

PLANNING
COMMISSION
EXHIBIT # 1a

APPLICATION OF RIVER SOUND DEVELOPMENT, LLC

STATEMENT OF USE –OCTOBER 8, 2010
MODIFICATION OF APPROVED PRELIMINARY OPEN SPACE
SUBDIVISION PLAN

River Sound, LLC (“River Sound”) makes this Statement of Use in connection with its application to modify the Special Exception approved by the Old Saybrook Planning Commission on March 23, 2005 in accordance with Old Saybrook Zoning Regulations Section 56.3.4, by modifying the preliminary Open Space Subdivision Plan.

The original Statement of Use filed August 30, 2004 and amended by River Sound on November 10, 2004 is attached as Schedule A.

The Planning Commission Motion and Decision dated March 23, 2005 approving the Special Exception is attached hereto as Schedule B.

The approval Decision contained modifications and conditions which required revisions to the Statement of Use for the approved Special Exception. A revised Statement of Use Incorporating Planning Commission Modifications and Conditions of Approval-March 23, 2005 is attached hereto as Schedule C and includes applicable modifications and conditions.

This Statement of Use dated October 8, 2010 sets forth the modifications requested which are underlined.

Resources

The open space resources of the 893.2 acres located westerly of the Valley Railroad (the “main site”) consist of forested areas, Pequot Swamp Pond, Old Ingham Hill Road, the Ingham homestead foundation and farm area, wetlands and watercourses, vernal pools, identified wildlife habitats and existing trail systems.

River Sound also owns a 32 acre parcel known as the Pianta Parcel, separated from the major portion of its property by the Valley Railroad. River Sound proposes to include the Pianta Parcel in the preliminary Open Space Subdivision Plan.

Use

The modified Preliminary Open Space Subdivision Plan is an open space and recreation community with a variety of housing options and recreational choices, including a golf course. The plan incorporates the residential units and country club into the landscape by utilizing a clustered planning approach - thus preserving a vast amount of the landscape. The Preliminary Open Space Subdivision concept plan approved by the Planning

Commission consists of one PRD lot which includes both the Central Village of 89 single family and duplex units and the East Village consisting of 66 single family and detached units, one lot for the golf course and club house, 36 half to three-quarter acre individual building lots and 30 three acre individual building lots (with a one acre building envelope), a golf course maintenance facility, a wastewater treatment facility, a fire house and a water tower, with the remaining land dedicated as open space. The total number of dwelling units on the main site is 221 as authorized by the approved Special Exception. The remaining land in excess of approximately 535 acres shall be dedicated as permanent open space. Most will be publicly owned.

River Sound proposes to eliminate the 28 half to three-quarter acre lots shown as Lots 1 through 28, inclusive, occupying approximately 37.57 acres on the westerly side of the main site, and replace them with 11 detached single family dwelling units located on 31.02 acres shown as West PRD on the Preliminary Open Space Subdivision Plan (Modification) dated October 7, 2010 and filed herewith. The West PRD parcel contains 15.63 acres of Open Space. An addition 6.65 acres of open space not within the PRD lot is added to the open space inventory by the elimination of the 28 half to three-quarter acre lots.

It should be noted that a portion of the CL&P easement traverses the West PRD lot and is part of the trail system on the property, but is not counted as part of the open space calculation for the PRD.

River Sound next proposes to develop 13 conventional open space subdivision lots (60,000 square feet minimum lot area, with 50% dedicated open space within the subdivision area) along Ingham Hill Road in Old Saybrook as shown on the Preliminary Open Space Subdivision Plan (Modification) dated October 7, 2010. This area consisting of 42.93 acres was originally approved as open space, a portion of which was considered as an active recreation area and a Nature Center. The Nature Center kiosk and accessory parking have been relocated as shown. The condition requires the provision of a level 10 acre active recreation site remains as set forth below.

The reduction in the open space inventory by the development of the Ingham Hill Road lots is 19.5 acres.

Finally, River Sound proposes to include the Pianta Parcel on Bokum Road in its plan. The Conceptual Standard Plan dated October 7, 2010 shows a lot yield of 10 lots. River Sound proposes to develop 9 conventional open space subdivision lots (60,000 square feet minimum lot area, with 50% dedicated open space within the subdivision area) on Bokum Road as shown on the Preliminary Open Space Subdivision Plan (Modification) dated October 7, 2010. An additional 18.17 acres of open space is provided.

Under the Preliminary Open Space Subdivision Plan (Modification) dated October 7, 2010, by the addition of the Pianta Parcel, the entire open space subdivision property increases to 925.82 acres, with the adjusted open space to consist of 556.53 acres, or

60.1 % of the property.

River Sound further proposes that it be permitted to apply for final subdivision approval of the three areas (West PRD, Ingham Hill Road and the Pianta Parcel) either as one application, or as separate applications, and in such sequence as chosen by the Applicant. In order to assure that such phased development is consistent with the Special Exception approval and the Open Space Subdivision regulations, each parcel exceeds 25 acres and each individually meets the applicable 50% open space requirement.

Open Space Purposes

The proposed preliminary Open Space Subdivision plan has been designed to respond to extensive current knowledge of natural and cultural resources, topography and existing open space systems. By complying with the conditions of approval imposed by the Planning Commission, the plan meets the following Purposes of the Open Space Subdivision regulation.

Natural Resource Protection

In addition to providing recreation the open space provides protective habitat for areas of sensitive landscapes. Steep slopes, wetlands, streams and sensitive soils are protected by large tracts of contiguous forest land. Known habitats for resources identified in the CT Natural Diversity Database, as supplemented by extensive on-site investigation and inventory, and references within the Eastern Connecticut Environmental Review Team Report, have been verified and taken into consideration as appropriate in planning the open space system.

Wetland areas that provide natural drainage flood conveyance are preserved and protected. Pequot Swamp Pond as well as large wetland areas east and west of the pond will continue to assist in controlling run off.

In order to protect Pequot Swamp, no golf holes shall cross any portion of Pequot Swamp and a 100-foot horizontal natural, undisturbed buffer surrounding the entire Pequot Swamp is included in the publicly owned open space.

