

Here Comes the Sun: Solar, Zoning and Comprehensive Plans

GFLRPC
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Overview

Large-scale solar energy projects are being proposed throughout NYS. Many local communities do not have up-to-date Comprehensive Plans, which are the basis of zoning, and they do not address large-scale solar projects and their impacts on land use and the overall community and its future. Today we will be discussing solar projects, Comprehensive Plans and the laws associated with solar projects.

Presentation Outline

Presenter and Background

Experiences

Types of Solar

The Comprehensive Plan

How do Municipalities Regulate - Zoning

94 C Process

Bringing It All Together

Presenter

Andrew C. Reilly

Environmental Engineer and Planner

Represented Municipalities for over 35 years

SEQR Expert

Completed over 40 Comprehensive Plans

Created Solar laws, processed projects
through laws, and amended laws

Representing Municipalities on Article 10
projects (and now 94 c)

Not an attorney – cannot give legal advice!



Experiences

- Large Non-Article 10 projects (10 to 100+ acres)
- Article 10 projects and now 94 c
- Have worked with dozens of Local Solar laws
- Presently assisting Communities update their Comprehensive Plans to address solar
- Processing solar projects through processes and through construction



Who Is in the Audience?

- Planning Board, Other Board Members, others?
- Do you have a solar law and how old is it?
- Do you have a Comprehensive Plan and how old is it?
- Do you have a solar project currently before your Community or have approved one?

Solar:

TYPES OF INSTALLATIONS

- Rooftop, Building mounted, Building Integrated
- Ground-mounted: backyard units (accessory)
- Ground mounted: larger scale (primary use)
- Ground mounted: “Industrial scale” – Article 10.

If your law is older than 2 years, you probably need to look at it. Most of the difficult issues relate to the “Larger Scale and Industrial Scale Units”.

Regulating Solar Types

- If less than 25 MW or has not converted to 94 c, then the municipality regulates solar projects through your local laws (Zoning).
- If greater than 25 MW or a project that has converted to 94 c, then the project does not require local approvals and is processed through ORES.
- Under 94 c must consider/address local zoning in their application.



Larger Scale (5, 10, 20, 40 acres) – Basic Zoning Requirements

- Determine Where Allowed (look to Comprehensive Plan) – Ag lands, other important features, etc.
- Process for approval; Site Plan, Special Use Permit
- Limit size (based on community plan); create another category
- Bulk zoning requirements; setbacks, height, etc.
- Other technical requirements (long list)
- Construction requirements (bonds, insurances, etc.).
- Host Community agreement, etc.



Industrial Scale (40, 100, 200, 1000 acres+) – Zoning Requirements

- Determine Where Allowed (look to Comprehensive Plan) – Ag lands, other important features, etc.
- Process for approval; Site Plan, Special Use Permit
- These are very big projects; typically, not seen in smaller communities.
- Bulk zoning requirements; setbacks, height, etc.
- Other technical requirements (long list + additional for these projects)
- Construction requirements (bonds, insurances, etc.).
- Host Community agreement, etc.

Common Issues For Solar Projects Are Related to Comp Plans

- Setbacks
- Screening/ aesthetics
- Community Character
- Historic components
- Lot coverage/ tree removal
- Impacts to Agriculture
- Important Environmental features
- Recreation, open space, tourism
- Impacts to other Community Assets
- Decommissioning – Future Use.
- Economic Impacts – Loss of business
- Financial – Community Budgets, spending

WHAT IS A COMPREHENSIVE PLAN ?

An organized set of materials and information that identifies goals, objectives, principles, guidelines and policies for the management of present and long-term growth, and the protection and enhancement of a community

**SHOULDN'T YOUR PLAN ADDRESS THESE
LARGE SOLAR PROJECTS AND THEIR
IMPACTS!?**

WHY PREPARE A COMPREHENSIVE PLAN ?

- To establish a community vision
- To gain an understanding of your assets and liabilities
- To prepare for future development or address existing pressure for growth in a community
- To improve economic conditions and protect natural resources
- To provide direction for governmental agencies
- To improve access to financial assistance (and how to spend)
- To provide information to Boards to help make decisions
- To establish the logic and reasoning of your zoning

WHY IS THIS IMPORTANT NOW ?

