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MEETING HELD REMOTELY VIA ZOOM

3

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

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In the Matter of

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DAVID & SUSAN YOUNG

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

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PUBLIC HEARING - SUBDIVISION

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Date: May 18, 2020  
Time: 7:30 p.m.

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

19

20

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

21

22

APPLICANT'S REPRESENTATIVE: JAY SAMUELSON

23

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

2 CHAIRMAN BRAND: For those of you  
3 that are here for the public hearing, if you  
4 could just mute your microphones, and then  
5 when it's that portion of the meeting we'll  
6 ask for you to chime in.

7 I'm going to start just by reading  
8 the agenda for the Town of Marlborough  
9 Planning Board, May 18, 2020. Regular meeting  
10 7:30 p.m. We have the approval of  
11 stenographic minutes for April 20th. On the  
12 agenda this evening we have Young, David and  
13 Susan, a public hearing for their subdivision  
14 located at 50 Mill House Road in Marlboro. We  
15 have the Smith Subdivision, extension. It's  
16 obviously a subdivision. It's on First  
17 Street in Marlboro. And we have the  
18 Marlboro Flats, sketch, subdivision at 8-10  
19 Watson Avenue in Milton. The next deadline is  
20 Friday, May 22, 2020. The next scheduled  
21 meeting is Monday, June 1, 2020.

22 Can I have a motion to approve the  
23 stenographic minutes for April the 20th,  
24 please?

25 MR. CLARKE: I'll make that motion.

2 MR. LOFARO: I'll second.

3 CHAIRMAN BRAND: Any opposed?

4 (No response.)

5 CHAIRMAN BRAND: All right. So moved.

6 First on the agenda is Young, David and  
7 Susan, public hearing, subdivision.

8 Jen, do you have the notice?

9 MS. FLYNN: Yes. I sent it to you this  
10 morning.11 CHAIRMAN BRAND: Yes, but I'm supposed  
12 to read it. We just need to read it.13 MS. FLYNN: Oh, my God. I didn't know  
14 I had to read. "Legal notice, subdivision  
15 application. Please take notice a public hearing  
16 will be held by the Marlborough Planning Board  
17 pursuant to the State Environmental Quality  
18 Review Act (SEQRA) and Town of Marlborough Town  
19 Code 134-9 on Monday, May 18, 2020 for the  
20 following application: David and Susan Young, at  
21 7:30 p.m. or as soon thereafter as may be heard.  
22 The applicant is seeking approval of a  
23 subdivision application which creates four lots  
24 out of two lots for lands located at 50 Mill  
25 Road, Marlboro, New York 12542. A portion of the

2 property is located in the Town of Newburgh,  
3 identified by a separate street address and SBL  
4 number. This meeting and public hearing will be  
5 held remotely via Zoom, so please see the  
6 attached summary regarding access. Section 108.4,  
7 Block 5, Lot 20 and 21. Any interested parties  
8 either for or against the proposal will have an  
9 opportunity to be heard at this time. Chris  
10 Brand, Chairman, Town of Marlborough Planning  
11 Board."

12 CHAIRMAN BRAND: Thank you.

13 Before we start; Mr. Samuelson, how  
14 about the mailings for the record. How many were  
15 sent out and how many were returned?

16 MR. SAMUELSON: I don't know the number  
17 off the top of my head but I e-mailed them all to  
18 Jen today, the ones that were proof of mailing  
19 and the ones that were returned.

20 CHAIRMAN BRAND: Okay. So we'll get  
21 those numbers put in.

22 MR. SAMUELSON: I can pull them up in  
23 the meantime. But yeah, go ahead.

24 CHAIRMAN BRAND: Okay. Pat, do you  
25 want to run through your comments first?

2 MR. HINES: Maybe because it's a public  
3 hearing, do we want the applicant to do a  
4 description of the project?

5 CHAIRMAN BRAND: Sure. Good idea.  
6 Thanks, Pat.

7 MS. LANZETTA: Do we have the map  
8 available while he does the explanation?

9 MR. SAMUELSON: I'm going to do that  
10 right now. Are you ready?

11 MS. LANZETTA: Thank you.

12 MR. SAMUELSON: So now you should be  
13 able to see the subdivision map.

14 CHAIRMAN BRAND: Mm'hm'.

15 MS. LANZETTA: Yup.

16 MR. SAMUELSON: All right. So to give  
17 you a brief explanation, as it was described in  
18 the notice that was mailed out, there's three  
19 existing tax lots, two in Marlborough, one in the  
20 Town of Newburgh. So there's one that encompasses  
21 this area here in the Town of Marlborough.  
22 There's a triangular piece over here in the Town  
23 of Marlborough and then there's a piece here in  
24 the Town of Newburgh.

25 There's an existing dwelling located

2 here, which is on proposed lot 2. There's an  
3 existing dwelling here in Newburgh which is now  
4 on proposed lot 3.

5                   What the subdivision is proposing is to  
6 create a new residential lot to the east of the  
7 existing house in Marlboro and to the west of the  
8 existing house in Newburgh. Both of the proposed  
9 dwellings will be located in the Town of  
10 Marlborough.

11                   The lots range anywhere in size from  
12 1.75 acres to a little over 4.25 acres.

13                   That's pretty much the gist of it.

14                   Both of the new lots will be serviced  
15 by well and septic, currently under review by the  
16 Ulster County Health Department.

17                   CHAIRMAN BRAND: Great.

18                   MS. FLYNN: There's 24 out and 19 back.

19                   CHAIRMAN BRAND: Thank you, Jen.

20                   MR. SAMUELSON: We did mail them to all  
21 the addresses that Pat provided for Newburgh as  
22 well.

23                   MR. HINES: I gave them a copy of  
24 within 500 feet of the Newburgh lot as well so  
25 everyone has it. Newburgh is also going to have a

2 public hearing on this in the future. I just  
3 thought it important to do the radius in both  
4 towns.

