

Town of Eden - Planning Board Minutes

June 2, 2021 7:00 pm

MEMBERS William Mahoney, Chairman
PRESENT Andy Romanowski, Vice Chairman
Brian Reed
Dave Brodzinski
Joseph Eppolito
Bethany Fancher-Herbert
EXCUSED: Frank Meyer, DDS
Bill Zittel
OTHERS: Town Supervisor – Missy Hartman
Town Council - Susan Wilhelm, Richard Ventry
Code Enforcement Officer – Dave Rice
Applicant – Jim Sickau, Southwest Supply
Applicant – John Artmeier, Eden Solar LLC
Nexamp/Eden Solar – Alex Curlin (present via conference call)
Attorney for Nexamp/Eden Solar – Corey Auerbach

Mr. Mahoney called the meeting to order at 7:00pm.

Mr. Mahoney announced that both alternate members will be acting at full capacity for tonight's meeting.

Minutes from last meeting:

Mr. Reed made a motion to approve the minutes from the May 5, 2021 meeting. Seconded by Mr. Eppolito; Motion approved unanimously.

Nexamp/Eden Solar LLC – 7501 Sisson Highway Proposed Solar Farm:

Mr. Mahoney reviewed the history and current status of the proposed solar farm. A positive declaration was determined in October of 2019. Since that time, Nexamp has been diligently working on mitigating a number of issues. Mr. Curlin reviewed the new site plan. Additional screening has been provided on the North and West side of the project. Access points remain for the snowmobile trail and for the remaining land that will continue to be farmed. All transformers, poles and lines will be buried to reduce the visual impact. Mr. Mahoney replied that the board truly appreciates the effort and cost involved to improve the visual impact for local residents. Mr. Rice asked if it would be possible to add a Knox Box at the entrance. Mr. Curlin agreed to provide one at the main gate. Mr. Curlin continued; the top soil storage area will be returned to its original state once the project is completed. A pollinator blend will be used in the area around the array. The construction entrance will be maintained during construction. The primary use of the gravel driveway is for access to the array, but the entire area outside of the fence can be used by farmers for accessing the farm land. Mr. Mahoney questioned the reference to the "viable life of the project". He asked that the term be defined within the site plan. Mr. Mahoney also asked that the terminology referenced in the "Environmental Impact Mitigation Plan & Proposed Action" be updated so that it is consistent with the new mitigation measures and current site plan. The board requested that the map representing the relocated snowmobile trail be incorporated into the civil drawing set as its own page. Mr. Mahoney asked that the NYSERDA discounts available to neighbors and residents be referenced in the site plan.

The Decommissioning Plan (**attachment 1**) and Decommissioning Bond (**attachment 2**) have been provided to give assurance that the land will be returned to farmland after the useful life of the project. A \$163,000 bond escalating at 3% annually will provide for the dismantling, removal and recycling of the array.

Mr. Trask, Town attorney, and Mr. Auerbach, Nexamp attorney, are working to finalize the PILOT agreement.

The Host Community Agreement (**attachment 3**) provides monetary resources to protect other farm land in town. \$22,000 will be paid to the Town annually for the useful life of the project.

The Board discussed options on how to move forward. Mr. Mahoney read the Resolution Rescinding the Positive Declaration (**attachment 4**) and the Negative Declaration (**attachment 5**).

Mr. Mahoney made a motion to rescind the positive declaration and issue a negative declaration, seconded by Mr. Romanowski. Motion approved unanimously.

Mr. Mahoney read the conditions for site plan approval (**attachment 6**).

Mr. Mahoney made a motion to approve the site plan with conditions, seconded by Mr. Romanowski. Motion approved unanimously.

The Planning Board made a recommendation to the Town Board to approve the Special Use Permit with some suggestions (**attachment 7**).

Mr. Mahoney made a motion to recommend Town Board approval of the Special Use Permit with suggestions, seconded by Mr. Reed. Motion approved unanimously.

Mr. Mahoney also recommended that a Planning Board member be added to the committee for farmland protection. Interested members were encouraged to apply.

Southwest Supply - 7341 Southwestern Blvd. – Pre-submission:

Mr. Mahoney asked Mr. Sickau to explain why he came in front of the Planning Board tonight. Mr. Sickau stated that he has been running his concrete business at 7341 Southwestern Blvd. for over seven years. Business has grown over the years and has evolved into a large operation. He has added multiple buildings to hold supplies, but none of the new buildings have concrete floors. Mr. Sickau admitted that some of the buildings were put up without obtaining a building permit. Mr. Mahoney replied that he needs to catch up on the procedures for commercial operation. The Board will need to see an "As Built" Site Plan showing the current condition and buildings. Mr. Mahoney encouraged Mr. Sickau to hire a civil engineer to complete the site plan. The Board agreed to allow Mr. Sickau two to three months, August or September, before returning with a site plan.

Mr. Mahoney made a motion to adjourn the Planning Board meeting. Seconded by Mr. Eppolito; Motion approved unanimously.

