



Public Notice

U.S. Army Corps
of Engineers
Buffalo District
CELRB-TD-R

Applicant: Dockside
Subdivision, LLC

Published: May 4, 2015
Expires: June 3, 2015

Application No: 1995-97612
Section: NY

All written comments should reference the above Application No. and be addressed to:
US Army Corps of Engineers, Buffalo District
(Attn:) Molly Connerton
1776 Niagara Street
Buffalo, NY 14207

THE PURPOSE OF THIS PUBLIC NOTICE IS TO SOLICIT COMMENTS FROM THE PUBLIC REGARDING THE WORK DESCRIBED BELOW. NO DECISION HAS BEEN MADE AS TO WHETHER OR NOT A PERMIT WILL BE ISSUED AT THIS TIME.

Application for Permit under Authority of
Section 404 of the Clean Water Act (33 U.S.C. 1344).

APPLICANT: Dockside Subdivision, LLC

WATERWAY & LOCATION: (Dockside Village), Dockside Parkway between Millersport Highway and Transit Road, in the Town of Amherst, Erie County, New York

LATITUDE & LONGITUDE: Latitude North: 43 03'42"
Longitude West: 78 42' 30"

EXISTING CONDITIONS: The proposed Phase III Dockside residential development project site is located adjacent to the existing Dockside Phase II residential development. The Phase III project site is bounded on the northwest by Millersport Highway, the east by Transit Road and the south by Dann and Smith Roads. The existing site conditions consist of the existing Phase II development, wetlands and upland areas within the site proposed for Phase III, stormwater basins and Dann Lake just to the south of the project site.

Description of delineation of waters of the US: Sheet 2 of 7 depicts the wetlands delineated by the consultant on the project site. The site currently contains a total of 45.6 acres of federal wetlands (also mapped as NYSDEC wetlands). Wetland A is mostly a forested wetland.

Wetland B and C consist of areas that had been planted in the past with a crop of winter wheat but have now reverted to wetland areas. The Corps will verify the submitted delineation as part of the application evaluation.

PROPOSED WORK: To construct Phase III of the Dockside mixed use residential development that will consist of condominiums, townhomes and associated infrastructure (i.e. private roadways, water lines, parking). Specifically, six, 3-story buildings that will contain 156 units, 10, 2-story buildings that will include 80 units and two, 2-story townhomes that will include 8 units for an overall total of 244 units. Also, the applicant is proposing to complete the roadway to Millersport highway, and to complete the water supply connection to Millersport Highway to facilitate the new regional lift station planned by the Town of Amherst. The roadway to Millersport Highway is required in order for the project site development to meet local fire/safety requirements. As part of the project site development 14.9 acres of wetlands are proposed to be impacted.

PROJECT PURPOSE

Basic: Mixed Use Residential Development

Overall: To construct a mixed use development that will include condominiums, apartment units and associated infrastructure in the Towns of Amherst and Clarence.

Water Dependency Determination: The discharge of fill material into 14.9 acres of wetland for the purpose of the Phase III Dockside development is not a water dependent activity because it does not require access or siting within the special aquatic site in question to fulfill its basic purpose. Therefore, practicable alternatives that do not involve special aquatic sites are presumed to be available, unless clearly demonstrated otherwise.

AVOIDANCE AND MINIMIZATION INFORMATION: The applicant indicates that alternatives both off-site and on-site were researched. The applicant has modified the project proposal several times to develop what is now identified as the applicant's preferred alternative. Measures were taken to reduce wetland impacts onsite by using 2 to 3 story buildings instead of single family lots. Impacts were reduced to the currently proposed 14.9 acres of wetland impacts while preserving 30.7 acres of wetlands on site.

