

# EXHIBIT 1

----- Forwarded message -----

From: **Kristen Clarke** <kristentclarke@gmail.com>

Date: Thu, Aug 13, 2020 at 4:35 PM

Subject: Re: Applications - Nottingham Hills

To: Gary Goeschel <ggoeschel@eltownhall.com>

Cc: Paul Geraghty <pgeraghty@geraghtybonnano.com>, Jennifer Lindo <jlindo@eltownhall.com>, dholmes@llhd.org <dholmes@llhd.org>, Victor Benni <vbenni@eltownhall.com>, Bill Mulholland <billm@eltownhall.com>, Mark Nickerson <mnickerson@eltownhall.com>

See attached additional information.

Thanks,  
Kristen

On Thu, Aug 6, 2020 at 5:47 PM Gary Goeschel <ggoeschel@eltownhall.com> wrote:

Paul,

I left you a voicemail this afternoon to follow up. In regards to the two Applications for Lot Line Revisions:

- The Application for a Lot Line Revision between 11 and 15 Upper Kensington Road is still awaiting approval from the Ledge Light Health District.
- The Application for a Lot Line Revision Between 5, 9, and 11 Upper Kensington is also still awaiting approval from the Health District.

As previously discussed, upon receipt of a favorable review by the Ledge Light Health District, I will be able to approve the proposed lot line revisions.

In regards to the Application for a 4 Lot Re-Subdivision of 22 & 24 Upper Kensington, the Public Hearing remains open and was continued to a Special Meeting to be held on August 11, 2020. As you know, upon the close of the public hearing the Commission has 65-days to render a decision. The application appears relatively complete with the exception of the following:

- A Water Supply and Sanitation Report pursuant to Section 5-4 and 5-5 of the East Lyme Subdivision Regulations

- Plans stamped, signed, and sealed by a registered professional engineer or land surveyor licensed in the State of Connecticut pursuant to Section 5-2-2 of the East Lyme Subdivision Regulations.
- In my e-mail correspondence of June 29, 2020, I indicated a yield plan pursuant to Section 4-2-4 of the Subdivision Regulations needed to be provided. The narrative indicates the property could yield 4-lots. However, I do not have a "Yield" Plan prepared pursuant to Section 4-2-4 of the Subdivision regulations demonstrating a conventional lot and street layout.
- In addition, in my e-mail correspondence of June 29, 2020, I indicated an Erosion and Sedimentation Control Plan pursuant to Section 5-2-2(G) of the Subdivision Regulations needed to be provided. However, I do not have an Erosion and Sedimentation Control Plan prepared pursuant to Section 4-2-4 of the Subdivision Regulations.
- I recommend submitting a construction sequence report for the driveway and rain garden.

As always, if you have any questions please do not hesitate to contact me.

Best Regards,

Gary

Gary A. Goeschel II

Director of Planning / Inland Wetlands Agent

Town of East Lyme

PO Box 519 | 108 Pennsylvania Avenue | Niantic, Connecticut 06357

Office 860-691-4105 | Fax 860-691-0351

[ggoeschel@eltownhall.com](mailto:ggoeschel@eltownhall.com)

**From:** Paul Geraghty <[pgeraghty@geraghtybonnano.com](mailto:pgeraghty@geraghtybonnano.com)>  
**Sent:** Wednesday, August 05, 2020 10:45 AM  
**To:** Gary Goeschel <[ggoeschel@eltownhall.com](mailto:ggoeschel@eltownhall.com)>  
**Subject:** Kensington  
**Importance:** High

Gary, I just left another voice mail for you. Can you give me a call. Also Kristen will be down Friday and I'd like to set up a meeting to go where we are on lot 14 the IWC admin approval and lot 25 lot line revision. I am trying to get hold of Danielle today but I have to be clear my folks are getting extremely frustrated at the lack of a response by anyone on these applications. You had indicated when we met in mid-July the admin

approval for lot 14 would be forthcoming that week. We haven't heard anything one way or the other on it. Signed and stamped plans for lot 25 were submitted July 13<sup>th</sup>. Paul

Paul M. Geraghty

Geraghty & Bonnano, LLC

38 Granite Street

New London, CT 06320

p.860-447-8077

f.860-447-9833

**"Please note that among the services that this firm provides is for attempting to collect a debt, and if this communication is in regards to a debt collection, any information obtained will be used for that purpose."**

\*\*\*\*\*Confidentiality Notice\*\*\*\*\*

This email is intended solely for the use of the addressee hereof. In addition, this message may contain information that is confidential, privileged and exempt from disclosure under applicable law. If you are not the intended recipient of this message, you are prohibited from reading, disclosing, reproducing, distributing, disseminating or otherwise using this transmission. Delivery of this message to any person other than the intended recipient is not intended to waive any right or privilege. If you have received this message in error, please promptly notify the sender immediately and delete this message from your system.