The next meeting is tentatively scheduled for July 7, 2021 at 7:00 pm.

Respectfully submitted,
Jen Crowe, Secretary
Town of Eden Planning Board

NEXAMP – DECOMMISSIONING PLAN FOR EDEN SOLAR, LLC

Eden Solar, LLC, as provided by Nexamp, has prepared this Decommissioning Plan (Plan) for its proposed solar photovoltaic facility (Facility) to be constructed on private property located on 7501 Sisson Highway, Eden, NY. The Plan describes the process for decommissioning the Facility in accordance with state requirements and the Town of Eden bylaws.

The decommissioning plan shall be reviewed and updated as needed by a licensed professional engineer, with a copy provided to the Town. The final decommissioning (inspection and approval) of the site shall be to the satisfaction of the Town of Eden and in accordance with the decommissioning plan.

Facility Description

The Facility will consist of a 5,165 - kilowatt (DC) capacity solar power-generating array secured within a chain-link fence surrounding the solar panels and equipment, accessed through a locked gate located inside the property. The Facility will include the following site features:

- PV Modules, inverter(s), and transformer (filled with biodegradable mineral oil)
- Combiner boxes and switchgear
- Concrete pad(s)
- Screw or driven piles and racking to support the PV modules
- DC and AC wiring
- Aboveground wooden utility poles and overhead wires
- Belowground utility wires
- A gravel access drive
- Exterior 8-foot chain link security fencing
- A metal security gate at the entrance to the array area

Decommissioning Plan

The Facility will be decommissioned by completing the following major steps: Dismantlement, Demolition, and Disposal or Recycle; and Site Stabilization, as further described below.

To the greatest extent feasible, decommissioning and site restoration will take into account agriculture mitigation guidelines published by New York State Department of Agriculture and Markets.

Dismantlement, Demolition, and Disposal or Recycle

A significant portion of the components that comprise the Facility will include recyclable or re-saleable components, including copper, aluminum, galvanized steel, and modules. Due to their re-sale monetary value, these components will be dismantled, disassembled, and recycled rather than being demolished and disposed of.

Following coordination with National Grid ("NGRID") regarding timing and required procedures for disconnecting the Facility from the utility distribution network, all electrical connections to the system will be disconnected and all connections will be tested locally to confirm that no electric current is running through them before proceeding. All electrical connections to the PV modules will be severed at each module, and the modules will then be removed from their framework by cutting or dismantling the connections to the supports. Modules will be removed and sold to a purchaser or recycler. In the event of a total fracture of any modules, the interior materials are silicon-based and are not hazardous. Disposal of these materials at a landfill will be permissible.

The PV mounting system framework will be dismantled and recycled. The metal piles will be removed from their approximated depth of four feet and recycled. All other associated structures will be demolished and removed from the site for recycling or disposal. This will include the site fence and gates, which will likely be reclaimed or recycled.

Grade slabs will be broken and removed, and clean concrete will be crushed and disposed of off-site or recycled (reused either on- or off-site). The portion of the gravel access road created specifically for the project, namely that portion within the perimeter fence surrounding the PV modules, will be removed as well. All fencing and bollard concrete bases and concrete pads for electrical equipment will be fully removed. Additionally, any vegetation that was specifically planted for screening purposes will be removed.

Any utility poles owned by Eden Solar, LLC will be completely removed and disposed of off-site in accordance with utility best practices. Per the New York State Department of Agriculture and Markets guidelines, underground wires shall be buried at a depth of 48" and will be left in place during decommissioning to avoid further disturbance to soils (except for any vertical risers, which will be removed to a depth of 48"). Any overhead wires including conductors and conduit will be removed from the Facility and will terminate at the utility-owned (NGRID) connections inside the property. NGRID will be responsible for dismantling all interconnection infrastructure under its ownership. Coordination with NGRID personnel will be conducted to facilitate NGRID removal of any interconnection infrastructure located on the site.

A final site walkthrough will be conducted to remove debris and/or trash generated during the decommissioning process and will include removal and proper disposal of any debris that may have been wind-blown to areas outside the immediate footprint of the facility being removed.

Site Stabilization

The areas of the Facility that are disturbed during decommissioning will be re-graded to establish a uniform slope and stabilized via hydroseeding with a ground treatment approved by the Building Inspector. The final inspection of the site shall be to the satisfaction of the Town of Eden and in accordance with the decommissioning plan.

Permitting Requirements

Given the size and location of the Facility, several approvals will be obtained prior to initiation of the decommissioning process. Table 1 provides a summary of the expected approvals if the decommissioning were to take place in Q1 2021. Noting that the decommissioning is expected to occur at a much later date, the permitting requirements listed in the table below will be reviewed at that time and updated based on then current local, state, and federal regulations.

