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Document Number

Document Title

**DECLARATION
OF CONDOMINIUM
OF
BARTON BUSINESS
CONDOMINIUMS**

Recording Area

Name and Return Address:

24
SCOTT HENNER
PADON STE
122 WISCONSIN ST
W. BEND WI 52091

PIN: _____

DRAFTED BY Jacques C. Condon.

**CONDOMINIUM DECLARATION
AND CONDITIONS, COVENANTS,
RESTRICTIONS AND EASEMENTS FOR
BARTON BUSINESS CONDOMINIUMS**

This Declaration is made pursuant to the Condominium Ownership Act of the State of Wisconsin, Chapter 703 of Wisconsin Statutes (hereinafter referred to as the "Act") on the latest date below by N&M Properties LLC, a Wisconsin limited liability company, and/or its assigns (hereinafter referred to as "Declarant").

**ARTICLE I
STATEMENT OF PURPOSE**

The purpose of this Declaration is to subject the property described below and the improvements thereon (hereinafter collectively "Condominium") to the condominium form of ownership in the manner provided by the Act. It is intended that all provisions contained herein shall be deemed to run with the land and shall constitute benefits and burdens to Declarant and to its successors in interest, including those of a duly authorized condominium association identified as "Barton Business Condominiums" or similar name, and as incorporated as a Wisconsin Chapter 181 Non-stock Corporation (the "Association").

**ARTICLE II
DESCRIPTION, NAME, RESTRICTIONS AND DEFINITIONS**

- 2.01. Legal Description. The real estate subject to this Declaration is approximately 11.9 acres located at the SW corner of US 45 and CTH D in the Town of Barton, Wisconsin as identified per the legal description attached at **Exhibit A** (the "Property").
- 2.02. Location; Concept. The location of the Condominium shall be with the Property and include multiple buildings, roads, and other structures as depicted in the Certified Survey Map attached at **Exhibit B**. Up to thirty-two (32) commercial condominium structures will be developed on the Property.
- 2.03 Name and Address. The name of the Condominium is "Barton Business Condominiums" or of a similar name with an address of Hwy D and Hwy 45, West Bend, Wisconsin.
- 2.04. Covenants, Conditions, Restrictions and Easements. The Condominium shall be, on the date this Declaration is recorded, subject to:
 - (a) General taxes not yet due and payable;
 - (b) Easements and rights in favor of gas, electric, telephone, water, ingress/egress, signage, and other utilities;
 - (c) All other easements, covenants and restrictions of record;

- (d) All municipal, zoning and building ordinances and agreements entered into under them; and
 - (e) All other regulations applicable to the Association.
- 2.05. Definitions. Except as modified herein, the definitions contained in the Act shall govern in the interpretation of this Declaration.

ARTICLE III OWNERSHIP INTERESTS

- 3.01. Definitions. Ownership interests in the Association shall be understood by the particular unit or common element located on the Property, identified this way:
- (a) A "Unit" is a cubicle of air having exterior boundaries, with each Unit located within a Building, and a "Building" generally depicted on the attached concept plan, with it understood that each Building has separate exterior boundaries understood as:
 - (i) Finished exterior surfaces of the Unit, except that the boundary between adjoining Units in the same Building shall be the midpoint between the interior wall surface of each Unit;
 - (ii) All doors and windows, interior and exterior, their interior casements and their opening, closing and locking mechanisms and hardware;
 - (iii) All wall and room-mounted electrical fixtures and recessed junction boxes serving them, including the heating and air conditioning units, components and controls serving the Unit, if any; and
 - (iv) The individual cement slab, foundation, or construction materials that comprise the respective Unit.
 - (b) "Common Elements" shall mean all of the Condominium, except the Units and Limited Common Elements, and Common Elements shall also include all tangible personal property used in the operation, maintenance and management of the Condominium. For purposes of this Declaration, the Common Elements include, without limitation, the land, private streets, and any other portion of the improvement to the land that are not part of a Unit or Limited Common Elements.
 - (c) "Limited Common Elements" shall mean those Common Elements identified in this Declaration and on any concept plan as reserved for the exclusive use of one or more, but less than all, Unit Owners of their respective Building. For purposes of this Declaration, Limited Common Elements include the driveway for each Building for the Unit to which the driveway extends and the utility lines to separate units within that Building.

3.02. Responsibility for Ownership Interests. Responsibility shall be understood this way:

- (a) Each Unit Owner shall be responsible for the maintenance, repair, and replacement of all other improvements constructed within the Unit (including the electrical, heating, and air conditioning systems serving such Unit) and the respective Limited Common Elements appurtenant to the Building;
- (b) A Unit Owner is jointly and severally responsible with any other Unit Owners for the repaired, maintenance and replacement of any Limited Common Elements that service or are appurtenant to their respective Building; and
- (c) The Association shall be responsible for the repair, maintenance, replacement and appearance of the Common Elements, including, without limitation, responsibility for ordinary wear and tear, obsolescence, landscaping, gardening, snow removal, and cleaning, such that all activities are carried out as provided in any instruments duly authorized by the Association.

3.03. Ownership. Each Unit Owner shall own an undivided interest in the Common Elements as a tenant-in-common with all other Unit Owners, and, except as otherwise provided in this Declaration, the right of use of the Common Elements shall be appurtenant to and run with its Unit; the use of the Common Elements and the rights of the Unit Owners with respect thereto shall be subject to and governed by the Act, this Declaration and the any instruments duly authorized by the Association.

