

**PLANNING BOARD MEETING  
MARCH 31, 2021 AT TOWN HALL  
AMERICOLD FREEZER WAREHOUSE FACILITY**

**PRESENT :** Chairperson Shari Miller, Craig Lyford, Jay Warren, and Carl Brandt.

**ABSENT:** Bob Price.

**ALSO, PRESENT:** Jim Crowell, Acting Code Enforcement Officer, Kyle Coughlin, Secretary to planning, Rebecca Yacklon, Town Clerk, Richard Purol, Town Supervisor, Juan Pagan, Councilman, DR. G. Jay Bishop, Councilman , Mark Auer, Dan Gayford, Kelly Pettijohn, Larry Lantero, Brian Ardillo, Rick Chau, Rich Dixon, Mark Geise, Mike Miller, and Richard Schrechter.

With all notices having been properly posted and published on March 20, 2021. Chairperson Miller called the meeting to order at 5:02 p.m.

Chairperson Miller read the purpose of site plan review from the Town of Dunkirk Zoning Book.

She further explained that the Planning Board will make one of three recommendations that night.

1. They would approve with no modifications or conditions.
2. They would approve with modifications or conditions.
3. They would disapprove.

“Future Development in the Town of Dunkirk will influence the quality of life for all residents in the town of Dunkirk. To ensure development conforms to the Region’s Comprehensive Plan, the following procedures for Site Plan Approval have been established here. Unless otherwise provided and as regulated by the Town of Dunkirk Subdivision Law, site plan review and site plan approval shall be required for all uses, buildings and structures that require site plan review and approval as outlined in this chapter. The town Board shall act upon site plans following review and recommendations from the Planning Board and a public hearing. Fees outlines and adopted by the Town will apply to all site plan reviews. Unless otherwise provided and as regulated by the Town’s subdivision Law, in all multi-family commercial, industrial, open space, cluster and planned unit developments, as well as in any project requiring a Zoning district amendment, a site plan approval shall be required.

1. For all new construction of structures other than one- and two-family units;
2. The erection or enlargement (over 20 percent of total floor space) of all buildings except one- and two-family structures;
3. Any change in use or intensity use which will significantly impact the characteristics of the site, in the assessment of the Town Zoning Enforcement Officer and after careful review of this Chapter, in terms of parking, loading, access, draining, utilities, traffic or other environmental impact for any commercial, industrial or multi-family use;
4. Any use or structure in a flood hazard area;
5. All special permit, variance or rezoning applications.”

After reviewing the Purpose of Site Plan review, Chairperson Miller asked the representatives of Americold and the audience present to introduce themselves to one another.

Once introductions were complete, she asked the representatives of Americold to tell the board about the company and the plans for the proposed project.

Mark Auer with Americold logistics stated that they are proposing an approximate 180,000 sq. ft. temperature control warehouse facility. This facility will operate at a freezer temperature. He stated that they will be providing services to a number of companies in New York, Pennsylvania, and Ohio. He said that the plan is for this facility to have roughly 40 full time employees in direct labor. He stated that in the front of the facility here will be the loading and shipping dock where they are expecting roughly 25 ingoing and outgoing tractor trailers.

Mr. Auer further explained that this is the plans for Phase one and they hope to develop phase two in the future, but that will be determined based on a number of factors.

Larry Lantero, President of United Insulated Structures Corp. asked if the board had any questions.

Member Lyford asked how many companies does Americold typically service.

Dan Gayford with Americold Logistics stated that will depend on the demand at that period of time. He stated that they roughly service a half dozen companies and are always marketing for new food producers that are in need of their services.

Member Lyford asked how much of the existing ice cream plant (Wells Enterprises) will make up in terms of percentage of their business.

Mr. Gayford stated that wasn't something he could remember specifically. He said he knows they can range anywhere between 20%-50% of the space.

Member Warren asked if the 25 tractor trailers a day, if they would be regular size trailers or what should they expect in terms of size of the trailers.

Mr. Auer stated the trailers would be 53 ft. long refrigerated trailers.

Member Warren asked if that number will grow or if that was the initial startup number of trailers.

Mr. Auer stated that is the average that will be expected across the board. There could be a difference seen on a seasonal level but 25 inbound and outbound is the average to be expected.

Member Lyford asked if that estimate was based on size of the facility.

Mr. Gayford said Member Lyford was correct, it was based on the size of the facility and the typical inventory.

Member Warren asked if there would be other service vehicles that the board should expect.

Mr. Auer stated there would be a yard jockey that would assist with moving parked trailers but that's it.

### **SITE PLAN APPLICATION**

Chairperson Miller asked Board Member's if they had any questions on Page 1.

There were no questions on that page.

She then asked if there were questions on Page 2.

There were not any.

Chairperson Miller moved forward to Page 3 where there were a few questions from Planning Board Members.

Chairperson Miller wanted to clarify to other Members that the building height they are asking for is 60 feet, however the building will actually be 56 feet.

