

TOWN OF WARWICK PLANNING BOARD

September 21, 2016

Members present: Chairman, Benjamin Astorino
Roger Showalter, Vice-Chairman
Dennis McConnell, Bo Kennedy,
Christine Little, John MacDonald, Alternate
Laura Barca, HDR Engineering
J. Theodore Fink, Greenplan
John Bollenbach, Planning Board Attorney
Connie Sardo, Planning Board Secretary

The regular meeting of the Town of Warwick Planning Board was held Wednesday, September 21, 2016 at the Town Hall, 132 Kings Highway, Warwick, New York. Chairman, Benjamin Astorino called the meeting to order at 7:30 p.m. with the Pledge of Allegiance.

PUBLIC HEARING OF Shop Rite

Application for Site Plan Approval and Special Use Permit for the construction and use of a proposed 11,825 s.f. addition to the side of the existing ShopRite Supermarket, removal of a portion of the existing outparcel building, and modification to the existing parking layout, situated on tax parcel S 51 B 1 L 6.21; project located on the northern side of New Milford Road 318.4 feet west of Warwick Turnpike (153 State Route 94 South), in the CB zone, of the Town of Warwick, County of Orange, State of New York.

Representing the applicant: Dan Peveraro from the Lauro Group. Anthony Mole, Attorney.

Connie Sardo: Mr. Chairman, we have just received the certified mailings for the Shop Rite public hearing.

Mr. Astorino: Thank you.

The following review comments submitted by HDR:

1. Planning Board to discuss SEQRA.
2. Applicant to discuss project.
3. Conservation Board – 05/17/16 no comments
4. Architectural Review Board – joint meeting 04/20/16; comments dated May 06, 2016; all comments resolved
5. OC Planning Department – 04/29/16 advisory comments on access, wetlands, drainage, lighting, and noise
6. Waivers may be requested from the Town Board in exchange for provisions made for the Marginal Access Road through the property.
7. The proposed lighting must comply with the current Town Code §164-43.4. **(Pending GreenPlan.)**
8. Applicant to confirm lighting at entrances along accessory building; 5 footcandles are required according to §164-43.4G (the table). **(Pending GreenPlan.)**
9. Applicant to describe where green infrastructure was attempted to be included in the SWPPP.

10. The note on Sheet C1.0 states that the existing sign along Route 94 will be replaced per the Town Code under separate application. The new signage plan must be shown within the plan set, but a building department permit is required before construction can begin. **(Pending GreenPlan.)**
11. The location of the Marginal Access Road, including the rights-of-way to be dedicated to the Town (or other means to allow public access to traverse the property) must be shown on the plan. **(Pending Town Board.)**
12. The block type and color should be provided for the dumpster enclosures; the statement matching existing building can remain. Additional information should be provided for the appearance of the doors. The closing mechanism should be noted on the plans.
13. A Master Sign Plan should be submitted to show signage throughout the project site, including directional information for the Marginal Access Road. **(Pending GreenPlan.)**
14. The smaller store names should be shown on the Site Pylon Sign detail on Sheet MSP-1. **(Pending GreenPlan.)**
15. The smaller store name should be shown in color on Sheet MSP-2. **(Pending GreenPlan.)**
16. Applicant to clarify the need for two Hometown Pet Supply signs. **(Pending GreenPlan.)**
17. On Sheet MSP-1 (signage) a sign post detail, including the height of the sign must be added. **(Pending GreenPlan.)**
18. Applicant to clarify if there are other types of specialty parking (i.e., stork parking shop from home parking). **(Pending GreenPlan.)**
19. Provide specifications for temporary and permanent SWPPP BMPs.
20. Applicant to identify that permanent vegetative cover must achieve an 80% density in Section 4 – Maintenance Plan of the SWPPP per the NYSDEC GP.
21. The latest version of NOI form should be used, and filled out in its entirety, as required, to show conformance with the permit requirements. The form provided references superseded GP-0-10-001; the most recent version references GP-0-15-002. Note that this form is available for download through the NYSDEC website and can also be filed with the NYSDEC electronically.
22. The NOI must also include the disturbed and impervious area takeoffs, and all pre- and post-development criteria.
23. In the NOI, items 9, 15, and 16 are inconsistent with SWPPP Section 1.6. Clearly describe how stormwater discharges from the site and accurately complete the NOI.
24. The latest version of NOT form should be used. The form provided was last revised in January 2010; the most recent version is dated January 2015. Note that this form is available for download from the NYSDEC website.
25. The latest version of MS4 Acceptance Form should be used. The form provided was last revised in January 2010; the most recent version is dated January 2015. Note that this form is available for download from the NYSDEC website.
26. The latest version of Contractor SWPPP Certification form should be used. The form provided references superseded GP-0-10-001; the most recent version references GP-0-15-002. Note that this form is available for download from the NYSDEC website.
27. Construction inspection form – Section J – Silt fence: the inspection checklist does not match the silt fence detail on C3.3, i.e. the checklist states silt fence posts should be driven 16” into ground (min.) and fabric should be 16” (min.) above ground, while detail requires posts to be driven min. 2’-0” and fabric to be 2’-0” above ground. Applicant to verify which measurement is correct and at a minimum should satisfy the NYSDEC requirements.
28. Sheets C3.1-C3.3: Stabilized construction entrances should fan out towards public right-of-ways, to allow for ingress / egress of trucks to the site (refer to detail shown in the NYSDEC Standards and Specifications for Erosion and Sediment Control).
29. Temporary swales should be added to the Section J - Perimeter Sediment Controls of the construction inspection checklist.

30. Applicant shall revise third item under Section I – Stabilized Construction Entrance of the Construction Inspection checklist to: Soil / sediment is not being tracked by vehicles onto public right-of-ways.
31. Applicant should add a section to the Construction Inspection Checklist for soil / material stockpile protection (i.e. has adequate barriers, barriers are in place and in tact, stockpiles are not placed in areas of high activity or in water course, etc.).
32. Applicant should add more detail to Section 3: Construction Schedule of the SWPPP to discuss the project phasing. The SWPPP drawings, C3.1-C3.2, are identified as Phase I and Phase II (assumed to be pre- and post-construction site conditions); however, temporary erosion control measures are shown on both sheets. Applicant to differentiate between Phase I and Phase II.
33. If Phase II (Sheet C3.2) represents post-construction site conditions, Applicant should show only permanent stormwater management features on sheet C3.2 and revise legend accordingly.
34. Sheet C3.2 – Legend – Existing column: contour is shown in wrong row (shown in Construction Entrance row).
35. Areas of grading / soil disturbance and temporary seeding should be shown on sheet C3.1.
36. A note should be added to sheet C3.1 stating that no ground-disturbing activity shall commence prior to the installation of perimeter stormwater and temporary sediment controls.
37. Applicant should show proposed locations of temporary soil stockpiles on Sheet C3.1.
38. Temporary seed mixtures, application rates and fertilizer / nutrient measures shall be shown on sheet C3.1 and shall be specified in accordance with the NYSDEC standards for stabilization.
39. Permanent seed mixtures, application rates and fertilizer / nutrient measures shall be shown on sheet C3.2 and shall be specified in accordance with the NYSDEC standards for stabilization.
40. Applicant shall provide a detail and installation & maintenance notes on sheet C3.3 for the proposed temporary swales identified on the drawing.
41. Applicant to confirm table of Sediment Basin Design (sheet C3.1) is referring to the two (2) proposed temporary sediment traps shown on this sheet and verify what dimensions were used to calculate the proposed storage volumes for each drainage area's sediment basin.
42. Applicant shall provide further detail regarding where the water collected in the underdrain goes (i.e. into existing storm sewer system, to ground, etc.).
43. Applicant shall identify the party responsible for inspecting and maintaining post-construction stormwater control measures, provide an Operations and Maintenance manual and an inspection schedule for these components.
44. Applicant shall provide a post-construction stormwater management practice component of the SWPPP that includes a list of all applicable practices, specifications and installation details, stormwater modeling and analysis, soil testing results and locations (for Filterras, if they will infiltrate into ground).
45. Stormwater calculations provided are insufficient. Provide hydrologic and hydraulic calculations consistent with the *New York State Stormwater Management Design Manual* (January, 2015) for both existing and proposed conditions. Include existing and proposed drainage area maps, Curve Number (CN) calculations, Time of Concentration calculations (note 2.8 min is outside the TR-55 minimum Tc of 0.1 hr), and practice sizing.
46. Soil Erosion and sediment controls shall comply to the New York State Standards and Specifications for Erosion and Sediment Control (Blue Book), 2016 Blue Book.
47. Construction includes pouring concrete. Provide concrete washout practice.
48. Applicant shall clarify the difference between Contractor Certification and Subcontractor Certification forms (appear to be the same).
49. Applicant shall provide any sizing calculations that support the use of the proposed Filterras and the Contech CDSs.
50. A Performance Bond and a three-year landscaping bond are required.
51. A site inspection fee is required to be submitted.
52. The declaration information for the Aquifer and Agricultural Notes must be added to the plans.

53. The complete Town Board language waivers must be shown on the plans.
54. Surveyor to certify that iron rods have been set at all property corners.
55. Payment of all fees.

