

COMMONWEALTH OF MASSACHUSETTS  
TOWN OF HARWICH PLANNING BOARD  
PRELIMINARY SUBDIVISION PLAN-RESIDENTIAL  
NOTICE OF APPROVAL/ DECISION



**Case No.:** PB2021-24  
**Applicant/ Owner:** Eastward MBT, LLC, Trustee, Eastward Homes Business Trust  
dba Eastward Companies  
**Title:** Deed Book 34692 Page 11; Plan Book 604 Page 59  
**Property Address:** off Orleans Road (Route 39) (Map 63 Parcel C3)  
**Decision Date:** December 3, 2021

**Findings**

1. The subject property (Map 63 Parcel C3) is approximately 8.64 acres (7.09 ac+/- upland) located off the south side of Orleans Road near Little Lane and Hidden Pond Circle.
2. Applicant Eastward Companies has submitted a preliminary plan to subdivide the property pursuant to MGL Ch. 81 s. 41S and Harwich Code Ch. 400, Article II. The subdivision would create five (5) single family residential building lots. Lot access would be from a new subdivision road, yet to be named.
3. The property is located in the Rural Residential (RR) zoning district and the Drinking Water Resource Protection ("DWRPD" or "WRD") zoning overlay district.
4. The proposed plan is a cluster/ open space residential development (OSRD) which use is permitted 'by right' in the DWRPD subject to the requirements set out in section 325-51E of the Harwich Code. No special permit is required.
5. There are freshwater inland wetlands and corresponding buffer zones on the property that influence the proposed development. The development program depicted on the preliminary plan is contingent on the accuracy of the delineation. Pond area was not specifically identified, though a pond is believed to exist in part on the subject property.
6. More than 60% of the land area of the property, approximately 5.6 acres, is proposed to be set aside as permanent open space (comprised of three parcels). The proposed open space contains the wetlands and wetlands buffer zones on the property.
7. The proposed building lots, roadway and drainage areas are located entirely outside wetlands and wetland buffers. A small portion of the proposed drainage system is located within the 100' wetlands buffer.
8. The Applicant has prepared and submitted a conventional, grid subdivision as a basis for establishing the number of proposed building lots in the OSRD. The grid plan complies, without the need for waivers or variances, with the applicable dimensional and design provisions of the Harwich Subdivision Rules and Regulations (Harwich Code Chapter 400, Article II, Sections 10A. & B, 11B) and Harwich Zoning Bylaw (Harwich Code, Chapter 325, Section 51E and Tables/ Attachments 1, 2 & 3).
9. The proposed OSRD, including the roadway, drainage facilities, open space parcels and building lots, are consistent with the applicable dimensional and design provisions of the Harwich Subdivision Rules and Regulations (Harwich Code Chapter 400, Article II, Sections 10A.& B, 11B) and Harwich Zoning Bylaw (Harwich Code, Chapter 325, Section 51E and Tables/ Attachments 1, 2 & 3). Of particular emphasis:
  - a. Road length is approximately 850 LF, less than the maximum 1200 LF allowed;
  - b. The proposed open space is adjacent and connected to abutting open space land, allows for access from the building lots and roadway, provides vegetated buffers along wetlands and contains the site's wetland resource areas.
10. The property is not located in the Pleasant Bay Watershed.
11. The property does not appear to be mapped in special flood hazard zone.

12. The property is mapped in its entirety as Priority Habitat for rare and endangered species under MESA.
13. The OSRD will require a Stormwater Permit under the town's Local Stormwater and Illicit Discharge Regulations.
14. Plan sheets submitted in support of OSRD preliminary plan approval are as follow:
  - "Preliminary Division Plan, Orleans- Harwich Rd. (Rte. 39), East Harwich, MA," Prepared for Eastward Homes Business Trust, Applicant, by Clark Engineering LLC and Outermost Land Survey, Inc., Date 10/20/2021, stamped 11/2/2021;
  - "Open Space Preliminary Division Plan, Orleans- Harwich Rd. (Rte. 39), East Harwich, MA," Prepared for Eastward Homes Business Trust, Applicant, by Clark Engineering LLC and Outermost Land Survey, Inc., Date 10/20/2021, stamped 11/2/2021;
15. The plan application was accepted by the Town on 11/3/2021.
16. The Board held a public meeting on the plan November 30, 2021.
17. The OSRD preliminary plan has been prepared consistent with the applicable requirements of the Harwich Code and is superior in design to a conventional subdivision with regard to protection of natural features and scenic resources on the site.

#### **RECORD OF VOTE/ DETERMINATION**

Present, acting and voting on the matter at its hearing session on November 30, 2021 were members Mr. Berry, Chair; Mr. Chadwick; Mr. Harris; Ms. Maslowski; Mr. McParland; and Mr. Stoltz.


