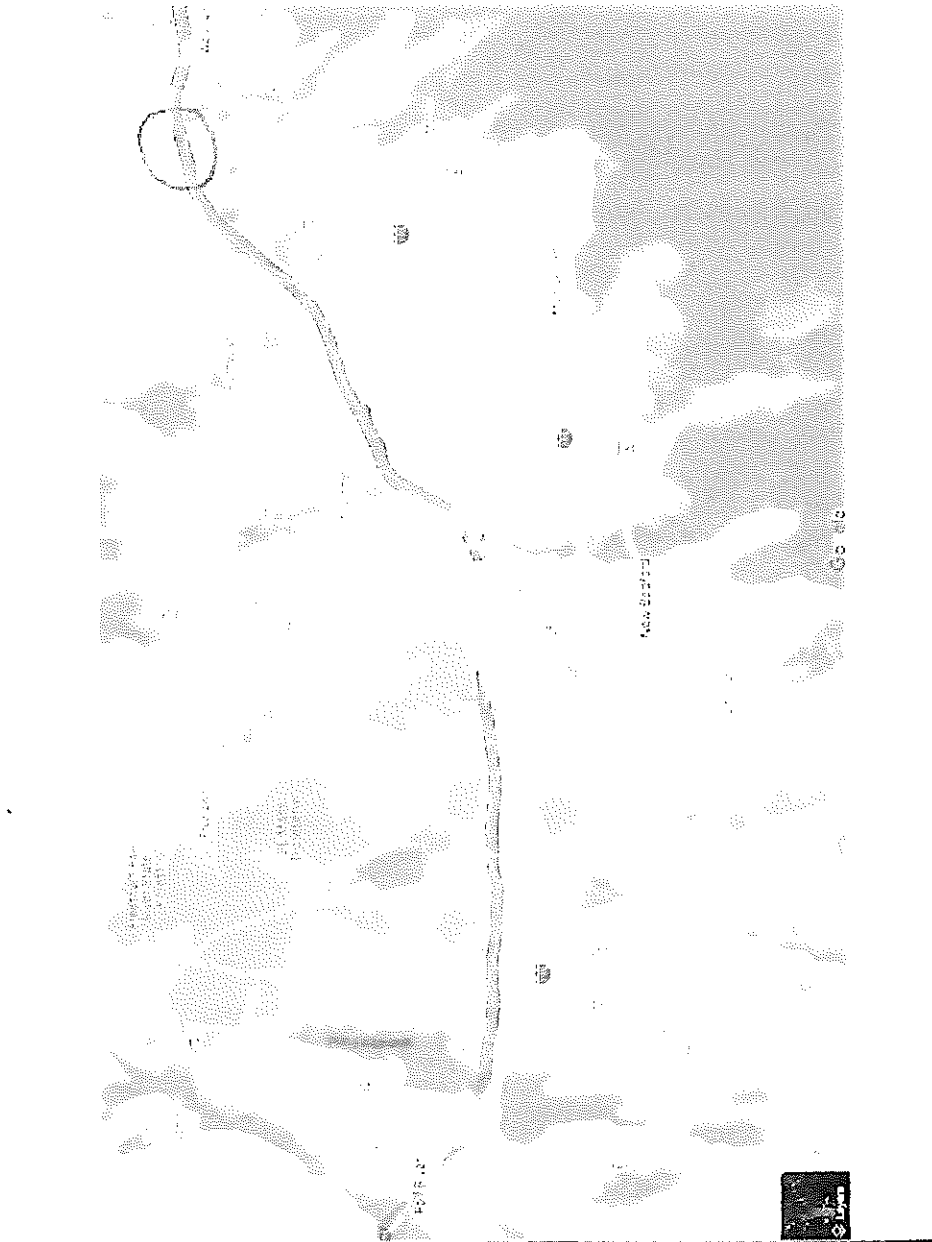
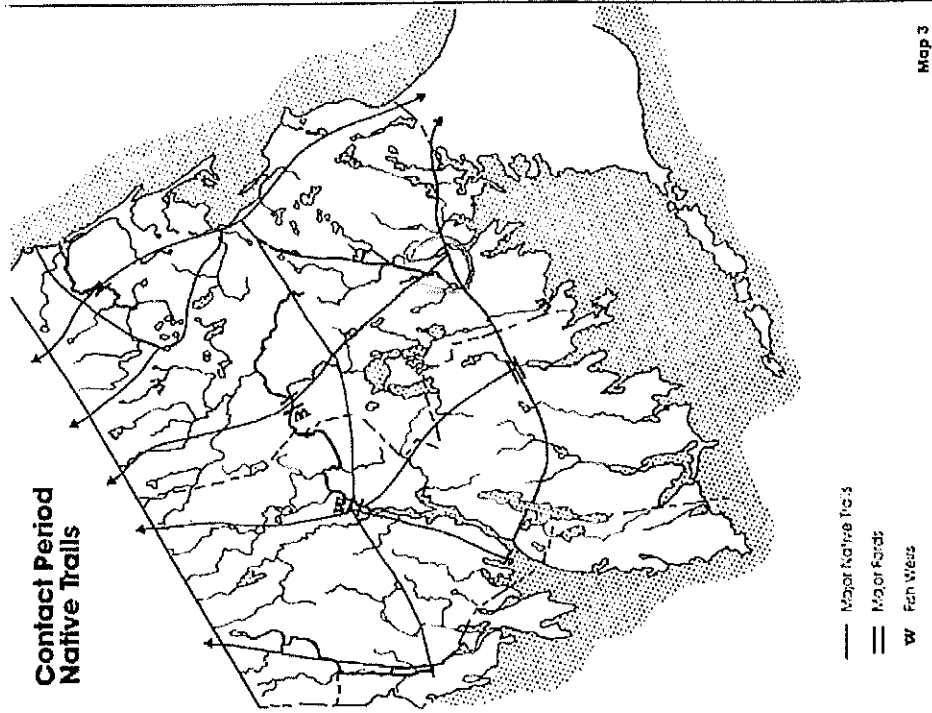
June, 1982
Reprinted, 1985
PDF Version 2007



