

Approved: March 11, 2021

**TOWN OF KENT PLANNING BOARD**  
**February 11, 2021**

**FINAL ADOPTED MINUTES**

Due to the Corona virus the Planning Board held their February 11, 2021 meeting via Zoom.

Following the Pledge of Allegiance, the meeting was called to order at 7:30 PM by Mr. Phil Tolmach, Chairman of the Town of Kent Planning Board.

The following Planning Board members participated from their respective homes, as did the Planning Board consultants, for the December Monthly meeting via Zoom:

**Planning Board Members**

Philip Tolmach, Chairman  
Giancarlo Gattucci  
Hugo German

Dennis Lowes, Vice Chairman  
Charles Sisto  
Stephen Wilhelm

**Absent:**

Simon Carey  
Jamie McGlasson, Liaison  
Julie Mangarillo  
Chris Ruthven, Liaison  
Bill Walters, Building Inspector

**Others in Attendance:**

John Andrews, Rohde, Soyka & Andrews  
Liz Axelson, Planner  
Bruce Barber, Environmental Consultant

- Mr. Tolmach opened the meeting with the Pledge of Allegiance.
- Mr. Tolmach asked each of the Board members to identify themselves to the audience and state that they were alone in their residences participating in the meeting, which they did.
- Mr. Tolmach asked for a motion to approve the Planning Board minutes from the January 14, 2021 meeting. The motion was made by Stephen Wilhelm and seconded by Dennis Lowes. Following were the roll call votes.

Philip Tolmach, Chairman	<u>Aye</u>
Dennis Lowes	<u>Aye</u>
Simon Carey	<u>Absent</u>
Giancarlo Gattucci	<u>Aye</u>
Hugo German	<u>Aye</u>
Charles Sisto	<u>Aye</u>
Stephen Wilhelm	<u>Aye</u>

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**February 11, 2021**

The motion carried.

- **Sun Property, 3 Westwood Circle, Kent, NY; TM: 19-12-1-20**

Mr. Anthony Pisarri represented Mr. Roger Sun, the owner of the property. Mr. Sun purchased a piece of property next to the one originally purchased and it appears that it would be better suited for construction of the proposed residence. However, Mr. Sun still wants to have the house constructed on the original lot. Mr. Pisarri said that they had contacted a surveyor to verify whether or not a filed map had been done for this sub-division. If a well is higher than a septic system you only require 100' This is why the original lot is preferable. Mr. Pisarri is still going through comments submitted previously,

Mr. Barber's CommentsU (memo attached)

Mr. Barber stated that this project proposed to construct a single-family residence with a well, septic system and driveway on a collective 0.75 acre parcel in an R-80 zoning district. Mr. Barber asked Mr. Pisarro to confirm that the area is on a town maintained road. Ms. Mangarillo informed Mr. Pisarri that it is a town road but its gravel because the DEC is worried about warm water going into the lake and would rather have gravel run into the lake. There are 3 deeds, lot 20 originally acquired and lot 23 purchased after the first and a separate deed with an easement but locate entirely on lot 23. Mr. Barber requested a copy of the easement deed. Mr. Pisarri said he would check into this matter. A note was added that trees can only be cut between November 1 and March 31 of the following year. Comments from January 20, 2021 pertaining to the feasibility study are being worked on by Mr. Pisarri.. Prior to issuance of the CO the two properties would be merged. Mr. Lowes suggested that a title report may be sufficient to clear up the easement. Mr. Sun said that he may have an executed copy and would submit it to the Planning Board.

Mr. Andrew's Comments (memo attached 2/8/21 J. Mangarillo)

Mr. Andrews said that comments on the Feasibility Study needed to be addressed. A narrative in writing is requested. There were issues pertaining to the existing driveway. The last note said that a Public Hearing could be scheduled for the March meeting provided material is submitted in a timely manner by 2/18/21.

- Mr. Tolmach asked for a motion to schedule a Public Hearing for March 11, 2021. The motion was made by Mr. Gattucci and seconded by Mr. Wilhelm. Following were the roll call votes.

Philip Tomah, Chairman	<u>Aye</u>
Dennis Lowes	<u>Aye</u>
Simon Carey	<u>Absent</u>
Giancarlo Gattucci	<u>Aye</u>
Hugo German	<u>Aye</u>
Charles Sisto	<u>Aye</u>
Stephen Wilhelm	<u>Aye</u>

The motion carried.

Mr. Sun asked if he could hire someone to start cutting the trees after the March meeting. Mr. Barber said that if everything was in order after the March meeting he could have the trees cut.

- **Holly Realty, Winkler's Farm Court, Kent, NY; TM: 33.16-1-8**

Mr. Robert Bradley represented Mr. Holly, owner of this property. Mr. Bradley said he may have information pertaining to the Sun property because Holy Real estate sold this property. Mr. Bradley submitted a timeline previously as discussed 12/14/78 before the Planning Board going over 2/3 of the units. Page 4 of 12/14/78 was missing. Mr. Bradley said that this would be considered a PRD.

Mr. Battistoni's Comments

Mr. Battistoni advised the Board that he received the judgement and circulated several emails. He contacted the Putnam County Clerk's office asking what he would have to do to access the files. He set up an appointment for this Thursday to review the files. He suggested that this matter be held over until the March meeting. Mr. Bradley said that his office does not have a copy of the stipulation either. Mr. Battistoni said that it is possible that the Stipulation was put on the record but that there was no transcript.

- **O'Mara Property, Peekskill Hollow Road, Kent, NY; TM: 42.07-1-17**

Mr. Andrews Comments

Ms. Mangarillo submitted a memo on 1/29/21 pertaining to close-out permits for the above mentioned property. A stabilization inspection was conducted by Ms. Mangarillo in November 2020 following two prior inspections. On 1/19/21 the issues were resolved. Ms. Mangarillo recommended that the cash bond and surety bonds should be released after outstanding invoices are processed.

- Mr. Tolmach asked for a motion to return the Erosion Control Surety Bond in the amount of \$13,000.00 and a cash bond in the amount of \$9,235.00. The motion was made by Mr. Sisto and seconded by Mr. German. Following were the roll call votes.

Philip Tolmach, Chairman	<u>Aye</u>
Dennis Lowes	<u>Aye</u>
Simon Carey	<u>Absent</u>
Giancarlo Gattucci	<u>Aye</u>
Hugo German	<u>Aye</u>
Charles Sisto	<u>Aye</u>
Stephen Wilhelm	<u>Aye</u>

The motion carried.

Permit Applications Updates (Applicants attendance not required/Workshop Discussion): \*\*Comments to be updated

- |   |  |               |
|---|--|---------------|
| • Kent Development – Commercial Lot<br>& Timber Harvest<br>N. Horsepound & Pecksip Rds, Kent, NY<br>TM: 12.-1-38 & 42 | Site Plan/Steep Slopes/<br>Freshwater Wetlands Permit<br>& Lot Line Adjustment | Status Report |
|---|--|---------------|

A submittal for conditions of approval was recently submitted.

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- |   |                               |                      |
|---|-------------------------------|----------------------|
| <ul style="list-style-type: none"> <li>Putnam Nursing &amp; Rehabilitation Center Addition<br/>404 Ludingtonville Road, Holmes, NY<br/>TM: 12.-3-40 &amp; 41</li> </ul> | <p>Extension of Approvals</p> | <p>Status Report</p> |
|---|-------------------------------|----------------------|

Getting to last details – working with Jeff Battistoni and other consultants, hopefully a sign-off letter may be discussed at the March meeting.

- |  |                    |                      |
|--|--------------------|----------------------|
| <ul style="list-style-type: none"> <li>Kent Self Storage<br/>Route 311, Kent, NY<br/>TM: 22.-2-17</li> </ul> | <p>Re-Approval</p> | <p>Status Report</p> |
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Awaiting a new submittal.

- |  |                      |                      |
|--|----------------------|----------------------|
| <ul style="list-style-type: none"> <li>52 Kent Corp. (Mazzotta)<br/>1100 Rte 52, Kent, NY<br/>TM: 12.-1-54 &amp; 55</li> </ul> | <p>Change of Use</p> | <p>Status Report</p> |
|--|----------------------|----------------------|

A memo to be sent to applicant to address outstanding conditions of approval. Trees need to be replaced.  
Waiting for submittal of conditions of approval.

- |  |                                      |                      |
|--|--------------------------------------|----------------------|
| <ul style="list-style-type: none"> <li>GADF LLC (Mazzotta)<br/>1088 Rte. 52, Kent, NY<br/>TM: 12.17-1-9</li> </ul> | <p>Public Hearing/<br/>Site Plan</p> | <p>Status Report</p> |
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Waiting for a revised site plan.

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|---|--------------------------------|----------------------|
| <ul style="list-style-type: none"> <li>Best Discount Depot<br/>86 Towners Rd., Kent, NY<br/>TM: 33.73-1-60</li> </ul> | <p>Sign Approval/Site Plan</p> | <p>Status Report</p> |
|---|--------------------------------|----------------------|

Waiting for a site plan.

- |   |                             |                      |
|---|-----------------------------|----------------------|
| <ul style="list-style-type: none"> <li>Annunziata<br/>Smalley Corners Rd., Kent, NY<br/>TM: 21.-1-11</li> </ul> | <p>Erosion Control Plan</p> | <p>Status Report</p> |
|---|-----------------------------|----------------------|

Waiting for an updated survey of entire lot.

- |   |              |                      |
|---|--------------|----------------------|
| <ul style="list-style-type: none"> <li>Route 52 Development/<br/>Kent Country Square<br/>Route 52, Kent, NY<br/>TM: 12.-1-52</li> </ul> | <p>SEQRA</p> | <p>Status Report</p> |
|---|--------------|----------------------|

Nothing New

- |  |                     |                      |
|--|---------------------|----------------------|
| <ul style="list-style-type: none"> <li>Rodriguez<br/>104 Smalley Corners Rd., Kent, NY<br/>TM: 21.-1-10</li> </ul> | <p>Sub-Division</p> | <p>Status Report</p> |
|--|---------------------|----------------------|

Nothing New

- |   |                              |                      |
|---|------------------------------|----------------------|
| <ul style="list-style-type: none"> <li>Raneri Property<br/>Hillside Paper Rd., Kent., NY<br/>TM: 44.24-1-3</li> </ul> | <p>Erosion Control Plan/</p> | <p>Status Report</p> |
|---|------------------------------|----------------------|

Raneri responded to letter regarding status of project that he does want to proceed with it, but is away and when he returns at the end of the month will submit review fees.

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| <ul style="list-style-type: none"> <li>Gierer (Cargain) Property<br/>43 Marie Road, Kent, NY 10512<br/>TM: 22.-1-42</li> </ul> | <p>Erosion Control Plan/<br/>Bond Recommendation<br/>Withdrawal pending</p> | <p>Status Report</p> |
| <p>Nothing new.</p>  |   |                      |
| <ul style="list-style-type: none"> <li>Cabrera Property<br/>126 Hortontown Road, Kent, NY<br/>TM: 19.-1-35</li> </ul>          | <p>Erosion Control Plan</p>   | <p>Status Report</p> |
| <p>Nothing new</p>   |   |                      |
| <ul style="list-style-type: none"> <li>Holmes Presbyterian<br/>60 Denton Lake Road, Holmes, NY<br/>TM: 2.-1-47-1</li> </ul>    | <p>Site Plan/<br/>Erosion Control Plan</p>                                  | <p>Status Report</p> |
| <ul style="list-style-type: none"> <li>Town of Kent Mining Law</li> </ul>  |   | <p>Discussion</p>    |

Mr. Tolmach introduced Mr. Bill Voelkman, Chairman of the CAC, who has been following along with the mining law and wanted to hear what the Planning Board thought about it. Mr. Tolmach advised Mr. Voelkman that a letter had been prepared which would be forwarded to the Town Board after it was discussed at this meeting. Ms. Axelson asked if anything additional needed to be added. Mr. Andrews said Ms. Mangarillo's comments went along with his comments. Mr. Lowes said that Ms. Axelson's memo was very professional and would give the Town Board much to think about. A lot of things need to be defined. Ms. Axelson commended Messrs. Andrews and Barber and Ms. Mangarillo for their assistance and input in preparing the memo to be forwarded to the Town Board. Ms. Axelson said that comments from Simon, Stephen Wilhelm and Dennis Lowes were very helpful and were in the Section for review and Section 3. The Planning Board recommends a joint meeting with the Town and Planning Boards. Mr. Andrews said that the instrument provided did not include the word "Mining" and the consultants tried to patch holes in the document submitted, but thought that it may be a good idea to implement what was included in the letter rather than using the document the Town Board sent to the Board. Mr. Barber said that the consultants felt that it would be good to look at The Town of Carmel's ordinance and one from Amenia as well as the Towns of Dover and LaGrange. Mr. Andrews said that when Mining is discussed everyone understands this. Towns don't have a lot of jurisdiction pertaining to Mining because the DEC has a state-wide mandate pertaining to mining. Mr. Barber said that the consultants had incorporated the recommendation that the Town and Planning Board both share in the review process. Mr. Voelkman said that he would like to read what the Planning Board had written up was glad to hear that the Planning Board was getting involve in this matter. There will always be stress for development and in order to do this rock must be removed to allow for buildable properties. A big concern to Mr. Voelkman was that the onwess is on the Town Board to make these approvals and decisions and he felt that the Planning Board should be the one to make the decisions and review technical aspects. Mr. Voelkman was afraid that all projects submitted to the Planning Board would need to go before the Town Board in the future. Mr. Voelkman spoke to Mr. Chris McKevey NYS Sectional Chief of Mining in 2019 and verified that a Mining Permit needs to be applied to at the NYSDEC and they want each municipality to address mining use and land use. The CAC is also responding to the Town Board. Mr. Tolmach advised the Planning Board Secretary to distribute the letter to Mr. Voelkman when it was ready for distribution to the Planning Board and Town Board. Ms. Axelson said that the plan was to respond to the Town Board on Tuesday morning. Mr. Lowes had several comments to be included in the document. Mr. Andrews said that reclamation of the land also had to be considered. Mr. Lowes said that he also had addressed that. Mr. Barber said that sometimes when mining is done there are incentives made to the Town. Mr. Sisto agreed with Mr. Andrews when he said that the Town Board could accept the recommendations from the Town Board or not. Mr. Barber said that because of the Kent Materials project phasing would need to be considered for future development. Ms. Axelson said that because of the Kent Materials project and the Route 52 Kent Country Square project this mining moratorium occurred. The model of the soil removal law will also affect single-family residences. Mr. Voelckman said that the Town of Chatham's mining law was very impressive. Ms. Axelson said that Kent Country Square had applied for a NYSDEC mining permit and Mr. Voelckman confirmed that the DEC had also verified that. Mr. Wilhelm said that Kent Country Square had applied for the mining permit at the same time they went before the Town Board before going to the Planning Board and Mr. Wilhelm had suggested phasing the project. Mr. Lowes said he would send a couple suggestions to Ms. Axelson prior to sending the letter to the Town Board.

