

DRAFT MINUTES
LEWIS COUNTY PLANNING BOARD
April 20, 2023

- (1) **Call to Order:** Chairman Petersen called the regular meeting of the Lewis County Planning Board to order at 2:30 PM in the conference room on the 2nd floor at the Lewis County Court House, Lowville, New York. Roll call was requested by Mr. Petersen.
- (2) **Roll Call:** Board Members Present: Tim Petersen, Don Cook, Tim Hunt, Eric Virkler and Sarah Metott. Staff Present: Casandra Buell, Director of Planning & Community Development as well as Megan Krokowski, Community Development Specialist.
- (3) **Reading and Approval of Minutes:** The draft February 16, 2023 meeting minutes were received and reviewed prior to the meeting. Mr. Cook motioned to approve the minutes; Mr. Hunt seconded the motion, which carried unanimously.
- (4) **Correspondence and Communication:**
 - Town of Leyden Planning Board Intent to be SEQRA Lead Agency for proposed Dollar General store to be located off NYS Route 12 in the Town of Leyden.
 - NYS DOT – State Route 410 over the Black River bridge replacement
- (5) **Report of Officers:** None
- (6) **Report of Special Committees:**

239-M Review

Ms. Krokowski read the following review:

TOWN OF OSCEOLA TOWN BOARD

Site Plan Review for a 25.6-acre sand and gravel mine located at 2218 Ryan Road in the Town of Osceola.

Tax Map Parcel #384.00-01-28.100

Dale Myslivecek – Applicant

The applicant provided the following Project Documentation: 1) FEAF Part 1; 2) General Municipal Referral Form; 3) Various Site Plans; 4) DEC Letter of Complete Application and Negative Declaration; and 5) Dale's Excavating Gravel Pit Mined Land Use and Reclamation Plan.

▪ *Compatibility with Adjacent Uses:*

The proposed action is located within the Rural Residential (RR) Zone and is surrounded by forests and rural residences. According to Article 4 § 410, the proposed activity could be considered major excavation which requires a site plan review in the Rural Residential Zone.

According to Section 420, entitled “Lot area, Lot Dimensions and Setbacks”, the setback requirements have been met for the proposed project as shown in the table below:

	Rural Residential (RR)	
	Required	Proposed
Min. Lot Size	NA	25.6 acres
Min. Lot Depth	250’	1100’
Min. Lot Frontage	200’	530’
Min. Front YD Setback (CR)	75’	350’
Min. Side YD Setback	20’	200’
Min. Rear YD Setback	20’	25’
Max. BLDG Height	40’	NA

The impacted parcel is not located within Ag District No. 6 and there are no parcels within Ag District 6 located within 250 feet of the proposed site, nor are there any parcels that appear to be tillable near the proposed site.

▪ *Traffic Generation and Effect:*

The roadway is identified as Ryan Road, located on the southwestern border of Lewis County and Oswego County. The proposed project may change the traffic composition as there may be an increase in the number of Heavy-Duty trucks entering and exiting the area. Per the submitted documentations, the Town of Osceola Planning Board would like to guarantee the applicant is responsible for any repairs to Ryan Road due to the damage that is typically caused by the expected volume of Heavy-Duty trucks and equipment. The Town Board should work with the applicant to develop and execute a Road Use Maintenance Plan prior to issuing a Zoning Permit to ensure the safety of their infrastructure, that said infrastructure is not negatively impacted by the proposed action and that, specifically, Ryan Road stays clear of dust, gravel, and other remnants from the operation. Similar to the Town of Osceola’s Planning Board’s concerns the DEC stated that “If/when the DEC mining permit is issued, there will be a permit condition stating, “The surface of any paved road that intersects with the entrance/exit to the mine and the entrance/exit areas shall be kept free of any spilled and/or tracked materials which can cause dust, slippery conditions or any other condition that is unhealthy or unsafe.”

The proposed ingress and egress appear to have no changes from the prior mining use; however, it appears that the driveway width is limited to 12 feet with approximately 45 feet available at the entrance. At minimum, the width of the driveway should be expanded to accommodate two (2) Heavy-Duty vehicles and the entrance line of sight and turning radius should be evaluated by the Town Highway Superintendent to ensure the safety of roadway users. DEC indicated “since the entrance/haul road already exists and is not part of the life of mine, therefore the width is not something we (DEC) regulate.”

Additionally, roadway signs will be erected at the necessary locations identified by the Highway Superintendent to alert traffic of the operation upon approach of the ingress/egress to address traffic safety concerns.

- *Protection of Community Character:*

As noted in the provided FEAF, the applicant has identified that the proposed action is not located in, nor does it adjoin a state listed Critical Environmental Area. Even though critical habitat is not identified, the IPAC Report identified the Monarch Butterfly and the Northern Long Eared Bat as endangered species native to the area. Applicant should ensure conscious efforts are made and documented to minimize the impact of the proposed project on protected species since spring/summer months butterflies and bats use grasses/shrubs/trees as their primary habitat to the extent practicable at the site. Lewis County currently contains no identified National Natural Landmark designations.

