

Town of

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

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East Lyme

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MEMORANDUM

To: East Lyme Inland Wetlands Agency and East Lyme Planning Commission

From: Gary A. Goeschel II, Director of Planning

Date: September 23, 2021

RE: English Harbor Asset Management, LLC c/o Kristen Clarke, P.E., Applicant; Cold Spring Lot Management, LLC c/o John Drabik, Owner; Application for an 8-lot subdivision of land located at 121 upper Pattagansett Road, East Lyme Assessor's Map 35.0, Lot 44 (aka Nottingham Hills - Phase 5).

Upon review of the above referenced application, supporting documentation, and proposed 5 sheet plan set entitled "Nottingham Hills Subdivision Phase 5, prepared for Kristen T. Clarke, P.E., English Harbor Asset Management, LLC of 1712 Pioneer Avenue, Suite 1939, Cheyenne, WY 82001; Property Owner Cold Spring Lot Management, LLC, of 18 Drabik Road, East Lyme, CT 06333, dated August 3, 2021," prepared by John Paul Merein, L.S. of Gerwick-Merein LLC, 191 Boston Post Road, P.O. Box 565, East Lyme, Connecticut, 06333"; and plan sheet 2 of 2 entitled "Biofilter Retention Pond Rain Garden Layout, prepared for Nottingham Hills Subdivision Phase V, 121 Upper Pattagansett Road, East Lyme, CT 0633, dated September 6, 2021," by Timothy A. May, P.E. of May Engineering, LLC, 1297 Route 163, Oakdale, CT 06370, I offer the following findings:

Section 3-4 Plan of Development: As the proposed Subdivision is located within an R40 and an R40/20 zoning district adjacent to existing residential lots zoned R-40 and R40/20 respectively, 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 (POCD) as adopted by the East Lyme Planning Commission.

Section 4-2-11 Easements and Deeds: Requires copies of all easements and deeds necessary to carry the subdivision plan into effect, conforming to the requirements of these Regulations, including instruments proposed to be executed or delivered after approval of the application shall be submitted. As such, any shared driveway, utility, drainage, or open space easements need to be provided.

Section 5-2-2(E) and 6-8 Stormwater Management Plan: The Drainage Report prepared by Timothy May, P.E. was received September 8, 2021. Based on the memorandum from Alex Klose, P.E., Town Engineer dated September 23, 2021, suggest the plans and design report lack sufficient information to adequately demonstrate the proposed plans meet the Subdivision Regulations. In addition, pursuant to Section 5-2-2(E) xii, if applicable, properly executed legal documents, including warranty deeds for and transfers of titles to the party designated to maintain and operate the stormwater management system shall be submitted with the final subdivision plan to be filed. All such documents shall be acceptable to the Town Attorney and Planning Commission.

Section 5-2-2(G) Erosion and Sedimentation Control Plan: The proposed Erosion and Sedimentation Control plan needs to show the proper provisions to adequately control accelerated erosion and sedimentation and reduce the danger from stormwater runoff on the proposed site base on the best available technology. The proposed Grading and Erosion and Sedimentation Control Plan doesn't show any erosion controls associated with construction of the driveways or the proposed homes. Therefore, the Planning Commission may not be able to certify that the Soil Erosion and Sediment Control Plan complies with the requirements and objectives of this Subdivision Regulations.

Section 5-3 Construction Sequence Report: The report and plan on sheet 5 of 5 of the plan set provides a general schedule for the development of the proposed lots. The Design report indicates there are no proposed public improvements required and the paving of the common driveways and construction of the rain gardens identified in the stormwater management plan will occur during the construction of the proposed homes.

Section 5-4 Sanitation Report: No report has yet been submitted.

Section 5-5 Water Supply Report: No report has yet been submitted.

Section 5-6 Pesticide Report: The Design Report does not indicate whether the land was ever classified as farmland in accordance with Sec. 12-107c of the CGS or other commercial use involving regular application of pesticides.

Section 5-7 Coastal Area management (CAM) Site Plan Review: The subject property is not within the Coastal boundary of the Town of East Lyme.

Section 5-8 Archeological Survey: Archeological Survey (the Design Report indicates it is in process and will be submitted upon completion). Section 5-8 states a survey shall be conducted and a report sent to the State Historic Preservation Office (SHPO) a minimum of 35-days prior to the submission of the subdivision application to the Planning Commission.

Section 6-2 Lot Design Specifications: The proposed lots appear to be laid out in a manner generally consistent with the specifications of section 6-2 of the East Lyme Subdivision Regulations. However, the proposed plans do not provide a 40-foot wooded or otherwise landscaped buffer along the perimeter of the Conservation Design Development to screen development of the proposed lots from existing contiguous lots pursuant to Section 23.5B 1 of the Zoning Regulations. In addition, Section 23.5B 2 B. of the Zoning Regulations requires in wooded areas where the sense of enclosure is a feature that should be maintained a, a deep "no-build, no-plant" buffer of a minimum of 200-feet shall be respected to preserve existing vegetation. The plans nor the Design Report indicate how the proposed subdivision meets these requirements.