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Mr. Tolmach asked for a motion to adjourn the February 11, 2021 meeting at 09:30 PM, The motion was made by Mr. Lowes and seconded by Mr. Wilhelm. Following were the roll call votes:

Philip Tolmach, Chairman	<u>Aye</u>
Dennis Lowes, Vice Chairman	<u>Aye</u>
Simon Carey	<u>Absent</u>
Giancarlo Gattucci	<u>Aye</u>
Hugo German	<u>Aye</u>
Charles Sisto	<u>Aye</u>
Stephen Wilhelm	<u>Aye</u>

The motion carried.

Respectfully Submitted,



Vera Patterson  
Planning Board Secretary

cc: Planning Board Members  
Building Inspector  
Town Clerk

**Town of Kent Planning Board Minutes  
February 11, 2021**

FEBRUARY 2021

KENT PLANNING BOARD AGENDA

Workshop: February 04, 2021 (Thursday, 7:30 PM) VIA ZOOM

Meeting: February 11, 2021 (Thursday, 7:30 PM) VIA ZOOM

THIS MEETING WILL BE CONDUCTED VIRTUALLY The Town of Kent Planning Board will be holding its regularly scheduled monthly workshop on Thursday, February 4, 2021 at 7:30 P.M. and the monthly meeting on Thursday, February 11, 2021 at 7:30 P.M. via ZOOM. The meeting will be televised live on the Town of Kent cable channel as well as live-streamed on YouTube. The public can participate via ZOOM. Please identify yourself when participating just as you would if you came to the microphone during a regular meeting. Thank you for your cooperation.

*Town of Kent, N.Y. is inviting you to a scheduled Zoom meeting.*

*Topic: Town of Kent, N.Y. Planning Board Work Session*

*Time: February 4, 2021 at 07:30 PM Eastern Time (US and Canada)*

*Topic: Town of Kent, N.Y. Planning Board Meeting*

*Time: February 11, 2021 07:30 PM Eastern Time (US and Canada)*

*Join Zoom Meeting*

*<https://us02web.zoom.us/j/5877083251>*

*Meeting ID: 587 708 3251*

*One tap mobile*

*+19292056099,,5877083251# US (New York)*

*Dial by your location*

*+1 929 205 6099 US (New York)*

*Meeting ID: 587 708 3251*

*Find your local number: <https://us02web.zoom.us/u/kH6X5CXoW>*

To view the video live on YouTube click the link below. To make a public comment, please sign in to a Gmail account on YouTube.

<https://www.youtube.com/watch?v=L2mrLNH3I2Q&feature=youtu.be>

FEBRUARY 2021 AGENDA

- Approve Planning Board Minutes from January 14, 2020
- Sun Property  
3 Westwood Dr., Kent, NY  
TM: 19.12-1-20  
Erosion Control Plan  
Review
- Holly  
Winkler's Farm Court Property, Kent, NY  
TM: 33.16-1-8  
Erosion Control Plan  
Review
- O'Mara Property  
Peekskill Hollow Road, Kent, NY  
TM: 42.07-1-7  
Return Erosion Control Bond  
Review

**Town of Kent Planning Board Minutes  
February 11, 2021**

Permit Applications Updates (Applicants attendance not required/Workshop Discussion):

• Town of Kent Mining Law		Discussion
• Kent Development – Commercial Lot & Timber Harvest N. Horsepound & Pecksip Rds., Kent, NY TM: 12.-1-38 & 42	Site Plan/Steep Slopes/ Freshwater Wetlands Permit & Lot Line Adjustment	Status Report
• Kent Self Storage Route 311, Kent, NY TM: 22.-2-17	Re-Approval	Status Report
• 52 Kent Corp. 1100 Rte 52, Kent, NY TM: 12.-1-54 & 55	Change of Use	Status Report
• GADF LLC 1088 Rte. 52, Kent, NY TM: 12.17-1-9	Public Hearing/ Site Plan	Status Report
• Best Discount Depot 86 Towners Rd., Kent, NY TM: 33.73-1-60	Sign Approval/Site Plan	Status Report
• Annunziata Smalley Corners Rd., Kent, NY TM: 21.-1-11	Erosion Control Plan	Status Report
• Route 52 Development/ Kent Country Square Route 52, Kent, NY TM: 12.-1-52	SEQRA	Status Report
• Rodriguez 104 Smalley Corners Rd., Kent, NY TM: 21.-1-10	Sub-Division	Status Report
• Raneri Property Hillside Paper Rd., Kent,, NY TM: 44.24-1-3	Erosion Control Plan	Status Report
• Gierer (Cargain) Property 43 Marie Road, Kent, NY 10512 TM: 22.-1-42	Erosion Control Plan/ Bond Recommendation Withdrawal pending	Status Report
• Cabrera Property 126 Hortontown Road, Kent, NY TM: 19.-1-35	Erosion Control Plan	Status Report
• Putnam Nursing & Rehabilitation Center Addition 404 Ludingtonville Road, Holmes, NY TM: 12.-3-40 & 41	Erosion Control/Site Plan/ Wetland Permit/Bond Estimate	Status Report
• Holmes Presbyterian 60 Denton Lake Road, Holmes, NY TM: 2.-1-47-1 Revision 1 1/26/21	Site Plan/ Erosion Control Plan	Status Report



Anthony S. Pisarri, P.E., P.C.  
CONSULTING ENGINEER  
3 Rosalind Drive  
Cortlandt Manor, New York 10567

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(914) 739-6580  
(914) 734-9121 Fax

January 20, 2021

Planning Board  
Town of Kent  
25 Sybil's Crossing  
Kent Lakes, NY 10512

Re: Sun Property – 19.12-1-20  
3 Westwood Drive  
Response To Environmental Planner's Comments

Honorable Members,

The following are my responses to the comment letter from Bruce Barber dated 1-14-2021:

Trees:

The note regarding cutting of trees being limited to the time between November 1 and March 31 of the following year has been added to the plans in the Construction Sequence. A separate plan showing trees to be cut has been prepared by the Owner and Patrick Fahey of Westchester Modular Homes.

Soils, Steep Slopes and Rock Outcrops:

The narrative explaining the reason Lot 23 is not a good option for development has been submitted. Please see the report and plan.

Land Disturbance:

Calculations for cut and fill are attached to this letter.

Well and Septic Approval:

The approvals from the Putnam County Health Department for the well and septic have been submitted.

F:Other:

A copy of the property survey has been submitted. A note has been added to the plans that prior to the issuance of a C.O., the two lots shall be merged.

Please do not hesitate to call if you have any questions or require any additional information.

Yours truly,

Anthony S. Pisarri, P.E., P.C.

§ 156-43 Landfills, grading and excavation vs soil removal.

Maybe the Kent code could be titled something like "Soil removal, excavation, and mining."

Would this be sufficient to ensure that it would be viewed by DEC as a "mining code" that would then supersede their default permitting process?

A.

General regulations. No excavation, regrading, filling, removal, stripping or disturbance of topsoil, earth, sand, gravel, rock or other substance from the ground, subsequently herein referred to as an "operation" or "operations," shall be commenced or carried on in the Town of Carmel unless, except as otherwise provided herein, a permit therefor has been duly issued in accordance with the procedure set forth elsewhere in this section.

*I think defining the term operation and using it throughout is a good idea. Some sections of the Kent code are ambiguous*

(1)

No operation authorized under this subsection shall be permitted on Sunday or before 8:00 a.m. or after 5:00 p.m. on other days. *(the Kent code allows the Town Board to set the permitted hours rather than having uniform standard).*

(2)

Being added to kent doc:

No operation shall be commenced or carried on which is primarily for the purpose of the sale or exchange of excavated topsoil, earth, sand, gravel, rock or other substance from the ground.

(3)

Not being added. I assume we have a separate code re landfills?

All landfill shall be clean soil, rocks or sand and shall be nonburnable and shall contain no garbage, refuse, waste or material deemed to be deleterious according to the standards of the applicable health codes.

B.

Cases where a building permit, an approved site plan or an approved subdivision construction plan is deemed a permit under this subsection.

(1)

A building permit for a building and/or its accessory structures shall be deemed to be a permit for such excavation and/or landfill necessary for the construction of that building and/or its accessory structures, provided that the volume of any excavated material removed from the property does not exceed two times the volume of the cellar and foundation of the dwelling and/or accessory structures for which the building permit was issued. The Building Inspector shall endorse the building permit to the effect that such excavation and/or landfill is permitted, specifying the maximum volume of excavated material which may be removed.

(2)

In those cases where the Planning Board has approved, with or without conditions, the construction plans for proposed streets and drainage facilities in new subdivisions and site plans, the approved construction plans shall be deemed to be a duly issued permit for such operation within the rights-of-way and slope rights of the proposed streets and areas reserved for drainage facilities as may be necessary for their establishments, provided that if there is to be removal of excavated material, said removal shall be disclosed as an integral part of the approved plan and duly endorsed thereon. All operations outside such street rights-of-way and slope rights and drainage facilities shall be subject to the permit and approval requirements of this subsection.

(3)

*Not being added- and probably should be – so that even small operations that do not require a separate permit are done correctly.*

All excavation performed without the necessity of a permit shall nonetheless conform to the general regulations contained in Subsection A(1) and (3) of this section.

C.

Exception. Municipal and other public operations. The provisions of this subsection shall not apply to operations of or conducted by the Town of Carmel, County of Putnam or State of New York or any department or agency thereof.

D. Application procedure. Application for a permit under this subsection shall be made to the Planning Board, in writing, with 10 copies, and shall contain the following information:

(1)

The full name and address of the owner or owners of property.

(2)

The street address, if any, and Tax Map designation of the property.

(3)

A statement as to authority from the owner, or any person other than owner if such person is making the application, with consent of owner endorsed thereon.

(4)

A statement of proposed work and purpose thereof.

(5)

Accompanying said application and as a part thereof, complete plans and estimates for the proposed site improvements shall be submitted for approval. The plans shall be certified by an engineer or architect, licensed in the State of New York, and shall be drawn to a scale of not less than one inch equals 50 feet and shall show the following:

Kent coe is similar -

(a)

The location of that portion proposed to be disturbed and its relation to neighboring properties, together with buildings, roads and natural watercourses, if any, within 300 feet of the boundaries of said portion of said premises herein referred to shall be shown. An inset map at a reduced scale may be used, if necessary.

(b)

The portion of the property that is to be disturbed.

(c)

The estimated maximum quantity to be excavated and/or removed and the estimated part thereof that will be used for regrading or filling, computed from cross sections of a proposed excavation or disturbed area.

(d)

The location of any well and the depth thereof, and the location of natural watercourses, if any, located within 300 feet of the proposed disturbed area.

(e)

The location of any sewage disposal system, any part of which is within 300 feet of the proposed disturbed area.

(f)

Existing topography of the area proposed to be disturbed at a contour interval of not more than two feet. Contours shall be shown for a distance of 100 feet beyond the area to be disturbed.

(g)

The proposed final contours at a contour interval of two feet.

(h)

The location and present status of any previous operations of the type contemplated by this subsection on the property within the preceding five years.

(i)

The details of any drainage system proposed to be installed and maintained by the applicant, designed to provide for proper surface drainage of the land, both during the performance of the work applied for and after the completion thereof.

(j)

If a proposed excavation is for the purpose of making a lake or pond, the details of the proposed construction of the dam or other structure or embankment intended to impound the water, together with the details and location of proposed discharge of a valved outlet for drainage purposes.

Upon the filing of an application hereunder, the applicant shall pay a filing fee established by resolution of the Town Board which shall be filed in the office of the Town Clerk.

[Amended 9-14-1988 by L.L. No. 1-1988]

E.

Review procedure.

(1)

Upon receipt of an application and plans, the Planning Board shall review said application and plans in accordance with the following standards and requirements and other requirements of all other applicable local, state and federal regulations. Within 45 days after the receipt of a complete application, the Planning Board shall hold a public hearing on said application. Within 45 days after the hearing, the Planning Board shall make its determination.

(2)

The Planning Board, in making its determination, shall report whether or not the proposed operation meets the following criteria:

(a)

That the location and size of the proposed operation, the nature and intensity of the work involved in or conducted in connection with it and the size of the site in relation to it are such that, upon completion of the operation and the establishment of the permitted use, the site will be in harmony with the appropriate and orderly development of the district in which it is located.

(b)

That the proposed operation will not be in conflict with any proposal in a Town Development Plan or with any requirement of this chapter.

