

82449 P0805

DECLARATION OF CONDOMINIUM
OF
THE LOT ONE CONDOMINIUMS

WHEREAS, Peter B. Olney of 29 Esker Road, Hampton, County of Rockingham and State of New Hampshire is the sole owner of the land and buildings to be described herein located in Hampton in the County of Rockingham and State of New Hampshire hereby declares his intent to submit the lands herein described and the improvements thereon to the condominium form of ownership and use in the manner provided by New Hampshire Revised Statutes Annotated, Chapter 356-B, Condominium Act. The owner shall henceforth be called "Declarant" for purposes of this Declaration, and said term shall apply to the owners, their successors, heirs and assigns. The Lot One Condominiums are located at #25 and #27 Esker Road, Hampton, County of Rockingham and State of New Hampshire.

I. DEFINITIONS

The terms herein shall have the meaning stated The Condominium Act, and as follows, unless the context otherwise requires.

1. Association means the THE LOT ONE CONDOMINIUM ASSOCIATION and its successors.
2. Common Area means the area, facilities and all portions of the Condominium other than units and the limited common areas.
3. Limited Common Areas means those areas reserved for the exclusive use of one or more of the units but less than all of the units.
4. Common Expenses include: All expenditures lawfully made or incurred by or on behalf of the unit owner's Association, together with

18-114

JUN 21 1 44 PM '83

all funds lawfully assessed for the creation and/or maintenance of reserves pursuant to the provisions of the Condominium instruments.

5. Singular, plural, gender: Whenever the context so permits, the use of the singular shall include the plural, and the use of any gender, shall be deemed to include all genders.

II. LEGAL DESCRIPTION BY METES AND BOUNDS OF THE LAND SUBMITTED FOR CONDOMINIUMS AS REQUIRED BY R.S.A. 356-B: 16 (c):

A certain tract or parcel of land situate on the Southerly side of Esker Road formerly known as Bonair Avenue, so-called, in the Town of Hampton, County of Rockingham and State of New Hampshire, bounded and described as follows:

Beginning at a point at the Northwesterly corner of the lot hereby conveyed and proceeding S 85° - 17' - 36" W along other land of Meadow Pond Farm Corporation known as Parcel A-1 on a plan of land hereinafter referred to for a distance of 80.00 feet ±; thence turning and continuing to proceed S 26° - 32' 37" W along said Parcel A-1 for a distance of 69.37 feet ±; thence turning and proceeding S 60° - 28' 11" E along land now or formerly of Bradley for a distance of 194.50 feet ±; thence turning and proceeding along a certain stonewall N 23° - 09' - 48" E for a distance of 70.55 feet ±; thence turning and proceeding along the Southerly sideline of Esker Road, formerly known as Bonair Avenue, so-called, in a northerly direction along an arc with a radius of 140.00 feet for a distance of 94.57 feet ±; thence continuing to proceed along the southerly sideline of said Esker Road, formerly known as Bonair Avenue, N 27° - 12' - 42" W for a distance of 40.00 feet ± to the point of beginning.

Containing 16,541 square feet ±. Meaning and intending to convey Lot #1 as described on plan of Meadow Pond Farm and Community in Hampton, N.H., (Rockingham County) scale 1 in. = 60 feet dated December 13, 1977, prepared by BSC of N.H. and recorded in Rockingham Registry at #D-7525 (2 of 2).

For title reference see deed of Meadow Pond Farm Corporation to this Declarant dated June 22, 1981 and recorded in Rockingham County Registry of Deeds at Book 2392, Page 1300.

III. DESCRIPTION OF THE BOUNDARIES OF THE UNITS INCLUDING THE HORIZONTAL BOUNDARIES AS WELL AS THE VERTICAL BOUNDARIES AS REQUIRED BY R.S.A. 356-B 16 (d).

The Condominium consists of a single multi-story structure which contains two (2) condominium units. Said units are connected by an eight (8") inch thick concrete common wall.

