

State Environmental Quality Review (SEQR) Draft Environmental Impact Statement for Eden II Solar

2027 Eden Evans Center Road
Town of Eden
Erie County, New York
SBL No. 237.00-1-2.11

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Table of Contents

1. Executive Summary	1
2. Description of Proposed Action	2
2.1 Site Location, Environmental Setting, and Description	2
2.2 Project Purpose and Need	6
2.3 Approvals, Reviews and Permits	7
2.3.1 <i>Involved and Interested Agencies</i>	7
2.3.2 <i>Town Zoning and other Town Requirements</i>	7
2.3.3 <i>Compliance with Town of Eden Zoning Standards</i>	8
2.3.4 <i>Other Approvals and Permits</i>	8
2.3.5 <i>Project Classification and Process to Date</i>	8
2.3.6 <i>Legislative Intent of SEQR</i>	9
2.3.7 <i>Steps in the Environmental Review Pursuant SEQR After Completion of DEIS</i>	9
3. Environmental Setting, Potential Impacts and Mitigation	9
3.1 Impacts on Land	9
3.1.1 <i>Existing Conditions</i>	9
3.1.2 <i>Mitigation Measures</i>	13
3.1.3 <i>Reasonable Alternatives</i>	13
3.2 Impacts on Surface Waters	14
3.2.1 <i>Existing Conditions</i>	14
3.2.2 <i>Mitigation Measures</i>	16
3.2.3 <i>Reasonable Alternatives</i>	17
3.3 Impact on Agricultural Resources	17
3.3.1 <i>Existing Conditions</i>	17
3.3.2 <i>Mitigation Measures</i>	20
3.3.3 <i>Reasonable Alternatives</i>	21
3.4 Impact on Aesthetic Resources	21
3.4.1 <i>Existing Conditions</i>	21
3.4.2 <i>Mitigation Measures</i>	23
3.4.3 <i>Reasonable Alternatives</i>	23
3.5 Impact on Open Space and Recreation	24
3.5.1 <i>Existing Conditions</i>	24
3.5.2 <i>Mitigation Measures</i>	25
3.5.3 <i>Reasonable Alternatives</i>	26
3.6 Impact on Community Plans	27
3.6.1 <i>Existing Conditions</i>	27

3.6.2	<i>Mitigation Measures</i>	28
3.6.3	<i>Reasonable Alternatives</i>	29
3.7	Impact on Community Character.....	29
3.7.1	<i>Existing Conditions</i>	29
3.7.2	<i>Mitigation Measures</i>	34
3.7.3	<i>Reasonable Alternatives</i>	35
4.	Unavoidable Adverse Impacts	36
4.1	Unavoidable Short-Term Impacts.....	36
4.2	Unavoidable Long-Term Impacts	36
5.	Alternatives	37
5.1	No Action Alternative.....	37
5.2	Site Location Alternative within Site.....	37
5.3	Alternative Layout of Site.....	37
5.4	Alternative Site Location	38
6.	Irreversible and Irretrievable Commitment of Resources	38
7.	Growth Inducing Aspects	39
7.1	Primary and Secondary Impacts	39
7.2	Population/Development Density Impacts.....	39
7.3	Infrastructure Impacts	39
7.4	Increased Development Pressure on Farmlands	39
8.	Effects on Use and Conservation of Energy Resources	40
9.	Appendices	40

1. Executive Summary

The Applicant, Eden II PV, LLC is proposing to develop a new 4,040-kW stand-alone ground-mounted solar photovoltaic array system on a 23.65-acre portion of the 99.49-acre parcel located at 2027 Eden Evans Center Road in the Town of Eden, Erie County, New York, tax parcel ID: 237.00-1-2.11.

The Project will consist of a ground-mounted solar system, which will be constructed via driving posts into the ground 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 10,608 solar PV modules and 13 inverters, connected by 2 transformers. 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.

On November 19, 2024, the Town of Eden Town Board (the “Town Board”), as Lead Agency, determined that the proposed Eden II Photovoltaic Facility (the “Project”, the “Proposed Action”, or the “Proposed Project”) located at 2027 Eden Evans Center Road in the Town of Eden may result in potentially significant adverse environmental impacts and thus issued a Positive Declaration pursuant to the NY State Environmental Quality Review Act (“SEQRA”) requiring the submission of this Draft Environmental Impact Statement (“DEIS”) by the Project Sponsor, RIC Energy Development. This DEIS is prepared in accordance with the requirements of 6 NYCRR Part 617 of the SEQRA regulations. The subject areas to be included in the DEIS for the Project are described in Section 3.0 of the Final Scoping Document adopted on February 18, 2025, by the Town Board (See Appendix A). As such, the sections below are outlined to be consistent with that of the Final Scoping Document.

This DEIS examines the potential adverse environmental impacts of the Project as identified by the Town Board which includes impacts on land, impacts on surface waters, impacts on agricultural resources, impacts on aesthetic resources, impacts on open space and recreation, impacts/consistency to community plans, and impacts/consistency to community character.

The Project will require a Utility Use Variance from the Town of Eden Zoning Board of Appeals. Additionally, a State Pollutant Discharge Elimination System General Permit for Stormwater Discharges from Construction Activity (GP-0-25-001), a USACE Section 404 Nationwide Permit, and a NYSDEC Section 401 Water Quality Certification will be required for the Project. An Article 24 Freshwater Wetland Permit may be required pending the NYSDEC jurisdictional determination.

With any land development construction project there may be unavoidable impacts to the environment and surrounding community; each impact has been analyzed within this DEIS and proposed mitigations outlined to compensate for their effects. Possible Project alternatives are also evaluated including a No Action alternative. This DEIS consists of this narrative and Appendices A-D.

Measures are proposed to mitigate impacts to the maximum extent practicable. Such mitigation measures include setbacks, vegetative screening, a Decommissioning Plan compliant with NYSDAM standards, a Host Community Agreement, a PILOT Agreement, and Good Neighbor Agreements with the Town.

2. Description of Proposed Action

2.1 Site Location, Environmental Setting, and Description

Eden II PV, LLC is proposing to develop a new 4,040-kW stand-alone ground-mounted solar photovoltaic (PV) array system on a 23.65-acre portion of the 99.49-acre parcel located at 2027 Eden Evans Center Road in the Town of Eden, Erie County, New York, tax parcel ID: 237.00-1-2.11.

The Project is a ground mounted single-axis tracking system that will consist of approximately 10,608 solar PV modules, and 13 Sungrow SG350X inverters that will connect to 2 transformers. 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.

As shown in Figure 1 below, the Project parcel is located adjacent to Eden Evans Center Road. The site is currently utilized for agricultural purposes, although the landowner has stated that soil productivity is in decline. Rythus Creek runs through the southern portion of the Project parcel. Existing access to the site is through the landowner's residential paved driveway off Eden Evans Center Road, and transitions to a dirt road within the active agricultural areas. National Grid utility poles and overhead electric wires run along the north side of Eden Evans Center Road.

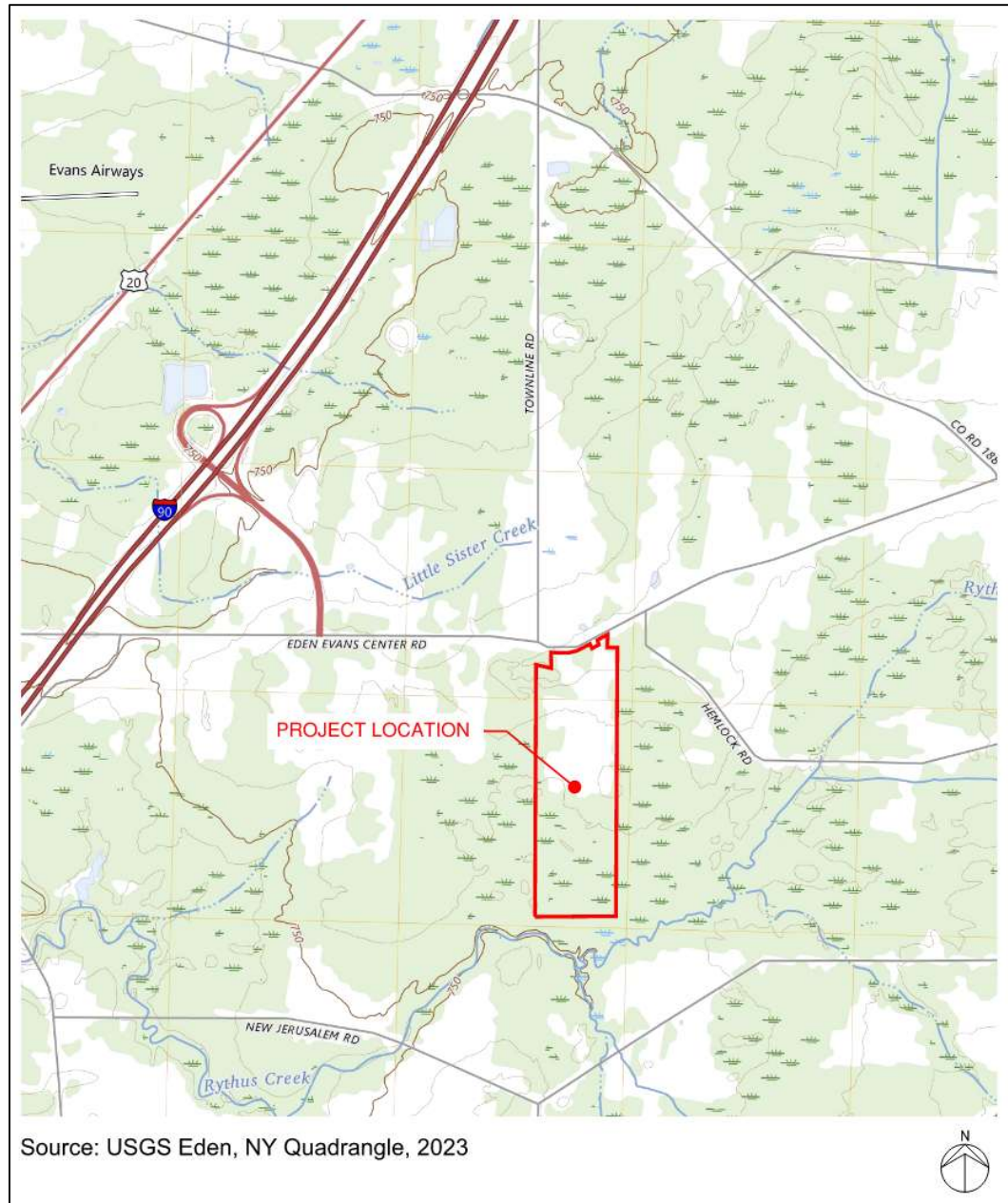


Figure 1: Project Location Map

The Project parcel is within the Erie County Agricultural District 8 (ERIEc08). The adjacent properties include the following:

- Carol Guyett & Dale C. Heinrich; Tax Parcel ID: 237.00-1-1; ERIEc08
- Clementina B. Garcia; Tax Parcel ID: 237.00-4-16; ERIEc08
- William H. Hunt; Tax Parcel ID: 237.00-1-29
- Max A. Melber; Tax Parcel ID: 237.00-1-28; Farm Operation Parcel; ERIEc08
- Michael R. Grover; Tax Parcel ID: 222.00-1-4.1; ERIEc08
- Donald A. Mayne, Brenda S. Matson & Cheryl L. Turner; Tax Parcel ID: 222.00-2-31; ERIEc08

- Marie Chambers; Tax Parcel ID: 222.00-2-32; ERIEc08
- Ronald D. & Donna M. Baker; Tax Parcel ID: 222.00-1-3; ERIEc08

A 30-foot-wide Erie County sanitary sewer runs diagonally through the southern portion of the Project parcel. Additionally, there are several gas wells within the Project parcel that are leased to United Natural Gas Company and Kayak Gas & Oil Co., Inc. It should be noted that the Town of Eden/Town of Evans town line runs along the western edge of the Project Parcel.

