

DESIGN REPORT
Nottingham Hills Subdivision Phase 5
AUGUST 4, 2021
121 UPPER PATTAGANSETT ROAD
EAST LYME, CONNECTICUT

This Phase of the Nottingham Hills subdivision will create 8 new lots on 14.35 of the 63.86 acres each of which will have frontage on Upper Pattagansett Road. The remaining land, identified as "Lot 6" on the submitted plans containing 49.53 acres, will continue to be used in the same historical manner as it has been for the past 95 years (Camp Ground). The property for this Phase of the subdivision is being acquired from Cold Spring Lot Management, LLC. As is detailed in the submitted plans no public improvements will be necessary.

The subject property will become a part of the Nottingham Hills Subdivision land assemblage and represents the 5th re-subdivision of the Nottingham Hills Subdivision property.

Access to each of the 8 lots will be from 3 common driveways. The applicant is proposing this to reduce impervious surface areas.

INLAND WETLANDS

There are inland wetlands on the subject property lots 6 (the remaining land) and Lot 7. The "wetland" is an intermittent watercourse which is proposed to be enhanced to address existing drainage matters on the property. A application for a permit to perform the enhancement activities in the upland review area abutting the intermittent watercourse has been submitted to the East Lyme Inland Wetland Agency.

OPEN SPACE

No additional Open Space is required for this Phase of the subdivision based upon the following analysis;

As was established in the findings of fact by this commission on or about January 11, 2021, Ex. A. a total of 79.34 acres of Open Space had been provided to date. In addition a copy of correspondence from Paul Geraghty, Esq. to Gary Goeschel, Director of Planning dated January 6, 2021, Ex. B, provided further detail regarding Open Space in the Nottingham Hills Subdivision. Accordingly the total land in the Nottingham Hills Subdivision will increase from 107.82 acres to 171.68 acres which requires Open Space of 51.5 acres. As was established by the afore said "Findings of Fact" a total of 79.34 acres of Open Space has already been provided resulting in no additional open space being required or provided in this phase of the subdivision.

YIELD PLAN

The design of this Phase of the Subdivision uses a Conventional conforming layout.

SEWAGE DISPOSAL REPORT

The 49.53 acre Lot 6 has an existing septic system. A B-100a Application has been submitted to Ledge Light Health District to review the system area . A Subdivision Feasibility Application for the 8 proposed lots has also been submitted to Ledge Light Health District.

WATER SUPPLY REPORT

The existing and proposed new lots will all be served by well water. Health Code compliant locations for each of the wells are depicted on the submitted plans.

STORM WATER MANAGEMENT PLAN

This Plan, prepared by May Engineering LLC, will be submitted directly by Timothy May, P.E.

ROAD CONSTRUCTION/PUBLIC IMPROVEMENTS

There is no road construction or public improvements required. Public Utilities are available on Upper Pattagansett Road.

NATURAL & CULTURAL RESOURCE MAP

An existing conditions map has been submitted that complies with this requirement of the East Lyme Subdivision Regulations.

ARCHEOLOGICAL SURVEY

This is in process and will be submitted upon completion. There are no known issues at this time.

CONSTRUCTION ACTIVITIES

No construction activities are required. The applicant is not a Home Builder and these activities will be performed by others pursuant to building and other permits obtained directly by them from the Town of East Lyme and Ledge Light Health District.

CONSTRUCTION SEQUENCE REPORT

The paving of the common driveways and the construction of the rain gardens identified in the storm water management plan will occur during the construction of the homes to be built.

EXHIBIT A

Town of

P.O. Drawer 519
Department of Planning &
Inland Wetlands

*Gary A. Goeschel II, Director of Planning /
Inland Wetlands Agent*



East Lyme

108 Pennsylvania Ave
Niantic, Connecticut 06357
Phone: (860) 691-4114
Fax: (860) 860-691-0351

MEMORANDUM

To: East Lyme Planning Commission

From: Gary A. Goeschel II, Director of Planning

Date: January 11, 2021

RE: Continuation of Application of Kristen T. Clarke, P.E., for English Harbour Asset Management LLC, Owner; Application for a 4-lot re-subdivision of approximately 3.8± acres of land zoned RU-40, located at 22 and 24 Upper Kensington Dr, East Lyme, Assessor's Map 40.0, Lot 22 and 23.

Upon review of the above referenced application, supporting documentation, and proposed subdivision plan (5-Sheet Drawing Set) entitled "Nottingham Hills Subdivision Lot Line Revisions of Existing Lots 19 & 21 & Conservation Design Development, 1 Lot Re-Subdivision of Portions of Lots 19 & 21 Dated: January 29, 2020, revised to: December 9, 2020", by Donald L. Gesick Jr. L.S., of Gesick & Associates, P.C., 19 Cedar Island Ave., Clinton, Connecticut, I offer the following:

FINDINGS

Whereas: The Commission commenced a Public Hearing on July 27, 2020. The Public Hearing for said application was continued to Commission's meetings of August 4th, August 11th, September 1st, October 6th, October 27th, November 10th, December 1st, and December 10th 2020.

Whereas: The Commission has reviewed the application and received testimony from the applicant, his professionals, representatives, and the public. In addition, Town staff also provided the Commission with comment concerning this application's compliance with local requirements and regulations.

Whereas: The parcel of land constituting the property subject to this application is zoned RU-40 Rural Residential and the property abutting the site to the north and east (Darrow Pond) is zoned SU-E Special Use Elderly Housing and has been preserved as Town owned open space. The abutting properties to the south and east are Zoned RU-40 Rural Residential.

Whereas: The East Lyme Inland Wetlands Agency determined that "No Permit is Required" as there is no activity occurring in the upland review area, wetlands, or watercourse as evidenced by Exhibit "F".

Whereas: The proposed Subdivision is found to meet the requirements of the East Lyme Subdivision Regulations and the East Lyme Plan of Conservation and Development (POCD) as demonstrated by the following:

Section 3-4 Plan of Development: As the proposed Subdivision is located completely within an RU-40 zoning district adjacent to existing residential lots zoned RU-40 and SU-E, the proposed subdivision continues to follow the pattern of development characteristic of the existing residential development.

As such, the proposed subdivision conforms to the comprehensive Plan of Development for the Town of East Lyme (2020 POCD) as adopted by the East Lyme Planning Commission.

Section 5-4 Sanitation Report: As indicated in Exhibit "BBB" e-mail correspondence from Danielle Holmes, REHS/RS, dated December 10, 2020, indicates the proposed lots are able to be served by subsurface sewage disposal systems.

