

Mead, Terman & Costa, LLC
Attorneys at Law

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Newburyport, MA 01950
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www.mtcclawyers.com

September 30, 2021

IN HAND

Bonnie Sontag, Chair
Planning Board
City of Newburyport
City Hall
60 Pleasant Street
Newburyport, Massachusetts 01950

RE: Evergreen Commons Release of Covenant / REVISED

Dear Madam Chair and Members of the Board:

Reference is made to the above-captioned matter. In that connection, the Applicant requests a Release of Covenant for **Lots, 22 and 25**. Please know, that Lot 22 previously closed and transferred without indication that the covenant had not been released. As a result we seek to clear up this issue as well as release the "last lot" Lot 25.

This is the standard Covenant Release which has been granted for all of the Lots in the project. This is the covenant related to the completion of the infrastructure, not the holding of Certificates of Occupancy for the purpose of finalizing the Open Space and Conservation Restriction.

The remaining infrastructure work to be done on the project is a topcoat for Gabaree Court and the top coat at the end of Duffy Drive along with a portion of the sidewalks as shown on the attached Phasing plan. For the purposes of infrastructure and this Covenant, this would be the final lot to be released. But the City retains control over Lots # 8 and #9, given it has control over the Occupancy Permits for those Lots. As you are aware, under the decision the last occupancy permit may not issue until the Conservation Restriction is recorded.

I have attached for your convenience the Phasing plan which you might recall was created for the purpose of completing the infrastructure. I have also attached a proposed release along with the plan noted above for work to be completed.

We request that this matter be placed on the agenda for your October 6, 2021 meeting.

Millis Office

730 Main Street, Suite 1F
Millis, MA 02054
Phone 508.376.8400

Thank you for your consideration.

Respectfully submitted
Evergreen Commons LLC
By Its attorney

A handwritten signature in black ink, appearing to read 'L. Mead', is written over the text 'By Its attorney'.

Lisa L. Mead

cc: Client

Evergreen Commons

Covenant - 36596-108

lots 4-38

35
lots
32 released

Ⓟ Tel - 37269-572 lot 32, 34, 36, 37, 38

Ⓟ Tel 37596-111 lot 33

Ⓟ Tel 37675-524 lot 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 29, 30, 31, 35

Ⓟ Tel 39798-499 lot 23, 24, 26, 27, 28

Not released

J 17 closed Palmisano closed 6-29-19

22 closed Polichronopoulos closed 9-12-21

25

Released but
not recorded

- 4
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- 34
- 35



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CITY OF NEWBURYPORT
 PLANNING BOARD
 60 PLEASANT STREET • P.O. BOX 550
 NEWBURYPORT, MA 01950
 (978) 465-4400

RELEASE OF COVENANT
 2017-DEF-01
 Evergreen Commons Subdivision

WHEREAS the City of Newburyport Planning Board approved on January 17, 2018 and subsequently endorsed on February 21, 2018 a definitive subdivision plan entitled “Plan of Land in Newburyport, Massachusetts, Surveyed for Evergreen Commons LLC” prepared by Design Consultants, Inc., dated May 22, 2017, revised through January 9, 2018 and subsequently recorded with the Essex (South) District Registry of Deeds (“Registry”) at Plan Book 464, Plan 53 (the “Plan”); and

WHEREAS the Board accepted surety in the form of a Covenant dated March 6, 2018, and securing performance of certain improvements to the property shown on the Plan, which Covenant was recorded with the aforesaid Registry at Book 36596, Page 108 (the “Covenant”); and

WHEREAS the undersigned fee owner of those lots identified in the Covenant, Evergreen Commons, LLC, has carried out those improvements identified in paragraph number 3 of said Covenant with regard to the following enumerated lots: **Lot 32, Lot 34, Lot 36, Lot 37, and Lot 38** as shown on said Plan;

NOW, THEREFORE, the undersigned, being a majority of the Planning Board of the City of Newburyport, Massachusetts, hereby:

Certify that the requirements for work on the ground called for by the Definitive Subdivision Plan Approval with thirteen (13) numbered conditions and twenty-five (25) numbered special conditions which is dated January 30, 2018 and recorded with said Registry in Book 36573, Page 115 have been completed to the satisfaction of the Planning Board as to the following enumerated lots: **Lot 32, Lot 34, Lot 36, Lot 37, and Lot 38** all as shown on the Plan and said **Lot 32, Lot 34, Lot 36, Lot 37, and Lot 38** are hereby released from the restrictions in said Covenant as to sale and building specified thereon.

Executed as a sealed instrument this 3rd day of January, 2019.

IN WITNESS WHEREOF, this instrument has been executed in the name and on behalf of the City of Newburyport by its Planning Board as of this 3rd day of January, 2019.

NEWBURYPORT PLANNING BOARD

By:

Donald Walters

Print Name:

Donald Walters

COMMONWEALTH OF MASSACHUSETTS

Essex, ss.

January 3, 2019

Before me, the undersigned notary public, personally appeared Donald Walters, being a member of the Newburyport Planning Board, and proved to me through satisfactory evidence of identification, which was MA license, to be the person whose name is signed on the preceding document, and acknowledged to me that they signed it voluntarily for its stated purpose, not individually but in their capacities as Members as aforesaid.



CASSANDRA M. GREEN
Notary Public
Commonwealth of Massachusetts
My Commission Expires
August 3, 2023

[Signature]
Notary Public
My commission expires: 08/03/2023

NEWBURYPORT PLANNING BOARD

By:

Bonnie Sontag

Print Name:

BONNIE SONTAG

COMMONWEALTH OF MASSACHUSETTS

Essex, ss.

January 3, 2019

Before me, the undersigned notary public, personally appeared Bonnie Sontag, being a member of the Newburyport Planning Board, and proved to me through satisfactory evidence of identification, which was MA license, to be the person whose name is signed on the preceding document, and acknowledged to me that they signed it voluntarily for its stated purpose, not individually but in their capacities as Members as aforesaid.



CASSANDRA M. GREEN
Notary Public
Commonwealth of Massachusetts
My Commission Expires
August 3, 2023

[Signature]
Notary Public
My commission expires: 08/03/2023

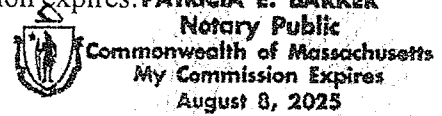
NEWBURYPORT PLANNING BOARD

By: [Signature]
Print Name: James Brugger

COMMONWEALTH OF MASSACHUSETTS

Essex, ss. January 3, 2019
Before me, the undersigned notary public, personally appeared James Brugger,
being a member of the Newburyport Planning Board, and proved to me through satisfactory
evidence of identification, which was MA LICENS, to be the person whose name is
signed on the preceding document, and acknowledged to me that they signed it voluntarily for its
stated purpose, not individually but in their capacities as Members as aforesaid.

[Signature]
Notary Public
My commission expires: **PATRICIA E. BARKER**



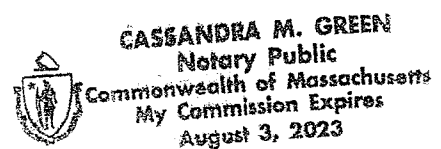
NEWBURYPORT PLANNING BOARD

By: [Signature]
Print Name: Tania Hartford

COMMONWEALTH OF MASSACHUSETTS

Essex, ss. January 3, 2019
Before me, the undersigned notary public, personally appeared Tania Hartford,
being a member of the Newburyport Planning Board, and proved to me through satisfactory
evidence of identification, which was MA license, to be the person whose name is
signed on the preceding document, and acknowledged to me that they signed it voluntarily for its
stated purpose, not individually but in their capacities as Members as aforesaid.

