

A public hearing of the Town Board of the Town of Moreau was held on April 26, 2022 in the Town of Moreau Municipal building, 351 Reynolds Road, Moreau, New York, for the purpose of hearing public comment on proposed Local Law 2 of 2022.

The Supervisor called the meeting to order at 6:02 p.m.

Town Board Members Present

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

Town Board Members Absent

None

Also present: Barbara Bartlett, Deputy Town Clerk; Malcolm O'Hara, Attorney for the Town; Lisa Sperry, Supervisor's Confidential Secretary; Ellen Buttles, Deputy Town Clerk; Ron Laberge, Laberge Group; Others: Bill Ryan, Travis Mitchell, Harry Gutheil Jr., Luke Michaels, Dan Galusha, Steven Cerrone, Gianni Simone, Dominic Tom, Dan Davies, Jen Ball

The Supervisor welcomed everyone to the Public Hearing on Local Law 2 of 2022, the Sewer Ordinance Update, and stated that there was some housekeeping to attend to before the public hearing, as the Town Board first needs to declare itself lead agency for this unlisted action.

Resolution #2022-170

A motion was made by Councilmember Noonan, seconded by Councilmember VanTassel and carried, that the Town Board hereby declares itself lead agency for this Unlisted Action.

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

Councilmember Stewart	Aye
Councilmember Noonan	Aye
Councilmember VanTassel	Aye
Councilmember Donohue	Aye
Supervisor Kusnierz	Aye

The Supervisor called the public hearing to order at 6:03 p.m.

The Supervisor asked the Deputy Town Clerk to read the notice of public hearing into the record. The following notice appeared as a legal ad in the Post Star newspaper on April 16, 2022.

**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 April 26, 2022 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. 2 of 2022. If adopted, Local Law No. 2 of 2022 would repeal Chapter 115 in its entirety and replace it with a new Chapter 115. Written comments on Local Law No. 2 of 2022 can be submitted to the Town Clerk up and through the time of the public hearing. A copy of proposed Local Law No. 2 of 2022 can be obtained at the Moreau Town Municipal Complex and on the Town's website.

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Leeann M. McCabe
Town Clerk

Published: April 16, 2022

Special Counsel gave a brief overview at the request of the Supervisor, then Supervisor Kusnierz stated that anyone wishing to speak would be allowed up to 5 minutes.

Travis Mitchell, 60 Bluebird Rd, addressed the Town Board stating that the proposed amendments are just not right or fair. He asked if the Board understands what it is doing, or if it is just trusting the consultants. The Board worked for 10 years to get commercial sewer approved, and tried to include residential properties, but it would not pass. The Town Board committed not to include residential properties, but now are trying to force residential in through the back door. Properly designed septic systems do not pose a problem to water quality. Residential property owners have not been allowed a vote, and residential customers do not benefit from being in the sewer district as commercial customers do.

Harry Gutheil addressed the Town Board regarding Chapter 115 Sewer Regulations Article XI Section 115-71 (D) in which it spells out an interest charge of 10% each month, which appears to exceed the law. Mr. Gutheil also noted that there was nothing in the regulation regarding irrigation, and so it would be based on water usage. As the water from irrigation goes into the ground and not the sewer, should there be an option for a second meter for irrigation? In regards to Article XII Section 115-78 (f) in which it states that the Town shall not be liable for any damage or loss of any kind, even when due to negligence on the part of the Department, and Mr. Gutheil stated that the Town should be liable in that case.

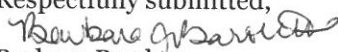
Luke Michaels, Michaels Group Homes, 1 Marions Way, Malta, stated he had sent a letter to be included in the record, and addressed the Town Board regarding the costs associated with sewer for current projects, projects which already have preliminary approvals under the existing code. The sewer costs would add \$15-20K per lot for the developer, which jacks up the price of the house. The market is changing, prices and interest rates are already high, and adding sewer puts us behind the 8-ball, making homes no longer affordable. Mr. Michaels also asked, if they are to have sewer access, when can they hook-up, when can they tie into the sewer? He understood there isn't enough capacity right now.

Gianni Simone, partner in Cerrone Builders, submitted a letter for the record, agreeing with the Michaels Group and stating that Moreau needs more residential. The Town Board should take advantage of the group of builders united to find a solution. Was this plan peer-reviewed? If they are all being forced into the sewer, is there enough capacity? Speaking for 49 customer voices of Jacobie Acres, urging the Town Board to leave the public hearing open.

Dan Davies of Jacobie Acres subdivision addressed the Town Board, stating that they have been working with the Town for over a year and a half, spent tens of thousands of dollars in engineering, design, and approval, only to have the rug pulled out from under them at the 11th hour. This is a death sentence for residential development. Sewer was designed for commercial, not residential development, and now you're trying to pay for the sewer through the residents.

There were no further comments made from the public.

The public hearing was left open and the Supervisor stated that written testimony will be accepted until the hearing is closed.

Respectfully submitted,

Barbara Bartlett
Deputy Town Clerk

Dear Town Board Members,

My name is GIANNI SIMONE, a partner in CERRONE BUILDER'S. This letter regards to new local law #2 and #3 of 2022. I stand here tonight not as one voice but as the voice of 49 potential homeowners that make up JACOBIE acres. We are not against sewers and the growth of Moreau. All we ask is that it makes financial sense for the new residents of the town of Moreau. We feel it is unfair to our customers to add \$20,000+ dollars to the purchase price of their home, as costs are already inflated due to the current situation. Then on top of these costs to add a \$3000+ debt service for the next 15 or so years onto these homeowners. (Based on a \$400,000 sale price). By adopting these new laws takes away the ability to deliver affordable housing that Moreau has been able to offer and continue the growth Moreau needs to attract both small and large retailers to the Route 9 corridor.

We recently purchased a large parcel on Route 9. We have started the discussion process of developing that parcel with several larger retailers, franchise stores as well as a bank. The common consensus was that Moreau needs more residential growth to sustain their investment on route 9.

I urge the Board to stand up for what is right both morally and ethically, postpone these new laws. Take advantage of the united group of developers, and land owners that have developed this town into what you see today. Let us continue to make Moreau a great place to be a resident in. You have Cerrone Builders , Michaels Group, Schemerhorn Real Estate Development and Travis Mitchell all united to help find a common solution. But you have denied any and all assistance. I ask has

this plan designed by Laberge been peer reviewed? Have all decisions on these new laws been solely based on one firms idea?

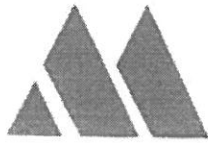
There is also talk that the sewer line you want us to connect to, does not have enough capacity and is currently holding up an approved plan for The Grove apartments to move forward in construction. If this is true what is the plan for that same sewer line that goes to the industrial park to handle what is to be developed there. Also if we are ultimately forced into sewers where is the capacity coming from and when will it be available for use?

As you know we have a plan to develop a business in the industrial park that started out as a single 30,000 square-foot facility through major interest, investors and countless meetings we now have possibility to quadruple that facility, thus causing a major sewer and water usage.

