

MINUTES
LEWIS COUNTY PLANNING BOARD
March 20, 2025

(1) **Call to Order:** Chairman Petersen called the regular meeting of the Lewis County Planning Board to order at 2:30 PM in the conference room on the 2nd floor at the Lewis County Court House, Lowville, New York. Mr. Petersen requested a roll call.

(2) **Roll Call:**
Board Members Present: Timothy Petersen, Don Cook, Tom Osborne, Sarah Metott, John Lehman, Eric Virkler, and Larry Dolhof (non-voting member).

Staff Present: Casandra Buell, Planning & Community Development Director, Megan Krokowski, Community Development Specialist and Jon Roes, Code Enforcement Officer.

(3) **Reading and Approval of Minutes:** The draft February 20, 2025 meeting minutes were received and reviewed before the meeting. Mr. Lehman motioned to approve the minutes; Mr. Cook seconded the motion, which carried unanimously.

(4) **Correspondence and Communication:**

▪ **Attorney James Burrows/ Village of Lowville**

Request for reconsideration on CPB recommended condition number 8 of the telecommunication tower referral in the Village of Lowville that was reviewed at the January 16, 2025 meeting to revise the noted structural integrity inspections with ANSI Standards (every 5 years) rather than annually.

The Board discussed the reconsideration request and resolved to modify condition number 8 of the January 16th review regarding 5473 Bostwick Street telecommunication tower project to read:

“The Village Board, in collaboration with the applicant, shall draft and execute a mutually signed agreement. This agreement will formally document the applicant's commitments outlined in the application, specifically addressing the conditions stated on page 5 of the Statement of Intent. The agreement shall include a clear definition of what constitutes 'abandoned' equipment. Furthermore, the agreement shall stipulate that the telecommunication tower must comply with ANSI/TIA standards, to include structural integrity inspections by a New York State-Licensed Professional Engineer every five (5) years; however, an inspection might be performed more frequently than the five (5) year interval pursuant to unique/extreme weather events in Lewis County, as referenced by the ANSI/TIA standards, from time to time. Should an emergency inspection

occur, the original inspection schedule shall remain in effect. Unless an initial structural analysis is completed and filed with the Village and Enforcement Officer prior to activating the tower, an initial structural integrity inspection should occur within the first year post-construction, then the ANSI/TIA standard timeline should be followed. The results of any and all inspections must be submitted to both the Village Board and the Enforcement Officer within sixty (60) days after the completed inspection.”

Mr. Lehman made the motion to accept the changes and Mr. Cook seconded the motion, which carried unanimously. The updated language and action will need to be provided to the Town/Village of Lowville Joint Planning Board as well as the Village of Lowville Board of Trustees.

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

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

Ms. Krokowski read the following review:

TOWN OF DIANA TOWN BOARD

Site Plan Review and Special Use Permit for the proposed conversion of a vacant two-family dwelling to a mixed-use building (Redemption Center on the first floor and an apartment on the second floor) located at 14225 State Street in the Town of Diana.

Tax Map Parcel #013.14-06-13.100

Rob Bernhard (Redemption Hub) – Applicant

The applicant provided the following Project Documentation: 1) General Municipal Referral Form; 2) Site Plan Drawing; 3) Short Environmental Assessment Form- Parts 1, 2, and 3; and 4) Town Application for Special Use Permit.

▪ *Compatibility with Adjacent Uses:*

The applicant is proposing to convert a vacant two-family dwelling within the Hamlet of Harrisville, the mixed-use zone within the Town of Diana, to operate a Redemption Center for cans on the first floor of the existing building, with a dwelling unit on the second floor. The operation is proposed to be open from 9 AM to 4 PM Monday through Friday, and 9 AM through 1 PM on Saturdays, closed on Sundays.

Based on the Town of Diana Zoning Code, Article II Definitions, the following definitions/uses could apply for the proposed use:

Recycling Facility - a solid waste processing facility, other than collection and transfer vehicles, at which non-putrescible recyclables (non-putrescible

recyclables are materials that are not likely to decay quickly and can be recycled. Examples include cardboard, aluminum cans, and many plastic containers) are separated from the solid waste stream or at which previously separated non-putrescible recyclables are processed.

The proposed action could also fall under the following definition within the Zoning for the Hamlet of Harrisville, Article I, which is adopted within the Town of Diana Zoning Code:

Commercial Use- Any use involving the sale or rental or distribution of goods, services, or commodities, either retail or wholesale, or the provision of recreation facilities or activities for a fee.

Considering the Hamlet is within the Town, the requirements for both commercial use (Hamlet) and recycling facility may apply. Both uses require special use permits before being undertaken, per Section 240 (Town) and Section 2.4 (Hamlet).

Based on the Town of Diana Zoning Law for the Hamlet of Harrisville, the following setbacks may apply:

Setback Description	A. Accessory Structures	Actual A.	B. Principal Buildings	Actual B.
Minimum distance to side and rear lot lines	10'	NA	25'	3',13',60'
Minimum distance to the center line of public streets and roads	40'	NA	50'	38'
	C. Minimum Lot Area	Actual C.	D. Max Lot Coverage	Actual D.
Commercial use/ nonresidential uses	15,000 sq. ft.	7,319 sq. ft.	50% (3,649.5sq. ft.)	3,600*

* Indicates estimated measurements provided by GIS

The proposed use shall require an area variance for the insufficient dimensional standard requirements set forth in Article III Section 3.1 and 3.2 as shown in the table above. There appear to be no provisions within the law regarding non-conforming lots or structures, with the only mention of nonconformity applicable to mobile homes.

The proposal also mentions that it will “most likely include an Amish shed in the backyard at some point”. Should the applicant wish to move forward with an accessory structure (Amish shed), an additional review will be required before acquisition and placement as, depending on the size of the structure, the lot coverage stipulated in Article III Section 3.2 may be exceeded. Placement of any accessory structure shall be no closer than 10’ to side and rear lot lines, per Article III Section 3.1. For clarification, the County Planning Board has not reviewed the aspects of the proposal related to the potential accessory

structure. These elements will require additional permitting and the appropriate review in accordance with established regulations.

The proposed project is within the Town of Diana, which according to Section 210 is designated as one zone, Rural Residential. When the Village of Harrisville dissolved, the Town of Diana absorbed the regulations for Harrisville within their zoning as an embedded law. It is our understanding that the Hamlet of Harrisville Law falls under the principal Town of Diana Zoning Law 'umbrella' and both standards may apply.

It is important to note that, Article I Section 140 of the Town of Diana Zoning Law states, *"This local law in no way affects the provisions or requirements of any other federal, state, or local law or regulations. Where this local law is in conflict with any other such law or regulation, **the more restrictive shall apply.**"*

▪ *Traffic Generation and Effect:*

According to the submitted SEAF, the applicant has determined that the proposed action will not result in increased traffic generation. It is noted that the applicant expects ten (10) vehicles per day with approximately two (2) bags (size not noted) of cans per vehicle. NYS DOT traffic count data was not available for this site.

Before taking action, the applicant and Town Board shall ensure Article VIII* Design Standards (*should be VII), 710.b. are followed, specifically:

7) The minimum maintained width of driveways shall be twenty-four (24) feet which allows for incoming and outgoing vehicles to pass one another safely.

9) In situations where the proposed additional traffic is likely to result in a significant decrease in traffic safety conditions, the Town Board may require the applicant to provide traffic improvements as a condition of site plan approval or to reduce the size or density of the proposed development.

Article IV Section 3.3 also states that *"All driveways and entrances and exits to public streets shall be designed to provide maximum safety and proper drainage. Any culverts, ditches or other drainage facilities shall be approved by the Town Superintendent or his designee."*

Before taking action, the Town Board shall either require the widening of the existing site driveway to twenty-four (24) feet or document the waiver of such requirement with appropriate justification. Should widening be required, the Town Highway Superintendent shall be consulted to evaluate compliance with Article IV, Section 3.3.