ARTICLE VI
USES

- 4.01. Use. Except as otherwise provided herein and subject to any Bylaws of the Association, any rules and regulations adopted by the Association, and subject to any and all municipal ordinances, the Units and Limited Common Elements, respectively, and Common Elements shall be available for the use and enjoyment of or service to Unit Owners.
- 4.02. Concept Plan; Description. Buildings are unbuilt at the time of this Declaration with Declarant reserving the right to change the layout and dimensions of any respective Unit or Building consistent with the nature and quality of a respective Unit or Building.
- 4.03 Identification. Units shall be identified by the Building number, the determination of which is set forth in the Survey Map attached at **Exhibit B** by reference and/or as updated from time to time; every deed, lease, mortgage or other instrument may legally describe a Unit by the Unit number, and such description shall be good and sufficient for all purposes as defined in the Act.

4.04. General Use; Non-Habitation. The Units, Limited Common Elements, and Common Elements of the Condominium shall be used for storage and small business generally described herein; at no time shall the Property be considered for residential or habitation uses or uses that would be contrary to the general welfare and economic prosperity of the community. At no time shall any use violate any municipal ordinances.

4.05. Concept Uses. For purposes of this Declaration, the following uses are envisioned for the Units:

- Electrical contractors
- Plumbing contractors
- HVAC contractors
- Acoustical ceiling contractors
- Floor coating contractors
- Property manager warehouse
- Commercial artist
- Cleaning business
- Remodeling contractors
- Security system contractor
- Workshops
- Flooring installation contractor
- Online marketing/advertising studio-shop
- Commercial artist
- Hobbyist

Such uses are not considered an exhaustive list, with other uses similar in nature and characteristics to those above allowed by and in compliance with municipal ordinances.

4.06 Specific Restrictions on Use. Each Unit Owner covenants and agrees to abide by the following restrictions on the use of a Unit, Common Elements, Limited Common Elements, or any part thereof, (which may be amended from time to time by the Association or supplemented by its Rules and Regulations):

- (a) The Units, Common Elements and Limited Common Elements, including any use thereof, shall at all time comply with municipal ordinances;
- (b) No obstructions of the Common Elements, nor shall anything be stored in the Common Elements without the prior consent of the Board or the Declaration;
- (c) No sign, awning, canopy, shutter or radio or television antenna shall be affixed to, or placed upon, the exterior walls or roof or any part of a Building without the prior consent of the Board;

- (d) No sign of any kind shall be displayed to the public view on any Unit without the written consent of the Association; provided, however, that Declarant reserves the right to erect signs, gates, or other entryway features surrounded with landscaping at the entrances to the Condominium and to erect appropriate signage for the sales of Units;
 - (e) Trash, garbage and other wastes shall be kept only in enclosed sanitary containers satisfactory to the Association and shall be disposed of in a clean, sightly, healthy, timely and sanitary manner and as may be prescribed from time to time by the Association's Rules and Regulations;
 - (f) No Unit shall be used or maintained as a dumping ground for rubbish, trash, garbage, or waste. All garbage, recycling, clippings, rocks, or earth must be in containers. All containers must be stored in the Unit;
 - (g) There shall be no parking or storage of tools, equipment, car parts, or the placing of any other property on any part of the Common Elements, except for parking in designated parking areas as may be otherwise permitted by the Association's Rules and Regulations;
 - (h) No vehicles or equipment shall be parked on a Unit's driveway overnight, with hours of operation not exceeding, unless in the case of emergency, 4 a.m. to 11 p.m.; and
 - (i) Unit Owners may not plant any decorative plants, vegetables, and shrubbery outside their Unit without the prior written consent of the Association.
- 4.07 Rules and Regulations. Other rules and regulations may be adopted by the Association from time to time by action of the Association's Board taken in accordance with its Bylaws, which shall apply to each Unit Owner, and may be enforced by the Association, except as otherwise designated herein.

ARTICLE V UNIT OWNER INGRESS EGRESS

- 5.01. Definition. A "Unit Owner" shall mean a person, combination of persons, partnership or corporation who holds legal title to a Unit; provided, however, that in the event equitable ownership has been conveyed in the Unit by means of a land contract (duly recorded) or other similar document, "Unit Owner" shall mean the land contract purchaser, and Declarant shall be included in the definition of Unit Owner with regard to Units on which an occupancy permit has been issued by the Town of Barton.
- 5.02 Unit Owner's Right of Ingress and Egress. Each Owner shall have the unimpeded right and privilege of ingress and egress over, upon and across the Common Elements as is reasonably necessary for access to its Unit and other Common Elements, and such rights shall be appurtenant to and pass with title to each Unit.

ARTICLE VI
ASSOCIATION

- 6.01. Definition. The Association identified above shall mean a Wisconsin non-stock corporation, when established by Declarant.
- 6.02. Duties and Obligations. All Unit Owners shall be entitled to become and shall be required to become members of the Association and subject to its Articles of Incorporation, Bylaws and rules and regulations adopted by it for the use and management of the Condominium. By becoming members of the Association, Unit Owners automatically assign the management and control of the Common Elements of the Condominium to the Association.
- 6.03. Voting and Restrictions. Subject to the Bylaws then in place, it is generally understood that each Unit shall be entitled to one (1) indivisible vote in the Association, subject to suspension, and that the Association may not, without the consent of at least two-thirds (2/3) of the Unit Owners, abandon, subdivide, encumber, sell or otherwise transfer the Common Elements; provided, however, that easements for public utilities serving the Property shall not require such consent.

