

TOWN OF WARWICK PLANNING BOARD
October 19, 2022

Members present: Chairman, Benjamin Astorino
Roger Showalter, Vice-Chairman
Dennis McConnell, Bo Kennedy,
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, October 19, 2022 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 Dan Doyle

Application for Site Plan Approval and Special Use Permit for the construction and use of the subject property a/k/a *Snufftown Farm Market*, as a Farm Market greater than 4,000 sq. ft. in size, including a farm brewery as permitted under the NYS Ag & Markets Law upon proper licensing, along with elements and appurtenances shown on the submitted site plan, situated on tax parcel S 17 B 1 L 37.2; parcel located on the western side of Union Corners Road 1200+/- feet south of Town Park Rd adjacent to the Town Park (9, 10 and 11 Fence Road), in the RU zone, of the Town of Warwick, County of Orange, State of New York.

Representing the Applicant: Dave Getz from Engineering Properties & Surveying. Dan Doyle, Owner. Charlie Holmgren, Brewer & Co-Owner.

Connie Sardo: Mr. Chairman, we have received the certified mailings for the Snufftown Farm Market 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 – no comments received
4. OC Planning Department – 05/21/19 advisory for NYSDEC wetlands and need farm market permit
5. TW Building Department – several open permits (check with building department); these permits have been closed.
6. OCDPW –OCDPW approval letter dated 03/22/22.
7. OCDOH –OCDOH approval letter dated 04/28/21
8. NYSDEC – Notice of Incomplete Application for wetland buffer permit, dated 12/17/21
9. NYS OPRHP – letter dated 11/17/16 stating that there will be no impact on archaeological and/or historic resources.
10. ZBA – §164-46.J(3) A buffer strip of 200 feet is required separating a building used for warehousing and wholesaling of farm products, and for retail sale or production of farm and food processing supplies from any residence.
11. §164-46.J(80) Certification of the landowners participation in the AP-O Zoning District is required as a condition of all farm markets. Town Board Resolution #R2016-82.
12. Provide landscaping within the parking lots, as required by Town Code §164-43.2. Town of Warwick code requires 1 tree and 10 shrubs for every 8 parking spaces. There are 10 trees and 22 shrubs proposed, where there should be 16 trees and 158 shrubs.
13. Sheet C-1, Note 27 shall be supplemented to state that if the project would like to have outdoor music, then the project must come back to the Town of Warwick Planning Board for an amended approval.
14. Sheet C-1, General Note 28 shall be supplemented to state that the condensation stack must be installed before issuance of a Certificate of Occupancy.
15. Surveyor to certify that iron rods have been set at all property corners.
16. The liber and page for required declarations (Agricultural and Biodiversity Notes) must be added to the plan.
17. Provide a Performance Bond and three-year landscaping bond and associated site inspection fees.
18. Payment of all fees.

The following comment submitted by the Conservation Board:

Dan Doyle – None submitted.

The following comment submitted by the ARB:

Dan Doyle – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: The Planning Board had classified this as a Type I Action. Because there were a number of other agencies involved, a coordinated review was required. The Planning Board declared its Intent To Be Lead Agency and circulated a letter to all of the other involved agencies. None of the agencies competed with the Town for Lead Agency. After the 30-days had past, the Planning Board became Lead Agency for the environmental review of the proposed farm market. With the Type I classification a Full EAF was required. The Applicant had provided that to us. We went back and forth in terms of some corrections and changes that were made to that document. The Full EAF is composed of 3 different parts. The Applicant had done the Part I EAF for the Planning Board. That is their document. They signed it. The Applicant signs off on the contents in there. The Part 2 and Part 3 EAF's are the Planning Board's responsibility. I have gone through two different versions of

the Part 2 EAF. One was done shortly after the Applicant refiled their application. Due to changes they had made along the way, I had prepared another Part 2 EAF. It goes through the different threshold questions that concern the potential impacts on a variety of different topics. There were 9 different topics that thresholds were reached. As a result of that, I reviewed the documentation that the Applicant had provided of traffic studies and etc...I have prepared a Part 3 EAF Narrative. The Board has all of those documents in their packets. I will go through the Part 2 EAF impacts. If the Board has any comments on them, we could go through those. Impact on Land: The answer to that is yes. There will be an impact on the land. There are physical alterations to the site proposed. That could include the depth to the water table that is less than 3 feet. That was considered a moderate to a large impact. The reason why is because the instructions on the EAF Form, if it reaches or exceeds the threshold example that is provided in the question, then it would normally be a moderate to a large impact. The next step to that is to discuss it in a Narrative. All of the other thresholds were identified as no or small impact that may occur. In those cases, there was not a Narrative discussion provided in the Part 3 EAF. Impacts on Geological Features: There are no unique or unusual land forms on the site. The answer to that is no. Impacts on Surface Water: That answer to that is yes. There were 2 thresholds that were reached in this case. It involved construction within or adjoining a freshwater wetland. It may cause turbidity in a waterbody, either from upland erosion, runoff or by disturbing bottom sediments. That was because of construction that is close to the wetland.

Mr. Astorino: That is because of moving the entrance. Is that correct?

Mr. Fink: Yes. That is because of the entrance and the Applicant is required to get a freshwater wetland permit from the NYSDEC. There is no direct impact on the wetland. There will be no construction on the wetland. This is the area that is adjacent to the wetland. It is 100-foot adjacent area that surrounds the wetland. That is considered a protected area as well. Any activity in that upland area requires a permit from the NYSDEC. Impact on Groundwater: The answer to that is yes. The proposed action may result in new or additional use of groundwater or may have the potential to introduce contaminants to groundwater or an aquifer. The Applicant requires a septic disposal system to dispose of wastewater from the farm market. That would go into that septic system. That threshold has been reached. Impact on Flooding. The answer to that is no. Impact on Air: No thresholds were reached. Impact on Plants and Animals: The answer to that is yes. There were some species that were listed as a concern. They were listed as species of special concern and conservation need, as listed by NYS. That was the threshold that was reached. Impact on Agricultural Resources: The answer to that is yes. The proposed action may impact soil classified within soil group 1 through 4 of NYS Land Classification System. The proposed action may irreversibly convert agricultural land to non-agricultural uses, either more than 2.5 acres if located in an Agricultural District or more than 10 acres if not within an Agricultural District. In this case, it is in an Ag District. The total area that is going to be disturbed is 3.9 acres. It did reach that threshold. Impact on Aesthetic Resources: The answer to that is yes. The concern here is that the site is directly adjoining both to the north to the site as well as across Union Corners Road the Town Park area. It is designated in part as for its scenic resources as a Town Park. The proposed action may be visible from public vantage points. Those were all the thresholds that were checked there. Impact on Historic and Archeological Resources: The answer to that is no. This is not within the area that is deemed sensitive by the State for Historic or Archeological Resources. Impact on Open Space and Recreation: The answer to that is no. There would not be any direct impacts on the adjoining Town Park. There were no changes made in that case. Impact on Critical

Environmental Areas: The answer to that is no. Impact on Transportation: The answer to that is yes. It may alter the present pattern of movement of people or goods. As a result to that, a Traffic Impact Study was prepared. That addresses that moderate to large impact. Impact on Energy: The answer to that is no. Impact on Noise, Odor, and Light: All of these were checked as no, or small impact may occur. This is a change from an earlier version of the Part 2 EAF that was prepared. At the time that I had done that, we hadn't yet received all of the odor, noise studies and everything else. As it has turned out, the Applicant has done some of the design changes that has eliminated for instance the impact for odor. They propose noise control as well. The Applicant has made commitments not to have any outdoor music. Regarding lighting, the Applicant does have adequate lighting proposed for parking, event space, and farm Market's brewery area within the Town's standards. The Town has specific Design Standards that are designed to minimize offsite spillage of light as well as any glare to the surrounding areas. Impact on Human Health: The answer to that is no. Consistency with Community Plans: The answer to that is no. It is consistent with the Town's Comprehensive Plan. Consistency with Community Character: The answer to that is yes. I did include in discussion as to why it is consistent with the Community Character. Those are the impact thresholds that are in the Part 2 EAF. For each of the ones where I had identified for the potential of an impact, I did go through and prepared an analysis as to why the impact is small or moderate in each case. It is a SEQRA Part 3 EAF Continuation Narrative. I will read it for the record. It is stated as follows:

Snufftown Farm Market SEQR Part 3 Environmental Assessment Form (EAF) Continuation Narrative

The following narrative describes the potential for environmental impacts that have been identified on the Part 2 EAF as a "Moderate to large Impact" along with a discussion of the mitigation measures and design changes that have been proposed to avoid or minimize any potential impacts to the greatest extent practicable. In reviewing the proposed project under SEQR, the Town of Warwick Planning Board has given due consideration to the subject action as defined in 6 NYCRR 617.2(b) and 617.3(g). The Planning Board, as lead agency, has also reviewed numerous supporting documents that were submitted by the applicant to address issues identified that may involve the potential for an environmental impact. These documents are incorporated into this Part 3 EAF. This included a review of the Site Plan drawings and other related correspondence and permits from other Involved agencies. Following a review of the above noted SEQR documents, other documents, and plans, the Planning Board has concluded that environmental effects of the proposed project will not exceed any of the Criteria for Determining Significance found in 6 NYCRR 617.7(c). Each topical area is described in the order in which they appear on the Part 2 EAF as follows:

Impact on Land

- 1.a The proposed action may involve construction on land where depth to water table is less than 3 feet.

New York State Protected Freshwater Wetlands are found on the site. Freshwater Wetland PI-17 is a Class 4 wetland and this area together with a 100 foot adjacent protected area cannot be physically altered without a Permit from the New York State Department of Environmental Conservation (DEC). The areas adjoining the State wetland consist of soils with a shallow depth to the water table. The site has an existing entrance driveway from Union Corners Road. This driveway must be improved to Town of Warwick standards as well as the standards of the Orange County Department of Public Works (OCDPW). The applicant has coordinated the State wetland permit requirements with those of the Town and County.

The DEC issued a Freshwater Wetland Permit on 6/5/2020, authorizing the applicant to disturb an approximately 6,000 square foot area of the 100 foot adjacent area of the protected wetland to allow the widening of the existing access to the site. The Permit was reissued by the DEC on 3/17/2021. The applicant must comply with all natural resource conditions and general conditions imposed by the State's Freshwater Wetlands Permit. However, subsequent to permit issuance, Orange County determined that a design change must be made to the entrance driveway to provide increased sight distance looking north along Union Corners Road. This change meant that the applicant was required to apply for an amended Wetland Permit with the DEC. The new SEQR review process the Planning Board has undertaken and the re-classification of the action as a Type 1 action (including a coordinated review) meant that the DEC was further constrained in their review of the application until such time as the Town of Warwick Planning Board, as Lead Agency, made a new SEQR determination. As such, the freshwater wetland permit application requires further consideration by the DEC following the adoption of this Part 3 EAF and Negative Declaration by the Planning Board. The wetland's adjacent area to be disturbed by the above noted changes is approximately 27,000 square feet. No disturbance is proposed to the freshwater wetlands areas.

OCDPW is requiring that the sight distance provided at the entrance be improved. The only practical method to meet the OCDPW sight distance standard of 610 feet is to relocate the entrance further south. The driveway relocation will require disturbance and construction within the 100-foot buffer area. The width of the driveway is the minimum needed to meet OCDPW standards and provide sufficient access for a fire truck. To mitigate the additional disturbance, a planting area is proposed to improve the habitat in the buffer area located on the western side of the wetland. All erosion controls and other mitigative measures will be used, as shown on the previously approved plans and within the SWPPP document.

Impacts will occur to the wetland adjacent area. The impacts to the adjacent area have been minimized by the preparation and use of a Stormwater Pollution Prevention Plan (SWPPP) to avoid erosion and sedimentation of the wetland area, which will receive runoff from the driveway. These include a bioretention basin and other stormwater practices that will be enforced by the Town of Warwick Building and Engineering departments.

In addition, in cases where groundwater is encountered during construction activities, standard construction techniques will be employed including the use of pumps and filters to remove groundwater from excavations. Further details on the proposed methods to be employed are found in the SWPPP dated June 24, 2022.

Impacts on Surface Water

- 3.d. The proposed action may involve construction within or adjoining a freshwater or tidal wetland, or in the bed or banks of any other water body.

The potential impacts of the proposed action on the freshwater wetland and its adjacent area is discussed above in item 1.a. The applicant will be bound by the conditions imposed by the DEC in its new Freshwater Wetlands permit. If the applicant is unsuccessful in obtaining a freshwater wetlands permit, then further consideration of the potential for environmental impacts will be required by the Town of Warwick Planning Board and this may include additional SEQR analysis.

- 3.e The proposed action may create turbidity in a waterbody, either from upland erosion, runoff or by disturbing bottom sediments.

All construction activity presents the potential for impacts to surface waters including wetlands, due to the removal of vegetation and the regrading of land near such waters. The Town of Warwick and the State of New York have both adopted rules and regulations to avoid such impacts. These potential impacts have been addressed through the preparation of the applicant's SWPPP. This document addresses both the State and Town requirements, which are designed specifically to avoid soil erosion and sedimentation of surface waters during the construction phase. The Town of Warwick has in place sufficient resources to ensure that the applicant's SWPPP will be properly implemented.

