

**Town of New Scotland
Public Hearing
2/14/2018**

The following Town Officials were in attendance:

Supervisor:	Douglas LaGrange
Councilperson:	William Hennessy Adam Greenberg Daniel Leinung Patricia Snyder
Engineer:	R. Mark Dempf
Deputy Highway Superintendent:	Christopher Van Praag
Town Attorney:	Michael Naughton
Town Clerk:	Diane Deschenes

1. Call to Order

Supervisor LaGrange called the hearing to order at 6:00 PM regarding Proposed Local Law F of 2017, a law amending the Town of New Scotland Hamlet zoning district. This has been noticed, and we also sent out notices to the property owners in the potentially affected area. This has been a process that's gone on for 10 years now with different stages, different committees, and different meetings. We've had two sets of professional planners working with us through different levels of this. We have two more public hearings after this one tonight. Supervisor LaGrange suggested that comments be kept concise so we give everyone a chance to talk and try to limit comments to three minutes or so. This is an opportunity for the Board to take comment; this is not a question and answer debate time. This is a fact-gathering time, and we want to hear your points to different areas of this potential law. Supervisor LaGrange invited the public to comment.

Katy O'Rourke advised that last year her family moved from New Scotland to Albany. They no longer live here but still own property at the northwest corner of Route 85 and 85A. When she and her husband first moved to New Scotland they learned of the ongoing and often controversial heated discussion amongst the townspeople regarding planning. Twenty-six years later, here we are still. She got involved with this whole thing when they first lived here. There was a long-time New Scotland resident property owner in their neighborhood who claimed that he had the right to do whatever he wanted with the land he owned. Through his actions, whether negligent or willful, the aquifer that supplied the drinking water to their community was contaminated with petrol chemicals. She was eight months pregnant with her second child in two years when they discovered that as many as 20 households in their neighborhood were affected. They were drinking it, cooking with it, bathing in it, and even breathing it every time they took a hot shower. If that doesn't drive home the idea that no one has the right to do whatever they want with the land that they own at the expense of the entire community, then she doesn't know what does.

She got involved with town government initially volunteering on the Water Committee, and since that time she has borne witness to the selfless efforts of many New Scotland citizens who have worked tirelessly over the years to ensure that our town laws protect not only individuals but also our community as a whole. This work began long before she ever got here. The Comprehensive Land Use Plan, which was finalized in 1994, was good, but it had no teeth. The Board never enacted anything into the zoning law so nothing happened.

Fast forward a few years later. Vollmer, the Town Engineer at the time, decided it was time for a public planning charrette. She can remember at least four different professional planners that have helped guide this town along this path. This was one of the first ones. Saturday morning on a weekend, all of the stakeholders were invited to Town Hall, and we were introduced to the concept of a planning charrette and it was great. That gave rise to the Resident Planning Advisory Committee, or RPAC, chaired by John Egan. We mailed surveys; we did a visual preference survey. That was professional planner number two. We were guided by Nan Stoltenberg and Chuck Voss. Whoever he was with at the time gave the visuals and the slide show. We finished with an RPAC report which was sent to the Town Board. Just to remind everyone, the Town Board makes the Town Laws, and nothing happened. Planning discussion, however, started getting even more heated. There was Sphere Development. That won't be rehashed because it was not fun for anyone, but New Scotland for Sound Economic Development was born. This group provided educational print materials, held educational forums and public workshops, and they even did complete street walking surveys. A protest petition was circulated resulting in a moratorium on development in the commercial zone just so we could try to put the brakes on a little bit and update the zoning code. What came of that eventually was that the Town Board of New Scotland did create the Commercial Zone Advisory Committee or CZAC, which as we know

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eventually imploded altogether, but one good thing is that a couple of election cycles later we did come up with a stopgap measure that we know now as the Size Cap Law that was enacted.

This is very important in establishing how long the people of this town have been working on these issues. Flash forward to a few years ago. The Capital District Transportation Committee linkage program grant #1 included a study advisory committee, public workshops, and another professional planner. This then generated a preliminary plan. Another grant was given. Capital District Transportation Committee grant #2 included a whole new study advisory committee, more public workshops, and a brand new professional planning group; at least #4. The point that she wanted to make finally was that a ton of time, energy, research, analysis, expert advice, and professional guidance have gone into this New Scotland Hamlet Zoning Law. Much of this was accomplished by citizen volunteers in addition to the people that were hired. She just wanted to mention one example. Christine Galvin of the Town of New Scotland Planning Board has donated substantial legal expertise working tirelessly with Councilperson Greenberg and Councilperson Hennessy to review the proposed hamlet plan and incorporate public comments and suggestions that we've gotten for the past few years. She is just one. There are so many people that have worked behind the scenes to make this happen. What do they get out of it? Mostly a lot of malicious criticism, honestly. Getting back to the Hamlet Plan, Robert Kennedy once said that 25% of the people will hate it no matter what it is. We have a few more people on either end of the spectrum who ironically just want to preserve the status quo. We have some people on one side that don't want to see any changes to the corn fields no matter what while the other side of the spectrum doesn't want to see any changes to the wide open zoning law, especially if they believe someone is trying to take away their perceived rights. Legally she's not sure they are backed up, but she's not a lawyer. Be assured that the rest of the townspeople are the majority as demonstrated by the results of the last town election. Many volunteers have worked hard toward a data-driven solution to an incredibly complex problem, and they deserve the representation of brave leaders.

The New Scotland Hamlet Plan is the product of years in the making by the citizens themselves, and this Town Board has an obligation to see it through because they were voted into office to represent the best interests of this town. This plan does not represent the immediate best interest of William J. O'Rourke, Incorporated, or any other individual property owner. Her husband was not with her tonight because we disagree. He doesn't necessarily disagree with the Hamlet Law itself. Maybe the Hamlet law is not perfect. The plan doesn't represent our immediate best interests or any other individual property owner, but it does represent the best compromise that we could come up with after 25 years or more, and that's a start. While this law will never make everyone happy, she hopes that it will be able to evolve with the changing needs of our town, and she does support its passage because bottom line is that this law is better than what we've got.

Supervisor LaGrange noted that he allowed Mrs. O'Rourke to go longer because there were some questions from Board members, should we set up the whole length of where we've been to come to this point. She was doing that. That's why he let it go that much longer. There was a history that Board members were trying to decide if we should do or not.

Jacob Shaw wanted to talk about two aspects of law. On page 7, the proposed law relating to base density prescribes a minimum of three-acre parcels for those properties not served by public sewer or water. This prescription is objectionable because the size renders such parcels too costly and suggests that the proposal is intended to serve only those with significant means. Younger people like himself can never hope to take part in the development of these districts due to excessive cost. This requirement would likely generate urban sprawl and limit development only to a fortunate few. The requirement is totally arbitrary and not supported by any known public desire to limit development in this way.