Brow Fish Bar & Eatery

Google

4



C. Transportation Corridors

During the Contact period, native travel relied on an extensive overland trail system as well as water transportation. The native trail network exhibits many of the same basic features as observed in the Eastern Massachusetts and Boston study units. Native trails were characterized by minimal elevation changes and generally followed the contours of the terrain. Natural obstacles such as steep grades and bogs were avoided whenever possible. Routes often skirted around the perimeter of such obstacles. Directional changes were gradual, contributing to the braided appearance of the trail network. Frequently, a number of routes led to a single endpoint. Map 3 illustrates the major trails within the study unit.

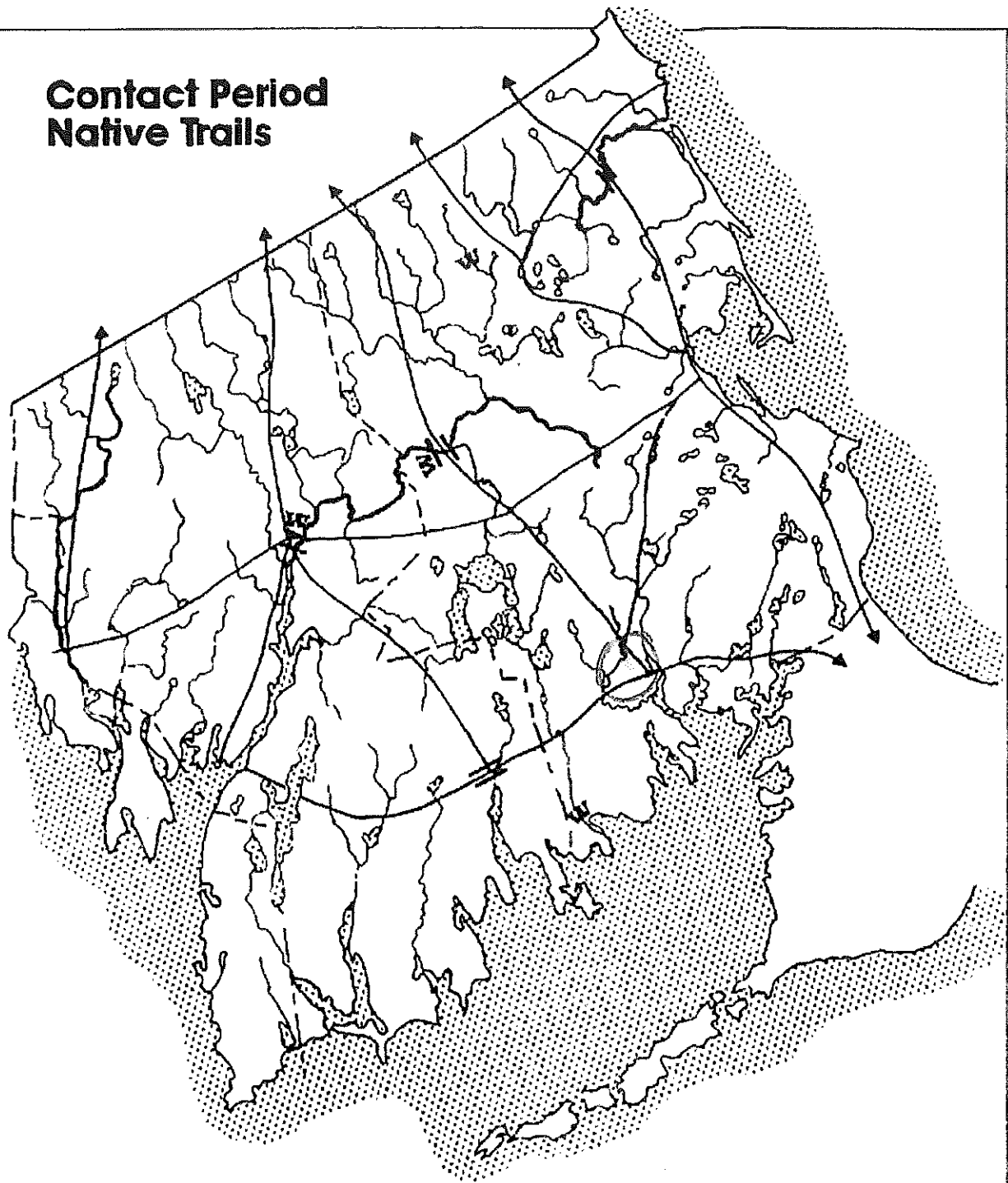
Most important within the overland network were a series of inter-regional trails which connected southeast Massachusetts with settlement and resource areas north, west and south of the study unit. There were six primary corridors along which these trails ran. Four of these were north-south oriented, the other two east-west. See Map 3.

