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MEETING HELD REMOTELY VIA ZOOM

STATE OF NEW YORK : COUNTY OF ULSTER  
TOWN OF MARLBOROUGH PLANNING BOARD

----- X

In the Matter of

DAVID & SUSAN YOUNG

Project No. 20-4002  
50 Millhouse Road, Marlboro  
Section 108.4; Block 5; Lot 20.21

----- X

SKETCH - SUBDIVISION

Date: April 20, 2020  
Time: 7:35 p.m.

BOARD MEMBERS: CHRIS BRAND, Chairman  
BEN TRAPANI  
CINDY LANZETTA  
JOSEPH LOFARO  
MANNY CAUCHI  
JAMES GAROFALO  
STEVE CLARKE

ALSO PRESENT: JEFFREY S. BATTISTONI, ESQ.  
PATRICK HINES  
VIRGINIA FLYNN

APPLICANT'S REPRESENTATIVE: JAY SAMUELSON

----- X

MICHELLE L. CONERO  
3 Francis Street  
Newburgh, New York 12550  
(845)541-4163

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CHAIRMAN BRAND: I will call the meeting to order. The agenda for the Town of Marlborough Planning Board for April 20, 2020, the regular meeting will begin at 7:30. We have the approval of stenographic for February 18th and March 2nd. On the agenda this evening are Young, David and Susan --

MR. CAUCHI: I'll make that motion.

CHAIRMAN BRAND: -- sketch for a subdivision; Boneh Zion Realty, sketch, site plan; Marlboro Flats, sketch, subdivision; Nason Subdivision, sketch, subdivision; and Bayside Mixed Use, extension, site plan. The next deadline is Friday, April 24th. The next scheduled meeting will be Monday, April 4th. As I stated previously, we're going to be doing that via Zoom, and we'll be inviting the public as well.

Manny, since you're ready to go, I'll take that motion to approve the stenographic minutes for February 18th and March 2nd. Is there a second?

MR. LOFARO: I'll second.

CHAIRMAN BRAND: Any opposed?

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DAVID & SUSAN YOUNG

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(No response.)

CHAIRMAN BRAND: No. All right. So  
moved.

First up, Young, David and Susan,  
sketch, subdivision.

MR. SAMUELSON: Good evening. Jay  
Samuelson, Engineering Properties.

We were last before you about -- I  
believe it was in early March. Since that time  
we have gone back -- I don't know, Jen, if you  
can give me permission to share my screen, I can  
put up a copy of the subdivision map.

MS. FLYNN: I don't know how to do  
that. I can --

CHAIRMAN BRAND: You might be able to  
do it anyway, Jay, if you just go to share.

MR. CLARKE: That was the other thing  
they said at that meeting today. You probably  
need somebody under 30 to conduct one of these  
meetings.

MS. FLYNN: I don't know how to do it.

MR. SAMUELSON: There you go.

As you remember, this is a four-lot  
subdivision that spans both the Town of

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Marlborough and the Town of Newburgh. All of the proposed dwellings are located in the Town of Marlborough.

We originally did not have a house and septic proposed on lot 4, but Pat reminded me that since it's under 5 acres it requires approval as part of the realty subdivision. Since our last meeting we have revised the plan to show a house, well and septic on lot 4.

In that time we had also scheduled our joint site inspection with the Ulster County Health Department. That was supposed to happen in early March. The day of it we got a phone call saying that due to everything that was going on, they weren't going to be able to make it. They did state go ahead, do your test pits, document it through pictures and send us the results, and depending on where we go they may be able to utilize that as the site inspection. That was all sent back to them in late March, so they have that. We're waiting on a response from them.

Two other issues that we've been working through are the archeological. We did do

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a phase 1-A and 1-B. All the fieldwork is complete, and the archeologist said he did not find anything and he would be recommending no further study. I was hoping to have that report today to be able to upload to SHPO but I have not yet seen it. I'm anticipating receiving that any day now. As soon as I do I will provide the Board with a copy. I will also submit up to SHPO.

The other issue we've been working through is the report from the EAF about the Bald Eagle. We had our environmental specialist go out, walk the site, and he provided a letter which I did copy to the Board as I submitted that back to DEC late last week. So we're waiting to hear an answer from them on that. Basically they were saying due to the distance of this subdivision to the actual Hudson River, that there would not be any impact to the known eagles nest that are not on this property.

We've continued through Newburgh. We know that you guys declared your intent for lead agency in early March. I believe Newburgh, last Thursday night, did make a motion to accept that

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and have you guys be lead agency.

Pat, correct me if I'm wrong.

MR. HINES: That is the case. Newburgh deferred to Marlborough as lead agency.

MR. SAMUELSON: So at this point in time, I know we still have those couple outstanding issues, but the next item would be to set a public hearing. I understand we do have those couple outstanding items.

CHAIRMAN BRAND: You'll have them before the next scheduled meeting?

MR. SAMUELSON: I don't know how fast the DEC is going to respond. That's on the eagle. You have a copy of the letter saying that there should be no impact based upon the environmental consultant. SHPO, I expect to have that back. That usually takes about a week. I expected to have the report today, so I wouldn't be surprised if I get it tomorrow morning.

MS. FLYNN: You wouldn't have enough time for the first meeting in May.

CHAIRMAN BRAND: It would be the second meeting in May.

MR. SAMUELSON: I don't think I could

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get notices out or anything else in time for May 4th anyway.

CHAIRMAN BRAND: Okay. Pat, did you want to run through your comments for this?

MR. HINES: Sure. Jay Samuelson had touched on them. Our first comment was the status of the Ulster County Health Department approval. As Jay said, they have done their field testing but they'll have to weigh in on that.

There was a comment from Orange County Planning, and Ulster County picked up on it, about a separation distance. I know the Health Department is aware of that as well. They're taking a look at the separation distance between one of the existing septic systems on the site and one of the proposed wells. That will be reviewed by the Health Department.

We had a comment both on the DEC and the Office of Parks, Recreation, Historic Preservation. Both of those issues came up in the initial EAF and both of those agencies were included in the lead agency circulation so they provided comments.

The DEC has deferred lead agency to

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Marlborough. The Parks & Rec have not mentioned it but that's been timed out now.

We're looking for the highway superintendent to weigh in on the location of the new driveways. Both of the County Planning, Orange and Ulster, both suggested the possibility of a common driveway with lot 4 and the existing driveway. We'll look for the applicant to address that.

CHAIRMAN BRAND: Jay, can we just pause there. Is the applicant okay with that, the shared driveway?

MR. SAMUELSON: I don't think they have an issue sharing this driveway here that we're -- that's the wrong one. The driveway that's here between lots -- that's on lot 3 and lot 4, I don't think there would be any issue sharing this portion of the driveway.

CHAIRMAN BRAND: You don't have an issue with that as well; right?

MR. HINES: No. They'll need a common driveway access and maintenance agreement that Jeff's office can review. It will eliminate the number of driveways. They're very close as



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proposed, so it makes sense to combine them, or at least put them together.

CHAIRMAN BRAND: And both County agencies preferred it that way?

MR. HINES: Yeah. Again, the driveways are all in Ulster, in Marlborough. Both of them did bring it up in their review. Both of them reviewed it as if it was all there. It makes sense. I don't know that they intend to build a house on lot 4. I know originally that was a vacant parcel but we did have to show it buildable.

MR. SAMUELSON: They don't have a problem doing that as a combined driveway. I did discuss that with them originally as an option.

MR. HINES: I did provide the Planning Board with the Orange County comments as well. I sent them over to Jay. I thought Newburgh had done that.

Newburgh did defer the lead agency.

You heard back and/or timed out from all of your agencies.

An action for you tonight would be to declare yourself the lead agency as we move

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forward here.

It does need a public hearing. Your Board operates a little different than Newburgh. Newburgh will not schedule their public hearing until the lead agency makes a SEQRA determination and your Board has the public hearing prior to doing that. So there's a bit of a catch 22 here. If you were planning on scheduling that public hearing in the next -- the second meeting coming up, I think those timeframes may catch up to each other. Newburgh won't do that until you, as lead agency, declare your SEQRA determination.

