

TOWN OF EAST GREENBUSH PLANNING BOARD

TOWN HALL, 225 COLUMBIA TURNPIKE, RENSSELAER, NY 12144 (518)477-2005 FAX (518)477-2386

MEMORANDUM

PLANNING BOARD MEETING AGENDA FEBRUARY 9, 2022

BEING HELD VIRTUALLY

7:00PM CALL TO ORDER/DETERMINATION OF QUORUM:

PUBLIC HEARINGS:

7:00 PM Carver Court-Upper Mannix Road-Major 110 Lot Subdivision-Preliminary Plat

7:00 PM DeJulio-40-44 Tanners Lane-Minor 2 lot Subdivision

ORGANIZATIONAL MEETING ITEM:

Appointment of Vice Chairperson

OLD BUSINESS:

(20-11) Carver Court-Upper Mannix Road – Major 110-Lot Cluster Subdivision – Review of Preliminary Plat for Conditional Approval & review draft development agreement for possible referral to Town Board

(21-23) Benoit - 416/418 Hays Road-Major 2-lot Subdivision – Schedule Public Hearing for February 23, 2022

(22-01) C & T East Greenbush, LLC. – 590 Columbia Turnpike-Site Plan Modification – Review for Conditional Approval

NEW BUSINESS:

NONE

REFERRALS-REPORTS & RECOMMENDATIONS:

NONE

NEW ZBA REFERRALS:

NONE

REVIEW & APPROVAL OF MEETING MINUTES:

January 26, 2022 meeting minutes

Notice Regarding Planning Board Meeting

Pursuant to New York State first law of 2022, and advisories issued by Federal, State and Local officials related to the COVID-19 virus, the Planning Board will convene its February 9, 2022 Board Meeting remotely as follows:

The Board Meeting will commence at 7:00 PM and will be conducted through the use of Zoom, a web-based video conferencing tool with local, desktop client and smartphone applications that will allow the Planning Board members and those with business before the Board to participate electronically and remotely by audio and with or without a video connection.

In order that members of the public can view the proceedings, the meeting will be live-streamed on the Town's YouTube Channel. To view the Live Stream, go to the Town's YouTube Channel at https://www.youtube.com/channel/UCzStopZCsgZKn_GV0i1WalA.

Members of the public with questions and/or comments can send correspondence to info@eastgreenbush.org. Correspondence sent to this email will **not** be answered in real time.

Please note that this meeting will be conducted remotely only and will not be held at Town Hall.

To view a copy of the agenda, please navigate to this page:

<https://www.eastgreenbush.org/agendas- minutes/planning-board/agendas>

Join Zoom Meeting

<https://us02web.zoom.us/j/88162126943>

Meeting ID: 881 6212 6943

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Find your local number: <https://us02web.zoom.us/j/88162126943>

NOTICE OF PUBLIC HEARING

PLEASE TAKE NOTICE that the PLANNING BOARD of the Town of East Greenbush will hold a public hearing on February 9, 2022 beginning at 7:00 pm to consider the following matter:

The Town of East Greenbush Planning Board shall conduct a Public Hearing on the preliminary plat pursuant to Section 276 of the Town Law and the Town's Land Subdivision Regulations on the application of CDLZ Inc. for a Major 110- Lot Cluster Subdivision called the "Carver Court Major 110-lot Cluster Subdivision". The property is located off of Upper Mannix Road in the R-B Residential Buffer Zoning District, Tax Map #'s 155.-5-4 & 145.-1-21. Said Public Hearing will be held on Wednesday, February 9, 2022 at 7:00 PM remotely via Zoom. At the above time and place, all interested parties will be given an opportunity to be heard. By order of the Planning Board

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To access the Board's public hearing, you have several options:

1. Go to www.zoom.us and download the free application. Once downloaded, enter 881 6212 6943 as the "Join Meeting" invitation code.
2. Click on <https://us02web.zoom.us/j/88162126943>
3. Call +1 646 876 9923 US (New York) with your phone, and then enter Meeting ID: 881 6212 6943

Important notes for voice-only participants: Please note that when dialing in (voice only) you may experience time on hold until being admitted to the meeting. To protect the privacy of your phone number please call in dialing *67 before +1 646 876 9923.

To view the Live Stream, go to the Town's YouTube Channel at https://www.youtube.com/channel/UCzStopZCsgZKn_GV0i1Wala.

Please note that this public hearing will be conducted remotely only and will not be held at Town Hall. Please be patient upon joining the meeting. You will be provided instructions on how to deliver your comments once in the meeting.

Pursuant to Executive Order No. 202.1, this meeting will be recorded and transcribed and posted to the Town's website.

Written comment may be submitted to the Planning Board by email to aloveley@eastgreenbush.org or to the Planning Board, Town of East Greenbush, 225 Columbia Turnpike, Rensselaer, New York 12144 at any time prior to the hearing.

BY ORDER OF THE PLANNING BOARD
DATED FEBRUARY 2, 2022
MATT MASTIN CHAIRMAN
PLANNING BOARD
TOWN OF EAST GREENBUSH

FOR ADDITIONAL INFORMATION REGARDING THIS ACTION CONTACT THE EAST
GREENBUSH PLANNING AND ZONING DEPARTMENT BY EMAIL AT
ALOVELY@EASTGREENBUSH.ORG.