The project will result in new impervious surfaces on the site and a total area of disturbance identified on the proposed Site Plans consisting of 3.9 acres. The stormwater management system as detailed in the SWPPP, has been designed to accommodate the new impervious surfaces and disturbed areas, and will include multiple bioretention basins to treat runoff from impervious surfaces as well as to protect water quality due to the potential for sedimentation of exposed soils during storm events. A portion of the increased runoff will be directed to areas where stormwater will infiltrate into the soil. In total, there will be a net runoff reduction in runoff volume as a result of the proposed stormwater management system. The SWPPP will be modified and updated as per the Planning Board's Engineer with final details on the proposed designs. A note on the Site Plans prohibits the use of salt as a deicing compound to clear the proposed driveway.

- 3.k The proposed action may require the construction of new, or expansion of existing, wastewater treatment facilities.

An existing septic disposal system on the site will continue to be used for the existing uses. New septic disposal systems have been proposed to accommodate the new uses. Such new septic systems were reviewed by the NY State Department of Environmental Conservation and a SPDES Permit for discharge of an average of 3,800 gallons per day to the new systems was issued on 10/2/2017. The new septic disposal system was also reviewed by the Orange County Department of Health, which approved the plans for the system on 4/29/2021. The New York State Department of Health also approved, on 4/28/2021, a private non-community transient water supply system on the site to serve the farm market. All systems have been designed and approved in accordance with State and County requirements with no waivers granted. No further mitigation is warranted.

Impact on Groundwater

- 4d. The proposed action may include or require wastewater discharged to groundwater.

See item 3.k above for a discussion of the discharge of wastewater to groundwater in the proposed septic disposal systems approved by the State and County.

Impact on Plants and Animals

- 7.d The proposed action may result in a reduction or degradation of any habitat used by any species of special concern and conservation need, as listed by New York State or the Federal government.

The New York State Department of Environmental Conservation has records that show the site is located within an area frequented by the Indiana bat and the northern long-eared bat, both protected species. In order to avoid any adverse impacts to these two protected species, the applicant has placed a note on the proposed Site Plans that commit the applicant now, and to future landowners, to a restriction on time of year tree cutting to avoid adverse impacts to the bat species. Bats are active during the summer months and generally use mature trees with exfoliating bark, cavities or containing crevices or cracks that can be used by roosting bats. The remainder of the year, bats hibernate in caves and other locations outside of trees. Therefore, the cutting of trees will only occur on the Snufftown site in the winter months from October 1st until March 31st. The Town of Warwick and the New York State Department of Environmental Conservation (DEC) are authorized to enforce the clearing of trees under this condition. Map notes (see Environmental Conservation Notes on Site Plan drawing C1 dated June 24, 2022).

A plant species (small whorled pogonia) and the Bog turtle are also known to inhabit the vicinity of the proposed project. ERS Consultants Inc. surveyed the site for potential habitat for such species and prepared a report dated 5/25/21. The ERS report did not identify suitable habitat for either species on the site.

Further, the site is located within the Town of Warwick Biodiversity Conservation Overlay (BC-O) Zoning District. No construction has been proposed within the BC-O Zoning District so this area will be entirely avoided. The environmental conservation notes will be placed in the deed of the parcel and recorded in the Orange County's Clerk's Office.

Impact on Agricultural resources

- 8.a The proposed action may impact soil classified within soil group 1 through 4 of the NYS Land Classification System.

The existing site is a farm and is located within the Town of Warwick's Agricultural Protection Overlay District and a New York State Agricultural District. It is a policy of the Town of Warwick to encourage agriculture for its multiple environmental and human benefits. Farming within a State Agricultural District is considered a constitutionally protected land use under Article 14, Section 4 of the Constitution, Protection of natural

resources; development of agricultural lands. This includes a clause for: “the protection of agricultural land...”

In addition, the Town provides incentives for farmers to continue to farm and one of these allows for farmers to actively market their crops through establishment of farm markets. The right to farm necessarily involves the right to market the crops grown on the farm and the traditional means to do so is through a direct relationship between the farmer and those residents who wish to purchase goods grown or processed on the farm. Marketing of farm products must also take into consideration the need for access, parking and often special events such as farm festivals, which allow the farmer to draw customers to the farm for marketing and to assist in educating residents about the values associated with a local food supply. This involves construction of farm market buildings and other related activities such as parking and driveways. This is unavoidable but has been minimized through the selection of suitable areas adjoining existing barns and other buildings used to support farm operations.

- 8.d The proposed action may irreversibly convert agricultural land to non-agricultural uses, either more than 2.5 acres if located in an Agricultural District, or more than 10 acres if not within an Agricultural District.

More than 2.5 acres of land will be developed for the farm market. However, much of this land area has already been disturbed by prior building construction activities. In addition, the areas to be developed will support farming operations by allowing for the needed marketing of the farm products produced on the farm.

Impact on Aesthetic Resources

- 9.a Proposed action may be visible from any officially designated federal, state, or local scenic or aesthetic resource.
- 9.c The proposed action may be visible from publicly accessible vantage points: i. Seasonally (e.g., screened by summer foliage, but visible during other seasons) and ii. Year round
- 9.d The situation or activity in which viewers are engaged while viewing the proposed action is: i. Routine travel by residents, including travel to and from work and ii. Recreational or tourism-based activities.

The applicant prepared a Visual Impact Analysis of the proposed farm market that involved a photographic simulation of the site taken to and from several vantage points, keyed to a map showing the locations where the farm market will be sited. These included views of the site from the adjoining Town Park as well as from Union Corners Road. Then, the existing condition photographs had the proposed farm market superimposed onto the photographs of the existing condition. The Planning Board has thoroughly review the proposed Visual Impact Analysis and has concluded that the proposed project will be visible from public viewing locations but that the proposed farm buildings will be similar in scale, magnitude, and land use to other existing farm operations in the surrounding neighborhood as well as the community as a whole. Warwick is one of the most intensively farmed municipalities within Orange County and its policies and Zoning rules have been

designed to ensure the Town remains a predominantly farming and residential community. The Planning Board has concluded that the addition of the farm market will not create an adverse impact on the Town's aesthetic resources not community character (see below).

The applicant has also proposed a landscaping plan for the property. The plans include the planting of 10 deciduous trees as well as 22 native shrubs, 19 grasses, and 26 perennial plants, as well as a diversity of Northeast wetland plants within the stormwater management areas. Their survivability will be assured through a three year maintenance bond with the Town of Warwick.

Impact on Transportation

13.e The proposed action may alter the present pattern of movement of people or goods.

The applicant prepared a Traffic Impact Study to assess the effects of additional traffic on Union Corners Road and nearby intersections. The Study was completed in April of 2022 and was supplemented with additional information in June of 2022. According to the Study, the subject site is currently used primarily for a commercial farm operation with three detached residential dwellings, one barn, one garage, and an 18-hole disc golf course. The commercial farm operation with one and half acres of hops and other brewing ingredients grown on site will support the proposed farm market. Furthermore, the existing structures will remain. Adjacent to the subject site is the Warwick Town Park, which serves the Warwick Soccer Club, the Warwick Town Park Disc Golf Course, and other fields used by recreational sports. The proposed project consists of constructing a 6,500-square-foot brewery and tap room, a 1,200-square-foot pavilion to be used by patrons of the brewery, and a 3,000-square-foot event pavilion.

The event pavilion's primary use will be for events of up to 100 people, but can also be used by patrons of the brewery when it is not reserved. The majority of these events will occur between mid-April and mid-October and will be limited to 24 events per year. The following is noted regarding the proposed project:

- The study used a worst-case scenario during which (i) traffic volumes on Union Corners Road are at their hourly peak, (ii) the farm market and 1,200-square-foot pavilion are open to the public, and (iii) a 100-person event is utilizing the 3,000-square-foot event pavilion.
- The proposed project will generate 149 entering trips and 78 exiting trips for a total of 227 new trips at the study intersection during a peak hour when the brewery is open to the public and a 100-person event is occurring simultaneously.
- The trip generation did not take a credit for pass-by trips; specifically, it is anticipated that a significant number of patrons to the brewery will be sourced from the adjacent parks after recreational events. These pass-by trips would result in fewer "new trips" on the roadway network. However, to provide a conservative analysis, no such credit is being taken.
- Based on a review of the site generated traffic, it is anticipated that the proposed development will not have an adverse impact on the adjacent roadway.

- The proposed site driveway is anticipated to operate at an acceptable LOS B or better under stop control, and the 95th-percentile queue length can be accommodated on-site without obstruction on-site circulation.
- The driveway location and configuration has been conceptually approved by the OCDPW.

Impact on Noise, Odor, and Light

15. The proposed action may result in an increase in noise, odors, or outdoor lighting

The proposed action will result in occasional noise from traffic coming to and from the site. There will also be noise associated with farm patrons who congregate in the outdoor areas around the farm market. The additional noise is not expected to be greater than the noise already occurring on Union Corners Road from the daily flow of vehicles using the road, already arriving and leaving the site for the existing activities occurring there, as well as the activities that occur daily at the Warwick Town Park, located both adjoining the site to the North as well as across Union Corners Road from the site. The Town Park activities involve both passive as well as active recreation from organized sports activities. This is the existing setting of the Snufftown site.

The increased activities of the proposed farm market will be limited to the above ordinary noises associated with roads and farm markets. No increases that involve such things as amplified music will be permitted at the farm market and therefore, no significant increases in noise are expected, outside of normal farm activities. A note has been placed on the proposed Site Plan as follows: "There shall be no outdoor music. Any music shall be inside of a fully-enclosed structure shown on the site plan." This Site Plan note will permit the Town Building and Engineering departments to enforce the prohibition on outdoor music at the site. In addition, a note has been placed on the Site Plans that: "The applicant shall comply with the Town's performance standards for noise."

The application for a farm market involves the construction of a brewery for producing beverages from the farm. The process of brewing beer can create odors during the fermentation process. During the brewing process, steam evaporates from a kettle and leaves the farm market through a vent. The applicant has proposed to install a condensing unit for odor control. This unit will consist of a hood that will prevent the direct release of brewing odors through the liquefaction of steam to liquid. The liquid (condensate) will be collected and used to water the on-site landscaping. No increase in odors from the farm are expected from the farm market's brewery operations. The brewing of beer also creates the potential for odors from spent grain that is leftover after the brewing process. To avoid odors from this activity, the spent grains will be picked up on a regular schedule by local farmers, who can feed the spent grain to livestock. The pickups have been proposed to occur immediately after the mashing process is completed.

The applicant has proposed a lighting plan for the property in accordance with Warwick's Zoning requirements. Adequate lighting will be provided for the proposed parking, event space, and farm market's brewery area. No light spillage will occur beyond the property boundaries of the site, as shown on the Lighting Plans dated 6/9/2021. This will ensure that no off-site impacts occur to the Town of Warwick Park that adjoins the site. In

addition, a Site Plan note (# 21 on 6/24/2022 Site Plan drawing C1) includes a representation that lighting shall be designed, located, installed, and maintained in accordance with the Town's lighting regulations.

Consistency with Community Character

18. The proposed project is consistent with the existing community character.

The public hearings held on the Site Plan and Special Use Permit applications in 2021 resulted in allegations made that the proposed farm market is not consistent with the character of the community. This allegation is not supported by the Town of Warwick's official Town land use policies as expressed in the Town's Comprehensive Plan.

A Comprehensive Plan is generally a municipal document that describes what is unique about the community and its character. An urban area like the City of Middletown can be expected to define its "character" quite differently from the way rural Warwick defines its character. Community character can be thought of as a unique combination of traits or characteristics and values. It is applied to the existing natural environment of a community like forests, meadows, water resources, open spaces, wildlife habitats, and geography. It is also applied to the existing cultural environment like farms, scenic areas, historic buildings and districts, land uses, and settlement patterns. Community character can be defined by its overall setting, like a rural community character as opposed to an urban or suburban community character. In fact, Warwick was the first community in New York's Hudson Valley to prepare a Community Preservation Plan (CPP). This was authorized through special State legislation involving an amendment to New York State Town Law. Warwick is committed to maintaining its community character as discussed thoroughly in the CPP document.

When Warwick adopted its 1999 Comprehensive Plan and updated it regularly in 2008 and 2016, it essentially defined its "community character." The Comprehensive Plan states: "Protection of Warwick's rural quality and its natural environment continue to clearly stand out as the major goals for the residents of Warwick. When asked in 1987 how important certain issues were over the next ten years on a public survey, the highest response was for "maintaining the rural character". This character and the natural beauty of Warwick are what appear to have attracted most residents to the Town. These same qualities are what the people value most and want to protect...In addition to maintaining the rural character of the Town, residents indicated that they want to control the rate of new development. When asked what sort of controls they would support, the response was favorable in all categories listed including densities, restriction of commercial and industrial uses, site plan regulations, design controls, and preservation of vegetation, valuable farmland and historic structures...Warwick is and should remain primarily a residential and agricultural community...It is the intent of the Comprehensive Plan to accommodate new growth with the least impact on the environment. The Comprehensive Plan is a reflection of the goal for preservation of the natural beauty of Warwick and its rural quality of life. Key elements of the Plan that will help preserve the natural and agricultural landscape continue to include the following:

AGRICULTURE

Support the economic viability of farming

- Create incentives for landowners to maintain land in agricultural use, keeping it affordable so new farmers can begin farming
- Preserve as many of the operating farms as possible
- Preserve the agricultural heritage of the Town
- Discourage incompatible nearby land uses which have the potential to place burdensome pressures on farming activities”

The Town’s official policies, which have been in place since 1999 and reaffirmed through updates to the 1999 Plan document, have all confirmed that the community character is defined by the predominance of both residential and agricultural land uses. The proposed farm market is consistent with these policies and therefore will not result in a significant impact on community character.