Then I have a comment that's both for Jeff Battistoni and Newburgh's Planning Board attorney. The unique situation here being crossing the Town and County lines, I believe -- and I know the Newburgh attorney has also concurred -- that there needs to be some kind of legal filing in both of the Counties that show the lots having a connection to each other and can't be sold as separate parcels and/or transferred through a tax sale. So there needs to be some nexus between the portions of each lot in each Town and each County. Three of the lots

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have that issue. One of the new lots is completely in Ulster County, Town of Marlborough. I'll defer to Jeff on that, but there may be something legal between the two Planning Board attorneys to work out how that happens.

That's the status of our review.

CHAIRMAN BRAND: Jeff?

MR. BATTISTONI: I think in terms of the comment that Pat just made, I'll be able to work that out with the attorney for the Planning Board in Newburgh. I don't see a problem with that.

CHAIRMAN BRAND: Perfect.

MR. SAMUELSON: If there are any additional notes that you would like us to add to the plan in that regard, I'd be happy to add them, that way it's on the map when it's filed in both Towns and both Counties.

MR. HINES: I think they're looking for some kind of covenants to be filed in both Counties as well.

MR. SAMUELSON: Okay.

MR. HINES: I'm not sure how that happens. This is kind of a unique situation.

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CHAIRMAN BRAND: Jay, would you mind unsharing your screen for a minute so we can see -- thank you.

Anything from any Board Members on this?

(No response.)

CHAIRMAN BRAND: Going once.

(No response.)

CHAIRMAN BRAND: All right. So then I would like to have a motion to declare the Town of Marlborough Planning Board as the lead agency for this project moving forward.

MR. LOFARO: I'll make the motion.

CHAIRMAN BRAND: Joe Lofaro made the motion. Is there a second?

MR. CAUCHI: I'll second it.

CHAIRMAN BRAND: All right. Any discussion on that?

(No response.)

CHAIRMAN BRAND: Any opposition to that motion?

(No response.)

CHAIRMAN BRAND: No. So carried.

So Pat, you'll circulate that?

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MR. HINES: There's no circulation. That's just a motion that you make. Once you've made your SEQRA determination, we will, as part of the type 1 action, circulate your findings and your neg dec I believe in this case. Once you issue a negative dec, we'll circulate that to all the involved agencies. It's a type 1 action because of the proximity to the national historic site, the Gomez Millhouse within 2,000 feet. That's why we have the additional circulation and lead agency coordination.

CHAIRMAN BRAND: Great. So we're going to go ahead and schedule the public hearing for -- Jen, what's that date?

MS. FLYNN: May 18th.

CHAIRMAN BRAND: May 18th.

MS. FLYNN: Jay, I'm going to need money for your escrow. It is low.

MR. SAMUELSON: Send me an e-mail and I'll make sure they drop off a check.

MS. FLYNN: Okay. Thank you.

CHAIRMAN BRAND: So public hearing May 18th. Anything else on that that we need to take care of this evening?

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MR. HINES: I think that's the only thing we can do.

CHAIRMAN BRAND: Perfect. Thank you, Mr. Samuelson.

MR. SAMUELSON: Thank you. Have a good night.

MR. BATTISTONI: Chairman, just to interrupt. Did you make a motion to actually set that public hearing for the 18th?

CHAIRMAN BRAND: I did not make an official motion. It's not something we've done in the past.

MR. BATTISTONI: Okay.

CHAIRMAN BRAND: Should we?

MR. BATTISTONI: No. I think as long as you've authorized the applicant to advertise for that date, I think that's okay.

CHAIRMAN BRAND: I think we're set. That's how we've done it in the past.

(Time noted: 7:45 p.m.)

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C E R T I F I C A T I O N

I, MICHELLE CONERO, a Notary Public  
for and within the State of New York, do hereby  
certify:

That hereinbefore set forth is a  
true record of the proceedings.

I further certify that I am not  
related to any of the parties to this proceeding by  
blood or by marriage and that I am in no way  
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto  
set my hand this 24th day of April 2020.

*Michelle Conero*

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MICHELLE CONERO

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MEETING HELD REMOTELY VIA ZOOM

STATE OF NEW YORK : COUNTY OF ULSTER  
TOWN OF MARLBOROUGH PLANNING BOARD

----- X

In the Matter of

BONEH ZION REALTY

Project No. 20-4003  
21 Truncali Road  
Section 108.4; Block 1; Lots 26.110, 26.117, 26.113,  
26.114 & 26.118

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SKETCH - SITE PLAN

Date: April 20, 2020  
Time: 7:45 p.m.

BOARD MEMBERS: CHRIS BRAND, Chairman  
BEN TRAPANI  
CINDY LANZETTA  
JOSEPH LOFARO  
MANNY CAUCHI  
JAMES GAROFALO  
STEVE CLARKE

ALSO PRESENT: JEFFREY S. BATTISTONI, ESQ.  
PATRICK HINES  
VIRGINIA FLYNN

APPLICANT'S REPRESENTATIVE: KELLY NYWENING

----- X

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BONEH ZION REALTY

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CHAIRMAN BRAND: Next up, Boneh Zion Realty, logging.

MS. NYWENING: How are you this evening?

CHAIRMAN BRAND: I'm well. How are you?

MS. NYWENING: Good. So I'm acting on behalf of Boneh Zion Realty as their forester in regards to this timber sale, the permitting process specifically.

We submitted both a sketch application for site plan as well as a property maintenance plan that were reviewed by Pat Hines on the 16th of March. He made several comments, all of which were addressed in writing. I believe the Board has a copy of those comments.

Do you have any other questions for us?

CHAIRMAN BRAND: Pat, did you just want to run through some of those comments to refresh our memory? That was a long time ago.

MR. HINES: My first comment goes through the application identifying the size of the parcel, areas proposed to be impacted, and just a delineation of the total number of trees.

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2 There are 644 trees which were identified as  
3 various species. I noted that there was Eastern  
4 Hemlocks of a certain size. The Hemlocks are  
5 being currently impacted by an invasive species  
6 and they are on the decline, not only on this  
7 project but in the general area.

8 We just requested the applicant  
9 evaluate whether there was any proposed buffer to  
10 the neighboring parcels. Some of the Board  
11 Members may remember when this was a subdivision  
12 some of the neighbors along Mount Zion Road were  
13 concerned about the impacts, and there was some  
14 significant buffer areas provided for them.

15 The cul-de-sac is proposed to be the  
16 landing area for the logging operation. That  
17 area currently consists of a gravel roadway  
18 subbase.

19 The hours of operation are identified  
20 as weekdays 8 to 8, I believe, consistent with  
21 the Town's restrictions.

22 Best management practices for timber  
23 harvesting identified in the New York State DEC  
24 guidelines for that were provided.

25 We are asking the highway

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superintendent to comment on the access to Mount Zion Road.

We had a note that the -- we just noted that this parcel was originally a Nature Conservancy owned parcel and was sold to the Truncalis. The deed from Truncali to the current owner was not in the application package -- the Nature Conservancy to Truncali. There's a bunch of deeds out. I believe David Somerstein, that we did not have.

I made a comment that the application is covered under Section 75 of the clearing and grading. Uniquely many of the towns I represent have that ordinance in the clearing and grading. Your ordinance is a separate ordinance. I do believe it's Section 141, trees. This is a site plan under that. I know Cindy Lanzetta picked up on that in my comments.

The EAF did not identify threatened or endangered species on the site.

There is an average of 30 trees per acre proposed to be removed which is slightly higher than most selective timber harvests, the 30 trees per acre. I'll let the applicant's

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representative address that.

A permit term of six months is identified in the code. Actually, that's in the clearing and grading code, not the tree code, so that one is not appropriate.

Then we had quite a discussion with the -- myself and Jeff Battistoni regarding some restrictive covenants and other legal documents that have been imposed on the site by the original subdivider, Truncali. I believe that there are restrictions in those regarding tree cutting, tree clearing, cutting of trees in the drainage ways, which warrants discussion with the Planning Board. Probably that would be the most important thing to discuss at this point.

CHAIRMAN BRAND: Jeff, do you want to maybe touch upon that for us?

MR. BATTISTONI: I agree with that comment that Pat just made. I think there's a preliminary issue here that the Board has to address. I know this is a very old subdivision. It's one that I'm not familiar with in terms of the actual subdivision plat. There is a declaration from 2004 that was recorded with the

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Ulster County Clerk. It's 19 pages long, as I recall, and it has many restrictive covenants that apply to the property, that apply to all of the lots, and there are specific covenants that apply to some of them. However, there's language throughout that document that limits tree removal. I had sent an e-mail to the Planning Board Members where I summarized that language. I don't know if any of you have that e-mail with you or not. I can read some of that if you want. That's up to you.