ARTICLE VII
REPAIRS AND MAINTENANCE

- 7.01. Alteration of Units. A Unit Owner may make improvements or alterations within its Unit; provided, however, that said improvements or alterations do not impair the structural soundness or integrity, or lessen the support, of any portion of the Building, do not materially reduce the value of the Condominium and do not impair any easement granted under or pursuant to this Declaration. All expenses involved in any such improvement or alteration shall be the responsibility of the Unit Owner involved.
- 7.02. Common Elements. The Association shall be responsible for the management and control of Common Elements, with a requirement that the Association maintain the same area in good, clean, and attractive order and repair, and shall have an easement over the entire Condominium for the purpose of carrying out these responsibilities, including snow plowing of private streets and parking areas, and the maintenance, repair, and replacement of all outdoor amenities, including lawns, landscaping, and parking areas. The Association shall be responsible for repairing and replacing when necessary any Common Elements.
- 7.04. Association Right to Make Repair. If, in the reasonably exercised discretion of the Board, maintenance or repair of a Unit or Limited Common Elements is necessary to protect the Common Elements or any portion of a Building, or the repair becomes necessary to maintain the intended use of the Property, and the affected Unit Owner has failed or refused to perform such maintenance or repair within a reasonable time (as established by the Board in its sole discretion) after written notice of repair or maintenance has been given to the Owner, then in such events the Association may undertake such maintenance or repair and levy a special assessment against the Owner and its Unit for the cost thereof.

- 7.05 Deed Restrictions and Restrictive Covenants. Declarant and Association reserve the right to implement certain deed restrictions, easements, and restrictive covenants against the Condominium Land and Units as may be required pursuant to certain laws and municipal ordinances related to parking, sanitary sewer, water access and stormwater requirements that affect the Property existing as of the date hereof, provided, however, such restrictions shall not include the prohibition of the use of the Units.

ARTICLE VIII
SALE OR LEASE OF UNITS

- 8.01 Sale. After taking title from Declarant as part of an arm's length transaction, a Unit Owner has the right and authority to sell the Unit to another upon compliance with the Declaration and disclosure of any Association documents that imposes restrictions on ownership, including the Association's rules and regulations from time to time.
- 8.02. Lease. Subject to the restrictions set forth in this Declaration, each Unit may be rented by written lease, provided that: (a) the term of any such lease shall not be less than one year (1) year; (b) the Unit Owner has obtained the prior written approval of the Association to the proposed tenant and the terms of the proposed lease; (c) the lease contains a statement obligating all tenants to abide by this Declaration, Bylaws, and Association's rules and regulations, as updated from time to time; and (d) the Association has the right to evict the tenant and/or terminate the lease for tenant's failure to abide by this Declaration, Bylaws, and Association's rules and regulations. The right to evict shall run from a period of (10) days following delivery of written notice to the tenant specifying the violation, or shall be immediate in the Association's determination of the need to protect from imminent harm or threat. Each Unit Owner of such Unit shall remain liable for the compliance of the lessee of the respective Unit.
- 8.03. Association Discretion. The Association may withhold approval on any sale or lease if doing so is based on a reasonable basis, including, but not limited to the failure of the lease terms to comply with all provisions of this Declaration, Bylaws, or its rules and regulations.
- 8.04. Non-Waiver. Association non-action on past tenant, guest, invitee, or Unit Owner's act that could be deemed contrary this Declaration, Bylaws, or rules and regulations shall in no way be considered a waiver, nor shall non-action be used to establish an intent not to claim default. In asserting this right, both the Unit Owner and any purported lessee of a Unit understand and recognize that there are no oral-waivers and, if there is a good faith question of ownership by reason of noise, odors, vibrations, or nuisance, it need be addressed to the Association, in writing.

ARTICLE IX
INSURANCE

- 9.01. **Property Insurance.** The Association shall obtain and maintain insurance for the Common Elements and entertainment area included within the Limited Common Elements, covering the periods of fire, extended coverage, vandalism and malicious mischief on a repair and replacement cost basis for an amount not less than the full replacement value of the insured property. The Association shall be the named insured with Unit Owners and the Mortgagees of Units as additional insureds. For purposes of this provision and for the Declaration, "Mortgagee" shall mean the holder of any recorded mortgage encumbering one or more Unit or a land contract seller.
- 9.02. **Liability Insurance.** The Association shall maintain comprehensive general liability insurance against all claims commonly insured against and in such amounts as the Association shall deem suitable and commercially reasonable. The policies may include standard coverage for the errors and omissions of Association directors and officers. Such policies may also contain "severability of interest" endorsements which would preclude the insurer from denying the claim of a Unit Owner because of negligence on the part of the Association or other Unit Owners.
- 9.03. **Fidelity Insurance.** The Association may maintain fidelity coverage against dishonest acts by any person responsible for handling the funds belonging to or administered by the Association in an amount it deems commercially reasonable.
- 9.04. **Directors' and Officers' Insurance.** The Association may maintain insurance on behalf of its officers and directors against liability asserted against or incurred by him or her in any such capacity or arising out of the position within the Association, in an amount it deems commercially reasonable.
- 9.05. **Administration.** Any and all premiums associated with the insurance maintained by the Association shall be Common Expenses.
- 9.06. **Unit Owners Insurance.** Maintenance of insurance by the Association shall not relieve or prohibit Unit Owners from maintaining insurance with limits in excess of those maintained by the Association or with additional insured risks. Unit Owners are encouraged to submit copies of the disclosure materials to their insurance carriers in order to ensure adequate property and liability coverages on their personal property, Units and Limited Common Elements appurtenant to such Units.
- 9.07. **Disbursement.** Insurance proceeds shall first be disbursed for the repair or restoration of the damaged Common Elements such that Unit Owners and Mortgagees shall not be entitled to receive payment of any portion of the insurance proceeds unless the Association has determined not to rebuild, or a court has ordered partition of the Condominium property, or there is a surplus of insurance proceeds after the Common Elements have been completely repaired or restored.