The Town of Eden is located approximately 20 miles south of the City of Buffalo, New York, and approximately 9 miles east of Lake Erie. The Town is primarily low-density in character and contains a large amount of agricultural land. As shown in Figure 2 below, the current land use of the site is vacant open space. The surrounding area consists of primarily low-density residential homes, small farms and other agricultural operations, and forested areas.



Page 5 of 40

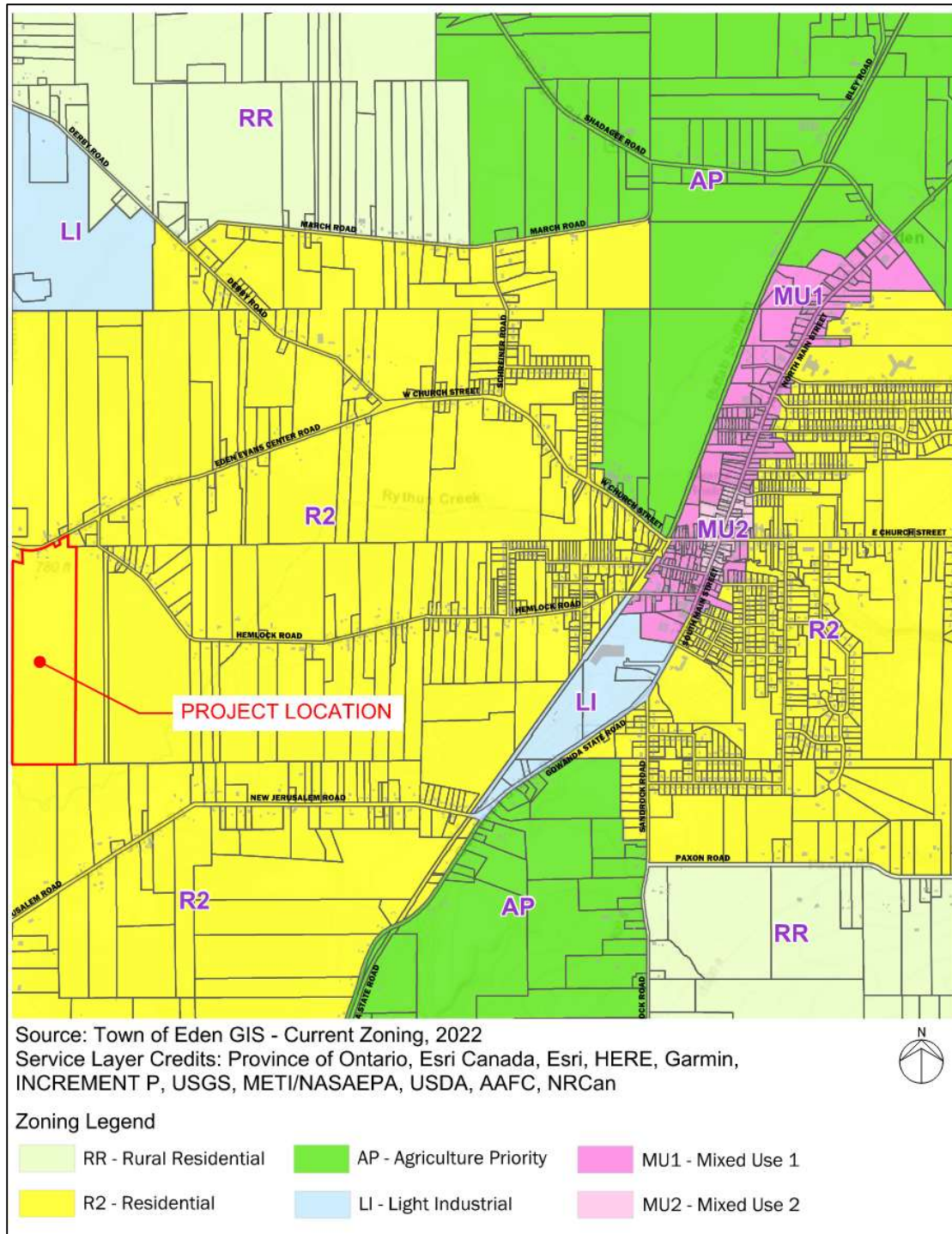


Figure 3: Zoning Map

2.2 Project Purpose and Need

The purpose of this Project is to provide clean energy to the existing electrical grid. There is a need for electricity generated by the solar energy system. An analysis was completed by the Applicant demonstrating that there were no alternatives for the siting of solar Projects on land that is zoned in Eden for solar energy systems (see Appendix D). In addition to the benefits of

renewable energy production for the town, the Project will also produce numerous economic benefits for the town. These benefits will be facilitated through a Host Community Agreement, PILOT agreement, and Good Neighbor agreements with the Town (see Appendix B).

The Proposed Project will be in accordance with the Erie County Climate Action Plan. Page 78 of the Plan states, “Action Item 7.2.2: Encourage responsible community solar Project development on agricultural land to make clean, renewable energy more accessible to rural communities without losing the most productive farmland”. The farm soils located on the Project site are of low productivity, according to the landowner. Therefore, the Project will not cause the loss of highly productive and important farmland. Additionally, this loss of farmland will not be permanent.

The Proposed Project will also be in conformance with The Erie Niagara Framework for Regional Growth. This plan supports strategic development and strengthening the viability of local farmers. The Proposed Project will provide economic benefits for the town. This Project will not impact farm activity in adjacent areas.

The Town’s Comprehensive Plan, Agricultural and Farmland Protection Plan, and the Buffalo and Erie County Local Food Action Plan emphasize the importance of local agriculture and character in rural communities. This Project will not cause the permanent loss of highly productive farmland in the Town of Eden and will not impact farm activity in adjacent areas. Once the Project is decommissioned (to NYSDAM standards), following the useful life of the Project (estimated 30 years), the soil on site will be left in the same or better condition, due to this fallow period. The site can then be farmed, if desired, or utilized for another allowable use. See section 3.6 for additional information on impacts to Community Plans.

This Project will contribute to New York State’s Clean Energy Goals set by the Climate Action Council in its Scoping Plan for New York State. Further discussion of relevant plans and policies can be found in section 3.6 of this document.

2.3 Approvals, Reviews and Permits

2.3.1 *Involved and Interested Agencies*

The following list contains all Involved and Interested Agencies for the Project:

- 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)
- US Army Corps of Engineers (Interested)
- US Fish and Wildlife Service (Interested)
- NYS Department of Agriculture and Markets (Site Plan Review)

2.3.2 *Town Zoning and other Town Requirements*

The Project will be located within the Town’s “R2”, Neighborhood Residential, Zoning District. All adjoining properties adjacent to the Project site are also zoned

“R2”, Neighborhood Residential. It should be noted that the Town of Eden/Town of Evans town line runs along the western edge of the Project Parcel. See section 3.1 for further information regarding the Town of Eden Zoning Code.

2.3.3 *Compliance with Town of Eden Zoning Standards*

According to the Town’s Solar Energy Systems Law (see section 3.1 for more information), utility-scale solar energy Projects are permitted only in the Agricultural Priority (AP), Rural Residential (RR), and Light Industrial (LI) District; provided, however, that no utility-scale solar energy system is permitted on any property in the MS4, floodplain or Creekside overlay areas.

As this Proposed Project is not permitted within the R2 District, the Project can only move forward through a rezoning process, or, for the Project to receive a Utility Use Variance from the Town of Eden Board of Appeals, in accordance with Article IX of the Zoning Code. See section 3.1 for additional information regarding land use and the need for a use variance.

2.3.4 *Other Approvals and Permits*

In addition to the planning board and ZBA approvals discussed above, the Project will also require approvals and/or permits from the following agencies:

- Town of Eden Town Board – Special Use Permit
- Town of Eden Planning Board – Site Plan Approval
- Town of Eden Building Department – Building Permit
- ECDEP – GML 239-M Review
- NYSDEC – SPDES GP-0-25-001
- USACE/NYSDEC – Section 404 Nationwide Permit & Section 401 Water Quality Certification
- NYSDEC – Article 24 Freshwater Wetland Permit (pending NYSDEC jurisdictional determination)

2.3.5 *Project Classification and Process to Date*

The Town of Eden Town Board, acting as lead agency pursuant to the State Environmental Quality Review Act and its implementing regulations promulgated thereto in 6 NYCRR Part 617 (collectively referred to as SEQRA), has prepared this Draft Environmental Impact Statement (DEIS) to assess the potential environmental impacts that may result from the implementation and construction of the proposed Eden PV (the “Project,” “Proposed Action,” or “Proposed Project”).

A Full Environmental Assessment Form, Part 1, was completed by the Applicant and submitted to the Town of Eden on January 31, 2024, in accordance with 6 NYCRR § 617(f) of the SEQRA regulations. The Proposed Action is classified as a Type 1 Action for the purposes of this SEQRA review. The Town of Eden Town Board circulated a lead agency solicitation letter on May 23, 2024, proposing to seek SEQRA lead agency status for the Project. Upon receiving no objections from potentially involved agencies, the Town of Eden Town Board resolved to assume designation as lead agency. A draft scoping document filed on December 6, 2024, was prepared and circulated to the involved agencies and interested parties. A public hearing on the scoping document was held on February 12, 2025. The final scoping document was issued on February 18, 2025.

2.3.6 *Legislative Intent of SEQR*

The legislative intent of the New York State Environmental Quality Review Act (SEQR) is to ensure that environmental considerations are integrated into the decision-making processes of state and local agencies, promoting environmental protection and stewardship for current and future generations.

