



**Planning & Development**  
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<i>Michael G. Livingston, Town Engineer/Planner</i>	<a href="mailto:mlivingston@wellstown.org">mlivingston@wellstown.org</a>
<i>Shannon M. L. Belanger, Assistant Planner</i>	<a href="mailto:sbelanger@wellstown.org">sbelanger@wellstown.org</a>

**Memo**

Date: April 27, 2023  
To: Planning Board  
From: Michael G. Livingston, Town Engineer/Planner  
Re: Perkins Pasture Subdivision – Tax Map 37, Lot 2D  
HOA and Sample Deed Document Review

Information Provided:

Perkins Pasture Final Subdivision Plan, Sheet 4  
Perkins Pasture Homeowners Association, Inc. ByLaws  
Declaration of Covenants for the Perkins Pasture Subdivision  
Sample Deed (with 5 year restriction)

Comments:

- **ByLaws: Art II**
  - Good plan reference, but needs to be revised/updated to "Final", ~~Preliminary~~
  - Reference to "~~unless and until such time as any such facilities may be accepted as public ways or facilities by the Town of Wells, Maine~~ must be removed. Approval and ordinances prohibit Town acceptance. Delete all references to Town of Wells acceptance of Roads and stormwater systems.
  - Good description of duties includes ownership of the roads and Open Space
- **Art. III**
  - Requirement for mandatory membership upon acceptance of deed needed
- **All other sections typical and good**
  
- **Declaration**
  - Good overall document
  - First Whereas to be updated for "Final" plan and date
  - Will Declarant change to Mark J. O'Brien to meet MDEP exemption requirements?
  - Good requirement for automatic membership
  - Restriction to be added that no accessory dwelling units are allowed on any lot
  - Restriction to be added that parking in Laney Lane is prohibited.
  - B.1. Delete all references to Town of Wells acceptance of Roads and add "All streets in the subdivision shall remain private roads to be maintained to Town

- standards by the Developer or Association and shall not be accepted or maintained by the Town." -
- B. 4. Conveyance of the Open Space to the Town or another entity has not been approved as part of the subdivision, to be removed. Delete all references to Town of Wells acceptance of Roads and stormwater systems.
  - C. 1 and 2. Delete all references to Town of Wells acceptance of Roads.
- Sample Deed (with 5 year restriction)
    - A sample deed with no 5 year restriction to be provided
    - The deed is from Goldmark, LLC. It appears to meet MDEP exemption requirements, three lots must be retained by family members. The entire property needs to be conveyed from Goldmark, LLC to Mark J. O'Brien and the three lots conveyed to family members of Mark J. O'Brien
    - Exhibit A – refers to Kennebunk vs Wells
    - Deed should reference with benefit of rights across Laney Lane and Open Space

Town Attorney comments were focused on the issue of conveyance to family members from Goldmark, LLC (not a person) to meet MDEP exemptions. No substantial comments on the Declaration or ByLaws.

**From:** [Feero, Keegan](#)  
**To:** [Jacques Gagnon](#)  
**Cc:** [Mark O'Brien](#)  
**Subject:** RE: DEP #L-30191-NJ-A-N Acceptance / Review Perkins Pasture Subdivision  
**Date:** Friday, February 24, 2023 11:22:47 AM  
**Attachments:** [image001.png](#)

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Hi Jack,

You are correct. Although the subdivision will be placed on 30+ acres and have over 15 lots, the trigger for Site Law as described in 38 M.R.S. §§ 482 (5) requires that each of those 15 lots will be made available to the public within 5 years from the conveyance. In this instance where three of the lots will be retained by family members and will be held through a deed restriction for that 5 year period, a Site Law permit is not required.

