TOWN OF PENDLETON
6570 Campbell Boulevard
Lockport, NY 14094

Supervisor Joel Maerten
Councilman Wolfgang Buechler
Councilman David Kantor
Councilman Timothy Lukasik
Councilman Dylan Rumbold

At the meeting of the Town Board of the Town of Pendleton, Niagara County, New York, held in the Board Room at the Town of Pendleton Town Hall, 6570 Campbell Boulevard, Lockport, New York, 14094 at 7:00 p.m. on November 9, 2026.

Resolution Approving Special Use Permit

WHEREAS, the Planning Board of the Town of Pendleton has recommended to the Town Board the issuance of a Special Use Permit for a Battery Energy Storage System (BESS) project to be located on property at 5960 Donner Road and communicated such recommendation in the meeting minutes of the Planning Board's August 18, 2026 meeting; and

WHEREAS, Town Code § 247-16C states, "Applications for a special use permit shall be reviewed by the Planning Board, which shall report its findings on the application to the Town Board."; and

WHEREAS, Town Code § 247-16C further states, "Hearing and decision. Following receipt of the Planning Board's report, the Town Board shall hold a public hearing on an application for a special use permit within 62 days of receiving the application, publicly noticed in a printed newspaper of general circulation in the Town at least five days prior to the hearing.

WHEREAS, on September 14, 2026 a public hearing for the proposed Battery Energy Storage System was scheduled by resolution of the Town for October 13, 2026 at 6:55 pm; and

WHEREAS, the scheduled public hearing was advertised and held; and

WHEREAS, the Town Board is obligated to make a decision on the application for a Special Use Permit within 62 days of the public hearing.

NOW, **THEREFORE BE IT RESOLVED,** by the Town Board of the Town of Pendleton on this 9th day of November 2026 that a Special Use Permit is approved for the proposed Battery Energy Storage System (BESS) project, which is located on property at 5960 Donner Road.

FURTHER, BE IT RESOLVED, that this Special Use Permit is valid for a period of two (2) years following this approval for construction and initial operations.

FURTHER, BE IT RESOLVED, that this Special Use Permit is subject to annual review according to Town Code § 247-16C(5) following the initial two (2) year approval.

FURTHER, BE IT RESOLVED, that this Special Use Permit approval is subject to the following conditions:

1) the project shall be developed, constructed, operated, and maintained in conformance with the Planning Board-approved site plan, and all conditions imposed by the Planning Board are incorporated herein and shall be satisfied; any material modification shall require approval by the board or official having jurisdiction;
2) the Permittee shall obtain all required permits and approvals before undertaking the activity requiring them and shall comply with all applicable Town Code, building, electrical, fire-safety, and environmental requirements;
3) before commercial operation, the Permittee shall complete required commissioning and acceptance testing, obtain approval of all required hazard-mitigation and emergency-response plans, and provide required emergency access, responder training, monitoring, and fire-protection measures, which shall be maintained throughout operation;
4) the Permittee shall comply with the approved environmental commitments concerning noise, drainage, wetlands, screening, construction hours, and vegetation clearing;
5) before issuance of any building permit, the Permittee and property owner shall execute and deliver a decommissioning agreement, and the Permittee shall furnish decommissioning surety, each in a form approved by the Town Board, with the surety in an amount approved by the Town Board sufficient to secure equipment removal, site restoration, and required post-incident cleanup and remediation; the agreement and surety shall remain effective until the Town Board authorizes their release following satisfactory completion of the secured obligations;
6) the Permittee shall submit to annual Town Board review, maintain records demonstrating compliance, and ensure that any successor owner or operator assumes all approval and decommissioning obligations and maintains the required surety without interruption."

This resolution shall take effect immediately.