



After Recording Return To:  
 Chris Johnson  
 Worden Thane PC  
 321 W. Broadway, Ste. 300  
 Missoula, MT 59802

**DECLARATION OF CONDOMINIUM,  
 COVENANTS, CONDITIONS AND RESTRICTIONS  
 FOR THE  
 COTTAGES AT OLD WORKS CONDOMINIUMS**

**NOTICE**

The residential condominium units described in this declaration are offered only for residential purposes, permitting owners the residential use of their condominium unit and the common areas. Ownership of a condominium unit should not be viewed as an investment. No one should purchase a condominium unit based on any expectation of economic benefit from such ownership. No federal, state or other governmental authority has passed upon or endorsed the merits of this declaration and the documents referenced herein.

THIS DECLARATION is made on the 19 day of October 2021, by River Properties, LLC, a Wyoming limited liability company, of P.O. Box 439, Sidney, MT 59270, and provides as follows:

**RECITALS**

1. River Properties, LLC ('Declarant') is the owner of Real Property located in Anaconda Deer Lodge County, Montana, which is described as follows:

Parcel 1-A of Amended Plat No. 467-C, being a tract of land located in the NW¼ of Section 2 and the NE¼ of Section 3, Township 4 North, Range 11 West, P.M.M.,

Anaconda - Deer Lodge County, Montana.

To be located upon the Real Property are fifteen habitable dwellings, each of which is to be a separate Condominium Unit, and are designated as Units 1 through 15, which Units are herein declared, and shall hereinafter be conveyed as condominiums. In addition, another building is to be constructed that will function as an office for the project, which will also contain common facilities and amenities, and another building is to be constructed that will function as a chapel.

2. Additionally, Declarant wishes to place restrictions, covenants, conditions and easements upon the Real Property for the use and benefit of the Real Property, itself, and all future owners of all or any part of the Real Property, which restrictions, covenants, conditions and easements shall run with the Real Property and shall be binding upon all parties having or requiring any right title or interest in any part of the Real Property and shall inure to the benefit of and bind each successor in interest to the owner thereof.
3. NOW, THEREFORE, the Declarant provides as follows:

**DECLARATION**

**1. DEFINITIONS**

- a. Architectural Control Committee. "Architectural Control Committee" shall mean and refer to a committee of the Association, as more specifically described in Section 7 of this Declaration.
- b. Association. "Association" shall mean and refer to the Cottages at Old Works Condominiums Owners Association, Inc. to be incorporated by Declarant as a Montana non-profit corporation, as described in Section 8 of this Declaration.
- c. Buildings. "Buildings" means the fifteen buildings that will constitute the Condominium Units to be located upon the Real Property, each of which is a separate dwelling unit, together with such common element or limited common element buildings as may exist for the use by the Owners and the Association.
- d. Bylaws. "By-Laws" means the By-Laws of the Association.
- e. Common Elements. "Common Elements" shall mean all Real Property, its improvements, fixtures and appurtenances owned by the Declarant, the Association, or the Unit owners for the common use and enjoyment of the Members of the Association as specifically described in Section 3(c) of this Declaration. Common Elements shall be considered the same as Common Areas as referred to herein.

- f. Condominium Unit. "Condominium Unit" or "Unit" shall mean and refer to the individual Condominium Units as illustrated on the site and design plans recorded with this Declaration and as more specifically described in Section 3(b) of this Declaration. Units are distinguished from other common element buildings and improvements.
- g. Declarant. "Declarant" shall mean and refer to River Properties, LLC, a Wyoming limited liability company or any person or entity that may be assigned or transferred the development rights hereunder. A grant of a deed to a single Unit shall not be deemed a transfer of any development rights retained herein.
- h. Declaration. "Declaration" shall refer to this Declaration of Condominium, Covenants, Conditions and Restrictions for the Cottages at Old Works Condominiums.
- i. Limited Common Elements. "Limited Common Elements" shall mean all Real Property, its improvements, fixtures, and appurtenances owned by Declarant, the Association, or Unit Owners for the common use and enjoyment of the Members of the Association, but specifically reserved or designed for use of less than all Condominium Units, as more specifically described in Section 3(d) of this Declaration. Limited Common Elements shall be considered the same as Limited Common Areas as referred to herein.
- j. Member. "Member" shall mean and refer to every person or entity who is a Member of the Association as described in Section 8 of this Declaration.
- k. Owner. "Owner" shall mean and refer to every person or entity who is a record Owner of a fee, or undivided fee interest in any Condominium Unit that is subject to this Declaration.
- l. Real Property. "Real Property" shall mean and refer to that certain Real Property as described or referred to in Section 1 of the Recitals, above and the improvements thereon.
- m. Transition Date. "Transition Date" shall be the date upon which the authority and responsibility to administer and manage the Association and the condominium, subject to this Declaration and By-Laws, passes to the Association. The Transition Date will be on or before 30 days following the sale of the 14<sup>th</sup> Unit of the 15 total, or 7 years following the date of recording of this Declaration, whichever is earlier. Should the number of units change, according to procedures established herein and under state law, the number shall be the sale of the unit constituting the transfer of



80% or more total units.

**2. DECLARATION**

- a. Declaration. Declarant hereby submits the Real Property and its improvements to the form of ownership and use provided by Title 70, Chapter 23, of the Montana Code Annotated (MCA), hereinafter referred to as the "Montana Unit Ownership Act" and pursuant to MCA §76-3-203, and further pursuant to MCA §76-4-125(1)(d). Declarant further declares that all of the Real Property described herein and all present and future Owners of Condominium Units shall be subject to, and shall comply with the provisions of this Declaration, the By-Laws, and the rules and regulations adopted by the Association, as these instruments may be amended from time to time. The valid execution of a purchase contract by a buyer or the acceptance of a deed thereto shall constitute acceptance of the provisions of such instruments by such Owner. All Owners shall be responsible for insuring compliance by their tenants, family members, guests, and other occupants of their Condominium Unit.
  
- b. Conveyances Subject to Declaration. All easements, restrictions, conditions, covenants, reservations, liens, charges, rights, benefits, and privileges which are granted, created, reserved or declared by this Declaration, along with the Bylaws of the Association and its Rules, shall be deemed to be covenants appurtenant, running with the Real Property, and shall at all times inure to the benefit of and be binding on any person having at any time any interest or estate in the Real Property, and such person or entities, respective heirs, successors, representatives or assigns. Reference in any deed of conveyance, lease, mortgage, deed of trust, or other evidence of obligation or any other instrument to the provisions of this Declaration shall be sufficient to create and reserve all of the easements, restrictions, conditions, covenants, reservations, liens, charges, benefits and privileges which are granted, created, served or declared herein as though fully and completely set forth in their entirety in any such document.
  
- c. Submission to Unit Ownership. One of the purposes of this Declaration is to submit the Real Property under the Montana Unit Ownership Act, the definition of terms in this Declaration and the By-Laws of the Association shall be those definitions used in the Montana Unit Ownership Act, except as otherwise provided herein. The Real Property included within the project shall be named "Cottages at Old Works Condominiums."

**3. DESCRIPTION OF PROJECT AND COMMON AREA**

- a. Description of Project. The project consists of Units designated as Units 1 through 15, located along Pennsylvania Avenue and Pizzini Way, Anaconda, MT, being 15

separate one story buildings, with no basements, and inclusive of attached decks. There is also a limited common element structure of two stories that contains an office and gym facilities, along with a deck for the use by the Owners and a separate limited common element chapel. The location of the Buildings and each Condominium Unit is shown on the floor plans and site plan attached to the Architect, Engineer, or Surveyor's Statement which statement is recorded in conjunction with this Declaration pursuant to Montana Code Annotated §70-23-306. The Buildings are of wood construction with wood siding, concrete foundation, and metal roof. Interior walls are of sheetrock. Declarant proposes to convey the Condominium Units by Warranty Deeds pursuant to which the grantees shall have the exclusive right to occupy the Condominium Unit and the non-exclusive right to use and enjoy the Common Areas and Limited Common Areas as specified in the Declaration, subject to the limitations, covenants, conditions, restrictions and easements set forth herein. Declarant intends to establish a common scheme and plan for the use, enjoyment, construction, repair, maintenance, restoration, remodeling and improvement of the Condominium Units and for the payment of taxes, assessments, insurance premiums and other expenses pertaining thereto, and hereby declares that the Condominium Units are and shall be held, conveyed, hypothecated, encumbered, occupied and improved subject to the limitations, covenants, conditions, restrictions and easements set out in this Declaration, all of which are declared to be in furtherance of a plan established for the purpose of enhancing the value, desirability and enjoyment of the Real Property and the Condominium Units therein to be conveyed. All such limitations, covenants, conditions, restrictions and easements are intended to run with the land, to-wit, each Condominium Unit covered by the Declaration, and each Owner and each Owner's successors and assigns are and shall be bound by the Declaration. The individual Units may be constructed in "phases" or groups of Buildings constructed at the same time. Nothing herein precludes the Declarant from completing construction or development of all contemplated Units.

- b. Condominium Unit. Each Condominium Unit consists of some or all of the elements depicted in the plans and specifications for each as more particularly depicted and designated on the floor plans recorded concurrent with this Declaration and is described as the dwelling space, bounded and contained within, and including the perimeter or exterior walls, roof, flooring and subflooring, and foundation for Units 1 through 15, inclusive of the attached decks, as shown on the floor plans for the Units, and inclusive of other fixtures and improvements appurtenant to the Units. Utility lines, and pipes which serve only one Condominium Unit shall be a part of it from the interior of the Condominium Unit to the point where the same are metered or, in the case of un-metered lines or pipes, where they join lines or pipes serving other Condominium Units.
- c. Common Areas. Appurtenant to each Condominium Unit, but not a part thereof is

a fee estate of an undivided interest, determined based upon the percentages as set out in Exhibit A. The Common Area or Elements include the Limited Common Areas or Elements as described in this Article. The Common Areas include the Real Property on which the Buildings are located, including components or appurtenances of such structures and improvements such as utility lines, gas and water storage facilities, sewer or sanitation lines, driveways, and walkways, used by more than one Unit; the landscaping, recreation areas, exterior storage or utility rooms, common mechanical rooms, maintenance areas, pathways, sidewalks, and driveways located on the Real Property; all installations of apparatus for utility or other services existing for the common use; and all other elements of the Buildings or Real Property necessary or convenient to its existence, maintenance or safety or otherwise normally in common use, but specifically excluding the Condominium Units as defined herein. Utility elements may be owned by the supplier or vendor.

- d. Limited Common Areas. The Limited Common Areas are those elements of the Common Area that are reserved or designed specifically for the use of a certain Condominium Unit or Units but not all of the Condominium Units, and include buildings (the Gym/Office and Chapel) that are available for use by all Unit Owners but whose use may be limited and regulated by the Association in its management of such facilities. Limited Common areas include walkways, driveways or parking areas or spaces serving a specific Unit, utility lines (electric, telephone and data lines), water, septic and natural gas lines, pipes and systems, storage areas, entry courts, patios, entrances, exits, and utility lines and pipes, and driveways, which serve only certain Condominium Unit or Units, but not all of the Condominium Units. Other than as stated herein, the Limited Common Areas are reserved for the exclusive use of the Condominium Unit or Units to which they are appurtenant, inclusive of those parking areas immediately adjacent to a particular Unit, all as shown on the Architect, Engineer, or Surveyor's Statement Exhibit.
- e. Ownership of Common Areas. The undivided interest in the Common Areas hereby established and which shall be conveyed with each respective Condominium Unit is based upon the percentages as set out in Exhibit A. The Declarant, its successors, assigns and grantees, covenant and agree that the undivided interest in the Common Area and the fee titles to the respective Condominium Units shall not be separated from or separately conveyed or encumbered from one another, and shall be deemed conveyed with the Unit even though the description in the instrument of conveyance or encumbrance may refer only to the fee title to the Condominium Unit.
- f. Appurtenances. The Condominium Units hereby established include or have appurtenant thereto an undivided interest in the Common Areas, an undivided interest in Limited Common Areas and all easements appurtenant to the respective Condominium Units as described in this Declaration and/or as illustrated on the site

plan filed herewith.

