

**Geraghty &
Bonnano, LLC**
Attorneys at Law

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

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

†† Also Admitted in Massachusetts and North Dakota

October 5, 2020

Via email: kirkscott@hotmail.com
Kirk Scott, Chairman
Town of East Lyme Planning Commission
108 Pennsylvania Avenue
Niantic, CT 06357

**Re: Lot Line Revisions Lots 19 & 21
One Lot Re-Subdivision of Lots 19 & 21 Upper Kensington Drive
Nottingham Hills Subdivision**

Dear Mr. Scott:

I write to address certain matters which occurred during the September 1, 2020 Town of East Lyme Planning Commission meeting which come on top of the issues addressed in my correspondence to you dated August 28, 2020, **Exhibit 1**, which already appears in the record of my client's application.

Please add this correspondence and the attached exhibits to the record of my client's above referenced pending application.

As an initial matter, my concerns were addressed in the letter sent to the Director of Planning on September 15, 2020, **Exhibit 2**, to which I received the response enclosed as **Exhibit 3** on September 16, 2020. Attached to the response was an email from Mr. Brian Bombach, **Exhibit 4**, to Jennifer Lindo, Gary Goeschel and, interestingly, Gary Upton dated September 1, 2020. .

In response to Mr. Bombach's email we respond as follows;

I would note that Mr. Bombach's email begins with his opinion, which includes absolutely no evidentiary support, that "the re-subdivision is inconsistent with POCD..." based on Section 1.1 of the POCD that describes part of the mission of the POCD is for the "maintenance of property values".

We believe Mr. Bombach has taken the mission statement out of context and the intent of a POCD and further relies on a severely flawed analysis to reach his opinion.

In support of Mr. Bombach's opinion he makes a series of claims regarding the property and the plans which are the subject of the pending application which are demonstrably untrue. We will respond to each claim in the order in which they were made and will provide factual evidentiary support for each rebuttal. Mr. Bombach's comments are in bold and our response follows

1. The lot is a wooded sloped lot that will require significant site work to cut the property into the proposed building lots versus the original property layout.

Putting aside the fact that nearly **all** of the lots in the entire subdivision are sloping either uphill or downhill, see plans for phases 2a- **Exhibit 5**, 3-**Exhibit 6** and 4-**Exhibit 7**, these lots, both the 2 existing and the one proposed, are each only moderately sloped when compared to the vast majority of the other lots and will not require, as claimed, "significant site work". On the contrary I would note that our site plan, page 3 of 5 of the current plans, the proposed first floor elevations which are all reasonably close to existing grades which demonstrates minimal grading will required. Attached as **Exhibit 8**, in red ink, versus the proposed plan in black ink, is an overlay of the locations of homes and driveways on the existing approved plans,. We would note that the proposed house location of revised lot 21 is near that shown on the existing approved plan and that the home on proposed lot 23 is in a similar location to that shown for lot 19 on the existing approved plan. Finally, we direct you to page 2 of 5 (Existing Conditions Plan) of the current plans which show the existing clearing limits of the 3.8 acre site. I note that most of the remaining wooded area, approximately 1 acre, is located within the 100 foot upland review area from Inland Wetlands and this area will remain in its current wooded vegetative state. The remainder of the property is not "wooded" as was claimed.

2. The lots shown on the drawing show proposed homes with very little distance from one another.

In response to this claim we would note that, amongst other things, a re-subdivision or a Lot Line Revision application requires the applicant to demonstrate that a house can be sited outside of setback distances established by the East Lyme Zoning Commission and pursuant to Section 3-5 of the East Lyme Subdivision Regulations and to further demonstrate a well and septic area can be located on each lot in accordance with the requirements of the Connecticut Public Health Code. The key word here is "demonstrate". This does not mean that this is where the improvements will be located but rather that they can be located on a proposed or revised lot in accordance with the applicable regulations and or requirements. In this case, with this application our plans demonstrate the ability for the each of the lots, in their proposed configuration, to comply with these regulations and or requirements. Attached as **Exhibit 9** is an Alternative Site Plan showing that the proposed homes could be located in different areas on each lot that would separate the distances between the proposed dwellings significantly. We would also note that it is quite common in the Nottingham Hills Subdivision to have homes

located within 25 or so feet of the property line and in support of this fact enclose the following site plans of existing residences to demonstrate it;

Exhibit 10-2 Kensington Drive- 22'.2'' side yard setback

Exhibit 11-2 Upper Kensington Drive- 24' side yard setback

Exhibit 12-8 Upper Kensington Drive- 24' side yard setback

Exhibit 13-12 Upper Kensington Drive- 15' side yard setback

Exhibit 14-14 Upper Kensington Drive- 20' side yard setback

Exhibit 15-16 Upper Kensington Drive- 25'.5'' side yard setback

Exhibit 16-26 Upper Kensington Drive- 26' side yard setback

Exhibit 17-9 Aberdeen Court-20'.6'' side yard setback

We would note the final determination of house locations is made by the lot purchaser and their engineer which is then reviewed and approved by the Town of East Lyme building, planning, zoning and engineering departments as a well as Ledge Light Health District.

