



Market Analysis and Reuse Plan: Glenfield Elementary School Building

Prepared by:



Prepared for:

Lewis County Planning Department
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Developed with funding assistance from the Housing Trust Fund Corporation and NYS Homes and Community Renewal. Document is property of the Housing Trust Fund Corporation and Lewis County Department of Planning. Project number: 20210093

Executive Summary

The Lewis County Department of Planning engaged MRB Group to conduct a market analysis and reuse plan for the Glenfield Elementary School, located at 5960 Main St, Glenfield, NY 13343 (the "Site"). Our work included gathering data on existing site conditions, performing a market analysis, examining case studies of school reuse projects, engaging with the public to determine their interests and desires and creating and testing one reuse concept.

The South Lewis Central School District is the Site's current owner, occupying the building through the summer of 2021 for use as an elementary school serving Pre-K through the 4th grade. Due to declining enrollment, the school district decided to close the school and sell the property. After a bidding process, the school district selected a bid of \$220,000 from a group led by Mr. Shamsul Alam with the transaction expected to close in October 2021. The Site includes 6.9 acres and a 45,000 SF building that was constructed in three phases in the years 1931, 1979 and 1995. The property has 50 parking spaces, a playground, athletic fields and other amenities. It is served by municipal water/sewer, natural gas and high-speed broadband.



MRB Group examined the market for five different use types: office, industrial, retail, multi-family and hospitality. Based on the market analysis, public feedback and the desires of the future owner, we have formulated the following reuse plan:

Shamsul Alam would occupy the front part of the building for his intended use as an IT training school. He would lease out the back portion of the building to a hotel operator. The hotel operator would secure the necessary zoning/planning approvals, substantially remodel the building into hotel accommodations and position it as an "economy" boutique hotel. The primary target market would be active recreation users attracted to the area for its plentiful outdoor offerings. In addition to the primary market, an important secondary target market would be students participating in Mr. Alam's 1-week long "boot-camp" style learning sessions to be scheduled monthly at the Site.

Based on industry standards, we estimate the cost of renovations to be \$625,000. We estimate total annual gross revenues of approximately \$254,000, based on market trends for occupancy, room rates and including special revenues from students attending the 1-week IT training program. We also made assumptions regarding operating expenses and debt structure to arrive at a pro forma financial analysis. That analysis showed that the project, as defined above, would hit the required debt service coverage ratio for a bank

to finance the project. This assumes that the hotel operator would have the industry know-how and cash equity to satisfy the bank's underwriting requirements.

Our research into case studies supports this conclusion; we found multiple properties in and around Lewis County that have been successfully repurposed into a variety of overnight accommodations.

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Contents

| | |
|---|----|
| Executive Summary | 2 |
| Introduction | 6 |
| Site Characteristics..... | 7 |
| Ownership..... | 7 |
| Description of Property | 7 |
| Zoning..... | 10 |
| School District’s Building Condition Study Summary..... | 11 |
| Market Analysis..... | 13 |
| Geographies Defined | 13 |
| Demographic Overview..... | 14 |
| Local Market Area (LMA) | 15 |
| Household Income Distribution..... | 16 |
| Income Comparison | 16 |
| Daily Traffic Volume..... | 17 |
| Retail Market Analysis | 18 |
| Real Estate Trends | 21 |
| Multi-Family Housing | 21 |
| Office..... | 25 |
| Industrial | 26 |
| Retail | 27 |
| Hospitality..... | 28 |
| Case Studies..... | 31 |
| Port Leyden Elementary School - Proposed..... | 31 |
| Tailwater Lodge - Complete | 35 |
| Parish Elementary School - Complete | 36 |
| Constableville – Complete..... | 37 |
| Waterloo School – In Process..... | 38 |
| Public Engagement..... | 39 |
| Public Meeting..... | 39 |
| Survey..... | 40 |

| | |
|--|----|
| Reuse Concept Testing..... | 41 |
| Concept | 41 |
| Renovation Cost Assumptions | 43 |
| Capital Assumptions..... | 44 |
| Revenue Assumptions..... | 45 |
| Operating Assumptions..... | 46 |
| Pro Forma Financial Analysis Results | 47 |

Appendix A – MLS Listing

Appendix B – Building Conditions Report Extract

Appendix C – Public Survey

Appendix D – Zoning Code

Appendix E – JN+A and HVS Design’s “Hotel Cost Estimating Guide”

Appendix F – Public Presentation

Introduction

MRB Group was engaged by the Lewis County Department of Planning to conduct a reuse plan for the Glenfield Elementary School, located at 5960 Main St, Glenfield, NY 13343, the "Site." The plan includes the following components:

Site Conditions: This section includes information related to the Site, including existing information on the buildings, their condition, potential renovations/upgrades, applicable zoning, etc.

Market Analysis: The market overview presents information on the current economic conditions surrounding the Site, in terms of demographic and real estate trends. The data displayed throughout the market profile was collected from numerous sources, as noted below, that collectively depict current market conditions. Data included in the following analysis was sourced from the US Census, the American Community Survey, Esri, CoStar and other data sources as noted.

Case Studies: This section includes examples of other school buildings that have been sold to private parties for reuse, including successful, unsuccessful and in-process examples.

Public Engagement: This section includes interviews we conducted to gain qualitative information on the market and Site, feedback from the public at an event hosted at the Site, and other information collected in a related initiative.

Reuse Concept Testing: This section outlines the "preferred reuse scenario" and the anticipated financial performance of the concept.

Conclusions: The above information is synthesized into conclusions that are contained within the Executive Summary.

Site Characteristics

Ownership

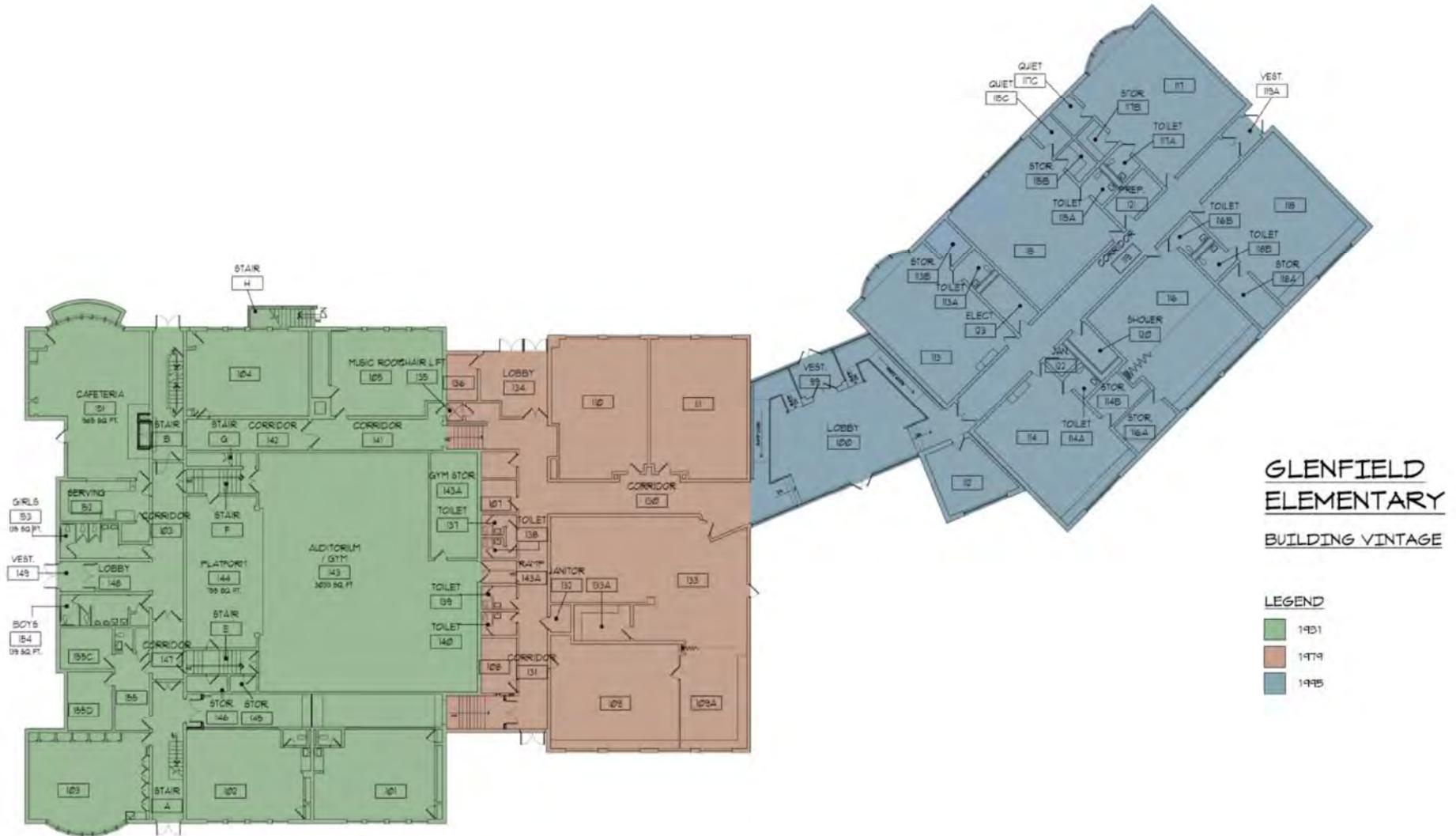
The South Lewis Central School District is the Site's current owner, occupying the building through the summer of 2021, for use as an elementary school serving Pre-K through the 4th grade. Due to declining enrollment, the school district decided to close the Glenfield Elementary School and sell the property. After a bidding process, the school district selected a bid of \$220,000 from a group led by Mr. Shamsul Alam. Mr. Alam and the South Lewis Central School District are scheduled to close on the property in the month of October 2021. Since that transaction has not yet occurred, we refer to the property owner as the school district.

Description of Property

The Glenfield Elementary School Building (the "Building") is located at 5960 Main Street in the hamlet of Glenfield in the Town of Martinsburg, Lewis County, NY. Key statistics include:

- Acreage: 6.9
- Gross SF: approximately 45,000 SF
- Constructed: 1931, with additions in 1979 and 1995
- Frontage: 410 ft.
- Depth: 513 ft.
- Max. Stories: 2
- Parking: 50
- Utilities: Public water/sewer, natural gas, high-speed internet

The following page shows that the original structure (in green) was built in 1931 and is the "face" of the building oriented toward Main Street. It is the only section of the building with a second floor. In 1979, a one-story addition was put on the building towards the rear of the gymnasium (in brown). In 1995, a second addition (in blue) was built with a vestibule and lobby space connecting it to the existing buildings. On the page immediately following the floor plan is an aerial view of the Site, showing the main building, an annex building housing the backup generator, a tennis court, baseball diamond, bus loop, drop-off loop, and approximately 50 parking spaces in the front and rear of the building.





Zoning

The zoning on the property is designated as “Hamlet”, described in the Town of Martinsburg’s zoning code as:

“H — Hamlet The areas within this district are now developed to some extent and include low- or medium-density residential uses with some commercial and industrial uses.”

Hamlet zoning allows for the following uses:

- Agricultural structure*
- Agriculture
- Commercial use* (the definition of which includes: Retail and wholesale, offices, personal and consumer services, manufacturing, hotels, motels, boarding houses, restaurants, and bed-and-breakfast inns.)
- Dwelling, multi-family*
- Dwelling, single-family
- Dwelling, two-family
- Essential facilities* (the definition of which includes: The operation or maintenance by municipal agencies or public utilities of telephone dial equipment centers; electrical or gas substations; water treatment, storage and transmission facilities; pumping stations; telecommunications towers and similar facilities.)
- Manufacturing*
- Mobile home
- Motor vehicle repair*
- Public and semi-public facilities* (the definition of which includes: “Any one or more of the following uses, including grounds and accessory buildings necessary for their use religious institutions: public parks, playgrounds and recreational areas; schools; public libraries; fire, and public safety buildings and public meeting halls and community centers.”)
- Retail gasoline and diesel outlet*
- Wireless telecommunications facilities*

All uses marked with an asterisk (*) denote uses that require a Special Use Permit from the Planning Board. There are a number of accessory-type uses also allowed in the Hamlet Zoning district, including accessory apartment, accessory structures and home-based business (“A nonresidential activity conducted for financial gain that is clearly incidental and secondary to a residential use.)

There are several uses that are not allowed under the Hamlet Zoning district:

- Active recreation (“Any form of recreation requiring significant levels of organization, buildings or large numbers of persons. (NOTE: small groups of persons using snowmobiles or trail bikes are considered forms of passive recreation; however, a snowmobile race or a motorcross race, for example, are considered active forms of recreation).”)
- Campground
- Dwelling, seasonal (camp)
- Junkyard
- Major excavation
- Mobile home park
- Travel trailer park

For all allowed uses, the Hamlet district specifications are:

Lot frontage: 200 feet minimum. Where public water is available, the frontage may be reduced to 100 feet.

Lot size: 1 acre minimum. Where public water is available, the lot size may be reduced to 20,000 square feet

Setback of all buildings: From center line of state road: 75 feet minimum, from center line of county and Town road: 60 feet minimum, from side and rear lot lines: 20 feet minimum.

School District’s Building Condition Study Summary

In 2020, the South Lewis Central School District commissioned SEI Design Group to conduct a building condition study of all its properties (see Attachment B for an extract of this report specific to the subject Site.) The study included an assessment of the current conditions of the Building and estimated costs of renovations necessary to continue long term use of the building for school district purposes. SEI Design Group found that a total of **\$6,888,200** of renovations would be necessary over five phases. A breakout of the major cost items is listed below:

- Accessibility: \$219,400
- Building Envelope: \$1,551,700
- Environmental / Health: \$616,500
- Fire Safety: \$19,200
- HVAC Systems: \$838,700

- Interior Spaces: \$1,078,300
- Electrical: \$394,400
- Plumbing: \$422,500
- Site Utilities: \$76,600
- Other Site Features: \$1,670,900

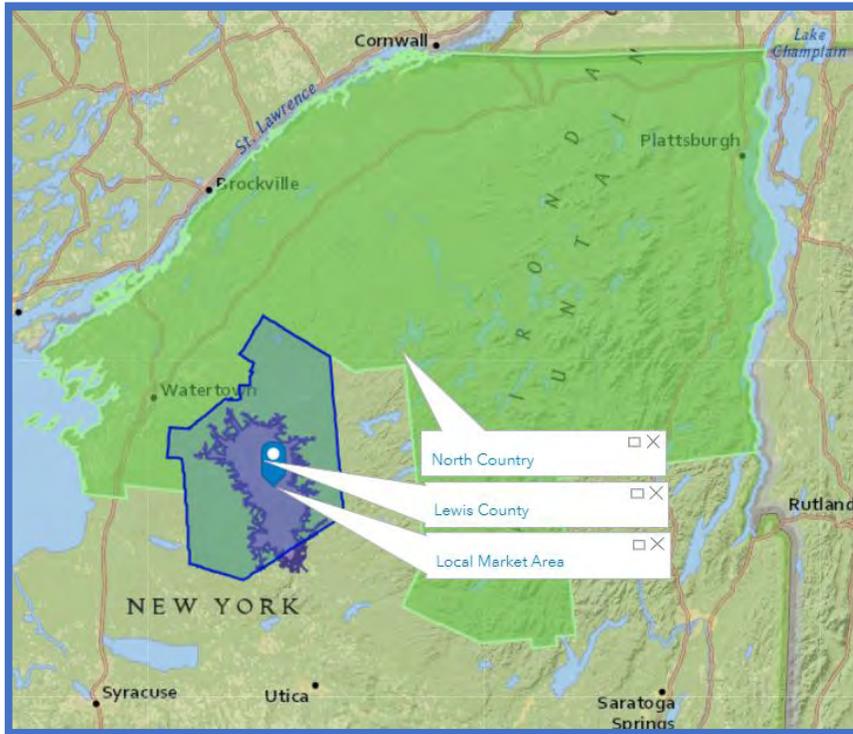
Of important note for this study, the total of \$6,888,200 in needed renovations includes all items for continued, long-term optimal use by the school district. Some users will not need these renovations, such as the costs associated with improving the sports fields and certain interior improvements specific to educational purposes.

On the other hand, the building's older portions, particularly the 1931 original structure, do not comply with existing building codes for fire suppression, handicap accessibility and other requirements. If a new owner were to propose a use other than educational or if a new owner were to propose a major renovation, then the new owner would likely have to comply with current-day building codes. These types of changes could add significant costs to the reuse of the building.

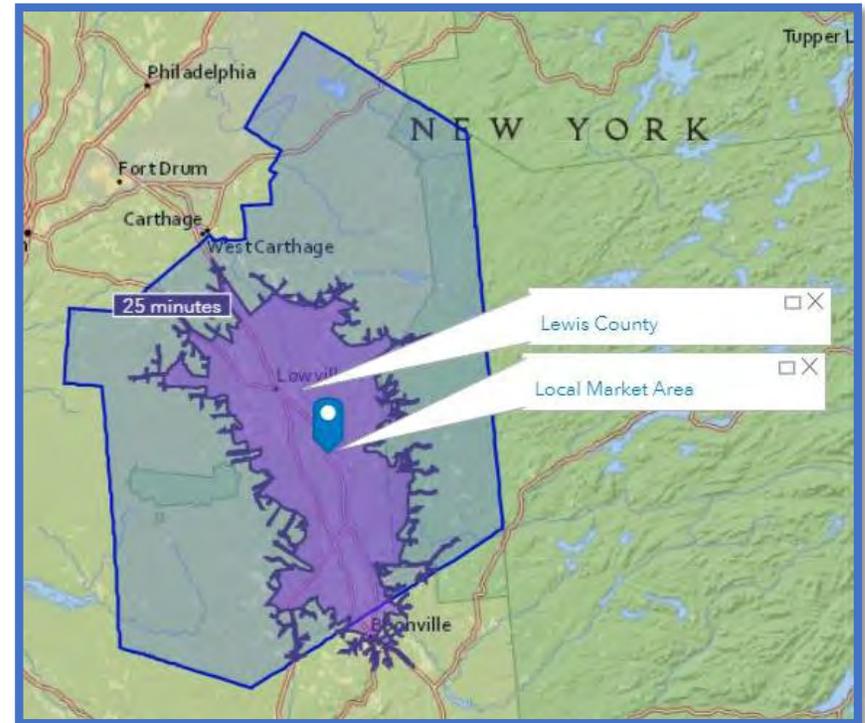
Market Analysis

Geographies Defined

The following analysis incorporates data from three distinct geographies: 1) The North Country – a seven county region including Clinton, Essex, Franklin, Hamilton, Jefferson, Lewis, and St. Lawrence counties; 2) Lewis County and; 3) the 'Local Market Area,' defined as a 25-minute drive time from the Site. The location of the Site is denoted by the blue pinpoint on the maps below.



North Country, Lewis County, NY and Local Market Area



Lewis County, NY and Local Market Area

Demographic Overview

Demographic trends are shown in the table to the right for the Local Market Area (LMA) and Lewis County and provide context for the current real estate market conditions. We note the following:

- Population has decreased, albeit slightly, across the LMA and County. Population of the North Country region has grown slightly from 2010.
- Despite its declining population, Lewis County has had a net gain of 107 households from 2010, in part explained by the decrease noted in average household size.
- Median age has increased 4.4% since 2010 and is almost 43 years of age for the Local Market Area.
- Median household income in all geographies is relatively similar at around \$54,000 and projected to grow around 5% through 2025.
- As noted on the following page, median home value is \$124,309 for the LMA, indicating a high level of affordability relative to median household income.

Demographic Fundamentals

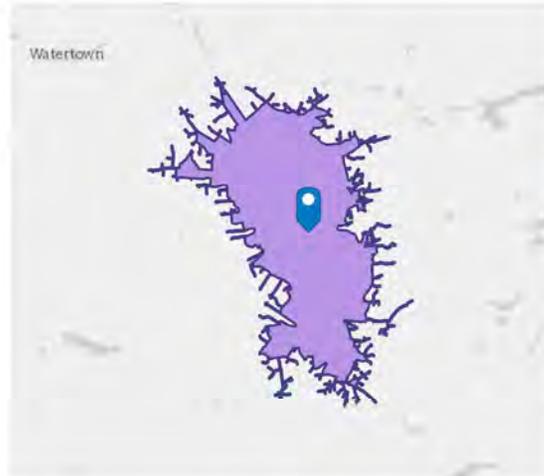
| Population | 2010 | 2020 | Change | % Change |
|------------------------|---------|---------|--------|----------|
| Local Market Area | 19,192 | 18,962 | (230) | -1.20% |
| Lewis County | 27,087 | 27,011 | (76) | -0.28% |
| North Country | 433,193 | 433,678 | 485 | 0.11% |
| Households | 2010 | 2020 | Change | % Change |
| Local Market Area | 7,591 | 7,571 | (20) | -0.26% |
| Lewis County | 10,514 | 10,621 | 107 | 1.02% |
| North Country | 164,730 | 166,550 | 1,820 | 1.10% |
| Average Household Size | 2010 | 2020 | Change | % Change |
| Local Market Area | 2.48 | 2.45 | -0.03 | -1.21% |
| Lewis County | 2.55 | 2.51 | -0.04 | -1.57% |
| North Country | 2.43 | 2.41 | -0.02 | -0.82% |
| Median Age | 2010 | 2020 | Change | % Change |
| Local Market Area | 40.8 | 42.6 | 1.8 | 4.41% |
| Lewis County | 40.3 | 41.8 | 1.5 | 3.72% |
| North Country | 37.6 | 39.1 | 1.5 | 3.99% |

Projected Income Growth

| Median Household Income | 2020 | 2025 | Change | Growth % |
|-------------------------|----------|----------|---------|----------|
| Local Market Area | \$54,429 | \$57,587 | \$3,158 | 5.80% |
| Lewis County | \$54,067 | \$56,567 | \$2,500 | 4.62% |
| North Country | \$53,799 | \$56,498 | \$2,699 | 5.02% |

Source: ESRI

Local Market Area (LMA)

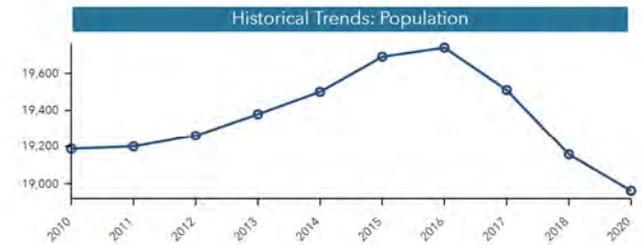


POPULATION TRENDS AND KEY INDICATORS

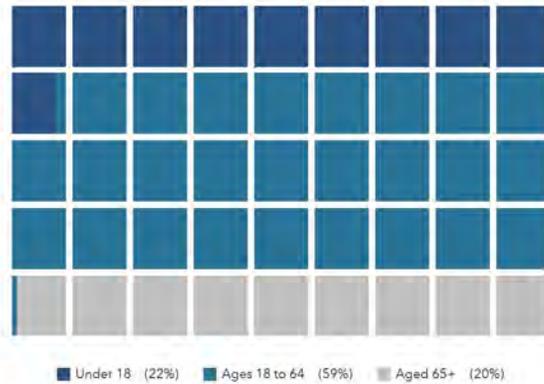
Local Market Area

| | | | | | | | | |
|---------------|--------------|--------------------|-------------|-------------------------|-------------------|--------------|-----------------------|-----------------|
| 18,962 | 7,571 | 2.45 | 42.6 | \$54,429 | \$124,309 | 74 | 203 | 10 |
| Population | Households | Avg Size Household | Median Age | Median Household Income | Median Home Value | Wealth Index | Housing Affordability | Diversity Index |

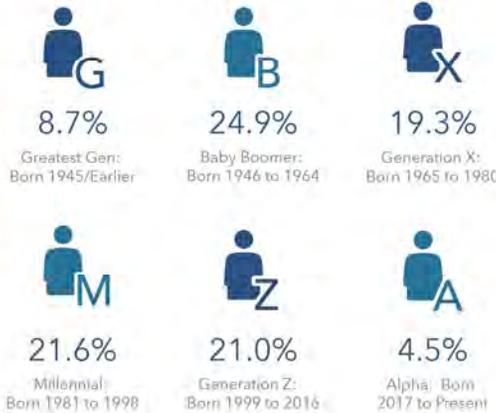
MORTGAGE INDICATORS



POPULATION BY AGE



POPULATION BY GENERATION



esri THE SCIENCE OF WHERE™ This infographic contains data provided by American Community Survey (ACS), Esri, Esri and Bureau of Labor Statistics. The vintage of the data is 2015-2019, 2020, 2025 © 2021 Esri

Household Income Distribution

The figure to the right compares the household income distribution of the Local Market Area, Lewis County, and the North Country. The income distribution of the LMA largely mirrors that of the two larger geographies. Roughly 45% of residents in each geography earn less than \$50,000 annually. Approximately 22% of Local Market Area residents earn more than \$100,000 annually, compared to 20% of Lewis County residents and 21% of North Country residents.



Source: ESRI

Income Comparison

Several common indicators of income are displayed in the table to the right. In addition to the higher median household income noted above, the Local Market Area also has slightly higher average household and per-capita income levels.

Income Comparison, 2020

| | Local Market Area | Lewis County | North Country |
|--------------------------|-------------------|--------------|---------------|
| Median Household Income | \$54,429 | \$54,067 | \$53,799 |
| Average Household Income | \$73,651 | \$71,294 | \$71,294 |
| Per Capita Income | \$29,394 | \$28,045 | \$28,045 |

Source: ESRI

Daily Traffic Volume

Daily traffic volumes for the main roads surrounding the Site are shown in the maps below. The Site, marked by a star, is located in proximity (but not adjacent) to NYS Rt. 12. This road, running North-South, averages traffic volumes of up to 10,000 daily trips. Local roads including Main Street, Glendale Road, and Blue Street see less than 1,500 daily trips on average.



Source: NYS DOT Traffic Data Viewer

Retail Market Analysis

The following retail categories show the largest retail leakages (gaps where residents are spending more on a particular good than the total amount of sales in that good are occurring), meaning residents are often meeting their needs for these products and services by traveling outside the Local Trade Area to make their purchases:

- Automobile Dealers
- Furniture Stores
- Home Furnishings Stores
- Building Materials, Garden Equipment & Supply Stores
- Building Material & Supply Stores
- Lawn & Garden Equipment & Supply Stores
- Beer, Wine & Liquor Stores
- Health & Personal Care Stores
- Clothing Stores
- Shoe Stores
- Jewelry Stores
- Book, Periodical & Music Stores
- Other General Merchandise Stores
- Miscellaneous Store Retailers
- Office Supplies, Stationery & Gift Stores
- Used Merchandise Stores
- Special Food Services
- Drinking Places
- Restaurants

The table to the right displays the retail marketplace profile for the Local Market Area. Retail categories in bold show a retail leakage, where local demand exceeds local supply.

The significant number of retail gaps across the categories shown indicate that the Local Market Area is largely unserved by local supply. Retail categories showing large gaps provide opportunities for new and existing businesses to meet local demand. By expanding existing businesses and/or establishing new businesses in these categories, the Local Market Area can recapture a portion of the retail gap.

Local Trade Area, Sales Surplus & Leakage

| NAICS | Industry | Demand | Supply | Gap | Payrolled Business Locations |
|-------------|---|---------------------|---------------------|---------------------|------------------------------|
| 441 | Motor Vehicle & Parts Dealers | \$51,849,800 | \$44,092,881 | \$7,756,919 | 22 |
| 4411 | Automobile Dealers | \$43,813,068 | \$33,361,189 | \$10,451,879 | 9 |
| 4412 | Other Motor Vehicle Dealers | \$4,294,834 | \$6,074,043 | (\$1,779,209) | 5 |
| 4413 | Auto Parts, Accessories & Tire Stores | \$3,741,899 | \$4,657,649 | (\$915,750) | 9 |
| 442 | Furniture & Home Furnishings Stores | \$7,574,854 | \$1,117,778 | \$6,457,076 | 4 |
| 4421 | Furniture Stores | \$3,792,171 | \$452,129 | \$3,340,042 | 2 |
| 4422 | Home Furnishings Stores | \$3,782,682 | \$665,649 | \$3,117,033 | 2 |
| 443 | Electronics & Appliance Stores | \$7,758,049 | \$0 | \$7,758,049 | 0 |
| 444 | Bldg Materials, Garden Equip. & Supply Str | \$15,929,209 | \$11,685,326 | \$4,243,883 | 12 |
| 4441 | Bldg Material & Supplies Dealers | \$14,383,384 | \$11,441,970 | \$2,941,414 | 11 |
| 4442 | Lawn & Garden Equip & Supply Stores | \$1,545,825 | \$243,356 | \$1,302,469 | 1 |
| 445 | Food & Beverage Stores | \$39,973,002 | \$90,293,059 | (\$50,320,057) | 21 |
| 4451 | Grocery Stores | \$34,491,476 | \$80,302,521 | (\$45,811,045) | 11 |
| 4452 | Specialty Food Stores | \$2,656,237 | \$8,969,481 | (\$6,313,244) | 7 |
| 4453 | Beer, Wine & Liquor Stores | \$2,825,289 | \$1,021,056 | \$1,804,233 | 3 |
| 4464 | Health & Personal Care Stores | \$20,651,510 | \$9,301,125 | \$11,350,385 | 6 |
| 4474 | Gasoline Stations | \$24,687,421 | \$29,552,463 | (\$4,865,042) | 7 |
| 448 | Clothing & Clothing Accessories Stores | \$15,840,229 | \$9,163,378 | \$6,676,851 | 3 |
| 4481 | Clothing Stores | \$11,437,386 | \$8,655,273 | \$2,782,113 | 1 |
| 4482 | Shoe Stores | \$1,882,464 | \$0 | \$1,882,464 | 0 |
| 4483 | Jewelry, Luggage & Leather Goods Stores | \$2,520,379 | \$508,105 | \$2,012,274 | 2 |
| 451 | Sporting Goods, Hobby, Book & Music Stores | \$6,111,239 | \$25,598,792 | (\$19,487,553) | 6 |
| 4511 | Sporting Goods/Hobby/Musical Instr Stores | \$5,151,232 | \$25,322,641 | (\$20,171,409) | 5 |
| 4512 | Book, Periodical & Music Stores | \$960,008 | \$276,151 | \$683,857 | 1 |
| 452 | General Merchandise Stores | \$26,298,145 | \$35,164,176 | (\$8,866,031) | 5 |
| 4521 | Department Stores Excluding Leased Depts. | \$15,789,554 | \$28,863,946 | (\$13,074,392) | 1 |
| 4529 | Other General Merchandise Stores | \$10,508,591 | \$6,300,230 | \$4,208,361 | 4 |
| 453 | Miscellaneous Store Retailers | \$9,157,018 | \$4,712,190 | \$4,444,828 | 16 |
| 4531 | Florists | \$787,368 | \$1,262,203 | (\$474,835) | 6 |
| 4532 | Office Supplies, Stationery & Gift Stores | \$2,492,106 | \$216,233 | \$2,275,873 | 2 |
| 4533 | Used Merchandise Stores | \$930,741 | \$428,207 | \$502,534 | 4 |
| 4539 | Other Miscellaneous Store Retailers | \$4,946,804 | \$2,805,546 | \$2,141,258 | 4 |
| 722 | Food Services & Drinking Places | \$22,055,632 | \$18,713,584 | \$3,342,048 | 50 |
| 7223 | Special Food Services | \$1,044,012 | \$454,652 | \$589,360 | 1 |
| 7224 | Drinking Places - Alcoholic Beverages | \$1,150,153 | \$864,507 | \$285,646 | 6 |
| 7225 | Restaurants/Other Eating Places | \$19,861,467 | \$17,394,426 | \$2,467,041 | 43 |

The table below displays the full extent of supportable retail in the Local Trade Area, if we assume a 25% recapture of existing retail leakage.

Supportable Retail Businesses and SF, Local Market Area

| NAICS | Industry | Gap | 25% Recapture | Average Sales per Business Upstate NY | Supportable Businesses | Average Sales per SF | Supportable SF |
|-------|---|--------------|---------------|---------------------------------------|------------------------|----------------------|----------------|
| 4411 | Automobile Dealers | \$10,451,879 | \$2,612,970 | \$6,464,930 | 0.40 | \$300 | 8,710 |
| 4421 | Furniture Stores | \$3,340,042 | \$835,011 | \$2,027,787 | 0.41 | \$300 | 2,783 |
| 4422 | Home Furnishings Stores | \$3,117,033 | \$779,258 | \$1,184,166 | 0.66 | \$300 | 2,598 |
| 4441 | Bldg Material & Supplies Dealers | \$2,941,414 | \$735,354 | \$1,954,940 | 0.38 | \$350 | 2,101 |
| 4442 | Lawn & Garden Equip & Supply Stores | \$1,302,469 | \$325,617 | \$775,768 | 0.42 | \$250 | 1,302 |
| 4453 | Beer, Wine & Liquor Stores | \$1,804,233 | \$451,058 | \$1,066,298 | 0.42 | \$250 | 1,804 |
| 4464 | Health & Personal Care Stores | \$11,350,385 | \$2,837,596 | \$2,148,105 | 1.32 | \$350 | 8,107 |
| 4481 | Clothing Stores | \$2,782,113 | \$695,528 | \$1,204,111 | 0.58 | \$300 | 2,318 |
| 4482 | Shoe Stores | \$1,882,464 | \$470,616 | \$1,105,683 | 0.43 | \$300 | 1,569 |
| 4483 | Jewelry, Luggage & Leather Goods Stores | \$2,012,274 | \$503,069 | \$668,152 | 0.75 | \$400 | 1,258 |
| 4512 | Book, Periodical & Music Stores | \$683,857 | \$170,964 | \$909,919 | 0.19 | \$300 | 570 |
| 4529 | Other General Merchandise Stores | \$4,208,361 | \$1,052,090 | \$3,236,651 | 0.33 | \$300 | 3,507 |
| 4532 | Office Supplies, Stationery & Gift Stores | \$2,275,873 | \$568,968 | \$733,863 | 0.78 | \$300 | 1,897 |
| 4533 | Used Merchandise Stores | \$502,534 | \$125,634 | \$291,897 | 0.43 | \$300 | 419 |
| 4539 | Other Miscellaneous Store Retailers | \$2,141,258 | \$535,315 | \$809,237 | 0.66 | \$300 | 1,784 |
| 7223 | Special Food Services | \$589,360 | \$147,340 | \$517,945 | 0.28 | \$400 | 368 |
| 7224 | Drinking Places - Alcoholic Beverages | \$285,646 | \$71,412 | \$299,624 | 0.24 | \$200 | 357 |
| 7225 | Restaurants/Other Eating Places | \$2,467,041 | \$616,760 | \$612,637 | 1.01 | \$200 | 3,084 |
| TOTAL | | \$54,138,236 | \$13,534,559 | | | | 44,537 |

Given a 25% recapture rate, the Local Market Area could support a new establishment in **Health & Personal Care Stores** and **Restaurants/Other Eating Places**. While other retail categories do not show sufficient recapture to support a new establishment, evidence suggests existing establishments in these categories could expand. Using industry-standard average sales per square foot across these other retail categories, we estimate that, given a 25% recapture rate, the Local Market Area can support around 44,537 square feet of additional retail space.

Real Estate Trends

The following market analysis presents data on multi-family residential real estate trends in Lewis County. We also consider Lewis County’s commercial real estate trends across Office, Industrial, and Retail categories.

Important Data Note: All figures and tables below represent data only related to properties included in the CoStar database. CoStar data does not include all properties (for example: CoStar excludes commercial properties that are exclusively owner-occupied). Furthermore, in a predominately rural community such as Lewis County, data coverage is sometimes spotty. Therefore, we look more at trends and relative values and not only absolute numbers.

Multi-Family Housing

Below are key indicators from the CoStar data of the multi-family housing market in Lewis County and the North Country Region.

Lewis County



North Country



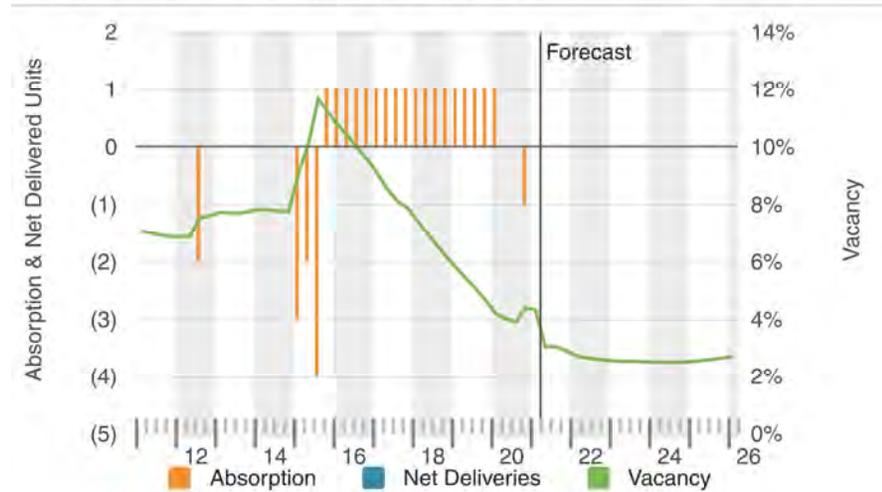
Of the 18,400 multi-family units included in CoStar for the North Country, just 243 units are located in Lewis County. Vacancy rates among both geographies are currently around 4%. Market rent in Lewis County is notably lower than market rent in the larger North Country region as a whole, at \$822 and \$1,062 in monthly rent, respectively. This is likely due to the influence of Fort Drum on rents in Watertown, and the higher rent prices achieved in Plattsburgh.

In the “Absorption, Net Deliveries & Vacancy” chart, we look further back over the last ten years.

- Vacancy rates in Lewis County and the North Country have been declining since 2015.
- The North Country’s real estate market has shown strong fundamentals over the last five years.
- Several deliveries over the last ten years in the North Country have brought over 700 units to the region.
- Generally, the newly delivered units were absorbed in the same year as delivery, indicating demand for multi-family units.
- Vacancy rates have dropped in recent years in the North Country from 6% to around 4%.

