PLANNING & ZBA & TOWN MEETING MONDAY, SEPTEMBER 21, 2026

MEMBERS PRESENT:	**PLANNING: CLARA MULLIGAN, CHRISTOPHER STERNER, LIAM COYNE, STEVE CSAPO, BRIAN THORN**
	ZBA: JEFF MULLIGAN, KITTY BRESSINGTON, CINDY KELLEN, BOB WESTFALL, DIANE ATTEA
	TOWN BOARD: SUPERVISOR LEFEBER (ARRIVED AT 6:37PM), DEPUTY SUPERVISOR MAIRS (ARRIVED AT 6:37PM), COUNCILMAN COYNE, COUNCILMAN HAYES
ABSENT:	**KATIE SMITH (PLANNING), LEE HANVEY (PLANNING), COUNCILMAN DROZDZIEL (TOWN BOARD)**
OTHERS:	**JIM CAMPBELL (TOWN ATTORNEY), ANDY MARTIN (MRB GROUP), BRIAN SHANNON (CEO, AVON), FAYE BESHURES (TOWN CLERK)**
VISITORS:	**EMILY THOMAS, ERIK ANDERSON, JIM ANDERSON, JACKIE WEICHENTHAL, TOM SUTHERLAND, SHAUN WRIGHT, NANCY KELLER, THERESA WRIGHT, KEVIN O'DONOGHUE, DOUG WEICHENTHAL**
CLERK:	**KIM MCDOWELL**

Christopher Sterner called the meeting to order.

MOTION TO OPEN THE MEETING WAS MADE BY KITTY BRESSINGTON; SECONDED BY CLARA MULLIGAN.

CHRISTOPHER STERNER - AYE
CLARA MULLIGAN – AYE
BRIAN THORN – AYE
KATIE SMITH – ABSENT
STEVE CSAPO - AYE
LEE HANVEY – ABSENT
LIAM COYNE - AYE

JEFF MULLIGAN - AYE
CINDY KELLEN- AYE
BOB WESTFALL- AYE
DIANE ATTEA – AYE
KITTY BRESSINGTON – AYE

SUPERVISOR LEFEBER – ABSENT (ARRIVED 6:37PM)
DEPUTY SUPERVISOR MAIRS – ABSENT (ARRIVED 6:37PM)
COUNCILMAN HAYES - AYE
COUNCILMAN DROZDZIEL – ABSENT

COUNCILMAN COYNE- AYE

CARRIED 12-0.

The Planning, ZBA, Town Board members, as well as Brian Shannon, Jim Campbell, Andy Martin, and Kim McDowell introduced themselves to all present.

Christopher Sterner reviewed public hearing and meeting etiquette along with the emergency exits to all present.

Christopher Sterner asked Kim McDowell to attest the legal notices had been published and she did.

ZBA & PLANNING MOTION TO APPROVE THE MINUTES FROM AUGUST 17, 2026, MEETING SUBMITED WAS MADE BY JEFF MULLIGAN; SECONDED BY BOB WESTFALL.

CHRISTOPHER STERNER - AYE
CLARA MULLIGAN – AYE
BRIAN THORN – AYE
KATIE SMITH – ABSENT
STEVE CSAPO - AYE
LEE HANVEY – ABSENT
LIAM COYNE - AYE

JEFF MULLIGAN - AYE
CINDY KELLEN- AYE
BOB WESTFALL- AYE
DIANE ATTEA – AYE
KITTY BRESSINGTON – AYE

CARRIED 10-0.

WEICHENTHAL, DAVID, ACTING AGENT FOR WEICHENTHAL ESTATE/2530 GARDEN STREET/2530 GARDEN STREET/TAXMAP#45.-1-49 – PLANNING – SUBDIVISION – PUBLIC HEARING

Kevin O'Donoghue was present to discuss this application. This property is located on Garden Street and most of the property is in Lima. They are dividing the land in Avon that has a house on the North side of the road and a house on the South side of the road into two different parcels.

Christopher Sterner stated they already have different addresses, driveway, and utilities for each house.

MOTION TO OPEN THE PUBLIC HEARING WAS MADE BY CLARA MULLIGAN; SECONDED BY STEVE CSAPO.

CHRISTOPHER STERNER - AYE
CLARA MULLIGAN – AYE
BRIAN THORN – AYE
KATIE SMITH – ABSENT
STEVE CSAPO - AYE
LEE HANVEY – ABSENT
LIAM COYNE - AYE

CARRIED 5-0.

Christopher Sterner asked if there were any public comments and there were none.

MOTION TO CLOSE THE PUBLIC HEARING WAS MADE BY CLARA MULLIGAN; SECONDED BY BRIAN THORN.

CHRISTOPHER STERNER - AYE
CLARA MULLIGAN – AYE
BRIAN THORN – AYE
KATIE SMITH – ABSENT
STEVE CSAPO - AYE
LEE HANVEY – ABSENT
LIAM COYNE - AYE

CARRIED 5-0.

Christopher Sterner read the questions for Part 3 to all Board members and they answered no to all.

TOWN OF AVON PLANNING BOARD RESOLUTION
KEVIN M. O'DONOGHUE, L.S. FOR THE GERHARDT AND DOROTHY WEICHENTHAL FAMILY TRUST
2530 & 2539 GARDEN STREET – AVON SUBDIVISION
TOWN OF AVON, NEW YORK 14414
SUBDIVISION PLAN APPROVAL

SEQR DETERMINATION OF SIGNIFICANCE RESOLUTION

WHEREAS, the Town of Avon Planning Board (hereinafter referred to as Planning Board) is considering Final Subdivision Plan

Approval for the subdivision of a 18.80 acre parcel into two (2) lots creating Lot 1 at 14.362 acres (existing dwelling & land) and Lot 2 at 4.773 acres (existing dwelling and land) with no new development proposed as shown on the Final Subdivision Plan titled "2530 & 2539 Garden Street – Avon Subdivision" prepared by Kevin M. O'Donoghue, L.S. dated December 15, 2025, last revised August 29, 1984 and all other relevant information submitted as of August 16, 2026 (the current application); and

WHEREAS, the Town of Avon Planning Board (hereinafter referred to as Planning Board) has determined the above referenced Site Plan (hereinafter referred to as Action) to be 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 Environmental Assessment Form Part 1; and

WHEREAS, the Planning Board has completed Part 2 and Part 3 of the Short Environmental Assessment Form; and

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

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) there are no known important historical, archeological, architectural, or aesthetic resources on the site, or will the proposed action impair the existing community or neighborhood character;

(vi) there will not be a major change 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 substantial change in the use, or intensity of use, of land including open space or recreational resources, or in its capacity to support existing uses;

(ix) there will not be a large number of persons attracted to the site for more than a few days when compared to the number of persons who would come to such a place 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 upon the environment.

