# SECRETARY OF STATE

STATE OF MONTANA
BRAD JOHNSON

PRIORITY

Montana State Capitol
PO Box 202801
Helena, MT 59620-2801
(406)444-3665
http://www.sos.mt.gov

CROWLEY HAUGHEY HANSON TOOLE & DIETRICH PLLP
JOHN B DUDIS
PO BOX 759
KALISPELL MT 59903 0759

RE: THE TERRACES AT SOMERS BAY CONDOMINIUM ASSOCIATION, INC.
ARTICLES OF INCORPORATION
Filing Date: August 30, 2007
Filing Number: D173730 - 801088

August 31, 2007

Dear Sir or Madam:

I've approved the filing of the documents for the above named entity. The document number and filing date have been recorded on the original document. This letter serves as your certificate of filing and should be maintained in your files for future reference.

Thank you for giving this office the opportunity to serve you. If you have any questions in this regard, or need additional assistance, please do not hesitate to contact the Business Services Bureau professionals at (406) 444-3665.

Sincerely,

Brad Johnson

BRAD JOHNSON
Secretary of State

801088

STATE OF MONTANA
FILED
AUG 30 2007
SECRETARY OF STATE

COPY

# ARTICLES OF INCORPORATION
# OF
# THE TERRACES AT SOMERS BAY CONDOMINIUM ASSOCIATION, INC.

Pursuant to the Montana Nonprofit Corporation Act, the undersigned, of legal age, adopts the following Articles of Incorporation.

1. **Name.** The name of the Corporation is THE TERRACES AT SOMERS BAY CONDOMINIUM ASSOCIATION, INC.

2. **Duration.** The period of its duration is perpetual.

3. **Members.** The Corporation will have members, which are owners of the Units comprising the condominium. Members shall have only those rights set forth in the Corporation's Bylaws.

4. **Public Benefit.** The Corporation is a nonprofit Public Benefit Corporation.

5. **Purposes.** The Corporation is organized and shall be operated not for profit but exclusively for association and management purposes of the condominium known as the "The Terraces at Somers Bay" located at 5675 Highway 93 South, Somers, Montana 59932. In furtherance of this objective, the Corporation shall have the following specific purposes:

(a) Organization of a condominium association and management of the condominium property.

(b) To administer and enforce the covenants and restrictions and to collect and disburse the assessments and charges of the condominium.

(c) All purposes set forth in the Corporation Bylaws and the Declaration for The Terraces at Somers Bay.

(d) Manage and maintain the public water and sewage system servicing The Terraces at Somers Bay.

(e) The Corporation shall have and exercise all rights and powers conferred on non-profit organizations under Section 35-2-118 of the Montana Nonprofit Corporation Act; *provided*, however, that the Corporation shall not engage in any activities or exercise any powers that are not in furtherance of the stated purposes of the Corporation or that abridge the restricted activities set forth in Section 8 or the prohibited activities of Section 9.

6. **Directors.** The Corporation will be governed by a Board of Directors, who shall be elected and appointed in the manner provided in the Bylaws.

7. **Registered Agent and Office.** The address of the initial registered agent and office of the Corporation is 5675 Highway 93 South, Somers, Montana 59932. The name of the Corporation's initial registered agent is Craig Denman.

8. **Restricted Activities.** No substantial part of the Corporation's activities shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the Corporation shall not participate in, or intervene (including the publishing or distribution of statements) in any political campaign on behalf of or in opposition to any candidate for public office.

9. **Prohibited Activities.** Notwithstanding any other provision of these Articles, no part of the net earnings or assets of the Corporation shall inure to the



RECEIVED TIME AUG. 30. 12:01PM

benefit of any director, officer, member of the corporation, or other private individual except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Section 5. Further, the Corporation shall not engage in a regular business of a kind ordinarily carried on for profit.

10. **No Personal Liability.** There shall be no personal liability of any director to the Corporation for monetary damages for breach of a director's duties to the Corporation, provided that this limitation shall not apply to a breach of the director's duty of loyalty to the Corporation, for acts or omissions not in good faith or involving intentional misconduct or knowing violation of the law, for transactions from which the director derives an improper personal economic benefit, or as otherwise limited in Section 35-2-213(2)(c) of the Montana Nonprofit Corporation Act, or its successor.

11. **Incorporator.** The name and address of the incorporator is 5:00 Somewhere, LLC, 5675 Highway 93 South, Somers, Montana 59932.

DATED this 29 day of August, 2007.

5:00 Somewhere, LLC

Craig Denman, Incorporator



RECEIVED TIME AUG. 30. 12:01PM

After recording, please return to:
JOHN B. DUDIS, JR.
Crowley, Haughey, Hanson, Toole & Dietrich P.L.L.P.
P.O. Box 759
Kalispell, MT 59901-0759

200700026812 Fees: $21.00 by: VW
DECLARATION OF UNIT OWNERSHIP by CROWLEY ETAI
Date 8/31/2007 Time 4:02 PM Page: 1 of 3
Paula Robinson, Flathead County Montana

0924660

APPROVED 8/31/07

# FIRST AMENDMENT TO DECLARATION OF UNIT OWNERSHIP FOR THE TERRACES AT SOMERS BAY

THE UNDERSIGNED ("Declarant"), being one hundred percent (100%) of the owners of units in the Terraces at Somers Bay, hereby amend the Declaration for the Terraces at Somers Bay, recorded on the 8th day of August, 2007, under Document No. 200700023866, records of Flathead County, Montana, a condominium located on the real property described on Exhibit "A" attached hereto, as follows:

Article I, Section 1.3 shall be amended to read as follows:

1.3. Association or Association of Unit Owners. Means all of the Unit Owners acting as a group and in accordance with duly adopted By-Laws and this Declaration. The Association shall be known as "The Terraces at Somers Bay Condominium Association," and, after incorporation, shall be called "The Terraces at Somers Bay Condominium Association, Inc."

In all other respects, the Declaration for the Terraces at Somers Bay shall remain as originally written.

This First Amendment is made in accordance with Article VIII of said Declaration. Furthermore, no Units having yet been sold, Declarant hereby waives the notice requirements set forth in Article VIII.

IN WITNESS WHEREOF, the Declarant has caused this First Amendment to Declaration to be made and executed according to the provisions of the Montana Unit

Ownership Act, Montana Code Annotated, Section 70-23-101, and the Declaration for the Terraces at Somers Bay.

5:00 SOMEWHERE, LLC

By _____
CRAIG DENMAN, Member/Manager

STATE OF MONTANA )
: ss.
County of Flathead )

This instrument was acknowledged before me on August 29, 2007, by CRAIG DENMAN, Manager, 5:00 SOMEWHERE, LLC.