# EXHIBIT 2

**ENGLISH HARBOUR ASSET MANAGEMENT, LLC**  
**1712 Pioneer Avenue , Suite 1939**  
**Cheyenne, Wyoming 82001**  
**(307) 256-7229**

August 10, 2020

Via email: ggoeschel@eltownhall.com  
Gary Goeschel  
Director of Planning  
Town of East Lyme  
108 Pennsylvania Avenue  
Niantic, CT 06333

Re: Re-subdivision – Nottingham Hills Lots 19 & 21

Dear Gary:

As an initial matter, and as evidenced by the July 24 & 27, 2020 submitted plan, we are no longer considering the land to be provided to the East Lyme Land Trust, Inc. "a lot" as this proved to be more trouble than it was worth and we can convey the land to the East Lyme Land Trust under Connecticut Law simply by providing a legal description of the property being conveyed. Accordingly the pending application should now be considered a 3 lot re-subdivision of existing lot 19 aka 22 Upper Kensington Drive and Lot 21 aka 24 Upper Kensington Drive.

1. Water Supply and Sanitation Report

Paul Geraghty met with Danielle Holmes on Monday afternoon August 10, 2020 to address this application and others. We are scheduling a few additional test holes for early next week. Proposed well locations appear to be code compliant given the current locations for the proposed septic systems.

2. Plans Stamped, Signed and Sealed

The most recent of these plans were submitted via email pursuant to the Town of East Lyme's Covid policy as is identified on the Planning Department website on July 24, 2020 and originals were hand delivered to the Planning Department on July 27, 2020. These plans appear in the record of this application as the East Lyme Planning Department's Ex. H

Please confirm you are in possession of original stamped, signed and sealed plans for this application.

## GENERAL CONSTRUCTION SEQUENCE-COMMON DRIVEWAY & RAIN GARDEN

1. Secure all necessary permits. Notify "call before you dig" (1-800-922-4455) at least 72 hours prior to excavation. Schedule and attend a pre-construction conference with Town Staff.
2. Clearing limits will be flagged by engineer prior to work being done. Limit of work adjacent to wetlands will not be exceeded.
3. Remove trees, branches and brush within areas to be cleared, chip branches and brush for use as mulch.
4. Install construction exit (anti-tracking pad) and install sediment barriers along the limits of grading and at the limits of clearing for tree protection.
5. Check and repair E&S controls as necessary.
6. Grub stumps and remove brush
7. Strip and stockpile topsoil only in areas to be filled or graded and stockpile on site in an area not in way of construction, seed and mulch stockpile or cover with netting. Place and stake hay bales around stockpiles.
8. Rough grade common driveway.
9. Construct rain garden. Plantings recommended in the months of May or September.
10. Place gravel and pavement in common driveway.
11. Re-spread topsoil on shoulders and disturbed areas.
12. Fine grade, lime, fertilize and seed remaining lawn areas with formal grass seed mixture by June 1 or October 1 depending on actual construction schedule.
13. Remove erosion control devices upon authorization of town officials.

