

PLANNING, ZBA & TOWN MEETING
2022

MONDAY, DECEMBER 19,

MEMBERS PRESENT: PLANNING: KATHY COLE, BRIAN THORN, THOMAS MCGOVERN, CHRISTOPHER STERNER, COLLIN HAYES, CLARA MULLIGAN

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

ABSENT: KATHY MANNIX (PLANNING), CINDY KELLEN (ZBA)

OTHERS: BRIAN GLISE (CEO, AVON), JAMES CAMPBELL (TOWN ATTORNEY), LANCE BRABANT (MRB GROUP)

VISITORS: JOSHUA MUIR, JULIA ARMSTRONG, BRYAN BAYER, NICK WALSH, JOSEPH MONTESANO, LARRY HEININGER, JAYMESON BAREFOOT, KATHY MONTESANO, KATIE MORAN, MEG HOLMES, CATHERINE LOOMIS, KEVIN O'DONOGHUE, MEAGAN HOWELL, JUDITH FALZOI

CLERK: KIM MCDOWELL

MOTION TO OPEN THE MEETING WAS MADE BY BOB WESTFALL; SECONDED BY DIANE ATTEA.

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

KATHLEEN COLE -AYE
THOMAS MCGOVERN - AYE
COLLIN HAYES - AYE
KATHLEEN MANNIX - ABSENT
CLARA MULLIGAN - AYE
BRIAN THORN - AYE
CHRISTOPHER STERNER - AYE

CARRIED 10-0.

ZBA & PLANNING MOTION TO APPROVE THE MINUTES FROM NOVEMBER 21, 2022, MEETING SUBMITTED WAS MADE BY CLARA MULLIGAN; SECONDED BY CHRISTOPHER STERNER.

JEFF MULLIGAN - AYE
CINDY KELLEN- ABSENT
BOB WESTFALL- AYE

DIANE ATTEA - AYE
JEFF PASSARELL - AYE

KATHLEEN COLE -AYE
THOMAS MCGOVERN - AYE
COLLIN HAYES - AYE
KATHLEEN MANNIX - ABSENT
CLARA MULLIGAN - AYE
BRIAN THORN - AYE
CHRISTOPHER STERNER - AYE

CARRIED 10-0.

JOSHUA MUIR ACTING AGENT FOR SCOTT BATZEL/2606 LAKEVILLE RD/TAX
PARCEL#44.-1-59 - SPECIAL USE PERMIT PUBLIC HEARING

Jeff Mulligan stated he saw the sign on the property regarding this public hearing and asked if there were any questions from the Board.

Jeff Mulligan asked Mr. Muir to give us a brief overview.

Mr. Muir owns Truth and Grace Automotive, which is currently located at the Piranha building and are moving to Scotty's Autobody on Lakeville Road, looking to expand their business. They would like to include selling cars along with auto repairs.

Jeff Mulligan asked for a motion to open the public hearing.

MOTION TO OPEN THE PUBLIC HEARING WAS MADE BY JEFF PASSARELL;
SECONDED BY BOB WESTFALL.

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

CARRIED 4-0.

Jeff Mulligan asked if there were any questions and there were none.

Lance Brabant stated the applicant supplied an updated sketch plan to show the ability for emergency vehicles to get in and out if necessary.

Bob Westfall asked if he would exceed 5 cars on the premise and Mr. Muir stated right now just 5 cars, but he would like to be able to have the possibility of 10 cars.

Jeff Mulligan stated he would like a condition in the special use permit that no unlicensed vehicles can be stored outside other than the cars for sale.

Mr. Muir stated if the business of selling cars becomes successful and they need more space, they will come back to the Board to change the site plans.

Lance Brabant stated one of the conditions of the Special Use Permit has the number of vehicles, which is 32 total cars (24 outside and 8 inside).

MOTION TO CLOSE THE PUBLIC HEARING WAS MADE BY JEFF PASSARELL; SECONDED BY DIANE ATTEA.

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

CARRIED 4-0.

Jeff Mulligan stated we need to approve SEQR and SUP resolutions.

TOWN OF AVON ZONING BOARD OF APPEALS RESOLUTION
TRUTH & GRACE AUTOMOTIVE
2606 LAKEVILLE ROAD
GENERAL BUISNESS (G-1) / LIGHT INDUSTRIAL (L-1) ZONING DISTRICT
TM# 44.-1-59
SPECIAL USE PERMIT APPLICATION

SEQR RESOLUTION - TYPE II ACTION

WHEREAS, the Town of Avon Zoning Board of Appeals, (hereinafter referred to as Zoning Board) has received a Special Use Permit Application to allow for the existing building and site be used for an automotive repair shop and small automotive dealership

consisting of approximately five to ten vehicles for sale located at 2606 Lakeville Road and as detailed on the information submitted and discussed at the December 19, 2022 Joint Board Meeting; and

NOW, THEREFORE, BE IT RESOLVED THAT, the Zoning Board does hereby classify the above referenced Action to be a Type II Action under Section 617.5 (c) of the State Environmental Quality Review (SEQR) Regulations; and

BE IT FURTHER RESOLVED THAT, Type II Actions are not subject to further review under Part 617 of the SEQR Regulations; and

BE IT FINALLY RESOLVED THAT, the Zoning Board in making this classification has satisfied the procedural requirements under SEQR and directs this Resolution to be placed in the file on this Action.

The above resolution was offered by Jeff Passarell and seconded by Diane Attea at a meeting of the Zoning Board of Appeals held on Monday, December 19, 2022. Following discussion thereon, the following roll call vote was taken and recorded:

Jeffery Mulligan - *AYE*
Jeff Passarell - *AYE*
Cindy Kellen - *ABSENT*
Bob Westfall - *AYE*
Diane Attea - *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 Zoning Board of Appeals for the December 19, 2022, meeting.