Section 5-5 Water Supply Report: As indicated in Exhibit "BBB" e-mail correspondence from Danielle Holmes, REHS/RS, dated December 10, 2020, indicates the proposed lots are able to be served by on-site water supply wells.

Section 5-2-2(E) and 6-8 Stormwater Management Plan: As indicated in Exhibit "BB", Memo from Victor Benni, P.E., Town Engineer, dated October 19, 2020, indicates that "Waiver of Stormwater Management Report" demonstrates that the water quality of the receiving aquifer, wetland or watercourse will not be affected and that the proposed development will not cause or exacerbate downstream flooding." As such, the proposed design meets the overall intent of Section 6-8 of the East Lyme Subdivision Regulations.

Section 5-2-2(G) Erosion and Sedimentation Control Plan: As indicated by Exhibit "BB" dated October 23, 2020, memorandum from Victor Benni, P.E., Town Engineer, indicates the proposed Plan was updated to contain generalized Erosion and Sedimentation Control Notes. As such, the appropriate notes, details, and provisions regarding erosion control measures adequate to control accelerated erosion and sedimentation and reduce the danger from storm water runoff on the proposed site have been incorporated into the proposed plan. Therefore, the Planning Commission may hereby certify that the Soil Erosion and Sediment Control Plan complies with the requirements and objectives of this Subdivision Regulation.

Section 5-6 Pesticide Report: As evidence by the applicant's testimony during public hearing, there have been no known regular applications of pesticides on the subject site currently or historically. In addition, the site was previously approved for two (2) building lots.

Section 5-8 Archeological Survey: As Evidence by the Design Report in Exhibit "A", the Archeological Survey was provided to the Commission as part of the Nottingham Hills Phase 1 and 3 Subdivision and was incorporated into the public hearing record by testimony of the Applicant. In addition, the site was previously approved for the construction of two (2) single family dwellings. As such, there are no archeological resource issues on the site.

Section 6-2 Lot Design Specifications: As evidenced by Exhibit "CC" correspondence from William Mulholland, Zoning Official, October 23, 2020 and the Exhibit "U" correspondence from Attorney Paul Geraghty, dated August 26, 2020, and Exhibit "KKK" letter correspondence from Mark Zamarra, Esq./Town Attorney, to William Mulholland, Zoning Official, indicate the proposed subdivision meets the lot design specifications under the Conservation Development by Design (CDD) pursuant to Section 23 of the Zoning Regulations as well as Section 6-2 of the East Lyme Subdivision Regulations. Therefore, the proposed subdivision complies with all applicable Zoning Regulations for the purposes of the subdivision of land.

Section 6-7 Open Spaces: As demonstrated by the Design Report in Exhibit "A", identifies the Nottingham Hills Subdivision as being a division of 107.82- acres and the open space provided totaling 41.35-acres. Based on the subdivision regulation requirement of 30% Open Space, or 32.34-acres, the subdivision had exceeded the required Open Space by 9.1-acres as of the date of the pending application. Subsequent, to the application, the applicant conveyed portions of lot 19, (.51-acres), and Lot 21, (1.27-acres), to the property that was in the process of being conveyed to the East Lyme Land Trust. The combined totaled 37.99-acres which, has been transferred to the East Lyme Land Trust as of December 30, 2020 (Vol. 1046, Pg. 120). Upon recalculating the Open Space, it now totals 79.34-acres of the subdivision's 107.82-acres. As such approximately 73.5% of the subdivision's land is now in open space when only 30% or 32.3-acres is required.

In addition, Exhibit "U" correspondence from Attorney Paul Geraghty, dated August 26, 2020, indicates the Nottingham Hills subdivision has "banked" land to use for Open Space as evidenced in the minutes of the Planning Commission dated November 16, 2010 (see Exhibit "FF") wherein excess Open Space, 10-acres, was provided by agreement with the Town of East Lyme Planning Commission on the condition that it was done so with the reserved right that the 10-acres could be used in future calculations on future applications. Further, pursuant to the Memorandum Dated February 1, 2010 from Mark E. Block, Esq. to G. Goeschel, Director of Planning, as provided in Exhibit "U", correspondence from Attorney Paul Geraghty, dated August 26, 2020, the open space requirement is based on the entire tract and not subsequent re-subdivisions. Therefore, adequate Open Space has not only been dedicated but, has been provided in an amount that exceeds the minimum required under the subdivision regulations. As such, the development has met its Open Space obligations.

Section 6-9 Requirements Regarding Flooding: As demonstrated by Exhibit "Z" Nottingham Hills Re-Subdivision Plan (5-sheet set) dated January 29, 2020 revised to October 19, 2020 which, reduces the proposed division of land from 4-Lots to 3-Lots and Exhibit "BB" dated October 23, 2020, memorandum from Victor Benni, P.E., Town Engineer, the proposed Plan indicates that the Drainage Summary meets the overall intent of Section 6-8 of the East Lyme Subdivision Regulations and the proposed site development will not adversely affect the water quality of downstream water features or exacerbate any downstream flooding.

PROPOSED RESOLUTION

The East Lyme Planning Commission based on the record before it with respect to this application, finds this application to be in conformance with the Subdivision Regulations of the Town of East Lyme as based on the above Findings indicated in the Memorandum from Gary A. Goeschel II, Director of Planning, dated January 8, 2021.

NOW THEREFORE, I hereby Move to APPROVE the application known as the Application of Kristen T. Clarke, P.E., for English Harbour Asset Management LLC, Owner; Application for a 4-lot re-subdivision of approximately 3.8± acres of land zoned RU-40, located at 22 and 24 Upper Kensington Dr, East Lyme, Assessor's Map 40.0, Lot 22 and 23, and proposed Subdivision Plan (5-Sheet Drawing Set) entitled "Nottingham Hills Subdivision Lot Line Revisions of Existing Lots 19 & 21 & Conservation Design Development, 1 Lot Re-Subdivision of Portions of Lots 19 & 21 Dated: January 29,2020, revised to: December 9, 2020", by Donald L. Gesick Jr. L.S., of Gesick & Associates, P.C., 19 Cedar Island Ave., Clinton, Connecticut which, is further subject to the following administrative requirements and required modifications to the site plan and/or other materials submitted in support of this application:

1. An Erosion & Sedimentation Control bond in an amount of \$3000.00 dollars shall be posted with the Town in a form acceptable to the Town of East Lyme Planning Commission prior to the start of any site work including but not limited to clearing, grubbing, filling and grading.
2. Contact the Planning Director to inspect the installation of erosion and sedimentation controls within 2-days prior to the start of any construction.
3. An Application for Right-of-Way Permit shall be filled with the East Lyme Engineering Department prior to the start of any site work.
4. The applicable items above shall be accomplished prior to the filling of the subdivision on the land records, or other documentation of planning approval and no site work shall commence until all applicable conditions are satisfied.

