

BLAKEMAN ENGINEERING, INC.

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ENGINEERING: PLANNING
DESIGN
PERMITTING

SEPTIC SYSTEM DESIGN
SITE PLANNING and DESIGN
SUBDIVISION DESIGN

September 15, 2016

Harry Snow
P.O. Box 1372
New London, NH 03257

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RE: Rocky Ridge Docks

Dear Harry,

Pursuant to your request for comment on whether Rocky Ridge shorefront lots can have docks, this was a topic that generated much commentary during the subdivision review. Fortunately, that commentary resulted in relatively clear guidance in the record.

The short answer is that seasonal floating docks are allowed, *so long as the dock structure is not attached to the Covenant Buffer*. The Rocky Ridge Covenants contain language at Section 3(f) regarding docks. I have attached page 4 of the Covenants which contains this section. The wording in this section gets a little confusing in that it says “*Only floating swim rafts or recreational floats shall be permitted...*” and doesn’t specifically say “docks”, however I do remember from the subcommittee meetings that the term recreational floats was used as more of a catchall phrase and would include docks.

And, so we don’t have to rely on my memory (!), I am also attaching a copy of my notes from one of the subcommittee meetings as well as meeting minutes from the Planning Board when it was discussed.

To summarize it all, during the subcommittee discussions we put forth, and the Town had to agree, that they did not have authority to restrict a legal use such as docks on Messer Pond. The town was only able to restrict the actual attachment of a dock to the shoreline. So a dock will be allowed with a permit from NH Wetlands Bureau, likely be a “Permit-By-Notification”, so long as it’s not touching the shoreline.

Please don’t hesitate to contact me should you have any further questions or concerns regarding this matter.

Respectfully Submitted,
Blakeman Engineering, Inc.



Peter J. Blakeman, PE

Attachments: Rocky Ridge Covenants, p.4
PJB personal notes from subcommittee mtg
New London Planning Board Meeting Minutes, Jan 9, 2007, p.5

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restricted by a natural woodland buffer as depicted on the plan. This buffer shall be maintained as provided for in Article XIII.G. (Wetland Conservation Overlay District: Wetland Buffers) and XIII.L. (Wetland Conservation Overlay District: Cutting and Removal of Natural Vegetation in Wetland Buffers) of the New London Zoning Ordinance, as amended.

(d) Except in support of building operations at the time of original construction upon any Lot, no "trailer" or "manufactured home" as defined by the New London Zoning Ordinance Article III, as amended, shall be placed upon, used or stored upon any Lot for more than thirty (30) calendar days per year for any purpose whatsoever, whether or not the same are permanently affixed to said Lot subject to the requirements of Article II Section II a of the New London Zoning Ordinance.

(e) No animals, livestock or poultry of any kind shall be kept, bred, or raised on any Lot, with the exception that dogs, cats and other ordinary domestic pets may be kept provided that they are not kept, bred or maintained for any commercial purpose.

(f) No seasonal or permanent docks or piers or other structures may be attached to the Covenant Buffer. Only floating swim rafts or recreational floats shall be permitted, subject to applicable State Law and subject to the requirement that they not be attached to the Covenant Buffer. No swim raft or recreational float shall be stored within the 200 foot non disturbance buffer referred to in SECTION 6 below.

SECTION 4 -- Utility, Drainage and Slope Easements.

(a) Any Lot owner (including the Developer) for the benefit of his Lot shall have a non-exclusive right and easement, which he may assign or convey to any utility company, to install or cause to be installed, maintained, repaired and replaced within the limits of the subdivision roads, any and all utility services; provided that no Lot owner (including the Developer) or utility company in the exercise of said right and easement shall interfere with the viatic use of said roads.

(b) The Developer excepts and reserves the right to drain water from any of the Lots or the road situated on the Property onto any Lot by means of culverts, drainage ditches, or any other means; the right, for purposes of maintaining and controlling the slopes of the road or fill any portion of any Lot abutting said road; and the right to enter upon any Lot to place or construct thereon any such culverts, drainage ditches or other drainage systems and to maintain and control said slopes. The rights reserved in this paragraph (b) shall be so exercised as not reasonably to interfere with the rights of any owner upon his Lot. At such time as the Town takes responsibility for maintaining the road, these reserved rights shall also be in favor of the Town of New London.

SECTION 5 -- Dedication of Road.

Until such time as the Road is dedicated to the Town of New London, the Developer excepts and reserves solely to itself and to those successors in the Developer's title to whom the Developer specifically shall assign or convey the same, the right to convey or otherwise dedicate the subdivision road to the Town of New London as a public way together with maintenance responsibilities for the

Covenants

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- eliminate reference to ✓ 5 BR
MIL apt. → reference ✓ town zoning
- Home Business / Occupation → incl. approved by NL PB if
required
→ reference NL Zoning?

