

**COMMONWEALTH OF KENTUCKY  
BEFORE THE KENTUCKY STATE BOARD  
ON ELECTRIC GENERATION AND TRANSMISSION SITING**

<b>In the Matter of:</b>	)	
	)	
<b>In the Matter of the Application of Summer Shade Solar, LLC for a Certificate of Construction for an approximately 106-Megawatt Merchant Electric Solar Generating Facility in Metcalfe County, Kentucky pursuant to KRS 278.700, et seq., and 807 KAR 5:110</b>	)	<b>Case No. 2025-00064</b>

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**MOTION FOR CLARIFICATION AND RECONSIDERATION**

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Summer Shade Solar, LLC (“Summer Shade”), by and through counsel, requests reconsideration of the Kentucky State Board on Electric Generation and Transmission Siting’s (“Siting Board”) Final Order (the “Order”) issued on October 24, 2025. Summer Shade specifically requests the following: (1) a clarification that the setback requirement from panel to non-participating adjoining parcels is 25 feet and not 100 feet, which is necessary because of inconsistencies in the order and (2) a correction to the setback requirement from panel to residence to be 150 feet and not 400 feet, which is necessary because the Siting Board erroneously suggested that Summer Shade proposed a larger setback from panel to residence. Summer Shade’s preliminary plans specifically addressed mitigation measures to address setback concerns, including an extensive vegetative screening between the Project and adjoining, non-participating parcels and residences to prevent Project viewshed or other impacts on neighboring properties. Additionally, the Siting Board’s consultant recommended the Siting Board approve the Project with Summer Shade’s proposed setbacks, and Summer Shade received no opposition from neighboring property owners or the public. Thus, it is reasonable to grant Summer Shade’s request



## INTRODUCTION

Summer Shade tendered its Application (the “Application”) for a Certificate of Construction for an Approximately 106-Megawatt Electric Solar Generating Facility in Metcalfe County, Kentucky Pursuant to KRS 278.700 and 807 KAR 5:110 (the “Project”) on April 29, 2025. The Siting Board issued its Order on October 24, 2025, approving the Project with conditions.

Summer Shade, upon further review of the provisions of the Order, now seeks reconsideration of two setback distances the Siting Board imposed on the Project. Summer Shade proposed the following mitigation measure addressing setback distances when it filed its application:

Summer Shade Solar shall place panels, inverters, and substation equipment consistent with the distances to noise receptors to which it has committed in its maps and site plans. However, **Summer Shade Solar shall not place solar panels or string inverters, if used, closer than 150 feet from a residence, church, or school, 25 feet from non-participating adjoining parcels, or 50 feet from adjacent roadways.** . . .<sup>1</sup>

In variation from the proposed setback distances, the Siting Board approved the Project with the following setback provision:

**The Siting Board does not approve of Summer Shade’s proposed setback from residences of 300 feet from any panel or string inverter. The Siting Board approves of a distance of 400 feet from any panel or string inverter.** The Siting Board also approves a distance of 1,955 feet between any solar panel or string inverter and any residential neighborhood and **100 feet from any exterior property line. Nevertheless, Summer Shade shall not place solar panels or string inverters, if used, closer than 400 feet from a residence, church, or school, 25 feet from non-participating adjoining parcels, or 50 feet from adjacent roadways.** . . .<sup>2</sup>

Summer Shade seeks reconsideration for two components of the setback distances: (1) the imposition of setbacks to both non-participating adjoining parcels and exterior property lines, and

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<sup>1</sup> Application, Site Assessment Report at 10 (emphasis added).

<sup>2</sup> Final Order, Appendix A at 5 (emphasis added).



(2) the imposition of 400-foot setbacks to residences rather than the 150-foot setbacks Summer Shade proposed to the Siting Board.

## **BACKGROUND AND ANALYSIS**

### **1. Summer Shade seeks reconsideration of the imposed setbacks to both non-participating adjoining parcels and exterior property lines.**

Summer Shade first seeks the Siting Board's reconsideration of imposing both setbacks from non-participating adjoining properties and setbacks from exterior property lines. The Siting Board's Order states:

The Siting Board also approves a distance of . . . 100 feet from any exterior property line. Nevertheless, Summer Shade shall not place solar panels or string inverters, if used, closer than 400 feet from a residence, church, or school, 25 feet from non-participating adjoining parcels, or 50 feet from adjacent roadways.<sup>3</sup>

The two setback provisions directly conflict and leave Summer Shade in an ambiguous position. Summer Shade seeks reconsideration from the Siting Board to avoid any increased risk of litigation, during construction or operation, because of the disparate setback terms.

It is Summer Shade's view, consistent with the derivation of Siting Board precedent, that the Order sensibly requires it to maintain a 25-foot setback to non-participating adjoining parcels. A detailed review of prior Siting Board orders reveals that this conflicting language—100 feet from any exterior property line or 25 feet from non-participating adjoining parcels—was unintentionally introduced in a 2022 decision in which the solar developer proposed a 100-foot setback to exterior property lines (which was greater than the 25-foot setback that the Siting Board typically approved).

Since the filing of the first applications for construction certificates for solar generating facilities in 2020, the Siting Board has adapted its methodology of assessing setback distances

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<sup>3</sup> Final Order, Appendix A at 5.



relating to non-participating projects. Prior to June 2021, the Siting Board did not impose any setback requirements for non-participating adjoining parcels. The Siting Board's initial focus for setbacks only related to mitigating impact to "sensitive noise receptors" and approved applications with these setbacks in *Turkey Creek Solar*,<sup>4</sup> *Glover Creek Solar*,<sup>5</sup> *AEUG Fleming*,<sup>6</sup> *AEUG Madison*,<sup>7</sup> *Unbridled Solar*.<sup>8</sup> Then in June 2021, in *Horseshoe Bend Solar*, the Siting Board imposed 25-foot setbacks from non-participating parcels in addition to the project's proposed setbacks.<sup>9</sup> This quickly became the standard for the Siting Board's consideration of setbacks. In the months following the *Horseshoe Bend Solar* decision, the Siting Board started imposing the same 25-foot setback distances for non-participating adjacent parcels in *Meade County Solar*,<sup>10</sup> *McCracken Solar*,<sup>11</sup> *Mt. Olive Creek Solar*,<sup>12</sup> *Fleming Solar*,<sup>13</sup> and *Horus Kentucky 1*,<sup>14</sup> *Green River Solar*,<sup>15</sup> and *Sebree Solar*.<sup>16</sup>

*Rhudes Creek Solar* marked the next shift in the Siting Board's imposition of setbacks and began implementing exterior property line setbacks in 2022. In coordination with the Hardin County Planning Director, Rhudes Creek Solar designed its project to incorporate "100' setbacks from road right-of-way and exterior perimeter property lines" as a design element.<sup>17</sup> Based on the project design, the Siting Board approved Rhudes Creek Solar's proposed setback distances from any exterior property line. In addition to these exterior line setbacks, the Siting Board, arguably

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<sup>4</sup> *Turkey Creek Solar, LLC*, Case No. 2020-00040, Order at 38 (K.S.B. September 23, 2020).

<sup>5</sup> *Glover Creek Solar, LLC*, Case No. 2020-00043, Order at 36 (K.S.B. September 23, 2020).

<sup>6</sup> *AEUG Fleming Solar, LLC*, Case No. 2020-00206, Order, Appendix A at 6 (K.S.B. July 26, 2021).

<sup>7</sup> *AEUG Madison Solar, LLC*, Case No. 2020-00219, Order, Appendix A at 4 (K.S.B. June 9, 2021).

<sup>8</sup> *Unbridled Solar, LLC*, Case No. 2020-00242, Order, Appendix A at 4 (K.S.B. June 4, 2021).

<sup>9</sup> *Horseshoe Bend Solar, LLC*, Case No. 2020-00190, Order, Appendix A at 4 (K.S.B. June 11, 2021).

<sup>10</sup> *Meade County Solar LLC*, Case No. 2020-00390, Order, Appendix A at 4 (K.S.B. October 29, 2021).

<sup>11</sup> *McCracken County Solar LLC*, Case No. 2020-00392, Order, Appendix A at 5-6 (K.S.B. October 30, 2021).

<sup>12</sup> *Mt. Olive Creek Solar, LLC*, Case No. 2020-00226, Order, Appendix A at 5-6 (K.S.B. November 3, 2021).

<sup>13</sup> *Fleming Solar, LLC*, Case No. 2020-00370, Order, Appendix A at 5-6 (K.S.B. November 24, 2021).

<sup>14</sup> *Horus Kentucky 1 LLC*, Case No. 2020-00417, Order, Appendix A at 4 (K.S.B. December 29, 2021).