New Scotland is just too expensive. He has a good job and he makes enough money. He could buy a house in most towns. He can't buy land in this town. He can't build a house in this town. He's looking to move out. He loves New Scotland. He was born in New Scotland. He went to Voorheesville High School. He stayed here when he commuted to college. He would love to stay but he can't stay.

The next aspect of law package he would like to talk about is again dealing with the water and sewage hookup. The package says that if you not connected to the water and sewers of the Town, you need to share with your neighbor. You can share the same well and septic

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system. That is going to draw a lot of issues that will need to be addressed. Albany County throughout the years has been against this kind of building. No two people use the same amount of water, and no two people use the same amount of sewage. At the same time, who is going to be responsible for the system and pay for the system and when an issue does arise who's going to take the bill for that?

Finally, I will express my discomfort with the apparent intent of this proposal. We have no indication that this proposed law was generated by an expression of public need. It is, rather, a statement of arrogance, like a Florida homeowner association run amok. This proposal is not governance in the American tradition. To prescribe how a person's windows must be oriented on property he or she owns is shameful and would be objectionable to the community. "New Scotland was built into a great community without your interference. Anybody that thinks we need your guidance and wisdom is elitist and monopolistic."

Glenn Schultz said that he's lived in the TONS for 63 years, and he appreciates the value of living in this town more than anyone. He has had many opportunities to move. He would rather not. He stayed here because the school system is so good. The value of life is very good, and his freedoms are very good. He's just concerned now that the freedoms are starting to erode. He read the zoning report, and it seems as though we're really going into an exclusion area in many ways. He knows that the Big Box issue was a very big concern. It was a concern of his, as well. That was decided and taken care of eight years ago, and we're still fighting that fight, and we keep referring back to the Big Box. It was already taken care of.

What has happened with this new zoning is that commercial expansion has been limited in many ways. In many ways, industrial expansion in the TONS has been eliminated and the way that housing developments have been set up and so on, so we are going to force fewer and fewer houses in all developments which means the contractors are going to have to build bigger houses. Right now there is no place for a reasonable housing development our kids can grow up and move into. He doesn't see any of the developments being built where the kids can move into when they graduate from high school or college; there's nothing. They go to Colonie or Latham; they certainly can't live in Voorheesville or the TONS.

In this document, the following statement was made: "It's the Board's opinion that, based upon the popularity of online shopping, there is a trend in recent years for abandoning shopping centers. As such, this is something that we would not want." That was made real clear. While we were making that real clear, the Price Chopper and the Dunkin Donuts were built in Slingerlands, and people are going through the TONS to go to that Price Chopper to spend their money there while we have absolutely nothing. At this mall teenagers are working, people are employed, and we haven't even done anything. We've been working on talking. We've been doing a lot of talking, but we needed to move faster and we didn't. We just kept politicizing the whole thing.

Let me read two things that are on page 2. First, the zoning amendment and the Hamlet District is to provide standards that will preserve the physical beauty of the TONS and promote small-town character. This is what was decided on, and that's a great thing. Second, the Town Board also finds that the limitation and design criteria for development in the hamlet zoning district will benefit the comfort, convenience, public health and safety, and general welfare of the citizens of the Town. That's a fairly arrogant statement. The Board has come out and decided that this is what it's going to be. It knows what's best for the town, and this is what has been decided upon. No one else is going to know. The Board has decided that we should not place any emphasis. To Mr. Schultz, we should not place any emphasis on the look. The Board would rather save the new buildings and improvement influence by traditional New England pattern. This is what the Board wants. This is the housing they decided we all should have when a new development is built. As a Town Board, the main concerns should be on health, safety, and welfare of the whole town and not the vision of what the Town Board thinks it should be. That's his opinion. Once again, we talk of public health yet at no point in those plans does he see anything about the needed water or sewer systems. It is shocking. On page 11, common water and common sewers are being allowed. He doesn't even think that's legal. Apparently, it may be. He's heard of it at camps but not at houses.

Once again, Mr. Schultz has lived in this town his whole life and wants nothing more than to preserve the Town. He also recognizes that growth will happen and we will see changes, but it's not possible to stop this progress. As a youngster he can remember listening to my parents and everyone arguing and screaming about Salem Hills. Salem Hills was going to

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destroy Voorheesville. That was the attitude at the time, and Salem Hills has been nothing but more than a benefit to the Village of Voorheesville and the TONS. Without Salem Hills the Village would not have any sewage treatment plant. Without Salem Hills, the Voorheesville School District would not be able to grow to one that makes everyone envious. Without Salem Hills, the taxes would be much higher because it brought so many more people in. It's clear that the Board has all worked hard on this. He doesn't know if local contractors were brought in. He knows that they went to engineering firms. He has worked with engineering firms. When you talk to an engineer they want to know what you want and then they write the report up based on what you are telling them. He doesn't know if any local contractors or local business people were brought in, but it doesn't appear so. Combined, we could then develop a zoning law with these people which could be in the best interest of the town and everyone involved. You have to understand that the Town Board must stop fighting growth. From Mr. Schultz's perspective that's what the Board has been doing for the last eight years. They have been fighting growth.

George Miller read the following from Mr. Stapf: "It has come to my attention that our Town is now again rezoning the former Bender farm/King farmlands and adjacent parcels placing even more restrictions on retail and commercial use. The New Scotland Hamlet is the only corridor in our Town that has open, developable land that can be considered for retail and commercial uses. Other corridors of our Town are already subdivided into small residential parcels restricting further development. Since 2007, when the owner of the Bender farm requested development of that land the Town has been very negative to any development. After several public meetings, in which select Town officials, the Supervisor, or an adjacent town and many non-town residents made overtures to limit any development of this corridor, the Town put in place restrictions on commercial building size. A local resident who owns a large parcel of land adjacent to the Bender farm was even discouraged from developing a senior cultural residential facility. As Town officials, you are aware that less than 1% +/- of our tax base comes from commercial properties, of which ½% +/- is from multi-family dwellings. As a Town resident, I would like the Town to reconsider and allow a more reasonable law allowing for more retail and commercial development in the route 85/route 85A corridor. This could enhance our tax revenue. I see that the Town has designated 'Priority Open Space' areas (shown in dark green in Figure 12) on the former Bender farm and Youmans Road as designated Open Space not to be developed. Of these parcels, most of it is level developable lands. My question is, if you are designating these parcels why have you not designated over 50% of the former King Farm along route 85/85A since this area is heavily wooded and is a major habitat area? I also question why you are further restricting open space requirements of up to 60% on the Bender farm lands and on 25% to 45% in other hamlet areas? I also question why you are not allowing designated open space (Figure 12) lands, wetlands, buffer zones, slopes, and 100-year floodplain as part of open space calculations for HC-C and HD-E sub districts (ref. E- Open space). This land usage restriction seems very unreasonable!

