



PAUL M. GERAGHTY*
MICHAEL S. BONNANO
MARK A. DUBOIS†
PATRICIA A. KING**
JONATHAN E. FRIEDLER††

Cheryl R. Larder, Paralegal
Sara Bessette, Paralegal
Nicolette Waring, Legal Assistant

*Also Admitted in New York

† Board Certified, Trial Advocate

**Se habla español

†† Also Admitted in Massachusetts and North Dakota

January 7, 2020

Via email ggoeschel@eltownhall.com

& UPS Overnight

Gary Goeschel
Director of Planning
Town of East Lyme
108 Pennsylvania Avenue
Niantic, CT 06357

Re: Nottingham Hills Subdivision

Dear Gary:

This correspondence shall serve as my client, English Harbour Asset Management LLC's, request for the following actions by the Town of East Lyme Planning Commission regarding the above referenced subdivision. These requests come as a result of a recent title search undertaken in conjunction with the sale of a large portion of my client's remaining property to the East Lyme Land Trust, Inc.

1. Release of the Open Space Covenant recorded in the East Lyme Land Records Vol. 653, Page 355, Ex. A.

This request is supported by the fact the requirements of the subject covenant were met well over a decade ago and this covenant represent an unnecessary and unwarranted encumbrance of my client's properties.

2. Assignment and recording of the Conservation Easement in favor of the East Lyme Land Trust, Inc. (see proposed easement Ex. B).

This request is made as a result of the fact the East Lyme Land Trust is purchasing the abutting property, Ex. C. This easement was proposed as open space as part of the Nottingham Hills Subdivision Phase IIA (see map

Replies to New London only at:

38 GRANITE STREET, PO BOX 231
NEW LONDON, CONNECTICUT 06320

WWW.GERAGHTYBONNANO.COM

131 DWIGHT STREET
NEW HAVEN, CONNECTICUT 06511

TELEPHONE (860) 447-8077 / FAX (860) 447-9833

recorded in the Town of East Lyme Land Records) Drawer 6 #168 and attached hereto as Ex. D.

3. Assignment or alternatively the release of the Conservation Easement in conjunction with the Nottingham Hills Subdivision Phase IV recorded in the Town of East Lyme Land Records Vol 870, Page 689, Ex. E and also identified on the map recorded in Drawer 6 #'s 602 & 603 (Ex. F).

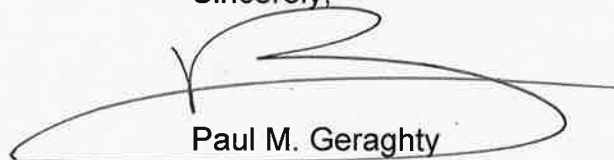
As identified on the map previously referenced herein, Ex. B, the East Lyme Land Trust is acquiring both the portions of the easement property and over thirty (30) additional acres to hold in perpetuity as publicly accessible open space and this property is unnecessary to provide the required open space for the development of the subdivision.

In addition, the release request is also supported by the Memorandum of Law directed to you from Mark Block, Esq. dated February 1, 2010, Ex. G, and the fact, as previously stated, the subdivision absent this property, has met its open space obligations. Moreover, the conveyance of this property to the East Lyme Land Trust will protect this property as publicly accessible open space.

Would you please add these requests to the February 4, 2019 Town of East Lyme Planning Commission agenda.

Please feel free to contact me should you have any questions or which to discuss these matter further.

Sincerely,



Paul M. Geraghty

cc: Kristen Clarke, P.E.

EXHIBIT A

WHEREAS, NIANTIC REAL ESTATE, LLC, is the Developer for Subdivision entitled "NOTTINGHAM HILLS SUBDIVISION NIANTIC REAL ESTATE, LLC BOUNDARY PLAN UPPER PATTAGANSETT ROAD EAST LYME CT DATE 5/4/01 REVISED THROUGH 11/30/01 ANCHOR ENGINEERING SERVICES, INC. SCALE 1" = 100' SHEET NO. L1"; and

WHEREAS, Lot 6 is shown thereon, is comprised of a large tract of land subject to future development; and

WHEREAS, it is not anticipated that such development will consist of a subdivision of land; and

WHEREAS, the Developer has requested and received a Modification of said approval to eliminate the requirement of sidewalks; and

WHEREAS, in conjunction with said approval, Open Space was to be provided on Lot 6 in the approximate amount of thirty (30) acres; and

WHEREAS, the Developer and the Town would desire to provide a mechanism for the future placement of sidewalks, should the Commission or Town require sidewalks to be placed in any such future development on the land identified as Lot 7 and further, to provide for a future area of Open Space of approximately thirty (30) acres as identified in Note 6 of the above-referenced plan.

NOW THEREFORE, the Developer covenants and agrees as follows:


1. Should any land use Commission of the Town of East Lyme require sidewalks to be placed in the confines of any such development on Lot 6, the Developer agrees that such future requirement of sidewalks may include the requirement that sidewalks be constructed by the

Developer within Phase I of NOTTINGHAM HILLS so as to make a continuous sidewalk path to Upper Pattagansett Road, it being intended that said sidewalk may be in lieu of a trail system providing pedestrian access to Upper Pattagansett Road.

2. Any future development of Lot 6, as shown on said plan, shall include Open Space in an amount not less than thirty (30) acres, provided however, that upon Application to and approval by the Planning Commission for the Town of East Lyme, said Open Space may be substituted by dedication of appropriate land in an alternate location.

3. This covenant shall be deemed to be a real covenant which shall run with the land and shall bind Niantic Real Estate, LLC, and/or any future owners of the property and enforced by the East Lyme Planning Commission.


Dated at Niantic this 19th day of December, 2003.


Theodor A. Harris



Matthew A. Harris

STATE OF CONNECTICUT)
) ss:
COUNTY OF NEW LONDON)

Niantic Real Estate, LLC

By: 
Jeffrey A. Torrance

Personally appeared, Jeffrey A. Torrance, Member of Niantic Real Estate, LLC, duly authorized, signer and sealer of the foregoing instrument, and acknowledged the same to be his free act and deed and the free act and deed of the said Niantic Real Estate, LLC, before me.


Commissioner of the Superior Court

Recorded Dec 23 20 03
3:16 PM Peter J. Williams
East Lyme Town Clerk

OPEN SPACE CALCULATIONS
NOTTINGHAM HILLS SUBDIVISION

Phase I

<u>Lot #</u>	<u>Acreage</u>
1	1.71
2	.92
3	1.25
4	1.39
5	1.23
6	1.21

Phase II

6	1.34
8	2.21
9	3.09
10	1.95
11	1.71
30	1.29
31	1.34
48	2.96
49	2.11
197 Upper Patt	2.68

Phase III

12	1.06
13	1.34
14	1.17
15	1.27
16	1.35
17	1.0
18	.93
19 (rear)	2.45
20	Phase IV
21 (rear)	3.12
22	1.30
24	1.73
25	1.78
26	2.58
27	2.91

