



2169776
Page: 1 of 48
11/12/2004 10:54A

ALC 1-76891

LEGAL DOCUMENTS
FOR
CARDINAL CONDOMINIUM

Prepared for:
Wenderoth Investments, LLC
Bozeman, Montana

Prepared by:
Troy L. Bentson
Bentson Law Office, P.C.
2075 Charlotte Street, Suite 3
Bozeman, MT 59718



2169776

Page: 2 of 48
11/12/2004 10:54A

Shelley Vance-Gallatin Co MT MISC

288.00

INDEX

FOR

CARDINAL CONDOMINIUM

<u>Document Title</u>	<u>Section</u>
County Assessor's Certificate	A
Engineer's Certificate	B
Declaration	C
By-Laws	D



2169776

Page: 3 of 48
11/12/2004 10:54A

Shelley Vance-Gallatin Co MT MISC 288.00

CERTIFICATE OF NAME

The undersigned being the duly authorized agent of the Department of Revenue of the State of Montana within the County of Gallatin, herewith executes the following certificate relating to the CARDINAL CONDOMINIUM situated on: Lots 46 and 46A of Valley West Subdivision, Phase 2, Gallatin County, Montana,

1. That the name the CARDINAL CONDOMINIUM is not the same as, similar to or pronounced the same as a word in the name of any other property or subdivision within Gallatin County, except for the word "Condominium", and
2. All taxes and assessments due and payable for the said CARDINAL CONDOMINIUM have been paid to date.

Dated: 10-22-04

Audrey M. Rodge
County Assessor



CERTIFICATE OF FLOOR PLAN

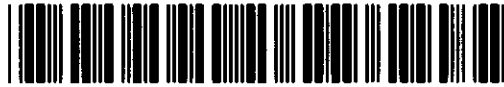
The undersigned, being a duly registered professional Engineer in the State of Montana, having reviewed the floor plans for CARDINAL CONDOMINIUM attached to this Declaration, herewith, certifies the following:

That the floor plans for the CARDINAL CONDOMINIUM situated on Lots 46 and 46A of Valley West Subdivision, Phase 2, Gallatin County, Montana, according to the official plat thereof on file and of record in the office of the County Clerk and Recorder of Gallatin County, Montana, are an accurate copy of the plans filed with and approved by the officials and officers of the City of Bozeman having jurisdiction to issue building permits.

Dated: October 26, 2004.

By: Mark A. Chandler
Registered Professional Engineer
Number: 9518ES





2169776

Page: 5 of 48
11/12/2004 10:54A

Shelley Vance-Gallatin Co MT MISC

288.00

DECLARATION
FOR
CARDINAL CONDOMINIUM

TABLE OF CONTENTS

PARAGRAPH	TITLE	PAGE
I.	Definitions	1
II.	Real Estate	4
III.	Easement, Common Element - Interior Remodeling	6
IV	Ownership and Voting - Exhibits - Use	7
V.	The Association	9
VI.	Declarant's Rights to Change	12
VII.	Amendment	12
VIII.	Changes, Repairs and Liens	13
IX.	Insurance	15
X.	Removal or Partition -- Subdivision	19
XI.	Interpretation	20
XII.	Remedies	20
XIII.	Severability	20
XIV.	Miscellaneous	20

DECLARATION FOR
CARDINAL CONDOMINIUM

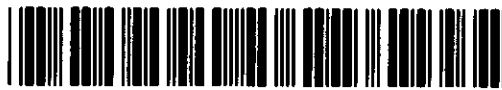
THIS DECLARATION is hereby made and entered into this 10 day of ~~October~~ ^{NOVEMBER}, 2004, by Wenderoth Investments, LLC, a Montana limited liability company, 313 Saunders Avenue, Bozeman, Montana 59718, (hereinafter referred to as the "Declarant"), whereby lands and property hereinafter described are submitted and subject to the Montana Unit Ownership Act pursuant to M.C.A. 70-23-101, et. seq.

The property subject to this Declaration shall be known as the CARDINAL CONDOMINIUM (hereinafter referred to as the "condominium"). The addresses of the condominium are Units A and B of 120 and 146 Kimball Avenue, Bozeman, Montana 59718.

I. DEFINITIONS

Unless the context of this Declaration expressly provides otherwise, and except as may be specifically set forth in the Unit Ownership Act, M.C.A. 70-23-202 et. seq., the following definitions shall pertain throughout this Declaration and the Bylaws and the interpretation thereof:

1. Aggregate Voting: Shall mean the entire number of votes or persons present or available to vote in person or by proxy in a particular circumstance.
2. Association or Association of Unit Owners: Means all of the Unit Owners acting as a group and in accordance with duly adopted Bylaws and this Declaration.
3. Board or Board of Directors: Shall mean the Board of Directors of the Association as more particularly defined in the Bylaws.
4. Building: Means the building containing the condominium units.
5. Bylaws: Means the Bylaws promulgated by the Association under this Declaration and the Unit Ownership Act.
6. Common Elements: Common elements shall mean and include both general common elements and limited common elements.
 - a. General Common Elements: includes all those elements which are for the use of all owners, residents, and guests of residents of CARDINAL CONDOMINIUM. Specifically included are: The land on which the building is situated, footings, foundations, framework, floors, posts, columns, trusses, supports, roof, and other structural components of the building, exterior and interior structural walls,



gutters and vertical roof drains, electrical, gas, telephone, television, water, and sewer lines and connections serving all of the units, smokestack, furnace, boiler, mechanical or furnace room, hot water tank(s), hot water units or radiators serving common areas, heating ducts, pipes, lines and other components of the heating system, and other elements necessary for the safety, comfort, maintenance and existence of the condominium in which each Unit Owner shall have his designated percentage of interest, as set forth in paragraph IV below.

- b. Limited Common Elements: As used in this Declaration shall mean those common elements which are reserved for the use of fewer than all of the residents and guests of residents of CARDINAL CONDOMINIUM. Specifically, as to any given unit owner or owners, limited common elements shall mean the following common elements which are located within or affixed to the building containing his unit in which the elements are located or situated on the real property known as CARDINAL CONDOMINIUM.

Flues, chimneys, ducts, cables, conduits, public utility lines, water, sewer, electrical, gas, cable television lines, and hot and cold water pipes, radiators (all such utility pipes and lines are limited common elements where they service less than all of the units; where they service all units they shall be general common elements). Stairways, hallways, and corridors as well as fixtures and other portions of the building only servicing a particular unit or less than all of the units set forth above and on the floor plans shall be limited common elements. The percentage of separate units' interest in the limited common elements shall be computed by determining the number of units. The percentage of separate units' interest in the limited common elements shall be computed by determining the number of units that have use of the limited common elements and taking the value of each such unit and dividing it by the value of the unit of all such units making use of the particular limited common elements. Such values shall be the same as the values used to compute the percentage of interest of the unit owners in the general common elements and shall be the value of the units at the date of filing this Declaration and which are set forth in this Declaration.

- 7. Common expenses: Means expenses of administration, maintenance, repair or replacement of general common elements, expenses agreed upon by the Association of all Unit Owners, and expenses declared common by the Unit Ownership Act.
- 8. Condominium: Means the CARDINAL CONDOMINIUM, as the same is created by this Declaration and the By-Laws and submitted to the Unit Ownership Act and the condominium units, general common elements, limited common elements, buildings and land and any other improvements thereon, which constitute the condominium.
- 9. Declaration: Means this document and all parts attached hereto or incorporated by reference.



- 10. Limited Expenses: Means the expenses attributable to the maintenance, repair and replacement of limited common elements.
- 11. Manager: Means the manager, the Board of Directors, management corporation or any other person or group of persons retained or appointed by the Board, or by the Association of Unit Owners for the purpose of conducting the day-to-day operations of CARDINAL CONDOMINIUM.
- 12. Property: Means all the land, buildings, improvements and structures thereon and all easements, rights and appurtenances belonging thereto, which are herewith submitted to the Unit Ownership Act.
- 13. Record Officer: Means the county officer charged with the duty of filing and recording the deeds, mortgages and all other instruments and documents relating to this Declaration and the property to which it is subject.
- 14. Unit or Units: Shall be the separate condominium units of CARDINAL CONDOMINIUM and is a parcel of real property including and containing one or more rooms occupying one or more floors or a part or parts thereof, intended for any type of independent use, and with a direct exit to a public street or highway, or to common element leading to a public street or highway.
- 15. Unit Designation: Is the combination of letters, numbers and words which identify the designated units.
- 16. Unit Owner and Owner: Means the person or persons owning a fee simple absolute, or on who is a co-owner in any real estate relationship that is recognized under the laws of the State of Montana, in one or more units of the CARDINAL CONDOMINIUM.

II. REAL ESTATE

- 1. Description: The real property which is by this Declaration submitted and subject to the Montana Unit Ownership Act is described as follows:

Lots 46 and 46A of Valley West Subdivision - Phase 2 to the City of Bozeman, Gallatin County, Montana (Plat No. J-390), according to the official plat thereof on file and of record in the office of the County Clerk and Recorder of Gallatin County, Montana.

SUBJECT TO AND TOGETHER WITH existing easements, covenants, reservations, restrictions, conditions shown on the public records and the subdivision plat and subject to zoning ordinances and use restrictions. Also, subject to taxes, assessments and Special Improvement District assessments, if any.

TOGETHER WITH all tenements, hereditaments and appurtenances thereunto belonging or otherwise appertaining, including, but not limited to, easements for ingress and egress.

The condominium shall consist of four (4) separate residential units in two (2) buildings. The provisions of this Declaration and the Bylaws shall be construed to be covenants running with the land including every unit and shall be binding upon the units' owners, their heirs, personal representatives and assigns for as long as this Condominium Declaration and Bylaws are in effect.

2. Condominium Units: Each Unit, together with the appurtenant undivided interest in the common elements of CARDINAL CONDOMINIUM shall together comprise one condominium unit, shall be inseparable, and may be conveyed, leased, rented, devised or encumbered as a condominium unit as a fee simple interest in a parcel of real property.
3. Encroachments: If any portion of the general common elements or limited common elements encroaches upon either unit, a valid easement for such encroachment and for the maintenance of the same, so long as it stands, shall and does exist. If any portion of a Unit encroaches upon the general common elements, or limited common elements, or upon an adjoining Unit or Units, a valid easement for the encroachment and for the maintenance of the same, so long as it stands, shall and does exist. Such encroachments and easements shall not be considered or determined to be encumbrances either on the general common elements, the limited common elements, or on the Units for the purpose of marketability of title. In the event the building or any portion thereof is destroyed and then rebuilt, the Owners of the Unit or Units agree that minor encroachments of parts of the general common or limited common elements because of such construction shall be permitted and that an easement for such encroachment and the maintenance and repair of the same shall exist.
4. Buildings: The units comprising the condominium are contained in two (1) building.
5. Unit Boundaries: Each unit shall include the part of the building containing the unit that lies within the boundaries of the unit, which boundaries are as follows:
 - a. Upper and Lower Boundaries: the upper and lower boundaries of the unit shall be the following boundaries extended to an intersection with the perimetrical boundaries:
 - i. Upper Boundary: the plane of the lowest surface of the ceiling joists for each unit.
 - ii. Lower Boundary: the plane of the highest surface of the floor joists.



