TOWN OF WARWICK PLANNING BOARD
September 16, 2026

Members present: Chairman, Benjamin Astorino
Roger Showalter, Vice-Chairman
Dennis McConnell, Bo Kennedy,
Vikki Garby
Laura Barca, HDR Engineering
Temi Alao, HDR Engineering
Max Stach, NPV Planner
Danielle Dreyer, NPV Planner
Bob Krahulik, Planning Board Attorney
Connie Sardo, Planning Board Secretary

The regular meeting of the Town of Warwick Planning Board was held Wednesday, September 16, 2026 at the Town Hall, 132 Kings Highway, Warwick, New York. Chairman, Benjamin Astorino called the meeting to order at 7:00 p.m. with the Pledge of Allegiance.

PUBLIC HEARING OF Black Walnut Creek

Application for Site Plan Approval and Special Use Permit for the use and construction for commercial agriculture farm market over 4,000 s.f., museum village, and eating and drinking establishment a/k/a ***Thunderbird Farms***, situated on tax parcel S 4 B 1 L 2.46; project located at 6 Sodrick Lane, in the AI zone, of the Town of Warwick, County of Orange, State of New York. The PB deemed the application as a Type 1 Action on 8/25/25. The PB adopted an "Amended" Full EAF Part 2 on 3/18/26.

Representing the Applicant: Keith Woodruff from Engineering Surveying & Properties. Jeremy Havens, Applicant's Attorney. Jason Gonzalez, Applicant.

Connie Sardo: Mr. Chairman, we have received the certified mailings for the Black Walnut Creek public hearing.

Chairman Astorino: Thank you.

The following review comments submitted by HDR:

Comment #1: Planning Board to discuss SEQRA.

Max Stach: The applicant has provided a Part 3 EAF. They have continued to work with HDR on the noise and traffic issues. In addition, on September 11th, a letter was received from the Orange County Department of Public Works requesting additional site distance information at the intersection of Sodrick Lane and Pulaski Highway. We defer to Laura on whether those issues have been adequately addressed. In the event that they are, we have prepared a revised Part 3 EAF based on the applicant's original as well as a Negative Declaration for the board's discretion.

Chairman Astorino: Thank you.

Comment #2: Applicant to discuss project.

Jeremy Havens: Good evening. Thanks for having us. I want to first and foremost note that the applicant, since we were previously here before the planning board public hearing, has taken the opportunity to conduct a noise study as requested by the planning board. A summary of that has been presented to the planning board and reviewed by the Town engineers. Just to summarize briefly, the noise study showed that there wouldn't be any potential violation of noise ordinances that would exceed unacceptable levels, and the applicant is also willing to agree to a specific note on the plan that limits the noise level capacity that's being permissible, that's permitted to be generated from the facility. In addition, they did do an updated revised traffic study, and it's my understanding that the results of that were acceptable. I can let the Town engineer address that if need be. In addition, at the prior public hearing, there were several neighbors that showed up and complained about use of Sodrick Lane as an entry and exit point, and that they objected to the use of it. There's also, I believe, numerous correspondence that's been submitted by neighbors on Sodrick Lane to the planning board complaining and objecting to the use of Sodrick Lane. I wanted to point out on the record that there was a declaration that was prepared dated August 7, 2006 by Robert M. Sodrick as the owner of the parcel before Sodrick Lane was subdivided. He was the principal person who initiated that subdivision and created Sodrick Lane from his prior parcel. That declaration was recorded in the Orange County Clerk's office on May 10, 2007, and it subjects all of the property owners that purchased property along Sodrick Lane before any of those lots were even developed or sold to various different conditions. I'm just going to read for the record Article 9 on page 4 of the Sodrick Lane Declaration and Easement Agreement. It says specifically, "the declarant, being Sodrick, reserves the right of ingress and egress over the private road for the declarant, its successors, heirs, and assigns, meaning subsequent purchasers, to access the lands of the declarant, including access to a proposed historic museum or other facility. By accepting a deed for any of the lots along Sodrick Lane, the lot owners hereby acknowledge that the construction of such a facility will result in significantly increased traffic volume upon the private road. By accepting a deed for any of the lots, the lot owners waive any objection to the construction of such a facility". And so, while the neighbors have submitted verbal complaints about potential use of Sodrick Lane and how it could increase traffic and create noise and so forth and so on, verbally at the prior public hearing as well as subsequently through numerous correspondence to the planning board, I wanted to note for the record and for the benefit of the board and the rest of the public, that every one of those owners that has property on Sodrick Lane, when they accepted that deed, they accepted it subject to this declaration, and this was public record before they accepted their deed, and if they didn't make themselves aware of that, then that's on them. Bottom line, the applicant has the right to use Sodrick Lane for the specified purposes in the application pursuant to this declaration, and the neighbors have waived any right to object. Keith, can you address any of the additional engineering modifications that were made?

Keith Woodruff: So, we haven't made any major changes since the plans were last updated in February. We have tried to include additional information for ADA access. I know there are still some outstanding comments. We've even worked with the Town Engineer to ensure that we can verify that ADA compliance with parking as well as to the first-floor

access to the building can be maintained, as well as clarifying the surface type for that ADA parking area. Reviewing, we can go through the comments.

Chairman Astorino: We will go through the comments as we go through.

Jeremy Havens: I have no further additional. If you'd like to go through the comments, happy to.

Chairman Astorino: Absolutely.

Comment #3: Conservation Board – no comments received
Comment #4: Architectural Review Board – no comments received
Comment #5: OC Planning Department – no response within 30 days
Comment #6: OPRHP: March 4, 2022 no significant archeologic materials found in proposed project area.
Comment #7: TW Building Department: 06/09/25 - 2 additions on barn require a permit, accessory structure requires a permit, maintain clear exterior walkways, fire inspection required, pending septic from 2022.

Comment #8: OCDPW: 09/15/26 granted conditional approval for project; applicant will need satisfy conditions to obtain a permit.

Chairman Astorino: Laura, does that means we can make that a condition if there is an approval? Is that correct?

Laura Barca: Yes.

Comment #9: Town Law §280(a) for access from a non-public road (Sodrick Lane); Applicant requesting approval from the planning board.

Chairman Astorino: While we're on that comment, Mr. Krahulik, Mr. Havens just read a declaration from the Sodrick Lane Subdivision. Do you agree with that assertation?

Bob Krahulik: I do agree with Mr. Havens. The declaration makes it quite clear and contemplated a dramatic increase in volume for a facility such as this. That does not necessarily mean you can't look at the road to make sure it's going to be safe such as the amount of traffic at the road width is adequate, that the intersection is adequate, that sight distances are adequate. Legally, the applicant does have the right to use Sodrick Lane.

Chairman Astorino: Thank you. As we'll see as we go through this and most of the public that comes to these meetings understand, the Planning Board has professionals on this board that, as the applicant's professional provides with information, our professionals who represent us review that information to make sure it's correct. That's why the question was asked and it will be asked numerous times by the professionals to my left.

Comment #10: The use is being proposed as a farm market greater than 4000-st; please remove all references to an eating and drinking establishment.

Chairman Astorino: We can strike Comment #10.

Comment #11: Update Parking Requirements Table. Architectural states that "Museum" occupancy is 10 people, but Parking Requirements Table states the "Museum" occupancy is 5 people. Employee parking should be incorporated into the parking analysis.

Keith Woodruff: The architectural plans are stating a max occupancy for that space, but we can verify that the parking requirements will comply and make sure that employee parking is incorporated into the calculation. We do have sufficient space on property to include more parking if it's necessary, but we can verify that.

Chairman Astorino: Ok.

Comment #12: Applicant to provide a signage and circulation plan to explicitly show proposed circulation of vehicles ingressing and egressing from the site. Supplemental messages and signage should be added to deter vehicles from ingressing/ egressing out of the parking lot onto Van Sickle Road. Applicant should also add ''No Parking Anytime'' signage on both sides of the roadway along the cul-de-sac of Sodrick Lane to deter vehicles visiting the site from parking along Sodrick Lane, for when parking demand surpasses supply.

Keith Woodruff: We will prepare that.

Comment #13: Applicant should add callouts to the plans (C-101) to clarify the ground cover of the parking lot, between the ADA and non-ADA parking spaces. Spots elevations and specific slopes to be added at accessible routes, ramp transitions, and building entrances.

Keith Woodruff: We will provide that.

Comment #14: Applicant to provide grading in Civil plans to show compliance with ADA requirements. Spots elevations and specific slopes to be added at accessible routes, ramp transitions, and building entrances.

Chairman Astorino: We will provide that.

Comment #15: Not enough detail has been provided to demonstrate that the handrail compliances with ADA requirements; this may present comments during building department review.

Keith Woodruff: We will verify that.

Comment #16: Applicant to provide documentation of the 911 address change to 6 Sodrick Lane.

Connie Sardo: We received that.

Comment #17: Provide a map note stating that "No construction or proposed use shall begin until the maps are signed by the Planning Board Chairman and Building Department permits are obtained." Sheet 1, Note 13.

Keith Woodruff: That has been incorporated.

Comment #18: Surveyor to certify that iron rods have been set at all property corners.

Keith Woodruff: We request a waiver for setting at all property corners, and we have identified the property corners for which we should have or verify the pins to be located, and it's in conjunction with the location where the proposed actions should take place.
Comment #19: The liber and page for aquifer protection, agricultural projection, and biodiversity notes must be added to the plans.

Keith Woodruff: We will provide that.

Comment #20: A performance bond may be required if damage occurs during construction to Sodrick Lane (private road).

Jeremy Havens: We have no objection.

Comment #21: Applicant to post a Landscaping Bond, as well the associated site inspection fees.

Keith Woodruff: We will provide that.

Comment #22: Payment of all fees.

Keith Woodruff: We will provide that.

Chairman Astorino: Do any Board members have any comments or concerns? As I said, our professionals reviewed the traffic and the noise. I'm going to ask our engineer, Ms. Barca, to read the memo that was provided to this board regarding traffic and noise.

Laura Barca: Regarding the traffic, this is just a summary of the traffic study that was done. The traffic study completed by the applicant evaluated existing background traffic conditions in the area and assessed site-generated traffic associated with taking the typical daily operations of a proposed 195-seat high-turnover sit-down restaurant. The analysis assumed that all site traffic would enter and exit via Sodrick Lane. During HDR's review, several clarifications and revisions were requested, including evaluation of a special event scenario based on the site's largest anticipated event, the Sunflower Festival, which is expected to generate approximately 400 vehicles per day, 800 total enemy and accident trips. HDR also requested confirmation that the clarification regarding site generation, assumptions, traffic distribution patterns, special event and traffic estimates, potential overlapping set uses, and the potential for traffic queues or delays of turning traffic associated with residents on Sodrick Lane. The applicant confirmed that the 2026 conditions represent typical seasonally peak traffic conditions in the area. Based on the completed analysis for both typical operations and special event conditions, the study concluded that traffic impacts on Pulaski Highway and Sodrick Lane would be minimal, with only minor slowing, yielding, or turning movements expected, and no anticipated significant adverse effects on overall traffic flow or operations. Following incorporation of

the requested updates and clarification, HDR has no further comments on the traffic study. Internal site circulation remains under review, and the applicant will address HDR's comments as part of the site plan revisions.

Chairman Astorino: Thank you. Please could you read the noise study?

Laura Barca: The noise study goal was to assess music associated with special events which would comply with New York State DEC noise criteria, which generally recommend that event noise increase ambient sound levels by no more than six decibels from ambient noise and remain below 65 decibels at nearby residences. Meeting these criteria would also be expected to comply with the Town of Warwick's 75 decibel property line limit. Five sound level meters were deployed at locations near the stage area, along property lines, and at nearby residences. Ambient conditions were measured before and after testing. A one-hour indoor music event and a one-hour outdoor music event were then conducted to evaluate how sound propagated to the neighboring properties. Although the meters were intended to collect 24-hour data, equipment malfunctions and weather-related interruptions resulted in data gaps and prevented complete 24-hour monitoring. Indoor music was played with a door and a window open to represent anticipated event conditions. While outdoor music was played from the proposed stage area north of the barn, location one, approximately 50 feet from the speakers, served as the reference location for the source sound level used during the analysis. At location one, approximately 50 feet from the speakers, the average sound level during the outdoor test was 72.7 decibels. This reference sound level forms the basis for the proposed mitigation measure. The results showed that the Thunderbird Farm at the northeast property line had an ambient decibel level of 60 decibels. The indoor plus outdoor plus traffic was 3.8 decibels. So that was less than the 6-decibel increase and also less than the 65-decibel. The second one was Thunderbird Farm at the southwest property line. The ambient decibel was 57. The indoor plus outdoor plus traffic decibel level was 6.8, and that was also in compliance. The 11 Van Sickle, the ambient was 53. The indoor plus outdoor plus traffic was 3.5, which also showed it to be in compliance. And 75 Pulaski Highway had an ambient decibel level of 61. Indoor plus outdoor plus traffic was 1.8, which showed that it complied, again, with the two criteria, which were you cannot increase more than 6 decibels and a 65-decibel overall compliance level. The mitigation measures that HDR is proposing, there's three of them. The first one is to limit to the noise source indoor and outdoor music events would be limited to the tested sound level using the 71.2-decibel measurement at 50 feet to mitigate the proposed impact not to exceed 6 decibels. Number two, the operating hours are 10 a.m. to 10 p.m. And three, it is recommended that the applicant will conduct noise monitoring during the 12 musical events that are allowed per year. That is what I have.

Chairman Astorino: So basically, as Mr. Heybridge pointed out, the applicant has agreed to monitor that 72.1-decibel level at the 50-foot mark, and that makes the noise meet the SEQRA requirements. Is that correct?

Laura Barca: Yes, that's correct.

Chairman Astorino: Thank you. Okay. Do any board members have any comments or concerns at this time?

Mr. McConnell: Mr. Chairman, but with regard to Sodrick Lane and the acknowledgement of the use that was going to be made of that, my only question is, what standards were used

when Sodrick Lane was constructed? In other words, was it constructed as a private driveway, a private road? How far from Town road?

Chairman Astorino: It is to Town road specs. I don't know if you were on the board at that time. We had an issue with tar and chip on private roads.

Mr. McConnell: I was not.

Chairman Astorino: And at that point, that was before that. At that point, private roads were required to be built at Town road specs.

Mr. McConnell: Okay. Because I had noticed in some of the comments that we had received, something that suggested to me without knowing specifics, that it may be a narrower road, and therefore people were concerned about cars passing or whatever, and they were in the front yard.

Chairman Astorino: Absolutely. We saw the videos. That's why we made them do that extensive traffic study. Does the board have any further comments?

Bob Krahulik: Yes, Mr. Chairman. There's an important inconsistency in the plan that needs to be addressed. I think this board was proceeding under the belief that the outdoor entertainment, both live music and farm events, would be regulated under the Farm Market Regulations, Chapter 164-46J (152) that would limit outdoor music events to 12 per year.

Chairman Astorino: There is a note on the plan to that effect. Is that correct?

Bob Krahulik: It's a note on the plan. It would limit outdoor special events to 24 events per year, and that's also a note on the plan. The inconsistency is that the applicant is also seeking approval for a eating and drinking establishment, and I think the plan needs to clarify that the outdoor music and outdoor special events will be regulated as part of the farm market and not as part of the eating and drinking establishment. The difference between the two, if outdoor music is part of the eating and drinking establishment, there's no limitation on the number of outdoor music events they could have. They could literally have outdoor music 365 days a year. In seeking clarification on the issue, I don't think the applicant is in agreement. I don't think the applicant wants to be bound by the farm market regulations. I would ask the applicant to speak to that issue.

