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Via email: ggoeschel@eltonhall.com
Gary Goeschel
Director of Planning
108 Pennsylvania Avenue
Niantic, CT 06357

Re: Nottingham Hills Re-subdivision of Lots 19 & 21
English Harbour Asset Management LLC

Dear Gary:

I write to request that the Planning Commission provide a conditional approval to the above referenced re-subdivision subject only to your receipt of feasibility approval by Ledge Light Health District or the State of Connecticut Department of Health. I spoke with Danielle Homes on Friday and was distressed, to say the least, on her lack of familiarity with the re-subdivision application considering the number of months that have past and replies my client has provided.

We had delivered plans to your office in early March regarding the re-subdivision and the lot line revision for lot 25. I now understand that because they were marked "DRAFT" they were not forwarded to Ledge Light. Notwithstanding the fact they were marked draft both plans bore the stamp and signature of a licensed Connecticut surveyor. The materials submitted were marked as such because it would not be atypical to meet with staff and review the plans first and finalize them based on those conversations. Since this was not possible due to the virus they were submitted as "drafts". Moreover, on more than one occasion we received responses from your office and Ledge Light as to "draft" plans so it does not make sense to us that all of a sudden this is a reason for not transmitting such plans. Executive Order 7B (1) allows for final plans to be filed not later than 24 hours before any scheduled hearing.

As I am sure you are aware, applicants can bypass the local Health District and obtain approvals directly from the State pursuant to the Health Code of the State of Connecticut. Since Ledge Light Health District has had ample time to review this very simple application, I can only assume at this juncture we will obtain our approvals regarding Septic compliance directly from the State of Connecticut Department of Health.

We have had several discussions with Dave Potts, the owner of Geomatrix, and are entirely comfortable with his ability to achieve full system approvals from either of the options available to us.

Replies to New London only at:

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That said the Commission may grant a conditional approval since the development of any parcel would be contingent on approval of the septic by Ledge Light.

“ ... our Supreme Court elaborated on its holding in *Lurie* by stating: “Our holding [in *Lurie*] was intended to achieve greater flexibility in zoning administration by avoiding stalemates between a zoning authority and other municipal agencies over which it has no control.... Nowhere did we intimate, therefore, that, in order to be valid, conditional approval requires evidence that the other agency will act favorably on the future request.... Further, it would be contrary to the policy of allowing a planning and zoning commission to make the first move and the decision as to the conditions under which it would approve the issuance of a permit.... This is so even though the project may subsequently fail to materialize because one or more of the conditions has for any reason not been met.... We conclude, therefore, that the phrase reasonably conditional in *Lurie* contemplates giving the other agency, over which a planning and zoning commission has no control, the opportunity to review the revised plans, thereby furthering the goal of cooperative action among municipal agencies, and that the record need not indicate whether the conservation commission is likely to approve the revised site plans.” (Citations omitted; internal quotation marks omitted.) *Id.*, at 482–83, 562 A.2d 1093. Our Supreme Court noted in *Gerlt v. Planning & Zoning Commission*, *supra*, 290 Conn. at 325, 963 A.2d 31, that *Lurie* and *Blaker* both involved conditional approval of site plan applications for a specially permitted use. The court further explained that “the approvals [in *Lurie* and *Blaker*] would have been invalid unless the other agency took the required actions.... When an approval will not be operative until a specific action occurs, however, there is no need to establish on the record that the action probably will occur because there is no risk to the public interest if the action does not occur.”⁵ *Id.*, at 325–26, 963 A.2d 31. *CMB Capital Appreciation, LLC v. Planning & Zoning Comm'n of the Town of N. Haven*, 124 Conn. App. 379, 387–88, 4 A.3d 1256, 1261 (2010).

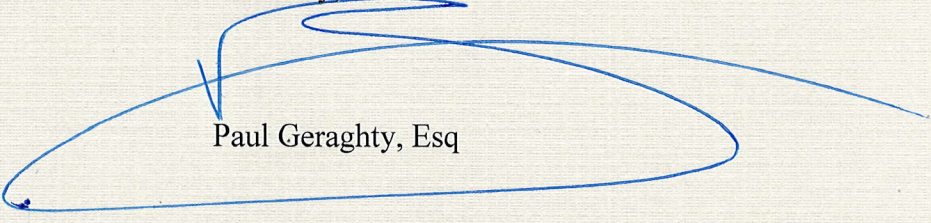
The rationale for this rule is that it allows “greater flexibility in zoning administration by avoiding stalemates between a zoning authority and other municipal agencies over which it has no control.” *Blaker v. Planning & Zoning Commission*, *supra*, at 482, 562 A.2d 1093. *Gerlt v. Planning & Zoning Comm'n of Town of S. Windsor*, 290 Conn. 313, 324–25, 963 A.2d 31, 39 (2009)

Secondly, I am concerned about members of the commission “pandering” to the residents over set back and stormwater management issues each of which are fully compliant with the zoning regulations, since at least the year 2001, and Storm Water Management requirements of the Subdivision Regulations of the Town of East Lyme. In addition, I know for a certainty that my client, Kristen Clarke, intends to respond in greater detail to the false claims made by Christine Stahl prior to tomorrow’s continuation of the Public Hearing of my client’s application. This includes the right to cross examine those witnesses who testified at last week’s hearing.

Would you please call me so we can discuss these matters in greater detail?

Sincerely,

Paul Geraghty, Esq

A large, stylized handwritten signature in blue ink is written over the typed name. The signature starts with a vertical line, loops around the name, and extends to the right with a long, sweeping tail.