4. **PROPERTY RIGHTS AND OBLIGATIONS**

- a. Easements. The Association and its agents and employees shall have a non-exclusive right and easement in, to and over the Common Areas and Limited Common Areas for the purpose of carrying out the Association's duties as set forth throughout this Declaration. Additionally, there shall exist for the benefit of each Condominium Unit, along with the Association, its agents and employees, and as a burden on the other Condominium Units the following easements, provided such easements shall not be considered or determined to be encumbrances either on the general Common Areas, the Limited Common Areas, or on the Condominium Units for purposes of marketability of title.
- i. Easement through the general Common Areas for ingress and egress for all persons making use of such Common Areas in accordance with the terms of this Declaration; each Owner shall have an unrestricted right of ingress and egress across the Common Areas to his or her Condominium Unit, provided that all vehicles shall keep to established road and driveways on the Property, and are subject to the parking restrictions contained herein.
  - ii. Easements through the Condominium Units and Common Areas for maintenance, repair and replacement of the Condominium Units and Common Areas. Use of these easements, however, for access to the interior of Condominium Units shall be limited to reasonable hours, except that access may be had at any time in case of emergency.
  - iii. Easements through, over or under the Condominium Units and Common Areas for all facilities for the furnishing of utility services within the buildings, which facilities shall include but not be limited to conduits, pipes, ducts, plumbing and wiring; provided that the easements for such facilities through a Condominium Unit shall be only substantially in accordance with the plans of the building and as such facilities may exist as of the date of this Declaration.
  - iv. Easements for encroachments (and maintenance thereof) of any portion of the general Common Areas or Limited Common Areas upon a Condominium Unit or Condominium Units so long as they stand, and easements for encroachments (and maintenance thereof) of any portion of a Condominium Unit upon the general Common Areas, Limited Common Areas, and upon an adjoining Condominium Unit, so long as they stand.

- b. Delegation of Use. Any Owner may delegate his right of enjoyment to the Common Areas to his guests or tenants, who reside or are otherwise properly in possession of such Owner's Condominium Unit. All such persons shall be subject to the rules concerning use of the Common Area as the Association may adopt, in particular rules governing the use of the Gym/Office and its deck and the Chapel. Each Owner shall be responsible to assure his guests and tenants abide by the terms of this Declaration, the Articles of Incorporation of the Association, its By-Laws and any rules which it might adopt. Any Owner who has delegated his right of occupancy to his Condominium Unit may continue to use the Common Areas, subject to the rules of the Association.

5. **LEASE OF A CONDOMINIUM UNIT.**

Any Owner shall have the right to lease his Condominium Unit upon such terms and conditions as the Owner may deem advisable subject to this Section. All leases shall be in writing, and may be for any time period, and shall provide that the lease is subject to the terms of this Declaration, the Articles of Incorporation of the Association, its By-Laws and any rules which it might adopt. Leases may include leasing or renting Units as a 'tourist home', as defined under Montana law, §50-51-102 M.C.A., and provided such use complies with pertinent statutes and administrative rules governing such use. The Association may adopt rules governing any assistance or services the Association may wish to provide relative to such uses. All leases shall provide that any failure of a lessee to comply with the terms of this Declaration, the Articles of Incorporation of the Association or its By-Laws or any rules adopted by the Association shall be a default under the lease or rental agreement. If any lease does not contain the foregoing provisions, such provisions shall nevertheless be deemed to be a part of the lease and binding upon the Owner and the lessee by reason of their being stated in this Declaration. Unit owners should provide lessees copies of relevant documents as part of their lease agreement, and shall provide a copy of such lease or rental form used to the Association before the tenancy commences. If any lessee or occupant of a Unit violates or permits the violation by his guests and invitees of any provisions hereof or of the Bylaws or the rules and regulations of the Association, and the Board determines that such violations have been repeated and that a prior written notice to cease has been given, the Board may give notice to the lessee or occupant of the Unit and the Owner thereof to forthwith cease such violations; and if the violation is thereafter repeated, the Board shall have the authority, on behalf and at the expense of the Owner, to evict or have removed the tenant or occupant if the Owner fails to do so after notice from the Board and an opportunity to be heard. The Board shall have no liability to an Owner or tenant for any eviction made in good faith, nor shall the Association, by exercise of this provision, have any liability to the tenant for conduct of the Owner which may violate relevant landlord-tenant or fair housing law. The Association shall have a lien against the Owner's Unit for any costs incurred by it in connection with such eviction, including reasonable attorney's fees, which may be collected and foreclosed by the Association in the same manner as Assessments are collected and



foreclosed herein. Any failure of a lessor or lessee to comply with the terms of this Declaration, the Articles of Incorporation of the Association or its By-Laws or rules adopted by the Association shall be a default enforceable by the Association against such lessee and the Owner of such Condominium Unit. In the alternative to action by the Association, an individual Owner may bring suit to enforce such provisions, with the exception that such individual Owner may not conduct an eviction on behalf of the Owner in breach, and such individual owner may not have a lien for attorney fees referred to above that otherwise are properly awarded to the prevailing Owner. Each Owner covenants and agrees that in the event he or she leases their Condominium Unit to a tenant or tenants, or allows individuals other than him or herself to reside therein that they shall continue to be responsible for all the acts and omissions of such persons.

## 6. USE RESTRICTIONS

- a. Property Use. The use for which each Condominium Unit is intended is that of a residential condominium, and not for commercial enterprises carried out in or from the Unit. All uses are subject to all applicable zoning and other applicable restrictions imposed by Anaconda Deer Lodge County. No business use, except as provided for herein by Declarant, shall be maintained in any Unit, except for those type of home businesses or commercial activities which may be carried out from within the Condominium Unit, and do not involve customers, vendors, or suppliers coming to the residence, except on a highly infrequent or irregular basis. Regardless of this provision, the use of each Unit shall remain primarily residential.
- b. Declarant's Use. Notwithstanding any provision herein contained to the contrary, during the period of sale it shall be expressly permissible for the Declarant to maintain upon the Real Property such facilities as in the sole opinion of the Declarant may be reasonably required, convenient or incidental to the sale of the Condominium Units, including but not limited to a business office, storage area, construction yard and structures, signs, model Condominium Units and sales offices. Declarant, its agents and prospective purchasers shall also have the right of ingress, egress and parking in and through and the right to use and enjoy the Common Area at any and all reasonable times, without the permission of any Owner or the Association being required. Declarant also reserves the right to let or rent out Units owned by Declarant under any terms or conditions Declarant may elect.
- c. General Prohibitions and Rules. All use and occupancy of the Condominium Units and the Common Areas shall be subject to and governed by the rules as adopted by the Association, which rules shall not be inconsistent with the terms of this Declaration. Every Owner, his guests, employees, invitees, tenants and licensees shall adhere strictly to the rules as adopted by the Association pursuant to this Section or otherwise under this Declaration.

- d. Alteration. The Condominium Units were designed and constructed in a uniform and common theme, which is intended to stay uniform throughout all Condominium Units. Therefore, no Owner shall alter any of the Common Area or Limited Common Area without the prior written consent of the Association's Architectural Control Committee. Nothing shall be done by any Owner within the Real Property which would impair the structural integrity of any improvement located upon the Real Property. No Owner shall make any change, modification, alteration or addition to the design, structure or color scheme of any Condominium Unit's exterior without first obtaining the prior written consent of the Architectural Control Committee. The removal of fixtures, equipment, trees, shrubs and other landscaping improvements from the Common Area or Limited Common Area by an Owner shall be prohibited without the express written approval of the Architectural Control Committee. No antenna shall be permitted on the exterior of a Unit except small satellite dishes or microwave internet dishes no larger than one meter in diameter, for which the installing Owner shall be responsible for maintenance and which shall be located on the Building where prewired. No such Owner dishes are allowed on the common area or common area buildings. Upon sale of the Unit and/or the removal of the dish, the Owner shall be responsible for repairing or restoring the point of attachment to its original condition.
- e. Imperiling of Insurance. Nothing shall be done within the Real Property which might result in an increase in the premiums for or which might cause cancellation of insurance obtained for any portion of the Real Property, except with the prior written consent of the Association.
- f. Violations of Law. Nothing shall be done within the Real Property which would be in violation of any statute, rule, ordinance, regulation, permit or validly imposed requirement of any governmental body, specifically including but not limited to federal, state or local laws regarding the use and disposal of toxic materials and hazardous wastes.
- g. Nuisances. No noxious or offensive activity shall be carried on upon the Real Property nor shall anything be done thereon which may be or may become an annoyance or nuisance to the Owners, their families, tenants or agents. No activity shall be conducted on any part of the Real Property which is or might be unsafe or hazardous to any person or the Real Property.
- h. Signs. No advertising signs, billboards, or unsightly objects shall be erected, placed, or permitted to remain on any part of the Real Property, excepting signs not to exceed three square feet may be used to advertise units for sale or for rent, which signs must be attached or posted on the Building. Signs advertising Units for rent or lease may

not be posted for over three weeks total in a calendar year. Political signs are also allowed, provided they meet the above requirements and may only be posted for the 30 days prior to the election to which they pertain, and then promptly removed. Provided, that signs identifying the Real Property and such signs as might be required by law (e.g., signs indicating handicapped parking) shall be permitted. Signage limitations herein do not apply to entry statement signs or project identification signs. For a period of five years from the date of this Declaration, the Declarant shall be permitted to place signs, without limitation of size or otherwise, upon the Real Property to promote the development of the project.

- i. Pets. Only two small domestic animals or pets may be kept at each Unit, and such animals may not be bred commercially. All domestic animals shall be kept indoors overnight. The presence and use of service animals for the handicapped or disabled shall be permitted upon the Real Property and within the Condominium Units. All owners of permitted pets shall be absolutely responsible for keeping their pet contained and for clean up of all waste. Such pets shall not be allowed to be at large on the premises or common areas. No kennels may be established or used anywhere on the Property.
  
- j. Unightly Uses. Refuse piles or other unsightly objects and materials shall not be placed or remain upon the Common Area or any Limited Common Area. The Association shall have the right to enter upon any Condominium Unit, and the Association or any aggrieved Owner may enter upon the Common Area or Limited Common Area to remove such refuse piles or other unsightly objects and materials at the expense of the Owner causing such unsightly use, and upon due notice to the Owner. Such entry shall not be deemed a trespass and incurred expenses may be collected and foreclosed by the Association in the same manner as Assessments are collected and foreclosed as provided for herein.
  
- k. Parking/Vehicles. No vehicle of any type shall be parked anywhere on the Common Area or Limited Common Area except within limited common area parking associated with each Unit, or parked in the provided common area 'overflow' parking as identified on the attached site plan. Overflow parking shall be on a first come first serve basis, but no vehicle may be parked in overflow parking for more than 7 days without being used and moved (with moving a vehicle from one space to another not constituting being "used and moved"). No vehicle may be parked on any lawn, and trailers of any sort are prohibited, with the proviso that the Association may adopt specific rules allowing the parking of trailers in the limited common area parking spaces. Parking on adjacent streets shall be pursuant to local regulations. No non-functioning or non-licensed vehicles shall be parked on the Property. There shall be no assembling, repairing or disassembling of vehicles in the driveways or parking areas, or other maintenance of vehicles, other than in event of an emergency, and then

not to exceed 48 hours. Provided the Association, by rule, may enact more strict parking regulations and/or assign or re-assign parking spaces among the Condominium Units on an equitable basis, or to provide access to accessibility parking. This provision is not intended to preclude the entry of construction, maintenance, delivery, moving, or other such service vehicles while they are being utilized in connection with services to a Condominium Unit, Common Area or Limited Common Area. Motorcycles and ATVs shall be parked and treated as other vehicles herein. Bicycles may be parked at any provided parking and locking structure or on the decks of a Unit, and may not be locked to the common elements e.g. power poles, fencing, support beams, utility lines, lighting fixtures, etc.

- l. Construction Liens. No labor performed or materials furnished with the consent or at the request of an Owner, his agent, contractor or subcontractor shall create any right to file a construction lien against the Condominium Unit of any other Owner, who does not request or consent to the same, or against any interests in the Common Area or Limited Common Area. Each contracting or consenting Owner shall indemnify, defend and hold harmless the Association and each of the other Owners from and against liability arising from the claim of any lien or against the Condominium Units for labor performed or materials furnished at the request of the contracting or consenting Owner. At the written request of any Owner, the Association shall enforce such indemnity by collecting from the contracting or consenting Owner the amount necessary to discharge any such lien and all costs incidental thereto including attorney's fees and expenses. Said expenses may be added to such Owners regular assessments.
  