- NYS has adopted SMART growth legislation
 - May impact potential sources of funding
 - Need to show conformance to SMART growth principles and regional plans
 - * SMART Growth is growth in accordance with a Comprehensive Plan
- County and Regional Plans have been completed
 - Need to address how your objectives fit into these Plans
 - May need to provide reasoning to amend these Plans
- Large Scale projects are being proposed throughout NYS
 - Solar projects
 - Wind Projects
 - Battery Energy storage projects

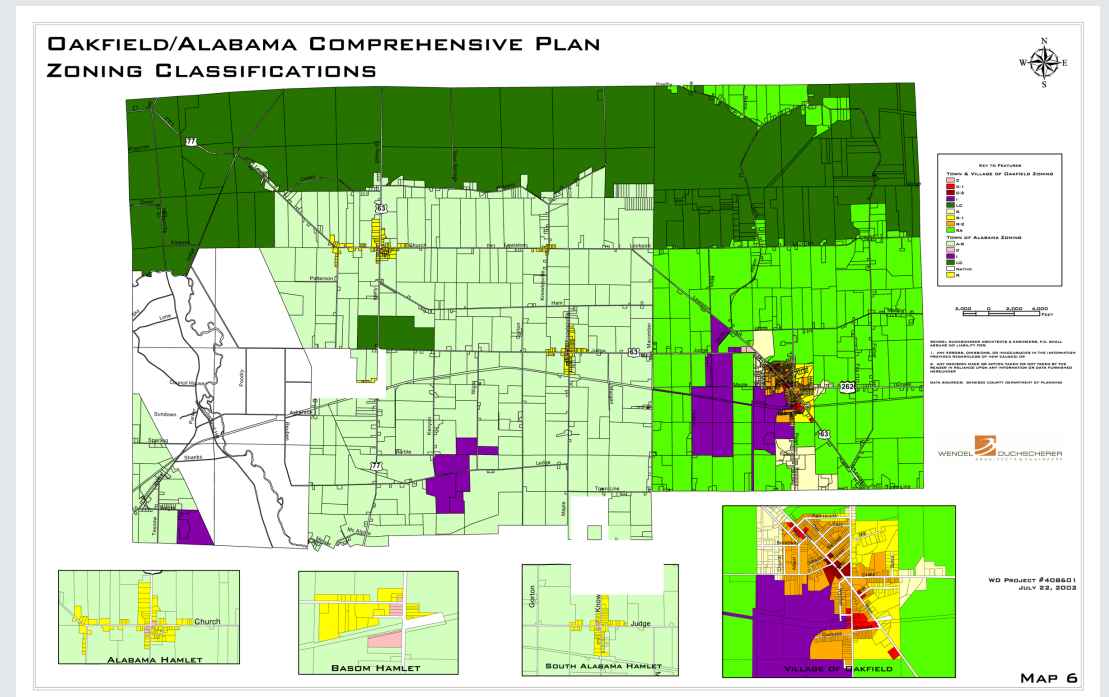
COMPONENTS OF THE PLAN

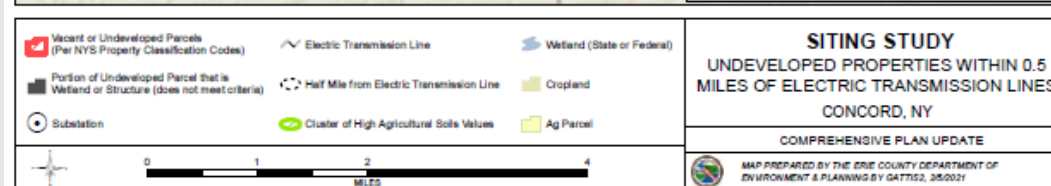
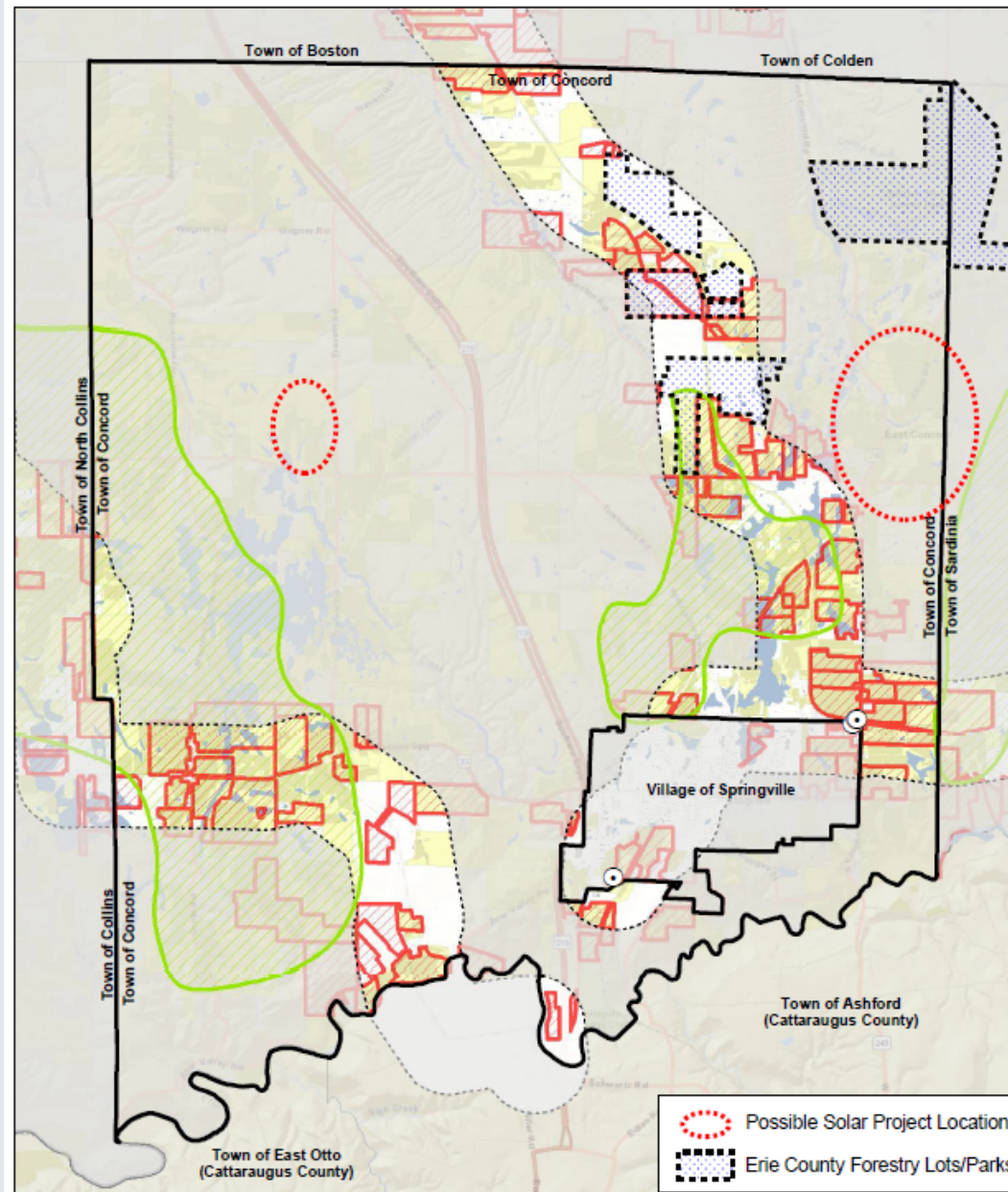
- Goals and Objectives – **“Where you want to be”**
- Inventory and Analysis – **“Where you are now”**
- Findings and Recommendations – **“How you get there”**
- Implementation Strategy – **“The cookbook to success”**
- Strategy for Review
 - Need for regular updates
- Appendix / Supporting Materials