Best,  
Keegan

*Keegan Feero*  
*Environmental Specialist*  
*Department of Environmental Protection*  
[keegan.feero@maine.gov](mailto:keegan.feero@maine.gov)  
(207) 275-9674

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**From:** Jacques Gagnon <jgagnon@oakpoint.com>  
**Sent:** Wednesday, February 22, 2023 3:46 PM  
**To:** Feero, Keegan <Keegan.Feero@maine.gov>  
**Cc:** Mark O'Brien <mobrien6@maine.rr.com>  
**Subject:** RE: DEP #L-30191-NJ-A-N Acceptance / Review Perkins Pasture Subdivision

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Hi Keegan,

Thanks for taking my call this afternoon. The Town of wells has asked me to confirm with the Maine DEP that the Perkins Pasture subdivision is not required to be reviewed under the Site Location of Development law.

This project creates 17 lots on 47.7 acres, 3 of the lots will be exempt because they will be conveyed to family members with a deed restriction to prohibit the three lots from being sold within 5-years from the conveyance. This results in a less than 15 lots which is the threshold for the definition of a subdivision in the Site Location of Development law. The intent is to show the three lots must be conveyed to family members on the subdivision plan with notation that they cannot be sold within 5-years from the conveyance.

Can you confirm this interpretation is correct?

## Mike Livingston

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**From:** Richard A. Shinay <RShinay@dwmlaw.com>  
**Sent:** Thursday, April 6, 2023 2:44 PM  
**To:** Shannon Belanger; Mike Livingston  
**Cc:** lrachin@dwmlaw.com  
**Subject:** Goldmark, LLC/Perkins Pasture Subdivision

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**\*\* CAUTION EXTERNAL EMAIL \*\***

Shannon and Mike:

I've started my review the relevant documents with respect to this project and should have my comments to you in the next few days. In the meantime, however, I want to address a threshold issue regarding the need for MDEP review and approval of the project.

As I understand, the project contains in excess of 30 acres and includes 17 lots and thus would require review and approval by the MDEP as a "subdivision" as defined in 38 M.R.S §482 (5). Goldmark, LLC has, however, obtained confirmation from Keegan Feero at the MDEP in an email exchange with Jacques Gagnon included in the project Application that since 3 of the lots are going to be conveyed to "family members", those lots will not be considered "lots offered for sale of lease to the general public" pursuant to the exception in 38 M.R.S §482 (5)(E)(1) subject, of course, to the 5 year "holding period" thereunder. As such, that will reduce the number of "countable" lots to 14 and thus the project will not meet the definition of a "subdivision" under 38 M.R.S §482 (5) and therefore not require MDEP review and approval. Strictly read, however, 38 M.R.S §482 (5)(E)(1) applies only to conveyances of lots to a "spouse, child, parent, grandparent or sibling of the developer" and since the grantees of the 3 lots cannot be the "spouse, child, parent, grandparent or sibling" of Goldmark, LLC, it is unclear to me how 38 M.R.S §482 (5)(E)(1) is applicable. It may be, however, that the MDEP interprets 38 M.R.S §482 (5)(E)(1) as applicable so long as the grantees of the 3 lots are the "spouse, child, parent, grandparent or sibling" of the Member of Goldmark, LLC. The email exchange between Messrs. Feero and Gagnon does not, however, specifically address that issue., i.e., it does not say that 38 M.R.S §482 (5)(E)(1) will be applicable in the case of the conveyance of the 3 lots from Goldmark, LLC to the grantees so long as the grantees are the "spouse, child, parent, grandparent or sibling" of the Member of Goldmark, LLC. Goldmark, LLC needs to obtain confirmation from the MDEP that the conveyance of the 3 lots by Goldmark, LLC will fall within the exception in 38 M.R.S §482 (5)(E)(1) so long as the grantees are the "spouse, child, parent, grandparent or sibling" of the Member of Goldmark, LLC.

Assuming that 38 M.R.S §482 (5)(E)(1) is applicable to the initial conveyance of the 3 lots as proposed, there needs to be a condition of approval in the Planning Board decision that essentially states that if any of those 3 lots are subsequently conveyed by the initial grantees to third parties who are not the "spouse, child, parent, grandparent or sibling" of the Member of Goldmark, LLC before the 5 year holding period has passed, after-the fact review and approval of the entire subdivision by the MDEP will be required before those conveyances can occur. That condition will also need to be set forth on the approved and recorded subdivision plan in addition to any other conditions of approval that are required to be on the approved plan. The proposed

language for the lot Deed is insufficient in my opinion since it's not a condition that can be enforced by the Town nor is it clear to me, for that matter, who can enforce that restriction. It may be appropriate to include the condition in the Declaration of Restrictions so that it is enforceable by the other lot owners.

