

Town of Clarence
One Town Place, Clarence, NY 14031
Planning Board Minutes
Wednesday July 20, 2022

Work Session 6:30 pm

Status of SEQR Coordinated Reviews
Review of Agenda Items
Miscellaneous

Agenda Items 7:00 pm

Approval of Minutes

Item 1

Dominic Piestrak
Residential Single Family

Requests Concept Plan approval of a proposed 40 lot Open Space Design Subdivision located on the south side of Clarence Center Road, east of Herr Road, SBL 58.00-3-15.11.

Item 2

Jeffery Palumbo – Cannon Woods
Residential Single Family

Requests Development Plan approval of a conceptually approved 40 lot Open Space Design Subdivision located on the north side of Roll Road, east of Thompson Road, SBL 58.10-3-14.

Item 3

David Linneborn – DC Supply Inc.
Industrial Business Park

Requests recommendation of a Temporary Conditional Permit to the Town Board for an erosion control manufacturing business operation at 9220 County Road.

Chairman Robert Sackett called the meeting to order at 7:00 p.m.

Councilman Shear led the Pledge of Allegiance.

Planning Board Members present:

Chairman Robert Sackett
2nd Vice-Chair Wendy Salvati
Patrick Johnson

Vice-Chair Richard Bigler
Jason Geasling
Jason Lahti

Planning Board Members absent:

Gregory Todaro

Town Officials Present:

Director of Community Development Jonathan Bleuer
 Junior Planner Andrew Schaefer
 Councilman Paul Shear
 Deputy Town Attorney Steven Bengart

Other Interested Parties Present:

David Linneborn	Jim Blum	Katie Giansante	Mark Lozinak
Sue Lozinak	Susan Volpe	Roger Kieffer	Bill Barben
Emily Stoll	John Siejak	Brandon Seifert	Mike Messuro
Rebecca Sherry	Pam Koss	Sandra Benzee	Tom Benzee
Robert Dickinson	Holly Hansel	Jeff Barbeau	Bob Weber Jr.
Ralph G. Schaller	Dorothy B. Schaller	Susan Lee	Rick Royal
Myra Dunning	Gail Berger	Kevin Lee	Karen Tober
Keith Tober	Cheryl Varble	Cheryl Hufnagel	Paul Hufnagel
James Varble	Karen Keller	Timothy M. Keller	Michel A. Druar
Chris Greene	Charlie Greene	Dominic Piestrak	Eric Sobczynski

Motion by Wendy Salvati, seconded by Richard Bigler to **approve** the minutes of the meeting held on July 6, 2022, as written.

Jason Lahti	Aye	Patrick Johnson	Aye	Jason Geasling	Aye
Wendy Salvati	Aye	Richard Bigler	Aye	Robert Sackett	Aye

MOTION CARRIED

Item 1

Dominic Piestrak
 Residential Single Family

Requests Concept Plan approval of a proposed 40 lot Open Space Design Subdivision located on the south side of Clarence Center Road, east of Herr Road, SBL 58.00-3-15.11.

DISCUSSION:

Located on the south side of Clarence Center Road, east of Herr Road, this is an existing vacant parcel containing approximately 21 associated acres in the Residential Single-Family zone and Clarence Sewer District # 2.

The applicant is requesting Concept Plan approval of a 40 lot Open Space Design subdivision, with access to Clarence Center Road and Kamner Drive. Of the approximately 21 acres associated with this proposal, approximately 11.5 acres are proposed to be preserved as permanent open space, and protected by a conservation easement.

A coordinated review among involved and interested parties was commenced by the Planning Board in February of 2019. Since that time, the applicant has further refined the proposal based on comment received.

The Planning Board has authority to consider this request, after an action through the State Environmental Quality Review Act.

Present and representing the applicant is Ken Zollitsch of GPI. Mr. Zollitsch noted that gaining Concept level approval is the first step of many towards full engineering design, and moving towards construction.

The project includes both public and private streets. The public roadway will connect to Clarence Center Road, then over to Kamner Drive. The private roads will be located to the south, creating a loop around the back.

Mr. Zollitsch stated that this is a different type of style and approach than what has become expected, it is geared more towards a traditional neighborhood feel. The front porches of these proposed homes face the center court with a sidewalk located in the middle, and garages located in the rear of each home, on the private drive.

Many updates and changes have been made to this project since its inception in 2012, many of the issues concerning State Environmental Quality Review Act, that have been resolved.

Mr. Zollitsch added that an extensive preliminary grading and drainage analysis has been conducted with the Town of Clarence's Engineering Department.

Mr. Zollitsch noted the additional reviews that need to be done if Concept Plan approval is granted.

Mr. Lahti asked Mr. Zollitsch if the private access road as shown on the grading and drainage plan will be one-way. Mr. Zollitsch responded, stating yes with the exception of a few areas that will be two-way. The driveways are limited to 20 ft., and if there was two-way access, they would need to enlarge them to 26 ft. with no street parking. They are trying to keep the footprint of the development as tight as possible, in order to help maintain the 70+ ft. buffer that lies between their proposed project, and any of the adjacent properties.

Mr. Lahti referred to the drawing, specifically the parking spaces on the east side. They appear to be facing the wrong direction on a one-way street. Mr. Zollitsch responded that they will have that corrected so that it flows with the one-way direction of the street.

Mr. Lahti stated that in the drawings, it appears that the sidewalk ends in lot 1 and does not continue on to Clarence Center Rd., and asked Mr. Zollitsch if that is correct. Mr. Zollitsch stated that as part of this proposed project, they are proposing a recreational trail on the east side of the property. This trail will run to Clarence Center Rd., and it is his understanding that eventually the Town of Clarence will connect it to the trail system on the north side of Clarence Center Road.

Mr. Lahti asked if the connecting road between this proposed development and Kamner Drive will match up in terms of width. Mr. Zollitsch responded that the new roads will adhere to the Town's standards, which includes curbing.