(c)

That the proposed operation will be incidental to the establishment, improvement or operation of a use permitted in the zoning district in which the property is located.

(d)

That the proposed operation will not disturb any land designated as wetlands by the Town of Carmel or the State of New York.

F.

*Applications are reviewed by Planning Board rather than Town Board.*

*Advantages:*

*Saves effort because planning board members will already be familiar with the project*

*Make the process faster: town board members don't have to review the project and then go back to planning board/consultants for more information*

*Improves communication: If this remains the purview of the town board, is there a process for the planning board to ensure that the applicant seeks a permit from the town board? The town board will not know what projects are pending with the planning board and might not become aware of an operation that lacks a permit until work has started and operations have become a problem.*

Permit. In acting on the application and in granting or denying a permit, the Building Inspector shall be directed by the report and recommendations of the Planning Board. Any permit to be issued shall be issued in accordance with the terms of this subsection, subject to any restrictions, safeguards or special conditions considered by the Planning Board to be appropriate for the proposed operation.

*The town code has something similar to this, but more detailed:*

However, no permit shall be issued until the applicant shall have posted a performance bond with the Town of Carmel ensuring conformance with the approved plans and all applicable regulations, restrictions and special conditions. Such performance bond shall become effective only if and when the Town Attorney shall have approved the same as to amount, form, surety and manner of execution. The Building Inspector, when issuing permits, shall charge and collect a fee therefor, in addition to the filing fee previously provided for herein. Said charge shall be established annually by the Town Board and shall be on file in the office of the Town Clerk.

(2)

Permits issued under this subsection shall expire within 12 months of the date of approval. A permit may be extended by the Planning Board for one additional period of 12 months. In making a determination on extension, the Board shall make a complete review of all plans and make an examination of all work accomplished.

G.

Conduct of work. The work permitted shall be performed in accordance with the following conditions and requirements:

(1)

Regrading adjacent to property lines shall be so designed that the work will not endanger abutting property by reason of erosion, landslides or increased runoff. The Planning Board may recommend, as a condition of permit approval, such limits to the work and such supplementary drainage structures or other safeguards as it may deem to be necessary to assure such protection to abutting lands.

(2)

The proposed operation shall be so designed that the work will not cause soil erosion, flooding or increased stormwater runoff nor adversely affect wetlands within the Town of Carmel.

(3)

*Kent code does not stipulate these safety aspects. Is it safe/legal to apply oil to the driveways? I would suggest not adopting that part of this provision.*

There shall be a maximum of two truck access drives to the site of the operation, which shall be located so as to minimize danger to traffic and nuisance to surrounding properties. Such drives shall be kept either wet or oiled or shall be treated with chemical dust deterrents or paved, to the extent necessary to prevent any dust nuisance to surrounding properties. All such access drives shall be clearly marked with signs which shall be posted approximately 200 feet on both sides of such access drives or other traveled areas. Such signs shall read "Caution, Trucks Entering" and shall be of size, type, coloring, lettering and format used by the Highway Department of the Town.

(4)

All streets and highways leading to the operation shall be kept clean of all dirt, rocks and other material, and all storm drainage systems in the area of the operation shall be kept clean and in good operating condition. Violation of this condition shall be grounds for revocation of the permit by the Building Inspector.

(5)

*Kent code has a less specific clause that the town board may require a fence. Overall, Kent code is less specific, leaving more to the discretion of the town board.*

At all times subsequent to the issuance of a permit and before completion of the final grading, as herein provided, any excavation having a slope steeper than one foot vertically for each one foot horizontally and having a depth greater than three feet or involving standing water of a depth greater than six inches shall be entirely enclosed by wooden or wire-mesh fence not less than four feet in height, measured from ground level, with a gate of the same height at each entrance thereto. If such fencing and gates are of wooden construction, each fencing board shall be separated by not more than seven inches and, if constructed of wire-mesh fencing, the mesh thereof shall not be greater than six inches by six inches. No such fence shall be so located as to obstruct visibility at the access drives. Gates shall be securely locked at all times when the project is not in operation.

(6)

Storage piles of materials, including waste material, shall at no time be located nearer than 50 feet to a property or street line or have a grade steeper than one foot vertically for each two feet horizontally.

(7)

All trucks and equipment stored on the site of the operation shall be set back at least 50 feet from the nearest property or street line.

H.

Rehabilitation of site. Upon completion of the work permitted, the site shall be rehabilitated in accordance with the following standards:

(1)

The final grade shall be finished at a slope no steeper than one foot vertically for each two feet horizontally for any material other than rock, except where supported by a retaining wall or foundation. Finished excavated rock surface to fast rock shall have a slope no steeper than six feet vertically for each one foot horizontally.

(2)

*Kent code does not specify a minimum, instead requires that the top 12 inches be saved and respread.*

A minimum of four inches of topsoil shall be replaced over all ground surfaces exposed by any operation contemplated herein, except rock, roads, driveways, parking places, garden spaces and surfaces excavated below high water marks or lakes or ponds or streams, and then shall be seeded and planted as specified by the Planning Board to prevent erosion.

(3)

Upon completion of all rehabilitation work, the applicant shall so notify the Planning Board. The Planning Board shall make, or cause to be made, a field inspection of the site to determine if all work has been completed in accordance with the terms of the permit and the approved plans. The Planning Board shall make a report to the Town Board upon the completion of its investigation, describing the degree to which the operation is in conformance with the terms of the permit and plans, together with its recommendation as to the release of the performance bond posted.

*This code has a clearer overall sequence of the application process, the review, the operations and then restoration. The Kent code seems less coherent in this regard.*



# Memorandum

To: Planning Board  
Town of Kent

Attn: Philip Tolmach  
Chairman

From: Julie S. Mangarillo, P.E., CPESC

Subject: Erosion Control Plan

Date: February 8, 2021

Project: Sun ECP Westwood Drive  
TM # 19.12-1-20 & 19.12-1-23

The following materials were reviewed:

- Refer to Appendix A

The project proposes construction of a single-family home with driveway, detached garage, individual septic and well. The applicant has provided documentation that the parcel received an area variance from the ZBA in May 2019 and applied for the variance to be renewed in May 2020. Vera Patterson, Planning Clerk, provided ZBA meeting minutes from May 18, 2020 showing the variance had been granted for another year.

New or supplementary comments are shown in **bold**.

The subject Erosion and Sediment Control Plan is not approved. The following comments are provided for the Planning Board's consideration from a memo dated July 7, 2020:

1. The proposed project is within the NYCDEP East of Hudson watershed and will disturb more than 5,000 SF of land. A Town of Kent Erosion & Sediment Control Permit is required as well as coverage under NYSDEC SPDES General Permit for Stormwater Discharges from Construction Activity, GP-0-20-001. - **Acknowledged.**
5. The proposed house and septic area are proposed on steep slopes. With the expected merger with lot TM 19.12-1-23, consideration should be given to locating the area of disturbance in a location with flatter slopes to minimize environmental impacts.
  - a. 11/11/2020 - Survey and topography have been provided for the 2<sup>nd</sup> lot, TM 19.12-1-23. It shows a significant area of land that has less than 15% slope. This lot is to be investigated for the potential to be used for the house and septic site. Building on less steep slope minimizes environmental impacts. However, if the 2<sup>nd</sup> lot, TM 19.12-1-23 is unsuitable, then construction on the 1<sup>st</sup> lot, TM 19.12-1-20 will be considered. Provide technical justification if the house and septic cannot be constructed on the less steep, 2<sup>nd</sup> lot.
  - b. 1/13/2021 - To date, no technical justification has been provided. During the November 12, 2020 Planning Board meeting and the December 3, 2020



Planning Board Workshop, the applicant's representatives indicated there may be older health department records regarding the unsuitability of the 2<sup>nd</sup> lot, TM 19.12-1-23 to support a septic system. 200-foot radii from existing wells are now shown on the drawing, but with no explanation or narrative as to how that makes Lot #2 less suitable than Lot #1 to support a septic system. The proposed septic system for Lot #1 also falls within the 200 foot radii of an existing well.

In addition, the "Proposed Site Plan" shows the outline of the house, garage and septic system on Lot #2 with some deep test information. Again, there is no explanation or narrative as to how that makes Lot #2 less suitable.

Provide written, technical justification as to why Lot #2 is less suitable. The need for this justification was emphasized at both the 11/12 and 12/3/2020 meetings.

- c. **2/8/2021** - Feasibility Study, dated January 18, 2021 has been provided. It is incomplete. The following comments were provided to the project engineer via email on 1/20/2021. They have been edited as appropriate.
  - i. The feasibility study needs more background & back up.
  - ii. The report should acknowledge that the Town has requested this analysis because Lot 23 looks like the better lot for development based on lack of steep slopes compared to Lot 20.
  - iii. Health Department regulations need to be referenced with the difference between the 100 ft & 200 ft radius requirements explained.
  - iv. A Planning Board member requested spot elevations at the existing wells to confirm the elevation difference from the proposed septic area. It appears elevations have been provided for wells to the north. Provide an elevation for the well to the south, on the other side of Westwood Drive.
  - v. The proposed septic areas for both Lot 20 & Lot 23 are within the 200 ft radius of an existing well. Explain why it is allowed for Lot 20, but not Lot 23, even if it is a repetition of the more general explanation.
  - vi. Add a reference to the drawing titled "Lot 23 Development Study For Roger Sun."
  - vii. The statement regarding the views and the house on Lot 23 needing to be at a higher elevation is unclear as to how it affects the suitability of Lot 23 for development. Will having the house at a higher elevation on Lot 23 than Lot 20 have a negative impact on erosion & sediment control or environmental concerns more generally? If so, please explain.
  - viii. There was discussion at the January 14, 2021 Planning Board meeting about reducing disturbance on steep slopes by leaving the septic on Lot 20, but moving the house to Lot 23. Provide a justification as to why that scenario would not reduce impacts.
- 7. Westwood Drive is a gravel road with a history of erosion and wash-outs. New impervious surfaces can increase runoff. Provide stormwater mitigation to help offset any potential increases in runoff to Westwood Drive.
  - a. 11/11/2020 - Stormwater mitigation of infiltrators is proposed. Provide additional information such as soil testing, and sizing calculations. Indicate how much runoff will be diverted away from Westwood Dr. Provide information on the drawings for homeowners to operate, inspect, and maintain the infiltrators and associated drainage for the long-term.

- b. 1/13/2021 - Additionally, a note regarding the cultec field was added below the "Zoning Schedule." However, this is not sufficient to explain to homeowners on how to operate, inspect, and maintain the infiltrators for the long term. Provide additional explanation.
- c. **2/8/2021** - Additional notes have been provided, however they do not provide sufficient direction to homeowners. See attached Maintenance Schedule and Suggested Maintenance Schedule provided by Cultec.

The January 20, 2021 response letter states "deep tests will be provided in the locations of the proposed infiltrators as soon as a crew can get to the site."

10. Provide an erosion and sediment control only SWPPP in accordance with GP-0-20-001. Provide required information from Part III.B including:

- f. Part III.B.1.f – "A temporary and permanent soil stabilization plan that meets the requirements of this general permit and the technical standard, New York State Standards and Specifications for Erosion and Sediment Control, dated August 2005, for each stage of the project, including initial land clearing and grubbing to project completion and achievement of final stabilization;" - **11/11/2020 & 1/13/2021 - could not be located. 2/8/2021 - Provide details on temporary and/or permanent seeding & mulching.**

13. Provide additional information on the **existing and** proposed driveway, such as driveway profile and construction details. The driveway is to be in conformance with Town Code Chapter 57-26.A.

- a. 11/11/2020 - could not be located.
- b. 1/13/2021 - The driveway profile is to show how runoff from the end of the driveway will be directed to the shoulder of Westwood Drive and not allowed to flow onto & across Westwood Drive creating wash-out or icing conditions.
- c. **2/8/2021** - The information regarding the trench drain is difficult to read on the drawings. No profiles for the proposed or existing driveway could be located. No construction detail for the proposed driveway could be located. As a reminder, the proposed driveway must be in conformance with Chapter 57. The existing driveway is to be compared to the current driveway requirements. Provide additional information/detail on proposed "new swale 6" deep" at the end of the existing driveway at Westwood Drive. Changes to the existing driveway within the Westwood Dr right-of-way, will need to be approved by Richard Othmer, Jr. Highway Superintendent. A written response to this comment (#13) was not included in the 1/20/2021 response memo.

The following comments are provided for the Planning Board's consideration from a memo dated January 13, 2021:

- 1. Add minimum pipe slopes or rim and invert elevations for drainage piping.
  - a. **2/8/2021** - Information is difficult to read.

2. Revise the bond estimate to include the costs of the underground stormwater infiltrators, drainage piping and trench drain, topsoil stockpile and seed & mulch for disturbed areas.
  - a. **2/8/2021** - A revised bond estimate dated 1/22/2021 for \$37,300 was provided. Based on the current review, we have no objection to this bond amount for the erosion control bond. However, we will hold formal recommendation until the Public Hearing is closed.
3. Add most recent date the ZBA granted the area variance, May 18, 2020 to the Zoning Schedule on the Proposed Site Plan.
  - a. **2/8/2021** - ZBA variance reference was located on the "Existing Conditions/Slope Map" drawing. Add it to the Zoning Schedule on the Proposed Site Plan too.

**New Comments:**

1. At the February 4, 2021 Planning Board Workshop, a Planning Board member requested the Filed Map numbers and the Tax Map Numbers be shown on the lots.
2. Continue to provide written responses to each comment in future submittals.
3. After review of this latest submittal, the Planning Board can discuss scheduling the public hearing for the March meeting.

