

December 8 2004

Old Saybrook Planning Commission
Old Saybrook, CT

RE: River Sound Development LLC Special Exception Application

Dear Chairman:

Town staff and the public have commented extensively on the application. The applicant has already submitted responses to some of these comments (November 10 and November 17). This is our third set of responses.

The applicant was informed by staff on December 7, 2004 that all comments from staff have been submitted – the last such document received being from NLJA on December 6, 2004—with one or possibly two exceptions. Additionally, the commission itself has not completed its inquiries and comments to the applicant on the record. Consequently, it is not possible to comprehensively respond at this time to the issues raised and to make appropriate final plan refinements to the Conceptual Standard Subdivision or the Preliminary Open Space Plan. Once all material is received and the commission has completed its comments, final responsive comments and refinements to the Conceptual Standard Plan and the Preliminary Open Space Plan may be made. The applicant will make and submit final written comments and any plan refinements to the Land Use Office on or before December 23, 2004 for inclusion in the record.

For consistency sake we are organizing our written response under the same framework as the six decision points outlined by the Commission's counsel in his Memorandum of December 1, 2004 and described below.

The planning commission must make the following six decisions regarding this Special Exception application proposed by River Sound Development LLC:

- 1. Is the site more conducive to an Open Space Subdivision in general conformance with the plan proposed by the applicant, or is it more conducive to the development as a conventional subdivision?***
- 2. If the site is more conducive to an open space subdivision, what is the proper number of lots to be derived from the yield plan?***

3. *Once those yield plan numbers are determined, should the proposed Preliminary plan be approved as submitted or should it be modified/conditioned and approved?*
4. *If conditioned/modified, in what way?*
5. *Is the open space subdivision as proposed by the applicant (i.e. golf course, road pattern, etc) “reasonably likely to unreasonably impair, pollute, or destroy the public trust in the air, water, or other natural resources of the State” as compared to the conventional subdivision?*
6. *Are there feasible and prudent alternatives that would reduce or eliminate any unreasonable adverse impacts that are found to exist?*

In direct response to the first two questions, and indirectly to the ones that follow, there are two options to the development of the property before the commission:

Alternative One: Conventional Subdivision

The first alternative to be considered for the property is a conventional subdivision of potentially 293 single-family housing units on individual one acre plus lots. The applicant has provided compelling evidence that this form of development would fully comply with Old Saybrook land use regulations. However, the applicant believes this form of development is not the preferable form, and does not propose to develop the property to this density or in this configuration so long as the open space and cluster option is available to it. Some of the reasons why this development alternative is not preferred include:

- Fewer controls of stormwater management
- More direct wetland impacts
- Increased wetland crossings
- Habitat fragmentation
- Less open space for municipal use and habitat preservation
- Increased municipal infrastructure costs
- Limited ability to protect sensitive natural and cultural resources
- More potentially negative impact on the character of the region
- Increased tax burdens

Alternative Two: Application Proposal

The applicant has chosen to propose a clustered housing development using a combination of the Open Space Subdivision and PRD regulations for this purpose. This proposal allows for flexibility in design of development. Unlike a conventional plan, roadways can be routed to work with the contours of the landscape and respect sensitive habitats and wetlands, minimizing wetland crossings. Housing can be arranged in a manner that works with and respects the landscape, preserves natural and cultural resources and increases the options for

stormwater management. Specifically, the advantages of the proposed development over the conventional development plan alternative include the ability to:

- Utilize alternative methods of treating stormwater runoff
- Make possible no direct impacts to wetlands (no filling or dredging)
- Minimize wetland crossings
- Preserve large tracts of ecologically connected habitat
- Maximize open space for municipal use and habitat preservation
- Decrease infrastructure
- Protect and respond to natural and cultural resources
- Work with the character of the region
- Produce positive tax revenue for Old Saybrook

The Commission must decide between these two options, with the authority to approve, modify and approve, or deny. We agree with the statement of your counsel that the one thing you cannot do “is prohibit any development of the property at all”.¹

Considering the fact that – at this stage – the application does not require the submission of detailed design plans which must accompany the subsequent application, we caution the commission that specific modifications could be self-defeating, or preclude more optimal creative solutions. We therefore request that the commission, if compelled to suggest plan modifications, state such modifications as “performance standards” or plan objectives, which could then be designed in detail (and evaluated by relevant approval bodies with respect to your stated objectives) at the time of later final subdivision plan approval.

At this December 8 2004 session of the public hearing we will present our verbal responses to many of the comments received to date, especially those relating to the Open Space plan and its relative merits in relation to the open space subdivision purposes.

¹ The alternative disposition of the property suggested by most of the opponents is for it to be acquired for preservation by the state, municipalities or agencies, non-profit organizations, such as a land trust, or some combination of them. However, in spite of the applicant meeting with representatives of such entities, providing them data and information, and deferring at their request any development application for nine months (which time expired before submission of the application before you), no offer to purchase the property has yet been made as of the date of this letter.

We look forward to your final comments, the receipt of any additional reports by staff, and any other information submitted or testified to by other parties. We will complete and file our written response by December 23, 2004.

Sincerely

Sam Stern