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TOWN OF NEW SCOTLAND

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DRAFT

**SUBJECT TO AMENDMENT AND FINAL APPROVAL BY
THE BOARD**

Planning Board Members:

Jeff Baker (Chairman) Daniel Byrnes, Amy Schallop, Peter Richards, Christine Galvin

Lori Saba, *Planning Board Secretary*, Jeremy Cramer, *Building Inspector*,
Crystal Peck, *Planning Board Attorney*, Garrett Frueh, *Town Engineer (Stantec Engineering)*
Veronica Soeller, *Town Planner*

6:00 PM (Hybrid Meeting)

Public Hearing:

- 1) **Site Plan #139:** Application submitted by Andrew and Leiana Hawkins for a 13.44kW ground mounted solar array to be constructed on one of two adjoining parcels they own. The parcels are located at 34 Spore Road, identified as New Scotland Tax Parcel #94-1-45.8, and #94-1-45.4. A part of the application materials are a proposed sketch merger plat of the two lots as small-scale ground mounted solar is not allowed on vacant land. This application is a permitted use as per Article II, Section 190-12 (D)21 and Article V, Section 190-58 of the town of New Scotland Zoning Law.

Mr. Hawkins: I have a request for topography, which I have Ms. Galvin wanted to take a look at that.

Mr. Baker: One of the questions we were looking at is potentially visibility from lots in the back, so this is between the 550 and the 560 area. We don't know where their actual location is of the houses. I think they run on the up slope on the other side.

Mr. Hawkins: There are some dips in there I think they are all in the same 540-point sort of speak.

Mr. Baker: Our main concern was potential views from people on that area and we provided notice. I will open up the public hearing on this application.

No public comments.

Mr. Baker made a motion to close the public hearing and Ms. Galvin seconded the motion; all in favor; motion so carried.

Ms. Galvin: I think we have to have a condition that that two lots can merge by deed.

Mr. Cramer: I was going to request that to be a condition of the CO. The merger and the site plan went to Albany County Planning Board and they deferred to local consideration.

Mr. Baker made a motion to approve the application as provided with the condition that the lots be merged prior to construction stated on the deed. Ms. Galvin seconded the motion; all in favor; motion so carried.

- 2) **Continuation: Major Subdivision # 495 Modification Request:** Application submitted by Corey Lewandowski, for a modification of stormwater design at subdivision known as the LeVie Farm Subdivision, located within the RA district, on Maple Road. The existing site of interest is made up of 13 lots (House number 2,4,6,8,10 and 12 Eagle Court as well as 1,3,5,7, 9, 11 and 13 Par View. They have a combined area of approximately 15 acres.

Mr. Brick, representing Charlew Builders, we are seeking the amendment to the Storm Water Plan and the SWPPP, as you recall it's been a while, back in February 2020 we did receive amendments from this Board to amend the Storm Water Plan to allow for vegetative swales and grading to the swales with signage as a storm water practice. We had submitted at that time as built maps with the four existing homes that were part of the approval. We had thought the approval was for all of the outside lots. We thought the approval was for all of them. When we came in with lot 10 and went heading towards the CO, we had constructed the swale and graded to it thinking it was approved. At that time Mr. Cramer had said no you were only approved for those four lots that were specifically called out on the approval. You have to come back if you want to use this practice on the other outside lots. That is why we are here. You had asked us to reach out to all of the individual lots some homeowners at the time had mentioned that they may want to consider alternatives and asked up to have our engineers Hershberg and Hershberg to see if there are some alternatives to the vegetative swale. Since that time, I apologize for the delay in getting back to you, but since that time we have spoken with all of the people on the outside parameter lots including the contract vendees. I had provided to you consents and approvals for this alternative practice from all of the lot owners of contract vendees in green. We have consent from contract vendee there they also have provided those to their attorney. The second lot was in was the old model home, which was lot 12, that was one of the four that was approved in 2020 and we also have a consent approval from Mr. Grady who lives at that home. He is fine with the alternative practice in place and it has been installed. The next is lot 11 which is a vacant lot under contract and we have a consent from the contract vendee saying they have no objection. The alternative practice was explained to them and they have no objection. The next lot is lot 10, which is the one that made us realize that we didn't have the approval for the entire subdivision. That house is constructed and it is occupied. The vegetated swale and the grading and the signage have all been constructed and installed. It has not been approved for the alternative practice. Lot 9 was a prior approval and again I believe the property

owner is here and will speak to you about it. We are not seeking any changes to that from the prior approval. Same with lot 8 next door. Moving over to Par View lot 7 and 6 are still owned by Charlew Builders they are not under contract. They are being market for sale and Charlew is in favor of the alternative practices and they have provided consent. Onto lot 5 which was one of the prior approvals and we are not seeking any amendments there. Lots 4, 3, and 2 are all occupied. The alternative practices have been constructed and installed. They do have consent from all three property owners that it has been explained to them and they have no objection to them being on the property. Those are the three of the ones that we would be seeking the approval of the amendment this evening. Lastly, lot 1 which is on the corner, is in the process of being constructed just about ready for a CO, it is not occupied, but the storm water alternative practice is in place and the property owners had been explained to them and they provided a consent as well. In addition, there was a comment letter from Stantec which Mr. Hershberg organization prepared a response to that letter. I think they have addressed all the comments. In addition, one other item I have a letter that I will forward to you from William Smart, who is a professional engineer, who does the storm water inspections for the project. His opinion and his knowledge of the alternative practices based upon; he has been doing the inspections from the beginning on the site. Lastly, what we are here for this evening is to hopefully get your authorization to allow for the alternative practice, the vegetative swale with signage and the grading to it on the remaining nine outside lots where it wasn't previously approved. So that we can have this SWPPP amended and have your blessing on the plan and we can move forward with the alternative practice. I can answer any questions you may have.

Mr. Baker: We got letter from Hershberg today. Mr. Frueh have you had a chance to look at it?

Mr. Frueh: I did briefly, was there any supplemental submission or documents that go with the letter?

Mr. Brick: The copy of the letter that I received was emailed to Mr. Cramer and it included maps to be added to the SWPPP.

Mr. Cramer: There were no attachments.

Mr. Frueh: All I've seen is the letter. I didn't see any attachments with those edits made.

Mr. Baker: We will still have to review that. I will reopen the public hearing and we will start hearing from the people who affected by this. Let's deal first with the lots that are the subject to the request for the modification. Let's start with the one we don't seem to have; do we have anyone here for lot 10?

Mr. Deamantis: Yes, I am on lot 10. I do oppose the modifications. This was brought to us a couple of days ago. After we had been talking about this for months, so I do not agree with any modifications because it will still need a sign on our back yard indicating there is a storm water practice which is very concerning and the fact that we need an easement and so on is very problematic for us. I just wanted to make sure we are all on the same page because we don't have a CO for this house yet and we have been in here for 12 months. The goal was originally approved for this lot, I guess a different practice was put in and we were never made aware of when we purchased

this lot. We just want to make sure we are all on the same page, but again for this lot we are not in favor of what they are proposing for the storm water practice.

