

PLANNING, ZBA & TOWN MEETING

MONDAY, DECEMBER 16, 2019

MEMBERS PRESENT:     PLANNING: KATHY COLE, CLARA MULLIGAN, MICHAEL MILES, BRIAN THORN, THOMAS MCGOVERN

TOWN: DAVID LEFEBER, JIMMY HARRINGTON, MALACHY COYNE, PAUL DROZDZIEL

ZBA:     JEFF MULLIGAN, JEFF PASSARELL, BOB WESTFALL, DIANE ATTEA, CINDY KELLEN

ABSENT:                 RANDY KOZLOWSKI, KATHY MANNIX, TOM MAIRS

OTHERS:                BRIAN GLISE (COE, AVON), LANCE BRABANT (MRB ENGINEER), JIM CAMPBELL (TOWN ATTORNEY)

VISITORS:             JANET MANKO, JUDY FALZOI, BILL BACON, MERCEDES BRIEN, DON GUNTHER, ANTHONY SPADE, BRIAN HARPER, MARK GEARHARDY, ROBERT JELSMA, JOHN SCIARABBA

CLERK:                    KIM MCDOWELL

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PLANNING & ZBA BOARD MOTION TO OPEN THE MEETING WAS MADE BY KATHY COLE, SECONDED BY CINDY KELLEN.

KATHLEEN COLE -AYE  
TOM MCGOVERN - AYE  
RANDY KOZLOWSKI - ABSENT  
KATHLEEN MANNIX - ABSENT  
CLARA MULLIGAN - AYE  
MICHAEL MILES - AYE  
BRIAN THORN - AYE

JEFF MULLIGAN - AYE  
CINDY KELLEN- AYE  
BOB WESTFALL- AYE  
DIANE ATTEA - AYE  
JEFF PASSARELL - AYE  
CARRIED    10-0.

ZBA BOARD MOTION TO APPROVE THE MINUTES FROM THE NOVEMBER 25, 2019 MEETING AS SUBMITTED WAS MADE BY CINDY KELLEN; SECONDED BY BOB WESTFALL.

JEFF MULLIGAN - AYE  
CINDY KELLEN- AYE  
BOB WESTFALL- AYE  
DIANE ATTEA - AYE  
JEFF PASSARELL - AYE  
CARRIED    5-0.

PLANNING BOARD MOTION TO APPROVE THE MINUTES FROM THE MEETING ON NOVEMBER 5, 2019 WAS MADE BY CLARA, SECONDED BY TOM.

KATHLEEN COLE -AYE  
TOM MCGOVERN - AYE  
RANDY KOZLOWSKI - ABSENT  
KATHLEEN MANNIX - ABSENT  
CLARA MULLIGAN - AYE  
MICHAEL MILES - AYE  
BRIAN THORN - AYE

CARRIED 5-0.

GUNTHER, DONALD & KATHLEEN/4550 RED FOX FUN/TAX PARCEL#34.-1-3.132-ZBA VARIANCE FOR ACCESSORY STRUCTURE IN FRONT OF A PRIMARY STRUCTURE

Mr. Gunther was present to discuss his application for a horse barn on his property, which he would like to build in front of the primary structure. The topography of the property is dictating the need for a variance. They have Conesus Creek running in the back part of the property with a steep drop off. Jeff Mulligan asked if they have purchased the property that was owned by Sattorra, which they have and they have also combined the lots. Jeff Mulligan also asked about an old house foundation that is near the area where they want the barn to be built and if they still owned land by the riding hall. Mr. Gunther stated they do not own that land anymore and the barn will not be over the foundation since it would be too difficult to dig that up. Bob asked if it would be visible from the neighbor's house and it probably would depending on the season. Mr. Gunther has already cleared a lot from the parcel for the horse barn. They only have 2 horses, so the pasture will not be large. Bob asked if Mr. Gunther has looked into putting the barn anywhere else on the property, which he has but it is not feasible to do so elsewhere. The horse barn will be 30x36 and 21 feet in height and the total acreage of the property is 11. Jeff Mulligan asked if anyone had any further questions.

Brian Glise explained his interpretation of Town Code 130-24B as it pertains to this application. Since Red Fox Run is not a dedicated street, he feels the front of the house is the side facing Route 39 and the proposed spot for the barn is in front of that.

There were no other questions.

The next steps for this application is to have a public hearing and the application needs to be referred to Livingston County Planning Board for a recommendation. Jim Campbell suggested sending over the referral and asking for administrative review and decision. Kim will send over the referral as Jim suggested and decide on a public hearing date at that time. Once the date has been decided, she will inform Mr. Gunther and the Board as such.

DG NY SOLAR CS LLC C/O RICHLAND RESOURCES/AVON-EAST AVON ROAD/TAX  
PARCEL#34.-1-15.21 - SITE PLAN APPLICATION

Mr. Brian Harper was present to discuss the revisions made to his application based on suggestions from the Planning Board at last month's meeting and to answer any other questions. The changes made to the application were the removal of the salvage value in the decommissioning plan and the term battery storage, as well as, decreasing the perimeter to conform to our local law.