CHAIRMAN BRAND: I don't think it's necessary. We all received a copy of it. I mean maybe the applicant could help us to understand this a little better. Again, I'm not a lawyer but when I read that it seemed to me very clear cut that this specific type of logging was not permitted on this property due to the covenants of the deeds.

MS. NYWENING: So I am also not a lawyer so I can't speak as to that particular of legalese in this covenant. I will refer you to several documents that were sent by the landowner to me. I believe Pat forwarded it on to the

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Planning Board just this afternoon. It was from another engineering firm, Gardiner Engineering in New Paltz, and also from the applicant's attorney, who I'm trying to read his name. It's very small. Joseph Steffi, Esquire. Both of those comments have been received. If they're not, they will be. That's as far as I can speak as to the restrictive covenant in place.

I can answer some of Pat's earlier comments about -- his original comments on the site plan. As far as the 30 trees per acre, that is a high average, as Pat noted. There is an extensive Hemlock woolly adelgid infestation that's present in Ulster County. I just worked on a property in Olivebridge of a similar forest type and more than three-quarters of the Hemlocks are dead and posing a significant safety hazard to the landowner and also wildfire risks to the area. We think it's prudent to remove these Hemlocks before they're totally dead and noncommercial any more. People won't buy dead trees, so it makes sense that while we can have a logger come in and get them we should. There's also 140 trees per acre, on average 4 inches in

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diameter, 4.5 feet above the ground or larger.  
So while it represents a significant portion,  
that's sure to decline. It's not a significant  
portion of the stock overall.

You also asked us to address the buffer  
between the neighboring residential parcels which  
is a minimum of 50 feet at all places. We're  
certain that we're not posing any risk of timber  
trespass on the neighboring properties.

CHAIRMAN BRAND: Anything from the  
Members of the Board?

MS. LANZETTA: Yes. Well -- I don't  
know why I'm getting some feedback. Anyway --

CHAIRMAN BRAND: Can you mute Al's mic?  
I think that will help her significantly.

MS. FLYNN: Okay. Done.

MS. LANZETTA: That's much better.  
I didn't read what the applicant's  
lawyer had sent, so I haven't had the  
opportunity --

MR. HINES: I have not seen that  
either. I haven't seen that from Joe  
Saffiotti.

MS. NYWENING: I think it was sent

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today.

MS. LANZETTA: I did read what the engineer had sent over from Gardiner and -- well first of all, I really do think that the covenant document in itself kind of makes this whole discussion moot because if you follow what the covenants stipulate, there can't be any logging on that property until those lots are sold. And also --

CHAIRMAN BRAND: Can I just pause you right there?

Jeff, is that your understanding as well, there could be no logging until the lots are sold?

MR. BATTISTONI: That I don't know. There's a provision in, I think it's paragraph number 3 that says no lot or portion thereof may be used for any business or commercial purposes whatsoever. I don't know whether that's intended to prevent this sort of commercial logging enterprise. There are certain buffer areas required. There are building envelopes where limited clearing was allowed. It's actually a very complex set of restrictions.



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MS. LANZETTA: And so therefore you take that into account, number one, whether or not we should even be entertaining this application.

Number two, if we do entertain it and we look at it under our tree provisions, Code 141, we would require more by way of site plan information than what the applicant has provided. And then also take into account that we have a limit on tree removal over a certain height. I think these -- this section would come into that zone.

MS. NYWENING: If I can add a couple of things. Since the letter from the attorney was not received by the Planning Board, I'll just summarize it briefly. Arguing that restrictive covenants should be enforced when the intention of the parties is clear and the limitation is reasonable and not offensive to public policy, and that specifically the person looking to enforce restrictive covenants must have an actual benefit of enforcement. I'm not making any comment other than to summarize that for you.

Cindy, might I ask what in the site

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plan is lacking? You said more would be required. What specifically?

MS. LANZETTA: Topographic maps.

MS. NYWENING: I believe those were provided. If they weren't, I'll be sure that they are.

MS. LANZETTA: I have to go through the entire list. It's in Section 141, trees. Also under site plan review. I think that's -- I think that might be 151. I'm not sure. I'm afraid to exit out of here to look at the Town code.

MS. NYWENING: That's fine.

MS. LANZETTA: Then we also have the tree line -- the ridge line protection zone. I think this also enters into the ridge line protection zone.

CHAIRMAN BRAND: Pat or Jeff, anything on that?

MR. HINES: I would suggest -- we don't have the benefit of the applicant's counsel. Possibly we can defer this and allow Jeff and the applicant's counsel to discuss the issues. I had originally asked, and Jeff and I read through the

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20-page restrictive covenant. Often times those agreements are between Truncali and Sommerfield and not necessarily part of the Planning Board's application. There's always an enforcement issue of private restrictions that probably could be looked at. I don't know what the applicant --

MS. LANZETTA: Well I know it says in here --

MR. HINES: It does have some drainage --

MS. LANZETTA: Well, in 19 -- it says, "The foregoing obligation and limits of clearing for building envelopes may be enforced by any lot owners and/or by the Town of Marlborough which municipal entity shall have the right but not the obligation to enforce." So we are the Town of Marlborough.

MR. BATTISTONI: Right. And I'll chime in on that too, Cindy. I didn't mean to interrupt you. I agree with what you just said. I think throughout the covenant there are references to the fact that they can be enforceable by any and all of the lot owners in addition to the subdivider, and obviously the one

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you just mentioned about enforceable by the Town. So if the applicant is going to make an argument that well this is really only to be enforced by the original subdivider, I'm not going to agree with that.

CHAIRMAN BRAND: So I'm kind of in agreement with Pat at this point. I think there's just so many outstanding legal issues that I think we need to really get some clarity on this before we can proceed any further.

Are we kind of in agreement with that as well, would you say?

MR. LOFARO: Sounds good.

MR. CLARKE: Yes.

MR. GAROFALO: Could I say something?  
James Garofalo.

CHAIRMAN BRAND: Mr. Garofalo, your microphone is not -- your camera is not on.

MR. GAROFALO: No, it's not. Because I don't have one. Sorry. Not a legal requirement.

Anyway, it seems reasonable that if you're going to develop the property, that you would be allowed to remove dead trees, to remove trees where the buildings were going to be in the

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process of normally building buildings and roads, and whatever else you had to do. So I could see how removing those trees in those types of areas could fit in to actually developing the property as it was subdivided and requested to be approved by the Town. So I think those areas, clearly they would have the right to go in and remove the trees, because if they were building the buildings what would they do? They would have a logger come in and they would sell the trees and have those trees taken out. But that's not over the entire parcel. So I think that the big question is in those other areas where it wasn't intended to have trees removed and the whole idea of the subdivision was to maintain these buffers in these areas where the trees would be, that becomes the real question as to whether or not you should be able to log in those areas.

There are a few other things that I certainly would like to see with regard to this particular proposal. One is they had the hours from 8 a.m. to 8 p.m. I don't think, unless they come up with a lighting plan, they should be permitted to log during the period 30 minutes

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after sunset to 30 minutes before sunrise. That should be a stipulation in there also, unless they want to come up with some kind of lighting plan to do that logging in those specific areas.

I would also like to know what the meaning of the log landing area by the cul-de-sac really means. Is it they're going to store logs there and you won't be able to turn around? I think that that needs to be clarified. That's not part of the bigger, major legal issue that is being dealt with. Those are smaller issues I wanted to bring up now so they won't be forgotten. Thank you.

MS. NYWENING: Can I address those smaller issues while we're at it?

CHAIRMAN BRAND: Sure.

MS. NYWENING: As far as the 30-minute sunrise/sunset, nobody intends to cut or remove timber. For the purpose of loading log trucks which come with highway-regulated lighting systems, they could possibly load at night. Just to put the logs on the trucks and ship them to the mill. Nobody can cut timber before it's light or after it's dark.

