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**CERTIFIED ENGINEERING**  
**P (908) 879-9663: F (908) 879-5500: C (973) 224-3654**  
[optimumdev.org](http://optimumdev.org)  
[amortezai@optimumdev.org](mailto:amortezai@optimumdev.org)

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**April 24, 2023**

Ms. Beth Foley  
Planning Board Secretary  
MENDHAM TOWNSHIP PLANNING BOARD  
2 West Main Street  
Brookside, NJ 07926

Re: **Application # PB 22-XX**  
**Optimum Development (“Applicant”)**  
**Completeness Review #3**  
**Block 116, Lot 47**  
**239 Mountainside Drive**  
**Township of Mendham, Morris County**

Dear Ms. Foley:

Thank you for receiving our revised plans for the reference minor site plan application. In response to recent comments received in Completeness Review # 3, dated 3-27-2023, and via telephone correspondence between Mr. Andrew M. Brewer, Esq, Board Attorney and Mr. Michael J. Lipari, Esq, Attorney for the Applicant we are providing the attached set of plans last date revised 4-23-2023.

The following revisions were made as directed by the Board and the Township Engineer.

1. Sheet 1 of 9, “Cover Sheet”, no revisions made, dated March 14, 2023.
2. Sheet 2 of 9, “Preliminary Minor Subdivision Plat”; added the North arrow, removed and old note, corrected the Lot acreages on the Tables, removed the raingardens and added grass/vegetated lined swales. Last date revised 4-17-2023.
3. Sheet 3 of 9, “Survey”; added the north arrow and deleted an old note. Last revised 3-28-2023.
4. Sheet 4 of 9, “Topographical Survey”; Revised the number of trees to be removed as required for the two lot subdivision. A total of approximately 63 trees of various species caliper sizes (as shown on the Summary Table provided on the plan sheet) will be removed out of a total of approximately 241 tree. There is no rare or T&E vegetation species on site that will be removed or impacted. Last revised 4-1-2023.
5. Sheet 5 of 9, “Grading, Drainage Plan and Profile”; Revised the proposed house location on Lot 1.01 (final lot numbers to be determined by the Township), removed the raingardens, and added the grass/vegetated swales. Last revised 4-17-2023.
6. Sheet 6 of 9. “Soil Erosion and Sediment Control Notes”; Revise construction sequence as

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directed by Morris County SCD. Last revised 3-27-2023.

7. Sheet 7 of 9, "Soil Erosion and Sediment Control Plan"; Revised the proposed house location on Lot 1.01, removed the raingardens, and added the grass/vegetated swales. Last revised 4-17-2023.
8. Sheet 8 of 9, "Utility Plan"; Revised the proposed house location on Lot 1.01, removed old notes and the raingardens, and added the grass/vegetated swales. Last revised 4-23-2023.
9. Sheet 9 of 9, "Construction Details"; Added standard Township street sign detail, added dry well analysis per MCSCD directions, and added Grass/Vegetated Swale detail. Last revised 4-17-2023.

As well as the plans we are providing an updated application requesting a **Bulk Variance (40:55D-70c)**. An updated EIS for the current lot layout is also attached as requested. Included in the EIS is a copy of the NHP Letter received from NJDEP. The project does not impact any environmentally sensitive areas.

A Variance is being requested to address the Lot Geometry Circle (LGC) required for the lots. The Schedule of Requirements Table, from the Mendham Township Ordinances, requires that in the R-3 Zone (project location) the LGC is 250-foot Diameter, which we have shown on our site plan and demonstrate the two lots comply with the requirement. However, since our property is next to Homan Lane (a Private Common Driveway) and is also next to a "Private Road, that serves only Lot 49, our property, which fronts Mountainside Road, faces more than one "Street" and as such would require the LGC., as per Note 1 on the "Schedule of Requirements" table, would need to be increase by 25% or a 312'-6" Diameter, and a Variance is required to use the smaller LGC.

We respectfully request a Variance as follows:

While Homan Lane and the Private Road are shown on the Tax Maps and Township Maps, they Function as Driveways and not Local Roads and Streets due to the following:

1. Per the Mendham Township Ordinance by definition, page 1215, a "Street" means any street that is an existing State, County or Municipal Road, and additionally, "Street. Existing Improved, as Applied to Minor Subdivision", which our project is a Minor Subdivision, is any street that is presently maintained by the State, County or Township and can be traversed at all times of the year by modern motor vehicles and emergency vehicles.
2. Neither Homan Lane nor the Private Road to Lot 49 meet this definition and use. Homan Lane by the Developers Agreement is not maintained by the Township, nor can it be traversed by motor vehicles at all times of the year. There is no public access, and Homan Lane is restricted to use only by the owners/private vehicles and cannot be traversed by motor vehicles at all times of the year. Homan Lane is and meets the definition of a "Common Driveway", page 1204, a Private Roadway providing common access to a street for more than one lot. Access is only available to the common owners.