# EXHIBIT 2



**EROSION & SEDIMENT CONTROL NARRATIVE**

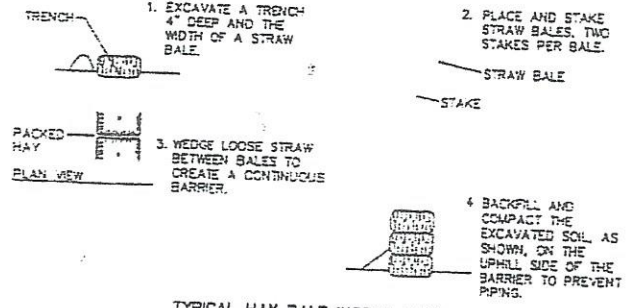
- PRE-CONSTRUCTION**
1. DISTURBANCE OF SOIL SURFACES IS REGULATED BY STATE LAW. ALL WORK SHALL COMPLY WITH AN APPROVED "EROSION AND SEDIMENT CONTROL PLAN" TO PREVENT OR MINIMIZE SOIL EROSION.
  2. THE INSTALLATION AND MAINTENANCE OF EROSION CONTROL DEVICES IS THE RESPONSIBILITY OF THE LAND OWNER, DEVELOPER, AND THE EXCAVATION CONTRACTOR. TOWN OFFICIALS SHALL BE NOTIFIED IN WRITING OF THE NAME, ADDRESS AND TELEPHONE NUMBER OF THE INDIVIDUAL RESPONSIBLE FOR THIS WORK.
  3. THE CONTRACTOR SHALL USE THE "CONNECTICUT GUIDELINES FOR SOIL EROSION AND SEDIMENT CONTROL" (2002), AS AMENDED, AS A GUIDE IN CONSTRUCTING THE EROSION AND SEDIMENT CONTROLS INDICATED ON THESE PLANS. THE GUIDELINES MAY BE OBTAINED FROM THE CONNECTICUT COUNCIL ON SOIL AND WATER CONSERVATION, STATE OFFICE BUILDING, HARTFORD, CT.06106.
- DURING CONSTRUCTION**
4. THE CONTRACTOR SHALL INFORM ALL CONSTRUCTION SITE WORKERS ABOUT THE MAJOR PROVISIONS OF THE EROSION AND SEDIMENT CONTROL PLAN AND SEEK THEIR COOPERATION IN AVOIDING THE DISTURBANCE OF THESE CONTROL MEASURES.
  5. THE CONTRACTOR SHALL SCHEDULE ALL OPERATIONS TO LIMIT DISTURBANCE TO THE SMALLEST PRACTICAL AREA FOR THE SHORTEST POSSIBLE TIME.
  6. THE CONTRACTOR IS RESPONSIBLE FOR THE TIMELY INSTALLATION, INSPECTION, REPAIR OR REPLACEMENT OF EROSION CONTROL DEVICES TO INSURE PROPER OPERATION.
  7. THE CONTRACTOR SHALL INSPECT AND REPAIR EROSION AND SEDIMENT CONTROL DEVICES AT THE END OF EACH WORKING DAY AND AFTER EACH STORM.
  8. THE CONTRACTOR SHALL NOTIFY THE ENGINEER OF UNSATISFACTORY EROSION CONDITIONS NOT CONTROLLED BY THE EROSION AND SEDIMENT CONTROL PLAN AND SHALL INSTALL ADDITIONAL MEASURES AS DIRECTED.
  9. FIELD CHANGES TO THE EROSION AND SEDIMENT CONTROL PLAN SHALL BE MADE ONLY WITH THE APPROVAL OF THE ENVIRONMENTAL TOWN PLANNER OR AGENT, I.e. LOCATION OF SILT FENCE, STOCKPILE, DEWATERING AREA etc.
  10. ACCUMULATED SEDIMENT REMOVED FROM EROSION CONTROL DEVICES IS TO BE SPREAD AND STABILIZED IN LEVEL, EROSION RESISTANT LOCATIONS AS GENERAL FILL WITHIN LAWN AND LANDSCAPE AREAS.
  11. ALL DISTURBED AREAS NOT COVERED BY BUILDINGS, PAVEMENT OR WOOD MULCH SHALL BE PLANTED WITH GRASS ON 4 IN. TOPSOIL.
  12. MULCHING: IMMEDIATELY FOLLOWING SEEDING, MULCH THE SEEDED SURFACE WITH STRAW OR HAY AT A RATE OF 70 LBS./1000 SF. SPREAD MULCH BY HAND OR MULCH BLOWER. PUNCH MULCH INTO SOIL SURFACE WITH TRACK MACHINE APPROXIMATELY 2-3 IN. TO ANCHOR.
  13. SEEDING BETWEEN APRIL 1 TO JUNE 1, AND AUGUST 15 TO SEPTEMBER 1. ALL DISTURBED AREAS SHALL BE IMMEDIATELY GRADED AND SEEDED TO PROMOTE STABILIZATION OF SLOPES.
  14. A FABRIC FILTER SOCK SHALL BE USED FOR ANY DEWATERING.

**SOIL AND EROSION CONTROL**

1. HAY BALES / SILT FENCE ARE TO BE INSTALLED PRIOR TO CONSTRUCTION.
2. ONLY REMOVE TREES AND VEGETATION NECESSARY FOR CONSTRUCTION.
3. PERMANENT SEEDING SHOULD BE DONE AS SOON AS POSSIBLE AFTER CONSTRUCTION FINISHES. LIME AND FERTILIZE. RECOMMENDED SEEDING DATES ARE APRIL 15 TO JUNE & AUG. 15 TO OCT. 1.
4. RECOMMENDED SEED (PER EROSION AND SEDIMENT CONTROL HANDBOOK) KY31 TALL FESCUE 150 lbs. PER ACRE.
5. HAY BALES AND SILT FENCE TO REMAIN WHERE PLACED UNTIL ALL DISTURBED AREAS ARE PERMANENTLY STABILIZED.
6. NO ERODED SEDIMENT SHALL BE PERMITTED TO LEAVE THE SITE OR WASH INTO THE DRAINAGE SYSTEM.
7. IF SEEDING CANNOT MEET RECOMMENDED DATES, TEMPORARY MULCH IS TO BE APPLIED IN ACCORDANCE WITH THE TABLE BELOW.

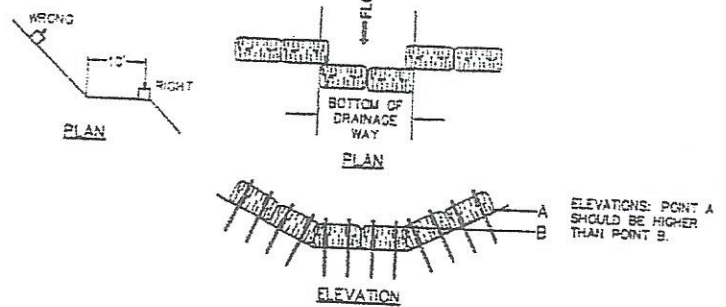
MULCHES	RATES PER 1000 FT	NOTES
STRAW OR HAY 1/2 - 2 TONS PER ACRE	70-90lbs	FREE FROM WEEDS & COARSE MATTER. MUST BE ANCHORED SPREAD WITH MULCH BLOWER OR BY HAND

8. ANY HAY BALES OR SILT FENCE REMOVED DURING CONSTRUCTION SHOULD BE REPLACED EACH NIGHT.
9. ANY MATERIAL STOCK PILED SHOULD BE TEMPORARILY SEEDED.