- 9.08. Mutual Waiver of Subrogation. Nothing in this Declaration shall be construed so as to authorize or permit any insurer of the Association or a Unit Owner to be subrogated to any right of the Association or a Unit Owner arising under this Declaration. The Association and each Unit Owner hereby release each other to the extent of any perils to be insured against by either of such parties under the terms of this Declaration or the Bylaws, whether or not such insurance has actually been secured, and to the extent of their respective insurance coverage for any loss or damage caused by any such casualty, even if such incidents shall be brought about by the fault or negligence of either party for whose acts, omissions, or negligence the other party is responsible. All insurance policies to be provided under this Article by either the Association or a Unit Owner shall contain a provision that they are not invalidated by the foregoing waiver. Such waiver shall, however, cease to be effective if the existence thereof precludes either the Association or a Unit Owner from obtaining such policy.

ARTICLE X REPAIR OR RECONSTRUCTION

- 10.01 Definition. If all or any part of the Condominium becomes damaged or is destroyed by any cause, other than by normal wear and tear, the damaged portion shall be repaired or reconstructed pursuant to this Article X of the Declaration.
- 10.02. Partial or Total Destruction. In the event of the partial destruction of a Building of less than 50% of its value before the damage, and based on economic and feasibility determination by the Association's Board, the Building shall be repaired and rebuilt by the respective Unit Owner(s) as soon as practicable and substantially to the same design, plan and specifications as originally built; provided, however, that there is no responsibility to repair and rebuild if, within ninety (90) days after the damage, by vote of 75% or more of the vote of the members of the Association, it is determined not to rebuild or repair. In the event of destruction of a Building to the extent of 50% or more of its value before the damage, the Unit Owner(s) shall have the option to repair and/or rebuild or not. If the Unit Owner(s) opts not to rebuild, said Unit Owner(s) shall be responsible for the costs of demolition and clean-up of the Unit's site and the Unit Owner(s)' ownership shall revert to the Association. In any event in which a unit is not repaired or rebuilt, the provisions of Section 703.18 of the Wisconsin Statutes shall be applicable.
- 10.03. Plans and Specifications. Any reconstruction or repair shall, as far as is practicable, be made in accordance with the maps, plans, and specifications used in the original construction of the Condominium and the Buildings, unless otherwise approved by the Association's Board and any other municipal or regulatory requirements.
- 10.04. Mortgagees' Consent Required. No approval, consent, or authorization given by any Unit Owner under this Article shall be effective unless it is consented to by the Mortgagee (if any) holding the first lien against the Unit.

ARTICLE XI EMINENT DOMAIN

In the event of taking of any of the Common Elements under the power of eminent domain, the provisions of Section 703.19, Wisconsin Statutes, as amended, shall control; provided, however, if partition is a possible remedy to eminent domain, the affirmative vote of at least two-thirds (2/3) of the first Mortgagees, calculated on a per Unit basis, will also be required to partition the Condominium.

ARTICLE XII COMMON EXPENSES AND ASSESSMENTS

- 12.01. **Definition.** Any and all expenses incurred by the Association described in or authorized by this Declaration, and where such expenses are incurred in connection with the administration, management, maintenance, repair, and replacement of the Condominium, such expenses collectively shall be deemed to be common expenses (the "Common Expenses"). In addition, Declarant does adopt and otherwise states that the Unit Owners may be responsible for additional Common Expenses, such as the hiring of a management company, storm water maintenance, community room building and maintenance, and reserves. For purposes of all such Common Expenses, Declarant has not assigned a value to such expenses, identified all such expenses, nor determined any equitable assignment amongst other owners within the Property, if any; however, it is the intent of Declarant to identify such expenses, to make best efforts to adopt by Bylaws or other document a calculation of expenses, and do so such that the identification and ultimate compensation, amended and updated over time, shall not be considered an amendment to the Condominium pursuant to Section 703.09(2), Wisconsin Statutes.
- 12.02. **Liability Of Unit Owner.** Each Unit Owner shall be liable for the share of Common Expenses of the Association assessed against such Owner's Unit, with the Common Expenses allocated among the Units on an equal basis.
- 12.03 **General Assessments.** The Association shall levy annual general assessments (the "General Assessments") against the Unit Owners for the purpose of maintaining a fund from which Common Expenses may be paid. The General Assessments against the Unit Owners shall be assessed in proportion to their Percentage Interests. General Assessments shall be due in advance or in such other manner as the Association may set forth in the Bylaws. Any General Assessment not paid when due shall bear interest until paid, as set forth in the Bylaws and, together with interest, collection costs, and reasonable attorney fees, shall constitute a lien on the Unit on which it is assessed if a statement of condominium lien is filed within two (2) years after the assessment becomes due as provided in the Act.
- 12.04. **Special Assessments.** The Association may, whenever necessary or appropriate, levy special assessments (the "Special Assessments") against the Unit Owners, or any of them, for deficiencies in the case of destruction or condemnation as set forth in this Declaration; for defraying the cost of improvements to the Common Elements; for the collection of monies owed to the Association under any provision of this Declaration; or for any other purpose for which the Association may determine a Special Assessment is necessary or appropriate for the improvement or benefit of the Condominium. Special Assessments shall be paid at such time and in such manner as the Association may determine. Any Special

Assessment or installment not paid when due shall bear interest until paid, as set forth in the Bylaws and, together with the interest, collection costs, and reasonable attorney fees, shall constitute a lien on the Unit on which it is assessed if a statement of condominium lien is filed within two (2) years after the Special Assessment becomes due as provided in the Act.