<sup>15</sup> *Green River Solar, LLC*, Case No. 2020-00387, Order, Appendix A at 4-5 (K.S.B. December 22, 2021).

<sup>16</sup> *Sebree Solar, LLC*, Case No. 2021-00072, Order, Appendix A at 4 (K.S.B. February 9, 2022).

<sup>17</sup> *Rhudes Creek Solar, LLC*, Case No. 2021-00127, Site Assessment Report at 6.



unnecessarily, kept its now-standard language of: “Nevertheless, Rhudes Creek Solar shall not place solar panels or string inverters, if used, closer than . . . 25 feet from non-participating adjoining parcels.”<sup>18</sup>

In its very next decision in April 2022, the Siting Board again incorporated language relating to both non-participating adjoining parcels and exterior property lines in the decision. In *Caldwell Solar*, the Siting Board assessed identical setbacks on Caldwell Solar as those imposed on Rhudes Creek.<sup>19</sup> However, as Caldwell Solar noted in its Motion for Clarification that it never proposed a 100-foot setback from any exterior property line nor had the Siting Board’s consultant proposed the exterior property line setback.<sup>20</sup>

Since the *Rhudes Creek Solar*, the Siting Board has imposed both a 25-foot setback for non-participating adjacent properties and a 100-foot setback for exterior property line in at least 10 cases.<sup>21</sup> Aside from indicating that Rhudes Creek Solar proposed the 100-foot setback for its unique project, the Siting Board has never provided any explanation to why it continues to assess 100-foot setbacks to exterior property lines.

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<sup>18</sup> *Id.* Order, Appendix A at 4 (K.S.B. March 4, 2022).

<sup>19</sup> *Caldwell Solar, LLC*, Case No. 2020-00244, Order, Appendix A at 4-5 (K.S.B. April 8, 2022).

<sup>20</sup> *Id.* Motion for Clarification at 10 (August 2, 2022). The Siting Board did not rule on Caldwell Solar’s Motion for Clarification.

<sup>21</sup> See *Caldwell Solar*; *Bluebird Solar LLC*, Case No. 2021-00141, Order, Appendix A at 4 (K.S.B. August 3, 2022); *Blue Moon Energy LLC*, Case No. 2021-00414, Order, Appendix A at 4 (K.S.B. August 3, 2022); *Russellville Solar, LLC*, Case No. 2021-00235, Order, Appendix A at 4 (K.S.B. August 23, 2022); *Golden Solar, LLC*, Case No. 2020-00243, Order, Appendix A at 4-5 (K.S.B. February 21, 2023); *Thoroughbred Solar, LLC*, Case No. 2022-00115, Order, Appendix A at 4-5 (K.S.B. April 10, 2023); *Hummingbird Energy, LLC*, Case No. 2022-00272, Order, Appendix A at 4-5 (K.S.B. December 13, 2023); *FRON BN, LLC (Frontier Solar)*, Case No. 2023-00360, Order, Appendix A at 4-5 (K.S.B. June 25, 2024); *Pike County Solar Project, LLC*, Case No. 2024-00105, Order, Appendix A at 4 (K.S.B. November 15, 2024); and *Lynn Bark Energy Center, LLC*, Case No. 2024-00104, Order, Appendix A at 4 (K.S.B. November 27, 2024). In addition to these 10 cases, the Siting Board included a similar condition in *Banjo Creek Solar LLC*, Case No. 2023-00320, Order, Appendix A at 4-5 (K.S.B. March 5, 2024) but with a 30-foot setback for non-participating adjacent properties and a 100-foot setback for exterior property line. It also approved consistent setbacks in *Lost City Renewables LLC*, Case No. 2024-00406, Order, Appendix A at 4-5 (K.S.B. July 29, 2025) of **25-foot setback** for non-participating adjacent properties and a **25-foot setback** for exterior property line.



The record in this case supports allowing Summer Shade to abide the 25-foot setback to non-adjoining parcels. This interpretation is consistent with the development of Siting Board precedent because the Siting Board originally imposed 25-foot setbacks from non-participating parcels and has only once provided a basis for including exterior property line setbacks based on a project's specific design features. Notably, neighboring property owners and the public did not offer public comment to the Siting Board regarding Summer Shade's Application, did not intervene in the proceedings before the Siting Board, and never provided Summer Shade any pushback on the setback distances to adjoining, non-participating properties. Summer Shade plans ample vegetative screening to bolster the existing forested buffer between the neighboring properties, specifically those with residences. For these reasons, Summer Shade requests clarification on the setback definition and urges the Siting Board to recognize the 25-foot setback to non-participating adjoining properties.

**2. Summer Shade seeks reconsideration of the setback distance for residences consistent with what it proposed to the Siting Board – 150 feet.**

Contrary to the Siting Board's statement that Summer Shade proposed 300-foot setbacks to residences, Summer Shade actually proposed 150-foot setbacks to residences in its Application to mitigate against any potential negative Project impact on neighboring properties.<sup>22</sup> It appears that the Siting Board may have confused Summer Shade's proposed 150-foot setback to *residences* and its proposed 300-foot setback to a specific *residential neighborhood*.

Knowing six groupings of residences were located around the Project site, Summer Shade informed the Siting Board that it planned to file a Motion for Deviation because potentially six residential neighborhoods were located approximately around 2,000 feet of the project.<sup>23</sup> After

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<sup>22</sup> Application, Site Assessment Report at 10.

<sup>23</sup> Application at 7.



Summer Shade conducted closer analysis of the Project site and surrounding areas, it later determined that at least five of the six groupings of home around the Project site would not qualify as residential neighborhoods pursuant to KRS 278.704(2) or Siting Board interpretation.<sup>24</sup>

Summer Shade filed a Motion Regarding Setbacks with the Siting Board and reiterated its proposed 150-foot setbacks from residences, churches, and schools and 25-foot setbacks from non-participating adjoining parcels.<sup>25</sup> In the event the Siting Board determined any of these areas to be a residential neighborhood, Summer Shade requested the following setback deviations:<sup>26</sup>

Area	Planned Distance to Panel (ft)	Requested Deviation (ft)
1	1,311	1,250
2	1,125	1,100
3	1,995	1,900
4	946	900
5	1,990	1,900
6	328	300

Summer Shade did not request a uniform setback deviation for the project. Rather, it tailored all requested deviations to the specific areas surrounding the project.

Summer Shade believes the requested deviation for Area 6 is the only reference to a 300-foot proposed setback in the materials filed with the Siting Board. It appears that the Siting Board imputed that Summer Shade proposed a 300-foot setback from all *residences* (as opposed to

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<sup>24</sup> Response to DR 2-38; Motion Regarding Setbacks at 17; Final Order at 24-25.

<sup>25</sup> Motion Regarding Setbacks at 2.

<sup>26</sup> Post-Hearing Brief at 12.



residential neighborhoods), and then further increased the setback distance from those residences from 300 to 400 feet in its Order:

The Siting Board does not approve of Summer Shade's proposed setback from residences of 300 feet from any panel or string inverter. The Siting Board approves of a distance of 400 feet from any panel or string inverter. The Siting Board also approves a distance of 1,955 feet between any solar panel or string inverter and any residential neighborhood and 100 feet from any exterior property line.<sup>27</sup>

At no time during the pendency of the Application did Summer Shade propose 300-foot setbacks between panels and residences to the Siting Board. In its Motion Regarding Setbacks, Summer Shade identified that Area 6 could potentially require a 300-foot setback deviation if the Siting Board found Area 6 to be a residential neighborhood.<sup>28</sup> In support of the potential deviation, Summer Shade provided the Siting Board with a list of other projects with approved setback deviations of 300 feet or less and asserted that a 300-foot setback deviation would be reasonable.<sup>29</sup> Summer Shade never requested 300-foot setbacks to all residences but, rather, always requested 150-foot setbacks to residences.

The Siting Board imposed 400-foot setbacks for residences with no explanation or reference to the record. No witness provided any written or cross-examination testimony recommending a 400-foot setback from panels to residences. Further, the Consultant the Siting Board hired to review Summer Shade's Application, recommended the Siting Board approve the project as proposed and did not recommend a 400-foot residential setback distance.<sup>30</sup> Accordingly, Summer Shade seeks reconsideration and removal of the 400-foot setback to residences because

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<sup>27</sup> Final Order, Appendix A at 5.

<sup>28</sup> Motion Regarding Setbacks at 13. The Siting Board did not find Area 6 to be a residential neighborhood, and a setback deviation was not necessary for Area 6.

<sup>29</sup> *Id.* at 12-13.

<sup>30</sup> BBC Site Assessment Review for Summer Shade Solar at Section B, p. 11.



no public comment, evidence in the record, or recommendation for greater setbacks from the Siting Board's Consultant exists to explain the 400-foot setback from residences.