Jeremy Havens: Certainly. Thank you for the opportunity. To clarify for the benefit of the board and the public, the applicant is perfectly willing to limit any live outdoor musical events to only those restricted number of events that would be permissible under the farm market special event permit that limits the number of days per year that they would be permitted to do that with respect to live outdoor music. That being said, the applicant just spent a ton of money and months and months of time conducting a noise study to ensure that they would be able to, in fact, play outdoor music in association with their eating and drinking establishment whenever that may be operating without violating any of the neighbor's rights, without violating the provisions of the town code or the DEC regulations with respect to noise. Since they've taken the time and the opportunity to conduct a full-blown detailed noise study, the applicant wishes to have the capacity, which they would have the right to do, with an eating and drinking establishment to maintain outdoor music

even at whatever time it may be operating, but with respect to any live music outdoors that would be limited specifically to the farm market special event permit limitations.

Chairman Astorino: Let me ask this question. Are you talking about speakers or table music? I'm trying to understand what we're talking about for this other music. Somebody out there playing an acoustical guitar, is that what we're talking about? I know the noise study was done. I understand that. That was a big undertaking. I was out there. I actually made a stop out there when they were doing it to witness it because I'd never seen it before. I don't know. I'm speaking on behalf of myself, not the rest of the board. They all couldn't chime in. I understand the note on the plan for the outdoor, the 12 events and the 24 farm events. I get that. That's pretty straightforward. What are we talking this for as far as non-live music? Jason, please explain what that means. Jason, you want to start?

Jason Gonzales: I own Thunderbird Farms. This is in regards to – whenever I go there tomorrow at work, I put music on. I'm going to listen to music while I work. It's still within the decibel. That's the end of the story basically. My neighbor's calling me, calling the police, and I'm the only person on the lot within the decibel range, and music is playing inside or outside or wherever. They think they have the limits to stop me from playing music even when I'm not even having an event. I am just there working.

Jeremy Havens: If I can supplement that, in addition, the applicant would like the opportunity and does want the opportunity to be able to put outdoor speakers because he does have proposed outdoor seating for his eating and drinking establishment as well as for his farm market operation. The playing of recorded music at reasonable volumes shouldn't be a prohibition.

Chairman Astorino: Regarding the speakers as to what Ms. Barca had just read, where are those speakers going to be placed? Because as you just heard, I know you paid for it to be reviewed. What I need to know is that you want outdoor speakers. Where are they going to be put in relationship to where this test was done? We just heard that you were going to be monitoring. I think that's a wonderful idea because that sort of limits all of the misconception. If there is a problem and the police get called and it's being monitored, okay, then it is or isn't. It's pretty much factual at that point that you're 50 feet from the source of the music. Now, where are these speakers? We know where that source is going to be.

Jason Gonzales: The same exact spot they are currently today is the same exact spot that the speakers were during the test.

Chairman Astorino: That monitoring at 50 feet away would pick that up also is what we're saying here. Is that Correct?

Jason Gonzales: Correct. The speakers were on the deck for the testing. I have smaller speakers that are not as loud that are playing music in the same general area. Once this gets approved, the deck gets put on, they'll be in that same general area on the deck.

Chairman Astorino: Do any board members have any questions? I would like to see that on a plan, showing the location of that.

Bob Krahulik: Just one quick comment. The farm market regulations don't distinguish live music from recorded music. Outdoor music is outdoor music, whether it's a live band or whether it's recorded music. The question is, do we expect them to be bound by the farm market regulations as a farm market for the outdoor music? Or do you want to tie it to the operation of the restaurant, which would impose no limit on the frequency of outdoor music?

Jason Gonzales: It has to be on the restaurant part because when people are eating, I want to be able to have ambient music in the background while people are eating and drinking.

Chairman Astorino: That would be on the deck. Is that correct? The indoor music really doesn't come into play because we know that's so low. It's the outdoor music. I get what Mr. Krahulik is saying. Live music, outdoor music, the 12 events. There is no music outdoors. That is, it for the farm market. We all understand each other. Is that correct? Am I correct saying that, Mr. Krahulik?

Bob Krahulik: I don't think we are in agreement.

Chairman Astorino: The farm market, you can have 12 events with music, whether it's speaker music or live music. After that, you cannot have any more for the farm market. I that correct?

Bob Krahulik: That's correct.

Chairman Astorino: Okay. Now, the eating and drinking establishment is what we're talking about now. You want to have two speakers on the deck. Is that what you just told me? That's what the test was. The indoor of the restaurant, doors are closed. It's what it is. We're trying to – I think, at least my opinion, the rest of the board probably could agree. You're in a residential area. We need to make sure it meets the requirements. I think it does because of what was just said here, but we need to make sure that the ambient noise does not become an issue.

Jason Gonzales: It won't be.

Chairman Astorino: We know you're going to be monitoring it, but we still need to have it – at least in my mind, I want to have assurances that those two speakers are there for what you call table music or what have you. I mean, it shouldn't be a concert coming out of there, and if no one has to put a plan to that effect, I think something can be done. Is that correct? That's what I'm saying.

Laura Barca: Does that mean the music that's associated with the eating and drinking establishment use, the restaurant use, is going to be the quiet background music or is it going to be legitimate music? Do you understand my question?

Jason Gonzales: I do understand your question. But, I'm not sure if the limitations are being changed as for what ones? How do these people know which one they are going to?

Chairman Astorino: They don't need to know. We need to know. We need to be able to be assured that this music, whether it's table music, dinner music, I don't know what you want to call it.

Jason Gonzales: In my eyes, it should not exceed what is approved.

Chairman Astorino: Which I don't think it will if it's dinner music. What I'm asking is you're not having a concert come out of those speakers. Is that correct?

Jason Gonzales: Correct.

Chairman Astorino: That is my question. I want to know what is coming. We know at the farm market; you can have a band there. They have to meet 71.2 decimals. They cannot exceed that at the 50-foot mark. That's very clear. It's the same for those speakers also. Absolutely. But, as Mr. Krahulik had just pointed out, I think this board is very aware, the restaurant is different than the farm market. We want to be able to hear and say, and you just said it yourself, eat and drink. It's different. It's a restaurant. I want to be assured that there are no concerts, and maybe that's the wrong terminology. It's table music. It's there to play when people are out there at certain times of year on the deck. What you have inside, I doubt people want to eat with music blaring. If there could be some note that could be derived to reflect that, to follow this site plan. I think with the people on this board and our professionals, we can come up with something to that effect.

Jason Gonzales: Yes. I'm sure we can agree to something.

Chairman Astorino: Mr. Krahulik, is that correct?

Bob Krahulik: The doubles are always in the details.

Chairman Astorino: I understand that. I want to make sure what we're talking about here is very clear that that music in the restaurant is just that. It is low table music. It's not a concert blowing out. Do you understand what I'm saying?

Jason Gonzales: I understand.

Mr. McConnell: I have a question, Mr. Chairman. I thought throughout this whole process, and I know this applicant has tried to be as cooperative as he can with his goals in mind. I'm confused at this point from what Mr. Krahulik said as to how many nights music is going to be permitted. All along I've been thinking, I guess the farm market thing, 12 events. And now tonight I learn that, well, no, maybe it's not 12 because now there's a restaurant involved, and a restaurant has no limit on the events.

Chairman Astorino: The restaurant has always been on this plan. It's never been off of the plan.

Mr. McConnell: That particular detail was not.

Chairman Astorino: Thank goodness we have our professionals.

Mr. McConnell: My question to you is right now, as it stands as contemplated, how many nights will music be permitted?

Chairman Astorino: For the restaurant?

Mr. McConnell: How many nights will music be permitted all in and aggregate?

Bob Krahulik: It could be every night.

Chairman Astorino: You can have every night if that restaurant is open every day of the year.

Mr. McConnell: Okay. Then it raises the question as to, I'm wondering what the purpose of the indoor music testing, sound testing, and outdoor sound testing. I'm not in agreement with every night music, just given the way that I followed this. I'm not comfortable at this with every night music. If they were proposing that the music, as you're calling it, restaurant music, was at some sort of a reduced decibel level, so it more closely aligns with people wanting to have a conversation over their meal or for a couple of drinks, as opposed to headbanging music every night.

Ms. Garby: I was just going to ask for that very point that Dennis just made. Could we agree to a reduced decibel for the restaurant music for the days that are not farm events?

Chairman Astorino: I think the farm events all get lumped into the farm market. That's pretty much worked out. We know that. You are allowed 12 music events, whether it's live, outdoor, and it has to be at this decibel level. I think the concern you're hearing, Jason, is that, okay, you have the restaurant, great. The assurances we know we have is they cannot exceed the decibel level at the 50-foot mark. We know that. If there's a complaint and it comes in and it exceeds that, you're in violation of your site plan. I think we as a board would like assurances that that restaurant music, call it what you want, is going to be the – I guess Dennis and Vicki pointed out – the low music, sit there, have a conversation, have a drink, have your meal without – and I don't know what – that's a note, that's something that's got to be put on the plan. Am I correct in saying that?

Bob Krahulik: I'll give you an example of what we're trying to avoid. At some point in August, the old Jolly on the Inn started having outdoor music on Monday nights, and the town was receiving many complaints about loud music playing until 10 o'clock or later on a Monday night. But that's an example of an eating and drinking establishment that's open seven days a week, and if they want to play music on Monday nights, these are the types of complaints we start to get.

Chairman Astorino: I get the complaints, and I also get that this board required the applicant to do a noise study. So, with that noise study gives us restrictions. I think hearing this, I'm sure there's some professionals in this room sitting up here who can figure that out rapidly. It is how you can have the speaker music on the deck in a certain location that's going to be shown on the plan at a certain level that we can be assured – we know it has to meet the noise requirement. We do know that. We're asking for something a little more here just for the sheer fact of the area that it's in. That's my opinion. I'm not speaking for the rest of the board.

Mr. McConnell: I would agree with what you're saying with the proviso that if the music being played as restaurant music did not exceed what the outdoor farm market music did not exceed the other type, the 12-event type, maybe we're trying to create a solution for a problem that wouldn't exist. I don't know what the difference is between – because I haven't

heard, and I don't know whether you can sort through the sound report to see whether there is a distinction between the music on the two different types of nights. I don't want to handcuff the applicant for something that will make no difference, but I don't know that it will make no difference.

Chairman Astorino: We know the metric. We know it's 71.3 decibels, 50 feet from that area. I don't know whether a note can be put on the plan limiting. We need to discuss that. Okay.

Jeremy Havens: In light of the board's request, we just discussed it. The applicant would be willing to add a note on the plan that with the exception of their special farm market event permits, that any other outdoor music would be limited to 5 decibels less than what was found to be acceptable in the noise study. So instead of 72.1 feet at 50 feet from the sound-producing device, they would agree to 57 decibels at 50 feet from the sound-producing device as a note on the plan.

Chairman Astorino: That reduction sort of makes it the number of the indoor during the test.

Jeremy Havens: Right. So as Laura read in the noise study, a six-decibel reduction is considered under the noise study a significant reduction in sound. He's willing to agree to a five-decibel reduction below what was considered acceptable in the noise study for purposes of regular restaurant music not associated with a special farm market event.

Chairman Astorino: Okay. So that music on the deck, is the speaker or speakers that are on that deck need to be shown on the plan? That the decibel level from those speakers at the 50-foot mark where the monitoring will be done will be 72.7. It would be five decibels less than that.

Jeremy Havens: So that would be 67.1 decibels.

Chairman Astorino: Do any board members have any comments on that?

Mr. Kennedy: I guess one comment would be that does it allows bands also. Is correct?

Jason Gonzles: That would be during events.

Chairman Astorino: No. That's the farm market. You're going to have the bands. I just said that.

Mr. Kennedy: It allows music of any kind the way I understand it from Mr. Krahulik. How would you regulate a band?

Chairman Astorino: Are you going to have bands in the restaurant? Or are you going to have just the speakers?

Jason Gonzales: It would be regulated by acoustical.

Chairman Astorino: Are they going to be on the deck or are they going to be inside? So, whatever is on that deck has to meet that decibel that we discussed.

Jason Gonzales: During non-events, it will be mostly acoustical.

Chairman Astorino: Whatever comes out of those speakers, it has to be regulated to that. Bo, are we ok with that?

Mr. Kennedy: I'm okay with it.

Chairman Astorino: I understand where you're going.

Mr. Kennedy: It's a repeating establishment. I feel like there should be musical out, right? And that seems to be in the code.

Chairman Astorino: It is in the code.

Mr. Kennedy: I just don't know how you differentiate it. To Dennis' point, you know, something coming out of a speaker and somebody hit the drums, I don't know. I just want to make sure everybody is on the same page.

Chairman Astorino: I agree with that.

Mr. Kennedy: The decimal levels, how do you control it between the two?

Chairman Astorino: When they did the sound study, there's a number. They have to comply with that number. So, if you think somebody is going to sit up there and beat a drum and it goes over that number, they're in violation of their site plan. It's pretty simple at that point. I'm not making it simple, but it is simple. If those monitoring shows, you're in violation of your site plan, let's lay it on the table. You have to comply with your site plan. It's – as everything else, it's the same thing we allow with subdivision on this board. You cannot build a house or change your subdivision or change your road when you get out there. It can't happen. That's why we're here. That's why there is public comment. That's why there's letters sent to this board and hence why the studies have been done so significant because the onus now becomes to you that it has to be complied with, as Bo just pointed out. We will have a note on the plan, five decibels less from that area. Great. That would be on you to comply.

Jason Gonzales: I understand.

Chairman Astorino: Thank you for that comment. Anything further from the professionals and the board? I apologize to the public for dragging this through, but this is what we do to make sure it's correct.

Laura Barca: The allowable decibel level at 50 feet is 71.2.

Chairman Astorino: Okay, so it's below that.

Laura Barca: So, five less than that is 66.2.

Chairman Astorino: Ok. This is a public hearing, if there is anyone in the audience wishing to address the Black Walnut Creek application, please rise and state your name for the record.