- *Protection of Community Character:*

According to the SEAF submitted by the applicant, the proposed action is not in a critical environmental area, national or state register of historical places or state eligible sites or archeological site, is not critical habitat to threatened/endangered species, and does not contain all or part of a registered National Natural Landmark. Even though critical habitat is not identified, the IPAC Report identified the Northern Long-eared Bat and the candidate species Monarch Butterfly. For this reason, the applicant should be cognizant not to disturb these species.

As part of this review, the Environmental Resource Mapper was utilized, and a Natural Community of Significance near the site, identified as the Maple-basswood rich mesic forest, as well as multiple sections of the Oswegatchie River, a Class D Stream, and National Wetland Inventory Freshwater forested wetland. Consultation with DEC may be required to evaluate the potential impacts of the proposed project on the natural community and the other wetland features near the site before approval. According to the CRIS Mapper, the project site is located approximately 70' adjacent to an area designated as sensitive for archeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory; therefore, consultation with SHPO should be required before the Special Use Permit approval.

The proposed site, while previously classified as a vacant two-family dwelling, is planned to utilize the original site footprint; however, per Article IV, Section 3.3, the lot is non-conforming as the building does not meet the setbacks. The Town Board should consider mitigation conditions applicable to the ramifications of approving a commercial use of this nature on a lot that is too small for the standards set forth. With the proposed action set to use a building that may be too close to both neighbor property lines with potentially inadequate storage of cans, damaging quality of life impacts may result

According to the applicant, the garage can store approximately 200 bags of cans, equivalent to approximately one and a half weeks' worth of estimated cans. The applicant indicates that pickup will occur once per month or every other month. This would result in up to 8 weeks' worth of cans. The area behind the garage is connected to the house and will also be used for can storage with an undetermined capacity. The applicant also indicated cans could be stored in the basement, which also has an undetermined capacity at the time of this review.

With the proposed action located in the center of the Hamlet of Harrisville, the storage of cans outside would draw insects and vermin. Considerations should be made to require can storage to be inside a building or structure to prevent pests. The Town Board shall require the applicant to demonstrate the capacity to store 8 weeks' worth of cans in a controlled environment (inside a building,

bagged) or require monthly pickups as a term of the permit should the applicant demonstrate the capacity to store 4 weeks of cans at peak volume. The Town Board shall require any outdoor storage for glass bottles, such as the Gaylord storage proposed, to be completely sealed at all times except when in use, so as not to attract insects, pests, or vermin.

The applicant indicates that he has yet to have an issue with pests, but his dog will be there, and he could get a store cat, plus mouse traps should be adequate. Since prior operation occurred during the winter months, when many pests are dormant, the Board shall require additional insect/pest/vermin measures, as they see fit, for the health and safety of all. The Board shall require monthly (or a frequency determined appropriate) extermination visits given the site's location within the Hamlet, with adjoining residential properties, and with the secondary use of housing on the second floor of the structure.

The Board should consider if additional pest management measures should be required including, but not limited to, specifying the type of storage of the cans, such as sealed totes rather than bags that can leak, requiring cans to be rinsed to remove sugar and other attractants, or a combination of the two. The suggestion to require single-use bags to be doubled was not provided, as it is not a sustainable practice and contradicts the practice of recycling.

- *Signage:*

The applicant proposes a 12' by 52" vinyl banner that showcases the Redemption Hub logo. This size would equal roughly 52 sq. ft., which exceeds the maximum requirements of Article VIII Section 710.f. Before taking action, the Board should require the sign size to be reduced to comply with VIII Section 710.f or pursue a variance/waiver for the sign size deviation. Additionally, the applicant could consider adding a telephone number and hours of operation to the proposed sign.

Furthermore, to comply with the Zoning for the Hamlet of Harrisville, before taking action, the Town Board should ensure that the sign does not obscure visibility as to impair traffic safety on public streets or roads and that it will not exceed twenty feet (20') in height, as this is not permitted in Article IV Section 3.5.

- *Drainage:*

According to the submitted SEAF, the proposed action site does contain wetlands or waterbodies regulated by a federal, state, or local agency. Additionally, no physical land disturbance is planned. If the physical disturbance is planned to occur within 100' of the protected waterbody border, proper permitting is required. The ERM notes that multiple wetlands features near the site are listed on the National Wetlands Inventory or are protected by NYS.

The ground disturbance is notated at 0 acres, which falls under the one-acre threshold requiring an SPDES permit. However, the driveway width, as presented, is insufficient and a buffer on the northeast property line will likely be required, per the zoning law.

According to Section 710 h.1.c., “*An Erosion Control Plan must be submitted and approved when an activity involves one of the following: c. The activity will occur within 500 feet of a stream, river or lake.*” To comply with Article VIII, Section 710 h.1.c., before taking action, the Board shall require an Erosion Control Plan.

- *Parking:*

The applicant noted that the customers will pull up to the curb and ‘will be in and out within 5 minutes.’ It is estimated that the business will have 10 customers a day. The property adjoins Scenic View Public Parking and the applicant states “*I believe the Town would write us a letter saying it is ok for our customers to park there (public parking) during business hours if we asked them.*”

The cans will be picked up once a month or every other month from Tomra. There would likely be an 18-wheeler parked curbside on State Street for the amount of time required to retrieve all the stored cans. To avoid line of sight issues, the option to use public parking would help to limit traffic hazards as stated in Article VII Section 710.c.1.

Before taking action, the Town Board shall determine which standards apply relative to Article VIII Section 710.c., as it specifies the parking/loading standards that *may* be required by the Town Board in appropriate circumstances.

On 3/14/2025, the applicant provided information, via email, that there is one second-floor apartment, and the tenant is utilizing public parking. As presented, the Town Board shall require a variance for Article III Section 3.62 A, as one space per dwelling unit is required, should the Board believe that the use is compatible with the neighborhood as proposed.

- *Community Facilities:*

According to the submitted SEAF, public water, and sanitary wastewater will be utilized. The applicant indicated that the Redemption Center would use less water than the second-floor dwelling because it will primarily be utilized for employees to drink, wash their hands, and use for cleaning purposes. The Town Board should be aware that the cans will not be rinsed of any leftover contents. Before taking action, the Town Board should document their ability to supply the necessary water to this facility.

In an email dated 3/14/2025, the applicant indicated that there is a full bathroom off the kitchen, near the door leading out to the back porch. As the

space will be now utilized for a commercial operation, an inspection must be conducted to ensure compliance with NYS Building Codes requirements before permit approval.

On the Town of Diana Application, the applicant indicated that he purchased the vacant property a month ago and his intent was to fill a void within the Town; however, according to an email from the applicant dated 3/14/2025, there is currently one tenant who utilizes public parking with her one car. All safety features shall be provided for the second-floor apartment, including, but not limited to smoke detectors, carbon monoxide detectors, and railings, before a code of occupancy is issued for the entire building.

- *Lighting:*

According to the applicant, the site will have one (1) to two (2) front porch lights. Before taking action, the Town Board should review the proposal to ensure that the intent of Article VIII Section 710.e is met with a focus on the lighting to balance site safety and security, as well as proper shielding for neighbors and vehicles on State Street.

- *Noise*

According to the submitted project overview, *“A table for counting will be at the front of the store. A second table is for sorting. Surrounding the table are cardboard boxes and the bags for the cans, which have to be sorted by the distributor. Once the bag is filled to the line, it gets picked, tied, and put in the garage. That’s it. No equipment at this time. Perhaps one day we can afford a counting machine, but cans still need to be sorted by hand. Even with the counting machine one day, it is not noisy. It simply throws the cans into the bag from a conveyor belt.”*

The Town Board should evaluate the proposed action to ensure compliance with Section 350, which states that *“the proposed use will utilize appropriate and feasible measures to mitigate the adverse effects of smoke, noise, glare, dust, vibration, odors, or noxious and offensive uses.”* The Town should consider how the scope of the project’s potential impacts could be mitigated with the inclusion of a buffer area and/or screening as it could be appropriate to reduce noise, odors, or visual impairments to the community.

