

# Town of

P.O. Drawer 519

**Department of Planning &  
Inland Wetlands Commission**

*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 Inland Wetlands Commission**

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

**Date: January 13, 2025**

**Re: Cedarbrook Lane & Catbird Lane Resubdivision, Heritage Phase 3; Kristen Clarke, P.E., Applicant; Hathaway Farm LLC, Owner; Application for a Resubdivision of approximately 4.1 acres, and Waiver Request from Section 4-2-3(I) Stormwater Management Plan, of land located at Cedarbrook Lane & Catbird Lane, Tax Assessor's Map #36, Lot #31, East Lyme, CT, Zoned RU-40**

Upon review of the above referenced application and the proposed 4-Sheet plan set entitled "Heritage At East Lyme Subdivision, Re-Subdivision of Assessors Map 36.0 Lot 31, Property of Hathaway Farm, LLC, Cedarbrook Lane, East Lyme, CT, Dated September 1, 2025," prepared by John Paul Mereen, L.S. of Gerwick – Mereen, LLC and Sheet 4 of 4 entitled "Conceptual Site Plan, Assessors Map 36.0, Lot 31, Cedar Brook Ln., East Lyme, CT, Scale 1" = 40', dated July 29, 2025, Rev. 11/23/25" prepared by Timothy A. May, P.E. of May Engineering, LLC, I offer the following comments and Findings:

1. The Cover/Location Sheet was revised and the note deferring the Open Space Dedication was removed as indicated by the Memorandum from Kristen Clarke, P.E. to Gary Goeschel, Director of Planning dated November 24, 2025. However, the revision date is not recorded in the "Revisions" block on Sheet 1 of 1.
2. The Memorandum from Kristen Clarke, P.E. to Gary Goeschel, Director of Planning dated, November 24, 2025, also indicates "Note 4" was added to reflect the requirement of underground utilities and Note 5 was added to reflect the requirement of an approved curb cut permit prior to construction. These are actually Notes 5 and 6 on Sheet 4 of 4 entitled "Conceptual Site Plan, Assessors Map 36.0, Lot 31, Cedar Brook Ln., East Lyme, CT, Scale 1" = 40', dated July 29, 2025, Rev. 11/23/25" prepared by Timothy A. May, P.E.
3. On or about July 2012, the East Lyme Planning Department developed several maps for KSK Associates, LLC in support of their application to the Connecticut Department of Energy and Environmental Protection (DEEP) for an Open Space and Watershed Land Acquisition Grant. It was my understanding the grant application proposed two parking areas, one 36' x 55' parking area located in the southeast corner of the subject property for public access to the 200 +/- acres of open space currently owned by the New England Forestry Foundation a (Exhibit 1 attached). As the Grant was awarded and the property

Ex "cc"

transferred, is there still any obligation for New England Forestry to install this parking area as well as the other proposed 26' x 50' parking area?

### **FINDINGS:**

**Whereas:** The Commission received the above referenced application at its October 14, 2023 meeting.

**Whereas:** The Commission has reviewed the application and received testimony from the applicant, their professionals, representatives and the public. In addition, Town staff also provided the Commission with comments 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 and the properties abutting the site in all directions are zoned RU-40 Rural Residential.

**Whereas:** The application upon submittal proposed a one (1) lot resubdivision of land.

**Whereas:** The applicant requested and/or authorized a thirty (30) day extension of time for the Town of East Lyme Planning Commission to conduct the public hearing on the above referenced application as evidenced by Exhibit U correspondence from Paul Geraghty to G. Goeschel dated December 2, 2025.

**Whereas:** Demonstrated by Exhibit A of Exhibit G, a Soils Report by Joeseeph Theroux, dated September 11, 2025, who performed a field evaluation of the subject property for inland wetlands and watercourse and found no inland wetlands or watercourses present on-site.

**Whereas:** The proposed Subdivision is found to meet the following 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 within an existing RU-40 Zoning District which is adjacent to existing residential lots zoned RU-40 respectively. The proposed subdivision continues to follow the pattern of development characteristic of the existing residential development of an RU-40 Zoning District. As such, the proposed resubdivision 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 demonstrated by Exhibit BB, a response letter from Kristen Clarke, P.E. to Chairman Gordon and Mr. Goeschel, there are no easements or deeds required to carry the resubdivision into effect. A standard warranty deed which, draft has been submitted, will be used to convey the property.