The following comment submitted by the Conservation Board:

ShopRite Warwick None submitted.

The following comment submitted by the ARB:

ShopRite Warwick – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: This is a Type 1 Action. It was subject to the full EAF. The Planning Board circulated for Lead Agency. We had to send letters to the NYSDOT, NYSDEC, OCHD, OCDPW, Town Board and ZBA. That all has been accomplished. The Applicant had responded to a number of questions and comments that we had on the EAF that they had prepared. The Applicant responded to all of those comments. I believe everything is in order as far as SEQRA is concerned. I have prepared a draft Negative Declaration that addresses the issues. One of the issues was archeology. That was already addressed when the Environmental Impact Statement (EIS) was prepared back in the early 1990's for the full ShopRite shopping area. Some of the other issues were the site development parameters and conformance with the Design Standards such as lighting, signage, landscaping. We also have a letter from the NYSDEC. The letter had indicated that there are endangered species within the area. The Applicant would only be disturbing the areas that had been previously disturbed. Although there is a Federal wetland that was identified back in the 1992 EIS, that Federal wetland will not be disturbed. There is no direct disturbance of any water features or anything like that. There are no habitats on the site for the Bog Turtle. We have also addressed in the draft Negative Declaration the fact that Route 94 is a designated scenic road in the Town's Comprehensive Plan. So through the Applicant's proposed additional landscaping and screening, those items have been addressed as well as the lower lighting levels that they are proposing with the expansion project.

Comment #2: Applicant to discuss project.

Dan Peveraro: This application is for a proposed side addition to the existing ShopRite of approximately 11,825 s.f. The front addition of approximately 3,000 s.f. vestibule, the removal of the existing Rite Aid building and the realignment of the existing parking lot.

Mr. Astorino: You would also be complying with the lighting, landscaping, etc...

Dan Peveraro: Yes. We have taken steps on bringing the lighting into compliance. We have adjusted the landscaping all in conformance of what we had been talking about.

Mr. Astorino: Yes.

Comment #3: Conservation Board – 05/17/16 no comments

Comment #4: Architectural Review Board – joint meeting 04/20/16; comments dated May 06, 2016; all comments resolved.

Mr. Astorino: We had come to a consensus on the building. That has been taken care of.

Comment #5: OC Planning Department – 04/29/16 advisory comments on access, wetlands, drainage, lighting, and noise

Comment #6: Waivers may be requested from the Town Board in exchange for provisions made for the Marginal Access Road through the property.

Mr. Astorino: You have been to the Town Board pending the Planning Board's approval. You will be going back to them. Then those waivers can be obtained.

Anthony Mole: Right. We go back to the Town Board tomorrow night.

Comment #7: The proposed lighting must comply with the current Town Code §164-43.4. **(Pending GreenPlan.)**

Mr. Astorino: Ted, you had touched on this. I believe the lighting is in conformance with the Code. Is that correct?

Mr. Fink: Yes. There are a couple of very minor exceptions in just a few location. These are standards that are within the lighting regulations. I think it is very close. Dan and I had talked about it today. It appears as if it is only in one or two very slight locations. The lighting plan substantially conforms to the regulations.

Mr. Astorino: Ok. Those comments would be yours to review.

Mr. Bollenbach: We will have that subject to Greenplan review.

Mr. Astorino: Yes.

Comment #8: Applicant to confirm lighting at entrances along accessory building; 5 footcandles are required according to §164-43.4G (the table). **(Pending GreenPlan.)**

Mr. Astorino: That would be subject to Greenplan review.

Comment #9: Applicant to describe where green infrastructure was attempted to be included in the SWPPP.

Mr. Astorino: These are stormwater comments. They are on here. They will be addressed prior to me signing the plans. They will be addressed.

Comment #10: The note on Sheet C1.0 states that the existing sign along Route 94 will be replaced per the Town Code under separate application. The new signage plan must be shown within the plan set, but a building department permit is required before construction can begin. **(Pending GreenPlan.)**

Mr. Astorino: That would be subject to Greenplan review.

Comment #11: The location of the Marginal Access Road, including the rights-of-way to be dedicated to the Town (or other means to allow public access to traverse the property) must be shown on the plan. **(Pending Town Board.)**

Mr. Astorino: That is a Town Board issue.

Comment #12: The block type and color should be provided for the dumpster enclosures; the statement matching existing building can remain. Additional information should be provided for the appearance of the doors. The closing mechanism should be noted on the plans.

Mr. Astorino: That would be a comment that you would have to address.

Dan Peveraro: Yes.

Comment #13: A Master Sign Plan should be submitted to show signage throughout the project site, including directional information for the Marginal Access Road. **(Pending GreenPlan).**

Comment #14: The smaller store names should be shown on the Site Pylon Sign detail on Sheet MSP-1. **(Pending GreenPlan).**

Mr. Astorino: Those are GreenPlan comments.

Mr. Fink: As far as the smaller store names, they are shown. I discussed that with Dan today. The names as they are shown on the site plan are actually ones that had been dimensioned.

Mr. Astorino: Ok. So Comment #15 through Comment #18 all relate to signage. Ted, is that correct?

Mr. Fink: Yes.

Comment #15: The smaller store name should be shown in color on Sheet MSP-2. **(Pending GreenPlan).**

Comment #16: Applicant to clarify the need for two Hometown Pet Supply signs. **(Pending GreenPlan).**

Comment #17: On Sheet MSP-1 (signage) a sign post detail, including the height of the sign must be added. **(Pending GreenPlan).**

Comment #18: Applicant to clarify if there are other types of specialty parking (i.e., stork parking shop from home parking). **(Pending GreenPlan).**

Comment #19: Provide specifications for temporary and permanent SWPPP BMPs.

Mr. Fink: Comment #19 through Comment #49 all relate to stormwater. Those comments will be addressed. Is that correct?

Dan Peveraro: Yes.

Mr. Astorino: Those comments are technical comments. They will be addressed. We will list Comment #19 through Comment #49 for the record.

Laura Barca: They will all be addressed.

Comment #20: Applicant to identify that permanent vegetative cover must achieve an 80% density in Section 4 – Maintenance Plan of the SWPPP per the NYSDEC GP.

Comment #21: The latest version of NOI form should be used, and filled out in its entirety, as required, to show conformance with the permit requirements. The form provided references superseded GP-0-10-001; the most recent version references GP-0-15-002. Note that this form is available for download through the NYSDEC website and can also be filed with the NYSDEC electronically.

Comment #22: The NOI must also include the disturbed and impervious area takeoffs, and all pre- and post- development criteria.

Comment #23: In the NOI, items 9, 15, and 16 are inconsistent with SWPPP Section 1.6.

Clearly describe how stormwater discharges from the site and accurately complete the NOI.

Comment #24: The latest version of NOT form should be used. The form provided was last revised in January 2010; the most recent version is dated January 2015. Note that this form is available for download from the NYSDEC website.

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Comment #29: Temporary swales should be added to the Section J - Perimeter Sediment Controls of the construction inspection checklist.

Comment #30: Applicant shall revise third item under Section I – Stabilized Construction Entrance of the Construction Inspection checklist to: Soil / sediment is not being tracked by vehicles onto public right-of-ways.

Comment #31: Applicant should add a section to the Construction Inspection Checklist for soil / material stockpile protection (i.e. has adequate barriers, barriers are in place and in tact, stockpiles are not placed in areas of high activity or in water course, etc.).

Comment #32: Applicant should add more detail to Section 3: Construction Schedule of the SWPPP to discuss the project phasing. The SWPPP drawings, C3.1-C3.2, are identified as Phase I and Phase II (assumed to be pre- and post-construction site conditions); however, temporary erosion control measures are shown on both sheets. Applicant to differentiate between Phase I and Phase II.

Comment #33: If Phase II (Sheet C3.2) represents post-construction site conditions, Applicant should show only permanent stormwater management features on sheet C3.2 and revise legend accordingly.

Comment #34: Sheet C3.2 – Legend – Existing column: contour is shown in wrong row (shown in Construction Entrance row).

Comment #35: Areas of grading / soil disturbance and temporary seeding should be shown on sheet C3.1.

Comment #36: A note should be added to sheet C3.1 stating that no ground-disturbing activity shall commence prior to the installation of perimeter stormwater and temporary sediment controls.

Comment #37: Applicant should show proposed locations of temporary soil stockpiles on Sheet C3.1.

Comment #38: Temporary seed mixtures, application rates and fertilizer / nutrient measures shall be shown on sheet C3.1 and shall be specified in accordance with the NYSDEC standards for stabilization.

Comment #39: Permanent seed mixtures, application rates and fertilizer / nutrient measures shall be shown on sheet C3.2 and shall be specified in accordance with the NYSDEC standards for stabilization.

Comment #40: Applicant shall provide a detail and installation & maintenance notes on sheet C3.3 for the proposed temporary swales identified on the drawing.

Comment #41: Applicant to confirm table of Sediment Basin Design (sheet C3.1) is referring to the two (2) proposed temporary sediment traps shown on this sheet and verify what dimensions were used to calculate the proposed storage volumes for each drainage area's sediment basin.

Comment #42: Applicant shall provide further detail regarding where the water collected in the underdrain goes (i.e. into existing storm sewer system, to ground, etc.).