- b. **Perimetrical Boundaries:** the perimetrical boundaries of the unit shall be the following boundaries extended to an intersection with the upper and lower boundaries:
- i. **Exterior Building Walls:** the plane formed by the centerline of the exterior walls of the buildings except that such boundary shall be extended so as to include within it all windows in the unit.
 - ii. **Interior Building Walls:** the vertical planes of the centerline of the walls between the units extended to an intersection with other perimetrical boundaries.
6. **Finished and Unfinished Surfaces:** The Owners of the respective Units own the undecorated and/or unfinished surfaces of the perimeter walls, floors, and ceilings surrounding their respective Units. The Owner shall not be deemed to own pipes, wires, conduits, or other public utility lines running through said respective Units which are utilized for, or serve more than one (1) Unit, except heretofore provided. Said Owner shall be deemed to own the interior walls and partitions which are contained in said Owner's respective Unit, (except where the same are structural or bearing walls, which shall be common elements) and also shall be deemed to own the finished surfaces of the perimeter walls, floors and ceilings, including plaster, paint, wallpaper, etc.
7. **Construction Materials:** The condominium was built in a manner consistent with the method (and materials) referred to as "stick frame" construction on a concrete foundation.

III. EASEMENTS - COMMON ELEMENTS - INTERIOR REMODELING

1. **Common Element Easements:** A nonexclusive right of ingress and egress and support through the general common elements are appurtenant to each Unit and all the general common elements are subject to such rights.
2. **Easement for Utilities:** Each unit may have its air space penetrated by electrical wires and lines, gas lines, mechanical equipment including air handling ducts, hot and cold water lines, waste water lines and vents and other utility and mechanical lines, pipes or equipment. These lines, where they serve only one unit shall be an appurtenance to such unit, but where they serve more than one unit shall be part of the common elements - either limited or general depending upon how many units are being served thereby as defined in Paragraph I, 6. Such items shall be so installed and maintained that they shall not unreasonably interfere with the use of the unit air space by the owners of the same and shall wherever possible be located in any space available between the actual ceiling and a dropped ceiling or within a wall. A non-exclusive easement shall exist through, over and across each unit for inspection, installation, maintenance, replacement and repair of such utility lines and mechanical equipment for the use of all of the unit owners or the unit owners being serviced by the air space being penetrated by such lines and/or equipment to



a minimum, ingress and egress for the purpose of such inspection, installation, maintenance, replacement or repair of such easement rights shall only be done under the direction and approval and with the authority of the Owners Association and/or the Manager unless an emergency exists in which event any action may reasonably be taken which is justified under the circumstances to minimize damage which would otherwise occur as a consequence of such emergency.

- 3. Interior Remodeling: Each unit owner shall have the exclusive right to paint, repaint, repair, tile, wax, paper, panel, carpet, brick or otherwise maintain, refinish and decorate the inner surfaces of the walls, ceilings, floors, windows and doors bounding his own Unit, and the interior thereof, so long as such owner does not affect the structural integrity of the building.

IV. OWNERSHIP AND VOTING - EXHIBITS - USE

- 1. Percentage of Interest: Each unit owner shall be entitled to the exclusive ownership, use and possession of his unit. Additionally, each Unit Owner shall have an equal percentage of undivided interest in the general common elements of CARDINAL CONDOMINIUM. Such percentage represents his ownership interest in the general common elements, his liability for common expenses and the voting interest of the Unit Owner or Owners in all matters concerning the Association of Unit Owners. The percentage of interest in the general common elements for the Unit Owners shall be computed by taking the value of each Unit at the date of filing this Declaration and dividing it by the then combined value of all of the units having an interest in the general common elements of the condominium. Such percentage of interest and value for each of the units in the condominium shall be according to the percentages set forth below:

<u>Unit No.</u>	<u>Square Footage</u>	<u>Percentage of Interest In General Common Elements</u>
1	approx. 2,475	25
2	approx. 2,475	25
3	approx. 2,475	25
4	<u>approx. 2,475</u>	<u>25</u>
Total	9,900	100%

- 2. Floor Plans and Exhibits: CARDINAL CONDOMINIUM consists of the real property as described above, and a total of four (4) residential dwelling units as shown on the floor plans. For identification and descriptive purposes, the following Exhibits are attached and by reference hereto incorporated into and made a part of this Declaration:

Exhibit A: Showing the floor plans of the Units of the CARDINAL CONDOMINIUM, the area of each, the dimensions and the designation for each Unit.

Exhibit B: Showing the site plan of CARDINAL CONDOMINIUM and the location of the building containing condominium units on the property.

3. Use: The Units and common elements shall be occupied and used as follows:
- a. The property may be used for residential purposes only.
 - b. There shall be no obstruction of the common elements, nor shall anything be stored in or on the common elements without the prior consent of the Association. Each Owner shall be obligated to maintain and keep in good order and repair the interior of his own unit.
 - c. Nothing shall be done or kept in any Unit or in the common elements which will increase the rate on insurance on the building or contents thereof applicable for residential use, without the prior written consent of the Association. No owner shall permit anything to be done or kept in his Unit or in the common elements which will result in the cancellation of insurance on the building, or contents thereof, or which would be in violation of any law. No waste will be permitted in the common elements.
 - d. Owners shall not independently cause anything to be hung or displayed on the outside of windows of places on the outside walls of a building and no sign, awning, canopy, radio or television antenna shall be affixed to or placed upon the exterior walls or roof or any part thereof, without the prior written consent of the Association.
 - e. No nuisances shall be allowed upon the property nor shall any use or practice be allowed which is a source of annoyance to residents of the Condominium or which interferes with the peaceful possession and proper use of the property by its residents. No immoral, improper, offensive or unlawful use shall be made of the property nor any part thereof and all valid laws, zoning ordinances and regulations of all government bodies have jurisdiction thereof shall be observed.
 - f. Nothing shall be done in any unit or in, on or to the common elements which will impair the structural integrity of the building or which would structurally change the building, except as is otherwise provided herein.
 - g. Nothing shall be altered or constructed in or removed from the common elements, except with the unanimous consent of the Association.



- h. Owners may not maintain, keep, board and/or raise livestock, animals or poultry of any kind, regardless of number, in any unit or the common elements, however, dog a dog and/or cat may be kept as domestic pets provided that they are not kept, bred or maintained for any commercial purpose and are limited to no more than one (1) dog and/or one (1) cat. Any outdoor kennel shall be constructed to meet with the approval of the Association. No pets shall be permitted to roam at large. All waste from any pets shall be disposed of in a sanitary fashion and shall not be dumped on the common elements.
4. Exclusive Ownership: Each Owner or Owners shall be entitled to exclusive ownership and possession of their Unit. Such Owners may use the general and limited common elements in accordance with the purposes for which they are intended and as they may otherwise agree between themselves, so long as they do not hinder or encroach upon the lawful rights of other Unit Owners.

V. THE ASSOCIATION

1. Creation of Association: The Owners of the Units shall constitute an unincorporated Association, unless and until such time the Owners, buy majority vote, decide to incorporate their Association.
2. Association Membership: Every Owner of a Unit in CARDINAL CONDOMINIUM shall automatically, upon becoming the Owner of said Unit, be a member of the Association until such time as his ownership ceases for any reason, at which time his membership in said Association shall automatically cease. The membership shall be limited to Unit Owners as defined in this Declaration.
3. Function: It shall be the function of the Association to:
- a. Adopt Bylaws for the governance of the Association.
 - b. Make provisions for the general management of the Condominium.
 - c. Levy assessments as provided for in the Declaration, Bylaws and Unit Ownership Act.
 - d. Adopt and implement a policy for the affairs of the Condominium.
 - e. Enter into contracts to hire personnel for the management of the affairs of the Association and the maintenance and repair of the common elements.
4. Vote: On all matters, unless excluded by this Declaration, to be decided by the Association, each Unit Owner shall have to vote equal to his percentage of interest in the general common elements. The lessee of the unit shall not be considered an owner with

respect to this paragraph and shall not have voting privileges. However, lessee may be appointed in writing to represent the owner of a particular unit, in which case he may vote and represent the owner's interest. Except as otherwise provided in the Unit Ownership Act, this Declaration or the Bylaws, a majority of the aggregate interest present at any meeting or by proxy shall be sufficient to act on matters brought before the Association except termination or amendment. Meetings of the Association shall only be conducted when a quorum is present, as defined in the Association Bylaws.

5. Enforcement: Each owner shall comply strictly with the provisions of this Declaration, the Bylaws of the Association, and the rules, regulations, decisions and resolutions of the Association adopted pursuant thereto as the same may be lawfully amended from time to time. Failure to comply with any of the same shall be grounds for an action to recover sums due, for damages or injunctive relief or both, and for reimbursement of all costs, including attorneys' fees incurred in connection therewith, which action may be maintainable by any aggrieved Unit Owner

6. Dispute Resolution: In the event of any dispute or disagreement between the Owners, including but not limited to, enforcement actions pursuant to paragraph 5 of this section and actions to break a tie vote, the issue or issues, at the request of any Owner, shall be submitted to arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association (AAA) before an arbitrator selected from the panels of the arbitrators of AAA. Where a vote or written assent is required, either for or against an action, the arbitrator shall be considered a provisional director and/or member of the Association who is authorized to attend any regular, special or adjoined meeting of the Association. In the event of referral to arbitration, the Owner requesting arbitration shall remit the fee to initiate the arbitration. However, the final cost of said arbitration shall ultimately be borne as determined by the arbitrator.

7. Payment of Assessments - When Due: All assessments shall be due three (3) days from the date of mailing such assessments following the meeting at which time assessments are levied by the Association and may be payable in installments, monthly or quarterly, at the option of the Board. The amount of the common expenses assessed against each condominium unit shall be the personal and individual debt of the owner thereof. No owner may exempt himself from liability for this contribution toward the common expenses and the limited expenses by waiver of the use or enjoyment of any of the general common elements or by abandonment of his Unit. All assessments which are not paid within thirty (30) days from the date they are due and payable become delinquent and are subject to interest and penalty charges. The Association or Manager shall have the responsibility of taking prompt action to collect any unpaid assessment which becomes delinquent. In the event of delinquency in the payment of the assessment, the Unit Owner shall be obligated to pay interest at a rate of ten percent (10%) per annum on the amount of the assessment from the due date delinquent; and if any attorney is engaged to collect the delinquent assessment and interest or if an attorney is engaged to foreclose

the lien for the unpaid assessment, the delinquent unit owner shall reimburse the Association for its costs and attorney's fees.

- a. Common expenses and limited common expenses of the Condominium shall be charged to the Unit Owners according to the percentage of interest of each in the common elements.
 - b. Except as otherwise limited in this Declaration, each Unit Owner shall have the right to use the common elements for all purposes incident to the use of and occupancy of the respective residential unit and such other incidental uses permitted by this Declaration, which rights shall be appurtenant to and run with the unit.
8. Levying Assessments - When Made - Purposes: The Association of Unit Owners shall levy assessments upon the Unit Owners in the following manner and for the following reasons:
- a. Assessments shall be made a part of the regular, annual business meeting of the Association as provided in the Bylaws of the Association or assessments can be made for special purposes at any other regular or special meeting thereof. All assessments shall be fixed by resolution of the Board of Directors. Written notice of the assessment, whether regular or special, the amount thereof, and the purpose for which it is made, including an annual budget for expenditures and operation, for regular annual assessments, shall be served on all Unit Owners affected, by delivering a copy of the same to the Owner personally or by mailing a copy of the notice to the said Owners at their addresses of record at least ten (10) days prior to the date for such meeting. At such meeting, the approval of such special assessments shall require a majority vote of the percentage interests of the unit owners affected by such special assessments. Notice of any meeting may be waived by the unit owners.
 - b. Assessments shall be made for the repair, replacement, insurance, general maintenance, management and administration of common elements, fees, costs and expenses of the manager, taxes for common areas and assessment for the owner's percentage share of any services for water, sewer, Special Improvement District assessments, or any other service provided. Assessments shall be based upon and computed by using the percentage of interest that each Unit Owner has in relation to the common elements as set forth in herein.
 - c. Assessments may also be made for the payment of limited common element expenses such that the Unit Owners are chargeable only for the expenses relating to their respective units. Unit Owners shall share in the payment for limited common elements of their respective Units in accordance with the percentage the condominium unit or units have in the limited common elements for which the



assessment is being made. If only one Unit is associated with the limited common elements involved, then the entire cost of such repair, maintenance or replacement shall be borne by that Unit.