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

TOWN OF AVON ZONING BOARD OF APPEALS RESOLUTION
TRUTH & GRACE AUTOMOTIVE
2606 LAKEVILLE ROAD
GENERAL BUISNESS (G-1) / LIGHT INDUSTRIAL (L-1) ZONING DISTRICT
TM# 44.-1-59
SPECIAL USE PERMIT APPLICATION

SUP APPROVAL RESOLUTION

WHEREAS, the Town of Avon Zoning Board of Appeals, (hereinafter referred to as Zoning Board) is considering an Special Use Permit the existing building and site be use an automotive repair shop and small automotive dealership consisting of approximately five to ten vehicles for sale with no onsite improvements proposed at this time located at 2606 Lakeville Road and as detailed on the information submitted and discussed at the December 19, 2022 Joint Board Meeting; and

WHEREAS, the Town of Avon Zoning Board classified the above referenced Action to be an Type II Action under Section 617.5 (c) of the State Environmental Quality Review (SEQR) Regulations; and

WHEREAS, on December 19, 2022, in compliance with NYS Town Law, the Planning Board & Zoning Board held a Joint public hearing on the current application and completed a formal review; and

WHEREAS, per §130-45(B)(1) of the Town of Avon Town Code, the Planning Board completed a review of the application materials and provided recommendations to the Zoning Board of Appeals at the December 19, 2022 Joint Board Meeting; and

WHEREAS, the Zoning Board does hereby determine the proposed Special Use Permit for motor vehicle service stations and motor vehicle repair stations is in compliance with the provisions of Chapter §130-35 of the Town Code; and

NOW, THEREFORE, BE IT RESOLVED that the Zoning Board does hereby approve the requested special use permit with the following conditions:

1. The special use permit shall remain in effect for the current owner of the premises with no requirement for renewal, provided the use remains in compliance with the conditions of approval and Town Code §130-35.
2. In the event of any complaints about the Special Use Permit operations being filed with the Code Enforcement Officer and failure to take corrective action by the applicant shall be brought to the attention of the Zoning Board of Appeals.
3. The Town Code Enforcement Officer may make an on-site visit at least once over the course of the year, or as may be necessary to ensure that the site is being operated in accordance with the conditions specified by the Zoning Board of Appeals.
4. All consultants' fees for review of application are to be reimbursed by the applicant to the Town prior to the issuance of permits.

5. No more than 10 display vehicles is permitted at any one time. Also, no more than a total of 32 vehicles onsite at any one time is permitted.
6. Customer parking signs are to be installed for the proposed designated parking areas prior to issuance of the Certificate of Occupancy.
7. No outside storage of unlicensed vehicles is permitted unless they are for sale vehicles.

The above resolution was offered by Jeff Passarell and seconded by Bob Westfall at a meeting of the Zoning Board of Appeals held on Monday, December 19, 2022. Following discussion thereon, the following roll call vote was taken and recorded:

Jeffery Mulligan - *AYE*
Jeff Passarell - *AYE*
Cindy Kellen - *ABSENT*
Bob Westfall - *AYE*
Diane Attea - *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 Zoning Board of Appeals for the December 19, 2022, meeting.

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

MARQUES & ASSOCIATES PC ACTING AGENTS FOR AVON RSD LLC/2569
LAKEVILLE ROAD/TAX PARCEL#45.-1-80.31 - SPECIAL USE PERMIT &
SITE PLAN

Mr. Heininger & Mr. Barefoot was present for this application and gave a brief overview with updates from last month's meeting.

He has responded to all MRB Group comments and updated the Short EAF Part 1 form along with contacting SHPO which is requiring them to do an archeological study.

Mr. Heininger described the changes to the site plan that have been made recently per suggestions. They have also included the

future parking lot and additional building on this site plan, so it is included in all the studies that are required.

Lance Brabant stated he has worked with the engineers and has supplied resolutions if the Board is ready to move forward for approval with conditions. They will continue to work together with the storm water aspect of the site plan.

Clara Mulligan drove by and wondered if they had already done grading and they haven't just been stockpiling gravel.

The next step is to go through the resolutions supplied tonight by Lance Brabant.

Lance Brabant stated that he would read though the Short EAF forms if necessary and the Boards agreed it was not.

TOWN OF AVON PLANNING BOARD RESOLUTION
CP WARD PARKING EXPANSION
2569 LAKEVILLE ROAD
GENERAL BUISNESS (G-1) / LIGHT INDUSTRIAL (L-1) ZONING DISTRICT
TM# 45.-1-80.31
SPECIAL USE PERMIT & SITE PLAN APPLICATIONS

SEQR RESOLUTION - UNLISTED ACTION

WHEREAS, the Town of Avon Planning Board, (hereinafter referred to as Planning Board) has received a Site Plan & Special Use Permit Applications to allow for the expansion of an existing facility and increase gravel parking at site located at 2569 Lakeville Road and as detailed on the site plans dated November 7, 2022, and all other relevant information submitted and discussed at the December 19, 2022 Joint Board Meeting; and

WHEREAS, the Planning Board has reviewed the Short Environmental Assessment Form (EAF) Part 1, prepared by the applicant on the above referenced site plan application (hereinafter referred to as Action); and

WHEREAS, the Planning Board determines that said Action is classified as an Unlisted Action under Part 617 of the State Environmental Quality Review (SEQR) Regulations; and

WHEREAS, the Planning Board has determined that the proposed development is subject to a single agency review pursuant to Part 617.6(b) (4) of the SEQR Regulations; and

WHEREAS, the Planning Board determines that it is the most appropriate agency for making the determination of significance thereon under the SEQR Regulations; and

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

WHEREAS, the Planning Board has completed Part 2 and Part 3 of the Short EAF; and

NOW, THEREFORE BE IT RESOLVED 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) there will not be an increase in the use of either the quantity or type of energy resulting from the proposed Action;
- (vi) there will not be any hazard created to human health;
- (vii) 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;

- (viii) 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;
- (ix) there will not be created a material demand for other Actions that would result in one of the above consequences;
- (x) 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
- (xi) there are not two or more related Actions which would have a significant impact on the environment.