- I. No Action alternative: Although it would avoid all wetlands on site (45.6 acres) it is not financially feasible due to the significant financial investment the developer has made to the site in preparation of the Phase III development.
- II. Three Off-Site Alternative sites were considered:
 1. 1088 Transit Road-Considerable wetland impacts which would most likely preclude such a development. The minimum wetland impact would be 18-20 acres which is more than the on-site Preferred Alternative plan.
 2. 1265 Smith Road Amherst-The parcel is owned by the Town of Amherst it is not considered available for development in the marketplace.
 3. Parcel of land located behind Country Club Apartments (Sheridan Drive, Town of Amherst): The majority of the land is covered by state wetlands and never developed due to wetlands.

- a. In addition, the applicant indicates that these sites are unfeasible as the costs of these areas would be greater than the Preferred Alternative.

III. On-Site Alternative plans were also considered:

1. Single Family Units-Alternative 1 (Sheet 3 of 7). This plan would result in 26.7 acres of wetland impacts. The disturbance would be a result of the construction of the roadways, single family homes and grading of the lots required to elevate them above the floodplain. This alternative wasn't feasible due to the potential impacts to wetlands and cost to construct the roadway infrastructure and single family lots.
2. Multiple options/unit mix- Alternatives 2 (Sheet 4 of 7) and 3 (Sheet 5 of 7), respectfully. Both Alternative 2 and 3 would result in more impacts to wetlands, compared to the Preferred Alternative; Alternative 2 (18.3 acres of wetland disturbance) and Alternative 3 (21.7 acres of wetland disturbance). In addition, Alternative 2 would eliminate the clubhouse and pool (these are included in the Preferred Alternative) which would result in a negative impact with lower rent levels and increased vacancies. Also having more 3 story buildings with Alternative 3 gives added cost and adds considerable risk to Dockside Phase III. Every 2-story unit that is replaced by a 3-story unit will result in a monetary loss. Alternatives 2 and 3 are not financially feasible and result in greater wetland impacts.

IV. Preferred Alternative: Alternative 4 (Sheet 6 of 7)-This plan minimizes disturbances to wetlands with less disturbances for the construction of the private roadways and the proposal of 2 and 3 story buildings instead of single family lots. This approach clusters the development to a smaller footprint and utilizes the upland area and reduces the amount of disturbance resulting from the construction of roadways. Additionally the preferred plan minimizes disturbances to the higher value wetlands adjacent to Millersport Highway by configuring the roadway that will connect to Millersport Highway to the area that was previously disturbed for the existing sanitary sewer line. The Preferred Alternative allows the applicant to approach economic viability while also minimizing impacts to the wetland areas (14.9 acres of wetland impacts).

PROPOSED MITIGATION: The proposed mitigation site is located at 8400 County Road, in the Town of Clarence located between Lapp and County Roads. The site is both currently in active agriculture (corn) and recently fallowed agriculture which is mowed. The applicant has proposed the creation of wetland areas and other wetland habitat improvements. Compensatory mitigation will be provided at a 1:1 ratio to offset the wetlands impacts on site. A final mitigation plan is being developed and will be submitted to our office for review. The final plan will detail the proposed habitat and functions the created wetlands can be expected to provide.

Location and details of the above described work are shown on the attached maps and drawings.

Comments or questions pertaining to the work described in this notice should reference the Application Number and be directed to the attention of Molly Connerton, who can be contacted at the above address, by calling (716) 879-4304, or by e-mail at:

molly.a.connerton@usace.army.mil. A lack of response will be interpreted as meaning that there is no objection to the work as proposed.

Water Quality Certification (or waiver thereof) from the New York State Department of Environmental Conservation is required.

The project permit area, as shown on Sheet 7 of 7 does not appear to be located within an archaeologically sensitive area as identified by the New York State Office of Parks, Recreation and Historic Preservation (NYSOPRHP) or properties listed in, or eligible for listing in, the National Register of Historic Places based on preliminary findings. This notice constitutes initiation of consultation with the New York State Office of Parks, Recreation and Historic Preservation (NYSOPRHP) per Section 106 of the National Historic Preservation Act. All currently available historic resource information pertaining to this proposed project if any has been provided to the NYSOPRHP. Additional information concerning historic properties should be submitted to the Corps before the end of the comment period of this notice. The Corps will forward that information to the NYSOPRHP for their review.