[Signature]
Notary Public
My commission expires: 08/03/2023



NEWBURYPORT PLANNING BOARD

By: Mary Verde


Print Name: MJ Verde

COMMONWEALTH OF MASSACHUSETTS

Essex, ss. January 3, 2019
Before me, the undersigned notary public, personally appeared Mary Verde,
being a member of the Newburyport Planning Board, and proved to me through satisfactory
evidence of identification, which was MA license, to be the person whose name is
signed on the preceding document, and acknowledged to me that they signed it voluntarily for its
stated purpose, not individually but in their capacities as Members as afosaid.

[Signature]

Notary Public
My commission expires: 08/03/2023

 **CASSANDRA M. GREEN**
Notary Public
Commonwealth of Massachusetts
My Commission Expires
August 3, 2023



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CITY OF NEWBURYPORT
PLANNING BOARD
60 PLEASANT STREET • P.O. BOX 550
NEWBURYPORT, MA 01950
(978) 465-4400

RELEASE OF COVENANT

2017-DEF-01

Evergreen Commons Subdivision

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WHEREAS the Board accepted surety in the form of a Covenant dated March 6, 2018, and securing performance of certain improvements to the property shown on the Plan, which Covenant was recorded with the aforesaid Registry at Book 36596, Page 108 (the "Covenant"); and

WHEREAS the undersigned fee owner of those lots identified in the Covenant, Evergreen Commons, LLC, has carried out those improvements identified in paragraph number 3 of said Covenant with regard to the following enumerated lots: **Lot 33** as shown on said Plan;

NOW, THEREFORE, the undersigned, being a majority of the Planning Board of the City of Newburyport, Massachusetts, hereby:

Certify that the requirements for work on the ground called for by the Definitive Subdivision Plan Approval with thirteen (13) numbered conditions and twenty-five (25) numbered special conditions which is dated January 30, 2018 and recorded with said Registry in Book 36573, Page 115 have been completed to the satisfaction of the Planning Board as to the following enumerated lots: Lot 33 as shown on the Plan and said Lot 33 is hereby released from the restrictions in said Covenant as to sale and building specified thereon.

Executed as a sealed instrument this 29 day of May, 2019.

IN WITNESS WHEREOF, this instrument has been executed in the name and on behalf of the City of Newburyport by its Planning Board as of this 29 day of May, 2019.

12 Duffy Drive Newburyport

NEWBURYPORT PLANNING BOARD


By: Bonnie Sontag

Print Name: BONNIE SONTAG

COMMONWEALTH OF MASSACHUSETTS

Essex, ss.

Before me, the undersigned notary public, personally appeared Bonnie Sontag, being a member of the Newburyport Planning Board, and proved to me through satisfactory evidence of identification, which was personally known, to be the person whose name is signed on the preceding document, and acknowledged to me that they signed it voluntarily for its stated purpose, not individually but in their capacities as Members as aforesaid.

 **CASSANDRA M. GREEN**
Notary Public
Commonwealth of Massachusetts
My Commission Expires
August 3, 2023

Cassandra M. Green
Notary Public
My commission expires: 08/03/2023

NEWBURYPORT PLANNING BOARD

By: Rick Taintor


Print Name: RICK TAINTOR

COMMONWEALTH OF MASSACHUSETTS

Essex, ss.

Before me, the undersigned notary public, personally appeared Rick Taintor, being a member of the Newburyport Planning Board, and proved to me through satisfactory evidence of identification, which was MA license, to be the person whose name is signed on the preceding document, and acknowledged to me that they signed it voluntarily for its stated purpose, not individually but in their capacities as Members as aforesaid.

Cassandra M. Green
Notary Public
My commission expires: 08/03/2023

 **CASSANDRA M. GREEN**
Notary Public
Commonwealth of Massachusetts
My Commission Expires
August 3, 2023

NEWBURYPORT PLANNING BOARD

By:

[Signature]

Print Name:

Donald Walters

COMMONWEALTH OF MASSACHUSETTS

Essex, ss.