5 CHAIRMAN BRAND: Absolutely.

6 MR. SAMUELSON: And we'll do the radius  
7 of both Towns for both meetings.

8 CHAIRMAN BRAND: Great. Okay, Pat.

9 You're up with the comments.

10 MR. SAMUELSON: Do you want me to leave  
11 it up, Pat?

12 MR. HINES: It will be helpful if you  
13 leave it up, sure, in case anyone has any  
14 questions. Thanks.

15 The plans have been revised to show the  
16 common driveway we talked about at the last  
17 meeting. Lots 3 and 4 are going to share lot 3's  
18 existing driveway and then branch off into lot 4.  
19 So that will need a common driveway easement  
20 along with an access and maintenance agreement  
21 that will be reviewed by Jeff's office for  
22 approval.

23 The Town of Marlborough and the Town of  
24 Newburgh Planning Board attorneys are both  
25 working out a mechanism to assure a long-term

2 nexus connection between the lots that are in the  
3 -- three of the lots that are in both  
4 municipalities/both counties. We want to make  
5 sure that they are permanently joined and are not  
6 future subdivided, foreclosed on independently,  
7 so that all of them remain connected. It's a  
8 unique situation, crossing both the Town and  
9 County line. I have seen it done before, though.  
10 It's not that unusual.

11 I provided the Board with a draft of a  
12 negative declaration. The project is considered a  
13 Type 1 action due to its proximity to the Gomez  
14 Mill House historic site.

15 A phase 1-A and B cultural resources  
16 survey of the project was performed, submitted to  
17 the Office of Parks, Recreation, Historic  
18 Preservation. A no adverse impact letter has been  
19 received, and that is in the file, for the  
20 project.

21 The other significant item is there's a  
22 potential Bald Eagle habitat. The applicant's  
23 representative had an environmental consultant  
24 analyze the site and give us a report regarding  
25 the lack of any Bald Eagle nests in the area or

2           within 600 feet of the site. I believe there's  
3           also some overwintering areas associated with the  
4           Hudson River. But this is, again, away from  
5           those areas as well.

2 process because the Town of Newburgh has a policy  
3 of not scheduling their public hearings until a  
4 negative declaration is issued. Marlborough  
5 Planning Board is the lead agency for the  
6 project, so that determination is up to this  
7 Board, and then Newburgh will follow your  
8 determination.

9 That's all we have on this.

10 CHAIRMAN BRAND: Thank you, Pat.

11 Jeff, do you have anything to add?

12 MR. BATTISTONI: I will say that I  
13 spoke with the attorney for the Town of Newburgh  
14 Planning Board. We agreed that a declaration of  
15 restrictions should be prepared here and filed in  
16 each County to assure the connection of the lots,  
17 and that notes would be added to each subdivision  
18 plat, the plat for Marlborough and the plat for  
19 Newburgh, that will cross reference each other.  
20 So I think that addresses item number 2 from  
21 Pat's letter, and that's something we'll take  
22 care of later on in the process.

23 CHAIRMAN BRAND: Anything from the  
24 Board before we open it up to the public?

25 MS. LANZETTA: I just have a question.

2 I'm just curious. In regards to recreation fees,  
3 do the -- can the recreation fees be instituted  
4 by the Town of Marlborough or does Newburgh also  
5 require something in that way? How is that  
6 handled?

7 MR. HINES: That's a great question. I  
8 don't know the answer to that. Both  
9 municipalities do have recreation fee  
10 requirements for the creation of new lots. I will  
11 address that also with the Town of Newburgh. Both  
12 of the residential structures, the new ones, have  
13 been located in the Town of Marlborough, so it  
14 may make sense -- I may be speaking out of turn,  
15 but it seems like Marlborough will have the  
16 residence and the recreational impacts.

17 CHAIRMAN BRAND: That makes sense to me  
18 as well.

19 MS. LANZETTA: Of course.

20 MR. HINES: I will broach that with the  
21 Town of Newburgh. I believe this will be on the  
22 agenda on June 4th for them, and they will set  
23 their public hearing at that time if you guys do  
24 the neg dec tonight.

25 CHAIRMAN BRAND: Okay.

2 MR. BATTISTONI: This is Jeff. I'll go  
3 a step further on that. Regardless of what  
4 Newburgh does with recreation fees, I think the  
5 Town of Marlborough has the right to assess them  
6 and should assess them. The residential  
7 structures are in the Town of Marlborough.

8 MR. CAUCHI: I thought it was two  
9 residential structures in the Town of  
10 Marlborough.

11 MR. HINES: Correct. Both of the new  
12 residences proposed. There's two existing, one of  
13 which is in the Town of Newburgh, one is in  
14 Marlborough. The two new ones are both proposed  
15 to be located in the Town of Marlborough.

16 MR. CAUCHI: Okay.

17 MR. HINES: Lot 4, the larger lot  
18 specifically, has the house put at the frontage  
19 in order to be in Marlborough/Ulster County.

20 CHAIRMAN BRAND: Anything else from the  
21 Board?

22 MR. GAROFALO: Yes. This is James  
23 Garofalo. I have a couple things. One is in the  
24 architectural review report, on page 6 it talks  
25 about discarded trucks and cars and machinery. To

2 me that's a red flag that that should be  
3 investigated with an environmental assessment. I  
4 would hate to find out that there was some  
5 pollution that caused some problems with the  
6 wells. Also I can see how a bank would want to  
7 have that clarified before they do any loaning of  
8 money for property because that's a very  
9 sensitive area in terms of pollution,  
10 particularly when it has to do with wells. I'd  
11 like to see some more information on that.