Comment #43: Applicant shall identify the party responsible for inspecting and maintaining post-construction stormwater control measures, provide an Operations and Maintenance manual and an inspection schedule for these components.

Comment #44: Applicant shall provide a post-construction stormwater management practice component of the SWPPP that includes a list of all applicable practices, specifications and installation details, stormwater modeling and analysis, soil testing results and locations (for Filterras, if they will infiltrate into ground).

Comment #45: Stormwater calculations provided are insufficient. Provide hydrologic and hydraulic calculations consistent with the *New York State Stormwater Management Design Manual* (January, 2015) for both existing and proposed conditions. Include existing and proposed drainage area maps, Curve Number (CN) calculations, Time of Concentration calculations (note 2.8 min is outside the TR-55 minimum Tc of 0.1 hr), and practice sizing.

Comment #46: Soil Erosion and sediment controls shall comply to the New York State Standards and Specifications for Erosion and Sediment Control (Blue Book), 2016 Blue Book.

Comment #47: Construction includes pouring concrete. Provide concrete washout practice.

Comment #48: Applicant shall clarify the difference between Contractor Certification and Subcontractor Certification forms (appear to be the same).

Comment #49: Applicant shall provide any sizing calculations that support the use of the proposed Filterras and the Contech CDSs.

Comment #50: A Performance Bond and a three-year landscaping bond are required.

Dan Peveraro: Ok.

Comment #51: A site inspection fee is required to be submitted.

Dan Peveraro: Ok.

Comment #52: The declaration information for the Aquifer and Agricultural Notes must be added to the plans.

Dan Peveraro: Ok.

Comment #53: The complete Town Board language waivers must be shown on the plans.

Dan Peveraro: Ok.

Comment #54: Surveyor to certify that iron rods have been set at all property corners.

Dan Peveraro: Ok.

Comment #55: Payment of all fees.

Dan Peveraro: Ok.

Mr. Astorino: Do any Board members or Professionals have any comments?

Mr. McConnell: I have 2 questions. One is for Ted. You talked about the archeological that had been done originally. Have there been any changes in those kind of requirements when it was done originally?

Mr. Fink: Not that I am aware of. New York Archeological Council uses a set of standards for how they go about conducting their Phase I investigation. That was done back in late 1991. They provided a report in 1992. They did not find anything.

Mr. McConnell: Ok. As far as you know, and which is good enough for me, that those standards have not changed.

Mr. Fink: No. They have not.

Mr. McConnell: My second question is that I know there had been a pad site on here that had been approved originally. I know we had talked about it that it would not be useable. John, would it make sense to have some formal memorialization of this so that we don't have a situation in the future? I would hate to think of approving this large of an expansion with the removal of a building and yet still have that kind of thing hanging out there that it may be useable.

Mr. Bollenbach: I would suggest having it as a map note. You could use a different line type to show former pad site abandoned.

Mr. McConnell: Yes. My understanding is and my review of this has been with it in mind that it would be going away. I just want to make sure that is what everyone thinks and we recorded that somewhere.

Dan Peveraro: I would not have an issue adding a note. By approving this site plan, it would supersede the previous site plan. We are not really showing it anywhere.

Mr. Astorino: Let us just put a map note on the plans so that it is clear.

Dan Peveraro: Ok. I don't have a problem with that.

Anthony Mole: There is no objection to that. Whether it is on there or not, they would still have to come back for an amended site plan approval. That would be fine.

Mr. McConnell: If we could all get on the same page with this, it would be good.

Anthony Mole: No problem.

Mr. McConnell: Ok. Those were the only questions that I had.

Mr. Astorino: Do any other Board members have anything else?

Ms. Little: I just wanted to state that we received a letter from the owners of the Warwick Drive-In.

Mr. Astorino: I have that letter. Let's get to the public hearing. We would bring it up then.

Ms. Little: I just wanted to make sure that we are all set with the sight distance clearing coming down Warwick Turnpike.

Mr. Astorino: Laura, you had reviewed that. Is that correct?

Laura Barca: Yes. That is shown on the plan. It complies with the Town and NYSDOT regulations.

Ms. Little: Great.

Mr. Showalter: I went out and took a look at it. According to the map and reality, it looks pretty good.

Mr. Astorino: This is a public hearing. If there is anyone in the audience wishing to address the ShopRite application, please rise and state your name for the record. Let the record show no public comment. We have received a letter from Beth and Ernest Wilson owners of the Warwick Drive-In, dated 9/20/16. Mrs. Wilson stopped by at the Planning Department. I had spoken to her. We went over this letter regarding some concerns she had. One of her concerns was that any construction work must stop by 7pm, as that would affect her business. That is in the Code. That is on the plans. She had a concern regarding the lighting. I explained to her that the lighting now would be less than what it was. She had a concern with avoiding placing piles of dirt near the drive-in. We have a plan for that. That is fine. Her last concern was regarding fencing and/or guardrails must be in place to separate ShopRite's actions from their ongoing business. She was explaining to me that there was a previous ShopRite application back in the 1990's. There was talk about a guiderail and a fence. Our Engineer and I, went with her to the drive-in property. She had documents to show this. We pulled the original ShopRite plans at Town Hall. We brought it with us to the site. Mrs. Wilson showed us the chained-link fence where it drops off. She said there was supposed to be a guardrail there. We looked at our records. There were discussions back then of a guardrail after the fact that they requested a guardrail. The site plan and all of the corresponding documents that we have just states a 6-foot chained-link fence. That has been installed. They did request it. It is not on any approvals. It is not in any documentation. All it was, it was a request to the Building Inspector which was Lou Poloniak at the time. There is nothing to substantiate that, that there was supposed to be a guardrail.

Mr. McConnell: It wasn't a requirement.

Mr. Astorino: It was not a requirement. It was a request. Nobody acted on it.

Mr. McConnell: Did she explain what it was supposed to accomplish?

Mr. Astorino: There was a drop off when they built that there. There was a drop off from the Warwick Drive-In down to the ShopRite property. They did put up a 6-foot high chained-link fence. It has been there since 1993.

Mr. McConnell: It is a solution to a problem that doesn't seem to exist.

Mr. Astorino: Honestly, if we were the Board back then, we'd probably put a guardrail in. All I am saying is that we have addressed the concerns in Beth & Ernest Wilson's letter.

Mr. McConnell: Could we ask the applicant if they would have any issues in putting a guardrail in there?

Mr. Astorino: There is no room to put a guardrail in there. It would be on the Warwick Drive-In's property. If they wish to put a guardrail in, the Drive-In could install one. The chain-linked fence is on the property line.

Mr. McConnell: Ok.

Mr. Astorino: Do any other Board members or Professionals have any comments? No further comment from the Board. Could we have a motion for the Negative Declaration?

Mr. McConnell makes a motion for the Negative Declaration.

Seconded by Ms. Little: The following Resolution was carried 5-Ayes.

617.12(b)

State Environmental Quality Review (SEQR)
Resolution Authorizing Filing of Negative Declaration

Name of Action: ShopRite Expansion

Whereas, the Town of Warwick Planning Board is the SEQR Lead Agency for conducting the environmental review of a proposed grocery store expansion by The Lauro Group for the existing ShopRite Shopping Center, Town of Warwick, Orange County, New York, and

Whereas, there are other involved agencies pursuant to SEQR, including the New York State departments of Environmental Conservation and Transportation, the Orange County departments of Health and Public Works, and the Town Board and Town Zoning Board of Appeals, and

Whereas, the Planning Board has reviewed an Environmental Assessment Form (EAF) for the action dated 3/29/16 and as revised on 5/24/16 and 6/28/16, the probable environmental effects of the action, and has considered such impacts as disclosed in the EAF.

Now Therefore Be It Resolved, that the Planning Board adopts the findings and conclusions relating to probable environmental effects contained within the attached EAF and Negative Declaration and authorizes the Chair to execute the EAF and file the Negative Declaration in accordance with the applicable provisions of law, and

Be It Further Resolved, that the Planning Board authorizes the Chair to take such further steps as might be necessary to discharge the Lead Agency's responsibilities on this action.

Mr. McConnell makes a motion to close the public hearing.

Seconded by Ms. Little. Motion carried; 5-Ayes.

Mr. Fink: Connie, you will need to circulate the Negative Declarations of all of the Involved Agencies that are listed on it. I will take care of the Environmental Bulletin.

Connie Sardo: Yes. Ok.

Ms. Little makes a motion on the ShopRite Warwick application, granting Site Plan Approval and Special Use Permit for the construction and use of a proposed 11,825 s.f. addition to the side of the existing ShopRite Supermarket, removal of a portion of the existing outparcel building, and modification to the existing parking layout, situated on tax parcel S 51 B 1 L 6.21; project located on the northern side of New Milford Road 318.4 feet west of Warwick Turnpike (153 State Route 94 South), in the CB zone, of the Town of Warwick, County of Orange, State of New York. A SEQRA Negative Declaration was adopted on September 21, 2016. Approval is granted subject to the following conditions:

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2. The proposed lighting must comply with the current Town Code §164-43.4, subject to GreenPlan specifications.
3. Applicant to confirm lighting at entrances along accessory building; 5 footcandles are required according to §164-43.4G (the table), subject to GreenPlan specifications.
4. Applicant to describe where green infrastructure was attempted to be included in the SWPPP.
5. The note on Sheet C1.0 states that the existing sign along Route 94 will be replaced per the Town Code under separate application. The new signage plan must be shown within the plan set, but a building department permit is required before construction can begin, subject to GreenPlan specifications.