(Seal)

LOIS J. PETERSON NOTARIAL SEAL STATE OF MONTANA

Lois J. Peterson
Print Name Lois J. Peterson
Notary Public for the State of Montana
Residing at Martin City, MT
My commission expires 01/10, ~~200~~ 2011

**EXHIBIT "A"**

A tract of land situated, lying and being in the Government Lot 4 of Section 26 and in Government Lot 2 of Section 27, Township 27 North, Range 21 West, P.M.M., Flathead County, Montana, and more particularly described as follows:

Beginning at the northwest corner of Deed Exhibit, Book 523, Page 624, records of Flathead County, Montana; thence South 45°22'27" East a distance of 428.48 feet to the approximate G.L.O. meander line being the low water mark of Flathead Lake; thence along said meander line the following two (2) courses:

South 42°13'13" West a distance of 111.97 feet; South 02°03'57" East a distance of 102.40 feet; thence leaving said meander line North 61°37'30" West a distance of 344.34 feet to the easterly R/W of U.S. Highway No. 93; thence along said R/W and along a spiral chord North 04°37'09" West a distance of 49.16 feet to a point; thence South 86°58'15" West a distance of 20.00 feet to a point; thence along a spiral chord North 00°22'32" East a distance of 37.55 feet to a point and the P.C. of a 646.20 foot radius curve, concave southeasterly (radial bearing North 89°24'53" East); thence northwesterly and northeasterly along said curve through a central angle of 02°37'48" an arc length of 29.66 feet to a point; thence North 29°10'18" East a distance of 112.12 feet to a point and the P.C. of a 606.20 foot radius curve, concave southeasterly (radial bearing South 76°15'31" East); thence northeasterly along said curve through a central angle of 10°59'01" an arc length of 116.21 feet to the point of beginning.

Shown as Tract 1 of Certificate of Survey No. 15329.
TOGETHER WITH AND SUBJECT TO:

1. Easement for storage logs and lumber along the shoreline of Flathead Lake granted in instrument recorded November 2, 1900, in Book 29, Page 516, records of Flathead County, Montana.

2. Easement granted to Rocky Mountain Power Company by instrument recorded January 8, 1938, under Recorder's Fee #94, in Book 231, Page 111, records of Flathead County, Montana.

3. Easement granted to Pacific Power & Light Company, recorded February 3, 1960, under Recorder's Fee #661, in Book 429, Page 955, records of Flathead County, Montana.

4. Dock along a portion of the northerly and southerly boundaries as shown on Certificate of Survey No. 15329, records of Flathead County, Montana.

5. Terms and provisions contained in Hazardous Substances Certificate and Indemnity Agreement recorded April 7, 2006, as Document No. 200609712310, records of Flathead County, Montana.

6. Certificate of inclusion of additional territory to the Lakeside County Water & Sewer District filed April 28, 2006, as Document No. 200611812250, records of Flathead County, Montana.

200700023867 Fees $5.00 by: ME
HLTH DEPT APPRVL [illegible] CROWLEY ETAL BLGS
Date 8/8/2007 Time 3:26 PM Page: 1 of 7
Paula Robinson, Flathead County Montana

# STATE OF MONTANA
# DEPARTMENT OF ENVIRONMENTAL QUALITY
# CERTIFICATE OF SUBDIVISION PLAT APPROVAL
(Section 76-4-101 et seq., MCA )

TO: County Clerk and Recorder
Flathead County
Kalispell, Montana

E.Q. #07-2305
07-70flat
Doc# 200700023866

0924660

THIS IS TO CERTIFY THAT the plans and supplemental information relating to the subdivision known as **The Terrace at Somers Bay:**

A tract of land located in Gov't Lot 4 in Section 26, Township 27 North, Range 21 West and in the SE1/4 and NE1/4 of Section 27, Township 27 North, Range 21 West P.M.M., Flathead County, Montana

consisting of one (1) lot which has been reviewed by personnel of the Permitting and Compliance Division, and,

THAT the documents and data required by ARM Title 17 Chapter 36 have been submitted and found to be in compliance therewith, and,

THAT the approval of the plat is made with the understanding that the following conditions shall be met:

★ THAT this Certificate supersedes Certificate No. EQ# 06-1752, dated the 12th day of April, 2006, and,

THAT the lot size as indicated on the plat to be filed with the county clerk and recorder will not be further altered without approval, and,

THAT the lot shall be used for seventeen(17) condominium units, and,

THAT the condominiums will be served by an on-site public water supply system, and,

THAT the public on-site water supply system will consist of two existing wells, six(6) WX 302 hydroneumatic pressure tanks, approximately 400-feet of 3-inch HDPE water main and appurtenances, and shall be constructed in accordance with the approved plans and specifications dated 10/05, last revised 4/4/06 and received by the Department on 4/06/06 under the seal of Edward Engel PE #12762PE of Stokes Engineering and Associates Inc., of Kalispell, along with the conditions outlined in the attached Public Water Supply Section approval letter dated 4/10/06, and, in accordance with subsequent minor changes submitted by Marc E Pitman PE #12563PE of APEC Engineering of Kalispell, dated 1/05/07 and received by the Department on 1/23/07, and,

Condo overall site Plan
The Terraces at Somers Bay

**The Terrace at Somers Bay**
Flathead County
E.Q. #07-2305

THAT the public water system will be provided, operated and maintained by the owner in accordance with the water users agreement, and

THAT the public wastewater treatment will be provided by extension and service connection to the **Lakeside County Water & Sewer District,** and,

THAT the sewer system will consist of approximately 137 lineal feet of 8-inch SDR 35 PVC Sewer Main; approximately 185 lineal feet of 4-inch SDR 15, HDPE Sewer Force Main; 1 new manholes; a pump-station with dual pumps and appurtenances, and shall be constructed in accordance with the approved plans and specifications prepared by Marc E Pitman PE #12563PE of APEC Engineering of Kalispell, dated 1/05/07 and received by the Department on 1/23/07, and,

THAT the stormwater retention system shall be constructed in accordance with the approved plans prepared by Marc E Pitman PE #12563PE of APEC Engineering of Kalispell, dated 1/05/07 and received by the Department on 1/23/07, and,

THAT construction will be completed within three years of the date of this approval. If more than three years pass before beginning construction, it shall be necessary to resubmit the plans and specifications. This expiration period does not extend any compliance schedule requirements pursuant to enforcement action against a public water/sewage system, and,

THAT within 90 days after construction is completed upon a public water system, wastewater system, or storm drainage system, or upon an extension of or addition to such a system, the professional engineer shall certify to the Department that the construction, alteration or extension was completed in accordance with the plans and specifications approved by the Department, and,

THAT project certification shall be accompanied by a complete set of "as-built" drawings bearing the signature and seal of the professional engineer, and,

THAT water supply and sewage treatment systems will be located as shown on the approved plans, and,

THAT the plans and specifications for any proposed sewage treatment systems will be reviewed and approved by the county health department and will comply with local regulations and ARM, Title 17, Chapter 36, Sub-Chapters 3 and 9, and,

THAT all sanitary facilities must be located as shown on the attached lot layout, and,

**The Terrace at Somers Bay**
Flathead County
E.Q. #07-2305

THAT the developer and/or owner of record shall provide each purchaser of property with a copy of the plat, approved location of water supply and sewage treatment system as shown on the attached lot layout, and a copy of this document, and,

THAT instruments of transfer for this property shall contain reference to these conditions, and,

THAT departure from any criteria set forth in the approved plans and specifications and Title 17, Chapter 36, Sub-Chapters 1, 3, and 6 ARM when erecting a structure and appurtenant facilities in said subdivision without Department approval, is grounds for injunction by the Department of Environmental Quality.