Chairman Sackett asked Mr. Zollitsch if the pavement on the road connecting to Kamner Drive match the pavement on Kamner Drive. Mr. Zollitsch responded that as with any new development, there may

be a transition area, and they will most likely extend on to Kamner Dr. in order to assist with the transition.

Discussion continued regarding the asphalt and pavement width of Kamner Dr.

Chairman Sackett asked Mr. Zollitsch if he would be willing to stipulate that they will match the blacktop width. Mr. Zollitsch stated that he is not comfortable committing to that without having complete information.

Further discussion regarding the width of the pavement ensued.

Mr. Bengart asked if Mr. Zollitsch would agree to a stipulation that states that they agree to match what is required by the Town of Clarence Highway Department. Mr. Zollitsch stated yes, they are willing to work with the Highway Department to meet the requirements.

Chairman Sackett asked Mr. Zollitsch if he'd be willing to agree to extend the sidewalk to Clarence Center Road, as a public improvement to Clarence Center. Mr. Zollitsch spoke on behalf of Mr. Piestrak, stating that yes, they agree to extending the sidewalk to Clarence Center Road.

Mr. Geasling asked in reference to the 75 ft. buffer, if it is to the road, or to the parking spaces. Mr. Zollitsch responded that it is to the parking spaces.

Mr. Lahti stated that he has reviewed the project file and the history of the proposal, including the previous meeting minutes, including comments received from residents including but not limited to:

Vince Salvatore, Mike Powers, Phyllis Witchurch, Paul Huffnagel, Dave Spaw, Rita Grabowski, Bill Richmond, Ann McGreevy, Mark Lozinak, Ralph Shaulbert, Charlie Haskill, Amy Ernst, Linda Mosher, Susan Lee, and Kevin Lee.

Some issues raised previously by these individuals include concerns regarding community character, that the proposed development does not fit in Clarence Center, project density and number of units, the connection to Kamner Drive and additional traffic that it will bring, wetlands, drainage and stormwater runoff, sewer capacity, open space buffer, wildlife, the obstructed views that it will cause, archaeological concerns as well as concerns regarding Gypsum mines and underground ammunition. Additionally, some individuals previously claimed that the project site was originally included in the Spaulding Green Subdivision, which would exceed the approved number of lots.

Mr. Lahti noted that all of the previously stated concerns were taken in to consideration, and the applicant was asked to provide additional information in order to respond and / or correct the concerns.

Since the start of the State Environmental Quality Review Act process, all relevant agencies have provided comments on the issues as well. Mr. Lahti stated that the results of the investigation on many of these issues are included in Part 3 of the Environmental Assessment Form. This information is available on the Town of Clarence's website under the supporting documents of the agenda for tonight's meeting.

Mr. Lahti noted that the board welcomes those in attendance at tonight's meeting to share their concerns, specifically if it is regarding a new issue or additional evidence showing that this proposed project would be detrimental. Mr. Lahti added that if it is necessary to voice concerns regarding issues

that are already in the record you may, but it is not necessary because they have been previously addressed.

Mrs. Salvati asked Mr. Zollitsch to provide an update in their process of the recreational trail that they are installing.

Mr. Zollitsch responded that for this section of trail, which runs from Clarence Center Road to what will eventually be the extension of Rosecroft, they have not advanced. They have been working with the Department of Environmental Conservation (DEC) and the wetland agencies on the section that runs from Meadowglen to Rosecroft. They do not want to cause any unnecessary delays, so they are taking their time and weighing their options on the remaining section.

Mrs. Salvati stated that it is expected the applicant will have the necessary permits ready once it comes time for development approval.

Mr. Bleuer noted that while the applicant has stated that they have not advanced at all with the wetland plans and the trail, he has personally been part of meetings with the DEC Army Corp of Engineers regarding the overall trail network. The regulatory agencies are aware of the connectivity requirements of the trail. Mr. Bleuer added that they are reviewing the overall network and trail itself, even though it hasn't had development plan review.

Mr. Geasling asked where the new road comes out, in relation to the existing road. Mr. Zollitsch responded that he is not completely sure how many feet off they are, but he believes an approximate would be at least 3 ft. away, closer to 4 ft.

Mr. Lahti noted that included in the project file for this proposed project, there is a Traffic Impact Study that was updated in 2016 to account for this property.

Chairman Sackett added that Clarence Center Road is a county road, which the Town of Clarence does not have authority over.

Chairman Sackett reiterated that this request is only for concept approval, not final development approval. Engineering tends to make multiple changes throughout the concept stage before reaching development approval.

In regards to Public Participation, the following residents spoke:

1. Vince Salvatore of 9725 Clarence Center Road:

- Previous concerns regarding the density of this project have not been addressed, there are still too many homes planned.
- In regards to his property, Mr. Salvatore stated that it appears the buffer has shrunk from the last plans that were presented, especially on the southeast corner of his property.
- Mr. Salvatore asked what the size of the buffer is from the east and south of his property.
- Mr. Salvatore asked if the applicant would consider the previous iteration which showed plans to add some greenery in the buffer zones.

2. Karen Tober of 9705 Clarence Center Road:

- She and her husband have resided in their home for 2.5 years, moved there for the charm of Clarence Center and the unique ambiance it provides.
- The proposed plan does not keep with the current vibe of the area.
- Every underdeveloped parcel does not need to be looked at with an eye for development. If it is developed, it does not need to be packed full.
- She has read the accompanying materials for this project, which are found on the website, and it was not clear to her what has been updated since 2019.
- 2019 is a long time ago in terms of changes in a community.
- There seems to be a couple of developments in progress that are adjacent to the wetlands.
- Capacity of the sewer lines. During a heavy rain, Clarence Center is already overloaded and the wash basins have to try to keep up with it.
- Traffic is currently an issue, they have a school, places of worship, recreation facility and merchants. There is a lot of traffic now, as well as speeding and a lack of enforcement of speeding.
- She does not understand how a community of 40 homes with 2 cars per home, which is an additional 80 cars on the street, won't impact the traffic and speeding issues.