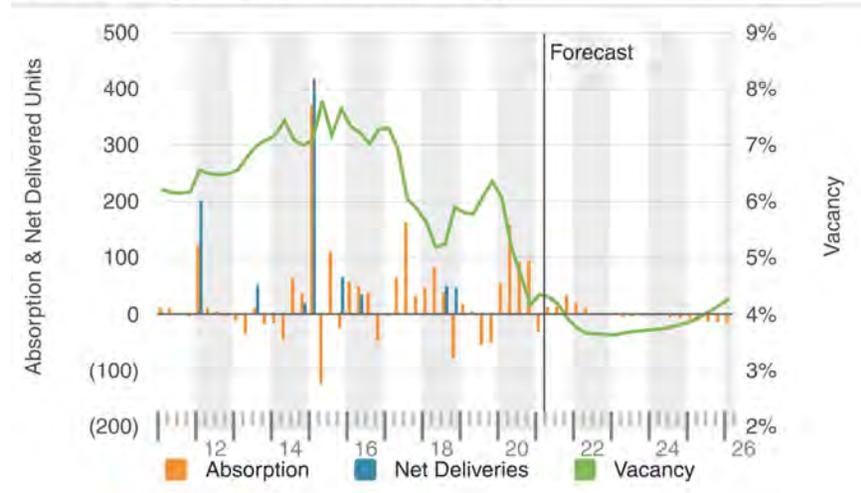
Lewis County

Absorption, Net Deliveries & Vacancy



North Country

Absorption, Net Deliveries & Vacancy



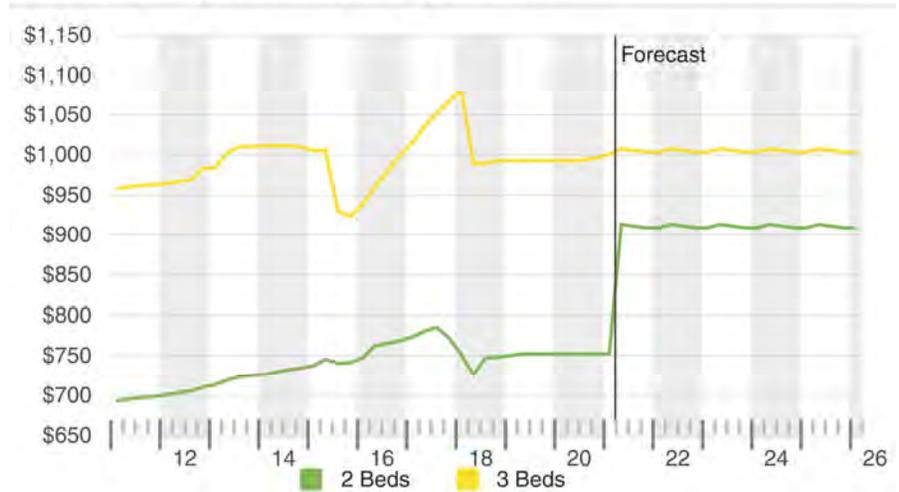
In Lewis County, multi-family rents have ranged from \$700-\$750 and from \$950 to \$1,075 in monthly rent, depending on bedroom count. There has been a recent jump in asking rent for 2-bedroom units, which compromise roughly half of the inventory of units, signaling a potential change in market dynamics.

In the North County over the last ten years, market rents have also stayed within a tight range, with rent growth of between 1% and 3% annually. In general, rent prices have moved in parallel across bedroom counts, except for a recent jump in rents for one-bedroom units.

Average asking rents in Lewis County are generally below asking rents in the North Country for comparably sized apartments.

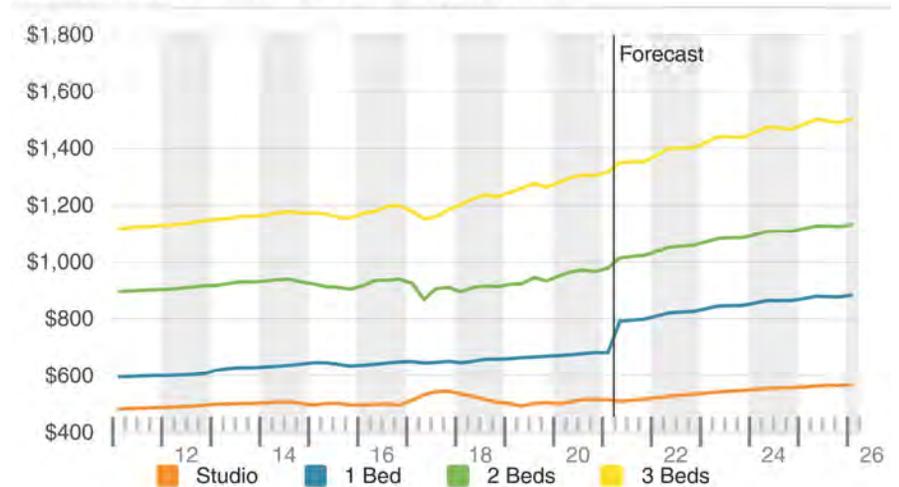
Lewis County

Market Asking Rent Per Unit By Bedroom



North Country

Market Effective Rent Per Unit By Bedroom



Below is a table showing the inventory of building, units, and descriptive data for other Lewis County multi-family properties:

Lewis County Multifamily Inventory

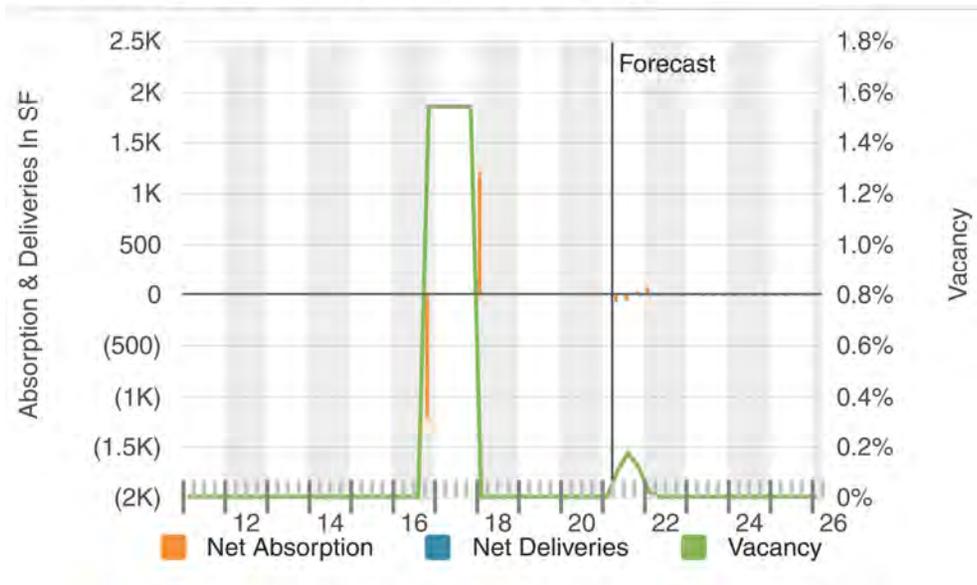
| Property Address | Property Name | Year Built | Number Of Units | RBA | % Studios | % 1-Bed | % 2-Bed | % 3-Bed | % 4-Bed | Market Segment | Avg Unit SF | Style | Rent Type |
|----------------------|--------------------------|------------|-----------------|---------|-----------|---------|---------|---------|---------|----------------|-------------|----------|------------|
| 14168 Church St | Harris Courts Apartments | 1979 | 20 | 17,866 | - | 100.0% | - | - | - | Senior | 650 | Garden | Affordable |
| 5323 Dayan St | - | 1900 | 6 | 6,229 | - | 83.3% | 16.7% | - | - | All | 1,039 | Low-Rise | Market |
| 1000 Hemlock Dr | Willow Landing | 1985 | 56 | 113,078 | - | - | 42.9% | 35.7% | 21.43% | All | 1,305 | Garden | Market |
| 7139 E Main St | - | 1931 | 4 | 3,290 | - | - | - | - | - | - | - | - | Market |
| 7052 W Main St | - | 1840 | 3 | 2,342 | - | 33.3% | 33.3% | 33.3% | - | All | - | Low-Rise | Market |
| 7056 W Main St | - | 1840 | 2 | 2,084 | - | 50.0% | - | 50.0% | - | All | - | Low-Rise | Market |
| 5359 N South Rd | - | 1920 | 5 | 5,000 | - | 60.0% | 20.0% | 20.0% | - | All | - | Low-Rise | Market |
| 7574 S State St | The Bateman Apartments | 1950 | 24 | 23,246 | 13% | 75.0% | 12.5% | - | - | All | 650 | Mid-Rise | Affordable |
| 6926 George St | Steepleview Court | - | 20 | 15,624 | - | - | - | - | - | All | - | Low-Rise | Affordable |
| 7054 W Main St | - | 1840 | 2 | 2,342 | - | 50.0% | - | 50.0% | - | All | - | - | Market |
| 700 Phalen Dr | Parkstead Copenhagen | 1990 | 75 | 125,657 | - | - | 100.0% | - | - | All | 1,204 | Garden | Market |
| 4892 State Route 410 | Karcher Country Estates | - | - | 16,998 | - | - | - | - | - | Senior | - | Mid-Rise | Affordable |
| 5475 Water St | Mill Creek Apartments | - | 10 | 10,830 | - | - | 50.0% | 50.0% | - | All | 1,083 | Low-Rise | Affordable |

A majority of units are contained within just two properties, namely Parkstead Copenhagen and Willow Landing. The remaining units are contained in properties of 24 units or fewer.

Office

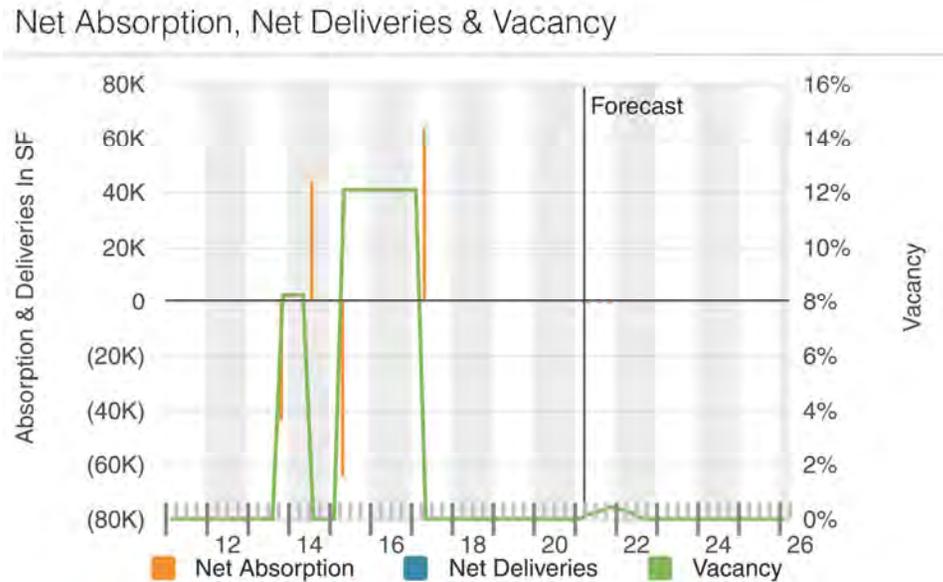
In CoStar’s database, there are approximately 78,000 square feet (SF) of office space in Lewis County. Current asking rent for office space is \$18.42/SF. Vacancy rates have been persistently low – near 0% for the last ten years. One property vacated in Q4 2016, was fully leased in Q1 2018, driving vacancy rates back down to zero.

Net Absorption, Net Deliveries & Vacancy



Industrial

In the industrial space market, CoStar’s database includes roughly 532,000 SF of inventory in Lewis County. This inventory is currently priced at \$5.11/SF and is fully occupied. Over the last ten years there have been no deliveries to the industrial market (excluding properties that are exclusively owner-occupied.)

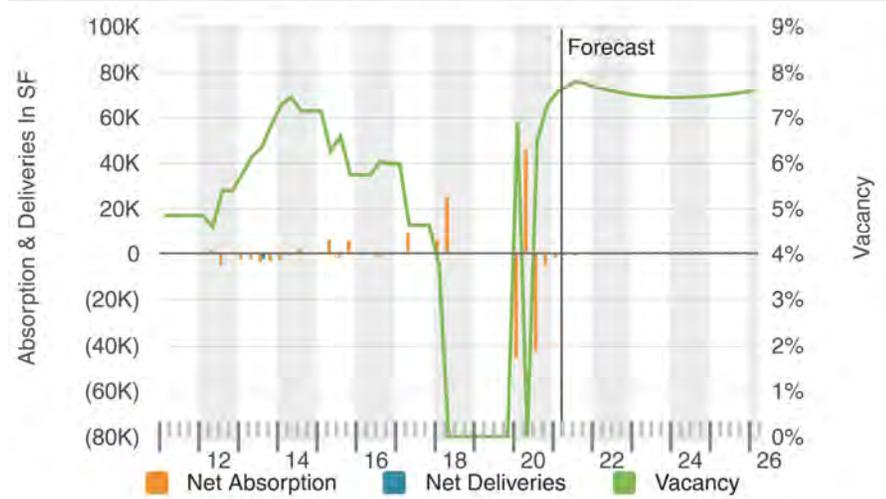


Retail

In CoStar’s database, there are approximately 657,000 SF of retail space in Lewis County. The County’s retail real estate market has been notably volatile over the last ten years. Vacancy rates have ranged from 0% - 8%, with no positive net deliveries. Current vacancy rates are 7.6%. From 2020, net absorption was also volatile, likely a result of the COVID-19 pandemic.

The current market rent is \$9.85/SF. Asking rent has declined over \$3.00/ SF from 2011.

Net Absorption, Net Deliveries & Vacancy



Asking Rent Per SF



Hospitality

CoStar recently acquired STR (formerly: Smith Travel Research), the nation’s leader in hospitality-related data. Costar/STR contains data from essentially all “flagged” hotels, which are those hotels owned or branded by a national hotel chain. This data does not include small, unbranded properties, such as boutique hotels and AirBNB listings.

Below are key indicators from the CoStar data of the hospitality market in Lewis County.

Lewis County



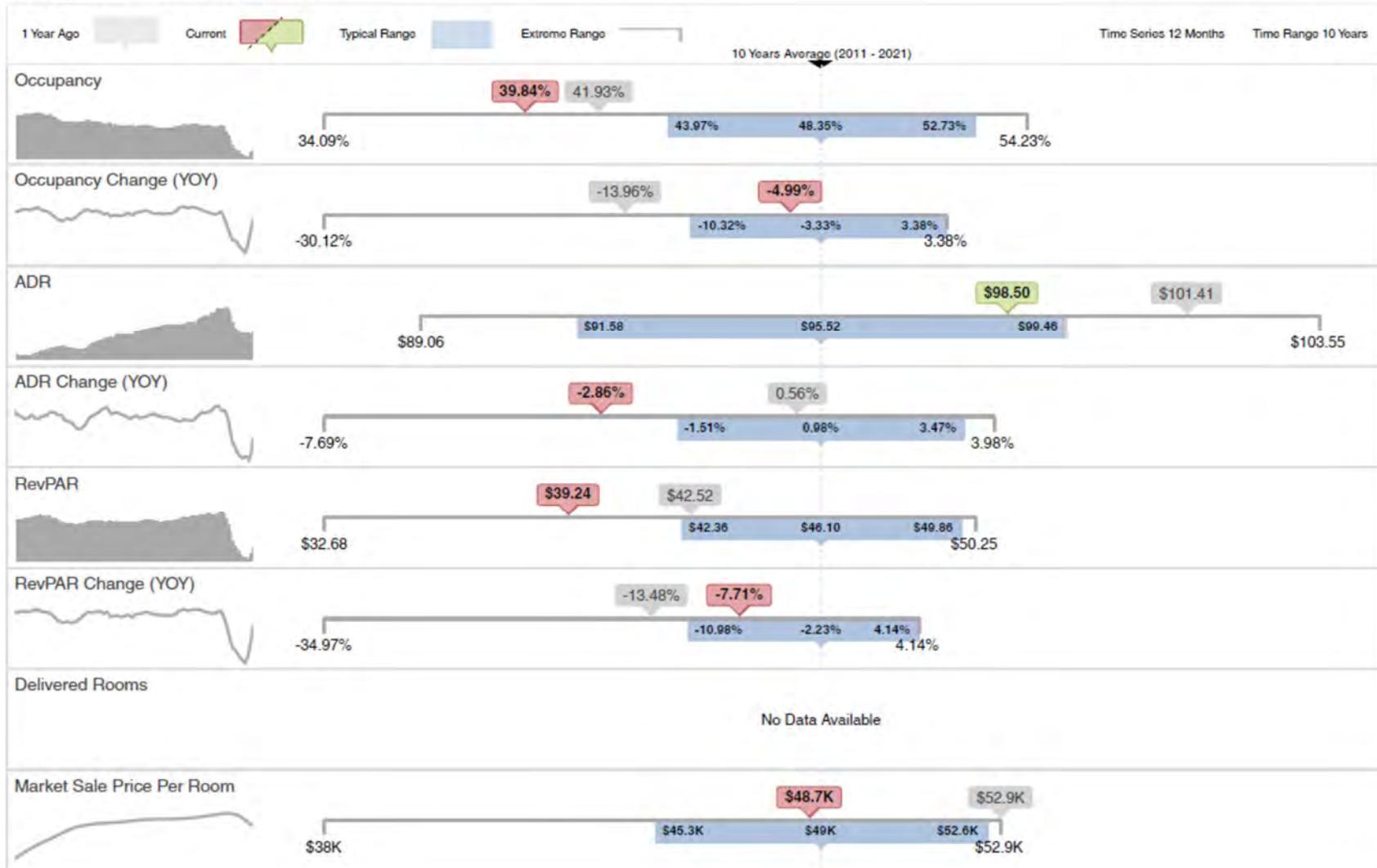
Important Note: The COVID-19 pandemic has heavily influenced these figures. For context, across the Upstate New York region, the 12-month occupancy rate was 43.8%, the 12-month Average Daily Rate (ADR, which is the average of advertised rate per day) was \$129, and the 12-month Revenue Per Available Room (RevPAR, which is total revenue divided by the number of rooms) was \$56. The historical average for Upstate is 73.0% for occupancy, \$153 for ADR and \$112 for RevPAR. These represent enormous declines, with 12-month RevPAR values at half the historical average.

In Costar’s database, there are 157 hotel rooms in Lewis County, with none under construction. 12-month occupancy is at 39.8% compared to the ten-year average of 48.4%. 12-month ADR is \$99 compared to the ten-year average of \$95 (and last year’s ADR of \$101). 12-month RevPAR is \$39 compared to a 10-year average of \$46. In effect, a curious phenomenon happened in 2020 where Lewis County hotels were able to charge more per room rented than the 10-year average, but rented far fewer rooms (occupancy of 39.8% versus 48.4%).

Despite this particular wrinkle from the last 12-months, the overall hospitality market in Lewis County is weak as compared to Upstate New York as a whole. RevPAR of only \$46 would make a typical large, new, flagged hotel financially infeasible. And yet, properties such as the Tailwater Lodge (see the Case Studies section) show that certain properties are feasible and expanding in use. In the case of Tailwater Lodge, it is clearly because they offer a specialized service to a very particular targeted audience that responds well to their offerings.

A complete set of key performance indicators for Lewis County are on the following page.

Key Performance Indicators



For comparison purposes, below are relevant key performance indicators and ranges for all of Upstate New York:

KEY INDICATORS

| Class | Rooms | 12 Mo Occ | 12 Mo ADR | 12 Mo RevPAR | 12 Mo Delivered | Under Construction |
|--------------------------|---------------|--------------|-----------------|----------------|-----------------|--------------------|
| Luxury & Upper Upscale | 2,092 | 41.0% | \$297.54 | \$121.89 | 93 | 0 |
| Upscale & Upper Midscale | 7,545 | 49.7% | \$129.64 | \$64.46 | 110 | 0 |
| Midscale & Economy | 10,976 | 40.1% | \$91.51 | \$36.73 | 67 | 95 |
| Total | 20,613 | 43.8% | \$128.55 | \$56.34 | 270 | 95 |

| Average Trend | Current | 3 Mo | YTD | 12 Mo | Historical Average | Forecast Average |
|------------------|----------|----------|----------|----------|--------------------|------------------|
| Occupancy | 56.9% | 48.8% | 43.0% | 43.8% | 73.0% | 67.2% |
| Occupancy Change | 63.4% | 87.2% | 38.0% | -5.6% | -3.7% | 1.2% |
| ADR | \$134.50 | \$118.53 | \$116.16 | \$128.55 | \$152.85 | \$150.25 |
| ADR Change | 30.4% | 28.7% | 14.4% | 1.9% | 1.6% | 2.3% |
| RevPAR | \$76.49 | \$57.88 | \$49.97 | \$56.34 | \$111.50 | \$100.92 |
| RevPAR Change | 113.1% | 141.0% | 57.8% | -3.8% | -2.2% | 3.6% |

Case Studies

To help frame a potential reuse of the Site and Building, we have collected several case studies of school buildings in Upstate New York that have been sold for the purposes of a private-party reuse. Most of the reuse examples were collected from communities in the North Country, and all are from relatively rural areas.

Port Leyden Elementary School - Proposed

South Lewis Central School District also owns The Port Leyden Elementary School, which is located at 3336 Lincoln Street, Port Leyden. Like the subject property, the school district is closing this school and both Port Leyden and Glenfield elementary schools will be consolidated into a single facility. Key statistics include:

- Acreage: approximately 4 acres
- Gross SF: approximately 37,000 SF
- Constructed: 1921, with an addition in 1951
- Max. Stories: 3
- Parking: 50
- Utilities: Public water/sewer

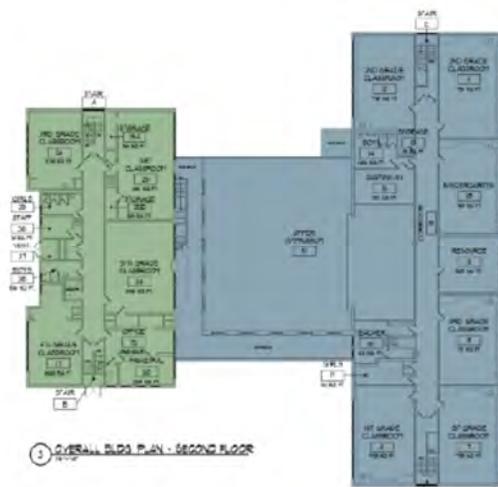


The original building was constructed in 1921 (shown in green on the following page), with an addition in 1951 (shown in blue) and minor renovations in 2011 (handicap accessible ramps).

According to Britt Abbey, the agent representing the school district, when the school district put this property up for bids, two interested parties presented themselves:

- One was a holding company from Texas that proposed using the building for two software company tenants.
- The second bidder was a private individual from the area. He proposed to use half the building to create 55+ senior housing and the other half for to-be-determined office/retail/community uses.

The school district ultimately chose the second bidder and the lower amount. The attractiveness of the second offer centered around uses that would require more public water/sewer, thus helping maintain the finances of those systems. An additional contributing factor to the decision was that the private individual making the bid was a known entity, whereas the holding company from Texas as was otherwise unknown in the community. The intended use (senior housing) was deemed desirable during a survey of district residents before marketing. The public also deemed the intended use to have a larger positive impact on the community in the near term and utilized a larger portion of the structure.

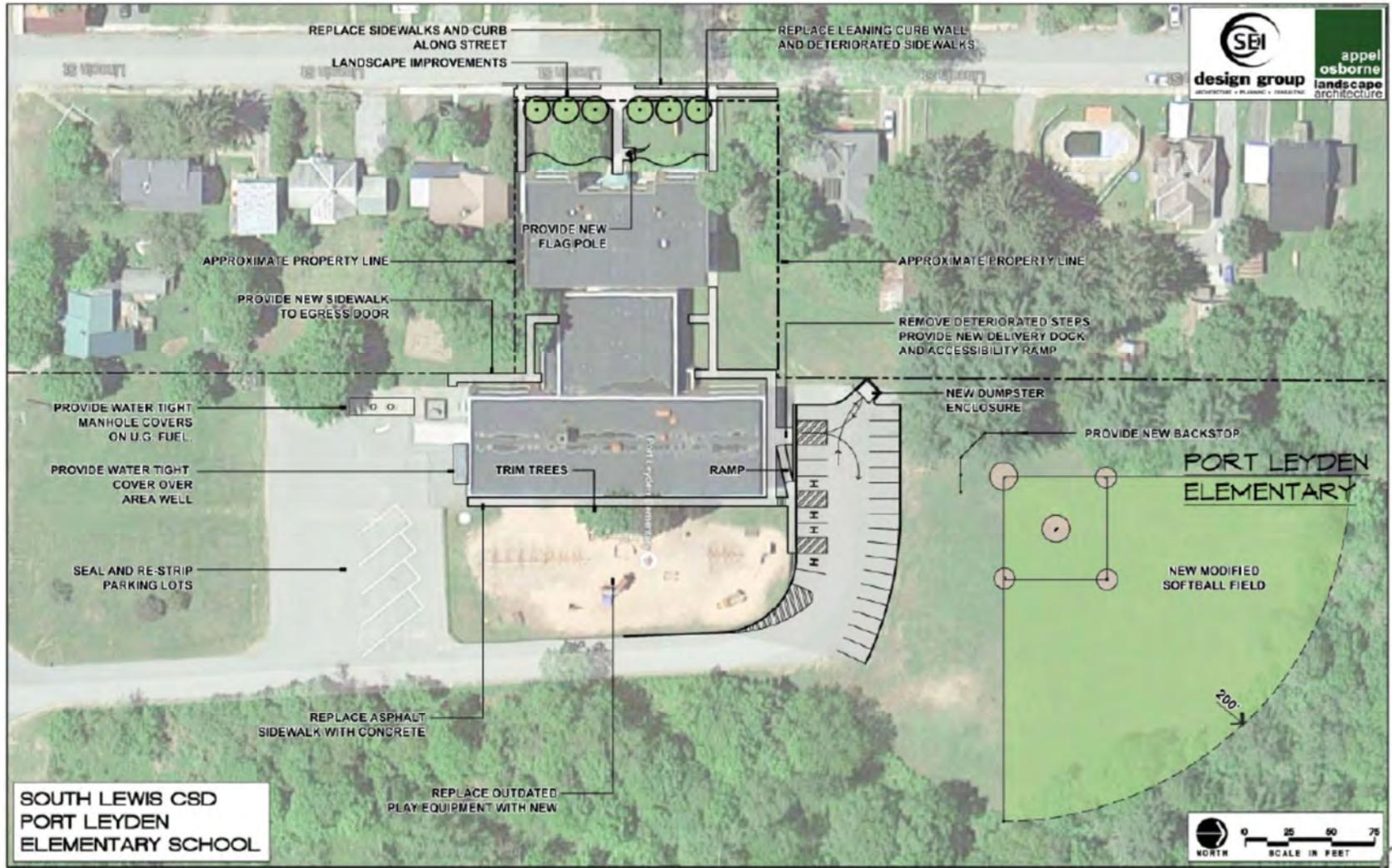


**PORT LEYDEN
ELEMENTARY**
BUILDING VINTAGE

LEGEND

- 1421
- 1981
- 2011





Tailwater Lodge - Complete

The Woodbine Hospitality Group has completed perhaps the most successful and high-profile reuses of a school building in all of Northern New York. According to Tailwater's website:

"Once the former Altmar Elementary School, Tailwater Lodge is a unique destination all its own. Located on the world-class Salmon River, Tailwater Lodge offers dedicated trophy fly fishing water right on property."

The project was originally conceived as a 42-room hotel in the 32,000 SF Altmar Elementary School in the Town of Albion when the Altmar-Parish-Williamstown Central School District did a similar consolidation as the one being done in South Lewis. It was slated to create 30 full-time and 24 part-time jobs and cost \$2.2 million.



The project was so successful that the hotel has expanded to "88 luxurious guest rooms [that] feature plush decor along with free WiFi, flat-screens, fridges and bathrooms. The suites have sitting areas with pull-out couches."¹ According to their website, the lodge also has an indoor pool and outdoor hot tub, Tailwater Bar and Restaurant, and a full-service fly shop on site.

The company sees Tailwater Lodge's former use as a school building as a selling point: "[The project's] most sustainable feature is that it is an adaptive reuse. For example, if you look at the restaurant floor, it's the old gymnasium floor that kids used to play basketball and dodgeball on, which is super cool, and we utilized every same door and window cut from a material standpoint. So, the building really stayed the same and we brought in some high efficiency electric and re-did the plumbing. We utilize a well system that is super-efficient and from an indoor air quality perspective, all of our wall finishing's and carpet have no off-gassing, so really all of the features a LEED building would have, but just being sustainably built, and not LEED certified."²

¹ <https://www.discoverupstateny.com/packages/4120/tailwater-lodge/>

² <https://emergerstrategies.com/the-sustainable-angler-tailwater-lodges-tom-fernandez/>

Parish Elementary School - Complete

As noted in the previous case study, Altmar-Parish-Williamstown Central School District began a consolidation effort in 2012 which included closing the Parish and Altmar elementary schools and consolidating them into a new facility. Tailwater Lodge reused the Altmar school building and the Parish Elementary School was purchased for \$340,000 by BioSpherix, Ltd. for use as a research and manufacturing facility.



BioSpherix, Ltd is a biomedical firm, originally from Lacona, NY which makes cell incubation and processing systems.³ According to its website, BioSpherix, Ltd., "...created the first device to control oxygen levels in an incubator, pioneering the science of optimal biosphere control for in vitro experimentation and cell culture processes. This innovation created a more physiologic environment which produced healthier cells in culture. Over the years, BioSpherix® has worked with many cell researchers and scientists to uncover the benefits of culturing and processing cells in a physiologic environment. This led to the creation of the Xvivo System® platform, allowing entire protocols to be conducted in an aseptic, uninterrupted, and optimized way. [...] In 2014, BioSpherix Medical®, located in Parish, NY, was established to accommodate the demand for a vast array of cell culture lab equipment for cell research and cell/gene therapies."

The school building was roughly 40,000 SF in size and continues to be used by BioSpherix, Ltd. As reported when BioSpherix purchased the school building, one of the selling points was its proximity to Syracuse Airport for air freight purposes. The company also benefited from a PILOT agreement from the local IDA.



³ https://www.syracuse.com/news/2012/10/lacona_biomedical_firm_buys_pa.html

Constableville – Complete

Previously owned by the South Lewis Central School District, the Constableville Elementary School at 5837 Main Street in Constableville was sold in 2012 to a private individual. The building is roughly 16,000 sf in size.

The school building is currently being used for two purposes: as a primary residence for its owners and for overnight accommodations, similar to a hostel or bed & breakfast. The owners did some minor renovations of the property, furnished it for these purposes, and have been renting rooms ever since. One of the renovations was to replace the oil-fired boiler with a boiler fired by woodchips; significantly reducing heating costs for the property.

The property is listed on AirBNB at \$72 per night with a description as follows:

“You will be a guest in our 16,000 sq. ft. school building. Comfortable, warm, friendly hosts. It is a very refreshing environment. Breakfast is not included in your stay but it may be available for any donation you think is fair. Prior to check-in message us concerning breakfast as time to prepare is necessary if we can accommodate.”



Waterloo School – In Process

For several years, the Village of Waterloo, located in Seneca County, has been attempting to reuse the former Waterloo High School. Located near downtown and on Main Street, this building has been vacant for several years. The Village has been working with an affordable housing non-profit called "Two Plus Four" to apply for assistance from New York State's Housing and Community Renewal (HCR) for the funds necessary to do the conversion.

In April 2021, it was announced that, \$6.1 million was awarded for "Lafayette Apartments," which will create 33 apartments for seniors 62 and older.

"We are very excited about moving this project forward to preserve and return to use such a beautiful, historic building and backdrop in Waterloo," said David Kimmel, vice president of development for Two Plus Four Companies of

East Syracuse, the company that bought the school. "All affordable housing projects must go through a competitive round where we compete for funds against other developers across the state, competing specifically within the region where the project is located. This was one of two projects chosen for the Finger Lakes Region, which is historically a very competitive region due to the presence of Rochester in the region and lots of developers proposing projects in the region."⁴

In addition to HCR funds and tax credits, the project will benefit from state and federal historic rehabilitation tax credits as well as a PILOT exemption from the Seneca County IDA.



⁴ https://www.fltimes.com/news/apartment-conversions-in-waterloo-sf-get-boost-from-state/article_bb5bf867-c2f7-5ce7-9a8c-d7810bbc0389.html

Public Engagement



Glenfield School

Upon learning of the South Lewis School District's desire to liquidate this facility, Lewis County Planning and Community Development Department applied for a New York Main Street Grant to complete a Reuse Study and Market Analysis in preparation of the building's closure. The application was successful and New York State awarded funding to Lewis County.

During this time, a purchase offer was made and accepted by Board of Education. While the planned primary use has been determined to be an Information Technology (IT) training center, the buyer also seeks to operate other parts of the building for additional uses that have not been formalized. As such the County began developing the Reuse Study and Market Analysis with community input gleaned from an earlier survey.

Public Meeting

On August 3, 2021, approximately a dozen people met at the Glenfield Elementary School to consider the fate of the soon-to-be-vacant school building in the Glenfield hamlet. The meeting was facilitated on behalf of the County by Michael N'Dolo, Director of Economic Development Services for MRB Group and Nicole T. Allen AICP, Director of Planning & Community Development of Laberge Group. Both provided an overview of findings concerning the site condition, market analysis, case studies and previous public input.

Zoning requirements that would shape any future development on the site were also discussed. According to existing zoning laws, the site could be used for agriculture, commercial uses, or public and semi-public facilities such as schools, churches, libraries or community centers. It could not be used for active recreation or uses such as a campground, junkyard, or mobile home or travel trailer park.

Ms. Allen shared that the majority responding to a public survey felt reuse of the elementary building should contribute to tax revenues and maintain income for the sewer and water system, so as not to increase rates. A majority of respondents also felt new business would provide a boost for other local businesses and provide new jobs. Specific reuse suggestions from the survey included child care, senior housing, a community center, recreation, a youth center, county offices, college facilities, affordable housing, and hospitality uses.

Mr. N'dolo discussed successful reuse stories such as a lodge in Albion where a school was converted into a hotel (which has since expanded), a biomedical research and manufacturing facility in Parish which was also an educational facility, and finally, a former school which is now a bed and breakfast in Constableville



Michael N'dolo of MRB Group- Elaine M. Avallone/Johnson Newspapers

During the workshop, Douglas Dietrich, Glenfield resident and local business owner, stated that there was, “a definite need for a restaurant” and voiced concerns about the existing playground. “It’s the only playground the hamlet has,” he said. “They could exclude it and give it to the town of Martinsburg where people in Glenfield have a place to play.” Also, during the workshop, Katie Malinowski, Tug Hill Commission Executive Director, pointed out the support found in surveys for childcare and that there was support from the state for this. “Daycare is needed to help get people back to work,” she said.

One of the reuse concepts discussed at length was identifying a use that would support the local recreation and tourism industry. In particular, attendees discussed using the back portion of the building as a boutique hotel or AirBNB that would be periodically used as lodging for students attending the IT school and otherwise available for AirBNB or other temporary lodging use.

At the beginning and at the end of the presentation, attendees were invited to review a set of presentation boards and asked to provide written ideas.

Survey

As described above, a public survey was conducted prior to this study to collect information about the public’s views on the various potential reuses of the building. That survey is attached as Attachment C.

Reuse Concept Testing

Concept

Shamsul Alam (the "Owner") occupies the front part of the building (i.e., original 1931 building and 1979 addition) and leases out the back portion of the building to a hotel operator (i.e., the entire 1995 addition). The back portion of the building includes the spaces marked "Lobby" and "Vestibule" and all spaces to the rear of the property. The vestibule would be the main entrance to the proposed hotel (see blue arrow), and the drop-off circle would be connected to the back parking lot for ease of parking/access for hotel guests (see blue diamond).



Entrance and parking for hotel

Renovation Cost Assumptions

Going from classroom space to hotel space would be considered a “full renovation.” According to JN+A and HVS Design’s “Hotel Cost Estimating Guide” (see Appendix E for complete tables), a full renovation would require an average of \$10,072 for the room itself plus \$8,558 for the bathroom. Thus, at 15 rooms, the total “full renovation” cost would be \$18,630 per room or \$279,450 for all 15 rooms. According to the same source, the cost for full corridor renovation per room would be \$1,081 or \$16,215. We also add costs for the lobby (\$38,702), minor food service space (\$15,000), outdoor amenities such as a fire pit, patio landscaping, outdoor lighting and outdoor furniture (\$58,332), and miscellaneous items such as signage, laundry, electronic key system, dumpster enclosure, janitorial and common space lighting (\$45,000). We add a line item for architectural and engineering (A&E) as well as a 20% contingency figure. As shown in the table, below, the full renovation would cost a total of approximately \$625,000.

| Renovation Costs | |
|-------------------|------------------|
| Type | Amount |
| Rooms | \$279,450 |
| Corridor | \$16,215 |
| Lobby | \$38,702 |
| Food Service | \$15,000 |
| Outdoor Amenities | \$58,332 |
| Misc. | \$45,000 |
| A&E | \$67,905 |
| Contingency | \$104,121 |
| Total | \$624,725 |

Capital Assumptions

We assume a favorable, long-term lease arrangement between the building Owner and the hotel operator, in consideration of the major renovations required for the hotel and the synergies between the hotel operator and the IT school students needing lodging. Because of this arrangement, we have assumed a lease payment of only \$16,000 per year between the hotel operator and the owner. It is assumed that this would cover the property taxes, insurance and common area maintenance costs incurred by the owner for the hotel portion of the building, as well as a small portion of the presumed debt service on the building purchase by the owner. In this concept, the building owner is responsible for the maintenance of the grounds other than those used by the hotel guests, such as the playground and ball fields.