Heidi Carnevali: I live at 3 Sodrick Lane. I am immediately adjacent to and directly impacted by the proposed development. As neighboring property owners whose homes and properties border or are substantially affected by the site, we respectfully urge the Planning Board to apply the highest level of scrutiny to this application under its Type I SEQRA classification. We support sustainable agriculture and responsible agricultural use of the property. However, the current proposal appears to extend well beyond traditional agricultural operations. The proposed 3,000- to 4,000-square-foot commercial farm market, museum village, eating and drinking establishment, commercial kitchen, event space, and expanded parking areas would introduce a substantial commercial and entertainment component to the property. We believe these proposed uses warrant careful examination regarding their potential impacts on the surrounding residential and agricultural neighborhood. Regarding Drainage, Stormwater, and Impervious Surfaces,
The proposed construction of a large farm market, together with expanded parking and associated infrastructure, will create significant additional impervious surface area. This is particularly concerning because the surrounding area is sensitive to drainage and stormwater conditions. We are concerned that increased stormwater runoff could alter existing drainage patterns, adversely affect neighboring properties, contribute to flooding on or near Sovereign Lane, and potentially affect groundwater recharge and the local water table.
Accordingly, we respectfully request that the Planning Board require a thorough analysis of the project's stormwater and drainage impacts, including its cumulative effects on neighboring properties and the surrounding watershed. Regarding compatibility with Agricultural Zoning, We also respectfully request a careful review of whether the full scope and intensity of the proposed uses are consistent with the intent and requirements of the Town of Warwick Zoning Code, particularly the provisions governing commercial farm markets and eating and drinking establishments associated with agricultural operations.
If these commercial uses are permitted only when they remain accessory to an active and functioning agricultural operation on the same parcel, the Board should require the applicant to provide sufficient documentation demonstrating that the proposed commercial activities are genuinely accessory to a viable primary agricultural enterprise.
Given the scale of the proposed commercial kitchen, museum village, event facilities, market, and other activities, we believe the Board should examine the relationship between the proposed commercial uses and the property's actual agricultural production. We therefore respectfully request that the applicant provide appropriate documentation establishing the nature, extent, and current level of agricultural production on the property, including, where legally appropriate, documentation such as agricultural production records, crop yields, farm business records, or IRS Schedule F filings, subject to applicable privacy and disclosure requirements. In regards to Protection of Neighboring Properties,
the intensity of the proposed eating and drinking establishment, museum village, and event-related activities also raises substantial concerns regarding compatibility with the surrounding residential and agricultural properties along Sodrick Lane and Van Sickle Road. We respectfully request that the Planning Board consider requiring substantial vegetative buffering, appropriate screening, and privacy fencing along the Sodrick Lane property boundary. Such measures should be designed to address visual impacts, noise, lighting, activity associated with customer and event traffic, and the overall transition between the proposed commercial uses and neighboring residences. In regards to

Groundwater and Private Wells, our homes on Sodrick Lane rely entirely on private wells that draw from the local groundwater system. The proposed commercial eating and drinking establishment would require water for food preparation, dishwashing, restroom facilities, employee use, customer use, cleaning, and other commercial activities. The potential cumulative effect of this additional water demand on the local aquifer and neighboring private wells must therefore be carefully evaluated before approvals are granted. We respectfully request that the Town, Planning Board, and Town Engineer mandate a comprehensive hydrogeologic and groundwater assessment appropriate to the scale of the proposed development. This should include an evaluation of projected water demand and, where warranted by the applicable technical standards, an aquifer drawdown or pumping test sufficient to determine whether the proposed water withdrawal could adversely affect neighboring private wells, groundwater levels, or available well pressure. The applicant should be required to demonstrate, through qualified professional analysis, that the proposed commercial water demand can be accommodated without causing unacceptable impacts to surrounding residential wells or the local groundwater system.
In regards to Wastewater and Septic Capacity, we are similarly concerned about the capacity of the proposed wastewater system to safely accommodate the intensity of the proposed commercial uses. Before any local approvals are finalized, we respectfully request that the applicant obtain all applicable approvals from the Orange County Department of Health and demonstrate that the proposed commercial-grade septic and wastewater system is appropriately designed and sized for the anticipated flows from the eating and drinking establishment, market, restrooms, employees, customers, and event-related activities. Given the area's reliance on private wells, it is particularly important that the wastewater system be demonstrated to protect groundwater quality and neighboring drinking-water supplies. In regards to SEQRA Review and Public Hearing, in light of these unresolved concerns, we respectfully request that the Planning Board keep the public hearing open and require the applicant to provide the additional technical information necessary to fully evaluate the project's potential environmental and neighborhood impacts. If the identified impacts cannot be adequately addressed through appropriate mitigation, we respectfully request that the Planning Board require preparation of a full Environmental Impact Statement as warranted under SEQRA. We appreciate the Planning Board's responsibility to carefully balance agricultural interests with the protection of neighboring property owners, groundwater resources, and the character of the surrounding community. Given the scale and intensity of the proposed development, we respectfully ask the Board to ensure that these issues are fully evaluated and adequately resolved before the project proceeds. Thank you for your careful consideration and oversight of these important matters.

Chairman Astorino: Thank you. Is there anyone else wishing to address the Black Walnut Creek application?

Alex Reitano: I live at 379 Pulaski Highway. You guys mentioned an address change. That was the address change from the parcel changing it from Van Sickle Road to Sodrick Lane.
And then the sound study, the decibel reading at the source. Do you guys have the number for the source or just the 50 feet out?

Chairman Astorino: I believe they have the source. They went 50 feet out and did the study. That's your baseline.

Alex Reitano: But they don't know what the decibel level is. Is that right?

Chairman Astorino: I'm sure they do. But that doesn't matter. They have to test out.

Alex Reitano: I understand they have to test out. My concern is if the decibel level at the source isn't anywhere near the rock concerts that I can testify that they have had in the Boo Barn that they have now that would allow enough noise to wake up my kid. If the decibel level of that sound study at the source wasn't in line with a rock concert.

Chairman Astorino: Well, you see now, this is where we just explained. At that 50-foot when it's being monitored, it cannot be over the 71- foot. That's where all of this comes into play. You know, being hypothetical or, you know, it was loud or what have you, now there's teeth to it.

Alex Reitano: I understand there's teeth to it, but there's teeth to it if that, like, if that source number, like, let's say, a rock concert is between 90 and 120 decibels. If the source that they're measuring at 50 feet out from is at, you know, 80 decibels.

Chairman Astorino: It can't be.

Alex Reitan: That's what I mean. Do you guys have that number?

Chairman Astorino: We have a complete sound study. As I had said, at that 50-foot mark, they cannot exceed that level. So that is your teeth. Like you said, if that's 120 decibels at the source and it's blowing out at 85, they're in violation. It's that simple. They can't do it. So that's where all of this comes into play. I think you were at the last public hearing. We discussed the noise study. And this is why you go into that depth. And this noise study from the DEC is more stringent than the Town of Warwick. They're saying 65 decibels at the property line. The Town of Warwick code is 75 decibels. This is forcing them to be even more stringent on the noise.

Alex Reitan: So, no matter what it is, that 70?

Chairman Astorino: It has to be maintained.

Alex Reitan: Is that by the code or by the study?

Chairman Astorino: That's by the study. It has to be maintained. Once you exceed that level, you're in violation. You can't do it. That was what we did.

Alex Reitan: That I understand. That's what I'm saying. Do I, as a public guy, have access to what that source number was?

Chairman Astorino: You can FOIL it. All of this is public documents.

Alex Reitan: I'm just curious. If that wasn't the level that a rock concert would be at, then the sound system doesn't really give you any viable numbers. Well, it gives you a number that it can't exceed.

Max Stach: I think what the Chairman is trying to say is when this was done, the measurement was taken at .50 feet from the source and at the property line. And in order for the property line to fail the requirement, the reading— And I think it did in one instance, right? There was one observed failure where it was over a six-decibel increase. And the noise consultant determined that if it's kept to 71.2 at that 50-foot, it wouldn't be exceeded. So it's actually a relationship, irrespective of what it was at the source. We know that if at 50 feet it's kept to 71.2, it will be in compliance. So, if they hypothetically played it at 85 decibels and then got that number, now they're held to that number. So now if they play it at 120, they're going to be well over 71.2 at 50-feet. I think that's where the control is.

Jason Gonzales: I get it. I'm just saying if the sound study was done on the number that was too low and then they present it as, hey, we passed the sound study, but in reality, if you didn't with the actual number it would fail.

Chairman Astorino: That's the teeth of it.

Mr. McConnell: Mr. Chairman, there would be no point from the applicant's side to play the sound any softer than what they wanted because they would automatically fail.

Jason Gonzales: I get what you're saying.

Mr. McConnell: So, they would be more likely to play it as loud as they can at the source and hope that it attenuates by the time it gets to the measuring point. That's what they've done. So that's why it makes no difference what the volume was, decibels were, at the source. Because by the time it got to the measuring point it had attenuated to where it was within boundaries that were acceptable. They could tell you, yeah, it was 100 decibels at the source. What do you know from that? All you really know is that where the measurement was done, it wasn't in violation. That is all that I am saying.

Chairman Astorino: Thank you. Do any Board members or Professionals have anything further? Is there anyone in the audience wishing to address the Black Walnut Creek application?

Renee Liberti: I live on 1 Sodrick Lane with my husband and two children. I want to briefly speak about the safety impact of traffic from Thunderbird Farms events has had on our private road. We have also submitted two emails and videos to the board. During the recent event, Sodrick Lane experienced an extreme and continuous amount of traffic. We observed and reported several dangerous incidents involving vehicles entering and exiting our road. There were times when traffic interfered with our ability to safely use our own property and driveway. Our biggest concern is emergency access. Sodrick Lane is a private cul-de-sac serving only a small number of homes. With this volume of traffic, we are seriously concerned about whether a fire truck, ambulance, or other emergency vehicle could get there quickly or even at all if one of our families needed help. This is no longer simply a question of inconvenience or additional traffic. We are asking the board to consider the real safety implications for the residents who live on this road every day. Thank you.

Chairman Astorino: Thank you. We did see your videos.

Renee Liberti: I also have some screen shots that you could have.

Chairman Astorino: Thank you so much. Is there anyone else wishing to address the Black Walnut Creek application?

Patricia Bollenbach: I live at 11 Van Sickle Road. At the last Planning Board meeting. For the public in January of 2026, we were told that Chiron Road was not an option in place of Van Sickle Road. I've been doing some research on my own and found on Robert Sodrick's deed for the sale of the 54-acre lot that Chiron Road is a deed of easement right of way as per Schedule A in the Sodrick deed. If you would like to have copies of what I've got, you're welcome to, but this is my only copy. You would have to take your own copy. If the board is following the Sodrick subdivision plans, why is Black Walnut Creek not using Chiron Road? By using Chiron Road, Black Walnut Creek would not be disrupting the neighbors with cars on Sodrick nor the active farm on Van Sickle Road. On September 12, 2026, which was this last Saturday, I counted 898 vehicles entering Van Sickle Road from 8 a.m. until 6 p.m. exiting through Sodrick Lane, the same number of vehicles. Black Walnut Creek is using an agritourism loophole and turning it into a chaotic safety hazard for homeowners and attendees, as well as fire trucks, police, and first responders navigating the traffic. With 50 vendors as advertised—I didn't have a count on them, just what was advertised—with 50 vendors as advertised and 8 food trucks, where were the cars, trucks, and motorcycles all parked? Roughly half of the 54 acres is dedicated artifacts and woodlot. Black Walnut Creek is putting profit over neighborhood quality of life as it was before all of this chaos started. For tourism status, crops must be grown on site. Again, where did they park all those cars? In closing, and I quote, we object to this proceeding because of the applicant's attorney is the legal counsel for the Town Zoning Board of Appeals, creating an impermissible conflict of interest under New York State Bar Association Ethics Opinion 1130. We request that the Planning Board hold the hearings until the applicant retains independent, uncomplicated counsel. I have some handouts that I'd like to give to each of you, or if you'd just like to hand them down yourself.

Chairman Astorino: Thank you. Is there anyone else wishing to address the Black Walnut Creek application?

Vincent Morgiewicz, Jr. I live at 385 Pulaski Highway. I want the board to consider my comments that I made at the last public hearing, which I understand was in January. Have there been any since?

Chairman Astorino: No.

Vincent Morgiewicz, Jr. Okay. When was the traffic study conducted? What was the date?

Jason Gonzales: The traffic study guy was there Saturday.

Laura Barca: I remember it was on Saturday. He was there this past Saturday?

Chairman Astorino: That was the Sunflower Festival.

Jason Gonzales: Yes. He was there personally to take control and see how the traffic was coming in by him personally, and I was then taking footage from the blind site left and right of Pulaski.

Vincent Morgiewicz, Jr: What was the date of the noise study? Were both of these studies done by the applicant?

Laura Barca: The studies were completed by the applicant, but reviewed by professionals at my office. I work for HDR Engineering and Architecture. We are the Planning Board's engineer.

Vincent Morgiewicz, Jr. Is this board going to conduct its own noise and traffic study?

Chairman Astorino: No. We do the review. We do the scope of work with our professionals. We'll go through the scope of work with the applicant, what needs to be done, and then they do it, we review it. Actually, the sound engineer for HDR was on site the day it was done.

Vincent Morgiewicz, Jr. I've heard several different numbers of events. One was 12, one was 24, and one was daily.

Chairman Astorino: That's in the code. A Farm Market over 4,000 square feet, you're allowed to have 12 outdoor music events per year, per the code. You're allowed to have 24 special events per year as per the code.

Vincent Morgiewicz, Jr. Who defines special events? Is it the code?

Chairman Astorino: Yes. It is the code.

Vincent Morgiewicz, Jr.: All right. Who's responsible for monitoring sound levels?

Chairman Astorino: You have the number. They agreed to have a monitoring system out there. The Town of Warwick Police Department does have dosimeters, so if there's a call and a complaint, they can go out there with a dosimeter. There is a location where they can sit there with a monitor and say, we're 50 feet from the sound, this is what it has to be. Okay.

Vincent Morgiewicz, Jr.: Whose duty is it to monitor and enforce any stipulations or requirements?

Chairman Astorino: The building department of the Town of Warwick.

Vincent Morgiewicz, Jr.: The complaints would be made to the building department. It is not to this board. Is that correct?

Chairman Astorino: Yes. It is not to this board. This board goes through the process. A site plan will be generated. That site plan will go to the building department to enforce.

Vincent Morgiewicz, Jr.: Do they have enforcement authority?

Chairman Astorino: Absolutely. That's the enforcement arm of the Town.

Vincent Morgiewicz, Jr: This is an AI zone, Agricultural Industrial?

Chairman Astorino: Yes.

Vincent Morgiewicz: Mr. Chairman, I heard you a few minutes ago refer to it as primarily a residential area.

Chairman Astorino: There is residential surrounded around there. That is correct. That is why I think we, as a board, are taking this extremely seriously with hence the noise study, traffic studies. We know there's residents very close by to these operations.

Vincent Morgiewicz, Jr.: I know it's not a matter for us at this time, but that's an inaccurate zoning for that area. If anything, it should be residential/agricultural which it has always been. I've lived there my entire life. M whole family lived their entire lives for well over 100 years. And it's not industrial, it's not commercial.

Chairman Astorino: This board does not put the zoning in place. We follow what's there.

Vincent Morgiewicz: In this town, is the zoning is established by the Town Board?

Chairman Astorino: Yes. It is through the Town Board.

Vincent Morgiewicz, Jr. I would just ask this board to, I would strongly urge you to continue this public hearing, but definitely do not close it at any point, certainly not today, certainly not in the near future, because there's so many items that need to be fully addressed. And I would ask you to not be parochial in what I hope is your thorough and diligent consideration of this matter, focusing primarily on preserving our property values and quality of life, especially since your decisions directly impact real people and are long-lasting. Thank you.

Chairman Astorino: Thank you. Is there anyone else wishing to address the Black Walnut Creek application?

Joe Morgiewicz: I am one of the farm owners that uses Van Sickle Road as egress and entrance into property that we farm further down the Van Sickle Road, in addition to R&G Farms and a couple of other farms. I would like to know that after hearing that the entrance and exit for this eating establishment which is now going to be, I guess, transferred to Sodrick Lane, which if I was a property owner on Sodrick Lane, I would be a little upset because I was there when it was separated, and our right-of-way was changed for that cul-de-sac, and it was separated. Either way, traffic coming into Sodrick Lane is going to have to cross into or use Van Sickle Road at some point. We move large equipment in and out. We are there several times a day with one or two events a year. That's not a big deal, but now we're talking about moving it up to 12 to 24, plus the eating establishment. And Jason, I have nothing against anybody trying to build their business, but that's what we do. I was there this past Sunday to check on property on Saturday evening when the Sunflower Festival was going on. I have a legal right-of-way to there to access my property. I had to wait in traffic and use Sodrick Lane as an egress. I was only in my pickup. It wasn't a problem. If I had a piece of equipment, what am I to do? Will there be something separate for us to use as property owners who have a legal right-of-way to Van Sickle Road and need to use that? I'm not sure what the plan is for that? I'm asking for that to be considered in any plans moving forward also. Thank you.

