

**DECLARATION OF COVENANTS, CONDITIONS, RIGHTS
AND RESTRICTIONS FOR THERRIEN WOODS SUBDIVISION**

MIDDLESEX, VERMONT

This Declaration of Covenants, Conditions, Rights and Restrictions for Therrien Woods Subdivision (the "Declaration") dated as of JANUARY 26, 2011 shall be effective upon recording and is made by Owen M. Ward and Whitney O. Ward, co-Trustees of the Owen M. Ward Revocable Trust dated February 19, 1985 as amended, of Naples, Florida (the "Declarant").

Preliminary Statement

Declarant is the owner of certain property consisting of 63.7 acres, more or less, of land together with rights, easements and other interests appurtenant thereto (collectively referred to as the "Property"), situated on the southerly side of Town Highway 20, Leland Farm Road, in the Town of Middlesex, County of Washington and State of Vermont. The Property was acquired by the Declarant by Warranty Deed dated April 5, 2007 and recorded in Book 89 Page 64 of the Middlesex Land Records and by Corrective Warranty Deed dated September 29, 2009 and recorded in Book 94 Page 22. The Property is more particularly described in Appendix A attached hereto.

In connection with the subdivision of the Property and the reservation of rights as set forth herein, the Declarant is making this Declaration to establish a general plan for development, improvement, and maintenance of the Property for use as rural residential homesites. The Property shall be owned, held, used, improved, maintained and conveyed in conformance with the provisions set forth herein in order to conserve the natural environment, to preserve and enhance the scenic beauty of the area, and to provide for the community governance, enjoyment, and common good of the Lot owners.

The Declarant is in the process of developing, improving and subdividing the Property. The development and improvement work includes construction of an access roadway, installation of overhead utility lines, installation of any required stormwater facilities, clearing, improving open space, and performing other related site work and improvements. The Property is to be subdivided into 5 homesites, designated as Lots A through E of the Therrien Woods Subdivision ranging in size from 3.2 acres to 45.8 acres, more or less (each lot is hereinafter referred to as a "Lot" and collectively as "the Lots"). An overall plan of the Lots is shown on a survey plat by Charles Grenier Consulting Engineer, P.C. entitled "THERRIEN WOODS SUBDIVISION OWNER: OWEN M. WARD REVOCABLE TRUST LELAND FARM ROAD - (T.H. #20) MIDDLESEX, VERMONT" dated January 2010 and recorded in Map Slide 11, Map 242 Sheet 1 and Map 242 Sheet 2 (the "Survey").

In addition to the conditions, covenants and restrictions contained in this Declaration, the Property is subject to and has the benefit of the following documents and the terms, conditions, covenants, easements, rights, restrictions, duties and obligations therein contained:

- (a) Bylaws of Therrien Woods Owners Association, Inc. (the "Bylaws");
- (b) State of Vermont Wastewater System and Potable Water Supply Permits WW-5-5114 dated May 21, 2009 and recorded in Book 93 Pages 43-45, WW-5-5114-1 dated January 26, 2009 and recorded in Book 91 Page 972, WW-5-5033-1 dated May 21, 2009 and recorded in Book 93 Pages 46-48, and WW-5-5033-2 dated January 26, 2010 and recorded in Book 94 Page 677;
- (c) Easements, rights, conditions and interests shown or referred to on the site plan entitled "OVERALL SITE PLAN "TERRIEN WOODS" SUBDIVISION LELAND FARM ROAD MIDDLESEX" prepared by Charles Grenier Consulting Engineer, P.C. dated May 4, 2009 and revised 5-18-09 and 1-11-10 (the "Plan");
- (d) Survey plat by Charles Grenier Consulting Engineer, P.C. entitled "TERRIEN WOODS SUBDIVISION OWNER: OWEN M. WARD REVOCABLE TRUST LELAND FARM ROAD - (T.H. #20) MIDDLESEX, VERMONT" dated January 2010 and recorded in Map Slide 11, Map 242 Sheet 1 and Map 242 Sheet 2 (the "Survey");
- (e) Town of Middlesex Planning Commission Subdivision Review, Findings and Decision on the Owen M. Ward Subdivision Application No. 09-19 dated December 23, 2009; and
- (f) Vermont Department of Environmental Conservation Authorization to Discharge Under General Permit 3-9015, Discharge Permit ID 6436-9015 dated January 3, 2011 and recorded in Book 96 Page 708, and accompanying STORMWATER PLAN & DETAILS, "TERRIEN WOODS" SUBDIVISION by Charles Grenier Consulting Engineer, P.C. dated June 18, 2010.