The units are constructed as shown on the Floor Plans entitled: "The Lot One Condominiums, 25 + 27 Esker Road Meadow Pond Farm, Hampton, N.H. East and West Units, dated May 28, 1983, Scale: 1/8" = 1' Architect: Peter B. Olney". Said plans which are recorded herewith in Rockingham County Registry of Deeds are by reference thereto incorporated herein and made a part hereof. See Rockingham Registry Plan #D-11580 (2 of 2).

The Condominium Units consist of the entire physical structure comprising the building together with the volume of interior space which said structure encloses with the exception of the said Common Wall, that portion of the chimney situated above the said common wall and the utilities shared by both Condominium Units, all of which are common areas.

The EAST Unit is that portion of the above described Condominium Units situated to the east of the easterly surface plane of the said eight (8") inch concrete common wall.

The WEST Unit is that portion of the above described Condominium Units situated to the west of the easterly surface plane of the said eight (8") inch concrete common wall.

In addition to but without modifying the scope of the aforementioned, each unit shall include a volume of space above the roof of each unit of sufficient size to contain a gable dormer having a maximum width of eight (8') feet which may be constructed by the unit owner. The ridges of both dormers shall not be higher than the existing ridge of the EAST Unit and the dormers shall be located in accordance with the said Floor Plans. Proposed dormers shall be subject to design review regarding detail, construction and exterior appearance.

IV. DESCRIPTION OF THE LIMITED COMMON AREAS, SHOWING OR DESIGNATING THE UNITS TO WHICH EACH IS ASSIGNED.

Condominium Unit E is hereby assigned exclusive use of the areas adjacent to said unit which are labeled Limited Common Area -- Unit E.

Condominium Unit W is hereby assigned exclusive use of the areas adjacent to said unit which are labeled Limited Common Area -- Unit W.

See Site Plan entitled "As Built Site Plan Condominium Units for Peter Olney, Hampton, N.H., Dated May 12, 1983, Roaring Brook Consultants, South Berwick, Me." Scale 1"=20' and recorded in Rockingham Registry as Plan #D-11580 (1 of 2)

V. DESCRIPTION OF ALL COMMON AREAS NOT WITHIN THE BOUNDARIES OF ANY CONVERTIBLE LAND which may subsequently be assigned as Limited Common Areas.

There are no common areas which may be subsequently converted or assigned as Limited Common Areas.

812449 P0808

VI. ALLOCATION TO EACH UNIT OF AN UNDIVIDED INTEREST IN THE COMMON AREAS IN ACCORDANCE WITH R.S.A. 356-B: 17.

An equal undivided interest in the common areas is hereby allocated to each unit: one-half per Unit.

VII. STATEMENT OF PURPOSES, USE AND RESTRICTIONS, AS REQUIRED BY NEW HAMPSHIRE R.S.A. 356-B: 16 (h).

The units, common area and limited common area shall be occupied subject to the following restrictions:

1. Each unit is intended for residential use only by the owner, the owner's family or the owner's lessee or guests. In the event a unit is leased, each lease period shall be for a term of not less than ninety (90) days. Units shall be rented only in their entirety and the total number of occupants shall at no time exceed that number set forth in the regulations of the Town of Hampton, as amended.

2. In the event that there are unsold condominium units, declarant's right as the owner of said unsold units shall be the same as all other unit owners in the condominium and the declarant, as the owner of the condominium unit(s) shall contribute to the common expenses in the same manner as other condominium unit owners and shall have a vote in the association for each unsold condominium unit.

3. Nothing shall be done or kept in any Unit or in the Common Area or Limited Common Areas which will increase the rate of insurance in those Areas without the prior written consent of the Owner's Association: No Owner shall permit anything to be done or kept in his Unit or in the Limited Common Areas which will result in the cancellation of insurance of either Unit or any part of the Common Areas or Limited Common Areas

which would be in violation of any law. No waste will be permitted in the Common Areas or the Limited Common Areas.

4. No sign of any kind shall be displayed to the public view on or from any Unit with the sole exception that a unit owner may display a single "For Sale" sign not to exceed two (2') feet x three (3') feet, which sign may identify the real estate broker retained by the unit owner.