- m. Garbage. The Association shall maintain a common garbage receptacle or receptacles and contract for its regular pick up. Individual Unit Owners may not maintain separate garbage cans outside their Units without the consent of the Architectural Control Committee, and such consent shall be premised on such Owner securing regular (weekly, at least) garbage removal services and providing proper animal-proof garbage containers for collection of garbage.
  
- n. Violations. In the event of violation of any prohibitions or restrictions contained in the Declaration, by any Owner, his family, guests or tenants, such violation shall obligate said Owner to reimburse the Association, or an individual Owner, for the cost and expense expended by it in order to cure the violation, enforce this Declaration and/or restore the property to its original state together with a displacement fee, in such amount as established by the Association or as may be determined by a court of law, in the event such violation results in a delayed access for another Owner. Such charges as incurred by the Association shall be treated as assessments pursuant to Section 9 against such Owner and his ownership interest.

7. **ARCHITECTURAL CONTROL**

- a. Appointment of Architectural Control Committee. The Association may establish, either permanently or on an ad-hoc basis, an Architectural Control Committee to serve the functions as described in this Article. Members of the Architectural Control Committee shall be appointed and serve as set forth in the By-Laws and rules of the Association, except that all members of the Architectural Control Committee shall be appointed by the Declarant, until the Transition Date or such time as the Declarant opts to hand over this responsibility pursuant to written notice to the Association. In the absence of an established Architectural Control Committee, all architectural control authority may be exercised by the Directors of the Association.
- b. Restrictions. No alteration, as described in Section 6(d), to a Condominium Unit, Common Area, Limited Common Area shall be permitted until the plans and specifications showing the nature, kind, shape, height, materials and location of such have been submitted and approved in writing as to conformity to the provisions of this Declaration and to the quality of workmanship and materials and conformity and harmony of design with the existing Buildings, topography, finished ground elevation by the Architectural Control Committee.
- c. Review and Approval. The Owner seeking Architectural Control Committee approval must first submit all plans and specifications as described in Section 6(d) and otherwise requested by the Architectural Control Committee. If the Architectural Control Committee fails to approve or disapprove such design and location within 60 days after all of said plans and specifications have been submitted and received by it for consideration, such submittal will be deemed approved. All plans and specifications which must be submitted in writing for approval hereunder shall be submitted to the Architectural Control Committee in care of the Association at its general business address as shall be set forth in the By-Laws of the Association or as may be provided to Owners by written notice. Members of the Architectural Control Committee shall not be entitled to any compensation for the services they perform. The Architectural Control Committee shall be under no obligation to review any such change to a Condominium Unit, without such signed written consents of each Owner of the respective Condominium Unit to be so modified. The Declarant is expressly excepted from review requirement relative to Units owned by the Declarant or to be constructed by Declarant.

8. **THE ASSOCIATION**

- a. General Duties and Responsibilities. Declarant has caused or shall cause the Association to be incorporated as a non-profit corporation and designated the Association to be the manager of the Common Area. Any purchaser of a

Condominium Unit by their acceptance of a deed thereto, shall be deemed to have ratified and approved such designation and management. The Association shall perform the duties required of it hereunder. The Association shall have the following duties, rights and powers:

- i. To collect monthly or periodic assessments, equitably prorated as provided by this Declaration, from the Owners and to collect delinquent assessments by suit or otherwise and to collect such other assessments as are herein authorized.
- ii. From the funds collected, to provide and pay for the maintenance, management, insurance, taxes and other such expenses as are enumerated in this Declaration.
- iii. To lease, acquire and sell real or personal property in pursuit of the Association's obligations and duties.
- iv. To enter into and upon the Condominium Units when necessary with as little inconvenience as possible to the occupants concerned in connection with the duties outlined in these Declarations.
- v. To enjoin or seek damages from the Owners for violations of this Declaration, the Articles of Incorporation of the Association, the By-Laws or the rules adopted by the Association pursuant to this Declaration.
- vi. To employ office staff, cleaning and maintenance staff, security, workmen and others; to contract for services to be performed, including those of a manager, if deemed desirable, and which Association or manager authority may extend to the short term leasing of Units upon the written approval and agreement of individual Owners; to purchase supplies and equipment; to enter into contracts; and generally to have the powers of a property manager in connection with the matters herein set forth, except that the Association may not encumber or dispose of the fee title of any Owner except to satisfy a lien, award or judgment against such Owner for violation of this Declaration.
- vii. The Association shall not enter into any contract or management agreement for the furnishing of services (other than utility services), or for materials or supplies, the term of which contract exceeds one year; and further provided that any contract or management agreement entered into by the Association shall be terminable by the Association for cause upon 30 days written notice and without cause upon 90 days written notice (again excluding those for

- utilities).
- viii. To protect and defend the Real Property from loss or damage by suit or otherwise.
  - ix. To employ counsel, attorneys, auditors or accountants in connection with the legal or accounting matters of the Association in connection with the audit of its books and records, and, upon proper request, have prepared an audited financial statement.
  - x. To deposit the funds of the Association which are not necessary for the immediate disbursement into a savings account of a national or state bank earning a standard rate of interest and insured by the Federal Deposit Insurance Corporation.
  - xi. To file legal protests, formal or informal, with authorities against granting by such authorities of any zoning ordinance or variance as to any property within a reasonable proximity of the Real Property which might affect the value of any Owner's interest in the Real Property.
  - xii. To establish and maintain reasonable rules and regulations regarding the use of the Common Areas by the Owners, lessees, invitees or guests.
  - xiii. Paint, repair, replace and maintain in neat, safe, attractive, sanitary, up to date and orderly condition, all portions of the Common Area as defined and described in this Declaration. It shall remain the obligation of the Owners to maintain and repair, according to this Declaration, the exterior and structural elements of their Units, but should an Owner allow the exterior of his or her Unit to fall into disrepair or become unsightly, the Association may, upon a decision of the Board or approval of a majority of the Owners, contract to have such necessary repair work done, and assess that Owner for the work as a specific assessment.
  - xiv. Pay all real and personal property taxes and assessments which the Association is required to pay, if any, pursuant to the terms and provisions of this Declaration, the Articles of Incorporation of the Association, and its Bylaws, unless separately assessed to the Owners.
  - xv. Obtain any other material, supplies, furniture, labor, services, maintenance, repairs, structural alterations, and insurance which the Association is required to pay for pursuant to the terms and provisions of this Declaration or by law.

- xvi. Grant such licenses, easements, and rights-of-way for sewer lines, water lines, underground conduits, storm drains, and other public utility purposes over those portions of the Common Area as may be necessary and appropriate for the orderly maintenance, preservation, and enjoyment of the Common Area or for the preservation of the health, safety, convenience, and welfare of the Owners. It is expressly contemplated that a future walking trail easement open to the public but subject to hours of use may be established on the Common Area roughly parallel to Warm Spring Creek. The right to grant such licenses, easements, and rights-of-way is hereby reserved to the Declarant up until Transition, upon which such authority shall be exclusively that of the Association. The Declarant may opt out of this authority prior to Transition by written notice to the Association.
- xvii. To do such other acts as reasonably necessary to carry out the functions of a condominium owners association.
- b. Board of Directors. The affairs of the Association shall be managed by its Board of Directors. The Board of Directors shall consist of three (3) individuals, all of whom, following the initial board, shall be an owner of a Unit or the representative of an Owner, and said board shall be elected at each annual meeting by the Members of the Association as provided in the By-Laws. Board Member terms shall be 3 years, with each position staggered so that one Board Member is elected each year. Of the three positions, one shall initially be for one year, one initially for two years, and one initially for three years. Until the Transition Date, or sooner at the Declarant's option, the Board shall consist of any number of persons appointed to that position by the Declarant, with such appointed persons to serve an individual term of not more than one year without being re-appointed.
- c. Membership. Every person or entity who is an Owner of any Condominium Unit, including buyers under a contract for deed shall be a Member of the Association. The foregoing is intended to exclude persons or entities who hold an interest merely as security for performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of the Condominium Unit, except as may otherwise be provided for at law. Ownership of a Condominium Unit shall be the sole qualification for Membership. The Association if it acquires an interest in a Condominium Unit which would otherwise qualify it for Membership, shall not be considered a Member either for voting or assessment purposes.
- d. Voting Rights. Members of the Association shall be entitled to one vote for each Condominium Unit in which they hold an ownership interest which qualifies for Membership. Until the Transition Date, or until such time as they opt out of this provision, the Declarant shall be entitled to three votes for each Condominium Unit



it holds an interest which qualifies for Membership. When more than one person or entity owns an interest in any Condominium Unit which qualifies for Membership, the vote of such Condominium Unit shall be exercised as such persons or entities determine, but in no event may more than one vote per Condominium Unit, except as previously stated for Declarant. In the event multiple owners of a Unit cannot agree on the exercise of their vote, the vote allocated to that Unit may be cast only in accordance with the agreement of a majority of such multiple Owners. If only one of the multiple Owners of a Unit is present at the meeting of the Association, that Owner is entitled to cast any and all votes allocated to that Unit. There is majority agreement if any one of the multiple Owners casts the vote(s) allocated to that Unit without protest being made promptly to the person presiding by any of the other Owners of the Unit. In the case of a protest of the vote cast by one of the multiple Owners, and absent a majority agreement, the vote or votes cast shall be disregarded and the multiple Owners shall lose their right to vote on the matter in question.

- e. Consent to Membership. Acceptance of a deed, notice of purchaser's interest or other documentation evidencing an ownership interest in a Condominium Unit shall be deemed to act as consent to Membership in the Association by the acquiring Owner. The recording of a deed or other document evidencing an ownership interest shall be prima facie evidence of acceptance of that document by the receiver of the interest transferred.
  
- f. Indemnification. The manager, employees, directors and officers of the Association shall be indemnified by the Association against all expenses and liabilities, including attorney's fees, reasonably incurred by or imposed upon them in connection with any proceeding to which they may become a party or in which they may become involved by reason of having acted as such upon behalf of the Association, provided that this indemnification shall not apply if said person is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided further than in the event of a settlement, the indemnification herein shall apply only when the Association approves such settlement and reimbursement as being in the best interests of the Association. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which such person may be entitled.
  
- g. Limitation Upon Liability. Notwithstanding the duty of the Association to maintain and repair parts of the Real Property, the Association shall not be liable for injury or damage other than the normal costs of the maintenance and repair caused by any latent condition of the Real Property by the conduct of the Owners or other persons by casualties for which insurance pursuant to these Declarations is not required, or for which insurance is not provided by the Association.

9. **ASSESSMENTS**

- a. Assessments. Each Owner, by acceptance of a deed, agrees to pay the Association general, specific and special assessments to be fixed, established and collected from time to time as herein provided. Such assessments, together with interest and the cost of collection in the event of delinquency as allowed in this Article, also shall be the personal obligation of the respective Owner at the time when the assessment was made.
- b. Purpose of Assessments. The assessments levied by the Association shall be based upon and used exclusively for cost and expense of the management, maintenance, repair, and replacement of the Common Area, the Limited Common Area, and for the performance of all other duties and obligations incurred by the Association pursuant to this Declaration and such expenses as the Association, in its opinion, shall determine to be necessary and desirable including the establishment and maintenance of a cash reserve.
- c. General Assessments. The assessments levied against the Condominium Units shall be prorated and charged to each Condominium Unit in the percentages as set forth in Exhibit A ownership percentages.
- d. Specific Assessments. Throughout this Declaration certain costs and expenses incurred by the Association may be attributed to one or more, but not all Owners, and such specific assessments shall be specifically assessed against the Owner and Condominium Unit incurring such cost and expense.
- e. Special Assessments. In addition to the assessments authorized above, the Association may levy special assessments for the purpose of defraying the costs of any construction, unexpected structural repairs or replacement or capital improvements to the Common Area or Limited Common Area, including necessary fixtures related thereto. If any special assessment exceeds \$500.00 per Condominium Unit, per year, the same must have the assent two-thirds of all Owners voting, as provided by the By-Laws in person or by proxy at a meeting duly called for such purpose or at the annual meeting. Written notice shall be sent as provided by the By-Laws.
- f. Obligation Created. The assessments levied by the Association shall be the personal obligation of the Owners and all sums assessed but unpaid shall constitute a lien against the Condominium Unit on which they are assessed, and any rental income it may earn and may be collected by the Association in the manner provided in the Declaration for the collection of Assessments.