Pursuant to Section 7 of the Endangered Species Act (16 U.S.C. 1531), the Corps of Engineers is consulting, under separate cover, with the USFWS to evaluate any potential impacts to: **Northern long-eared bat (*Myotis septentrionalis*)** and to ensure that the proposed activity is not likely to jeopardize their continued existence or result in the destruction or adverse modification of critical habitat.

Comments submitted in response to this notice will be fully considered during the public interest review for this permit application. All written comments will be made a part of the administrative record which is available to the public under the Freedom of Information Act. The Administrative Record, or portions thereof, may also be posted on a Corps of Engineers internet web site. Due to resource limitations, this office will normally not acknowledge the receipt of comments or respond to individual letters of comment.

Any individual may request a public hearing by submitting their written request, stating the specific reasons for holding a hearing, in the same manner and time period as other comments.

Public hearings for the purposes of the Corps permit program will be held when the District Commander determines he can obtain additional information, not available in written comments, that will aid him in the decision making process for this application. A Corps hearing is not a source of information for the general public, nor a forum for the resolution of issues or conflicting points of view (witnesses are not sworn and cross examination is prohibited). Hearings will not be held to obtain information on issues unrelated to the work requiring a permit, such as property ownership, neighbor disputes, or the behavior or actions of the public or applicant on upland property not regulated by the Department of the Army. Information obtained from a public hearing is given no greater weight than that obtained from written comments. Therefore, you should not fail to make timely written comments because a hearing might be held.

The decision to approve or deny this permit request will be based on an evaluation of the

probable impact, including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among these are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and in general, the needs and welfare of the people.

The Corps of Engineers is soliciting comments from the public; Federal, state and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

SIGNED

Diane C. Kozlowski
Chief, Regulatory Branch

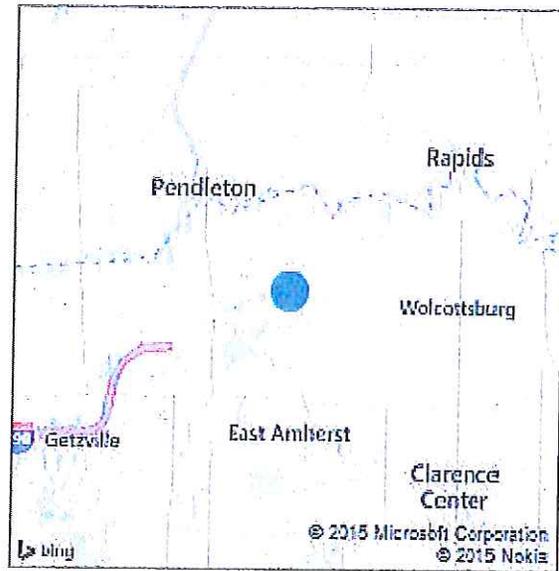
NOTICE TO POSTMASTER: It is requested that this notice be posted continuously and conspicuously for **30** days from the date of issuance.



