

PLANNING, ZBA & TOWN MEETING MONDAY, FEBRUARY 21, 2022

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

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

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

ABSENT: TOM MAIRS

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

VISITORS: MATTHEW ELDRED (HSE), SCOTT HARTER, GARY TODD HYDE, JANET WARD, GARY T. WHEAT, KEVIN OVERTON (HB), JOYCE BLOWERS, RONALD BLOWERS, LAURA MCCABE, PAT RIO, DAVID PECK, EDMUND MARTIN, CHRIS BILL, DOM BENNETT, RAGID ODZAKOURE, MICHAEL J. FURIA, JASON ARMBREWSTER, NICK WALSH, BRYAN BAYER, GLENN THORNTON

CLERK: KIM MCDOWELL

DAVID LEFEBER, TOWN SUPERVISOR, CALLED THE MEETING TO ORDER AT 7:00PM AND LEAD EVERYONE IN THE PLEDGE OF ALLIGANCE.

ZBA & PLANNING MOTION TO APPROVE THE MINUTES FROM THE NOVEMBER 22, 2021, MEETING SUBMITTED WAS MADE BY BOB; SECONDED BY TOM MCGOVERN.

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

KATHLEEN COLE -AYE
THOMAS MCGOVERN - AYE
VACANT -
KATHLEEN MANNIX - AYE
CLARA MULLIGAN - AYE
BRIAN THORN - AYE
CHRISTOPHER STERNER - AYE

CARRIED 11-0.

ZBA MOTION TO APPROVE THE MINUTES FROM THE FEBRUARY 16, 2022 MEETING SUBMITTED WAS MADE BY CINDY; SECONDED BY JEFF PASSARELL.

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

CARRIED 4-0.

AVON CSG 1 LLC ACTING AGENT FOR STARKEY DRIVE HOLDINGS LLC & PHILIP SILVAROLE/5530 WOLCOTT DRIVE/TAX PARCEL #44.-1-36.4 - SOLAR FARM-PUBLIC HEARING

Nick Walsh, Dimension Renewable Energy, and Bryan Bayer, C&S Companies, were present to discuss this application.

Mr. Walsh stated Dimension Renewable Energy is a solar developer and owner of solar distributed generated assets, they have about 400 MW under development around the Country. This project is 4.25MW DC project on a 27-acre parcel north of Agar Road and west of Starkey Drive. At this point all studies have been completed and there is an agreement with National Grid in place. This is a PDD zoned parcel, and we are looking to keep the process moving forward tonight.

Mr. Bayer's company has done the civil and environmental work on this project, wetlands lineation on site, submitted joint application for permits to the Army Corps of Engineers and the NYS DEC, SWPPP, and coordinate project with the State Historic Preservation Office which determined the project has no impact. We have completed our due diligence consistent with the Town's code and requirements.

Kathy Cole asked if he could discuss the buffer planned for the house on Lakeville Road that was brought up a few meetings ago. Mr. Bayer did a view shed analysis and submitted it. Kathy Cole asked if they feel they could address it properly since the house sits high and the field is lower than the house. Mr. Bayer feels they are doing everything to minimize the visual impacts from that house.

Clara Mulligan asked what tree species they are planning on planting; she is requesting they are native to the area. Clara stated she does have a list of trees that are native if they want it. Mr. Bayer stated they try and get native trees for the area, and they need to make sure they don't get too tall since shading would affect the panels output. Clara also is requesting mixed species and they will do the best they can to do that.

Malachy Coyne asked if there is recourse if the planted trees die; Mr. Bayer stated in the Operations and Maintenance plan there is a condition if that event happens. Malachy also asked if it was bonded, and it will be.

Lance Brabant stated that whatever this Board approves regarding landscaping will be referenced in the operations and maintenance plan and the applicant will need to follow those plans.

James Harrington stated at the Town Board meeting the applicant said the trees would be a minimum of 6 feet tall at planting and will these shrubs be available when you are ready to plant them. Mr. Bayer stated they do try to get a minimum of 6 feet to start and they are outsourcing them to make sure they are available when needed for the project.