BE IT FURTHER RESOLVED, 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 does hereby make a Determination of Non-Significance on the proposed development, and the Planning Board Chairman is hereby directed to sign the Short Environmental Assessment Form Part 3 and issue the Negative Declaration as evidence of the Planning Board's determination.

The above resolution was offered by Collin Hayes and seconded by Christopher Sterner at a meeting of the Planning Board held on Monday, December 19, 2022. Following discussion thereon, the following roll call vote was taken and recorded:

Kathleen Cole - *AYE*
Collin Hayes - *AYE*
Kathy Mannix - *ABSENT*
Christopher Sterner - *AYE*
Clara Mulligan - *AYE*
Brian Thorn - *AYE*
Thomas McGovern - *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 19, 2022, meeting.

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

TOWN OF AVON PLANNING BOARD RESOLUTION
CP WARD PARKING EXPANSION
2569 LAKEVILLE ROAD
GENERAL BUISNESS (G-1) / LIGHT INDUSTRIAL (L-1) ZONING DISTRICT
TM# 45.-1-80.31
SPECIAL USE PERMIT & SITE PLAN APPLICATIONS

SITE PLAN APPROVAL RESOLUTION

WHEREAS, the Town of Avon Planning Board, (hereinafter referred to as Planning Board) has received a Site Plan & Special Use Permit Applications to allow for the expansion of an existing facility and increase gravel parking at site located at 2569 Lakeville Road and as detailed on the site plans dated November 7, 2022, and all other relevant information submitted and discussed at the December 19, 2022 Joint Board Meeting; and

WHEREAS, on November 21, 2022, in compliance with NYS Town Law, the Planning Board & Zoning Board held Joint public hearings on the current application; and

WHEREAS, the Planning Board has determined the proposed action to be an Unlisted action and subject to a single agency review pursuant to Part 617.6(b)(4) of the SEQR Regulations; and

WHEREAS, on December 19, 2022 the Planning Board made a determination of non-significance and filed a negative declaration thereby concluding review pursuant to SEQR; and

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

1. The Site Plan Approval with conditions as specified is valid for a period of 180 days from today and shall expire unless the site plans have been signed by the Planning Board Chair or an extension is requested by the Applicant and approved by the Planning Board prior to the expiration date.
2. The comments from the Town Engineer in a letter dated December 6, 2022 are to be addressed to the satisfaction of the Town Engineer prior to signatures being affixed to the plans.
3. All consultants' fees for review of application are to be reimbursed by the applicant to the Town prior to the issuance of permits.
4. Prior to issuance of a permit, a preconstruction meeting is required to occur at the request of the Town Code Enforcement Officer.

5. Site Plan approval is conditioned on the application receiving Special Use Permit Approval from the Zoning Board of Appeals.
6. A "no Effect" finding letter from SHPO is to be provided to the Town of Avon CEO before issuance of a permit or construction starting.

The above resolution was offered by Brian Thorn and seconded by Christopher Sterner at a meeting of the Planning Board held on Monday, December 19, 2022. Following discussion thereon, the following roll call vote was taken and recorded:

Kathleen Cole - *AYE*
Collin Hayes - *AYE*
Kathy Mannix - *ABSENT*
Christopher Sterner - *AYE*
Clara Mulligan - *AYE*
Brian Thorn - *AYE*
Thomas McGovern - *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 19, 2022, meeting.

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

TOWN OF AVON ZONING BOARD OF APPEALS RESOLUTION
CP WARD PARKING EXPANSION
2569 LAKEVILLE ROAD
GENERAL BUISNESS (G-1) / LIGHT INDUSTRIAL (L-1) ZONING DISTRICT
TM# 45.-1-80.31
SPECIAL USE PERMIT & SITE PLAN APPLICATIONS

SUP APPROVAL RESOLUTION

WHEREAS, the Town of Avon Zoning Board of Appeals, (hereinafter referred to as Zoning Board) is considering a Special Use Permit for the existing building and site to be use for the expansion of an existing facility and increase gravel parking at the site located at 2569 Lakeville Road and as detailed on the site plans dated November 2022, and all other relevant information

submitted and discussed at the December 19, 2022 Joint Board Meeting; and

WHEREAS, on November 21, 2022, in compliance with NYS Town Law, the Planning Board & Zoning Board held Joint public hearings on the current application; and

WHEREAS, the Town of Avon Planning Board (hereinafter referred to as Planning Board) as part of Site Plan review, 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, on December 19, 2022 the Planning Board made a determination of non-significance and filed a negative declaration thereby concluding review pursuant to SEQR and granted site plan approval; and

WHEREAS, the Zoning Board does hereby determine the proposed Special Use Permit for the expansion of an existing facility and increase gravel parking is in compliance with the provisions of Chapter §130-35 of the Town Code; and

NOW, THEREFORE, BE IT RESOLVED that the Zoning Board does hereby approve the requested amended special use permit with the following conditions:

1. The special use permit shall remain in effect for the current and future owner of the premises with no requirement for renewal, provided the use remains in compliance with the conditions of approval and Town Code §130-35.
2. In the event of any complaints about the Special Use Permit operations being filed with the Code Enforcement Officer and failure to take corrective action by the applicant shall be brought to the attention of the Zoning Board of Appeals.
3. The Town Code Enforcement Officer may make an on-site visit at least once over the course of the year, or as may be necessary to ensure that the site is being operated in accordance with the conditions specified by the Zoning Board of Appeals.
4. All conditions required as part of the Site Plan Approval are to be addressed prior to issuance of the Special Use Permit.

The above resolution was offered by Bob Westfall and seconded by Diane Attea at a meeting of the Zoning Board of Appeals held on Monday, December 19, 2022. Following discussion thereon, the following roll call vote was taken and recorded:

Jeffery Mulligan - *AYE*
Jeff Passarell - *AYE*
Cindy Kellen - *ABSENT*
Bob Westfall - *AYE*
Diane Attea - *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 Zoning Board of Appeals for the December 19, 2022, meeting.

