DRAFT MINUTES
LEWIS COUNTY PLANNING BOARD
November 21, 2024

(1) **Call to Order:** Chairman Petersen called the regular meeting of the Lewis County Planning Board to order at 2:29 PM in the conference room on the 2nd floor of the Lewis County Court House, Lowville, New York. Mr. Petersen requested a roll call.

(2) **Roll Call:**
Board Members Present: Timothy Petersen, Eric Virkler, Sarah Metott, Thomas Osborne, John Lehman, Don Cook, and Larry Dolhof (Non-voting member).
Staff Present: Casandra Buell, Director of Planning and Community Development; Lauryn Tabolt, Community Development Specialist and Megan Krokowski, Community Development Specialist.

Several members of the public were present.

(3) **Reading and Approval of Minutes:** The draft October 17, 2024 meeting minutes were received and reviewed before the meeting. Mr. Virkler motioned to approve the minutes; Mr. Lehman seconded the motion, which carried unanimously.

(4) **Correspondence and Communication:**
APA Project No. 2024-0237: Application Complete/Under Formal Review
David Sly, Two-lot subdivision, Partridgeville Road, Town of Greig
APA Project No. 2024-0237: Application Determined-Approved
David Sly, Two-lot subdivision, Partridgeville Road, Town of Greig
APA Project No. 2024-0237: Permit Issued
David Sly/ DJS-LLC, Two-lot subdivision, Partridgeville Road, Town of Greig
APA Project No. 2024-0251: Conditionally Approved/Permit Issued
Blair & Rebecca Brown, Construct single-family dwelling, Partridgeville Rd., T/Greig

No comments were proposed for submission.

(5) **Report of Officers:** None

(6) **Report of Special Committees:**

239-M Review

At this point, Ms. Krokowski recused herself from the meeting due to her role on the Town of Lyonsdale Town Board (applicant).

Ms. Buell proceeded to read the following review as several members of the public were present regarding this particular review, including the applicant and the applicant's engineers:

TOWN OF LYONSDALE TOWN BOARD
Site Plan Review for a small meat and poultry processing establishment located on County Route 74 in the Town of Lyonsdale.
Tax Map Parcel #323.00-01-78.300
McRez Packing International, LLC – Applicant

The applicant provided the following Project Documentation: 1) General Municipal Referral Form; 2) Agricultural Data Statement; 3) Full Environmental Assessment Form (FEAF) and supportive information; 4) Town of Lyonsdale Application for Site Development Plan Approval; 5) Site Plans; 6) FIRM Map; 7) IPaC Resource List; 8) Map of Significant Natural Communities; 9) Soil Resource Report; 10) Project Clarification Document (4/18/2023); and 11) Location Map.

- *Compatibility with Adjacent Uses:*

The proposed action is on 48.7 acres on County Route 74 (Marmon Road) in the Town of Lyonsdale. The applicant is proposing the reuse of an industrial facility as a USDA-regulated small meat and poultry processing establishment, specializing in the processing of cattle, pigs, sheep, goats, and chickens for retail and wholesale sales. According to the submitted FEAF, Phase 1 will consist of the construction required to launch the meat processing operations. This will include the conversion of the existing ash building into a meat processing plant and an addition for locker rooms, bathrooms, a lunchroom, a reception area, and impervious parking adjacent to the building. The construction of a livestock holding area, a waste holding area, a wastewater treatment facility with discharge into the Moose River, and a water system building is also planned for this phase. If business allows, phase 2 will include the construction of a holding cooler with an impervious parking area, a retail meat store, a security building, and additional livestock holding areas. In addition to the commercial use of this facility, the property owner will reside on-site.

According to the submitted FEAF, the action is on, adjoins, or is near sites that contain industrial, commercial, residential, rural (non-farm), forest, and aquatic uses. On-site uses include commercial, residential, rural, and forest. Adjoining uses include industrial (Twin Rivers Paper Company) and the Moose River (aquatic). The action proposes an additional 1.5 acres of roads, buildings, and other paved or impervious surfaces, the removal of .1 acres of forest, and the removal of 1.4 acres of meadows, grasslands, or brushlands.

The proposed meat processing facility complies with Strategy B-3 of the Lewis County Agricultural Enhancement Plan, where the County identified the need to increase meat processing capacity and develop an additional meat processing facility.

According to the submitted Agricultural Data Statement, the proposed use is on a property that is not on or within 250 feet of a farm operation located in an Agricultural District. As part of this review, this submission was validated. It should be noted that the proposed action is also approximately 850' outside of the Adirondack Park boundary.

- *Traffic Generation and Effect:*

According to the submitted FEAF, the applicant has determined the proposed action will result in a substantial increase in traffic above present levels. Peak traffic is expected in the morning and will continue randomly between 6 AM and 4 PM with an expected volume of six (6) semi-trailer trips per day. The submitted SEQR Supporting Package notes that the anticipated increase is due to

employees and delivery trucks. According to the NYS Traffic Data Viewer, Marmon Road (CR 73) hosts an average of 155 vehicles per day, 11% (17) of which are trucks. This estimated increase of 6 trucks per day will increase the Annual Average Daily Traffic (AADT) to 161, of which 14% will be trucks. While minimal, due to the expected increase in traffic and to ensure that the infrastructure can support said increase, consultation with the Lewis County Highway Superintendent is required prior to taking action on this application.

- *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. Furthermore, the proposed action is not within 2000 feet of any site in the NYSDEC Environmental Site Remediation database and there are no unique geologic features on the project site. Lewis County currently contains no identified National Natural Landmark designations, coastal boundaries, or coastal management areas. While the IPAC report notes that there are no critical habits at this location, it did identify the presence of the candidate species Monarch Butterfly. While conducting construction and/or redevelopment activities, all should be mindful not to disturb protected species, habitats, or populations. According to the Environmental Review Mapper, a federally regulated wetland or waterbody has been identified on an adjoining site (Moose River-Class C) along with a Principal Aquifer. The project site is also in a designated Floodway and approximately 3 acres of road frontage is within the 100-year floodplain; however, according to Section E.1.b of the submitted FEAF, no changes to those wetlands are proposed.

Principal aquifers are aquifers known to be highly productive or whose geology suggests abundant potential water supply, but which are not intensively used as sources of water supply by major municipal systems at present. They're afforded special protection by regulations governing the siting of landfills, oil and gas wells, and tire stockpiles. At a minimum, Best Management Practices, including Erosion and Sediment Control, Stormwater Management, and appropriate Fuel/Chemical Storage and Handling, should be incorporated into the construction designs and long-term operations of the facility. Additionally, comprehensive contamination prevention and contingency plans should be developed and submitted to the Town of Lyonsdale for review and approval prior to the issuance of the final zoning permit.

According to the submitted FEAF, the applicant has identified that the project site does not contain, nor is substantially contiguous to, a building, archeological site, or district of which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Officer of Parks, Recreation and Historic Preservation to be eligible for living on the State Register or Historic Places. However, the project site, or any portion of it, is located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory. As part of this review, additional research on CRIS was completed and found that the 911 tower on site was ineligible for the State designation but it does not appear that the property in its entirety was not investigated. Due to the

action's proximity to an area designated as sensitive for archaeological sites on the SHPO inventory SEAF Part 1.E.3.f, consultation with SHPO shall be completed prior to taking action.

- *Signage:*

The submitted site plan (sheet S-2) identifies that a 6'x8' 'Development Display Sign' is proposed. There are no details provided on the referenced sign; however, the Town of Lyonsdale has regulations for signage that are detailed in Article F § 1.f of the Town of Lyonsdale Site Plan Review Law. While the Town of Lyonsdale Site Plan Review Law does allow for one sign per entrance, prior to issuing a zoning permit, the Town of Lyonsdale shall require the applicant to submit a sign design that does not have moving parts, flashing lights or exposed neon tubing, does not exceed eight (8) feet in height from base elevation, and does not exceed the maximum area of thirty-two square feet (one (1) side or face) or sixteen square feet (two (2) sided sign).

- *Drainage:*

The FEAF noted the ground disturbance of 1.5 acres. Being that the ground disturbance exceeds the 1-acre threshold, a SPDES permit will be required. The SEQR Supportive Package does reference that the parameters set forth by the SPDES Permit will be followed; however, confirmation that work will not commence before a SPDES Permit is obtained shall be required. Furthermore, a copy of said permit should be provided to the Town of Lyonsdale.

According to the Part 1.D.2.e, the proposed action will create stormwater runoff from a non-point source, which will be directed to groundwater as the soil types present at the action site are excessively drained. Stormwater runoff will not flow to adjacent properties; however, the proposed action will not minimize impervious surfaces, use pervious materials, or collect and reuse stormwater.

- *Parking:*

The driveway egress/ingress on Marmon Road is approximately 30 feet wide and internal driveways are consistent with that metric. The proposed parking lot area surrounding the proposed meat processing plant appears to be approximately 11,200 square feet. While paved parking lots are referenced and identified on the submitted site plans, there do not appear to be plans associated with on-site pedestrian and vehicular circulation or parking lot configurations, as required by Article F.1.c of the Town of Lyonsdale Site Plan Review Law. Prior to taking action, the applicant should submit plans detailing on-site pedestrian and vehicular circulation along with adequate off-street parking plans, all of which should comply with Article F.1.c of the Town of Lyonsdale Site Plan Review Law.

- *Community Facilities:*

According to the submitted FEAF, the proposed action will create a new demand for water, approximately 50,000 gpd; however, it will not obtain said resource from an existing public water supply as existing lines do not serve the project site. Rather, a private groundwater well, yielding 55 gallons/minute, will be utilized. Being that a private water supply (well) is proposed for the action,

consultation and approval from NYS DEC and NYS DOH is required prior to receiving a zoning permit.

The proposed action projects that an anticipated 50,000 gallons of industrial wastewater will be generated per day from the associated meat processing activities. The proposed action will not connect to existing public wastewater treatment facilities and a new district will not be formed to serve the project site. Rather, the applicant is requesting to utilize an on-site wastewater treatment plant, consisting of a primary tank/EQ basin, a Moving Bed Biofilm Reactor or Fixed Bed Biofilm Reactor, and some form of tertiary treatment. The treated effluent will be discharged into the Moose River, a Class C(T) waterbody. Since the proposed action will require the use of an on-site wastewater treatment system where effluent is discharged into a Class C(T) waterbody, NYS DEC consultation and approval is required for this aspect of the project prior to receiving a zoning permit.

- *Lighting:*

The submitted FEAF and SEQR Supporting Package notes that outdoor lighting is proposed. Plans include lighting fixtures to be included on utility poles along the driveway at heights ranging from 35'-45'. Being that the parking lot sizes are not extensive and that Article F § 1.e requires that freestanding lights should not exceed a height of 25' (typical parking lot lights are mounted at 15'-25'), the applicant shall agree to mount the lights at a lower height that does not exceed the 25' threshold.

While it was not mentioned in the FEAF, the site plan does include approximately 55 'proposed building light fixtures'. Since the nearest residential structure is located over 450' away from the closest proposed outdoor building light fixture (proposed retail meat store), this outdoor lighting appears to be compliant with Article F § 1.e.

- *Landscaping and Screening:*

The proposed action reuses an existing facility that is currently enclosed by a chain-link fence and is surrounded by natural vegetation and acts as a 375' buffer from the nearest residential property line. All existing natural vegetation along the road frontage and property lines shall be preserved throughout the lifetime of this project. Furthermore, to avoid pedestrian safety and environmental concerns, all debris and trash should be cleared from the site before the issuance of a permit.

Recommendation: Approve with the following Conditions

1. While minimal, due to the expected increase in traffic noted on the submitted Full Environmental Assessment Form and to ensure that the infrastructure can support said increase, consultation with the Lewis County Highway Superintendent is required before taking action on this application.
2. At a minimum, due to the presence of a Principal Aquifer, Best Management Practices, including Erosion and Sediment Control, Stormwater Management, and appropriate Fuel/Chemical Storage and Handling, should be incorporated into the construction designs and long-term operations of the facility.

Additionally, comprehensive contamination prevention and contingency plans should be developed and submitted to the Town of Lyonsdale for review and approval prior to the issuance of the final zoning permit.

3. The submitted site plan (sheet S-2) identifies that a 6'x8' 'Development Display Sign' is proposed. There are no details provided on the referenced sign; however, the Town of Lyonsdale has regulations for signage that are detailed in Article F of the Town of Lyonsdale Site Plan Review Law. While the Town of Lyonsdale Site Plan Review Law does allow for one sign per entrance, prior to issuing a zoning permit, the Town of Lyonsdale shall require the applicant to submit a sign design that does not have moving parts, flashing lights or exposed neon tubing, does not exceed eight (8) feet in height from base elevation, and does not exceed the maximum area of thirty-two square feet (one (1) side or face) or sixteen square feet (two (2) sided sign).
4. The SEQR Supportive Package does reference that the parameters set forth by the SPDES Permit will be followed; however, confirmation that work will not commence before a SPDES Permit is obtained shall be required. Furthermore, a copy of said permit should be provided to the Town of Lyonsdale.
5. Being that the parking lot sizes are not extensive and that Article F § 1.e requires that freestanding lights should not exceed a height of 25' (typical parking lot lights are mounted at 15'-25'), the applicant shall agree to mount the lights at a lower height that does not exceed the 25' threshold.
6. All existing natural vegetation along the road frontage and property lines shall be preserved to the greatest extent possible throughout the lifetime of this project. Furthermore, to avoid pedestrian safety and environmental concerns, all debris and trash should be cleared from the site before the issuance of a permit.
7. Prior to taking action, the applicant should submit plans detailing on-site pedestrian and vehicular circulation along with adequate off-street parking plans, all of which should comply with Article F.1.c of the Town of Lyonsdale Site Plan Review Law.
8. Being that a private water supply (well) is proposed, consultation and approval from NYS DEC and NYS DOH for this portion of the project is required prior to receiving a zoning permit.
9. Since the proposed action will require the use of an on-site wastewater treatment system where effluent is discharged into a Class C(T) waterbody, NYS DEC consultation and approval is required for this aspect of the project prior to receiving a zoning permit.
10. Due to the action's proximity to an area designated as sensitive for archaeological sites on the SHPO inventory SEAF Part 1.E.3.f, consultation with SHPO shall be completed before taking action.
11. Compliance with all Local, State, and Federal regulatory requirements for this type of facility and the products stored.