TYPICAL HAY BALE INSTALLATION

10. ALL ROAD SECTION EMBANKMENTS, EITHER CUT OR FILL, SHOULD BE STABILIZED AT THE TOE OF THE SLOPE BY STAKED HAYBALES OR SILT FENCE.
11. SWALES AND DIVERSION STRUCTURES SHOULD HAVE HAY BALES PLACED ACROSS THEM EVERY 100' IN ACCORDANCE WITH THE DETAIL BELOW.



# EXHIBIT 1

Sincerely,

A handwritten signature in cursive script that reads "Kristen Clarke".

Kristen T. Clarke PE

Cc Paul Geraghty via email [pgeraghty@geraghtybonnano.com](mailto:pgeraghty@geraghtybonnano.com)  
Danielle Holmes via email [dholmes@llhd.org](mailto:dholmes@llhd.org)  
Bill Mulholland via email [billm@eltownhall.com](mailto:billm@eltownhall.com)  
Mark Nickerson via email [mnickerson@eltownhall.com](mailto:mnickerson@eltownhall.com)

3. Yield Plan Section 4-2-4

This was provided as part of the initial application on March 3, 2020 as page 3 of the submitted plans and appears in the record of this application as page 3 of the East Lyme Planning Department's Ex. B. I provided this plan again in my reply dated July 7, 2020 to your and Mr. Benni's comments received on June 30, 2020. The Conventional Plan appears as part of that response which is identified as Ex. E to the Planning Departments record.

If you believe this plan is deficient please provide me the specifics of your claimed deficiency so we can either discuss it/them or we can make the requested corrections.

4. Erosion and Sedimentation and Control Plan

See attached Ex. 1 which will be added to a new page (Page 5 of 5) to this applications plans.

If you believe this plan is deficient please provide me the specifics of your claimed deficiency so that we can either discuss it/them or we can make the requested corrections.

5. Construction Sequence Plan for Driveway and Rain Garden

See attached Ex. 2 which will also be added to new page 5 Of 5 of this applications plans.

If you believe this plan is deficient please provide me with the specifics of your claimed deficiency so that we can either discuss it/them or we can make the requested corrections.

Please be advised our Surveyor's office has been without power and closed for much of the past week due to Tropical Storm Isaias so it may be a few days before we are able to provide you with revised plans which will be provided to you in both electronic and original form stamped, signed and sealed.



# EXHIBIT 3

**From:** [Gary Goeschel](#)  
**To:** [Kristen Clarke: pgeraghty@geraghtybonnano.com](#)  
**Cc:** [Jennifer Lindo](#); [Bill Mulholland](#); [Victor Benni: dholmes@lhd.org](#)  
**Subject:** Nottingham Hills 4-Lot Re-subdivision, Conservation Design Development  
**Date:** Tuesday, August 25, 2020 11:52:47 AM  
**Attachments:** [Zoning Comments 8-24-20.pdf](#)

---

Kristen and Paul,

Attached are comments from William Mulholland, our Zoning Official, regarding the above proposed resubdivision. Upon review of those comments, it appears Section 23. 2 of the Zoning Regulations requires the Conservation Design Development (CDD) provisions in the subdivision of any parcel 10-acres or more or any subdivision of 4 or more lots. I would note the proposed subdivision was initially proposed as 4-lots and has subsequently been reduced to 3 during the review process. As noted by the Zoning Official, the Planning Commission may require a Conservation Subdivision by Design (CDD) for subdivisions of less than 10-acres or a subdivision of less than 4 lots. As such, you will need to demonstrate how the proposed resubdivision furthers the objectives in Section 23. 1 of the East Lyme Zoning Regulations in order for the Planning Commission to make the necessary findings to approve the application as a CDD Subdivision. In addition, it comments indicate Section 23.5 B of the Zoning Regulations requires a wooded or otherwise landscaped buffer be provided along the perimeter of the CDD to Screen Development on the proposed lots from existing contiguous lots. The minimum width if the buffer shall be 40-ft, any portion of which may either subdivision open space area or area contained within the lots (e.g. conservation easement). Further, Section 23.6 – D requires all lot to have access to the open space. He also questions how the proposed resubdivision meets Section 23.2 D and 23.5 of the Zoning Regulations (e.g. lot#2 has no lot frontage as proposed).

If you have any questions regarding this correspondence, the attached, or any of the East Lyme Subdivision Regulations, please do not hesitate to contact me.

Regards,  
Gary

**Gary A. Goeschel II**

**Director of Planning / Inland Wetlands Agent**

**Town of East Lyme**

**PO Box 519 | 108 Pennsylvania Avenue | Niantic, Connecticut 06357**

**Office 860-691-4105 | Fax 860-691-0351**

[ggoeschel@eltownhall.com](mailto:ggoeschel@eltownhall.com)

# EAST LYME DEPARTMENT OF PLANNING

## SUBDIVISION REVIEW SHEET

TITLE OF PLAN:	Conservation Design Development Nottingham Hills Subdivision; 4 lot Re-subdivision of Lots 19 and 21
DATE RECEIVED:	March 2020
DATE DISTRIBUTED:	May 2020
REVIEW DEADLINE:	July 7, 2020

