

April 12, 2021

Via Electronic Filing

Hon. Michelle L. Phillips
Secretary to the Commission
New York State Public Service Commission
Agency Building 3
Albany, NY 12223-1350

Re: Case 18-F-0087 – Application of Flint Mine Solar Certificate of Environmental Compatibility and Public Need Pursuant to Article 10 for Construction of a Solar Electric Generating Facility Located in the Towns of Coxsackie and Athens, Greene County.

Dear Secretary Phillips:

I write respectfully in response to the ‘Photographic Log’ (‘Log’) submitted by the Friends of Flint Mine Solar on March 3, 2021. The stated intention of this Log is ‘to give other parties and the Siting Board an understanding of why the Friends disagree with the Town of Coxsackie’s characterization of the project site as an agricultural area known for its scenic beauty, and to provide a sense of the relatively industrial character of the Coxsackie Residential Agricultural – 2 Zoning District (“RA-2 Zone”), which is home to three correctional facilities and several railroad crossings and businesses’ (p. 3). I would like to call the Siting Board’s attention to the problematic and fallacious nature of the aforementioned Log on the following grounds:

- (1) The Log’s *intent* is to show the ‘industrial’ character of Coxsackie’s RA-2 Zone; the implication here is that this region of Coxsackie is already sufficiently unsightly and industrial, so a ‘few more’ industrial solar developments will not harm the character of the RA-2 Zone or the people of Coxsackie. I take great issue with the logic which underpins the creation and submission of the Log.
- (2) While it is true, as stated in the Log, that RA-2 Zone contains three correctional facilities and several railroad crossings, the inclusion of this statement is a red herring because the proposed facility described in the Application of Flint Mine Solar does not involve the lands that are photographed. The false premise of the Log thus distracts from the real issue at hand – namely, that wide swaths of land which are currently agricultural, undeveloped, or vacant forestland/wetland/meadowland habitat will be drastically and irreversibly altered for the foreseeable future. Therefore, the so-called ‘industrial character’ of lands which are not under question should hold no bearing over the decision to convert the land in question to industrial solar facilities.

- (3) Although the stated *intent* of the Log is to highlight the ‘industrial’ side of Coxsackie, the actual *impact* of the Log is to document proof that Coxsackie is already an economically vulnerable and struggling community. I contend that submitting photographs of homes and barns in need of repair is tone-deaf, disrespectful to the owners of these buildings and businesses, and a socially deplorable move on the part of Friends of Flint Mine. The implications of the Log are clear: to paint a picture of Coxsackie as run-down and unsightly for the Siting Board which makes industrial solar developments seem **inconsequential** to the people, the community, the land, and the wildlife of Coxsackie. I hope that the Siting Board will see that the decision to photograph dilapidated private homes and barns is exploitative. The reasons why I characterize the actions of Friends of Flint Mine as ‘exploitative’ are: (a) according to the 2020 Census,¹ 9.9% of persons in Coxsackie live below the poverty line, the per-capita mean income is ~\$22,000 (below the state and national averages), and the median household income is ~\$60,000 (slightly below national average); (b) according to the Distressed Community Index,² Coxsackie is an ‘At Risk’ community (69.5DCI); (c) the Log exploits the physical traces of economic distress in our community to advance the political agenda of Friends of Flint Mine and Flint Mine Solar. Note that this exploitative behavior is a direct consequence of the modus operandi of energy developers who enter small, At-Risk communities and make private landowners monetary offers they cannot refuse, which then pits these landowners directly against the interests of the community-at-large and creates a fractious dynamic in a small-town community.
- (4) The logic which underpins the photographs in the Log is untenable in another way: the Log provides positive evidence of some ‘industrial’ buildings and businesses in RA-2 Zone, but they do not provide negative evidence for agricultural land, i.e. they provide no photographic proof that the land slated for solar development is **not** agricultural or ‘scenic.’ Indeed, negative evidence would be impossible to provide on this point.
- (5) The conclusion that the Log advances from their photographs and their red herrings are patently false: the land which is proposed for development by Flint Mine is **not** commercial or industrial, and it **is**, in fact, agricultural and wildlife habitat. I can show this for a fact with the following evidence (see Exhibits attached):
- a. Exhibit C shows the overlap between the boundaries of the Proposed Facility (yellow) and land which is zoned Agricultural, i.e. Property Class Code 100 (light blue). From this exhibit, we see extensive overlap on both the east and west sides of 9W, suggesting that significant portions of the land which the Proposed Facility would occupy is currently agricultural land. (*See also*: point *e* below)

¹ Source: <https://www.census.gov/quickfacts/greenecountynewyork>

² Source: <https://eig.org/dci/interactive-map?path=zip/12051>

- b. Exhibit D shows the overlap between the boundaries of the Proposed Facility (yellow) and land which is zoned Rural with Acreage, i.e. Property Class 240 (light blue). The overlap here occurs mostly on the west side of 9W, where solar arrays (lightly shaded yellow) are slated to be placed in fields that are currently unoccupied and undeveloped.
- c. Exhibit E shows the overlap between the boundaries of the Proposed Facility (yellow) and land which is zoned Vacant, i.e. Property Class 300 (light blue). The overlap here occurs mostly at the southern limit of this map.
- d. Exhibit F shows the overlap between the boundaries of the Proposed Facility (yellow) and land which is zoned Commercial, i.e. Property Class 400. Of note here is that there are only 3 properties zoned Commercial in this region and there is virtually **no overlap** with the Proposed Facility. This exhibit thus shows that the claims of the Photo Log submitted by Friends of Flint Mine are misleading — there are only 3 commercial properties in this area, and the Proposed Facility will outsize them all. This is far from the ‘industrial’ and ‘unsightly’ RA-2 Zone that the Log purports to show. Furthermore, Exhibits C, D, and E taken together show that the majority of the land which will be occupied by the Proposed Facility is currently Agricultural, Rural Acreage, or Vacant land.
- e. Exhibit G shows that the location of the Proposed Facility (light blue) overlaps significantly at almost every location with land which has been designated Farmland of Statewide Importance and Prime Farmland Soil. Exhibit H shows that portions of the Proposed Facility (light blue) will partially overlap with Agricultural District 124,³ which was recently recertified during an 8-year review.⁴ Note that with these Exhibits, I do not intend to contest the testimony of Jason Mulford,⁵ who testifies (a) that the New York State Department of Agriculture and Markets does not oppose the development of the Proposed Facility, and (b) that the land in question is less viable than other agricultural land for farming. Rather, my point is to further argue against the misleading and fallacious stance for which the Log advocates – namely, that the land in question and the RA-2 Zone in general have an ‘industrial’ character on the basis of photos cherry-picked by the Friends of Flint Mine.
- f. Exhibit I shows that the entire Proposed Facility (light blue) will occupy lands designated as Contiguous Forest, Grassland Blocks, and/or Meadowland. This will constitute a significant change in land use which could have sudden and unpredictable