- d. Assessments may also be made for any purpose contemplated by this Declaration and for any purpose set out in the Montana Unit Ownership Act.
- e. Common expenses of CARDINAL CONDOMINIUM shall be charges to the Unit Owners according to the percentage of undivided interest of each in the common elements.
- f. In a voluntary conveyance of a Unit, the Grantee of the Unit shall be jointly and severally liable with the Grantor for all unpaid assessments by the Association against the latter for his share of the common expenses up to -the time of the grant or conveyance, without prejudice to the Grantee's rights to recover from the Grantor the amounts paid by the Grantee therefore. However, any such Grantee shall be entitled to a statement from the Manager or Board of Directors of the Association, as the case may be, setting forth the amount of said unpaid assessments against the Grantor due the Association and such Grantee shall not be liable for, nor shall the Unit conveyed be subject to a lien for, any unpaid assessments made by the Association against the Grantor in excess of the amount therein set forth.
- g. At the time the Association holds its first meeting, a reserve account shall be set up to which initial assessments shall then be deposited and which assessments shall be a sum that is equal to two times the monthly assessment fee for that year multiplied by the number of Units in the condominium project. Said amount shall be divided equally among all Unit Owners. If the Declarant still holds title to one or more Units, he shall pay the amount assessed against each and every Unit so owned.

VI. DECLARANT'S RIGHT TO CHANGE

The Declarant reserves the right to change the interior design and arrangement of all Units, so long as the Declarant owns the Units so altered. No such change shall increase the number of Units or alter the boundary of the general common elements without an amendment of this Declaration.

VII. AMENDMENT

Amendment of this Declaration shall be made in the following manner:

At any regular or special meeting of the Association such amendment may be proposed as a resolution by any Unit Owner. Upon adoption of the resolution by a



majority vote of those present the amendment shall be made subject for consideration at the next succeeding meeting of the Association with notice thereof, together with a copy of the amendment to be furnished to each owner no later than thirty (30) days in advance of such meeting. At such meeting, the amendment shall be approved upon receiving the favorable note of seventy-five percent (75%) of the Unit Owners. If so approved, it shall be the responsibility of the Association to file the amendment with the Clerk and Recorder's Office of Gallatin County, Montana.

VIII. CHANGES, REPAIRS AND LIENS

1. Alterations by Unit Owners: The interior plan of a Unit may be changed by the owner with the exception of the bearing walls which may not be moved. No Units may be subdivided. No change in the boundaries of Units shall encroach upon the boundaries of the common elements except by amendment to this Declaration. Boundary walls must be equal in quality of design and construction to the existing boundary walls. A change in the boundaries between Units shall be set forth in an amendment to this Declaration. In addition to compliance with the provisions of Paragraph VII above, such amendment must further set forth and contain plans to the Units concerned, showing the Units after the change in boundaries, and attached to the amendment as exhibits. Such an amendment shall be signed and acknowledged by the owners of the Units concerned; as well as those owners with an interest in any common elements effected together with words of conveyance in the amendment conveying interest acquired in the Units or common elements by such change. The amendment shall also be approved by the Board of Directors of the Association and signed and acknowledged by all lienors and mortgagees of the Units concerned.

2. Maintenance by Unit Owner: An Owner shall maintain and keep in repair the interior or his own unit, including the fixtures thereof. All fixtures, utility lines and equipment installed in the Unit commencing at a point where the utilities enter the Unit shall be maintained and kept in repair by the owner thereof. An owner shall do no act nor any work that will impair the structural soundness or integrity of the building or impair any easement. An Owner shall also keep all areas and limited common elements appurtenant to his Unit in a clean and sanitary condition. The right of each Owner to repair, alter, and remodel is coupled with the obligation to replace any finishings or other materials removed with similar type or kinds of materials. No acts of alteration, repairing or remodeling by any Unit Owner shall impair in any way the structural integrity of the unit of the adjoining owners or the structural integrity of the limited common elements or general common elements.

3. Exterior Alterations: No Owner may change, alter or remodel the exterior of his Unit without the prior written approval of the Board of Directors of the Association.



4. Maintenance by Owners Association: The Owners Association shall take all necessary steps, including but not limited to, painting, roof repairs, cement repairs, snow removal and replacement or repair of all broken or worn parts, to insure that the building does not unnecessarily deteriorate. The Board of Directors of the Owners Association shall annually inspect the building and proceed with any necessary maintenance or repairs. Failure by the Board of Directors of the Owners Association to make annual inspections and/or proceed with any necessary maintenance shall give any mortgagee or beneficiary of any trust indenture the right to order such work done and bill the Owners Association therefore after notice to the Association of such intent by the said lienholder and giving the Association reasonable time to perform such work. Any lienholder or representative of the same upon written request, shall have the right to join in the annual inspection made by the Board of Directors and suggest needed repairs and maintenance necessary to preserve the security value of the condominium project.

5. Liens for Alterations: Labor performed and materials furnished and incorporated into a Unit with the consent of or at the request of the Unit Owner, his agent, his contractor or subcontractor shall be the basis for the filing of a lien against the Unit or the Unit Owner consenting to or requesting the same. Each Unit Owner shall indemnify and hold harmless each of the other Owners from and against all liability arising from the claim of any lien against the Unit or against the common elements for construction performed or for labor, materials, services or other products incorporated in the Owner's Unit at such Owner's request.

6. Liens and Foreclosures: All sums assessed but unpaid for the share of common expenses chargeable to any condominium Unit shall constitute a lien on such Unit superior to all other liens and encumbrances, except only for tax and special assessment liens on the Unit in favor of any assessing authority, and all sums unpaid on a first mortgage or a first trust indenture of record, including all unpaid obligatory sums as may be provided by such encumbrance. To evidence such lien, the Manager shall prepare a written notice of lien assessment setting forth the amount of such unpaid indebtedness, the amount of accrued interest and late charges thereon, the name of the Owner of the Condominium Unit and a description of the Condominium Unit. Such notice shall be signed and verified by one of the officers of the Association or by the Manager, or his authorized agent, and shall be recorded in the office of the County Clerk and Recorder of Gallatin County, Montana. Copies of such notice shall be mailed to the Owner against whose interest the lien has been filed and the holder of any first lien of record. Such lien shall attach from the date of recording such notice. Such lien may be enforced by the foreclosure of the defaulting Owner's Condominium Unit by the Association in the manner provided in the Unit Ownership Act and as provided by the foreclosure of a mortgage on real property upon the recording of a notice of claim thereof. In any such foreclosure the Unit Owner shall be required to pay a reasonable rental for the Unit and the Plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect the same. Suit to recover a money judgment for unpaid common expenses shall be maintainable without foreclosure or waiving the lien securing the same. In any such

proceeding the Owner may be required to pay the costs, expenses and attorney's fees incurred in filing a lien, and in the event of foreclosure proceedings, additional costs, expenses and attorney's fees incurred.

7. Bidding at Foreclosure: The Board of Directors of the Association on behalf of the other Unit Owners shall have the power to bid on the Condominium Unit at a foreclosure or other legal sale and to acquire and hold, lease, mortgage and vote the votes appurtenant to, convey or otherwise deal with the same. Any lienholder holding a lien on a Condominium Unit may pay, but shall not be required to pay, any unpaid general common expenses, or limited common expenses payable with respect to any such Unit, and upon such payment such lienholder shall have a lien on said Unit for the amounts paid of the same rank as the lien of his encumbrance without the necessity of having to file a notice or claim of such lien.

8. Unpaid Assessments: All sums assessed by the Association but unpaid for the share of the common expenses chargeable to any Unit shall constitute a lien on such Unit prior to all liens except only: (1) tax liens on the Unit in favor of any assessing unit and special district, and (2) all sums unpaid on the first lien of record. Such lien may be foreclosed by suit, by the manager or Board of Directors, acting on behalf of the Owners of the Units, in like manner as a mortgage of real property. In any such foreclosure the Unit Owner shall be required to pay a reasonable rental for the Unit, if so provided in the By-Laws, and the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect the same. The Manager or Board of Directors, acting on behalf of the Owners of the Units shall have power unless prohibited herein, to bid on the Unit at foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. Suit to recover a money judgment for unpaid common expenses shall be maintainable without foreclosing or waiving the lien securing the same.

9. Unpaid Assessments - Mortgagee: Where a lienholder or other purchaser of a Unit obtains title to the Unit as a result of foreclosure of the first mortgage or trust indenture, such acquirer of title, his successors and assigns, shall not be liable for the share of common expenses or assessments by the Association chargeable to such Unit which became due prior to the acquisition of title to such Unit by such acquirer. Such unpaid share of common expenses collectible from all of the Units including such acquirer, his successors and assigns.

IX. INSURANCE

1. All insurance policies upon the condominium property shall be purchased by the Association and shall be issued by an insurance company authorized to do business in Montana.
 - a. Named Insured - Personal Property: The named insured shall be the

Association individually as agent for the Unit Owners without naming them. Such policies shall provide that payments for losses thereunder by the insurer shall be paid to the insurance Trustee hereinafter designated, and all policies and endorsements thereon shall be deposited with the insurance Trustee. Unit Owners may obtain insurance coverage at their own expense upon their own personal property and for their personal liability and living expense.

- b. Copies to Mortgagees: One copy of each insurance policy and of all endorsements thereon shall be furnished by the Association to each mortgagee of a Unit Owner on request.

2. Coverage:

- a. Casualty: All buildings and improvements upon the land shall be insured to any amount equal to the full insurable replacement value and all personal property included in the common elements shall be fully insured, with all such insurance to be based on current replacement value, all as determined annually by the Board, the insurer and any first lienholders or their representatives, but subject to such deductible clauses as are required in order to obtain coverage at reasonable costs, and which coverage shall be increased by the Board as may be necessary to provide that the insurance proceeds will be sufficient to cover replacement, repairs or reconstruction. Such coverage shall afford protection against:
 - i. Loss or damage by fire and other hazards covered by the standard extended coverage endorsement; and
 - ii. Such other risks as from time to time customarily shall be covered with respect to a building similar in construction, location and use as the building on the land; and
 - iii. Errors or Omissions Insurance for the Directors, Officers and Managers if the Association so desires, in amounts to be determined by the Board.

The policies shall state whether the following items are included within the coverage in order that the Unit Owners may insure themselves if the items are not insured by the Association:

Heating, service equipment such as furnaces, boilers, whether or not such items are built-in equipment, interior fixtures such as electrical and plumbing fixtures, floor coverings, inside paint and other inside wall finishings.

- b. Public Liability: In such amounts and with such coverage as shall be



required by the Board of Directors of the Association, including, but not limited to, hired automobile and non-owned automobile coverage, if applicable, and with cross-liability endorsement to cover liabilities of the Unit Owners as a group to a Unit Owner.