- 12.05. Lien. The assessments of Common Expenses and/or Assessments, identified above, together with such interest as the Association may impose in the Bylaws for delinquencies and with the costs of collection and actual attorney fees, constitute a lien on the Units against which they are assessed. Attachment, filing, effectiveness, priority and enforcement of the lien shall be as provided in Section 703.16, Wisconsin Statutes, as amended. The lien shall secure payment of the assessment, interest and costs of collection, including attorney fees. The lien may be recorded in the Washington County Register of Deeds Office by an instrument executed by the Association and may be foreclosed. The Unit Owner shall be personally liable for all unpaid assessments, interest and costs of collection. This liability shall not terminate upon transfer of ownership or upon abandonment by the Unit Owner.
- 12.06. Suspension Of Voting Rights. If any assessment of Common Expenses and/or Assessments, identified above, are delinquent and a "Statement of Condominium Lien" as described in Section 703.16(9), Wisconsin Statutes, as amended, has been recorded against a Unit, the Association may suspend the voting rights of the delinquent Unit Owner.
- 12.07. Unit Sale. Except as otherwise provided herein, unpaid Common Expenses and/or Assessments, identified above, that are assessed against a Unit shall be joint and several liability of the seller and purchaser in a voluntary transfer of the Unit if a statement of Condominium Lien covering the delinquency shall have been recorded prior to the transfer.
- 12.08. Foreclosure. In the event the Mortgagee of a first mortgage of record or any other purchaser of a Unit obtains title to the Unit as a result of foreclosure of a mortgage or as a result of a conveyance in lieu of foreclosure, such purchaser or his/her successors and assigns shall not be liable for the total share of Common Expenses or assessments by the Association pertaining to such Unit or chargeable to the former Unit Owner, which Common Expenses or assessments became due prior to the acquisition of title. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expense collectible proportionately from all of the Unit Owners.

ARTICLE XIII POWERS OF DECLARANT

- 13.01. Declarant Control. Except as provided in Section 703.15(2)(d), Wisconsin Statutes (2002), as amended, Declarant reserves the right to appoint and remove officers and directors of the Association and to exercise the powers and responsibilities of the Association, its members and its directors until thirty (30) days after conveyance of eighty-five percent (85%) of the Units in the Condominium as originally in the concept plan. Up to the time of conveyance, Declarant shall have the full and exclusive right to take all action on behalf

of the Association, including, but not limited to, the right to: (a) enter into leases of Units, (b) make contracts and agreements on behalf of the Association for the maintenance, operation and management of the Condominium, (c) determine, levy and collect assessments, (d) grant easements, and (e) enact and enforce rules and regulations for the use of the Condominium.

- 13.02. Termination Of Control. Upon conveyance or voluntary relinquishment of control by Declarant, control of the Association shall be turned over to the Unit Owners; provided, however, Declarant reserves the right to name one (1) member, who may be a non-Unit Owner, of the Board of Directors until all Units have been conveyed to Unit Owners in fee simple. Notwithstanding any provision to the contrary, Declarant reserves the following rights: (a) to continue any unfinished development work on any unsold Unit and on the Limited Common Elements and Common Elements (including obtaining any necessary easements therefor); (b) to conduct promotional and sales activities using unsold Units and the Limited Common Elements and Common Elements, which activities shall include, but need not be limited to, maintaining sales and management offices, model Units, parking areas and advertising signs; and (c) to do all other acts Declarant shall deem reasonably necessary in connection with the development and sale of the remaining Units.

ARTICLE XIV AMENDMENTS

Except as otherwise provided herein (including the provisions of Article XIV), this Declaration may only be amended with the written consent of at least two-thirds (2/3) of the Unit Owners and each Owner's consent shall not be effective unless approved by the Mortgagee of the Unit; provided, however, that no such amendment may substantially impair the security of any Unit Mortgagee. No amendment to the Declaration affecting the status or rights of Declarant may be adopted without the written consent of Declarant. No amendment to this Declaration shall be effective until an instrument containing the amendment and stating that the required consents or votes were duly obtained, signed on behalf of the Association and duly acknowledged or authenticated is recorded with the Washington County Register of Deeds. For purposes of this provision and Declaration, each Unit shall have one (1) vote.

ARTICLE XV NOTICES

- 15.01. Notice to Association. The person to receive service of process of the Condominium Association shall be Mark Foyse, 1877 County Road A, West Bend, Wisconsin 53090, or such other person as may be designated from time to time by the Association, which designation shall be filed with the Wisconsin Secretary of State's Office.
- 15.02. Notices. All notices and other documents required to be given by this Declaration or by the Bylaws of the Association shall be sufficient if given to one (1) registered owner of a Unit regardless of the number of owners who have an interest therein.

- 15.03. Address. Unless otherwise stated in Association Bylaws, all owners shall provide the secretary of the Association with an address for the mailing or service of any notice or other documents, and the secretary shall be deemed to have discharged his or her duty with respect to the giving of notice by mailing it or having it delivered personally to such address as is on file with him or her.
- 15.04. Notice To Mortgagees. Any first Mortgagee of a Unit, upon written request to the secretary of the Association, shall be entitled to notice of any default which is not cured within sixty (60) days in the performance by an individual Unit Owner of any obligation under the Condominium Declaration, Bylaws, rules and regulations and related documents.

ARTICLE XVI REMEDIES

If any Unit Owner fails to comply with all provisions of the Act, this Declaration, Association Bylaws, or any rules and regulations promulgated by the Association, the Unit Owner may be sued for damages caused by the failure or for injunctive relief, or both, by the Association or by any other Unit Owner. Any and all attorney fees and other expenses incurred by the Association in enforcing this provision of this Declaration shall be reimbursed by the Unit Owner in violation and may be assessed against such Owner's Unit. Individual Unit Owners shall have similar rights of action, but not reimbursement, against the Association.

ARTICLE XVII EASEMENTS

Easements are reserved over, through and underneath the Common Elements for ingress and egress and for present and future utility services, including, but not limited to, easements for water pipes, sanitary services, storm drainage pipes, sprinkler pipes, and electrical wires, whether or not shown on the exhibits attached hereto. Easements for such utility services are reserved to Declarant and Unit Owners. All such easements are reserved to the Association in, over and under the Units and Limited Common Elements, for the purpose of making any repairs which are the obligation of the Association. The Association shall be responsible for any damage resulting from such easements.