BE IT FURTHER RESOLVED that based upon the information and analysis above and the supporting documentation, the Board determines that the proposed action WILL NOT **result in any significant adverse environmental impacts.**

BE IT FURTHER RESOLVED that the Planning Board directs the Planning Board Chairman to sign and date Part 2 of the Short Environmental Assessment Form and to identify on the Form that the proposed Action will not result in any significant adverse impacts.

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

The above Resolution was offered by Brian Thorn and seconded by Clara Mulligan at a regular scheduled Planning Board meeting held on September 21, 2026. Following discussion, a voice vote was recorded:

Christopher Sterner - Aye
Lee Hanvey - Absent
Brian Thorn – Aye
Clara Mulligan - Aye
Steve Csapo - Aye
Katie Smith - Absent
Liam Coyne - 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 September 21, 2026 meeting.

_____

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

Christopher Sterner read the following resolution to all present.

TOWN OF AVON PLANNING BOARD RESOLUTION
KEVIN M. O'DONOGHUE, L.S. FOR THE GERHARDT AND DOROTHY WEICHENTHAL FAMILY TRUST
2530 & 2539 GARDEN STREET – AVON SUBDIVISION
TOWN OF AVON, NEW YORK 14414
SUBDIVISION PLAN APPROVAL

SUBDIVISION PLAN APPROVAL RESOLUTION

WHEREAS, the Town of Avon Planning Board (hereinafter referred to as Planning Board) is considering Final Subdivision Plan Approval for the subdivision of a 18.80 acre parcel into two (2) lots creating Lot 1 at 14.362 acres (existing dwelling & land) and Lot 2 at 4.773 acres (existing dwelling and land) with no new development proposed as shown on the Final Subdivision Plan titled "2530 & 2539 Garden Street – Avon Subdivision" prepared by Kevin M. O'Donoghue, L.S. dated December 15, 2025, last

revised August 29, 1984 and all other relevant information submitted as of August 16, 2026 (the current application); and

WHEREAS, the Planning Board opened a Public Hearing and completed a formal review of the proposed subdivision in compliance with the implementing regulations of the State Environmental Quality Review Act (SEQR); and

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

WHEREAS, **on September 21, 2026 the Planning Board, serving as lead agency, made a determination of non-significance and filed a negative declaration thereby concluding review pursuant to SEQR; and**

NOW, THEREFORE, BE IT RESOLVED, the Planning Board hereby ☒ Approves without Conditions ❒ Approves with the following Conditions; or ❒ Denies the application for the following reasons:

1. **Subdivision Plan Approval with conditions specified above herein is valid for a period of 180 days from today. Once all conditions of Subdivision Plan Approval have been met and shown on revised drawings including the revision dates, the Planning Board Chairperson will then sign the plans.**

The above Resolution was offered by Steve Csapo **and seconded by** Brian Thorn **at a regular scheduled Planning Board meeting held on September 21, 2026. Following discussion, a voice vote was recorded:**

Christopher Sterner - Aye
Lee Hanvey - Absent
Brian Thorn - Aye
Clara Mulligan - Aye
Steve Csapo - Aye
Katie Smith – Absent
Liam Coyne - 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 September 21, 2026 meeting.

_____

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

Christopher Sterner signed the subdivision map and Kevin will register it with Livingston County.

ANDERSON, JAMES, ANDERSON FARMS/2699 POLE BRIDGE ROAD/TAXMAP#44.-1-41.2 – PLANNING – SUBDIVISION – PUBLIC HEARING

Kevin O'Donoghue was present to discuss this application. Mr. Anderson would like to separate the 77-acre farm from the rest of the land, so Mr. Anderson and his partner can divide the land and put it in a separate title.

Kitty Bressington asked if there would be any change in usage and there will not be.

Kitty Bressington asked if the 77-acres already has a driveway and it does.

MOTION TO OPEN THE PUBLIC HEARING WAS MADE BY STEVE CSAPO; SECONDED BY LIAM COYNE.

CHRISTOPHER STERNER - AYE
CLARA MULLIGAN – AYE
BRIAN THORN – AYE
KATIE SMITH – ABSENT
STEVE CSAPO - AYE
LEE HANVEY – ABSENT
LIAM COYNE - AYE

CARRIED 5-0.

Christopher Sterner asked if there were any public comments and there were none.

MOTION TO CLOSE THE PUBLIC HEARING WAS MADE BY BRIAN THORN; SECONDED BY CLARA MULLIGAN.

CHRISTOPHER STERNER - AYE
CLARA MULLIGAN – AYE
BRIAN THORN – AYE
KATIE SMITH – ABSENT
STEVE CSAPO - AYE
LEE HANVEY – ABSENT
LIAM COYNE - AYE

CARRIED 5-0.

Christopher Sterner read the questions for Part 3 to all Board members and they answered no to all.