In order to allow for amphibian passage and connectivity of resources between the red maple swamp shown as wetland #18 and vernal pool #18, an undisturbed buffer of at least 180 feet in width will connect with vernal pool #18 to the red maple swamp to the west. As depicted on The Preserve Preliminary Open Space Subdivision Plan Graphic Plate #2 dated January 26, 2005, the 180 feet will start at the end of the southerly-most tee-box as depicted on the drawing and traverse at least 180 feet to the southwest to the beginning of the fairway, which will provide a 180'x400' corridor from vernal pool #18 to the red maple swamp. Alternatively, the applicant may relocate hole #7 to address these concerns.

Signs shall be installed between the golf course and all sensitive adjacent natural areas alerting golfers that they are prohibited from entering these areas to retrieve errant golf balls.

No clearing in, over or within fifty feet of identified vernal pools shall be allowed in order to construct the golf course, e.g., vernal pools 3, 9, 12, 21 and 27.

Regarding all golf course safety: The golf course design shall be modified so as to conform to the plain text of the Urban Land Institute Standards submitted by the Applicant. That plain text does not provide for measurements from the center line of greens or fairways, but from the "landing areas" and "greens".

Recreation Opportunities

The open space has various trails formed through past land uses. These trails are easily passable by bicycle or on foot and provide access to the landscape. In addition, new trails will complement the existing system and link to adjacent open space areas - currently owned by the town of Old Saybrook. Furthermore, a parking area and kiosk are proposed. This "nature center" will provide for trail access and parking.

Enhancing access to publicly owned open space and promoting alternative transportation a 6' wide paved greenway is proposed. This greenway will continuously run parallel to the main spine road from Route 153, Westbrook to Bokum Road, Old Saybrook. The greenway resides on one side of the street and offers 2.5 miles (east to west) of recreation and access to the open space.

In order to provide an area for active recreation, a level area for active recreation at least ten (10) acres in area shall be dedicated and improved for use by all residents of the Town of Old Saybrook. The design, location, and uses of this area will be subject to review as part of the final subdivision plan.

Cultural and Scenic Resource Protection

The site's cultural and scenic resources will remain protected. The former Ingham Hill Road - connecting Ingham Hill Roads in Essex and Old Saybrook will remain undisturbed except for the main road crossing. This gravel road (former Ingham Hill Road) will be within the public open space system and pedestrian access will be restored and enhanced.

Along Old Ingham Road are the remains of the former Ingham Homestead. The remaining foundation (east side of Old Ingham Hill Road) and site of the farm immediately west will remain. Many of the most majestic trees and stonewalls on the property are found at the site, River Sound is required under the conditions of approval

to present a design for the preservation of the area around the Ingham Homestead, which design shall protect and preserve the historic character of the site and provide for interpretive aides for the visitor.

Method of Preservation and Disposition

This plan anticipates the publicly owned open space will be conveyed in fee to the Town of Old Saybrook as preservation open space, including the "nature center", except for the required 10 acre active recreation area and play areas within the PRD. The remaining open space, including areas of the "estate lots" beyond the "building envelopes", will be dedicated by conservation restrictions in favor of and enforceable by the Town to prohibit development and to protect the natural landscape. With the inclusion of the Pianta Parcel, In excess of 520 acres of natural landscape will be protected on the entire property.

Water Supply and Sanitary Sewerage Disposal

Potable water will be supplied to all uses within the development, except for the conventional open space subdivision lot proposed for Bokum Road (9) and along Ingham Hill Road (13) as shown on the Modified Preliminary Open Space Plans dated October 7, 2010 and filed herewith, which will be serviced by individual wells. Connecticut Water Company will be the supplier, owner and operator of the water system. Well water will accommodate golf course irrigation needs supplemented by impoundment areas, subject to regulatory approval of the Connecticut DEP through a Water Diversion permit.

Sewerage disposal for the West PRD, the Bokum Road and Ingham Hill Road dwellings will be by individual septic systems for each dwelling. The remainder of the development will be served by the wastewater treatment facility.

Miscellaneous

The modifications and conditions of approval in the March 23, 2005 Motion contained several requirements to be addressed by the Applicant in addition to those referenced above. These include the following:

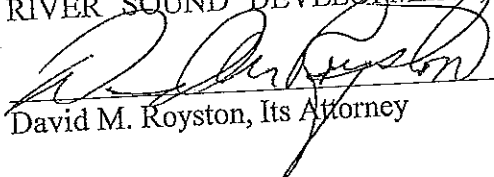
Access, Ingham Hill Road. The access from Road H Road to Ingham Hill Road shall be a full public roadway. The existing Ingham Hill Road shall be realigned at the north end across Lots 73 and 79 as shown on the original Conventional Subdivision Plan to eliminate the sharp curve on Ingham Hill Road, also as recommended by Mr. Hillson. These access improvements will be required in the final subdivision plans for future development beyond the 13 lots along Ingham Hill Road proposed in this modification request. A minimum of three (3) public access points are required for this development in the locations shown on the Preliminary Plan, except as modified in this Motion: Ingham Hill Road, Bokum Road, and Route 153 in Westbrook.

Village Layout. The Commission finds the Preliminary Open Space Plan should be modified to require that Road H should become a public road and the bike path should be extended from Road A, along Road H to Ingham Hill Road. Otherwise the village layout shall remain the same.

Off-Site Improvements. The Applicant shall submit plans for improvements to Ingham Hill Road and Bokum Road that acknowledge and address the increased traffic burdens that The Preserve will create for these roads. Such improvements shall include both vehicular safety improvements and pedestrian and/or bicycle travel.

This Statement of Use has been prepared by the Applicant.

RIVER SOUND DEVELOPMENT, LLC



David M. Royston, Its Attorney

Statement of Use

This statement of use is provided in accordance with the Old Saybrook Zoning Regulations Section 56.3.4.

Resources

The open space resources of the site consist of forested areas, Pequot Swamp Pond, Old Ingham Hill Road, the Ingham homestead foundation and farm area, wetlands and watercourses, vernal pools, identified wildlife habitats and existing trail systems.

Use

The proposed Preliminary Open Space Subdivision Plan is an open space and recreation community with a variety of housing options and recreational choices, including a golf course. The plan incorporates the residential units and country club into the landscape by utilizing a clustered planning approach - thus preserving a vast amount of the landscape. The subdivision concept plan consists of one PRD lot to accommodate 179 single family and duplex units, one lot for the country club, 45 half to three-quarter acre individual building lots and 24 one to three acre individual building lots, with the remaining land dedicated as open space.