NOTICE OF PUBLIC HEARING

PLEASE TAKE NOTICE that the PLANNING BOARD of the Town of East Greenbush will hold a public hearing on February 9, 2022 beginning at 7:00 pm to consider the following matter:

The Town of East Greenbush Planning Board shall conduct a Public Hearing pursuant to Section 276 of the Town Law and the Town's Land Subdivision Regulations on the application of Michael & Mary Jane DeJulio for a Minor 2- Lot Subdivision called the "Subdivision of lands of Michael & Mary Jane DeJulio". The property is located at 40-44 Tanners Lane in the R-2 Residential Zoning District, Tax Map #'s 144.3-1-1.115 & 144.3-1-14. Said Public Hearing will be held on Wednesday, February 9, 2022 at 7:00 PM remotely via Zoom. At the above time and place, all interested parties will be given an opportunity to be heard. By order of the Planning Board

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DATED FEBRUARY 2, 2022
MATT MASTIN CHAIRMAN
PLANNING BOARD
TOWN OF EAST GREENBUSH

FOR ADDITIONAL INFORMATION REGARDING THIS ACTION CONTACT THE EAST
GREENBUSH PLANNING AND ZONING DEPARTMENT BY EMAIL AT
ALOVELY@EASTGREENBUSH.ORG.

ORGANIZATIONAL MEETING 2022:

MOTION: A motion was made by Chairman Mastin as follows: **The Town of East Greenbush Planning Board hereby appoints _____ as the Vice Chairperson in absence of the Planning Board Chairman.**

Roll Called as follows:

MOTION CARRIED BY A - VOTE.

Chairman Mastin	_____
Mr. Panton	_____
Mr. Viola	_____
Mr. Bergmann	_____
Ms. Horne	_____
Mr. Conway	_____
Ms. Gill	_____

CARVER COURT MAJOR 110-LOT CLUSTER SUBDIVISION
CONDITIONAL PRELIMINARY PLAT AND PRECONSTRUCTION APPROVAL

WHEREAS, the East Greenbush Town Planning Board (the “Planning Board”) is in receipt of an application by CLDZ, LLC (the Owner) for major subdivision approval under Section 276 of the Town Law for a residential subdivision entitled Carver Court Major 110-lot Cluster Subdivision, for 110 single-family detached and attached dwelling units, with 60 townhome lots, 36 ‘cottage home’ lots and 14 ‘estate home’ lots, and an area of open space consisting of 47.86 acres or 53% of total area, part of which will be reserved as ‘active park,’ located within the Residential Buffer (R-B) Zoning District located off Upper Mannix Road (Tax Map I.D. SBL: 155.-5-4 and 145.-1-21) (hereinafter, the “Project”); and

WHEREAS, on October 14, 2020, and in accordance with Sections 3.8 and 2.6.3.F of the Town’s Comprehensive Zoning Law and Section 276 of the Town Law, the Planning Board issued conditional approval of the proposed conventional and cluster development sketch plats, finding that a the maximum number of dwelling units that may be permitted and approved within the proposed cluster development shall not exceed, 110, the number of lots shown on the conditionally approved sketch plat for lot-by-lot development; and

WHEREAS, the Planning Board, has classified the Project as an unlisted action, initiated a coordinated review pursuant to SEQRA, and upon receiving no correspondence to the contrary for potential involved agencies, on July 8, 2020 declared itself lead agency; and

WHEREAS, the Planning Board, in its capacity as lead agency, after reviewing a development proposal and conceptual master plan and a full Environmental Assessment Form for this project, determined in accordance with Title 8 of the Environmental Conservation Law and 6 NYCRR Part 617, issued a conditioned negative declaration on January 26, 2022, finding certain conditions are necessary in order to eliminate or reduce the identified potentially significant adverse impact(s) to a non-significant level and that, upon satisfaction of these SEQR conditions, there will be no significant adverse environmental impacts as a result of the action; and

WHEREAS, the Planning Board did conduct public hearings on July 14, 2021 and on February 9, 2022 at which time members of the public were invited to speak either in favor of, or in opposition to this subdivision application; and

WHEREAS, the Planning Board has received and reviewed the proposed Preliminary Plat, dated February 15, 2021, and most recently revised January 25, 2022, as prepared by Brett L. Steenburgh, P.E. LLC, including related reports and other information; and

WHEREAS, the applicant has filed the necessary application with the Planning Board and has paid to the Office of Town Clerk the applicable preliminary plat application fee, with receipt therefore provided to the Planning Board by the Town Clerk; and

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FINAL DATE: FEBRUARY 9, 2022

WHEREAS, the Planning Board has received and reviewed the Conservation Advisory Council (CAC) report on the Project, dated October 25, 2021; and

WHEREAS, the Project requires that the Developer, at its expense, install the following improvements necessary for multi-modal transportation accessibility and mobility: 1) approximately 6,048 lf of new roadway, to be connected to an existing Town-owned roadway, Mannix Road; 2) 3,450 lf of sidewalks along “Road 1,” as depicted on the aforementioned Preliminary Plat; 3) grading, drainage, culvers, and other roadway improvements; and 4) a second access point, to be connected to Thompson Hill Road, which second access point shall be for emergency use only; and