Declaration

The Property is hereby declared to be subject to the following covenants, conditions and restrictions, each and all of which shall run with the land and be binding

upon and inure to the benefit of the Declarant and the owners of the Lots, and their respective heirs, assigns and successors in title and interest:

1. **Subdivision Prohibited.** The Lots shall not be further subdivided so as to create an additional building lot, for sale, lease or any other purpose.

2. **Residential Use; Residential Professional Office; Sign.** Each Lot shall be used for residential purposes only as defined under Table 2.5 in the Middlesex Land Use and Development Regulations, and not for any mercantile, commercial or industrial purpose, with the exception of a home occupation as defined in and permitted by the Middlesex Land Use and Development Regulations.

3. **Structures Permitted.** The only structures permitted upon each Lot shall be one single-family residential dwelling with garage of not more than three-car capacity; one barn, stable or other compatible outbuilding; one small storage shed for gardening equipment and the like; one tennis court; a below-ground swimming pool; and such other buildings or structures approved by the Declarant as being consistent with the general plan of residential homesites as described in Paragraph 2 above.

4. **Prohibited Structures.** No mobile homes or mobile residential units shall be placed, erected or kept on any Lot. No uninhabited motor home or camper shall be allowed on any Lot for longer than a period of thirty (30) days unless stored in a garage or barn. Motor homes or campers which are inhabited by guests of the owner shall be allowed for a period of up to four (4) weeks.

5. **Approval of Architectural, Construction and Site Plans.** All plans for the construction, alteration, or exterior remodeling of or addition to any building, structure, or other assemblage to be erected or placed upon any Lot, including all architectural, site, and landscaping plans, must be submitted to and approved in writing by the Declarant prior to the commencement of any construction, erection, or site work. The review and prior approval rights of the Declarant shall encompass all components of construction and site work including, but not limited to, location, exterior form, materials, colors, architectural style, exterior lighting, fencing, and finish grade elevation. If approval of an owner's plans is granted, such approval shall be evidenced by a written endorsement on such plans or separate written certification, with such conditions and additional provisions as the Declarant shall deem necessary or advisable for preservation of the scenic beauty and residential character of the area. No changes or deviations in such plans as approved shall be allowed without the prior written consent of the Declarant. Approval of plans shall not be withheld unreasonably, and the Declarant shall complete and act upon the review process within thirty days from the date of receipt of all plans submitted for approval.

Use of materials and colors compatible with the natural surroundings of the area shall be required. Materials such as fieldstone, brick, natural cedar and wooden clapboards on exterior wall surfaces are encouraged. All roofs shall be finished with cedar shakes, slate, or "architectural" shingles. Construction materials expressly prohibited are metal siding, Texture 111 board, and stucco finishes.

The Declarant may at any time transfer the aforesaid review and approval rights to Therrien Woods Owners Association, Inc. referred to in Section 9 of this Declaration.

6. **Energy Conservation.** All buildings shall be designed and constructed in compliance with all pertinent energy conservation measures set forth in the State of Vermont 5 Star Energy Rating requirements and conditions for residential structures.

7. **Water Conservation.** All Lot owners shall install and maintain only water-conserving plumbing fixtures in all residences, including but not limited to low-flush toilets, low-flow shower heads, and aerator-type or flow-restricted faucets.

8. **Tree Clearing.** The owner of each Lot shall observe the maximum tree clearing limits as outlined on the Plan for each Lot. There shall be no clearing on slopes 25% or greater unless needed for infrastructure purposes. All clearing shall be in compliance with Section 6.5(B) of the Middlesex Land Use and Development Regulations.