Mr. Baker: Let me clarify some things. What we are talking about here Mr. Demantis and really for everybody's benefit, are different means of handling storm water controls. There are various ways it can be done. There was an original plan that was approved and modifications that are being sought. Regardless of the measures that are chosen for the individual lots, because there are measure on each lot it will require an inspection and a maintenance easement to the Town and will require some form of signage to identify the storm water measures and put current owners, future owners on notice that the measures cannot be altered or interfered with. So, I understand you know there is a natural reluctance to having an easement over your property and the prospect of an inspection, which occurs once a year or evidence of a problem. For everybody here whatever we are talking about for better or worse that's going to have to happen. I understand your reluctance to it. When Mr. Cramer going to have to do his annual inspection, he will provide notice ahead of time when he is coming out.

Mr. Cramer: Just for clarification the signage requirement along with the storm water requirements are mandated by DEC. The Town of New Scotland is a MS4 or a regulated town we are required to make sure that the DEC regulations for storm water on any project that has disturbances of this magnitude are being regulated and annually inspected for compliance.

Mr. Baker: Refresh my memory before putting in this modification what was proposed?

Mr. Cramer: They were using the down spouts to a catch basin to a dry well. Originally when the subdivision was approved the catch basin and dry well were proposed out front by the swales so that the overflow, it was a secondary containment as the lots were being built out, they put the septic in the front. We could still meet the obligations of the prior approval but more than likely they would have to be put out back for the separation distances to the septic systems. In originally approval the intent was to put on the basin. It may have not been as visible as it was laying horizontally, but it still would have been in compliance.

Mr. Baker: Mr. Deamantis we can go either with the swales that have bene laid out here and installed already on your property or we can explore you know denying the medication and requiring it going back to the gutters and the dry well.

Mr. Deamantis: Just going back to the signage is it a requirement by the department to have the signage where the practice is or can you have a general signage let's say at the end of the development that has all lots and their references where the practice is placed, so we don't have a disturbance in our yard of then the easement and the swale that we have. This was proposed a while ago and I'm not sure where that went. Is that an option?

Mr. Cramer: The State regulations call for the sign to be the 18x24 within close proximity. It doesn't say exactly where, but if you have as a typical private practice on each lot no matter what community it is in New York State they are putting them within the close proximity instead of doing like a general overall subdivision sign. I made the suggestion but we would be deviating from the NYSDEC regs if we were to allow for something along those lines.

Mr. Baker: It would have to be a pretty big sign to cover the necessary details and information if you would to put on one sign to cover all the lots.

Mr. Cramer: Correct. If you have multiple practices each one of those practices' types would have to be indicated on the sign that is up.

Mr. Deamantis: Why can't the sign just reference the lots where everything is already there with it on the survey and reference these lots and be aware that there are swales on each lot and reference the lots.

Mr. Baker: It has to be more readily available than referencing going to the County to look at the deeds.

Mr. Cramer: Yes, it's pretty black and white in the State regs. The signs that you have are the same that were proposed by Hershberg who was putting it out there for review to meet those regulations.

Mr. Baker: What we did discuss and I think we could do it. You would have a sign on your individual lot, but it doesn't have to be posted or placed in the swale if it is mounted on the back of your house. That would provide the necessary description, or on a garden shed if you have one back there next to it, so it would be far less obtrusive, which I understand you don't want to have, but it would meet the legal requirements.

Mr. Deamantis: If we have no other options.

Mr.(Lot 8) where else is this being done in the Town of New Scotland?

Mr. Cramer: The signs? Any project that has post construction practices, the Amedore Country Club Estates has them, Kensington Woods has them. They do not have private practices on private property.

Mr. Baker: That is the distinction is each of your, and you can certainly regret that the Town approved those many years ago, but this subdivision was approved with private or I would say individual storm water practices on each lot that you are individually responsible for. That's why you individually have the signage requirements to the extent where it is a communal or collective storm water measure that we cover the whole subdivision then it would not require signage on each lot. That's how this subdivision was outlined and approved.

Mr. Cramer: No different than the swales along the roadway and the retention basins at the turn around area at the back are all practices, but those are owned by the Town of New Scotland. Before the Notice of Termination is signed off on, we will also have a sign more than likely in the back to identify the SPEEDIE number and the practice and what it is designed for. The roadways, the swales, and the retention basins are all on one parcel. Normally any publicly owned practice such as the sand filter in Country Club Estates or the retention ponds in Kensington Woods are all on parcels that are

owned by the Town to avoid the easements and other types. The way that this subdivision was designed the swales by the road are designed and calculated to handle a 100-year storm for the interior lots as well as the impervious surfaces of the roadway itself. The catch basin and dry well or the swales in the backyards are designed to make sure the runoff deduction post construction is less than what it was pre-construction. Meaning that there is less water running off the property after the entire project is built out then before the first shovel was put into the ground. In order to do that the roof top runoff and the water shed from the backyard has to go to someplace to be held and hopefully infiltrated without running off up to a 100-year storm.

Mr. Deamantis: Okay, so who is responsible for maintaining those lots, those ditches and swales, and the big part that by my property?

Mr. Cramer: Technically the Town can go through a mow them once a year. Or the homeowners who house is behind that swale has the ability to go in and mow them. It is within the right of way but the homeowners I'm sure doesn't want 12-inch, 14-inch grass in their swales, so they would have the right to mow them as they see fit.

Mr. Deamantis: I've lived here two years and I've seen zero town people that are here to mow it. I've mowed it. I almost tipped the mower over. It is very dangerous. A lawsuit waiting to happen, just saying.

Mr. Cramer: Typically, the houses can't be constructed until the road and the right of way and the infrastructure has been dedicated to the Town. We can take care of it once our highway department or our parks department come out once a year like they do for Douglas Lane or any of the other ones that don't have a homeowners association maintaining it. Generally, the developer would be maintaining those swales until the NOT was signed off on.

Ms. Deamantis: This information was never disclosed to us when we purchased the home or when we were looking at the home. There was no signage, the swale nothing, until we were at the closing table waiting 13 months with \$50,000+ of appliances and upgrades into our home and six months after it is supposed to be built.

Mr. Baker: I am not going to opine as to whether you were provided adequate notice or not but that is going to be an issue between you and the developer. We can't get into that. I understand your position, but when the Town approved these, it was incumbent on developer to inform you folks and pass on the storm water notifications. I know they gave you some notice. I can understand your feelings that it wasn't adequate.

Mr. (No name give): We signed a contract in 2019 when the original plan to put cutters into the dry well and then have it dissipate into the ditches was in place. Then it got changed and we were never notified We were under contract.