28	4.36
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Phase IV

20	33.0
29	3.05
32	15.03

Open Space

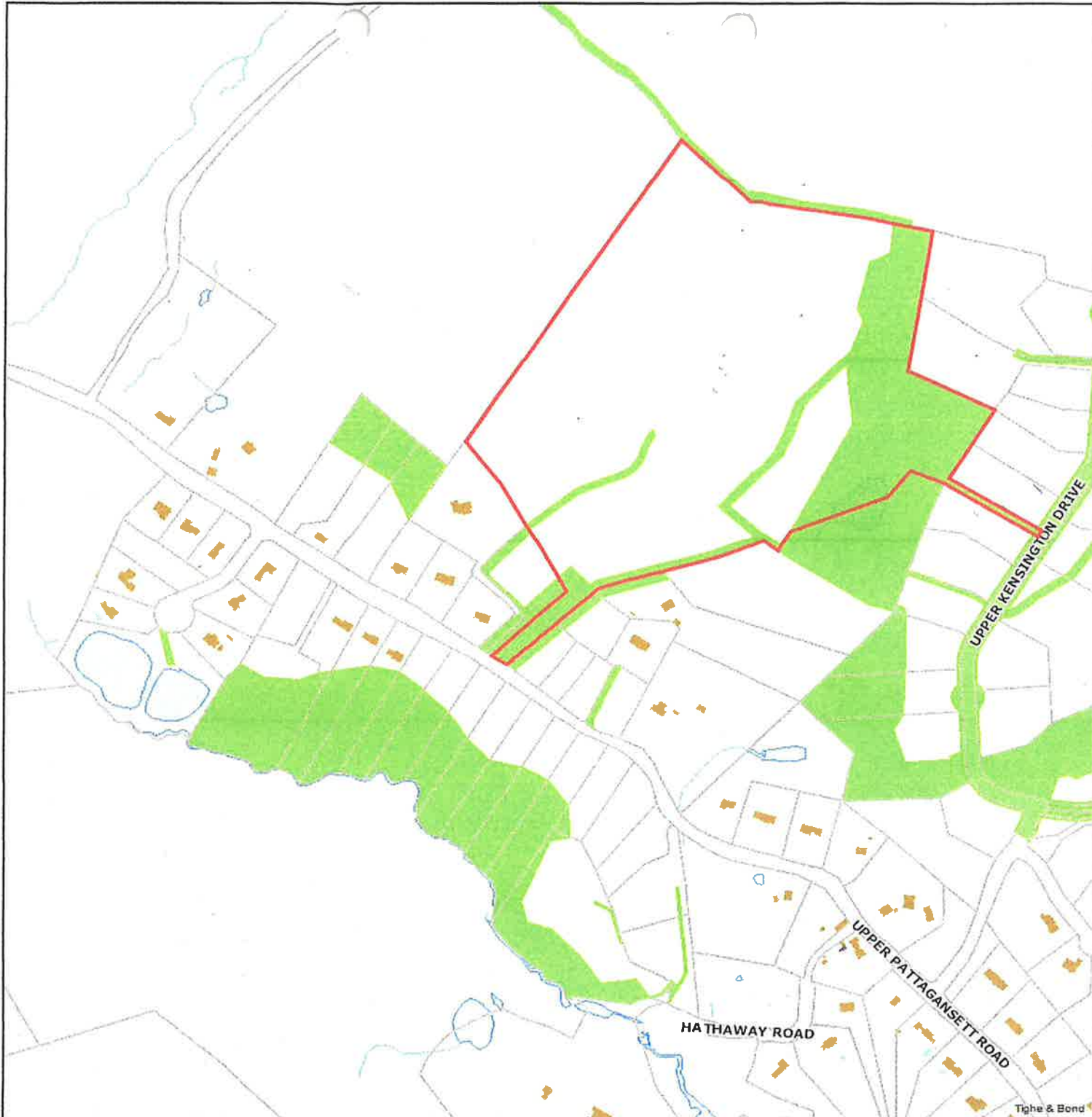
Aunt Ruth Turnpike	23.2	
Phase I	.32	(south side Kensington Drive)
Phase II	4.24	(Conservation Easement)
Phase III	N/A	
Phase IV	10.63	(Conservation Easement)
	2.96	(Conservation Easement)

TOTAL ACRES

LOTS:	107.82
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OPEN SPACE:	41.35
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EXHIBIT B



UPPER PATTAGANSETT

1/3/2020 2:03:15

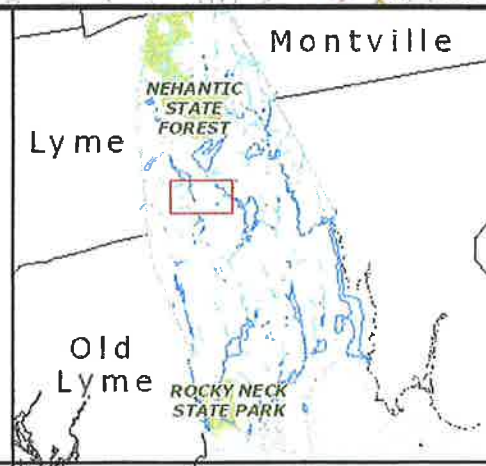
1"=500'

Property Information

Parcel ID	39.0 10-1
Address	UPPER
Sale Price	Null



The information depicted on this map is for planning purposes only. It is not adequate for legal boundary definition, regulatory interpretation, or parcel-level analyses.



Grantors or the owners of the servient tenements for any changes to the Conservation Easement area due to causes beyond the control of the Grantor's or the owners of the servient tenements, such as changes caused by fire, flood, storm, earthquake, insect infestation, wildlife damage, or the unauthorized wrongful acts of third parties.

In the event that the Grantee becomes aware of an event or circumstance of noncompliance with the terms and conditions herein set forth, the Grantee shall give notice of such event or circumstances of noncompliance by certified mail, return receipt requested, to the owner of the servient tenement of the property involved at his last known address, such notice to contain a request for corrective actions reasonable required to abate such even or circumstances of noncompliance and restore the conservation Easement area to substantially its previous condition.

Failure by the owner of the servient tenement to whom notice has been given to cause discontinuance or abatement or to undertake such other action as may be reasonably requested by the Grantee within thirty (30) days after receipt of notice shall entitle the Grantee to bring an action at law equity in a court of competent jurisdiction to enforce the terms of the conservation Easement to require the restoration of the Conservation Easement area to substantially its previous condition, to enjoin such noncompliance by appropriate temporary or permanent injunction and/or to seek to recover damages arising from such noncompliance. Such damages, when and if removed shall be applied by the Grantee first to any necessary corrective action on the Conservation Easement area, then to other damages incurred by the Grantee and arising from such noncompliance. Such damages, when and if recovered shall be applied by the Grantee first to any necessary corrective action of the Conservation Easement area, then to other damages incurred by the Grantee and arising from such noncompliance.

If a court of competent jurisdiction determines that an owner of the servient tenement has failed to comply with the terms and conditions of this Conservation Easement, the owner shall reimburse the Grantee for any reasonable cost of enforcement, including court costs and reasonable attorney's fees. If such court determines that such owner was in compliance with the terms and conditions of this Conservation Easement the Grantee shall reimburse such owner for court costs and reasonable attorney's fees, in addition to any other payments ordered by such court. The Grantors, for themselves, their heirs, successors and assigns, hereby waive any defense of laches with respect to any delay by the Grantee, its successors and assigns, in actions to enforce any restriction to exercise any rights under this grant.

This instrument shall be recorded on the land records to the Town of East Lyme and shall be governed by the laws of the State of Connecticut. In the event that any provisions of clause of this instrument conflicts with any applicable law, such conflict shall not effect other provision of this instrument which can be given effect without the conflicting provision, and, to this end, the provisions hereof are declared to be severable

IN WITNESS WHEREOF, I have hereunto set my hand this ____ of
_____, 20

**NIANTIC REAL ESTATE LIMITED
LIMITED LIABILITY COMPANY**

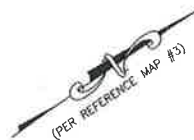
By _____
Jeffrey A. Torrance, Manager

STATE OF CONNECTICUT)
) ss:
COUNTY OF NEW LONDON)

