

DECLARATION
SUBMITTING
PENINSULA PARK COMMONS CONDOMINIUM
TO CONDOMINIUM OWNERSHIP

Filed by:

Peninsula Park Commons LLC, an Oregon Limited Liability Company

THIS DECLARATION, pursuant to the provisions of the Oregon Condominium Act, is made and executed this 20th day of April, 2004 by Peninsula Park Commons LLC, an Oregon Limited Liability Company ("Declarant").

Declarant proposes to create a condominium located in the City of Portland, Multnomah County, Oregon, to be known as Peninsula Park Commons Condominium. The purpose of this Declaration is to submit the property described in Section 2 below to the condominium form of ownership and use in the manner provided by the Oregon Condominium Act.

NOW, THEREFORE, Declarant does hereby declare and provide as follows:

DEFINITIONS. When used herein the following terms shall have the following meanings:

- 1.1 "Act" shall mean the Oregon Condominium Act, currently ORS 100.005 to 100.990, as amended from time to time.
 - 1.2 "Bylaws" shall mean the Bylaws of the Association of Unit Owners of Peninsula Park Commons Condominium adopted pursuant to Section 13, as amended from time-to-time.
 - 1.3 "Declarant" shall mean Peninsula Park Commons LLC, and its successors and assigns.
 - 1.4 "Plans" shall mean the plat or site plan and floor plans of Peninsula Park Commons Condominium recorded simultaneously with this Declaration.
 - 1.5 "Incorporation by Reference". Except as otherwise provided in this Declaration, each of the terms defined in ORS 100.005 of the Act shall have the means set forth in such section.
2. PROPERTY SUBMITTED. The property hereby submitted to the provisions of the Act is the land owned in fee simple by Declarant and described on the attached Exhibit A, together with all easements, rights, and appurtenances belonging thereto and all improvements now existing or hereafter constructed on such land. .

3. NAME. The name by which the property submitted hereunder shall be known is "Peninsula Park Commons Condominium."

4. UNITS.

4.1 General Description of Building. The buildings to be converted were constructed in 1938, and are of wood frame construction with an asbestos shingle exterior and contain many of the characteristics of residential properties of that era. The building has one story of finished space, an unfinished basement, and an unfinished attic. The interiors of the units are being remodeled and updated in collaboration with prospective purchasers. Typical improvements include re-finishing wood floors, re-painting, and replacing plumbing fixtures and entry doors that have exceeded their useful lives.

4.2 General Description, Location and Designation of Units. The project consists of one single story building containing six units. One of the former apartments will be converted to a shared common area with 500 square feet that will be available for use by all owners as determined by the homeowners association. Three of the units have two bedrooms and one bath, and are similarly sized between 694 and 736 square feet. The three other units have one bedroom and one bath, and are similarly sized between 611 and 640 square feet.

The dimensions, designation and location of each unit and the general common areas are shown in plans recorded simultaneously herewith. A general description and the square footage of each unit are shown on the attached Exhibit B.

4.3 Boundaries of Units. Each unit shall be bounded by the interior surfaces of its perimeter and bearing walls, floors, windows and window frames, door and door frames, and trim, and shall include both the interior surfaces so described and the air space so encompassed projecting up to a horizontal line through the ridge point of the roof as shown on the plat. All lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the finished surfaces thereof shall be a part of the unit except those portions of walls, floors, roofs, or ceilings that materially contribute to the structural or shear capacity of the condominium. In addition, each unit shall include the outlet of any utility service lines, including water, sewerage, gas or electricity, and ventilating ducts, within the unit, but shall not include any part of such lines or ducts themselves.

5. OWNERSHIP OF GENERAL COMMON ELEMENTS Each unit shall be entitled to an undivided percentage ownership interest in the general common

elements determined by the ratio which the area of the unit bears to the total area of all the units combined as shown on Exhibit B attached hereto and made a part hereof. Each unit's interest in the general common elements shall be inseparable from the unit and any conveyance, encumbrance, judicial sale, or other transfer; voluntary or involuntary of an undivided interest in the general common elements shall be void unless the unit to which that interest is allocated is also transferred. The general common elements consist of the following:

- 5.1 The land, pathways, fences, and grounds.
 - 5.2 Pipes, ducts, flues, chutes, conduits, wires and other utility installations to their outlets.
 - 5.3 Roofs, foundations, bearing walls, perimeter walls, beams, columns and girders to the interior surfaces thereof.
 - 5.4 Front and rear porches and stairs that are not part of the units or limited common elements.
 - 5.5 All of the interior space of the former apartment #3 and basement storage locker #3, as indicated on the plat, which will be available for common use by all members of the homeowners association.
 - 5.6 The basement, exterior and interior basement access stairs, and crawl space, except as designated as part of the limited common elements.
 - 5.7 All other elements of the building and the property necessary or convenient to their existence, maintenance and safety, or normally in common use, except as may be expressly designated herein as part of a unit or a limited common element.
6. LIMITED COMMON ELEMENTS. The following shall constitute limited common elements, the use of which shall be restricted to the assigned units:
- 6.1 Basement storage lockers #1, #2, #4, #5, #6 and #7, each of which is restricted to use by the same-numbered unit. The remaining basement storage lockers are general common elements.
 - 6.2 Basement stairway adjoining to Unit #1, which is restricted to use by Unit #1.
7. USE OF PROPERTY — MAINTENANCE.
- 7.1 Each unit is to be used for residential purposes as described in the Bylaws. Residential units may also be used for limited business purposes, subject to applicable government regulations and any additional limitations

adopted by the Association Board of Directors. Each unit owner shall be bound by each of the terms, conditions, limitations and provisions contained in the Bylaws and by any rules adopted by the Board of Directors.

- 7.2 The necessary work to maintain, repair or replace the common elements shall be the responsibility of the Board of Directors of the Association and shall be carried out as provided in the Bylaws. If the mortgagee or beneficiary of any unit determines that the Board of Directors is not providing an adequate maintenance, repair and replacement program for the common elements, such mortgagee or beneficiary, at its option, may deliver a notice to the Board of Directors by delivering same to the registered agent, setting forth the particular defect which it believes exists in the maintenance, repair and replacement program. If the specified defects are not corrected within ninety (90) days subsequent to receipt of such notice, the mortgagee or beneficiary, upon written notice to the registered agent that it is exercising its proxy rights thereunder, shall have the right to attend succeeding annual or special meetings of the Association and to cast a vote for each unit on which it holds a mortgage or deed of trust on all business coming before such meeting, which proxy rights shall continue until the defects listed on the notice are corrected.

8. COMMON PROFITS AND EXPENSES — VOTING

- 8.1 The common profits derived from and the common expenses of the general common elements shall generally be distributed and charged to the owner of each unit according to the percentage of undivided interest of such unit in the common elements as determined by the ratio which the unit bears to the total area of all units combined as shown in Exhibit B attached hereto and made a part hereof, except that legal and accounting expenses, if any, will be charged equally to units, and common water, garbage, and sewer charges may be allocated and charged to unit owners/occupants on a per capita (per person) basis if determined to be appropriate by the Board of Directors of the Association.
- 8.2 Each unit owner shall be entitled to one vote in the affairs of the Association of unit owners for each unit owned by him/her, subject to the voting provisions set forth in the Bylaws. There will be only one vote per unit for any unit that is owned by more than one person. As described in the Bylaws, the homeowners association will attempt to make all decisions by consensus, and will only resort to majority voting on issues for which consensus cannot be achieved. "Majority" or "majority of unit owners", as used in this Declaration or in the Bylaws, shall mean the owners of more than fifty percent (50%) of the then-existing units of the condominium.

9. SERVICE OF PROCESS. The name of the person to receive service of process is named in the Condominium Information Report that will be filed with The Oregon Real Estate Agency in accordance with ORS 100.250 (1).
10. ENCROACHMENTS. If any portion of the common elements now encroaches upon any unit, or if any unit now encroaches upon any other unit or upon any portion of the common elements, as a result of the construction of any building, or if any such encroachment shall occur hereafter as a result of settling or shifting of any building, a valid easement for the encroachment and for the maintenance of the same, so long as the building stands shall exist. In the event any building unit, adjoining unit, or adjoining common element shall be partially or totally destroyed as a result of fire or other casualty or as a result of condemnation or eminent domain proceedings, and then rebuilt, encroachments of parts of the common elements upon any unit or any other unit or upon any portion of the common elements, due to such rebuilding, shall be permitted, and valid easements for such encroachments and the maintenance thereof shall exist so long as the building shall stand. The encroachments described in this section shall not be construed to be encumbrances affecting the marketability of title to any unit.
11. PLAN OF DEVELOPMENT. The Declarant reserves the rights provided under ORS 100.150(1) without limitation. The entirety of the variable property is nonwithdrawable and is, therefore, limited to possible reclassification, but is not withdrawable.
 - 11.1 Description. The location and dimensions of the nonwithdrawable variable property within the condominium is clearly identified and labeled on the plat submitted by Declarant.
 - 11.2 Termination Date. The rights reserved under ORS 100.150(1) shall terminate seven (7) years from the date of recording of the conveyance of the first unit in the Condominium to a person other than the Declarant. Recording shall be in the county in which the property is located.
 - 11.3 Potential Second Stage. Currently, the nonwithdrawable variable property is unimproved except for the presence of asphalt surfacing and two garage buildings. Following completion of the first stage of development that will include six (6) residential units, Declarant contemplates the possibility of constructing a second stage on the variable property consisting of up to six (6) additional residential units, limited common elements, and interior and exterior general common elements. It is possible that the proposed improvements will increase the proportionate amount of common expenses payable by existing owners.
 - 11.4 Consent of Unit Owners Not Required. No consent of the unit owners of the first stage will be required for the reclassification of variable property or construction of a second stage.