"With the Town presently having financial issues with several of its water districts and the establishment of a new park for the Hilton Barn, on which over \$300,000 has already been spent, it would seem that more revenue would be helpful. With an additional \$500,000 +/- being required to allow the property to meet State public assemblage building codes, water/sanitary services, and the future cost of landscaping (per this new Law) as well as the future operation and maintenance costs, I question why the Town is not trying to improve its tax base to offset these expenses. It is my understanding that the Town has to date only been able to apply for grants for a small portion of the \$300,000 but has not received the funds. This raises the question of how the Town is presently paying for these expenditures.

"After reading this Law, it is amazing how the creator of this document totally missed the true essence of our community with the design of 80-foot boulevards, 75-foot main streets, and 8-foot alleyways, which do not presently exist anywhere in our town or adjoining towns. How about the photos of approved and unapproved development structures? Why couldn't you have used photos that relate to existing structures in our town that you no longer approve? Couldn't the illustrations have used photos from surrounding communities that would relate to how you are trying to change our hamlet to a New England-style community?

"I further question if the developer of the document has any idea of what our town looks like or what the residents of our town desire for the land that still can be developed? These codes and photos are great for other areas but not here. I am unaware of any town of our size in the state where such codes exist. If I am misinformed please show me where such places are.

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“It is my understanding that this law is being developed under the 1994 Comprehensive Master Plan. Since I was part of that committee that developed that plan and I am still involved with the residents of the whole town, I have had conversations with the town farmers, Hilltown residents, and we ‘low landers.’ They feel that commercial development in the Hamlet of New Scotland is still the right way to proceed, and if any major changes to our building and zoning codes and district boundaries are being proposed they should require a change in the 1994 Master Plan to justify these modifications. Since the Town has started many times to update the Comprehensive Plan including when the present town Supervisor chaired the effort no amendment to the plan has been made. This questions why the SEQR statement for this document indicates that it will have no major impact on our town, but it does make major changes that will affect all residents in one way or another. With this in mind, it would be advisable that the Town consider supporting retail and commercial development of the Route 85/85A corridor. This may help the longtime residents of our community continue to be able to pay their taxes without having to sell their homes/farms and move out of the community that they have worked so hard to preserve.”

Councilperson Hennessy said that they did encourage people to submit their written comments that they may have tonight, and they would love to have a copy of that statement.

Cynthia Elliott said that she’s lived here 50-some years, and she’s participated in a great deal of planning, zoning, etc. She had a couple of comments. They were not written down, but she will submit written comments, as well. She does agree with Mr. Shaw. Three-acre zoning where there isn’t sewer and water is problematic. It is too large for a single-family dwelling. She also agreed with Mr. Shaw on the shared wells and shared septic. No bank wants to mortgage those let alone whether or not they meet the code with Albany County. Her difficulty is not so much that we are attempting to give the Town a better look and be able to have a mixed use, but her difficulty is the start of page 1, third paragraph that says “It found that the commercial district was too large for the community”. She has said to others that she is a numbers girl. She’s a land surveyor, and numbers mean something to her. New Scotland is the largest town in Albany County. That means that we have 58 square miles. We have 37,400 acres. How much of it is zoned commercial? There are 570 acres in this district. There is another district on top of the hill where Dunston, Spaulding, and Stewart’s is located. We’re not talking about that one. We’re not changing it. There is approximately 175 acres there. What that means is that we have less than one quarter of 1% of our land commercial. We have a population of about 8,600. Let’s look at other towns similar to ours. Chatham has a very similar town with half the population. It’s very similar in size and has a village that sits on one end just like us bisected by the town line at the Town of Ghent. They have more commercial than New Scotland when you add their commercial, their hamlet zone, and their industrial. When you look at Ghent, they have a similar population. Coming down state route 66, they have a tremendous amount of commercial. Kinderhook has almost the same population as we do, is only 32 square miles in area, and has more commercial. They have a full-size grocery store. What happens here is it’s not just our town but the hilltowns of Berne, Westerlo, Knox, and part of Coeymans on the west side. They come through our town and go to work because of the centers of Colonie, Albany, and Guilderland. That’s where the work and employment is. So while they are going through our town, the traffic that is already there on state highways should be used to be able to have a commercial and retail entity. She knows that the Board wants to do a mixed use that is allowing that, but the cumbersomeness of this document makes it so difficult to bring in a business that wants to set up. She watched what the Kay project went through. We were going to be able to bring sewer up until it got knocked down so much that they’re now doing a septic system. If we don’t encourage business, we will never get the sewer and water that we need. One of the areas that really needs it is the manufactured home park. She thinks that a tremendous amount of effort has been placed to clean it up, but they need sewer and we need business to do that. She would like to see a change on our official land use map. She sees that it has changed. In 2013, we rezoned 24 acres and changed it from the commercial zone into RH. It made sense to do so. They are existing structures, and they should be in a hamlet zone. They’re houses. Then we did a two-acre zone in taking out the industrial. That was smart too, but the fact is that we didn’t premise our 2013 law to say we had too much commercial so let’s take 24 acres out of it. We left Youmans Road on this entity as commercial for about 120 acres, and yet it’s residential by default. Why did the Town do that? What that means is that every resident over there has to come for a minimum of two months to the Planning Board to build a house. Coming down Youmans Road we’re not going to get commercial there; it’s residential. So there are some other little problematic things that should be looked at, but realistically she thinks the main focus for her is that it is cumbersome and not user friendly. She thinks we need to have business here and make it user friendly.

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Susan Dee is a Clarksville resident and also President of the Clarksville Historical Society. She is not here on their behalf as the organization has decided not to get involved in political activities. She didn't bring the weight of the members with her, but she has to say that the speakers before her did an excellent job presenting. To come after Mrs. Elliott was a great honor. She has worked with Mrs. Elliott on a couple of projects and she supports everything she says and everything she does. Her main concern as involved in the Clarksville Historical Society is the historical nature of our communities. Back when we did the first master plan we came together and said we love the village and the country atmosphere. In trying to enhance New Scotland to have a more cohesive village-like community, the Board has made many strides, but the one thing that we do have to consider is that the Village model that we seem to be replicating or trying to replicate throughout this county is based on a 150-year-old functioning village. That's what we have in Clarksville; however, we have none of the business that we had 150 years ago. If we are limiting commercial and retail development along the 85A/85 corridor, she doesn't have a problem with any specifics on the commercial side. Her question to the Board is: If we're doing that here in New Scotland, we have to do that in the other hamlets. She knows that we're creating a hamlet, but we have to do that in the other hamlets of New Salem, Clarksville, and Feura Bush. We all have these remnants of what great communities we were but we don't have enough either land in the downtown areas or in an area designated as retail commercial. Clarksville doesn't have a commercial area, and yet we have traffic coming through on Route 443 that starts at 5 o'clock in the morning. So, again, she's repeating what some others before her have said, but she thinks it's very important that if we are providing limits both in size and design elements here in New Scotland we have to provide or make adjustments to our zoning laws that we can extend into other communities.

The other concern she has that Mr. Shaw raised the concern about is limiting the TONS into a very high-end, expensive, exclusive community. Personally, she is opposed to that. She finds that extended diversity makes for a much more sustainable community, and the village model again that we're trying to build upon is very inclusive and allows us to have to start out at the low economic level, move into any other economic level that we choose to, and still stay within that community. So, she presented that to the Board with the hope that it can be incorporated into the plan.