Given this concept’s small, boutique nature, we have assumed that the hotel operator will be required to commit a substantial amount cash equity into the project, with only 65% bank financing leverage. Therefore, sources of funds would be ~\$219,000 in cash and ~\$406,000 in bank financing.

| Sources | |
|--------------|------------------|
| Type | Amount |
| Cash Equity | \$218,654 |
| Bank Loan | \$406,071 |
| Total | \$624,725 |

We assume an amortization of 20 years (term of 10 years) and an interest rate of 5.75%. The debt service requirements are shown below, with payments totaling \$34,211 per year.

| Debt Service Schedule | | | | | | | | | | |
|------------------------------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|
| Financing Year | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 |
| Debt Service | (34,211) | (34,211) | (34,211) | (34,211) | (34,211) | (34,211) | (34,211) | (34,211) | (34,211) | (34,211) |
| Interest | (23,058) | (22,400) | (21,702) | (20,964) | (20,182) | (19,353) | (18,476) | (17,547) | (16,563) | (15,521) |
| Principal | (11,153) | (11,812) | (12,509) | (13,248) | (14,030) | (14,858) | (15,735) | (16,664) | (17,648) | (18,690) |
| Year End Remaining Principal | 394,918 | 383,106 | 370,597 | 357,349 | 343,319 | 328,461 | 312,726 | 296,061 | 278,413 | 259,723 |

Revenue Assumptions

The market analysis showed ten-year average occupancy in Lewis County of 48.4%, \$95 average daily rate (ADR) and \$46 in revenue-per-available-room (RevPAR). We will use these figures for the majority of the revenue forecasting. However, we also assume that the property owner will enter into an agreement with the hotel operator to allow for occupancy of the rooms by visiting studies to the IT school. We assume that this arrangement will allow for 80% occupancy of hotel rooms at a reduced ADR of \$60 during the approximately 12 weeks of the year that the building owner wishes to have IT school "boot camps." For the remaining 40 weeks, we assume \$46 RevPAR (48.4% occupancy x \$95 ADR). This yields total room revenue of ~\$254,000.

| Room Revenue | |
|------------------------|------------------|
| Student Housing | Amount |
| ADR | \$60 |
| Occupancy | 80% |
| Nights | 84 |
| Rooms | 15 |
| Subtotal | \$60,480 |
| Hotel | Amount |
| ADR | \$95 |
| Occupancy | 48% |
| Nights | 280 |
| Rooms | 15 |
| Subtotal | \$193,116 |
| Total Room Rev. | \$253,596 |

We assume that any foodservice would consist of complimentary coffee/tea and light breakfast food for a nominal price and net revenue. For the proforma, we ignore these potential costs/revenues.

Operating Assumptions

We have assumed that the hotel operator would be a single individual who would serve as the developer, the general manager and full-time operator of the hotel, assisted by other staff. The hotel would not be a “flagged” hotel (i.e., of a major brand) but instead would source patrons through online marketing and via one or more online accommodation platforms such as AirBNB. To estimate operating expenses, we have relied principally on existing pro forma financial statements of other boutique hotels as provided by Interim Hospitality Consultants, adjusted for local conditions (e.g. wages) and the unique dual-customer base of this concept.

Below is a description of operating expenses as listed in the pro forma:

- Administrative and General – This includes accounting fees, bank charges, computer expenses, legal fees, printing, telephone, etc.
- Sales – 15% of gross revenues, assumed to be paid to third-party booking sites (e.g. AirBNB).
- Repairs and Maintenance – This includes miscellaneous repairs by 3rd parties.
- Salaries and Benefits – Operator – Payments to the hotel operator/general manager.
- Salaries and Benefits – Other – Payments made to part-time and seasonal staff to oversee hotel functions when the operator/owner is unavailable and for cleaning/linen service. This assumes two part-time, seasonal staff and statutory benefits.
- Rent to Owner – As described above, this includes minimal rent to cover common area maintenance, property taxes, insurance costs incurred by Owner.
- Insurance – Premiums paid for operator business liability insurance.
- Utilities – Payments for water, heat, hot water, broadband, garbage service.
- Miscellaneous – Includes all other operating expenses, such as the cost of linen service, cable television fees, periodic carpet cleaning, cleaning supplies, guest room supplies, etc.

| Operating Expense Assumptions | |
|-------------------------------|----------|
| Annual Escalator | 2% |
| Operator Salary | \$40,000 |
| Sales Commission | 15% |
| PT Salaries | \$25,000 |
| Rent to Owner | \$16,000 |
| Insurance | \$5,114 |
| Utilities | \$14,860 |
| Misc. | \$13,636 |
| Replacement Res. | \$1,626 |

Pro Forma Financial Analysis Results

Given the above assumptions, we have laid out the project's cash flow to the hotel operator below. The project achieves a debt service coverage ratio of 2.46, well above the presumed minimum of 1.25 that a lender would require. Note that the negative cash flow in the "Construction" column of -\$218,654 is the amount of cash equity that the operator would have to provide to satisfy lending and project requirements.

Project Cash Flow Analysis

| | Construction | Year 1 | Year 2 | Year 3 | Year 4 | Year 5 | Year 6 | Year 7 | Year 8 | Year 9 | Year 10 |
|---|---------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|
| <i>Gross Income</i> | | | | | | | | | | | |
| Room Revenue | \$ - | \$ 253,596 | \$ 258,668 | \$ 263,841 | \$ 269,118 | \$ 274,500 | \$ 279,990 | \$ 285,590 | \$ 291,302 | \$ 297,128 | \$ 303,071 |
| Gross Income | \$ - | \$ 253,596 | \$ 258,668 | \$ 263,841 | \$ 269,118 | \$ 274,500 | \$ 279,990 | \$ 285,590 | \$ 291,302 | \$ 297,128 | \$ 303,071 |
| <i>Operating Expenses</i> | | | | | | | | | | | |
| Administrative and General | \$ - | \$ 12,218 | \$ 12,463 | \$ 12,712 | \$ 12,966 | \$ 13,225 | \$ 13,490 | \$ 13,760 | \$ 14,035 | \$ 14,316 | \$ 14,602 |
| Sales (Fees to Third Parties) | \$ - | \$ 38,039 | \$ 38,800 | \$ 39,576 | \$ 40,368 | \$ 41,175 | \$ 41,999 | \$ 42,839 | \$ 43,695 | \$ 44,569 | \$ 45,461 |
| Repairs and Maintenance | \$ - | \$ 2,911 | \$ 2,970 | \$ 3,029 | \$ 3,090 | \$ 3,151 | \$ 3,214 | \$ 3,279 | \$ 3,344 | \$ 3,411 | \$ 3,479 |
| Salaries and Benefits - Operator | \$ - | \$ 40,000 | \$ 40,800 | \$ 41,616 | \$ 42,448 | \$ 43,297 | \$ 44,163 | \$ 45,046 | \$ 45,947 | \$ 46,866 | \$ 47,804 |
| Salaries and Benefits - Others | \$ - | \$ 25,000 | \$ 25,500 | \$ 26,010 | \$ 26,530 | \$ 27,061 | \$ 27,602 | \$ 28,154 | \$ 28,717 | \$ 29,291 | \$ 29,877 |
| Rent to Owner | \$ - | \$ 16,000 | \$ 16,320 | \$ 16,646 | \$ 16,979 | \$ 17,319 | \$ 17,665 | \$ 18,019 | \$ 18,379 | \$ 18,747 | \$ 19,121 |
| Insurance | \$ - | \$ 5,114 | \$ 5,216 | \$ 5,320 | \$ 5,427 | \$ 5,535 | \$ 5,646 | \$ 5,759 | \$ 5,874 | \$ 5,991 | \$ 6,111 |
| Utilities | \$ - | \$ 14,860 | \$ 15,157 | \$ 15,461 | \$ 15,770 | \$ 16,085 | \$ 16,407 | \$ 16,735 | \$ 17,070 | \$ 17,411 | \$ 17,759 |
| Misc (Linens, cleaning, cable) | \$ - | \$ 13,636 | \$ 13,909 | \$ 14,187 | \$ 14,471 | \$ 14,760 | \$ 15,056 | \$ 15,357 | \$ 15,664 | \$ 15,977 | \$ 16,297 |
| Replacement Reserves | \$ - | \$ 1,626 | \$ 1,659 | \$ 1,692 | \$ 1,726 | \$ 1,760 | \$ 1,795 | \$ 1,831 | \$ 1,868 | \$ 1,905 | \$ 1,943 |
| Total, Operating Expenses | \$ - | \$ 169,405 | \$ 172,793 | \$ 176,249 | \$ 179,774 | \$ 183,370 | \$ 187,037 | \$ 190,778 | \$ 194,593 | \$ 198,485 | \$ 202,455 |
| Net Operating Income | \$ - | \$ 84,191 | \$ 85,875 | \$ 87,592 | \$ 89,344 | \$ 91,131 | \$ 92,953 | \$ 94,812 | \$ 96,709 | \$ 98,643 | \$ 100,616 |
| <i>Capital Budget</i> | | | | | | | | | | | |
| Debt Service | | \$ (34,211) | \$ (34,211) | \$ (34,211) | \$ (34,211) | \$ (34,211) | \$ (34,211) | \$ (34,211) | \$ (34,211) | \$ (34,211) | \$ (34,211) |
| Permanent Financing | \$ 406,071 | | | | | | | | | | |
| Renovations | \$ (624,725) | | | | | | | | | | |
| Pre-Tax Cash Flow | \$ (218,654) | \$ 49,979 | \$ 51,663 | \$ 53,381 | \$ 55,132 | \$ 56,919 | \$ 58,742 | \$ 60,601 | \$ 62,497 | \$ 64,431 | \$ 66,404 |
| Debt Service Coverage - (1.25 min) | | 2.46 | 2.51 | 2.56 | 2.61 | 2.66 | 2.72 | 2.77 | 2.83 | 2.88 | 2.94 |

Appendix A – MLS Listing



New Listing

MLS#: **S1319868** **Commercial/Industrial** **A-Active**
5960 Main St List Price: **\$300,000**
County: **Lewis** Zip: **13404** Acres: **6.90**
Town: **Martinsburg** Pstl City: **Martinsburg** Cross St: **NYS River St.**
Area #: **Martinsburg-234000**

Subdivision: Lot Front: **410**
TxMap#: **234000-259-004-0004-008-000-0000** Lot Depth: **513**
City Nghbrhd: Lot Shape: Lot #: **8**
School Dist: **South Lewis** Gr SqFt: **44,416**
High School: **South Lewis Senior High** Trans Type: **Sell**
Middle School: **South Lewis Middle** Year Built: **1931**
Elem School: Yr Blt Desc: **Existing**
Photo: **47**

General Information

| | | |
|---|--------------------------|--------------|
| Category: Business Opportunity | Tot Units: | Office SqFt: |
| Sale Incl: Building Only | # Stories: 2.0 | Manuf SqFt: |
| Type Bldg: | # Bldgs: 2 | Res SqFt: |
| Bus Name: | Franchise: No | Retail SqFt: |
| Bus Type: | Avail Prkg: 50 | Leased SqFt: |
| Elec Svc: | Mx Ceil Hgt: | Wrhse SqFt: |
| Prop Use: | Mx OH Dr: | Vacant SqFt: |
| Location: Residential | On Wtrfrt: No | |
| Floor: Carpet, Hardwood-Some, Linoleum/Vinyl | Name: | |
| Parking: 50/Surfaced | Basement: Partial | |
| Zoning: Hamlet | Loading: | |

Public Remarks: **Opportunity abounds! If you or your organization has had large visions but lacked the budget to capitalize, this is an amazing opportunity! Listed for sale is the Glenfield Elementary School - which remains in operation through the 2020-2021 school year. With over 40,000 square feet of maintained and usable area the opportunities are endless. Centrally located in the Black River Valley between the Tug Hill and Adirondacks, the location offers easy access off of NYS Route 12, nearby access to the Black River and direct access to ATV and snowmobile trail systems. Serviced with natural gas, high speed internet, electric (with 100kw emergency generator), and nearby public transportation - this location is ideal for conversion to a community center, apartments, senior living, hotel, office, retail, mixed use or any of other endless possibilities. Included with the school building is a 2 car garage/storage annex and over 7 acres of property (including a baseball field, tennis/basketball court, playground and additional playing fields). **The school board will consider and review all offers and intended uses at their April meeting, currently scheduled for April 20th.**

Unbranded VT: [Click Here](#)
Aerial Drone Video:
Virtual Tour 3D:

Directions: **From NYS Route 12, turn onto Blue St, Main St. or Glenfield Rd. - each will take you directly to the building.**

Lease Information

Utilities Information

| | |
|-----------------------------|--|
| HVAC Type: Hot Water | Sewer/Water: Public Sewer Connected, Public Water Connected |
| Heating Fuel: Gas | Boiler Type: High Pressure-Steam |
| Type of Well: None | Well Location: |

Additional Information

| | |
|---|---|
| Living Qtrts: No | Construction: Block, Brick, Masonry |
| Available Docs: Aerials, Boundary Data, Data Sheet | Roof: Flat, Metal, Rubber Membrane, Shingles, Sloped |
| Bldg Misc: Bays | Accessibility: |
| Public Trans: 1 Block | Yrs Estb: |
| Total # Residential Units: | Seat Cap: |
| Studio: Docks: | Yrs Estb: |
| 1 Bed: Rooms: | Seat Cap: |
| 2 Bed: Trk Bays: | Accessibility: |
| 3 Bed: Employees: | Seller Desires: |

Financial Information

| | | |
|---|-----------------------------|---------------------------|
| Possible Fin: Cash, Conventional | Type of Sale: Normal | Town/Cnty Tax: \$0 |
| 1st Mtg Bal: \$0 | Equity: \$300,000 | City/Vil Tax: \$0 |
| 2nd Mrt Bal: \$0 | Tax Info: | School Tax: \$0 |
| Assess Val: \$2,338,200 | Annl Spc Assess: \$0 | Total Taxes: \$0 |
| Gross Annl Inc: | Net Op Income: 0 | |
| Annl Op Exp: | | |
| Inc/Exp Info: None | | |
| Op Exp Incl: Other - See Remarks | | |
| Closed Date: | Sale Price: | DOM: 1 |

Carole Dunbar
NY Licensed Assoc. R.E. Broker

MLS#: **S1319868**
Good Morning Realty
7556 South State St Lowville, NY 13367

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Appendix B – Building Conditions Report Extract



OVERVIEW

BEDS Code: 23-11-01-04-0-004

Address: 5960 Main Street, Glenfield, NY 13343

Primary Occupancy: Education – E;

Grades: Pre-K through 4th

Enrollment: 216

Year Constructed: 1931, 1979, & 1995

Stories: 3

Building Area: 45,524 approximate GSF

Probable Useful life of Building: 50 years

Estimated Replacement Value: \$10,289,000
(Based on \$250/sf)



Glenfield Elementary School is located on 5960 Main Street, in the Village of Glenfield, Town of Martinsburg, and Lewis County, New York. This building sits within a 7 acres parcel. Originally constructed in 1931, this portion of the building is two stories with a basement and partial crawl space.

An addition was added in 1979 and also in 1995 to make the building's total square footage approximately 45,524 square feet.



SITE

The school site features one baseball field, one tennis court, playground, multi-purpose field, parking bus loop with a separated student drop off loop. In the summer of 2011 the storm drains, downspouts and culverts were improved, as well as the foundation walls were water-proofed all to improve the water infiltration into the basement and crawlspace of the building. In the summer of 2011, the basement locker rooms were also renovated to repair the exterior walls water damage. Included in the construction work of the summer of 2011, was the repointing and cleaning of the masonry.

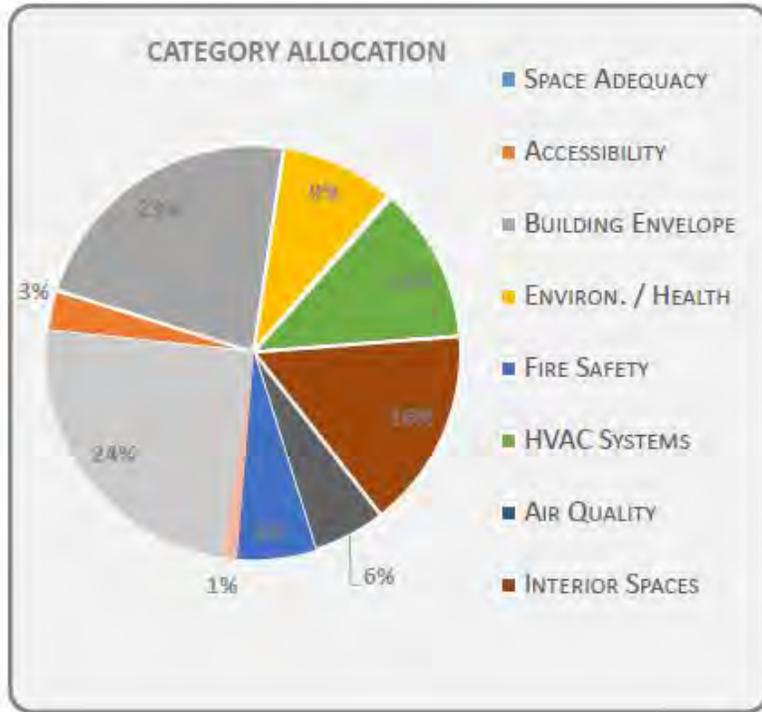
Also on the site is a 1,504 square foot annex building that originally was constructed as a bus garage. Currently housed in this building is the generator which was installed in the 2011 project. This building needs masonry restoration as well as new windows and doors.

1. Remove glass block windows from the southside of the Gym and infill exterior wall to mitigate water infiltration issues. Add a new skylight to introduce natural lighting.
2. Partial EPDM roofing replacement above the 1931 section of the Elementary School.
3. Expand parking at River Street by 900 S.Y. (24 cars), replace walks and repair driveway curb adjacent to Main Street, and complete drive replacement not completed in the 2010 project.
4. Replace stage and exterior site lighting with LED type fixtures.
5. Exterior Envelope: Paint north side original entrance, scrape and paint steel window and door lintels, and re-point brick masonry on 1931 and 1979 sections of the façade.
6. Abate VAT floor tile in 1931 corridors and provide new VCT flooring.



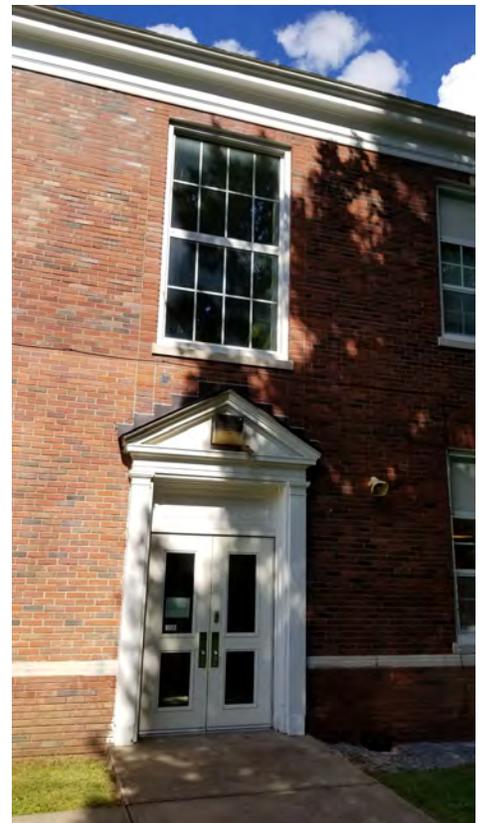
GLENFIELD ELEMENTARY

Budget Allocation Summary



| BCS COSTS WITH INCIDENTALS | |
|----------------------------|--------------------|
| Category | Cost |
| Space Adequacy | \$0 |
| Accessibility | \$219,400 |
| Building Envelope | \$1,551,700 |
| Environ. / Health | \$616,500 |
| Fire Safety | \$19,200 |
| HVAC Systems | \$838,700 |
| Air Quality | \$0 |
| Interior Spaces | \$1,078,300 |
| Electrical | \$394,400 |
| Other | \$0 |
| Plumbing | \$422,500 |
| General | \$0 |
| Substructure | \$0 |
| Site Utilities | \$76,600 |
| Other Site Features | \$1,670,900 |
| Total | \$6,888,200 |

| BCS COSTS WITH INCIDENTALS & PHASE ESCALATION | | | | | |
|---|--------------------|--------------------|--------------------|-----------------|--------------|
| | 1 | 2 | 3 | 4 | 5 |
| Space Adequacy | \$0 | \$0 | \$0 | \$0 | \$0 |
| Accessibility | \$215,100 | \$5,300 | \$0 | \$0 | \$0 |
| Building Envelope | \$990,700 | \$104,800 | \$489,000 | \$0 | \$0 |
| Environ. / Health | \$601,000 | \$15,000 | \$0 | \$1,500 | \$0 |
| Fire Safety | \$19,200 | \$0 | \$0 | \$0 | \$0 |
| HVAC Systems | \$766,000 | \$39,600 | \$0 | \$37,700 | \$0 |
| Air Quality | \$0 | \$0 | \$0 | \$0 | \$0 |
| Interior Spaces | \$368,500 | \$532,300 | \$201,300 | \$4,100 | \$900 |
| Electrical | \$394,400 | \$0 | \$0 | \$0 | \$0 |
| Other | \$0 | \$0 | \$0 | \$0 | \$0 |
| Plumbing | \$234,800 | \$140,300 | \$55,600 | \$0 | \$0 |
| General | \$0 | \$0 | \$0 | \$0 | \$0 |
| Substructure | \$0 | \$0 | \$0 | \$0 | \$0 |
| Site Utilities | \$0 | \$78,900 | \$0 | \$0 | \$0 |
| Other Site Features | \$956,800 | \$341,900 | \$406,000 | \$0 | \$0 |
| Total | \$4,546,300 | \$1,258,100 | \$1,151,900 | \$43,300 | \$900 |





2.1

SOUTH LEWIS
CENTRAL SCHOOL DISTRICT







In-fill trench in Boiler Room



Replacement of worn millwork and plumbing fixtures



Replace VCT on stage with wood



Replace worn stair treads





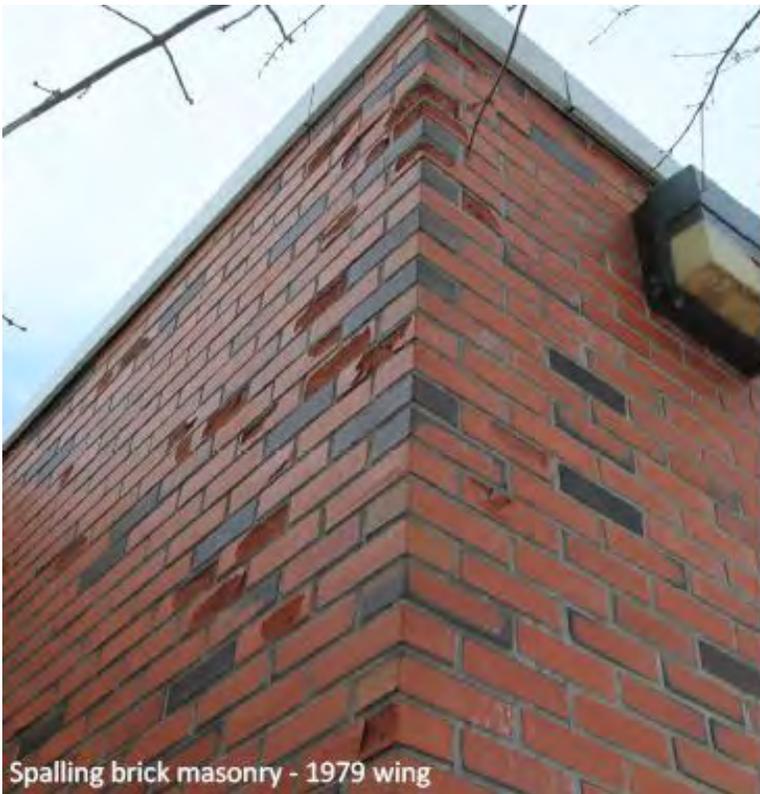
Roof leak / water stain on Library ceiling



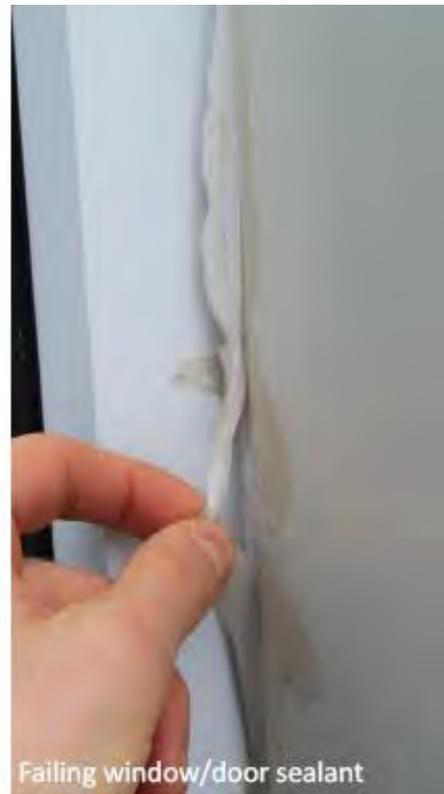
Glass block windows source of water infiltration as they extend below the roof plain



North facade - 1931 & 1979 wings



Spalling brick masonry - 1979 wing



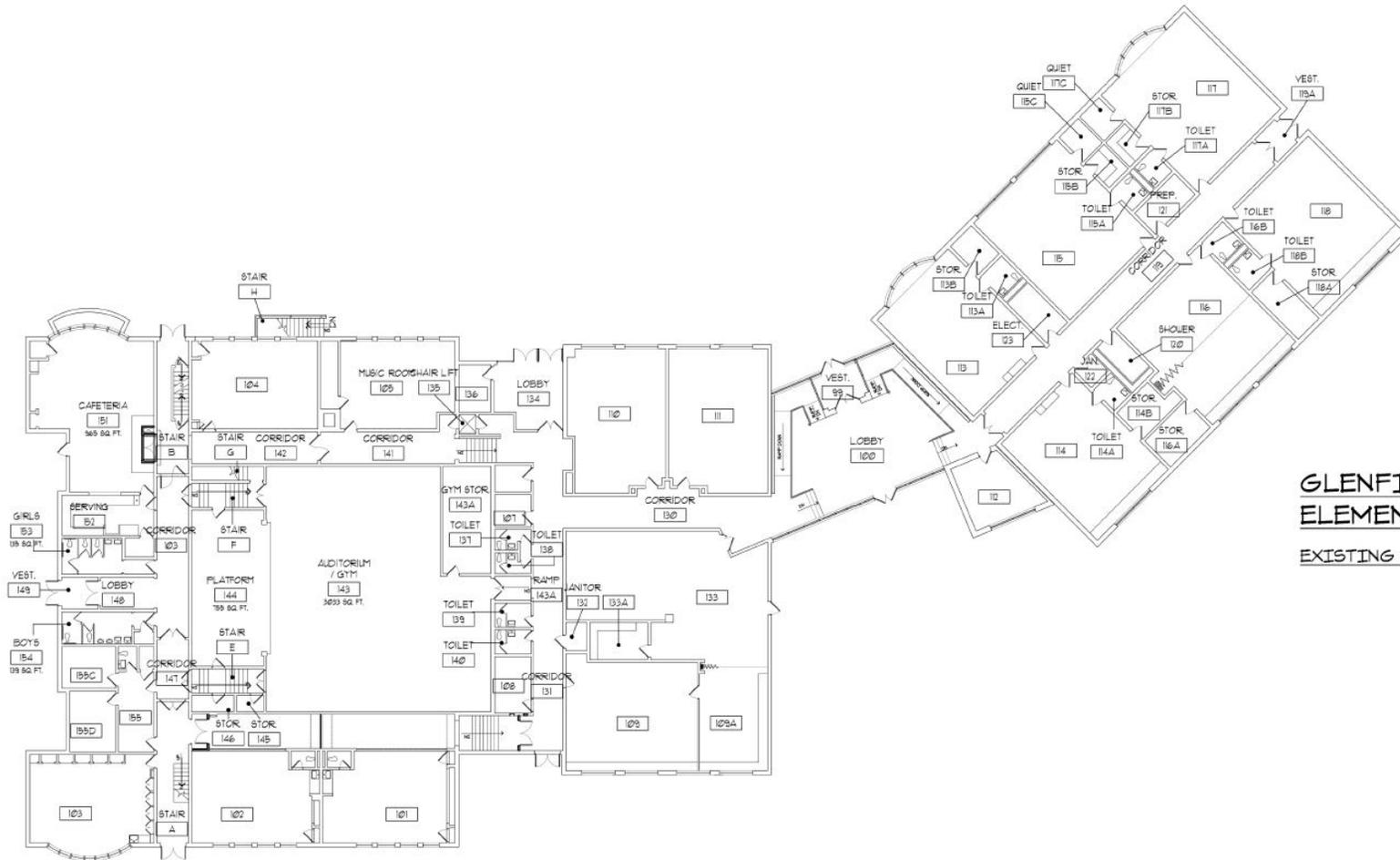
Failing window/door sealant





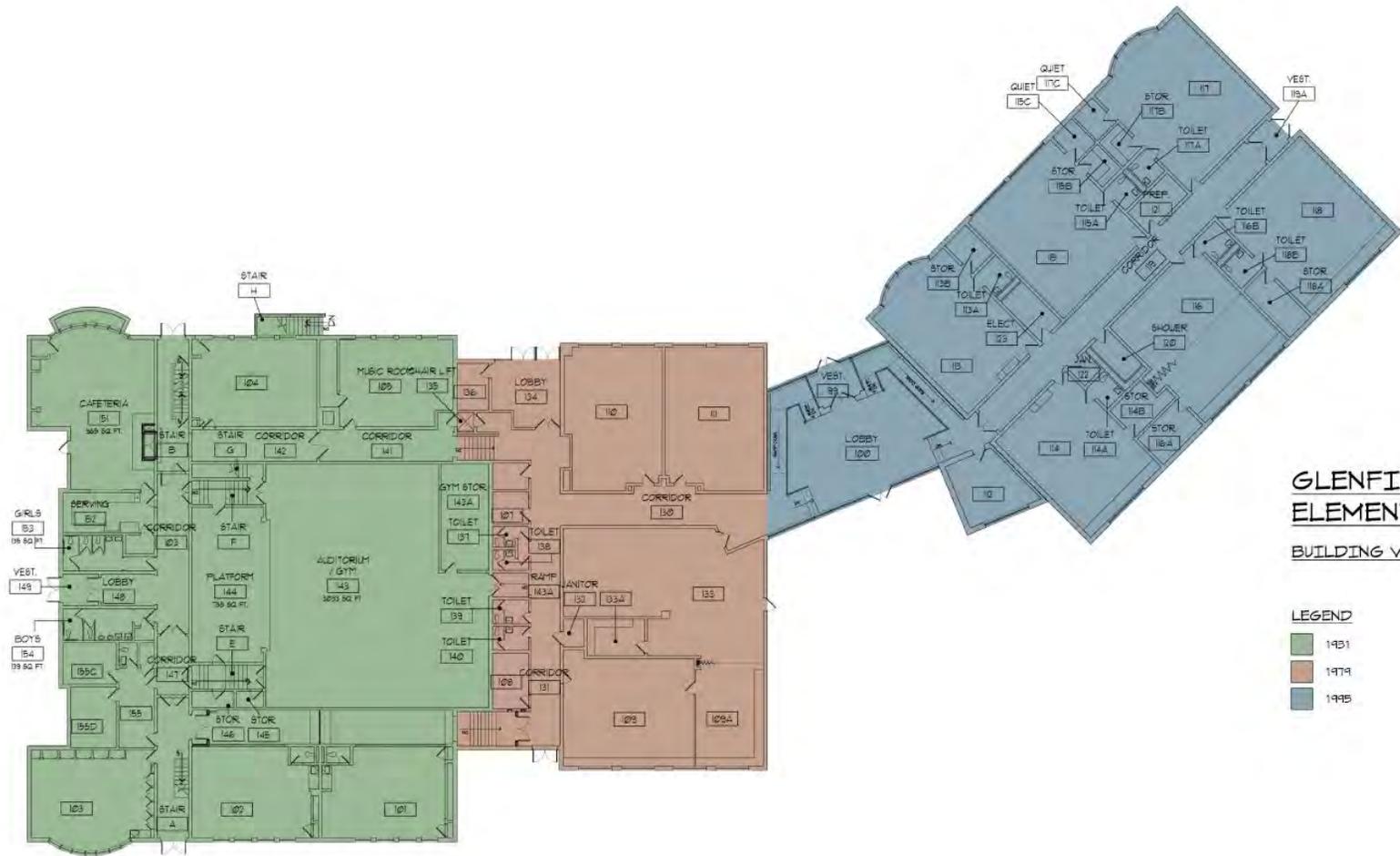
GLENFIELD
ELEMENTARY





**GLENFIELD
ELEMENTARY**
EXISTING PLAN

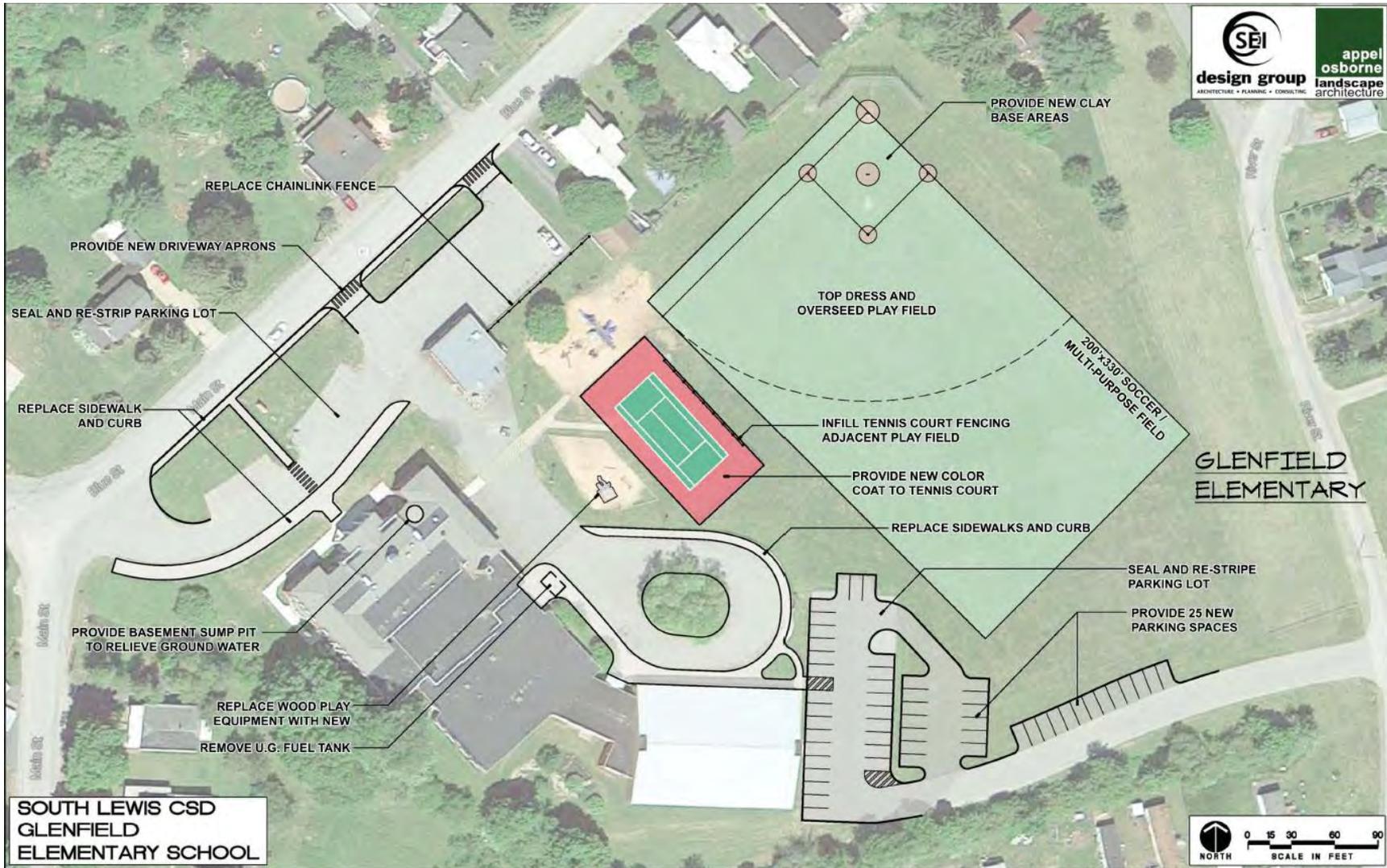




**GLENFIELD
ELEMENTARY**
BUILDING VINTAGE

- LEGEND**
- 1931
 - 1979
 - 1995





Appendix C – Public Survey

SOUTH LEWIS CENTRAL SCHOOL

Elementary Building Re-Use Survey Results

November 10, 2020





SOUTH LEWIS CENTRAL SCHOOL



South Lewis Elementary Buildings Community Survey

Both the Glenfield and Port Leyden Elementary buildings are scheduled to be closed September 2021. A group of school and local government officials have been working together to encourage re-use of the buildings that meets the greater community's needs. This group has prepared this survey to ask for community input on the future of the two buildings.

If you would like to complete a survey for each building, please complete one survey for each building.

Thank you for taking 5-10 minutes to complete this survey.

Surveys are due: October 30, 2020

* Required

1. Please choose which building you are providing input on. If you would like to complete a survey for each building, please complete one survey for each building. *

- Glenfield Elementary
- Port Leyden Elementary

Next

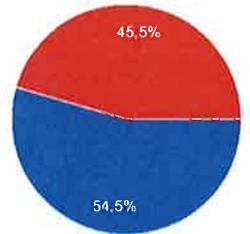
Survey Released: Tuesday, October 6th

Survey End Date: Friday, October 30th

Total Number of Responses Received: 503

• **Responses for Glenfield: 274**

• **Responses for Port Leyden: 229**



● Glenfield Elementary
● Port Leyden Elementary

The survey was publicized by a School Messenger call, a Peachjar flyer, the South Lewis App, the South Lewis Central School webpage, and a news press release.