³ See <https://agriculture.ny.gov/land-and-water/agricultural-districts>

⁴ See <https://www.greenegovernment.com/notices/greene-county-agricultural-district-no-124-eight-year-review>

⁵ See <http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId=%7B1E9A3C46-65E6-4407-BFC1-030A874A46BB%7D>

impacts of wildlife which reside in these natural habitats. On this point, Chock et al. (2020) present evidence that significant long-term impacts of large-scale solar developments on wildlife behavior is still understudied. They present some existing research which does not bode well for the Proposed Facility, which will inevitably displace animal inhabitants of these lands. For instance, the fencing around the Proposed Facility could significantly alter patterns of wildlife movement, could create conditions conducive to the spread of invasive species, or could protect small animals from predation, altering the local food web. See Chock et al. (2020) for more.

- g. Exhibit J shows portions of the Proposed Facility (including solar arrays) which will overlap with land designated by the DEC's NY Natural Heritage Program as 'Important Areas' for terrestrial animals. 'Important areas' are defined as follows: 'Important Areas include the lands and waters needed to support the continued presence and quality of: known populations of rare animals and rare plants, known locations of rare ecological communities, and/or high-quality examples of common ecological communities. Important Areas include the specific locations where the animals, plants, or ecological communities have been observed, as well as: habitat to support rare animal and plant populations, including areas which may be used by rare animals for breeding, nesting, feeding, roosting, or over-wintering; areas that support the natural processes critical to maintaining these plant and animal habitats, or critical to maintaining significant ecological communities (e.g., stream buffers).'⁶
- h. Exhibits K and L show that portions of the Proposed Facility will overlap with land designated as NY State Wetlands and Priority Streams.
- i. Taken together, Exhibits C – L paint a very different picture from that of the Log submitted by the Friends of Flint Mine. The evidence heretofore presented shows that RA-2 Zone lacks an overwhelmingly 'industrial character,' especially not in the actual location of the Proposed Facility. Almost all of the land which Flint Mine Solar proposes to occupy is agricultural, vacant, rural acreage, or wildlife habitat. The Log states that its purpose is to 'give other parties and the Siting Board an understanding of how the Friends view the Residential Agricultural – 2 Zoning District' — in light of the evidence here, I hope I have offered the Friends a more complete view of RA-2 Zone.

(6) In short, the Log misses the mark. The issue at hand is not whether or not there are railroad crossings in Coxsackie (Log Photos 4-7) or whether or not there are businesses along 9W (Log Photos 11-14). Taking photos of personal homes in disrepair to try to justify a long-term and

⁶ Source: https://www.dec.ny.gov/docs/remediation_hudson_pdf/nynhpiafs.pdf

significant development project which will alter local ecologies and economies was a choice made in poor taste which distracts from the real issues at hand and pushes a misleading narrative about our community. I hope the Siting Board will see through it accordingly.

Respectfully submitted,

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Coxsackie, NY 12051
zwellstood@gmail.com

References

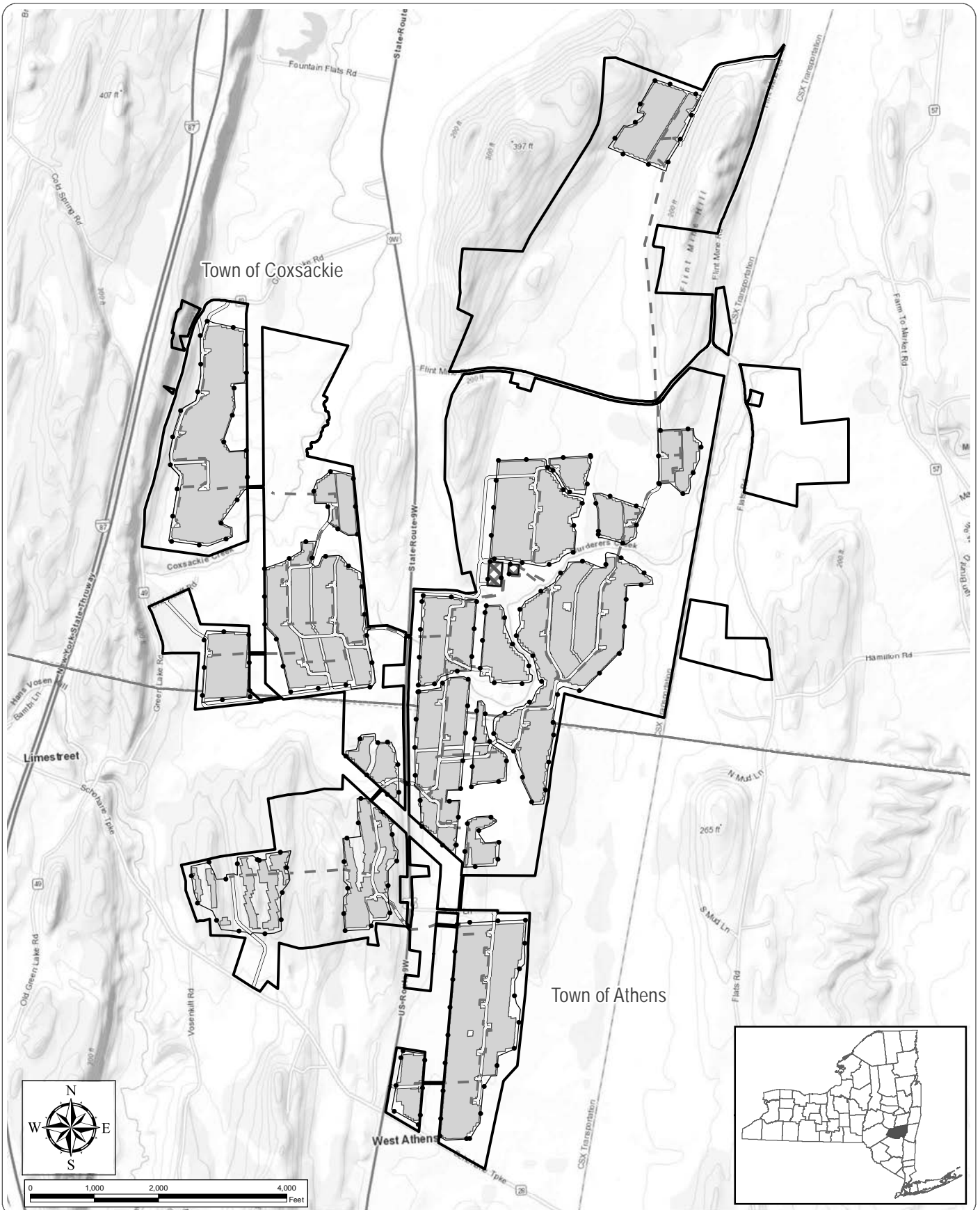
Chock, R Y, B Clucas, E K Peterson, B F Blackwell, D T Blumstein, K Church, E Fernandez-Juricic, G Francescoli, A L Greggor, P Kemp, G M Pinho, P M Sanzenbacher, B A Schulte, P Toni. 2020. Evaluating potential effects of solar power facilities on wildlife from an animal behavior perspective. *Conservation Science and Practice* 3 (2). <https://doi.org/10.1111/csp.2.319>