Maura Mottolese read the following: "I write on behalf of members of 306 Maple Road, LLLC, regarding the proposed Local Law F of 2017 as an arbitrary and capricious targeting of the last remaining commercially zoned properties in town. The proposed law disregards not only the sanctity of private property rights but contradicts the Town's own stated goals as published in the Town's Comprehensive Plan and various other taxpayer-funded studies that failed to involved the stakeholders, i.e., the owners of the former Bender melon farm and the surrounding property and business owners in the proposed Hamlet District. Finally, the proposed zoning amendments regulate in such an over-reaching manner that it effectively discourages development and small business in the exact area that the Town has for years claimed to be best-suited for commercial development and its only hope to bolster its tax base.

"For those of you too young to recall, the current owners purchased the former Bender melon farm in 1970. In the 1980s, the owners received an offer from the Michaels Group for a large residential subdivision, but the Town denied the application as the Town wanted and needed commercial development, and residential development would put too much stress on the school system. Later the owners received an offer from the St. Andrew's Foundation who wanted to use the property for the Scottish Games that are now held at the Altamont Fairgrounds. The Town failed to respond to the developers in a timely fashion such that the developer determined that the Town was not interested in the proposed development, and so the developer in turn moved on. Sphere Development proposed a Big Box commercial development in 2007, and, although taxpayers signed a petition to force a super-majority vote of the Town Board to allow for the Town to consider the proposed development, the Town chose instead to enact a moratorium on all commercial development that it repeatedly renewed, deterring all potential developers from considering the Town of New Scotland. The Town followed that tax base-killing strategy with the size cap law that prohibits any large-scale development in Town.

"Now after flip flopping for more than 40 years, the Town is proposing not only resident and high-density mixed use for the last Commercial Zone in the Town, but a 25%/45%/60% exaction for Open Space to be available for public access. The 60% exaction of private property is targeted specifically against the former Bender melon farm and is a clear

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example of spot zoning and an unconstitutional taking, but the law as written also impacts other taxpayers in the Commercial Zone by also exacting 25%-45% of their private property for Open Space. One must wonder how the individual elected Town Board members and their taxpaying citizens would feel about the Town determining that 60% of their own private property could now be reserved for open space available for public access? The audacity of this proposal aside, has the Town considered what this Open Space mandate will do to its tax base?

“The introduction (Section 1) to Proposed Local Law F, which traces the Town’s taxpayer-funded studies that ignored the primary stakeholders and relied upon skewed non-representative data, contains numerous errors and inconsistencies. For example, it is ludicrous for Section I to state that the Behan Study Committee determined that the Commercial Zone is too large for the Town when the commercial Zone comprises only 0.015% of the Town’s total acreage. It also fails to mention (1) the Town’s recent acquisition of the 15-acre Hilton Park immediately adjacent to (2) the Town’s recently acquired (but not yet paid for) Hilton Barn and (3) the County’s acquisition of the Rail Trail that bisects the former Bender melon farm and allows public access across private property currently. Section I also mentions the services of advisory committees, workshops, and town-wide surveys, and another taxpayer-funded consultant hired to draft the proposed zoning amendments during 2016-2017, yet not a single one of the owners of the very parcel the Town wants to re-zone were contracted for input during this process. Ironically, the Town did manage to find the impacted owners twice a year for the Property and School Tax bills with no problems whatsoever.

“Contrary to the assertions contained in the last few paragraphs of Section I, the proposed amendments are not consistent with the town’s current Comprehensive Plan that specifically states:

(p.132) “Higher intensity commercial use category that would allow a small shopping plaza, mini-mall, grocery store, and related retail uses is recommended in the New Scotland Hamlet area Rt. 85/85A)” ...and

(p. 141)...“if lands suitable for future commercial development are not set aside, the potential exists for residential development to completely consume this land thus precluding any needed future commercial development...”

“Nowhere in the Comprehensive Plan does it mention exacting open space since by definition a ‘hamlet’ is supposed to have increased density. The proposed base density of 1 unit per 3 acres will lead to the very suburban sprawl the Town claims it does not want. The proposed ‘limitations and design criteria’ will not benefit the general welfare of the citizens of the Town because the amendments are over-reaching and impractical. For example, the requirement of an owner to hire a landscape architect to locate every tree with a 6-inch diameter on a heavily-wooded parcel is not only cost prohibitive but discourages development generally. The requirement to have shared septic or shared wells is not practical since it will neither be financed nor allowed by the County Health Department.

“Amazingly, despite spending on a taxpayer-funded consultant, the Town, in proposing Local Law F, has chosen to ignore much more of the data gathered and instead is moving toward what benefits only a small portion of the Town – the elitist few who would prefer that the former Bender melon farm remain vacant and undeveloped for its beautiful viewshed. The Town has failed to study how any of these drastic zoning amendments would impact the Town at large. What if, for example, there was a developer ready to put a shovel in the ground tomorrow and build the proposed new urban-styled, densely developed residential and mixed-use project in place on the 85/85A corner (ignoring for the moment that there already exists a strip mall and other businesses at this intersection, and there is no water and no sewer available)? What would such a dense development do to the traffic at this intersection? How would it impact the existing businesses, schools, and the environment? The fact is that the Town has failed to do its homework on all of these issues as required under SEQR.

“Attached to the proposed local law is the required long-form Environmental Assessment Form which has Part 3, page 2, Box A checked indicating that the proposed amendment will have ‘NO environmental impacts.’ The Town is well aware that any type of action that impacts 25 acres or more is a Type 1 action under SEQR with a presumption of impact that the Town, just like any developer, now has the burden of proving can be mitigated. To overcome the presumption, the Town would need to conduct a full EIS. The Town has

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failed to do a reasonable level of environmental review as to how these drastic amendments would impact the Town at large. The Town has not done its required homework but wants the taxpayer citizens to foot the bill of an Article 78 proceeding that the proposed amendments will surely bring.

“The fact is that there simply is no statutory basis for the Town to exact open space for public access from private property owners. In order to exact any such open space from private property owners, it is well-settled United States Supreme Court and NYS case law that such a condition must be related to the burden created and cannot be disproportionate to the burden created. If the condition is disproportionate, then the law is invalid unless the Town wants to pay for the condemnation of the property it is taking.

“The 60% mandate in the proposed law as well as the ‘Official Map/Figure 12’ showing miles of roads and trails across private property runs afoul of state and federal takings law. Despite the Board’s cavalier comments in the Minutes of the Special Meeting (November 30, 2017) that the map is just a guideline or a wish list, it is presented as a part of the law with mandatory precatory language that is typically interpreted as ‘legally mandated.’ (Perhaps that is why the “Official Map” was not attached to the Local Law F posting on the Town’s website when the law was introduced in December? Nor was a final proposed map available when requested by taxpayers at the meeting.) NYS Town Law is clear: The Town must first show a finding that there is a ‘burden’ from the proposed residential or mixed-use development such that a Park/Open Space is needed to mitigate such dense use. With a brand new 15-acre park adjacent to the former Bender melon farm and a Rail Trail with public access already traversing the former farm, the Town hardly can argue that there is a ‘need’ for open space on this parcel.