- *Landscaping and Screening:*

While the applicant expressed that landscaping and/or screening was unnecessary for the proposed action, he will comply with Town requirements, weather pending. That said, there is some vegetation between the proposed site and the neighboring property to the north; however, screening does not mask the building as it begins at the end of the primary structure and extends to the rear of the property along its boundary.

Article IV Section 330 Landscaping and Screening states *“That the proposed development, all parking, storage, loading, and service areas are reasonably screened during all seasons of the year from the view of adjacent residential areas and that the general landscaping and method of construction on the site is in character with the surrounding areas. Consideration of aesthetics in the project design and compatibility of signs with neighboring uses should be given.”*

Furthermore, Article VIII Section 710.d.2 states that *“Along a property line facing a residential property, a twenty (20) feet wide buffer strip of evergreen planting shall be provided to effectively screen the commercial/industrial, or campground use from view”*. Given the property does not have the required 25’ side setback, a variance or waiver shall be necessary to reduce the buffer strip from 20’ to a more acceptable width, but should be no less than 3’, or the Town Board could require the placement of a visually acceptable fence to lessen the visual and noise impacts of the mixed-use structure.

Before taking action, the Town Board shall ensure the proposed project is adequately screened from the view of adjacent residential areas according to Article IV(III) Section 330 and Article VIII Section 710.d to the Board’s satisfaction.

▪ *Miscellaneous:*

The SEAF Part 1, as submitted, doesn’t appear to be entirely complete. The instructions for completing the form indicate to *“Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any items.”*

- a) The Name of Action or Project: Project Location, and Brief Description of Proposed Action were all left blank and should be completed.
- b) Question 1 which asks, “Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation?” is left unanswered. When based on the proposed project it should be marked as ‘NO’.
- c) Question 3.a regarding the acreage of the site, 3.b acreage to be physically disturbed, and 3.c total contiguous acreage owned by the applicant should be completed to reflect the real property data for the parcel (.168 acres).
- d) Question 4 states to ‘Check all land uses that occur on, are adjoining or near the proposed action:’ of which no land uses were marked. Consider whether boxes for commercial, residential and perhaps parkland (scenic view) should be checked.

New York State requires each Redemption Center to register using the 6 NYCRR Part 367 entitled Notification Form for Redemption Center Registration form, mailed to NYSDEC, allowing 30 days for NYS DEC to process the application. NYS Regulations also state that *“...before opening a redemption center, you need to contact the municipality where you would like to*

locate your redemption center to ensure compliance with any local zoning and/or business requirements. Proof of compliance with local requirements must be submitted with your application.” Additionally, all Redemption Centers must post a “Redemption Warning” sign, which states that there is a penalty for returning containers on which a deposit was never paid in New York. This sign must be at least 8" x 10", with print at least 1" in size. See Environmental Conservation Law ("ECL"), section 27-1015(4).

The law states that a Redemption Center shall not knowingly redeem an empty beverage container on which a deposit was never paid in New York state. See ECL § 27-1007 (10).

Should any one customer remit 2,500 beverage containers or more, a Bulk Redemption of More Than 2,500 Beverage Containers Form shall be completed. The law requires that this information must be kept on file by the dealer or Redemption Center for a minimum of 12 months and provided to the New York State Department of Environmental Conservation (DEC) if requested.

Note: The document with the Town of Diana Recommendations for review, states in bold “***TOD Planning board will schedule public hearing for approval***”. The body responsible for preparing such a document should refrain from providing a Board determination/action for proposals prematurely so as to avoid potential legal repercussions, such as an Article 78 challenge. This practice could result in legal consequences should the Town ever receive an Article 78 challenge.

Recommendation: TBD

The acting municipal body must have a super-majority (majority plus one) vote to disregard the following conditions:

1. The proposed use shall require an area variance for the insufficient dimensional standard requirements set forth in Article III Section 3.1 and 3.2 as shown in the table above. There appear to be no provisions within the law regarding non-conforming lots or structures with the only mention of non-conformity applicable to mobile homes.
2. Due to lot density restrictions and the fact that the current footprint sets the use near its maximum lot coverage, a future accessory structure, while not defined as an allowed use, would require an area variance for the density threshold, but shall require a minimum 10' lot line setback, regardless.
3. Prior to taking action, the applicant/Town Board shall ensure Article VIII* Design Standards (*should be VII), 710.b. are followed, specifically:
 - 7) *The minimum maintained width of driveways shall be twenty-four (24) feet which allows for incoming and outgoing vehicles to pass one another safely.*

9) In situations where the proposed additional traffic is likely to result in a significant decrease in traffic safety conditions, the Town Board may require the applicant to provide traffic improvements as a condition of site plan approval or to reduce the size or density of the proposed development.

Section 3.3 also states “*All driveways and entrances and exits to public streets shall be designed to provide maximum safety and proper drainage. Any culverts, ditches, or other drainage facilities shall be approved by the Town Superintendent or his designee.*”

Before taking action, the Town Board shall either require the widening of the existing site driveway to twenty-four (24) feet or document the waiver of such requirement with appropriate justification. Should widening be required, the Town Highway Superintendent shall be consulted to evaluate compliance with Section 3.3.

4. Even though critical habitat is not identified, the IPAC Report identified the Northern Long-eared Bat and the candidate species Monarch Butterfly. For this reason, the applicant should be cognizant not to disturb these species.
5. As part of this review, the Environmental Resource Mapper was utilized, and a Natural Community of Significance near the site, identified as the Maple-basswood rich mesic forest, as well as multiple sections of the Oswegatchie River, a Class D Stream, and National Wetland Inventory Freshwater forested wetland. Before taking action, consultation with DEC should be required to evaluate the potential impacts of the proposed project on the natural community and the other wetland features near the site before approval.
6. According to the CRIS Mapper, the project site is located approximately 70' adjacent to an area designated as sensitive for archeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory; therefore, consultation with and a negative determination from SHPO should be required before a zoning permit is issued.
7. According to the applicant, the garage can store approximately 200 bags of cans, equivalent to approximately one and a half weeks' worth of estimated cans. The applicant indicates that pickup will occur once per month or every other month. This would result in up to 8 weeks' worth of cans. The area behind the garage is connected to the house and will also be used for can storage with an undetermined capacity. The applicant also indicated cans could be stored in the basement, which also has an undetermined capacity.

With the proposed action located in the center of the Hamlet of Harrisville, the storage of cans outside would draw insects and vermin. Considerations should be made to require can storage to be inside a building or structure

to prevent pests. The applicant shall demonstrate the capacity to store 4 weeks' worth of cans and 8 weeks' worth of cans in a controlled environment (inside a building). Should only 4 weeks' worth of cans be demonstrated, the Town Board shall require monthly pickups as a term of the permit. Additionally, the Town Board shall require any outdoor storage for glass bottles, such as the proposed outdoor Gaylord storage, to be completely sealed at all times except when in use, so as not to attract insects, pests, or vermin.

8. The proposed site, while previously classified as a vacant two-family dwelling, is planned to utilize the original site footprint; however, per Article IV Section 3.2, the lot is non-conforming as the building does not meet the setbacks. The Town Board should consider mitigation conditions applicable to the ramifications of approving a commercial use of this nature on a lot that is too small for the standards set forth. With the proposed action set to use a building that may be too close to both neighbor property lines with potentially inadequate storage of cans, damaging quality of life impacts may result.
9. The applicant indicates no pest issues to date, citing the presence of his dog and the potential use of a store cat or mouse traps. However, as operations have primarily occurred in winter when pests are less active, the Town Board shall require additional pest management measures to ensure health and safety.

Given the site's location near residential properties and housing above the structure, the Board should require regular extermination services at a frequency deemed appropriate. Preventive measures, such as using sealed containers and rinsing containers to remove attractants, are recommended instead of relying solely on doubling single-use bags.