Table 1. Current Permitting Requirements for Decommissioning

Permit	Agency	Threshold/Trigger
State Pollutant Discharge Elimination System (SPDES) General Permit for Discharges from Construction Activity	New York State Department of Environmental Conservation (NYSDEC)	Ground disturbance of greater than 1 acre with discharge to wetlands or water bodies. Requires preparation of a Stormwater Pollution Prevention Plan, including erosion and sedimentation controls.
Building Permit	Town of Eden Building Department	A building permit must be obtained for any construction, alteration, repair, demolition, or change to the use or occupancy of a building.

The decommissioning process is estimated to take approximately six to eight (6-8) weeks and is intended to occur outside of the winter season.



NEXAMP – DECOMMISSIONING PLAN FOR EDEN SOLAR, LLC

Consistent with the approach it has taken in other communities, and pursuant to the Town of Eden Solar Energy and Equipment Systems Law, Nexamp shall provide a decommissioning surety, to be posted in suitable form prior to the issuance of a certificate of occupancy from the Building Inspector, in the amount of **\$163,780**. This surety will provide the requisite capital for solar project decommissioning in the unlikely event that Nexamp is unable to meet its contractual obligations for solar project removal and restoration.

In developing the decommissioning surety, Nexamp utilized decommissioning cost estimates from J&J Contractors, Inc. one of the Northeast's largest site development contractors. In addition to the decommissioning cost, Nexamp included a 5% contingency and allowance for associated legal costs:

Below is a summary of the analysis:

Project Capacity (MW)		5.17
Decommissioning	\$	153,600
Contingency (5%)	\$	7,680
Legal	\$	2,500
Total Decommissioning Costs	\$	163,780

The decommissioning total will escalate at 3% per year, with performance bond amounts to be updated in 5 year increments according to the following schedule:

Years 1-5	\$163,780
Years 6-10	\$189,866
Years 11-15	\$220,107
Years 16-20	\$255,164
Years 21-25	\$295,805
Years 26-30	\$342,919
Years 31-35	\$397,537
Years 36-40	\$460,854

Executed by the undersigned as of the day and year first written below, each of whom represents that it is fully and duly authorized to act on behalf of and bind its principals.

Dated: _____

EDEN SOLAR, LLC

BY: _____

NAME: Chris Clark

Title: SVP, Business Development

Dated: _____ TOWN OF EDEN

BY: _____

NAME: Melissa Hartman

Title: Town Supervisor

Bond No. _____

**Philadelphia Indemnity Insurance Company
Solar Facility Decommissioning Bond**

KNOW ALL MEN BY THESE PRESENTS: That **Eden Solar, LLC** (hereinafter called the **Principal**), and **Philadelphia Indemnity Insurance Company** (hereinafter called the **Surety**), a corporation duly organized under the laws of the Commonwealth of Pennsylvania, are held and firmly bound unto **the Town of Eden, NY** (hereinafter called the **Obligee**), in the full and just sum of One hundred sixty-three thousand seven hundred eighty Dollars (\$163,780), the payment of which sum, well and truly to be made, the said Principal and Surety bind themselves, and each of their heirs, administrators, executors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Obligee has issued the Principal a Special Use Permit and Site Plan Approval related to the installation, operation and maintenance of a 3.5 Megawatt Solar Photovoltaic Facility at 7501 Sisson Highway (parcel id#209.00-3-6) in Eden, NY, and as a requirement of such permit the Principal is obligated to decommission and remove all structures related to said facility and restore property upon discontinuance of service or revocation of municipal Special Permit to operate.

WHEREAS, the Obligee has agreed to accept this bond as security for performance of Principal's obligations under said permit during the time period this bond remains in effect.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH that if the Principal shall perform its obligations under said permit as stipulated above, then this obligation shall be void, otherwise to remain in full force and effect, unless otherwise cancelled as hereinafter provided.

PROVIDED HOWEVER, that this bond is executed subject to the following express provisions and conditions:

1. Upon completion of the timely decommissioning, as required under the Permit and the Town's Zoning Bylaws, the Principal shall provide written notice to the Obligee. The Obligee shall have forty-five (45) days to determine, in writing, filed with the Town Clerk and provided to the Principal, whether such decommissioning is complete and in compliance with the Permit. Upon a determination that the decommissioning is complete, or the Obligee's failure to issue a determination within said 45 days, the Principal's and Surety's obligations hereunder shall be deemed discharged.
2. In the event that the Obligee determines that the Principal failed to adequately decommission the Solar Facilities, in whole or in part, the Obligee shall, within five (5) days after such determination, inform the Principal and Surety in writing with a detailed list of work to be completed and the Principal shall have thirty (30) days to satisfactorily complete the decommissioning.
3. In the event that the Obligee determines that an "abandonment" of the Solar Facilities has occurred, as such term is contemplated under the Town's Zoning Bylaws and the Permit, the Obligee shall, within five (5) days, provide written notice to the Principal and Surety accordingly. In the event that the Principal fails to completely decommission and remove the Solar Facilities within one-hundred and fifty (150) days from such notice, as contemplated in the Bylaw and the Permit, Obligee shall declare Principal in default.