This approval is specific to the subdivision plan submitted as the application known as the Application of Kristen T. Clarke, P.E., for English Harbour Asset Management LLC, Owner; Application for a 4-lot re-subdivision of approximately 3.8± acres of land zoned RU-40, located at 22 and 24 Upper Kensington Dr, East Lyme, Assessor's Map 40.0, Lot 22 and 23, and proposed Subdivision Plan (5-Sheet Drawing Set) entitled "Nottingham Hills Subdivision Lot Line Revisions of Existing Lots 19 & 21 & Conservation Design Development, 1 Lot Re-Subdivision of Portions of Lots 19 & 21 Dated: January 29, 2020, revised to: December 9, 2020", by Donald L. Gesick Jr. L.S., of Gesick & Associates, P.C., 19 Cedar Island Ave., Clinton, Connecticut." Any changes in the subdivision plan shall require prior approval from the Commission and/or the Director of Planning. Any change in the development plan layout other than those identified herein shall constitute a new application. The owner/applicant shall be bound by the provisions of this Application and Approval.

1/7/2021

Lots 19 & 21 Kensington

From: pgeraghty@geraghtybonnano.com,

To: ggoeschel@eltownhall.com,

Cc: kristentclarke@gmail.com,

Subject: Lots 19 & 21 Kensington

Date: Thu, Jan 7, 2021 2:14 pm

Attachments: Ltr.Goeschel.Open Space (19&21)01.07.21.pdf (594K)

Gary, I took some time to go back through the records I have for the open space and put together an outline of the history regarding it. I think it's clear the client has meet the requirements for the open space on this application. Call me if you have any questions. 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*****

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EXHIBIT B

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

January 6, 2021

Via email: ggoeschel@eltownhall.com
Gary Göeschel
Director of Planning
Town of East Lyme
108 Pennsylvania Avenue
Niantic, CT 06357

Re: English Harbour Asset Management LLC
Lot Line Revision Lots 19 & 21
1 Lot Re-Subdivision of Portions of Lots 19 & 21

Dear Gary:

As a follow up to our conversation earlier this week, I wanted to reiterate my concern regarding the Planning Commission's discussion and questions regarding the Nottingham Hills subdivision open space contributions to date and provide you with the references in which open space has been addressed by my client in the record of the pending lot line revision/re-subdivision application record.

1. The Design Report submitted at the time of application on March 2, 2020 identifies the size of the subdivision as 107.82 acres and open space provided totaling 41.35 acres and provides the detailed support. Based upon the subdivision regulation requirement of 30% Open space, or 32.34 acres, this subdivision had exceeded the required Open Space required by 9.1 acres as of the date of the pending application (Application Record Ex. A: Attached as Ex. 1, hereto).
2. Subsequent to the pending application my client conveyed portions of lot 19, (.51 acres, Ex. 2 herein), and Lot 21, (1.27 acres, Ex. 3 herein), to the property that was in the process of being conveyed to the East Lyme Land Trust. I note that it is demonstrative of my clients intent given the plain language in the deeds which states **"The intent of this deed is to separate out that portion of lot 19/21 (a/k/a 22/24 Upper Kensington) to be conveyed to the East Lyme Land Trust referenced as "Area to Be Transferred from Lot 19/21 to the East Lyme Land Trust on a map entitled "Lot Line Revisions Nottingham Hills Subdivision Lots 19, 20, 21, & 32 Property Owner: English Harbour Asset Management LLC"** These properties

were part of the lot line revision that you approved and is reflected on the mylar which is recorded in drawer 8-#8 and drawer 8-#118 of the East Lyme Land Records. This map is attached as Ex. 4 hereto.

The combined parcel totaled 37.99 acres. This land was in fact transferred to the East Lyme Land Trust, Inc. on December 30, 2020 the deed for which is recorded in the East Lyme Land Records at volume 1046 page 120. A copy of the recorded deed is enclosed as Ex. 5 herein. When recalculated the open space provided now totals 79.34 acres of the subdivision's 107.82 acres meaning of course that at least 73.5% of the subdivisions land is in open space when only 30% or 32.3 acres is required.

In addition, I would direct you to the pending application's record exhibit FF which is my letter to you dated October 26, 2020, which among other things provides the minutes of the November 16, 2010 Town of East Lyme Planning Commission wherein excess open space, 10 acres, was provided by agreement with the Planning Commission on the condition that it was done so with the reserved right that the ten acres could be used in future calculations on future applications. See Attached Ex. 6 herein.

I would also note that this Planning Commission approved the long delayed release of the Open Space Covenant on the same night as the public hearing on the pending applications commenced. I have attached the minutes of that meeting as Ex. 7 herein.

Finally, I attach as Ex. 8 herein the Opinion Letter prepared by Mark Block Esq dated February 1, 2010, that address's Steve Harney's property where he was NOT required to provide additional open space contrary to what we discussed. The open space requirement is based on the entire tract and not subsequent re-subdivisions. Therefore, as concluded by the town's counsel if there has been adequate open space dedicated, the commission may not require additional space as part of a re-subdivision. In the instant case my client and its predecessors have, as outlined herein, dedicate more open space than is required and as such no further opens space dedication can be required. However, as noted my client has as part of this added additional open space from the lots which are part of this application, when it did the lot line revision.

In the final analysis this subdivision has provided far in excess of the required Open Space and the question raised by Ms. Williams given the record of this application is troublesome on many levels.

I look forward to receiving and reviewing your draft approval motion for this application that you indicated you would send me by tomorrow.

Sincerely,

Paul M. Geraghty

Enc.

EXHIBIT 1

**DESIGN REPORT
4 LOT RE-SUBDIVISION
UPPER KENSINGTON DRIVE
EAST LYME, CONNECTICUT**

This re-subdivision will separate the subject properties from two (2) into four (4) lots.

The subject property is a part of the Nottingham Hills Subdivision land assemblage and represents the sixth re-subdivision of the Nottingham Hills Subdivision property.

