

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

2394 West Church Street
Town of Eden
Erie County, New York
SBL No. 223.00-5-7.112

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Positive Declaration Issued: November 13, 2024
Final Scope Issued: February 18, 2025
Date of Document Preparation: April 15, 2025
Date of Lead Agency Acceptance: _____
Date of Public Hearing: _____
Date Written Comments are Due: _____

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1. Executive Summary

The Applicant, Eden PV, LLC, is proposing to construct a 3,200-kW solar photovoltaic (PV) array system on a 14.17-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. 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.

On November 19, 2024, the Town of Eden Town Board (the “Town Board”), as Lead Agency, determined that the proposed Eden Photovoltaic Facility (the “Project”, the “Proposed Action”, or the “Proposed Project”) located at 2394 West Church Street 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 with their Positive Declaration determination on the Project. The potential adverse impacts identified by the Town Board include impacts on land, impacts on surface waters, impacts on aesthetic resources, impacts on open space and recreation, impacts/consistency with community plans, and impacts/consistency with 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) 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 PV, LLC is proposing to develop a new 3,200-kW stand-alone ground-mounted solar photovoltaic (PV) array system on a 14.17-acre portion of the 98.00-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.

The Project is a ground mounted single-axis tracking system that will consist of approximately 5,902 solar PV modules, and 10 Sungrow SG350X inverters that will connect to 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.

As shown in Figure 1 below, the Project parcel is split by West Church Street, creating two distinct sections. The northern portion of the parcel is currently used as a golf driving range, which includes two tee boxes, several yard markers and a shed. The southern portion of the parcel consists of vacant open space and active agricultural land. A tributary of Eighteenmile Creek runs through the northern section, and Rythus Creek traverses the southern portion of the Project parcel. Existing access to the site is off West Church Street utilizing an existing stone driveway. National Grid utility poles and overhead electric wires run along the south side of West Church Street and the east side of Derby Road.

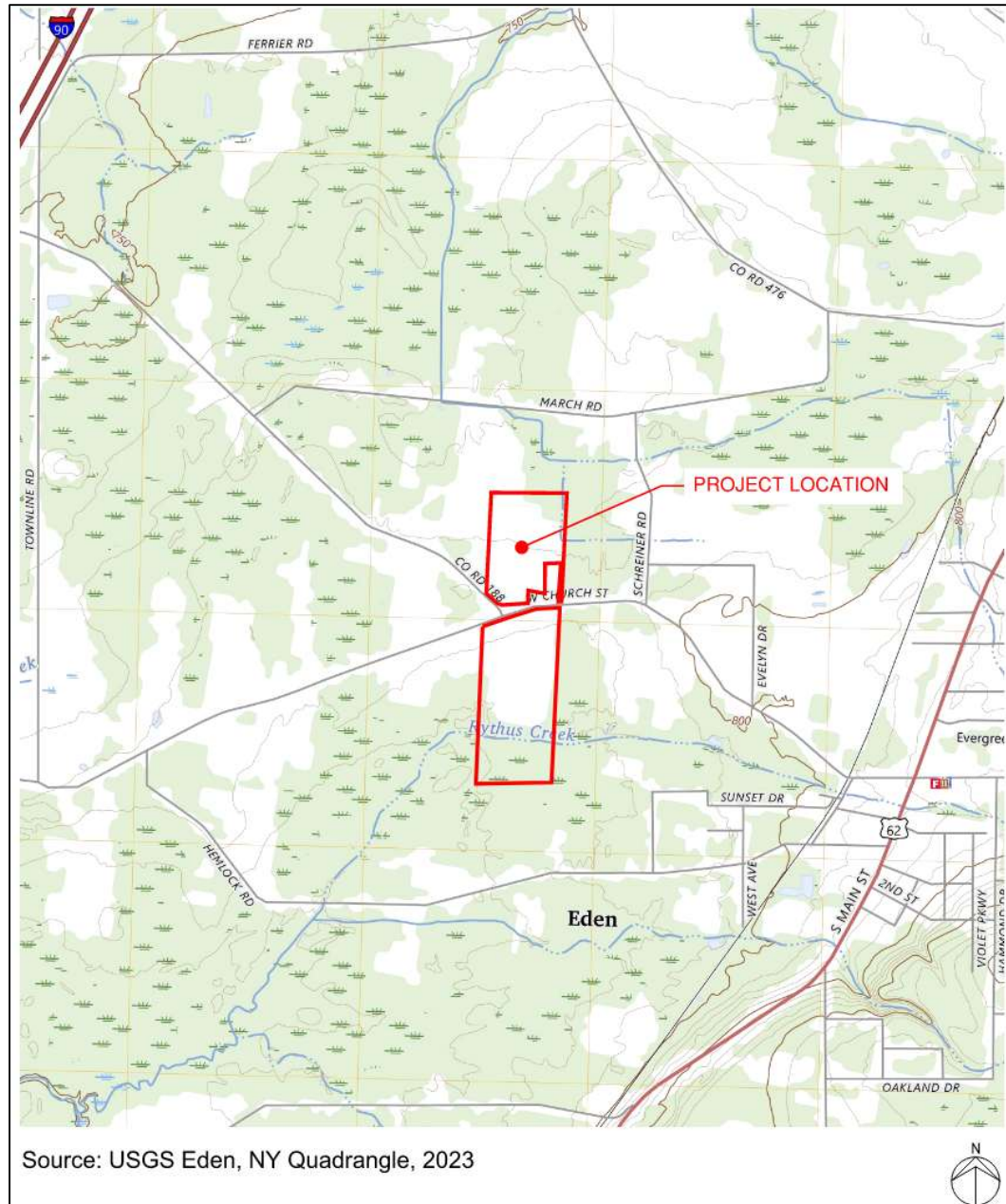


Figure 1: Project Location Map

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

- Danielle L. Vacco; Tax Parcel ID: 223.00-5-7.111; ERIEc08
- Edward J Murray; Tax Parcel ID: 223.00-5-7.2; ERIEc08
- Michael A Teoro; Tax Parcel ID: 223.00-5-6.2; ERIEc08
- Joel Karlin; Tax Parcel ID: 223.00-5-5.112; ERIEc088
- Jason Ersing; Tax Parcel ID: 223.00-5-5.111 & 223.00-5-5.12; ERIEc08
- Michael P. Alessi; Tax Parcel ID: 223.00-1-31.1
- Paul J. Alessi; Tax Parcel ID: 223.00-5-11.1; ERIEc08