Summer Shade's requested adjustment to a 150-foot setback from panel to residence is reasonable. It identified approximately 101 potential residences within 2,000 feet of the project. Of those 101 residences, only the following 22 residences are within 400 feet of proposed location of the panels.<sup>31</sup>

<b>AFFECTED RECEPTORS - PANELS</b>		
<b>RECEPTOR ID</b>	<b>Distance to Nearest Solar Panel</b>	<b>Parcel ID</b>
R-02	182	031-00-00-015.02
R-42	182	030-00-00-022.00
R-93	188	031-00-00-009.01
R-01	193	031-00-00-016.00
R-97	201	031-00-00-002.03
R-73	222	031-00-00-010.00
R-89	225	030-00-00-019.01
R-74	227	031-00-00-006.01
R-08	229	031-00-00-002.17
R-43	246	030-00-00-018.02
R-101	264	031-00-00-015.00
R-87	277	031-00-00-019.01
R-16	285	031-00-00-013.01
R-72	306	031-00-00-011.01
R-05	320	031-00-00-002.15
R-03	327	031-00-00-002.13
R-07	328	031-00-00-002.06
R-32	329	030-00-00-021.00
R-04	332	031-00-00-002.04
R-19	358	031-00-00-008.01
R-06	362	031-00-00-002.05
R-20	390	031-00-00-008.02

Accordingly, it is reasonable for the Siting Board to adjust setbacks from panels to residences to 150 feet, as proposed by Summer Shade.

<sup>31</sup> Application, Attachment A.



**3. The Siting Board should reconsider the above-described setbacks to non-participating adjoining parcels and to residences for the following reasons:**

**a. Siting Board precedent warrants reconsideration of the imposed setbacks.**

Summer Shade evaluated the Siting Board's precedent and treatment of other similar projects when it designed the Project. Summer Shade's application is similar to that in *Weirs Creek Solar*. In that case, Weirs Creek Solar proposed setbacks of "25 feet from perimeter property lines and at least 100 feet from any residential structure or other occupied building. Additionally, the Project will comply with the KYSB standard setback of 450 feet between occupied structures and central inverters."<sup>32</sup> Both projects proposed 25-foot setbacks from non-participating adjoining parcels, and Summer Shade recommended a 150-foot setback to residences.<sup>33</sup>

Yet, the Siting Board assessed both projects vastly differing setbacks. In *Weirs Creek Solar*, the Siting Board assessed the following:

Weirs Creek Solar shall place panels, inverters, and substation equipment consistent with the distances to noise receptors to which it has committed in its maps and site plans. Weirs Creek Solar shall not place solar panels or string inverters, if used, closer than **150 feet from a residence, church, or school, 25 feet from non-participating adjoining parcels**, or 50 feet from adjacent roadways. Weirs Creek Solar shall not place a central inverter, and if used, energy storage systems, closer than 450 feet from any adjacent residences, church, or school. These further setbacks shall not be required for residences owned by landowners involved in the Project that explicitly agree to lesser setbacks and have done so in writing. All agreements by participating landowners to lesser setbacks must include language advising the participating landowners of the setbacks otherwise required herein. All agreements by participating landowners to lesser setbacks must be filed with the Siting Board prior to commencement of construction of the Project.<sup>34</sup>

The Siting Board approved Weirs Creek Solar's made no mention of any exterior property line setbacks. Yet, the Siting Board placed vastly different setback assignments on Summer Shade:

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<sup>32</sup> *Weirs Creek Solar, LLC*, Case No. 2024-00099, Site Assessment Report, Exhibit 5 at 2.

<sup>33</sup> Site Assessment Report at 10.

<sup>34</sup> *Weirs Creek Solar, LLC*, Order, Appendix A at 4 (emphasis added).



**The Siting Board does not approve of Summer Shade's proposed setback from residences of 300 feet from any panel or string inverter. The Siting Board approves of a distance of 400 feet from any panel or string inverter. The Siting Board also approves a distance of 1,955 feet between any solar panel or string inverter and any residential neighborhood and 100 feet from any exterior property line. Nevertheless, Summer Shade shall not place solar panels or string inverters, if used, closer than 400 feet from a residence, church, or school, 25 feet from non-participating adjoining parcels, or 50 feet from adjacent roadways. Summer Shade shall not place a central inverter, and if used, energy storage systems, closer than 750 feet from any adjacent residences, church, or school. These further setbacks shall not be required for residences owned by landowners involved in the Project that explicitly agree to lesser setbacks and have done so in writing. All agreements by participating landowners to lesser setbacks must include language advising the participating landowners of the setbacks otherwise required herein. All agreements by participating landowners to lesser setbacks must be filed with the Siting Board prior to commencement of the Project.<sup>35</sup>**

Summer Shade believes the language of the setbacks the Siting Board assigned is ambiguous, especially considering the treatment of another similarly situated project. In addition to Weirs Creek Solar, the Siting Board has approved 150-foot setbacks from panel to residence in the following cases:

- AEUG Madison Solar, LLC, Case No. 2020-00219
- Horseshoe Bend Solar, LLC, Case No. 2020-00190
- Northern Bobwhite Solar, LLC, Case No. 2020-00208
- Ashwood Solar I, LLC, Case No. 2020-00280
- Flat Run Solar, LLC, Case No. 202-00271
- Meade County Solar LLC, Case No. 2020-00390
- McCracken County Solar LLC, Case No. 2020-00392
- Mr. Olive Creek Solar, LLC, Case No. 2020-00226
- Green River Solar, LLC, Case No. 2020-00387
- Sebree Solar, LLC, Case No. 2021-00072
- Rhudes Creek Solar, LLC, Case No. 2021-00127
- Caldwell Solar, LLC, Case No. 2020-00244
- Bluebird Solar LLC, Case No. 2021-00141
- Blue Moon Energy LLC, Case No. 2021-00414
- Russellville Solar, LLC, Case No. 2021-00235

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<sup>35</sup> Final Order, Appendix A at 5 (emphasis added). Summer Shade again notes that it did not recommend a 300-foot setback from residences at any point during the pendency of the application.



- Thoroughbred Solar, LLC, Case No. 2022-00115
- Pine Grove Solar, LLC, Case No. 2022-00262
- Sebree Solar II, LLC, Case No. 2022-00131
- Bright Mountain Solar, LLC, Case No. 2022-00274
- Pike County Solar Project, LLC, Case No. 2024-00105
- Lost City Renewables LLC, Case No. 2024-00406
- STMO BN, LLC (Starfire), Case No. 2024-00255

Based on the development of Siting Board precedent, Summer Shade requests the Siting Board for clarification regarding setbacks to non-participating adjacent parcels and exterior property lines and to the imposition of 400-foot setbacks for residences when Summer Shade requested a 150-foot setback from residences.

**b. The public and neighboring property owners have expressed no opposition to the Project as it was proposed.**

Historically, the Siting Board has considered the public's and intervening parties' concerns regarding potential project impacts to viewshed, property value, and the environment when making setback decisions. For example, in *Rhudes Creek Solar*, no parties intervened in the proceedings, but the Siting Board noted in its order that multiple public comments had been submitted. Notably, a property value appraisal report was submitted as public comment by a property appraiser for the Siting Board to consider.<sup>36</sup> The Siting Board concluded the Rhudes Creek Solar project would have negligible property value impact because vegetative screening would block neighboring properties' view of the project, and the project would not cause any other adverse impact.<sup>37</sup> After carefully considering all public comments and submissions, the Siting Board imposed the setbacks Rhudes Creek Solar proposed to achieve minimal to no viewshed or other impacts on neighboring properties.

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<sup>36</sup> Though the report was not submitted in time for the Siting Board to consider its contents, the Siting Board likened the report's contents to that filed by the same appraiser in Sebree Solar and evaluated it based on the content of the similar report. *Rhudes Creek Solar, LLC*, Order at 12 (K.S.B. March 4, 2022).

<sup>37</sup> *Id.* at 12-13.



The Summer Shade application was uncontested. At no point during the pendency of the application was public comment or additional reports or analyses provided to the Siting Board for consideration. No parties intervened in the matter.<sup>38</sup> In fact, Summer Shade engaged in significant community outreach efforts including multiple public meetings in Metcalfe County, discussions with local leaders, and ongoing conversations with neighboring property owners.<sup>39</sup> At no time did any neighboring property owner raise any concern about the setbacks of any portion of the project – let alone to non-participating adjoining parcels. Opposition or public concern simply was not a factor in Summer Shade’s Application. Public concerns regarding setback distances could not have been a negative factor for the Siting Board’s consideration and a basis for imposing greater setback distances on the Project. Conversely, the lack of public comment or intervention despite Summer Shade’s concerted effort to inform the public about the Project, reveals public and neighbor assent to the Project’s proposed setbacks.

