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December 10, 2021

Via Email kirkscott@hotmail.com
Kirk Scott, Chairman
East Lyme Planning Commission
108 Pennsylvania Ave.
Niantic, CT 06357

Re: Nottingham Hills Subdivision Phase 5

Dear Chairman Scott,

In response to your email dated December 1, 2021, regarding my November 23, 2021 correspondence I believe my request for articulation may have been misunderstood. To be clear about what was requested was for staff and/or the special town counsel to articulate the position of the staff, who acts on behalf of the East Lyme Planning Commission ("the Commission") and whom it regularly relies upon, for confirmation of an applicant's compliance with, in this case, the East Lyme Subdivision Regulations. The letter was addressed to you and special town counsel because you are the chairman of the planning commission and Mr. Casey is acting as legal counsel to the planning commission in this matter.

The reason for the requested for articulation was twofold;

1) As a matter of law and practice applicants and their representatives routinely engage with the commissions representatives prior to and during the involvement of the commission in pending applications in part to resolve any issues with an application and further so that the Commission complies with Connecticut and Federal Law including but not limited to 9 CT Prac., Land Use Law & Prac, 43:5 b (4th Ed.) and 9 CT Prac., Land Use Law & Prac., 20:10 (4th Ed.). My client is entitled to know the Commission's position(s) so it may address them while the hearing is open and also not be surprised at the last minute with an unanticipated position.

As you and the commission are aware town staff, specifically Mr. Goeschel, has raised a number of issues regarding the Open Space requirements for this application all of which have been proven to be factually incorrect, such as the fact that this parcel does abut the applicant's existing subdivision. In this regard, I would direct you to the record of this application specifically Ex.'s B, G, O, P, Q, R, S, T, U, V, W, X, CC, & EE. Despite the undeniable facts regarding the history of the Nottingham Hills Subdivision in the record and Mr. Goeschel's numerous statements to the commission articulated both verbally at the September 14, 2021 meeting and in his plan review dated September 23, 2021 which appears in the record of this

application as Ex. I, neither staff nor special Town Counsel provided any further support for the position that additional open space should be required. The purpose for the requested articulation is to provide the applicant with timely notice and fundamental fairness about position the commission may have developed as it relates to staff input relative to Open Space. The articulation is even more important in the existing application given the fact that staff and town counsel have not responded to the applicant's position regarding the Open Space. A timely articulation would allow the applicant to prepare responses to any additional claims of the commission or staff regarding the Open Space issue.

2) To avoid further unnecessary and unreasonable delay of this application. As you are aware this application has been pending since August 5, 2021 and has been unreasonably delayed, by the failure of Town Staff to provide timely reviews of the application, plans and other documents required or requested. In this regard, I would direct you to the record of this application Ex. G and the minutes and audio visual records of the September 14, October 12 and November 9, 2021 meetings of this commission.

As this commission is aware my client has experienced numerous unnecessary and unreasonable delays in this and the several other applications it has submitted to this commission over the past two years most of which only require administrative approvals. Just two months ago my client was forced to come before this commission to address a violation of its due process and other legal rights by Town Staff that delayed an administrative application for a simple lot line revision for eighteen months. Earlier this year it took my client nearly one year to obtain a one lot subdivision approval that was due to review delays. Such delays have significant, adverse, economic consequences for my client. The requested articulation was meant and intended to mitigate further delay and economic damage to my client.

I hope this communication provides the explanation and necessary basis for the requested articulation. Please make this letter and its exhibits a part of the record of my clients pending application.

Sincerely,

Paul M. Geraghty

Cc John Casey, Esq via email
Jen Lindo via email
Gary Goeschel via email