WHEREAS, the Developer will offer for dedication to the Town the multi-modal transportation accessibility and mobility improvements lying within the proposed right-of-way areas as shown on the Preliminary Plat, including 1) approximately 6,048 lf of new roadway, to be connected to an existing Town-owned roadway, Mannix Road; 2) 3,450 lf of sidewalks along “Road 1,” as depicted on the aforementioned Preliminary Plat; 3) grading, drainage, culverts, and other roadway improvements, but excepting the following improvements: and 1) the second access point, to be connected to Thompson Hill Road, which second access point shall be for emergency use only and 2) the proposed stormwater management facilities connected to the proposed drainage system; and

WHEREAS, maintenance of the aforementioned 3,450 lf of proposed sidewalks along “Road 1” shall be the responsibility of the Developer; and

WHEREAS, a portion of the Project lies within the General Sewer District but an approximately 15-acre portion lies outside of the General Sewer District; and

WHEREAS, in order to provide sanitary sewer service to the Project, the Developer, at its expense, will install sewer within the emergency access road and proposed public right-of-way, a sanitary sewer pumping station, and approximately X” of sanitary sewer forcemain, and related appurtenances on the Project site, to be connected to the General Sewer District, which improvements will be offered for dedication to the Town; and

WHEREAS, the Developer, at its expense, must also upgrade approximately 3,089 lf of existing sanitary sewer gravity main located off of the Project site in order that the Town’s existing system have sufficient capacity to serve the Project; and

WHEREAS, a portion of the Project lies within the General Water District but an approximately 15-acre portion lies outside of the General Water District; and

WHEREAS, in order to provide water supply to the Project, the Developer will, at its expense, install, within the emergency access road and proposed public right-of-way, new water line, to be

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connected to existing Town water supply infrastructure, at two points, located on Thompson Hill Rd and in Tech Valley Drive; and

WHEREAS, the Project will provide approximately 47.86 (53% of total Project site area) of required open space area, approximately 1.75 acres of which will be set aside and maintained as parkland for passive recreation purposes, and the Developer will contribute land development mitigation fees for recreation improvements, as required by the Town's Western East Greenbush Generic Environmental Impact Statement (GEIS) and Town code; and

WHEREAS, a Storm water Pollution Prevention Plan (SWPPP) dated May 26, 2021, last revised January 25, 2022, has been prepared in accordance with NYSDEC and Town of East Greenbush MS4 requirements and includes the required construction phase erosion and sediment controls and permanent erosion and sediment control measures, such as bioretention areas, vegetative controls, rock outlet protection, and permanent turf reinforcement, which will be owned and maintained solely by the owners of lands within the subdivision; and

WHEREAS, the Developer has submitted a request for a waiver of the requirement, set forth at Section 3.13.11 (O) of the Town's Comprehensive Zoning Law, that a vegetative buffer (25' minimum) shall be maintained between disturbed areas and protected federal wetlands that are not proposed to be filled as part of an US Army Corps of Engineers (ACOE) wetlands permit, relating to encroachment into the required vegetative buffer as shown on the Preliminary Plat and, more particularly, in the following areas: Along the rear of lots T-23, T-28 and T-29; along the rear of lots T-13, T-20 and T-21; and adjacent to Stormwater Managements 1, 2 and 4 (the "Limited Vegetative Buffer Waiver Request"), which Limited Vegetative Buffer Waiver Request is described in a letter dated January 7, 2022 from Brett Steenburgh, PE, PLLC attached hereto and made a part hereof; and

WHEREAS, a homeowners association ("HOA") will be created and will be responsible for long term ownership and maintenance of common areas, the emergency access drive, all permanent stormwater management facilities, sidewalk maintenance, maintenance of the required open space and recreation area, limiting use of lawn chemicals in certain areas as identified on the Preliminary Plat; and

WHEREAS, the Project plans and Engineers Report have been submitted to the USACOE for their review and approval; and

WHEREAS, the Project plans and Engineers Report have been submitted to the NYSDEC for their review and approval; and

WHEREAS, the Project plans and Engineers Report have been submitted to the Rensselaer County Health Department for their review and approval; and

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WHEREAS, in accordance with Article 4 Section 4(b) of the Town's Land Subdivision Regulations and Section 276 of the Town Law, Sheet P-1 "Phasing Plan" has been included in the Preliminary Plat and shall serve as the "key map" for the filing of future section(s); and

WHEREAS, the Town's Designated Engineer, CPL Architects, Engineers, Landscape Architect and Surveyor, D.P.C., has reviewed the application, plans, full EAF, and related reports and materials for the proposed Project, including the aforementioned Preliminary Plat, and can recommend to the Planning Board consideration of preliminary plat approval subject to all conditions and requirements by the Town; and

WHEREAS, the Planning Board acknowledges the Developer's intent to enter into a Development Agreement with the Town of East Greenbush Town Board, and the Planning Board has received and reviewed a draft Development Agreement, which is attached hereto and made a part hereof; and

NOW, THEREFORE, BE IT RESOLVED that the East Greenbush Town Planning Board hereby: 1) reaffirms the conditional negative declaration issued on January 26, 2022; 2) approves the Limited Vegetative Buffer Waiver Request, as set forth above; and 3) grants preliminary plat and preconstruction approval for the 110 lots in the Town of East Greenbush of Carver Court Major 110-Lot Cluster Subdivision prepared by Brett L. Steenburgh, P.E. LLC, dated February 15, 2021 most recently revised January 25, 2022, and in strict compliance with each of the following conditions which must be satisfied by the applicant within 180 calendar days of this resolution, unless extended upon written request of the applicant by mutual consent for two (2) periods not to exceed ninety (90) days each:

1. That the applicant addresses all remaining technical comments of the Town's Designated Engineer and Town Planning and Zoning Department and submit a final plan set which addresses all remaining technical comments and which conforms to Art. VII.4 of the Subdivision Regulations;
2. That the applicant reimburses the Town for all costs and expenses associated with the review and evaluation of the plans and associated reports by the Planning Board's consultants;
3. That the preliminary plat be revised to show a sidewalk along "Road 1";
4. That the final plat submission be in strict accordance with the requirements of Article VII, Section 4 of the Town's Land Subdivision Regulations as well as Section 3.8 of the Town's Comprehensive Zoning Law, and that the requisite fees be paid in accordance with the fee schedule established by the Town Board;
5. That any required mitigation measures, including wetland construction plans and/or details, deed covenants, etc., required by the USACOE be shown on the final plat and

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evidence of USACOE approval of the same be submitted to the Planning and Zoning Department;

6. That the East Greenbush General Sewer District and General Water District be extended per the requirements of New York State Town Law Article 12-A to incorporate the project;
7. That the Commissioner of Public Works sign off on the plans prior to final plat approval;
8. That a draft of the proposed homeowners association (HOA) required NYS filing(s) be provided to the Town, subject to approval by the Planning Board Attorney;
9. That copies of agreements or other documents relating to the long-term ownership and maintenance of designated open space areas shall be provided, in compliance with the Town's Comprehensive Zoning Law Sections 3.8.G and 3.8.J;
10. That the Final Engineers Report must be submitted to the Town's Planning and Zoning Department, subject to approval by the Town Designated Engineer and Commissioner of Public Works;
11. That the final plat show the location and type of monuments, subject to Planning and Zoning Department approval, to be installed in accordance with Art. VII.4.B.1.F.2.
12. That the location of electric, telephone, cable TV, gas, and other energy-related lines and utilities be depicted on the plat;
13. That the following certifications be forwarded to the Town Planning and Zoning Department:
 - a. Certification showing that the applicant is the owner;
 - b. Written offers of cession for all rights-of-way and copies of agreements showing the manner in which open spaces, title of which is reserved by the subdivider, are to be maintained, subject to Town Attorney approval;
 - c. Certification by the Town Designated Engineer in accordance with Art. VII.4.B.2.C of the Town Subdivision Regulations;
 - d. All protective covenants must be submitted in a form for recording;
 - e. Letter from National Grid approving the design and indicating that adequate service will be provided;
 - f. Letter from school district acknowledging the number of lots and the district's ability to service the subdivision;
 - g. A letter indicating that the responding fire service providers approve of the plans;
 - h. A letter indicating that the plan for required work within the Town Right of Way has been reviewed and approved by the Commissioner of Public Works;
 - i. That the subdivision plans be reviewed and approved by the Rensselaer County Health Department in accordance with applicable provisions of the Public Health Law, and such documentation submitted to the Town for their records.

14. That the Developer enter into a Development Agreement with the Town of East Greenbush Town Board, and in accordance with that agreement, the Town's Land Subdivision Regulations, Town Code, and NYS Town Law, the required improvements, as identified on the Preliminary Plat, be constructed and accepted by the Town, in accordance with Town Code, or sufficient financial security be provided for same.
15. That the final plat application fee be paid to the Town.

NOW, THEREFORE, BE IT ALSO RESOLVED that prior to issuance of onsite building permit for tree clearing in the Phase 1 area as depicted on the Preliminary Plat, the following conditions must be satisfied by the applicant:

1. That a plan for the tree clearing be submitted to the Town, subject to review and approval by the Director of Planning and Zoning and Building Inspector. The plan must show the proposed limits of tree and vegetation clearing.
2. That the limits of tree and vegetation clearing must be staked out on the Project site with wooden lath and/or ribbons prior to any clearing activity and orange snow fence and signage indicating "Protected Site – Keep Out" or similar demarcation be installed along the proposed limits of clearing prior to any clearing activity, subject to approval by the Director of Planning and Zoning and Building Inspector.
3. That prior to clearing of any areas shown on the plans for future building lot development, Town officials must conduct a site walk to identify any trees to be retained and not cleared, in accordance with the Conservation Advisory Council (CAC) recommendations.
4. That tree clearing must not occur between April 1st and October 31st.

NOW, THEREFORE, BE IT ALSO RESOLVED that prior to issuance of an onsite grading permit and/or building permit for any sitework to install the required improvements in the Phase 1 area as depicted on the Preliminary Plat, the following conditions must be satisfied by the applicant.

