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STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH PLANNING BOARD

----- X

In the Matter of

ROCK CUT ESTATES  
(2019-19)

Rock Cut Road  
Section 47; Block 2; Lots 11, 12, 13.2, 14.2 & 15.2  
R-1 Zone

----- X

AMENDED SUBDIVISION

Date: November 7, 2019  
Time: 7:00 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
STEPHANIE DeLUCA  
KENNETH MENNERICH  
DAVID DOMINICK  
JOHN A. WARD

ALSO PRESENT: ROBERT J. DICKOVER, ESQ.  
PATRICK HINES  
GERALD CANFIELD

APPLICANT'S REPRESENTATIVE: MICHAEL MORGANTE

----- X

MICHELLE L. CONERO  
PMB #276  
56 North Plank Road, Suite 1  
Newburgh, New York 12550  
(845) 541-4163

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CHAIRMAN EWASUTYN: Good evening,  
ladies and gentlemen. We'd like to welcome you  
to the Town of Newburgh Planning Board meeting of  
the 7th of November. We have three items on the  
agenda this evening and one item which is Board  
Business.

At this point we'll start the meeting  
with a roll call vote.

MR. GALLI: Present.

MS. DeLUCA: Present.

MR. MENNERICH: Present.

CHAIRMAN EWASUTYN: Present.

MR. BROWNE: Present.

MR. DOMINICK: Present.

MR. WARD: Present.

MR. DICKOVER: Rob Dickover, Counsel to  
the Board, present.

MS. CONERO: Michelle Conero,  
Stenographer.

MR. CANFIELD: Jerry Canfield, Code  
Compliance Department.

MR. HINES: Pat Hines with McGoey,  
Hauser & Edsall Consulting Engineers.

CHAIRMAN EWASUTYN: At this point I'd

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like to turn the meeting over to Dave Dominick.

MR. DOMINICK: Please stand for the  
Pledge of Allegiance.

(Pledge of Allegiance.)

MR. DOMINICK: Please silence your cell  
phones.

CHAIRMAN EWASUTYN: Our first item of  
business this evening is Rock Cut Estates. It's  
an amended subdivision located on Rock Cut Road,  
it's in an R-1 Zone and it's being represented by  
Arden Consulting Engineers.

MR. MORGANTE: Good evening, everyone.  
My name is Mike Morgante.

Last we were here before the Board we  
gave a brief presentation. As the Chairman  
eluded to, it's a subdivision plan. We're  
essentially consolidating the subdivision from  
five lots to four lots, essentially combining  
lots 4 and 5 that were previously approved.

We had received some comments from the  
Board's consultants, basically which suggested  
that we take a look at removing some of the  
drainage piping along the proposed common  
driveway and adding swales, which we've done.

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We've also taken a look at the habitat issues that were associated with the site. The EAF came up with some Bald Eagles that might be located somewhere near the site. We submitted correspondence to the New York State DEC. We just recently, the other day, received an e-mail back from them suggesting that there may be an eagle site nearby. There are some provisions that are required as it relates to that nest. If there's any blasting, or rock cutting, or ripping that's required, we may need to do them during certain time periods or take other measures. I'll review that with the applicant. Most likely we'll adhere to the timeframes during which those construction activities will be required from October 1st to -- I forget exactly what the date was in the springtime. We'll adhere to those timelines if any of that work is required. If that work is required outside of the timelines, we'll deal with the DEC at that time period. I don't believe that will be an issue. We'll probably work within the timelines recommended by the DEC.

There's also potentially some Indiana

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Bat habitat on the site. I have notes on the plans in accordance with the Indiana Bat and the time during which tree clearing can take place.

We forwarded these plans to the Orange County Department of Public Works. I have e-mailed Andy Trociano at the Orange County Department of Public Works to see what the status is of the review. I have not heard back yet at this point. I would say the plan is very similar to the one that was recently approved, the subdivision. I would imagine if they have some comments, we would address them. I anticipate they won't take exception to the new layout. As soon as any correspondence is provided to me, I will forward it to the Board and its consultants and we can review that.

I think those are essentially the major items that were brought up during the last meeting. I will turn it over to the Board and its consultants at this point. If there are any other questions or concerns, I'd be glad to address them.

CHAIRMAN EWASUTYN: Michael, thank you.

Pat Hines, you had a chance to review

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this?

MR. HINES: Yes. We have a couple of comments, and I can address the environmental issues that were just mentioned.

The project went from a private road to a common drive -- three lots on a common driveway. That will need approval from the Town Board for that arrangement. The applicant has been to the Town Board and was directed to come back to the Planning Board for further review. The Town Board will address the three lots on a common driveway at a future date. That will have to be done prior to final approval from this Board.