4. In the event of Principal's failure to satisfactorily complete the decommissioning within 30 days of receipt of detailed list or work to be completed, or Principal's default in the event of an "Abandonment", Obligees shall deliver to Surety a written statement of the details of such default within 30 days after the Obligees shall learn of the same, such notice to be delivered by certified mail to address of said Surety as stated herein.
5. Upon receipt of notice of Principal's default, Surety shall within 60 days notify Obligees of its decision to either release the bond amount to the Obligees or complete the decommissioning requirements on its own or with a qualified subcontractor.
6. Every five years from the date hereof, the Principal shall provide the Obligees with an updated amount of funds required to complete decommissioning, as defined in the Eden Solar Decommissioning Plan that was approved by the Town of Eden Town Board
7. This bond may be terminated or canceled by surety by giving not less than sixty (60) days written notice to the Obligees, stating therein the effective date of such termination or cancellation. Such notice shall not limit or terminate any obligations resulting from default by the Principal that may have accrued under this bond as a result of default by Principal prior to the effective date of such termination.
8. Neither cancellation nor termination of this bond by Surety, nor inability of Principal to file a replacement bond or replacement security for its obligations, shall constitute a loss to the Obligees recoverable under this bond.
9. This Agreement, and any amendments thereto, shall be governed by the laws of the State of New York and shall be enforceable only in a New York Court of competent jurisdiction.
10. No claim, action, suit or proceeding shall be instituted against this bond unless same be brought or instituted and process served one year after termination or cancellation of this bond.
11. No right of action shall accrue on this bond for the use of any person, corporation or entity other than the Obligees named herein or the heirs, executors, administrators or successors of the Obligees.
12. The aggregate liability of the surety is limited to the penal sum stated herein regardless of the number of years this bond remains in force or the amount or number of claims brought against this bond.
13. If any conflict or inconsistency exists between the Surety's obligations as described in this bond and as may be described in any underlying agreement, permit, document or contract to which this bond is related, then the terms of this bond shall prevail in all respects.
14. It is expressly understood and agreed that this bond does not cover or guarantee rent or lease payments of any kind.
15. This bond shall not bind the Surety unless the bond is accepted by the Obligees. If the Obligees objects to any language contained herein, within 30 days of the date this bond is signed and sealed by the Surety, Obligees shall return this bond, certified mail or express

courier, to the Surety at its address at:

Philadelphia Indemnity Insurance Company
One Bala Plaza East, Suite 100
Bala Cynwyd, PA 19004-1403

Failure to return the bond as described above shall constitute Obligee's acceptance of the terms and conditions herein.

IN WITNESS WHEREOF, the above bounded Principal and Surety have hereunto signed and sealed this bond effective this ____ day of _____, 20____.

Principal

Surety

Philadelphia Indemnity Insurance Company

By: _____

By: _____

Name & Title:

Attorney-in-fact

HOST COMMUNITY AGREEMENT FOR SOLAR ENERGY SYSTEM

THIS AGREEMENT FOR A HOST COMMUNITY AGREEMENT (the "Agreement"), effective as of May __, 2021, is by and between EDEN SOLAR, LLC (the "Owner"), with a principal place of business located at 101 Summer Street (2nd Floor), Boston, MA 02110 and the TOWN OF EDEN, a municipal corporation duly established with a principal place of business located at 2795 East Church Street, Eden, NY 14057 (the "Town", and collectively with the Owner, the "Parties").

RECITALS

WHEREAS, the Owner has submitted an application to build and operate a "Solar Energy System" as defined in the Town of Eden Code (the "Project") with an expected combined nameplate capacity of approximately 3.5 Megawatts AC on portions of such parcel of land located at 7501 Sisson Highway in the Town of Eden on the east side of Sisson Highway between Eckhardt Road to the north and North Boston Road to the south, currently identified as SBL #209.00-3-6, (the "Property"); and

WHEREAS, the Town has indicated its intent to require a Host Community Agreement with the Owner, under which the Owner (or any successor Owner of the Project) will make an annual contribution to the Town throughout the Term of the Project, as hereinafter defined; and

NOW THEREFORE, in consideration of the mutual covenants and promises as set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Town and the Owner hereby agree as follows:

1. **Incorporation of Recitals.** All of the foregoing recital paragraphs set forth above in this Agreement are herein incorporated by reference as if set forth at length.
2. **Host Community Payments.** The Owner or its assignees commit to certain efforts that will support the operation of the Town as it relates to the Project, through the Term of the Project, as follows.
 - a. **Purpose.** The payments made under this Agreement shall be used to benefit the public in a manner to be determined by the Town Board.
 - b. **Donation:** For the purposes stated herein the Owner will make an annual payment of Twenty Two Thousand and 00/100 dollars (\$22,000.00) throughout Term, as defined below. The Town shall use these funds to mitigate impacts associated with the Project identified in SEQOR, including loss of farmland.
 - c. **Term:** The first annual payment of Twenty Two Thousand and 00/100 dollars (\$22,000.00), shall be paid on the earlier of the date Owner receives a formal letter of acceptance from National Grid for interconnection for the Project (the "Commercial Operation Date") or eighteen (18) months for the date of the Town Board's approval of the special use permit, and each additional annual payment shall be remitted on or before the anniversary date thereof, until the Project is decommissioned in accordance with the certain Facility Decommissioning Plan approved by the Town Board ("Term"). Owner shall notify the

Town in writing within 72 hours of the Commercial Operation Date. The special use permit shall be contingent on receipt of the annual payment.