- Raymond M. Conner; Tax Parcel ID: 223.00-5-31.1; ERIEc08
- Robert J. Herr; Tax Parcel ID: 223.00-5-34
- Allen M. Blackhall; Tax Parcel ID: 223.00-5-31.1
- Charles Rizzo; Tax Parcel ID: 223.00-5-26.1; Farm Operation Parcel
- John D. Metzler; Tax Parcel ID: 223.00-5-1.11
- Richard S. Ventry; Tax Parcel ID: 223.00-2-7.11
- Adam L. Schafer; Tax Parcel ID: 223.00-2.6
- Brian N. Slack; Tax Parcel ID: 223.00-2.46; ERIEc08
- Joseph A. Strand; Tax Parcel ID: 220.00-2-47; ERIEc08

A 20-foot wide SCG Gas Quest right-of-way is located on the Project parcel for the gas line that runs along the north edge of the northern section of the property. Additionally, an oil and gas lease to United Natural Gas Company and Iroquois Natural Gas Company exists. Within the southern section of the property, there is an easement along West Church Street for the Town of Eden waterline. Additionally, there is a drainage easement to Erie County located in the northwest corner of the southern section of the 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 Project site is vacant open space. The surrounding area consists of primarily low-density residential homes, small farms and other agricultural operations, and forested areas.

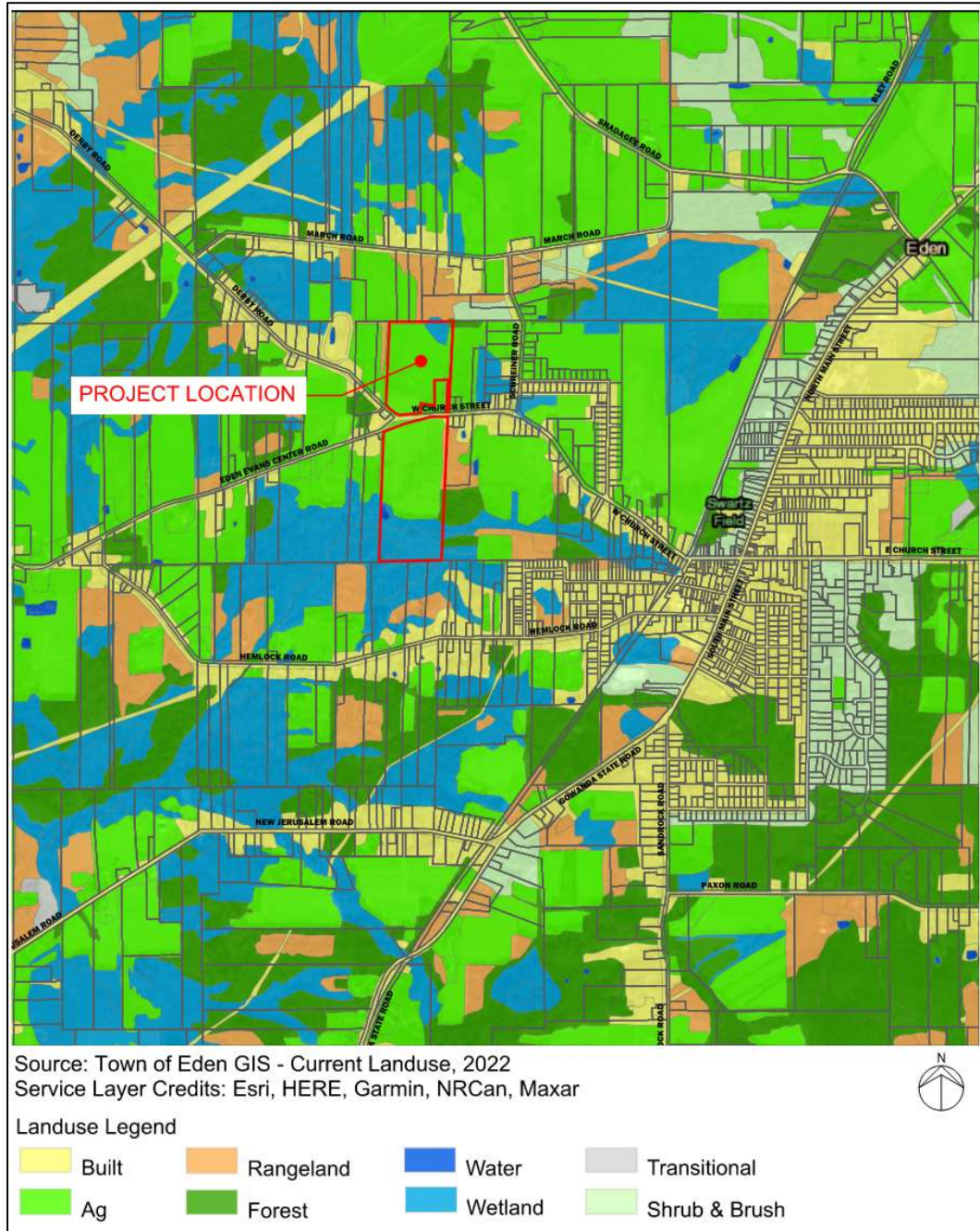


Figure 2: Land Use Map

As shown in Figure 3 below, the site is zoned as “R2”, Neighborhood Residential. The surrounding area is also zoned “R2”. Allowed uses in this district include single-family homes, higher-density residential development, agriculture, recreation, community service, institutional conservation, and limited residential-commercial mixed uses. See section 3.1 for additional information on land use and zoning.