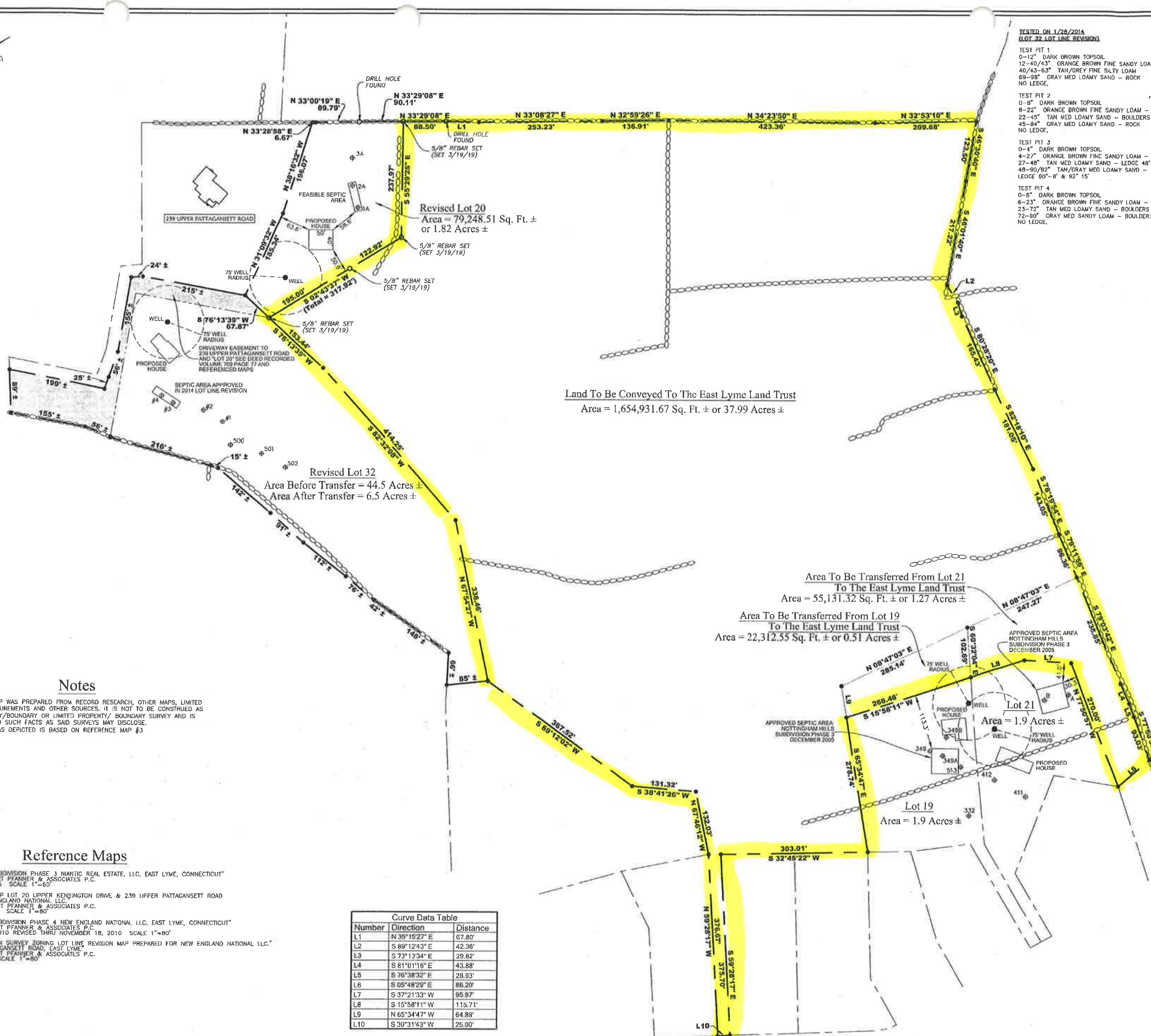
Personally, appeared Jeffrey A. Torrance, Member of Niantic Real Estate Limited Liability Company, signer and Sealer of the foregoing instrument, and acknowledged the same to be his free act and deed and the free act and deed of said limited liability company, before me.

Commissioner of the Superior Court
Notary Public

EXHIBIT C



Upper Pattagansett Road



Notes

A. THIS MAP WAS PREPARED FROM RECORD RESEARCH, OTHER MAPS, LIMITED FIELD MEASUREMENTS AND OTHER SOURCES. IT IS NOT TO BE CONSTRUED AS A PROPERTY/BOUNDARY OR LIMITED PROPERTY/BOUNDARY SURVEY AND IS SUBJECT TO SUCH FACTS AS SAID SURVEYS MAY DISCLOSE.
B. NORTH AS DEPICTED IS BASED ON REFERENCE MAP #3

Reference Maps

- "NOTTINGHAM HILLS SUBDIVISION PHASE 3 NANTIC REAL ESTATE, LLC, EAST LYME, CONNECTICUT" PREPARED BY J. ROBERT PFANNER & ASSOCIATES P.C. DATED AUGUST 1, 2005 SCALE 1"=60'
- "LOT LINE REVISION MAP LOT 20 UPPER KENSINGTON DRIVE & 239 UPPER PATTAGANSETT ROAD PREPARED FOR NEW ENGLAND NATIONAL LLC. PREPARED BY J. ROBERT PFANNER & ASSOCIATES P.C. DATED APRIL 28, 2006 SCALE 1"=80'
- "NOTTINGHAM HILLS SUBDIVISION PHASE 4 NEW ENGLAND NATIONAL LLC, EAST LYME, CONNECTICUT" PREPARED BY J. ROBERT PFANNER & ASSOCIATES P.C. DATED OCTOBER 20, 2010 REVISED THRU NOVEMBER 18, 2010 SCALE 1"=80'
- "IMPROVEMENT LOCATION SURVEY ZONING LOT LINE REVISION MAP PREPARED FOR NEW ENGLAND NATIONAL LLC." LOCATION UPPER PATTAGANSETT ROAD, EAST LYME, CONNECTICUT. PREPARED BY J. ROBERT PFANNER & ASSOCIATES P.C. DATED MAY 5, 2014 SCALE 1"=80'

Curve Data Table		
Number	Direction	Distance
L1	N 35°15'27" E	67.80'
L2	S 89°12'43" E	42.36'
L3	S 73°13'34" E	29.82'
L4	S 81°01'16" E	43.88'
L5	S 76°38'32" E	28.93'
L6	S 65°48'29" E	88.20'
L7	S 37°21'33" W	95.87'
L8	S 15°58'11" W	115.71'
L9	N 65°34'47" W	64.89'
L10	S 30°31'43" W	25.00'

TESTED ON 1/28/2014
(LOT 32 LOT LINE REVISION)

TEST PIT 1
0-12" DARK BROWN TOPSOIL
12-40/43" ORANGE BROWN FINE SANDY LOAM
40/43-63" TAN/GREY FINE SILTY LOAM
63-88" GRAY MED LOAMY SAND - ROCK
NO LEDGE,
TEST PIT 2
0-8" DARK BROWN TOPSOIL
8-22" ORANGE BROWN FINE SANDY LOAM - BOULDERS
22-45" TAN MED LOAMY SAND - BOULDERS
45-84" GRAY MED LOAMY SAND - ROCK
NO LEDGE,
TEST PIT 3
0-4" DARK BROWN TOPSOIL
4-27" ORANGE BROWN FINE SANDY LOAM - BOULDERS
27-48" TAN MED LOAMY SAND - LEDGE 48"-4 FROM N
48-80/82" TAN/GRAY MED LOAMY SAND
LEDGE 80"-8" & 82" 15'
TEST PIT 4
0-6" DARK BROWN TOPSOIL
6-23" ORANGE BROWN FINE SANDY LOAM - BOULDERS
23-72" TAN MED LOAMY SAND - BOULDERS
72-80" GRAY MED SANDY LOAM - BOULDERS
NO LEDGE,

TESTED ON 2/20/09
(NOTTINGHAM HILLS PHASE 4)

LEDGE LIGHT HEALTH DISTRICT
Ryan McCommon RS
TEST PIT 1A
0-5" DARK BROWN TOPSOIL
5-32" ORANGE BROWN FINE-MEDIUM SANDY LOAM
32-39" MEDIUM BROWN FINE SILTY LOAM
39-54" GRAY MIX SANDY LOAM W/ SILTY LOAM
54-85" DARK GRAY MEDIUM SILTY LOAM WET
NO LEDGE, MOTTLING @ 39"
TEST PIT 2A
0-7" DARK BROWN TOPSOIL
7-21" ORANGE BROWN FINE-MEDIUM SANDY LOAM
21-42" MEDIUM BROWN FINE SILTY LOAM W/POCKETS MEDIUM SAND
42-81" GRAY MIX SANDY LOAM W/ SILTY LOAM
81-85" DARK GRAY MEDIUM SILTY LOAM MOIST
NO LEDGE, MOTTLING @ 21"
TEST PIT 3A
0-7" DARK BROWN TOPSOIL
7-29" ORANGE BROWN FINE-MEDIUM SANDY LOAM
29-42" MEDIUM BROWN FINE SILTY LOAM W/POCKETS MEDIUM SAND
42-64" GRAY MIX SANDY LOAM W/ SILTY LOAM
64-87" DARK GRAY MEDIUM SILTY LOAM MOIST
NO LEDGE, MOTTLING @ 21"

TESTED ON VARIOUS DATES
(NOTTINGHAM HILLS PHASE 3)