---

Julie S. Mangarillo, P.E., CPESC

Attachment: Cultec Maintenance Guidelines and Suggested Maintenance Schedules

cc: Planning Board via email  
Bill Walters via email  
John Andrews via email

Bruce Barber via email  
Liz Axelson via email  
20-261-999-169

# APPENDIX A

## List of Documents Reviewed

1. Response letter prepared by Anthony S. Pisarri, P.E., P.C., dated January 20, 2021
2. Town of Kent Planning Board Site Plan Checklist dated October 9, 2020, rev 12/18/2020 & 1/21/2021.
3. Town of Kent Planning Board Combined Application Form-Proposed Site Plan for Roger Sun – Page 13 only.
4. Notice of Intent- Westchester Modular Const Corp, page 14 only, signed by owner/operator 1/21/2021.
5. Bargain and Sale Deed, dated December 12, 2019, for presumed lot TM 19.12-1-23.
6. Putnam County Department of Health, Permit for water well, TM 19.12-1-20, approved 3/17/2020.
7. Erosion Control Bond Estimate prepared by Anthony Pisarri, P.E., P.C., dated January 22, 2021
8. Feasibility Study, prepared by Anthony Pisarri, P.E., dated January 18, 2021
9. Drawing HD-1 “SSTS Plan, Profile and Notes” prepared by Putnam Engineering, last revised August 28, 2019.
10. Drawing- Existing Conditions/Slope Map-Roger Sun, prepared by Anthony S. Pisarri, PC dated June 8, 2020 last revised 1/21/2021 scale As Noted.
11. Drawing- Proposed SWPPP for Roger Sun, prepared by Anthony S. Pisarri, PC dated January 21, 2021 scale As Noted.
12. Drawing- Proposed Site Plan for Roger Sun, prepared by Anthony S. Pisarri, PC dated June 8, 2020 last revised 1/21/2021 scale As Noted.
13. Drawing- Lot 23 Development Study for Roger Sun, prepared by Anthony S. Pisarri, PC dated January 21, 2021 scale As Noted.

# OPERATIONS AND MAINTENANCE GUIDELINES

## 2. StormFilter Access

Remove the manhole cover to allow access to the unit. Typically a 30-inch (750 mm) pipe is used as a riser from the StormFilter to the surface. As in the case with manhole access, this access point requires a technician trained in confined space entry with proper gas detection equipment. This individual must be equipped with the proper safety equipment for entry into the StormFilter. The technician will be lowered onto the StormFilter unit. The hatch on the unit must be removed. Inside the unit are two filters which may be removed according to StormFilter maintenance guidelines. Once these filters are removed the Inspector can enter the StormFilter unit to launch the CCTV camera robot.

- C. The Inlet row of the CULTEC system is placed on a polyethylene liner to prevent scouring of the washed stone beneath this row. This also facilitates the flushing of this row with high pressure water through a culvert cleaning nozzle. The nozzle is deployed through a manhole or the StormFilter and extended to the end of the row. The water is turned on and the Inlet row is back-flushed into the manhole or StormFilter. This water is to be removed from the manhole or StormFilter using a vacuum truck.

## III. Maintenance Guidelines

The following guidelines shall be adhered to for the operation and maintenance of the CULTEC stormwater management system:

- A. The owner shall keep a maintenance log which shall include details of any events which would have an effect on the system's operational capacity.
- B. The operation and maintenance procedure shall be reviewed periodically and changed to meet site conditions.
- C. Maintenance of the stormwater management system shall be performed by qualified workers and shall follow applicable occupational health and safety requirements.
- D. Debris removed from the stormwater management system shall be disposed of in accordance with applicable laws and regulations.

## IV. Suggested Maintenance Schedules

### A. Minor Maintenance

The following suggested schedule shall be followed for routine maintenance during the regular operation of the stormwater system:

Frequency	Action
Monthly in first year	Check inlets and outlets for clogging and remove any debris, as required.
Spring and Fall	Check inlets and outlets for clogging and remove any debris, as required.
One year after commissioning and every third year following	Check inlets and outlets for clogging and remove any debris, as required.

### B. Major Maintenance

The following suggested maintenance schedule shall be followed to maintain the performance of the CULTEC stormwater management chambers. Additional work may be necessary due to insufficient performance and other issues that might be found during the inspection of the stormwater management chambers. (See table on next page)

	Frequency	Action
Inlets and Outlets	Every 3 years	<ul style="list-style-type: none"> <li>Obtain documentation that the inlets, outlets and vents have been cleaned and will function as intended.</li> </ul>
	Spring and Fall	<ul style="list-style-type: none"> <li>Check inlet and outlets for clogging and remove any debris as required.</li> </ul>
CULTEC Stormwater Chambers	2 years after commissioning	<ul style="list-style-type: none"> <li>Inspect the interior of the stormwater management chambers through inspection port for deficiencies using CCTV or comparable technique.</li> <li>Obtain documentation that the stormwater management chambers and feed connectors will function as anticipated.</li> </ul>
	9 years after commissioning every 9 years following	<ul style="list-style-type: none"> <li>Clean stormwater management chambers and feed connectors of any debris.</li> <li>Inspect the interior of the stormwater management structures for deficiencies using CCTV or comparable technique.</li> <li>Obtain documentation that the stormwater management chambers and feed connectors have been cleaned and will function as intended.</li> </ul>
	45 years after commissioning	<ul style="list-style-type: none"> <li>Clean stormwater management chambers and feed connectors of any debris.</li> <li>Determine the remaining life expectancy of the stormwater management chambers and recommended schedule and actions to rehabilitate the stormwater management chambers as required.</li> <li>Inspect the interior of the stormwater management chambers for deficiencies using CCTV or comparable technique.</li> <li>Replace or restore the stormwater management chambers in accordance with the schedule determined at the 45-year inspection.</li> <li>Attain the appropriate approvals as required.</li> <li>Establish a new operation and maintenance schedule.</li> </ul>
Surrounding Site	Monthly in 1 <sup>st</sup> year	<ul style="list-style-type: none"> <li>Check for depressions in areas over and surrounding the stormwater management system.</li> </ul>
	Spring and Fall	<ul style="list-style-type: none"> <li>Check for depressions in areas over and surrounding the stormwater management system.</li> </ul>
	Yearly	<ul style="list-style-type: none"> <li>Confirm that no unauthorized modifications have been performed to the site.</li> </ul>

For additional information concerning the maintenance of CULTEC Subsurface Stormwater Management Chambers, please contact CULTEC, Inc. at 1-800-428-5832.



February 5, 2021

Town of Kent Planning Board  
Kent Town Centre  
25 Sybil's Crossing  
Lake Carmel, New York 10512

RE: Kent Development Associates – Commercial Lot & Timber Harvest Project  
Special Use Permit, Site Plan, Steep Slopes / Stormwater Management,  
Freshwater Wetlands Permit & Lot Line Adjustment  
N. Horsepound Road & Peckslip Road  
Town of Kent, New York  
Tax Map No. 12.-1-38 & 42

Dear Chairman Tolmach and Members of the Board:

Enclosed please find fourteen (14) copies of the following documents in support of a Special Use Permit, Site Plan, Steep Slopes / Stormwater Management, Freshwater Wetlands Permit & Lot Line Adjustment application for the above-referenced project:

- Site Plan Drawings (10 Sheets total), revised January 20, 2021 (5 full-size copies and 9 reduced-size copies).
- Lot Line Adjustment Map, as prepared by Terry Bergendorff Collins, dated November 11, 2020 (5 full-size copies and 9 reduced-size copies).
- PCDOH Well and Septic Approval, dated November 6, 2020.
- NYSDEC Freshwater Wetland Permit Approval, dated February 1, 2021.
- 10-Year Back-to-Back Storm Event Analysis, dated November 19, 2020.
- Town of Kent Highway Department Driveway Permit, dated January 21, 2021.

With regard to Conditions stated in the Final Adopted Resolution dated December 10, 2020, we offer the following:

1. Refer to below for responses to the Town Engineer's memorandum dated December 8, 2020.
2. Refer to below for responses to the Town Environmental Consultant's memorandum dated December 8, 2020.
3. Refer to below for responses to the Town Planner's memorandum dated December 8, 2020.
4. It is our understanding that with the conditions of the Final Adopted Resolution being addressed, all outstanding items pertaining to the Steep Slope and Erosion Control Permit Plan.
5. The applicant has obtained the required Driveway Permit (enclosed) for the proposed driveway connection to N. Horsepound Road from the Town of Kent Highway Department.
6. A joint review with the Putnam County Health Department for the septic and well approvals from the NYCDEP are the only approvals required from the NYCDEP and are provided for your records.
7. The NYSDEC Freshwater Wetland Permit is approved and enclosed for your records.

---

3 Garrett Place, Carmel, New York 10512 (845) 225-9690 Fax (845) 225-9717  
[www.insite-eng.com](http://www.insite-eng.com)

8. The amount of the performance bond for the Steep Slope and Erosion Control Permit (Erosion Control Bond) was referred to the Town Board by the Planning Board as recommended by the Town Engineer and is being reviewed and drafted by the Town Attorney.
9. The amount of the performance bond for the Long-term Stormwater Management Facility was referred to the Town Board by the Planning Board as recommended by the Town Engineer and is being reviewed and drafted by the Town Attorney.
10. The amount of the performance bond for the Site Erosion Control Landscaping was referred to the Town Board by the Planning Board as recommended by the Town Engineer and is being reviewed and drafted by the Town Attorney.
11. The amount of the performance bond for the Wetland Mitigation Landscaping was referred to the Town Board by the Planning Board as recommended by the Town Engineer and is being reviewed and drafted by the Town Attorney.
12. It is our understanding that the Town Attorney is currently drafting the bond agreements for review and will distribute once available which can be executed and accepted by the Town Board.
13. It is our understanding that a Stormwater Management Agreement is being drafted by the Town Attorney and shall be executed and accepted the Town Board.
14. It is our understanding that a Stormwater Maintenance and Easement Agreement is being drafted by the Town Attorney and shall be executed and accepted the Town Board.
15. It is our understanding that the Wetland Mitigation Landscaping Bond shall be released after the end of a three-year periods as measured from the date of the issuance of a certificate of occupancy and when the Town has determined that at least 80% of the wetland mitigation plants are viable.
16. It is our understanding that the Site Erosion Control Landscaping Bond shall be released after the end of a three-year periods as measured from the date of the issuance of a certificate of occupancy and when the Town has determined that at least 80% of the wetland mitigation plants are viable.
17. Payment of an inspection fee for the Steep Slopes and Erosion Control Permit shall be paid.
18. It is our understanding that all outstanding consultant fees accrued by the Planning Board to review the project plans and application have been paid in full.
19. It is our understanding that the site plan approval shall be void is not started within one year of the date of the Planning Board approval; and completed within two years of the date of such approval. Said conditional approval shall thereafter expire unless otherwise extended by the Planning Board after receipt of a written request of the applicant prior to the expiration date. The approval may be renewed by the written request of the applicant for up to two additional ninety-day periods.
20. We acknowledge that it is the responsibility of the applicant to submit to the Planning Board proof that each of the conditions of the Special Permit, Site Plan, Revised Lot Line, Wetland Permit, and Steep Slopes and Erosion Control Permit approvals have been met/completed. It is our understanding that the Planning Board Chairman shall sign the final drawings once all conditions have been met/completed.



With regard to comments received from the Town Consultants, we offer the following:

**Memorandum from Liz Axelson, AICP, of CPL Architecture, Engineering & Planning, dated December 8, 2020:**

**SEQRA:**

4. We acknowledge that the proposal to be an Unlisted Action as per the SEQRA regulations, sections 617.4 and 617.5.
5. We understand that a draft of the Short Environmental Assessment Form (Short EAF) Parts 2 & 3 was prepared for Planning Board consideration and approved at the December 10, 2020 Planning Board meeting.

**Zoning Requirements:**

6. Drawing OP-1 and SP-1 have been revised to include a General Note stating, "No repairs to or services on motor vehicles, their mechanical systems or their body structure shall be performed on the site. No facilities for repairs, lubricating or otherwise servicing motor vehicles shall be present on the site."
7. We acknowledge the recommendation for the Board to consider the requested waiver to install sidewalks along the frontage of the property as required in §77-26.A.(5).
8. We acknowledge the recommendation for the Board to consider the requested waiver to install pedestrian amenities as required in §77-26.A.(7).
9. We acknowledge the recommendation for the Board to consider the requested waiver to locate the loading area in the rear of the proposed building as required in §77-26.A.(21).
10. This letter is intended to act as the response to the provided comments for this current submission.

**Special Permit and Site Plan Application:**

Prior special permit and site plan comments have been addressed.

**Lot Line Revision:**

11. Draft Deeds as required by §66A-17D.(5) and (6) are provided for review by the Town Attorney.
12. The submitted proposed deeds shall be reviewed by the Planning Board Attorney.

**Recommendation:**

13. The Planning Board advised the applicant to address the provided comments.
14. We acknowledge that the SEQRA Short EAF Part 2 & 3 were reviewed at the December 10, 2020 Planning Board meeting.
15. We acknowledge that at the December 10, 2020 Planning Board meeting, the Planning Board closed the public hearing, made a SEQRA determination of Non-significance (Negative Declaration), granted several waivers as listed above, and granted the Special Use Permit, Site Plan, Freshwater Wetland Permit, Steep Slope and Erosion Control Permit and Lot Line Adjustment.