“Possibly the most inexplicable aspect of the proposed zoning amendments is that the Town wants to keep Youmans Road as the only commercial zone despite the completely residential buildout of Youmans Road and the pending residential subdivision currently awaiting Town approval. This makes no sense whatsoever. After years of developing this road as residential, what is the Town telling its resident taxpayers as and for a legitimate basis for this re-zone? It is arbitrary and capricious with no basis in logic.

“To summarize, Proposed Local Law F contains numerous errors, is inconsistent with the Town’s Comprehensive Plan, is unrealistic, overreaching and impractical, and is neither welcoming to developers nor economically feasible. After reading all 90 pages of proposed Local Law F and before voting on it, ask yourself why such a drastic change to the current zoning is being rushed to a vote when the very first line of the proposed law indicates that the Town is in the process of updating its 1994 Comprehensive Plan. Why re-zone just one area of Town when you are still in the process of updating the full Comprehensive Plan? Shouldn’t the Comprehensive Plan be completed first so that there is a cohesive strategy as to where the Town wants ALL of its zoning to be? Why the rush to piecemeal this one particular zone?

“The Town Board should also explain why it is reasonable to ask ANY of the Town’s taxpayers to forfeit 25% or 45% or 60% of their private property for open space in a town that has only seen three new businesses open up in the past 20 years? The Town needs commercial development. It does not need more open space.

“For all the above reasons and 90 pages of anti-business regulations, the Town should not approve Local Law F as it is currently written.”

Karen Moreau said that the previous speakers, in particular Ms. Mottolese, pretty much touched on a lot of the legal concerns with the proposal including the requirement that the Board do an environmental impact statement because you are modifying a zoning law under SEQRA, and that’s a class I action because more than 25 acres are affected. What’s happening here really isn’t about the law. Mrs. O’Rourke started this evening out with a history lesson, but there is more than one side to that story. Back in 1994/1995 when the Town adopted the current comprehensive plan which Ms. Mottolese has pointed out has not been modified, that actually led to a pretty controversial zoning fight. The players have changed, but the tactics haven’t really. What she means is that the proposal and the proposed zoning law in 1995 looked at forcing property owners to set aside half of their property to satisfy a small group in the town that was against growth. That was 1995 and many of the property owners stood up against that because, as one would expect with many property owners, this is life savings. Even though some characterize the history of zoning and controversy in this town surrounding zoning as people with perceived property rights

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speaking out and not caring about the rest of the Town, she takes issue with that and thinks that the history supports the fact that those who have not spent a lot of time writing plans for other people's property have spent a good part of their livelihood, their family history, and the generations of their families actually physically improving the Town only to find themselves in a situation like this possessing property that others have decided they should impose regulations on that are going to actually cut into their equity and impede their ability to determine future use of their property. You've heard the statistics. We have very low commercial land in this town. The commercial zone is very small yet we have a document that is five times the size of the existing law affecting projects that want to be built in the commercial zone or expand in the commercial zone. When it comes right down to it, the actual land that's developable in the commercial zone when you take out all of the natural impediments, such as wetlands, topography, and slope that Mr. Stapf referred to in his letter, there's really not all that much left that can be feasibly developed. Actually when you have a town of this size and such a small area that is currently zoned commercial, the fact of the matter is that you know who the owners of the property are. Many of them are local. Many of them are in this room. It's literally a handful of people. So my question is why is it that every time other people decide what they want to do with someone else's property do they not sit down with the owner first and say we have this idea and you own 200 acres and we'd like to see the development look like this? We'd like to see it look like New England. We'd like to see some open space. What do you think? That never happens. It's never happened. In the meantime, the people that own businesses here and are local residents, no chain stores from afar, continue to do the work and improve their property with their capital at risk and their family's wealth at risk while other people decide how their property should be developed. It's a small enough town where people know each other. She doesn't believe that anyone on this Board would ever deliberately take something out of their neighbor's pocket, but this is what it amounts to when you're talking about open space set aside of this magnitude and of limiting the development of property. The history of the Bender melon farm and the various proposals alone that have gone by the wayside is because of the neglect of previous Town Boards. That's just an illustration of failure on a local level to deal with property and the owners of property in such a way that is going to encourage the kind of growth that the Comprehensive Plan talks about. Somebody said that NS4 meant sound growth, but actually what it meant was no growth and with no growth our children can't stay here and our families' businesses are eventually not going to be owned by family because it's going to be too difficult. Some of you have been here awhile and may remember that since 1993 the property right next door to Town Hall on Youmans Road was literally a junk yard. There were over 1000 junk tires, 50 junk cars, and 45 containers of metal that were taken off that property by her father, her brothers, herself, her husband, her brother-in-law, her sister, and their children to clean that mess up, rebuild a historic home, fix up a farm stand, build greenhouses, hire young people, and sell land on Youmans Road, and not one time has anyone in this room ever asked people like us to sit down and say we would like to hear from you. These are what our ideas are, we're the Town Board, and we have the legal responsibility, the authority, and the votes to affect your property, but we would like to give you the courtesy of hearing what you have to say. You've done so much over the past 25-30 years to improve the Town. Maybe we'd like to give you a little bit of respect and courtesy. She is still waiting for that. She thinks some of the other people that are upset here tonight are waiting for that, and she's hopeful and optimistic that at some point that will happen. And we're just one family; there's the Olsen family and Howard Amsler improving the mobile home park.

Allyson Stanton wanted to bring to everyone's attention on page 2 "as explained in subsection (A) of Section 190-110 of the law, the purpose of the zoning amendments and the Hamlet District is to provide standards that will preserve the physical beauty of the Town of New Scotland and promote the Town's small-town character. The regulations are designed to allow mixed-use development in a sustainable, walkable community setting." She said she was going to step out on a limb here and call herself a millennial and what do millennials do? They look things up on Google and good millennials look things up on Google Scholar for the actual journal articles. She wanted to look up what was really meant by a "walkable community" and what she found was this term called "new urbanism." New urbanism is the urban design movement that promotes the creation of a walkable neighborhood containing a wide range of housing and job types. To her, new urbanism doesn't sound like a small-town character. In fact, the success rates of these new urbanist-style communities in a small town are quite poor, only succeeding in an increase population area usually used to transect from an urban center to a suburban area to a more rural area, like Washington, DC, or Chicago. There are many failures of these new urbanist-style communities, and they stem from the elitist perspective, of those trying to implement these rules as brought to our attention by Mr. Shaw and many others. This segregates those of

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the community who can't afford these elitist style homes that are brought by these design standards, i.e., younger residents, people with new jobs, student loan, somebody who worked their way up but now can't stay to live with their friends and family in the beautiful area of New Scotland. I would like to also add that there is not a wide range of housing options proposed in this new law. Like I said all these design standards narrow this range, and there is not enough commercial zone to build these "jobs" to create a true walkable community. Sure you can have a convenience store or a few shops or a café, but in the grand scheme of things there won't be enough to eliminate the use of cars. Everyone is still going to need to drive to work and drive to the big grocery stores. The last point she wanted to bring up was two examples of failed new urbanism in the capital region, one being in Bethlehem near Feura Bush Road and the Hewitt's. There is a sign on the corner by the new apartment buildings that says, "There is a retail area for lease." That sign has been there for three years. Also in Guilderland there have been restrictions similar to this law that are very cost prohibitive. This was for the Glass Works Village. No tenants wanted to pay the rent that was needed to take care of the infrastructure needed (sewer, water, etc.), and that land has been vacant for nine years.