Approval from the Orange County DPW for the amended access points to the County road is required.

The grading plan was revised to show the swales. There was a slight encroachment onto one of the neighbor's lots on the grading plan. That will have to be modified to remove that grading off any of the adjoining lots.

There are structures on proposed lot 2. A demolition permit from the Town will be

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required. We need a note put on the maps that states that a demolition permit is required from the Town Code Enforcement office prior to undertaking any of the demolition.

We have referred this to the County Planning Board. We received a Local determination back with comments regarding the limitation of tree clearing to the greatest extent practical and to limit the disturbance of the stonewall. Actually, this revised plan will significantly reduce any impacts to the stonewall. Previously there was a cul-de-sac proposed associated with the private road that would have removed a large portion of that wall. Now only the two common driveways will protrude through the wall at one location.

We did receive copies of the e-mails related to the Bald Eagle that showed up in the environmental assessment form. The DEC did disclose the location of that to myself and the applicant. They do not put that out in public. It is well away from the site. I don't believe there will be any restrictions based on the distance from the site. It's outside the

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protected area identified in the regulations.

There are the Indiana Bat considerations, and that will be a requirement, that any tree clearing be undertaken during the timeframes when that is permitted.

We just noted that the common driveway has been provided with swales rather than a closed pipe drainage system to further reduce any impacts to stormwater.

I did not put in the comments regarding a negative declaration because of the outstanding issue regarding the potential Bald Eagle habitat, however we have received the information that we were awaiting so we would recommend a negative declaration for the subdivision as proposed. Again, it's going from five lots to four lots and reducing the amount of impervious surface significantly by eliminating the private roadway.

The project does require a public hearing as an amended subdivision.

CHAIRMAN EWASUTYN: Pat, the window for tree cutting as far as the Indiana Bat and -- what is the window for tree clearing?

MR. HINES: October 31st and March



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ROCK CUT ESTATES

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31st, no cutting in between those dates -- the cutting is permitted within those dates.

CHAIRMAN EWASUTYN: Jerry Canfield, Code Compliance, do you have anything to add?

MR. CANFIELD: Just two items. The common driveway will need to be named for 911 purpose, to give the houses and their addresses.

Also, if you could add a note to define abandonment of the existing septic system as far as the tank and how that's going to be abandoned, if it's going to be removed, which I suggest that. It can be filled. Just a note directing who ever develops this lot do that.

CHAIRMAN EWASUTYN: Thank you.

Board Members. John Ward?

MR. WARD: No comment.

CHAIRMAN EWASUTYN: Dave Dominick?

MR. DOMINICK: No. My comment was addressed by the clearing for the bat issue.

CHAIRMAN EWASUTYN: Thank you. Cliff Browne?

MR. BROWNE: It's all good. Thank you.

CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No questions.

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CHAIRMAN EWASUTYN: Stephanie DeLuca?

MS. DeLUCA: No.

CHAIRMAN EWASUTYN: Frank Galli?

MR. GALLI: No questions.

CHAIRMAN EWASUTYN: Rob Dickover,  
before we move for a motion to declare a negative  
declaration and set a public hearing, do you have  
anything to add?

MR. DICKOVER: No. Those would be the  
two things.

CHAIRMAN EWASUTYN: Thank you.

Would someone make a motion to declare  
a negative declaration and to set Rock Cut  
Estates for a public hearing on the 5th of  
December?

MR. DOMINICK: So moved.

MR. GALLI: Second.

CHAIRMAN EWASUTYN: I have a motion by  
Dave Dominick. I have a second by Frank Galli.  
May I have a roll call vote starting with Frank  
Galli.

MR. GALLI: Aye.

MS. DeLUCA: Aye.

MR. MENNERICH: Aye.

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MR. BROWNE: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye.

Motion carried.

You'll work with Pat Hines' office as far as the notice of the public hearing. They'll explain to you the procedure for the mailing.

MR. MORGANTE: Thank you very much.

Have a good night.

(Time noted: 7:08 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 12th day of November 2019.

*Michelle Conero*

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MICHELLE CONERO

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STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH PLANNING BOARD

----- X

In the Matter of

SERVISS SUBDIVISION  
(2019-10)

Easterly side of Union Avenue  
Section 34; Block 1; Lot 25.2  
R-2 Zone

----- X

FOUR-LOT SUBDIVISION

Date: November 7, 2019  
Time: 7:08 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
STEPHANIE DeLUCA  
KENNETH MENNERICH  
DAVID DOMINICK  
JOHN A. WARD

ALSO PRESENT: ROBERT J. DICKOVER, ESQ.  
PATRICK HINES  
GERALD CANFIELD

APPLICANT'S REPRESENTATIVE: JAMES DILLIN

----- X

MICHELLE L. CONERO  
PMB #276  
56 North Plank Road, Suite 1  
Newburgh, New York 12550  
(845) 541-4163

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CHAIRMAN EWASUTYN: The next item of business is the Serviss Subdivision. It's a four-lot subdivision located on the easterly side of Union Avenue, it's in an R-2 Zone. It's being represented by James Dillin.