- c. **Other Insurance:** Such other insurance as the Board of Directors of the Association shall determine from time to time to be desirable and as may be required by the Federal and State laws.
3. **Premiums:** Premiums upon insurance policies purchased by the Association shall be paid by the Association as a common expense, except that the amount of increase in the premium occasioned by use for other than a residence, misuse, occupancy or abandonment of a Unit or its appurtenances or of the common elements by a Unit Owner shall be assessed against the Owner. Not less than ten (10) days prior to the date when a premium is due, evidence of such payment shall be furnished by the Association to each lienholder listed in the roster of lienholders.
4. **Insurance Trustee:** All insurance policies purchased by the Association shall be for the benefit of the Association and the Unit Owners and their mortgagees as their interests may appear, and shall provide that all proceeds covering property losses shall be paid to such bank in Montana with trust powers as may be designated as insurance trustee by the Board of Directors of the Association, which trustee is herein referred to as the insurance trustee. The insurance trustee shall not be liable for payment of premiums nor for the renewal or the sufficiency of policies nor for the failure to collect any insurance proceeds. The duty of the insurance trustee shall be to receive such proceeds as are paid and hold the same in trust for the purposes elsewhere stated in this instrument and for the benefit of the Unit Owners, and their mortgagees in the following shares, but which shares need not be set forth on the records of the insurance trustee:
 - a. **Unit Owners:** An undivided share for each Unit Owner, such share being the same as the undivided share in the common elements appurtenant to his Unit.
 - b. **Mortgagees:** In the event a mortgagee endorsement has been issued as to a Unit, the share of the Unit Owner shall be held in trust for the mortgagee and the Unit Owner as their interests may appear; provided, however, that no mortgagee shall have the right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired, and no mortgagee shall have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds except distributions thereof made to the Unit Owner and mortgagee pursuant to the provision of this Declaration.
5. **Distribution of Proceeds:** Proceeds of insurance policies received by the insurance trustee shall be distributed to or for the benefit of the beneficial owners in the following manner:

- a. Miscellaneous: Expenses of administration, insurance trustee and considered as part of the cost of construction, replacement or repair.
 - b. Reconstruction or Repair: If the damage for which the proceeds are paid is to be repaired or reconstructed by the Association, the remaining proceeds shall be paid to defray the cost thereof as elsewhere provided.
 - c. If there is no reconstruction or repair the first proceeds fro distribution after paying the insurance trustee shall be made to the first lienholders for such Units before distribution to the Unit Owners.
 - d. Certificate: In making the distribution to Unit Owners and their lienholders, the insurance trustee may rely upon a certificate from the Association made by its representative as to the names of the Unit Owners and their respective shares of the distribution.
6. Association as Agent: The Association is irrevocably appointed agent for each Unit Owner and for each Owner of a mortgage or other lien upon a unit and for each Owner of any other interest in the condominium property to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims.
7. Reconstruction.
- a. Repair After Casualty: If any part of the condominium property shall be damaged by casualty, whether or not it shall be reconstructed or repaired shall be determined in the following manner:
 - i. Lesser Damage: If a Unit or Units are found by the Board of Directors of the Association to be tenantable after the casualty, the damaged property shall be repaired.
 - ii. Greater Damage: If a Unit or Units are found by the Board of Directors to be not tenantable after the casualty, the damaged property may be reconstructed or rebuilt, or if not then the property shall be subject to the applicable provisions of the Unit Ownership Act.
 - iii. In the event the Association elects not to rebuild as herein provided and set forth in 70-23-803 the insurance proceeds shall be used to satisfy any outstanding liens or encumbrances on the property.
 - iv. Certificate: The insurance trustee may rely upon a certificate of the Association made by its Chairman or President to determine whether or not the damaged property is to be reconstructed or rebuilt.



- b. **Plans and Specifications:** Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original improvements, or if not, then according to plans and specifications approved by not less than seventy-five percent (75%) of the Unit Owners, including the Owners of all Units the plans for which are to be altered. Any such reconstruction not in accordance with the original plans and specifications must be set forth in an amendment to the Declaration, which amendment shall be prepared and filed of record in accordance with the provisions of such amended filing, more particularly set forth in Paragraph VII and Paragraph VIII, subparagraph 1, hereinabove.
- c. **Responsibility:** The responsibility for reconstruction or repair after casualty shall be the same as for maintenance and repair in the condominium property.
- d. **Assessments:** If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction or repair for which the Association is responsible, or if at any time during such reconstruction or repair, or upon completion of such reconstruction or repair, the funds for the payment of the costs thereof are insufficient, assessments shall be made against all Unit Owners in sufficient amount to provide funds to the payment of such costs. Such assessments shall be in proportion to the Owner's percentage of interest in the general common elements.
- e. **Construction Funds:** The funds for payment of costs of reconstruction or repair after casualty, which shall consist of proceeds of insurance held by the insurance trustee and funds collected by the Association from assessments against Unit Owners, shall be disbursed in the sound discretion of the trustee and according to the contract of reconstruction or repair, which contract must have the approval of the Board of the Unit Owners involved.
- f. **Surplus:** It shall be presumed that the first monies disbursed in payment of costs of reconstruction and repair shall be from the insurance proceeds. If there is a balance in a construction fund after payment of all costs of the reconstruction and repair for which the fund is established, such balance shall be paid to the Association for the use and benefit of the Unit Owners.

X. REMOVAL OR PARTITION - SUBDIVISION

CARDINAL CONDOMINIUM may only be removed from condominium ownership, and may only be partitioned or sold, upon compliance with each of the conditions hereof:



- a. The Board of Directors of the Association must approve the plans of removal, partition or sale, including the details of how any partition or sale, and the distribution of property or funds shall be accomplished.
- b. The plan of removal, partition, subdivision, abandonment, termination or sale must be approved as provided in the Montana Unit Ownership Act. If approval for any of the foregoing is not required by the Unit Ownership Act, then approval shall be required from at least seventy-five percent (75%) of the Owners or first lienholders in condominium project. Upon obtaining such approval, the Board shall be empowered to implement and carry out the plan of removal, partition, subdivision, abandonment, termination or sale.
- c. No Unit may be divided or subdivided into a smaller Unit, nor any portion thereof sold or otherwise transferred, except as provided above.
- d. This section shall not apply to the sale of individual condominium units and shall not be considered as a right of first refusal.
- e. The common elements of CARDINAL CONDOMINIUM shall not be abandoned, partitioned, subdivided, encumbered, sold or transferred without compliance with all of the above requirements.

XI. INTERPRETATION

The provisions of this Declaration and of the By-Laws to be promulgated and recorded herewith, shall be liberally construed to effectuate the purposes of this Declaration and By-Laws and to create a building or buildings subject to and under the provisions of the Unit Ownership Act.

XII. REMEDIES

All remedies provided for in this Declaration and Bylaws shall not be exclusive of any other remedies which may now be, or are hereafter, available to the parties hereto as provided for by law.

XIII. SEVERABILITY

The provisions hereof shall be deemed independent and severable and the invalidity or partial invalidity or unenforceability of any one or more provision shall not affect the validity or enforceability of any other provision hereof.

XIV. MISCELLANEOUS

1. Utility and Structural Easements: Easements are reserved through the condominium property as may be required for utility services, including water, sewer, power, telephone, natural gas and cable television, in order to serve the condominium adequately, provided however, such easements through the property or through a Unit shall only be according to the plans and specifications for the Unit building, as set forth in the recorded plat, or as the building is constructed, unless approved in writing by the Unit Owner.

Every portion of a residential unit which contributes to the structural support of the building shall be burdened with an easement of structural support for the benefit of the common elements.

2. Right of Access: Association may inspect or repair. The Association shall have the irrevocable right to have access to each Unit from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any of the common elements therein or accessible therefrom or for making emergency repairs therein necessary for the maintenance, repair or replacement of any of the common elements therein necessary to prevent damage to the common elements or to any Unit. Damage to the interior of any part of the Unit resulting from maintenance, repair, emergency repair or replacement of any of the general or limited common elements or as a result of an emergency repair within another Unit at the insistence of the Association shall be designated either limited or general common expenses by the Association and assessed accordance with such designation.
3. Expenditures: No single expenditure or debt in excess of \$1,000.00 may be made on incurred by the Association without the prior approval of a majority of the Unit Owners.
4. Benefit: Except as otherwise provided herein, this Declaration shall be binding upon and shall inure to the benefit of the Declarant, the Association and each Unit Owner, and the heirs, personal representatives, successors and assigns of each.
5. Service of Process: The name and address of the person to receive service of process for CARDINAL CONDOMINIUM, until further designation is filed of record shall be:

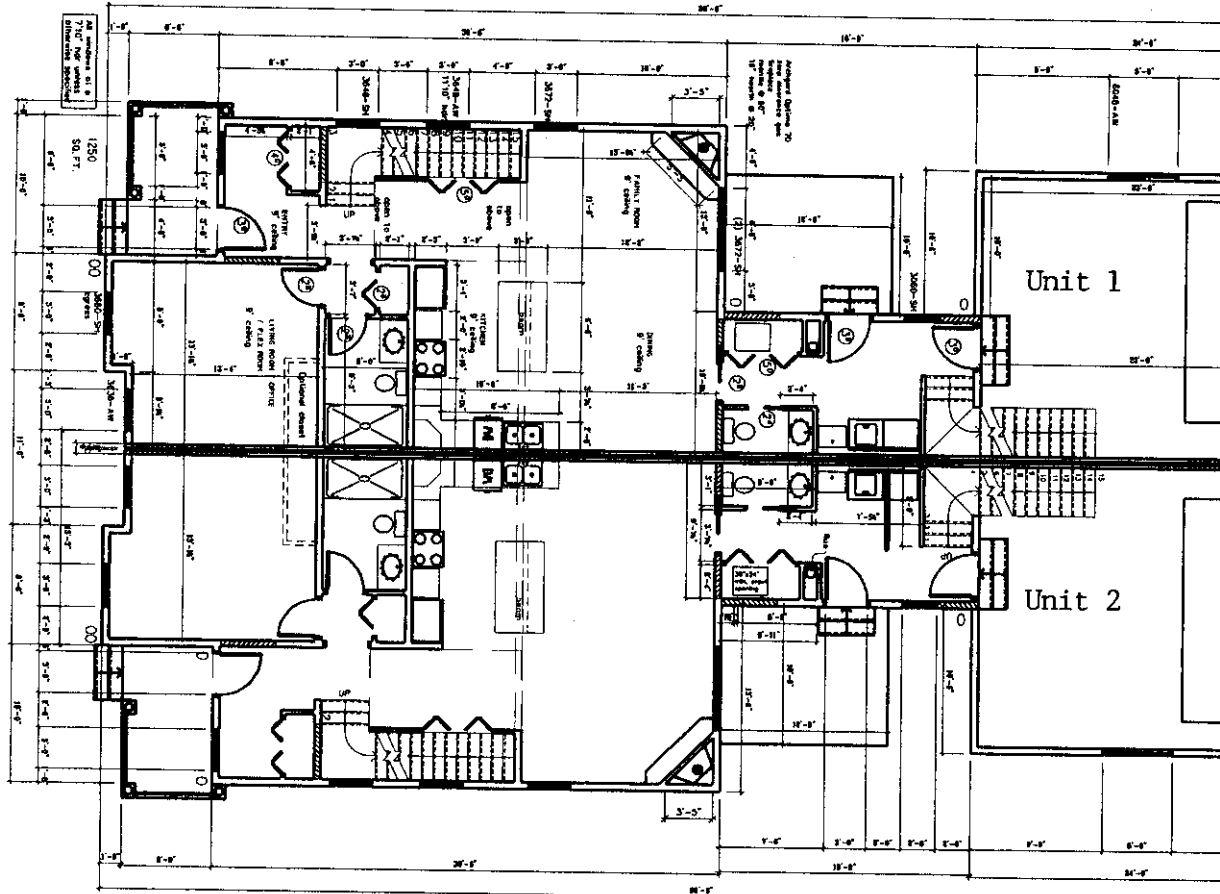
Keith Wenderoth, Member
Wenderoth Investments, LLC
313 Sanders Avenue
Bozeman, Montana 59718

6. Warranty Disclaimer: The Declarant expressly makes no warranties or representations concerning the property, the units, the Declaration, the Bylaws or deeds of conveyance, except as specifically set forth therein; and no one may rely upon such warranty or representation not so specifically expressed therein.