YOU ARE REQUESTED to record this certificate by attaching it to the plat filed in your office as required by law.

DATED this 28th day of March, 2007.

Richard H Opper
Director

By: for Steve Kilbreath, Supervisor
Subdivision Review Section
Permitting and Compliance Division
Department of Environmental Quality

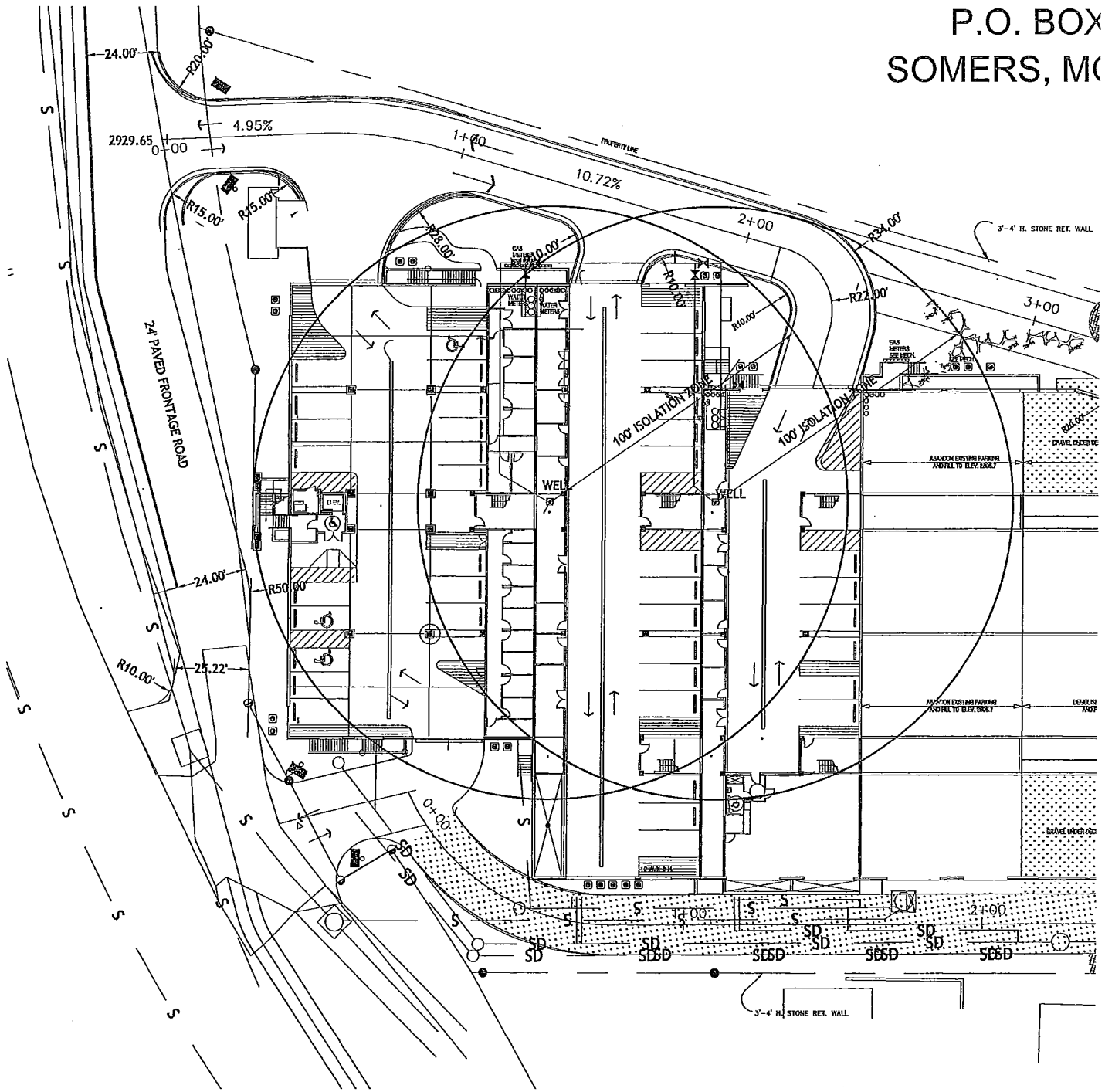
Owner's Name: Craig Denman

Document Number: 200700023867
Page: 4

# REVISED PRELIM
# FOR
# THE TERRACE AT

Gov't Lot 4, Sec. 26 & SE1/4 NE1/4 Sec. 27, T.27N., R.