Mr. Lantero stated that the top of the roof at the head point will be 55 feet. The rooftop mounted refrigeration units are considered accessories so they do not count towards the building height and will not interfere with the height variance request. Larry asked the Planning Board if that made sense to them.

Chairperson Miller stated it did. She moved onto Page 4 of the Site Plan Application. She asked Members if there were any questions here.

Member Lyford asked if the 70 feet shown on the side lot, if it was correct.

Mr. Lantero stated that yes it should be correct. He further explained the lot lines to the Planning Board in terms of the North, South, East, and West sides of the building. He stated that North of the building is the car parking area and after that area was a large green space before approaching Williams St.

Board Members realized that their confusion was in the way they thought the building was facing and what they considering the front and sides of the building. Board Members thought that the building was facing Arrowhead Dr. not Williams Street.

Mr. Lantero explained that while one could say the building is facing William's Street, they still considered the front lot to be on Arrowhead Dr.

Member Lyford stated he was still confused on the subject.

Mr. Lantero stated that he felt they were well within the requirements in the Zoning Code no matter what way you were physically looking at the building. He further explained this to Planning Members in reference to the site plans themselves.

Supervisor Purol had a question he stated he saw that the company was using the address 4053, he wanted to make sure that address was approved with the county 911 department.

**SEQR APPLICATION**

Member Warren noted that the Planning Board met on March 10<sup>th</sup> and reviewed the Environmental Assessment Application prior to the meeting on March 31, 2021. After the meeting on March 10<sup>th</sup> the Planning Board sent over a list of Questions and concerns to Mr. Lantero to help speed up the meeting.

Chairperson Miller began the review with Page 1.  
There were no questions on Page 1.

After Page 1, Members began to review Page 2.

Member Lyford pointed out that on Page 2-part I. I. should be checked yes rather than no. This question was about the LWRP and the Town of Dunkirk does have an adopted LWRP.

Page 3 there were questions prior to today's meeting but they were addressed in the Question-and-Answer document submitted by Mr. Lantero. Questions on Page 3 & answered were as follows:

1. “. Page 3-part C.3, A – Zone is not C-1, it is C-2. They stated they were not aware of this and changed the question.
2. Page 3. Part C.4.C – The planning Board stated the East Town of Dunkirk is the local fire department not the City of Dunkirk. They stated that was a simple mistake they would change.
3. Page 3-part C.4, D. This question was answered as Washington Park, Washington Park is not close to this site. The Hazelton Dog Park is the closest park. Mr. Lantero stated they were happy to change this answer.
4. Page 3- Part D.1, e, ii The Planning Board needed clarification on what Phase 1 meant and Phase 2 meant. Mr. Lantero stated the boundaries for phase 1 and phase 2 are clearly shown on both the architectural site plan and civil engineering drawings in the Planning Board submittal.
5. Page 3- Part D.1, g, ii Clarification where the 60 feet measures to. Is that the actual roof or does that include any stacks or cooling units? The use variance approved by the Town of Dunkirk ZBA was based on a roof height of 60 feet. The actual roof height at the high point will be only 56 feet. The 56 feet does not include the refrigeration penthouse units, which approximately will be 14 feet tall. Refrigeration penthouse units are considered accessory items by the Zoning Code and are NOT to be included in building height measurement.”

There were no other questions beyond what was asked previously in the above document submitted to the Secretary of Planning.

Planning Board Members shared concerns about the differentiation between phase 1 and phase 2, and what it was that they were approving at this meeting.

Mr. Auer explained to the board that Phase 2 was purely from a conceptual master plan aspect. There was no guarantee for phase 2 and they will have to come back before the Planning Board for phase 2.

Member Lyford stated that he had understood the plans to be presented as approval needed for both phase 1 and phase 2.

Mr. Auer explained that the board could completely scratch anything regarding phase two because it is not something that is guaranteed and they would have to come back before the Planning Board.

Chairperson Miller stated that will be something the Planning Board will put in their decision.

The Board began reviewing Page 4 of the SEQR application.

On Page 4 Members had one question and concern, that received explanation by Larry Lantero in documentation from the March 10<sup>th</sup> meeting. The document reads as follows:

1. "Page 4 – Part D.2, b – Would proposed action cause or result in alteration of, increase or decrease in size of, or encroachment into any existing wetland, waterbody, shoreline, beach or adjacent area?" This question was marked no. The Planning Board is concerned with the inconsistent answers regarding wetlands as it is noted on Page 11-part E.1, h, that wetlands exist on this property." Larry answered this question and said "the answer 'no' was correct to this question. Attached for your review is the wetland study prepared by our consultant, Earth Dimensions Inc. which delineates all the wetlands on the site. All of the Phase 1 construction will be located to the North of these wetlands and none of the wetlands will be disturbed."

Member Lyford stated that there are two small wetlands located on the property.