9. **Grounds Maintenance; Landscaping.** The owner of each Lot shall at all times maintain the owner's Lot in a clean, neat and presentable fashion consistent with the plan to establish and preserve a well kept area of residential homesites and related woodland, meadows and other natural features. Planting of trees, bushes, flowers and other plantings for landscaping, screening or ornamental purposes is encouraged. No refuse or debris shall be stored or allowed to accumulate on the premises outside of any building. All trash awaiting removal shall be stored out of sight from the roadways and adjoining Lots and removed promptly so as to prevent any unsightly appearance or noxious odors.

10. **Therrien Woods Owners Association.** The owner of each Lot shall be a member of an association of owners, to be organized and operated as a Vermont non-profit corporation and to be known as Therrien Woods Owners Association, Inc. (the "Association"). The Association is established for the general purposes of preserving and promoting the residential character and neighborhood cooperation of the owners; inspecting, operating, maintaining, repairing and replacing as necessary that portion of Town Highway 20 running from the terminus of the Class 3 highway to the Therrien Woods Road (the "Development Road"- as shown on the Survey) (and certain related responsibilities noted in Section 13); inspecting, operating, maintaining, repairing and replacing as necessary the Development Road, stormwater collection and control system,

utility lines, development sign, and common betterments and improvements, thereby promoting the health, safety and common good of the owners; and establishing and collecting such regular and special assessments from time to time as are necessary or advisable for carrying out the duties, functions and authorities of the Association, all as more particularly provided for in the Articles of Association and Bylaws of the Association. Membership in the Association is a required incident of ownership of a Lot. The obligation to become a member of the Association, to abide by its Bylaws and any rules and regulations duly adopted, and to pay its assessments shall be a covenant that shall be binding upon and inure to the benefit of each owner of a Lot. The conveyance or other cessation of ownership of a Lot shall thereupon terminate membership in the Association.

11. **Exterior Lighting.** Exterior lighting shall not be placed so as to detract from the aesthetics of the Property or any other Lot. Such lighting shall be installed or shielded in such a manner as to cast light downward and to conceal light sources and reflector surfaces from view substantially beyond the perimeter of the area to be illuminated.

12. **Prohibition Against Granting Rights of Way.** No right of way or easement may be allowed, permitted or granted by any owner over or across any Lot for the purpose of providing access to adjoining or nearby lands or for any other purpose unless approved in writing by the Declarant.

13. **Utility Lines.** The Declarant for himself and his successors and assigns, reserves an easement and right-of-way across, under and upon those portions of the Lots and the Development Road Right of Way that are necessary or advisable for purposes of performing or causing to be performed proper installation, repair, maintenance and replacement of all utility service lines (including electrical, telephone, cable television and the like), pipes, conduits, trans closures and other related equipment. All such utility systems installation, maintenance, repair and replacement work shall be performed in a good and careful manner, causing the least disruption possible, followed by all necessary actions to restore any disturbed earth surface to its natural and undisturbed condition, including filling, grading, seeding and mulching. Secondary electric power, telephone service and other utility lines and equipment to serve each Lot shall be installed by each owner at the owner's sole cost and in a good and careful manner to prevent damage or other deterioration of the utility systems within the Property. The easement and right of way reserved herein by the Declarant shall apply to future installation of any additional utility service lines, such as cable television, but the Declarant shall not bear any liability, responsibility or cost for the installation of any such future utility lines.

14. **Development Road Right of Way.** Each Lot shall be accessed by a 50' wide right-of-way encompassing the private road to be constructed according to the

Plan and Survey. No Lot will be directly accessed from Town Highway 20. The Declarant, for itself and its successors and assigns, reserves an easement and right of way for ingress and egress to the Property over, under and along a 50' wide right of way and easement for access and utility purposes running from Town Highway 20 in a general northwesterly direction to and through the Property (the Development Road Right of Way), all as shown on the Plan and Survey.

Said reserved right shall include the right to construct and install the Development Road in accordance with the plans as may be approved and amended by the town together with any necessary or advisable appurtenant facilities, including but not limited to, culverts, drainage ditches, drainage slopes, stormwater collection and control system, and the like. The Declarant does not intend to construct or install the Development Road in conformance with the requirements of the Town of Middlesex for a public highway. Any appurtenant facilities may, but need not, be installed within the Development Road Right of Way. Also reserved to the Declarant, its successors and assigns, is the right to cause excess water to be diverted from the Development Road Right of Way and discharged onto the Lots.