ARTICLE XVIII GENERAL

- 18.01. Utilities. Each Unit Owner shall pay for his/her utility services which are separately metered or billed to each user by the respective utility company. Utilities which are not separately metered or billed shall be treated as part of the Common Elements.
- 18.02. Encroachments. If any portion of a Unit, Limited Common Elements or Common Elements encroaches upon another, an easement for the encroachment and its maintenance shall exist. In the event all or a portion of the Condominium is damaged and subsequently reconstructed, the Unit Owners shall allow encroachments on the Units, Limited Common

Elements or on the Common Elements during construction and easements for such encroachments and their maintenance shall exist.

- 18.03. **Invalidity Of A Provision.** If any of the provisions of this Declaration, of the Association's Articles of Incorporation, if any, of the Bylaws or of any rules and regulations adopted by the Association, or any portion thereof, shall be determined to be invalid by a court of competent jurisdiction, the remaining provision and portions thereof shall not be affected thereby.
- 18.04. **Conflict In Condominium Documents.** In the event a conflict exists among any provision of this Declaration, the Articles of Incorporation, if any, the Bylaws or any administrative rules and regulations, or between any of them, this Declaration shall be considered the controlling document.
- 18.05. **Warranties.** Declarant has made no warranty or representation in connection with the Condominium, except as specifically set forth in this Declaration. No person shall rely upon any warranty or representation unless contained in this Declaration. Any estimates of Common Expenses, taxes or other charges shall be considered estimates only and no warranty or guarantees of such amounts shall be made or relied upon.
- 18.06. **No Right Of First Refusal.** The right of a Unit Owner to sell, transfer or otherwise convey his/her Unit shall not be subject to any right of first refusal or similar restriction for the benefit of Declarant or the Association.
- 18.07. **Homestead,** The Condominium or any portion thereof shall not be deemed to be homestead property of Declarant.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, this Declaration has been .executed this 19th day of May, 2025.

N&M PROPERTIES LLC
a Wisconsin limited liability company

By: [Signature]
Mark Foyse, Member

STATE OF WISCONSIN)
) SS
COUNTY OF OZAUKEE)

The foregoing instrument was acknowledged before me on the date identified above by Mark Foyse, as Member of N&M PROPERTIES LLC, a Wisconsin limited liability company.

[Signature]
Print Name: Jacques Condon

Notary Public, Ozaukee County, Wisconsin

My Commission (~~expires~~) (is) permanent

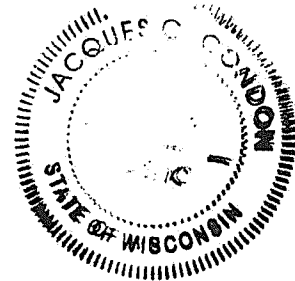


EXHIBIT A
to
CONDOMINIUM DECLARATION
AND CONDITIONS, COVENANTS,
RESTRICTIONS AND EASEMENTS FOR
BARTON BUSINESS CONDOMINIUMS

LEGAL DESCRIPTION

**(NOTE: to the extent a conflict exists between legal description
and property deed, the property deed controls)**

THAT PART OF THE NORTHWEST FRACTIONAL QUARTER OF THE NORTHEAST FRACTIONAL QUARTER OF SECTION 3, TOWNSHIP 11 NORTH, RANGE 19 EAST, IN TOWN OF BARTON, WASHINGTON COUNTY, WISCONSIN, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF NORTHEAST FRACTIONAL QUARTER OF SAID SECTION 3; THENCE SOUTH 89°55'20" WEST, 1880.57 FEET, ALONG THE NORTH LINE OF SAID SECTION 3; THENCE SOUTH 00°04'40" EAST, 110.00 FEET, TO A 2 INCH IRON PIPE FOUND AT THE NORTHEAST CORNER OF LOT 2 OF CERTIFIED SURVEY MAP 6492, RECORDED AS DOCUMENT NO. 1324624; THENCE NORTH 89°55'20" EAST, 121.66 FEET, ALONG THE SOUTH LINE OF COUNTY HIGHWAY D AS MONUMENTED TO A FOUND 2 INCH IRON PIPE AND THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUE NORTH 89°55'20" EAST, 78.47 FEET, ALONG THE SOUTH LINE OF COUNTY HIGHWAY D AS MONUMENTED TO A FOUND 2 INCH IRON PIPE; THENCE SOUTH 65°51'19" EAST, 219.31 FEET, TO THE WEST LINE OF STATE HIGHWAY 45; THENCE SOUTH 12°31'48" WEST, 927.51 FEET, ALONG SAID WEST LINE TO A FOUND 1 INCH IRON PIPE; THENCE SOUTH 89°44'16" WEST, 740.04 FEET, TO A FOUND 2 INCH IRON PIPE; THENCE ALONG THE ARC OF A CURVE BEARING TO THE RIGHT, 298.39 FEET, WITH RADIUS OF 2000.00 FEET, AND A CHORD BEARING AND DISTANCE OF NORTH 30°21'40" EAST, 298.11 FEET, TO A FOUND 2' PIPE; THENCE NORTH 34°38'07" EAST, 900.82 FEET, ALONG A LINE 100.00 FEET EAST OF AND PARALLEL WITH THE EAST LINE OF SAID LOT 2 TO THE POINT OF BEGINNING.