12 The second thing --

13 CHAIRMAN BRAND: Can we pause right  
14 there, Mr. Garofalo, for one second?

15 MR. GAROFALO: Sure.

16 CHAIRMAN BRAND: Mr. Samuelson, you've  
17 obviously been to the property.

18 MR. SAMUELSON: Yes.

19 CHAIRMAN BRAND: Can you give us a  
20 boots-on-the-ground assessment?

21 MR. SAMUELSON: I honestly don't  
22 remember seeing them. If there were any, my  
23 anticipation is that they're on lot 4 because  
24 that is where the homeowner utilizes his  
25 landscaping and woodcutting business out of. So

2 my guess is --

3 MR. HINES: That's where it was. It was  
4 in the right-of-way area there on lot 4.

5 MR. SAMUELSON: Say that again.

6 MR. HINES: It's in the right-of-way  
7 area of lot 4 where those were located.8 MR. SAMUELSON: They were up here and  
9 then --

10 MR. HINES: Yes.

11 MR. SAMUELSON: Okay. I will have a  
12 conversation with the homeowner and ask for the  
13 status of that and make sure they are taken care  
14 of. I was unaware of that.

15 CHAIRMAN BRAND: Thank you.

16 Go ahead, Mr. Garofalo.

17 MR. GAROFALO: Okay. This is just a  
18 clean-up comment. That is, on the May 4, 2020  
19 letter it talks about 65 STs were excavated.  
20 Please make sure that abbreviations are  
21 identified so that everybody knows that reads it  
22 that that's a shovel test. Also there are  
23 actually only 57 because 8 of them were impeded.  
24 So I think it's important just to make sure that  
25 everybody knows the facts. I don't think that's

2 terribly relevant to what we're doing but I want  
3 to make sure that those things are clear and that  
4 we are aware of this going forward to encourage  
5 people not to use abbreviations.

6 One of the things that I noticed on lot  
7 1 is the sight distance is 228 feet. The highway  
8 superintendent said that was okay. When you're  
9 dealing with speeds of 30 miles-an-hour, we're  
10 talking 200 feet, 35 is 250 feet for stopping  
11 sight distance. This is in between. I certainly  
12 would have preferred to see if putting the  
13 driveway on the other side of the lot would have  
14 improved that sight distance and also separated  
15 it a little bit more from the other two  
16 driveways, one of which is on the opposite side,  
17 one of which is on the same side of the road, by  
18 moving it over. I don't know if you can flip it.  
19 I don't know if that would improve the sight  
20 distance. I certainly would have liked to have  
21 seen that at least looked at to determine if we  
22 could have a much better sight distance in that  
23 area. That's certainly a safety concern. Clearly  
24 the highway superintendent has said it's okay.

25 On the map itself I think we need to

2 show the areas that are going to be cleared so  
3 that future property owners would know I can't  
4 put trees here, I can't put things here that's  
5 going to obstruct the sight lines. So it should  
6 be actually on the maps so that it is very clear  
7 what that restriction is.

8 CHAIRMAN BRAND: Pat, do you have a  
9 response to that?

10 MR. SAMUELSON: We can absolutely have  
11 the areas of clearing on lot 3 in accordance with  
12 the highway super's comments.

13 MR. GAROFALO: Is that a 30  
14 mile-an-hour road?

15 MR. SAMUELSON: To my knowledge, yes.

16 CHAIRMAN BRAND: Thank you.

17 Jay, maybe if you could stop screen  
18 sharing, unless one of the public hearing people  
19 need it, that way I can see everybody again and  
20 we can see if anybody from the public would like  
21 to make a comment.

22 So this is a public hearing. If you're  
23 here to comment on this project, you're here for  
24 or against it, just please turn on your mic, let  
25 us know who you are and fire away.

2 MR. CANTONE: This is John Cantone,  
3 resident of Mill House Road.

4 I just want to say a few words in favor  
5 of the request by the Young family. I know them  
6 quite well. We were actually here in the house --  
7 in our house before they moved in, and we've  
8 known them their whole time as they've owned that  
9 property, added some more -- at least one more  
10 dwelling and their own. Two in total. I just  
11 want to say in general they've always been very  
12 good about keeping their place in good shape and  
13 being very mindful of the neighbors any time they  
14 were going to do anything. They've been very good  
15 neighbors and good friends. I would just say I  
16 would be pretty confident that whatever they're  
17 planning to do with the new lots would be  
18 following that same suit and would be nothing  
19 more than another improvement to the  
20 neighborhood. I'm speaking in favor of it.

21 CHAIRMAN BRAND: Thank you, Mr.  
22 Cantone.

23 MR. HINES: John, just for the record,  
24 we do have a stenographer, could you spell your  
25 last name for her?

2 MR. CANTONE: Sure. C-A-N-T-O-N-E.

3 First name spelled J-O-H-N.

4 MS. CONERO: Thank you.

5 CHAIRMAN BRAND: Mr. Robinson, are you  
6 here for the public meeting as well?7 MR. ROBINSON: Yes, sir, Mr. Brand. I  
8 had a question. I'm just curious to know, the lot  
9 that's to the east of the Young's driveway, how  
10 big is that lot?

11 MR. SAMUELSON: That lot is 1.94 acres.

12 MR. ROBINSON: So that there would be  
13 -- according to the Marlborough Code, you could  
14 put one structure on that property?

15 MR. SAMUELSON: Correct.

16 MR. ROBINSON: Thank you.

17 CHAIRMAN BRAND: Any other questions  
18 from the public?19 Mr. Smyth, are you here for the public  
20 hearing?

21 MR. SMYTH: Yes.

22 CHAIRMAN BRAND: Yes.

23 MR. SMYTH: I live across the street  
24 and --

25 CHAIRMAN BRAND: Can you state your

2 name and spell it for the Stenographer? I'm  
3 sorry.

4 MR. SMYTH: Joseph Smyth, S-M-Y-T-H.

5 I'm concerned about water, the property  
6 being cleared and runoff. Right now my front yard  
7 does flood, and also the orchard does flood as a  
8 result of the current runoff. When they  
9 previously built the houses on the property they  
10 were to put in a drainage system. That system has  
11 not been put in since 2006. The Town hasn't  
12 enforced anything about drainage on the road.

13 They're very nice neighbors, and if  
14 things were put in place I could assure you that  
15 I would agree with it at a different time. But  
16 right now, due to the drainage system, I think my  
17 property is only going to flood more.

