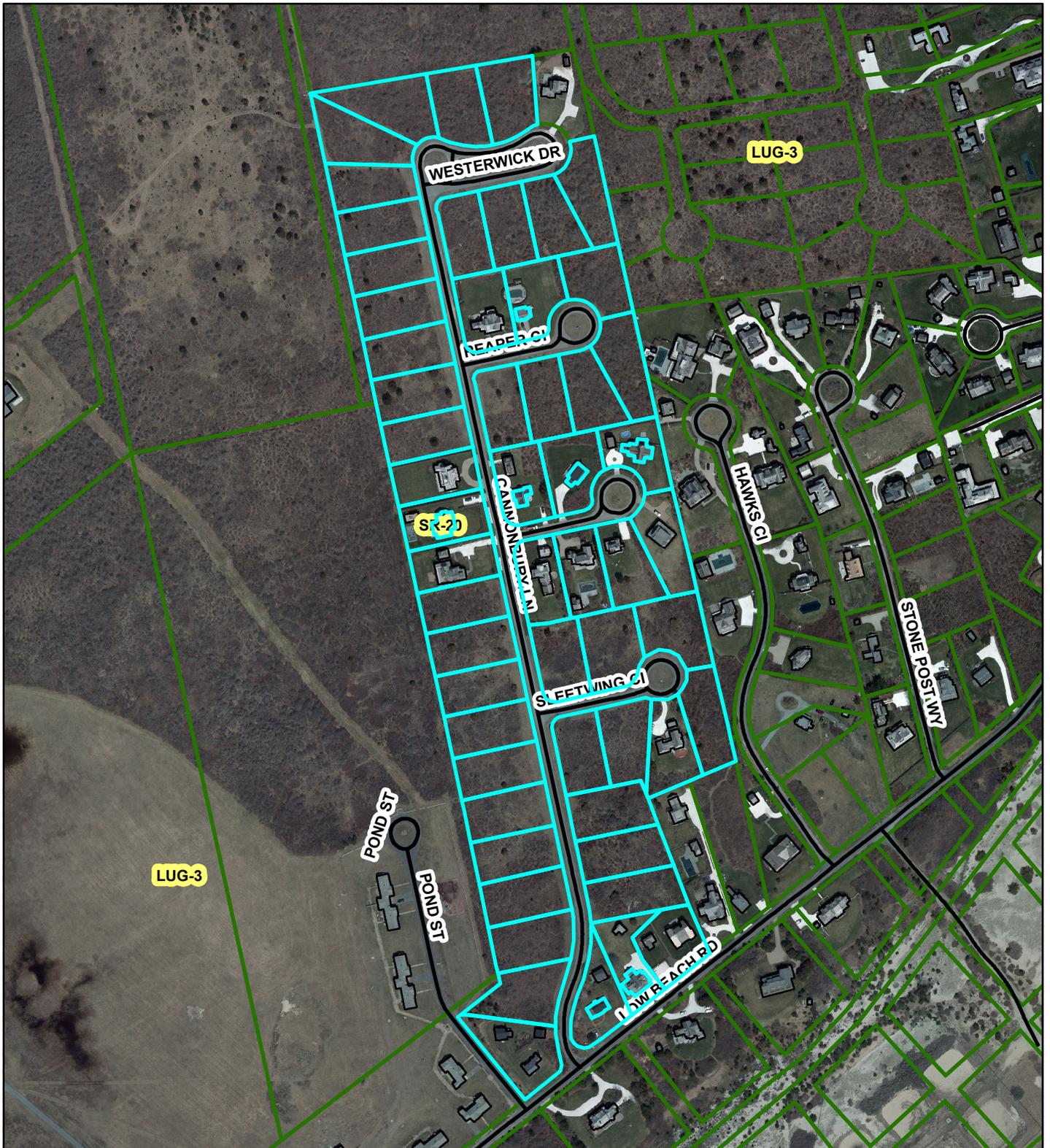




#1242 Topland Properties
Form J Release





COPY

Nantucket Planning Board

Form J Certificate of Completion and Release of Municipal Interest in Subdivision Performance Security