	Storm Water Calculations	Plans
William Mulholland, Zoning Official		✓

**COMMENTS:**

*Section 23.6-F, 23.6-E requires "open space" to be labeled & purpose of such area labeled on plan - not there?; 23.6-E requires setbacks to be labeled. Section 23.5-B requires 60' buffer to be labeled on plan unless waived. Section 23.6-D requires all lots to have access to "open space". Section 23.2-D requires compliance with 2-Regs. - lot frontage? - lot # 2-?*

REVIEWED BY: WMM DATE: 8/24/2020

- note. <sup>IS</sup> ~~is~~ a 3 lot subdivision under 10 acres allowed under Section 23.2-?*
- See Section 23.3 Planning may require CBD - must make a finding that it meets Section 23.1 Purpose A-D.*

# EXHIBIT 4



# Geraghty & Bonnano, LLC

Attorneys at Law

August 26, 2020

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

\*Also Admitted in New York  
† Board Certified, Trial Advocate

\*\*Se habla español

†† Also Admitted in Massachusetts and North Dakota

Via Email: [billm@eltonhall.com](mailto:billm@eltonhall.com)  
William Mulholland, Zoning Official  
Via Email: [ggoeschel@eltonhall.com](mailto:ggoeschel@eltonhall.com)  
Gary Goeschel, Director of Planning  
Town of East Lyme  
108 Pennsylvania Avenue  
Niantic, CT 06357

Re: Nottingham Hills Subdivision  
Lots 19 & 21 – Re-Subdivision

Dear Gary & Bill:

I write in response to your email dated August 25, 2020 regarding zoning comments, Ex. A, on the above-referenced re-subdivision and to follow up on my several recent attempts to contact Gary. I note for the record the “**REVIEW DEADLINE**” on the zoning comments received August 25, 2020 was July 7, 2020.

Please enter this letter into the record of the above referenced re-subdivision application.

I need to first address the untimeliness of these comments which together with others demonstrates a rather troubling pattern by Town Staff regarding my client’s application that has been pending since March 3, 2020. A timeline demonstrating this troubling pattern is attached as Ex. B. Notwithstanding the fact Gary has on at least two occasions, indicated during the public hearings held to date that the application was complete we have thereafter received comments and requests from staff, who presumably had previously reviewed the application, and have requested additional changes subsequent thereto.

First, regarding Mr. Goeschel’s email;

1. The language of Section 23.3 of the Zoning Regulations states as follows:  
“the Planning Commission *may require* Conservation Subdivision by Design for subdivisions of any parcel of land less than 10 acres or a subdivision of less than 4 lots upon finding that such development will further the objectives specified in Section 23.1” (Emphasis added).

Replies to New London only at:

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

[WWW.GERAGHTYBONNANO.COM](http://WWW.GERAGHTYBONNANO.COM)

131 DWIGHT STREET  
NEW HAVEN, CONNECTICUT 06511

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

What this section of the regulations clearly provides by use of the words “may require” is the right of the Planning Commission to require the use by an applicant of a Conservation by Design Development subdivision notwithstanding the fact it may contain less than four (4) lots or less than ten (10) acres. What Section 23.3 clearly **does not do**, is to prohibit an applicant from electing on its own to pursue a Conservation by Design Development subdivision containing less than 4 lots or on less than 10 acres nor does it require the applicant to “demonstrate” how the proposed subdivision furthers the objectives of Section 23. Any position to the contrary is incorrect. As evidence of this we would direct you to the Darrow’s Ridge/Pazzaglia Conservation by Design Development subdivision that the East Lyme Planning Commission just approved on July 27, 2020 that created 2 lots on a total of 5.2 acres (the same night our application was initially heard).

2. With regard to the buffer Gary and the Planning Commission both well know from the “Fusari” Green Valley Road Conservation by Design Development subdivision that Town Counsel opined pursuant to the attached Ex. C. that the entire property is not subject to this buffer. Moreover given the facts of this application, including but not limited to the demonstration of the conventional yield plan of 4 lots, the creation of one additional residential, and similar sized, lot in a residential subdivision and the Open Space this lot will back up to, entitles this application to the waiver of section 23.5 of the zoning regulations. This waiver would be consistent with the waivers previously granted by this commission for similar applications.

Section 25 B., goes on to state that the waiver can be granted when the adjoining land, here the open space, and topography are such they obviate the need for a buffer, the waiver can be granted. I would submit that the topography, surrounding open space and proposed location of the houses obviates the need for the buffer. Not to mention the fact the property itself can be used for counting the buffer.

3. With regard to Open Space you are well aware that this subdivision has “banked” land to use for Open Space as is evidenced the minutes of the Planning Commission dated November 2010 and is further supported by the Opinion Letter provided to Gary Goeschel in his capacity as Director of Planning by Town Counsel that in a phased subdivision, as is the case with Nottingham Hills Subdivision, the development has otherwise met its Open Space obligations as such no further Open Space is required. Ex. D.
4. With regard to road frontage none is required in a Conservation by Design Development as is addressed in Section 23 of the Town of East Lyme Zoning Regulations.

