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September 16, 2024

Honorable Supervisor Edward Lachterman
Honorable Council Members of the
Yorktown Town Board
363 Underhill Avenue
Yorktown, NY 10583

Re: Comments on Proposed Solar Legislation

Dear Honorable Supervisor Edward Lachterman and Honorable Council Members of the Yorktown Town Board:

I am counsel for the direct adjacent residential property to the proposed Dell Avenue Solar Farm, located at 200 Dell Avenue in Yorktown, New York by the developer Sol Systems, also in the R-160 residential zone.

We have reviewed the proposed solar law and respectfully submit some preliminary comments for the Board's consideration. We applaud the proposal for expanding the setbacks from the lot lines from 100 feet to 200 feet. This will reasonably reduce the size of proposed large-scale solar farms and this standard can be applied objectively.

However, we urge the Board to consider a Town-wide natural resource inventory to analyze all properties in the Town and determine what the effect of the proposed law will have on future large-scale solar farm development. We believe the Town is best served by proactively analyzing impacts, rather than reacting to

developments as applications are submitted to the Planning Board.

To that end we submit to the Town two maps of the Town. The first map reflects all five-acre parcels (with the 200 foot setback) in residential zones by which large-scale solar farms can be developed. As is demonstrated, much of the Town can be developed and even oversaturated with solar farms.

The second map reflects all five-acre parcels (with a 300 feet setback) in residential zones by which large-scale solar farms can be developed. As you can see, this more aggressive approach greatly limits the areas that can be developed.

We ask that the Town Board in its review of the proposed law consider impacts which extend beyond 200 feet and go as high as 300 feet. In this manner the Town can preserve its many forests and undeveloped land and limit the impacts on residential neighbors.¹

We respectfully ask that the Town consider extending the present moratorium and take the time needed to best envision impacts from future solar farm developers. A comprehensive analysis of areas to be developed and, by zoning and setbacks, encourage developers to make applications in those areas which will have the least impact to residential districts.

The proposed solar law only requires the developer to screen large-scale solar farms from residential structures on adjacent properties. We see this provision as antithetical to typical

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The Town/Village of Harrison's solar law should be considered: "The installation of solar facilities in undeveloped, vegetated and wooded areas that exist in a natural or manicured state should be avoided and would be considered contrary to the open space preservation policies of the Town of Harrison." Section 206-2.E.

The Town of Yorktown states in the **current and proposed law** that development "on vacant parcels that are currently in a naturalized state" **is a last priority**. However, the Town of Yorktown imposes no obligation on developers to first demonstrate that other priorities cannot be complied with. The Town should consider in prioritizing sites a requirement that developers make an affirmative showing with factual detail that no other sites in higher priorities are available for development.

objective zoning principles which have restrictions based on the boundaries of the zoning district and then setbacks, which are imposed from lot lines. Residential structures can adapt and change over time, with teardowns, expansions, and building of new homes in different locations on the same lot. That also includes the right of the property owner to subdivide his/her property and build additional residences.

If the viewshed was only protected as to what can be seen from the present residential structure, the property owner would lose potential development on its own land if aesthetic protection were not considered.

It should be mentioned that the Comprehensive Plan, and even this proposed solar law, focuses on protection of its residents: "The Town values its open space, naturalized areas, and rural character. Maintaining high environmental quality and values are a mainstay of the Town's efforts in its guidance and regulation of development in the Town."

A residential property owner should not have his/her rights limited as to how the property is presently used and only from the residential structure. If the Town were to limit rights only from the residential structure it opens the door up for tax certiorari appeals by which the property owner's taxes would be limited only to the residential structure, and the land should not be taxed. Moreover, why should a property owner not be able to enjoy the quality of life in a residential district for all its land as does the Town, which "values its open space, naturalized areas, and rural character".

We urge the Board not to tip the scales in favor of large-scale solar farm developers to the detriment of its residential citizens. To strip protections and to limit them only to views from the residential structures is to deny a property owner the value of its entire land. In the name of large-scale solar farm development residential property owners should not be stripped of their full protections.

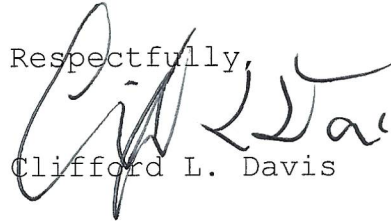
Lastly, as drafted, the proposed solar law has the unintended consequence that future developers will look for properties where there is no need to screen because nothing can be seen from the residential structure as it presently exists. This will encourage developers not to screen the large-scale

solar farm. The Board should be doing the exact opposite and require developers to screen from all parts of the residential property. If this draft were to be enacted the developers would be in control and the Town would lose its leverage to protect its residents.