18 CHAIRMAN BRAND: Thank you.

19 Pat -- or Jay, could you maybe speak to  
20 that a little bit as far as the topography goes  
21 in that area?

22 MR. HINES: Jay, go ahead.

23 MR. SAMUELSON: I was just going to --  
24 I was pulling up the map real quick so I  
25 minimized my Zoom to see what was going on.

2 CHAIRMAN BRAND: Mr. Smyth, you're  
3 directly across the street from this proposed  
4 subdivision?

5 MR. SAMUELSON: Can you tell me which  
6 is yours? Across from which lot?

7 MR. SMYTH: I'm number 71 Mill House  
8 Road.

9 MR. SAMUELSON: You're across from the  
10 existing Young residence?

11 MR. SMYTH: That's correct. I'm on the  
12 lower elevation. I do flood. It's been a  
13 problem.

14 CHAIRMAN BRAND: It's from that -- from  
15 their property to yours across the street?

16 MR. SMYTH: Their property is at a  
17 higher elevation, so clearing all that land  
18 you're going to have runoff. More runoff than  
19 there is currently. I mean that's what trees and  
20 brush, you know, prevents from happening. There's  
21 a grade level.

22 MR. SAMUELSON: Looking at the  
23 topography, the road elevation from in front of  
24 the Young's existing dwelling and in front of Mr.  
25 Smyth's is relatively flat and there really is no

2 -- there doesn't appear to be too many roadside  
3 swales there. We can look and see if some  
4 roadside swales would help some of the drainage  
5 improvements in that area. We'll take a look at  
6 that.

7 MR. SMYTH: Thank you.

8 MR. HINES: My office will, as well,  
9 take a look at that as we move forward.

10 MR. SMYTH: You know, it's been a  
11 number of years since the original drainage was  
12 supposed to be put in.

13 CHAIRMAN BRAND: What is that that  
14 you're referring to?

15 MR. SMYTH: When the property was first  
16 subdivided.

17 MR. HINES: There was a 2006  
18 subdivision I think --

19 MR. SMYTH: Yes.

20 MR. HINES: -- of the two lots. Right?

21 MR. SMYTH: Yes. And the plans called  
22 for drainage. It was never put in and the Town  
23 never enforced it.

24 CHAIRMAN BRAND: Did you see anything  
25 like that, Pat?

2 MR. HINES: I don't recall that. It was  
3 many years ago. We have those plans in my office.  
4 I will take a look at that as well as the  
5 existing conditions on the site.

6 MR. SMYTH: I'm also concerned about  
7 the well water. You know, I think that should be  
8 looked at as well with the vehicles. It was  
9 brought up earlier.

10 CHAIRMAN BRAND: Can you maybe provide  
11 a little bit of insight as to what actually is  
12 there since you live right across the street?

13 MR. SMYTH: There's, you know, trucks.  
14 I'm just concerned about well water.

15 CHAIRMAN BRAND: Are they operational?  
16 Are we talking junk trucks? What's there?

17 MR. SMYTH: I'm not certain what's  
18 operational and what's not.

19 MR. HINES: There's a lot of -- in the  
20 right-of-way area where the power lines are  
21 there's a lot of what looks like -- I think the  
22 applicants have a woodcutting operation. There  
23 were large piles of trees, and stumps, and wood  
24 that look like someone is kind of running a wood  
25 business out of it.

2 CHAIRMAN BRAND: He's an arborist.

3 MR. HINES: Yup.

4 CHAIRMAN BRAND: Anything else from  
5 anyone in the public?6 MR. SMYTH: I'm sorry. Can you describe  
7 the proposal a little better? I was told that  
8 the address wasn't used correctly on the notice.9 MR. SAMUELSON: So I received a phone  
10 call from the applicant today saying that 50 Mill  
11 House is actually her mother's address next door  
12 and not hers. This was a mistake that we made.  
13 It's been on the application since day one. It's  
14 still the same property. 50 Mill House is  
15 actually the house that's located in Newburgh.  
16 So it's still part of the same application.17 CHAIRMAN BRAND: What is the address  
18 for the subdivision?19 MR. SAMUELSON: I believe the Young's  
20 house is -- I believe it's in the 70s, across  
21 from Mr. Smyth who is 71. 50 is the house that's  
22 back in Newburgh.

23 CHAIRMAN BRAND: Okay.

24 MR. HINES: It's part of this  
25 subdivision as well.

2 MR. SAMUELSON: Which is part of the  
3 application as well.

4 MR. SMYTH: If you could go into a  
5 little bit more detail about the development and  
6 the property, because it's very hard to tell on  
7 the map from being online with this and just  
8 seeing it today.

9 MR. SAMUELSON: So again, there's the  
10 two existing dwellings. We're proposing two new  
11 ones, one to the east portion of the property and  
12 one to the western portion of the property.  
13 They'll both be residential dwellings. It's just  
14 two new houses and two new lots that will be for  
15 sale at some point in time.

16 CHAIRMAN BRAND: Does that answer your  
17 question, Mr. Smyth?

18 MR. SMYTH: Yes. Thank you.

19 CHAIRMAN BRAND: Anything else from the  
20 public?

21 (No response.)

22 CHAIRMAN BRAND: No. All right. I'd  
23 like a motion to --

24 MR. GAROFALO: Chris, can I make one  
25 more question?

2 CHAIRMAN BRAND: Yes, please.

3 MR. GAROFALO: On lot number 3 it looks  
4 like there's a drive into the adjoining parcel.  
5 Is that a separate driveway, or what exactly is  
6 that? It looks like a separate driveway that's  
7 not directly off of Mill House but comes off of  
8 the driveway that goes to the Newburgh house.9 MR. SAMUELSON: So the three -- the  
10 three houses that exist, there's the two that are  
11 part of this subdivision and the one that's kind  
12 of the out parcel in the middle. They're all  
13 Young family members. One is David and Susan  
14 Young. The other two are each of their parents.  
15 So there are travel ways between all the lots  
16 that they all currently use. They're all family  
17 members.18 CHAIRMAN BRAND: All right. I'd like to  
19 have a motion to adjourn the public hearing,  
20 please.