Nick Stanton said that some of his points had already been stated by numerous other people. He went through and read this law, and read, and read some more, and he kept getting more disappointed in his future in this town. The thing that stands out to him is private property rights. Where did they all come from? He went and read the Constitution of the United States. He wanted to let everyone know that it will take less time to read the Constitution than this law. That speaks exactly to the problem with this law. He wanted to pull a couple of things from that nice document that our forefathers wrote. Amendment V pertains to property rights. "A person may not be deprived of property by the government without due process of law or fair procedures." After reading this law it's pretty easy to say that this isn't a fair procedure. He has yet to find anything that came from a business owner or a large landowner in this area that's in this law. Second, when the government takes private property for public use, just compensation is required. As the people of the Bender melon farm have stated, people want all these nice trails and public property, so pay the rightful price and not with government tax money but with hard-earned private money. Pay for it with that. You have to earn that. You shouldn't have the other taxpayers pay for it. To go along with that, as well, everybody in town is worried about controlling the rights of their neighbors while everybody in town is forgetting that with these laws they are actually giving away some of their rights. They might not be on the chopping block right now but, someday they will be. Anybody who wants to do this, do it without taxpayer money. You earn it; go buy the land. Buy it with private, hard-earned money. No grants, grants, and more grants; that all comes from the taxpayers anyway. He says go buy it and then decide what you want to do with it when you have the right to do that. At this point, everybody else except for the owners of these properties, especially the Bender melon farm, has definitely been put on the spot with the law. They have the right, not anybody else.

Colleen Stanton stated her opposition to this law. She was also speaking for our family who has been in production, wholesale, and retail agriculture, and the retail sales of our products for 30-plus years in this town. They hope for other investors to come to this town and start businesses, especially retail, to draw more people. Drawing more people is logical. Business coming in will bring more business for us. That being said, Local Law F hinders economic potential. For any future growth, that would benefit already established businesses such as ours, especially in this area of town for which there are not many businesses left. People travel through to and from the hilltowns and elsewhere, but with less to attract them we all suffer so there is less tax revenue for the town, and it puts the burden more on existing businesses who are struggling still to remain and the residences. Amongst business owners our common talk now is that we wish we could just pick up our business and take it to another area where business is welcome. Personally speaking, that's a pretty bleak outlook for the next generation, many of whom are present in this room tonight. So, we're the risk takers. We bear the burden. If more persons who construct such laws as big as this one had their livelihood adversely affected, perhaps they would rethink this law.

Timothy Stanton said there has been a disturbing trend here in the last two years that he's really upset about. A problem comes to the Town, and they make a law about it, but they go way overboard. So, we had an issue with containers. There was a container that someone didn't like in a small residential area. So the Town took that complaint and turned it into a ban on all containers unless you have 5 acres or more, but if you've got 500 acres you can have one. If you have 5 acres you can have one too. The law goes overboard. Then you come to the last one they did which was to ban digital signs in the town. That all came from

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a complaint about what is a flashing digital sign. We didn't decide what a flashing digital sign was; we just banned them all. You've got the same thing here. He's not against having some planning for this area; it's well needed, but you came up with a document that is gigantic. It's overly restrictive, and if you pass it they will not come. There won't be any business here. Businesses come where they're wanted. This does not indicate that businesses are wanted. He has one of four full-time farms left in this town. Everyone knows that there used to be tons of them. Now, there are four left. He's really afraid that that's going to happen with businesses. There are going to be four businesses left in this town. That's a bleak outlook. Maybe that's what people want. Maybe they just want things to stay open and have no businesses. When the committee was created he asked why there wasn't a business owner on that committee, and this is why. We ended up with something that had no input from the businesspeople and the stakeholders.

Robert Murphy said that he couldn't say it any better than Ms. Mottolese so he would his time.

David Moreau said that there have been a lot of excellent comments tonight about open space and public walkways, but he wanted to give his own perspective on both of those. He currently has an active residential major subdivision in the town that includes property on Youmans Road. This is a 26-lot subdivision. There are over 50 acres involved, and it wouldn't be possible without municipal water. As the Board may know, he has a full legal easement to extend Locust Drive, which is a cul-de-sac, adjoining his property. Over the years, he's negotiated with the Village of Voorheesville that he would relinquish control of that easement in exchange for water. That's how his subdivision materialized; he had access to that water. So that easement is very significant to his and very important to the project. The project wouldn't exist without it. It really wouldn't exist without that easement. During the subdivision process, it became clear that there was a need for open space. After several attempts, he was able to include such open space in the context of his subdivision. That's important. Each subdivision is unique. During the subdivision process, the applicant works and negotiates with the Planning Board and the Town Board to determine the best way to accomplish his objectives. Specific locations of open space and potential walkways and roads are very specific to each subdivision and should not be part of a zoning document. Including these location details in the zoning document arbitrarily cuts up property and significantly limits the future development potential. Also, as Ms. Mottolese mentioned, making open space essentially converts private property to public property. When this conversion is done in the context of a subdivision, the landowner will allow this because it will eventually lead to him getting something in return, generally an approval. There is a give and take there when you have the creation of open space in a negotiated environment. Making private public to public property in zoning, where the property owner gets nothing in return, is a direct taking without just compensation. It basically reduces the value of that property to zero. In the course of a subdivision, there is a negotiation there and there is something delivered to the applicant but not in this situation. The location of the open space proposed in his subdivision is consistent with the location shown on the map; however, the size on the map is noticeably bigger than on his subdivision map. He would only support the creation of this open space in his subdivision if his subdivision is eventually approved. The easement rights stay with the property. The only way that property could become open space is if he gives up his easement rights, and you can't take those from him.

