

TOWN OF OLD SAYBROOK  
**Land Use Department**

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**REPORT**

*Via Hand Delivery*

To: Robert J. McIntyre, Chairman, Planning Commission  
From: Christine Nelson, Town Planner  
Christina Costa, Zoning Enforcement Officer  
Sandy Prisloe, Environmental Planner  
Date: November 24, 2010  
Subject: **“The Preserve” Modification to Approved Special Exception for Preliminary Open Space Subdivision (925.82 ac. total) & Open Space (556.83 ac.)**  
Ingham Hill and Bokum Roads (Map 55, 56 & 61/Lots 6, 3, 15, 17, 18)  
Residence Conservation C District, Aquifer Protection Area  
Applicant: River Sound Development, LLC. Agent: Attorney David Royston

We find that the proposed Modifications to the previously approved Special Exception for Open Space Subdivision are uninspired at best; each Phase under-achieves in the Town’s intent of clustering development in a low impact design. The principal reason for the resulting sprawled design is the developer’s proposed change from public water to wells, as well as from community septic systems to individual septic systems. The required Health Code separating distances from each other and between systems drives the improvements to spread out across the property, which is already difficult to develop due to intervening wetlands and steep slopes. In summary, we find the number of lots proposed on the Bokum Road parcel unreasonable given the elements of a conventional subdivision, and we find the manner of clustering development at each of the three areas of Modification does little to set aside meaningful open spaces. *We offer this report in the hope of refining the proposed Modification so that the development better fulfills the purposes of the conservation district as stated in Section 27.0.*

**PROPOSED MODIFICATION TO APPROVED SPECIAL EXCEPTION**

We typically advise the Commissions that site design is a process of elimination: developers might intuitively avoid those areas of the land that present constraints to ease of permitting; but the Town in the same order of consideration further guides that impulse with a more purposeful setting aside of lands that ought to be protected due to their natural or cultural resources. From there, development occurs more compactly with lower physical and financial impact. This approach is appropriate whether a subdivision of land is the standard “conventional” plan or the clustered “open space” plan.

Therefore, we recommend the following actions regarding conservation, then development, for steps of determining **both the yield and the layout of each Phase:**

- Combine proposed easement areas into adjacent areas proposed to be treated as open space in fee simple ownership by the Town. We find there is less encroachment on open spaces owned outright by the Town, therefore conservation easements over private property, such as

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proposed, ought to be reserved for situations where there is no other option to protect a natural resource; the Town's limited staff and legal resources increasingly are burdened by enforcement of violations of these easements.

- Encompass the at least 100' of the upland review area of the vernal pools in easements over private property where it cannot be included in or adjacent to land proposed as Town open space. Provide connectivity of easements where necessary over private property. Provide for physical access from roads to monitor these easement areas to avoid situations where a property owner denies access to them over private property.
- Calculate areas of and ratios between wetlands and uplands for open spaces in each Phase – both easement and fee simple ownership – as well as naturally occurring topography exceeding 20% slope in grade so the Commission can analyze the character of the open space offered and verify compliance with zoning regulations, pursuant to Sections 55.6.9 (for the PRD) and 56.6.6 (for the open space subdivision).
- Use 10% as a rule of thumb for providing suitable open space for purposes of parks, playgrounds or other recreation for each Phase or for the 3 phases combined (or a fee in lieu of this open space so the Town may arrange for similar municipal improvements elsewhere).
- Provide open space to connect each of the 3 Phases for trails and habitat, particularly adjacent to other large tracts of open space (Great Cedars Conservation Area/Town Park). Dedicate physical access to open space on adjacent property via provision of at least a 20' wide right-of-way if not a trailhead with a few parking spaces.
- Preserve extensive historic stone walls by moving lot lines so the walls are in open space or easement areas; identify locations to which stone walls to-be-removed will be reconstructed.
- Identify the zoning district within which each Phase is located. Provide a table demonstrating zoning compliance, such as the required and provided lot size, frontage, setbacks for each lot, excluding the quantified wetland areas, in a table on each plan sheet pursuant to Section 56 of the Zoning Regulations.
- Extend dead-end roads to proposed boundary of each Phase within the "core" of the development rather than through protected open space so there is no public perception of violating open spaces at some future time when the remainder of the development is proposed for permitting and construction. Identify temporary easements on "wings" of each cul-de-sac\* dead-end meant to terminate upon future extension of the 3 Phases into the "core".