21 MR. TRAPANI: I'll make that motion.

22 MR. GAROFALO: I'll second it.

23 CHAIRMAN BRAND: Any opposed?

24 MR. HINES: You're going to adjourn it  
25 you said?

2 CHAIRMAN BRAND: Yes.

3 MR. HINES: Okay. We need to have it  
4 to a date certain then.

5 CHAIRMAN BRAND: To --

6 MS. LANZETTA: You're not going to  
7 close it?8 MR. SAMUELSON: I would ask the same  
9 thing. Are you going to close the public  
10 hearing? Is there a reason to adjourn it?11 CHAIRMAN BRAND: I guess we can close  
12 it.13 I'll take a motion to close the public  
14 hearing.

15 MR. TRAPANI: I'll make that motion.

16 CHAIRMAN BRAND: Is there a second?

17 MR. GAROFALO: I'll second.

18 CHAIRMAN BRAND: Any opposed to closing  
19 the public hearing?

20 (No response.)

21 CHAIRMAN BRAND: Pat, do you want to  
22 just go over your negative declaration quickly?23 MR. HINES: Sure. As I said before,  
24 Newburgh is going to have a separate public  
25 hearing on this. I do have the notes. In between

2 now and then they will also have a stenographic  
3 record. I will look into a couple issues, the  
4 vehicles that are parked and the drainage that we  
5 talked about. I'm sure Mr. Samuelson's office  
6 will do the same, so we'll have answers at that  
7 public hearing as well.

8 The drafting of the declaration hits on  
9 the various items. The two major ones were the  
10 potential Bald Eagle habitat that showed up in  
11 the EAF and the Office of Parks, Recreation  
12 Historic Preservation issues. The rest of them  
13 were kind of boilerplate. Again, it's only two  
14 new houses on lots that are -- the smallest one  
15 is almost twice your minimum lot size and the  
16 larger one is 4 acres. I don't know if you want  
17 me to read this whole thing in. I think those  
18 were the major points. We didn't identify any  
19 other significant impacts for the Board in  
20 reviewing the EAF and the other information  
21 submitted.

22 CHAIRMAN BRAND: Jeff, did you have  
23 anything to add to the negative dec?

24 MR. BATTISTONI: I'll simply say that I  
25 went through it before the meeting. Pat had

2 prepared it and supplied it to me. I made a  
3 couple of minor technical corrections and that  
4 was it.

5 CHAIRMAN BRAND: Okay. Any questions  
6 from the Board regarding the negative dec?

7 MS. FLYNN: I believe their address is  
8 78.

9 CHAIRMAN BRAND: Thank you.

10 I'd like to -- Jen, would you poll the  
11 Board for the negative dec.

12 MS. FLYNN: Chairman Brand?

13 CHAIRMAN BRAND: Yes.

14 MS. FLYNN: Member Cauchi?

15 MR. CAUCHI: Yes.

16 MS. FLYNN: Member Clarke?

17 MR. CLARKE: Yes.

18 MS. FLYNN: Member Lanzetta?

19 MS. LANZETTA: Yes.

20 MS. FLYNN: Member Lofaro?

21 MR. LOFARO: Yes.

22 MS. FLYNN: Member Trapani?

23 MR. TRAPANI: Yes.

24 MS. FLYNN: Member Garofalo?

25 MR. GAROFALO: Yes.

2 CHAIRMAN BRAND: All right. Thank you.

3 I think that about does it. So they  
4 will have to hold a public hearing in Newburgh as  
5 well, Pat?

6 MR. HINES: They will. We talked about  
7 this. Both the attorneys, yours and Newburgh's,  
8 both concurred that it is a subdivision in both  
9 municipalities, so they both will hold a public  
10 hearing. Newburgh will most likely -- they'll be  
11 on the agenda for June 4th and they'll set the  
12 public hearing probably for the first Thursday in  
13 July at this point.

14 CHAIRMAN BRAND: Okay. We'll wait until  
15 that's completed before they return to us?

16 MR. BATTISTONI: Yes.

17 MR. HINES: You can. We'll be able to  
18 report back on these issues we talked about.

19 CHAIRMAN BRAND: Great. I think that's  
20 it.

21 Anything else?

22 (No response.)

23 CHAIRMAN BRAND: No. All right. Thank  
24 you, Mr. Samuelson.

25 Thank you to all the people who

2 participated in our Zoom public hearing. It was  
3 interesting.

4 (Time noted: 8:00 p.m.)

5

6 CERTIFICATION

7

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

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

17 IN WITNESS WHEREOF, I have hereunto  
18 set my hand this 20th day of May 2020.

19

20

Michelle Conero

21

22

23

24

25

2

MEETING HELD REMOTELY VIA ZOOM

3

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

4

----- X  
In the Matter of

5

6

SMITH SUBDIVISION

7

Project No. 17-1017  
First Street, Marlboro  
Section 103.1; Block 4; Lot 47.130

9

10

----- X

11

EXTENSION - SUBDIVISION

12

13

Date: May 18, 2020  
Time: 8:00 p.m.

14

15

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

19

20

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

21

22

APPLICANT'S REPRESENTATIVE: JAY SAMUELSON

23

24

25

----- X  
MICHELLE L. CONERO  
3 Francis Street  
Newburgh, New York 12550

(845)541-4163

2 CHAIRMAN BRAND: Next up on the agenda  
3 is the Smith Subdivision, extension.

4 Jeff, would you just run through your  
5 comments?

6 MR. BATTISTONI: Yes. I prepared a  
7 resolution and sent it to each of the Planning  
8 Board Members to review. This subdivision has  
9 received two extensions already. Years ago the  
10 New York State Town Law had a limit of two  
11 extensions for a final subdivision approval, but  
12 that law was amended to eliminate that  
13 limitation. The Town Code provision that  
14 addresses this is Section 134-10(f). It still  
15 has that limit of two in that code section. I  
16 talked to Pat about that. He said the Planning  
17 Board has had a history of following the  
18 amendment to the State Law to eliminate that  
19 limitation. That's what my resolution I prepared  
20 says. That's just background for the Board.