TOWN OF AVON PLANNING BOARD RESOLUTION
KEVIN M. O'DONOGHUE, L.S. FOR ANDERSON FARMS
ANDERSON FARMS – 2699 POLE BRIDGE ROAD SUBDIVISION
TOWN OF AVON, NEW YORK 14414
SUBDIVISION PLAN APPROVAL

SEQR DETERMINATION OF SIGNIFICANCE RESOLUTION

WHEREAS, the Town of Avon Planning Board (hereinafter referred to as Planning Board) is considering Final Subdivision Plan Approval for the subdivision of a 260.80 acre parcel into two (2) lots creating Lot 1 at 77.465 acres (existing dwelling & barns) and Lot 2 at 183.3 acres remaining vacant with no new development proposed as shown on the Final Subdivision Plan titled "Anderson Farms – 2699 Pole Bridge Road Subdivision" prepared by Kevin M. O'Donoghue, L.S. dated July 30, 2026, last revised May 15, 2006 and all other relevant information submitted as of August 24, 2026 (the current application); and

WHEREAS, the Town of Avon Planning Board (hereinafter referred to as Planning Board) has determined the above referenced Site Plan (hereinafter referred to as Action) to be 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 Environmental Assessment Form Part 1; and

WHEREAS, the Planning Board has completed Part 2 and Part 3 of the Short Environmental Assessment Form; and

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

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) there are no known important historical, archeological, architectural, or aesthetic resources on the site, or will the proposed action impair the existing community or neighborhood character;

(vi) there will not be a major change 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 substantial change in the use, or intensity of use, of land including open space or recreational resources, or in its capacity to support existing uses;

(ix) there will not be a large number of persons attracted to the site for more than a few days when compared to the number of persons who would come to such a place 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 upon the environment.

BE IT FURTHER RESOLVED that based upon the information and analysis above and the supporting documentation, the Board determines that the proposed action WILL NOT **result in any significant adverse environmental impacts.**

BE IT FURTHER RESOLVED that the Planning Board directs the Planning Board Chairman to sign and date Part 2 of the Short Environmental Assessment Form and to identify on the Form that the proposed Action will not result in any significant adverse impacts.

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

The above Resolution was offered by Steve Csapo and seconded by Brian Thorn at a regular scheduled Planning Board meeting held on September 21, 2026. Following discussion, a voice vote was recorded:

Christopher Sterner - Aye
Lee Hanvey - Absent
Clara Mulligan - Aye
Brian Thorn - Aye
Steve Csapo - Aye
Katie Smith – Absent
Liam Coyne - 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 September 21, 2026 meeting.

_____

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

Christopher Sterner read the following resolution to all present.

TOWN OF AVON PLANNING BOARD RESOLUTION

KEVIN M. O'DONOGHUE, L.S. FOR ANDERSON FARMS
ANDERSON FARMS – 2699 POLE BRIDGE ROAD SUBDIVISION
TOWN OF AVON, NEW YORK 14414
SUBDIVISION PLAN APPROVAL

SUBDIVISION PLAN APPROVAL RESOLUTION

WHEREAS, the Town of Avon Planning Board (hereinafter referred to as Planning Board) is considering Final Subdivision Plan Approval for the subdivision of a 260.80 acre parcel into two (2) lots creating Lot 1 at 77.465 acres (existing dwelling & barns) and Lot 2 at 183.3 acres remaining vacant with no new development proposed as shown on the Final Subdivision Plan titled "Anderson Farms – 2699 Pole Bridge Road Subdivision" prepared by Kevin M. O'Donoghue, L.S. dated July 30, 2026, last revised May 15, 2006 and all other relevant information submitted as of August 24, 2026 (the current application); and

WHEREAS, the Planning Board opened a Public Hearing and completed a formal review of the proposed subdivision in compliance with the implementing regulations of the State Environmental Quality Review Act (SEQR); and

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

WHEREAS, on September 21, 2026 the Planning Board, serving as lead agency, made a determination of non-significance and filed a negative declaration thereby concluding review pursuant to SEQR; and

NOW, THEREFORE, BE IT RESOLVED, the Planning Board hereby ☒ Approves without Conditions ☐ Approves with the following Conditions; or ☐ Denies the application for the following reasons:

1. **Subdivision Plan Approval with conditions specified above herein is valid for a period of 180 days from today. Once all conditions of Subdivision Plan Approval have been met and shown on revised drawings including the revision dates, the Planning Board Chairperson will then sign the plans.**

The above Resolution was offered by Clara Mulligan and seconded by Brian Thorn at a regular scheduled Planning Board meeting held on September 21, 2026. Following discussion, a voice vote was recorded:

Christopher Sterner - Aye

Lee Hanvey - Absent
Clara Mulligan - Aye
Brian Thorn - Aye
Steve Csapo - Aye
Katie Smith - Absent
Liam Coyne - 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 September 21, 2026 meeting.

_____

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

Christopher Sterner signed the subdivision map and Kevin will register it with Livingston County.

PS BRUCKEL, INC./2781 LAKEVILLE ROAD/TAX MAP#55.-1-1.21 – PlANNING – SITE PLAN APPLICATION REVIEW

Mr. Thomas Sutherland from LandTech Surveying & Planning PLLC was present to discuss this application. Since the last meeting, some revisions to the design were made and would like to move forward with the application process.

Andy Martin, MRB Group, stated the eastern building had a large grade which could cause some challenges, but it has been rectified. We are still reviewing the SWPPP, but the application can move forward in his opinion.

Councilman Hayes discussed the letter containing the list of intended uses for the flex buildings, and Andy Martin stated there would be no outdoor storage on site.

Councilman Hayes asked about signage for the businesses and Mr. Sutherland stated only above the door and no signage at the road has been proposed.

Christopher Sterner asked about the lighting plan and Mr. Sutherland stated the height is 16 feet for flex buildings and 10 feet for the mini storage units.

Jim Campbell stated at this point we will defer the SEQR to next month's meeting and the Town Board can't act on the special permit for the use until SEQR is done.

The applicant will be back next month.

CARSON POWER LLC, APPLICANT/2926 LAKEVILLE ROAD/TAX MAP#54.-1-3.2 – BATTERY ENERGY STORAGE – SITE PLAN & SPECIAL USE PERMIT APPLICATIONS

Emily Thomas and Erik Anderson were present to discuss this application.