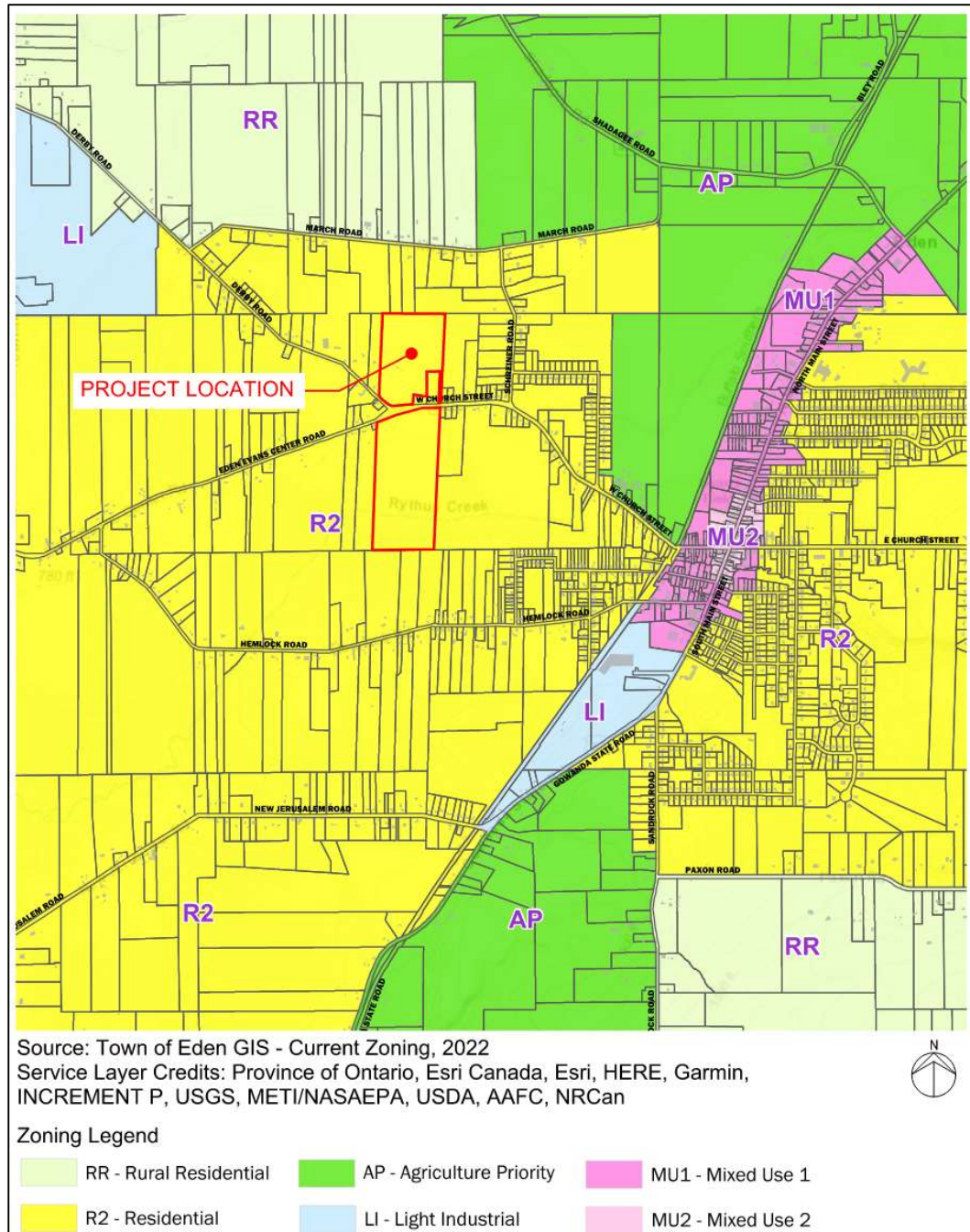


Figure 3: Zoning Map

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 area, 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 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”. This Project will not cause the loss of active, productive farmland in the Town.

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 and will not result in the loss of active, productive farmland. 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 loss of active, 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. See section 3.1 for further information regarding the Town of Eden Zoning Code.

2.3.3 *Compliance with Town of Eden Zoning Standard*

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
- 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”, the “Proposed Action”, or the “Proposed Project”).

A Full Environmental Assessment Form, Part 1, was completed by the Applicant and submitted to the Town of Eden on January 1, 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 character, protection of 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.

The current land use of the site is a driving range which is unique to this area. 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 are not 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/ open space 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, such as a permanent loss of open space. 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 May 2023 (see Appendix B of SWPPP in Appendix B of this document) identified four regulated wetlands totaling approximately 3.44 acres within the Project parcel. Existing wetland areas delineated on-site within the work area include three small emergent, marsh wetlands, totaling approximately 0.22 acres, and one larger wetland area, totaling approximately 3.22 acres. The Project site is relatively flat, with surface drainage directed either northward toward the delineated wetlands, or eastward into an existing on-site ditch that discharges to a minor tributary of Eighteenmile Creek. As shown in Figure 5 below, the NYSDEC Informational Freshwater Wetlands mapper indicated the potential presence of state-regulated wetlands on-site.