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

KEVIN O'DONOGHUE, ACTING AGENT FOR HARRY MAYER/1068 OAK
OPENINGS ROAD/TAX PARCEL#26.-1-3 - SUBDIVISION

Mr. O'Donoghue was present to discuss this application. The farmland crosses the county line and he only mapped out the part that is pertinent to this application.

Mr. Mayer has a tenant house that he would like to subdivide from the farmland. The new lot will have 6 acres with 200 feet of frontage along with an existing well and septic.

Lance Brabant stated the map looks like it is a legal lot. He asked if there were any known environmental issues on the lot and there are none.

Kathy Cole stated the public hearing will be in January for this application.

Kim will get in touch with Kevin for the public hearing.

MEAGAN HOWELL, ACTING AGENT FOR TOMPKINS COMMUNITY BANK/4686
LINDEN STREET/TAX PARCEL#34.17-1-21.212 - ZBA - USE VARIANCE

Meagan Howell was present to discuss this application. She stated they acquired the property back in 2020 with a tenant and the tenant is no longer on premises so they are trying to sell it. Selling this has become a problem because everyone who is interested wants it to be a two family and it is currently zoned as a single family, therefore we are requesting a use variance.

The house has two separate units, each unit has a separate kitchen, bath, living space, and one has two bedrooms the other three bedrooms. They do not feel there is a significant impact on the community since it has been used as a two-family dwelling over the years and there are other units in the area.

Brian Glise stated that when it was built in the 1980's the family stated it was an in-law apartment. Brian also found a letter in the files that it would only have family members and it would never be rented out. The Town of Avon doesn't spot zone, so he feels a variance is the only way to go.

Jim Campbell stated this is a use variance and there are five criteria set by the State statute and must meet all of them. He stated that the applicant may be able to demonstrate that there is no economically viable use for the property right now and that would be substantiated by the problems of trying unsuccessfully to sell it as a single family home.

The bank has done some work to the house as best as they could, the house is in rough shape and the water is currently turned off.

Jeff Mulligan stated we need to have a public hearing for a use variance and this application needs to go to the county as well. The public hearing will be held next month.

There was discussion on what to do in the future with this type of variance application since there are other houses in Avon like this and we only find out about them when they are being sold and need a certificate of zoning compliance.

AVON CSG2 LLC ACTING AGENT FOR STOKOE FARMS/LAKE ROAD/TAX
PARCEL#44.-1-30.2 - SOLAR ARRAY

Julia Armstrong, Nick Walsh, and Bryan Bayer were present to continue the discussion of this application.

Nick Walsh stated that they responded to all the MRB Group comments and citizens' concerns from last month. He is hoping to close out the public hearing and move forward with the approvals tonight.

Lance Brabant stated the big concern is the visual impacts to the residents and the site plans haven't changed significantly and he feels that is a good spot to start.

Jeff Mulligan reminded everyone to state their name and address and would like new comments only and no questions. Jeff also stated the Boards hear the residents' concerns however we can only deal with the Code and Law for this application. He also stated since there are only four people present, he will not set a time limit for comments.

Kathy Montesano, 5533 Henty Road, Avon, NY is most effective by this visually since the panels are 400 feet from her house. At last month's meeting you suggested we go to the Town Board, which we did, and they encouraged us to request some buffering accommodations. The Code states the Planning Board shall provide enhanced screening and buffering for Type 2 solar energy systems placed adjacent to residential areas. She stated there is a gap on the site plan where the trees are going to be planted along her property line. She is asking the Planning Board to have a large berm built by her house to mitigate the view and drainage and to have 8-10-foot trees installed. Kathy had pictures to show where the gap on her property line is to everyone present. She is against this solar field next door to her. Again, she is requesting a berm, tall trees, and setbacks greater than 400 feet.

Joe Montesano, 2477 Avon Geneseo Road, Avon, NY my daughter lives right next to it. He stated the trees will be out in the field near the panels and it will be 20 years before you will not be able to see the panels. He feels a berm and pushing back will help. He was questioning who will be maintaining the trees and if they die, will they be replaced?

Jeff Mulligan stated that only comments are allowed during the public hearing.

Kathy Montesano asked if she could look at the applicant's response to the residents' concerns and was told she would need to FOIL the Town.

Katie Moran, 5524 Lake Road, Avon, NY discussed the views from her property and behind her barn she has another acre that is completely viewable to this project. The setback of 400 feet is from her barn and she is going to put another structure in back and it will be even closer to the solar field. She would like it pushed back further so she can have her sitting area. She

would like a berm and more trees, and have it pushed back 1000 feet. She also would like all screening done before they start construction on the panels.

Meg Holmes, 5478 Lake Road, Avon, NY is just going to reiterate what all her neighbors are saying. She would like to see a berm put in, so they don't have to look at the panels.

Catherine Loomis, 5502 Henty Road, Avon, NY lives directly across the street. She has cancer and feels that the construction will cause dust and pesticides that are all dangerous in the air. She has not been contacted by this company and this is a death sentence for her.

Joe Montesano, 2477 Avon Geneseo Road, Avon, NY showed a picture of the trees that are going on an angle and how even after 10 years you will still see the panels.

Judith Falzoi, 1739 Athena Drive, Avon, NY stated the height of the panels is a maximum of 15 feet from the ground up and she wants to make sure that is followed. It is important to stress that to the applicant.

Brian Thorn asked if there were any other comments and there were none.

MOTION TO CLOSE THE PUBLIC HEARING WAS MADE BY BOB WESTFALL; SECONDED BY CHRISTOPHER STERNER.

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

KATHLEEN COLE -AYE
THOMAS MCGOVERN - AYE
COLLIN HAYES - AYE
KATHLEEN MANNIX - ABSENT
CLARA MULLIGAN - AYE
BRIAN THORN - AYE
CHRISTOPHER STERNER - AYE

CARRIED 10-0.

Jeff Mulligan asked Lance Brabant and Jim Campbell to give the Board directions on what to do next.

Lance stated the next step in the process is ultimately for the Boards to decide on the action, step 1 being completion of the SEQR requirements. If the Boards have some concerns about the visual impact, it is best to discuss it now before moving forward.