1. That the subdivision plans be reviewed and approved by the NYSDEC in accordance with Uniform Procedures Act and such documentation submitted to the Town for their records; and
2. That the subdivision plans be reviewed and approved by the Rensselaer County Health Department and such documentation submitted to the Town for their records; and
3. That evidence of approval of the Project by the USACOE be provided to the Town's Planning and Zoning Department; and

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4. That an approved Utility Permit for Work in the Town Right of Way be submitted to the Town for their records; and
5. An escrow account must be established and funded by the developer, prior to the commencement of any site work or permit issuance to cover the expenses associated with the Town's Designated Engineer's full time inspection of improvements to be dedicated to the Town and as shown on the landscaping plan as set forth herein. The Town Designated Engineer field reports shall be provided to the Town and developer in a format to be approved by the Town; and
6. All storm water pollution prevention permits will be obtained prior to any land disturbance as defined in the Comprehensive Zoning Law and as required in accordance with applicable SPDES MS4 and Construction general permits, which includes tree cutting, clearing, grading, grubbing, and/or site work, and regularly scheduled required inspections must be performed during the permit term by the design engineer or other qualified individual in accordance with the GP-0-15-002 and the approved SWPPP; and
7. Prior to commencement of construction, all fees due are paid as required by the Town of East Greenbush in accordance with the Western Generic Environmental Impact Statement (GEIS) fee schedule and Local Law 5-2018 of the Town of East Greenbush, a letter for which will be provided from the Director of Planning and Zoning.
8. That the Developer be permitted to be issued not more than two (2) building permits and certificates of occupancy for construction of residential structures to serve as model housing units, subject to approval by the Building Inspector.

NOW, THEREFORE, BE IT ALSO RESOLVED that prior to issuance of a building permit for any unit in the Phase 1 area as depicted on the Preliminary Plat following conditions must be satisfied by the developer:

5. That the final plat for the first section of the Project, shown as "Phase 1" on the Preliminary Plat, be approved by the Planning Board and filed and recorded in the Rensselaer County Clerk's office.
6. That for each building lot, a detailed plot plan; grading plan and utility service plan shall be submitted and approved by the Commissioner of Public Works and the Building Inspector prior to the issuance of a Building Permit for that building lot. The plot plan must also show the extent of land clearing, existing and proposed grading, a proposed building envelope, and a landscaping plan with planting schedule consistent with the approved Final Subdivision Plat, subject to Building Inspector and Planning and Zoning Department approval. Proposed landscaping must be in accordance with the Landscaping Plan included with the subdivision plans. Any proposed modifications for any building lot must be approved by the Planning Board Chairperson; and

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NOW, THEREFORE, BE IT ALSO RESOLVED that prior to issuance of a Certificate of Occupancy for any unit in the Phase 1 area as depicted on the Preliminary Plat following conditions must be satisfied by the developer:

9. That all the off-site improvements to the Town's sanitary sewer system be completed, accepted by the Town, and placed into service.
10. That all required off-site traffic improvements be completed, including the "No Thru Traffic" signage on Thompson Hill, vegetation elimination at the Mannix Rd Project site access, and other improvements as identified on the Preliminary Plat.
11. That all fees due are paid as required by the Town of East Greenbush in accordance with the Western Generic Environmental Impact Statement (GEIS) fee schedule and Local Law 5-2018 of the Town of East Greenbush, a letter for which will be provided from the Director of Planning and Zoning.
12. That a duly executed stormwater management maintenance agreement be filed in the County Clerk's Office and evidence of such filing be submitted to the Building Inspector and Director of Planning and Zoning.
13. The applicant shall prepare suitable offers of cession for all improvements and interest in all land areas within Public Right-of-Way to be dedicated to the Town of East Greenbush, including, but not limited to roadways, water and sewer systems, drainage ways and easements, and that all such offers of cession shall be submitted to the Commissioner of Public Works and Town Attorney, who shall review the sufficiency for the purpose intended, which determination shall not commit the Town Board in any way to acceptance of the improvements, once installed; and
14. That all public and/or required improvements within the Development as shown on the subdivision plans be completed by the developer and be approved in writing by both The Town's Designated Engineer and the Town's Commissioner of Public Works; and
15. All landscaping as shown on the approved plot plan and/or the Landscaping Plan must be installed and inspected to the satisfaction of the Town Designated Engineer; and
16. That a mechanism for the long-term protection, operation and maintenance of the required open space area, subject to the approval of the Planning Board and Town Attorney, be in place and that evidence of its filing in the Rensselaer County Clerk's Office, if required, be submitted to the Town; and
17. That an as-built plan in approved electronic (e.g., PDF, DWG, and TIFF file formats) and paper copy formats shall be submitted to the Town by the owners/developers based upon marked up plans provided by the Planning Board's designated engineer for review/approval at the completion of construction. This plan shall show an accurate and complete record and description of the final "as-built" conditions of improvements to be dedicated to the Town; and

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18. That monuments required to be installed in accordance with Art. VII.4.B.1.F.2 and as shown on the final plat be installed or sufficient financial security, as determined by the Town's Commissioner of Public Works, be provided to the Town.

In effect, this preliminary plat and pre-construction approval by the Planning Board authorizes the applicant to initiate necessary site work and the installation of public and/ or other required improvements with the rights-of-way, easements and drainage ways and other public improvements, as needed.

The installation of such public improvements shall be subject to: (1) the Planning Board's final review and approval of engineering and construction details; (2) the conduct of a project initiation conference, including the applicant, the applicant's consultant engineer, appropriate contractors, the Planning Board's designated engineer and the Town's Commissioner of Public Works, Building Inspector and Director of Planning and Zoning; and (3) a detailed itemized cost estimate and construction schedule for construction of all improvements for the project shall be provided to the Planning Board's designated engineer, which estimate and schedule shall be provided by and satisfactory to the Planning Board's designated engineer, and a copy of which shall be transmitted concurrently to the Planning and Zoning Department and the Commissioner of Public Works.