3. Susan Lee of 5901 Kamner Drive:

- Ms. Lee referred to several areas which she feels represents her concerns with the proposed project.
- Concerns regarding the “village powers the board may connect ordinances to regulate public, health, safety, and welfare” she does not feel that this proposed project represents this.
- The design guidelines from Clarence Center states that the Clarence Center Overlay also coincides with the underlying problems.
- If you look at 5.1 purpose and intent paragraph A it refers to the community as a Hamlet style area with mixed uses set in a historical content.
- Maintain and improve the traffic conditions and walkability as development and redevelopment take place.
- Concern with a 4-way stop sign, and if it can be replaced with a traffic signal.
- Between sites 17 and 18 there is an open driveway there with no house, yet there are plans for a walkway.
- Kamner Drive meets Creekview Drive, which comes out to Clarence Center. Why can a road not come out between lots 17 and 18, connecting in to already sturdy roads that can handle traffic. This would protect the citizens of Clarence Center as well as protect the hamlet.

4. Kevin Lee of 5901 Kamner Drive:

- Moved in 4 years ago, loved the area, upset with the development.
- If the road from Kamner Drive will be used for all traffic or only emergency vehicles.
- Why this section was not preserved as greenspace, especially because it is in close proximity to the village.
- It's a shame to dig this area up, it is beautiful and filled with wildlife.

5. Eric Sobczynski of 5891 Kamner Drive:

- Has two small children, concerns regarding pedestrian safety. He is teaching his children how to ride a bike, and plans to walk his kids to school via Kamner Drive. He would be apprehensive to do so if a new road is built in there.

- Would like to know if there is a possibility of having sidewalks installed in case Kamner Drive becomes busier with the proposed subdivision. He'd appreciate a safe place to teach his kids to ride their bicycles and walk to school.
- Concerns with Clarence Center becoming like Amherst in regards to safety and busyness of the roads.
- Spoke of areas in Lancaster where the town made sidewalks mandatory, and wondering if there is anything similar in the Town of Clarence.
- Suggested an emergency toll for emergency access on the roadway.

6. Ralph Schaller of 5921 Kamner Drive:

- Noticed on the plans that the arrows in front of his property point in both directions. Concerned that it means it will be a two-way access in that location at that entrance.
- Would like to know the distance between the thinnest part of the mine roofs that are located underground in this location, and the basements of the proposed homes.

7. Mark Lozinak of 5930 Creekview Drive:

- Kamner Drive runs right in to his house, and the increase in traffic flow will reflect straight in to his living room window.
- Despite what the drawing says, people will use Kamner Drive as an access road. Even if it is designated a one-way street, people will still utilize it out of ease of access.
- This is not the type of project that should go in this area. Single family homes or homes with large lots would be perfect, but not a subdivision crammed with homes.
- This area was supposed to be part of the Spaulding Green subdivision, but was broken off from it so now it's being developed.

8. Holly Hansell of 5911 Kamner Drive

- Has lived in her home for 15 years and has been a New York State Trooper for 21 years.
- Wants to know what will be done about all of the new people moving in to the new subdivision and the local law enforcement.
- Stated that the manpower at the state police is very low and they are struggling to service the calls in the Town of Clarence now let alone adding a subdivision with 2,000 residents.
- She is not here on behalf of the New York State Police, she is here on behalf of her residence at 5911 Kamner Drive.
- With the increased traffic, traffic enforcement is low and they do the best that they can but it is not their main priority.
- Traffic coming in and out of the development would be a crazy amount of traffic that they (New York State Police) couldn't handle.

9. Cheryl Varble at 5900 Creekview Drive:

- Concerned with the connection coming in to Kamner Drive. Learned at an earlier meeting that this is a requirement by the fire company. If that is the case then why can't there be a gate to limit the access to only emergency vehicles.

Public Participation for this portion of the meeting was closed.

Chairman Sackett stated that some of the questions and concerns that have been voiced are addressed in Part 3 of the State Environmental Quality Review Act document, which is available online.

Mr. Zollitsch returned to respond to the questions and address the concerns that have been presented by the residents.

The roadway connection to Kamner Drive as currently shown on the plans, is for it to be a full public street, with two-way access, not limited. Mr. Zollitsch noted that he is unsure if the developer has a preference whether it is gated to limit access to emergency vehicles only, or remains a full public roadway. From a planning perspective, it makes sense to have the connection available for emergency services for both the new development and the existing homes on Kamner Drive and Creekview Road.

Regarding the broad comments on the density and the number of lots as well as the use for the project site, although the proposed homes are intended to look different, it is still a single-family subdivision. They are detached dwellings on a single lot with a single house on each lot.

In terms of the density itself and the 40 lots, this project uses the Open Space Design Development under the Town of Clarence Code. They determined what they can do with the appropriate density that they are on, which is Residential Single-Family zoning. They condense the lots in order to preserve additional open space, which they have done with this proposed project. If they proposed a plan with larger lots, they would not be able to also include a proposal for the 75 ft. buffer as well as other dedicated open space.

The greenspace for this project is completely separate from Spaulding Green, which essentially ends closer to Ransom Creek.

Mr. Zollitsch noted in regards to general traffic concerns, there was nothing identified within the Traffic Report to install a traffic light at Clarence Center Road. The levels were acceptable to maintain the stop sign rather than installing a traffic signal. The traffic study encompassed all of Spaulding Green as well as this project, and also identified that the bulk of the traffic headed south to Main Street. Some of this traffic will travel through Clarence Center, but the bulk of Spaulding Green will not. This will add limited trips during the peak hours.

Referring to Mr. Salvatore's concerns, Mr. Zollitsch stated that there is 70 ft. off of his back property line to the first property line of Lot 40, which is consistent with what the original plans stated.

Mr. Zollitsch added that on the east side of Mr. Salvatore's property where the road connects to Clarence Center Road, it is further down, closer to 8598 Clarence Center Road. Mr. Zollitsch stated that if the road runs closer to his property, they are willing to work with Mr. Salvatore on supplemental landscaping if the right-of-way gets closer.

Mr. Zollitsch noted that as shown previously with other projects, the developer has been willing to work with anyone they need to in order to help reduce any impacts effected from the development.