The Board discussed increased traffic on Lyonsdale Road, the submission of requested materials to the Town of Lyonsdale Board, the identity of the Town of Lyonsdale's Code Enforcement Officer, Joe Pfieffer, wastewater system considerations, sign details, and existing lighting levels, which were noted to exceed the 25-foot threshold mentioned in the review.

With no further comments, a motion was made by Ms. Metott to approve the project with the above-stated conditions, which was seconded by Mr. Cook and carried unanimously.

Ms. Krokowski returned to the meeting and Ms. Buell read the following review:

TOWN OF CROGHAN TOWN BOARD

A proposed amendment to the Town of Croghan Zoning Law to include/update regulations regarding solar energy systems and battery energy storage systems. *Town of Croghan – Applicant*

The General Municipal Referral Form, FEAF and the proposed Local Law were submitted by Larry Boliver, Town Supervisor.

In summary, the provided local law was reviewed in full due to the interconnectedness of the proposed additions in solar and battery storage regulations. The additions have created quite a comprehensive zoning document for the Town of Croghan.

There are multiple references to decibels in their abbreviated form, the Board should ensure that "**dBA**" is being used throughout the document, as opposed to DBA or DbA which are incorrect abbreviations.

Within Article X Section 1060 E.1.v. the Town should correct the term "Stand" to "Standard" as it is improperly referencing material by having the title incorrect.

The Board should consider adding a definition for the term 'residence' as the term is used 13 times throughout the document or consider if such occurrences of the term should be replaced with dwelling for consistency as that is a defined term.

The Zoning Overlay Map was not provided with the submission, it is suggested that the Town of Croghan adopt and file the provided Town of Croghan Solar Energy Overlay District Map with the proposed law. This map shall be used as the solar energy system overlay district referenced within the proposed law.

The Board should consider adding Attachment A to the Town of Croghan Solar Energy Overlay District Map mentioned above as referenced in Section 210 A.

The Board should consider requiring decommissioning and financial sureties/ bond language to geothermal energy systems similar to that used in the other renewable energy sections.

The Board may want to consider requiring new/ expanding operations to provide decommissioning and financial sureties/bond language to heavy industrial use as by definition the operations may result in the generation of regulated hazardous waste or pollutants. This addition could further help protect the Town's character and financial stability.

The term floodplain is mentioned twice throughout the document, the Board should add a definition of the term to Article III. A sample definition that could be used is "any land area susceptible to being inundated by floodwaters from any source as delineated on Federal Emergency Management Agency (FEMA)'s Flood Hazard Boundary Map (FHBM) and following NFIP regulations."

The Board should consider adding language to Section 1060 A.4. to state "As defined in Article III, Battery Energy Storage Systems, as a stand-alone unit are not equivalent to Solar Energy Systems. Therefore, the Town of Croghan Solar Overlay District Map does not apply to stand-alone Battery Energy Storage System projects.

The Town should also consider integrating the recommendations from the Black River Watershed Management Plan within Section 630. The Plan suggests that the Town of Croghan should improve the land use regulatory tools to include the following:

> *"Environmental Impacts of Accessory Structures*
> *Environmental Impacts of Impervious Surfaces*
> *Environmental Impacts of **Marinas***
> *Environmental Impacts of On-Site **Wastewater (Section 440 mentions)***
> *Environmental Impacts of Roads/Sidewalks*
> *Environmental Impacts of **Timber Harvesting***
> *Environmental Impacts of Agriculture*
> *Lake/Stream Protection*
> *Wetland Protection*
> ***Floodplain** Protection*
> *Unique Natural Areas Protection (this is mentioned but a protection area is not defined in Section 630)*
> *As well as allowing **Cluster Development** which allows the same number of lots but preserves more open space. "*

Should the Town integrate any of the suggestions from the Black River Watershed Management Plan, the Town should be sure to add all applicable missing term definitions to Article III.

The Town of Croghan should consider if they would like to expand the definition of wetlands to include any waterbody on the National Wetlands Inventory.

Recommendation: Approve with Recommendations

1. There are multiple references to decibels in their abbreviated form, the Board should ensure that "**dBA**" is being used throughout the document, as opposed to 'DBA' or 'DbA', which are incorrect abbreviations.
2. Within Article X Section 1060 E.1.v., the Town should correct the term "Stand" to "Standard".
3. The Board should consider adding a definition for the term 'residence' as the term is used 13 times throughout the document yet remains undefined. The Town should consider if this term should be replaced with the term 'dwelling' for consistency, as that is a defined term that appears to be relative to the intent.

4. The Town of Croghan shall adopt and file the provided Town of Croghan Solar Energy Overlay District Map with the proposed law. This map shall be used as the Solar Energy System Overlay District referenced within the proposed law.
5. The term floodplain is mentioned twice throughout the document, the Board should add a definition of the term to Article III. A sample definition that could be used is "*any land area susceptible to being inundated by floodwaters from any source as delineated on Federal Emergency Management Agency (FEMA)'s Flood Hazard Boundary Map (FHBM) and following NFIP regulations.*" Furthermore, to ensure consistency, a definition for 'wetlands' could be added to Article III to avoid interpretation issues. The definition could note that a wetland includes any waterbody on the National Wetlands Inventory and/or freshwater wetlands regulated by the State of New York.
6. Prior to adoption, the Board should add language to Section 1060 A.4. stating, "As defined in Article III, Battery Energy Storage Systems, as a stand-alone unit are not equivalent to Solar Energy Systems. Therefore, the Town of Croghan Solar Overlay District Map does not apply to stand-alone Battery Energy Storage System projects."

Non-Binding Notes:

1. The Board may want to consider requiring new/ expanding operations to provide decommissioning and financial sureties/bond language to heavy industrial use as by definition the operations may result in the generation of regulated hazardous waste or pollutants. This addition could further help protect the Town's character and financial stability.
2. The Town should also consider integrating the recommendations from the Black River Watershed Management Plan within Section 630. The Plan suggests that the Town of Croghan should improve the land use regulatory tools to include the following:
    a. *"Environmental Impacts of Accessory Structures*
    b. *Environmental Impacts of Impervious Surfaces*
    c. *Environmental Impacts of **Marinas***
    d. *Environmental Impacts of On-Site **Wastewater (Section 440 mentions)***
    e. *Environmental Impacts of Roads/Sidewalks*
    f. *Environmental Impacts of **Timber Harvesting***
    g. *Environmental Impacts of Agriculture*
    h. *Lake/Stream Protection*
    i. *Wetland Protection*
    j. ***Floodplain** Protection*
    k. *Unique Natural Areas Protection (this is mentioned but a protection area is not defined in Section 630)*
3. The Plan also suggests allowing **Cluster Development,** which allows the same number of lots, but preserves more open space. Should the Town choose to add cluster development, additional language should be added throughout the law to properly plan and execute this type of development. Additionally, should the Town integrate any of the suggestions from the Black River Watershed Management Plan, the Town should be sure to add all applicable missing term definitions to Article III.

Mr. Lehman mentioned that the board is suggesting verbiage on battery energy storage systems, but many don't know the first thing about battery storage, how

they work, or how they should be regulated. Ms. Buell mentioned that this is why the Planning Department staff, who are educated on these projects, complete the reviews and offer technical expertise to the board. Mr. Virkler indicated that he also wasn't familiar with the systems, but he was not interested in learning the technical aspects to be able to make language recommendations.

The Board members agreed with the recommendations provided and, with no further discussion, Mr. Virkler motioned to approve with all conditions. Mr. Cook seconded the motion, which carried unanimously.

Ms. Tabolt read the next review:

TOWN OF DENMARK PLANNING BOARD

Special Use Permit to allow for the construction of a 34.5' x 25' addition to an existing structure located at 9372 East Road (County Route 19) in the Town of Denmark.
Tax Map Parcel: #144.00-01-32.100
John R. Chamberlain II, Cedars Golf Course – Applicant

The applicant provided the following project documentation: 1) General Municipal Referral Form; 2) Site Plan; 3) Tax Map; 4) Agricultural Data Statement; 5) Site Plan; and 6) Short Environmental Assessment Form (SEAF).

- *Compatibility with Adjacent Uses*

The proposed project is located within the Agricultural Residential (AR-2) Zone in the Town of Denmark, where surrounding land uses are primarily agricultural and residential. The applicant plans to remodel the existing clubhouse and add a 34.5' x 25' addition. As the property is currently operating as Cedars Golf Course, an established outdoor recreational facility, the project aligns well with the surrounding land use and environment.

According to Article IV § 410, the following dimensional requirements apply to the proposed project in the AR-2 zone:

(AR-2)		
Setback	**Non-Residential Use**	**Proposed**
Maximum Building Height	35'	20'
Min. Area for Structure	2 Acres	100.57 Acres
Min. Lot Frontage	200'	178'*
Min. Structure Setback County Road	50'	833.6'*
Min. Side Lot Line Setback	30'	197'
Min. Rear Lot Line Setback	30'	3,593'*

* Measurement calculated from Lewis County GIS Mapping.

The proposed project meets all required dimensional standards outlined in Article IV § 410, except for minimum lot frontage, which is estimated to be 22 feet below the requirement, rendering the parcel a nonconforming lot. However, as the project appears to meet the criteria specified in Article XII § 1230 C for Non-Conforming Lots of Record, a variance should not be required for this project.

- *Traffic Generation and Effect:*

Based on the submitted Short Environmental Assessment Form (SEAF), the applicant has determined that the proposed action will not lead to a substantial increase in traffic beyond current levels. The existing driveway on East Road (County Route 19) will remain in use for both ingress and egress, ensuring minimal impact on traffic flow in the area.

- *Protection of Community Character:*

According to page 2 of the submitted SEAF, the proposed project site is not within a critical environmental area, a National or State Register of Historic Places, an archaeologically sensitive area, or a 100-year floodplain. However, upon further review, it was determined that the site is in or near an area designated as sensitive for archaeological sites according to the New York State Historic Preservation Office (SHPO) archaeological site inventory. Upon further review, according to the NYS Cultural Resource Information System (CRIS), it appears that the property, among many others, was included in a Historical Resources Survey for the Copenhagen Wind Farm but was not identified as being eligible for the state or national registry.

The SEAF also indicates that no part of the project site or adjoining lands contain wetlands or other waterbodies regulated by federal, state, or local agencies. However, a review using the NYS DEC EAF Mapper website identified regulated wetlands in proximity to the site. According to the Lewis County GIS Cloud, the closest wetland is approximately 300 feet from the project area within the parcel. The applicant has confirmed that the project will not physically alter or encroach upon any waterbody, so this is not expected to pose a concern.

- *Signage:*

Although signage is shown on the engineered site plan drawings, the submitted application for a Special Use Zoning Permit indicates that no sign is planned. This was confirmed via email with the applicant on 11/14/2024, who clarified that there are currently no plans for signage. If signage is proposed in the future, it will need to comply with the sign regulations outlined in Article IV of the Town of Denmark Zoning Law.

- *Drainage:*

The submitted SEAF indicates that the proposed project will not result in additional stormwater discharge. As part of this review, a NYS DEC Environmental Resource Mapper (ERM) report was generated, identifying federally protected wetlands located over 1,000 feet from the project area on the southeastern side of the property. Additionally, the ERM indicates a Class C Stream running through the property, approximately 1,500 feet from the project area near the clubhouse.

The SEAF also specifies that the ground disturbance area will be 0.0192 acres which is below the one-acre threshold that would require a State Pollutant Discharge Elimination System (SPDES) permit.

- *Erosion:*

NYS DEC regulations require an erosion control plan when a project involves a ground disturbance of one (1) acre or more. According to the submitted application, the proposed ground disturbance area is 0.0198 acres. Although the applicant has indicated that the disturbance will remain under one (1) acre, any increase beyond this threshold would require consultation with the NYS DEC to ensure compliance with stormwater management and any other applicable regulations related to the project.

- *Parking:*

According to Article VIII § 865.D, "*Existing uses need not provide additional off-road parking unless… the use changes, the use expands its gross floor area by 25% or more within a three (3) year period, or the use is destroyed and seeks to be re-established*." Given that the gross floor area will increase from 1,176.07 sq ft to 2,038.57 sq ft, the applicant must comply with the updated parking requirements for this project.

Per Article VIII § 870, one (1) parking space is required per 200 square feet of Gross Leasable Area for retail, small product use. This requirement calculates to approximately 10.19 parking spaces. As this project is an expansion of an existing business with a large parking lot, it is anticipated that the current parking will meet these requirements. However, no additional parking plans were included in the application.

- *Community Facilities:*

The submitted SEAF indicates that this project will tie into an existing well and septic system, and there will be little or no impact on existing water supplies or wastewater treatment utilities.

- *Lighting:*

No additional lighting is proposed beyond what currently exists. This was confirmed with the applicant via email on 11/14/2024. The building has a yard light attached near the garage entrance and an additional yard light in the parking lot, both of which have been in use for over 40 years. This appears to comply with the Town of Denmark Zoning Law and should not negatively impact neighboring properties.

- *Landscaping and Screening:*

No formal landscaping plans were included in this submission. However, the applicant indicated via email on 11/14/2024 that landscaping is planned around the front steps of the building, with no additional landscaping around the structure at this time. Per Article VI § 605, "all parking, storage, loading, and service areas are to be reasonably screened in all seasons from the view of adjacent residential areas, and the general landscaping of the site should align with the surrounding character." Although the parking area lacks specific

landscaping, it is set back approximately 600' from the road, and existing vegetation along the property lines reasonably serves as a buffer.

