

*Carmela O. Coughlin*

#321  
ANDREW SULLIVAN

COVER SHEET

DOCUMENT TYPE: 5<sup>th</sup> AMENDMENT TO DECLARATION  
OF MAMMOTH HOLLOW CONDOMINIUM

PARTIES LISTED: MAMMOTH HOLLOW CONDOMINIUM

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PROPERTY LOCATION: OLD ORCHARD WAY  
MANCHESTER, N. H.

Document Date:01.04.10

**FIFTH AMENDMENT TO DECLARATION  
OF MAMMOTH HOLLOW CONDOMINIUM**

WHEREAS, Wayne E. Kenney Builders, LLC, a New Hampshire limited liability company of 167 Madeline Road, Manchester, New Hampshire 03104 (hereinafter, "Successor Declarant/Seller/Builder") purchased the right to build out and sell the remaining five units in Phase III of the Mammoth Hollow Condominium ( to wit: Units 3, 5, 6, 7, & 8) from the Mammoth Hollow Condominium Owner's Association, a New Hampshire non-profit corporation with principal place of business at 5 Old Orchard Way, Manchester, New Hampshire 03019, by deed dated November 23, 2009 and recorded in the Hillsborough County Registry of Deeds on December 17, 2009 at Book 8163, Page 622; and

WHEREAS, the Mammoth Hollow Condominium and the units contained therein are declared, defined and described in the Declaration of Condominium of Mammoth Hollow Condominium, recorded on March 22, 1989 at Book 5093, Page 1084 of the Hillsborough County Registry of Deeds, as amended by first Amendment to Declaration of Condominium recorded on June 20, 1989 at Book 5114, Page 2001 of said Registry, and as further amended by Second Amendment to Declaration of Condominium recorded on may 27, 1992 at Book 5342, Page 314 of said Registry, and as further amended by third Amendment to Declaration of Condominium recorded on March 18, 1994 at Book 5532, Page 183 of said Registry, and as further amended by fourth Amendment to Declaration of Condominium dated November 17, 2009, recorded on December 17, 2009, at Book 8163, Page 618 of said Registry, all as shown on certain site plans and floor plans of said Condominium recorded as Plan Nos. 23167, 21675, 23251, 23498, 23499, 23497, 23501, 23502, 25775, 36644. The condominium as originally declared allowed 29 units, but, by amendments referenced above, and as approved by the City of Manchester, only 23 units may be built. Of these 23 units, 18 have been built. The five (5) remaining units to be built, all located in Phase III on the plans, are Units 3, 5, 6, 7 & 8. This Fifth Amendment is applicable to only these five units to be built approximately in their identified locations as shown on Plan No. 36644; and

NOW, THEREFORE, This Fifth Amendment to Declaration of Mammoth Hollow Condominium is made this 8<sup>th</sup> day of March, 2010, by Successor Declarant to Units 3, 5, 6, 7, & 8, WAYNE E. KENNEY BUILDERS, LLC, a New Hampshire limited liability company of 167 Madeline Road, Manchester, New Hampshire 03104 for the purpose of adding the five units in Phase III (to wit: Units 3, 5, 6, 7, & 8) to the Condominium for a total of twenty-three (23) units, and to amend certain sections of the original Declaration in order to accomplish said purpose, as follows:

1. Paragraph 3(d)(1) ("Buildings") on Page 3 of the Declaration shall be amended to read as follows:

The Condominium includes twenty-three (23) dwelling units, all of which have been or are being constructed on the Land. The location and dimensions of the twenty-three (23) units (buildings) are shown on the Plans of the Condominium. These buildings are single

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family detached residences of wood frame construction. All units contain one or two stories, excluding basements.

2. Paragraph 4(b) ("Maximum Number of Units") on Page 9 of the Declaration is amended to read as follows:

The maximum number of units to be constructed within (Convertible Lands is five (5) units with a maximum number of units within the Condominium to be twenty-three (23) units.

3. The real estate to be converted pursuant to Paragraph 4 of the Declaration ("Additional Statutory Requirements - Convertible Lands") is Convertible Land "B" (Phase III), as described in Exhibit D of the Declaration, and as shown on Plan No. 36644 recorded in the Hillsborough County Registry of Deeds, and as further bounded and described as follows:

A certain tract or parcel of land with buildings and improvements thereon situate on the westerly side of South Mammoth Road, Manchester, Hillsborough County, State of New Hampshire, shown on a plan of land entitled "Mammoth Hollow, Manchester, New Hampshire Condominium Site Plan Overview" dated August 30, 1988 by Costello, Lomasney and deNapoli, Inc. recorded in the Hillsborough County Registry of Deeds herewith, being more particularly bounded and described as follows:

Beginning at a point at the most southwesterly corner of said Phase III of said Plan of Land on the westerly side of South Mammoth Road; thence