Mr. Lantero stated that those are unregulated wetlands. They won't require a permit but there would need to be a jurisdictional determination from the core of engineers. That process will take up to 6 months. He further explained that the company doesn't have the time to wait so they moved everything north of that area to avoid that process. He showed this on the site plan for Planning Board Members. He showed where the retention pond would be located, which also moved because of this.

Board Members asked if what he was talking about and showing them was a revised plan from what they had originally received.

Mr. Lantero stated it was because of what they found out about the wetlands in that area.

Chairperson Miller asked what the new retention pond was designed for.

Larry stated that it was the same previous one.

Chairperson Miller asked if it was the 10-year storm water plan.

Mr. Lantero stated that was correct, per DEC requirements.

Planning Board Members moved on to Page 5 for review.

Chairperson Miller read question and response submitted by Mr. Lantero. The Document reads as follows:

“1. Page 5 – Part D.2,d – discussion of what happens with spoilage when a product is damaged. How will that be disposed of? If put through the sewer, is there a method of pretreatment? All the product is currently contemplated to be stored in this warehouse will be frozen ice cream. In the event there is any spoilage the ice cream will be disposed of through the sanitary sewer system.”

Mr. Lantero stated that there won't be any floor drains in the facility. He stated there will only be floor drains in the bathroom and maintenance rooms.

Chairperson Miller read off question on Page 6, as follows:

“Page 6 -Part g, Concerns about potential use of common chemicals such as CO<sub>2</sub>, etc. not being noted.” Mr. Lantero responded to this statement and said “There should not be any substantial storage of chemicals at this building. The refrigeration system utilizes a freon refrigerate NOT ammonia. All refrigerant will be contained within the system and will not be stored on site. The only CO<sub>2</sub> that we are aware of would-be CO<sub>2</sub> contained in fire extinguishers that will be located throughout the building. No other CO<sub>2</sub> should be stored on site. There may be a small amount of (55-gallon drum) of hydraulic fluid stored in the maintenance room. Other than miscellaneous cleaning supplies, we know of no other chemicals that will be stored on site.”

Chairperson Miller stated when the Planning Board when they asked this question, they meant chemicals that will be emitted from the vehicles and truck traffic that was noted.

Mr. Lantero stated that all the fork lifts would be battery powered.

Chairperson Miller stated that the trailers pulling in would not be battery operated.

Mr. Lantero stated that they wouldn't, they would be diesel operated.

Member Lyford further explained that was more of their concern when they had asked that question. They weren't talking about the fire extinguishers.

Mr. Lantero stated he wasn't sure how to answer that question, he hadn't thought about that.

Member Lyford stated that he understood that but he felt there had to be standards they had to follow about excessive CO<sub>2</sub> emittance.

Mr. Lantero admitted his ignorance to the question but still didn't know how to answer that question, as he wasn't prepared for it.

Chairperson Miller stated she thought the DEC would have regulations regarding that.

Member Brandt stated that he wanted to remind Planning Board Members that they were talking about refrigerated trailers which meant they probably needed to be running to remain the appropriate temperature.

Mr. Auer stated that the trailers would have to run to remain cold. He stated that he could understand not having trucks idling for more than 10-15 minutes but the refrigerated trailers have to run.

Member Lyford stated they understood that the refrigerated trailer would need to run but wondered if Americold had a policy about how long the trucks should idle.

Mr. Auer stated he would speak with the operations manager and find out what exactly would be manageable for them to do.

Chairperson Miller stated that she would appreciate that because many of the surrounding properties in that area are residential and the noise and smells the trailers emit are of concern to residents in that area.

With no further discussion, the Planning Board moved on to review Page 7 of the application.

She reviewed the Question & Answers document, regarding questions on Page 7:

“ 1. Page 7 – part j, ii – Would like clarification on traffic impacts for Phase 1 and Phase 2. Concerns with all traffic patterns and the impact the trailers could have on this. Concerns for this intersection and the Planning Board is aware that Senator Borello did note that he would support a traffic light at the intersection of Bennett Road and Williams Street. This would not be a DOT determination.” Larry Lantero’s response to this concern was “We anticipate 25 refrigerated semi-trailers to the facility each day and 25 semi-trailers out of the facility each day. We also anticipate approximately 40 employees entering and exiting the site during maximum work shift. A separate entrance has been provided for truck and car traffic. We don’t anticipate any issues with traffic patterns. If it is determined that a traffic light is required at the intersection of Bennett Road and Williams Street, we would expect the Town of Dunkirk or the County of Chautauqua to be responsible for those costs.”

Member Warren asked is their position, on the topic of a light on the intersection of Williams and Bennett had changed at all.

Mr. Auer stated it had not. He stated they will support any and all efforts for a light. He stated they felt that since that road was a state road, it was the states problem.