At this point I'll turn the meeting over to Robert Dickover, Planning Board Attorney.

MR. DICKOVER: For an introduction?

CHAIRMAN EWASUTYN: Law 276.

MR. DICKOVER: Right. When this matter was last before the Board we had six members of the seven-member Board seating. Section 276 of the Town Law requires the affirmative vote of a majority of the Board. That would be four members. The Board needs to make a decision, either approving the application, approving it with modifications or denying the application. That has to be by a majority of the Board.

The last time it was before you the vote on a motion to approve the application was three in favor, two opposed, one abstention. Those three votes in favor is not a majority of this Board and results in no action.

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The matter is still before this Board for further consideration on the application.

CHAIRMAN EWASUTYN: Thank you. At this point I'll move for a motion from the Board. Would someone make a motion to approve the four-lot subdivision for the Serviss Subdivision located in an R-2 Zone on Union Avenue.

MR. GALLI: So moved.

MR. BROWNE: Second.

CHAIRMAN EWASUTYN: We have a motion by Frank Galli. We have a second by Cliff Browne. I'll ask for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MS. DeLUCA: Aye.

MR. MENNERICH: I was not at the public hearing meeting. I have had access to the minutes of the meeting and other correspondence that has occurred. I feel like I can vote, and I vote aye.

CHAIRMAN EWASUTYN: Myself aye.

MR. BROWNE: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

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CHAIRMAN EWASUTYN: Let the record show that there was a unanimous approval for the four-lot subdivision of Serviss.

Is there anything else to add?

(No response.)

CHAIRMAN EWASUTYN: Now we have to go through the conditions of approval for the resolution I believe.

MR. DICKOVER: Yes. The conditions of this approval would be as follows -- Pat, I may be asking you from time to time if I have them correct.

We need to receive from the applicant as conditions the following: A sewer main extension security.

MR. HINES: No. The major ones are a common driveway access and maintenance agreement for the sharing of lots 2 and 3. There's a roadway dedication parcel required to be filed in accordance with the Town's requirements. There will be the parkland base water payment.

MR. DICKOVER: For three lots, a total of \$6,000.

CHAIRMAN EWASUTYN: Jerry, do you have



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SERVISS SUBDIVISION

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anything to add?

MR. CANFIELD: Nothing.

CHAIRMAN EWASUTYN: Just one more time to reapprove the approval that was just granted. We'll make it subject to the conditions presented by Rob Dickover, Planning Board Attorney, as the final approval.

Would someone make a motion for that?

MR. MENNERICH: So moved.

CHAIRMAN EWASUTYN: Motion by Ken Mennerich.

MR. BROWNE: Second.

CHAIRMAN EWASUTYN: Second by Cliff Browne. I'll ask for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MS. DeLUCA: Aye.

MR. MENNERICH: Aye.

MR. BROWNE: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye.

Motion carried. Thank you.

(Time noted: 7:12 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 12th day of November 2019.

*Michelle Conero*

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MICHELLE CONERO

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STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH PLANNING BOARD

----- X  
In the Matter of

4 MARINERS COURT  
(2019-20)

4 Mariners Court  
Section 121; Block 1; Lot 4  
R-1 Zone

----- X

PUBLIC HEARING  
AMENDED SUBDIVISION

Date: November 7, 2019  
Time: 7:12 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
STEPHANIE DeLUCA  
KENNETH MENNERICH  
DAVID DOMINICK  
JOHN A. WARD

ALSO PRESENT: ROBERT J. DICKOVER, ESQ.  
PATRICK HINES  
GERALD CANFIELD

APPLICANT'S REPRESENTATIVE: DAVID NIEMOTKO

----- X

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

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CHAIRMAN EWASUTYN: The third item of business this evening is 4 Mariners Court. It's a public hearing on an amended subdivision. It's at Mariners Court in an R-1 Zone and it's being represented by David Niemotko.

I'll have Mr. Mennerich read the notice of hearing.

