



December 6, 2024

Sent Via Personal Delivery to Eden Town Clerk

Eden Town Board
2795 East Church Street
Eden, New York 14057

**Re: Draft Scoping Document
Development of Proposed Solar Energy Facility
Project Address: 2394 West Church Street, Town of Eden, NY
Project Sponsor / Applicant: Eden PV, LLC**

Dear Eden Town Board:

Our firm represents Eden PV, LLC, the Project Sponsor / Applicant regarding above-referenced Project.

On November 19, 2024, the Eden Town Board, as Lead Agency, issued a Positive Declaration pursuant to the New York State Environmental Quality Review Act ("SEQR"). Pursuant to the SEQR Regulations set forth at 6 NYCRR 617.8(b):

The project sponsor must submit a draft scope that contains the items identified in paragraphs (e)(1) through (5) of this section to the lead agency. The lead agency must provide a copy of the draft scope to all involved agencies, and make it available to any individual or interested agency that has expressed an interest in writing to the lead agency.

Accordingly, attached please find the Draft Scoping Document for this project which contains the information identified in 6 NYCRR 617.8(e)(1-5), as required by 6 NYCRR 617.8(b). Additionally, pursuant to 6 NYCRR 617.8(b), "the lead agency must provide a copy of the draft scope to all involved agencies, and make it available to any individual or interested agency that has expressed an interest in writing to the lead agency" and as such, we have provided the Eden Town Clerk prepaid UPS envelopes containing the attached Draft Scoping Agreement and addressed to the non-Town Involved Agencies and non-Town Interested Agencies, as well as envelopes containing the attached Draft Scoping Agreement to the Involved Agencies that are Town of Eden boards or departments. In accordance with 6 NYCRR 617.8(b), these should be

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forwarded to the Involved Agencies and Interested Agencies as soon as possible. Please note that no Town Board Resolution is needed to effectuate this mailing, since it is a mandatory, ministerial act required by the SEQR regulations at 6 NYCRR 617.8(b).

Thank you for your consideration of this matter. Please contact me with any questions or if any further information is required.

Sincerely,

HOPKINS SORGI & MCCARTHY PLLC



Peter J. Sorgi, Esq.

Enc.

cc: Emily Hawkins, Eden Town Clerk (via personal delivery)
Town of Eden Planning Board (via US Mail)
Town of Eden Zoning Board of Appeals (via US Mail)
William J. Trask, Sr., Esq., Eden Town Attorney (via email)

NEW YORK STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQR) Draft Scoping Document

For a Draft Environmental Impact Statement (DEIS)

Eden Solar - Eden PV, LLC
Town of Eden, Erie County, NY

November 26, 2024

SEQR CLASSIFICATION: Type 1

LEAD AGENCY: Town of Eden Town Board
Attn: Rich Ventry, Chairman & Town Supervisor
2795 East Church Street
Eden, NY 14057

LIST OF INTERESTED & INVOLVED AGENCIES

- Town of Eden Planning Board (Site Plan Approval—Involved)
- Town of Eden Building Department (Building Permit—Interested)
- Town of Eden Zoning Board of Appeals (Variance – Involved)
- Erie County Department of Environment and Planning (GML 239-M Review—Interested)
- New York State Department Energy Research and Development Authority (Funding--Involved)
- NYS Department of Environmental Conservation (General Stormwater Permit—Interested)
- NYS Department of Agriculture and Markets (Site Plan Review)

INTRODUCTION

This Scoping Document is drafted for consideration by the Town of Eden Town Board, Lead Agency for the SEQR review of the proposed Eden Solar project. This document is intended to serve as the foundation for the identification of all potentially significant adverse environmental impacts pertinent to the proposed action. Furthermore, it is intended to identify the extent and quality of information needed to address significant impacts, appropriate mitigation measures, and reasonable alternatives to be considered, and to eliminate consideration of any impacts that may be irrelevant or non-significant.