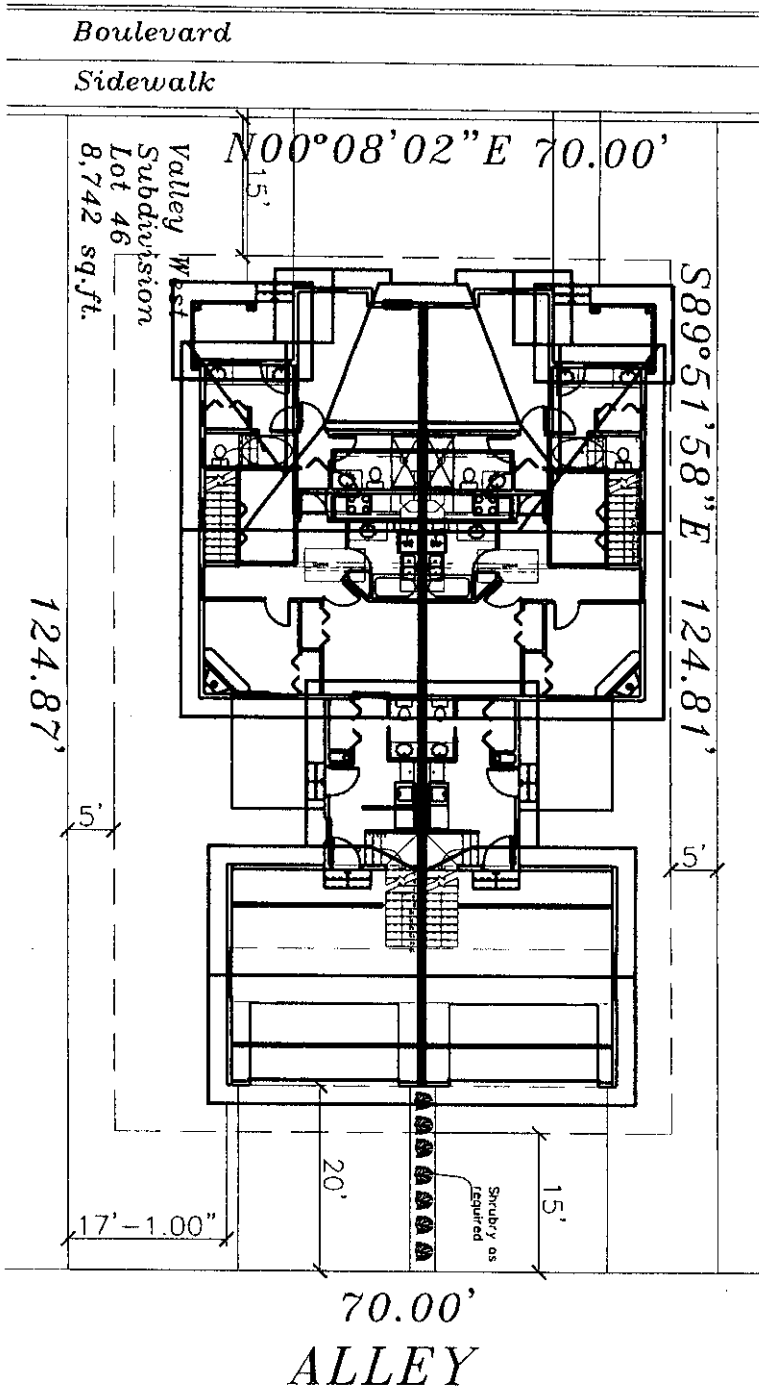


Exhibit A
Page 1 of 4
(Floor Plan Units 1 and 2)

FIRST FLOOR EACH SIDE = 1170 SQ. FT.

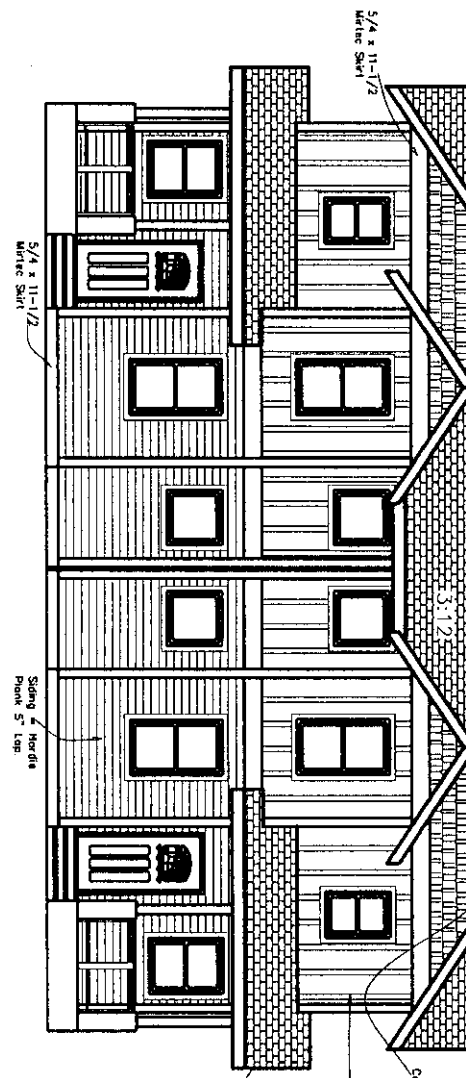
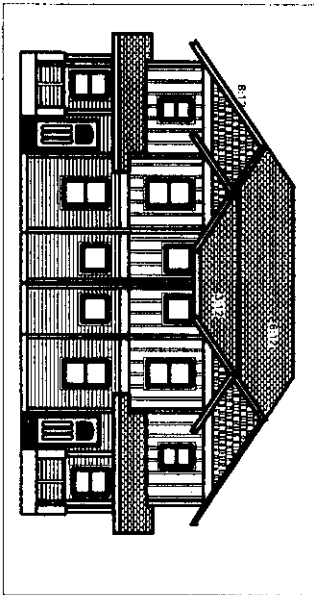


KIMBALL AVE.

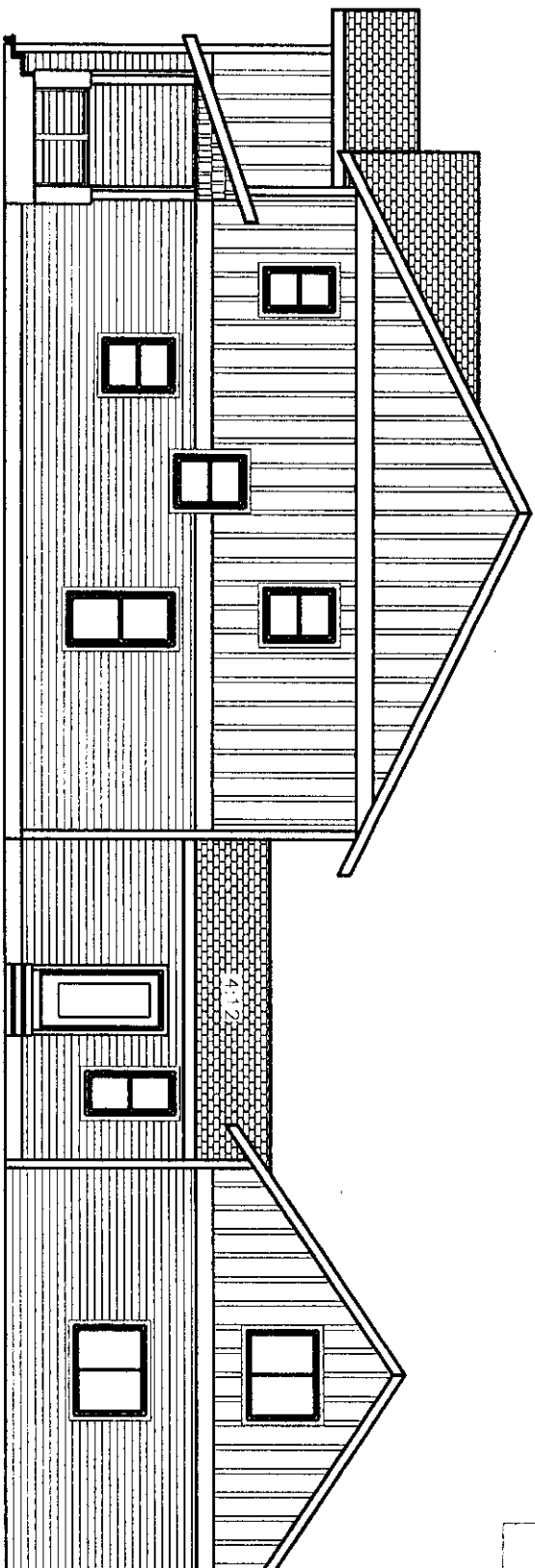


This plan
 the interna
 General Co
 responsible

Exhibit B
 Page 2 of 6
 (Site Plan Units 1 and 2)



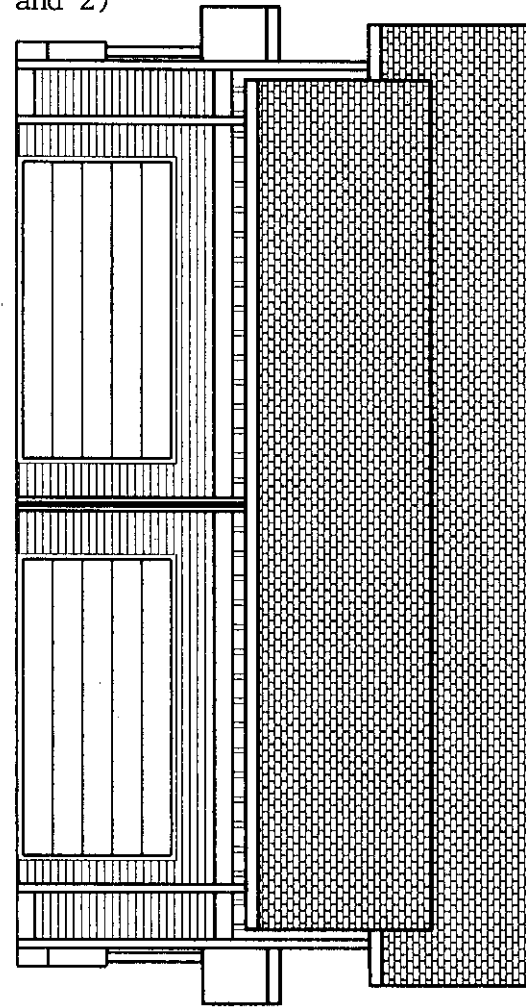
FRONT ELEVATION SCALE 1/4" = 1'-0"