According to the submitted letter dated 1/27/2023 provided by NYS DEC entitled Notice of Complete Application *“Cultural resource lists and maps have been checked. The proposed activity is not in an area of identified archaeological sensitivity and known registered, eligible, or inventoried archaeological sites or historic structures were identified or documented for the project location. No further review in accordance with SHPA is required.”*

Additionally, according to the letter from NYS DEC dated 12/7/2022, a NEGATIVE DECLARATION was issued and concluded that *“the proposed project will not result in significant, adverse environmental impacts and that a permit, with conditions, can be issued.”* The conditions NYS DEC mentioned were not provided in the provided documents.

- *Signage:*

The provided documents did not appear to include plans for signage; however, if the applicant does plan to erect signage, prior to the Town Board’s final action, the applicant shall provide detailed plans to include but not limited to sign design with dimensions, lighting details, and illumination hours to ensure compliance with Article 5, Section 505.

DEC will require signage posting the Mining Permit at the entrance of the mine if/when DEC’s Mining Permit approval is granted, applicant shall comply with DEC’s requirements.

- *Drainage:*

According to the submitted FEAF, the proposed project site contains wetlands, but the proposed site plans address that the site will be at least 100 feet from mapped wetland areas. According to the Negative Declaration letter provided by NYSDEC, water resources should not be negatively impacted by the proposed mining operation. The proposed action must be compliant with Section 535. Wetlands.

The FEAF noted there will be approximately 3 acres of ground disturbance, but the total acreage of the proposed action site is 25.6 acres. Being that any land disturbance over 1 acre requires a SPDES permit; however, according to Miranda Gilgore (DEC) a SPDES permit is not required since the applicant illustrated in their Mined Land Use Plan and mining plan maps the best management practices that will be implemented to retain all stormwater on site. If/when the DEC mining

permit is issued, there will be a permit condition stating, *“There shall be no natural swales or channels or constructed features such as ditches, pipes, etc., that are capable of discharging waters to any offsite areas or to any areas outside the limits of the Life of Mine except those explicitly described and shown in the narrative and graphic portions of the approved Mined Land Use Plan. All silt laden water and storm water generated on, or running across, the site shall be retained within the approved project area. The permittee must comply with all applicable State Pollutant Discharge Elimination System (SPDES) permit requirements and provide necessary notifications for off-site point source discharges.”* Although the SPDES permit is not mandated, the applicant should be aware that compliance with the SPDES requirements and notifications for offsite point source discharges is expected.

▪ *Parking:*

The proposed action did not appear to include plans for parking; however, to ensure compliance with Article 7 Section 715.3, *“...parking areas are adequate for the intended level of use and arranged and screened so as to minimize negative impacts on adjacent properties;”* and Article 5 Section 510, *“All uses shall provide off-road parking for all vehicles parked during typical peak use periods. Parking should be designed to eliminate the need to back out onto the public road. Minimum standards, all of which must be met, are as follows:*

- 1. One parking space for every three seats in a public meeting place.*
- 2. One parking place for every employee at places of employment.*
- 3. One parking space per 250 square feet in a commercial establishment.*
- 4. One parking space for each dwelling unit”*

After consultation with Miranda Gilgore; Environmental Analyst for the DEC, she indicated that DEC doesn't have any requirements for parking.

Prior to taking action, the Board must verify all aforementioned zoning reference requirements will be met prior to final action.

▪ *Community Facilities:*

According to page 5 of the submitted FEAF, the proposed project will not use or create a new demand for water and the proposed action will not generate liquid wastes.

According to the Mined Land Use Plan, the applicant is not proposing to construct a new well, if a new well will be constructed on site, the applicant should use a NYS DEC Certified Well Contractor to prevent contamination and depletion of the groundwater resources.

▪ *Lighting:*

No lighting plans were submitted with this referral. According to the Mined Land Use Plan, the applicant is not proposing to construct a new building or use lighting at the mine. Prior to taking action, to ensure compliance with Article 7 Section 715.8, lighting plans should be submitted to the Town of Osceola Board to verify *“that signs, site lighting, and the locations of all buildings and structures are in keeping with the character of the neighborhood”*. The Board should

determine what adequate lighting for this type of operation would be for safety and security purposes in mind but also taking into consideration the impact of travelers on the roadway and neighboring residences.

▪ **Landscaping and Screening:**

The submitted site plan does not detail landscaping or facility screening, however; Article 7 Section 715.6 states “...that the site is suitably landscaped, and appropriately screened from adjacent properties and the road so as to protect the visual character of the area and to minimize negative impacts on adjacent properties and the neighborhood.”

Given the amount of land clearing intended it is recommended the applicant retain a natural vegetative buffer of at least 10 feet around the Life of Mine Boundary to preserve the viewshed while also taking considerations to avoid line of sight issues that may be caused regarding the roadways. The screening/buffer will also help cushion noise production, as noted on page 8 of the FEAF.

The DEC is not requiring additional visual barriers since the current topography, planned mining phases and current vegetation will be adequate for visual mitigation from the roadways and nearest homes not owned by the applicant.