More specifically, the plan separates current lots 19 and 21 into four lots. It should be noted that proposed lot 4 will be deeded to the East Lyme Land Trust, Inc for additional Open Space and will be subject to a Conservation Easement by the State of Connecticut Department of Energy and Environmental Protection upon the filing of the mylars of this re-subdivision

Accessible Road frontage to each of the lots will be from Upper Kensington Drive having a total of fifty (50) feet of frontage. Access to each of the lots will be from the two existing curb cuts. The applicant is open to discussing with the East Lyme Planning commission or it's staff the use of a singular driveway for the first One Hundred Fifty Feet (150') to further reduce impervious surface areas.

INLAND WETLANDS

There are inland wetlands on the subject property lots 1 and 2. In both instances the inland wetlands are within already protected front, rear and side yard building setbacks. It is important to note though however that there is no activity proposed in either the inland wetlands or the 100' upland review area on any of the proposed lots. An Application for Determination of Non-Regulated Activity has been filed with the Town of East Lyme Inland Wetlands Agency. Ex. A.

OPEN SPACE

Open space totaling 41.35 acres has already been provided by deed or conservation easement to the Town of East Lyme for the Nottingham Hills Subdivision totaling 38.35% of the total land in all phases of the subdivision vs. the required 30%. Ex. B.

SEWAGE DISPOSAL REPORT

Proposed lots 2 and 4 have already been reviewed for septic feasibility. No changes have been made to require further review outside of a B-100, Ex. C, which has been filed with Ledge Light Health District. Both of lots 2 and 4 have system areas

located outside of the 15-foot buffer required by the State of Connecticut Health Code. Lots 1 and 3 utilize test hole data from the Nottingham Hills subdivision Phase 3 plans to demonstrate the septic feasibility required by the East Lyme Subdivision regulations. An Application For Subdivision Feasibility review has been filed with the ledge Light Health District for Lots 1 and 3. Ex. C.

WATER SUPPLY REPORT

The existing and proposed new lots will all have wells.

STORM WATER MANAGEMENT PLAN

Drainage from the properties will only increase minimally under the proposed re subdivision. Since lot 4 will be "Open Space it will remain in its current unimproved state with no new impervious surfaces. Lots 2 and 3 will share a common driveway for all but 80 feet of a proposed 10' wide driveway (800s.f.). The homes will have a roof surface area of no more than 2000 s.f. Gutter down spouts will tie into each proposed homes footing drains and utilizing the site topography will daylight to drain onto other lands of the landowner outside of the wetland or their upland review areas, pursuant to the original design of this subdivision, and will easily be disbursed and or absorbed into the provided for 12 acre (552,720 s.f.) drainage area.

ROAD CONSTRUCTION/PUBLIC IMPROVEMENTS

There is no road construction or public improvements required. Utilities (Electric, Cable and Telephone) are stubbed to the entrance on Upper Kensington Drive.

NATURAL & CULTURAL RESOURCE MAP

Provided to the East Lyme Planning Commission as part of the Nottingham Hills Subdivision Phase 1 and incorporated herein. See Ex. D

ARCHEOLOGICAL SURVEY

Provided to the East Lyme Subdivision as part of Nottingham Hills Subdivision Phase 1 and 3 and incorporated herein. There are no Archeological issues to address that need to be addressed.

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

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

OPEN SPACE: 41.35

EXHIBIT 2

RECORD AND RETURN TO:

Geraghty & Bonnano, LLC
38 Granite Street, P. O. Box 231
New London, CT 06320

WARRANTY DEED - STATUTORY FORM

TO ALL PERSONS TO WHOM THESE PRESENTS SHALL COME, KNOW YE THAT **ENGLISH HARBOUR ASSET MANAGEMENT, LLC** of the City of Cheyenne, County of Laramie and State of Wyoming, for consideration of ONE DOLLAR (\$1.00) and other good and valuable consideration grants to **ENGLISH HARBOUR ASSET MANAGEMENT, LLC** of City of Cheyenne, County of Laramie and State of Wyoming with WARRANTY COVENANTS, all that certain piece or parcel of land, situated in the Town of East Lyme, County of New London and State of Connecticut, being further bounded and described on Schedule A attached hereto.

The intent of this deed is separate out that portion of Lot 19 (a/k/a 22 Upper Kensington) to be conveyed to the East Lyme Land Trust referenced as "Area To Be Transferred From Lot 19 To The East Lyme Land Trust" on a map entitled "Lot Line Revisions Nottingham Hill Subdivision Lots 19, 20, 21 & 32 Property Owner: English Harbour Asset Management LLC" recorded in Drawer 8-118 of the East Lyme land records.

NO CONVEYANCE TAX RECEIVED
KAREN MILLER GALBO
EAST LYME, CT TOWN CLERK

Said Premises are conveyed subject to:

Any and all provisions of any municipal, ordinance or regulation or public or private law with special reference to the provisions of any zoning regulations and regulations governing the said Premises.

Real property taxes on the current Grand List and any municipal liens or assessments becoming due and payable on or after the delivery of this Deed.

IN WITNESS WHEREOF, the Grantor(s) has/have caused these presents to be
executed on this 05 day of ~~February~~ ^{March KS}, 2020.

Witnessed by:

ENGLISH HARBOUR ASSET
MANAGEMENT, LLC

Cheryl Desobler
MS
authorized

By: Kristen Clarke
Kristen Clarke
Its Manager, duly

STATE OF New Hampshire)
COUNTY OF Hillsborough) ss: _____ ^{March KS}
February 05, 2020

On this the 05 day of ~~February~~ ^{March KS}, 2020, before me, the undersigned officer,
personally appeared Kristen Clarke, as Manager of English
Harbour Asset Management, LLC, known to me (or satisfactorily proven) to be the
persons whose name is transcribed to the foregoing document and acknowledged same
to be her free act and deed, and the free act and deed of the company, before me.