6. The location of the Marginal Access Road, including the rights-of-way to be dedicated to the Town (or other means to allow public access to traverse the property) must be shown on the plan, subject to Town Board specifications.
7. The block type and color should be provided for the dumpster enclosures; the statement matching existing building can remain. Additional information should be provided for the appearance of the doors. The closing mechanism should be noted on the plans.
8. A Master Sign Plan should be submitted to show signage throughout the project site, including directional information for the Marginal Access Road, subject to GreenPlan specifications.
9. The smaller store names should be shown on the Site Pylon Sign detail on Sheet MSP-1, subject to GreenPlan specifications.
10. The smaller store name should be shown in color on Sheet MSP-2, subject to GreenPlan specifications.
11. Applicant to clarify the need for two Hometown Pet Supply signs, subject to GreenPlan specifications.
12. On Sheet MSP-1 (signage) a sign post detail, including the height of the sign must be added, subject to GreenPlan specifications.
13. Applicant to clarify if there are other types of specialty parking (i.e., stork parking shop from home parking), subject to GreenPlan specifications.
14. Provide specifications for temporary and permanent SWPPP BMPs.
15. Applicant to identify that permanent vegetative cover must achieve an 80% density in Section 4 – Maintenance Plan of the SWPPP per the NYSDEC GP.
16. The latest version of NOI form should be used, and filled out in its entirety, as required, to show conformance with the permit requirements. The form provided references superseded GP-0-10-001; the most recent version references GP-0-15-002. Note that this form is available for download through the NYSDEC website and can also be filed with the NYSDEC electronically.
17. The NOI must also include the disturbed and impervious area takeoffs, and all pre- and post- development criteria.
18. In the NOI, items 9, 15, and 16 are inconsistent with SWPPP Section 1.6. Clearly describe how stormwater discharges from the site and accurately complete the NOI.
19. The latest version of NOT form should be used. The form provided was last revised in January 2010; the most recent version is dated January 2015. Note that this form is available for download from the NYSDEC website.
20. The latest version of MS4 Acceptance Form should be used. The form provided was last revised in January 2010; the most recent version is dated January 2015. Note that this form is available for download from the NYSDEC website.
21. The latest version of Contractor SWPPP Certification form should be used. The form provided references superseded GP-0-10-001; the most recent version references GP-0-15-002. Note that this form is available for download from the NYSDEC website.
22. Construction inspection form – Section J – Silt fence: the inspection checklist does not match the silt fence detail on C3.3, i.e. the checklist states silt fence posts should be driven 16” into ground (min.) and fabric should be 16” (min.) above ground, while detail requires posts to be driven min. 2’-0” and fabric to be 2’-0” above ground. Applicant to verify which measurement is correct and at a minimum should satisfy the NYSDEC requirements.
23. Sheets C3.1-C3.3: Stabilized construction entrances should fan out towards public right-of-ways, to allow for ingress / egress of trucks to the site (refer to detail shown in the NYSDEC Standards and Specifications for Erosion and Sediment Control).
24. Temporary swales should be added to the Section J - Perimeter Sediment Controls of the construction inspection checklist.

25. Applicant shall revise third item under Section I – Stabilized Construction Entrance of the Construction Inspection checklist to: Soil / sediment is not being tracked by vehicles onto public right-of-ways.
26. Applicant should add a section to the Construction Inspection Checklist for soil / material stockpile protection (i.e. has adequate barriers, barriers are in place and in tact, stockpiles are not placed in areas of high activity or in water course, etc.).
27. Applicant should add more detail to Section 3: Construction Schedule of the SWPPP to discuss the project phasing. The SWPPP drawings, C3.1-C3.2, are identified as Phase I and Phase II (assumed to be pre- and post-construction site conditions); however, temporary erosion control measures are shown on both sheets. Applicant to differentiate between Phase I and Phase II.
28. If Phase II (Sheet C3.2) represents post-construction site conditions, Applicant should show only permanent stormwater management features on sheet C3.2 and revise legend accordingly.
29. Sheet C3.2 – Legend – Existing column: contour is shown in wrong row (shown in Construction Entrance row).
30. Areas of grading / soil disturbance and temporary seeding should be shown on sheet C3.1.
31. A note should be added to sheet C3.1 stating that no ground-disturbing activity shall commence prior to the installation of perimeter stormwater and temporary sediment controls.
32. Applicant should show proposed locations of temporary soil stockpiles on Sheet C3.1.
33. Temporary seed mixtures, application rates and fertilizer / nutrient measures shall be shown on sheet C3.1 and shall be specified in accordance with the NYSDEC standards for stabilization.
34. Permanent seed mixtures, application rates and fertilizer / nutrient measures shall be shown on sheet C3.2 and shall be specified in accordance with the NYSDEC standards for stabilization.
35. Applicant shall provide a detail and installation & maintenance notes on sheet C3.3 for the proposed temporary swales identified on the drawing.
36. Applicant to confirm table of Sediment Basin Design (sheet C3.1) is referring to the two (2) proposed temporary sediment traps shown on this sheet and verify what dimensions were used to calculate the proposed storage volumes for each drainage area's sediment basin.
37. Applicant shall provide further detail regarding where the water collected in the underdrain goes (i.e. into existing storm sewer system, to ground, etc.).
38. Applicant shall identify the party responsible for inspecting and maintaining post-construction stormwater control measures, provide an Operations and Maintenance manual and an inspection schedule for these components.
39. Applicant shall provide a post-construction stormwater management practice component of the SWPPP that includes a list of all applicable practices, specifications and installation details, stormwater modeling and analysis, soil testing results and locations (for Filtergrass, if they will infiltrate into ground).
40. Stormwater calculations provided are insufficient. Provide hydrologic and hydraulic calculations consistent with the *New York State Stormwater Management Design Manual* (January, 2015) for both existing and proposed conditions. Include existing and proposed drainage area maps, Curve Number (CN) calculations, Time of Concentration calculations (note 2.8 min is outside the TR-55 minimum Tc of 0.1 hr), and practice sizing.
41. Soil Erosion and sediment controls shall comply to the New York State Standards and Specifications for Erosion and Sediment Control (Blue Book), 2016 Blue Book.

42. Construction includes pouring concrete. Provide concrete washout practice.
43. Applicant shall clarify the difference between Contractor Certification and Subcontractor Certification forms (appear to be the same).
44. Applicant shall provide any sizing calculations that support the use of the proposed Filterras and the Contech CDSs.
45. A Performance Bond and a three-year landscaping bond are required.
46. A site inspection fee is required to be submitted.
47. The declaration information for the Aquifer and Agricultural Notes must be added to the plans.
48. The complete Town Board language waivers must be shown on the plans.
49. Surveyor to certify that iron rods have been set at all property corners.
50. Provide Map Note for abandonment of former pad site.
51. Payment of all fees.

Seconded by Mr. McConnell. Motion carried; 5-Ayes.

Dan Peveraro: Thank you.

Anthony Mole: Thank you.

Review of Submitted Maps:***Blake Kennel***

Application for Site Plan Approval and Special Use Permit for the construction and use of a 310 square foot dog kennel inside an existing dwelling, situated on tax parcel S 66 B 1 L 21.2; project located on the south side of Briller Road 1,300± feet south of Continental Road (64 Blake Road), in the CO zone, of the Town of Warwick.

Representing the applicant: Karen Emmerich from Lehman & Getz Engineering. Linda & Max Blake, Applicants.

The following review comments submitted by HDR:

1. Planning Board to discuss SEQRA.
2. Applicant to discuss project.
3. Conservation Board – pending comments
4. Architectural Review Board – pending comments
5. OC Planning Department – pending submittal
6. TW Building Department – 07/25/08 TW letter to Blake stating that planning board special permit is required; this property has 10 open permits with the building department that will need to be closed as this project moves forward
7. The Application must be signed by both property owners.
8. The Planning Board may wish to conduct a site inspection.
9. All existing structures on the site plan must be identified.
10. Wetlands should be labeled USACE or NYSDEC.
11. Property owners within 300-ft shall be listed on the plan.
12. Applicant to clarify if the kennel contains a separate bathroom facility.
13. Applicant to clarify the disposal location and/or method disposing of the dog waste.
14. Applicant to clarify if there is any existing or proposed fencing on the property.
15. Applicant to clarify the maximum number of dogs that would be present at any given time at this kennel.
16. Applicant to clarify if any signage or lighting on the property. If none, existing or proposed, please add a note to the plan.
17. The plans should estimate noise generation or include a note that states compliance with the Town's Performance Standards (§164-48).
18. Applicant to clarify if parking spaces are required. If so, please show on the site plan. If not, add a note stating why parking spaces are not required.
19. The hours of operation should be shown on the plan.
20. A note should be added to the plan stating that dog will be kenneled or leashed at all times.
21. Provide a map note stating that "No construction or proposed use shall begin until the maps are signed by the Planning Board Chairman and Building Department permits are obtained." Sheet 1, Note 18.
22. The Applicant must add the proper 911 address for this property.
23. The declaration information for the Ridgeline Overlay Notes and Common Driveway Use and Maintenance Notes must be added to the plans.
24. Surveyor to certify that iron rods have been set at all property corners.
25. Payment of all fees.