**c. Summer Shade plans extensive vegetative screening around the Project.**

To further protect the interests of neighboring property owners, Summer Shade created an extensive vegetative screening plan for the project, which is attached hereto.<sup>40</sup> In addition to maintaining acres of forested land creating a natural boundary around the project, Summer Shade will plant native evergreen species around the project, cultivate two acres of native, pollinator-friendly plants on the Project site, and will satisfy the other components of the vegetative screening plan that Summer Shade proposed.<sup>41</sup> The Visual Impact Assessment that was attached to the Site Assessment Report as Appendix E further demonstrates the reasonableness of Summer Shade’s

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<sup>38</sup> Final Order at 1.

<sup>39</sup> Post-Hearing Brief at 1-8.

<sup>40</sup> Vegetative Screening Plan (attached as **Exhibit 1**).

<sup>41</sup> Site Assessment Report at 10.



proposal.<sup>42</sup> Ultimately, with all mitigation measures considered, the existing forested area and additional vegetative screening will minimize any viewshed impact from the Project.<sup>43</sup>

**d. BBC recommended the Siting Board approve the Summer Shade Project.**

The BBC Consultant's Report recommended the Siting Board approve the Summer Shade application. In fact, in reference to setbacks, BBC only said that the Siting Board would have to make a determination of whether residential neighborhoods surrounded the project.<sup>44</sup> BBC never implied that any greater setbacks should be imposed on the Project nor critiqued any component of Summer Shade's proposed setbacks. Summer Shade designed the Project to be feasible with 25-foot boundaries from the nearest solar panel to non-participating adjoining properties and 150-foot boundaries from the nearest solar panel to a residence, and BBC concluded the Siting Board should approve the Project with the proposed setbacks.<sup>45</sup>

Notably, KRS 278.708(6) requires that "[t]he applicant shall be given the opportunity to present evidence to the board regarding any mitigation measures." Not only was Summer Shade unaware that the Siting Board was considering significantly larger setbacks than what it proposed, the Siting Board's consultant did not recommend larger setbacks were needed.

## **CONCLUSION**

For the foregoing reasons, Summer Shade requests the Siting Board reconsider the setbacks imposed – both in relation to non-participating and adjoining properties versus exterior property lines and related to residential structures. Summer Shade thoughtfully designed the project with the intention of minimizing any potential negative impact to neighboring properties. Summer Shade evaluated Siting Board precedent and proposed setbacks consistent with prior decisions,

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<sup>42</sup> This Visual Impact Assessment is also attached as **Exhibit 2**.

<sup>43</sup> Final Order at 11.

<sup>44</sup> BBC Site Assessment Review for Summer Shade Solar at Section B, p. 2-3.

<sup>45</sup> *Id.* at Section B, p. 11.



created a thorough vegetative screening plan during the development process, and conducted public meetings and remained in constant communication with neighboring property owners to address their concerns of the Project.

Summer Shade respectfully requests the Siting Board confirm the applicability of the 25-foot setbacks to non-participating adjoining parcels. Summer Shade also requests the Siting Board to reconsider and adopt the proposed 150-foot setbacks from residences.

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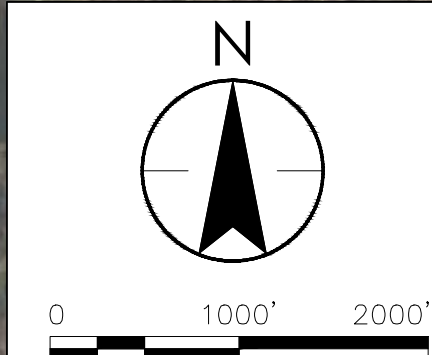
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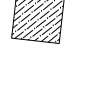




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[rprice@sturgillturner.com](mailto:rprice@sturgillturner.com)

*Counsel for Summer Shade Solar, LLC*





	PROJECT BOUNDARY
	PROPOSED SITE FENCE
	SOLAR ARRAY
	ACCESS ROAD
	PROPOSED SUBSTATION
	SCREENING PROVIDED BY EXISTING VEGETATION
	PROPOSED VEGETATED EVERGREEN SCREENING
	EXISTING OVERHEAD LINES
	PROPOSED OVERHEAD ELECTRIC
	PROPOSED MV CABLES



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[illegible]

CANDELA RENEWABLES

# SUMMER SHADE SOLAR PROJECT

SUMMER SHADE, METCALFE COUNTY, KENTUCKY

Title

# VISUAL SCREENING PLAN

Project Number: 172658275

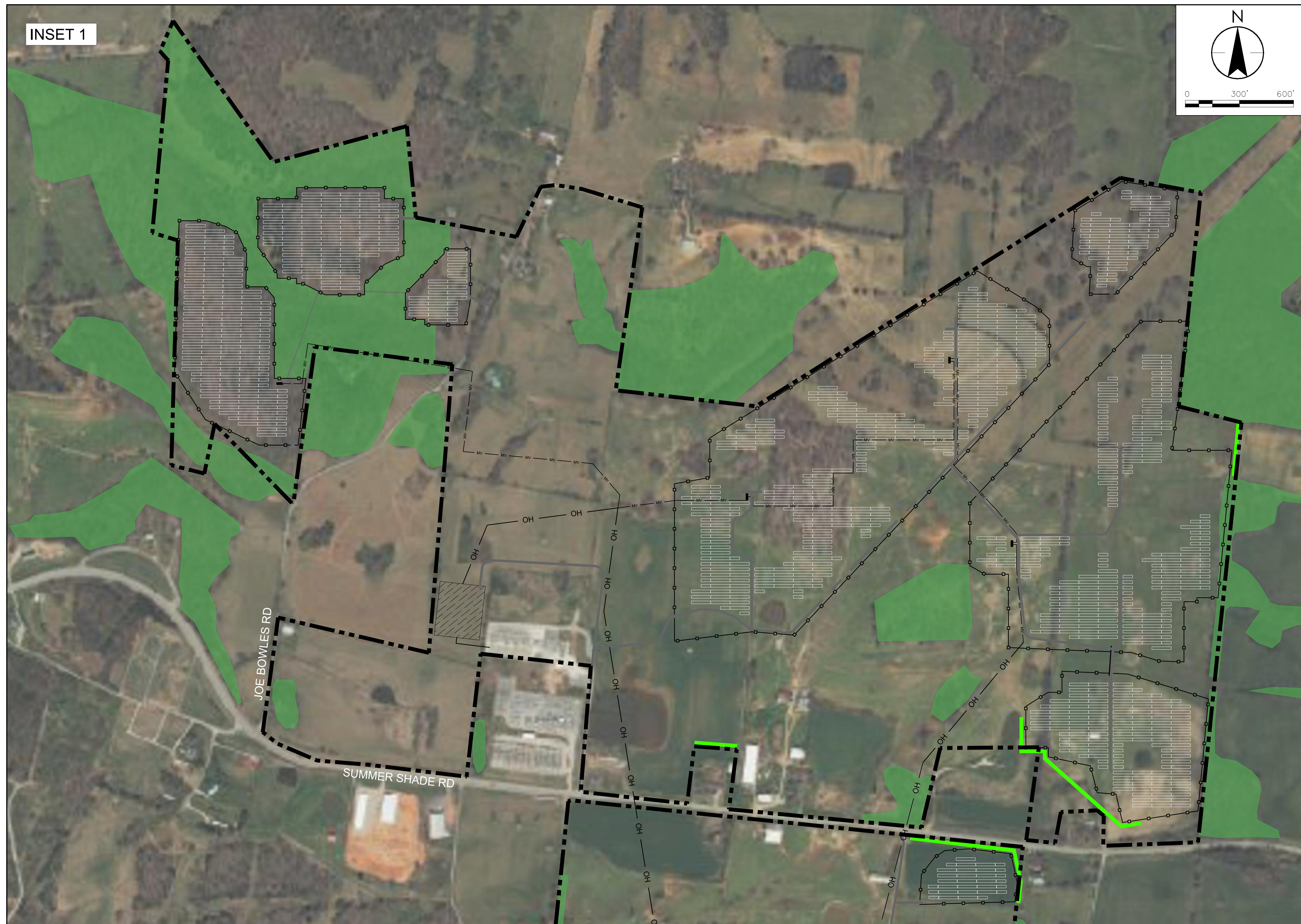
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SS/MD	SK	DM/MD	2025.03.20
Dwn.	Chkd.	Dsgn.	YY.MM.DD