In response to Bill’s comments not already addressed;

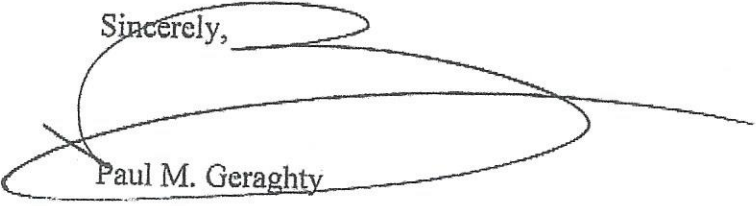
1. Wetlands are identified by the wetland flag numbers and wetlands boundary delineation on the plans both of which are further identified in the plans legend.



2. Access is available to Open Space which abut the lots on their northwestern boundary. We will identify the Open Space area on the revised plans being prepared to the extent that it is unclear as presently exists.

Finally, this correspondence will request an immediate meeting with Mr. Goeschel, Mr. Mulholland and Mr. Benni to address the matters identified by each of you this past week together with my concerns regarding the untimely review of this application amongst other related matters.

Sincerely,



Paul M. Geraghty

Cc: Kristen T. Clarke PE via email [kristentclarke@gmail.com](mailto:kristentclarke@gmail.com)  
Mark Nickerson via email [mnickerson@eltownhall.com](mailto:mnickerson@eltownhall.com)  
Victor Benni PE via email [vbenni@eltownhall.com](mailto:vbenni@eltownhall.com)  
Danielle Holmes via email [dholmes@llhd.org](mailto:dholmes@llhd.org)

# EXHIBIT A



# EAST LYME DEPARTMENT OF PLANNING

## SUBDIVISION REVIEW SHEET

TITLE OF PLAN:	Conservation Design Development Nottingham Hills Subdivision; 4 lot Re-subdivision of Lots 19 and 21
DATE RECEIVED:	March 2020
DATE DISTRIBUTED:	May 2020
REVIEW DEADLINE:	July 7, 2020

	Storm Water Calculations	Plans
William Mulholland, Zoning Official		✓

**COMMENTS:**

*Section 23.6-F*  
 Section 23.2 Regulations requires "open space" to be labeled if purpose of such area labeled on plan - not there? 23.6-F requires setbacks to be labeled. Section 23.5-B requires 60' setbacks to be labeled on plan unless waived. Section 23.6-D requires all lots to have access to "open space". Section 23.2-D requires compliance with 2- Regs. - lot frontage? - lot # 2.?

REVIEWED BY: WJM DATE: 8/24/2020

- <sup>IS</sup> note. ~~is~~ a 3 lot subdivision under 10 acres allowed under Section 23.2 -?
- See Section 23.3 Planning may require CBD - must make a finding that it meets Section 23.1 Purpose A-D.

8/25/2020

Fwd: Nottingham Hills 4-Lot Re-subdivision, Conservation Design Development

From: kristentclarke@gmail.com,

To: jtorra5608@aol.com,

Subject: Fwd: Nottingham Hills 4-Lot Re-subdivision, Conservation Design Development

Date: Tue, Aug 25, 2020 11:56 am

Attachments: Zoning Comments 8-24-20.pdf (100K)

---

Sent from my iPhone

Begin forwarded message:

**From:** Gary Goeschel <ggoeschel@eltownhall.com>

**Date:** August 25, 2020 at 11:52:47 AM EDT

**To:** Kristen Clarke <kristentclarke@gmail.com>, "pgeraghty@geraghtybonnano.com" <pgeraghty@geraghtybonnano.com>

**Cc:** Jennifer Lindo <jlindo@eltownhall.com>, Bill Mulholland <billm@eltownhall.com>, Victor Benni <vbenni@eltownhall.com>, "dholmes@llhd.org" <dholmes@llhd.org>

**Subject:** Nottingham Hills 4-Lot Re-subdivision, Conservation Design Development

Kristen and Paul,

Attached are comments from William Mulholland, our Zoning Official, regarding the above proposed resubdivision. Upon review of those comments, it appears Section 23. 2 of the Zoning Regulations requires the Conservation Design Development (CDD) provisions in the subdivision of any parcel 10-acres or more or any subdivision of 4 or more lots. I would note the proposed subdivision was initially proposed as 4-lots and has subsequently been reduced to 3 during the review process. As noted by the Zoning Official, the Planning Commission may require a Conservation Subdivision by Design (CDD) for subdivisions of less than 10-acres or a subdivision of less than 4 lots. As such, you will need to demonstrate how the proposed resubdivision furthers the objectives in Section 23. 1 of the East Lyme Zoning Regulations in order for the Planning Commission to make the necessary findings to approve the application as a CDD Subdivision. In addition, it comments indicate Section 23.5 B of the Zoning Regulations requires a wooded or otherwise landscaped buffer be provided along the perimeter of the CDD to Screen Development on the proposed lots from existing contiguous lots. The minimum width if the buffer shall be 40-ft, any portion of which may either subdivision open space area or area contained within the lots (e.g. conservation easement). Further, Section 23.6 – D requires all lot to have access to the open space. He also questions how the proposed resubdivision meets Section 23.2 D and 23.5 of the Zoning Regulations (e.g. lot#2 has no lot frontage as proposed).

If you have any questions regarding this correspondence, the attached, or any of the East Lyme Subdivision Regulations, please do not hesitate to contact me.