The following comment submitted by the Conservation Board:

Blake Kennel – None submitted.

The following comment submitted by the ARB:

Blake Kennel – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: The Applicant has submitted short EAF to the Planning Board. It is an Unlisted Action. There are no other Involved Agencies. The Planning Board can go ahead and declare itself Lead Agency.

Mr. Kennedy makes a motion for Lead Agency.

Seconded by Mr. McConnell. The following Resolution was carried 5-Ayes.
617.6

State Environmental Quality Review (SEQR)
Resolution Establishing Lead Agency
Unlisted Action Undergoing Uncoordinated Review

Name of Action: Blake Kennel

Whereas, the Town of Warwick Planning Board is considering action on a proposed Site Plan/Special Use Permit application by Linda and Maximo Blake for a ± 66.9 acre parcel of land located at 64 Blake Road, Town of Warwick, Orange County, New York, and

Whereas, an Environmental Assessment Form (EAF) dated 8/22/16 was submitted at the time of application, and

Whereas, after comparing the thresholds contained in 6 NYCRR 617.4 and 5, the Planning Board has determined that the proposed project is an Unlisted action, and

Whereas, the Planning Board has determined that the proposed project is not within an agricultural district and, therefore, the requirements of 6 NYCRR 617.6(a)(6) apply, and

Whereas, after examining the EAF, the Planning Board has determined that there are no other involved and/or federal agencies on this matter.

Now Therefore Be It Resolved, that the Planning Board hereby declares itself Lead Agency for the review of this action.

Be It Further Resolved, that a Determination of Significance will be made at such time as all information has been received by the Planning Board to enable it to determine whether the action will or will not have a significant effect on the environment.

Comment #2: Applicant to discuss project.

Karen Emmerich: We have a 66-acre parcel in the CO zone. The Blakes have their residential dwelling on the property. They would like to have 310 square feet of their home used as a kennel for dogs that they breed. It is part of the house. It is not a separate building. The dogs are primarily kept inside. They are taken out occasionally. We are here for approval of the kennel operation.

Comment #3: Conservation Board – pending comments

Comment #4: Architectural Review Board – pending comments

Comment #5: OC Planning Department – pending submittal

Comment #6: TW Building Department – 07/25/08 TW letter to Blake stating that planning board special permit is required; this property has 10 open permits with the building department that will need to be closed as this project moves forward.

Karen Emmerich: Yes. We have been working on that. A number of those permits have been closed.

Comment #7: The Application must be signed by both property owners.

Karen Emmerich: We will take care of that.

Comment #8: The Planning Board may wish to conduct a site inspection.

Mr. Astorino: This is a normal protocol that we do on Kennels. We will do that. We will set a date for a site visit.

Karen Emmerich: I have brought some photos for you to see what is involved.

Mr. Astorino: There is nothing outside. Is that correct?

Linda Blake: There is a chained-link enclosure on our deck. We have a very large deck. One portion of the deck is for the dogs. Five of those dogs weigh 3 pounds each. The others are French bulldogs. The maximum weight of those dogs is approximately 20 pounds.

Karen Emmerich: I have some photos of the type of dogs.

Mr. Astorino: I know you have the photos. It is just a normal protocol for us to do a site visit on all kennels. It would be a quick visit.

Karen Emmerich: Ok.

Comment #9: All existing structures on the site plan must be identified.

Karen Emmerich: Will do.

Comment #10: Wetlands should be labeled USACE or NYSDEC.

Karen Emmerich: Yes.

Comment #11: Property owners within 300-ft shall be listed on the plan.

Karen Emmerich: Will do.

Comment #12: Applicant to clarify if the kennel contains a separate bathroom facility.

Linda Blake: It does. There is a separate bathroom in the hallway outside of my puppy room.

Comment #13: Applicant to clarify the disposal location and/or method disposing of the dog waste.

Linda Blake: The dogs use their wee-wee pads in their individual kennels. Those are gathered up every day. I spray bleach on them. They are folded up. They are put in plastic bags and disposed of.

Comment #14: Applicant to clarify if there is any existing or proposed fencing on the property.

Max Blake: The fencing is on the deck. That is the only place where the dogs go. They don't go out on the ground.

Comment #15: Applicant to clarify the maximum number of dogs that would be present at any given time at this kennel. As far as my base group of dogs, let us say a dozen.

Linda Blake: That is a hard question to answer because they have puppies. The puppies could be from anywhere of 2 to 6 puppies. At any given time, 3 of the dogs might all be having puppies at the same time.

Mr. MacDonald: How about the maximum number of litters you might have at one time?

Mr. Astorino: You say a dozen but you could go as high as 20 or 22 if you have 3 litters.

Linda Blake: Generally all of the Yorkies have their litters at the same time. All the French bulldogs have their litters at the same time. They tend to sync up their reproductive cycles. They come into season at the same time. They all have their puppies at the same time.

Mr. Astorino: What would the maximum number be of puppies?

Linda Blake: Maybe 25 puppies.

Mr. Astorino: That would be the number that you would want to use on the permit.

Linda Blake: It could swell a bit more if they have huge litters.

Mr. McConnell: Maybe a follow up question would be, how many breedable bitches do you have?

Linda Blake: Maybe 7 of them.

Mr. McConnell: You don't have to answer that now.

Mr. Astorino: We are just starting this. We are just throwing out questions.

Comment #16: Applicant to clarify if any signage or lighting on the property. If none, existing or proposed, please add a note to the plan.

Max Blake: There are none.

Karen Emmerich: I will add a note to the plan.

Comment #17: The plans should estimate noise generation or include a note that states compliance with the Town's Performance Standards (§164-48).

Karen Emmerich: Will do.

Comment #18: Applicant to clarify if parking spaces are required. If so, please show on the site plan. If not, add a note stating why parking spaces are not required.

Karen Emmerich: Ok. People do not come to the home.

Linda Blake: We market on the internet. I don't almost have to advertise anymore. There are people waiting for my dogs.

Mr. Astorino: They purchase the dogs on the internet. They don't come and look at the dogs. Is that correct?

Linda Blake: No. They do not come to look at the dogs. Almost everybody, I deliver the dogs to them.

Karen Emmerich: We will do a map note.

Comment #19: The hours of operation should be shown on the plan.

Mr. Astorino: What is the actual operation? It sounds like you breed dogs and sell dogs. Is that correct?

Max Blake: Yes.

Linda Blake: Yes. Basically what that means is that I play with dogs all day. When they are fertile they get breed by the males.

Mr. McConnell: It is a 24-7 operation.

Comment #20: A note should be added to the plan stating that dog will be kenneled or leashed at all times.

Karen Emmerich: Will do.

Mr. McConnell: Laura, where does that come from?

Laura Barca: That comes from the last two dog kennel applications that we had done.

Mr. Bollenbach: I think the last two applications might have been dangerous dogs.

Mr. McConnell: Yes. Let's talk about that one.

Laura Barca: Ok.

Comment #21: Provide a map note stating that "No construction or proposed use shall begin until the maps are signed by the Planning Board Chairman and Building Department permits are obtained." Sheet 1, Note 18.

Karen Emmerich: Yes.

Mr. McConnell: That is a tough one.

Linda Blake: The dogs already exists.

Mr. McConnell: That is right.

Mr. Astorino: That is why they are here.

Mr. McConnell: Exactly.

Mr. Astorino: It is a standard map note.

Mr. McConnell: John, maybe you could figure something out on that.

Mr. Bollenbach: We will look into it.

Mr. McConnell: I am not comfortable asking for people to sign off on something that they know right from the start they are not in compliance. That is why we are here.

Linda Blake: I thought by submitting the application we were in compliance.

Mr. Bollenbach: No.

Mr. Astorino: Once you receive approval, then you would be in compliance.

Linda Blake: Ok.

Comment #22: The Applicant must add the proper 911 address for this property.

Karen Emmerich: Will do.

Comment #23: The declaration information for the Ridgeline Overlay Notes and Common Driveway Use and Maintenance Notes must be added to the plans.

Karen Emmerich: Will do.

Comment #24: Surveyor to certify that iron rods have been set at all property corners.

Karen Emmerich: Do we really need a survey of the setting of pins on this large property for this application?

Mr. Astorino: We could make that determination after we do the site visit.

Karen Emmerich: Ok.

Comment #25: Payment of all fees.

Karen Emmerich: Yes.

Mr. Astorino: Does the Board want to schedule the site visit before our next Work Session which is October 10, 2016? It is Columbus Day. We could do it at 6:00 pm. Seeing that the Board is ok with that date. We will schedule the Blake Kennel application site visit for Monday, October 10, 2016 @ 6:00 p.m.

Karen Emmerich: We ask the Board if we could be set for a public hearing.

Ms. Little: I am not familiar with the laws for breeding. Are there licenses required for that?