**Memorandum from Julie S. Mangarillo, P.E., CPESC, of Rohde, Soyka & Andrews Consulting Engineers, P.C., dated December 8, 2020:**

**New Comments:**

1. We acknowledge that the Planning Board granted a waiver for the alternative driving surface that is not included in the code for driveways at the December 10, 2020 Planning Board meeting.
2. We acknowledge the no objection to the proposed Gravel Berm/Sediment Catchment and flush curb along the edge of the gravel section of the driveway.
3. Drawing SS-1 has been included within the Final Drawing Set.
4. We acknowledge that the Stormwater Facility Maintenance and Access Easement Agreements are currently being drafted by the Town Attorney and will be executed and accepted by the Town Board.
5. The following bond estimates have been referred by the Planning Board to the Town Board for approval:
  - a. Erosion Control Bond Estimate of \$9,183.00.
  - b. Long-Term Stormwater Management Facility Bond Estimate of \$78,800.00.
  - c. An opinion of probable construction costs for mitigation landscaping of \$9,750.00 for wetland mitigation.
  - d. An opinion of probable construction costs for site landscaping of \$7,355.00 for erosion control landscaping.
  - e. We acknowledge the Town Engineer's recommendation of the before listed bond amounts and understand the bond agreements are being drafted by the Town Attorney for review and execution.

**Comments from the August 12, 2020 Memorandum:**

1. It is understood that the project is within the NYCDEP East of Hudson watershed, will disturb more than 1 acre of land, and that a Town of Kent Erosion & Sediment Control Permit and NYSDEC SPDES General permit for Stormwater Discharges from Construction Activities (GP-0-20-001) are required. The NYSDEC NOI and MS4 SWPPP Acceptance Form have been provided for review and signature in a previous submission.
7. Drawings:
  - b. §57-26.A.(5)(c) requirement to provide an as-built centerline profile of the driveway with an application for the issuance of a building permit.
    - i. We acknowledge that the centerline as-built requirement was approved at the December 10, 2020 Planning Board meeting to be provided prior to the foundation inspection so that excavation for the footings and foundation can begin while constructing the driveway base elevations per the proposed plan.
11. No further comment necessary. We acknowledge that the applicant is responsible for full payment of actual costs of erosion control inspections.

**Memorandum from Bruce Barber, of Cornerstone Associates, dated December 8, 2020:**

2. Environmental and Cultural Resource Comments:

**Wetlands:** All comments have been addressed. A copy of the NYSDEC Freshwater Wetland permit approval is enclosed as requested.

**Well/Septic Systems:** The PCDOH approved both the well and septic in a joint review with the NYCDEP. Copies of said approvals are provided.

3. Additional Comments:

**Plant Inspection and Invasive Species Removal Plan:** We acknowledge your recommendation and have revised Drawing D-2 to include General Planting Notes that include replacing any dead/diseased plants that were installed as part of this project and all invasive species within the areas of disturbance and wetland mitigation plantings shall be removed.

We respectfully request the final review of the enclosed documents to obtain the Chairman's signature on the Final Drawing Set. The Applicant is anxious to break ground on the commercial lot and also begin the timber harvest process. Should you have any questions or comments regarding this information, please do not hesitate to contact our office.

Very truly yours,

INSITE ENGINEERING, SURVEYING & LANDSCAPE ARCHITECTURE, P.C.

By: 

John M. Watson, P.E.  
Senior Principal Engineer

JMW/jll

Enclosures

cc: Richard Esposito, Kent Development Associates, Inc, with enclosures

Insite File No. 18163.100



ARCHITECTURE  
ENGINEERING  
PLANNING  
CPLteam.com

### MEMORANDUM

**TO:** Town of Kent Town Board  
**CC:** Nancy Tagliaferro, Esq, Hogan & Rossi  
Jamie Spillane, Esq, Hogan & Rossi  
**FROM:** Liz Axelson, AICP  
**DATE:** January 21, 2020  
**RE:** Moratorium; and Code of the Town of Kent Analysis about Mining / CPL# 15475.00-00001

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My analysis involved a review of numerous Chapters of the Code of the Town of Kent to discern whether and how mining and excavation are regulated. The terms and regulatory provisions of these Chapters were considered. I offer the following comments:

#### **GENERAL AND PROCEDURAL COMMENTS**

1. The comments herein are related to the pending enactment of a local law to establish a land use moratorium prohibiting mining within the Town of Kent. Based on my analysis of the Code of the Town of Kent and consultation with the Town Board's Attorneys, it is my understanding that the intent and scope of the moratorium would be related to the Code of the Town of Kent, Chapter 63, Soil Removal.
2. The scope of the Soil Removal law appears to apply throughout the Town of Kent depending on where such land disturbance activities or uses might be proposed. Accordingly, the effect of the proposed moratorium; and resulting revisions to Code Chapter 63 would also apply throughout the Town. The moratorium would allow the Town Board to consider Chapter 63 and other pertinent Code Chapters to determine how mining would be regulated in the Town of Kent, so it is possible amendments may be considered in other chapters, including zoning.
3. Under the New York State Environmental Quality Review (SEQR) regulations, Section 617.5 (c)(36), adoption of a moratorium on land development or construction would be a Type II Action. Given the moratorium would pertain to the "consideration, receipt or grant of temporary permits, pursuant to Chapter 63", then it appears the enactment of the moratorium may be a Type II Action, which would not be subject to review under SEQR. A Draft Short Environmental Assessment Form (Short EAF) was prepared about the moratorium, which will be reviewed by the Town Board's Attorneys along with consideration of whether this would be a Type II Action.
4. Although SEQR review is not required, it is suggested that the Town Board circulate a notice about the moratorium and the public hearing to Town agencies and departments and adjoining municipalities.
5. While I defer to the Town Board's Attorneys, it is possible that referral under GML 239 1, m and n may be necessary for the moratorium local law.
6. The code revisions that may be proposed as a result of the moratorium, to Chapter 63 or other chapters to regulate mining in the Town, may pertain to the entire town or to significant portions therein. These would be presented in a separate local law. Under the New York State Environmental Quality Review (SEQR) regulations, Section 617.4 (b)(2), the adoption of allowable uses within any zoning district would be a Type I Action; requiring SEQR review. While draft code chapter amendments are being prepared, it is recommended that a

Full Environmental Assessment Form (Full EAF) be prepared with narrative to describe the proposed action and the potential effects.

7. The Kent Comprehensive Plan adopted November 2008 will be reviewed with regard to mining; excavation; soils and rock removal and other related land disturbance concerns.
8. The review of the Code of the Town of Kent regarding mining, excavation and related activities is presented in the Code Analysis Comments below. In general, Kent's Code regulates land disturbance intensively. Most of the regulated land disturbance or excavation regulated corresponds to land development projects with intended land uses; construction of buildings; and related improvements such as driveways, roads, parking and other facilities. Code Chapter 63 appears to be the only set of regulations that deals with excavation for the purpose of excavation only for removal of materials without corresponding land development project and/or construction of buildings and related improvements.

## CODE ANALYSIS COMMENTS

9. The term "mining" occurs in definitions sections the following chapters of the Code of the Town of Kent:
  - a. 39 Flood Damage Prevention;
  - b. 39A Freshwater Wetlands; and
  - c. 66 Steep Slope Protection and Stormwater Management.
  - d. In these definitions, the term "mining" is part of a definition of types of improvements or activities on land.
  - e. The terms "mining" or "mine" do not occur in Code Chapter 63 Soil Removal.
10. The term "mines" occurs in Kent Code Chapter 38 Fire Prevention, Article II: Explosives and Blasting Agents, section 38-10 Scope, which sets forth the scope of Article II. It deals with the regulation of explosive that may be used in mining, yet not mining in general.
11. The terms "excavation"; "excavate"; or "excavating" occur in definitions sections of the following code chapters:
  - a. 39 Flood Damage Prevention;
  - b. 39A Freshwater Wetlands;
  - c. 43 Illicit Discharges to Storm Sewers;
  - d. 63 Soil Removal;
  - e. 66 Steep Slope Protection and Stormwater Management; and
  - f. 77 Zoning.
12. Please note that terms and definitions sections of Kent's Code Chapters are intended to simply describe the meaning of words and phrases in each chapter, yet these are not the regulatory provisions.
13. The terms "excavation"; "excavate"; or "excavating" occur in the regulatory provisions of the following Kent code chapters:
  - a. 39 Flood Damage Prevention;
  - b. 39A Freshwater Wetlands;
  - c. 43 Illicit Discharges to Storm Sewers;
  - d. 61 Sewer Use, Connections and Rents;
  - e. 63 Soil Removal;
  - f. 66 Steep Slope Protection and Stormwater Management;
  - g. 75 Water; and
  - h. 77 Zoning.
14. Chapter 39 Flood Damage Prevention includes a provision in section 39-8 prohibiting excavation or other types of land altering or construction activities in an area of special flood hazard without compliance with Kent's Chapter 39.



15. Excavation is one of several forms of regulated activities in section 39A-5 of Kent's Freshwater Wetlands code chapter. Section 39A-5 states it is unlawful to conduct excavation or other activities without obtaining a permit. The prefatory findings of the wetland law in 39A-3 note the various activities that might lead to loss of wetlands acreage or effects on wetland functioning and quality. Activities noted in 39A-5 include "... filling, excavating, building, ...".
16. Excavation is required for certain aspects of road construction as per Chapter 57, Roads and Driveways, section 57-9; and driveway specifications in 57-26.
17. Excavation is similarly required and/or regulated for certain aspects of sewer and water improvements Chapter 61, section 61-29; and Chapter 75, Water, section 75-21.
18. Excavation is regulated throughout Kent's Code Chapter 63, Soil Removal. Requirements for a temporary permit; application procedures; plan requirements; standards and conditions are set forth in section 63-1 through 63-5. Chapter 63, however, lacks a specific threshold for volume or extent of excavation or soil removal, so the applicability of the regulations therein is ambiguous.
19. In contrast Kent's Code Chapter 66, Steep Slope Protection and Stormwater Management, sets very specific, limited thresholds for any type of land development including excavation and many other activities in section 66-5, Applicability. Applications must be made to the Planning Board for excavation (or filling) exceeding a total of 100 cubic yards. Disturbance of 5,000 square feet (SF) or more of land area is a criterion in section 66-5, resulting in numerous applications before the Planning Board for activities such as development or redevelopment of a house, septic and driveway on a single-family residential lot as small as 10,000 SF. This amounts to about one-tenth (0.1) acre of disturbance on a little less than one-quarter acre of land. So, any disturbance of larger areas would involve similar scrutiny.
20. In Kent's Code Chapter 66, disturbance is defined as follows:  
"DISTURBANCE  
All land preparation activities involving the movement, placement, removal, transfer or shifting of soil and/or vegetation, including but not limited to, clearing draining, filling, grading, regrading or the building of structures or the placement of improvements on land, including the construction of individual sidewalks, paths, roads or driveways. The condition of land disturbance shall be deemed to continue until the area of disturbance is returned to its original state or to a state complying with a permit for such disturbance granted in accordance with this chapter."
21. Although Chapter 66 sets forth a low threshold for when permitting is required, the regulations therein generally have to do with how land disturbance occurs; how it affects stormwater runoff; how stormwater runoff is controlled and managed to maintain rates of runoff; how the potential for erosion and sedimentation is controlled and managed; what practices must be implemented to prevent and mitigate potential stormwater; erosion and sedimentation impacts to ultimately protect surface water resources. In other words, although there is a low threshold for permitting, the regulations do not include specific prohibitions about uses or regulated activities as long as the standards therein are met.
22. Several Kent code chapters define or regulate land disturbance or land development activities, or aspects of disturbance or development, including the following:
  - a. 39 Flood Damage Prevention;
  - b. 39A Freshwater Wetlands;
  - c. 43 Illicit Discharges to Storm Sewers;
  - d. 57 Roads and Driveways;
  - e. 61 Sewer Use, Connections and Rents;
  - f. 63 Soil Removal;
  - g. 66 Steep Slope Protection and Stormwater Management;

- h. 66A Subdivision of Land;
  - i. 75 Water; and
  - j. 77 Zoning.
23. Code Chapter 77, Zoning was reviewed to discern whether mining or mines, or similar or related activities, are listed as uses in any zoning district. As noted above the terms "mining" and "mines" are not found in Chapter 77. The definitions of the terms "contractor"; "contractor office"; "contractor yard"; "industrial park"; "industrial use"; and "manufacturing" clearly do not include mining or mines.

If you have any questions please do not hesitate to contact me at 845-454-3411 ext. 21, or e-mail at [eaxelson@CPLteam.com](mailto:eaxelson@CPLteam.com).

Reply all ✓ Delete Junk Block ...

FYI

LC

Lana Cappelli

Wed 2/19/2020 11:00 AM

Planning Kent ✓



**- Accepting Erosion Control, Wetland Mitigation, Landscaping and Stormwater Facilities  
Surety Bonds -**

On a motion by Councilman Denbaum  
Seconded by Councilman Ruthven

WHEREAS, the Planning Board, by Resolution #1 of the Year 2020, dated February 10, 2020, has recommended that the Town Board accept: (i) an Erosion Control Bond in the amount of \$15,000; (ii) a Wetland Mitigation and Landscaping Bond in the amount of \$40,000; and (iii) a Stormwater Facilities Bond in the amount of \$70,000 from the owner of the property located at 404 Ludingtonville Road, Kent, New York, identified as Tax Map Nos. 12.-3-40& 41; and

WHEREAS, the Town Board of the Town of Kent wishes to accept the recommendations of the Planning Board;

NOW, THEREFORE BE IT RESOLVED, that the Town Board of the Town of Kent hereby accepts the recommendation of the Planning Board and approves the posting of the above referenced bonds.  
Motion carried unanimously



Town of Kent Planning Board  
25 Sybil's Crossing  
Tel: 845-225-7802

email: [planningkent@townofkentny.gov](mailto:planningkent@townofkentny.gov)  
Kent, NY 10512  
Fax: 845-306-5283

Resolution #1

Year 2020

Date: February 10, 2020  
From: The Kent Planning Board  
To: The Kent Town Board:  
Maureen Fleming, Supervisor - w/Att Paul Denbaum  
Bill Huestis, Deputy Supervisor Jaimie McGlasson  
Chris Ruthven  
CC: W. Walters, Building Inspector - w/Att  
L. Cappelli, Town Clerk - w/Att T. Harrison - w/Att.  
Finance Department - w/Att.  
Re: Accept Erosion Control, Wetland Mitigation & Landscaping and Stormwater Facilities Surety Bonds  
Putnam Nursing & Rehabilitation Center Addition  
404 Ludingtonville Road  
Kent, NY 10512  
TM: 12.-3-40 & 41

Resolved: On December 12, 2019 Kent Planning Board reviewed material pertaining to the recommendation noted above and agreed that it was appropriate to forward it to the Town Board for their action.