TEST HOLE #349
0-4" - TOPSOIL & HUMUS
4-24" - ORANGE/BROWN LOAMY SAND
24-40" - TAN FIRM, FINE SILTY SAND
40-65" - TAN/BROWN FIRM/COMPACT FINE SILTY SAND & STONE
-LEDGE 9, NO WATER, MAX. WATER 1 66" +/-
TEST HOLE #349-B
0-4" - TOPSOIL & HUMUS
4-22/24" - ORANGE/BROWN LOAMY SAND
22-97" - ORANGE/BROWN MED/FINE TO FINE SILTY SAND & STONE
-LEDGE/FRACTURED LEDGE 20-70" (WEST END - CENTER), NO WATER,
NO MAX. WATER
TEST HOLE #332
0-14" - TOPSOIL & HUMUS
14-33/36" - ORANGE/BROWN LOAMY SAND
33-60" - TAN/BROWN FINE SILTY SAND
60-98" - BLACK/BROWN MIX FINE SILTY SAND & STONE
-MIX FRACTURED ROCK WITH SILTY SAND & STONE 50", NO WATER,
NO MAX. WATER
TEST HOLE # 411
0-4/6" - HUMUS
4-20/22" - BROWN LOAMY SAND
20-157" - ALT. LAYERS OF BLACK/TAN/BROWN MED/FINE
TO FINE SILTY SAND, SOME STONE
-NO LEDGE, NO WATER, MAX. WATER 131" +/-
TEST HOLE # 412
0-4/6" - TOPSOIL & HUMUS
4-26" - RED / BROWN LOAMY SAND
26-168" - ALT. LAYERS OF BLACK/TAN/ORANGE BROWN MED/FINE
TO FINE SILTY SAND, SOME STONE
-NO LEDGE, NO WATER, NO MAX. WATER
TEST HOLE #513
0-8/10" - TOPSOIL & HUMUS
8-28" - ORANGE/BROWN LOAMY SAND
28-42" - TAN FINE TO VERY FINE SILTY SAND
42-60" - TAN/BROWN MED/FINE TO FINE SILTY SAND & STONE
60-64/87" - GRAY/TAN FIRM, FINE SILTY SAND & STONE
-LEDGE/FRACTURED LEDGE VARIES (SEE PROFILES), NO WATER,
NO MAX. WATER
TEST HOLE #500
0-8/10" - TOPSOIL & HUMUS
8-32/44" - BROWN FINE LOAMY SAND/SANDY LOAM
32-67/91" - ORANGE/TAN MEDIUM/FINE TO FINE SILTY SAND & STONE
(78°/91°/67° N-S)
67-85/122" - DARK ORANGE/BROWN MED/FINE TO FINE SILTY SAND
& STONE (BOTTOM 101°/122°/85° - N-S), HEAVILY CEMENTED DUE
TO IRON PPT, TOP 1 FT. OF LAYER
LEDGE 101-122-85° N-S, DECOMPOSED STONE MIX NORTH END AT 76",
NO WATER, MAX. WATER 76°/91°/67° N-S
TEST HOLE #501
0-8/10" - TOPSOIL & HUMUS
8-32" - BROWN SANDY LOAM
32-84/87" - GRAY/TAN MED/FINE TO FINE SILTY SAND & STONE
84-86/86" - DARK BROWN FINE SILTY SAND & STONE - LEDGE ?
86-96" - NO WATER, MAX. WATER 84/87"
TEST HOLE #502
0-32" - TOPSOIL, HUMUS AND ORANGE/BROWN LOAMY SAND/SANDY LOAM
32-86" - TAN TO GRAY/TAN MED/FINE TO FINE SILTY SAND & STONE
86-110" - DARK BROWN FINE SILTY SAND & STONE
-NO LEDGE 1, NO WATER, MAX. WATER 86" +/-
UNNUMBERED TEST HOLE A
(ADAMO SIDE OF HILL-NORTHERLY HOLE)
0-4" - HUMUS
4-28" - RED/BROWN LOAMY SAND
28-75" - TAN TO GRAY/BROWN TAN FINE SILTY
SAND & STONE
75-111" - MIX DECOMPOSED STONE WITH
DARK GRAY/BROWN FINE SILTY SAND & STONE
-DECOMPOSED STONE MIX 75", NO LEDGE,
NO WATER, MAX. WATER 58" +/-
UNNUMBERED TEST HOLE B
(ADAMO SIDE OF HILL-SOUTHERLY HOLE)
0-87" - GRAY/BROWN TO ORANGE/TAN
MEDIUM/FINE TO FINE SILTY SAND
87-98" - LEDGE
- LEDGE 87", NO WATER, MAX. WATER 78" +/-
(FORMER GRAVEL PIT)

Legend

SYMBOL	DESCRIPTION
●	PROPERTY CORNER
⊕	TEST PIT
○	WELL
---	PROPERTY LINE
---	PROPERTY LINE OTHER
---	EASEMENT LINE
---	STONEWALL

Scale: 1"=100'

GESICK & ASSOCIATES, P.C.
SURVEYORS & MAPPERS & PLANNERS
19 CEDAR ISLAND AVE.
CLINTON, CONNECTICUT 06413
OFFICE: 860-669-7799 FAX: 860-669-5833
www.gesicksurveyors.com

Lot Line Revisions

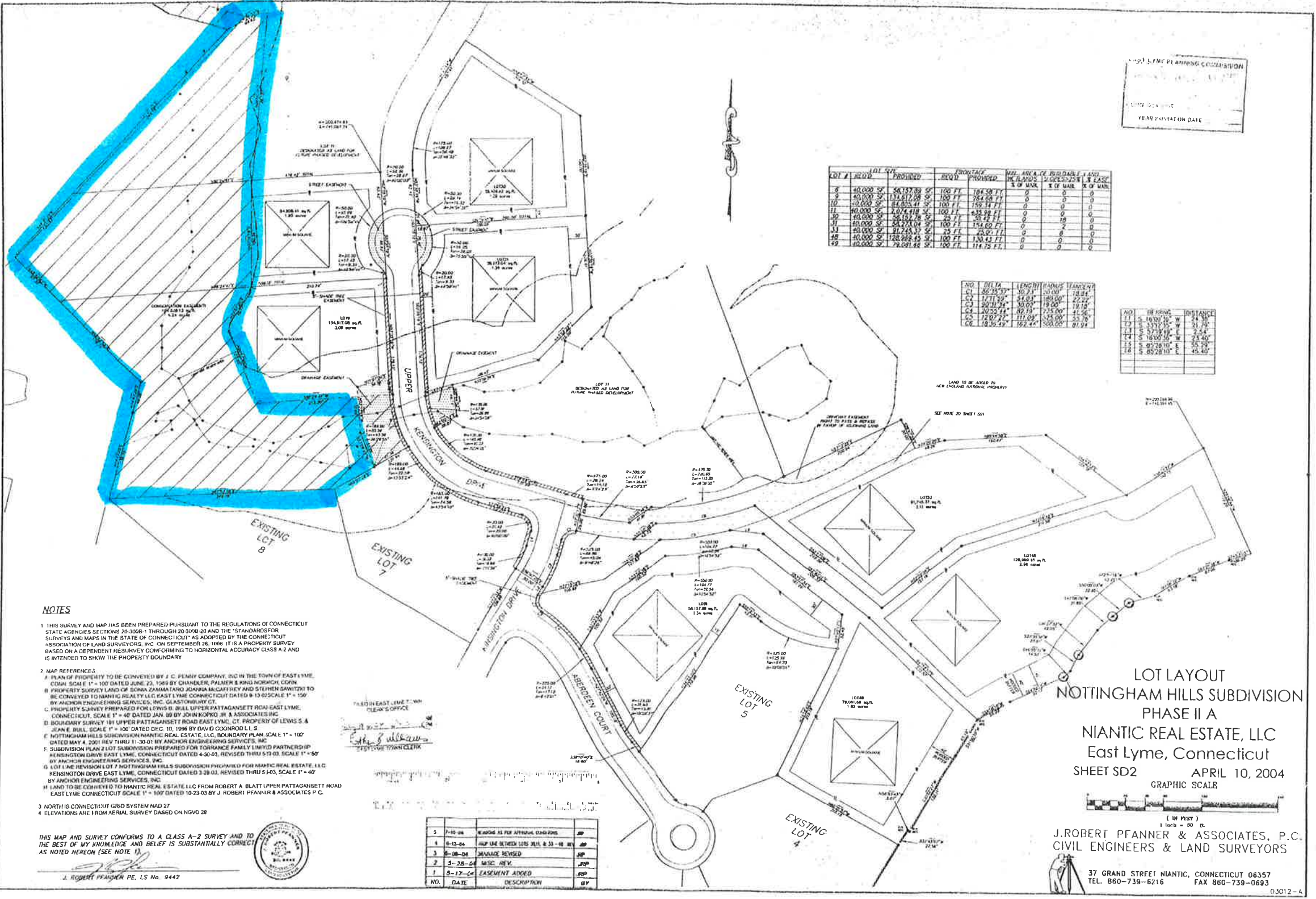
NOTTINGHAM HILLS SUBDIVISION LOTS 19, 20, 21 & 32
Property Owner: English Harbour Asset
Management LLC
c/o Kristen Clarke P.E.
375 N. Bend Drive
Manchester, NH

Revisions
3/1/19 - Revised Per Town Comments
6/20/19 - Revised Per Comments
11/19/19 - Revised Per Comments