Bob Westfall is wondering if the applicant is willing to do address any of the items brought up tonight for the neighbors.

Nick Walsh has worked with the Board for this project and to be a good neighbor. We have changed the landscaping plan based on suggestions from everyone. They have trees around the entire perimeter, and they will plant in the gap at the Montesano residents.

Bryan Bayer stated a berm is not financially feasible and the screening benefit is no different than the trees.

Brian Thorn asked during the construction period, what effects will there be as far as dust and noise is concerned.

Bryan Bayer stated they mitigate the dust by spraying water down and once the construction is complete there will be no dust since it won't be farmed each year.

Brian Glise stated he heard they were stripping topsoil and the applicant stated they do not do that only where the driveway will go.

Lance Brabant stated for building houses you move a lot of soil around but for solar panels there is minimum earth movement. There are requirements from Ag & Markets that the applicant will have to adhere to during the life of the project.

Tom McGovern feels there is still a pretty good view for some of the neighbors and in 20 years it will be obscure, and the applicant feels it will be.

There was much discussion on the visual impacts and how to make it best for all involved with some different options.

There was much discussion on where exactly the trees are being planted - are they on the property lines or closer to the fence where the panels are.

Jeff Mulligan asked how much of the property are they leasing - if they are leasing the whole property can they put another row of trees near the property line as well.

Collin Hayes stated he would like to make sure they can't turn the switch until all the buffering/screening has been completed.

Jim Campbell stated that it is in the code that all conditions of approval are completed before being able to make it commercially operable.

Brian Glise has enforcement abilities to make sure it is all done before giving a certificate of completion.

Jim Campbell stated that in other communities, in order to provide additional mitigation to visual impacts, the developer has put trees on the neighbor's properties, but the issues are the maintenance/responsibilities of the trees.

Jeff Mulligan feels we are all trying to come up with compromises that will help both the applicant and the neighbors alike.

Lance Brabant asked how planting trees on the neighbor's property work; Jim Campbell stated that the applicant and neighbor would have to sign an agreement with each other outside of the Town of Avon.

There was much discussion with the Board regarding options that are viable and if they need more visual renditions with those options and conditions from the applicant.

Lance Brabant asked if the lease states they will continue to farm, and the applicant didn't know if they would continue to farm.

Bob Westfall asked if when the applicant meets with the individual neighbors do they come back to the Town of Avon with a proposal and Jim Campbell stated yes.

Nick Walsh asked if a condition of approval would be to amend the plans and talk to the neighbors to move some landscaping on to their properties and if not then we go with the plans we are currently discussing.

Lance Brabant asked if the Board wants to see visual renderings before making an approval tonight or make an approval with conditions including additional landscaping.

Jim Campbell stated the developer is agreeing to amend the plans and move trees closer to the landowner's property and would meet with the landowners regarding this.

Jeff Mulligan and Tom McGovern feel they need to see the renderings before approval and Nick Walsh stated the renderings are not going to look much different than what is presented tonight.

Christopher Sterner suggested we require an additional number of trees that can either be a third row around the array or on private property with the homeowner's consent.

Bryan Bayer counted that one row of trees on the site plan is 140. The Board agreed to have a total of 140 more trees added to the site plan either by the fence or on private property.

The Board also agreed that they will not need to see additional renderings with the added trees, and we can move forward in the approval process.

Lance Brabant stated we have completed the coordinated review with other agencies and no other agencies objected to us being the lead agency.

Declaring Lead agency resolution TM - CH aye all

Lance Brabant stated the Full Environmental Assessment Form Part 1 was completed by the applicant.

Jim Campbell read Part 2 of the Environmental Assessment form to the Boards and there was lengthy discussion on the answers.

TOWN OF AVON PLANNING BOARD RESOLUTION
AVON CSG 2 LLC SOLAR PROJECT
5505 HENTY ROAD, AVON, NY
TAX MAP ID: 44.-1-30.2
SPECIAL USE PERMIT & PRELIMINARY/FINAL SITE PLAN REVIEW

SEQR - DESIGNATING 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 CSG 2 LLC Solar Project (Project), a proposed 4.0-megawatt (MW) alternating current (AC) solar photovoltaic (PV) project located within the Town of Avon. The proposed Project will be located on ± 45.4-acres site as described in the Site Plans dated July 2022, last revised November 3, 2022 and all other relevant information submitted as of December 19, 2022 (the current application); and

WHEREAS, the Planning Board has determined the proposed action referenced above to be a Type 1 Action under Part 617 of the State Environmental Quality Review (SEQR) Regulations; and

WHEREAS, the Planning Board has on Monday, September 19 2022 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 Collin Hayes at a meeting of the Planning Board held on Monday, December 19, 2022. Following discussion thereon, the following roll call vote was taken and recorded:

Kathleen Cole - *ABSTAINED*

Collin Hayes - *AYE*

Kathy Mannix - *ABSENT*

Christopher Sterner - *AYE*

Clara Mulligan - *AYE*

Brian Thorn - *AYE*

Thomas McGovern - *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 19, 2022, meeting.

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

TOWN OF AVON PLANNING BOARD RESOLUTION
AVON CSG 2 LLC SOLAR PROJECT
5505 HENTY ROAD, AVON, NY
TAX MAP ID: 44.-1-30.2
SPECIAL USE PERMIT & PRELIMINARY/FINAL SITE PLAN REVIEW

SEQR - DETERMINATION OF SIGNIFICANCE

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 CSG 2 LLC Solar Project (Project), a proposed 4.0-megawatt (MW) alternating current (AC) solar photovoltaic (PV) project located within the Town of Avon. The proposed Project will be located on ± 45.4-acres site as described in the Site Plans dated July 2022, last revised November 3, 2022 and all other relevant information submitted as of December 19, 2022 (the current application); and

WHEREAS, the Planning Board has determined the above referenced Action to be a Type 1 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 Full 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 Full EAF.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board does hereby accept the findings contained in Parts 2 and 3 of the

Full EAF and directs the Planning Board Chairperson to sign and date the Full 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, 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 does hereby make a Determination of Non-Significance on the proposed development, and the Planning Board Chairman is hereby directed to sign the Full Environmental Assessment Form Part 3 and issue the Negative Declaration as evidence of the Planning Board's determination.