James Campbell suggested a motion to open the public hearing take place now.

ZBA & PLANNING MOTION TO OPEN THE PUBLIC HEARING WAS MADE BY KATHY COLE; SECONDED BY DIANE ATTEA.

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

KATHLEEN COLE -AYE
THOMAS MCGOVERN - AYE
VACANT -
KATHLEEN MANNIX - AYE
CLARA MULLIGAN - AYE
BRIAN THORN - AYE
CHRISTOPHER STERNER - AYE

CARRIED 11-0.

Clara Mulligan asked if the emergency plan has been approved and Lance Brabant stated it has.

Jeff Mulligan asked if there were any comments from the public and please state your name and address before speaking.

Mrs. Joyce Blowers, 5378 Lake Road, Avon, NY, she asked when you put the trees in at 6 feet, how many years do the neighbors have to wait till maturity and screen what they are intended to. Mr. Bayer feels they will provide benefit right upon planting.

Kathy Cole asked if there were any other comments and there were none at this time.

Kathy Cole asked if we should close the public hearing since there are no additional comments and James Campbell stated we should leave it open for any additional comments.

Kathy Cole asked if we should proceed with the resolutions and Lance Brabant agreed.

Lance Brabant has drafted several resolutions for the Board's consideration. Lance stated we haven't received any objections for the Planning Board to be lead agency on this application and that can be declared tonight.

TOWN OF AVON PLANNING BOARD RESOLUTION
AVON CSG 1 LLC SOLAR PROJECT
STARKEY DRIVE, AVON, NY
TAX MAP ID: 44.-1-36.12 & 44.-1-36.4
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 1 LLC Solar Project (Project), a proposed 4.37-megawatt (MW) alternating current (AC) solar photovoltaic (PV) project located within the Town of Avon. The proposed Project will be located on ± 27-acres site as described in the Site Plans dated October 2020, last revised February 18, 2022 (the current application) and all other relevant information submitted and discussed at the February 21, 2022 Joint Planning Board and ZBA Meeting; 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, October 25, 2021 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 ensure 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 Brian Thorn at a meeting of the Planning Board held on Monday, February 21, 2022. Following discussion thereon, the following roll call vote was taken and recorded:

Kathleen Cole - AYE
Vacant -
Kathy Mannix - AYE
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 February 21, 2022 meeting.

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

Lance Brabant stated now the Board needs to go through the EAF Part II and answer the questions. Lance has provided the draft to all the Board members, and he read each of the 18 sections to all those present. Questions #1, #3, #8, #13, #15 were all answered yes but the sub-questions were answered with no or small impact may occur; questions #2, #4, #5, #6, #7, #9, #10, #11, #12, #14, #16, #17, #18 were all answered no so no sub-questions needed to be asked.

Lance Brabant stated the next part is the EAF Part III and before signing this we need to do our SEQR Determination of Significance Resolution.

TOWN OF AVON PLANNING BOARD RESOLUTION
AVON CSG 1 LLC SOLAR PROJECT
STARKEY DRIVE, AVON, NY
TAX MAP ID: 44.-1-36.12 & 44.-1-36.4
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 1 LLC Solar Project (Project), a proposed 4.37-megawatt (MW) alternating current (AC) solar photovoltaic (PV) project located within the Town of Avon. The proposed Project will be located on ± 27-acres site as described in the Site Plans dated October 2020, last revised February 18, 2022 (the current application) and all other relevant information submitted and discussed at the February 21, 2022 Joint Planning Board and ZBA Meeting; 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 Christopher Sterner and seconded by Thomas McGovern at a meeting of the Planning Board held on Monday, February 21, 2022. Following discussion thereon, the following roll call vote was taken and recorded:

Kathleen Cole - AYE
Vacant -
Kathy Mannix - AYE
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 February 21, 2022 meeting.