3. Lot sizes that will limit the size of houses that can be built there.

The "footprints" of the proposed houses, 56' x 30", or first floors of 1680 s.f., would easily provide for the 2600 s.f. required by the subdivisions Declaration of Covenants and Restrictions/Deed Restrictions (refer to Paragraph D), **Exhibit 18**, after adding the second floors and are entirely consistent with the size of the homes that currently exist or are being constructed in the neighborhood. More importantly to note is the fact every house built since 2008 has been less than 3000 s.f. as evidenced by the attached assessors' cards or plan approvals in the case of properties currently under construction;

Exhibit 19 -2 Kensington Drive (2019)-2316 s.f. (Lower Level walkout not included in calculation)

Exhibit 20 -4 Aberdeen CT (2015)-2881 s.f

Exhibit 21 -1a Upper Kensington Drive (2011)-2685 s.f

Exhibit 22 -3 Upper Kensington Drive-(2020)-2600 s.f.

Exhibit 23 -8 Upper Kensington Drive-(2008)-2878 s.f.

Exhibit 24-10 Upper Kensington Drive-(2015)-2458 s.f. (Lower Level walkout not included in calculation)

Exhibit 25 -12 Upper Kensington Drive-(2020)-2600 s.f.

Exhibit 26 -14 Upper Kensington Drive-(2011)-2990 s.f.

Exhibit 27 -18 Upper Kensington Drive-(2011)-2970 s.f.

Exhibit 28 -26 Upper Kensington Drive-(2012)-2600 s.f.

In addition, the lot sizes proposed for all three lots 1.54 acres, .93 acres and 1.32 acres are consistent with the size of the existing built upon lots in the subdivision, **Exhibit 29**, We note for the record that the abutting lots are sized as follows;

26 Upper Kensington Drive- 1.3 acres

20 Upper Kensington Drive- .93 acres

18 Upper Kensington Drive- 1.0 acres

See attached **Exhibit 30**

With regard to lot sizes we would also note the following;

- a) The larger lots on the East Side of Upper Kensington Drive, #'s 5, 9, 11, & 15 have not been built upon and will be the subject of a Lot Line Revision and Re-Subdivision Plan in the near future.
- b) Lots exceeding 1.3 acre in size typically have significant portions of the property subject to conservation easements. Properties located at 1a, 2, 4 & 6 Upper Kensington Drive are examples of this. Alternatively, the other rationale for larger lots are septic constraint issues primarily dealing with ledge. 1 and 3 Kensington Drive and 2 Aberdeen Court are examples of this issue necessitating larger lot sizes.

4. This plan is inconsistent with the neighborhood houses with large lots and large single family homes.

This is demonstrably false, and these unfounded claims are addressed in the detail and exhibits provided in the responses to items # 2 and 3 herein.

Of the 26 homes built or under construction in the Nottingham Hills subdivision 50% of them are under 3000 s.f.

5. Build up of these lots.... Will negatively affect the property values of the surrounding properties.

This statement could not be further from the truth as is evidenced by the asking prices of the two new homes currently for sale in Nottingham Hills subdivision identified as 3 & 12 Upper Kensington Drive which are listed for sale for \$534,900. and \$549,000. respectively.

The homes to be built on the lots subject to the pending Lot Line Revision/1 Lot Re-Subdivision are of similar size to that which has been built in the past twelve years. The lot sizes are also similar in size. To suggest with absolutely no supporting evidence that the construction of 3 2600 plus s.f. homes on a total of 3.8 acres of land abutting thousands of acres of contiguous Open Space land "... will negatively affect the property values of the surrounding properties" is demonstrably untrue.

Sincerely,



Paul Geraghty, Esq.

cc: Kristen T. Clarke, P.E. via email
Gary Goeschel via email w/enc.
Jenn Lindo via email w/enc.