#SOUTHLEWISSTRONG





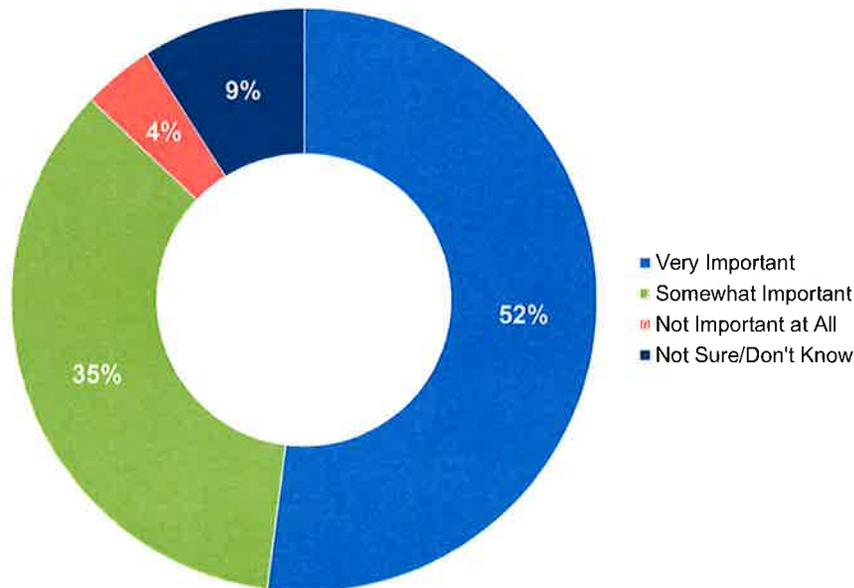
SOUTH LEWIS CENTRAL SCHOOL



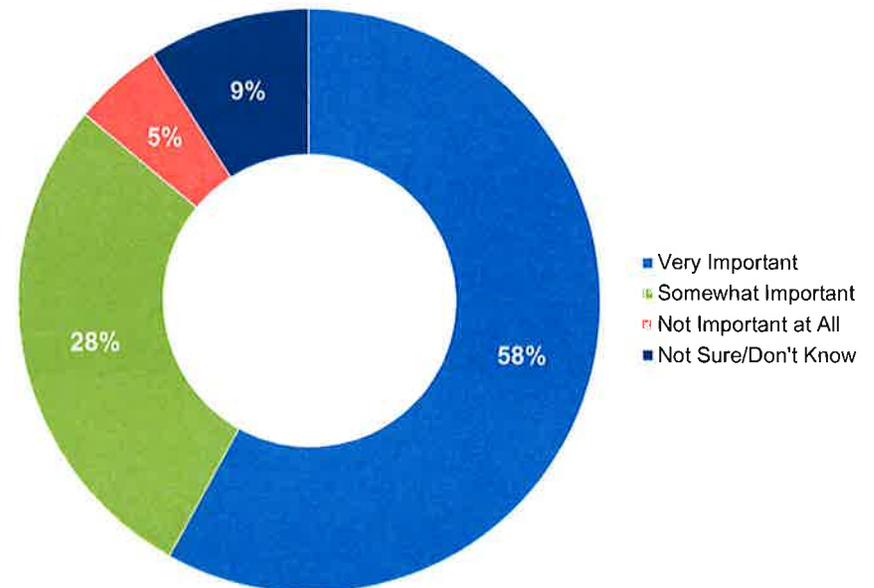
Keeping that building and community in mind, please rate the importance of issues related to the building's reuse.

2. Contributing new property tax revenues to the town/village/school district.

GLENFIELD



PORT LEYDEN



#SOUTHLEWISSTRONG





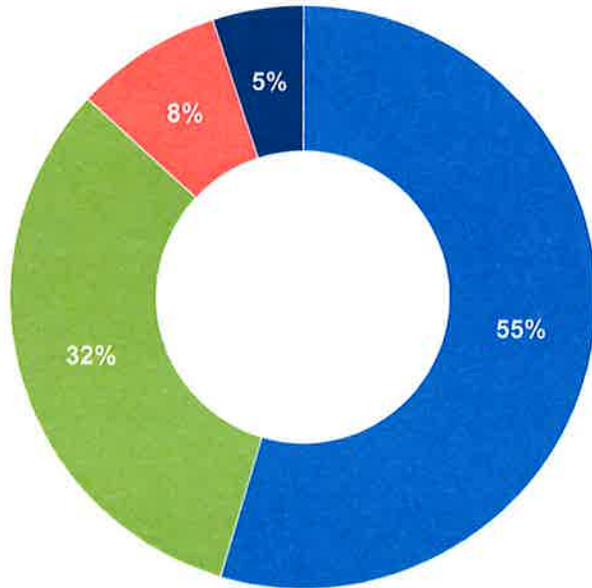
SOUTH LEWIS CENTRAL SCHOOL



Keeping that building and community in mind, please rate the importance of issues related to the building's reuse.

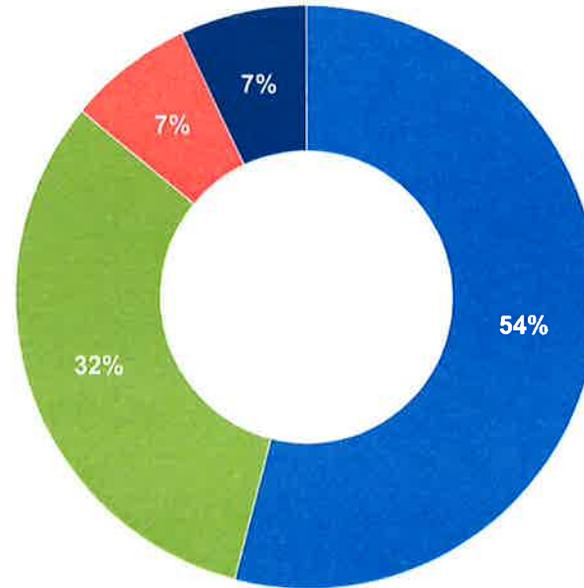
3. Maintaining revenue to the municipal sewer/water system so user rates do not increase.

GLENFIELD



- Very Important
- Somewhat Important
- Not Important at All
- Not Sure/Don't Know

PORT LEYDEN



- Very Important
- Somewhat Important
- Not Important at All
- Not Sure/Don't Know



#SOUTHLEWISSTRONG





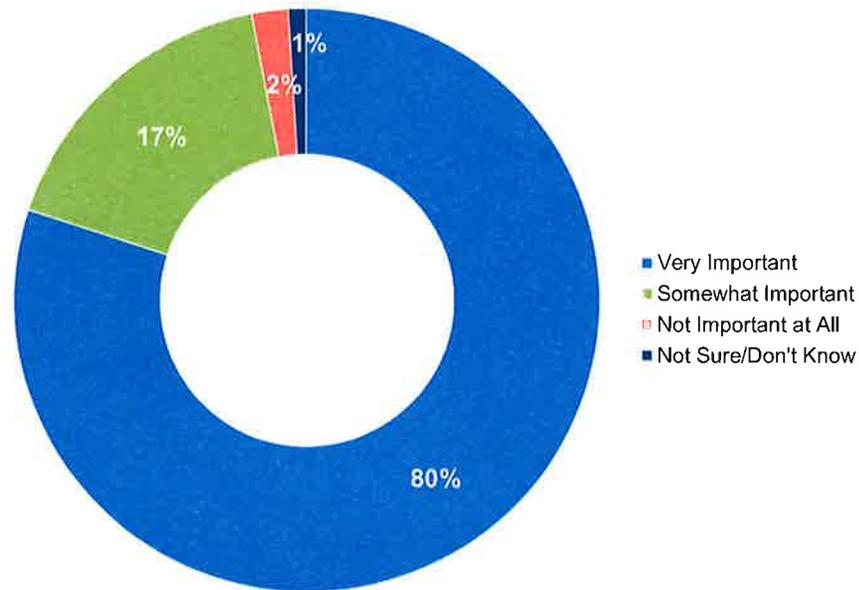
SOUTH LEWIS CENTRAL SCHOOL



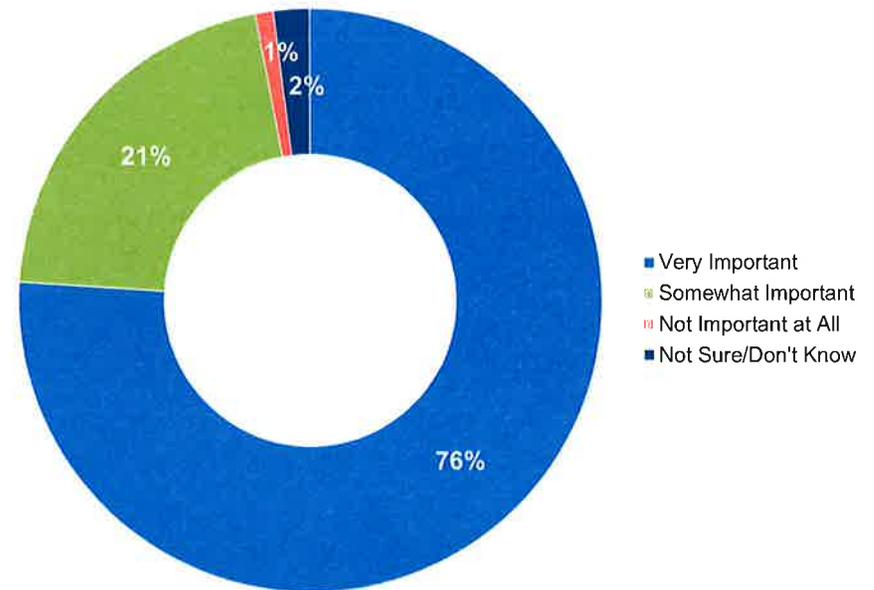
Keeping that building and community in mind, please rate the importance of issues related to the building's reuse.

4. Providing new jobs for the community.

GLENFIELD



PORT LEYDEN



#SOUTHLEWISSTRONG





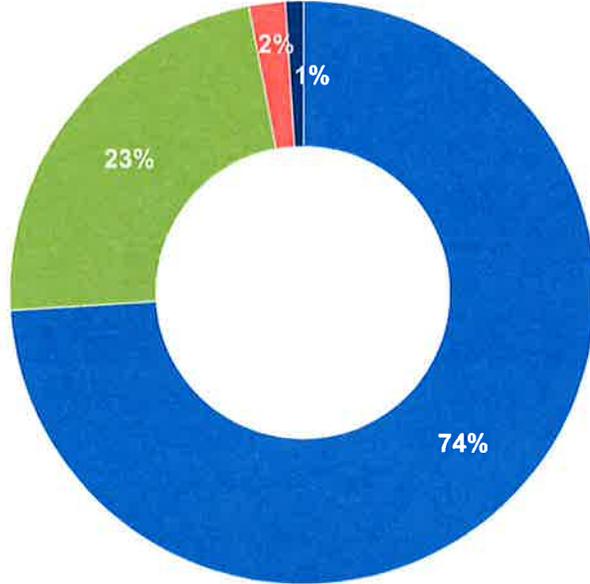
SOUTH LEWIS CENTRAL SCHOOL



Keeping that building and community in mind, please rate the importance of issues related to the building's reuse.

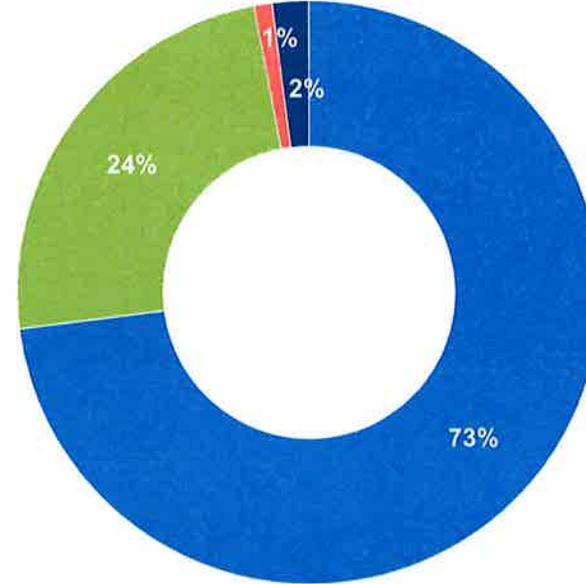
5. Providing a boost to other local businesses.

GLENFIELD



- Very Important
- Somewhat Important
- Not Important at All
- Not Sure/Don't Know

PORT LEYDEN



- Very Important
- Somewhat Important
- Not Important at All
- Not Sure/Don't Know



#SOUTHLEWISSTRONG





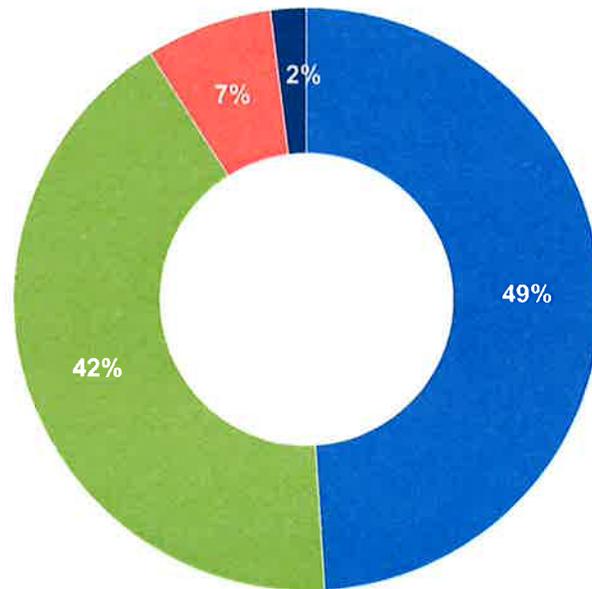
SOUTH LEWIS CENTRAL SCHOOL



Below is a list of possible reuses. Please rate each possibility.

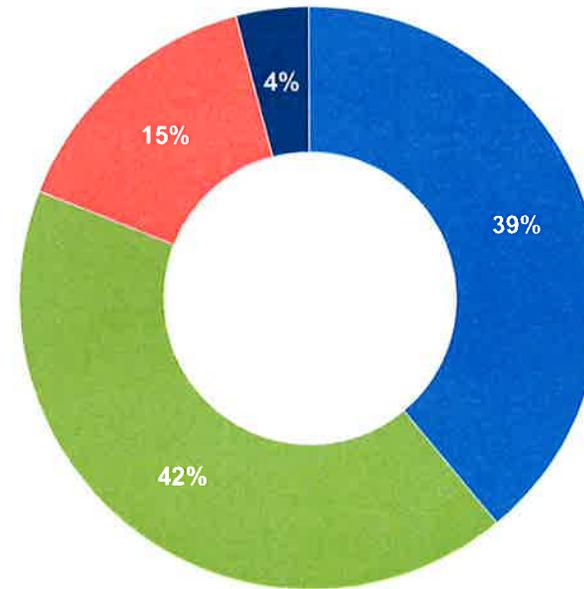
6. Housing units designed to meet the needs of senior citizens.

GLENFIELD



- An Excellent Use
- A Good Use
- Not a Good Use
- Not Sure/Don't Know

PORT LEYDEN



- An Excellent Use
- A Good Use
- Not a Good Use
- Not Sure/Don't Know





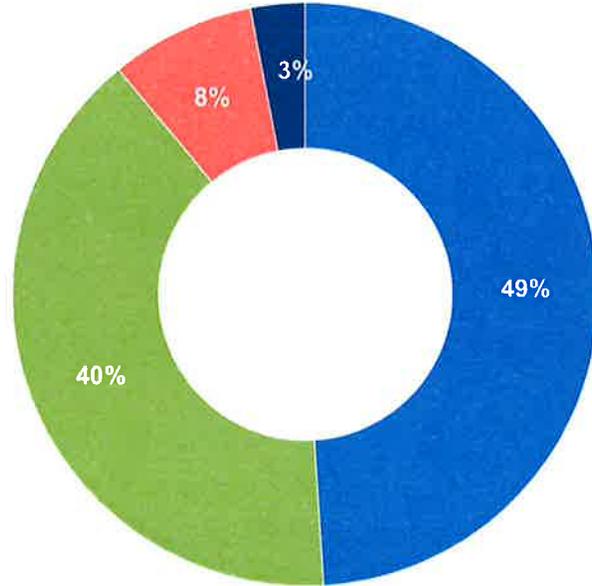
SOUTH LEWIS CENTRAL SCHOOL



Below is a list of possible reuses. Please rate each possibility.

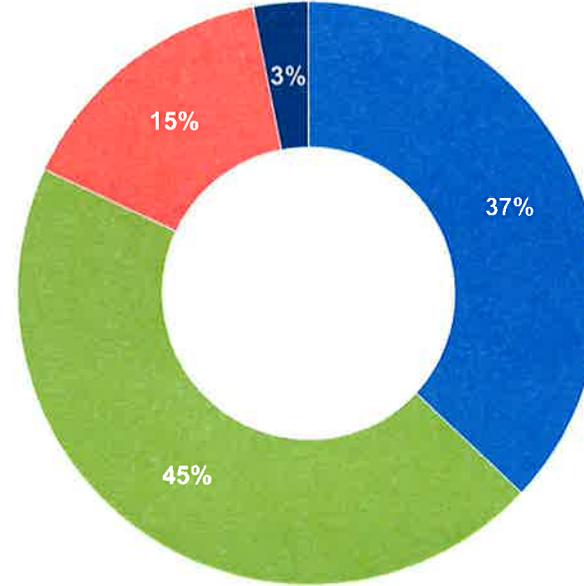
7. Assisted living facility designed to meet varying levels of medical requirements for senior citizens.

GLENFIELD



- An Excellent Use
- A Good Use
- Not a Good Use
- Not Sure/Don't Know

PORT LEYDEN



- An Excellent Use
- A Good Use
- Not a Good Use
- Not Sure/Don't Know



#SOUTHLEWISSTRONG





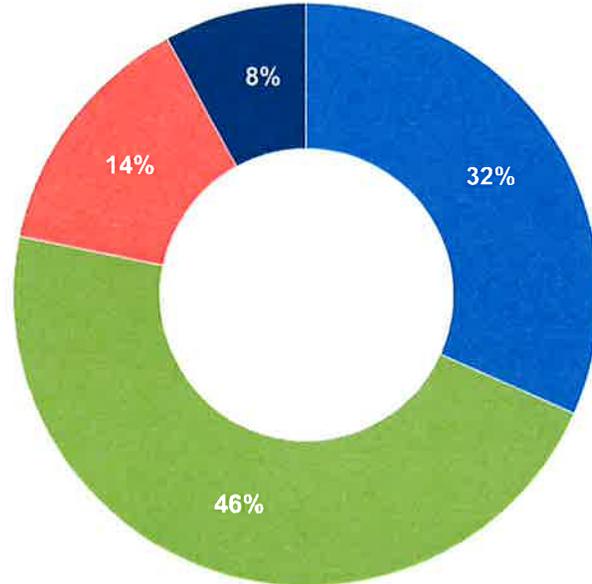
SOUTH LEWIS CENTRAL SCHOOL



Below is a list of possible reuses. Please rate each possibility.

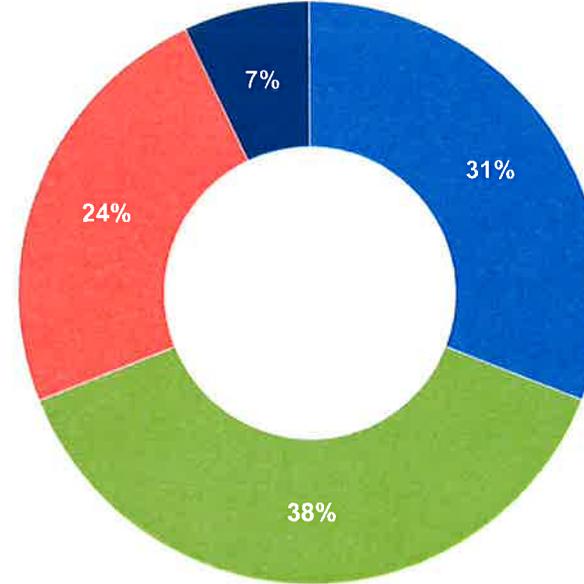
8. Housing units designed to meet the needs of working people.

GLENFIELD



- An Excellent Use
- A Good Use
- Not a Good Use
- Not Sure/Don't Know

PORT LEYDEN



- An Excellent Use
- A Good Use
- Not a Good Use
- Not Sure/Don't Know



#SOUTHLEWISSTRONG





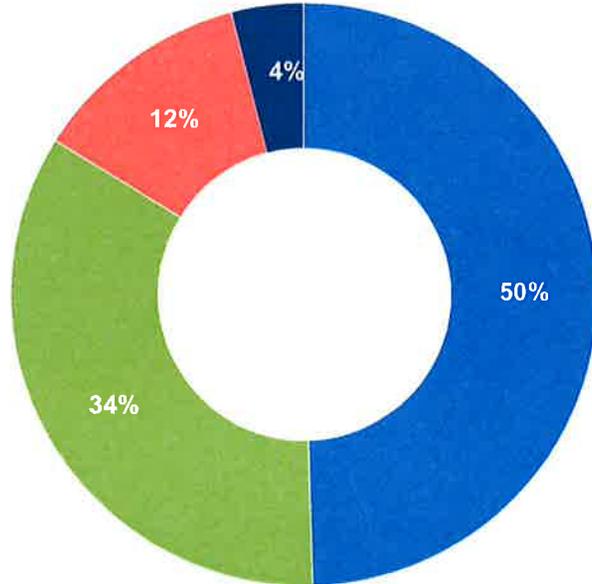
SOUTH LEWIS CENTRAL SCHOOL



Below is a list of possible reuses. Please rate each possibility.

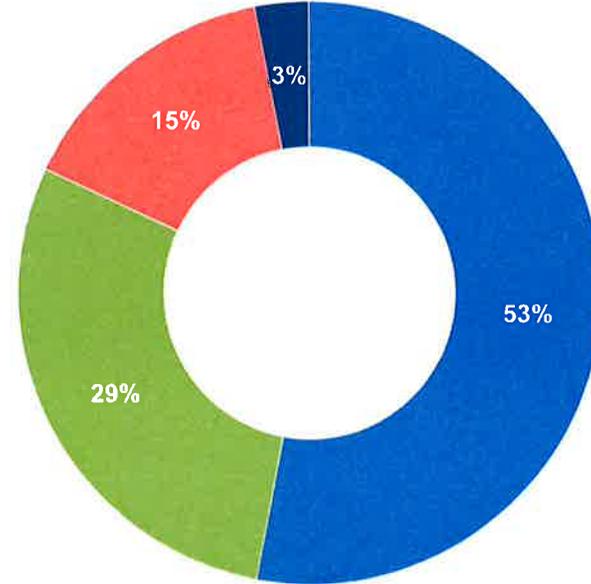
9. A community center with recreational facilities and services/ programs for community residents.

GLENFIELD



- An Excellent Use
- A Good Use
- Not a Good Use
- Not Sure/Don't Know

PORT LEYDEN



- An Excellent Use
- A Good Use
- Not a Good Use
- Not Sure/Don't Know



#SOUTHLEWISSTRONG





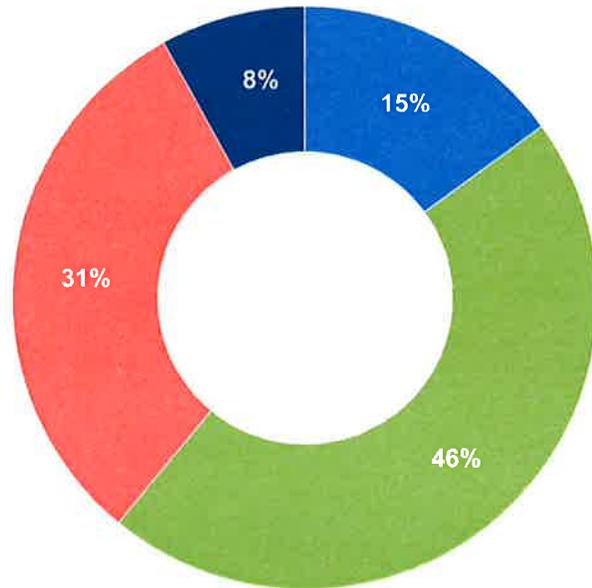
SOUTH LEWIS CENTRAL SCHOOL



Below is a list of possible reuses. Please rate each possibility.

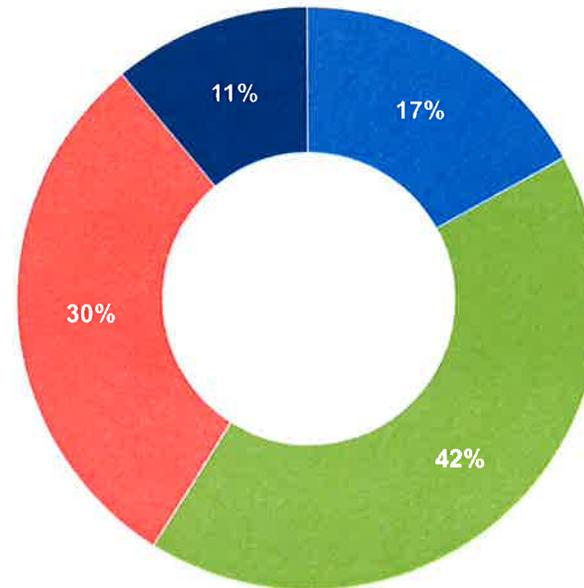
10. General office space.

GLENFIELD



- An Excellent Use
- A Good Use
- Not a Good Use
- Not Sure/Don't Know

PORT LEYDEN



- An Excellent Use
- A Good Use
- Not a Good Use
- Not Sure/Don't Know



#SOUTHLEWISSTRONG





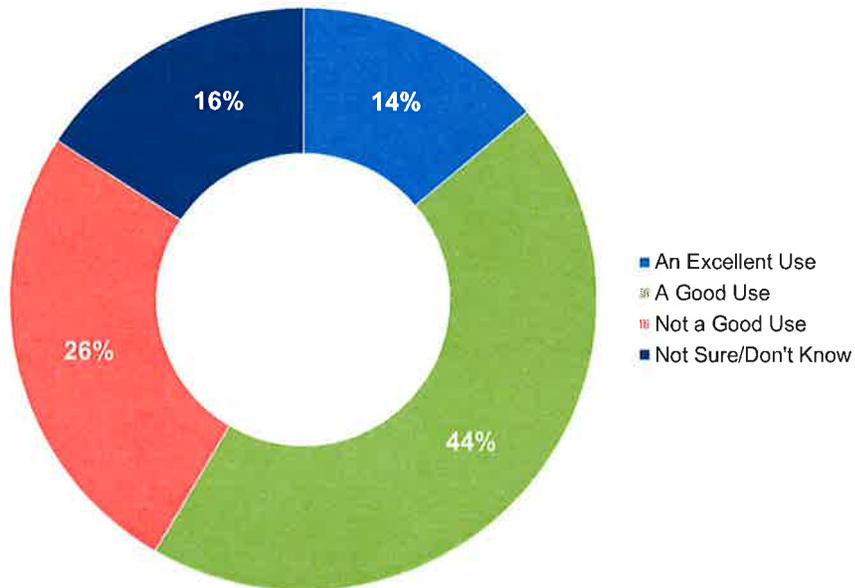
SOUTH LEWIS CENTRAL SCHOOL



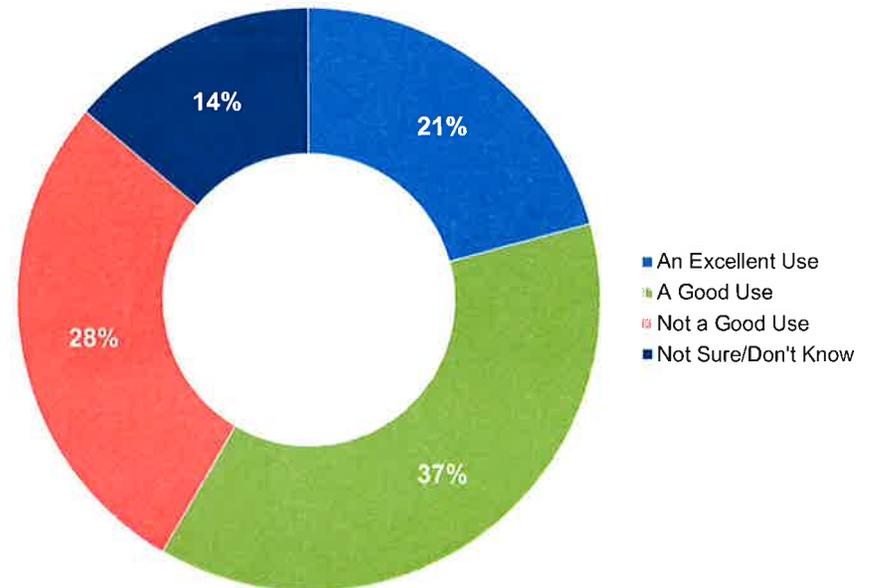
Below is a list of possible reuses. Please rate each possibility.

11. Business and technology incubator space.

GLENFIELD



PORT LEYDEN



#SOUTHLEWISSTRONG





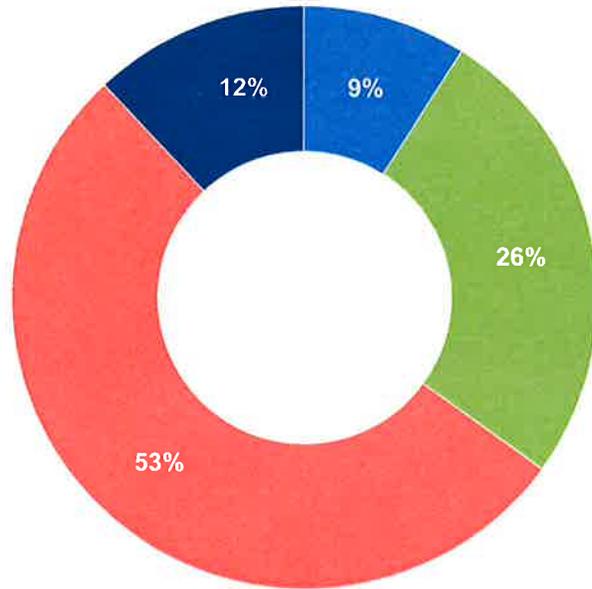
SOUTH LEWIS CENTRAL SCHOOL



Below is a list of possible reuses. Please rate each possibility.

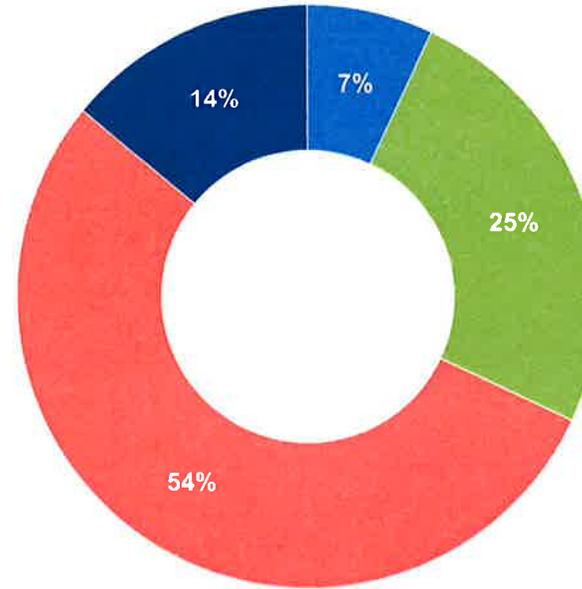
12. Hotel or motel.

GLENFIELD



- An Excellent Use
- A Good Use
- Not a Good Use
- Not Sure/Don't Know

PORT LEYDEN



- An Excellent Use
- A Good Use
- Not a Good Use
- Not Sure/Don't Know



#SOUTHLEWISSTRONG



Appendix D – Zoning Code

Chapter 240

ZONING

GENERAL REFERENCES

Flood damage prevention — See Ch. 125.

Subdivision of land — See Ch. 195.

Mobile homes — See Ch. 145.

Water — See Ch. 225.

ARTICLE I
Introduction

§ 240-1. Enacting clause.

Pursuant to the authority conferred by Article 16 of the Town Law and Articles 2 and 3 of Municipal Home Rule Law of the State of New York, the Town Board of the Town of Martinsburg hereby adopts and enacts the following law.

§ 240-2. Title.

This chapter shall be known as "The Town of Martinsburg Development Law."

§ 240-3. Purpose.

A. The objectives of this chapter are to:

- (1) Protect the open and natural character of the land;
- (2) Provide for the controlled growth of residential and commercial use of land consistent with the economic and social needs of the community without interfering with existing land use;
- (3) Preserve the Town's natural resources, particularly the water supply;
- (4) Promote the health, safety and general welfare of the community consistent with the objectives of Article 16 of the Town Law;
- (5) Be aware of and consistent with the goals and policies common to adjacent communities;
- (6) To make provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary therefor;
- (7) To facilitate the adequate provision of transpiration, water, sewerage, schools, parks and other public requirements; and to promote the health, safety, and general welfare of the public;

B. This chapter has been made with reasonable consideration, among other things, as to the character of each district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the Town of Martinsburg.

§ 240-4. Applicability.¹

The development of property which started prior to the effective date of this chapter, or any enacted revisions, and which complied with all applicable laws and permits in effect at the time it was begun, may be completed provided that such completion takes place no later than one year from the effective date of this chapter or the enacted revision. If not completed within one year, such development shall comply with the provisions of this chapter.

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 240-5. Supersession of Rural Development Code.

This chapter shall replace and supersede Part I, Land Use Regulations, Part III, Natural Resource Regulations, Part V, Sewage and Waste Disposal Standards, and Part VI, Administration of the Town of Martinsburg Rural Development Code, Local Law No. 1 of 1980, as subsequently amended.

ARTICLE II
Terminology

§ 240-6. Word usage.

Except where specifically defined herein, all words used in this chapter carry their customary meanings. Words in the present tense include the future, words in the singular include the plural and the plural the singular, and the word "shall" is intended to be mandatory.

§ 240-7. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ABOVE GROUND LEVEL (AGL) — A measurement of height from the natural grade of a site to the highest point of a structure. **[Added 11-21-2001 by L.L. No. 4-2001]**

ACCESSORY APARTMENT — A second dwelling unit located on the same lot as a principal single-family dwelling located either within the principal dwelling or within an accessory building which is subordinate to the principal dwelling in terms of size, location and appearance. Such a dwelling is an accessory use to the principal dwelling.

ACCESSORY BUILDING — A building which is an accessory structure.

ACCESSORY STRUCTURE — A structure incidental and subordinate to the principal structure and located on the same lot with such principal structure. Where an accessory structure is attached to the principal structure in a substantial manner, as by a wall or roof, such accessory structure shall be considered part of the main structure.

ACCESSORY USE — A use incidental and subordinate to the principal use and located on the same lot with such principal use

ACRE — A measure of land area containing 43,560 square feet.

ACTIVE RECREATION — Any form of recreation requiring significant levels of organization, buildings or large numbers of persons. (NOTE: small groups of persons using snowmobiles or trail bikes are considered forms of passive recreation; however, a snowmobile race or a motor-cross race, for example, are considered active forms of recreation).

ADEQUATE COVERAGE — Coverage for wireless communications facilities is considered to be "adequate" within that area surrounding a base station where the predicted or measured median field strength of the transmitted signal is greater than -90 dbm for at least 80% of the intended coverage area. It is acceptable for there to be holes within the area of adequate coverage where the signal strength declines further away from the base station (e.g., -95 dbm rather than -90 dbm). For the limited purpose of determining whether the use of a repeater is necessary, there shall be deemed to be inadequate coverage within said holes. The outer boundary of the area of adequate coverage is that location past which the signal does not regain a strength equal to or greater than -90 dbm. **[Added 11-21-2001 by L.L. No. 4-2001]**

ADULT BOOKSTORE — An adult entertainment establishment used for the sale, whether at retail or wholesale, or rental, whether for viewing on or off premises of books, magazines, periodicals, recordings, films, videotapes/cassettes or other viewing materials distinguished or characterized by an emphasis on the display or depiction of sexual activity or specified anatomical areas. **[Added 10-21-2009 by L.L. No. 3-2009]**

ADULT ENTERTAINMENT ESTABLISHMENT — Any lot, building, structure or portion thereof in which a minor is not allowed due to the adult entertainment use conducted therein. "Adult entertainment establishments" include, but are not limited to adult bookstores, adult theaters (live or motion picture), massage parlors and topless or striptease bars.[**Added 10-21-2009 by L.L. No. 3-2009**]

ADULT ENTERTAINMENT USE — Any business or activity for gain, either as a principal or accessory use, which devotes or intends to devote more than 25 square feet of net floor area or more than 10% of its total net floor area, whichever is less, or more than 10% of the volume of its stock to display, exhibit or disseminate material distinguished or characterized by emphasis on the display or depiction of sexual activity or specified anatomical areas, regardless of whether by live entertainment, motion picture, videocassette, photograph, cartoon or other means, in manner unsuitable for the viewing by minors or otherwise prohibited by the statutes of New York State.[**Added 10-21-2009 by L.L. No. 3-2009**]

ADULT THEATER (LIVE OR MOTION PICTURE) — An adult entertainment establishment used for live performances or motion pictures distinguished or characterized by the display or depiction of sexual activity or specified anatomical areas.[**Added 10-21-2009 by L.L. No. 3-2009**]

ADVERTISING SIGN — See "sign, advertising."

AGRICULTURAL STRUCTURE — Barns, silos, storage buildings, equipment sheds, and other structures customarily used for agricultural purposes.