Open Space Purposes

The proposed Preliminary Open Space Plan has been designed to respond to extensive current knowledge of natural and cultural resources, topography and existing open space systems. It meets the following Purposes of the Open Space Subdivision regulation.

Natural Resource Protection

In addition to providing recreation the open space provides protective habitat for areas of sensitive landscapes. Steep slopes, wetlands, streams and sensitive soils are protected by large tracts of contiguous forest land. Known habitats for resources identified in the CT Natural Diversity Database, as supplemented by extensive on-site investigation and inventory, and references within the Eastern Connecticut Environmental Review Team Report, have been verified and taken into consideration as appropriate in planning the open space system.

Wetland areas that provide natural drainage flood conveyance are preserved and protected. Pequot Swamp Pond as well as large wetland areas east and west of the pond will continue to assist in controlling run off.

Recreation Opportunities

The open space has various trails formed through past land uses. These trails are easily passable by bicycle or on foot and provide access to the landscape. In addition, new trails will be proposed to complement the existing system and link to adjacent open space areas - currently owned by the town of Old Saybrook. Furthermore, a parking area, pavilion and kiosk are proposed at the westside of the site. This "nature center" will provide for trail access, picnic and parking.

Enhancing access to publicly owned open space and promoting alternative transportation a 6' wide paved greenway is proposed. This greenway will continuously run parallel to the main spine road from Route 153, Westbrook to Bokum Road, Old Saybrook. The greenway resides on one side of the street and offers 2.5 miles (east to west) of recreation and access to the open space.

Cultural and Scenic Resource Protection

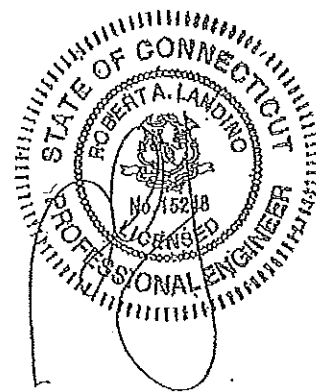
The site's cultural and scenic resources will remain protected. The former Ingham Hill Road - connecting Ingham Hill Roads in Essex and Old Saybrook will remain undisturbed except for the main road crossing. This gravel road (former Ingham Hill Road) will be within the public open space system and pedestrian access will be restored and enhanced. Along Old Ingham will Road are the remains of the former Ingham Homestead. The remaining foundation (east side of Old Ingham Hill Road) and site of the farm immediately west will remain. Many of the most majestic trees and stone walls on the property are found at the farm area - thus being preserved and maintaining the beauty of the site.

Method of Preservation and Disposition

This proposal anticipates 54.1 % of the site (483.3 acres) to be conveyed in fee to the Town of Old Saybrook as preservation open space, including the "nature center". An additional 6.6 % (58.9 acres) of the site will have conservation restrictions conveyed to the Town to prohibit development and further protect the landscape. A total of 60.7% (542.2 acres) of landscape will be protected.

Water Supply and Sanitary Sewerage Disposal

Potable water will be supplied to all uses within the development. Connecticut Water Company will be the supplier, owner and operator of the water system. Well water will accommodate golf course irrigation needs supplemented by impoundment areas, subject to regulatory approval of the Connecticut DEP through a Water Diversion permit.



The Minimum Area of Buildable Land (MABL) requirements were met by utilizing published soil data confirmed by certified soil scientist, Michael Klein, and existing test pit data that was conducted in support of past applications -- not associated with River Sound Development LLC -- and supplemental testing conducted by the applicant. The State of Connecticut Health Code was used for separation to bedrock and groundwater as it relates to onsite subsurface sanitary system design (24" and 18" respectively). (See sheet SA-4 for soil delineation.)

Based upon the published data (NRCS) the dominant soils on site are Charlton - Chatfield complexes with slope 3 - 45 percent (NRCS 73C and 73D). As noted in the respective soil descriptions provided on sheet SA-5, depth to ledge is generally 29 - 36 inches and depth to ground water is generally six feet or greater. Permeability rates for each soil type are similar to the past SCS soil description for Charlton Hollis. NRCS publishes the expected minimum permeability rate, which in this case is consistent with the past SCS minimum permeability for this soil.

The SCS descriptions note permeability rates in the range of .6 - 6" /hr at depths up to 60". Therefore the majority of the soils within these soil designations will have permeability rates within the acceptable range as allowed by the State of Connecticut Health Code. Based upon these descriptions and considering the *percent* of each component within the complex it can be assumed the soils will support a filled on site sanitary system.

Where lots are proposed in areas of actual test pits, field log data supplemented the NRCS information during planning and lot layout. In general, when the field test information showed depth to groundwater was less than 18" and/or depth to bedrock less than 24", an on site septic system was not proposed in this vicinity. If this criterion was met within this area it was determined to be suitable for on site subsurface sanitary systems.



Proposed Open Space and Protected Landscape Area Calculations - Open Space Subdivision

Old Saybrook Lot Area 893.2 acres
 (Note: All calculations omit Bokum Road property)

August 30, 2004

Open Space Use	Required Percent of Site	Acres	Proposed Percent of Site (or Lot)	Acres
Open Space - Overall* (Fee Open Space)	50.0%	446.6	54.1%	483.3
Golf Course	n/a	200	n/a	218.45
Min. Lot Size	65.0%	130	65.0%	141.92
Max Disturbance				
PRD***				67.13
Minimum Lot Size	n/a	67.13	n/a	34.06
Open Space	50.0%	33.57	50.7%	

* Proposed Open Space Acreage Includes PRD Open Space Protected in the form of conservation easement

***PRD Lot Area Calculation		Total Bedrooms	Total Minimum Site Area
Proposed No. of Units	No. of Bedrooms per Unit	per Section 55.6.2	
179	3	537	67.13
		8	

Protected Landscape Use	Acres	Percent of Site
Golf Course*	34.87	3.9%
SFD Lots**	24.07	2.7%
Easement Subtotal	58.94	6.6%
Open Space Subtotal	483.3	54.1%
Total Protected Landscape	542.24	60.7%

Housing Option	Quantity
Village Attached (PRD)	90
Village Detached (PRD)	89
3/4 Acres Lots	45
Estate Lots	24
Total Units	248

SCHEDULE A

APPLICATION OF RIVER SOUND DEVELOPMENT, LLC

AMENDED STATEMENT OF USE -11/10/04

River Sound, LLC makes this amended Statement of Use in accordance with Old Saybrook Zoning Regulations Section 56.3.4. Deleted material will be bracketed and the amended material will be underlined.