As a final note from Miranda Gilgore, Environmental Analyst, DEC “Some comments/concerns lay out of DEC jurisdiction but that doesn’t mean we don’t agree with the Planning Board’s comments or recommendations.”

Recommendation: Approve with the following conditions

1. If/when the DEC mining permit is issued, there will be a permit condition stating, “The surface of any paved road that intersects with the entrance/exit to the mine and the entrance/exit areas shall be kept free of any spilled and/or tracked materials which can cause dust, slippery conditions or any other condition that is unhealthy or unsafe.”, this is to ensure the safety of all road users.
2. It appears that the driveway width is limited to 12 feet with approximately 45 feet available at the entrance. At minimum, the width of the driveway should be expanded to accommodate two (2) Heavy-Duty vehicles and the entrance line-of sight and turning radius should be evaluated by the Town Highway Superintendent to ensure the safety of roadway users. Additionally, roadway signs will be erected at the necessary locations identified by the Highway Superintendent to alert traffic of the operation upon approach of the ingress/egress to address traffic safety concerns.
3. Applicant should ensure conscious efforts are made and documented to minimize the impact of the proposed project on protected species since spring/summer months monarch butterflies and northern long eared bats use grasses/shrubs/trees as their primary habitat to the extent practicable at the site.
4. The provided documents did not appear to include plans for signage; however, if the applicant does plan to erect signage, prior to the Town Board’s final action, the applicant shall provide detailed plans to include but not limited to

sign design with dimensions, lighting details, and illumination hours to ensure compliance with Article 5, Section 505.5.

5. Additionally, the applicant must comply with DEC requirements. The FEAF noted there will be approximately 3 acres of ground disturbance; however, the total acreage of the proposed action site is 25.6 acres. Being that any land disturbance over 1 acre requires a SPDES permit; however, according to Miranda Gilgore (DEC) a SPDES permit is not required since the applicant illustrated in their Mined Land Use Plan and mining plan maps the best management practices that will be implemented to retain all stormwater on site. If/when the DEC mining permit is issued, there will be a permit condition stating, *“There shall be no natural swales or channels or constructed features such as ditches, pipes, etc., that are capable of discharging waters to any offsite areas or to any areas outside the limits of the Life of Mine except those explicitly described and shown in the narrative and graphic portions of the approved Mined Land Use Plan. All silt laden water and storm water generated on, or running across, the site shall be retained within the approved project area. The permittee must comply with all applicable State Pollutant Discharge Elimination System (SPDES) permit requirements and provide necessary notifications for off-site point source discharges.”* Although the SPDES permit is not mandated, the applicant should be aware that compliance with the SPDES requirements and notifications for offsite point source discharges is expected.
6. The proposed action did not appear to include plans for parking. Prior to taking final action, the Town Board should review parking details to ensure compliance with Article 7 Section 715.3, Article 5 Section 510, and for the safety of vehicle operators and pedestrians on-site.
7. According to the Mined Land Use Plan, they are not proposing to construct a new well, if a new well will be constructed on site, the applicant should use a NYS DEC Certified Well Contractor to prevent contamination and depletion of the groundwater resource.
8. Prior to acting, to ensure compliance with Article 7 Section 715.8, lighting plans should be submitted to the Town of Osceola Board to verify *“that signs, site lighting, and the locations of all buildings and structures are in keeping with the character of the neighborhood”*; however, according to the Mined Land Use Plan, the applicant is not proposing to construct a new building or use lighting at the mine at this time.
9. Given the amount of land clearing intended it is recommended the applicant retain a natural vegetative buffer of at least 10 feet around the Life of Mine Boundary to preserve the viewshed while also taking considerations to avoid line of sight issues that may be caused regarding the roadways; however, the DEC is not requiring additional visual barriers since the current topography, planned mining phases and current vegetation will be adequate for visual mitigation from the roadways and nearest homes not owned by the applicant.
10. Compliance with all Local, State and Federal regulatory requirements for this type of facility; however, any of the conditions noted above, should not contradict the conditions already identified by NYS DEC.

Recommendation No. 1 was discussed relative to the appropriateness of verbiage originally proposed under Traffic Generation and Effect since the Town of Osceola Planning Board would like to guarantee the applicant is responsible for any repairs to Ryan Road due to the damage that is typically caused by the expected volume of Heavy-Duty trucks and equipment. However, it is the Town's responsibility to provide and maintain the public infrastructure. The Board agreed that we should remove the verbiage about the Town Board and applicant creating a Road Maintenance Plan as this could be opening the Town to litigation.

Ms. Buell identified that Recommendation No. 5 should be combined with No. 4 since it was a document formatting error.

Recommendation No. 9 was discussed and, after reviewing the map, the Board was satisfied with this recommendation as the mined area is 3 acres and the Life of Mine area is 25.6 acres, and the total property acreage is 42.7 acres.

With no further comments or questions, Mr. Hunt made a motion to approve with the above conditions, with the discussed changes; Mr. Cook seconded the motion, which carried unanimously.