The above resolution was offered by Brian Thorn and seconded by Christopher Sterner at a meeting of the Planning Board held on Monday, December 19, 2022. Following discussion thereon, the following roll call vote was taken and recorded:

Kathleen Cole - *ABSTAINED*
Collin Hayes - *AYE*
Kathy Mannix - *ABSENT*
Christopher Sterner - *AYE*
Clara Mulligan - *AYE*
Brian Thorn - *AYE*
Thomas McGovern - *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 19, 2022, meeting.

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

TOWN OF AVON PLANNING BOARD RESOLUTION
AVON CSG 2 LLC SOLAR PROJECT
5505 HENTY ROAD, AVON, NY

TAX MAP ID: 44.-1-30.2
SPECIAL USE PERMIT & PRELIMINARY/FINAL SITE PLAN REVIEW

SITE PLAN APPROVAL RESOLUTION

WHEREAS, the Town of Avon Zoning Board of Appeals (hereinafter referred to as Zoning Board) has received an application for Special Use Permit and Site Plan Approval to allow for the development of the Avon CSG 2 LLC Solar Project (Project), a proposed 4.0-megawatt (MW) alternating current (AC) solar photovoltaic (PV) project located on ± 45.4-acres site within the Town of Avon as described in the Site Plans dated July 2022, last revised November 3, 2022 (the current application) and all other relevant information submitted and discussed at the December 19, 2022 Joint Planning Board and Zoning Board of Appeals meeting; and

WHEREAS, this application was required to be forwarded to Livingston County Planning Board for review and provided a response of "No Action" in a letter dated November 15, 2022; and

WHEREAS, the Town of Avon Planning Board has classified the above referenced Action to be a Type I 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 Town of Avon Planning Board on Monday, December 19, 2022; and

WHEREAS, on November 21, 2022 and December 19, 2022 in compliance with NYS Town Law, the Planning Board & Zoning Board held Joint public hearings on the current application and completed a formal review of the application; and

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

1. Applicant shall obtain a Building Permit within twelve (12) months of such approvals, or the approvals shall automatically terminate and be deemed null and void. The above time period may be extended by each of the approving Boards, at their sole discretion, upon a showing of good cause by Applicant. Additionally, the Applicant shall complete construction of an approved (Site Plan and Special Use Permit) Type 2 Solar Energy System within twenty (24) months of obtaining such approvals or

the approvals shall automatically terminate and be deemed null and void and be of no force an effect at law. The above time period may be extended by each of the approving Boards, at their sole discretion, upon a showing of good cause by Applicant.

2. No signage associated with this project has been approved. Separate approval by the Planning Board is required for all signage.
3. The Town Engineer review letter dated December 5, 2022 is to be addressed prior to the site plans being signed by the Planning Board Chair.
4. Site Plan Approval is conditioned on the Operations & Maintenance Plan for the Avon CSG 2 Solar Project, dated November 2022 and as discussed with the Zoning Board and Planning Board and revised per the Town Engineers letter dated December 5, 2022.
5. Site Plan Approval is conditioned on the Decommissioning Plan for the Avon CSG 2 Solar Project dated August 2022 and as discussed with the Zoning Board and Planning Board and revised per the Town Engineers letter dated December 5, 2022.
6. Site Plan Approval is conditioned on the Stormwater Pollution Prevention Plan (SWPPP) for Avon CSG 2 Solar Project dated September 2022 - Revision 1 and revised per the Town Engineers letter dated December 5, 2022.
7. No permits shall be issued nor is construction permitted to occur until the NYSDEC Acknowledgement letter from NYSDEC has been received by the Town Building & Zoning Department.
8. Prior to obtaining a building permit or construction beginning, the Applicant must provide an irrevocable financial security bond (or other form of surety acceptable to the Town of Avon at its discretion) for the decommissioning of the site and for the removal of the Type 2 Solar Energy System, with Avon as the designated assignee/beneficiary, in an amount to be approved by the Town Engineer based on their review of the Decommissioning Cost Estimate.
9. The Decommissioning bond or surety shall provide for an annual increase in the amount of the surety to compensate for the cost of inflation or any other anticipated increase in costs of removal.
10. Each year after the Avon CSG 2 Solar Project has been constructed, and no later than sixty (60) days prior to the anniversary date of the issuance of the building permit for such system, the then owner/permit holder for the system

shall provide the Town of Avon Building & Zoning Department & Town Clerk with written confirmation that the required financial security bond (or other form of surety) is still operable and valid and that such surety has been properly increased to account for inflation or any other anticipated increase in costs of removal as provided for above.

11. After completion, the Applicant shall provide to the Town of Avon Building & Zoning Department a post-construction certificate from a Professional Engineer registered in New York State that the project complies with all applicable codes and industry practices and has been constructed and is operating according to the design plans.
12. Prior to issuance of a permit or construction beginning, the applicant shall enter into a contract with the Town for payments in lieu of taxes pursuant to Real Property Tax Law §487 9. (a).
13. Prior to issuance of a permit or construction beginning, the Applicant shall enter into an Agreement/Plan for Decommissioning of the Project, in a form acceptable to the Town Board of the Town of Avon.
14. A Special Use Permit granted by the ZBA is required prior to signatures being affixed to the site plans.
15. All consultants' fees for review of application are to be reimbursed by the applicant to the Town prior to the issuance of permits.
16. The owner/operator is responsible for maintaining and replacement of all trees and landscaping as depicted on the approved site plans for the life of the project. All identified trees and landscaping in need of replacement are to be replaced by the following growing season. A note is to be added to the plans.
17. Prior to issuance of a permit or construction beginning, the owners or developers and landowners of the property are required to enter into a community benefit agreement with the Town of Avon for payment by the owners, developers or landowners to the Town of Avon of an agreed upon monetary amount or provision of a specified public improvement or improvements that shall act to offset the potential negative impacts that may be associated with a Commercial Building-Mounted Solar Energy System, Commercial Roof-Mounted Solar Energy System or Type 2 Solar Energy System.
18. Prior to issuance of a permit or construction beginning, the Applicant and its general contractor shall