Mr. Baker: Again, there was a difference from what was done at contract and what was presented to you at closing. That is not a Town issue. The Town has been requested to make modifications to the storm water plan for these eight lots. We had consents and agreements from everyone that has been

affected by the modification, except for Deamantis. The main question I hear from Deamantis was your reluctance on the signage and the easement I think we addressed that. I really want to talk at this point to the Deamantis' on lot 10. We are faced with either approving a modification that would reflect essentially the conditions that are there now because they are already put in the swale without prior to obtaining the modification. The question is should we grant the modification for the swale or would you prefer it be let at the original approval with a dry well, which would probably have to get redesigned or relocated because the septic system is now in front. Given the uniqueness of the situation on that lot, subject to advice from counsel, I am comfortable putting that burden on the developer if that has to go back, because that was put in without Planning Board approval. I want to hear from Mr. and Mrs. Deamantis right now. What is your preference on that? If you want to think about it you don't have to decide right now.

Mr. Frueh: We met on site and we discussed a couple of alternatives which the developer. Those were supposed to be discussed and presented with the homeowner to see if an alternative would be agreed upon.

Mr. Deamantis: I definitely want to think about it. I would like to think about it.

Mr. Baker: I think that would be perfectly fine.

Mr. Deamantis: Is that the only two options we have? Can we tie in the gutters to our cistern?

Mr. Cramer: As an alternative storage there is no infiltration, obviously, which is one of the concerns. The issue with the cistern is that the gutters are not the only thing that's feeding that tank, so it could be reviewed and looked at as a percentage of the required rooftop runoff. As a non-infiltrating and not the only source of water that it can't be the sole practice that's on the parcel.

Mr. Frueh: An overflow from the cistern or something like that to an infiltrating practice would be needed, if there is a dry wall off of that with an over flow that sized adequately to handle that. That could be an alternative that is reviewed and considered as part of this practice.

Mr. Cramer: The other part that makes it confusing on this is this the one that has that French drain that runs almost 800 feet into the Country Club. If that's the overflow and the overflow is running off site that doesn't work as a storm water management practice that is meting the regulations, because it is dumping it onto the Country Club.

Ms. Galvin: Just for clarification, Mr. Frueh so we just told the applicant he has two choices but you said there were other alternatives that were discussed for this site.

Mr. Frueh: Yes, there were a couple different iterations that were discussed with the developer, the developer's engineer onsite that could be considered if they presented adequate design details and discussed with the homeowners these practices and they wanted them that we could review and entertain several other infiltration practices on the lots. Those were discussed with the developer and

to the developer's engineer. I don't know if those were presented to homeowners as options, if those went through that process.

Mr. Baker: That is what we had directed before, so I think what we are going to direct on this one is we are going to have to do on this one is, Mr. Brick have your client meet with the Deamantis's, and come to a conclusion as to which measure is acceptable to them. Then obviously provide the engineering details for our review. That would make it work. We are neutral on it. Mr. Cramer pointed out right now the drain going on to the Country Club is going to have to be pulled back.

Mr. Cramer: It should be pulled back.

Mr. Baker: The Deamantis's and the developer will need to get together and work this out and we will need your decision with the engineer review for us to review. You will still have some signage; you will have an inspection easement.

Mr. Brick: Signage is not mentioned on the deed, but it talks about the drainage swale and the drainage infrastructure. It doesn't specifically mention the sign.

Mr. Cramer: As far as practices are concerned there are multiple practices that New York State allows in the blue book. The three that were really looked at during our field walk were low intensity, low impact, fairly practical practices. As far as practices are concerned there is nothing stopping anybody from proposing a rain garden. My position with the Town as a Storm Water Management Officer my responsibility is to do annual inspections of Town owned practices as far as the annual inspections. I've made the determination if it were something fairly simply like this I that I would go ahead and do the annual inspections on these properties. The alternative is each homeowner hirers an engineer and submits documents to me to be reviewed. The inspection and maintenance easement are really to kind of hold the homeowner to maintaining it or not filling it in. The Town does have the ability to go back and put it the way that it was originally designed and would charge the homeowner. That is what the easement is for and those are all part of the storm water regulations for the State. Ultimately the Town is responsible.

Mr. Baker: That's how we will handle Lot 10. Hopefully you can be back next month or whenever you are ready to get that resolved. Now on lot 9 and lot 8 Sokolowski and Kaye are the only two outstanding issues.

Mr. Brick: For the record, also lot 5 the Hermans was a prior approval. Lot 12 was a prior approved lot, but Mr. Grady has approved and consented to the swale, so he is on board with it. Of the remaining lots you have Mr. Sokolowski, Mr. Kaye, and Mr. Herman who were the prior approved lots. We are not seeking any changes to that prior approval, but they are here and I think they wanted to comment.

Mr. Cramer: They were lacking signage, because the prior approved lots were not in accordance with the prior approval.

Mr. Brick: So, they were out of compliance because of lack of signage.

Mr. Cramer: Right.

Mr. Baker: We had issues in terms of the proper plans being provided to you and demonstration that they were constructed to proper depth, geometry, and configuration.

Mr. Cramer: I believe that was incorporated into Stantec's letter asking for more detail of the already constructed swales.

Mr. Baker: Assuming those issues are going to get resolved and we are going to the information and verification that they were built appropriately they will be good to go.

Mr. Cramer: Yes.

Mr. Baker: So, to the extent that the Sokolowski, the Kaye's, and the Herman's would like to go back to something else either what was originally approved or a different alternative we are going to treat that as a modification by those respective owners even though we still are under the overall storm water plan from Charlew.

Mr. Cramer: Correct.

Mr. Baker: Mr. Sokolowski you have the storm water measures put in on your lot subject to some final verifications and details which was built in accordance with the permit. If you want changes to that you're going to need to give us some kind of engineering plan. I know you've talked about wanting to use your cisterns and you put down spouts out that are connected to them. I don't think we need to get into the detail of what you've done now, because we are not making any judgement call on it. We are open to anything as long as it is properly designed. Mr. Cramer and Mr. Frueh talked about if you are going to use a cistern there has to be an overflow to a dry well, or some other means of infiltration for the extra water. To start assurance, it is properly accommodating everything.

Mr. Cramer: Correct.

Mr. Sokolowski, 10 Eagle, I mean I'm not sure exactly where we go because I was prior approved and I'm not going into the fact that you know I agree with everyone else we were never told. I know it is not your issue. We were all sat here in May and I spoke to Mr. Brick over the phone and I said I want to be clear you know Mr. Lewandowski is going to meet with each and every one of us and look at specific plans for us. It never happened until obviously someone put some pressure on Mr. Lewandowski for it and we called another day when we got these notices. For nine months, you know what all of us saw him drive by and not meet with us. We are in the same place that we were nine months ago. I can't talk about the cisterns here and all this stuff because it my specific problem or my specific situation and I don't want to waste everybody time. No one came out to my lot. We have a water problem where we can't use municipal water. We need water. The one thing I have been asking for since April can someone look at our particular situation right, Scot's situation, John's

situation, my situation and say what can we do. I was told that was going to happen and it hasn't happened. I get a letter in the mail that says you are going to get a dry well. I have down spouts going into a cistern, because I need water. Where are we going to put a dry well. I shut my sprinklers off in late summer. In late summer to early summer I don't use them. There is no relief of that cistern, so all the rain for half a year goes into there and I've never had a problem. It drains out to all the way back of my yard. How much water ½ year of water goes in there and I've never had an issue. We don't have access to municipal water, we need the water. I am just asking for somebody the Town, Corey Lewandowski, his lawyer come out like you were supposed to discuss this. We want the same thing that we asked for in April. Mr. Lewandowski said it was one of the practices that were approved you just need to the application yourself. Yet, he is not the one making the decisions.