It's unclear to me, by the way, how such after-the-fact review and approval of the project by the MDEP would affect lots that may have been previously conveyed to third parties. Such a circumstance would be a case of first impression for me. Perhaps the restriction should simply state that the three lots cannot be conveyed for 5 years except for conveyances that fall within the exception in 38 M.R.S §482 (5)(E)(1).

Happy to discuss this with you if that would be helpful. And, of course, feel free to send this email on to Goldmark, LLC.

Best.

Rick.

**Richard A. Shinay**  
Attorney

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## Mike Livingston

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**From:** Richard A. Shinay <RShinay@dwmlaw.com>  
**Sent:** Thursday, April 6, 2023 5:15 PM  
**To:** Shannon Belanger; Mike Livingston  
**Cc:** lrachin@dwmlaw.com  
**Subject:** Goldmark, LLC/Perkins Pasture Subdivision

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Shannon and Mike:

Per Shannon's request in her email to me of April 5, I have reviewed the following documents included in the Application for subdivision approval dated March 30, 2023, submitted by Oak Point Associates to the Town of Wells on behalf of Goldmark, LLC with respect to the above-referenced subdivision (the "Subdivision"):

1. Warranty Deed from O'Brien Construction, Inc. to Goldmark, LLC dated December 31, 2015, and recorded in the York County Registry of Deeds in Book 17170, Page 773 (the "Goldmark Deed");
2. Draft Perkins Pasture Homeowners Association Bylaws (the "Bylaws");
3. Draft Declaration of Covenants for the Perkins Pasture Subdivision (the "Declaration");
4. Draft Warranty Deed from Goldmark, LLC to unnamed purchaser relating to the sale of Lots in the Subdivision (the "Deed"); and
5. Preliminary plans with respect to the Subdivision (the "Plans").

My comments on the above-referenced documents follow.

1. Goldmark Deed.

I have no comments on this Deed other than to note that the conveyed property is comprised of multiple parcels and I did not review those parcels vis a vis the proposed subdivision plan.

2. Bylaws.

Typical of Bylaws for a homeowners' Association for a residential subdivision in the nature of the Subdivision in Maine. I have no substantive comments. The Association referred to in the Bylaws will, of course, need to be formed by Goldmark, LLC under the Maine Non-Profit Corporation Act prior to the sale of Lots.

3. Declaration.

Typical of a Declaration for a residential subdivision in the nature of the Subdivision in Maine. I have no substantive comments beyond my suggestion in my earlier email today that the restriction regarding the 5 year "holding period"

with respect to subsequent conveyances of the 3 "family lots" and after the fact MDEP review and approval of the Subdivision be included in the Declaration.

4. Deed.

Typical of a Deed for a residential subdivision in the nature of the Subdivision in Maine. I have no substantive comments beyond my comment in my earlier email today that the restriction regarding the 5 year "holding period" with respect to subsequent conveyances of the 3 "family lots" is not sufficient and should be revised along the lines I suggested and included as a condition of Planning Board approval, set forth on the approved subdivision plan, and included in the Declaration.

5. Plans.

I have no comments on the Plans.

Please call or email me should you have any questions or should you require any further input from me regarding any specific provisions of the above-referenced documents or with respect to the Subdivision generally, particularly as to the MDEP issue discussed in my earlier email today.

Best.

Rick.

**Richard A. Shinay**  
Attorney

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RShinay@dwmlaw.com

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**PERKINS PASTURE HOMEOWNERS ASSOCIATION, INC.**

**BYLAWS**

**ARTICLE I**

**Name**

The name of this corporation is Perkins Pasture Homeowners Association, Inc. (hereinafter from time to time called the "Association").