- g. Initial Capital Contribution. The Association shall determine when to commence to levy and collect assessments from each Owner. Upon the commencement of the collection of assessments, Declarant will establish a working capital fund equal to one (1) months' (estimated) regular assessment for all Units, for the operation of the Association.
- h. Non-Payment of Assessments.
- i. Assessments and fees shall be due and payable on such date and shall become delinquent unless paid on the dates as the Association may establish by rule. All unpaid assessments and fees shall be subject to a late charge for non-payment as may be determined from time to time by the Association. If such fees or assessments are not paid within thirty days after the due date, they shall bear interest from the date of the delinquency at the rate of ten percent per annum. Failure to make payment within thirty days of the due date thereof shall also cause the full amount of such Owner's estimated annual assessment for the remainder of that year to become due and owing at once, at the option of the Association. In the event it shall become necessary for the Association to collect any delinquent assessments or fees, whether by foreclosure of a lien hereinafter created or otherwise, the delinquent Owner shall pay in addition to the assessment and late charge and interest herein provided, all costs of collection, including actual attorney's fee and costs incurred by the Association in enforcing payment.
  - ii. The Association is hereby granted a lien against the Owner's Condominium Unit for any payment or payments which the Owner fails to make as required by this Declaration; provided, however, that (a) such lien shall be effective only upon recordation of a notice thereof in the office of the Clerk and Recorder of Missoula County, Montana, and each Owner, by accepting a deed to his Condominium Unit, designates any one of the officers of the Association or its duly appointed manager as agent with full irrevocable power and right to record a notice of said lien in favor of the Association; (b) a lien accruing hereunder shall be foreclosed in the same manner as provided by the laws of the State of Montana for foreclosure construction liens as contained in Montana Title 71, chapter 3, part 5, as now exists or may be hereinafter amended, provided the limitation period of such liens shall be that of mortgages; and (c) such lien shall be subject and subordinate to and shall not affect the right of a holder of any recorded first mortgage now or hereafter placed on the dwelling unit in good faith and for value. The lien hereby given shall also be a lien upon all of the rents and profits of the encumbered Condominium Unit. In the event of a foreclosure, the Owner shall be required to pay reasonable rental to the Association for occupying the same

during the period of the foreclosure, and if after the filing of a foreclosure action, the Owner's Condominium Unit is left vacant, the board may take possession and rent said Condominium Unit or apply for appointment of a receiver for the Condominium Unit without notice to the Owner. In addition to the lien herein granted, the Association shall have the right to bring an action at law against any Owner who fails to pay any amounts assessed against his Condominium Unit and obtain judgment for the amount of the assessments due plus costs as herein provided. The Association shall have the power to bid at the foreclosure sale, and if title is obtained, hold, lease, mortgage and encumber or convey the same.

- iii. In the event an Owner is in default on any obligation secured by an encumbrance on his Condominium Unit, or which if unpaid may result in a lien, the Association at its option, may pay the amount on said obligation and file a lien against the Condominium Unit in the manner as provided for herein for unpaid assessments or fees.
- iv. Sale or transfer of any interest by an Owner shall not affect or release any lien granted the Association herein.
- v. In the case of the conveyance of a Condominium Unit pursuant to foreclosure proceedings by a first mortgage holder or by a deed in lieu of foreclosure to the same, such transfer of title shall extinguish the lien on the Condominium Unit for all unpaid assessments made by the Association becoming due before the date of transfer of title or date of first possession, whichever comes first. The amount remaining unpaid with respect to which the lien is extinguished shall be deemed to be a Common Area expense collectible from all the Owners as such, pursuant to Montana statute, without prejudice to the right of the Association to recover such amount from the transferor Owner.

10. MAINTENANCE

- a. By Owner. Every Owner of a Condominium Unit shall be responsible for the following:
  - i. all cleaning, maintenance, upkeep and repair to the interior and exterior of each Owner's Condominium Unit, and including cleaning and upkeep of any limited common area deck and parking area associated with each Condominium Unit;
  - ii. all damages to the Owner's Condominium Unit, other Condominium Units,

the Common Area or Limited Common Area, resulting from such Owner's intentional or negligent acts or omissions;

- iii. all taxes and assessments on his Condominium Unit exclusive of shared utilities, either public or private;
- iv. the cost of repair and replacement of doors, windows and glass in the Condominium Units, so as to protect the buildings in general, whether needed as a result of breakage or otherwise; and
- v. the cost of repair and periodic maintenance (including painting/staining) of roofing and siding associated with each Unit. All exterior work, including painting and roof replacement, that affects the finished look of the Unit shall be approved by the Architectural Control Committee.

b. By Association. The Association shall be responsible for the following:

- i. the care, operation, management and repair of the Common Area, including but not limited to keeping the same in good, clean, updated, attractive and sanitary order and repair, and including the maintenance of Common or Limited Common Area Buildings, the structural components, and roadways;
- ii. arrange to be furnished to the Common Area and each of the Condominium Units, water, sewer, electric, gas, telephone, garbage, and all other necessary utility services, PROVIDED that individually metered services shall be the financial responsibility of individual Unit Owners;
- iii. maintain and replace all or any portion of the landscaping, remove snow, ice and other materials from the Common Area roadway and common area parking, PROVIDED that it shall remain the responsibility of individual Unit Owners to conduct snow and ice removal and steps, decks, and patios associated with that Unit;
- iv. keep the Real Property safe, attractive and desirable;
- v. make necessary or desirable alterations, improvements and upgrades to the Common Area; and

c. Non-Waiver. Nothing herein shall be construed as a waiver of any right by the Association to recover for any damage or expenses incurred as the result of the willful or negligent action or omission of an Owner or any person.

- d. Duty to Inspect and Notify of Defects. Each Owner shall have the duty to make reasonable inspections of his Condominium Unit and Limited Common Areas from time to time, to determine if said Condominium Unit or Limited Common Areas contain any obvious defects including improper drainage for which the Association may be liable to repair. In the event of discovery of such a defect, the Owner also shall have the duty to give written notice of the defect to the Association immediately.
  
- e. Duty to Repair. In the event a defect may affect the Condominium Unit of any other Owner or the Common Area, the party responsible under this Declaration shall repair the same in a workmanlike fashion within a reasonable time following its discovery. Upon the failure of such Owner to so repair defects that are such Owner's responsibility, the Association shall have the duty to enter into and upon the Condominium Unit and effect such repair, the cost of which shall be chargeable to such Owner by assessment or otherwise.
  
- f. Willful or Negligent Acts. In the event that any maintenance, repair or other work is required because of the intentional or negligent action or lack of action of any Owner, his family, guests, tenants, invites, lessees or licensees and such maintenance, repair or other work is not covered or paid for by insurance for the benefit of the Association, the Association may perform such work or cause the same to be performed at such Owner's cost and expense and may make an assessment to recover payment thereof against such Owner, provided, except in the event of emergency, such Owner shall be given ten days' prior notice within which to perform the required maintenance, repair or work. Should weather or other circumstances outside the control of the Owner preclude completion of work within the 10 day period, the Owner may instead give written notice to the Association of his intent to complete the work or repair, the reason for the delay, and an estimated time of completion.

## 11. DAMAGE AND DESTRUCTION OF UNIT

- a. Duty to Rebuild. If all or any portion of any Condominium Unit or Common Area or Limited Common Area is damaged or destroyed by fire or other casualty, it shall be the duty of the Owners, if insured pursuant to Section 14 (a) (ii), and/or the Association, if insured pursuant to Section 14 (a) (i) to rebuild, repair, or reconstruct said Condominium Unit in a manner which will restore it substantially to its appearance and condition immediately prior to the casualty, except as may be provided in Section 12; in any event a decision to restore or not shall be made within sixty days of the casualty.
  
- b. Time Limitation. The Association, or Owner of any Unit, as appropriate, shall be obligated to proceed with all due diligence hereunder and commence reconstruction

within three months after the damage occurs and complete reconstruction within six months after damage occurs, unless prevented by causes beyond its reasonable control.

**12. DAMAGE OR CONDEMNATION OF COMMON AREA**

a. Damage to Common Area. Damage to or destruction of all or any portion of the Common Area shall be handled in the following manner:

- i. In the event of damage or destruction to the Common Area, and if the insurance proceeds are sufficient to effect total restoration, then the Association shall cause such Common Area to be repaired and reconstructed substantially as it previously existed. Provided that this obligation does not extend to the restoration of damage or destruction to limited common area yards associated with a particular Unit. Further provided that should there be an election to insure paired Units pursuant to Section 14 (a) (ii), the Association shall not be responsible for the restoration of damage or destruction of common areas associated with such paired units. In the event there occurs a casualty event causing damage or destruction to a Unit or paired Units, and the Owner(s) refuse or neglect to effect repairs, it shall remain the Association's right, in order to maintain the integrity and value of the project, to effect such repairs and assess or otherwise make claim against such Owner or that Owner's insurer for the cost of such repairs.
- ii. If the insurance proceeds are within \$5,000.00 or less of being sufficient to effect total restoration to the Common Area, then the Association shall cause such Common Area to be repaired and reconstructed substantially as it previously existed, and the difference between the insurance proceeds and the actual cost shall be levied as a special assessment against each of the Owners on the basis of the ownership interest as set forth in Section 9(e).
- iii. If the insurance proceeds are insufficient by more than \$5,000.00 to effect total restoration to the Common Area, then by written consent or vote of a majority of the voting Owners, they shall determine whether
  - (1) to rebuild and restore the Common Area to substantially the same condition as it existed prior to damage, and to raise the necessary funds over the insurance proceeds by levying a special assessment against each of the Owners, on the basis of the ownership interest, as set forth in Section 9(e);
  - (2) to rebuild and restore the Common Area in a way which utilizes all

available proceeds and an additional amount not to exceed Five Thousand Dollars (\$5,000.00) and which is less expensive than rebuilding and restoring the Common Area to substantially the same manner as it existed prior to being damaged; or

- (3) to not rebuild and to distribute the available insurance proceeds equally to the Owners and mortgagees of the Condominium Units as their interests may appear.
- iv. If reconstruction or restoration has not actually commenced within one year from the date of any damage to which this Section is applicable, then the covenant against partition provided shall terminate and be of no further force and effect .
- v. A condemnation award affecting all or a part of the structural Common Area which is not apportioned among the Owners by court judgment or by agreement between the condemning authority and each of the affected Owners shall be distributed among the affected Owners and their respective mortgagees according to the relative values of the Condominium Units, or interest therein, affected by the condemnation as determined by independent appraisal in accordance with a procedure set forth herein. In any condemnation proceeding, the Association shall represent the Unit Owners in all proceedings, negotiations, and settlements relative to the common areas. Any awards or payments for Common Areas shall be payable to the Association, in Trust, and distributed as identified herein.
- vi. In the event of partial or total destruction of the structural Common Area, and an election by the Owners not to rebuild, insurance proceeds received by the Association on account of the destruction of the Common Area shall be distributed by the Association among Owners and their respective mortgagees proportionately according to the respective fair market value of the Condominium Units at the time of the destruction as determined by an independent appraisal in accordance with a procedure set forth herein.
- vii. In the event of a condemnation award distribution, or a distribution of insurance proceeds as specified in Section 12(a) (v) and (vi), the Association shall obtain the services of a real estate appraiser holding an M.A.I. designation from the American Institute of Real Estate Appraisers who shall appraise and determine the value of each Condominium Unit affected. A determination by said appraiser shall be conclusive and the Association shall make all distributions based on such appraisal.



13. **COVENANT AGAINST PARTITION**

- a. Covenant Against Partition. By acceptance of his deed, each Owner shall be deemed to covenant for himself and for his heirs, representatives, successors and assigns, that he will not institute legal proceedings to effect judicial partition of his interest in the Real Property from the remainder of the Development, other units, or from Common Areas or Limited Common areas, unless the Real Property has subsequent to this Declaration been removed from under the Montana Unit Ownership Act. In such event of removal from the Act, and absent the institution of a partition action, all owners shall be tenants in common, owning their individual Units, with ownership interests in Common Areas and Limited Common Areas as identified in Exhibit A ownership percentages. Nothing herein shall prevent co-owners of a particular Unit or Units from availing themselves of their rights under partition as between themselves, so long as said action does not result in the creation of an additional Unit, and does not result in the severance of the percent ownership interest in the Common Areas and Limited Common Areas, which are to remain appurtenant to the Unit or Units in question. Furthermore, no Owner shall by act or omission seek to abandon, subdivide, encumber, sell or transfer the Common Areas and no other person shall have the right to have them otherwise divided.