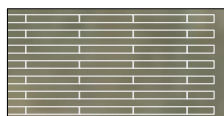







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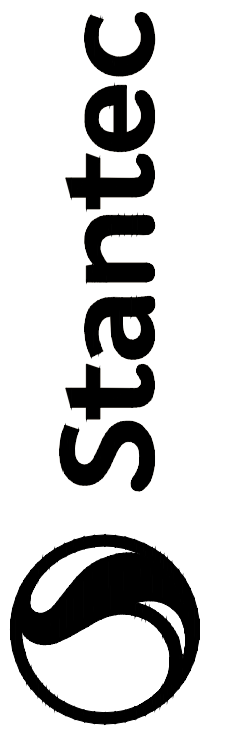
Revision	Sheet
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# LEGEND

	PROJECT BOUNDARY
	PROPOSED SITE FENCE
	SOLAR ARRAY
	ACCESS ROAD
	PROPOSED SUBSTATION
	SCREENING PROVIDED BY EXISTING VEGETATION
	PROPOSED VEGETATED EVERGREEN SCREENING
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Client/Project  
CANDELA RENEWABLES

# SUMMER SHADE SOLAR PROJECT

SUMMER SHADE, METCALFE COUNTY, KENTUCKY

Title

VISUAL SCREENING PLAN - INSET 1

Permit-Seal

---

Project Number: 172658275

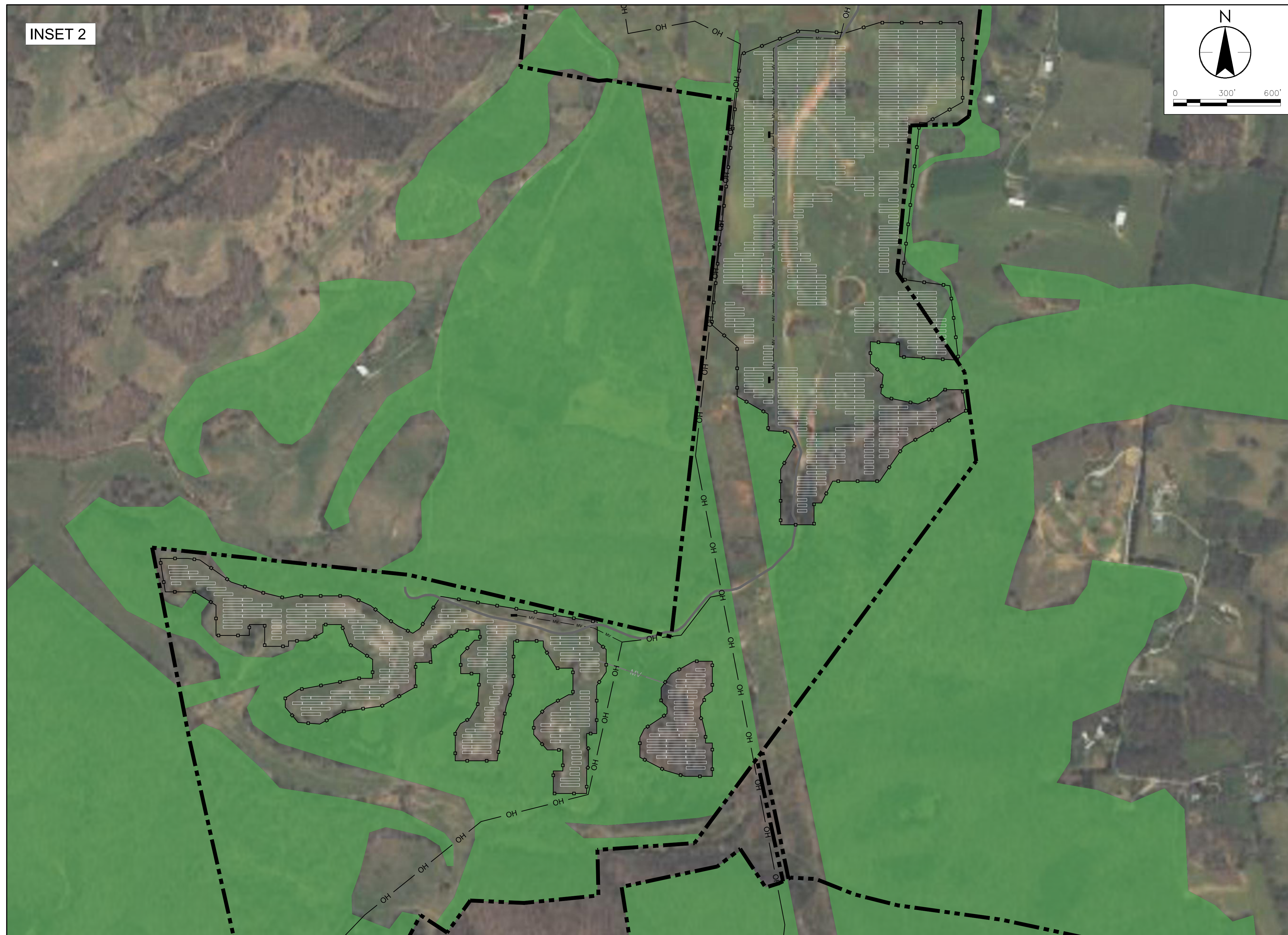
File Name: SummerShadeSolar\_PlantingPlan.dwg

SS/MD	SK	DM/MD	2025.03.20
Dwn.	Chkd.	Dsgn.	YY.MM.DD










Drawing No.

Revision Sheet





## LEGEND

	PROJECT BOUNDARY
	PROPOSED SITE FENCE
	SOLAR ARRAY
	ACCESS ROAD
	SCREENING PROVIDED BY EXISTING VEGETATION
	PROPOSED VEGETATED EVERGREEN SCREENING
	EXISTING OVERHEAD LINES
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# SUMMER SHADE SOLAR PROJECT

SUMMER SHADE, METCALFE COUNTY, KENTUCKY

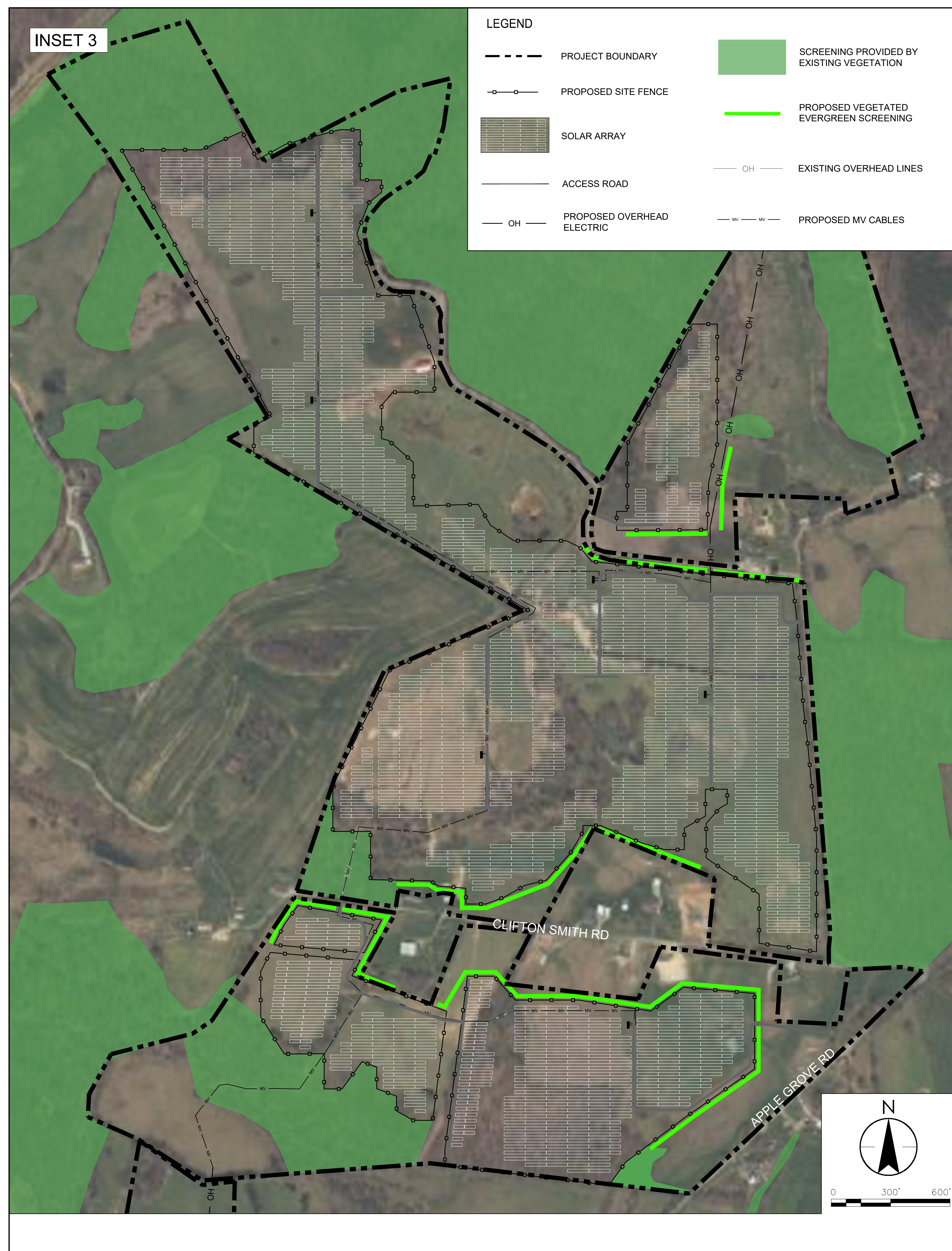
Title

VISUAL SCREENING PLAN - INSET 2

Permit-Seal

Project Number: 172658275			
File Name: SummerShadeSolar_Plan1Plan.dwg			
SS/MD	SK	DM/MD	2025.03.20
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Drawing No.			
Revision		Sheet	