Referring to the question about extending the road between lots 17 and 18, they do not own the property to the east, it is a gas line that is adjacent to the site. There cannot be any development on that area and while they can technically cross it, they do not own the parcel next to it.

Mr. Zollitsch noted that anything east of this proposed project is intended to remain greenspace with no further development.

As part of the development plan process, review of the sanitary sewer capacity is required. This has been done once with this project previously, but due to the extended time frame it will likely be needed again.

Chairman Sackett stated that this project is in the Single-Family zone, and while owners have a right to develop, they need to meet code. It is the job of the Planning Board to work with the developer to balance several factors.

Chairman Sackett explained that this proposed project has been in front of the Planning Board for many years, and that they have done a lot of work and that the developer has rights as well. Open space is nice to have and look at, but if you do not own it, the owner then has a right to develop it.

Mr. Bleuer addressed the comment regarding gypsum mines, noting that any proposals involving deep excavations associated with a development plan are subject to a hydrogeological and geotechnical evaluation report as required by the Town of Clarence Engineering Department.

Ms. Salvati asked Mr. Zollitsch if he is aware of any mines that go beneath this property. Mr. Zollitsch responded that he is not aware of any that run under the property. He added that it is always challenging to provide the board as much information as possible at a concept level without spending so much on other reports and areas that will be required through development level.

Mr. Johnson asked Mr. Zollitsch if he has any background information as to why someone would ask about underground ammunition associated with this development. Mr. Zollitsch responded no; he is not aware that the site was previously used on its surface for any uses that would lead to underground ammunition.

ACTION:

Motion by Jason Lahti, seconded by Richard Bigler that pursuant to Article 8 of the Environmental Conservation Law, to **accept** the Part 1 Long Environmental Assessment Form as submitted and **approve** the Part 2 & 3 Long Environmental Assessment Form as prepared and to **issue a Negative Declaration** on the proposed Clarence Center Open Space Design Subdivision on the south side of Clarence Center Road, east of Herr Road. This Type I Action involves the development of up to 40 residential single-family lots and associated infrastructure in the Residential Single-Family zone and Clarence Sewer District # 2. After thorough review of the submitted plans, reports, comments, and Environmental Assessment Forms it is determined that the proposed action will not have a significant negative impact on the environment.

Jason Lahti	Aye	Patrick Johnson	Aye	Jason Geasling	Aye
Wendy Salvati	Aye	Richard Bigler	Aye	Robert Sackett	Aye

MOTION CARRIED

Motion by Jason Lahti, seconded by Richard Bigler to **approve the Clarence Center Open Space Design Subdivision** on the south side of Clarence Center Road, east of Herr Road, at SBL # 58.00-3-15.11 as per the submitted concept plan by GPI dated January, 2019 with a final revision date of May 6th, 2019, with the following conditions:

1. Applicant meeting the requirements of the preliminary grading and drainage Town of Clarence Engineering Memo, dated May 19th, 2022, and associated conditions.

2. Applicant meeting the requirements of the preliminary fire code compliance Town of Clarence Building Department Memo, dated May 19th, 2022, and associated conditions.
3. Applicant meeting the requirements of the Town Highway Department.
4. Applicant submitting a landscape plan for review and approval by the Landscape Review Committee, to include a minimum of two double-staked trees per lot, prior to Development Plan approval.
5. All lots shall be developed per the lot data table placed within the development plan set, including but not limited to, basement type, lot grading type, and setbacks.
6. Applicant agreeing to grant and prepare any easements determined to be necessary by the Town of Clarence Engineering Department, based on technical review of a fully engineered Development plan set. Said Easements shall be submitted by the applicant and approved by the Town Engineering, Highway and Legal Departments. If required, Applicant shall file same in the Erie County Clerk's office and provide a "Stamped Filed" copy to the Town Attorney's office after recording.
7. A homeowner's association shall be created by the applicant, and a copy of the bylaws, rules and regulations shall be prepared and submitted to the Planning Office and Town Attorney's Office for review and approval prior to Final Plat approval by the Town Board.
8. A Conservation Easement to permanently protect all identified open space shall be prepared by the applicant and submitted to the Planning Office and Town Attorney's Office for review and approval prior to Final Plat approval by the Town Board. Said Conservation Easement shall be submitted by the applicant for approval by the Legal Department. After review and approval, applicant shall file same in the Erie County Clerk's office and provide a "Stamped Filed" copy to the Town Attorney's office after recording.
9. All Open Space to be permanently monumented via a marker at the perimeter of all adjacent exterior lot lines. Such markers shall be approved by the Planning Office prior to installation, and maintained in perpetuity by the homeowner's association.
10. The buffer open space area from Clarence Center Road and Kamner Drive shall remain in its present and natural state apart from any necessary infrastructure installation and Landscape Committee requirements.
11. Installation of sidewalks, constructed in conformance with ADA standards and as approved by the Town Engineering Department, on both sides of all newly constructed public streets.
12. Installation of a recreational trail, constructed to Town Standard as approved by the Town Engineering Department, to be located on the east side of the subdivision, from Clarence Center Road to Rose Croft Drive, in lieu of recreation fees. Such recreational trail shall be approved by all necessary regulatory agencies prior to issuance of Development Plan approval.
13. No construction vehicles shall access the property through Kamner Drive.
14. Any subdivision signage subject to review and approval by the Sign Review Committee.
15. Subject to Open Space Fees and any other applicable fees as required by Code.

ON THE QUESTION:

Mr. Zollitsch heard, understands, and asked for clarification regarding condition number 11, asking if that states on both sides of both public roadways. Mr. Zollitsch noted that while they have no issue with sidewalks in front of the homes, is it necessary to have them on both sides extending to Clarence Center Road with the open space between Clarence Center and the first lot.

Chairman Sackett stated that it is consistent with conditions for other projects.

Mr. Bengart clarified with Mr. Zollitsch that he agrees to the conditions. Mr. Zollitsch stated yes, he agrees.