P. 2. ✓ change "wet" to "wetland"
✓ or as amended

P. 4 D include RV's as OK?
reference temp. structures in zoning? (i.e. 30 day use)

3. C. ✓ references covenant buffer
reference Note 5

~~shall~~
Covenants should be clear about docks - no seasonal or permanent
no storage of docks ✓ docks?
on shore
- include floating docks as OK

Chair Ebel advised that the subcommittee had discussed homeowners' association documents and items to be included, e.g., maintenance of the privately-owned fire pond and drainage swales, etc., as well as the 200-foot buffer requirement contained in the deeds. She said that the subcommittee had also discussed limiting fertilizer usage, except during development. She said that there was a question as to whether docks attached to the land would be permitted under the Kellner-Snow deed, so she contacted Town Counsel during the subcommittee meeting. Town Counsel had advised that such docks were considered structures and would not be permitted by the deed; however, floating seasonal docks would be permitted. Chair Ebel said they had also discussed cutting restrictions, but no decision had been reached. Mr. Snow disagreed with cutting restrictions. He opined that the property owners wouldn't want to cut everything on the wooded lots and that he certainly would not do it. Mr. Blakeman opined that with the level of protection provided along Messer Pond, no further restrictions were necessary. He opined that the slopes of 15%-20% would not encourage owners to cut. Chair Ebel said that the subcommittee was mindful of cutting on other sites around Messer Pond and could recommend inclusion of advisory language in the homeowners' association documents. Mr. Snow responded that he did not want additional restrictions. He argued that the building sites were far enough from the water, the size of the lots was well above the two acres required in the R-2 District, and there was already more protection than for any other subdivision in New London. Mr. Blakeman advised that Mr. Snow had not maximized lot development, i.e., the objective was not to get as many lots as possible on the property. Chair Ebel responded that the PB policy in the past had been to include any and all restrictions in the homeowners' association documents and in the deeds as well as on the plan. She stated that she had heard Messer Pond property owners express concern about cutting not just from an erosion control issue, but also due to concerns about visual impact. She said there was much consternation about the stripping of the area where many larger houses had been built by another developer.

Abutter Fred Kaufman (216 Bog Road) agreed that with the 200-foot buffer there might not be a need for cutting restrictions from an erosion standpoint. He called attention to the large visible yellow house on Woodland Trace with no trees around it. Chair Ebel replied that the PB subcommittee was cognizant of visual impact. Mr. Snow commented that the lot cited had been logged first and then the house was put on the lot. He opined that that approach was backwards. Mr. Snow reiterated that there would be adequate protection without the addition of cutting restrictions and that he would not cut the lots to the extent the other developer had done. Chair Ebel responded that the PB's concern was not with Mr. Snow, but with subsequent owners. She said that unless the approval contained cutting restrictions, there would be no way to control cutting in the future.

PB member Clough opined that the buffer on four of the lots provided protection, but on the other lots the PB could use protective language with regard to keeping some percentage of the upper lot wooded. She said that wooded areas also slowed erosion. Chair Ebel said that she understood Mr. Snow's position, but she was concerned about future owners, not him. She also stated that the cutting affected not just the pond, which was protected by the 200-foot buffer, but the wetlands, of which there were many on the site. She asked about the possibility of a 30% cutting restriction. PB member Conly opined that it appeared that the lake lots were adequately protected already because of all the buffering requirements. Chair Ebel said she agreed in theory, but asked Mr. Blakeman to calculate for each lakeside lot what percentage was actually protected. Mr. Blakeman agreed to do so. Mr. Conly said that he would like to codify Mr. Snow's plan for future protection as part of the approval.

Abutter Eleanor Angoff (64 Surrey Lane) asked about the buffer that provides green space below the yellow house along Fieldstone Lane. Several PB members advised that there was a view easement that provided a 100-foot green space between Fieldstone and Surrey Lanes.

Peter Blakeman advised that Mr. Snow was not interested in creating any new buffers. Mr. Snow responded that he had visited that lot the previous day and he estimated that there was about 150 feet between the building site and the edge of the property. Mr. Blakeman said that he was very reluctant to add buffering along property lines. PB member Cook asked if the property were wooded. Mr. Snow replied affirmatively. Ms Cook asked if Mr. Snow would leave the trees on the lot. Mr. Snow responded in the affirmative. He opined that protection was adequate. He said that there was kind of a natural wetland buffer on the property.

Ken McWilliams reported on issues raised at the meeting with municipal department heads. He said that Town Road Agent Richard Lee wanted the length of open ditches minimized, more culverts, and the use of fabric on soft soils to prevent erosion. He advised that the Fire Department wanted the turn-off for the dry hydrant paved for a truck pull-off. He also advised that the size of Lot 1 had been modified.

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CHIARELLA LAW OFFICE, P.C.
P.O. BOX 310
SPRINGFIELD, NH 03284

Amendment of Declaration of Covenants and Restrictions
Section 3- Lot Use and Building Construction, (f)

We, Harry M. Snow, III, owner of Lots 2,3,4 and 6 , and Rocky Ridge Seven, LLC, a New Hampshire limited liability company of New London, New Hampshire, owner of Lot 1, both of P.O. Box 1372, New London, New Hampshire 03257, together the owners of five of seven, and more than two-thirds of the lots in the Rocky Ridge at New London subdivision, being the Property Subject to the Declaration set out in Section 2 – Property Subject to the Declaration, which Declaration is dated September 24, 2007 and recorded in Book 3022, Page 998 in the Merrimack County Registry of Deeds, located in New London, Merrimack County, New Hampshire, make the following amendment of Section 3 – Lot Use and Building Construction, (F).