RESOURCES

Same

USE

The proposed Preliminary Open Space Subdivision Plan is an open space and recreation community with a variety of housing options and recreational choices, including a golf course. The Open Space Subdivision is part of a proposed Planned Residential Development ("PRD") for the applicant's property, including its property lying between Bokum Road and the Valley Railroad tracks, known as the Pianta property. The plan incorporates the residential units and country club into the landscape by utilizing a clustered planning approach – thus preserving a vast amount of the landscape. The subdivision concept plan consists of one [PRD] Multifamily lot to accommodate 179 single family and duplex units, one lot for the country club, 45 half to three-quarter acre individual building lots and 24 one to three acre individual building lots, with the remaining land dedicated as open space. The Pianta parcel is proposed as a Multifamily lot separated by the entry road providing access to the major portion of the development southwesterly of the Valley Railroad tracks.

OPEN SPACE PURPOSES

Same

METHOD OF PRESERVATION AND DISPOSITION

This proposal anticipates 54.1% of the site (483.3 acres) to be conveyed in fee to the Town of Old Saybrook as preservation open space, including the "nature center". An additional 6.6% (58.9 acres) of the site will have conservation restrictions conveyed to the Town to prohibit development and further protect the landscape. A total of 60.7% (542.2 acres) of landscape will be protected. These calculations do not include the Pianta parcel. However, since the Pianta parcel is located in Residence District C, its development as a Multifamily lot under the PRD regulation would require that 50% of the lot area be set aside as Open Space permanently dedicated for preservation.

SCHEDULE B

MOTION ON THE APPLICATION OF RIVER SOUND, LLC
THE PRESERVE
APPLICATION FOR SPECIAL EXCEPTION

INTRODUCTION

The Commission has given careful consideration to this application for Special Exception for Open Space Subdivision in accordance with Section 56 of the Old Saybrook Zoning Regulations (the "Application") as filed by River Sound Development, LLC (the "Applicant.") The Commission members have heard exhaustive testimony—expert, anecdotal, and otherwise—during many hours of testimony. They have received numerous plans, reports, staff memoranda, and other documents. In reaching this decision, the Commission members have relied exclusively on the evidence and testimony in the record and, where appropriate, their own knowledge of the Town of Old Saybrook and topics within their individual or collective expertise. The findings, and the conditions and modifications, stated below are integral to the Commission's decision on the Application and, but for these findings, conditions, and modifications, the Commission would have denied the Application as either incomplete or not in compliance with its Regulations.

FINDINGS

I. Suitability as Open Space Subdivision.

A. Completeness of Application.

1. Alternate Road Standards. The Commission had not received evidence that the Board of Selectmen have approved, or are reasonably likely to approve, the Alternative Road Standards proposed by the Applicant as of the close of the public hearing. Therefore, the Commission has been considering the Application under the current road standards required by the Zoning and Subdivision Regulations. After the close of the Public Hearing, the Commission received the decision of the Board of Selectmen relative to Alternative Road Standards, but the plans before the Commission do not illustrate the effect that such standards will have on road locations, alignment, grading, or other aspects of design that may be affected by the road specifications as approved. The Commission's Traffic Engineering consultant had cautioned the Commission that, depending on the extent and type of Alternative Road Standards that were approved there would be some degree of alteration of road grades, alignment, or

public/private status. The Applicant has contended that, because of the preliminary nature of the road pattern sets forth in this Special Exception application, there was no need for the Alternative Road Specifications to be finalized in this proceeding, and that is the reason why the Applicant did not seek the decision of the Board of Selectmen prior to filing this Application.

The Commission accepts this explanation, and therefore the approval of this Special Exception shall not include any approval of road specifications or any approval of road grading, alignment, or other engineering elements, all aspects of which, including environmental impacts thereof, shall be reviewed *de novo* during the final subdivision application.

2. Standing to Apply, Access to Bokum Road Over the State Valley Railroad Corridor.

The Commission finds that the State of Connecticut, acting by and through its Department of Environmental Protection, is not prepared to approve an *at grade* crossing of the railroad tracks located on State-owned property between The Preserve property and Bokum Road. However, the Applicant is not proposing an *at grade* crossing, but rather is proposing a fly-over crossing. The Applicant has represented to the Commission that it is capable of obtaining the approval required to cross the State property; that it has had discussion with the State to that effect; and that it is willing to assume the risk that it is unable to obtain such approval. The Applicant has also argued that because this is a preliminary design, authorizing nothing to be constructed, it need not have the State's consent at this stage any more than it has the approval of other State and local agencies that would be required in a final subdivision application.

The Commission accepts the Applicant's argument, and finds that at this preliminary stage of review, where only a preliminary, conceptual plan is being approved, final State approval is not required in order to evaluate the suitability of the plan before it.

These findings shall not be construed as imposing on the State any obligation to approve the use of its property by this or any other Applicant, nor any expectation that the same will occur. The Applicant has indicated, repeatedly, that it assumes full responsibility for obtaining such approval in advance of any final subdivision or PRD approval, and the Commission will allow the Applicant to shoulder that burden. This Motion shall not be used as the basis for any claim by the Applicant that the denial of access rights to State property deprives it of the benefit of this Special Exception.

Such benefit does not exist unless and until the State grants the approval that the Applicant has claimed it can obtain. Any approval of the Application will (as set forth below) be subject to the Applicant's ability to establish the rights that it claims to have.

3. Access to Route 153, Westbrook.

The Applicant has represented to the Commission that it is capable of obtaining the approval required to reach Route 153; and that it is willing to assume the risk that it is unable to obtain such approval. The Applicant has also argued that because this is a preliminary design, authorizing nothing to be constructed, it need not have the Town's consent at this stage any more than it has the approval of other State and local agencies that would be required in a final subdivision application.

The Commission accepts the Applicant's argument, and finds that at this preliminary stage of review, where only a preliminary, conceptual plan is being approved, final approval by the Town of Westbrook is not required in order to evaluate the suitability of the plan before it.