MR. MENNERICH: "Notice of hearing, Town of Newburgh Planning Board. Please take notice that the Planning Board of the Town of Newburgh, Orange County, New York will hold a public hearing pursuant to Section 276 of the Town Law on the application of 4 Mariners Court, amended subdivision, project 2019-20, for an amended subdivision of an existing parcel located on 4 Mariners Court in the Town of Newburgh, designated on Town tax maps as Section 121; Block 1; Lot 4. Amended subdivision approval is requested to relocate the driveway to provide access from River Road. A public hearing will be held on the 7th day of November 2019 at the Town Hall Meeting Room, 1496 Route 300, Newburgh, New York at 7 p.m. at which time all interested

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persons will be given an opportunity to be heard.  
By order of the Town of Newburgh Planning Board.  
John P. Ewasutyn, Chairman, Planning Board Town  
of Newburgh. Dated 15 October 2019."

CHAIRMAN EWASUTYN: Pat Hines, would  
you speak to the public as far as the purpose of  
a public hearing?

MR. HINES: This project is an amended  
subdivision. It was originally part of a 21-lot  
subdivision known as the Anchorage on Hudson  
project.

The purpose of the public hearing is  
for the public, the neighbors, to bring out any  
questions or concerns they may have to the Board  
or to bring issues to the Board that they may not  
be aware of at the site.

The project is an amended subdivision  
to relocate the driveway that was formerly  
depicted off Mariners Court, which was a road  
constructed after the original subdivision  
approval, and the applicant is looking to put a  
driveway onto River Road.

We ask that if you are going to speak,  
to give your name and your address so the Board

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has a reference of your perspective to the project. Address your comments to the Board. If an answer to your question can be given quickly tonight, the Board may ask one of the consultants or the applicant's consultant, who is also the applicant in this case, to address those comments. If not, they may be answered at a later date.

CHAIRMAN EWASUTYN: Would you give your presentation, please?

MR. NIEMOTKO: Sure. We're proposing to relocate a driveway that exists currently on Mariners Court to River Road to provide access to a lot that my wife and I had purchased. We're requesting this access so that we can orientate the house with a view towards the Hudson River so that the back of the house would face the Hudson River and have all the views. If it remains on Mariners Court, that would be much more difficult to do because as you enter the property you would be entering the front of the house, and at that time we wouldn't have all of the Hudson River views.

We did locate the driveway somewhat

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central to the two surrounding driveways. It will be approximately 170 feet from the driveway that's located to the northwest and about 220 feet from the driveway that's located on the northeast. Our sight distances far exceed the AASHTO requirements. On the northwest we would have approximately 400 feet of sight distance. On the northeast we would have approximately 300 feet of sight distance. That exceeds the 40 mile-per-hour requirement of 195 feet stopping sight distance.

The design that we're proposing actually minimizes the impact on the site as opposed to the previous design. It has a lesser impact.

We're not relocating the well as located in the subdivision. We're not redesigning the septic or relocating it. It remains as per the original subdivision.

We're not impacting River Road since the property is downhill of it. It would have no stormwater impact or erosion upon River Road. In fact, it will remain intact except for the driveway entrance. We feel that also it would be

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consistent with a lot of homes that are along River Road and provide no negative or adverse effect on the appearance of the neighborhood in that area.

CHAIRMAN EWASUTYN: Is there anyone here this evening that has any questions or comments?

Would you give your name and address, please?

MS. KISSAM: Sandra Kissam, 1261 Union Avenue.

Could you tell me, is this subdivision under construction now? Is this subdivision --

CHAIRMAN EWASUTYN: You can speak to David.

MS. KISSAM: I thought you said to address comments to the Board.

CHAIRMAN EWASUTYN: You can speak to David.

MS. KISSAM: Is this subdivision under construction now or is it planned for construction, and, if so, can you give me a rough timeline?

MR. NIEMOTKO: No, it's not under



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construction yet. The whole subdivision is in effect. There are two -- three houses that exist, already constructed in the subdivision. I believe they've been there for approximately eight to ten years, give or take.

MS. THACKURDEEN: There's four homes --

CHAIRMAN EWASUTYN: Ma'am, ma'am, ma'am. One person at a time.

MR. HINES: This subdivision was approved, I believe, in 2007. It was part of a twenty-one lot subdivision. This is lot 4 of that subdivision that we're talking about tonight. The action is just to relocate the driveway.

MS. KISSAM: I have a follow-up question then. Not being familiar with the map, how large a parcel in total are we talking about?

MR. NIEMOTKO: 1.2 acres.

MS. KISSAM: The entire twenty-one --

MR. NIEMOTKO: No. Our lot is approximately 1.2 acres. The entire subdivision, I'm not sure. I believe there's fourteen or sixteen lots in the subdivision.

MS. KISSAM: And they're located

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between River Road and the railroad tracks?

MR. NIEMOTKO: Yes.

MS. KISSAM: And approximately what is the distance between the subdivision and the Danskammer power plant going up River Road?

MR. NIEMOTKO: Well I believe that power plant is further north.