**ARTICLE II**

**Purposes**

The purposes of this corporation are as follows:

To establish an Association of owners of lots within or adjacent to a 17-lot subdivision located off Quarry Road and Minuteman Drive in Wells, Maine, and commonly referred to before the Wells Planning Board as the Perkins Pasture subdivision of Tax Map 37, Lot 2D (the "Subdivision") more particularly described on a plan entitled "Perkins Pasture ~~Preliminary~~ **Final** Subdivision of Tax Map 37, Lot 2D, Quarry Road, Wells, Maine" prepared by Oak Point Associates for Goldmark, LLC, revised as of July 15, 2022 (as it may thereafter be amended) (the "Plan"), for the maintenance and control of any and all roads, paths, open space, stormwater systems, or easements within the Subdivision, ~~unless and until such time as any such facilities may be accepted as public ways or facilities by the Town of Wells, Maine;~~

To undertake all duties of ownership, maintenance, compliance, and control related to the common areas of the Subdivision as such duties are more particularly described in a certain Declaration of Covenants for the Perkins Pasture Subdivision (the "Declaration") executed by Goldmark, LLC (the "Declarant") and to be recorded in the York County Registry of Deeds and such conditions of approval as may be set forth in any final approval of the Subdivision by any agency or board of the Town of Wells and any final approval of the Subdivision by any agency of the State of Maine or of the U. S. Government, but only to the extent that such duties have not been assumed by or assigned to the Declarant.

In addition to all the powers, authority, and responsibilities granted to or imposed upon this Association by the laws of the State of Maine, all of which this Association shall have, this Association shall have the following specific powers to the fullest extent permitted by law:

To levy and collect assessments and other charges against members jointly and severally as Lot owners so as to fulfill its duties, obligations, and purposes as set forth herein, and to purchase, sell, or otherwise convey, maintain, repair, replace and restore real and personal property; to pledge and mortgage property of the Association; to grant easements for utilities and services; to take title to additional property including property for recreational purposes; to appoint agents, to hire employees, and to make contracts; to promulgate rules and regulations for the members of the Association; and generally to do



any and all lawful acts necessary or convenient for the fulfillment of the foregoing purposes and to exercise all powers and purposes permitted under Title 13-B of the Maine Revised Statutes of 1964, as amended.

This Association is not organized for profit and no property or profit thereof shall inure to the benefit of any person, partnership or corporation except in furtherance of the nonprofit making purposes of the Association.

### ARTICLE III Members

Section 3.1. Composition. There shall be one class of members. The Members of the Association shall consist of all the owners of the Lots within the subdivision as shown on the Plan. Initially, the Declarant, being the developer and owner of the Subdivision, shall be the sole Member.

*3.2 Mandatory/automatic membership upon acceptance of deed*  
Section 3.2. Non-transferability of Interests. Except as otherwise provided, membership shall not be transferable. The membership of owners of each Lot shall terminate upon a sale, transfer, or other disposition, other than by mortgage, of the ownership interest of such owners in said Lot, and thereupon the membership and any interest in this Association shall automatically transfer to and be vested in the next owner or owners succeeding to such ownership interest. It shall be the obligation of the new owner to forward to the Association a certified copy of the deed into the new owner so as to verify for the Association that the new owner is the proper voting party. Said certified copy can be obtained at the York County Registry of Deeds after the deed has been recorded. The Association may, but shall not be required to, issue certificates or other evidence of membership therein.

### ARTICLE IV Meeting of Members

Section 4.1. Meeting of Members. Meetings of the membership shall be held at the Subdivision or at such other place in the State of Maine as may be specified in the notice of the meeting.

Section 4.2. Annual Meetings. The annual meetings of the members shall be held each year on the third Saturday of the month of October, or in the event that day is a legal holiday, on the first day thereafter which is not a legal holiday, in each succeeding year. At such meeting there shall be elected a Board of Directors in accordance with the provisions of Article V and the annual budget of the Association shall be approved. The members shall also transact such other business as may properly come before them.