Mark Giese from the County IDA stated that he talked to Brad Bentley, Director of County Department of Public Facilities. He deals with the DOT often. He further explained that Mr. Bentley did some research and told Mr. Geise that if and when the DOT deems a traffic light is needed at that intersection, they would pay for it, and it’s always been that way. The applicant would not be responsible to pay for it. He stated there’s a process that the Town would request a light and it takes time. They would have to come out and do traffic counts, a full investigation, collect data, to then determine whether a light is needed. If they determine that a light is needed, it then will take

another 3-6 months to actually get the light installed. He stated it is not as easy as saying "we think a traffic light needs to go here and the county should pay for it."

Mr. Auer agreed with Mr. Geise's Statement and they would support any and all efforts throughout that process.

Mark Geise stated that would be great. He said they should start with DOT and that the project shouldn't be held up. He stated if DOT sees a need for it, they will put it there and pay for it. If they don't see the need, then they won't.

Member Warren stated that seemed contradictory to what the DOT forwarded to the Planning Board.

Jim Crowell explained that there was a letter received from the DOT, from an Edward Rutkowski. In this letter it stated "NYS DOT concurs with the Town of Dunkirk as lead agent. NYS DOT concurs that the proposed project would have traffic impacts on the intersection of Bennett Road and Williams Street. A traffic analysis should be prepared for our review that shows a capacity analysis, truck turning template, and a signal warrant analysis. If any mitigation is required as a result of the proposed project, then it would be the responsibility of the applicant to design, construct, and obtain a NYS DOT highway work permit for the improvements. Also, the applicant will be responsible for all costs associated with the needed improvements. Signed Edward Rutkowski, NYS DOT."

Mark Geise stated that the information he received is that when you request a traffic signal the NYS DOT uses a measurable set of criteria to evaluate each request. Received in accordance with engineer standards and principals. Once you request is in motion there is a substantial chain of tasks. You're assigned a case number, an engineer is assigned to the case, the location is observed and inspected, traffic conditions are documented, and based on all of that data collected; a decision will be made. Specifically, the engineer conducts a thorough on-site review of the intersection, observes traffic movements, collects data on vehicle and pedestrian traffic, and then analyzes the accident history of the previous 3 years. Given the significant number of traffic signal requests received there's admittedly some time lag to which the engineer can begin data collection. Also, the collection is a time-consuming process. There are many aspects that are considered in this process such as time of day, time of year, weather and other factors that can affect traffic patterns. That is the information that was forwarded to Mr. Geise from the DPF Director, Brad Bentley, from the County.

Member Warren asked who the person was from DOT that forwarded him that information.

Mr. Geise stated he didn't talk to anyone at DOT, he talked to Mr. Bentley from County, the DPF Director.

Chairperson Miller stated that Brad Bentley is from the County.

Mr. Geise stated that she was correct.



Member Miller stated that the communication directly from DOT states otherwise, that it is contradictory from what Brad Bentley from the County said.

Mr. Lantero stated that no matter what the case was, they would not be paying to put in a traffic light. He stated that they will do what they can to support this action but they will not be footing the bill.

Chairperson Miller continued onto Page 7 of the SEQR Application.

She wanted to further discuss hours of operation concerns on this page.

“Page 7 Part I, ii 24-hour operation is of concern to some of the close neighbors. Mostly due to idling semi-tractor trailers and yard tractors.” Larry Lantero’s response on the questions and concerns was “This facility will be operated 24-7. There is no way to change these hours of operation.”

There were no more questions to follow on Page 8.

There were no further questions on Page 9, questions that were on Page 9 regarding wetlands have been answered previously.

There were no other questions on Page 10.

There were no further questions on Page 11, that weren’t already addressed.

There were no questions on Page 12.

There were no questions on Page 13.

#### **QUESTIONS AND CONCERNS FROM EAST TOWN FIRE DEPARTMENT**

The first question the Fire Department had was about the freon. Chairperson Miller referenced the question and answer in The Question-and-Answer document. “Concerned about the use of freon, containment, and any information on the chemicals being used in the facility. (What is the first line of attack, what training do the people that work there have, etc.)”

Mr. Lantero stated the only chemical that will be present is freon. There will be typical household cleaning chemicals and possibly a drum of hydraulic fluid.

Chairperson Miller asked about the equipment that will be used inside the facility, will they be electric or propane.

Mr. Auer stated they would all be electric.

Member Lyford stated he had concerns regarding if the freon would be vented out into the atmosphere.

Mr. Auer stated that other than a catastrophic event, there will be no opportunity for the freon to be vented into the atmosphere. The unit itself would have to be on fire he further explained. There is very little opportunity for that to occur.

Member Lyford asked about the maintenance to the unit where the freon would be stored. Mr. Auer stated that the maintenance to this unit would be no different than a residential air conditioning unit.

Member Lyford asked when the unit is cleaned, if there was still is no opportunity for freon to be vented into the atmosphere.

Mr. Auer stated no.

The second question the Fire Department had was:

“ETFD would like information on driveway access in case of an emergency. Will there be access to the whole building?” Larry Lantero’s answer to this question was “Yes, there will be access around the entire perimeter of the Phase 1 building. The road parallel to the south side of the building will be a temporary stone drive only since its planned to be abandoned during the Phase 2 construction. A Knox box with key cards will be provided for the Eat Town of Dunkirk Fire Department so that they are able to open the entrance gates at both the car and truck entrance.”