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As far as the log landing goes, this Truncali Road extension, I don't believe it's a public right-of-way, and I'll check into that. Currently the access is gated, and so there's no public thoroughfare on that road. Where the log landing area is, which is indeed where they'll store logs for loading on a log truck, while that will be on the cul-de-sac it should have no impact on the right-of-way for travel.

CHAIRMAN BRAND: I think that gets into the broader question that we had discussed a little bit where part of the subdivision included that the road was finished and donated as a Town road, I believe it said, before anything got done.

There are several outstanding legal issues I think with this whole project.

MR. CLARKE: Chris, this is Steve. I think that -- from my perspective, I can't make a decision. This is a legal decision. I want an opinion from the lawyers.

CHAIRMAN BRAND: I think that's where we're definitely headed.

MR. BATTISTONI: So just along those

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lines, I have not seen the applicant's attorney's memo or letter that was drafted today or submitted today. I will look -- I'll get a copy of that, I'll review that and I'll deal with their attorney somewhat, and then I'll prepare an opinion letter for you.

CHAIRMAN BRAND: Do you think you'll be able to have that for the Monday, May 4th, meeting?

MS. NYWENING: Sorry. I'll speak with the landowner. I will find out. I don't believe he sent out an official opinion letter, just his comments. We'll check before the next meeting.

CHAIRMAN BRAND: Jeff, does that timeline work for you, May 4th, or do you want to push it back until May 20th?

MR. BATTISTONI: Oh, boy. In normal circumstances May 4th would be fine. It's harder to work today given the circumstances we're in. I'll certainly try for May 4th.

CHAIRMAN BRAND: Okay.

MS. NYWENING: We can be flexible on that.

MR. CLARKE: Would the applicant



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consider a logging permit for the diseased trees,  
the Hemlock trees only?

MR. HINES: I was going to mention that  
as one of the things that -- Kelly, if you could  
provide a map showing where those Hemlock stands  
are. If they are infected with woolly adelgid  
you're going to have some pretty ugly trees  
standing there in a year or two for many, many --

MS. NYWENING: The Hemlocks are pretty  
evenly scattered throughout the entire harvesting  
area as shown on the site plan map. I can  
probably show you. If you want to read it. This  
entire area that's to be logged has Hemlocks.

MR. HINES: I didn't know if there was  
one area that was a monoculture of them, in a wet  
area or something.

MS. NYWENING: No. You can actually  
see them on the aerial photo. It's a leaf-off  
photo, so anything green in the photo is a  
Hemlock or a White Pine. In this case it's  
mostly entirely Hemlocks.

And Pat is right, it's a major issue.  
Really tall trees, when they're standing dead,  
they're a major liability for safety sake to

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leave stand. Also they're not worth anything commercially and they pose serious expense to the landowner to have. Like I said, other landowners in Ulster County are kind of up a creek with a lot of their dead standing Hemlock. It's a major issue. If anybody else has Hemlocks they should consider taking action.

MS. LANZETTA: Did you say that you had somebody up there and identified that these trees have been affected by the woolly adelgid?

MS. NYWENING: To identify the woolly adelgid you need to reach the foliage on these trees which is impossible. It's the way that the insect moves and its proximity to this site. So the closest area that I personally know of is 35 road miles, so probably 20 as the crow flies, from this particular site. So it's active in the area. Its movement depends on weather, kind of micro site conditions. You can probably get clarification of an invasive species maybe from Cornell, to see how quickly it would get to this area. It's inevitable that it will. They've moved all the way across Pennsylvania to New York at this point.

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MS. LANZETTA: So you have not identified it specifically to those sites?

MS. NYWENING: No.

MS. LANZETTA: And just so you know, the ridge line and steep slope protection ordinance is 155-41.1.

MS. NYWENING: I'm sorry. 155-41.1?

MS. LANZETTA: Yes. And then the requirements for the site plan are on 155-31. There's a possibility that there might have to be some -- we might have to do some kind of looking at what the viewshed would look like if you were to begin to eliminate those trees.

MS. NYWENING: Did you say from neighboring properties?

MS. LANZETTA: From across the river.

MS. NYWENING: Yeah. Unimpacted but --

MS. LANZETTA: That's a pretty visible site there.

MS. NYWENING: Well so it's offered on the other side of the wetland. You can't see this hill slope from any public right-of-way. It's on the backside.

MS. LANZETTA: I don't know. That is

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on the eastern side of the slope.

MS. NYWENING: This is on the western side of the slope.

MS. LANZETTA: No, it's not.

MS. NYWENING: I'll resend the topographic map.

MS. LANZETTA: Okay.

CHAIRMAN BRAND: So let's do this. I think just in the interest of time, these other issues, if the attorneys can't work it out, all of this is neither here nor there. Let's move forward with letting Jeff and the other attorney come to some type of decision.

We will put you tentatively on the May 4th agenda. If that doesn't work out we will put you on the May 20th agenda.

MR. HINES: May 18th.

MS. FLYNN: I also need an escrow check.

MS. NYWENING: Right. The landowner has been notified of that.

MS. FLYNN: Okay.

CHAIRMAN BRAND: Anything else?

(No response.)

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CHAIRMAN BRAND: Thank you, Kelly.

(Time noted: 8:08 p.m.)

C E R T I F I C A T I O N

I, MICHELLE CONERO, a Notary Public  
for and within the State of New York, do hereby  
certify:

That hereinbefore set forth is a  
true record of the proceedings.

I further certify that I am not  
related to any of the parties to this proceeding by  
blood or by marriage and that I am in no way  
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto  
set my hand this 24th day of April 2020.

  
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MICHELLE CONERO

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MEETING HELD REMOTELY VIA ZOOM

STATE OF NEW YORK : COUNTY OF ULSTER  
TOWN OF MARLBOROUGH PLANNING BOARD

----- X

In the Matter of

MARLBORO FLATS

Project No. 20-4004  
8-10 Watson Avenue, Milton  
Section 103.1; Block 3; Lot 15

----- X

SKETCH - SUBDIVISION

Date: April 20, 2020  
Time: 8:08 p.m.

BOARD MEMBERS: CHRIS BRAND, Chairman  
BEN TRAPANI  
CINDY LANZETTA  
JOSEPH LOFARO  
MANNY CAUCHI  
JAMES GAROFALO  
STEVE CLARKE

ALSO PRESENT: JEFFREY S. BATTISTONI, ESQ.  
PATRICK HINES  
VIRGINIA FLYNN

APPLICANT'S REPRESENTATIVE: FRANK CRICCHIO & TINA  
CRICCHIO

----- X

MICHELLE L. CONERO  
3 Francis Street  
Newburgh, New York 12550  
(845)541-4163

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CHAIRMAN BRAND: Next up, Marlboro  
Flats, sketch, subdivision.

Frank, I have to say this is my first  
meeting where the applicants are drinking wine.  
I appreciate that. I like that.

MS. FLYNN: He's not sharing with us.

MR. CRICCHIO: How do you know I'm  
drinking wine?

CHAIRMAN BRAND: I can see you, Frank.  
That's how this works.

Frank, are you representing yourself  
for this?

MR. CRICCHIO: Right now, yeah. I mean  
my -- yeah.

CHAIRMAN BRAND: Do you want to give us  
a little rundown?

MR. CRICCHIO: It's a three-lot  
subdivision here on Western Avenue. You got the  
paperwork in front of you. It's more or less cut  
and dry, I mean for the subdivision.

So I mean any questions from you guys?

CHAIRMAN BRAND: Pat?

MR. HINES: I can jump in. It is a  
three-lot subdivision. There's an existing two-

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family home on the site. There's a proposal to  
subdivide off two additional lots for a total of  
three. I believe each of those additional lots  
are proposed to have duplex houses --

MR. CRICCHIO: Correct.

MR. HINES: -- constructed on them.

My second comment has to do with the  
need to show parking. There needs to be 1.5  
parking spaces per residence based on the zoning  
code. There will need to be depicted three  
parking spaces. I don't know if you have these,  
Frank, but I shared them with your engineer. You  
need to show three spaces for each of the -- on  
each of the lots.

Again, this was a sketch plan so we'll  
be looking for water and sewer provisions for  
each of the new structures. The water service  
for the -- water and sewer for the existing  
structure should be depicted. It does have  
municipal sewer there but you'll need to show  
those lines depicted.

I have a comment for the highway  
superintendent to take a look at the driveway  
locations.



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The existing house, does it have a driveway or is it just on-street parking?