Date: February 1, 2018
Drawing: 18-144
Drawn: P.H.
Sheet

1 OF 1

EXHIBIT D



LOT #	AREA	PERCENT	REMARKS	REMARKS	REMARKS	REMARKS	REMARKS
8	40,000	56,157.89	100	100	100	100	100
9	40,000	11,612.08	100	100	100	100	100
10	40,000	11,612.08	100	100	100	100	100
11	40,000	11,612.08	100	100	100	100	100
12	40,000	11,612.08	100	100	100	100	100
13	40,000	11,612.08	100	100	100	100	100
14	40,000	11,612.08	100	100	100	100	100
15	40,000	11,612.08	100	100	100	100	100
16	40,000	11,612.08	100	100	100	100	100
17	40,000	11,612.08	100	100	100	100	100
18	40,000	11,612.08	100	100	100	100	100
19	40,000	11,612.08	100	100	100	100	100
20	40,000	11,612.08	100	100	100	100	100

NO.	DATA	LENGTH	RADIUS	STATION
1	100.00	100.00	100.00	100.00
2	100.00	100.00	100.00	100.00
3	100.00	100.00	100.00	100.00
4	100.00	100.00	100.00	100.00
5	100.00	100.00	100.00	100.00
6	100.00	100.00	100.00	100.00
7	100.00	100.00	100.00	100.00
8	100.00	100.00	100.00	100.00
9	100.00	100.00	100.00	100.00
10	100.00	100.00	100.00	100.00

NO.	BEARING	DISTANCE
1	S 89° 58' 30" W	24.30
2	S 89° 58' 30" W	24.30
3	S 89° 58' 30" W	24.30
4	S 89° 58' 30" W	24.30
5	S 89° 58' 30" W	24.30
6	S 89° 58' 30" W	24.30
7	S 89° 58' 30" W	24.30
8	S 89° 58' 30" W	24.30
9	S 89° 58' 30" W	24.30
10	S 89° 58' 30" W	24.30

NOTES

1. THIS SURVEY AND MAP HAS BEEN PREPARED PURSUANT TO THE REGULATIONS OF CONNECTICUT STATE AGENCIES SECTIONS 20-306B-1 THROUGH 20-306D-20 AND THE "STANDARDS FOR SURVEYS AND MAPS IN THE STATE OF CONNECTICUT" AS ADOPTED BY THE CONNECTICUT ASSOCIATION OF LAND SURVEYORS, INC. ON SEPTEMBER 26, 1998. IT IS A PROPERTY SURVEY BASED ON A DEPENDENT RESURVEY CONCERNING TO HORIZONTAL ACCURACY CLASS A-2 AND IS INTENDED TO SHOW THE PROPERTY BOUNDARY.

2. MAP REFERENCES:

A. PLAN OF PROPERTY TO BE CONVEYED BY J. C. PENNY COMPANY, INC. IN THE TOWN OF EAST LIME, CONN. SCALE 1" = 100' DATED JUNE 23, 1989 BY CHANDLER, PALMER & KING MORRIS, CONN.

B. PROPERTY SURVEY LAND OF JOHN ZAMAK AND JOSEPH B. GARTHELY AND STEVEN GARTHELY TO BE CONVEYED TO NIANTIC REAL ESTATE, LLC EAST LIME, CONNECTICUT DATED 8-13-03 SCALE 1" = 150' BY ANCHOR ENGINEERING SERVICES, INC. GLASTONBURY, CT.

C. PROPERTY SURVEY PREPARED FOR LEWIS B. BULL UPPER PATTAGANSETT ROAD EAST LIME, CONNECTICUT, SCALE 1" = 40' DATED JAN. 88 BY JOHN KOPKO, JR. & ASSOCIATES, INC.

D. BOUNDARY SURVEY 181 UPPER PATTAGANSETT ROAD EAST LIME, CT. PROPERTY OF LEWIS B. & JOAN E. BULL, SCALE 1" = 100' DATED DEC. 10, 1996 BY DAVID COGNOLLO, L.L.S.

E. NOTTINGHAM HILLS SUBDIVISION NIANTIC REAL ESTATE, LLC, BOUNDARY PLAN, SCALE 1" = 100' DATED MAY 4, 2001 REV. THRU 11-30-01 BY ANCHOR ENGINEERING SERVICES, INC.

F. SUBDIVISION PLAN 2 LOT SUBDIVISION PREPARED FOR COURAGE FAMILY LIMITED PARTNERSHIP HUNTINGTON DRIVE EAST LIME, CONNECTICUT DATED 4-30-03, REVISED THRU 5-13-03, SCALE 1" = 50' BY ANCHOR ENGINEERING SERVICES, INC.

G. LOT LINE REVISION OF 2 NOTTINGHAM HILLS SUBDIVISION PREPARED FOR NIANTIC REAL ESTATE, LLC, KENSINGTON DRIVE EAST LIME, CONNECTICUT DATED 3-28-03, REVISED THRU 5-13-03, SCALE 1" = 40' BY ANCHOR ENGINEERING SERVICES, INC.

H. LAND TO BE CONVEYED TO NIANTIC REAL ESTATE LLC FROM ROBERT A. BLATT UPPER PATTAGANSETT ROAD EAST LIME, CONNECTICUT SCALE 1" = 100' DATED 10-23-03 BY J. ROBERT PFANNER & ASSOCIATES P.C.

3. NORTH IS CONNECTICUT GRID SYSTEM NAD 83.

4. ELEVATIONS ARE FROM AERIAL SURVEY BASED ON NGVD 29.

THIS MAP AND SURVEY CONFORMS TO A CLASS A-2 SURVEY AND TO THE BEST OF MY KNOWLEDGE AND BELIEF IS SUBSTANTIALLY CORRECT AS NOTED HEREON (SEE NOTE 1).

J. ROBERT PFANNER, P.E., L.S. No. 9442

NO.	DATE	DESCRIPTION	BY
1	7-10-04	REVISION 11 FOR APPROVAL, CHANGES	JRP
2	8-12-04	REVISION 12 FOR APPROVAL, CHANGES	JRP
3	8-08-04	REVISION 13 FOR APPROVAL, CHANGES	JRP
4	3-28-04	REVISION 14 FOR APPROVAL, CHANGES	JRP
5	5-17-04	REVISION 15 FOR APPROVAL, CHANGES	JRP

LOT LAYOUT
NOTTINGHAM HILLS SUBDIVISION
PHASE II A
NIANTIC REAL ESTATE, LLC
East Lyme, Connecticut
SHEET SD2 **APRIL 10, 2004**
GRAPHIC SCALE

(IN FEET)
1 inch = 50 ft.

J. ROBERT PFANNER & ASSOCIATES, P.C.
CIVIL ENGINEERS & LAND SURVEYORS

37 GRAND STREET NIANTIC, CONNECTICUT 06357
TEL. 860-739-6216 FAX 860-739-0693

03012-4

Doc 168

EXHIBIT E

Return To
Planning (e.l.).

Conservation Easement

1465

KNOW ALL PERSONS BY THESE PRESENTS, that NEW ENGLAND NATIONAL, LLC and NIANTIC REAL ESTATE LIMITED LIABILITY COMPANY ("Grantors"), for the consideration of One Dollar (\$1.00) and other valuable consideration received to our full satisfaction of the Town of East Lyme, a municipal corporation, ("Grantee"), do give, and grant, and convey unto the Grantee, it's successors and assigns forever, the following:

A conservation easement to have all the force and effect for a "conservation easement" as defined by Section 47-42a of the Connecticut General Statutes for the purpose of retention of the hereinafter described land predominantly in its present natural and open condition in perpetuity.

The land subject to this conservation easement consists of those portions of the land located in the Town of East Lyme, County of New London, and State of Connecticut, which is designated as "Conservation Area" on a map entitled "NOTTINGHAM HILLS RESUBDIVISION PHASE 4 NEW ENGLAND NATIONAL, LLC East Lyme, Connecticut Sheet SD 1", prepared by J. ROBERT PFANNER & ASSOCIATES, P.C. CIVIL ENGINEERS & LAND SURVEYORS, and dated October 20, 2010, Revised 11/18/2010 to be filed in the East Lyme Land Records.