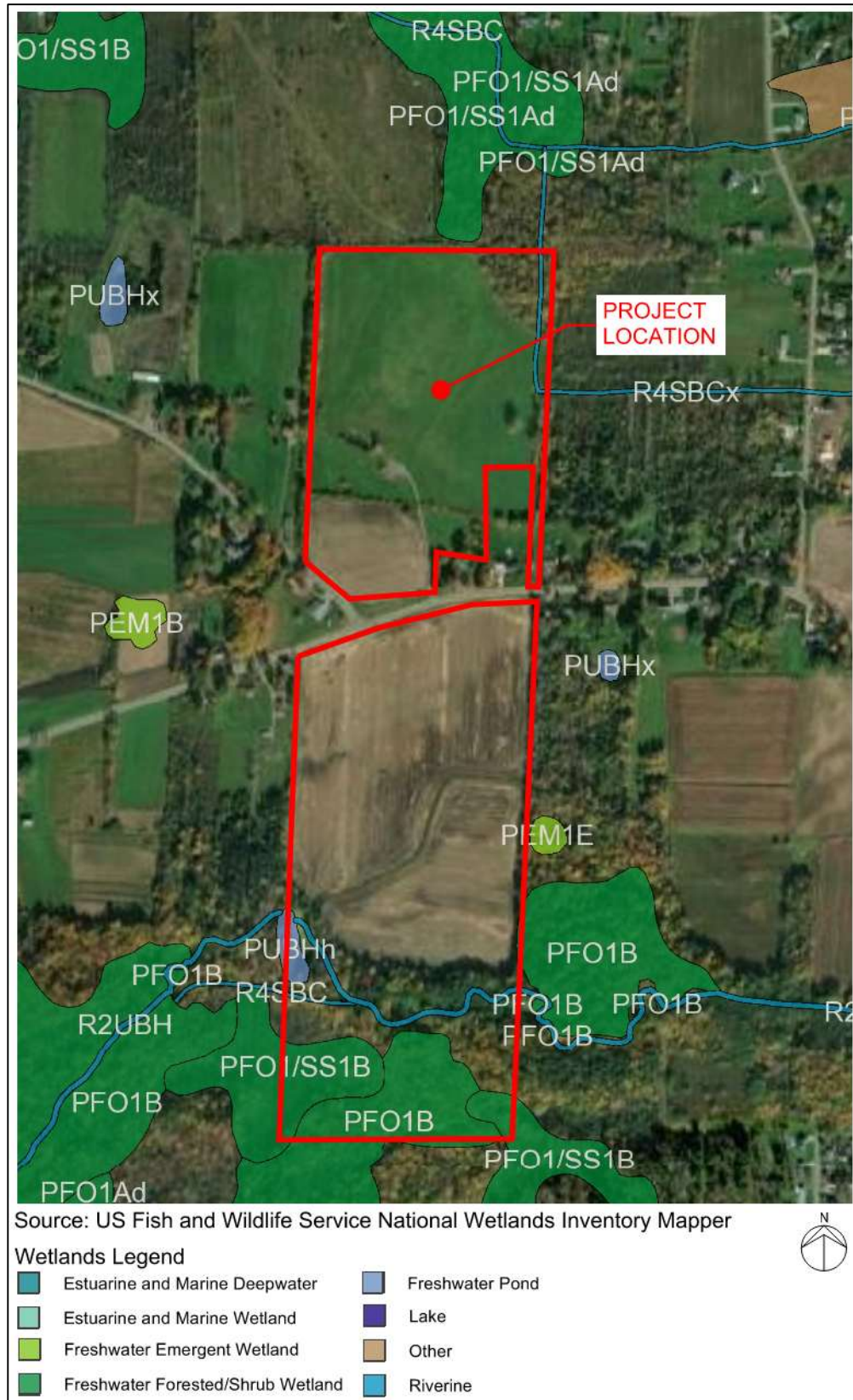


Figure 4: Federal Wetlands Map

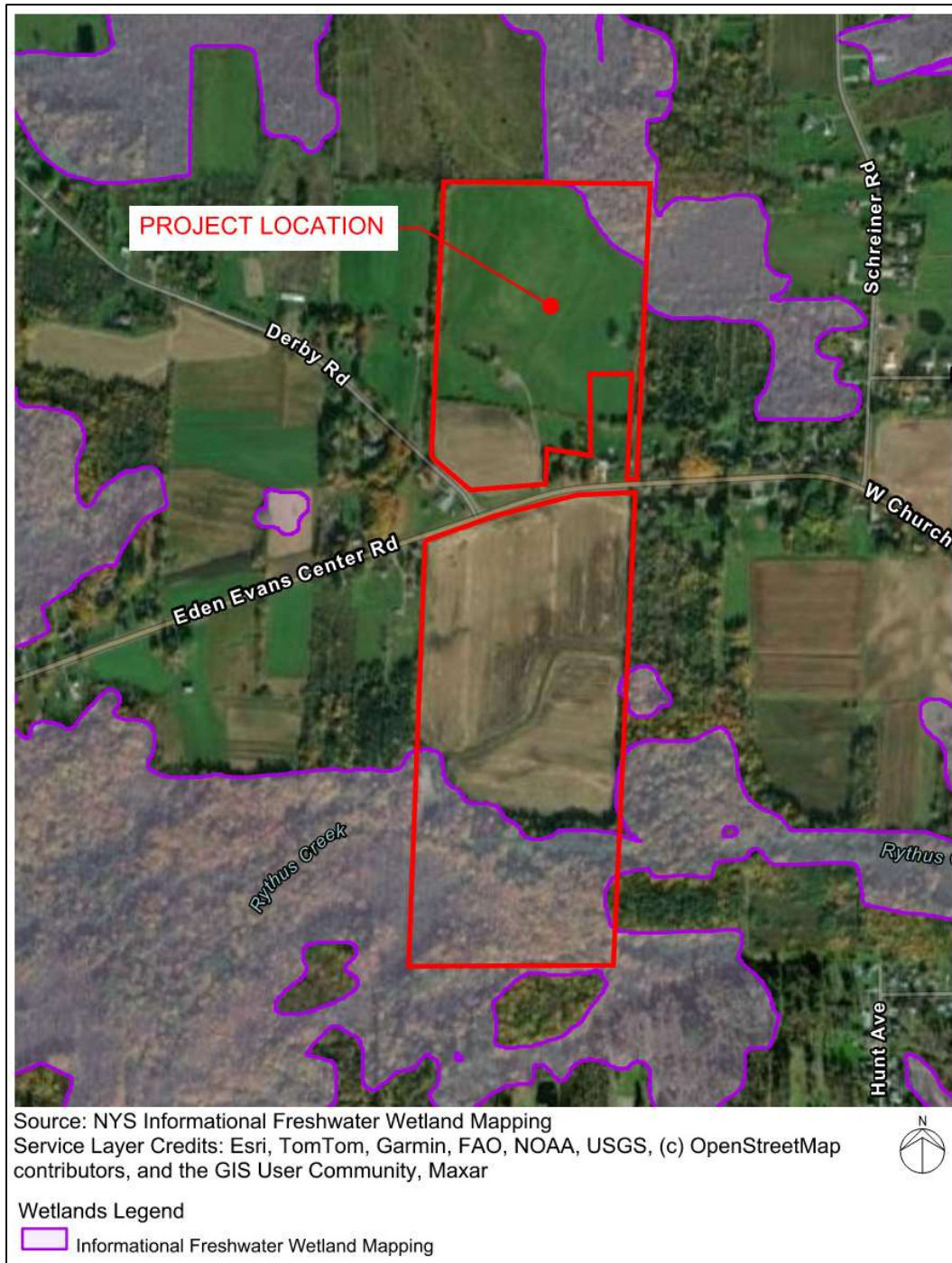


Figure 5: State Wetlands Map

3.2.2 *Mitigation Measures*

As depicted on the Site Plans (Appendix B), the Proposed Action will involve minor ground disturbance within three smaller wetlands for the installation of the solar array posts and fence posts. No impacts to surface water are expected from this action involving array installation. Total ground impacts amount to approximately 15 square feet. 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. No grading, tree clearing or seeding will occur within the delineated wetland areas.

Additionally, as noted in the Scoping Document, the SEQRA Positive Declaration indicates that the Project will exceed the 0.1-acre threshold for federal jurisdiction under the US 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.

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 3, 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 B), 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 northern portion of the Project parcel that is currently being used as a private driving range and has not been utilized for agriculture production in over 20 years. The southern portion of the Project parcel is actively farmed (corn and hay) and will not be affected by the Project. The Project is within 500 feet of several 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 88.50 acres of the 98.00-acre parcel are designated as prime farmland, farmland of statewide importance or prime farmland if drained. Refer to Appendix B of the Project SWPPP in Appendix B of this document for the complete soils report. The predominant soil types include Canandaigua silt loam, Elnora loamy fine sand, Farnham channery silt loam and Appleton silt loam. These soils are classified as highly productive and suitable for agricultural use. Additionally, as shown in Figure 7 below, approximately 45.49 acres of the 98.00-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.