I'm really unsure of what the goal is here, especially in regards to local law #3. If your trying to stop residential growth, then you are heading in the right direction. Focus on commercial development the way sewers were meant and sold to the residents of this town, not on the backs of future residents. Please consider the comments of the public, either vote no or leave the public hearing open, have an executive session to really think, discuss and understand what is being proposed here. Please consider how important residential growth is for the overall growth of route 9 corridor and the town. Let us collaborate to come up with a positive solution that works for everyone.

Thank you for your time and consideration

Gianni Simone



MICHAELS GROUP

April 26th, 2022

Moreau Town Board
351 Reynolds
Moreau, NY 12828

RECEIVED

APR 26 2022

MOREAU TOWN CLERK

Dear Town Board Members,

This letter is in regards to the new local law #2 and #3 of 2022. I have provided previous comments in regards to local law #2 and the Town's desire to have residential projects hook up to public sewer. First and foremost I am not against sewer going to new residential neighborhoods. In most cases sewer can be a benefit to residential projects. However, under the proposed scenario, the additional associated costs threaten the feasibility of residential development in Moreau. In the two projects that I am associated with, (Arrowhead and TJM- SRH) I have laid out the additional costs associated with bringing sewer to these projects. In short, it will cost an additional \$15-\$20k to develop each residential building lot. On top of those costs which directly impact the affordability of the new homes, the future owners will be responsible for the debt service and O&M on the sewer which will amount to \$3500 per home (based on a \$400k assessed value).

In regards to local law #3, I must question why the zoning is being made more stringent and limiting development? By bringing sewer into the mix for residential projects, it opens the door to other residential uses such as townhomes or smaller single family lots. By adding the possibility for additional density, the Town could help alleviate the development costs of bringing sewer to the residential projects. Introducing new uses could also keep housing units more affordable, and therefore decreasing the annual sewer tax for future buyers. In the proposed zoning changes, the projects I am involved with will now yield less than 81 total units, and therefore increases the cost to provide sewer over and above the previously quoted \$15k-\$20k per lot. I also question what the foundation is for the zoning change. I have not seen any discussion or reasoning as to why this zoning change is necessary?

From a broader perspective I also ask the Board if the cart is being put before the horse? For example, if both of these laws pass and I bring my project back to the Planning Board for final approvals, part of that review and approval is confirmation of sewer capacity. Will this sewer capacity confirmation come from Saratoga County or City of Glens Falls? My project cannot get a final stamp of approval until it is confirmed that there is sewer capacity for the new homes. From what I understand there are current projects within the Town that are ready to connect to the sewer, however there isn't capacity at this time. If the Town is going to require sewer connection, it should not be a requirement until the Town can actually provide the capacity for it.



MICHAELS GROUP

Housing affordability is one of the most serious threats to our local, state, and national economy. These additional costs and taxes put even more pressure on a housing market that is recently trending in the wrong direction. My projects have the potential of bringing 81 new tax payers and constituents to Moreau. I wish I could speak for all of those future constituents, but they will only be Moreau community members if the market can bear these additional costs and taxes. The proposed sewer and zoning changes pose a very serious threat to the marketability of new residential development in the Town of Moreau.

Sincerely,

A handwritten signature in black ink, appearing to read 'LM', with a long horizontal flourish extending to the right.

Luke Michaels
Principal
Michaels Group Homes
518-899-6311

WHITEMAN
OSTERMAN
& HANNA LLP

Attorneys at Law
www.woh.com

One Commerce Plaza
Albany, New York 12260
518.487.7600 phone
518.487.7777 fax

RECEIVED

APR 26 2022

MOREAU TOWN CLERK

Teresa M. Bakner
Partner
518.487.7615 phone
tbakner@woh.com

April 26, 2022

Via Email and Hand Delivery

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

Attn: Town of Moreau Town Clerk

Re: Cerrone Builders, Inc – Comments on proposed Local Law 3 of 2022 changing the zoning, site plan and subdivision codes, as well as Local Law 2 of 2022 adopting amendments to the Town Sewer Regulations

Dear Town Supervisor, Town Board Members and Town Clerk:

My firm represents Cerrone Builders, Inc. ("Cerrone") in connection with the development of the Jacobie Farms Realty subdivision located at 11-29 Lennox Boulevard (Moreau Rec Road). By continually delaying any action on the subdivision, the Town has caused my client substantial and continuing economic harm. First, the Town Board adopted an unlawful resolution last year in an attempt to stall lawful development of the property. That resolution has been overturned by a NYS Supreme Court Judge for failure to comply with the NYS Environmental Quality Review Act (SEQRA). See decision attached as Exhibit A. Second, the Town Board has refused to act on the Cerrone application for a water district extension for the Jacobie Farms subdivision and instead adopted a moratorium prohibiting all development, including the Jacobie Farms subdivision, even though the subdivision had already received a SEQRA negative determination of environmental significance and preliminary plat approval. It is highly unusual for a moratorium to prevent the construction of a project that has already received a SEQRA negative declaration and preliminary plat approval.

Unfortunately, the two local laws that are the subject of the public hearings tonight represent an escalation in the Town Board's attempts to further deprive the property owners and Cerrone of any economic value in the property at 11-29 Lennox Boulevard. These Town actions

are being and have been taken in spite of the years that Cerrone spent working with the Town staff and Town Planning Board in obtaining preliminary plat approval. During this period after the resolution was adopted by the Town Board (which was overturned), Cerrone provided information to the Town showing the consequences of the Town's actions in insisting that the subdivision be connected to public sewer although no sewer district had been established including the property. See correspondence attached as Exhibit B. Simply put, the size of the subdivision, the distance to public sewer and the cost of the subdivision, made the project economically infeasible if the Town were going to somehow require that the project be connected to public sewer. Cost estimates were provided in great detail from third parties demonstrating that the project could not bear the cost of installing public sewer.

Strikingly, the proposed local law makes these costs even less bearable by taking away project density, now specifying that the minimum lot size is to be changed to 22,500 square feet, rather than the 15,000 square feet which was applied in the preliminary plat approval. This density limitation is being imposed while also requiring any development within one-half mile of the "available" public sewer to connect at the property owner's expense to the public sewer.

This substantial and significant change in the Zoning Code of the Town can only be interpreted as a desire to eliminate the Cerrone project, among others, if these provisions in the proposed local law are not changed. If connection to public sewer was previously cost prohibitive—it is doubly so with such a decrease in density. The record is devoid of any explanation of the reason for the decrease in minimum lot density. There has been no change in the Town's Comprehensive Plan to justify such a change in the Town's Zoning Code or, for that matter, in the Town's Subdivision Law.

The Cerrone family has been constructing single-family homes in the Town of Moreau for many years. The Town Board should not cavalierly dismiss the evidence that Cerrone has presented to show that these changes will substantially drive up the costs of buying and owning a single-family home in the Town. Cerrone has already presented economic proof to the Town that the project originally approved by the Planning Board cannot proceed thereby causing Cerrone and the landowners who are selling them the property economic harm.

