

FILE COPY

**Stephen Harney
207 Clarendon Avenue
Southport, North Carolina 28461
860-227-1301**

April 2, 2025

Via Email & Hand Delivery
Gary Goeschel, Director of Planning
Town of East Lyme
108 Pennsylvania Avenue
Niantic, CT 06357

Received

APR 2 2025

Town of East Lyme
Land Use

Re: Lake Side Point Subdivision
Heritage Road

Dear Gary,

I write to respond for the record of the above pending subdivision application to your March 6, 2025 memorandum directed to the Town of East Lyme Planning Commission and your two emails dated March 27, 2025 at 12:52 and 5:21 PM directed to Paul Geraghty, myself and many others.

To the extent you not already done so I am requesting that the following documents be made a part of the record of the Lake Side Point Subdivision Application;

- 1) This correspondence and its exhibits hand delivered and emailed to you on April 2, 2025. This would include the revised plans prepared by May Engineering LLC dated March 31, 2025 and the Revised Drainage Report also prepared by May Engineering LLC dated March 28, 2025.
- 2) Your memorandum dated March 6, 2025 to the East Lyme Planning Commission which was not sent to us until March 10, 2025.

Exhibit xLi

REVISED

3) My correspondence and its exhibits hand delivered to you and dated March 10, 2025.

4) My correspondence and its exhibits hand delivered and emailed to you and Danielle Holmes/Ledge Light Health District dated March 24, 2025.

5) Your email dated March 27, 2025 at 12:52 PM addressed to Paul Geraghty, Esq. et al.

6) Your email dated March 27, 2025 at 5:21 PM addressed to Paul Geraghty, Esq. et al.

March 6, 2025 Memorandum Responses

1. Regarding your claim that the plans do not reflect that there are no inland wetlands or watercourses on the subject property the basis of which you claim is due to the fact that wetlands flag #45 is *"beyond the surveyors tie line"*. This claim is incorrect because a "surveyors tie line" is not a boundary line. The boundary line is correctly identified on the subdivision plans as *"upgradient of the highwater mark of Pattagansett Lake"*.

2. The area that has been conveyed to the East Lyme Land Trust, in a hatched symbology, has been added to the plan sheets 2 thru 7. Your claim that *"...it appears conveying this land would remove inland wetlands from the property. However, at the time of making application, the subject property shared the inland wetlands boundary with the State of Connecticut along its rear property line"* is also incorrect. None of the land conveyed to the East Lyme Land Trust is an inland wetland or watercourse. This fact is supported by the Soil Scientists report, Design Report Exhibit D, and Attorney Geraghty's letter to you dated March 30, 2025 that included a map prepared by Gerwick-Mereen dated March 19, 2025 titled "Plan Showing Top of Dam, Top of Bank and Waterline Elevations", a copy of the 1936 deed to Pattagansett Lake and case law directly on point, *Harding v. Borner 581 Fed. Appx. 14 (2014)*, each of which further demonstrate your claim regarding inland wetlands to be a part of the subject property to be incorrect.

3. For the reasons set forth in Paragraphs 1 and 2 the claim that an application was required to be submitted to the East Lyme Inland Wetland Agency per C.G.S. 8-26 or that my application was *"procedurally ...deficient"* are both incorrect.

4. The Plans for the Private Road, not driveway, reflect that the maximum grade is 11.5% not 16.66 %. I note that according to AASHTO guidelines for a very low traveled local road (<400 ADT) the maximum grade is 15%.

5. The notes on the plan have been changed to reflect "Private Road" making the balance of your analysis moot. With regard to the private road's construction sequence as we addressed in our Design Report we have an agreement to sell the property in its entirety. As such the construction sequence is hypothetical but will be provided.

6. With regard to Open Space the Design Report Identified the proposed Open Space as not being publicly accessible due to its stated purpose of buffering and protecting the Pattagansett Lake Shoreline pursuant to Subdivision Regulation 7-1-1 (B) and (E). As evidenced by the proposed Conservation Easement created by the East Lyme Land Trust with the assistance of the Connecticut DEEP only extremely limited access by the proposed lot owners under stringently controlled measures will be permitted. I note that the proposed Conservation Easement will only allow 30' of the nearly 1200' of Pattagansett Lake frontage to be used by the property owners.