MR. CRICCHIO: It does have a driveway, yes.

MR. HINES: It would become a shared driveway for the other lot?

MS. CRICCHIO: They're separate.

MR. CRICCHIO: If you look at it, you can see that we did put another driveway going up through there.

MR. HINES: It's kind of shared.

MR. CRICCHIO: Yeah. I can always provide parking in front of the house also.

MR. HINES: We just have to look at that. I just wanted to make sure that there wasn't a shared driveway arrangement. There can be but it just needs to have appropriate legal mechanisms to --

MR. CRICCHIO: Okay.

MR. HINES: If you're proposing them to be shared, that's fine. Jeff's office just needs an access and maintenance agreement if you want to do that.

Erosion and sediment control and a

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grading plan we'll be looking for.

Obviously this was a schematic plan initially.

The driveway for lot 2, there's an existing catch basin in the road, so we need that with a catch basin there. You can work with the highway superintendent on that when he takes a look.

There's a random contour line depicted on the plans. Jen has the screen split for us.

MR. CRICCHIO: What was that again?

MR. HINES: There's just a random contour line. The 100 contour is labeled between the two driveways. Your engineer can clean that up.

MR. CRICCHIO: Okay.

MR. HINES: My comment 10 is about the shared driveway for lots 1 and 3 as you move forward.

There's a shed to be relocated?

MR. CRICCHIO: Yeah.

MR. HINES: We're just looking to show where that's going to be relocated, just to make sure it's consistent with the accessory building

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requirements.

There's not a roadway dedication shown right now. I just want to make sure that there's 25 feet from the center line to the parcel. The Town has a policy to acquire 25 feet from the center line as an offer of dedication for subdivisions. I'm not sure exactly where that center line is. Your surveyor can depict that on the resubmission.

We're suggesting that a note be added to the plans that the house sites be staked in the field prior to building permit because of the proximity to the setback lines, and it kind of saves you from any potential zoning issues. The houses are very close to the side yard setbacks, the two new houses that are proposed. I note that they be staked in the field prior to a building permit and an as-built drawing prior to CO to make sure that you're compliant with the zoning because of the proximity to the setbacks.

The location map needs to be cleaned up. I had to chase it around on the tax maps a little bit to find that. If they can give us a better location map.

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And then when I was looking at the tax maps, and I don't know why but the frontage on the tax map for this parcel was much less than is depicted on the survey. I don't know if there was a combined lot at one point. The tax maps only show about -- the tax maps aren't legal, they're only for taxing purposes. I noticed as I was searching for the parcel that the frontage was smaller than depicted on the survey. I didn't know if there were any lot line changes that had been done in the past.

MR. CRICCHIO: Not that I know of. Not since I've owned it, no.

MR. HINES: It's a little weird when you look at the tax maps. As long as the surveyor is going to stamp it, I'm okay with it. It just caught my eye.

Those are the comments we have on the sketch.

Just for the Board, it is two new proposed duplexes and one existing duplex in the hamlet area. They are permitted.

MR. CRICCHIO: So what's next?

CHAIRMAN BRAND: Jeff, did you have

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anything for that, too?

MR. BATTISTONI: From a legal point of view; no, I don't.

CHAIRMAN BRAND: Okay. Jen, you can put the screen away there.

I think what's next is you would talk to your engineer and clean up some of the things that Pat just spoke about. You could probably have that ready for May 4th to review again.

MR. CRICCHIO: Okay.

MR. HINES: As long as you make the submission. I think you have an extra week this month.

CHAIRMAN BRAND: She has down April 24th for the deadline.

MS. FLYNN: Yeah. There's no extra week.

MR. HINES: There's an extra Wednesday and Thursday but not an extra Monday.

CHAIRMAN BRAND: If you could get that before the deadline, Frank, that could be great, and then we could put you on the agenda for May 4th.

MR. CRICCHIO: When's the deadline?

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CHAIRMAN BRAND: April 24th. Friday.

MR. CRICCHIO: Friday. Okay. We'll try. If not, then we'll go to the next one.

MR. HINES: Frank, your engineer should have those comments. I believe my office sent them.

MS. CRICCHIO: Good.

MR. CRICCHIO: Thank you, Pat.

MR. GAROFALO: James Garofalo. Can I make some comments --

CHAIRMAN BRAND: Absolutely.

MR. GAROFALO: -- before they leave?

Could you ask your engineer not to use yellow because that yellow on a white background is almost totally illegible. So just have him change the color to something else.

Also, I'd like to know -- there's a wall that runs along the road. I'd like to know how high that wall is and how far back it is from the roadway. That has to do with sight distance. Put it on the plan so it's very clear.

MR. HINES: That same wall is why I asked about the parking too, James.

MR. GAROFALO: Okay. And I think it

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would also be helpful to see on lot 1 where the driveway is going to be and where their parking is going to be. Also to clarify on the new buildings whether their driveways are going to be paved or they're going to be some kind of gravel.

MR. CRICCHIO: Okay.

MR. GAROFALO: To have that specifically on the plan to say this is paved or this is whatever.

MR. HINES: Along with that there should be a detail of that, James, just to show that once they do put that on there.

CHAIRMAN BRAND: Anything else from the Board?

(No response.)

CHAIRMAN BRAND: James, is that it for you?

MR. GAROFALO: That's it for me. Thank you.

CHAIRMAN BRAND: Excellent. So we will either see you on the 4th or the 18th.

MR. CRICCHIO: You got it. Thank you.

(Time noted: 8:15 p.m.)

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C E R T I F I C A T I O N

I, MICHELLE CONERO, a Notary Public  
for and within the State of New York, do hereby  
certify:

That hereinbefore set forth is a  
true record of the proceedings.

I further certify that I am not  
related to any of the parties to this proceeding by  
blood or by marriage and that I am in no way  
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto  
set my hand this 24th day of April 2020.

*Michelle Conero*

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MICHELLE CONERO



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MEETING HELD REMOTELY VIA ZOOM

STATE OF NEW YORK : COUNTY OF ULSTER  
TOWN OF MARLBOROUGH PLANNING BOARD

- - - - - X

In the Matter of

NASON SUBDIVISION

Project No. 20-4005  
89 Peach Lane, Marlboro  
Section 95; Block 3; Lot 13.200

- - - - - X

SKETCH - SUBDIVISION

Date: April 20, 2020  
Time: 8:15 p.m.

BOARD MEMBERS: CHRIS BRAND, Chairman  
BEN TRAPANI  
CINDY LANZETTA  
JOSEPH LOFARO  
MANNY CAUCHI  
JAMES GAROFALO  
STEVE CLARKE

ALSO PRESENT: JEFFREY S. BATTISTONI, ESQ.  
PATRICK HINES  
VIRGINIA FLYNN

APPLICANT'S REPRESENTATIVE: JONATHAN MILLEN

- - - - - X

MICHELLE L. CONERO  
3 Francis Street  
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CHAIRMAN BRAND: Next up, Nason  
Subdivision, sketch, subdivision.

MR. MILLEN: My name is Jonathan  
Millen, I'm a licensed land surveyor and I'm  
representing Martin and Katrina Nason at 89 Peach  
Lane in Marlboro.

We have a proposed four-lot  
subdivision. Two of the lots are at the minimum  
size, one-acre zoning. They will both have wells  
and septics. Both lots would have wells and  
septics.

There's a parcel that's 26 acres which  
would be the developed parcel as well.

The 7.46 acre parcel has an existing  
house, well and septic, pond, various  
outbuildings, et cetera.

We are looking to see whether or not  
the Town is in favor of the lot layout, and, if  
so, then we would go ahead and have the septic  
done by Talcott Engineering.

CHAIRMAN BRAND: Pat, do you want to go  
through your comments?

MR. HINES: Sure. My first comment will  
impact proposed lot 4 possibly. The Town has an

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agricultural buffer, Section 155-52 of the Zoning Code. It basically states that any lots next to active agriculture have to have an additional buffer. It makes the rear and side yards 75 feet when they abut active agriculture. It comes down to protecting other residential parcels from noise and spraying and such from farming. So you need to take a look at that, 155-52.

There's a DEC wetland on the site, a regulated wetland. We need that flagged, the buffers surveyed and validated. It does encroach on the two smaller lots that are proposed. The actual location of that needs to be depicted pretty clear, as well as the driveway for lot 1, the larger lot. I'm squinting at the computer as I'm reading.