**EXHIBIT B
to
CONDOMINIUM DECLARATION
AND CONDITIONS, COVENANTS,
RESTRICTIONS AND EASEMENTS FOR
BARTON BUSINESS CONDOMINIUMS**

CERTIFIED SURVEY MAP

(The attached certified survey map includes unit numbers and general location)

CITY	EDUCATION	LENGTH	CLASS	CRIMINAL RECORD	CREDIT RATING	MILES
A	PRIVATE STREET	61.19	1990.00	8.81/1744" F	61.99	2790.00
B	PRIVATE STREET	64.62	1990.00	7.90/1650" F	64.62	2790.00
C	PRIVATE STREET	64.62	1990.00	5.04/1720" W	64.62	1790.25
D	PRIVATE STREET	61.53	1990.00	8.87/1744" F	61.53	2790.00
E	PRIVATE STREET	71.85	21.85	5.23/1670" W	64.62	1990.00
F	PRIVATE STREET	67.65	68.65	5.04/1720" W	67.65	1990.00

NOTES

1. ALL OF THIS CONDOMINIUM EXCEPT UNITS AND AREAS LABELED LIMITED COMMON ELEMENTS ARE COMMON ELEMENTS.

LIMITED COMMON ELEMENTS:

- UNIT PARKING STALL
UNIT UTILITY LINE
MAILBOX

LEGEND

- ② 2" IRON PIPE FOLDED,
ON ALL SIDES
- ③ 3/4" x 1/2" IRON BAR IRONING
1.3 LBS/FOOT SET.
- (DIMENSIONS ARE)
- ④ 1/2" IRON FIT

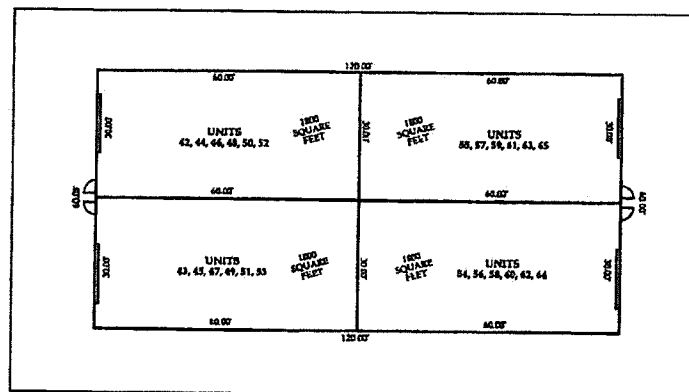
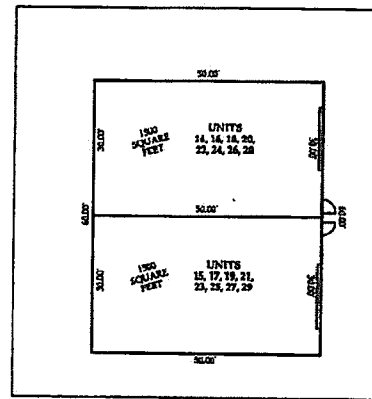
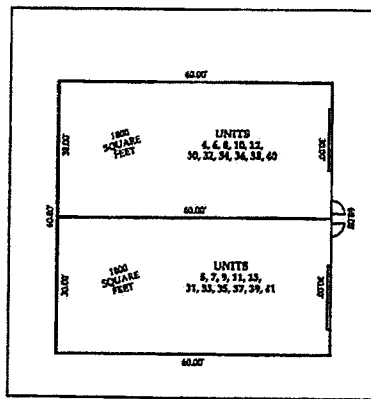
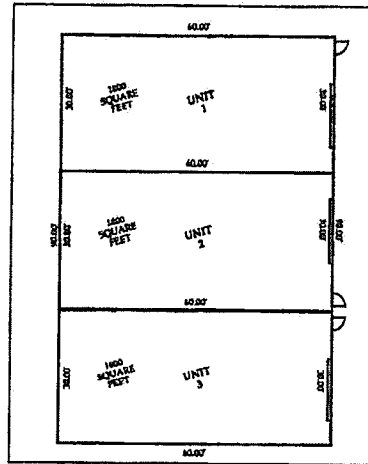
SURVEYED BY JOSEPH H. W. DAVID
 MAPPED BY J. SCOTT MENKEL, PLS

REVISION OCTOBER 03, 2021

PSE

BARTON BUSINESS CONDOMINIUMS**A WASHINGTON COUNTY CONDOMINIUM**

UNPLATTED LANDS BEING PART OF THE NORTHWEST FRACTIONAL 1/4 OF
THE NORTHEAST FRACTIONAL 1/4 OF SECTION 3, TOWNSHIP 11 NORTH,
RANGE 19 EAST, TOWN OF BARTON, WASHINGTON COUNTY, WISCONSIN.



PSE

SURVEYED BY JOSEPH H. DAVIES
MADE BY J. SCOTT HENKEL, PLS

REVISED OCTOBER 13, 2011

177 W. Main St., Oneida, WI 54991
167.34' / 170.00' 7546102743004 1200
PA 100-10-34 Date 2/24/04

33

BARTON BUSINESS CONDOMINIUMS**A WASHINGTON COUNTY CONDOMINIUM**

UNPLATTED LAND BEING PART OF THE NORTHWEST QUARTER 14 OF
THE NORTHEAST QUARTER 14 OF SECTION 3, TOWNSHIP 11 NORTH,
RANGE 12 EAST, TOWN OF BARTON, WASHINGTON COUNTY, WISCONSIN.

