

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 Planning Commission

From: Gary A. Goeschel II, Director of Planning

Date: December 14, 2021

Re: **Application of Kristen Clarke, P.E., for Cold Spring Lot Management, LLC/John Drabik, Owner, for Nottingham Hills Subdivision Phase 5**, Prepared for Kristen T. Clarke, P.E., English Harbour Asset Management, LLC, for an 8-lot subdivision of property at 121 upper Pattagansett Road, East Lyme Assessor's Map 35.0, Lot 441.

Upon review of the above referenced application and the proposed plans entitled "Pattagansett Preserve At Nottingham Hills (Also known as Nottingham Hills Phase 5)" prepared for Kristen T. Clarke, P.E., English Harbour Asset Management, LLC, 1712 Pioneer Avenue, Suite 1939, Cheyenne, WY 82001, property owner Cold Spring Lot Management, LLC, 18 Drabik Road, East Lyme, CT 06333, dated August 3, 2021, and revised through August 8, 2021, prepared by John Paul Mereen of Gerwick-Mereen, LLC and plan entitled "Plan of Subdivision Showing existing Buildings and Roads, dated October 11, 2021, scale 1" = 100', Nottingham Hills Phase V, 121 Upper Pattagansett Road, East Lyme, CT 06333", prepared by Tim May, P.E. of May Engineering, LLC, I offer the following:

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: As indicated in Exhibit "MM", Memo from Alex Klose, P.E., Town Engineer, dated December 7, 2021, indicates that the Drainage and Stormwater Report along with the revised plans and calculations address and satisfy his previous comments. However, Exhibit "MM" recommends detailed grading and drainage plan(s) for each lot be provided and the proposed drives outlining the spillway management for the raingardens and the grading of the drives/swales in relation to the check dams. In addition, the Town Engineer also recommends an

Operations and Maintenance Plan be submitted to the Town with clarification on who the responsible parties for the check dams and raingardens will be, including inspection and maintenance criteria and schedule. As such, the proposed plans meet the 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.

Section 5-2-2(G) Erosion and Sedimentation Control Plan: As indicated by Exhibit “NN” the two sheet plan set entitled “Plan Showing Driveway Easements, Eversource Easements, Grading and E&S, Nottingham Hills Subdivision, Phase 5, property of Cold Spring Lot Management, LLC, 121 Upper Pattagansett Road, East Lyme, CT 06333, sheet 4 of 5 and 5 of 5, dated August 3, 2021 and revised through December 8, 2021, was prepared in accordance with the 2002 CT E&S Guidelines. Review of the proposed Erosion and Sedimentation Control Plan revealed 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 5-4 Sanitation Report: As indicated in Exhibit “PP” correspondence from Wendy Brown-Arnold, RS, REHS, Supervisor of Land Use Activities of the Ledge Light Health District, dated December 13, 2021, indicates the “proposed lots are recommended suitable in their current condition” for subsurface sewage disposal systems.

Section 5-5 Water Supply Report: As indicated in Exhibit “PP” correspondence from Wendy Brown-Arnold, RS, REHS, Supervisor of Land Use Activities of the Ledge Light Health District, dated December 13, 2021, indicates the “proposed lots are recommended suitable in their current condition” to be served by private well water.

Section 5-6 Pesticide Report: As evidence by the Exhibit “A” of the Subdivision Design Report, which is record Exhibit “B”, is a memorandum from G. Goeschel II, Director of Planning to the East Lyme Planning Commission dated January 11, 2021, which indicates pursuant to the applicant’s testimony there have been no known regular applications of pesticides on the property, the current owner has not used the property for farming activities and has not used pesticides on the property, and further notes, the owner has no knowledge of the property being used for farming in the past. It is important to note, the Memorandum was written specifically in regards to the resubdivision of the land comprising lots 22 and 24 Upper Kensington Drive which, are not contiguous to the subject property located at 121 Upper Pattagansett Road. However, review of historic aerial photos does not suggest the property was ever used for farming in the past. Further, based on the existing soil conditions onsite, it is unlikely farming even occurred on the site.

Section 5-8 Archeological Survey: 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. As demonstrated by Exhibit “CC” the Amended Design Report, indicates the applicant submitted a request to the State of Connecticut Archaeologist to review the proposed subdivision on August 10, 2021, which review resulted in the State requiring a Phase 1b Study be performed for the 14.3 acres encompassing the 8-lot subdivision. In addition, Exhibit “CC” indicates that Dr. Sarah Holmes, PhD. would be conducting the Phase 1b Study and a copy of said report would be submitted under separate cover. The Report has not yet been received by the Commission.