PREPARED
5 O'CLOCKSOME\
P.O. BOX
SOMERS, M(



Document Number: 200700023867
Page: 5

# JARY PLAT

## OMERS BAY

1W., P.M.,M., FLATHEAD COUNTY, MONTANA

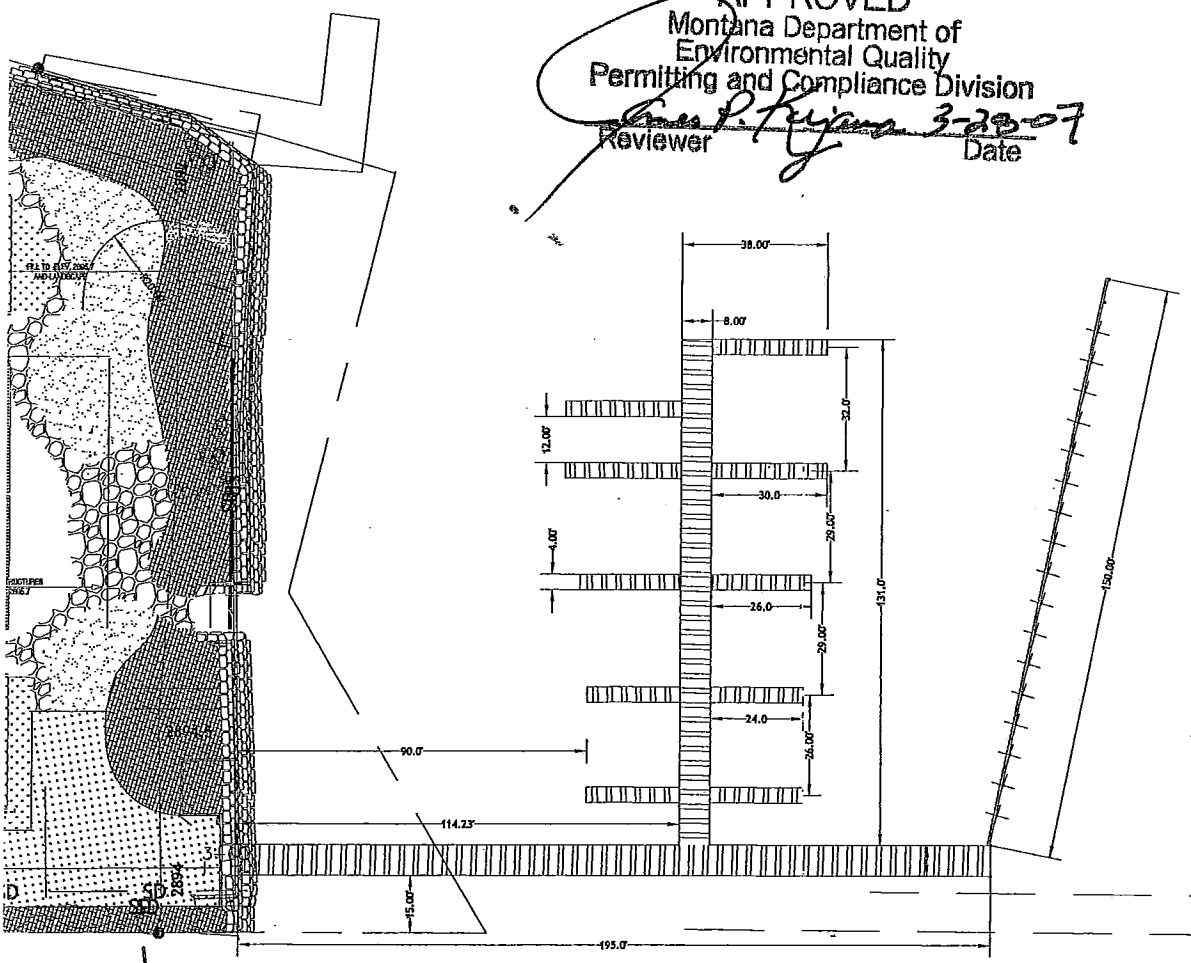
FOR:

HERE L.L.C.

153

NTANA

APPROVED
Montana Department of
Environmental Quality
Permitting and Compliance Division
Reviewer Date 3-28-07




SITE PLAN
SCALE 1" = 50'

RECEIVED
JAN 23 2007
MT DEQ PUBLIC WATER
& SUBDIVISIONS BUREAU

REVISIONS:

APEC
architecture • planning • engineering • consulting
Kalispell & Polson, Montana - 406.755.1338 - www.apec-mt.com

THE TERRACE AT SOMERS BAY
FOR
5 O' CLOCK SOMEWHERE L.L.C.
27-227-21, FLATHEAD COUNTY

REVISED
PRELIMINARY
PLAT

JOB NUMBER: 9016.06
DRAWN BY: MAL
DATE: DECEMBER 7, 2006

C
1

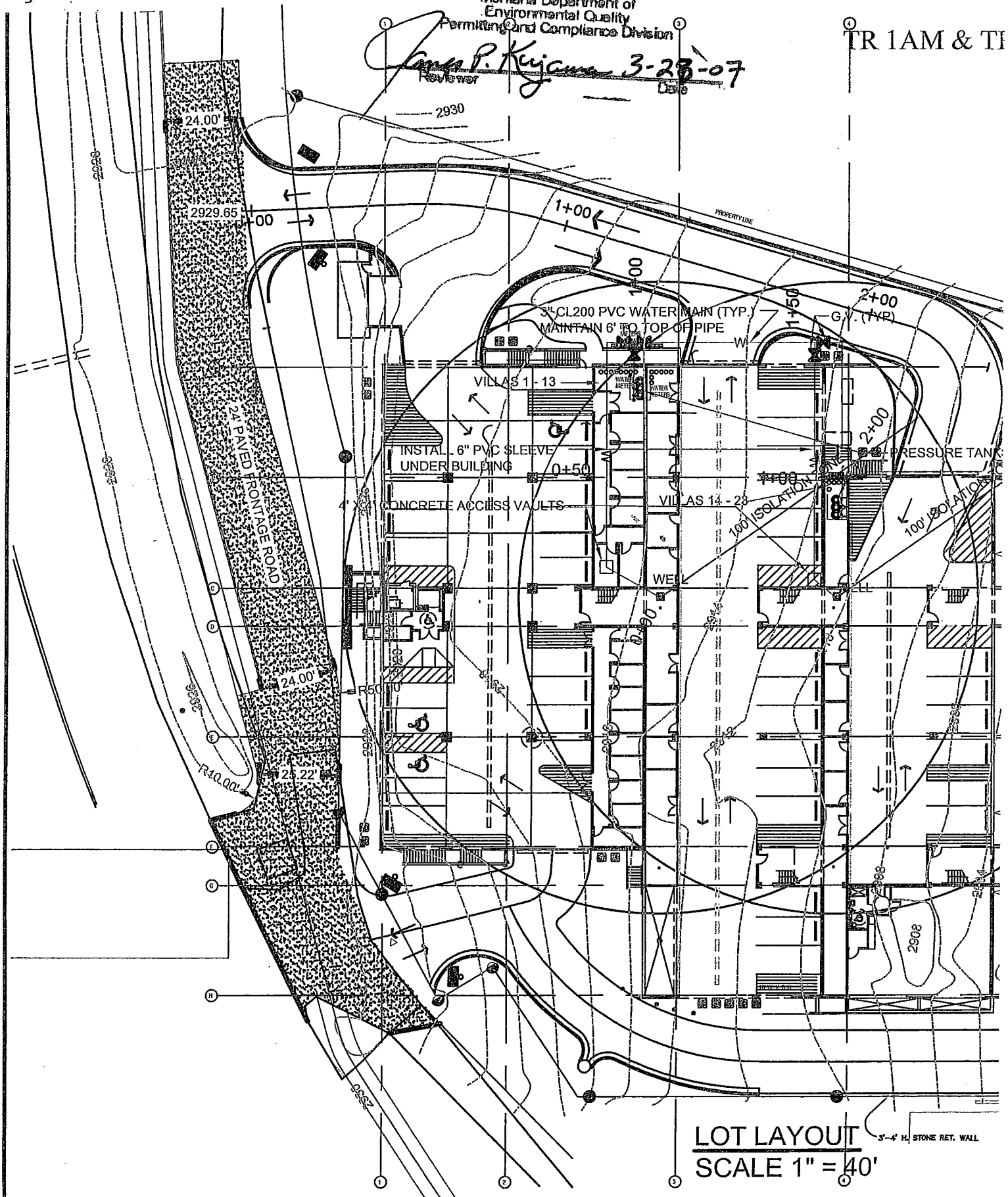
PRELIMINARY - NOT FOR CONSTRUCTION

PAGE 1 of 2
EQ# 07-2305

PAGE 2 of 2 EQ#07-2...05

Document Number: 200700023867
Page: 6

APPROVED
Montana Department of
Environmental Quality
Permitting and Compliance Division
Reviewer
3-28-07
Date