### **Conceptual Standard Plan**

*The Commission must review the proposed Conceptual Standard Plan to determine by reference to a conventional subdivision of land the maximum number of lots ("yield") that the applicant may later propose as an open space subdivision.*

#### **Bokum Road**

The "Pianta" Parcel" off Bokum Road is presented for the first time as a part of the Conceptual Standard Plan. *In addition to the actions recommended above*, these typical considerations of any reasonable subdivision of land affect the number of lots

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\* A **dead-end** (literally "bottom of bag") is a word of French origin; in land use, it refers to a street with only one inlet/outlet; in military parlance, a situation where an army is "hemmed in on all sides but behind".

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yielded by the Conceptual Standard Plan and result in a reduction from 10 lots to a reasonably likely number of 6 lots:

- Eliminate Lot 1. The Conceptual Standard Plan's road creates a non-conforming setback (50' minimum in Conservation C District) between the existing house and the proposed street line; additionally, the lot cannot provide the necessary Minimum Area of Buildable Land (as proposed it includes inland wetlands).
- Eliminate Lots 6, 7 and 8; modify Lots 2, 3, 4, 5, 10. The Conceptual Standard Plan's road right-of-way lies within the regulated area of Vernal Pool #34 and then disregards the upland review area of Vernal Pool #37 to terminate in contact with the regulated area of the inland wetland; therefore, the road should be relocated westerly to skirt this natural area.
- Eliminate Lot 5. The area of the Conceptual Standard Plan adjoins undeveloped land (N/F Piontkowski) where it appears probable that a subdivision could occur and suitable for a future *street* connection with that adjoining land; therefore, the Conceptual Standard Plan's road should project to the boundary line.
- Modify Lots 1, 2, 3, 9 and 10. The open space is not suitable for any municipal improvement for parks, playgrounds or other recreational use, which is one of the statutory intents of open space exaction. Regarding other purposes of open space, such as habitat protection, the dedicated open space ought to encompass at least the 100' upland review area of the vernal pools; therefore, these lots would need to be consolidated or modified.
- Modify Lot 5. Additionally, the Commission would typically want to provide for access to the open space for monitoring by whoever will eventually own the land (proposed to be the Town) or a trailhead to access open space on adjacent property via provision of at least a 20' wide right-of-way if not a trailhead with a few parking spaces.

### **Preliminary Open Space Plan**

*The Commission must review the Preliminary Open Space Plan to determine if the design ("layout") clusters the number of lots determined by the Conceptual Standard Plan and permanently reserves land according to the standards of open space preservation.*

We find the applicant's offer of open space to be consistent in its qualities of being uninhabitable by mammals, including human beings. Unlike the originally approved Preliminary Open Space Plan, this proposed Modification does nothing to either enhance connectivity of wildlife habitat or support the recreational needs of its residents. We find the methods of open space preservation inconsistent – there is no clear pattern of maintaining certain resources under permanent ownership by the Town or by conservation easement across some lots but not other intervening lots.

The applicant simply shoehorns the proposed lots in between the undevelopable areas of the site; there is no clustering other than that the lots are proximate to other residential developments and that the rest of the development, described as "the core", is unaddressed and available for purchase by any interested party.

*All the comments listed at the beginning of the report are to be applied to each of the following Phases of the proposed Modification in addition to the following:*

### **Bokum Road Phase**

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Although not sought for approval, the developer depicted this Phase originally as a Planned Residential Development with public water and a community septic system. Without those utilities, there is little difference between the conventional layout and the clustered layout, *so the same comments apply as from the Conceptual Standard Plan above*, as well as:

- Realign the road and its future extension out of the upland review areas of the vernal pools.
- Re-route or alternately route the extension of the road to the adjacent vacant property (N/F Piontkowski) to provide better circulation for the residents, to give more access for emergency vehicles, and to provide an intermediate solution to crossing Valley Railroad State Park.
- Combine proposed easements on Lots 2 and 3 into the proposed lots; instead provide easements over upland review area of Vernal Pool #37.
- Merge the areas of Lots 1, 5, 6, 7 and 8 into either open space or adjacent lots.
- Cluster the remaining 6 lots, which means create adjoining lots of a size as close to the minimum size as possible outside of lands more desirable for conservation.

#### **Ingham Hill Road Phase**

The proposed Modification negatively affects the master plan of the original approval, which designated the southwestern portion of this Phase as active recreation – public ball fields – adjacent to existing Town-owned land of Great Cedars Conservation Area/Town Park. The proposed open space for this Phase consists of undevelopable land, such as wetland areas and steep slopes, in fragmented easements located in the back yards of private properties, which will be a nightmare for the Town to monitor and enforce.