Jason Lahti	Aye	Patrick Johnson	Aye	Jason Geasling	Aye
Wendy Salvati	Aye	Richard Bigler	Aye	Robert Sackett	Aye

MOTION CARRIED

Motion by Jason Lahti, seconded by Richard Bigler to **recommend** to the Town Board approval of an Open Space Design Overlay for the Clarence Center Open Space Design Subdivision as per the approved concept plan and associated conditions.

Jason Lahti	Aye	Patrick Johnson	Aye	Jason Geasling	Aye
Wendy Salvati	Aye	Richard Bigler	Aye	Robert Sackett	Aye

MOTION CARRIED

Item 2

Jeffery Palumbo – Cannon Woods Residential Single Family

Requests Development Plan approval of a conceptually approved 40 lot Open Space Design Subdivision located on the north side of Roll Road, east of Thompson Road, SBL 58.10-3-14.

DISCUSSION:

Mr. Bleuer introduced this project, located on the north side of Roll Road, east of Thompson Road. This is an existing vacant parcel containing approximately 34 acres in the Residential Single-Family zone and Clarence Sewer District # 2.

The applicant is requesting Development Plan approval of a 40 lot Open Space Design subdivision, with access to Roll Road and Meriul Lane. Of the approximately 34 acres associated with this proposal, roughly 16.7 acres are proposed to be preserved as permanent open space, and protected by a conservation easement.

The Planning Board issued a Negative Declaration under the State Environmental Quality Review Act and Concept Plan approval in November of 2019. The Town Board issued Open Space Overlay approval in March of 2021. The Landscape Review Committee issued Landscape Plan approval in March of 2022. Finally, the Engineering Department signed off on the final Development Plan in July of 2022.

The Planning Board has authority to consider this request.

The applicant Jeffrey Palumbo, and Jess Sudol with the Engineering firm Passero Associates were present to further explain the request and answer any questions.

Mr. Palumbo stated that this project has been in front of the Planning Board multiple times through the years, and a number of changes have been made as a result of comments received from not only the

Planning Board, but also the residents, as well as all involved and interested agencies through the State Environmental Quality Review process. Some of the changes include:

- They were requested to move the driveway to the west on Roll Road, which they did.
- Removed the retention ponds that were originally located along Roll Road.
- Increased the setback area between the Martha's Vineyard subdivision and their proposed subdivision, at the request of the Planning Department and Planning Board.
- Changed the pump station originally proposed as a private pump station, to a public pump station. This has been approved by all necessary regulating agencies.

Mr. Palumbo addressed the question regarding the relocation of the pump station, and stated that Mr. Sudol will explain the details of a lift station and what it does.

Mr. Sudol explained the lift station and what it entails, noting that past versions of the proposed concept plan for this project did show a proposed pump station behind lot 17. A significant amount of engineering review has been done since then, and it has been determined that the pump station would be a public pump station and not maintained by a homeowner's association. In order to have a public pump station, it needs to be located immediately adjacent to a public right-of-way so that it is easily accessible for maintenance, hence the proposed location at Dorothy Circle.

Mr. Sudol continued to explain a pump station.

Mr. Sudol added that a 6 ft. high white vinyl fence will be placed around the control panel, which will mitigate the view. Mr. Sudol stated that while recognizing the potential to impact the neighboring properties, the configuration has been moved so that it is located off of the back of the sidewalk, immediately adjacent to the proposed right-of-way line. It does not extend in to the backyard of any of the existing homes on Martha's Vineyard.

Mr. Sudol stated that to assure the pump station is screened as heavily as possible, in addition to the fence, there is a thick area of existing vegetation, which they have no plans of disturbing.

Mr. Sudol explained that they are working with the Landscape Committee to provide additional landscaping to fill in some of the areas of sparse vegetation.

Mr. Sudol stated that in terms of noise, vibration, and smell, that the pump station is far enough underground that there are not any noticeable effects for those above ground.

Mr. Palumbo noted the substantial landscaping that they are installing not only around the pump station, but around the perimeter of Martha's Vineyard, and along the right-of-way that connects to Martha's Vineyard, which is not on their property.

Mr. Geasling noted that a letter was received from Brandon and Mary Kate Seifert of 5585 Martha's Vineyard with questions, which Mr. Sudol and Mr. Palumbo have already answered.

Mr. Geasling confirmed with Mr. Palumbo that there is rear yard drainage proposed on each lot, noting concerns that the new development may exacerbate poor drainage issues on existing properties has been taken care of with this. Mr. Palumbo stated that the Town of Clarence Engineering Department

was adamant about the rear drainage for each property, and in addition the 50 ft. buffer between the rear of the properties to the west, and the properties that front Meriul Lane.

Mr. Geasling asked how big the buffer is currently from the lift station to the Martha's Vineyard right-of-way. Mr. Sudol responded that it is 175'.

Mr. Geasling asked what the purpose of the private sanitary easement is. Mr. Sudol stated that the adjacent homeowner whose home is on Thompson Road suggested that while they are installing the trench for their stormwater discharge, that they make provisions to install a small individual, residential scale lift station so that in the future connection to the public sanitary sewer system is accessible.

Mr. Geasling noted that in their details it shows a 10 ft. minimum separation between the sanitary and the water line. Mr. Sudol responded that there is a 10 ft. separation as a standard Health Department requirement. Mr. Geasling noted that it appears to him, according to the utility plans, that on the west side of the road, they are closer than that. Mr. Sudol reiterated that to his recollection, it is 10 ft.

Mr. Geasling asked if they would be agreeable to monument the rear lots in order to maintain the open space and prevent people from attempting to expand their lots. Mr. Sudol asked what type of monumentation they have in mind. Chairman Sackett responded that they would need to work with the Planning Office on the specifics, but generally they ask that it is done with markers.

Mr. Palumbo responded that it is difficult to answer that question, because the builder of the homes is not here and he is unsure whether he'd agree to that or not. Mr. Palumbo asked if it would be just along the conservation area, and not along the west where there is a 50 ft. buffer owned by the resident that gave them the easement to Thompson Road.

