

**DECLARATION OF RESTRICTIVE COVENANTS
WINTERBERRY OF STRATHAM SUBDIVISION
Lots Located in
STRATHAM, NEW HAMPSHIRE**

ROCKINGHAM COUNTY
REGISTRY OF DEEDS

0007344

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RECITALS

A. Encumbered Property

The land encumbered by these covenants are the twenty-seven (27) residential house lots numbered 1, 2, 4 through 7, 9 and 11 through 30 shown on plan entitled "Winterberry Subdivision, Subdivision Plan Sandy Brook Corporation," by Jones & Beach Engineers, Drawings No. A1, A2 and A3, all of which are collectively recorded at the Rockingham County Registry of Deeds as Plan No. D-27549.

These covenants shall not apply to:

1. Lots No. 3 and 8, as shown on said Plan, which are substantially larger in size than the lots to which these Covenants apply and may be developed differently and apart from the common scheme of development intended for the above-referenced lots encumbered by these covenants.

2. Lot 10 as shown on said Plan, which by virtue of the Stratham Planning Board Subdivision Approval is not a building lot, but is intended to be deeded to the Town of Stratham for conservation purposes.

3. Subdivision lots which are located in North Hampton, New Hampshire, which are a part of the Winterberry of North Hampton Subdivision (see Rockingham Registry Plan No. D-27724) which have been previously encumbered by a separate Declaration of Restrictive Covenants dated February 3 2000 and recorded at the Rockingham County Registry of Deeds at Book 3453, Page 2224.

B. Declarants

The Declarants of these covenants are the current property owner and the developer.

The Owner is Evan Realty Trust (hereafter referred to as "Owner") with an address c/o ALTID Enterprises, 17 Monsignor O'Brien Highway, Cambridge, Ma. 02141. The undersigned Trustees, Raymond A. Carye and Barbara F. Carye, have full and absolute power to declare these covenants pursuant to the Declaration of Trust dated November 1, 1983, recorded at Book 2503, Page 316 in the Rockingham County Registry of Deeds as amended by a first Amendment dated November 2, 1984 recorded in said Registry at Book 3260, Page 2671 and Second Amendment dated February 6, 1985 recorded in Book 3260, Page 2673.

The Developer is Sandy Brook Corporation (hereafter referred to as "Developer") a New Hampshire Corporation with an address of 8 Newmarket Road, Suite 2, Durham, NH 03824.

C. Delegation of Rights by Developer

Developer has entered into a contract with Owner to purchase some or all of the 47 approved residential lots referred to as the Winterberry Subdivision, shown on subdivision plans recorded at the Rockingham Registry as Plan No. D-27724 (North Hampton lots) and D-27549 (Stratham lots), hereinafter referred to as the "Inventory Lots." The Inventory Lots include all of the Encumbered Property as defined by Recital A above.

The substantive provisions of the Restrictive Covenants below, contemplate various authorizations/approvals being given by Developer to purchasers of lots; most notably for construction plans for dwellings for the purpose of maintaining the value and character of the subdivision. If the Developer does not purchase at least eight of the Inventory Lots within any twelve month period, the first such period running from November 6, 1999 through November 5, 2000, Owner shall have the right to sell to any third-party purchaser such number of Inventory Lots which, together with Inventory Lots purchased by Developer from Owner during a given twelve month period, would equal eight.

For any lot encumbered by these Restrictive Covenants sold by Owner pursuant to the reserved contract right described above, or for any lot encumbered by these Restrictive Covenants sold by Owner after November 5, 2004, Owner shall have the authorization/approval rights reserved to Developer, unless expressly assigned or otherwise delegated.

Owner and Developer agree that the intent of the approval rights, whether exercised by Owner or Developer, are to maintain property values and a relatively uniform character for the subdivision.

SUBSTANTIVE RESTRICTIONS

Owner and Developer, as identified in the above recitals, hereby submit the following Covenants and Restrictions which shall run with the land, subject to the provisions of Paragraph 23 hereof, to be binding upon all present and future owners of the above identified encumbered lots, their heirs, successors and assigns. These Covenants shall be deemed appurtenant to said encumbered lots, whether or not they are set out at length in subsequent conveyances.