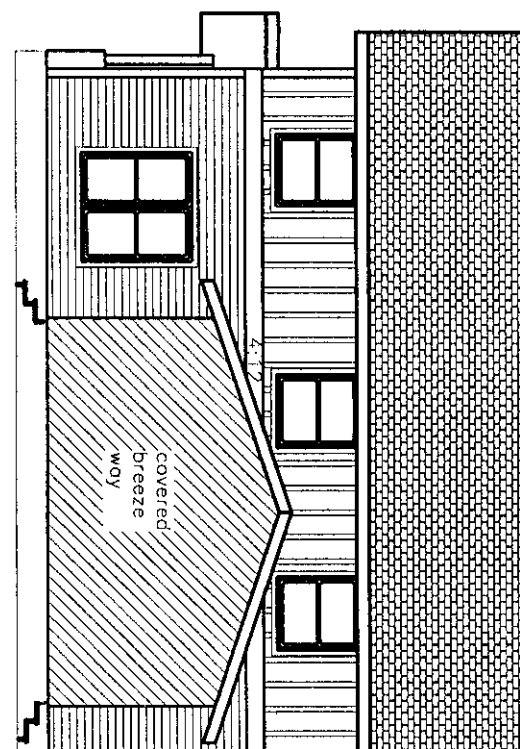
RIGHT ELEVATION SCALE 1/4" = 1'-0"

Cedar Shake
 Bod
 1/2" x 1"
 white
 Bol
 Pol
 116

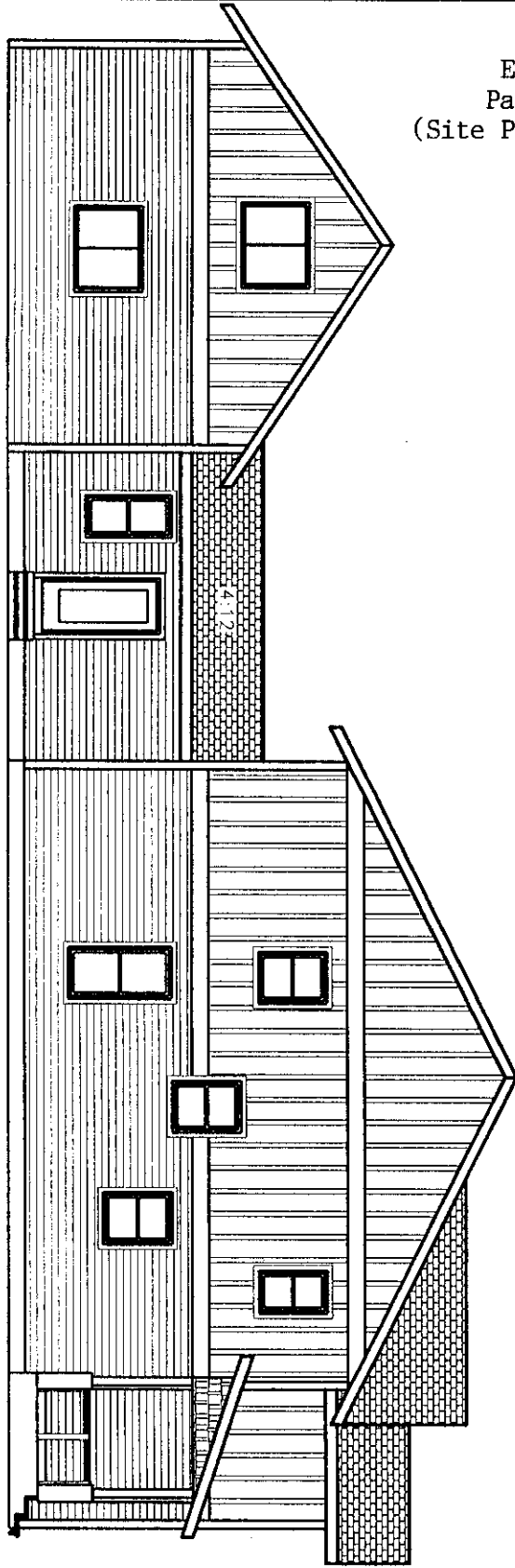
Exhibit B
Page 3 of 6
(Site Plan Units 1 and 2)



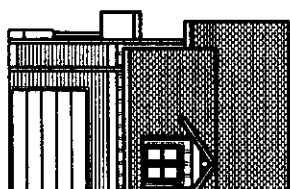
BACK ELEVATION SCALE 1/4" = 1'-0"



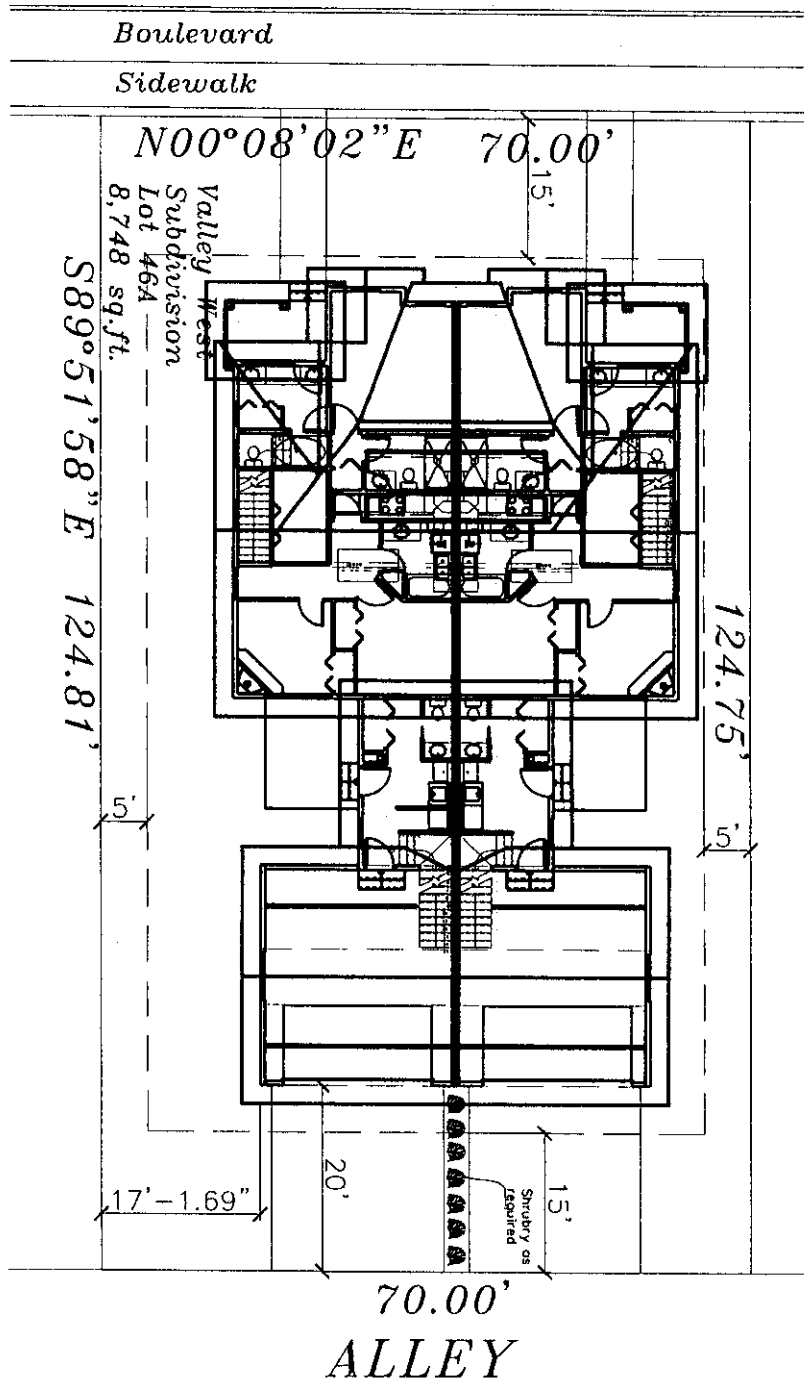
BACK ELEVATION (WITHOUT GARAGE) SCALE 1/4"



LEFT ELEVATION SCALE 1/4" = 1'-0"

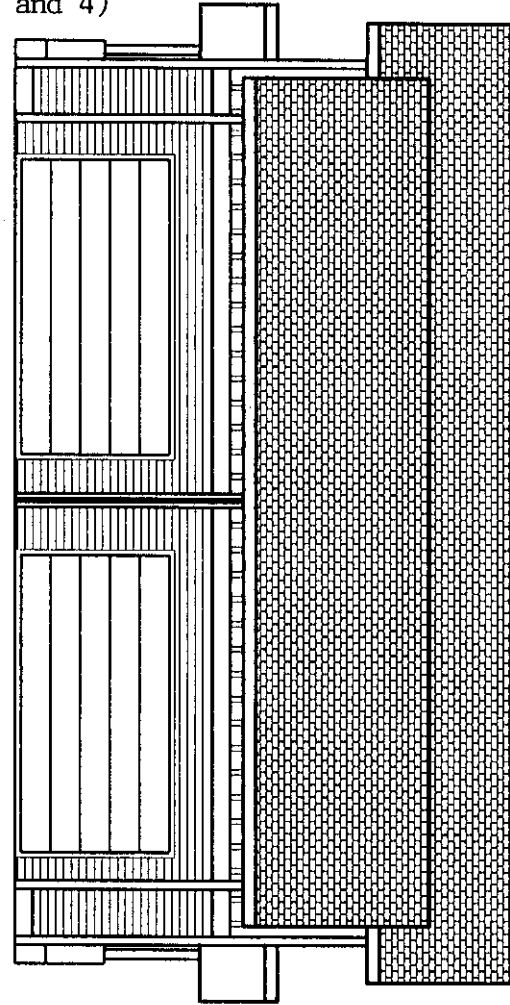


KIMBALL AVE.

