

Rec'd 1-19-11

Environmental Planning Services

Wetland, Biological and Soil Sciences

**PLANNING
COMMISSION
EXHIBIT # 81**

January 18, 2011

Mr. Robert McIntyre, Chairman
Old Saybrook Planning Commission
302 Main Street
Old Saybrook, CT 06457

RE: Riversound Development
Preliminary Open Space Subdivision Modification

Dear Mr. McIntyre:

I am writing in response to REMA Ecological Services January 5, 2011 review letter regarding the referenced proposal. In the response that follows, REMA's original text will be reproduced in **bold face text** and my specific response will be given *in italics text*. Summary comments and conclusions will be in standard text. Please note that I do not have an opinion as to the procedural and legal issues raised by REMA's client, except to note that the proposed Modification to the Preliminary Open Space Subdivision Plan do not have any environmental impact. If approved, nothing can be built, nor is any final approval by either your Commission, or any other town commission, inevitable. In fact, your approval of a special exception for a Preliminary Open Space Subdivision was followed by the Conservation Commission's denial of permits for activities in and adjacent to wetlands and watercourses, which even if granted is only a necessary pre-condition to submittal of final plans for approval by your commission.

We are concerned that development of these pods prior to the much larger, interior parcel, will limit the prudent and feasible alternatives open to the applicant to meet concerns at that stage.

The proposed modifications impose no significant limitation on the development of the interior parcel. They provide for and were designed in concert with, the layout of the approved Open Space Subdivision Plan. Interior road access is essentially identical and the areas available for infrastructure and future residential development remain substantially the same.

The Ingham Hill Road area and the portion of the West PRD (now to be developed) were originally to have been part of the proposed open space, based on the planning process in 2005, and were accordingly not analyzed in detail for potential adverse impacts from residential development.

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In actual fact, all three areas were analyzed in detail as part of the original planning process. For example, wetlands were delineated, botanical, wildlife and soils data were collected, and the through roads were designed after consideration of the resources in these areas.

Landscape level analysis is lacking...

In fact, landscape level analysis was performed as part of the original planning process and used to inform and refine this plan, which is, in fact, a preliminary plan and not a final design.

Additional wildlife data is also needed...

Detailed wildlife data was incorporated into the planning of the approved Open Space Subdivision and was used to inform the planning of the proposed modifications. This information has been available to REMA for over 5 years and was updated for the current application..

Would the proposed homes impact suitable adjacent rocky upland forested amphibian upland habitat?

No homes are proposed as part of this preliminary open space plan. However, the layout of the roads and lots, as well as the conceptual location of homes and driveways, has been developed to minimize impacts on amphibian habitat to the extent practical. The vernal pools whose critical terrestrial habitat was conserved remains the same under the modified plan as under the approved plan.

Careful vegetation surveys are essential for decisions regarding appropriate locations of open space in open space subdivisions.

Extremely thorough vegetation surveys were performed as part of the planning process for the approved Open Space Subdivision. They have been available to REMA for over 5 years.

For the West PRD, prior fieldwork identified *Opuntia humifusa* (prickly pear) in several sunny, rocky areas (previously not to be developed, now Condo Units #8 and #9).

*The plans have been modified to relocate Units 8 and 9 and preserve the existing *Opuntia* plants and a substantial area around them as open space with physical restrictions on access; and necessary maintenance. The final plans will include the appropriate details.*

In the Ingham Hill and Bocum [sic] Road Pods multiple areas with proposed activities (lawns and driveways) also fall within the 100 foot upland review area (URA).

No activities are proposed as part of the Preliminary Open Space proposal. If approved, specific plans will be developed and will be presented to the Inland Wetlands Commission for approval. However, I would note the following:

1. Upland review areas (URAs) are regulated, only to the extent that proposed activities can be shown to have an adverse impact on the wetland itself.

2. Driveways are shown only to demonstrate feasibility. Detailed plans for activity in upland review areas will be presented to and will require approval from, the IWWC.

3. The presence of a lawn or a driveway in an upland review area cannot be taken as a priori evidence of an impact on wetlands. REMA has provided no specific evidence of any harm to wetlands.

4. The disturbance in URAs proposed in the Ingham Hill Road pod is substantially the same as that shown in the approved subdivision. The applicant is also willing to have the Plan modified to provide a "T" intersection at its roadway entrance to avoid blasting and land disturbance on the east side of Ingham Hill Road.

5. The proposed road in the Bokum Road pod is located in the same place as the approved through road, except that it is, obviously shorter (unless extended) and requires less disturbance.