Date: August 2016 Planning Board File # 1242

Subdivision Name: Topland Properties

Owner: RIMAR 1 LLC and RIMAR 2 LLC

Owner's Address: _____

Phone number: 508-228-0771 Fax number: 508-228-6205 E-mail: richard@gliddenandglidden.com

Applicant, (if other than owner): Same

Applicant's Address: _____

Phone number: _____ Fax number: _____ E-mail: _____

Date of Subdivision Plan: September 17, 1973

Land Location: Off Low Beach Road

Plan Recorded: Nantucket Registry of Deeds Plan Book 5-B Page _____

Plan Registered: Nantucket Land Registry, Land Court Plan Number _____

Type of Performance Security:

Covenant dated: October 15, 1973 as amended December 18, 1990
Covenant recorded: Nantucket Registry of Deeds, Book 147 Page 140
Or and Book 359, Page 222
Covenant registered: Nantucket Land Registry District as Document # _____ and noted on
Certificate of Title # _____ in Registration Book _____ Page _____

Deposit of money, agreement dated: _____
Bank (if bank passbook): _____
Address of Bank: _____

Other Security, agreement dated: _____

Letter of credit, agreement dated: _____

Nantucket Planning and Land Use Services ▪ 2 Fairgrounds Road ▪ Nantucket ▪ MA ▪ 02554 ▪ (508) 325-7587

Bank: _____

Address of Bank: _____

The undersigned, being a majority of the Planning Board of Nantucket, have determined that the construction of ways and installation of municipal services in the subdivision referred to above have been completed partially completed by the applicant in accordance with the Board's rules and regulations to adequately serve the following enumerated lots:

Lots 5 thru 57 being all lots in the subdivision

Pursuant to Section 81.U of Chapter 41, M.G.L. and in consideration of said construction and installation, the Town of Nantucket, a Massachusetts corporation, acting through its Planning Board, hereby releases its interest in the Performance Security referred to above, as to the lots enumerated in the preceding paragraph only.

Duly executed as a sealed instrument this _____ day of September, 2016.
(Date) (Month) (Year)

Barry G. Rector

Nat Lowell

Linda Williams

John McLaughlin

Joseph Marcklinger

Signed by a Majority of the Town of Nantucket Planning Board

COMMONWEALTH OF MASSACHUSETTS

Nantucket, SS _____, 2016

On the _____ day of September, 2016, before me, the undersigned notary public,

Personally appeared _____, one of the above-named members of the Planning Board of Nantucket, Massachusetts, personally known to me to be the person whose name is signed on the preceding document, and acknowledge that he/she signed the foregoing instrument voluntarily for the purposes therein expressed.

Notary Public

My commission expires:

COPY

GLIDDEN & GLIDDEN, P.C.
ATTORNEYS AT LAW
P. O. Box 1079
37 CENTRE STREET
NANTUCKET, MASSACHUSETTS 02554
508-228-0771
FAX 508-228-6205
OFFICE@GLIDDENANDGLIDDEN.COM

RICHARD J. GLIDDEN
JESSIE M. GLIDDEN BRESCHER
JOHN B. BRESCHER

JAMES K. GLIDDEN
(1917 – 2009)

August 10, 2016

Via Hand Delivery

Holly Backus
Nantucket Planning Board

Re: Heath Subdivision
Off Low Beach Road
Nantucket, Massachusetts 02554

Dear Holly:

I represent Richard and Marion Graham who own the remaining lots in the “Heath Subdivision”. This has quite a history and my clients have now decided to market the remaining lots for residential use.

Without going through the fascinating history, the immediate issue is the release of the lots from the covenant. There was an original covenant and then an amended covenant. My reading of the documents indicates the following requirements:

1. Conform to the plans as submitted to the Nantucket Planning Board – This has been done.
2. Install one fire alarm box at approximately station 17 and 50 and extend wire to existing fire alarm system on Low Beach Road – This has been done.
3. Install eight (8) street lights approximately 400 square feet apart and at the end of each cul-de-sac. All the wires are in and Graham will have lights installed this summer. There is a question as to whether this really should be done. The people in the area seem to object to the idea of street lights.
4. Install street signs at all road intersections. They have been destroyed or stolen so Grahams are putting up five new signs.