Mr. Harper went door to door to the neighbor's on Pole Bridge Road to introduce himself and inform them of the project being proposed. If a homeowner wasn't available, a letter was mailed. He felt the majority of the responses were neutral to positive.

Mr. Harper is still working on the visual buffers and they will be ready for the public hearing. Lance stated that tonight's purpose is to provide the Board with the changes made to meet our local law and to declare intent to be lead agency and begin coordination with involved agencies. Lance has prepared the SEQOR and the full EAF for the Board. This application must also go to Livingston County Planning Board for recommendations. The next meeting of both the ZBA & Planning Board for approvals will be February 4, 2020.

Kathy Cole was pleased that they revised their application to meet the local law and all the Board's recommendations. Clara questioned the statement regarding removal of wires within the depth of 3 ft., she believed the wires would be deeper and would that mean those deeper would not be removed. Mr. Harper stated that they will remove all wiring and anything else they install on the parcel. Lance reiterated that they will be responsible to remove everything.

Jeff Mulligan asked about the drainage in that area since it has always been a problem going into the Village and also asked if they will put any tile in. Mr. Harper stated the drainage issue will be addressed in SWPPP. Jim Campbell stated the SEQR and site plan will cover drainage issues. Mr. Harper also stated there will be low growing grass under the solar panels.

Lance provided the following SEQR to the Planning Board.

TOWN OF AVON PLANNING BOARD RESOLUTION  
NEXTERA ENERGY RESOURCES AVON SOLAR  
EAST AVON ROAD & POLE BRIDGE ROAD, AVON, NY  
SPECIAL USE PERMIT & PRELIMINARY/FINAL SITE PLAN REVIEW

SEQR - DECLARING INTENT TO BECOME LEAD AGENCY

WHEREAS, the Town of Avon Planning Board (hereinafter referred to as Planning Board), is considering Special Use Permit Approval & Site Plan allow for the development of the Avon Solar Project (Project), a proposed 5-megawatt (MW) alternating current (AC) solar photovoltaic (PV) project located within the Town of Avon. The proposed Project will be located on 33.8 acres of the approximately 118-acre parcel as described in the Site Plans dated October 18, 2019 and all other relevant information submitted as of December 16, 2019 (the current application); and

WHEREAS, the Planning Board has reviewed the completed State Environmental Quality Review (SEQR) Full Environmental Assessment Form (EAF), Part 1 prepared by the applicant on the above referenced Solar Farm (hereinafter referred to as the Action); and

WHEREAS, the Planning Board determines that said Action is classified as Type 1 Action under the SEQR Regulations; and

WHEREAS, the Planning Board determines that said Action is also subject to a coordinated review and approval by other involved agencies under SEQR Regulations; and

WHEREAS, the Planning Board determines that it may be the most appropriate agency to insure the coordination of this Action and will provide written notifications to the involved and interested agencies, for the purposes of conducting a coordinated review and making the determination of significance thereon under the SEQR Regulations.

NOW, THEREFORE BE IT RESOLVED that the Planning Board does hereby declare its intent to be designated as the lead agency for the Action.

BE IT FURTHER RESOLVED, that the Town Engineer (MRB Group) is directed to provide notice hereof to the involved and interested agencies, seeking their agreement (or objection thereto) in writing on or before noon on Friday, January 17, 2020.

The above resolution was offered by Michael Miles and seconded by Clara Mulligan at a meeting of the Planning Board held on Monday, December 16, 2019. Following discussion thereon, the following roll call vote was taken and recorded:

Kathleen Cole - *Aye*  
Randy Kozlowski - *Absent*  
Kathy Mannix - *Absent*  
Thomas McGovern - *Aye*  
Michael Miles - *Aye*  
Clara Mulligan - *Aye*  
Brian Thorn - *Aye*

I, Kim McDowell, Clerk of the Board, do hereby attest to the accuracy of the above resolution being acted upon and recorded in the minutes of the Town of Avon Planning Board for the December 16, 2019 meeting.

Kim McDowell \_\_\_\_\_, L.S.  
Kim McDowell, Clerk of the Board

Lance will send out packages to involved agencies and the Town will get a copy for their files. Kim will send application over to the Livingston County Planning Board for recommendations. Lance's timeline is on January 7<sup>th</sup> there will be a public hearing for this application and February 4<sup>th</sup> will be approvals from both ZBA and Planning Boards.

Since that concluded the ZBA portion of the meeting, they were asked if they wanted to close their meeting.

MOTION TO CLOSE THE MEETING WAS MADE BY BOB; SECONDED BY CINDY.

JEFF MULLIGAN - AYE  
CINDY KELLEN - AYE  
BOB WESTFALL- AYE  
DIANE ATTEA - AYE  
JEFF PASSARELL - AYE

CARRIED 5-0.  
ZBA MEETING CLOSED.