Section 4.3. Special Meetings. It shall be the duty of the President or in his or her absence or disability, the duty of any other officer, to call a special meeting of the members as directed by resolution of a majority of the Board of Directors, or upon a petition signed by members controlling more than fifty percent (50%) of the total authorized votes of the

**DECLARATION OF COVENANTS FOR  
THE PERKINS PASTURE SUBDIVISION, WELLS, MAINE**

THIS DECLARATION OF PROTECTIVE COVENANTS (herein called the "Declaration"), made as of the \_\_\_\_ day January, 2023, by Goldmark, LLC, a Maine limited liability company (herein called the "Declarant"), having a mailing address of 93 Ally Lane, Wells, Maine 04090;

WITNESSETH:

WHEREAS, the Declarant is the owner of certain real property known as the Perkins Pasture Subdivision situated off Quarry Road and Minuteman Drive in the Town of Wells, County of York, and State of Maine more particularly shown on a Plan entitled "Perkins Pasture ~~Preliminary~~ Subdivision of Tax Map 37, Lot 2D, Quarry Road, Wells, Maine" prepared by Oak Point Associates for Goldmark, LLC, revised as of July 15, 2022, and approved by the Wells Planning Board as of ~~January~~ \_\_\_\_\_, 2023, and recorded or to be recorded in the York County Registry of Deeds (as the same may be revised with the approval of the Planning Board, the "Plan") (update with reference to final plan), a metes and bounds description of which is attached hereto as Exhibit A (the "Subdivision");

WHEREAS, the Declarant is desirous of declaring and reaffirming that the Subdivision and the numbered lots shown on said Plan (hereinafter "Lot" or "Lots") are subject to the restrictions, covenants, and agreements hereinafter set forth and to declare for the benefit of the owner of each Lot and such Lot owner's heirs, executors, administrators, successors and assigns the undertakings and agreements hereinafter set forth;

WHEREAS, the Subdivision shall consist of and be referred to herein as comprised of Lots shown on the Plan, the roads shown on the Plan (the "Roads"), and all other land in the Subdivision shown on the Plan (the "Common Land"), the boundaries of which are prescribed in detail on Exhibit A; and

WHEREAS, the improvements to be constructed in the Subdivision shall include those strictly benefitting one Lot and the owner thereof ("Lot Improvements") and those generally benefitting the Subdivision and/or multiple Lots and owners ("Improvements"), which Improvements shall be comprised of, without limitation, the Roads and a stormwater system comprised of drainage ditches and retention ponds, among other elements ("Stormwater System");

NOW, THEREFORE, the Declarant hereby declares that the Lots are and shall be held, transferred, sold, and conveyed subject to the easements, covenants, agreements, restrictions, liens and charges hereinafter set forth:

**A. DEED COVENANTS, EASEMENT, AND RESTRICTIONS**

The ownership, occupancy, use and conveyance of each Lot are subject to the following covenants and restrictions:

1. Each Lot shall be used for single family residential purposes, and no Lot shall be further subdivided.
2. No structure shall be erected on any Lot except for detached, single family, residential dwellings having a minimum enclosed living area of 1200 square feet, and such other buildings necessary and subsidiary to the same, such as a garage or tool shed.
3. No mobile home, trailer or temporary dwelling of any kind shall be placed on a lot at any time; provided, however, that a single boat, trailer for camping, or so-called recreational vehicle may be kept on a Lot in such a manner as not to be a visual nuisance to other Lot owners.
4. No livestock, animals, or poultry, other than household pets, shall be kept, maintained, or allowed on a Lot. No boarding or breeding kennels may be kept or maintained on a Lot.

5. No inoperable motor vehicle or vehicle in an obvious state of disrepair shall be kept on any Lot for a period of time longer than three (3) days.

