

TOWN OF HARWICH PLANNING DEPARTMENT

PLANNING BOARD



AGREEMENT AND COVENANT

KNOW ALL PEOPLE by these presents that in Case No. PB 2022-12 the Harwich Planning Board approved a definitive subdivision plan for "Turtle Run," entitled "Subdivision Plan", dated April 8, 2022 and revised 07/28/2022 and prepared by Donald T. Poole, P.L.S., Outermost Land Survey, Inc. ("Plan");

The premises is currently addressed as 0 (Off) Orleans Road (Route 39) Harwich, MA 02645 (Assessors Map 63 Parcel C3);

The undersigned Eastward MBT, LLC, Trustee, William Marsh, Manager, 155 Crowell Road, Chatham, MA 02633, Eastward Companies Business Trust, u/d/t as last amended and dated December 17, 2003 and recorded with the Barnstable Registry of Deeds in Book 20558 Page 202, is the record owner of said premises. For title, see Deed Book 34692 Page 11; Plan Book 604 Page 59;

The undersigned has proposed to secure the construction of ways, the installation of municipal services, utilities and other infrastructure and the provision of other facilities to serve the subdivision by a covenant, executed and duly-recorded, running with the land.

NOW THEREFORE IN CONSIDERATION of the Planning Board endorsing said approved Plan, the undersigned hereby covenants and agrees with the Board as follows:

1. This Agreement and Covenant ("Covenant") shall run with Lots 1, 2, 3, 4 and 5 shown on said Plan and shall be binding upon the undersigned, its executors, administrators, heirs, successors and assigns.
2. This Covenant shall secure the construction of Turtle Run and the installation of municipal services, utilities and other infrastructure to serve the subdivision, consistent with and pursuant to the terms and conditions of the Board's Certificate of Approval/ Decision dated July 6, 2022, a copy of which is recorded herewith. Construction of drainage facilities and subdivision infrastructure is also subject to the conditions and requirements set out in the Local Stormwater Permit.
3. The subdivision way, Turtle Run, shall be constructed and the subdivision facilities and services shall be provided for any above-referenced lot before such lot may be built upon or conveyed, other than by mortgage deed; provided, that a mortgagee who acquires title to the mortgaged premises by foreclosure or otherwise and any succeeding owner of such premises or part thereof may sell any such lot, subject to that portion of the covenant which provides that no lot shall be

- built upon until such ways and services have been provided to serve such lot; and provided, further, that nothing herein shall be deemed to prohibit a conveyance by a single deed, subject to such covenant, of either the entire parcel of land shown on the subdivision plan or of all lots not previously released by the planning board.
4. Reference to this Covenant shall be entered upon said Plan and this Covenant shall be recorded at the Barnstable Registry of Deeds as and when said Plan is recorded. Copies of the recorded covenant, Plan and Certificate of Approval/ Decision shall be returned to the Planning Board.
 5. The Applicant shall permanently restrict, for open space, conservation and natural resource protection purposes, in a deed or conservation restriction donated or granted for nominal consideration, pursuant to and consistent with Harwich Zoning Bylaw Section 325-51(E)(6) and MGL Ch. 184 ss. 31-33 or MGL Ch. 40 sec. 8C, the land shown as Open Space Parcels A & B on the definitive plan, which are to be preserved primarily in their existing open and natural state. The open space grant and restriction shall be subject to and secured by this Covenant, and shall be recorded prior to any individual conveyance of a lot or lots or building thereon.
 6. Pursuant to Harwich Code Chapter 400, Article II, the Board may, upon request and from time to time, substitute types of security used as a performance guarantee.
 7. No individual lot or lots shall be conveyed or built upon until released from Covenant or other security.
 8. The Applicant shall meet the requirements of Harwich Code Section 400-11(E)-(G) for the subdivision, including the inspection and as-built plan requirements therein, prior to, as the case may be, full or partial release of the Covenant or other security.
 9. The subdivision work shall be performed and completed pursuant to and consistent with the plans and documents referenced in the application materials set out above and the specifications set out in Harwich Code Section 400-15.
 10. The subdivision shall be served by and connected to municipal water service.
 11. All utilities within the subdivision shall be located underground.
 12. The Applicant shall grant or reserve for itself, its heirs, and successors and assigns a drainage easement over those areas depicted on the definitive plan as 'drainage easement' as and when said Lots are conveyed. The grant or reservation and recording of the easement shall be subject to and secured by the Covenant.
 13. This Covenant shall take effect upon endorsement of said Plan by the Planning Board.

Signature page follows

Witness our hands and seals this 26th day of JULY, 2022.

Eastward Companies Business Trust,
By:

William Marsh
Eastward MBT LLC, Trustee
William MARSH, Manager

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

On this 26th day of July, 2022, before me, the undersigned Notary Public, personally appeared William MARSH, proved to me through satisfactory evidence of identification, which was DRIVERS license, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose as Manager of Eastward MBT, LLC the Trustee of the Eastward Companies Business Trust.

Shannon McDonald
Notary Public
My Commission Expires



Accepted, Harwich Planning Board,
By:

Duncan Berry
Duncan Berry, Chair

8/23/2022
Date