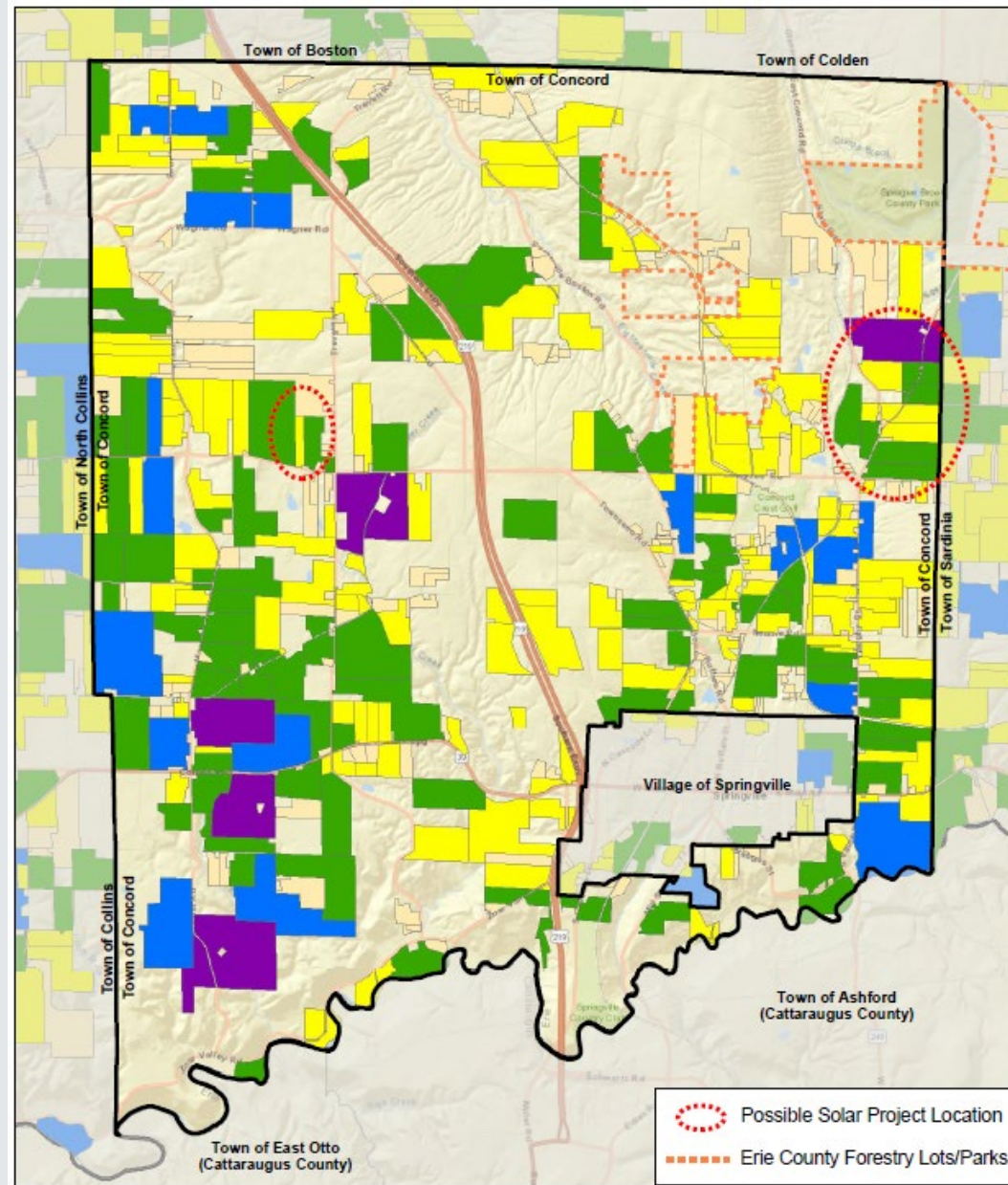
WHERE YOU ARE NOW / WHERE YOU ARE GOING ?

Fundamentals: gathering information on existing conditions –
What has changed in these areas?