MS. KISSAM: I just wondered if you could give me an idea how far away it is?

MR. NIEMOTKO: I could not. I could only guess. I would say it's probably over 2,000 feet away.

MR. GALLI: Sandra, do you remember where Oak Street was off of River Road, where the old Beau Rivage was?

MS. KISSAM: I think so.

MR. GALLI: That subdivision is right before that on the right-hand side. It's called the Anchorage. Hillside Homes had it.

MS. KISSAM: How far away is it from the power station?

MR. GALLI: Probably --

MS. KISSAM: A mile? Two miles?

MR. HINES: It's probably a mile.

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MR. GALLI: Two to three miles.

MS. KISSAM: Thank you.

MR. CANFIELD: One mile.

CHAIRMAN EWASUTYN: Ma'am, give your name.

MS. THACKURDEEN: I'm Ms. Thackurdeen, I'm at 5 Anchor Drive.

I'd like to give you a letter on behalf of Mr. Porpiglia who is an owner of two lots in the Anchorage development, along with the filing that was originally approved by the county clerk for the covenants that were stated for the Anchorage development.

We bought into that property fourteen years ago with very strict covenants that we still maintain today through a homeowners association.

I remember way back when, when the development was in process, there was a lot of meetings here regarding the entrances and what was going to happen there. This was debated a lot before the divisions came to be. We have four homes in there now and we pay upwards of \$40,000 in taxes. We pay for a subdivision. It

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hasn't come to be but we don't want changes to the subdivision.

CHAIRMAN EWASUTYN: What are the covenants?

MS. THACKURDEEN: I have a copy of the covenants.

CHAIRMAN EWASUTYN: Can you read them? Are they in detail?

MS. THACKURDEEN: I will leave you a copy.

CHAIRMAN EWASUTYN: I think for the record someone ought to read them into the record if you want to present it.

MR. GALLI: Are you talking about the size of the homes and things like that --

MS. THACKURDEEN: All the --

MR. GALLI: -- what it's supposed to look like?

MS. THACKURDEEN: Yes.

MR. GALLI: I'm sure the gentleman that owns the property probably knows all that.

MR. NIEMOTKO: Yes.

MS. THACKURDEEN: We'd like to give you a copy. Mr. Porpiglia asked that I drop it off.

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It is a letter from Mr. Porpiglia.

MR. GALLI: I'm sure he's aware of all the deed restrictions.

MR. NIEMOTKO: Yes, we are. We're definitely willing to obviously comply. I'm an architect, so --

MS. THACKURDEEN: We understand that. My house, I go into the front. I look out at the Hudson. All my view is to the back of the house and I don't have a problem with that.

MR. NIEMOTKO: We want the same thing. We want the back of our house --

MS. THACKURDEEN: That's the way that lot was configured. There were lots in the front configured differently. There were lots in the front for sale, if you had wanted those, to be able to construct what you wanted rather than changing the whole subdivision. We pay upwards of \$40,000 in taxes. Our taxes have not decreased and we want our home value to remain the same. That's all we're saying. I ask you to consider that.

MR. GALLI: I don't think there's a law on the books on which way your house faces.

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MS. THACKURDEEN: I understand that. The house pocket was designed during the building structure for the houses to be built a certain way in each envelop. That was the vision of the developer when he developed it. Certain things had to be a certain way. You have to abide by all those restrictions. Whoever built in there went by those covenants.

MR. NIEMOTKO: Again, to answer that, we are remaining within the envelop, the buildable envelop of the lot. The subdivision is not developed. Obviously there must be difficulties there to do so. As you mentioned, there's only four homes. Many of the lots are difficult to build on, that's why we didn't choose those. We chose this lot.

I can assure the Board and everyone here that the house we put up will meet or exceed the standards that are set forth in whatever covenants are there. We look forward to being an active participant in the subdivision and to enhance the aesthetics of the subdivision.

Again, it's remained in existence for fifteen years. Only a quarter of the lots are

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developed. I think that speaks for itself.

We are here to not deter from that but enhance the area.