Chairman Sackett and Mr. Geasling stated that it pertains to any lot that buffers open space. Mr. Palumbo stated that he has no objection agreeing to the properties that abut the conservation area, but he finds it unnecessary to put it behind the lots that are adjacent to the 50 ft. buffer.

Discussion continued regarding the property line behind the lots.

Mr. Palumbo stated that there is a 50 ft. strip of land that runs behind the lots. Mr. Geasling noted that is a property line. Chairman Sackett noted that they are referring to any space that is part of the Open Space calculation.

Mr. Palumbo agreed to monument the lots that fall under the Open Space area.

In regards to Public Participation, the following residents spoke:

1. Brandon Seifert of 5585 Martha's Vineyard:

- Property is adjacent to the proposed sewer pump station.
- Will everything be cleared up to his property line. He has many large, aged trees that line his property line, that he would like to preserve to act as a natural buffer.
- How will his property be protected when this station is being constructed in its close proximity?

- Will trenching be done all of the way to the lot line of his property? He has a patio and inground pool within 15-25 ft.. How will the trenching and deep excavation affect his property?
 - Density is a concern. He would like the subdivisions to remain distinct from one another to preserve the character and quality of the one that he lives in.
 - Is there an example in the Town of Clarence of a public sewer lift station located within 20 ft. of a homeowner's property that also shows the effects of repairs and maintenance, and how it effects the neighboring properties?
2. Susan Volpe of 5591 Martha's Vineyard:
- Will the preservation of vegetation cover mature trees all the way down, or be limited to just around the pump station?
 - Concerned that the proposed subdivision is trying to become one with Martha's Vineyard. Clearly, they are two different subdivisions.
 - The size of the lots is a big issue also.
3. Rebecca Sherry of 5633 Martha's Vineyard
- Asked about the 200 ft. for new development guidelines, and if the placement of the pumping station falls outside of the 200 ft. rule. Does it apply to the property line or to the pumping station?
 - She would like to know if the vegetation in the slide indicates existing vegetation or new trees to be planted.
 - Because pine trees vary in the quality in how they grow, she requests that a row of pine trees is planted, then some deciduous trees so that in time the bigger trees can cover the top.
4. John Cejak of 9419 Bonnie Fay Drive
- Main concern aside from the pump station located in someone's backyard is that of safety and the increase in traffic through the neighborhood.
 - If possible, blocking the egress off so that it is accessible to emergency vehicles only is a good idea.
5. James Blum of 5509 Martha's Vineyard
- Commented about this subdivision as well as others in town that have open areas with no plan for protected land management.
 - A comprehensive plan of the open space is necessary in order to avoid downgrading of the properties and habitat degradation.

Public Participation for this portion of the meeting was closed.

Mr. Sudol responded to the questions and concerns regarding the trenching and property lines. Mr. Sudol noted that the drawings show the easement line associated with the ** extending to Martha's Vineyard, but there is no construction done at the easement line.

The trenching that will be done is for 4 in. utility lines, which will be very small, and won't come anywhere near an actual property line.

In regards to buffering, the entire area is to maintain the existing vegetation will be protected, with additional landscaping being proposed to provide an array of vegetation and buffering.

Mr. Palumbo stated in regards to managing open space, that there is a Homeowner's Association that will be involved as a self-protecting guide for the homeowners in the subdivision itself. It is to their advantage to protect the open space.

In terms of the emergency access issue, the fire department is not generally fond of putting emergency access barriers up. Mr. Palumbo stated that this has always been intended to be an additional subdivision by evidence of any stub that extends from Martha's Vineyard. The two access points are required, and the emergency access would not be appropriate here.

Mr. Palumbo referred to the concern raised about a 200 ft. requirement that the Town has asked them to comply with, which they have. As indicated earlier the lift station itself was within that area, and is not a violation of the town's ordinance.

Chairman Sackett noted that it is a requirement of the Landscape Committee that landscaping be installed and maintained in perpetuity, Mr. Palumbo agreed.

Mr. Bigler stated that Mr. Palumbo had also indicated that they will fence off the existing landscaping to protect it from construction and construction equipment.

Additionally, Mr. Bigler noted that there is an example of a pump station on Roll Road.

Mr. Bleuer indicated the pump located on Roll Road is also adjacent to a residence, but while the infrastructure of that pump station is similarly located it has more of a utilitarian appearance with a chain link fence. Mr. Bigler added that the pump on Roll Road is located much closer to a house, within 20 ft.

Mrs. Salvati stated that the fencing that will go around this pump will be a screened fence, not open chain link.

Mr. Geasling asked what the maximum depth will be for the 4 in. line open trench. Mr. Sudol responded that a forced main can be installed at a 4 ft. depth all the way around.

ACTION:

Motion by Jason Geasling, seconded by Wendy Salvati to **approve the Development Plan** for the Cannon Woods Open Space Design Subdivision on the north side of Roll Road, east of Thompson Road, at SBL # 58.10-3-14 per the submitted plan set by Passero Associates dated April 2022, with the following conditions:

1. Applicant meeting the requirements of the Town of Clarence Engineering Letter of Approval, dated July 8th, 2022, and associated conditions.
2. Applicant meeting the requirements of the Landscape Committee Approval on March 8th, 2022, and associated conditions, including the installation of two double-staked street trees per lot, landscaping surrounding the pump station, and landscaping buffer on the eastern border of the project site.
3. All required landscaping shall be maintained in perpetuity, and replaced in-kind should there be any death or disease to the plantings.
4. Applicant meeting the requirements of the Town Highway Department.
5. Applicant meeting the conditions of the Town Board Open Space Overlay approval on March 10th, 2021.