Chairperson Miller had another question about the access road and if it would be maintained in the winter.

Mr. Lantero stated that yes it would.

Chairperson Miller explained she was only asking because the fire department had concerns about when the road is plowed that it doesn’t get banked too high there and then they will not be able to go through.

Mr. Lantero stated that they would have to for insurance purposes. The road would need to be completely cleared.

The next question the fire department had was:

“Access to the roof. Through the building? Form the outside?” Larry Lantero’s response to this question was “Access to the roof will be through the inside of the building. The main entrance stair tower will continue up to the office roof. There will be stairs from the office roof to the truck dock roof and from the truck doc roof to the freezer roof. For security concerns there will be no access to the roof from the outside.”

The last concern the fire department had was regarding the intersection.

“Deep concern regarding the intersection. Are there plans for a light?” Larry Lantero stated that he had responded to this in an earlier question and said that whole they support any or all efforts for a light, they will not be the party paying for the light.”

Chairperson Miller stated that Bennett Rd. used to be 4 lanes and it is now 2 lanes. This helped mitigate the traffic that was once experienced in that area. This also helped with the accidents that used to occur on an almost weekly basis. The Fire Department is concerned that impact on future traffic patterns this could have and the future accidents they could see from this.

### **REVIEW OF SITE PLAN DRAWINGS**

Larry Lantero presented the site plans to the Planning Board.

The first question Planning Board Members had on the site plans was in regard to the fencing around the property.

Member Lyford asked what was going to be located within the fence.

Mr. Lantero showed Planning Board Members in reference to the site plans.

Member Miller expressed concern about the pond not being located within the fencing.

Member Warren stated that after observing the storm water plan, he noticed that Mr. Lantero noted the Town of Dunkirk doesn't have a storm water ordinance. He explained that while that was true, DEC requirements still had to be met. He looked at the part of the storm water plan that had to do with the sediment pond. He asked if all the run-off water will be going into the sediment pond.

Mr. Lantero stated that was a DEC requirement. He explained that it was a filtering basin and that there was a certain percentage of storm water run-off that had to be directed into the basin.

Member Warren then asked what that the relationship between the sediment pond and the retaining pond had. He stated that there had to be an overflow pipe of some sort available.

Mr. Lantero stated that was addressed in the storm water prevention plan, He stated he could show him on the civil drawings, where this item was shown.

Mr. Auer stated that they already had DEC approval for the storm water prevention plan.

Member Warren asked if the DEC approved the design or the management plan itself. He explained there was a difference between the two.

Mr. Lantero stated he was unsure but would provide what DEC issued them as a permit.

Member Warren then asked that in an event of a summer storm, where would the overflow of water go?

Mr. Lantero stated that it would go into the stream located in the south west corner of the property. He stated that would be a 100-year flood event, which had nothing to do with the storm water. Storm water retention doesn't have to do with the 100-year flood plan.

Code Enforcement Officer, Jim Crowell asked if everything discussed was present in the plans presented.

Mr. Lantero stated that they were.

Member Warren asked if the water had to be filtered before it went back into the storm water system.

Mr. Lantero said their plan was in accordance with New York State requirements.

Mr. Auer stated it would be unfiltered but in accordance with the requirements of the New York State.

Larry Lantero further showed the stormwater system on the plans to better explain this to the Planning Board.

Member warren explained he was worried about the downstream effect.

Mr. Lantero stated that there would not be any downstream effect. He said that the rate of run off would not increase from what was currently there.

Member Lyford referenced page 5 of the engineer's report. He questioned why the south side had a lower figure than the north side in run off, which was the smaller of the two in size. He felt that the numbers should have been reversed based on location and size.

Larry examined the document and while he understood what Mr. Lyford meant he wasn't quite sure what the question was. He explained the figure as he understood it. He stated that if you looked at the area on the south side, you could see the pre-developed and post developed rate of run off does not change. He then said, there is a larger difference when you look at the north side the pre-developed and post-developed run off.

Member Warren suggested that they clarify these numbers.

Mr. Lantero stated that again, they received the permit for this. He stated that in his opinion the Planning Board had no authority to determine the accuracy of the engineer's report. He said that the DEC was the authority in charge of checking whether that document was accurate or not. He again said he will submit the document he received from the DEC to the Planning Board.

Member Warren explained that the Planning Board Members were asking these questions because they have had past projects that had issues with run off that affected the surrounding neighbors.

Councilman, Juan Pagan asked Code Enforcement Officer, Jim Crowell, if in his experience, was the DEC accurate at analyzing the reports submitted by engineers.

Mr. Crowell stated that most of the time they are but mistakes have happened.

Member Lyford applauded the representatives of Americold on the aesthetics of the future facility.

