

**CONSENT AGREEMENT BETWEEN THE TOWN OF WELLS
AND THE BEACH DREAMS CONDOMINIUM ASSOCIATION**

WHEREAS the Wells Staff Review Committee granted the most recent revision to the site plan approval for the "Beach Dreams Cottages" on March 6, 2007 (the "Site Plan") for a parcel located at 392 Post Road, Wells, Maine and more particularly described as Tax Map 27, Lot 3, formerly Lots 3 & 11 (the "Property"); and

WHEREAS the developers of the Property were Mark Gallagher, 3MP, LLC and Seal Harbor, LLC (collectively, "the Developer"); and

WHEREAS it is a condition of unit ownership that all owners must be members of the Beach Dreams Condominium Association (the "Association");

WHEREAS on or about September 8, 2011 the Town of Wells (the "Town") provided a letter and Report of Inspections (the "Inspection Report") to the Developer and Association, which itemized numerous alleged land use violations occurring on the Property; and

WHEREAS the Association disputes a number of the violations noted in the Inspection Report; and

WHEREAS the Association acknowledges that the following violations noted in the Inspection Report exist at the Property:

- A. The current lot coverage of the portion of the Property located in the Rural District is 27.48%, which exceeds the maximum allowed lot coverage of 20%. The existing coverage of roads, parking lots, buildings, decks and patios is 27.48%. (See As-Built Plan referenced below). This calculation does not include areas to be re-vegetated as set forth herein.
- B. The gravel parking areas do not adhere to the Site Plan.
- C. The drainage system does not adhere to the Site Plan.
- D. The Property exceeds the allowed density requirements for lot area in the Rural Zone and GB Zone; and

WHEREAS after a series of meetings between representatives of the Town, the Developer, and the Association, an approach was agreed upon to rectify those alleged violations; and

WHEREAS, the Association commissioned the preparation of an "As-Built/Lot Coverage Plan," prepared by Attar Engineering and comprising of Sheets 1 through 4 (Sheets 1, 3 and 4 are dated 11/8/2012 and Sheet 2 is dated 11/30/12), which plan reflects the existing conditions

excluding paths, sheds, and storage bins on the Property as of those dates (the "As-Built Plan"); and

WHEREAS a public hearing was held regarding this Agreement after notice was provided to all "abutters" to the Property, as that term is defined in § 145-10 of the Code of the Town of Wells (the "Town Code").

NOW, THEREFORE, in an effort to resolve this matter and in consideration of the mutual covenants and undertakings contained herein, the Town and the Association agree as follows:

1. No later than August 31, 2013, all sheds and/or storage bins that result in lot coverage will be removed and/or relocated to existing patios or decks. Storage bins could be raised and mounted to units (after obtaining a building permit) in order to allow vegetation to grow in their former locations if applicable provisions of the Town Code, including setback restrictions (i.e., lot line setbacks, buffers, and 25 feet between Units) can be met.
2. No later than August 31, 2013, the patio located at Unit 303 must be removed in its entirety. No later than August 31, 2013, the following decks shall either be removed entirely from the following units, or, shall be reduced to comply with the square footage limits established in both § 145-52 of the Town Code and the originally issued building permits, which dictate that porches and decks may not exceed 160 square feet:
 - Unit # 238 -Deck exceeds 160 square feet by +/- 60 square feet.
 - Unit # 255 -Deck exceeds 160 square feet by +/- 20 square feet.

In the event that the owners of said units fail or refuse to comply with the requirements of this paragraph, the Town may pursue whatever enforcement proceedings it deems appropriate against the individual unit owner(s) to ensure compliance.