2.3.7 *Steps in the Environmental Review Pursuant SEQR After Completion of DEIS*

The Draft Environmental Impact Statement (DEIS) is a document that analyzes the potential environmental impacts of a proposed action and reasonable alternatives, allowing for public review and comment before a final decision is made.

The filing of the Notice of Completion of a DEIS starts the public comment period. That period must be a minimum of 30 days, during which all concerned parties are encouraged to offer their comments to the lead agency. The public comment period must continue for at least 10 days following the closure of a public hearing, if one is held.

Following the closure of the comment period, the lead agency must complete a Final Environmental Impact Statement (FEIS). This document must consist of the DEIS, any revisions or supplements to the DEIS, all substantive comments received on the DEIS, and the lead agency's response to the comments. This shall occur within 45 calendar days after the close of any hearing or within 60 calendar days after the filing of the draft EIS, whichever occurs later.

Note: No final EIS need be prepared if on the basis of the draft EIS, and comments made thereon, the lead agency has determined that the action will not have a significant adverse impact on the environment. A negative declaration must then be prepared, filed and published in accordance with section 617.12 of the SEQR law.

Finally, a Findings Statement is produced. This document considers the relevant environmental impacts presented in the EIS and weighs and balances these with social, economic, and other essential considerations. Either a "Positive" or "Negative" findings statement will be produced.

3. **Environmental Setting, Potential Impacts and Mitigation**

3.1 Impacts on Land

Note: The scoping document includes the analysis of zoning, variances and land uses in this Impact on Land section.

3.1.1 *Existing Conditions*

The Eden Town Code has a Chapter 225 entitled "Zoning" that provides rules and regulations concerning all forms of development in the Town, and the Town's zoning map illustrates the zoning of properties within the Town. The Zoning Code has numerous sections that apply to land use and development in the Town. The zoning code though does not specifically reference or regulate solar energy systems in the Town of Eden (see below section on Chapter 172). The zoning code does have one important Article that relates to the Proposed Project (see below discussion on Use Variances), That Article is Article IX Board of Appeals.

The Town of Eden Code includes a Chapter 172 entitled "Solar Energy Systems"

that regulates solar energy systems in the Town of Eden (see Appendix C for a full copy of this law). The law defines “any solar energy system that is capable of producing 25kw of electricity per hour” as a utility-scale solar energy system. It goes on further to state that, “Utility-scale solar energy systems are only permitted in an Agricultural Priority (AP), Rural Residential (RR), and Light Industrial (LI) District; provided, however, that no utility-scale solar energy system is permitted on any property in the MS4, floodplain or Creekside overlay areas.”

Based on the Project’s location (see section 2.1), the property is zoned “R2” and therefore is not an allowable use in that zoning district. Based on the site’s zoning, the Project could only move forward through a rezoning process or for the Project to receive a Use Variance from the Town of Eden Board of Appeals, in accordance with Article IX of the zoning code. For variances, that Article requires the following for variances:

- (1) To authorize, upon appeal in specific cases, such variance from the terms of this chapter as will not be contrary to the public interest where, owing to exceptional and extraordinary circumstances, there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this chapter, subject to terms and conditions to be fixed by the Board of Appeals; provided, however, that no such variance shall be granted unless said Board finds that:
 - (a) There are physical conditions, such as in the case of an exceptionally irregular, narrow, shallow or steep lot, fully described in the findings of said Board, applying to the land or building for which the variance is sought, which conditions are peculiar to such land or building and have not resulted from any act of the applicant or any prior owner.
 - (b) For reasons fully set forth in the findings of said Board, the aforesaid circumstances or conditions are such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of such land or building, and the granting of the variance is necessary for the reasonable use of the land or building, and the variance as granted by said Board is the minimum variance that will accomplish this purpose.
 - (c) The granting of the variance under such conditions as said Board may deem necessary or desirable to apply thereto will be in harmony with the general purpose and intent of this chapter, will not represent a radical departure therefrom, will not be injurious to the neighborhood, will not change the character thereof and will not be otherwise detrimental to the public welfare.
- (2) The needs or desires of a particular owner or tenant or of a particular prospective owner or tenant shall not, either alone or in conjunction with other factors, afford any basis for the granting of a variance. The fact that the improvements already existing at the time of the application are old, obsolete, outmoded or in disrepair or the fact that the property is then unimproved shall not be deemed to make the plight of the property unique or to contribute thereto.
- (3) Where said Board finds the zoning classification of a particular property to be conducive to the deprivation of the reasonable use of the land or buildings and where said Board finds the same condition to apply generally to other lands or buildings in the same neighborhood or zoning district, said Board shall call this condition to the attention of the Planning Board and Town Board.

(4) In all cases where the Board of Appeals grants a variance from the strict application of the requirements of this chapter, it shall be the duty of such Board to attach such conditions and safeguards as may be required in order that the result of its action may be as nearly as possible in accordance with the spirit and intent of this chapter.[1]

Although not directly mentioned in the Town of Eden code, NYS Town Law (Section b) states the following about Use Variances:

- (a) The board of appeals, on appeal from the decision or determination of the administrative official charged with the enforcement of such ordinance or local law, shall have the power to grant use variances, as defined herein.
- (b) No such use variance shall be granted by a board of appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the board of appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located, (1) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence; (2) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood; (3) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and (4) that the alleged hardship has not been self-created.
- (c) The board of appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.”

Finally, it needs to be noted that recent NYS Court decisions have determined that solar projects such as the one proposed in Eden must only meet the “public utility use variance standard” and not the standards outlined in NYS Town Law. This standard states that generally the use only has to show need, and that in NYS the need for green energy/solar projects has been shown. See attached documentation in Appendix D submitted by the HSM, the applicant’s attorney, on this matter.

The purpose of the Zoning Code is as follows; There is hereby established a new comprehensive zoning plan for the Town of Eden, which plan is set forth in the text and map that constitute this chapter. Said plan is adopted for the purposes set forth in Article 16, §§ 261 and 278, of the Town Law, which, in the interest of the protection and promotion of the public health, safety and welfare, shall be deemed to specifically include the following, among others:

- A. To provide adequate development standards to ensure a balanced and orderly pattern of future growth and economic stability.
- B. To encourage flexibility in the design and development of land in such a way as to promote the most appropriate use of lands, to facilitate the adequate and economical provision of streets and utilities and to preserve the natural and scenic qualities of open lands.
- C. To ensure that future growth is coordinated with the town's ability to provide adequate municipal services.

- D. To promote a safe and efficient circulation network that will serve the various types and intensity of pedestrian and vehicular traffic generated by future development within the town.
- E. To protect, in their natural state, certain features of the town, including but not limited to forests, farmlands, wetlands, water bodies and streams, from filling, erosion and pollution.
- F. To provide for the present and future residents of the town by encouraging the development of a balanced variety and quantity of sound housing opportunities for all segments of the population.
- G. To ensure adequate land resources for agriculture, forestry, housing, industry, commerce and recreation.
- H. To provide for the gradual elimination of nonconforming uses.
- I. To protect and enhance the community's appearance.
- J. To ensure the efficient and adequate provision of public facilities and services.
- K. To protect residential areas and provide privacy for families.

The Purpose of the Solar Energy Systems law, as stated in Chapter 172 is as follows: “The Town Board of the Town of Eden adopts this chapter to accommodate the use of solar energy systems and to regulate the placement of solar energy systems so that the public health, safety, natural resources, and aesthetics of the Town and its residents will not be jeopardized.”

In creating this law, the Town also states the following findings:

- A. 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.
- B. However, regulation of the siting, installation and use of solar energy systems is necessary for the purpose of protecting the health and safety of neighboring property owners and the general public, and the aesthetics of the community. These regulations are in place to balance the need to improve energy sustainability through increased use of solar energy while preserving the public health, welfare, and safety, as well as environmental quality, visual and aesthetic values, and existing neighborhoods' social and ecological stability. Further, the intent is to minimize any adverse impacts on the character of the neighborhoods, property values, scenic, traffic safety, historic and environmental resources of the Town.
- C. In addition, solar energy systems need to be regulated for removal when they are no longer utilized or are out of compliance with the requirements of this chapter.

Use Variance Issue

As discussed previously, the Project as proposed requires a Use Variance from the Town of Eden Zoning Board of Appeals. The applicant applied for this Use Variance and the letter request is included in Appendix D of this document. Before the ZBA could act on the Use Variance, the Eden Town Board issued a Positive Declaration, and the EIS process needs to be completed prior to the ZBA acting.

During the scoping process, Erie County suggested the inclusion of the language that

the DEIS evaluate the variance standards applicable to both public utilities and non-public utilities as they specifically apply to the proposed Eden solar facility Project(s).

Based on a recent NYS Appellate Court decision, Use Variances for Solar Projects are to be considered a public utility. In NYS, a Use Variance for a public utility is only required to show “need” for the Project and does not need to show that it meets the other requirements of a Use Variance. The Court decision goes on further to state that based on NYS Energy policies and laws, the need for solar and other renewable energy projects has been shown.

Therefore, the County’s request, added to the scoping document, does not apply as the Project is a utility per the NYS Courts and therefore does not require an analysis for a non-utility use variance.

3.1.2 *Mitigation Measures*

As stated previously in section 3.1.1, the Town’s goals, as expressed in the laws of the Town, are articulated in the Purpose and Findings sections of the Town’s zoning code and solar energy system law. The following discusses how this Project meets the purpose and findings of these laws. Many of the goals listed in the Town’s laws and plans deal with the protection of agriculture, neighborhood stability, protecting resources, public health and safety, efficient use and protection of utilities and services, orderly development, protecting circulation in the Town and others. Based on the application and the information in this DEIS, we believe that the Proposed Project will not adversely impact agriculture, does not significantly impact any Town natural resources or utilities (no impact on public utilities), has been placed and designed to minimally impact aesthetics and the community’s character and should not adversely impact future developments in the Town. This Project meets the purpose and findings of these laws.

Surrounding land uses are primarily farming and single-family rural homes. The Project will be screened to minimize any impacts to other land uses in the area.

The Project has rightly been interpreted as needing a Utility Use Variance, based on the Town’s current laws. If that variance is granted, it will be based on the logic and reasoning of the ZBA. The decision itself is not precedence setting but the logic and reasoning behind that decision. The Applicant has provided information that the site is unique and that it cannot be applied to numerous other sites. It has also been shown by the Applicant (see Appendix D) that most other sites in the Town would not be suitable for this use. It has been stated and shown that the Project is a “utility” for the issue of a use variance and only needs to show need.

See section 3.7 for a discussion of community character issues. The proposed land use will be different than any surrounding use or any uses in the area but will be located and screened so the Project will not be seen from surrounding properties or from the road (traveling public).