Wells and septic, as you mentioned, will need approval in the future.

Highway superintendent review of the driveways. We're looking to show the sight distance on those driveways, particularly the driveway for lot 1. If you can do that on the updated maps when you submit them.

You need to show the limits of clearing

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and grading proposed to make sure that -- that's a comment because of the extensive length of the driveway on lot 1. You may exceed the one-acre disturbance and need to provide a stormwater pollution prevention plan. The next -- not the sheet that Jen has up now but the other sheet will show that driveway length which is quite extensive. I'm not sure exactly how long it is. Maybe the applicant's surveyor can weigh in on that. It's probably 1,200 feet or more in from the road. I'm just guessing on the lot line there.

The use of all accessory structures -- it's way back there. Just for the Board's reference, the 7-acre lot is 700 feet long from the road, and that lot extends well back from behind there.

MS. FLYNN: Are you seeing this other one I have up?

MR. HINES: Yes. Good, Jen.

So I have a couple of comments on that driveway. I'm going to have to have the fire department weigh in on the length of that driveway. I know there's been a turnaround

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proposed. We're going to want to see that.  
We're going to want to see the proposed grading  
and the profile for that driveway as well as the  
sizing of the culverts.

There are a lot of accessory structures  
on the site, particularly on the lot that has the  
single-family home existing. The use of those  
and compliance of those structures with the  
zoning should be addressed. Accessory structures  
in front yards and in front of buildings will  
have to be addressed. Any of those accessory  
structures that are to remain should be labeled  
as to their use.

We just talked about the fire  
department weighing in on the length of that  
driveway.

Just for the surveyor, there's a random  
setback line that's pointing to the 378 contour  
line. I think it's just a mislabeled portion of  
the map.

And then if we could have the finished  
floor elevations for all of these structures.  
That goes with requesting the grading.

The building inspector had identified a

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potential issue with the location of the septic based on the house locations and the schematic wetland buffer. The septic on lot 3, I think there's only 50 feet available between the rear of the proposed structure and what is now depicted as the DEC wetland buffer. I think that wetland buffer needs to be better defined by the DEC in order to anchor that with a validation map.

MR. MILLEN: Right.

CHAIRMAN BRAND: Has this already been cleared? I actually drove down this road earlier today. Has the whole thing been cleared off?

MR. MILLEN: No. Nothing has been cleared on this site.

CHAIRMAN BRAND: Okay. So that's not where I'm thinking it is.

Jeff, did you have anything on this one?

MR. BATTISTONI: I just think Pat has a lot of comments that need to be addressed. That's all.

CHAIRMAN BRAND: Absolutely.

Jen, you could put the screen away

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there.

MR. MILLEN: Those comments will be available?

MR. HINES: My office should have sent them to you. If they didn't, I apologize.

MR. MILLEN: I haven't seen them. I haven't seen them yet.

MS. LANZETTA: I have a couple of questions. If you are able to meet the setbacks for lots 3 and 4 and figure out how you're going to do a septic, if it's possible to have a shared driveway, I would think -- you know, I would think that that would be preferable.

And also the other -- the larger parcel, I know it's very wet. To make sure that we don't run into any issues with segmentation, I'd like to know what the possibility would be for -- if you could put additional houses back there, what that would entail. Otherwise, you know, it's a pretty big lot.

MR. MILLEN: Right.

MS. LANZETTA: We have to think -- you know, right now it's a minor subdivision but we have to do our due diligence and make sure that

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we're not doing some kind of a segmented review of something that you're going to come back with in the near future, or fairly near future. I want to know what the possibility is for build out on that other lot.

MR. MILLEN: Okay.

CHAIRMAN BRAND: Anything else from the Board?

MR. CLARKE: I like the idea of the shared driveways.

The question I would have, and I don't know the answer to it but Pat probably does. Can you put septic in that area of wetlands? Is it possible to do that?

MR. HINES: It would depend on the soil testing. But if it's in the DEC regulated buffer, they would require a permit and would most likely not meet the DEC's permit issuing standards because it's kind of a self-created, able-to-be-mitigated permit issue. If you can avoid, minimize and mitigate is their process. If you can avoid it -- certainly a new septic system could be located somewhere else on a very large parcel as that. It's very important to



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figure out where that actual wetland buffer is. The DEC will come out and flag that and then the surveyor can pick up those flags, measure that 100-foot buffer and then really define where that is. But soils testing and permitting would be the issues.

MR. CLARKE: That piece of property is going to have a lot of trouble perking.

MR. HINES: I would imagine so with the amount of wetlands.

MR. CLARKE: I'm pretty familiar with that piece.

MR. HINES: That's why we want the wetlands delineated. I think that's an important step before it comes back, the DEC wetland verification.

CHAIRMAN BRAND: Anything else from the Board?

MR. GAROFALO: James Garofalo. There are some travel ways that are shown on the plan. I was wondering if those were going to be -- some of them are in the wetland buffer. Whether those are going to be abandoned or not. That's number one.

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Number two, has any thought been given to instead of having the extremely long driveway to, I guess it's lot number 2, to bringing that off of the other lot so there would be one less stream crossing? You'd have a shared driveway.

MR. MILLEN: As opposed to the stream crossing that's happening on the existing lot you mean?

MR. GAROFALO: Instead of adding one stream crossing, that long driveway would be -- rather do that than to bring it off of the other lot.

MR. MILLEN: So then you'd have two shared driveways, one for the existing parcel which will be shared until they cross the stream and then move back across the lot?

MR. GAROFALO: Yes.

MR. MILLEN: It would be shared for the two lots.

MR. GAROFALO: To at least look at that.

CHAIRMAN BRAND: Is that doable, Pat?

MR. HINES: I would have the applicant look at it. I'm interested in seeing the profile

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of the proposed driveway too for that same reason, how that grading is going to work out. I think key to this is going to be the DEC, where they draw that wetland line. If they follow that stream up to the pond. We'll be coming into a permitting issue. I know currently that wetland has been shown off of the DEC's website as a check zone broad brush, but the actual delineation in the field is going to be what the DEC goes off of for permitting.

CHAIRMAN BRAND: Okay.

MR. GAROFALO: The other thing would be, as with the other project, take a look at the right-of-way along the road to make sure that they don't have to have a dedication, to have that 25 feet.

MR. MILLEN: Right. Right.

MR. GAROFALO: Thank you. That's all the comments I have.

MR. MILLEN: Okay. The one question I have was there was a comment about a setback line, that there was some confusion regarding what the line --

MR. HINES: It's just a random label.

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It says setback line but it has a leader and it's just out in the middle of the -- I think it's a drafting issue.

MR. MILLEN: Okay.

CHAIRMAN BRAND: Anything else from the Board?

(No response.)

CHAIRMAN BRAND: Pat, how long do you think it will take to hear back from DEC on this?

MR. HINES: The applicant would have to reach out to their wetlands people. They would schedule the delineation. I'm not sure what their status is currently. That's done alone in the field, so they may be doing that work. DEC has personnel. It's free of charge, you just schedule it with them and they come out and do the survey.

CHAIRMAN BRAND: I would say for the applicant, when that happens, to contact the office and we'll put you on whatever next agenda that we have when that's completed.

MR. MILLEN: The plan will be to address the comments and to have the wetlands delineated and the new plan submitted prior to

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the next meeting?

CHAIRMAN BRAND: Correct.

MR. HINES: Prior to your next scheduled. It's in your court, Jonathan. You get it back to us and then the Chairman will schedule you.

MR. MILLEN: Okay. Very good. Thank you. I appreciate the time.

CHAIRMAN BRAND: Thank you for being patient.

MR. MILLEN: Sure.

CHAIRMAN BRAND: Have a good night.

(Time noted: 8:30 p.m.)

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C E R T I F I C A T I O N

I, MICHELLE CONERO, a Notary Public  
for and within the State of New York, do hereby  
certify:

That hereinbefore set forth is a  
true record of the proceedings.

I further certify that I am not  
related to any of the parties to this proceeding by  
blood or by marriage and that I am in no way  
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto  
set my hand this 24th day of April 2020.