### **SITE PLAN CHECKLIST**

Chairperson Miller began the review of items 1-14 of the site plan checklist. Members had no questions on these items.

Chairperson Miller then asked Members if they had question on 15-29.

She had a question in this section. She asked where the garbage was located and if it would be enclosed.

Mr. Lantero showed Members where the garbage would be located. He described the future look of this and stated it would be completely enclosed. The dumpster would resemble a cargo container. Their recycling system would be the same.

Member Warren then had a question on Item #8 on the checklist, that question was regarding snow removal. He asked where the designated area for snow removal would be.

Mr. Lantero showed Member's the area on the plans presented, he also showed Members how they intend the snow to get piled up.

Member Miller stated that she had noticed that there wasn't going to be fencing around the pond and asked how deep the pond would be.

Mr. Lantero stated he estimated roughly 8 feet deep but not 8 feet of water.

Member Lyford asked what will happen to the water as it starts to fill up in the pond, how would it drain or evaporate.

Mr. Lantero stated that there will be a small portion of the pond that won't drain, but will evaporate.

Member Lyford raised concerns about the impervious soil located in that area and how that would factor into the drainage of the pond.

Mr. Lantero stated that the soils in that area were not pervious, that they were very sandy.

Member Lyford asked if there was a plan in place to evacuate the water if it accumulates there over time and does not evaporate.

Mr. Lantero stated that there was not a plan for that because that was something he had never heard of before. He felt that the point of the retention pond was to retain some water.

Member Lyford stated that typically retention ponds are much smaller in size, this pond was rather substantial in comparison to most.

Member Miller stated that her major concern with this was with the children across the street and their safety.

Mr. Lantero could understand that concern but not the concern about how much water will accumulate in the pond.

Mr. Auer stated that is 250 more feet of fence will make the Planning Board feel better, they would happily purchase it and place the pond within the fence.

Chairperson Miller asked if there were any more questions.

Member Warren stated that he felt that the snow removal area needed to be shown and designated on the plans.

Mr. Lantero stated that they would put that on there.

### **REVIEW FROM OUTSIDE AGENCIES**

#### **1. Town of Dunkirk Zoning Board of Review:**

“The Town of Dunkirk Zoning Board of Appeals met on Thursday, February 25, 2021 to hear your request for an area variance for the height of a building to be 60 ft., a variance of 20 ft. The Zoning Board of Appeals also heard your request of a use variance, which was for a freezer warehouse storage facility. The zoning board of appeals approved both of your requests by a 4-0 vote with the following stipulation: The parcel with the Tax Map number of; 96.02-2-2.1, when deemed necessary will have to come back to the Zoning Board of Appeals before changing the current use of the property. The Zoning Board of Appeals Members will be mindful of this stipulation, when they meet for this property in future development. The approved variance must be commenced within 12 months of the approval date or the variance would become void.”

#### **2. Chautauqua County IDA:**

“RE: SEQR Lead Agency Solicitation.

The County of Chautauqua Industrial Development Agency acknowledges that the Town of Dunkirk will be lead agent for a SEQR review of a proposed development on Williams Street and Arrowhead Drive in the Town of Dunkirk, NY. We are excited about the project and if you are in

need of any additional assistance, please do not hesitate to contact us, as we are an involved agency.”

**3. NYS Department of Transportation:**

“New York State Department of Transportation reviewed the submission for the subject project and has the following comment:

- NYSDOT concurs with the Town of Dunkirk acting as the lead Agency.
- NYSDOT has concerns that the proposed project may have an impact on traffic operations at the intersection of Williams Street and NY Route 60. A traffic analysis should be prepared for our review that includes a capacity analysis, truck turning templates and a signal warrant analysis. If any mitigation is required as a result of the proposed project, then it will be the responsibility of the applicant to design, construct, and obtain a NYSDOT Highway Work Permit for the improvements. Also, the applicant will be responsible for all costs associated with any needed improvements. Signed Edward Rutkowski.”

**4. Chautauqua County Department of Planning:**

“Dear Chairperson Miller,

This letter is in response to your municipal zoning referral received in full by this office on March 22, 2021 regarding site plan approval for a freezer warehouse located on West Williams Street, Tax Parcel 96.02-2-1. This parcel is located in the C-1 zoning district. As one of the designated staff to the Chautauqua County Planning Board, I have reviewed the above noted referral. With regard to General Municipal Law 239-m, this proposal is subject to a referral to the County since it is within 500 feet of the municipal boundary with the City of Dunkirk. I have reviewed the pertinent inter-community and county-wide considerations with respect to this proposal and its effect on the relevant concerns that are listed under Municipal Law 2391. Based on this review I find that the proposed action would have no Significant county-wide or inter-community impact and that the proposal would be a matter of local concern. However, to assist the Town with its decision, I offer the following informal comments:

- The applicant has prepared a thorough, detailed submittal that largely adheres to the town’s Zoning requirements. I applaud the preparation that went into this submittal.
- Section 90 of the Town Zoning Code stated “In considering and acting upon site plan reviews and approvals, the Town Board shall consider the public health, safety, welfare and comfort & convenience of the public in general... and the residents of the immediate

surrounding area” (p.46) Given the scope of this project and the nature of the proposed use, there is a potential for impacts on residents of the immediate surrounding area. I would encourage the Town and the applicant to consider ways that these impacts might be mitigated. Some potential sources of nuisance and related mitigation measure include: A. Lighting: The applicant is encouraged to use cut-off fixtures and glare shields to minimize light spillover onto adjacent residential parcels. Dimming lighting during overnight hours may also help mitigate potential lighting impacts. B. Sound: The sound of truck traffic generated by the freezer facility could be a nuisance to nearby residences, especially considering the facility will operate 24 hours a day (as indicated by the applicant in the Environmental Assessment Form). The applicant is encouraged to consider ways that noise from the site might be reduced. C. Landscaping: While I applaud the applicant for the amount of proposed landscaping throughout the project, planting a denser row of evergreen trees along Arrowhead Drive would help mitigate lighting, sound, and visual impacts to adjacent residences. This recommendation is in line with the landscaping requirements in Section 150 of the Town Zoning Code, which states that “landscaping shall provide privacy and screening for adjacent land uses, with visual, noise, and air quality factors considered.”

- It is likely that some freezer employees will choose to commute to work by foot, bus, or bicycle. The applicant has not included any site elements – like sidewalks or bicycle parking facilities – that would make accessing the site by these forms of transportation safe and convenient. I would recommend that the applicant consider adding these types of elements to the site.
- Electric Vehicles (EVs) are projected to make up an increasing portion of automobiles and commercial vehicles in the upcoming years. The applicant is encouraged to plan for the potential need to install EV charge infrastructure on site in the future. Signed Matthew Bourke, Junior Planner.”

##### **5. Earth Dimensions:**

“March 12, 2021

Ryan Gusewelle

UISC

5430 St. Charles Street

Berkleley, IL 60163-1206



RE: Preliminary Wetland investigation 28.6 acres 0 Bennett Rd. (SBL # 96.02-2-1 & 96.02-2-2.1)  
Town of Dunkirk, Chautauqua County, New York.

Dear Mr. Gusewelle:

Earth Dimensions, Inc. (EDI) has completed a preliminary wetland investigation at the above referenced site for the purpose of identifying potential regulated wetlands and waterways. The site investigation was conducted on March 12, 2021. As depicted on the attached preliminary wetlands map, EDI identified approximately 3.43 acres of wetland as defined by the U.S. Army Corps of Engineers (USACE) wetland delineation manuals. We believe that the smaller (0.27 acre) wetland is likely not regulated but in order to get that determination, a detailed wetland delineation would need to be completed and submitted to USACE with a request for a jurisdictional determination.

The New York State Department of Environmental Conservation (NYSDEC) on-line resource mapper (attached) does not depict only state regulated fresh water wetlands within or adjacent to the subject parcel. NYSDEC, thus, has no jurisdiction over any wetlands at the site.

Based on this site investigation, it is our professional opinion that if your proposed project avoids impacts to the depicted wetlands, no further action is required. If wetland impacts are proposed, a detailed wetland delineation would need to be completed and submitted to USACE with a request for jurisdictional determination. A section 404 permit would be required from USACE should any jurisdictional wetland impacts be required. Signed Scott A. Livingstone.”

#### **6. NYS Police**

Supervisor Purol was unable to contact Captain Bailon of the NYS Police.

Member Warren was able to contact him and stated that he was in support of some sort of traffic control system at that intersection, as he has responded to a number of accidents in that area. He sent his support on the matter to Senator Borrello’s Office.

#### **7. NYS DEC**

The only correspondence received from the NYS DEC was in regards to the Town Board, of the Town of Dunkirk acting as lead agent of the project. They further stated that they agreed with the Town acting as lead agent.

**QUESTIONS FOR THE APPLICANT**

Planning Board Members agreed that their questions had all been answered at this point.

**QUESTIONS FROM THE PUBLIC**

Councilman Dr. G. Jay Bishop thanked the applicant for their presentation. He commended them on the thorough, well prepared work that was put forth. He stated that the Town Board will do whatever they can to help facilitate the success of the project moving forward.

Councilman, Juan Pagan stated that while he felt that everyone agreed and was heard about the traffic light, he hoped that moving forward all parties would work together collectively to continue to advocate this problem to the state. He explained he hoped that with the support of Senator Borrello, some sort of traffic mitigation would occur at that intersection.

Chairperson Miller stated that she agreed and hoped that with all parties working together a solution would be found to this ongoing issue.

Member Warren stated he felt this was a great project and he was excited to have UISC as a new neighbor in the Town but his concerns still lay with the future traffic problems that will occur at that intersection.

Mr. Lantero stated that they had shared their response on the issue.

Mr. Auer further explained that Americold had no authority in the State of New York to compel the DOT to put up a traffic light. He said they would support the effort, contribute to the information, but cannot put up the light themselves on a state highway. This is a state of New York issue, he said.