3.1.3 *Reasonable Alternatives*

The Project, with screening proposed, will not be visible from the surrounding properties or the road. Therefore, no additional mitigation is being proposed.

The Project has been located to meet the needs of connecting into the grid. The

Applicant has provided their study information about other sites investigated and why this site was chosen.

As discussed previously, there are many uses that are allowed by right in the R2 district. Uses such as municipal services, places of worship, 5G facilities, Library and Cultural exhibits, short term rentals, municipal parking, some accessory uses and residential scale solar and systems/storage could be less of an impact on certain environmental qualities depending on the scale of the Proposed Project or could have greater impacts. These uses would all result in the loss of farmland and change the character of the area. A single-family home could be placed on this site, or the site could be subdivided for numerous single-family homes. A single-family home would have less impact, but the size of the site could attract a subdivision which would not fit into the character of the area and would create numerous other impacts. The various uses allowed by special use permit may or may not be approved on this site and would create their own impacts.

3.2 Impacts on Surface Waters

3.2.1 *Existing Conditions*

As shown in Figure 4 below, the NWI mapper indicated the presence of federal wetlands on-site. A wetland delineation conducted in August 2022 (see Appendix B of SWPPP in Appendix B of this document) identified four regulated wetlands, totaling approximately 15.47 acres, and two excavated farm ponds, approximately 0.57 acres and 0.44 acres, within the Project parcel. Existing wetland areas delineated on-site include a mix of palustrine emergent, scrub-shrub, and forested wetland types. The Project site is relatively flat, with surface drainage directed from Eden Evans Center Road southward across open agricultural land and contributing to the largest wetland. Topography suggests that off-site runoff from the largest wetland continues overland towards Rythus Creek, which ultimately discharges to Big Sister Creek and then to Lake Erie. As shown in Figure 5 below, the NYSDEC Informational Freshwater Wetlands mapper indicated the potential presence of state-regulated wetlands on-site.



Figure 5: State Wetlands Map

3.2.2 *Mitigation Measures*

As depicted on the Site Plans (Appendix B), the Proposed Action will involve minor ground disturbance within the wetlands for the installation of the gravel access road, solar panel posts and fence posts. The impacts associated with the access road will involve two wetland crossings, one covering approximately 0.02 acres and the other approximately 0.03 acres. Additionally, approximately 0.04 acres of tree clearing will be required within these areas. The fence and array posts have a small diameter and do not require concrete foundations; therefore, there is negligible impact to wetland hydrology, soil composition or vegetation and minimal disturbance is expected.

Additionally, as noted in the DEIS Scoping Document, the SEQRA Positive

Declaration indicates that the Project will exceed the 0.1-acre threshold for federal jurisdiction under the U.S. Army Corps of Engineers (USACE). The Project does not require mitigation under USACE regulations, as the installation of solar panels and fence posts does not constitute a jurisdictional impact, and the total wetland impacts due to the access road crossings and tree clearing are under the 0.1-acre threshold.

The NYSDEC expanded its regulatory oversight of freshwater wetlands, effective January 1, 2025. Under this expansion, jurisdictional protections for previously mapped freshwater wetlands will remain in effect, and NYSDEC's jurisdictional authority will expand to include wetlands meeting the freshwater wetland definition and state jurisdictional criteria for protection. As shown in Figure 5, it is possible that state-regulated wetlands are present on-site. The NYS Freshwater Wetlands Jurisdictional Determination request was submitted on February 18, 2025.

The Project will not increase stormwater runoff at the site. Existing drainage patterns will be maintained to the maximum extent practicable and minimal impervious surfaces are proposed. As stated in the NYSDEC Memorandum dated April 5, 2025 (see Project SWPPP, Appendix C), solar panel arrays are to be treated as "Land clearing and grading for the purposes of creating vegetated open space" as listed in Table 1, Appendix B of NYSDEC's General Stormwater Permit (GP-0-25-001). As such, no changes to the rate or volume of stormwater runoff are anticipated from Project operations. Refer to the Project SWPPP, Appendix B for Project quantity control calculations. Overall, the Project is not expected to result in significant adverse environmental effects to wetlands or surface waters.

3.2.3 *Reasonable Alternatives*

The Project has been designed to avoid and minimize wetland impacts to the greatest extent practicable. Due to the sporadic location of these wetlands throughout the site, it was not feasible to produce an array layout that completely avoided construction within the wetlands. Given the scope of work a jurisdictional wetland determination by the NYSDEC is required. If the jurisdictional determination identifies NYSDEC-regulated wetlands or regulated adjacent areas, an Article 24 Freshwater Wetland Permit may be required. Work will not commence until permits are obtained. The NYS Freshwater Wetlands Jurisdictional Determination is currently pending.

To further mitigate potential impacts to surface water and wetlands, a Stormwater Pollution Prevention Plan has been developed in compliance with NYSDEC's General Stormwater Permit (GP-0-25-001) to manage runoff and prevent sedimentation in adjacent wetlands. The preservation of existing vegetative buffers around wetland areas will help maintain their hydrological and ecological functions. Best Management Practices (BMPs) will be installed and maintained including silt sock, construction phasing, a stabilized construction entrance, waste management and spill prevention, and routine site inspection and maintenance. The Project will adhere to all applicable local, state and federal permitting requirements.

3.3 Impact on Agricultural Resources

3.3.1 *Existing Conditions*

The Project site is located within Erie County Agricultural District 8, and

surrounding land is predominantly used for agricultural purposes (row crop farming and pastureland). Agricultural operations in the region contribute to the local economy and food production. The Project area will be located in the southern portion of the Project parcel that is currently being used agriculturally for field crops (corn) and was last farmed in 2023 under a lease agreement with a separate farmer. There are three existing ponds on-site, including two excavated farm ponds and one natural pond. The Project is within 500 feet of multiple active farm operations (see Ag Data Statement, Appendix A).

As shown in Figure 6 below, the Project parcel contains farmland soils. According to the USDA Natural Resources Conservation Service (NRCS) soil classification, approximately 98.40 acres of the 99.49-acre parcel are designated as prime farmland, farmland of statewide importance, or prime farmland if drained. The predominant soil types include Rhinebeck silty clay loam, Raynham silty loam, Canandaigua silt loam, and Blasdel channery silt loam. These soils are classified as highly productive and suitable for agricultural use. Additionally, as shown in Figure 7 below, approximately 21.83 acres of the 99.49-acre parcel contain soils with mineral soil groups 1-4, which are classified as some of the most productive agricultural soils in New York State.