Whereas the Declaration of Covenants and Restrictions by Rocky Ridge at New London Association, Section 3 – Lot Use and Building Construction, (F) states "No seasonal or permanent docks or piers or other structures may be attached to the Covenant Buffer. Only floating swim rafts or recreational floats shall be permitted, subject to applicable State Law and subject to the requirement that they not be attached to the Covenant Buffer. No swim raft or recreational float shall be stored within the 200 foot non disturbance buffer referred to in SECTION 6 below"; and

Whereas it is desirable to amend the covenant to more accurately and clearly reflect the wording and minutes of the New London Planning Board made pursuant to the approval of the said subdivision (see approved subdivision plan recorded as Plan #18662), and to clarify the covenant for future purchasers of lots in the subdivision; and

Whereas Section 12 –General Provisions (b) Amendments, of the Declaration of Covenants and Restrictions by Rocky Ridge at New London Association recorded in Book 3022, Page 998 in the Merrimack County Registry of Deeds, states that the provisions of the Declaration may be amended by two-thirds of the Lot owners, and if an amendment of Section 3..., then such amendment shall be approved by the New London Planning Board.

Now therefore, Harry M. Snow, III, and Rocky Ridge Seven, LLC, owners of two-thirds of the lots, make the following amendment that Section 3 – Lot Use and Building Construction, (F) state as follows:

"No seasonal or permanent docks or piers or other structures may be attached to the Covenant Buffer. Only floating swim rafts, seasonal docks of a fixed or floating nature, and not permanent docks, or recreational floats shall be permitted, subject to applicable State Law and subject to the requirement that they not be attached to the Covenant Buffer. No swim raft, seasonal dock or recreational float shall be stored within the 200 foot non disturbance buffer referred to in SECTION 6 below."

①

TOWN OF NEW LONDON
P.O. BOX 240
NEW LONDON N.H. 03257

Doc# 692182
Book: 3022 Pages: 0998 - 1010
Filed & Recorded
10/02/2007 11:19AM

Book 3022 Page 998

DECLARATION OF COVENANTS AND RESTRICTIONS

BY

ROCKY RIDGE AT NEW LONDON ASSOCIATION

THIS DECLARATION OF COVENANTS AND RESTRICTIONS made as of this 24 day of Sept., 2007 by Harry M. Snow, III (hereinafter called "Developer").

WITNESSETH:

WHEREAS, Developer is the owner of the real property described in Section 2 of this Declaration and desires to create thereon a residential community with certain common properties for the benefit of the said community; and

WHEREAS, Developer desires to provide for the preservation of the values and amenities in said community and for the maintenance of said common properties, and to this end, desires to subject the real property described in Section 2 to the covenants, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and

WHEREAS, Developer has deemed it desirable for the efficient preservation of the values and amenities in said community to delegate and assign the powers of maintaining and administering the common properties and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created to an agency having purposes and powers requisite thereto; and

WHEREAS, there has been incorporated under the laws of the State of New Hampshire, as a non-profit corporation, Rocky Ridge at New London Association, an association adapted to the exercise of the functions aforesaid.

NOW THEREFORE, the Developer declares that the real property described in Section 2 is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as "Covenants and Restrictions") hereinafter set forth.

SECTION 1 -- Definitions.

The following words, when used in this Declaration (unless the context shall prohibit), shall have the following meanings:

(a) "Association" shall mean and refer to Rocky Ridge at New London Association.

(b) "Board of Directors" or "Directors" shall mean and refer to the Board of Directors of Rocky Ridge at New London Association.



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FEENEY LAW OFFICES
P O BOX 399, NEWPORT, N. H. 03773-0399

526-9246

(c) "100' Wetland Buffer" Shall mean and refer to those areas of land shown on the Plan of the Property which denote the 100' protective buffer per New London Zoning Wetland Conservation Overlay District, Article XIII.G.c, as amended.

(d) "Common Properties" shall mean and refer to those areas of land shown on the Plan of the Property which are not numbered Lots and intended for the common use and enjoyment of the Lot owners of the Property (the road, until it is accepted by the Town of New London as a Town Road), together with any additions thereto as may be hereinafter provided for.

(e) "Covenant Buffer" shall mean and refer to those areas of land shown on the Plan of the Property which are subject to certain privately imposed conservation and restrictive covenants referred to in Section 6 below.

(f) "Living Unit" shall mean and refer to any portion of a building situated upon the Property, designed and intended for the use and occupancy as a residence by a single family.

(g) "Lot" shall mean and refer to any of the seven (7) lots of land shown upon the Plan of the Property.