3. **Binding Effect.** This Agreement shall be binding upon the parties and their successors and assigns.
4. **Notice.** Any notice contemplated under this Agreement shall be deemed to have been given if the same shall be provided, in writing, to the other party, and shall be delivered personally, deposited in the United States Mail by registered or certified mail, return receipt requested, postage prepaid, or sent by any nationally recognized delivery service and addressed as set forth below:

If to the Town:

Supervisor, Town of Eden
2795 East Church Street,
Eden, NY 14057

If to the Owner:

Eden Solar, LLC
101 Summer Street (2nd Floor)
Boston, MA 02110

5. **Severability.** If any article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction, such article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion so adjudged invalid, illegal or unenforceable shall be deemed separate, distinct and independent and the remainder of this Agreement shall be and remain in full force and effect and shall not be invalidated or rendered illegal or unenforceable or otherwise affected by such holding or adjudication..
6. **Effect of Agreement.** None of the parties to this Agreement shall use this Agreement or the terms hereof as an admission against another party during or subsequent to the term hereof, except in a legal proceeding seeking to enforce this Agreement or asserting breach thereof.
7. **Governing Law.** This Agreement will be made and interpreted in accordance with the laws of the State of New York. Both Parties each consent to the jurisdiction of the New York Courts in and for the County in which the Project is located regarding any and all matters, including interpretation or enforcement of this Agreement or any of its provisions. Accordingly, any litigation arising hereunder shall be brought solely in such courts.
8. **Counterparts.** This Agreement may be executed simultaneously in multiple counterparts, each of which shall be deemed an original, but all of which taken together shall constitute but one and the same instrument.
9. **Miscellaneous.** The parties do not intend to create and nothing contained in this Agreement shall be construed as creating, a joint venture arrangement, or partnership between Town.

Nothing in this Agreement expressed or implied, is intended or shall be construed to confer upon or give to any person, firm, corporation, or legal entity, other than the parties any rights, remedies, or other benefits under or by reason of this Agreement.

[Remainder of page intentionally left blank]

*Signature page to Host Community Agreement for Solar Energy System
Eden Solar LLC & Town of Eden*

Executed by the undersigned as of the day and year first written above, each of whom represents that it is fully and duly authorized to act on behalf of and bind its principals.

EDEN SOLAR, LLC

TOWN OF EDEN

By: _____

Chris Clark, SVP

By: _____

Supervisor

**PLANNING BOARD
TOWN OF EDEN**

ERIE COUNTY NEW YORK

**Resolution Rescinding Positive Declaration and Issuing Negative Declaration for
Construction of Solar Energy Facility**

June 2, 2021

WHEREAS, Eden Solar LLC ("Eden Solar") proposes to construct a 3.5 MW "Community Solar" array (the "Project") at property located at 7501 Sisson Highway., Eden NY, SBL #209.00-3-6, on approximately 22 acres of rural residential land (the "Property" or the "Site"). Eden Solar has applied to the Town of Eden Town Board (Town Board) and Town of Eden Planning Board (the "Planning Board") for a special use permit and site plan review, respectively; and

WHEREAS, in accordance with the provisions of 6 NYCRR Part 617 (SEQRA), the Planning Board declared its intent to act as Lead Agency for this Type 1 Action and circulated said intent to all Involved Agencies; and

WHEREAS, no Involved Agencies challenged the intent of the Planning Board to act as Lead Agency; and

WHEREAS, the Planning Board adopted a resolution on April 3, 2019, designating itself as Lead Agency for the Project pursuant to SEQRA; and

WHEREAS, the Planning Board has examined and considered the Full Environmental Assessment Form (EAF) Part 1; caused to be prepared Part 2 and 3 of the EAF to evaluate potential significant adverse environmental impacts associated with the Project based on a review of the EAF Part 1, the application documentation, and its own independent analysis of the Project; and

WHEREAS based upon the information contained in the EAF and associated documents, the Planning Board, as Lead Agency for the Project contemplated herein, and after due deliberation, review and analysis of the Project and the criteria set forth in 6 NYCRR §617.7(c), initially determined that the Project may have one or more significant adverse impacts on the environment including removing significant acreage of important agricultural soils at this project site from production for a substantial period of time and setting an undesirable precedent which will lead to comparable developmental pressures on other valued agricultural resources in the Town of Eden, contrary to important policies set forth in the Town of Eden Comprehensive Land Use Plan adopted after the Solar Code and the Town of Eden Farmland Protection Plan, resulting in a positive declaration determination of significance being issued on September 4, 2019, and thus, directing the preparation of an Environmental Impact Statement (EIS) in accordance with 6 NYCRR §617.9; and