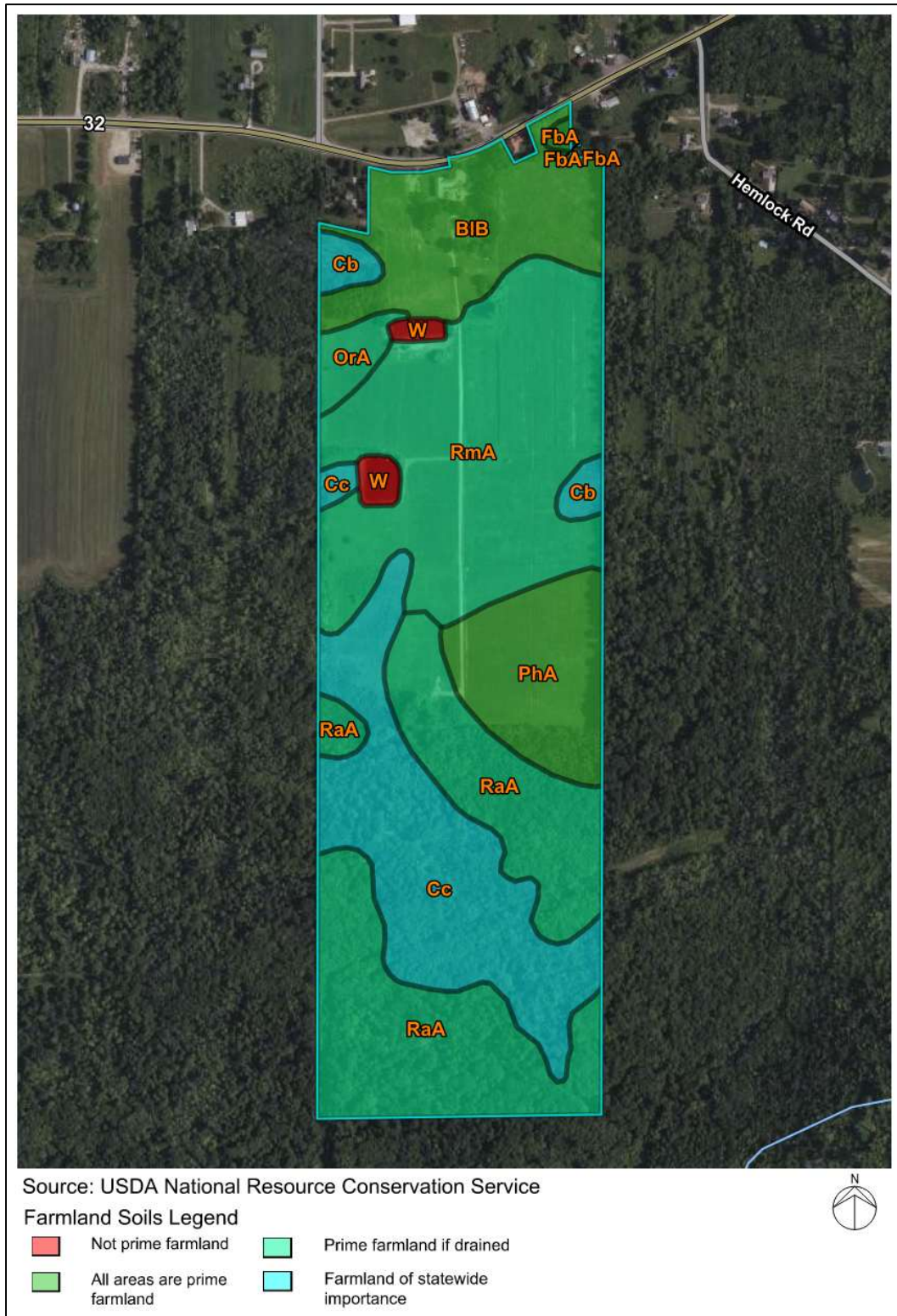


Figure 6: Farmland Soils Map

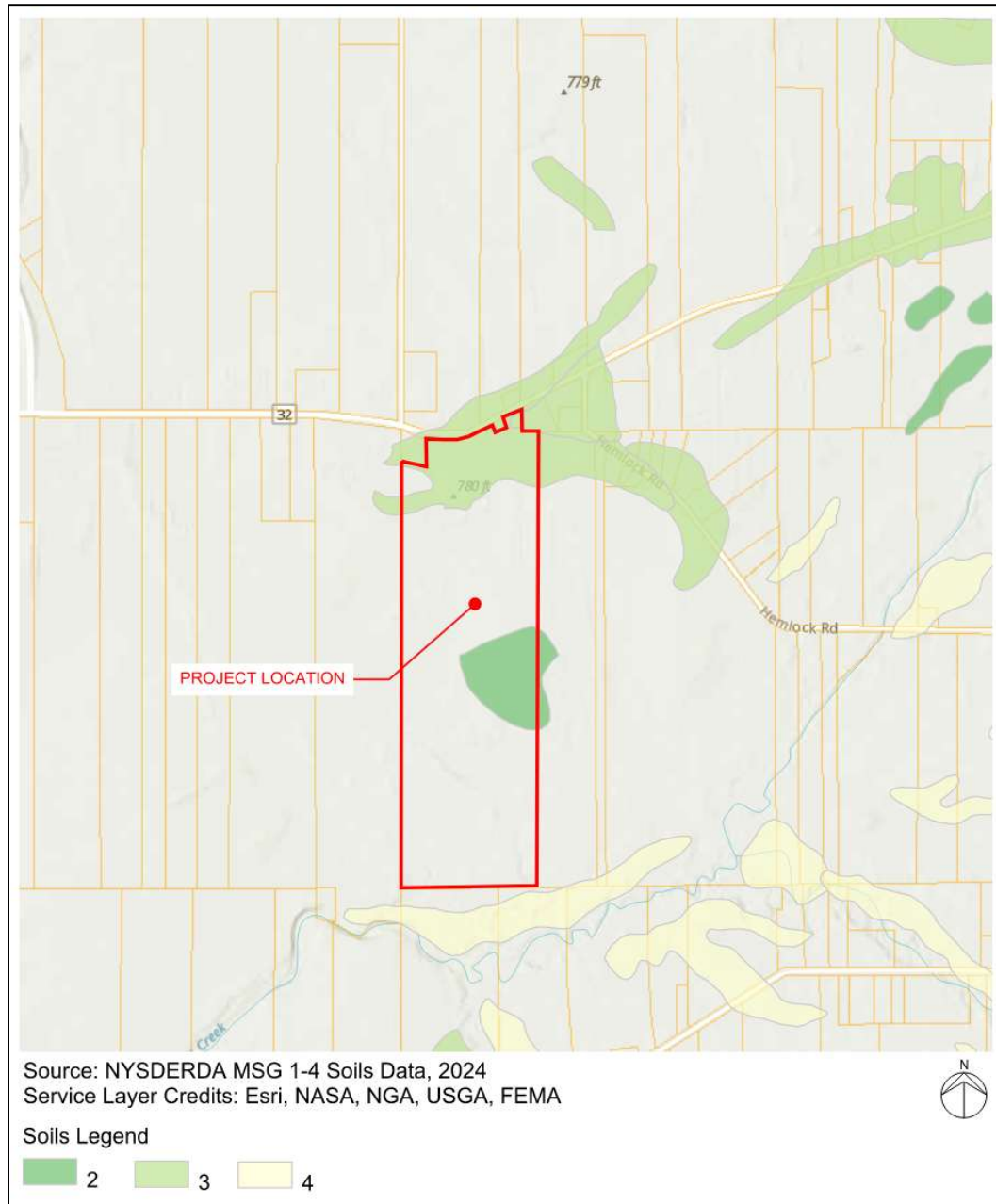


Figure 7: MSG 1-4 Soils Map

3.3.2 *Mitigation Measures*

The development of the solar facility will result in the temporary loss of farmland within the Project area for the duration of the facility's operational lifespan (approximately 30 years). The solar facility will occupy approximately 22.65 acres of the 98.00-acre parcel. Within the Project area, approximately 22.64 acres of prime farmland soil and approximately 4.54 acres of land containing mineral soil groups 1-4 will be disturbed for the construction of the solar facility. The Project has been designed to minimize grading in these areas to reduce impacts on soil structure and future agriculture viability. See drawing C103 of the Project Site Plans in Appendix B for more information.

Indirect impacts on agriculture in the surrounding area are expected to be minimal. The presence of the solar facility will not introduce pollutants, excessive noise, or other disruptions that could interfere with adjacent farming activities. Furthermore, the Project will comply with NYS Department of Agriculture and Market's (NYSDAM's) guidelines to ensure soil integrity is maintained.

At the end of the facility's lifespan, approximately 30 years, the decommissioning plan will include the removal of infrastructure, soil decompaction to a depth of 18 inches, and the restoration of agricultural productivity through topsoil replacement and reseeded. Special attention will be given to areas containing mineral soil groups 1-4 to ensure their long-term viability for future agricultural use. It is also noted that a common practice in agriculture is to allow fields to rest in fallow periods that can range from one to five years, which allows the land to recover and store organic matter while retaining moisture and disrupting the life cycle of pathogens by temporarily removing their hosts. The lifespan of the proposed solar facility is essentially a long fallow period, and this the area will be in better condition than the current situation. These impacts are temporary, and mitigation measures will ensure that the land remains suitable for farming and can be returned to active agricultural use, if desired, after the Project is decommissioned.

3.3.3 *Reasonable Alternatives*

The Proposed Project may have a small, temporary impact on agricultural resources, but it is not expected to have a substantial impact on agriculture within the Town or region. To further reduce impacts on agricultural resources, soil conservation practices will be implemented to minimize soil erosion and compaction during construction and operation. Any excavated topsoil will be stockpiled on-site and redistributed throughout the site. A vegetative ground cover with a pollinator friendly seed mix will be established to improve soil health and biodiversity while preventing erosion. Additionally, the NYS Department of Agriculture and Markets (NYSDAM) provides guidance on the construction of solar facilities within agricultural districts, which will be followed throughout all construction of this facility as it ensures minimal impacts.

Additionally, while the Project site does contain agricultural soils, it must be noted that the landowner has stated that soil productivity on-site is in decline.

3.4 Impact on Aesthetic Resources

3.4.1 *Existing Conditions*

The Project site is in a rural area. The terrain is relatively flat with gentle slopes. The site is bordered to the east and south by dense deciduous tree lines that are overgrown with brush and grasses. This vegetation will act as a natural visual screen for the Project.

There are no State or Local designated areas of Aesthetic or Scenic Resources on the Project site, substantially contiguous to, nor within a 1-mile radius of the Project. According to the New York State Environmental Quality Review Act, "Officially designated scenic areas include scenic byways, scenic roads, scenic areas of statewide significance, scenic trails, and scenic rivers. Other designated areas may also include places or sites listed on the National or State Registers of Historic Places, State Parks, State Forest Preserve areas, State Game Refuges, National

Natural Landmarks, and National Park Service Lands. Note that other areas may also be designated for scenic and aesthetic reasons at the local level. For example, some local municipalities have conducted their own scenic inventory and have designated those areas in county or local plans, and may include municipal parks and designated open spaces, local roads, or historic areas. Others have designated critical environmental areas for aesthetic reasons. Publicly accessible aesthetic or scenic resources are those that can be viewed from public lands or on public roads”. Based on this definition, the site does not contain, nor is adjacent to any resources which fit the criteria of this definition.

However, while there are no official State or Local official designated areas of Aesthetic or Scenic Resources, the DEIS seeks to consider potential visual impacts of this Project, together with another proposed solar Project in the area.

As shown in Figure 8 below, there is a similar Proposed Project, Eden Solar, proposed to be located at 2394 West Church Street in the Town of Eden. Eden Solar will be located approximately 1.5 miles east from the Eden II Project and will be located on the northern side of the road. The proposed Eden Project is a proposed 3,200 kW AC stand-alone ground mounted solar photovoltaic array system on a 14.17-acre portion of the 98.00-acre parcel (tax parcel ID: 223.00-5-7.112).

There are no anticipated cumulative impacts due to the existence of both the Eden and Eden II Projects. Due to existing topography, vegetation, and distance, the proposed Eden II Project will not be visible from the Eden Project. Both Projects will be setback from the roadway and screened from view. Neither Project will lead to severe increases in traffic, noise, or other potential adverse impacts. Both Projects will be decommissioned to NYSDAM standards, which will result in both Project sites returning to agricultural land or another allowable use in the future.



Figure 8: Aesthetic Resources Map

3.4.2 Mitigation Measures

There are no designated aesthetic resources on the Project site, nor in the 1-mile radius surrounding the Project. Therefore, the Project will have no impact on designated aesthetic resources. There are no public resources located within or adjacent to the Project site. The Project site will not be visible from any public resource. Therefore, no mitigation measures are necessary.

3.4.3 Reasonable Alternatives

The Project is situated towards the rear of the Project parcel and is setback

approximately 709 feet from Eden Evans Center Road. Existing vegetation to the south, west and east of the Project provides natural screening and can screen the Project from any potential future land use/ development. Vegetative screening is also proposed along the northern edge of the Project area to ensure that the site is of little or no visual concern. See Appendix B for the Visual Impact Analysis (VIA) and simulation photos of the Project site.

3.5 Impact on Open Space and Recreation

3.5.1 *Existing Conditions*

The site currently consists of undeveloped, gently sloping grassland. The northern end of the Project site is abutted by single-family homes, some tree lines, and Eden Evans Center Road. The western portion of the site is abutted by agricultural fields. The eastern and southern portions of the site are abutted by dense deciduous tree lines. This forested area provides a natural buffer between the Project site and adjacent residences.

The entire site is currently utilized for agricultural purposes and has been cleared of trees. The topography of the site undulates slightly and there are no prominent ridgelines or elevated vantage points. The site does not feature any designated trails, pathways or other recreational features. The Project site does not contain any designated Parkland, and the Project site is not currently utilized for recreational purposes. As shown in Figure 9, there were no properties identified containing open space or recreational features within 1-mile of the Project site.