6. At the Bokum Hill Road pod, the road and all of the potential house, driveway and septic system locations are outside of the wetlands, and their URAs, with the exception of the road southwest of vernal pool 37. In this area, the road is in the same location as the approved road. Vernal pool 37 has the lowest productivity of any pool on the entire 1000 acre site (2 Wood frog egg masses in 2004; none in 2010). There will be no direct impact on this wetland. While the final road location and design is the province of the IWWC, the impact on amphibian productivity and other wetland functions will be negligible. I base this conclusion on the following; as shown on RS-6 Preliminary Open Space Plan (Modification) revised through 1/13/11)

- o Lot 1 is the existing house. Retaining it will have no impact on wetlands.
- o Lot 2 can be developed without any impacts in wetlands or URAs. The conceptual home and driveway location do not drain to any vernal pools.
- o Lot 3 does not contain any wetlands, vernal pools, or URAs. It can be developed so that no drainage is discharged to vernal pools.
- o Lot 4 does not contain any wetlands, vernal pools, or URAs. It can be developed so that no drainage is discharged to vernal pools.
- o Lot 5 does not contain any wetlands, vernal pools, or URAs. It can be developed so that no drainage is discharged to wetlands or vernal pools.
- o Lot 6 does not contain any wetlands, vernal pools, or URAs. It can be developed so that no drainage is discharged to wetlands or vernal pools.
- o Lots 7 and 8 do not contain any wetlands, vernal pools, or URAs. It is possible that some drainage will discharge to vernal pools located a substantial distance from the lots (350-500'). The low volume of drainage from a single family home is unlikely to have an adverse effect on the pools, but will be reviewed as appropriate by the IWWC when a permit application is filed for specific regulated activities.
- o Lot 9 does not contain any wetlands or vernal pools, but a small area of URA. No activity is required in the URA. The small amount of drainage from a single family home is unlikely to have an adverse effect on the pools, but will be reviewed as appropriate by the IWWC.

Although the proposed home locations in the West PRD parcel are not very close to wetlands, it is unclear whether there could be adverse impacts without such a conceptual plan.

As noted above, no impacts will occur if the proposed modifications are approved. If they are approved, specific plans will be developed and presented to the IWWC for Inland Wetlands approval. However, it is

also clear from even a brief examination of the plans, that the activities shown conceptually in the West PRD will not have an adverse effect on wetlands or watercourses. The access road is located in the same place as on the approved plans. The PRD involve fewer units and less potential land disturbance than the approved plans. Furthermore, all of the grading, units, and driveways are shown north of the access road, while all of the wetlands and vernal pools are located south of the road. The closest potential activity shown is a driveway, almost 200' from a wetland. This is coincident with the location of the through road on the approved Plan.

Many of the test pits for septic systems are on very steep slopes...

As REMA is aware, septic systems are regularly installed on steep slopes in Connecticut. Final plans will detail cuts and fills and proper erosion controls. These plans were developed to the level of detail necessary to demonstrate feasibility. They are not final plans for approval. Robert Doane will provide additional testimony as to septic system locations.

[T]he proposed changes are reasonably likely to cause adverse impacts to multiple wetlands and ecological communities.

Neither REMA's letter nor their testimony to date provides any basis for this assertion. REMA has not requested permission to conduct on-site investigation, nor were they present at the public site walks that have been held. They have disregarded the detailed vegetation and wildlife surveys that are in the public record from the original Open Space Subdivision and wetland public hearings, at which REMA testified extensively. REMA has had access to that information for over 5 years. The reports were supplied to REMA's client as a party to those approval processes and were referenced numerous times by REMA during that process. Their letter identifies potential concerns based on their failure to adequately review the detailed information supplied as part of the approved Open Space Subdivision Plan, and supplied with this application. Finally, the proposed changes to the Preliminary Open Space Plan are conceptual only. No construction can occur without a wetland permit from the IWWC and final subdivision approval by the Planning Commission.

In summary, REMA's January 5, 2011 letter fails to recognize the limited nature of the proposed modification and the extensive natural resource database assembled, distributed, and reviewed as part of the original special exception approval and subsequent wetland permit application. This data was updated to reflect 2010 conditions. They have identified numerous "concerns" but have failed to state with specificity any adverse environmental impact that are reasonably likely to occur as a result of approval of the proposed modification. Finally, a careful look at the plans clearly shows that the proposed activities are consistent with, and the potential impacts on air, land, water, and natural resources are substantially the same as, the approved Open Space Subdivision.

I would be happy to clarify or expand on any of these comments, if necessary.

Yours truly,



Michael S. Klein, Principal
Registered Soil Scientist
Certified Professional Wetland Scientist