Mr. Baker: Mr. Cramer you were never given plans or approved the cisterns and the gutters?

Mr. Cramer: Not as a storm water management. The Building Department and Stantec had both reviewed the idea of using a cistern from sump pump in the basement because they were complaining about water and we were seeing evidence at that 7- or 8-foot level where the sand meets the clay. The desire from each homeowner to have irrigation systems in an area where the town prohibits them based on the water district mechanics and how it functions.

Mr. Baker: It's capacity.

Mr. Cramer: Well, it doesn't have capacity like a giant tower, like Kensington Woods, so every time somebody opens a faucet the pumps turn on. It's also one of the only water districts that doesn't allow for fire protection from the hydrants because it's an older system that is not designed to be handling fire trucks pulling from the water system where people are using irrigation systems off of the public water. It is at its max capacity with this project 18 taps being including which the Town approved, but never has irrigation systems been a part anybody within that Northeast Water District. The gutters were not proposed to be filling the cisterns either, so it wasn't going to be a storm water management practice. It was pulling ground water and that's the problem with using it as a storm water practice is some pits are still pumping into those cisterns so you don't have a true capacity for storage. Some lots hardly run at all and that's why the gutters were tied into them. Other lots I've seen five, six inches deep in water in the back yards where the sump pits were during construction because there was so much water coming out of the ground. The problem is when trying to incorporate that into as a practice to deal with the storm water regulation is we don't have metered sump pits, we don't know how much water is coming off the roof and going into this cistern verses how much is actually coming out of the ground. The problem is the practice has to be designed to meet the regulations. To not complicate things, but when the original practices were approved by the town this wasn't a Charlew Builders project. This was a Traditional Builders project; the roads were built by Traditional Builders and Mr. Lewandowski has taken it over and that's when most of this conflict started.

Mr. Baker: We are just going in circles here. We are dealing with a difficult situation with the Town approved certain measures, we can assume it is safe to say they were largely put in appropriately, they need some details to be put in, but we don't see any gross errors. I certainly see there is conflict with the developer. The Town can't get in the middle of that. That is a private legal

dispute and we are trying to do what we can to protect you on this, but you also have buyers beware. I think what we are going to do is say you are free to come in to request a modification to fix what you want. You will have to hire an engineer or somebody help you provide the base line information to do that. We encourage you to work with Mr. Lewandowski to try and find an amicable resolution at of that, but you all have all your respective legal rights on that.

Mr. Sokolowski: I understand all that and I respect that and I appreciate what you are saying, so that's on me. My concern that I think involves the Town, Mr. Lewandowski and Charlew are the following and I brought this to your attention at the first meeting. I have a deed that shows a swale, okay, and I provided this record to you and then at that first meeting was the first time I ever saw the approved swale. They look nothing alike. Not even close. One is a kidney shape that goes way into my yard and the other is a very small divet in the back that was constructed, so it is clear to me that was not constructed to plan and it wasn't approved. It wasn't noticed by whoever came by. It obviously collects water I've shown you that a million times, but now I have sprinkler heads, I have everything else running underneath there and my concern now the swale is not just a swale that I need to keep, it is a swale that needs to be reconstructed based on what your engineer said in the first meeting.

Mr. Cramer: I would disagree. I would believe that as far as carrying the amount of water that it is designed to, I mean you've shown us picture that we say in May of your backyard that showed it is working. If you want something other than that this is the opportunity for an alternative method. Other than the signage not being there.

Mr. Sokolowski: Okay, as long as can come up with the signage on the shed or whatever. I just want to make sure that two years from now someone will come in and say this doesn't look anything like it.

Mr. Cramer: Those surveys weren't sent to me prior to being inspected and approved.

Mr. Baker: I think he is asking is to the extent that he has put on gutters and direct some or all of it to the cistern upon a future inspection is he in violation of the storm water plans for that for making those changes?

Mr. Cramer: As per the decision that the Board granted previously to allow for the alternative design to allow for the swale was based on the fact that there were no gutters.

Mr. Baker: By putting in gutters and directing the water elsewhere and directing to the swale. That is not in compliance with the storm water plan.

Mr. Cramer: Correct.

Mr. Sokolowski: So, we have taken our gutters off?

Mr. Cramer: I believe that's why we are here now.

Mr. Baker: That is the problem I have Mr. Brick. Your client made arrangements for gutters and arguably represented that they could possibly put in. Again, I don't want to be the judge on this one, but you are implicating the Town because we are stuck with enforcing this thing.

Mr. Brick: Here is how I understand it, the vegetative swale is sized and designed to treat all and it is graded to it. That is designed in the backyard to treat all of these storm water from the back of the house and from the back of the roof. Whether it comes down spouts, whether it comes to a cistern, the vegetative swale is the right size as if there were no gutters. If they place gutters and down spouts to a cistern which is not part of the storm water management system it is part of the irrigation system. If you have a vegetative swale that is sized to accommodate the entire yard but you're diverting the water from the roof to the cistern and then using it to water that doesn't implicate the storm water system it is actually reducing the flow to the vegetative swale. The cistern is diverting flow that would go to the swale and if it did it would be sufficiently sized. If they use that water to irrigate their front yards its infiltrating in the front yard which isn't impacted by the storm water system. It is actually, my understanding of it is the gutters to the down spouts to the cistern is an enhancement because it is taking water away from the vegetative swale. The difficulty arises in the circumstance where the cistern is full and you get a thunder storm because there is nowhere for that water to go from the roof if the cistern is full. In that instance, my understanding is the cistern is constructed so that there is an outflow or an overflow of the top, which then infiltrates into the back yard in the ground. Again, even it did perk up it would still get to the swale. The cistern and the gutters actually remove water from the system, but they are not part of the storm water system. If you take the gutters off and close up the cistern tomorrow the vegetative swale and the grading still works as a practice. That is my understanding.

Mr. Cramer: The documents for the last approval showed the footing drains or the French drain if you will the stone apron all the way around each house that was collecting and directing it as well as the grading to the swale. Those would be things that would not be in compliance with the prior approval, because there is not a stone apron around every house with a footing drain to carry that. It is being done in a different manner. I am not opposed to the manner its being done in. As long as it is within compliance with the subdivision approval.

Mr. Baker: What I like to do at this point, this is an interesting discussion, I am going to make a motion for executive session because I want to have a discussion with counsel and our engineer crew. I have a motion for executive session and Ms. Schallop seconded the motion; all in favor; motion so carried.