Dockside Pkwy, Amherst, NY 14051

My Notes

On the go? Use m.bing.com to find maps, directions, businesses, and more



Project Location

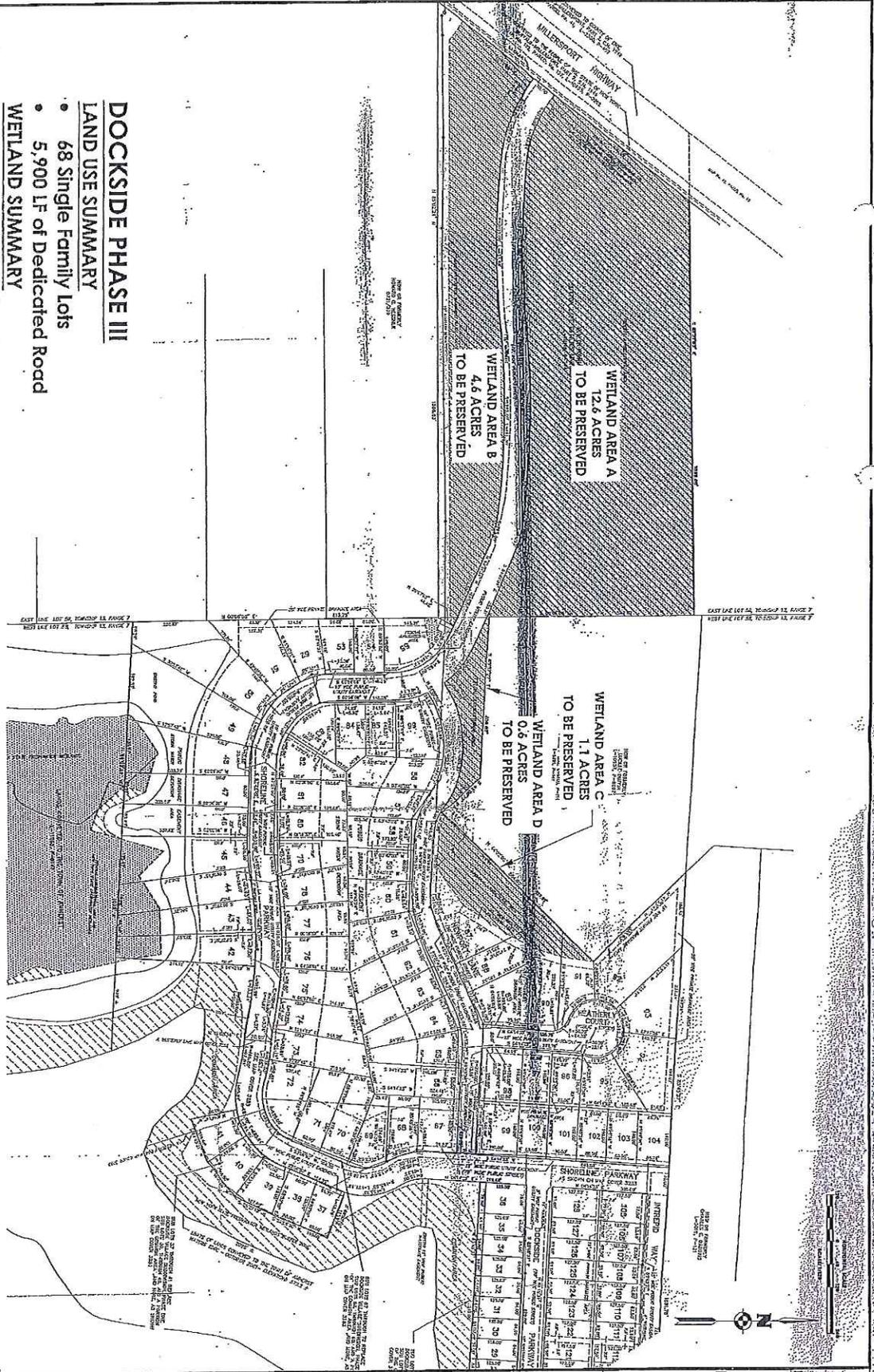


Dockside Subdivision, LLC
DA Processing No.: 1995-97612
Erie County, New York
Quad: Clarence Center
Sheet 1 of 7

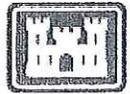


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On-Site Alternative 1



Dockside Subdivision, LLC
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 Erie County, New York
 Quad: Clarence Center
 Sheet 3 of 7

