

A public hearing of the Town Board of the Town of Moreau was held on December 21, 2021 in the Town of Moreau Municipal building, 351 Reynolds Road, Moreau, New York, for the purpose of hearing public comment on proposed Local Law 7 of 2021.

The public hearing was held in person as well as broadcast via Zoom.

The Supervisor called the public hearing to order at 6:00 p.m.

**Town Board Members Present**

John Hogan	Councilmember
Kyle Noonan	Councilmember
Alan VanTassel	Councilmember
John Donohue, Jr.	Councilmember
Theodore T. Kusnierz, Jr.	Supervisor

**Town Board Members Absent**

None

**Also present:** Leeann McCabe, Town Clerk; Karla Buettner, Attorney for the Town; Councilmember Elect Mark Stewart; Others: TJ Ruane, Harry Gutheil Jr., Travis Mitchell, Joseph Dannible, Dan Davies, Jen Ball, Steven Cerrone, Luke Michaels, Mary Elizabeth Slevin, Gianni Simone

The Supervisor welcomed everyone to the public hearing on the proposed moratorium. He stated that the purpose of the proposed temporary moratorium is to give the Town Board an opportunity to review the Town's Comprehensive Land Use Plan, as it relates to areas of the Town where there has been significant growth and to ensure that the Town has the necessary regulations in place when it comes to the use of Town sewer/wastewater infrastructure.

The Supervisor asked the Town Clerk to read the notice of public hearing into the record.

**TOWN OF MOREAU  
NOTICE OF PUBLIC HEARING  
TO CONSIDER ADOPTION OF LOCAL LAW**

NOTICE IS HEREBY GIVEN pursuant to Section 20 of the Municipal Home Rule Law of the State of New York that a public hearing will be held by the Town Board of the Town of Moreau on December 21, 2021 at 6:00 p.m. at the Town Municipal Complex, located at 351 Reynolds Road, Moreau, New York for the purpose of considering the adoption of Local Law No. 7 of 2021. If adopted, Local Law No. 7 of 2021 would add Chapter 125 entitled "A Temporary Moratorium on Building Permits, Subdivision Review, Site Plan Review or other Review of Subdivisions of More than Ten Residential Dwellings Located Within One-Half Mile of an Existing Sewer Main Within the Town of Moreau." Written comments on Local Law No. 7 of 2021 can be submitted to the Town Clerk up and through the time of the public hearing. A copy of proposed Local Law No. 7 of 2021 can be obtained at the Moreau Town Municipal Complex and on the Town's website.

Leeann M. McCabe  
Town Clerk

Published: December 11, 2021

The Supervisor asked Attorney Buettner if she had received comment from the Saratoga County Planning Board. Attorney Buettner stated that she received a letter today from the Saratoga County Planning Board, which was in approval of the moratorium.

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The Supervisor opened the hearing for public comment. He reminded those who wished to speak, that they would have 5 minutes to address the Town Board. He asked, that those speaking, please state their name and address for the record. He also stated that the Town was in receipt of all formal correspondence relating to this public hearing, so it isn't necessary to read the documents back into the record, however, the comments could be summarized if they wished. The Supervisor asked if anyone wished to be heard.

Travis Mitchell, property owner at 60 Bluebird Road, addressed the Town Board. He stated that he had been reviewing, over the last several weeks, the documents from the Route 9 sewer district. He stated that back in 2008 and 2009 Tim Burley was the engineer at the time. He stated that Tim and the Town Board wrestled with a project for almost 10 years, which would be supportive of those in the district. He stated that there were public hearings and referendums, and openly, a project could not be found that would work. He stated that the Town Board then brought Laberge in, to take a look at what had been done and to look at some recommendations going forward. He stated that Laberge sent a letter to the Town, suggesting that if the Town wanted to try to get a project passed, they would have to remove the residential properties from the proposed sewer district. He stated that the Town Board talked about it for a few months and decided that this would be the approach they would take. He stated that the Supervisor had sent a letter to all residential property owners that had been in the district, indicating that they would be removed. He stated that with that, the referendum passed. He stated that it was 32 to 29. He stated that the referendum wouldn't have passed if the residential property owners weren't excluded. He stated, that before the sewer flows through the line, there's a process that forces other properties into a system that they didn't vote for. He stated that he was an engineer and in favor of sewer and wished he could bring sewer through the whole Town to make life easier. He stated that there isn't sewer throughout the whole Town because it's not affordable. He stated that the Route 9 commercial properties voted for the sewer and voted for the cost because it increases the value of their property. He stated that he wasn't an appraiser, but a good argument could be made that it could increase the value of residential properties in this instance. He stated that the engineers are now saying that the Industrial Park force main, where all this connects to, is nearing capacity and will need more flow to pay for upgrades to the force main. He stated that it would be saddled on the backs of residential properties that didn't vote for it. He stated that the Town couldn't find a project that would work when they were included. He asked that the Town Board not approve the proposed moratorium and let those who want the sewer, who voted for the sewer, and the properties that benefit from the sewer, to pay for the sewer. He thanked the Board members for their time.

Luke Michaels, Michaels Group Homes, addressed the Town Board. He stated that he had sent an email to the Town Board yesterday and asked if it was received. The Supervisor stated that it had been. He stated that the new law, that it's in the front of the room, does address new changes. He asked if this was correct. Attorney Buettner stated that the wrong law was put on the website before the notice of public hearing. She stated that the one at the door was the one the Town Board had before them. Mr. Michaels stated that the current law doesn't affect any approved projects. Attorney Buettner replied that he was correct. Mr. Michaels stated that the sewer for the commercial properties within the Route 9 project makes the properties infinitely valuable. He stated that it changes the entire landscape of the commercial real estate. He stated, that in Moreau, there is perfectly suitable, viable soils for septic systems. He stated, that a couple projects that have been vetted by the Board, which the Planning Board submitted, have already been planned for septic systems. He stated that the site designs have already been done and a lot of time, energy and funds have been spent on these projects, to move forward with septic systems, which are perfectly viable for residential use. He stated that the costs for sewer are a variable right now. He stated, that to get to residential properties, the developer has to improve the infrastructure all the way to their sites. They have to put in new roads and run sewer through the development. He stated, that after that, there are likely hook-up fees that the developer would pay, for tying into the sewer. He didn't know what those fees were yet. He went on to say that each home would have to have a grinder pump, which would cost about \$7,500.00. He stated, after the construction and the sale of the home, the property owners would be facing sewer tax fees and he didn't know what they were yet. He stated that he had seen a calculation of sorts and it showed \$2,839.00 based on a home valued at \$300,000.00. He stated that the tax would be significantly more because with the cost of construction and inflation, homes are going to cost much more than \$300,000.00. He asked who would be telling the new people moving in about the sewer tax and when will they know. He stated, that once people know how much they'll be taxed for the

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sewer, the home sales will slow down or even halt. He stated that there's a viable alternate option in that a septic system can be installed for less than \$5,000.00. He stated, that at a time when home affordability is a pressing issue, why would we add more costs to those homes. He asked that any projects that have been before the Town to not include them in the moratorium. He stated that they've already spent way too much in funds, time and energy. In closing he stated that he didn't agree with the moratorium.

Thomas Ruane, Whiteman Osterman & Hanna LLC, Counsel for Cerrone Builders, addressed the Town Board. He thanked the Town Board for the opportunity to speak and thanked Attorney Buettner for clarifying the discrepancy in the law. He stated that the comments and arguments in his letter of December 17<sup>th</sup> apply equally to the current version of the local law. He stated that his client has had an application pending before the Town for a forty-nine-lot subdivision off Lenox Blvd. at the entrance to the Town Park. He stated that it has been before the Town since December 2020. He stated that the project has gone through SEQRA review before the Planning Board, which resulted in a determination from the Planning Board, that the project would not result in any adverse environmental impacts. He stated that they've received preliminary plan approval. He stated that they've also prepared a Map, Plan and Report for a water district extension. He stated that they've also applied to NYS DOH for a Realty Subdivision approval. Attorney Ruane stated that the proposed moratorium as drafted applies to any project within 1/2 mile of an existing sewer main and has more than 10 units. He stated that the Jacobie Farms subdivision has 49 lots and a portion of the project is within a half mile of the sewer. He stated, what's not in the moratorium, is an exemption for the projects that have approvals already and are already pending before the Town. He stated that the reason he's here is because the project is not within a sewer district, the Town Code doesn't require sewer connection in the R-2 District and the cost prohibitive nature of utilizing public sewer would cost approximately \$1,000,000 compared to \$170,000. He stated that the soil composition is ideal for septic. He stated, that as proposed, the moratorium would stop the project dead in its tracks. He stated, that unless the Town Board believes that they can come up with a solution in the next six months, the moratorium will likely be extended into the future, further damaging his client and the project. Attorney Ruane respectfully requested that the Town Board amend the proposed moratorium language and exempt the project, allowing Cerrone's to complete the Planning Board review process and other necessary approvals, or reject the proposed moratorium in its entirety. Attorney Ruane thanked the Town Board.

Harry Gutheil addressed the Town Board. He stated that he had questions and comments but understood that a public hearing was for comment only. He stated that this local law affects everyone within 1/2 mile of the sewer main from Fenimore to Exit 17. He stated, that when Sewer District 1, Extension 5 was created, people were told that it would encourage growth, expand the district and bring on more users to get the cost down. He questioned how much actual assessed volume growth there has been, which is directly related to the sewer main. He believed that this moratorium would discourage growth in all the other areas of the Town. He stated that he understands the Town may need some time to do some evaluation, however, moratoriums historically end up being extended due to the pace that progress sometimes moves. Mr. Gutheil read from Section 125-1 of the proposed Local Law, which states "while the Town considers and potentially adopts changes to its zoning code to address new circumstances not addressed by its current laws". He questioned what the new circumstances were. He stated that something triggered this and that it has an appearance that there's a lack of capacity. He stated that he knew the Town is looking at several options, one from the City of Glens Falls and one from Saratoga County Sewer. He stated that he had questions from what he has read in the paper and put a call into the Town Hall two days ago. He stated that his call hasn't been returned. He stated that he's not sure how to ask the right questions without having answers. He went on to reference Section 125-1 of the Local Law again and stated that the Comprehensive Land Use Plan cited the desire for the neighborhoods on either side of the Route 9 corridor. He stated that the Town has had some great growth over the last decade and new subdivisions that have been successful, which adds to the quality of the housing in the Town. He stated that there's been an increase of assessed valuation, which helps with the budget and the tax rates. He also stated that sales tax has increased, which is important with the budgets. Mr. Gutheil stated that he hears more complaints about apartments and suggested that the Town should have done a moratorium on them but instead they did just the opposite. He commented that there have been PUD's come before previous Boards and they've increased the density. He stated that this moratorium has the appearance of being a

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capacity issue and if it is, a moratorium may not be necessary, and it may be easy to resolve. Mr. Gutheil thanked the Board.

Gianni Simone, one of the principals of Cerrone Builders, addressed the Town Board. He asked if the Board members had all received his letter that was submitted to the Town. They replied that they had. He stated that he's never wanted to sue a town where they do a lot of work in. He stated that they have several other properties in the Town that they continue to develop. He stated that his project started on September 12, 2020 and they're basically now, right where they started but with preliminary approval. He stated, that if they add another six months to this, they won't be able to build until next season, which is September 2022. He stated that it will have been two years and they will have lost another building season. He asked what they're supposed to do, just keep paying property taxes and not be able to build. He stated that there have been a lot of meetings with Town officials to discuss what the Town wanted with his project. He stated that they've spent substantial money in a design that's appealing to the Town and the Planning Board. He stated that the entrance is going to be beautiful. He stated that more and more costs keep getting added to it. He mentioned attorney fees and engineering fees and maybe now the possibility of sewer redesign. He asked again where that puts them. He asked that the Town Board please see it through their eyes. He stated that they've spent a lot of time and a lot of effort. He stated that they do a lot of business in this Town and they're bringing more business to the Town. There's still a piece of property along Route 9 that they'd like to purchase, even though they've moved their potential facility to the Industrial Park. He stated that they have another property behind right here and they're in talks with someone to do something at the end of Butler Road. He stated that he opposed the moratorium and asked the Board members to please consider any projects that are already before the Town. He thanked the Board members.

Mary Beth Slevin addressed the Board. She stated that she had submitted letters to the Board on behalf of Arrowhead Meadows, LLC and SRH-TJM, LLC. She asked that the Town Board consider that these projects have been through a significant review of the Planning Board. They each received a negative declaration of SEQA with respect to the reviews they went through. She stated that they both have preliminary approval to move forward with the next phase of approval for those projects. She stated that the negative declaration means that these projects don't have a negative impact on the environment. Both projects were found to be able to be developed as proposed, with septic systems, without any adverse impact. She believed that this was important and that the Board should take it into consideration in determining whether to move forward with the moratorium, at least with respect to those projects. She stated that the projects can be exempt from the moratorium and she believed that they should. She stated that it would be appreciated if the Board would take that into consideration. She thanked the Board members.

There were no further comments made from the public.

### **Resolution #2021-377**

A motion was made by Councilmember Noonan, seconded by Councilmember VanTassel and carried to close the public hearing at 6:26 p.m.

Asked if all in favor, the following responses were given:

Councilmember Hogan	Aye
Councilmember Noonan	Aye
Councilmember VanTassel	Aye
Councilmember Donohue	Aye
Supervisor Kusnierz	Aye

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The public hearing was adjourned.

Respectfully submitted,

Leeann McCabe  
Town Clerk

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To Whom it may concern:

MOREAU TOWN CLERK

We are writing this letter personally, on behalf of all members of Cerrone Construction. We would like to start out by stating, that it was never our intent, nor even a thought, to enter into a lawsuit against the town. This is the town where we have worked for the past 25+ years. The town where we have developed the majority of our 600+ homes that we have built within this company. The town where we have made relationships all along the way with customers, town workers, and town officials. The town where we have built and own other businesses, and continue to invest into, with other businesses and properties throughout. The town where we have done everything mindfully with the respect of doing right by the town and the community. And ultimately, the town where we chose to have our office in hopes to remain there for generations to come. At some point however, we have to take a step back, and as a company evaluate and stand up for what we feel is wrong. What is being done to us with our project "Jacobie Farms" is WRONG.

To summarize then and now. When we first started the design phase of this project, it was clear the town wanted to make sure this subdivision was aesthetically pleasing as, it is the entranceway to the Moreau town park. With that, there were several "asks" from the Town. From limiting driveways off of Lenox Boulevard, two street landscaping, street lighting, walking/bike path, dedicated property to entrance with plantings and signage, extending water into the park and installing a fire hydrant, re-paving Lenox Blvd (a town road that is in the worst condition of any roads around), and others that we listened to from the beginning. We decided as we always do with our projects in Town Of Moreau, that the best thing to do would be to meet with the town officials to come up with a game plan of how we can give the town what they would like, and move forward to design the project to accommodate their requests.

The design parameters for the project did not need a variance in any means, in fact the project was designed to meet and not exceed all town requirements. The only item left for clarification at that time, was how to receive Town water. At the time we had a discussion of becoming an out of district user, and pay for extra capacity that the town needed for our project. We had agreed to that and decided to move forward without the need for a map plan and report, with the condition to install a waterline into the park to a fire hydrant. This contribution at that time seemed like the right thing to do for the town. However, since that conversation a lot has changed. A resolution came out as a surprise to everyone, except the Town board. This blindsided the project, and everyone involved, and added a two month delay to the process. Then to find out that a decision has been made by the town to do the map plan and report for the water, because our out of district user was no longer an option.