Before me, the undersigned notary public, personally appeared Donald Walters, being a member of the Newburyport Planning Board, and proved to me through satisfactory evidence of identification, which was MA license, to be the person whose name is signed on the preceding document, and acknowledged to me that they signed it voluntarily for its stated purpose, not individually but in their capacities as Members as aforesaid.

CASSANDRA M. GREEN
Notary Public
Commonwealth of Massachusetts
My Commission Expires
August 3, 2023

[Signature]
Notary Public
My commission expires: 08/03/2023

NEWBURYPORT PLANNING BOARD

By:

MARY J. VERDE


Print Name:

[Signature]

COMMONWEALTH OF MASSACHUSETTS

Essex, ss.

Before me, the undersigned notary public, personally appeared Mary J. Verde, being a member of the Newburyport Planning Board, and proved to me through satisfactory evidence of identification, which was MA license, to be the person whose name is signed on the preceding document, and acknowledged to me that they signed it voluntarily for its stated purpose, not individually but in their capacities as Members as aforesaid.

 **CASSANDRA M. GREEN**
Notary Public
Commonwealth of Massachusetts
My Commission Expires
August 3, 2023

[Signature]
Notary Public
My commission expires: 08/03/2023

NEWBURYPORT PLANNING BOARD

By:

Anne M Gardner

Print Name:

ANNE M GARDNER

COMMONWEALTH OF MASSACHUSETTS

Essex, ss.

Before me, the undersigned notary public, personally appeared Anne M Gardner, being a member of the Newburyport Planning Board, and proved to me through satisfactory evidence of identification, which was MA license, to be the person whose name is signed on the preceding document, and acknowledged to me that they signed it voluntarily for its stated purpose, not individually but in their capacities as Members as aforesaid.

Richard Jones
Notary Public

My commission expires: 4/31/2020

Richard Jones
Notary



(SPACE ABOVE RESERVED FOR REGISTRY OF DEEDS)

RELEASE OF COVENANT

WHEREAS the City of Newburyport Planning Board approved on January 17, 2018 and subsequently endorsed on February 21, 2018 a definitive subdivision plan entitled "Plan of Land in Newburyport, Massachusetts, Surveyed for Evergreen Commons LLC" prepared by Design Consultants, Inc., dated May 22, 2017, revised through January 9, 2018 and subsequently recorded with the Essex (South) District Registry of Deeds ("Registry") at Plan Book 464, Plan 53 (the "Plan"); and

WHEREAS the Board accepted surety in the form of a Covenant dated March 6, 2018, and securing performance of certain improvements to the property shown on the Plan, which Covenant was recorded with the aforesaid Registry at Book 36596, Page 108 (the "Covenant"); and

WHEREAS the undersigned fee owner of those lots identified in the Covenant, Evergreen Commons, LLC, has carried out those improvements identified in paragraph number 3 of said Covenant with regard to the following enumerated lots: **4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 29, 30, 31, and 35.** as shown on said Plan;

NOW, THEREFORE, the undersigned, being a majority of the Planning Board of the City of Newburyport, Massachusetts, hereby:

Certify that the requirements for work on the ground called for by the Definitive Subdivision Plan Approval with thirteen (13) numbered conditions and twenty-five (25) numbered special conditions which is dated January 30, 2018 and recorded with said Registry in Book 36573, Page 115, as amended, have been completed to the satisfaction of the Planning Board as to the following enumerated lots: **4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 29, 30, 31, and 35** all as shown on the Plan and said **4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 29, 30, 31, and 35** are hereby released from the restrictions in said Covenant as to sale and building specified thereon.

By approving this Release of Covenant the Board authorized the Chair to sign on its behalf.

Boyd Dr. Newburyport

IN WITNESS WHEREOF, this instrument has been executed in the name and on behalf of the City of Newburyport by its Planning Board as of this 17 day of July, 2019.