Jeff Mulligan asked the applicant if there was any new information for the Boards.

Emily Thomas stated the only changes are the underline electric service being discussed with National Grid to make sure they approve of the line.

Jim Campbell stated this is a joint meeting with the Town Board and the hope is to advance the application on three fronts tonight. The Town Board approval of the Special permit for the use on this parcel, Planning Board will review site plan and the ZBA will review the special use permit but before any of these takes place we need to review SEQR. The SEQR review will be done by the Planning Board and the Town Board and ZBA will utilize those findings for their parts.

Clara Mulligan asked about soil testing which AG & Markets suggest testing for PH and nutrients, but she feels it should be testing for leaching.

Councilman Hayes sked if there was anymore discussion with the fire department and Erik stated not since the initial meeting and the required training will take place.

Brian Thorn asked about the closeness to Conesus Creek and if there were any concerns; Andy Martin stated there is not.

Councilman Hayes asked how often the site is maintained and it is sporadically inspected as depicted in the Operations & Manual plan.

Erik Anderson stated the system is monitored 24/7 remotely.

Steve Csapo asked if there will be surveillance cameras and there will.

Jim Campbell began the SEQR process by reading Part 2 questions and the Planning Board will need to vocalize their responses.

The Planning Board answered all the questions which will be their SEQR findings, now onto the resolutions.

Christopher Sterner read the following resolutions:

TOWN OF AVON PLANNING BOARD RESOLUTION
BATTERY ENERGY STORAGE SYSTEM
2926 LAKEVILLE RD
PLANNED DEVELOPMENT DISTRICT (PDD) ZONING DISTRICT
TM# 54-1-3.2

SEQR RESOLUTION - DESIGNATING LEAD AGENCY

WHEREAS, the Town of Avon Planning Board (hereinafter referred to as "Planning Board") on May 18, 2026 declared its intent to be designated the Lead Agency for the for the development of a Tier 2 Battery Energy Storage System (BESS) consisting of two co-located 5-MW (total 10MW) four-hour duration battery systems with site appurtenances. The project will be situated on the southern portion of Tax Parcel 54-1-3.2, and is described and depicted in a Site Plan last revised July 2026 and prepared by Labella Associates and all other relevant information submitted as of September 2026 (the current application); 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 Steve Csapo and seconded by Clara Mulligan at a meeting of the Planning Board held on Monday, September 21, 2026. Following discussion thereon, the following roll call vote was taken and recorded:

Christopher Sterner, Chairperson - AYE
Lee Hanvey – ABSENT
Clara Mulligan - AYE
Brian Thorn – AYE
Steve Csapo - AYE
Liam Coyne – AYE
Katie Smith - ABSENT

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 September 21, 2026 meeting.

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

TOWN OF AVON PLANNING BOARD RESOLUTION
BATTERY ENERGY STORAGE SYSTEM
2926 LAKEVILLE RD
PLANNED DEVELOPMENT DISTRICT (PDD) ZONING DISTRICT
TM# 54-1-3.2

SEQR RESOLUTION – DETERMINATION OF SIGNIFICANCE

WHEREAS, the Town of Avon Planning Board (hereinafter referred to as the "Planning Board"), is considering Site Plan approval for the development of a Tier 2 Battery Energy Storage System (BESS) consisting of two co-located 5-MW (total 10-MW) four-hour duration battery systems with site appurtenances. The project will be situated on the southern portion of Tax Parcel 54-1-3.2, and is described and depicted in a Site Plan last revised July 2026 and prepared by Labella Associates and all other relevant information submitted as of September 2026 (the current application); and

WHEREAS, the Planning Board has determined the above referenced application (hereinafter referred to as Action) to be a Type 1 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 coordinated agency review pursuant to Part 617.6(b) (3) 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 Full Environmental Assessment Form Part 1; and

WHEREAS, the Planning Board has completed Part 2 and Part 3 of the Full Environmental Assessment Form; and

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) **there are no known important historical, archeological, architectural, or aesthetic resources on the site, or will the proposed action impair the existing community or neighborhood character;**

(vi) **there will not be a major change 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 substantial change in the use, or intensity of use, of land including open space or recreational resources, or in its capacity to support existing uses;**

(ix) **there will not be a large number of persons attracted to the site for more than a few days when compared to the number of persons who would come to such a place 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 upon the environment.**

BE IT FURTHER RESOLVED that based upon the information and analysis above and the supporting documentation, the Planning Board determines that the proposed action WILL NOT result in any significant adverse environmental impacts.

BE IT FURTHER RESOLVED that the Planning Board directs the Chairperson to sign and date Part 3 of the Full Environmental Assessment Form and to identify on the Form that the proposed Action will not result in any significant adverse impacts.

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

The above resolution was offered by Clara Mulligan and seconded by Steve Csapo at a meeting of the Planning Board held on Monday, September 21, 2026. Following discussion thereon, the following roll call vote was taken and recorded:

Christopher Sterner, Chairperson - AYE
Lee Hanvey – ABSENT
Clara Mulligan - AYE
Brian Thorn – AYE
Steve Csapo - AYE
Liam Coyne – AYE
Katie Smith - ABSENT

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 September 21, 2026 meeting.

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

Jim Campbell asked if any of the Board members had any questions before moving along with the application.

Bob Westfall is concerned that Tesla didn't provide any of the information regarding the energy units and Jim Campbell guessed it is due to propriety issues and not sharing with the public.

Councilman Hayes reviewed the PILOT and CHA and asked if Jim Campbell agreed with all the provisions of these documents.

Jim Campbell stated there were many negotiations with the applicants and Supervisor LeFeber to come to the final version of these documents.

Councilman Hayes has no problem with moving forward with approvals.

Jim Campbell sent out the Town Board special permit for the use in a PDD zoning, and he explained the conditions of the resolution.

Jeff Mulligan wanted to make sure the ZBA members didn't have any reservations before moving forward and Kitty Bressington doesn't have any reservation.