10. The applicant has proposed a 12' by 52" vinyl banner that showcases the Redemption Hub logo. This size would equal roughly 52 sq. ft., which exceeds the maximum requirements of Article VIII Section 710.f. Before acting, the Town Board should require the sign size to be reduced to comply with Article VIII Section 710.f or seek a variance or waiver. Adding a phone number and hours of operation to the proposed sign is also recommended. Additionally, the Town Board should ensure that the sign complies with Hamlet of Harrisville Zoning by maintaining visibility for traffic safety and adhering to the height limit of twenty feet per Article III Section 3.5.
11. To comply with Section 710 h.1.c, before taking action, the Town Board shall require an Erosion Control Plan. Furthermore, with the presence of wetlands on and near the action site, if any physical disturbance is planned to occur within 100' of a protected waterbody and/or there is ground disturbance of 1 acre or more (to include driveway and buffer improvements), the applicant should obtain the proper permits before implementation.
12. To avoid parking congestion on the streets and large trucks creating traffic hazards, the Town Board shall document their commitment to allowing the applicant to utilize the adjoining public parking lot for year-round large

trailer can pick-ups, customer parking, and tenant parking, if the project proposal is believed to be compatible with the neighborhood. Said commitment shall also include a variance/ waiver request for the one space per dwelling unit parking requirements required in Article III, Section 3.62 A. 13.

13. Before taking action, the Town Board should document its ability to supply the necessary water to this facility and should be aware that the cans will not be rinsed of any leftover contents. Furthermore, given the expanded change of use from a vacant residential property to a mixed-use duplex, as the space will be utilized for a commercial operation, all applicable inspections must be conducted to ensure compliance with NYS Building Codes requirements before commencing operations or obtaining a code of occupancy. This shall include all safety features in the second-floor dwelling including, but not limited to, smoke and carbon monoxide detectors, and railings.
14. While the applicant notes that the project will include one (1) to two (2) exterior lights, before taking action, the Town Board should review the proposal to ensure that the intent of Article VIII Section 710.e is met to balance site safety and security as well as proper shielding for neighbors and vehicles on State Street.
15. To comply with Section 350, before taking action, the Town should evaluate the project's potential noise, odors, or visual impacts on the community and shall ensure sufficient mitigation measures, such as implementing buffering and/or screening, are required.
16. Due to the requirements set forth in Section 710.d.2 and Section 330 and given the property does not have the required 25' side setback, before acting, a variance or waiver shall be necessary to reduce the buffer strip from 20' to a more acceptable width; however, the buffer shall be no less than 3' wide. Additionally, before taking action, the Town Board shall ensure compliance with Article VI (III) Section 330 and Article VIII Section 710.d, by which they could require a visually acceptable fence to lessen the visual and noise impact of the mixed-use structure.
17. Should the Board approve this project, before its final inspection by a Building & Codes Officer, the Town shall ensure compliance with the following:
 - a. New York State requires each Redemption Center to register using the 6 NYCRR Part 367 Notification Form for Redemption Center Registration form, mailed to NYSDEC; and allowing 30 days for NYS DEC processing of the application. NYS Regulations also state that “... before opening a redemption center, you need to contact the municipality where you would like to locate your redemption center to ensure compliance with any local zoning and/or business requirements. Proof of compliance with local requirements must be submitted with your application.” Additionally, all Redemption Centers must post a “Redemption Warning” sign, which states that there is a penalty for returning containers on which a deposit was never paid in New York.

This sign must be at least 8" x 10", with print at least 1" in size. See Environmental Conservation Law ("ECL"), section 27-1015(4).

- b. The Board should get acknowledgment from the operator on the following:
 - i. The law states that *a redemption center shall not knowingly redeem an empty beverage container on which a deposit was never paid in New York state. See ECL § 27-1007 (10).*
 - ii. Should any one customer remit 2,500 beverage containers or more a Bulk Redemption of More Than 2,500 Beverage Containers Form shall be completed. The law requires that this information must be kept on file by the dealer or Redemption Center for a minimum of 12 months and provided to the New York State Department of Environmental Conservation (DEC) if requested.
18. Compliance with all Local, State, and Federal regulatory requirements for this type of facility and the products stored.

Non-Binding Notes:

These are used as suggestions and/or advice from the County Planning Board, the municipality is not required to take action, nor is a supermajority vote required.

- a) The proposal mentions that it will “*most likely, include an Amish shed in the backyard at some point*”. Should the applicant wish to move forward with an accessory structure (Amish shed) an additional review will be required before acquisition and placement as depending on the size of the structure, the lot coverage stipulated in Article III Section 3.2 may be exceeded. Placement of any accessory structure shall be no closer than 10’ to side and rear lot lines per Article III Section 3.1. To be clear, the County Planning Board did not review the portion of the proposal relative to the potential accessory structure and additional permitting and proper review. Since the property/structure/use is already non-conforming and storage is anticipated to be insufficient, the Zoning Board of Appeals (ZBA) should discuss a specific threshold of how non-compliant this property may be allowed to become in the future given the anticipated need for additional indoor storage capacity, should the ZBA intend to approve an area variance for an accessory structure.
 - 1) Such threshold should state that a future accessory structure would require an area variance but shall comply with lot line setbacks. The ZBA should also decide/determine the level of review required given the use type’s absence within Section 2.4.
 - 2) The ZBA shall consider requiring the accessory structure to be detached from the principal building to have the highest probability of complying with the lot line setbacks, with at least a five (5) foot separation from the principal structure to comply with the Fire Code.
 - 3) The ZBA shall determine and document the maximum height, width, and length dimensions for the accessory structure and provide such to the Code Official, noting the resulting total percent lot coverage

accounting for the additional structure. The accessory structure should be no more than 40' wide to comply with the side setback and 45' long to comply with the rear setback according to the approximate dimensional measurements afforded by GIS data.

- b) It should be noted that the Article nomenclature does not match the sections as typically, the Board should consider correcting this in the next update of the Zoning Law.
- c) The Town Board should be aware, that Section 2.4 under the Hamlet section of the Law is missing several uses including accessory structure and or accessory uses. It is assumed that accessory structures are permitted as there are setback requirements stated in Section 3.1; however, the permit requirements are unable to be determined. Additionally, mixed-use could be an appropriate use to add for buildings that have commercial on the ground floor and residential on the second floor or similar. Should this be added, consider adding it to establish Section 3.2 for lot coverage and lot area standards.
- d) The Town Board should consider updating/replacing, where applicable, the term mobile home with Manufactured Home as this was formally recognized by HUD in June of 1976.
- e) The Town Board should consider adding a section regarding non-conforming lots, uses, and what actions are allowed in such situations.
- f) The Town Board should consider reclassifying parcels within the Hamlet that may not comply with the dimensional standards of the zone. For example, this parcel is classified in the mixed-use zone, however, the lot does not meet the minimum lot standards for any use- even a one-family dwelling which requires 10,000 sq. ft. The parcel should probably be classified within the central area which no setback requirements apply; however, that area is limited to across the street of the reviewed parcel.
- g) The Town should also consider reviewing the dimensional standards set forth in Sections 3.1 and 3.2 for reasonableness within the Hamlet by reviewing various parcels for size, setbacks of accessory and principal structures, as well as the distance from the streets.
- h) The SEAF Part 1, as submitted, doesn't appear to be entirely completed. The instructions for completing the form indicate to *“Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any items.”*
 - 1) The Name of Action or Project, Project Location, and Brief Description of Proposed Action were all left blank and should be completed.
 - 2) Question 1 which asks, “Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation?” is left unanswered. When based on the proposed project it should be marked as ‘NO’.
 - 3) Question 3.a regarding the acreage of the site, 3.b acreage to be physically disturbed and 3.c total contiguous acreage owned by the

applicant should be completed to reflect the real property data for the parcel (.168 acres).