Mr. Tolmach asked for a motion to forward this recommendation to the Kent Town Board to accept surety bonds for the following bonds:

Erosion Control Bond - \$15,000  
Wetland Mitigation & Landscaping Bond - \$40,000  
Stormwater Facilities Bond - \$70,000

The Kent Planning Board Consultants worked with Jeff Battistoni of Van DeWater & Van DeWater and the attorney for the property owner and the attached agreement is the result of their discussions.

Mr. Tolmach asked for a motion to accept the Erosion Control Bond in the amount of \$15,000.00. The motion was made by Mr. Carey and seconded by Mr. Wilhelm. The roll call votes were as follows:

Phillip Tolmach, Chairman	<u>Aye</u>
Simon Carey	<u>Aye</u>
Giancarlo Gattucci	<u>Absent</u>
Dennis Lowes	<u>Aye</u>
Nisim Sachakov	<u>Absent</u>
Charles Sisto	<u>Aye</u>
Stephen Wilhelm	<u>Aye</u>

The motion carried.

Town of Kent Planning Board  
25 Sybil's Crossing  
Kent, NY 10512

email: [planningkent@townofkentny.gov](mailto:planningkent@townofkentny.gov)  
Tel: 845-225-7802 (O)  
Fax: 845-306-5283

Mr. Tolmach asked for a motion to accept the Stormwater Facilities Bond in the amount of \$70,000.00. The motion was made by Mr. Carey and seconded by Mr. Sisto. The roll call votes were as follows:

Phillip Tolmach, Chairman  
Simon Carey  
Giancarlo Gattucci  
Dennis Lowes  
Nisim Sachakov  
Charles Sisto  
Stephen Wilhelm

Aye  
Aye  
Absent  
Aye  
Absent  
Aye  
Aye

The motion carried.

Mr. Tolmach asked for a motion to accept the Wetland Mitigation & Landscaping Bond in the amount of \$40,000.00. The motion was made by Mr. Carey and seconded by Mr. Wilhelm. The roll call votes were as follows:

Phillip Tolmach, Chairman  
Simon Carey  
Giancarlo Gattucci  
Dennis Lowes  
Nisim Sachakov  
Charles Sisto  
Stephen Wilhelm

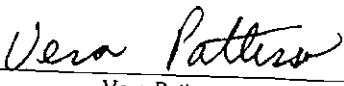
Aye  
Aye  
Absent  
Aye  
Absent  
Aye  
Aye

The carried.

The Planning Board respectfully asks that, if the Town Board is in agreement, they approve this recommendation.

I, Vera Patterson, Planning Board Secretary of the town of Kent, County of Putnam, State of New York, do hereby certify that the foregoing is a true excerpt from the minutes of a meeting of the Planning Board of the Town of Kent held on December 12, 2019.

Dated: December 12, 2019

  
Vera Patterson  
Planning Board Secretary



# HARCO NATIONAL INSURANCE COMPANY

702 Oberlin Road  
Raleigh, North Carolina 27605  
800-333-4167

Amount: \$15,000.00

Bond Number: 0723369

## SITE IMPROVEMENT BOND - EROSION CONTROL

KNOW ALL MEN BY THESE PRESENTS THAT WE, Putnam Nursing & Rehabilitation Center, as Principal, and HARCO NATIONAL INSURANCE COMPANY, an Illinois corporation, authorized to do business in the state of New York, with its main bonding office at 702 Oberlin Road, Raleigh, North Carolina 27605, as Surety, are held and firmly bound unto the Town of Kent, as Oblige, in the penal sum of Fifteen Thousand & 00/100 Dollars (\$15,000.00) lawful money of the United States, to the payment of which sum, well and truly to be made, the Principal and the Surety bind themselves, their successors and assigns, jointly and severally, firmly by these presents.

SIGNED, SEALED AND DATED THIS 24th day of January 2020.

WHEREAS, the Principal has applied for a permit with the Town of Kent, as Oblige, guaranteeing that the Principal will construct, install and complete work at certain land known as, "Putnam Nursing & Rehabilitation Center, TM: 12.-3-40 & 41, located at 404 Ludingtonville Road, Holmes, in the town of Kent, Putnam County, New York," all of which Improvements shall be maintained and completed on or before December 12th, 2021.

NOW, THEREFORE THE CONDITION OF THIS OBLIGATION IS SUCH, that if the Principal shall carry out all the terms of said permit and perform all the work as set forth therein, all within the time set forth in said permit, then this obligation shall be null and void; otherwise to remain in full force and effect. FURTHERMORE, the rights of the obligee hereunder are exclusive to it and the surety shall have no obligation hereunder to any person or entity other than the named obligee herein. The rights of such obligee are not assignable.

In no event shall the liability of the surety exceed the penal sum of this bond.

ATTEST:

Danielle Femirelli  
Danielle Femirelli  
Print Name

Putnam Nursing & Rehabilitation Center

BY:

Lizet Jozefovic, Managing Partner  
Print Name & Title

ATTEST:

Jami Murphy  
Jami Murphy  
Print Name

HARCO NATIONAL INSURANCE COMPANY

BY: Eileen Jo Brayman  
Eileen Jo Brayman, Attorney-in-Fact  
Print Name & Title



Eileen Jo Brayman, CNA, CPCU, AIRM  
Account Executive  
Surety Specialist  
541.654.6622 C  
541.681.8685 D  
541.687.4718 F

eileen.brayman@allianceinsgrp.com

941 Oak St.  
Eugene, OR 97401

www.allianceinsgrp.com

**POWER OF ATTORNEY**  
**HARCO NATIONAL INSURANCE COMPANY**  
**INTERNATIONAL FIDELITY INSURANCE COMPANY**

Bond # 0723389

Member companies of IAT Insurance Group, Headquartered: 702 Oberlin Road, Raleigh, North Carolina 27605

KNOW ALL MEN BY THESE PRESENTS: That HARCO NATIONAL INSURANCE COMPANY, a corporation organized and existing under the laws of the State of Illinois, and INTERNATIONAL FIDELITY INSURANCE COMPANY, a corporation organized and existing under the laws of the State of New Jersey, and having their principal offices located respectively in the cities of Rolling Meadows, Illinois and Newark, New Jersey, do hereby constitute and appoint

**SCOTT REESE, SHARLITA HOLMES, MICHAEL JORGENSEN, EILEEN JO BRAYMAN**

Eugene, OR

their true and lawful attorney(s)-in-fact to execute, seal and deliver for and on its behalf as surety, any and all bonds and undertakings, contracts of indemnity and other writings obligatory in the nature thereof, which are or may be allowed, required or permitted by law, statute, rule, regulation, contract or otherwise, and the execution of such instrument(s) in pursuance of these presents, shall be as binding upon the said HARCO NATIONAL INSURANCE COMPANY and INTERNATIONAL FIDELITY INSURANCE COMPANY, as fully and amply, to all intents and purposes, as if the same had been duly executed and acknowledged by their regularly elected officers at their principal offices.

This Power of Attorney is executed, and may be revoked, pursuant to and by authority of the By-Laws of HARCO NATIONAL INSURANCE COMPANY and INTERNATIONAL FIDELITY INSURANCE COMPANY and is granted under and by authority of the following resolution adopted by the Board of Directors of INTERNATIONAL FIDELITY INSURANCE COMPANY at a meeting duly held on the 13th day of December, 2018 and by the Board of Directors of HARCO NATIONAL INSURANCE COMPANY at a meeting held on the 13th day of December, 2018.

"RESOLVED, that (1) the Chief Executive Officer, President, Executive Vice President, Senior Vice President, Vice President, or Secretary of the Corporation shall have the power to appoint, and to revoke the appointments of, Attorneys-in-Fact or agents with power and authority as defined or limited in their respective powers of attorney, and to execute on behalf of the Corporation and affix the Corporation's seal thereto, bonds, undertakings, recognizances, contracts of indemnity and other written obligations in the nature thereof or related thereto; and (2) any such Officers of the Corporation may appoint and revoke the appointments of joint-control custodians, agents for acceptance of process, and Attorneys-in-fact with authority to execute waivers and consents on behalf of the Corporation; and (3) the signature of any such Officer of the Corporation and the Corporation's seal may be affixed by facsimile to any power of attorney or certification given for the execution of any bond, undertaking, recognizance, contract of indemnity or other written obligation in the nature thereof or related thereto, such signature and seals when so used whether heretofore or hereafter, being hereby adopted by the Corporation as the original signature of such officer and the original seal of the Corporation, to be valid and binding upon the Corporation with the same force and effect as though manually affixed."

IN WITNESS WHEREOF, HARCO NATIONAL INSURANCE COMPANY and INTERNATIONAL FIDELITY INSURANCE COMPANY have each executed and attested these presents on this 31st day of December, 2018



STATE OF NEW JERSEY  
County of Essex

Kenneth Chapman

Executive Vice President, Harco National Insurance Company  
and International Fidelity Insurance Company

STATE OF ILLINOIS  
County of Cook



On this 31st day of December, 2018, before me came the individual who executed the preceding instrument, to me personally known, and, being by me duly sworn, said he is the therein described and authorized officer of HARCO NATIONAL INSURANCE COMPANY and INTERNATIONAL FIDELITY INSURANCE COMPANY; that the seals affixed to said instrument are the Corporate Seals of said Companies; that the said Corporate Seals and his signature were duly affixed by order of the Boards of Directors of said Companies.



IN TESTIMONY WHEREOF, I have hereunto set my hand affixed my Official Seal, at the City of Newark, New Jersey the day and year first above written.

Shirelle A. Outley a Notary Public of New Jersey  
My Commission Expires April 4, 2023

**CERTIFICATION**

I, the undersigned officer of HARCO NATIONAL INSURANCE COMPANY and INTERNATIONAL FIDELITY INSURANCE COMPANY do hereby certify that I have compared the foregoing copy of the Power of Attorney and affidavit, and the copy of the Sections of the By-Laws of said Companies as set forth in said Power of Attorney, with the originals on file in the home office of said companies, and that the same are correct transcripts thereof, and of the whole of the said originals, and that the said Power of Attorney has not been revoked and is now in full force and effect.

IN TESTIMONY WHEREOF, I have hereunto set my hand on this day. January 24, 2020

A01645

Irene Martins, Assistant Secretary



# HARCO NATIONAL INSURANCE COMPANY

702 Oberlin Road  
Raleigh, North Carolina 27605  
800-333-4167

Amount: \$70,000.00

Bond Number: 0723368

## SITE IMPROVEMENT BOND - STORMWATER

KNOW ALL MEN BY THESE PRESENTS THAT WE, Putnam Nursing & Rehabilitation Center, as Principal, and HARCO NATIONAL INSURANCE COMPANY, an Illinois corporation, authorized to do business in the state of New York, with its main bonding office at 702 Oberlin Road, Raleigh, North Carolina 27605, as Surety, are held and firmly bound unto the Town of Kent, as Oblige, in the penal sum of Seventy Thousand & 00/100 Dollars (\$70,000.00) lawful money of the United States, to the payment of which sum, well and truly to be made, the Principal and the Surety bind themselves, their successors and assigns, jointly and severally, firmly by these presents.

SIGNED, SEALED AND DATED THIS 24th day of January 2020.

WHEREAS, the Principal has applied for a permit with the Town of Kent, as Oblige, guaranteeing that the Principal will construct, install and complete work at certain land known as, "Putnam Nursing & Rehabilitation Center, TM: 12.-3-40 & 41, located at 404 Ludingtonville Road, Holmes, in the town of Kent, Putnam County, New York," all of which improvements shall be maintained and completed on or before December 12th, 2021.

NOW, THEREFORE THE CONDITION OF THIS OBLIGATION IS SUCH, that if the Principal shall carry out all the terms of said permit and perform all the work as set forth therein, all within the time set forth in said permit, then this obligation shall be null and void; otherwise to remain in full force and effect. FURTHERMORE, the rights of the obligee hereunder are exclusive to it and the surety shall have no obligation hereunder to any person or entity other than the named obligee herein. The rights of such obligee are not assignable.

In no event shall the liability of the surety exceed the penal sum of this bond.