(h) "Member" shall mean and refer to all those owners who are members of the Association as provided in Section 7, sub-paragraph (a) hereof.

(i) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot situated upon the Property, but, notwithstanding any applicable theory of the mortgage, shall not mean or refer to the mortgagee unless or until such mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure. In the case where record ownership is divided among tenants in common or joint tenants, the word "owner" as used herein shall mean any one of such tenants. Notice to any one of such tenants shall be deemed notice to all of them; the presence of one of them at a meeting duly called shall be deemed the presence of all of said tenants; and the Association is entitled to rely upon the act or doing of any of said tenants as the act or doing of all them.

(j) "Plan" shall mean and refer to Plan #18662 recorded at the Merrimack County Registry of Deeds being entitled "Subdivision Plan Property of Harry M. Snow, III, Bog Road, New London, New Hampshire" prepared by Blakeman Engineering, Inc.

(k) "Road" shall mean and refer to the 1,200 foot long road leading from Bog Road on which each Lot has frontage.

(l) "The Property" shall mean and refer to all such existing property as is subject to this Declaration.

(m) "Fire Prevention Pond" shall mean the Fire Prevention Pond referred to in Section 10, to include the fire pond, slopes, dry hydrant and the outlet drainage system.

SECTION 2 -- Property Subject to this Declaration.

The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in the Town of New London, County of Merrimack and State of New Hampshire, and is more particularly described as follows:

A certain parcel of land situated in New London, Merrimack County, New Hampshire shown as Parcel B on Merrimack County Registry of Deeds Plan Number 3775, excepting therefrom Lot 2A as shown on Merrimack County Registry of Deeds Plan Number 6085.

Meaning and intending to describe the premises conveyed to Harry M. Snow, III by Henry K. Kellner and Virginia C. Kellner by warranty deed dated July 31, 2006 and recorded in Volume 2915, Page 1611 of the Merrimack County Registry of Deeds.

SECTION 3 -- Lot Use and Building Construction.

In order to insure the use of each Lot for attractive single family residential purposes only, to prevent nuisances, and the impairment of the attractiveness of the Property, to maintain the desired character of the area, and thereby to secure to each Lot owner the full benefits, value and enjoyment of his Living Unit, with no greater restriction upon the free and undisturbed use of his Lot than necessary to insure the same advantages to other Lot owners, the following provisions shall apply to each Lot sold on the Property:

(a) Subdivision of any Lot for the purposes of sale or any other purpose is absolutely prohibited. However, Lot line adjustments if approved by the New London Planning Board pursuant to duly recorded Annexation Plans may be made.

(b) Each Lot shall be used for single-family private residential purposes only and uses normally incidental thereto, and there shall be no more than one living unit with outbuildings appurtenant thereto, on each Lot, except as hereinafter provided. The term "outbuildings" as used herein shall mean and be limited to a garage, a gazebo, a studio, a small barn, a woodshed, and a tool shed. No accessory dwelling units shall be erected on any Lot. All commercial uses are strictly prohibited, except "home occupations" and "home businesses" as defined by Article II of the New London Zoning Ordinance, as amended, subject to New London Planning Board approval as required by said Ordinance.

(c) All construction and alterations on any Lot are subject to the subdivision plan as approved by the New London Planning Board, the New London Zoning Ordinance, the New London Land Subdivision Control Regulations and the New London Building Permit system, all as amended. All owners of Lots and their lessees, families, guests, licensees, agents, employees, and any other person on the property which include a portion of the Covenant Buffer must abide by the covenants affecting the Covenant Buffer including those specified in the Declaration of Covenants and Restrictions attached hereto as Schedule A and further described in Section 6. Lot 1 is further

restricted by a natural woodland buffer as depicted on the plan. This buffer shall be maintained as provided for in Article XIII.G. (Wetland Conservation Overlay District: Wetland Buffers) and XIII.L. (Wetland Conservation Overlay District: Cutting and Removal of Natural Vegetation in Wetland Buffers) of the New London Zoning Ordinance, as amended.

(d) Except in support of building operations at the time of original construction upon any Lot, no "trailer" or "manufactured home" as defined by the New London Zoning Ordinance Article III, as amended, shall be placed upon, used or stored upon any Lot for more than thirty (30) calendar days per year for any purpose whatsoever, whether or not the same are permanently affixed to said Lot subject to the requirements of Article II Section 11a. of the New London Zoning Ordinance.

(e) No animals, livestock or poultry of any kind shall be kept, bred, or raised on any Lot, with the exception that dogs, cats and other ordinary domestic pets may be kept provided that they are not kept, bred or maintained for any commercial purpose.

(f) No seasonal or permanent docks or piers or other structures may be attached to the Covenant Buffer. Only floating swim rafts or recreational floats shall be permitted, subject to applicable State Law and subject to the requirement that they not be attached to the Covenant Buffer. No swim raft or recreational float shall be stored within the 200 foot non disturbance buffer referred to in SECTION 6 below.

SECTION 4 -- Utility, Drainage and Slope Easements.