5. No noxious or offensive activities shall be carried on in any Unit or in the Common Areas or Limited Common Area, nor shall anything be done therein which may become an annoyance or nuisance to the other Unit Owners. It is hereby agreed that noxious or offensive activities shall include without limitation the repair of motor vehicles and the storage of uninspected and/or unregistered motor vehicles.

6. Nothing shall be altered or constructed or removed from the Common Areas or Limited Common Area without the unanimous consent of the Association.

7. An owner shall not change the exterior appearance of his unit without the prior express unanimous consent of the Association and the approval of the Meadow Pond Farm Design Review Board.

8. No unit owner shall make any alteration of his unit or construct any new structure or appurtenance or make any improvement to the building without the unanimous consent of the Association and the Meadow Pond Farm Design Review Board. Under no circumstances shall any such improvements/alterations impair the structural integrity of the building or otherwise lessen the support of any portion thereof. Either unit

owner shall have the right to make interior changes which do not affect the structure or the facilities which are shared with the other unit.

9. No unit owner shall have the right to construct or erect major capital improvements, including without limitation a swimming pool, either in-ground or above-ground within the limited common areas assigned to said unit owner without the express prior consent of the Association and if required the Meadow Pond Farm Design Review Board.

10. Each unit owner shall be responsible for maintenance of all fences, walls and living barriers which are located within the bounds of the limited common areas assigned to that unit owner's unit.

VIII. MANNER OF DETERMINING APPROPRIATE ACTION FOLLOWING DAMAGE TO ANY PORTION OF THE CONDOMINIUM BY FIRE OR OTHER CASUALTY AS REQUIRED BY R.S.A. 356-B: 16 (1)

1. Common Area: If the casualty loss is to a common area it shall be reconstructed or repaired at the expense of the Association

2. Unit and Limited Common Area: If the casualty loss is to a Unit or to the Limited Common Area assigned to that unit it shall be reconstructed or repaired at the expense of the Unit Owner. The construction or repair shall be commenced within sixty (60) days of the loss and completed within one (1) year of the loss.

3. The reconstruction or repair shall return the unit to its original design, construction and appearance.

IX. EASEMENTS.

Easements are reserved to the Association and the Unit Owners for maintenance, repairs and access to shared utilities.

X. AMENDMENTS.

DN2449 P0811

This Declaration of Condominium may be amended by a unanimous vote of the Association and by an instrument in writing signed, acknowledged and recorded as provided by New Hampshire R.S.A. 356-B:11 and such amendment shall be effective upon recording in the Office of the Registry of Deeds in Rockingham County, State of New Hampshire subject to the following:

- (1) Notice: Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which the proposed amendment is to be considered.
- (2) Pro viso: No amendment shall discriminate against any Unit Owner or against any Unit or class or group or Units unless the Unit Owners effected shall consent; and no amendment shall change any Unit or the share of Common Areas appurtenant to it, or increase an Owners share in the Common Areas, unless both the record Owners of the Units concerned and both the record owners of mortgages thereon, shall join in the execution of the amendment, however, anyone dealing with the Association or attempting to establish title to a particular Unit, in the absence of actual knowledge of discrimination on the part of the Association of Unit Owners may conclusively rely upon the validity and legality of any amendment to this Declaration recorded in the Rockingham County Registry of Deeds if said amendment is signed, acknowledged and recorded in compliance with Article X of this Declaration. The amendment of this Declaration shall not make any change in the section entitled "insurance" or in the section entitled "Manner of determining appropriate action following damage to any portion of

the Condominium by fire or other casualty" unless both the owners and all the record owners of mortgages on Units in the condominium shall join in the execution of the amendment.

XI. MAINTENANCE, ALTERATION AND IMPROVEMENT:

Responsibility for the maintenance of the condominium property and restrictions upon the alteration and improvements thereof shall be as follows:

(1) By the Association: The Association shall maintain, repair and replace all portions of the Common Areas at the Association's expense, including without limitation, the common wall, that portion of the chimney situated above the common wall and any shared utilities.

(2) By the Unit Owner: The Unit Owner(s) shall maintain, repair, and replace all portions of his individual Unit and the Limited Common Areas assigned thereto.