So, after we designed a project with added roads to meet the "asks" of the town to not have driveways off of Lennox Boulevard, Leberge Delays us again as they are "reviewing the project". We then receive the comments addressed by Don Rhodes, and to our disbelief they are the same comments that have already been answered months prior.

Now, we are facing a potential moratorium that could delay our project another six months. All of these delays, resolutions, moratoriums, are for what? To make a residential project connect to a sewer system that it does not need, nor can afford.

Again, we are a company that have been in this town for over 25+ years, and have built several communities that we feel have improved the landscape and demographic. We have a strong relationship, and love for the Town Of Moreau. We are the first, and one of the only local builders that have their office in town. We take pride in the fact that we use many of the local

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businesses in part with our business. For example The Drywall Center, Best Kitchens and Appliances, Adirondack Fence, Top Notch Builders, Cut Right Counters, just to name a few. We also have a self storage business, and two other valuable pieces of property on route nine that we are excited to develop as well.

We are currently working on plans to help drive a business (which would be the towns largest employer) into the industrial park. This we hope, will provide many well-paying jobs, and help bring people and businesses into the area.

We would also like to remind the town of some facts pertaining to the sewer. Going back 10+ years ago, there had been many discussions and several actual referendums related to the route nine sewer. Any vote that included single-family residential properties within the same area, failed. These votes failed because there is no benefit to sewer for a single-family residential property in this area of the town, and the costs were much too high. There is no doubt that a sewer is critically important for the commercial development of route nine, as the Corridor needs the sewer to be developed to its maximum potential.

We are in full support of that district. To get the route nine sewer referendum to pass, the majority of residential properties were taken out of The proposed districts, and essentially only commercial property owners and mobile home parks, were included. These property owners were obviously voting in favor of the district because of their need. With the sewer project on route nine, property owners will have sewer at their doorstep's, paid for by the district.

Projects such as large residential subdivisions, which they are now trying to force to connect to, would be paying for that route nine sewer. And the difference is they would also need to fund their own infrastructure up to and throughout their subdivisions. It just doesn't seem right, that residential properties who do not need sewer, have to pay to get it to their property, but are also paying to get it to the property of all route nine in commercial properties and businesses. To make matters worse, we are hearing that there is little to no capacity left in the industrial park force main and that new connections would potentially be on the hook to replace that line. Therefore the residential properties who don't need the sewer, will subsidize construction of the sewer to the Route nine properties and then pay to replace the existing force main all while the route nine property owners who need the sewer only get a sewer bill (which is what they voted for) reduction, in behalf of the residential property owners.

This has gone too far for too long. We would like to amicably come to a resolution, for ourselves, and the 49 new residents that we must morally, and ethically defend.

Sincerely,

Steven Cerrone, Gianni Simone, Anthony Cerrone



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December 21, 2021

Dear Town of Moreau Town Board Members,

MOREAU TOWN CLERK

Please accept this letter on my behalf as a member of the Moreau Planning Board and resident of the Town of Moreau. I live at 22 Pine Valley Drive and apologize I cannot attend the public hearing in person. I am writing to voice my concerns with the proposed moratorium on large subdivision construction as proposed by the Town Board. Although I understand the basis of this law and do believe that municipal sewer is the best option for the environment, I believe the timing and overall attempted policy is reactive, and something that should have been drafted after the sewer referendum was passed if the Town Board thought this was an essential policy.

In reviewing the Town of Moreau Comprehensive Plan, adopted April 2019, extending sewer service to new residential developments was not the intent of a new sewer line. The ongoing theme in the Comprehensive Plan was to extend sewer service to benefit and attract potential commercial growth in the Route 9 corridor. It appears now, the notion of requiring residential units seems like an afterthought and only considered after new developments were proposed within the vicinity of the new line. What is frustrating as a Planning Board Member is that requiring hook-up to the new sewer was discussed early in the process with the developers, then a resolution to look at a law was passed in May of 2021, further confusing applicants, and now a moratorium is being considered. Now, all of 2021 has been lost to this issue and this confusion will languish into 2022 as the Town looks to take on another lengthy moratorium.

I understand that municipal goals and policies change, however, here in Moreau, we are very slow to put those new policies into actual law. When the Comprehensive Plan was adopted, it was estimated that the Town Zoning Law would be updated within an 18-month timeframe. Now, 32 months later, no new zoning law is in place. Our outdated code does not fit to what the residents envisioned in the comprehensive plan and many of our applicants are left to hear what the comprehensive plan intended and what might be in our new zoning, yet with no new code to provide this guidance. My concern is this moratorium will be another drawn out process that gives the impression Moreau is not open to development. It is my opinion that the Town would be better suited putting means to finally updating our laws, enhancing our staff and resources in the Building and Planning department, and better preparing for the growth that is coming to Route 9.

Thank you for your time,

Meredith Smith Mathias



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WHITEMAN  
OSTERMAN  
& HANNA LLP

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MOREAU TOWN CLERK

Thomas J. Ruane, Esq.  
Attorney  
518.487.7615 phone  
truane@woh.com

December 17, 2021

**Via E-Mail and Certified Mail**

Hon. Supervisor Kusnierz  
Hon. Members of the Town Board  
351 Reynolds Road  
Moreau, New York, 12828

***Re: Cerrone Builders, Inc – Public Comment  
Town of Moreau Proposed Subdivision Moratorium***

Dear Town Board Members:

This firm represents Cerrone Builders, Inc. ("Cerrone"), and related entities, developers of the proposed Jacobie Farms Subdivision, located in the Town of Moreau (the "Project"). The purpose of this letter is to comment on the proposed local law entitled "Local Law No. \_\_\_\_ of 2021, Adopting Chapter 125 of the Town of Moreau Code, a Temporary Moratorium on Building Permits or Site Plan Review or Other Review of Subdivisions of More than Ten Residential Dwellings Located within One-Half Mile of an Existing Sewer Main within the Town of Moreau" (the "Proposed Moratorium"), and respectfully request that the Project be exempted from the Proposed Moratorium.

**Cerrone**

Cerrone is a local developer and builder that has built over 400 homes in the local area. Cerrone is a third-generation family business and focuses on hiring local, and contracting and purchasing from, local vendors.

**Project Background and Approvals**

The Project includes two existing tax map parcels, 50.-3-28.2 and 64.-1-54. The parcels both have direct frontage on an existing Town Road, known as Lennox Boulevard (also known as Moreau Rec Road), which currently provides public access to the Town Park. The parcels are

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proposed to be subdivided into 49 residential lots. The Project includes individual septic systems for each of the 49 single-family homes. Septic was chosen for the Project because: (a) the Project is not within a sewer district; (b) under the Town of Moreau Code (the "Town Code"), public sewer connection is not required for single-family dwellings in the zoning district where the Project is located (R-2 District); (c) the cost prohibitive nature of utilizing public sewer service such as through the use of gravity sewer (\$901,650.00, plus approximately 10% in engineering fees) and low-pressure sewer (\$914,910.00, plus approximately 10% in engineering fees), compared to the cost of septic (\$171,500) (See, Attachment 1); and (d) it is understood from the Project engineer that the soil composition is ideal for septic evident by the significant soil test pits observed by the engineers. It is also believed that septic systems are the predominate form of sewage treatment for single family residences within the vicinity of the project.

Cerrone has been before the Town of Moreau Planning Board since December 2020. On July 19, 2021, the Planning Board completed its review under New York State Environmental Quality Review Act ("SEQRA") and issued a Negative Declaration, determining that the project will not result in a significant adverse environmental impact. At the following meeting, on August 2, 2021, the Planning Board granted preliminary subdivision plat approval for the Project. Cerrone anticipates returning to the Planning Board within the next month for final plat approval.

During the review process, Cerrone has been more than amenable to the needs of the Town. To that end, Cerrone has agreed to incur substantial additional costs for the benefit of the Town of Moreau, including installation of a loop road so that no driveways abut onto Lennox Blvd, street lighting (\$21,000, see **Attachment 2**), signage for the Town Park, landscaping (\$14,760.00, see **Attachment 3**), construction of a bike path (\$60,000, see **Attachment 4**), and contribution to the repair and resurface of Lenox Blvd. (\$8,000).

Since receiving approval from the Planning Board, Cerrone, at the Town's request, has also proceeded with petitioning the Town for water district extension, at additional cost to the Project, rather than applying for service as an out of district user. To that end, Cerrone has submitted a petition to the Town Board for water district extension. In addition, since receiving approval from the Planning Board, Cerrone has submitted an application to the New York State Department of Health for Realty Subdivision approval.

The Project is scheduled to begin construction as early as possible in the Spring of 2022. However, the Town Board is considering a moratorium targeting subdivision development. As drafted, the Proposed Moratorium would prevent the Planning Board from issuing final plat approval on the project, and would, as a result, delay the Project irrespective of the progress the Project has made before the Planning Board and the substantial financial costs to Cerrone.

We respectfully request that the Town Board (1) amend the Proposed Moratorium language and exempt the Project, allowing Cerrone to complete the Planning Board review process or (2) reject the Proposed Moratorium entirely. The Project is a relatively small subdivision and is not related in any way to other subdivisions in the Town of Moreau that may be affected by the Proposed Moratorium. As such, the Town Board could easily amend the proposed moratorium to exempt the project without opening the floodgates to subdivision development during the moratorium period.

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#### **The Town Can Amend the Moratorium Now**

At the moment, the Proposed Moratorium applies to all subdivision developments (a) containing more than ten residential dwelling units and (b) located within one-half mile of an existing sewer main within the Town of Moreau. The Proposed Moratorium prohibits the consideration of any building permit, site plan approval, special use permit, or subdivision approval or any other municipal approval for any subdivision. The Proposed Moratorium only exempts, in relevant part, “any Certificates of Occupancy for any and all construction pursuant to building permits issued prior to the date of the adoption of the Notice of Public Hearing...” Proposed Moratorium, § 125-3. Therefore, as currently drafted, the Proposed Moratorium would prevent the issuance of any Town approval for any subdivision that meets the two criteria noted above regardless of whether the Project has received approvals, been pending before the Town for over a year, and regardless of the time and resources put into the project.

It is uncommon for a moratorium to be enacted without any exemptions for pending applications. Exemptions are often designed to protect municipalities from litigation that may result from prohibiting the processing of pending applications that have been unreasonably delayed, where significant money would be lost or where Cerrone would not be able to realize a return on investment.

It is critical that the Town Board understands that, within its legislative discretion, it can: (1) amend the Proposed Moratorium up until the point it is adopted or (2) reject the Proposed Moratorium entirely.

Based on the arguments set forth below, we respectfully request that the Town Board exempt the Project from the Proposed Moratorium. To ensure that the exemption is narrowly tailored, we would recommend exempting projects that have received preliminary plat approval from the Planning Board as of the date the Moratorium becomes effective (i.e., when it is filed with the New York State Secretary of State). This would protect the Town from unnecessary litigation and ensure that the Town receive the many community benefits that the Project would provide.

#### **Commencement of the Moratorium and Effective Date**

As an initial matter, the Local Law purports to commence the moratorium “after the date of the adoption of the Notice of Public Hearing of this local law.” The Local Law also states “[t]his local shall take effect immediately as permitted by law.” Under New York Municipal Home Rule Law § 27, a local law is not effective until it is filed with the New York Secretary of State (“[n]otwithstanding the effective date of any local law, a local law shall not become effective before it is filed in the office of the secretary of state”). Thus the moratorium cannot commence after the date of the Notice of Public Hearing of this local law.

#### **Application of the Moratorium to the Project is Without a Rational Basis**

According to the Proposed Moratorium, the Town’s Comprehensive Plan “calls to insure

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that supportive infrastructure such as municipal sewer have sufficient capacity to keep pace with the new development and effectively provide acceptable levels of service to existing as well as incoming residents of the new housing units as they are built.” Proposed Moratorium, § 125-1. To that end, the purported purpose of the Proposed Moratorium is to:

[p]rovide time for Town officials to study its comprehensive land use plan and address issues, if any, presented by the growth and development of subdivisions containing more than ten residential dwelling units located within one-half mile of an existing sewer main within the Town and the impact of such growth on the community, the environment, its financial impact on the Town and the regulation, control and enforcement of such uses.

Proposed Moratorium, § 125-1.

For the following reasons, as applied to the Project, the Moratorium has no rational basis:

- The Planning Board record makes clear that the Project will not result in any significant adverse environmental impacts.
- The Town purports that the purpose of the Proposed Moratorium is to “insure that supportive infrastructure such as municipal sewer have sufficient capacity to keep pace with the new development and effectively provide acceptable levels of service to existing residents as well as incoming residents of the new housing units as they are built.” Proposed Moratorium, § 125-1.

As noted above, the Project includes septic for each of the 49 single-family homes because: (a) the Project is not within a sewer district; (b) under the Town Code, public sewer connection is not required for single-family dwellings in the zoning district where the Project is located (R-2 District); (c) the cost prohibitive nature of utilizing public sewer service such as through the use of gravity sewer; and (d) the soil composition is ideal for septic.

Thus, the Project will not need to be supported by municipal sewer infrastructure and should not require the Town to study the current capacity and levels of sewer service for the Project. Furthermore, the Project should not be required to pay for, or be delayed so the Town Board can study, municipal sewer infrastructure it does not need in the first place.

- As noted in the Proposed Moratorium, the primary purpose of the Proposed Moratorium, and the illegal Resolution (Resolution No. 2021-177) that preceded it, is to further the development of the implementation of sewer and water infrastructure along the Route 9 corridor to encourage commercial growth and economic development.

The Town does not need to prohibit the development of residential subdivisions through the use of the Proposed Moratorium to obtain the Town’s goal. The Town has other mechanisms at its disposal to expand and grow sewer infrastructure. For example, the

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Town could seek to extend the current sewer district to include more territory within the Town, subject to permissive referendum.

The costs associated with the implementation of sewer infrastructure in the Route 9 commercial corridor could and should be implemented in response to, and funded by, commercial development in the Route 9 corridor. It appears, based on the Proposed Moratorium and Resolution No. 2021-177, that instead of seeking to extend the existing sewer district, which could require approval at a Town election, or relying on commercial development to fund the municipal infrastructure, the Town is attempting to rely on proposed residential development, that is not required to use, nor, in the case of the Project, does not need, such municipal infrastructure, to pay for the municipal infrastructure now, so that the Town can attract commercial development to the Route 9 corridor in the future.

### **Conclusion**

A copy of the Proposed Moratorium is attached here for your convenience as **Attachment 5**. The Town Board should exempt the Project from the Moratorium. If the Proposed Moratorium is passed, Cerrone will be delayed and stripped of its ability to make a reasonable return on its investment, an investment that was completely made in reliance on existing zoning coupled with the Planning Board preliminary plat approval. To stop the Project at the 11<sup>th</sup> hour would not only be unfair to Cerrone, the landowners, but would also deny several Town wide benefits associated with the project. In the event of the adoption of the Proposed Moratorium without an exemption for Cerrone's already-approved project, we reserve our clients' rights to seek all available legal relief in order to preserve our clients' investment in the project and to protect their property interests

If you have any questions regarding the foregoing, or would like to discuss further, please feel free to contact me at (518) 487-7641 or [truane@woh.com](mailto:truane@woh.com).