The Town objectives are best served by reasonable regulation of large-scale solar farms, avoiding laws that would strip rights away from residents.

We will continue to provide our input as may be appropriate, but we wanted to provide these preliminary comments for discussion.

Respectfully,

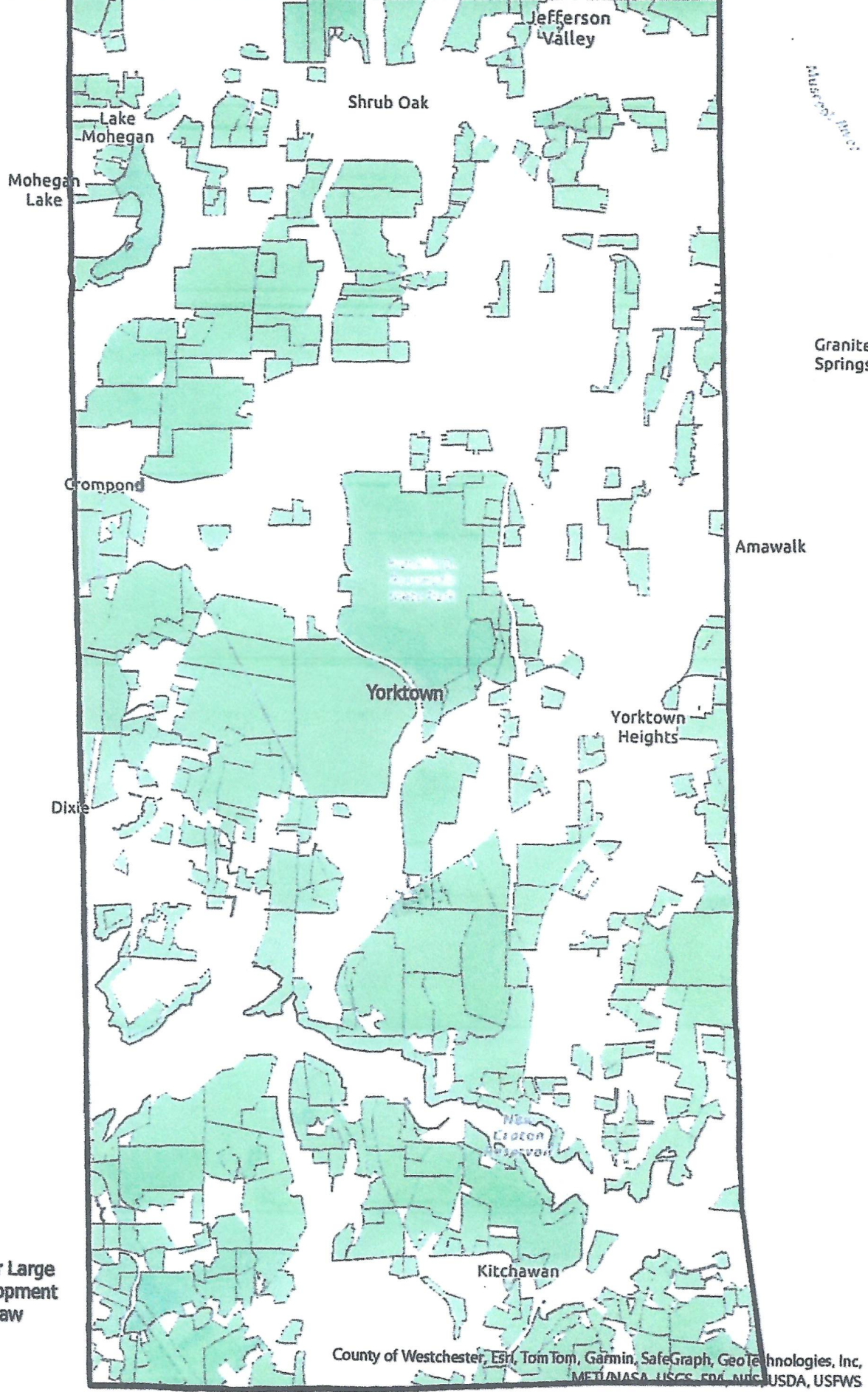
A handwritten signature in black ink, appearing to read "Cliff Davis", written over the typed name.