(3) Unit Alteration and Improvement: There shall be no change in the exterior appearance or color scheme of any Unit without the prior unanimous consent of the Association and where required the approval of the Meadow Pond Farm Design Review Board.

XII. ASSESSMENTS:

Each unit owner shall be liable for a proportionate share of the common expenses and shall share in the common surplus. Each unit's proportionate share shall hereafter be determined and controlled pursuant to the following schedule: 1/2 per Unit.

1. Interest, Application of Payments: Assessments paid on or before ten (10) days after the date when due shall not bear interest, but all sums not paid on or before ten (10) days after the date when due, shall bear interest at the rate of eighteen (18) per cent per annum

from the date when due until paid. All payments upon account shall be first applied to interest and then to assessment.

2. Lien for Assessment: The lien for unpaid assessments as provided in New Hampshire Revised Statutes Annotated Chapter 356-B:46 shall also secure reasonable attorney's fees incurred by the Association incident to the collection of such assessment in the enforcement of such lien. All payments upon account shall be first applied to interest and then to assessment.

XIII. ASSOCIATION:

The operation of a condominium shall be by an unincorporated or incorporated Association which shall be organized and shall fulfill its functions pursuant to the following provisions:

1. The name of the Association shall be THE LOT ONE CONDOMINIUMS ASSOCIATION.
2. The Association shall have all of the powers and duties as set forth in the Condominium Act except as limited by this Declaration and all of the powers and duties reasonably necessary to operate the condominium as set forth in this Declaration and as they may be amended from time to time.
3. Membership in the Association:
 - (a) Qualification. The members of the Association shall consist of all the record Owners of the Units.
 - (b) Change of Membership: Change of membership in the Association shall be established by recording in the Registry of Deeds for Rockingham County, State of New Hampshire, a deed establishing record title to a Unit in the Condominium. The owner designated by such instrument shall thereby become a member of the Association.

At such time the membership of the prior owner shall be thereby terminated.

(c) **Voting Rights:** A member of the Association shall be entitled to cast a vote for each Unit owned in the percentage attributed to each Unit. Where there is more than one record owner of a unit any of such persons may attend any meeting of the Association, but it shall be necessary for those present to act unanimously in order to cast the votes to which they are entitled. The Declarant shall be entitled to vote with respect to any unit(s) owned by the Declarant.

(d) **Restraint upon Assignment of Shares in the Association.** The Share of a member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to his Unit.

5. **Indemnification:** Every officer of the Association shall be indemnified by the Association against all expenses and liabilities including counsel fees, reasonably incurred or imposed upon him in connection with any proceeding to which he may be a party or in which he may become involved, by reason of his being or having been an officer of the Association, or any settlement thereof, whether or not he is an agent or officer at such time the expenses are incurred, except in such cases wherein the officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided that in the event of a settlement the indemnification hereby shall apply only when the Owners' Association approves such settlement and reimbursement as being in the best interest of the Association. The foregoing rights of

indemnification shall be in addition to and not exclusive of all other rights to which such officers may be entitled.

6. Limitation upon Liability of the Association: Notwithstanding the duty of the Association to maintain and repair parts of the condominium property, the Association shall not be liable for injury or damage, other than the cost of maintenance and repair, caused by any latent condition of the property to be maintained and repaired by the Association.

7. By-Laws: The By-Laws of the Association shall be in the form attached hereto as Appendix C.

8. Property and Trust: All funds and title to all properties acquired by the Association and the proceeds thereof, shall be held in trust for the membership in accordance with the provisions of this Declaration of Condominium.

XIV. INSURANCE

1. Each owner shall obtain a casualty policy affording fire and extended coverage in an amount equal to the full replacement value of his unit, the Limited Common Areas assigned to his unit and all the Common Areas.

2. Each owner shall obtain comprehensive liability coverage in an amount not less than \$300,000.00 covering that unit owner and any other person entitled to occupy that unit or the limited common areas assigned to that unit.

3. All insurance policies referred to above shall be underwritten by a single insurance company and shall be obtained through a single agent or office of that company. Furthermore, all said insurance

policies shall specifically refer to Page 12., Paragraph XIV Insurance of the Declaration of "The Lot One Condominiums" dated June 23, 1983 and recorded in Rockingham Registry of Deeds at Book2449, Page805.