- 4) Question 4 states to 'Check all land uses that occur on, are adjoining or near the proposed action:' of which no land uses were marked. Consider whether boxes for commercial, residential, and perhaps parkland (scenic view) should be checked.
- i) The document with the Town of Diana Recommendations for review, states in bold "***TOD (Town of Diana) Planning board will schedule public hearing for approval***". The body responsible for preparing such a document should refrain from providing a Board determination/action for proposals prematurely to avoid potential legal consequences, such as an Article 78 challenge.

The County Planning Board, Code Official, and Planning Staff had an in-depth discussion regarding which action was appropriate to take given the number of discrepancies, variances, and waivers required for the proposal to comply with the established land use laws. Mr. Virkler mentioned that based on the number of variances and waivers needed, perhaps the property is not appropriate for this type of use. Contrary, Mr. Lehman expressed concerns as to the County Planning Board's control over what could be done with the property.

The Board considered the implications of the three available actions: Disapproval, Approval with Conditions, or determining the Matter to be of Local Concern. Recognizing that disapproval or deeming the matter a local concern would limit the Board's ability to provide binding comments, conditions, or recommendations to the Town; the Board determined these options were not the most effective ways to assist the municipality and support code enforcement in safeguarding public safety. While the Board was reluctant to approve a site/use that does not conform to current regulations — due to concerns that such approval might be misinterpreted as support — they acknowledged that approval with conditions is the only formal mechanism to share their technical findings and recommendations with the Town, especially given the Town's stated position on the proposal.

The Board inquired whether a middle-ground approach might be available or if the review could be postponed until the following month to allow for the applicant and municipality to be present. Ms. Buell clarified that a decision must be reported within 30 days unless a mutually agreed-upon extension is secured. She further stated that she would contact the Department of State (DOS) for guidance on the appropriate application of this provision and the process for implementing it, noting that the extension agreement would need to be finalized before the County Planning Board's next meeting.

With no further comments or questions, Mr. Petersen motioned to approve the project with the above conditions (with the removal of the referenced table in

condition 1) and the non-binding notes; Mr. Cook seconded the motion, which was carried unanimously. After the vote concluded, Mr. Virkler then excused himself from the meeting at approximately 3:30 pm.

Ms. Krokowski proceeded to read the next review.

VILLAGE OF CONSTABLEVILLE BOARD OF TRUSTEES

Proposed local law to adopt a Comprehensive Plan for the Village of Constableville.

Village of Constableville – Applicant

The General Municipal Referral Form and Part 1 of the Full Environmental Assessment Form (FEAF) were submitted by the Village Clerk, Mary Failing, along with the proposed Comprehensive Plan document.

In reviewing the proposed document, it appears the Village of Constableville is establishing its first full comprehensive land use plan. The order of this submission seems to be a bit out of sequence as the County Planning Board reviewed the proposed Village’s Zoning Code in December of 2024.

The Village of Constableville’s Comprehensive Plan was reviewed in its entirety. The plan’s purpose was stated to *“guide the physical development of the Village of Constableville for the future. It is based on and reflects the planning ideals laid out in the Planning Accord for Tug Hill and the Tug Hill Reserve Act. The plan intends to provide a framework for land development and subdivision controls. It will also help ensure that the growth of the area will be in concert with plans for infrastructure and road development and will not negatively impact natural resources and rural character. Finally, it is hoped that other governments (State, County, and other local governments) will find the plan useful in shaping their future development activities. It is the purpose of this plan to create a vision for the community’s future that is a shared vision of the citizens of the Village of Constableville.”*

It is indicated that the plan is recommended to be reviewed and updated every five to eight years by the Village Board. The Village Board is encouraged to note that they should initiate a review of the plan in the 2030-2033 timeframe to ensure the plan aligns with the ever-changing land use conditions of the Village.

The Population Characteristics section indicated a 20% population decline and a 13% decline in housing units according to the US Census Bureau from 2000 to 2010. It is also noted that there may be a large margin of error with these numbers. The Village should consider updating the data on page 3 to reflect more recent data since the data ends with 2010 by utilizing the 2020 Census and/or 2023 American Community Survey.

The Village should consider the necessity of the sentence within the Village of Constableville Development Laws section, which states *“For the proposed zoning law, the entire jurisdiction of the Village of Constableville is considered as within a single unnamed zone, and the application of the law shall be uniform throughout the Village.”* This statement would restrict the Village’s ability to set up zones or districts within the Village, should the need arise.

It appears the section entitled Implementation Strategies was added at a different point in time as it is not listed on the Table of Contents and the title appears in a different color on page 9 of the document.

Overall, the proposed Comprehensive Plan appears to guide future development, protect resources, and provide a basis for regulation through the Goals for the Future, Development Laws, and Implementation Strategies sections of the Plan.

Recommendation: APPROVE

Non-Binding Notes:

These are used as suggestions and/or advice from the County Planning Board; the municipality is not required to take action, nor is a supermajority vote required.

- 1) The Village Board is encouraged to note that the Comprehensive Plan should be reviewed again in the 2030-2033 timeframe to ensure the plan aligns with the ever-changing land use conditions of the Village, as mentioned on page 2 of the document.
- 2) The Village should consider the necessity of the sentence within the Village of Constableville Development Laws section (page 9) which states *“For the proposed zoning law, the entire jurisdiction of the Village of Constableville is considered as within a single unnamed zone, and the application of the law shall be uniform throughout the Village.”* This statement could restrict the Village’s ability to set up zones or districts within the Village, should the need arise.
- 3) The title ‘Implementation Strategies’ is not the same color (grey) as all the other titles (blue). Before adoption, the Board should consider if this is intentional or perhaps this was overlooked and thus should be corrected.
- 4) The Village should consider updating the Table of Contents to list the ‘Implementation Strategies’ section and the respective page (9).
- 5) The Village should consider updating the data on page 3 to reflect more recent data from the 2020 Census and/or 2023 American Community Survey.

No comments or questions were raised. Mr. Lehman motioned to approve the project with the non-binding notes; Ms. Metott seconded the motion, which carried unanimously.

Ms. Buell read the following review.

TOWN OF NEW BREMEN PLANNING BOARD

Site Plan Review for creating a 50' by 55' pavilion for New Life Fellowship Church, located at 8784 Mattis Road in the Town of New Bremen.

Tax Map Parcel #163.00-02-43.210

Elon Waugh (New Life Fellowship Church) – 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 and 4) the Town of New Bremen Site Plan Review Application.

▪ *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 is allowed within said zone. The use of religious institutions, community building, or similar is currently unaddressed within the law; however, it is assumed that the law intended to include such use within Article IV Section 410 requiring Site Plan Review and Approval. The Town could mitigate future interpretation issues by adding 'religious institution' and/or 'community building' definitions to Article II Section 220 and adding the term(s) to the first sentence of Article IV Section 410.

▪ *Traffic Generation and Effect:*

According to the submitted SEAF, the proposed action will not substantially increase traffic above present levels. NYS DOT Traffic Data Viewer does not have data for Mattis Road; however, the New Bremen Highway Superintendent provided a written statement confirming the proposed action will not result in traffic demands that exceed the capacity of the highway(s) that serve the site, as required in Article VI Section 610 B.8.

The proposed driveway shown in the original plot diagram is 16' in width; however, according to Article VI Section 610 B.7, "*The minimum maintained width of driveways shall be twenty-four (24) feet which allows for incoming and outgoing vehicles to pass one another safely.*" As indicated in an email dated 3/11/2025, the applicant will modify the driveway to 24' in width to comply with the standards.

It appears the proposed driveway placement is roughly 300' from the intersection of two roadways and approximately 205' from an existing driveway on a public road.

The Plot Diagram indicates that the driveway will be crushed stone, which should ensure that the surface will be maintained free of dust and debris as required in Article VI Section 610 B.2.