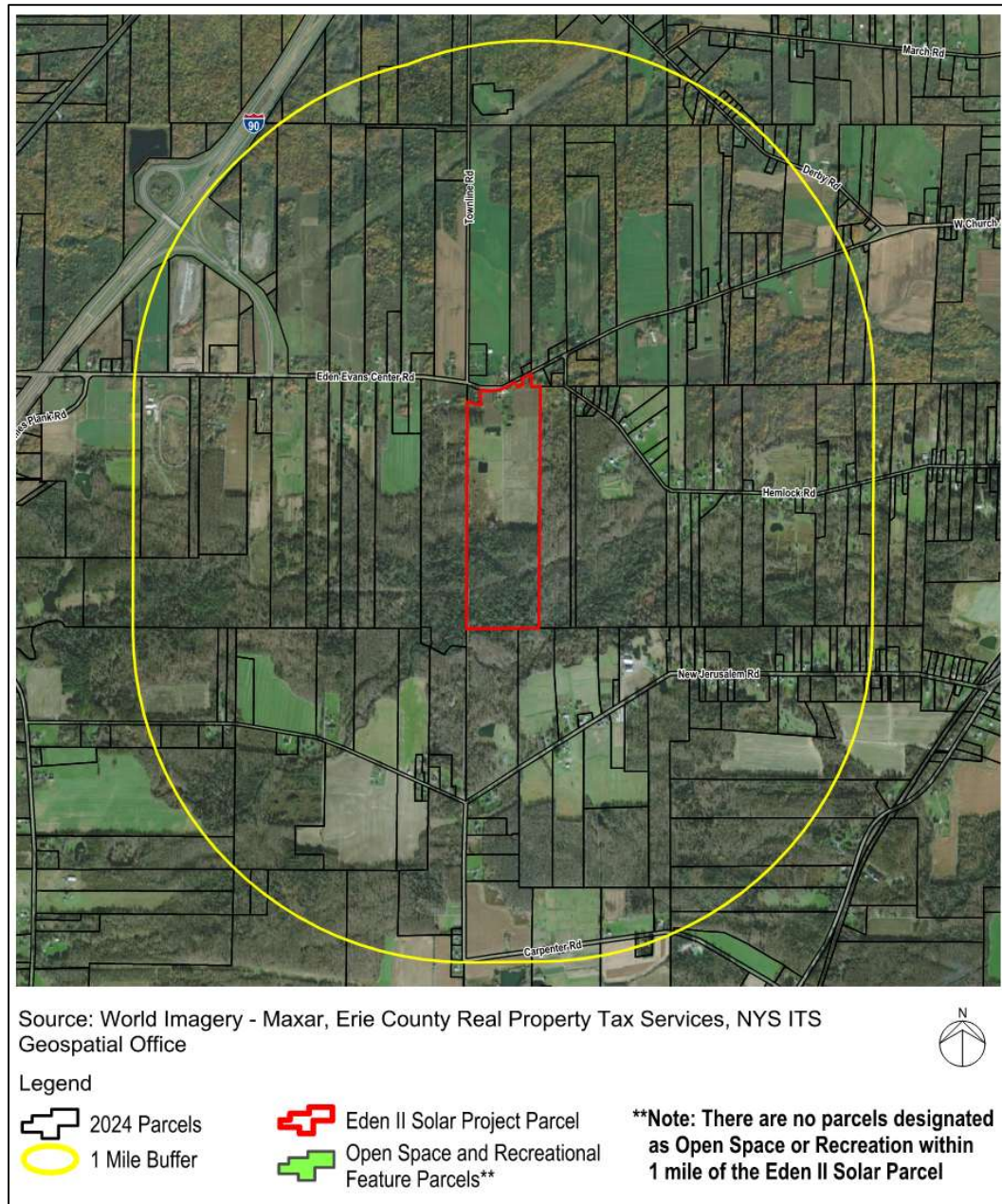


Figure 9: Open Space and Recreational Features Map

3.5.2 Mitigation Measures

According to SEQR, Open Space is defined as land or water that is undeveloped (free from residential, commercial, industrial, or institutional use). Municipalities and Counties can also identify “Designated” open space areas. These areas are typically identified in Zoning Districts/Overlay Districts and criteria set forth in the Comprehensive Plan. Designated open space areas are specifically identified for protection and preservation purposes.

The Town emphasizes the importance of open space preservation, as well as the preservation of rural character. As stated in the Comprehensive Plan, “Like many

rural communities, Eden’s assets lie in its natural beauty and open spaces. The Town’s success lies in the balance and cultivation of these assets with appropriate growth and development that preserves the small-town character that identifies us” (pg. 22).

This Project will result in the temporary removal of 22.65 acres of undesignated Open Space in the Town. The impact of this removal will be minimal. The solar facility will be in operation for a maximum of 30 years and will be decommissioned to NYSDAM standards. Once decommissioned, the soil on the site will be left in the same, or better conditions.

This site is private property, and highly isolated from access to the public due to the presence of farmland, dense forested areas, as well as the landowner’s residence that separates the site from the main roadway. There is no public access to the site from any side of the site, as the eastern, southern, and western portions of the site are bordered by dense forested areas and farmland. There are no recreational facilities located on the site.

The open space present on the property is not officially designated Open Space by the Town or County and has been utilized as private farmland. The site is zoned “R2”, which does not provide special protections or preservation requirements for Open Space, such as how the Parkland or Agricultural Priority Districts do. This specific district encourages development in the Town (see section 3.1 for discussion on Zoning Code).

This loss of Open Space will not be permanent. Following the useful life of the facility, estimated at approximately 30 years, decommissioning shall ensure a return of the Project site to its original condition, where it can then be developed into an allowed use, or utilized again as farmland or parkland.

3.5.3 *Reasonable Alternatives*

Although the Project Site is not officially designated as protected open space or public parkland, it is currently undeveloped and contributes to the visual and spatial open agricultural character of the surrounding landscape. The following alternatives were explored to assess whether the proposed action could be modified to further reduce its potential impact on open space and recreation.

One alternative considered was relocating the proposed solar facility within the Project parcel to preserve existing natural vegetative buffers and retain a greater portion of the site as undeveloped land. However, the parcel’s physical constraints including wetlands, required setbacks and proximity to residential uses limited the flexibility of relocating the arrays. Additionally, shifting the Project southward would encroach on forested areas and sensitive ecological resources, and shifting the Project west would result in additional impacts to wetlands and surface waters. As a result, the selected layout was determined to be the most effective option for preserving as much contiguous open space as possible while avoiding greater environmental impacts.

Evaluating an entirely different site location was also considered. However, as discussed in the Site Selection Analysis (see ZBA Letter – July 2024, Appendix D), few alternative sites within the region offer comparable feasibility. Many contain high-value agricultural land, active farming operations, or are located in areas of

higher residential density. Moreover, the landowner has indicated that only limited farming will continue on-site due to poor soil productivity, and that long-term agricultural use is not sustainable. The Proposed Project location presents a viable opportunity to transition underutilized open land to productive renewable energy use.

Ultimately, the selected site and layout reflect a balance between optimizing renewable energy generation and preserving opportunities for future open space or alternative uses through site decommissioning.

3.6 Impact on Community Plans

3.6.1 *Existing Conditions*

The following text discusses the local and regional plans which may impact the Project, as well as local ordinances in the Town of Eden. These plans and policies shape the precedent for which development can occur in the town and region.

Local Plans

The Town of Eden Agricultural and Farmland Protection Plan (2008):

The Town of Eden recognizes the historic, cultural, and economic significance of its agriculture industry and has developed an Agricultural Plan to prepare for the Town's future. Established in 2008, this plan reassesses the Town's current agricultural climate and analyzes agricultural assets and opportunities in the Town. The Plan focuses on agricultural growth, protection, and preservation goals for the Town and suggests strategies to achieve these goals. Such strategies include promoting agritourism, maintaining a high level of productive agricultural lands, and educating the non-farm public on the importance of agriculture in the town.

Town of Eden 2015 Comprehensive Plan:

The Town of Eden Comprehensive Plan (2015) sets forth a framework of Planning goals and objectives for the community. These eight major goals are listed as follows: Rural Character Preservation, Eden Center Redevelopment, Economic Development, Agricultural Development and Farmland Protection, Open Space Conservation, Environmental Protection, Growth Management, and Transportation System Management. The development of this plan included the input of various community stakeholders.

Town of Eden Comprehensive Plan Update (2018):

The 2018 Comprehensive Plan Update identifies further goals and objectives for the town and builds upon the goals identified in the 2015 plan. These identified core goals are as follows: "Building Hamlet Vitality, Balancing Rural Character, Encouraging Economic Diversity, Supporting Local Agriculture, and Creating a Vibrant, Quality Community" (Town of Eden Comprehensive Plan Update).

Local Codes/ Zoning

The Town of Eden Zoning Code (2022):

Adopted in 2022, the Town of Eden Solar Law provides guidance, parameters, and requirements for solar energy systems in the Town. The purpose of this law is to promote the health, safety, and environmental protection of the Town, while

also accommodating the use of solar energy systems in the Town. The solar law lists the criteria required for building mounted, ground mounted, and utility scale solar Projects. See previous section 3.1.1 for additional information. The Town follows a common Euclidean Zoning model, where districts are separate and distinguished by use.

Town of Eden Right to Farm Law Code Chapter 106:

The legislative intent of this code is to protect and preserve the farm industry and related agricultural businesses in the Town of Eden. The code states, “The purpose of this article to reduce the loss to the Town of Eden of its agricultural resources by limiting the circumstances under which farming may be deemed to be a nuisance and to allow agricultural practices inherent to and necessary for the business of farming to proceed and be undertaken free of unreasonable and unwarranted interference or restriction” (Town of Eden Right to Farm Law Code Chapter 106).

Regional Plans

Erie County Agricultural Farmland Protection Plan (2012):

Recognizing that Erie County has excellent conditions for agricultural production but has lost substantial farmland since the early 1970s, the purpose of the plan is to direct Erie County’s agricultural planning for the next decade. Its two major strategies are to “(1) Keep land in agricultural production by protecting farmland, helping a new generation to farm, and improving the viability of all farms in the county, and (2) inform the public, local leaders, and elected officials about the benefits that agriculture provides and support policy and legislative changes that will improve farm viability” (Erie County Agricultural Farmland Protection Plan).

2013 Western New York Regional Sustainability Plan:

This plan was developed for all counties in the Western New York region by the One Region Forward Regional Planning Consortium, with input from key stakeholders and the public. This plan addresses the issue of climate change and adaptation across specific sustainability focus areas. The plan provides resources and strategies for the protection of existing spaces of importance, the protection and preservation of natural resources, and for the improvement of infrastructure to better protect and preserve land and water resources in the region. The Project is consistent with the Western New York Regional Sustainability Plan because the Project supports the regions’ goal of supporting solar energy facilities. Page xiii of the Plan states that one of the specific regional sustainability goals developed for WNY is to “Increase renewable energy generation in the region” (WNY Regional Sustainability Plan). Chapter 3, page 13 of the Plan additionally states, “The region’s target is to increase renewable energy generation to 75% by 2025” (WNY Regional Sustainability Plan).

3.6.2 *Mitigation Measures*

Consequences to Local Plans

The Project will have no negative impact or consequence to local plans. No local plans specifically mention this site, nor refer to this site as an area of importance or priority for agricultural or open space preservation. While the site is currently farmed, the landowner has stated that the soil has become less productive over time.