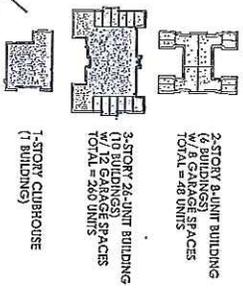


PASSERO ASSOCIATES 3000 ROUTE 19 SUITE 200 CLARENCE CENTER, NY 14035 PH: 716-795-1100 FAX: 716-795-1101 WWW.PASSEROASSOCIATES.COM	
PROJECT NO. 200857-0009	SHEET NO. A3
DATE DECEMBER 2014	SCALE 1" = 120'
ALTERNATIVE #3 (CONCEPT 1)* DOCKSIDE PHASE III	

On-Site Alternative 3

DOCKSIDE PHASE III

LAND USE SUMMARY



2-STORY 8-UNIT BUILDING
W/ 8 GARAGE SPACES
TOTAL = 48 UNITS

3-STORY 26-UNIT BUILDING
(09 BUILDINGS)
W/ 12 GARAGE SPACES
TOTAL = 260 UNITS

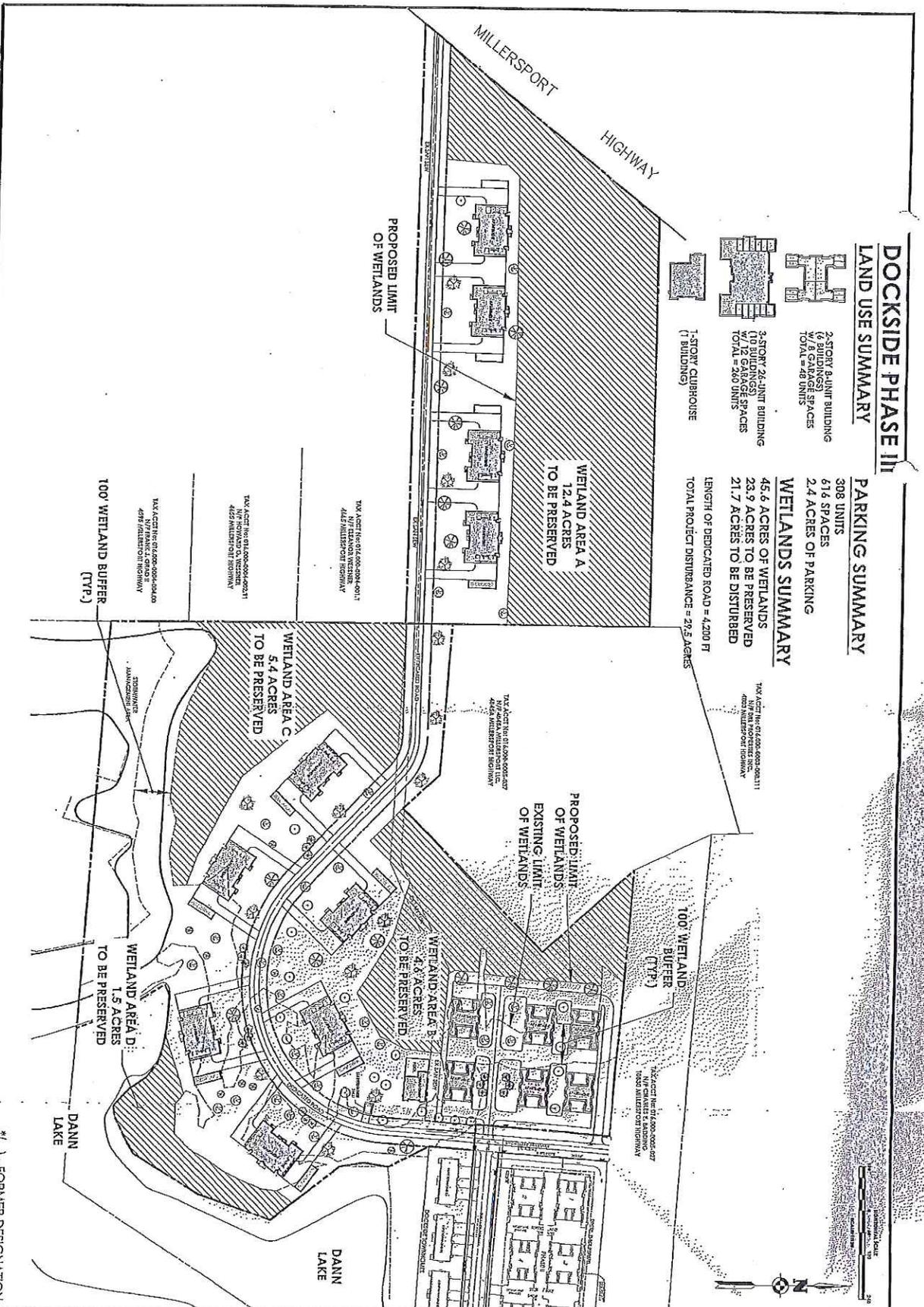
1-STORY CLUBHOUSE
(1 BUILDING)