4. The Unit Owners shall be responsible for obtaining his own insurance for furniture and other personal property contained within his unit.

XV. INTERPRETATION: The provisions of the Declaration shall be liberally construed in accordance with the common law and statutory law of the State of New Hampshire in order to effect its purpose of creating a uniform plan for the development and operating of a condominium project. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce said provision or any other provision hereof.

XVI. SEVERABILITY: The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion hereof shall not affect the validity or enforceability or any other provision hereof.

XVII. WARRANTY AGAINST STRUCTURAL DEFECTS: The declarant hereby warrants, against structural defects, each of the units for one (1) year from the date each is conveyed by declarant. For purposes of this warranty "Structural Defects" shall be those defects in components constituting any unit which reduce the stability or safety of the structure below accepted standards or restrict the normal intended use of all or part of the structure and which require repair, renovation, restoration, or replacement. Nothing in this warranty shall be

BK2449 P0817

construed to make the declarant responsible for any items of maintenance relating to the units.

XIII. EFFECTIVE DATE: This Declaration shall take effect upon recording in the Rockingham County Registry of Deeds.

IN WITNESS WHEREOF, the undersigned has placed his hand and seal on this the 23rd day of June 1983.

Witness:

Michael C. McCarty

Peter B. Olney
Peter B. Olney

STATE OF NEW HAMPSHIRE
ROCKINGHAM, SS

June 23, 1983

Personally appeared the above named Peter B. Olney and acknowledged the foregoing instrument to be his voluntary act and deed.

Before me,

Michael C. McCarty
Justice of the Peace/~~Notary Public~~

APPENDIX "C"

BY-LAWS

I.) Association. The affairs of the Association of Owners shall be conducted by the Owners' Association.

II.) Meetings.

A.) First Meeting: Within ninety (90) days after the Declarant has conveyed one of the units the Declarant shall call the first meeting of the Owner's Association.

The purpose of this first meeting of the Association shall be to determine the method by which the affairs of the Association shall be conducted.

A total review of all insurance coverages relative to the Condominium should be undertaken at this first meeting.

B.) Annual Meetings: The members of the Association shall meet at least once annually to review and act upon the conduct of the affairs of the association.

Unless otherwise agreed the date of the First Annual Meeting shall thereafter be the date on which all annual meetings shall thereafter be held.

C.) Special Meetings: Special meetings of the Association may be called by either Unit Owner at any time for the purpose of considering matters which, by the terms of the Declaration require the approval of all or some of the Owners, or for other reasonable purposes.

D.) Notice of Meetings: The method employed to notify the owners of either an annual or a special meeting shall be adequate if it provides the owners with at least seven (7) days of actual notice of the time, place, and subject of said meeting.

III. Voting Provisions.

A.) Each Unit shall have one vote. Where there shall be more than one person having legal title to a Unit and more than one such person shall be present at any meeting of the Association, the vote pertaining to that Unit shall be cast only in accordance with the unanimous agreement of such persons.

BN2449 P0819

B.) Proxies. The votes appertaining to any Unit may be cast pursuant to a proxy or proxies duly executed by or on behalf of the Unit Owners, or, in cases where the Unit Owner is more than one person, by or on behalf of all such persons. No such proxy shall be revocable except by actual notice to the person presiding over the meeting, by the Unit Owner or by any of such persons, that it be revoked. Any proxy shall be void if it is not dated, if it purports to be revocable without notice as aforesaid, or if the signature of any of those executing the same has not been duly acknowledged. The proxy of any person shall be void if not signed by a person having authority, at the time of execution thereof, to execute deeds on behalf of that person. Any proxy shall terminate automatically upon the adjournment of the first meeting held on or after the date of that proxy.

IV.) Amendments.

These By-Laws may be amended only by a vote of the Association. A unanimous vote being required to pass any such amendment. Recording of such an amendment in the Rockingham County Registry of Deeds shall be necessary before such an amendment shall become effective.