Very truly yours,

*/s/ Thomas J. Ruane*

Thomas J. Ruane, Esq.

Cc: Members of the Town of Moreau Planning Board  
Karla Buettner, Esq.

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# **EXHIBIT 1**



A public hearing of the Town Board of the Town of Moreau was held on December 21, 2021 in the Town of Moreau Municipal building, 351 Reynolds Road, Moreau, New York, for the purpose of hearing public comment on proposed Local Law 7 of 2021.



**O'Connor Construction**

*Since 1985*

Site Development / Asphalt Paving / Heavy Construction

PO Box 377  
147 Meadowbrook Rd.  
Glens Falls, NY 12801  
[www.oconnor.com](http://www.oconnor.com)

**PROPOSAL**

Phone: 518-792-4090  
Fax: 518-792-4194  
Email: [Brian@oconnor.com](mailto:Brian@oconnor.com)  
Email: [Pat@oconnor.com](mailto:Pat@oconnor.com)

Proposal Submitted To:	Phone:	Date:
Cerrone Builders		7-15-21
Street	Job Name	
	Low Pressure Sewer	
City, State and Zip Code	Job Location	
	Jacoble Farms	
Attention:		
John		

We hereby submit specifications and estimates for: low pressure sewer at Jacoble Farms.

Scope of work:

- (1) Exterior grinder pumps: \$8,990.00 ea. x 49 = \$440,510.00
- (2) Service laterals: 49 ea. @ \$1,600.00 = \$78,400.00
- (3) Low pressure force main: 7,650 LF x \$40.00 = \$306,000.00
- (4) Air relief manholes: 6 ea. x \$15,000.00 = \$90,000.00

For the sum of \$914,910.00

Conventional septic systems: 1000 gal. septic tank, 165 LF of leach, \$3,500.00 ea. x 49 = \$171,500.00

Exclusions:

- (1) All permits and fees
- (2) Does not include electrical connection to pump

We Propose hereby to furnish material and labor – complete in accordance with above specifications, for the sum of: **Low Pressure Sewer Price: Nine Hundred Fourteen Thousand, Nine Hundred Ten Dollars (\$914,910.00).**  
**Conventional Septic Price: One Hundred Seventy One Thousand, Five Hundred Dollars (\$171,500.00).**

Payment to be made as follows: Net 30 Days

All material is guaranteed to be as specified all work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specification involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. Our workers are fully covered by Workmen's Compensation Insurance and Liability Insurance.

Authorized Signature: \_\_\_\_\_

Brian O'Connor, President

Notes: This Proposal may be withdrawn by us if not accepted within 15 days.

Due to the ever increasing cost of asphalt, stone, and dirt products, all signed proposals cannot be guaranteed beyond 30 days. A price adjustment may be necessary. Our price excludes permits and fees.

Acceptance of Proposal - The above prices specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Authorized Signature \_\_\_\_\_

Date \_\_\_\_\_

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Glens Falls, NY 12801  
www.oconnor.com

Phone: 518-792-4090  
Fax: 518-792-4194  
Email: Brian@oconnor.com  
Email: Pat@oconnor.com

### PROPOSAL

Proposal Submitted To:	Phone:	Date:
Cerrone Builders		7-15-21
Street	Job Name	
	Budget Prices for Sewer	
City, State and Zip Code	Job Location	
	Jacobie Farms	
Attention:		
Jon		

We hereby submit specifications and estimates for: Budget prices for sewer at Jacobie Farms.

Scope of work:

- (1) Pump Station = \$400,000.00
- (2) Gravity Sewer: 3,650 LF @ \$45.00 per LF = \$164,250.00
- (3) Sewer laterals: 49 ea. @ \$1,600.00 ea. = \$78,400.00
- (4) 3" force main: 4,000 LF @ \$40.00 per LF = \$160,000.00
- (5) Air relief manholes: 3 ea. @ \$15,000 ea. = \$45,000.00
- (6) Sewer Manholes 12 ea. @ \$4,500.00 = \$54,000.00

For the sum of \$901,650.00

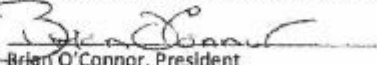
Exclusions:

- (1) All permits and fees

We Propose hereby to furnish material and labor – complete in accordance with above specifications, for the sum of: **Budget Price: Nine Hundred One Thousand, Six Hundred Fifty Dollars (\$901,650.00).**

Payment to be made as follows: Net 30 Days

All material is guaranteed to be as specified all work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specification involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. Our workers are fully covered by Workmen's Compensation Insurance and Liability Insurance.

Authorized Signature:   
Brian O'Connor, President

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Date

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www.oconnor.com

### PROPOSAL

Phone: 518-792-4090  
Fax: 518-792-4194  
Email: Brian@oconnor.com  
Email: Pat@oconnor.com

Proposal Submitted To: Cerrone Builders	Phone:	Date: 7-15-21
Street	Job Name Low Pressure Sewer	
City, State and Zip Code	Job Location Jacobie Farms	
Attention: John		

We hereby submit specifications and estimates for: low pressure sewer at Jacobie Farms.

Scope of work:

- (1) Exterior grinder pumps: \$8,990.00 ea. x 49 = \$440,510.00
  - (2) Service laterals: 49 ea. @ \$1,600.00 = \$78,400.00
  - (3) Low pressure force main: 7,650 LF x \$40.00 = \$306,000.00
  - (4) Air relief manholes: 6 ea. x \$15,000.00 = \$90,000.00
- For the sum of \$914,910.00

Conventional septic systems: 1000 gal. septic tank, 165 LF of leach, \$3,500.00 ea. x 49 = \$171,500.00

Exclusions:

- (1) All permits and fees
- (2) Does not include electrical connection to pump

We Propose hereby to furnish material and labor – complete in accordance with above specifications, for the sum of: Low Pressure Sewer Price: Nine Hundred Fourteen Thousand, Nine Hundred Ten Dollars (\$914,910.00).  
Conventional Septic Price: One Hundred Seventy One Thousand, Five Hundred Dollars (\$171,500.00).

Payment to be made as follows: Net 30 Days

All material is guaranteed to be as specified all work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specification involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. Our workers are fully covered by Workmen's Compensation Insurance and Liability Insurance.

Authorized Signature:   
Brian O'Connor, President

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Authorized Signature

Date

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Phone: 518-792-4090  
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Email: [Brian@etoconnor.com](mailto:Brian@etoconnor.com)  
Email: [Pat@etoconnor.com](mailto:Pat@etoconnor.com)

### PROPOSAL

Proposal Submitted To:	Phone:	Date:
Cerrone Builders		7-15-21
Street	Job Name	
	Budget Prices for Sewer	
City, State and Zip Code	Job Location	
	Jacobie Farms	
Attention:		
Jon		

We hereby submit specifications and estimates for: Budget prices for sewer at Jacobie Farms.

Scope of work:

- (1) Pump Station = \$400,000.00
- (2) Gravity Sewer: 3,650 LF @ \$45.00 per LF = \$164,250.00
- (3) Sewer laterals: 49 ea. @ \$1,600.00 ea. = \$78,400.00
- (4) 3" force main: 4,000 LF @ \$40.00 per LF = \$160,000.00
- (5) Air relief manholes: 3 ea. @ \$15,000 ea. = \$45,000.00
- (6) Sewer Manholes 12 ea. @ \$4,500.00 = \$54,000.00

For the sum of \$901,650.00

Exclusions:

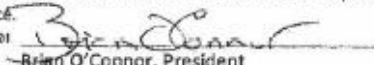
- (1) All permits and fees

We Propose hereby to furnish material and labor – complete in accordance with above specifications, for the sum of: **Budget Price: Nine Hundred One Thousand, Six Hundred Fifty Dollars (\$901,650.00).**

Payment to be made as follows: Net 30 Days

All material is guaranteed to be as specified all work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specification involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. Our workers are fully covered by Workmen's Compensation Insurance and Liability Insurance.

Authorized Signature:

  
Brian O'Connor, President

Notes: This Proposal may be withdrawn by us if not accepted within 15 days.

Due to the ever increasing cost of asphalt, stone, and dirt products, all signed proposals cannot be guaranteed beyond 30 days. A price adjustment may be necessary. Our price excludes permits and fees.

Acceptance of Proposal - The above prices specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Authorized Signature

Date

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## **EXHIBIT 2**

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# Barlow Electric Inc.

46 Gillespie Rd.  
Middle Granville, NY 12849  
(518)-361-0531  
wesbarlow34@yahoo.com

ESTIMATE  
EST0008

DATE  
06/22/2021

TOTAL  
USD \$21,000.00

TO

## Cerrone Builders

glanni@cerronebuilders.com

DESCRIPTION	RATE	QTY	AMOUNT
<b>Supplying &amp; installing 4 street lights</b>	\$5,250.00	4	\$21,000.00
-Will supply & install 4 light poles wave model # 2017cl-LR12c-bp & 4 of wave model # 3690-AB-BK-HH			
-digging electrical ditch for power			
-set & pour sono tubes			
-install 100 amp electric service on 4'x4' pressure treated pedestal			
-install 20 amp gfi outlet on pedestal			
-will include all conduit, wire, & miscellaneous parts to complete the install			
-includes electrical inspection			

Total cost each would be \$5,250.00

TOTAL

USD \$21,000.00

Any questions please call, thank you  
Wes Barlow



A public hearing of the Town Board of the Town of Moreau was held on December 21, 2021 in the Town of Moreau Municipal building, 351 Reynolds Road, Moreau, New York, for the purpose of hearing public comment on proposed Local Law 7 of 2021.

## **EXHIBIT 3**

A public hearing of the Town Board of the Town of Moreau was held on December 21, 2021 in the Town of Moreau Municipal building, 351 Reynolds Road, Moreau, New York, for the purpose of hearing public comment on proposed Local Law 7 of 2021.

National Landscaping and Lawn Maintenance, LLC.  
1006 Route 29  
Saratoga Springs, NY 12866

## LAWN MAINTENANCE CONTRACT

### ADDRESS

Cerrone Builders  
1589 Saratoga Road  
Fort Edward, NY 12828

LAWN 1247  
MAINTENANCE  
CONTRACT #  
DATE 06/23/2021

ACTIVITY	AMOUNT
JACOBIE ACRES STREET AND SIGN PLANTINGS	
6- autumn brilliance serviceberry 2"	14,760.00
5- autumn spire red maple 2"	
3- hophornbeam 2"	
4- red twig dogwoods 3'	
36- purple cone flower 1gallon	
36- black eyed susan 1 gallon	
All tree and plants will get a 3" layer of mulch	
Please sign and return	
TOTAL	\$14,760.00

Accepted By

Accepted Date

518-584-6857  
NationalLandscaping@nycap.rr.com  
National-landscaping.com

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## **EXHIBIT 4**

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PO Box 377  
147 Meadowbrook Rd.  
Glens Falls, NY 12081  
www.oconnoroc.com

Phone: 518-792-4090  
Fax: 518-792-4194  
Email: Brian@oconnoroc.com  
Email: Pat@oconnoroc.com

**PROPOSAL**

Proposal Submitted To:	Phone:	Date:
Cerrone Builders		6-22-21
Street	Job Name	
	Jacoble Farms	
City, State and Zip Code	Job Location	
Attention:		
John		

We hereby submit specifications and estimates for:

John,

Our estimate to construct 1,500 LF of bike path is \$60,000.00.

Our estimate to repair and resurface Lenox Blvd is \$80,000.00.

Exclusions:

(1) All permits and fees

We Propose hereby to furnish material and labor -- complete in accordance with above specifications, for the sum of:

Bike Path: Sixty Thousand Dollars (\$60,000.00).

Lenox Blvd.: Eighty Thousand Dollars (\$80,000.00).

Payment to be made as follows: Net 30 Days

All material is guaranteed to be as specified all work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specification involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. Our workers are fully covered by Workmen's Compensation Insurance and Liability Insurance.

Authorized Signature:

  
Brian O'Connor, President

Notes: This Proposal may be withdrawn by us if not accepted within 15 days.

Due to the ever increasing cost of asphalt, stone, and dirt products, all signed proposals cannot be guaranteed beyond 30 days. A price adjustment may be necessary. Our price excludes permits and fees.

Acceptance of Proposal - The above prices specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Authorized Signature

Date

A public hearing of the Town Board of the Town of Moreau was held on December 21, 2021 in the Town of Moreau Municipal building, 351 Reynolds Road, Moreau, New York, for the purpose of hearing public comment on proposed Local Law 7 of 2021.

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## **EXHIBIT 5**

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**TOWN OF MOREAU**

**LOCAL LAW NO. \_\_\_\_ OF 2021**

**ADOPTING CHAPTER 125 OF THE TOWN OF MOREAU CODE**

**A TEMPORARY MORATORIUM ON BUILDING PERMITS OR SITE PLAN REVIEW  
OR OTHER REVIEW OF SUBDIVISIONS OF MORE THAN TEN RESIDENTIAL  
DWELLINGS LOCATED WITHIN ONE-HALF MILE OF AN EXISTING SEWER  
MAIN WITHIN THE TOWN OF MOREAU**

**§125-1. Purpose and Intent.**

It is the purpose and intent of the Town Board of the Town of Moreau to adopt a temporary moratorium on the further growth and development of subdivisions containing more than ten residential dwelling units located within one-half mile of an existing sewer main within the Town of Moreau while the Town considers and potentially adopts changes to its zoning code to address new circumstances not addressed by its current laws.

According to the 2019 Comprehensive Land Use Plan, the first initiative of the Plan was implementation of sewer and water infrastructure along the Route 9 corridor to encourage growth and economic development. The Plan cites to the desire for the neighborhoods on either side of the Route 9 corridor to continue to provide an attractive and charming quality for residents of all income levels, ages, and needs. Furthermore, the Plan calls for to administer a local land use code that serves to manage and guide community development in a manner that conserves the unique qualities of the natural and built landscape while encouraging prudent and properly scaled growth. In addition, the Plan calls to insure that supportive infrastructure such as municipal sewer have sufficient capacity to keep pace with the new development and effectively provide acceptable levels of service to existing residents as well as incoming residents of the new housing units as they are built.

The purpose of this local law is to provide time for Town officials to study its comprehensive land use plan and address issues, if any, presented by the growth and development of subdivisions containing more than ten residential dwelling units located within one-half mile of an existing sewer main within the Town and the impact of such growth on the community, the environments, its financial impact on the Town and the regulation, control and enforcement of such uses.

**§125-2. Definitions.**

All definitions from Section 124-4 and 149-5 of the Code of the Town of Moreau are incorporated herein by referenced.



A public hearing of the Town Board of the Town of Moreau was held on December 21, 2021 in the Town of Moreau Municipal building, 351 Reynolds Road, Moreau, New York, for the purpose of hearing public comment on proposed Local Law 7 of 2021.

**§125-3. Moratorium.**

For a period of one hundred eighty (180) days from and after the date of the adoption of the Notice of Public Hearing of this local law, no application for building permits, site plan approvals, special use permits, or subdivision approval, or any other municipal approval shall be considered for development of subdivisions containing more than ten residential dwelling units located within one-half mile of an existing sewer main within the Town of Moreau.