**Section 5-5 Water Supply Report:** As indicated in Exhibit F, correspondence from Ben North, Municipal Utilities Engineer, indicates municipal water service is available in this area.

**Section 5-2-2(E) and 6-8 Stormwater Management Plan:** As indicated in Exhibit X, memorandum from Alex Klose, P.E., Town Engineer dated December 11, 2025, the applicant has demonstrated that a portion of the stormwater runoff from the proposed development can be managed on-site through the use of a rain garden. Runoff from the proposed driveway should be directed to sheet flow southerly across the property before entering the roadway. As

[https://eltownhall-my.sharepoint.com/personal/ggoeschel\\_eltownhall\\_com/Documents/Planning/Planning Subdivision & Resubdivision ApplicationsGG\\_Memodocx](https://eltownhall-my.sharepoint.com/personal/ggoeschel_eltownhall_com/Documents/Planning/Planning%20Subdivision%20&%20Resubdivision%20ApplicationsGG_Memodocx)

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:** “Heritage At East Lyme Subdivision, Re-Subdivision of Assessors Map 36.0 Lot 31, Property of Hathaway Farm, LLC, Cedarbrook Lane, East Lyme, CT, Dated September 1, 2025,” prepared by John Paul Mereen, L.S. of Gerwick – Mereen, LLC and Sheet 4 of 4 entitled “Conceptual Site Plan, Assessors Map 36.0, Lot 31, Cedar Brook Ln., East Lyme, CT, Scale 1” = 40’, dated July 29, 2025, Rev. 11/23/25” prepared by Timothy A. May, P.E. of May Engineering, LLC, were prepared in accordance with the 2002 CT E&S Guidelines, as amended. 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 5-6 Pesticide Report:** As evidenced by the Subdivision Design Report in Exhibit “A”, “No evidence of pesticide use exists. The subject property is sloping with ledge outcrops on its eastern and western boundaries. The soil conditions on the property demonstrate that it would prove difficult for use as farmland.

**Section 5-8 Archeological Survey:** As Evidence by the Design Report in Exhibit A, correspondence from Dr. Sarah P. Sportman, Ph.D., State Archeologist to G. Goeschel, Director of Planning dated September 2, 2025, indicates that while state file indicate that there are archeological sites within a half mile of the p[roject area and proximity to the brook might indicate archeological potential the soils in the project area generally are associated with low archeological sensitivity. As such, given the topography and soils, the development area has low potential to contain intact archaeological resources and the OSA recommends no additional archeological work in the project area as it is unlikely to yield significant information about the past.

**Section 6-9 Requirements Regarding Flooding:** As indicated in Exhibit X, memorandum from Alex Klose, P.E., Town Engineer dated December 11, 2025, the applicant has demonstrated that a portion of the stormwater runoff from the proposed development can be managed on-site through the use of a rain garden and the proposed site development will not adversely affect the water quality of downstream water features or exacerbate any downstream flooding. No additional comments were provided from the Town Engineer. 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.

**Whereas:** The proposed Subdivision is found not to meet the following requirements of the East Lyme Subdivision Regulations:

**Section 5-4 Sanitation Report:** As indicated by Exhibit H of Exhibit A, correspondence from Katie Baldwin RS, Supervisor, Environmental Health of the Ledge Light Health District, the proposed lot (aka Parcel B) is recommended suitable in its current condition if and when the following plan issues are address:

- The area of test holes 1,2, and 3 is identified as an area of special concern due to ledge rock less than 5-feet below grade. A professional engineer shall prepare plans for a single lot review.
- The propose primary and reserve leaching system shall be 25-feet from the downgradient property line.
- There shall be an additional test hole 25-feet down gradient from the proposed primary leach field demonstrating suitable downgradient soil.
- The Reserve Area is described as “100% Reserve Area Provided” but, the proposed leaching product was not provided.
- The large ledge outcrop mentioned upgradient of Test Hole 1, should be located and shown on the plan.