1. North 69° 35' 33" West, a distance of 70.22 feet to a point; thence
2. North 20° 24' 27" East, a distance of 53.38 feet to a point; thence
3. North 76° 24' 35" West, a distance of 33.00 feet to a point; thence
4. North 20° 24' 27" East, a distance of 60.00 feet to a point; thence
5. North 69° 35' 33" West, a distance of 80.00 feet to a point; thence
6. North 55° 19' 03" West, a distance of 70.00 feet to a point; thence
7. North 30° 06' 53" East, a distance of 64.19 feet to a point; thence
8. North 07° 16' 24.5" East, a distance of 154.03 feet to a point; thence
9. North 56° 47' 31" East, a distance of 118.00 feet to a point; thence
10. North 21° 22' 16" West, a distance of 96.30 feet to a point; thence
11. North 22° 45' 31" East, a distance of 60.83 feet to a point; thence
12. North 81° 29' 42" East, a distance of 134.63 feet to a point; thence
13. South 87° 11' 42" East, a distance of 143.94 feet to a point; thence
14. Southwesterly by South Mammoth Road by a curve to the right with a radius of 921.68 feet, a distance of 146.51 feet to a stone bound; thence
15. South 20° 24' 27" West, a distance of 530.32 feet to the point of beginning.

Consisting of 3.22 acres, more or less, as shown on said Plan.

Together with the benefit of and subject to all easements and restrictions as set forth in Exhibit A to the Declaration, the recorded site plans, and such other easements of record..

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This portion of Convertible Land consists of five(5) units: Nos. 3, 5, 6, 7, & 8.

4. Each unit formed out of the above-described Convertible Land - Phase III is hereby assigned an identifying number in accordance with the site plan previously recorded as Plan No. 36644.

5. The limited common area assigned to each unit consists of the patio and/or deck, if any, private yard, walkway and driveway adjacent to the unit as shown on the Plans.

6. In accordance with Paragraph 3(g) of the Declaration, each unit has a 1/23<sup>rd</sup> equal undivided interest in the Common Area. In accordance with R.S.A. 356-B:23, II and R.S.A. 356-B:18, II, the equal undivided interests in the Common Area are reallocated as follows and Exhibit C to the Declaration is amended by deleting same in its entirety and substituting the following therefore:

EXHIBIT C

| Unit Nos. | Percentage Undivided Interest in Common Area |
|-----------|--|
| 3         | 1/23   |
| 5         | 1/23   |
| 6         | 1/23   |
| 7         | 1/23   |
| 8         | 1/23   |
| 10        | 1/23   |
| 12        | 1/23   |
| 14        | 1/23   |
| 16        | 1/23   |
| 18        | 1/23   |
| 20        | 1/23   |
| 22        | 1/23   |
| 24        | 1/23   |
| 26        | 1/23   |
| 28        | 1/23   |
| 29        | 1/23   |
| 30        | 1/23   |
| 31        | 1/23   |
| 32        | 1/23   |
| 33        | 1/23   |
| 35        | 1/23   |
| 37        | 1/23   |
| 39        | 1/23   |
| 23 Units  | 100%   |

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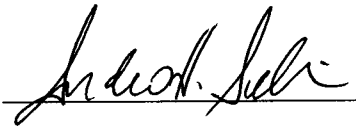
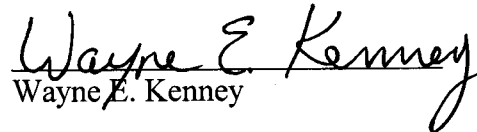
7. Paragraphs C and D of the Declaration, as amended, are superseded in their entirety by this Fifth Amendment which contains a revised Exhibit C, as described above, and by virtue thereof, reinstates Exhibit D of the original Declaration, describing the Convertible Lands within the Condominium. Said Convertible Lands are also shown on Plan No: 36644, recorded in the Hillsborough County Registry of Deeds.

8. All provisions of the original Declaration, as amended, except as herein otherwise expressly amended, remain unchanged and in full force and effect.

IN WITNESS WHEREOF, Declarant has cause this Fifth Amendment to be executed by its manager Wayne E. Kenney.

WITNESS:

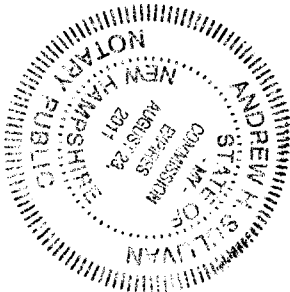
Wayne E. Kenney Builders, LLC


  
 Wayne E. Kenney

COUNTY OF: HILLSBOROUGH

STATE OF NEW HAMPSHIRE

The foregoing instrument was acknowledged before me this 8<sup>th</sup> day of March, 2010 by Wayne E. Kenney, Manager of Wayne E. Kenney Builders, LLC.



Notary Public/ Justice of the Peace  
 Name: Andrew H. Sullivan  
 My Commission Expires: 8-23-11