1. APPROVALS OF PLANS

So long as Developer has rights to any lot within the subdivision, no lot owner shall begin to construct a residence until plans have been submitted to Developer for review and approval. Plans submitted shall consist of floor plans, elevation plans showing all facades, specifications, exterior color, roof color, garage orientation, landscaping, fencing and any proposed tree cutting.

Construction of homes shall, in Developer's sole discretion, include the following architectural features:

1. Enlarged corner boards, minimum 10 inches in width on colonial style homes;
2. No pressure treated or pre-cast front steps;
3. Colonial windowheads or pediments over lower street-side windows or satisfactory substitute for shingle style homes;
4. Developer shall supply each lot with a granite post on which the lot owner will place the lot number or address of the lot in a manner in keeping with character of the encumbered lots and subject to the approval of Developer as part of the approval process set forth herein. Mailboxes approved by Developer may be attached to the post.
5. Developer reserves the right to approve alternate architectural features in keeping with the character and quality of the subdivision.

Developer may approve, disapprove or approve with conditions, in its sole and absolute discretion, any plans submitted to it within 20 calendar days after submission. If Developer fails to act within said 20 days, said plans shall be deemed approved.

No subsequent modifications or improvements, including accessory buildings, in ground swimming pools, fences/and/or walls shall hereafter be constructed on any encumbered lot, nor shall any substantial alterations to the exterior of the structure (including color, roof color, or landscaping) be made except in conformity with these covenants and restrictions. So long as Developer owns or has rights to purchase any of the lots encumbered by these Covenants, approval per this paragraph shall be required for such changes. Such changes shall also require the approval of the Architectural Review Committee, if any, thereafter.

No approval need be recorded at the Rockingham County Registry of Deeds. So long as either Declarant retains an ownership interest to any of the encumbered lots, if a lot owner has violated the provisions of these covenant, either Declarant may record a notice of violation at the Rockingham County Registry of Deeds. Either Declarant may also bring an enforcement action; provided that, if no enforcement action is commenced in the Rockingham County Superior Court with regard to said violation within one year after the recording of the notice of violation, the notice shall be deemed to have expired and be of no further force and effect. In the absence of the recording of such notice during the time either Declarant retains an owner's interest to any of the encumbered lots all persons may presume that there is no violation of this covenant.

No one, including homeowners or anyone holding by, through or under a homeowner, shall have any right at law or in equity or otherwise against either Declarant, their Agents or Employees arising out of the exercise or non-exercise of its rights pursuant to this Declaration, save only for any action taken in bad faith.

Developer shall not be obligated to maintain any plans, specifications, or records of approvals upon the expiration of 60 days after its last sale of a lot within the subdivision.

2. MINIMUM SIZE OF RESIDENCE

No residence shall be constructed with less than 2,000 square feet of living area, excluding garages, basements, porches and barn or storage areas.

3. EXTERIOR SURFACES, COLOR

All structures shall have exterior wall surfaces covered with brick or stone veneer, approved stucco application, or cedar clapboards or shingles or a combination of any of the aforesaid. The use of simulated or artificial brick or stone, composition clapboards, vinyl or aluminum siding or any other similar materials may be allowed at the sole discretion of Developer. Roofing materials shall be either wood shingles or "architectural" shingles. All dwellings shall be constructed on poured concrete foundations.

All fireplaces and chimneys visible from the exterior of the dwelling shall be constructed of brick, stone, or approved stucco application.

Exterior color paint chips shall be submitted to Developer for approval prior to start of exterior painting. Colors should be chosen in natural, neutral tones.

4. FOUNDATION ELEVATIONS

A maximum of twenty-four (24) inches of foundation may be exposed above the finished landscape grade.

5. GARAGES

Garages shall be oriented, insofar as practical, with the garage entry facing the side or rear of the lot. If it is necessary that the garage entry face the street, garage doors shall be equipped with electric openers.

6. STONE WALLS AND FENCES

Stone walls that are in place upon the sale of the lot by Developer, shall remain intact unless removal or alterations are approved by Developer, so long as it has rights to any lot within said subdivision, or the Architectural Review Committee, if any, thereafter.

All fencing shall be wood or natural stone. No chain link fencing is permitted except to enclose swimming pools. No fence exceeding six (6) feet in height shall be permitted on any lot, except as part of an approved tennis court layout or swimming pool enclosure. All fences shall be constructed with finished side facing away from the dwelling.