ATTEST:

Dayelle Femirelli  
Print Name

Putnam Nursing & Rehabilitation Center

BY:

Lizer Jozefovic, Managing Partner  
Print Name & Title

ATTEST:

Sam Murphy  
Print Name

HARCO NATIONAL INSURANCE COMPANY

BY:

Eileen Jo Brayman, Attorney-in-Fact  
Print Name & Title

**POWER OF ATTORNEY**  
**HARCO NATIONAL INSURANCE COMPANY**  
**INTERNATIONAL FIDELITY INSURANCE COMPANY**  
Member companies of IAT Insurance Group, Headquartered: 702 Oberlin Road, Raleigh, North Carolina 27805

Bond # 0723368

KNOW ALL MEN BY THESE PRESENTS: That HARCO NATIONAL INSURANCE COMPANY, a corporation organized and existing under the laws of the State of Illinois, and INTERNATIONAL FIDELITY INSURANCE COMPANY, a corporation organized and existing under the laws of the State of New Jersey, and having their principal offices located respectively in the cities of Rolling Meadows, Illinois and Newark, New Jersey, do hereby constitute and appoint

**SCOTT REESE, SHARLITA HOLMES, MICHAEL JORGENSEN, EILEEN JO BRAYMAN**

Eugene, OR

their true and lawful attorney(s)-in-fact to execute, seal and deliver for and on its behalf as surety, any and all bonds and undertakings, contracts of indemnity and other writings obligatory in the nature thereof, which are or may be allowed, required or permitted by law, statute, rule, regulation, contract or otherwise, and the execution of such instrument(s) in pursuance of these presents, shall be as binding upon the said HARCO NATIONAL INSURANCE COMPANY and INTERNATIONAL FIDELITY INSURANCE COMPANY, as fully and amply, to all intents and purposes, as if the same had been duly executed and acknowledged by their regularly elected officers at their principal offices.

This Power of Attorney is executed, and may be revoked, pursuant to and by authority of the By-Laws of HARCO NATIONAL INSURANCE COMPANY and INTERNATIONAL FIDELITY INSURANCE COMPANY and is granted under and by authority of the following resolution adopted by the Board of Directors of INTERNATIONAL FIDELITY INSURANCE COMPANY at a meeting duly held on the 13th day of December, 2018 and by the Board of Directors of HARCO NATIONAL INSURANCE COMPANY at a meeting held on the 13th day of December, 2018.

"RESOLVED, that (1) the Chief Executive Officer, President, Executive Vice President, Senior Vice President, Vice President, or Secretary of the Corporation shall have the power to appoint, and to revoke the appointments of, Attorneys-in-Fact or agents with power and authority as defined or limited in their respective powers of attorney, and to execute on behalf of the Corporation and affix the Corporation's seal thereto, bonds, undertakings, recognizances, contracts of indemnity and other written obligations in the nature thereof or related thereto; and (2) any such Officers of the Corporation may appoint and revoke the appointments of joint-control custodians, agents for acceptance of process, and Attorneys-in-fact with authority to execute waivers and consents on behalf of the Corporation; and (3) the signature of any such Officer of the Corporation and the Corporation's seal may be affixed by facsimile to any power of attorney or certification given for the execution of any bond, undertaking, recognizance, contract of indemnity or other written obligation in the nature thereof or related thereto, such signature and seals when so used whether heretofore or hereafter, being hereby adopted by the Corporation as the original signature of such officer and the original seal of the Corporation, to be valid and binding upon the Corporation with the same force and effect as though manually affixed."

IN WITNESS WHEREOF, HARCO NATIONAL INSURANCE COMPANY and INTERNATIONAL FIDELITY INSURANCE COMPANY have each executed and attested these presents on this 31st day of December, 2018



STATE OF NEW JERSEY  
County of Essex

Kenneth Chapman

Executive Vice President, Harco National Insurance Company  
and International Fidelity Insurance Company

STATE OF ILLINOIS  
County of Cook



On this 31st day of December, 2018, before me came the individual who executed the preceding instrument, to me personally known, and, being by me duly sworn, said he is the therein described and authorized officer of HARCO NATIONAL INSURANCE COMPANY and INTERNATIONAL FIDELITY INSURANCE COMPANY; that the seals affixed to said instrument are the Corporate Seals of said Companies; that the said Corporate Seals and his signature were duly affixed by order of the Boards of Directors of said Companies



IN TESTIMONY WHEREOF, I have hereunto set my hand affixed my Official Seal, at the City of Newark, New Jersey the day and year first above written.

Shirelle A. Outley a Notary Public of New Jersey  
My Commission Expires April 4, 2023

**CERTIFICATION**

I, the undersigned officer of HARCO NATIONAL INSURANCE COMPANY and INTERNATIONAL FIDELITY INSURANCE COMPANY do hereby certify that I have compared the foregoing copy of the Power of Attorney and affidavit, and the copy of the Sections of the By-Laws of said Companies as set forth in said Power of Attorney, with the originals on file in the home office of said companies, and that the same are correct transcripts thereof, and of the whole of the said originals, and that the said Power of Attorney has not been revoked and is now in full force and effect.

IN TESTIMONY WHEREOF, I have hereunto set my hand on this day, January 24, 2020

A01845

Irene Martins, Assistant Secretary



# HARCO NATIONAL INSURANCE COMPANY

702 Oberlin Road  
Raleigh, North Carolina 27605  
800-333-4167

Amount: \$40,000.00

Bond Number: 0723347

## SITE IMPROVEMENT BOND - WETLANDS

KNOW ALL MEN BY THESE PRESENTS THAT WE, Putnam Nursing & Rehabilitation Center, as Principal, and HARCO NATIONAL INSURANCE COMPANY, an Illinois corporation, authorized to do business in the state of New York, with its main bonding office at 702 Oberlin Road, Raleigh, North Carolina 27605, as Surety, are held and firmly bound unto the Town of Kent, as Obligor, in the penal sum of Forty Thousand & 00/100 Dollars (\$40,000.00) lawful money of the United States, to the payment of which sum, well and truly to be made, the Principal and the Surety bind themselves, their successors and assigns, jointly and severally, firmly by these presents.

SIGNED, SEALED AND DATED THIS 24th day of January 2020.

WHEREAS, the Principal has applied for a permit with the Town of Kent, as Obligor, guaranteeing that the Principal will construct, install and complete work at certain land known as, "Putnam Nursing & Rehabilitation Center, TM: 12-3-40 & 41, located at 404 Ludingtonville Road, Holmes, in the town of Kent, Putnam County, New York," all of which improvements shall be maintained and completed on or before December 12th, 2021.

NOW, THEREFORE THE CONDITION OF THIS OBLIGATION IS SUCH, that if the Principal shall carry out all the terms of said permit and perform all the work as set forth therein, all within the time set forth in said permit, then this obligation shall be null and void; otherwise to remain in full force and effect. FURTHERMORE, the rights of the obligee hereunder are exclusive to it and the surety shall have no obligation hereunder to any person or entity other than the named obligee herein. The rights of such obligee are not assignable.

In no event shall the liability of the surety exceed the penal sum of this bond.

ATTEST:

Danielle Femorelli  
Print Name

Putnam Nursing & Rehabilitation Center

BY:

Lizer Jozefovic, Managing Partner  
Print Name & Title

ATTEST:

Jane Murphy  
Print Name

HARCO NATIONAL INSURANCE COMPANY

BY:

Eileen Jo Brayman, Attorney-in-Fact

Print Name & Title

**POWER OF ATTORNEY**  
**HARCO NATIONAL INSURANCE COMPANY**  
**INTERNATIONAL FIDELITY INSURANCE COMPANY**  
Member companies of IAT Insurance Group, Headquartered: 702 Oberlin Road, Raleigh, North Carolina 27605

Bond # 0723347

KNOW ALL MEN BY THESE PRESENTS: That HARCO NATIONAL INSURANCE COMPANY, a corporation organized and existing under the laws of the State of Illinois, and INTERNATIONAL FIDELITY INSURANCE COMPANY, a corporation organized and existing under the laws of the State of New Jersey, and having their principal offices located respectively in the cities of Rolling Meadows, Illinois and Newark, New Jersey, do hereby constitute and appoint

**SCOTT REESE, SHARLITA HOLMES, MICHAEL JORGENSEN, EILEEN JO BRAYMAN**

Eugene, OR

their true and lawful attorney(s)-in-fact to execute, seal and deliver for and on its behalf as surety, any and all bonds and undertakings, contracts of indemnity and other writings obligatory in the nature thereof, which are or may be allowed, required or permitted by law, statute, rule, regulation, contract or otherwise, and the execution of such instrument(s) in pursuance of these presents, shall be as binding upon the said HARCO NATIONAL INSURANCE COMPANY and INTERNATIONAL FIDELITY INSURANCE COMPANY, as fully and empty, to all intents and purposes, as if the same had been duly executed and acknowledged by their regularly elected officers at their principal offices.

This Power of Attorney is executed, and may be revoked, pursuant to and by authority of the By-Laws of HARCO NATIONAL INSURANCE COMPANY and INTERNATIONAL FIDELITY INSURANCE COMPANY and is granted under and by authority of the following resolution adopted by the Board of Directors of INTERNATIONAL FIDELITY INSURANCE COMPANY at a meeting duly held on the 13th day of December, 2018 and by the Board of Directors of HARCO NATIONAL INSURANCE COMPANY at a meeting held on the 13th day of December, 2018.

"RESOLVED, that (1) the Chief Executive Officer, President, Executive Vice President, Senior Vice President, Vice President, or Secretary of the Corporation shall have the power to appoint, and to revoke the appointments of, Attorneys-in-Fact or agents with power and authority as defined or limited in their respective powers of attorney, and to execute on behalf of the Corporation and affix the Corporation's seal thereto, bonds, undertakings, recognizances, contracts of indemnity and other written obligations in the nature thereof or related thereto; and (2) any such Officers of the Corporation may appoint and revoke the appointments of joint-control custodians, agents for acceptance of process, and Attorneys-in-fact with authority to execute waivers and consents on behalf of the Corporation; and (3) the signature of any such Officer of the Corporation and the Corporation's seal may be affixed by facsimile to any power of attorney or certification given for the execution of any bond, undertaking, recognizance, contract of indemnity or other written obligation in the nature thereof or related thereto, such signature and seals when so used whether heretofore or hereafter, being hereby adopted by the Corporation as the original signature of such officer and the original seal of the Corporation, to be valid and binding upon the Corporation with the same force and effect as though manually affixed."

IN WITNESS WHEREOF, HARCO NATIONAL INSURANCE COMPANY and INTERNATIONAL FIDELITY INSURANCE COMPANY have each executed and attested these presents on this 31st day of December, 2018



STATE OF NEW JERSEY  
County of Essex

Kenneth Chapman

Executive Vice President, Harco National Insurance Company  
and International Fidelity Insurance Company

STATE OF ILLINOIS  
County of Cook



On this 31st day of December, 2018, before me came the individual who executed the preceding instrument, to me personally known, and being by me duly sworn, said he is the therein described and authorized officer of HARCO NATIONAL INSURANCE COMPANY and INTERNATIONAL FIDELITY INSURANCE COMPANY; that the seals affixed to said instrument are the Corporate Seals of said Companies; that the said Corporate Seals and his signature were duly affixed by order of the Boards of Directors of said Companies.



IN TESTIMONY WHEREOF, I have hereunto set my hand affixed my Official Seal, at the City of Newark, New Jersey the day and year first above written.

Shirelle A. Outley

a Notary Public of New Jersey  
My Commission Expires April 4, 2023

**CERTIFICATION**

I, the undersigned officer of HARCO NATIONAL INSURANCE COMPANY and INTERNATIONAL FIDELITY INSURANCE COMPANY do hereby certify that I have compared the foregoing copy of the Power of Attorney and affidavit, and the copy of the Sections of the By-Laws of said Companies as set forth in said Power of Attorney, with the originals on file in the home office of said companies, and that the same are correct transcripts thereof, and of the whole of the said originals, and that the said Power of Attorney has not been revoked and is now in full force and effect.

IN TESTIMONY WHEREOF, I have hereunto set my hand on this day, January 24, 2020

A01645

Irene Martins, Assistant Secretary



- Putnam Nursing & Rehabilitation Center, 404 Ludingtonville Road, Holmes, NY; TM: 12.-3-40 & 41

This was a continuation of a Public Hearing, which was adjourned at the November meeting.

Mr. David Schlosser represented the applicants. Mr. Schlosser advised the Planning Board that he had spoken to the Kent Highway Supervisor, Mr. Othmer, and was told that Ludingtonville Road is not maintained by the Kent Highway Department, but said that he did support this project. Mr. Schlosser said that responses to all of the consultants' comments had been submitted. He felt that the only outstanding issue was the easement and the applicant's attorney is working with the Planning Board attorney to resolve that issue.

Mr. Tolmach asked for a motion to re-open the Public Hearing. The motion was made by Mr. Carey and seconded by Mr. Sisto. . The roll call votes were as follows:

Phillip Tolmach, Chairman	<u>Aye</u>
Dennis Lowes, Vice Chairman	<u>Aye</u>
Simon Carey	<u>Aye</u>
Giancarlo Gattucci	<u>Absent</u>
Nisim Sachakov	<u>Absent</u>
Charles Sisto	<u>Aye</u>
Stephen Wilhelm	<u>Aye</u>

The motion carried.

Mr. Barber's Comments (memo attached)

Mr. Barber said that Mr. Schlosser had responded to his comments. The applicant plans on cutting trees during the winter months by hand using a chain saw to comply with the bat cutting restrictions. Concerns about erosion controls have been resolved. Amended planting plans were submitted and are reflected in the new plans. The only outstanding items pertains to NYSDEC Article 24 permit, which will not be released until the Planning Board makes a determination of environmental significance.

**§ 156-16 Compliance required.**

**In addition to uses specifically prohibited by this chapter and the schedule referred to herein, no building, structure or land shall be used, nor shall any building, structure or part thereof be constructed or altered, nor shall any use of land be changed, where said use, construction or alteration of land, structure or building is intended, arranged or designed to be used in whole or in part for any use or purpose except the uses specifically allowed by right or conditional use for each district in the Schedule of District Regulations. The omission of any use or type of use from said schedule shall be deemed to be an exclusion thereof from all districts.**

156-16 clearly states that only the permitted uses are allowed. Mining is not allowed. Re-Grading Operations are permitted under § 156-43 of the Zoning Code if an applicant gets Final Subdivision Approval, Site Plan Approval, a Re-Grading Permit or a Building Permit. The approval(s) authorize the applicant to remove product(s) from the ground (including the dirt, fill, etc.) with several conditions. 156-43A(2) clearly states "No operation shall be commenced or carried on which is primarily for the purpose of the sale or exchange of excavated topsoil, earth, sand, gravel, rock or other substance from the ground" which I believe is the definition of mining, therefore, not allowed.