21 CHAIRMAN BRAND: Any comments or  
22 questions regarding the extension request?

23 MR. CLARKE: Is this a limit? Can they  
24 come back for four, five, six, seven or are they  
25 finally going to have to file it?

2 MR. BATTISTONI: It's unlimited in the  
3 sense that the State Law removed the limitation,  
4 however these are discretionary extensions. The  
5 Board doesn't have to grant them. If you're not  
6 satisfied at some point in time, you don't have  
7 to grant an extension.

14 CHAIRMAN BRAND: Understandable.

15 MS. LANZETTA: I discussed this with Al  
16 because it's my understanding that the Board --  
17 the Planning Board and the Town Board have both  
18 had issues in the past with these extensions, and  
19 that's why they did put in the Town Code that  
20 only two extensions -- two 90-day extensions are  
21 supposed to be done. I think we -- we had talked  
22 about this before as a Planning Board, trying to  
23 stay within the framework of our Town Code and  
24 not be so loosey goosey because we find that that  
25 ends up biting us somewhere on our bodies later

2 on. So as far as I'm concerned, this applicant  
3 has come before us twice already. The first time  
4 they came before us they said that the  
5 improvements were almost complete, and then when  
6 they came before us the last time they said that  
7 everything was done, they were only waiting for  
8 Mr. Rusk to file up at County, and now we're  
9 hearing that it's a different story. But the fact  
10 remains that we are in a difficult situation. I  
11 understand with the COVID emergency that this is  
12 an unusual situation. As far as I'm concerned, I  
13 would be willing to grant another extension under  
14 these circumstances, being clear that this would  
15 be the last extension that they would get, and  
16 that the only reason that we're doing this is  
17 because of this unusual situation. I think it's  
18 really important for our Town Board, for our  
19 Planning Board to follow what is in our Town  
20 Codes. With three extensions, this applicant gets  
21 almost a year of time since the time was -- since  
22 the final was approved. So I think that's more  
23 than a sufficient amount of time for these plans  
24 to be filed.

25 MR. HINES: It's actually more than a

2 year because the first one is 180 days to start  
3 with. Yup.

4 MR. LOFARO: Sounds good, Cindy. I  
5 agree.

6 MR. HINES: We have in the past -- just  
7 to be clear, we have in the past extended these  
8 beyond the two, fairly regularly since the 2008  
9 State Law changed, so --

10 CHAIRMAN BRAND: Legal question, Jeff.  
11 Can the Town Law supercede the State Law? How  
12 does that work? They can't be contradictory to  
13 each other I would imagine. Right?

14 MR. BATTISTONI: Quite frankly, I think  
15 the Town Law could supercede it. It could be more  
16 strict if it wanted to be. Once again I would say  
17 these extensions are always discretionary. The  
18 fact that the possibility that an extension  
19 exists doesn't mean the Board has to grant one.  
20 They could deny it if they wanted to. I do think,  
21 given these circumstances with the pandemic and  
22 shutdown and COVID-19, I think it would be  
23 reasonable to grant this one.

24 CHAIRMAN BRAND: Absolutely.

25 Mr. Garofalo, did you have something to

2 add there?

3 MR. GAROFALO: Yes. With regard to the  
4 wording of the extension, it talks about the  
5 building inspector having questions about lot 1  
6 and 2 access to the Town road. I would like to  
7 see in the document itself how that was resolved.  
8 The same with the comments from the chief of the  
9 Milton Fire Engine Company. To say, you know,  
10 something to the effect of that, you know, the  
11 comments were looked at and we extended or we  
12 made these turnarounds for the trucks. That  
13 there be a -- if a problem is or a question is  
14 identified, that in the extension it should be  
15 clear that it was looked at and how it was  
16 resolved or not resolved.

17 CHAIRMAN BRAND: Which document are you  
18 referring to, Mr. Garofalo?

19 MR. GAROFALO: Jeff's --

20 MS. LANZETTA: Resolution for  
21 extension?

22 MR. GAROFALO: Yeah.

23 CHAIRMAN BRAND: The resolution itself?

24 MR. GAROFALO: Yes.

25 And there's one other condition that I

2 would like to ask the applicant to agree to, and  
3 that is I think a portion of the stonewall is  
4 being removed on the site for the driveway. If  
5 that portion can be moved to another place along  
6 the road. Basically taken from one side of the  
7 stonewall and put at the other end. Very simple  
8 thing. In my view it's an important thing to try  
9 to preserve the stonewalls in our Town.

10 CHAIRMAN BRAND: Mr. Samuelson?

11 MR. SAMUELSON: I don't see that as  
12 being an issue. I will confirm with the client  
13 but I don't see that being an issue.

14 CHAIRMAN BRAND: Anything else from the  
15 Board?

16 (No response.)

17 CHAIRMAN BRAND: No.

18 MR. CLARKE: Just make sure that the  
19 applicant understands that this is the last 90-  
20 day extension that he's going to get.

21 CHAIRMAN BRAND: With the assumption  
22 that things go back to somewhat normalcy to  
23 proceed. Yes.

24 MS. FLYNN: Are you going to update the  
25 resolution and then send it to me again?

2 MR. BATTISTONI: If the Board is going  
3 to adopt this tonight, whatever changes it makes  
4 tonight, I will update the resolution after that.

5 MS. FLYNN: Okay.

6 CHAIRMAN BRAND: So then Jen, would you  
7 poll the Board for the resolution that Jeff  
8 prepared.

9 MS. FLYNN: Chairman Brand?

10 CHAIRMAN BRAND: Yes.

11 MS. FLYNN: Member Lanzetta?

12 MS. LANZETTA: Yes.

13 MS. FLYNN: Member Garofalo?

14 MR. GAROFALO: Yes.

15 MS. FLYNN: Member Trapani?

16 MR. TRAPANI: Yes.

17 MS. FLYNN: Member Lofaro?

18 MR. LOFARO: Yes.

19 MS. FLYNN: Member Clarke?

20 MR. CLARKE: Yes.

21 MS. FLYNN: Member Cauchi?

22 MR. CAUCHI: Yes.

23 CHAIRMAN BRAND: Excellent. Thank you.

24

25 (Time noted: 8:10 p.m.)