- *Protection of Community Character:*

As part of this review, the EAF Mapper Summary Report was conducted, which stated that 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 (ERM) indicated that the project site includes an area of newly identified freshwater wetland. Consider whether Question 13 on Part 1 of the SEAF is answered appropriately given the results of the Environmental Resource Mapper. The applicant should be cognizant of development in the eastern portion of the parcel due to the probability of flooding and actions that could impair the State-protected wetland area. The Web Soil Survey (WSS) indicated that the soil contains a classification of *'Farmland of statewide importance and All areas are prime farmland'* as well as slopes up to 8%. The proposed site is located within Agricultural District #6, and, given the maintained field, one could assume that the land was once operated as part of a farming operation.

- *Signage:*

The referral indicated a 4' by 8' sign would be located near the Mattis Road on the Plot Diagram. Per a phone call and email on 3/11/2025, the applicant stated that the proposed signage conforms to Article VI Section 610 F standards in that the sign will not flash or strobe, the freestanding height is not above 20 feet (less than 10 feet anticipated), and if a sign is installed on the building, it will be no larger than 32 square feet; however, no signage on the pavilion is proposed.

- *Drainage:*

According to the submitted SEAF and Web Soil Survey, the drainage status of the project site soil is comprised of well-drained on 87.9% of the site and poorly drained on the remaining 12.1% of the project site. Before taking action, the New Bremen Planning Board shall review the grading and drainage plan, along with Statement 3 provided by the applicant's email on 3/11/2025 to ensure compliance with Article VI Section 610 G.

According to the FEMA Floodplain Map 360373-0005-C, the site is located in Zone X, which is considered an area determined to be outside of the 500-year Floodplain.

- *Erosion:*

According to the applicant, approximately .7 acres are to be disturbed as a result of the proposed activity. Since the project plans to disturb less than 1 acre of land, a SPDES permit is not required. However, should the ground disturbance increase to an acre or more, a SPDES permit shall be required.

The applicant provided the following statement regarding erosion and sediment control: *“There is minimal change in grading for any areas, perimeter drain around building will be run to daylight at current low spot on center of land, see topo map.”*

The New Bremen Planning Board shall ensure compliance with Article VI Section 610 H.2, which states that *“All measures necessary to minimize soil erosion and to control sedimentation in the disturbed land area shall be provided. Every effort shall be made by the applicant to minimize velocities of water runoff and retain sedimentation within the development site as early as possible following disturbances.”*

The Town Planning Board must evaluate whether the applicant’s above statement and topo map sufficiently demonstrate erosion and sedimentation control measures showing every effort to minimize the velocity of water runoff as well as how sediments will be retained or if further information is needed to satisfy Article VI Section 610 H.2. To prevent contamination, the New Bremen Planning Board should consider imposing a 5’-10’ buffer strip between the proposed septic system and the DEC Wetland.

- *Parking:*

On 3/11/2025, the applicant indicated, via email, that the proposed structure would host a maximum of 150 people with an average being closer to 75 people for most gatherings. The updated parking plan indicates that there will be 24 - 8’x18’ parking spaces with two (2) being ADA-accessible. Based on the number of spaces, only one (1) ADA-accessible space is required. The plan also notes additional parking will be available in the adjoining field. Before acting, the Town of New Bremen Planning Board should review the parking plan to ensure compliance with Article VI Section 610 B and ensure the parking is of sufficient size for the anticipated utilization.

- *Community Facilities:*

The proposed Plot Diagram indicates that the proposed well location will align with the rear property line of the Demo property; however, the well should be placed no closer than 100 feet to the adjoining property line. The applicant indicated that a drilled well will be provided, with the utilization of a DEC-certified well driller to prevent potential contamination of the aquifer.

The site plans indicate that the septic system and leech field will be located at the rear of the pavilion, approximately 368’ from Crystal Light Mennonite

Church and 150' from the adjoining Demo parcel. The applicant will be required to provide septic plans and designs to the Code Enforcement Official as part of permitting. Mr. Waugh, the applicant, indicated that the septic designs are in process; however, the percolation test was unable to be completed before winter. The New Bremen Planning 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 before taking action.

- *Lighting:*

The plot diagram indicates that an area light will be provided in the gable of the building. Article VI Section 610 E indicates that:

1. *The style of light and light standard should be consistent with the architectural style of the principal building.*
2. *The maximum height of free-standing lights should be the same as the principal building but not exceeding twenty-five (25) feet.*
3. *Where lights along the property lines will be visible to adjacent residents, the lights should be appropriately shielded.*
4. *Spotlight-type fixtures attached to buildings should be avoided.*

The applicant indicated that the proposed lighting fixture would be placed in the gable and will be shielded or downcast; however, the selection of such a feature has not been completed. While it does appear the proposed light will be facing in the direction of State Route 812, the applicant indicated via email on 3/11/2025 that the proposed light will be downcast to prevent visual impairments to traffic on the roadway. The provided statements appear to demonstrate compliance with Article VI Section 610 E 2, 3, & 4. The applicant shall provide an image with any details necessary of the proposed fixture for the Planning Board to confirm that the proposed lighting complies with the standards of Article VI Section 610 E. 1 which states "*The style of light and light standard should be consistent with the architectural style of the principal building*" before installation.

- *Landscaping and Screening:*

Landscaping plans were not submitted; however, before acting, plans may be necessary for the Town of New Bremen Planning Board. To ensure compliance with Article VI Section 610D, the Board shall determine what adequate and appropriate landscaping is required for this site/use.

As written, Article VI Section 610 D.2 states "*Along a property line facing a residential property, a twenty (20) feet wide buffer strip of evergreen planting shall be provided to effectively screen the commercial/industrial, mobile home park, or campground use from view*" may not be required given the mentioned gap regarding religious institutions/ community buildings within the law; however, a buffer between the proposed use and residential properties is

advised, most impacted being the Buckingham property, or the Demo property; should that become a residential property.

▪ *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 New Bremen Planning Board may require a Performance Guarantee with three options for agreements.

Recommendation: APPROVE with the following Conditions

The acting municipal body must have a super-majority (majority plus one) vote to disregard the following conditions:

1. The applicant should be cognizant of development in the eastern portion of the parcel due to the probability of flooding and actions that could impair the State-protected wetland area.
2. The applicant should also be cognizant of land-clearing activities or other activities that could affect the candidate species, Monarch Butterfly, identified on the IPAC report.
3. According to the applicant, approximately .7 acres are to be disturbed as a result of the proposed activity. Since the project plans to disturb less than 1 acre of land, a SPDES permit is not required. However, **should the ground disturbance increase to an acre or more, a SPDES permit shall be required of the applicant.**
4. The proposed drilled well shall be placed no closer than 100 feet to the adjoining property lines to ensure compliance with DOH Standards. The utilization of a DEC-certified well driller shall be required to prevent potential contamination of the aquifer, as planned by the applicant.
5. The applicant indicated that the proposed lighting fixture would be placed in the gable and shielded or downcast; however, the selection of such a feature has not been completed. It also appears that the proposed light will be facing in the direction of State Route 812, but the applicant indicated, via email on 3/11/2025, that the proposed light will be downcast to prevent visual impairments to traffic on the roadway. The provided statements appear to demonstrate compliance with Article VI Section 610 E 2, 3, & 4. **The applicant shall provide an image with any details necessary of the proposed fixture for the New Bremen Planning Board to subsequently confirm that the proposed lighting complies with the standards of Article VI Section 610 E. 1 which states “*The style of light and light standard should be consistent with the architectural style of the principal building*” before installing the fixture.**
6. The applicant indicated, via email on 3/11/2025, that the structure would have a maximum of 150 people, with an average of 75 people for most gatherings. The updated parking plan indicates that there will be twenty-four (24) 8’x18’ parking spaces with two (2) being ADA-accessible. Based

on the number of spaces, only one (1) ADA-accessible space is required. The plan also notes additional parking will be available in the adjoining field. **Before taking action, the Town of New Bremen Planning Board should review the parking plan to ensure compliance with Article VI Section 610 B and ensure the parking is sufficient in size for the anticipated utilization.**

7. Before taking action, the Town Planning Board shall review the grading and drainage plan, along with Statement 3 provided in the applicant's email on 3/11/2025 to ensure compliance with Article VI Section 610 G.