The recommendation for public access to the conservation easement appears to be punitive in nature with no legitimate or logical basis as it ignores;

- The stated intent and purpose of the conservation easement which is to buffer and therefore protect the Pattagansett Lake shoreline pursuant to Subdivision Regulation 7-1-1 (B) and (E)
- The steep slope abutting Pattagansett Lake in the Conservation Easement area.
- The unfair and unreasonable liability it would create for the property owners.
- The fact that the Town owns in excess of 2500' of shoreline on their property that abuts the subject property.
- The significant reduction in value to the property by allowing public access to this privately owned property.

As further evidence of the disturbing recommendation you have made to the East Lyme Planning Commission you are reminded that the East Lyme Land Trust brought forward an opportunity for the Town to purchase this property in July of 2024 and the Town elected not to pursue the acquisition opportunity presented to them.

7. Ledge Light Health District has provided the letter required by Section 5-4 of the subdivision Regulations and it is enclosed as Exhibit 1.

8. A cost estimate for the Private Road will be provided, however, as addressed in the Design Report the current owners of the subject property intend to sell the property as is and have no intention completing the private road.

9. Utility Easements were provided in the Design Report Exhibit J. Notes regarding under-ground utilities are reflected on the plan's sheets 4, 5, 6 & 7.

10. Copies of the following Deeds, Easements and agreements were provided in the Design Report submitted at the time of application submission on January 13, 2025;

- Design Report Exhibit H-Private Road Access and Maintenance Agreement.
- Design Report Exhibit K-Private Road Deed to Homeowners Association.
- Design Report Exhibit L-Draft Deed to Lots.

Your March 27, 2025 email -12:52 PM-Responses

While this email identifies the subject "Nehantic Highlands" given the requests made I believe they are matters meant to be addressed by the Lake Side Point Subdivision application.

- An E & S bond estimate will be provided
- Plans Revisions dated 3/30/2025, attached as Exhibit A, reflect that the private road will be paved. Full Size and 11" x 17" copies of these plans as well as the requested Revised Stormwater Management Report will be provided with the Hand Delivered Copy of this correspondence.

- The Private Road Access and Maintenance Agreement was provided in the Design Report -Exhibit H.
- The revised Conservation Easement was provided as an exhibit in my March 10, 2025 correspondence to you as Exhibit F.
- The 50' easement in favor of the Town is not part of this application. It is part of a discussion between the First Selectman and me to address several pending matters important to the Town, the owners of the Lakeside Point Subdivision property and the East Lyme Land Trust. Correspondences from the Property owners and East Lyme Land Trust's legal counsel to both you and the First Selectman have been transmitted regarding the matters in which mutual cooperation needs to occur. Maps of a potential easement area have been provided to you by representatives of the East Lyme Land Trust. It is my understanding the afore mentioned legal counsel(s) have requested a meeting with you and the First Selectman to discuss the issues of importance to which they have not yet received a response.

Your March 27, 2025 email-5:22 PM Reponses

- Two copies of a revised Drainage Report prepared by May Engineering LLC dated March 28, 2025 are being provided together with revised plans, also attached as Exhibit 2, dated March 31, 2025 with the Hand Delivered Copy of this correspondence. The revised plans reflect your request that the plans identify that the private road will be paved. See sheets 4 of 7 and 6 of 7.
- The Lloyd Access Easement, recorded in the Land Records at Volume 1079 Page 179, was provided in the Design Report-Exhibit I.
- A bond estimate for the Private Road will be provided.
- The Notes addressed can be found on Plan Sheet 3 notes 7, 8 and 9.
- The documents you have requested were provided in the Design Report-Exhibits H, K and L. I note I previously addressed this with you in my March 10, 2025 correspondence.

- **As it relates to the "For Sale Sign"**

- This is a legally created lot of record created by a free split in September of 2022. The sign has been there for 2 and ½ years !
- The property has been legally listed for sale as a single lot since the free split was recorded.
- It has always been the intent of the property owners to sell the entirety of this property to a single buyer-see Design Report "CONSTRUCTION SEQUENCE REPORT" and Draft Deed of Conveyance Design Report-Exhibit L.
- This is not the first time you have raised, incorrectly, the issue of our offering a legally created lot for sale alleging a violation of C.G.S. 8-25. I question the timing and true motives of your claim !
- Please identify the name of the party who brought "*to your attention*" the existence of the "*For Sale Sign*" on the subject property that has been there for 2 ½ years. Please consider this a Freedom of Information Act Request.