Ms. Krokowski read the next review:

TOWN OF MARTINSBURG PLANNING BOARD

Special Use Permit for the construction of a 12,633 sq ft Dollar General retail store to be located on NYS Route 12/Solomon Road in the Town of Martinsburg.
Tax Map Parcel #259.00-03-21.111
Seville Development, LLC – Applicant

The applicant provided the following Project Documentation: 1) SEAF; 2) General Municipal Referral Form with Agricultural Statement; 3) Site Plans; 4) Owner's Authorization Form; and 5) Town of Martinsburg Special Use Permit Application.

▪ *Compatibility with Adjacent Uses:*

The proposed action property is in Zone A, Agriculture, is adjacent to tillable parcels, and is across the road from a commercial agricultural operation. According to Article III § 240-8, the Agricultural Zone is categorized as area *“generally used for agricultural activities. Most of the land is open in character with some scattered spots of forest, wetland, and residential use.”*

Additionally, the project appears to be in Martinsburg's designated “Special Areas” which, according to § 240-13 states that *“All governmental agencies, boards, commissions, and authorities, prior to final action on a proposed development or review of a proposed development within a designated special area which would directly affect the special area and would change the basic nature of Tug Hill shall consult with the Town Board about said development.”* The Planning Board, as part of this Special Use Permit, should ensure that, pursuant to the Tug Hill Reserve Act, Chapter 486 of the NYS Laws of 1992, all said agencies have consulted with the Town Board regarding this project prior to final action.

The following dimensional requirements, per Article IV § 240, have been met:

	Agricultural (A)	
	Required	Proposed
Min. Lot Size	1 acre	2.13 acres
Min. Lot Frontage	200'	414'
Min. Front YD Setback (NYS)	60'	136'
Min. Side YD Setback	25'	54'
Min. Rear YD Setback	25'	88'
Max. BLDG Height	40'	21'

The impacted parcel is within Ag District No. 6 and, according to the submitted Agricultural Data Statement, there is one potential farming operation identified within 250 feet of the proposed project that will be consulted. The property is currently owned and operated by the same owner of the proposed site. Being that the property is planned to be subdivided and will be limited to 2.13 acres, the long-term loss of an agricultural use on the property would have a relatively low impact; however, according to the NRCS Web Soil Survey, the soils located on site are considered prime farmland soils.

▪ *Traffic Generation and Effect:*

The roadway is identified as State Route 12. According to the NYS Traffic Data Viewer, this corridor can experience annual average daily traffic volumes of approximately 6,097 vehicles per day. On the submitted SEAF, the applicant has determined that the proposed action will not result in a substantial increase in traffic above present levels. It should be noted the proposed building construction could generate temporary traffic disturbances and influxes. The submitted SEAF notes that the driveway location has been updated from NYS RT 12 to Solomon Road. Solomon Road appears to be a town road, the Town Board should ensure proper permitting is attained, Article V § 240-22 and Town Law § 280-a is complied with concerning road access prior to final action.

According to the submitted site plan, the proposed project will create a 30' egress/ingress driveway on Solomon Road. The following permits were listed on the updated SEAF: Town of Martinsburg Planning Board, Lewis County Commercial Building Permit, and SPDES GP-0-20-001. Construction shall not begin until all required permits are approved, filed, and provided to the Town of Martinsburg accordingly.

▪ *Protection of Community Character:*

As noted in the provided SEAF, the applicant has identified that the proposed action is not located in, nor does it adjoin a state listed Critical Environmental Area. Even though critical habitat is not identified, the IPAC Report identified the Monarch Butterfly and the Northern Long Eared Bat as endangered species native to the area. Consider if question 15 on the SEAF needs updating as it indicates that there are no species listed by State or Federal governments as protected. Ensure conscious efforts are made and documented to minimize the impact of the protected species if the proposed action will occur in spring/summer months as the butterflies and bats use grasses/shrubs/trees as

their summer habitat. Lewis County currently contains no identified National Natural Landmark designations, no coastal boundaries or coastal management areas.

According to the submitted SEAF, it was indicated that the project is in a designated sensitive area according to NY State Historic Preservation Office (SHPO) archaeological site inventory. Prior to issuing a Special Use Permit, the applicant should consult with SHPO to ensure that there are no concerns with the proposed action.

▪ *Signage:*

A lighted pylon sign is proposed however the setback location is not detailed. The proposed location does not appear to cause a line-of-sight concern. To ensure compliance with Article V § 240-23, the applicant should provide a detailed sign design, complete with the specific location, standing height, sign dimensions, lighting details, and illumination hours, to the Town of Martinsburg Planning Board prior to any application decision.

▪ *Drainage:*

According to the submitted SEAF, the proposed project site contains a Class C Stream and a documented tributary that leads to the Black River, which is classified as a 303D Stream according to the Environmental Resource Mapper (ERM). The proposed action must ensure compliance with Article V § 240-27 entitled “Streams, wetlands and water bodies and contains the following as it may be within the 100-foot threshold:

A. *The regulations of this section shall apply to all land within 100 feet of the following areas:*

- (1) Wetlands classified pursuant to 6 NYCRR 664;*
- (2) Streams classified as "D" or higher pursuant to 6 NYCRR Chapter X, Subchapter B;*
- (3) Any bodies of open water.*

B. *The following activities are prohibited:*

- (1) Dumping of waste materials, junk, refuse or anything that would alter the quality of the water or the character of the area;*
- (2) Construction of any principal or accessory use;*
- (3) Feed lots.”*

According to FEMA Floodplain map 360372 B, the site is in Zone C, which is outside the 500-year flood. The ERM indicated that the site could be inundated during a 100-year flood with 72/75 inches of sea level rise, the Board should consider if Article V § 125-13- Provisions for Flood Hazard Reduction are applicable.