3. The same can be said for the Private Road to Lot 49, which is and meets the definition of a Driveway, page 1206 attached, a Private Roadway providing access from a public or private street for motor vehicles to a garage, dwelling or other building. The Private Drive is the driveway to Lot 49 and is not traversable by motor vehicles at all times of the year, it only serves the private owner.

Both Homan Lane and the Private Road, their use granted by the Township, create undue hardship on the project. Because of the way the lot is shaped and located between the two adjacent driveways/streets, topographical conditions, and existing physical features (steep slopes), heavily vegetated with large diameter trees, using the larger LGC would move the location of Lot 1.01 to areas where more impacts would occur on site. The conditions that would be created comply with **Chapter XV, 15-8 c.1.**, and we also request a Variance under the Ordinance.

Using the larger diameter LGC would require pushing Lot 1.01 further north, as shown in the attached **FIGURE 1**, resulting in the following:

1. In order to accommodate the larger LCG, with the new setbacks for the front, rear and side yards, the building envelope will be pushed north, and the driveway length will increase from 200-lf to approximately 600-lf. This results in an increase in impervious cover from 0.117-acres to 0.276-acres or by about 0.159-acres. In addition, the Limit of Disturbance will also increase from about 1.6-acres to 2.1-acres or by about 0.50-acres.
2. The longer driveway will require additional maintenance, longer walk to access Township services such as mail, trash collection, School Buses, snow removal, etc.
3. The new location will also result in impacts to Critical Slopes. The current layout (250' LGC) does not impact any Critical slopes, the larger LGC (312'-6") will result in about 0.045-acres or 2,000-sf minimum. The location also leaves very narrow rear yard possibly requiring additional future impacts by home owners to have a more functional rear yard.
4. The revised location will require the removal of additional trees. Approximately 12 trees can be saved but 28 trees will need to be removed to build the driveway and house for the new Lot 1.01 location due to the larger LGC requirement. Approximately 16 trees will be removed. In accordance with **Chapter XXIII**, "Tree Preservation and Landscape Regulations, in the interest of the general welfare of the Township and its inhabitants, the Township adopt reasonable rules and regulations for the to protect trees within the Township against the unnecessary destruction, removal, injury and disease. While the revised layout shown in **FIGURE 1**, requires no variances, it impacts on the trees on site, which can be avoided by using the smaller LGC layout shown on the current plans.

The granting of the Variance requested for the proposed project will be in the best interest of the Township and its local residents. The Layout with smaller LGC (250'R) as shown on the plans does not result in detrimental impacts to the environment. The project does not impact critical slopes, results in

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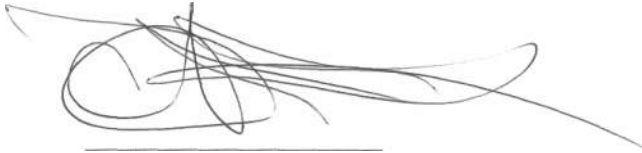
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less impervious surface than the larger LGC (312'-6"R) and more importantly avoids unnecessary removal of large diameter trees due to the extended driveway and location of the house further north towards critical slope areas. The two existing adjacent streets, Homan Lane and the Private Drive, function as driveways and there would be no detrimental impact on traffic as access to the driveways is restricted. The preservation of the trees and no impacts to critical slopes result in less impact to the environment, public health, safety, and welfare. Therefore, we respectfully request a Variance and propose the project as indicated on the revised plans.

The revised plans and attached additional data should satisfy all the items as requested. Should you require additional information please do not hesitate to contact our office.

Thank you kindly for your consideration, with professional regards.



Anthony A. Mortezaei PE, PP President  
Optimum Development Group Corp.

[www.optimumdev.org](http://www.optimumdev.org)

Ce11-973 224-3654; Off-908 879-2663; Fax-908 879-5500

Cc: Mr. Andrew M. Brewer, Esq, Board Attorney  
Mr. Michael J. Lipari, Esq, Attorney for the Applicant  
Mr. Dennis Keenan, PE FPA Engineers  
Ms. Stephanie Williams, PE FPA Engineers