Prior to approval, the Town of Denmark Planning Board should evaluate and confirm any additional landscaping or screening requirements as specified in Article VI § 605 and 660.

Recommendation: Approve with Conditions

1. If signage is proposed in the future, it will need to comply with the sign regulations outlined in Article IV of the Town of Denmark Zoning Law.
2. Prior to approval, the Town of Denmark Planning Board should evaluate and confirm any additional landscaping or screening requirements as specified in Article VI § 605 and 660.

The Board concluded that the recommendations of the proposed action were clear and justified based on the respective regulations. With no further discussion, Mr. Lehman motioned to approve the action. Ms. Metott seconded the motion, which carried unanimously.

Ms. Krokowski then proceeded to read the next review:

TOWN OF GREIG TOWN BOARD

Review of proposed amendments to the Town of Greig Zoning Law which includes clarifications and regulations regarding travel trailers, solar, and the different roles of Code Enforcement Officers and Zoning Officers.
Town of Greig – Applicant

The General Municipal Referral Form, FEAF, and proposed local law were submitted by Bob Johnson, Town Supervisor.

In summary, the provided local law was reviewed in full due to the interconnection of the proposed additions in travel trailer and solar and battery storage regulations. The additions have created a relatively comprehensive zoning document for the Town of Greig.

The following items may need to be added/removed for further clarification within Article II: Definitions:

Building size/measurement, campground/travel trailer park, clinic (as used in Article V Section 550) commercial, condominium, decks/patios and porches, dwelling, one family dwelling, enforcement officer, existing use, excavation, gross leasable area, handicap ramp, junkyard/ junk vehicle, kennel, light industry use, lot, lot frontage, marina, merged lot, motor vehicle repair shop, net metering. Non-commercial removal of water, minerals or soil, occupy, permit, permitted use, personal service, public nuisance, leisure time activities, recreation, indoor, recreation, outdoor, principal practitioner, road line, sanitary sewage disposal, solar collection system, solar energy system accessory, special use, fence, temporary, temporary storage, temporary use, travel trailer, vacant property, and

wetlands. Additional context has been provided within the zoning law document itself and will be provided with the final County Planning Board decision.

The Town should consider describing the defining characteristics and geographical locations of each of the 7 zones listed in section 305 within Article III.

The chart within Article IV Section 405 was adjusted to allow all of the districts to display their abbreviated names on the top as column 7 WF-2 was cut off showing just WF. The Town should also consider if "Permitted by right" is the proper language above the table in Section 405. Perhaps 'Permitted by Zoning Permit' or merely 'Permitted' would be more appropriate options. Accessory Structure should be added to the table in Section 405 with corresponding zones permit levels, as without it; it could be interpreted that that use is not allowed in any of the zones.

Section 410 Minimum Lot Dimensions has no content, consider if this is missing data.

Consider if additional regulations for ADU's should be integrated as some locations limit such, but such is not defined and seems to be mostly limited to the WF2 zone, of which legal pressure could be pursued against the Town. Historically, legislation regarding ADUs or short-term rental units to be owner-occupied has not been upheld in court.

It was observed in Section 415 that in all zones except WF2 One Family Dwelling/ Manufactured Homes were listed together. We believe the intention was to ensure manufactured homes were not being sited in the WF2 zone; however, the current definition of a dwelling is *"Building or part thereof used as living quarters for one family. The terms "dwelling," "one-family dwelling," "two-family dwelling," or "multi-family dwelling" shall not include a motel, hotel, but shall include modular and manufactured homes."* Consequently, allowing manufactured homes in the WF 2 zone or at best, contradictory regulation requiring ZBA interpretation if challenged. Also, in the table in Section 415, consider if accessory structure setbacks are reasonable, attainable, and enforceable in the WF zones or if modification may need to occur for enforceability. Additionally, there is a Note below the table which states "*The APA Zone around Brantingham Lake, Moderate Intensity, extends 528 feet from the Lake high water mark. This differs from the Town of Greig WF - 2 boundary on Cottage Road, and at the end of the Lake. Only one principal structure shall be permitted on any one residential lot except more than one residential structure may be permitted on a single lot provided that the structures are situated such that if the property were to be subdivided in the future, each structure would be situated on a lot that complies with all lot size, lot dimensions, setbacks, **separate water and sewage disposal provisions** and other requirements as specified in this Section **Law**."* Consider the addition of water and sewage disposal provisions as it is not uncommon to have shared units when space is limited and multiple dwellings are on a single lot; however, once subdivisions are proposed; conflicts can arise.

Section 420 discusses floating zones and the process of establishing them; however, a step in the process was left off in Section 420 D-"*The Planning Board must discuss the proposal with the applicant at a regular meeting of the Board within thirty-one (31) days of the filing of the complete application by the applicant with the Town Board.* ***Once an application is accepted, the Planning Board shall refer the Zoning Map change reflecting the proposed floating zone to the County Planning Board where feedback and recommendations will be provided to the Town Board****. Within ten (10) working days of such a meeting, the Planning Board must make recommendations to the Town Board"*

Furthermore, Section 420 G states: *"If the proposal is approved by the Town Board, and the Zoning Map has been amended to create the appropriate zone, the applicant* ***must within six (6) months submit an application for a special use permit*** *as provided in Section 715 of this law."* The Board should consider dictating what repercussions occur when special use permit applications are not received within the 6-month timeframe, whether that reverts the floating zone determination or what have you.

Section 425 the Planned Development Zones (PD) are intended to function similarly to floating zones. It is recommended that language be added to the required buffer section mentioning that buffers should not interfere with line of sight for intersections and driveways. Additionally, instead of the statement of *"no mobile/manufactured homes will be permitted"*, consider having a minimum square footage requirement in Section 425.D.5.a.

Similarly, Section 430 Industrial Zone will also function as a floating zone until 'a substantial area' has been zoned for industry then the floating zone for industrial will not be needed. The Board should consider adding metrics on what they consider a substantial area or perhaps remove such language.

Consider if Section 430 B should be expanded to add protections to waterbodies and other natural assets given the definition of industry as *"Any facility, which assembles, fabricates, processes or packages products from raw materials or component parts which are hazardous materials as regulated by State and Federal Laws or Regulations or where the by-products and wastes from the assembling, fabricating, processing or packaging activities* ***are hazardous materials****."*

Section 435 discusses Cluster Development and respective regulations; however, there is no definition of cluster development within Article II nor is the term cluster development listed as a land use in the table in Section 405, consider updating accordingly.

Consider if additional language on sanitary sewage disposal may be necessary under Section 510 Shoreline Requirements given the County's knowledge gained from the involvement with the Septic Replacement Fund.

Section 540 discusses the general standards for signs, L. states: *"No signs shall be placed, painted or attached upon trees, works or natural features on the site, or on utility poles,* ***bridges****, or culverts."* Consider changing the beginning of the

statement to "***Only municipal signs may be placed…"*** as the County and/or DEC will be attaching signs to the bridges to aid in recreational activities. Additionally, the enforcement of such provisions was not mentioned, sample language to add could be *"The enforcement of Section 540 shall be provided by the Town's respective boards upon receipt of a justified written complaint with evidence of the alleged noncompliance and violations and penalties will follow Section 930 respectfully."*

Section 545 Junkyards states "Not more than **three** junkyards may exist/operate in the Town at any one time", consider if the Town has any means of tracking the number of junkyards or if annual reviews should be conducted.

Section 550 discusses Home Based Businesses and provision L. indicates that no home occupation shall be conducted without a conditional special permit authorized and approved by the planning board. Consider expanding on what a 'conditional' special permit is and what limitations may be standardly included such as the approved special permit is transferred with ownership; however, for the specific approved use and size of operation on the approved special use permit.

Section 570.A.1 Individual Mobile/Manufacture Home Emergency Dwelling states –"*With the permission of the owner or lessee, a mobile* ***manufactured*** *home may be temporarily placed and occupied as an emergency dwelling on any property in the Town, regardless of prior development on or current use of such property…"* it is suggested that mobile be replaced by manufactured home in this instance as mobile homes are almost 50 years old at this point in time and typically have a useful life of 30 years potentially enabling further substandard living conditions.

Section 580 has proposed updates from the Town of Greig to update the language and regulations regarding individual travel trailers. The section starts with definitions, which should be relocated and updated to correspond with Article II definitions as appropriate. The Board should consider adding language to clarify that travel trailer and recreational camping vehicles are considered the same thing in this Law. The Board should consider stating that travel trailers and similar would be considered accessory structures when referencing section 415 setbacks. Section 580 A. 1. states: "*A maximum of two {2) travel trailers may be stored outside (unoccupied and not used for living quarters) when there is a dwelling existing on the same lot if the recreational camping vehicle is owned by the real property owner or the tenant, or by a family member residing on the same lot."* The Board should consider stipulating how many travel trailers may be stored in similar conditions on a property that does not have a dwelling or dictating that it is not permissible.

The Town should evaluate the intent of the travel trailer language, as proposed, it appears that only the hamlet and WF2 zones have time restrictions on travel trailers, and if a lot doesn't have a dwelling a travel trailer can be placed for an infinite amount of time. The Town should also consider how the language on violations compares to Section 930 violations and penalties.

Section 586 was not amended with the proposed solar update; however, small-scale solar energy systems and agricultural solar energy systems should be integrated into Section 586 Accessory Solar Energy Systems.

Section 587 discusses Wind Energy Systems Accessory; it is suggested that language be added to include a Decommissioning Plan, securities and language defining abandonment for the financial health and wellbeing and maintaining the character of the Town.

Section 590 Fences should have a definition for fence in Article II such as "A structure that divides two areas of land, usually made of matching wood, composite wood, or chain link materials and supported by posts." By doing so, the Town is dictating the materials satisfactory to constitute a fence rather than a fence made out of antiques, toilets, or mismatched steel which would impede the character of the Town. Since 590 A and B discuss the height restrictions for the front and side lots, consider consolidating to the *"front and side yard fence height shall not exceed four (4) feet in height*" to relieve potential confusion and misinterpretation. Consider if there should be a fence height restriction on rear setbacks in the waterfront districts. The Board should also consider adding the ability for the Planning Board to grant waivers upon concurrence with the Highway Superintendent rather than going through a variance since the fence height is lower than most municipalities.

Section 599 B discusses multi-family dwelling units such as townhouses, and states *"Town Houses i.e. those designed to be **sold** as attached individual units are not allowed in the Town of Greig unless public water and sewer will be secured and provided. Lot size will be determined by the Planning Board at the time of issuance of a Special Permit."* The Board should consider if these could be designed for rent and how that would impact the regulation, as in other parts of the country Town Houses are a popular rental type.

Perhaps Section 615 Motor Vehicle Repair and Paint Shops could use additional language dictating that all vehicles must be serviced and stored within an enclosed structure and that the mentioned fenced area shall comply with provisions within Section 590. Additionally, Section 615.C mentions the storage of waste materials; however, the Town should consider adding timelines that have enforceable elements as these types of operations turn into junkyards quickly.

Section 630 discusses Commercial Excavation and Mineral Extraction, consider updating the language in B. regarding the restoration plan and bonding to provide more defined financial sureties to the Town as well as updating the language on F. regarding Screening to clearly depict screening and the requirements of the Screening Section.

Section 631 Asphalt/black top/ concrete plant limited mentions plants may be allowed on a temporary basis; since the term temporary is used several times consider expanding on what it specifically means, in this section. Section 631.A states: "*An inspection by the **Chief Executive Officer** (CEO) and a site visit by the*

*Town Planning Board/ **Zoning Enforcement Officer** will be conducted annually to ensure compliance with Special Permit requirements and this section of the law."* Consider adding the unabbreviated term for CEO as well as Zoning Enforcement Officer to conduct the annual site visit. The Town Planning Board is listed for the site visit, consider if that means a quorum or one member of the board or whether this is the appropriate entity.

Consider if Section 640 Light Industry should be used for WESP as well, if so, update the table in Section 405. Based on this section, the only use that should be listed under the LI zone should be Saw Mills, the table in section 405 should be corrected accordingly.

The Town should consider if the established setback of 100 feet for a Slaughterhouse listed in Section 645 is adequate to prevent it from being a nuisance for neighbors due to potential noise and odors. Additionally, the Town should consider using similar language to that of the industrial zone "Slaughterhouse operations shall be screened from roads, and adjacent property by a minimum seventy-five (75) foot vegetative buffer area. Plant material shall be six (6) to eight (8) feet in height when planted and shall be spaced to form an opaque screen in multiple rows with alternate spacing or other equally acceptable screening techniques upon approval of the Planning Board."

Section 650 discusses Restaurants which may need to be reviewed in Section 405 as restaurants are not allowed in RR2; however, historically there has been a restaurant in said zone and one currently for sale (Trailside). Also, Section 650.A.3. states "The parking lot shall be set back at least thirty (30) feet from the road line. Such setback area shall be landscaped with native trees and shrubs in **substantial compliance** with the standards of Section 815 of this law." Consider depicting what substantial compliance means in a performance-based method. Section 650.A.5 states:" *Landscaping shall be provided to minimize conflicts with adjacent land uses."* However, should provisions be added regarding proximity to residential properties, operating times, parking, lights, and or noise?

Section 655.A.2 states "*Mobile/ **manufactured** homes shall not be parked, whether permanently or temporarily, in any campground/travel trailer park except for the owner/operator.* "Consider adding the term manufactured to this statement to fully encompass the type of housing as well as consider removing the exemption for the owner/ operator to site a manufactured home in a campground as it doesn't align with the purpose and character of the establishment.