For the record, Cerrone has the following comments on this proposal:

1. The local law drastically increases the minimum lot size making the development of all housing more costly;
2. The local law requires public sewer at the developer's expense, a cost that is too much for the sale of houses in Moreau and which costs have been substantially increased (with no explanation) by the change in density that is proposed;
3. The local law uses terms that are not defined or relevant to zoning such as Equivalent Dwelling Unit and Large Development which is not defined or used in the subdivision code of the Town of Moreau which instead distinguishes between Minor and Major Subdivisions;
4. The goal of the local law appears to be punitive i.e., to prevent Cerrone from developing the Jacobie Farms subdivision as designed and as having received preliminary plat approval;

5. The moratorium was adopted after the Jacobie Farms subdivision was approved, and evidences special facts that a Court may take into account to allow Cerrone to proceed with the existing development or for the Town to be required to pay the land owners and Cerrone for taking their development rights, as evidenced by the preliminary plat approval;
6. Cerrone duly applied for a water district extension from the Town Board and for realty subdivision approval from the NYS Department of Health—in spite of these efforts, no actions were taken, even prior to the moratorium adoption, Cerrone has been informed by the representative of the NYSDOH that the NYSDOH would not even review the project at the request of the Town of Moreau; and
7. Lastly, the result of adopting this local law will be to ensure that single family residences are not developed in a manner that will provide more affordable housing in the community, rather it will require that residential subdivisions comprising ten equivalent dwelling units will be the norm. No incentive will exist to build any other kind of residential development because of the costs of paying for public water and sewer completely at the developer's expense with fewer lots to bear the costs.

As a legal matter, it is unclear whether the substantive and procedural requirements of SEQRA and the General Municipal Law have been met for these proposed local laws. It is very clear that the existing 2019 Comprehensive plan has not been amended to address the proposed change in zoning. Moreover, the attempt to expand the sewer district at property owner and developer expense is also inconsistent with the reports and plans adopted by the Town Board at the time the Public Sewer District was created for the NYS Route 9 Commercial Corridor. More strangely, it appears that this requirement to extend the Sewer District ad hoc was also designed to obviate the public's right to petition for a public referendum on the establishment of such sewers in the Town in connection with wholly residential projects. Lastly, the Town Board's inability to locate adequate sewage treatment capacity in the short term, say over the next three years, has been established by the inability to negotiate an increase in capacity from the City of Glens Falls and the reality that in the short term the connection to the County sewer system is not economically or practically feasible.

Cerrone has been prevented from constructing its subdivision the last construction season and apparently will be prevented from doing so during this construction season as well. It is hard to see how this action benefits the Town, its residents or any family who seeks to purchase a home in the Town of Moreau. At a minimum, Cerrone requests that the Town Board exempt its project from these local laws and allow the Jacobie Farms subdivision to proceed as currently designed.

Very truly yours,

/s/ Teresa M. Bakner

Terresa M. Bakner

Encl.

Cc: Cerrone Builders, Inc.,
Karla Buettner, Esq.

Exhibit A

**STATE OF NEW YORK
SUPREME COURT COUNTY OF SARATOGA**

In the Matter of

**CERRONE BUILDERS, INC.; CERRONE LAND
HOLDINGS, LLC; and JACOBIE ACRES, LLC;**

Petitioners-Plaintiffs;

**For a Judgment Pursuant to Article 78 of the Civil
Practice Law and Rules and for Declaratory Relief
Pursuant to Section 3001 of the Civil Practice Law
and Rules**

**DECISION, ORDER AND
JUDGMENT
Index No. EF20212707**

-against-

**TOWN OF MOREAU and TOWN BOARD OF THE
TOWN OF MOREAU;**

Respondents-Defendants.

Buchanan, J.:

This combined special proceeding and declaratory judgment action seeks annulment of Resolution No. 2021-177 passed by respondent-defendant Town Board on May 11, 2021. Respondents have served an Answer with Objections in Point of Law, and the parties have filed affidavits and memoranda with the Court laying out their respective positions. The Petition and Complaint contains six causes of action and Petitioners offer considerable argument on all claims. The first cause of action, however, is dispositive in that it renders the remaining claims moot.

The first cause of action alleges that when passing the challenged resolution, Respondents failed to comply with the mandates of the State Environmental Quality Review Act (SEQRA), and that their failure requires the resolution to be annulled as contrary to law. Petitioners point out that regulations promulgated pursuant to SEQRA define "actions" requiring SEQRA review as including "adoption of ... resolutions that may affect the environment" (6 NYCRR 617.2[b][3]). Petitioners also point out that

establishment of a sewer district has long been held to be an "action" under this definition (*Tri-County Taxpayers Assn., Inc. v. Town Bd. of Town of Queensbury*, 55 NY2d 41 [1982]).

There is no dispute that Respondents did not undertake a SEQRA review prior to adopting the subject resolution. Respondents argue, however, that the resolution did not establish a sewer district or consolidate water districts, but instead merely declared the Town's intent to do so in the future and provided authority and direction for the special counsel retained by the Town to formulate and draft local laws to be considered by the Town Board in the future. Respondents point out that one such local law has been adopted by the Town in the time since this Petition was filed.

Passage of a resolution is considered an "action" requiring SEQRA review if it commits the municipality to a course of future activities; *i.e.*, to commence, engage in or approve an action (*Matter of Seymour v. County of Saratoga*, 190 AD2d 276, 279 [3d Dept 1993]). While the resolution here at issue is entitled "Resolution Authorizing Special District Counsel To Create Policies & Procedures For Water Districts", the operative language of the resolution is not written in terms of authorizing counsel. Instead, the resolution declares a series of policies, examples of which include:

- Any new independent water districts within the Town are prohibited; ...
- The installation of multiple water meters on multifamily and commercial properties is prohibited; ...
- The payment of capacity and expansion fees is required upon Planning Board approval ...

When reading the resolution, there is no doubt that the Town Board committed itself to commence and approve two actions – consolidating water and sewer districts within the Town and requiring new development to be connected to the consolidated services. Indeed, the preamble to the resolution concludes by stating, "... the Town Board wants to commit that certain procedures be followed with respect to development." The resolution does more than authorize counsel to create procedures, it dictates policy to be followed by counsel. The resolution was an "action" requiring SEQRA review which did not take place. The resolution must therefore be annulled (*Id.*).


The parties' remaining contentions have been considered, but do not alter the outcome here. Therefore, in consideration of the foregoing, it is hereby

ORDERED AND ADJUDGED, that Resolution No. 2021-177 passed by respondent-defendant Town Board on May 11, 2021, is hereby declared null, void and of no force or effect; and it is further

ORDERED AND ADJUDGED, that Petitioners-Plaintiffs are awarded one bill of costs.

Dated: *April 8, 2022*

ENTER.



Thomas D. Buchanan
Supreme Court Justice

Papers considered:

Summons; Notice of Petition; Verified Petition with annexed exhibits; Answer with annexed exhibits; Affidavit of Gianni Simone, with annexed exhibits; Memorandum of Law in Support; Affidavit in Opposition of Theodore Kusnierz, Jr.; Memorandum of Law in Opposition; Reply Affirmation of John Henry, Esq., with annexed exhibit; Memorandum of Law in Reply.