# TERRACES AT SOMERS

Document Number: 200700023867
Page: 7

Sec. 26 & SE1/4 NE1/4 Sec. 27, T.27N.,R.21W.,

1AH & TR 1AK & TR1AL IN L2 TR 3F, TR 3I, TR 3L & TR 3K IN L4

5675 US HIGHWAY 93 59932

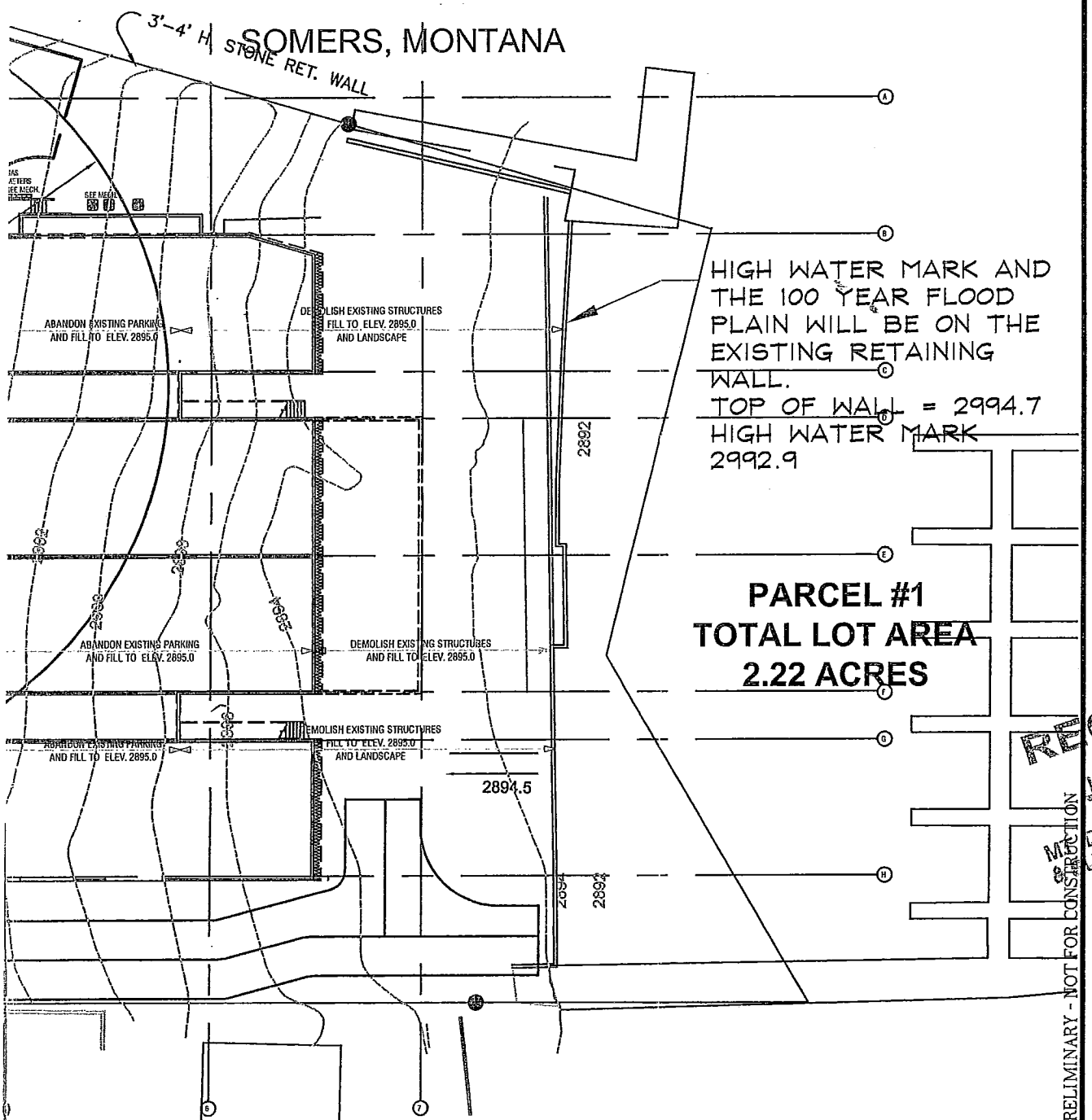
FLATHEAD COUNTY, MONTANA

PREPARED FOR:

5 O'CLOCK SOMEWHERE, LLC

P.O. BOX 153

SOMERS, MONTANA




RECEIVED
JAN 23 2007
DEQ PUBLIC WATER & SUBDIVISIONS BUREAU

PRELIMINARY - NOT FOR CONSTRUCTION

APEC
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TERRACES AT SOMERS
FOR
5 O'CLOCK SOMEWHERE, LLC.
5675 HWY 93 S. SOMERS, MONTANA

LOT LAYOUT

JOB NUMBER: n-a
DRAWN BY: JAG
DATE: 1-10-2007

C
9

After recording, please return to:
JOHN B. DUDIS, JR.
Crowley, Haughey, Hanson, Toole & Dietrich P.L.L.P.
P.O. Box 759
Kalispell, MT 59903-0759

200700023868 Fees: $91.00 by: ME
BY LAWS by CROWLEY ETAL BLGS
Date 8/8/2007 Time 3:26 PM Page: 1 of 13
Paula Robinson, Flathead County Montana

09 24960

# BYLAWS
# OF
# THE TERRACES AT SOMERS BAY CONDOMINIUM ASSOCIATION

## ARTICLE I
## NAME

The name of the corporation is THE TERRACES AT SOMERS BAY CONDOMINIUM ASSOCIATION, hereinafter referred to as the "Association".

## ARTICLE II
## DEFINITIONS

2.1 The definitions contained in the Declaration are incorporated by reference herein.

2.2 "Declaration" shall mean and refer to the Declaration of covenants, conditions and restrictions applicable to the Property recorded on August 8, 2007 at Document No. 200700023866 in the Office of the Recorder of Flathead County, State of Montana.

## ARTICLE III
## MEETINGS OF MEMBERS AND VOTING

3.1 **Membership and Voting:** Membership shall be held as provided in the Declaration. Each Member shall be entitled to one vote per Unit ownership. If more than one person or entity owns a Unit, the multiple owners are entitled to vote one vote together. There shall be no fractional voting.

3.2 **Annual Meeting:** The annual meeting of the Members shall be held in the month of January, at a date, time and place to be set by the Board. The first annual meeting shall be held in January following the first sale of a Unit from the Declarant to a third party.

3.3 **Special Meetings:** Special meetings of the Members shall be promptly scheduled at any time by the Board in response to the vote of the Board, or a request by the President, or upon written request of twenty percent (20%) of the Members of the Association.