Ms. Baldwin also expressed the following concerns in her correspondence:

- No mention of who conducted the percolation tests.
- Test hole 4 data was transcribed incorrectly. The layer of 28” – 44” is missing.
- The scale is stated as 1”= 40’, however, 1” = 20’.
- The recommended suitability of the proposed lot is based on soil testing presented. Additional testing will be needed prior to individual site plan review.

**Section 6-2 Lot Design Specifications:** As indicated by Exhibit K correspondence from William Mulholland, Zoning Official, to the Planning Commission and Gary Goeschel II, Director of Planning dated November 10, 2025, indicates in On October 1, 1987 the Zoning Commission approved the cluster zoning concept for the Heritage Subdivision with “open space of 144 acres which, includes the land in the proposed resubdivision presently before the Planning Commission.” According to Mr. Mulholland, “Because the land was approved as Open Space for Zoning purposes, it cannot be considered anything other than Open Space defined by the 1987 Zoning Regulations....” Additionally, the letter notes Subdivision “Cluster Zones” are no longer permitted by the Town of East Lyme Zoning Regulations thus, rendering the original subdivision a nonconformity. Therefore, pursuant to Section 21 of the East Lyme Zoning Regulations, which specifically prohibits the expansion of a nonconformity, except in compliance with the current Zoning Regulations, which removed Cluster Zoning in 1992, it is Mr. Mulholland’s determination and ruling the addition of another lot in place of Open Space would constitute an expansion of a nonconformity and contrary to the original Town approval by both the Planning and Zoning Commissions. Further, the decision or ruling was not appealed to the Zoning Board of Appeals within the statutory time frames necessary to take an appeal of the Zoning Officials ruling.

Further, Mr. Mulholland indicates anyone who purchased a lot in the original subdivision would have had a reasonable expectation that the original approval by the Zoning Commission and the Planning Commission would include the Open Space, and it would remain in all perpetuity protected by the Town’s approvals.

**Whereas:** Pursuant to Section 4-4-5 of the Subdivision Regulations the Commission shall give approval to the application if it finds that the application, plans, and documents conform to the requirement of these Regulations. Such approval shall be conditioned upon presentation of suitable easement and deeds as applicable, as specified in Section 4-2-10 of the Regulations, and shall be [https://eltownhall-my.sharepoint.com/personal/ggoeschel\\_eltownhall\\_com/Documents/Planning/Planning Subdivision & Resubdivision ApplicationsGG\\_Memodocx](https://eltownhall-my.sharepoint.com/personal/ggoeschel_eltownhall_com/Documents/Planning/Planning%20Subdivision%20&%20Resubdivision%20ApplicationsGG_Memodocx)

conditioned upon completion of all required subdivision improvements. In granting approval, the Commission may attach conditions that it deems necessary to modify the subdivision map, plans, or documents, and to preserve the purpose and intent of these Regulations.

**Whereas:** As demonstrated by Exhibit “A”, the Application includes a written request for a Waiver from Stormwater Requirements and Section 4-2-3(I) Stormwater Management Plan pursuant to Section 6-8-7 of the East Lyme Subdivision Regulations.

**Whereas:** Pursuant to Section 4-12 of the East Lyme Subdivision Regulations prior to the granting of any waiver, the Commission must find the following conditions exist:

**(1) The waiver must be requested in writing:**

The applicant submitted the request in writing with their application submission, see Exhibit “A”;

**(2) The property for which the waiver is sought is affected by conditions, which affect the property and are not generally applicable to other land in the area;**

The property does not appear to be affected by any conditions, other than having been previously identified as Open Space in the original Heritage Subdivision, which affect the property and are not generally applicable to other land in the area.

**(3) Physical features of the property or its location cause exceptional difficulty or unusual hardship in meeting the requirements of these Regulations;**

Based on the proposed Subdivision Plan, the location of the existing parcel is such that there does not appear to be any physical features except for ledge outcroppings that would create any unusual hardship in meeting the requirements of the Subdivision Regulations.

**(4) The granting of a waiver will not have a significantly adverse effect upon adjacent property, the environment, or the public health and safety;**

The granting of a waiver would ultimately result in the permitting for the construction of a single-family dwelling on land previously identified as Open Space as part of the Heritage Phase I Subdivision. In addition, the granting of the requested waiver would also result in the violation of the East Lyme Zoning Regulations by allowing the expansion of a nonconformity which is expressly prohibited by the Zoning Regulations as demonstrated in Exhibit K. Therefore, it appears the granting of the requested waiver could potentially have a significantly adverse effect upon adjacent property, the environment, or the public health and safety.