5. Provide one lot for a public park, Lot 25 as shown on said plan. If, however, developer provides an alternative public park within one mile of the planned subdivision, Lot 25 will be released. This was done. See deed to Nantucket Islands Land Bank recorded at Book 534, Page 212 (copy attached hereto).
6. Paragraph 6 of the original covenant was replaced by new Paragraph 6 in amended covenant recorded at Book 359, Page 222.
 - 6 (a) Developer shall limit the use of Lots 5 through 57 in the subdivision to one single family dwelling per lot by the imposition of an appropriate restrictive covenant, such covenant to be part of the deed to each such lot and to run with the title to each such lot. This was done by Restrictive Covenant recorded at Book 426, Page 285 (copy attached).
 - 6 (b) Developer shall prohibit the use of temporary on-site septic systems on Lots 5 through 57 by imposition of appropriate restrictive covenant. This was done by Restrictive Covenant recorded at Book 426, Page 285.
 - 6 (c) The Planning Board shall not require inspection or testing of the gravity sewer, however, lacking such testing, developer acknowledges no obligation on the part of the Town to accept the sewer as part of the public waste water system. The system has been inspected and accepted by the Town.
 - 6 (d) The Planning Board will accept all roads as having been built to current Town specifications. Nothing more to be done.
 - 6 (e) The name of Westerwick Way will be changed so as not to duplicate the name of an existing street. Developer was going to change the name to Gideon's Way but it was never done.
 - 6 (f) Prior to the release of any lot, and as a condition precedent thereto, developer shall furnish the Planning Board with evidence that a restriction with respect to such lot complying with paragraph 6 (a) has been duly recorded at the Nantucket Registry of Deeds. This has been done.

Holly Backus
June 9, 2016
Page Three

Now back to original covenant:

7. No shade trees are required to be planted in subdivision. Nothing needs to be done.
8. No curbing or sidewalks are required to be constructed in said subdivision. Nothing needs to be done.
9. The subdivision agrees with the Nantucket Planning Board not to ask for the release of more than:

10 Lots in Calendar Year 1973
20 Additional Lots in Calendar Year 1974
20 Additional Lots in Calendar Year 1975
7 Additional Lots in Calendar Year 1976

Any lots not released according to the above schedule will be released in subsequent years, provided the total cumulative lots released does not exceed the totals specified. To date the Board has released the following lots:

1, 2, 3, 4, 15, 16, 17, 28, 29, 30, 33, 34, 35, 36, 40, 41, 42, 43, 44, 45, 46, 47, 50, 51, 52 and 54

My clients would like to request the release of all the lots not previously released (see attached Form J).

I thank you for your time and consideration and please let me know if you need any additional information in order to place this matter on the Planning Board agenda.

Very truly yours,



Richard J. Glidden

RJG/jlr

QUITCLAIM DEED

TOPLAND PROPERTIES, a Massachusetts General Partnership, of 1323, S.E. 17th Street, Ft. Lauderdale, FL 33316, in consideration of \$1.00 paid grant to NANTUCKET ISLANDS LAND BANK, a body politic incorporate, of 22 Broad Street, Nantucket, Massachusetts 02554, with QUITCLAIM COVENANTS, the land situate at Low Beach Road, Nantucket Town and County, Massachusetts, bounded and described as follows:

Block A, 1, 2 and 28 as shown on plan entitled "Low Beach, Siasconset, Nantucket, Mass. Scale 200 ft to 1 inch Surveyed by Wm. F. Codd", dated May 23, 1895, which plan was duly recorded with the Nantucket Registry of Deeds in Plan Book 3, Page 3.

Grantor also conveys all of its right, title and interest in the ways abutting the premises, as shown on said plan, being Myrick Street, Beach Street, Pine Street and Pochick Avenue, subject to rights, if any, of other owners of land on said plan to use private ways in common with others lawfully entitled thereto.

For Grantor's title see Deed at said Registry in Book 170, Page 249.

The undersigned partners jointly and severally certify that they constitute all of the members (whether living or deceased) of the partnership known as Topland Properties.