Chairman Astorino: Is there anyone else wishing to address the Black Walnut Creek application?

Heidi Carnevalli: I just wanted to add one more thing. Just to let the board know, I do have videos of all the vehicles that were on Sodrick Lane that day. Do you want me to show you?

Chairman Astorino: No. We did see from your neighbor. They had also sent videos. That was a special event permit. I'm sure that was put through the Town Board also. Jeremy is that correct regarding the Sunflower Festival special event permit that exceeded the 249 level?

Jeremy Havens: Correct.

Chairman Astorino: They have to go to the town board, which notifies emergency services, police, fire, everything, because it is exceeding that number.

Heidi Carnevalli: Okay. But how is emergency vehicles supposed to do that?

Chairman Astorino: There is a plan when they do that it goes to the police, fire, EMS, that they are well aware that's happening. And even this application has been to all the emergency services.

Heidi Carnevalli: I know one of my neighbors that spoke, her husband, he was trying to get out. He couldn't even get out of his house.

Chairman Astorino: There has to be. All of that through this board is provided to them also.

Heidi Carnevalli: Okay. Well, how will that be fixed in the future where we need to get out of our homes?

Chairman Astorino: You have to have access to get out of your home, period.

Heidi Carnevalli: Should we call the police?

Bob Krahulik: You can call the police, but it is a private property, so they may say, enforce your rights any way you want, and you can call a tow truck and have them tow it.

Heidi Carnevalli: Okay.

Chairman Astorino: They should not be parking on your property.

Heidi Carnevalli: There were several people that I showed a video to the board that were parked on my lawn, on my property, on my front lawn. I did make a police report. Thank you.

Chairman Astorino: Okay. Thank you. Is there anyone else wishing to address the Black Meadow Creek application? Let the record show no further public comment.

Jeremy Havens: I would just like to address some of the comments from the public for the benefit of the applicant, the board and the rest of the public. With respect to the question that was raised regarding flooding and a request for a full Environmental Impact Study, there's already been a year and a half worth of review over what type of drainage issues may be involved, whether or not the use would exceed the lot area coverage that would create problems with respect to rain runoff and so forth. The Town's engineer and planner have reviewed the site plan and come to the determination that no Environmental Impact Study would be necessary. With respect to the request for IRS income reports for the farm market operations, first and foremost, the applicant is currently operating as a commercial farm operation on an officially recognized parcel within the Orange County Agricultural District and the AI Zoning District. At the moment, they have no obligation to even prepare or submit any kind of income reports that would be required as one of the neighbors requested. So that can't be produced. The applicant has no legal obligation to prepare or submit those reports, and therefore, there aren't any. With respect to a hydrology study on the neighbor's concerns regarding whether or not the application is going to deplete the neighbor's wells, the New York State Department of Health has been looking at this for a year and a half, and in fact, actually much longer than a year and a half.

It was a year and a half ago that the applicant first applied to the planning board. The Department of Health has been involved in this process for well over two years reviewing water and sewer requirements, and all of the engineering that went into it, all of those details were fully reviewed by HDR as the Town engineer. With respect to the question that another neighbor had regarding the source sound of the music study, and somebody else had also, a gentleman that was just up here a moment ago, inquired about whether or not the applicant did these studies themselves and did the town review them. To clarify for the record, the applicant hired Tim Miller Associates, a professional engineering firm, to conduct the sound study. The applicant did not conduct the sound study themselves. They hired a professional engineering firm who prepared and submitted the report.

Laura Barca: Yes, that's correct. Thank you for clarifying.

Jeremy Havens: And likewise, with respect to the traffic study, that was not conducted independently by the applicant. They hired a professional engineering firm that specifically does traffic studies, and it's an independent firm that prepared and submitted that report.

Laura Barca: Yes. Creighton Manning did the applicant's traffic.

Jeremy Havens: Thank you. With respect to the request by, I believe it's Ms. Bollenbach, regarding access on Chiron Road, I'd actually like to give the applicant an opportunity to address why or how that doesn't work for the applicant, beyond the legal fact that the applicant has a right to use Sodrick Lane. Just because there's another access point that the applicant could use doesn't necessarily mean that they have to use it.

Jason Gonzalas: Correct. So, in regards to the road maintenance agreement on Sodrick, I have full access, ingress, egress, museum, other facility, it's already all written in. And using Chiron, I'd have to build a whole other road, which then I would have to go through M&M's property, which is a disaster with 18 wheelers hauling in and out, parking sideways and everything else. It doesn't make any sense whatsoever. And the cost involved in that would be astronomical to even think about it. I have the right for Sodrick, and that's exactly what we're going to do.

Jeremy Havens: Additionally, there was a complaint about the Sunflower Festival and the excessive traffic that was observed and recorded on neighboring video cameras on Sodrick Lane this past weekend. With respect to that, I'd like to again invite the applicant up to speak to that. The history has been is that special event is conducted over two days with approximately 400 cars per day. I'd like the applicant to address why there may have been an unexpectedly large number of cars on the property on Saturday, in addition to pointing out that, as previously noted, that was a singular special event. That's not what's being proposed on a day-to-day basis.

Jason Gonzalas: So we actually had on our Facebook pages more people interested in coming in on Sunday than Saturday. As you all know, it rained Saturday night into Sunday afternoon. So, in my eyes, the majority of the people came out on Saturday because it was a beautiful day. And I didn't hear the numbers that they counted on Sunday because they're in the hundreds. And when I say hundreds, I mean a hundred and something, so under 200 came on Sunday. The majority came on Saturday because it was going to rain on Sunday, and it clearly showed our numbers were drastically lower. That's why we actually did the 400, because our most event for our Halloween festival has been high twos, even maybe a little bit over 300. We went up in the value of that and put that number for Creighton and Manning at 400.

Jeremy Havens: Thank you. With respect to the gentleman's statement that the Agricultural Industrial Zoning District is inappropriate and should be considered a residential zoning district, the board already pointed out that the zoning district is what it is, but I also want to point out that, as I noted previously, the applicant does conduct a commercial farm operation on a parcel that's in excess of 50 acres within a county-approved and designated agricultural district. It is an agricultural community. It happens to have a lot of residences that are immediately surrounding this particular parcel, but it's in the heart of the Black Dirt region. That's agricultural. I respectfully request that the planning board, while one of the neighbors specifically requested the planning board not close the public hearing and that they be focused primarily on the neighbor's property values, I respectfully request that you take into consideration the neighbor's property values. That's something that would be appropriate for any application, but it's only a small part of your consideration. The applicant themselves has the right to use their property as provided and is permissible in the code. The applicant has worked for well over two years trying to craft a project that meets the code requirements, that's legally permissible, has jumped through hoops getting a professional noise study, a professional traffic study, and countless revisions to the site plan. In our opinion, the applicant has met all the requests of the planning board with respect to modifications of the site plan and its operations including a reduction, guaranteed reduction in sound capacity, more so

than any other ordinary restaurant would be permitted to do, and we respectfully request a determination. Lastly, with respect to the last gentleman that spoke regarding the legal right of way, we acknowledge that anyone who accesses Van Sickle with a legal easement to access their property on the back side of my client's property has the right of way, but that's not an exclusive right of way. They don't own Van Sickle. My client does. My client also has the right to use it in a way that's permissible under the zoning code, and while it may be occasionally inconvenient for one of the neighbors who also has a shared right to use Van Sickle, my client nonetheless also has a shared right to use it and is often inconvenienced by the other local farmers bringing their trucks up and down on his property. Thank you.

Chairman Astorino: Thank you. Do any board members or professionals have any comments?

Ms. Garby: I have a question for the applicant. You mentioned that because of the weather this weekend that you had more people coming on Saturday than you had expected. Is there ever a time where you would turn people away to maintain the safety of that road, and also do you have staff ensuring that your customers are not parking on your neighbor's property?

Jason Gonzales: The insurance on parking on the neighbor's property, the board actually had us put on the drawings a request to put up no parking signs on one side or both sides, whatever they request, so that should take care of that issue. In regards to safety of the rain, for past Halloween events, I've actually canceled events due to rain and issues with slipping and sliding and any issues in regards to rain. What was the other one?

Ms. Garby: Do we have a limit on how many cars can be parked there if there were eight hundred or three hundred cars?

Chairman Astorino: On this plan, there isn't parking requirements. It cannot exceed a certain number of parking. You have a certain number of spots. It's on the plan. Which is why we're here is now you're at a farm market under 4,000 square feet, and that's just a building department permit. Now, because this has grown, hence we're here. We are controlling what is on this site plan, what can be allowed, what cannot be allowed. If there is no room for parking, you can't park in there. It's what it is. It's that simple. There's a site plan with a number of parking spots. I think everybody understands that. At least they should.

Ms. Garby: So then just to clarify that with our new plans, with the notes that are going to be on our plans, what happened on Saturday should be prevented going forward?

Chairman Astorino: You have to have parking spots. The Applicant's attorney had said there is parking on the plans. Is that correct?

Jeremy Havens: Yes.

Chairman Astorino: Do any other Board members or Professionals have any comments or concerns?

Mr. Showalter: I know this has been in front of us for quite some time. Was there previously for this Sunflower Festival some issues as far as large attendance and parking in the past? When was that? Does anybody know?

Jason Gonzales: There was an issue last year that did back up on Pulaski Highway. A police officer came to notify us. I went up there personally with another attendant, and it was remediated within 15 minutes to a half hour interval. This year we had more people and no back up on Pulaski. No back up in regards to Van Sickle being cars parked in front of anybody's driveway for a significant amount of time. And the cars leaving Sodrick were not backed up past more than one individual's house because number one is right next to the stop sign. Two cars came back up in front of the first house.

Mr. Showalter: I don't know. To me, it seems to be an issue here. It's repeating itself. And if you've got half a dozen neighbors that are aggravated because you're making noise or blocking their road or whatnot, or the Morgiewicz farm can't get a tractor through on the road, it's a problem. I think you've got to figure it all out and have a better plan so that the neighbors aren't inconvenienced. I'm not against what you're trying to do. I'm just saying if these people – you've got to figure this out. You have to have a better plan. I'm not satisfied with what I'm seeing tonight. Thank you.

Chairman Astorino: Is there anyone else?

Jeremy Havens: Can I address that? I just wanted to elaborate on what Jason was saying here. Last year, the issue with the Sunflower Festival and the backup in traffic was because it was the one and only time up until that point, they never had any traffic issues. And it was the only time the police had ever been called. And that event was different because for that Sunflower Festival last year, this time last year, they had changed the way that they were handling ticketing and parking, where they were trying to get people to pay for parking before they parked instead of parking and then coming in and paying for their tickets when they come in on foot. And they quickly realized with that backup that that was a mistake. And they immediately modified that. That's already been addressed before this board previously. I wanted to point out that they did modify the plan to avoid that problem. This year, they had even more cars, as the applicant just pointed out, than they had last year, and there were no traffic problems. There was no traffic backup. The videos that the neighbors sent actually show and confirm the traffic was moving slowly and in an orderly fashion and in a consistent way. There wasn't a big, long pileup of cars in each direction. There was absolutely no backup whatsoever on Pulaski Highway, unlike last year when they were changing the way they were having cars come in and park. The videos that were sent actually show the cars progressing and leaving, progressing and leaving in a consistent way. And I believe that the applicant's plan has been sufficiently reviewed by an independent, by Creighton Manning, an independent traffic study engineering firm, and they have come to the determination that the use as presented will not create a problem. Thank you.

Mr. Showalter: Let the lady in the back come up and say her piece again, because I think she had a problem with where some cars were parked on her property or something.

Heidi Carnevali: Yes.

Jason Gonzales: The cars parked on her property, these no parking signs that the board suggested that we put up will take care of that problem.

Heidi Carnevali: I actually have two cones in my driveway that said private property. I had a big octagon stop sign that was parked directly in front of my house, and I have the video of a woman parking right on my grass in front of that sign. And then opposite, on the other side of my property, there was also another sign. I don't know how many signs I'm supposed to put.

Chairman Astorino: This is where police are going to have to be called. Unfortunately, if they have the right to do this, and this is why we're vetting this project, that is, you know, the owners cannot be in everybody's car. I think we all understand that. Because some people are who they are in this world. We all see it every day on the road. With that being said, the owner has to do to the best practices possible to avoid that. If somebody is going to back on your lawn and park there, they should be towed, as our attorney pointed out earlier. It could be a problem, but it has to be addressed. The traffic study was vetted. The noise study was vetted. We vet all applications. This is where we are with this. Heidi, do you have anything else?

Heidi Carnevali: I just have one more thing. And as far as last year, I was stuck by M&M Farms on Pulaski Highway trying to get into my home for 40 minutes.

Chairman Astorino: This is why that can't happen. This is why we are doing what we are.

Hedi Carnevali: Thank you for that.

Chairman Astorino: Any further comments from the board?

Mr. Showalter: I'd be pretty upset if it took me 40 minutes to get in. I think they need to make a better plan. It's unacceptable.

Chairman Astorino: Well, I think that's where we are. Listen, I agree 100% with what you're saying, but that was last year. And now this traffic plan is saying, by our own professional's admission, is that it's going to work. What else do you want from that? That's my question to you.

Mr. Showalter: I understand that. I respect that. But when the two farmers over here, the Morgiewicz' s, are saying they can't get through, these people are saying that they can't get through, there's a problem.

Chairman Astorino: I get that. But now, as the Morgiewicz' s had pointed out, they have a right to use that road. They have to have access. That is on Jason. That's on you. They

can't be blocked. But as far as what you're saying, Roger, the traffic study was done. Do you have an issue with the traffic study? I'm asking, I asked our engineer, does the traffic study meet the standards? Yes, it does. That's what was done recently for this application. I'm not going against the data. I'm asking our professional who reviewed it for us.

Mr. Showalter: I understand that there's a math to do for a road that says it can accept so many cars in a given period of time. I get that. It may work. But if Mrs. Carnevali, says that people are parking in the driveway or on her lawn or wherever they were parking, and it's not supposed to be there, we got a problem. I don't think that the police should be called every, these people are all upset. They're going to be calling the cops left and right. We don't have enough cops to go in this town to go constantly back and forth to that street. I think our job as a planning board should be solving the problem before it starts. And it sounds like there's still a problem out there. That's my problem.

Ms. Garby: But, Roger, I think what's important is that what happened, and this what happened on Saturday is what we're trying to prevent with the new notes in our plan. We can't keep looking at what happened this weekend. We're trying to fix it. We're trying to prevent it. So, the number of parking spaces, that's why I asked the question about the number of parking spaces and things like that. So that won't happen again, if this gets approved, that should not be an issue, because we're limiting how many cars can be there, and we're preventing the safety issues before they arise. I mean, ideally, if it were up to me, I don't know if we can do this, I would like to see more staffing by the parking, of your employees, so we have big events controlling the parking, because if people come up from the cities, they're going to ignore the signs. They shouldn't, but they probably will. So, if it was my farm market, my event, I'd have employees out there watching and yelling, you can't park there, you've got to move your car, you have to get out if it's full, if you're at capacity. That's what I would ask.