AGRICULTURE — The raising of crops, animals or animal products, the selling of products grown on premises, incidental mechanical processing of products, and any other commonly accepted agricultural operations. The definition for agriculture shall include forestry-related uses such as logging.

ALTERATION — The structural change or change in use of any principal or special use which results in any of the following:

- A. Increase in size by 50% or more;
- B. Increase in the amount of sewage created at the site;
- C. Change in use;
- D. Change that would not meet the dimensional requirements of this chapter.

AVERAGE TREE CANOPY — The average height of a stand of trees. For the purpose of determining the maximum height of a wireless communications facility to be installed on a wooded lot having at least 20 trees within 100 feet of the proposed site, the average height of the trees located within 200 feet of the proposed site shall be used to determine the average tree canopy.[**Added 11-21-2001 by L.L. No. 4-2001**]

BUILDING — Shelter having a roof supported by columns or walls and intended for the shelter or enclosure of persons, animals, or property.

BUILDING PERMIT — A permit issued by the appropriate officer enforcing the New York State Uniform Fire Prevention and Building Code.

BUSINESS — Any person, firm, association, partnership, corporation or other entity for profit.[**Added 10-21-2009 by L.L. No. 3-2009**]

CAMOUFLAGED — A wireless communications facility that is disguised, hidden, part of an existing or proposed structure, placed within an existing or proposed structure, or completely hidden by surrounding vegetation is considered "camouflaged." When facilities include a new tower or other tall structure, camouflage will conceal both the tall structure and the accompanying antennas and other equipment through the use of technology which gives these facilities the appearance of structures which are compatible with the surrounding area.**[Added 11-21-2001 by L.L. No. 4-2001]**

CAMPGROUND — Land on which two or more campsites are located, established, or maintained for occupancy by camping units of the general public as temporary living quarters for recreation, education or vacation purposes. A "camping unit" shall be considered any tent, lean-to, cabin or similar structure, or recreational camping vehicle, excluding mobile homes, established or maintained and operated in a campground as temporary living quarters for recreation, education or vacation purposes.

CARRIER — A company, licensed by the FCC, that provides wireless services to customers.**[Added 11-21-2001 by L.L. No. 4-2001]**

CERTIFICATE OF COMPLIANCE — A certification by the enforcement officer that a lot, structure, or use of land has been developed in conformity with an approved development permit and/or complies with the provisions of this chapter, and may be occupied and used for the purposes specified in such development permit and/or certificate of compliance.

CO-LOCATION — The use of a single wireless communications facility, either on the ground or on an existing building or structure, by more than one wireless communications carrier.**[Added 11-21-2001 by L.L. No. 4-2001]**

COMMERCIAL USE — Retail and wholesale, offices, personal and consumer services, manufacturing, hotels, motels, boarding houses, restaurants, and bed-and-breakfast inns.

DBM — Unit of measure of the power level of an electromagnetic signal expressed in decibels referenced to 1 milliwatt.**[Added 11-21-2001 by L.L. No. 4-2001]**

DEAD-END ROAD — A road with only one outlet for vehicles.

DE-ICING COMPOUNDS — Any bulk quantities of chloride compounds and/or other de-icing compounds intended for application to roads, including mixtures of sand and chloride compounds in any proportion where the chloride compounds constitute over 8% of the mixture. Bulk quantity of de-icing compounds means any quantity, but does not include any chloride compounds in a solid form that are packaged in waterproof bags or containers that do not exceed 100 pounds each.**[Added 3-19-2003 by L.L. No. 2-2003; amended 3-4-2004 by L.L. No. 3-2004]**

DEVELOPMENT PERMIT — A permit issued by the enforcement officer certifying that all plans for the use and development of land comply with the regulations of this chapter, and granting permission to commence development activities in conformity with the conditions of the approved permit. A development permit should not be confused with a building permit issued by the appropriate officer enforcing the New York State Uniform Fire Prevention and Building Code.

DIRECTIONAL SIGN — See "sign, directional."

DISPOSAL — The abandonment, burial, discharge, deposit, injection, dumping, spilling, spreading, leaking, or release by any other means of a substance to the land surface, subsurface,

surface water, or groundwater.[**Added 3-19-2003 by L.L. No. 2-2003; amended 3-4-2004 by L.L. No. 3-2004**]

DISSEMINATION — The transfer of possession, custody, control or ownership or of the exhibition or presentation of any performance to a customer, member of the public or business invitee of any material distinguished or characterized by an emphasis on matter depicting, describing or relating to sexual activities or specified anatomical areas.[**Added 10-21-2009 by L.L. No. 3-2009**]

DWELLING — Buildings designed as the permanent living quarters for one or more families.

DWELLING, MULTIFAMILY — A building designed or altered for use as a permanent dwelling for three or more families.

DWELLING, SEASONAL (CAMP) — A building designed as a part-time dwelling for a family, usually inaccessible by automobile during several months of the year and lacking improvements necessary for permanent use as a dwelling.

DWELLING, SINGLE-FAMILY — A detached building designed to be used as living quarters by one family.

DWELLING, TWO-FAMILY — A building containing only two dwelling units, and occupied by only two families.

EASEMENT — Authorization by a property owner for the use by another, for a specified purpose, of any designated part of his property.

EQUIPMENT SHELTER — An enclosed structure, cabinet, shed or box at the base of the mount within which are housed the electronic receiving and relay equipment for a wireless communications facility. Associated equipment may include air conditioning and emergency generators. This term does not include offices, long-term storage of vehicles or other equipment storage, or broadcast studios.[**Added 11-21-2001 by L.L. No. 4-2001**]

ESSENTIAL FACILITIES — The operation or maintenance by municipal agencies or public utilities of telephone dial equipment centers; electrical or gas substations; water treatment, storage and transmission facilities; pumping stations; telecommunications towers and similar facilities.

EXEMPT USE — A use listed in a land use district which requires neither special use permit nor a development permit.

FALL ZONE — The area on the ground within a prescribed radius from the base of a wireless communications facility. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.[**Added 11-21-2001 by L.L. No. 4-2001**]

FAMILY — One or more persons occupying a dwelling unit and living as a single housekeeping unit.

FAMILY DAY-CARE HOME — A family home which is a personal residence and occupied as a family residence which provides child day care on a regular basis for more than three hours per day per child for three to six children for compensation or otherwise, as provided for under the New York State Department of Social Services. The name, description or form of the entity which operates a family day-care home does not affect its status as a family day-care home. For the purposes of this chapter, a family day-care home shall be considered an accessory use to a one-family dwelling.²

FERTILIZERS — Any commercially produced mixture generally containing phosphorous, nitrogen, and potassium that is applied to the ground to increase nutrients from plants.[**Added 3-19-2003 by L.L. No. 2-2003; amended 3-4-2004 by L.L. No. 3-2004**]

FRONT LOT LINE — See "lot line, front."

FUNCTIONALLY EQUIVALENT SERVICES — Services include but are not limited to cellular, personal communication services (PCS), enhanced specialized mobile radio, specialized mobile radio, and paging.[**Added 11-21-2001 by L.L. No. 4-2001**]

GARBAGE — Animal and vegetable waste resulting from the handling, storage, sale, preparation, cooking and/or serving of food.

GROUND-MOUNTED (FREESTANDING) — A solar energy system that is directly installed in the ground and not attached or affixed to an existing structure. Each contiguous structure is considered an accessory structure within this chapter.[**Added 5-18-2016 by L.L. No. 1-2016**]

GROUNDWATER — Any water beneath the land surface in the zone of saturation. The zone of saturation is where water fills all available pore spaces.[**Added 3-19-2003 by L.L. No. 2-2003; amended 3-4-2004 by L.L. No. 3-2004**]

GUYED TOWER — A monopole or lattice tower that is tied to the ground or other surface by diagonal cables.[**Added 11-21-2001 by L.L. No. 4-2001**]

HAZARDOUS SUBSTANCE — Any substance which:[**Added 3-19-2003 by L.L. No. 2-2003; amended 3-4-2004 by L.L. No. 3-2004**]

- A. Because of its quantity, concentration, or physical, chemical, or infectious characteristics poses a significant hazard to human health or safety if improperly treated, stored, transported, disposed of, or otherwise managed;
- B. Poses a present or potential hazard to the environment when improperly treated, stored.

HOME-BASED BUSINESS — A nonresidential activity conducted for financial gain that is clearly incidental and secondary to a residential use.

JUNK — Any scrap, waste, reclaimable material, or debris, whether or not stored, for sale or in the process of being dismantled, destroyed, processed, salvaged, stored, baled, disposed, or other use or disposition, including tires, vehicle parts, equipment, paper, rags, metal, glass, building materials, household appliances, machinery, brush, wood, and lumber.

JUNKYARD — The outdoor storage or deposit of any of the following:

- A. Two or more junk vehicles;
- B. One or more abandoned mobile homes or recreational camping vehicles;
- C. Two or more abandoned all-terrain vehicles or snowmobiles (as defined in the New York State Vehicle and Traffic Law);
- D. Two or more inoperable appliances including, but not limited to, lawn and garden machines, washers, dryers, dishwashers, stoves, refrigerators, freezers and televisions;
- E. Two or more inoperable pieces of equipment;

2. Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

F. Any combination of the above, or parts of the above, that total two or more items.

JUNK VEHICLE —

A. Any motor vehicle, whether all-terrain vehicle, automobile, bus, trailer, truck, tractor, motor home, motorcycle, mini-bicycle, or snowmobile, or any other device originally intended for travel on the public highways, which meets all of the following conditions:

- (1) It is unregistered;
- (2) It is not in any condition for legal use upon the public highway.

B. With respect to any motor vehicle not required to be licensed or motor vehicle not usually used on public highways, the fact that such motor vehicle has remained unused for more than six months and is not in condition to be removed under its own power shall be presumptive evidence that such motor vehicle is a junk vehicle.

LATTICE TOWER — A self-supporting mount constructed of vertical metal struts and cross braces forming a triangular or square structure which often tapers from the foundation to the top.[**Added 11-21-2001 by L.L. No. 4-2001**]

LICENSED CARRIER — A company authorized by the FCC to construct and operate a commercial mobile radio services system.[**Added 11-21-2001 by L.L. No. 4-2001**]

LOT — A parcel of land considered as a unit, occupied or capable of being occupied by a structure or use and accessory structures or uses, or by a group of buildings united by a common use or interest; and including such open spaces as are required by this chapter, and having its principal frontage on a public road or an officially approved place.

LOT FRONTAGE — The length of the front lot line measured at the road right-of-way line.

LOT LINE — A line of record bounding a lot which divides one lot from another lot or from a public or private road or any other public space.

LOT LINE, FRONT — The lot line separating a lot from a road right-of-way.

LOT LINE, REAR — The lot line opposite and most distant from the front lot line. In the case of triangular or otherwise irregularly shaped lots, a line 10 feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line.

LOT LINE, SIDE — Any lot line other than a front or rear lot line.

LOT OF RECORD — A lot for which a valid conveyance has been recorded in the County Clerk's office prior to the effective date of this chapter.

MAJOR EXCAVATION — Any area of land used for the purpose of extracting stone, sand, gravel or soil for sale, as a commercial operation which consists of more than 1,000 tons or 750 yards of material per year.

MANUFACTURING — Any land or structures used for the mechanical or chemical transformation of materials or substances into new products including the assembling of component parts, the manufacturing of products, and the blending of materials such as lubricating oils, plastics, resins or liquors.

MASSAGE — A method of treating external parts of the human body by rubbing, stroking, kneading, tapping or vibrating with the hand or any instrument.[**Added 10-21-2009 by L.L. No. 3-2009**]

MASSAGE PARLOR — An adult entertainment establishment used for administering massages to the external parts of the human body, including but not limited to rubbing, stroking, kneading, tapping or vibrating thereof with the hand or any instrument. This definition shall not be deemed to include any of the following: a medical care facility, nursing home or any office of health care practitioner licensed by the State of New York; a barber shop or beauty shop administering massage to the scalp, face, neck or shoulders, a manicure or pedicure shop administering massage to the hands or feet respectively; a volunteer rescue squad; or a community facility or indoor or outdoor recreation facility operated by a governmental agency or nonprofit organization.**[Added 10-21-2009 by L.L. No. 3-2009]**

MASSAGE TECHNICIAN — Any individual who administers a massage to another individual at a massage establishment. This definition shall not include any health care practitioner duly licensed by the State of New York.**[Added 10-21-2009 by L.L. No. 3-2009]**

MINIMUM-MAINTENANCE ROAD — A road designated as minimum maintenance as designated and defined in Chapter 190 of the Code of the Town of Martinsburg.**[Added 3-18-2020 by L.L. No. 1-2020]**

MOBILE HOME — A structure, transportable in one or more sections, which is at least eight feet in width and 32 feet in length, which is built on a permanent chassis and designed to be used as a dwelling unit, with or without a permanent foundation when connected to the required utilities. A mobile home shall be construed to remain a mobile home, subject to all regulations applying thereto, whether or not wheels, axles, hitch, or other appurtenances of mobility are removed and regardless of the nature of the foundation provided. This term shall not include factory manufactured homes known as "modular homes" bearing an insignia issued by the State Fire Prevention and Building Code Council as required in 9 NYCRR 1212.

MOBILE HOME PARK — Land on which are located, or which is maintained for use by, two or more mobile homes.

MONOPOLE — A self-supporting mount constructed of a single shaft of wood, steel or concrete with below-grade foundations and a platform (or racks) for panel antennas arrayed at the top.**[Added 11-21-2001 by L.L. No. 4-2001]**

MOTOR VEHICLE REPAIR SHOP — A building or a portion of a building which is arranged, intended or designed to be used commercially for making repairs to motor vehicles.

MOUNT — The structure or surface upon which antennas are mounted, including the following four types of mounts:**[Added 11-21-2001 by L.L. No. 4-2001]**

- A. Roof-mounted. Mounted on the roof of a building.
- B. Side-mounted. Mounted on the side of a building.
- C. Structure-mounted. Mounted on a structure other than a building.
- D. Ground-mounted. Mounted on the ground.

MULTIFAMILY DWELLING — See "dwelling, multifamily."

NET FLOOR AREA — That portion of the building devoted to display whether for viewing or dissemination of a business's stock-in-trade. This shall not include entry areas, stock rooms, closets, storage areas, cash register areas, any area from which the public is excluded, or rest rooms, whether public or private.**[Added 10-21-2009 by L.L. No. 3-2009]**

NONCONFORMITY — A lot, structure or use of land lawfully existing at the time of enactment of this chapter or any amendment thereto which does not conform to the regulations of the district in which it is situated.**[Amended 8-21-2013 by L.L. No. 2-2013]**

OUTDOOR FURNACE — A self-contained unit designed to provide heating to a building or a structure, which unit is located outside of the building or structure.**[Added 5-18-2005 by L.L. No. 3-2005]**

OVERLAY DISTRICT — A district that encompasses one or more underlying districts and that imposes additional requirements above that required by the underlying district.

PARK UNIT — The lot or space in any mobile home park which shall be assigned to or used and occupied by any one mobile home.

PASSIVE RECREATION — Hunting, fishing, hiking and other similar activities not requiring structures or special supervision.

PHOTOVOLTAIC SYSTEM — A solar energy system that produces electricity by the use of semiconductor devices, called photovoltaic cells, that generate electricity whenever light strikes them.**[Added 5-18-2016 by L.L. No. 1-2016]**

PRINCIPAL STRUCTURE — A structure through which the principal use of the lot on which it is located is conducted.

PRINCIPAL USE — The primary or predominant use of any lot.

PROFESSIONAL ENGINEER — A certified or licensed radio frequency engineer specializing in electrical or microwave engineering, especially the study of radio frequencies.**[Added 11-21-2001 by L.L. No. 4-2001]**

PUBLIC AND SEMIPUBLIC FACILITY — Any one or more of the following uses, including grounds and accessory buildings necessary for their use religious institutions: public parks, playgrounds and recreational areas; schools; public libraries; fire, ambulance and public safety buildings and public meeting halls and community centers.

RADIO FREQUENCY RADIATION — The emissions from wireless communications facilities.**[Added 11-21-2001 by L.L. No. 4-2001]**

REAR LOT LINE — See "lot line, rear."

REFUSE — Useless unwanted or discard material.

REPEATER — A small receiver/relay transmitter of not more than 20 watts output designed to provide service to areas which are not able to receive adequate coverage directly from a primary sending and receiving site in a wireless communications network.**[Added 11-21-2001 by L.L. No. 4-2001]**

RETAIL GASOLINE AND DIESEL OUTLET — Any establishment that sells gasoline and diesel for automobiles and trucks to the public. This includes service stations, convenience stores, car washes or any other facility that sells gasoline.

ROAD WIDTH — Width of right-of-way measured at right angles to the center of the road.

SEASONAL DWELLING (CAMP) — See "dwelling, seasonal (camp)."

SEASONAL USE — A use which will not have access to a snowplowed or winter-maintained public road or be provided with vehicular public services such as, but not limited to, emergency services, school busing or postal delivery during the winter snow season.**[Added 3-18-2020 by L.L. No. 1-2020]**

SECURITY BARRIER — A locked, impenetrable wall, fence or berm that completely seals an area from unauthorized entry or trespass.[**Added 11-21-2001 by L.L. No. 4-2001**]

SEPARATION — The distance between one carrier's array of antennas and another carrier's array.[**Added 11-21-2001 by L.L. No. 4-2001**]

SETBACK — The distance from lot lines, buildings, rights-of-way, water bodies or other specified boundaries to the nearest wall or corner of any building.

SEWAGE — The water-carried human or animal wastes from residences, buildings, industrial establishments or other places, together with such groundwater infiltration and surface water as may be present.[**Added 3-19-2003 by L.L. No. 2-2003; amended 3-4-2004 by L.L. No. 3-2004**]

SEXUAL ACTIVITY — Any act of masturbation, fellatio, cunnilingus, sodomy, sadomasochism, sexual intercourse or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks or, if such person is female, breasts.[**Added 10-21-2009 by L.L. No. 3-2009**]

SIDE LOT LINE — See "lot line, side."

SIGN, ADVERTISING — A sign of permanent nature which is designed solely for advertising a service or product and which does not convey information useful to motorists.

SIGN, DIRECTIONAL — Off-site signs for the sole purpose of indicating directions to business and other establishments.

SINGLE-FAMILY DWELLING — See "dwelling, single-family."

SLUDGE — The solid, semisolid, or liquid waste generated from a waste processing facility, but does not include the liquid stream of effluent.[**Added 3-19-2003 by L.L. No. 2-2003; amended 3-4-2004 by L.L. No. 3-2004**]

SMALL WIND ENERGY CONVERSION SYSTEM (SMALL WECS) — A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kw and which is intended to primarily generate on-site power or reduce on-site consumption of utility power.[**Added 1-21-2009 by L.L. No. 2-2009**]

SOLAR COLLECTOR — A solar photovoltaic cell, panel, array, or solar hot air or water collector device which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.[**Added 5-18-2016 by L.L. No. 1-2016**]

SOLAR ENERGY EQUIPMENT — Solar collectors, controls, energy storage devices, heat pumps, heat exchangers, and other materials, hardware or equipment necessary to the process by which solar radiation is collected, converted into another form of energy, stored protected from unnecessary dissipation and distributed. Solar systems include solar thermal, photovoltaic, and passive solar.[**Added 5-18-2016 by L.L. No. 1-2016**]

SOLAR FARM (SOLAR ENERGY PRODUCTION FACILITY) — An area of land or other area used for a solar collection system principally used to capture solar energy and convert it to electrical energy to transfer to the public electric grid in order to sell electricity to a public utility entity.[**Added 5-18-2016 by L.L. No. 1-2016**]

SOLAR STORAGE BATTERY — A device that stores energy from the sun and makes it available in an electrical form.[**Added 5-18-2016 by L.L. No. 1-2016**]

SOLID WASTE — All putrescible and nonputrescible materials or substances that are discarded, abandoned, or rejected as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection, including but not limited to garbage, refuse, industrial and commercial waste, sludges from air or water treatment facilities, rubbish, tires, ashes, contained gaseous material, incinerator residue, construction and demolition debris, discarded automobiles and offal.[**Added 3-19-2003 by L.L. No. 2-2003; amended 3-4-2004 by L.L. No. 3-2004**]

SPECIAL USE — A use designated in a land use district that may be permitted depending on individual circumstances. Such a use requires a site plan review by the Planning Board.[**Amended 8-21-2013 by L.L. No. 2-2013**]

SPECIFIED ANATOMICAL AREAS — Human male or female genitals, pubic areas or, when absent of any opaque covering, buttocks; female breasts with less than a full opaque covering of any portion thereof below the top of the areola; and covered male genitals in a discernibly turgid state.[**Added 10-21-2009 by L.L. No. 3-2009**]

STRUCTURE — Anything constructed or erected, the use of which requires location on the ground or attached to something having a location on the ground.

SURFACE WATER — Lakes, bays, sounds, ponds, impounding reservoirs, springs, rivers, streams, creeks, wetlands, marshes, and all other perennial bodies of surface water, natural or artificial, public or private.[**Added 3-19-2003 by L.L. No. 2-2003; amended 3-4-2004 by L.L. No. 3-2004**]

TOPLESS OR STRIPTease BAR — An adult entertainment establishment used for the serving and consumption of alcoholic beverages and featuring topless dancers, waitresses, strippers or other persons displaying sexual activity or specified anatomical areas for the patrons' interest.[**Added 10-21-2009 by L.L. No. 3-2009**]

TRAVEL TRAILER — Any enclosed vehicle used or designed to be used for temporary living and/or sleeping quarters.

TRAVEL TRAILER PARK — Any lot, piece or parcel of ground where two or more travel trailers are parked, located, or used, or for which said premises are held open to the public for two or more such units.

TWO-FAMILY DWELLING — See "dwelling, two-family."

WATER BODY — Any lake, pond, wetland, or streambed.

WATER SUPPLY PROTECTION OVERLAY DISTRICT — An overlay zoning district comprised of a portion of a wellhead protection area within 200 feet or 60 days groundwater time-of-travel from a public supply well(s).[**Added 3-4-2004 by L.L. No. 3-2004**]

WELLHEAD PROTECTION AREA — The surface and subsurface area surrounding a water well or wellfield, supplying a public water system, through which contaminants are reasonably likely to move toward and reach such water well or wellfield. This area has been delineated for the Martinsburg Water District #1 and the Glenfield Water District by the New York Rural Water Association based upon available hydrogeologic data.[**Added 3-19-2003 by L.L. No. 2-2003; amended 3-4-2004 by L.L. No. 3-2004**]

WIND-POWER-GENERATING FACILITIES — Wind-generating facilities which generate original power on site to be transferred to a transmission system for distribution to customers. The definition of wind-power-generating facilities shall not include individual wind-power-generating facilities erected and used primarily for private use.

WIRELESS COMMUNICATIONS ANTENNA — An antenna designed to transmit or receive communications as authorized by the Federal Communications Commission, including but not limited to whip, panel and dish communications antenna.[**Added 11-21-2001 by L.L. No. 4-2001**]

WIRELESS COMMUNICATIONS FACILITY — A facility for the provision of wireless communications services, as defined by the Telecommunications Act of 1996,³ and usually consisting of an equipment shelter, a mount, and/or antenna(s). Radio or television transmission towers and repeaters shall be included in the definition of wireless communications facilities.[**Added 11-21-2001 by L.L. No. 4-2001**]

WIRELESS COMMUNICATIONS SERVICES — Three types of services are regulated by this chapter include commercial mobile radio services, unlicensed wireless services, and common carrier wireless exchange access services for cellular, personal communication services (PCS), enhanced specialized mobile radio, and specialized mobile radio and paging services. Excluded from this definition are services used for fire, police and other dispatch communications, or exclusively for private radio and television reception and private citizen's bands, amateur radio and other similar private, residential communications.[**Added 11-21-2001 by L.L. No. 4-2001**]

3. Editor's Note: See 47 U.S.C. § 521 et seq.

ARTICLE III
Establishment of Districts

§ 240-8. Types of districts. [Amended 3-4-2004 by L.L. No. 3-2004; 10-21-2009 by Ord. No. 3-2009]

For the purpose of this chapter, the Town of Martinsburg is hereby divided into the following districts:

| | |
|---------------------------------------|--|
| H — Hamlet | The areas within this district are now developed to some extent and include low- or medium-density residential uses with some commercial and industrial uses. |
| A — Agricultural | The areas within this district are generally used for agricultural activities. Most of the land is open in character with some scattered spots of forest, wetland, and residential use. |
| RR — Rural Residential | The areas within this district are sparsely settled, but generally accessible by highway. Some forest and agricultural use may be present. |
| F — Forest Resources | The areas within this district are predominantly covered by dense vegetation and contain many wet areas and stream courses. They are relatively inaccessible by automobile and contain few permanent residences and some seasonal residences. |
| WPO — Wind Power Overlay | Area(s) in the Town of Martinsburg where wind-power-generating facilities are allowed. |
| WSP — Water Supply Protection Overlay | Area(s) in the Town of Martinsburg within 200 feet or 60 days groundwater time-of-travel from the supply wells of Martinsburg Water District #1 and the Glenfield Water District. |
| AUO — Adult Use Overlay | Area where adult uses shall be allowed. Area to be defined as that portion of the Town of Martinsburg on the south side of Flat Rock Road commencing at the intersection of Flat Rock Road with Carey Road proceeding east to the intersection with Centerville Road, proceeding down Centerville Road south and east to its intersection with Leonard's Lane proceeding along Leonard's Lane south to its intersection with French Road, thence proceeding west along French Road to its intersection with Carey Road, thence north along Carey Road to its intersection with Flat Rock Road. |

§ 240-9. Development Map.

- A. Said districts are shown, defined and bounded on the map accompanying this chapter entitled "Development Map," dated March 10, 1995, and filed in the office of the Town Clerk, which map and all explanatory matter thereon is by this reference incorporated into this chapter.

- B. The boundaries of the Water Supply Protection Overlay District are set forth on the maps accompanying and incorporated into this chapter entitled "Martinsburg Wellhead Protection Area Map" and "Glenfield Wellhead Protection Area Map," both dated January 28, 2004, and filed with the Town Clerk. [Added 3-4-2004 by L.L. No. 3-2004]

§ 240-10. Interpretation of district boundaries.

Where uncertainty exists with respect to the boundaries of the various districts, as shown on the development map, the following rules shall apply:

- A. Where the designation on the development map indicates a boundary approximately upon a road, the center line of the road shall be construed to be the boundary;
- B. Where the designation on the development map indicates a boundary approximately upon a lot line, such lot line shall be construed to be the boundary;
- C. Distances shown on the development map are perpendicular distances from road center lines measured to the district boundary, which boundaries in all cases where distances are given are parallel to the road center line;
- D. In other cases the district boundary shall be determined by the use of the scale on the development map.

§ 240-11. Metes and bounds descriptions.

In the event that a metes and bounds description has been filed for a district change or a variance as required by this chapter, such metes and bounds description may be used in lieu of other provisions of this section.

§ 240-12. Divided lots.

Where a district boundary divides a lot of record at the time such boundary is adopted, the district requirements of the least restrictive portion of such lot can extend 50 feet into the more restrictive portion of the lot, provided the least restrictive portion of the lot has frontage on a road. If the lot extends more than 50 feet, the district requirements will be of those in the more restricted district.

§ 240-13. Special areas.

"Special areas" are designated on the development map pursuant to the provisions of the Tug Hill Reserve Act, Chapter 486 of the New York State Laws of 1992. All governmental agencies, boards, commissions, and authorities, prior to final action on a proposed development or review of a proposed development within a designated special area which would directly affect the special area and would change the basic nature of Tug Hill shall consult with the Town Board about said development.

ARTICLE IV
District Regulations

§ 240-14. Allowed uses. [Amended 1-21-2009 by L.L. No. 2-2009⁴]

All uses shall comply with the requirements as indicated on the following chart:

KEY:

P = Development Permit Required

SU = Special Use by Planning Board Approval Required

None = No Permit Required

NA = Not Allowed

| Land Use | District | | | |
|------------------------------|----------------------------|-------------|-------------------|-------------|
| | RR Rural Residential | H Hamlet | A Agricultural | F Forest |
| Accessory apartment | P | P | P | SU |
| Accessory structures | P | P | P | P |
| Active recreation | SU | NA | SU | SU |
| Agricultural structure | P | SU | P | P |
| Agriculture | None | P | None | None |
| Campground | SU | NA | SU | SU |
| Commercial use | SU | SU | SU | NA |
| Dwelling, multifamily | SU | SU | SU | NA |
| Dwelling, seasonal (camp) | P | NA | P | SU |
| Dwelling, single-family | P | P | P | SU |
| Dwelling, two-family | P | P | P | NA |
| Essential facilities | SU | SU | SU | SU |
| Home-based business | SU | SU | SU | SU |
| Junkyard | SU | NA | SU | NA |
| Major excavation | SU | NA | SU | SU |
| Manufacturing | SU | SU | SU | NA |
| Mobile home | P | P | P | SU |
| Mobile home park | SU | NA | SU | NA |
| Motor vehicle repair | SU | SU | SU | NA |

4. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

| Land Use | District | | | |
|--|----------------------------|-------------|-------------------|-------------|
| | RR Rural Residential | H Hamlet | A Agricultural | F Forest |
| Public and semipublic facilities | SU | SU | SU | NA |
| Retail gasoline and diesel outlet | SU | SU | SU | NA |
| Small wind energy conversion system (small WECS) | SU | SU | SU | SU |
| Travel trailer park | SU | NA | SU | NA |
| Wind-power-generation facilities | SU | None | SU | SU |
| Wireless telecommunications facilities | SU | SU | SU | SU |

§ 240-15. Land Use District Schedule. [Amended 3-17-2004 by L.L. No. 4-2004; 10-21-2009 by L.L. No. 3-2009⁵]

| District | Specifications for All Uses | |
|----------------------------|-----------------------------|---|
| H Hamlet | Lot frontage | 200 feet minimum. Where public water is available, the frontage may be reduced to 100 feet |
| | Lot size | 1 acre minimum. Where public water is available, the lot size may be reduced to 20,000 square feet |
| | Setback of all buildings | From center line of state road: 75 feet minimum From center line of county and Town road: 60 feet minimum From side and rear lot lines: 20 feet minimum |
| A Agricultural | Lot frontage | 200 feet minimum. Where public water is available, the frontage may be reduced to 100 feet |
| | Lot size | 1 acre, minimum. Where public water is available, the lot size may be reduced to 20,000 square feet |
| | Setback of all buildings | From center line of state road: 75 feet minimum From center line of county and Town road: 60 feet minimum From side and rear lot lines: 25 feet minimum |
| RR Rural Residential | Lot frontage | 200 feet minimum. Where public water is available, the frontage may be reduced to 100 feet |

5. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. D).

District

Specifications for All Uses

| | | |
|------------------------|---|--|
| | Lot size | 1 acre minimum. Where public water is available, the lot size may be reduced to 20,000 square feet |
| | Setback of all buildings | From center line of state road: 75 feet minimum From center line of county and Town road: 60 feet minimum From side and rear lot lines: 25 feet minimum |
| F Forest | Lot frontage | 200 feet minimum. Lots without road frontage may not be developed |
| | Lot size | 1 acre minimum |
| | Setback of all buildings | From center line of county and Town road: 60 feet minimum From side and rear lot lines: 50 feet minimum |
| WPO Wind Power Overlay | Lot frontage | Same as underlying zone |
| | Lot size | Same as underlying zone |
| | Setback of all wind-power-generating structures | From side and rear lot lines: 300 feet, which can be waived by the Planning Board as part of its special use permit review process if: (i) Neighboring parcels are also participating in the wind project; or (ii) In the case of a nonparticipating neighbor, the applicant has secured a development easement from said neighbor From any existing residential structures: 1,000 feet, unless the owner of said residential structure agrees to the lesser setback and consenting to a noise easement From the center line of any road: 300 feet |
| | Landscaping and screening | Appropriate landscaping is required to keep the site in a neat and orderly fashion. Appropriate screening is required to screen accessory structures from adjacent residences |
| AUO Adult Use Overlay | Lot frontage | In accordance with § 240-39 by special use permit |
| | Lot size | In accordance with § 240-39 by special use permit |
| | Setback | In accordance with § 240-39 by special use permit |
| | Landscaping and screening | In accordance with § 240-39 by special use permit |

§ 240-16. Wind Power Overlay District procedure.

- A. A wind power overlay may be applied in the Rural Residential District or the Agricultural District upon application to the Town Board.
- B. Any application for a wind power overlay to the Town Board must be in writing and must be duly signed by the applicant and contain: **[Amended 3-4-2004 by L.L. No. 2-2004]**
 - (1) The identity of the parcels to be affected, including Tax Map numbers and acreage;
 - (2) The consent of all property owners within the overlay;
 - (3) Sufficient acreage to comply with setbacks and other requirements set forth in § 240-15 of this chapter;
 - (4) The identity of the applicant; and
 - (5) An environmental assessment form.
- C. The Town Board shall hold a public hearing on any such application prior to permitting or denying such application. The notice shall be published in the official newspaper of the Town at least 10 days prior to the hearing. In addition, written notices shall be sent to all adjoining property owners; all other municipal entities within 500 feet of the project site; and the Lewis County Planning Board. The hearing shall be held within 62 days of receiving a complete application.
- D. The Town Board shall make its determination within 62 days of when the public hearing is closed.

§ 240-17. Water Supply Protection Overlay District regulations. [Added 3-4-2004 by L.L. No. 3-2004]

- A. Any uses not permitted in the underlying district shall not be permitted in the Water Supply Protection Overlay District. Any uses permitted in the underlying district shall be permitted in the Water Supply Protection Overlay District, except where the overlay district prohibits or imposes greater or additional restrictions and requirements. In any cases where conflicts arise between these requirements and any other existing regulations, the more restrictive regulations shall apply.
- B. The following uses and activities are prohibited within the Water Supply Protection Overlay District:
 - (1) Storage or disposal of septage, sewage, sludge, or human excreta;
 - (2) Application, storage, or disposal of compost, manure, and other animal wastes;
 - (3) Keeping or grazing of livestock;
 - (4) Storage or disposal of petroleum, organic chemical solvents, hazardous substances, or hazardous wastes except where such storage is used in connection with the operation of a public water supply system;
 - (5) Storage or disposal of solid waste or radioactive materials;
 - (6) Disposal of snow containing de-icing compounds;
 - (7) Storage of de-icing compounds; and

- (8) Placement of dead livestock on the ground or burial beneath the surface of the ground.
- C. Any person who is responsible for or has knowledge of any spill of any hazardous substance, hazardous waste, petroleum, radioactive material, or other materials that could pose a threat to water quality to the land surface, subsurface, surface water, or groundwater within the Wellhead Protection Area of the water supply wells of the Martinsburg Water District and/or the Glenfield Water District shall notify the New York State Department of Environmental Conservation and the Town of Martinsburg within two hours of such spill, or when knowledge of such spill is obtained.
- D. Any legally authorized representative(s) of the Town may, at a reasonable time and in a reasonable manner, enter and inspect any place.

ARTICLE V
General Regulations

§ 240-18. Dwellings per lot.

There shall be no more than one dwelling on a single lot except for the placement of a temporary residence complying with the provisions of § 240-78 of this chapter, or upon approval of a special use permit. Such special use permit may be issued where it can be demonstrated that any future subdivision of the lot which would result in the dwellings being located on separate lots, can be accomplished in such a way that the resulting dwellings will have setbacks in accordance with this chapter, the resulting lots will have areas and dimensions in accordance with this chapter, and all sewage disposal and wastewater systems will be in accordance with the New York State Sanitary Code.

§ 240-19. Line of sight for traffic safety.

No accessory structure, fence, wall, or hedge shall be erected in such a manner as to confuse or obstruct the views of any traffic sign, signal, or device, or obstruct the visibility of vehicles entering or exiting highways.

§ 240-20. Height of structures.

- A. No structure shall exceed 40 feet in height except agricultural structures, chimneys, telecommunication towers, television and radio masts and antennas, water tanks, spires, and windmills.
- B. Structures exceeding 40 feet in height shall be allowed only upon approval of a special use permit. Such permit shall not be approved until the applicant has demonstrated the following:
 - (1) That there is a demonstrated public need for the proposed use, and that this need cannot be met by any means other than by exceeding the general height limitations of this chapter;
 - (2) That the height of the structure is the minimum necessary to accomplish its intended purpose;
 - (3) That all practical means have been used to minimize any negative aesthetic impacts identified by the Planning Board;
 - (4) That the structure does not significantly impair solar access to buildings or solar energy systems equipment.

§ 240-21. Unapproved lots.

No development permit or certificate of compliance shall be issued for any use or structure on any lot which has been filed in the office of the County Clerk after the effective date of Chapter 195, Subdivision of Land, of the Code of the Town of Martinsburg, unless such lot is included in a plat which has been approved by the Planning Board and filed with the office of the County Clerk, or was exempt from said regulations at the time of filing.

§ 240-22. Road access.

- A. No development permit or certificate of compliance shall be issued for any use or structure on any lot which does not directly abut a public or approved private road, as required by Town Law § 280-a. This abutment shall include at least 15 feet of road frontage suitable for access by emergency vehicles. Easements may be considered for access.
- B. No use or structure requiring access to a minimum maintenance road shall be allowed which would require a change in the maintenance standards of the road. A special use permit shall be required for all uses and structures on parcels of land solely abutting a minimum maintenance road.

§ 240-23. Signs.

- A. No permanent outdoor signs shall consist of lights which flash or move. General illumination lights are acceptable at any time. Temporary signs can flash.
- B. No sign shall be higher than the principal building to which it is accessory except when erected on the roof of the building.
- C. All existing signs at the time this chapter is adopted shall be allowed to remain as long as they are properly maintained and their use remains current.
- D. No sign shall project into public right-of-way.
- E. One on-site sign is permitted not to exceed 32 square feet per side, to be illuminated during regular business hours only.
- F. A limited number of off-site directional signs are permitted, not to exceed 16 square feet per side.

§ 240-24. Parking requirements.