The following Legal Notice of the meeting was duly provided to the media, posted on the Town Clerk's Bulletin Board and Town of Avon Website as follows:

TOWN OF AVON  
LEGAL NOTICE

A special joint meeting with the Town Planning and Zoning Board of Appeals is schedule on Monday, December 16, 2019 at the Town Hall/Opera Block, 23 Genesee Street, Avon, New York, at 7:00 P.M. for discussion on an application submitted by Piranha Milling & Paving Contractors LLC and any other business that may come before the Board.

By order of the Town Board  
Sharon M Knight, MMC/RMC, Town of Avon Clerk  
Dated: December 13, 2019

RESOLUTION #223 - TOWN BOARD MOTION TO OPEN THE MEETING WAS MADE BY COUNCILMAN HARRINGTON, SECONDED BY COUNCILMAN COYNE.

RESOLVE to open the Town Board Meeting.

Vote of the Board: Councilman Drozdziel - Aye, Councilman Harrington - Aye, Councilman Coyne - Aye, Deputy Supervisor Mairs - Absent, Supervisor LeFeber - Aye

PIRANHA MILLING & PAVING CONTRACTORS LLC/TEC DRIVE/TAX PARCEL #35.-1-13.524-SITE PLAN APPLICATION

Mr. Sciarabba, LandTech, presented on behalf of Piranha. Mr. Spade, owner of Piranha, is also on hand to answer any questions. The site is located on the north side of Tec Drive with roughly 37 acres adjacent to 390 Expressway and zoned PDD (Planned Development District). This site has sewer and water on the property. Piranha is proposing a 9,500 square foot office building and maintenance/shop building with parking for employees and storage/parking of equipment in designated areas on the parcel. They are also proposing to the west of parcel a a 16,800 square foot flex base building and parking to accommodate ten different small businesses/contractors. Town Supervisor, David LeFeber asked when talking about contractors in the flex base building will they also need room/space to store equipment outside as well. Mr. Sciarabba is hoping they will not need outside storage but if they do there is plenty of room for it.

Supervisor LeFeber also asked if the applicant has dumpsters and other equipment that will be stored on site and they do and it will. Piranha has a snow removal business, dumpster business, and a milling business and they do have equipment/supplies that will need to be stored outside on site. Piranha is looking to consolidate their business in Avon. Supervisor LeFeber asked if the mulch they will store is for their use or for retail and it will be strictly for Piranha's use. Councilman Drozdziel asked how the dumpster business works and Mr. Spade stated if someone calls for a dumpster they deliver it, having dumpsters sit on premise is not beneficial to their business.

Kathy Cole asked how many dumpsters, truck and milling equipment is owned by Piranha and parked on premise. Mr. Spade stated they have 15 loaders, 10 tractor trailers, 40 dumpsters total and most of the time they are out on a job, miscellaneous paving equipment which is mostly out on a job as well. Councilman Drozdziel asked if they do bulk storage of milling supplies and how much would it be on site, Mr. Spade said about 60 ton in each bin. Kathy Cole asked where on the site plan is the equipment and supplies going to be parked/stored, which Mr. Sciarabba showed on the map provided. Supervisor LeFeber asked exactly how many acres is the parcel and it is roughly 37 acres and 11 of those will be used in this proposed site plan.

Mike Miles asked where the dumpsters go when they are full and Mr. Spade stated they get dumped at a landfill (Rush, Riga, Fairport, Steuben County). They are also washed at the landfill so there will be no washing on premise of the dumpsters.

Attorney, Jim Campbell asked if they are proposing any buffering and is there a landscape plan as well. There is a hedgerow near 390 currently and Tec Drive is the least effected due to the elevation changes. Supervisor LeFeber stated the gateway to Avon is the corridor at 390. Mr. Sciarabba feels that trying to block the site from 390 will be challenging due to the grade changes in that area. Kathy Cole would like to see significant landscaping in that area to block the view of equipment storage from 390. Mr. Sciarabba described the elevation throughout the parcel and the difficulty it causes in regards to blocking the view from 390, there is also a pond on the parcel which makes buffering difficult as well. The building would be approximately 700 feet from 390 and they do have some landscaping that would help in some ways. Councilman Drozdziel asked out of the 11 acres how much would be asphalt. Mr. Sciarabba stated 70% would be asphalt which is under the lot coverage in a PDD.

Councilman Harrington asked if they are aware of the sewer limits in that area, which they are well aware of. They estimate usage for Phase 1 is 760 gallons per day which is within the range the Village stated are acceptable. Phase 2, 3, and 4 will need to be reviewed and approved when they come in fruition.

There were other questions and suggestions in regards to the outside storage of equipment and materials on premise. The Planning and Town Board members would like to keep the park well maintained and presentable to those who travel in the area. Some suggestions were using buildings as a buffer for equipment as well as staggering trees near 390. Mr. Sciarabba stated that Mr. Spade is proud of his business and will keep the area clean and well maintained in order to attract potential new customers.

