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November 7, 2023

VIA EMAIL

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**Re: Ocean Pines Condominium – Sagamore Beach, Bourne, Massachusetts
Ocean Pines Development Phases I & II**

Dear Sir/Madam:

Pursuant to the upcoming Planning Board Review Hearing scheduled for November 9, 2023 before the Town of Bourne Planning Board (the “Planning Board”), our office, on behalf of the Ocean Pines Condominium Trust (hereinafter referred to as “Ocean Pines Condominium” or “the Condominium”), writes to provide you with notice that Brian Hebb and Eastern Sky, LLC (the original developer and Declarant in connection with the above-referenced Condominium) have undertaken property transfers to essentially cleave off Phase II from the currently-existing Condominium by way of: (1) transferring title to Lot 61 (which is the real property that comprises Phase II of the Condominium development) from Eastern Sky, LLC to a separate limited liability company (Ocean Dunes, LLC, a Massachusetts limited liability company (hereinafter, “Ocean Dunes LLC”)), and (2) creating an entirely new condominium regime for Phase II of the development, with Ocean Dunes LLC as the “Declarant” under the applicable condominium documents.

The Condominium writes to notify the Planning Board of these developments as they speak directly to the significant issues raised by Ocean Pines Condominium, certain abutters, and the Planning Board members (and Building Inspector) at the October 26, 2023 Planning Board

hearing. Ocean Pines Condominium believes the developments are important for the Planning Board to be aware of prior to the hearing on Thursday, November 9, 2023.

Following the October 26, 2023 Planning Board hearing, it has come to the Condominium's attention that Mr. Hebb caused Eastern Sky, LLC to transfer Lot 61 to Ocean Dunes LLC on September 7, 2023 for \$1.00 by means of a quitclaim deed, which was recorded on September 8, 2023. The Condominium believes that the sole reason for such a transfer is to avoid transparency and to insulate Mr. Hebb from his obligations to the Ocean Pines Condominium Association, the Town of Bourne, the Ocean Pines Home Owners Association, and the Planning Board members (and Building Inspector). The attempt to dis-associate Phase II from the Phase I issues (raised during the October 26, 2023 Planning Board hearing) is a bad-faith attempt to avoid liability and responsibility by means of direct, open, and flagrant deviation from the original development plan.

Further, the new title transfer and condominium documents do not seem to provide for (1) issues regarding the "Open Space Parcels" (referenced during the October 26, 2023 Planning Board hearing), which would seem to further exacerbate the title, maintenance (including the very problematic drainage infrastructure) and insurance/liability issues referenced in connection with the Open Space Parcels, and (2) permits and general Site Plan Approval issued in connection with the initial "phased" development (i.e. a single condominium association, to be constructed in separate phases). To be clear, it seems as if this scheme to create a secondary and wholly separate condominium regime for Lot 61 should have been brought before the Planning Board for a close examination of whether the existing Site Plan Approval and other attendant permitting would need to be amended or modified in some way, so as to be sufficient and allow for two (2) separate condominium regimes. Of course, and further as to permitting, the Planning Board should (a) examine whether the current developer's application for amending the special permit in 2007 was properly ratified and approved, (b) examine whether the issues raised in the attached December 10, 2020 memorandum from Coreen V. Moore (the previous Bourne Town Planner) were properly resolved (see, Exhibit A attached hereto), (c) carefully consider whether the project, which is substantially different today than when it was originally granted Site Plan Approval, has been properly permitted during the course of construction and project deviations (by way of necessary approvals and modifications to Site Plan Approval, special permits and other attendant covenants and directives from the Planning Board), and (d) in particular, examine, analyze and investigate the following discrete questions:

- i. Who or what (entity) is to maintain that portion of Parcel E that exists along the perimeter of Lot 61? Clearly, this should not be the responsibility of the Ocean Pines Condominium Association.
- ii. Are there necessary drainage easements that need to exist by and between the Ocean Dunes LLC/Lot 61 property and the Ocean Pines Condominium property?
- iii. Are there access and/or easement issues that have been created in connection with what would now be shared access to Wildwood Lane (which is a private way)?