Exhibits

I created the following exhibits in Photoshop by overlaying the map of the Proposed Facility⁷ over maps that generated using the Greene Web Map utility provided by Greene County.⁸ In each case, the basemap was generated from Greene Web Map by toggling certain layers on and off. The positions of the basemap and the overlain map are constant across all exhibits. Note that these exhibits are not precisely to scale because I do not have access to professional GIS software or the official GIS data for the Proposed Facility. The map of the Proposed Facility was overlain using geographic landmarks, such as Route 87 and Route 9W, as a guide. Therefore, these exhibits should not be understood as geographically precise, but rather, rough estimates of the location of the Proposed Facility with respect to the basemap.

⁷ https://static1.squarespace.com/static/5b30492f96d45595ed16d644/t/5e80bc7b5ed80a4219f274ab/1585495164604/2020-03-15_Filing-Notice-Figure.pdf

⁸ <https://gis.gcgovny.com/greenewebmap/>



Proposed Facility

Notes: 1. Basemap: ESRI ArcGIS Online "World Topographic Map" map service. 2. This map was generated in ArcMap on March 15, 2020.

Proposed Facility Components







-  Access Road
-  Collection Line
-  Substation/Switchyard
-  Fence Area
-  PV Module Layout
-  Facility Area

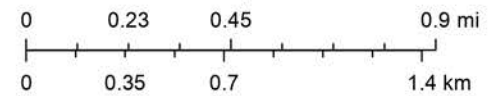
Exhibit B: For reference, the basemap with an overlay and no layers toggled.