Please let me know if you need any further information. With the exception of the E & S and Road Cost bond estimates that will be submitted directly by our survey/engineering team I believe all other matters you have requested have been addressed.



Applicant

Sincerely,

Stephen Harney,

EXHIBIT 1



Promoting
healthy
communities

Date: March 26, 2025
To: May Engineering LLC
Subject Property: Heritage Rd, East Lyme

Plan Designed by: Timothy May, P.E.
Last Revision Date: March 18, 2025

Plan Date: January 6, 2025
Date Paid: February 10, 2025

The revised plan and associated information was received by our office on March 25, 2025 for a proposed **three** lot subdivision/commission review. The proposal is to subdivide an existing 5.92 acre lot into three lots ranging from **1.12** to **1.57** acres. Lots will be served by private water and on-site subsurface sewage disposal systems, in the Town of East Lyme.

The Ledge Light Health District (LLHD) does not issue approvals for Subdivision or Commission reviews, but our recommendation for suitability of the previously stated plan/lots to accommodate the LLHD Subdivision Submission Requirements and Connecticut Public Health Code are as follows:

- Lots 1-3 are recommended generally suitable in the design depicted on the above referenced plans, subject to the following conditions:**

“Additional Approval Considerations for Future Site-Specific Plans”

Each lot has been reviewed as supporting a future single family home containing three bedrooms.

Lot 1

1. Additional soil exploration *is required* prior to submission of individual lot plans. There is no percolation test or deep test hole data in the Reserve Area. A minimum of two to four deep test pits and at least two percolation tests (one in primary, one in reserve) are required per lot.
2. A well has a minimum required separation of 25' to any drains, measured to the drain's edge. Since new construction has foundation drains which are typically 1.5' – 2' in width, the well must be shown greater than 25' from the house footing to comply with the separation requirement.

Lot 2

1. Additional soil exploration *is required* prior to submission of individual lot plans. There is no percolation test or deep test hole data in the Reserve Area, and no percolation test in the Primary. A minimum of two to four deep test pits and at least two percolation tests (one in primary, one in reserve) are required per lot.
2. An alternate location on the property should be considered for both Primary and Reserve septic areas. Due to the applicable sanitary well radius being 150', it may allow for the well location to be shifted to a location that keeps a larger portion of the radius on the property it will serve.

Lot 3

1. There is no percolation test representing the Reserve Area for lot 3. Additional soil testing is required or shift the Reserve so it encompasses both a deep test hole as well as a perc test.

The following are not currently required by CT Public Health Code and/or LLHD Plan Review Policies but are encouraged/recommended to protect the proposed structures, onsite septic system, water treatment discharge system and/or water supply/groundwater.

1. All proposed well arcs should be kept on the property they serve (to allow neighbors full use of their properties) and all well casings should be located at least 10' from driving surfaces and/or structures to prevent future damage and allow for future maintenance of the wells.
2. The designer should take into consideration the location of potential future water treatment wastewater discharge systems.

***Please note that soil testing indicated on this plan are representative of actual soil conditions and additional deep test pits and percolation tests may be required by the Ledge Light Health District if the building or system location is altered and/or the suitable septic area is limited, or if insufficient test locations were provided. Applicant should be aware that subdivision approval IS NOT individual lot approval. Each lot must be reviewed by the Ledge Light Health District at the time of building permit application in order to obtain lot approval and issue a septic/well permit.**

Please call me at 860-448-4884 with any questions regarding this matter.