enter into a written Road Use Agreement benefitting the Town of Avon and in a format acceptable to the Town of Avon at its sole discretion. Such Road Use Agreement will require Applicant and its General Contractor to indemnify and hold the Town harmless from any and all damage to the roadways within the Town that may result from the development of Applicant's Type 2 Solar Energy System. As a part of such Road Use Agreement, the Applicant shall provide an irrevocable financial security bond (or other form of surety acceptable to the Town of Avon at its sole discretion), benefitting the Town, that shall ensure the indemnification and hold harmless provisions stated above.

19. All contact information for the applicants, developers, and landowners are to be provided to the Town of Avon CEO prior to issuance of a permit.
20. A preconstruction meeting with the Town of Avon, once all conditions of approval have been met, is required to be held prior to issuance of any permit. This will be determined by the Code Enforcement Officer.
21. Battery Storage and associated site improvements are NOT approved for this project will require separate approval from the Town if requested.
22. Prior to the plans being signed by the Planning Board Chair, the site plans are to be revised to provide a third row of 6' - 8' tall landscaping (screening) along the property lines abutting the three (3) neighboring residents for a total of 140 additional trees divided proportionally between the three (3) residential properties as discussed at the December 19, 2022 Joint Board meeting. The applicant is also encouraged to meet with the three (3) neighboring residential properties whom are adjacent the solar project to see if they would prefer the additional 6' - 8' tall landscaping trees be placed on their property in lieu of providing the third (3) row on the subject parcel. If both parties (owner and applicant) come to an agreement, then the site plans are to be revised to reflect the location and number of trees to be provided on private properties, a temporary easement is to be shown to allow for access and earthwork, and the agreement between to the parties (owner and applicant) is to be provided to the Town Attorney.
23. The site plans are to be revised to fill in the screening gap between the subject parcel and the Joseph Montesano property by extending the two (2) rows of 6' - 8' tall evergreen landscaping trees the full length along the property line.

24. The site plans are to be revised to remove the bend and straighten the proposed two (2) rows of 6' - 8' tall landscaping trees along the rear of the Thomas Moran parcel.

The above resolution was offered by Collin Hayes and seconded by Christopher Sterner at a meeting of the Planning Board held on Monday, December 19, 2022. Following discussion thereon, the following roll call vote was taken and recorded:

Kathleen Cole - *ABSTAINED*
Collin Hayes - *AYE*
Kathy Mannix - *ABSENT*
Christopher Sterner - *AYE*
Clara Mulligan - *AYE*
Brian Thorn - *AYE*
Thomas McGovern - *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 19, 2022, meeting.

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

TOWN OF AVON ZONING BOARD OF APPEALS RESOLUTION
AVON CSG 2 LLC SOLAR PROJECT
5505 HENTY ROAD, AVON, NY
TAX MAP ID: 44.-1-30.2
SPECIAL USE PERMIT & PRELIMINARY/FINAL SITE PLAN REVIEW

SUP APPROVAL RESOLUTION

WHEREAS, the Town of Avon Zoning Board of Appeals (hereinafter referred to as Zoning Board) has received an application for Special Use Permit Approval to allow for the development of the Avon CSG 2 LLC Solar Project (Project), a proposed 4.0-megawatt (MW) alternating current (AC) solar photovoltaic (PV) project located on ± 45.4-acres site within the Town of Avon as described in the Site Plans dated July 2022, last revised November 3, 2022 (the current application) and all other relevant information submitted and discussed at the December 19,

2022 Joint Planning Board and Zoning Board of Appeals meeting;
and

WHEREAS, this application was required to be forwarded to Livingston County Planning Board for review and provided a response of "No Action" in a letter dated November 15, 2022; and

WHEREAS, on November 21, 2022 and December 19, 2022 in compliance with NYS Town Law, the Planning Board & Zoning Board held Joint public hearings on the current application and completed a formal review of the application; and

WHEREAS, the Town of Avon Planning Board has classified the above referenced Action to be a Type I 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 Town of Avon Planning Board on Monday, December 19, 2022; and

WHEREAS, on December 19, 2022, in compliance with the Town of Avon Town Code, and Local Law No. 3 of the Year 2021 the Planning Board completed a formal review on the current application and granted site plan approval; and

NOW, THEREFORE, BE IT RESOLVED that the Zoning Board does hereby approves the requested special use permit with the following conditions:

1. The special use permit shall remain in effect for the current owner of the premises with no requirement for renewal, provided the use remains in compliance with the conditions of approval, Town Code §130-11 and §130-35, and Local Law No. 3 of 2021.
2. The Town Code Enforcement Officer may make an on-site visit at least once over the course of the year, or as may be necessary to ensure that the Special Use Permit is being operated in accordance with the conditions specified by the Zoning Board.
3. In the event of any complaints about the Special Use Permit being filed with the Code Enforcement Officer and failure to take corrective action by the applicant shall be brought to the attention of the Zoning Board.
4. Before beginning operations, the subject property will be subject to inspection by the Town Code Enforcement Officer to determine compliance with Town Code requirements and conditions of this approval.