Basemap

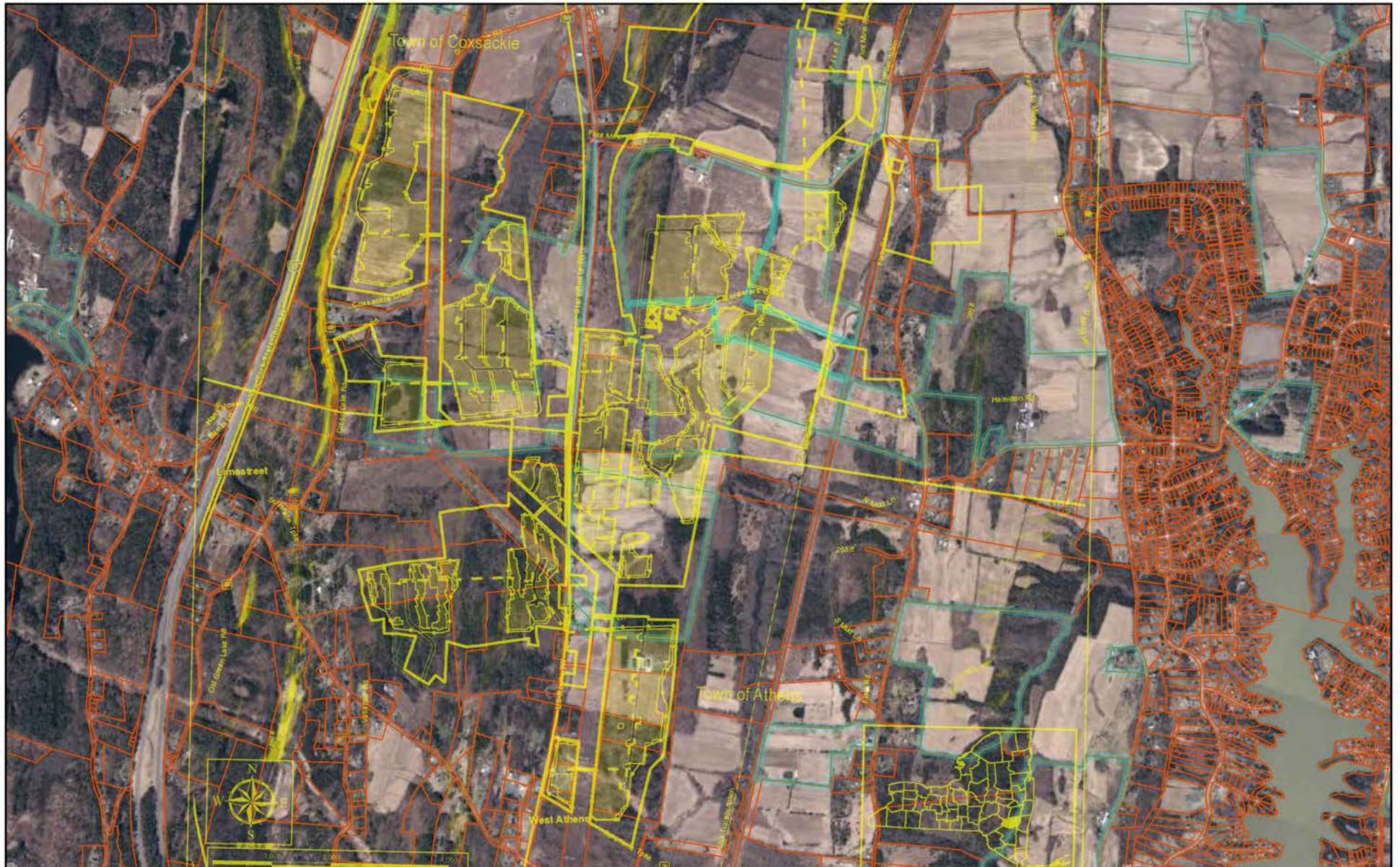


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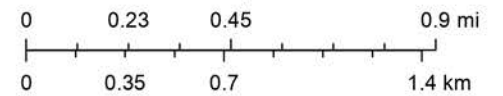
Zoned Agricultural



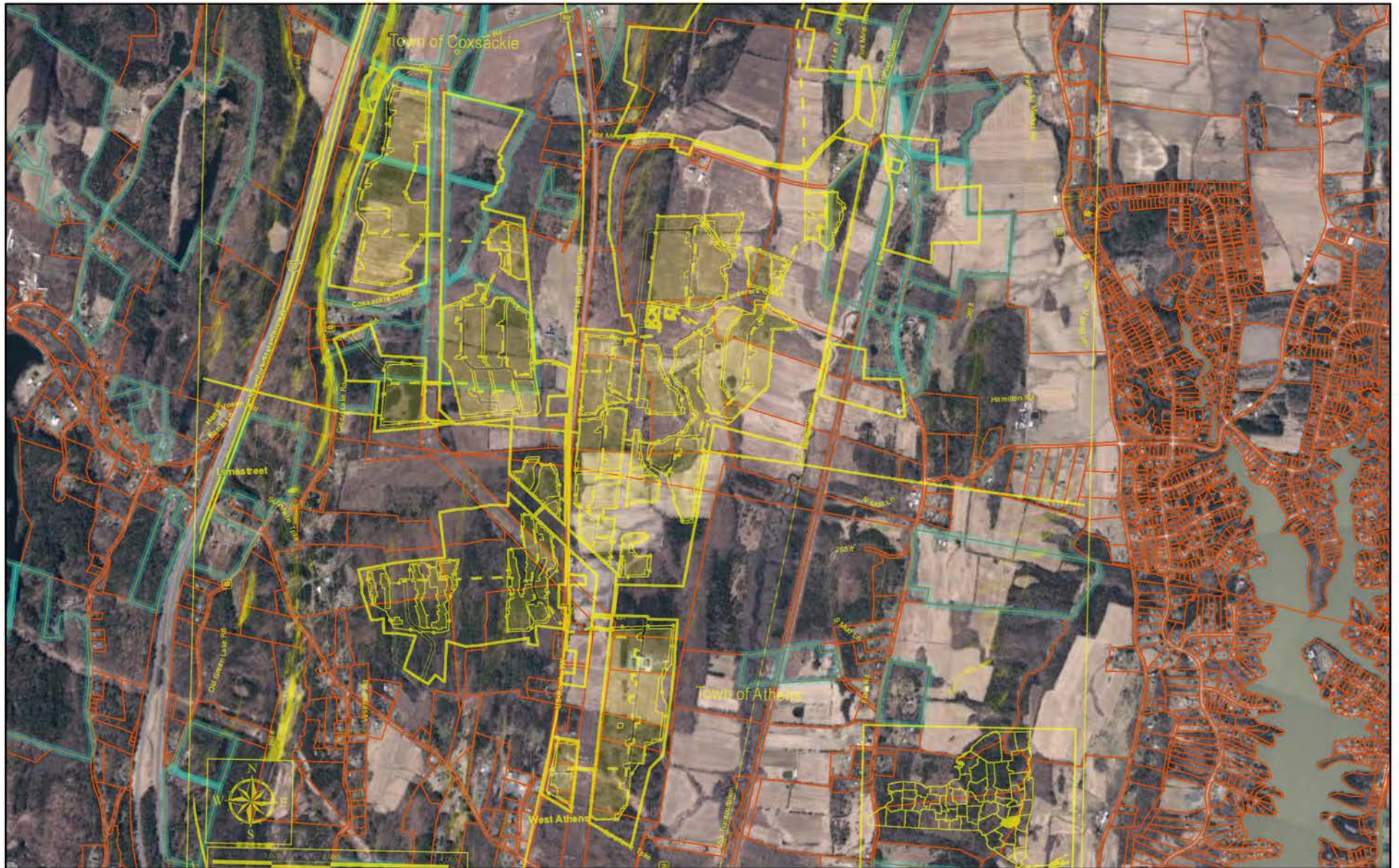
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 Parcels

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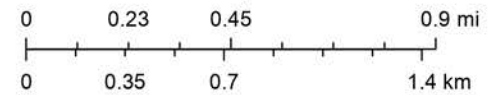
Zoned Rural with Acreage



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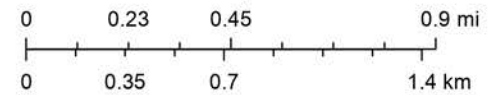
Zoned Vacant