The Declarant hereby grants to the owner of each Lot as appurtenant thereto a perpetual, non-exclusive easement and right of access in common with others over and upon the Development Road to be constructed and installed in the approximate locations depicted upon the Plan. Each Lot owner shall be obligated to pay an equal one-fifth share of the cost of maintaining, repairing and replacing the Development Road, drainage slopes, culverts, stormwater collection and control system, and other improvements within the Development Road Right of Way or related thereto, which costs shall include, but not be limited to, snowplowing, sanding, graveling, grading and any other maintenance, repair or replacement work as may be necessary or advisable from time to time. Further, the cost-sharing obligation shall come into effect and be enforceable against a Lot owner upon conveyance of the Lot to the owner; provided however, that no Lot owner shall have an obligation to pay an equal share of the snowplowing costs until such time as construction of a residence or other habitable structure on the Lot has been commenced. This cost-sharing obligation shall be a component of the common expenses and assessment administered by the Association.

The Declarant reserves the right to dedicate, convey and/or transfer the Development Road Right of Way, or portions thereof, from time to time, to the Association, whereupon the Declarant shall be relieved from any further responsibility or liability in connection with the Development Road Right of Way and the Development Road, and the Association shall thereafter have and fulfill all such responsibilities and liabilities.

Each Lot owner shall be responsible for the construction, installation, maintenance, repair and snowplowing of the driveway from the Development Road to the residential dwelling

on the owner's Lot, subject to a proportionate sharing of such costs in the event that a driveway is shared with another Lot owner.

15. **Right to Construct.** The Declarant reserves the right to construct roadways, utility lines, pipes, wires, ducts, conduits, and other facilities across, under and upon the Property for purposes of access and furnishing utility and other services to Lots, buildings and improvements to be constructed on the Property. The Declarant also reserves the right to grant easements to public utility companies or the Town of Middlesex and to convey improvements within those easements for the above-mentioned purposes. This includes without limitation the right to build and/or convey any and all improvements related to pumping stations and sewer, power, electrical and water lines. If Declarant grants any such easements, this Declaration, and if necessary, the Plan shall be amended to include reference to the recorded easement.

16. **Payment of Common Expenses and Assessments.** Excepting for the separate requirement for a Lot owner's obligation to pay for snowplowing as described in paragraph 14, each Lot owner shall be obligated to pay an equal one-fifth share of all common expenses and assessments incident to ownership of the owner's Lot, as follows:

(a) The common expenses and assessments shall be used exclusively for purposes of operating, maintaining, repairing, and replacing as necessary the portion of Town Highway 20 running from the terminus of the Class 3 highway to the Development Road, the Development Road, utility lines, stormwater collection and control system, development sign, and other common facilities now or hereafter located upon the Property, and in general for promoting the recreation, health, safety and welfare of the residents of the Property. Costs and expenses encompassed by regular assessments shall include, but not be limited to, all necessary or advisable charges for labor, equipment, materials, real and personal property taxes, insurance, management, maintenance and supervision within the Property. Determination, levying and collection of the common expenses and assessments shall be carried out in accordance with the provisions contained in the Bylaws of the Therrien Woods Owners Association.

(b) All common expenses and regular assessments, together with any supplemental or special assessments approved by the Association, shall constitute debts enforceable against the owner liable therefor. Any owner who fails or refuses to pay any such assessment when due shall be liable for a late payment penalty charge of ten percent (10%) of the delinquent amount together with interest on the delinquent amount accruing from the due date at the rate of twelve percent (12%) per annum. Suit to recover a money judgment for unpaid assessments may be brought by the Association against the owner. All costs, including reasonable attorney's fees, incurred in making collection efforts, enforcing payment, and initiating and maintaining legal proceedings, including foreclosure of the lien arising against a Lot resulting from default in payment against any such delinquent owner, shall be added to the owner's payment obligation.