DESCRIPTION OF THE PROPOSED ACTION

The Applicant, Eden PV, LLC, is proposing to construct a 3,200-kW solar photovoltaic (PV) array system on a 14.30-acre portion of the 98.0-acre parcel located at 2394 West Church Street in the Town of Eden, Erie County, New York, tax parcel ID: 223.00-5-7.112, as depicted on the site plan drawing provided in this application. The Project will consist of a ground-mounted solar system, which will be constructed via driving posts at depths appropriate for frost conditions along the proposed array. To this, single-axis panel racks shall be mounted. The system is proposed to consist of 5,902 solar PV modules and 10 inverters, connected by 1 transformer. The solar facility will operate as an energy generating facility, as prescribed by the requirements of the New York State Independent System Operation. The purpose of this Project is to provide clean energy to the existing electrical grid.

GENERAL SCOPING CONSIDERATIONS

The following is extracted from the SEQRA regulations at 617.8 (Scoping):

- a) The primary goals of scoping are to focus the EIS on potentially significant adverse impacts and to eliminate consideration of those impacts that are irrelevant or not significant. Scoping is required for all EISs (except for supplemental EISs) and may be initiated by the lead agency or the project sponsor.
- b) The project sponsor must submit a draft scope that contains the items identified in paragraphs (e)(1) through (5) of this section to the lead agency. The lead agency must provide a copy of the draft scope to all Involved Agencies and make it available to any individual or interested agency that has expressed an interest in writing to the lead agency.
- c) Involved agencies should provide written comments reflecting their concerns, jurisdiction and needs for environmental analysis sufficient to ensure that the EIS will be adequate to support their SEQR findings. The lead agency must include such informational needs in the final scope provided they are reasonable. The failure of an Involved Agency to participate in the scoping process will not delay completion of the final written scope.
- d) Scoping must include an opportunity for public participation. The lead agency may either provide a period for the public to review and provide written comments on a draft scope or provide for public input through the use of meetings, exchanges of written material, or other means.
- e) The lead agency must provide a final written scope to the project sponsor, all involved agencies and any individual that has expressed an interest in writing to the lead agency within 60 days of its receipt of a draft scope. The final written scope should include:
 - 1) A brief description of the proposed action;
 - 2) The potentially significant adverse impacts identified both in Part 3 of the environmental assessment from and as a result of consultation with the other involved agencies and the public, including an identification of those particular aspect(s) of the environmental setting that may be impacted;
 - 3) The extent and quality of information needed for the preparer to adequately address each impact, including an identification of relevant existing information, and required new information, including the required method for obtaining new information;
 - 4) An initial identification of mitigation measures;
 - 5) The reasonable alternatives to be considered;
 - 6) An identification of the information or data that should be included in an appendix rather than the body of the draft EIS; and
 - 7) A brief description of the prominent issues that were considered in the review of the environmental assessment form or raised during scoping, or both, and determined to be neither relevant nor environmentally significant or that have been adequately addressed in a prior environmental review and the reasons why those issues were not included in the final scope.
- f) All relevant issues should be raised before the issuance of a final written scope. Any agency or person raising issues after that time must provide to the lead agency and project sponsor a written statement that identifies:
 - 1) The nature of the information;
 - 2) The importance and relevance of the information to a potential significant impact;
 - 3) The reason(s) why the information was not identified during scoping and why it should be included at this stage of the review.
- g) The project sponsor must incorporate information submitted consistent with subdivision (f) of this

section into the draft EIS or attach such comments into an appendix of the draft EIS.

- h) If the lead agency fails to provide a final written scope within 60 calendar days of its receipt of a draft scope, the project sponsor may prepare and submit a draft EIS consistent with the submitted draft scope.

CONTENTS OF THE DEIS

The applicant will prepare a site-specific, project-specific Draft Environmental Impact Statement (DEIS) addressing all items identified in this Scoping Document. Below sections 1.0 through 9.0 depict the DEIS Table of Contents.