NEWBURYPORT PLANNING BOARD

By: Bonnie Sontag
Bonnie Sontag, Chair

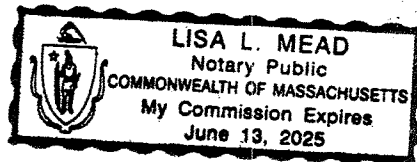
COMMONWEALTH OF MASSACHUSETTS

Essex, ss.

July 17, 2019

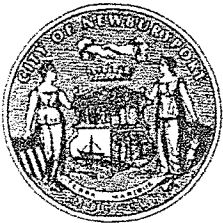
Before me, the undersigned notary public, personally appeared Bonnie Sontag, being the Chair of the Newburyport Planning Board, and proved to me through satisfactory evidence of identification, which was personal knowledge, to be the person whose name is signed on the preceding document, and acknowledged to me that she signed it voluntarily for its stated purpose, not individually but in her capacity as Chair as aforesaid.

[Signature]
Notary Public
My Commission Expires:





(SPACE ABOVE RESERVED FOR REGISTRY OF DEEDS)



CITY OF NEWBURYPORT
PLANNING BOARD
60 PLEASANT STREET • P.O. BOX 550
NEWBURYPORT, MA 01950
(978) 465-4400
WWW.CITYOFNEWBURYPORT.COM

RELEASE OF COVENANT

WHEREAS the City of Newburyport Planning Board approved on January 17, 2018 and subsequently endorsed on February 21, 2018 a definitive subdivision plan entitled "Plan of Land in Newburyport, Massachusetts, Surveyed for Evergreen Commons LLC" prepared by Design Consultants, Inc., dated May 22, 2017, revised through January 9, 2018 and subsequently recorded with the Essex (South) District Registry of Deeds ("Registry") at Plan Book 464, Plan 53 (the "Plan"); and

WHEREAS the Board accepted surety in the form of a Covenant dated March 6, 2018, and securing performance of certain improvements to the property shown on the Plan, which Covenant was recorded with the aforesaid Registry at Book 36596, Page 108 (the "Covenant"); and

WHEREAS the undersigned fee owner of those lots identified in the Covenant, Evergreen Commons, LLC, has carried out those improvements identified in paragraph number 3 of said Covenant with regard to the following enumerated lots: 23, 24, 26, 27, and 28 as shown on said Plan;

NOW, THEREFORE, the undersigned, being a majority of the Planning Board of the City of Newburyport, Massachusetts, hereby:

Certify that the requirements for work on the ground called for by the Definitive Subdivision Plan Approval with thirteen (13) numbered conditions and twenty-five (25) numbered special conditions which is dated January 30, 2018 and recorded with

Poyel Drive, Newburyport MA

said Registry in Book 36573, Page 115, as amended, have been completed to the satisfaction of the Planning Board as to the following enumerated lots: 23, 24, 26, 27, and 28 all as shown on the Plan and said 23, 24, 26, 27, and 28 are hereby released from the restrictions in said Covenant as to sale and building specified thereon.

Executed as a sealed instrument this 22 day of April, 2021.

IN WITNESS WHEREOF, this instrument has been executed in the name and on behalf of the City of Newburyport by its Planning Board as of this 22 day of April, 2021.

NEWBURYPORT PLANNING BOARD

By: Bonnie Sontag
Bonnie Sontag

COMMONWEALTH OF MASSACHUSETTS

Essex, ss.

April 22, 2021

Before me, the undersigned notary public, personally appeared Bonnie Sontag being the Members of the Newburyport Planning Board, and proved to me through satisfactory evidence of identification, which were MA-DLST231DP6, to be the persons whose names are signed on the preceding document, and acknowledged to me that they signed it voluntarily for its stated purpose, not individually but in their capacities as Members as aforesaid.

Kathleen Sullivan

Notary Public

My Commission Expires:

KATHLEEN SULLIVAN
Notary Public
Commonwealth of Massachusetts
My Commission Expires
June 17, 2027