2

3

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

5

6

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

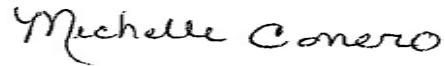
10 That hereinbefore set forth is a  
11 true record of the proceedings.

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

16 IN WITNESS WHEREOF, I have hereunto  
17 set my hand this 20th day of May 2020.

18

19



20

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MICHELLE CONERO

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MEETING HELD REMOTELY VIA ZOOM

3

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

4

- - - - - In the Matter of X

5

6

MARLBORO FLATS

7

Project No. 20-2004  
8-10 Watson Avenue, Milton  
Section 103.1; Block 3; Lot 15

9

10

- - - - - X

11

SKETCH - SUBDIVISION

12

13

Date: May 18, 2020  
Time: 8:10 p.m.

14

15

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

19

20

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

21

22

APPLICANT'S REPRESENTATIVE: FRANK & TINA CRICCHIO

23

24

25

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

- - - - - X

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

4 Pat, did you want to run through your  
5 comments on this one?

6 MR. HINES: Is the applicant here?

7 CHAIRMAN BRAND: Yes, I believe so. I  
8 think he's working on turning on the microphone.

9 MR. HINES: This is a three-lot  
10 subdivision. There's one existing duplex on the  
11 site, two proposed duplexes. It's in the Milton  
12 Hamlet area. It's served by water and sewer.

13 In response to our previous comments  
14 the applicants have added four parking spaces to  
15 each of the duplexes. We're just requesting that  
16 they be dimensioned. They're kind of drafted on  
17 there different sizes and they should be  
18 dimensioned on the plans. Also to take a look at  
19 the amount of room that was provided for backing  
20 out of the spaces. Assuming the spaces are 20  
21 feet in length per the Town Code, it doesn't look  
22 like there's 20 feet behind the spaces to back  
23 up. We need to have that looked at.

24 A common driveway access and  
25 maintenance agreement will be required between

2 lots 1 and 3. That will need approval from Jeff's  
3 office.

4 We're looking to provide a note on the  
5 plan. The Town highway superintendent has  
6 reviewed the site and requested some paving,  
7 which is, I believe, along the retaining wall in  
8 front of lot 1.

9 Water and sewer laterals. We need the  
10 material, size, depth and some more detail. A  
11 sign off from the water superintendent should be  
12 provided. We're just requesting the applicant's  
13 engineer take a look at the sizing of the  
14 laterals, the water laterals to serve the duplex,  
15 because of the length. We will need a sign off  
16 from Tony Falco, the water superintendent, or his  
17 designee.

18 Just a question, if the applicant's  
19 engineer is here, as to why there's that rather  
20 circuitous route from lot 2 to the water and  
21 sewer hookups and those utilities don't just come  
22 down lot 2's driveway?

23 MR. CRICCHIO: He's not here right now.

24 MS. CRICCHIO: He's working on that. I  
25 went over this list with him this morning and

2 he's going to put that on the new maps.

3 MR. HINES: Otherwise you're going to  
4 need an easement to encumber that other lot. It  
5 looks like the grade works to just come down the  
6 driveway and have separate services independent  
7 of each other and not parallel and crossing those  
8 lots. That's something that needs to get looked  
9 at.

10 The sewer laterals are depicted on the  
11 detail as 6 inch. I just wanted to confirm that  
12 as well.

13 That's the extent of our comments.

14 This does require a public hearing. The  
15 Board would need to schedule that at some date --  
16 I think these technical items could be worked out  
17 in the interim -- if the Board so desired.

18 CHAIRMAN BRAND: Jeff, did you have  
19 anything to add to that?

20 MR. BATTISTONI: No. I'll just simply  
21 note that Pat, in his letter, referenced the fact  
22 that I would have to review and approve certain  
23 documents. I agree with that. I'm aware of that.

24 MS. CRICCHIO: Do you have those  
25 documents?

2 MR. BATTISTONI: I have a common  
3 driveway access and maintenance agreement  
4 document. I don't know about roadway dedication  
5 parcels.

6 MS. CRICCHIO: No, you don't have that.  
7 You have the one for the water and sewer  
8 easement? You have that one?

9 MR. BATTISTONI: Hang on one second.

10 MS. CRICCHIO: Okay.

11 MR. HINES: While Jeff is looking at  
12 that, I did have another comment. The roadway  
13 dedication parcel is not shown on lot 1 and  
14 should be. It's only shown on the flag poles of  
15 lots 2 and 3. It should be across the entire  
16 frontage.

17 MS. CRICCHIO: Okay.

18 MR. HINES: I missed that comment  
19 number 4

20 CHAIRMAN BRAND: While Jeff is  
21 reviewing that paperwork, anything from the Board  
22 on this one?

2 two driveways. Why can't we have one driveway  
3 servicing all three houses? The north driveway I  
4 think could be eliminated.

5 MS. CRICCHIO: That would be ideal.

6 MR. HINES: Your code would require  
7 that to be a private road.

8 MR. CRICCHIO: So that would mean I  
9 would have to bring it up to Town specs?

10 MR. HINES: It wouldn't work on this  
11 site I don't think. You'd need a 50-foot  
12 right-of-way on a private road, a turnaround.

13 MR. CRICCHIO: Right. That's the  
14 reason why it wasn't going to work. Right.

15 MR. CLARKE: All right.

16 MR. HINES: That's why -- your code  
17 allows the common driveway, the sharing of the  
18 two. Once you get to three it kicks in your  
19 private road standards.

20 MS. CRICCHIO: Yes.

21 CHAIRMAN BRAND: Anything else from the  
22 Board?

23 MR. GAROFALO: James Garofalo. I have a  
24 couple of questions. One is to see what the width  
25 of the driveways are.