Jason Gonzales: I understand. They're saying 800 plus cars went through there. I had eight parking assistants doing that. I did not monitor Sodrick leaving. If someone parked on her lawn, how do we know it wasn't her friend? Did she get the license plate? Did she report that exact license plate? Or is she just saying that somebody parked on her lawn? It is Just hearsay. So in regards to the farmer using Van Sickle, we're not using Van Sickle anymore. We're not coming down Van Sickle. We'll be coming in through Sodrick. There'll be a stop sign there. Then you will proceed across Van Sickle into our parking lot. And just the exact same opposite. When you come out of our parking lot, there'll be a stop sign. You look down Van Sickle, you cross the road, you go into Sodrick. And by the planning board, if the planning board wants to approve putting up speed limit signs on my property, on Van Sickle, I would love that because some of these farmers do like 50 miles an hour causing dust 40 feet in the air. This guy, that guy, he needs to get back and forth because he's got to travel all the way to the end of the black dirt. And he's got to fix a part. And he's doing more than 50 miles an hour on my property. So, if the board would like me to put speed signs up and then possibly have it regulated by the cops sitting out there, if I pull it in and say these guys are constantly speeding through here, I'd be more than happy to put that on the drawings and paper, the signs to put up to regulate it to 10 miles an hour.

Chairman Astorino: Anyone else wishing to speak?

Jeremy Havens: If I may just address Mr. Showalter's comment. I just wanted to reiterate that the backup that took place on to Pulaski Highway was a singular event a year ago at a special event. This isn't day-to-day. And as I articulated, it was because they were trying a different method with respect to parking and ticketing that they realized doesn't work and creates problems. And they haven't done it since, and they haven't had any problems since, even though they've had other special events. I just wanted to articulate that.

Chairman Astorino: Thank you.

Joe Morgiewicz: The reason I asked about if there was an alternate plan is because, like Roger, I'm trying to avoid an issue. 50 MPH, the last guy that did that wound up in a ditch, so I don't think 50 is the speed that we were traveling on that road. Question for the board. I don't know if you know the answer. I assume Sodrick Lane is a public right-of-way, meaning that it's town-owned, correct?

Chairman Astorino: No, it's not. It's a private road.

Joe Morgiewicz: Neither is Van Sickle Road?

Chairman Astorino: Right. It's a private right-of-way, a private access.

Joe Morgiewicz: You are now making that public.

Chairman Astorino: No, we're not making it public. With the excess traffic coming in, I believe that we're leaving. It is not a town road. It's a private road with covenants on it to allow for this. That's why we did the traffic study on that road.

Joe Morgiewicz: So with increased traffic, who pays for the maintenance? Because up until now, we've pretty much maintained it.

Chairman Astorino: Mr. Krahulik, as a private road agreement...

Bob Krahulik: There's a big difference between Van Sickle and Sodrick. The difference with Van Sickle is that the applicant actually owns it.

Joe Morgiewicz: I understand that. We all have that legal right-of-way.

Bob Krahulik: He can use it because he owns it. He doesn't need an easement.

Joe Morgiewicz: Correct.

Bob Krahulik: He doesn't need a right-of-way to cross his own property.

Joe Morgiewicz: Correct.

Bob Krahulik: You do. You don't own it, so you need that easement to get to your land. He doesn't need an easement. He doesn't need a right-of-way. It's his land.

Joe Morgiewicz: Understood.

Bob Krahulik: So that's the difference between your use of the right-of-way, his use of the right-of-way, Van Sickle, as opposed to Sodrick, which is owned by the neighboring property owners. He enjoys an easement and right-of-way just like you do, except the right-of-way agreement for Sodrick is very formal. It spells out just who's responsible for maintenance, who's not, and how much.

Joe Morgiewicz: Is that to say that he could block off Van Sickle Lane from us accessing it?

Bob Krahulik: No. You have the legal right of ingress and egress. If you're being obstructed, then you can litigate the issue, get a court order prohibiting them from obstruction. Perhaps you have the right to have cars towed. I don't want to purport to give you legal advice on how to best handle it, but you should consult with an attorney and enforce those rights.

Joe Morgiewicz: My biggest concern is access now that we are increasing the number of events and increasing the amount of traffic. I'm not here to be a hard-liner or to give Jason a problem that he doesn't need because he's trying to build his business, and I said that from the beginning. But I need access, and I need access to be able to move the equipment where I need to move it without having to wait, especially at a harvest time like this or any harvest time, when we have to move what we have to move through Van Sickle Lane.

Bob Krahulik: Other than crossing Van Sickle at the cul-de-sac, nothing in the plan allows them to obstruct ingress and egress over Van Sickle.

Joe Morgiewicz: Okay. And if that happens, then I have to handle it through police or whoever else?

Bob Krahulik: The Police are reluctant to get involved in what they deem to be private land disputes. You might have to hire a lawyer and enforce your legal rights for the right of way.

Joe Morgiewicz: Okay. Thank you.

Chairman Astorino: Is there anyone else?

Bob Krahulik: Mr. Chairman, I do have a comment. The question has come up tonight, how could this happen in a residential area? And what hasn't been explained to neighboring property owners is that this property enjoys special use because there are historic resources that were found on site. Indian artifacts, whatever they are, and the property has been designated as an historic site because of those resources. The code

allows the uses that are being reviewed by this board in consideration of the resources located on the property. And the uses that are being proposed are supposed to encourage the continued protection of those resources and are supposed to be, and I'm going to quote from the code, necessary for the preservation of the historic resources. And as part of your resolution, should this board proceed with a vote at some point in time, that resolution should also reach the conclusion that this board feels that the proposed uses are necessary for the preservation of the historic resources. This has come up at other meetings. I'm not sure whether the applicant has demonstrated the necessity or not, but the board must consider that factor in addition to all the other factors that we're looking at, such as noise and traffic. In order to approve these additional uses, the board has to find that they are necessary for the preservation of the historic resources.

Chairman Astorino: Any further comments from the board on that topic at all?

Mr. Showalter: Maybe Jason could invite, I'm just trying to make peace here now, after staring at the pot. Maybe you can have the neighbors over and everybody can have a meeting and talk about what Jason needs and what the neighbors need. So, you know, maybe it can be worked out amongst everybody. Maybe find a solution to make it better.

Chairman Astorino: I'll ask Jason and his professional, Jeremy about the comment that Mr. Krahulik just read about the historic preservation. We all know that that's why you have the museum. The question that I have is, having this venue, is that letting it preserve what is there?

Bob Krahulik: Is it necessary for the preservation of the historic resources? That's the conclusion that this board must reach as part of its approval, if it were to approve it.

Jason Gonzales: So, as you know, in regards to the subdivision, the two lots that were in fact, 6 and 7, were found to be not suitable for houses due to artifacts being found on the property. A known campsite on lot 6. A known campsite on lot 7. Lot 6 also has a two-acre Indian burial ground on it. And the artifacts that were found on those two pieces, I personally have, which will start my museum, and we are working through grants to try to buy miscellaneous other stuff, specifically, Richie Van Sickle has found throughout his lifetime. He wants money for it. I want to pay that guy what he deserves. And we'd love to have that guy physically on the property, stating, because he loves talking about it. He pulled up, look what I found. This thing's 500 million years old, this rock that I found out in the Black dirt. He's passionate about it. The guy worked his whole life as a farmer. I would love to have him on the books, paying him, talking to people in the museum, walking him around the farm, walking through the acres that we have that are designated.

Chairman Astorino: Does someone have a curator to this project?

Jason Gonzales: The plans are there. We're looking to get grants, get money to purchase these artifacts, to expand what we currently have. Because like I said, there's over 1,400 pieces found. There is a map. Lot 1, the hole that was dug, 4 by 4 by 4 feet deep, what was found in it. I have the books. I have the boxes that are bagged and tagged. And again, that's the whole reason for this whole project, is to not forget about what this place is.

Because otherwise, I could have spent this money that I spent here digging up those bodies and getting them out of there and putting two houses back there. I decided not to do that and to keep the land preserved the way it is now and let other people know about it, come see it, come look at the whole aspect of what I'm trying to build on this property to preserve what has been forgotten about to this point. Because up until this point, these fields have been potted and taken and removed off the property and is now gone forever. Since day one, we've stopped that. SHPO loved us for doing that, and they're on our side 100% on what we're trying to do at this location. Thank you.

Jeremy Havens: To address Mr. Krahulik's specific comment and question with respect to the necessity of the uses that are being proposed as being necessary for the historic preservation of the property. Mr. Stack was at an event with me earlier today for the placemaking conference, and the Orange County Historian was the keynote speaker there.

One of the topics that's being discussed is the severe limitation on financial resources for historic preservation, the fact that the state no longer provides any kind of financial resources for historic preservation, and every historic preservation location is struggling to find any kind of resources. And the question is, how do you draw a crowd and pay the staff to educate the public with respect to an ancient Indian burial ground and camp that's over 10,000 years old if you don't have some other kind of draw to bring people there? The eating and drinking establishment is a principle draw that will bring people so that they can get people onto the property on a day-to-day basis and then be able to show them the museum space that they're going to have, educate the public, show people the camp space where the Indians used to set up their camp 10,000 years ago and so forth. Without the eating and drinking establishment, they're not going to have the capacity or the financial wherewithal to provide the educational elements related to the historic nature of the property and the museum space that they want to create. It is the financial generator and the public generator to get people to come to the property so that they can teach them more about how unique this property is and why it's registered on both the state and national historical register.

Chairman Astorino: Thank you. Okay, any further comments from the board at this point? I just want to do a quick review with the board on this and see where we are. Vicki, I think your comments were spot on as far as where we are. As far as the traffic, does any board members have any comments on the traffic? I think the traffic study was done. I think it meets the requirements of what we're looking for. Ms. Barca, Is that correct?

Laura Barca: That is correct.

Chairman Astorino: As far as the noise, I have another question to you to the board. Any comments on the noise at this point? Ms. Barca, does it meet the requirements?

Laura Barca: It meets the requirements of SEQRA and the Town.

Chairman Astorino: Okay. Now, so that's the two issues. We did hear some issues, and I agree with the Morgiewicz' s You have to have access. They have been running a business for 100 years. We do understand that. So, as I sit here, this is my opinion, not

the board's opinion. I believe we asked the applicant to do a lot of things. The neighbors came forward, which is absolutely why we're here this evening going through this so diligently, and the last time. We asked them to do studies. The studies meet the requirements. That's a fact. With the comments this evening, they have to have access. I personally don't feel you should have to go to an attorney. I think between two men, that should be worked out. You need access. They need access somewhere, somehow. If we need to put it on a site plan to prove that, that's fine. To the residents that are here, and again, this is my opinion, you will never have more control of this. If they stayed the way they were, you don't even have the teeth to enforce it. They are a farm market under 4,000 square feet, and now making the applicant do all of these steps gives some teeth to a site plan. You now have a site plan that can be enforced. If the rest of the board wants to chime in, chime in. I've sat on this board for 24 years, and we've seen many projects come forward, and we do exactly the same thing. They have as a right to do this as a special use permit that has to be renewed yearly. Is that correct Mr. Krahulik for the farm market?

Bob Krahulik: Yes. For the farm market aspect of the approval.

Chairman Astorino: If the farm market has to have a special event permit, it has to be re-approved every year not by this board. If there are violations or serious violations, that does not have to be re-approved. That is a safeguard. Do any board members have something to say right now? We had discussed the music on the deck. The facts are the facts here. We asked applicants to do something. Our professionals reviewed them. Vicki, you made a very valid point this evening. You have X number of parking spaces shown on that plan. That's what you have. That is there. Mr. McConnell, with the noise, made a lot of sense. That's why we have this board. Any other questions from this board?

Mr. Showalter: Just get it right with the neighbors. That's it. You've got a great thing.

Chairman Astorino: This board can't force a treaty between an applicant and the neighbors. I agree with you. Trust me. I think you're all close-knit out there. I truly do. To Mr. Showalter's point, there doesn't need to be issues. It needs to be handled. I personally think that we asked that applicant to do everything and they did it. If there's any other question about that, speak now, gentlemen and ladies? Other than that, do we have any other questions, comments from our professionals? Let the record show not further comment from our professionals. Thank you.

Ms. Garby: I just want to make it crystal clear that what we are approving is not what happened on Saturday. We are approving something that will make it better for the neighbors and still allow the applicant to do what he's applied for.

Chairman Astorino: I feel the applicant has met the requirements. They will be monitored, and there will be teeth to this. I think that's your point. Do we have a motion for the Negative Declaration?

Ms. Garby makes a motion for adopting the Part 3 EAF and the Negative Declaration.

Seconded by Mr. McConnell. The following Resolution was carried 5-Ayes and 0-Nays and 0-Absent.

617.12(b)

State Environmental Quality Review (SEQR)

Resolution Adopting Part 3 and Negative Declaration

Name of Action: Black Walnut Creek

Whereas, the Town of Warwick Planning Board is the SEQR Lead Agency for environmental review of a site plan and special use permit application for the use and construction of a farm market over 4,000 square feet, museum village, and eating and drinking establishment, on a lot identified on the Town of Warwick Tax Map as Section 4, Block 1, Lot 2.46, located at 6 Sodrick Lane, Town of Warwick, Orange County, New York; and

Whereas, on or around August 20, 2025, the Planning Board classified the action as Type 1 and commenced coordinated SEQR review by distributing a Lead Agency Notice of Intent to all identified involved agencies; and

Whereas, on or around October 15, 2025, the Planning Board assumed lead agency status and adopted a Part 2 Full Environmental Assessment Form (FEAF) that identified several areas of potential moderate or large impact; and

Whereas, on or around March 18, 2026 the Planning Board amended the Part 2 FEAF identifying noise and traffic impacts during special events as additional areas of potential moderate or large impact; and

Whereas, the Board has reviewed a draft FEAF Part 3 prepared by the Town Planner dated September 11, 2026, which provides an assessment of the likely magnitude of impacts, geographic scope of impacts, duration of impacts, probability of impacts occurring, number of people affected, and other environmental consequences of the action.

Now Therefore Be It Resolved, that the Planning Board adopts the draft FEAF Part 3 as prepared by the Town Planner, finding that it adequately addresses the impacts identified in the amended Part 2 FEAF; and

Be It Further Resolved, that based on the Part 3 FEAF and other relevant project submissions, the Planning Board hereby adopts a Negative Declaration of Environmental Significance, finding that significant adverse environmental impacts are unlikely and that an Environmental Impact Statement shall not be prepared; 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, including filing of the Negative Declaration and publishing notice in the Environmental Notice Bulletin.

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

Seconded by Mr. Kennedy. Motion carried; 5-Ayes and 0-Nays and 0-Absent.

Mr. McConnell makes a motion to waive Surveyor to certify that iron rods have been set to all property corners subject to the Town Engineer's specifications.

Seconded by Mr. Kennedy. Motion carried; 5-Ayes and 0-Nays and 0-Absent.