6. All Lots are hereby made subject to easements for utilities shown on the Plan and such other restrictions and encumbrances as may appear thereon. All Lots are hereby made subject to the terms and conditions of any and all federal, state, and local approvals including, without limitation, those of the Town of Wells Planning Board and the Maine Department of Environmental Protection. *add reference to specific approvals granted on or before date of execution of this Declaration*

7. Except as herein provided, no commercial, industrial, business, professional use, or enterprise of any nature or description shall be carried on upon any Lot unless (a) its conduct on the Lot is wholly within the residence located thereon, (b) it has no other employees present on the Lot other than the owner of the Lot and immediate family members, (c) it is not advertised on the Lot except that the Lot owner shall be permitted to use one directional sign having no more than one square foot of surface area, and (d) the use does not generate customer visits to the Lot.

8. Prior to the date of execution and recording of this Declaration, Declarant has caused to be formed Perkins Pasture Homeowners Association, Inc., a non-profit corporation organized under the laws of the State of Maine (herein called the "Association"). Each owner of a Lot (including Declarant prior to the initial conveyance of each Lot) shall automatically become and be a member of the Association as long as he, she, or it continues as the owner of a Lot. Such membership and any interest in the Association shall automatically terminate and transfer and inure to the succeeding owner of the Lot upon such succession. Each owner of a Lot shall be bound by the Bylaws of the Association, as the same may be amended from time to time, and each owner of a Lot shall comply strictly with said Bylaws of the Association. No holder of a mortgage of a Lot shall be considered as a Lot owner until such holder shall acquire title to the Lot by foreclosure or by deed in lieu of foreclosure.

#### B. DECLARANT RESPONSIBILITIES AND RIGHTS

1. Declarant shall be responsible for construction of the Roads in accordance with plans submitted for the subdivision approval. ~~After completion of said Roads or any portion thereof, the Declarant may request that the Town of Wells accept the Road or some portion thereof as public. If the Town is willing to accept the Roads or any portion thereof, the Roads or that portion thereof shall be conveyed by the Declarant to the Town of Wells.~~

2. Declarant shall complete all Improvements, whether upon Common Land or upon the Lots, to the extent required as a condition of approval by any or all federal, state, and local government agencies or to the extent shown on the Plan.

3. Declarant shall have full and exclusive control of the Association until sixty (60) days after the Declarant shall have conveyed more than 75% of the Lots within the Subdivision to third parties or Declarant shall have earlier relinquished said control by holding a special meeting of the Members for the purpose of turning over control of the Association to the Members and electing Directors from among the Members (the "Declarant Control Period").

4. Within sixty (60) days of completion of the Improvements and the conveyance of all Lots to third parties (the "Improvements Transfer Deadline"), Declarant ~~shall convey the Common Land to the Town of Wells or a nonprofit, charitable entity designated by the Town of Wells or, in the alternative, to the Association. By the Improvements Transfer Deadline, Declarant shall convey the Stormwater System, together with the duties and obligations of maintenance and compliance associated therewith, to the Town of Wells or, in the alternative, to the Association. By the Improvements Transfer Deadline, Declarant shall convey the Roads, together with the duties of and obligations of maintenance associated therewith, to the Town of Wells or, in the alternative, to the Association. By the Improvements Transfer Deadline, Declarant shall convey all other Improvements to the Association.~~

5. During the Declarant Control Period, the Declarant may act as attorney-in-fact for the Association for the purpose of accepting the transfer of the Roads, Common Land, Stormwater System, or other Improvements and may accept the same in said capacity notwithstanding any votes or actions of the Association to the contrary.

6. Notwithstanding the provision below for the Association responsibilities with respect to enforcement of the covenants and restriction set forth herein, the Developer retains the right, but not the obligation, to enforce all provisions of the Declaration so long as it continues to own one or more Lots, any portion of the Roads, any portion of the Common Land, any portion of the Stormwater System, or any other Improvements.