3.4 **Notice and Place of Meetings:** Written notice of each meeting of the Members, annual or special, shall be given by, or at the direction of, the secretary or manager, by personal service by a process server or mailing a copy of such notice, first class mail, postage prepaid, at least thirty (30) days but not more than sixty (60) days before such meeting, to each first lienholder requesting notice and to all Members, addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. If more than one person or entity owns a Unit, one notice shall be sent or served at the address designated in the Association's books. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting. If action is proposed to be taken at any meeting for approval of any proposals, the notice shall also state the general nature of the proposal. Member action on the following items is invalid unless the notice states the general nature of the proposal(s): (a) removing or electing a director; (b) amending the Governing Documents; (c) approving a conflict of interest transaction with a director; (d) indemnification of officers, employees or agents; (e) merger; (f) sale of assets; or (g) dissolution. Meetings shall be held within the Property or at a meeting place within the same county, as close to the Property as possible.

3.5 **Quorum:** The presence either in person or by proxy, at any meeting, of a majority of the Members of the Association shall constitute a quorum for any action except as otherwise provided in the Declaration, or these Bylaws. If, however, such quorum shall not be present or represented at any meeting, the Members thereat shall have power to adjourn the meeting to a date not less than five (5) days and not more than thirty (30) days later. Notice of the time and place of the adjourned meeting shall be given to Members in the manner prescribed for special meetings. The quorum for any such adjourned meeting shall not be less than one-third of the Members of the Association.

3.6 **Proxies:** At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary before the appointed time of each meeting. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his or her Unit, or upon receipt of written notice by the secretary or the manager of the death or judicially declared incompetence of a Member, or upon the expiration of eleven (11) months from the date of the proxy. Any form of proxy distributed by any persons to the Members shall afford the opportunity to specify a choice between approval and disapproval of each matter to be acted upon. The proxy shall provide that, where the Member specifies a choice, the vote shall be

cast in accordance with that choice. The proxy also shall identify the person or persons authorized to exercise the proxy and the length of time it will be valid. In addition, voting by proxy shall comply with any other applicable requirements of Montana Code Annotated, Section 35-2-539.

3.7 **Conduct of Meetings:** Meetings of the Members shall be conducted in accordance with a recognized system of parliamentary procedure adopted by the Board. Notwithstanding any other provision of law, notice of meetings of the Members shall specify those matters the Board intends to present for action by the Members, but, except as otherwise provided by law, any proper matter may be presented at the meeting for action.

3.8 **Action Without Meeting:** Any action that may be taken at any annual or special meeting of Members (except for the election or removal of directors) may be taken without a meeting in accordance with the provisions of Montana Code Annotated, Section 35-2-529. Any form of written ballot distributed by any persons to the Members shall afford the opportunity to specify a choice between approval and disapproval of each matter to be acted upon.

## ARTICLE IV
## DIRECTORS

4.1 **Number and Qualification:** The affairs of this Association shall be managed by a Board of five (5) directors, all of whom must be Members in good standing. For the purposes of this section, good standing means current in the payment of Assessments and in compliance with the Governing Documents. Where more than one person owns a Unit, only one Owner from that Unit may serve on the Board. Notwithstanding the foregoing, until seven (7) Units are sold, Declarant may select any number of the directors, which directors do not have to be Members of the Association.

4.2 **Nomination:** Nomination for election to the Board may be made by a nominating committee appointed by the Board. Nominations may be made by petition signed by twenty percent (20%) of the Members. Nominations may also be made from the floor at the annual meeting. The nominating committee shall consist of a chairman, who shall be a director, and one (1) or more Members. The nominating committee may be appointed not less than ninety (90) days prior to each annual meeting of the Members, to serve until the close of such annual meeting. The nominating committee may make as many nominations for election to the Board as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. All candidates shall have reasonable opportunity to communicate their qualifications to Members and to solicit votes. Notice to the Members of the annual meeting shall include the names of all those who are nominees at the time the notice is sent.

4.3 **Election:** The initial directors shall be appointed by the Declarant. Thereafter, the election of the Board shall be conducted at the annual meeting of the Members. At such

election the Members or their proxies may cast their vote for each vacancy. The persons receiving the largest number of votes shall be elected. There shall be no cumulative voting. Voting for directors or for their removal shall be by secret written ballot.

4.4 **Term:** At the first annual meeting of the Members, three (3) directors shall be elected for a term of two (2) years, and two (2) directors shall be elected for a term of one (1) year. Thereafter, the term of each director shall be two years. Unless vacated sooner, each director shall hold office until the director's term expires and a successor is elected.

4.5 **Removal; Vacancies:** Any director may resign by giving notice to the Board. Any director, except a director appointed by the Declarant, may be removed by the vote of a majority of a quorum of the Members. Notwithstanding anything to the contrary contained in this paragraph, any director, except a director appointed by the Declarant, who fails to attend three (3) consecutive Board meetings or becomes 90 days delinquent in the payment of assessments may be removed from office by a vote of the Board, and the successor director shall be chosen by the Board. If a director dies or resigns, the vacancy shall be filled by the Board at a duly held meeting, or by the sole remaining director. The Members may elect a director at any time to fill any vacancy not filled by the Board. A vacancy created by the removal of a director by the Members can only be filled only by election by the Members. A successor director shall serve for the unexpired term of his or her predecessor.

4.6 **Compensation:** No director shall receive compensation for any service rendered to the Association as a director. However, any director may be reimbursed for his or her actual expenses, if reasonable, incurred in the performance of his or her duties.

4.7 **Indemnification:** The Association shall indemnify any present or former director or officer of the Association to the fullest extent authorized under Montana Code Annotated, Sections 35-2-447 and 35-2-452, or any successor statutes.

## ARTICLE V
## MEETINGS OF DIRECTORS

5.1 **Regular Meetings:** Regular meetings of the Board shall be held quarterly or as often as deemed necessary by the Board at such time as may be fixed from time to time by resolution of the Board.

5.2 **Special Meetings:** Special meetings of the Board may be called by the president, vice president or any three (3) Directors.

5.3 **Notice and Place**: Board meetings shall be held on the Property or a meeting place within the County, as close to the property as possible. Notice of the time and place of

regular and special meetings of the Board shall be given to each director at least four (4) days by first class mail or seventy-two (72) hours delivered personally or be telephone or other electronic means prior to the meeting. For a special meeting, the notice shall specify the time and place of the meeting and the nature of any special business to be considered. The notice shall be given to each director by one (1) of the following methods: (a) by personal delivery; (b) written notice by first class mail, postage prepaid; (c) by telephone communication, including a voice message system or other system or technology designed to record and communicate messages, telegraph, facsimile, electronic mail or other electronic means, either directly to the director or to a person at the director's office or home who would reasonably be expected to communicate such notice promptly to the director. All such notices shall be given or sent to the director's address, email address, or telephone number as shown on the records of the Association. Notice of all Board meetings, except emergency meetings, shall be given to the Members by posting in prominent places in the Common Element, by mail, or by newsletter at least four (4) days prior to the meeting. In addition, notice shall be mailed at least four (4) days prior to the meeting to any Member who has requested notification of Board meetings by mail, at the address requested by the Member.