[Signature]

Notary Public
My Commission Expires:



SCHEDULE A

Beginning at a Point, which is at the Northerly Corner of Lot 19, thence the following courses & distances:

S 15°58'11" W a distance of 268.48' to a point

N 65°34'47" W a distance of 64.89' to a point

N 08°47'03" E a distance of 285.14' to a point

S 60°32'04" E a distance of 102.69' to a point and point of beginning

Said area contains 22312.55 Sq. Ft. ± or 0.51 Acres ±, and is referenced as "Area To Be Transferred From Lot 19 To The East Lyme Land Trust" on "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"

Dated: February 1, 2019, Revised thru November 8, 2019

RECEIVED FOR RECORD
Mar 18, 2020 08:22:42A
Karen Miller Galbo
TOWN CLERK
EAST LYME, CT

EXHIBIT 3

RECORD AND RETURN TO:
Geraghty & Bonnano, LLC
38 Granite Street, P. O. Box 231
New London, CT 06320

WARRANTY DEED - STATUTORY FORM

TO ALL PERSONS TO WHOM THESE PRESENTS SHALL COME, KNOW YE THAT **ENGLISH HARBOUR ASSET MANAGEMENT, LLC** of the City of Cheyenne, County of Laramie and State of Wyoming, for consideration of ONE DOLLAR (\$1.00) and other good and valuable consideration grants to **ENGLISH HARBOUR ASSET MANAGEMENT, LLC** of City of Cheyenne, County of Laramie and State of Wyoming with WARRANTY COVENANTS, all that certain piece or parcel of land, situated in the Town of East Lyme, County of New London and State of Connecticut, being further bounded and described on Schedule A attached hereto.

The intent of this deed is separate out that portion of Lot 21 (a/k/a 24 Upper Kensington) to be conveyed to the East Lyme Land Trust referenced as "Area To Be Transferred From Lot 21 To The East Lyme Land Trust" on a map entitled "Lot Line Revisions Nottingham Hill Subdivision Lots 19, 20, 21 & 32 Property Owner: English Harbour Asset Management LLC" recorded in Drawer 8-118 of the East Lyme land records.

Said Premises are conveyed subject to:

Any and all provisions of any municipal, ordinance or regulation or public or private law with special reference to the provisions of any zoning regulations and regulations governing the said Premises.

Real property taxes on the current Grand List and any municipal liens or assessments becoming due and payable on or after the delivery of this Deed

NO CONVEYANCE TAX RECEIVED
KAREN HILLER GALBO
EAST LYME, CT TOWN CLERK

IN WITNESS WHEREOF, the Grantor(s) has/have caused these presents to be
executed on this 05 day of ~~February~~ ^{March}, 2020.

Witnessed by:

Cheryl O'Leary
[Signature]
authorized

ENGLISH HARBOUR ASSET
MANAGEMENT, LLC

By: Kristen Clarke
Kristen Clarke
Its Manager, duly

STATE OF New Hampshire)
COUNTY OF Hillsborough) ss: _____ March ^{KS}
February 05, 2020

On this the 05 day of ~~February~~ ^{March}, 2020, before me, the undersigned officer,
personally appeared Kristen Clarke, as Manager of English
Harbour Asset Management, LLC, known to me (or satisfactorily proven) to be the
persons whose name is transcribed to the foregoing document and acknowledged same
to be her free act and deed, and the free act and deed of the company, before me.

[Signature]

Notary Public
My Commission Expires:



SCHEDULE A

Beginning at a Point, which is at the Southerly Corner of Lot 21, thence the following courses & distances:

- N 60°32'04" W a distance of 102.69' to a point
- N 08°47'03" E a distance of 247.27' to a point
- S 79°03'42" E a distance of 238.85' to a point
- S 81°01'16" E a distance of 43.88' to a point
- S 76°38'32" E a distance of 28.93' to a point
- S 77°50'59" E a distance of 93.03' to a point
- S 05°48'29" E a distance of 86.20' to a point
- N 77°50'57" W a distance of 270.00' to a point
- S 37°21'33" W a distance of 95.97' to a point
- S 15°58'11" W a distance of 115.71' to a point and point of beginning

Said area contains 55131.32 Sq. Ft. ± or 1.27 Acres ±, and is referenced as "Area To Be Transferred From Lot 21 To The East Lyme Land Trust" on "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"

Dated: February 1, 2019, Revised thru November 8, 2019

RECEIVED FOR RECORD
Mar 18, 2020 09:23:01A
Karen Miller Gaibo
TOWN CLERK
EAST LYME, CT

EXHIBIT 4

EXHIBIT 5

Return to:

Geraghty & Bonnano, LLC
Attorneys at Law
PO Box 231
New London, CT 06320

WARRANTY DEED-STATUTORY FORM

TO ALL PERSONS TO WHOM THESE PRESENTS SHALL COME, KNOW YE
THAT ENGLISH HARBOUR ASSET MANAGEMENT, LLC of the City of Cheyenne,
County of Laramie and State of Wyoming, for consideration of ONE DOLLAR (\$1.00) and
other good and valuable consideration grants to the **EAST LYME LAND TRUST, INC.** of
13 Enid Lane, Town of East Lyme, County of New London and State of Connecticut with
WARRANTY COVENANTS, all that certain piece or parcel of land situated in the Town
of East Lyme, County of New London and State of Connecticut, known as Assessors Map
30.0-10.1, being further bounded and described on Schedule A attached hereto.

Said Premises are conveyed subject to

Any and all provisions of any municipal ordinance or regulation or public or private
law, with special reference to the provisions of any zoning rules and regulations
governing the said Premises.

Real property taxes and any municipal liens or assessments on the current grand
list or hereinafter becoming due and payable, which the Grantee, by acceptance
of this Deed, assumes and agrees to pay.

CONVEYANCE TAX RECEIVED
STATE \$.00
TOWN \$.00
EAST LYME, CT TOWN CLERK

IN WITNESS WHEREOF, the Grantor has caused these presents to be signed this

23 day of December, 2020.

Signed, Sealed and Delivered
in the presence of:

ENGLISH HARBOUR ASSET
MANAGEMENT, LLC

[Signature]

By: Kristen Clarke
Kristen T. Clarke, Its Manager
Duly authorized

[Signature]

STATE OF NEW HAMPSHIRE

COUNTY OF Hillsborough

ss. _____

On this 23 day of December, 2020, before me, the undersigned officer, personally appeared, Kristen T. Clarke, as Manager of English Harbour Asset Management, LLC, known to me (or satisfactorily proven) to be the person whose name is transcribed to the foregoing document and acknowledged the same to be her free act and deed, and the free act and deed of the company.



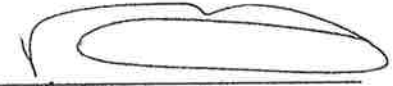
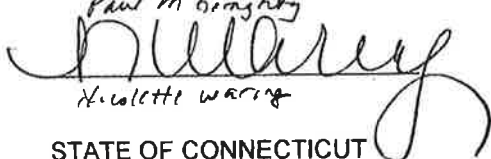
Cheryl J. Descoteaux

Notary Public
My commission expires: 05-16-2023

The East Lyme Land Trust, Inc. hereby acknowledges acceptance of the foregoing conveyance:

Signed, Sealed and Delivered
in the presence of:

EAST LYME LAND TRUST, INC.