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

Lance Brabant stated that Kathy Cole can now sign Part III of the EAF, he will post that on the NYS board and send it for our records. Lance stated SEQR is now complete for this project.

Lance Brabant feels the next steps would be to continue this application to the next Board meeting on March 21, 2022 to evaluate for site plan approval.

Lance Brabant feels the Town Board can weigh in on the Special Use Permit for this application now or later.

David LeFeber feels we should do it now since we are here tonight.

Lance Brabant asked James Campbell if the Planning Board needs to close the public hearing or leave it open and James stated to leave it open.

James Campbell addressed the Town Board; the proposed site is currently zoned Planned Development District (PDD) our code doesn't permit as a permitted use large scale type 2 solar in any zone except for agricultural zoned properties. The Town Board can determine uses that are appropriate for PDD as stated in the code under section 130-18H. James had prepared a resolution that he sent out to the Board members before the meeting. The applicant is asking the Town Board to approve this use within the PDD as well as approval for deviations from our solar code regarding setbacks on front, side, and rear of the property.

James Campbell read the resolution to everyone present.

TOWN BOARD, TOWN OF AVON, COUNTY OF LIVINGSTON

RESOLUTION #50 APPROVAL OF NEW USE IN THE WADSWORTH PLANNED DEVELOPMENT DISTRICT (PDD) – SOLAR ENERGY

At a special meeting of the Town Board of the
Town of Avon, Livingston County, State of New York,
held at the Avon Town Hall on February 21, 2022

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; 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, Avon CSG 1, LLC (hereafter “Applicant”) is the contract vendee of two parcels of property known as 5530 Starky Drive, Avon New York, also known as Tax Identifier Map Parcel Nos.: 44.-1-36.4 and 44.-1-36.12 (hereafter “Subject Property”) both of which parcels are located in a Planned Development District (hereafter “PDD”); and

WHEREAS, pursuant to §130-18 H. of the Code, Applicant is seeking approval from the Town Board to use a portion of the Subject Property to construct and operate a 4.25 MWdc/3.625 MWac ground- mounted Solar Energy System; and

WHEREAS, it is the duty of the Town Board under §130-18 H. of the Code to determine if Solar Energy Systems are an appropriate use in the subject PDD, and if so, to issue a Special Permit for the same; and

WHEREAS, the Applicant is requesting that as part of the approval of the use and issuance of a Special Permit, that the following development parameters be made a part of such approval:

- That the Solar Energy System proposed by Applicant be allowed within the PDD (Solar Energy Systems are only allowed within the Agricultural District) in which the Subject Property is located
- Front setback to be 100’ from Starky Drive (instead of 200’ as required pursuant to the Town’s Solar Energy System regulations
- Side and rear setbacks to be 50’ from the side and rear boundaries of the parcels (instead of 100’ as required pursuant to the Town’s Solar Energy System regulations

WHEREAS, the Town Board acknowledges that the Town of Avon Planning Board, as lead agency, conducted an appropriate environmental review under 6 NYCRR 617 (New York State Environmental Quality Review Act) and at the conclusion of such review, issued a Negative Declaration regarding Applicant’s proposed Solar Energy System, which is the subject of this Resolution; and

WHEREAS, the Town Board has determined that the SEQR review conducted by the Planning Board is sufficient and appropriate with regard to the proposed application and the same shall be relied upon by the Town Board in the place of the Town Board conducting its own SEQR review; 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 pursuant to §130-18 H. of the Code.