Mr. Baker: We are back from executive session and we consulted with our counsel in terms of what our options are here and how to proceed. We got some useful advice. We are stuck with a difficult situation here. This subdivision was approved with individual storm water practices that involved gutters and dry wells. The current owner of the subdivision came in a few years ago and asked for a modification on four lots saying that they do not put gutters on their homes because of fear of warranty issues. They switched to a storm water measure that relied on surface sheet flow to swales. Those were constructed on approximately four lots and were largely constructed correctly. However, there are issues as to how the homeowners who were buying those lots were informed of that. What is not an issue is that the developer constructed infrastructure within the individual home

which facilitated the installation of gutters all of most of the homes have installed the gutters and have placed them in various means which at a minimum do not comply with the approved storm water plans. Whether they could be brought in compliance with the storm water plans is an open question once we got information on actual design and location of the gutters. The short answer is the Town is faced not only a request by the developer to modify the other lots in line with the previous modification, but also, we have an issue with the four lots that had their measures changed. We will need those modified.

Mr. Baker made a motion directing Charlew Builders Inc., to provide existing plans for the four lots that were previously modified for what storm water measures they have on those and work with the homeowners, shall provide access and cooperate with identifying the storm water measures on their property. Amend their application to include a modification of those lots to incorporate gutters, cisterns, or whatever is being proposed but to bring the actual conditions into compliance with approval able plans. To do this the same with all of the lots that are being requesting modifications of it including arrangements for if gutters are added to the homes that have gutter infrastructure. That their storm water plans are modified to accommodate those. When those revised plans are submitted for all 13 lots then we will resume the hearing before we have any modification. Ms. Schallop seconded the motion. On the discussion among the Board first anything we want to change on what I said. Basically, we want to get as built and find out exactly what is going on there and bring everything into compliance. Whether it's going to figure significant changes or not is going to be subject to what is discovered on the ground. If any of the existing homeowners are uncooperative with Mr. Lewandowski, in terms of providing access, or information they will be responsible for enforcement actions on their lots. Any comments on this?

Mr. Brick: During executive session I was outside with the property owners who were here and we had perfectly frank candid discussions. I don't anticipate any concerns whatsoever. They are all reasonable people who are trying to find a solution. I am optimistic we will be able to do that. Just for clarification we submitted on the non-four approved and not excluding Deamantis, the other eight we were proposing the grading to the swale. So, what you are asking now is also come back and show engineering that would work as is or that would work if gutters were installed?

Mr. Baker: Unless you are going to remove the infrastructure on those homes that facilitate gutters.

Mr. Brick: Okay, so you want see it work without gutters and work if gutters are installed. No matter which way it happens Mr. Cramer and Mr. Frueh are satisfied that is it going to work and it is going to meet practices.

Mr. Cramer: With cisterns or without cisterns if the cisterns have overflows, we want to see those on the as built so we have all the details we need so that we can do a review and give the Board good direction.

Mr. Brick: Understood. Accept with as built are easy, because they are built. We have two lots that are currently under contract which aren't built yet, but we wouldn't be able to provide as built, but we would be able to do that same analysis.

Mr. Baker: You would give us building plans for what is being proposed for that and then as built as they are completed.

Mr. Brick: Show all the alternatives of what could happen and that each alternative works, so regardless of what does happen you are confident that it works.

Mr. Cramer: My preference would be you choose which one.

Mr. Baker: For those ones that you are still constructing choose, I think that is easier going forward.

Mr. Kaye: I would like you to clarify, Mr. Brick, nobody ever came on my property or contacted me, so I just wanted to clarify that. I am glad now that you are saying that for the third time it is going to happen. I am looking forward to it. We will see where everything goes.

Mr. Sokolowski: In your summary you said that the builder does not put gutters on the home. I think that anybody who built a home we agree with that. We knew he was very clear he was not to put gutters on the home, but we were not allowed to put gutter, we actually asked him where should we go. He put infrastructure in it was just part of the process. I just wanted to make sure.

Mr. Baker: He told this Board that he does not do gutters.

Mr., Sokolowski: Yes, he told us the same.

Mr. Baker: On the other hand, he put in the infrastructure for gutters and facilitated for you to find a gutter installer. That's what is inconsistent about this. Since he owns the storm water permit, we are putting the primary responsibility on him to fix this as part of the modification. Again, we don't really care what the solution is, you know for the individual. Some people want cisterns, some people want swales, or whatever, we don't care. As long as you provide the plans, and everyone is in compliance when we are done with this, you will all still have access easement, because they are private storm water measures. You will all still have a sign on your property. Mr. Cramer will work with you so that it is unobtrusive as possible. We just have to bring everyone into compliance with the law on this. Any other comments.

Mr. Scot Herman, lot 5, which is 9 Par View, I am one of the four. I just wanted to make a couple of points of clarification. I spoke with Mr. Lewandowski last week and he said for me was that all I needed was a sign and that my current swale was okay. He asked me to sign the form. My question is Mr. Cramer, I thought I heard this evening, that it is possible my swale might need more work. Is that what you are saying? He told me that the swale was fine and I just need to sign.

Mr. Cramer: In our last engineering letter to go out asked for additional shots, similar to when the first four had been proposed. Where you are really getting into elevation around the outside of the practice through the center of the practice to show the 6-inch depth. To be able to show the 50-foot wide and the topo shots are showing that the grading allows for the draining of the sheet flow to that practice. We have found that yes, they've given us more topo shots, not necessarily around the practice to where we can confirm or deny that the practice is built correctly. We are just asking for

additional shots of elevation around the practices so that we can confirm that it was sized appropriately.

Mr. Herman: So, it is possible that my swale is going to be disturbed in my yard?

Mr. Cramer: It is possible.

Mr. Herman: I would not have signed that form this week, with Mr. Lewandowski, because I was told all I needed was sign.

Mr. Cramer: Your backyard backs up against the fair way. We have been out there, and we think that it very well may be sized appropriately but without confirmation it is hard to tell.

Mr. Brick: We need to get from our surveyor additional data to you in terms of spot elevations around that swale so you can confirm that it is probably sized.

Mr. Cramer: Correct.

Mr. Herman: I just didn't really want a sign in the middle of my yard, so hearing so many alternatives with maybe putting it on my house, just so that it is not right in the middle of my yard.

Mr. Cramer: Ideally, when a developer comes in and he is deciding where the practice is would be the sign would be part of the consideration. If you put it over by the woods area so that the sign can go on a tree next to the practice instead of along the fair way, that should all come into consideration when you are looking at a development as a whole.

Mr. Baker: I think Mr. Brick when you go forward on this proposal for each lot where the sign is going to be.

Mr. Brick: Sure. My understanding in proximity to the practices?

Mr. Baker: Yes. I mean on the lot and we are comfortable that under State Law, we have it on the individual lot and making it clear where it is that it is posted. That we signed off on it, it should be okay. Doesn't have to be on the middle of your yard. The property owner can choose where they want the sign. We can then incorporate it into the final approval. Then we have a record going forward.