5.4 **Quorum:** A majority of the directors shall constitute a quorum for the transaction of business. Every act performed or decision made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

5.5 **Open Meetings:** All meetings of the Board shall be open to all Members, and the Board shall permit any Member to speak at any meeting of the Board, except for meetings of the Board held in executive session. The Board shall establish a reasonable time limit for all Members to speak before a meeting of the Board.

5.6 **Executive Session:** The Board may meet and convene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved, and matters relating to the formation of contracts with third parties. Matters involving Member discipline or assessment payments shall be held in executive session and the Members involved are entitled to attend. Any matter discussed in executive session shall be generally noted in the minutes of the immediately following open meeting.

5.7 **Telephone Attendance:** In the case of absence, a director may participate in a Board meeting by conference telephone, so long as all directors and Members participating in the meeting can communicate with one another.

5.8 **Action Without Meeting:** In the case of an emergency, any action required or permitted to be taken by the Board may be taken without a meeting if all directors consent in writing to the action. . Such action by written consent shall have the same force and effect as a unanimous vote of the Board. Such written consent or consents shall be filed with the minutes of the proceedings of the Board. An explanation of the action taken shall be reported in the minutes

and posted at a prominent place or places within the Common Elements within seven (7) days after the written consent of all directors have been obtained.

## ARTICLE VI
## POWERS AND DUTIES OF THE BOARD OF DIRECTORS

6.1 **Powers and Duties:** It shall be the exclusive duty of the Board to exercise all powers and duties of the Association as expressed in the Governing Documents, and to manage and conduct the affairs of the Association, except as expressly reserved to a vote of the Members. Such powers and duties shall include, but are not limited to, the following:

A. To review and direct the officers and Manager to assure that the policies of the Board are being accomplished in a reasonable and prudent manner and that the requirements for the operation of the Association as set forth in the Governing Documents and the laws applicable to the Property are fulfilled to the extent reasonable and appropriate.

B. To call annual meetings of the Association and give due notice thereof.

C. To conduct elections of the Board of Directors.

D. To enforce the provisions of the Governing Documents by appropriate action.

E. To promulgate and adopt rules and regulations for the use of the Common Elements and for the occupancy of the Units so as to not interfere with the peace and quiet of all the Unit Owners.

F. To provide for the management of the Condominium by hiring or contracting with suitable and capable management and personnel for the day-to-day operation, maintenance, upkeep and repair of the General Limited Common Elements.

G. To levy Assessments as allowed by the Declaration, these Bylaws and the State of Montana, and to provide for the collection, expenditure and accounting of said Assessments.

H. To pay for the expenses of the maintenance, repair and upkeep of the Common Elements and to approve payment vouchers either at regular or special meetings.

I. To delegate authority to the Manager for the conduct of Association business, to carry out the duties and powers of the Board, however, such authority shall be precisely defined with ultimate authority at all time residing in the Board of Directors.

J. To provide a means of hearing grievances and foreclosure proceedings of Unit Owners and to observe all due process requirements imposed upon owners associations for condominiums.

K. To meet at regularly scheduled times and hold such meetings open to all Unit Owners or their agents.

L. To levy and collect special Assessments whenever, in the opinion of the Board, it is necessary to do so in order to meet increased operation or maintenance expenses, costs, or additional capital expenses, or because of emergencies.

M. To take appropriate legal action to collect any delinquent Assessments, payments or amounts due from Unit Owners or from any person or persons owing money to the Association, and to levy a penalty and to charge interest on unpaid amounts due and owing.

N. To defend in the name of the Association any and all lawsuits wherein the Association or Condominium is a party defendant.

O. To enter into contracts with third parties to carry out the duties herein set forth, for and on behalf of the Association.

P. To establish bank accounts and to keep therein all funds of the Association. Withdrawal of monies from such accounts shall only be by checks signed by such persons as are authorized by the Board of Directors.

Q. To manage, maintain, and make repairs, alteration and improvements to the Common Elements consistent with managing the Property in a first class manner and in the best interest of the Unit Owners.

R. To arrange, keep, maintain, and renew the insurance for the Association as set forth in the Declaration.

S. To allow first lienholders to inspect Association and Board records.

T. To establish a fiscal year for accounting purposes.

U. To insure the Common Elements pursuant to the Declaration, and to pay and collect Assessments therefor.

V. In general, to act for and carry on the administration and affairs of the Association as authorized and prescribed by the Declaration and the Members and to do all those

things which are necessary and reasonable in order to carry out the governance and operation of the Condominium.

W. To exercise all the powers generally granted to a Montana nonprofit corporation under Montana Code Annotated, Section 35-2-118.

6.2 **Enforcement (Notice and Hearing):** The Board shall have the power to enforce the Governing Documents, provided that any Owner charged with violating the Governing Documents, except for default in payment of Assessments, shall be entitled to a hearing before the Board. Notice of the hearing that shall include a description of the alleged violation and the potential remedies therefor, shall be given to the Member at least ten (10) days prior to the meeting. Notice shall be given as set forth in §3.4 hereof. The Board shall inform the Member of any disciplinary action within fifteen (15) days following the hearing.

6.3 **Budgets and Financial Statements:** The Board shall cause to be prepared and distributed budgets and financial statements to each Member as follows:

A. An operating budget for each fiscal year shall be distributed not less than thirty (30) days nor more than ninety (90) days before the beginning of the fiscal year consisting of at least the following:

(1) Estimated revenue and expenses on an accrual basis;

(2) A summary of the Association's reserves based upon the most recent review or study that shall include all of the following:

(a) The current estimated replacement cost, estimated remaining life, and estimated useful life of each major component;

(b) As of the end of the fiscal year for which the study is prepared:

(i) The current estimate of the amount of cash reserves necessary to repair, replace, restore, or maintain the major components;

(ii) The current amount of accumulated cash reserves actually set aside to repair, replace, restore, or maintain major components.

B. A report consisting of the following shall be distributed within one hundred twenty (120) days after the close of the fiscal year:

(1) a balance sheet as of the end of the fiscal year;

(2) an operating (income) statement for the fiscal year;

(3) a statement of changes in financial position for the fiscal year;

(4) a copy of a review of the financial statement of the Association prepared in accordance with generally accepted accounting principles by a licensee of the Montana State Board of Accountancy.

6.4 **Prohibited Acts.** The Board shall not take any of the following actions, except with the vote or written consent of a majority of the Members of the Association:

A. Incurring aggregate expenditures for new capital improvements to the Common Elements in any fiscal year in excess of five percent (5%) of the budgeted gross expenses of the Association for that fiscal year;

B. Selling during any fiscal year property of the Association having an aggregate fair market value greater than five percent (5%) of the budgeted gross expenses of the Association for that fiscal year; or

C. Paying compensation to directors or officers of the Association for services performed in the conduct of the Association's business; provided, however, that the Board may cause a director or officer to be reimbursed for the actual expenses, if reasonable, that are incurred in the performance of his or her duties.