Section 660 is Manufactured/ Mobile Home Parks, the Town should consider updating the terms Manufactured/ Mobile Home throughout the section as well as potentially updating the language in 660.4 regarding the water supply and sewage disposal systems to be more encompassing and add an annual review process.

Section 670 Bed and Breakfast/ Hostel Establishments A. states "The business shall be conducted within the principal residence of the operator." Consider if this is precise enough language and if the term principal residence and operator are defined and if the owner should also be included. Consider if principal residence should be replaced with principal dwelling or owner-occupied dwelling. Section 670 F states *"No apartment or rental units shall be permitted other than the residents living quarters and the bed and breakfast rooms*." However, the intent and purpose of this statement is not clearly conveyed, the Board should consider rephrasing.

Kennels discussed in Section 685 I indicate that all dogs over 6 months of age must be licensed, consider adding with the Town of Greig. 685 J states *"Animals must be kenneled inside overnight, and outdoor usage areas shall be limited to daytime, 7 am to 9 pm, usage only."* This regulation seems overly restrictive and somewhat unenforceable, the Board may consider rephrasing and also adding a records requirement to be reviewed by the enforcement officer.

The Board should consider adding similar language to Section 695 Pipelines *"Any damages to municipal infrastructure shall be the responsibility of the party(ies) involved in the pipeline installation upon the conclusion of the construction."* to help ensure the financial stability of the Town.

Section 696 C states *"Temporary car shelters may be installed on an annual basis for seasonal use and may not exceed the 6-month duration. Use exceeding 6 months requires an application for a Zoning Permit and must meet appropriate setbacks as an accessory building."* The Town Board should evaluate this with the ZEO for the practicability and enforcement of this provision and if rephrasing is needed.

Sections 697-697.5 have been updated to include updated verbiage regarding medium and large-scale solar operations which replaced the section on solar energy systems, principal respectfully.

The Board should consider listing additional land uses that the Town would like a decommissioning plan and or bonding to restore to Section 720. A which states "In order that the Town has the assurance that the construction and installation of such improvements as storm sewer, water supply, sewage disposal, landscaping, road signs, sidewalks, parking, access facilities, **WESA, WESP, Solar Energy Systems (Medium or Large scale), Asphalt/Black Top/Concrete Plant, Heavy Industry, Commercial Excavation/Mineral Extraction Facilities** and road surfacing will be constructed, the Planning Board may require that the applicant enter into one of the following agreements with the Town."

Article VIII, within Section 810.C.3. the intent of the sentence is unclear, consider updating *"Upon completion of stabilization, all unnecessary or unusable control."*

Section 905 A states "*No building or structure shall be erected, moved, or use instituted, or land use changed, until a zoning permit, special permit, or temporary permit has been issued, unless otherwise exempted by this law. The exterior*

structural area of a building shall not be enlarged until a zoning permit, or special permit has been issued, unless otherwise exempted by this law." Perhaps building permit was overlooked but consider adding for transparency.

Consider consulting with your legal consultant on the legality of Section 905 B which states *"No permit for a year-round land use activity shall be issued for any property abutting on the following roads: Eatonville Road, Abbey Road, Van Arnam Road, North South Road, and Middle Road, beyond the present year-round maintenance section, unless or until such time as the Town Board has determined such road to be suitably improved for year-round access by emergency vehicles."*

Section 915 D States temporary certificates may be renewed upon request for an additional 30 days; however, it does not explicitly depict how many times these temporary certificates may be renewed. The Board should clarify as this could be interpreted as once or infinitely. Additionally, the Board should depict what form these requests should be.

Section 920 Zoning Board of Appeals, 4.b. states "In order to prove such unnecessary hardship, the applicant shall demonstrate to the Board of Appeals that **for each and every permitted use under the zoning regulations for the particular district where the property is located**,

i. The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
ii. That the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
iii. That the requested use variance, if granted, will not alter the essential character of the neighborhood; and
iv. That the alleged hardship has not been self-created.

The Board should discuss with the ZBA to ensure that all cases are required to adhere to the above or consider rephrasing to a more achievable level.

Section 935.B.1 states *"No non-conforming use shall be expanded, extended, or otherwise increased by more than twenty percent (20%) so as to occupy a greater area of land (footprint) than was committed to the non-conforming use at the time of enactment of this law"* the Board should review if they would allow a nonconformity to increase as this is not typical. Section 935.D.2.b states *nonconforming structures must be repaired or reconstructed within 2 years from the date of the damage,* consider adding *"otherwise only conforming structure(s) will be permittable on said premise" o*r similar verbiage.

Recommendation: Approve with Conditions

1. The following definitions may need to be added/removed or further clarification within Article II:

   Building size/measurement, campground/travel trailer park, clinic (as used in Section 550) commercial, condominium, decks/patios and porches, dwelling, one family dwelling, enforcement officer, existing use,

excavation, gross leasable area, handicap ramp, junkyard/ junk vehicle, kennel, lot, lot frontage, marina, merged lot, motor vehicle repair shop, net metering. Non-commercial removal of water, minerals or soil, occupy, permit, permitted use, personal service, public nuisance, leisure time activities, recreation, indoor, recreation, outdoor, principal practitioner, road line, sanitary sewage disposal, solar collection system, solar energy system accessory, special use, fence, temporary, temporary storage, temporary use, travel trailer, vacant property, and wetlands.

2. The chart within Article IV Section 405 should be corrected in the following ways:
    a. The column labeled 'WF' should be corrected to 'WF-2'
    b. 'Permitted by right' should read 'Permitted Use' in order to reflect the definition set in Article II.
    c. Accessory Structure should be added with corresponding permit levels to avoid interpretation issues.
3. Content needs to be added to Article IV Section 410 Minimum Lot Dimensions.
4. Article IV Section 415 showcases that 'One Family Dwellings' are permitted in the WF 2 District; however, 'Manufactured Homes' are not. The current definition of a dwelling is *"Building or part thereof used as living quarters for one family. The terms "dwelling," "one family dwelling," "two family dwelling," or "multi-family dwelling" shall not include a motel, hotel, but shall include modular and manufactured homes."* Being that this definition of dwelling and prohibition of manufactured homes in the WF 2 District could be misinterpreted, which could result in a ZBA interpretation if challenged, clarification of the definition in Article II or further clarification in Article IV shall be made prior to the adoption of the proposed law.
5. Article IV Section 420 discusses floating zones and the process of establishment; however, there is an additional step that should be included that has not been addressed. Section 420.D should read as follows: "*The Planning Board must discuss the proposal with the applicant at a regular meeting of the Board within thirty-one (31) days of the filing of the complete application by the applicant with the Town Board. Once an application is accepted, the Planning Board shall refer the Zoning Map change reflecting the proposed floating zone to the County Planning Board where feedback and recommendations will be provided to the Town Board. Within ten (10) working days of such a meeting, the Planning Board must make recommendations to the Town Board"*
6. Article IV Section 420.G states that *"If the proposal is approved by the Town Board, and the Zoning Map has been amended to create the appropriate zone, the applicant must within six (6) months submit an application for a special use permit as provided in Section 715 of this law."* The Board should also identify what consequences occur when special use permit applications are not received within the 6-month timeframe.
7. Article IV Section 425.D.4 should include additional language noting that buffers should not negatively impact the line of sight for intersections and driveways.
8. Article IV Section 430.A should include a defined metric as to what the Town Board considers a substantial area.

9. While 'Cluster Development' is referenced and regulated in Article IV Section 435, a definition of this type of development should be included in Article II and the use should be listed in Article IV Section 405.
10. Article V Section 540.L states that *"No signs shall be placed, painted or attached upon trees, works or natural features on the site, or on utility poles, bridges, or culverts."* Being that the municipal recreational signs are often attached to infrastructure such as bridges, or along trails upon trees, by the County and/or State agencies, such as the DEC, regulations should be revised to read *"Only municipal signs may be placed…"* Furthermore, the enforcement of such provisions is not mentioned; however, they should be added.
11. Article V Section 550.L indicates that no home occupation shall be conducted without a conditional special permit authorized and approved by the planning board. While it is assumed that 'conditional special permit' is language that is used interchangeably, prior to adoption, clarification should be included in this section.
12. Article V Section 580 has proposed language and regulations relative to individual travel trailers. The section also includes definitions; however, these should be relocated to Article II and added to Article IV Section 405 appropriately. Prior to adoption, the Board should add language noting that travel trailers and similar would be considered accessory structures when referencing Article IV Section 415 setback regulations. Furthermore, Section 580.A.1 states: *"A maximum of two {2) travel trailers may be stored outside (unoccupied and not used for living quarters) when there is a dwelling existing on the same lot if the recreational camping vehicle is owned by the real property owner or the tenant, or by a family member residing on the same lot."* The Board should stipulate how many travel trailers may be stored in similar conditions on a property that does not have a dwelling or whether that it is not permissible.
13. Prior to adoption, the Town should integrate and define small-scale solar energy systems and agricultural solar energy systems into Article V Section 586 Accessory Solar Energy Systems.
14. Language should be added to Article V Section 587 to include a decommissioning plan, securities and language defining abandonment for the financial health and wellbeing and maintaining the character of the Town.
15. Article VI Section 615 should have additional language dictating that all vehicles must be serviced and stored within an enclosed structure and that the mentioned fenced area shall comply with provisions within Article V Section 590. Additionally, Section 615.C mentions the storage of waste materials; however, the Town should consider adding timelines that have enforceable elements as these types of operations could become junkyards if not monitored.
16. Additional language should be added to Article VI Section 630.B. to provide more defined financial sureties. Furthermore, more defined screening regulations and expectations should be included in Article VI Section 630.F. to ensure the Town's intent is met.
17. Light Industry, as regulated in Article VI Section 640, and Heavy Industry, as regulated in Article VI Section 635, are not defined in Article II or listed in Article IV Section 405. Prior to adoption, definitions should be added to

Article II and the locations where these uses are allowed should be added to Article IV Section 405.

18. Article VI Section 655.A.2 states that "*Mobile homes shall not be parked, whether permanently or temporarily, in any campground/travel trailer park except for the owner/operator.*' Prior to adoption, the Town should add the term 'manufactured' to this regulation to fully encompass the type of housing and should remove the exemption for the owner/operator as a manufactured home in a campground does not align with the purpose and character of the establishment.
19. Article VI Section 670.A states that *"The business shall be conducted within the principal residence of the operator."* For clarity, 'principal residence' should be replaced with 'principal dwelling' or 'owner-occupied dwelling'. Furthermore, Article VI Section 670.F states that *"No apartment or rental units shall be permitted other than the residents living quarters and the bed and breakfast rooms*." However, the intent and purpose of this statement is not clearly conveyed, and the Board should consider reshaping this language for clarity.
20. Article VIII Section 810.C.3. is incomplete and should be clarified prior to adoption.
21. Article IX Section 915.D notes that temporary certificates may be renewed upon request for an additional 30 days; however, it does not explicitly depict how many times these temporary certificates may be renewed. The Board should clarify as this could be interpreted as once or infinitely. Additionally, the Board should depict what form these requests should be in.

Please be aware given the number of suggested revisions, it is possible that some suggestions were only noted on the returned Town of Greig Zoning Law document.

Non Binding Notes:

A. On the returned version of the Town of Greig Zoning Law there are several grammatical and slight word replacements suggested for the town to review.
B. The Town should describe and define the characteristics and geographical locations of each of the 7 zones listed in section 305 within Article III.
C. Within the table included in Article IV Section 415, consider whether the accessory structure setbacks are reasonable, attainable, and enforceable in the WF zones or if modification may need to occur for enforceability.
D. There is a note below the table in Article IV Section 415 which states, "*The APA Zone around Brantingham Lake, Moderate Intensity, extends 528 feet from the Lake high water mark. This differs from the Town of Greig WF - 2 boundary on Cottage Road, and at the end of the Lake. Only one principal structure shall be permitted on any one residential lot except more than one residential structure may be permitted on a single lot provided that the structures are situated such that if the property were to be subdivided in the future, each structure would be situated on a lot that complies with all lot size, lot dimensions, setbacks, separate water and sewage disposal provisions and other requirements as specified in this Section Law."* It is suggested that the Town consider the addition of water and sewage disposal provisions as it is not uncommon to have shared units when space is limited and multiple dwellings

are on a single lot; however, once subdivisions are proposed, conflicts can arise.

E. In Article IV Section 425.D.5.a, rather than using the existing language of "no *mobile/manufactured homes will be permitted*", consider establishing a minimum square footage requirement instead.

F. Consider if Section 430 B should be expanded to add protections to waterbodies and other natural assets given the definition of industry as *"Any facility, which assembles, fabricates, processes or packages products from raw materials or component parts which are hazardous materials as regulated by State and Federal Laws or Regulations or where the by-products and wastes from the assembling, fabricating, processing or packaging activities are hazardous materials."*

G. Additional language relative to sanitary sewage disposal may be necessary under Article V Section 510 Shoreline Requirements given the County's knowledge gained from the involvement with the Septic Replacement Fund. Suggestions have been added to the proposed law returned to the Town.

H. Article V Section 545 states "Not more than three junkyards may exist/operate in the Town at any one time", consider if the Town has any means of tracking the number of junkyards or if annual reviews should be conducted.

I. Section 570.A.1 states that "*With the permission of the owner or lessee, a mobile manufactured home may be temporarily placed and occupied as an emergency dwelling on any property in the Town, regardless of prior development on or current use of such property…".* The term 'mobile home' should be replaced by 'manufactured home' in this context as most mobile homes are nearly 50 years old and typically have a useful life of 30 years, potentially enabling further substandard living conditions.

J. As written, it appears that only the Hamlet and WF2 Zoning Districts have time restrictions on travel trailers and if a lot does not have a dwelling, a travel trailer can be placed for an infinite amount of time. It is suggested that this regulation be reviewed to ensure the proper intent.