Mr. Astorino: Laura, is HDR, Inc., satisfied with the Traffic Study?

Laura Barca: Yes.

Mr. Fink: OCDPW would also have to approve the new driveway on this. They provided guidance as to what they wanted to see in the way of changes to the entrance driveway. In this case they won’t be able to take any action. The DEC can’t take any action. There is a SEQRA process that is for a Type I Action with one Lead Agency among all of the other agencies making a SEQRA decision. The Planning Board first has to make that SEQRA decision before they could take any action. We won’t know definitively that they would approve that just as we don’t know if the DEC would definitively approve the wetland permit. They might have to come back here for changes. They are constrained by State Law from making any permit decisions until they have seen that the Planning Board has conducted this environmental review and concluded with a Negative Declaration.

Mr. Astorino: Then, they would start their process.

Mr. Fink: They would have to come back before the Planning Board some other time once they have received all of their other approvals.

Mr. McConnell: Then it would be for them to come back to us to say they have received their approvals.

Mr. Fink: Yes.

Mr. McConnell: At which point, we don’t have to take further action on that section of it. If they don’t change anything...that is what triggers the DEC.

Mr. Fink: Correct.

Mr. McConnell: Ok.

Mr. Astorino: Thank you Ted. That Narrative was very thorough. The Board had asked for that. We appreciate that. Do any Board members have any comments or concerns? Let us go through the rest of these comments this evening.

Comment #2: Applicant to discuss project.

Dan Doyle: I thought this would be a good opportunity for me to share some information mainly with the neighbors and the Board so that all of this technical stuff could be put into context. I think it is valuable especially for my neighbors to just understand where I am coming from and where this project is going. I want my neighbors to be comfortable with this project as possible. The proposal before this Planning Board is for a farm market and a farm brewery. I want everyone to know that my property is a lot more than a farm brewery. That is not our main reason for existing or to exist going forward. We currently serve as a host farm working with the OCDPW and its recycling coordinator to provide a site where food scraps are collected from a lot of local farmers markets for composting. We have hosted numerous workshops in conjunction with the OC Environmental Organization on topics like composting, rainwater collection and reuse, gardening and mushroom growing. We recently hosted an event for the Police K9 Units where they did demonstrations. We have hosted numerous fundraising events on behalf of animal rights groups with the Warwick Animal Shelter and a shelter for battered women. We have been a host for day camps to teach children about foresting and primitive skills in wilderness survival. You are probably aware of the contribution that the disc golf has made to the community. The important thing to know is that we are a farm. I have 47 acres. We call it the Oasis of Warwick. We grow organically. We have 1.5 acres of a Hops yard. We grow vegetables. We have planted hundreds of fruit trees and berry bushes. We have rice that we are growing for colder climates. We have two freight farms that grow a variety of crops in freight containers using cutting edge hydroponic computerized systems. We are way more than just a farm brewery. We always will be. You have my word; I want you to be as comfortable with this as possible. Come and talk to me. Meet me half way. Thank you.

Comment #3: Conservation Board – no comments received

Comment #4: OC Planning Department – 05/21/19 advisory for NYSDEC wetlands and need farm market permit

Comment #5: TW Building Department – several open permits (check with building department); these permits have been closed.

Comment #6: OCDPW –OCDPW approval letter dated 03/22/22.

Dave Getz: Despite what Ted said about SEQRA, the OCDPW had issued an approval letter for the new driveway location.

Mr. Astorino: But you still cannot construct it until you get the NYSDEC approval.

Mr. Fink: They are supposed to wait until the SEQRA is done.

Laura Barca: They could do an approval letter. They just can't do a permit.

Mr. Fink: Did they say that they would approve it or did they actually issue a permit?

Laura Barca: No.

Dave Getz: They don't issue a permit until they actually go to build it.

Mr. Fink: Yes.

Dave Getz: They issued a new line stating that the design is acceptable.

Mr. Fink: Ok. That is fine. That is not an actual approval until you have a permit in hand. Is that right?

Mr. Astorino: We were out there. We met with the County personally. We discussed the driveway location with the County. It is their call. They want it there. They felt that it needed to be there. Obviously, it involves the NYSDEC permit to construct it. No matter what they had said, that is great. That is what they wanted. Their next step is to go to the NYSDEC to get their approval.

Mr. Fink: The NYSDEC had deemed it to be an incomplete application because the Planning Board needs to take action on SEQRA.

Mr. Astorino: Right. That is what they are waiting on.

Mr. Fink: Yes.

Dave Getz: Regarding the driveway, this is the drawing that OCDPW approved. It gives you an idea on what we changed. In terms of the project itself, as Ted had summarized, we had provided a lot more information on lighting, traffic and other impacts like that. The only physical change of significance was to relocate the driveway entrance. Looking at the map, this is Union Corners Road and the Town Park. We relocated the new driveway entrance approximately 130 feet south. In doing so, it increased the sight distance as you are leaving the driveway looking left uphill from about 540 feet to 640 feet. We still kept a good sight distance looking south. That was what the OCDPW reviewed and said that it was acceptable. The line up here located on the map is the 100-foot buffer from the wetland. The wetland in the center of the drawing, we are not disturbing any wetlands. But as Ted had summarized the new driveway creates a lot more disturbance within the 100-foot adjacent area. That is the permit modification that we are looking for.

Comment #7: OCDOH –OCDOH approval letter dated 04/28/21

Mr. Astorino: That is on the septic and the well supply. Is that correct?

Mr. Fink: Yes.

Comment #8: NYSDEC – Notice of Incomplete Application for wetland buffer permit, dated 12/17/21

Mr. Astorino: We discussed that. It needs SEQRA determination from the Planning Board.

Comment #9: NYS OPRHP – letter dated 11/17/16 stating that there will be no impact on archaeological and/or historic resources.

Dave Getz: Right.

Comment #10: ZBA – §164-46.J(3) A buffer strip of 200 feet is required separating a building used for warehousing and wholesaling of farm products, and for retail sale or production of farm and food processing supplies from any residence.

Dave Getz: That ZBA variance was granted back in July of 2020.

Mr. Astorino: Ok. You will need to renew that variance.

Dave Getz: Ok.

Mr. Astorino: You have to go to the NYSDEC regardless. The renewal of the ZBA variance has to be done.

Dave Getz: Ok.

Comment #11: §164-46.J(80) Certification of the landowners participation in the AP-O Zoning District is required as a condition of all farm markets. Town Board Resolution #R2016-82.

Dave Getz: Ok.

Comment #12: Provide landscaping within the parking lots, as required by Town Code §164-43.2. Town of Warwick code requires 1 tree and 10 shrubs for every 8 parking spaces. There are 10 trees and 22 shrubs proposed, where there should be 16 trees and 158 shrubs.

Dave Getz: We are requesting the same waiver that the Board granted back in June of 2021 when you approved the project at that time. To provide additional plants within the parking lot would spread it out. We feel it is better to keep it compact.

Mr. Astorino: We discussed that the last time at the site visit.

Dave Getz: The site is in the middle of a farm property.

Mr. Astorino: We are trying to get the least asphalt as we can.

Mr. Bollenbach: Also, there is enough screening around the area and the location of it so it doesn't have an adverse visual impact.

Mr. Astorino: That is why we had done the visual impact analysis.

Comment #13: Sheet C-1, Note 27 shall be supplemented to state that if the project would like to have outdoor music, then the project must come back to the Town of Warwick Planning Board for an amended approval.

Dave Getz: Ok. Understood.

Mr. Astorino: There would be a note on the plan regarding that. You would need to come back to the Planning Board with an amended application. There would be a public hearing on that.

Dave Getz: Ok.

Comment #14: Sheet C-1, General Note 28 shall be supplemented to state that the condensation stack must be installed before issuance of a Certificate of Occupancy.

Dave Getz: We will add note.

Comment #15: Surveyor to certify that iron rods have been set at all property corners.

Dave Getz: We would ask for a waiver from the Planning Board.

Mr. Astorino: I don't think that would be an issue.

Comment #16: The liber and page for required declarations (Agricultural and Biodiversity Notes) must be added to the plan.

Dave Getz: Will do.

Comment #17: Provide a Performance Bond and three-year landscaping bond and associated site inspection fees.

Dave Getz: Ok.

Comment #18: Payment of all fees.

Dave Getz: Ok.

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

Mr. McConnell: In regards to Comment #14, requiring the condensation stack must be installed before issuance of a Certificate of Occupancy. The condensation stack is specifically pointed to the brewery operation. Is that correct?

Mr. Astorino: Yes.

Mr. McConnell: It seems like I could come up with circumstances where the brewery operation may be delayed for a number of reasons. Is it really necessary to prevent them from having a C of O for other things that they are doing at the farm market? I would suggest that should be altered to be installed before commencement of brewing. That is just my feeling. Say they can't get the condensation unit because their factory burned down.

Mr. Bollenbach: Does the Applicant have any objections to keeping Note #14?

Dan Doyle: I understand your example on if we couldn't get that stack. If we can't get the Certificate of Occupancy, does that mean we cannot open the building and do other things in the building?

Mr. Astorino: Yes.

Dan Doyle: I wouldn't want it to hold up other things.

Mr. Astorino: I get your point. But sitting here as a Board and no offense to the Applicant, we are here to make sure that when this goes into place it is a safeguard. The Planning Board does not do enforcement. Let's just say that the stacks are 1-1/2 years out and they open. Charlie gets a little rambunctious. We have seen this before with other Planning Board applications. You are in violation at that point with your site plan. That would be a problem that nobody wants. I know your point. How hard would it be to get this condensation stack?

Charlie Holmgren: I am the Head Brewer/Co-Owner.

Mr. Astorino: Say for whatever reason you cannot get this stack. I want it worded just as a safeguard that before anything is done brewing wise this would have to be in place. This is a SEQRA comment.

Charlie Holmgren: The C of O does not stop us from building.

Mr. Astorino: No.

Charlie Holmgren: We just can't open it to the public if we don't have a C of O.

Mr. Astorino: You cannot.

Charlie Holmgren: I am not worried about it. That stack will be on there. We don't want to slow anything down.

Mr. Astorino: We will keep Comment #14. Do any Board members or Professionals have any other comments? This is a public hearing. If there is anyone in the audience wishing to address the Snufftown Farm Market application, please rise and state your name for the record.

Sharon Mund: We live on the property adjacent to the Snufftown Brewery. On behalf of my husband, myself and the 200 neighbors who might have been potentially affected by this, we just wanted to thank the Board members and the Applicant for your diligent efforts to mitigate the noise and the odor. That was all I wanted to say. Thank you very much.

Mr. Astorino: Thank you. I will say this to the Applicant and Dennis, I think you had alluded to it. The diligence that has been put forth. There have been countless hours not only by our Professionals, the Board members and by the Applicant. I have witnessed first-hand the countless hours that went into this. Nothing has been taken lightly. Then again, it is still going through the process. Thank you for that comment.

Sharon Mund: We wish you the very best of luck.

Dan Doyle: Thank you. I really appreciate that.

Mr. Astorino: Is there anyone else wishing to address the Snufftown Farm Market application?

Mary Newhard-Knieriemen: We also live adjacent to the property. I wanted to comment about some of the changes that I have heard from the difference from the last meeting to this meeting. Regarding the change to the driveway, are you going to keep both driveways accessible to Union Corners Road? Or, is the second driveway replacing the first driveway?

Dave Getz: It is replacing the entrance. There is a note right on the plans.

Mary Newhard-Knieriemen: It was our concern. You are giving yourself a little more sight distance from that turn. That was a really good attention to that detail. That is appreciated. It is safer.

Mr. Astorino: The OCDPW required that.

Mary Newhard-Knieriemen: The other concern are the Town's lighting requirements. I know you are going to meet Code and all of that. Right now, it is a very rural area. The lights for the park go off 9:00 p.m. Then it goes back to the natural environment. Are the lights going to be on for 24 hours?

Mr. Astorino: No. There would be hours of operation. The hours of operation would be on the plans. That fits with the Code. The lighting, I don't believe anyone wants to leave on for 24 hours.

Mary Newhard-Knieriemen: It does change the whole nature of the neighborhood.

Mr. Showalter: If you go to Price Chopper in Warwick and look at the lights in the parking lot. That is the modern light. That is what the Town Code requires. The lights in the Price Chopper parking lot flood downwards. There is less spillage.

Mr. Astorino: That is a commercial site. That is not considered as to what is going here at Snufftown. The lights will be shielded. There would be no spillage. There will be hours of operation for lighting on the plans.

Charlie Holmgren: There will be no bright lights. There will be nothing to worry about regarding the lighting.

Mary Newhard-Knieriemen: Ok. The last time we talked about special events more like wedding catered type of events. We didn't talk about that this time. Is there an evolution on what you are planning?

Mr. Astorino: Without outdoor music to have a catered wedding would be an issue.