Regards,

Gary

# EXHIBIT B

<u>Ex. No.</u>	<u>Date</u>	<u>Subject of Document</u>	<u># of Pages</u>
1.	June 29, 2020	Email form Gary Goeschel	1
2.	March 3, 2020	Yield Plan	1
3.	March 3, 2020	Cultural Resources Plan	1
4.	March 3, 2020	Lot Line Revision Plan	1
5.	March 16, 2020	Email from Jen Lindo Cancellation of April 7, 2020 Public Hearing	1
6.	March 16, 2020	Letter from Gary Goeschel Notice of rescheduled Public Hearing :May 5, 2020	1
7.	4/20/2020	Email to Goeschel Re: Abutter (Thomas)	2
8.	4/23/2020	Email re Compliance with 3/16/2020 letter from Goeschel re: site sign, certificate of mailing	46
9.	4/23/2020	Email re: Plan Revisions, Open Space Letter from East Lyme Land Trust	3
10.	6/22/2020	Plan Revisions	2
11.	6/30/2020	Email form Goeschel Beni Plan Comments (Only reviewed original plans submitted March 3, 2020 and not revisions which had been submitted on 4/23 & 6/22)	2
12.	7/7/2020	Applicants response to Benni & additional application exhibits	
13.	7/24/2020	Plan revisions (4 pages) emailed to Planning Department per East Lyme "Covid" policy.	
14.	7/24/2020	Applicants submission of additional application exhibits AA thru HH inclusive.	
15.	7/25/2020	Applicants submission of additional application exhibits II thru NN inclusive.	



16. 7/26/2020 Applicant delivers original stamped and signed 4 pages plan Planning Office.
17. 8/4/2020 Applicant submission of additional application exhibits OO thru TT inclusive.
18. 8/2/2020 Email received from Goeschel re: plans submitted on July 24, 2020
19. 8/10/2020 Applicants response to Goeschel 8/5/2020 email providing requested information
20. 8/20/2020 Geraghty & Clarke both email Benni re: no comments attached or included in 8/17/2020 email.
21. 8/20/2020 Benni response to Geraghty & Clarke email "I sent them to Jen Lindo"
22. 8/20/2020 Benni "second round of comments" received to plans provided On July 24, 2020.
23. 8/25/2020 Email from Goeschel re: zoning comments
24. 8/26/2020 Geraghty response to Goeschel 8/25/2020 email and demand for meeting with staff to address "untimely comments" amongst other legal issues.



# EXHIBIT C



WALLER  
SMITH &  
PALMER  
Attorneys at Law

HUGHES GRIFFIS  
EDWARD B. O'CONNELL  
TRACY M. COLLINS\*  
PHILIP M. JOHNSTONE+\*  
CHARLES C. ANDERSON  
KERIN M. WOODS+  
ELLEN C. BROWN\*  
KARL-ERIK STERNLOF  
MARK S. ZAMARKA  
CATHERINE A. MARRION  
RACHAEL M. GAUDIO+\*

BY EMAIL AND REGULAR MAIL

May 15, 2017

William Mulholland  
Zoning Official  
Town of East Lyme  
P.O. Box 519  
Niantic, CT 06357  
[Billm@eltownhall.com](mailto:Billm@eltownhall.com)

OF COUNSEL:  
ROBERT W. MARRION  
ROBERT P. ANDERSON, JR.  
FREDERICK B. GAHAGAN

+ ALSO ADMITTED IN RI  
\*ALSO ADMITTED IN MA

Re: Twin Valley Subdivision

Dear Mr. Mulholland:

On April 28, 2017, we provided an opinion letter regarding the above proposed subdivision. Our letter addressed three specific questions:

- (1) Is a 40' buffer required around existing lots?
- (2) Must the subdivision have a 200' no cut/no build buffer from the roadway?
- (3) If the 200' buffer from the roadway is required, can the entry road into the subdivision go through that buffer?

Since that time, another issue has arisen regarding the 40' buffer found in section 23.5.B.1 of the East Lyme Zoning Regulations ("Regulations" or "ZR"). The plans provided for our review show two existing lots along Green Valley Lakes Road, and provide for a 40' buffer between those existing lots and the proposed lot #1 in the new development. The plans also show a proposed access street or road that would run parallel to the western most existing lot, noted on the plans as "N/F Brian Lepkowski & Diane Lepkowski" (the "Lepkowski lot"). The developer has now inquired whether a 40' buffer is also required along the portion of the Lepkowski lot that abuts the proposed road. Put another way, must a 40' buffer be installed to screen an existing contiguous lot from a proposed road or street?

ZR 23.5.B.1 states in relevant part that a "wooded or otherwise landscaped buffer shall be provided along the perimeter ... to Screen Development on the proposed lots from existing contiguous lots." (Emphasis added).<sup>1</sup> The plain wording of this section indicates that the purpose of the 40' buffer is to screen existing lots from development on proposed new lots, not roads. This interpretation is consistent with the Regulations and principles of statutory construction. "Zoning regulations are local legislative

<sup>1</sup> Although capitalized, neither "Screen" nor "Development" are defined terms in the Regulations.