So long as Developer owns or has rights to purchase any of the lots encumbered by these Covenants, all proposed fencing must be approved by Developer. Such approval shall also be required of the Architectural Review Committee, if any, thereafter. A lot owner wishing to install any fence shall submit a drawing of such fencing and a sample of materials to be used to Developer (and/or Architectural Review Committee) prior to installation.

7. LANDSCAPING

a. Attractive landscaping is an essential element of the maintenance of property values in a subdivision. As such, Developer reserves the right for as long as it owns or has rights to purchase any lot encumbered by these Covenants, to require landscaping to be utilized which, in its sole discretion, is in keeping with the character of the subdivision and which will maintain property values. All landscaping, as approved in the site plan for approval, will be finished concurrently with substantial completion of the dwelling. Provided however, that if substantial completion does not occur before November 15, the landscaping shall be completed on or before June 15th of the following year.

Landscaping shall include, but not be limited to, front and side lawns, shrubs and plantings and a front walkway, each to be approved as provided herein.

b. Before or at the time of closing, the purchaser of any lot shall be required to make arrangements satisfactory to Developer to ensure completion of landscaping in accordance with the approved landscaping plan and in a timely manner as specified in paragraph (a) above.

8. TREE REMOVAL

No healthy living trees with a diameter in excess of six (6) inches shall be cut at any time within thirty (30) feet of any property line including the lot frontage on the roadway, without the express approval of Developer. The lot plan submitted under these covenants shall indicate the area within which the lot owner desires to cut trees for construction of the dwelling.

Within fourteen (14) days of cutting, any felled trees shall be cut up and the logs stacked neatly. Any stumps or slash shall be buried or removed from the lot. If buried, the location shall be approved by Developer so long as it owns or has rights to purchase any lot encumbered by these Covenants, or the Architectural Review Committee, if any, thereafter.

9. LAND USE AND BUILDING TYPE

Each lot shall be used only for residential purposes. Such use must conform fully with the Town of Stratham zoning ordinances. All dwellings shall have an attached, detached or drive-under garage of at least two (2) car capacity. No dwellings shall be used as boarding houses or tenement houses nor shall the owner of any property offer bed and breakfast accommodations, so-called, or otherwise take in tenants. Nothing herein shall prohibit an in-law

apartment or home office if allowed by the Town of Stratham zoning ordinances, but the use shall otherwise be restricted to single family residences. Nothing herein shall prevent an owner from renting his house in its entirety as a leasehold.

No metal buildings are permitted.

No above-ground swimming pools are permitted.

No all terrain vehicles, off road vehicles or snowmobiles shall be used on the premises nor shall any such vehicles nor any commercial vehicles, pleasure or commercial boats, motor homes, campers, trailers, powered or non-powered, be kept on the premises except out of sight of the roadway or stored in a garage or outbuilding conforming to these covenants. Unregistered or uninspected automobiles or automobiles being repaired or refinished over a period in excess of seven (7) consecutive days shall be stored in a garage or other enclosed structure.

10. SUB-DIVISION

There shall be no further sub-division of lots except for boundary line adjustments between abutters, which do not create additional buildable lots.

11. EXCLUSIVE RIGHT TO BUILD

Developer reserves the right to require a purchaser to utilize its preferred builder to construct the home on any lot in the subdivision.

12. TIME FOR CONSTRUCTION

The construction of any building shall be completed within nine (9) months from the time construction is begun. Completion is defined to include, but not be limited to, exterior finishing, landscaping, paving and painting.

13. BUILDING AND SITE MAINTENANCE

During construction, no unsightly condition shall be permitted to exist on the property. Materials shall be neatly stacked on site or placed within the incomplete structure. Stockpiling of materials and parking of construction vehicles and equipment when not in use shall be no closer than 50 feet from the roadway.

Construction debris shall be kept in a dumpster and Developer shall have the right to impose additional reasonable controls on construction.

Any disturbance to the land area within the subdivision roadway fifty (50) foot right of way shall be repaired to include grading, loam and seed, and replacement of any shrubs or plantings which have been damaged or destroyed.

14. ANIMALS AND PETS

No livestock or poultry of any kind shall be kept on any lots. Domestic dogs and cats are permitted provided that no kenneling or breeding for commercial purposes shall be allowed.