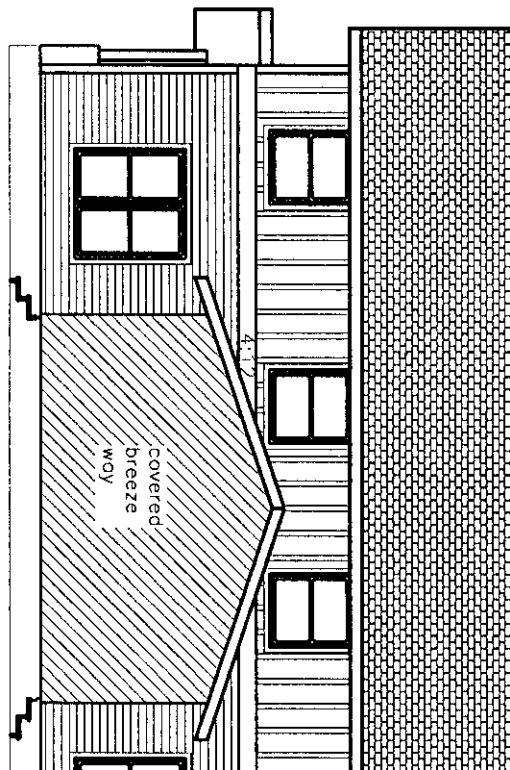


This plan is the property of the Interior General Co responsible

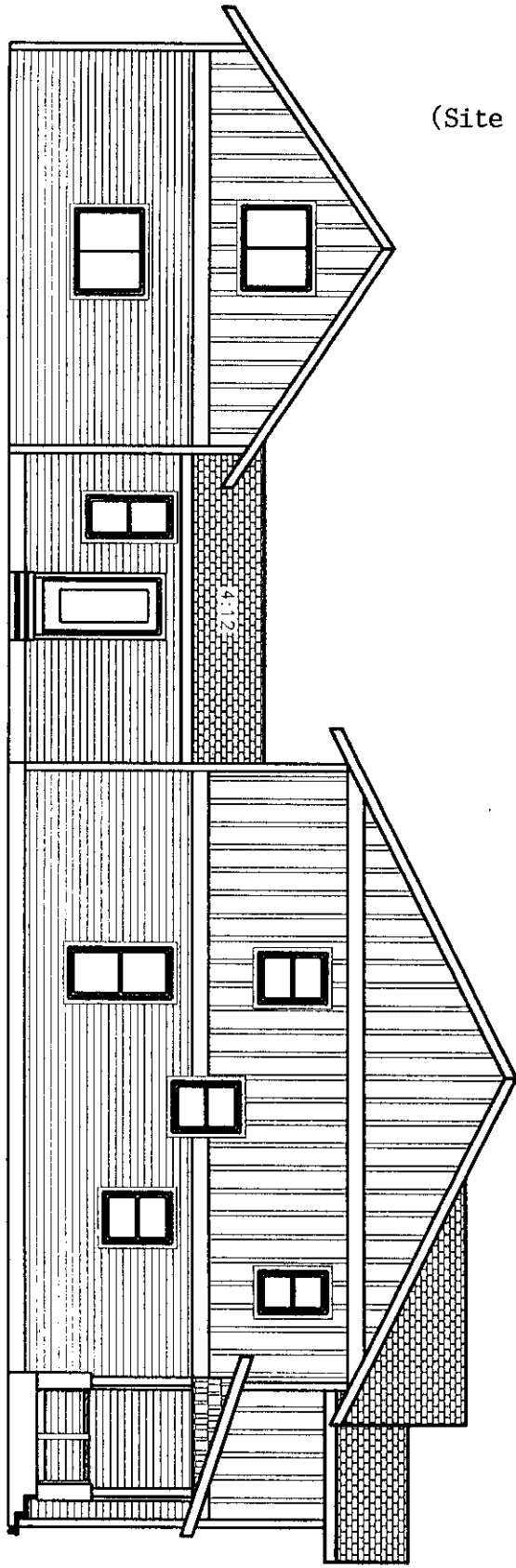
Exhibit B
 Page 6 of 6
 (Site Plan Units 3 and 4)



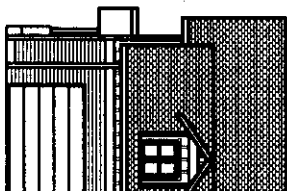
BACK ELEVATION SCALE 1/4" = 1'-0"



BACK ELEVATION (WITHOUT GARAGE) SCALE 1/4"



LEFT ELEVATION SCALE 1/4" = 1'-0"



OPTIONAL GABLE DOOR
 SCALE = 1/8" = 1'

BYLAWS OF THE ASSOCIATION OF UNIT OWNERS
OF
CARDINAL CONDOMINIUM

1. **PURPOSE AND APPLICATION**

These Articles are and shall be the Bylaws of the CARDINAL CONDOMINIUM Owners Association (Association). These Bylaws and the Declaration for CARDINAL CONDOMINIUM (Condominium) shall, upon being recorded with the Clerk and Recorder of Gallatin County, State of Montana, govern and control the administration of the Condominium. These Bylaws supplement the Declaration for CARDINAL CONDOMINIUM, which Declaration is made a part hereof by this reference. All Unit Owners, their guests and any renters or sublessees present and future shall have the rights and responsibilities described in these Bylaws and shall be subject to the provisions thereof. These Bylaws shall be deemed to be covenants imposed upon the land and units and the use thereof.

The acquisition of an ownership interest in a unit in the Condominium signifies that the Owner accepts, ratifies and agrees to comply with these Bylaws.

The Association is authorized to incorporate as a non profit mutual benefit corporation under the laws of the State of Montana.

2. **MEMBERSHIP**

Persons owning a unit in the Condominium or owning a unit in any real estate tenancy relationship recognized by the State of Montana shall be a members of the Association. Membership begins concurrently with the acquisition of an ownership interest and terminates at the time such ownership interest is transferred to another party. Such transfer shall not relieve any owner of liability for obligations incurred while a member of the Association; and further membership in the Association does not in any way negate or impair any owner's legal remedies, right to bring legal action, or defenses to any and all actions involving the Association, other unit owners, or the management which may arise from or be incidents of unit ownership.

3. **OBLIGATIONS**

Each Unit Owner shall be obligated to comply with the Bylaws, the Declaration, and the laws and ordinances of the City of Bozeman, County of Gallatin, State of Montana. Such obligations shall include, but not be limited to, the paying of assessments by the Association. Failure of any owner to abide by these Bylaws, and all rules made pursuant thereto, the Declaration, and the laws and ordinances of the City of Bozeman, County of Gallatin, and the State of Montana, shall be grounds for appropriate legal action by the Association or by an aggrieved unit owner against such noncomplying owner.

4. MEETINGS AND VOTING

A. Annual Meetings.

There shall be an annual meeting of the Association each year at such date, time, and places as shall be set forth by the Board of Directors commencing in the year 2005. The first meeting of the Association shall take place not more than one year following the date of recording these Bylaws, if not sooner held. Any first mortgagee on a unit shall have the right to have a representative attend any annual meeting. Upon written request delivered to the Association, a first mortgagee of a unit shall be given notice of the annual meetings.

B. Special Meetings.

Pursuant to these Bylaws, the Association may at any time hold special meetings, notice of which shall be sent to all unit owners. Any first lienholder or mortgagee shall have the right to have a representative attend any special meeting. Upon written request delivered to the Association, a first mortgagee of a unit shall be given notice of the special meetings. Such special meeting may be called on the initiative of the Chairman or by sixty percent (60%) or more of the Board of Directors of the Association or by a petition signed by at least fifty percent (50%) of the aggregate percentage interest of the unit owners. Only matters set forth in the notice for a special meeting may be voted upon at such special meeting.

C. Notice.

Notice of all meetings, annual or special, may be oral or may be written and mailed by the Association to each unit owner of record at their address of record at least ten (10) days prior to the time for holding such meeting. Such notices shall specify the date, time and place of the meeting and shall make provision to allow for the voting of each Unit Owner's interest by proxy at the discretion of the owner. The mailing of a notice in the manner provided in this paragraph or the personal delivery of such notice by the Secretary of the Association shall be considered as notice served. The unit owners may, by unanimous written consent, waive the notice requirements under this paragraph for a specific meeting. A unit owner may waive written notice by attendance at the meeting or by written waiver.

D. Quorum.

No meeting, annual or special, shall be convened to conduct business unless a quorum is present in person or by proxy. A quorum shall consist of at least fifty percent (50%) of the total aggregate voting interest of the unit owners present in person or by proxy or voting by mail ballot. At any time, during any meeting that quorum is not present, such meeting shall be adjourned forthwith, and continued at another date, place and time. If a matter is submitted to a vote by written ballot the ballots returned to the Association shall be counted towards the quorum for the matter voted upon.



E. Voting by Written Ballot.

Any matter may be voted upon by the unit owners may be submitted to the unit owners by written ballot. A vote by written ballot must be authorized by a majority of the Board of Directors.

A written ballot must:

- (a) set forth each proposed action; and
- (b) provide an opportunity to vote for or against each proposed action.

Approval by written ballot pursuant to this section is valid only when:

- (a) the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action; and
- (b) the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

All solicitations for votes by written ballot must

- (a) indicate the number of responses needed to meet the quorum requirements;
- (b) state the percentage of approvals necessary to approve each matter other than election of directors; and
- (c) specify the time by which a ballot must be received by the corporation in order to be counted.

A written ballot may not be revoked.

5. **VOTING INTEREST**

Each unit owner shall have a voting interest equal to his percentage of interest in the general common elements as set forth in the Declaration or amendments thereto.

Except as shall be set forth differently in the Declaration, such vote shall be the percentage interest of each unit owner on all matters affecting the general business of the Condominium, on all matters affecting the common elements, assessments for the common elements, and on all matters upon which the Association agreed to have voting by the common elements' interest. Voting upon matters affecting limited common elements and assessments for limited expenses shall be only by owners having a unit or interest in units affected.

Whenever a quorum is present at a meeting of the Association or the Board of Directors, those present may do any and all acts they are empowered to do unless specific provisions of these Bylaws, the Declaration, or the laws of the State of Montana direct otherwise.



6. **BOARD OF DIRECTORS**

The business and affairs of the Condominium shall be governed by a Board of Directors elected from among the unit owners. The initial Board of Directors shall consist of a principal of the Declarant and such other person(s) as Declarant may appoint. The number of the Board of Directors shall be set by the uni owners at each annual meeting and shall not be less than two (2) nor more than three (3), except that the initial Board may consist of one Director appointed by the Declarant. The unit owners shall nominate and elect the Directors, except for Directors appointed by the Declarant. Such Board shall have all powers and responsibilities attendant to the general administration and control of the Condominium. Additionally, the Board shall have the authority necessary to carry into effect the powers and duties specified by these Bylaws and in the Declaration for the Condominium. The manner of election of the Board of Directors shall be as follows:

At the first and all subsequent meetings of the Association nominations for positions on the Board will be accepted from any of the unit owners present. Voting will be noncumulative with each Association member having a vote equal to their percentage of interest in the general common elements. Board members shall serve for one (1) year and shall be elected by majority vote of those present at any annual or special meeting.

7. **OFFICERS OF THE BOARD OF DIRECTORS**

The Board shall elect from its membership a Chairman, Secretary, and Treasurer. The Secretary and Treasurer positions may be combined.

8. **POWERS AND DUTIES OF THE BOARD OF DIRECTORS**

The Board of Directors shall have the following powers and duties:

- a. To call annual meetings of the Association and give due notice thereof.
- b. To enforce the provisions of the Declaration and Bylaws of the Condominium by appropriate action.
- c. To promulgate and adopt rules and regulations for the use of the common elements and for the occupancy of the units so as to not interfere with the peace and quiet of all the unit owners. Such rules must be approved by seventy-five percent (75%) of the Unit Owners at any annual or special meeting of the Association.
- d. To provide for the management of the Condominium, by hiring or contracting with suitable and capable management and personnel for the day-to-day operation, maintenance, upkeep and repair of the general common and limited common elements.

- e. To levy assessments as allowed by the Declaration, these Bylaws and the Unit Ownership Act of Montana, and to provide for the collection, expenditure and accounting of said assessments.
- f. To pay for the expenses of the maintenance, repair and upkeep of the general common elements and the limited common elements, and to approve payment vouchers either at annual or special meetings.
- g. To delegate authority to the Manager for the conduct of condominium business, to carry out the duties and powers of the Board, however, such authority shall be precisely defined with ultimate authority at all time residing in the Board of Directors.
- h. To provide a means of hearing grievances and foreclosure proceedings of Unit Owners and to observe all due process requirements imposed upon owners associations for condominiums.
- i. To meet at regularly scheduled times and hold such meetings open to all Unit Owners or their agents.
- j. To prepare an annual budget for the condominium in order to determine the amount of the assessments payable by the Unit Owners to meet the general common and limited common expenses and allocate and assess such charges among the Unit Owners according to their respective interests in the general common and limited common elements, and to submit such budget to the Unit Owners on or before the date of the annual meeting.
- k. To levy and collect special assessments whenever, in the opinion of the Board, it is necessary to do so in order to meet increased operating or maintenance expenses, costs, or additional capital expenses, or because of emergencies.
- l. To take appropriate legal action to collect any delinquent assessments, payments or amounts due from Unit Owners or from any person or persons owing money to the condominium, and to levy a penalty and to charge interest on unpaid amounts due and owing.
- m. To defend in the name of the Association any and all lawsuits wherein the Association or all the unit owners are party defendants.
- n. To enter into contracts with third parties to carry out the duties herein set forth, for and on behalf of the Board and the Association.