1. The easternmost of the north-south trails ran south from Massachusetts Bay through Norwell, forded the North River in Hanover, continued southeast along Plymouth Bay and on through southern Plymouth to Cape Cod.

2. The second of the north-south trails went south from the Blue Hills through Abington and the Bridgewaters, forded the Taunton River at Titicut and continued southeast through Middleborough (Nemasket) to Wareham. *And interestingly ends on Freetown Bay!*
3. The third north-south trail also ran south from Massachusetts Bay through Easton and Taunton to the ford at Cohannet across the Taunton River. Here the trail split. One branch went southwest through Dighton and Somerset towards the Taunton River estuary while the other ran southeast through Freetown and New Bedford to the ford on the Acushnet River.
4. The last north-south trail ran from Massachusetts Bay along the Neponset River and then followed the Bungey and Ten Mile Rivers through the Attleboroughs and continued towards upper Narragansett Bay.
5. The major east-west trail went west from Plymouth (Patuxet), forded the Nemasket River in Middleborough and the Taunton River at Cohannet and continued west to Narragansett Bay.
6. A second east-west trail ran closer to the Buzzards Bay coast. From Cape Cod, it went west through Wareham and Rochester, crossed the Acushnet River and continued through Dartmouth and Fall River to the Taunton River estuary. *It is fairly well known!*

In addition to these inter-regional connectors, a number of intra-regional routes provided access between major settlement cores and resource areas. These trails generally extended from the study unit's interior to the resource-rich coast. Several other intra-regional routes radiated out from the Pembroke Ponds core connecting this area with Nemasket to the west and Patuxet to the south. Major routes extended from Nemasket and Cohannet south to the Buzzards Bay region. Additional interior trails linked the settlement cores of Titicut, Nemasket and Wampanucket.

Contact Period Native Trails



- Major Native Trails
- == Major Fords
- W Fish Weirs

Map 3

To the Planning Board & Conservation Commission
From Eric Lintala *The Historical Commission*

~~November 22, 2021~~

Feb 2, 2022

*and The
Historical Commission*

The following material is being submitted in support of the document that Save the Pine Barrens sent to the Planning Board ~~and~~ the Conservation Commission on November 7, 2021. There document clearly states and shows credible evidence to warrant a historic and archeological survey under article 12, Performance Standards. ~~And~~ to further give credence to the detailed information they sent, I am providing a small portion of another detailed document from the Massachusetts Historical Commission, Historic & Archaeological Resources of Southeastern Massachusetts, A Framework For Preservation Decisions. If you would look carefully at the third page "Contact Period Native Trails", Map #3, Shows a detail of the major transportation routes in Southeastern Massachusetts. Two major routes go east to west and four go north to south. What it highlighted and circled involves the Fearing Hill site the native trail corridor and the north directional trails that branch off from it....The fourth page shows a detail and present day road map of the Wareham area. Note the highlighted Native Trail and the area circled which includes the Weweantic Conservation area and the proposed area of the solar field just to its left....Page five shows both the contact period native trails map and an overall map view of the east west native trail corridor which includes Fearing Hill Road which is circled. Also note here the east west road of Rt 6 which is much further south of this trail and the east west Rt 195 which did not exist long ago. I will read a few important passages from the Massachusetts Historical Commission Document...

" part C. Transportation Corridors

During the contact period, native travel relied on an extensive overland trail system as well as water transportation."

" Most important within the overland network were a series of inter-regional trails which connected southeast Massachusetts with settlement and resource areas north, west and south of the study unit. There were six primary corridors along which these trails ran. Four of these were north-south oriented, the other two east-west. See map 3."

" 2. The second of the north-south trails went south from the Blue Hills through Abington and the Bridgewaters, forded the Taunton River at Titicut and continued southeast through Middleborough (Nemasket) to WAREHAM." (This trail interestingly ends on Fearing Hill Road)

" 6. A second east-west trail ran closer to the Buzzards Bay Coast. From Cape Cod, it went west through WAREHAM and Rochester, crossed the Acushnet River and continued through Dartmouth and Fall River to the Taunton River estuary." (This native trail IS Fearing Hill Road)

The Applicant plans to clear-cut and grade about 22 acres of a 44-acre site according to plans dated May 17, 2021 (“the Project”).

These comments are submitted by Save the Pine Barrens, Inc. (“STPB”), a non-profit volunteer-led alliance groups and individuals whose mission is to preserve, protect, and steward the land and water resources of Southeastern Massachusetts. STPB has members who live, work, and recreate in Wareham and have legal interests that will be harmed by the Project, including members of Wampanoag tribes.

The Application is incomplete because it fails to address Article 12, Performance Standards, of the Wareham Zoning By-Laws (“the By-Laws”).

The Board must require an amended Site Plan Review application demonstrating compliance with Article 12.

I. The Project

The Project locus is an approximately 44-acre site in an area zoned residential. The site itself “is presently composed of vacant woodlands and wetlands.” Applicant’s Site Plan Application, May 17, 2021 (the “Application”), page 1.

According to the Applicant, at least 22 acres will be clear-cut of all trees, stumps, roots, vegetation and topsoil to install 7,333 PV solar “panels mounted on a racking system attached to a foundation system anticipated to be driven posts.” In addition, “the project will require tree clearing within the solar array area, removal and stockpiling of existing topsoil for spreading, and minimal site grading”.... “Most of the proposed grading is associated with installations of proposed detention basins and 20-foot-wide access roads.” Application, pages 1-3.