Linda Blake: Yes. I have been NYS licensed for many years. I am also AKC certified. I am also USDA licensed. I am one of four people in the entire State that holds all three licenses.

Ms. Little: Ok.

Linda Blake: They can and do make all visits completely unannounced. They can come anytime they want. The dogs have to be in perfect health. The place has to be hygienically sanitized. My records have to be perfect. It is a very heavy oversight for a Federal Agency, a National Agency and the State.

Ms. Little: Ok. Thank you.

Karen Emmerich: Copies of those are in the files.

Mr. Bollenbach: Maybe we could add a note that those licenses be provided annually so it is ongoing.

Linda Blake: Yes. We could do that.

Mr. Astorino: We could set this application for a Public Hearing for the next available agenda. We will also do the site visit on October 10, 2016 @ 6:00pm.

Mr. McConnell makes a motion to set the Blake Kennel application for a Public Hearing at the next available agenda.

Seconded by Mr. Kennedy. Motion carried; 5-Ayes.

Karen Emmerich: Thank you.

Apple Dave's Subdivision

Application for Sketch Plat Review of a proposed 2-Lot subdivision (**Major**), situated on tax parcel S 23 B 1 L 23.12; parcel located on the eastern side of Four Corners Road 3000± feet north of Demarest Road, in the RU zone, of the Town of Warwick.

Representing the applicant: Karen Emmerich from Lehman & Getz Engineering. Peter Hull, Applicant.

The following review comments submitted by HDR:

1. Planning Board to discuss SEQRA.
2. Applicant to discuss project.
3. Conservation Board – pending comments
4. Architectural Review Board – pending comments
5. OC Planning Department – pending submittal
6. TW Building Department – six open building permits and one fire inspection that is overdue
7. The NYSDEC enviromapper must be submitted.
8. The final subdivision checklist must be submitted.
9. Existing and proposed lot lines must be in two different line types.
10. A legend should be including.
11. If no land disturbance is proposed, a note must be added to the plan.
12. The metes and bounds must be provided for Proposed Lot 1 must be provided.
13. The metes and bounds must be provided for Proposed Lot 2 must be provided.
14. Applicant to clarify access to proposed Lot 2.
15. A shared driveway agreement will be necessary if Lot 1 needs access over Lot 2.
16. Shared driveway with an Agricultural use (Ag exemption) may or may not be required to be paved. Applicant to clarify the threshold of the farm market vehicle traffic.
17. Applicant to clarify if Proposed Lot 2 is a flag lot; flag lots must comply with §137-21.K(2).
18. §137 Appendix F states for a speed limit of 30mph, a minimum sight distance of 300-ft is required. §A168-17 states that a sight distance of no less than 250-ft is required. Applicant is providing 300-ft in one direction and 270-ft in the opposite direction. Applicant to clarify if sight distance can be improved.
19. Applicant to confirm that one potable drinking water wells is located on each proposed lots.
20. Applicant to show proposed septic area for Lot 1 and a location where a new septic system could be located on Lot 2 if its system failed.
21. The soil tests for septic systems must be witnessed by the office of the planning board engineer.
22. Provide a map note stating that “No construction or proposed use shall begin until the maps are signed by the Planning Board Chairman and Building Department permits are obtained.”
23. The Applicant must add 911 addresses to the plan.
24. The declaration information for the Agricultural Notes, Aquifer Notes, Ridgeline Overlay Notes, and Common Driveway Use and Maintenance Notes must be added to the plans.
25. Surveyor to certify that iron rods have been set at all property corners.

The following comment submitted by the Conservation Board:

Apple Dave's Subdivision – None submitted.

The following comment submitted by the ARB:

Apple Dave's subdivision – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: We have received a short EAF from the Applicant. It is an Unlisted Action. There are no other Involved Agencies. The Planning Board can go ahead and declare itself Lead Agency.

Mr. Kennedy makes a motion for Lead Agency. Seconded by Mr. McConnell. The following Resolution was carried 5-Ayes.

617.6

State Environmental Quality Review (SEQR)
Resolution Establishing Lead Agency
Unlisted Action Undergoing Uncoordinated Review

Name of Action: Apple Dave's Subdivision

Whereas, the Town of Warwick Planning Board is considering action on a proposed Subdivision application by Peter Hull for a ± 119.55 acre parcel of land located at 82 Four Corners Road, Town of Warwick, Orange County, New York, and

Whereas, an Environmental Assessment Form (EAF) dated 8/25/16 was submitted at the time of application, and

Whereas, after comparing the thresholds contained in 6 NYCRR 617.4 and 5, the Planning Board has determined that the proposed project is an Unlisted action, and

Whereas, the Planning Board has determined that the proposed project is within an agricultural district and, therefore, the requirements of 6 NYCRR 617.6(a)(6) apply meaning that an Agricultural Data Statement must be filed, forwarded to the owners of farm operations within 500 feet of the site and then considered by the Planning Board, and

Whereas, after examining the EAF, the Planning Board has determined that there are no other involved and/or federal agencies on this matter.

Now Therefore Be It Resolved, that the Planning Board hereby declares itself Lead Agency for the review of this action.

Be It Further Resolved, that a Determination of Significance will be made at such time as all information has been received by the Planning Board to enable it to determine whether the action will or will not have a significant effect on the environment.

Comment #2: Applicant to discuss project.

Peter Hull: We are simply executing my father's will. My father had arraigned for the farm to go into a Family Trust that would benefit my sister, my step-mother, and my brother and I are essentially a wash. The farmhouse would be split out from the farm. The farmhouse would come to me. The farmhouse in particular is an interesting building. It is the oldest house in Orange County. It was established in 1700 and is associated with the prominent settler Dr. Samuel Staats.

Mr. Astorino: That is interesting.

Comment #3: Conservation Board – pending comments

Comment #4: Architectural Review Board – pending comments

Comment #5: OC Planning Department – pending submittal

Comment #6: TW Building Department – six open building permits and one fire inspection that is overdue.

Mr. Astorino: You would have to take care of that as we go through the process.

Karen Emmerich: Peter has been working on that.

Peter Hull: The Fire Inspector has been there. The Building Department people have come through. I think we have taken care of everything.

Comment #7: The NYSDEC enviromapper must be submitted.

Karen Emmerich: We had done that.

Comment #8: The final subdivision checklist must be submitted.

Karen Emmerich: Will do.

Comment #9: Existing and proposed lot lines must be in two different line types.

Karen Emmerich: Yes.

Comment #10: A legend should be including.

Karen Emmerich: Yes.

Comment #11: If no land disturbance is proposed, a note must be added to the plan.

Karen Emmerich: Will do.

Comment #12: The metes and bounds must be provided for Proposed Lot 1 must be provided.

Karen Emmerich: Yes.

Comment #13: The metes and bounds must be provided for Proposed Lot 2 must be provided.

Karen Emmerich: Yes.

Comment #14: Applicant to clarify access to proposed Lot 2.

Karen Emmerich: The access comes off an existing farm road which comes into the property from Four Corners Road.

Mr. Bollenbach: A 280(a) variance would be required.

Karen Emmerich: Yes.

Mr. Astorino: Does this need a 280(a) for a shared driveway?

Mr. Bollenbach: This is not a flag lot. It doesn't actually have the ownership like the Roven-Specht application. That had a little strip that actually touched the improved public road. This has no public road or private road. It is just by Right-Of-Way or easement. That would be something subject to the ZBA to grant relief.

Mr. Astorino: Ok.

Karen Emmerich: We understand that.

Comment #15: A shared driveway agreement will be necessary if Lot 1 needs access over Lot 2.

Karen Emmerich: Ok.

Comment #16: Shared driveway with an Agricultural use (Ag exemption) may or may not be required to be paved. Applicant to clarify the threshold of the farm market vehicle traffic.

Mr. Astorino: I believe that is the new cut. Laura is that what we are talking about?

Karen Emmerich: That is on a different property.

Laura Barca: That is not a new cut. They use to have one property that had a farmhouse and a farm stand. That was only one lot that was owned by one person. Now you are going to separate the ownership into two. Now you are going to have 2 lots owned by 2 entities with a shared driveway, it is required to be paved.

Mr. Astorino: But it is still the Ag operation.

Laura Barca: It is the Ag operation. I don't know the answer to that.

Mr. Astorino: I don't think it needs to be paved. That is my opinion.

Karen Emmerich: We don't want to pave.

Comment #17: Applicant to clarify if Proposed Lot 2 is a flag lot; flag lots must comply with §137-21.K(2).

Mr. Astorino: John, you have answered that. Is that correct?

Mr. Bollenbach: Yes.

Comment #18: §137 Appendix F states for a speed limit of 30mph, a minimum sight distance of 300-ft is required. §A168-17 states that a sight distance of no less than 250-ft is required. Applicant is providing 300-ft in one direction and 270-ft in the opposite direction. Applicant to clarify if sight distance can be improved.

Karen Emmerich: This is for the existing driveway regarding the sight distance. It is measured 3.5 feet high and 10 feet back from the edge of pavement. It is heading towards Demarest Road.

Peter Hull: Heading towards Demarest Road there is a telephone pole there.

Karen Emmerich: That is one of the problems.

Mr. Astorino: If there is any brush there that could be knocked down, clear that up.