- 11.5 Allocation of Undivided Interest. Each new unit in the second stage will be entitled to an undivided ownership interest in the common elements determined as provided in Section 8 hereof.
- 11.6 Variable Property Limited Common Elements. The Declarant reserves the right to create limited common elements within the variable property. Such limited common elements may include, but not be limited to, private decks, patios, front porches, storage areas, yards and stairways.
- 11.7 Nonwithdrawable Property. One (1) tract of variable property is proposed under this Declaration. The variable property may not be withdrawn from the condominium. The plat shall show the location and dimensions of all such property and shall be labeled “NONWITHDRAWABLE VARIABLE PROPERTY.” If, by the termination date, all or a portion of the variable property designated as “nonwithdrawable variable property” has not been reclassified, such property shall automatically be reclassified as of such date as a general common element of the condominium and any interest in such property held for security purposes shall be automatically extinguished by such classification. All actions relating to such reclassified general common elements shall be regulated and governed in like manner as other general common elements of the condominium. If a Supplemental Declaration and plat is required for any action, the plat shall be executed by the chair and secretary of the Association and shall comply with requirements of the Act as to a Supplemental Declaration and the recording of plats.
12. RIGHTS OF MORTGAGEES AND BENEFICIARIES. The prior written approval of seventy-five percent (75%) of the holders of first mortgages and beneficiaries of first deeds of trust on units in the condominium (based upon one vote for each first mortgage or deed of trust owned) must be obtained for the following:
- 12.1 Abandonment or termination of the condominium regime;
- 12.2 Except as provided in Section 14.1, any change in the prorate interest of obligations of any individual unit for (a) the purpose of levying assessments or charges of allocating distributions of hazard insurance proceeds or condemnation awards, or (b) determining the prorate share of ownership of each unit in the common elements;
- 12.3 Partition or subdivision of any unit or of the common elements;
- 12.4 Abandonment, partition, subdivision, encumbrances, sale or transfer of the common elements. The granting of easement for public utilities or for other public purposes consistent with the intended use of the common

elements by the condominium project shall not be deemed a transfer within the meaning of this clause; or,

12.5 Use of hazard insurance proceeds for losses to any condominium property, whether to units or to common elements, for other than the repair, replacement or reconstruction of such improvements, except as provided by statute in cases of substantial loss to the units and/or common elements of the condominium project.

13. ADOPTION OF BYLAWS. Upon the execution and the filing of this Declaration, the Declarant shall adopt Bylaws for the Association of Unit Owners of Peninsula Park Commons Condominium, a copy of which are attached to this Declaration. Each unit owner shall be a member of the Association.

14. AMENDMENT.

14.1 Approval Required. Except as may otherwise be provided in this Declaration or by the Oregon Condominium Act, this Declaration may be amended if such amendment is approved by seventy-five percent (75%) of the voting power of the unit owners. No amendment may change the size, location, percentage interest in the common elements, share of common profits of expenses, or voting power of any unit unless the owners of the affected unit and the holders of any mortgage have approved such amendment or trust deed on such unit. If required by law, the Real Estate Commissioner shall approve any amendment to this Declaration. Sections 12 and 7.2 may not be amended without the written consent of all holders of first mortgages and beneficiaries of first deeds of trust on units in the condominiums.

14.2 Recordation. The amendment shall be effective upon recordation of the Declaration as amended or of the amendment thereto, certified to by the chairman and secretary of the Association and approved by the County Assessor and the Real Estate Commissioner, in the Deed Records of Multnomah County.