II. Article 12, Performance Standards

Save the Pine Barrens, Inc.
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environmentwatchesoutheasternma@gmail.com

November 7, 2021

Mr. Richard Swenson
Chair, Planning Board
Town of Wareham
54 Marion Road
Via Kenneth Buckland, Director of Planning and Community Development
kbuckland@wareham.ma.us

Sandra Slavin
Chair, Conservation Commission
Town of Wareham
54 Marion Road
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Angela Dunham
Chair, Historical Commission
Town of Wareham
54 Marion Road
Wareham, Massachusetts 02571
Via US Mail

**Re: 91 and 101 Fearing Hill Road, Wareham (Large Industrial Ground Mounted
Solar and Battery Storage Project)**
Parcel ID 91-1000 and 74-1007

Planning Board Case No. 3055.2
Conservation Commission Case No. SE76-2684

Dear Planning Board, Conservation Commission and Historical Commission,

Thank you for the opportunity to submit comments on the Site Plan Review application
for the large ground-mounted industrial solar project proposed by Wareham MA 3, LLC and Con
Edison (collectively “the Applicant”) at 91 and 101 Fearing Hill Road in Wareham (“the Site”).

The solar bylaw, Section 594, *Design Standards*, states that “unless expressly provided by this section of the bylaw requirements of the underlying zoning district shall apply, except and in addition, the following standards which shall apply.” Article 12 applies in the Residential District where the Project is located.

The Planning Board must do its job and require compliance with *Performance Standards* in Article 12 during site plan review. These *Performance Standards* are at the heart of what site plan review is supposed to achieve.

III. Article 12 requirements for the Project

A. Site Alteration Special Permit

The Applicant must apply for and obtain a *Site Alteration Special Permit* under Article 12, *Performance Standards*.

Article 12, Section 1214 states,

No person shall undertake clearing or grading activities of an area greater than 50,000 square feet at any one time...without first obtaining a **Site Alteration Special Permit** from the Planning Board unless specifically exempted under Section 1206 [sic: 1216] of the By-Law.

The Project will clear and grade about 870,000 square feet (about 22 acres). The Project is not exempt under Section 1216. Section 1214 is mandatory: it explicitly says that “**no person shall undertake clearing or grading**” on an area over 50,000 square feet at any one time without a Site Alteration Permit. The Planning Board does not have the authority to waive or ignore Section 1214 and to allow the Applicant to clear and grade 870,000 square feet without a Site Alteration Special Permit under Article 12.

The Planning Board has no authority to exempt the Project from the requirement for a Site Alteration Special Permit.

The Applicant seeks site plan review and special permit approval under Article 5, Section 590, *Solar Energy Generation Facilities*. (The Application mentions the term “Special Permit” in several areas.) It must also meet the *Performance Standards* of Article 12.

The purposes of Article 12 are to:

1212.1 Protect the health, safety and property of the residents of the Town by regulating clearing and grading activities associated with land development preserving existing trees and vegetation, preventing erosion and sedimentation of inland and coastal wetlands, ponds and other water bodies, controlling stormwater runoff, minimizing fragmentation of wildlife habitat and loss of vegetation;

1212.2 Limit land clearing and alteration of natural topography prior to development review;

1212.3 Protect specimen trees and significant forest communities from damage or removal during site development;

1212.4 Protect water quality of adjacent wetlands and surface water bodies;

1212.5 Encourage the use of Best Management Practices that prevent and reduce nonpoint source of pollutants;

1212.6 Promote land development and site planning practices that are responsive to the Town's scenic character without preventing the reasonable development of land;

1212.7 Protect archaeological and/or historic resources.

Some but not all of these standards are addressed in the solar bylaw, Section 590 and site plan review, Article 15. Large ground mounted solar projects are not exempt from Article 12. The solar bylaw, Section 590 states that all ground-mounted solar projects “will be subject to Site Plan Review in accordance with Article 15 of the Zoning By-Law and the additional standards of this section [590].” Section 594. It also requires solar projects to be “consistent with all applicable local . . . Requirements.” Solar bylaw, Section 592.1, *Compliance with Laws, Ordinances and Regulations*. This includes Article 12, *Performance Standards*.

Existing walking trails are located throughout the Site primarily in a north-south direction. The topography of the site consists of a high point (known as Fearing Hill) that runs along the central portion of the property and generally rolls to wetlands located offsite to the west and northeast.

Two U.S. Geological Survey maps identify potential Ancient Ways: an “unimproved road” and a “trail”. Exhibits 1 and 2, attached. This potential Ancient Way, a cart path, runs from Fearing Hill Road mostly parallel to the Weweantic River. Oral tradition confirms that the Fearing Hill trail, colloquially referred to as an “Indian path” by local people, probably has been used continuously for time immemorial. This Ancient Way represents a tangible and enduring link between the past and present.

In Massachusetts, an Ancient Way is generally understood to be an ancient road that has been in use “since time immemorial”. Spauge v. White, 34 Mass. 309 (Mass. 1835). Often, such Ancient Ways are cart and footpaths that have been in use since at least the colonial era, with many in Massachusetts significantly predating colonization, having served as paths and routes for the Indigenous peoples of the area. The features identified on the Site as an unimproved road, trail and Indian path, and roadway are historic resources required to be protected under Section 1210 of the By-Laws.

Ceremonial Stone Landscapes

A historical and archeological survey is required to address Ceremonial Stone Landscapes (“CSL”). These are stone structures and other stone features of historic, cultural and sacred value to Native American people. The Site has stone features throughout.