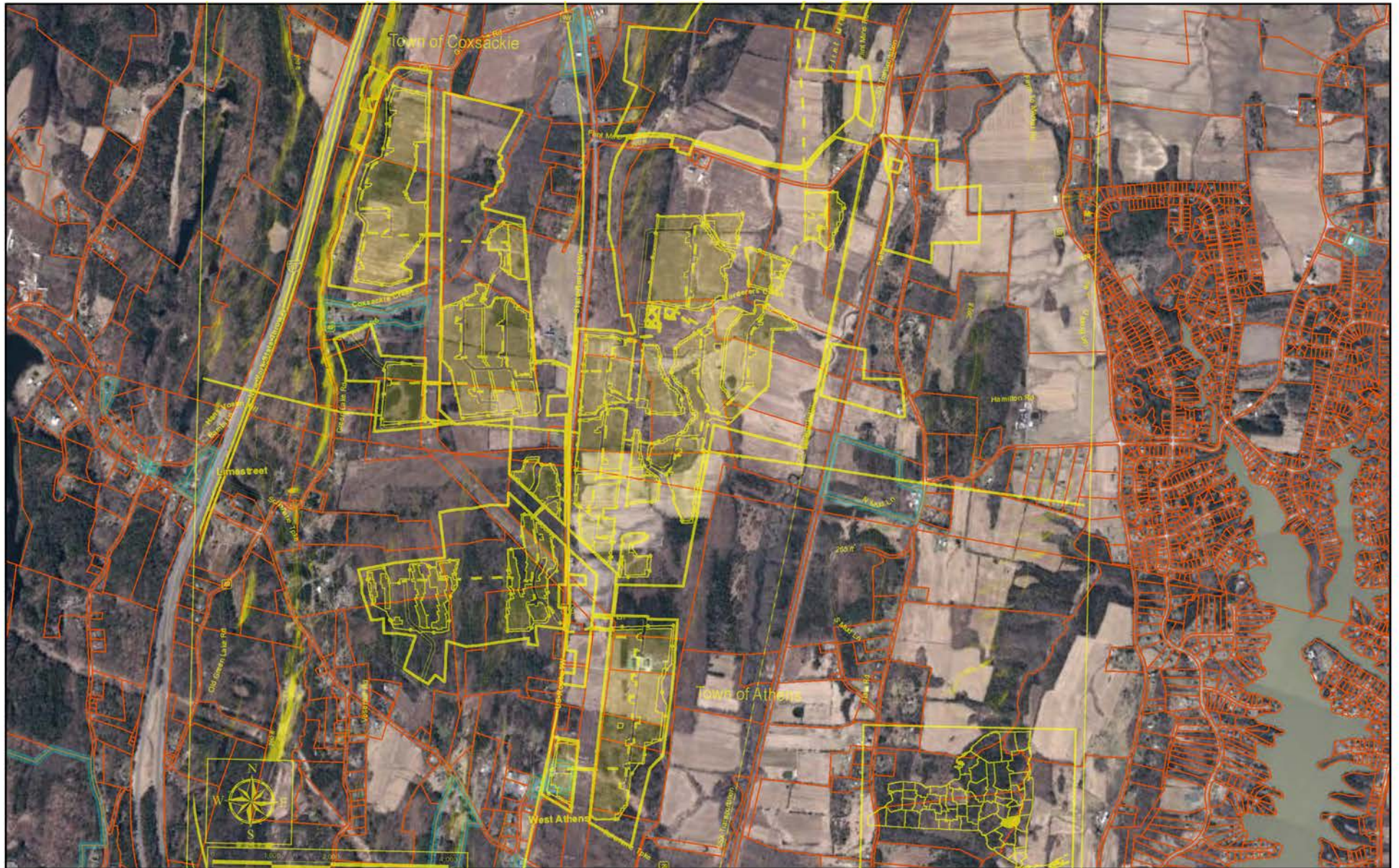
April 9, 2021

 Parcels

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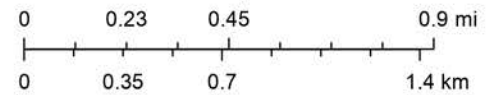
Zoned Commercial