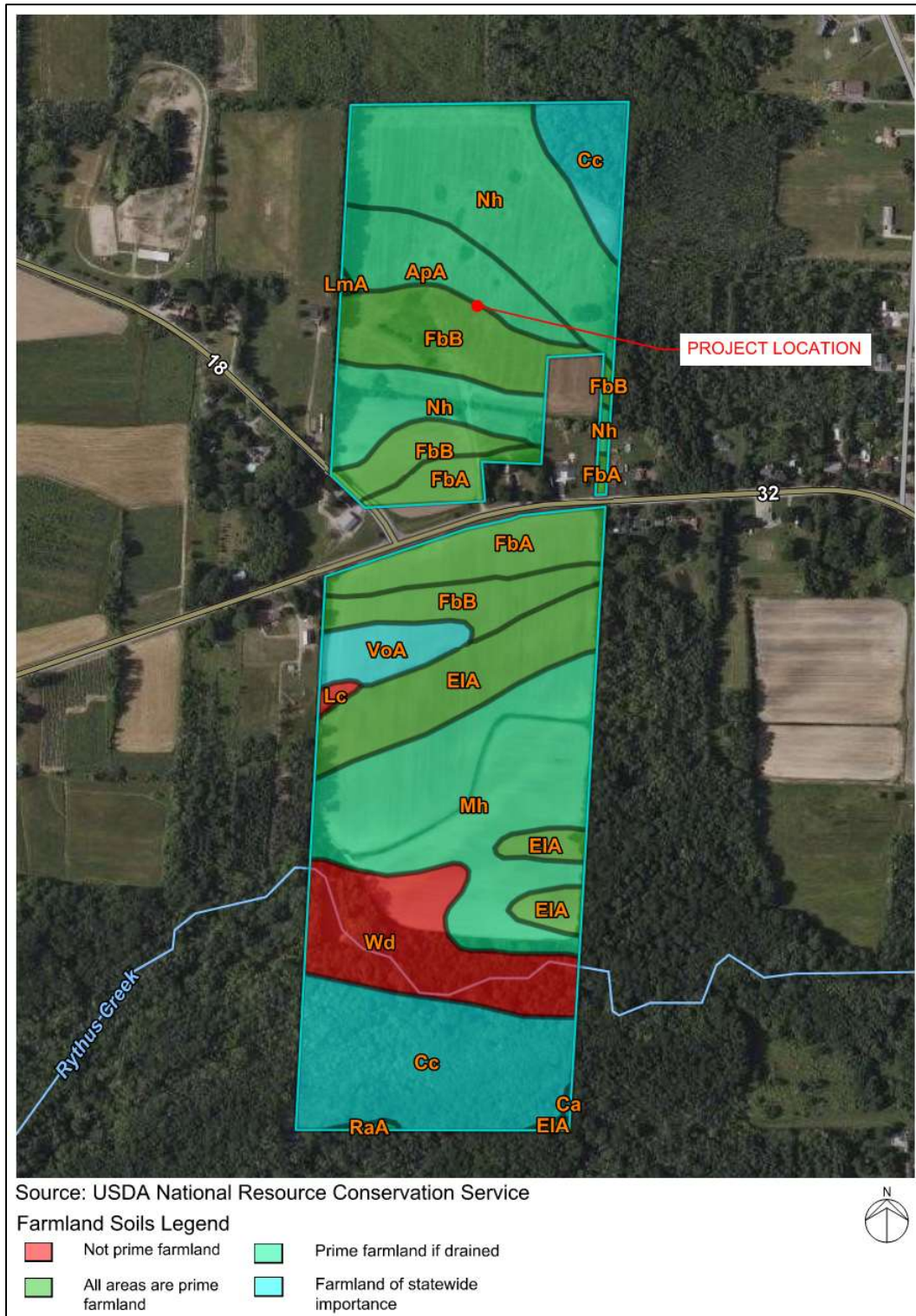


Figure 6: Farmland Soils Map

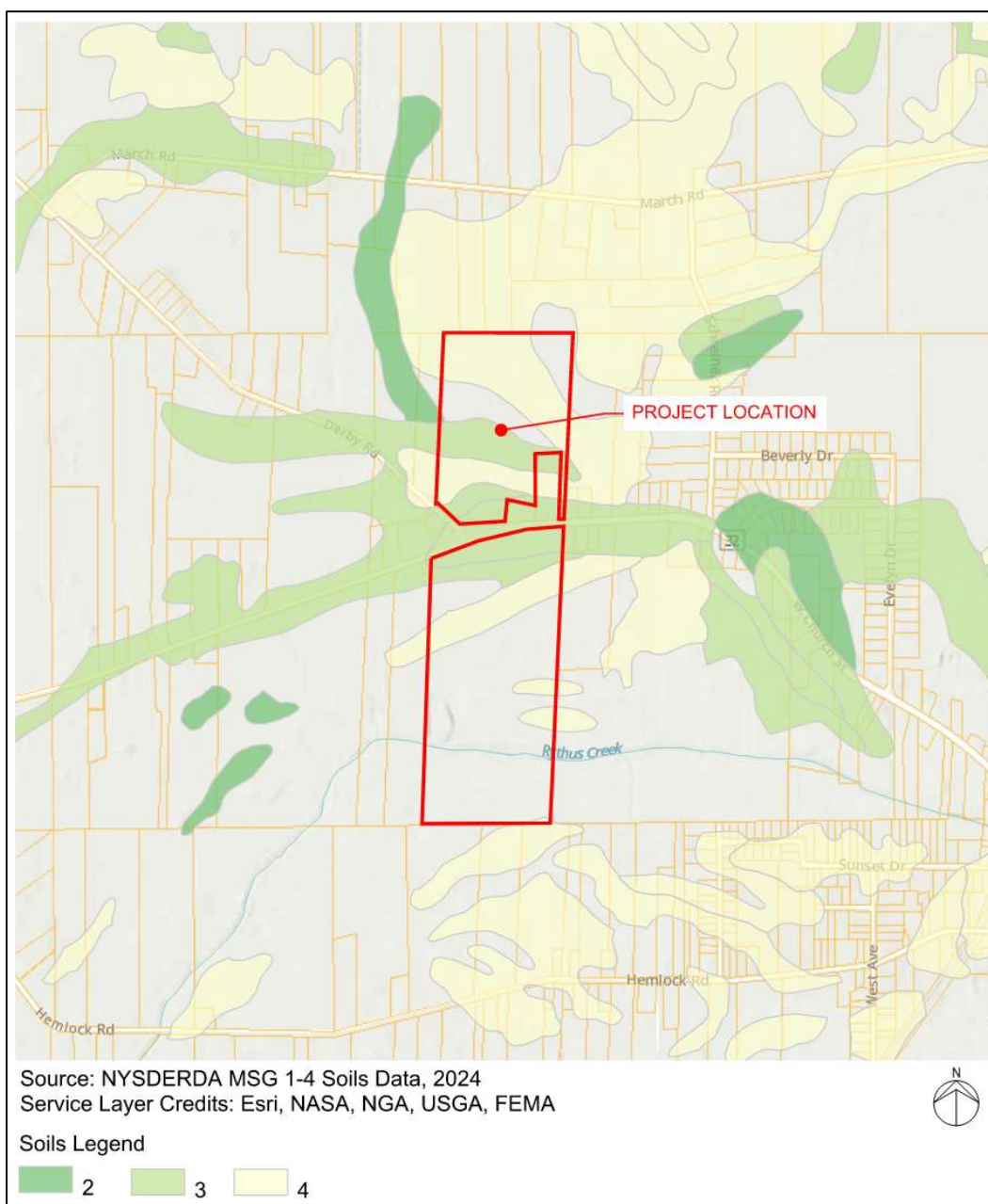


Figure 7: MSG 1-4 Soils Map

3.3.2 Mitigation Measures

The development of the solar facility will result in the temporary loss of farmland soils within the Project area for the duration of the facility's operational lifespan (approximately 30 years). The solar facility will occupy approximately 14.17 acres of the 98.00-acre parcel. Within the Project area, approximately 14.13 acres of prime farmland soil and approximately 10.90 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 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 (estimated at 30 years) is essentially a long fallow period, which will leave the site in a better condition than the current condition. This loss of farmland is 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 Project site is not actively farmed and has not been utilized for farming in at least 20 years. The Project site has been utilized during this time as a golf driving range. The southern portion of the Project parcel that is actively farmed (corn and hay) will not be affected by the Project.

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 along the east and portions of the north with dense deciduous tree lines that are overgrown with brush and grasses. This vegetation will act as a natural visual screen for the Project. Residences along West Church Street and Derby Road currently have unobstructed views of the Project site.

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”. There are no resources on or adjacent to the Project site that meet 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 cumulative visual impacts of this Project, together with another proposed solar project in the area.

As shown in Figure 8, there is a similar Proposed Project, Eden II Solar, proposed to be located at 2027 Eden Evans Center Road in the Town of Eden. Eden II Solar is located on the southern side of the road, approximately 1.5 miles west from the Eden solar Project. The Eden II Project is a proposed 4,040 kW AC stand-alone ground mounted solar photovoltaic array system on a 22.65-acre portion of the 99.49-acre parcel (tax parcel ID: 237.00-1-2.11).

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 between the projects, 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.