This approval shall be required as limited in its authorization in that no sale of a lot or an offer of sale within the intended subdivision may be undertaken until the stamping of the plans by the Planning Board's designated representative. Subsequent filing of the approved final plat in the Office of the Rensselaer County Clerk must occur within 62 days of the final plan approval/signature.

FURTHERMORE, the Planning Board advises that all work undertaken and all expenses incurred by the applicant, pursuant to this resolution, are at the risk of the applicant. It is the applicant's exclusive responsibility to ensure that all conditions and requirements are met in a timely manner prescribed within the Town's Land Subdivision Regulations and referenced earlier in this resolution. Failure of the applicant to meet this timetable shall result, without the requirements of any further action by the Planning Board, in the expiration of this final plat approval and the requirement that a new application, with associated application fees, be filed with the Planning Board should it still be the applicant's desire at that time to pursue approval of the subdivision.

**DEVELOPMENT
AGREEMENT**

This Agreement, by and between CLDZ, LLC, with offices located at 494 Western Turnpike, Altamont, NY 12009, hereinafter called the “Developer”, and the Town of East Greenbush, a municipal corporation located in Rensselaer County with offices at 225 Columbia Turnpike Rensselaer, NY 12144, hereinafter called the “Town”.

WHEREAS, the Developer has received preliminary plat approval from the Town of East Greenbush Planning Board for a major cluster subdivision off Mannix Road, as shown on a certain subdivision map prepared by Brett Steenburgh PLLC comprising sheets 1 through 32, as set forth on sheet 1 (SP-1) entitled “Overall Plan CLDZ, LLC, Carver Court, Town of East Greenbush County of Rensselaer State of New York” dated February 15, 2021, last revised January 26, 2022, and as bounded and described as set forth in Exhibit “A” annexed hereto; and

WHEREAS, the Developer intends to build and dedicate certain roadways, as shown on Exhibit A, above. The Developer intends to build and dedicate the areas described as public roadways in the Town of East Greenbush, in connection with the development of the site as set forth in the subdivision plan. Said construction is to be in accordance with the rules, regulations and specifications of the Town of East Greenbush and its Planning Board; and

WHEREAS, the Town of East Greenbush Planning Board, in its capacity as lead agency in connection with a coordinated review of the proposed action, issued a conditioned negative declaration on January 26, 2022; and

WHEREAS, pursuant to and in accordance with the preliminary plat and

preconstruction approval of the Town of East Greenbush Planning Board for this project, the Developer is obligated to construct certain roadways, storm water control facilities and storm water conveyance facilities, install water mains in the roadway, install sewer mains in the roadway, install a sanitary sewer pumping station, provide landscaping as shown on the subdivision plan, install sidewalks adjacent to the roadways located within the subdivision, construct and implement various natural resources conservation measures as identified in Exhibit B, construct a passive recreation field and walking trail, and install fencing in identified areas; and

WHEREAS, the Town Board of the Town of East Greenbush and Planning Board of the Town of East Greenbush require a letter of credit or other security to insure the prompt and faithful construction of said roadway and other improvements as set forth above; and

WHEREAS, the Developer is required to pay certain inspection fees to the Town to confirm that all construction and installation is in accordance with the rules, regulations and specifications of the Town of East Greenbush and its Planning Board and to the satisfaction of the Town's Designated Engineers and Commissioner of Public Works; and

NOW, THEREFORE, in consideration of the mutual covenants expressed herein, and in order to set in writing the terms of their agreement, the parties do mutually covenant and agree as follows:

1. The Developer agrees to construct the public portion of the roadway, as set forth on the preliminary subdivision plat described in Exhibit "A" attached hereto, and as adjusted through final approval by the Planning Board and that said construction

and installation will be in accordance with the rules, regulations, standards and specifications of the Town of East Greenbush, its engineers and Commissioner of Public Works, and the Developer shall promptly make payment to all persons supplying labor and materials for the same. The Developer, and subsequently the HOA, shall retain ownership and responsibility for the common mailbox area, required open space areas (including the "Cleared Area" for recreation), trails installed as part of the project in the required open space areas, permanent stormwater management facilities, wetland protection signage, and the emergency access roadway, which shall remain private. The Developer and HOA shall assume maintenance responsibility for the sidewalks.

2. The Developer further agrees that the construction and installation of the storm water control facilities, storm water conveyance facilities, water mains and sewer mains in the future Town roads, sanitary sewer pumping station, conservation measures, recreation area and walking path, and the sidewalk, as identified in the preliminary subdivision plat described in Exhibit "A," and as adjusted through final approval by the Planning Board shall be constructed and installed in accordance with the laws, rules, regulations, standards and specifications of the Town of East Greenbush, its engineers and Commissioner of Public Works. Developer agrees that, prior to offering for dedication any of the storm water conveyance public improvements, these facilities shall be clean and free sediment and other debris, subject to Commissioner of Public Works approval.