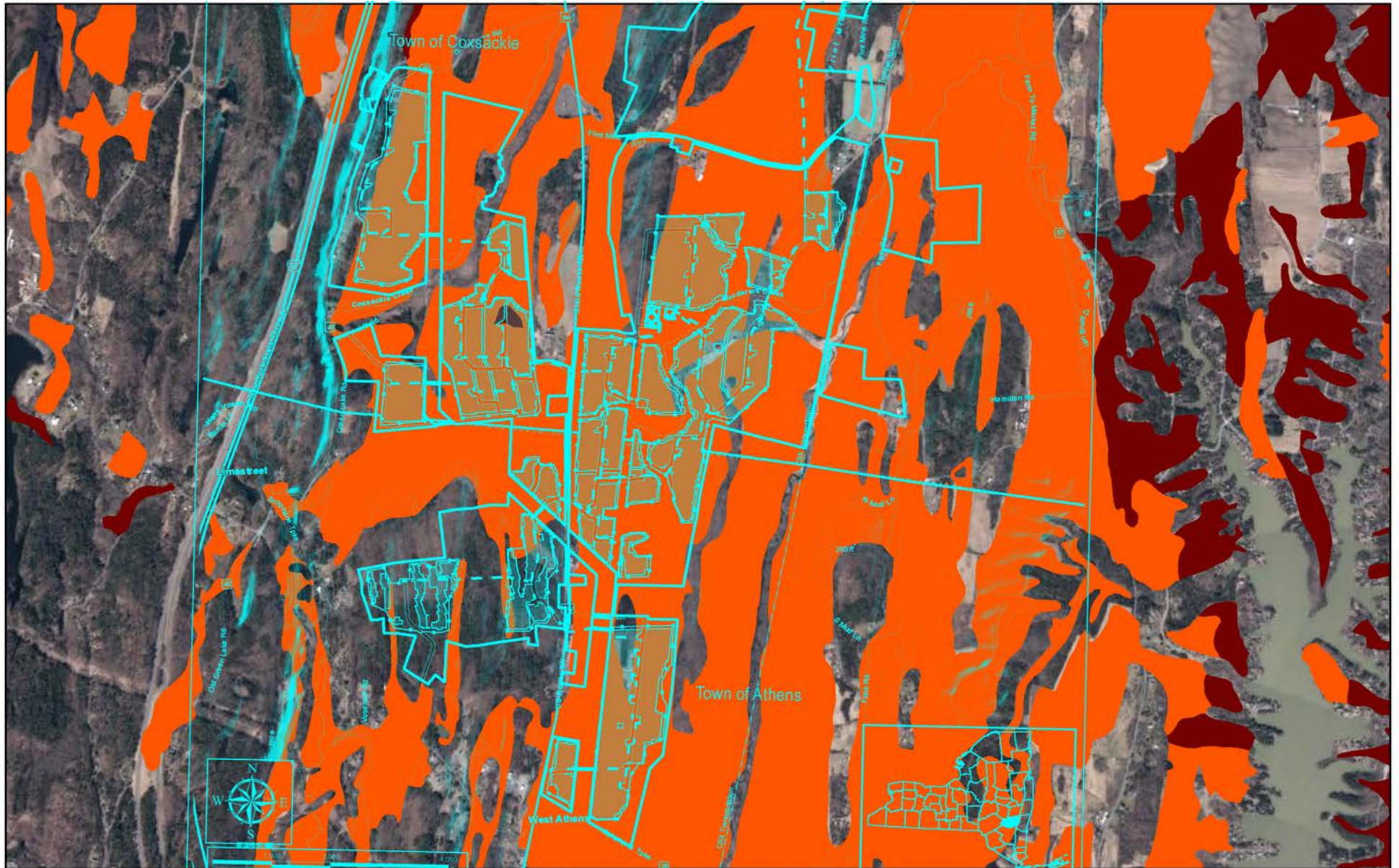
April 9, 2021

 Parcels

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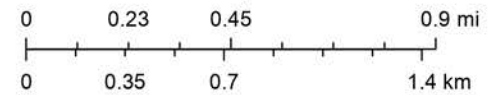
Farmland of Importance



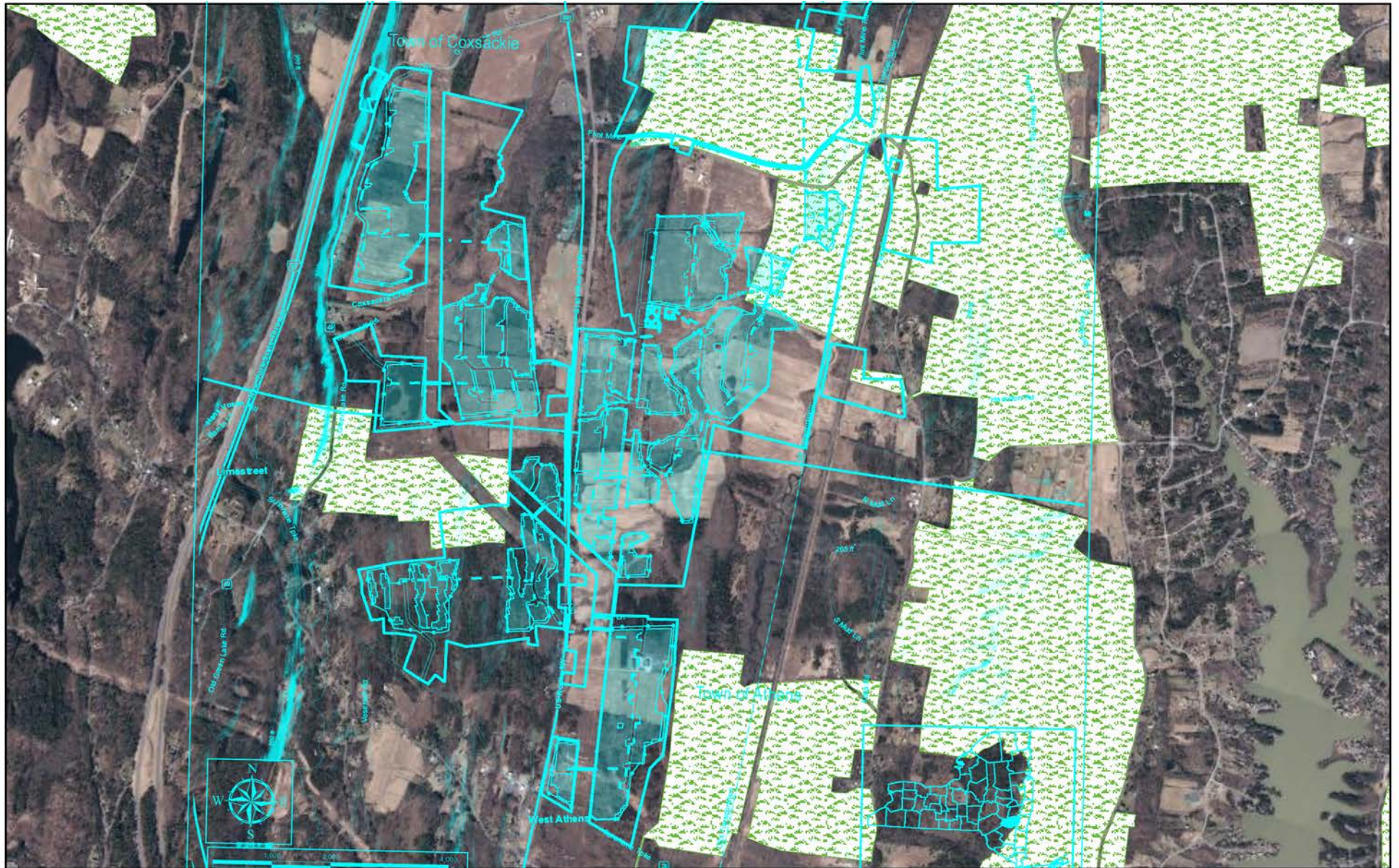
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-  Farmland of Statewide Importance
-  Prime Farmland Soils

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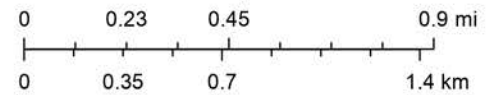
Agricultural District 124



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 Agricultural District 124

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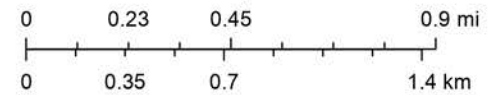
Natural Resources