This section is designed to reduce problems caused by inadequate or poorly designed parking facilities. No permit or approval shall be issued until the applicant has demonstrated that all uses are provided with adequate off-road parking for all vehicles parked during typical peak use periods. Parking should be designed to eliminate the need to back out onto the public road.

§ 240-25. Mobile homes. [Amended 8-21-2013 by L.L. No. 2-2013]

Mobile homes shall conform to the requirements of Chapter 145, Mobile Homes, of the Code of the Town of Martinsburg.

§ 240-26. Individual travel trailers and converted buses, vans and similar vehicles.

- A. Individual travel trailers and converted buses, vans and similar vehicles shall not be occupied on an overnight basis, except in a trailer park which has been approved under § 240-30 of this chapter, or on private land with the consent of the owner for a period not to exceed 30 consecutive days provided all health standards are met.
- B. This shall not be interpreted to prevent parking a travel trailer, bus, van or similar vehicle on an owner's lot unoccupied for storage purposes only. Individual travel trailers or vehicles intended to be used as a dwelling unit shall meet all the applicable portions of this chapter pertaining to single-family dwellings.

§ 240-27. Streams, wetlands and water bodies.

- A. The regulations of this section shall apply to all land within 100 feet of the following areas:
- (1) Wetlands classified pursuant to 6 NYCRR 664;
 - (2) Streams classified as "D" or higher pursuant to 6 NYCRR Chapter X, Subchapter B;
 - (3) Any bodies of open water.
- B. The following activities are prohibited:
- (1) Dumping of waste materials, junk, refuse or anything that would alter the quality of the water or the character of the area;
 - (2) Construction of any principal or accessory use;
 - (3) Feed lots.

§ 240-28. Sewage and waste disposal standards. [Amended 8-21-2013 by L.L. No. 3-2013]

On-site sewage disposal systems shall comply with the specifications and standards set forth in 10 NYCRR 75, Appendix 75-A, entitled "Wastewater Treatment Standards — Individual Household Systems."

§ 240-29. Retail gasoline and diesel outlet.

Retail gasoline and diesel outlets shall meet the following requirements:

- A. Minimum distance of 75 feet between pump islands and any road center line;
- B. All petroleum bulk storage facilities shall comply with 6 NYCRR 612, 613, and 614 and any other state or federal regulations for petroleum bulk storage facilities;
- C. A minimum of two egresses onto the property.

§ 240-30. Campgrounds and travel trailer parks.

- A. A permit for a campground may be granted for two-year periods and may be renewed at the end of that time. They must meet Chapter I, Subpart 7-1 of the New York State Sanitary Code.
- B. Garbage disposal must be carried out on a regular basis, such that it does not constitute a nuisance or health hazard.

§ 240-31. Home-based businesses.

- A. A home-based business shall be a nonresidential activity conducted for financial gain that is clearly incidental and secondary to a residential use and does not exceed one of the following criteria:⁶
 - (1) One nonresident is employed on the premises;

6. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (2) Total floor area devoted to retail sales does not exceed 500 square feet;
- (3) No more than two customer, client or delivery vehicles are present on the site at one time.

B. Home-based businesses shall be subject to the following standards:

- (1) The exterior of buildings containing home-based businesses shall not be altered to accommodate the business;
- (2) Excessive noise, glare, odors and/or vibrations shall not be produced;
- (3) One on-premises advertising sign not to exceed six square feet shall be allowed;
- (4) All parking shall be provided on-site in accordance with § 240-24 of this chapter.

§ 240-32. Solid waste disposal.⁷

No junk or solid waste is permitted to be stored unenclosed in any district except where specifically authorized by this chapter. Solid waste or junk shall either be disposed of on site by burial or be transported to a solid waste facility for receiving such junk and solid waste within 10 days. In no such case shall junk or solid waste be incinerated without the approval of the Planning Board.

§ 240-33. Junkyards.

- A. No garbage, rubbish, waste material or trash shall be stored or allowed to accumulate on the open surface of the ground in any area.
- B. Only junk vehicles and associated equipment may be stored in these areas.
- C. Such areas shall be at least 200 feet from any highway, lake, stream, or property line and 500 feet from any neighboring dwelling.
- D. Such areas shall be screened from public view by a hedge or fence.

§ 240-34. Major excavations.

- A. No person shall mine more than 1,000 tons of material from the earth within one calendar year without applying for a permit from the Department of Environmental Conservation, as required by 6 NYCRR 420 through 425.⁸
- B. Access drives within 200 feet of the public road shall be treated to prevent dust.
- C. Restored slopes shall have a ratio of 2:1 and shall be seeded on completion.⁹
- D. Drainage facilities shall minimize erosion and stagnant ponds.

7. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

8. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

9. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 240-35. Mobile home parks.¹⁰

Mobile home parks shall conform to the requirements of Chapter 145, Mobile Homes, of the Code of the Town of Martinsburg.

§ 240-36. Outdoor furnaces. [Added 5-18-2005 by L.L. No. 3-2005]

- A. With respect to any outdoor furnaces installed, such outdoor furnaces must be set back a minimum of 50 feet from any property line.
- B. The use of such furnaces must follow all operating instructions supplied by the manufacturer.
- C. The only fuels allowed shall be those listed fuels recommended by the manufacturer. The following are prohibited: trash, plastics, gasoline, rubber, naphtha, household garbage, material treated with petroleum products (particle board, railroad ties and pressure-treated wood), leaves, paper products and cardboard.
- D. Users must follow the manufacturer's written instructions for recommended loading times and amounts.
- E. Lighter fluids, gasoline, or chemicals to start the furnace are prohibited.
- F. The unit must be located with due consideration to the prevailing wind direction.
- G. Stack height.
 - (1) If located 50 feet or less to any residence not served by the furnace, it is recommended that the stack be at least two feet higher than the eave line of the residence.
 - (2) If located more than 50 but no more than 100 feet to any residence, it is recommended that the stack be at least 75% of the height of the eave line of that residence, plus an additional two feet.
 - (3) If located more than 100 feet but no more than 150 feet to any residence, it is recommended that the stack be at least 50% of the eave line of that residence, plus an additional two feet.
 - (4) If located more than 150 feet but no more than 200 feet to any residence, it is recommended that the stack be at least 25% of the height of the eave line of that residence, plus an additional two feet.

§ 240-37. Structures near wind-power-generating facilities. [Added 6-15-2005 by L.L. No. 4-2005]

Once a wind-power-generating facility has been erected, property owners may choose to erect structures on adjoining parcels. Such structures may be erected, provided they meet the setback provisions applicable to their zoning district for that type of use. The provisions of § 240-15 of this chapter, regarding wind power overlay districts, regarding setbacks of wind-power-generating structures, is intended to restrict only wind-power-generating structures being

10. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

erected. Other structures being erected after a wind-power-generating structure is in existence need only meet setbacks otherwise applicable to that district.

§ 240-38. Small wind energy conversion systems. [Added 1-21-2009 by L.L. No. 2-2009]

- A. Purpose and intent. The purpose of this article is to provide standards for small wind energy conversion systems designed for on-site home, farm, and small commercial use, and that are primarily used to reduce on-site consumption of utility power. The intent of this article is to encourage the development of small wind energy systems and to protect the public health, safety, and community welfare.
- B. Permitted areas.
- (1) Small wind energy conversion systems (small WECS) may be permitted in any zoning district on a site of at least one acre, upon issuance of a special use permit. A small WECS shall be set back from all property lines a distance equal to at least 1.5 times its height.
 - (2) Any adjoining property owner within a radius of four times the height of the proposed small WECS will be required to grant approval for construction and operation of the turbine.
- C. Applications. Applications for small WECS special use permits shall include:
- (1) Name, address, telephone number of the applicant. If the applicant will be represented by an agent, the name, address and telephone number of the agent as well as an original signature of the applicant authorizing the agent to represent the applicant.
 - (2) Name, address, telephone number of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner:
 - (a) Confirming that the property owner is familiar with the proposed applications; and
 - (b) Authorizing the submission of the application.
 - (3) Address of each proposed tower site, including Tax Map section, block and lot number.
 - (4) Site plan of each tower site, including but not limited to showing the location of the tower in relation to other structures and lot lines, topography of the site, location of trees and other landscape elements.
 - (5) Ownership and land use information within a five-hundred-foot radius of the location proposed for each tower.
 - (6) Evidence that the proposed tower height does not exceed the height recommended by the manufacturer or distributor of the system.
 - (7) A line drawing of the electrical components of the system in sufficient detail to allow for a determination that the manner of installation conforms to the Electric Code.

- (8) Sufficient information demonstrating that the system will be used primarily to reduce off-site consumption of electricity.
- (9) Written evidence that the electric utility service provider that serves the proposed site has been informed of the applicant's intent to install an interconnected customer-owner electricity generator, unless the applicant does not plan to connect the system to the electricity grid, and so states so in the application.

D. Application review process.

- (1) Applicants may request a preapplication meeting with the Town Planning Board, or with any consultants retained by the Planning Board for application review. Meetings with the Planning Board shall be conducted in accordance with the Open Meetings Law.¹¹
- (2) Five copies of the application shall be submitted to the Town Clerk. Payment of all application fees shall be made at the time of application submission. If any variances are requested, variance application fees shall be paid at the time of the receipt of the application.
- (3) Town staff or Town-designated consultants shall, within 30 days of receipt, or such longer time if agreed to by the applicant, determine if all information required under this article is included in the application. Unless the Planning Board waives any application requirement, no application shall be considered until deemed complete.
- (4) If the application is deemed incomplete, the Planning Board or its designated reviewer shall provide the applicant with a written statement listing the missing information. No refund of application fees shall be made, but no additional fees shall be required upon submittal of the additional information unless the number of small WECS proposed is increased.
- (5) Upon submission of a complete application, including the grant of any application waiver by the Planning Board, the Town Clerk shall transmit the application to the Planning Board.
- (6) The Planning Board shall hold at least one public hearing on the application. Notice shall be given by first-class mail to property owners within 1,000 feet of each proposed small WECS and published in the Town's official newspaper, no less than 10 nor more than 20 days before any hearing, but where any hearing is adjourned by the Planning Board to hear additional comments, no further publication or mailing shall be required. The applicant shall prepare and mail the notice of public hearing prepared by the Planning Board, and shall submit an affidavit of service. The assessment roll of the Town shall be used to determine mailing addresses.
- (7) The public hearing may be combined with public hearings on any environmental impact statement or requested variances.
- (8) Notice of the project shall also be given, when applicable, to the Lewis County Planning Board, if required by General Municipal Law § 239-1 and 239-m, and to adjoining towns under Town Law § 264.

11. Editor's Note: See Art. 7 of the State Public Officers Law.

- (9) SEQRA review. Applications for WECS are deemed unlisted projects under SEQRA.¹² The Planning Board may conduct its SEQRA review in conjunction with other agencies, in which case the records of review by said communities shall be part of the record of the Planning Board's proceedings. The Planning Board may require an escrow agreement for the engineering and legal review of the applications and any environmental impact statements before commencing its review.
 - (10) Upon receipt of the report of the recommendation of the County Planning Board, the holding of the public hearing, and the completion of the SEQRA process, the Planning Board may approve, approve with conditions, or deny the applications, in accordance with the standards in this article.
- E. Development standards. All small wind energy systems shall comply with the following standards. Additionally, such systems shall also comply with all the requirements established by other sections of this article that are not in conflict with the requirements contained in this section.
- (1) A small WECS system shall be located on a lot a minimum of one acre in size; however, this requirement can be met by multiple owners submitting a joint application.
 - (2) Setback requirements. A small WECS shall not be located closer to a property line than one and a half times the total height of the facility.
 - (3) Noise. Except during short-term events including utility outages and severe windstorms, a small WECS shall be designed, installed and operated so that noise generated by the system shall not exceed ambient plus five decibels (dBA), as measured at the closest neighboring property line.
 - (4) Small WECS may be used primarily to generate on-site power or to reduce the off-site supply of electricity.
 - (5) Tower height may be allowed to vary, dependent on the technology employed. However, setbacks from all property lines shall be maintained, at a minimum, at one and a half times the total height of the tower.
 - (a) The allowed height shall be reduced if necessary to comply with all applicable Federal Aviation Requirements, including Subpart B (commencing with Section 77.11) of Part 77 of Title 14 of the Code of Federal Regulations regarding installations close to airports.
 - (6) The system's tower and blades shall be painted a nonreflective, unobtrusive color that blends the system and its components into the surrounding landscape to the greatest extent possible and incorporate nonreflective surfaces to minimize any visual disruption.
 - (7) The system shall be designed and located in such a manner to minimize adverse visual impacts from public viewing areas (e.g., public parks, roads, trails). To the greatest extent feasible, a small wind energy system shall use natural landforms and vegetation for screening.

12. Editor's Note: See Environmental Conservation Law § 8-0101 et seq.

- (8) Exterior lighting on any structure associated with the system shall not be allowed except that which is specifically required by the Federal Aviation Administration.
- (9) All on-site electrical wires associated with the system shall be installed underground except for tie-ins to a public utility company and public utility company transmission poles, towers and lines. This standard may be modified by the Town if the project terrain is determined to be unsuitable due to reasons of excessive grading, biological impacts, or similar factors.
- (10) The system shall be operated such that no disruptive electromagnetic interference is caused. If it has been demonstrated that a system is causing harmful interference, the system operator shall promptly mitigate the harmful interference or cease operation of the system.
- (11) The system shall be operated such that no damage is caused by stray voltage. If it has been demonstrated that a system is causing stray voltage, the system operator shall promptly mitigate the damage or cease operation of the system.
- (12) At least one sign shall be posted on the tower at a height of five feet warning of electrical shock or high voltage and harm from revolving machinery. No brand names, logo or advertising shall be placed or painted on the tower, rotor, generator or tail vane where it would be visible from the ground, except that a system or tower's manufacturer's logo may be displayed on a system generator housing in an unobtrusive manner.
- (13) Towers shall be constructed to provide one of the following means of access control, or other appropriate method of access:
 - (a) Tower-climbing apparatus located no closer than 12 feet from the ground; or
 - (b) A locked anti-climb device installed on the tower.
- (14) Anchor points for any guy wires for a system tower shall be located within the property that the system is located on and not on or across any aboveground electric transmission or distribution lines. The point of attachment for the guy wires shall be sheathed in bright orange or yellow covering from three feet to eight feet above the ground.
- (15) Construction of on-site access roadways shall be minimized. Temporary access roads utilized for initial installation shall be regraded and revegetated to the preexisting natural condition after completion of installation.
- (16) To prevent harmful wind turbulence from existing structures, the minimum height of the lowest part of any horizontal axis wind turbine blade shall be at least 30 feet above the highest structure or tree within a two-hundred-fifty-foot radius. Modifications of this standard may be made when the applicant demonstrates that a lower height will not jeopardize the safety of the wind turbine structure.
- (17) All small wind energy system tower structures shall be designed and constructed to be in compliance with pertinent provisions of the Uniform Building Code and National Electric Code.

- (18) All small wind energy systems shall be equipped with manual and automatic over-speed controls. The conformance of rotor and over-speed control design and fabrication with good engineering practices shall be certified by the manufacturer.
- (19) The New York State Department of Agriculture and Markets guidelines for agricultural mitigation for wind power projects shall be adhered to both inside and outside of agricultural districts.

F. Abandonment of use.

- (1) A small WECS which is not used for 12 successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner. Failure to abide by and faithfully comply with this section or with any and all conditions that may be attached to the granting of any building permit shall constitute grounds for the revocation of the permit by the Town of Martinsburg.
- (2) All small WECS shall be maintained in good condition and in accordance with all requirements of this section.

§ 240-39. Adult use regulations. [Added 10-21-2009 by L.L. No. 3-2009]

- A. Adult entertainment businesses and uses shall be permitted only in the Adult Use Overlay District as depicted by the Adult Use Map contained herein¹³ and shall be subject to a special use permit issued by the Planning Board of the Town of Martinsburg.
- B. Adult entertainment uses shall be a minimum of 1,000 feet from schools, churches, public parks and recreation lands, municipal buildings, municipal boundary lines and other adult entertainment uses. Measurement of distances shall be from the property lines of the use except in the separation from other adult uses, in which case the distance shall be measured from structure to structure.
- C. In addition to other criteria, the following shall be applied to any adult entertainment business or use:
 - (1) Only one sign shall be visible from the exterior of any building which is occupied by an adult entertainment use. Any such signs shall not contain a gross surface area exceeding 32 square feet. No sign shall consist of any material other than plain lettering. No sign shall have any photographic or artistic representation whatsoever thereon.
 - (2) All building openings, entries, windows and doors shall be located, covered or screened in such manner as to prevent a view into the interior of the building from any public right-of-way or adjacent property.
 - (3) No adult use shall be established in any building of which any part is used for residential purposes.
 - (4) No residential use shall be established in any building which any part is used as an adult establishment.

13. Editor's Note: Said map is on file in the offices of the Town Clerk.

§ 240-40. Fences. [Added 11-17-2010 by L.L. No. 4-2010]

Fences may be erected on any lot in any district. With the exception of fences for an agricultural use, all fences shall be subject to a special use permit issued for compliance with the following restrictions:

- A. All fences must be on the property of the owner. It is recommended that a property survey be used to determined fence placement.
- B. Fences cannot extend out to the curbs of streets or beyond the edge of the Town right-of-way. Fences cannot impede automobile sight distance.
- C. Fences shall be four feet or less in height within 25 feet of any intersection of any road. **[Amended 8-21-2013 by L.L. No. 2-2013]**
- D. Fences shall be placed two feet back from the property line in order that fence maintenance on both sides of the property line can be performed.
- E. No fence shall exceed six feet in height, except pursuant to site plan approval. No fence located within the minimum setback shall exceed four feet in height, or 2 1/2 feet in height within the visibility triangle of a corner lot.
- F. Fence shall be constructed with good side to neighbor using acceptable materials.
- G. The Town requires an approved barrier as per New York State Residential Code for all swimming pools as stated in that code.

§ 240-40.1. Solar collectors; installation. [Added 5-18-2016 by L.L. No. 1-2016]

- A. A land use permit is required. Rooftop and building-mounted solar collectors are permitted in all zoning districts in the Town of Martinsburg. Building permits shall be required for installation of all solar collectors. Solar collectors will not extend above the ridge and shall be set back from all roof edges a minimum of 18 inches. It shall extend no more than 12 inches above the roof surface to which it is affixed except in the case of flat roofs, which will be reviewed on a case-by-case basis.
- B. Ground-mounted and freestanding solar collectors are permitted as accessory structures in all zoning districts in the Town, subject to the following requirements:
 - (1) The location of the solar collector meets all applicable setback requirements of the zone in which it is located.
 - (2) The height of the solar collector and any mounts shall not exceed 20 feet when oriented at maximum tilt.
 - (3) A building permit has been obtained for the solar collector.
 - (4) All electrical wiring from the array is to be underground as per the Code.
- C. The applicant shall demonstrate that the solar collection system will be minimally visually intrusive to surrounding properties, buildings, roads, aviation, etc. The equipment shall use, to the extent practical, materials, colors and textures designed to blend with the structure to which it is affixed or, if it is not affixed, to harmonize with the natural surroundings. Equipment shall not be unnecessarily bright, shiny or reflective.

- D. Where site plan approval is required elsewhere in this chapter for a development or activity, the site plan review shall include review of the adequacy, location, arrangement, size, design, general site compatibility and environmental impact assessment of proposed solar collectors. Where a site plan exists, an approved modified site plan shall be required if there are any proposed changes or additions of solar collectors. A site plan review is required for all installations of solar energy equipment on nondwelling lots.
- E. All solar collector installations must, prior to operation, be inspected by the Town Code Enforcement Officer and by an appropriate electrical inspection person or agency, as determined by the Town.
- F. Where solar energy equipment is to be tied to and operated in parallel with facilities owned and operated by a public utility, the installation shall comply with all applicable rules and regulations, Public Service Law and utility tariffs governing the interconnection. In addition, copies of any interconnection agreement shall be provided to the Town Code Enforcement Officer prior to operation.
- G. When solar storage batteries are included as part of the solar collector system, they must be placed in a secure container or enclosure meeting the requirements of the New York State Building Code when in use, and, when no longer used, they shall be disposed of in accordance with all applicable laws and regulations. Notification of the installation and/or removal of solar storage batteries shall be made to the fire department responsible for response to the location where the batteries are installed.
- H. If a solar collector ceases to perform its originally intended function for more than 12 consecutive months, the property owner shall remove the collector, mount and associated equipment and facilities no later than 90 days after the end of the twelve-month period. The Town retains the option to require a bond be obtained to cover the future removal of the facility.

§ 240-40.2. Minimum-maintenance roads; classification; seasonal use. [Added 3-18-2020 by L.L. No. 1-2020]

- A. Purpose. The purpose of this section is to provide for the reasonable use of recreational, agricultural and forestry properties which are accessed solely by minimum-maintenance roads. This section allows for the reasonable use of such lands for seasonal uses without the prohibitively expensive public cost of providing for wheeled vehicular access through the snowplowing and winter maintenance of minimum-maintenance roads.
- B. Seasonal use classification is a use classification in addition to the use classifications otherwise discussed or defined in this chapter. Application for seasonal use classification may be made for any use which intends to have its principal access to a minimum-maintenance road.
- C. For a use to be established with its principal access to a minimum-maintenance road, it must also be classified as a seasonal use.
- D. Where a use has access to both a minimum-maintenance road and to a non-minimum-maintenance road, such use shall have its principal access to the non-minimum-maintenance road unless classified as a seasonal use.

ARTICLE VI
Special Use Permits

§ 240-41. Authority.

The Planning Board of the Town of Martinsburg is hereby authorized pursuant to Town Law § 274-b to review and approve, approve with modifications, or disapprove special use permits within the Town as designated in accordance with the standards and procedures set forth in this chapter.

§ 240-42. Applicability.

All uses listed in § 240-14 of this chapter as requiring a special use permit shall be required to have such permit approved by the Planning Board prior to the issuance of a development permit or a certificate of compliance by the enforcement officer.

§ 240-43. Considerations.

- A. In considering and acting on special use permits, the Planning Board shall consider the public health, safety, welfare, and comfort and convenience of the public in general, the residents of proposed developments, and the residents of the immediate surrounding area.
- B. The Planning Board may prescribe such appropriate conditions and safeguards as may be required in order that the results of its action shall, to the maximum extent possible, further the accomplishment of the following objectives:
 - (1) **Compatibility.** That the proposed use is of a character compatible with the surrounding neighborhood and in harmony with the community; **[Amended 8-21-2013 by L.L. No. 2-2013]**
 - (2) **Public facilities.** That the public facilities to service the proposed use, including water supply, sewage disposal, drainage facilities, and road facilities, and any other utilities and public services are adequate for the intended level of use;
 - (3) **Other requirements.** That the proposed use complies with all requirements for site plans in Article VII of this chapter and any other special requirements as may be set forth for the use in this chapter.

§ 240-44. Application and review procedure.

All applications for special use permits shall be submitted and reviewed in compliance with the submission requirements and review procedures for site plan reviews in Article VII of this chapter.

ARTICLE VII
Site Plan Review

§ 240-45. Authority.

The Planning Board of the Town of Martinsburg is hereby authorized pursuant to Town Law § 274-a to review and approve, approve with modifications, or disapprove site plans within the Town as designated in accordance with the standards and procedures set forth in this chapter.

§ 240-46. Applicability.

All nonresidential uses on any site or lot, and all multifamily dwellings of over two families shall be required to have an approved site plan approved by the Planning Board prior to the issuance of a development permit or a certificate of compliance by the enforcement officer.

§ 240-47. General review criteria.

The Planning Board shall require that all site plans comply with the following general review criteria:

- A. That the site is designed in the interests of the public health, safety, welfare, and comfort and convenience of the public in general, the residents of the proposed development, and the residents of the immediate surrounding area;
- B. That the site is designed so as to be in harmony with the community; [**Amended 8-21-2013 by L.L. No. 2-2013**]
- C. That parking areas are adequate for the intended level of use and screened so as to minimize negative impacts on adjacent properties;
- D. That access to the site is safe and convenient and relates in an appropriate way to both the internal circulation on the site and the Town road system;
- E. That the internal circulation of the site is arranged so as to minimize impacts on the Town road system;
- F. That the site is suitably landscaped, and appropriately screened from adjacent properties and the road so as to protect the visual character of the area and to minimize negative impacts on adjacent properties and the neighborhood;
- G. That any activities on the site which are incompatible with adjacent properties are suitably buffered so as to minimize negative impacts on such adjacent properties;
- H. That signs, site lighting, and the locations of all buildings and structures are in keeping with the character of the neighborhood;
- I. That any changes to existing drainage patterns, or increased drainage due to development activity, has no negative impacts on adjacent property;
- J. That proposed water supply and sewage disposal facilities are adequate;
- K. That development activity complies with all other standards and requirements of this chapter;

- L. The proposed use does not negatively impact or threaten the groundwater resources that provide water to public supply wells operated by the Martinsburg Water District #1 and/or the Glenfield Water District. **[Added 3-4-2004 by L.L. No. 3-2004]**

§ 240-48. Application.

The enforcement officer shall refer any application for a development permit which requires a site plan review to the Planning Board. An application for a site plan review shall be filed with the Planning Board, and the appropriate fee as determined by the fee schedule adopted by Town Board resolution shall be paid to the Town Clerk. Six copies of the application and site plans shall be provided which shall include the following:

- A. Name and address of applicant and owner, if different, and of the person responsible for preparation of drawings;
- B. Date, North point, written and graphic scale;
- C. Boundaries of the site plotted to scale, including distances, bearings, and areas;
- D. Locator map showing the site in relationship to the Town;
- E. Location and ownership of all adjacent lands as shown on the latest tax records;
- F. Location of all district boundaries;
- G. Location, name, and existing width of adjacent roads;
- H. Location of all district boundaries and wellhead protection area(s) if applicable; **[Added 3-4-2004 by L.L. No. 3-2004]**
- I. Location, width, and purpose of all existing and proposed easements, setbacks, reservations, and areas dedicated to public use or adjoining the property;
- J. Complete outline of existing or proposed deed restrictions or covenants applying to the property;
- K. Existing hydrologic features together with a grading and drainage plan showing existing and proposed contours at a maximum of ten-foot intervals; **[Amended 4-21-2010 by L.L. No. 2-2010]**
- L. Location, proposed use, and height and dimensions of all buildings including the number and distribution by type of all proposed dwelling units, and the designation of the amount of gross floor area and gross leasable area proposed for retail sales and services, office and other commercial or industrial activities;
- M. Location and design of all parking and loading areas including access and egress drives and fire lanes and emergency access areas;
- N. Provision for pedestrian access, including public and private sidewalks;
- O. Location of outdoor storage;
- P. Location and design of all existing or proposed site improvements, including drains, culverts, retaining walls, and fences;

- Q. Description of the method of securing public water supply and disposing of sewage, and the location and design of such facilities;
- R. Location and design of all energy distribution facilities, including electrical, gas, and solar energy;
- S. Location, size and design of all proposed signs;
- T. Location and design of outdoor lighting facilities;
- U. General landscaping plan and planting schedule, including the location and proposed development of all buffer areas;
- V. Erosion and sediment control plan conforming to the standards and practices contained in the USDA Soil Conservation Service Engineering Field Manual (EFM) and New York Guidelines for Urban Erosion and Sediment Control, or other erosion and sediment control manual recognized by the Planning Board;
- W. An agricultural data statement pursuant to Town Law § 283-a, when applicable;
- X. A statement of the nature and extent of the interest of any state employee, or officer of employee of the Town in the applicant pursuant to General Municipal Law § 709.
- Y. An environmental assessment form (EAF) and, where required, a draft environmental impact statement (EIS);
- Z. Other elements integral to the proposed development as considered necessary by the Planning Board;
- AA. For proposed uses requiring site plan review within a wellhead protection area, a list of the type and quantity of any hazardous substances and polluting materials (including chemicals, hazardous materials, petroleum products, hazardous wastes and other polluting materials) that are expected to be used, stored or generated on-site. Quantities should reflect the maximum volumes on hand at any time; **[Added 3-4-2004 by L.L. No. 3-2004]**
- BB. For proposed uses requiring site plan review within a wellhead protection area, a description of how hazardous substances or polluting materials are to be stored, used, or handled, including proposed measures to protect all storage containers or facilities associated with such materials from vandalism, accidental damage, corrosion and leakage. **[Added 3-4-2004 by L.L. No. 3-2004]**

§ 240-49. Waiver of submission requirements.

The Planning Board may waive any of the submission requirements listed in § 240-48 above where it deems that the information is either not applicable or is unnecessary to a particular site plan review.

§ 240-50. Environmental impact review.

The Planning Board shall be responsible for the completion of an environmental assessment form (EAF) for each application for site plan review. The Planning Board shall be responsible for compliance with 6 NYCRR 617 (State Environmental Quality Review regulations) in cooperation with other involved agencies in the review of any site plan.

§ 240-51. Review.

Upon a determination by the Planning Board that the application for a site plan review is complete, the Board shall review the site plan taking into consideration the objectives for site plan review as outlined in § 240-47 above, the general regulations for all uses as outlined in Article V of this chapter.

§ 240-52. Area variance.

During the course of the review, should the Planning Board determine that an approval may not be feasible without the granting of an area variance as defined by Town Law § 267-a, the Planning Board may refer the application to the Zoning Board of Appeals for the consideration of such variance.

§ 240-53. Public hearing.

The Planning Board shall conduct a public hearing. Such public hearing shall be conducted within 62 days of the receipt of the completed application for a site plan review and shall be advertised at least five days before the hearing in a newspaper in general circulation in the Town. A notice of the hearing shall be mailed to the applicant at least 10 days before the hearing.

§ 240-54. County Planning Board review.

At least 10 days before the hearing, the Planning Board shall refer all site plan review matters that fall within those areas specified under General Municipal Law § 239-m to the Lewis County Planning Department prior to final action. This includes any use that falls within 500 feet of the following: the boundary of the Town; a state or county park or recreation area; a state or county highway or expressway; a state- or county-owned drainage channel; or state or county land where a public building or institution is located. Such referral shall be to the Lewis County Department of Planning for their recommendations thereon. If the Lewis County Department of Planning does not respond within 30 days from the time it received a full statement on the referral matter, then the Planning Board may act without such report.

§ 240-55. Notification of neighboring municipalities.¹⁴

Pursuant to General Municipal Law § 239-nn, for a site plan permit review under this article involving property located within 500 feet of an adjacent municipality, notice of any public hearing shall be given by mail or electronic transmission to the clerk of the adjacent municipality not less than 10 days prior to the date of said hearing.

§ 240-56. Waiver of public hearing.

The Planning Board may waive the public hearing. Such waiver shall not be allowed in any one of the following circumstances:

- A. The use is a Type I SEQR action and the use is determined by the Planning Board to have environmental significance;
- B. The use is over 10,000 square feet of floor or ground area;

14. Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- C. The use is over 20 feet in height;
- D. The use is within 200 feet of a DEC-designated wetland area within 200 feet of a stream with a DEC classification of C or higher, or in a FEMA-designated floodplain area;
- E. The use is determined by the Planning Board to be of a publicly controversial manner; or
- F. The applicant has requested a public hearing.

§ 240-57. Final action.

- A. Within 62 days of the public hearing, or within 62 days of the acceptance of a complete application by the Planning Board where such hearing has been waived pursuant to § 240-56 above, the Planning Board shall act on the site plans. The time within which the Planning Board must render its decision may be extended upon mutual consent of the applicant and the Planning Board. The action of the Planning Board shall be in the form of a written statement to the applicant stating whether or not the site plans are approved, approved with modifications, or disapproved. The decision of the Planning Board shall immediately be filed in the office of the Town Clerk and a copy mailed to the applicant.
- B. If the site plans are approved, and upon payment by the applicant of all fees and reimbursable costs due the Town, the Planning Board shall endorse its approval on a copy of the application and site plans.
- C. If the site plans are approved with modifications, the Planning Board shall specify in the statement all modifications to be made. Upon payment by the applicant of all fees and reimbursable costs due to Town, and upon approval of the modified application and site plans, the Planning Board shall endorse its approval on a copy of the application and site plans.
- D. If the site plans are disapproved the statement shall contain the reasons for such findings. In such case, the Planning Board may recommend further study of the application and resubmission after it has been revised or redesigned.

§ 240-58. Report to County Planning Department.

Within 30 days of final action on any matter referred to the Lewis County Planning Department, the Town of Martinsburg Planning Board shall file a report of the final action it has taken with the Lewis County Planning Department.

ARTICLE VIII
Nonconformities

§ 240-59. Intent.

The intent of this article is to recognize lots, structures and uses of land and structures which legally existed prior to the enactment or subsequent amendment of this chapter which would be prohibited or unreasonably restricted by the requirements herein. All rights of nonconformity shall continue regardless of the transfer of ownership of nonconforming lots, structures or uses.

§ 240-60. Nonconforming lots.

Any lot held under separate ownership prior to the enactment or amendment of this chapter, and having a lot frontage, lot size, side and rear lot line setback or setback from road center line less than the minimum requirements set forth in this chapter, may be developed for any use allowed in the district in which it is located, as designated in § 240-14 of this chapter, provided that such lot has sufficient frontage, side and rear lot area to undertake development which will:

- A. Maintain the required setback from road center line; and
- B. Maintain at least $\frac{2}{3}$ of the required minimum setback from side and rear lot lines.

§ 240-61. Nonconforming structures.

No structure which by the enactment or amendment of this chapter is made nonconforming or placed in a nonconforming situation with regard to side and rear lot line setback, setback from road center line or any requirement of this chapter, other than the use to which it is put, shall be changed so as to increase its nonconformity. If a structure is nonconforming as to use, see § 240-62 below. Any such nonconforming structure may be used for any compatible use listed for the district in which it is located as designated in § 240-14 of this chapter.

§ 240-62. Nonconforming uses of land or structures.

Any use of land or structures which by the enactment or amendment of this chapter is made nonconforming may be continued on the premises and to the extent preexisting provided that:

- A. No nonconforming use shall be increased in size so as to occupy a greater area of land or floor area than was committed to the nonconforming use at the time of such enactment or amendment;
- B. No nonconforming use which has for any reason been discontinued for a period of one year or more shall be reestablished; and
- C. A special use permit shall be required for any alteration or reconstruction which is on the premises of a nonconforming multifamily residential or nonresidential use.

§ 240-63. Nonconforming structures damaged or destroyed.¹⁵

Any structure which is nonconforming as to use, side and rear lot line setback, setback from road center line or any other requirement of this chapter, which is damaged or destroyed by fire

15. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

or other hazard to the extent of no more than 50% of its replacement value, may be repaired, restored or reconstructed provided that such work is undertaken within one year of the date on which the damage or destruction occurred. No such work shall increase the nonconformity of the structure.

§ 240-64. Nonconforming signs.

Nonconforming signs shall be allowed to continue in a nonconforming manner until the advertised use is terminated, or the sign is structurally changed or replaced.

ARTICLE IX
Wireless Telecommunication Facilities
[Added 11-21-2001 by L.L. No. 4-2001]

§ 240-65. Purpose.¹⁶

- A. The purpose of this article is to regulate the location, design, and use of wireless communications facilities in order to:
- (1) Protect the health, safety, and general welfare of residents of the Town of.
 - (2) Establish predictable and balanced regulations for the siting and screening of wireless communications facilities in order to accommodate the growth of communications services within the Town.
 - (3) Maximize the use of existing towers, tall buildings and other high structures to reduce the number of new towers needed to serve the community.
 - (4) Avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements.
 - (5) Ensure harmony and compatibility with surrounding land use patterns.
 - (6) Protect the historic rural character, natural features and irreplaceable scenic qualities of the Town with special attention to open space, mountain ridges, recreation areas, scenic roads, view sheds and historic sites, through careful design, siting, landscaping, screening and innovative camouflaging techniques.
- B. This chapter is not intended to prohibit or have the effect of prohibiting the provision of personal wireless services, nor shall they be used to discriminate among providers of functionally equivalent services, consistent with federal regulations.

§ 240-66. District regulations.

- A. Use regulations. This chapter governs the installation and/or use of all wireless communications facilities as defined herein. Any proposed user of wireless communications facilities shall be an FCC-licensed provider of wireless communications facilities and must obtain site plan approval and/or a special use permit whether or not they will install and own the facilities. The construction of a wireless communications facility shall require a building permit in all cases.
- (1) Permitted uses, existing structures. A wireless communications facility may be permitted to locate on any existing radio or television transmission tower, guyed tower, lattice tower, monopole, fire tower, water tower, clock tower, bell tower, cross tower, flagpole, road sign, steeple, chimney, silo or other innovative use of appropriate existing structures (as determined by the Planning Board) provided that there is no increase in the height of the existing structure as a result of the installation of the facility. Such installations shall not require a special use permit but will require

16. Editor's Note: Original Section a) of L.L. No. 4-2001, which immediately preceded this section, was repealed at time of adoption of Code (See Ch. 1, Art. I).

site plan approval by the Planning Board in accordance with Article VII of this chapter.