*Michelle Conero*

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MICHELLE CONERO

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MEETING HELD REMOTELY VIA ZOOM

STATE OF NEW YORK : COUNTY OF ULSTER  
TOWN OF MARLBOROUGH PLANNING BOARD

- - - - - X

In the Matter of

BAYSIDE MIXED USE

Project No. 19-3011  
18 Birdsall Avenue, Marlboro  
Section 109.1; Block 4; Lot 29

- - - - - X

EXTENSION - SITE PLAN

Date: April 20, 2020  
Time: 8:30 p.m.

BOARD MEMBERS: CHRIS BRAND, Chairman  
BEN TRAPANI  
CINDY LANZETTA  
JOSEPH LOFARO  
MANNY CAUCHI  
JAMES GAROFALO  
STEVE CLARKE

ALSO PRESENT: JEFFREY S. BATTISTONI, ESQ.  
PATRICK HINES  
VIRGINIA FLYNN

APPLICANT'S REPRESENTATIVE: JUSTIN DATES

- - - - - X

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CHAIRMAN BRAND: Next up, Bayside  
Mixed Use, extension, site plan.

How are you today, Justin?

MR. DATES: Good. How is everyone?

CHAIRMAN BRAND: Good.

MR. DATES: Thanks for accommodating  
this meeting this way.

CHAIRMAN BRAND: Absolutely.

MR. DATES: So yeah, I submitted a  
letter for an extension to the site plan approval  
for Bayside. Based on the prior extension, it  
will expire on May 6th of this year. So we're  
looking for our second one-year extension on the  
site plan.

CHAIRMAN BRAND: Okay. Pat, you don't  
have anything on this; right?

MR. HINES: Jeff and I had spoken and  
worked on his resolution. This is the last  
extension of the site plan that's permitted under  
your zoning. You have one year from issuance and  
then two one-year extensions, this being the  
second extension. So at the conclusion -- next  
May this project, if it does not have a building  
permit, the approvals will lapse.



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CHAIRMAN BRAND: Jeff?

MR. BATTISTONI: Pat is correct in what he said. I did draft a resolution for you to consider. I think everybody should have a copy of that.

CHAIRMAN BRAND: Any questions from the Board?

MR. GAROFALO: Yes, I have some questions.

CHAIRMAN BRAND: Please.

MR. GAROFALO: James Garofalo. I wasn't sure about the dates, why it's -- one date is the 20th and the other date is the 6th. They're not the same. It looks like the last resolution was signed on the 20th but I wasn't sure. I wanted to clarify to make sure that it was very clear what the date is going to be and what the appropriate dates were. That's number one.

The second thing has to do with the costs. There was a letter dated October 4, 2018. It's on the website July 3, 2019. It's under that category and it deals with a whole mess of different costs. I think it's clarifying when

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those fees are due and what exactly they are. I think there was a letter talking about the recreation fee per lot. I think that letter talks about the fee per unit. So I think we should get a clarification on what fees are due when, not only to have it clarified in our records but also for the applicant so he knows when he has to pay certain fees.

CHAIRMAN BRAND: I think some of that was already cleared up today.

Jeff, am I correct in saying that this -- the original approval was with our old rec fee schedule so that's the rec fee schedule that they would follow?

MR. BATTISTONI: That's what my advice would be, yes.

CHAIRMAN BRAND: Is that the outstanding issue, James, that you were talking about, the rec fees, or were there other fees associated that you wanted clarification on?

MR. GAROFALO: Well there were a whole set of fees that were talked about. Some of those may be due with the certificate of occupancy or prior to construction. I think the

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fees that are mentioned in that letter we should have clarified so that the applicant knows exactly what and when he has to pay them.

MR. DATES: Mr. Chairman, so that was -- March 2nd when I was before the Board for the subdivision approval extension, that was my main question. I believe that for the subdivision we've addressed all the outstanding resolution items subject to the fees owed. So there was a question regarding if any escrow was needed and at that time what I believed was the rec fees for the subdivision. So we're creating three lots for the subdivision. It was three times 1,500 based on the prior rec fees. Since that time that's what I've been trying to get confirmed so that the applicant can post those checks, whatever they may be, so we get the subdivision signed off. We're kind of -- with the site plan -- with the two separate approvals, the site plan we can't get approved until we have the subdivision signed off on. That's one item.

MR. HINES: That is a condition.

MR. DATES: Correct. And we also have the business corridor overlay requirement of the

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site plan which I can't go to the Town Board until I have the subdivision approved. So we're kind of in a quandary here to get the subdivision approved so I can continue and move on to site plan approval. The fees for the subdivision is what we're looking for to get cleaned up.

CHAIRMAN BRAND: Do you have a clarification on that, Jeff? Can we provide clarification?

MR. HINES: I'm talking out loud here, but I believe there is a developer's agreement with this project which was executed with the Town Board that spells out a lot of this.

Justin, is that the case?

MR. DATES: Not a developer's agreement. The agreement that was put together was for the sewer, that we have an agreement with the Town. There were items in the findings statement that were associated with sewer fees, rec fees, that they would need to be paid. The sewer has a specific breakdown how that gets paid at the time of --

MR. HINES: Third, third and third.

MR. DATES: Yeah, yeah. But right now

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I'm just trying to get a handle on the subdivision fees for the applicant. If we can get that squared away, I can work with the Board to get the plat signed and then we can continue on with the couple items remaining for the site plan.

CHAIRMAN BRAND: Pat?

MR. HINES: Those are on two separate tracks. The three-lot subdivision and the site plan are separate. I just want to caution that the Town doesn't want to accept a three-lot subdivision rec fee and not get rec fees on the site plan. The site plan rec fees are substantial at \$1,500 times 104 units.

CHAIRMAN BRAND: 156,000.

MR. DATES: Correct.

MR. HINES: I think we, being me, Justin and Jeff, can work out those fee issues with the subdivision separate from this site plan that we're looking at right now.

CHAIRMAN BRAND: Okay.

MR. BATTISTONI: I would think we can get a consensus on that fairly quickly.

MR. HINES: Yes.

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MR. DATES: Great.

CHAIRMAN BRAND: Any other questions or comments from the Board?

MR. HINES: Back to James' comment. There were substantial agreements with the water and sewer with the Town, when those would be paid. I don't have the July letter that Mr. Garofalo is referring to but it could be some of that that's in there that went along with the water and sewer agreements.

CHAIRMAN BRAND: To my understanding that's the only agreement that the Town made with the developer was with regard to the sewer and water.

MR. GAROFALO: James Garofalo. October 4, 2018 is the date of the letter. It's on our website under other material July 3, 2019. So I just wanted to clarify that, where that is, so you don't go looking all over for it.

MR. HINES: Who is the letter from?

MR. DATES: I believe that's a memo from Maser. Is that correct?

MR. GAROFALO: I believe that's so. I don't have it in front of me.

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MR. DATES: Okay.

MR. HINES: We'll check into that.

MS. FLYNN: Do I need to unmute Al?

CHAIRMAN BRAND: Sure. If he has something. There he is. He's coming in.

MR. LANZETTA: Can I just say something about that? There's a whole bunch of items that Justin knows about as far as what the Town and the applicant came up with. There's a \$20,000 fee that they were going to give the Town also for code revisions, plus the recreation fees, plus -- there's a whole bunch of items that we came to some kind of understanding. So they're part of the whole thing of, you know, what has to happen before anybody signs any maps or anything like that. I just wanted to make you aware of that. Ron Blass did all that. There's a letter from Ron stating all the fees and everything. The sewer. Everything that was arranged. I just wanted to say that.

CHAIRMAN BRAND: Thank you.

Jeff prepared the extension resolution. I don't have it in front of me right now.

Jen, would you poll the Board?

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MS. FLYNN: Chairman Brand?

CHAIRMAN BRAND: No.

MS. FLYNN: Member Garofalo?

MR. GAROFALO: No.

MS. FLYNN: Trapani?

MR. TRAPANI: Yes.

MS. FLYNN: Member Lanzetta?

MS. LANZETTA: Yes.

MS. FLYNN: Member Lofaro?

MR. LOFARO: Yes.

MS. FLYNN: Member Clarke?

MR. CLARKE: Yes.

MS. FLYNN: Member Cauchi?

MR. CAUCHI: Yes.

CHAIRMAN BRAND: The motion passes.

Jen, can you pull up the resolution for the rec fees for me, please? Can you scroll up a little bit, Jen?