MR. HINES: Chairman, there's a letter here from Anthony and Paula Porpiglia. If you want, I can read it in. It states here, "My wife and I are property owners of two lots in the Anchorage on Hudson subdivision. We feel change of access to the lot 4 will have a negative impact on the subdivision in many ways. First and foremost, in the original subdivision map, 216-02, filed with the County on 10-17-02, the declaration of covenants, easements and restrictions are on page 2. There will be no further subdivision. Further subdivisions of the aforementioned residential building lots shall not be permitted. Even one lot qualifies under this restriction. You would be basically making it a lot by itself. Also, I see no hardship to come off Mariners Court. The grade is not that steep. It would be much easier to get in and out than on River Road with limited visibility of oncoming northbound traffic. If you allow the lot to come off River Road, you must allow lots

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1, 2, 3 and 5 to come off River Road if they chose to do so. These lots will not conform to the intent of the subdivision as approved by the previous Planning Board. I do understand that the property owners want to come off of River Road to keep the driveway away from views of the Hudson River. A pool could also be installed in the backyard in the future? Why would the rest of the subdivision want to look at the back of anyone's house? I personally feel that this driveway change will devalue the rest of the lots. It shows future lot buyers that the subdivision has no conformity. It has no teeth in the declaration of covenants and restrictions and it may not have the Town of Newburgh to back them when something like this could arise in the future. Thank you, Anthony and Paula Porpiglia."

CHAIRMAN EWASUTYN: Rob, do you have anything to add to the covenants?

MR. DICKOVER: Generally the private covenants, deed restrictions, which ever you want to call them, are not considerations for this Board. Your considerations are what is written in your zoning and subdivision code. Private



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restrictions generally are not to be considered by this Board.

If the common scheme of development was before this Board, however, when the subdivision was previously approved, we might want to take a look at that and see if in fact there were conditions attached to the previous subdivision that spoke to those things which are now embodied in the deed restrictions that have been presented to you. We might want to take a look at that and see if they were part of your previous deliberations.

CHAIRMAN EWASUTYN: One more time, do you want to describe the type of house you propose to build there, how many square feet, so on and so forth?

MR. NIEMOTKO: Probably a 3,500 square feet, two-story house. My wife likes the English tutor style. We're incorporating brick and stucco. We'll do some landscaping, terracing the walls. Pretty much consistent with the whole aesthetics of River Road, coming from the Town of Newburgh all the way out.

To address some of the points in the

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letter, we demonstrated that there isn't a limited sight distance. In fact, the sight distances far exceed what the national code requires.

I understand their point, but there are no other -- I don't believe the Board is bound to set a precedent at all. Each subdivision or -- I mean each application stands on its own merit. If lots 1, 2 -- whatever -- 5 want to do the same, they would have to come before you for approval. You're not setting a precedent at all.

We're not impacting River Road. We're two or three cars.

Again, I stand on the fact there must be difficulties because none of those lots are developed for the last seventeen years. Ours is the only one standing there once we build. I have heard no other plans of any of the other owners to develop their land. We'll be standing up there by ourselves. It will be a pretty sight.

CHAIRMAN EWASUTYN: Additional comments from the public?

(No response.)

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CHAIRMAN EWASUTYN: At this point I'll turn it over for discussion to Board Members. Frank Galli?

MR. GALLI: Pat, the only question I have is -- do you have the deed restrictions in front of you?

MR. HINES: I do.

MR. GALLI: Is there anything about where the driveway goes?

MR. HINES: In the couple minutes I've had to look at it; 3, clearing and grading, has a subsection B, "Limited clearing for driveways and other utilities," and it starts by saying, "Outside the building envelop on each lot, one cleared space may be provided of sufficient width for a driveway to the abutting public road, and clearing is permitted to the extent reasonable or necessary to install and maintain sewer, well, utility facilities and appurtenant easements as may be required by the Town Planning Board, County Health Department and other governmental agency or utility company."

MR. GALLI: So he's allowed one driveway to a public road.

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MR. HINES: To a public road.

MR. GALLI: So he has to abandon the other one if he puts it on River Road? He can't have the two?

MR. HINES: We had that discussion during work session. One of the conditions the Board discussed was that if this was allowed to proceed, that the access from the opposite lot frontage, that being Mariners Court, would be not permitted. In other words, the Board does not want to see two driveways accessing one lot.

MR. GALLI: There's no deed restriction that says they can't come out to River Road?

MR. HINES: I just read to you what I have. I would defer to Counsel.

CHAIRMAN EWASUTYN: Do you want to look at that?

MR. DICKOVER: I can. They generally are kind of long and laborious. I can look and see if there's anything in particular.

CHAIRMAN EWASUTYN: Stephanie DeLuca, any questions?

MS. DeLUCA: No. Frank addressed the question I had.

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CHAIRMAN EWASUTYN: Ken Mennerich?

MR. MENNERICH: No.

MR. BROWNE: Just to look at things to see what's there. Again, what Counsel has advised is that we are obligated -- we are not allowed to get into these kinds of restrictions unless there was something done in the original subdivision.

CHAIRMAN EWASUTYN: Dave Dominick?

MR. DOMINICK: Dave, any speculation of why the past decade there's been no growth, no development?