## ARTICLE VII
## OFFICERS AND THEIR DUTIES

7.1 **Enumeration of Officers:** The officers of this Association shall be a president, and vice president, who shall at all times be directors, a secretary, and treasurer, and such other officers as the Board may from time to time by resolution create. The same person may fill the office of secretary and treasurer.

7.2 **Election of Officers:** The election of officers shall take place at the first meeting of the Board following each annual meeting of the Members.

7.3 **Term:** The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year and until his or her successor is elected. Officers may hold office for consecutive years.

7.4 **Special Appointments:** The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

7.5 **Resignation and Removal:** Any officer may be removed from office (but not from the Board, if he or she is also a director) with cause by the Board. Any officer may resign at any time by giving written notice to the Board, or the manager. Such resignation shall take effect at the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

7.6 **Vacancies:** A vacancy in any office may be filled by the Board. The officer appointed to such vacancy shall serve the remainder of the term of the officer he or she replaces.

7.7 **Duties:** The duties of the officers are as follows:

7.7.1 **President:** The president shall preside at all meetings of the Members and Board; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds, promissory notes and other written instruments. The president shall have the general powers and duties of management usually vested in the office of the president of a Montana nonprofit corporation, and shall have such powers and duties as may be prescribed by the Board or by these Bylaws.

7.7.2 **Vice President:** The vice president shall act in the place and stead of the president in the event of his or her absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required by the Board.

7.7.3 **Secretary:** The secretary shall supervise the recording of the votes and the maintenance of the minutes of all meetings and proceedings of the Board and of the Members; keep or have kept appropriate current records showing the Members together with their addresses and designated addresses, and shall perform such other duties as required by the Board.

7.7.4 **Treasurer:** The treasurer shall cause the receipt and deposit in appropriate bank accounts all monies of the Association and the disbursement of such funds as directed by the Board; shall keep or have kept proper books of account; and shall supervise the preparation of budgets and financial statements.

## ARTICLE VIII
## COMMITTEES

A nominating committee may be appointed, as provided herein. In addition, the Board may appoint other committees as deemed appropriate in carrying out its purpose. No

committee, regardless of Board resolution, may: (a) take any final action on matters which, under these Governing Documents or the non-profit corporation law of Montana, also require Board or Members' approval; (b) fill vacancies on the Board or in any committee; (c) amend or repeal any resolution of the Board; (d) appoint any other committees of the Board or the members of those committees; (e) approve any transaction to which the Association is a party and in which one or more directors have a material financial interest.

## ARTICLE IX
## BOOKS AND RECORDS

9.1 **Inspection by Members:** The membership register (including names, mailing addresses, and voting rights), accounting books and records, and minutes of meetings of the Members, the Board (including drafts and summaries), and of committees shall be made available for inspection and copying by any Member, or by his or her duly appointed representative, at any reasonable time and for a purpose reasonably related to his or her interest as a Member, at the office of the Association.

9.2 **Rules for Inspection:** The Board shall establish reasonable rules with respect to: a) notice to be given to the custodian of the records by the Member desiring to make the inspection; b) hours and days of the week when such an inspection may be made; c) payment of the cost of assembling and reproducing copies of documents requested by a Member.

9.3 **Inspection by Director:** Every director shall have the absolute right at any reasonable time to inspect all books, records and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a director includes the right to make extracts and copies of documents, at the expense of the Association.

9.4 **Documents Provided by Board:** Upon written request, the Board shall, within ten (10) days of the mailing or delivery of such request, provide any Member with a copy of (1) the Governing Documents; (2) a copy of the most recent budget and financial statements of the Association; (3) a true statement, in writing, from an authorized representative of the Association as to the amount of any assessments levied upon the Unit which are unpaid on the date of the statement, including late charges, interest, and cost of collection which, as of the date of the statement, are or may be made a lien upon the Owner's Unit; (4) a statement of any monetary fines or penalties levied upon the Owner's Unit that are unpaid; (5) a copy of any notice previously sent to the Owner that sets forth any alleged violations of the Governing Documents that remain unresolved; and (6) any change in the Association's current regular and special Assessments and fees which have bee approved by the Board, but have not yet become due and payable. The Board may impose a fee for providing the foregoing which may not exceed the reasonable cost to prepare and reproduce the requested documents.

9.5 **Minutes:** The minutes, minutes proposed for adoption that are marked to indicate draft status, or a summary of the minutes of any meeting of the Board, other than an executive session, shall be available to Members within thirty (30) days of the meeting. The minutes, proposed minutes, or summary minutes shall be distributed to any Member upon request and upon reimbursement of the Association's costs in making that distribution. Members shall be notified in writing at the time that the pro forma budget is distributed or at the time of any general mailing to the entire membership of the Association of their right to have copies of the minutes of meetings of the Board and how and where those minutes may be obtained.

## ARTICLE X
## MISCELLANEOUS

10.1 **Amendment of These Bylaws:** These Bylaws may be amended only by the affirmative vote or written consent of 75% of the Members.

10.2 **Conflicts:** In the case of any conflict between the Articles and the Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

10.3 **Fiscal Year:** The fiscal year of the Association shall begin on the first day of January and end on the thirty-first day of December of every year.

I, the undersigned, the duly elected and acting President of SOMMERS BAY VILLAS CONDOMINIUM ASSOCIATION, a Montana nonprofit corporation, do hereby certify:

That the within and foregoing Bylaws were adopted as the Bylaws of said corporation on the 26 day June, 2007, and that the same do now constitute the Bylaws of said corporation.

This certificate is executed under penalty of perjury under the laws of the State of Montana on the 26 day June 2007, at Whitefish, Montana.

THE TERRACES AT SOMERS BAY CONDOMINIUMS

Craig Denman, President



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AFFIRMED:

William R. Schottel Korb, Secretary

STATE OF MONTANA )
: ss.
County of Flathead )

This instrument was acknowledged before me on June 26, 2007, by Judy Heuman, as President of THE TERRACES AT SOMERS BAY CONDOMINIUM ASSOCIATION, and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the entity upon behalf of which he acted executed the instrument.

(Seal)

Print Name Karie R. Stidham
Notary Public for the State of Montana
Residing at Columbia Falls Montana
My commission expires March 15, ~~200~~ 2011

STATE OF MONTANA )
: ss.
County of Flathead )

This instrument was acknowledged before me on July 9, 2007, by William R. Schottel Korb, as Secretary of THE TERRACES AT SOMERS BAY CONDOMINIUM ASSOCIATION, and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the entity upon behalf of which he acted executed the instrument.

(Seal)

Print Name Lois J. Peterson
Notary Public for the State of Montana
Residing at Martin City Montana
My commission expires 01/10, ~~200~~ 2011