14. **INSURANCE**

- a. Association Insurance. The Association shall procure from generally acceptable insurance carriers and pay premiums for the following insurance coverages:
- i. Policy or policies of fire and hazard insurance on Condominium Units, Common and Limited Common Areas, with extended coverage endorsements, for the full replacement value of, or such fire and casualty insurance as the Association shall determine gives substantially equal or greater protection, insuring the Owners and their mortgagees, as their interest may appear, and as to each of such policies which will not be voided or impaired thereby. The Owners hereby waive and release all claims against the Association, its board of directors, agents, employees the Declarant and the agents and employees of each of the foregoing, with respect to any loss covered by such insurance, whether or not caused by the negligence of or breach of any agreement by said persons or entities, but only to the extent of the insurance proceeds received and compensation for such loss. Such fire hazard insurance policies shall be payable as provided herein.
- ii. As an alternative to the above insurance requirement, and as called above, the individual owners may elect to maintain individual insurance for their units, provided such insurance is of either a regular homeowner hazard insurance

policy, condominium owner's policy or a 'townhome' type policy, insures the entirety of the structure up to and including the common area, and the policies of each Owner is of an amount sufficient to provide for the full replacement cost of the structure. Such insurance shall name the Association as an additional loss payees, to the extent that Owner and the Association have an interest in any shared or common elements, and that Owner and Association have a right to know of the existence of required insurance coverage. As such an additional loss payee, the Association's interest shall be subordinate to any lender with a security interest in the property. Such insurance coverage should have a waiver of subrogation rights by the carrier as to the other Owner and the Association, and any lender holding a first position lien on such Owner's Unit. This provision for individual insurance may be exercised only with the consent, approval, and participation of all Unit Owners at the time of insuring, and once so established, may not be changed without the consent of all Owners. Each Owner shall provide to the Association proof of such insurance. Should any Owner fail to maintain the insurance as called for herein, it shall be the right of the Association, on its own initiative, to secure insurance pursuant to the above Section 14 (i) and have the assessments adjusted to reflect such Association-procured insurance coverage.

- iii. The Association may elect to procure a policy or policies of liability insurance covering the Association, its board of directors, the Declarant, and all their agents and employees against any liability to the public or any Owner, his invites and/or tenants arising from or incident to the ownership, occupation, use, maintenance and/or repair of the Common Area or Condominium Units. If obtainable a cross liability endorsement insuring each insured against liability to the other insured shall be acquired. Limits of liability on such policies shall be set by the Association on such limits and coverage shall be reviewed at least annually by the Association and increased or decreased in its discretion.
- iv. To the extent necessary to comply with any applicable Workman's Compensation laws.
- v. Such other insurance as the Association may deem desirable for the benefit of the Owners or in itself.
- vi. The terms of this Article shall not be interpreted to compel the Association to acquire insurance for the Owner's personal property, whether stored in such Owner's Condominium Unit or in any part of the Common Areas or Limited Common Areas. Each Owner is responsible to acquire such insurance

covering his or her own personal property and liability as such Owner deems appropriate.

- vii. There may be named by the Board of Directors, as an insured, on behalf of the Owners Association, the Association's authorized representative, including any trustee with whom the Association may enter into any Insurance Trust Agreement or any successor to such trustee, who shall have exclusive authority to negotiate losses under any policy providing property or liability insurance, and to perform such other functions necessary to accomplish such purpose.
- viii. The Association, on behalf of the Treasurer or any other officer or Director who handles or is responsible for funds administered by or on behalf of the Association, shall as may be required provide a bond for the faithful discharge of his duties in such sum and with a surety or sureties as the Board of Directors shall determine is appropriate. The cost of any such bond shall be paid for by the Association.

**15. GENERAL PROVISIONS**

- a. Enforcement. The Association or the Owner of any Condominium Unit, including the Declarant, so long as Declarant retains ownership interest in at least one (1) Unit, shall have the right to enforce by proceedings at law or in equity all of the covenants and provisions now or hereafter imposed by this Declaration and the Association's By-Laws and rules, respectively, including, without limitation, the right to prosecute a proceeding at law or in equity against the person or persons who have violated or are attempting to violate any of said covenants, to enjoin or prevent them from doing so, to cause said violation to be remedied, and/or to recover damages for said violation. The result of every act or omission whereby any of the covenants contained in this Declaration or the provisions of the Association's By-Laws and rules are violated in whole or in part is hereby declared to be and constitutes a nuisance, and every remedy allowed by law or equity against a nuisance either public or private shall be applicable against every such result and may be exercised by any Owner, by the Association, or by its successors in interest. The remedies hereby provided for breach of the covenants contained in this Declaration or the provisions of the Association's By-Laws and rules shall be deemed cumulative, and none of such remedies shall be deemed exclusive. The failure of the Association to enforce any of the covenants contained in this Declaration or the provisions of the By-Laws and rules shall not constitute a waiver of the right to enforce the same thereafter. A breach of the covenants contained in this Declaration or of the provisions of the By-Laws and rules shall not affect or impair the lien or charge of any bona fide mortgage or deed of trust made in good faith and for value on any Condominium Unit or the

improvements thereon; provided, however, that any subsequent Owner of such property shall be bound by said covenants, whether or not such Owner's title was acquired by foreclosure, a trustee's sale, or otherwise. Following notice and hearing, the Association shall have the right and power to assess monetary penalties against a Member and/or suspend said Member's voting rights for the period during which any assessment against his Condominium Unit remains unpaid or for any violation of this Declaration, the Bylaws or for infraction of the rules and regulations enacted by the Association.

- b. Severability. The invalidity of any provision of this Declaration shall not affect in any manner the validity or enforceability of the remainder of the Declaration. No provision in this Declaration shall be deemed to have been waived by reason of any failure to enforce it, irrespective of the number or duration of violations which may occur.
- c. Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development of the Real Property and for its maintenance. The Article and Section headings have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction.
- d. Singular Includes the Plural. Whenever the context of this Declaration may so require, the singular shall include the plural, and the masculine shall include the feminine and neuter, and vice versa.
- e. Amendments. This Declaration may be waived, abandoned, terminated, modified, altered, changed or amended only by written instrument executed by the two-thirds of the Owners, or by the consent of two-thirds of the Owners in attendance of a duly called meeting for such vote. Provided, however, Declarant reserves the right to waive, abandon, terminate, modify, alter, change or amend this Declaration up until the Transition Date, or until such earlier time as Declarant may opt out of this provision by written notice to the Association. All Owners and all mortgagees of a Condominium Unit, by acceptance of a deed, mortgage or trust indenture to any Condominium Unit, shall be deemed to consent to any such waiver, abandonment, termination, modification, alteration, change or amendment by Declarant. The right is expressly reserved by Declarant, prior to the Transition Date and at Declarant's expense, to relocate on the site certain unsold Units, and after such relocation cause to be recorded a modified Architect, Engineer, and Surveyor's statement and site plan, and changing Unit location and common area, but without a net loss in total common area.

In addition to the necessary consent of the Owners to any modifications to this

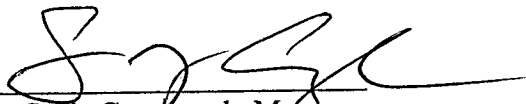
Declaration as is described above, a change in any of the following must also be approved by requesting eligible mortgage holders who represent at least 1/2 of the votes of Condominium Units subject to mortgages held by eligible mortgage holders (all such eligible mortgage holders in the case of abandonment of the Declaration); (a) Voting rights; (b) Reallocation of interests in Common Areas or Limited Common Areas or rights to their use other than as set forth in this Declaration; (c) Redefinition of any boundaries for completed Condominium Units after conveyance by Declarant; (d) Conversion of Condominium Units to Common Areas or vice versa, other than as provided in this Declaration; (e) Expansion or contraction of the project, or the addition or withdrawal of property to or from the project, other than as set forth in this Declaration; (f) Restrictions on leasing of Condominium Units other than as provided for in this Declaration; (g) Imposition of restrictions on an Owner's right to sell his or her Condominium Unit; and (h) Restoration or repair of the project in a manner other than as provided in this Declaration. All amendments to the Declaration shall be recorded in the office of the Anaconda Deer Lodge County Clerk and Recorder, Missoula, Montana.

- f. Notices. Any notice permitted or required to be delivered as provided herein shall be in writing and may be delivered either personally or by mail. If delivery is made by registered or certified mail, it shall be deemed to have been delivered when deposited in the United States mail, postage prepaid, addressed to any person at the address given by such person to the Association for the purpose of service of such notice, or to the Condominium Unit of such person if no address has been given to the Association. If such notice is so sent by regular mail, it shall be deemed to have been delivered when received. Such address may be changed from time to time by notice in writing to the Association.
- g. Attorney's Fees. If any Owner defaults in making a payment or assessments or in the performance or observance of any provision of this Declaration, and the Association has obtained the services of an attorney in connection therewith, the Owner covenants and agrees to pay to the Association any costs or fees incurred, including reasonable attorney's fees, regardless of whether legal proceedings are instituted, the Owner shall also pay the cost of the suit, in addition to the aforesaid costs and fees. This provision for recovery of attorney's fees shall apply also to any proceedings in bankruptcy or other insolvency proceedings.
- h. Process. Service of process in the cases provided for in Section 70-23-901 of the Montana Code Annotated, shall be made upon the Declarant at 520 E Pennsylvania Anaconda, MT 59711, or following the Transition Date, upon the Registered Agent for the Association. This provision may be amended in the manner provided in Section 70-23-902 of the Montana Code Annotated.

- i. Rights and Obligations of Declarant. For each unsold Condominium Unit owned by it, Declarant shall have all of the rights and duties afforded to any Owner under the terms of this Declaration, the By-Laws and the rules and regulations adopted by the Association, and Montana law.
  
- j. Notice to Holders, Guarantors, and Insurer's of Mortgages or other Liens on Condominium Units. Upon written request from a holder, insurer or guarantor of a first mortgage on any Condominium Unit, the Directors of the Association shall provide said holder insurer or guarantor with timely written notice of:
  - i. Any proposed action that requires the consent of a specified percentage of eligible mortgage holders;
  
  - ii. Any condemnation loss of any casualty loss which affects a material portion of the project or which affects any Condominium Unit on which there is a first mortgage held, insured or guaranteed by such holder, insurer or guarantor;
  
  - iii. Any delinquency in the payment of assessments or charges owed by an Owner of a Condominium Unit subject to the mortgage of such eligible holder, insurer or guarantor, where such delinquency has continued for a period of 60 days;
  
  - iv. Any lapse, cancellation or material modification of any insurance policy maintained by the Association.
  
  - v. Any requested books, records, and financial statements of the Association.

IN WITNESS WHEREOF, the undersigned, has set their hand and seal this 19 day of October, 2021.

River Properties, LLC

  
by: Susie Cavanaugh, Manager

STATE OF MONTANA )  
 )  
 ) :SS.  
County of DEER LODGE )

Acknowledged before me this 19<sup>th</sup> day of OCTOBER, 2021 by Susie Cavanaugh, as  
Manager of River Properties, LLC.

*DH*

Notary Public for the State of MT  
Printed Name: DANIEL HASH  
Residing at: BUTTE MT  
My commission expires: 6-17 2023

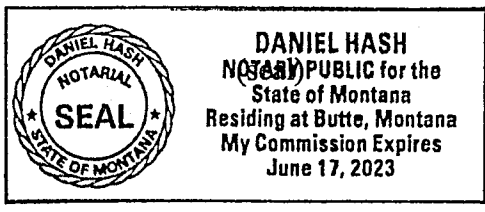


EXHIBIT A

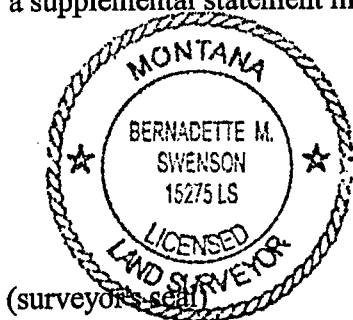
Unit No.	Percent	Unit No.	Percent
1	6.67%	9	6.67%
2	6.67%	10	6.67%
3	6.67%	11	6.67%
4	6.67%	12	6.67%
5	6.67%	13	6.67%
6	6.67%	14	6.67%
7	6.67%	15	6.67%
8	6.67%	total does not =	100% due to rounding



ARCHITECT/ENGINEER/ SURVEYOR'S STATEMENT

Pursuant to Montana Code Annotated §70-23-306, the undersigned states as follows:

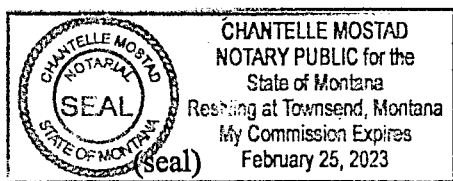
- 1. I am an architect, engineer, or surveyor licensed and registered in the State of Montana.
2. I have reviewed the attached floor and site plans to be recorded in conjunction with the Declaration for the Cottages at Old Works Condominiums.
3. The floor and site plans are an accurate copy of the plans filed with or to be filed with and approved by the Anaconda-Deer Lodge County officers having jurisdiction to issue building permits and/or accurately represent the buildings as now exist on the property that is the subject of this declaration.
4. The floor plans fully and accurately depict the layout, location, unit designation and dimensions of each unit to be built. Upon completion of construction of a particular Unit unfinished at the time of this Statement and pursuant to Montana Code Annotated §70-23-306(2), a supplemental statement may be recorded.