Cover Sheet listing title of project, location, identification as a DEIS, Lead Agency, applicant, preparer, and relevant dates (i.e. date of document preparation and spaces for dates of DEIS acceptance, public hearing, final date for acceptance of comments). A list of preparers will include the firm name, contact name, address, and phone number for all consultants who helped prepare the document. The Lead Agency and applicant will be identified with a contact name and a phone number.

Table of Contents will list the primary DEIS sections and subsections, tables, figures, drawings, and any items that may be submitted under separate cover (and identified as such), with page numbers listed for each.

General Format will follow the SEQR regulations (6 NYCRR 617.9) for direction on the required content of a DEIS. The DEIS will assemble relevant and material facts and evaluate reasonable alternatives. It will be clearly and concisely written in plain language that can be easily read and understood by the public. Highly technical material will be summarized and, if it must be included in its entirety, it will be referenced in the DEIS and included as an appendix.

The DEIS will be written in the third person. Narrative discussions will be accompanied to the greatest extent possible by illustrative tables or graphics. All graphics will clearly identify the project area. The DEIS will group each issue identified into a specific section describing existing setting, impacts, and mitigation to permit more efficient review. Professional opinions of the applicant that are unsupported by evidence will be identified as such.

Project drawings will accompany the DEIS as an attachment and reduced copies of pertinent plan sheets will be included in the text of the DEIS where appropriate. The DEIS shall contain, as appropriate and as attachments, plans, reports, and studies meeting prevailing Federal, State and Town criteria with respect to all disciplines of study as well as applicable Town Zoning Law, Comprehensive Plan, and Agricultural and Farmland Protection Plan criteria.

The full DEIS shall be made available to the lead agency in both hard copy and electronic .pdf formats.

1. EXECUTIVE SUMMARY

The Executive Summary will include a brief description of the proposed action and a listing of all potential environmental impacts and proposed mitigation measures. A summary will be provided of the approvals and permits required, and of the alternatives to the proposed action that are evaluated in the DEIS. The Executive Summary will only include information that is found elsewhere in the main body of the DEIS.

2. DESCRIPTION OF THE PROPOSED ACTION

This chapter of the DEIS will describe the project site and its location within the region, the proposed project, the public need and objectives of the project sponsor, and list required approvals, reviews, and permits.

2.1. Site Location, Environmental Setting and Description

- 2.1.1. A written and graphic description of the location of the project site in the context of the County of Erie, the Town of Eden, including tax map numbers and list of abutting properties tax map numbers. The site shall be described relative to surrounding land uses, main transportation corridors, streams, water bodies, wetlands and other prominent natural and man-made features on and in the immediate vicinity of the project site.
- 2.1.2. A description of the environmental setting of the site, and the natural resources identified thereon and in the adjoining areas. This description shall include current uses of the site.
- 2.1.3. Identification of any easements, rights-of-way, restrictions, special district boundaries or other legal devices affecting the subject properties' development potential.
- 2.1.4. Description of the existing infrastructure serving the project site and/or its immediate environs, including existing site access as well as electrical utility.
- 2.1.5. Project Purpose and Need
- 2.1.6. Discuss the purpose or objective of the project sponsor.
- 2.1.7. Identify the public need for the proposed action, including consideration of consistency with adopted policies and/or plans as set forth within adopted local and regional land use and community development plans, specifically the Town of Eden Comprehensive Plan and Agricultural and Farmland Protection Plan.

2.2. Approvals, Reviews and Permits

- 2.2.1. List all Involved and Interested Agencies for DEIS distribution.
- 2.2.2. Identify zoning and describe existing land uses for the project site and adjoining properties.
- 2.2.3. Discuss compliance with Town of Eden Zoning standards. The DEIS will indicate the extent to which any modifications or waivers of such standards and other criteria, any variances from such regulations, or any zone text changes that would be required to carry out the project as proposed and an evaluation of why such deviation is needed and would be appropriate.
- 2.2.4. List and describe all required approvals, reviews, and permits required to implement the proposed action together with the status of each application.