(c) In the event any assessment is not paid when due, there shall arise a lien against the delinquent owner's Lot, in favor of the Association, to secure all sums due for payment of the delinquent assessment, including late payment charge, interest, and all costs, including reasonable attorney's fees, then or thereafter incurred in collecting the delinquent assessment. All persons and entities which shall acquire, by whatever means, ownership of a Lot shall acquire such ownership subject to the lien rights of the Association affecting such Lot, which shall continue in effect until all sums have been fully paid. In addition, the Association may record a notice of lien in the Middlesex Land Records to provide further notice of its lien rights. Following recordation of said notice of lien, the lien may be foreclosed in the same manner as provided for the foreclosure of real estate mortgages under Vermont law. An action at law to enforce collection from an owner of all amounts due for delinquent assessments shall not be deemed to be an election preventing the Association from thereafter initiating a foreclosure action against the Lot, nor shall any foreclosure action be deemed to be an election precluding the Association from maintaining an action at law for a money judgment against the owner.

(d) In addition to payment of common expenses and regular assessments, each owner shall be liable for and pay a proportionate share of any special and supplementary assessments for capital improvements, unanticipated expenses and similar expenses duly authorized by the Association in accordance with procedures contained in the Bylaws.

17. **Enforcement.** The burdens and benefits of the covenants, conditions, and restrictions set forth and referred to herein shall run with the land and be binding upon and inure to the benefit of the Declarant, all owners of the Lots, and the Association, and its and their respective heirs, successors and assigns. In the event of a breach or violation by any owner, the Declarant, the Association, and/or the owner or owners of any other Lots affected adversely thereby may enforce the provisions of this Declaration against the violating owner by appropriate proceedings for monetary damages, injunctive relief or otherwise. No delay, neglect or omission to take appropriate enforcement action shall be construed as a waiver of, or acquiescence in, violation or breach of any covenant, condition or restriction, and enforcement action may be taken at any time so long as this Declaration is in force.

18. **Costs of Enforcement.** All costs and expenses, including reasonable attorney's fees, incurred in any enforcement actions against a violating owner shall be the obligation of, and paid by, the violating owner. In the event any such owner fails or refuses to pay such costs and expenses, a lien shall arise against the owner's Lot and shall continue thereon, together with interest accruing on the amount of said lien at the rate of twelve percent (12%) per annum until all costs and expenses secured by such lien are paid in full. The lien may be foreclosed in accordance with the provisions of Vermont law applicable to the foreclosure of mortgages of real property. In the event of

foreclosure, the violating owner shall be required to pay all costs and expenses of such proceedings, including reasonable attorney's fees.

19. **Easements and Rights of Access Reserved by the Declarant; Stormwater Management Easements.** The Declarant reserves ongoing unrestricted easements and rights of way over, under and across all land within the Property for all purposes necessary, advisable or otherwise related to its ownership, development and improvement of the Property, and implementation of the provisions of this Declaration, including but not limited to, construction and installation of the Development Road, utility lines, installation of a development sign within the Development Road right of way or within a utility easement, and other purposes for the benefit, health, safety, welfare and common good of the Lot owners. Further, the Declarant hereby reserves, grants and declares ongoing unrestricted easements over and across certain lands within the Property for stormwater management for discharge/erosion prevention and sediment control, no-build stream buffer zones, stormwater retention ponds, and other purposes for the benefit, health, safety, welfare and common good of the Lot owners. Such stormwater management easements, stream buffer zones, and stormwater retention ponds are located as shown on STORMWATER PLAN & DETAILS, "THERRIEN WOODS" SUBDIVISION by Charles Grenier Consulting Engineer, P.C. dated June 18, 2010 which accompany the stormwater permit referenced in subparagraph (f) of the Preliminary Statement.

20. **Transfer of Rights and Duties.** Upon completion of construction of the residences and related improvements on the Lots or earlier if deemed appropriate by the Declarant, all rights and duties to administer and enforce the provisions of this Declaration will be assigned and transferred by the Declarant to the Association, as hereinafter provided. At such time, the Association shall have and succeed to all said rights and duties, with the same powers and obligations as are possessed by the Declarant by virtue of this Declaration. In addition, the Declarant reserves the right to effect an assignment and transfer to the Association of said rights and duties prior to completion of construction on all Lots, at such time and under such conditions as the Declarant determines to be advisable for the benefit of the Association. Any such assignment and transfer shall be evidenced by a written instrument signed by the Declarant and duly recorded in the Middlesex Land Records.