- (2) Permitted uses, existing buildings. A wireless communications facility may be permitted to locate on any existing building, with the exception of a designated historic structure, provided that the installation of the new facility does not increase the height of the existing building by more than 10 feet. Such installations shall not require a special use permit but will require site plan approval by the Planning Board in accordance with Article VII of this chapter.
- (3) Permitted uses, existing utility structures. A wireless communications facility may be permitted to locate on any existing electric utility transmission and distribution tower, telephone pole and similar existing utility structure provided that the installation of the new facility does not increase the height of the existing structure by more than 20 feet. These facilities may locate in all areas of the Town where they are permitted or specially permitted by § 240-14 of this chapter, except within 500 feet of a designated historic structure or within 250 feet of the right-of-way of any scenic road. Such facilities may locate within 250 feet of the right-of-way of any scenic road, provided the new facility does not increase the height of the existing structure. Such installations shall not require a special use permit but will require site plan approval by the Planning Board in accordance with Article VII of this chapter.¹⁷
- (4) Special use permit. A wireless communications facility involving construction of one or more ground-mounts shall require a special use permit. A special use permit may be granted provided that the proposed use complies with the height, setback, and other requirements of this chapter, the special use permit regulations set forth in Article VI, is placed to minimize visual and aesthetic impacts, and is placed on the side slope of terrain so that, as much as possible, the top of the tower does not protrude over the ridgeline. The Town defines the placement, construction, and modification of a wireless communications facility requiring a special use permit as a Type I action under the New York State Environmental Quality Review Act¹⁸ (SEQR). **[Amended 4-21-2010 by L.L. No. 2-2010]**
 - (a) If an applicant for a special use permit proposes a wireless communications facility which does not meet all dimensional requirements of the Town Rural Development Code, including height, area and bulk regulations, the applicant may, at any point in the review process apply for an area variance from the Board of Appeals.
 - (b) New wireless communications facilities requiring a special use permit shall be prohibited from locating:
 - [1] Inside or within 500 feet of a hamlet zoning district.
 - [2] Inside or within 500 feet of a special overlay district unless such overlay district specifically provides for regulations governing the siting of wireless communications facilities.

17. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

18. Editor's Note: See Environmental Conservation Law § 8-0101 et seq.

- [3] Inside or within 500 feet of a critical environmental area, as designated under the State Environmental Quality Review Act¹⁹ (SEQR).
- (c) It shall be the responsibility of the holder of the special use permit to inform the Town of Martinsburg of any change in or termination of contractual agreements which affect the special use permit within 30 days of such change. Any material change in the conditions under which a special use permit was granted shall result in the immediate termination of the special use permit unless agreement has been obtained from the Planning Board prior to the change. These material changes include but are not limited to:
- [1] Changes in supporting structures (such as towers), accessory buildings or access roads.
- [2] A change in ownership of the facility or the property on which the facility is installed shall require notification to the Code Enforcement Officer by the holder of the special use permit but will not terminate such permit.²⁰
- [3] Cessation of use by the FCC-licensed carrier which has a special use permit for use of the facility.
- [4] A change in the FCC-licensed user of the specially permitted facility. Nothing herein shall prohibit another FCC-licensed carrier from using the facility so long as that carrier provides evidence of need to use that facility and acquires a special use permit under this chapter.
- [5] Loss of the user's FCC license to provide commercial communications services within the Town.
- [6] Violation of the Town's Rural Development Code, on or with regard to the facility by the holder(s) of the special use permit or the owner of the land on which the facility is installed.
- B. Location. Wireless communications facilities shall only be located, upon the grant of site plan approval and, as applicable, a special use permit, on property which allows wireless communications facilities as set forth in § 240-14 of this chapter. Applicants seeking approval for wireless communications facilities shall comply with the following: **[Amended 4-21-2010 by L.L. No. 2-2010²¹]**
- (1) If feasible, new wireless communications facilities shall be located on existing structures, including but not limited to buildings, water towers, existing communications facilities, silos, utility poles and towers, and related facilities, provided that such installation preserves the character and integrity of those structures. In particular, applicants are urged to consider use of existing telephone and electric utility structures as sites for one or more wireless communications facilities. The applicant shall have the burden of proving that there are no feasible existing structures on which to locate.

19. Editor's Note: See Environmental Conservation Law § 8-0101 et seq.

20. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

21. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (2) If the applicant demonstrates that it is not feasible to locate on an existing structure, wireless communications facilities shall be designed so as to be camouflaged to the greatest extent possible, including but not limited to the use of compatible building materials and colors, screening, landscaping, placement within trees, and the use of stealth technology to disguise the facility as determined by the Planning Board.
 - (3) The applicant must submit documentation of the legal right to install and use the proposed facility mount at the time of application for site plan approval and/or special use permit.
- C. Dimensional requirements. Wireless communications facilities shall comply with the following requirements:
- (1) Height. The total height of any mount or accessory elements attached to any structure shall be measured from the ground level to the top of the mount or the top of the uppermost accessory affixed to the mount, whichever is higher. Maximum height of a wireless communications facility is limited to 80 feet above ground level (AGL) in cleared areas where there are less than 20 trees within 100 feet surrounding the proposed location. If there are at least 20 trees within 100 feet surrounding the proposed location, the total height of the proposed facility shall be limited to 25 feet above the average tree canopy, or 100 feet, whichever is lower.
 - (2) Height variance. The Board of Appeals may allow wireless communications facilities up to 150 feet if an independent radio frequency consultant determines that adequate coverage would not be provided by a tower of lesser height and if the applicant can demonstrate that, based upon topography of the site and surrounding area, siting of the antenna, antenna design, surrounding tree cover and structures and/or through the use of screening, that off-site views of the facility will be de minimis. The height limitation is waived when the antenna is mounted on an existing structure or building and is completely camouflaged, or is located on an existing utility structure. Applicants may be required to achieve coverage objectives by using multiple existing or new structures rather than taller structures, which shall not exceed the height limitations.
 - (3) Setbacks. All wireless communications facilities and their equipment shelters shall comply with the building setback provisions of the zoning district in which the facility is located. In addition, the following setbacks shall be observed:
 - (a) To ensure public safety, the minimum distance from the base of any ground-mounted wireless communications facility to any property line, road, habitable dwelling, business or institutional use, accessory structure, or public recreation area shall be the height of the facility/mount, including any antennas or other appurtenances. This setback is considered the "fall zone." Additional setbacks may be required by the Planning Board to provide for the public safety.
 - (b) In the event that an existing structure or building is proposed as a mount for a wireless communications facility, a fall zone shall not be required unless the Planning Board finds that a substantially better design will result from an increased setback. In making such a finding, the Planning Board shall consider both the visual and safety impacts of the proposed use.

§ 240-67. Performance standards.²²

All wireless communications facilities shall comply with the performance standards set forth in this section.

- A. Noise. Roof-mounted or side-mounted equipment for wireless communications facilities shall not generate noise in excess of 50 dB at ground level at the base of the building closest to the antenna.

§ 240-68. Special use permit regulations. [Amended 4-21-2010 by L.L. No. 2-2010]

All wireless communications facilities requiring set forth in this section, in addition to special use permit, shall comply with the regulations set forth in this section, in addition to those found in Article VI.

- A. Design standards.

- (1) Camouflage. Wireless communication facilities shall be camouflaged by vegetation and/or design as follows:

- (a) Camouflage by vegetation. If wireless communications facilities are not camouflaged from public viewing by existing buildings or structures, they shall be surrounded by buffers of dense tree growth and understory vegetation in all directions to create an effective year-round visual buffer. Ground-mounted wireless communications facilities shall provide a vegetative buffer of sufficient height and depth to effectively screen the facility. Trees and vegetation may be existing on the subject property or installed as part of the proposed facility or a combination of both. The Planning Board shall determine the types of trees and plant materials and depth of the needed buffer based on site conditions. Such buffer shall be maintained in a healthy state or replaced as necessary to provide continuing camouflaging.

- (b) Camouflage by design. To the extent that any wireless communications facility extends above the height of the vegetation immediately surrounding it, the facility shall be camouflaged by design to minimize the adverse visual and aesthetic impact unless otherwise required by the Planning Board. Wireless communications facilities shall be camouflaged to resemble or mimic a native coniferous species of tree or by other means such as new construction of a silo, flagpole, clock tower, bell tower, cross tower, steeple or other innovative replication of a structure that would be consistent with the character of the community as determined by the Planning Board.

- (2) Lighting. Wireless communications facilities shall not be artificially lighted or display strobe lights unless required by the Federal Aviation Administration (FAA) or other applicable authority. Security lighting of equipment structures and other facilities on site shall be shielded from abutting properties. There shall be total cutoff of all such light at the property lines of the parcel to be developed, and footcandle measurements at the property line shall be 0.0 initial footcandles when measured at grade.

22. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (3) Signs.
- (a) Signs shall be limited to those needed to identify the property and the owner and warn of any danger. No advertising is permitted anywhere on the facility, with the exception of the identification signage. All signs shall comply with the requirements of the Town's sign regulations.
 - (b) All ground-mounted wireless communication facilities shall be surrounded by a security barrier which shall be posted with no-trespassing signs. A twenty-four-hour emergency telephone number shall be posted adjacent to the entry gate. If high voltage is necessary for the operation of equipment within the facility, signs shall be posted stating "Danger: High Voltage."
- (4) Equipment shelters. Equipment shelters for wireless communications facilities shall be designed consistent with one of the following standards:
- (a) Equipment shelters shall be located in underground vaults, or
 - (b) Equipment shelters shall be designed to be architecturally compatible, both in style and materials, with principal structures on the site, as determined by the Planning Board, or
 - (c) Equipment shelters shall be camouflaged behind an effective year-round landscape buffer equal to the height of the proposed building. The Planning Board shall determine the types of plant materials and depth of the needed buffer based on site conditions. Such buffer shall be maintained in a healthy state or replaced as necessary to provide continuing camouflaging.
- (5) Accessory structures. Accessory structures for wireless communications facilities shall be permitted if the structures are constructed for the sole and exclusive use and operation of the communications facility, are the minimum size necessary to meet the needs of the specific site, and meet the following requirements:
- (a) Accessory structures may not include office, long-term vehicle storage, other outdoor storage or other uses that are not needed to send or receive wireless communications transmissions.
 - (b) Accessory structures must be less than 500 square feet and 15 feet in height.
 - (c) Accessory structures must be camouflaged behind an effective year-round landscape buffer equal in height of the proposed structure. Such buffer shall be maintained in a healthy state or replaced as necessary to provide continuing camouflaging.
 - (d) In residential zones, the use of compatible building materials such as wood, brick or stucco is required for all accessory structures, which shall be designed to match architecturally the exterior of residential structures in the neighborhood, as determined by the Planning Board. In no case will metal siding be allowed for accessory structures.
- (6) Scenic landscapes and vistas. Wireless communications facilities shall not be located within open areas that are visible from public roads, recreational areas or residential development. All ground-mounted wireless communications facilities shall be

surrounded by a buffer of dense tree growth or shall be camouflaged by design to minimize adverse visual and aesthetic impacts.

- (7) Utility service lines. All electric power supply and telephone service lines to new towers and accompanying facilities shall be installed underground from the existing power source.
- (8) Access and parking.
 - (a) A road and parking plan shall be provided to ensure adequate emergency and service access and shall meet the requirements of the Planning Board. Any driveway shall meet the requirements of the Planning Board and the highway authority for the road on which driveway fronts.
 - (b) Maximum use of existing public and private roads shall be made, consistent with safety and aesthetic considerations.
 - (c) Road construction shall minimize ground and vegetation disturbance. Road grades shall follow natural contours to reduce soil erosion potential and to ensure that roads are aesthetically compatible with the character of the surrounding area.
 - (d) The Planning Board may require an erosion and sedimentation control plan and may refer the site plan to the Lewis County Soil and Water Conservation District, Town Engineer, and/or Town Planner for review.
 - (e) Unpaved roads shall be considered unless conditions require paving, as determined by the Planning Board, in consultation with the appropriate authorities or consultants.
- (9) Maintenance, testing and inspection.
 - (a) The original appearance of the exteriors of all towers, accessory buildings and any other structures must be retained through regular maintenance by the applicant.
 - (b) Before commercial transmission begins, the applicant shall acquire certification by a licensed professional engineer that the facility will not exceed the maximum permissible exposure limits for the level of electromagnetic radiation using standards in accordance with the FCC guidelines.
- (10) Removal of facilities.
 - (a) Towers and antennas shall be removed if the owner's or user's special use permit for these facilities has expired or been terminated or if the facilities are no longer being used by the FCC licensee. Towers and antennas shall be removed if there is not at least one operator with a valid special use permit using the tower. Potential or planned future use of any facility for commercial communication service is not sufficient to avoid the requirement for removal.
 - (b) If the removal of towers and antennas is required, accessory buildings and other structures shall also be removed unless:

- [1] The landowner wishes to retain these structures and communicates this in writing to the Planning Board.
 - [2] The retention of these structures will comply with the Rural Development Code.
 - [3] The Planning Board agrees that removal of these structures is not required.
- (c) Each applicant seeking a special use permit for a wireless communications facility shall provide a written contract with the Town of Martinsburg agreeing to be fully responsible for removal, and indemnifying the Town for the costs of removal of antennas, accessory buildings and supporting structures such as towers when removal is required by the Town Rural Development Code.
- (d) If a proposed wireless communications facility will be owned by an entity other than an FCC-licensed carrier which will use that facility, the carrier shall provide to the Planning Board a copy of a contract between the facility owner and the FCC-licensed carrier in which the owner agrees to remove the facility including any tower, antennas and accessory structures, and indemnify the Town for the costs of such removal, when these facilities are no longer being used by an FCC-licensed operator with a valid Town of Martinsburg special use permit.
- (e) A decision to require removal shall be the responsibility of the Planning Board after consulting with the Code Enforcement Officer and the Town Attorney. Removal shall occur within 90 days of the Planning Board's decision to require removal unless the Planning Board has agreed to an extension of that time. If not removed within the designated period, the Town shall have the right to compel removal, with all costs to be borne by the special use permit holder who owns and/or previously used the facilities. Removal costs may also be recovered from the owner of the tax parcel on which the facilities are located.
- (f) When towers are removed, site reclamation shall be completed to the satisfaction of the Planning Board within 24 months. Reclamation shall include landscaping, removal of structures, utility lines and accessory structures, and shall encompass the building site and buffer area controlled by the facility owner.
- (11) Bonding. Before obtaining or renewing a special use permit, the applicant shall provide financial surety in an amount acceptable to the Town Board (in consultation with the Planning Board and the Attorney for the Town) to ensure full and complete performance of all conditions imposed by the Planning Board as a requirement of the special use permit.

B. Environmental standards.

- (1) Wireless communications facilities shall not be located in wetlands or in regulated wetland buffer areas, in endangered or threatened species' habitats, water bodies, or historic or archaeological sites.
- (2) No hazardous waste shall be discharged on the site of any wireless communications facility. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided

with a sealed floor, designed to contain at least 110% of the volume of the hazardous materials stored or used on the site.

- (3) If applicable, additional stormwater runoff generated by the use shall be contained on-site.
- (4) Ground-mounted equipment for wireless communications facilities shall not generate noise in excess of 50 dB at the property line.

C. Safety standards.

- (1) Radio frequency radiation (RFR) standards. All equipment proposed for a wireless communications facility shall be authorized per the FCC guidelines. The owner of the facility shall submit evidence of compliance with the FCC guidelines on a yearly basis to the Planning Board. If new, more restrictive standards are adopted by any appropriate federal or state agency, the facility shall be made to comply or continued operations may be restricted by the Planning Board. The cost of verification of compliance shall be borne by the owner and operator of the facility.
- (2) Security barrier. All wireless communications facilities shall be provided with security measures such as fencing, anti-climbing devices, electronic monitoring, or other methods sufficient to prevent unauthorized entry and vandalism. Fencing shall include a locking security gate. Electrified fence, barbed or razor wire shall be prohibited.
- (3) Structural soundness and fall zone. Wireless communications facilities shall be designed by a licensed professional engineer to withstand overturning and failure. In the event of failure, facilities shall be designed so that they will fall within the setback area of the site and/or away from adjacent residential properties. The Planning Board shall require a foundation design and certificate of safety from the carrier to document structural soundness.

§ 240-69. Application procedures. [Amended 4-21-2010 by L.L. No. 2-2010]

- A. The Planning Board is authorized to review and approve, approve with modifications, or disapprove site plans and special use permits pursuant to Articles VI and VII of this chapter. The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed antenna, mount, or equipment structure(s). Any decision by the Planning Board to deny or approve a request to place, construct, or modify wireless communications facilities shall be in writing and supported by substantial evidence.
- B. Application filing requirements, site plan approval. All applicants for a wireless communications facility shall fulfill the site plan requirements of Article VII of this chapter and shall, in addition, provide the following:
 - (1) Proof that the applicant or coapplicant is an FCC-licensed carrier.
 - (2) A statement, certified by a professional engineer and approved by the Planning Board, that the installation of the proposed antenna, including reception and transmission functions, will not interfere with the radio or television service enjoyed by adjacent residential and nonresidential properties or with public safety communications.

- (3) A statement, certified by a professional engineer and approved by the Planning Board, documenting the structural soundness of the wireless communications facility.
 - (4) Proof that the wireless communications facility shall be fully automated and requiring only occasional maintenance of the facility and site.
- C. Application filing requirements, special use permit. Applicants for a special use permit for a wireless communications facility shall fulfill the requirements of a Type 1 action under SEQR, and shall, in addition, provide the following:
- (1) A survey of all existing structures, buildings and utility structures within the Town outlining the opportunities for the use of these existing structures and buildings as an alternative to the proposed site. The applicant must demonstrate that the proposed wireless communications facility cannot be accommodated on an existing structure, building or utility structure. In the event that location on an existing structure, building or utility structure is not feasible, a written statement of the reasons for the unfeasibility shall be submitted to the Planning Board. The Planning Board may hire an independent technical expert in the field of radio frequency engineering, to verify if location on an existing structure, building or utility structure is not feasible and to evaluate the need for the proposed facility. The cost for such a technical expert shall be at the expense of the applicant and shall be fair and in line with similar costs in other communities. The failure of an applicant to demonstrate a good faith effort to co-locate may be grounds for denial of the special use permit.
 - (2) A Town-wide map showing the locations of all existing and future wireless communications facilities in the Town for this carrier. The applicant must demonstrate the need for the proposed facility showing the impracticality of upgrading or expanding an existing site, and must project long-range facility expansion needs within the Town based on market demand. The Planning Board may hire an independent technical expert in the field of RF engineering, to evaluate the impracticability of upgrading or expanding an existing site. The cost for such a technical expert shall be at the expense of the applicant and shall be fair and in line with similar costs in other communities. The failure of an applicant to demonstrate a good-faith effort to demonstrate the impracticality of upgrading or expanding an independent site may be grounds for denial of a special use permit.²³
 - (3) Proposed location of antenna, mount and equipment shelter(s), with total elevation dimensions and AGL of the highest point.²⁴
 - (4) Proposed security barrier, indicating type and extent as well as point of controlled entry.
 - (5) Drawings, dimensioned and to scale, which show the ultimate appearance and operation of the wireless communications facility at full buildout, including representations of the proposed mount, antennas, equipment shelters, cable runs, driveways, parking areas and any other construction or development attendant to the wireless communications facility. If the security barrier will block views of the wireless communications facility, the barrier drawing shall be cut away to show the view behind the barrier.

23. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

24. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (6) Materials of the proposed facility specified by generic type and specific treatment. These shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier.
 - (7) Colors of the proposed facility represented by a color board showing actual colors proposed. Colors shall be provided for the antennas, mounts, equipment shelters, cables as well and cable runs, and security barrier.
 - (8) Landscape plan including existing trees and shrubs, by dominant species and current height and those proposed to be added, identified by size of specimen at installation and species.
 - (9) The following material shall be provided to allow the Planning Board to determine the level of visual impact and the appropriateness of the facility:
 - (a) Existing (before condition) color photographs of views of the site from key viewpoints both inside and outside of the Town, including but not limited to state highways and other major roads, state and local parks, other public lands, preserves and historic sites normally open to the public, scenic roads and scenic viewsheds and from any other location where the site is visible to a large number of residents or visitors. The Planning Board shall determine the appropriate key viewpoints from which the site shall be photographed.²⁵
 - (b) Proposed (after condition) simulations. Each of the existing condition photographs shall have the proposed wireless communications facility superimposed on to it to show what would be seen from the key viewpoints if the proposed facility is built.
 - (10) Within 21 days of filing an application for a special use permit, the applicant shall arrange for a balloon or crane test at the proposed site to illustrate the height of the proposed facility. The date, time and location of such test shall be advertised in a newspaper of general circulation in the Town at least 14 days, but not more that 21 days prior to the test.
 - (11) A photometric plan of all lighting on the site, including tower lighting if required.
- D. The Planning Board may waive one or more of the application filing requirements of this section if it finds that such information is not needed for a thorough review of a proposed wireless communications facility, based upon a specific request by the applicant.
- E. Application fee. In addition to other relevant fees outlined in the Town Fee Schedule, the applicant shall pay an application fee as set from time to time by Town Board resolution for wireless communications facilities requiring site plan approval and for wireless communications facilities requiring a special use permit, due upon submission of the application to the Planning Board, to defray the costs of review of the application by the Town.²⁶
- F. Consultant fees. The Planning Board and/or Board of Appeals may retain consultants to assist in reviewing the application, its renewal, or an application for a variance related to

25. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

26. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

a pending application, with consultant fees to be paid by the applicant. These consultants may include the Town Engineer, Town Planner, the Town's Attorney, one or more commercial communication facility consultants, or other consultants as determined by the Planning Board and/or Zoning Board of Appeals. At the beginning of the review process, the applicable board may require the applicant to fund a separate escrow account from which the Town may draw to ensure reimbursement of consultant fees. During review of the application, the applicable board may require the applicant to add funds to the escrow account, as the applicable board deems necessary. If the required funds are not added to the escrow account, review of the application by the applicable board shall be suspended until such time, if any, as payment of said funds is made. Any remaining funds in the escrow account after payment of all consultant fees will be returned to the applicant.

§ 240-70. Co-location requirements. [Amended 4-21-2010 by L.L. No. 2-2010]

All wireless communications facilities requiring a special use permit shall comply with the following requirements:

- A. Location of other facilities. Applicants shall provide a Town-wide map showing the location of other existing, approved, and proposed wireless communications facilities within the Town and all bordering municipalities outlining opportunities for co-location use as an alternative to the proposed site.
- (1) The applicant must demonstrate that the proposed wireless communications facility cannot be accommodated on an existing, approved, or proposed communications tower, structure or facility due to one or more of the following reasons:
 - (a) The antenna would exceed the structural capacity of the existing, approved, or proposed wireless communications facility, as documented by a qualified professional engineer, and the existing, approved, or proposed facility cannot be reinforced, modified, or replaced to accommodate the planned or equivalent antenna at a reasonable cost.
 - (b) The antenna would cause interference materially impacting the usability of other existing, approved or proposed antenna at the facility as documented by a qualified professional engineer and the interference cannot be prevented at a reasonable cost.
 - (c) Existing, approved, or proposed wireless communications facilities cannot accommodate the antenna at a height necessary to function as documented by a qualified professional engineer.
 - (d) Other foreseen reasons that make it not feasible to locate the antenna upon an existing, approved, or proposed wireless communications facility.
 - (2) In the event that co-location is not feasible, a written statement of the reasons for the unfeasibility shall be submitted to the Planning Board. The Planning Board may hire an independent technical expert in the field of RF engineering, to verify if co-location is not feasible and to evaluate the need for the proposed facility. The cost for such a technical expert shall be at the expense of the applicant and shall be fair and in line with similar costs in other communities.

- B. Provision for new facilities. Any proposed ground-mounted wireless communications facility shall be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least two additional users if the mount is over 100 feet in height or for at least one additional user if the mount is over 60 feet in height. Mounts must be designed to allow for future rearrangement of antennas upon the mount and to accept antennas mounted at varying height. The applicant shall submit to the Planning Board a letter of intent committing the applicant, and his/her successors in interest, to negotiate in good faith for shared use of the proposed facility by any wireless service providers in the future. The issuance of a permit (assuming the facility is approved according to this section), shall commit the new facility owner and his/her successors in interest to:
- (1) Respond in a timely comprehensive manner to a request for information from a potential shared-use applicant.
 - (2) Negotiate in good faith concerning future requests for shared use of the new facility by other wireless service providers.
 - (3) Allow shared use of the new facility if another wireless service provider agrees in writing to pay charges.
 - (4) Make no more than a reasonable charge for shared use, based on generally accepted accounting principles. The charge may include but is not limited to a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, and depreciation, and all of the costs of adapting the facility to accommodate a shared user without causing electromagnetic interference.
- C. Intermunicipal cooperation. In order to keep neighboring municipalities informed, and to facilitate the possibility of directing that an existing wireless communications facility in a neighboring municipality be considered for shared use, the Planning Board shall require that:
- (1) An applicant who proposes a new wireless communications facility shall notify in writing the legislative body of each municipality that borders the Town and the County Planning Board. Notification shall include the exact location of the proposed facility, and the general description of the project including, but not limited to, the height of the facility and its capacity for future shared use.
 - (2) Documentation of this notification shall be submitted to the Planning Board at the time of application.

§ 240-71. Modifications.

A modification of a wireless communications facility may be considered equivalent to an application for a new facility and will require a special use permit when the following events apply:

- A. The applicant intends to alter the terms of the special use permit by changing the number of facilities permitted on site or by changing the technology used for the facility.

- B. The applicant intends to add any equipment or additional height not specified in the original special use permit.

§ 240-72. Monitoring and maintenance.²⁷

The applicant shall maintain the wireless communications facility in good condition, including, but not limited to: structural integrity of the mount and security barrier, painting, maintenance of stealth technology camouflaging, and maintenance of the buffer areas and landscaping. Communications facilities over 100 feet in height shall be inspected annually by a professional engineer approved by the Planning Board, and a copy of the inspection report submitted to the Town of Martinsburg Code Enforcement Officer.

§ 240-73. Abandonment or discontinuation of use.

- A. Any wireless communications facility that is not operated for a continuous period of 24 months shall be considered abandoned, and the owner of the facility shall physically remove it within 90 days of a receipt of notice. "Physically remove" shall include, but not be limited to:
- (1) Removal of antennas, mount, equipment shelters and security barriers from the subject property.
 - (2) Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.
 - (3) Restoring the location of the facility to its natural condition, with the exception of landscaping and grading.
- B. If the carrier fails to remove the facility in accordance with this section of this chapter, the Town will have the authority to enter the property and remove the facility with the costs of removal assessed against the property.

§ 240-74. Term of special use permit.

A special use permit issued for any wireless communications facility shall be valid for five years. At the end of that time period, the wireless communications facility shall be removed by the carrier or a new special use permit shall be required. In reviewing the new application for a special use permit, the Planning Board shall determine whether the technology in the provision of the facility has changed such that the necessity for the permit at the time of its approval has been eliminated or modified, and whether the permit should be modified or terminated as a result of any such change.

§ 240-75. Insurance.

Facilities shall be insured by the owner(s) of the towers and/or the antennas thereon against damage to persons or property. The owner(s) of the towers and/or antennas thereon shall provide annually to the Town Clerk a certificate of insurance in the minimum amount of \$1,000,000, or a higher amount if required by the Planning Board in consultation with the Town Board, in which the Town shall be an additional named insured. This insurance shall insure against damage or loss arriving from all structures, towers or antennas on the property.

27. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. D).

ARTICLE X
Administration and Enforcement

§ 240-76. Development permits required.

No land use activity as listed below shall be carried out until a development permit has been issued by the enforcement officer stating that the proposed building, structure, use of land, or development activity complies with the requirements of this chapter:

- A. Erection, re-erection or movement of a building or structure;
- B. Change of the exterior structural dimensions of a building or structure;
- C. Change in use of land, buildings or structures through the establishment of a new use, or through the expansion or enlargement of an existing use;
- D. The resumption of any use which has been discontinued for a period of 12 months or longer;
- E. Establishment or change in dimensions of a parking area for nonresidential or multifamily residential uses;
- F. Change in the contours of land.
- G. Construction of a septic system, wastewater source, or outhouse for a new use.
- H. Installation of outdoor furnaces. [Added 5-18-2005 by L.L. No. 3-2005; amended 8-21-2013 by L.L. No. 2-2013]
- I. Demolition of buildings or structures. [Added 5-20-2015 by L.L. No. 2-2015]

§ 240-77. Development permit exceptions.

A development permit shall not be required for the following development activities and shall be exempt from the provisions of this chapter.

- A. Accessory structures with less than 150 square feet of ground coverage, unless over 15 feet in height;
- B. Alterations of less than 150 square feet of ground coverage;
- C. Fences or walls complying with § 240-19 of this chapter;
- D. Interior structural alterations or routine maintenance and improvement that does not expand the exterior dimensions of the structure (e.g., roofing, window replacement, siding replacement, etc.);
- E. Minor accessory structures such as posts, sidewalks, driveways, flagpoles, playground equipment, etc.;
- F. Family day-care and group family day-care homes;
- G. Agricultural uses, commercial logging, conservation practices, and passive recreation uses;

- H. Replacement or improvement of a septic system, wastewater source or outhouse for a preexisting use. Facilities for new uses requires a development permit as indicated in § 240-76G;
- I. Wells.

§ 240-78. Temporary development permits.

Temporary development permits may be issued upon approval of the Planning Board for a period not to exceed 12 months for temporary uses and structures incidental to a construction project. Such temporary development permit shall be conditioned upon agreement by the applicant to remove any nonconforming uses or structures upon expiration of the permit. The Planning Board may place such appropriate conditions on the use so as to protect the character of the surrounding area. A temporary development permit may be extended by the Planning Board, for such length of time as may be deemed appropriate, where the applicant has shown suitable progress toward the completion of construction.

§ 240-79. Application procedure for development permits.

- A. Applications for development permits shall be submitted to the enforcement officer or Town Clerk and shall include three copies of a layout or plot plan showing the actual dimensions of the lot to be used; the size and location on the lot of existing and proposed structures and accessory structures; the setbacks of structures from all lot lines, road center lines, mean high water lines of streams, ponds and wetlands, and any other features of the lot; and such other information as may be necessary to provide for the enforcement of this chapter. This information, and other relevant application data, shall be provided on forms issued by the Town Clerk.
- B. When establishing measurements to meet the required setbacks, the measurements shall be taken from the lot line, road center line, or nearest mean high water line to the furthest protruding part of the use or structure. This shall include such projecting facilities as porches, carports, attached garages, etc.
- C. The enforcement officer shall take action to approve or disapprove the application within 15 days of the receipt of a completed application by the enforcement officer and the payment of all fees.
- D. A development permit shall expire one year from the date of issue if construction is not substantially started or the use has not commenced. Such permit may be renewed upon payment of all fees.

§ 240-80. Permit fees.

A fee as determined by Town Board resolution shall be paid for each application for a development permit or special use permit. No permit shall be issued until full payment has been received by the Town Clerk.

§ 240-81. Certificate of compliance.

No use or structure requiring a development permit shall be occupied, used, or changed in use until a certificate of compliance has been issued by the enforcement officer stating that the use or structure complies with the provisions of this chapter. All certificates of compliance shall

be applied for coincidentally with the application for a development permit and shall be issued within five days after the use has been approved as complying with the provisions of this chapter.

§ 240-82. Temporary certificate of compliance.

A temporary certificate of compliance for not more than 60 days for a part of a building or lot may be issued upon approval of the Planning Board. Such temporary certificate may be renewed upon request for an additional 30 days.

§ 240-83. Enforcement officer.

This chapter shall be enforced by the enforcement officer, who shall be appointed by the Town Board. The duties of the enforcement officer shall be to:

- A. Approve and disapprove development permits and certificates of compliance;
- B. Scale and interpret district boundaries on the development map;
- C. Refer appropriate matters to the Board of Appeals, Planning Board, or Town Board;
- D. Revoke development permits or certificates of compliance where there is false, misleading or insufficient information or where the applicant has varied from the terms of the application;
- E. Investigate violations, issue stop-work orders and appearance tickets, and refer violations to the Town Justice or the Town Board;
- F. Report at regular Town Board meetings the number of development permits and certificates of compliance issued.

§ 240-84. Board of Appeals.

- A. The Zoning Board of Appeals shall consist of five members as set forth in § 267 of the Town Law, or in the alternative the Town Board may enter into an agreement pursuant to Article 5-G of the General Municipal Law and § 284 of the Town Law to establish a cooperative Zoning Board of Appeals. In the event of a cooperative Zoning Board of Appeals, membership shall be as per the contractual agreement and may otherwise vary from provisions of § 267 of the Town Law as may be set forth in that agreement.
- B. The powers of the Zoning Board of Appeals shall be to interpret this chapter and to grant area variances and use variance in accordance with the standards set forth in § 267-b of the Town Law and as may be otherwise provided by law.
- C. The procedure before the Zoning Board of Appeals shall be in accordance with § 267-a of the Town Law except as may be specifically modified by intermunicipal agreement should the Town elect to enter into a cooperative Zoning Board of Appeals, in which event such procedures shall be strictly governed by the intermunicipal agreement.
- D. This chapter specifically supersedes those provisions of § 267 of the Town Law requiring that there be three or five members of the Board of Appeals, that the terms be staggered, that the Town Board select the Chairman and the voting power of members of the Zoning Board of Appeals in the event that the Town should enter into an intermunicipal agreement pursuant to § 284 of the Town Law and Article 5-G of the General Municipal Law in

which event the intermunicipal agreement shall govern those factors. The Town Board is authorized by § 267, Subdivision 11, of the Town Law to appoint up to two alternate members of the Zoning Board of Appeals to fill in for other members of the Zoning Board of Appeals if they are unable to participate in matters due to illness, absence or conflict of interest. The Town Board may appoint up to two alternate members of the Zoning Board of Appeals for these purposes. [Amended 11-20-2012 by L.L. No. 4-2012]

§ 240-85. Planning Board. [Amended 11-20-2012 by L.L. No. 4-2012]

The Planning Board shall have the powers and duties to approve special use permits and temporary permits. All applications made shall be made in writing on forms prescribed by the Town. Every decision of the Planning Board shall be made by resolution which shall contain a full record of findings in the case. The Town Board is authorized by § 271, Subdivision 15, of the Town Law to appoint up to two alternate members of the Planning Board to fill in for other members of the Planning Board if they are unable to participate in matters due to illness, absence or conflict of interest. The Town Board may appoint up to two alternate members of the Planning Board for these purposes. The term for each such alternate shall be two years.

§ 240-86. Filing of records.

- A. A copy of all development permits, temporary development permits, certificates of compliance, notices of violation, and stop-work orders shall be immediately filed in the office of the Town Clerk, upon issuance by the enforcement officer.
- B. A copy of all decisions of the Board of Appeals shall be filed in the office of the Town Clerk within five business days of the decision.
- C. A copy of all special use permit decisions of the Planning Board shall be filed in the office of the Town Clerk within five business days of the decision.
- D. All such records shall be available for the inspection of the public.

§ 240-87. Penalties for offenses.

- A. Whenever a violation of this chapter occurs, any person may file a complaint in regard thereto. All such complaints shall be in writing and shall be filed with the enforcement officer, who shall properly record and immediately investigate such complaint. If the complaint is found to be valid, the enforcement officer shall issue a stop-work order requiring all work to cease until the violation is corrected. If the violation is not corrected within the specified time, the enforcement officer shall take action to compel compliance.
- B. Pursuant to Criminal Procedure Law § 150.20(3), the enforcement officer is hereby authorized to issue an appearance ticket to any person causing a violation of this chapter, and shall cause such person to appear before the Town Justice.
- C. Pursuant to Municipal Home Rule Law § 10 and Town Law § 268, any person, firm, or corporation who commits an offense against, disobeys, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this chapter shall, upon conviction, be deemed guilty of a violation and subject to fine and/or imprisonment. Any violation of this chapter is an offense by a fine of not less than \$100 nor more than \$350 or imprisonment for a period not to exceed six months, or both, for conviction of a first offense; for a conviction of a second offense both of which were committed within a period of five years, punishable

by a fine of not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months; or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine of not less than \$750 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both. However, for the purpose of conferring jurisdiction on courts and judicial officers generally, violation of this shall be deemed classified misdemeanor for such purposes only, all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation. **[Amended 2-16-2005 by L.L. No. 2-2005]**

- D. The Town Board may maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of this chapter.

ARTICLE XI
Miscellaneous Provisions

§ 240-88. Amendments.

The Town Board may amend the provisions of this chapter pursuant to Town Law § 265 after public notice, public hearing, compliance with the State Environmental Quality Review Act regulations (6 NYCRR 617), and following appropriate referral to the county Planning Board pursuant to General Municipal Law § 239-m.

§ 240-89. Interpretation.