This moratorium shall not apply to any Certificates of Occupancy for any and all construction pursuant to building permits issued prior to the date of the adoption of the Notice of Public Hearing or the issuance of any building permit for the renovation or repair of any lawfully existing structure otherwise covered by this local law.

**§125-4. Variance.**

Any person may apply to the Town Board for a variance from this local law. Upon submission of an application for a variance to the Town Board and after a public hearing, the Town Board may, in its discretion, render a determination that this local law would impose extraordinary hardship upon a landowner or developer and that a variance from this law will not be a detriment to the public health, safety and welfare or to the residents of the Town of Moreau, or present any significant adverse environmental impacts. All such applications will be referred to the Planning Board for its recommendation and shall thereafter be returned to the Town Board for a public hearing and final decision on the application.

**§125-5. Termination.**

The moratorium shall be terminated earlier than the one hundred eighty (180) day period upon enactment of any local legislation that terminates this moratorium.

**§125-6. Severability.**

Any section, paragraph, subdivision or provision of this local law that shall be determined by a court of law as invalid or unconstitutional shall not impair the validity of other sections, paragraphs, subdivisions or provisions of this local law as a whole. The extent that the same shall be considered applicable and effective and that only such part so decided to be invalid or unconstitutional shall be considered ineffective.

**§125-7 Effective Date.**

This local law shall take effect immediately as permitted by law.

A public hearing of the Town Board of the Town of Moreau was held on December 21, 2021 in the Town of Moreau Municipal building, 351 Reynolds Road, Moreau, New York, for the purpose of hearing public comment on proposed Local Law 7 of 2021.

**STOCKLI SLEVIN, LLP**  
ATTORNEYS AND COUNSELORS AT LAW  
1826 WESTERN AVENUE  
ALBANY • NEW YORK • 12203  
TEL: (518) 449-3125  
FAX: (518) 449-4798

**RECEIVED**  
DEC 20 2021  
MOREAU TOWN CLERK

December 17, 2021

**Via E-Mail and Certified Mail**

Hon. Supervisor Kusnick  
Hon. Members of the Town Board  
351 Reynolds Road  
Moreau, New York, 12828

**Re:     *ARROWHEAD MEADOWS, LLC – Public Comment***  
***Town of Moreau Proposed Subdivision Moratorium***

Dear Town Board Members:

This firm represents Arrowhead Meadows LLC (“Arrowhead”), the owner and developer of the proposed Arrowhead Meadows Subdivision, located in the Town of Moreau (the “Project”). The purpose of this letter is to comment on the proposed local law entitled “Local Law No. \_\_\_ of 2021, Adopting Chapter 125 of the Town of Moreau Code, a Temporary Moratorium on Building Permits or Site Plan Review or Other Review of Subdivisions of More than Ten Residential Dwellings Located within One-Half Mile of an Existing Sewer Main within the Town of Moreau” (the “Proposed Moratorium”), and respectfully request that the Project be exempted from the Proposed Moratorium.

As reviewed by the Town Planning Board at length in 2020 and 2021, the Project includes existing tax map parcel, 50.0-3-29.22. The parcel has direct frontage on an existing Town Road, known as Gansevoort Road. The parcel is proposed to be subdivided into 44 residential lots. The Project includes individual septic systems for each of the 44 single-family homes included in the Project. Septic was chosen for the Project because: (a) the Project is not within a sewer district; (b) under the Town of Moreau Code (the “Town Code”), public sewer connection is not required for single-family dwellings in the zoning district(s) where the Project is located (R-1 & R-2 Districts); (c) the cost prohibitive nature of utilizing public sewer service such as through the use of gravity sewer and low-pressure sewer, compared to the cost of septic; and (d) the soil composition is ideal for septic, as fully discussed, memorialized and considered within the Planning Board review, grant of

A public hearing of the Town Board of the Town of Moreau was held on December 21, 2021 in the Town of Moreau Municipal building, 351 Reynolds Road, Moreau, New York, for the purpose of hearing public comment on proposed Local Law 7 of 2021.

a Negative Declaration under the State Environmental Quality Review Act ("SEQRA") and preliminary subdivision approval of the Project.

Arrowhead contemplates that construction will commence in the Spring of 2022. However, the Town Board is considering a moratorium targeting subdivision development which would include this Project. As drafted the Proposed Moratorium would prevent the Planning Board from issuing final plat approval on the project, and would, as a result, delay the Project irrespective of the progress the Project has made before the Planning Board and the substantial financial costs to the Arrowhead.

We respectfully request that the Town Board amend the Proposed Moratorium language and exempt the Project, allowing Arrowhead to complete the Planning Board review process. The Project as designed, has been fully reviewed by the Town and the Town has already concluded that the Project will not have any adverse impacts on the environment or the community, and that it, in fact, complies with the requirements of the Town Code. As such, the Town Board could easily amend the proposed moratorium to exempt the project without impairing the objectives of the proposed moratorium.

By submission of this request, we also join in the letter submitted on behalf of Cerrone Builders concerning the Application of the Moratorium and the lack of a Rational Basis for the establishment of the Moratorium. As discussed therein, the need for the Moratorium relative to these Approved Projects has not been established since the Arrowhead Project, just as the Cerrone Project, has unequivocally demonstrated that the Project can be developed using septic without any impacts whatsoever on the municipal Sewer system..

The Town has previously suggested that inclusion of subdivisions such as Arrowhead in the Route 9 Sewer District Extension was necessary to support that Sewer District. Since the Route 9 Sewer District was fully designed, and approved without the addition of these subdivisions, there is simply no rational or logical reason to now impose the hardship of this proposed Moratorium in light of the existing approvals which do not contemplate the inclusion of this subdivision in the said District.

The Town Board should exempt the Project from the Moratorium. If the Proposed Moratorium is passed, Arrowhead will be delayed and stripped of its ability to make a reasonable return on its investment, an investment that was completely made in reliance on existing zoning coupled with the Planning Board preliminary plat approval. To stop the Project at the 11th hour would be unfair to Arrowhead and unjustified given the findings of the Planning Board in its approval of the Project.

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We are available to discuss this matter further at your convenience and appreciate your consideration of the above.

Very Truly Yours,

STOCKLI SLEVIN LLP

A handwritten signature in cursive script, appearing to read "Mary Elizabeth Slevin".

Mary Elizabeth Slevin

Cc: Members of the Town of Moreau Planning Board  
Karla Buettner, Esq.

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A meeting of the Town of Moreau Planning Board was held on March 15, 2021 at 7:00 p.m. in the Town of Moreau Office Building, 351 Reynolds Road, Moreau, New York and via Zoom.

Peter Jensen	Chairperson
John Arnold	Planning Board Member
Jerry Bouchard	Planning Board Member
Mike Shaver	Planning Board Member
Ann Purdue, Esq.	Planning Board Member
Meredithe Mathias	Planning Board Member
Adam Seybolt	Alternate Planning Board Member

Also present: Jim Martin, Zoning Administrator in person; Karla Buettner, Attorney for the Town; Tricia Andrews, Recording Secretary  
Absent: Erik Bergman, Planning Board Member

The meeting was called to order 7:00pm by Chairperson Jensen. The Board reviewed the minutes of the March meeting.

Mr. Arnold motioned to accept the minutes of the Special March 8 meeting as written and Ms. Purdue seconded. All in favor, motion carried with no roll call and Mr. Bouchard abstaining.

#1 Arrowhead Subdivision  
Public Hearing  
Preliminary Review

Chairman Jensen read the Open Meeting notice. Travis Mitchell shared a screen and explained this is 44 lots on a 22+ acre parcel at the intersection of Bluebird and Gansevoort Road. It is primarily R-1 with a little R-2 as well in part of it. He presented a layout. It has not changed. Density calculations have been presented as requested. They are permitted over 50 units but are proposing 44 and 4 acres of open space, stating there is no minimum open space requirement. There was to be a note saying that there is no further subdivision of the HOA lands, that has been added as requested. The applicant and the Board had discussed a pedestrian route to the park, and detail on proposed signage which matches that at the Winterberry development going in down the street. The combined traffic study of all four projects in the area showed no significant impact to traffic at surrounding intersections.

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As this is a public hearing Chairman Jensen listed some ground rules. Speakers were asked to direct comments to the Board and not to the applicant, and to limit their comments to not repeat one another's comments.

R. Rosati asked for the timing of this project and the three others.

Mr. Mitchell stated that they plan to build in 2022.

Mr. Martin asked whether Mr. Mitchell could speak to the other half, which he represents. Mr. Mitchell stated it may be 2022 or later, but he didn't have any information on that.

Mr. Martin stated that the Jacobie Farms projects would likely be 2022 projects as well but that it is a few weeks behind this one in terms of the planning process.

Margaret Jones asked whether there is a buffer between this and the homes on Thomas Avenue.

Mr. Martin asked Mr. Mitchell to show the map again and Mr. Mitchell explained that there is a 20 ft area of HOA lands, and beyond that the closest buildings have a 25 ft setback in the back, so a minimum of 45 ft, but many homes will be more like 100, 125 ft from the homes on Thomas Ave. Mr. Martin asked whether any screening is planned. Mr. Mitchell stated that there is not a lot of existing screening there, but that the Michaels groups will likely provide some plants, although a hedge is not planned.

Mrs. Jones asked whether this would be maintained by the HOA. She has always mowed right up to the cornfield, and she is wondering whether that will be groomed or she could continue to do it. Mr. Mitchell said that the HOA will be responsible for the care and maintenance of it which would likely include mowing.

Mr. Williams stated they have had issues with tumbleweeds and dust blowing across that field when it was not planted, and asked whether there was any plan to wet it down or otherwise keep them from getting dirt in their pools, etc.

Mr. Mitchell explained that there is a SWPPP in place to prevent wind erosion and dust that does include watering if the weather conditions require it, and that the site will be inspected weekly or possibly more often to make sure that this is being adhered to. Mr. Mitchell also explained that there is a manual for the erosion measures that the inspector will make log entries into so that the Town, the contractor and DEC can communicate what they have seen on the site.

Mr. Williams asked whether the schools would be notified about this as these would all be Moreau schools and the elementary school is full now.

Mr. Martin stated that he had reached out to the Superintendent of schools on Thursday and he had sent her the complete site plan of all the subdivisions in the area as shown on the traffic

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study, and she is going to review that and get back to him with her comments. He expects to get those comments within two weeks.

Karla Williams stated that they bought where they did because they wanted to be in a school district with a small number of students. She would like to know how this will affect bus routes as well. Mr. Martin stated that the Superintendent would look at it from all those angles. That information will be read into the record so it will be available to the public. Mrs. Williams expressed concern that the Town is overbuilding and there may not be a market for all these houses. Mr. Martin stated that the developers are in compliance with the allowed amount of development, and the Board can't do anything else to regulate growth.

Mr. Williams asked whether these are all septs and where the water comes from. He was concerned about water pressure. Mr. Martin stated that this is looked at in the review process. It is served by an 8 inch water line and there is plenty of water. They will require an increase in acquisition because the Town buys water from the Town of Queensbury. Their source is the river. Mr. Williams asked whether this would affect his water bill and Mr. Martin stated that more users typically reduce the costs, but he can't promise that this will be true. Mrs. Williams asked if this would be like what happened at Pruyn Crest and Mr. Martin said he didn't think so. Atty. Buettner asked to speak and stated that people should not use the chat to ask questions because that is not a part of the official record. Mrs. Mathias stated that speakers should also state their full name and address for the record.

Steven Weeks at 15 Thomas Ave asked whether if the water supply or the school system were found to be adversely affected, would the Board lower the number of lots?

Mr. Martin stated that is up to the Board, but that if an adverse impact were identified they would look for mitigating action. If it were school enrollment, they would dialog about how to mitigate that. Mr. Weeks stated he was concerned about traffic coming off of Exit 17 and that other projects have 100 feet of road frontage.

Mr. Martin stated that he understood the concern.

Mr. Arnold asked Mr. Mitchell to explain why they don't have 100 feet of frontage and Mr. Mitchell explained that this is a cluster subdivision which allows them to put the houses on smaller lots and then dedicate the remainder of the land as open space.

Joe Stanislawski at 5 Thomas Ave stated that he doesn't want 3 new neighbors in his back yard, so he wanted to know if it was something that could be stopped or was it set in stone.

Mr. Martin stated that it is not set in stone, but that it meets Zoning standards, although the layout and projects specifics are still under review. Mr. Stanislawski asked the best way they could stop this from happening.

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Atty. Buettner stated that the Board shouldn't answer that question. There is no public vote on a Planning Board Project. This is the public hearing portion of the planning process.

Mr. Stanislawsky stated that he doesn't think this is a good idea for him personally and he would rather not have the neighbors.

Mr. Martin thanked him for participating.

Mr. Ian Williams stated he knew this was approved 10 years ago and there was something with cluster developments that there was common space and talk of a path into the park. He asked whether splitting this into two was a way to make a loophole to get away with not providing the required open space.

Mr. Martin stated he did not think that having two projects instead of one had changed that calculation.

Mr. Mitchell stated that the two projects are very similar in terms of common space. This parcel does not directly abut the park, so the question of the park path is not relevant.

Mr. Martin stated that the path to the park is an open issue on the Jacobie Farms subdivision and that is a public hearing coming up, so people should come to the public hearing if it was important to them.

Margaret Jones of 17 Thomas Ave. asked how many houses altogether were planned in there and Mr. Martin estimated that it is about 150.

Donald Crandall at 3 Castle Road across the street from the field asked who is going to patrol this as crime goes up with all those houses.

Mr. Martin stated it is the County Sheriff and State Police, and there is no Town police force.

Mr. Crandall stated that he is opposed to this project and that people are going to still go 60 mph down Bluebird Road, and people will not be able to exit safely from the subdivision.

Mrs. Williams stated that it is sad that developers would try to cram 150 homes into this area, it is not a city. This area is valuable for being the way that it is, and the developers are just looking at dollar signs, and they will change the whole character of the Town. She expressed concern about traffic, grocery stores, and the inconvenience of construction work. This project does not make sense in South Glens Falls.

Mary Weeks of 15 Thomas Avenue asked what the average size of the house was and the price range.

Mr. Martin explained that if they meet the Zoning requirements and fit on the lots the Board can't say anything about the size and price. Mr. Mitchell could speak to that if he wanted to.

Mr. Mitchell invited Luke Michaels to address it.



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Mr. Michaels stated that they are mixing ranch and two-story plans, so that they get both families and older couples who are downsizing. They range from 12-1,300 sq ft to 2,500 for some of the two stories. It's a little early to say what the prices will be but materials prices are at all time highs now.

Mrs. Weeks asked whether they will be cookie cutter homes and Mr. Michaels stated they don't like to do that. He offered Winterberry as an example of what they do, and stated there are 15 different house styles there. If there were two identical floor plans built side by side they would change the elevations, and they would not put two houses next to each other that were the same color.

Mr. Weeks asked whether these houses would be spread out the same way as at Winterberry and Mr. Michaels thought they would be closer, but wasn't sure. Some lots will be smaller, some will be larger and geared towards a family home. He didn't think they would be cramped in but there are different lots sizes. Mrs. Williams was concerned that Mr. Schermerhorn has allowed transients into his apartments, and she wants these homes to be people who are in there permanently. The rest of the neighborhood is 2-3<sup>rd</sup> generation families and they don't want to see their neighborhoods destroyed.