**(5) The granting of the waiver will not be in conflict with the Plan of Conservation and Development;**

As this is a one (1) lot Subdivision which, minimizes land disturbance, and attempts to mitigate any potential adverse effect upon adjacent property, the environment, or the public health and safety, the proposed subdivision as demonstrated by the record before the Commission, is consistent with the East Lyme 2020 Plan of Conservation and Development as it would simply be in keeping with the current pattern of development for the neighborhood.

**Whereas:** Pursuant to Section 4-5-4 of the Subdivision Regulations the Commission, after the public hearing, if any, shall give approval to the application if it finds that the application, plans and documents conform to the requirement of these Regulations. Such approval shall be conditioned upon presentation of suitable easement and deeds as applicable, as specified in Section 10 of the Regulations, and shall be conditioned upon completion of all required subdivision improvements. In granting approval, the Commission may attach such conditions that it deems necessary to modify the subdivision map, plans, or documents, and to preserve the purpose and intent of these Regulations.

**Whereas:** The East Lyme Planning Commission based on the record before it with respect to this application, finds this above referenced Application to be nonconforming with the Subdivision Regulations of the Town of East Lyme based on the Findings identified in the Memorandum from Gary A. Goeschel II, Director of Planning, dated January 12, 2026.

As such, I offer the following language for a Resolution:

### **WAIVER REQUEST**

Based on the above Findings, I hereby Move to DENY the Applicant's request for a Waiver from the Stormwater Management Requirements of Section 6 of the East Lyme Subdivision Regulations. More specifically, the property for which the Waiver is sought is not affected by physical conditions which affect the property that are not generally applicable to other land in the area. However, the property has been previously identified as Open Space on the original Heritage Phase I Subdivision Plans which, affects the property and is not generally applicable to other land or building lots in the area.

### **RESOLUTION FOR SUBDIVISION APPLICATION**

NOW THEREFORE, based on the Findings in the Memorandum from Gary A. Goeschel II, Director of Planning to the East Lyme Planning Commission dated January 12, 2026, I hereby MOVE TO DENY the Cedarbrook Lane & Catbird Lane Resubdivision, Heritage Phase 3; Kristen Clarke, P.E., Applicant; Hathaway Farm LLC, Owner; Application for a Resubdivision of approximately 4.1 acres, and Waiver Request from Section 4-2-3(I) Stormwater Management Plan, of land located at Catbird Lane, Tax Assessor's Map #36, Lot #31, East Lyme, CT, Zoned RU-40 for the following reasons:

1. The application fails to meet Section 3-5 of the East Lyme Subdivision Regulations which, requires all subdivision plans conform to the requirements of the Zoning Regulations and Section 6-2-1 which requires the size of the lots shall be as required by the Zoning Regulations. More specifically, as demonstrated by Exhibit K, Subdivision "Cluster Zones" are no longer permitted by the Town of East Lyme Zoning Regulations thus, rendering the original subdivision a nonconformity and therefore, pursuant to Section 21 of the East Lyme Zoning Regulations, which specifically prohibits the expansion of a nonconformity, except in compliance with the current Zoning Regulations, the addition of another lot in place of Open Space would constitute an expansion of a nonconformity and would be contrary to the original Town approval by both the Planning and Zoning Commissions;
2. The application fails to meet Section 5-4 and of the East Lyme Subdivision Regulations as the Health District was not present to witness the percolation tests. More specifically, Section 5-4 of the East Lyme Subdivision Regulations requires a letter from the Health Department be provided certifying the land to be subdivided and subdivision plans are satisfactory for on-site

sewage disposal system(s) and "...the East Lyme Health Department must be present to witness the digging and testing or receive satisfactory certification of conduct of testing."