3. Construction of the project is to be phased in accordance with the preliminary subdivision plat for Carver Court, as approved by the Town of East Greenbush Planning Board, as set forth in Exhibit "A" attached hereto and as adjusted through

final approval by the Planning Board. The Developer proposes to develop and file the conservation plat in three (3) sections as shown on the plat. The Developer shall complete and secure all public improvements on a section-by-section basis. A construction sequencing plan as approved by the Planning Board has been made part of the final plat and filed with any section thereof. The sections must proceed in order, commencing with section 1 to the first section and no building or clear-cutting may start in any new section except with the permission of the Planning Department for limited disturbance associated with the installation of utilities and infrastructure where such installation is necessary in that section to serve the preceding section or to undertake clearing activities within the seasonal limits established for the Long Eared bats, as per the approved plans. If roadways and limited clearing are necessary, any roads or cleared areas will be for construction purposes only, shall not be paved, and in the event these roads or cleared areas are no longer needed for construction purposes, shall be stabilized and vegetated in accordance with the approved stormwater pollution prevention plan (SWPPP). No other work may commence in any new section until Building Permits are issued for 10 of the 28 lots in section 1, and 18 of the 54 lots in section 2; however, the Developer may request that the Planning Board in its discretion reduce the number of building permits in section 1 or section 2 that need to be obtained prior to preceding with the next section.

4. For each of the three phases, the Town is waiving the requirement of the Developer to furnish, as security for this agreement, and the faithful completion of the requirements of the same, a letter of credit, or other security for construction and installation of the roadway, sidewalks, the storm water control facilities and storm water conveyance facilities, water mains, sewer mains, sanitary sewer pumping station,

conservation measures, fencing and landscaping, which are necessary for the completion of such phase, except as set forth hereafter. It is agreed that only two model home building permits shall be issued for phase 1 and only one for subsequent phases until the public improvements (roadways, sidewalks, storm water control facilities, storm water conveyance facilities, water mains, sewer mains, sanitary sewer pumping station, fencing and landscaping) for such section are either fully constructed and installed and accepted by the Town or sufficient and adequate security has been furnished and accepted by the Town pursuant to the agreement. The Town shall require security for all items which are customarily installed after completion of the infrastructure and dedication of the road, including but not limited to top course pavement, striping, sidewalks, fencing, and landscaping. The locations of the model homes within the development must be fully accessible to emergency services and fire services in order to obtain the building permits.

5. Pending completion and dedication as a public roadway, Developer agrees to maintain, repair and plow said roadway and sidewalks in a timely fashion, keep them open in all weather conditions and provide immediate access for emergency vehicles. The Developer shall hold the Town harmless for any liability thereunder. The Developer shall not cause damage or leave the said road in a dangerous, unsafe or impassable condition.

6. The Developer hereby agrees to:

- a. submit to the Town Planning Board attorney a draft of the Declaration which will be submitted to the NYS Department of Law for the creation of a Homeowner's

Association to confirm that provisions required as part of the Planning Board's approvals are included in the Declaration such as the maintenance of the emergency access (ie snow removal, installation of the barriers/gates);

b. pay the mitigation fees;

c. pay for the required off-site improvements which include installation of sections of sanitary sewer lines.

7. The Developer agrees to maintain all public improvements at its own expense, and to dedicate them to the municipality when they are accepted, after full inspections and to the satisfaction of the Commissioner of Public Works. The Developer further agrees to grant to the Town of East Greenbush any necessary easements for the maintenance and/or operation of water, sewer, drainage and other improvements, as depicted on the subdivision plan, as well as enter into any required Stormwater Maintenance Agreement. For any public improvements accepted by the Town, the Developer agrees to provide a one-year warranty of said improvements in the amount of 20% of the cost of the improvements and to be provided in a form acceptable to the Town. The one-year period shall commence upon acceptance by the Town Board of said improvements.

8. The Town Board shall determine whether to accept dedication of the public facilities upon the completion of the public facilities such as the roadway, sidewalks, storm water control facilities and storm water conveyance facilities, water mains, sewer mains, and sanitary sewer pumping station, upon the approval of the Commissioner of Public Works, Planning and Zoning Department, Building and Codes Dept., and their Engineers. All dedication documents, deeds and title insurance shall be prepared by the

Applicant and submitted to the Town Attorney for approval.

9. Developer agrees that it will pay for all inspections and testing by the Town of East Greenbush personnel or Engineers, and will maintain satisfactory escrows, as specified by the Town or its Planning Board or Planning and Zoning Department, to pay all testing, engineering and legal requirements.

10. It is further agreed that a deed, with all accompanying documents for recording with the County Clerk, to the premises described as a public roadway, along with a dedication to the Town of East Greenbush of the roadway and all public improvements, e.g. sewer, water and stormwater for each section, shall be deposited by the Developer with the Town Attorney, prior to the filing of the subdivision map for that section. These documents shall be held in escrow and utilized when the roadway and infrastructure are accepted for dedication by the Town Board.

11. Commencing upon the start of any construction or installation of improvements on any Town property or rights of way, and at all times thereafter until completion of the work thereon, the Developer shall maintain and shall cause its contractors performing the work to maintain, public liability insurance covering death or bodily injury of not less than \$1,000,000.00 for one person and \$3,000,000.00 in the aggregate and property damage coverage with limits of not less than \$500,000.00, which insurance shall name the Town as an additional insured and Worker's Compensation insurance fully covering all persons engaged in the performance of such work.

Comment [AY1]: Colleen to review

12. The Developer acknowledges that the development will impact the Town's sanitary sewer system. The Developer acknowledges that the Town is undertaking improvements to upgrade the Town's sanitary sewer system, which have been designed to

address these potential impacts, and the Developer has provided an Engineers Report showing that capacity of approximately 3,089 lf of sanitary sewer main and related infrastructure will need to be increased ("Required Off-Site Sewer Improvements"). Developer has agreed to provide final design for the Required Off Site Sewer Improvements and further agrees to provide the Town sufficient funds in escrow to cover the Town's costs for a peer review of the final design as well as the required bid and construction phase services. Developer has agreed to provide a contribution for said improvements to the Town in the amount necessary for the bidding and construction of the improvements. Said payment will be made prior to the signing of the first section of the subdivision map by the Town of East Greenbush Planning Board Chairperson.