- Replace active recreation within “the core” even if that means a decrease in the yield or a fee in lieu of open space.
- Consolidate lots areas to reconfigure Lot 3 as a dedicated access point to open space area adjacent to Town-owned property; locate the parking area and kiosk as a trailhead to connect to existing trails southerly from Great Cedars Conservation Area/Town Park (trail map attached).
- Connect easement areas and include in open space land to be deeded to the Town rather than add these areas to lots that the property owner will not be able to use anyway. A property owner is more likely to respect a property line boundary to a Town open space area than an easement on his or her property, especially where there is no clear, observable pattern of preservation.
- Provide a minimum of 50-100’ conservation easements along local scenic Ingham Hill Road to preserve those characteristics that make it scenic – mature tree canopy, stone walls, etc. – against homeowners clear-cutting to the street (front building setback is 50’ here), utility companies overly removing vegetation, or the Town from over-improving the traffic-calming effects of curves in the road.
- Provide lot line adjustment for improving line-of-sight of Ingham Hill Road across proposed Lots 10 and 11 as required as an original condition of approval.

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- Indicate on the plan the future extension of the northernmost dead-end to become Road A.
  - Relocate the proposed trailhead to the northernmost dead-end currently identified on the plan as 10 parking spaces and a kiosk. Parking spaces perpendicular to the road creates a hazardous situation of cars backing into the road near a sharp turn.
  - Cluster the remaining lots, which means create adjoining lots of a size as close to the minimum size as possible outside of lands more desirable for conservation.

### Essex Road (Route 153) Phase

Clearly, the developer does not want to seek a waiver of the length of a dead-end road, and so the result is a series of extensive driveways that maneuver around existing site constraints, such as steep slopes, utility easements and wetlands. Additionally, there is no access to the open space of the Phase nor “the core” as originally approved (parking, unstructured playing field and nature center pavilion).

- Provide recreational open space and access to trails.
- Identify that this portion of the development is located within the Aquifer Protection Zone (Level B) and verify compliance pursuant to both Section 57 Aquifer Protection of the Zoning Regulations and the Town of Old Saybrook Aquifer Protection Regulations; the State may adopt its Level A map for this Holbrook Aquifer by the time this Preliminary Open Space Plan gets to the next step of wetlands permitting and subdivision approval.
- Address whether the series of individual septic systems meet the design flow standards of the Aquifer Protection Zone for the PRD lot or if DEP approval will be required beyond that of a series of conventional system approved under the Public Health Code.
- Extend the dead-end road to shorten driveways, particularly those to Units 10 & 11, which will result in a decrease in impervious surface, less surface to maintain/snow to plow, and faster emergency response time.
- Cluster or connect the dwelling units (e.g. duplex) outside of lands more desirable for conservation to decrease driveways, some of which are longer than the access road itself.

### NEXT STEPS: WETLANDS PERMITTING AND SUBDIVISION APPROVAL

Our principal concern with the proposed Modification is its Phased approach to subsequent permitting and construction. While not an uncommon practice in development, hence the need for the overall “master plan” as originally presented and approved, phasing presents other challenges in planning for public improvements. Since the original application did not make any provisions for Phased permitting/construction at all, the proposed Modification to the approved Preliminary Open Space Plan presents the Commission with an opportunity to “take another look” at (and perhaps ask more questions about) the practicality of how best to accommodate Phased permitting/construction of certain aspects of conservation & development (e.g. transportation, recreation, storm-water management, etc.), whether about that previously granted or that presently sought for approval. The Commission should carefully consider whether the proposed Modification 1) mitigates the consequences of incremental provision of public improvements and 2) meets the intent of the master plan for those improvements should the remainder never be permitted/constructed.

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- Provide a Preliminary Open Space Plan (RS-1) at a legible scale depicting all conditions of the original approval, as well as a final Modified Preliminary Open Space Plan (RS-2). Both are at a scale typically used for vicinity maps, so it is impossible to discern if the previous conditions of approval are depicted.
  - Convey to the Town approval all open space reserved as a part of the Preliminary Open Space Plan upon approval of the Open Space Subdivision pursuant to 56.6.8 Phases of the Zoning Regulations.
  - Install all public improvements proposed in open space areas simultaneous with construction of housing and certainly prior to issuance of Certificate of Occupancy of any house in each Phase of the development. This will avoid situations where a property owner of Homeowners' Association protests against installation of a public improvement, such as trails, nature center or parking, claiming that they did not know about it and do not want it.

**END OF MEMORANDUM**

**Attachments:**














Trail Map for Town Park/Great Cedars Conservation Area

**Copy to:**

Mark K. Branse, Esq.  
Geoffrey L. Jacobson, P.E.  
Bruce Hillson, P.E.