3. IMPACTS, MITIGATION & ALTERNATIVES

This section of the DEIS will identify potentially significant adverse impacts identified both in Part 3 of the environmental assessment form and as a result of consultation with the other involved agencies and the public, including an identification of those particular aspect(s) of the environmental setting that may be impacted; (3) the extent and quality of information needed for the preparer to adequately address each impact, including an identification of relevant existing information, and required new

information, including the required method(s) for obtaining new information; (4) an initial identification of mitigation measures; and the (5) the reasonable alternatives to be considered;

Sufficient detail shall be provided such that reviewers are able to gain an understanding of current conditions and impacts. Special effort shall be made to explain technical information in plain language. Supporting tables, maps (per Erie County, New York GIS unless otherwise noted), current project plans, etc. shall be utilized to supplement discussions where appropriate.

Proposed and potential mitigation measures for identified adverse environmental impacts shall indicate which mitigation measures have been incorporated into the plans as well as those which have not, and the reasons therefore. Proposed mitigation measures need to clearly define measurable milestones and provide for long term management and repercussions if not maintained.

This section shall provide a meaningful presentation of each impact issue identified as described above and listed below. the following subsection headings, each with a descriptive narrative, will allow the reader to focus on individual impact issues:

- Potential Impact
- Existing Conditions
- Mitigation Measures
- Reasonable Alternatives

3.1. Impact on Land

3.1.1. Existing Conditions: It shall be acknowledged the proposed action is within a District that does not allow it, requiring the applicant to apply for a use variance. While solar facilities of this scale and type (primary function to provide electricity to the public utility grid) may be considered a public utility and may be subject to the public utility variance standard, there are potentially other locations within Eden where this use would be permitted and other uses that would normally be permitted on the land without the need for a variance. This would produce a level of inconsistency with community planning goals as well as land use and potentially set a precedence for future projects constituting a significant adverse environmental impact for Eden. These thoughts shall be explored relative to current zoning and district allowances, as well as variance standards applicable to both public utilities and non-public utilities as they apply specifically to the proposed Eden Solar facility.

3.1.2. Mitigation Measures Impacts identified by an assessment of community planning goals shall be assessed relative to means by which mitigation can be extended to reduce such impacts. This will include a description of community character and methods by which impacts thereto shall be mitigated.

3.1.3. Reasonable Alternatives shall be described that may be deemed appropriate to the Site in accordance with existing zoning. An objective comparison of substantive adverse impacts shall be offered.

3.2. Impact on Surface Water

3.2.1. Existing Conditions It shall be acknowledged, with details provided relative to the wetlands and the project design, that the proposed action involves construction on delineated wetlands. As an aside, it is noted in this DEIS Scoping Document that the SEQRA Positive Declaration incorrectly indicates the presence of impacts which exceed the 0.1-acre threshold for Federal resources (US Army Corps of Engineers) jurisdiction and requirement for mitigation, which is noted as a significant adverse environmental impact. Thus, it is requested the Town reconsider this concern as something to be addressed within the DEIS. But if required, the DEIS will discuss what impacts are proposed and their mitigation and alternative design options.

- 3.2.2. Mitigation Measures: As needed, wetland functions impacted shall be described with an assessment of how the mitigation intended shall address those impacts.
- 3.2.3. Reasonable Alternatives: As needed, various impact avoidance means through project redesign shall be assessed, as will alternative mitigation strategies, including on-site and off-site approaches.