(a) Any Lot owner (including the Developer) for the benefit of his Lot shall have a non-exclusive right and easement, which he may assign or convey to any utility company, to install or cause to be installed, maintained, repaired and replaced within the limits of the subdivision roads, any and all utility services; provided that no Lot owner (including the Developer) or utility company in the exercise of said right and easement shall interfere with the viatic use of said roads.

(b) The Developer excepts and reserves the right to drain water from any of the Lots or the road situated on the Property onto any Lot by means of culverts, drainage ditches, or any other means; the right, for purposes of maintaining and controlling the slopes of the road or fill any portion of any Lot abutting said road; and the right to enter upon any Lot to place or construct thereon any such culverts, drainage ditches or other drainage systems and to maintain and control said slopes. The rights reserved in this paragraph (b) shall be so exercised as not reasonably to interfere with the rights of any owner upon his Lot. At such time as the Town takes responsibility for maintaining the road, these reserved rights shall also be in favor of the Town of New London.

SECTION 5 -- Dedication of Road.

Until such time as the Road is dedicated to the Town of New London, the Developer excepts and reserves solely to itself and to those successors in the Developer's title to whom the Developer specifically shall assign or convey the same, the right to convey or otherwise dedicate the subdivision road to the Town of New London as a public way together with maintenance responsibilities for the

related slope and drainage easement areas and the slope and drainage facilities located within these areas.

SECTION 6 - Covenant Buffer Declaration.

Certain portions of the property are subject to a Declaration of Covenants and Restrictions which create a conservation zone lying between the shore of Messer Pond and two hundred (200) feet inland of the normal high water line of Messer Pond and a no build zone lying between the two hundred (200) feet inland of the normal high water line of Messer Pond and three (300) feet inland of the normal high water line of Messer Pond. A copy of said Declaration of Covenants and Restrictions is shown as Schedule A, attached hereto. The "normal high water line" shall be deemed to be the natural mean high water level as determined by the Department of Environmental Services.

SECTION 7 -- Membership and Voting Rights in the Association.

(a) Membership. Every owner of each Lot shall be a member of the Association and subject to its Articles of Association and By-Laws, as amended from time to time.

(b) Voting Rights. The Association shall have one class of voting membership and the owner of each Lot shall be entitled to one vote.

SECTION 8 -- Property Rights in the Road.

Every owner shall have an easement of use and enjoyment, in common with others, in and to the road, and such easement shall be appurtenant to and shall pass with the title to every Lot, which easements shall be subject to the following:

- (a) The rights of other owners to similar easements.
- (b) Any rights reserved to the Developer under this Declaration.
- (c) Any rights reserved to any Lot owner under this Declaration.
- (d) The rights of any licensees or other persons contracting with the Association.

SECTION 9 - Non Waterfront Lots.

Any Lot not having frontage on Messer Pond shall at all times retain a minimum of thirty (30%) percent of its area covered by natural trees, saplings, shrubs and groundcovers.

SECTION 10 -- Wells and Fire Prevention Pond.

(a) Wells. Each Lot shall be served by a well drilled by the Lot owner, provided, however, that Lot owners may agree to share a well and further provided that each well shall be given the benefit of a protective well radius.

(b) Fire Prevention Pond. The subdivision shall have the benefit of a Fire Prevention Pond, the location of which is shown on the Plan. The maintenance, operation and repair of the Fire Prevention Pond and its hydrant shall be the obligation of the Association and the Association shall keep the Fire Prevention Pond and its hydrant fully functioning and operational, and in compliance with all federal, state and local rules, regulations, statutes, orders and ordinances as directed or determined necessary by the New London Fire Department. In the event that the Association fails to maintain, upkeep or repair the Fire Prevention Pond and hydrant as required by the New London Fire Department, then the Town of New London shall be granted a right-of-way and access easement to so maintain, upkeep or repair the Fire Prevention Pond and hydrant at the sole expense of the Association. The Lot on which the pond is located shall be subject to an easement in favor of the Association or the Town of New London, as the case may be, for enforcement of these rights.

SECTION 11 -- Covenant for Assessments.

(a) Creation of Lien and Personal Obligation of Assessments. The Developer for each Lot owned by it hereby covenants, and each subsequent owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed, shall be deemed to covenant and agree to pay to the Association annual and special assessments, to be fixed and collected from time to time as hereinafter provided. The annual and special assessment, together with such interest thereon and cost of collection thereof, as hereinafter provided, shall be a charge and continuing lien upon the property against which each assessment is made and also be the personal obligation of the owner of such property at the time when the assessment fell due. In the case of a Lot held in divided ownership, each tenant in common and joint tenant shall, jointly and severally, be liable for the full amount of such assessment.

(b) Purpose of Assessments. The annual assessment levied by the Association shall be used exclusively for the payment of taxes assessed against the road, a capital improvement fund, road and Fire Prevention Pond maintenance, and for the payment of the premiums for liability insurance and for fire and extended coverage insurance if applicable, upon the same. Funds raised by special assessment may be used for any purposes for which funds accruing from the annual assessment may be expended. All annual and special assessments shall be levied upon a per-lot basis, and the amount levied against each Lot shall be such sum as, when multiplied by seven (7) will produce in the aggregate funds sufficient for the purpose of the assessment.