These findings shall not be construed as imposing on the Town of Westbrook any obligation to approve the extension of its public road system, nor any expectation that the same will occur. The Applicant has indicated, repeatedly, that it assumes full responsibility for obtaining such approval in advance of any final subdivision or PRD approval, and the Commission will allow the Applicant to shoulder that burden. This Motion shall not be used as the basis for any claim by the Applicant that the denial of public highway status in Westbrook deprives it of the benefit of this Special Exception. Such benefit does not exist unless and until the Town of Westbrook grants the approval that the Applicant has claimed it can obtain. Any approval of the Application will (as set forth below) be subject to the Applicant's ability to establish the rights that it claims to have.

4. Inland Wetlands and Watercourses Commission Action:

This Commission does not have the authority to determine the jurisdiction of the Old Saybrook Inland Wetlands and Watercourses Commission. That Commission has submitted a report, and has concluded that no permit applications are required in connection with this Special Exception application. Unless and until that decision is reversed by a court of competent jurisdiction, the Commission concludes that the Inland Wetlands and Watercourses Commission has exercised its jurisdiction to the extent that it deems appropriate.

- B. Compliance with Standards. Based on the information received in this record, the Commission finds that The Preserve property should be developed as an Open Space Subdivision. This finding might be different in some future proceeding at which different evidence and/or plans were submitted. In support of this finding, the Commission's further finds that the Open Space Subdivision Plan, as modified in this Motion, will not be detrimental to the public health, safety and property values. Further, the said Plan, as modified in this Motion, accomplishes the purposes specified in Paragraph 56.2 and that the standards of Paragraph 56.6 will be met, as follows:

Section 56.2:

56.2.1: The Open Space Subdivision Plan can provide public playgrounds and active recreation sites, and will be modified to do so. The Plan already provides for outdoor recreation in the form of golf and tennis (among other activities) for club members; trails for other residents and the general public; and passive enjoyment of nature in the undisturbed forest areas. The Plan also already provides for Public Parks in the form of the deeded open space land. The plan does not provide expressly for preservation of the Ingham Homestead, but could be modified to do so. The plan does not expressly provide for the preservation of the Old Ingham Hill Road corridor, but can be modified to do so to the extent practical as determined by the Commission upon application for subdivision.

56.2.2: The Open Space Subdivision Plan provides protection for natural streams, ponds, and water supplies. This Plan does not protect each and every fragile natural resource on the site, but the Commission does not interpret Section 56.2.2 as requiring that. The Commission also finds that additional natural resource protection is possible and is provided by the modifications and conditions set forth in this Motion.

56.2.3: The Open Space Subdivision Plan provides for the protection of soils and wetlands. There are no tidal marshes or beaches on the property. As with the previous finding, the Commission finds that This Plan does not protect each and every fragile natural resource on the site, but the Commission does not interpret Section 56.2.3 as requiring that. The Commission also finds that additional conservation of soils and wetlands is possible and is provided by the modifications and conditions set forth in this Motion.

56.2.4: The Plan is preliminary but, at this level of detail, appears capable of including best management practices for storm water management, and those measures can be refined in the final subdivision application.

56.2.5: The Open Space Subdivision Plan protects sites and areas of scenic beauty and historic interest, other than the Ingham Homestead, which can and should be protected.

56.2.6: The Open Space Subdivision Plan provides for conservation for forest, wildlife and other natural resources to the extent consistent with development of the property. As with other findings, this Plan does not protect each and every fragile natural resource on the site, but the Commission does not interpret Section 56.2.6 as requiring that. The Commission also finds that additional natural resource protection is possible and is provided by the modifications and conditions set forth in this Motion. There are no agricultural resources on the site.

Section 56.6:

56.6.1, Acreage: The parcel is over 25 acres.

56.6.2, Number of Lots: The Plan, as modified by this Motion, is in accordance with the finding below as to the lot yield made in accordance with Section 56.5.

56.6.3, Lot Area, Shape, and Frontage: The bulk requirements of this Section appear to be met based on these preliminary plans, subject to more detailed plans at the Final Subdivision stage.

56.6.4, Open Space Land: The Open Space Subdivision Plan complies with, or is capable of complying with, the standards of this Section. Because this development will have residents of all ages, additional active recreation opportunities are needed, including expansion of the bike path system. The Commission recognizes that the details of open space disposition, management, documentation, and use will be addressed in the Final Subdivision Application.

56.6.7, Permitted Uses: The Plan indicates uses that are consistent with those permitted.

56.6.8, Sections: The Applicant has provided a preliminary plan for the Pianta Parcel but has not included it in this application. This is in compliance with Section 56.6.8.

Section 56.6.9, Conflicting Provisions: No conflicts have been identified.

The Commission finds that the Application is complete, subject to the conditions of this Motion.

II. Yield Plan, Total Lots.

A. Golf Course: The Commission construes its Regulations as not allowing the Applicant to "double count" land in the underlying conventional design (the "yield plan") for both residential density and a private country club/golf course. As indicated in staff reports, the country club/golf course includes parking lots, buildings, tennis courts, fairways, greens, etc. that constitute a separate use of land. The Open Space Subdivision Plan is supposed to allocate land between two (2) uses: residential lots/development and open space. The Applicant has inserted a third use, a country club/golf course, which use occupies land which would otherwise be available for either residential uses or open space. The desirability of such a use is not relevant. The issue is one of density. The only evidence that the Commission has before it from which it can determine the yield of a conventional subdivision plan with a golf course is the plan submitted by the Applicant and entitled, "Conceptual Standard Plan With Golf Course, Sheet No. OS-A" and dated 09/01/04 (the "Yield Plan with Golf Course." Despite repeated requests for such a plan and its apparent existence since September, it was only provided to the Commission for its public hearing of January 12, 2004. This precludes the Commission from considering whether the 15 lots eliminated from this Plan might have been eliminated for other reasons in previous staff reviews. The Commission therefore finds that the starting point of its yield analysis shall be the 278 lots depicted on the Yield Plan with Golf Course, rather than the 293 in the initial conventional subdivision submission plan.

B. Other factors: The Commission has received reports from its traffic engineering consultant; its biology consultant; its soils scientist; its Town Engineer; its Town Planner; the Connecticut River Estuary Regional Planning Agency; the Zoning Enforcement Officer; and numerous witnesses for intervenors and the Applicant. Commission members have individually and collectively reviewed these reports and have given the weight to each report and all the testimony as may be appropriate in their individual and collective discretion. While all Commission members may not have assigned the same weight to the same reports, the collective finding of the Commission, after exhaustive review, is that 57 lots should be eliminated from the yield plan based on the reports and testimony received. When deducted from the 278 lots of the Yield Plan with Golf Course, the resulting total is 221.