8. The Board shall ensure compliance with Article VI Section 610 H.2 which states *“All measures necessary to minimize soil erosion and to control sedimentation in the disturbed land area shall be provided. Every effort shall be made by the applicant to minimize velocities of water runoff and retain sedimentation within the development site as early as possible following disturbances.”*

The applicant provided the following statement regarding erosion and sediment control *“There is minimal change in grading for any areas, perimeter drain around building will be run to daylight at current low spot on center of land, see topo map.”*

Before taking action, the New Bremen Planning Board must evaluate whether the applicant's above statement and topo map sufficiently demonstrate erosion and sedimentation control measures showing every effort to minimize the velocity of water runoff as well as how sediments will be retained or if further information is needed to satisfy Article VI Section 610 H.2. **The New Bremen Planning Board should consider requiring the applicant to provide a 5' to 10' buffer strip between the proposed septic system and the DEC Wetland to prevent contamination.**

9. The applicant will be required to provide septic plans and designs to the Code Enforcement Official as part of permitting. Mr. Waugh, the applicant, indicated that the septic designs are in process; however, the percolation test was not able to be completed before winter. **The New Bremen Planning 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 before acting.**

10. Landscaping plans were not submitted; however, before taking action, plans may be necessary as determined by the New Bremen Planning Board. To comply with Article VI Section 610 D, **the New Bremen Planning Board shall determine what adequate and appropriate landscaping is required and whether plans and a planting schedule are necessary for this site/use.**

11. The Town Planning Board shall determine the Performance Guarantee they choose to require or waive, according to Article VII Section 720.

12. Compliance with all Local, State, and Federal regulations for this type of facility.

Conditions: 1,2,3,4,5, and 12 require action/acknowledgment from the Applicant.

Conditions: 5, 6, 7, 8, 9, 10, and 11, require action/acknowledgment from the Town of New Bremen Planning Board.

Non-Binding Notes:

These are used as suggestions and/or advice from the County Planning Board, the municipality is not required to take action, nor is a supermajority vote required.

- 1) The Town Board/Planning Board should consider adding a definition of community building (sample provided below) and update the first sentence of Article IV Section 410 *“All new commercial and industrial uses, mobile home parks, **community buildings** and campgrounds within the town which have not been substantially constructed by the effective date of this Law, shall require site plan approval before being undertaken. This shall also include home occupations that:”*
 - a. **Community Building** - *A principal structure or accessory structure used for recreational, social, educational, religious, and cultural activities, owned and operated by a public or nonprofit group or agency.*
- 2) Section 610 A provides a reference to Chapter 1, Part 7 of NYS Sanitary Code when discussing requirements of sewer, water, and other utilities; however, such reference relates to temporary residences, children’s camps, campgrounds, mass gathers, and agricultural fairgrounds related to the State Sanitary Code. The Town could consider removing Chapter 1, Part 7 and leaving NYS Sanitary Code reference to ensure all establishments are covered by the code referenced. Also, consider if all applicable Department of Health standards, as well as NYSDOH Appendix 75A, should be added to this section.
- 3) The Town Board/Planning Board should consider adding community buildings to be within the definition of commercial uses within Article II **OR** add language with appropriate parking calculation standards to Article VI Section 610 C.2, which states that *“Adequate off-street parking must be provided. There shall be at least two (2) parking spaces for each mobile home site within a park, and for each dwelling unit. Commercial/Industrial uses shall have one (1) parking space per 1,000 square feet of gross floor area, or one (1) space per three (3) employees, whichever will require a larger number of spaces.”*
- 4) The Town Board/Planning Board should consider updating Article VI Section 610 D.2 to address community buildings *“Along a property line facing a residential property, a twenty (20) feet wide buffer strip of evergreen planting shall be provided to effectively screen the commercial/industrial, mobile home park, **community building** or campground use from view.”* (If community building is included in the definition of commercial use as suggested above, there will be no reason to add community building here). Currently, community buildings may not

be required given the mentioned gap regarding religious institutions/ community buildings within the law; however, a buffer between the proposed use and residential properties is advised, most impacted in this review is the Buckingham property, and potentially the Demo property; should that become a residential property.

- a. An additional consideration could be given to the appropriateness of a twenty (20) foot-wide buffer, as that is rather significant.
- 5) The Town Board/Planning Board should replace the word 'well' with '**wall**' in Article VI Section 610D.4 which states "*Where appropriate, a **well**, fence, or earth berm of location, height, and design approved by the Town Board, may be substituted for the required planting.*"
- 6) Remove the duplicate definition of "Lot" within Article II.
- 7) Given the current zoning regulations and the amount of forest and prime agricultural land in the Town of New Bremen, it would be beneficial to review the possibility of adopting a Solar Energy Overlay District to proactively plan for future solar development.

With no comments or questions, Mr. Osborne motioned to approve the project with the above conditions and the non-binding notes; Ms. Metott seconded the motion, which carried unanimously.

Ms. Krokowski read the final review.

VILLAGE OF LOWVILLE BOARD OF TRUSTEES

Proposed amendments to various sections of the Village of Lowville Zoning Law.

Village of Lowville – Applicant

The General Municipal Referral Form and Part 1 of the Full Environmental Assessment Form were submitted by Village Trustee, Timothy Widrick.

In reviewing the proposed amendment, it appears the Village Board is proposing a variety of updates, revisions, and additions.

Additional definitions have been proposed for § 201-230, including those for apartment building, electronic message board, extreme weather, nonresidential use, residential use, residential property, and public road. The following definitions have been updated: accessory dwelling unit, home-based business, private road, and street/road. To avoid confusion, the definition of commercial use was removed as it was not used anywhere within the document and was not a listed use on Schedule A.

To enhance clarity of intent and strengthen enforcement mechanisms, significant revisions have been proposed to § 201-535 concerning Accessory Dwelling Units (ADUs). This section states that "*To succeed with the purpose*

and intent, accessory dwelling units shall not be operated as short-term rentals. Should the approved property appear on any Short-Term Rental website or reports, the property owner may be subject to § 201-1365 Violations and Penalties as applicable.” However, a definition of short-term rental is not provided. The Village Board should add such a definition to § 201-230 accordingly. A possible definition for the term could be:

Short-Term Rental (STR): The use of a lot for the rental or lease of any, or part of any, residential use dwelling unit, for a period of no more than thirty (30) days. No rental or lease shall exceed thirty (30) days in duration. The STR may occur within an entire dwelling, in rooms with a dwelling, or in a separate attached or detached dwelling unit or units on the parcel. Motels, hotels, resorts, inns, and bed & breakfasts, as defined in this chapter, are excluded from this definition. Examples of STRs include, but are not limited to, vacation rentals, Airbnb rentals, and VRBO rentals.

Furthermore, § 201-535 G states *“Lot size and dimensions shall conform to the zone in which the principal structure is located. ADUs shall not be permitted on nonconforming lots. The developmental provisions relating to nonconforming lots in Article XII of this chapter shall not apply to ADUs.”* The Village Board should consider if updates to Article XII regarding development provisions should be modified to prevent conflicting interpretations as it states that *“Any lot held under separate ownership prior to the enactment or amendment of this chapter, and having a width, depth or area less than the minimum requirements set forth in this chapter, may be developed for any use (unless stated otherwise) allowed in the zone in which it is located, provided that such lot has sufficient width, depth and area to undertake development.”*

It appears a section regulating short-term rentals was not added to the proposed amendment. With State Law S.885C/A.4130C going into effect on April 21, 2025, it would be beneficial to add a short-term rental section to the zoning law. Lewis County Planning and Community Development has created template language that has been reviewed with a representative from the Building and Codes Department. This could be implemented and amended within the municipality as it sees fit; however, should the Village of Lowville Board of Trustees add this use, Schedule A shall be updated accordingly.