Within the said "Conservation Area", without prior express written consent from the Grantee or unless an alternative easement boundary is proposed and approved by the Planning Commission, or its successor in interest, as part of an application for a permit:

1. There shall be no construction or maintenance of buildings, camping accommodations, mobile homes, patios, decks, porches, or other structures except as specifically permitted below;
2. There shall be no filling, excavating, dredging, mining or drilling, removal of topsoil, sand, gravel, rock minerals or other materials, nor any change in the topography of the land in any manner, except as specifically permitted below;
3. There shall be no removal, destruction or cutting of trees or plants, spraying with biocides, herbicides, or their agents inimical to plant, animal or insect life, grazing of domestic or farm animals, or disturbance or change in the natural habitat in any manner, except as specifically permitted below;
4. There shall be no dumping of ashes, trash, garbage, or other unsightly or offensive material, and no changing of the topography through the placing of soil or other substances of material such as land fill or dredging spoils, except as specifically permitted below;
5. There shall be no manipulation or alteration of natural water courses, shores, marshes, or other water bodies or activities or uses detrimental to water purity, except as specifically permitted below;

NO
CONVEYANCE TAXES COLLECTED

Esther B. Williams

TOWN CLERK OF EAST LYME

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- VOL 0870 PAGE 690
6. There shall be no operation of motorized vehicles, including snowmobiles, dunebuggies and all terrain vehicles; and
 7. There shall be no construction, improvement, or upgrading of roads, driveways, parking areas, carpaths, or footpaths except as necessary to maintain existing footpaths in the current condition or as specifically permitted below.

The provisions of the preceding restrictions notwithstanding, the following uses and activities by Grantors, and their heirs, successors and assigns, and any work or activity otherwise prohibited by the preceding restrictions which is reasonably necessary or appropriate in connection with such uses or activities shall not be prohibited by this Conservation Easement or considered inconsistent with the intent of this grant and are specifically permitted:

- a) The removal of dead, diseased, or damaged trees or other vegetation when such removal is necessary for reasons of safety, to control the spread of disease, or to control obnoxious plant growth such as cat brier, poison ivy, wild grape, oriental bittersweet, or other invasive species, and when such activities are conducted in a manner which will otherwise not be harmful to the remaining plant life; and
- b) Activities associated with an approved inland wetlands permit, such as, but not limited to, wetland mitigation or enhancement, stormwater management, or stormwater discharges.
- c) As to Conservation Area #2, use of the area for drainage and drainage structures, septic systems, wells and/or emergency access over existing accessway to Upper Kensington Drive.

Reserving to the grantor the right to use the servient tenements for any purposes not inconsistent with the restrictions herein granted.

This grant for Conservation Easement is intended to encompass the powers and rights granted pursuant to Sections 47-42a through 47-42c of the Connecticut General statutes as they may be amended from time to time, and the Grantee is hereby granted the right, in a reasonable manner and at reasonable times, to enforce by proceedings of law or in equity the covenants herein above set forth, including, but not limited to, the right to require restoration of the Conservation Easement area substantially to its condition immediately prior to any violation of the restrictions herein contained. The failure of the Grantee to act in any one or more instances to enforce such rights shall not act as a waiver or forfeiture of its rights to take action as may be necessary to insure compliance with the covenants and purposes of this grant; provided, however, nothing herein shall be construed to entitle the Grantee to institute any enforcement proceedings against the Grantors or the owners of the servient tenements for any changes to the Conservation Easement area due to causes beyond the control of the Grantor's or the owners of the servient tenements, such as changes caused by fire, flood, storm, earthquake, insect infestation, wildlife damage, or the unauthorized wrongful acts of third parties.

In the event that the Grantee becomes aware of an event or circumstance of noncompliance within the terms and conditions herein set forth, the Grantee shall give notice of such event or circumstance of noncompliance by certified mail, return receipt

requested, to the owner of the servient tenement of the property involved at his last known address, such notice to contain a request for corrective actions reasonable required to abate such event or circumstance of noncompliance and restore the conservation Easement area to substantially its previous condition.

Failure by the owner of the servient tenement to whom notice has been given to cause discontinuance or abatement or to undertake such other action as may be reasonably requested by the Grantee within thirty (30) days after receipt of notice shall entitle the Grantee to bring an action at law equity in a court of competent jurisdiction to enforce the terms of this Conservation Easement to require the restoration of the Conservation Easement area to substantially its previous condition, to enjoin such noncompliance by appropriate temporary or permanent injunction and/or to seek to recover damages arising from such noncompliance. Such damages, when and if recovered shall be applied by the Grantee first to any necessary corrective action on the Conservation Easement area, then to other damages incurred by the Grantee and arising from such noncompliance. Such damages, when and if recovered shall be applied by the Grantee first to any necessary corrective action on the Conservation Easement area, then to other damages incurred by the Grantee and arising from such noncompliance.

If a court of competent jurisdiction determines that an owner of the servient tenement has failed to comply with the terms and conditions of this conservation Easement, the owner shall reimburse the Grantee for any reasonable cost of enforcement, including court costs and reasonable attorney's fees. If such court determines that such owner was in compliance with the terms and conditions of this conservation Easement the Grantee shall reimburse such owner for court costs and reasonable attorney's fees, in addition to any other payments ordered by such court. The Grantors, for themselves, their heirs, successors and assigns, hereby waive any defense of laches with respect to any delay by the Grantee, its successors and assigns, in actions to enforce any restriction to exercise any rights under this grant.

This instrument shall be recorded on the land records to the Town of East Lyme and shall be governed by the laws of the State of Connecticut. In the event that any provision of clause of this instrument conflicts with any applicable law, such conflict shall not effect other provision of this instrument which can be given effect without the conflicting provision, and, to this end, the provisions hereof are declared to be severable.

IN WITNESS WHEREOF, I have hereunto set my hand this 10th day of Jan, 2011.

NEW ENGLAND NATIONAL, LLC

By:

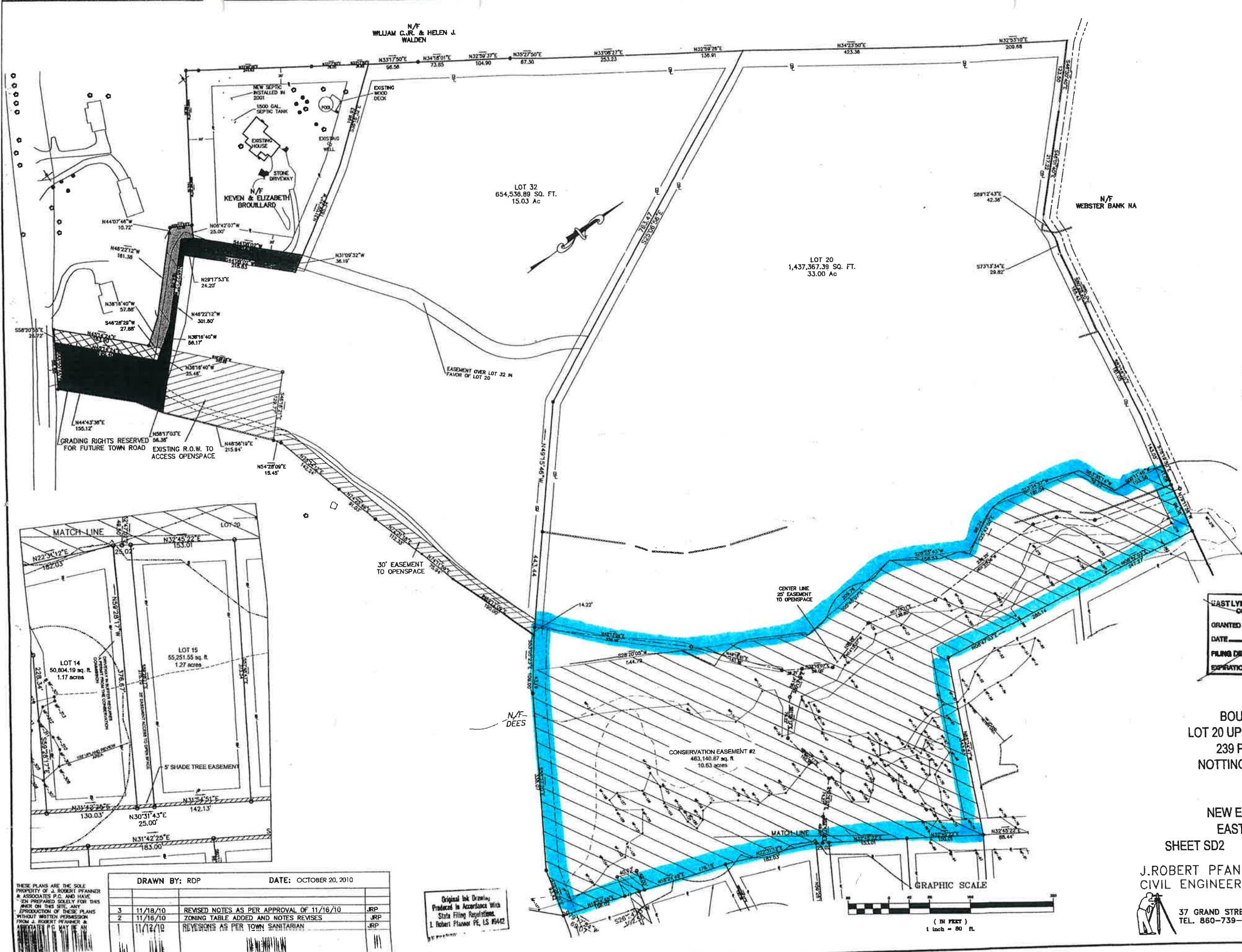
Dawn Delano
Dawn Delano

Duly Authorized

William D. Fucay Sr.
WILLIAM D. FUCAY SR.

