

SENIE & ASSOCIATES, P.C.
ATTORNEYS AT LAW

15 Cape Lane
Brewster, MA 02631

Phone (774) 323-3027
Fax (774) 323-3008
Cell (508) 330-6640
csenie@senie-law.com
WWW.SENIE-LAW.COM

May 24, 2022

Duncan Berry, Chair
Harwich Planning Board
732 Main Street
Harwich, MA 02645
Tel (508) 430-7511
Duncan.berry@comcast.net

Re: Turtle Run subdivision proposal: PB2022-12 Eastward MBT LLC, Trustee, application for Definitive Subdivision approval for a 5-lot Open Space Residential Development. The property is located at 0 Route 39, Map 63, Parcel C3 ("Subject Property").

Dear Chairman Berry and members of the Harwich Planning Board:

I am an attorney based in Brewster. I represent the Harwich residents identified below, each of whom owns property abutting the above-referenced Subject Property. I plan to attend your meeting scheduled for this evening and would like to have an opportunity to address the Board. I ask that this letter be added to the file and considered by the Board in its deliberations on the application.

My clients have two concerns:

1. My clients John and Lynda Burns depend on Middle Road for access to their property at 1119 Orleans Road. Other property owners use this historic road as well. As the definitive plan before your board shows, Middle Road intersects with the new proposed Turtle Run Road at about where it joins Orleans Road. The applicant has shown on the plan an apron allowing the Turtle Run / Middle Road intersection. We make the following suggestions with regard to the management of Middle Road as it crosses the developer's land and joins Turtle Run:
 - a. This intersection should be reviewed by the Town's public safety officials to ensure that it is designed in a safe way (the way, a private road and a public road merging in one location).
 - b. The definitive subdivision plan should note that the Turtle Run Owners' Association shall cover all costs of installation, maintenance and repair of the apron and that part of Middle Road on the Association's Property. This includes snow and ice removal and sanding.

- c. The same should be expressly noted in the Turtle Run Association documents including the Declaration of Restrictions (a draft copy of which is in the Board's file). All purchasers of homes at Turtle Run should take title to their property subject to this obligation. If not handled this way, assurances of the developer may be disregarded in later years by the homeowners. All property owners with rights to use Middle Road should be indicated in the Association's recorded documents as third-party beneficiaries of this obligation. My clients and I would like to review the association's documents as to this provision before final review and approval by your board.
2. The definitive plan differs from the approved preliminary plan in an important respect. On the preliminary plan, where the developer's property was shown as abutting private property that is not dedicated open space, the building lots were separated from the perimeter boundary by a buffer zone of 50 feet (the buffer being within the set aside open space). This was changed in the proposed definitive plan, and part of the required 50-foot natural buffer was incorporate into some of the lots (2, 3, 4 and 5). In particular, the boundaries of lots 2 and 3 were expanded outward toward the perimeter, incorporating about a quarter of the buffer.

The preliminary plan mistakenly presented a narrower buffer around lots 4 and 5 assuming that the adjacent land is open space. There is a notation of "owner unknown" on a parcel that abuts the subdivision near lots 4 and 5, and thus the correct 50-feet of vegetated buffer is now being shown, but these are partly shown on the buildable lots (in the case of lot 5, more than half of the buffer is on the lot, not in the open space). We ask that the plan be altered to place the full 50-foot vegetated buffer outside the home lots. This is possible given the minimum lot size prescribed under Section 325-51 E (4) (a).

If the Board allows part of this open space buffer to be incorporated into the individual home lots, when the development is completed, homeowners may well be tempted to expand the active use of their properties outward to the property boundaries. Enforcement of the buffer will become compromised. The full buffer should be within the dedicated open space owned and managed by the Owners' Association, as was shown on the preliminary subdivision plan approved by the Board. As proposed now, the restrictions on use of the buffer in the Declaration of Restriction would not govern that part of the natural buffer within home lots. This view is consistent with the goals and purposes of the Open Space Residential Development by-law.

Harwich Planning Board
Re: Turtle Run - 0 Route 39
May 24, 2022

Page 3

Please feel free to call or email me with any questions or concerns. My cell number is (508) 330-6640.

Thank you.

Sincerely,



Christopher Senie

Clients represented:

John J. Burns and Lynda Brogden-Burns,
1119 Orleans Road,
Harwich, MA 02645

Trevor Childs
Jaclyn Cashman Childs
52 Hidden Pond Circle
Harwich, MA 02645

William and Lisa Martin
14 Hidden Pond Circle
Harwich, MA 02645