

PROPOSED CONDITIONS OF THE APPLICANT FOR THE APPLICATION  
OF RIVER SOUND DEVELOPMENT, LLC FOR A MODIFICATION TO  
THE SPECIAL EXCEPTION GRANTED ON MARCH 23, 2005

INTRODUCTION

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River Sound Development, LLC (the "Applicant") has filed an application (the "Modification Application") for a Modification to the Special Exception for an Open Space Subdivision granted by the Planning Commission on March 23, 2005 in accordance with Section 56 of the Old Saybrook Zoning Regulations (the "Original Special Exception"). The Applicant has received reports, staff memoranda, and other documents recommending or requesting plan revisions, conditions or modifications to be part of any approved modified Preliminary Open Space Plan. The Applicant has agreed to many of these recommendations and requests, both in written form in documents filed in the Record and in revisions to its Plans, consisting of Sheets RS-1 through RS-6 dated October 7, 2010, revised through January 13, 2011.

The Applicant acknowledges and agrees that the conditions and modifications of the Original Special Exception, not modified remain in full force and effect.

The Applicant acknowledges and agrees that the conditions and modifications to which the Applicant has agreed, as stated below, are integral to the Commission's decision on the Application.

The Applicant submits this document for the purpose of specifically setting forth the proposed conditions and modifications of the Applicant for the Modification to the Special Exception under this Modification Application.

The Applicant acknowledges and agrees that the following findings of the Original Special Exception shall be deemed conditions remaining in full force and effect.

1. The Modification to the 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(s).
2. Access to Bokum Road Over the State Valley Railroad Corridor - The Applicant acknowledges and agrees that the Commission findings in the Original Special Exception remains in full force and effect. Specifically, that at this preliminary stage of review, where only a preliminary, conceptual plan has been approved, final State approval is not required in-order to evaluate the suitability of the modified plan. 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 Original Special Exception allowed the Applicant to shoulder that burden. Any Modification approval 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. The Applicant acknowledges and agrees that any approval of the Modification Application will remain subject to the Applicant's ability to establish the rights that it claims to have.

3. Access to Route 153, Westbrook- The Applicant acknowledges and agrees that the Commission findings in the Original Special Exception remain in full force and effect. Specifically, 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. Because this is a preliminary design, authorizing nothing to be constructed, it need not have the Town of Westbrook'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 Applicant acknowledges and agrees that 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 that the Original Special Exception allowed the Applicant to shoulder that burden. Any Modification approval 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 Modification Application will remain subject to the Applicant's ability to establish the rights that it claims to have.

The Applicant acknowledges and agrees that the following conditions and modifications of the Original Special Exception remain in full force and effect except where modified by the underlined changes, deletions and/or additions to original language set forth below.

A. 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, 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 the Original Special Exception: Ingham Hill Road, Bokum Road, and Route 153 in Westbrook. The realignment to Ingham Hill Road referenced above may be deferred until there is an application to extend Ingham Hill Road to the interior of the Preserve property beyond the cul-de-sac shown on the Applicant's Revised Plan Sheet RS-3 revised to January 13, 2011. Provided, however, in the event of an application for a separate "stand alone" subdivision of any portion of the 50.0 acre portion of the Preserve property shown on said Sheet RS-3, the Applicant shall convey to the Town of Old Saybrook such land area as required to accommodate the realignment as set forth in the Note on said Sheet RS-3 as a condition of such subdivision approval.

B. Village Layout. The Applicant shall revise the Open Space Plan 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, except for such changes in the road layouts and other additional revisions as may be required by the Additional Condition J below.

C. Golf Course Design. The Commission has declined to dictate particular changes that are to be made in the golf course design, and instead 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 18.0 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."

Emergency Vehicle Access will be provided throughout the golf course to the extent feasible and an emergency access map, specifying the type of vehicles for which access is available, shall be provided to the Fire Department.

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 location of this area shall be as shown on the Revised Plan revised to January 13, 2011 Sheet RS-3. The design, location, and uses of this area will be subject to review as part of the final subdivision plans, and shall be subject to the Note on said Sheet RS-3 providing for prior review by the Parks and Recreation Commission of the engineering plans for the fields specifically including the changes in the elevations of the fields and access to them. See also Condition K regarding the active recreation area shown on said Sheet RS-3.

F. Location of Maintenance Facility. The maintenance facility has been redesigned and relocated to what the Applicant deems a less environmentally sensitive location that is not immediately up-gradient of vernal pools or wetlands. However, the Applicant will also be subject to Condition K as regards this site prior to final approval. The Applicant is encouraged to continue to work with the Town's environmental consultants and Public Safety Officials 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. See also Condition J regarding the Ingham Homestead.

H. Off Site Improvements. At the time of submission of plans for the full or partial development of the approximately 811 acre interior forest core as shown on the Revised Plan revised through January 13, 2011, Sheet RS-2, which still requires three public roadway access connections under the Modification Application, 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. For the purposes of this condition, the Applicant acknowledges and agrees that any proposal for the conveyance of all or any part of the said approximately 811 acre interior forest core for open space or conservation purposes shall require an application to the Planning Commission for review by it for compliance with the requirement of this Special Exception condition.

The Applicant requests, acknowledges and agrees to the following Additional Conditions and to the Original Special Exception, and continues the lettering of the Original Special Exception conditions and modifications.

I. Plans and Statement of Use. Upon approval of the Modification Application, the Applicant shall provide 100' scale Preliminary Plans and an amended Statement of Use for review and approval of the Commission staff as having incorporated all the conditions and modifications of the Original Special Exception as modified by the approval of this Modification Application. Upon such review and approval, the Plans will be so endorsed and filed in the Land Use Office and the Town Clerk's Office. No final subdivision approval or Special Exception condition compliance application shall be made prior to compliance with this condition.