3. The application fails to meet Section 6-2-2 which requires, each lot shall have sufficient area to accommodate, where public facilities are not otherwise provided, a private water supply and a private subsurface sewage disposal system and reserve area, unless systems are located in common Conservation Land or in areas specifically designated by the Commission for this purpose. As demonstrated by Exhibit H of Exhibit A, correspondence from Katie Baldwin RS, Supervisor of Environmental Health of the Ledge Light Health District, dated May 23, 2025, the proposed lot (aka Parcel B) is only recommended suitable in its current condition "if and when the following plan issues are addressed":

- The area of test holes 1,2, and 3 is identified as an area of special concern due to ledge rock less than 5-feet below grade. A professional engineer shall prepare plans for a single lot review.
- The proposed primary and reserve leaching system shall be 25-feet from the downgradient property line.
- There shall be an additional test hole 25-feet down gradient from the proposed primary leach field demonstrating suitable downgradient soil.
- The Reserve Area is described as "100% Reserve Area Provided" but, the proposed leaching product was not provided.
- The large ledge outcrop mentioned upgradient of Test Hole 1, should be located and shown on the plan.

Further the following concerns were also expressed by Ms. Baldwin, RS:

- No mention of who conducted the percolation tests.
- Test hole 4 data was transcribed incorrectly. The layer of 28" – 44" is missing.
- The scale is stated as 1"=40', however, 1" = 20'.
- The recommended suitability of the proposed lot is based on soil testing presented. Additional testing will be needed prior to individual site plan review."

While the letter from Ms. Baldwin indicates the site is "suitable in its current condition, if and when the above items are addressed to meet the Health Code," not only is there no identifying information as to who conducted and performed the percolation tests, the plan's scale was in error which calls into question the accuracy of the proposed plans. Moreover, revisions to the plan are inevitably required by the Health District before they can "certify" a system can be installed on the site per the Connecticut State Health Code.

This Denial is specific to the subdivision plan submitted and the application known as the Application of Kristen Clarke, P.E., Applicant; Hathaway Farm LLC, Owner; Heritage Phase 3, Application for a Resubdivision of approximately 4.1 acres, and Waiver Request from Section 4-2-3(I) Stormwater Management Plan, for a 1-lot resubdivision of land located at Cedarbrook Lane & Catbird Lane, Tax Assessor's Map #36, Lot #31, East Lyme, CT, Zoned RU-40 and the plans entitled "Heritage At East Lyme Subdivision, Re-Subdivision of Assessors Map 36.0 Lot 31, Property of Hathaway Farm, LLC, Cedarbrook Lane, East Lyme, CT, Dated September 1, 2025," prepared by John Paul Mereen, L.S. of Gerwick – Mereen, LLC and Sheet 4 of 4 entitled

