

CITY OF TORRINGTON



Land Use Office
Martin J. Connor, AICP, City Planner
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To: Planning & Zoning Commission
From: Martin J. Connor, AICP, City Planner
Date: January 5, 2022
Subject: Merriman Resubdivision Modification, Pumping Station & Deming Roads

At the December 8, 2021 Planning & Zoning Commission Meeting the Commission approved the 3 lot Resubdivision application filed by Charles Ebersol, Jr., on behalf of Mark and Brigid Merriman, at 31 Pumping Road, corner of Pumping Station & Deming Roads with conditions.

Condition #3 stated, "Per Section 5.5.3 of the Subdivision Regulations, the applicant shall pay a fee in lieu of open space. This fee shall not exceed 10% of the fair market value of the land to be subdivided prior to the approval of the subdivision. The fair market value of the land to be subdivided shall be determined by an appraiser jointly selected by the applicant and the Commission. The cost of the appraisal shall be paid by the applicant. The appraisal shall be completed prior to the filing of the resubdivision plan on the Torrington Land Records. A fraction of the total fee shall be paid to the City at the time each lot is first sold or transferred. The numerator of this fraction is one; the denominator is 3, the number of approved building lots in the approved subdivision."

Attorney Ebersol has requested a modification to this condition of approval as the owners have gifted lots 2 and 3 to the Heritage Land Trust. He along with his written request to modify the approval has included copies of the warranty deeds that were recorded in the City Land Records 12/23/21. I have previously filed a "NOTICE OF OPEN SPACE LIEN" on the 3 resubdivision lots. Attorney Ebersol requests that the liens be released.

I recommend that the Commission revise their approval of this resubdivision to remove condition #3. With the transfer of lots 2 and 3 to the Heritage Land Trust, the open space requirement has been more than met and there is no need for the open space lien. The Open Space Lien should be discharged with the modification approval by the Commission.

EBERSOL, McCORMICK, REIS & STECK, LLC

ATTORNEYS AT LAW
9 MASON STREET
P. O. BOX 598
TORRINGTON, CONNECTICUT 06790

CHARLES R. EBERSOL, JR.
PEBERSOL@EMLAWFIRM.COM

TEL (860) 482-8557 & (860) 482-5000
FAX (860) 482-8089 & (860) 496-1456

V. PETER REIS, JR.
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BRIAN McCORMICK
BMCCORMICK@EMLAWFIRM.COM

JAMES P. STECK
JSTECK@EMLAWFIRM.COM

January 3, 2022

Martin Connor
Torrington City Planner
140 Main Street
Torrington, CT 06790

Re: Merriman Resubdivision
Removal of Lien – Fee in Lieu

Dear Martin:

I am pleased to report that the Merriman's have gifted Lots 2 and 3 to Heritage Land Preservation Trust. Attached are copies of the two Warranty Deeds which were recorded on December 23, 2021, together with the City Clerk's certificate of filing of the deeds.

The effect of the gifting of the land is much more beneficial to land conservation than had the Merriman's placed conservation easements on the portion of the land which would have been required under the Subdivision Regulations without "fee in lieu". Also, the Merriman's have gifted away two thirds (2/3) of the economic value of their land.

We now respectfully request that the commission rescind the requirement of a "fee in lieu" and also discharge the lien for fee in lieu which was recorded on the land records on December 23, 2021.

Very truly yours,



Charles R. Ebersol, Jr.

CREjr/lmb

Record & Return To:

Ebersol, McCormick, Reis & Steck, LLC
9 Mason Street
Torrington, CT 06790

WARRANTY DEED - STATUTORY FORM

TO ALL PEOPLE TO WHOM THESE PRESENTS SHALL COME, GREETINGS:


KNOW YE, THAT WE, **MARK MERRIMAN and BRIGID MERRIMAN** of 24 Pumping Station Road, Torrington, Connecticut (hereinafter referred to as "Grantor"), as a charitable donation, grant to **HERITAGE LAND PRESERVATION TRUST, INC.**, a Connecticut non-stock corporation with Internal Revenue Service status as a 501(3) entity and a mailing address of P.O. Box 596, Torrington, CT 06790, (hereinafter referred to as "Grantee") with WARRANTY COVENANTS:


That certain piece or parcel of land situated in the Town of Torrington, County of Litchfield and State of Connecticut situated on the westerly side of Pumping Station Road being more particularly described on Scheudle A attached hereto.