Also during his subdivision process, he learned that there was a public walkway desired to connect Voorheesville to Youmans Road. Again, after several attempts he was able to accommodate the walkway and again within the context of his subdivision. Here again, we are going to create this public walkway, and that has the effect of converting private property into public property. Doing this using zoning would again be a direct taking without compensation just as with open space. The landowner not only loses control over the property where the walkway is, even worse, these public walkways destroy the peace, privacy, and security of the adjacent property as well and result in a dramatic devaluation. Think of your homes. Would you want people walking around your yard casing the place? The walkway that is incorporated into his subdivision does provide a connection from Voorheesville to Youmans Road, but it's not in the location of the map on Local Law F. There is another proposed walkway on the property line that he shares with Orietas on the eastern boundary. The need for that walkway was never mentioned during his subdivision process. No one ever brought that up. The walkway between Voorheesville and Youmans Road was talked about, discussed, and he accommodated that. This one was never talked to him about. Now, after he's gotten conceptual approval on his layout for his subdivision this particular walkway would impact six homes. That would be a very significant financial

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impact to impact six homes, and he doesn't understand. Anyway, in no way does he support the creation of that walkway, and under no circumstances does he support the creation of either open space or walkways on his property outside of the subdivision process. He agrees with this whole business that Mrs. Moreau brought up about reaching out and talking to property owners. He found out about Local Law F accidentally in cruising through the Town's website. Being that the Town is trying to introduce open space and walkways on his property, it would have been nice for someone to have reached out. In summary, he thinks that most of the detail that's in Local Law F is more appropriately dealt with in a subdivision process and not in the zoning document.

Karen Pirozzi said that she was in support of the plan. It represents what she'd like to see for the future of the community. She thinks it does a good job of representing a variety of viewpoints and addresses concerns held by a majority of citizens.

Milt Orietas said that everyone kind of said what would be on his mind. He's just opposed to walkways adjoining his property. He has two small daughters. He values his privacy. He doesn't want people walking by his house with no consequences, checking it out and seeing what's going on. It shouldn't be allowed and he doesn't understand why it's on the documents without the property owner's consent.

James Olsen wanted to reiterate that he's been here almost 28 years, and during that time they had to cut the parking lot because the grass was overgrown. It was basically an abandoned building, and they built up the business. As he has said before, Paul Jeffers, who sold him the building, at the time was a Town official. He put his hands on my shoulders and said, "Young man, that corn field across the street will be all houses very soon, and you'll be a wealthy man." Well guess what? 28 years later and it's still a corn field and it is so poor they can't get production out of it. The Olsens built a business and they struggled. People think they're doing great, but they invested their money from other businesses that they have outside this Town. They struggled to the point where it was time to go all in and stick it out or take opportunity to sell. So they took the sale. They questioned whether they should take it and run or reinvest back in the Town. Well, they're trying to reinvest back in the Town, and hopefully they'll get an approval for a storage facility behind Stewart's that you can't even see most of the time. Hopefully they'll get approve their water tonight. In all those years we've had a Saab dealership come and go. Thank God that Sabre moved in there or we'd have an empty building still. We had Stewart's and then we have the doctor's office and that's it during all that time. We've gone through CZAC and RPAC and we've spent a lot of time. He was on it. Mr. Voss was on it. They spent a lot of time away from their families doing all these studies, meetings, and nothing came about. He doesn't think they even passed anything from RPAC. Mrs. Abrams commented that they passed the Right to Farm to which Mr. Olsen added that we have four farms left. His point is that it just seems like this document is so restrictive. You almost want to say to people that if this is what they want, they're never going to get it in New Scotland. The buildings that currently exist are not going anywhere. There is a building that he built that was what he could afford at the time. There is Sabre. A strip mall on the corner that struggles but does the best it can. The other thing we have is Joe from New Scotland Auto who's not a resident of New Scotland. He owns two businesses in this Town and three pieces of property that are affected. He talked to him the other day, and he was very upset that no one from the Town came to him to ask his opinion on what was going on. Here is a guy who spends 8 AM to 8 PM running his business. He owns the gas station on the corner. He's had several people coming and going. He has a guy in there now that just runs an office out of there. He also owns the duplex next door. If this law was passed it would be like that forever because who is going to be able to conform to what the Town wants? There are very small parcels that are involved there. He guesses the biggest problem that he's having is that nobody from the Town Board or from the Committee ever came up to ask any of these business owners what they thought of the plan. They wrote this document that's a wish list of everything somebody wanted, but it's never going to get built. They know that, and maybe that's the reason they did it. There are some people in this town who just don't want development. He hates saying that, but that's the way it is. People will say directly to him that they support local business, but then he sees them shopping someplace else. It's very difficult to conduct business in general. It's extremely difficult to thrive in this town. Thank God for the Town of Bethlehem exploding on Fisher Blvd. and the fact that we have dedicated employees and his family is involved. They also used their outside businesses to help fund their business in the town of New Scotland, which was huge. It's been a drain. Our next venture will be a struggle, but it will be a benefit to the Town. It will increase the tax base. We left a site out front. He would love to see a bank, but if this document gets passed there won't be a bank because you can't do a

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drive-through. You can't get a Dunkin Donuts with a New England feel because you can't get a drive-through. He would like the Board to reconsider passing this tonight. He would hope that they reach out to the business members. If they talk to him, he'll go around and contact every business member around here and see if we can get a meeting with everybody. If you could put us into a room with the people who wrote this document maybe we can express our feeling to them. Maybe we can adjust it. He understands that the Board wants to do something, but the way it's written handcuffs any business from coming into this Town. As a businessperson for almost 40 years, if he knew then what he knows now he could not tell someone to bring a business to New Scotland. This document does not say community. It says elitist. That's not what this Town is; it's more community. He would be more than happy to contact the business community and set up a meeting with the Board to try and make a better document.

Thomas Hart said that he's one of the people who participated with drafting that document and he's also on the Town Planning Board. He thinks they did their best to try to incorporate what was known to be the vision statement for the Town. That had been done by repeated efforts to find out what people wanted this Town to look like. Repeatedly what we had heard was preservation of rural character, preservation of open space, and preservation of those things that are community based and coming up with a multi-tiered approach where we have a higher density in the hamlet area that reflects some of the other types of development that we have in the Town already. It matches what people said they wanted. We also have additional tiers around that area of higher density that aren't going to result in the standard suburban look. People very much said that they didn't want that. They don't want to have continued suburban development with cul-de-sacs and homes that are in the \$500,000-\$700,000 range. How many in this room can afford a \$700,000 house? More power to you if you can, but that's not what a development future would look like if we don't do something to try to come up with a meaningful cluster kind of development that preserves open space and keeps the same number of houses or residences that you'd be allowed to develop. No one is going to deny the ability to develop in the same magnitude as what is now allowed under zoning. What this does is shift things so it reflects more of what our town looks like and doesn't end up with these large gated communities which is what his fear is for the Town. They did the best they could and he's happy to meet with someone else. They didn't get paid anything. It's a volunteer basis. It's not like they have something that they're trying to do for their own benefit. He really does appreciate the work that has gone into this, and as a member of the Planning Board the guidance that this offers is really something that we need in the town. They struggled under the current very old set of guidance that is there. It's hard to make decisions and leads to a lot of frustrations. It's frustrating both for the applicant and for the people trying to make a decision. This goes much further to being a predictable set of guidelines that can be acted on. Is there a possibility for improvement? Sure, but to think that this is restrictive in the way that people have been saying he didn't agree with. He thinks it does reflect as best they could what people said they wanted this Town to look like.