Cindy Kellen stated that she recused herself previously, can she make any comments and she cannot.

Jim Campbell read the Town Board resolution to all.

TOWN BOARD
TOWN OF AVON
COUNTY OF LIVINGSTON

RESOLUTION

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 September 21, 2026

WHEREAS, the Code of the Town of Avon (hereafter "Code") establishes the zoning classification of Planned Development District (hereafter "PDD") as set forth in Sl 30-18 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 9130-18 of the Code to approve of all uses contemplated in a PDD, which such uses are also subject to site plan approval by the Town of Avon Planning Board (hereafter "Planning Board"); and

WHEREAS, after initial approval, construction and occupancy of a PDD, 913018 H provides that the Town Board shall approve any changes in use by way of a special permit; and

WHEREAS, Avon BESS A LLC and Avon BESS B LLC (hereafter "Applicant") will be the lessee/tenant of a portion ofthe 14.53 +/- acre property owned by Fisher Rental Properties, LLC, located at 2926 Lakeville Road in the Town of Avon, County of Livingston and State of New York (also identified as Tax Map Number 54.-1-3.2) ("Parent Parcel"), said Parent Parcel also being located within a Planned Development District; and

WHEREAS, the property being leased by Applicant is approximately 0.44 +/acres in area and is located on the south side of the pre-existing commercial building located on the Parent Parcel as shown on a lease exhibit rendering attached hereto as Exhibit "A" (hereafter "Subject Property"); and

WHEREAS, pursuant to 5130-18'H of the Code, Applicant is seeking approval from the Town Board to use the Subject Property within the aforesaid Planned Development District to install and house two (2) 5-MW AC Battery Energy Storage Systems with appurtenant infrastructure to include utility poles, transformers, AC switchgear and DAS equipment ("Project"); and

WHEERAS, the Town Board acknowledges that the Town of Avon Planning Board, as lead agency, previously conducted an appropriate and thorough environmental review under 6 NYCRR 617 (New York State Environmental Quality Review Act) ånd at the conclusion of such review, issued a Negative Declaration regarding Applicant's proposed Site Plan to allow the construction of two (2) 5-MW AC Battery Energy Storage Systems with appurtenant infrastructure to include utility poles, transformers, AC switchgear and DAS equipment, appurtenant access, parking and drainage facilities on the Subject Property; and

WHEERAS, 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 request to approve the additional use stated above, as such use was contemplated during said SEQR review and the subsequent findings made by the Planning Board as part of its Site plan review and approval; and

WHEREAS, the Town Board has concluded that the SEQR review and determination made by the Planning Board shall be relied upon by the Town Board in the place of the Town Board conducting its own SEQR review and that such determination fulfills the requirements of SEQR; and

WHEREAS, the Town Board wishes to authorize the proposed use on the Subject Property within the Planned Development District as requested by Applicant and to hereby memorialize and specify the parameters of its approval of Applicant's request for issuance of a special permit.

NOW, THEREFORE, upon motion by David LeFeber, seconded by Collin Hayes, it is hereby

- RESOLVED, that the Town Board of the Town of Avon, pursuant to 9130-18 H of the Code, hereby approves of Applicant's request (to the limited degree specifically stated herein) with regard to the proposed use and authorizes a Special Permit to be issued to Applicant by the Code Department to the following extent:
-

1. Subject to provisions stated hereafter, Applicant, its successors and assigns shall be permitted to use the use the Subject Property for purpose of operating two (2) 5-MW AC Battery Energy Storage Systems with appurtenant infrastructure to include utility poles,

transformers, AC switchgear and DAS equipment, appurtenant access, parking and drainage facilities;

2. Applicant, its successors and assigns shall not use any portion of the Subject Property for any use not authorized by this resolution;

3. This approval applies only to the Subject Property as it exists as of the date of this Resolution and shall not be deemed to extend to any portion of the Parent Parcel or remainder property owned by Fisher Rental Properties LLC;

4. Any development of the Subject Property and subsequent use thereof as authorized herein shall be subject to and comply with the off-street parking and loading requirements set forth in Article VIl of Chapter 130 of the Code at 513036 through 5130-38;

5. Any development of the Subject Property and subsequent use thereof as authorized herein shall be subject to and comply with the Exterior Lighting requirements set forth in Chapter 49 of the Code;

6. Any development of the Subject Property and subsequent use thereof as authorized herein shall be subject to and comply with the Design Standards set forth in 5130-18 C.(4);

7. Any noise impacts related to any use of the Subject Property shall be mitigated so as to not unreasonably create a negative impact on nearby or adjacent parcels;

8. Should Applicant or its successors and/or assigns wish to utilize any portion of the Subject Property 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;

9. 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 underlying Lease Agreement relating to the Subject Property between Applicant and Fisher Rental Properties LLC;

10. 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;

11. This approval of a Special Permit for use is contingent upon Applicant obtaining Site Plan approval from the Town of Avon Planning Board and Special Use Permit approval from the Zoning Board of Appeals for the Project as proposed and for which a Special Permit has been requested; and

BE IT FURTHER RESOLVED, that in reaching the above detenninations, the Town Board makes the following findings pursuant to S 130-18 1-I. of the Code:

- The request is in harmony with the general purpose and intent of the regulations set forth in 5130-18 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 project, 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 a copy of this Resolution be formally made a pan of the files maintained by the Town of Avon relating to the Planned Development District located at 2926 Lakeville Road in the Town of Avon, County of Livingston and State of New York (also identified as Tax Map Number 54.-1-3.2).

Dated: September 21, 2026

Vote of the Board: **David LeFeber AYE**

Thomas Mairs AYE

Malachy Coyne AYE

Paul Drozdziel ABSENT

Collin Hayes AYE

BY ORDER OF THE TOWN BOARD
OF THE TOWN OF AVON

_____

Faye Beshures, Town Clerk

The next step in this process is the site plan resolution (Planning) then the special use permit (ZBA).

Jim Campbell read the site plan approval resolution to all present.