- o. To establish a bank account for the Association and to keep therein all funds of the Association. Withdrawal of monies from such accounts shall only be by checks signed by such persons as are authorized by the Board of Directors.
- p. In general, to act for and carry on the administration and affairs of the Association as authorized and prescribed by the Declaration and to do all those things which are necessary and reasonable in order to carry out the governance and operation of CARDINAL CONDOMINIUM.
- q. To establish rules and regulations for administration of the condominium and for conduct, behavior and use of the general common and limited common elements. Such rules shall first be promulgated by the Board and submitted to the owners for comments within thirty (30) days. Following such comments, the rules shall either be adopted or rejected at the next regular or special meeting of the Board, but may, as with any action of the Board, be overridden by the Owners Association at any time.
- r. To make repairs, alterations and improvements to the general common and limited common elements consistent with managing the condominium in a first class manner and in the best interest of the Unit Owners.
- s. To arrange, keep, maintain and renew the insurance for the Association as set forth in the Declaration.
- t. To carry out the duties and responsibilities of the Board in all other matters as may be authorized, needed or required by the Declaration, and the Unit Ownership Act, as well as the City of Bozeman.
- u. To allow first lienholders to inspect Association and Board records.

9. **VACANCIES AND REMOVAL**

Should a vacancy occur on the Board of Directors, the Board, subject to the exception described below, shall appoint a member of the Association to serve for the unexpired term. Such vacancy shall be filled no later than the next regular Board meeting after which it occurs. Should such vacancy not be filled by the Board at the next annual meeting of the Association, the Association may fill such vacancy.

At any annual or special meeting of the Association, any member of the Board may be removed by a majority of the aggregate interests in the condominium. Such vacancy shall be filled by the Association. Such removal matter must be announced in the notice of such annual or special meeting. The personal delivery of such notice by the Secretary of the Association shall be considered notice served.



10. **COMPENSATION**

No member of the Board of Directors shall receive any compensation for acting as such. Nothing herein, however, shall be construed to preclude compensation being paid to managers who are hired by the Board of Directors.

11. **MANAGERS**

A Manager may be appointed and/or removed by the Board of Directors. The Manager or any member of the Board of Directors handling Association funds or having power to withdraw or spend such funds shall be bonded, and shall have maintained records of the financial affairs of a condominium. Such records shall also detail all assessments made by all Unit Owners. All records shall be available for examination during normal business hours to any Unit Owner or his assigned representative. All functions and duties herein provided for the Manager may be performed by the Board, or the Chairman, if the Board should decide not have a Manager.

- A. Accounts: The receipts and expenditures of the Association shall be under the direction of the Manager and be classified as appropriate into general common expenses and limited common expenses and shall include a provision for:
 - 1. Current expenses: Which shall include all receipts and expenditures to be made within the year for which the budget is made, including a reasonable allowance for contingencies and working funds, except expenditures chargeable to reserve or to betterment. The balance in this fund at the end of each year shall be applied to reduce the assessments for current expenses for the succeeding year.
 - 2. Reserve for Deferred Maintenance: Which shall include funds for maintenance items which occur less frequently than annually.
 - 3. Reserve for Replacement: Which shall include funds for repair or replacement required because of damage, depreciation or obsolescence.
 - 4. Betterment: Which shall include the funds to be used for capital expenditures for additional improvements or additional personal property which shall be a part of the common elements.
- B. The Manager shall prepare and submit to the Board a budget, each calendar year, which must be approved then and adopted by the Board. The budget shall include the estimated funds required to defray the general common and limited common expenses and to provide and maintain funds for the foregoing accounts according to good accounting practices.

Copies of the budget and proposed assessments shall be transmitted to each member on or before December 4, preceding the year for which the budget is made. If the budget is subsequently amended, a copy of the amended budget shall be furnished to each member.

- C. A financial report of the accounts of the Association shall be made annually by an accountant, and a copy of the report shall be furnished to each member at the annual meeting.

A Manager shall generally operate and manage the condominium for and on behalf of the Unit Owners and shall have such other powers and authority as the Board may designate. If there is no Manager or if the Manager resigns, is terminated or his contract expires, the Board shall perform all the duties of the Manager.

12. **AMENDMENT OF BYLAWS**

These Bylaws may be amended at any annual or special meeting of the Association providing that a copy of the proposed revision is included in the notice of such meeting.

Upon a vote of over seventy-five percent (75%) of the aggregate interest in the condominium, the amendment shall be declared adopted. The Secretary shall as soon as practicable after adoption, prepare a copy of these Bylaws as amended for certification by the Chairman and Secretary of the Association. Such amended and certified Bylaws shall then be filed and recorded in the office of the Clerk and Recorder of Gallatin County, State of Montana. Bylaws as amended shall become effective at the time of such recording.

13. **ASSESSMENTS**

In accordance with the percentage of interest in the general common elements as set forth in the Declaration, each Unit Owner shall be assessed for general common expenses. Such assessments, and assessments for limited common expenses shall be collected and paid according to the terms and under the procedures more particularly set forth in the Declaration. The amounts of assessments described above and any other assessments allowed by these Bylaws, the Declaration and the Unit Ownership Act of the State of Montana, shall be fixed by the Board of Directors. Notice of each owner's assessments shall be mailed to said owner at his address of record.

14. **NOTICE OF DEFAULT TO LIENHOLDERS:**

A first lienholder, upon request, will be entitled to written notification from the Owners Association of any default in the performance by the individual Unit borrower of any obligation under the condominium documents which is not cured within sixty (60) days.



15. **NOTICES - DAMAGES:**

The Owners Association shall notify all lienholders in writing of any loss to, taking of, the common elements of the condominium if such loss or taking exceeds \$10,000.00 or damage to an individual unit securing a mortgage held by the first lienholder exceeds \$1,000.00.

16. **FISCAL YEAR:**

The fiscal year of the Association shall commence on January 1 of each year and end on December 31 of each year.

17. **DUE PROCESS BY THE ASSOCIATION:**

In the event that an action is taken by the Owners Association against any individual unit owner to enforce an assessment, or any part of the Bylaws or Declaration, or any rule or regulation properly adopted by the Association, said owner shall be afforded to the protections of due process, which includes but is not limited to the following:

- a. Adequate notice of any default with a contingent right to cure the default.
- b. An opportunity to defend him or herself against any allegations or default.
- c. An opportunity to cross-examine witnesses.
- d. An opportunity to receive a formal hearing before an impartial forum or tribunal.
- e. To findings of fact by the formal tribunal in accordance with the evidence presented.
- f. To a penalty proportionate to the offense such as suspension of voting rights and recreational use rights or a reasonable fine imposed by the Board of Directors of the Association.

18. **MISCELLANEOUS:**

- a. **Costs and Attorney's Fees:** In any proceeding arising because of an alleged default by an Owner, the prevailing party shall be entitled to recover the costs of the proceedings and such reasonable attorney's fees as may be determined by the Court.
- b. **No Waiver of Rights:** The failure of the Association or of an Owner to enforce any right, provision, covenant or condition shall not constitute a waiver of the right of the Association or Owner to enforce such right, provision, covenant or condition in the future.
- c. **Election of Remedies:** All rights, remedies and privileges granted to the Association or an Owner pursuant to any term, provision, covenant or condition of the



condominium documents shall be deemed cumulative and the exercise of any one or more shall not be deemed to constitute an election of remedies nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies or privileges as may be granted to such other party by the condominium documents or at law or in equity.

- d. Surplus: Any surplus of common expense payment by Owners over the actual expenses (including the reserve for contingencies and replacements) during a fiscal year of the Association shall be applied towards common expenses for the following year or shall be applied in any other manner which shall benefit the Association and which, on the basis United States Federal Income Tax Law, regulations and interpretations existing from time to time, in the sole discretion of the Board, is most likely to avoid taxation of such surplus, provided that such application is consistent with the proportional interest of all the Owners, and is not precluded by the terms of the Act, as amended from time to time.
- e. Parliamentary Rules: Roberts Rules of Order (latest edition) shall govern the conduct of the Association's meetings when not in conflict with the Act, the Declaration or these Bylaws.

19. **ASSIGNMENT:**

No unit owner shall be permitted to convey, mortgage, pledge, hypothecate, sell or lease his unit unless and until he shall have paid in full to the Board of Directors of the Association all unpaid common charges therefore assessed by the Board against his unit and until he shall have satisfied all unpaid liens against such unit, except permitted mortgages.

20. **FORCE AND EFFECT:**

The invalidity of any part of these Bylaws shall not impair or affect in any manner the validity, enforceability or effect of the balance of these Bylaws

No restriction, condition, obligation or provision contained in these Bylaws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

21. **THE DECLARATION**

Rosa Construction, Inc. has filed along with these Bylaws, a Declaration whereby the properties known as CARDINAL CONDOMINIUM are submitted and subject to M.C.A. 70-23-101, et seq. The Declaration shall govern the act, powers, duties and responsibilities of the Association of Unit Owners and in the event these Bylaws and the Declaration are in conflict, the Declaration shall prevail.


The definition of terms set forth in the Declaration shall be applicable throughout these By-Laws and the interpretation thereof.

By virtue of these Bylaws and the Declaration, each Unit Owner has the right to membership in the Association of Unit Owners and any Unit Owner may be on the Board of Directors of CARDINAL CONDOMINIUM.

CARDINAL CONDOMINIUM Association of Unit Owners and its Board of Directors shall have the primary and final authority on all matters solely affecting the condominium area, subject to the laws, rules and regulations of the City of Bozeman, County of Gallatin, State of Montana.

IN WITNESS WHEREOF, Wenderoth Investments, LLC, as the owner of record of all of the condominium units and one hundred percent (100%) of the voting interests of CARDINAL CONDOMINIUM as of the date hereof, appoints the following persons to serve on the Board of Directors until the first meeting of the Association, to-wit:

- CHAIRMAN: Keith Wenderoth
- SECRETARY: Keith Wenderoth
- TREASURER: Keith Wenderoth

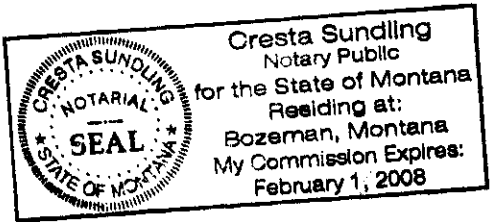


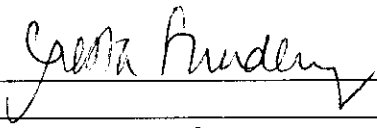
By: Keith Wenderoth

STATE OF MONTANA)
 : ss.
County of Gallatin)

On this 10th day of ~~October~~ ^{November}, 2004, before me, a Notary Public in and for the State of Montana, personally appeared KEITH WENDEROTH, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.



 (sign)

Notary Public for the State of Montana (print)
Residing at: _____
My commission expires: _____