Section 6-2 Lot Design Specifications: As indicated by the applicant’s testimony, the proposed subdivision is not a Conservation Design Development (CDD) and is a standard Conventional Subdivision. Second, as proposed the Application is an application for a Subdivision of 64.30-acres of land into 8-building lots and is clearly not a re-subdivision of any previously subdivided land. The proposed subdivision is located within a residential zoning district, adjacent to existing lots which were previously approved as part of a cluster subdivision and continues the pattern of development

characteristic of the existing residential cluster development. In addition, the proposed Subdivision lots appear to be laid out in a manner generally consistent with the specifications of section 6 -2 of the East Lyme Subdivision Regulations.

Section 23.2 of the Zoning Regulations states, "The Planning Commission shall require the provisions of this section in the subdivision of any parcel of 10-acres or more in area or any subdivision of 4 or more lots." Section 23.3 of the Zoning Regulations indicates the Planning Commission may require Conservation Subdivision by Design for subdivisions of any parcel of land less than 10-acres or a subdivision of less than 4 lots upon finding that such development will further the objectives of Section 23.1.

The proposed subdivision is greater than 10-acres and contains more than 4-lots. 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 23.5 B1 of the Zoning Regulations. In addition, Section 23.5 B2 of the Zoning Regulations requires in wooded areas where the sense of enclosure is a feature that should be maintained, 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 previously stated above, as indicated by the applicant's testimony, the proposed subdivision is not a Conservation Design Development (CDD) and is a standard Conventional Subdivision. Second, as proposed the Application is an application for a Subdivision of 64.30-acres of land into 8-building lots and is clearly not a re-subdivision of any previously subdivided land. While the proposed subdivision is located within a residential zoning district, adjacent to existing lots which were previously approved as part of a cluster subdivision and continues the pattern of development characteristic of the existing residential cluster development. The subdivision is not being proposed as a Conservation Design Development (CDD). However, 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. However, the proposed Subdivision doesn't propose the dedication of Open Space in accordance with Section 23.6 of the Zoning Regulations nor does it propose any open space in accordance with Connecticut General Statutes 8-25. As the application proposes zero Open Space, the 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, the subject parcel has never been under common ownership with the abutting, adjacent, or adjoining lands, nor has the subject parcel been previously subdivided or ever a part of any previous applications for subdivision.

In addition, 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. My previous statement indicated "the subject parcel never abutted any of the parcels of land in the previous 3 phases of the Nottingham Hills Subdivision." However, as indicated by the applicant's testimony and as demonstrated in Exhibit "EE", the subject parcel did abut lots in the Nottingham

Hills Subdivision. The subject parcel abuts 1 Kensington Drive which has since been developed and conveyed to a private landowner. As such, in my opinion, the Open Space previously provided as a part of the Nottingham Hills Subdivision phases 1, 2, 3, and 4 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 Exhibit "MM" memorandum from Alex Klose, P.E., Town Engineer dated December 7, 2021, indicates that all his previous comments have been addressed and recommends prior to construction, detailed grading and drainage plans be provided for the lots and the proposed driveways outlining the spillway management practices for the raingardens and the grading of the driveway/swales in relation to the check dams. In addition, he recommended an Operation and Maintenance plan be submitted to the Town, with clarification as to who the responsible parties are for the check dams and raingardens as well as including inspection and maintenance criteria and schedule for such work.

Section 6-9 Requirements Regarding Flooding: As indicated in Exhibit "MM", Memo from Alex Klose, P.E., Town Engineer, dated October 12, 2021, indicates that the revised plans and calculations provided by the applicant, address and satisfy his comments. As such, 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. However, as demonstrated by Exhibit "SS", the Inland Wetlands Agency modified the plan to include to include a bio-swale along the north side of Upper Pattagansett Road in front of propose lots 51,52,54, and 55 to mitigate stormwater runoff not being treated by the rain gardens.

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. However, as demonstrated by Exhibit "SS", the Inland Wetlands Agency modified the plan to also include a 25-foot Conservation Easement along southwest side of Upper Pattagansett Road over lot 55A to maintain the existing vegetative buffer along the lake front to the maximum extent practicable as the proposed plans require the clearing of vegetation on both sides of Upper Pattagansett Road in order to achieve adequate sightlines exiting from the proposed driveways.

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.