According to the United Southern and Eastern Tribes (USET), CSL are “sacred ceremonial stone landscapes and their stone structures which are of particular cultural value . . . Whether these stone structures are massive or small structures stacked, stone rows, or effigies,

B. An archeological and historic survey under Section 1218.5

There is credible, reasonable evidence before the Board to warrant a historic and archeological survey under Article 12, *Performance Standards*. Article 12, *Purposes*, include to “[p]rotect archeological and/or historical resources. Section 1212.7. Section 1218.5, *Review Standards*, requires a project developer to demonstrate that it will use measures to will “avoid impacts to archeological resources” when clearing and grading a site. This also requires a “response from the Massachusetts Historical Commission (MHC) regarding the potential for archeological or historical resources on the site.” **Three issues must be addressed in an archeological and historic survey: Ancient Ways, Ceremonial Stone Landscapes, and consultation under the National Historic Preservation Act.**

The Site has the potential for significant ancient and colonial archeological and historic resources. Native American presence in Southeastern Massachusetts is ubiquitous. Southeastern Massachusetts is the ancestral home of the Wampanoag people and there is evidence of over 12,000 years of human use and occupation. See, for example, information about the Herring Pond Wampanoag Tribe, Inc. <https://www.herringpondtribe.org/> Wareham’s own Town Seal centers the Town’s cultural and historic identity on the Indigenous people who used and occupied the Wareham area. The Wareham Seal, adopted in 1739, bears the image of a Native person in a canoe, under the phrase “Nepinnae Keket” meaning “Summer Home” in the Wampanoag language. This is consistent with the Site’s proximity to the sea and the Weweantic River, a historically significant migratory fishery that would draw human use and occupation. See <https://buzzardsbay.org/living-resources/herring-runs/weweantic-herring-historical/>.

Ancient Ways

Potential Ancient Ways are identified in the Application:

Federal National Historic Preservation Act, Section 106 Consultation

The Board and the Conservation Commission must ensure they have adequate information about the Applicant's consultation with Indigenous people. *Performance Standard*, 1217, requiring protection of archeological and historic features should draw on, and cannot ignore, the federal National Historic Preservation Act (NHPA). The federal Clean Water Act requires the Applicant to certify compliance with Section 106 of the NHPA in order to get a federal Stormwater Pollution Prevention Plan (SWPPP) from the U.S. EPA. The Applicant must answer, under oath: "Is your project located on a property of religious or cultural significance to an Indian tribe." *US Environmental Protection Agency, FORM 3510-9, Notice of Intent (NOI) for the 2017 NPDES Construction Permit*. This information is material and significant to the Conservation Commission Order of Conditions and compliance with 1212.7 of the *Performance Standards* requiring protection of archeological and historic resources. Town agencies should not ignore this information.

Conclusion

STPB respectfully requests the following:

1. That the Planning Board require the Applicant to comply with Article 12, *Performance Standards*, including obtaining a Site Alteration Special Permit;
2. That the Planning Board use its authority under Mass. Gen. Laws Chapter 44, §53G and the By-Laws, Section 1565.1 to require an independent historic and archeological study by a qualified professional to study and report on ancient ways and Ceremonial Stone Landscapes evaluated by OSL under Article 12, *Performance Standards*;

these *prayers in stone* are often mistaken by archeologists and State Historic preservation Officers (SHPOs) . . .” [Emphasis Provided] *Sacred Ceremonial Stone Landscapes at the*

Ancestral Territories of USET Member Tribes [https://www.usetinc.org/wp-](https://www.usetinc.org/wp-content/uploads/mbreedlove/USET-Resolutions%20/2007%20%20resolutions/02%2007%20resolutions%20pdf/2007%20037.pdf)

[content/uploads/mbreedlove/USET-](https://www.usetinc.org/wp-content/uploads/mbreedlove/USET-Resolutions%20/2007%20%20resolutions/02%2007%20resolutions%20pdf/2007%20037.pdf)

[Resolutions%20/2007%20%20resolutions/02%2007%20resolutions%20pdf/2007%20037.pdf](https://www.usetinc.org/wp-content/uploads/mbreedlove/USET-Resolutions%20/2007%20%20resolutions/02%2007%20resolutions%20pdf/2007%20037.pdf).

Ceremonial stone landscapes are identified using Optically Stimulated Luminescence (OSL), an archeological survey technique used to date stone and other inorganic structures. OSL is similar to carbon dating, used to date organic matter. OSL measures certain luminescence signals that accumulate over time when quartz-based substances (read stones) are buried for significant lengths of time. <http://www.usu.edu/geo/huminlab/whatis.html>. This allows for a determination of how long the stone structure has been in place, allowing for definitive dating of the structure.

OSL is used to show that stone structures that may have been thought to be European constructs actually pre-date colonization. This was demonstrated in a 2020 study by Feathers and Muller, *Optically stimulated luminescence dating of a probable Native American cairn and wall site in Eastern Pennsylvania*. Feathers, J. & Muller, N. (2020). (Optically stimulated luminescence dating of a probable Native American cairn and wall site in Eastern Pennsylvania. *North American Archaeologist*, 41, 33-50. Retrieved from <https://journals.sagepub.com/doi/pdf/10.1177/0197693120920492>.) This OSL survey dated stone structures BC 570 and connected them to the Adena peoples. This study established that CSLs predate European colonization in the region by at least 2000 years (using the establishment of the Massachusetts Bay colony as the starting point for European colonization). This technique should be used at the Site.