The SEAF noted there will be 2.13 acres of ground disturbance. Being that any land disturbance over 1 acre in size requires compliance with NYS DEC regulations and permitting, the applicant has noted a SPEDES permit No. GP-0-20-001.

Finalized stormwater designs that address drainage for the driveway and areas around the proposed pavement should be submitted to the Town of Martinsburg and shall be approved before construction commences.

- *Parking:*

The proposed action includes forty (40) parking spaces, two (2) of which are identified for their accessibility. According to the submitted site plan, this configuration for accessibility meets Table 208.2 of the ADA standards for accessible design in that one (1) accessibility space per 25 total parking spaces is required. It appears that, according to Article V § 240-24, parking requirements are being met by the applicant.

It appears that there will not be pavement surrounding the building, which might pose a congestion problem when delivery trucks and customers are on site simultaneously. A proposed parking plan, with emphasis on delivery vehicle needs, should be submitted and reviewed further to ensure the provisions set in Article V § 240-24, in particular “*Parking should be designed to eliminate the need to back out onto the public road*”. The Town of Martinsburg Planning Board should not take action until a satisfactory parking and on-site vehicular movement plan has been agreed upon.

- *Community Facilities:*

According to the submitted SEAF, the proposed project will connect to public water supply and gas utilities. The Town of Martinsburg should verify that their current infrastructure can accommodate the anticipated increase usage of the proposed action prior to acting on this special use permit application.

Additionally, the stormwater runoff is planned to be directed into an existing ravine south of the project. The Town Planning Board should ensure that the ravine is properly buffered to filter automobile and other contaminants before the stormwater returns to a natural waterbody. According to Page 2 of the SEAF, stormwater retention may be utilized to mitigate increase in surface runoff; however, the details are lacking. Prior to approval ensure stormwater plans have been provided including but not limited to impoundment size, type, purpose, and management plan.

Ensure Part II Chapter 175 and Article V § 240-28 is complied with regarding the proposed sewage disposal system.

- *Lighting:*

According to the submitted site map, the proposed action includes four (4) new light pole fixtures; and the updated site map demonstrates the expected illuminance. Additionally, there appears to be seven (7) store mounted wall pack/canopy fixture lighting. The Town of Martinsburg Planning Board should review the proposed lighting plan to ensure it keeps in character of the neighborhood and is not invasive to the drivers but is still adequate for the safety of the customers in the parking lot and surrounding areas of the development.

▪ *Landscaping and Screening:*

The submitted site plan does include a proposed concrete delivery pad with an enclosed dumpster area; however, it does not detail landscaping or facility screening. To ensure compliance with Article V § 240-47, the Town of Martinsburg Planning Board shall require the applicant to add a mixture of native coniferous trees and shrubbery around the perimeter of the building and parking lot to buffer the visual impact of the facility; however, it should be planned properly as to avoid line of sight issues. Since the proposed site is at an intersection and corner lot; Article VI § 195-59 A-F shall be reviewed against proposed landscaping plans to ensure compliance, most notably “E. All corner lots shall be cleared of all growth and other obstructions, except for isolated trees, a level of three feet or higher above the center line of the road, so as to achieve safe visibility for traffic entering the intersection.”

Once landscaping is established, bimonthly landscaping maintenance shall be required for the lifetime of the commercial operation on this site for aesthetic integrity.

Recommendation: Approve with the following conditions

1. Ensure review of Article V § 240-13 “Special Areas”, the Planning Board, as part of this Special Use Permit, should ensure that, pursuant to the Tug Hill Reserve Act, Chapter 486 of the NYS Laws of 1992, all said agencies have consulted with the Town Board regarding this project prior to final action.
2. Construction shall not begin until a SPDES GP-0-20-001 is obtained and filed with the Town of Martinsburg accordingly. If site plan designs change to accommodate NYS permit requirements, the Planning Board shall be notified and, if warranted, require a new site plan review.
3. The IPAC Report identified the Monarch Butterfly and the Northern Long Eared Bat as endangered species native to the area. Consider if question 15 on the SEAF needs updating as it indicates that there are no species listed by State or Federal governments as protected. Ensure conscious efforts are made and documented to minimize the impact of the protected species if the proposed action will occur in spring/summer months as the butterflies and bats use grasses/shrubs/trees as their summer habitat.
4. Prior to issuing a Special Use Permit, the applicant should consult with SHPO to ensure that there are no concerns with the proposed action. A no concerns determination should be filed with the Town of Martinsburg prior to construction.
5. To ensure compliance with Article V § 240-23, the applicant should provide a detailed sign design, complete with the specific location, standing height, sign dimensions, lighting details, and illumination hours, to the Town of Martinsburg Planning Board prior to any application decision.
6. According to the FEMA Floodplain map 360372 B, the site is in Zone C, which is outside the 500-year flood. The ERM indicated that the site could be inundated during a 100-year flood with 72/75 inches of sea level rise, the Board should consider if Article V § 125-13 provisions for Flood Hazard Reduction are applicable.