III. The Preliminary Open Space Plan; Compliance with Standards.

The Commission finds that the following aspects of the Preliminary Open Space Subdivision Plan do or do not conform with the standards and criteria of its Regulations:

A. The Golf Course As An Element of the Plan. The Commission finds that a golf course is a recreational use that could be included in the final plan if properly designed. The Commission is not persuaded that a golf course must or inevitably will produce adverse impacts on groundwater, wildlife habitat, or other natural resources. The fact that some golf courses may have produced adverse impacts does not necessarily mean that any golf course will have such impacts. In any event, the Commission finds that a golf course would generally have less impact than conventional subdivision lots in the same area, and that the golf course does create some new wildlife habitat for certain species.

B. The Golf Course Design Considered in Light of the Goals of an Open Space Subdivision. Despite the general desirability of a golf course as an element of this open space plan, the Commission finds that there are serious deficiencies in the design as submitted. In particular, the Commission concludes that:

There is inadequate buffering for the Pequot Swamp, especially along the East side;

The recommended 100-foot non-disturbance buffers are not maintained for vernal pools, and particularly for vernal pool #18, and the area of intact wooded uplands between this pool and the large Red Maple Swamp to the west.

The current plan involves excessive fragmentation of habitat areas. While some fragmentation may be unavoidable in any form of development, this design can and should be modified to reduce that fragmentation, especially in areas of known ecological importance. The design of the golf course must be driven by the goals of Section 56 and not the other way around; it requires fairways to cross significant wetlands areas, including Pequot Swamp. This involves clearing of vegetation, establishment of cart paths, and having golf balls flying over, and inevitably into, fragile wetlands and watercourses (e.g., Hole #11). Golfers will naturally seek out errant golf balls in the wetland "rough" areas, creating foot traffic and disturbance of those sensitive areas.

The golf course plan does not adequately address the safety of adjoining dwellings, public roadways, and infrastructure or the wildlife that exists along the fringes of this golf course.

C. Road Pattern; Traffic and Off-Site Improvements

Road A should be a public road, as proposed by the Applicant.

Road H should also be public (the application materials are unclear as to the Applicant's proposed status for this road), and designed to public road specifications.

Road G is not viable as a cul de sac design. Turning radii for fire apparatus and other large vehicles is not adequate.

The Commission finds that there was not intended to be, and requires that there not be, access to land of others via the corridor at the end of Road B (depicted as wetlands on the plans).

There should be full access to Ingham Hill Road via road H (not just an emergency access), as recommended by the Commission's traffic engineering consultant (Memo of December 1, 2004) and the Town Planner (Memo of November 17, 2004). This not only provides improved access for residents of The Preserve, but also provides a second means of egress for existing residents on Ingham Hill Road in the event of emergency (such as the flooding observed near the ice house in 1982). The existing Ingham Hill Road shall be realigned at the north end across Lots 73 and 79 as shown on the original Conventional Subdivision Plan to eliminate the sharp curve on Ingham Hill road, also as recommended by Mr. Hillson. The Applicant should also address improvements to Ingham Hill Road to accommodate any additional traffic produced by this connection, including improved pedestrian movement.

Off-site improvements to Bokum Road must be investigated and proposed to accommodate the additional traffic that will be generated by this development. The Commission's counsel requested this information from the earliest reviews and the applicant has failed to respond. There is a clear nexus between the traffic generated by this development and the need for improvements on Ingham Hill Road and Bokum Road, and the safety of these future residents requires that both vehicular and pedestrian traffic passage to and from this development be safe, convenient, and inviting.

- D. Clustering in the "Estate Lots" Area. The Commission finds that the "Estate Lots" are contrary to the fundamental design philosophy that underpins the Conservation Zone and Section 54 of the Regulations. Additional clustering in this area would allow for more open space, less disturbance of the natural topography, less infrastructure and impervious surface area, and flexibility in the design of the golf course, the village multi-family units, and the road pattern. This finding does not mean that

the houses in the Estate Lots need to be smaller, but only that the building envelopes needs to be smaller. For those lots abutting proposed public open space or undisturbed areas such as areas adjacent to railroad tracks or utility easements, Building Envelopes shall be limited to one (1) acre, with the remainder of the lot to be preserved by perpetual conservation easements, located on the side of each lot where it abuts proposed public open space or other undisturbed areas.

- E. Design of the Village Areas. At this time, the Commission has no major objections to the way the village areas are set up. The design of the village areas is deemed appropriate.
- F. Active Recreation Facilities for the Public. The Applicant has not proposed that The Preserve be an age-restricted community and the Commission has no desire to impose such a requirement. The Applicant expects that many units will be purchased by "empty nesters," but has presented no evidence to support this claim. Even if *most* purchasers do not have children, the fact remains that the development design has provided no recreational opportunities of any kind for any age group, other than the restricted membership, for-fee country club/golf course facility. Even a community of middle-aged residents has requirements for active recreation such as soccer fields, basketball courts, softball fields, bicycle paths, jogging trails, and the like.
- G. Location of Maintenance Facility. The maintenance facility has been placed directly upgradient from vernal pool #24. The maintenance facility will, of necessity, involve the storage of chemicals for the golf course and the storage, maintenance, and possible fueling of service vehicles. This facility should be located in a less sensitive location.
- H. Preservation of Ingham Homestead. In addition to the lack of active recreational opportunities in the Preserve, there is a failure to address how the historic Ingham Homestead and its setting will be protected and preserved.
- I. Conn. Gen. Stats. § 22a-19 Intervention. The open space subdivision is preferable to the conventional subdivision plan as proposed. The preliminary approval will not be reasonably likely to unreasonably impair, pollute or destroy the public trust in the air, water or other natural resources of the State of Connecticut.

IV The Preliminary Open Space Plan: Modifications and Conditions.

The Commission recognizes that it has the option of modifying or conditioning the Application in order to address the deficiencies above, and the Commission concludes that they can be remedied by conditions and modifications based on the information and arguments now contained in the record, and that such conditions and modifications do not substantively alter the Application to the extent that any parties are deprived of their rights to be heard. These conditions and modifications are drawn directly from the testimony and evidence received during the public hearing and are intended to be responsive to them. The following conditions and modifications are integral to this approval and not severable from it. But for these conditions and modifications, the Commission would have denied the Application without prejudice so that an acceptable plan could be designed and submitted.