Exhibit List

1. 1938 USGS Map showing Potential Ancient Way
2. 1949 USGS Map showing Potential Ancient Way
3. 1977 USGS Map showing Potential Ancient Way
4. 2021 USGS Map showing Potential Ancient Way
5. Applicant's Map of property

3. That the Applicant be required to report to the Planning Board and the Conservation Commission the results of its consultation under Section 106 of the National Historic Preservation Act in order to ensure compliance with Article 12, *Performance Standards*; and
4. The Applicant be required to circulate the Site Plan application to the Wareham Historical Commission pursuant to the By-laws, Section 1565.2.2(k) (Site Plans to be circulated to 10 named town departments and commissions, and “Others as determined to be appropriate.” Here, because the site has potential historic and archeological significance, it is appropriate to circulate the Site Plans to the Historical Commission.).

Please feel free to contact us if you have any questions or require further information.

Sincerely,

Margaret E. Sheehan

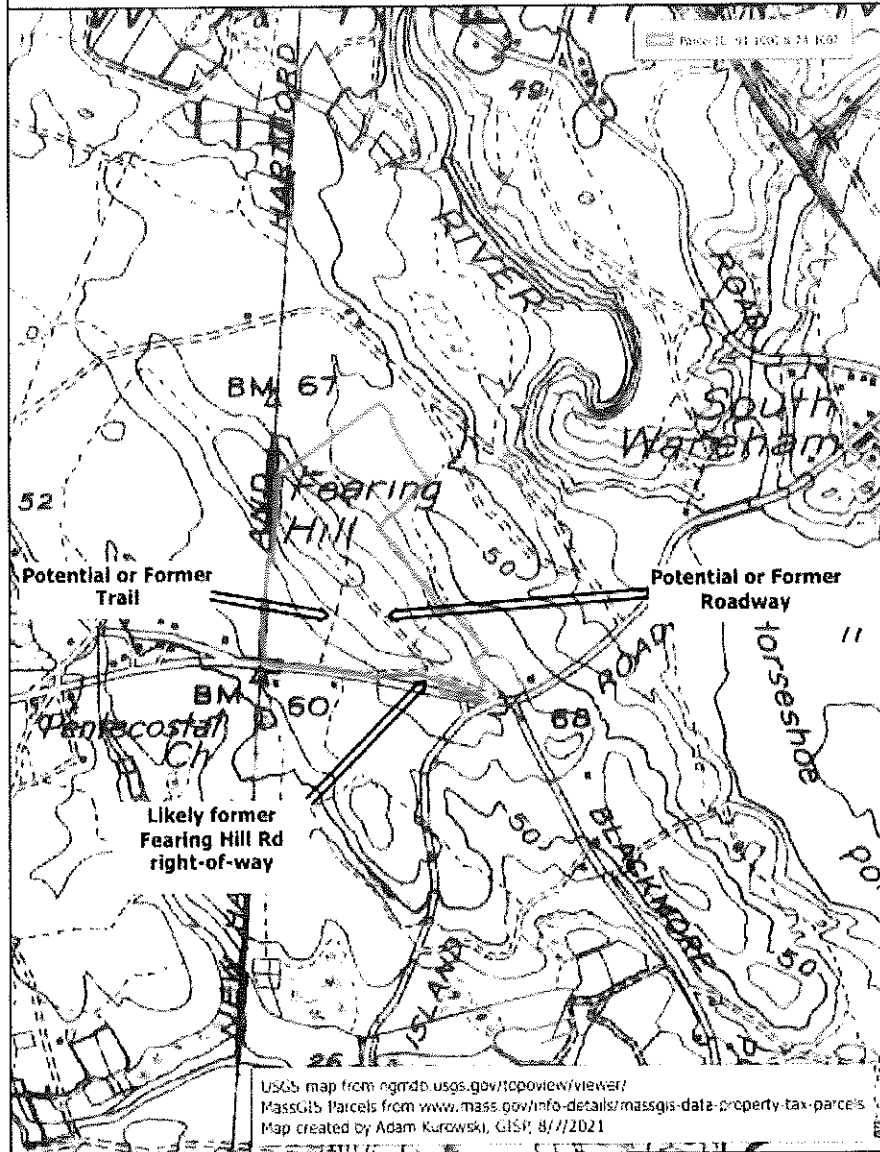
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Exhibit One