Mr. Cramer: The homeowner agrees to it.

Mr. Baker: Any other comments? We will vote on the motion. We will keep the public hearing open and adjourn it. Whether you are back in January or February depends on where you are. Please get out there and do your surveys now.

All in favor; motion so carried.

Old Business:

- 1) **Site Plan #114: Modification Request:** Application submitted by Grove at Maple Point, LLC for a modification of the existing site plan approval granted September 5, 2017. The site contains approximately 3 acres, is owned by The Point at Maple Grove LLC which is located within the Hamlet Development Center district at 392 & 400 Maple Road, and is identified as New Scotland tax parcel # 73.-4-17.1. The applicant seeks alteration of a previously approved site plan as required as per Article V, Section 190-52 (K) of the town of New Scotland Zoning Law.

Mr. Baker: We asked for a revised traffic study which took into account the sort of full build out of the project with the use of some kind of restaurant use and look at the internal traffic flow problems. We got a report from GTS with traffic engineers. Stantec has reviewed that and sent comments out. We got a response back from GTS on some of those points. I know we have Dan Cleary, traffic consult from Stantec is on the phone. No one is here from GTS. He provided a written response. I will try to simplify this by getting to the main points or what we are dealing with here. Of course, Mr. Frueh will chime in if I say something wrong. Our first concern and it was identified and I had questions with when I reviewed the initial traffic report. It was confirmed by Stantec analysis that the land use classification and your consulting review with the traffic count mischaracterized what the use was going to be. He used a fast casual count, which presumed X number of trips coming in the morning, which was the issue and Stantec has identified that there is a material difference with that traffic count versus one for a coffee shop. They recognized the different classifications or categories for coffee shops whether they use a drive thru or not. I saw your traffic consultant response to that. I didn't find that it answered the question. He made a statement that you know he thought a fast casual eatery was correct because he didn't think that a drive thru was coming in. The question is if we are dealing with do we have a legitimate traffic count so we are being confident we are not going to have congestion issues in the parking lot. That is where the issue is.

Mr. Demis: I can speak a little bit to that, so I did get a chance review GTS's response today. You are right he did make a statement that for the particular site plan that's before this Board is not likely a chain like a Dunkin Donuts or a Starbucks require a drive thru for their business will not go to this site. There are many site plans that we've done and we do the best we can with the parameters that we are dealing with and it's up to the tenant to come look at what is there and what is approved and decide whether or not they can make their business work there or not. What he is saying that you are not going to get a high trip generation from a national chain and that's where I believe Stantec reviewed the code for traffic generation based off of a drive thru and a high trip generation coffee chain. Now it's my understanding after speaking with the applicant he doesn't have any leases signed for a coffee shop. Right now, building two has a day care, and a possibility for a tenant two and tenant three, we don't know who those tenants are. I don't think it's fair to even talk about a coffee shop at this point. If a coffee shop does decide to come here, we have to come back before this Board and have a discussion and if we can then prove what type of coffee shop that is then we will have that discussion. If this Board feels that that particular coffee shop will generate enough traffic that will impact the site then guess what they can't go there. He will have to find another tenant. Here we are assuming just because the applicant did mention a coffee shop. I've seen small coffee shops where it's not as high of a trip generation as a Dunkin Donuts.

Ms. Galvin: I don't know where this whole talk of coffee shop came. I wasn't privy to it. I don't know how it came about. I was thinking you were talking about building one. There was a talk about a restaurant to the north side of building one, right. All of a sudden there is talk of a coffee shop shows up about building two, but we don't have any proposal from you.

Mr. Sanders: We are not at this time we don't have a proposal for a coffee shop.

Mr. Baker: From a traffic perspective we don't care which building it is in.

Mr. Sanders: It was also discussed casually that that would be a possible use because it is tied in with a day care may bring to a site. It was a casual conversation that we had at the end of the last meeting. Whoever we do have or end up with has Mr. Demis said we don't want anybody who is not going to be comfortable with the parking and they wouldn't want it to be there. We also have banked parking spots if it is a parking issue that we are providing for both building one and building two in this project. Really our goal at the last meeting and at this meeting as well is to get the day care center use approved. That was based on revised report by our traffic engineer in concert with Stantec's traffic engineer and I believe we have done that. We the response letter from today again responding to potential concerns it was discussed on an internal flow how we could modify that concern or adjust our site plan to address that concern with the hammer head for additional spaces.

Ms. Galvin: The additional approval was for retail use.

Mr. Sanders: Correct.

Ms. Galvin: That's where we are right now. We have retail use, but a specific request to deviate from that and have a day care center. That's what is before us, correct?

Mr. Sanders: Correct.

Ms. Galvin: So that sort of takes us back to square one at this point. Then we still have our engineers' comments about the project with the parking in front of the west side of building two. We don't have any new plans from you yet to address a number of issues that Stantec has set out in their letter.

Mr. Baker: That's a separate question.

Mr. Sanders: I believe we have addressed some of the issues in the response letter in terms of the traffic counts that were satisfied. It was about the flow in the parking lot in front building two that we are prepared to talk about tonight as an alternate. We do not have a drawing for it. We discussed it today and what we are proposing is a modification to the parking design so that a car would be able to easily make a reverse, like a three-point turn, from a hammer head design at the end of the parking on the west side of the parking lot. Sacrificing four parking spaces to do that would address we feel an improved circulation within the site in lieu of doing the cul de sac design in the back.

There were comments made on the cul de sac, we presented those as a design alternative at the last meeting as a discussion point and what we in turn realized if we did the hammer head design in the parking lot as designed then we don't need to do the cul de sac. That is what the response was from GTS and Gordan.

Ms. Galvin: We just got this two hours before the meeting. I don't even know if Mr. Frueh has had a chance to evaluate that.

Mr. Sanders: We understand.

Mr. Frueh: We have taken a quick read through their review letter. I would say maybe in response to Mr. Demis, the use that we looked at is a coffee shop without a drive thru, so that is just a coffee/donut shop that would be morning use, no drive thru. If that is just for future reference without additional traffic studies looking at that inner section and how that is impacted will not be able to be approved for that trip generation.

Mr. Demis: We are not disagreement with if a coffee shop comes to the table, right, we would have to do further analysis with not only within the site, but at the intersection. Like Mr. Frueh has in his letter. We are not requesting that with the site plan. I feel like we've been working with the Planning Board because we've had conversations with the Planning Board and we've had conversation with Stantec and the last site plan that you saw and reviewed we flipped the building so that the day care was closer to the center aisle. We put that cul de sac in the back. Just to show alternatives to show you that how we could make this site you know alternatively you know have circulation and things like that. I don't feel like we are back to square one. I feel like we are trying to accommodate the Planning Board and these guys have reached out to the traffic engineers and they are professionals. We rely on these professionals who do it day in and day out. Again, if it needs to be done, we are agreeing to it. We are not disagreeing that we can't do it.

Mr. Baker: I think that is fine as long as there is an understanding that you will come in for an intensive use on the rest of the building and any kind of eatery we will have to go through a review. You are going to have a lot of issues if it is a coffee shop.