On a motion from Ms. Maslowski, seconded by Mr. McParland, the Board voted unanimously (6-0-0) in Case No. 2021-24 to approve the preliminary subdivision plan for the proposed open space residential subdivision off Orleans Road for applicant Eastward Companies, subject to the recommended conditions of approval set out below:

#### **Conditions of Approval**

1. The Applicant shall have a formal wetlands delineation reviewed and approved by the Conservation Commission prior to filing the definitive plan application; said plan shall reflect the approved delineation. Any wetland area determined to be pond in the delineation shall be depicted as such on the definitive plan.
2. To the extent the wetlands delineation approved by the Conservation Commission would reduce the number of building lots that would be developable in a conventional grid plan of land for the subject property under the applicable sections of the Harwich Zoning Code, then the Applicant shall so reduce the number of lots proposed in the definitive open space residential subdivision plan.
3. Without limitation, the Board of Health will require a nitrogen loading report and nitrogen aggregation plan/s for the definitive plan (the so-called "440" flow rule applies as the property is located in a Zone II/ Wellhead Protection Area). The definitive plan shall list all required Board of Health limitations and restrictions applicable to the development.
4. The Applicant shall incorporate/ address the Town Health and Water department comments received as part of the preliminary plan review in the definitive plan and application.
5. The Applicant shall file the proposed plan with the Massachusetts Natural Heritage and Endangered Species Program (NHESP) in accordance with the Massachusetts Endangered Species Act (MESA) for Priority Habitat review prior to filing the definitive plan; the Applicant shall incorporate into the definitive plan any mitigation requirements or conditions NHESP might require in its letter determination or permit.
6. The Applicant shall obtain a Local Stormwater Permit for the definitive plan and the proposed drainage system for the definitive plan shall conform to the Local Stormwater Permit requirements (See Harwich Local Stormwater and Illicit Discharge Regulations) in addition to

those drainage requirements set out in the Harwich Subdivision Rules and Regulations (Harwich Code Chapter 400, Article II).

7. If the Applicant intends to pursue the maximum lot and building coverage allowances afforded in the DWRPD for the OSRD (20%/40%), then it shall evidence that its drainage system for the definitive plan is capable of recharging all stormwater within the property, including for future development on the proposed constituent building lots.
8. The Applicant shall decide on and include in its definitive plan application the proposed methods of ownership and permanent conservation restriction for the plan's proposed open space.
9. The definitive plan shall specify thereon that the allowed use of the building lots is for 'single family residential use' only.
10. The applicable flood zone shall be included on the definitive plan.
11. The Applicant shall identify and list all subdivision waivers or incentives requested under Harwich Code Section 325-51E(8) and Chapter 400, Article II in the definitive plan application and on the plan.
12. The Applicant shall stake the subject property for the Planning Board and staff's viewing prior to definitive plan review, identifying its boundaries and other land features relevant to review such as the proposed roadway and wetlands resources affecting the site.
13. The Applicant shall provide three proposed road names in the definitive plan application, with the preferred name listed on the definitive plan.

  
Duncan Berry, Chair.  


DEC 09 2021

This Decision has been filed with the Town Clerk on: \_\_\_\_\_.

  
Town Clerk



TOWN OF

HARWICH

732 Main Street  
Harwich, MA 02645

CONSERVATION COMMISSION

(508)-430-7538 FAX (508)430-7531

February 17, 2022

Eastward Companies  
155 Crowell Road  
Chatham, MA 02633

RE: Determination of Applicability for 0 Route 39, Harwich, MA

At their meeting on February 16, 2022 the Harwich Conservation Commission granted a Positive 2A Determination, confirming the wetland delineation shown on plan entitled "Existing Conditions Plan" by Clark Engineering LLC and Outermost Land Survey, Inc, with a revision date of 2/3/2022. This determination is attached with this letter.

As conditions to this permit, the Conservation Commission is requiring the applicant to perform a Vernal Pool study in the Spring of 2022 according to guidelines provided by the Natural Heritage and Endangered Species Program (NHESP). The results of such study are to be provided to NHESP and the Conservation Commission copied. NHESP has also required the applicant to provide a Box Turtle Protection Plan to them for approval. Please also copy the Conservation Commission on this document and correspondence from NHESP.

No work, including clearing of vegetation or grading, is permitted within the 100' buffer zone to the wetland by this Determination. Any work within the Conservation Commission's jurisdiction must be applied for and receive permit.

Amy Usowski  
Conservation Administrator  
Town of Harwich

Cc: Clark Engineering, Blue Flax Design, Attorney William Riley