7. While parking was illustrated on the submitted revised site plan, the proximity of the driveway to the NYSDOT right-of-way may be of concern if traffic is backed up or if the proposed outer wheel axel path temporarily blocks access. Prior to taking action, the Town of Martinsburg Planning Board should review alternative egress/ingress options that would result in a safer path for larger vehicles.
8. The Town of Martinsburg should verify that their existing water district infrastructure can accommodate the anticipated increase usage of the proposed action prior to acting on this special use permit application.
9. According to the submitted SEAF, stormwater runoff is planned to be directed into an existing ravine south of the project. The Town should ensure that the ravine is properly buffered to filter automobile and other contaminants before the stormwater returns to a natural waterbody. Additionally, according to Page 2 of the SEAF, stormwater retention may be utilized to mitigate increase in surface runoff; however, the details are lacking. Prior to final action, the applicant shall provide the Town with a SWPPP that meets the Board's satisfaction, including designs that address drainage for the driveway and areas around the proposed sewage disposal system.
10. The Town of Martinsburg Planning Board should review the proposed lighting plan to ensure it keeps in character of the neighborhood and is not invasive to the drivers but is still adequate for the safety of the customers in the parking lot and surrounding areas of the development.
11. Ensure Part II Chapter 175 and Article V § 240-28 is complied with regarding the proposed sewage disposal system.
12. To ensure compliance with Article V § 240-47, the Town of Martinsburg Planning Board shall require the applicant to add a mixture of native coniferous trees and shrubbery around the perimeter of the building and parking lot to buffer the visual impact of the facility; however, it should be planned properly as to avoid line of sight issues.
13. Since the proposed site is at an intersection and corner lot; Article VI § 195-59 A-F shall be reviewed against proposed landscaping plans to ensure compliance, most notably *"E. All corner lots shall be cleared of all growth and other obstructions, except for isolated trees, a level of three feet or higher above the center line of the road, so as to achieve safe visibility for traffic entering the intersection."*
14. Once landscaping is established, bimonthly landscaping maintenance shall be required for the lifetime of the commercial operation on this site for aesthetic integrity.
15. Exterior façade plans were not submitted with the original or revised application. Being that this facility does not fit with the current community character, prior to taking action, the Town of Martinsburg should require the submission of a façade design that reflects the appropriate appeal.
16. The submitted plans note that there are proposed lot lines for the project site. It is assumed that a subdivision application will be processed through the Town of Martinsburg. As part of the subdivision review process, due to its road frontage on NY-12 and the driveway proximity to the intersection of said roadway, NYSDOT should be part of the coordinated review to ensure that any concerns are addressed.

17. Compliance with all Local, State and Federal regulatory requirements for this type of facility.

After reading Recommendation No. 2, it was noted that this recommendation should be moved to follow Recommendation No. 7.

There was a brief discussion regarding Recommendation No. 7 as Board members believed there may be a better location for the driveway. This recommendation would require alternative options to be submitted and reviewed prior to taking action. Furthermore, since the subdivision of the action site hasn't occurred yet but is anticipated, as part of the coordinated review, NYS DOT could require the driveway to be further down Solomon Road off from NYS Route 12 to comply with their intersection regulations.

A typo was identified in Recommendation No. 9. A brief discussion occurred regarding the SWPPP and the runoff plan.

There was a brief discussion about Recommendation No. 15 indicating that we should attach the referenced photos and indicate that Option 2 and 3 are preferred as they fit the community character of the area and would not have exterior retail allowed.

With no further comments or questions, Mr. Virkler made a motion to approve with the above conditions with the discussed updates. Ms. Metott seconded the motion, which carried unanimously.

Ms. Krokowski proceeded to read the final review:

TOWN OF MARTINSBURG PLANNING BOARD

Special Use Permit for a 10'x20' portable retail farmstand located at 3821 Rector Road in the Town of Martinsburg.

Tax Map Parcel #226.00-01-24.110

Benjamin Fouse – Applicant

The applicant provided the following Project Documentation: 1) SEAF; 2) General Municipal Referral Form with Agricultural Statement; 3) Site Plans; and 4) Town of Martinsburg Special Use Permit Application.

▪ *Compatibility with Adjacent Uses:*

It should be noted that the proposed action is on a property that is split between the Forest Zone (F) and Agriculture Zone (A); however, the actual proposed use is in Zone A, Agriculture, and is adjacent to tillable parcels. Since the proposed action is on a divided lot, Article III § 240-12 provisions were reviewed and incorporated into this review. According to Article III § 240-8, the Agricultural Zone is categorized as area “generally used for agricultural activities. Most of the land is open in character with some scattered spots of forest, wetland, and residential use.” According to § 240-14, the proposed commercial use is allowed within the Agricultural Zone after a Special Use Permit is approved by the Planning Board.