Peter Hull: There is a berm and telephone pole there on that side.

Mr. Bollenbach: Take a look at it. See if there could be any sight distance enhancement.

Karen Emmerich: We will take a look at that.

Comment #19: Applicant to confirm that one potable drinking water wells is located on each proposed lots.

Karen Emmerich: Yes. The house has its own well. The farm operation has its own well.

Peter Hull: Yes. The farm operation has one well.

Comment #20: Applicant to show proposed septic area for Lot 1 and a location where a new septic system could be located on Lot 2 if its system failed.

Karen Emmerich: Ok. Will do.

Comment #21: The soil tests for septic systems must be witnessed by the office of the planning board engineer.

Karen Emmerich: Ok.

Comment #22: Provide a map note stating that “No construction or proposed use shall begin until the maps are signed by the Planning Board Chairman and Building Department permits are obtained.”

Karen Emmerich: Ok. I have a question regarding Comment #21. Do we need to do soil tests if we have an existing septic for the proposed lot and the septic system for the farm?

Laura Barca: As long as you have Certificate of Compliance from the Building Department and they meet the uses that are currently on the property.

Karen Emmerich: Ok.

Laura Barca: Then the answer would be no.

Karen Emmerich: Ok. I don't know if you have anything for that house.

Peter Hull: From the year 1700?

Karen Emmerich: We will have to check on that.

Comment #23: The Applicant must add 911 addresses to the plan.

Karen Emmerich: Will do.

Comment #24: The declaration information for the Agricultural Notes, Aquifer Notes, Ridgeline Overlay Notes, and Common Driveway Use and Maintenance Notes must be added to the plans.

Karen Emmerich: Ok.

Comment #25: Surveyor to certify that iron rods have been set at all property corners.

Karen Emmerich: Ok.

Comment #26: Payment of all fees.

Karen Emmerich: Ok.

Mr. Astorino: Do any Board members or Professionals have any comments?

Ms. Little: Regarding the newer road which is right across the street from my house, you know that gets broken down a lot. You have to keep going back to repair it. Maybe, you could consider paving a portion of that road just to help the cars as they are coming up? When I am out in my yard, I see them frequently getting stuck over the lip. They are revving their cars to get up and over it especially smaller cars that are not meant for dirt roads. By paving it, it would help out as a safety issue and it might cut down on some of the dirt and dust. It would be something to consider.

Peter Hull: We could certainly consider it. Right now, we are in a stage of trying to decide on where we are going with that property. We might be keeping it. We might not keep it. It has a 10-month window on it at this point.

Ms. Little: Ok.

Mr. Astorino: Do any other Board members or Professionals have anything else?

Karen Emmerich: We ask the Board to set this application for a public hearing.

Mr. Astorino: Ok. We could do that.

Mr. McConnell makes a motion to set the Apple Dave's Subdivision application for a Preliminary Public Hearing at the next available agenda.

Seconded by Ms. Little. Motion carried; 5-Ayes.

Mr. Astorino: You will need to go to the ZBA first.

Karen Emmerich: Ok.

Mr. Astorino: Do we have a consensus from the Board on sending this application to the ZBA with a Positive Recommendation?

Mr. McConnell: Yes.

Mr. Kennedy: Yes.

Mr. Showalter: Yes.

Ms. Little: Yes.

Mr. Astorino: Ok. We will send this application to the ZBA with a Positive Recommendation.

Karen Emmerich: Ok. Thank you.

Peter Hull: Thank you.

Other Considerations:

1. Planning Board Minutes of 8/17/16 for PB Approval.

Mr. Showalter makes a motion to Approve the Planning Board Minutes of 8/17/16.

Seconded by Mr. Kennedy. Motion carried; 5-Ayes.

2. Planning Board to discuss setting the DeMarmels Subdivision for a Final Public Hearing at the next available agenda.

Mr. McConnell makes a motion to set the DeMarmels application for a Final Public Hearing at the next available agenda.

Seconded by Mr. Kennedy. Motion carried; 5-Ayes.

3. Memo from Supervisor Sweeton, dated 9/12/16 addressed to the Planning Board regarding Zoning Revisions Chapter 164-60 for Planning Board review and recommendation.

Mr. Astorino: We have that in our packets.

Mr. Showalter: Does he need a recommendation tonight?

Mr. Bollenbach: Yes.

Mr. Showalter: I haven't finished reading all of it.

Mr. Astorino: I have read them. I think they are fine. Ted, when does the Town Board want it?

Mr. Fink: The Town Board's public hearing is set for October 13, 2016.

Mr. Astorino: We would have a Work Session before that. But, we need to do this at a meeting.

Mr. Fink: Yes.

Mr. Astorino: If you want to take a few minutes and read them, you could do that. We would need to do a motion on it tonight. Connie, when were these sent out?

Connie Sardo: Last week on September 12th for the Work Session.

Mr. Showalter: We received it last week.

Mr. Astorino: If you want to take a few minutes and read them, then go read them. We need to act on this tonight.

Mr. McConnell: I had questions for John earlier about the limit of stay and what that meant in terms of having to remove the unit. What mechanism was proposed so that someone didn't leave for a day and come back?

Mr. Astorino: Are you talking about the Black Bear Campground?

Mr. McConnell: Yes. The other thing is and John I didn't get a chance to ask you this, if as you suggest that they are going to be permitted under this proposal to rent a seasonal spot where the unit could stay on the spot year round, is there a mechanism in place that monitors this. If I go and use it for 210 days and then Bo comes and he says that he wants to use my unit for whatever the remaining is, that certainly wouldn't be within the intent of this.

Mr. Astorino: I would hope that there would be an enforcement protocol.

Mr. Bollenbach: There is a draft Developers Agreement with the Town Board. This is in connection with the length of stay and density of the campground. I will see what stage that is in. We could circulate that to the Planning Board. I did review a draft that additional map notes were recommended to be included in the site plan. It is to specifically address that. The length of occupancy would be noticed in the lease or rental agreement of the site to indicate the maximum 210 days of occupancy of that RV no matter who occupies it.

Mr. McConnell: It would be difficult to make a recommendation on this without knowing the details of those and probably other issues that may arise.

Mr. Bollenbach: Right. The Town Board hasn't taken action. They are going to have the public hearing next month regarding those revisions to increase that length of stay. I'll talk to Mike Sweeton tomorrow about it. We could circulate that to the Planning Board. If the Planning Board has any comments on it, they could add their input. It is still in a very draft stage.

Mr. McConnell: In a very draft stage, I am reluctant to give any recommendation on this.

Ms. Little: I agree.

Mr. Showalter: Yes. We are not ready to do that.

Ms. Little: I want to see the final product before I make a decision.

Mr. McConnell: Right.

Mr. Astorino: Are you talking about of the agreement between the Town Board and the Developer?

Mr. McConnell: I want to see issues just like the ones that were just raised.

Mr. Astorino: I understand that. How does this deal with the Zoning? If we agree on how the Zoning is written as this is what we are talking about. Is that correct?

Mr. McConnell: Right. You are asking us to give a consensus tonight. I am saying that I am not in the position to do that.

Mr. Astorino: Is it because these are going to change?

Mr. McConnell: Yes.

Ms. Little: Correct.

Mr. Showalter: Ben, he has a good point.

Mr. Astorino: I am not saying that he doesn't.

Mr. Bollenbach: Why don't we provide a recommendation one way or the other at the Work Session?

Mr. McConnell: Yes.

Mr. Bollenbach: That would be prior to the Town Board's meeting.

Ms. Little: If we have a quorum there, then it would count. Is that correct?

Mr. Bollenbach: Yes. You would have to put it on the record now that your consensus would come positive or negative at the Work Session.

Mr. McConnell makes a motion that a consensus from the Planning Board of a positive or negative would happen at a Work Session.

Seconded by Ms. Little. Motion carried; 5-Ayes.

Mr. Astorino: That would done at the October 10, 2016 Work Session. Make sure that everyone is there.

4. Planning Board to discuss cancelling the 9/26/16 W.S. & 10/5/16 PB Meeting.

Mr. Showalter makes a motion to cancel the 9/26/16 W.S. & 10/5/16 PB Meeting.

Seconded by Mr. Kennedy.

Mr. Astorino: Connie, do we have any submittals for that Work Session?

Connie Sardo: No.

Motion carried; 5-Ayes.

Mr. Astorino: The only reason why I question that is if anything comes up with these Zoning Amendments that would be another issue. I am a little reluctant to cancel that to be honest with you.

Mr. McConnell: I was working that through in my mind.

Mr. Showalter: I think they need time.

Mr. Astorino: They are working on an agreement. I am just saying that we might need time to review that.

Mr. McConnell: Yes.

Mr. Astorino: We might have to have some discussion about that at another meeting. I think we should keep this date open. If we need to have it, we will have it. Maybe we should do a motion to rescind the last motion. If we don't need to have it, then we don't. Maybe everything will be fine. We are putting ourselves in a corner here. I don't want to see that happen.

Mr. McConnell makes a motion to “**rescind**” the motion on cancelling the 9/26/16 W.S. & 10/5/16 PB Meeting.

Seconded by Ms. Little. Motion carried; 5-Ayes.