Mike Miles would also like to see some kind of statement of operations showing exactly what hours of business, types of business, how the lot/storage will be, number of employees, daily operations.

Mr. Sciarabba stated that on behalf of his client, he will be able to make changes to the site plan to the suggestions of the Planning and Town Boards.

Councilman Harrington's understanding is that the NYS DEC downgraded the Village of Avon's sewer plant and he wants to make sure that Piranha completely understands this may affect Phases 2,3 and 4, which Piranha completely understands. Jeff Mulligan doesn't understand how they can only use 760 gallons a day, he feels that between what they do and washing vehicles it seems like usage would be a lot more. Mr. Sciarabba described what variables are used to determine that number and what goes into the treatment system and what doesn't.

Cindy Kellen asked how many trucks/trailers will be coming in/out per day with the daycare nearby. Mr. Spade stated every day there will be 10 tractor trailers and they will access the parcel via West Henrietta Road only, they will not be driving by the daycare center.

Brian Glise stated that the Planning Board can put restrictions on what will be allowed in the flex space leased building. Attorney Campbell stated that that will be up to the Town Board for approval so they can keep track of the sewer capacity in that area. There was discussion on the process of the flex space leasing application when that time comes and if giving an allowable operation beforehand would be beneficial.



Attorney Campbell feels if you give them an established list of operations that are allowed in the building, you give away the review process.

Tom McGovern asked Lance if MRB Group has a program that would show them topography of what it would look like with buffers and buildings. Lance stated they do not.

There was discussion between Mike Miles and Attorney Campbell regarding the Planning Board restrictions if any on this type of application. Mike doesn't have a problem with the site plan per say but more with the statement of operations of the business. Lance listed exactly what the Planning Board is looking for from this applicant to get a better understanding of the business.

Kathy Cole asked Lance at this point do we do the SEQOR part of the application and have Piranha come back for the site plan portion with the requested item revisions. Lance stated the actions that can be taken tonight are the SEQOR determination and EAF approval, Town Board Special Use Permit approval, and site plan approval. The item that is of concern is the site plan approval and he feels comfortable with doing the SEQOR determination tonight.

Clara asked what the Town Board's opinion is with this application. Supervisor LeFeber feels that safeguards are in place to protect us if they want to advance in the other phases. He also feels that the yard will look well maintained if they want to rent out the flex space building and the Town Board will be able to look at each unit before it is rented. Councilman Harrington agrees with Supervisor LeFeber and feels that 390 is the gateway and he would like some buffering and a good layout. Councilman Drozdziel feels the safeguards are for future businesses and he is unsure of how it will look with the three businesses that Piranha has currently. Councilman Coyne agrees with Supervisor LeFeber as well and also is looking for more buffering and feels the governing body will address any challenges that arise.

Councilman Harrington asked how old the equipment is that they currently own and Mr. Spade stated they are brand new and all nicely painted. Councilman Drozdziel asked the interest in moving the business to Livingston County, and where is most of the business clientele. Mr. Spade said he lives in Livingston County as do most of his employees and he wants to stay close to home. His business is all over but he mostly hauls salt for the salt mine.

Attorney Campbell stated the next step, if the Board chooses, is the SEQR review and then the Town Board will approve the Special Use Permit. There was discussion between Board members and Attorney Campbell regarding the businesses the park was originally intended for.

Mr. Sciarabba gave his interpretation of what both Boards are looking for as far as landscaping and buffering on the site plan and they will accommodate the suggestions.

Lance stated that SEQR is already completed since this is in a PDD and it is an unlisted action.

TOWN OF AVON PLANNING BOARD RESOLUTION  
PIRANHA MILLING & PAVING CONTRACTORS, LLC  
HOME OFFICE, PHASE 1 - TEC DRIVE  
PRELIMINARY SITE PLAN REVIEW

SEQR - DESIGNATING LEAD AGENCY

WHEREAS, the Town of Avon Planning Board (hereinafter referred to as Planning Board), is also considering Preliminary Site Plan approval for the construction of a 9,500 sq ft light industrial building to house the operation of the contracting business including office space with the remaining portion to be used for storage and maintenance of equipment. There will also be (1) 60' x 280' building with 10 lease spaces and associated site improvements, as described in the Site Plans dated October 22, 2019, last revised December 6, 2019 and all other relevant information submitted as of December 16, 2019 (the current application); and

WHEREAS, the Planning Board has determined the proposed action referenced above to be an Unlisted Action under Part 617 of the State Environmental Quality Review (SEQR) Regulations; and

WHEREAS, the Planning Board has on Tuesday, November 5, 2019 declared its intent to be designated the Lead Agency for the proposed Action under the provisions of the State Environmental Quality Review (SEQR) Regulations; and

WHEREAS, the Planning Board has provided written notices to this effect to the involved and interested agencies; and

WHEREAS, the Planning Board has not received any written objections from the involved agencies to the Board's being designated as the lead agency under the SEQR Regulations; and

WHEREAS, the Planning Board has previously determined that it is the most appropriate agency to insure the coordination of this Action and for making the determination of significance thereon under the SEQR Regulations.