VOL 0870 PAGE 691

EXHIBIT F



FILED IN EAST LYME TOWN
CLERK'S OFFICE
JAN 15 2011 9:40 AM
ESTHER B. WILLIAMS
EAST LYME TOWN CLERK

EAST LYME PLANNING COMMISSION
APPROVED: *Michael H. For*
DATE: 11/16/2010
FILING DEADLINE: 2/11/2011
YEAR EXPIRATION DATE: 11/16/2015

EAST LYME PLANNING COMMISSION
CONDITIONAL APPROVAL
GRANTED
DATE
FILING DEADLINE
EXPIRATION DATE

BOUNDARY LOT LAYOUT
LOT 20 UPPER KENSINGTON DRIVE &
239 PATTAGANSETT ROAD
NOTTINGHAM HILLS SUBDIVISION
PHASE 4

PREPARED FOR
NEW ENGLAND NATIONAL, LLC
EAST LYME CONNECTICUT
SHEET SD2 OCTOBER 20, 2010

J. ROBERT PFANNER & ASSOCIATES, P.C.
CIVIL ENGINEERS & LAND SURVEYORS



37 GRAND STREET NIAHTIC, CONNECTICUT 06357
TEL. 860-739-6216 FAX 860-739-0693

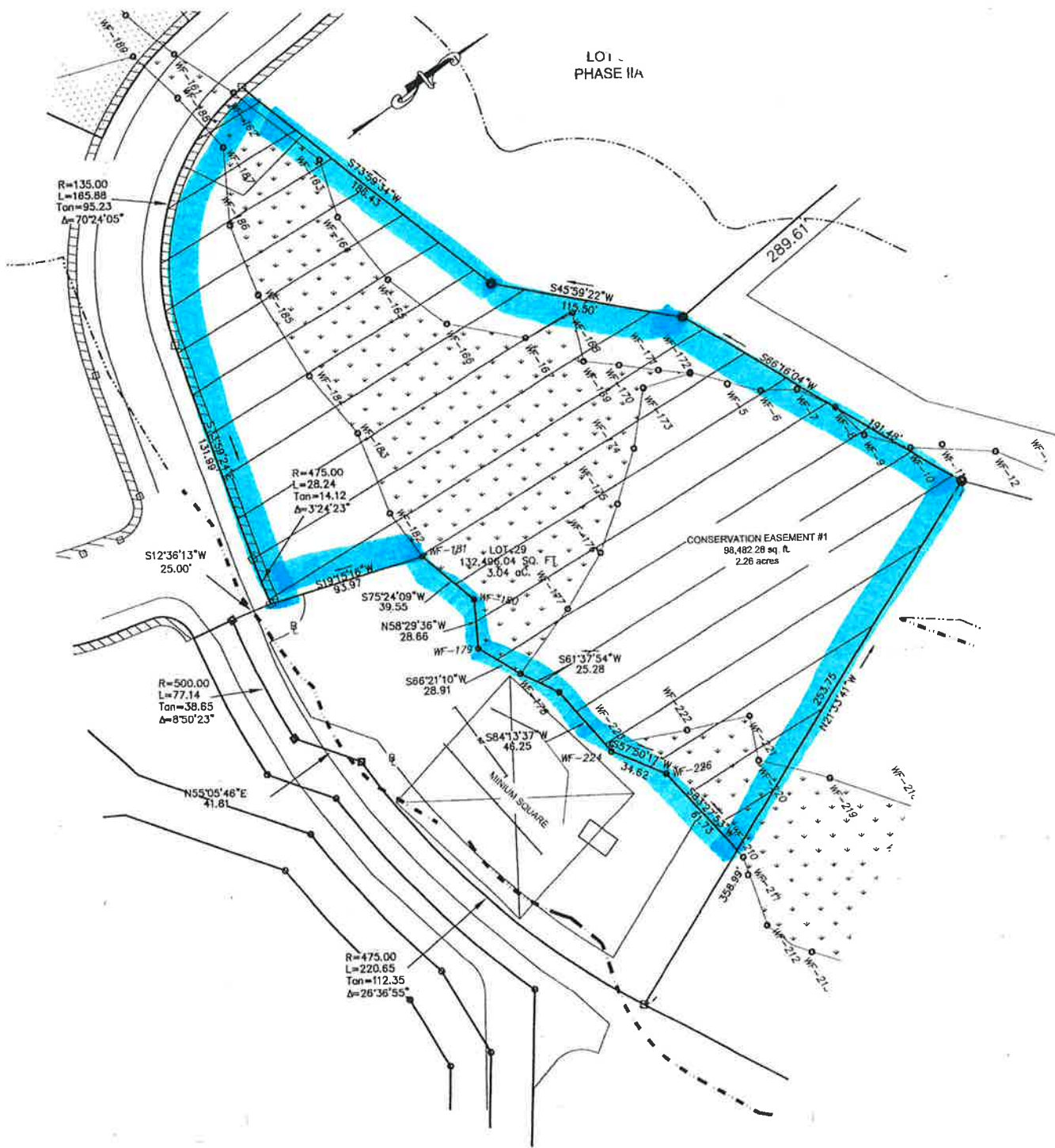
03012-NOT-PH4.DWG

THESE PLANS ARE THE SOLE
PROPERTY OF J. ROBERT PFANNER
& ASSOCIATES P.C. AND HAVE
BEEN PREPARED SOLELY FOR THE
USE ON THIS SITE. ANY
REPRODUCTION OF THESE PLANS
WITHOUT WRITTEN PERMISSION
FROM J. ROBERT PFANNER &
ASSOCIATES P.C. MAY BE AN
OFFENSE UNDER FEDERAL AND
STATE LAWS.

DRAWN BY: RDP		DATE: OCTOBER 20, 2010	
3	11/18/10	REVISED NOTES AS PER APPROVAL OF 11/16/10	JRP
2	11/16/10	ZONING TABLE ADDED AND NOTES REVISED	JRP
1	11/12/10	REVISIONS AS PER TOWN SANITARIAN	JRP

Original Ink Drawing
Produced in Accordance With
State Filing Regulations
J. Robert Pfanner PE, LS #9442

REVISIONS



TEST PIT 1A

0 - 9" DARK BROWN TOPSOIL
9 - 32" ORANGE BROWN FINE-MEDIUM SANDY LOAM
32-39" MEDIUM BROWN FINE SILTY LOAM
39-54" GREY MIX SANDY LOAM W/ SILTY LOAM
54-85" DARK GREY MEDIUM SILTY LOAM WET
NO LEDGE, MOTTLING @ 39"

TEST PIT 2A

0 - 7" DARK BROWN TOPSOIL
7 - 21" ORANGE BROWN FINE-MEDIUM SANDY LOAM
21-42" MEDIUM BROWN FINE SILTY LOAM W/POCKETS MEDIUM SAND
42-61" GREY MIX SANDY LOAM W/ SILTY LOAM
61-95" DARK GREY MEDIUM SILTY LOAM MOIST
NO LEDGE, MOTTLING @ 21"

TEST PIT 3A

0 - 7" DARK BROWN TOPSOIL
7 - 29" ORANGE BROWN FINE-MEDIUM SANDY LOAM
29-42" MEDIUM BROWN FINE SILTY LOAM W/POCKETS MEDIUM SAND
42-64" GREY MIX SANDY LOAM W/ SILTY LOAM
64-87" DARK GREY MEDIUM SILTY LOAM MOIST
NO LEDGE, MOTTLING @ 21"

TEST PIT 4A

0 - 6" DARK BROWN TOPSOIL
6 - 27" ORANGE BROWN FINE-MEDIUM SANDY LOAM
27-42" MEDIUM BROWN FINE SILTY LOAM W/POCKETS MEDIUM SAND
42-70/77" DARK GREY MEDIUM SILTY LOAM MOIST
NO LEDGE, MOTTLING @ 27"