Exhibit B

WHITEMAN
OSTERMAN
& HANNA LLP

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Partner
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August 2, 2021

Via E-Mail and Regular Mail

townclerk@townofmoreau.org

Town Board of the Town of Moreau
351 Reynolds Road
Moreau, New York 12828

Re: Jacobie Farms Subdivision

Dear Town Board Members:

This firm represents Cerrone Builders, Inc. ("Cerrone" or "Applicant") in their application to the Town of Moreau for the proposed "Jacobie Farms" subdivision (the "Project"). We respectfully submit this letter to the Town of Moreau Town Board (the "Town Board") to express the Applicant's intent to petition for the extension of an existing water district to include the Project. The letter is also being submitted to provide cost estimates to further support the use of septic systems in the proposed subdivision as opposed to gravity or low-pressure sewer and request a waiver of recreation fees.

I. Provision of Water

Based on discussions between the Applicant and Town officials, and statements made by Attorney Buettner during the March 8, 2021 Planning Board meeting, the Applicant understood that they would have the option to connect to an existing water district as an out of district user to provide water to the Project. In fact, the Applicant agreed, at the request of Town Water Superintendent Jesse Fish, to utilize the funds which otherwise would have been dedicated to preparing a map, plan, and report for a water district extension, to purchase materials necessary for the Town to be able to extend the new water service lines, constructed for purposes of the Project, into Harry J. Betar Jr. Recreational Park (the "Park"). The Applicant's understanding was based in part on statements made by Attorney Buettner at the March 8, 2021 Planning Board meeting. According to the meeting minutes, attached hereto as **Attachment I**, Attorney Buettner stated "[the Applicant] can connect to either [Water District 1 or 4], but they will be an out-of-district user."

The Applicant has now been advised that they must petition for the extension of the existing water district to include the Project and that connecting to an existing water district as an out of district user is not an option. The Applicant will proceed with a petition for extension of an existing water district, including preparation and submission of a map, plan, and report. With the increased costs associated with a district extension, however, the Applicant would no longer be in the position to provide the materials necessary to extend the Project's water service lines into the Park.

II. Cost of Sanitary Service

The Project proposes individual septic systems for each of the single-family homes included in the Project. Septic was chosen for the Project due to the existing soil composition and the cost prohibitive nature of alternative methods of sanitary service such as gravity and low-pressure sewer.

According to the proposals provided by O'Conner Construction, dated July 15, 2021, and attached hereto as **Attachment 2**, the cost of the septic systems would be \$171,500.00; while the costs of gravity or low-pressure sewer would be either \$901,650.00, plus approximately 10% in engineering fees, or \$914,910.00, plus approximately 10% in engineering fees, respectively. Please note that this unanticipated and overwhelming cost should be considered in addition to the other costs previously agreed to as part of the subdivision review by the Planning Board and Town Staff, such as installation street lighting (\$21,000, see **Attachment 3**), landscaping (\$14,760.00, see **Attachment 4**), construction of a bike path (\$60,000, see **Attachment 5**), contribution to the repair and resurface of Lenox Blvd. (\$8,000), and provision of water (\$383,400, see **Attachment 6**).

III. Waiver of Recreation Fee

As proposed, the Project includes the dedication of certain lands to the Town, adjacent to the Park, for construction of an entrance feature and recreational trails. In light of this dedication, Applicant respectfully requests that the Town Board waive the payment of a recreation fee pursuant to Town Code § 149.43.1.

Cerrone is a Saratoga County based builder with strong ties to the community. Cerrone strives to make a positive impact on the local area by using local subcontractors and purchasing materials from local business. Cerrone looks forward to working with the Town to continue to move this Project forward.

Very truly yours,

/s/ Terresa M. Bakner

Terresa M. Bakner

Enclosure

Cc: Karla Buettner, Esq.
James Martin, AICP
Jesse Fish, Town of Moreau Water Superintendent
G. Peter Jensen, Chairman, Town of Moreau Planning Board
John R. Arnold, Board Member, Town of Moreau Planning Board
Erik Bergman, Board Member, Town of Moreau Planning Board
Mike Shaver, Board Member, Town of Moreau Planning Board
Gerald Bouchard, Board Member, Town of Moreau Planning Board
Meredithe Smith Mathias, Board Member, Town of Moreau Planning Board
Ann Purdue, Board Member, Town of Moreau Planning Board

A meeting of the Town of Moreau Planning Board was held on March 8, 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
Mike Shaver	Planning Board Member
Ann Purdue, Esq.	Planning Board Member
Meredithe Mathias	Planning Board Member
Erik Bergman	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: Jerry Bouchard, Planning Board Member

The meeting was called to order 7:00pm by Chairperson Jensen. The Board reviewed the minutes of the February meeting. On pg. 2344, 7 lines up the word 'renovation' was changed to 'innovation.' Mr. Bouchard had submitted changes to the minutes in writing in advance which were as flows:

1. Page 2337, Line 7: should read "Mr. Shaver asked whether he would add sewer connects..."
2. Page 2337, Line 18: add "(Town of Moreau)" after "they" for clarity. The Town is the "they" I was referring to.
3. Page 2339, Line 13: The auto detailer is currently operating at the building next to Diamond 9 plaza.
4. Page 2339, Line 14: I believe this should read "There are catch basins for oil."
5. Page 2339, Line 5: add "to his previous building next to Diamond 9 plaza" after the word "appearance".
6. Page 2344, Line 2: should read "... they might not."

Mr. Shaver motioned to accept the minutes of the February meeting with corrections and Ms. Purdue seconded. All in favor, motion carried with no roll call.

#1 SRH-TJM
Gansevoort Road
Preliminary Review

A meeting of the Town of Moreau Planning Board was held on March 8, 2021 at 7:00 p.m. in the Town of Moreau Office Building, 351 Reynolds Road, Moreau, New York and via Zoom.

Travis Mitchell for SRH/TJM. Marybeth Slevin was also on the line for this. This is a subdivision the Board has already seen. It is 23.5 acres. It is R-1 and R-2. Layout is the same as previously presented. Mail kiosk was added as well as language about the ability to arrange a path to other lands. A collective traffic study was done for the projects in this area and found no significant impact. There are cross-easements for access to utilities showing how the two neighboring projects are set up to be constructed independently but have linked road networks. They are here tonight to review the Preliminary Plat. This one has not been referred to the County yet. SEQR has not been begun but a full Long Form was submitted and they would like to initiate coordinated review. Laberge has looked at the combined stormwater and they signed off. There were no significant findings on the stormwater or water systems. They would like a public hearing in April.

Mr. Martin agreed that County Referral, SEQR and a public hearing would be the next steps.

Ms. Purdue asked what kind of provisions there would be to keep the open space as open space, and Mr. Mitchell said it would belong to the HOA. Mr. Martin asked whether it would be noted that no further development was allowed and Mr. Mitchell agreed that it would. Ms. Purdue asked for that to be shown on the plan and Mr. Mitchell agreed. Mr. Martin commented that should be on the deed for both SRH/TJM & Arrowhead Meadows.