(c) Annual Assessment.

(i) The annual assessment shall be the sum, to be fixed and determined by the Board, which shall be required for the payment of taxes assessed or to be assessed against the road, a capital improvement fund contribution, road and Fire Prevention Pond maintenance, and for the payment of the premiums for liability insurance and for fire and extended coverage insurance if applicable upon the same.

(ii) The annual assessment for each year shall become due and payable upon the due date set forth in a notice given in accordance with sub-paragraph (h) of this Section 11.

(d) Special Assessments.

(i) Special assessments shall be levied only upon the vote of the membership of the Association in accordance with the provisions following, and at a regular annual meeting of the Association or at a special meeting thereof duly called. The notice of any meeting, annual or special, at which a special assessment is to be proposed, shall include, or shall be accompanied by, a written statement setting forth the purpose, or if there be more than one, the purposes for which such assessment is intended, and the amount to be raised by special assessment for such purpose and each of them respectively. Only purposes set forth in such statement may be made the object of a special assessment at such meeting; and the sum voted at such meeting with respect to any such purposes may not exceed (but may be less than) the amount shown on said statement with respect thereto. Notice of any such meeting shall be given to all owners at least thirty (30) days in advance thereof unless the meeting is called to deal with an emergency situation involving the road or Fire Prevention Pond, in which case adequate notice in less than thirty (30) days shall be given as determined by the Directors.

(ii) The levy of a special assessment for the ordinary or unexpected maintenance and upkeep of the road and Fire Prevention Pond shall be made only upon the assent of at least sixty-six and two-thirds ($66 \frac{2}{3}$) percent of all the votes cast in person or by proxy, at a meeting at which there shall be represented, in person or by proxy, at least sixty-six and two-thirds ($66 \frac{2}{3}$) percent of all the vote.

(iii) The due date of any special assessment shall be fixed in the resolution authorizing such assessment.

(iv) Notwithstanding any provisions of this paragraph (d) with respect to the notice of (including statement of purpose), conduct of and vote and quorum requirements of, a meeting at which a special assessment is voted, any such meeting shall be valid, and the action taken thereafter shall be binding upon all parties if all of the owners shall assent to the written record of such meeting.

(e) Certificate of Payment. The Board of Directors, upon demand by any owner of a Lot liable for an assessment, or upon the demand of any person holding of record a mortgage upon any such Lot, shall furnish to such owner or mortgagee, a certificate in writing signed by a member of said Board setting forth whether any assessment levied with respect to said Lot has been paid. Such certificate shall be conclusive evidence against the Association of payment of any assessment therein stated to have been paid.

(f) Effect of Non-Payment of Assessments. Any assessment which is not paid when due, together with interest thereon and cost of collection thereof as hereinafter provided, shall become a continuing lien on the Lot of the delinquent owner, which shall bind such property in the hands of said owner, his heirs, devisees, representatives and assigns. Any assessment which is not paid within thirty (30) days after its due date shall bear interest from said due date at eighteen (18%) percent per annum or such other rate as the board shall determine, and the Association may bring an action against the

owner personally obligated to pay the same or may foreclose the lien against said property in the manner provided by statute for the foreclosure of power of sale mortgages, and there shall be added to the amount of such assessments the cost of processing such action, or foreclosing said lien, including reasonable attorney's fees and said interest.

(g) Subordination of Lien. The Lien of the Assessments provided for herein shall be subordinate to the lien of any first mortgage now or hereafter placed on the property subject to assessment.

(h) Notice. Notice of any assessment levied with respect to any Lot shall be given by writing setting forth the amount of the assessment and the due date thereof, mailed, postage prepaid, to the owner of such Lot at his address as shown on the books of the Association.

SECTION 12 -- Rental.

The lease or rental of any living unit shall include the easement which appertains to the Lot upon which said living unit is situated.

SECTION 13 -- General Provisions.

(a) Duration. The Covenants and Restrictions of this Declaration, as the same may be amended from time to time, shall run with and bind the Lots and shall inure to the benefit of and be enforceable by the Association and the owners of any property subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of twenty (20) years from the date this Declaration is recorded, after which time said Covenants and Restriction shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the then owners of two-thirds (2/3) of the Lots has been recorded, agreeing to terminate them, provided, however, that with respect to any portion of these Covenants involving the Town of New London, including but not limited to SECTIONS 3, 4, 6, 9 and 10 above, no such termination shall be effective unless agreed to by the New London Planning Board.

(b) Amendments. The provisions of this Declaration may be amended from time to time by an instrument in writing signed and acknowledged by two-thirds (2/3) of the Lot owners (including the Developer for all Lots owned by it) from time to time, which amendment shall be effective upon recordation at the Merrimack County Registry of Deeds. However, SECTIONS 3, 4, 6, 9 and 10 cannot be amended without Town of New London Planning Board approval.