**§ 156-43 Landfills, grading and excavation**

**A. General regulations. No excavation, regrading, filling, removal, stripping or disturbance of topsoil, earth, sand, gravel, rock or other substance from the ground, subsequently herein referred to as an "operation" or "operations," shall be commenced or carried on in the Town of Carmel unless, except as otherwise provided herein, a permit therefor has been duly issued in accordance with the procedure set forth elsewhere in this section.**

**(1) No operation authorized under this subsection shall be permitted on Sunday or before 8:00 a.m. or after 5:00 p.m. on other days.**

**(2) No operation shall be commenced or carried on which is primarily for the purpose of the sale or exchange of excavated topsoil, earth, sand, gravel, rock or other substance from the ground.**

**(3) All landfill shall be clean soil, rocks or sand and shall be nonburnable and shall contain no garbage, refuse, waste or material deemed to be deleterious according to the standards of the applicable health codes.**

**B. Cases where a building permit, an approved site plan or an approved subdivision construction plan is deemed a permit under this subsection.**

**(a) A building permit for a building and/or its accessory structures shall be deemed to be a permit for an excavation and/or landfill necessary for the construction of the building and/or its accessory structures, provided that the volume of any excavated material removed from the property does not exceed twenty times the volume of the cellar and foundation of the building and/or accessory structures for which the building permit was issued. The building inspector shall endorse the building permit to the effect that such excavation and/or landfill is permitted, specifying the maximum volume of excavated material which may be removed.**

(2) In those cases where the Planning Board has approved, with or without conditions, the constitution plan of proposed streets and alleys and ditches in new subdivisions and lots, the approved constitution plan shall be deemed to be a permit for such operation with the right of way and slope rights of the proposed streets and alleys and ditches as may be necessary for their establishment, provided that in the case of removal or excavation thereof, such removal shall be a part of the approved plan and duly endorsed thereon. All operation outside and street right of way and slope rights and damage rights shall be subject to the permit and approval requirements of this subsection.

(3) All excavation performed without the necessity of a permit shall nonetheless conform to the general regulations contained in Subsection A(1) and (3) of this section.

**C. Exception.** Municipal and other public operations. The provisions of this subsection shall not apply to operations performed or conducted by the Town of Carmel, County of Putnam or State of New York or any department or agency thereof.

**D. Application procedure.** Application for a permit under this subsection shall be made to the Planning Board, in writing, with 10 copies, and shall contain the following information:

- (1) The full name and address of the owner or owners of property.
- (2) The street address, if any, and Tax Map designation of the property.
- (3) A statement as to authority from the owner, or any person other than owner if such person is making the application, with consent of owner endorsed thereon.
- (4) A statement of proposed work and purpose thereof.
- (5) Accompanying said application and as a part thereof, complete plans and estimates for the proposed site improvements shall be submitted for approval. The plans shall be certified by an engineer or architect, licensed in the State of New York, and shall be drawn to a scale of not less than one inch equals 50 feet and shall show the following:
  - (a) The location of that portion proposed to be disturbed and its relation to neighboring properties, together with buildings, roads and natural watercourses, if any, within 300 feet of the boundaries of said portion of said premises herein referred to shall be shown. An inset map at a reduced scale may be used, if necessary.
  - (b) The portion of the property that is to be disturbed.
  - (c) The estimated maximum quantity to be excavated and/or removed and the estimated part thereof that will be used for regrading or filling, computed from cross sections of a proposed excavation or disturbed area.
  - (d) The location of any well and the depth thereof, and the location of natural watercourses, if any, located within 300 feet of the proposed disturbed area.
  - (e) The location of any sewage disposal system, any part of which is within 300 feet of the proposed disturbed area.
  - (f) Existing topography of the area proposed to be disturbed at a contour interval of not more than two feet. Contours shall be shown for a distance of 100 feet beyond the area to be disturbed.
  - (g) The proposed final contours at a contour interval of two feet.
  - (h) The location and present status of any previous operations of the type contemplated by this subsection on the property within the preceding five years.

(i) The details of any drainage system proposed to be installed and maintained by the applicant, designed to provide for proper surface drainage of the land, both during the performance of the work applied for and after the completion thereof.

(j) If a proposed excavation is for the purpose of making a lake or pond, the details of the proposed construction of the dam or other structure or embankment intended to impound the water, together with the details and location of proposed discharge of a valved outlet for drainage purposes.

(k) The rehabilitation proposed and the estimate of the cost of such work, in accordance with the standards given in Subsection H herein.

(l) The details of all erosion controls to be implemented.

(6) Upon the filing of an application hereunder, the applicant shall pay a filing fee established by resolution of the Town Board which shall be filed in the office of the Town Clerk.

[Amended 9-14-1988 by L.L. No. 1-1988]

**E. Review procedure.**

(1) Upon receipt of an application and plans, the Planning Board shall review said application and plans in accordance with the following standards and requirements and other requirements of all other applicable local, state and federal regulations. Within 45 days after the receipt of a complete application, the Planning Board shall hold a public hearing on said application. Within 45 days after the hearing, the Planning Board shall make its determination.

(2) The Planning Board, in making its determination, shall report whether or not the proposed operation meets the following criteria:

(a) That the location and size of the proposed operation, the nature and intensity of the work involved in or conducted in connection with it and the size of the site in relation to the site such that, upon completion of the operation and the establishment of the permitted use, the site will be in harmony with the appropriate and orderly development of the district in which it is located.

(b) That the proposed operation will not be in conflict with any proposal in a Town Development Plan or with any requirement of this chapter.

(c) That the proposed operation will be incidental to the establishment, improvement or operation of a use permitted in the zoning district in which the property is located.

(d) That the proposed operation will not disturb any land designated as wetlands by the Town of Carmel or the State of New York.

**F. Permit.** In acting on the application and in granting or denying a permit, the Building Inspector shall be directed by the report and recommendations of the Planning Board. Any permit to be issued shall be issued in accordance with the terms of this subsection, subject to any restrictions, safeguards or special conditions considered by the Planning Board to be appropriate for the proposed operation. However, no permit shall be issued until the applicant shall have posted a performance bond with the Town of Carmel ensuring conformance with the approved plans and all applicable regulations, restrictions and special conditions. Such performance bond shall become effective only if and when the Town Attorney shall have approved the same as to amount, form, surety and manner of execution.

(1) The Building Inspector, when issuing permits, shall charge and collect a fee therefor, in addition to the filing fee previously provided for herein. Said charge

shall be established annually by the Town Board and shall be on file in the office of the Town Clerk.

**[Amended 11-26-1986]**

(2) Permits issued under this subsection shall expire within 12 months of the date of approval. A permit may be extended by the Planning Board for one additional period of 12 months. In making a determination on extension, the Board shall make a complete review of all plans and make an examination of all work accomplished.

**G. Conduct of work.** The work permitted shall be performed in accordance with the following conditions and requirements:

(1) Regrading adjacent to property lines shall be so designed that the work will not endanger abutting property by reason of erosion, landslides or increased runoff. The Planning Board may recommend, as a condition of permit approval, such limits to the work and such supplementary drainage structures or other safeguards as it may deem to be necessary to assure such protection to abutting lands.

(2) The proposed operation shall be so designed that the work will not cause soil erosion, flooding or increased stormwater runoff nor adversely affect wetlands within the Town of Carmel.

(3) There shall be a maximum of two truck access drives to the site of the operation, which shall be located so as to minimize danger to traffic and nuisance to surrounding properties. Such drives shall be kept either wet or oiled or shall be treated with chemical dust deterrents or paved, to the extent necessary to prevent any dust nuisance to surrounding properties. All such access drives shall be clearly marked with signs which shall be posted approximately 200 feet on both sides of such access drives or other traveled areas. Such signs shall read "Caution, Trucks Entering" and shall be of size, type, coloring, lettering and format used by the Highway Department of the Town.

(4) All streets and highways leading to the operation shall be kept clean of all dirt, rocks and other material, and all storm drainage systems in the area of the operation shall be kept clean and in good operating condition. Violation of this condition shall be grounds for revocation of the permit by the Building Inspector.

(5) At all times subsequent to the issuance of a permit and before completion of the final grading, as herein provided, any excavation having a slope steeper than one foot vertically for each one foot horizontally and having a depth greater than three feet or involving standing water of a depth greater than six inches shall be entirely enclosed by wooden or wire-mesh fence not less than four feet in height, measured from ground level, with a gate of the same height at each entrance thereto. If such fencing and gates are of wooden construction, each fencing board shall be separated by not more than seven inches and, if constructed of wire-mesh fencing, the mesh thereof shall not be greater than six inches by six inches. No such fence shall be so located as to obstruct visibility at the access drives. Gates shall be securely locked at all times when the project is not in operation.

(6) Storage piles of materials, including waste material, shall at no time be located nearer than 50 feet to a property or street line or have a grade steeper than one foot vertically for each two feet horizontally.

**(7) All trucks and equipment stored on the site of the operation shall be set back at least 50 feet from the nearest property or street line.**

**H. Rehabilitation of site. Upon completion of the work permitted, the site shall be rehabilitated in accordance with the following standards:**

**(1) The final grade shall be finished at a slope no steeper than one foot vertically for each two feet horizontally for any material other than rock, except where supported by a retaining wall or foundation. Finished excavated rock surface to fast rock shall have a slope no steeper than six feet vertically for each one foot horizontally.**

**(2) A minimum of four inches of topsoil shall be replaced over all ground surfaces exposed by any operation contemplated herein, except rock, roads, driveways, parking places, garden spaces and surfaces excavated below high water marks or lakes or ponds or streams, and then shall be seeded and planted as specified by the Planning Board to prevent erosion.**

**(3) Upon completion of all rehabilitation work, the applicant shall so notify the Planning Board. The Planning Board shall make, or cause to be made, a field inspection of the site to determine if all work has been completed in accordance with the terms of the permit and the approved plans. The Planning Board shall make a report to the Town Board upon the completion of its investigation, describing the degree to which the operation is in conformance with the terms of the permit and plans, together with its recommendation as to the release of the performance bond posted.**



# Memorandum

**To:** Planning Board  
Town of Kent

**Attn:** Phillip Tolmach  
Chairman

**From:** Julie S. Mangarillo, P.E., CPESC

**Subject:** Erosion Control – Permit Close-out

**Date:** January 29, 2021

**Project:** O'Mara – Peekskill Hollow Rd  
TM # 42.07-1-17

## 1. Stabilization Inspection:

A follow-up stabilization inspection was conducted on November 20, 2020. This was a follow up to inspections conducted on December 16, 2019 and July 23, 2020. The certificate of occupancy for the house was issued in December 2019. Memos regarding the inspections were issued on August 10, 2020 and January 21, 2021. Observations from the November 20, 2020 inspection were also issued to the project developer, Patrick O'Mara and the project engineer, Jack Karell, Jr., P.E. via email on November 30, 2020.

At the November 20, 2020 site visit, it was observed that the cut slope immediately uphill of the Peekskill Hollow Rd catchbasin and near the bottom of the swale, was not fully stabilized. It was continuing to erode. Due to the steepness of the cut slope, it will be difficult for vegetation to grow in on its own. The bare area needed to be stabilized.

Per photographs and email sent by the developer, Mr. Patrick O'Mara, on January 19, 2021, the area of erosion has been stabilized with seed and rolled erosion control matting. This item has been addressed.

During the November 20, 2020 site visit, it was also observed that there was a white pvc pipe extending towards the catch basin that was not on the approved plans and not observed during previous inspections. Per an email from Mr. Patrick O'Mara on January 15, 2021, he explained that this pvc pipe belonged to the adjacent neighbor. Weeds and brush had been removed, which revealed the existing pipe. This item has been addressed.

The previously disturbed area is considered fully stabilized in accordance with Town of Kent Town Code Chapter 66. This project was not subject to the requirements of NYSDEC SPDES General Permit for Stormwater Discharges from Construction Activity Permit because it is located outside the NYCDEP East of Hudson Watershed. Therefore, a NYSDEC Notice of Termination is not required.

The Town of Kent Erosion Control Permit is now considered closed.

2. Erosion Control Bond:

Per Chapter 66, §66-7.A(2) regarding return of the erosion control bond: "The security shall remain in full force until the applicant and/or developer is released from liability by the Town, provided that such period shall not be less than two years from the date of final acceptance..."

The site was confirmed as fully stabilized based on photos sent on January 19, 2021. Based on previous site inspections, the site has been generally stabilized since December 2019, with some areas of varying sizes that needed repair. Technically, the two-year waiting period began on 1/19/2021.

It is our understanding that the Town is holding a surety bond for \$13,000 and a cash bond of \$9,235.00. Those two bonds combined make up the erosion control bond.

For other single-family home construction projects, the Planning Board has reduced the two year waiting period for bond return. Our typical recommendation is for the bond to be held for at least one winter to ensure the grass survives the winter. Based on our inspections, it is our belief that the grass for the majority of the site has been established since December 2019.

We recommend that the Planning Board consider reducing the two year bond return waiting period for this project and recommend to the Town Board to release the erosion control bond (cash bond plus surety bond) at this time.

As a reminder, if not already done so, prior to the release of the erosion control bond, all Planning Board costs and fees including inspections must be paid to the Town.

If you have any questions, please do not hesitate to contact us. Thank you.

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Julie S. Mangarillo, P.E., CPESC

cc: Planning Board via email  
Bill Walters via email  
Bruce Barber, via email  
Jack Karell, P.E., via email  
04-261-999-82