15. YARD MAINTENANCE

All lot owners shall maintain lawns and landscaping in an attractive manner. By way of example, but not of limitation, the front yards shall be kept free of children's swing sets, swimming pools, clotheslines, antennas or satellite dishes with diameters larger than 24 inches, or the like.

16. SIGNS

No signs or billboards shall be erected or displayed on any lot or building thereon except a size not exceeding four (4) square feet as may pertain to the lease or sale of a lot or home.

17. RUBBISH DISPOSAL

No dumping, burning, or burying of rubbish, waste, trash, garbage or other refuse shall be permitted. Garbage, trash and other refuse shall be kept in closed containers which shall be screened from sight or located within a building, and removed at regular intervals.

18. FUEL STORAGE

No external tank for fuel storage shall be maintained unless screened from sight or located within a building.

19. WIGGIN WAY HOME OWNERS ASSOCIATION

A community well and master delivery system provides water to all the lots encumbered by these Covenants, as well as Lots 3 and 8 referred to in Recital A, Paragraph numbered 1 above, and certain lots within the Wiggin Farm Subdivision, specifically being Lots 6 through 10, 13, 14, 26 through 33 as shown on the Wiggin Farm Subdivision Plan recorded at the Rockingham County Registry of Deeds as Plan #D-24196.

a. The purpose of the association is to address any and all issues which may now or in the future arise with respect to the community wells located within the Wiggin Farm Subdivision land, and water delivery system servicing the lots referred to above, including without limitation: (1) completion of any necessary construction or equipping of the community water system (should the developers of both subdivisions fail to do so) utilizing bond monies posted by the developers with the Town of Stratham for this purpose; (2) maintenance of the community water system in adequate condition for its intended uses in determining and

assessing the costs for said maintenance; (3) operating the community water system for the benefit of the members of the Wiggin Way Home Owners Association and assessing the cost of said operation.

b. All owners of the lots encumbered by these Covenants, and Lots 3 and 8 referred to in Recital A, Paragraph numbered 1 above, and the above specifically referenced Wiggin Farm Subdivision lots shall be members of the Association. The owner named in the deed to a lot shall be the individual (or entity) with the authority to exercise the voting rights for that lot. The lot owner(s) may designate a representative to exercise his/her/its right to vote on any Association business by written notice to the Home Owners Association

c. Upon the purchase of a lot encumbered by these Covenants from either Declarant, an initial annual fee of \$250 shall be paid and deposited in the Home Owners Association's account.

d. The Home Owners Association shall establish an annual budget for management and maintenance of the water system. The fees or assessments shall be used for the water system to include facilities, insect control, vegetation control, replacement and additions, the payment of taxes, purchase of liability and other insurance and for the cost of labor, equipment, materials, management and supervision and third party services such as legal and accounting.

e. The purchaser of any lot encumbered by these Protective Covenants, from either Declarant of these Covenants, agrees by acceptance of the Deed to a lot to all of the terms and conditions of these Covenants and to pay the Association:

1. annual fee or charges; and
2. special assessments for the purposes set forth above.

f. Association business may be carried out at a formal meeting called for that purpose or by written notice to lot owners whose votes shall be submitted in writing as specified in the notice.

g. All fees and assessments, together with interest and costs of collection shall be the personal obligation of the person who was the owner of a lot at the time when the fee or assessment became due. In the case of co-ownership of a lot, all such co-owners of the lot shall be jointly and severally liable for the entire amount of the fees and assessments.

h. If the assessment is not paid within thirty (30) days after the due date, interest shall accrue at the rate of 1-1/2% per month on the outstanding balance and the Association may bring an action against the owner(s) personally obligated to pay the same and place a lien against the lot, and there shall be added to the amount due all costs and expenses incurred, including reasonable attorneys' fees.

20. ENFORCEMENT

Enforcement shall be by (1) Developer, so long as it owns or has rights to purchase any lot encumbered by these Covenants; and/or (2) any owner of lots encumbered by these covenants; and/or (3) the owners of Lots 3 and 8 on Rockingham Registry Plan D-27549; and/or (4) the Architectural Review Committee, if any, established pursuant to Paragraph 23 hereof, against any person violating or attempting to violate any covenant herein established to enjoin the violation and/or recover damages. The prevailing party shall be entitled to recover costs and reasonable attorneys fees.