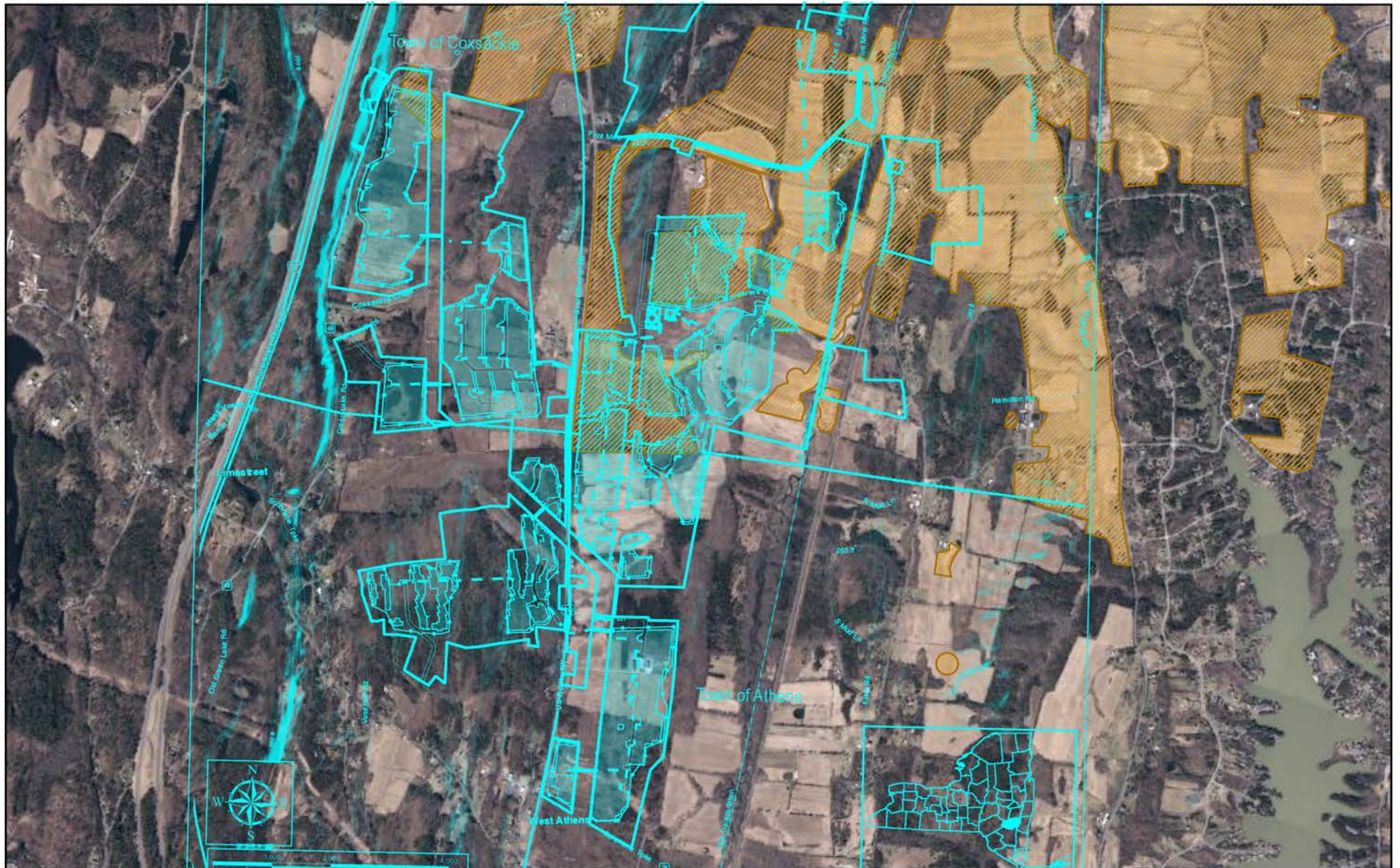
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Contiguous Forest		1001 - 6000	Grassland Blocks		100 - 249	Meadows		100 - 249
		0 - 200			0 - 39			0 - 39
		6001 - 15000			40 - 99			250 - 499
		201 - 1000			500 - 2124			40 - 99
		15001 - 76000						500 - 2124



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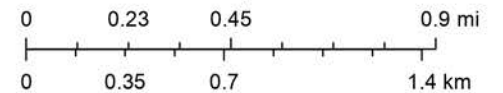
Important Area: Terrestrial Animals



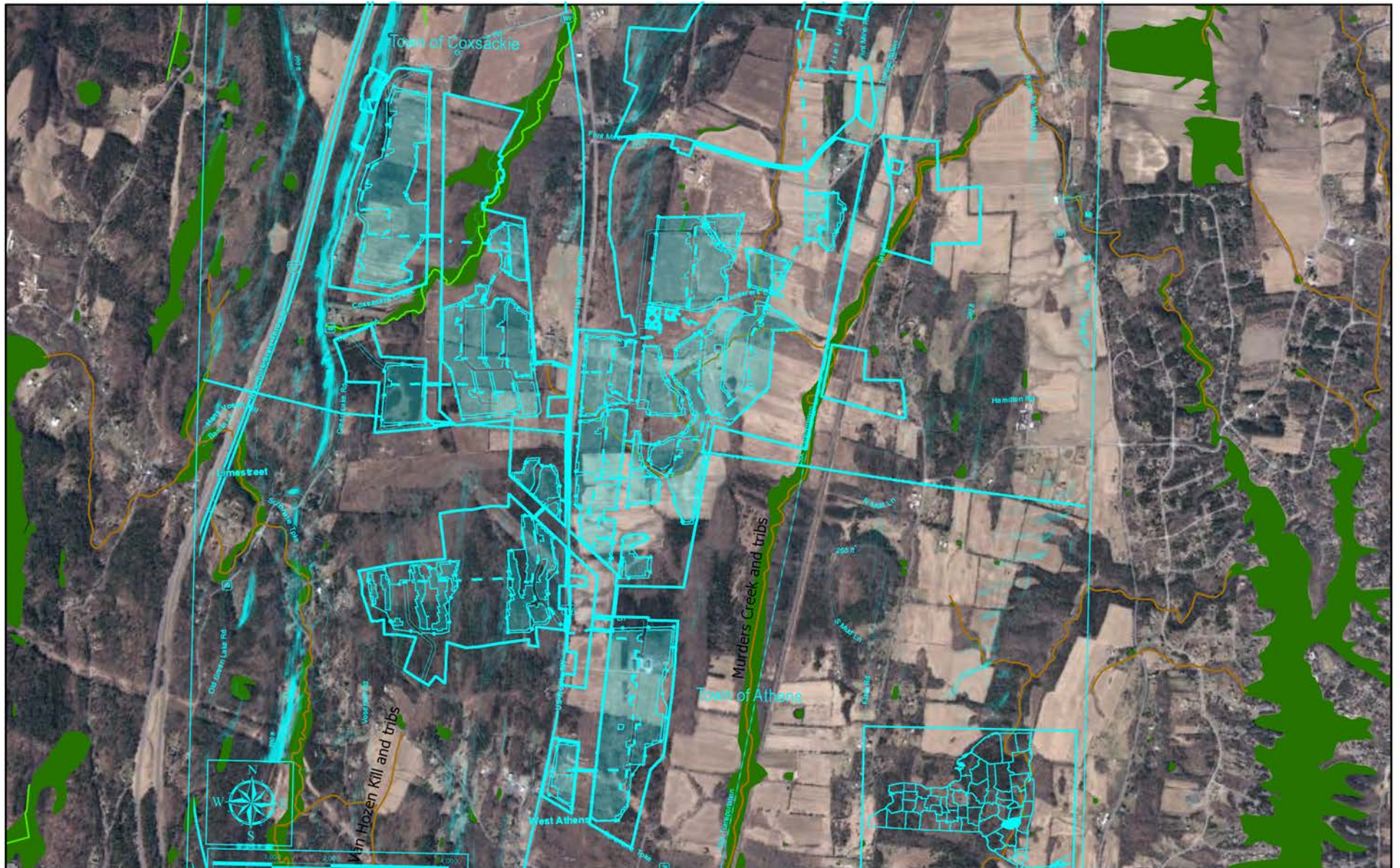
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-  Important Area: Animals-Terrestrial
-  Important Area: Animals-Wetland