5. No signage associated with the Special Use Permit has been approved. Separate approval by the Planning Board is required for all signage.
6. All conditions as required by the Planning Board as part of Site Plan approval are required to be addressed prior to the issuance of permits and construction beginning.
7. Prior to obtaining a building permit or construction beginning, the Applicant must provide an irrevocable financial security bond (or other form of surety acceptable to the Town of Avon at its discretion) for the decommissioning of the site and for the removal of the Type 2 Solar Energy System, with Avon as the designated assignee/beneficiary, in an amount to be approved by the Town Engineer based on their review of the Decommissioning Cost Estimate.
8. The Decommissioning bond or surety shall provide for an annual increase in the amount of the surety to compensate for the cost of inflation or any other anticipated increase in costs of removal.
9. Each year after the Avon CSG 2 Solar Project has been constructed, and no later than sixty (60) days prior to the anniversary date of the issuance of the building permit for such system, the then owner/permit holder for the system shall provide the Town of Avon Building & Zoning Department & Town Clerk with written confirmation that the required financial security bond (or other form of surety) is still operable and valid and that such surety has been properly increased to account for inflation or any other anticipated increase in costs of removal as provided for above.
10. After completion, the Applicant shall provide to the Town of Avon Building & Zoning Department a post-construction certificate from a Professional Engineer registered in New York State that the project complies with all applicable codes and industry practices and has been constructed and is operating according to the design plans.
11. Prior to issuance of a permit or construction beginning, the applicant shall enter into a contract with the Town for payments in lieu of taxes pursuant to Real Property Tax Law §487 9.(a).
12. Prior to issuance of permits or construction beginning, the Applicant shall enter into an Agreement/Plan for Decommissioning of the Project, in a form acceptable to the Town Board of the Town of Avon.
13. If the use of an approved Solar Energy System is discontinued, the owner or operator shall provide written

notice to the Code Enforcement Officer within thirty (30) days of such discontinuance. In any case, Solar Energy Systems are considered inoperative and abandoned after 180 days without electrical energy generation which is consumed onsite (or credit for onsite consumption is received) for Type 1 Solar Energy Systems or without production of energy and offsite sale to and consumption by one or more customers for Type 2 Solar Energy Systems.

14. If the Applicant violates any of the conditions of its Special Use Permit, Site Plan approval or violates any other local, state, or federal laws, rules or regulations, such violation shall be grounds for revocation of the Special Use Permit or Site Plan Approval. Revocation may occur after the applicant is notified in writing of the violations and the Town of Avon Zoning Board of Appeals holds a hearing on same as provided for herein.
15. All consultants' fees for review of application are to be reimbursed by the applicant to the Town prior to the issuance of permits.
16. The owner/operator is responsible for maintaining and replacement of all trees and landscaping as depicted on the approved site plans for the life of the project. All identified trees and landscaping in need of replacement are to be replaced by the following growing season. A note is to be added to the plans.
17. Prior to issuance of any permit the owners or developers and landowners of the property are required to enter into a community benefit agreement with the Town of Avon for payment by the owners, developers or landowners to the Town of Avon of an agreed upon monetary amount or provision of a specified public improvement or improvements that shall act to offset the potential negative impacts that may be associated with a Commercial Building-Mounted Solar Energy System, Commercial Roof-Mounted Solar Energy System or Type 2 Solar Energy System.
18. Prior to issuance of any permit, the Applicant and its general contractor shall enter into a written Road Use Agreement benefitting the Town of Avon and in a format acceptable to the Town of Avon at its sole discretion. Such Road Use Agreement will require Applicant and its General Contractor to indemnify and hold the Town harmless from any and all damage to the roadways within the Town that may result from the development of Applicant's Type 2 Solar Energy System. As a part of such Road Use Agreement, the Applicant shall provide an irrevocable financial security

bond (or other form of surety acceptable to the Town of Avon at its sole discretion), benefitting the Town, that shall ensure the indemnification and hold harmless provisions stated above.

19. All contact information for the applicants, developers, and landowners are to be provided to the Town of Avon CEO prior to issuance of a permit or construction beginning.

20. A preconstruction meeting with the Town of Avon, once all conditions of approval have been met, is required to be held prior to issuance of any permit. This will be determined by the Code Enforcement Officer.

21. Battery Storage and associated site improvements are NOT approved for this project will require separate approval from the Town if requested.

22. Prior to the plans being signed by the Planning Board Chair, the site plans are to be revised to provide a third row of 6' - 8' tall landscaping (screening) along the property lines abutting the three (3) neighboring residents for a total of 140 additional trees divided proportionally between the three (3) residential properties as discussed at the December 19, 2022 Joint Board meeting. The applicant is also encouraged to meet with the three (3) neighboring residential properties whom are adjacent the solar project to see if they would prefer the additional 6' - 8' tall landscaping trees be placed on their property in lieu of providing the third (3) row on the subject parcel. If both parties (owner and applicant) come to an agreement, then the site plans are to be revised to reflect the location and number of trees to be provided on private properties, a temporary easement is to be shown to allow for access and earthwork, and the agreement between to the parties (owner and applicant) is to be provided to the Town Attorney.

23. The site plans are to be revised to fill in the screening gap between the subject parcel and the Joseph Montesano property by extending the two (2) rows of 6' - 8' tall evergreen landscaping trees the full length along the property line.

24. The site plans are to be revised to remove the bend and straighten the proposed two (2) rows of 6' - 8' tall landscaping trees along the rear of the Thomas Moran parcel.

The above resolution was offered by Bob Westfall and seconded by Jeff Passarell at a meeting of the Zoning Board of Appeals held on Monday, December 19, 2022. Following discussion thereon, the following roll call vote was taken and recorded:

Jeffery Mulligan - *AYE*
Jeff Passarell - *AYE*
Cindy Kellen - *ABSENT*
Bob Westfall - *AYE*
Diane Attea - *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 Zoning Board of Appeals for the December 19, 2022, meeting.

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

The Boards agreed to the dates and new meeting start time of 6:00PM for joint meetings in 2023.

MOTION TO CLOSE THE MEETING WAS MADE BY CHRISTOPHER STERNER; SECONDED BY BOB WESTFALL.

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

KATHLEEN COLE -*AYE*
THOMAS MCGOVERN - *AYE*
COLLIN HAYES - *AYE*
KATHLEEN MANNIX - *ABSENT*
CLARA MULLIGAN - *AYE*
BRIAN THORN - *AYE*
CHRISTOPHER STERNER - *AYE*

CARRIED 10-0.

MEETING CLOSED.