WITNESS our hands and seals this 23rd day of April, 1997.

TOPLAND PROPERTIES

Richard Graham Jr

 Richard Graham, Partner

Marion Graham Jr

 Marion Graham, Partner

COMMONWEALTH OF MASSACHUSETTS

Nantucket, ss

April 23, 1997

Then personally appeared the above-named Richard J. Glidden under power of attorney dated March 26, 1997 for Richard Graham and Marion Graham, Partners as aforesaid and acknowledged the foregoing instrument to be their free act and deed, before me,

[Signature]

 Notary Public

My Commission Expires: 4/24/98

NANTUCKET LAND BANK CERTIFICATE	
<input type="checkbox"/> Paid \$	_____
<input checked="" type="checkbox"/> Front A	_____
<input type="checkbox"/> Non applicable	_____
No. 15549	Date 4-23-97
Authorized	<i>[Signature]</i>



AFFIDAVIT REGARDING POWER OF ATTORNEY

I, RICHARD J. GLIDDEN, do under oath depose and say that I am the attorney in fact or agent named in Power of Attorney dated MARCH 26, 1997, executed by my principals, RICHARD GRAHAM and MARION GRAHAM, PARTNERS of TOPLAND PROPERTIES, A MASSACHUSETTS GENERAL PARTNERSHIP and at the time of the execution, pursuant to said Power of Attorney, of certain documents, dated April 23, 1997, I did not have actual knowledge of any revocation or of any termination of said Power of Attorney by death, mental illness or other disability.

Signed under the penalties of perjury this 23rd day of April, 1997.

[Signature]
Richard J. Glidden

COMMONWEALTH OF MASSACHUSETTS

Nantucket, ss

April 23, 1997

Then personally appeared the above-named Richard J. Glidden and made oath that the foregoing statements are true to the best of his knowledge and belief, before me

[Signature]
Notary Public

My Commission Expires: 4/24/98

APR 23 1997
NANTUCKET COUNTY
REC'D ENTERED

3:10PM
SANDRA M CHADWICK
ATTEST REGISTER

End of
Instrument

See Restrictive
Covenant
BK 426
PG 285

BOOK 0359 PAGE 222

AMENDMENT TO PLANNING BOARD COVENANT

WHEREAS, RICHARD GRAHAM, as general partner of Topland Properties and Trustee of Cannonbury Lane Realty Trust, Packett Drive Realty Trust and Westerwick Drive Realty Trust, is the owner of Lots 5 through 57 on a subdivision (hereinafter "subdivision") shown on a plan recorded at Nantucket Registry of Deeds in Plan File 5B (hereinafter "plan"); and

WHEREAS, said subdivision is subject to a covenant recorded at Nantucket Registry of Deeds in Book 147, Pages 140, 141 and 142; and

WHEREAS, at Paragraph 6 of the "Additions to Item 1 of Form I Covenant" on Page 142, the developer of said subdivision agreed to seek permission to brush and grade Proprietor's Road from Lot 24 north to Milestone Road in order to obtain the release of in excess of 38 lots from the covenant; and

WHEREAS, the developer has sought appropriate permission and will be unable to brush and grade said way because of its proximity to the Siasconset well fields; and

WHEREAS, the developer and the Planning Board wish to amend the existing language in Paragraph 6;

NOW, THEREFORE, the parties agree as follows:

1. Paragraph 6 of the original covenant shall be deleted and of no further force and effect and the requirements of said original ¶6 are hereby waived.

2. Paragraph 6 shall read hereafter as follows:

Received January 15, 1991
Lianne M. Haddatt, Clerk

6(a) Developer shall limit the use of Lots 5 through 57 in the subdivision to one single-family dwelling per lot by the imposition of an appropriate restrictive covenant, such covenant to be part of the deed with respect to each such lot and to run with the title to each such lot.

(b) Developer shall prohibit the use of temporary on-site septic systems on Lots 5 through 57 by imposition of appropriate restrictive covenant.

(c) The planning board shall not require inspection or testing of the gravity sewer. However, lacking such testing, developer acknowledges no obligation on the part of the Town to accept the sewer as part of the public waste water system.