6. Subject to Engineering Department approval and necessary permitting prior to any construction on the site.
7. Installation of sidewalks in conformance with ADA standards on both sides of all newly constructed streets, per the approved development plan set.
8. All lots shall be developed per the lot data table found in the approved development plan set, including but not limited to, basement type, lot grading type, and setbacks.
9. No construction vehicles shall access the property through Martha’s Vineyard.
10. The 200’ buffer area from Roll Road shall remain in its present and natural state apart from any necessary infrastructure installation and Landscape Committee requirements.
11. A homeowner’s association shall be created by the applicant, and a copy of the bylaws, rules and regulations shall be prepared and submitted to the Planning Office and Town Attorney’s Office for review and approval prior to Final Plat approval by the Town Board.
12. A Conservation Easement to permanently protect all identified open space shall be prepared by the applicant and submitted to the Planning Office and Town Attorney’s Office for review and approval prior to Final Plat approval by the Town Board. Said Conservation Easement shall be submitted by the applicant for approval by the Legal Department. After review and approval, applicant shall file same in the Erie County Clerk’s office and provide a “Stamped Filed” copy to the Town Attorney’s office after recording.
13. All Open Space to be permanently monumented via a marker at the perimeter of all adjacent exterior lot lines. Such markers shall be approved by the Planning Office prior to installation, and maintained in perpetuity by the homeowner’s association.
14. Any subdivision signage subject to review and approval by the Sign Review Committee.
15. Subject to Open Space Fees, Recreation Fees, and any other applicable fees as required by Code.

ON THE QUESTION:

Mr. Palumbo heard, understands, and agrees to the conditions.

Jason Lahti	Aye	Patrick Johnson	Aye	Jason Geasling	Aye
Wendy Salvati	Aye	Richard Bigler	Aye	Robert Sackett	Aye

MOTION CARRIED

Item 3

David Linneborn – DC Supply Inc.
Industrial Business Park

Requests recommendation of a Temporary Conditional Permit to the Town Board for an erosion control manufacturing business operation at 9220 County Road.

DISCUSSION:

Mr. Bleuer introduced the project, located at 9220 County Road it is an existing 12.25-acre parcel located in the Industrial Business Park zone.

The applicant is requesting a recommendation to the Town Board of a Temporary Conditional Permit for an erosion control manufacturing business operation with outside activity.

The Planning Office witnessed the business operation occurring on the property, and contacted the applicant. After several site visits and meetings, the applicant has submitted a site plan, and has begun to bring the site into order in anticipation of conditions of approval.

The applicant is also developing a Storm Water Pollution Prevention Plan (SWPPP) in consultation with the Town Engineering Department.

The Planning Board is a recommending body for this proposal.

David Linneborn was present to further discuss his request and respond to questions.

Mr. Linneborn added that he has met with the Town of Clarence Engineer to discuss the next steps for the Storm Water Pollution Prevention Plan (SWPPP). The plan that is shown is not what it currently looks like, the berm is being pulled back, they are also working on a lighting plan and stormwater with the same company.

Mr. Johnson noted that when he was at the site, he spoke with Mr. Linneborn and neighbors, and there were a few major issues.

- The unsightly berm
- Exposed earth
- Significant noise from the dump trucks. The neighbors reported Mr. Linneborn had dump trucks dumping asphalt and concrete behind the facility.
- Water runoff, which Mr. Linneborn is working on correcting with the SWPPP.
- Lights – which Mr. Linneborn also indicated he is currently working on.

Mr. Johnson asked Mr. Linneborn in respect to the noise, what is the expected timeline to have that piece completed. Mr. Linneborn responded by at least December, 2022.

Mr. Johnson noted that the expected hours of operations as stated in Mr. Linneborn's application are Monday – Friday 8:00am – 6:00pm and Saturday 8:00am – 2:00pm. Mr. Linneborn agreed, stating that Saturdays are typically a maintenance day, and possibly being open to the public in the future.

Mr. Linneborn stated that they are working with the Landscape Committee to put berms in around the perimeter of the property. The berms will help with the stormwater inside and released in to an approved engineered plan for water runoff.

Chairman Sackett asked if dumping occurs during the hours of operation. Mr. Linneborn responded yes, normally. There may have been a couple of instances where they dumped a bit later, but he generally tries to assure they do not do that.

Mr. Linneborn stated that once they get the berm and staging area established, there should not be any dump trucks dumping back in that area.

Mr. Linneborn stated that he is having official engineered drawings made up.

Mrs. Salvati asked where the exterior lighting is located on the building. Mr. Linneborn responded that in the 20 ft. pole with 2 lights angled 45-degree angle. They are mainly for when it gets dark out early,

and are not currently on. He also has wall packs on three sides of the building. That is all he has for lighting.

Mrs. Salvati asked Mr. Linneborn if he would be willing to screen the wall lighting, Mr. Linneborn responded yes, he is working with the Town and a company to assure that the lighting is sufficient.

Mr. Linneborn stated that he is hoping that the 20 ft. berm will help mitigate the noise and lighting.

Mr. Johnson noted that in photos received from residents, there were two large pieces of metal on the property, and asked Mr. Linneborn what the status of those are. Mr. Linneborn responded that he had some unsecured steel sheeting on the property, and the high winds tossed it in to a ditch. They will be removing it.

Mr. Lahti asked how tall the light pole is. Mr. Linneborn responded that it is 20 ft. tall.

In regards to Public Participation, the following residents spoke:

1. Karen Keller of 9225 Martin Road:

- Mrs. Keller stated that she believes there are red flags, and potential violations that are occurring on the property. Their activities affect her property and all adjacent properties as well.
- The berm is not a berm, it's a mess of soil, wood chips, and other items equate to a gross, awful view that is not managed. Nothing is growing on it, and she questions the proximity to property lines.
- The water that runs off is not being tested, and it should be due to where it runs through.
- Fire is also a concern, as a neighboring company had a fire on their property recently, which exemplifies how berms can spontaneously combust. 99% of the time the wind is blowing in the direction that could potentially send embers to her home.
- Airborne material as a result of the wind direction, causing previously healthy trees and shrubs to die.
- Her yard, porch, and windows are covered in a gritty soot. Her backyard porch hasn't been able to be utilized because of the soot that is covering it.
- The dumping ground is truckload after truckload, creating excessive banging.