IN WITNESS WHEREOF, the Grantor hereunto sets their hands and seals this 23rd day of December, 2021.

Signed and Delivered in the presence of:


Charles R. Ebersol, Jr.


MARK MERRIMAN



Carol H. Ebersol, Jr.
STATE OF CONNECTICUT)


BRIGID MERRIMAN

) ss. Torrington
COUNTY OF Litchfield)

On this the 23rd day of December, 2021, before me, the undersigned, personally appeared Mark Merriman and Brigid Merriman, known to me (or satisfactorily proved) to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained, as their free act and deed.

In Witness Whereof, I hereunto set my hand and official seal.


Charles R. Ebersol, Jr.
Commissioner of the Superior Court

SCHEDULE A

That certain piece or parcel of land located in the Town of Torrington, County of Litchfield and State of Connecticut, as shown as Lot #2, 83,772+/- S.F., 1.92 +/- acres, as shown on a survey entitled "RESUBDIVISION PLAN PREPARED FOR MARK & BRIGID MERRIMAN, PUMPING STATION & DEMING RD. S. Torrington, Connecticut" Date: 10/26/2021, Scale 1" = 30ft., Kenneth S. Hrica, P.E. & L.S.

The premises are conveyed subject to a right of way for ingress and egress and an easement for the installation of underground utilities within a 35-foot-wide strip of land lying on Lot 2 between Deming Road and Lot 3 as shown on the above referenced survey as "Proposed 35' Driveway Easement." The owner of Lot 3 shall bear all costs of constructing and maintaining said right of way and easement area.

Record & Return To:

Ebersol, McCormick, Reis & Steck, LLC
9 Mason Street
Torrington, CT 06790

WARRANTY DEED - STATUTORY FORM

TO ALL PEOPLE TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

KNOW YE, THAT WE, **MARK MERRIMAN** and **BRIGID MERRIMAN** of 24 Pumping Station Road, Torrington, Connecticut (hereinafter referred to as "Grantor"), as a charitable donation, grant to **HERITAGE LAND PRESERVATION TRUST, INC.**, a Connecticut non-stock corporation with Internal Revenue Service status as a 501(c)(3) entity, with a mailing address of P.O. Box 596, Torrington, CT 06790, (hereinafter referred to as "Grantee") with WARRANTY COVENANTS:

That certain piece or parcel of land situated in the Town of Torrington, County of Litchfield and State of Connecticut situated on the westerly side of Pumping Station Road being more particularly described on Schedule A attached hereto.

IN WITNESS WHEREOF, the Grantor hereunto sets their hands and seals this 23rd day of December, 2021.

Signed and Delivered in
the presence of:

Charles R. Ebersol, Jr.
Charles R. Ebersol, Jr.

Mark Merriman
MARK MERRIMAN

Carol A. Ebersol

Brigid Merriman
BRIGID MERRIMAN

STATE OF CONNECTICUT)
) ss. Torrington
COUNTY OF Litchfield)

On this the 23rd day of December, 2021, before me, the undersigned, personally appeared Mark Merriman and Brigid Merriman, known to me (or satisfactorily proved) to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained, as their free act and deed.

In Witness Whereof, I hereunto set my hand and official seal.

Charles R. Ebersol, Jr.
Charles R. Ebersol, Jr.
Commissioner of the Superior Court

SCHEDULE A

That certain piece or parcel of land located in the Town of Torrington, County of Litchfield and State of Connecticut, as shown as Lot #3, 97,323 +/- S.F., 2.23 +/- acres, as shown on a survey entitled "RESUBDIVISION PLAN PREPARED FOR MARK & BRIGID MERRIMAN, PUMPING STATION & DEMING RD. S. Torrington, Connecticut" Date: 10/26/2021, Scale 1" = 30ft., Kenneth S. Hrica, P.E. & L.S.

The premises are conveyed together with a right of way for ingress and egress and an easement for the installation of underground utilities within a 35-foot-wide strip of land lying on Lot 2 between Deming Road and Lot 3 as shown on the above referenced survey as "Proposed 35' Driveway Easement." The owner of Lot 3 shall bear all costs of constructing and maintaining said right of way and easement area.