By [Signature] Bernadette Swenson Professional Land Surveyor

STATE OF MONTANA )
County of Broadwater ) :ss.

Acknowledged before me this 24 day of Sept, 2021 by Bernadette Swenson

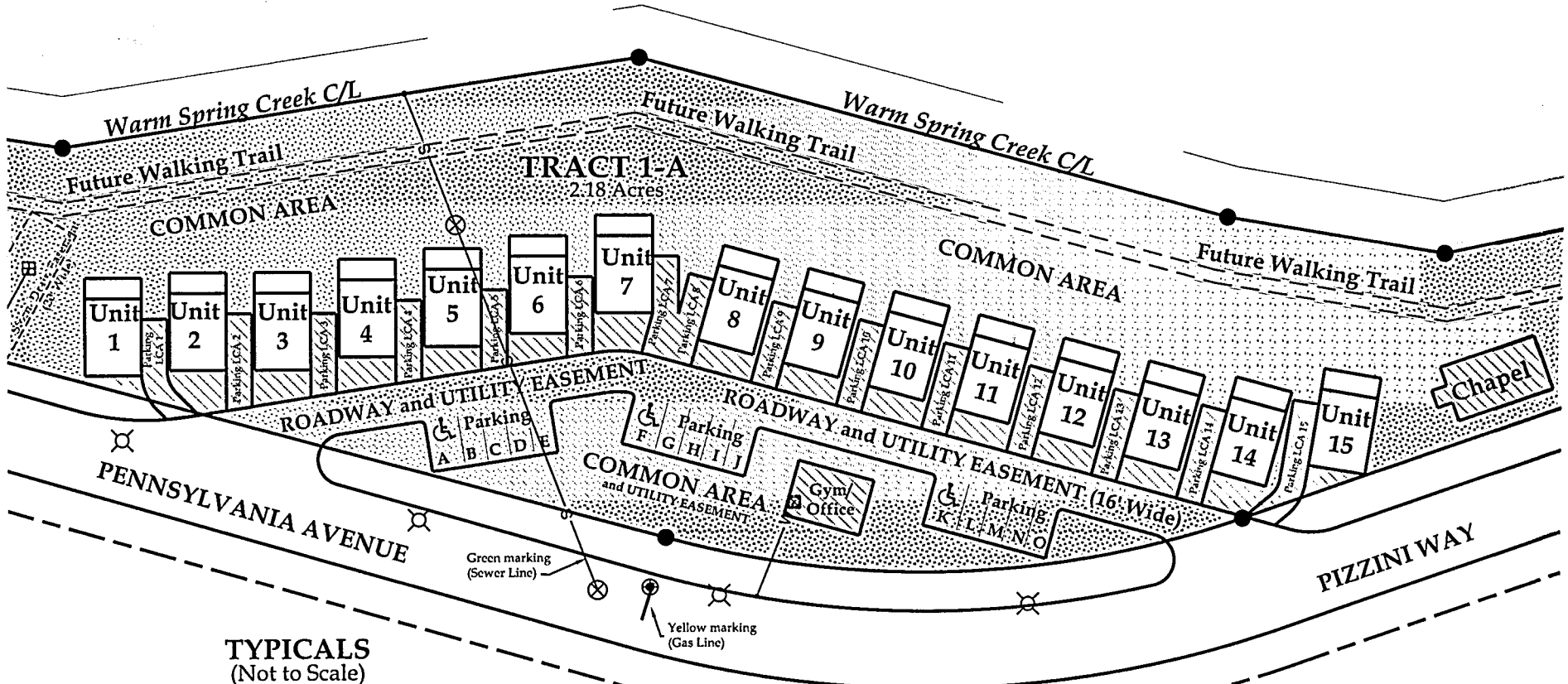


[Signature]
Notary Public for the State of Montana
Printed Name: Chantelle Mostad
Residing at: Townsend
My commission expires: 25 Feb 2023

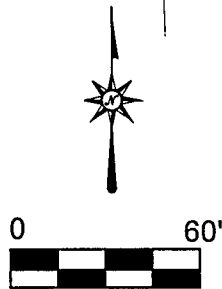
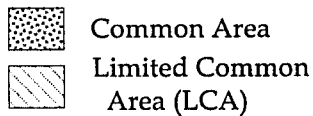
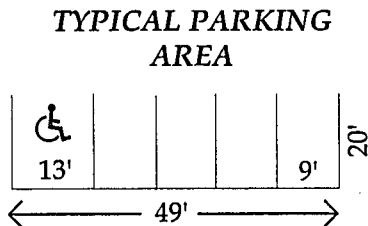
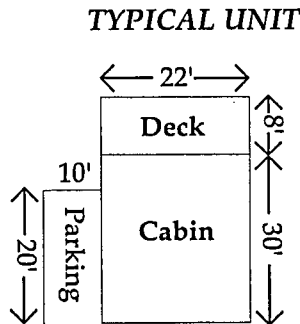


# Cottages at Old Works Golf Course Site Plan

Exhibit - Page 1 of 4



## TYPICALS (Not to Scale)



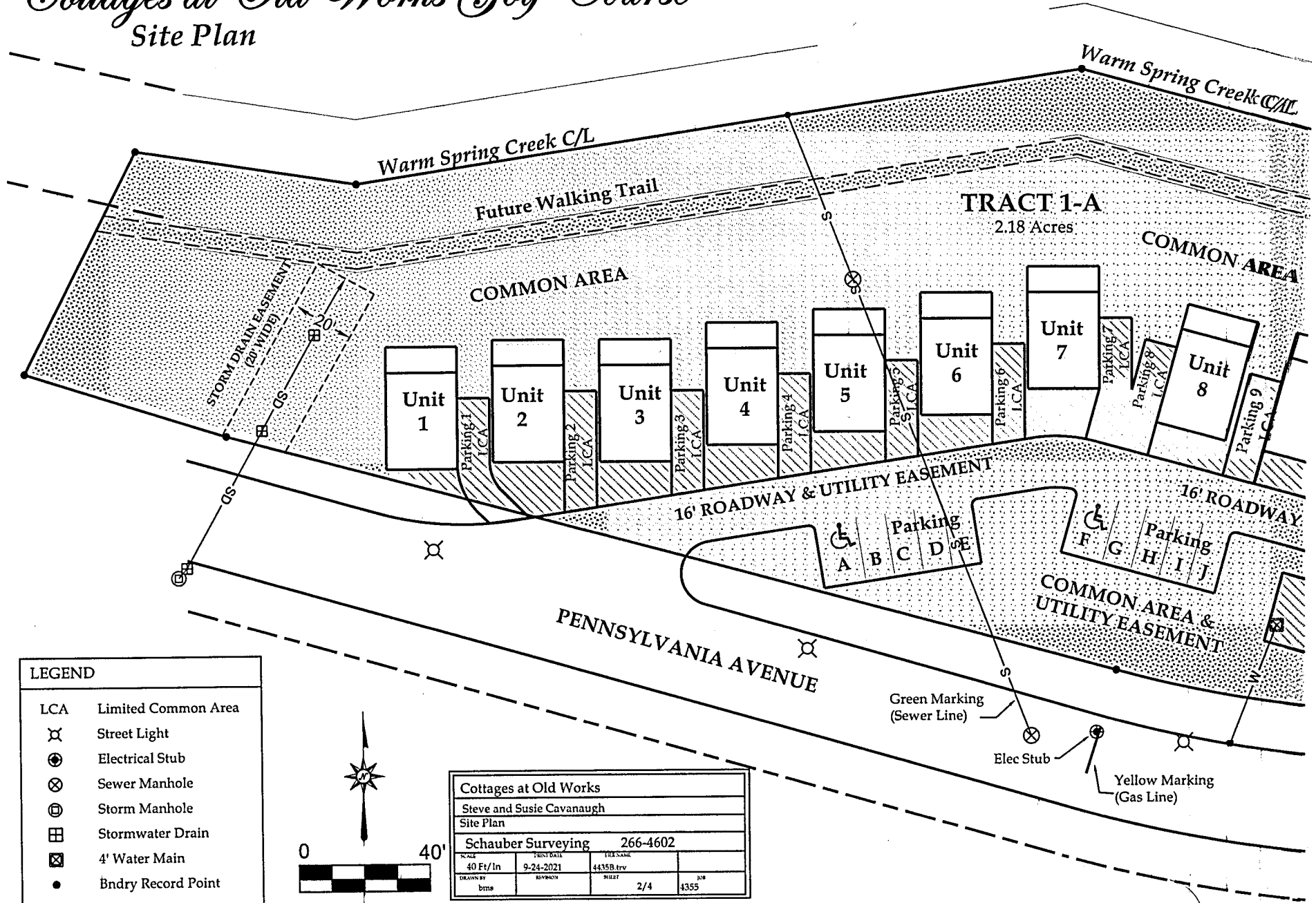
Surveyor's Note: All Data for this site plan obtained from the Certificate of Survey performed by Tom Moodry of Moodry Southwest Technical Surveying and Site Plan Drawn by Rob Heinecke of Design Drafting.

Cottages at Old Works			
Steve and Susie Cavanaugh			
Site Plan			
Schauber Surveying 266-4602			
SCALE	PRINT DATE	FILE NAME	
60 Ft/In	9-24-2021	44158.rvt	
DRAWN BY	REVISION	HEET	NO
DTB		1/4	4355

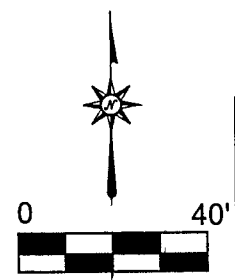
LEGEND	
●	Boundary Record Point
---	Future Walking Trail
⊗	Street Light
⊕	Electrical Stub
⊗	Sewer Manhole
⊕	Stormwater Drain
⊕	Storm Manhole
⊗	4" Water Main

# Cottages at Old Works Golf Course

## Site Plan



LEGEND	
LCA	Limited Common Area
☒	Street Light
⊕	Electrical Stub
⊗	Sewer Manhole
⊙	Storm Manhole
⊞	Stormwater Drain
⊠	4' Water Main
●	Bndry Record Point