J. Partial Development. "Partial development" as used in this Modification to Special Exception shall mean any application to apply for any final subdivision approval of any portion of the 925.82 acres of the River Sound property, and shall be deemed to include any change in the Original Special Exception involving a conveyance of all or a portion of the 811 acre interior forest core for open space or conservation purposes.

The Applicant may apply for final subdivision approval for each of the three specifically identified areas ("pods") shown on the Revised Plans revised through January 13, 2011, Sheets RS-3, RS-4 and RS-6, either as one application or as separate applications, and in such sequence as the Applicant may choose, subject to the further conditions set forth herein.

Each area proposed for final subdivision approval shall meet all the requirements for an Open Space Subdivision under Section 56 of the Zoning Regulations, and the specific conditions of this Modification to the Special Exception.

Prior to any application for final subdivision approval, the entire 925.82 acres of the River Sound property in Old Saybrook shall be tested by Motorola or the Fire Department for coverage under the new Municipal Public Safety and Communications System. The test results will be provided to the Fire Department and to the Police Department. In the event enhanced equipment is required to serve any proposed subdivision area, the Applicant agrees that the enhanced communications infrastructure will be provided as part of the roadway system serving the residential units within the subdivision area and deemed public improvement subdivision work.

An AUTOTURN analysis shall be provide for any roadway in the final subdivision plans.

In any subdivision area which does not have a public water connection, the Applicant agrees that the final subdivision plans will provide for fire protection cisterns of a 30,000 gallon capacity to be installed in an appropriate location in or adjacent to the subdivision area, which location will be reviewed and approved by the Fire Department, and which location may be outside and serve properties outside the subdivision area, provided such location does not reduce the number of approved lots or substantially increase cistern installation costs.

Final subdivision plans will take into account required Fire Department access to residential buildings, including single family dwellings, will avoid duplication of street names and will require installation of clearly marked address numbers. The Applicant shall provide the Fire Department with a set of proposed final subdivision plans and and opportunity to meet with the Applicant prior to filing such plans.

In the event of approval of any subdivision plan involving a trail system, such trails shall be clearly marked and location maps of the trail system shall be provided to the Fire Department.

The Applicant shall provide the Land Use Office with an as-built plan for all completed infrastructure work in electronic format for dissemination to Public Safety officials and

agencies.

In the event the Applicant shall file final subdivision plan for development of all or any part of the Villages shown on the Revised Plan revised to January 13, 2011 Sheet RS-2, said plan shall take into account the test results for the Municipal Public Safety and Communications System required above. If more extensive communication enhancements are required for development of these interior areas, provision for such enhancement will be included within final subdivision plans for such areas. River Sound will also consider NFPA compliant sprinklers, particularly with respect to recreation, commercial, utility and multi-family residential structures. Installation, however, shall not be a condition of the Special Exception. River Sound has been informed that the location of fire hydrants is within the jurisdiction of the Fire Chief. Fire hydrant locations will be reviewed with the Fire Chief prior to final plans.

Prior to development of the interior forest core, River Sound will consider the feasibility of connecting the public water supply to the water system at the north end of Bokum Road south of the railroad track. Providing such a connection, however, shall not be a condition of the Special Exception.

K. Conditions Applicable to Partial Development on Ingham Hill Road. In the event the Applicant applies for final subdivision approval for the 50.0 acre area along Ingham Hill Road shown on the Revised Plans revised through January 13, 2011, Sheet RS-3, the following additional conditions shall be applicable to that subdivision application.

In the event the Applicant applies for final subdivision approval of said 50.0 acres portion of the property, a traffic study will be provided as part of the final subdivision plan to specifically address the traffic implications of the 13 additional lots and the 11.45 acre recreation area. The Applicant will also provide a Feasibility Report for a connection of a pedestrian/bike path from the Ingham Hill Road subdivision area connecting to town roads or town park property lying to the west. Construction of such a bike path is not a condition of the Special Exception. The Applicant will also provide a Feasibility Report for an emergency vehicular access connection from Ingham Hill Road connecting to town roads or town park property lying to the west. Construction of such an emergency vehicular access is not a condition of the Special Exception.

L. Condition Applicable to Partial Development of PRD West. In the event the Applicant applies for final subdivision and zoning approval for the 31.85 acre area shown on the Revised Plans revised through January 13, 2011, Sheet RS-4, the following additional condition shall be applicable to said subdivision and zoning application.

Said final subdivision and PRD plans for this site shall provide the protection area for the Species of Special Concern (*optunia humifusa*) in the location shown on said Sheet RS-4 and in accordance with the Species Protection Plan submitted for the Record by Michael Klein.

Decision

The approval of the Preliminary Open Space Plan, Sheet RS-6 for 9 single family lots is based upon the finding and resolution of the Commission pursuant to Section 56.4 of the Zoning Regulations that 9 lots shown on said Revised Plan Sheet RS-5 represents the maximum number of lots of a "reasonable subdivision of the land" under a conventional subdivision plan.

The Special Exception shall be 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 time limits contained in Section 56.5 applicable to the Original Special Exception shall continue to apply to the Original Special Exception as modified by the Modification to the Special Exception.

Dated at Old Saybrook, Connecticut, this                      day of                      , 2011.

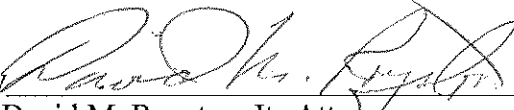
Old Saybrook Planning Commission

By:

Its:

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Respectfully submitted  
RIVER SOUND DEVELOPMENT, LLC

By   
David M. Royston, Its Attorney