Mr. Michaels replied that he doesn't think they will be transients, they see a lot of retired people who are downsizing or are people who already live in the Town and area ready to settle down. He thinks they will be community members. These are not for rent, they are for sale.

Mrs. Weeks asked the Town to look at the lot sizes and require it not to be so crowded.

Margaret Jones asked Mr. Michaels if she could buy the empty lot behind her house. Mr. Michaels said it has happened, but they prefer to build homes. Mrs. Jones asked about the homeowners association. Mr. Michaels explained that they take care of stormwater basins, and in this case they will maintain the entrances and the public areas. Mrs. Jones stated that she didn't want to see a junkyard in her back yard.

Mr. Michaels explained that they include deed restrictions that limit that as well as livestock, fence heights, etc.- rules that keep it nice. Mrs. Jones asked whether they could see that agreement and Mr. Michaels stated that it is available to the public.

Ward Woodruff of 61 Bluebird Road commented that the road coming out onto Bluebird would reflect lights into someone's window. Then he asked whether they had looked into the impact on Stewarts and other local businesses, and Mr. Martin said that was outside the purview of the Board. Mr. Woodruff agreed with others that he prefers having the field across the street and does not think this is needed.

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Lindsay Stanislawsky commented that she was curious. She thanked Mr. Michaels because she prefers to have him build behind her over others, but on the flip side she asked what is the timeline? This isn't necessarily up for debate. What is the timeline here. There are two phases but when is it going to start and when is the end in sight?

Mr. Michaels explained that they will probably start building in 2022 with the road, and paving that. Then they would start with the homes. Completion is market-driven. They will probably finish Winterberry next year. It's tough to pinpoint an exact timeline, it is market driven. They hope to sell them at a good pace, and they like to finish as soon as they can but it is really too early to tell.

Mr. Crandall of Castle Road asked about right to farm laws and why this isn't farmed anymore and why it's fine to put houses on that. Mr. Martin explained that the Town is still right to farm, but those are reserved to R-3, 4, 5 districts and this one is R-2 and is outside of the Ag District. They have been farmed before, but they are not part of the Ag Zone. The southern and central southern portions of the Town are still farmed.

Chairman Jensen asked whether this was complete per counsel. Atty. Buettner stated that the Department of Health will require them to make an application, and that there was an issue with the water supply that will need to be addressed. Chairman Jensen asked whether that had to be in hand to go any further and Atty. Buettner stated that she didn't think the Board could finish the application tonight but they might be able to go ahead with SEQR.

Chairman Jensen stated he was supposed to have done SEQR before the public hearing, and asked how to proceed. Atty. Buettner stated that they had already noticed the public hearing and there were items outstanding, they were fine with having proceeded. She advised that the public hearing could be tabled, and SEQR could be completed.

Mr. Mitchell stated that the outstanding items from Department of Health would be their application that comes after the subdivision is approved. DEC commented during coordinated review. They no longer issue water supply permits to places that don't supply their own water so there is nothing required from DEC that he is aware of. Atty. Buettner stated that she had different information in an email today. It did say that their plan was valid. Mr. Mitchell stated they can't get subdivision approval from the Department of Health until the subdivision is completed.

Chairman Jensen asked whether he could close the public hearing. Mr. Martin checked and there were no more comments from the public.

Ms. Purdue wondered whether input from Department of Health and DEC might impact the

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project enough that it might be prudent to keep the public hearing open. Mr. Martin added that they are still seeking input from the schools.

Mr. Mitchell reminded Ms. Purdue that the agencies already had an opportunity to comment via SEQR coordinated review and will not make further comment until this is completed.

Mr. Arnold stated he wanted to begin SEQR and get as far as possible while the public was present.

Chairman Jensen asked the Board what they preferred to do.

Mr. Bouchard indicated that he wanted to go forward.

Mr. Arnold asked about access to Betar Park. A meeting between the Town and Jacobie North was mentioned at a prior meeting and Mr. Arnold had asked someone to ask the Town whether that access was even wanted. Mr. Martin stated that there was some reluctance.

Jacobie's developer has to do some work because they have not quite met the requirements for cluster subdivision. He has not seen a redesign yet but he expects he will see one, and if it is one in a true sense it may make it easier to add that connecting trail.

Mr. Arnold asked whether the Town was receptive and Mr. Martin asked Atty. Buettner for her feelings. She stated that no specific decision was made, but the idea wasn't shot down. Mr.

Arnold stated he appreciated Mr. Mitchell's attempts to coordinate and accommodate this idea.

Mr. Shaver asked Atty. Buettner whether the sewer was a dead issue. She stated that there is nothing in the Town law requiring any of these developments to connect to the sewer. They have discussed it with them but they can't force them. DOH may weigh in on that for the realty subdivision. The Town does not intend to force them.

Mr. Bouchard asked whether the line between R-1 and R-2 was added and it was not, but Mr. Mitchell demonstrated it and said he would add it to the plan.

Mr. Bouchard asked Mr. Mitchell and Mr. Michaels to talk about the maintenance of the strip and what sort of maintenance would be in the agreement.

Mr. Michaels stated that after everything is approved they will map all the areas that are maintained and how often they get maintained. In an area like that small buffer strip, the stormwater areas will be maintained as needed but to keep the entrance area looking nice it will probably be weekly. Other areas might get marked as occasional or as-needed. They mark the whole map with color-coding and that will go out to bid to maintenance contractors.

Mr. Bouchard expressed some concerns about 'as-needed' and Mr. Michaels said there is an HOA Board with 40- something members to which they have to answer. Homeowners can opt to increase their dues so something can be kept at a better level.

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To the comments about growth in the Town, Mr. Bouchard stated that Mr. Michaels has done nice work in the Town and he believes it is still a nice place to live.

Mr. Williams commented that if that is going to become as needed maintenance but is not out of sight to the neighbors on the back, why is Mr. Michaels just concerned about the public facing areas. He stated that monthly or as needed is not acceptable to them.

Mr. Michaels explained that they have not made final designs, so they still have to wait til the design is final before they identify that. The areas on the back are open field and they may have to take that into account because it is often a wooded area and this is different. They will take care of it so that it is not unsightly for neighbors or future residents.

Mr. Williams expressed concerns that he is not going to have a voice to the HOA to make this concern known.

Chairman Jensen asked about the redesign comments made earlier, that was on Jacobie Farms, and Mr. Martin stated that he hopes to see new plans that are different. It had come up because of the discussion of accommodating a connecting trail.

Atty. Slevin stated that the realty subdivision rules state that they are based on approved plans. She agreed with Mr. Mitchell that there would be no further progress from them. With regard to DEC she also agreed that the permit that was referenced was not required anymore. Attorney Buettner stated that this wasn't clear in the email today so the Town should not move forward without clearing that up.

The Board agreed to go through the Long Form EAF now.

Mr. Bouchard commented that SGF police should be removed in favor of the State Police, and Mr. Martin commented that reply from the school was still outstanding.

An entry on page 5 was changed to reflect that the water line will need to be extended.

Part One there were no additional comments.

Part Two all responses were no or small. Mr. Bouchard motioned to make a negative declaration and Mr. Arnold seconded. No further discussion, roll call vote resulted as follows: Mr. Arnold, Yes; Ms. Purdue, Yes; Mr. Bouchard, Yes; Mrs. Mathias, Yes; Mr. Seybolt, Yes; Mr. Shaver, Yes; Chairman Jensen, Yes.

Mr. Bouchard asked whether the Board was waiting for any information besides the school superintendent. Ms. Purdue stated there is information outstanding from the DEC and Atty. Buettner stated that an approval could be made conditional on settling that because it is not a major issue, it is whether it is necessary to have a water supply permit. Today DEC said that there is a valid permit that may need modification to a different applicant, but the applicant

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states it is ten years old and the procedure has changed. So they are just following up to see if there's anything that needs to be done to the permit.

Mr. Bouchard asked what condition on an approval would be appropriate and Atty. Buettner suggested he could say that the applicant needed to provide proof of a water supply permit or confirmation that one is not necessary because it is in an existing water district.

Mr. Arnold asked whether there was reason to believe it would not be approved of and Mr. Mitchell stated that typically DEC looks at whether there is adequate supply to serve the area, and in Moreau's case they don't generate their own supply, they get it from Queensbury. So he doesn't see a situation where further action is necessary.

Ms. Purdue asked how long it will take to verify that and Mr. Mitchell stated that if this were made a condition it would be confirmed in time before it was filed but he couldn't say how soon.

Mr. Arnold asked what changes would happen if the permit were denied, even though he doesn't expect it will be.

Mr. Mitchell said that if the Town couldn't serve this the homes would need wells, and would not meet the Zoning requirements and they will have to start over.

Ms. Purdue asked how long DOH approval takes. It is initiated after they get Planning Board approval and it can take from 2-6 months depending on the Department's work load. When that is done they will come back to sign the subdivision. If there are changes, it would come back to the Board.

Mr. Bouchard asked which agency issues the water permit. Mr. Mitchell explained that DEC reviews supply, DOH reviews the infrastructure. They work together.

Atty. Buettner asked Mr. Mitchell whether the HOA had been filed yet and it is not until after the layout was established.

Ms. Purdue asked whether that is reviewed by the State and was told that it goes to the Attorney General's office. Ms. Purdue suggested there should be something in the motion about the HOA.

Mr. Martin suggested the HOA document could be presented at the time the final plans are submitted. Ms. Purdue asked what would be required other than maintenance of common areas, and Mr. Martin stated it addresses the timing of the turnover of control, usually when a certain number of lots are sold.

Atty. Slevin stated that the declaration is always established before the first lot is sold.

Mr. Martin stated there have been problems in the Town where the HOA was never formed, and the common area is up in the air because the developer has gone bust. The road topcoat sometimes doesn't get finished because the subdivision never gets completed and the Town gets

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roads that are in disrepair and has no funds to finish those. So they are beginning to make changes to the process to prevent that.

Atty. Buettner stated that these are issues with the road dedication and is not before this Board tonight. So it is common areas and storm ponds as well as the potential trail system, per Mr. Martin.

Mr. Mitchell stated they usually provide it with the final plat and counsel reviews it. Mr. Martin agreed.

Ms. Purdue wanted to make sure that the HOA agreement provides for maintenance, and Mr. Arnold said that he didn't want to get the Board into the details of that.

Mr. Bouchard motioned to approve the subdivision for Arrowhead Meadows Subdivision with the following conditions: 1. The applicant shall provide a valid DEC approved water supply permit or the current equivalent proof of sufficient water supply. 2. That the R-1 /R-2 zone boundary be added to the plans, 3. That the HOA properties to the rear of Thomas Road be maintained at the same frequency as the HOA areas at the front of the subdivision, 4. That the applicant provide the HOA document for the Town counsel to review. 5. That the applicant will provide DOH approval of the realty subdivision before the final plats are signed by the Town of Moreau Planning Board representatives.

Mr. Arnold seconded.

There was some discussion about whether to require DOH approval for the realty subdivision. This is already required but the Board decided it doesn't hurt anything to add it to the conditions.

Mr. Mitchell did not want the HOA lands behind Thomas to be maintained at the same frequency as the front, because they have not determined yet what they might like to do back there, it could be flowers that need attention more or less often. So he asked for more time to decide how that will be handled. Mr. Arnold agreed that that land belongs to the homeowners of the development and they should be able to decide what they want to do with it.

Mr. Bouchard stated he didn't like the indeterminate. He wanted structure. A number of people from Thomas Road had shared concerns about this.

Atty. Slevin pointed out that the maintenance of the land is addressed in the HOA agreement which would be reviewed by Atty. Buettner before it was finalized. She suggested the builder could discuss this with Travis when the project was further along and present something to Atty. Buettner for review. It would all be very clear before it was filed with the final plans. Atty. Buettner stated that she was comfortable with this process.

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Mr. Bouchard amended the motion to remove condition #3. Mr. Bouchard motioned to approve the subdivision for Arrowhead Meadows Subdivision with the following conditions: 1. The applicant shall provide a valid DEC approved water supply permit or the current equivalent proof of sufficient water supply. 2. That the R-1 / R-2 zone boundary be added to the plans, 3. That the applicant provide the HOA document for the Town counsel to review. 4. That the applicant will provide DOH approval of the realty subdivision before the final plats are signed by the Town of Moreau Planning Board representatives.

Mr. Arnold seconded.

Mr. Arnold seconded. Mr. Jensen asked for a second on the new motion and Mr. Arnold seconded again.

Chairman Jensen wanted to clarify that the Town would never sign a subdivision plat that didn't have a DOH stamp of approval.

A Roll call vote resulted as follows: Mr. Arnold, Yes; Ms. Purdue, Yes; Mr. Bouchard, Yes; Mrs. Mathias, Yes; Mr. Seybolt, Yes; Mr. Shaver, Yes; Chairman Jensen, Yes.

Motion that the Chair and one other member sign the mylars when they are presented was made by Mr. Bouchard and seconded by Mrs. Mathias. All in favor, motion carried with no roll call.

#### #2 BKM Properties, LLC

##### Public Hearing

##### Site Plan Review

Mick Myran shared the plans and explained that this is a Commercial Building on Route 9 Professional Building between Route 9 and Old Saratoga Road. A subdivision was approved in 2016 for three lots. They are here to present development on Lot 1. It is C-1 Commercial. Water will be a drilled well, wastewater will be on-site septic and stormwater with draft swails and 2 infiltration basins. A SWPPP For all three was done and a revised SWPPP for just this part was submitted in February. Lighting plan and building plan provided. It will be an 8,000 sq ft commercial building for the owner's construction business, with a shop out back and 38 parking spaces which is more than required. It is steel framed with stone façade. The primary change is the manufactured stone veneer and the floor plan information.

First comment from last month was to request concrete washout detail, that has been added.

Landscaping plan was requested, proposing 9 spruces in three clusters and a split rail fence.

Third comment was detail on the use of the space, they have decided to use it all as shop space.

The final comment was to indicate a sign location. They have decided that they are not



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proposing a sign until other parcels are developed but when they need one, it will go on Lot 2 and be for all the businesses.

Chairman Jensen moved to the EAF. He reminded the Board that the subdivision already has had SEQR and this review is just for this use on this section of the property. There were no comments on Part One. Part Two, all findings were no, or small. Motion to make a negative declaration regarding SEQR for BKM Properties was made by Mr. Arnold and seconded by Mr. Bouchard. Roll call vote resulted as follows: Mr. Arnold, Yes; Ms. Purdue, Yes; Mr. Bouchard, Yes; Mrs. Mathias, Yes; Mr. Seybolt, Yes; Mr. Shaver, Yes; Chairman Jensen, Yes.

The public hearing was opened at 10:11 and Chairman Jensen read the open meetings law and stated the ground rules for public hearings. There was no one present on the Zoom call to make public comments. No written comments had been received. The public hearing was closed at 10:13pm.

Mr. Bouchard asked whether they plan to put signs on the building, either. Mr. Myran stated that they don't really need one for the construction office but they will come in for a permit if they decide that they do.

Mr. Arnold asked why the sign would be so far from the entrance and it is just to center it among the lots. Mr. Myran said that when they are ready to locate it they will make sure it's in a space that works for all.