USGS Map: 1938 with MassGIS Parcels

0 0.1 0.2 0.3 Miles



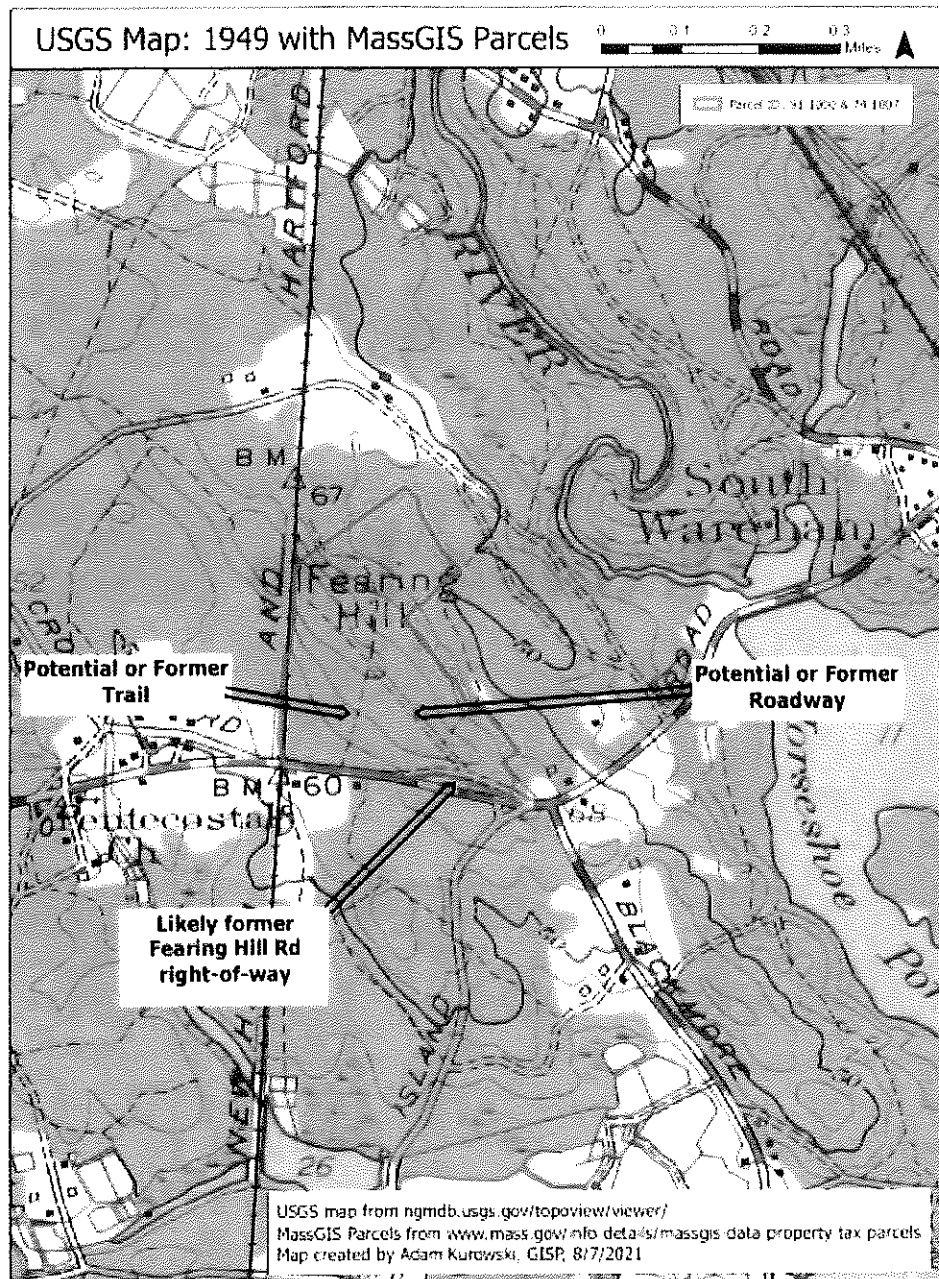


Exhibit Two