Mary Newhard-Knieriemen: That last time there was a discussion of events in that large brewery and in the outdoor pavilion for gatherings. Are those still part of the plan?

Dan Doyle: If we are going to have music, it would not be outdoor music. I believe there is a note on the plan that states that. It is going to be in a structure that is already on the plans.

We have different options because there are different buildings shown on the plans. We could do music in those buildings. I think the thought is where that pavilion is going, we are thinking of enclosing the pavilion. We could still do an event inside there. You won't hear the music.

Mr. Astorino: It would have to fit the size of the structure. You cannot put 400 people in a structure that is only approved for 50 people.

Mary Newhard-Knieriemen: I don't remember talking about a farm market the last time.

Mr. Astorino: That has always been part of the application.

Mary Newhard-Knieriemen: Ok. Thank you.

Dan Doyle: There are a lot worse things that could be done on my 47 acres. I could subdivide it. You would then have a lot of houses. I could also have a manure farm.

Mr. Astorino: Is there anyone else wishing to address the Snufftown Farm Market application?

Matt Flashner: Is the new driveway going to be lighted or dark?

Mr. Astorino: There won't be street lights on a driveway. It is not going to be lighted.

Matt Flashner: Would the hours of operation for a wedding be until 10:00 p.m.?

Mr. Astorino: Dave, what are the hours of operation on the plans?

Dave Getz: The farm market brewery hours of operation is from Sunday through Wednesday from 7:00 a.m. to 10:00 p.m. Thursday to Saturday from 7:00 a.m. to 12:00 a.m. with no amplified noise.

Mr. Astorino: As long as they meet the requirements of the Code. Is there anyone else wishing to address the Snufftown Farm Market application? Let the record show no further public comment.

Mr. McConnell makes a motion for the Negative Declaration.

Seconded by Mr. Kennedy. The following Resolution was carried 4-Ayes and 0-Nays.

617.12(b)

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

Name of Action: Snufftown Farm Market

Whereas, the Town of Warwick Planning Board is the SEQR Lead Agency for conducting the environmental review of a proposed farm market and farm brewery located at 10 Fence Road, Town of Warwick, Orange County, New York, and

Whereas, there are other involved agencies pursuant to SEQR which include the Town of Warwick Zoning Board of Appeals, New York State Department of Environmental Conservation, New York State Liquor Authority, New York State Department of Agriculture and Markets, Orange County Department of Health, and Orange County Department of Public Works, and

Whereas, the Planning Board has reviewed the Full Environmental Assessment Form (FEAF) for the action, including the Part 1, Part 2, and Part 3 including additional supporting documents and site plans, the probable environmental effects of the action against the Criteria For Determining Significance, and has considered such impacts as disclosed in the FEAF.

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

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

Mr. Bollenbach: I just wanted to reference a letter that we received dated 10/14/22 and received by email on 10/17/22 from Naughton & Torre for the record.

Mr. Astorino: Ok. Thank you.

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

Seconded by Mr. Kennedy. Motion carried; 4-Ayes and 0-Nays.

Mr. Astorino: Here is where we are at. You are now off to the outside agencies. You are off to the ZBA. I am sure you could get that done in November. Connie, is that correct?

Connie Sardo: Yes. ZBA submittal for the November meeting is November 7, 2022.

Mr. Astorino: Ok. Take care of the ZBA in November. And, you are off to the NYSDEC. Once all of that is done, you would come back to the Planning Board for approval.

Dave Getz: Ok. Thank you.

Mr. Astorino: Thank you. We appreciate all of the hard work you had done on this.

Dan Doyle: Thank you.

Review of Submitted Maps:***T-Mobile Northeast LLC/Gary Randall (2 Castle Ridge Dr.)***

Application for "Renewal" of Special Use Permit for the use of an existing wireless telecommunication tower and facility, situated on tax parcel SBL 19-1-55.-2; parcel located on the western side of NYS Route 94 900 feet north of Minturn Road located on the Randall Property (2 Castle Ridge Dr.), in the MT zone, of the Town of Warwick.

Representing the Applicant: Angela Poccia from Snyder & Snyder, Applicant.

The following review comments submitted by HDR:

1. The Town of Warwick Standard notes applicable to this project must be added to the drawings (see Attachment 1).
2. A note shall be added to one of the Drawings stating: All outdoor lights shall be designed, located, installed, and directed in such a manner as to prevent objectionable light at and across the property lines, and to prevent direct glare at any location on or off the property. The prohibitions and requirements listed in §164-43.4 of the Town Code shall apply to all proposed and existing outdoor lighting fixtures.
3. §164-79.A.(3)(a) All signage, including existing, must be in compliance with §164-43.1; Applicant to add note to one of the Drawings to document the type and locations of required FCC signage. FCC and/or other signage required for the proposed equipment should be installed and maintained (if this application is approved) in accordance with applicable local, State, and Federal rules and regulations. The applicant should clarify in narrative format which regulatory programs / agencies are applicable for the proposed project.
4. Due to a previous incident, the Town of Warwick requests that Suicide Prevention signs be posted along the fencing. If signs have already been posted by the tower owner, please confirm that the signs are in good condition; submit photos.
5. The limits of ground disturbance must be shown on the drawings, including area of disturbance. Or a note should be added to the plans stating that no ground disturbance is proposed.
6. If applicable, please add a note to one of the drawings stating that soil erosion control is in compliance with applicable NYSDEC rules and regulations, as well as the Town's stormwater regulations (§164-47.10).
7. §164-79.A(3)(a) Signs shall be limited to those needed to identify the property and the owner and to 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.
8. §164-79.A(3)(b) All ground-mounted wireless telecommunications 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."
9. §164-79.C Safety standards.
 - a. Security barrier. All wireless telecommunications facilities shall be provided with security measures, such as fencing, anti-climbing devices, electronic monitoring and other methods, sufficient to prevent unauthorized entry and vandalism. Fencing shall

be solid wood and shall include a locking security gate. Electrified fence, barbed or razor wire shall be prohibited.

- b. Recertification the telecommunications tower and attachments both are designed and constructed (as-built) and continue to meet all local, county, state and federal structural requirements for loads, including wind and ice loads. Such recertification shall be by a qualified New York State licensed professional engineer acceptable to the Town, the cost of which shall be borne by the applicant.
10. It is understood that the tower owner / operator, the applicant, and the applicant's engineer maintain full responsibility (a) for the accuracy and adequacy of all aspects of the design and analyses provided to the Town, inclusive of the recertification submittals; (b) for the construction and maintenance/ operation of the T-Mobile facility; and (c) for compliance with Section 168 criteria, including but not limited to the annual NIER certification (168-23).
11. §164-83.A(1) Add a note to one of the Drawings: An annual RF Emissions report, including cumulative RFR, shall be submitted to the Town of Warwick Building Department by the Tower Owner.
12. §164-83.B Add a note to one of the Drawings: An annual structural report shall be submitted to the Town of Warwick Building Department for the tower structure by the Tower Owner.
13. Add a note to one of the Drawings: An annual access maintenance contract shall be submitted to the Town of Warwick Building Department by May 1st of each calendar year by the Tower Owner.
14. Payment of all fees.

The following comment submitted by the Conservation Board:

T-Mobile Northeast LLC/Gary Randall (2 Castle Ridge Dr.) – None submitted.

The following comment submitted by the ARB:

T-Mobile Northeast LLC/Gary Randall (2 Castle Ridge Dr.) – None submitted.

Comment #1: The Town of Warwick Standard notes applicable to this project must be added to the drawings (see Attachment 1).

Angela Poccia: I am the Associate from the Law Firm Snyder & Snyder. I am here tonight on behalf of T-Mobile in connection with this request of the renewal of the Special Use Permit for the existing wireless telecommunication facility. It is located at 2 Castle Ridge Drive. The application is a request for renewal only. There is no work being proposed to this facility at this time. As you are aware, David Kenny from our office has been representing T-Mobile on this matter. But due to a scheduling conflict, he could not be here tonight. It is my understanding that Mr. Kenny discussed this application with the Board at the Work Session. I would be happy to answer any further questions that you might have. We request from the Board to waive the public hearing requirement on this application.

Mr. Astorino: Laura, did HDR review this application for the renewal of the Special Use Permit?

Laura Barca: Yes.

Mr. Astorino: Is HDR comfortable with these comments?

Laura Barca: Yes. There are some Town of Warwick notes that needs to be added to the plans.

Mr. Astorino: Do you have any issues with these comments?

Laura Barca: No.

Mr. Astorino: We will list Comment #1 through Comment #14 for the record. Do any Board members have any comments or concerns? Seeing none, we need a motion for the Type 2 Action.

Mr. McConnell makes a motion for the Type 2 Action.

Seconded by Mr. Kennedy. The following Resolution was carried 4-Ayes and 0-Nays.

617.6
State Environmental Quality Review (SEQR)
Resolution
Type II Action

Name of Action: T-Mobile Telecommunications Tower Special Use Permit Renewal

Whereas, the Town of Warwick Planning Board is in receipt of an application for a Special Use Permit renewal by T-Mobile Northeast LLC for a ± 19.2 acre parcel of land located at 4 Castle Ridge Drive, Town of Warwick, Orange County, New York, and

Whereas, the Town of Warwick Planning Board issued the original Special Use Permit for the facility on February 8, 2011 , renewed the Special Use Permit on April 6, 2016 and, there being no material change in permit conditions or the scope of permitted activities at the site, the Planning Board is now considering the applicant's request for a renewal of the Special Use Permit, and

Whereas, after comparing the thresholds contained in 6 NYCRR 617.4 and 5, the Planning Board has determined that the proposed project is a Type II Action that meets the thresholds found in 6 NYCRR 617.5(c)(32) and, therefore, SEQR does not apply, and

Whereas, the Planning Board has determined that the proposed project is not located within an Agricultural District or within 500 feet of a farm operation within an Agricultural District and, therefore, the requirements of 617.6(a)(6) do not apply.

Now Therefore Be It Resolved, that the Planning Board hereby declares that no further review under SEQR is required.

Mr. Astorino: Does the Applicant wish to waive the public hearing?

Angela Poccia: Yes.

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

Seconded by Mr. Showalter. Motion carried; 4-Ayes and 0-Nays.

Mr. Kennedy makes a motion on the T-Mobile Northeast LLC/Gary Randall application, granting "Renewal" of Special Use Permit (VOTE 4-0-0) for the use of an existing wireless telecommunication tower and facility, situated on tax parcel SBL #19-1-55.-2; parcel located on the western side of NYS Route 94 900 feet north of Minturn Road located on the Randall Property (2 Castle Ridge Dr.), in the MT zone, of the Town of Warwick, County of Orange, State of New York. A Type II Action was adopted on October 19, 2022. Approval is granted subject to the following conditions:

1. The Town of Warwick Standard notes applicable to this project must be added to the drawings (see Attachment 1).
2. A note shall be added to one of the Drawings stating: All outdoor lights shall be designed, located, installed, and directed in such a manner as to prevent objectionable light at and across the property lines, and to prevent direct glare at any location on or off the property. The prohibitions and requirements listed in §164-43.4 of the Town Code shall apply to all proposed and existing outdoor lighting fixtures.
3. §164-79.A.(3)(a) All signage, including existing, must be in compliance with §164-43.1; Applicant to add note to one of the Drawings to document the type and locations of required FCC signage. FCC and/or other signage required for the proposed equipment should be installed and maintained (if this application is approved) in accordance with applicable local, State, and Federal rules and regulations. The applicant should clarify in narrative format which regulatory programs / agencies are applicable for the proposed project.
4. Due to a previous incident, the Town of Warwick requests that Suicide Prevention signs be posted along the fencing. If signs have already been posted by the tower owner, please confirm that the signs are in good condition; submit photos.
5. The limits of ground disturbance must be shown on the drawings, including area of disturbance. Or a note should be added to the plans stating that no ground disturbance is proposed.
6. If applicable, please add a note to one of the drawings stating that soil erosion control is in compliance with applicable NYSDEC rules and regulations, as well as the Town's stormwater regulations (§164-47.10).
7. §164-79.A(3)(a) Signs shall be limited to those needed to identify the property and the owner and to 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.
8. §164-79.A(3)(b) All ground-mounted wireless telecommunications 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."
9. §164-79.C Safety standards.
 - a. Security barrier. All wireless telecommunications facilities shall be provided with security measures, such as fencing, anti-climbing devices, electronic monitoring and other methods, sufficient to prevent unauthorized entry and vandalism. Fencing shall be solid wood and shall include a locking security gate. Electrified fence, barbed or razor wire shall be prohibited.

- b. Recertification the telecommunications tower and attachments both are designed and constructed (as-built) and continue to meet all local, county, state and federal structural requirements for loads, including wind and ice loads. Such recertification shall be by a qualified New York State licensed professional engineer acceptable to the Town, the cost of which shall be borne by the applicant.
10. It is understood that the tower owner / operator, the applicant, and the applicant's engineer maintain full responsibility (a) for the accuracy and adequacy of all aspects of the design and analyses provided to the Town, inclusive of the recertification submittals; (b) for the construction and maintenance/ operation of the T-Mobile facility; and (c) for compliance with Section 168 criteria, including but not limited to the annual NIER certification (168-23).
11. §164-83.A(1) Add a note to one of the Drawings: An annual RF Emissions report, including cumulative RFR, shall be submitted to the Town of Warwick Building Department by the Tower Owner.
12. §164-83.B Add a note to one of the Drawings: An annual structural report shall be submitted to the Town of Warwick Building Department for the tower structure by the Tower Owner.
13. Add a note to one of the Drawings: An annual access maintenance contract shall be submitted to the Town of Warwick Building Department by May 1st of each calendar year by the Tower Owner.
14. Payment of all fees.