NOW, THEREFORE BE IT RESOLVED that the Planning Board does hereby designate itself as the lead agency for the Action identified above herein;

The above resolution was offered by Thomas McGovern and seconded by Michael Miles at a meeting of the Planning Board held on Monday, December 16, 2019. Following discussion thereon, the following roll call vote was taken and recorded:

Kathleen Cole - *Aye*  
Randy Kozlowski - *Absent*  
Kathy Mannix - *Absent*  
Thomas McGovern - *Aye*  
Michael Miles - *Aye*  
Clara Mulligan - *Aye*  
Brian Thorn - *Aye*

I, Kim McDowell, Clerk of the Board, do hereby attest to the accuracy of the above resolution being acted upon and recorded in the minutes of the Town of Avon Planning Board for the December 16, 2019 meeting.

Kim McDowell \_\_\_\_\_, L.S.  
Kim McDowell, Clerk of the Board

Lance provided Piranha's Short EAF Part 1, Part 2 and Part 3 for their consideration and signature.

TOWN OF AVON PLANNING BOARD RESOLUTION  
PIRANHA MILLING & PAVING CONTRACTORS, LLC  
HOME OFFICE, PHASE 1 - TEC DRIVE  
PRELIMINARY SITE PLAN REVIEW

SEQR - DETERMINATION OF SIGNIFICANCE

WHEREAS, the Town of Avon Planning Board (hereinafter referred to as Planning Board), is also considering Preliminary Site Plan approval for the construction of a 9,500 sq ft light industrial building to house the operation of the contracting business including office space with the remaining portion to be used for storage and maintenance of equipment.

There will also be (1) 60' x 280' building with 10 lease spaces and associated site improvements, as described in the Site Plans dated October 22, 2019, last revised December 6, 2019 and all other relevant information submitted as of December 16, 2019 (the current application); and

WHEREAS, the Planning Board has determined the above referenced Action to be an Unlisted Action pursuant to Part 617 of the State Environmental Quality Review (SEQR) regulations; and

WHEREAS, the Planning Board determined that said Action to be subject to a coordinated review and approval by other involved agencies under SEQR Regulations; and

WHEREAS, the Planning Board has been designated the lead agency, under the provisions of Part 617.6 (3) and (4) of article 8 of the State Environmental Conservation Law; and

WHEREAS, the Planning Board has given consideration to the comments provided by the involved agencies and interested agencies at tonight's meeting; and

WHEREAS, the Planning Board has completed its review of Parts 2 and 3 of the Short Environmental Assessment Form (EAF); and

WHEREAS, the Planning Board has given consideration to the criteria for determining significance as set forth in Section 617.7 (c) of the SEQR Regulations and the information contained in Parts 1, 2 and 3 of the Short EAF.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board does hereby accept the findings contained in Parts 2 and 3 of the EAF and directs the Planning Board Chairperson to sign and date the EAF Part 3.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board has reasonably concluded the following impacts are expected to result from the proposed Action, when compared against the criteria in Section 617.7 (c):

- (i) there will not be a substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic noise levels; a substantial increase in solid waste production; a substantial increase in potential for erosion, flooding, leaching or drainage problems;

- (ii) there will not be large quantities of vegetation or fauna removed from the site or destroyed as the result of the proposed Action; there will not be substantial interference with the movement of any resident or migratory fish or wildlife species as the result of the proposed Action; there will not be a significant impact upon habitat areas on the site; there are no known threatened or endangered species of animal or plant, or the habitat of such species; or, are there any other significant adverse impacts to natural resources on the site;
- (iii) there are no known Critical Environmental Area(s) on the site which will be impaired as the result of the proposed Action;
- (iv) the overall density of the site is consistent with the Town's Comprehensive Plan land use recommendations;
- (v) the site is will not negatively impact an identified archaeological sensitive area;
- (vi) there will not be an increase in the use of either the quantity or type of energy resulting from the proposed Action;
- (vii) there will not be any hazard created to human health;
- (viii) there will not be a change in the use of active agricultural lands that receive an agricultural use tax exemption or that will ultimately result in the loss of ten acres of such productive farmland;
- (ix) there will not be a larger number of persons attracted to the site for more than a few days when compared to the number of persons who would come to the site absent the Action;
- (x) there will not be created a material demand for other Actions that would result in one of the above consequences;
- (xi) there will not be changes in two or more of the elements of the environment that when considered together result in a substantial adverse impact; and
- (xii) there are not two or more related Actions which would have a significant impact on the environment.