Mr. Frueh: Right now, your building is not in the ground so I think it was just trying to do some due diligent if this is a high goal of yours to develop and have a coffee shop to accompany that there is a high potential that will not be a permitted use in that area.

Mr. Baker: My understand is we are looking at that much more actively from the beginning the site plan has shown certainly a patio area at the northern end of building one. We don't care what building it goes in.

Mr. Sanders: Unless we come up with some other traffic flow design.

Mr. Baker: Right.

Mr. Sanders: We are proposing the hammer head in order to get the day care center approved. We will have a sketch on that.

Mr. Baker: You need to show us some landscape island in the front parking lot. We had talked about that, so you are in compliance with the design standards.

Mr. Demis: If we can pull up a drawing, but I will go back to the 2017 approval where we have several street trees along the front of the parking spaces. There is only 13 parking spaces and 15 parking spaces on the left-hand side and the right-hand side, so putting in curved island or some type of island and a tree in there I feel like we are losing parking spaces. If we stick with the trees that were approved in 2017 will buffer the parking lot along the front. It gives you good street scape along Maple Road and if you look at the left side the parking lot is actually downhill from Maple Avenue so it will give you a better perspective with the trees up high at that same level that you are looking at. I don't feel like islands are sort of needed for this type of site plan. That was a discussion, I was going to bring up, I haven't made any changes, but that's my thought.

Mr. Baker: Don't they need a waiver request?

Ms. Peck: Yes.

Ms. Galvin: But the dilemma that you have is that's what the Hamlet Law requires. You are under the Hamlet Law.

Mr. Baker: There is a provision for a waiver, they just have to give us a written request and a justification for it. I'm not saying I would go for it either.

Mr. Demis: We will write a written request.

Mr. Baker: I think the only other outstanding issue on that is you are going to lose four lots at the four parking spots at the front parking lot.

Mr. Sanders: Just to explain it, this is the hammer head that we are talking about expanding. If you follow this that way and that way these four spots would be removed. I am just clarifying it for you. These four we could make up in the bank spaces.

Mr. Baker: That was where I was going to you will need to make that up in the bank spaces. It goes to the question that we talked about you are going to paving the cul de sac that is going back there.

Mr. Sanders: We are not proposing the cul de sac anymore.

Mr. Bakers: Now what is it?

Ms. Galvin: The expanded hammer head.

Mr. Baker: The hammer head is done in the front. I am talking about in the back.

Mr. Sanders: We are not proposing the cul de sac. It was the cul de sac was for site circulation as a discussion point prior to our resolution that we would propose a hammer head. Now that we are proposing a hammer head, we don't feel like we need a cul de sac.

Mr. Baker: Don't you need a hammer head then back there for turnaround for vehicles.

Mr. Sanders: We never had one.

Mr. Baker: Again, you didn't have the same intensity of use then. I am turning to Mr. Frueh to see if they could look at it.

Mr. Frueh: What would be your intended traffic drop off and pick up pattern for the day care.

Mr. Demis: They would pull in to a parking spot.

Mr. Sanders: It is not a cul de sac type of use where you go around and drop off someone. You are pulling into a spot you are walking your child or whoever back into the building and then walking back to your parking spot.

Mr. Baker: So, you don't think that there is an issue where people are going to be heading back out there and say oh, no all the spots are full and I need to go back up out of there and turn around.

Mr. Demis: They could back in that one way.

Mr. Baker: The plan is different from what I am seeing. You are not showing us the additional four spaces back there?

Mr. Demis: No, we would have to add four more for the ones that were lost on the west parking lot. Which you know won't go as far back as what our cul de sac showed on this plan here, but it will go further than what you see on this screen.

Mr. Baker: You are going to have to give us that plan and we will look at it again and see what our feeling on that traffic flow. The point I was going to make that was in the Stantec letter is it's my understanding that none of the banked parking spaces for future paving of that isle was taken into account in the SWPPP.

Mr. Demis: When I got Mr. Frueh's comment letter today I did have the opportunity to review my SWPPP and I added the additional small increase of impervious through my storm water model and I

can make it work. We won't have to make any modifications to the storm water practice as it sits today. I will update that and provide you with those calculations.

Mr. Baker: Here is my basic question, when this was originally approved or how you are going forward the way it was originally envisioned is the build out of the banked spaces would be at your discretion depending on your actual tenant needs as you go forward. There was no means for calculating the storm water plan implications of that, so why aren't we designing the storm water to assume that these are going to get built out? We have those mechanisms now.

Mr. Demis: I noted in the storm water report that the additional banked parking spaces treatment and storm water would be provided on the 20-acre parcel when that development gets developed.

Mr. Baker: For all of them?

Mr. Demis: Yes, because there is a certain point where we are downhill the slope, we can get the water up hill.

Mr. Baker: Obviously, so where is the water shed design, where is the drainage design?

Mr. Demis: What I did today was I took that cul de sac, so the entire cul de sac ends that water would come into the storm water basin. That is what I checked today, but if we are eliminating the cul de sac as Mr. Sanders has mentioned and we are going to add four additional parking spaces you know I can say it will still work because it will be less than going as far back as the cul de sac. If you want, we can add the four parking spaces paved as agreed for the hammer head on the west side and then whatever banked parking spaces up to the end of that gravel cul de sac that we originally designed. I can accommodate that in the storm water design today. Then the rest of those, which would be a dozen of them would have to come into play when we develop the 20-acre parcel, or if we need it for this site, which I don't see the need, but if those were needed and the 20-acre parcel wasn't ready to be developed then at that time we would have to update the SWPPP and provide some sort of storm water on the 20-acre parcel probably if they still own it with an easement to provide storm water for just those dozen parking spaces.

Mr. Cramer: The other option if the 20-acres wasn't in the allowable area to put the storm water would be pervious pavers so some sort of infiltration in that area.

Mr. Demis: There are options.

Mr. Baker: We will make a note that on the approval we will be approving the full development four more spaces on it and any further build out will require site plan notification and SWPPP revision. Just so we don't have that open ended for the future.

Mr. Sanders: Can we proceed with requesting the day care center in building two approval with those modifications of the hammer head and then banking those four spaces.

Mr. Baker: Yes, once we get a plan.

Ms. Galvin: We still have outstanding issues related to that.

Mr. Baker: We need a plan to approve. I am not going to give a conditional approval without the plan. I certainly want Stantec to look again at the question of the flow of that lot since we are taking out the cul de sac. We will need the waiver request on the landscaping islands. We can give a conditional site plan approval without a signed approval but you know obviously I'm not moving forward with anything on that. We have outstanding landscape issue on the hot box. We don't have the final details on that.

Ms. Galvin: We were supposed to get mock ups of the closed wall mounted signs.

Mr. Baker: We don't have that yet.

Mr. Frueh: No hot box, water meter building.

Mr. Cramer: And the colors of the building.

Mr. Baker: To me it is the same thing the water meter building.