Interpretation and application of the provisions of this chapter shall be held to be minimal requirements, adopted for the promotion of the public health, safety, or the general welfare. Whenever the requirements of this chapter differ from the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

Appendix E – JN+A and HVS Design’s “Hotel Cost Estimating Guide”

Appendix E: JN+A and HVS Design's "Hotel Cost Estimating Guide"

| Guestroom Softgoods Renovation | | | | |
|--|-------------------|-----------|-------------------|-------------------|
| <i>Assume guestroom area of approximately 13' x 21'-6", plus 6' x 8' bathroom and 6' x 7' entry / closet area = 370 SF. Ceilings 8'-0" AFF, painted drywall.</i> | | | | |
| | RANGE | | AVERAGE | |
| Demolition | \$192.72 | to | \$382.13 | \$307.27 |
| FF&E Installation | \$205.43 | to | \$361.93 | \$289.25 |
| Artwork, Mirrors and Accessories (Installed Package) | \$180.00 | to | \$224.03 | \$200.66 |
| Full-height Framed Dressing Mirror | \$97.00 | to | \$124.03 | \$109.33 |
| Bed Skirt or Box Spring Cover | \$105.00 | to | \$120.00 | \$115.00 |
| Decorative Pillow | \$33.25 | to | \$40.64 | \$36.95 |
| Carpet and Pad | \$593.88 | to | \$696.58 | \$642.82 |
| Carpet Base | \$105.84 | to | \$162.36 | \$129.44 |
| Desk Lamp | \$70.00 | to | \$90.00 | \$80.00 |
| Floor Lamp | \$130.00 | to | \$160.00 | \$143.33 |
| End Table Lamp | \$90.00 | to | \$110.00 | \$100.00 |
| Nightstand or Bracket Lamp (2) | \$120.00 | to | \$150.00 | \$135.00 |
| Welcome Light (in Existing Location) | \$130.00 | to | \$170.00 | \$148.10 |
| Desk Chair (incl Fabric) | \$220.00 | to | \$270.00 | \$246.67 |
| Lounge Chair (incl Fabric) | \$175.00 | to | \$210.00 | \$193.33 |
| Ottoman (incl Fabric) | \$95.00 | to | \$115.00 | \$105.00 |
| Sleeper Sofa (incl. fabric; assumes K rooms only) | \$315.00 | to | \$385.00 | \$350.00 |
| Paint Textured or Drywall Ceiling | \$154.32 | to | \$221.03 | \$195.95 |
| Paint Entry Doors, Closet Doors, Frames, and Grilles | \$187.50 | to | \$307.40 | \$239.68 |
| Vinyl Wallcovering (LY 54") | \$688.36 | to | \$1,014.44 | \$849.76 |
| Window Treatments (Sheer, Blackout, Hardware Installed) | \$480.00 | to | \$580.00 | \$530.00 |
| Guestroom Softgoods Renovation Cost Per Key | | | | |
| | \$4,368.31 | to | \$5,894.58 | \$5,147.55 |

| Guestroom - Add for a Full Renovation | | | | |
|--|-------------------|-----------|-------------------|-------------------|
| | RANGE | | AVERAGE | |
| Casegoods Installation | \$53.00 | to | \$70.00 | \$60.60 |
| Bedsets (Box Spring, Mattress, and Frame) | \$600.00 | to | \$735.00 | \$670.00 |
| Headboard | \$525.00 | to | \$645.00 | \$585.00 |
| Nightstands | \$330.00 | to | \$405.00 | \$370.00 |
| Dresser | \$430.00 | to | \$520.00 | \$473.33 |
| Desk | \$350.00 | to | \$420.00 | \$383.33 |
| Coffee Table | \$145.00 | to | \$175.00 | \$160.00 |
| Closet Rack | \$42.40 | to | \$68.90 | \$57.69 |
| Refrigerator Cabinet (Case Piece only) | \$430.00 | to | \$530.00 | \$480.00 |
| Mini Refrigerator | \$200.00 | to | \$250.00 | \$226.67 |
| Welcome Center / Coffee Niche | \$497.22 | to | \$567.15 | \$521.89 |
| Draperies Valance - Painted Wood | \$141.50 | to | \$192.92 | \$165.85 |
| TV and Mount (HD LCD, incl. Programming, Allowance) | \$696.08 | to | \$845.00 | \$771.41 |
| Guestroom Full Renovation Additional Cost Per Key | | | | |
| | \$4,440.20 | to | \$5,423.97 | \$4,925.77 |

Midscale hotel per-room renovation cost. Source: JN+A and HVS Design, Hotel Cost Estimating Guide.

Guest Bathroom Softgoods Renovation

| | RANGE | | AVERAGE |
|---|-------------------|----------------------|-------------------|
| Demolition | \$90.00 | to \$210.00 | \$128.80 |
| Artwork (Installed) | \$71.01 | to \$90.00 | \$79.44 |
| Framed Mirror | \$117.00 | to \$141.25 | \$128.77 |
| Makeup Mirror | \$90.66 | to \$117.48 | \$102.17 |
| Vanity Lighting | \$214.20 | to \$280.13 | \$237.72 |
| Night Light | \$22.00 | to \$90.75 | \$68.30 |
| Towel Caddy | \$149.82 | to \$204.05 | \$176.74 |
| Paint Ceiling | \$24.96 | to \$33.12 | \$28.80 |
| Vinyl Wallcovering (LY 54") | \$198.92 | to \$251.70 | \$220.30 |
| Shower Curtain and Hooks | \$31.41 | to \$38.39 | \$34.90 |
| Curved Shower Rod | \$59.89 | to \$72.08 | \$66.79 |
| Paint Door and Trim | \$115.63 | to \$137.66 | \$128.66 |
| RegROUT Floor Tile | \$90.09 | to \$247.00 | \$160.45 |
| RegROUT Wall Tile | \$86.63 | to \$237.50 | \$154.28 |
| Guest Bathroom Softgoods Renovation Cost Per Key | | | |
| | \$1,362.22 | to \$2,151.10 | \$1,716.12 |

Guest Bathroom - Add for a Full Renovation

| | RANGE | | AVERAGE |
|--|-------------------|----------------------|-------------------|
| Additional Demolition | \$404.71 | to \$462.53 | \$425.12 |
| Architectural Lighting | \$156.53 | to \$196.00 | \$177.14 |
| Replace Bathroom Door and Hardware | \$440.51 | to \$530.85 | \$482.33 |
| Electrical Upgrades (Add One GFI Outlet) | \$63.07 | to \$82.59 | \$74.57 |
| Tub-to-Shower Conversion (New Pan, Surround, Valve, and Shower Head) | \$1,908.00 | to \$2,500.00 | \$2,153.60 |
| Shower Valve and Head, Tub Diverter, Tub Drain | \$368.00 | to \$427.07 | \$398.64 |
| Tub Surround | \$871.59 | to \$1,300.00 | \$1,067.07 |
| Lavatory | \$165.19 | to \$192.72 | \$175.26 |
| Faucet (and Connections) | \$220.25 | to \$278.62 | \$254.33 |
| Vanity Top | \$401.96 | to \$605.69 | \$494.04 |
| Vanity Base | \$525.44 | to \$610.51 | \$560.91 |
| Toilet Accessories | \$248.50 | to \$371.00 | \$294.33 |
| Tile Flooring | \$445.50 | to \$577.50 | \$509.65 |
| Toilet | \$357.91 | to \$432.48 | \$410.55 |
| Guest Bathroom Full Renovation Additional Cost Per Key | | | |
| | \$6,577.16 | to \$8,567.57 | \$7,477.53 |

Corridors

Per room with each unit 13' long and half of a 6'-wide corridor; 27 rooms per floor.

| | RANGE | | AVERAGE |
|---|-----------------|----------------------|-------------------|
| Demolition | \$18.33 | to \$80.00 | \$46.17 |
| Artwork (Installed) | \$9.26 | to \$11.53 | \$10.37 |
| Carpet and Pad | \$206.42 | to \$256.87 | \$230.64 |
| Carpet Base | \$21.57 | to \$29.40 | \$24.86 |
| Ceiling-mounted Lighting | \$33.70 | to \$41.89 | \$37.44 |
| Sconces | \$72.59 | to \$83.78 | \$78.34 |
| Elevator Lobby Furniture (Allowance) | \$61.85 | to \$75.56 | \$68.64 |
| Vending Area Floor Tile | \$20.00 | to \$25.93 | \$22.88 |
| Ice Machine | \$238.43 | to \$293.82 | \$265.90 |
| Paint Ceiling | \$21.60 | to \$30.94 | \$27.43 |
| Signage Package (Room Numbers, Way Finding, Complete) | \$90.10 | to \$116.60 | \$101.76 |
| Vinyl Wallcovering (LY 54") | \$121.64 | to \$181.60 | \$151.31 |
| Window Treatments (with Hardware and Installation) | \$14.07 | to \$17.41 | \$15.80 |
| Corridor Renovation Cost Per Key | | | |
| | \$929.58 | to \$1,245.32 | \$1,081.54 |

Appendix F – Public Presentation

GLENFIELD ELEMENTARY REUSE STUDY

Public Workshop

AUGUST 2, 2021

MRB | group



Laberge
ENGINEERING
ARCHITECTURE



Group
SURVEYING
PLANNING

*Developed with funding assistance from the Housing Trust Fund Corporation and NYS Homes and Community Renewal.
Document is property of the Housing Trust Fund Corporation and Lewis County Department of Planning. Project number: 20210093*

AGENDA

- Introductions
- Site Conditions
- Market Analysis
- Case Studies
- Public Input
- Next Steps

INTRODUCTIONS



CASANDRA BUELL
DEPARTMENT OF
PLANNING
LEWIS COUNTY



MICHAEL N'DOLO
DIRECTOR OF ECONOMIC
DEVELOPMENT SERVICES
MRB GROUP



NICOLE T. ALLEN, AICP
DIRECTOR OF PLANNING
& COMMUNITY
DEVELOPMENT
LABERGE GROUP



SITE CONDITIONS

Ownership:

- School district vacating
- Purchase offer accepted by school district
- Anticipated closing: Oct 2021
- Buyer: Shamsul Alam
- Intended Use: Education



OPPORTUNITY
GLENFIELD

List Price:
\$300,000

an affordable solution for your organization's real estate needs

Listing Presented by:



Britton Abbey
Associate Broker
Sellers' Agent



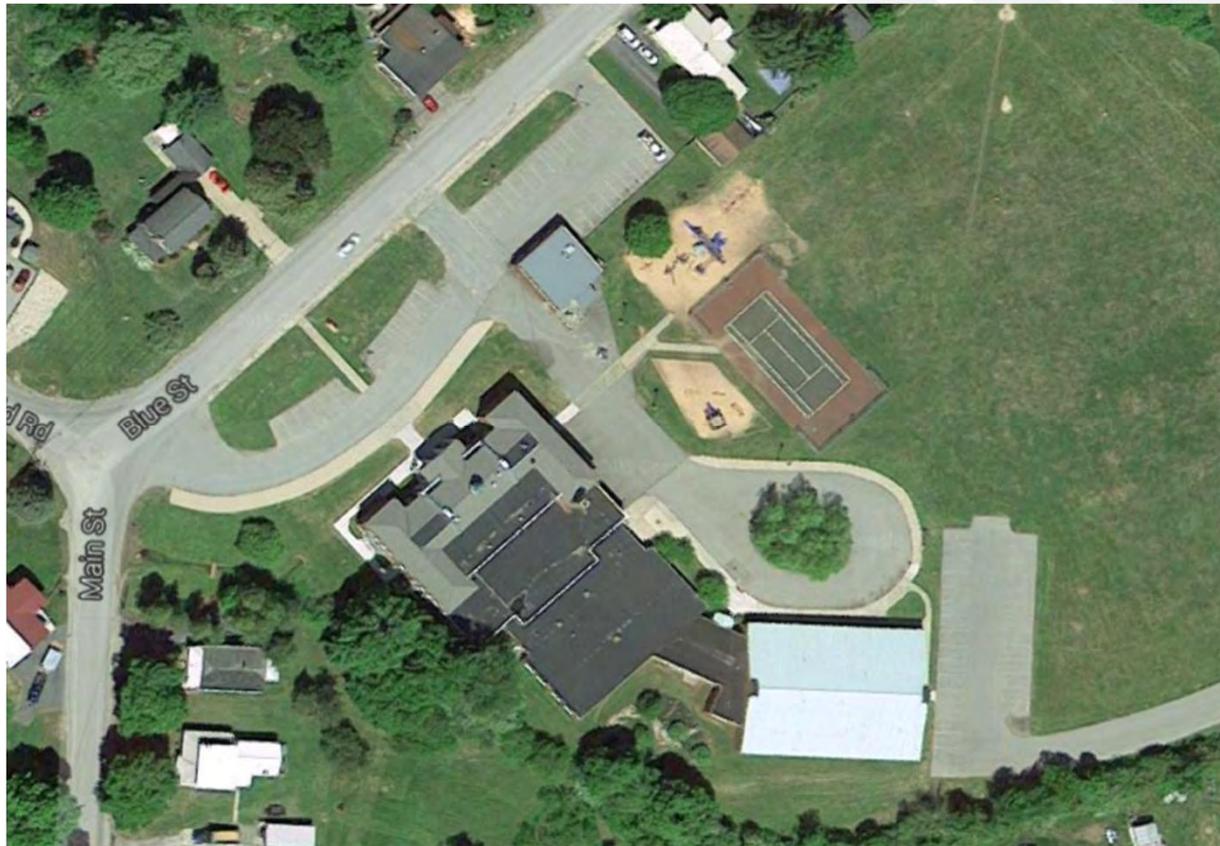
Call Now (315) 376-8688 | Britt@GoodMorningRealty.com | www.GoodMorningRealty.com

SITE CONDITIONS

- Acreage: 6.9
- Gross SF: approx. 45,000 SF
- Frontage: 410 ft.
- Depth: 513 ft.
- Stories: 2
- Parking: 50
- Utilities: Public water/sewer, natural gas, high-speed internet



SITE CONDITIONS



SITE CONDITIONS

“Hamlet” Zoning Summary

- Agriculture
- Commercial – retail, office, services, manufacturing, hotels
- Dwelling(s)
- Motor Vehicle Repair
- Public and Semi-Public Facilities – school, church, library, community center, etc.
- Gas Station

Not Allowed

- Active Recreation – “Any form of recreation requiring significant levels of organization, buildings or large numbers of persons.”
- Campground
- Junkyard
- Mobile Home Park
- Travel Trailer Park

SITE CONDITIONS

Building Condition Report

- Accessibility: \$219,400
- Building Envelope: \$1,551,700
- Environmental / Health: \$616,500
- Fire Safety: \$19,200
- HVAC Systems: \$838,700
- Interior Spaces: \$1,078,300
- Electrical: \$422,500
- Plumbing: \$422,500
- Site Utilities: \$76,600
- Other Site Features: \$1,670,900
- **Total: \$6,888,200**

20 BUILDINGS
20 SURVEYS **GLENFIELD ELEMENTARY**



OVERVIEW
BEDS Code: 23-11-01-04-0-004
Address: 5940 Main Street, Glenfield, NY 13343
Primary Occupancy: Education - E;
Grades: Pre-K through 4th
Enrollment: 216
Year Constructed: 1931, 1979, & 1995
Stories: 3
Building Area: 45,524 approximate GSF
Probable Useful life of Building: 50 years
Estimated Replacement Value: \$10,289,000
(Based on \$250/sf)



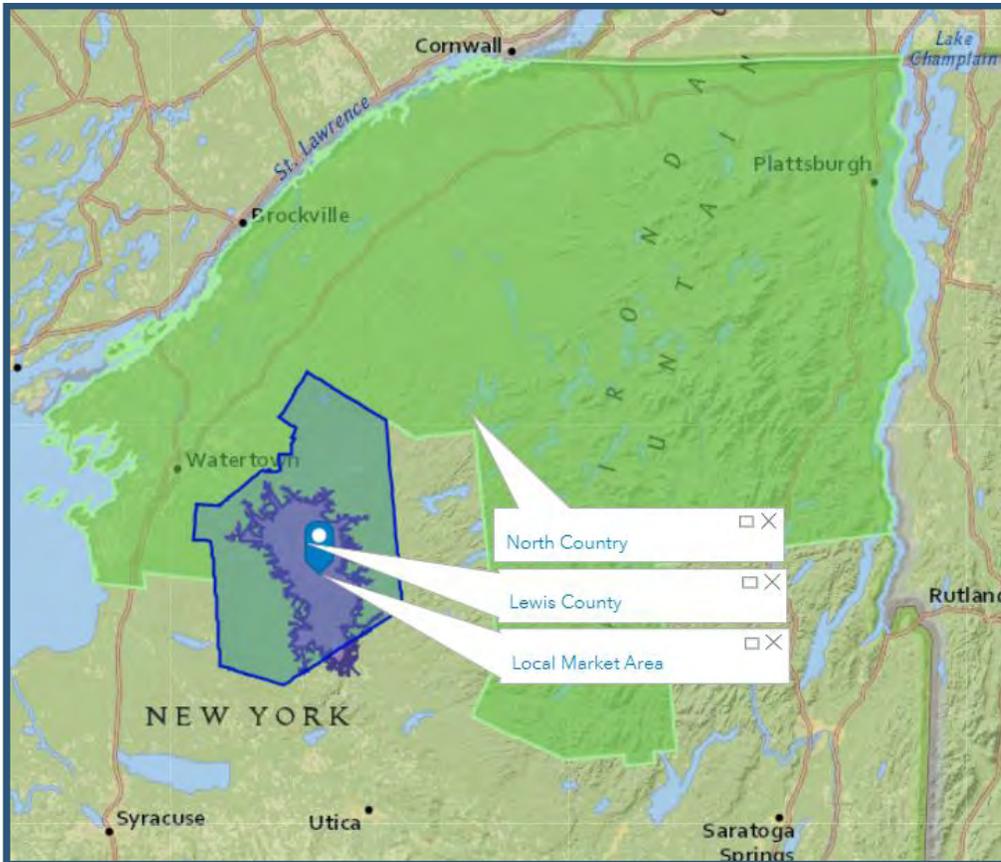
Glenfield Elementary School is located on 5960 Main Street, in the Village of Glenfield, Town of Marlinsburg, and Lewis County, New York. This building sits within a 7 acres parcel. Originally constructed in 1931, this portion of the building is two stories with a basement and partial crawl space.



An addition was added in 1979 and also in 1995 to make the building's total square footage approximately 45,524 square feet.

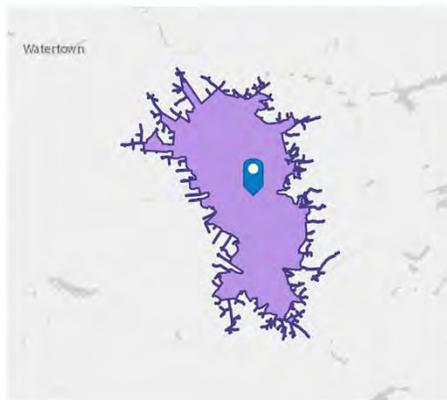
SEI design group **SOUTH LEWIS CENTRAL SCHOOL DISTRICT 2.1**

MARKET ANALYSIS



- Demographics
- Economics
- Retail
- Real Estate Trends

MARKET ANALYSIS



POPULATION TRENDS AND KEY INDICATORS

Local Market Area

| | | | | | | | | |
|---------------|--------------|--------------------|-------------|-------------------------|-------------------|--------------|-----------------------|-----------------|
| 18,962 | 7,571 | 2.45 | 42.6 | \$54,429 | \$124,309 | 74 | 203 | 10 |
| Population | Households | Avg Size Household | Median Age | Median Household Income | Median Home Value | Wealth Index | Housing Affordability | Diversity Index |

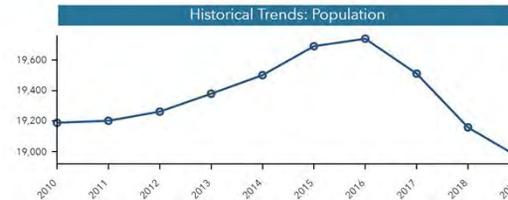
MORTGAGE INDICATORS



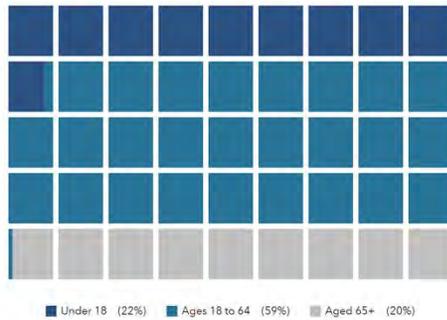
\$8,718
Avg Spent on Mortgage & Basics



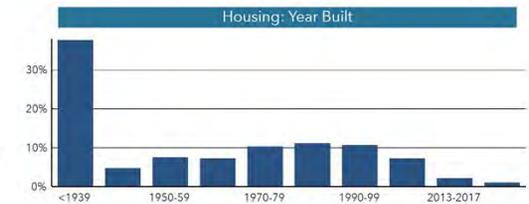
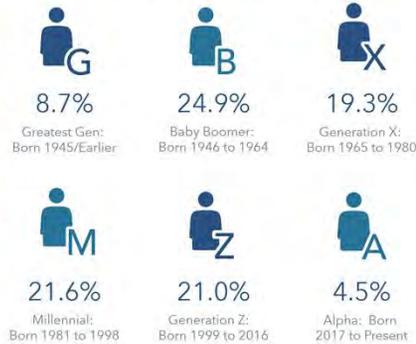
9.5%
Percent of Income for Mortgage



POPULATION BY AGE



POPULATION BY GENERATION



esri THE SCIENCE OF WHERE™ This infographic contains data provided by American Community Survey (ACS), Esri, Esri and Bureau of Labor Statistics. The vintage of the data is 2015-2019, 2020, 2025. © 2021 Esri

MARKET ANALYSIS

INVENTORY UNITS
243 +0%
 Prior Period 243

UNDER CONSTRUCTION UNITS
0 -
 Prior Period 0

12 MO ABSORPTION UNITS
(1) -131.4%
 Prior Period 3

VACANCY RATE
4.3% +0.3%
 Prior Period 4.0%

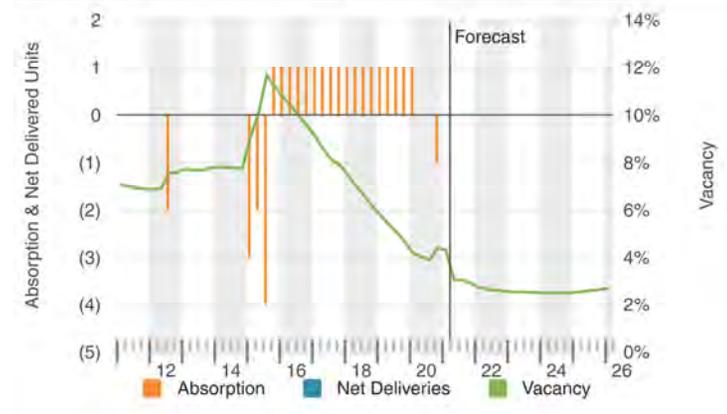
MARKET RENT/UNIT
\$822 +0.6%
 Prior Period \$817

Multi-Family Housing

Potential opportunity

Lewis County

Absorption, Net Deliveries & Vacancy



MARKET ANALYSIS

Retail:

Restaurant

Health & Personal Care

Is this a good location?

Office & Industrial:

Inventory / Vacancy Low

Hospitality:

Inventory: 157 rooms

Under Construction: 0

12-Mo Occupancy: 40%

Lewis Co Compared to Upstate

Typical Occupancy: 48% v. 73%

Typical ADR: \$95 v. \$152

Typical RevPAR: \$46 v. \$112

CASE STUDIES

Proposed project of 50% senior housing / 50% TBD mix of uses.

- Location: Port Leyden
- Acreage: 4
- Gross SF: 37,000
- Constructed: 1921, 1951
- Stories: 3
- Utilities: Public water/sewer

Port Leyden Elementary



CASE STUDIES

Completed and expanded hotel and resort complex

- Location: Albion
- Gross SF: 32,000
- Rooms: Originally 42, now 88
- Jobs: 30 FT, 24 PT*

*Original estimate, likely more now.

Tailwater Lodge



CASE STUDIES

Completed research and manufacturing facility

- Location: Parish
- Gross SF: est. 40,000
- Year: 2012
- Jobs: Unknown
- Industry: Biomedical

BioSpherix



CASE STUDIES

Completed single family and B&B

- Location: Constableville
- Gross SF: 16,000
- Year: 2012
- Jobs: Unknown
- Industry: Hospitality

Constableville



CASE STUDIES

Proposed Senior Affordable Apartments

- Location: Waterloo
- Units: 33
- Year: 2023 est. completion
- Funding: Just awarded \$6.1 million
- Developer: Two Plus Four

Lafayette Apartments



CASE STUDIES

What about unsuccessful ones?



CASE STUDIES

What about unsuccessful ones?



PUBLIC INPUT

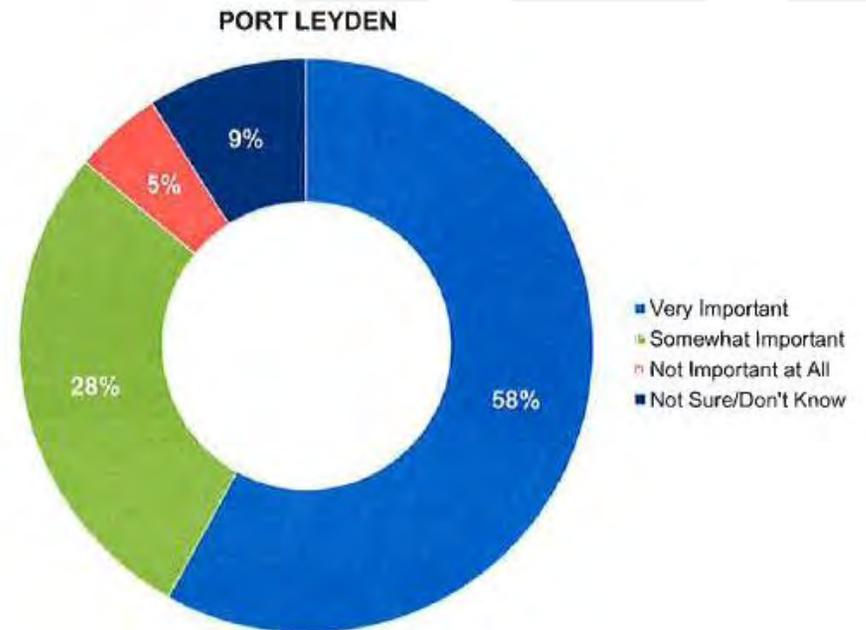
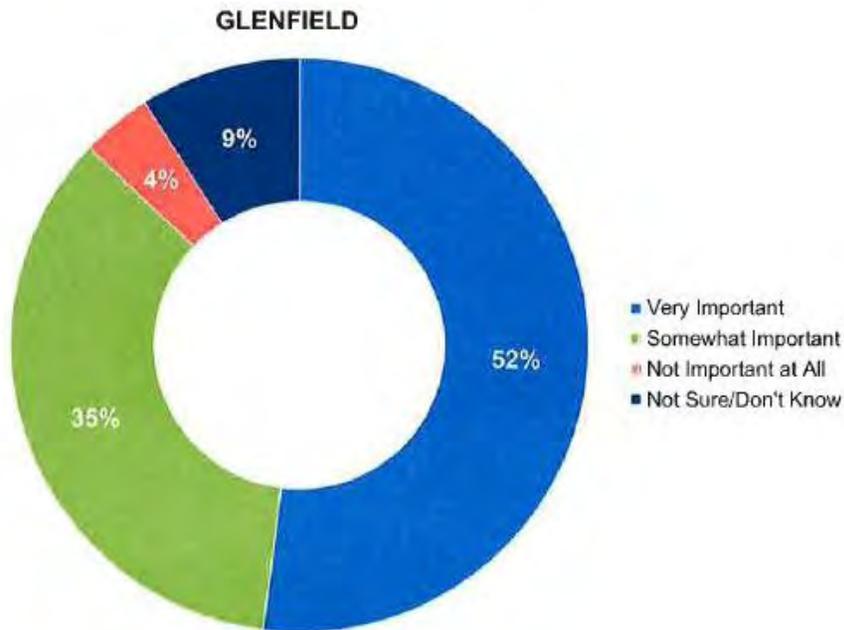


PUBLIC SURVEY OCTOBER 2020

- Total of 503 responses.
 - Responses for Glenfield: 274
 - Responses for Glenfield: 229

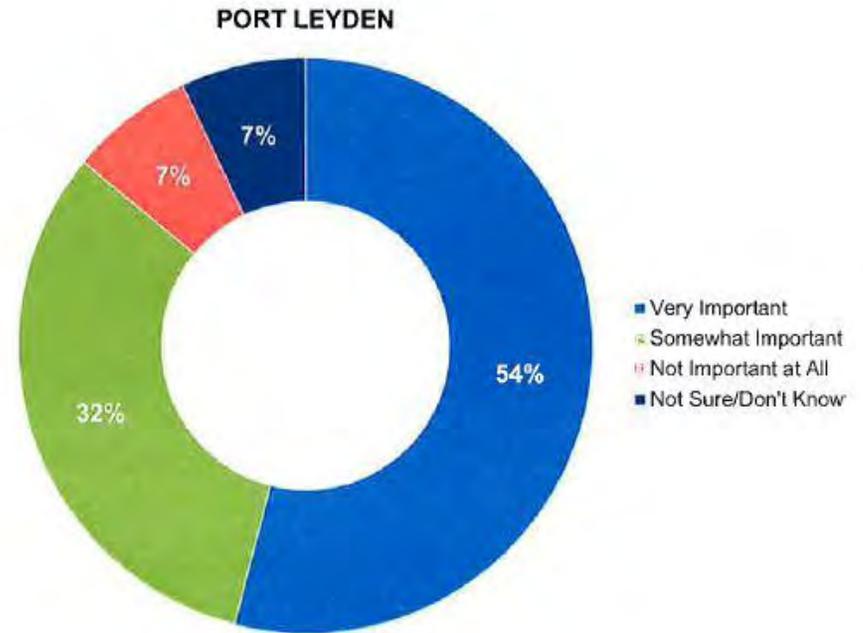
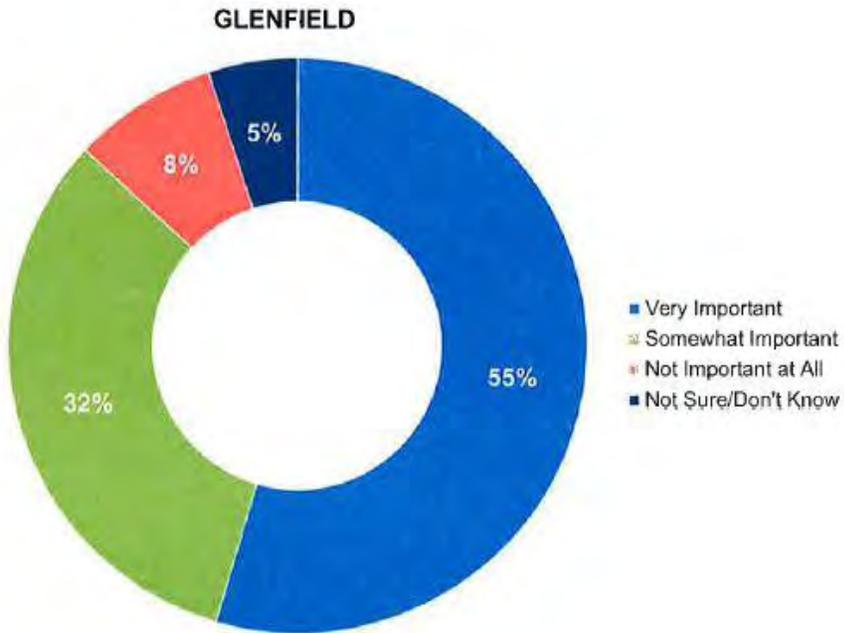
PUBLIC INPUT

Contributing new property tax revenues to the town/village/school district.



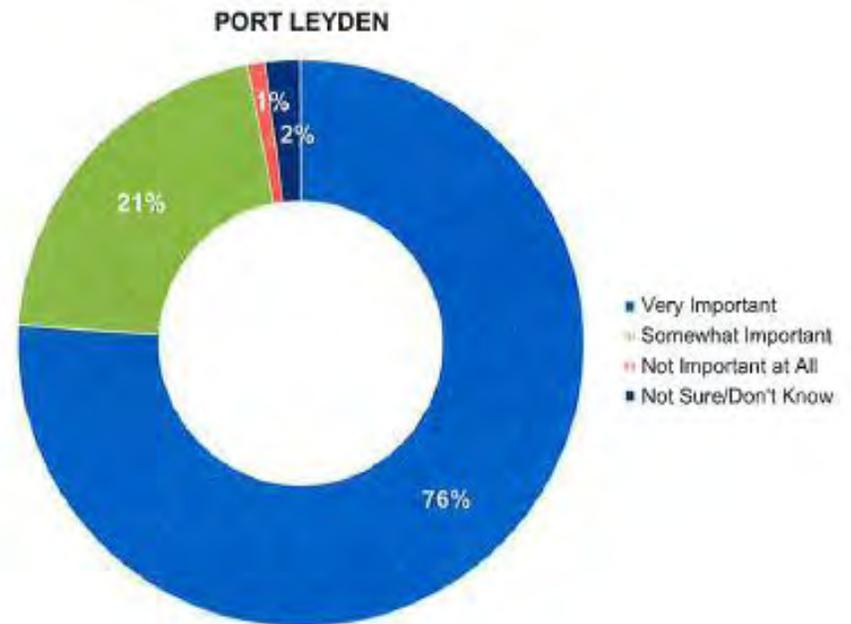
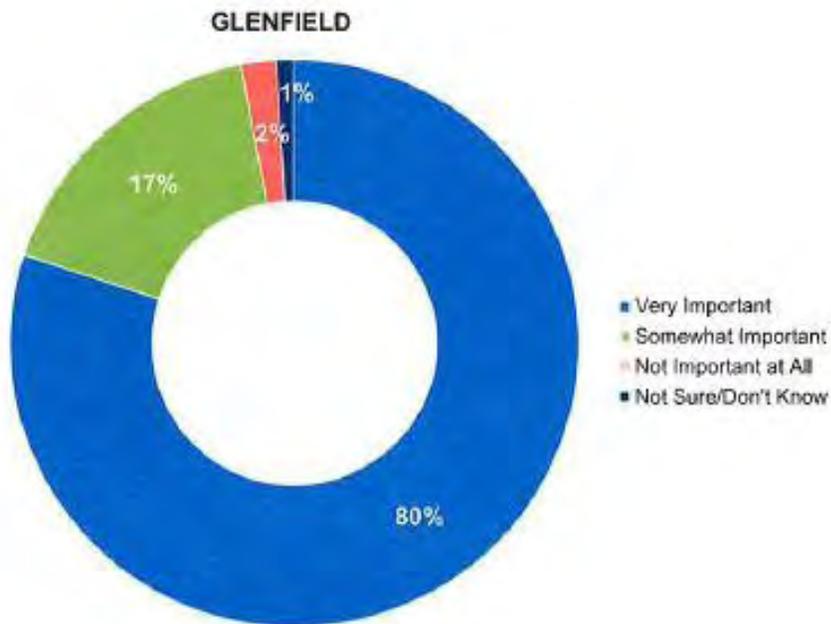
PUBLIC INPUT

Maintaining revenue to the municipal sewer/water system so that user rates don't increase.



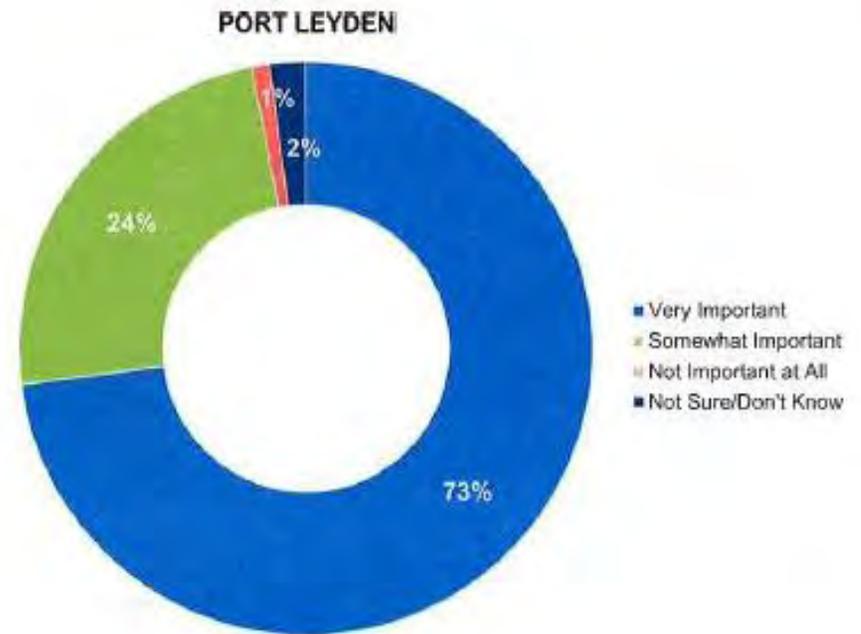
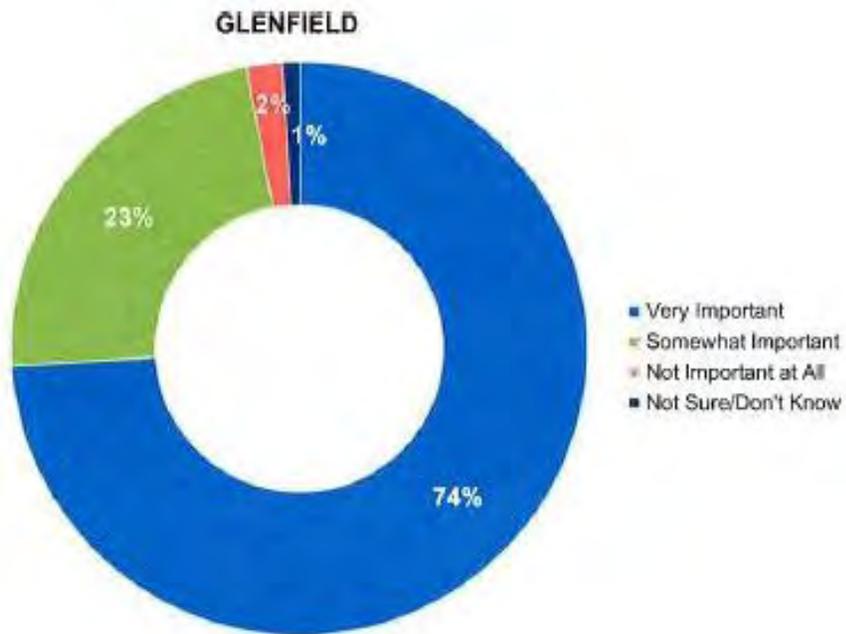
PUBLIC INPUT

Providing new jobs for the community.



PUBLIC INPUT

Providing a boost for other local businesses.



PUBLIC INPUT

HOPES FOR REUSE (OCTOBER 2020 SURVEY)

MEDICAL
TAX REVENUE
CHILDCARE
USE AS A SCHOOL
BENEFIT COMMUNITY
HOUSING FOR ELDERLY
COMMUNITY CENTER
JOB CREATION
INCUBATOR RECREATION
YOUTH CENTER BUSINESS
CLASSES HOUSING
COUNTY OFFICE COLLEGE
AFFRODABLE HOUSING

PUBLIC INPUT



PUBLIC PRESENTATION OF SURVEY RESULTS (NOVEMBER 2020)

To view full findings from the
Elementary Building Re-Use Survey, visit:

www.LabergeGroup.com/GlenfieldElementary

NEXT STEPS

- Additional comments welcome
- Finalize market study
- Identify reuse concept
- Financial analysis
- Reuse plan recommendations

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Developed with funding assistance from the Housing Trust Fund Corporation and NYS Homes and Community Renewal. Document is property of the Housing Trust Fund Corporation and Lewis County Department of Planning. Project number: 20210093