Ms. Purdue asked whether the open space included the stormwater management basins and Mr. Mitchell said that they are part of the HOA lands. He wasn't sure whether their area was included in the calculation of open space. Ms. Purdue wasn't sure that it should be included as it was more of a utility use than a preservation of open space. Mr. Mitchell said that he would need to check his math and would get back to Mr. Martin about that.

Mr. Arnold asked about the centralized HOA area between roads C & A has a large access area on Road A that looks like a building lot was left out, and whether there was a purpose for that being so large.

Mr. Mitchell said that it was part of the natural drainage course. There will be a swail through it but not the entire length of the property.

Mr. Arnold asked about road names and Mr. Mitchell said that they do have all the roads named but there was some confusion about submittal dates because this meeting was extra and they didn't get it in this time.

Mr. Martin stated that address numbering would need to be added on both developments, which they could get from the Town Assessor.

A meeting of the Town of Moreau Planning Board was held on March 8, 2021 at 7:00 p.m. in the Town of Moreau Office Building, 351 Reynolds Road, Moreau, New York and via Zoom.

Mr. Arnold asked whether this was hooking up to sewer and it is not at this time. Mr. Arnold asked if the hash mark on each one was the septic and Mr. Mitchell agreed that it is.

Mr. Arnold asked where the access road to the adjoining park is and Mr. Mitchell said this map is only this parcel. It hasn't been updated. The path is there. They are not required to fence the ponds but they will if the Town requests. They can set up a provision in the HOA language in case the conditions change in the future, but Mr. Mitchell thinks not fencing them is more desirable.

Mr. Shaver asked whether the water services were 2 inch copper and Mr. Mitchell said probably $\frac{3}{4}$ or 1 inch. Mr. Shaver stated as he had with the sister subdivision that he preferred them to join the sewer system.

Ms. Purdue agreed with that the sewer system is preferable and asked which costs concerned Mr. Mitchell and he stated it is the ad valorem tax which he doesn't consider affordable for a single family home for the next thirty years.

Mr. Shaver asked how they look at the property when the septic is going right by and Mr. Mitchell said there is no requirement.

Mr. Martin explained that some communities have that in their law, that if you are within a certain area you have to hook up. Moreau doesn't have that law as yet.

Mr. Arnold asked and there is a sign planned, Michaels Group is building this and they plan a sign like the one at Winterberry which is close by. The design was not included with this submission.

They will open up to Jesse whether they use PVS or ductal water lines.

Ms. Purdue asked what the break point is for affordable costs for participating in the sewer and Mr. Mitchell said that \$2,500- \$3,000 a year for 30 years was the original presentation and definitely is not. The New York State Comptroller sets the number for affordability and the last Mr. Mitchell knew it was around \$675 a year, so he would look for somewhere around that.

Mr. Shaver asked whether the costs to build the two systems are about the same and Mr. Mitchell said a septic would definitely be cheaper, but the benefit if the sewer does outweigh it. What is driving the costs up is that the infrastructure is just being built so the people who join in are also bearing that cost.

Mr. Shaver asked if anything was heard from the school. They were notified about Arrowhead Meadows and did not hear anything. Mr. Shaver suggested that a liaison reach out to school and make sure they had gotten the message since they rarely answer these. Chairman Jensen stated that is why they added the school to the list of notifications, and Mr. Martin said that he would reach out to the district superintendent since this set of four subdivisions is a large one.

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Chairman Jensen asked whether the Board would like to initiate coordinated review. Mr. Arnold motioned to declare Lead Agency and that this is an unlisted action. Involved agencies are DEC, DOH, DOT, NYS Attorney General's Office, County Planning and DPW, and the school district. Motion was seconded by Mrs. Mathias. All in favor, motion carried with no roll call. Mr. Bergman motioned to schedule a public hearing SRH-TJM on April 19th at 7:05pm and was seconded by Mrs. Mathias. All in favor, motion carried with no roll call. Mr. Martin reminded Mr. Mitchell to put up the signs on the property by April 9th.

#2 Cerrone Builders/Jacobie Farm North
Moreau Rec Road
Preliminary Review

Joseph Dannible was presenting for Cerrone Builders. They are not combining any lands from north to south. They are 12.74 acres in R-2 which permits single family residential. They are permitted 23 lots on the north side. Existing conditions are existing farm, abandoned pasture lands. It is the access road to the park. The separate parcel to the South is Jacobie Farms South. The layout was presented. 23 lots three new Town roads. No driveways are on Lennox Boulevard or the Rec Road. Building setbacks are ten foot rear, 25 ft front, 7 foot side yard. They plan on infiltration basins, municipal water, individual septic systems. The septic systems are outlined on the back yard. The limits of the open space are delineated they will not be HOA they will be deed restricted privately owned. They met with the Highway Department and Jim Martin and there are some minor changes they will be making. Road A & B were one- ways 16 ft wide they are changed to 22 feet wide two directions. They are proposing trees on the side of the road. A grading plan was presented. They have not heard back from the Town's Engineer on the stormwater plan. The intended presentation of the two subdivisions together was presented showing the roadways matching up. The combined traffic study shows no degradation to level of service but there were concerns with the number of curb cuts. The Planning Board had looked favorably on this layout, so they are working out what to do about those comments with this Board. This was preferred by the highway superintendent as well.

They would like to initiate coordinated review. They believe this is an unlisted action. They would like a public hearing.

Mr. Martin stated he wasn't sure escrow had been received for the stormwater review. Mr. Dannible asked and Mr. Martin said it is \$2,500 and they will send the plan out as soon as they

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receive that. Chairman Jensen asked and this is a cluster development. Chairman asked about the math and Mr. Dannible pointed him to the density calculations on the front page.

Mr. Shaver asked whether there will be a dead end water line here and Mr. Martin stated that there is a meeting next week to address the circular water service to the park.

Mr. Shaver asked whether they are using 2 inch copper and they are not.

Mr. Shaver asked whether they had thought about using sewer. Currently the sewer service is 2-3,000 ft away from them, but if it were brought to their doorstep and the fees were low enough, within the building time frame, they would consider the sewer.

Ms. Purdue asked who was responsible for the stormwater management areas and that is the HOA. She asked how much acreage would be development restricted and Mr. Dannible said they are dedicating a small area for a park entrance, and all the land not in the lots is deed restricted. He didn't know how much, but Mr. Martin asked him to provide the calculation.

Mr. Shaver asked what they were going to do with the compost pile that is on site and Mr. Dannible said that it wasn't suitable for fill but might be used on site for lawns, and some would have to be trucked off. Mr. Shaver wondered whether Fire should be notified before it was moved because it might be hot inside. Mr. Dannible thought the pile was old enough that this was not an issue but was willing to contact fire if needed.

Mr. Gianni Simone said that when they did the perc tests they did check and there was no heat coming out of the pile and he had no concerns. Mr. Shaver asked how far they had gone into it and Mr. Simone said almost to ground level because they had wanted to know what was in it to determine what they would have to do with it. Mr. Arnold stated that interior temps would not be higher because there would be no oxygen.

Mr. Arnold asked where the park access they were donating would be and Mr. Dannible didn't make sense.