Mr. Sanders: We did submit a rendering as requested. The additional request for the hot box or the water meter building is that those are engineering requests that I will need an engineering consultant since we don't do those. If I may I think the request to have a finish set of drawings for building in order to get Planning Board approval is more than we normally do for any building. I'm not sure why you need finished drawings for the water meter building as opposed to the other project.

Mr. Cramer: It is also being dedicated to the Town so the Town is taking ownership of it, we want to have those details. We haven't seen the details on that yet. The rendering we had was black and white, we need to review the colors.

Mr. Sanders: The Hardy colors is noted on the drawings. It is the same color as the existing building, well it is a little darker than the existing so that the door would be lighter.

Ms. Galvin: The same color as the existing building would be good and the windows could have some divided lights like the building has.

Mr. Sanders: Well, that's more of a traditional roof line. Again, they do have divided lights.

Ms. Galvin: There is only one that has divided lights.

Mr. Sanders: They will all have them. In terms of the finish drawings, I will need a consultant to provide those and we will have them for the next meeting.

Mr. Frueh: Ultimately the water meter details and the piping and the thrust restraints and all those elements that go into that need to be finalized prior to a contractor and we will need a pre-construction meeting.

Mr. Demis: We met with DPW to talk about some of these details and we are actually working on that. I have 99% done with those details Mr. Frueh is looking for.

Ms. Galvin: One of the things our planner said about lighting was that the plan includes box type light fixture on 15-foot poles. The Planning Board should ensure that any lighting fixture chosen is dark sky compliant. Further it is recommended that the Planning Board discuss pole and lighting fixture styles so that they complement the aesthetic character being sought in the HDC. The photo metric plans submitted to the Town on 10-19-2022 should be reviewed. It appears to show the glare property lines is not an issue, however any lighting for the monument sign at the entrance should be further evaluated and discussed. Do we have any information about the fixture styles so we can assure that they complement the aesthetic character.

Mr. Cramer: The fixtures that were approved in 2017 are installed and they are dark sky compliant.

Ms. Soeller: One comment on the cedars is that they are a preferred deer brow, so consider that and put some little fencing around there or find a species that is not a deer brow. I can recommend something and will send it to you.

Mr. Sanders: Mr. Baker just one more time we won't be able to get a conditional approval for the foundation for building two? I just need to clarify to my partners.

Mr. Baker: Are we in a position of saying we are comfortable with the location of the foundation for building two? I guess what I would say is I'd be comfortable in giving you that approval for the foundation for building two with the caveat that it is subject to our further review of your final parking lot layout. It is possible for some modification of some of your curves or your foundations. I would let it preclude us from saying you know to tweak it. I think we are comfortable with the foot print of building two.

Ms. Galvin: Wasn't there a suggestion that building two be moved forward?

Mr. Baker: That was based on the traffic flow.

Mr. Galvin: Let me hear from Mr. Frueh.

Mr. Frueh: That was also a little bit more about the coffee shop or other higher intensive use was coming in there. Where you would be having more entries and exits out of the drive way.

Ms. Galvin: Are you able to give an opinion now whether you think that the new proposal would be adequate with respect to traffic flow?

Mr. Frueh: I would want to get Mr. Sanders input or look at the cul de sac in the rear whether that I don't think that impacts your foundation layout and approving that building #2. I still think it would be our recommendation to have some sort of turn around mechanism up off of that end. I think that will be a likely comment that comes out of our review. Once we get the plan and take a look at it.

Mr. Baker: If we give you a conditional approval for your footprint or foundation for building #2 if it would be contingent on-site plan approval. If we are going to require a cul de sac, but I don't know in theory it won't affect the footprint.

Mr. Sanders: No, it won't affect the footprint.

Mr. Demis: We will work with Stantec and Mr. Cramer. If we add four more additional spaces in lieu of that cul de sac I don't think in my opinion that dead end is long enough to warrant a cul de sac, when you have that one way where someone can easily look at those six spaces and say those are full and I am going to back up here and come back.

Mr. Baker: I understand. We will need four more parking spaces back there with or without a cul de sac.

Mr. Demis: We will take a look at that.

Ms. Galvin: Mr. Frueh so you would feel comfortable if a conditional approval was given for the the foundation.

Mr. Frueh: Yes.

Mr. Baker: I agree looking at it is unlikely to change anything.

Mr. Baker made a motion to give conditional site plan approval for the foundation for building two, subject to any alterations that may be required from the final review of the design of the parking lot, including landscaping and all of our other outstanding issues. None of that can change the foundation. The foundation shown in the plans dated 10-18-22. All tenants will continue to require site plan approval and will include the review of the traffic patterns depending on the use.

Mr. Cramer: Being that we dated the plans set that we are allowing the foundation construction that addresses the size verses what the prior approval was. I want to make sure we have the verified.

Mr. Baker: I assume the plan dated 10-18-22 for the foundation of building two reflect the size (8,250). That is your modified size. I guess final site plan approval will include any outstanding

issues, façade, signage, location for the play area, we need dimensions on that. It should be shown on the site plan.

Ms. Peck: Just to be clear, this approval is addressing the modification also for retail to include the day care use.

Mr. Baker: Yes, we are modifying the site plan for building two to allow a day care approximately 68% of the building. We are satisfied with the traffic flow issue and the traffic count issues.

Mr. Frueh: Based on the day care use with that square footage and the retail use with the square footage of the vacant area there without a restaurant. The traffic analysis is correct.

Mr. Baker: The charging stations will need to be relocated.

Mr. Sanders: We are proposing them to be near the dumpster.

Mr. Baker: That looks good to me. I don't think we need another public hearing. We have a motion for a conditional foundation approval.

Mr. Schallop seconded the motion; all in favor; motion so carried.

Discussion topics:

- 1) **Minor Subdivisions** for the months of November 2022. Ms. Schallop moved to accept the October and November Planning Board minutes and Ms. Galvin seconded the motion; all in favor; motion so carried.
- 2) **Board Update** of previously approved projects.

Mr. Cramer: I did not stamp any subdivision maps approved in November. I had one that was delivered yesterday that is ready to be approved. I have the site plan from earlier today that I am expecting that plan to be coming in by the end of the week. I had three of them that went to Albany County Planning Board this month. I could have up to five approved by January. You will see New Scotland South Road solar project in January. They hired the previous engineer who went through the approval process with the site plan. They have put some trees back in, in the wrong location, we got \$9,000 in building permit renewal fees. We should have a very robust landscaping plan that will be better than the original one that takes into account the dampness or the saturation of the soils.

Privilege of the Floor: Public comments on any matter relevant to the Planning Board.

Mr. Baker: I would like to introduce a resolution commemorating the service of Christine Galvin. She has announced her resignation from the Planning Board after the December 22nd meeting. All in favor and the resolution was approved.

Adjournment: Mr. Baker moved to adjourn and Ms. Galvin seconded the motion; all in favor; motion so carried.

Respectfully submitted,

Lori Saba

DRAFT