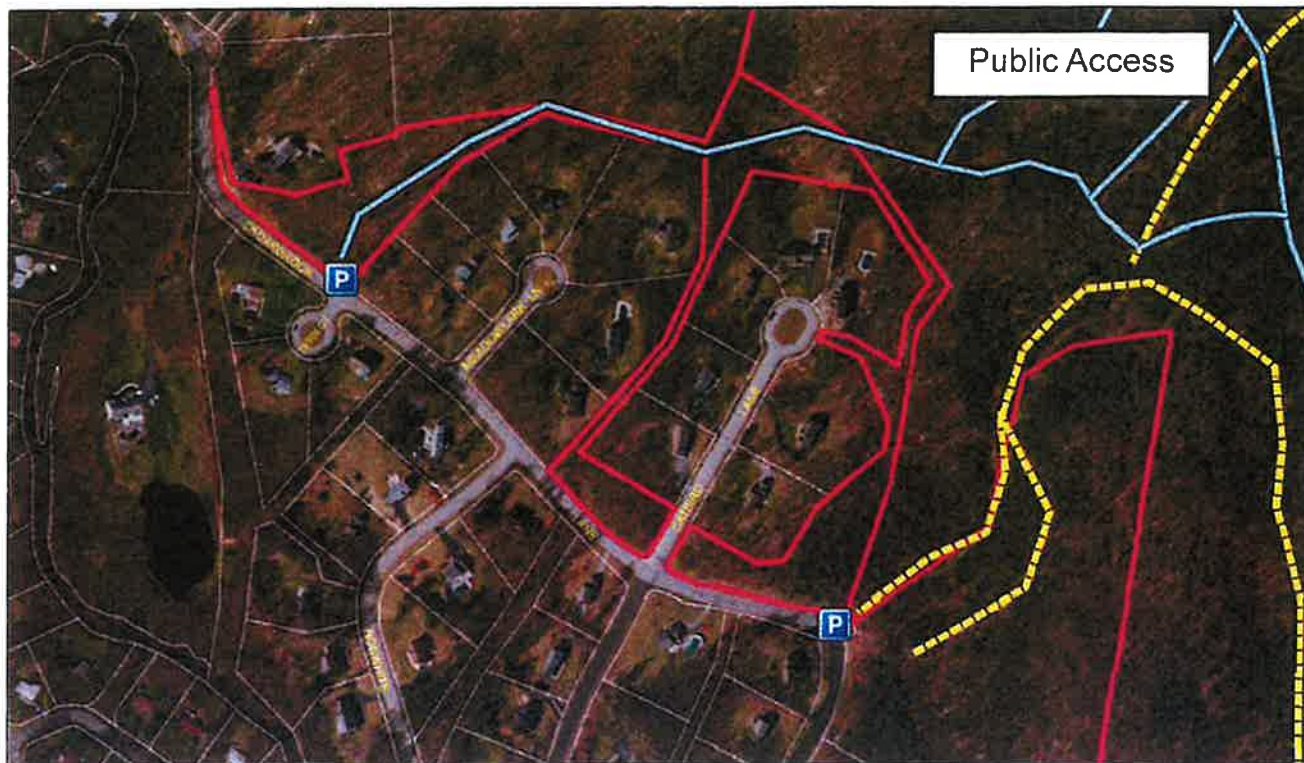
[https://eltownhall-my.sharepoint.com/personal/ggoeschel\\_eltownhall\\_com/Documents/Planning/Planning Subdivision & Resubdivision ApplicationsGG\\_Memodocx](https://eltownhall-my.sharepoint.com/personal/ggoeschel_eltownhall_com/Documents/Planning/Planning%20Subdivision%20&%20Resubdivision%20ApplicationsGG_Memodocx)

“Conceptual Site Plan, Assessors Map 36.0, Lot 31, Cedar Brook Ln., East Lyme, CT, Scale 1” = 40’, dated July 29, 2025, Rev. 11/23/25” prepared by Timothy A. May, P.E. of May Engineering, LLC.



# FIGURE 1





0 800 Feet  
1 inch = 397 feet



0 20 40 80 120 160 Feet  
1 inch = 118 feet



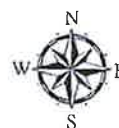
0 25 50 100 150 200 Feet  
1 inch = 106 feet

#### Legend

- Future Trail
- Existing Trail
- Proposed Open Space Area
- Parking
- Parcels

#### DISCLAIMER

Although every effort has been made to ensure that the spatial data on any map that is produced is of the highest accuracy and quality, it is, nevertheless, only appropriate for planning purposes. The information, as presented, is not intended for the legal interpretation of boundary or property lines, either municipal or private.