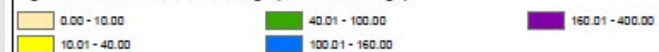
- Information, studies, reports from County and other agencies
- Socio-economic ,demographic and economic trends
- Building / development trends
- Environmental / cultural resources
- Land use and zoning
- Transportation and infrastructure
- Electric transmission and sub-stations



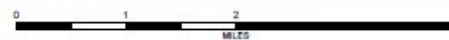




Agricultural Parcels Soils Ratings (from low to high)



* Based on the total acreage within the parcel of cropland in each soils category multiplied by weighting factors (i.e., prime farmland, prime if drained, soils of statewide importance).
SOURCE: ERIE COUNTY AGRICULTURE AND FARMLAND PROTECTION PLAN, 2012



AGRICULTURAL SOILS RATINGS CONCORD, NY

COMPREHENSIVE PLAN UPDATE



MAP PREPARED BY THE ERIE COUNTY DEPARTMENT OF
ENVIRONMENT & PLANNING BY GATTIS2, 05/00/21

WHERE YOU ARE NOW / WHERE YOU ARE GOING ?

Important for an Update:

- What has happened in your community since the last plan?
 - Big projects, problems, issues, changes
- What has happened in surrounding areas?
- Refer to the Regional Plans for your area.
- What has not happened since the last plan?

WHERE YOU WANT TO BE - “GOALS, OBJECTIVES, VISION”

- Review your existing goals, objectives and/or vision statement
- Determine if major revisions are needed, requiring major revisions to the Plan
- Need to reflect potential large-scale projects

HOW DO YOU GET THERE ?

Data Analysis

- Develop findings from the inventory of existing conditions
- Conduct SWOT Analysis - assess the Strengths and Weaknesses (internal to the community) and Opportunities and Threats (external forces)
- Based on the findings and SWOT analysis, develop recommendations shaped around the goals and objectives.
- Look at needed changes to your zoning code.
- Recommendations should not only include recommendations on solar zoning laws but what can happen if constructed.
- Recommendations could be implemented through HCA funds.

Summary

- Solar projects can be very large
- They can have impacts to Community assets and can have long term consequences
- Comprehensive Plans are the Community's Planning Tool.
- Comprehensive Plans include a thorough description of existing conditions
- Comprehensive Plans help in setting Vision and desires of the Community
- Comprehensive Plans include recommendations to achieve the established Vision.
- Comprehensive Plans can help a Community plan and react to major changes in the Community
- These Plans provide the reasoning for zoning and must be considered by other agencies.

Your Solar Law

- NYS Model law and other samples
- Intent Section (Comp plan reference)
- Definitions (types of systems)
- Where allowed; Based on Plan
- Bulk zoning requirements
- Submittal materials
- Other requirements; including specifics to your community (from Plan).
- Include required sections of the law



Solar laws should reflect the unique Issues in your Community and Your Plan!

- Different types of categories
- Restrictions to certain zoning districts
- Approval processes; SUP, Incentive zoning, pre-permitted, etc.
- Restrictions on types of soils impacting (Ag)
- Protection of Unique features of community
- Bonds and Insurances
- Host Community Agreements to fund needs and address impacts
- Stay within the NYS Implementing regulations

Article 10 – Tier 4

- MOST PROJECTS IN THIS PROCESS WILL CONVERT TO THE 94 C PROCESS.
- CAN CONTINUE IN ARTICLE 10, BUT WOULD PROBABLY ONLY BE FOR PROJECTS FAR ALONG



Article 94c; New Process

- Legislation passed and new rules are in place!
- NYS Office of Renewable Energy Siting (ORES)
- Mandates timeframes for approval process
- Approvals through ORES, but the regulations require applicants to meet with the communities and illustrate how meeting local zoning, and studies should reflect local resources.
- One major recommendation; have an up- to- date Comprehensive Plan addressing Green Energy and a solar law reflecting that Plan!

Closing Questions

- Do you think your Plan addresses solar?
- Is your solar law in accordance with your Plan?
- Can your Plan help you plan for the future if a large- scale solar project is built in your community?
- Do you know if a large- scale solar project will come to your community?

Thank You.