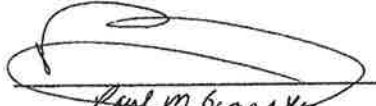

Paul M. Gragnoli

Nicolette Waring

By: 
Ronald Luich, Its President
Duly authorized

STATE OF CONNECTICUT
COUNTY OF NEW LONDON

ss. New London

The foregoing instrument was acknowledged before met this 30 day of December, 2020, by Ronald Luich, President of the East Lyme Land Trust, Inc., a State of Connecticut corporation, on behalf of the corporation.


Paul M. Gragnoli
Notary Public
My commission expires: Commission of Superior Court

SCHEDULE A

A certain piece or parcel on the westerly side of Upper Kensington Drive in the Town of East Lyme, County of New London and state of Connecticut, shown as "Land Conveyed to East Lyme Land Trust, Inc. Area = 1654931.67 Sq. Ft. ± or 37.99 Acres ±"

On a map or plan entitled "Property Survey of Land Conveyed to East Lyme Land Trust, Inc. Upper Pattagansett Road & Upper Kensington Drive, East Lyme, Connecticut Prepared for East Lyme Land Trust, Inc." Date June 16, 2020 Scale 1"=100' Sheet 1 of 1 Prepared by Donald L. Gesick Jr, Gesick & Associates, P.C. Surveyors Mappers & Planners, 19 Cedar Island Avenue, Clinton Connecticut 06413. Said map is or shall be recorded in the Land Records at the Office of the Town Clerk in the Town of East Lyme. Said piece or parcel being more particularly described as follows.

Beginning at a 5/8" Rebar, in a stonewall, being the northwest corner of the herein described parcel, in the easterly line of 259 Upper Pattagansett Road;

Thence along said stonewall and said 259 Upper Pattagansett Road, the following six (6) courses and distances:

N 33°29'08" E a distance of 88.50' to a Drill Hole;

N 35°15'27" E a distance of 67.80' to a point;

N 33°08'27" E a distance of 253.23' to a point;

N 32°59'26" E a distance of 136.91' to a Drill Hole;

N 34°23'50" E a distance of 423.36' to a point;

N 32°53'10" E a distance of 209.68' to a 1/2" Rebar at a corner of stonewalls, being the northern most point of the herein described parcel, in the southerly line of

16 Mostowy Road

Thence along said stonewall and said southerly line of 16 Mostowy Road, the following thirteen (13) courses and distances:

S 46°30'40" E a distance of 123.50' to a point;

S 46°01'40" E a distance of 217.22' to a 5/8" Rebar;

S 89°12'43" E a distance of 42.36' to a point;

S 73°13'34" E a distance of 29.82' to a point;

S 80°28'20" E a distance of 165.43' to a point in stonewall corner

S 82°18'10" E a distance of 181.05' to a point;

S 78°19'54" E a distance of 143.05' to a 7/8" Rebar in a stonewall corner;

S 79°11'56" E a distance of 96.36' to a point;

S 79°03'42" E a distance of 238.85' to a point;

S 81°01'16" E a distance of 43.88' to a point;

S 76°38'32" E a distance of 28.93' to a point in a stonewall corner;

S 77°50'59" E a distance of 93.03' to a 7/8" Rebar being the northeast corner of the herein described parcel;
S 05°48'29" E a distance of 86.20' to a Mag Nail, being the northwest corner of 26 Upper Kensington Drive

Thence along 24 Upper Kensington Drive, the following three (3) courses and distances:

N 77°50'57" W a distance of 270.00' to a 7/8" Rebar;
S 37°21'33" W a distance of 95.97' to a 7/8" Rebar;
S 15°58'11" W a distance of 115.71' to a 7/8" Rebar, Being the northwest Corner of
22 Upper Kensington Drive;

Thence along said 22 Upper Kensington Drive, the following two (2) courses and distances:

S 15°58'11" W a distance of 268.48' to a 7/8" Rebar;
S 65°34'47" E a distance of 278.74' to a point, being the northwest corner of 16 Upper Kensington Drive;
Thence S 32°45'22" W along said 16 Upper Kensington Drive, a distance of 150.01' to a 1/2" Rebar; being the northwest corner of 14 Upper Kensington Drive;

Thence along said 14 Upper Kensington Drive, the following three (3) courses and distances:

S 32°45'22" W a distance of 153.00' to a 1/2" Rebar;
S 59°28'17" E a distance of 175.70' to a 5/8" Rebar;
S 59°28'17" E a distance of 200.00' to a 7/8" Rebar in the westerly line of upper Kensington Drive;
Thence S 30°31'43" W along said westerly line of Upper Kensington Drive, a distance of 25.00' to a 1/2" Rebar, being the northeast corner of 12 Upper Kensington Drive,
and the southeast corner of the parcel herein described;

Thence along said 12 Upper Kensington Drive, the following two (2) courses and distances:

N 59°28'17" W a distance of 200.00' to a 5/8" Rebar;
N 59°28'17" W a distance of 176.67' to a 1/2" Rebar, being the northeast corner of 235B Upper Pattagansett Road

Thence along said 235B Upper Pattagansett Road, the following five (5) courses and distances:

N 67°46'12" W a distance of 132.03' to a 7/8" Rebar;
S 38°41'26" W a distance of 100.72' to a 7/8" Rebar;

S 38°41'26" W a distance of 30.60' to a point;
S 69°12'02" W a distance of 292.52' to a 5/8" Rebar;
S 69°12'02" W a distance of 75.00' to a 7/8" Rebar, being the northeast corner of
237 Upper Pattagansett Road;

Thence along said 237 Upper Pattagansett Road, the following five (5) courses
and distances:

N 67°54'27" W a distance of 170.00' to a 5/8" Rebar;
N 67°54'27" W a distance of 168.46' to a 7/8" Rebar;
S 82°32'08" W a distance of 146.00' to a 5/8" Rebar;
S 82°32'08" W a distance of 268.25' to a 7/8" Rebar;
S 76°13'39" W a distance of 153.44' to a 5/8" Rebar, being the southeast corner
of 239R Upper Pattagansett Road;

Thence along said 239R Upper Pattagansett Road, the following three (3)
courses and distances:

N 02°43'37" E a distance of 195.00' to a 5/8" Rebar;
N 02°43'37" E a distance of 122.92' to a 5/8" Rebar;
N 55°29'25" W a distance of 237.97' to a 5/8" Rebar, Being the point of and place
of beginning

Said parcel containing 37.99 Acres ±.