- iv. If Ocean Dunes LLC intends for Lot 61 to comprise a new and separate condominium development, i.e. “Ocean Pines II,” should Ocean Dunes LLC be permitted to satisfy the lot coverage requirements of the Zoning Bylaw by including Lots 62-66 in the coverage calculation as it has already attempted to do in its building permit application relating to 3A-D Wildwood Lane?

Following the October 26, 2023 Planning Board hearing, the Condominium believes that Mr. Hebb has significantly increased the pace and scope of the work being performed on Lot 61. In response, the Condominium reviewed the Town of Bourne’s permitting website in an effort to track Mr. Hebb’s attempts to obtain additional building permits. Through review of the Town of Bourne permitting website, it is the Condominium’s understanding that there are two (2) active permits for 1 Wildwood Lane, Units C & D (permits B-23-334 and B-23-349). The Town of Bourne permitting website does not reflect the two permits as “issued.” Additionally, through discussions with a part-time local building inspector for the Town of Bourne, the Condominium further understands that there are occasions where the Town of Bourne will allow foundation to be poured ahead of final approval of building permits. We strongly encourage the Planning Board to review the status of such permitting, and to order the Building Inspector to hold any such permits in abeyance until all of the issues raised by the Condominium, as referenced herein and during the October 26, 2023 and November 9, 2023 Planning Board hearings have been properly investigated and resolved.

The Condominium Association attended the October 26, 2023 Planning Board hearing in good faith despite considerable cost and expense. The Planning Board indicated that it would continue to look into its own authority to adjudicate these issues, while directing the Building Inspector, Kenneth Murphy, to conduct a site visit. The Condominium hopes that in light of the October 26, 2023 Planning Board hearing and the upcoming November 9, 2023 hearing, Inspector Murphy, will not (1) give Mr. Hebb and/or Hebb Builders, Inc. the leeway to pour concrete foundation at 1 Wildwood Lane (Lot 61), or (2) issue the necessary building permits (for the pouring of such foundation). Especially given that the concrete foundations that Mr. Hebb and/or Hebb Builders, Inc. intended to pour/install are for buildings that are directly before the Planning Board for consideration.

Additionally, and at a minimum, the Condominium requests that all parties act in good faith and within the requirements of candor before the Planning Board at the November 9, 2023 hearing, and disclose any information regarding the existence and involvement of Ocean Dunes, LLC, and the status of any and all permits under Inspector Murphy’s review as of the November 9, 2023 hearing. The Condominium is hoping to avoid another situation where permits are issued without the Planning Board and the Condominium having the opportunity to review same (as against the backdrop of all attendant issues raised by the Condominium).¹

¹ On August 17, 2023, a representative of the Condominium met with Inspector Murphy, at which he listened to concerns (concerns that were ultimately presented to you on October 26, 2023). During that meeting, Inspector Murphy agreed to a more formal discussion and presentation on behalf of the Condominium Association on August

The Condominium Association intends to appear on November 9, 2023. In light of the importance of these issues, the level of interest and the number of persons intending to attend,² and the need for immediate action after the Planning Board hearing to preserve its rights, the Condominium Association respectfully request that the issues relating to Ocean Pines be advanced for consideration on the Agenda from last to first to ensure adequate time and attention.

Very truly yours



A. Scott Marra

ASM

cc: Ocean Pines Condominium Trustees

21, 2023. He specifically stated that he would not approve or issue a permit before the meeting. As you know, Inspector Murphy then immediately approved the permit at issue later that very same day.

² The Condominium Association respectfully requests, again, that the submissions in support of its position be made available publicly and that the necessary arrangements for attendance by constituents and residents be made.