C. ASSOCIATION RESPONSIBILITIES

1. The Association shall perform and be responsible for the enforcement of the covenants and restrictions set forth herein, for the maintenance of Roads ~~(to the extent not conveyed to the Town of Wells)~~, for complying with federal, state, and local conditions of approval of the Subdivision to the extent related to the Common Land or the Improvements, and for maintaining such Improvements and Common Land. Assessments by the Association upon the Lots and the owners thereof shall be used for the aforesaid purposes, and for such other purposes as shall be permitted by the Bylaws of the Association (the "Common Expenses"). The Association's enforcement rights shall include the right, but not the obligation, to sue for and obtain a prohibitive or mandatory injunction to prevent the breach or to enforce the observance of the provisions above set forth or any of them, in addition to the right to bring an ordinary legal action for damages. Whenever there shall have been built on any Lot any structure or other violations which is and remains in violation of the provisions hereof or any of them for a period of thirty (30) days after actual receipt of written notice of such violation from the Association, or the Declarant, by the owner of such Lot, then the Association shall have, in addition to the foregoing rights, the right but not the obligation to enter upon the property where such violation exists and summarily abate or remove the same at the expense of the Owner, and such entry and abatement or removal shall not be deemed trespass. In no event shall the failure of any party to enforce any of the provisions herein set forth as to a particular violation be deemed to be a waiver of the right to do so as the subsequent violations.

2. The costs of plowing the Roads shall be the responsibility of the Association ~~unless the Roads have been turned over to the Town of Wells.~~ ~~If~~ the Association has responsibility, the costs for plowing Roads shall be included among the Common Expenses. The Association shall establish rules and regulations concerning the plowing of driveways. The Association may vote to assume responsibility for plowing driveways within the Subdivision in addition to the Roads, in which case the cost of doing so shall also be included among the Common Expenses.

3. ~~In the event~~ the Stormwater System <sup>shall be</sup> conveyed to the Association, all portions, whether located on Common Land or on Lots, are deemed Improvements for the purposes of this Declaration, and hence the System's maintenance and compliance with conditions of approval shall be the responsibilities of the Association. This Declaration hereby creates an easement across any Lot in favor of the Association for the purpose of allowing the Association to fulfill its responsibilities with respect to the Stormwater System, whether such duties relate to compliance with federal, state, or local conditions of approval or maintenance of such System. The costs of fulfilling the Association's responsibilities for the Stormwater System shall be included in the Common Expenses.

4. In accordance with provisions set forth in the Bylaws, the Board of Directors shall estimate the Common Expenses for the following calendar year and shall present such estimate to the members at their Annual Meeting as the proposed annual budget for such calendar year. The annual assessments required to meet estimated Common Expenses for the calendar year shall be approved by the members of the Association at its Annual Meeting prior to the commencement of the calendar year to which the estimated budget of Common Expenses applies. The Bylaws shall prescribe the method of approval and for assessing each Lot for its equal share of Common Expenses, except that any such Common Expense incurred for the benefit of one Lot or due solely to the actions or omissions of one or more Lot owners shall be assessed solely against such Lot owners.

5. The members of the Association may from time to time at special meetings levy additional assessments for the purposes previously provided by the same majority of votes as required for the annual meeting.

6. The assessments authorized hereunder shall be a charge on the Lot and shall be a continuing lien upon the Lot upon which such assessment is made. If the assessment to a Lot owner shall not be paid within thirty (30) days after the date when due, then said assessment shall be delinquent and shall be recoverable by the Association together with interest at a rate to be set forth in the Bylaws, costs of collection including reasonable attorneys' fees, pursuant to all remedies provided by law to the Association including, but not limited to, the

IN WITNESS WHEREOF, GOLDMARK, LLC, has caused this document to be executed by its duly authorized Manager as of the date and year first above written.

WITNESS:

GOLDMARK, LLC

\_\_\_\_\_

By:

\_\_\_\_\_  
Mark J. O'Brien, Manager

STATE OF MAINE  
YORK, ss.

~~January~~ \_\_\_\_\_, 2023

Then personally appeared before me the above named Mark J. O'Brien, Manager of Goldmark, LLC, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of Goldmark, LLC.