5. **BCM Development** – Letter from Tony Ciallella, BCM, dated 9/2/16 addressed to the Planning Board in regards to the BCM subdivision – requesting 6th Re-Approval of Final Approval for Section I (12-Lots) and a 6-Month Extension on Preliminary Approval on the Sectionalizing Plan for filing a 42-Lot subdivision in Sections, situated on tax parcel SBL #44-1-133; parcel located along the northerly side of State Hwy 17A 500 feet east of Ketchum Road and Pumpkin Hill Road, in the SL zone of the Town of Warwick. Preliminary Approval on Sectionalizing Plan and Conditional Final Approval on Section I (12-Lots) was granted on 9/1/10. *The Applicant has stated that due to the continued depressed state of the single-family real estate market the extension and Re-Approval are needed.* The 6-Month Extension on Preliminary Approval and the 6th Re-Approval of Final Approval becomes effective on 9/1/16, subject to the conditions of final approval granted on 9/1/10.

Ms. Little makes a motion on the BCM Development application, granting **6th Re-Approval** of Final Approval for Section I + 6-Month Extension on Preliminary Approval on the Sectionalizing Plan for filing a 42-Lot subdivision in Sections, situated on tax parcel SBL # 44-1-133; parcel located along the northerly side of State Highway 17A 500 feet east of Ketchum Road and Pumpkin Hill Road, in the SL zone, of the Town of Warwick, County of Orange, State of New York. Preliminary Approval on Sectionalizing Plan and Conditional Final Approval on Section I (12-Lots) was granted on 9/1/10.

The 6th Re-Approval of Final Approval on Sectionalizing Plan for Section I becomes effective on 9/1/16, subject to the conditions of Final Approval granted on 9/1/10.

The 6-Month Extension on Preliminary Approval on the Sectionalizing Plan becomes effective on 9/1/16.

Seconded by Mr. Showalter. Motion carried; 5-Ayes.

6. **Cedar Ridge Subdivision** – Letter from Kirk Rother, P.E., dated 8/18/16 received on 9/7/16 addressed to the Planning Board in regards to Cedar Ridge Subdivision – requesting 8th Re-Approval of Final Approval and 6-Month Extension on Final Approval of a proposed 36-Lot Cluster subdivision, situated on tax parcel SBL #7-2-51.2; parcel located along the south side of Wheeler Road approximately 1500 feet west of Intersection with C.R. 41, in the RU zone, of the Town of Warwick. Conditional Final Approval was granted on 7/16/08. *The Applicant has stated that they are unable to satisfy the financial conditions associated with the final approval, such as paying Parkland Fees and road bond.* The 8th Re-Approval of Final Approval becomes effective 7/16/16, subject to the conditions of final approval granted on 7/16/08. The 6-Month Extension on 8th Re-Approval of Final Approval becomes effective 1/16/17.

Mr. McConnell: I am confused by the dates here. Connie, are these correct?

Connie Sardo: Yes. I have been keeping track of them for many years.

Mr. McConnell: It is the 8th Re-Approval of Final Approval that becomes effective on 7/16/16.

Connie Sardo: Right.

Mr. McConnell: We are 2 months beyond that.

Connie Sardo: This is coming from Kirk Rother Engineering. I received his letter a little late.

Mr. McConnell: Then on the last line it states the 6-Month Extension...

Connie Sardo: It becomes effective on January 16, 2017. I should have had received his 8th Re-Approval letter back in June for it to become effective on July 16, 2016. Now it is almost October.

Mr. McConnell: Ok. Now he is backfilling on this.

Connie Sardo: It takes me 4 months to get his extension request letters in.

Mr. McConnell: Yes.

Mr. Astorino: That is not up to Connie to follow up on.

Mr. McConnell: No. I don't mean to suggest that I think it is.

Mr. Astorino: I think she tries to do it for the applicants as a courtesy. But, it is not her job to track that.

Ms. Little: No. It is not. I think what Dennis is saying that there has to be some sort of a consequence or penalty.

Mr. Astorino: No. I don't know what you could do. Do you want to make them pay another fee that they cannot pay?

Mr. Bollenbach: There are provisions already in the Code that if you cannot stay current on their Re-Approvals, then they would lose it. However, the Town has not enforced that.

Mr. McConnell: This notion of them getting it in whenever they want isn't right. Again, I don't think it is Connie's job at all.

Mr. Astorino: It is not.

Ms. Little: No. It is not.

Mr. McConnell: Here is my suggestion. I would like to suggest that we invite the Liaison from the Town Board who is willing to accept this to come and rationalize it to us. The reason being is that we are in a position where we know we would be creating problems with the Town Board if we said, you know what? This isn't timely. You lost your chance. I want to have a record somewhere that it has been recognized and addressed.

Mr. Astorino: Maybe at our next Work Session, we could discuss this matter. That could lead into our discussion on the Zoning. I could ask our Liaison to attend that.

Mr. McConnell: Right. Ok.

Mr. Kennedy makes a motion on the Cedar Ridge Subdivision application, granting **8th Re-Approval** of Final Approval plus a 6-Month Extension on Final Approval of a proposed 36-Lot cluster subdivision, situated on tax parcel S 7 B 2 L 51.2; parcel located along the south side of Wheeler Road approximately 1500 feet west of intersection with C.R. 41, in the RU zone, of the Town of Warwick, County of Orange, State of New York, subject to the conditions of Final Approval granted on, 7/16/08 (See attached).

The 8th Re-Approval of Final Approval becomes effective on 7/16/16, subject to the conditions of final approval granted on 7/16/08.

The 6-Month Extension on 8th Re-Approval of Final Approval becomes effective on 1/16/17.

Seconded by Ms. Little. Motion carried; 5-Ayes.

7. **Pochuck Views Subdivision Sectionalizing Plan** – Letter from Dave Getz, Lehman & Getz Engineering, dated 9/9/16 addressed to the Planning Board in regards to the Pochuck Views Subdivision – requesting a 6-Month Extension on Preliminary Approval for filing a 5-Lot subdivision in Sections, situated on tax parcels SBL # 24-1-20.1 & 35; parcels located on the western side of Glenwood Road 3500 feet south of Newport Bridge Rd., in the RU zone, of the Town of Warwick. Preliminary Approval on the Sectionalizing Plan was granted on 3/20/13. The 6-Month Extension on Preliminary Approval on the Sectionalizing Plan becomes effective on 9/20/16.

Mr. McConnell makes a motion on the Pochuck Views Subdivision Sectionalizing Plan, granting granted a 6-Month Extension (VOTE 5-0-0) on Preliminary Approval for filing a 5-Lot subdivision in Sections, situated on tax parcels SBL #24-1-20.1 & 35; parcels located on the western side of Glenwood Road 3500 feet south of Newport Bridge Road, in the RU zone, of the Town of Warwick, County of Orange, State of New York. Preliminary Approval on the Sectionalizing Plan was granted on 3/20/13.

The 6-Month Extension on Preliminary Approval on the Sectionalizing Plan becomes effective on 9/20/16.

Seconded by Mr. Kennedy. Motion carried; 5-Ayes.

8. **Round Hill Road Subdivision** – Letter from Steven Spiegel, Esq., dated 9/19/16 addressed to the Planning Board in regards to the Round Hill Subdivision – requesting 10th Re-Approval of Final Approval of a proposed 19-Lot + 1-Ag Lot Cluster subdivision, situated on tax parcel SBL #7-2-51.1; parcel located along the northerly side of Wheeler Road between Meadow Rd and Hunt Dr., in the RU zone, of the Town of Warwick. Conditional Final Approval was granted on 10/18/06. *The Applicant has stated that because of the condition for final approval requiring construction of roads and significant infrastructure, which real estate market and financial conditions do not permit at this time.* The 10th Re-Approval of Final Approval becomes effective on 10/18/16, subject to the conditions of final approval granted on 10/18/06.

Mr. McConnell makes a motion on the Round Hill Subdivision application, granting **“10th Re-Approval”** of Final Approval of a proposed 19-Lot + 1-Ag Lot cluster subdivision, entitled, **“Round Hill Subdivision”**, formerly Wheeler Estates, located on tax parcel S 7 B 2 L 51.1; parcel located along the northerly side of Wheeler Road between Meadow Road and Hunt Drive, in the RU zone, of the Town of Warwick, County of Orange, State of New York, subject to the conditions of Final Approval granted on, 10/18/06.

The 10th Re-Approval of Final Approval becomes effective on, 10/18/16, subject to the conditions of Final Approval granted on, 10/18/06.

Seconded by Mr. Kennedy. Motion carried; 5-Ayes.

Correspondences:

1. Letter from Beth & Ernest Wilson owners of Warwick Drive-In, dated 9/20/16 addressed to the Planning Board in regards to ShopRite.

Mr. Astorino: I have mentioned about this letter earlier on the ShopRite application. We have it for our records.

Privilege Of The Floor For Agenda Items!!

Mr. Astorino: If there is anyone else in the audience wishing to address any of the agenda items, please rise and state your name for the record. Let the record show no public comment.

Mr. McConnell makes a motion to adjourn the September 21, 2016 Planning Board Meeting.

Seconded by Mr. Kennedy. Motion carried; 5-Ayes.