EXHIBIT A



COREEN V. MOORE
TOWN PLANNER

TOWN OF BOURNE

Office of the Town Planner

TOWN HALL

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M E M O R A N D U M

To: Kenneth Murphy, Building Inspector
Cc: Brian Hebb and Mark Hebb, applicant
Planning Board

From: Coreen V. Moore, Town Planner

Date: December 10, 2020

Re: Site Plan Review for Wildwood Lane, Building Permit B-20-335, Lot 62, dated 10/26/20 (revised) Bourne, MA - Map 7 Parcel 99

The above mentioned building permit is subject to an open space community special permit #38 in 1987. According to the conditions of the permit and the zoning bylaw section 4644 - Open Space Community. Prior to issuance of building permits the Planning Board shall certify to the Building Inspector that a detailed site plan has been submitted and meets the functional standards established and adopted within the subdivision regulations as it relates to access, drainage, utilities and grading.

The approved development plan and the special permit have also provided development constraints, such as number of units and setbacks. In addition, within the open space community section of the bylaw the following constraints must be met.

Please note any changes to the following constraints or requirements would require an amendment to the special permit.

Open Space Community Requirement	Information provided
1. Structures must have a separation of no less than their building height from any other structure on the same lot and from any lot line.	Previously approved plan showed two structures, current design is shown as both structures connected by a carport, this appears to circumvent special permit conditions Does not comply, carport shown between the two building is an attempt to negate this requirement.
2. Structures shall provide a separation of no less than twice their building height from the boundary of the Overall Development Plan.	Proposed bldg. ht = 28 x 2 = 56' ok However the overall development plan notes a maximum building height of 26'
3. Parking areas shall not be located within any required yard, and shall be screened from public ways by building location, grading, fencing, or plantings.	Complies screened by plantings

4. Parking areas shall not be located within 75 feet of the boundary of the Overall Development Plan.	<i>Complies</i>
5. Parking area shall contain no more than 36 spaces, and be separated from all other parking areas by at least 20'	<i>N/A</i>
6. No buildings shall be floodlit.	<i>No flood lights per note on plan - complies</i>
7. Drives and parking areas shall be illuminated by shielded lights not higher than 15 feet.	<i>lights max height 15'</i>
8. There shall be not more than 20 dwelling units in a single structure.	<i>Complies</i>
9. The basic maximum number of dwelling units allowed. Which are 78 total including 30 single-family dwellings, leaving the multifamily portion a maximum of 48 units.	<i>No additional units proposed - complies</i>
<p>10. Dimensional Regulations. Dwellings shall be on designated lots, whether or not the lots are or can be owned separately or independently of adjoining lots. More than one multifamily dwelling may be erected on a lot.</p> <p>Minimum lot size (s.f.) 15,000 Provided: 37,463 sf. Minimum lot frontage (ft.) 100 Minimum front yard (ft.)^a 30 Minimum side and rear yards (ft.)^a see overall development plan for setbacks Maximum lot coverage (%) 20 Maximum building height (ft.) 35 (<i>note overall development plans states a 26' max height</i>)</p> <p>^a Increase to 50 feet where abutting the boundary of the Overall Development Plan.</p>	<p>Min. lot size sf. 15,000√ Min. lot frontage (ft.) 100√ Min. front yard (ft.)^a 30 √ Min. side and rear yards (ft.)^a see overall development plan for setbacks Max. lot coverage (%) 20 Max. building height (ft.) 35 (<i>note approved overall development plans states a 26' max height</i>)</p> <p>^a Increase to 50 feet where abutting the boundary of the Overall Development Plan. √</p>
11. Open Space land shall be kept in an open or natural state and not be built upon or developed for accessory uses such as parking or roadway.	<i>None proposed complies</i>
12. Subsequent to approval of an Open Space Community, no land therein shall be sold and no lot line or structure altered from that shown on the Overall Development Plan so as to increase the extent of nonconformity with the standard dimensional regulations of this Bylaw.	<i>Ok complies</i>



Previously approved plan for the special permit