BE IT FURTHER RESOLVED THAT based upon the information and analysis above and the supporting documentation referenced above, the proposed Action **WILL NOT** result in any significant adverse environmental impacts.

BE IT FINALLY RESOLVED that the Planning Board directs that copies of this determination be filed as provided for under the SEQR Regulations.

The above resolution was offered by Thomas McGovern and seconded by Michael Miles at a meeting of the Planning Board held on Monday, December 16, 2019. Following discussion thereon, the following roll call vote was taken and recorded:

Kathleen Cole - *Aye*  
Randy Kozlowski - *Absent*  
Kathy Mannix - *Absent*  
Thomas McGovern - *Aye*  
Michael Miles - *Aye*  
Clara Mulligan - *Aye*  
Brian Thorn - *Aye*

I, Kim McDowell, Clerk of the Board, do hereby attest to the accuracy of the above resolution being acted upon and recorded in the minutes of the Town of Avon Planning Board for the December 16, 2019 meeting.

Kim McDowell \_\_\_\_\_, L.S.  
Kim McDowell, Clerk of the Board

Lance stated the Town Board has to review the Special Use Permit, the applicant will need to make revisions to the site plan and statement of operations and then come back to the next meeting on January 7, 2020.

Attorney Campbell asked if the Town Board had any questions about the SEQR review process, which there were none. Attorney Campbell has drafted a resolution for the Board, if they so choose, to move forward with the Special Use Permit in a PDD under Town Code 130-8H.

RESOLUTION #224 JAMES STEELE COMMERCE PARK PDD - ADDITIONAL USE

On motion of Supervisor LeFeber, seconded by Councilman Coyne the following resolution was  
ADOPTED AYES 4 NAYS 0 ABSENT 1 (Deputy Supervisor Mairs)

**RESOLUTION**

At a special joint meeting of the Town Board of the  
Town of Avon, Livingston County, State of New York,  
held at the Avon Town Hall on December 16, 2019

**WHEREAS, the Code of the Town of Avon (hereafter “Code”) establishes the zoning classification of Planned Development District (hereafter “PDD”) as set forth in §130-18 thereof; and**

**WHEREAS, the intent of the PDD is to permit the development of land for commercial and industrial purposes where tracts of land suitable in location, area and character for the uses and structures proposed are to be planned and developed on a unified basis; and**

**WHEREAS, the Town Board has the authority and responsibility under §130-18 to approve of all uses contemplated in a PDD, which such uses are also subject to site plan approval by the Town of Avon Planning Board (hereafter “Planning Board”); and**

**WHEREAS, after initial approval, construction and occupancy of a PDD, §130-18 H provides that the Town Board shall approve any changes in use by way of a special permit; and**

**WHEREAS, Piranha Milling & Paving Contractors, LLC (hereafter “Applicant”) is the contract vendee of the approximately 33.70 +/- acres of property known as Tax Identifier Map Parcel No. 35.-1-13.524 on Tec Drive in the Town of Avon, County of Livingston and State of New York (hereafter “subject property” or “parcel”) located in the James Steele Commerce Park (formerly known as the “Crossroads Commerce Park Planned Development District” (hereafter “PDD”); and**

**WHEREAS, pursuant to §130-18 H of the Code, Applicant is seeking approval from the Town Board to construct and use a 9,500 +/- square foot light industrial building to house its operation of a contracting business including office space with the remaining portion to be used for storage and maintenance of equipment. There will also be a 60’ x 280’ building with ten (10) individual lease spaces and associated site improvements, including associated parking areas and utilities; and**

**WHEREAS, the Town Board wishes to memorialize and specify the parameters of its approval of Applicant’s request for issuance of a special permit**

**NOW, THEREFORE, upon motion by \_Councilman, Harrington, seconded by \_Supervisor LeFeber, it is hereby**

**RESOLVED, that the Town Board of the Town of Avon, pursuant to §130-18 H of the Code, contingent upon Applicant taking title to the subject property, hereby approves of Applicant’s request (to the limited degree specifically stated herein) and authorizes a Special Permit to be issued to Applicant by the Code Department to the following extent:**

- 1. Subject to provisions stated hereafter, Applicant, his successors and assigns shall be permitted to use a portion of the property (shown as “Phase 1” on Site Plans dated October 22, 2019 and revised December 6, 2019) known as**

**Tax Identifier Map Parcel No. 35.-1-13.524 on Tec Drive in the Town of Avon, County of Livingston and State of New York and located in the James Steele Commerce Park PDD, for purposes associated with its construction business, including the construction and use of a 9,500 +/- square foot light industrial building to house its operations including office space with the remaining portion to be used for storage and maintenance of equipment.**