TOWN OF AVON PLANNING BOARD RESOLUTION
BATTERY ENERGY STORAGE SYSTEM
2926 LAKEVILLE RD
PLANNED DEVELOPMENT DISTRICT (PDD) ZONING DISTRICT
TM# 54-1-3.2

SITE PLAN APPROVAL RESOLUTION

WHEREAS, the Town of Avon Planning Board ("Planning Board") has received an application by AVON BESS A LLC and AVON BESS B LLC ("Applicant") for Site Plan Approval to allow for the development of a Tier 2 Battery Energy Storage System (BESS) consisting of two collocated 5-MW (total 10-MW) four-hour duration battery systems with site appurtenances ("Project"). The project will be situated on the southern portion of Tax Parcel 54-1-3.2, and is described and depicted in a Site Plan last revised September 2026 and prepared by Labella Associates and all other relevant information submitted as of September 2026 ("Current Application"); and

WHEREAS, the Planning Board has completed its review and deliberations on the above described site plan application; and

WHEREAS, the Planning Board has previously determined the proposed development to be a Type 1 action pursuant to Part 617.4 of the New York State Quality Review Act ("SEQR"); and

WHEREAS, on September 21, 2026, in accordance with Part 617.6(b) of SEQR, the Planning Board, as the lead agency, issued a negative declaration for the Project, following a thorough coordinated review during which the Planning Board took the required "hard look" at the proposed action; and

WHEREAS, the Application has been the subject of several Planning Board, Zoning Board of Appeals and Town Board meetings, including a public hearing that was held at a joint meeting of the Planning Board, Zoning Board of Appeals and Town Board on June 15, 2026, which was left open and continued and concluded on July 20, 2026; and

WHEREAS, the Planning Board has carefully considered all relevant documentary, testimonial, and other evidence/materials submitted, including but not limited to the SEQR Full EAF, the Application materials, including the original project application submitted in March 2026 and last revised in September 2026; and

WHEREAS, the Town Board, pursuant to §130-18 H of the Code, has coordinated with the Planning Board, and contingent upon the applicant receiving site plan approval from the Planning Board, approved the issuance of a Special Permit, authorizing the use for Battery Energy Storage Systems on the leasehold parcel upon which the Project is intended to be constructed; and

NOW, THEREFORE, BE IT RESOLVED, that, after careful consideration, including after considering the standards, criteria and/or requirements for approval in Article XVI of the Avon Town Code (the "Code"), including but not limited to Permitting Requirements for Battery Energy Storage Systems as contained in §130-92 D., and subject to the conditions set forth herein, the Planning Board finds that the Application meets such standards, criteria and/or requirements; and, be it further

RESOLVED, that, based upon said findings, and pursuant to the requirements of Article XVI of the Code and specifically §130-92 D., the Planning Board hereby grants approval for the Application, including approval of the site plan application all in accordance with the Application materials, and all subject to the following conditions: SITE

1. **All outstanding comments of the Town of Avon Code Enforcement Officer, Town Staff, and the Town Engineer shall be addressed to their satisfaction prior to the Planning Board Chair signing the plans.**

2. **This approval is contingent upon Applicant receiving final approval by the Avon Town Board of a Special Permit pursuant to §130-18 H. of the Code, approving the use of BESS within the Planned Development District and on the leased parcel the Project is intended to be constructed and approved by the Avon Zoning Board of Appeals of the Special Use Permit as required by §130-92 of the Code.**

3. **A Special Permit pursuant to §130-18 H. of the Code granted by the Town Board is required prior to signatures being affixed to the site plans.**

4. **A Special Use Permit pursuant to §130-92 of the Code granted by the Zoning Board of Appeals is required prior to signatures being affixed to the site plans.**

5. **Site Plan Approval is conditioned on the Stormwater Pollution Prevention Plan (SWPPP) for the Battery Energy Storage System project dated August 2026 and revised per the Town Engineer's letter dated September 18, 2026.**

6. **The Applicant will provide a CESIR study and any subsequent agreement for the Project from the relevant electric utility to the Town Code Enforcement Officer prior to construction beginning or issuance of a permit.**

7. **The wetlands boundaries as identified on the site plans and within the Wetland Delineation Report are to be delineated in the field and no disturbance is permitted**

within these boundaries unless authorized by Army Corps of Engineers and/or NYSDEC and the associated approval letter and/or permit forwarded to the Town of Avon.

8. All NYSDEC questions are to be addressed to their satisfaction and approvals provided prior to signatures being affixed to the site plans.

9. No construction or permits shall be issued until the NYSDEC Acknowledgement letter has been received by the Town of Avon.

10. This approval is based on Applicant's representation that it will be using the Tesla Megapack 2XL for the Project. At the time of issuance of a building permit, should the Tesla Megapack 2XL not be available for such a time that would cause substantial delay in construction of the Project, Applicant (or it's successor) may request approval to use alternative yet equivalent utility-scale equipment to replace the Tesla Megapack 2XL so long as the replacement equipment matches or exceeds the Tesla Megapack 2XL across all relevant performance, safety and thermal management metrics as confirmed by a joint review of the same performed by the Planning Board's consulting engineer and a third party NYS licensed Professional Engineer specializing in energy storage and fire safety, that is engaged to provide a professional expert opinion on behalf of the Planning Board. All costs associated with the review of any proposed equipment replacement as provided for herein shall be reimbursed to the Town prior to issuance of a building permit.

11. Prior to issuance of a building permit or construction beginning, the Applicant shall enter into a Decommissioning Agreement for the Project pursuant to §130-92 B. (19) (a) and §130-92 E. of the Code, in a form acceptable to the Town Board of the Town of Avon.

12. The Decommissioning bond or surety shall provide for an annual increase in the amount of surety to compensate for the cost of inflation or any other anticipated increase in costs of removal.

13. Each year after the Battery Energy Storage System 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.

14. Prior to the issuance of a building 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).

15. All contact information for the applicants, developers, and landowners are to be provided to the Town of Avon Code Enforcement Officer prior to issuance of a permit;

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. If any landscaping is to be replaced, it is to be of the approved height and species as identified on the approved site plans. 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. 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 or construction beginning. This will be determined by the Code Enforcement Officer.