RECEIVED FOR RECORD
Dec 30, 2020 02:09:10P
Karen Miller Galbo
TOWN CLERK

EAST LYME, CT

EXHIBIT 6

Nov 22 20 10 at 10:00 AM PM

EAST LYME PLANNING COMMISSION
PUBLIC HEARING IV
Tuesday, NOVEMBER 16th, 2010
MINUTES

Esther B. Williams
EAST LYME TOWN CLERK

The East Lyme Planning Commission held a Public Hearing on the Application of New England National LLC for a proposed 2-lot Re-Subdivision of 46.95 acres of property having frontage on and located between 241 and 233 Upper Pattagansett Rd., East Lyme, CT; Tax Assessor's Map #39.0, Lot 10-1; with a request for the substitution and re-subdivision of previously designated open space to create one additional proposed lot of record and a request for a waiver of Section 6-16-1 through 6-16-6 of the Subdivision Regulations on November 16, 2010 at Town Hall, 108 Pennsylvania Ave., Niantic, CT. Acting Chairman McPherson opened the Public Hearing and called it to order at 7:46 PM after the three previously scheduled Public Hearings.

PRESENT: George McPherson, Acting Chairman, Francine Schwartz, Frank Balantic, Alternate, Brian Bohmbach, Alternate

ALSO PRESENT: Jeffrey Torrance, representing the Applicant
Attorney Mark Block, Town Counsel
Gary Goeschel, Planning Director
~~William Scheer, Town Engineer~~

ABSENT: Mike Bowers, Chairman, Mike Mangelinkx, Chris Sandford,
Brian Schuch, Joan Bengtson, Alternate

Pledge of Allegiance

The Pledge was observed.

Acting Chairman McPherson noted that he had seated Frank Balantic Alternate and Brian Bohmbach, Alternate at the table this evening.

Public Hearing I

1. **Application of New England National LLC for a proposed 2-lot Re-Subdivision of 46.95 acres of property having frontage on and located between 241 and 233 Upper Pattagansett Rd., East Lyme, CT; Tax Assessor's Map #39.0, Lot 10-1; with a request for the substitution and re-subdivision of previously designated open space to create one additional proposed lot of record located at the terminus of Kensington Drive and north of Upper Kensington Drive, East Lyme, Connecticut, Tax Assessor's Map #40.0, Lot #14-1; and a request for a waiver of Section 6-16-1 through 6-16-6 of the Subdivision Regulations**

Mr. McPherson called for the applicant or his representative to give a presentation on this application.

Jeffrey Torrance, representing the applicant submitted **Exhibit P** for the record – a letter dated 11/2/2010 from Robert A. Blatt authorizing him to act on his behalf on this application.

Mr. Goeschel read the List of Exhibits into the record and added **Exhibit Q** – Plans revised through 11/16/2010 and **Exhibit R** – Certificates of Mailing dated 11/12/2010. (List attached at end of Minutes).

→ Mr. Torrance noted that the sign was posted on the property on November 1, 2010. He explained that this property is approximately 48 acres that was set aside for future development. It has access from two locations – the Nottingham Hills Subdivision and Pattagansett Road. The proposal is to make two lots from the one. One lot would be approximately 15 acres and the other would be 33 acres. A third lot is a parcel of land that was preliminarily designated as open space in a previous application – but was not finalized. There is a 3.04 acre parcel and 2.2 acres of conservation easement and they are designating an additional 10.63 acres on the 48 acre parcel as open space. This is far more than they are required to set aside and they want to reserve the right to use it for the open space requirement calculations on future development. He

continued that in working with the Town Engineer, they no longer need the waiver of Section 6-16-1 through 6-16-6 and Sheet SD4 shows the stormwater detention area. An area was originally designed to keep stormwater on site adjacent to this lot however they have added more. He summed up that he feels that they have met the requirements for the subdivision of the two parcels.

Mr. McPherson asked if the Commissioners had any questions or comments –

→ Mr. Goeschel asked if they were clear on the open space. ←

Mr. Balantic asked if the ¼ acre shift was to allow for the conservation easement.

Mr. Torrance said that went to wetlands and they approved it as a lot.

Mr. Balantic said that it looks like it is a good swap. He asked when the open space would be finalized.

→ Mr. Torrance said that per the opinion of Counsel, they do not have to do it until the development is finished so it could go on for quite some time. However – as per this 10 acre piece – he said they will put the conservation easement on it now but reserve the right to include it in future calculations.

William Scheer, Town Engineer explained the stormwater regulations noting that in a subdivision like this one where they are in the woods – there are basically swales and indentations in the ground. They are meant to catch the stormwater to pool and let it go into the ground. He said that he would review it out in the field when they start development but there is enough area and woods for the water to go into the ground.

Mr. Torrance said that while they requested a waiver of the stormwater regulations that it is basically a moot point and they do not need one.

Mr. McPherson called for any comments from the public –

Hearing none –

He called for a motion to close this Public Hearing –

****MOTION (1)**

Mr. Balantic moved to close this Public Hearing.

Mr. Bohmbach seconded the motion.

Vote: 4 – 0 – 0. Motion passed.

Mr. McPherson closed this Public Hearing at 8:05 PM.

Respectfully submitted,

Karen Zmitruk,
Recording Secretary

EXHIBIT 7

- VI. PUBLIC HEARINGS-None
- VII. SUBDIVISIONS / RE-SUBDIVISIONS - (PENDING)- None
- VIII. ZONING REFERRALS [Connecticut General Statute (CGS) 8-3a] no zoning referrals
- IX. MUNICIPAL REFERRALS [Connecticut General Statutes (CGS) 8-24] -none
- X. OLD BUSINESS – None
- XI. NEW BUSINESS:

- A. Application of Kristen T. Clarke, P.E., for English Harbour Asset Management LLC, Owner; Application for a 4-lot re-subdivision of approximately 3.8 acres of land zoned RU-40, located at 22 and 2 Upper Kensington Dr., East Lyme, Assessor's Map 40.0, Lot 22 and 23.
- C. Application of Jason Pazzaglia, for Pazz and Construction LLC, Owner; Application and waiver request from Section 23.5 B of the East Lyme Zoning Regulations for a 1-lot re-subdivision of 5.29 acres of land within the R-40 zoning district located at 24 Darrows Ridge Rd., East Lyme, Assessor's map 44.0, Lot 8-31.