(c) Notice. Any notices required to be sent to any owner under the provisions of this Declaration shall be deemed to have been properly sent when hand delivered to said owner or when mailed postpaid to the last known address of the person who appears as owner on the records of the Association at the time of such mailing.

(d) Enforcement. Enforcement of these Covenants and Restrictions shall be by any proceeding at law or in equity by any lot owner or the Association against any person or persons or the

Association violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against his or its property to enforce any lien created by these covenants; failure by the Association or any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. Furthermore, if the Town of New London is required to perform any maintenance work to enforce these Covenants, the Town of New London shall have the right to place a lien on the Lots and Common Properties to secure payment of such expense and levy against such property in the same manner as it may do with respect to unpaid real estate taxes at the sole expense of the Association. The Town of New London shall have authority to enforce the Covenants contained in SECTIONS 3, 4, 6, 9 and 10. With prior notice to an owner the Town of New London shall have the right to enter onto and inspect Lots for the purpose of enforcing Covenants contained in SECTIONS 3, 4, 6, 9 and 10 and further provided that the Town is acting upon a legitimate written complaint by a Town Official or a member of the public. Nothing in this Section shall preempt the plenary inspection and enforcement rights of the Town of New London granted pursuant to the easements granted by Harry M. Snow, III relating to the Road and the Fire Prevention Pond and as further described in Agreement to Convey Easements and Roadway System and Responsibility for Maintenance between Harry M. Snow, III and the Town of New London as dated Sept. 24, 2007.

(e) Severability. Invalidation of any one of these Covenants or Restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Dated this 24 day of Sept., 2007.

Michael R Feeney
Witness to HMS, III

Harry M Snow III
Harry M. Snow, III

STATE OF NEW HAMPSHIRE
COUNTY OF Sullivan

Sept. 24, 2007

Personally appeared Harry M. Snow, III, known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument and acknowledged that he executed the same for the purposes therein contained.

Before me
Michael R Feeney
Justice of the Peace/~~Notary Public~~

My commission expires:

(Print Name)

MICHAEL R. FEENEY
JUSTICE OF THE PEACE
STATE OF NEW HAMPSHIRE
My Commission Expires June 22, 2010

FEENEY LAW OFFICES
P. O. BOX 369, NEWPORT, N. H. 03773-0369

SCHEDULE A

Return to:
Feeney Law Offices
PO Box 389
Newport, NH 03773

E-Recorded
Merrimack County Registry of Deeds
Feeney Law Offices
603 - 863 - 1252

8-1-06 J - 2915
 P - 1613

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DECLARATION OF COVENANTS AND RESTRICTIONS
(Conservation Land – Map 106, Lot 013-000
Messer Pond, New London, New Hampshire)

This Declaration of Covenants and Restrictions is made this 1ST day of August, 2006 by Harry M. Snow, III, with a mailing address P.O. Box 1372, New London, Merrimack County, New Hampshire 03257 (the "Declarant").

WITNESSETH:

WHEREAS, the Declarant is the owner of a certain tract of land situated on the northeasterly side of Messer Pond in New London, Merrimack County, New Hampshire, shown as Parcel B on Merrimack County Registry of Deeds Plan No. 3775, excepting therefrom Lot 2A as shown on Merrimack County Registry of Deeds Plan No. 6085 (the "Premises"); and

WHEREAS, the Declarant may develop the Premises for residential uses; and

WHEREAS, the Declarant acquired the Premises from Henry K. Kellner and Virginia C. Kellner of 160 Hayden Road, Hollis, Hillsborough County, New Hampshire (jointly and severally, the "Kellners"); and

WHEREAS, as part of the agreement between the Kellners and the Declarant for the sale and purchase of the Premises, the Declarant agreed to execute and record this Declaration of Covenants and Restrictions to impose upon a portion of the Premises the covenants and restrictions established under this Declaration, the basic purposes of which are to establish within a portion of the Premises (i) a conservation area, which conservation area is that portion of the Premises lying between the shore of Messer Pond and two hundred (200) feet of the normal high water line of Messer Pond (the "Conservation Land") and keep the Conservation Land in as natural a condition as possible, in perpetuity, notwithstanding the prospective development of the Premises for residential purposes or any other uses to which the Premises may be made, and (ii) a no-build zone, which no-build zone is that portion of the Premises lying between two hundred (200) feet of the normal high water line of Messer Pond and three hundred (300) feet of the normal high water line of Messer Pond (the "No-Build Zone").

NOW, THEREFORE, for consideration paid, the Declarant hereby declares and imposes upon (i) the Conservation Land (defined above), to benefit and burden future owners of those

connection with the No-Build Zone may be enforced by the owners of any portions of the Premises (e.g. a subdivided lot) in which is located a portion of the No-Build Zone. The benefits of this Declaration, as pertain to the No-Build Zone, shall benefit only the particular portion of the Premises (e.g. a subdivided lot) in which that portion of the No-Build Zone lies.