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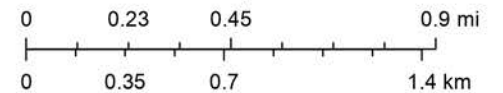
Priority Streams & Wetlands



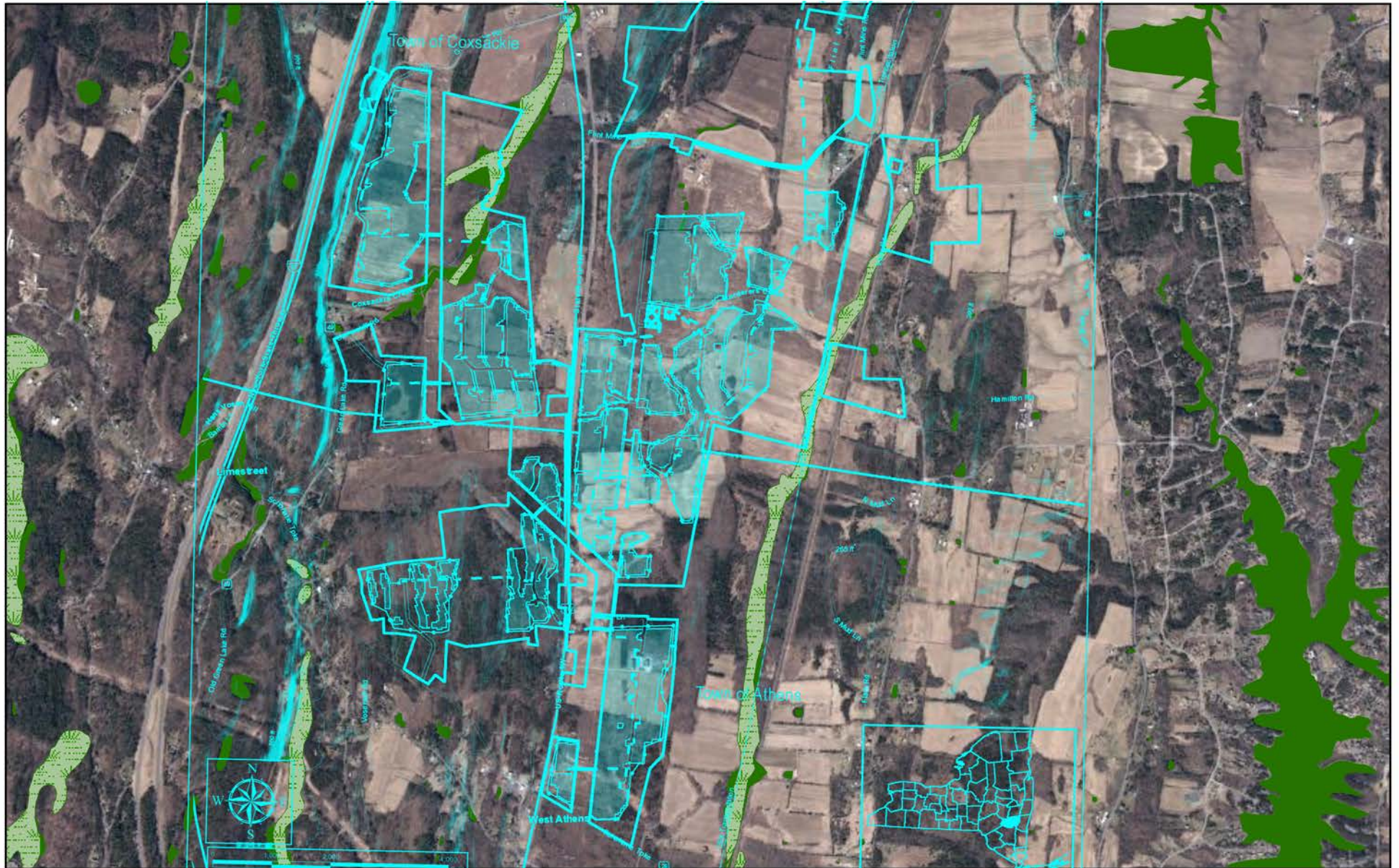
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- | | | | |
|------------------|--------------------|----------------------------|-----------------------|
| Priority Streams | Needs Verification | National Wetland Inventory | Tidal Wetlands (2007) |
| Impaired | No Known Impact | NY State Wetlands | LOWER INTERTIDAL MIX |
| Minor Impacts | UnAssessed | | OPEN WATER |

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Wetlands



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- | | | | |
|----------------------------|-----------------------|----------------------|-----------------------|
| Wetlands | Tidal Wetlands (2007) | PHRAGMITES AUSTRALIS | SPARTINA ALTERNIFLORA |
| National Wetland Inventory | LOWER INTERTIDAL MIX | SALT MEADOW | |
| NY State Wetlands | OPEN WATER | SCRUB / SHRUB | |

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