Mr. Myran asked for final approval.

Mrs. Mathias stated she didn't see a reason why they shouldn't grant final approval.

Mr. Arnold motioned to approve BKM Properties LLC and Mrs. Mathias seconded. Under discussion Mrs. Mathias asked whether since they need to do more perc tests on the septic, it should be conditioned. Mr. Myran said that they have to apply for a permit for the wastewater treatment system along with their building permit and they will have completed these things by then. Mr. Martin confirmed that the process will cover this and that Mr. Dreimiller has to be present for that test. Roll call vote resulted as follows: Mr. Arnold, Yes; Ms. Purdue, Yes; Mr. Bouchard, Yes; Mrs. Mathias, Yes; Mr. Seybolt, Yes; Mr. Shaver, Yes; Chairman Jensen, Yes. Motion carries 7-0.

Mr. Bouchard motioned that the Chair and one other member sign the mylars when they are presented. Mr. Shaver seconded. All in favor, motion carried with no roll call vote.



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Motion to adjourn the meeting was made at 10:22pm by Mr. Bouchard and seconded by Mr. Seybolt. All in favor, motion carried, no roll call.

Respectfully submitted,

Tricia S. Andrews

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**TOWN OF MOREAU**

**LOCAL LAW NO. \_\_\_\_ OF 2021**

**ADOPTING CHAPTER 125 OF THE TOWN OF MOREAU CODE**

**A TEMPORARY MORATORIUM ON BUILDING PERMITS OR SITE PLAN REVIEW  
OR OTHER REVIEW OF SUBDIVISIONS OF MORE THAN TEN RESIDENTIAL  
DWELLINGS LOCATED WITHIN ONE-HALF MILE OF AN EXISTING SEWER  
MAIN WITHIN THE TOWN OF MOREAU**

**§125-1. Purpose and Intent.**

It is the purpose and intent of the Town Board of the Town of Moreau to adopt a temporary moratorium on the further growth and development of subdivisions containing more than ten residential dwelling units located within one-half mile of an existing sewer main within the Town of Moreau while the Town considers and potentially adopts changes to its zoning code to address new circumstances not addressed by its current laws.

According to the 2019 Comprehensive Land Use Plan, the first initiative of the Plan was implementation of sewer and water infrastructure along the Route 9 corridor to encourage growth and economic development. The Plan cites to the desire for the neighborhoods on either side of the Route 9 corridor to continue to provide an attractive and charming quality for residents of all income levels, ages, and needs. Furthermore, the Plan calls for to administer a local land use code that serves to manage and guide community development in a manner that conserves the unique qualities of the natural and built landscape while encouraging prudent and properly scaled growth. In addition, the Plan calls to insure that supportive infrastructure such as municipal sewer have sufficient capacity to keep pace with the new development and effectively provide acceptable levels of service to existing residents as well as incoming residents of the new housing units as they are built.

The purpose of this local law is to provide time for Town officials to study its comprehensive land use plan and address issues, if any, presented by the growth and development of subdivisions containing more than ten residential dwelling units located within one-half mile of an existing sewer main within the Town and the impact of such growth on the community, the environment, its financial impact on the Town and the regulation, control and enforcement of such uses.

**§125-2. Definitions.**

All definitions from Section 124-4 and 149-5 of the Code of the Town of Moreau are incorporated herein by referenced.

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**§125-3. Moratorium.**

For a period of one hundred eighty (180) days from and after the date of the adoption of the Notice of Public Hearing of this local law, no application for building permits, site plan approvals, special use permits, or subdivision approval, or any other municipal approval shall be considered for development of subdivisions containing more than ten residential dwelling units located within one-half mile of an existing sewer main within the Town of Moreau.

This moratorium shall not apply to any Certificates of Occupancy for any and all construction pursuant to building permits issued prior to the date of the adoption of the Notice of Public Hearing or the issuance of any building permit for the renovation or repair of any lawfully existing structure otherwise covered by this local law.

**§125-4. Variance.**

Any person may apply to the Town Board for a variance from this local law. Upon submission of an application for a variance to the Town Board and after a public hearing, the Town Board may, in its discretion, render a determination that this local law would impose extraordinary hardship upon a landowner or developer and that a variance from this law will not be a detriment to the public health, safety and welfare or to the residents of the Town of Moreau, or present any significant adverse environmental impacts. All such applications will be referred to the Planning Board for its recommendation and shall thereafter be returned to the Town Board for a public hearing and final decision on the application.

**§125-5. Termination.**

The moratorium shall be terminated earlier than the one hundred eighty (180) day period upon enactment of any local legislation that terminates this moratorium.

**§125-6. Severability.**

Any section, paragraph, subdivision or provision of this local law that shall be determined by a court of law as invalid or unconstitutional shall not impair the validity of other sections, paragraphs, subdivisions or provisions of this local law as a whole. The extent that the same shall be considered applicable and effective and that only such part so decided to be invalid or unconstitutional shall be considered ineffective.

**§125-7 Effective Date.**

This local law shall take effect immediately as permitted by law.

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**STOCKLI SLEVIN, LLP**  
ATTORNEYS AND COUNSELORS AT LAW  
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**RECEIVED**  
DEC 20 2021  
MOREAU TOWN CLERK

December 17, 2021

**Via E-Mail and Certified Mail**

Hon. Supervisor Kusnierz  
Hon. Members of the Town Board  
351 Reynolds Road  
Moreau, New York, 12828

**Re:      *SRH-TJM , LLC – Public Comment***  
***Town of Moreau Proposed Subdivision Moratorium***

Dear Town Board Members:

This firm represents SRH-TJM Meadows LLC ("SRH-TJM "), the owner and developer of the proposed SRH-TJM Subdivision, located in the Town of Moreau (the "Project"). The purpose of this letter is to comment on the proposed local law entitled "Local Law No. \_\_\_ of 2021, Adopting Chapter 125 of the Town of Moreau Code, a Temporary Moratorium on Building Permits or Site Plan Review or Other Review of Subdivisions of More than Ten Residential Dwellings Located within One-Half Mile of an Existing Sewer Main within the Town of Moreau" (the "Proposed Moratorium"), and respectfully request that the Project be exempted from the Proposed Moratorium.

As reviewed by the Town Planning Board at length in 2020 and 2021, the Project includes existing tax map parcel, 50.0-3-29.21. The parcel has direct frontage on New York State Route 32. The parcel is proposed to be subdivided into 40 residential lots. The Project includes individual septic systems for each of the 40 single-family homes included in the Project. Septic was chosen for the Project because: (a) the Project is not within a sewer district; (b) under the Town of Moreau Code (the "Town Code"), public sewer connection is not required for single-family dwellings in the zoning district(s) where the Project is located (R-1 & R-2 Districts); (c) the cost prohibitive nature of utilizing public sewer service such as through the use of gravity sewer and low-pressure sewer, compared to the cost of septic; and (d) the soil composition is ideal for septic, as fully discussed, memorialized and considered within the Planning Board review, grant of a Negative

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Declaration under the State Environmental Quality Review Act ("SEQRA") and preliminary subdivision approval of the Project.

SRH-TJM contemplates that construction will commence in the Summer or Fall of 2022. However, the Town Board is considering a moratorium targeting subdivision development which would include this Project. As drafted the Proposed Moratorium would prevent the Planning Board from issuing final plat approval on the project, and would, as a result, delay the Project irrespective of the progress the Project has made before the Planning Board and the substantial financial costs to the SRH-TJM .

We respectfully request that the Town Board amend the Proposed Moratorium language and exempt the Project, allowing SRH-TJM to complete the Planning Board review process. The Project as designed, has been fully reviewed by the Town and the Town has already concluded that the Project will not have any adverse impacts on the environment or the community, and that it, in fact, complies with the requirements of the Town Code. As such, the Town Board could easily amend the proposed moratorium to exempt the project without impairing the objectives of the proposed moratorium.

By submission of this request, we also join in the letter submitted on behalf of Cerrone Builders Inc. and Arrowhead Meadows LLC concerning the Application of the Moratorium and the lack of a Rational Basis for the establishment of the Moratorium. As discussed therein, the need for the Moratorium relative to these Approved Projects has not been established since the SRH-TJM Project, just as the Cerrone and the Arrowhead Meadows Projects, has unequivocally demonstrated that each Project can be developed using septic systems without any impacts whatsoever on the municipal Sewer system.

The Town has previously suggested that inclusion of subdivisions such as SRH-TJM in the Route 9 Sewer District Extension was necessary to support that Sewer District. Since the Route 9 Sewer District was fully designed, and approved without the addition of these subdivisions, there is simply no rational or logical reason to now impose the hardship of this proposed Moratorium in light of the existing approvals which do not contemplate the inclusion of this subdivision in the said District. Moreover, there is a real and critical question whether the Route 9 Sewer District infrastructure even has the excess capacity to service this and the other subdivisions that would be affected by the Proposed Moratorium. Consequently, there can be no legitimate reason to withhold the completion of review of this Project that has fully documented its ability to be developed, constructed and ultimately occupied by residents, without any adverse impact on the existing sewer infrastructure in the Town.

The Town Board should exempt the Project from the Moratorium. If the Proposed Moratorium is passed, SRH-TJM will be delayed and denied any opportunity to make a reasonable return on its investment, an investment that was completely made in reliance on existing zoning coupled with the Planning Board grant of a Negative Declaration under SEQRA and preliminary plat approval. To stop the Project at the 11th hour would be unjust to SRH-TJM and unwarranted given the findings of the Planning Board in its approval of the Project.

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We are available to discuss this matter further at your convenience and appreciate your consideration of the above.

Very Truly Yours,

STOCKLI SLEVIN LLP



Mary Elizabeth Slevin

Cc: Members of the Town of Moreau Planning Board  
Karla Buettner, Esq.

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A meeting of the Town of Moreau Planning Board was held on April 19, 2021 at 7:00 p.m. in the Town of Moreau Office Building, 351 Reynolds Road, Moreau, New York and via Zoom.

Peter Jensen	Chairperson
John Arnold	Planning Board Member
Erik Bergman	Planning Board Member
Jerry Bouchard	Planning Board Member
Mike Shaver	Planning Board Member
Ann Purdue, Esq.	Planning Board Member
Adam Seybolt	Alternate Planning Board Member

Also present: Jim Martin, Zoning Administrator in person; Tricia Andrews, Recording Secretary  
Absent: Meredith Mathias, Planning Board Member

The meeting was called to order 7:00pm by Chairperson Jensen. The Board reviewed the minutes of the March regular meeting. Mr. Arnold motioned to accept the minutes of the March 15, 2021 meeting as written and Ms. Purdue seconded. All in favor, motion carried with no roll call, Mr. Bergman abstaining.

The Chairman explained that US Light and Energy withdrew their application late last week so there is no public hearing for that PUD request tonight. Later in the meeting the Chair would ask counsel to confirm that the entire application was withdrawn from the Town Board and she stated that it was.

#2 SRH-TJM, LLC  
Gansevoort Road  
Public Hearing  
Preliminary Review

Travis Mitchell was present for this application. He explained that this is has frontage on Gansevoort Road. The site is R-1 and R-2. Density calculations were presented that allow 42 lots, 40 are proposed. This is the same layout that has been presented before, with additional notes. The sister subdivision was approved last month. As requested road names were added, the HOA document includes permission to create trails on HOA lands and states that they can not be subdivided further, and there is a request in to the Town for house numbering.

2374

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The traffic study reviewed by the Town Engineer found no significant impact. This application was before the Board in January and March, has been to the County, has had engineering reviews for traffic and stormwater and had comment from the Town Highway Department. Tonight is a public hearing.

The Chairman turned to Part I of the EAF.

Ms. Purdue asked whether the meeting with the South Glens Falls School Superintendent regarding Jacobie subdivision for May 6<sup>th</sup> would refer to this development as well. She asked what the discussion was going to be about, and Mr. Martin stated that there was no communication about it other than setting up the time and date of the meeting, so he doesn't know what it's about. Ms. Purdue asked whether it would pertain to anything beside bus routes and Mr. Martin said that the Transportation Director would be attending as well so it might be that, but he couldn't say for sure. Ms. Purdue was concerned that their comments would impact the layout. Mr. Martin thought it would have more to do with potential impact on enrollment and transportation. He thought that 150 lots approved at once had caught the Superintendent's attention.

In a letter Jesse Fish had asked whether hydrants were needed for flushing, if it was not going to connect through Arrowhead. He asked whether there would continue to be two names. Mr. Mitchell stated that the mains do loop through and there are no dead ends so hydrants will not be needed.

Part II of the EAF was addressed. #1 was answered Yes. The Board discussed determination of significance. Mr. Bouchard motioned to make a negative declaration for SRH-TJM, LLC and Mr. Arnold seconded. Roll call vote resulted as follows: Mr. Arnold, Yes; Mr. Bergman, Yes; Mr. Bouchard, Yes; Ms. Purdue, Yes; Mr. Seybolt, Yes; Mr. Shaver, Yes; Chairman Jensen, Yes. The Board turned to the public hearing and the Chair read the open meetings notice. The Chair asked members of the public to limit their comments to 5 minutes.

Mr. Brad Nelson asked if this was about the development by the Jacobie fields, and Mr. Martin explained that it is not the subdivision named Jacobie, but it is next to it. Mr. Nelson asked how this would impact the schools and the recreation park.

Mr. Martin asked Mr. Mitchell if he would like to comment and Mr. Mitchell stated that it is not going to affect Moreau Rec or traffic, and that wastewater will be treated on site. They all get municipal water. The school district has had the opportunity to review and comment. A meeting is coming up to coordinate transportation.

Mr. Martin indicated he did not know what concerns were going to be raised at the meeting with the Superintendent.



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Mr. Nelson stated that he grew up in the Town and that this field has always been where the rural part of the Town starts, so he is not happy to see this change here. He likes the small town rural feel of the Town. This is ruining what the Town is, so he is opposed to it and he doesn't feel he is alone in that.

Atty. Buettner joined the meeting at this time.

Mr. Martin announced again for the public that the US Light & Energy application was withdrawn and would not be discussed tonight.

Mary Weeks asked when the meeting with Superintendent of schools is and it is May 6<sup>th</sup>. She asked whether it was open to the public also and Mr. Martin stated that the Town Hall is closed, and these meetings are not usually public. Atty. Buettner stated that the school district can't grant or deny this application, they can only talk about their concerns with the Town. Mrs. Weeks stated that the schools are full to capacity. She expressed concern that 2-4 children per house would overtax the district. It sounded to her like the development is a done deal and the hearing isn't going to change anything.

Chairman Jensen explained that the Board is required to review anything that comes before it, and that there are rules for what can be done in any Zoning district, and they work within them. They always notify the schools. They can't deny because of a potential rise in student population- they can apprise the school as soon as possible so that they can adjust and plan. The Board can't just say no to this, because it meets the regulations. Mrs. Weeks asked how this would affect school taxes. Assessments have just gone up, and if this over-extends the school they will have to pay even more.

Mr. Shaver stated that if there isn't room in the school that would come out in the meeting on the 6<sup>th</sup> of May. He encouraged the Board to put the brakes on. Mr. Martin said that he would bring that concern up at the meeting.