Seconded by Mr. Showalter. Motion carried; 4-Ayes and 0-Nays.

Angela Poccia: Thank you.

Comment #2: A note shall be added to one of the Drawings stating: All outdoor lights shall be designed, located, installed, and directed in such a manner as to prevent objectionable light at and across the property lines, and to prevent direct glare at any location on or off the property. The prohibitions and requirements listed in §164-43.4 of the Town Code shall apply to all proposed and existing outdoor lighting fixtures.

Comment #3: §164-79.A.(3)(a) All signage, including existing, must be in compliance with §164-43.1; Applicant to add note to one of the Drawings to document the type and locations of required FCC signage. FCC and/or other signage required for the proposed equipment should be installed and maintained (if this application is approved) in accordance with applicable local, State, and Federal rules and regulations. The applicant should clarify in narrative format which regulatory programs / agencies are applicable for the proposed project.

Comment #4: Due to a previous incident, the Town of Warwick requests that Suicide Prevention signs be posted along the fencing. If signs have already been posted by the tower owner, please confirm that the signs are in good condition; submit photos.

Comment #5: The limits of ground disturbance must be shown on the drawings, including area of disturbance. Or a note should be added to the plans stating that no ground disturbance is proposed.

Comment #6: If applicable, please add a note to one of the drawings stating that soil erosion control is in compliance with applicable NYSDEC rules and regulations, as well as the Town's stormwater regulations (§164-47.10).

Comment #7: §164-79.A(3)(a) Signs shall be limited to those needed to identify the property and the owner and to 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.

Comment #8: §164-79.A(3)(b) All ground-mounted wireless telecommunications 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."

Comment #9: §164-79.C Safety standards.

- a. Security barrier. All wireless telecommunications facilities shall be provided with security measures, such as fencing, anti-climbing devices, electronic monitoring and other methods, sufficient to prevent unauthorized entry and vandalism. Fencing shall be solid wood and shall include a locking security gate. Electrified fence, barbed or razor wire shall be prohibited.
- b. Recertification the telecommunications tower and attachments both are designed and constructed (as-built) and continue to meet all local, county, state and federal structural requirements for loads, including wind and ice loads. Such recertification shall be by a qualified New York State licensed professional engineer acceptable to the Town, the cost of which shall be borne by the applicant.

Comment #10: It is understood that the tower owner / operator, the applicant, and the applicant's engineer maintain full responsibility (a) for the accuracy and adequacy of all aspects of the design and analyses provided to the Town, inclusive of the recertification submittals; (b) for the construction and maintenance/ operation of the T-Mobile facility; and (c) for compliance with Section 168 criteria, including but not limited to the annual NIER certification (168-23).

Comment #11: §164-83.A(1) Add a note to one of the Drawings: An annual RF Emissions report, including cumulative RFR, shall be submitted to the Town of Warwick Building Department by the Tower Owner.

Comment #12: §164-83.B Add a note to one of the Drawings: An annual structural report shall be submitted to the Town of Warwick Building Department for the tower structure by the Tower Owner.

Comment #13: Add a note to one of the Drawings: An annual access maintenance contract shall be submitted to the Town of Warwick Building Department by May 1st of each calendar year by the Tower Owner.

Comment #14: Payment of all fees.

Johnny Hayseed LLC, Trustee 111 Glenwood Road Site Mitigation/Remediation Plan

Application for the review of a Site Mitigation/Remediation Plan for a recommendation to the Town Code Enforcement Officer for the issuance of a permit pursuant to "Chapter 150" of the Town Code for grading and excavating in excess of 1/4-acre in area, situated on tax parcel S 24 B 1 L 35.22; project located on the westerly side of Glenwood Road 2,800 feet north west of the NY/NJ border (111 Glenwood Rd.), in the RU zone, of the Town of Warwick. Previously discussed at the 3/16/22 PB Meeting.

Representing the Applicant: Jason Pitingaro & Doetsch Engineering

The following review comments submitted by HDR:

1. Planning Board to discuss SEQRA.
2. Applicant to discuss project.
3. Conservation Board – no comments received
4. Architectural Review Board – no comments received
5. TW Building Department – 04/30/21 stop work order for §150 violation
6. OC Planning Department – no comments received
7. OCDPW – 04/06/21 Farm access granted in 2013; engineering plans required for single-family dwelling certificate of occupancy
8. NYSDEC - endangered and threatened species letter (Indiana Bat); please add time of year clearing notes to the plan.
9. NYSDEC requirements for the General Permit for Stormwater Discharges from Construction Activity (GP-0-20-001) must be satisfied. Estimated area of disturbance on the Application for Site Plan & Special Use Approval (pg 3) and the SEAF (pg 1) indicates 1.9 acres. This project includes the construction of barn, according to the supplied plans. NYSDEC GP 0-20-001 Appendix B Table 1 requires a SWPPP is prepared with erosion and sediment controls. Applicant to prepare a SWPPP accordingly, including an electronic Notice of Intent (eNOI) and MS4 Acceptance Form. SWPPP requirements are also identified in the Town of Warwick code, Section 164-47.10.E.1.
10. ZBA: pending request to build an accessory structure before constructing a primary structure and for the size of the accessory structure
11. NYS Office of Parks, Recreation, and Historic Preservation (OPRHP) – letter need for land disturbance. Construction activities that have the potential to affect historic and/or archeological resources would not be eligible for coverage under the general permit unless the screening and consultation process specified in the NYS OPRHP Letter of Resolution has been completed and the required documentation demonstrating that potential impacts have been avoided or mitigated is obtained and maintained on site as required by the general permit (see Part I.F.8.). This documentation must be in place in order to complete and submit the eNOI.
12. Agricultural Data Statement does not include all farm properties in the vicinity.
13. The Site Remediation Plan submitted must include the Town of Warwick Standard Notes for All Projects, Biodiversity Conservation Notes, Note for Access onto a State, County, or Town Road, and Driveway longer than 1000-ft and/or flag lots.

14. On the Pre & Post Development Drainage Plans, the TC line callouts are not pointing to a line. Please clarify.
15. On the Pre & Post Development Drainage Plans, under the proposed conditions, the sheet flow would turn into channel flow when the runoff enters the drainage swale. Please clarify on drawings.
16. A detail for erosion control fabric installation is included on Erosion & Sediment Control Plan sheet 3 of 3; however, the location for its placement is not shown. Applicant to identify these locations.
17. Applicant to clarify if a new drainage swale is proposed along the existing gravel driveway that will address stormwater during post-construction phase. If a new swale is proposed, this area should be captured within the limits of disturbance and associated grading extents must be shown on the drawings.
18. The Stormwater Management Implementation Schedule provided on Erosion & Sediment Control Plan sheet 3 of 3 indicates the use of a stabilized construction entrance. This is not indicated on the plans, nor is a detail provided for its construction. Applicant to provide.
19. Phase II Corrective Action Plan (CAP): In Section 1.2 it states that a small amount of imported fill migrated from its stockpile and was subsequently spread and leveled. Please provide a quantity of how much was spread and where on the site this took place. A figure showing this would be helpful.
20. Phase II CAP: Section 2.3 states that a portion of the millings were used on the existing driveway. It also states that the quantity of millings that were generated was an approximation. In May 2022, a survey was completed on the property providing quantities of fill material that was brought to the site. Please provide the surveyed quantity of the milling pile currently on site and estimate/approximate the amount of milling used.
21. Phase II CAP: In section 3.1, it is stated that none of the constituents detected in the site soils pose a threat to air quality. Please provide the data that backs up this statement, please include who made this determination. No monitoring has been or is being proposed to be conducted, please clarify how this was evaluated and determined. DER-10 Appendix 1A should be implemented during the remedial action, please review this document and revise your procedures accordingly.
22. Phase II CAP: In section 3.2, under the soil removal section it states that soils will be removed within 20 foot of the property line. There should not be a limit on how far the cleanup will go. The statement should read all impacts to the adjoining property will be addressed by this plan, and the area will be restored.
23. Phase II CAP: In section 3.2, Slope restoration discusses that the soils on the slope were previously tested and found to be free of contaminates. Please modify the sentence to indicate that there are a couple spots on the slope where analytical results (Locations 6, 7, and 8) from the July 2021 sampling event that show contamination above applicable residential standards. These areas should be addressed to meet residential Soil Cleanup Objectives (SCO) with end point and bottom sampling as required by NYSDEC DER-10.
24. Phase II CAP: Section 3.3, states that according to the July 27 soil results that the imported soils do not rise to the level of potential contamination of Groundwater or pose a threat to public safety. This statement should be removed, since the sample results show lead concentration in excess of the protection of groundwater and Residential SCOs, Additionally, PCB while not over the Protection of Groundwater SCO are over the Protection to Ecological Resources and Residential SCO.

25. Phase II CAP: Section 3.3, Existing Driveway Section it discusses the millings will be prepared and utilized to reclaim migrated soils. Please provide clarification on what “prepare and utilized to reclaim the migrated soils from the property” means. This material can only be used in the driveway and is no more than 4 inch deep.
26. Phase II CAP: Section 3.3, Driveway restoration states as described in length in the Phase I CAP the soils was previously tested and found to be free of contaminates. Please remove this statement. This is not true; analytical data from that sampling shows 4 out of the 8 locations tested failed residential criteria. Three locations are located in close proximity to the sloped are discussed here. A figure detailing the areas to be restored in comparison to where the in-situ contamination is located would be helpful to understand where the work will be conducted in proximity to where the soil contamination was found.
27. Phase II CAP: Section 3.3 Construction Monitoring, states that a representative from P&D will be on site to monitor the Appropriate movement of the imported soils. Please provide more detail to where the soils will be moved to and how this will be accomplished.
28. Phase II CAP: Section 3.4 states that SCOs are defined by CP-51. This is only one of several documents that should be referenced in the clean up of the fill that was brought to the site. In addition to CP-51, Part 375 Section 6.8 and Table 6.8(a) and (b), Outline of requirements for investigation and remediation of unauthorized C&D debris disposal sites, and Part 360-13 should be used to guide your clean up.
29. Phase II CAP: Section 3.4, site specific criteria should be developed. This is an approach used in many remedial programs with approval from NYSDEC, however they are based on end use of the property. This is a residential site, therefore the residential land use Soil Cleanup Objectives (SCOs) should be used (not the Restricted Residential SCOs, which relate more the townhouse or other commercial uses).
30. Phase II CAP: Section 3.4, throughout this section when describing the data that was collected, it references results being over Unrestricted but being under restricted residential SCO. For the purpose of evaluation Restricted Residential refers to properties that have multiple units like apartments, condos, coops, etc. For example, this will be a single-family home that falls under the Residential Use category. The language should be updated to reflect the difference between Residential and Restricted Residential.
31. Phase II CAP: Under the PCB discussion in Section 3.4, it talks about an acceptable presumptive remedy about leaving 1ppm of PCB at the surface and 10 ppm in the subsurface. This statement should be removed. Later in the document is it states that these soils will be removed. Additionally leaving soils in excess of the land use standard without some sort of Institutional and engineering control is not a viable option.
32. Phase II CAP: Section 3.4, in the last paragraph on Page 10, “end point sampling” is discussed. This sampling discussion should be updated to state that all sampling with meet Part 375 Table 6.8(b) residential Soil Cleanup Objectives (SCO) with end point and bottom sampling as required by NYSDEC DER-10.
33. Phase II CAP: Section 3.4, discussion of Lead contamination. Please clarify the last statement in that paragraph. At the beginning of the paragraph, the soil is said to be anomalous and how it is not a risk to human health of the environment. Later in the paragraph, it is discussed that the soil is being removed. The lead concentrations are over the SCO for all categories except for Industrial. This could negatively affect human health and environment. Please remove this statement and clarify the paragraph to state the intention of removing the soils.