The examples associated with accessory apartments (converted living space, attached garages, basements or attics, additions, or a combination thereof) seem to contradict Accessory Apartment Specific Standard 1, which states that *“An appropriate principal structure when referring to accessory dwelling units may be structures attached to primary dwellings such as garages or similar, when such structures are attached, they are considered one principal structure. The intent of § 201-535 is not to convert a one-family dwelling to a two-family dwelling.”* The Village Board should review both sections and update to remove potential interpretation conflicts. Being that the Village

Board states the intent is not to convert a one-family dwelling into a two-family dwelling, the example for an accessory apartment should be updated to match the appropriate portion of the principal structure of simply attached garages.

Parking requirements related to ADUs were updated in § 201-830 A, which states, *“One-family and two-family dwelling: one space per dwelling unit (to include accessory dwelling unit if applicable).”* ADUs can be up to 2 bedrooms, which would likely result in the need for at least two (2) vehicles. For this reason, the Village Board should consider adding a statement, similar to that within home-based businesses, where *“All parking for the **primary residence and the ADU** shall be provided on-site in accordance with Article VIII of this chapter. Street/Road parking is not permitted with this use.”*

In addition to ADUs, regulations in §201-545, Home Based Businesses, were clarified to specify that a home-based business needs to be permanently owner occupied, the operation shall be limited to the interior of the principal structure, and that street/road parking is not permitted. Clarification was also added to address instances when the standards are exceeded, with a statement following §201-545. B.

A substantial section was added to establish standards and regulations for Telecommunication Towers. This addition seems quite comprehensive, ranging from aesthetics and design to financial security and decommissioning. The Village Board is opting to use American National Standards Institute (ANSI) standards for Structural Integrity Inspections and Radiation Emission Certification, barring an extreme weather occurrence that prompts the Village Board, Planning Board, or Zoning Official to request a premature inspection. The County has previously recommended annual inspections due to the overall congestion of building such a structure within a densely populated Village in addition to the proposed parcel being considered a ‘public area’. The Village Board should consider if the population and building density could justify a change to annual inspections, as the Village Board has been more lenient in other aspects such as setback distances.

Article XIII § 201-1355, and related provisions, have been updated to ensure that, following the Village Planning Board’s final action, the complete decision, including all conditions, is provided to the Clerk, the Zoning Official, and the County Planning Board. This update resolves a previous concern where these officials were notified of the action but not provided with its specific details.

As submitted, Attachment 2 had errors relative to the asterisks. Corrections have been provided as part of this review. Additionally, as submitted, Attachment 3 was mislabeled as Attachment 4. As part of this review, this

error has been corrected, and all references to Attachment 4 throughout the Zoning Law have been updated.

Overall, the proposed zoning text amendments should provide the anticipated clarification sought by the Village Board regarding accessory dwelling units, home-based businesses, essential facilities/ telecommunication towers, stormwater prevention, and various other sections, along with the minor corrections provided.

Recommendation: APPROVE with Conditions

The acting municipal body must have a super-majority (majority plus one) vote to disregard the following conditions:

- 1) To enhance clarity of intent and strengthen enforcement mechanisms, significant revisions have been proposed to § 201-535 concerning Accessory Dwelling Units (ADUs). This section states that *“To succeed with the purpose and intent, accessory dwelling units shall not be operated as short-term rentals. Should the approved property appear on any Short-Term Rental website or reports, the property owner may be subject to § 201-1365 Violations and Penalties as applicable.”* However, a definition of short-term rental is not provided. The Village Board should add such a definition to § 201-230 accordingly. A possible definition for the term could be:

Short-Term Rental (STR): *The use of a lot for the rental or lease of any, or part of any, residential use dwelling unit, for a period of no more than thirty (30) days. No rental or lease shall exceed thirty (30) days in duration. The STR may occur within an entire dwelling, in rooms with a dwelling, or in a separate attached or detached dwelling unit or units on the parcel. Motels, hotels, resorts, inns, and bed & breakfasts, as defined in this chapter, are excluded from this definition. Examples of STRs include but are not limited to, vacation rentals, Airbnb rentals, and VRBO rentals.*

- 2) Article V § 201-535.G states that *“Lot size and dimensions shall conform to the zone in which the principal structure is located. ADUs shall not be permitted on nonconforming lots. The developmental provisions relating to nonconforming lots in Article XII of this chapter shall not apply to ADUs.”* The Village Board should consider if updates to Article XII regarding development provisions should be modified to prevent conflicting interpretations as it states that *“Any lot held under separate ownership prior to the enactment or amendment of this chapter, and having a width, depth or area less than the minimum requirements set forth in this chapter, may be developed for any use (unless stated otherwise) allowed in the zone in which it is located, provided that such lot has sufficient width, depth and area to undertake development.”*

- 3) The examples associated with accessory apartments (converted living space, attached garages, basements or attics, additions, or a combination thereof) seem to contradict Accessory Apartment Specific Standard 1, which states that *“An appropriate principal structure when referring to accessory dwelling units may be structures attached to primary dwellings such as garages or similar, when such structures are attached, they are considered one principal structure. The intent of § 201-535 is not to convert a one-family dwelling to a two-family dwelling.”* The Village Board should review both sections and update to remove potential interpretation conflicts. Being that the Village Board states the intent is not to convert a one-family dwelling into a two-family dwelling, the example for an accessory apartment should be updated to match the appropriate portion of the principal structure of an attached garage.

Non-Binding Notes:

These are used as suggestions and/or advice from the County Planning Board, the municipality is not required to take action, nor is a supermajority vote required.

- 1) A substantial section was added to establish standards and regulations for Telecommunication Towers. This addition seems quite comprehensive, ranging from aesthetics and design to financial security and decommissioning. The Village Board is opting to use American National Standards Institute (ANSI) standards for Structural Integrity Inspections and Radiation Emission Certification. The County has previously recommended annual inspections due to the overall congestion of building such a structure within a densely populated Village, in addition to the proposed parcel being considered a ‘public area’. The Village Board should consider if the population and building density could justify a change to annual inspections, as the Village Board has been more lenient in other aspects such as setback distances.
- 2) Should an extreme weather occurrence prompt the Village Board, Planning Board, or Zoning Official to request a premature telecommunication tower inspection, there is no guidance on whether the 5-year inspection schedule starts over from the deviation, or the operation should stay on the original schedule. The Village Board should consider clarifying.
- 3) Consider using Lewis County's provided template language for the creation of a Short-Term Rental section and adapt it to best suit the Village of Lowville.
- 4) Should the Village Board adopt STR regulation, consider which zones would be most appropriate, confirm the intent to use a special use permit for this use (references would need to be updated), how to handle already established short-term rentals (a zoning permit may be required by a certain date), and whether there will be a limited amount of STRs allowed per zone so as not to change the character of the neighborhood and parking standards.

- 5) The Village Board should consider whether a Department of State Smart Growth Grant through the Consolidated Funding Application may be worth pursuing as a potential funding mechanism and unbiased outside party to provide a comprehensive update to the Village Code. Given that the law was last substantially reviewed and revised over 10 years ago, along with the recent Comprehensive Plan update, this would be a great time to do a thorough update.

The Board discussed that Non-Binding Note Number 1 contradicts the action taken regarding the Fairground Tower and should be removed for consistency.

With no further comments or questions, Mr. Petersen motioned to approve the project with the above conditions and the non-binding notes (with the removal of Note Number 1); Mr. Lehman seconded the motion, which was carried unanimously.

- (7) **Report of County Planner:** None
- (8) **Unfinished Business:** None
- (9) **New Business:** None
- (10) **Adjournment:** There being no other business, a motion to adjourn the meeting was made by Mr. Cook and seconded by Mr. Lehman, which carried unanimously. Mr. Petersen adjourned the meeting at 3:49 PM.

Respectfully submitted,



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.