WHEREAS Eden Solar substantially modified the Project (the "Revised Project") in conjunction with the Planning Board's review of the proposed site plan; and

WHEREAS, the Planning Board has identified the relevant areas of environmental concern, has taken a hard look at these areas, and has made a reasoned elaboration of the basis for its determination;

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the Town of Eden that:

1. Based upon a thorough review and examination of the known facts relating to the Revised Project and its careful review of all potentially significant adverse environmental impacts, and the entire record and proceedings relating to the Revised Project, including full execution and implementation of the Host Community Agreement, Facility Decommissioning Plan and the PILOT for county, town and school as negotiated and agreed to, the Planning Board finds that the Revised Project will not have a significant adverse impact on the environment and that a draft environmental impact statement will not be prepared.

2. The positive declaration previously issued on September 4, 2019 is hereby rescinded.

3. The attached negative declaration, incorporated herein by reference, is issued and adopted for the reasons stated in the attached negative declaration.

4. The Planning Board Chairman and/or Town personnel are hereby authorized and directed to distribute copies of the resolution as necessary and to publish the requisite notice in the Environmental Notice Bulletin.

5. This resolution is effective immediately.

The foregoing resolution was voted upon with all Planning Board members voting as follows:

The resolution was declared adopted.

NEGATIVE DECLARATION
Determination of Non-Significance

Lead Agency: Town of Eden Planning Board

Date: June 2, 2021

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The Town of Eden Planning Board (the "Planning Board"), as lead agency, has reviewed the Project and determined that it will not have a significant adverse environmental impact and that a Draft Environmental Impact Statement will not be prepared.

Name of Action: Eden Solar LLC

Location: 7501 Sisson Highway, Eden, NY 14057

SEQR Status: Type I action.

Description of Action: The project involved the installation of 3.5 Megawatts (AC) of solar energy (photovoltaic) equipment. The solar installation will be placed on approximately 22 acres of land on parcel 209.00-3-6 in the Town of Eden, NY

Petitioner: Eden Solar, LLC, a subsidiary of Nexamp, Inc.

Reasons Supporting This Determination

The Planning Board has identified the relevant areas of environmental concern and has taken a hard look at each of the identified areas as required by the State Environmental Quality Review Act ("SEQRA"). The Planning Board compared the Project with the criteria for determining significance identified in 6 NYCRR § 617.7(c)(1) and in accordance with 6 NYCRR § 617.7(c)(2) and (3). As indicated below in the discussion of each criterion specified in 6 NYCRR § 617.7(c)(1), the Project will not have a significant adverse impact on the environment.

(i) a substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic or noise levels; a substantial increase in solid waste production; a substantial increase in potential for erosion, flooding, leaching or drainage problems;

a. Traffic Impacts

The Project will not result in significant traffic impacts as it will not house a regular staff. The system will be serviced only occasionally, as needed, by maintenance personnel. There will be some construction traffic, during the installation of the system but any such increased traffic during construction will be temporary and not significant. Thus, the Planning Board determines that there will not be any significant adverse traffic impacts.

b. Noise Impacts

The Project will not result in significant noise impacts. There may be a slight increase in noise levels at the sites during construction, but those impacts are temporary. Any site activity or the equipment used on the sites will not appreciably increase noise levels. Thus, the Planning Board determines that there will not be any significant adverse noise impacts.

c. Air Quality Impacts

The Project will not result in significant adverse air quality impacts. During construction of the system, there may be minor, temporary dust impacts from topsoil disturbance, but those will not be significant. Construction best management practices that are followed during construction will be employed.

d. Wetland Impacts

The US Fish & Wildlife Service's (USFWS) National Wetlands Inventory (NWI) Wetlands Mapper and NYSDEC Environmental Resource Mapper were accessed on April 2, 2018 to identify existing NYSDEC and ACOE mapped surface water and wetland resources on or near the parcel. The southwestern wooded area of the Site contains an unnamed ACOE pond, unnamed NYSDEC Class B tributaries of the South Branch Eighteen Mile Creek, and associated ACOE wetlands. Abutting parcels to the south of the Site also contain portions of the unnamed NYSDEC Class B tributaries of the South Branch Eighteen Mile Creek and associated ACOE wetlands. The abutting parcel east of the Site also contains an unnamed ACOE pond. A field wetland delineation was performed by Crawford and Associates on May 19, 2019, which identified additional unmapped ACOE wetland areas at the southwestern wooded portion of the Site and at the north side of the Site adjacent to Eckhardt Road. No impacts are anticipated to any of these surface water and wetland resources since they are located outside of the Project area.

e. Erosion, Flooding and Drainage Impacts

The Project proposes minimization of earthwork to the greatest extent possible, with minor excavation occurring only for the access drive and associated stormwater swale and culverts, electrical equipment pad, and buried electrical conductors. The proposed project includes a temporary Erosion and Sedimentation Control (ESC) Plan, through which minor erosion from physical disturbance and vegetation removal would be mitigated. The Project will not include the addition of a significant amount of impervious surfaces. The Planning Board determines that the Project will not cause significant adverse impacts including erosion, flooding, or drainage problems.

f. Solid Waste Production

The Project will not result in a significant increase in the production of solid waste.