Mr. Arnold asked about the deed restricted portion. That will maintain the idea of open space. That area will not be further cleared of trees but it is privately owned. There is no HOA land proposed. So this is a cluster development with no open space provided. Mr. Dannible said there is no HOA open space but there is open space. Mr. Arnold asked him to define that and he referred to it as undeveloped open space.

Mr. Arnold was trying to get park access for this development and the unrelated one behind it. He could not see a way to do that because it would cut through lot 17.

Mr. Dannible said that it was not presented as HOA in December so this is consistent.

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Mr. Bergman stated that the line stops, and Mr. Dannible demonstrated that the line is the same for the deed restricted open space. It was always proposed to be open space and never HOA owned. Mr. Bergman agreed with Mr. Arnold that an accessway for the other development was desirable. Mr. Dannible said that 84 lots would have access though that area. The builders don't want people walking through back yards, it presents a security risk for kids playing in those back yards. They are not comfortable with trail access immediately behind those lots. Mr. Arnold suggested deeding over a portion to the Town Park. He stated that lots 16-23 already had a park in their back yards. Mr. Dannible said that was considered and devalued the lot. Promoting a trail would further devalue.

Mr. Bergman thought they could need it to the Town and mitigate the downsides by putting up fences. Mr. Arnold thought that this would keep kids safer because they would not be on Rec Road. Mr. Dannible said that they would consider it as they would be having a conversation with the Town this week which is about providing assets to the Town.

Mr. Arnold asked if the Town's Engineer should look at this idea of using cul-de-sacs and road areas a drainage areas and Mr. Dannible said they will be shallow grass areas, maintained by the HOA with easements over them, he has done these in other communities. Mr. Arnold was asking about areas along the road that look like ditches. Mr. Dannible said that they are looking at alternative possibilities with the Town. Mr. Arnold advised him that handling stormwater for one parcel on another might be a problem. Mr. Martin reminded him that the Water review had not been begun yet because the fee needed to be paid.

Mr. Joseph was against stormwater management in the center of the cul-de-sac so they hope to have that handled by the April meeting. There was concern that those were the snow management areas, so that needs to be considered. Mr. Joseph only objected to the small one. Mr. Martin asked whether they were in the Water District or not. Atty. Buettner stated that she looked into that and the property is not in Water District 1 or 4 but it borders on both. The assessment records say that it is but it isn't. They can connect to either, but they will be out-of-district users.

Atty. Buettner asked why they say there is an HOA and there is not. Mr. Dannible said there will be an HOA for maintenance of the stormwater that is on Town land, but there will be no HOA ownership of any land.

Mr. Shaver asked and it is not a Water District extension, it is an out of district user contract. They will have to have a discussion about capacity when they meet next week.

Mr. Shaver returned to the discussion of the compost party and asked the developer to talk to the County and Fire before they move it around. He asked him to just make a note to keep them

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informed because if it did catch it would create a smoke condition. Mr. Dannible asked for clarification and Mr. Shaver said the County. Mr. Dannible agreed to notify the appropriate entities. Mr. Arnold asked whether the Town was willing to even have an entrance on that spot. Mrs. Mathias stated that there is a connection off of Tamarac to the bike system that she uses. She doesn't think it has devalued the land there but advised that there is an example in the Village as to how that was worked out. Mr. Arnold agreed that it is a large lot where the connection would be and could be screened. He would like to keep kids off the roads if he can. Chairman Jensen stated that he sees a proliferation of stormwater areas that would be filled. He expressed concerns about this. The applicant is redesigning their approach, they just have not had time to submit that yet.

Mr. Arnold asked about the dashed oval on the back of the lots and that is a shallow grass depression to manage runoff from the rear roofs of houses. This slows the flow of stormwater heading offsite. Those are the responsibility of the individual homeowners and there will be restrictions associated with them. Mr. Martin asked what would happen if someone filled one in, and Mr. Dannible said he could be fined and asked to restore it. Chairman Jensen asked how that was enforceable, and Mr. Dannible thought the Town would enforce it because it was on the site plan. Otherwise they will have to open up a swail behind all of the properties. Mr. Arnold asked if those movements should be moved to the open space area and Mr. Dannible said it was stated as no infrastructure and nothing that needs maintenance, these need annual maintenance.

The Chair asked the Board whether they had enough information and stated he did not think the plan was ready, which Mr. Arnold agreed with. Mr. Martin stated that April 19th has a heavy schedule already. Mr. Arnold stated this still does go to the Engineer and doesn't seem ready to do that. Mr. Dannible agreed that they would need to come back with updated stormwater plans but would still like to begin the process of coordinated review. Mr. Shaver wanted to wait until they had negotiated with the water system because they are not in the district and that would change everything.

Mr. Arnold motioned to declare Jacobie Farms North an unlisted action for SEQR and declare the Board Lead Agency. Mrs. Mathias seconded. All in favor, motion carried with no roll call.

Mr. Simone had an administrative question about paying the escrow.

Mr. Arnold repeated his request that someone ask the Town whether they even want the access

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oint that is being discussed.

#3 Giachino, Robbin and Raul

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Fort Edward Road
Sketch Plan Review

Bill Rourke presented. Two other houses have been approved. They have 155 ft of road frontage and will be cut out of a 12 acre parcel. This is a one-lot subdivision.

Mr. Martin explained that it is before the Board because they have already subdivided in the seven-year period. This was already looked at once and some clarification was needed on the mapping, now it is back. This still has to go through a public hearing.

Ms. Purdue asked about the plan for the balance of the land, which has one house on it. Mr. Martin stated there is wetland on the back of it and Mr. Rourke stated he doubted there would be any development.

Chairman Jensen asked and Mr. Martin demonstrated on the map for him.

Mrs. Mathias noted that "Urban" is checked as a habitat type on #14 on the EAF.

Mr. Arnold asked why the house is proposed to be so far from the road, and Mr. Rourke said it was just nicer in the back, that is not the only spot that is buildable.

Ms. Purdue thought that it was an unlisted action. Mr. Bergman agreed.

Mr. Arnold pointed out that this is listed as the last of a four-lot residential subdivision which is not what is actually happening, this is a two-lot subdivision. That is #12 on the subdivision application.

Ms. Purdue motioned to declare this an unlisted action and Mr. Arnold seconded. All in favor, motion carried with no roll call.

Motion was made to set the public hearing for this on April 19th at 7:15 and Mr. Shaver seconded. All in favor, motion carried with no roll call.

Mr. Martin reminded Mr. Rourke to post signs ten days before the public hearing. Mr. Rourke indicated he intends to ask for preliminary and final at the same meeting.

#5 Autoworld
Lot line Adjustment

Mr. Dannible reappeared. They had been approved in January for a subdivision. They had two lots and an easement for future access. Mr. Vittengl got an offer for a different section of the land so they want to change the lot lines. It is a minor change in that Lot 1 is not on both sides of the easement and Lot 2 has gotten smaller.

Mr. Shaver asked and the non-conforming car wash is still there.

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The condition on the approval was that this comes down before there were final signatures. Mr. Martin stated that until the road is build the Board has to look at this as if that roadway weren't there. They should look at it as a two lot subdivision with an easement going through it. Mr. Martin explained that he brought it in rather than do it administratively because it was a substantial change.