Clifford L. Davis

Encl.

N

Lake Peekskill



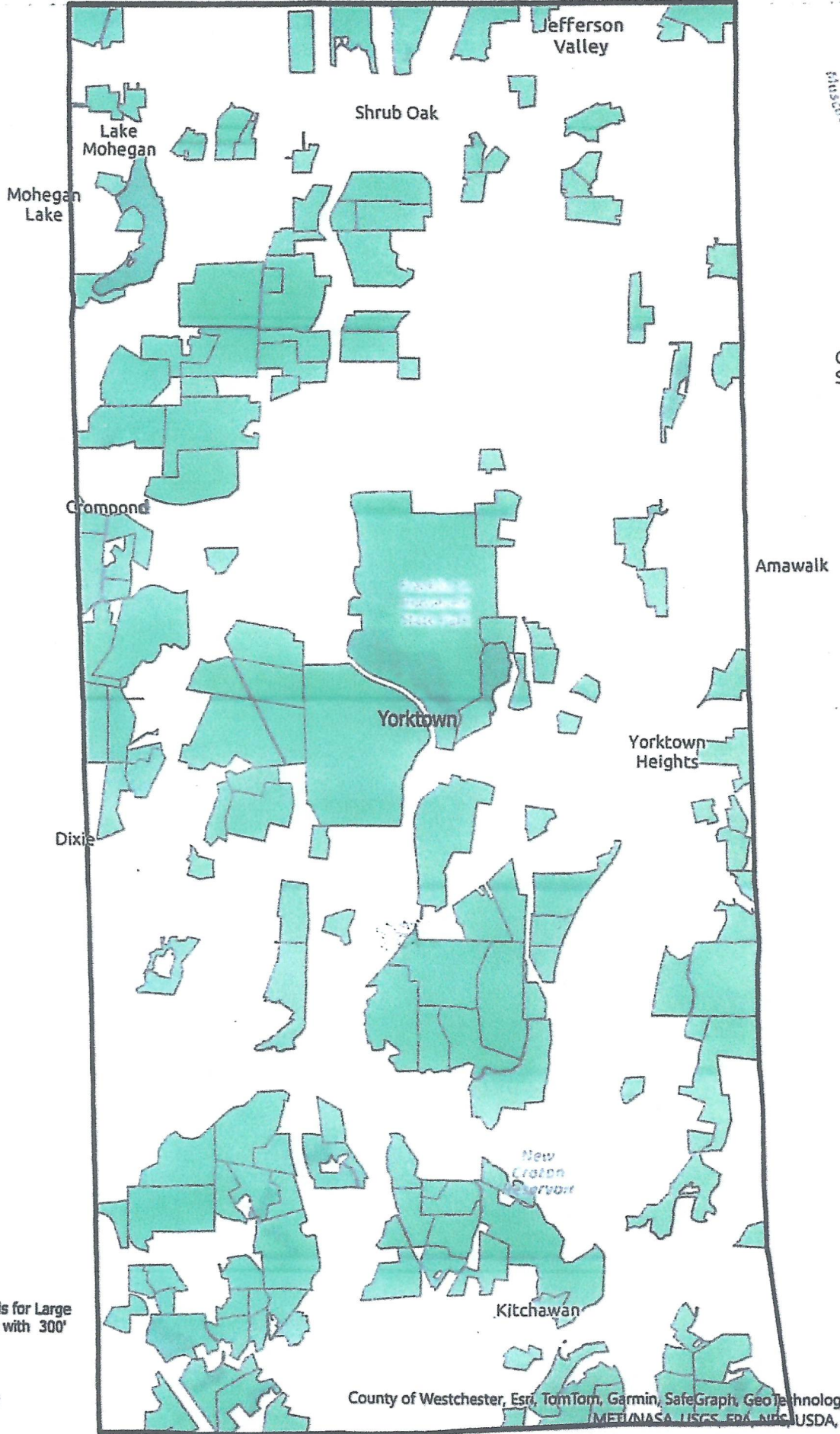
Eligible Parcels for Large Scale Solar Development Under Proposed Law

- with an area of 5 acres or more
- in a residential zone
- with 200' setback

County of Westchester, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc., METI/NASA, USGS, EPA, NRC, USDA, USFWS



Lake Peekskill



Eligible Residential Parcels for Large Scale Solar Development with 300' Setback

- with an area of 5 acres or more
- in a residential zone

County of Westchester, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc., MET/NASA, USGS, EPA, NPS, USDA, USFWS