Mrs. Weeks wanted to know whether the public would hear what the findings were and Mr. Martin stated that the next meeting of this Board would be May 17<sup>th</sup> and he would report back at that time.

Mr. Martin asked the Board whether they would keep the meeting open and Mr. Shaver said he thought they should. Chairman Jensen asked whether they needed to table open a public hearing and Atty. Buettner stated it should not be closed if they were not finished. Mr. Martin advised Mrs. Weeks that if it is left open, there would not be a new notice. Mrs. Weeks stated she would let her neighbors know and expressed concern that the agenda was not public. Mr. Martin stated that is not what is happening. Atty. Buettner told the Chair that the agenda for

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the May 17<sup>th</sup> meeting will be on the website prior to the meeting. Mr. Martin stated that notice could be sent again if the Board wanted.

Mr. Arnold stated that the notice is so that the public can make comments. It is announced and scheduled on the website and in the newspaper and people are able to make comments. Mr. Shaver said it was good public relations to do the extra notice because this is a big subdivision. Mr. Arnold said that the issue is that the Superintendent and the Transportation Director are having a conversation with the Zoning Administrator. Mr. Arnold has usually seen the schools agree to more students easily. The Superintendent will not state that it can't be built because there isn't room.

Ms. Purdue stated she didn't think school capacity was the Planning Board's purview anyway as it meets Zoning requirements and public infrastructure has to plan for and adjust to things like this. Mr. Arnold stated the schools are getting smaller. He graduated in 1983 with 250 students and the classes aren't that big now. Ms. Purdue stated she understands concern about infrastructure, water roads etc but that this is a lower density than allowed by the law.

Mr. Arnold pointed out that the people who buy these homes will pay school taxes as well.

Mr. Martin explained that this process is designed to bring out the concerns, the process is working as it should, the involvement of the school district is normal and not a cause for alarm, rather it is a courtesy to keep the schools involved. The homes are built over a period of time, and now the schools know and can adjust to the possibilities.

Mr. Mitchell commented that the Board is doing the right thing looking at this collectively, but that this one is just 40 lots. He has never seen a school district suggest that they can't handle the incoming kids from a subdivision project.

The Chair stated that the Superintendent of schools will educate the students in the district.

Mr. Nelson commented that his fear for the school is Fort Edward might join South Glens Falls schools, and when this is complete they will be too much together and taxes will go up. He stated that a single student costs the district \$70,000 because of things like special education and sports.

Mr. Martin explained that those concerns are the reason why the information is shared as the project progresses.

Brigid Martin commented that the public comments she heard sounded like people would deny people housing in order to avoid the costs of educating them. A certain population is needed to get federal support for the schools, and the Town needs young families to continue to move through to keep the schools full. Some of the concerns that have been expressed aren't factual.

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Mr. Shaver expressed concern about this project not hooking up to the sewer system. He asked for a clear reason why they didn't want to. He was concerned about the environmental impact of this number of sewer systems. Public sewer is there for a reason and should be utilized.

Chairman Jensen stated that the Town Code doesn't require developers to join the sewer district and the Board can't force them.

Mr. Shaver stated that there is a right way to do it and it's not about making them, but that the developer should do the right thing. He hasn't even seen district boundaries.

Atty. Buettner stated that the Board can't legally require them to put the sewer in. It is not in the sewer district. The sewer district could be added on to if it were in the Code. Many conversations have taken place about this between the applicant and the Town's attorney, but they can't require them to connect to it. If the Board thinks this is important for the future, they can change the law for future developments, but can't do anything about the current one. Mr. Shaver stated that all he has heard is that it's not affordable and he wants more information about the price to see if it is feasible.

Atty. Buettner stated that many meetings and conversations have been had. Mr. Shaver wanted to hear from the Town Board and Mr. Mitchell stated that Atty. Buettner spoke correctly for the Town. They have not seen numbers that work for this situation. He would like to connect, but the price hasn't been workable so far. Mr. Shaver wanted a meeting with the Town Board and Mr. Mitchell stated he had been before this Board since December.

Mr. Arnold said that it might be beneficial to the Town to have them join the sewer district, but that this Board is supposed to talk about whether it meets the requirements. The project works with septic systems, and that is all the Board needs to know. The only impetus for sewer is that it would help the system economically, which is a conversation between the Town Board and the developer that does not involve this Board. Nothing in the Planning Board's process has shown that the septic tanks don't work. Ms. Purdue reminded the Board that the subdivision will also be examined by the Department of Health. Mr. Bouchard stated that Mr. Shaver's argument is with the Town Board and that this development meets the conditions. Mr. Shaver stated he didn't want to hold up the process but that he wants clarification. Mr. Mitchell stated that he has been clear in that he is asking for on-site septic.

The public hearing was closed at 8:22pm.

Mr. Arnold motioned to grant preliminary approval to the SRH-TJM LLC Subdivision and Ms. Purdue seconded. Under discussion Ms. Purdue motioned to amend the motion to add that the applicant must provide the HOA document to Town Counsel for review. Mr. Arnold seconded.

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To the amendment: Mr. Arnold, Yes; Mr. Bergman, Yes; Mr. Bouchard, Yes; Ms. Purdue, Yes; Mr. Seybolt, Yes; Mr. Shaver, Yes; Chairman Jensen, Yes.

To the motion as amended: Mr. Arnold, Yes; Mr. Bergman, Yes; Mr. Bouchard, Yes; Ms. Purdue, Yes; Mr. Seybolt, Yes; Mr. Shaver, Yes; Chairman Jensen, Yes.

Requirement for preliminary and final to be on different meetings can't be waived for a subdivision of this size, so this will be back next month for final approval.

#1 Giachino  
Fort Edward Road  
Public Hearing  
Final Review

Mr. Bill Rourke was not present to represent this application at the original time. It was handled second at 8:30pm.

This is a one-lot 42,296 sq ft subdivision. Required road frontage is 100 ft, and they have 155 ft. No Variances are requested.

Mr. Martin explained that this has already been subdivided within seven years and that is why it is required to come to the Planning Board for review.

EAF was reviewed. Motion to make a negative declaration on the EAF for Giachino Subdivision was made by Mr. Bergman and seconded by Ms. Purdue. Mr. Arnold, Yes; Mr. Bergman, Yes; Mr. Bouchard, Yes; Ms. Purdue, Yes; Mr. Seybolt, Yes; Mr. Shaver, Yes; Chairman Jensen, Yes. All in favor motion carries.

The public hearing was opened at 8:35pm.

Motion to grant preliminary approval was made by Mr. Bouchard and seconded by Mr. Shaver. Mr. Arnold, Yes; Mr. Bergman, Yes; Mr. Bouchard, Yes; Ms. Purdue, Yes; Mr. Seybolt, Yes; Mr. Shaver, Yes; Chairman Jensen, Yes. All in favor, motion carries.

Motion to waive the requirement for separation between the preliminary and final approval was made by Mr. Bouchard and seconded by Ms. Purdue. All in favor, motion carried with no roll call. Motion to grant final approval to Giachino subdivision was made by Mr. Bouchard and seconded by Mr. Bergman. Mr. Arnold, Yes; Mr. Bergman, Yes; Mr. Bouchard, Yes; Ms. Purdue, Yes; Mr. Seybolt, Yes; Mr. Shaver, Yes; Chairman Jensen, Yes.

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Motion that the Chair and one other member sign the mylars when they are presented was made by Mr. Bouchard and seconded by Ms. Purdue. All in favor, motion carried with no roll call.

#3 Jacobie Farms- Cerrone  
Moreau Rec Road  
Preliminary Review

Joseph Dannible with Environmental Design Partnership presented application for 49 lot subdivision. They would like a public hearing in May.

It was previously presented as two separate projects, the two were combined as Jacobie's Farm. This is on both sides of Lennox Blvd. It is R-2. There are about 27 acres of land. It is flat, there are some compost materials stockpiled. This is a cluster subdivision with 23 lots on the north side of the road and 26 on the south. Approximate 65-80 ft wide with 25 ft deep front yards, 10 ft rear yards, 7.5 ft side yards, stormwater on-site. A single stormwater management area is proposed, the area is owned and operated by an HOA. The infrastructure within the road beds will be the responsibility of the Town Highway Department. They have individual septic systems, a water main extension along Lennox and along the proposed roads. Applicant is starting the process as an out of district user. 2.3 acres of open space used for drainage features, and another area that is in the middle of Road D. They did not want to tie up open space in rear yards, they think the front yards add to the aesthetic of being near the park and will be an enhancement. They plan a 5 ft wide asphalt trail along the road to the park. An area for a park entrance sign is set aside, and an access point for the lands to the south.

Mr. Purdue asked about the HOA areas and that there is only one area. The other centers of cul-de-sacs are going to the Town. Ms. Purdue asked whether there will be competition with stormwater there and they are not using the centers of the loops for that, it will be open lawn and maybe some trees.

Mr. Martin pointed out that they had also taken the small depressions for stormwater management out and this plan is more conventional with retention ponds. Mr. Arnold asked about drawings on Page 2 of 11 still showing the little dips. Mr. Dannible confirmed that has been revised. They are no longer part of the plan.

Mr. Martin pointed out that the strip between the two cul-de-sacs is also HOA owned and Mr. Dannible agreed. This was the location for the potential connecting trail.

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There was some further discussion about which land would be HOA and which would go to the Town. There are three HOA areas, and the centers of the cul-de-sacs are going with the road because the Town takes that much right of way.

Mr. Arnold asked about the size of the side yards. They are proposed at 7.5 ft which is allowed in a cluster subdivision. He asked how many of the houses are within 8 ft of the side yard boundaries on both sides. Mr. Dannible said that they are showing the potential locations for houses. Mr. Arnold's concern was that they wouldn't be able to get anything bigger than a lawn mower into the back yard. Mr. Dannible said that he has done these size setbacks before and not had any concerns, but they could look at it and try to get the houses offset so that some of the gaps were larger.

Mr. Martin stated that Winterberry was approved at ten feet and Mr. Bouchard and Mr. Arnold stated they were more comfortable with ten feet on at least one side. Mr. Dannible said he could make that work.

Mr. Arnold asked whether the access point lined up with the one in Arrowhead and Mr. Dannible wasn't sure but it lined up with open space. Mr. Arnold thought it was on their stormwater basin. Mr. Dannible said that his low space would allow a 100-year flood to flow over it and protect all the properties. Mr. Arnold stated he was concerned about the bike paths and walking paths all intersecting.

Mr. Arnold mentioned that this is a dead end when the park is closed, and that might present a problem for school busses as they would have to use the cul-de-sac or something. Mr. Dannible said this is a Town standard cul-de-sac so it can accommodate that. Road F is intended to be a through street eventually. So the turnaround there is temporary.

The Chair asked the Board whether they had enough information to move forward. Mr. Shaver asked whether they were putting in a sign for the park entrance and Mr. Dannible said they are just donating the land but were still in conversation with the Town about improvements to the road, etc.

Mr. Martin shared the comments from the water Superintendent which are that each hydrant needs an in-line valve, and that there should be a hydrant at the end of the line at the end of Lennox Blvd. A water connection is needed for the existing Jacobic house. Hydrants at the end of the cul-de-sac should be on Roads E & F.

Mr. Arnold asked whether the HOA property inside of loop D would have infrastructure, whether they were thinking about a playground. Mr. Dannible said the idea is active recreation area so that people can watch their children. Mr. Arnold suggested a barrier between that and the road, like a hedge or short fence so that kids don't lose toys into the road.

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Mr. Bouchard motioned to schedule a public hearing for Jacobie Farms 7:01 on May 17<sup>th</sup> 2021.

Mr. Bergman seconded.

Chairman asked whether it was wise to schedule a public hearing when there could still be changes to the project. Mr. Dannible stated that the modifications planned were to remove the storm ponds, which has already been identified and nothing substantive is going to be changed. Mr. Bergman stated he thought that was acceptable.

Mr. Arnold, Yes; Mr. Bergman, Yes; Mr. Bouchard, Yes; Ms. Purdue, Yes; Mr. Seybolt, Yes; Mr. Shaver, Yes; Chairman Jensen, No. Motion carries 6-1.

Ms. Purdue asked the applicant to show the ten feet on at least one side of each house and that the acreage of each open space be called out.

Motion to declare Lead Agency was made by Ms. Purdue and seconded by Mr. Arnold. Mr. Martin stated that this is an unlisted action. Involved agencies are DEC, DOH, DOT, State AG and the school. All in favor, motion carried no roll call.

#4 Baker Falls Solar, LLC  
10-15 Electric Dr  
Site Plan Review

Travis Mitchell, Michael Cucchiara and Liza Schepps were presenting for this application on behalf of Nexamp.

Mr. Cucchiara presented Nexamp founded 2007 and based on Boston. They install nationwide. They have 115 MW of projects operating now with 107 coming up. They are long-term owners of the projects and to maintenance and operations. They have 10,000 residential subscribers. This is a community solar project, might also be remote crediting but community is preferred, they would get a 10% discount on utility bills. They have agreements with Albany Medical Center and Saratoga Hospital in other areas.

The project is proposed for the Moreau Industrial Park. 2.5MW, single access tracker system that moves with the sun. They are aligned North-South and the panel itself rotates. They are max height of 18 ft. No battery storage is proposed. 13 acres fenced area. It is naturally screened by existing vegetation. It is in the far western boundary of the Industrial Park, about 32 acres. It is permitted in the M-1 district as a power plant use and will be reviewed by the Zoning Board.

Access point is across the power lines from the main entrance road. Medium voltage cables go out to the existing service. 20ft wide at access point for National Grid, it is 15' wide access road



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down to 12 ft wide set up for tractor trailer movements. 13 acres, fenced 7 ft high. There is one equipment pad near the road for controls.

Visibility is often an issue with solar farms. There are some properties on Sisson Road that might be able to see it, so he ran some elevations to show the sight lines. The profile shows that a hill blocks the view on the first one. The second one has a point at twenty feet high where they may be able to see a little bit when there is no vegetation, but currently there is vegetation.

Overall it is well-screened.

This application will require a public hearing, SEQR and a Site Plan. They would like to initiate coordinated review tonight. He suspects it may not require coordinated review from the County. Atty. Buettner confirmed this. Mr. Shaver asked whether it is close to the sewer pump station and Mr. Mitchell demonstrated on a map and said it is 750-1,000 ft. Mr. Arnold asked and it is on the opposite side of the park from the river and is not within 500 ft. It is 800 ft from Farnham road.

Mr. Arnold asked whether they have a right of way in hand for National Grid properties and Mr. Cucchiara said they need a separate application with National Grid if tonight goes well. They had wanted to make sure there were no concerns with the access point first. They will also need an easement to cross National grid lines to get to the lines.

Mr. Arnold asked whether they use tracker panels elsewhere in the Northeast and Mr. Cucchiara said that they do, in Johnstown, Syracuse and throughout the state. They are single axle and follow the location of the sun, and not the angle. They can be a challenge in the Northeast, but they have been around a few years now and they have adjusted to some of the difficulties with them, the additional energy production makes them worth it.

Ms. Purdue asked if there was a waterway to the west. There is an intermittent stream and there have been wetlands delineated, and that is basically the reason the project is shaped like it is. Army Corps doesn't consider solar panels a disturbance, but DEC does. These are Army Corps. They will need a permit for some clearing. Within the fence, they seed wildflowers and outside they will maintain the landscape.