\_\_\_\_\_  
Notary Public/Attorney at Law  
My Commission Expires:

After recording return to:

----- (Space Above This Line For Recording Data) -----

**WARRANTY DEED**

KNOW ALL PERSONS BY THESE PRESENTS, that GOLDMARK, LLC, a Maine limited liability company having a place of business in Wells, Maine, FOR CONSIDERATION PAID, hereby grants to \_\_\_\_\_, having a mailing address of \_\_\_\_\_, [as joint tenants and not as tenants in common], with Warranty Covenants, a certain lot or parcel of land, together with any improvements thereon and all rights appurtenant thereto, commonly known and designated as \_\_\_\_\_ [address] \_\_\_\_\_, Lot # \_\_\_\_\_, of Perkins Pasture subdivision, Wells, York County, Maine; being more particularly described as follows:

SEE EXHIBIT A ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE

IN WITNESS WHEREOF, the Grantor has caused this instrument to be executed as of this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

GOLDMARK, LLC

\_\_\_\_\_  
WITNESS

By: \_\_\_\_\_  
Mark J. O'Brien, Manager duly authorized

STATE OF MAINE  
YORK, ss.

Personally appeared before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the above-named Mark J. O'Brien and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of Goldmark, LLC.

\_\_\_\_\_  
Attorney at Law/Notary Public  
Print: \_\_\_\_\_

**EXHIBIT A**

***Perkins Pasture Subdivision, Kennebunk, Maine***

**Lot # \_\_\_\_\_**

A certain tract or parcel of land, with together with any and all improvements thereon and appurtenances thereto, situated in Wells, York County, Maine, and being Lot # \_\_\_\_\_ as shown on the hereinafter defined Plan.

Together with, in common with others, and subject to any and all rights, benefits, obligations, conditions, restrictions, or other matters more particularly described in the following instruments and documents:

- Plans entitled “\_\_\_\_\_” prepared by Oak Point Associates for Goldmark, LLC, revised as of \_\_\_\_\_, and approved by the Wells Planning Board as of \_\_\_\_\_, and recorded in the York County Registry of Deeds at Plan Book \_\_\_\_\_, Page \_\_\_\_\_, as they may be amended from time to time (the “Plan”);
- Declaration of Covenants dated \_\_\_\_\_, and recorded in said Registry in Book \_\_\_\_\_, at Page \_\_\_\_\_, including without limitation the rights and obligations of Grantor, Grantee, and Perkins Pasture Homeowners Association, Inc., thereunder;
- Spring and pipe rights for benefit of land now or formerly owned by Eric Brown and others pursuant to deed recorded in the York County Registry of Deeds at Book 1841, Page 833.
- State of Maine Department of Environmental Protection, Stormwater Management Law, Findings of Fact and Order dated \_\_\_\_\_, and recorded in said Registry in Book \_\_\_\_\_, Page \_\_\_\_\_;
- Conditions of approval adopted by the Planning Board of the Town of Wells as set forth in meeting minutes dated \_\_\_\_\_.
- Subject to a 50’ setback/no-cut buffer around the perimeter of the parcel. (Lot 17 and Association parcel)
- Rights of others in a certain 50’ reserved right of way traversing the parcel. Reference is made to deeds recorded in said Registry at Book 5549, Page 146 and Book 5590, Page 1. Further reference is made to Plan or Plat title “Great Works Regional Land Trust Plan” dated January 17, 2012, by AMEC as recorded in said Registry in Plan Book 353, Pages 29 – 31. (Lot 17 and Association parcel)
- The 40” oak situated at or near the northeasterly corner of the parcel shall remain undisturbed to its dripline. (Lot 2 and Association parcel)

- This parcel shall not be transferred within a five year period of the date of this deed ~~without the prior Site Location of Development Act approval of the Maine Department of Environmental Protection or a designated agency having delegated authority.~~ (Lots \_\_\_\_ and \_\_\_\_ to be gifted to O'Brien family members)

Meaning and intending to describe and convey a portion of the premises conveyed to Goldmark, LLC, by Warranty Deed of O'Brien Construction, Inc., dated December 31, 2015, and recorded in the York County Registry of Deeds in Book 17170, Page 773.