NOW, THEREFORE, upon motion by James Harrington, seconded by David LeFeber, it is hereby

RESOLVED, the Town Board determines that the SEQR review conducted by the Planning Board is sufficient and appropriate with regard to the proposed application and the same is herein relied upon by the Town Board in the place of the Town Board conducting its own SEQR review; and

BE IT FURTHER RESOLVED, that the Town Board of the Town of Avon, pursuant to §130-18 H. of the Code, hereby approves of Applicant's request to construct and operate a 4.25 MWdc/3.625 MWac ground-mounted Solar Energy System on the Subject Property (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 and upon the following conditions:

1. Any construction and operation of the proposed Solar Energy System shall be fully compliant with the requirements and regulations as set forth in Article XV of the Code of the Town of Avon, excepting that the Town Board does hereby approve of the following deviations from that which would otherwise be required by Article XV, sections 130-80 E. and 130-80 E. (2)(b):
 - That the Solar Energy System proposed by Applicant be allowed on the Subject Property within the PDD (Solar Energy Systems are only allowed within the Agricultural District)
 - That the front setback be 100' from Starky Drive (instead of 200' as required pursuant to §130-80 E.(2)(b) of the Town's Solar Energy System regulations)
 - That the side and rear setbacks be 50' from the side and rear boundaries of the Subject Property (instead of 100' as required pursuant to the Town's Solar Energy System regulations)
2. Should Applicant or his successors and/or assigns wish to utilize any portion of the Subject Property or the improvements thereon for a use other than what is provided for above, or in any way inconsistent with the provisions made herein, Applicant or its successors and/or assigns shall be required to make application for approval and issuance of a Special Permit from the Town Board, which such approval and Special Permit may be granted or denied at the sole discretion of the Town Board, and the Town Board shall have the right to refer any such application to the Planning Board for its comments prior to making a determination on the special permit request;
3. As a condition of the limited approvals granted herein, Applicant, its successors and/or assigns shall append, affix and maintain a copy of this Resolution to the abstract of titles relating to the Subject Property, also known as 5530 Starky Drive, Avon New York, and being Tax Identifier Map Parcel Nos.: 44.-1-36.4 and 44.-1-36.12;

4. 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

BE IT FURTHER RESOLVED, that in reaching the above determinations, the Town Board makes the following findings pursuant to §130-18 H. of the Code:

- The request is in harmony with the general purpose and intent of the regulations set forth in §130-18 H. of the Code, taking into account the location and size of use, the nature and intensity of the operations involved and the adequacy of public facilities needed to serve the project; and
- The granting of the special permit applied for will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or be detrimental or injurious to the property and improvements in the vicinity or to the general welfare of the Town; and

BE IT FURTHER RESOLVED, that the above approval of a Special Permit and use applies only to that portion of the Subject Property containing the proposed 4.25 MWdc/3.625 MWac ground-mounted Solar Energy System and appurtenant improvements and infrastructure serving such Solar Energy System as contemplated by the plans and drawings for the same in existence as of the date of approval of this Resolution and that any future construction of additional improvements that in any way expand the approved use will require separate and additional action by the Town Board at its sole discretion, as well as approval of a Site Plan amendment from the Town of Avon Planning Board and Special Use Permit amendment from the Town of Avon Zoning Board of Appeals as applicable; and

BE IT FURTHER RESOLVED, that the granting of this approval for issuance of a Special Permit pursuant to §130-18 H. of the Code is contingent and conditioned upon Applicant receiving approval of a Site Plan by the Town of Avon Planning Board and approval of issuance of a Special Use Permit by the Town of Avon Zoning Board of Appeals to construct the subject 4.25 MCac/3.625 MWac ground-mounted Solar Energy System. Should Applicant be denied approval of the Site Plan or Special Use Permit, or should applicant fail to advance its applications to the Avon Planning Board and Zoning Board of Appeals within twelve (12) months of this resolution, this resolution and the Special Permit authorized hereby shall automatically terminate, become void and be of no effect at law.

BE IT FURTHER RESOLVED, that the granting of this approval for issuance of a Special Permit pursuant to §130-18 H. of the Code is contingent and conditioned upon Applicant (or an entity created for that purpose) taking title to the Subject Property.

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 Planned Development District in which the Subject Property is located.

Dated: February 21, 2022

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

BY ORDER OF THE TOWN BOARD OF THE TOWN OF Avon

Sharon Knight, MMC/RMC
Town Clerk

David LeFeber asked James Campbell when the Special Use Permit is considered by the ZBA, in March the Planning Board will review the site plan but when will ZBA review this. James Campbell stated they will most likely do it in March along with the Planning Board. David stated the public hearing is still open and James confirmed it is.