Therefore, the Special Exception is granted subject to the following conditions and modifications:

- A. Access, Ingham Hill Road. As noted above, the access from Road H to Ingham Hill Road shall be a full public roadway. The existing Ingham Hill Road shall be realigned at the north end across Lots 73 and 79 as shown on the original Conventional Subdivision Plan to eliminate the sharp curve on Ingham Hill road, also as recommended by Mr. Hillson. A minimum of three (3) public access points are required for this development in the locations shown on the Preliminary Plan, except as modified in this Motion: Ingham Hill Road, Bokum Road, and Route 153 in Westbrook.
- B. Village Layout. The Commission finds the Preliminary Open Space Plan should be modified to require that Road H should become a public road and the bike path should be extended from Road A, along Road H to Ingham Hill Road. Otherwise the village layout shall remain the same.
- C. Golf Course Design. The Commission declines to dictate particular changes that are to be made in the golf course design, and instead to focus on performance standards and requirements that a revised design must meet. These include the following:
 1. No golf hole(s) shall be allowed to cross any portion of Pequot Swamp, and all of Pequot Swamp and a 100-foot horizontal natural, undisturbed buffer surrounding the entire swamp shall be included in the publicly-owned open space.
 2. In order to allow for amphibian passage and connectivity of resources between the red maple swamp shown as wetland #18 and vernal pool #18, an undisturbed buffer of at least 180 feet in

width will connect vernal pool #18 to the red maple swamp to the west. As depicted on The Preserve Preliminary Open Space Subdivision Plan Graphic Plate #2 dated January 26, 2005, the 180 feet will start at the end of the southerly-most tee-box as depicted on the drawing and traverse at least 180 feet to the southwest to the beginning of the fairway, which will provide a 180' x 400' corridor from vernal pool #18 to the red maple swamp. Alternatively, the applicant may relocate hole #7 to address these concerns.

3. Signs shall be installed between the golf course and all sensitive adjacent natural areas alerting golfers that they are prohibited from entering these areas to retrieve errant golf balls.
4. No clearing in, over or within fifty feet of identified vernal pools shall be allowed in order to construct the golf course, e.g. vernal pools 3, 9, 12, 21, and 27.
5. Regarding golf course safety: The golf course design shall be modified so as to conform to the plain text of the Urban Land Institute standards submitted by the Applicant. That plain text does not provide for measurements from the center line of greens or fairways, but from the "landing areas" and "greens."

D. Clustering of Estate Lots. For those lots abutting proposed public open space or undisturbed areas such as areas adjacent to railroad tracks or utility easements, Building Envelopes shall be limited to one (1) acre, with the remainder of the lot to be preserved by perpetual conservation easements, located on the side of each lot where it abuts proposed public open space or other undisturbed areas.

E. Active Recreation. A level area for active recreation at least ten (10) acres in area shall be dedicated and improved for use by all residents of the Town of Old Saybrook. The design, location, and uses of this area will be subject to review as part of the final subdivision plan.

F. Location of Maintenance Facility. The maintenance facility shall be relocated to a less environmentally sensitive location that is not immediately up-gradient of vernal pools or wetlands. The Applicant is encouraged to work with the Commission's environmental consultants to identify a suitable site.

G. Preservation of Ingham Homestead. The Applicant shall present a design for the preservation of the area around the Ingham Homestead, which

design shall protect and preserve the historic character of the site and provide for interpretive aides for the visitor.

- H. Off-Site Improvements. The Applicant shall submit plans for improvements to Ingham Hill Road and Bokum Road that acknowledge and address the increased traffic burdens that The Preserve will create for these roads. Such improvements shall include both vehicular safety improvements and pedestrian and/or bicycle travel.

Decision

The Special Exception is hereby granted subject to the findings, conditions, and modifications set forth above. The preceding conditions and modifications are essential to the success of The Preserve Open Space Subdivision. Failure to address these conditions in the final subdivision application shall be grounds for the denial of that application and/or the revocation of this Special Exception approval of the Preliminary Plan.

The six month time limit contained in Section 56.5 shall commence upon the publication of the legal notice of this decision.

Dated at Old Saybrook, Connecticut, this 23rd day of March, 2005.

Old Saybrook Planning Commission

By:
Its:

APPLICATION OF RIVER SOUND DEVELOPMENT, LLC

STATEMENT OF USE INCORPORATING PLANNING COMMISSION
MODIFICATIONS AND CONDITIONS OF APPROVAL - MARCH 23, 2005

River Sound, LLC ("River Sound" or "Applicant") makes this Statement of Use to incorporate the applicable modifications and conditions of the Special Exception approved by the Old Saybrook Planning Commission on March 23, 2005. It thus amends the Statement of Use filed by River Sound dated August 30, 2004 and amended on November 10, 2004.

Resources

The open space resources of the 893.2 acres located westerly of the Valley Railroad (the "main site") consist of forested areas, Pequot Swamp Pond, Old Ingham Hill Road, the Ingham homestead foundation and farm area, wetlands and watercourses, vernal pools, identified wildlife habitats and existing trail systems.

Use

The approved Preliminary Open Space Subdivision Plan is an open space and recreation community with a variety of housing options and recreational choices, including a golf course. The plan incorporates the residential units and country club into the landscape by utilizing a clustered planning approach - thus preserving a vast amount of the landscape. The Preliminary Open Space Subdivision concept plan approved by the Planning Commission consists of one PRD lot which includes both the Central Village of 89 single family and duplex units and the East Village consisting of 66 single family and detached units, one lot for the golf course and club house, 36 half to three-quarter acre individual building lots and 30 three acre individual building lots (with a one acre building envelope), a golf course maintenance facility, a wastewater treatment facility, a fire house and a water tower, with the remaining land dedicated as open space. The total number of dwelling units on the main site is 221 as authorized by the approved Special Exception. The remaining land in excess of approximately 535 acres shall be dedicated as permanent open space. Most will be publicly owned.

River Sound did not include the "Pianta Parcel" in this application, but identified it for future development as a multi-family site to be served by the public water and the community sewerage disposal system. No conceptual standard plan nor preliminary open space plan has been presented. Thus the "Pianta Parcel" is *not* included in calculating the 221 dwelling units authorized, nor has a preliminary open space plan been reviewed or approved for the "Pianta Parcel".