15. ASSOCIATION OF UNIT OWNERS.

15.1 Organization. Upon the recording of this Declaration an association of unit owners shall be organized to serve as a means through which the unit owners may take action with regard to the administration, management and operation of the Condominium. The name of this unincorporated association shall be "Peninsula Park Commons Condominium Association."

- 15.2 Membership; Board of Directors. Each unit owner shall be a member of the Association. A board of directors, as provided in the Bylaws, shall govern the affairs of the Association.
- 15.3 Powers and Duties. The Association shall have such powers and duties granted under the Oregon Condominium Act, including each of the powers set forth in ORS 100.405(4), together with such additional powers and duties afforded it by this Declaration and the Bylaws.
- 15.4 Adoption of Bylaws, Declarant Control of Association. Upon the execution and the recording of this Declaration, Declarant shall adopt Bylaws for the Association, which are attached to this Declaration. Declarant specifically reserves the right to control the Association by appointing the interim directors of the Association until the organizational and turnover meeting of the Association has been held and the unit owners have elected regular directors as provided in the Bylaws. In addition, Declarant shall have the right to consent to any amendment to the Declaration or the Bylaws as provided in Section 13 above and Article XII of the Bylaws.
16. COVENANT OF CONTRIBUTION. No owner of any unit may exempt herself/himself from liability for her/his contribution toward the common expenses by a waiver of the use of, or enjoyment of, any of the common elements, or by abandonment of her/his unit.
17. ENFORCEMENT. The Association or any owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration, subject to any applicable dispute resolution provisions in the Bylaws. Notwithstanding anything in this Declaration or the Bylaws to the contrary, the Association or any owner shall have the right to apply for an immediate injunction or other equitable relief from a court of competent jurisdiction in emergency circumstances. Failure by the Association or by 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.
18. AUTHORITY TO GRANT EASEMENTS, RIGHTS-OF-WAY, LICENSES, AND OTHER SIMILAR INTERESTS. Pursuant to ORS 100.405(5), The Association shall have the authority to execute, acknowledge, deliver, and record on behalf of the unit owners, leases, easements, right-of-way, licenses, and other similar interests affecting the general common elements and consent to vacation of roadways within and adjacent to the Condominium. The granting of a lease in excess of one (1) year or any such other interest or consent shall first be approved by at least seventy-five percent (75%) of the unit owners. A lease of general common elements for a term of one (1) year or less shall not be considered the granting of an interest for which approval is required under this section. The

instrument granting any such interest or consent shall be executed by the chair and secretary of the Association and acknowledged in the manner provided for acknowledgment of such instruments by such officers, and shall state that such grant or consent was approved by at least seventy-five percent (75%) of the unit owners.

19. LEASING AND RENTALS. Unless otherwise authorized by the Board of Directors, no owner of a unit may lease or rent her/his unit, or any portion thereof, for a period of less than thirty (30) days, except that an owner may collect rent or share expenses with housemates. All leases or rentals shall be by written lease agreement, which shall provide that the terms of the lease shall be subject in all respects to the provisions of this Declaration and the Bylaws of the Association, and that any failure by the lessee or tenant to comply with the terms of such documents shall be a default under the lease. If the Board of Directors finds that a lessee or tenant has violated any provision of such documents or the rules and regulations adopted by the Board of Directors, the Board may require the owner to terminate such lease agreement. No owner of a unit shall lease or rent her/his unit unless the lessees or tenants under the lease or rental agreement expressly assume the existing responsibilities for owners or other occupants of units pursuant to the rules and regulations adopted by the Board of Directors. A copy of any proposed lease agreement shall be delivered to the Board of Directors. Each unit owner is responsible for providing prospective lessees or tenants of the owner's unit with a copy of the current Declaration, Bylaws, and rules and regulations of the Association.

Unless otherwise authorized by the Board of Directors, no owner of a unit may lease or rent her/his unit for a period of more than one (1) year in any two (2) year period.

20. SEVERABILITY. The determination of invalidity, by any court, of any provision or restriction imposed by this Declaration or the Bylaws, or of any provision or restriction thereof, or of any part of such restriction or provision, shall not impair or affect in any manner the validity, enforceability, or effect of the rest of this Declaration or the Bylaws, and all of the terms thereof shall be severable.

IN WITNESS WHEREOF, Declarant has caused this Declaration Submitting Peninsula Park Commons Condominium to Unit Ownership to be executed this _____ day of April 2004.