(d) The planning board will accept all roads as having been built to current town specifications.

(e) The name of Westerwick Way will be changed so as not to duplicate the name of an existing street.

(f) Prior to the release of any lot, and as a condition precedent thereto, developer shall furnish the planning board with evidence that a restriction with respect to such lot complying with Paragraph 6(a), above, has been duly recorded in the Nantucket Registry of Deeds.

The modifications set forth above apply only to Paragraph 6 of the "Additions to Item 1 of Form I Covenant", and the remainder of said Additions and the original Covenant remain in full force and effect.

Signed on this 18 day of December, 1990

Nancy Masten

NOTARY PUBLIC, FLORIDA
MY COMMISSION EXPIRES AUGUST 1994.
BUNDLED THIS INSTRUMENT WITH UNRECORDED INSTRUMENTS.



Richard Graham

Richard Graham, Trustee of:
Cannonbury Realty Trust
Packet Drive Realty Trust
Westerwick Drive Realty Trust
General Partner of Topland Properties

[Handwritten signature]

This covenant is acknowledged and agreed to by the Planning Board of Nantucket, Massachusetts.

John Baran Walter S. Bennett
John Baran C. Marshall Beech

COMMONWEALTH OF MASSACHUSETTS

RICHARD
Nantucket, ss

DECEMBER 21, 1990

Then appeared the above-named RICHARD GRAHAM as Trustee of Cannonbury, Packett Drive and Westerwick Realty Trusts and as General Partner of Topland Properties and acknowledged his signature to be his free act and deed before me,



Nancy Mustel
Notary Public
My commission expires:

COMMONWEALTH OF MASSACHUSETTS

Nantucket, ss

January 14, 1991

Then appeared the above-named Stephen J. Butler as Chairman of the Planning Board of Nantucket and acknowledged his signature to be his free act and deed before me,

Maynet R. Farny
Notary Public
My commission expires: October 5, 1995

NANTUCKET COUNTY
Received and Entered
FEB 06 1991 8:52 AM
Attest Sandra M. Lindwick
Register

egm/D/ToplandAgt

[Handwritten mark]

RESTRICTIVE COVENANT

RICHARD GRAHAM, of 1323 S.E.17th Street, Suite 335, Ft. Lauderdale, Florida 33316, as he is Trustee of CANNONBURY LANE REALTY TRUST, established by written Declaration of Trust dated December 31, 1987, recorded in Nantucket Deeds, Book 292, Page 223, as he is the Trustee of WESTERWICK DRIVE REALTY TRUST, established by written Declaration of Trust dated December 31, 1987, recorded in Nantucket Deeds, Book 292, Page 236, as he is Trustee of PACKET DRIVE REALTY TRUST, established by written Declaration of Trust dated December 31, 1987, recorded in Nantucket Deeds, Book 292, Page 246, and as he is General Partner of TOPLAND PROPERTIES, a Massachusetts partnership with offices at 35 Center Street, Nantucket, Massachusetts, 02554, being the Owner of LOTS 5 through 57, inclusive (the "Lots") as shown on a plan entitled in part: "A Subdivision Plan of Land in Nantucket (Siasconset), Mass., Scale 1 inch = 50 feet, Schofield Brothers, Inc., Prof. Eng. and Reg. Land Surv., 14 Federal Street, Nantucket, Mass., Subdivider: Edward B. Heath, 195 Lake Street, New Britain, Conn., 06050", dated September 17, 1973 and recorded with the Nantucket Registry of Deeds in Plan Book 5-B, hereby imposes the following restrictive covenant on Lots 5 through 57, inclusive, on said plan:

1. The use of Lots 5 through 57 shown on said plan shall be limited to one single-family dwelling per lot and no additional dwellings shall be constructed or maintained on the lots.
2. The use of temporary on-site septic systems on Lots 5 through 57 on said plan is prohibited.

The restrictions imposed hereby shall be an appurtenant right enforceable by each owner of the Lots and all the Lots shall be deemed to be benefitted hereby.

The Town of Nantucket, acting by and through the Planning Board and/or Building Inspector, shall have the right to enforce any or all of said restrictions and no amendments hereof shall be effective without the consent of the Planning Board.