Ms. Garby makes a motion on the Black Walnut Creek application, granted conditional Site Plan Approval and Special Use Permit (VOTE 5-0-0) for the use and construction for commercial agriculture farm market over 4,000 s.f., museum village, and eating and drinking establishment, situated on tax parcel SBL #4-1-2.46; project located on the northern side of Van Sickle Road 375± feet north of intersection at Pulaski Highway (13 Van Sickle Road a/k/a 6 Sodrick Lane), in the AI zone, of the Town of Warwick, County of Orange, State of New York. A SEQRA Part 3 and Negative Declaration was adopted on September 16, 2026. Approval is granted subject to Town's Professionals review of the following conditions and the approval of the special use permit is deemed by the Planning Board to be necessary of the preservation of the historic resources:

1. TW Building Department: 06/09/25 - 2 additions on barn require a permit, accessory structure requires a permit, maintain clear exterior walkways, fire inspection required, pending septic from 2022.
2. OCDPW: 09/15/26 granted conditional approval for project; applicant will need satisfy conditions to obtain a permit.
3. Add a note to the plans: Approval granted pursuant to Town Law §280(a) for access from a non-public road (Sodrick Lane).
4. Update Parking Requirements Table. Architectural states that "Museum" occupancy is 10 people, but Parking Requirements Table states the "Museum" occupancy is 5 people. Employee parking should be incorporated into the parking analysis.
5. Applicant to provide a signage and circulation plan to explicitly show proposed circulation of vehicles ingressing and egressing from the site. Supplemental messages and signage should be added to deter vehicles from ingressing/ egressing out of the parking lot onto Van Sickle Road. Applicant should also add ''No Parking Anytime'' signage on both sides of the roadway along the cul-de-sac of Sodrick Lane to prevent vehicles visiting the site from parking along Sodrick Lane, for when parking demand surpasses supply.
6. Applicant should add callouts to the plans (C-101) to clarify the ground cover of the parking lot, between the ADA and non-ADA parking spaces. Spots elevations and specific slopes to be added at accessible routes, ramp transitions, and building entrances.
7. Applicant to provide grading in Civil plans to show compliance with ADA requirements. Spots elevations and specific slopes to be added at accessible routes, ramp transitions, and building entrances
8. Not enough detail has been provided to demonstrate that the handrail compliances with ADA requirements; this may present comments during building department review.
9. Applicant to provide documentation of the 911 address change to 6 Sodrick Lane.
10. A traffic report and follow-up calculations were prepared by Creighton Manning. Please add a note to the plans: Based on the completed traffic analysis for both typical operations and special event conditions, the traffic study concluded that traffic impacts on Pulaski Highway and Sodrick Lane would be minimal, with only minor slowing, yielding, and turning movements expected. There are no anticipated significant adverse effects on overall traffic flow or operations. The owner must implement traffic control measures to ensure traffic does not back up onto C.R. 6 (Pulaski Highway) and there is no parking on Sodrick Lane.
11. A noise study and follow-up calculations were prepared by Tim Miller Associates, Inc. Please add this statement to Sheet 1, General Note #20: Based on the revised Table 5 submitted to Tim Miller Associates, the indoor/outdoor speaker acoustic performance will be capped at 71.2 dBA

at 50-ft. from the speaker (source of source). Additionally, the Applicant agreed to a restaurant background music level of 5 dBA less than the noise study allowed or 66.2 dBA.

12. On Sheet 1, delete Special Use Conditions notes (22) & (103).
13. Provide a map note stating that "No construction or proposed use shall begin until the maps are signed by the Planning Board Chairman and Building Department permits are obtained." Sheet 1, Note 13.
14. Surveyor to certify that iron rods have been set at all property corners. (Waived to Town PB Engineer's specifications)
15. The liber and page for aquifer protection, agricultural projection, and biodiversity notes must be added to the plans.
16. A performance bond may be required if damage occurs during construction to Sodrick Lane (private road).
17. Applicant to post a Landscaping Bond, as well the associated site inspection fees.
18. Payment of all fees.

Seconded by Mr. McConnnell. Motion carried; 5-Ayes and 0-Nays and 0-Absent.

Jeremy Havens: Thank you.

Review of Submitted Maps:

UrbanXtracts Phase 2

Application for Site Plan Approval and Special Use Permit for the use and construction of Cannabis Manufacturing & Distribution, situated on tax parcel SBL #46-1-51.2; project located on the southern side of John Hicks Drive 100 feet west of State School Road (41 & 43 John Hicks Drive), in the OI zone, of the Town of Warwick. The PB deemed the application as a Type 1 Action on 9/18/25 and Recirculated to the following Involved/Interested Agencies, NYS Cannabis Management, OCDOH, & OCPL (Interested). The PB adopted the Part 2 EAF on 12/17/25.

Representing the Applicant. Eric Roggee, Engineer.

The following review comments submitted by HDR:

Comment #1: Planning Board to discuss SEQRA.

Max Stach: So, the board adopted a Part 2 EAF. The applicant submitted a Part 3. Did that come in?

Eric Rogge: No. I have it with me. I reached out. I didn't hear back yesterday. I wasn't sure if I should bring it or upload it?

Max Stach: So, I wouldn't have been able to review it before tonight anyway. I would say if you're confident in it, submit it. If you were rushing it and you want to take a couple more days to get it just right, take that time. Our next submission deadline is when, Connie?

Connie Sardo: October 14th is the next submission deadline.

Max Stach: Oh, okay. So, you know, this is the more complete something you get me, the more likely I will be able to submit some quick revisions and then recommend a Negative Declaration. That would be up to you. Once you submit it, I will review it.

Eric Rogge: Okay.

Comment #2: Applicant to discuss project.

Eric Rogge: It's been a while since we've been here. Last December, I think, we were last here. We had to sort out the wetlands permitting and the SHPO.

Chairman Astorino: That's what you explained to us at the work session. There were some extensive comments from SHPO.

Eric Rogge: Yes.

Chairman Astorino: Now you're back to us. Laura, are these comments the same from the previous ones? There's quite a few of them. We understand you are working on them. I'm not going to go through them each one. If there's anything you'd like to discuss, bring it up

now. I think we're at the point we can set you for a public hearing next to the available agenda. We then would go from there. Are there any comments you'd like to discuss?

Eric Rogge: There are a lot of them. I didn't get a chance to go through all of them.

Chairman Astorino: Listen, it doesn't have to be. They need to be addressed. If there's any concerns, please contact our engineer, planner, or attorney.

Eric Rogge: Okay. There are two things I'd like to discuss, at least. There were the water and sewer usage and the parking calculations. That's all on the plan, without the existing and proposed. There was a question if there were shared parking. It's one parcel with four buildings that all share the parking on the parcel. And that's all shown on the plan. It's an overall parking plan. That's the best way to show it. The water and sewer usage, we used water bills from the existing facility, the lab, and the manufacturing facility, estimated their usage, and we added in our projected usage. So that's all on the plans.

Chairman Astorino: Are you aware that the town has a newly constituted Architectural Review Board? Maybe you're not. Provide the architectural renderings to our secretary to be distributed to the ARB. Connie, can you provide them to the ARB.

Connie Sardo: Yes. I need some hard copies.

Chairman Astorino: Thank you.

Connie Sardo: Send me 6 copies of the renderings.

Eric Rogge: Okay. We're working on another revision that we're planning to send.

Chairman Astorino: Wait until you know you're close.

Eric Rogge: Okay.

Connie Sardo: When you're ready, e-mail me and submit hard copies.

Eric Rogge: Okay:

Max Stach: I wanted to make sure it was in the applicant's attention. Actually, also, Connie, there were two comments in my memo. It's not to do with SEQRA. One is that we got a comment back from Orange County Planning on our lead agency coordination request. I don't know that we ever got anything back on our GML 239 request? I don't know if it was ever sent?

Connie Sardo: It was sent for a GML.

Max Stach: Was it sent for both?
Connie Sardo: Yes.

Max Stach: Did we ever get anything back from them on the GML?

Connie Sardo: If I did, it would be uploaded on the portal.

Max Stach: Okay. In regards to lighting, there was one comment on my memo. It was a detail. It's just you gave us cut slips that show LED lighting, but you didn't give us exactly which fixture you're using. The cut slips have a whole bunch of options. You can do this wattage, that wattage. And then on the plan, it actually shows metal pally fixtures.

Eric Rogge: Okay. Well, we have lighting schedule on the plans that shows that. On the lighting sheets, it shows you Pikachu and all the different parts. The lighting probe, the color temperature. That's all specified on the lighting schedule, the exact color.

Max Stach: Okay. I'll take another look.

Eric Rogge: I verified that. I also added a note on there. I haven't submitted it yet. It was Confirming 3,000.

Max Stach: Okay. You had seen the comment. Is that correct?

Eric Rogge: Yes, I saw the comment.

Max Stach: Great. Thank you.

Chairman Astorino: Okay. We will list Comment #3 through Comment #44 for the record. Do any Board members or Professionals have any comments or concerns. Let the record show no comment from the board and professional. Would the applicant request to be set for a public hearing for the next available agenda?

Eric Rogge: Yes.

Mr. McConnell makes a motion to Set the UrbanXtracts Phase 2 application for a Public hearing for the next available agenda.

Seconded by Mr. Kennedy. Motion carried; 5-Ayes and 0-Nays and 0-Absent.

Chairman Astorino: Once you resubmit and if everything is ready, we will have a public hearing.

Eric Rogge: Okay. Will it be the next meeting?

Chairman Astorino: No, I sorted it out. There's a lot of comments. I would say get all of your ducks in a row.

Laura Barca: You'll need to be done with SHPO first before a public hearing.

Eric Rogge: Do we have to be done with SHPO?

Chairman Astorino: Yes.

Eric Rogge: Okay.

Chairman Astorino: We can't take action until SHPO is done. It is an outside the agency. You will also have to meet with the ARB with your renderings.

Connie Sardo: Eric, just keep in contact with me by email.

Eric Rogge: Okay. Thank you.

Comment #3: Conservation Board – no comments received
Comment #4: Architectural Review Board – no comments received
Comment #5: TW Building Department – 12/19/25 – open permit, greenhouses and fence, expires 05/22/26, open permit for interior renovations, expires 06/30/26, onsite fire inspection required.
Comment #6: OC Planning Department – 10/15/25 environmental – bats, water usage/recycling, farm worker housing
Comment #7: OCDOH – 08/28/25 Migrant Labor Housing application requirements met, tour of facility by OCDOH after renovations needed to grant Worker Housing Permit.
Comment #8: NYS OPRHP – pending
Comment #9: Office of Cannabis Management Copies of three licenses submitted for Adult Use – Cultivator, Processor, and Distributor.
Comment #10: Applicant to verify the total (temporary and permanent) disturbance to state-regulated wetlands and adjacent area is under 0.1 acre to qualify for the NYSDEC Wetlands GP.
Comment #11: Sheet 1 of 14, Accessory Storage Notes. Please clarify what materials are proposed to be stored on the property.
Comment #12: Sheet 1 of 14, the Manufacturing Notes include a statement that "Odors that occur due to the agricultural use will be typical for an agricultural district." Applicant to clarify what this statement means.
Comment #13: Applicant to clarify if hazardous materials, such as lead and/or asbestos are expected to be present. If present, Applicant to propose plan to remediate.
Comment #14: Sheet 2 of 14 Demolition Note 1 states: "Building/structure to be demolished are shown for reference purposes only and are not to be demolished." Applicant to clarify this statement.
Comment #15: Applicant to review Sheet 2 of 14 Demolition Notes to ensure that they are consistent with SHPO requirements.
Comment #16: Sheet 2, the barn between the two greenhouses indicates that there is a septic system; applicant to clarify the size and use of this septic system.
Comment #17: Applicant to clarify how products will be stored and how ventilation process will work for products. Applicant to provide an in-depth explanation of storages process, what ventilation products will be used, and callout on plans where products should be stored. Provide further description of HVAC systems for indoor cannabis manufacturing and packaging buildings. Provide room list with pressure relationships along with indoor filtration and exhaust filtration requirements. Provide description of where exhaust air will be discharged to outdoors and what type of exhaust fans will be used. The application proposes greenhouse exhaust fans for temperature control without describing how odor transmission to the outdoors will be mitigated. Propose a filtration strategy for air exhausted from the greenhouses to outdoors if necessary to comply with Town of Warwick Zoning Law §164-48 and NYS OCM 9 NYCRR §125-1(a)(1). Applicant should expand in more detail on HVAC system functionality, including a room-by-room pressure diagram with airflow quantities, show on plans where odors will be discharged, manufacturer specifications for filtration equipment, including HEPA

filtration and UV-C systems, and any other odor-mitigation systems or devices. Applicant should also clarify if exhaust air will be treated prior to being discharged outside.
Comment #18: Sheet 3, Applicant to provide the fall zone of the cell tower.
Comment #19: Sheet 3 should clarify what is existing and what is proposed.
Comment #20: Sheet 3, all features on the plan must be labeled (i.e., the brick paver area, second outdoor staging area, and railroad-looking feature to the north of the staff accommodations building). Some of these features appear to be labeled on Sheet 4.
Comment #21: Sheet 3 indicates that two green houses are existing and four additional green houses are under separate permit. Please clarify the status of these four additional green houses.
Comment #22: Sheet 4, please provide detail for artificial ivy screening fence inserts.
Comment #23: Sheet 5 indicates that there are 166 parking spaces. Applicant to clarify if any of these are shared parking spaces with other uses on adjacent properties.
Comment #24: Sheet 6 shows water and wastewater usage. These numbers should be shown for existing and proposed water and wastewater uses.
Comment #25: Sheet 7, Applicant to clarify if the surface covering between the two outdoor garden storage areas is the proposed construction entrance material.
Comment #26: Sheet 7, the Limit of Disturbance is 3.6 acres. Please confirm that the SWPPP prepared in in accordance with NYSDEC GP-0-20-001 requirements and Town of Warwick §164-47.10 Stormwater Management.
Comment #27: Sheet 8, please clarify if the proposed construction entrance goes all the way around the un-labeled green area and leads to the four proposed green houses.
Comment #28: Sheet 8, applicant to clarify the solid gray colored surface covering and if it is existing or proposed.
Comment #29: Sheet 11 shows two roadway cross-sections (standard and heavy-duty). Applicant to shown on the plans where each cross-section is proposed to be used.
Comment #30: Sheet 11, the dumpster detail should be revised to show a human door on the side so that the large doors do not need to be opened to throw away one bag of trash.
Comment #31: Sheet 11, dumpster note 2 should indicate the color of paint or stain on the plans.
Comment #32: Sheet 12, shows a roof leader connection detail. Applicant to clarify where these roof leaders are on the drawings, where the drain is going, and the location where the stormwater is being deposited.
Comment #33: Sheet 12, shows a catch basin detail. Applicant to clarify the need for the 12" sump in the bottom (mosquitoes are the concern).
Comment #34: Sheet 13, concrete washout detail is shown. The concrete washout location(s) should be shown on the Erosion Control Plans.
Comment #35: Sheet 13, retaining wall details are shown, the locations, including top of wall and bottom of wall should be shown on the grading plan.
Comment #36: Sheet 13, the Temporary Tree Protection Detail should note that trees should be protected to (at least) the dripline. Trees requiring this project, should be called out on the grading plan.
Comment #37: Sheet 14, the truck turning analysis should state the type/size of truck, as well as the frequency of the truck traffic.
Comment #38: Planting Schedule should include size at planting, Town Code defines tree planting as minimum is 1 1/2" caliper, with §164-43.2A(7) noting one canopy tree of 3" caliper. Tree planting sizes do not meet Town Code standards for container or B&B sizes. Please adjust.
Comment #39: There seems to be plants at the base of each post of the trellis. Please confirm how plants are to be planted where these posts are located in impervious areas

(sidewalk/patio). If plants are to be located at the base of each post, provide a detail on where and how that is to be accomplished. Provide minimum and maximum size for proposed pots (Sheet CD-3 Trellis Planting Detail).
Comment #40: Update Solid Waste Facility note to reference §164-46 J(136), rather than §164-46 J(134).
Comment #41: A copy of each easement referenced in the drawing set should be provided (Sheet 3).
Comment #42: Any required declarations must be added to the plan.
Comment #43: A Landscaping Bond as well as the associated site inspection fee must be posted.
Comment #44: Payment of all fees.

Ciummo Site Plan

Application for Site Plan approval for the use and construction of a proposed single-family dwelling to be moved from the original approved house location that is located within the RL-O zone, situated on tax parcel S 43 B 1 L 70; project located at 97 Pine Island Tpke., in the SL zone of the Town of Warwick

Representing the Applicant: Brian Friedler from Friedler Engineering.

The following review comments submitted by HDR:

Comment #1: Planning Board to discuss SEQR.

Max Stach: This is a Type 2 action pursuant to 6 NYCR 617.5 C11 construction or expansion of a single-family, two-family, three-family residence on an approved lot including provision of necessary utility connections. The planning board may enter determination of the record by motion to vote. No further SEQRA action is required.