[illegible]

Client/Project	Title
CANDELA RENEWABLES	SUMMER SHADE, METCALFE COUNTY, KENTUCKY
SUMMER SHADE SOLAR PROJECT	VISUAL SCREENING PLAN - INSET 3 & 4

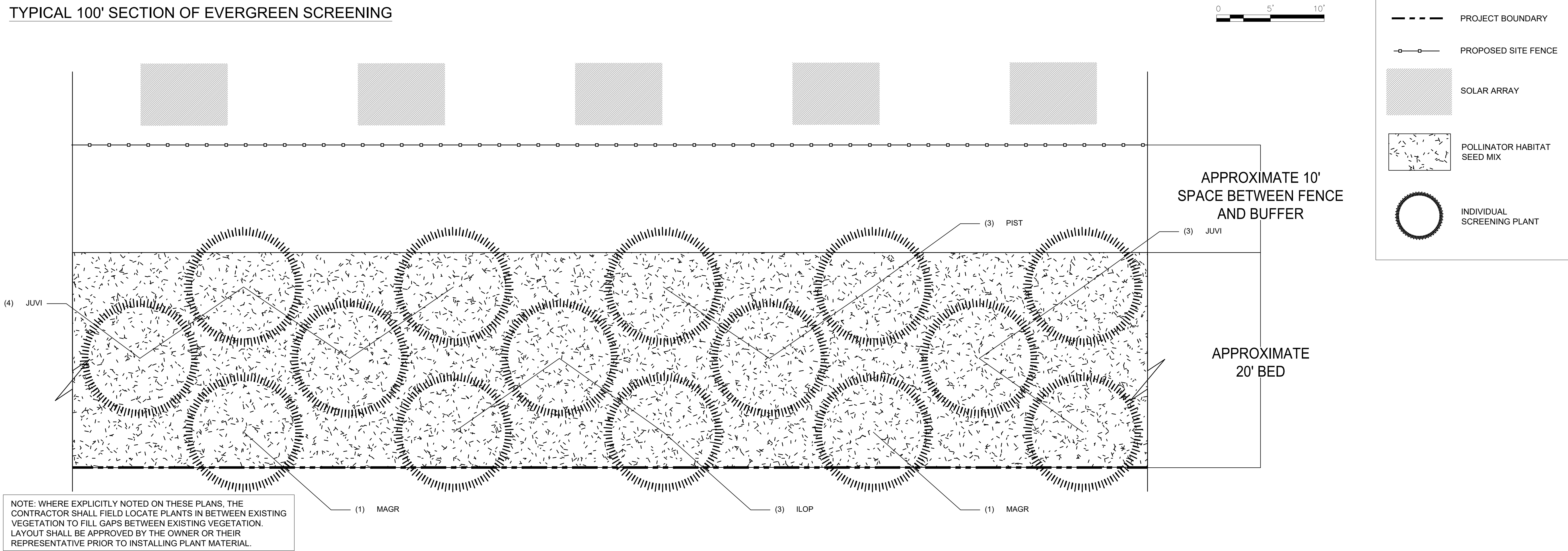
Project Number: 172658275			
File Name: SummerShadeSolar_PlantingPlan.dwg			
SS/MD	SK	DM/MD	2025.03.20
Dwn.	Chkd.	Dsgn.	YY.MM.DD
Drawing No.			
Revision		Sheet	