MS. FLYNN: This is the one that's 104 for 156,000.

CHAIRMAN BRAND: Right. This is for the actual site plan for each of the units.

MR. HINES: That's the site plan.

CHAIRMAN BRAND: So I'm assuming since



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we have this and it's being recorded, I don't necessarily need to read it all.

If you can just scroll down to the bottom, Jen.

So what we've seen is that there will be 104 total units for \$156,000 in recreation fees.

Jen --

MR. HINES: That is for the multi-family use. There also will be fees associated once they come back with the site plan on the other lots.

CHAIRMAN BRAND: Correct.

Okay. Jen, could you poll the Board?

MS. FLYNN: Chairman Brand?

CHAIRMAN BRAND: Yes.

MS. FLYNN: Member Cauchi?

MR. CAUCHI: Yes.

MS. FLYNN: Member Clarke?

MR. CLARKE: Yes.

MS. FLYNN: Member Garofalo?

MR. GAROFALO: Yes.

MS. FLYNN: Member Lanzetta?

MS. LANZETTA: Yes.

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MS. FLYNN: Member Lofaro?

MR. LOFARO: Yes.

MS. FLYNN: Member Trapani?

MR. TRAPANI: Yes.

CHAIRMAN BRAND: Excellent. You could put the screen away, Jen. I need a better way to say that, put the screen away.

Justin, anything else this evening?

MR. DATES: Just a quick question on that. So for the subdivision to get signed, that \$156,000 is what's needed at this time?

MR. HINES: No. That is the site plan.

MR. DATES: That's the site plan.

Okay.

MR. HINES: You, myself and Jeff Battistoni are going to work out what is owed on the subdivision, which I believe is just three lots. There's going to be a caveat there that the rec fees for the site plan also get collected.

MS. FLYNN: Do we need to do a rec fee -- another one for the subdivision?

MR. HINES: We should have done one for the subdivision already. Prior to that if --

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yeah. I don't know what to say with the subdivision right now because originally they were tracked together, subdivision and site plan, and now they're following a separate track. That's where we have to catch up.

MS. FLYNN: Because they're both under the same one.

MR. HINES: The subdivision lapsed at one point and we had to reapprove it.

MR. DATES: Right.

CHAIRMAN BRAND: Great. So you guys will work that out. If need be --

MR. HINES: If need be we'll take action.

CHAIRMAN BRAND: Correct. At the next meeting.

Anything else, Justin?

MR. DATES: I don't think so. That's it.

CHAIRMAN BRAND: Thank you.

MR. DATES: Thank you.

(Time noted: 8:43 p.m.)

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C E R T I F I C A T I O N

I, MICHELLE CONERO, a Notary Public  
for and within the State of New York, do hereby  
certify:

That hereinbefore set forth is a  
true record of the proceedings.

I further certify that I am not  
related to any of the parties to this proceeding by  
blood or by marriage and that I am in no way  
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto  
set my hand this 24th day of April 2020.

*Michelle Conero*

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MICHELLE CONERO

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MEETING HELD REMOTELY VIA ZOOM

STATE OF NEW YORK : COUNTY OF ULSTER  
TOWN OF MARLBOROUGH PLANNING BOARD

----- X

In the Matter of

BOARD BUSINESS

DISCUSSION

----- X

BOARD BUSINESS

Date: April 20, 2020

Time: 8:43 p.m.

BOARD MEMBERS: CHRIS BRAND, Chairman  
BEN TRAPANI  
CINDY LANZETTA  
JOSEPH LOFARO  
MANNY CAUCHI  
JAMES GAROFALO  
STEVE CLARKE

ALSO PRESENT: JEFFREY S. BATTISTONI, ESQ.  
PATRICK HINES  
VIRGINIA FLYNN

----- X

MICHELLE L. CONERO  
3 Francis Street  
Newburgh, New York 12550  
(845)541-4163

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CHAIRMAN BRAND: Anything else from anyone on the Board?

MS. LANZETTA: Well, I know Steve said he had attended that webinar today, and I did too. We got a lot of good information on the requirements for conducting these meetings, especially when we do get into public hearing issues. I'm hoping that they'll make that program available. That they taped it and they'll make it available. If they do, we'll pass it on. I would highly recommend that all of us should watch it and have an idea of what's going on, because this might be going on for a few more months at least. I think we have to feel more comfortable with doing these things online.

CHAIRMAN BRAND: Yes.

MR. HINES: I can share -- like I said before, the Town of Newburgh did have public hearings. I can share a public hearing notice that they generated. It worked out very well and there was public involvement.

MS. FLYNN: That would be good if you shared that with me.

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BOARD BUSINESS

MR. HINES: I will.

MR. CLARKE: Jen, just remember we're supposed to get credits for this thing but they're not sending them out.

CHAIRMAN BRAND: How long was it for, Steve?

MR. CLARKE: An hour-and-a-half.

CHAIRMAN BRAND: An hour-and-a-half and both you and Cindy attended?

MR. GAROFALO: I also attended, which is why I was giving you comments. I think we not only need this for the public hearings but we need to improve the notice of our regular meetings.

CHAIRMAN BRAND: Jen and I talked about that already. The next meeting we will be posting on the website the Zoom meeting number, the call in number, the password so that people can attend.

MS. FLYNN: It will be part of the agenda.

MR. HINES: I can give you a sample agenda where we did that as well.

CHAIRMAN BRAND: That way people can

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log in remotely. And then Jen's full-time job apparently during the meetings will be to monitor who is doing what.

MR. HINES: You did a fine job tonight. That was awesome for your first time.

MS. LANZETTA: Very good.

Could you also add to my list, I had attended online the National Heritage Important Areas webinar for an hour. I sent out information that Jen passed on to the rest of the Board on upcoming webinars that they're going to have. They're very good.

CHAIRMAN BRAND: Excellent.

MR. GAROFALO: I just wanted to say one of the examples that they gave was a planning board member deciding they were going to join the meeting late and not having access. That's what happened to me. I couldn't find the e-mail. It took me a while to actually find the e-mail. If it had been right there on the agenda I would have been good. But, you know, we got like fifty e-mails this period, Jen.

MS. FLYNN: I sent a reminder out this morning, so it should have been at the top.



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CHAIRMAN BRAND: Pat, can I just ask you to re e-mail me a copy of these comments? It's lost in a thread somewhere.

MS. FLYNN: I will send it out. He sent it to me all together. I will forward it to everybody.

CHAIRMAN BRAND: Excellent. That will help me write up my report.

Anything else?

MR. CAUCHI: Jen, can you also find this letter that Al was talking about with all the lists of fees that he was mentioning before?

MS. FLYNN: For Bayside.

MR. CAUCHI: I would like to see that letter.

MS. FLYNN: I will scan it in tomorrow and send it to everybody.

MR. CAUCHI: Thank you.

CHAIRMAN BRAND: All right.

MS. LANZETTA: Just to add to that note, if you guys go on the Town of Marlborough website and look under the Planning Board minutes and agendas, a lot of times there's a search feature and you can just put in there like

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Bayside and that will bring up all the stuff Jen has downloaded over the years at this point about all these different projects. A lot of times you can find stuff on there.

MS. FLYNN: What he wants is from the Town Board.

MS. LANZETTA: That's also available. There's a search feature right on the front page, I think, where you can just put in Bayside and it will pull up all kinds of stuff.

CHAIRMAN BRAND: All right, guys. I think it went pretty smoothly.

I will have a motion to adjourn I guess.

MR. CAUCHI: I'll make that motion.

CHAIRMAN BRAND: Is there a second?

MS. LANZETTA: I'll second it.

CHAIRMAN BRAND: That was Cindy that seconded it we'll say. Any opposition to adjourning the meeting?

(No response.)

CHAIRMAN BRAND: So carried. Good job guys. I will see you at the next meeting.

(Time noted: 8:48 p.m.)

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C E R T I F I C A T I O N

I, MICHELLE CONERO, a Notary Public  
for and within the State of New York, do hereby  
certify:

That hereinbefore set forth is a  
true record of the proceedings.

I further certify that I am not  
related to any of the parties to this proceeding by  
blood or by marriage and that I am in no way  
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto  
set my hand this 24th day of April 2020.

*Michelle Conero*

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MICHELLE CONERO