21. SEPARABILITY

Invalidity of any covenant by court order shall not affect the remaining covenants which shall remain in full force and effect.

22. EASEMENTS

Easements, if any, for access, the installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plot. Within these easements, no structures, plantings or other materials shall be placed or permitted to remain which may change the direction of flow of drainage channels in the easement. The easement area of each lot and all improvements in it shall be maintained by the owner of the lot, except for those improvements for which a public authority or public or private utility company is responsible.

23. TERMS: AMENDMENTS

These covenants shall run with the land and be for the benefit of lots within the subdivision, and shall be binding on all lots, all purchasers of lots, and all parties and all persons claiming thereunder, for a term of Twenty-five (25) years from the date of recording. Provided that, Paragraphs 1, 3, 6, 7 and 8, to the extent that approvals are required, shall terminate upon the point at which both Declarants no longer own or have any right to purchase a lot encumbered by these Covenants unless an Architectural Review Committee, as herein been provided, has been established. After the first twenty-five (25) year period, these covenants shall automatically extended for successive ten (10) years periods unless an instrument signed by a two thirds majority of the then owners of the lots has been recorded repealing said covenants.

Developer shall have the right in its sole and absolute discretion, to amend these covenants for so long as it owns or has any right to purchase a lot encumbered by these Covenants.

After Developer no longer owns or has any right to purchase a lot encumbered by these Covenants, these Covenants may be amended, at any time, by an instrument in writing executed with all the formalities of a deed and recorded at the Rockingham County Registry of Deeds by the then owners of a two thirds majority of the lots in the subdivision. It is the specific intent of this paragraph that each lot shall have one vote to amend these covenants.

A lot owned in co-tenancy, or by a corporation or by a trust or by other entity recognized by law shall be entitled to one vote, it being the responsibility of the entity owning the lot to select the individual who shall exercise the vote for said lot.

After both Declarants no longer own or have any right to purchase a lot encumbered by these Covenants, a two thirds majority of the then lot owners may, but need not, by written instrument recorded at the Rockingham County Registry of Deeds, establish an Architectural Review Committee to perform the duties herein described.

Trustees' Certificate

The undersigned Trustees of the Evan Realty Trust have full and absolute power by said trust agreement to convey any interest in real estate and improvements thereon held in said trust and no purchaser, lender, or third party shall be bound to inquire whether the Trustees have said power or are properly exercising said power or to see to the application of any trust asset paid to the Trustees for a conveyance thereof. Pursuant to Section 10 of the trust agreement, all deeds executed by two of the Trustees shall be effective and binding as if executed by all of the Trustees.

Jonathan Agger (referred to above in the Title Reference) is no longer a Trustee of Evan Realty Trust. Barbara J. Carye remains a Trustee, but is now known as Barbara J. Hausman.

Further, the Trustees represent that, other than the Amendments first referenced above, the Trust has not been amended, altered, terminated or revoked, and is still in force and effect.

DATED February 10, 2000.

EVAN REALTY TRUST

By: Raymond A. Carye
Raymond A. Carye, Trustee, as aforesaid
and not individually

By: Barbara F. Carye
Barbara F. Carye, Trustee, as aforesaid
and not individually

[Signature]
Witness

[Signature]
Witness

SANDY BROOK CORPORATION

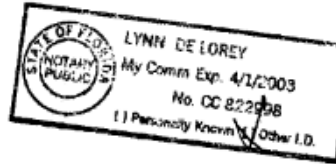
By: Eric J. Chinburg
Eric J. Chinburg, President

Henry J. Lepez
Witness

STATE OF FLORIDA
COUNTY OF COLLIER

February 10, 2000

Personally appeared Raymond A. Carye and Barbara F. Carye, Trustees of Evan Realty Trust, and acknowledged the foregoing instrument as their voluntary act and deed.
Before me.



Lynn De Lorey
Notary Public/Justice of the Peace
My commission expires: 4/1/03

STATE OF NEW HAMPSHIRE
COUNTY OF Stafford

February 11, 2000

Personally appeared Eric J. Chinburg, duly authorized President of Sandy Brook Corporation, and acknowledged the foregoing instrument as its voluntary act and deed.
Before me,

Nancy J. Lepore
Notary Public/Justice of the Peace
My commission expires: 8-20-