34. Phase II CAP: Section 3.4, where it talked about all material will be disposed of in accordance with applicable regulation. Please add in transported and disposed of in accordance with applicable local, state and Federal regulations. Also, please include a statement that the material will be brought to an appropriately licensed facility that can accept the waste being disposed of. Not all site disposal facilities accept PCB and lead materials at the same location.
35. Phase II CAP: Last Paragraph of section 3.4 states that this Soil clean up plan is subjective and NYSDEC guidance allows for a flexible frame work. Please clarify what is meant by these statement and its importance of being included in this report. Additionally, the report states that the plan meets the NYSDEC guidance for Soil Cleanup Objectives (SCOs). Please provide additional information how this plan meets the guidance for SCO. Please remember that Part 360-13 and Part 375 Table 6.8(b) are applicable for this proposed property cleanup.
36. Appendix A Phase 1 CAP: The Plan proposes to immediately address the removal of material on the neighboring property and including up to 20 feet onto (or 20 feet off of – this should be clarified) the adjoining property. Additional details related to stockpiling (temporary location of these soils on the applicant’s property), waste classification, trucking, and disposal were not included. Additionally, the process that will be used to confirm that all material that has migrated from the site onto the adjoining property has been removed was not provided. Please revise the document to include these details.
37. Appendix A Phase 1 CAP: With regard to transportation and disposal information for materials brought to the site, no documentation was provided about transportation entities and disposal facilities. No fully endorsed manifests were provided for the two loads of concrete and brick that were already removed from the site.
38. Appendix A Phase 1 CAP: Due to repetition within the report, it is difficult to follow the timeline of events regarding the material that was relocated on-site, and the material that was imported. Please include an additional figure and table to clearly walk-through the estimates and detail the timeline of events and quantity of different materials that have been imported and otherwise graded.
39. Appendix A Phase 1 CAP: Since these parcels (subject property and adjoining property) are zoned residential, analytical results for this site should be compared to NYSDEC Part 375 Table 375-6.8(a) **Unrestricted Use** Soil Clean Up Objectives (SCOs) and Table 375-6.8(b) Restricted Use SCOs - Protection of Public Health **Residential** SCOs and the **Protection of Groundwater** SCOs. All three criteria should be shown in data summary tables to allow for comparison of the results against applicable criteria. No other SCOs from Table 375-6.8(b) should be considered (e.g., commercial or industrial land uses). The perspectives on possible sources of elevated lead and SVOCs (i.e., historic hunting in the area; on-site burning) are acknowledged; however, the focus of the CAP in light of analytical data must be based on the current sample data **and** the fact that a large quantity of fill was illegally imported to the site.
40. Appendix A Phase 1 CAP: There is no mention of offsite disposal within this document, which will be required for fill and C&D to be removed under the CAP. As noted below, the Phase I work may propose to temporarily stockpile soils at the subject property (and handle classification and off-site disposal under a Phase II stage of the project).
41. Appendix A Phase 1 CAP: The Phase I CAP seems to imply that soils excavated will be spread and compacted on-site. It is recommended that stockpile areas be created, and any excavated fill be managed in the stockpile areas prior to off-site disposal. No

spreading or reuse of excavated soils or fill material that is conducted to remedy the situation at hand is permitted until a final CAP is accepted.

42. Appendix A Phase 1 CAP: Section 1.2, 3rd Paragraph, page 4, discusses the need to create a level area for construction of accessory structure and surrounding driveway. Please provide figures showing the proposed location of these structures in reference to the area that was filled.
43. Appendix A Phase 1 CAP: Section 1.2, 4th Paragraph, page 4, please show the borrow and receiving areas on the figures referenced.
44. Appendix A Phase 1 CAP: Section 1.2, 5th paragraph, page 4, states that additional soils were brought on site from a source in Lodi, NJ but it does not reference a quantity (cubic yards or cy) or number of trucks. Please provide more detail as to how much material was brought on site (load tickets, importation log, purchase orders, etc.).
45. Appendix A Phase 1 CAP: Section 1.2, 5th paragraph, page 4 states that fill material was stockpiled. When the Building Department first visited this site in April 2021, all material that was brought to the site had been spread and leveled. This section of the Phase I CAP seems to indicate that the imported material was brought to the site but was not spread. The stockpiles that were visible in July 2021 were generated from material that was excavated/relocated from the slope in an attempt to move material away from the adjacent homeowner's property line. The report should clarify this information (see above comments on adding figure and table to better describe timelines and quantities).
46. Appendix A Phase 1 CAP: Section 1.2, 7th paragraph, page 5, discusses that the majority of the imported material was stockpiled in a pile that was 150 feet, by 60 feet, by 20 feet high. This statement neglects the information that this material was once spread and leveled on the property. These stockpiles were created when the Town of Warwick requested that the fill material be pulled back from the property line. See above general comment on revising pages 4-5 and including additional figure and table to best depict the timeline and location of all activities to support the text.
47. Appendix A Phase 1 CAP: The Phase I CAP states that the amount of fill material is 2200 cy. The calculations of these quantities should be included as attachments to the report and should detail the formulas used to calculate the volume.
48. Appendix A Phase 1 CAP: Section 1.2, 9th paragraph, page 5, states that 1200 cy of the imported fill was spread when in fact, all of the fill material at this property was spread. Please confirm that on-site soils and imported soils were mixed/blended during the filling of this sloped area.
49. Appendix A Phase 1 CAP: Additionally, please clarify if 3,400 cy makes up 20% of the total soils used for grading or if 1,200 cy makes up the 20%. Also please provide the basis on how the 20% was calculated.
50. Appendix A Phase 1 CAP: Section 1.2, 10th paragraph, page 5, states that the millings are acceptable for use as a driveway subbase. This paragraph should also note that this statement valid for a depth of 4" (maximum) and provided that the millings are used for this purpose within one year from the date of being brought to the project site. The date of the millings being brought to the site is unknown; April 30, 2021, the date of the building department inspection, is assumed. Thus, the millings must be used as a driveway subbase before April 30, 2022.
51. Appendix A Phase 1 CAP: Section 2.2, 2nd paragraph, page 6, the report should identify the Town's initial requests and clarify which requests the Owner was able to comply with.

52. Appendix A Phase 1 CAP: Section 2.4, Second Sampling Event, page 7, the report states that the soil sample that was collected by the owner and analyzed by ERS Consultants has metal levels “well below the levels required by NYSDEC for unrestricted use of the soil.” The report should be updated to provide details on where that sample was collected, how it was collected, and any other pertinent documentation/information, including chain of custody, etc. If this information is not available, it shall be specifically stated.
53. Appendix A Phase 1 CAP: Section 2.4 Third Sampling Event, 5th Paragraph, states that the calculations developed for the Phase I CAP do not support 6,000 CY of material (based on the rough numbers and using the trapezoidal prism method). Please provide additional calculations for review to substantiate this claim.
54. Appendix A Phase 1 CAP: Section 2.5, Semi-Volatile Organic Compounds, 2nd paragraph, see General Comment 4 above. Only Unrestricted Use SCO and the lower of the Protection of Human Health Residential or Protection of Groundwater SCOs can be used in determining if soils are suitable for use since this is a residentially zoned parcel. All references/ comparison to other standards should be removed. Data should be provided in tabular format comparing the results to the applicable standard.
55. Appendix A Phase 1 CAP: Section 2.5, Semi-Volatile Organic Compounds, 5th paragraph, indicate that the elevated levels of PAHs are a result from an on-site fire. PAH are also known constituents is asphalt and urban fill from industrial areas both of which have been imported to the site. Since the fill soils brought to the site have been spread and mixed with native soils from the site, differentiation between the two may be impossible at this point. Samples collected and compared to the NYSDEC soil criteria do not meet the requirement for reuse as general fill but could be re-used under “capped” surfaces, such as paved surfaces. [It is noted for the record that in New York State campfires no larger than 5’ wide and 3’ tall are allowed; any fires larger than this requires a New York State burn permit.]
56. Appendix A Phase 1 CAP: Section 2.5, PCBs, 1st paragraph. The interpretation of the PCB standards presented in the report is not correct. The standard shown in Table 375-6.8(a) and (b) are for total PCB, which is the sum or all Aroclors. In review of the Sample 2 result, Aroclor 1248 was detected at a concentration of 1,925 ug/kg or 1.925 mg/kg. Additionally, Aroclor 1254 was also detected at a concentration of 778 ug/kg or 0.778 mg/kg. Together they total 2,703 ug/kg or 2.703 mg/kg, which exceeds the Protection of Health Residential SCO of 1 mg/kg and is an order of magnitude higher than the Unrestricted Use SCO of 0.1 mg/kg. Tabular format should be used for all analytical results; the table should also include the criteria for the three applicable NYS SCOs noted above.
57. Appendix A Phase 1 CAP: Section 2.5, Metals. The concentration of lead detected in sample 6 is 1,700 mg/kg (ppm), which is well above the limits discussed in the chart provided in the P&D previous memo, as well as, above the NYSDEC Part 375 Table 6.8(a) and (b) SCOs for Unrestricted Use, Protection of Human Health – Residential Standards, and Protection of Groundwater.
58. Appendix A Phase 1 CAP: Section 3.2 Establishment of Property Line & License, page 10, the report states that the property line was staked by C.V. Associates on August 04, 2021 and that the staking was determined to be accurate. Please clarify who C. V. Associates was working for and also clarify who and how the staking was determined to be accurate.
59. Appendix A Phase 1 CAP: Section 3.2, Driveway Restoration, 2nd paragraph page 11, states that soils were determined to be free of contaminants, referencing the August 24th P&D Memo. Analytical data provided in P&D’s August 24th memo suggest that

four of the eight samples (Samples 2, 6, 7 and 8) do not meet the criteria for general fill use. Sample 2 contains elevated levels of PCB, Samples 6 contains elevated levels of lead, and Samples 7 and 8 containing elevated levels of PAHs.

60. Appendix A Phase 1 CAP: It is unclear what soils will be excavated, spread flat and compacted. A figure showing the sample locations and the material discussed Section 3.2 should be prepared to give a better representation of what work is being proposed and how it coincides with the current analytical results from samples 1 to 8. Material is not suitable for General Fill and should not be spread over the project site per the NOV and Stop Work order.
61. The 911 address must be shown on Sheet 1.
62. The adjacent property owners of record within 300-ft of the site should be added to the plan, along with the section, block, and lot for each parcel.
63. The planning board approval block must be shown on Sheet 1.
64. Agricultural Notes and declaration information must be added to the plans.
65. Surveyor must sign and seal the plan.
66. Surveyor to certify that iron rods have been set at all property corners.
67. Applicant to provide Performance and/or Landscaping bonds and/or site inspection fee, if applicable.
68. Payment of all fees.

The following comment submitted by the Conservation Board:

Johnny Hayseed LLC, Trustee 111 Glenwood Rd. Site Mitigation/Remediation – None submitted.

The following comment submitted by the ARB:

Johnny Hayseed LLC, Trustee 111 Glenwood Rd. Site Mitigation/Remediation – None submitted.

Comment #1: Planning Board to discuss SEQRA.

Mr. Fink: The Applicant has provided us with a short EAF. It is an Unlisted Action. I have prepared a draft Resolution for Lead Agency for the Planning Board's consideration.

Mr. McConnell makes a motion for the Type 2 Action.

Seconded by Mr. Showalter. The following Resolution was carried 4-Ayes and 0-Nays.

617.6

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

Name of Action: Johnny Hayseed Grading & Excavating Project

Whereas, the Town of Warwick Planning Board is in receipt of an application for Site Plan approval involving a ± 18.3 acre parcel of land located at 111 Glenwood Road, Town of Warwick, Orange County, New York, and

Whereas, an Environmental Assessment Form (EAF) dated 7/13/22 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 on land that includes a farm operation or is not on land within 500 feet of a farm operation within an agricultural district and, therefore, the requirements of 6 NYCRR 617.6(a)(6) do not 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.

Jason Pittingaro: We have been here a number of times. If there is anything you would like to discuss, I would be happy to discuss it with you.

Comment #3: Conservation Board – no comments received

Comment #4: Architectural Review Board – no comments received

Comment #5: TW Building Department – 04/30/21 stop work order for §150 violation

Comment #6: OC Planning Department – no comments received

Comment #7: OCDPW – 04/06/21 Farm access granted in 2013; engineering plans required for single-family dwelling certificate of occupancy

Comment #8: NYSDEC - endangered and threatened species letter (Indiana Bat); please add time of year clearing notes to the plan.

Jason Pittingaro: Sure.

Comment #9: NYSDEC requirements for the General Permit for Stormwater Discharges from Construction Activity (GP-0-20-001) must be satisfied. Estimated area of disturbance

on the Application for Site Plan & Special Use Approval (pg 3) and the SEAF (pg 1) indicates 1.9 acres. This project includes the construction of barn, according to the supplied plans. NYSDEC GP 0-20-001 Appendix B Table 1 requires a SWPPP is prepared with erosion and sediment controls. Applicant to prepare a SWPPP accordingly, including an electronic Notice of Intent (eNOI) and MS4 Acceptance Form. SWPPP requirements are also identified in the Town of Warwick code, Section 164-47.10.E.1.

Jason Pittingaro: Understood.

Comment #10: ZBA: pending request to build an accessory structure before constructing a primary structure and for the size of the accessory structure

Mr. Astorino: We will keep that comment as a place keeper.

Comment #11: NYS Office of Parks, Recreation, and Historic Preservation (OPRHP) – letter need for land disturbance. Construction activities that have the potential to affect historic and/or archeological resources would not be eligible for coverage under the general permit unless the screening and consultation process specified in the NYS OPRHP Letter of Resolution has been completed and the required documentation demonstrating that potential impacts have been avoided or mitigated is obtained and maintained on site as required by the general permit (see Part I.F.8.). This documentation must be in place in order to complete and submit the eNOI.

Comment #12: Agricultural Data Statement does not include all farm properties in the vicinity.

Mr. Astorino: The Blue Arrow should be added to the Ag Data Statement. As far as the rest of these comments Comment #13 through Comment #68, myself, Laura, John, Ted and Jason, these are and no offense to the Engineers in the room, they are technical comments that we went through and discussed. They will be addressed. They are technical in nature. Laura, is that correct?

Laura Barca: Correct.

Mr. Astorino: Ok. We will list Comment #13 through Comment #68 for the record.