The only recreational resource available to the public is also owned by the Eden Solar landowner. This is a privately-owned golf driving range and is intended to be

closed in 2025. Abandonment will be avoided due to the repurposing of the land via the Eden Solar facility.

3.4.3 *Reasonable Alternatives*

The Project will be set back more than 650 feet from West Church Street. The Project is visually separated from this roadway by an existing field and single-family homes. There will be vegetative screening between the single-family homes and the Proposed Project. There will be no views of the Project from West Church Street or Derby Road. Additionally, existing vegetation on the northern, eastern, and western portions of the site screen the Project from any potential future land use/development. 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 and eastern ends of the Project site are abutted by forest and some farmland. The western portion of the site is abutted by single-family homes, which are separated from the Project site by tree lines. These tree lines provide a natural buffer between the Project site and adjacent residences. The current use of the land subject to the Proposed Action, which does not include the full holdings of the landowner, consists of a commercial driving range/mini golf. The southern portion of the site is abutted by farmland and single-family homes. There is an existing gravel road that connects Eden Evans Center Road to the driving range.

The site is currently vacant 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 golf driving range adjacent to the southern portion of the Project site is a private recreational facility. The Project site does not contain any designated Parkland. As shown in Figure 9 and described below, seven properties were identified containing open space or recreational features within 1-mile of the Project site.

1. Eden Memorial V.F.W. Post; Tax Parcel ID: 223.00-1-25.11
2. Bog Trotters Rifle & Pistol Club; Tax Parcel ID: 223.00-1-26.21
3. Town of Eden Minekime Field; Tax Parcel ID: 223.18-1-21
4. Eden Chamber of Commerce; Tax Parcel ID: 238.07-1-32
5. Eden Historical Society; Tax Parcel ID: 238.11-2-24.1
6. Eden Bowling Center; Tax Parcel ID: 238.11-6-36
7. Little Flower Lady Park; Tax Parcel ID: 238.15-3-5

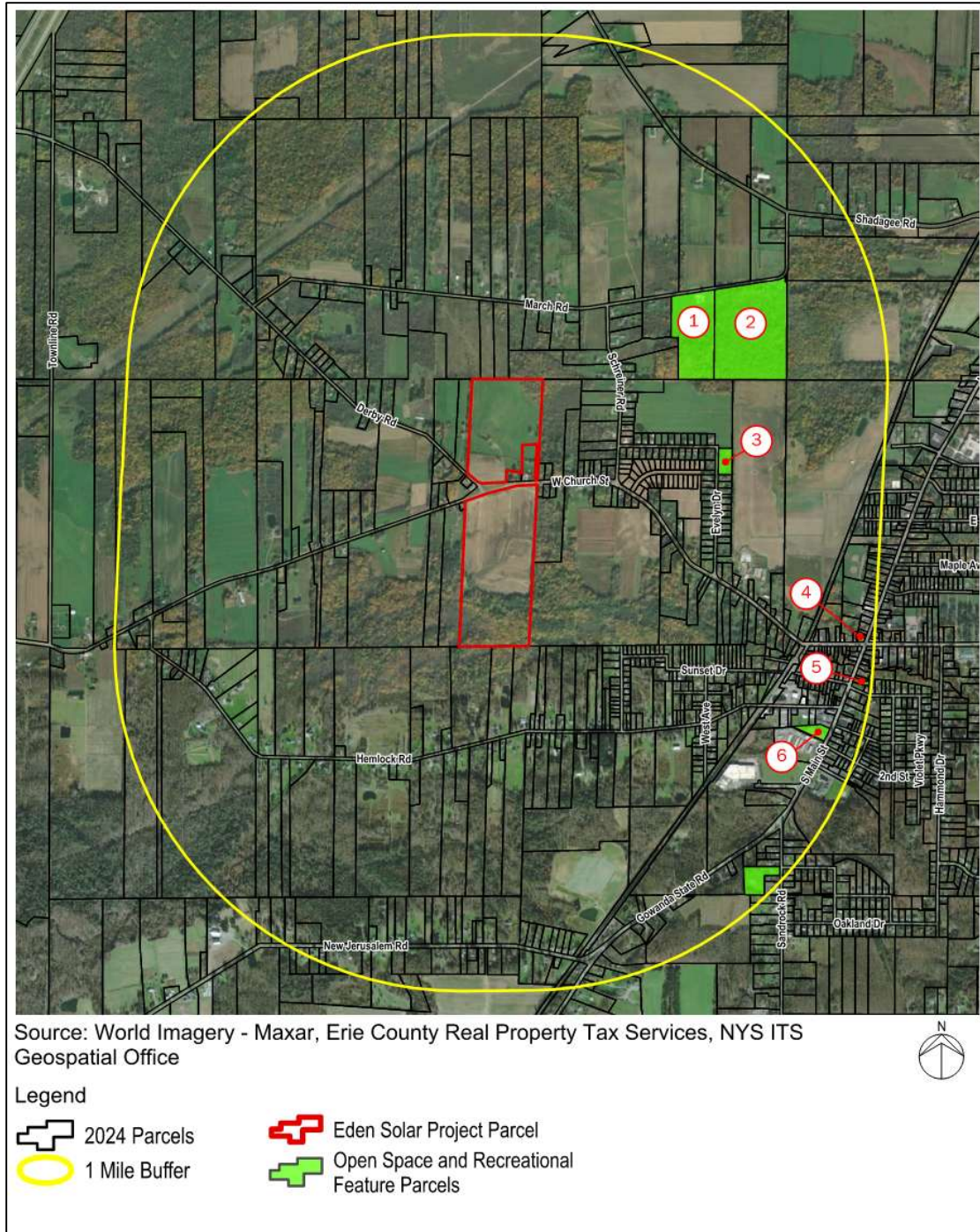


Figure 9: Open Space and Recreational Features Map

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 14.17 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 highly isolated from access to the public, due to the presence of single-family homes, farmland, and the golf driving range that separate the site from the main roadway. There is no public access to the site from any side of the site, aside from the driveway to enter the driving range. The northern, eastern, and western portions of the site are bordered by farmland, forested areas, and tree lines, respectively. The Project site will be screened from view of the right-of-way with vegetative screening, and the Project will be set back over 650 feet from the right-of-way.