The restrictions imposed hereby shall be deemed to be imposed as part of a common scheme applicable to all the Lots and shall run with the title to each of the Lots.

I, Richard Graham, hereby certify that I am the sole Trustee of CANNONBURY LANE REALTY TRUST, of WESTERWICK DRIVE REALTY TRUST, and of PACKET DRIVE REALTY TRUST, that said Trusts have not been revoked, terminated or amended and remain

in full force and effect as recorded and that I have been directed in writing by all of the beneficiaries of said Trusts to execute and deliver this restrictive covenant.

I, Richard Graham, further certify that I am a member of TOPLAND PROPERTIES, a Massachusetts partnership, and that this instrument is given in the usual course of business and does not involve anything which may not be done by less than all the partners pursuant to Mass. G.L. c.108A, §9.

For Grantor's title, see deeds recorded in said Registry in Book 170, Page 249; Book 292, Page 282; Book 292, Page 211 and Book 292, Page 253.

EXECUTED as a sealed instrument this 21st day of September, 1993.

TOPLAND PROPERTIES
Richard Graham
Richard Graham, General Partner

CANNONBURY REALTY TRUST
Richard Graham
Richard Graham, Trustee

WESTERWICK DRIVE REALTY TRUST
Richard Graham
Richard Graham, Trustee

PACKET DRIVE REALTY TRUST
Richard Graham
Richard Graham, Trustee

COMMONWEALTH OF MASSACHUSETTS

Nantucket, ss September 21, 1993

Then personally appeared the above-named RICHARD GRAHAM General Partner of TOPLAND PROPERTIES, Trustee of CANNONBURY REALTY TRUST, Trustee of WESTERWICK DRIVE REALTY TRUST, and Trustee of PACKET DRIVE REALTY TRUST, and acknowledged the foregoing instrument to be his free act and deed, before me,

Susan D. Bennett
Notary Public
My commission expires



BOOK 0426 PAGE 287

APPROVED by a majority of the Planning Board as satisfying Conditions No. 6a & 6f of the Amended Covenant dated January 15, 1991 recorded in the Nantucket Registry of Deeds in Book 354, Page 222.

Jean S. Barnes
Bob Pitt
Charles J. [unclear]
Conrad [unclear]