Additionally, the project appears to be in Martinsburg’s designated “Special Areas” which, according to § 240-13 states that “All governmental agencies, boards, commissions, and authorities, prior to final action on a proposed development or review of a proposed development within a designated special area which would directly affect the special area and would change the basic nature of Tug Hill shall consult with the Town Board about said development.” The Planning Board, as part of this Special Use Permit, should ensure that, pursuant to the Tug Hill Reserve Act, Chapter 486 of the NYS Laws of 1992, all said agencies have consulted with the Town Board regarding this project prior to final action.

The following dimensional requirements, per Article IV § 240, have been met:

	Agriculture (A)	
	Required	Proposed
Min. Lot Size	1 acre	6.7 acres
Min. Lot Frontage	200’	660’
Min. Front YD Setback (NYS)	60’	35’
Min. Side YD Setback	25’	160’
Min. Rear YD Setback	25’	430’
Max. BLDG Height	40’	Not Provided; Compliance is Assumed

The Town of Martinsburg Planning Board should require written documentation plans that detail the proposed height of the structure to ensure compliance with Article V § 240-20 prior to final action. It appears all other setback requirements conform to the requirements set forth in Article IV § 240-15, except for the front set back, which a variance was granted on 3/28/2023.

The proposed site is not within Ag District No. 6 and, according to the submitted Agricultural Data Statement, there is no farming operations within 250 feet; however according to Lewis County GIS, one potential farming operation (Tax Parcel #241.00-01-04.100) was identified within 250 feet and is in Ag District No 6; thus, should be added to the Agricultural Data Statement. Being that the property is planned to replace an existing farmstand with a new, larger farmstand located in an area that is not tillable, the long-term loss of agricultural land on the property would be of minimal concern.

▪ *Traffic Generation and Effect:*

The site is addressed as 3821 Rector Road, also known as County Route 31. According to the submitted SEAF, the applicant has determined that the proposed action will not result in a substantial increase in traffic above present levels.

According to the submitted site plan, the proposed project will continue to utilize the multiple onsite existing driveways as the primary form of ingress/egress from Rector Road. Being that there is currently a farmstand in this location and the proposed action is for a larger farmstand for the same or similar use, replacing the existing stand, unless there is documentation stating otherwise; the existing egress/ingress should continue to be adequate.

- *Protection of Community Character:*

As noted in the provided SEAF, the applicant has identified that the proposed action is not located in, nor does it adjoin a state listed Critical Environmental Area. Even though critical habitat is not identified, the IPAC Report identified the Monarch Butterfly and the Northern Long Eared Bat as endangered species native to the area. Consider if question 15 on the SEAF needs updating as it indicates that there are no species listed by State or Federal governments as protected. The applicant should ensure conscious efforts are made and documented to minimize the impact of the protected species if the proposed action will occur in spring/summer months as the butterflies and bats use grasses/shrubs/trees as their summer habitat. Lewis County currently contains no identified National Natural Landmark designations, no coastal boundaries or coastal management areas.

According to the submitted SEAF, the applicant has indicated that the project is in a designated sensitive area according to NY State Historic Preservation Office (SHPO) archaeological site inventory. Fortunately, SHPO has already been consulted with on this project as it recently received CDBG Microenterprise Funding. Based on their review, NY SHPO issued their opinion that no historic properties, including archaeological and/or historic resources, will be affected by this undertaking. The SHPO determination has been attached to this review.

- *Signage:*

The applicant indicates on the site plan that there will be “signs on side of farm store” but details are lacking. The site plan also depicts ‘small flag banners’; however, more details will need to be given for the Board to determine if these banners may pose a line-of-sight concern such as dimensions, verbiage, lighting details, and illumination hours, if applicable. Given the proposed location of the proposed building, the signs affixed to the store should not cause a line of site concern. To ensure compliance with Article V § 240-23, the applicant should provide a detailed sign design complete with the sign dimensions, lighting details, and illumination hours, if applicable, to the Town of Martinsburg Planning Board prior to any application decision.

- *Drainage:*

According to the reviewed Environmental Review Mapper (ERM), the property contains a wetland and stream(s), but they are located at the rear of the property and should be unaffected by the proposed project. Specifically, the proposed parcel contains a Class C Stream and a documented stream classified as a 303D Stream named Mill Creek/South Branch, and tribs according to the ERM. The proposed project site is not applicable to Article V § 240-27 entitled Streams, wetlands and waterbodies due to the 204 feet distance between the site and the identified waterbodies, had the distance been 100 feet or less; the referenced section would then apply.

According to the FEMA Floodplain map 360372 B, the site is in Zone C, which is outside the 500-year flood. The ERM indicates that the site may be inundated during a 100-year flood with 72/75 inches of sea-level rise; therefore, the Board

should consider if Article V § 125-13 Provisions for Flood Hazard Reduction are applicable.

The SEAF noted there will be 0.005 acres of ground disturbance. Being that the land disturbance is less than 1 acre in size, a SPEDES permit will not be required.