(ii) the removal or destruction of large quantities of vegetation or fauna; substantial interference with the movement of any resident or migratory fish or wildlife species; impacts on a significant habitat area; substantial adverse impacts on a threatened or endangered species of animal or plant, or the habitat of such a species; or other significant adverse impacts to natural resources;

The Project will not result in the removal or destruction of large quantities of vegetation or fauna. Nor will there be substantial interference with the movement of any resident or migratory fish or wildlife species. The site is not within the vicinity of any rare or listed species as identified by the NYSDEC Environmental Resource Mapper. There will not be any impacts on a significant habitat area or any significant impacts on wildlife. The Planning Board determines that the Project will not significantly impact endangered species or their habitats. There will not be any significant adverse impacts to natural resources.

(iii) the impairment of the environmental characteristics of a Critical Environmental Area as designated pursuant to subdivision 617.14(g) of this Part;

There will not be any significant impact to a Critical Environmental Area.

(iv) the creation of a material conflict with a community's current plans or goals as officially approved or adopted;

The Project is consistent with the community's current plans and goals as officially approved and adopted. Both the Town of Eden Comprehensive Plan Update – April 11, 2018 (CPU), and the Town of Eden Agricultural and Farmland Protection Plan – August 12, 2009 (AFPP) describe that agriculture is an essential aspect of the Town of Eden's history, present, and future and must be protected and maintained. The AFPP (pp. 15, 20) notes that "the farmland in the . . . current Agricultural and Conservation zoning districts . . . was identified as the land most important to protect" and aims to "preserve . . . rural character," "maintain land in active agricultural use," and "minimize the impact of non-farm development on valuable farmland." The CPU (pp. 2, 22, 23, 28) also seeks "rural character preservation" and to "maintain and protect working farmland," but recognizes that there is a need to "diversify and strengthen other elements in the community to help maintain and grow a strong economy" through "balance . . . with appropriate growth and development." Additionally, the CPU (p. 30) has a vision to "support renewable energy initiatives in both the public and private sector and seek ways to reduce the environmental footprint of the Town."

Furthermore, EC §172: Solar Energy Systems – July 12, 2017, §172-2 identifies a "need to improve energy sustainability through increased use of solar energy." It states that "the Town Board of the Town of Eden finds and declares that solar energy is an abundant, renewable and nonpolluting energy resource of the Town and that its conversion to electricity will reduce our dependence on nonrenewable energy sources. Therefore, the Town of Eden intends to accommodate the use of solar energy systems."

The Project meets the Town of Eden's goals and public needs in consistency with the above-named documents. The Project Site is not located in the priority farmland protection zoning districts, the Project proposes to ensure access to and to maximize the remaining Site area for continued agricultural use, and the Project incorporates several mitigation measures for appropriate development to minimize impact on rural character and farmland and to support and increase productivity of farms in the community. The Project would discount electricity costs for subscribing local farms, businesses, and homes and would generate revenue for local construction and O&M contractors, the Town, the School District, the County, and the Site Owners for a diversified and strengthened local economy. The Project would provide a source of clean, renewable solar energy to the Town to improve local energy sustainability. The Project represents an ideal balance between rural / agricultural and solar uses to benefit local public needs.

The Town determines that there will not be significant adverse impacts.

(v) the impairment of the character or quality of important historical, archeological, architectural, or aesthetic resources or of existing community or neighborhood character;

This Project does not propose elimination of any existing facilities or officially recognized or designated public resources or areas of historic importance. Without visual screening, this Project's commercial / utility land use could contrast with that of the majority of the Town of Eden (rural, agricultural, open). However, the proposed evergreen screening would serve to conceal the Project's commercial / utility use and prevent it from contrasting with the mostly rural residential and agricultural open space aesthetic found in the surrounding area. Further, This Site was selected specifically for minimal frontage, location behind several other parcels existing vegetation for screening, and maintained scenic open agricultural views on neighboring parcels for continued public enjoyment.

The Planning Board determines that any impacts to aesthetic and community/neighborhood character will not be significant.

(vi) a major change in the use of either the quantity or type of energy;

There will be no such impacts. This Project would generate rather than consume energy, so positive effects on the use and conservation of energy resources are anticipated.

(vii) the creation of a hazard to human health;

There will be no such impacts.