Peninsula Park Commons LLC

By: _____
Eli Spevak

STATE OF OREGON,)
) ss.
COUNTY OF MULTNOMAH)

This instrument was acknowledged before me on March ____, 2004 by Eli Spevak of Peninsula Park Commons LLC.

Notary Public for Oregon
My commission expires: _____

County Assessor

County Tax Collector

The foregoing Declaration is approved pursuant to ORS 100.110 this _____ day of _____, 2004 and in accordance with ORS 100.110(7), this approval shall automatically expire if this Declaration is not recorded within two (2) years from this date.

Scott W. Taylor
Real Estate Commissioner

By: _____
Brian DeMarco

EXHIBIT A

**Peninsula Park Commons Condominium
Declaration**

LEGAL DESCRIPTION OF CONDOMINIUM PROPERTY

A TRACT OF LAND BEING LOTS 8 AND 9 AND THE SOUTH 30.00 FEET OF LOT 7, BLOCK 1, GAINSBOROUGH, SITUATED IN THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 15, TOWNSHIP 1 NORTH, RANGE 1 EAST, WILLAMETTE MERIDIAN, CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON, AND THAT FOR THE INITIAL POINT I SET A 5/8"X30" IRON ROD WITH A YELLOW PLASTIC CAP MARKED "REPPETO & ASSOC INC", AT THE SOUTHEAST CORNER OF SAID LOT 9, BEING A POINT ON THE NORTH RIGHT OF WAY LINE OF N. HOLMAN STREET, AND BEARS NORTH 89°24'00" EAST, 100.00 FEET AND NORTH 0°13'00" EAST, 60.00 FEET FROM A FOUND 1/2" IRON PIPE AT THE NORTHWEST CORNER OF LOT 1, BLOCK 8, GAINSBOROUGH PLAT 2, THE LAND BEING DESCRIBED AS FOLLOWS:

BEGINNING AT SAID INITIAL POINT; THENCE, ALONG THE SOUTH LINE OF SAID LOT 9 AND ALONG SAID NORTH RIGHT OF WAY LINE SOUTH 89°24'00" WEST, 100.00 FEET TO THE SOUTHWEST CORNER OF SAID LOT 9, BEING REFERENCED BY A FOUND 3/4" IRON PIPE WHICH BEARS NORTH 89°24'00" EAST, 0.24 FEET; THENCE, ALONG THE WEST LINE OF SAID LOTS 7, 8 AND 9, NORTH 0°13'00" EAST, 135.00 FEET TO THE NORTHWEST CORNER OF THAT TRACT OF LAND CONVEYED TO PENINSULA PARK COMMONS, LLC IN DEED DOCUMENT NO. 2003-015365, MULTNOMAH COUNTY DEED RECORDS, BEING MONUMENTED BY A SET 5/8"X30" IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "REPPETO & ASSOC INC"; THENCE, ALONG THE NORTH LINE OF SAID PENINSULA PARK COMMONS, LLC TRACT NORTH 89°24'00" EAST, 100.00 FEET TO A POINT ON THE EAST LINE OF SAID LOT 7 AND ON THE WEST RIGHT OF WAY LINE OF N. ALBINA AVENUE, BEING MONUMENTED BY A SET 5/8"X30" IRON ROD WITH A YELLOW PLASTIC CAP STAMPED "REPPETO & ASSOC INC"; THENCE, ALONG THE EAST LINE OF SAID LOTS 7, 8 AND 9 AND ALONG SAID WEST RIGHT OF WAY LINE, SOUTH 0°13'00" WEST, 135.00 FEET TO THE INITIAL POINT.

CONTAINS 13,500 SQUARE FEET OR 0.310 ACRES.

EXHIBIT B

**Peninsula Park Commons Condominium
Declaration**

ADDRESS UNIT NO.	GENERAL DESCRIPTION	OWNERSHIP PERCENTAGE	APPROX. SQUARE FEET
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6325 N. Albina			
Unit 1	2-bedroom/1-bath	18.0 %	728
Unit 2	1-bedroom/1-bath	15.8 %	640
Unit 4	2-bedroom/1-bath	17.2 %	694
Unit 5	1-bedroom/1-bath	15.1 %	611
Unit 6	1-bedroom/1-bath	15.7 %	633
Unit 7	2-bedroom/1-bath	18.2 %	736
<hr/>			
6 units + 1 GCE Unit		100.00%	4,040