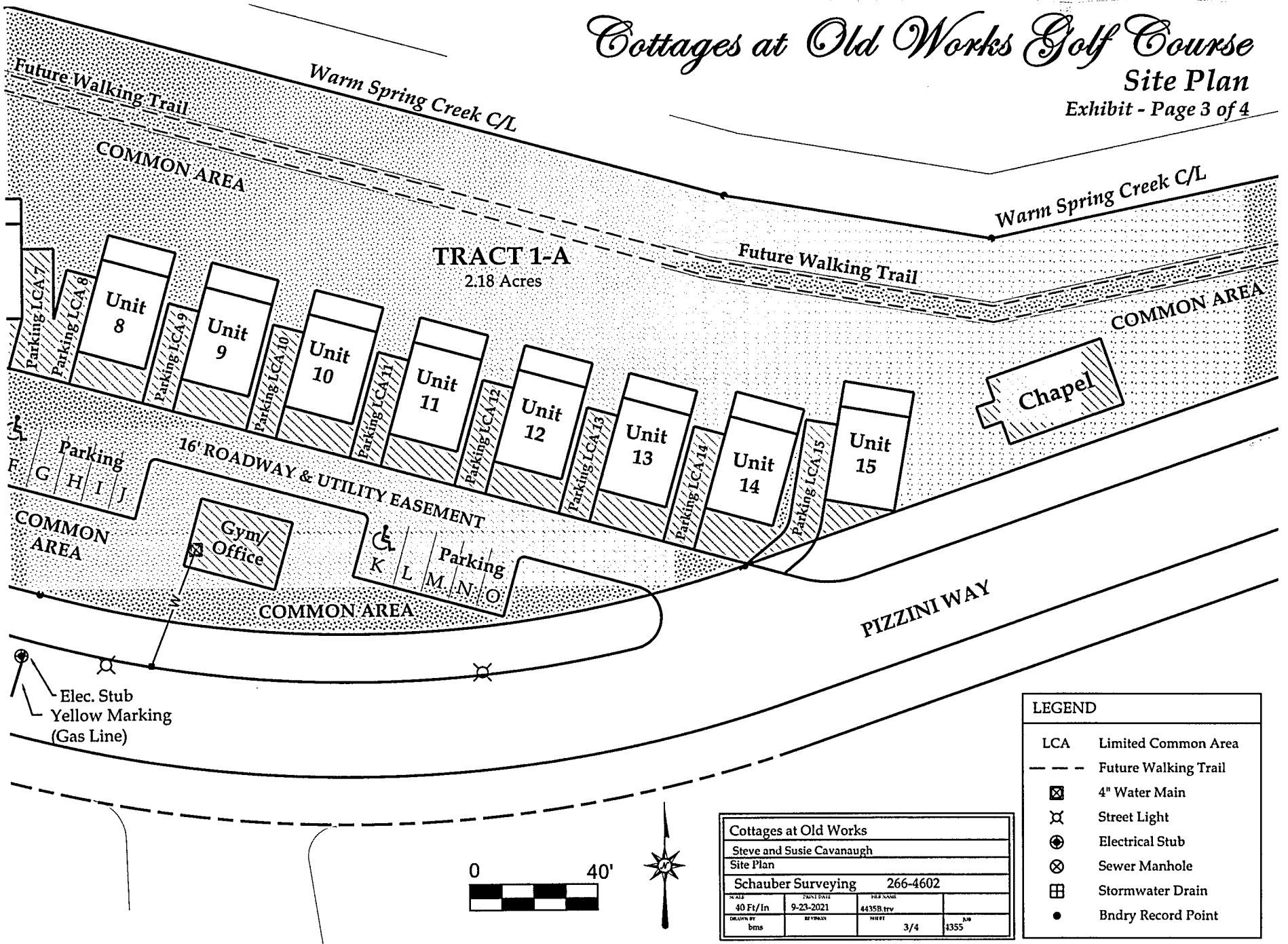


Cottages at Old Works			
Steve and Susie Cavanaugh			
Site Plan			
Schauber Surveying		266-4602	
SCALE	DRAWN DATE	ISSUE NAME	
40 Ft/In	9-24-2021	4435B.trv	
DRAWN BY	REVISION	DATE	JOB
bme		2/4	4355

# Cottages at Old Works Golf Course

## Site Plan

Exhibit - Page 3 of 4



Elec. Stub  
 Yellow Marking  
 (Gas Line)



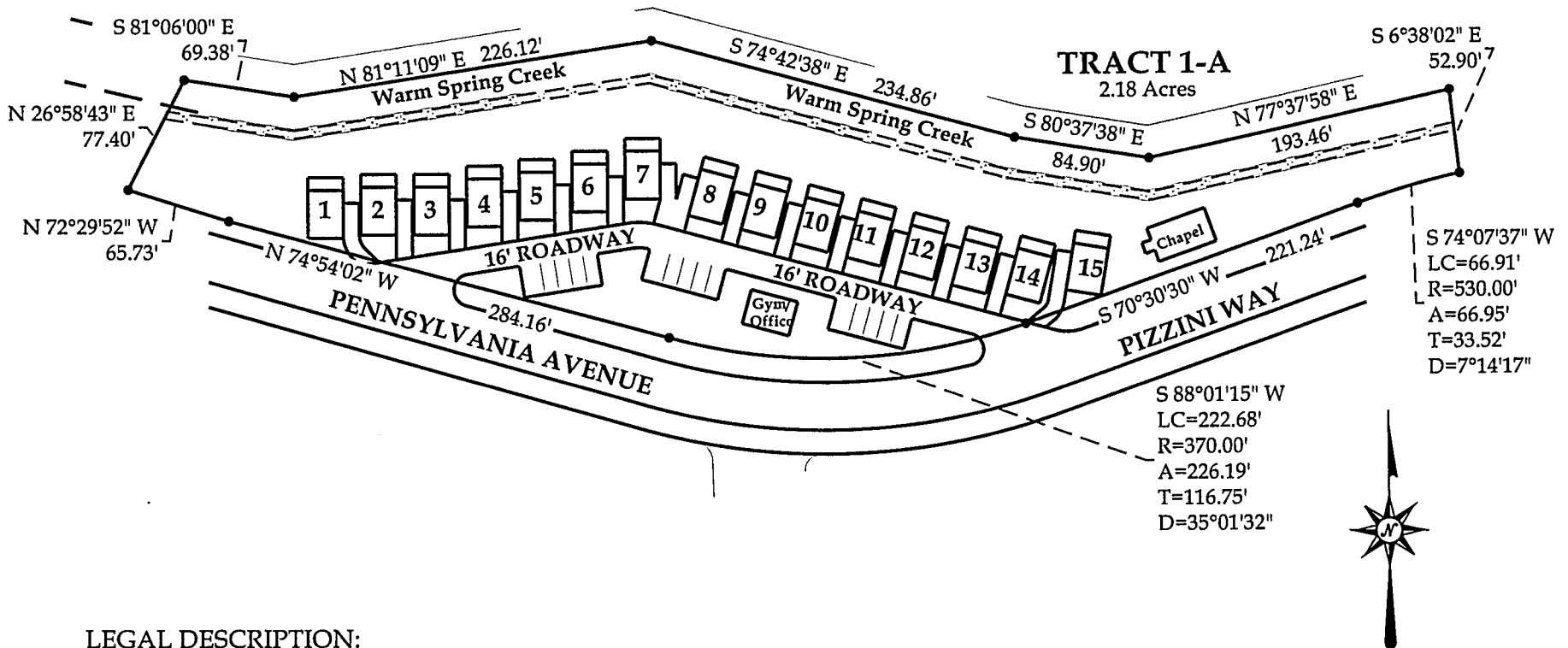
Cottages at Old Works			
Steve and Susie Cavanaugh			
Site Plan			
Schauber Surveying		266-4602	
DATE	DATE DWN	DATE PUBL	
40 Ft/in	9-23-2021	4435B.rvt	
DESIGN BY	BY/DATE	DATE	APP
bms		3/4	4355

LEGEND	
LCA	Limited Common Area
---	Future Walking Trail
☒	4" Water Main
⊗	Street Light
⊕	Electrical Stub
⊗	Sewer Manhole
⊞	Stormwater Drain
●	Bndry Record Point

# Cottages at Old Works Golf Course

Tract 1-A of Certificate of Survey No. 467 C-2 situated in part of the NW 1/4 of Section 2 and part of the NE 1/4 of Section 3, all being in Township 4 North, Range 11 West, P.M.M., Anaconda-Deer Lodge County, Montana

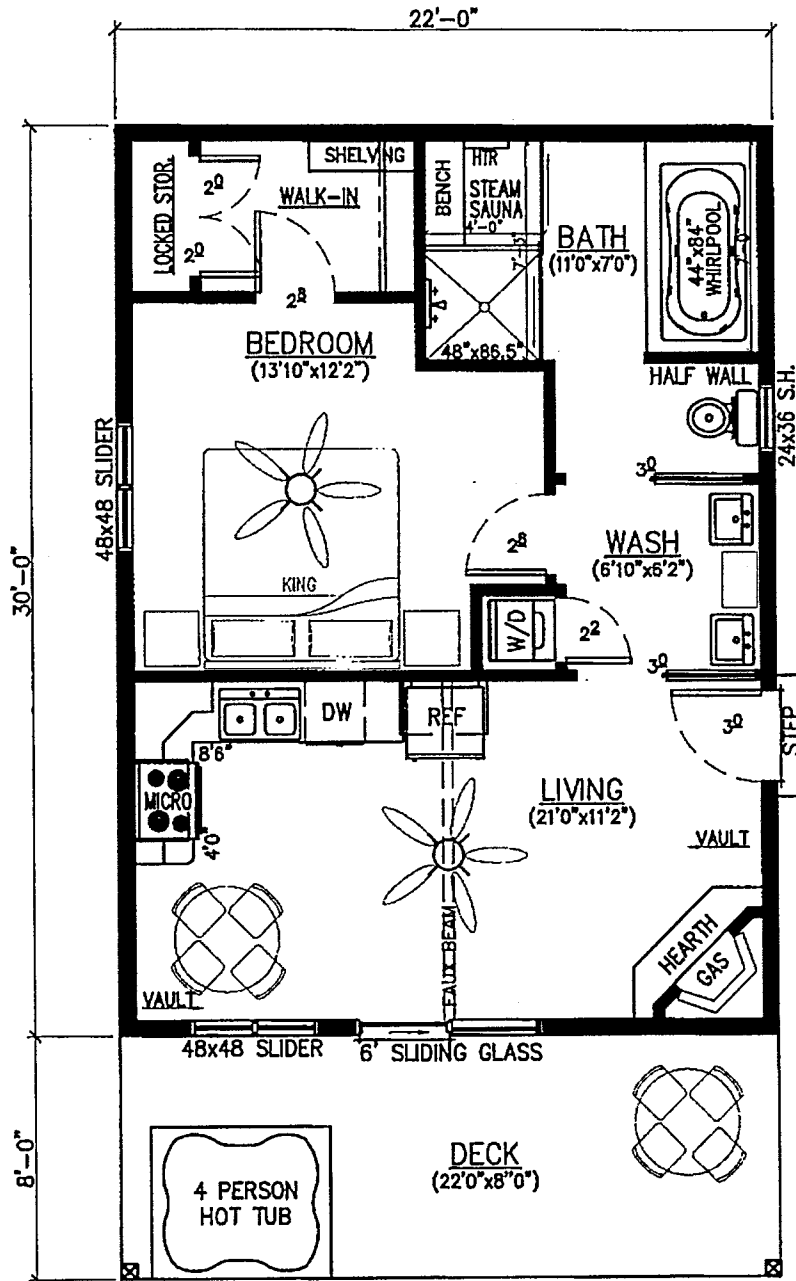
Doc Number: 211833 Page: 37 of 42



**LEGAL DESCRIPTION:**

TRACT 1-A of the Amended Plat Parcel I-2 of the Parcel "I" Minor Subdivision filed in Certificate of Survey No. 467 C-2, Document No. 201808 situated in part of the NW 1/4 of Section 2 and part of the NE 1/4 of Section 3, Township 4 North, Range 11 West, P.M.M., Anaconda-Deer Lodge County, Montana.

Cottages at Old Works			
Steve and Susie Cavanaugh			
Site Plan			
Schauber Surveying		266-4602	
SCALE	PRINT DATE	FILE NAME	
100 F/In	9-23-2021	44358.lrv	
DRAWN BY	REVISION	SHEET	JOB
bms		4/4	4355



FLOOR PLAN

SCALE: 0 1' 2' 3' 4'



660 SQUARE FEET CABIN  
176 SQUARE FEET COVERED DECK

3-25-2021  
REVISION FOR REVISION  
4. NOT TO BE USED  
A CHANGED PER TO  
DIRECTLY FROM

- REVISION**
- NO. DATE REVISION
- 1. 3-25-2019 PRELIMINARY
  - 2. 5-12-2019 REVISION FOR PERMIT
  - 3. 5-12-2021 REVISION FOR PERMIT

The architect warrants that the construction documents, including all specifications, drawings and details, shall conform to the requirements of the applicable building codes and all other laws and ordinances of the State of Montana, and that the construction documents shall be prepared in accordance with the provisions of the applicable laws and ordinances of the State of Montana.

This drawing must not be altered.

Copyright Reserved.

All parts of this drawing are to be read in conjunction with the drawings of the same project.