13. The Developer acknowledges that the Town's General Sewer District and Consolidated Water District will need to be extended to encompass the following properties: 155.-5-4.

14. If the Developer at any time fails to comply with any of the material terms of this agreement or any part of the requirements herein mentioned with respect to the construction of the highway or other improvements which are subject to this Agreement, then, upon notice to the Developer, as set forth herein, the Town may issue a Stop Work Order and require the Placement of a Letter of Credit or Performance Bond to guaranty completion of this phase of construction. The Town shall give notice to CLDZ, LLC in writing at 494 Western Turnpike, Altamont, NY 12009, that states:

- (a) The requirement, obligation or agreement that the Developer has failed to keep or the default that has occurred;
- (b) The action that Developer must take to correct the default; and
- (c) A date by which Developer must correct the default. That date must be at

least thirty (30) days from the date on which the notice is given.

15. The Developer is required to pay GEIS land development mitigation fees and agrees to pay such fees as required under Local Law 5 of 2018 and any subsequent amendments thereto. 18. The Developer agrees that a homeowners association (HOA) will be formed in accordance with applicable law. The HOA formation documents will be provided to the Town for review prior to their filing with the NYS Office of the Attorney General. The Developer agrees that the HOA will be responsible for annual and required seasonal maintenance of the following: the emergency access road as shown on Exhibit A to the satisfaction of the East Greenbush Fire District and Best Luther Fire District and Town Commissioner of Public Works; the common mailbox area, stormwater management practices, required open space areas (including the recreation area), permanent stormwater management facilities, wetland protection signage, and the emergency access roadway, sidewalks installed as part of the project, and trails.

IN WITNESS WHEREOF, the parties have hereunto executed this Agreement this _____ day of _____, 2022.

TOWN OF EAST GREENBUSH

By: _____
Jack Conway
Supervisor

DRAFT

CLDZ , LLC

By:_____

By:_____

STATE OF NEW YORK)
) ss.:
COUNTY OF RENSSELAER)

On the _____ day of _____, in the year 2022, before me, the undersigned, a Notary Public in and for said State, _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within Instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the Instrument.

Notary Public

STATE OF NEW YORK)
) ss.:
COUNTY OF RENSSELAER
)

On the _____ day of _____, in the year 2022, before me, the undersigned, a Notary Public in and for said State, personally appeared SCOTT SASO, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within Instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the Instrument.

Notary Public

STATE OF NEW YORK)
) ss.:
COUNTY OF _____)

On the _____ day of _____, in the year 2022, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within Instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the Instrument.

Notary Public

STATE OF NEW YORK)
) ss.:
COUNTY OF _____)

On the _____ day of _____, in the year 2022, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within Instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the Instrument.

Notary Public

Comment [AY2]: UPDATE

DRAFT 2/9/2022

EXHIBIT "A"

DRAFT

DRAFT 2/9/2022

EXHIBIT "B"

DRAFT

DRAFT 2/9/2022

EXHIBIT "B"

DRAFT

DRAFT 2/9/2022

EXHIBIT "D"

DRAFT

RESOLUTION APPROVED BY THE EAST GREENBUSH PLANNING BOARD

ON _____, 2020

MATT MASTIN, PLANNING BOARD CHAIRMAN

DRAFT

PROJECT NAME: CARVER COURT MAJOR 110-LOT CLUSTER SUBDIVISION
FINAL DATE: FEBRUARY 9, 2022

BENOIT
MAJOR 2-LOT SUBDIVISION
416-418 HAYS ROAD
FEBRUARY 9, 2022

MOTION to SCHEDULE PUBLIC HEARING
(21-23)

MOTION: A motion was made by Chairman Mastin as follows:
The Town of East Greenbush Planning Board hereby schedules a Public Hearing for February 23, 2022, either remotely via Zoom or at the East Greenbush Town Hall at 7:00PM.

End of Motion

C & T EAST GREENBUSH, LLC
590 COLUMBIA TURNPIKE
MINOR SITE PLAN MODIFICATION
FEBRUARY 9, 2022

MOTION FOR CONDITIONAL APPROVAL (22-01)

A motion was made by Chairman Mastin as follows: **The Town of East Greenbush Planning Board hereby classifies this action as a Type II SEQRA action in accordance with 6 CRR-NY 617.5(9) “construction or expansion of a primary or accessory/appurtenant, non-residential structure or facility involving less than 4,000 square feet of gross floor area and not involving a change in zoning or a use variance and consistent with local land use controls, but not radio communication or microwave transmission facilities”, and grants conditional final approval of the proposed minor site plan modification subject to the following conditions:**

- **Satisfying outstanding technical details as determined by the Town’s Consulting Engineer and Town Planning Department;**
- **Site plan shall not be considered to have final approval until necessary improvements in connection with Town Center PDD, approved major site plan as shown on plans entitled “Town Center Development Phase 1” prepared by Hart Engineering, dated December 2020, and last revised July 12, 2021, are determined by the Town to be complete;**

End of Motion