PARKING SUMMARY

308 UNITS
616 SPACES
2.4 ACRES OF PARKING

WETLANDS SUMMARY

45.6 ACRES OF WETLANDS
23.9 ACRES TO BE PRESERVED
21.7 ACRES TO BE DISTURBED
LENGTH OF DEDICATED ROAD = 4,200 FT
TOTAL PROJECT DISTURBANCE = 22.5 ACRES



Dockside Subdivision, LLC
DA Processing No.: 1995-97612
Erie County, New York
Quad: Clarence Center
Sheet 5 of 7

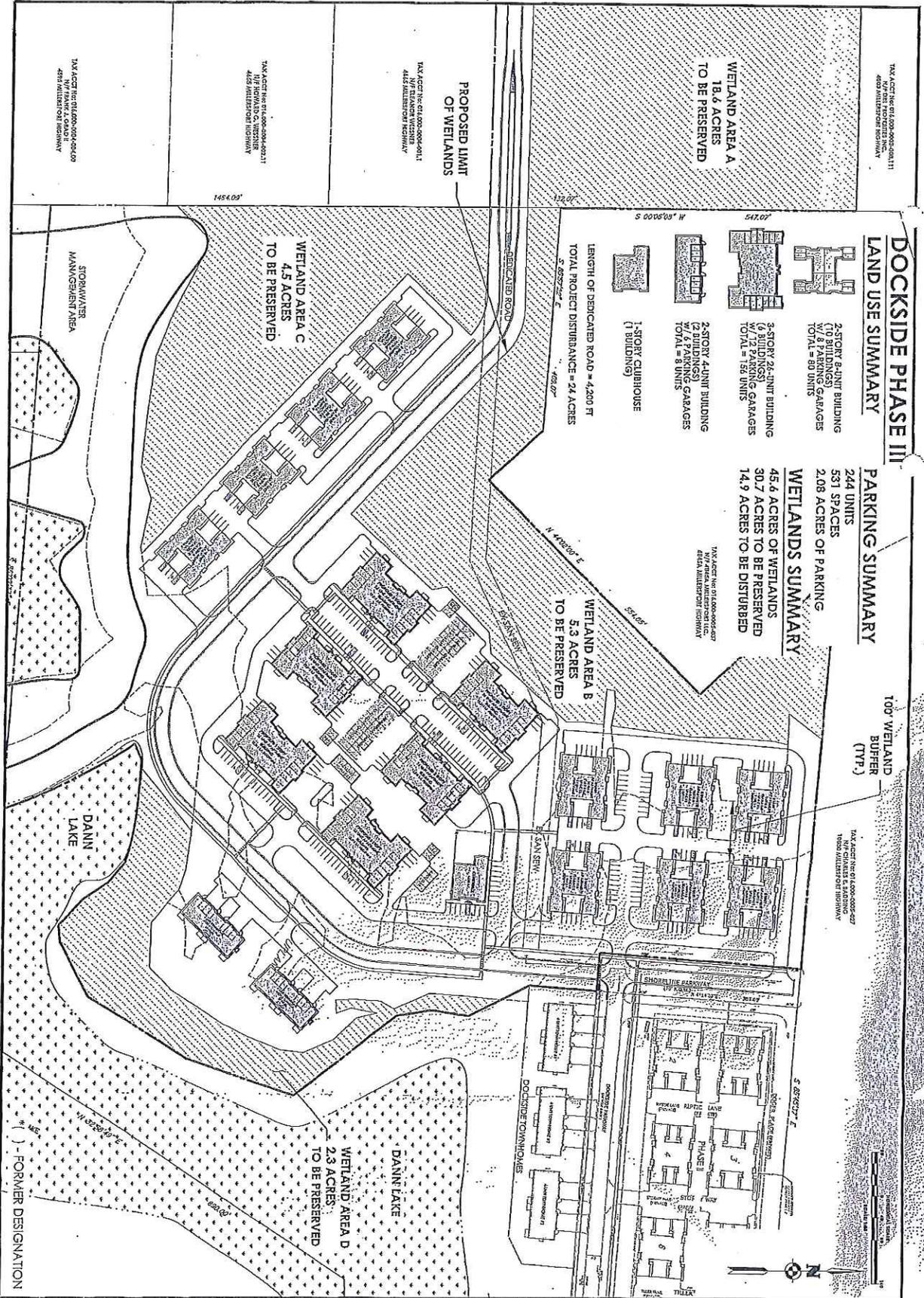


<p>PASSERNO ASSOCIATES Professional Engineer 3045 S. Central, N.Y. Buffalo, N.Y. 14203</p>	
<p>DOCKSIDE SUBDIVISION, LLC</p>	
<p>Project No. 2008537.0009</p>	<p>Drawn By: C.005</p>
<p>Scale: 1" = 120'</p>	<p>Sheet: A7</p>
<p>DATE: DECEMBER 2014</p>	

(*) - FORMER DESIGNATION

On-Site

Alternative 4. - Preferred Alternative Plan



**DOCKSIDE PHASE III
LAND USE SUMMARY**

2-STORY 8-UNIT BUILDING
(10 BUILDINGS) GARAGES
TOTAL = 80 UNITS