Exhibit Three

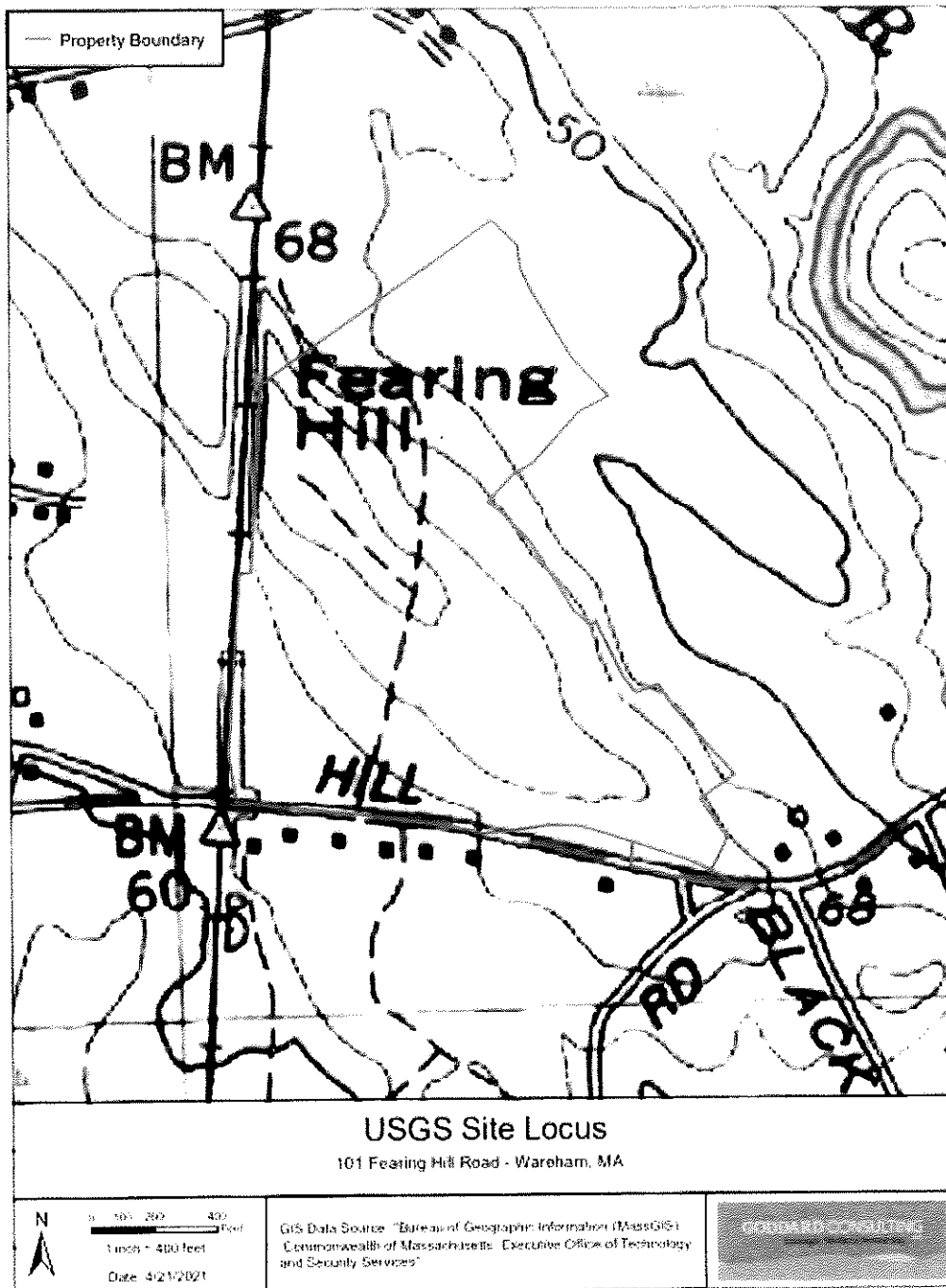


Exhibit Four

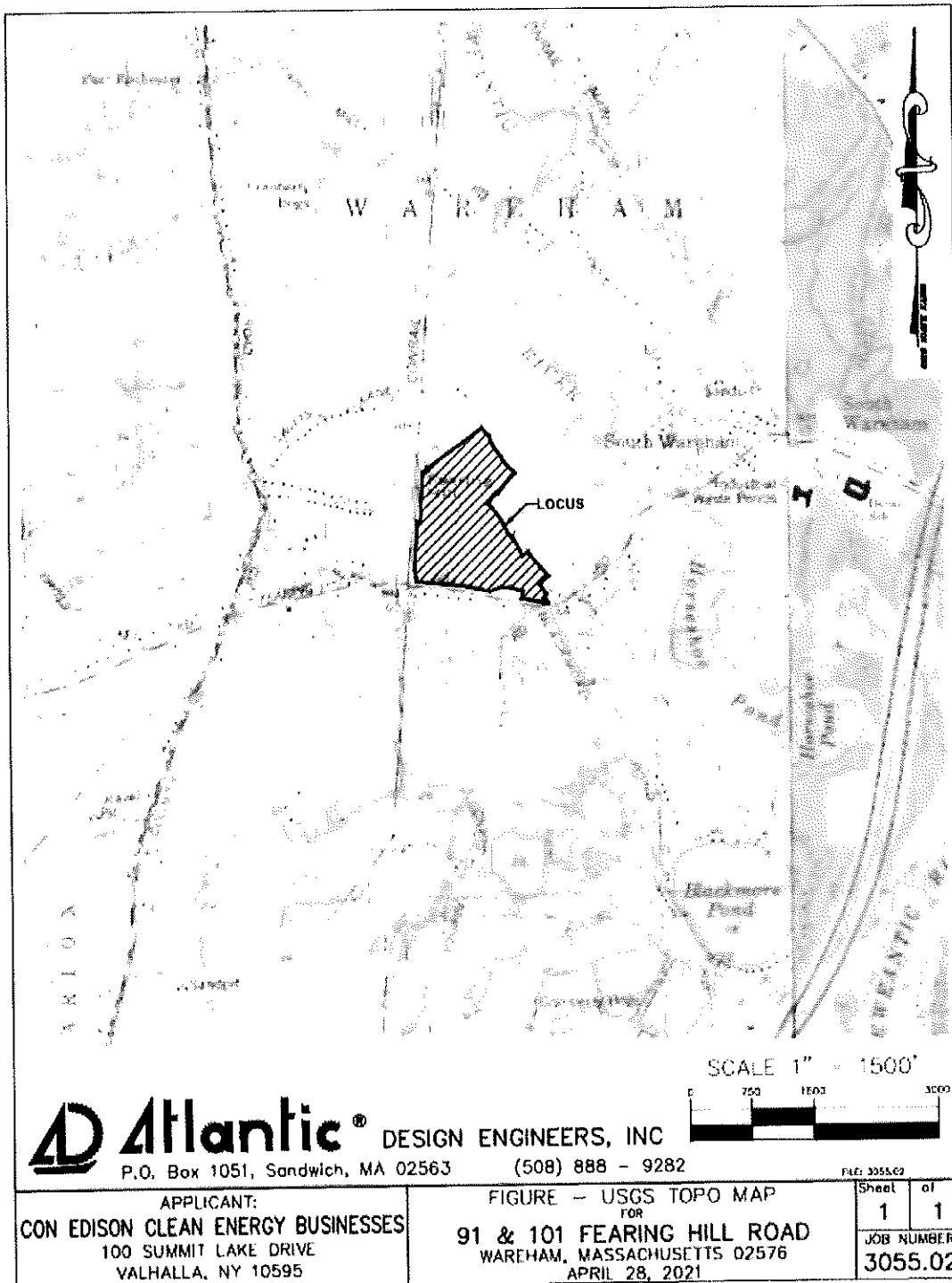


Exhibit Five