3. Without the approval of the Town of Wells, the Association and unit owners are prohibited from building, installing, or placing anything on the Property that increases the existing lot coverage of the Property beyond that which is delineated on the As-Built Plan.
4. The Association shall strictly monitor activities that would affect lot coverage by performing at least two inspections per year to be conducted no later than June 1st and November 15th, respectively. The Association shall provide a report to the Code Enforcement and Planning Offices outlining the results of said inspections no later than June 30th and November 30th, respectively.
5. Existing road shoulders, which are currently covered with either gravel or crushed seashells, shall be allowed to become vegetated. No additional gravel or seashell material shall be placed upon them. Some topsoil can be installed to encourage grass growth.

6. All existing seashell walkways and roads shall be replaced with vegetated surfaces no later than July 1, 2016. In each of the years 2013, 2014, 2015 and 2016, the Association shall replace at least 25% of the currently existing seashell walkways and roads with vegetated surfaces. Methods to achieve this would include allowing grass to grow in existing paths and roads, installing plastic or concrete (grass filled) paver grids found acceptable by the Code and Planning Offices, or any other system considered to be vegetated by the Code Enforcement and Planning Offices. Annual written progress reports itemizing the removal and/or replacement of the walkways and roads shall be provided to the Code Enforcement and Planning Offices no later than November 30th of each year.
7. The Association will not expand the size of the non-vegetated parking areas or roads. The parking areas may be reconstructed with grass paver grids but may not be paved.
8. The Association will be responsible for maintaining the approved stormwater systems in accordance with DEP Amended Site Location permit #L-21958-87-D-B, approved May 31, 2012.
9. The Code Enforcement Office may issue building permits to the Association and/or unit owners for structures, decks, stairs, and porches shown on the As-Built Plan for the purpose of maintenance, repairs, and/or compliance with this Consent Agreement or the requirements of the ADA or safety requirements.
10. Except as specified in Paragraph 9, neither the Association nor unit owners may make any changes from the existing conditions shown on the As-Built Plan without first obtaining Planning Board approval, pursuant to Article X (Site Plan) of Chapter 145 (Land Use) of the Town Code. No approval shall be granted unless the proposed changes comply with all applicable provisions of the Town Code.
11. The Association shall pay to the Town the sum of \$2,500.00 prior to or upon execution of this Agreement. Said sum represents a contribution towards the Town's legal expenses in conjunction with this matter. The Association acknowledges that under no circumstances will the Board of Selectmen issue annual business or lodging licenses to the Association unless and until said sum has been paid in full.
12. In the event that the sum set forth in Paragraph 11 is not paid as specified, the Association agrees that the Town shall be entitled to execution on the Property.
13. The Association shall pay for all attorney fees and costs in the event that further legal action must be taken by the Town for contempt or to otherwise enforce this Agreement and the Town shall be entitled to execution on the Property for any additional fees and costs in this regard.
14. The Association acknowledges that it will not be eligible for a business or lodging license from the Town unless and until all terms and conditions of this Agreement are met.

15. The Association shall be responsible for: (a) making its members aware of the terms of this Agreement; (b) integrating the terms of this Agreement into all applicable Association documents; and (c) making its members aware that any terms within the Association documents that are inconsistent with the terms of the Agreement are void.
16. The Association acknowledges that this Agreement and the obligations set forth herein are binding upon it and any of its successors, officers, directors, employees, agents, attorneys, and members.
17. The Association shall record copies of this Agreement and of the As-Built Plan in the York County Registry of upon execution of this Agreement.

IN WITNESS WHEREOF, the parties have set their hands and seals this 25th day of February, 2013.

BEACH DREAMS OWNERS ASSOCIATION

[Signature]
Witness

By: [Signature]
Robert Hanley, President
Duly Authorized

TOWN OF WELLS

[Signature]
Witness

By: [Signature]
Jonathan Carter, Town Manager
Duly Authorized

STATE OF MAINE
YORK, ss

February 25, 2013

Then personally appeared Robert Hanley in his capacity as President of the Beach Dreams Homeowners Association and acknowledged the foregoing instrument to be his free act and deed as authorized in said capacity.

[Signature]
Notary Public/Attorney at Law
Print Name: Jeffery J. Clark