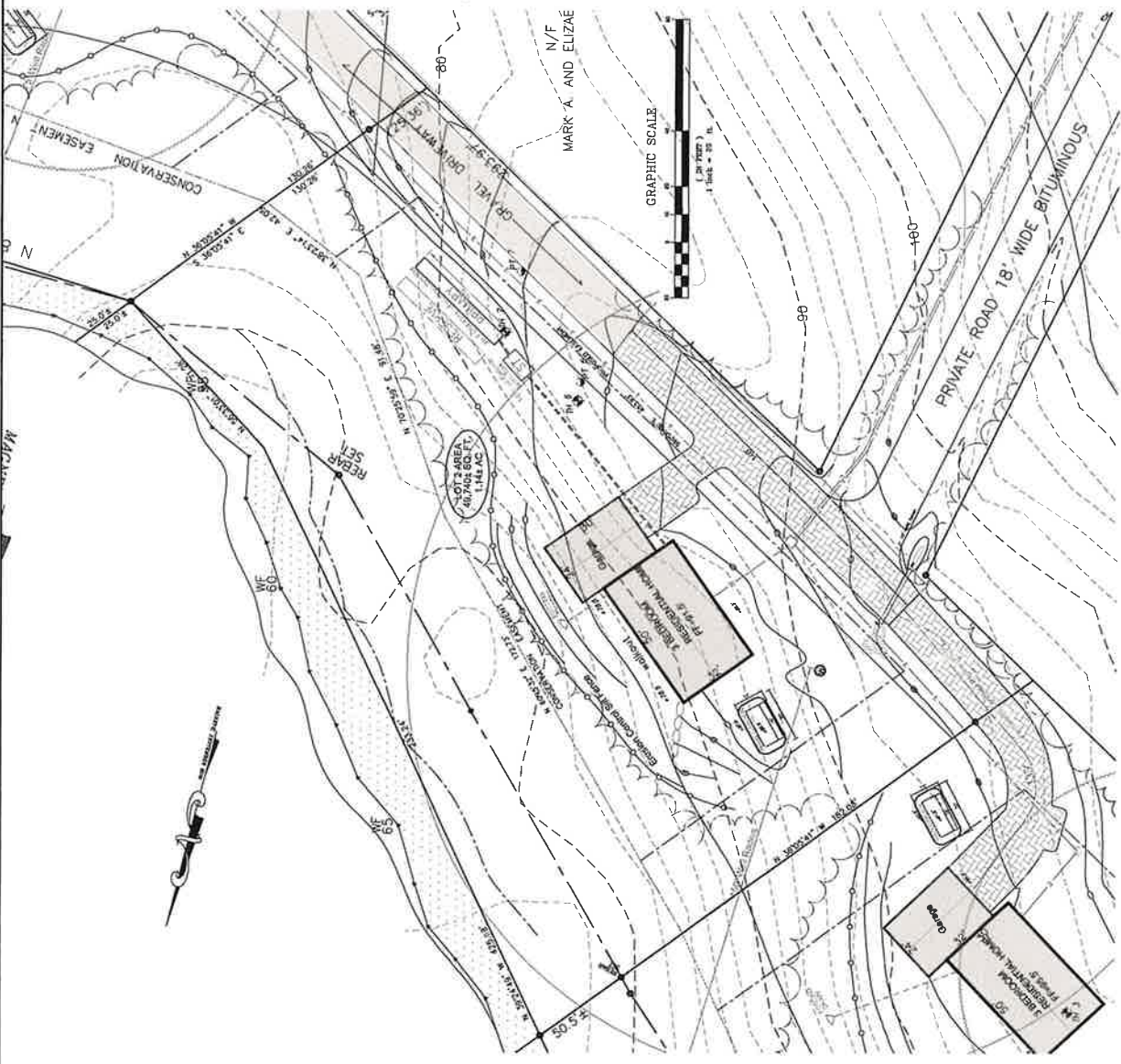
Sincerely,



Danielle Holmes, REHS/RS
Senior Sanitarian

Cc: **Owner- Steve Harney**
Town of East Lyme Code Officials

EXHIBIT 2



**LOT 2
PARTIALLY DESIGN CRITERIA**

- A. PROPOSED THREE INCH PERIOD, NO TUBS GREATER THAN 1.500 GAL/IN 1500 COMPARTMENT SPECIFIC IAW REQUIRED
- B. 1.500 GAL/IN 1500 COMPARTMENT SPECIFIC IAW REQUIRED
- C. 1.500 GAL/IN 1500 COMPARTMENT SPECIFIC IAW REQUIRED
- D. MINIMUM LEACHING SYSTEM SPREAD 10 MIN IN
- E. MINIMUM LEACHING SYSTEM SPREAD 10 MIN IN
- F. 1.500 GAL/IN 1500 COMPARTMENT SPECIFIC IAW REQUIRED
- G. 1.500 GAL/IN 1500 COMPARTMENT SPECIFIC IAW REQUIRED
- H. 1.500 GAL/IN 1500 COMPARTMENT SPECIFIC IAW REQUIRED
- I. 1.500 GAL/IN 1500 COMPARTMENT SPECIFIC IAW REQUIRED
- J. 1.500 GAL/IN 1500 COMPARTMENT SPECIFIC IAW REQUIRED
- K. 1.500 GAL/IN 1500 COMPARTMENT SPECIFIC IAW REQUIRED
- L. 1.500 GAL/IN 1500 COMPARTMENT SPECIFIC IAW REQUIRED
- M. 1.500 GAL/IN 1500 COMPARTMENT SPECIFIC IAW REQUIRED
- N. 1.500 GAL/IN 1500 COMPARTMENT SPECIFIC IAW REQUIRED
- O. 1.500 GAL/IN 1500 COMPARTMENT SPECIFIC IAW REQUIRED
- P. 1.500 GAL/IN 1500 COMPARTMENT SPECIFIC IAW REQUIRED
- Q. 1.500 GAL/IN 1500 COMPARTMENT SPECIFIC IAW REQUIRED
- R. 1.500 GAL/IN 1500 COMPARTMENT SPECIFIC IAW REQUIRED
- S. 1.500 GAL/IN 1500 COMPARTMENT SPECIFIC IAW REQUIRED
- T. 1.500 GAL/IN 1500 COMPARTMENT SPECIFIC IAW REQUIRED
- U. 1.500 GAL/IN 1500 COMPARTMENT SPECIFIC IAW REQUIRED
- V. 1.500 GAL/IN 1500 COMPARTMENT SPECIFIC IAW REQUIRED
- W. 1.500 GAL/IN 1500 COMPARTMENT SPECIFIC IAW REQUIRED
- X. 1.500 GAL/IN 1500 COMPARTMENT SPECIFIC IAW REQUIRED
- Y. 1.500 GAL/IN 1500 COMPARTMENT SPECIFIC IAW REQUIRED
- Z. 1.500 GAL/IN 1500 COMPARTMENT SPECIFIC IAW REQUIRED

Soil Erosion & Sedimentation Control Notes

E & S plan is based on Connecticut Guidelines for Soil Erosion and Sediment Control

Install Erosion Control silt fence as depicted on this plan