21. **Amendments, Modifications, and Waivers; Unanimous Approval.** The Declarant reserves the right to amend, modify or waive any or all of the covenants, conditions and restrictions set forth in this Declaration which it determines to be appropriate and consistent with the rural residential nature of the Property. In addition, any or all of said covenants, conditions and restrictions may be amended or modified by written consent or affirmative vote of the record owners of two-thirds (2/3) of the Lots; provided however, that any amendment altering the method of determining the proportionate sharing and payment of common expenses, or seeking to allow further

subdivision of any Lot (if permitted by state and local law), shall require the written consent or affirmative vote of all of the Lot owners. Any such amendments, modifications or waivers may apply to all or any one or more of the Lots, and shall be deemed to be part of the general plan for development and protection of the Property, and shall be binding upon the owner or owners affected thereby and his, her or their heirs, successors and assigns.

22. **Declaration Subject to Laws.** The Property and all provisions contained in this Declaration are subject to all applicable laws, ordinances, regulations, permits, approvals and requirements of the State of Vermont and the Town of Middlesex and any agencies or instrumentalities thereof.

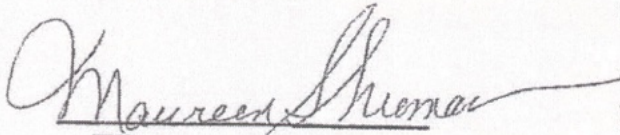
23. **Duration.** This Declaration, together with any and all amendments and modifications, shall remain in full force and effect for a period of fifty (50) years from the date hereof; provided however, that this Declaration shall be automatically extended for a period of ten (10) years and thereafter for successive ten-year periods unless on or before the last day of any such ten-year extension, the owners of all of the Lots shall declare a termination of this Declaration by written instrument recorded in the Middlesex Land Records.

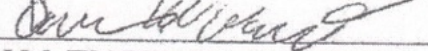
24. **Validity.** Invalidation of any one or more of the covenants, conditions or restrictions contained herein by a court or other tribunal of appropriate jurisdiction shall not affect in any manner the other provisions herein, which shall remain in full force and effect.

IN WITNESS WHEREOF, the Declarant has executed this Declaration to be effective this 26th day of JANUARY 2011.

In presence of:

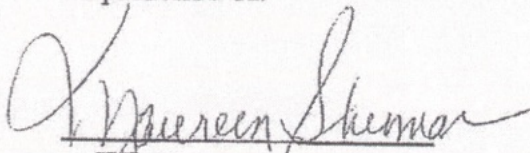
OWEN M. WARD, CO-TRUSTEE OF THE
OWEN M. WARD REVOCABLE TRUST


Witness

by 
OWEN M. WARD, CO-TRUSTEE

In presence of:

WHITNEY O. WARD, CO-TRUSTEE OF THE
OWEN M. WARD REVOCABLE TRUST


Witness

by 
WHITNEY O. WARD, CO-TRUSTEE

STATE OF FLORIDA
COUNTY OF COLLIER, SS.

At NAPLES in said County this 26TH day of 1 2011,
personally appeared Owen M. Ward, Trustee and he acknowledged this instrument, by
him subscribed to be his free act and deed.



Scott K. Welkenbach
COMMISSION #EE044443
EXPIRES: NOV. 22, 2014
WWW.AARONNOTARY.com

Before me: Scott K. Welkenbach

Notary Public

My commission expires: 11/22/2014

STATE OF FLORIDA
COUNTY OF COLLIER, SS.

At NAPLES in said County this 26TH day of JANUARY 2011
personally appeared Whitney O. Ward, Trustee and he acknowledged this instrument, by
him subscribed to be his free act and deed.



Scott K. Welkenbach
COMMISSION #EE044443
EXPIRES: NOV. 22, 2014
WWW.AARONNOTARY.com

Before me: Scott K. Welkenbach

Notary Public

My commission expires: 11/22/2014

MIDDLESEX, VT TOWN CLERK'S OFFICE
RECEIVED FOR RECORD Mar 27 2011
AT 1⁰⁰ O'CLOCK P M. AND RECORDED IN
MIDDLESEX LAND RECORDS VOL 97 PAGE 72-82
ATTEST: [Signature] TOWN CLERK