▪ ***Parking:***

The proposed action includes plans for three to five (3-5) parking spaces, which appears to be appropriate given the nature of the business. It appears that, according to Article V § 240-24, parking requirements are being met by the applicant as the layout provides ample room and options for customers to avoid using the public road as a turn around.

▪ ***Community Facilities:***

According to the submitted SEAF, the proposed project will not connect to public water supply or wastewater utilities. It is assumed that the prior use had appropriate water capabilities (if any); however, if a new well is being constructed, ensure a NYS DEC Certified Well Contractor is used to prevent contamination and depletion of the groundwater resources.

▪ ***Lighting:***

According to the submitted site map, the proposed action includes two (2) outdoor lights attached to the building along with three (3) security cameras for safety purposes. Being that the proposed action is located so close to the roadway, provisions must be made to ensure the lights are not invasive to the traffic on Rector Road.

▪ ***Landscaping and Screening:***

The submitted site plan does not detail landscaping or facility screening. To ensure compliance with Article V § 240-47 F, the applicant should show *“That the site is suitably landscaped, and appropriately screened from adjacent properties and the road so as to protect the visual character of the area and to minimize negative impacts on adjacent properties and the neighborhood”*. To comply with Article V § 240-47 F, the Town of Martinsburg Planning Board shall require the applicant to satisfy the screening and landscaping requirement as they see fit, but it should be planned properly as to avoid line of sight issues. Once landscaping is established, bimonthly landscaping maintenance shall be required for the lifetime of the commercial operation on this site for aesthetic integrity.

Recommendation: Approve with the following conditions

1. Ensure review of Article V § 240-13“Special Areas”, the Planning Board, as part of this Special Use Permit, should ensure that, pursuant to the Tug Hill Reserve Act, Chapter 486 of the NYS Laws of 1992, all said agencies have consulted with the Town Board regarding this project prior to final action.
2. Prior to taking final action, the Town of Martinsburg Planning Board should require written documentation of plans that detail the proposed height of the structure to ensure compliance with Article V § 240-20.

3. The IPAC Report identified the Monarch Butterfly and the Northern Long Eared Bat as endangered species native to the area. Consider if question 15 on the SEAF needs updating as it indicates that there are no species listed by State or Federal governments as protected. The applicant should ensure conscious efforts are made and documented to minimize the impact of the protected species if the proposed action will occur in spring/summer months as the butterflies and bats use grasses/shrubs/trees as their summer habitat.
4. To ensure compliance with Article V § 240-23, the applicant should provide a detailed sign design, complete with the sign dimensions, lighting details, and illumination hours, to the Town of Martinsburg Planning Board prior to any application decision. The site plan also depicts 'small flag banners.' Details will need to be given for the Board to determine if these banners may pose a line-of-sight concern such as dimensions, verbiage, lighting details, and illumination hours, if applicable, to the Town of Martinsburg Planning Board prior to any application decision.
5. The ERM indicates that the site may be inundated during a 100-year flood with 72/75 inches of sea-level rise; the Board should consider if Article V § 125-13-Provisions for Flood Hazard Reduction are applicable.
6. Being that the proposed action is located so close to the roadway, provisions must be made to ensure the lights are not invasive to the traffic on Rector Road.
7. It is assumed that the prior use had appropriate water capabilities (if any); however, if a new well is being constructed, ensure a NYS DEC Certified Well Contractor is used to prevent contamination and depletion of the groundwater resources.
8. To comply with Article V § 240-47 F, the Town of Martinsburg Planning Board shall require the applicant to satisfy the screening and landscaping requirement as they see fit, but it should be planned properly as to avoid line of sight issues. Once landscaping is established, bimonthly landscaping maintenance shall be required for the lifetime of the commercial operation on this site for aesthetic integrity. Once landscaping is established, bimonthly landscaping maintenance shall be required for the lifetime of the commercial operation on this site for aesthetic integrity.
9. Compliance with all Local, State and Federal regulatory requirements for this type of facility.

Note:

According to Lewis County GIS, one potential farming operation (Tax Parcel #241.00-01-04.100) was identified within 250 feet and is in Ag District No 6; thus, should be added to the Agricultural Data Statement.

With no relative comments or questions, Mr. Cook made a motion to approve with the above conditions. Mr. Petersen seconded the motion, which carried unanimously.

(7) **Report of County Planner:**

- Responses from municipalities regarding previously submitted/reviewed projects:

Project Description	Final Action
T/Martinsburg – Dollar General (Thisse Property)	Developers withdrew application

(8) **Unfinished Business:** None

(9) **New Business:** Ms. Buell discussed a referral received from the Village of Lowville on 4/20/2023 and their request for the CPB to hold a Special Meeting prior to the May 18th CPB meeting. Unanimously, the Board politely declined.

(10) **Adjournment:** There being no other business, a motion to adjourn the meeting was made by Mr. Virkler, seconded by Mr. Hunt, and carried unanimously. Mr. Petersen adjourned the meeting at 3:29 PM.

Respectfully submitted,

Megan Krokowski
Community Development Specialist

DRAFT