K. A suggested definition for fence in Article II could be "A structure that divides two areas of land, usually made of matching wood, composite wood, or chain link materials and supported by posts". By including these details in the definition, the Town is dictating the materials satisfactory to constitute a fence rather than a fence made out of antiques, toilets, or mismatched steel which would impede the character of the Town. Furthermore, since Article V Section 590.A and B discuss the height restrictions for the front and side lots, consider consolidating to the *"front and side yard fence height shall not exceed four (4) feet in height*" to relieve potential confusion and misinterpretation. Consider if there should be a fence height restriction on rear setbacks in the waterfront districts. The Board should also consider adding the ability for the Planning Board to grant waivers upon concurrence with the Highway Superintendent rather than going through a variance since the fence height is lower than most municipalities.

L. Article V Section 599.B states that *"Town Houses i.e. those designed to be sold as attached individual units are not allowed in the Town of Greig unless public water and sewer will be secured and provided. Lot size will be determined by the Planning Board at the time of issuance of a Special Permit."* The Board

should consider if these could be used as short-term or long-term rental units and how that would impact the regulations.

M. Article VI Section 631 Asphalt/black top/ concrete plant limited mentions plants may be allowed on a temporary basis, since the term temporary is used several times consider expanding on what it specifically means, in this section. Section 631.A states:" *An inspection by the Chief Executive Officer (CEO) and a site visit by the Town Planning Board/ Zoning Enforcement Officer will be conducted annually to ensure compliance with Special Permit requirements and this section of the law."* Consider adding the unabbreviated term for CEO as well as Zoning Enforcement Officer to conduct the annual site visit. The Town Planning Board is listed for the site visit, consider if that means a quorum or one member of the board or whether this is the appropriate entity.
N. The Town should consider if the established setback of 100 feet for a Slaughterhouse listed in Article VI Section 645 is adequate to prevent from potential noise and odor nuisances for neighboring properties. Additionally, the Town should consider further defining appropriate screening regulations for this use, similar to language to that identified in for 'Heavy Industry' in Article VI Section 635, such that *"Slaughterhouse operations shall be screened from roads, and adjacent property by a minimum seventy-five (75) foot vegetative buffer area. Plant material shall be six (6) to eight (8) feet in height when planted and shall be spaced to form an opaque screen in multiple rows with alternate spacing or other equally acceptable screening techniques upon approval of the Planning Board."*
O. Article VI Section 650 discusses Restaurants which may need to be reviewed in Section 405 as restaurants are not allowed in RR2; however, historically there has been a restaurant in said zone and one currently for sale (Trailside). Also, Section 650.A.3. states *"The parking lot shall be set back at least thirty (30) feet from the road line. Such setback area shall be landscaped with native trees and shrubs in substantial compliance with the standards of Section 815 of this law."* Consider depicting what substantial compliance means in a performance-based method. Section 650.A.5 states *"Landscaping shall be provided to minimize conflicts with adjacent land uses."* However, should provisions be added regarding proximity to residential properties, operating times, parking, lights and or noise?
P. The Board should consider adding similar language to Section 695 Pipelines *"Any damages to municipal infrastructure shall be the responsibility of the party(ies) involved in the pipeline installation upon the conclusion of the construction."* to help ensure the financial stability of the Town.
Q. Article VI Section 696.C states that *"Temporary car shelters may be installed on an annual basis for seasonal use and may not exceed the 6-month duration. Use exceeding 6 months requires an application for a Zoning Permit and must meet appropriate setbacks as an accessory building."* The Town Board should evaluate this with the ZEO for the practicability and enforcement of this provision and if rephrasing is needed.
R. The Board should consider listing additional land uses that the Town would like a decommissioning plan and/or bonding to restore to Article VII Section 720.A which states *"In order that the Town has the assurance that the construction and installation of such improvements as storm sewer, water*

supply, sewage disposal, landscaping, road signs, sidewalks, parking, access facilities, WESA, WESP, Solar Energy Systems (Medium or Large scale), Asphalt/Black Top/Concrete Plant, Heavy Industry, Commercial Excavation/Mineral Extraction Facilities and road surfacing will be constructed, the Planning Board may require that the applicant enter into one of the following agreements with the Town."

S. Article IX Section 905 A states "*No building or structure shall be erected, moved, or use instituted, or land use changed, until a zoning permit, special permit, or temporary permit has been issued, unless otherwise exempted by this law. The exterior structural area of a building shall not be enlarged until a zoning permit, or special permit has been issued, unless otherwise exempted by this law."* Perhaps 'building permit' was overlooked but consider adding it for transparency.

T. Consider if additional regulations for ADU's should be integrated as there are locations that limit such, but it is not defined and is mostly limited to the WF2 zone, of which legal pressure could be pursued against the Town.

U. Article IX Section 920.4.b. states *"In order to prove such unnecessary hardship, the applicant shall demonstrate to the Board of Appeals that* ***for each and every permitted use under the zoning regulations for the particular district where the property is located****,*

   i. the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
   ii. that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
   iii. that the requested use variance, if granted, will not alter the essential character of the neighborhood; and
   iv. that the alleged hardship has not been self-created."

   The Board should discuss with the ZBA to ensure that all cases are required to adhere to the above or consider rephrasing to a more achievable level for consistency.

V. Article IX Section 935.B.1 states that *"No nonconforming use shall be expanded, extended, or otherwise increased by more than twenty percent (20%) so as to occupy a greater area of land (footprint) than was committed to the non-conforming use at the time of enactment of this law".* The Board should review if they would allow a nonconformity to increase as this is not typical. Furthermore, Section 935.D.2.b states *that "nonconforming structures must be repaired or reconstructed within 2 years from the date of the damage".* The Town should consider adding language such as *"otherwise only conforming structure(s) will be permittable on said premise."*

W. Kennels discussed in Section 685 I indicate that all dogs over 6 months of age must be licensed, consider adding with the Town of Greig. 685 J states *"Animals must be kenneled inside overnight, and outdoor usage areas shall be limited to daytime, 7 am to 9 pm, usage only."* This regulation seems overly restrictive and somewhat unenforceable. The Board should consider rephrasing and adding a records requirement to be reviewed by the enforcement officer.

X. Consider consulting with legal counsel on the legality of Section 905.B which states that "*No permit for a year-round land use activity shall be issued for any property abutting on the following roads: Eatonville Road, Abbey Road, Van Arnam Road, North South Road, and Middle Road, beyond the present year-round maintenance section, unless or until such time as the Town Board has determined such road to be suitably improved for year-round access by emergency vehicles.*"
Y. Within Article VI Section 660 the Town should consider updating the terms Manufactured/Mobile Home throughout the section as well as potentially updating the language in Section 660.4 regarding the water supply and sewage disposal systems to be more encompassing and add an annual review process.

The Board requested clarification on the concept of a Floating Zone. Ms. Krokowski explained that a floating zone is a zoning tool used to allow certain land uses in areas that are not specifically designated for those uses. Applicants must request to have their property rezoned into the floating zone, and then undergo a site plan review or special use permit process to obtain approval for their specific project.

The Board discussed whether any of the recommendations might be considered controversial. Ms. Krokowski mentioned that recommendation #19, which addresses the potential mismatch between current rental conditions (e.g., Airbnb, VRBO) and the intended use of the WF-2 zone, could be debatable. The Board also noted that the Town's ongoing codification process could provide an opportunity for further review and potential revisions to zoning laws.

Concerns were raised about the potential reception of a large number of recommendations by the referring body. However, it was suggested that the proactive approach of identifying issues and proposing solutions could be well-received.

With no further discussion, Mr. Petersen motioned to approve with the conditions and non-binding notes listed above. Mr. Cook seconded the motion, which carried unanimously.

Ms. Buell exited the meeting.

Ms. Krokowski read the following review:

TOWN OF LEWIS TOWN BOARD
Review proposed Local Law No. 4 of 2024 which primarily includes zoning text amendments relative to renewable energy.
Town of Lewis – Applicant

The applicant provided the following Project Documentation: 1) General Municipal Referral Form with Agricultural Data Statement; 2) Full Environmental Assessment Form; and 3) Proposed Local Law #4 of 2024.

The local law for the Town of Lewis was last amended in 2003 and had no regulations regarding renewable energy siting within the Town. The proposed update includes regulations regarding wind energy and solar energy siting within the Town of Lewis.

It should be noted that this was not a comprehensive review of the local law, the review was limited to the sections with changes and any section that was impacted by such changes.

The Town of Lewis should consider adding a section near the beginning of this local law that discusses that the town is designated into 4 districts, providing details of each with the Town's purpose for the designation and where to find the corresponding map. The districts are mentioned in the definitions and the dimensional standards, but the intent could be clarified as to why such designations exist.

Article 15.1 references a 'Wind Power Overlay'; however, this term is not clearly defined. At minimum, beyond the broad 'Overlay District' definition, a specific definition should be added to Article 3. Additionally, consider if Article 15.1 should first state *"A wind power overlay may be applied for within the AF and RR zones. Considerations could be made if land can be proven to be inappropriately classified as CF."* This statement would specify where the Town deems Wind Power Generating Facilities appropriate by limiting where the wind power overlays could go, which traditionally would not be in Core Forests or Hamlets for obvious siting reasons.

Article 15.2.3 indicates a setback requirement from any existing 'residential structure'; however, there is no definition of this term in Article 3. The Town should consider adding a detailed description of what a residential structure is defined as. Additionally, Article 15.2.3 goes on to note that side and rear lot line setbacks can be waived by the Planning Board as part of its special use permit process. The Board should consider adding that such waivers shall be thoroughly documented.

Article 15.2.4 states that "*Appropriate landscaping is required to keep the site neat and orderly. Appropriate screening is required to screen accessory structures from adjacent residences."* The aforementioned language is vague and can leave room for interpretation. The Town should include precise language as to what specifically would be considered appropriate for the Board.

Within Article 15.2.5, Decommissioning Plan, the Town should consider adding a reasonable decommissioning timeline following *"…and environmentally proper manner within X months."* Additionally, to prove operation, *"the applicant shall make available (subject to a nondisclosure agreement) to the Town Board all reports to and from the purchaser of energy from Wind Power Generating Facilities, which reports may be redacted as necessary to protect proprietary information to prove functionality every month"* or similar language as appropriate.

Consider adding the following sample language for Article 15.2.7, Abandonment and Removal, which was modified from the language used in Article 16.6 for solar. *"Wind Power Generation Facilities are considered abandoned when the Code Enforcement Officer determines the site and system has not been maintained, is a safety risk, or after one year without electrical energy generation and must be removed from the property. Should the Wind Power Generation Facility cease to perform its originally intended function for more than twelve (12) consecutive months, the property owner and/ or operator shall remove the system, mount, and associated equipment and facilities by no later than ninety (90) days after the end of the twelve (12) month period. Failure to comply with this section will result in enforcement action detailed in Article 4 of this law. If the Wind Energy Generation Facility is not decommissioned after being considered abandoned, the Town may remove the system, restore the parcel to its original state, and impose a lien on the property to cover costs to the municipality to the extent not covered by any surety/bond required under Article 15.2.6. of this law."* The Town must consider adding some language to address abandonment and removal since it may have been overlooked.

The Town should consider adding language to Article 15.2.8, Damages, in case Town infrastructure is damaged during the installation or decommissioning process such as "*If in the course of the delivery, installation, maintenance, dismantling, removal or transport of the Wind Power Generation Facilities or any components thereof the property of the Town of Lewis, including but not limited to roadways, shoulders, drainage structures, signage, guide rails, etc., is damaged by the efforts of the applicant or any agents thereof, the applicant shall, within 30 days of completing construction, completely replace or repair all damage in consultation with the Town Highway Superintendent.*"

Article 15.2.6 should be updated from "may be" to 'shall' in the first sentence as the sureties/bond should be mandatory to protect the financial security of the Town.

The Town of Lewis could consider utilizing the county-developed solar overlay map, specific to the Town of Lewis, and define and describe the term solar overlay district within Articles 3 and 16.1, respectfully. Sample language is as follows: "*The Solar Energy System Overlay District will allow consideration of use of the Town's solar energy resources through Ground-Mounted Solar Energy Systems and to regulate or prohibit the placement of such systems so that the public health, safety, and welfare will not be jeopardized. It should be noted that this Solar Overlay District has been built from the foundation set by the 2021 Lewis County Agricultural Enhancement Plan where Priority Farmland was identified through a variety of factors, including the amount of road frontage, percentage of high-quality soils, percentage of parcel available for farming, and whether it is a parcel with a primary agricultural use.*"

Given the geography of the Town of Lewis, which appears to have several hundred acres within the Agricultural District, consider whether Article 16.2.1. should be rephrased to define small-scale solar energy systems. A sample definition could be: "*A roof-mounted, building-integrated, or ground-mounted solar*

energy system or solar thermal system servicing primarily the building or buildings on a parcel on which the system is located for on-site consumption for either residential, agricultural, or business use, and limited to building-integrated, roof-mounted, and ground-mounted solar collectors that produce less than 25kW of electricity." However, if rephrased, this should also be added to Article 3.2, respectfully.

Article 16.5.1.h discusses 'Mature Forest'; however, this term is not defined. A sample definition other Lewis County municipalities are using is: *"MATURE FOREST – Any unimproved land in excess of one (1) acre with trees that are predominantly six (6) inches in diameter or greater."*

Article 16.5.1.h.1 indicates that no large-scale solar energy systems shall be permitted on a site that contains more than one acre of mature forest at the time the application was filed. This should be expanded with a process of measuring such. Consider adding *"An applicant shall provide with the application a Tree Survey for the site prepared by a qualified professional. If the proposed layout of the project does not impact trees or Mature Forest due to existing conditions. The Board may waive the Tree Survey requirements if they possess extensive knowledge of the area of impact that confirms that the proposal does not impact trees or a Mature Forest"* as you see fit.