18. All contact information for the applicants, developers, and landowners shall be regularly updated so that the Town has current information in the event that the Town needs or desires to make inquiry regarding the Project.

19. All consultants' fees for review of application are to be reimbursed by the applicant to the Town prior to the issuance of building permits.

20. After completion, the Applicant shall provide to the Town of Avon Codes 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 operating according to the design plans and conditions of approval.

21. A means of shutting down the Battery Energy Storage Facility shall be placed in a location approved by the Code Enforcement Officer and clearly marked. A Knox® box shall be

required for access by the local fire department. Initial and annual site-specific training SITE PLAN APPROVAL RESOLUTION

22. **shall be offered to the Code Enforcement Officer(s), Fire Departments, Emergency Response, Livingston County Emergency Management System, and Police Departments, with expenses for such training covered by the Owner/Operator.**

23. **If the use of an approved Battery Energy Storage 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, Battery Energy Storage Systems are considered inoperative and abandoned after 180 days without consistent operation.**

The above resolution was offered by Brian Thorn and seconded by Liam Coyne at a meeting of the Planning Board held on Monday, September 21, 2026. Following discussion thereon, the following roll call vote was taken and recorded:

Christopher Sterner, Chairperson – AYE
Brian Thorn – AYE
Clara Mulligan – AYE
Lee Hanvey – ABSENT
Steve Csapo – AYE
Liam Coyne – AYE
Katie Smith – ABSENT

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 Planning Board for the September 21, 2026, meeting.

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

Jim Campbell asked Erik Anderson when they sell the project, will they sell it to one entity, or more and Erik stated it would be one entity.

Andy Martin read the special use permit approval resolution to all present.

TOWN OF AVON PLANNING BOARD RESOLUTION
BATTERY ENERGY STORAGE SYSTEM
2926 LAKEVILLE RD
PLANNED DEVELOPMENT DISTRICT (PDD) ZONING DISTRICT
TM# 54-1-3.2

SPECIAL USE PERMIT APPROVAL RESOLUTION

WHEREAS, the Town of Avon Zoning Board of Appeals ("Zoning Board") by AVON BESS A LLC and AVON BESS B LLC ("Applicant"), for a Special Use Permit to allow for the development of a Tier 2 Battery Energy Storage System ("BESS") consisting of two co-located 5MW (total 10-MW) four-hour duration battery systems with site appurtenances ("Project"). The Project will be situated on the southern portion of Tax Parcel 54-1-3.2, and is described and depicted in a Site Plan last revised September 2026 and prepared by Labella Associates and all other relevant information submitted as of September 2026 ("Current Application"); and

WHEREAS, on September 21, 2026, in accordance with the Part 617.6(b) of the New York State Environmental Quality Review Act ("SEQR"), the Town Planning Board, as the lead agency, issued a negative declaration for the Project, following a thorough coordinated review during which the Planning Board took the required "hard look" at the proposed action; and

WHEREAS, the Zoning Board takes official notice of the SEQR determination made by the Planning Board and deems the review resulting in such determination to have been appropriately thorough and compliant with the requirements of the SEQR regulations; and

WHEREAS, the Application has been the subject of several Zoning Board, Town Board and Town Planning Board meetings, including a public hearing that was held at a joint meeting of the Planning Board, Zoning Board of Appeals and Town Board on June 15, 2026, which was left open and continued and concluded on July 20, 2026; and

WHEREAS, the Planning Board has completed a review of the Site Plan application materials and on September 21, 2026, pursuant to the requirements of, Article XVI of the Code and specifically §130-92 D., granted site plan approval; and

WHEREAS, the Town Board, pursuant to §130-18 H of the Code, has coordinated with the Planning Board and the Zoning Board, and contingent upon the applicant receiving special use permit approval from the Zoning Board, approved the issuance of a Special Permit, authorizing the use for Battery Energy Storage Systems on the leasehold parcel upon which the Project is intended to be constructed; and

WHEREAS, the Zoning Board has carefully considered all relevant documentary, testimonial, and other evidence/materials submitted, including but not limited to the SEQR Full EAF, the Application materials, including the original project application dated March 2026, and last revised in September 2026; and

NOW, THEREFORE, BE IT RESOLVED, that, after careful consideration, including after considering the standards, criteria and/or requirements for approval in Article XVI of the Avon Town Code (the "Code"), including but not limited to the permitting Requirements of Article XVI of the Code for Battery Energy Storage Systems and the specific requirements for a special use permit as set forth in §130-92 B, §130-35 and §130-92 D., and based upon and subject to the conditions set forth herein, the Zoning Board finds that the Application meets such standards, criteria and/or requirements; and, be it further

RESOLVED, that, based upon said findings, the Zoning Board hereby grants approval for the Application, including approval of the special use permit application, all in accordance with the Application materials, and all subject to the following conditions:

1. **All outstanding comments of the Town of Avon Code Enforcement Officer, Town Staff, and the Town Engineer shall be addressed to their satisfaction prior to issuance of a permit and/or construction beginning.**
2. **This approval is contingent upon Applicant receiving final approval by the Avon Town Board of a Special Permit pursuant to §130-18 H. of the Code, approving the use of BESS within the Planned Development District and on the leased parcel the Project is intended to be constructed and site plan approval by the Avon Planning Board as required by §130192 of the Code.**
3. **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 all requirements within the Town of Avon Zoning Code §§130-86 to 130-94.