All disturbed areas shall have erosion control installed down gradient to stop soil migration. After each rainfall event erosion control shall be inspected and repaired to insure silt fence integrity to stop silt migration on site.

Unnecessary clearing of any vegetation or ground cover will be avoided. Any disturbed area left unvegetated will be covered with a hay or straw mulch to minimize erosion material.

Following final grading, all disturbed areas will be covered with 6" lawn and seeded as described below. If final grading occurs east October 15, disturbed areas will be seeded with winter rye-grass and mulched with hay or straw at a rate of 1.5 - 2 tons per acre.

Seed mixture seeding rate: % by Vol. Lbs./Ac.

Red Fescue	75-100
Perennial Ryegrass	5
Parthenocarp Ryegrass	5
Birdfoot Trefoil-Emile	15

Any proposed vegetation that has not survived one growing season will be replaced.

All suitable material excavated for roadway construction to be used elsewhere on site. Unsuitable material will be removed from the site and deposited in a suitable location.

All construction activity to occur between March 15 and October 15 to avoid adverse impacts on downstream flows.

Less than (1/2) of an acre of disturbance is proposed for each lot.



Legend

- Monument
- Utility Pole
- Utility Pole Corner
- Erosion Control Silt Fence
- Wetlands
- Proposed Grading
- Proposed Spot Grade
- Stormwater Flow Direction



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May Engineering LLC
Civil Engineering and Site Planning
1297 RT. 03 Oakdale, CT 06370
860 864-8671

**LAKE SDE POINT
SUBDIVISION**

SCALE: 1"=20'
DATE: 06 JAN 2025 Rev: 03/01/2025
JOB NUMBER: SHEET

PLAN SHOWING
PROPERTY OF
PORTSIDE HOLDINGS, INC
ENGLISH HARBOR CAPITAL PARTNERS, LLC
TENANTS IN COMMON
HERITAGE ROAD
EAST LYME, CONNECTICUT

Lot # 2
Grading and Layout Plan

Timothy May, PE

Professional Engineer
No. 12345
State of Connecticut
Exp. 12/31/2025

6 of 7