They will provide an operations and maintenance plan as well as a decommissioning plan.

Baker Falls is the owner. Ms. Purdue asked whether they would post security for decommissioning and Mr. Cucchiara said they will post bond that is typically \$30,000 per MW so \$70-80,000. That has not been discussed with the Town.

Mr. Shaver asked whether they have issues with vandalism and Mr. Cucchiara said they have not, but it will be fenced and locked. They can provide Knox boxes for the fire department.



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Mr. Cucchiara stated that sometimes they install a camera light that is pointed at the inverter and electric pad, but they are otherwise not concerned about security. They are used to coexisting with snowmobile and ATV activity.

Chairman Jensen asked counsel whether this was at issue with the stated purpose of the Industrial Park which was to bring jobs. Atty. Buettner stated there is no written requirement that jobs be included in projects at the park. Mr. Martin stated he read the draft statement from the park creation and saw nothing about job creation. As staff Mr. Martin said that this lot is the least attractive in the park, because it is poorly accessible and this is a good use of that site. Another Industrial use is unlikely to come in. Mr. Arnold said he like this use in this location. It is quiet and is the closest to residential neighbors. Mr. Martin agreed it acted somewhat as a buffer.

Chairman Jensen asked whether a user is still charged a fee in the Industrial Park for transportation improvements. Atty. Buettner wasn't familiar with that but stated that she would look into it. Mr. Martin directed the Attorney to the Saratoga County Economic Development Corporation.

Mr. Arnold asked why he didn't see any accommodation for stormwater management and Mr. Mitchell pointed out some areas, but said that DEC is lenient about stormwater on solar farms and doesn't count the panels as impervious area if there is a certain amount of green space between, a threshold which they meet. So they only have to treat the roadways and the equipment pad.

They will have over an acre of disturbance so they will have a SWPPP during construction.

Ms. Purdue asked whether the Town has an expert to review the decommissioning plan and Mr. Martin said he thought that was a good idea. Mr. Arnold asked whether that is an escrow account and Mr. Martin said it would be a bond or a letter of credit.

Mr. Cucchiara said they could provide a decommissioning plan as well as operation and maintenance plan for legal review. Mr. Mitchell stated that NYSEDA puts out some good guidance for Towns on this and offered to send that over.

Mr. Arnold said he just worried what would happen if this project were sold and a later owner went bankrupt. Mr. Martin thought the plans would have to be transferred. Mr. Cucchiara stated that the owner, Nexamp, would have obligations to decommission.

Mr. Martin explained that a third party review of the operations and maintenance and decommissioning plan would require an escrow account to be set up.

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Atty. Buettner recommended not having a public hearing until the consultants were heard from and that 30 days will have to go by for SEQR, so the Board can't act on anything at a public hearing next month.

Motion to declare Lead Agency for Baker Falls LLC was made by Mr. Bouchard and seconded by Ms. Purdue. Involved agencies are DEC, Army Corp, Public Service Commission. All in favor, motion carries with no roll call.

#5 Denno Contracting  
Reynolds Road  
Sketch Plan Review

The applicant had gone to the Zoning Board about this 5 acre site in an R-2 and they want to put in 5 parcels with a cul-de-sac. They wanted a common driveway. Zoning would not give them the Variance they needed to do that. The cul-de-sac barely fits. They are getting ready to do test pits. The Health Department is involved because it is 5 lots on less than 5 acres. Mr. Robinson has talked to DOT, Jesse Fish, Highway. Mr. Robinson will be looking for input on the groundwater issue that has been a problem there.

Chairman Jensen asked and this borders Grey Fox Drive which was one of Gardner Congdon's subdivisions. Some of those lots were filled to accommodate onsite septic, which is what they think they will do as well.

Mr. Shaver expressed concern about what this would do to the water situation. He asked if they are developing at the gun club and Mr. Robinson explained that the gun club is to the west of this. Mr. Martin agreed that there is already a water problem here that they will have to be very careful with. Mr. Martin agreed it has been a problem for some time.

Mr. Arnold was trying to understand all the letters and numbers and dotted lines on the map. he asked whether we are only looking at the numbered lots. Mr. Robinson said to look at the numbered and the lettered. The letters lots have to do with some agreements to do lot line adjustments. These were agreements between Gardner Congdon and the neighbors. It was never done officially so he asked this buyer, Denno, to honor those agreements. The two lots on 197 are not their lots. Mr. Arnold asked and Area B is a lot line adjustment to a lot that has frontage. They are not part of the site plan review. No landlocked parcels are going to be created in making these adjustments.

Mr. Arnold asked Mr. Robinson to highlight which lands they are reviewing.

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Mr. Martin asked Mr. Robinson to move forward with the boundary adjustments prior to finalizing the plans.

Mark Stewart stated that they are working on that. The agreement was made years ago. One is the Langdons and one is part of the stormwater management for Grey Fox. Gardner Congdon owns a section of land on the other side of the pond.

Mr. Martin wanted to make sure no landlocked parcels were being created.

Mr. Robinson agreed those would have to be done before the subdivision is filed.

Mr. Arnold asked about the tiny parcel not part of Lot B or the other one.

Mr. Stewart stated that has its own deed and is owned by Mr. Congdon.

Mr. Arnold pointed out there were slivers of land by the gun club that are the ownership is unclear on.

Mr. Robinson checked the survey and said it appeared to be owned by Mr. Barody at the gun club.

Mr. Martin stated that this will be subject to a SWPPP.

Mr. Arnold asked who owns the center of a cul-de-sac and Mr. Robinson said the Town owns it. He said that what they do with stormwater depends on what they find out about the groundwater situation.

Mr. Bouchard asked whether all the driveways would come off this road and Mr. Robinson said that it would be off the road. Mr. Robinson explained that this is going to be a Town Road and because the Zoning Board didn't like a shared driveway, even though Paul Joseph didn't want a road.

Mr. Robinson asked for information about the groundwater issue and Mr. Martin said Kathy would have to do some research. Mr. Martin thought that the information would be spotty but the Michaels Group properties would have more information. Mr. Robinson asked who the engineer was for the last part of the Grey Fox Subdivision but no one could remember. Mr. Shaver recommended that Mr. Robinson call Joe Patricke.

The Chair asked the Board whether they wanted long meetings or extra meetings as the number of applications has been increasing.

The Board decided that anything more than 5 meetings would likely be split into two meetings.

A change in meeting time was also discussed. Mr. Martin stated he would discuss with Mr.

Jensen whether there were two meetings when it looked like it might be long.

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Motion to adjourn the meeting was made at 10:34pm by Mr. Bouchard and seconded by Mr. Shaver. All in favor, motion carried, no roll call.

Respectfully submitted,

Tricia S. Andrews

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**TOWN OF MOREAU**

**LOCAL LAW NO. \_\_\_ OF 2021**

**ADOPTING CHAPTER 125 OF THE TOWN OF MOREAU CODE**

**A TEMPORARY MORATORIUM ON BUILDING PERMITS OR SITE PLAN REVIEW  
OR OTHER REVIEW OF SUBDIVISIONS OF MORE THAN TEN RESIDENTIAL  
DWELLINGS LOCATED WITHIN ONE-HALF MILE OF AN EXISTING SEWER  
MAIN WITHIN THE TOWN OF MOREAU**

**§125-1. Purpose and Intent.**

It is the purpose and intent of the Town Board of the Town of Moreau to adopt a temporary moratorium on the further growth and development of subdivisions containing more than ten residential dwelling units located within one-half mile of an existing sewer main within the Town of Moreau while the Town considers and potentially adopts changes to its zoning code to address new circumstances not addressed by its current laws.

According to the 2019 Comprehensive Land Use Plan, the first initiative of the Plan was implementation of sewer and water infrastructure along the Route 9 corridor to encourage growth and economic development. The Plan cites to the desire for the neighborhoods on either side of the Route 9 corridor to continue to provide an attractive and charming quality for residents of all income levels, ages, and needs. Furthermore, the Plan calls for to administer a local land use code that serves to manage and guide community development in a manner that conserves the unique qualities of the natural and built landscape while encouraging prudent and properly scaled growth. In addition, the Plan calls to insure that supportive infrastructure such as municipal sewer have sufficient capacity to keep pace with the new development and effectively provide acceptable levels of service to existing residents as well as incoming residents of the new housing units as they are built.

The purpose of this local law is to provide time for Town officials to study its comprehensive land use plan and address issues, if any, presented by the growth and development of subdivisions containing more than ten residential dwelling units located within one-half mile of an existing sewer main within the Town and the impact of such growth on the community, the environments, its financial impact on the Town and the regulation, control and enforcement of such uses.

**§125-2. Definitions.**

All definitions from Section 124-4 and 149-5 of the Code of the Town of Moreau are incorporated herein by referenced.

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**§125-3. Moratorium.**

For a period of one hundred eighty (180) days from and after the date of the adoption of the Notice of Public Hearing of this local law, no application for building permits, site plan approvals, special use permits, or subdivision approval, or any other municipal approval shall be considered for development of subdivisions containing more than ten residential dwelling units located within one-half mile of an existing sewer main within the Town of Moreau.

This moratorium shall not apply to any Certificates of Occupancy for any and all construction pursuant to building permits issued prior to the date of the adoption of the Notice of Public Hearing or the issuance of any building permit for the renovation or repair of any lawfully existing structure otherwise covered by this local law.

**§125-4. Variance.**

Any person may apply to the Town Board for a variance from this local law. Upon submission of an application for a variance to the Town Board and after a public hearing, the Town Board may, in its discretion, render a determination that this local law would impose extraordinary hardship upon a landowner or developer and that a variance from this law will not be a detriment to the public health, safety and welfare or to the residents of the Town of Moreau, or present any significant adverse environmental impacts. All such applications will be referred to the Planning Board for its recommendation and shall thereafter be returned to the Town Board for a public hearing and final decision on the application.

**§125-5. Termination.**

The moratorium shall be terminated earlier than the one hundred eighty (180) day period upon enactment of any local legislation that terminates this moratorium.

**§125-6. Severability.**

Any section, paragraph, subdivision or provision of this local law that shall be determined by a court of law as invalid or unconstitutional shall not impair the validity of other sections, paragraphs, subdivisions or provisions of this local law as a whole. The extent that the same shall be considered applicable and effective and that only such part so decided to be invalid or unconstitutional shall be considered ineffective.

**§125-7 Effective Date.**

This local law shall take effect immediately as permitted by law.

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**From:** Luke Michaels <[REDACTED]>  
**Date:** December 20, 2021 at 11:44:49 AM EST  
**To:** Todd Kusnierz <[moreausuper@townofmoreau.org](mailto:moreausuper@townofmoreau.org)>, Kyle Noonan <[knoonan@townofmoreau.org](mailto:knoonan@townofmoreau.org)>, John Hogan <[jhogan@townofmoreau.org](mailto:jhogan@townofmoreau.org)>, JD Donohue <[jdohue@townofmoreau.org](mailto:jdohue@townofmoreau.org)>, Alan Vantassel <[avantassel@townofmoreau.org](mailto:avantassel@townofmoreau.org)>  
**Subject:** Public Hearing 12/21

Dear Town Board Members,

I am writing to offer perspective on the proposed Building Moratorium and public sewer mandate for select residential projects in Town, that will be discussed at the Public Hearing on 12/21. The current law states, no building permits will be granted to certain projects based on a geographical location during a certain timeframe. Michaels Group Homes has an approved, under construction project, which falls in this category. It would be unlawful to prevent building permits on an approved subdivision that has a dedicated Town Road, contributed funds to the Town Recreation fees, and received state approvals for septic systems. From what we understand, this law will be re written, and we look forward to seeing the new language.

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In regards to new projects, the Town's directive to push residential sewer connections is misguided. Residential sewer availability would be excellent for the future of Moreau. However, the costs need to be considered. The costs for sewer on the Route 9 commercial properties have been considered and accepted. It was a close vote of 32-29, but ultimately the parties weighed the cost benefit of sewer and saw the value of bringing it to their doorstep. Public sewer for commercial properties is infinitely valuable and opens the door to so many commercial possibilities.

From a residential perspective, a septic system is 100% viable and acceptable, especially with the excellent soil conditions in Moreau. If a residential sewer referendum similar to the previous commercial was offered, it would be doubtful that residential property owners would opt in when they have a perfectly suitable alternative option. It is interesting to point out, that the Town had the courtesy to allow a vote from commercial property owners in regards to a sewer extension, however the same is not being offered to the residential owners or developers. A moratorium to halt residential approvals while a sewer mandate is considered, is like throwing salt on the wound.

If you ask most developers, they would prefer a public sewer system be in place for their developments. But in every single case, the costs need to be considered. In this specific case, the costs are extraordinary and not conducive for new development. The costs to be considered are as follows:

- First, the developers would be responsible for extending and improving the new Town infrastructure.
- Second, developers would have to pay to install the new sewer throughout the new road systems.
- Third, there would be hookup fees associated for each individual new building lot, paid by the developer.
- Fourth, a grinder pump for each new home which runs around \$7500 needs to be accounted for.
- Finally, post construction costs to consider are the sewer tax fees new property owners would be pay for the many years following. Also, future grinder pump replacement costs.

These should all be compared to the costs of the current and viable alternative of a septic system. A septic system suitable for a 3 bedroom home can be installed in Moreau for less than \$5,000. Future costs to consider would be pumping every 3-5 years and possibly, yet unlikely, replacement costs, considering the suitable soils.

Many of the sewer costs above are variable and unknown. This causes pause and time delays which could put new developments in jeopardy, contradicting some motives and benefits of public sewer in Moreau. Then, from a new home building and sales perspective, all of these costs need to be passed on to the future buyers. Furthermore, at this point, we don't know what the future sewer tax will be to the future buyers. From the information I have gathered, the tax will be based on the appraised home value. In the calculation that I have seen, a \$300k home would have a sewer tax of \$2,839.3 annually. Due to soaring building material prices, new homes will be sold and valued for much more than \$300k going forward, resulting in a higher annual sewer tax.

The future tax is one of the most concerning aspects of this residential sewer proposal. New home buyers in the Town of Moreau may need to pay an exurbanite tax for many years, on something that is unnecessary, and could have been prevented. I can speak on behalf of the developers, my projects, and the costs that are involved. Unfortunately, the new buyers and future constituents are not here to speak their voice. Home affordability is one of the biggest challenges that all municipalities face. The increased costs of unnecessary sewer may prevent some people from being able to afford to live in Moreau and prevent us from ever hearing their voices in regards to this matter.



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While the new sewer is going to provide a great benefit to commercial properties and the Town, mandating residential hookups could be potentially contradict all of the economic benefits that were envisioned as part of the original sewer goals. If residential sewer is a goal for the Town, perhaps a clear, easy and incentivized path would help promote residential extensions.

All of these factors need to be considered as the Board looks to promote sewer to new residential projects. As you consider a building moratorium, please do not include those projects which have already been submitted to the Town for review. These projects have already factored in what utilities and services are currently available for a feasible development. The current property characteristics and available utilities have played a crucial role in the due diligence of these projects. The owners and developers have invested incredible amounts of time, money, and energy to see these developments come to life. A delay on approvals and introduction of new fees, taxes, and requirements could prevent these projects from ever moving forward.

Sincerely,

Luke Michaels  
Principal  
Michaels Group Homes