3-STORY 4-UNIT BUILDING
(6 BUILDINGS) GARAGES
TOTAL = 156 UNITS

2-STORY 4-UNIT BUILDING
(2 BUILDINGS) GARAGES
TOTAL = 8 UNITS

1-STORY CLUBHOUSE
(1 BUILDING)

LENGTH OF DEDICATED ROAD = 4,200 FT
TOTAL PROJECT DISTURBANCE = 24 ACRES

45.6 ACRES OF WETLANDS
30.7 ACRES TO BE PRESERVED
14.9 ACRES TO BE DISTURBED

244 UNITS
531 SPACES
2.08 ACRES OF PARKING

100' WETLAND
BUFFER
(TYP.)

WETLANDS SUMMARY

WETLAND AREA A
18.6 ACRES
TO BE PRESERVED

WETLAND AREA B
5.3 ACRES
TO BE PRESERVED

WETLAND AREA C
4.5 ACRES
TO BE PRESERVED

WETLAND AREA D
2.3 ACRES
TO BE PRESERVED

TAX ACCT No. 01-000-000-000-011
N7/2 R664 MILLERPORT HIGHWAY

PROPOSED LIMIT
OF WETLANDS

TAX ACCT No. 01-000-000-000-011
N7/2 R664 MILLERPORT HIGHWAY

PASSERIO ASSOCIATES
1000 West 10th Street
Cedar Rapids, IA 52402
Phone: 319.244.1111
Fax: 319.244.1112
www.passerio.com