TEST PIT 5A

0 - 6" DARK BROWN TOPSOIL
6 - 28" ORANGE BROWN FINE-MEDIUM SANDY LOAM
28-45" MEDIUM BROWN FINE SILTY LOAM W/POCKETS MEDIUM SAND
45-78" DARK GREY MEDIUM SILTY LOAM MOIST
NO LEDGE, MOTTLING @ 27"

TEST PIT 6A

0 - 6" DARK BROWN TOPSOIL
6 - 23" ORANGE BROWN FINE-MEDIUM SANDY LOAM
23-31" MEDIUM SAND W/ ROCK
31-48" GREY MIX FINE SILTY LOAM POCKETS MED SAND
48-84" DARK GREY MEDIUM SILTY LOAM W/ROCK
NO LEDGE, MOTTLING @ 31"

TEST PIT 7A

0 - 8" DARK BROWN TOPSOIL
7 - 28" ORANGE BROWN FINE-MEDIUM SANDY LOAM
28-58" MEDIUM BROWN/GRAY FINE-MEDIUM SANDY LOAM W/ROCK
LEDGE 58-82", MOTTLING @ 28", WATER @ 52"

TEST PIT 8A

0 - 7" DARK BROWN TOPSOIL
7 - 24" ORANGE BROWN FINE-MEDIUM SANDY LOAM
24-48/60" MEDIUM SAND W/ROCK
48-90" GREY FINE SILTY LOAM W/ POCKETS MED. SAND
NO LEDGE, MOTTLING @ 48" WATER @ 90"

TEST PIT 9A

0 - 6" DARK BROWN TOPSOIL
6 - 24" ORANGE BROWN FINE-MEDIUM SANDY LOAM
24-40" TAN MEDIUM SAND W/ ROCK
40-56" GREY FINE SILTY LOAM W/POCKETS MEDIUM SAND
56-96" DARK GREY WET SILTY LOAM
NO LEDGE, MOTTLING @ 40", WATER @ 96

TEST PIT 10A

0 - 6" DARK BROWN TOPSOIL
6 - 32" ORANGE BROWN FINE-MEDIUM SANDY LOAM
32-40" GREY FINE SILTY LOAM
32-49/67" TAN ROTTEN/BROKEN ROCK AND SAND
LEDGE @ 49-67", MOTTLING @ 32"

TEST PIT 11A

0 - 6" DARK BROWN TOPSOIL
6 - 24" ORANGE BROWN FINE-MEDIUM SANDY LOAM
24-41" TAN MEDIUM SAND W/ GRAVEL
41-80" GREY MEDIUM SILTY LOAM W/ ROCK
60-94" GREY MEDIUM SILTY LOAM W/ ROCK
NO LEDGE, MOTTLING @ 41", WATER @ 94

TEST PIT 12A

0 - 6" DARK BROWN TOPSOIL
6 - 30" ORANGE BROWN FINE-MEDIUM SANDY LOAM
30-36/48" TAN MEDIUM SAND W/ GRAVEL
LEDGE @ 36-48,

TEST PIT 13A

0 - 6" DARK BROWN TOPSOIL
6 - 29" ORANGE BROWN FINE-MEDIUM SANDY LOAM
29-56" GREY FINE SILTY LOAM
56-79" GREY WET SANDY LOAM
LEDGE @ 87", MOTTLING @ 29", WATER @ 79

TEST PIT 14A

0 - 7" DARK BROWN TOPSOIL
7 - 26" ORANGE BROWN FINE-MEDIUM SANDY LOAM
26-44" GREY FINE SILTY LOAM
44-85" GREY WET SANDY LOAM
NO LEDGE, MOTTLING @ 26", WATER @ 85"

TEST PIT OS02

0 - 8" DARK BROWN TOPSOIL
8 - 35" YELLOW BROWN FINE SANDY LOAM
35-84" LIGHT GREY VERY FINE SANDY LOAM
NO LEDGE, MOTTLING @ 35"

TEST PIT OS01

0 - 8" DARK BROWN TOPSOIL
8 - 35" YELLOW BROWN FINE SANDY LOAM
36-47" LIGHT GREY VERY FINE SANDY LOAM
47-56" GREY ORANGE ROTTEN ROCK
56-96" LIGHT GREY VERY FINE SANDY LOAM
NO LEDGE, MOTTLING @ 35"

TEST PIT OS03

0 - 7" DARK BROWN TOPSOIL
8 - 34" YELLOW BROWN FINE SANDY LOAM
34-84" LIGHT GREY VERY FINE SANDY LOAM
NO LEDGE, MOTTLING @ 34"

FILED IN EAST LYME TOWN
CLERK'S OFFICE
Tab 11 to 11 at 9:40 PM
E. B. Williams
EAST LYME TOWN CLERK

LOT #	PERC RATE	SLOPE	MAX. GW	FF	PF	MLSS
20	6.6	16	34	2.0	1.2	43.2
29	8.0	16	32	2.0	1.2	43.2
32	10.0	18	27	2.0	1.2	48.0

EAST LYME PLANNING COMMISSION
APPROVED: *Michael H. Jr.*
DATE: 11/14/2010
FILING DEADLINE: 2/17/2011
YEAR EXPIRATION DATE: 11/16/2015

BOUNDARY LOT LAYOUT UPPER KENSINGTON DRIVE NOTTINGHAM HILLS SUBDIVISION PHASE 4 NEW ENGLAND NATIONAL, LLC East Lyme, Connecticut SHEET SD3 OCTOBER 20, 2010

GRAPHIC SCALE



J. ROBERT PFANNER & ASSOCIATES, P.C.
CIVIL ENGINEERS & LAND SURVEYORS



37 GRAND STREET NIANTIC, CONNECTICUT 06357
TEL. 860-739-6216 FAX 860-739-0693

03012-NOTT-PH3

Original Ink Drawing
Produced in Accordance With
State Filing Regulations
J. Robert Pfanner P.E. LS #9442

DRAWN BY: JRP		DATE: 10/20/10	
NO.	DATE	DESCRIPTION	BY
3	11/18/10	REVISED NOTES AS PER APPROVAL OF 11/16/10	JRP
2	11/16/10	ZONING TABLE ADDED AND NOTES REVISED	JRP
1	11/12/10	REVISIONS AS PER TOWN SANITARIAN	JRP
REVISIONS			

EXHIBIT G

MEMORANDUM

TO: GARY GOESCHEL, DIRECTOR OF PLANNING
FROM: MARK E. BLOCK, ESQ.
DATE: FEBRUARY 1, 2010
RE: OPEN SPACE DEDICATION - HERITAGE AT EAST LYME RESUBDIVISION

You have asked for an opinion in regards to open space dedication for the proposed resubdivision of Heritage at East Lyme. (the "Resubdivision")

The facts as related to me are that Heritage at East Lyme was, when first subdivided ("Original Subdivision"), an estimated 330 acre tract of land ("Original Tract"). The Original Subdivision contained one lot comprised of a 198 acre tract, which is the subject of the resubdivision application ("Subject Parcel"). At the time of the approval of the Original Subdivision, there was approximately 39.45 acres dedicated as open space as a condition of that approval.

The question presented is can the Planning Commission require a dedication of additional open space as part of the approval of the Resubdivision.

Conn. Gen. Stat. §8-25 provides that the Town's subdivision regulations may require the applicant by deed, payment of a fee or combination of the two, to provide the Town with open space of a value not to exceed 10% of the fair market value of the land to be subdivided "prior to the approval of the subdivision".

Section 10-5 of the Subdivision regulations is consistent with the General Statutes, and says that in arriving at the fee in lieu of the dedication of the land, the fee cannot equal more than 10% of the "fair market value of the land to be subdivided "prior to approval of the subdivision."

Further, Section 10-2-2 of the Subdivision Regulations says that if a parcel "is subdivided in stages, the open space dedication attributable to the subdivision of a portion of the entire tract" may be deferred to a later date. The critical language in this section is the reference to the subdivision being in stages and calculating open space based upon the entire tract.

There are no cases on this precise issue, so one must look to the language of the statute and the regulations. In this case the Original Tract that was submitted to the Commission for subdivision approval comprised 330 acres. The Commission required, per its regulations, that the Developer set aside open space calculated on the number of acres in the Original Tract, i.e., 300 acres. Both the Statute and the Regulations speak of the dedication for open space to be from the land to be subdivided. The Town's regulations also speak of a subdivision developed in stages, with provision for deferral of the open space.

In my opinion, since with original developer met the open space requirements at the time of the

Original Subdivision, and made that dedication out of the Original Tract, the Commission cannot require an additional dedication from the Subject Parcel, which is a resubdivision of a portion of the Original Tract/Subdivision.

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