The commission scheduled a Public Hearing for items A. and C. for July 27, 2020 at 7:00

- B. Request of Paul M. Geraghty, Esq., Attorney for English Harbour Asset Management LLC, for release of Open Space Covenant, Recording of Conservation Easement in favor of East Lyme Land Trust, Inc., and Release of the Conservation Easement in conjunction with the Nottingham Hills Subdivision Phase IV.

P. Geraghty gave background on the subdivision and the approximately 36 acres proposed to be donated to the East Lyme Land Trust. He stated that the applicant has to submit the title insurance policy to DEEP; DEEP has seen the covenant and they will not accept the title policy that has the covenant in it. He then spoke to the insurance company and they would like it removed due to DEEP's request. The applicant believes the covenant has been satisfied and therefore requests the commission release the open space covenant.

P. Geraghty stated they have donated 41.35 acres of open space to the East Lyme Land Trust. G. Goeschel stated the applicant has satisfied the open space requirements.

The two conservation easements were given to the town by the previous developer and they are asking that they be assigned to the East Lyme Land Trust. He informed the members that the transaction will be held in escrow; if the agreement fails to go forward then the town will not lose the conservation easements.

G. Goeschel stated the town attorney is declining to comment on this application due to a conflict of interest.

P. Geraghty informed the members that because DEEP is awarding a grant they will apply their own requirements/easements to assure the East Lyme Land Trust will abide by the grant award.

MOTION: (Williams/Gordon) Move to FIND the terms of the open space covenant record on the East Lyme land record book 653, page 355 as the terms of of the covenant have been met with the dedication open space as part of the Phase II of the Nottingham Hills Subdivision and herby authorize the Planning Commission Chairman to execute the release of covenant. Vote: Approved Unanimously.

MOTION: (Gordon/ Davison) move to assign the Conservation Easement in favor of the Town of East Lyme recorded in book 742, page 502 and book 870, page 689 to the East Lyme Land Trust and to authorize the Planning Commission Chairman to execute said agreement and the Town of East Lyme shall hold in escrow the release of the covenant and assignment of the conservation easement pending recording. Vote: Approved Unanimously.

D. Application of the Town of East Lyme Inland Wetlands Agency for a text amendment to amend section 2.1 of the East Lyme Inland Wetland Regulations to change the Definition of a "Regulated Activity" by enlarging the distance of the boundary for a regulated activity from 100' from an inland wetlands and/or watercourse to 500'.

G. Goeschel gave background on the text amendment of the East Lyme Inland Wetlands Regulations. He created a map for the public hearing comparing the current regulated area and the proposed regulated area. If the proposed changes are enacted the regulated area would cover most of the town. If adopted, then any proposed activity would require an application which would necessitate hiring more staff. DEEP suggests that 100' is sufficient for the Upland Review Area.

After a lengthy discussion on the role of the IWA jurisdiction and authority and if the Planning Commission should issue a comment on a regulation change by another commission, the members did not want to approve or disapprove the proposed regulation change as they did not have the expertise to comment. K. Scott understood increasing the regulated area but did not know the reasoning for increasing the regulated area by 400 feet. G. Goeschel informed the members that it is not clear why the 500' as compared to a lesser amount. It was the consensus of the Planning Commission that they want to support empowering the IWA to enact their regulations. The Commission suggested the IWA watch the recording of their discussion and read the minutes.

E. Bylaws-tabled

F. Subdivision Regulations and Fees-tabled

XII. ADJOURNMENT MOTION: (Gordon/Davison) to adjourn at 9:08 Vote: Approved Unanimously.

Respectfully Submitted,
Sue Spang,
Recording Secretary

2020 Meeting dates: February 4, March 3, April 7, May 5, June 2, July 7, August 4, September 1, October 6, November 10*, December 1.

***Second Tuesday of the month**

EASTLYME PLANNING COMMISSION

Regular Meeting, July 7, 2020. 7:00 PM

East Lyme Town Hall, Upper Meeting Room
108 Pennsylvania Avenue, East Lyme, Connecticut

CHAIRMAN: Kirk Scott
SECRETARY:

PLANNING DIRECTOR: Gary Goeschel II
RECORDING SECRETARY: Sue Spang

CALL TO ORDER 7:02

I. ROLL CALL + PLEDGE OF ALLEGIANCE

Present: Kirk Scott, Michelle Williams, Nichole Davison, Richard Gordon, Elizabeth Allen, Alt.

Absent: Thomas Fitting, Mary Salvatore, Brian Bohmbach, Alt. Vacancy, Alt.

Also Present: G. Goeschel, M. Salerno,

II. CALL FOR ADDITIONS TO THE AGENDA-no additions

III. CALL FOR PUBLIC DELEGATIONS-No public delegations

IV. REPORTS

- A. Communications-no report
- B. Zoning Representative-no report
- C. Ex-Officio

Selectman Salerno informed the commission:

- town hall has fully opened this week
- there are no plans to have in person board and commission meetings at this time
- the BOS has approved additional funding for the Public Safety Building which will go to the BOF and referendum

D. Planning Director: Gary A. Goeschel II-no report

E. Sub-Committees

- **Walkability-** G. Goeschel suggested the walkability study compiled by a previous member D. Phimister be rolled into the POCD.
- **Plan of Conservation and Development (POCD) Steering Committee-**M. Williams stated they have not met since January due to COVID 19. She reported the public forum went well and they received good feedback. The draft POCD will go to the BOS in August and the Planning Commission will receive it at the same time. G. Goeschel stated the Governors 90-day extension does not apply to the POCD.
- **East Lyme Subdivision Regulations-**G. Goeschel suggested waiting until after the POCD is complete
- **Chairman-**K. Scott thanked the members of the POCD subcommittee for all their hard work. G. Goeschel read the rules for participating in a ZOOM meeting and informed the public and members that all information pertinent to tonight's meeting is on the town's website.

V. APPROVAL OF MINUTES

A. January 7, 2020 Regular Meeting Minutes

MSC (Williams/Gordon) to approve the January 7, 2020, Regular Meeting minutes as presented. **Vote: Approved Unanimously.**

FILED

July 10 2020 AT 3:25 AM/PM
(Signature)
EAST LYME TOWN CLERK

EXHIBIT 8

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