Mr. Bollenbach: It should be Comment #8 through Comment #68 would be the conditions of your recommendation. I just wanted to bring to your attention Comment # 66, Surveyor to certify that iron rods have been set at all property corners. I don't see any need to certify the setting iron rods at the property corners. There is no affect on the subdivision.

Mr. Astorino: There is not. We could strike Comment #66. Laura, are there any comments here you would like to discuss?

Laura Barca: The comments are technical in nature. Jason, are there any comments you would like to discuss?

Jason Pittingaro: I don't think it is necessary.

Mr. Astorino: How this would go, the Planning Board would give a recommendation to the Code Enforcement Officer that all of these comments would be addressed. Once all of the

comments have been addressed, it would be forwarded to the Code Enforcement Officer. Then a permit could be issued to do the work.

Mr. Bollenbach: It would be a Resolution to accept the Corrective Action Plan; subject to Condition #8 through Condition #65 and Condition #67 and Condition #68.

Mr. Astorino: Ok. We need a motion for the Negative Declaration.

Mr. McConnell makes a motion for the Negative Declaration.

Seconded by Mr. Kennedy. The following Resolution was carried 4-Ayes and 0-Nays.

617.12(b)

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

Name of Action: Johnny Hayseed Chapter 150 Grading/Excavating

Whereas, the Town of Warwick Planning Board is the SEQR Lead Agency for conducting the environmental review of grading and excavating activity regulated under Chapter 150 of the Warwick Code for a ± 18.3 acre parcel of land located at 111 Glenwood Road, Town of Warwick, Orange County, New York, and

Whereas, the Planning Board classified the action as Unlisted and determined that the Town of Warwick Building Department was the only other agency approval required for the action, and

Whereas, the Planning Board has reviewed the Short Environmental Assessment Form (EAF) for the action, including the Part 1, Part 2, and Part 3 dated 07/13/22 through 10/19/22, the probable environmental effects of the action against the Criteria For Determining Significance, 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 Chairman 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 Chairman to take such further steps as might be necessary to discharge the Lead Agency's responsibilities on this action, including the filing of the Negative Declaration with other Involved Agencies.

Mr. Kennedy makes a motion on the Johnny Hayseed LLC, Trustee application, granting Site Mitigation/Remediation Corrective Action Plan approval; subject to the following conditions with a recommendation to the Town Code Enforcement Officer for the issuance of a permit pursuant to "Chapter 150" of the Town Code for grading and excavating in excess of 1/4-acre in area, situated on tax parcel S 24 B 1 L 35.22; project located on the westerly side of Glenwood Road 2,800 feet northwest of the NY/NJ border (111 Glenwood Rd.), in the RU zone, of the Town of Warwick, County of Orange, State of New York. A SEQRA Negative Declaration was adopted on October 19, 2022. Approval is granted subject to the following conditions:

1. NYSDEC - endangered and threatened species letter (Indiana Bat); please add time of year clearing notes to the plan.
2. NYSDEC requirements for the General Permit for Stormwater Discharges from Construction Activity (GP-0-20-001) must be satisfied. Estimated area of disturbance on the Application for Site Plan & Special Use Approval (pg 3) and the SEAF (pg 1) indicates 1.9 acres. This project includes the construction of barn, according to the supplied plans. NYSDEC GP 0-20-001 Appendix B Table 1 requires a SWPPP is prepared with erosion and sediment controls. Applicant to prepare a SWPPP accordingly, including an electronic Notice of Intent (eNOI) and MS4 Acceptance Form. SWPPP requirements are also identified in the Town of Warwick code, Section 164-47.10.E.1.
3. ZBA: pending request to build an accessory structure before constructing a primary structure and for the size of the accessory structure
4. NYS Office of Parks, Recreation, and Historic Preservation (OPRHP) – letter need for land disturbance. Construction activities that have the potential to affect historic and/or archeological resources would not be eligible for coverage under the general permit unless the screening and consultation process specified in the NYS OPRHP Letter of Resolution has been completed and the required documentation demonstrating that potential impacts have been avoided or mitigated is obtained and maintained on site as required by the general permit (see Part I.F.8.). This documentation must be in place in order to complete and submit the eNOI.
5. Agricultural Data Statement does not include all farm properties in the vicinity.
6. The Site Remediation Plan submitted must include the Town of Warwick Standard Notes for All Projects, Biodiversity Conservation Notes, Note for Access onto a State, County, or Town Road, and Driveway longer than 1000-ft and/or flag lots.
7. On the Pre & Post Development Drainage Plans, the TC line callouts are not pointing to a line. Please clarify.
8. On the Pre & Post Development Drainage Plans, under the proposed conditions, the sheet flow would turn into channel flow when the runoff enters the drainage swale. Please clarify on drawings.
9. A detail for erosion control fabric installation is included on Erosion & Sediment Control Plan sheet 3 of 3; however, the location for its placement is not shown. Applicant to identify these locations.

10. Applicant to clarify if a new drainage swale is proposed along the existing gravel driveway that will address stormwater during post-construction phase. If a new swale is proposed, this area should be captured within the limits of disturbance and associated grading extents must be shown on the drawings.
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the guidance for SCO. Please remember that Part 360-13 and Part 375 Table 6.8(b) are applicable for this proposed property cleanup.

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material that was brought to the site had been spread and leveled. This section of the Phase I CAP seems to indicate that the imported material was brought to the site but was not spread. The stockpiles that were visible in July 2021 were generated from material that was excavated/relocated from the slope in an attempt to move material away from the adjacent homeowner's property line. The report should clarify this information (see above comments on adding figure and table to better describe timelines and quantities).

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40. Appendix A Phase 1 CAP: The Phase I CAP states that the amount of fill material is 2200 cy. The calculations of these quantities should be included as attachments to the report and should detail the formulas used to calculate the volume.
41. Appendix A Phase 1 CAP: Section 1.2, 9th paragraph, page 5, states that 1200 cy of the imported fill was spread when in fact, all of the fill material at this property was spread. Please confirm that on-site soils and imported soils were mixed/blended during the filling of this sloped area.
42. Appendix A Phase 1 CAP: Additionally, please clarify if 3,400 cy makes up 20% of the total soils used for grading or if 1,200 cy makes up the 20%. Also please provide the basis on how the 20% was calculated.
43. Appendix A Phase 1 CAP: Section 1.2, 10th paragraph, page 5, states that the millings are acceptable for use as a driveway subbase. This paragraph should also note that this statement valid for a depth of 4" (maximum) and provided that the millings are used for this purpose within one year from the date of being brought to the project site. The date of the millings being brought to the site is unknown; April 30, 2021, the date of the building department inspection, is assumed. Thus, the millings must be used as a driveway subbase before April 30, 2022.
44. Appendix A Phase 1 CAP: Section 2.2, 2nd paragraph, page 6, the report should identify the Town's initial requests and clarify which requests the Owner was able to comply with.
45. Appendix A Phase 1 CAP: Section 2.4, Second Sampling Event, page 7, the report states that the soil sample that was collected by the owner and analyzed by ERS Consultants has metal levels "well below the levels required by NYSDEC for unrestricted use of the soil." The report should be updated to provide details on where that sample was collected, how it was collected, and any other pertinent documentation/information, including chain of custody, etc. If this information is not available, it shall be specifically stated.
46. Appendix A Phase 1 CAP: Section 2.4 Third Sampling Event, 5th Paragraph, states that the calculations developed for the Phase I CAP do not support 6,000 CY of material (based on the rough numbers and using the trapezoidal prism method). Please provide additional calculations for review to substantiate this claim.
47. Appendix A Phase 1 CAP: Section 2.5, Semi-Volatile Organic Compounds, 2nd paragraph, see General Comment 4 above. Only Unrestricted Use SCO and the lower of the Protection of Human Health Residential or Protection of Groundwater SCOs can be used in determining if soils are suitable for use since this is a residentially zoned parcel. All references/ comparison to other standards should be removed. Data should be provided in tabular format comparing the results to the applicable standard.

48. Appendix A Phase 1 CAP: Section 2.5, Semi-Volatile Organic Compounds, 5th paragraph, indicate that the elevated levels of PAHs are a result from an on-site fire. PAH are also known constituents is asphalt and urban fill from industrial areas both of which have been imported to the site. Since the fill soils brought to the site have been spread and mixed with native soils from the site, differentiation between the two may be impossible at this point. Samples collected and compared to the NYSDEC soil criteria do not meet the requirement for reuse as general fill but could be re-used under “capped” surfaces, such as paved surfaces. [It is noted for the record that in New York State campfires no larger than 5’ wide and 3’ tall are allowed; any fires larger than this requires a New York State burn permit.]
49. Appendix A Phase 1 CAP: Section 2.5, PCBs, 1st paragraph. The interpretation of the PCB standards presented in the report is not correct. The standard shown in Table 375-6.8(a) and (b) are for total PCB, which is the sum or all Aroclors. In review of the Sample 2 result, Aroclor 1248 was detected at a concentration of 1,925 ug/kg or 1.925 mg/kg. Additionally, Aroclor 1254 was also detected at a concentration of 778 ug/kg or 0.778 mg/kg. Together they total 2,703 ug/kg or 2.703 mg/kg, which exceeds the Protection of Health Residential SCO of 1 mg/kg and is an order of magnitude higher than the Unrestricted Use SCO of 0.1 mg/kg. Tabular format should be used for all analytical results; the table should also include the criteria for the three applicable NYS SCOs noted above.
50. Appendix A Phase 1 CAP: Section 2.5, Metals. The concentration of lead detected in sample 6 is 1,700 mg/kg (ppm), which is well above the limits discussed in the chart provided in the P&D previous memo, as well as, above the NYSDEC Part 375 Table 6.8(a) and (b) SCOs for Unrestricted Use, Protection of Human Health – Residential Standards, and Protection of Groundwater.
51. Appendix A Phase 1 CAP: Section 3.2 Establishment of Property Line & License, page 10, the report states that the property line was staked by C.V. Associates on August 04, 2021 and that the staking was determined to be accurate. Please clarify who C. V. Associates was working for and also clarify who and how the staking was determined to be accurate.
52. Appendix A Phase 1 CAP: Section 3.2, Driveway Restoration, 2nd paragraph page 11, states that soils were determined to be free of contaminants, referencing the August 24th P&D Memo. Analytical data provided in P&D’s August 24th memo suggest that four of the eight samples (Samples 2, 6, 7 and 8) do not meet the criteria for general fill use. Sample 2 contains elevated levels of PCB, Samples 6 contains elevated levels of lead, and Samples 7 and 8 containing elevated levels of PAHs.
53. Appendix A Phase 1 CAP: It is unclear what soils will be excavated, spread flat and compacted. A figure showing the sample locations and the material discussed Section 3.2 should be prepared to give a better representation of what work is being proposed and how it coincides with the current analytical results from samples 1 to 8. Material is not suitable for General Fill and should not be spread over the project site per the NOV and Stop Work order.
54. The 911 address must be shown on Sheet 1.
55. The adjacent property owners of record within 300-ft of the site should be added to the plan, along with the section, block, and lot for each parcel.
56. The planning board approval block must be shown on Sheet 1.
57. Agricultural Notes and declaration information must be added to the plans.
58. Surveyor must sign and seal the plan.
59. Applicant to provide Performance and/or Landscaping bonds and/or site inspection fee, if applicable.

60. Payment of all fees.

Seconded by Mr. McConnell. Motion carried; 4-Ayes and 0-Nays.

Johnny Hayseed Grading & Excavating Permit SEQR Part 3 Environmental Assessment Form Continuation

The application is for a recommendation from the Town of Warwick Planning Board to the Town of Warwick Building Department for proposed site grading and related construction activity for a driveway pad and 50' x 100' building accessory to a single family residential dwelling planned for the site. The application is subject to Chapter 150 of the Town Code. The applicant completed the work prior to applying for a Chapter 150 Permit.

The Part 2 Environmental Assessment Form has been completed. None of the thresholds in the Part 2 Impact Assessment have reached the "Moderate to Large Impact" category given the scale and context of the proposed action. The Planning Board has given due consideration to the subject action as defined in 6 NYCRR 617.2(b) and 617.3(g). After reviewing the Environmental Assessment Form (EAF) for the project dated 7/13/22, the Planning Board has concluded that environmental effects of the proposed project will not exceed any of the Criteria for Determining Significance found in 6 NYCRR 617.7(c). The following discussion addresses the Part 2 EAF Impact identification and explains three topics further:

1. The site is located within an area that is inhabited by bat species of conservation concern, the Indiana bat, a federal and state endangered species. The New York State Department of Environmental Conservation advises time of year (TOY) restrictions be put in place to confine site clearing activities to the period from November 1st through March 31st in order to protect bat habitats and avoid the necessity of applying for a potential "Taking Permit" from one or both agencies. No clearing of trees over five (5) inches in diameter at breast height will occur from the period beginning on April 1st through October 31st to ensure that habitats remain undisturbed when such species are active and using trees for roosting activities. A Plan note limiting such clearing will be added to the plans proposed for approval by the Planning Board. The note will also be filed with the deed to the property as a deed declaration.
2. The grading activity on the site resulted in off-site materials being transported and used on-site for fill purposes. Some of the materials imported to the site have been identified as demolition debris originating from Lodi, New Jersey, based on information provided by the applicant. Testing of the materials has confirmed that some materials have elevated levels of lead, PCBs, and PAHs, when compared to the applicable residential soil cleanup objectives (SCOs). The soils containing elevated levels of lead and PCBs will be removed from the property and properly disposed in accordance with State and local laws. The elevated PAH's can be used under "capped" surfaces such as paved surfaces.
3. A New York State Protected Freshwater Wetland area is located across Glenwood Road from the project site and the 100 foot adjacent area for the wetland, also protected by the State wetlands program, can be found on the site. No disturbance to the State wetland nor its adjacent area has been proposed as part of the action and no direct impacts to the wetland are expected as part of the action.