Ms. Purdue asked and they lots were 3.2 and 2.8 acres. about 1.6 acres is moving to the other so they will be 4.2 and 1.6. The back lot is 1.6, but that is just a part of a 4.4 acre lot. Mr. Martin pointed out that if it is cut off it will be a conforming lot.

Ms. Purdue asked and it can't be called Lot 3 now because it would be landlocked, it can't be created by itself until the road is built.

Mr. Dannible stated that anything that happens on Lot One will be back to the Board for Site Plan Review and approval. Ms. Purdue asked and the existing lot is paved up to a point indicated on the map.

Mr. Martin stated that if Lot 2 were developed first they would use the access road for entrance, and if the road had not been built yet they would need an easement to do so.

Mr. Martin thought that this could be done by a resolution to approve the amendment as shown. The resolution regarding the mylars would continue to stand.

Mr. Arnold motion to adjust the lot lines for Autoworld as shown on the plans presented and Mr. Shaver seconded. Roll call vote resulted as follows: Ms. Purdue, Yes; Mr. Arnold, Yes; Mr. Bergman, Yes; Mrs. Mathias, Yes; Mr. Shaver, Yes; Mr. Seyboldt, Yes; Chairman Jensen, Yes. Motion carries 7-0.

#4 Draft Solar Law

Atty. Buettner explained that the Town Board is looking for comments before sending it to NYSERDA and presenting it to the public. This has been to the Zoning Board last week and some comments were made. NYSERDA and some Town Board members also met and went through it. Suggestions were made. State Model Law is being reworked as well. NYSERDA has been helpful but can't tell the Town what to do. This Board is the last one to comment on the draft.

Mr. Shaver asked whether anything could be said about the panels not being disposed of in the Town of Moreau. He referenced things buried in the past by other companies and wanting to protect the Town. Atty. Buettner stated there is a decommissioning plan, they could incorporate a provision at that stage that they can't be disposed of in town.

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Mr. Arnold said that the phrase in a ground-mounted solar definition said it was for "...use" and Atty. Buettner said that was already slated to be changed.

Regarding 40% of site coverage. Mr. Arnold thought that was a large percentage if solar was not supposed to be a primary use but he wondered how that would be enforced. Mr. Martin thought that would be addressed in the application stage, but also that the 40% is after subtracting prime agricultural land. Mr. Arnold noted that the Town Board seems to be very concerned that the panels not be visible, but that his concern is that farmland is all valuable.

Mr. Shaver asked how prime is calculated and Atty. Buettner stated it has already been mapped by the county. Mr. Martin explained that the prime area is not to have panels, and then 40% of the remainder can have panels. Mr. Arnold added that not all the farmland has been mapped, but it can be. He stated all of the active farmland is already probably mapped.

Mr. Arnold asked if the remainder would be allocated as undevelopable, and it would not, it just could not be solar panels. They could put in any allowed use.

Mr. Shaver expressed concern about the panels being close to residential areas and Mrs.

Mathias stated that these panels do not put out any dangerous radiation.

Mr. Arnold stated that these are community solar arrays and they might need to be connected to a house.

Mr. Martin explained that Ag land in Moreau has prime transmission lines running through it, and that is why there is pressure on farmland. Mr. Arnold thought that they are not connecting to the lines and Mrs. Mathias explained that they pay to connect so they want to be close. They are not connecting to 115S, they are connecting to substations. Distribution is just as appealing. Mr. Martin stated that the power doesn't go to the onsite user it goes into the grid.

Mr. Martin thought that to use the power yourself you would need batteries to store it, and Mr. Arnold explained bill offsets differently. They use net metering, but that is not what is being proposed at Fox Run.

Chairman Jensen asked if this was a legal use for farmland and Atty. Buettner stated that this law will make it legal. Chairman Jensen stated he doesn't want to see farmland gobbled up.

Mr. Arnold stated that a public utility designation is for railroad tracks and gas lines and Atty. Buettner stated that this is how it is written in Moreau currently. Currently these are considered power plants and would only be allowed in the M Zone. Mr. Arnold asked if this amounts to allowing a Manufacturing law in the Ag Zone and Atty. Buettner stated that right now the law rules out this use on prime farmland.

Atty. Buettner stated she and Mr. Martin had discussed an overlay district, which is created in the Town and is a little more flexible. It is a concept that has been brought up to the Town and

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by NYSERDA as well. Mr. Martin explained that he likes it because an overlay district has to apply consistently and has to go through the Town Board and come to Planning for Site Plan which makes an extra layer of review. That is not in the law at this time.

Mrs. Mathias asked whether there was a thought about non-prime land, like brownfields and superfund sites that would be suitable.

Atty. Buettner stated it was reviewed district by district. That is one of the reasons that an overlay might be helpful.

Mrs. Mathias stated she would not want to rule this out in those areas and make them apply for use variances in the future.

Ms. Purdue agreed that there is no indication of what land the Town would like to have developed in this way, and that the law could emphasize better that they don't want to use farmland in this way. She wondered if the Comprehensive Plan might need to be revised.

Mr. Arnold stated that farmland protection was a priority in the comp plan, he also said that there is some non-prime farmland available that doesn't seem to be a focus.

Ms. Purdue thought that once land was no longer farmland it doesn't generally come back to that use.

She had some concerns about Planning Board involvement and asked whether the site plan review process would be the same. Atty. Buettner stated that it would and added that there was some discussion that the Board only look at Tier 3 and not Tier 2.

Ms. Purdue thought that SEQR and screening would be the only things the Board could review, the rest of the requirements are already set so there wouldn't be much for the Board to comment on.

Mr. Bergman stated that it doesn't create the jobs that are desired in industrial and commercial districts, and that is why it isn't accepted there. Sites presented under tier 3 are limited to transmission lines. Overlay district might be the best bet. It's not going to run rampant because it will only happen where there are transmission lines. It is constrained by that infrastructure.

Mr. Martin suggested that a GIS exercise could be done to map all the locations that are proximal to a substation or transmission line in order to delineate building envelopes. Mr. Bergman stated that would be helpful if it had layers ruling out the prime agricultural areas, and then maybe including steep slopes that aren't good for anything else.

Mr. Arnold asked about transmission lines, which ones are they looking for? Mr. Bergman said that if they are making megawatts they want 34.5 or 115 kb. Mr. Arnold stated he was asking because it sounds like a limitation but people come to his farm looking to connect 40 acres to

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lines on Fortsville Road so it seems like those lines are more readily available than is being intimated.

Chairman Jensen asked about the lot coverage and whether it applied to the solar panels only or included the infrastructure and Atty. Buettner thought it was just the panels, and Mr. Martin agreed. Chairman Jensen suggested that be stated.

Ms. Purdue asked how the PILOT Payments would work.

Atty. Buettner stated that the real property tax laws gives an option, but this law requires PILOT agreements. Courts have held that the land itself might have an AG exemption, but a company that puts on panels. The Ag exemption is reduced by that much and the panels become 'taxable.' PILOT takes the place of those.