4. **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 Project is being operated in accordance with the conditions of the Special Use Permit as specified by the Zoning Board.**

5. **In the event any complaints relating to the Special Use Permit or its conditions are filed with the Code Enforcement Officer, and Applicant (or its successor) fails to take corrective action, the Code Enforcement Officer shall bring the same to the attention of the Zoning Board.**

6. **Before beginning operations, the Project and 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.**

7. **All conditions as required by the Town Planning Board as part of its Site Plan approval are required to be addressed prior to the issuance of permits and construction beginning.**

8. **Special Use Permit Approval is conditioned on implementation of the Stormwater Pollution Prevention Plan (SWPPP) for the BESS Project as dated August 2026, and revised per the Town Engineer's letter dated September 18, 2026.**

9. **The Applicant will provide a CESIR study and any subsequent agreement for the Project from the relevant electric utility to the Town Code Enforcement Officer prior to construction beginning or issuance of a building permit.**

10. **The wetlands boundaries as identified on the site plans and within the Wetland Delineation Report are to be delineated in the field and no disturbance is permitted within these boundaries unless authorized by Army Corps of Engineers and/or NYSDEC and the associated approval letter and/or permit forwarded to the Town of Avon.**

11. **All NYSDEC questions are to be addressed to their satisfaction and approvals provided prior to signatures being affixed to the site plans.**

12. **No construction or building permits shall be issued until the NYSDEC Acknowledgement letter has been received by the Town of Avon.**

13. **Special Use Permit Approval is conditioned on the Operation & Maintenance Plan for the Battery Energy Storage System project, dated July 2026 and is discussed with the Zoning Board of Appeals and Planning Board and revised per the Town Engineer's letter dated September 18, 2026.**

14. **Special Use Permit Approval is conditioned on the Emergency Operations Plan for the Battery Energy Storage System project, dated February 2026 and as discussed with the Zoning Board of Appeals and Planning Board and revised per the Town Engineer's letter dated September 18, 2026.**

15. **Prior to issuance of a permit or construction beginning, the Applicant shall enter into a Decommissioning Agreement/Plan for the Project, in a form acceptable to the Town Board of the Town of Avon.**

16. **The Decommissioning bond or surety shall provide for an annual increase in the amount of surety to compensate for the cost of inflation or any other anticipated increase in costs of removal.**

17. **Each year after the Battery Energy Storage System 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.**

18. **Prior to the issuance of a building 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).**

19. **All contact information for the applicants, developers, and landowners shall be regularly updated so that the Town has current information in the event that the Town needs or desires to make inquiry regarding the Project;**

20. **The Applicant and its successors are responsible for maintaining and replacing all trees and landscaping as depicted on the approved site plans for the life of the project. If any landscaping is to be replaced, it is to be of the approved height and species as identified on the approved site plans. 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 to this effect.

21. A preconstruction meeting shall be with the Town of Avon, once all conditions of approval have been met, but prior to issuance of any permit or construction beginning. This will be determined by the Code Enforcement Officer.

22. After completion, the Applicant shall provide to the Town of Avon Codes 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 operating according to the design plans and conditions of approval.

23. All consultants' fees for review of application are to be reimbursed by the applicant to the Town prior to the issuance of building permits.

24. A means of shutting down the Battery Energy Storage Facility shall be placed in a location approved by the Code Enforcement Officer and clearly marked. A Knox® box shall be required for access by the local fire department. Initial and annual site-specific training shall be offered to the Code Enforcement Officer(s), Fire Departments, Emergency Response, Livingston County Emergency Management System, and Police Departments, with expenses for such training covered by the Owner/Operator.

25. If the use of an approved Battery Energy Storage 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, Battery Energy Storage Systems are considered inoperative and abandoned after 180 days without consistent operation.

26. If the Applicant violates any of the conditions of its Special Use Permit, Site Plan approval or Special Permit approving the BESS use, or violates any other local, state, or federal laws, such violation shall be grounds for revocation of the Special Use Permit authorized hereunder. 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.

The above resolution was offered by Kitty Bressington and seconded by Bob Westfall at a meeting of the Zoning Board held on Monday, September 21, 2026. Following discussion thereon, the following roll call vote was taken and recorded:

Jeff Mulligan, Chairperson - AYE
Cindy Kellen – ABSTAIN
Bob Westfall – AYE
Diane Attea – AYE
Kitty Bressington – AYE

I, *Kim McDowell*, Chairperson of the Board, do hereby attest to the accuracy of the above resolution being acted upon and recorded in the minutes of the Zoning Board for the September 21, 2026, meeting.

Kim McDowell_____, L.S.

Kim McDowell, Clerk of the Zoning Board of Appeals

Jim Campbell stated the Town Board will approve the PILOT and Community Host Agreements at the regularly scheduled Town Board meeting on Thursday, September 24, 2026.

Councilman Hayes updated the Boards on a grant application through the Genesee Transportation Council; a study to look at East Henrietta Road from the Vintage Drive In to Henty Road and from East starting at the Village to Town of Lima. Since this area has grown, it will look at the infrastructure improvements, traffic safety, pedestrian connectivity. He feels there is a good chance for the grant to be approved and then they may have a focus committee.

Supervisor LeFeber discussed the possibility of the Town Board approving a data center moratorium, he is going to a conference next week which will have discussions on data centers.

Brian Shannon stated that CNY Feeds have broken ground and Kleis Equipment is close to getting a certificate of occupancy but has a few items that need to be completed.

Christopher Sterner asked if there was any other business to discuss and there wasn't.

MOTION TO CLOSE THE MEETING WAS MADE BY BRIAN THORN; SECONDED BY LIAM COYNE.

CHRISTOPHER STERNER - AYE

CLARA MULLIGAN – AYE
BRIAN THORN – AYE
KATIE SMITH – ABSENT
STEVE CSAPO - AYE
LEE HANVEY – ABSENT
LIAM COYNE - AYE

JEFF MULLIGAN - AYE
CINDY KELLEN- AYE
BOB WESTFALL- AYE
DIANE ATTEA – AYE
KITTY BRESSINGTON – AYE

SUPERVISOR LEFEBER - AYE
DEPUTY SUPERVISOR MAIRS - AYE
COUNCILMAN HAYES - AYE
COUNCILMAN DROZDZIEL – ABSENT
COUNCILMAN COYNE- AYE

CARRIED 14-0.

MEETING CLOSED.