(viii) a substantial change in the use, or intensity of use, of land including agricultural, open space or recreational resources, or in its capacity to support existing uses;

This Project does not propose elimination of any existing officially recognized or designated public recreational or open space facilities or resources. Additionally, there is no existing authorized unofficial recreational use of the parcel. Through use of NYSDAM Guidelines during Project construction and during Project decommissioning in accordance with the proposed Decommissioning Plan, it is anticipated that the site would be returned to farmable condition following the end of the Project life. There will be a minor change of use to include the Project, but it will not be significant.

(ix) the encouraging or attracting of a large number of people to a place or places for more than a few days, compared to the number of people who would come to such place absent the action;

There will be no such impacts.

(x) the creation of a material demand for other actions that would result in one of the above consequences;

There will be no such impacts.

(xi) changes in two or more elements of the environment, no one of which has a significant impact on the environment, but when considered together result in a substantial adverse impact on the environment; or

There will be no such impacts.

(xii) two or more related actions undertaken, funded or approved by an agency, none of which has or would have a significant impact on the environment, but when considered cumulatively would meet one or more of the criteria in this subdivision.

There will be no such impacts.

For Further Information:

Contact Person: Jennifer Crowe

Address: Town of Eden
2795 East Church Street
Eden, NY 14057

Telephone Number: (716) 992-3576

Town of Eden Planning Board

June 2, 2021

Nexamp/ Eden Solar, LLC 7501 Sisson Hwy.

The following is a list of conditions associated with the Site Plan approval dated June 2, 2021. The approval is based on the following conditions being incorporated into the site plans. During the meeting, the applicant agreed to include each of these condition in the site plan documents (listed below) that were submitted and acted on. The following list of drawings is what was reviewed and conditionally approved.

T-0.0 Title Page

T-0.1 Legend & Notes (Revision G 5/28/2021)

C-1.0 Site Plan – Existing Conditions (Revision G 5/28/2021)

C-1.1 Site Plan – Proposed Overall Layout (Revision G 5/28/2021)

C-1.2 Site Plan – Grading, Drainage & Utilities (Revision G 5/28/2021)

C-1.3 Site Plan – Grading, Drainage & Utilities (Revision G 5/28/2021)

C-1.4 Site Plan - Grading, Drainage & Utilities (Revision G 5/28/2021)

C-1.5 Site Plan – Temporary ESC Plan (Revision G 5/28/2021)

C-2.1 Profile View – Visual Analysis (Revision G 5/28/2021)

C-5.0 Details – Temporary Erosion & Sediment Control Plan (Revision G 5/28/2021)

C-5.1 Details – Site (Revision G 5/28/2021)

C-5.2 Details – Mitigation Measures (Revision G 5/28/2021)

1. All operational and maintenance activities need to be listed. The access drives, fence, screening, signage, and associated components of the development must remain in good condition for the entire life of the project.
2. Define the term “viable life of the project” throughout drawing C 5.2 and all site drawings to be consistent with the definition of the term or life of the project as defined in the Host Community Agreement.
3. The grass pollinator vegetation blend on C 5.0 needs to be updated to ensure it provides for a true pollinator blend that is native to the area it will be planted.
4. Include on C 5.2 the discounts to neighbors and residents that are required Per NYSERDA, or the governing agency defining a Community Solar project.

5. Allow for farm vehicles to use the access roadway to access the surrounding areas of the site outside the limits of the fencing associated with the solar array.
6. The relocated snowmobile trail represented on the colored drawing provided with the site plan must be incorporated into the civil drawing set as page C 5.3
7. Add a Knox Box to the main gate to allow for Fire Department access.
8. Update the Environmental Impact Mitigation Plan & Proposed Action document to be consistent with the approved site plan, decommissioning agreement, Host Community Agreement and Pilot agreements.

EDEN PLANNING BOARD

2795 East Church Street, Eden, New York 14057 (716) 992-3408

William Mahoney, Chairman

Andrew Romanowski, Vice Chairman

Brian Reed

William Zittel

Andrew Romanowski

Franklin Meyer, D.D.S.

Joe Eppolito

Bethany Fancher-Herbert – Alternate

Dave Brodzinski -- Alternate

RECOMMENDATION FROM THE TOWN OF EDEN PLANNING BOARD

To: Melissa M. Hartman, Supervisor
Town of Eden Board Members

From: William Mahoney, Chairman Eden Planning Board

Re: **Special Use Permit Review and Recommendation**
Nexamp/Eden Solar, LLC

Date: June 2, 2021

The Planning Board of the Town of Eden has completed the required review of the site plan and associated Special Use Permit standards for the proposed solar farm to be located at 7501 Sisson Highway in the Town of Eden. Below is an outline of the recommended conditions for the Special Use Permit:

- Annual renewal of the Special Use Permit.
- Entering into an acceptable PILOT Agreement with all taxing entities.
- Entering into an acceptable Host Community Agreement which addresses mitigation of adverse impacts identified in the SEQR process.
- Entering into an acceptable Decommissioning Plan with the project developer and the landowner and obtaining adequate financial security to cover decommissioning costs until decommissioning is completed.

The Planning Board would like to recommend this Special Use Permit be approved pending the recommendations above.