City Of Torrington



LAND USE OFFICE
140 Main Street • Room 324
Torrington, CT 06790

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NOTICE OF OPEN SPACE LIEN

Pursuant to Section 5.5.3 (C) of the City of Torrington Subdivision Regulations, notice is hereby given that an Open Space Fee in the total amount of \$9,000.00 (\$3,000.00 per each of three lots) has been assessed on the three lots of the Three Lot Resubdivision approved by the Planning and Zoning Commission on December 8, 2021 for Mark and Brigid Merriman, for land located at Pumping Station Road and Deming Road, Assessor Map 201 Block 003 Lot 001.

Said property is described in a record resubdivision map, titled "Resubdivision Map Prepared For Mark & Brigid Merriman, Pumping Station and Deming Roads, Torrington, Connecticut" prepared by Hrica Associates LLC Engineers and Surveyors dated November 29, 2021.

Pursuant to said Subdivision Regulations, said Open Space fee, as assessed, shall be payed as follows: \$3,000.00 per lot, prior to the closing/sale of each lot.

A proper release from this notice shall be provided forthwith for each lot upon payment of sum noted above.

Signed in Torrington, CT this 23rd day of December, 2021.

Martin J. Connor, AICP
City Planner
City of Torrington

Receipt # 2021168579



Bk: 1354 Pg: 405
12/23/2021 10:45:49 AM
LIEN
1 Pages
Carol L. Anderson, Town and City Clerk
City of Torrington

DRAFT MOTION

COMMISSION: PLANNING AND ZONING COMMISSION

DATE: December 8, 2021

MOTION

To: APPROVE Resubdivision
Applicant: Charles R. Ebersol, Jr.
Location: 31 Pumping Station Road
Proposal: Three Lot Resubdivision

I recommend approval, with the following conditions:

1. The title to the Recording Subdivision Map and Site Development Plan is re-titled "Merriman Resubdivision."
2. A Draft Driveway Easement document shall be prepared by the applicant's attorney and reviewed and approved by Corporation Counsel. The approved Driveway Easement document shall be filed on the land records along with the Record Resubdivision Map.
3. Per Section 5.5.3 of the Subdivision Regulations, the applicant shall pay a fee in lieu of open space. This fee shall not exceed 10% of the fair market value of the land to be subdivided prior to the approval of the subdivision. The fair market value of the land to be subdivided shall be determined by an appraiser jointly selected by the applicant and the Commission. The cost of the appraisal shall be paid by the applicant. The appraisal shall be completed prior to the filing of the resubdivision plan on the Torrington Land Records. A fraction of the total fee shall be paid to the City at the time each lot is first sold or transferred. The numerator of this fraction is one; the denominator is 3, the number of approved building lots in the approved subdivision.
4. Iron pins shall be set in lot corners in accordance with the Resubdivision Map prior to filing the Record Resubdivision map.
5. Per Section 3.10.3.G of the Subdivision Regulations, The final approved Resubdivision map and final Site Development Plan shall contain the Tax Assessor's Map/Block/Lot for each lot in the Resubdivision as assigned by the Engineering Department.

The Commission hereby waives the following:

1. The requirement of Section 4.3.25 of the Subdivision Regulations, to provide on the Resubdivision Plan providing State Plane coordinates at not less than four points on the subdivision perimeter are required to be shown on the Resubdivision Plan. The applicant shall instead provide CAD software information to the Engineering Department to assist them in City Mapping of the Resubdivision. The GIS Manager has indicated this waiver is acceptable to the Engineering Department.
2. The requirement of Section 10.1 of the Subdivision Regulations, in subdivisions to be served by a public water supply system, that fire hydrants shall be installed. A fire hydrant currently existing directly across the street on Pumping Station Road from lot 2. Public Safety will be adequately served by the existing fire hydrant. The Fire Department did not request an additional fire hydrant in their review of the project.

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Receipt Date: 12/22/2021 03:53:05 PM
RECEIPT # 2021168570
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Carol L. Anderson, Town and City Clerk

Recording Clerk: CCCASH
Cash Drawer: CASH1
Rec'd Frm: EBERSOL MCCORMICK REIS & STECK LLC

Instr#: 5766
DOC: SUBDIVISION MAP
OR Party: MERRIMAN MARK
EE Party: HRICA KENNETH S

Recording Fees
Subdivision Map \$30.00

DOCUMENT TOTAL: ----> \$30.00

Receipt Summary
Document Count: 1
TOTAL RECEIPT: ----> \$30.00
TOTAL RECEIVED: ----> \$30.00
CASH BACK: ----> \$0.00

PAYMENTS
Cash -> \$30.00

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