## TYPICAL 100' SECTION OF EVERGREEN SCREENING



## SUMMER SHADE SOLAR SITE: CONCEPTUAL PLANT PALETTE

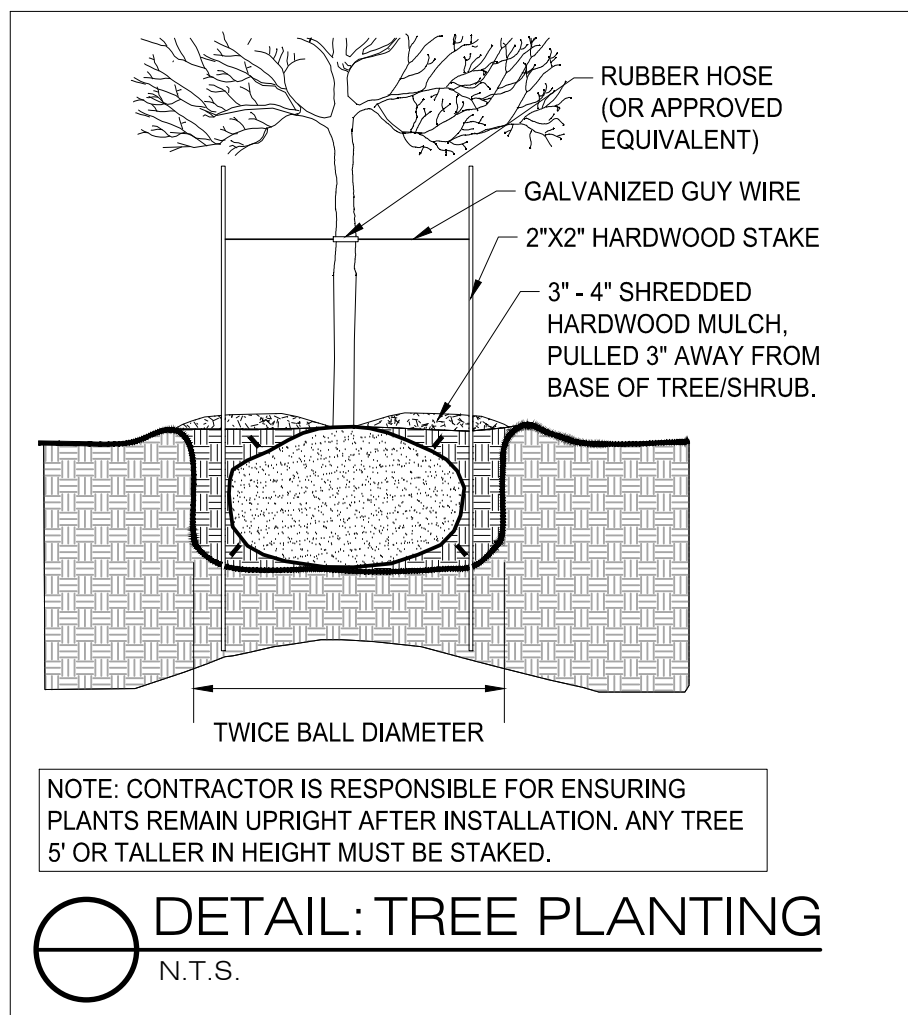
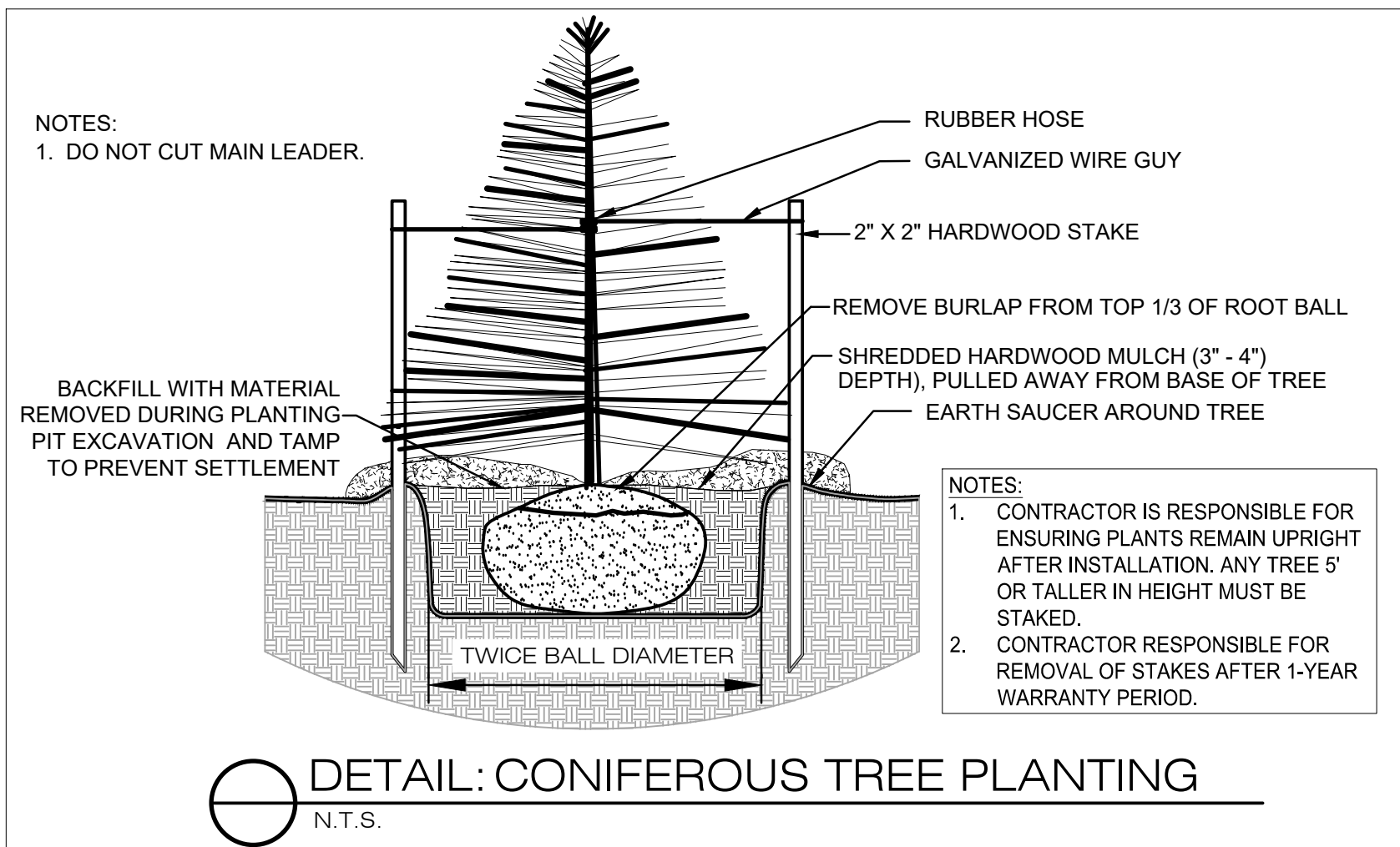
EVERGREEN SCREENING: +/- 18400 LF									
SYMBOL	BOTANICAL NAME	COMMON NAME	APPROXIMATE MATURE HEIGHT	APPROXIMATE MATURE SPREAD	CONTAINER TYPE	SPECIFICATION	QUANTITY PER 100' SEGMENT	ESTIMATED TOTAL QUANTITY	NOTES
JUVI	JUNIPERUS VIRGINIANA	EASTERN REDCEDAR	45'	20'	CONTAINER/B&B	MINIMUM 6'	7	1,233	-SPACE PLANTS AS SHOWN IN TYPICAL LAYOUT. -INTENT IS TO LET THE CANOPIES GROW TOGETHER AND CREATE A SCREEN OF THE SOLAR EQUIPMENT.
PIST	PINUS STROBUS	EASTERN WHITE PINE	75'	40'	CONTAINER/B&B	MINIMUM 6'	3	528	
ILOP	ILEX OPACA	AMERICAN HOLLY	40'	25'	CONTAINER/B&B	MINIMUM 6'	3	528	
MAGR	MAGNOLIA GRANDIFLORA 'KAY PARRIS'	SOUTHERN MAGNOLIA	30'	15'	CONTAINER/B&B	MINIMUM 6'	2	352	
							<b>TOTAL</b>	<b>2,642</b>	

VEGETATIVE SCREENING NOTES:  
TREE INSTALLATION

1. THE CONTRACTOR SHALL BE RESPONSIBLE FOR LAYOUT OF ALL WORK COVERED UNDER THESE PLANS.
2. ALL PLANT MATERIAL, UNLESS OTHERWISE SPECIFIED, SHALL BE UNIFORMLY BRANCHED AND HAVE A VIGOROUS ROOT SYSTEM. PLANT MATERIAL SHALL BE HEALTHY, VIGOROUS, AND FREE FROM DEFECTS, DECAY, DISEASES, INSECT PEST EGGS, AND ALL FORMS OF INFESTATION. ALL PLANT MATERIAL SHALL BE FRESH, FREE FROM TRANSPLANT SHOCK OR VISIBLE WILT. PLANTS DEEMED UNHEALTHY SHALL BE REJECTED.
3. ALL PLANT MATERIAL SHALL MEET THE MINIMUM SPECIFICATIONS AND STANDARDS DESCRIBED IN THE CURRENT ISSUE OF "THE AMERICAN STANDARD FOR NURSERY STOCK," PUBLISHED BY THE AMERICAN ASSOCIATION OF NURSERYMEN, 1250 I STREET, N.W., SUITE 500, WASHINGTON, D.C. 20005.
4. ALL CONTAINER STOCK SHALL HAVE BEEN PLANTED IN A CONTAINER LONG ENOUGH FOR THE ROOT SYSTEM TO HAVE DEVELOPED SUFFICIENTLY TO HOLD ITS SOIL. CONTAINER STOCK WITH POORLY DEVELOPED ROOT SYSTEMS SHALL NOT BE ACCEPTED.
5. PLANTS SHALL BE PREPARED FOR SHIPMENT IN A MANNER THAT SHALL NOT CAUSE DAMAGE TO THE BARK, BUDS, BRANCHES, STEMS, OR OVERALL SHAPE OF THE STOCK. CONTAINER GROWN PLANTS SHALL BE TRANSPORTED IN THE CONTAINERS IN WHICH THEY HAVE BEEN GROWN.
6. PLANTS NOT INSTALLED ON THE DAY OF ARRIVAL AT THE SITE SHALL BE STORED AND PROTECTED BY THE CONTRACTOR. ON-SITE STORAGE AREAS SHALL BE SHADED AND PROTECTED FROM THE WIND AND SUN. PLANTS STORED ON SITE SHALL BE PROTECTED FROM ANY DRYING AT ALL TIMES BY COVERING THE BALLS OR ROOTS WITH MOIST SAWDUST, WET BURLAP, WOOD CHIPS, SHREDDED BARK, PEAT MOSS, OR OTHER SIMILAR MULCHING MATERIAL.
7. PLANT SUBSTITUTIONS MAY BE MADE BASED ON AVAILABILITY BUT MUST BE OF SIMILAR SIZE AND LANDSCAPE (SCREENING) VALUE. ALL SUBSTITUTIONS MUST BE APPROVED BY THE OWNER OR OWNER'S REPRESENTATIVE.
8. THE CONTRACTOR SHALL VERIFY ALL DIMENSIONS IN THE FIELD.
9. NO PLANTING SHALL OCCUR WHEN THE SOIL IS FROZEN.

## PLANTING SEQUENCE

1. DIG THE PLANTING HOLE A MINIMUM OF 2x WIDTH OF ROOTBALL. DO NOT DIG THE HOLE DEEPER THAN ROOT BALL DEPTH.
2. HOLES FOR INDIVIDUAL PLANTINGS SHALL BE EXCAVATED TO PRODUCE VERTICAL SIDES AND FLAT BOTTOMS. ALL PLANTING HOLES SHALL HAVE ROUGHED, SCARIFIED SIDES AND BOTTOMS.
3. THE CONTRACTOR SHALL APPLY AGRIFORM FOREST STARTER TABLETS, OR EQUIVALENT PRODUCT, TO EACH PLANT AS PER MANUFACTURER'S DIRECTIONS ON LABEL AT TIME OF PLANTING.
4. LIFT AND SET THE TREE BY ROOT BALL ONLY. DO NOT LIFT USING THE TREE TRUNK AND DO NOT USE TREE TRUNK AS A LEVER.
5. SET THE TOP OF THE ROOT BALL LEVEL WITH THE SOIL SURFACE OR SLIGHTLY HIGHER IF THE SOIL IS PRONE TO SETTLING.
6. BACKFILL WITH EXISTING SOIL THAT HAS BEEN WELL-TILLED OR BROKEN UP.
7. PRUNING SHALL BE LIMITED TO DEAD, DISEASED, OR BROKEN LIMBS ONLY AND SHALL BE IN ACCORDANCE WITH ANSI A300 SPECIFICATIONS.
8. REMOVE ANY TRUNK WRAP REMAINING AT TIME OF PLANTING. NO WRAPS SHALL BE PLACED ON TRUNK.
9. THE CONTRACTOR SHALL RESTORE AREAS DISTURBED BY THE INSTALLATION OF SHRUBS AND TREES.
10. ONLY INDIVIDUAL PLANTS OR CLUSTERS OF PLANS SHALL BE MULCHED. THE REMAINING BUFFERYARD SHALL BE SEEDED WITH NATIVE POLLINATOR FRIENDLY SPECIES.