- 2. Subject to provisions stated hereafter, Applicant, his successors and assigns shall also be permitted to use a portion of the property (shown as “Phase 1” on Site Plans dated October 22, 2019 and revised December 6, 2019) to construct a 60’ x 280’ building with ten (10) individual lease spaces. As part of this approval, Applicant is authorized under the same conditions to make associated site improvements, including parking areas and utility improvements;**
  - a. It is specifically understood that each of the ten (10) individual rental units within the 60’ x 280’ building will require Applicant to seek approval for a Special Permit pursuant to §130-18 H of the Code from the Town Board, including each time the use of any individual rental unit is changed or re-let to a different tenant (unless a new tenant is utilizing the space for an already approved use and in a similar scope).**
- 3. This conditioned approval is specifically intended to apply only to the area of the subject parcel that has been identified as “Phase 1” on Site Plans dated October 22, 2019 and revised December 6, 2019. This conditioned approval shall not apply to the use of any other portion of the subject property known as Tax Identifier Map Parcel No. 35.-1-13.524. Additionally, this conditioned approval shall not be interpreted to imply or suggest that any given future use will be approved for the remaining portions of the subject parcel. It is further understood that because of potential limitations of the Village of Avon sewer treatment facility, the Avon Town Board makes no implied representations that future build-out of the remaining portion of the subject property will be possible.**
- 4. Applicant, its successors and assigns shall not use any portion of the property for any use that is not specifically approved herein or by further action of the Avon Town Board;**
- 5. Any development of the subject parcel and subsequent use thereof as authorized herein shall be contingent and conditioned on the Applicant first obtaining Site Plan approval from the Town of Avon Planning Board in compliance with the provisions set forth in Article XI of Chapter 130 of the Code at §130-18 and §130-45 through §130-47. Any authority intended to be granted herein shall not become effective and Applicant shall have no vested rights therein until such time that final Site Plan approval has been granted;**



6. Any approval of use herein granted shall continue to be contingent upon Applicant (including its successors and assigns) complying with the conditions of approval of any current or future Site Plan approval. Failure by Applicant (including its successors and assigns) to comply with any conditions or requirements of any current or future Site Plan approval shall be grounds for retraction of this approval of use by subsequent action of the Town Board of the Town of Avon;
7. As a condition of the limited approvals granted herein, Applicant, his successors and/or assigns shall append, affix and maintain a copy of this Resolution to the abstract of title relating to its property identified as Tax Identifier Map Parcel No. 35.-1-13.524 on Tec Drive in the Town of Avon, County of Livingston and State of New York and being located in the James Steele Commerce Park PDD;
8. Without restricting any other remedy provided for herein or available under the law, any failure of Applicant or its successors and/or assigns to comply with the provisions of the special permit approved hereby shall subject the violator to enforcement proceedings set forth under Article XI of Chapter 130 of the Code and/or revocation of such special permit by the Town Board; and
9. Should Applicant (or an entity of which Applicant is the majority owner) fail to take legal title to the subject property, this Resolution and the Special Permit authorized by it shall automatically become null and void and of no effect at law.

**AND BE IT FURTHER RESOLVED, that a copy of this Resolution be formally made a part of the files maintained by the Town of Avon relating to the James Steele Commerce Park Planned Development District and to Lot 13 thereof.**

**Dated: December 16, 2019**

<b>Vote of the Board:</b>	<b>David LeFeber</b>	<b>AYE</b>
	<b>Thomas Mairs</b>	<b>ABSENT</b>
	<b>Malachy Coyne</b>	<b>AYE</b>
	<b>Paul Drozdziel</b>	<b>AYE</b>
	<b>James Harrington</b>	<b>AYE</b>

**BY ORDER OF THE TOWN BOARD  
OF THE TOWN OF AVON**

\_\_\_\_\_  
**Sharon Knight, MMC/RMC**  
**Town Clerk**

Vote of the Board: Councilman Drozdziel - Aye, Councilman Harrington - Aye, Councilman Coyne - Aye, Deputy Supervisor Mairs - Abstain, Supervisor LeFeber - Aye

After Attorney Campbell read the proposed resolution, Councilman Drozdziel asked if we are putting undue hardship on the business owner with these conditions. Attorney Campbell stated that the conditions are in there so in the future if something can't be done or the business owner may need to share in the cost of expansion that they are well aware in advance.

Supervisor LeFeber stated that the Town Board needs to approve Abstract #2019-24 for two credit card bills that need to be paid immediately due to late fees incurred if they are included in the December 30, 2019 meeting.

RESOLUTION #225 PAYMENT OF BILLS

On motion of Councilman Harrington, seconded by Councilman Coyne the following resolution was

ADOPTED AYES 4 NAYS 0 ABSENT 1 (Deputy Supervisor Mairs)

RESOLVE to accept for payment Abstract 2019-24 in the following amounts:

Concerning ABSTRACT of Claims Number 2019-24 including claims as follows:

General Fund	Voucher #589 through #590 in amounts totaling \$ 324.95
Highway Fund	No Voucher
Water Fund	No Voucher
Cemetery Fund	No Voucher
Opera Block Capital Improvement	No Voucher
Royal Springs Lighting	No Voucher
Cross-Roads Drainage District	No Voucher
Bruckel Drainage District	No Voucher
Royal Springs Drainage	No Voucher
Town of Avon Fire Protection	No Voucher
Rte. 39 Water SW2	No Voucher

Vote of the Board: Councilman Drozdziel - Aye, Councilman Harrington - Aye, Councilman Coyne - Aye, Deputy Supervisor Mairs - Absent, Supervisor LeFeber - Aye

Mr. Sciarabba requested a preliminary site plan approval tonight due to financial applications requirements and then come back in January for final approval.