Chairman Astorino: Thank you.

Comment #2: Applicant to discuss project.

Brian Friedler: The applicant is proposing to move the house approximately 475 feet south from the original approved location. The new location is a little bit higher and has better views for him to overlook his farm. That's what he's looking at to do. We got Orange County DPW approval for the new driveway. We've done soil tests. We've submitted a site plan to the Building Department. They have their engineers review everything. We are in front of the Planning Board to try to get the house location approved.

Chairman Astorino: Okay. We discussed at the work session to do a line-of-sight.

Brian Friedler: Yes.

Chairman Astorino: You are going higher, so let's see what they show us.

Brian Friedler: It's going to be a single-story house. That's not a problem to do.

Chairman Astorino: Okay, Let's see the line-of-sight. I believe we talked about doing a site visit. When would the board like to do a site visit.? Let's discuss it. Brian, we will e-mail you with a date. We will need to get back to you.
Brian Friedler: Okay.

Mr. McConnell: Would it make sense to even plan it before he's had a chance to look at the site?

Chairman Astorino: That's a very good point. Let's get the line-of-sight done. That would give us something to look at.

Brian Friedler: I can get that done.

Mr. Showalter: Ben, I did drive by it the other day. Somebody has a marking with some stakes.

Mr. Ciummo: We did the mark out.

Chairman Astorino: Maybe at the height that the house is going to be at the tallest point, the day we do it, float a balloon or something. Then we can look at it and say this is where it is.

Brian Friedler: Okay.

Chairman Astorino: Connie will get an e-mail us. We will figure out a date.

Brian Friedler: Okay. Could we be set for a public hearing? I don't see a problem to set this for a public hearing.

Mr. McConnell makes a motion to Set the Ciummo Site Plan application for a Public Hearing for the next available agenda.

Seconded by Ms. Garby. Motion carried; 5-Ayes and 0-Nays and 0-Absent.

Chairman Astorino: We will list Comment #3 through Comment #17 for the record.

Brian Friedler: I have one more question. Regarding the witnessing of the soil test, is that something that I can request to be waived since we've already done it?

Chairman Astorino: Is the septic in the same location?

Brian Fredler: No. It is up on the hill.

Chairman Astorino: You are before the planning board. You are going to need to have it witnessed.

Brian Friedler: Okay.

Chairman Astorino: That's my opinion.

Mr. Showalter: I agree.

Chairman Astorino: Mr. Krahulik, what is your opinion?

Bob Krahulik: It's more of an engineering question.

Laura Barca: Yes. It's a policy question.

Chairman Astorino: Yes. It would need to be witnessed.

Brian Friedler: Okay. Thank you.

Chairman Astorino: Brian, once we get the date set for the site visit, we will notify you by email.

Brian Friedler: Okay. Sounds good. Thank you.

Comment #3: Conservation Board – no comments received
Comment #4: Architectural Review Board – no comments received
Comment #5: OC Planning Department – pending comments
Comment #6: TW Building Department – 09/01/26 no violations
Comment #7: OCDPW – 02/11/26 – approval of driveway granted for same location as shown on this site plan.
Comment #8: Planning Board to determine if need a site inspection.
Comment #9: The soil testing for the proposed septic system must be witnessed by the planning board engineer.
Comment #10: The application currently consists of two separate Site submissions. The applicant should consolidate the Site Plan and Grading & Utility Plan into one plan set for their next submittal.
Comment #11: Applicant to submit the site plan and special use application checklist.
Comment #12: Include 911 address on site plans.
Comment #13: Provide a map note stating that "No construction or proposed use shall begin until the maps are signed by the Planning Board Chairman and Building Department permits are obtained." Sheet 1, Map Note.
Comment #14: The surveyor must sign and seal the plan because metes and bounds are included on the drawings.
Comment #15: Surveyor to certify that iron rods have been set at all property corners.
Comment #16: Please add the declaration information for the Ridgeline Overlay and Agricultural Notes to the plan.
Comment #17: Payment of all fees.

FS Holdings LLC

Application for Site Plan Approval & Special Use Permit for the use and construction of the expansion of the existing agricultural processing use, including a proposed 16,308 s.f. addition to the existing 13,580 s.f. building, situated on tax parcels SBL #2-2-30 and SBL # 2-2-11; project located at 18 Greenview Lane, in the AI/SL zones, of the Town of Warwick. The PB deemed the application as a Type 2 Action on 4/15/26.

Representing the Applicant: Paul Baum, Applicant's Attorney. Pat Brady, Applicant's Engineer.

The following review comments submitted by HDR:

Comment #1: Planning Board to discuss SEQR.

Chairman Astorino: It's a Type 2 Action. Max, is that correct?

Max Stach: No.

Chairman Astorino: Why does it say that in the project description?

Connie Sardo: The board deemed it a Type 2 Action at the Planning Board meeting of April 15,2026.

Max Stach: So, going back, we called this originally a Type 2 because at the time we thought it might qualify as a farm operation. Upon further investigation, it was determined that there is no on-site farm operation and therefore it was no longer eligible. I have prepared a resolution for your consideration tonight that would notify your Intent To Declare Lead Agency to the Orange County Department of Health and the New York State DEC. The applicant has provided a revised SEAF Part 1 as requested. I have verified that it is in order. After that resolution, Connie can go ahead and mail that out. Additionally, I have identified a couple of areas of potential environmental impact. Based on that Part 1, historic and archaeological resources, wetlands, endangered species, construction within a floodplain, stormwater runoff. I would suggest that it's in the resolution that you provide a draft Part 3. I would consider that and make any changes before recommending something to the board. If you agree that this should be an Unlisted Action, you can adopt that resolution tonight.

Paul Baum: Just one question. Why DOH?

Max Stach: We read on the plan that you are relocating the subsurface disposal system.

Paul Baum: Yes. But I'm under the impression it doesn't need Health department approval. It would be reviewed and approved by the town. It's a commercial facility. It's not a residential use and it's under 1,000 gallons. So, it doesn't need Health Department approval.

Laura Barca: I believe that to be correct. The only thing that would take it to the Health Department is that this property previously had a septic that was reviewed and approved by the health department. Which I don't think it has, but we could double check that.

Paul Baum: I guess you could send to do them?

Pat Brady: My only other question was do we need to do a coordinated review?

Max Stach: It was my understanding that you have those species, wetlands and bats that we would send it to DEC and additionally for the stormwater, where you would need a SWPPP.

Paul Baum: We're under the requirements. The species is the bats, which is Orange County. You put a note stating no trees cut at such time. I don't think there's anything that triggers it.

Pat Brady: We'll respond to that in part three. I'm just wondering if we need to do the coordinated review.

Max Stach: We do things by resolution here. I prepare a coordinated review resolution.

Paul Baum: It doesn't really add much time. I really don't have any objection.

Mr. Astorino: I think it is the best way to move forward.

Mr. Kennedy makes a motion for Reclassifying Action as Unlisted and Noticing Intent to Assume Lead Agency Status.

Seconded by Mr. Kennedy. The following Resolution was carried 5-Ayes and 0-Nays and 0-Absent.

State Environmental Quality Review (SEQR)

Resolution Reclassifying Action as Unlisted and Noticing Intent to Assume Lead Agency Status,

Name of Action: FS Holdings LLC

Whereas, the Town of Warwick Planning Board is in receipt of an application for site plan and special use permit approval for the construction of a proposed 16,000 SF addition to a 13,580 SF agricultural processing/warehouse facility, on Town of Warwick tax lots 2-2-30 and 2-2-11, located at 18 Greenview Lane; and

Whereas, a Short Environmental Assessment Form (SEAF) was submitted by the project sponsor, dated January 29, 2026, but has since become obsolete due to the

New York State Department of Environmental Conservation's (DEC) promulgation of new SEQR rules requiring the use of newly released SEAF forms; and

Whereas, the Planning Board has identified the following potential involved agencies for the proposed action:

- New York State Department of Environmental Conservation (potential wetlands, potential endangered species takings, SPDES Permit); and
- Orange County Department of Health (relocation of subsurface disposal system); and

Whereas, on April 15, 2026, the Planning Board previously had classified the proposed action as Type 2 pursuant to 6 NYCRR 617.5(c)(4), "agricultural farm management practices, including construction, maintenance and repair of farm buildings and structures, and land use changes consistent with generally accepted principles of farming"; and

Whereas, upon further review, the Planning Board has determined that the proposal cannot be categorized as farm management practices and is therefore an "Unlisted Action."

Now, Therefore Be It Resolved, that the Planning Board hereby rescinds its previous determination that the action is classified as "Type 2," and instead preliminarily classifies the action as "Unlisted;" and

Be It Further Resolved, that, upon the applicant's submission of a revised SEAF Part 1 and the Town Planner's verification that the revised SEAF Part 1 is adequate, the Planning Board Secretary is hereby directed to mail copies of the attached lead agency notice, the revised SEAF Part 1, and the application to all above-listed involved agencies.

Comment #2: Applicant to discuss project.

Paul Baum: Since we were last here, the applicant has agreed to remove the mobile home structures. Not seeking any approval for that. The project is just for the warehouse addition for onion processing of 16,000 square feet.

Chairman Astorino: Okay.

Paul Baum: We're not proposing any other physical changes to the site. That's it.

Chairman Astorino: Bob, did you look into the driveway notice on this?

Bob Krahulik: Was I going to do that or were you going to do that?

Paul Baum: You wanted a copy of the deed and the map. I have the map. I'm just waiting for a copy of the deed. And then I'll send those over to you.

Bob Krahulik: Okay. Mr. Chairman, it is under investigation.

Chairman Astorino: Okay. Thank you. These comments we have, would you like to discuss any of them? They're pretty straightforward. If not, I'm going to list them for the record. Then we can set you for a public hearing for the next available agenda.

Paul Baum: The only items I would comment on are items 15, 16, and 17. We are requesting waivers on the landscaping plan on the buffer. It is an established site. it's next to an adjacent civil processing plant. I know you were concerned about the residents.

Chairman Astorino: The only thing I'll say with that is that is fine. But let's have the public hearing and soon as we go. I'm not going to remove those comments. We'll discuss them and see where we're at.

Paul Baum: No objection.

Chairman Astorino: Would you request to be set for a public hearing for the next available agenda?

Paul Baum: Yes.

Mr. McConnell makes a motion to Set the FS Holdings, LLC/18 Greenview Lane Site Plan and Special Use Permit application for the next available agenda.

Seconded by Mr. Kennedy. Motion carried; 5-Ayes and 0-Nays and 0-Absent.

Chairman Astorino: We will list Comment #3 through Comment #25 for the record.

Paul Baum: Thank you.

Comment #3: Conservation Board – no comments received
Comment #4: Architectural Review Board – no comments received
Comment #5: OC Planning Department – 03/06/26 no advisory comments
Comment #6: TW Building Department – 03/13/26 violation for 1 mobile home with unknown number of bedrooms. Owner will remove both trailers from the property.

Comment #7: Applicant to consider combining lots 2-2-11 and 2-2-30 together; separately, 2-2-11 is not buildable. Applicant agreed to consolidate the two lots with the Town Assessor.

Comment #8: There appears to be an encroachment of the driveway onto the adjacent property of Now or formerly Labanowski (no SBL shown for property, 2-2-9.3). Applicant states this is a pre-existing condition; proposing no change at this time.

Comment #9: The Applicant is proposing to remove the temporary storage structure and the two residential trailers located on site. Please add a note to the site plan stating when the trailers will be removed from the property (prior to Certificate of Occupancy of warehouse expansion); please modify General Note 10.

Comment #10: Some of the septic system components are labeled TBR, please clarify if this means that the component is To Be Removed. This note should be revised to state that all septic system components to be removed will be removed in accordance with DOH requirements.

Comment #11: All applicable Town of Warwick Standard Notes should be added to the plans. Applicant to include Town of Warwick Overlay Protection Districts Table, aquifer overlay notes, utilities note, limit of disturbance (in SF and acres) and lighting note.

Comment #12: The existing septic tank under the building expansion should be relocated or replaced. The existing or proposed septic pipe to the building must be shown.

Comment #13: The soil testing associated with the proposed septic system must be witnessed by the Planning Board Engineer's office. (Scheduled for 09/18/26.)

Comment #14: Applicant must update the plan with 911 addresses. 911 address should be added to general notes.

Comment #15: § 164-46J(97) In addition to the landscaping required as a screen against adjacent residential districts, and in addition to that required in parking areas, a minimum area equal to 1/3 of the first 50,000 square feet of building coverage, plus 20% of the square footage in excess of 50,000 square feet, shall be devoted to aesthetic landscaping enhancing such areas as outer courtyards, building perimeters and major vehicular entrances and exits. Such landscaping and planting plan shall be consistent with the Town's Design Standards. Solar panels shall be adequately screened from adjacent properties to minimize views, taking into consideration the need for southern exposure.

Comment #16: § 164-46J(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 on an adjoining lot.

Comment #17: Please add a planting schedule to the plan (botanical name, common name, and size) and a planting detail for all proposed landscaping and grass onsite.

Comment #18: Applicant to update plans to show 4 employees (and no residents) and approximately 20 spaces with 1 required ADA parking space. Please add a note to the plan stating that if additional parking spaces are needed or used, the appropriate number of ADA spaces must be provided.

Comment #19: Applicant to revise the Soil Erosion and Sediment Control Plan (Sheet L-3.0) to indicate the total limits of disturbance in acres and ensure all proposed disturbance areas are included within the limits of disturbance, including any driveway improvements or paving work.

Comment #20: Applicant to explain the 20-ft wide right-of-way for a driveway. Applicant to clarify if there is a filed documents in the Orange County Clerk's office. Please update the drawing with the information included in the response cover letter.

Comment #21: Provide a map note stating that "No construction or proposed use shall begin until the maps are signed by the Planning Board Chairman and Building Department permits are obtained." Sheet 1, Note 12.

Comment #22: The declaration information for applicable Town of Warwick Standard Notes must be added to the plans after the notes have been filed in the Orange County Clerk's Office.

Comment #23: The surveyor must sign and seal the plan.

Comment #24: Surveyor to certify that iron rods have been set at all property corners. The Town of Warwick standard form must be signed the surveyor.

Comment #25: Payment of all fees.

Tiedemann Castle 14 Lake Shore Rd.

Application for Site Plan Approval & Special Use Permit plus an Application for Sketch Plat Review of a proposed 3-Lot Lot Line Change, for the use and construction of Installation of a new expanding sewage disposal system, reconstruction of existing bulkheads, Demolition of the existing boathouse and construction of a new boathouse, Construction of a four-Bedroom addition to the house located at SBL #75-1-37, Construction of a seven-bedroom addition to the main house located at SBL #75-1-38, Addition to the caretaker house, Construction of a new pickle ball/basketball court, Reconfiguration of the existing lagoon, Installation of new driveways, curbing, and associated landscaping, and a proposed new pool located at SBL # 75-1-37 all located within "A Designated Protection Area of Greenwood Lake, situated on tax parcels SBL # 75-1-37, 38, and 40; project located at 14 Lake Shore Road, in the SM zone, of the Town of Warwick. Previously discussed at the PB Meeting of 3/18/26. ZBA Variances granted on 7/27/26.

Representing the Applicant: Johb Ziobro, Applicant's Attorney. Brian Friedler from Friedler Engineering.

The following review comments submitted by HDR:

Comment #1: Planning Board to discuss SEQRA.

Max Stach: The planning board has previously determined that based on the applicant's description of the project, that this is a Type 2 Action, granting of individual setback and lot line variances and adjustments, and construction or expansion of a single-family, two-family, or three-family residence on an approved lot, including provisions of necessary utility collections.