Project: 2008597.0009
Drawing No.: C 003
Scale: AS
Date: 1st = 80'
December 2014

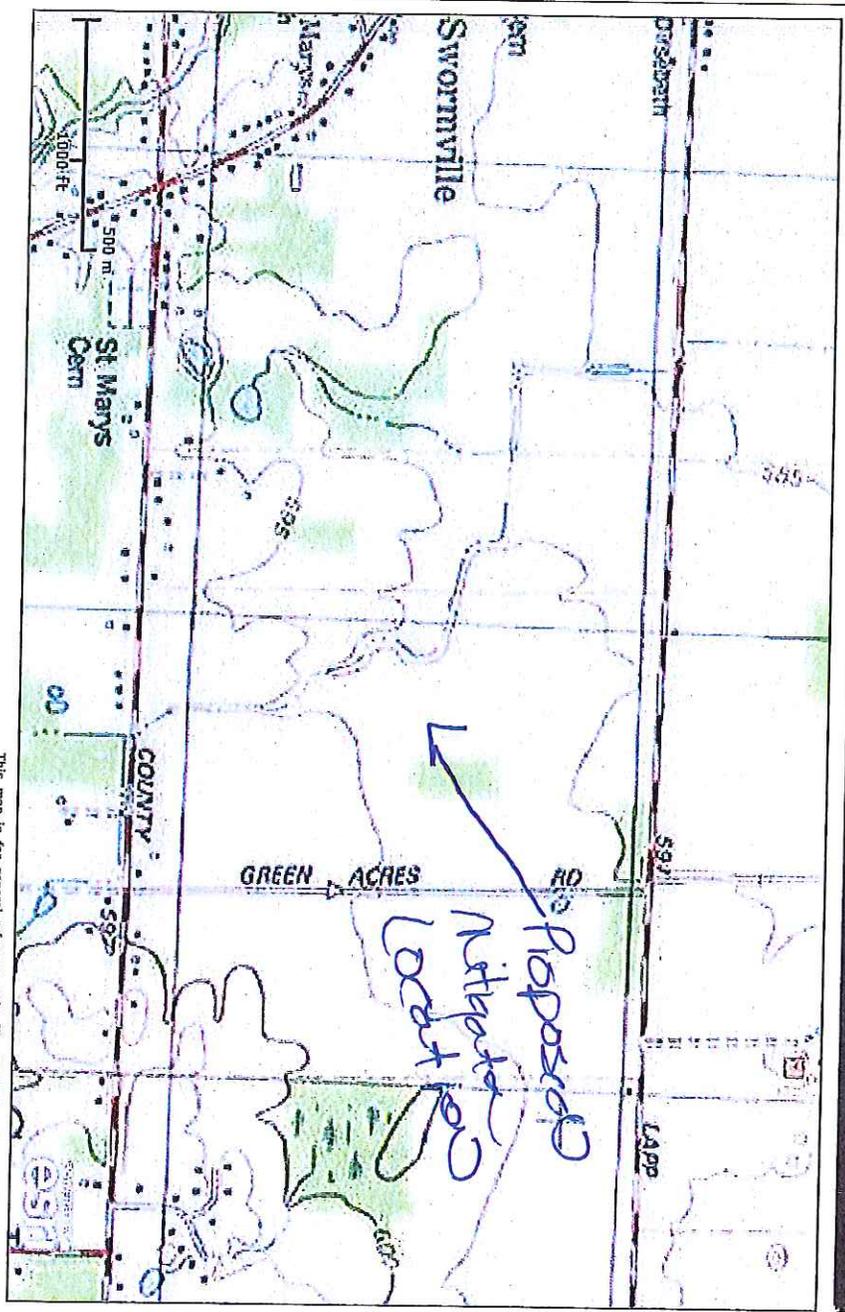
ALTERNATIVE 5
(CONCEPT 4)*
DOCKSIDE
PHASE III

Dockside Subdivision, LLC
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Erie County, New York
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Sheet 6 of 7

Mitigation Location



U.S. Fish and Wildlife Service
National Wetlands Inventory



User Remarks:

This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site.

No operational layers
selected or no legend
available.

Apr 27, 2015

Dockside Subdivision, LLC
DA Processing No.: 1995-97612
Erie County, New York
Quad: Clarence Center
Sheet 7 of 7