Jason Pittingaro: Thank you.

Comment #13: The Site Remediation Plan submitted must include the Town of Warwick Standard Notes for All Projects, Biodiversity Conservation Notes, Note for Access onto a State, County, or Town Road, and Driveway longer than 1000-ft and/or flag lots.

Comment #14: On the Pre & Post Development Drainage Plans, the TC line callouts are not pointing to a line. Please clarify.

Comment #15: On the Pre & Post Development Drainage Plans, under the proposed conditions, the sheet flow would turn into channel flow when the runoff enters the drainage swale. Please clarify on drawings.

Comment #16: A detail for erosion control fabric installation is included on Erosion & Sediment Control Plan sheet 3 of 3; however, the location for its placement is not shown. Applicant to identify these locations.

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Comment #46: Appendix A Phase 1 CAP: Section 1.2, 7th paragraph, page 5, discusses that the majority of the imported material was stockpiled in a pile that was 150 feet, by 60 feet, by 20 feet high. This statement neglects the information that this material was once spread and leveled on the property. These stockpiles were created when the Town of Warwick requested that the fill material be pulled back from the property line. See above general comment on revising pages 4-5 and including additional figure and table to best depict the timeline and location of all activities to support the text.

Comment #47: Appendix A Phase 1 CAP: The Phase I CAP states that the amount of fill material is 2200 cy. The calculations of these quantities should be included as attachments to the report and should detail the formulas used to calculate the volume.

Comment #48: Appendix A Phase 1 CAP: Section 1.2, 9th paragraph, page 5, states that 1200 cy of the imported fill was spread when in fact, all of the fill material at this property was spread. Please confirm that on-site soils and imported soils were mixed/blended during the filling of this sloped area.

Comment #49: Appendix A Phase 1 CAP: Additionally, please clarify if 3,400 cy makes up 20% of the total soils used for grading or if 1,200 cy makes up the 20%. Also please provide the basis on how the 20% was calculated.

Comment #50: Appendix A Phase 1 CAP: Section 1.2, 10th paragraph, page 5, states that the millings are acceptable for use as a driveway subbase. This paragraph should also note that this statement valid for a depth of 4" (maximum) and provided that the millings are used for this purpose within one year from the date of being brought to the project site. The date of the millings being brought to the site is unknown; April 30, 2021, the date of the building department inspection, is assumed. Thus, the millings must be used as a driveway subbase before April 30, 2022.

Comment #51: Appendix A Phase 1 CAP: Section 2.2, 2nd paragraph, page 6, the report should identify the Town's initial requests and clarify which requests the Owner was able to comply with.

Comment #52: Appendix A Phase 1 CAP: Section 2.4, Second Sampling Event, page 7, the report states that the soil sample that was collected by the owner and analyzed by ERS Consultants has metal levels "well below the levels required by NYSDEC for unrestricted use of the soil." The report should be updated to provide details on where that sample was collected, how it was collected, and any other pertinent documentation/information,

including chain of custody, etc. If this information is not available, it shall be specifically stated.

Comment #53: Appendix A Phase 1 CAP: Section 2.4 Third Sampling Event, 5th Paragraph, states that the calculations developed for the Phase I CAP do not support 6,000 CY of material (based on the rough numbers and using the trapezoidal prism method). Please provide additional calculations for review to substantiate this claim.

Comment #54: Appendix A Phase 1 CAP: Section 2.5, Semi-Volatile Organic Compounds, 2nd paragraph, see General Comment 4 above. Only Unrestricted Use SCO and the lower of the Protection of Human Health Residential or Protection of Groundwater SCOs can be used in determining if soils are suitable for use since this is a residentially zoned parcel. All references/ comparison to other standards should be removed. Data should be provided in tabular format comparing the results to the applicable standard.

Comment #55: Appendix A Phase 1 CAP: Section 2.5, Semi-Volatile Organic Compounds, 5th paragraph, indicate that the elevated levels of PAHs are a result from an on-site fire. PAH are also known constituents is asphalt and urban fill from industrial areas both of which have been imported to the site. Since the fill soils brought to the site have been spread and mixed with native soils from the site, differentiation between the two may be impossible at this point. Samples collected and compared to the NYSDEC soil criteria do not meet the requirement for reuse as general fill but could be re-used under “capped” surfaces, such as paved surfaces. [It is noted for the record that in New York State campfires no larger than 5’ wide and 3’ tall are allowed; any fires larger than this requires a New York State burn permit.]

Comment #56: Appendix A Phase 1 CAP: Section 2.5, PCBs, 1st paragraph. The interpretation of the PCB standards presented in the report is not correct. The standard shown in Table 375-6.8(a) and (b) are for total PCB, which is the sum or all Aroclors. In review of the Sample 2 result, Aroclor 1248 was detected at a concentration of 1,925 ug/kg or 1.925 mg/kg. Additionally, Aroclor 1254 was also detected at a concentration of 778 ug/kg or 0.778 mg/kg. Together they total 2,703 ug/kg or 2.703 mg/kg, which exceeds the Protection of Health Residential SCO of 1 mg/kg and is an order of magnitude higher than the Unrestricted Use SCO of 0.1 mg/kg. Tabular format should be used for all analytical results; the table should also include the criteria for the three applicable NYS SCOs noted above.

Comment #57: Appendix A Phase 1 CAP: Section 2.5, Metals. The concentration of lead detected in sample 6 is 1,700 mg/kg (ppm), which is well above the limits discussed in the chart provided in the P&D previous memo, as well as, above the NYSDEC Part 375 Table 6.8(a) and (b) SCOs for Unrestricted Use, Protection of Human Health – Residential Standards, and Protection of Groundwater.

Comment #58: Appendix A Phase 1 CAP: Section 3.2 Establishment of Property Line & License, page 10, the report states that the property line was staked by C.V. Associates on August 04, 2021 and that the staking was determined to be accurate. Please clarify who C. V. Associates was working for and also clarify who and how the staking was determined to be accurate.

Comment #59: Appendix A Phase 1 CAP: Section 3.2, Driveway Restoration, 2nd paragraph page 11, states that soils were determined to be free of contaminants, referencing the August 24th P&D Memo. Analytical data provided in P&D’s August 24th memo suggest that four of the eight samples (Samples 2, 6, 7 and 8) do not meet the criteria for general fill use. Sample 2 contains elevated levels of PCB, Samples 6 contains elevated levels of lead, and Samples 7 and 8 containing elevated levels of PAHs.

Comment #60: Appendix A Phase 1 CAP: It is unclear what soils will be excavated, spread flat and compacted. A figure showing the sample locations and the material discussed

Section 3.2 should be prepared to give a better representation of what work is being proposed and how it coincides with the current analytical results from samples 1 to 8. Material is not suitable for General Fill and should not be spread over the project site per the NOV and Stop Work order.

Comment #61: The 911 address must be shown on Sheet 1.

Comment #62: The adjacent property owners of record within 300-ft of the site should be added to the plan, along with the section, block, and lot for each parcel.

Comment #63: The planning board approval block must be shown on Sheet 1.

Comment #64: Agricultural Notes and declaration information must be added to the plans.

Comment #65: Surveyor must sign and seal the plan.

Comment #66: Surveyor to certify that iron rods have been set at all property corners.

Comment #67: Applicant to provide Performance and/or Landscaping bonds and/or site inspection fee, if applicable.

Comment #68: Payment of all fees.

Other Considerations:

1. **NY Hemp/WVLDC Lot Line Change** – Letter from Michael Sweeton, Town Supervisor, dated 9/23/22 in regards to NY Hemp/WVLDC Lot Line Change application – requesting 6 Month Extension on conditional Final Approval of a proposed lot line change, situated on tax parcels SBL # 46-1-35, 39.21 & 39.22; parcels located on the south side of John Hicks Drive 50 feet west of State School Road, in the OI zone, of the Town of Warwick. Conditional Final Approval was granted on 5/18/22. The Applicant stated they are in the process of seeking NYS approval for a deed modification necessary to finalize the changes. The 6-Month Extension becomes effective on 11/18/22.

Mr. McConnell makes a motion on the NY Hemp/WVLDC Lot Line Change application, granted a 6-Month Extension of a proposed Lot Line Change, situated on tax parcels SBL # 46-1-35, 39.21 & 39.22; parcels located on the south side of John Hicks Drive 50 feet west of State School Road, in the OI zone, of the Town of Warwick, County of Orange, State of New York. Conditional Final Approval was granted on 5/18/22.

The 6-Month Extension becomes effective on 11/18/22.

Seconded by Mr. Showalter. Motion carried; 4-Ayes and 0-Nays.

2. Memo to Town Board from Planning Board, dated 10/19/22 in regards to Zoning §164-73.

Mr. Astorino: Do any Board members or Professionals have any comments or concerns on the memo to the Town Board?

Mr. Bollenbach: I will read the memo to the Town Board, dated October 19, 2022 for the record:

Dear Supervisor Sweeton:

The Planning Board recommends that the Town Board amend the Zoning Code §164-73. “Applications submitted and permits issued before the adoption of Chapter” to extend Section “C. Filing Deadline” to January 1, 2024.

These applications have been diligently pursued and would likely have been perfected but for unforeseen delays exacerbated by Covid. For example, there have been ongoing delays in outside Agency approvals, delays in surveying and engineering services primarily due to personnel shortages and delays in the recording of required documents such as offers of dedication, deeds and declarations.

The eligible pending subdivision applications are as follows:

Warwick Isle 33-Lots SBL #3-1-6.21

Wheeler Road Estates 31-Lots SBL #8-2-44.223

Fusco/Lombardo Subdivision 9-Lots SBL #18-1-31.2

Mr. McConnell: John, the only comment I have is that I am not sure that I am clear on delays in surveying. It was more of availability of surveying services.

Mr. Bollenbach: Surveying services, due to the lack of personnel, I know that personally from many surveyors.

Mr. McConnell: Right. I am just wondering if the delay in services is not as quite as strong as a lack of availability of services. You could make it as you wish to.

Mr. Astorino: I did make a call to the County.

Mr. McConnell: Ok.

Mr. Astorino: I said that I was going to give a call to the County. Initially from what I have heard, there were some delays. Those delays have sort of starting to wind down. The delays are not as prominent as they once were.

Mr. Bollenbach: They are still one to two months out.

Mr. Astorino: I am just saying what I was told from the County. But they did say that when applications come into them and if there are mistakes, they are sent back. We understand that.

Mr. McConnell: But they represented to you that they have worked through the back log. Is that correct?

Mr. Astorino: They are working through it. I did reach out to them.

Mr. Showalter: Are these the only 3 applications that are left? Whatever other applications are left out there are not eligible?

Mr. Bollenbach: These are the applications that were approved prior to the Year 2010. These are the only 3 applications with Preliminary Approval that are left that have diligently pursuing. That is one of the requirements. There have been other subdivisions that sort of had dropped or never proceeded such as Cedar Ridge. They have not fulfilled their requirement to maintain their status.

Mr. Showalter: Ok. What about Webster Plaza and HOMARC?

Mr. Bollenbach: Those are site plans. The list for the record, it is only Webster Plaza that is still eligible. It is just for subdivisions.

Mr. Showalter: Ok.

Mr. McConnell: Do we need a consensus to the Town Board?

Mr. Bollenbach: The Planning Board could do a consensus.

Mr. Astorino: Do we have a consensus from the Planning Board to send memo to the Town Board?

Mr. Kennedy: Yes.

Mr. Showalter: Yes.

Mr. McConnell: Yes.

3. Planning Board Minutes of 9/21/22 for PB approval.

Mr. Kennedy makes a motion to approve the Planning Board Minutes of 9/21/22.

Seconded by Mr. McConnell. Motion carried; 4-Ayes and 0-Nays.

4. Planning Board to discuss canceling 10/24/22-Work Session & 11/2/22-PB Meeting.

Mr. Showalter makes a motion to cancel the 1-/24/22-Work Session & 11/2/22-PB Meeting.

Seconded by Mr. Kennedy. Motion carried; 4-Ayes and 0-Nays.

Correspondences:

1. Email Letter from Dennis Lynch, Attorney addressed to Planning Board Attorney, dated 10/11/22 in regards to the Johnny Hayseed, LLC Chapter 150 Site Plan application.
2. Email Letter from Ashley Torre, Attorney addressed to the Planning Board, dated 10/17/22 in regards to Snufftown Farm Market.

Mr. Astorino: We have those correspondences in our packets.

Privilege Of The Floor For Agenda Items!!

Mr. Astorino: If there is anyone 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. Showalter makes a motion to adjourn the October 19, 2022 Planning Board Meeting.

Seconded by Mr. Kennedy. Motion carried; 4-Ayes and 0-Nays.