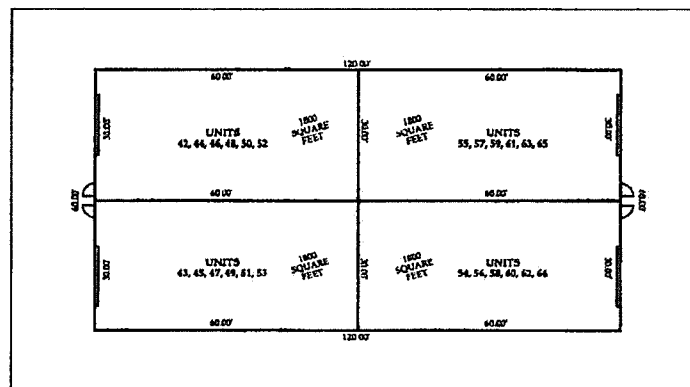
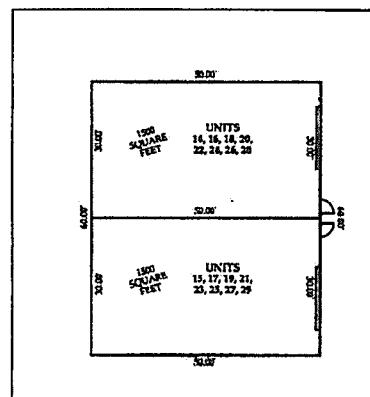
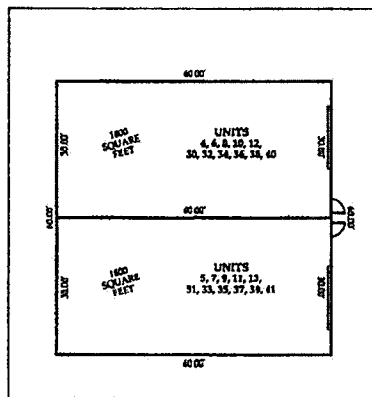
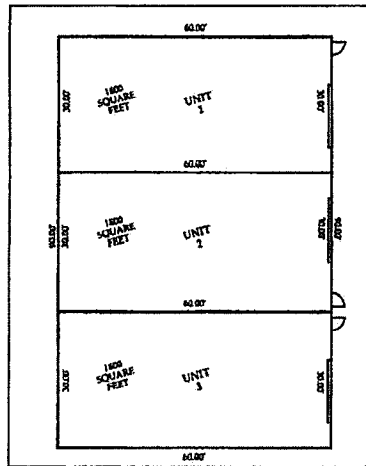


EXHIBIT ~~B~~ C
to
CONDOMINIUM DECLARATION
AND CONDITIONS, COVENANTS,
RESTRICTIONS AND EASEMENTS FOR
BARTON BUSINESS CONDOMINIUMS

UNIT IDENTIFICATION
and CERTIFIED SURVEY MAP

(The attached certified survey map includes unit numbers and general location)

UNIT	ADDRESS			
1	3439 County Highway D	West Bend, WI	53090	
2	3439 County Highway D	West Bend, WI	53090	
3	3439 County Highway D	West Bend, WI	53090	
4	3439 County Highway D	West Bend, WI	53090	
5	3439 County Highway D	West Bend, WI	53090	
6	3439 County Highway D	West Bend, WI	53090	
7	3439 County Highway D	West Bend, WI	53090	
8	3439 County Highway D	West Bend, WI	53090	
9	3439 County Highway D	West Bend, WI	53090	
10	3439 County Highway D	West Bend, WI	53090	
11	3439 County Highway D	West Bend, WI	53090	
12	3439 County Highway D	West Bend, WI	53090	
13	3439 County Highway D	West Bend, WI	53090	
14	3439 County Highway D	West Bend, WI	53090	
15	3439 County Highway D	West Bend, WI	53090	
16	3439 County Highway D	West Bend, WI	53090	
17	3439 County Highway D	West Bend, WI	53090	
18	3439 County Highway D	West Bend, WI	53090	
19	3439 County Highway D	West Bend, WI	53090	
20	3439 County Highway D	West Bend, WI	53090	
21	3439 County Highway D	West Bend, WI	53090	
22	3439 County Highway D	West Bend, WI	53090	
23	3439 County Highway D	West Bend, WI	53090	
24	3439 County Highway D	West Bend, WI	53090	
25	3439 County Highway D	West Bend, WI	53090	

26	3439 County Highway D	West Bend, WI	53090
27	3439 County Highway D	West Bend, WI	53090
28	3439 County Highway D	West Bend, WI	53090
29	3439 County Highway D	West Bend, WI	53090
30	3439 County Highway D	West Bend, WI	53090
31	3439 County Highway D	West Bend, WI	53090
32	3439 County Highway D	West Bend, WI	53090
33	3439 County Highway D	West Bend, WI	53090
34	3439 County Highway D	West Bend, WI	53090
35	3439 County Highway D	West Bend, WI	53090
36	3439 County Highway D	West Bend, WI	53090
37	3439 County Highway D	West Bend, WI	53090
38	3439 County Highway D	West Bend, WI	53090
39	3439 County Highway D	West Bend, WI	53090
40	3439 County Highway D	West Bend, WI	53090
41	3439 County Highway D	West Bend, WI	53090
42	3439 County Highway D	West Bend, WI	53090
43	3439 County Highway D	West Bend, WI	53090
44	3439 County Highway D	West Bend, WI	53090
45	3439 County Highway D	West Bend, WI	53090
46	3439 County Highway D	West Bend, WI	53090
47	3439 County Highway D	West Bend, WI	53090
48	3439 County Highway D	West Bend, WI	53090
49	3439 County Highway D	West Bend, WI	53090
50	3439 County Highway D	West Bend, WI	53090
51	3439 County Highway D	West Bend, WI	53090
52	3439 County Highway D	West Bend, WI	53090
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54	3439 County Highway D	West Bend, WI	53090
55	3439 County Highway D	West Bend, WI	53090
56	3439 County Highway D	West Bend, WI	53090
57	3439 County Highway D	West Bend, WI	53090
58	3439 County Highway D	West Bend, WI	53090
59	3439 County Highway D	West Bend, WI	53090
60	3439 County Highway D	West Bend, WI	53090
61	3439 County Highway D	West Bend, WI	53090
62	3439 County Highway D	West Bend, WI	53090
63	3439 County Highway D	West Bend, WI	53090
64	3439 County Highway D	West Bend, WI	53090
65	3439 County Highway D	West Bend, WI	53090