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Client/Project  
CANDELA RENEWABLES

# SUMMER SHADE SOLAR PROJECT

SUMMER SHADE, METCALFE COUNTY, KENTUCKY

# PLANTING LAYOUT, NOTES, & DETAILS

Project Number: 172658275

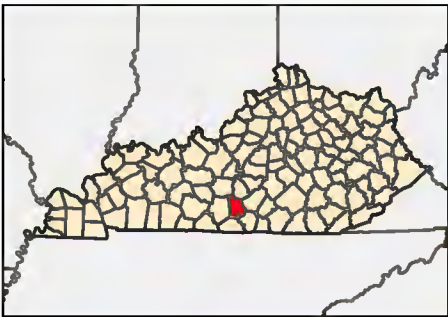
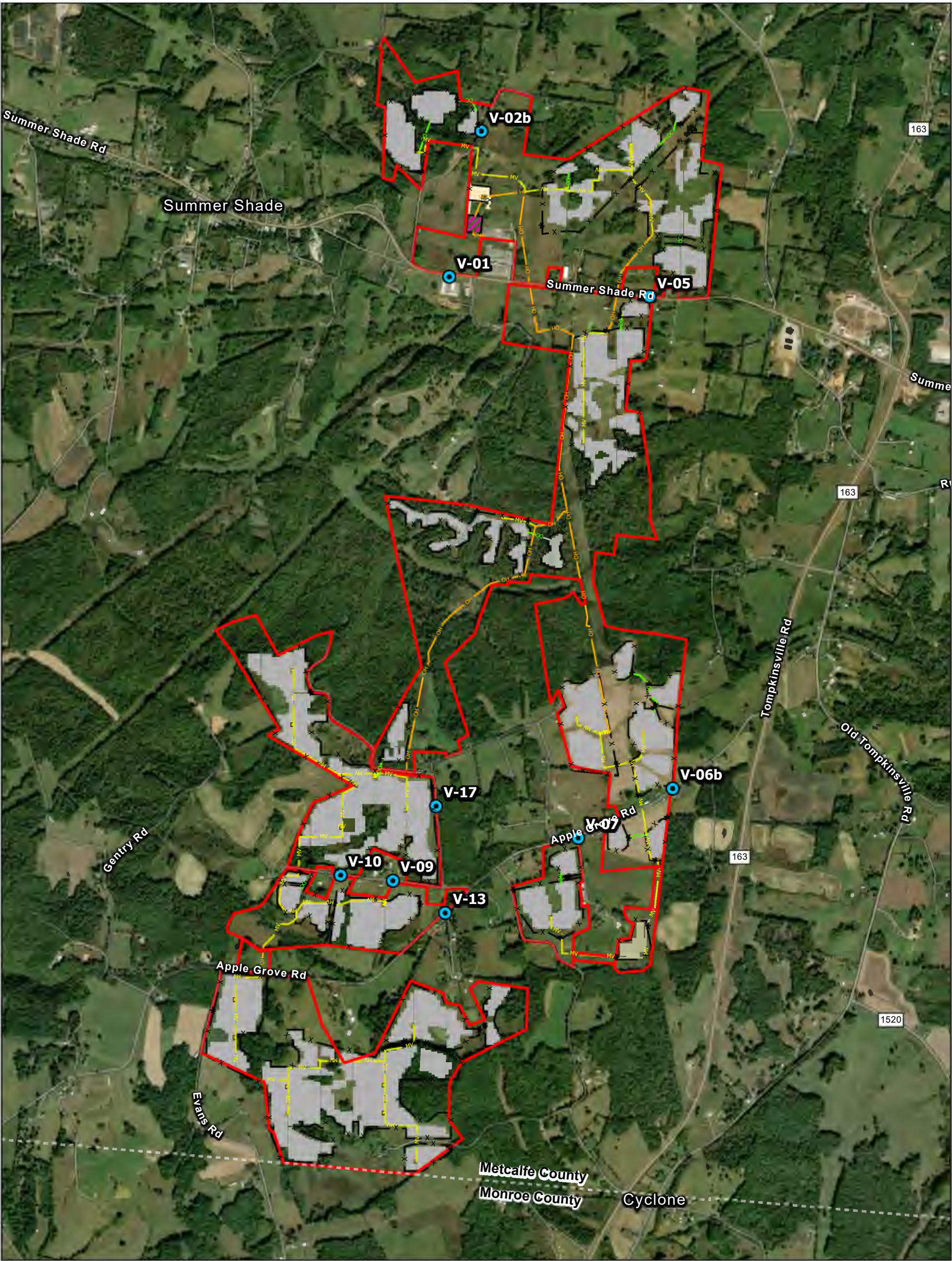
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SS/MD	SK	DM/MD	2025.03.20
Dwn.	Chkd.	Dsgn.	YY.MM.DD

Drawing No.

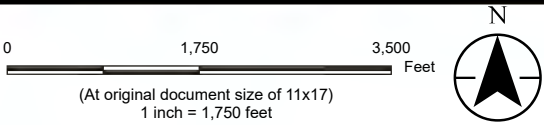
Revision      Sheet





Notes  
1. Coordinate System: NAD 1983 StatePlane Kentucky South FIPS 1602 Feet  
2. Data Sources: Stantec, Summer Shade Solar LLC  
3. Background: Esri Aerial Imagery Hybrid Basemap

- Legend
- VISUAL SIMULATION POINTS
  - PROJECT BOUNDARY
  - PROPOSED FENCES
  - PROPOSED OVERHEAD POWERLINES
  - PROPOSED DC POWERLINES
  - PROPOSED MV POWERLINES
  - PROPOSED SUBSTATION
  - PROPOSED BATTERY ENERGY STORAGE SITE
  - PROPOSED O&M BUILDING
  - PROPOSED INVERTERS
  - PROPOSED ARRAYS



Project Location  
Metcalfe County,  
Kentucky

Client/Project  
Summer Shade Solar, LLC  
Summer Shade Solar Project  
Visual Simulation

Figure No.  
1

Title  
Visual Impact Assessment Map

Prepared by MNA on 2025-04-28  
IR by SPK on 2025-04-28

172658275



## Exhibit 2

### Appendix E - Visual Impact Assessment





## Exhibit 2

### Appendix E - Visual Impact Assessment





Exhibit 2  
Appendix E - Visual Impact Assessment





Exhibit 2  
Appendix E - Visual Impact Assessment





## Exhibit 2

### Appendix E - Visual Impact Assessment





## Exhibit 2

### Appendix E - Visual Impact Assessment





Exhibit 2  
Appendix E - Visual Impact Assessment





## Exhibit 2 Appendix E - Visual Impact Assessment





## Exhibit 2

### Appendix E - Visual Impact Assessment





## Exhibit 2

### Appendix E - Visual Impact Assessment





## Exhibit 2

### Appendix E - Visual Impact Assessment





Exhibit 2  
Appendix E - Visual Impact Assessment





## Exhibit 2

### Appendix E - Visual Impact Assessment





Exhibit 2  
Appendix E - Visual Impact Assessment





## Exhibit 2

### Appendix E - Visual Impact Assessment





Exhibit 2  
Appendix E - Visual Impact Assessment





Exhibit 2  
Appendix E - Visual Impact Assessment





## Exhibit 2

### Appendix E - Visual Impact Assessment





## Exhibit 2

### Appendix E - Visual Impact Assessment





Exhibit 2  
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## Exhibit 2

### Appendix E - Visual Impact Assessment





## Exhibit 2 Appendix E - Visual Impact Assessment





## Exhibit 2 Appendix E - Visual Impact Assessment





Exhibit 2  
Appendix E - Visual Impact Assessment





Exhibit 2  
Appendix E - Visual Impact Assessment





Exhibit 2  
Appendix E - Visual Impact Assessment





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### Appendix E - Visual Impact Assessment





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