Edith Abrams thanked everybody who has worked hundreds and hundreds of hours to come up with this document. She repeated what Mr. Hart just said. It is not a perfect document, and we have heard for eight years what people in this Town wanted. She's sensitive to the landowners. She's pretty sure the Board is not going to vote on this tonight. She thinks that we have heard a different point a view and some very good ideas and perhaps the Board will meet with the landowners. They have been invited before. The meetings have always been on the Town website and open to the public. She has been a member of some of these committees and she has not been a member of some committees, but she's attended all of the meetings. As for the businesses, they make the decision to come here because they are going to make money or they feel they are not going to make money. We have very successful pizza places, for example, in Stonewell and in Voorheesville. Anything that Mr. Olsen does is successful and wonderful. She's very grateful to the Stanton family for Our Family's Harvest. What they did with the property enhances the Town. The truth of the matter is that a business is a risk and you are the risk takers. What happens with a risk? You take a chance. We are building a new shopping center on Route 85A, and we will see what kind of businesses move in. There are business spaces that are still open in the Town. There are spaces on Delaware Avenue that are still open. The truth of the matter is that a major reason why we don't have a lot of big businesses or a lot of businesses in this Town is because we don't have a big population. We are not on a major road. We are not Bethlehem that's right off Route 85 and off Route 9. We aren't Guilderland that thrives off the Northway into Route 90. We're going to have a different kind of business here. People say they want affordable housing, and she cannot agree more. Mixed use is one of the ways to have affordable housing. Density is one of the ways to have affordable housing.

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This plan provides for that. Is it perfect? Maybe not, but it does provide for it, and it provides a means for a developer who has an idea to come before the Town Board and to come before the Planning Board to present that idea. Nobody is stopping a developer or a business from coming to this town and presenting his or her idea. We have a procedure where somebody would be allowed to do that. Again, she wanted to thank everybody and she thinks that over the eight years all of these people who've worked on this where people have come out and put their marks on what they want and don't want in this Town. She thinks that this is a step forward.

Peter Richards had one comment. On pages 48-49 it mentions Helderberg Bluestone. He has a problem with that for two reasons. One is that that's a specific business, and we shouldn't be putting that in the business plan. The other is, as a resident of the escarpment, he doesn't think we should be encouraging strip mining of the escarpment to build things.

Kim Taylor stated that she is a member of the partnership that owns 306 Maple. She thinks that tonight we've heard a lot about the practicality of this not working and about how this is really spot zoning. She wanted to thank people that came out to talk about their views on this because it's really telling that people who don't even own property in that area are willing to come and speak out about spot zoning. One thing Ms. Mottolese did talk about, but needs to be brought home before a vote, is there is something called NYS Town Law. It's an enabling law that gives you the right to enact certain laws. She doesn't know who has been advising the Town legally, but she thinks they should take a look at it. It provides clear standards that have to be met by the Town. This law is so far afield that it's appalling. The Town is really seeking to avoid having to comply with it and as such it's going to be held invalid. The Town is setting itself up for an Article 78, and she doesn't know why you would do that. She really doesn't know why you would spend taxpayer money to enact a law that is clearly unconstitutional by the United States Supreme Court and by NYS Law and that you don't have the authority in this form to enact. The Board holds the public trust, and it's up to the Board to really think about how it is going to vote. You can't just listen to a small segment that decides to disregard the Behan report and the Town Comprehensive Plan. The Board is legally obligated to look at and to consider, and you can't just change it because somebody says, "I would like to see open space." Open space generally means that it's not built. It doesn't mean that you get to give it to someone else for public use; that's called taking. She just would like the Board to really think about whether or not you want to place a vote on something that is clearly unconstitutional and against NYS law before you vote tonight.

Sawyer Cresap wanted to speak in support of the open space that's put with intention in this plan. It's not just about the community today, business owners, or landowners but its future generations. To paraphrase a Past Sierra Club President, "Land just has to lose one time." You just have to let one thing build on that piece of property and then it's gone. The Bender melon farm has such history to it that it deserves taking time to think really hard about what we want to do with it, not just for today but forever in the future. It's not so black and white to have open space. It's not just either your lot to decide 100% of what you do on your property or you have to have people walking in your backyard. There are tactful ways to do conservation and to make it work for all kinds of different people and every interest. He just wanted to say that he appreciates the open space in this plan and that there is a way to make it work for lots of different interests.

Supervisor LaGrange invited anyone else to speak. No one responded. Supervisor LaGrange asked if the Board had any thoughts on entertaining a vote tonight. Councilperson Greenberg said that they had heard enough tonight, and he would like to take a little time to incorporate some thought. They should not vote tonight. Supervisor LaGrange said that that's his opinion. Councilperson Leinung agreed. He wanted to take all of the public comments and take another look at the law again. There are maybe a few technical things that need to be worked out, as well, but he wouldn't want to vote on this as it is right now. Councilperson Snyder was in agreement. She would like to digest everything she's heard tonight and look at the law again to see how those comments fit in with what has been proposed. Councilperson Hennessy said that he was fine with that. He wanted to point out a couple of things in the procedure here. They did have the process where the landowners were invited to a meeting, and as usual it's always questionable about who gets the mail and who doesn't. We did have a meeting. The consultant who ran this project for the Town conducted the meeting. The documents will be sent that we have of that meeting in response to Ms. Mottolese's request. Ms. Mottolese said that these are the documents we requested from the FOIL since we weren't contacted. Councilperson Hennessy said that if we have another meeting or we have a workshop meeting we can

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discuss how we want to go forward with that. Councilperson Hennessy asked Attorney Naughton what he thought about those processes. Attorney Naughton said that we will notify the public when there's going to be a meeting about this as we always do. He thinks that everyone here should just pay attention to the website, and you can sign up to get notifications automatically if you want to put an email in. The Town Clerk can explain that, but it's very easy to do on the website.

Ms. Mottolese asked what would happen if there is a new law being introduced.

Attorney Naughton said that if there is a new law introduced, we will have to have another public hearing. Ms. Mottolese was speaking in terms of public notice. This law was introduced in December but no notice was sent to anybody. If she hadn't gotten the phone call from an acquaintance she wouldn't have known. Attorney Naughton said that we actually sent notices to the landowners. Ms. Mottolese said that she got one two weeks ago but not before the December meeting when you introduced it. Attorney Naughton said it's set up as a public hearing, and this is your chance to talk about it and comment on it.

Cynthia Elliott said that she understands that if a different local law is introduced the Board will have to do another public hearing. How long will the Board be taking written comments?

After some discussion the Board agreed to take public comments until the end of the day on February 28, 2018.

2. Adjourn

Councilperson Greenberg made a motion to adjourn, seconded by Councilperson Snyder. The hearing adjourned at 7:45 PM.

Diane R. Deschenes, Town Clerk