Open Space Purposes

The proposed preliminary Open Space Subdivision plan has been designed to respond to extensive current knowledge of natural and cultural resources, topography and existing open space systems. By complying with the conditions of approval imposed by the Planning Commission, the plan meets the following Purposes of the Open Space Subdivision regulation.

Natural Resource Protection

In addition to providing recreation the open space provides protective habitat for areas of sensitive landscapes. Steep slopes, wetlands, streams and sensitive soils are protected by large tracts of contiguous forest land. Known habitats for resources identified in the CT Natural Diversity Database, as supplemented by extensive on-site investigation and inventory, and references within the Eastern Connecticut Environmental Review Team Report, have been verified and taken into consideration as appropriate in planning the open space system.

Wetland areas that provide natural drainage flood conveyance are preserved and

protected. Pequot Swamp Pond as well as large wetland areas east and west of the pond will continue to assist in controlling run off.

In order to protect Pequot Swamp, no golf holes shall cross any portion of Pequot Swamp and a 100-foot horizontal natural, undisturbed buffer surrounding the entire Pequot Swamp is included in the publicly owned open space.

In order to allow for amphibian passage and connectivity of resources between the red maple swamp shown as wetland #18 and vernal pool #18, an undisturbed buffer of at least 180 feet in width will connect with vernal pool #18 to the red maple swamp to the west. As depicted on The Preserve Preliminary Open Space Subdivision Plan Graphic Plate #2 dated January 26, 2005, the 180 feet will start at the end of the southerly-most tee-box as depicted on the drawing and traverse at least 180 feet to the southwest to the beginning of the fairway, which will provide a 180'x400' corridor from vernal pool #18 to the red maple swamp. Alternatively, the applicant may relocate hole #7 to address these concerns.

Signs shall be installed between the golf course and all sensitive adjacent natural areas alerting golfers that they are prohibited from entering these areas to retrieve errant golf balls.

No clearing in, over or within fifty feet of identified vernal pools shall be allowed in order to construct the golf course, e.g., vernal pools 3, 9, 12, 21 and 27.

Regarding all golf course safety: The golf course design shall be modified so as to conform to the plain text of the Urban Land Institute Standards submitted by the Applicant. That plain text does not provide for measurements from the center line of greens or fairways, but from the "landing areas" and "greens".

Recreation Opportunities

The open space has various trails formed through past land uses. These trails are easily passable by bicycle or on foot and provide access to the landscape. In addition, new trails will complement the existing system and link to adjacent open space areas - currently owned by the town of Old Saybrook. Furthermore, a parking area, pavilion and kiosk are proposed. This "nature center" will provide for trail access and parking.

Enhancing access to publicly owned open space and promoting alternative transportation a 6' wide paved greenway is proposed. This greenway will continuously run parallel to the main spine road from Route 153, Westbrook to Bokum Road, Old Saybrook. The greenway resides on one side of the street and offers 2.5 miles (east to west) of recreation and access to the open space.

In order to provide an area for active recreation, a level area for active recreation at least ten (10) acres in area shall be dedicated and improved for use by all residents of the Town of Old Saybrook. The design, location, and uses of this area will be subject to review as part of the final subdivision plan.

Cultural and Scenic Resource Protection

The site's cultural and scenic resources will remain protected. The former Ingham Hill Road - connecting Ingham Hill Roads in Essex and Old Saybrook will remain undisturbed except for the main road crossing. This gravel road (former Ingham Hill Road) will be within the public open space system and pedestrian access will be restored and enhanced.

Along Old Ingham Road are the remains of the former Ingham Homestead. The remaining foundation (east side of Old Ingham Hill Road) and site of the farm immediately west will remain. Many of the most majestic trees and stonewalls on the property are found at the site, River Sound is required under the conditions of approval to present a design for the preservation of the area around the Ingham Homestead, which design shall protect and preserve the historic character of the site and provide for interpretive aides for the visitor.

Method of Preservation and Disposition

This plan anticipates the publicly owned open space will be conveyed in fee to the Town of Old Saybrook as preservation open space, including the "nature center", except for the required 10 acre active recreation area and play areas within the PRD. The remaining open space, including areas of the "estate lots" beyond the "building envelopes", will be dedicated by conservation restrictions in favor of and enforceable by the Town to prohibit development and to protect the natural landscape. In excess of 500 acres of natural

landscape will be protected on the main site.

Water Supply and Sanitary Sewerage Disposal

Potable water will be supplied to all uses within the development. Connecticut Water Company will be the supplier, owner and operator of the water system. Well water will accommodate golf course irrigation needs supplemented by impoundment areas, subject to regulatory approval of the Connecticut DEP through a Water Diversion permit.

Miscellaneous

The modifications and conditions of approval in the March 23, 2005 Motion contained several requirements to be addressed by the Applicant in addition to those referenced above. These include the following:

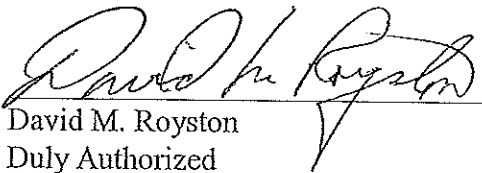
Access, Ingham Hill Road. The access from Road H Road to Ingham Hill Road shall be a full public roadway. The existing Ingham Hill Road shall be realigned at the north end across Lots 73 and 79 as shown on the original Conventional Subdivision Plan to eliminate the sharp curve on Ingham Hill Road, also as recommended by Mr. Hillson. A minimum of three (3) public access points are required for this development in the locations shown on the Preliminary Plan, except as modified in this Motion: Ingham Hill Road, Bokum Road, and Route 153 in Westbrook.

Village Layout. The Commission finds the Preliminary Open Space Plan should be modified to require that Road H should become a public road and the bike path should be extended from Road A, along Road H to Ingham Hill Road. Otherwise the village layout shall remain the same.

Off-Site Improvements. The Applicant shall submit plans for improvements to Ingham Hill Road and Bokum Road that acknowledge and address the increased traffic burdens that The Preserve will create for these roads. Such improvements shall include both vehicular safety improvements and pedestrian and/or bicycle travel.

This Statement of Use has been prepared by the Applicant.

RIVER SOUND DEVELOPMENT, LLC


David M. Royston
Duly Authorized