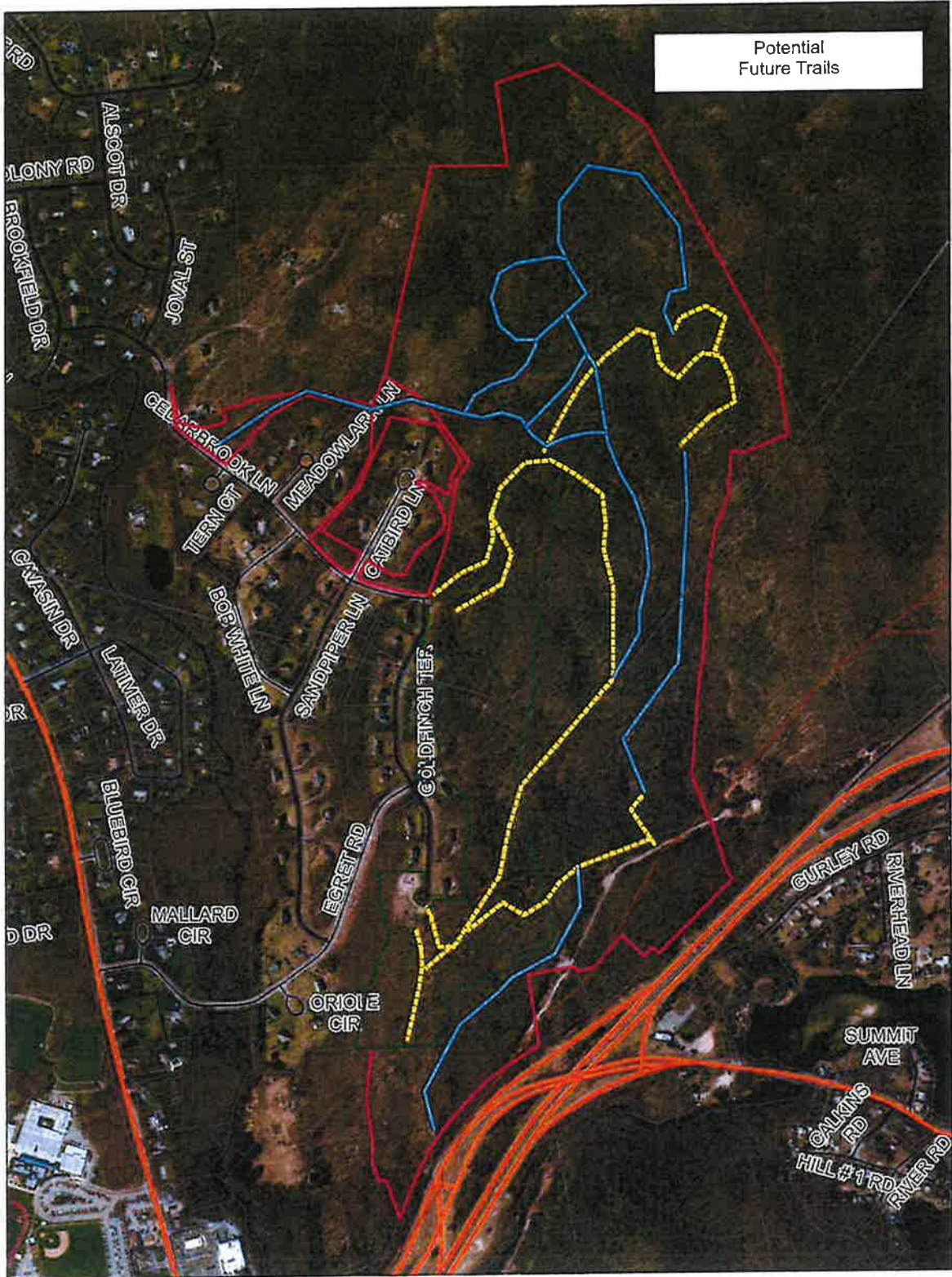












Potential  
Future Trails

#### Legend

- Future Trail
- - - Existing Trail
- Railroads
- Major Roads
- Remaining Land of KSK Associates, LLC
- Proposed Open Space Area
- RoadCen
- Parcels



#### DISCLAIMER

Although every effort has been made to ensure that the information on this map is as accurate as possible, the user assumes all responsibility for any errors or omissions. The information is provided for planning purposes only. The information is not intended for the legal construction of boundaries or for any other purpose.

0 1,800 Feet

1 inch = 533 feet

Area of  
29 Goldfinch Terrace  
East Lyme, CT



Town of East Lyme  
Department of Planning  
June 2011





SCHEDULE "A"

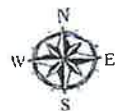
Ortho-Photography

40 +/- Acres

166 +/- Acres

Legend

- Proposed Open Space Area
- Remaining Land of KSK Associates, LLC  
Parcels



DISCLAIMER  
Although every effort has been made to ensure that the  
information on this map is accurate, it is provided as is.  
The user assumes all responsibility for its use. The  
information is not intended for legal purposes or  
property lines. It is not a substitute for a survey.

0 1,000 Feet

1 inch = 833 feet

Area of  
29 Goldfinch Terrace  
East Lyme, CT

Town of East Lyme  
Department of Planning  
June 2012





THIS SUBDIVISION INCLUDES ONLY THAT AREA DESIGNATED AS SECTION 1, LAYOUT OF LOTS AND BLOCKS OF PREVIOUS SECTION II ARE SHOWN ONLY TO LOCATE THE APPLICANT'S INTEREST. TURNED OFF OF LAND ADJACENT THE SUBDIVISION.