Chairman Astorino: Thank you.

Comment #2: Applicant to discuss project.

John Ziobro: In essence, we're going to be taking what we call the guest house, which has one bedroom to five bedrooms, the main house, the castle, from five bedrooms to ten bedrooms. So that's the basics of what we're doing. Everything else is to support that, plus we're still waiting for DEC approval on the lagoon issue, the bulkheads and those things. Any type of approval that we have, we would request it to be subject to DEC approval.

Chairman Astorino: We will wait for NYSDEC approval.

Comment #3: Conservation Board – no comments received

Comment #4: Architectural Review Board – no comments received

Chairman Astorino: As I said previously, there is the ARB has been reconstituted in the town of Warwick, so when the architectural get to Connie, we will get to that point.

John Ziobro: When do we schedule that meeting?

Chairman Astorino: They have their own scheduled. Just get the architectural into us.

Connie Sardo: You would need to email them to me. I would then send them to the ARB.

Chairman Astorino: They will notify you.

Comment #5: OC Planning Department – pending
Comment #6: TW Building Department – 01/08/26 need updated maintenance contract for septic system.

John Ziobro: The septic system is being totally redone.

Chairman Astorino: I believe this is a three-year pump-out in Greenwood Lake.

John Ziobro: Ok. We have to make sure we provide proof that it's been pumped out in the last three years.

Comment #7: ZBA: Applicant to clarify what ZBA variances are being requested. (ZBA variances were granted)

Chairman Astorino: You will need to show that on the plans.

John Ziobro: Yes.

Comment #8: NYSDEC/USACE: Applicant should be aware that any shoreline additions/improvements within 50 feet of Greenwood Lake (Class B) may be subject to NYSDEC Article 15.
Comment #9: Applicant shall clarify the extent of proposed filling within the lagoon and identify the specific portions of the lagoon that have been authorized by the State for fill. The limits of disturbance and fill areas should be clearly depicted in the site plans.

John Ziobro: Yes.

Chairman Astorino: You are still waiting to hear from the DEC.

John Ziobro: Yes.

Comment #10: NYSDOT: confirm if any permits and approval are required.

John Ziobro: That would be a question for Brian.

Comment #11: OCDOH/NYSDEC?: A septic plan must be prepared and submitted that accommodates all existing and proposed wastewater.

Brian Friedler: . We have a septic plan. We submitted it a while ago. I can resubmit it. The DEC also has a copy of that. Orange County Department of Health should not be

involved because we're meeting all the required separations, so it would be just a DEC because it's going to be over 1,000 gallons a day.

Chairman Astorino: Okay.

Comment #12: Applicant to include approved 911 address on the site plans.
Comment #13: The Town of Warwick Standard Notes must be added to the plan.

John Ziobro: Yes.

Comment #14: Applicant shall include a note stating that both buildings, larger home and guesthouse/lakehouse will be utilized for short-term rental (Airbnb) use.

John Ziobro: Brian, that note has to be on the plans.

Brian Friedler: Okay.

Comment #15: Stormwater Management Plan not included in SWPPP appendices or other submitted documents. Note to be added to either Stormwater Management Plan or Site Plan regarding NYSDEC SPDES general permitting.
Comment #16: Recommend identifying locations of water supply curb boxes, water lines and any other know valves and fading color of existing improvements.

Brian Friedler: Okay.

Comment #17: Applicant to include bulk zoning table and show setback distances for all buildings (on the three lots).
Comment #18: Property owners within 300-ft of this property must be added to the plan.

John Ziobro: Okay.

Comment #19: The existing and proposed use for each building/structure/feature should be shown, including the number of existing/proposed bedrooms.
Comment #20: Applicant to provide a SWPPP, in compliance with 164-47.10 Stormwater from town code.
Comment #21: The limits of disturbance must be shown on the plan, as well as the area of disturbance (in sf and acres).
Comment #22: Recommended identifying erosion control measures on the Erosion Control Plan, and adding a Legend.
Comment #23: Remove erroneous arrows throughout the plans.
Comment #24: Recommended to fade color of existing improvements, to allow more clarity for proposed improvements.

John Ziobro: Okay.

Comment #25: Applicant should provide more detail for grading within pickleball court. Please clarify if 30' x 60' is intended to be flat, or if it will be sloped in one direction. Retaining wall details have been provided.

Brian Friedler: Okay.

Comment #26: Include proposed grading spot shots and contours at driveway realignment near proposed boathouse. Applicant should add more spot shots for clarity. Proposed contours across the site should be included, as well.

John Ziobro: Okay.

Comment #27: Include FFE of all proposed structures. For clarity, provide FFE for all proposed structures within building footprint or with a callout.

Brian Friedler: Okay.

Comment #28: Surveyor to certify that iron rods have been set at all property corners.

John Ziobro: Okay.

Comment #29: The surveyor must sign and seal the plan because metes and bounds are included on the drawings.

Brian Friedler: Okay.

Comment #30: Provide a map note stating that "No construction or proposed use shall begin until the maps are signed by the Planning Board Chairman and Building Department permits are obtained." (Gdanski, plan).
Comment #31: Applicant to provide an existing shared driveway use and maintenance agreement or prepare new documents for attorney review.
Comment #32: Any applicable performance bond and/or landscape bond and associated site inspection fees shall be provided.
Comment #33: Payment of all fees.

Brian Friedler: Okay.

Chairman Astorino: Okay. I'm going to add a couple more comments here. We will add a Comment #34. We talked about at the work session a traffic plan for this. We mentioned the Airbnb here. You're having events here. The planning board would like to see a traffic plan, some sort of traffic study on how the flow of traffic is going to be. You should get with our engineer and get a scope of work together.

John Zobro: Okay.

Chairman Astorino: We need to add a Comment #35. We discussed drainage to be done on Lakeshore Road between the town and the applicant to take care of some water issues. That should be done with our engineer, myself, the applicant. Let's figure out how that would be shown on the plans.

John Ziobro: Is that going to require a site visit?

Chairman Astorino: It probably won't be a full board site visit. We should get out there with your people and our people to lay out what that's going to be. We did meet with the

state at one point. I know I talked about this at the work session. They're going to do some work on the state highway, but this is independent of that.

John Ziobro: Do you want to have the contact information of Mr. Bertussi? I can give it to you guys for coordinating so that I don't have to be involved.

Chairman Astorino: I think we all know how to get in touch with each other.

John Ziobro: Okay.

Laura Barca: Mr. Chairman, I just want to clarify. Is that drainage connected to the site plan, or is it separate?

Chairman Astorino: It's connected to the site plan.

Laura Barca: Ok.

Chairman Astorino: Do any Board members or professionals have any comments or concerns at this point?

Mr. McConnell: I wasn't able to make the site visit, but I'm a little confused with some of the language I'm seeing here with reference to short-term rentals. How many structures are there that have bedrooms in them?

John Ziobro: There are two buildings.

Mr. McConnell: Okay. Our planner has written, and this may be his mistake that's just confusing me. Our understanding, the applicant intends to rent the principal structure to friends and or family only when not in use as a residence. And then it also says upon verification by the applicant that it is not seeking to rent the principal structure to the general public.

John Ziobro: That has changed.

Chairman Astorino: I think at the work session there was a discussion of that. That's why that note here.

Mr. McConnell: Which of those two statements is accurate?

Chairman Astorino: It's going to be available for Airbnb.

John Ziobro: What we plan to do, the five-bedroom building that's closer to the lake will have substantially more Airbnb. It still does get used by their family members, but that one will be an Airbnb on a pretty standard basis. The castle is a unique building that's going to have ten bedrooms. There will be occasional Airbnb use on that one. We don't anticipate it to be nearly to the level, because A, he uses the castle a lot more for himself, especially throughout the summer. But there will be occasional. We're going to follow all of the town laws. You're allowed to have two residents per bedroom. The ten-bedroom place is allowed to have 20. The five-bedroom would have a maximum of 10.

Mr. McConnell: There is a possibility of 30 people renting on any given weekend?

John Ziobro: Yes.

Chairman Astorino: That's exactly why we want a notice.

Mr. McConnell: It is Something to be discussed.

Chairman Astorino: Yes.

John Ziobro: We have 15 bedrooms; the maximum would be 30 people.

Mr. McConnell: Okay. Thank you.

Max Stach: This is salient and important, because the basis for which you previously determined this was a Type 2 Action is because it is principally a residence, a single-family residence, and not a commercial use. I think with this new information the planning board has to consider if it still thinks that this is principally a single-family home, or if it believes this is something besides that? If it's no longer a single-family home, it's no longer Type 2 Action, and the applicant needs to pursue the SEQRA process as an Unlisted Action. Second, at some point, I remember there was a reach-out to the Orange County Department of Health, because the approval of overnight accommodations is considered a Type 1 Action under SEQRA. I believe that the feedback we got from Orange County Department of Health is as long as the property is not advertised for sale, it does not need a permit from the Department of Health. I know that we had discussed this recently.

Laura Barca: I'm waiting for a return call back from the Health Department on that.

John Ziobro: We had that topic of the ZBA. There was a determination of the ZBA. That question came up as to whether or not it was residential or commercial? The ZBA, all five members said it was residential. We have it right here in the resolution of the ZBA. It says here, is the proposed principal use of the proposed principal building on lot number 38 a residential use or commercial use, the ZBA determined it was residential.

Max Stach: It has to be determined that it's a one-family, two-family, or three-family residential?

John Ziobro: It's one family because we had this exact same discussion with the ZBA. It has to be rented to one family. You're not going to be having two people because there's no interlocking doors, there's no doors inside the building where you can't go to another place of the building. So, you're going to have to find somebody who has 20 people that want to pay the fee to have up to 20 people there. But it would be one rental agreement for all 20 people. There's not going to be 10 different rentals to 10 different people. They all could use the kitchen. So, because of the way we were planning on doing it, we don't want to have a hotel, you don't want to have a motel, you don't want to have, you know, two people. That's why we were thinking the main house is not going to be Airbnb all that much because we're agreeing for it to be as a one residential house.

Max Stach: I would say that if the zoning board, which is the only board that's authorized to interpret it differently than the building inspector, has made that determination, that would govern you all. Meaning you're bound by their determination that this is, in fact, a one-family residential. If they've made a determination, I would still say, however, the Department of Health says we need a permit for overnight accommodations, that kicks you into Type 1 Action. We need to get that feedback from the Department of Health.

John Ziobro: Okay. I will undertake the contact with the Department of Health. Do you know who I contact over there?

Laura Barca: I can do it. I've already asked the question. I'm waiting for a call back.

John Ziobro: Ms. Mulcahy. She is our local agent for the Airbnb.

Lisa Mulcahy. My company is Upstate Lux. I'm currently managing the guest house for Airbnb rental. And I just want to make the point that this property is no different than any other short-term rental in the town of Warwick. It's just at a larger scale. There are two separate houses that are separate tax parcels. There's no reason why it should be designated any different than any other short-term rental. I don't think there's any other short-term rental in the town of Warwick that's been designated commercial.

Chairman Astorino: We didn't designate it commercial. I don't think anybody said that. I think we're before the Town of Warwick planning board. We are going to handle it as we see fit going forward. You're before us, as I said at the work session. If this is going to be Airbnb, it will be on the plans. It will be done that way. Many of the other projects that you manage are not before the planning board. So this one is. This is how we're going to go forward.

John Ziobro: We could even put other plans. There will be one contract per house.

Chairman Astorino: I agree. Max, could you look into that to make sure everything is correct? I agree with that comment. I think a map note stating that as a site plan that it can just be this or that eliminates. But I don't know.

Max Stach: I think it's very simple. It is when Laura brings this up with the Orange County Department of Health, if they say we don't need a permit, that settles it. If they turn around and say no, we have permitting authority because this is considered as an overnight accommodation. You're going to have to go there for a permit, and it's going to be a Type I Action. That is because that's what the state law says. And this board doesn't have any control or leeway over that.

John Ziobro: Okay. It's in the Orange County's hands.

Chairman Astorino: We will get an answer.

Mr. McConnell: I have another question that I think maybe ties into this. And, again, maybe it's my misunderstanding that's at play here. But, again, with something that our planner wrote about the principal structure, and I'm guessing that's what you're saying is the lake house?

John Ziobro: No.

Mr. McConnell: Is that the castle?

John Ziobro: Yes.

Mr. McConnell It says that so long as room or property rentals are not advertised to the general public, but it goes on to say that it could be to friends and or family. I wonder what's the mechanism for separating the difference between friends and family and general public. It seems like a very vague term.

Chairman Astorino: I'm not so sure that it should mention friends and family. If it's going to be Airbnb, you understand what I'm saying? I get the point here.

Mr. McConnell: Do you understand my confusion?

Chairman Astorino: I do. But I think this document is evolving due to the fact that this has been changed. At first, I think this is what we were told.

Mr. McConnell: Yes. I think it needs to evolve.

Chairman Astorino: So, as this evolves, the document will change. No action is being taken tonight. Let's get some more answers and clear this up. I still think you need to get with Laura about the traffic, what we're going to do with that. That should be started sooner than later and figure out how we're going to go forward with the scope on that also. As far as this Airbnb, we need an answer from the Health Department, it sounds like. Laura will get that and provide that back to you. And the drainage we will get together, that's some of the bigger things out there right now. That are left outstanding. And as Dennis had said, we've got to evolve on this document. Correct? Does the board or professionals have any further comments or concerns? Let the record show no further comments from the board or professionals. With that being said, we'll get with the applicants, set up these meetings and get out there, and then we'll go from there. Have a good evening.

John Ziobro: Would we be able to be set for a public hearing?

Chairman Astorino: I personally would like to see some more on the traffic and stuff before we set it for a public hearing, if you don't mind. We don't have one thing on that yet. I personally think it's premature for that. Let's get some of that stuff into us first.

John Ziobro: Okay. When's the next meeting?

Chairman Astorino: I don't know. You will need to make a resubmittal to the board for review first.

John Ziobro: Okay. Thank you.

Other Considerations:

1. Planning Board Minutes of 9/2/26 for PB approval. (Approved).

   Mr. Kennedy makes a motion to approve the PB Minutes of 9/2/26.

   Seconded by Ms. Garby. Motion carried; 5-Ayes and 0-Nays and 0-Absent.

Correspondences:

1. Received Email correspondence from Alan & Mary Held, dated 8/28/26 in regards to Ciummo 97 Pine Island Tpke. Site Plan application.
2. Received email correspondences from Heidi Carnevali dated 9/7/26 & 9/13/26 in regards to Black Walnut Creek 6 Sodrick Lane.
3. Received email correspondence from Philip & Renee Liberti dated 9/13/26 in regards to Black Walnut Creek 6 Sodrick Lane.
4. Received Hard Copy of correspondence from Renee Liberti, dated 9/16/26 in regards to Black Walnut Creek 6 Sodrick Ln.
5. Received email correspondence from Dominick Savino dated 9/15/26 in regards to Tiedemann Castle 14 Lake Shore Rd.
6. Received email correspondence from Michael Vele dated 9/16/26 in regards to Tiedemann Castle 14 Lake Shore Road.
7. Received correspondence from Robert Kowal addressed to Town Board dated 9/16/26 in regards to Tiedemann Castle.

   Chairman Astorino: The correspondences are listed for the record.

Privilege Of The Floor For Agenda Items!!

Chairman 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 further public comment.

Mr. McConnell makes a motion to adjourn the Planning Board Meeting of September 16, 2026.

Seconded by Mr. Kennedy. Motion carried; 5-Ayes and 0-Nays and 0-Absent.