# TOWN OF OLD SAYBROOK

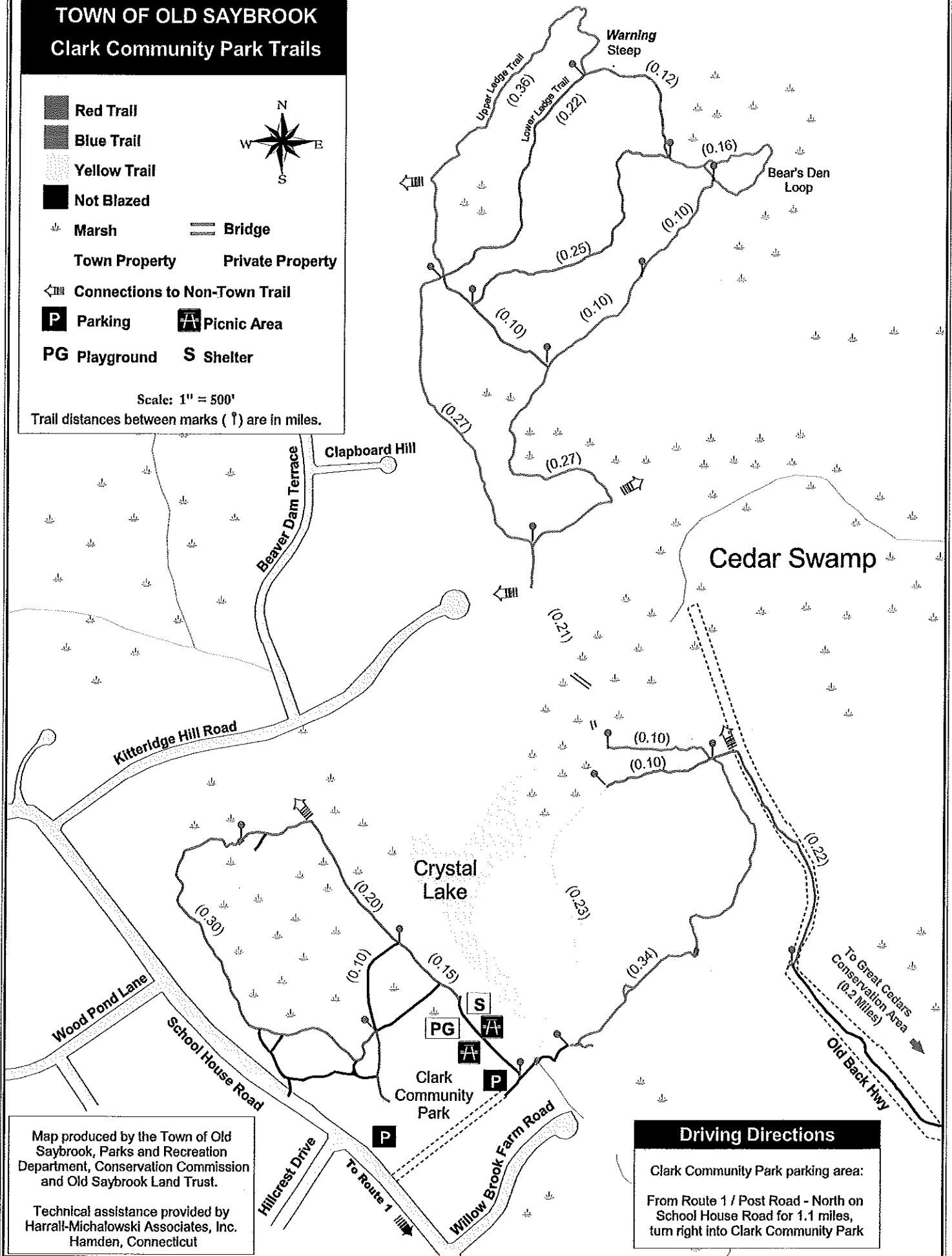
## Clark Community Park Trails

-  Red Trail
-  Blue Trail
-  Yellow Trail
-  Not Blazed
-  Marsh
-  Bridge
-  Town Property
-  Private Property
-  Connections to Non-Town Trail
-  Parking
-  Picnic Area
-  PG Playground
-  S Shelter



Scale: 1" = 500'

Trail distances between marks (↑) are in miles.



### Driving Directions

Clark Community Park parking area:  
 From Route 1 / Post Road - North on  
 School House Road for 1.1 miles,  
 turn right into Clark Community Park

Map produced by the Town of Old Saybrook, Parks and Recreation Department, Conservation Commission and Old Saybrook Land Trust.

Technical assistance provided by Harrall-Michalowski Associates, Inc. Hamden, Connecticut