Ex "KKK"



WALLER  
SMITH &  
PALMER, P.C.  
Attorneys at Law

enactments ... and, therefore, their interpretation is governed by the same principles that apply to the construction of statutes...." Trumbull Falls, LLC v. Planning & Zoning Commission, 97 Conn. App. 17, 21–22, cert. denied, 280 Conn. 923 (2006); see also 9A R. Fuller, § 33:7, p. 261. "In the construction of the statutes, words and phrases shall be construed according to the commonly approved usage of the language ... If a statute or regulation does not sufficiently define a term, it is appropriate to look to the common understanding of the term as expressed in a dictionary." Moon v. Zoning Board of Appeals, supra, 291 Conn. 16, 21 (2009)

The Regulations also draw a clear distinction between a lot and a street. A lot is defined in pertinent part as a "... parcel of land occupied or capable of being occupied by one principal building ..." ZR 1.29. The Lepkowski lot, and the proposed numbered lots on the plans all meet this definition. In contrast, ZR 1.54 provides in pertinent part that a street is "Any way which is an existing town or state highway ..." or any way which is shown on a recorded and duly approved subdivision map. While the Regulations do not provide a definition of road, Webster's Dictionary notes that a road is "... an open way for vehicles ... especially one lying outside an urban district." Here, the proposed access road is not a lot, as it would not be occupied, or be capable of being occupied, by a building.

Based on the foregoing, it is our advice that the 40' buffer found in ZR 23.5.B.1 is not intended to screen existing lots from proposed streets or roads in a Conservation Design Development. As applied here, a 40' buffer would not be required to separate or screen the Lepkowski lot from the proposed access road.

If you have any additional comments or questions, we would be pleased to respond.

Very truly yours,

Mark S. Zamarka, of  
Waller, Smith & Palmer, P.C.

cc. East Lyme Town Planner

# EXHIBIT D



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

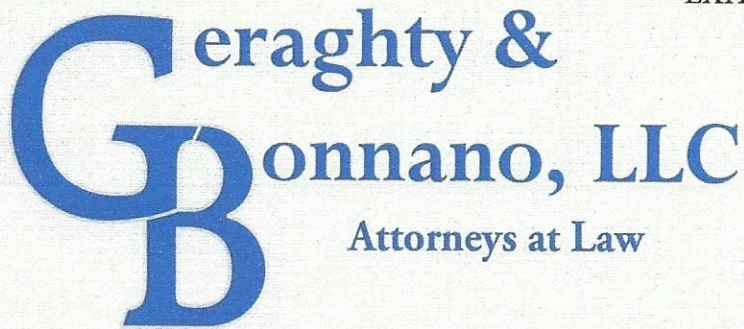


Original Subdivision, and made that dedication out of the Original Tract, the Commission cannot require an additional dedication from the Subject Parcel, which is a resubdivision of a portion of the Original Tract/Subdivision.

M:\users\MEB\East Lynn\open space memo.wpd

# EXHIBIT 5





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

\*Also Admitted in New York  
† Board Certified, Trial Advocate

\*\*Se habla español

†† Also Admitted in Massachusetts and North Dakota

August 12 2020

Via email [ggoeschel@eltownhall.com](mailto:ggoeschel@eltownhall.com)

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

Re: Lots 19 & 21 Upper Pattagansett Drive English Harbour

Dear Gary:

This letter is to follow up on my correspondence of Monday regarding the hearing for the above captioned re-subdivision. Given the executive orders regarding public hearings I wanted to confirm my understanding as to the time frame remaining for the commission to act. The initial public hearing was opened on July 27, 2020 by way of a special meeting. It was continued until August 4, 2020 and thereafter further continued to August 11, 2020 awaiting a response from Ledge Light Health District as to the septic approval. On August 10, 2020, I requested the August 11 meeting be cancelled and the hearing rescheduled to the regular September meeting which is September 8, 2020 in order that we will have a response from Ledge Light Health District so the commission may act. My client has consented to the extension of time to conclude the public hearing until September, 9, 2020

Please confirm that we are within time frame for conducting and concluding the public hearing in a timely manner or in the alternative schedule a public hearing on this matter on or before the August 31, 2020 original deadline

Replies to New London only at:

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

WWW.GERAGHTYBONNANO.COM

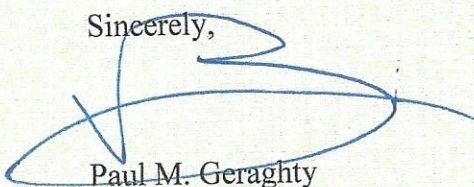
131 DWIGHT STREET  
NEW HAVEN, CONNECTICUT 06511

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



Thank you in advance for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to be 'Paul M. Geraghty', written over the printed name. The signature is stylized with a large loop and a horizontal stroke.

Paul M. Geraghty

cc: English Harbour Asset Management, LLC

# EXHIBIT 6



Exhibit S

**From:** [Paul Geraghty](#)  
**To:** [Gary Goeschel; Jennifer Lindo](#)  
**Subject:** Lots 19 & 21  
**Date:** Friday, August 21, 2020 4:01:41 PM

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Gary, in light of the comments received today not from but on behalf of Mr Benni my client will be seeking a continuance of the hearing on the 1st to the 8th. Paul