2. Tim Keller of 9225 Martin Road:

- There was a horrific industrial accident that occurred recently, and he needed to go help Mr. Linneborn.
- Stated that Mr. Linneborn has always been a very good neighbor, helping neighbors as well.
- Mr. Keller does not want to interfere with the business, but stated that there are things that need to be taken care of.
- Neighborhoods and construction businesses don't mix, but he is pleased to see that many of the concerns are being addressed.

3. Mrs. Koss of 9290 Martin Road:

- Not sure how long Mr. Linneborn has owned the property, but decades ago she asked the Town of Clarence to address the condition of the building on the property, because it was ransacked, and not taken care of. At that time the Town assured her that no permits would be issued

- Can't believe the neighbors that live nearby have to live with such deplorable surroundings caused by the business.
- Unsure of what is being manufactured, but concerned about hazardous smoke, chemicals, or discharges.
- Would like to know what is happening with the water.

Public Participation for this portion of the meeting was closed.

Mr. Linneborn addressed the concerns, noting that the water runoff from a neighbor that ran off, through Mr. Linneborn's property, and in to the ditches. Mr. Linneborn has handled that and has also informed his neighbor that they need to take care of their water issues.

Mr. Linneborn stated that the neighboring business purposely started a brush fire with the intent of cleaning up his brush. The fire wasn't done by any form of natural combustion.

Mr. Linneborn noted that the Town of Clarence did come in and clean the ditch out and added a pipe. There is a temporary stormwater pipe in place now.

Mr. Linneborn stated that that the materials they use are all wood.

The noise will be addressed, and stormwater drained to one area.

Mr. Bigler stated that when there is a berm, there is stormwater retention. The neighbors are concerned about the water runoff from Mr. Linneborn's berm are draining in to their yards. The berm is now large enough that it should not cause those issues.

Discussion continued regarding water issues caused by neighboring businesses.

Mr. Bengart stated that what needs to happen with the SWPPP as well as with any engineering project, is that the water must go from the owner's land and avoid neighbor's properties. The Planning Board can only control what is currently in front of them, which will result in a condition stating that the Engineering Department deal with the water issues.

Chairman Sackett explained that this request is for a one-year Temporary Conditional Permit, and eligible for renewal after one year based on the conditions that the board sets. The Planning Board will make the recommendation to the town Board, who will then issue a permit only for one-year, with review after the one year is up. This is not a thirty-year plan as a resident previously stated.

Mr. Bengart clarified that the initial Temporary Conditional Permit (TCP) is for one year, and it will then be up to the Town Board to issue them thereafter, and may not be in one-year increments. Going forward it could be more than one-year at a time.

ACTION:

Motion by Patrick Johnson, seconded by Wendy Salvati to **recommend issuance of a Temporary Conditional Permit to the Town Board** for an erosion control manufacturing business operation by DC Supply Inc., located at 9220 County Road per the submitted plan stamped received in the Planning Office on June 9th, 2022, subject to the following conditions:

1. Initial permit shall be for a term no greater than one year.
2. Applicant shall comply with any requirements of the Town Engineering Department.
3. Portable toilet to be located within the fenced in area.
4. No outside storage or display in front of the fenced in area visible from County Road.
5. No outside accumulation and storage of garbage, metal debris, unlicensed vehicles, scrap and other similar materials not associated with the erosion control operation outside the building.
6. Any exterior site lighting must be dark sky compliant and shielded to prevent spillage onto adjoining parcels. Lighting shall be turned off at most one hour after operating hours except for necessary security lighting.
7. All site lighting to be dark sky compliant and shielded per Town Code, and no lighting shall shed beyond the property lines.
8. Landscape Committee approval of a final landscape plan, to be submitted by the applicant, prior to Town Board Public Hearing. Landscape Plan to include, but not be limited to, screening of outside yard area from County Road and adjoining parcels.
9. Applicant shall install landscaping and screening features per the approved Landscape Plan within the first year of permit issuance, and prior to consideration of permit renewal.
10. Building, site, landscaping, and screening shall be maintained, in perpetuity, and any deficiencies shall be repaired or replaced.
11. Any future proposed site or building modifications subject to Town review.
12. Hours of operation shall remain consistent with that which was confirmed by the applicant in site plan received in the Town of Clarence Planning Office on June 9, 2022. These hours are Monday thru Friday 8:00 a.m. to 6:00 p.m. and Saturday 8:00 a.m. to 2:00 p.m.
13. Applicant make his best effort to remediate and contain airborne materials from activities conducted on site.

ON THE QUESTION:

Mr. Linneborn has heard, understands, and agrees to these conditions.

ON THE QUESTION:

Mr. Lahti noted that there is no condition related to the Storm Water Pollution Prevention Plan (SWPPP). Chairman Sackett responded that it is condition No. 2 relating to the Town of Clarence Engineering Department.

Mr. Bigler asked about aerial contamination, relating to the neighbors that have a substance that covers their rear property and items. He is unsure whether it is coming from this project but feels it should be addressed.

Mr. Bigler added that if Mr. Linneborn knows where it is coming from, whether his property or elsewhere, it should be addressed.

Mr. Linneborn responded that if they monitor the wind and if it is too windy, they do not grind the wood chips. They do not do it daily, and nothing with a north wind.

Mr. Bengart asked Mr. Linneborn what could be leaving his property and landing on a neighbor's property. Mr. Linneborn responded sawdust, from grinding wood chips. No chemicals, no drywall dust, all of their material is wood.

Mr. Bengart asked if there is anything that can be done to eliminate the sawdust. Mr. Linneborn responded that they will wait for a non-windy day, or water down the area. He will also look in to getting a screen for the grinder which would prevent any sawdust from flying off. Mr. Linneborn stated that they grind once a month, at the front of the property, nothing in the back of the property.

Jason Lahti	Aye	Patrick Johnson	Aye	Jason Geasling	Aye
Wendy Salvati	Aye	Richard Bigler	Aye	Robert Sackett	Aye

MOTION CARRIED.

Meeting **adjourned** at 9:22 p.m. with a motion by Wendy Salvati.

MOTION CARRIED

Amy Major
Senior Clerk Typist