MR. NIEMOTKO: I would hesitate -- well, that side of the subdivision is a difficult portion of the subdivision. It's difficult to situate a house that would be -- that would take advantage of the area. As was mentioned, look at what's being paid in taxes. I think you'd want to optimize your lot to the extent possible. Those lots along Mariners Court really aren't situated well in relationship to the main attraction, the Hudson River. Again, that's just a professional opinion. That's my guess. I haven't spoken to the surrounding owners. I'm

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not exactly sure.

I do know one of the developers that does own a few of the lots. We had met with him a few times to talk about things. He's having trouble developing the area.

Again, I would imagine some of the drawbacks is the taxes, the lack of services up there. You have to pay for your own garbage removal, things like that, septic and well. It's not City water and sewer. There are constraints. We're willing to work with that.

We're contributing members of the area. My wife is a full professor at Mount St. Mary in addition to her own business. I do a lot of work in the area, in all of Orange County. We're definitely here to stay. We'd like to remain so.

CHAIRMAN EWASUTYN: John Ward?

MR. WARD: The way you're laying out the driveway now makes sense better than Mariners Court for a lot of reasons. You have a roundabout down below to get out.

At the same time, back in previous projects, you have the marina they were proposing down below. They were concerned about boat

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traffic and cars going through. This makes sense. It won't be as much traffic in the development, if it ever develops. At the same time, like you said, your visual in between. I think it makes sense.

MR. NIEMOTKO: Thank you.

MR. WARD: Just make sure you change the address to River Road, if you do, and squash the other one.

MR. NIEMOTKO: Absolutely.

MR. WARD: Thank you.

MR. DICKOVER: I find nothing in the declaration of covenants and restrictions that would prohibit the current application before this Board. The covenants and restrictions talk to other things, not anything with respect to the location of the driveway other than the one that Pat mentioned.

Again, the Board has discussed it. I think if you were to entertain an approval there would be a condition attached that the access currently shown on the existing map would have to be abandoned.

CHAIRMAN EWASUTYN: Any further

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questions or comments from the public?

(No response.)

CHAIRMAN EWASUTYN: Having reviewed this with Pat Hines --

MR. HINES: John, the original subdivision also contained notes that any modification to the grading plan would need to be submitted to this Board. My office did review the grading plan as proposed. All the grading on this lot has been contained within the lot, so it doesn't impact the development, a lot on either side. There was concern because the original subdivision had extensive grading that crossed lot lines. There were notes and provisions that made certain that any individual lot owner didn't modify their site to impact an adjoining lot. We did look at that as well as part of this review.

CHAIRMAN EWASUTYN: Jerry Canfield, I apologize, do you have any questions or comments?

MR. CANFIELD: Nothing.

CHAIRMAN EWASUTYN: If there are no questions or comments from the public, we've heard from Robert Dickover, Planning Board Attorney. He reviewed the documents that were



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submitted this evening. We also heard from Pat Hines with McGoey, Hauser & Edsall who reviewed the documents. We discussed the potential -- would there be a potential of impacting the properties around there based upon the grading. That environmental issue was spoken of and there would not be any impact.

At this point I would move for a motion to close the public hearing for 4 Mariners Court.

MS. DeLUCA: So moved.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: I have a motion by Stephanie DeLuca. I have a second by Ken Mennerich. I'll ask for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MS. DeLUCA: Aye.

MR. MENNERICH: Aye.

MR. BROWNE: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye.

At this point I'll ask for Pat Hines and Rob Dickover to give us conditions for final

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approval for the amended site plan for Mariners Court.

MR. HINES: From my notes the conditions we have are the elimination of the driveway access from Mariners Court and that no driveway will be permitted from Mariners Court to the site. Also, a final sign off from the highway superintendent regarding the driveway location. I don't believe we've received that either but we'll need that as a procedural matter as well.

There was no change to the existing well and septic locations on the site. Just as a note as well, those are in the originally approved locations.

MR. DICKOVER: Perhaps in addition to that, one item, a note that the base water contributions for parklands has been already assessed and presumably paid, so we don't need to have that. Also, all previous conditions of approval from the prior subdivision, which might be particular to this lot, would be continued as part of this approval.

CHAIRMAN EWASUTYN: Comments from Jerry

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Canfield?

MR. CANFIELD: Nothing.

CHAIRMAN EWASUTYN: Any questions or comments from the Planning Board Members based upon the conditions of approval presented by Rob Dickover and Pat Hines?

MR. GALLI: No.

MS. DeLUCA: No.

MR. MENNERICH: No.

MR. BROWNE: No.

MR. DOMINICK: No.

MR. WARD: One question for Jerry.

CHAIRMAN EWASUTYN: John Ward.

MR. WARD: Shouldn't it have an address for 911 River Road on the minutes?

MR. CANFIELD: The house now faces River Road. That's where the address will be.