Furthermore, the installation of a solar facility will not permanently alter the agricultural soils in a negative way and will not prohibit future agriculture use on the site, unlike other more permanent uses. During the useful life of the Project, the agricultural soil on the site will be given time to rest, which ultimately will benefit long-term agriculture in the Town. The project will not impact the Town's Right to Farm Law. This purpose of this law is to protect farming by preventing farm activity in the Town from being deemed a nuisance.

Consequences to Regional Plans

The Project will have no negative impact or consequence to regional plans. The Project is highly in conformance with the goals and strategies identified in the regional plans for responsible renewable energy generation. The Project will contribute to the presence of solar energy systems in Western New York, without causing the loss of priority, highly productive agricultural land.

Consequences to Zoning

This parcel is zoned as "R2", Neighborhood Residential, which allows farmland and open space, but provides little to no specific protections for these uses and also encourages some forms of permanent development. The Project will require a Utility Use Variance. See section 3.1 for additional discussion of zoning and the use variance.

The local plans for the Town of Eden set precedent for the vision of the community. All local plans place important emphasis on balancing rural character and aesthetics, as well as supporting local agriculture industries. As such, development should be sensitive to this. The Project will cause the temporary loss of active farmland. However, this farmland is not highly productive, as stated by the landowner. Due to the fallow period of soil rest which will occur during the useful life of the Project, the soil post-decommissioning will be left in a better state than it is in currently. Additionally, due to setbacks and proposed screening, the Project will not be visible from the right-of-way, or any other asset in the Town. Therefore, the Project will be unlikely to disturb the rural character of the area (refer to VIA, Appendix B).

3.6.3 Reasonable Alternatives

In NYS, a Use Variance for a public utility is only required to show "need" for the Project and does not need to show that it meets the other requirements of a Use Variance. The Court decision goes on further to state that based on NYS Energy policies and laws, the need for solar and other renewable energy Projects has been shown.

The applicant has demonstrated, through a study provided, that there are limited parcels of land in the Town in which this solar system could meet all criteria to be placed within.

3.7 Impact on Community Character

3.7.1 Existing Conditions

The site currently consists of gently sloped land which is utilized for agricultural purposes and has been cleared of trees. The central portion of the site is currently used as active farmland. The southern portion of the site consists of dense forested areas and the eastern and western edges of the Project site are abutted by tree lines.

The northern portion of the site is where the landowner resides and is separated from the Project site by tree lines. The site is adjacent to Eden Evans Center Road, but is isolated from the roadway by the farmland, forested areas, and the landowner's residence. The Project area is undeveloped, and as such, there are no public water or sewer facilities within or near the Proposed Project area.

Private recreational entities within a 1-mile radius of the Project Site include the Eden Driving Range and Mini Golf and the West Wind Stables. The Project area is undeveloped, and as such, there are no public water or sewer facilities within or near the Proposed Project area.

The Project site does not contain, nor or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places. There are no archaeological or historic site(s) or resources identified within a 1- mile radius of the Project site, according to the New York State Cultural Resource Inventory Mapper (CRIS). The site is not part of, nor is it substantially contiguous to, a registered National Natural Landmark, nor is it in a 1-mile radius of one.

Within a 1-mile radius of the Project site, the natural landscape is made up of gently sloped land, containing both forested areas as well as areas which have been cleared for farming. A variety of crops are grown within agricultural areas. The character of the area is generally low density residential and rural. The architectural scale of the area primarily consists of single-family homes, a variety of agricultural businesses and farms, and small residential scale businesses.

The surrounding area consists of primarily low-density residential homes, small farms and other agricultural operations, and forested areas. See Figures 10-16 for representative photos of the typical architectural characteristics and natural landscapes within 1-mile of the Project site.



Figure 10: Looking northwest on Eden Evans Center Road with view of vacant land and forested areas (Image Date: August 2022)



Figure 11: Looking southwest on Eden Evans Center Road with view of agricultural land and forested areas (Image Date: August 2022)



Figure 12: Looking northeast on West Church Street with view of agricultural land (Image Date: August 2022)



Figure 13: Looking southeast on West Church Street with view of single-family residence and agricultural land (Image Date: August 2022)



Figure 14: Looking northwest on Eden Evans Center Road with view of a single-family residence and agricultural farm (Image Date: April 2023)



Figure 15: Looking north on Hemlock Road with view of a single-family residence (Image Date: April 2023)



Figure 16: Looking west on Hunt Avenue with view of a single-family residence (Image Date: April 2023)

The Project site is currently zoned as “R2”, Neighborhood Residential. The Zoning Code states, “This District is intended to provide the Town with residential development capacity to support commercial activity within Eden Center. Residential uses would range from single-family residential to townhouses and developments catered to specific lifestyles (seniors, empty-nesters, first-time homeowners, etc.) and income levels. For single-family uses, rather than the typical “bowling alley” type of lots developed along major thoroughfares, subdivisions are encouraged to have dedicated roadways or clustering to better utilize lands and maintain the semi-rural character. Recreational, community service, institutional, conservation, and limited residential-commercial mixed uses are also encouraged in the Neighborhood Residential District to provide neighborhood vibrancy without detracting from the main commercial centers of Eden Center and East Eden. This District is considered a “receiving area” for Transfer of Development Rights as a means to conserve/protect land in other areas of the Town and provide opportunities for greater density where feasible.”

3.7.2 *Mitigation Measures*

The Proposed Project will be a land use which does not typically fit within the rural character of the town. The R2 District does not inherently allow utility grade solar Projects within the district.

The Proposed Project will be set back 709 feet from Eden Evans Center Road. The Project is also separated from the roadway by fields and single-family homes located along Eden Evans Center Road. Vegetative screening will be placed between the field and single-family homes, and Eden Evans Center Road. The final design incorporates existing natural screening where possible and enhances vegetative buffers in areas with greater visibility concerns. As the Project will not be visible, it will not disrupt the rural character of the community. There are permanent uses allowed in this district which arguably could impact rural character in a greater way than a non-visible solar field.

Additionally, this Project will not impact or disturb any surrounding land uses and will not impact potential future agricultural use in surrounding areas.

As discussed previously, the Project as proposed requires a Utility Use Variance from the Town of Eden Zoning Board of Appeals. The applicant applied for this Use variance and the letter request is included in Appendix D of this document.

Based on a recent NYS Appellate Court decision, Use Variances for Solar Projects are to be considered a public utility. In NYS, a Use Variance for a public utility is only required to show “need” for the Project and does not need to show that it meets the other requirements of a Use Variance. The Court decision goes on further to state that based on NYS Energy policies and laws, the need for solar and other renewable energy Projects has been shown.

The Project has rightly been interpreted as needing a Use variance, based on the Town’s current laws. If that variance is granted, it will be based on the logic and reasoning of the ZBA based on the laws of NYS and the Town (ZBA Findings). The decision itself is not precedence setting. We have provided information that the site is unique and that it cannot be applied to numerous other sites. It has also been shown by the applicant (see Appendix D) that most other sites in the Town are not suitable for this use.

3.7.3 *Reasonable Alternatives*

The following alternatives were explored to assess whether the proposed action could be modified to further reduce its potential impact on Community Character.

One alternative considered was relocating the proposed solar facility within the Project parcel to preserve existing natural vegetative buffers and retain a greater portion of the site as undeveloped land. However, the parcel's physical constraints including wetlands, required setbacks and proximity to residential uses limited the flexibility of relocating the arrays. The northern portion of the parcel, closest to Eden Evans Center Road, is currently occupied by the landowner's residence, while the central portion of the site is open farmland with three existing ponds, and the southern portion of the site is a dense forested area. The Project area is constrained by property lines to the east and west. Shifting the solar facility to the north would place it closer to the landowner's residence and result in additional setback waivers to structures and adjacent parcels. Shifting the solar facility south would require extensive clearing of forested areas and additional impacts to wetland areas, which could lead to greater ecological disruption. As a result, the selected layout was determined to be the most effective option for preserving as much contiguous open space as possible while avoiding greater environmental impacts.

Evaluating an entirely different site location was also considered. However, as discussed in the Site Selection Analysis (see ZBA Letter – July 2024, Appendix D), few alternative sites within the region offer comparable feasibility. Many contain high-value agricultural land, active farming operations, or are located in areas of higher residential density. While the Project parcel is currently being used agriculturally, the landowner has stated that soil productivity is in decline. Given the land's degradation of soil quality and diminishing suitability for long-term farming, the Proposed Project location presents a viable opportunity to transition underutilized open land to productive renewable energy use.

Additionally, adjustments to site access and buffer areas were explored. The final design incorporates existing natural screening where possible and enhances vegetative buffers in areas with greater visibility concerns. The layout also minimizes grading and soil disturbance by taking advantage of the site's natural topography. The selected configuration ensures that the Project meets energy production goals while mitigating environmental and aesthetic impacts to the extent practicable.

Ultimately, the selected site and layout reflect a balance between optimizing renewable energy generation and preserving opportunities for future open space, agriculture or alternative uses through site decommissioning.

To further reduce impacts to Community Character, the Applicant has entered into a Host Community Agreement (HCA), PILOT Agreement, and Good Neighbor Agreement with the Town. The HCA and PILOT agreements provide monetary benefits to the Town for the duration of the Project's life. The executed Good Neighbor Agreement can be found in Appendix B.

4. Unavoidable Adverse Impacts

4.1 Unavoidable Short-Term Impacts

There will be temporary, construction related impacts related to this Project. All construction impacts will cease once the Project is fully built and operational. Temporary impacts will mainly pertain to noise and vehicles traveling to and from the site during construction. The construction period for this Project is estimated to total approximately 6 months.

During construction, louder noise will be generated by heavy equipment. This noise will be comparable to that of nearby highways. During construction, post installation sounds may exceed at times ambient (background) levels at the property limits for short durations over the course of a few weeks in which posts are to be installed. The construction period is estimated to total about 6 months; however, the duration of excessive noise is expected to occur for only 3-4 months of this period. Construction-related noise will be restricted to typical daytime work hours. Once built, the sound at the property line is estimated to approximate that of a typical human conversation, or between 50 and 65 decibels in total. With the setback from nearby houses and vegetative buffers, the sound will be inaudible to area residences.

During construction, there may be a minor increase in vehicles traveling to and from the site via Eden Evans Center Road and other major roadways in the Town. These vehicles will be transporting construction materials and construction staff. Any increase in vehicle trips to the site will cease when construction has finished, apart from an inspector visiting the site on occasion.

There is no anticipated increase in dust or odor due to the Project, but if so, any increase will be limited only to the construction period of the Project.