Drawn by: [NAME]

Checked by: [NAME]

DESIGN: [NAME]

DATE: 05/12/2019

PROJECT: [NAME]

(408) 570-5578

ANACONDA, MONTANA

TRACT 1-A

GROUP B TYPE 4 CONSTRUCTION

OFFICE / CYL AT OLD WORKS GOLF COURSE

RYAN PROPERTIES, LLC

P.O. BOX 439  
EMERTON, MONTANA 59624

(408) 570-5578

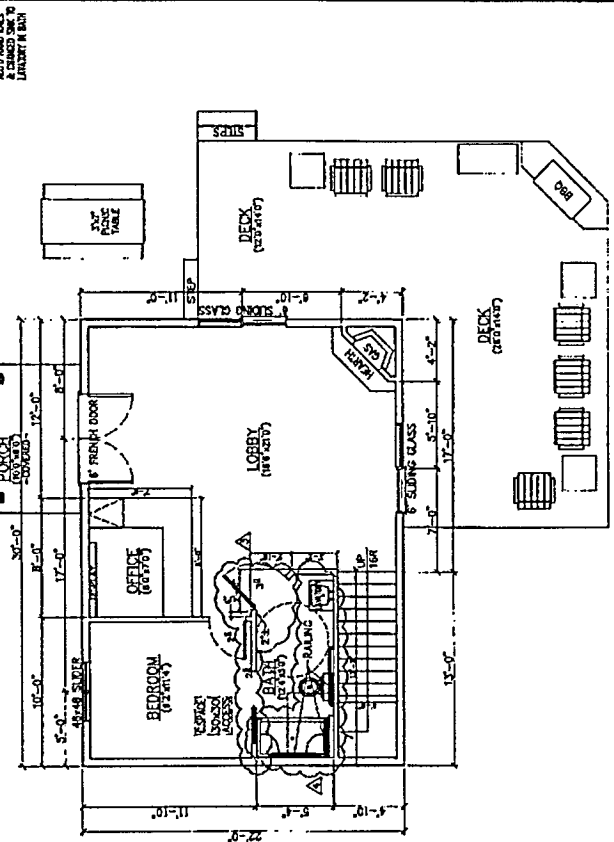
OFFICE

A. GYIN -  
OWNER AND  
UPPER LEVEL  
FLOOR PLANS  
& STAIR SECT.

CAUD DWG NO. [ ]  
OTHER DWG NO. [ ]  
SHEET

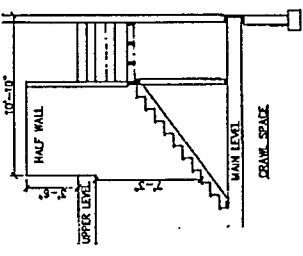
**G1**

3-25-2021  
REVISION FOR REVISION

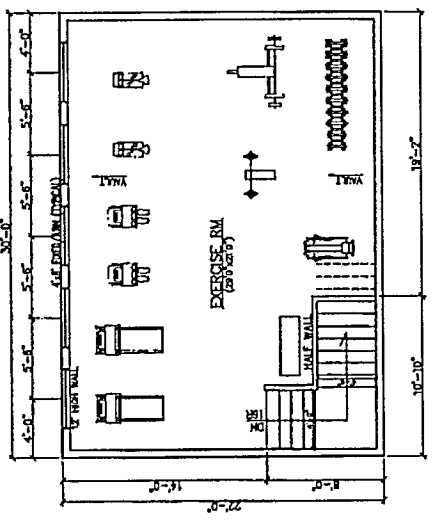


MAIN LEVEL FLOOR PLAN  
SCALE: 1/4" = 1'-0"

- GENERAL NOTES:**
1. ALL CONSTRUCTION SHALL COMPLY WITH THE INTERNATIONAL RESIDENTIAL CODE (2012 EDITION) AND ALL STATE AND LOCAL ORDINANCES.
  2. DESIGN LOADS: ROOF = 68 PSF (VERIFY); FLOOR = 50 PSF; S.O.L. = 1,500 PSF (ASSUMED).
  3. ALL EXTERIOR LIVING WALLS TO BE 2x8 FRAMING AT 24" O.C. GARAGE AND MILLING WALLS TO BE 2x6 FRAMING AT 24" O.C. DRAWN AT 4" WIDE. WALS TO BE 2x4 FRAMING AT 24" O.C. DRAWN AT 4" WIDE.
  4. WINDOW SIZES ARE LABELLED IN INCHES. WIDTH X HEIGHT. FOLLOWED BY THE STYLE. COORDINATE THIS DRAWING WITH WINDOW SCHEDULE FROM WINDOW VENDOR.
  5. ALL STRUCTURAL ELEMENTS OF THIS DRAWING PACKAGE MUST BE VERIFIED PRIOR TO CONSTRUCTION.



STAIR SECTION LOOKING SOUTH  
SCALE: 1/4" = 1'-0"



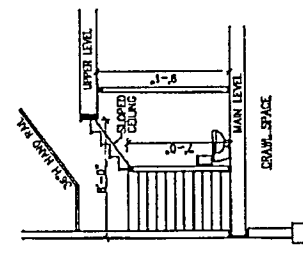
UPPER LEVEL FLOOR PLAN  
SCALE: 1/4" = 1'-0"

**FROM JOHN HERRICK, BUILDING INSPECTOR, ANACONDA, MONTANA, DEER LODGE COUNTY:**

- I was unsuccessful at helping my comments on the highlighted job.
- You are referencing IRC/IBC 2015 edition and we use on 2012.
- Floor live load in Information box is 40 PSF and in Design Notes it is 50 PSF - the design is more strict.
- The design is more strict than the typical for this area.
- FZ Design Notes call out 1/2" down connectors please detail.
- In the Design Notes boxes, could you please explain the difference between a typical connector and a 1/2" down connector.
- The 1/2" down connector load backing pays well.
- footing called out in I2295, I think footing does not allow for anchor bolt required 7' embedment with 3' ground clearance.

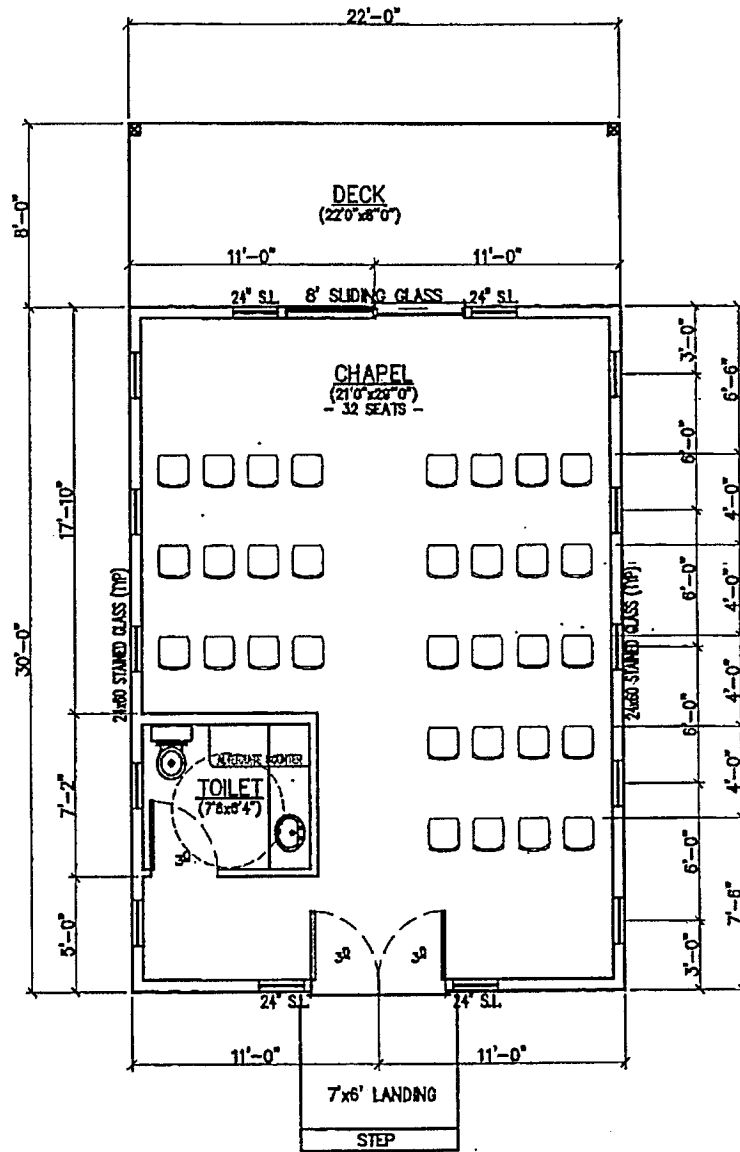
**RESPONSE:**

- I AM USING AND CALL OUT IBC 2012 I AM PROVIDING YOU WITH ALL THE DRAWINGS.
- ALL DESIGN CALL OUTS ARE AS SHOWN AND HAVE BEEN REVIEWED AND SHOWN REVISION CLOUDS.
- I CALL OUT THE FLOOR LOAD AS 50 PSF. THIS IS 10 LB DEAD + 40 LB LIVE.
- I SHOW AND CALL OUT TREATED 2x6 ON THE TYPICAL WALL SECTION, SHEET C4.
- THE TYPICAL DETAIL WAS OMITTED BY MISTAKE AND IS NOW SHOWN ON SHEET C1.
- NOT SURE WHAT YOU MEAN "IN THE DESIGN NOTES BOXES" - could you please explain.
- YOU SEE BASE?
- I CHANGED THE FOOTING TO 10" DEEP ON SHEET C3.
- I SUBMITTED BY TOM HENCKES, DESIGN DRAFTING, 7-18-2019.



STAIR SECTION LOOKING WEST  
SCALE: 1/4" = 1'-0"

# CHAPEL COTTAGE



CHAPEL - FLOOR PLAN

SCALE: 0 1 2 3 4'



660 SQUARE FEET CHAPEL  
176 SQUARE FEET COVERED DECK



ANACONDA-DEER LODGE COUNTY  
PLANNING DEPARTMENT  
800 Main  
Anaconda, Montana 59711  
Phone No. (406) 563-4010



September 27, 2021

Chris Johnson  
Worden Thane P.C.  
321 W. Broadway Suite 300  
Missoula, MT 59802

**RE: Unit Ownership Act – Exemption from Subdivision Review**

Dear Mr. Johnson,

**70-23-301(8)** of the Montana Code Annotated requires that the declaration of unit ownership for condominiums includes certification from the local government that the proposed condominium is exempt from subdivision review. The Anaconda-Deer Lodge County Planning Department has reviewed the *Declaration of Condominium, Covenants, Conditions and Restrictions for the Cottages at Old Works Condominiums* submitted by Chris Johnson of Worden Thane PC and determined that the Declaration satisfies **76-3-203**, MCA and is indeed exempt from subdivision review. May this letter serve as certification for the Declaration.

Subject property, River Properties, LLC, is legally described as: Parcel 1-A of Amended Plat No. 467-C, being a tract of land located in the NW1/4 of Section 2 and the NE1/4 of Section 3, Township 4 North, Range 11 West, P.M.M., Anaconda-Deer Lodge County, Montana.

Please let me know if you have any questions.

Thanks,

Carl Hamming  
Planning Director  
Anaconda – Deer Lodge County  
chamming@adlc.us  
Office: 406.563.4015  
Cell: 406.560.8437



October 18, 2021

Susie Cavanaugh  
PO Box 1418  
Anaconda MT 59711

RE: Cottages at Old Works Condominiums  
Municipal Facilities Exclusion  
EQ# 22-1453  
City of Anaconda  
Deer Lodge County

Dear Ms. Cavanaugh;

This is to certify that the information and fees received by the Department of Environmental Quality relating to this subdivision are in compliance with 76-4-127, MCA. Under 76-4-125(1)(d), MCA, this subdivision is not subject to review, and the Declaration can be filed with the county clerk and recorder.

Plans and specifications must be submitted when extensions of municipal facilities for the supply of water or disposal of sewage are proposed 76-4-131. Construction of water or sewer extensions prior to DEQ, Public Water Supply Section's approval is prohibited, and is subject to penalty as prescribed in Title 75, Chapter 6 and Title 76, Chapter 4.

Cottages at Old Works Condominiums Municipal Facilities Exclusion will consist of 17 Units.

Sincerely,

A handwritten signature in cursive script that reads "Margarite Juárez Thomas".

Margarite Juárez Thomas  
Section Supervisor  
Engineering Bureau  
Department of Environmental Quality  
(406) 755-8956  
Email [MJuarezThomas@mt.gov](mailto:MJuarezThomas@mt.gov)

cc: City Engineer  
County Sanitarian  
Owner  
file