CHAIRMAN EWASUTYN: Do you want to make that part of the conditions of approval?

MR. WARD: Yes.

CHAIRMAN EWASUTYN: Robert, would you add that?

MR. DICKOVER: Yes.

CHAIRMAN EWASUTYN: Having had comments

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from John Ward, Rob Dickover will make a note that 911 has to be addressed with the new location of the driveway now being on River Road.

Any other further questions or comments?

(No response.)

CHAIRMAN EWASUTYN: Would someone make a motion to approve the Mariners Court amended site plan subject to the conditions presented by Pat Hines of McGoey, Hauser & Edsall and Robert Dickover, Planning Board Attorney?

MR. WARD: So moved.

CHAIRMAN EWASUTYN: I have a motion by John Ward.

MR. BROWNE: Second.

CHAIRMAN EWASUTYN: A second by Cliff Browne. I'll ask for a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MS. DeLUCA: Aye.

MR. MENNERICH: Aye.

MR. BROWNE: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

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CHAIRMAN EWASUTYN: Aye.

Motion carried. Thank you.

(Time noted: 7:39 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 12th day of November 2019.

*Michelle Conero*

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MICHELLE CONERO

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STATE OF NEW YORK : COUNTY OF ORANGE  
TOWN OF NEWBURGH PLANNING BOARD

----- X  
In the Matter of

TRINITY SQUARE  
(2006-53)

Request for a Six-Month Extension from  
November 7, 2019 to May 7, 2020

----- X

BOARD BUSINESS

Date: November 7, 2019  
Time: 7:40 p.m.  
Place: Town of Newburgh  
Town Hall  
1496 Route 300  
Newburgh, NY 12550

BOARD MEMBERS: JOHN P. EWASUTYN, Chairman  
FRANK S. GALLI  
CLIFFORD C. BROWNE  
STEPHANIE DeLUCA  
KENNETH MENNERICH  
DAVID DOMINICK  
JOHN A. WARD

ALSO PRESENT: ROBERT J. DICKOVER, ESQ.  
PATRICK HINES  
GERALD CANFIELD

----- X

MICHELLE L. CONERO  
PMB #276  
56 North Plank Road, Suite 1  
Newburgh, New York 12550  
(845) 541-4163

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TRINITY SQUARE

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CHAIRMAN EWASUTYN: The last and final business this evening, I'll ask Mr. Mennerich to read the request from Trinity Square.

MR. MENNERICH: It's a letter from Vincent J. Doce Associates dated November 5, 2019, addressed to John P. Ewasutyn, Planning Board Chairman, Town of Newburgh Planning Board, 308 Gardnertown Road, Newburgh, New York 12550, regarding Anthony Cocchi, Junior (Trinity Square Site Plan), South Plank Road (NYS Route 52), Section 60, Block 2, Lot 4.1, application number 2006-53. Dear Mr. Ewasutyn, Mr. Cocchi wished to appear at the October 17, 2019 Planning Board meeting to discuss the project and request an additional six-month extension of the approval, however that meeting was canceled and Mr. Cocchi's appearance was postponed until the November 7th meeting. This morning Mr. Cocchi learned of the death of an immediate family member and the wake is Thursday, November 7th. He's requesting that the Trinity Square application be rescheduled to the November 21st meeting. If you have any questions or comments, please feel free to contact our office. Thank

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TRINITY SQUARE

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you for your time and consideration. Sincerely,  
Darren C. Doce."

CHAIRMAN EWASUTYN: Would someone make  
a motion to set this for Board Business for the  
21st of November?

MR. DOMINICK: I'll make a motion.

MR. MENNERICH: Second.

CHAIRMAN EWASUTYN: A motion was made  
by Dave Dominick. A second by Ken Mennerich.  
I'll ask for a roll call vote starting with Frank  
Galli.

MR. GALLI: Aye.

MS. DeLUCA: Aye.

MR. MENNERICH: Aye.

MR. BROWNE: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye.

Motion carried.

At this point would someone make a  
motion to close the Planning Board meeting of the  
7th of November?

MR. GALLI: So moved.

MS. DeLUCA: Second.



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CHAIRMAN EWASUTYN: Motion by Frank  
Galli. Second by Stephanie DeLuca. I'll ask for  
a roll call vote starting with Frank Galli.

MR. GALLI: Aye.

MS. DeLUCA: Aye.

MR. MENNERICH: Aye.

MR. BROWNE: Aye.

MR. DOMINICK: Aye.

MR. WARD: Aye.

CHAIRMAN EWASUTYN: Aye.

Motion carried.

(Time noted: 7:42 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 12th day of November 2019.

*Michelle Conero*

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MICHELLE CONERO