2                   There's a section of the driveway  
3                   that's labeled as unpaved. The other ones should  
4                   be labeled paved if they're going to be paved.

5                   MR. CRICCHIO: They're both going to be  
6                   paved.

7                   MS. CRICCHIO: Eventually.

8                   MR. GAROFALO: There's a section that  
9                   was labeled as unpaved.

10                  MR. HINES: I think that's the existing  
11                  one.

12                  MR. GAROFALO: Okay. The other thing  
13                  that I had previously asked for was to know what  
14                  the height of the retaining wall was and how far  
15                  back it was from the edge of the roadway, because  
16                  I'm concerned whether or not that's going to be a  
17                  sight distance issue.

18                  MR. CRICCHIO: The retaining wall is  
19                  only two feet.

20                  MS. CRICCHIO: It might not even be two  
21                  feet.

22                  MR. GAROFALO: Okay. Then it's not  
23                  going to be a problem.

24                  MR. CRICCHIO: No.

25                  MS. CRICCHIO: No.

2 CHAIRMAN BRAND: Anything else from the  
3 Board? Anyone?

4 (No response.)

5 CHAIRMAN BRAND: Jen, I think you can  
6 close that out. I can see everybody again.

7 Nothing else from the Board.

8 Jeff, were you able to locate the --

9 MR. BATTISTONI: Yeah. It's all in one  
10 agreement. It's entitled common driveway  
11 easements, utility easement and maintenance  
12 agreement. So that's -- I haven't reviewed it but  
13 it's all in the one document.

14 MS. LANZETTA: Would the easement stuff  
15 change if they run the water lines and the lines  
16 up the driveway? You might have to change --

17 MR. HINES: It will eliminate the need  
18 for the utility easement. It's often better to do  
19 that as well, to separate them, because when one  
20 water line leaks you don't know which one is  
21 leaking until you dig it up. Who is going to pay  
22 to dig it up.

23 MS. LANZETTA: I agree.

24 MR. HINES: Separate is better.

25 MR. CRICCHIO: There is going to be two

2 different water lines going up.

3 MR. HINES: Right. When one leaks and  
4 you dig the trench up and they're four feet  
5 apart, you don't know whose leaking until you  
6 dig.

7 MR. CRICCHIO: Right. We'll keep them  
8 apart.

9 MR. HINES: I don't know. Was there  
10 another reason, Frank, to do that or --

11 MR. CRICCHIO: Run two water lines?

12 MR. HINES: Just to run them down the  
13 same easement rather than go down the driveways.

14 MR. CRICCHIO: You mean down the other  
15 driveway. I think it would be a lot easier  
16 probably because there's a hookup right there,  
17 just to go across the driveway that way, all the  
18 way up with two lines.

19 What are you thinking? I should go in  
20 the other driveway with the other line?

21 MR. HINES: Yeah. Keep the water and  
22 sewer down the other driveway separate so that  
23 they're independent, away from each other. It  
24 eliminates the need for that easement.

25 MR. CRICCHIO: All right. Well I mean I

2 probably could do it. I'd just rather not dig up,  
3 you know, two different driveways. You follow  
4 what I'm saying?

5 MR. HINES: Yeah. I don't think you  
6 should put them in the same trench anyway.

7 MR. CRICCHIO: I mean can we put one on  
8 one side of the driveway and one on the other  
9 side of the driveway?

10 MR. HINES: You can. It works. I  
11 didn't know the reason. Grade wise it works to  
12 have them independent. It's up to you if you  
13 want to encumber them with an easement.

14 MR. CRICCHIO: Okay.

15 MS. CRICCHIO: That makes sense.

16 CHAIRMAN BRAND: Anything else on this  
17 one?

18 (No response.)

19 CHAIRMAN BRAND: Do you think the Board  
20 is comfortable scheduling a public hearing?

21 And Frank, you'll be able to get those  
22 changes and little technical things worked out?

23 MS. CRICCHIO: Yes.

24 MR. CRICCHIO: Absolutely.

25 CHAIRMAN BRAND: Jen, when would that

2 be?

3 MS. FLYNN: June 15th.

4 CHAIRMAN BRAND: Everybody is  
5 comfortable with that for June 15th?

6 June 15th, not June 1st?

7 MS. FLYNN: I don't have enough time to  
8 put it in the paper for June 1st.9 CHAIRMAN BRAND: Okay. So public  
10 hearing scheduled for June 15th.11 You'll do the mailings and all that  
12 good stuff. Excellent.

13 Anything else on that?

14 (No response.)

15 CHAIRMAN BRAND: Anything else --  
16 thanks, guys. We'll see you later. No wine  
17 tonight. I'm a little upset with that.18 MR. HINES: It might be off to the  
19 side.20 MS. CRICCHIO: Right. It's out of  
21 sight.

22 MR. CRICCHIO: Thanks very much.

23 MS. CRICCHIO: Thank you. Good night.

24 CHAIRMAN BRAND: Anything else from the  
25 Board before we adjourn?

2 (No response.)

3 CHAIRMAN BRAND: No. Everybody is  
4 doing good?

5 MR. LOFARO: All good.

6 MS. LANZETTA: Yes.

7 CHAIRMAN BRAND: How about a motion to  
8 adjourn?9 MR. LOFARO: I'll make a motion to  
10 adjourn.

11 MR. CAUCHI: Second.

12 CHAIRMAN BRAND: Any opposed?

13 (No response.)

14 CHAIRMAN BRAND: Excellent. See you  
15 later.

16

17 (Time noted: 8:20 p.m.)

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

5

6

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

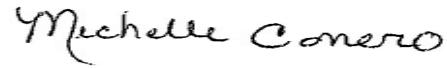
10 That hereinbefore set forth is a  
11 true record of the proceedings.

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

16 IN WITNESS WHEREOF, I have hereunto  
17 set my hand this 20th day of May 2020.

18

19



20

---

MICHELLE CONERO

21

22

23

24

25