Given the length of time of the application process consider changing Article 16.4.1.h.2 "*Previously was a Mature Forest within one year **five years** prior to the submission of an application*." This could even be changed to ten years depending on how strict the Town would like to be in preventing potential deforestation for solar farms.

Perhaps Article 16.5.1.i should specify that the professional engineer should be licensed in New York State and remove all references to 'or contractor' to reduce the potential for conflicts of interest.

Article 16.5.2.a indicates Large Scale Solar Energy Systems (LSSES) shall be located on lots with a minimum size of 10 acres, this should be clarified to specify if lots must be 10 contiguous acres or any other requirements of the parcels.

The Board should consider clarifying Article 16.5.2.b.3 whether the residence needs to be habitable, occupied, primary, seasonal or if vacant residence applies. Also, consider adding a definition for residence which could clarify the aforementioned items within Article 3.

Perhaps the Board would contemplate updating the fencing and screening Article 16.5.2.c to specify fencing height, and that all fencing and solar equipment shall not be used for displaying any advertising. Additionally, consider if any landscaping or screening language is needed to further screen these projects from view. Perhaps the addition of *"All Large Scale Solar shall be adequately screened with a combination of vegetative buffers, earth berms, or landscaping from all streets and adjacent residential uses to the extent practicable"* may be appropriate.

Perhaps the Board will update the Article 16.5.2.c entitled Fencing and Screening which states "*The fencing and the system may be required to be screened by landscaping sufficient to the planning board as needed to avoid adverse aesthetic impacts. Final approval from the planning board is required."* This language is very unclear, consider detailing specific landscaping and screening and then allowing the planning board to waive requirements as they see fit. Perhaps you could replace your language with something similar to the following: *"All Large-Scale Solar Energy Systems that are viewable from any public road shall be required to provide landscaping along the entire street frontage to ensure the site is screened and harmonious with the character of the property and surrounding area. Appurtenant structures such as inverters, batteries, equipment shelters, storage facilities, and transformers, should be screened from adjoining residences. The Planning Board can waive this requirement if sufficient justification is provided by the applicant that proves the site contains appropriate screening without needing street screening."*

The Board should consider relocating Article 16.5.2.g- Tree Cutting to below Article 16.5.1.h which discusses the conversion of forest land.

Article 16.5.2.h appears to have a typographical error "the ground within**g** the fenced perimeter shall not be tamped, compressed, or otherwise conditioned with herbicides or similar other treatment to inhibit the growth of natural vegetation."

The Board should consider specifying a timeframe for the succession of obligations should the solar energy system change ownership with added language for the recourse should the timeframes not be met within Article 16.5.2.k. Also, consider adding insurance and sureties/bond to the sentence *"…the special use permits shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the special use permit, site plan approval, **insurance, sureties/bond** and decommissioning plan."*

Article 16.6 discusses that the code enforcement officer determines when the site and system have not been maintained, is a safety risk or after one year without electrical generation. Consider how the Codes Department would enforce such, and at what point you would add monthly or yearly (broken down by month) generation reports from the Large-Scale Solar Energy Systems (LSSES), perhaps adding language to Article 16.2. Additionally, the property owner(solely) is identified to remove the system, mount, and associated equipment… We assume this should be changed to the property owner **and/or operator**. For consistency consider adding the bold to reflect prior language on the last sentence of Article 16.6 *"If the Large Scale Solar Energy System is not decommissioned after being considered abandoned, the Town may remove the system, restore the property **parcel to its original state** and impose a lien on the property to cover costs to the municipality to the extent not covered by any surety/bond required under Article 16.5.j. of this law."* Consider clarifying the sentence that states *"If the Solar Energy System ceases to perform its originally intended function for more than twelve (12) consecutive months, the **property***

owner *shall remove the system, mount and associated equipment and facilities by no later than ninety (90) days after the end of the twelve (12) month period."*- the intent is not clear nor is the start date for the 12 months. Perhaps this was meant to be a timeline to get the project productive. If that was the intent, consider replacing it with the following *"If the applicant does not complete construction of the project within 12 months after beginning construction, this may be deemed as abandonment of the project and require implementation of the decommissioning plan to the extent applicable. The Town may notify the operator and/or owner to complete the construction and installation of the facility within 90 days from the notification date. If the owner and/or operator fails to perform, the Town may notify the owner and/or operator to implement the Decommissioning Plan. The Decommissioning Plan must be completed within 90 days of notification by the Town."*

The Town should consider adding language to Article 16.7, Damages, in the event that Town infrastructure is damaged during the installation or decommissioning process. Example language could include *"If in the course of the delivery, installation, maintenance, dismantling, removal or transport of the Solar Energy System or any components thereof the property of the Town of Lewis, including but not limited to roadways, shoulders, drainage structures, signage, guide rails, etc., is damaged by the efforts of the applicant or any agents thereof, the applicant shall, within 30 days of completing construction, completely replace or repair all damage in consultation with the Town Highway Superintendent."*

Recommendation: Approve with conditions

1. The Town of Lewis should include a section in Article 2 of this local law that further defines that the Town is designated into 4 districts, providing details of each with the Town's purpose for the designation and where to find the corresponding map. The districts are mentioned in the definitions and the dimensional standards, but the intent and details of each district could be clarified as to why such designations exist.
2. The 'Wind Power Overlay' detailed in Article 15.1 is a term that is not clearly defined. At a minimum, beyond the broad 'Overlay District' definition, a specific definition should be added to Article 3. The Town could also include the following addition to Article 15.1, *"A wind power overlay may be applied for within the AF and RR zones. Considerations could be made if land can be proven to be inappropriately classified as CF."* This statement would specify where the Town deems Wind Power Generating Facilities appropriate by limiting where the wind power overlays could go, which traditionally would not be in Core Forests or Hamlets for obvious siting reasons.
3. Due to potential interpretation issues within Article 15.2.3, the Town should consider adding a detailed description of what a residential structure is defined as. Additionally, Article 15.2.3 goes on to note that side and rear lot line setbacks can be waived by the planning board as part of its special use permit process. The Board should consider adding that such waivers shall be thoroughly documented.
4. Article 15.2.4 states that "*Appropriate landscaping is required to keep the site neat and orderly. Appropriate screening is required to screen accessory structures from adjacent residences."* The aforementioned language is

vague and can leave room for interpretation. The Town should include precise language as to what specifically would be considered appropriate for the board.

5. Within Article 15.2.5, Decommissioning Plan, the Town should add a reasonable decommissioning timeline following *"...and environmentally proper manner within X months."* Additionally, to prove operation, language such as *"the applicant shall make available (subject to a nondisclosure agreement) to the Town Board all reports to and from the purchaser of energy from Wind Power Generating Facilities, which reports may be redacted as necessary to protect proprietary information to prove functionality every month."* could be added.
6. The Town shall consider adding some language to address Wind Power Generation Facility abandonment and removal. The following sample language for Article 15.2.7, Abandonment and Removal, which was modified from the language used in Article 16.6 for solar, could be included; *"Wind Power Generation Facilities are considered abandoned when the Code Enforcement Officer determines the site and system has not been maintained, is a safety risk, or after one year without electrical energy generation and must be removed from the property. Should the Wind Power Generation Facility cease to perform its originally intended function for more than twelve (12) consecutive months, the property owner and/ or operator shall remove the system, mount, and associated equipment and facilities by no later than ninety (90) days after the end of the twelve (12) month period. Failure to comply with this section will result in enforcement action detailed in Article 4 of this law. If the Wind Energy Generation Facility is not decommissioned after being considered abandoned, the Town may remove the system, restore the parcel to its original state, and impose a lien on the property to cover costs to the municipality to the extent not covered by any surety/bond required under Article 15.2.6. of this law."*
7. The Town shall add language to Article 16.7, Damages, in the event that Town infrastructure is damaged during the installation or decommissioning process. Example language could include *"If in the course of the delivery, installation, maintenance, dismantling, removal or transport of the Solar Energy System or any components thereof the property of the Town of Lewis, including but not limited to roadways, shoulders, drainage structures, signage, guide rails, etc., is damaged by the efforts of the applicant or any agents thereof, the applicant shall, within 30 days of completing construction, completely replace or repair all damage in consultation with the Town Highway Superintendent."*
8. Language in the first sentence of Article 15.2.6 should be revised from 'may be' to 'shall' as the sureties/bond should be mandatory to protect the financial security of the Town.
9. The Town could consider utilizing the county-developed solar overlay map, specific to the Town of Lewis, and define and describe the term solar overlay district within Articles 3 and 16.1, respectfully. Sample language is as follows: "*The Solar Energy System Overlay District will allow consideration of use of the Town's solar energy resources through Ground-Mounted Solar Energy Systems and to regulate or prohibit the placement of such systems so that the public health, safety, and welfare will not be jeopardized. It should be*

noted that this Solar Overlay District has been built from the foundation set by the 2021 Lewis County Agricultural Enhancement Plan where Priority Farmland was identified through a variety of factors, including the amount of road frontage, percentage of high-quality soils, percentage of parcel available for farming, and whether it is a parcel with a primary agricultural use."

10. Given the geography of the Town of Lewis, which appears to have several hundred acres within the Agricultural District, consider whether Article 16.2.1. should be rephrased to define small-scale solar energy systems. A sample definition could be: "*A roof-mounted, building-integrated, or ground-mounted solar energy system or solar thermal system servicing primarily the building or buildings on a parcel on which the system is located for on-site consumption for either residential, agricultural, or business use, and limited to building-integrated, roof-mounted, and ground-mounted solar collectors that produce less than 25kW of electricity."* However, if rephrased, this should also be added to Article 3.2, respectfully.
11. A definition of 'Mature Forest', as mentioned in Article 16.5.1.h should be included in Article 3. A sample definition used by other Lewis County municipalities is: *"MATURE FOREST – Any unimproved land over one (1) acre with trees that are predominantly six (6) inches in diameter or greater."*
12. Within Article 16.5.1.h.1, the regulations indicate that no large-scale solar energy systems shall be permitted on a site that contains more than one acre of mature forest at the time the application was filed. This should be expanded with a process of measuring such forests. Additional requirements, such that *"An applicant shall provide with the application a Tree Survey for the site prepared by a qualified professional. If the proposed layout of the project does not impact trees or Mature Forest due to existing conditions. The Board may waive the Tree Survey requirements if they possess extensive knowledge of the area of impact that confirms that the proposal does not impact trees or a Mature Forest"* could assist the Town to carry out the intent of the proposed local law's protection of forested property.
13. Given that it seems the intent of the Town is to prevent solar development resulting in deforestation and that the permitting process for solar development is a layered, lengthy process, the duration of time currently defined in Article 16.4.1.h.2, "*Previously was a Mature Forest within one year prior to the submission of an application*," could be extended to five or even ten years.
14. To avoid potential conflicts of interest and to better clarify, Article 16.5.1.i should specify that the professional engineer should be licensed in New York State and remove all references to 'or contractor'.
15. Language in Article 16.5.1.j should be revised from 'may' to 'shall' as this sureties/bond should be mandatory for a large-scale solar energy system to protect the financial security of the Town.
16. While Article 16.5.2.a indicates Large Scale Solar Energy Systems (LSSES) shall be located on lots with a minimum size of 10 acres, this should be expanded to specify if lots must be 10 contiguous acres or any other specific spacial requirements of the parcels.
17. Clarifying language in Article 16.5.2.b.3 should be added to define whether the residence needs to be habitable, occupied, primary, seasonal or if vacant

residence applies. Also, the Town should add a definition for 'residence' which could clarify the aforementioned items within Article 3.

18. Additional language for the fencing and screening requirements in Article 16.5.2.c should be added to specify fencing height and that all fencing and solar equipment shall not be used for displaying any advertising. Additionally, consider if any landscaping or screening language is needed to further screen these projects from view. Example language could include, *"All Large-Scale Solar shall be adequately screened with a combination of vegetative buffers, earth berms, or landscaping from all streets and adjacent residential uses to the extent practicable. Solar equipment, nor fencing, shall not be used for displaying any advertising."* Furthermore, to ensure clarity of suitable screening expectations, this Section could be revised to read, *"All Large-Scale Solar Energy Systems that are visible from any public road shall be required to provide landscaping along the entire street frontage to ensure the site is screened and harmonious with the character of the property and surrounding area. Appurtenant structures such as inverters, batteries, equipment shelters, storage facilities, and transformers, should be screened from adjoining residences. The Planning Board can waive this requirement if sufficient justification is provided by the applicant that proves the site contains appropriate screening without needing street screening "*
19. An expected timeframe should be established for the succession of obligations should the solar energy system change ownership with added language for the recourse should the timeframes not be met within Article 16.5.2.k. Furthermore, adding insurance and sureties/bond to the sentence *"...the special use permits shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the special use permit, site plan approval, **insurance, sureties/bond** and decommissioning plan."* would ensure further protective measures.
20. While Article 16.6 notes that the code enforcement officer determines when the site and system have not been maintained, is a safety risk or after one year without electrical generation, the actual enforcement may be difficult. By including an additional section, Article 16.2.(3), that states "*Large-scale solar energy systems will be required to provide monthly power generation reports to the Town Board or Planning Board by the 15th of the month following. Proprietary information may be redacted as needed. Should three consecutive months of reports not be received by the Town, the Town may initiate the Decommissioning Plan if they so choose 90 days after written notification of noncompliance,"* all parties will have defined expectations. Additionally, the property owner (solely) is identified to remove the system, mount, and associated equipment. This should be revised to the property owner **and/or operator**. For consistency consider adding the bold to reflect prior language used in the proposed law in the last sentence of Article 16.6 *"If the Large-Scale Solar Energy System is not decommissioned after being considered abandoned, the Town may remove the system, restore the property **parcel to its original state** and impose a lien on the property to cover costs to the municipality to the extent not covered by any surety/bond required under Article 16.5.j. of this law."* Consider clarifying the sentence that states *"If the Solar Energy System ceases to perform its originally intended function for*

*more than twelve (12) consecutive months, the **property owner** shall remove the system, mount and associated equipment and facilities by no later than ninety (90) days after the end of the twelve (12) month period."*- the intent is not clear nor is the start date for the 12 months. If the intent was to incorporate a timeline for expected operations, consider replacing it with the following *"If the applicant does not complete construction of the project within 12 months after beginning construction, this may be deemed as abandonment of the project and require implementation of the Decommissioning Plan to the extent applicable. The Town may notify the operator and/or owner to complete the construction and installation of the facility within 90 days from the notification date. If the owner and/or operator fails to perform, the Town may notify the owner and/or operator to implement the Decommissioning Plan. The Decommissioning Plan must be completed within 90 days of notification by the Town."*

21. The Town should consider adding Article 16.7, Damages, to add language in the event Town infrastructure is damaged during the installation or decommissioning process, such as *"If in the course of the delivery, installation, maintenance, dismantling, removal or transport of the Solar Energy System or any components thereof the property of the Town of Lewis, including but not limited to roadways, shoulders, drainage structures, signage, guide rails, etc., is damaged by the efforts of the applicant or any agents thereof, the applicant shall, within 30 days of completing construction, completely replace or repair all damage in consultation with the Town Highway Superintendent."*

Non-Binding Notes:

1. A portion of your Town may also be under pressure for Battery Energy Storage Systems. The template language for Battery Energy Storage Systems is as follows:

<u>Battery Energy Storage Systems</u>

A. Purpose
   1. The requirements of this Local Law shall apply to all battery energy storage systems permitted, installed, or modified in the Town of Lewis after the effective date of this Local Law, excluding general maintenance and repair.
   2. Battery energy storage systems constructed or installed prior to the effective date of this Local Law shall not be required to meet the requirements of this Local Law.
   3. Modifications to, retrofits or replacements of an existing battery energy storage system that increase the total battery energy storage system designed discharge duration or power rating shall be subject to this Local Law.