3.3. Impact on Agricultural Resources

- 3.3.1. Existing Conditions: The DEIS shall acknowledge that although not actively farmed at present, the environmental review by the Town did identify areas of moderate to large impacts associated with agricultural resources. Concerns shall be discussed related to the fact the Site does contain prime farm soils within groups 1 through 4 of the NYS Land Classification System and that the proposed action may result, directly or indirectly, in increased development potential or pressure on farmland.
- 3.3.2. Mitigation Measures Means to mitigate impacts to agriculture (future and surrounding) will be discussed.
- 3.3.3. Reasonable Alternatives Agricultural resource impact avoidance measures taken, as well as those deemed unreasonable by the project sponsor, shall be described.

3.4. Impact on Aesthetic Resources

- 3.4.1. Existing Conditions: The DEIS shall acknowledge that there is a similar proposed project (Eden II Solar) within two miles of the proposed Site, providing details on that project location, design, and level of visibility. Likewise, a discussion of the fact the fronting street and existing use is private recreation, yet the Site is proposed for solar facility use. Details of existing conditions shall focus on site visibility and views from adjacent properties and streets; diminishment of the public enjoyment, and appreciation of the designated aesthetic resources, and the extent of project appearance contrast from uses within 1 mile of the site.
- 3.4.2. Mitigation Measures Impacts to aesthetic resources, along with intended means by which those impacts shall be mitigated shall be described.
- 3.4.3. Reasonable Alternatives Means of aesthetic resource impact avoidance not currently proposed shall be explored with a description of options both assumed acceptable and unacceptable, with details on the pros and cons of both.

3.5. Impact on Open Space and Recreation

- 3.5.1. Existing Conditions: The DEIS shall acknowledge that current use of the land subject to the proposed action, which does not include the full holdings of the landowner, consists of residential and a commercial driving range/mini golf. The conversion of the land to a solar utility will remove a private recreational resource from the Town as well as decrease the amount of private open space, which the Town considers "working lands". Taking into account the remaining landholdings of the property owner to the south, which includes currently actively leased agricultural lands, there exists potential in the future for conversion to solar utility which the Town notes would further impact open space.
- 3.5.2. Mitigation Measures: How impacts to open space and recreation shall be mitigated to the extent practical by proposed project siting and design shall be described.
- 3.5.3. Reasonable Alternatives Means of open space and recreation impact avoidance not currently

proposed shall be explored with a description of options both assumed acceptable and unacceptable, with details on the pros and cons of both.

3.6. Impact on Community Plans

- 3.6.1. Existing Conditions: The DEIS shall acknowledge that the proposed action's land use may be different from current surrounding land use patterns, as well as inconsistent with local land use plans or zoning regulations. A discussion will be provided related to the goals of the following:
- Town Agricultural and Farmland Protection Plan
 - Town Comprehensive Plan;
 - Erie County Agricultural and Farmland Protection Plan — February 20, 2013
 - Town of Eden Comprehensive Plan Update — April 11, 2018
 - Town of Eden Right to Farm Law Code Chapter 106

In addition, the DEIS will discuss the vision, goals, and regulations of local zoning law as related to the site, with reference to the Town of Eden Zoning Chapter 172: Solar Energy Systems — July 12, 2017 and local land use plans or zoning regulations with details concerning what potential other developments the infrastructure may support, including what upgrades are required and associated costs to support additional developments similar in size and scope to this project and how this project could induce secondary development impacts either commercial, residential, or additional solar projects and how it could potentially impact the surrounding areas.

- 3.6.2. Mitigation Measures How impacts to community plans shall be mitigated by the project proposal via project siting and design shall be described. This may include design features to reduce project area and encourage co-location with continued agricultural activities on site; lease revenue for site owner to continue agricultural activities; PILOT tax revenue for Town, County, and school district as well as guaranteed discount on electricity bills for subscribing local farms, businesses, and homes, to allow some financial relief and possible reallocation of funds to pursue local goals. The DEIS shall discuss how this will be managed and measured and what guaranties will be in place to ensure it occurs as described. Potential additional mitigation measures will also include use of pollinator grass / flower seed mix for project area to expand agricultural pollinator habitat.