Attorney Campbell has no issues with a preliminary determination as long as the Board is comfortable. Lance stated preliminary site plan approval doesn't grant them approval to build, just gives them approval to start the funding process on their end. Lance reiterated exactly what the Town is looking for in terms of landscaping and the statement of operations and to be as detailed as possible.

TOWN OF AVON PLANNING BOARD RESOLUTION  
PIRANHA MILLING & PAVING CONTRACTORS, LLC  
HOME OFFICE, PHASE 1 - TEC DRIVE  
PRELIMINARY SITE PLAN REVIEW

SITE PLAN APPROVAL RESOLUTION

WHEREAS, the Town of Avon Planning Board (hereinafter referred to as Planning Board), is also considering Preliminary Site Plan approval for the construction of a 9,500 sq ft light industrial building to house the operation of the contracting business including office space with the remaining portion to be used for storage and maintenance of equipment. There will also be (1) 60' x 280' building with 10 lease spaces and associated site improvements, as described in the Site Plans dated October 22, 2019, last revised December 6, 2019 and all other relevant information submitted as of December 16, 2019 (the current application); and

WHEREAS, the Planning Board has classified the above referenced Action to be an Unlisted Action under Section 617.5 (c) of the State Environmental Quality Review (SEQR) Regulations; and

WHEREAS, in compliance with NYS Town Law and the regulations of the State Environmental Quality Review Act (SEQRA), a determination of significance and a negative declaration was adopted by the Planning Board on December 16, 2019; and

WHEREAS, on December 16, 2019 the Town Board, pursuant to §130-18 H of the Code, contingent upon the applicant taking title to the subject property and receiving site plan approval from the Planning Board, approved the issuance of a Special Permit; and

NOW, THEREFORE, BE IT RESOLVED that the Planning Board does hereby approves the requested Site Plan with the following conditions:

1. Preliminary Site Plan Approval with conditions specified above herein is valid for a period of 180 days from today.
2. All comments regarding the Town Engineer's review, Town DPW Superintendent's review, and Livingston County Water & Sewer Authority's review of the site plans are to be addressed to their satisfaction prior to receiving Final Site Plan approval.
3. A statement of operations outlining the different uses proposed is to be provided on a separate cover prior to receiving Final Site Plan approval.
4. The Site Plans are to be revised to provide additional landscaping along the eastern side of the storage area and along the north side of the Flex Space storage area to screen from neighboring properties and NYS Route 390.

The above resolution was offered by Michael Miles and seconded by Thomas McGovern at a meeting of the Planning Board held on Monday, December 16, 2019. Following discussion thereon, the following roll call vote was taken and recorded:

Kathleen Cole - *Aye*  
Randy Kozlowski - *Absent*  
Kathy Mannix - *Absent*  
Thomas McGovern - *Aye*  
Michael Miles - *Aye*  
Clara Mulligan - *Aye*  
Brian Thorn - *Aye*

I, Kim McDowell, Clerk of the Board, do hereby attest to the accuracy of the above resolution being acted upon and recorded in the minutes of the Town of Avon Planning Board for the December 16, 2019 meeting.

Kim McDowell \_\_\_\_\_, L.S.  
Kim McDowell, Clerk of the Board

PLANNING BOARD MOTION TO CLOSE THE MEETING WAS MADE BY TOM,  
SECONDED BY CLARA.

KATHLEEN COLE -AYE  
TOM MCGOVERN- AYE  
RANDY KOZLOWSKI - ABSENT  
KATHLEEN MANNIX - ABSENT  
CLARA MULLIGAN - AYE  
MICHAEL MILES - AYE  
BRIAN THORN - AYE

CARRIED 5-0.

RESOLUTION # 226 TOWN BOARD MOTION TO CLOSE THE MEETING WAS MADE  
BY SUPERVISOR LEFEBER, SECONDED BY COUNCILMAN DROZDZIEL.

SUPERVISOR, DAVID LEFEBER - AYE  
DEPUTY SUPERVISOR, TOM MAIRS - ABSENT  
COUNCILMAN, PAUL DROZDZIEL - AYE  
COUNCILMAN, MALACHY COYNE - AYE  
COUNCILMAN, JAMES HARRINGTON - AYE

CARRIED 4-0.

MEETING CLOSED.

Respectfully submitted by:

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Kimberly McDowell, Planning & ZBA Clerk

&

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Sharon M. Knight, MMC/RMC Town Clerk