Pilot only applies in tier 3. IT will not affect tax assessment if a farmer only puts them up for their own use. Mr. Arnold agreed he can have a windmill on his property as Ag production as long as it doesn't produce more than 110% of his use.

Mr. Seybolt asked how it is reported whether they are producing efficiently ro need decommissioning and Atty. Buettner stated they are working on that.

Ms. Purdue asked where the 4,000 sq ft requirement came from, Atty. Buettner wasn't sure. It is a reference to the surface area, and she is working on that with NYSERDA. It isn't a reference to lot coverage area.

Mr. Martin said that the Board was welcome to send him emails that would be circulated.

Atty. Buettner stated she will summarize for the Board. Mr. Martin will as well.

Atty. Buettner explained that the next step is to put all the comments together and bringing them to the Town Board, and the draft that comes from that will go to public hearings. That is not scheduled yet.

Chairman Jensen encouraged the Board to consider what they might require of the PUD application for next meeting. He asked whether it would be appropriate to limit public comment and Attorney Buettner stated that they could limit them to 5 minutes, and limit people to not comment again until everyone had been heard. She advised that she could work with the Board to make sure everyone is heard and on topic.

Motion to adjourn the meeting was made at 9:51pm by Mr. Arnold and seconded by Mr. Shaver. All in favor, motion carried, no roll call.

Respectfully submitted,

Tricia S. Andrews



O'Connor Construction
Since 1905

Site Development / Asphalt Paving / Heavy Construction

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Email: Pat@etoconnor.com

PROPOSAL

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

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

PROPOSAL

Proposal Submitted To: Cerrone Builders	Phone:	Date: 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



O'Connor Construction

Since 1965

Site Development / Asphalt Paving / Heavy Construction

PO Box 377
147 Meadowbrook Rd.
Glens Falls, NY 12801
www.etoconnor.com

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

PROPOSAL

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

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



O'Connor Construction

Since 1985

Site Development / Asphalt Paving / Heavy Construction

PO Box 377
147 Meadowbrook Rd.
Glens Falls, NY 12801
www.etoconnor.com

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

PROPOSAL

Proposal Submitted To: Cerrone Builders
Phone:
Date: 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 pries 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

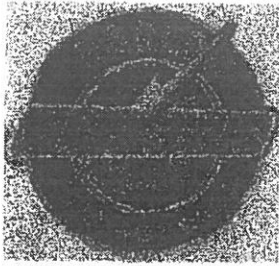
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Acceptance of Proposal - The above prices specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Authorized Signature

Date



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

gianni@cerronebuilders.com

DESCRIPTION	RATE	QTY	AMOUNT
Supplying & installing 4 street lights -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	\$5,250.00	4	\$21,000.00

Total cost each would be \$5,250.00

TOTAL USD \$21,000.00

Any questions please call, thank you
Wes Barlow

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"	
5- autumn spire red maple 2"	14,760.00
3- hophornbeam 2"	
4- red twig dogwoods 3'	
36- purple cone flower 1 gallon	
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



O'Connor Construction

Since 1995

Site Development / Asphalt Paving / Heavy Construction

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Glens Falls, NY 12801
www.etoconnor.com

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

PROPOSAL

Proposal Submitted To: Cerrone Builders	Phone:	Date: 6-22-21
Street	Job Name Jacobie 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

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Authorized Signature

Date



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

gianni@cerronebuilders.com

DESCRIPTION	RATE	QTY	AMOUNT
Supplying & installing 4 street lights -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	\$5,250.00	4	\$21,000.00

Total cost each would be \$5,250.00

TOTAL

USD \$21,000.00

Any questions please call, thank you
Wes Barlow



O'Connor Construction

Since 1903

Site Development / Asphalt Paving / Heavy Construction

PO Box 377
147 Meadowbrook Rd.
Glens Falls, NY 12801
www.etocconnor.com

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

PROPOSAL

Proposal Submitted To: Cerrone Builders	Phone:	Date: 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:

<u>Bike Path: Sixty Thousand</u>	<u>Dollars (\$60,000.00).</u>
<u>Lenox Blvd.: Eighty Thousand</u>	<u>Dollars (\$80,000.00).</u>

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.

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Brian O'Connor, President

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Authorized Signature _____ Date _____



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Since 1905

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

PROPOSAL

Proposal Submitted To: Cerrone Builders	Phone:	Date: 7-7-2021
Street	Job Name Water Cost	
City, State and Zip Code	Job Location Jacobie Farm	
Attention: John		

We hereby submit specifications and estimates for: Jacobie Farms water cost.

Scope of work:

- (1) Water mains - 5,880 LF \$305,000.00
- (2) Water services - 49 ea. \$78,400.00

For the sum of \$383,400.00

Exclusions:

- (1) All permits and fees

We Propose hereby to furnish material and labor - complete in accordance with above specifications, for the sum of: **Three Hundred Eighty Three Thousand, Four Hundred Dollars (\$383,400.00).**

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.

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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 _____

WHITEMAN
OSTERMAN
& HANNA LLP

Attorneys at Law
www.woh.com

One Commerce Plaza
Albany, New York 12260
518.487.7600

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

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.

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

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

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 11th 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.

Very truly yours,

/s/ Thomas J. Ruane

Thomas J. Ruane, Esq.

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

EXHIBIT 1



O'Connor Construction
Since 1906

Site Development / Asphalt Paving / Heavy Construction

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PROPOSAL

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

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Authorized Signature: 
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Authorized Signature

Date



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Email: Pat@etoconnor.com

PROPOSAL

Proposal Submitted To: Cerrone Builders	Phone:	Date: 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
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- (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

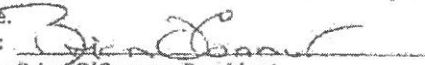
Exclusions:

- (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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Authorized Signature

Date



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PROPOSAL

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

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



O'Connor Construction
Since 1905

Site Development / Asphalt Paving / Heavy Construction

PO Box 377
147 Meadowbrook Rd.
Glens Falls, NY 12801
www.etoconnor.com

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

PROPOSAL

Proposal Submitted To: Cerrone Builders	Phone:	Date: 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

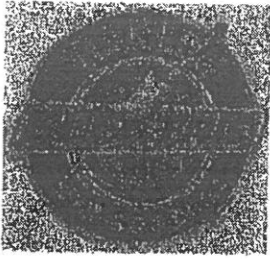
Notes: This Proposal may be withdrawn by us if not accepted within 15 days.
Due to the ever increasing cost of asphalt, stone, and dirt products, all signed proposals cannot be guaranteed beyond 30 days. A price adjustment may be necessary. Our price excludes permits and fees.

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

EXHIBIT 2



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
Supplying & Installing 4 street lights -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	\$5,250.00	4	\$21,000.00
Total cost each would be \$5,250.00			
TOTAL			USD \$21,000.00

Any questions please call, thank you
Wes Barlow

EXHIBIT 3

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

EXHIBIT 4



O'Connor Construction

Since 1906

Site Development / Asphalt Paving / Heavy Construction

PO Box 377
147 Meadowbrook Rd.
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: Cerrone Builders	Phone:	Date: 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

EXHIBIT 5

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.

§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.

§7125-7 Effective Date.

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