B. General Requirements
   1. A building permit and an electrical permit shall be required for the installation of all battery energy storage systems.
   2. Issuance of permits and approvals by the Town Board shall include review pursuant to the State Environmental Quality Review Act ECL Article 8 and its implementing regulations at 6NYCRR Part 617 ("SEQRA").

3. All battery energy storage systems, all Dedicated Use Buildings, and all other buildings or structures that (1) contain or are otherwise associated with a battery energy storage system and (2) subject to the Uniform Code and/or the Energy Code shall be designed, erected, and installed in accordance with all applicable provisions of the Uniform Code, all applicable provisions of the Energy Code, and all applicable provisions of the codes, regulations, and industry standards as referenced in the Uniform Code, the Energy Code, and the Town of Lewis Zoning Law.

C. Permitting Requirements for Tier 1 Battery Energy Storage Systems.

1. Building-mounted and Ground-mounted Tier 1 Battery Energy Storage Systems shall be permitted, subject to the Uniform Code and a Zoning Permit, and are exempt from Site Plan Review.
2. Ground-mounted Tier 1 Battery Energy Storage Systems are permitted as accessory structures and are subject to the following requirements:
    i. The height of the ground-mounted Tier 1 Batter Energy Storage System and any mounts shall not exceed 15 feet.
    ii. The total surface area of the ground-mounted Tier 1 Battery Energy Storage System on the lot shall not exceed 5% lot coverage.
    iii. The ground-mounted Tier 1 Battery Energy Storage System is not the primary use of the property.
    iv. The ground-mounted Tier 1 Battery Energy Storage System is located in a side or rear yard.
    v. The ground-mounted Tier 1 Battery Energy Storage System shall comply with the minimum setbacks for accessory structures applicable to the zoning district in which the battery energy storage system is sited.
    vi. The ground-mounted Tier 1 Battery Energy Storage System shall be screened from adjacent residences through the use of architectural features, earth berms, landscaping, or other screening which will harmonize with the character of the property and surrounding area.

D. Permitting for Tier 2 Battery Energy Storage Systems.

Tier 2 Battery Energy Storage Systems are permitted through the issuance of a Special Use Permit and shall be subject to the Uniform Code and application requirements outlined in this Section.

1. Applications for the installation of Tier 2 Battery Energy Storage System shall be:
    i. Reviewed by the Building Inspector for completeness. An application shall be complete when it addresses all matters listed in this Local Law including, but not necessarily limited to:
        1) Compliance with all applicable provisions of the Uniform Code and all applicable provisions of the Energy Code; and
        2) Matters relating to the proposed battery energy storage system and Floodplain, Utility Lines and Electrical

Circuitry, Signage, Lighting, Vegetation and Tree-cutting, Noise, Decommissioning, Site Plan and Development, Special Use and Development, Ownership Changes, Safety, and Permit Time Frame and Abandonment. Applicants shall be advised within ten (10) business days of the completeness of their application or any deficiencies that must be addressed prior to substantive review.

ii. Subject to a public hearing to hear all comments for and against the application. The Town Board of the Town of Lewis shall have a notice printed in a newspaper of general circulation in the Town of Lewis at least five (5) days in advance of such hearing. Applicants shall have delivered the notice by first class mail to adjoining landowners or landowners within 200 feet of the property at least ten (10) days prior to such a hearing. Proof of mailing shall be provided to the Town Board at the public hearing.

iii. Referred to the County Planning Department pursuant to General Municipal Law § 239-m, if required.

iv. Upon closing of the public hearing, the Town Board shall take action on the application within 62 days of the public hearing, which can include approval, approval with conditions, or denial. The 62-day period may be extended upon consent by both the Town Board and Applicant.

2. Utility Lines and Electrical Circuitry. All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles, with new easements and right-of-way.
3. Signage.
    i. The signage shall be in compliance with ANSI Z535 and shall include the type of technology associated with the battery energy storage systems, any special hazards associated, the type of suppression system installed in the area of battery energy storage systems, and 24-hour emergency contact information, including reach-back phone number.
    ii. As required by the NEC, disconnect and other emergency shutoff information shall be clearly displayed on a light-reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.
4. Lighting. The lighting of the battery energy storage systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties.
5. Vegetation and Tree Cutting. Areas within ten (10) feet on each side of Tier 2 Battery Energy Storage Systems shall be cleared of

combustible vegetation and other combustible growth. Single specimens of trees, shrubbery, or cultivated ground cover such as green grass, ivy, succulents, or similar plants used as ground covers shall be permitted to be exempt provided that they do not form a means of readily transmitting fire. Removal of trees should be minimized to the extent possible.

6. Noise. The one-hour (1-hour) average noise generated from the battery energy storage systems, components, and associated ancillary equipment shall not exceed a noise level of 60 dBA as measured at the outside wall of any non-participating residence or occupied community building. Applicants shall submit equipment and component manufacturers' noise ratings to demonstrate compliance. The applicant may be required to provide Operating Sound Pressure Level measurements from a reasonable number of sampled locations at the perimeter of the battery energy storage system to demonstrate compliance with this standard.
7. Decommissioning.
    i. Decommissioning Plan. The applicant shall submit a Decommissioning Plan, developed in accordance with the Uniform Code, to be implemented upon abandonment and/or in conjunction with removal from the facility. The Decommissioning Plan shall include:
        1) A narrative description of the activities to be accomplished, including who will perform that activity and at what point in time, for complete physical removal of all battery energy storage system components, structures, equipment, security barriers, and transmission lines from the site;
        2) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations;
        3) The anticipated life of the battery energy storage system;
        4) The estimated decommissioning costs and how said estimate was determined;
        5) The method of ensuring that funds will be available for decommissioning and restoration;
        6) The method by which the decommissioning cost will be kept current;
        7) The manner in which the site will be restored, including a description of how any changes to the surrounding areas and other systems adjacent to the battery energy storage system, such as, but not limited to, structural elements, building penetrations, means of egress, and required fire detection suppression systems, will be protected during decommissioning and confirmed as being acceptable after the system is removed; and
        8) A listing of any contingencies for removing an intact operational energy storage system from service, and for

removing an energy storage system from service that has been damaged by a fire or other event.

9) Decommissioning Fund. The owner and/or operator of the energy storage system shall continuously maintain a fund or bond payable to the Town of Lewis in a form approved by the Town Clerk's Office for the removal of the battery energy storage system, in an amount to be determined by the Town of Lewis for the period of the life of the facility. This amount will be reviewed and updated on an annual basis. This fund may consist of a letter of credit from a State of New York-licensed financial institution. All costs of the financial security shall be borne by the applicant.

8. Site Plan Application. For a Tier 2 Battery Energy Storage System requiring a Special Use Permit, site plan approval shall be required. Any site plan application shall include the following information:
    i. Property lines and physical features, including roads, for the project site.
    ii. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, and screening vegetation or structures.
    iii. A three-line electrical diagram detailing the battery energy storage system layout, associated components, and electrical interconnection methods, with all National Electrical Code-compliant disconnects and over current devices.
    iv. A preliminary equipment specification sheet that documents the proposed battery energy storage system components, inverters and associated electrical equipment that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of a Building Permit.
    v. Name, address, and contact information of the proposed or potential system installer and the owner and/or operator of the battery energy storage system. Such information of the final system installer shall be submitted prior to the issuance of a Building Permit.
    vi. Name, address, email address, phone number, and signature of the project Applicant, as well as all the property owners, demonstrating their consent to the application and the use of the property for the battery energy storage system.
    vii. Commissioning Plan. Such plan shall document and verify that the system and its associated controls and safety systems are in proper working condition per requirements set forth in the Uniform Code. Where commissioning is required by the Uniform Code, Battery energy storage system commissioning shall be conducted by a New York State (NYS) Licensed

Professional Engineer after the installation is complete but prior to final inspection and approval. A corrective action plan shall be developed for any open or continuing issues that are allowed to be continued after commissioning. A report describing the results of the system commissioning and including the results of the initial acceptance testing required in the Uniform Code shall be provided to the Building Inspector prior to final inspection and approval and maintained at an approved on-site location.

viii. Fire Safety Compliance Plan. Such plan shall document and verify that the system and its associated controls and safety systems are in compliance with the Uniform Code.

ix. Operation and Maintenance Manual. Such plan shall describe continuing battery energy storage system maintenance and property upkeep, as well as design, construction, installation, testing, and commissioning information and shall meet all requirements set forth in the Uniform Code.

x. Erosion and sediment control and stormwater management plans prepared to New York State Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Town Board.

xi. Prior to the issuance of the building permit or final approval by the Town Board, but not required as part of the application, engineering documents must be signed and sealed by a NYS Licensed Professional Engineer.

xii. Emergency Operations Plan. A copy of the approved Emergency Operations Plan shall be given to the system owner, the local fire department, and the local fire code official. A permanent copy shall also be placed in an approved location to be accessible to facility personnel, fire code officials, and emergency responders. The Emergency Operations Plan shall include the following information:

1) Procedures for safe shutdown, de-energizing, or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock, and personal injuries, and for safe start-up following cessation of emergency conditions.
2) Procedures for inspection and testing of associated alarms, interlocks, and controls.
3) Procedures to be followed in response to notifications from the Battery Energy Storage Management System, when provided, that could signify potentially dangerous conditions, including shutting down equipment,

summoning service and repair personnel, and providing agreed-upon notification to fire department personnel for potentially hazardous conditions in the event of a system failure.

4) Emergency procedures to be followed in case of fire, explosion, release of liquids or vapors, damage to critical moving parts, or other potentially dangerous conditions. Procedures can include sounding the alarm, notifying the fire department, evacuating personnel, de-energizing equipment, and controlling and extinguishing the fire.
5) Response considerations similar to a Safety Data Sheet (SDS) that will address response safety concerns and extinguishment when an SDS is not required.
6) Procedures for dealing with battery energy storage system equipment damaged in a fire or other emergency event, including maintaining contact information for personnel qualified to safely remove damaged battery energy storage system equipment from the facility.
7) Other procedures as determined necessary by the Town of Lewis to provide for the safety of occupants, neighboring properties, and emergency responders.
8) Procedures and schedules for conducting drills of these procedures and for training local first responders on the contents of the Plan and appropriate response procedures including proper personal protection equipment.

9. Special Use Permit Standards.
    i. Setbacks. Tier 2 Battery Energy Storage Systems shall be set back at least 200 feet from any adjacent lot lines.
    ii. Height. The maximum height of structures dedicated to Tier 2 Battery Energy Storage Systems shall be 20 feet.
    iii. Fencing Requirements. Tier 2 Battery Energy Storage Systems, including all mechanical equipment, shall be enclosed by a seven (7) foot-high fence with a self-locking gate to prevent unauthorized access unless housed in a dedicated-use building and not interfering with ventilation or exhaust ports.
    iv. Screening and Visibility. Tier 2 Battery Energy Storage Systems shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area and not interfere with ventilation or exhaust ports.
    v. Safety. All applicable Emergency Service Agencies and Personnel shall receive initial and annual on-site drills and training, provided by the applicant, to ensure that the

procedures for safe shutdown, de-energizing, or isolation of equipment and systems under emergency conditions are fully understood prior to operations. Any costs for training and required emergency services equipment shall be supplied by the applicant.

10. Ownership Changes. If the owner of the battery energy storage system changes or the owner of the property changes, the Special Use Permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the Special Use Permit, Site Plan approval, and Decommissioning Plan. A new owner or operator of the battery energy storage system shall notify the Building Inspector and Zoning Enforcement Officer of such change in ownership or operator within 30 days of the ownership change. A new owner or operator must provide such notification to the Building Inspector or Zoning Enforcement Officer in writing. The Special Use Permit and all other local approvals for the battery energy storage system would be void if a new owner or operator fails to provide written notification to the Building Inspector in the required timeframe. Reinstatement of a void Special Use Permit will be subject to the same review and approval processes for new applications under this Local Law.