Section 6-2-6 Energy Efficiency and Conservation: The applicant shall demonstrate to the Commission that in developing the subdivision plan, the use of passive solar energy techniques which would not significantly increase the cost of the housing to the buyer, after any available tax credits, subsidies, and exemptions, has been considered. Such techniques shall maximize solar heat gain, minimize heat loss, and provide natural ventilation during the cooling season. The site design techniques shall include, but not be limited to: (1) house orientation; (2) street and lot layout; (3) vegetation; (4) natural and manmade topographical features; and (5) protection of solar access within the development. A written statement outlining how this requirement has been adhered to has not been submitted.

Section 6-7 Open Spaces: As the subdivision is being proposed as a Conservation Design Development (CDD), in order to take advantage of the dimensional flexibility offered by the regulations applicants must provide Open Space in accordance with Section 23.6 of the Zoning Regulations. The proposed Subdivision doesn't propose the dedication of Open Space in accordance with Section 23.6 of the Zoning Regulations. As such, the proposed subdivision does not meet the requirements of Section 7-2-1 of the Subdivision Regulations. The proposed application indicates the Open Space requirement has been met through the previous dedication of open space associated with Phase 1, 2, 3, & 4 of the Nottingham Hills Subdivision. However, what is referred to as Phase 4 of the Subdivision, was not

part of any proposed subdivision but, rather it was a part of a zone change and site development plan approval for a multi-family development, not a subdivision. In addition, the subject parcel has never been previously subdivided, is under different ownership than that of the applicant as well as any of the landowners at the time Phases 1, 2, & 3 of the Nottingham Hills Subdivision were made. Further, 121 Upper Pattagansett Road was never shown on any proposed or approved plan as being a part of the Nottingham Hills Subdivision at the time Phases 1, 2 & 3 were proposed. Further, the subject parcel never abutted any of the parcels of land in the previous 3 phases of the Nottingham Hills Subdivision. As such, the Open Space previously provided as a part of the Nottingham Hills Subdivision phases 1, 2, & 3, does not meet the requirements of Section 7-2-1 of the East Lyme Subdivision Regulations to provide Open Space in the subdivision of any parcel of 10 acres or more in area or any subdivision of 4 or more lots for the proposed subdivision of 121 Upper Pattagansett Road referenced above.

Section 6-8 Stormwater Management and Section 6-9 Requirements Regarding Flooding: Based on the memorandum from Alex Klose, P.E., Town Engineer dated September 23, 2021, the proposed plans and Drainage Report lack sufficient information to adequately demonstrate the proposed plans meet the requirements of Sections 6-8 and 6-9 of the Subdivision Regulations.

Section 6-10 Street and Roadway Design Specifications: Pursuant to Section 6-10-6 of the Regulations, where a subdivision borders an existing street with less than adequate right-of-way, and the Commission determines that there may be a need to realign or widen the street, the Commission may require the applicant to dedicate land for such future realignment or widening. The proposed plans show a "Parcel 2, Lake Side Parcel of 41,150+/- square feet" in addition to the proposed 8 new lots. However, the plans do not provide a 25-ft right-of-way from the centerline of the existing street, Upper Pattagansett Road (a public Right-of-Way across the subject property) along the frontage of the land to be subdivided pursuant to Section 6-10-7 of the Subdivision Regulations.

Section 6-17 Underground Utilities: Requires underground electric transmission lines, telephone lines and cable television lines to be installed in each proposed subdivision, unless a waiver is granted in accordance with Section 4-13 of these Regulations. A note should be added to the plans indicating the same. Pursuant to Section 4-2-11, copies or drafts of the proposed easements for the installation of underground utilities need to be provided.

Section 6-18 Surety: As the Planning Commission may require surety (e.g. performance and maintenance financial guarantees or letters of credit), sufficient to ensure compliance and completion of site improvements with an approved subdivision or resubdivision and any conditions placed thereon, and pursuant to Section 4-2-12 Bond or Cost Estimate-an estimate for the cost of erosion and sedimentation control measures, driveways, rain gardens, and bio-filter/detention/retention pond should be provide. Pursuant to Section 6-18, financial guarantee improvements may include but are not limited to, erosion and sedimentation control measures, drainage, landscaping buffers, utilities, parking, recreational facilities, streets, private streets or roadways, driveways, and sidewalks, or other elements as approved by the subdivision or resubdivision plan. Surety requirements shall conform to the requirements of Section 8 of the East Lyme Subdivision Regulations.