

Elizabeth Burdick

From: Robert Avena <RAvena@sswbogg.com>
Sent: Wednesday, August 12, 2026 4:28 PM
To: Elizabeth Burdick
Subject: Fw: Title Opinion - Former Niles Road, Ledyard, Connecticut
Attachments: Title Opinion - Former Niles Road, Ledyard, Connecticut.pdf

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AUG 13 2026

Land Use Department

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Dear Ms. Burdick : You requested my legal opinion on behalf of the Planning and Zoning Commission to the title opinion expressed in a letter dated July 24, 2026, by the TCORS law firm, which is attached to this email. This title matter arises from a proposed multi-unit family development currently pending before the Commission at 1947 Center Groton Road. I agree with the attached legal opinion, that in regard to whether private rights still exist in an abandoned roadbed formerly known as 'Niles Road ', is not a matter to be determined by a town zoning commission. Please note the Ct Appellate Court case of Maluccio vs Zoning Board of Appeals, (2017) , in which the Court stated that town commissions can only exercise such powers as are expressly granted to it by statute. This restriction was also applied to a Planning and Zoning Commission in Gagnon vs Municipal Planning Commission (1987), in which the Ct Appellate Court held that the Ansonia Planning Commission did not have authority to determine whether a claimed right of way was a legally protected and enforceable easement , which can only be determined by a court quiet title action. In this application, there appears to be no dispute that the old roadbed was legally abandoned by the town in February, 2010, pursuant to state statute. Therefore, public and town use of the roadbed was formally and legally terminated, and this legal status was included by the surveyor on the plan. In my legal opinion, the Commission can consider the plan as submitted, pursuant to its regulations. If the developer faces private legal challenges to its property in the future, that affects only private rights later determined by a court, and not the Commission's determination that the plan met all specifications in its regulations, as written, under its statutory authority as a planning and zoning commission. Please let me know if I can be of further legal assistance in this matter.

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