- 3.6.3. Reasonable Alternatives Means of avoiding impacts caused by an inconsistency to community plans not currently proposed shall be explored with a description of options both assumed acceptable and unacceptable, with details on the pros and cons of both. This may include such means as developing a Host Community Agreement with the Town of Eden that helps address issues associated with community plans.

3.7. Impact on Community Character

- 3.7.1. Existing Conditions: The DEIS shall acknowledge the proposed use is inconsistent with the existing natural landscape and is not permitted within the current zoning district, thus necessitating a use variance. A discussion will be provided of any public, cultural, and / or recreational facilities on or within 1 mile of the site contributing to community enjoyment and / or quality of life, along with the character of the existing natural landscape and predominant architectural scale and character on or within 1 mile of the site and the inconsistencies of the proposal thereto.

- 3.7.2. Mitigation Measures: The DEIS shall discuss variance considerations and how the proposal

intends to meet all applicable variance standards. In addition, the DEIS shall describe design features that will serve to mitigate impacts to community character, including existing facilities, structures, or areas of historic importance to this community specifically open farm land, shall be described, including native evergreen screening to match character of nearby tree lines and wooded areas. Measures to ensure the final screening survives and develops into the proposed screen shall be included.

- 3.7.3. Reasonable Alternatives Means of avoiding impacts to community character not currently proposed shall be explored with a description of options both assumed acceptable and unacceptable, with details on the pros and cons of both. This may include alternative project design and other means such as developing a Host Community Agreement with the Town of Eden that helps address issues associated with community character.

4. UNAVOIDABLE ADVERSE IMPACTS

The DEIS shall identify all adverse environmental effects, whether short term construction impacts or long-term impacts to the site and community, as identified in Section 3.0, that can be expected to occur regardless of the mitigation measures considered. This may include impacts from traffic / transportation and storage of materials, construction equipment and workers, provision of utilities during construction period, air quality, dust, erosion, odor, noise, visibility, etc. The anticipated duration of the construction phase will be detailed, along with the potential for the permanent loss of farmland and mitigation measures taken.

5. ALTERNATIVES

In addition to alternatives discussed within Section 3 specific to individual impacts, this section of the DEIS will evaluate and compare generic large-scale alternatives to the proposed action. The evaluation and comparison will include potential benefits and impacts as well as consideration of the proposed action project purpose and need. The following alternatives will be studied:

- 5.1. The "No Action" Alternative as required under 6 NYCRR 617.9.b.5.
- 5.2. Site Location Alternative (within the existing site boundary).
- 5.3. Alternative site locations (outside the existing site boundary).
- 5.4. Smaller Project Scale Alternative.

6. IRREVERSIBLE AND IRRETRIEVABLE COMMITMENT OF RESOURCES

The DEIS will identify those natural, agricultural lands and man-made resources consumed, converted or otherwise made unavailable for future use as a consequence of the proposed action.

7. GROWTH INDUCING ASPECTS

Potential growth-inducing aspects, including short/long term, primary and secondary/indirect impacts, generated by the project will be described and mitigation measures discussed. Discussion will include evaluation of population / development density, use of existing infrastructure, capacity of existing infrastructure and the need for new / improved infrastructure, and precedent for increased development pressure on farmland.

8. EFFECTS ON THE USE AND CONSERVATION OF ENERGY RESOURCES

A description of the effect of the proposed action on the short- and long-term use and conservation of energy resources will be provided including ways to reduce inefficient or unnecessary consumption during construction and long-term operation. Demonstration that the facility will satisfy electric generating capacity needs or other electric systems needs in a manner reasonably consistent with the most recent State energy plan will be included.

9. APPENDICES

The appendices will include all underlying documents relied upon in preparing the DEIS, as well as the adopted Scoping Document and other relevant SEQR documents, and relevant correspondence meeting the requirements of 6 NYCRR 617.8 (e).