David LeFeber asked if the Town Board has fulfilled it's obligations for this application and James Campbell stated yes.

Lance Brabant asked if the Town Board is okay with the Planning Board to continue with this application to the March 21, 2022 meeting. Lance wrote the resolution as if the public hearing would be closed tonight and Kathy Cole asked him to change the resolution to reflect the continuation of the public hearing to March meeting.

TOWN OF AVON PLANNING BOARD RESOLUTION
AVON CSG 1 LLC SOLAR PROJECT
STARKEY DRIVE, AVON, NY
TAX MAP ID: 44.-1-36.12 & 44.-1-36.4
SPECIAL USE PERMIT & PRELIMINARY/FINAL SITE PLAN REVIEW

CONTINUATION RESOLUTION

WHEREAS, the Town of Avon Planning Board (hereinafter referred to as Planning Board), has received an application for Special Use Permit Approval & Site Plan Approval to allow for the development

of the Avon CSG 1 LLC Solar Project (Project), a proposed 4.37-megawatt (MW) alternating current (AC) solar photovoltaic (PV) project located on ± 27-acres site within the Town of Avon as described in the Site Plans dated October 2020 and all other relevant information submitted and discussed on November 22, 2021 (the current application); and

WHEREAS, the Planning Board and Zoning Board of Appeals has requested additional information be provided prior to the next scheduled board meeting; and

NOW, THEREFORE, BE IT RESOLVED that the Planning Board does hereby move to continue the Public Hearing and the applications to their March 21, 2022 Joint Board Meeting.

The above resolution was offered by Christopher Sterner and seconded by Brian Thorn at a meeting of the Planning Board held on Monday, February 21, 2022. Following discussion thereon, the following roll call vote was taken and recorded:

Kathleen Cole - AYE
Vacant -
Kathy Mannix - AYE
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 February 21, 2022 meeting.

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

James Campbell stated that the Planning & ZBA Boards continued review of this application will be based on our code except for the three deviations that have been approved by the Town Board.

Clara Mulligan asked about the community benefits agreement that is in our code and how it applies to this application/project. James Campbell stated that is financial aspects and this application has done the PILOT agreement which gives money to all the taxing jurisdictions. We have not had a community benefits agreement yet.

Jeff Mulligan asked about the bonding on the decommissioning agreement, and it states that we require 150% of decommissioning costs, is there a reappraisal of that number. James Campbell stated that we start with 150% and then it gets increased and reevaluated every 5 years. Jeff asked who is responsible for doing that and James stated it is up to the Town and the owner of the project at that time.

Lance Brabant stated all the regulations are written into the approvals of the special use permit and decommissioning plan and decommissioning agreement

James Harrington asked that in the solar law, decommissioning agreement states it escalates 10% every 5 years. James Campbell stated he didn't think that was in the solar law currently, we did change the amount needed from 110% to 150%. Lance Brabant stated that Avon has the highest number in all the communities that he has worked with.

Clara Mulligan asked if the Town would have a master calendar to revisit this in five years for all solar applications and Kim doesn't at this time but will be setting one up. Lance Brabant stated it is burdensome to put that all on the Town and it is the responsibility of the applicant as well.

Tom McGovern feels the buffering is addressed really well in this application, but he feels in certain situations he could see the Town wanting more buffering.

Kathy Cole stated this application is continued to the March 21, 2022 meeting.

David LeFeber asked if the Town Board is needed for any other application tonight and they are not.

MOTION TO CLOSE THE TOWN PORTION OF THE MEETING WAS MADE BY JAMES HARRINGTON; SECONDED BY DAVID LEFEBER.

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

CARRIED 4-0

Minutes taken by:

Kimberly McDowell,
Planning and Zoning Board of Appeals Clerk

Received and respectfully submitted on March 7, 2022 by:

Sharon M. Knight, MMC/RMC Town Clerk