E. Safety.
   1. System Certification. Battery energy storage systems and equipment shall be listed by a Nationally Recognized Testing Laboratory to UL 9540 (Standard for battery energy storage systems and Equipment) or approved equivalent, with subcomponents meeting each of the following standards as applicable:
      i. UL 1973 (Standard for Batteries for Use in Stationary, Vehicle Auxiliary Power and Light Electric Rail Applications),
      ii. UL 1642 (Standard for Lithium Batteries),
      iii. UL 1741 or UL 62109 (Inverters and Power Converters),
      iv. Certified under the applicable electrical, building, and fire prevention codes as required.
      v. Installed following NFPA 855- Standards or the Installation of Stationary Energy Storage Systems.
      vi. Alternatively, field evaluation by an approved testing laboratory for compliance with UL 9540 (or approved equivalent) and applicable codes, regulations, and safety standards may be used to meet system certification requirements.
   2. Site Access. Battery energy storage systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level acceptable to the local fire departments and Lewis County Emergency Services Director.
   3. Battery energy storage systems, components, and associated ancillary equipment shall have required working space clearances,

and electrical circuitry shall be within weatherproof enclosures marked with the environmental rating suitable for the type of exposure in compliance with NFPA 70.

F. Permit Time Frame and Abandonment.

1. The Special Use Permit and Site Plan approval for a battery energy storage system shall be valid for a period of 24 months, provided that a building permit is issued for construction and/or construction is commenced. In the event construction is not completed in accordance with the final Site Plan, as may have been amended and approved, as required by the Town Board, within 24 months after approval, the Town Board may extend the time to complete construction for no more than 180 days. If the owner and/or operator fails to perform substantial construction after 36 months, the approvals shall expire.
2. The battery energy storage system shall be considered abandoned when it ceases to operate consistently for more than one (1) year. If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Town of Lewis may, at its discretion, enter the property and utilize the available bond and/or security for the removal of a Tier 2 Battery Energy Storage System and restoration of the site in accordance with the Decommissioning Plan. The Town of Lewis may impose a lien on the property to cover any decommissioning costs not covered by the bond or security.
   If the above language is added, the following are suggested terms with definitions to be added to Article 3:

   BATTERY(IES): A single cell or a group of cells connected together electrically in series, in parallel, or a combination of both, which can charge, discharge, and store energy electrochemically. For the purposes of this law, batteries utilized in consumer products are excluded from these requirements.

   BATTERY ENERGY STORAGE MANAGEMENT SYSTEM: An electronic system that protects energy storage systems from operating outside their safe operating parameters and disconnects electrical power to the energy storage system or places it in a safe condition if potentially hazardous temperatures or other conditions are detected.

   BATTERY ENERGY STORAGE SYSTEM: One or more devices, assembled together, capable of storing energy in order to supply electrical energy at a future time, not to include a stand-alone 12-volt car battery or an electric automobile. A battery energy storage system is classified as a Tier 1 or Tier 2 Battery Energy Storage System as follows:
   A. Tier 1 Battery Energy Storage Systems have an aggregate energy capacity less than or equal to 600kWh and, if in a room or enclosed area, consist of only a single energy storage system technology.

B. Tier 2 Battery Energy Storage Systems have an aggregate energy capacity greater than 600kWh or are comprised of more than one storage battery technology in a room or enclosed area.

BATTERY ENERGY STORAGE SYSTEM BUILDING-MOUNTED: A Battery Energy Storage System attached to any part of a building or structure that has an occupancy permit on file with the Town and/or County, and that is either the principal structure or an accessory structure on a recorded parcel.

BATTERY ENERGY STORAGE SYSTEM GROUND-MOUNTED: A Battery Energy Storage System that is not a Building-Mounted Battery Energy Storage System.

CELL: The basic electrochemical unit, characterized by an anode and a cathode, used to receive, store, and deliver electrical energy.

ENERGY CODE: The New York State Energy Conservation Construction Code adopted pursuant to Article 11 of the Energy Law, as currently in effect and as hereafter amended from time to time.

FIRE CODE: The fire code section of the New York State Uniform Fire Prevention and Building Code adopted pursuant to Article 18 of the Executive Law, as currently in effect and as hereafter amended from time to time.

2. Consider adopting language to regulate such developments. Article 14 Mobile Home Parks could be moved to Article 8 and Article 14 could become Battery Energy Storage Systems. The template language for Battery Energy Storage Systems has been attached to the provided recommendations for ease of integration if you so choose. Should the Town adapt such changes, ensure the corresponding updates to the Table of Contents.
3. Consider relocating Article 16.5.2.g, Tree Cutting, to follow Article 16.5.1.h, which discusses the conversion of forest land.
4. Article 16.5.2.h appears to have a typographical error “the ground **withing** the fenced perimeter shall not be tamped, compressed, or otherwise conditioned with herbicides or similar other treatment to inhibit the growth of natural vegetation.”
5. The Town should consider updating the term “mobile home” with “manufactured home’” throughout the entire document. This term became obsolete in 1976 when HUD introduced the term manufactured home.

Mr. Cook mentioned that recommendation #20 was detailed and thorough regarding Decommissioning Plans stating each party's role and he would be copying it for use in the Town of Pinckney for wind turbines.

Ms. Krokowski reiterated that a lot of time, research, and effort has gone into creating the template language that has been prepared so that there is a tool for the municipalities to adjust and adapt to their needs.

With no further discussion, a motion was made by Mr. Lehman to approve the proposed local law with the above-stated conditions and non-binding notes, which was seconded by Mr. Osborne and carried unanimously.

Ms. Krokowski read the final review:

TOWN OF NEW BREMEN PLANNING BOARD

Site Plan Review for the relocation of tire repair/sales business from adjacent property to existing 70'x 40' building on Patty Street in the Town of New Bremen. Tax Map Parcel #162.00-02-14.000
Melvin Weber – Applicant

The Town of New Bremen Planning Board provided the following Project Documentation: 1) Site Plans/Designs; 2) General Municipal Referral Form with Agricultural Data Statement; 3) Short Environmental Assessment Form; 4) October 5, 2024 Town of New Bremen Planning Board Meeting Minutes; and 5) Letter of Zoning Referral.

- *Compatibility With Adjacent Uses:*

The proposed project is located within the Town of New Bremen which is designated as one zone, Rural Residential, and the proposed action could be considered a new commercial use, which is an allowed use within said zone.

- *Traffic Generation and Effect:*

According to the submitted SEAF, the proposed action will not substantially increase traffic above present levels. Before taking action, the New Bremen Highway Superintendent should provide the New Bremen Planning Board or Town Board a written determination on whether the proposed action will result in traffic demands that exceed the capacity of the highway(s) that serve the site, as noted in Article VI Section 610 B.8, and whether there are any concerns that should be addressed.

- *Protection of Community Character:*

As identified on the supplied EAF Mapper Summary Report, the proposed action does not have a national landmark, is not within a critical environmental area, and is not a designated river corridor. Furthermore, as part of this review, the CRIS website showed that the proposed action is not located near any buildings on the National Register of Historic Buildings or any archeologically sensitive areas present. According to the IPAC report, the candidate species Monarch Butterfly could be affected by activities in the proposed location. The applicant should be cognizant of land-clearing activities or other activities that could affect the aforementioned species.

The Environmental Resource Mapper indicated that the project site does not contain any notable environmental features. The Web Soil Survey (WSS) indicated that the soil contains a classification of *Farmland of statewide importance*. The proposed site has not been utilized for agricultural purposes and; therefore, there is no loss in valuable soil utilization.

- *Signage:*

The referral did not include a specific plan for signage; however, since this is a commercial operation, prior to taking action, all proposed signage should be verified with the New Bremen Planning Board or the Town Board to determine that the proposed signage conforms with Article III Section 330, and Article VI Section 610 F.

- *Drainage:*

According to the submitted SEAF and Web Soil Survey, the drainage status of the project site soil is comprised of moderately well-drained soil. Due to the increased parking area, prior to approval, the New Bremen Planning Board or the Town Board should request drainage plans to ensure compliance with Article VI Section 610 G. The Planning Board should strongly deliberate when considering waiving the requirements of providing respective plans in the application phase of this process as the County Planning Board cannot provide technical advice on plans that are not submitted.

- *Erosion:*

According to the submitted SEAF, .4 acres are to be disturbed as a result of the proposed activity. Should the project disturb more than 1 acre of land, a SPDES permit would be required.

- *Parking:*

The proposed action does not specifically show a parking plan. Per the provided October minutes, a 50x100' parking area will be provided using the previous footprint of a manufactured home site. The applicant should ensure that the respective septic system and leech field location is fenced off or the system is properly removed and/or filled in to prevent vehicle penetration and refuse contamination. Before approval, the Town of New Bremen Planning Board or the Town Board shall require a parking plan that shows the proposed traffic pattern (to include egress and ingress), parking space dimensions, designated handicapped parking spaces labeled as required by the ADA, the total number of proposed spaces, and driveway width and distance relative to the roadway to ensure compliance with Article VI Section 610 B. Additionally, the Town should require the plan to identify where the entire septic system is and the plans to prevent refuse impairments.

- *Community Facilities:*

According to the Short Environmental Assessment Form, water will be supplied by existing public/private water supply. The EAF also indicates that the site will connect to a private septic which shall comply with Appendix 75(A). The New Bremen Planning Board or the Town Board should ensure water and sewer facilities are adequate for the projected increase in usage caused by the proposed development and compliance with Article VI Section 610 A and all pertinent codes/regulations prior to taking action.

- *Lighting:*

The Planning Board waived the requirement of the applicant to provide lighting plans with the site plan application. Prior to action, clear lighting plans should be submitted to the New Bremen Planning Board or the Town Board to ensure compliance with Article VI Section 610 E. It is suggested that a minimum of down-casting motion sensor light packs be added to the entire exterior of the building for safety and security purposes.

- *Landscaping and Screening:*

Landscaping plans were not submitted; nor required according to the Planning Board's waiver in the October minutes; however, prior to taking action, plans are necessary for the New Bremen Planning Board or the Town Board to determine compliance with Article VI Section 610 D. Given the nature of the proposed business, the Board may want to stipulate where used tires would be stored to keep with the character of the Town and what type of screening/ buffer would be used to conceal such.

- *Other:*

Article VII Section 710 states "*Subsequent to the granting of site plan approval, no certificate of occupancy shall be issued until all improvements shown on the site plan review are installed or a sufficient performance guarantee has been provided by the applicant for improvements not yet completed.*" Section 720 indicates that the Town Board may require a Performance Guarantee with three options for agreements.

Recommendation: Approve with the following conditions

1. Prior to taking action, the New Bremen Highway Superintendent should provide the New Bremen Planning Board with a written determination on whether the proposed action will result in traffic demands that exceed the capacity of the highway(s) that serve the site, as noted in Article VI Section 610 B.8, and whether there are any concerns that should be addressed.
2. While no sign plans were submitted and this submission requirement was waived by the Planning Board, being that this is a commercial operation, it is assumed that a sign will be erected. Prior to taking action, all proposed signage should be verified with the New Bremen Planning Board to determine that the proposed signage conforms with Article III Section 330 and Article VI Section 610F. Any sign used on this site should not protrude into the public right-of-way nor should it impact the line of sight.
3. Prior to taking action, the applicant should submit a parking plan to the Town Planning Board that shows the proposed traffic pattern (to include egress and ingress), parking space dimensions, designated handicapped parking spaces labeled as required by the ADA, the total number of proposed spaces, and driveway width and distance relative to the roadway to ensure compliance with Article VI Section 610.B. Additionally, the Town should require the plan to identify where the entire septic system is and the plans to prevent refuse impairments.
4. Prior to taking action, clear lighting plans should be submitted to the New Bremen Planning Board or the Town Board to ensure compliance with Article VI Section 610 E. At a minimum, it is recommended that down-casting motion

sensor light packs be added to the exterior of the building for safety and security purposes.

5. Prior to taking action, landscaping/screening/buffering plans must be provided to the Town Planning Board or Town Board to ensure compliance with Article VI Section 610.D. Special attention should be given to the location of tire storage as the proper screening would preserve the community character of this area.
6. Compliance with all Local, State, and Federal regulations for this type of facility.

NON-BINDING NOTE:

A) The Planning Board should strongly deliberate when considering waiving the requirements of providing respective plans in the application phase of this process as the County Planning Board cannot provide technical advice on plans that are not submitted.

With no questions or comments, Mr. Cook made a motion to approve with the conditions and non-binding note; Mr. Osborne seconded the motion. The motion was carried unanimously.

(7) **Report of County Planner:**
Ms. Krokowski noted that the following:
Responses from municipalities regarding previously submitted/reviewed projects:

Project Description	Final Action
T/Pinckney-Site Plan Review (2 lean-to additions) | Kevin Doyle	Approved w/Conditions
T/Denmark-SUP/Area Variance (Merz Rd.) | Verizon Wireless	Approved w/Conditions

(8) **Unfinished Business:** Required 4 hours of annual land use training due by December 31, 2024.

(9) **New Business:** Ms. Metott suggested that on CPB months when there are no projects, perhaps fill the meeting in with training starting with battery storage systems (training to get certification credits).

(10) **Public Comments**: Michele Ledoux requested information about the results of the Town of Lyonsdale referral review, which she missed as the order of reviews changed from the agenda. Mr. Petersen indicated that he felt the review went favorably for all.

(11) **Adjournment:** There being no other business, a motion to adjourn the meeting was made by Mr. Lehman and seconded by Mr. Osborne, which carried unanimously. Mr. Petersen adjourned the meeting at 3:39 PM.

Megan Krokowski
Community Development Specialist

Note: These minutes have been transcribed from a recording but are not verbatim or quoted version, they are rather a documentation of the meeting events.