Chairperson Miller added that Walmart did put up the traffic light at their intersection.

Mr. Auer explained that they were not Walmart and this was not their responsibility as a new company coming into the Town of Dunkirk.

Member Warren Stated that he felt that with the letter the Planning board received from NYS DOT, a traffic analysis needs to be prepared. With that being said, he asked who would pay for it, if they would not. The IDA or the Town of Dunkirk? He stated that to defy the guidance provided from the DOT would be negligent.

Mr. Auer stated that they want to be good neighbors and do their part, but that was something he cannot commit to.

Member Warren stated that he felt that should be a condition or contingency of the Planning Board Approval. He reminded the applicant that the final power of approval was with the Town Board.

Member Brandt added that he went and monitored the intersection. He stated that he observed an 18-wheeler truck make the turn from Williams Street onto Bennett Road going South, without going into the center lane or holding up any traffic.

Mr. Lantero stated that they could do a simple study that would show the ability of a tractor trailer turn right or left, if that was what the Planning Board needed. He stated that this is separate than the issue of a traffic light though.

Mr. Lantero further explained that he felt the Town of Dunkirk had a traffic issue at this intersection and they are using Americold to blame, so they would be responsible to pay for it.

Member Warren stated that the facility would be exasperating the issue.

Mr. Lantero stated that he felt that the Planning Board saw them as someone to pay for the existing issue, and they will not do that.

Chairperson Miller stated that the animation of the truck traffic would be helpful for the Planning Board to see.

Mr. Auer stated that they would continue to support their efforts in any way and get them that animation of the truck traffic but stood his ground on the fact that they would not pay for the traffic light.

Code Enforcement Officer, Jim Crowell stated that he wanted to further explain what the DOT meant when they sent that letter as he actually talked to Edward Rutkowski. He stated that when DOT said a traffic analysis should be done, they meant once the facility is fully established. Mr. Crowell stated that meant after construction, which will take roughly a year. He stated so in order to get an accurate traffic analysis, it would not occur for at least another two years or more.

With nothing further left to discuss on the topic. Members moved onto deliberation and making a recommendation.

### **PLANNING BOARD RECCOMENDATION**

Member Brandt was against approving with conditions. He wanted to approve without any conditions.

The remaining Planning Board Members agreed on the following Approval:

“The site plan was approved by the board with conditions by a 3-1 vote. The following are the conditions:

1. The applicant shall address the concerns, and implement the recommendations, of the New York State Department of Transportation (NYSDOT) spelled out in an email from Edward S. Rutkowski, DOT SEQR/Site Plan Coordinator dated March 31, 2021. The DOT has concerns that the proposed project may have an impact on traffic operations at the intersection of Williams Street and NYS Route 60. The DOT has requested that *“a traffic analysis should be prepared for their review that includes a capacity analysis, truck turning templates, and a signal warrant analysis. If any mitigation is required as a result of the proposed project, then it will be the responsibility of the applicant to design, construct, and*

*obtain a NYSDOT Highway Work Permit for the improvements. Also, the applicant will be responsible for all costs associated with any needed improvements”.*

2. The applicant shall submit to the town a revised set of design drawings and specifications for the proposed storm water plan for the project that meet New York State Department of Environmental Conservation requirements and acceptable industry standards. The drawings must be signed and stamped by a professional engineer licensed to practice in New York State.
3. The applicant shall provide clarification of the project engineer’s report regarding storm water runoff calculations along with documentation that the size of the retention pond will be of sufficient capacity to meet the requirements for storm water discharge from the project site.
4. The applicant shall provide a geometric study and demonstration of truck traffic as truck traffic enters and exits Williams Street from NYS Route 60 from the north and south, making both left- and right-hand turns, with a full-size tractor trailer and the potential of a sleeper tractor attached to a trailer.
5. The applicant will provide fencing of adequate durability and height around the entire perimeter of the sediment and retention ponds. The design for fencing shall be reviewed and approved by the town code enforcement official.
6. The applicant shall show the location of snow removal areas on the submission of the revised site plan drawings.
7. The applicant will submit a new site plan application to the Town of Dunkirk Planning Board for their review in the event the applicant decides to proceed with Phase II of this project. New drawings and specifications must be submitted and approved before construction of Phase II can begin. It should be noted this review is only for Phase 1 as presented by site plans dated March 16, 2021 and architectural drawings dated March 12, 2021. It has been conveyed that final landscaping plans are not complete.”

A motion was made by Member Warren to approve the project with the above conditions. The motion was seconded by Member Lyford.

AYE:

Member Warren  
Member Lyford  
Chairperson Miller

NAY:

Member Brandt

**ADJOURNMENT**

A motion was made to adjourn the meeting by Member Warren. The motion was seconded by Member Brandt and carried unanimously.

Respectfully submitted,

Kyle Coughlin  
Secretary to Planning Board.