5. Maintenance. The Declarant of the owners of the Premises shall maintain, at their sole cost and expense, the Conservation Land in good condition, free of the accumulation of debris and other unnatural materials.

6. No Removal of Earth Materials. No earth materials shall be removed from the Conservation Land, nor may the topography of the Conservation Land be modified.

7. Inspection. The Kellners and their designated agents may inspect the Conservation Land, from to time to time, in connection therewith, cross and re-cross the Premises to effect such inspections, in locations reasonably established by the Declarant.

8. Boundary Markers. Within one (1) year of the recordation of this Declaration, the Declarant shall install permanent bounds along the northeasterly line of the Conservation Land, separated no greater than one hundred fifty (150) feet.

9. General Provisions.

A. Duration and Benefit. This Declaration shall run with and bind the Conservation Land and the No-Build Zone, as the case may be, in perpetuity, and shall be binding upon the Declarant and all owners of all or a portion of the Premises, in accordance with the provision of Section 4 above, in perpetuity. In addition, the Kellners, their heirs, successors and assigns, may enforce the obligations of the Declarant and the owners of the Premises under this Declaration. In light of the unique nature of the Conservation Land, the No-Build Zone and this Declaration, the obligations of the Declarant and the owners of the Premises shall be enforceable by all remedies at law and equity, including the remedies of specific performance and mandatory injunction.

B. No Rights to the Public. The rights and benefits established under this Declaration are for the exclusive benefit of the Declarant and the owners of all or a portion of the Premises. The general public is granted no rights under this Declaration.

C. Severability. Invalidation of any one of the terms or conditions of this Declaration by the judgment or order of a court of competent jurisdiction shall in no way affect any other provisions hereunder, all of which shall remain in full force and effect.

10. Amendments. The provisions of this Declaration may be amended only with the express written consent of the Kellners, the Declarant and all of the owners of all or a portion of the Premises. Notwithstanding the foregoing, no amendment shall (i) materially affect or alter the nature of the Conservation Land or (ii) materially and adversely affect the purposes and intent of this Declaration.

portions of the Premises in which lie the Conservation Land and (ii) the No-Build Zone (defined above), to benefit and burden future owners of those portions of the Premises in which lie the No-Build Zone, and to benefit the Kellners (who may enforce the same), the following covenants and restrictions, as the case may be, subject to the terms and conditions hereof:

1. Nature of Conservation Land and Uses. The Conservation Land shall remain as open space, in an undeveloped state and in as natural a condition as possible. No structures or improvements shall be erected, maintained or used in the Conservation Land. In light of the foregoing, the only uses permitted in the Conservation Land shall be the passive recreational uses of owners of the Premises and their guests and invitees, being specifically limited to walking and hiking, and water access for swimming, kayaking, canoeing and fishing. No other uses, of any kind or nature, shall be made of the Conservation Land, except as set forth in Section 3 below. Without limitation of the foregoing, there shall be no establishment of trails, picnicking, bicycling, use of motorized or non-motorized apparatus for the movement of persons (such as snowmobiles and all-terrain vehicles), fires, camping or other activities.

2. Nature of No-Build Zone and Uses. The No-Build Zone is an area to be used in a manner customary for yards appurtenant to single family dwellings. As such, lawns, shrubs and other plantings, wells, septic systems and play equipment may be developed and used in the No-Build Zone. No structures shall be erected, maintained or used in the No-Build Zone. Without limitation to the foregoing, there shall be no houses, dwelling units, garages, sheds, pools (above ground or in-ground), tennis courts, basketball courts, and other areas of impervious surface, outbuildings or accessory buildings in the No-Build Zone.

3. Permitted Activities. Notwithstanding the provisions of Section 1 above, the Declarant and the owners of the Premises may remove diseased, damaged or dead trees or other diseased, damaged or dead vegetation from the Conservation Land. In addition, the Declarant and the owners of the Premises may undertake minimal tree removal in the Conservation Land pursuant to a plan and protocol approved by a licensed forester and under the supervision of a licensed forester; however, in connection therewith, a healthy, well-distributed stand of trees, saplings, shrubs and ground cover, and their living root systems, shall be left in place.

4. Benefited and Burdened Properties.

A. Conservation Land. The benefits and burdens of this Declaration, as they pertain to the Conservation Land, shall pertain and only be appurtenant to those portions of the Premises (e.g. subdivided lots) which contain portions of the Conservation Land, and shall not benefit or burden any other portions of the Premises. For example, if the Premises are subdivided, then any lot which contains a portion of the Conservation Land (i) shall be benefited by the provisions of this Declaration which pertain to the Conservation Land and (ii) may enforce the obligations of this Declaration which pertain to the Conservation Land against any other lot of the Premises in which a portion of the Conservation Land lies.

B. No-Build Zone. The benefits and burdens of this Declaration, as the same relate to the No-Build Zone, pertain to and only are appurtenant to those portions of the Premises in which lie portions of the No-Build Zone. The burdens of the Declaration established in