4.2 Unavoidable Long-Term Impacts

The Proposed Project may be perceived as having an impact on agricultural resources, though it is not expected to have a substantive impact on agriculture in the Town or region. Eden II Solar is located within an Agricultural District (ERIEc08), and contains soils within soils groups 1-4, which are considered highly productive soils. The solar facility will occupy approximately 22.65 acres of the 98.00-acre parcel, of which contain approximately 22.64 acres of prime farmland soil and approximately 4.54 acres of land containing mineral soil groups 1-4. Nonetheless, impacts will be avoided because these and other soils onsite shall be preserved by virtue of the proposed construction requiring minimal soil disturbance. In addition, the NYS Department of Agriculture and Markets (NYSDAM) provides guidance on the construction of solar facilities within agricultural districts, which will be followed throughout all construction of this facility as it ensures minimal impacts. The surrounding areas of agricultural activity adjacent to the Project site will not be impacted by the Project.

Moreover, following the useful life of the facility, estimated at approximately 30 years, decommissioning shall also ensure a return of the Project site to a condition that can again be farmed, if desired. It is also noted that soil is depleted of nutrients when land is continuously farmed. Fertilizers must be applied on an annual basis to continually grow most crops. A common practice in agriculture is to allow fields to rest in fallow periods that can range from one to five years, which allows the land to recover and store organic matter while retaining moisture and disrupting the lifecycles of pathogens by temporarily removing their hosts. The lifespan of the proposed solar facility is essentially a long fallow period that provides the soil with time to rest and replenish important nutrients. As a result, when decommissioned to NYSDAM standards, the area is in a better condition than the current situation for continued

farming or another productive use. Thus, the impacts, in situations where there is ongoing agricultural production, are temporary, especially as compared to other forms of development, and even arguably beneficial to a long-term agricultural industry.

5. Alternatives

5.1 No Action Alternative

SEQRA requires an evaluation of the “adverse or beneficial site changes that are likely to occur in the reasonably foreseeable future, in the absence of the proposed action” (6 NYCRR 617.9(b)(5)(v)). Under the No Action Alternative, the Project site would remain in its current state, and no development would occur. There would be no change to the environmental impact on the site as otherwise exists.

The property is currently used for agriculture, primarily for field crops; however, the landowner has indicated that due to the declining soil productivity, only limited farming would continue in the future. Once agriculture use is discontinued, this site could then be subdivided for residential development or utilized for any other permitted land use in accordance with the Town of Eden zoning. The No Action Alternative would forgo the benefits of renewable energy generation at the site and potential energy discounts to the local community. Additionally, the site would likely transition to another use in the future, potentially leading to similar or greater environmental impacts depending on the nature of the redevelopment.

5.2 Site Location Alternative within Site

An alternative site layout within the existing Project parcel was considered in accordance with 6 NYCRR 617.9(b)(5) to minimize environmental impacts. The Project parcel is surrounded to the east, west, and south by deciduous tree lines that are overgrown with bushes and grass. The northern portion of the parcel, closest to Eden Evans Center Road, is currently occupied by the landowner’s residence, while the central portion of the site is open farmland with three existing ponds, and the southern portion of the site is a dense forested area.

The Project area is constrained by property lines to the east and west. Shifting the solar facility to the north would place it closer to the landowner’s residence and result in additional setback waivers to structures and adjacent parcels. Shifting the solar facility south would require extensive clearing of forested areas and additional impacts to wetland areas, which could lead to greater ecological disruption.

Due to the dispersed nature of these wetlands throughout the site, it was not feasible to produce an array layout that completely avoided construction within the wetlands. The proposed layout was selected to balance environmental considerations and local zoning requirements, while minimizing disturbance to sensitive areas to the greatest extent practicable.

5.3 Alternative Layout of Site

Various alternative configurations of the solar array within the Project site were considered in accordance with 6 NYCRR 617.9(b)(5) to optimize land use efficiency, reduce visual and environmental impacts, and maximize renewable energy generation.

One alternative considered reducing the footprint of the solar facility to preserve additional open space. However, this would limit the Project’s energy generation capacity and affect its

economic viability. Given the need for sufficient panel spacing, maintenance access, and setbacks, reducing the footprint was determined to not be practicable.

Another alternative included reorienting the solar panel rows to maximize solar exposure while preserving buffer areas. It was determined that altering the optimal tilt and spacing would decrease energy output and reduce the Project's overall efficiency. The proposed layout was chosen to achieve an optimal balance between energy production, land use compatibility, and environmental preservation.

Additionally, adjustments to site access and buffer areas were explored. The final design incorporates existing natural screening where possible and enhances vegetative buffers in areas with greater visibility concerns. The layout also minimizes grading and soil disturbance by taking advantage of the site's natural topography. The selected configuration ensures that the Project meets energy production goals while mitigating environmental and aesthetic impacts to the extent practicable.

5.4 Alternative Site Location

Several alternative sites were evaluated in accordance with 6 NYCRR 617.9(b)(5), however, there are significant logistical constraints in siting solar Projects. As outlined in the Site Selection Analysis (see ZBA Letter – July 2024, Appendix D), there are multiple factors that make a site feasible including size, proximity to existing utility infrastructure, topography, and landowner willingness.

A primary factor in the site selection was proximity to existing electrical infrastructure. The proposed site is located near electrical transmission lines with available capacity, making interconnection viable (see CESIR in ZBA Letter – June 2024, Appendix D). The proposed site is strategically located near transmission lines with available grid capacity. Alternative locations lacked sufficient grid infrastructure or would have required costly upgrades, making them impractical for solar development.

Land use compatibility was another key consideration. Many alternative parcels in the region either contain higher quality farmland, active agricultural operations, or increased residential density, making them less favorable for solar development. The proposed site includes land that is less productive for farming, thus reducing conflicts with agricultural preservation goals. Additionally, the existing topography of the proposed site is another favorable characteristic, as the relatively gentle slopes will not require significant grading or earthwork.

Overall, while several alternative sites were considered, the proposed site presents the most practical and least impactful option for developing the solar facility while still achieving the Project's renewable energy goals.

6. **Irreversible and Irretrievable Commitment of Resources**

The proposed solar Project will require the irreversible and irretrievable commitment of certain construction materials and financial resources necessary for its development and implementation. However, beyond these essential inputs, the Project is not expected to cause the irreversible commitment of many other resources.

The land on which the Project will be located consists of prime Agricultural soil. For the 30-year duration of the Project's operational life, this land will be temporarily removed from the Town's inventory of farmland. While the use of this land for non-agricultural purposes will result in an

irretrievable loss of agricultural production for that period of time, the impact is not considered irreversible. Once the Project is decommissioned, the land will be restored to its natural state and may again be used for agricultural purposes, thereby preserving its long-term potential for farming.

Following decommissioning of the Project, most of the Project materials (i.e., panels, racking, supports, electrical components, concrete pads, etc.) will be recycled.

7. Growth Inducing Aspects

7.1 Primary and Secondary Impacts

The Project will generate approximately 20 temporary job opportunities that will potentially be filled by residents in the town and throughout Erie County and the Western New York region. These jobs will be related to the construction of the facility and will cease once the Project is fully built and operational.

7.2 Population/Development Density Impacts

This Project will not impact population or development density. This Project is not anticipated to cause an increase in individuals or families moving to the town. The Project is not anticipated to cause an increased need for development and will not increase density in the Town.

7.3 Infrastructure Impacts

This Project is not anticipated to cause an increase in impacts to the surrounding infrastructure. This Project will be isolated from other potential development in the town and will specifically be separated from other uses by a roadway, existing tree lines and forested areas, and additional vegetative screening. The Project will not require the extension of sewers, waterlines, or other infrastructure.

7.4 Increased Development Pressure on Farmlands

The Proposed Project will not lead to increased development pressure on farmland in the Town of Eden. The Project site is currently farmed, and the proposed solar Project will take approximately 22.65 acres out of farming use. This Project site though, at the end of its lifespan, could be returned to farming. Because the situation of the site is unique, the Project will not attract other non-farming uses and will not adversely affect farming on adjoining sites.

The applicant completed a study regarding placement of the Project in the Town of Eden and studied possible alternative locations for the Project in the town. As outlined in the Site Selection Analysis (see ZBA Letter – July 2024, Appendix D), there are multiple factors that make a site feasible including size, proximity to existing utility infrastructure, topography, and landowner willingness. There were very few sites in the town that could support this Project. Due to the limited number of sites in the town that can support a solar Project of this size, this Project is not anticipated to attract other solar Projects, as the electric grid in these areas have limited capacities for other connections to these powerlines (see information submitted in the application and in the appendices).

The Proposed Project will not cause any increased development pressures in Eden. The construction of solar Projects does not require the extension of public utilities and does not induce spin-off development.

8. Effects on Use and Conservation of Energy Resources

The construction and operation of the Project would have both short-term and long-term impacts on the use and conservation of energy resources. In the short term, construction of the Project would require the use of nonrenewable energy resources including gasoline, diesel fuel, and electricity by construction equipment on site. Furthermore, the indirect use of energy would also occur due to construction workers commuting to and from the construction site. During construction, all vehicles will be required to observe limited engine idling times to reduce fuel usage.

In the long-term, the Project will be generating renewable energy on site. This is the sole purpose of the Project. The Project will be utilized to reach NYS energy goals. In 2019, the New York legislature passed the Climate Leadership and Community Protection Act (CLCPA), which requires the state to reduce its greenhouse gas emissions by 85 percent by 2050. Other targets include 100-percent zero-emission electricity by 2040, 70-percent renewable energy by 2030, 3,000 megawatts (MW) of energy storage by 2030, and 6,000 MW of solar energy generation by 2025. The New York State Climate Action Council, a 22-person body representing state agencies, communities, and various economic interests, is currently preparing a scoping plan to meet the goals of the CLCPA (New York State 2021). The Project will contribute to the “aggressive deployment of renewables” that was recommended by the Climate Action Council in its Scoping Plan as a necessary measure to achieve the CLCPA targets in New York State.

9. Appendices

Note: Included in provided flash drives.

Appendix A – SEQR Materials

- Scoping Document
- Erie County Scoping Document Comments
- NYSDEC Scoping Document Comments
- FEAF – Parts 1, 2, 3 and Supplement
- Ag Data Statement

Appendix B – Plans, Reports and Studies

- Good Neighbor Agreements
- Project Site Plans
- Project SWPPP
- Visual Impact Assessment
- Operations and Maintenance Plan

Appendix C – Local Laws and Codes

- Zoning Code
- Solar Law
- [Town of Eden 2015 Comprehensive Plan](#) Excerpt
- [Town of Eden Agriculture and Farmland Protection Plan](#) Excerpt
- [Town of Eden 2018 Comprehensive Plan Update](#) Excerpts
- Town of Eden Right to Farm Law

Appendix D – Project Correspondence

- Eden Town Attorney Letter – March 2024 (Use Variance)
- ZBA Letter – June 2024 (Use Variance Request)
- ZBA Letter – July 2024 (Site Selection Analysis)