COMMONWEALTH OF MASSACHUSETTS

Nantucket, ss

September 27, 1993

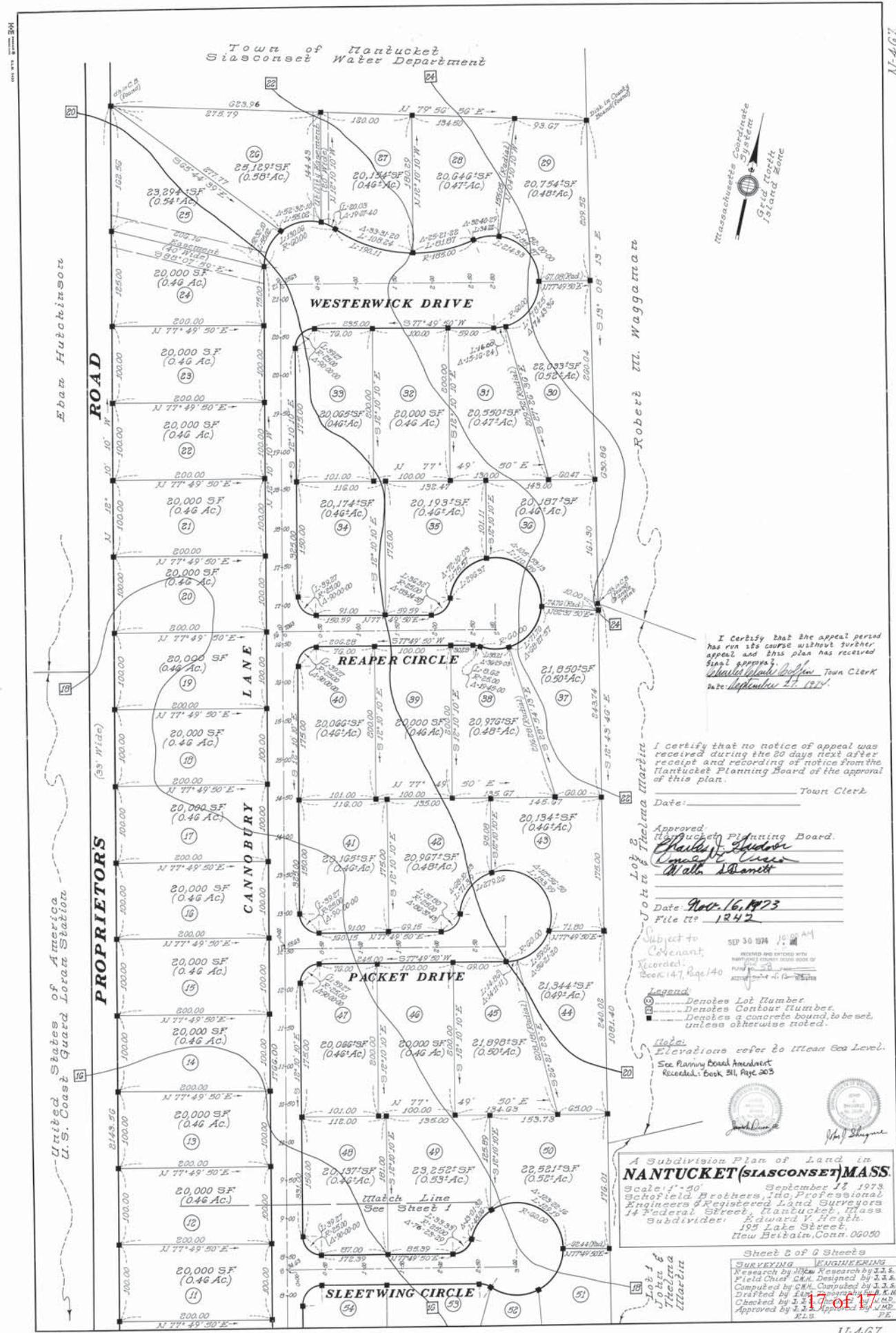
On this 27th day of September, 1993, before me personally appeared Jean S. Barnes being a majority of the Nantucket Planning Board and acknowledged the foregoing to be their free and duly authorized act and deed.

Margaret R. Pong
Notary Public
My commission expires 10/5/95

SEP 29 1993
NANTUCKET COUNTY
REC'D ENTERED

3:21 PM
SANDRA M CHADWICK
ATTEST REGISTER

N-467



I Certify that the appeal period has run its course without further appeal and this plan has received final approval.
 Edward V. Heath, Town Clerk
 Date: September 27, 1973

I certify that no notice of appeal was received during the 30 days next after receipt and recording of notice from the Nantucket Planning Board of the approval of this plan.
 Town Clerk

Approved:
 Nantucket Planning Board.
 Charles J. Hudson
 Mayor
 Walter Bennett
 Date: Nov. 16, 1973
 File # 1242

Subject to:
 Covenant
 Recorded:
 Book 147, Page 140

Legend:
 [Symbol] Denotes Lot Number.
 [Symbol] Denotes Contour Number.
 [Symbol] Denotes a concrete bound, to be set unless otherwise noted.

Note:
 Elevations refer to Mean Sea Level.
 See Planning Board Amendment
 Recorded: Book 31, Page 203



A Subdivision Plan of Land in
NANTUCKET (SIASCONSET) MASS.
 Scale: 1" = 40' September 11, 1973
 Schofield Brothers, Inc., Professional
 Engineers & Registered Land Surveyors
 14 Federal Street, Nantucket, Mass.
 Subdivider: Edward V. Heath,
 195 Lake Street,
 New Britain, Conn. 06000

Sheet 2 of 6 Sheets
 SURVEYING ENGINEERING
 Research by H&M Research by J.S.S.
 Field Check C.M. Designed by J.S.S.
 Computed by C.M. Computed by J.S.S.
 Drafted by J.S.S. Checked by J.S.S.
 Checked by J.S.S. Approved by J.S.S.
 E.L.B.

17 of 17

N-467