While the Project site does consist of vacant, open land, the Project site has not been officially designated as Open Space by the Town or County. The site is private property, currently utilized as a golf driving range, and is developed by the same landowner who desires a different use of the land. The Project 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 does allow recreation, agriculture, and open space; however, the district additionally encourages development and specifically encourages the development of some permanent uses such as residential and commercial uses (see section 3.1 for discussion on Zoning Code).

The Scoping Document states, “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”.

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 this specific scenario 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.

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 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 across West Church Street would result in the loss of actively farmed land, while shifting northward would encroach on forested areas and sensitive ecological resources. 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. The selected site is a privately owned parcel with public accessibility. Given the landowner's intent to cease recreational use (driving range) after the 2025 season, 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 the Project site, nor refer to this specific site as an area of importance or priority for agricultural or open space preservation, or another specific land use plan. While this site does contain prime agricultural soil, this site is not actively farmed and has not been utilized for farm activity in over 20 years. 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. The site is currently not used for the production of crops, livestock, or other agricultural purposes. The site is currently utilized as a space for a private recreational golf driving range. The site is private property, developed by the same landowner who desires a different use. 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 in the region. The Project will contribute to the presence of solar energy systems in Western New

York, without causing the loss of active and/or priority 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 not cause the loss of actively productive farmland and will not lead to the permanent loss of farmland in the town. Additionally, due to setbacks and proposed screening, the Project will not be visible from the right-of-way, or any other asset of importance 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 current site consists of gently sloped land which is entirely vacant and has been cleared of trees. The northern and eastern ends of the Project site are abutted by forest and some farmland. The western portion of the site is abutted by single-family homes, which are separated from the Project site by tree lines. The southern portion of the site is abutted by farmland and single-family homes. The site is adjacent to West Church Street, but is isolated from the roadway by farmland, forested areas, and single-family homes. The Project area is undeveloped, and as such, there are no public water or sewer facilities within or near the Proposed Project area.

Minekime Park is a public park located approximately 0.6 miles east of the Project. Private cultural entities within a 1-mile radius of the Project site includes the Eden Veterans of Foreign Wars Building and Memorial. 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.

Within a 1-mile radius of the Project site, there is an Archeological Buffer area within the Town. A Buffer area represents a specified distance around archaeological sites that SHPO has inventoried. However, 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). Per a January 5, 2024, letter from the New York State Parks, Recreation, and Historic Preservation, the Project will have no impact to properties, including archaeological and/or historic resources, listed in or eligible for the New York State and National Registers of Historic Places.

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. To the south of the site, on the opposite side of the right-of-way, is an actively leased agricultural parcel. This Project will not be visible from the active agricultural parcel.

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 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 is 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 more than 650 feet from West Church Street. The Project is also separated from the roadway by a field and single-family homes located along West Church Street. Vegetative screening will be placed between the field and single-family homes, and West Church Street. 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. Additionally, shifting the Project southward would result in the loss of actively farmed land, while shifting northward would encroach on forested areas and sensitive ecological resources. 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. The selected site is a privately owned parcel. Given the landowner's intent to cease recreational use (driving range) after the 2025 season, 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. While 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 vegetated 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 West Church Street 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 a small impact on agricultural resources, though it is not expected to have a substantive impact on agriculture in the Town or region. Eden Solar is located within an Agricultural District (ERIEc08), and contains soils within soil groups 1-4, which are considered highly productive soils. The solar facility will occupy approximately 14.17 acres of the 98.00-acre parcel, of which contain approximately 14.13 acres of prime farmland soil and approximately 10.90 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. But, most importantly to recognize is that the portion of property where the solar facility is proposed is not currently under agricultural production and has not been for many years. The southern portion of the Project parcel that is actively farmed (corn and hay) and will not be affected 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, no development would occur on the Project site. There would be no change to the environmental impact on the site as otherwise exists.

The property would continue to operate as a private driving range until its planned closure at the end of the summer 2025 season. After this time, the landowner has indicated a desire to discontinue operations, leaving the land available for potential redevelopment. 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 consists of two areas separated by West Church Street, both of which were considered for development.

The northern portion is currently used as a driving range which is vacant and cleared of trees. The southern portion is actively farmed (corn and hay) and consists of dense wooded areas near the rear of the parcel. Shifting the solar facility to the southern portion of the parcel was explored, however, this option would result in loss of active farmland and significant impacts to prime farmland soils. Additionally, placing the Project in the southern portion would require extensive clearing of forested areas, which could lead to greater ecological disruption. Within the northern portion of the parcel, shifting the solar facility to the east would result in encroachment on existing forested areas and introduce potential impacts to wetlands and ecological resources. Likewise, shifting the solar facility south would result in additional setback waivers to structures and adjacent parcels.

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. 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 was expanding the footprint of the solar facility to maximize energy generation. However, the chosen design intentionally limits the overall footprint of the solar facility to preserve additional open space and reduce potential visual and environmental impacts. This approach maintains balance between energy production and responsible land use, while also accommodating necessary panel spacing, maintenance access, and regulatory setbacks.

Several alternative orientations were considered, including reorienting the solar panel rows. Although a revised orientation was initially considered to maximize solar exposure and preserve buffer areas, further analysis indicated that modifying the optimal tilt and spacing would unnecessarily reduce energy output and overall efficiency, without yielding substantial improvements in glare mitigation. The proposed layout was therefore selected to achieve optimal balance between energy production, land use, compatibility, and environmental preservation, with glare impacts maintained at minimal levels.

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, aside from an occasional inspector.

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 developments 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 not currently farmed or used for any other agricultural purposes and has not been farmed in at least 20 years (or leased to another farmer). This Project will not cause the loss of active farmland, and at the end of the solar usage of this site, could be used as farmland. 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)

