

Accommodation Recording Only

STC # 52004

**DECLARATION**

for the

**CHASE WAY CONDOMINIUMS**



**2146371**

Page: 1 of 32  
04/13/2004 10:47A

Shelley Vance-Gallatin Co MT MISC

182.00

✓

CERTIFICATE OF NAME

The understanding being the duly authorized agent of the Department of Revenue of the State of Montana within the County of Gallatin, herewith executes the following certificate relating to the **CHASE WAY CONDOMINIUMS**, situated as follows:

See Exhibit "A" attached.

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

Dated: 04/05/04

Kathy A. Leach / PVS  
County Assessor



# CHASE WAY CONDOMINIUMS

## Legal Description

### Exhibit "A"

Parcel B of Certificate of Survey No. 2056, located in the NE¼ of Section 11, Township 2 South, Range 5 East, P.M.M., Gallatin County, Montana, according to the official plat thereof on file and of record in the office of the County Clerk and Recorder, Gallatin County, Montana.



**DECLARATION FOR  
THE  
CHASE WAY CONDOMINIUMS**

**THIS DECLARATION** is hereby made and entered into this 2nd day of April, 2004, by **BOCKHAHN GENERAL CONTRACTING INCORPORATED**, of Bozeman, Montana, hereinafter referred to as "Declarant," whereby lands and property hereinafter described are submitted to the provisions of Chapter 23, Title 70, MCA, also known as the "Unit Ownership Act" as a condominium.

The property subject to this Declaration shall be known as the **CHASE WAY CONDOMINIUMS** (hereinafter referred to as **CHASE WAY**). The addresses of **CHASE WAY** are 314, 321A, 321B, 346A, 346B, 355A, 355B, 362A, 362B, 379A, 379B, 380A, 380B, 393A and 393B Chase Way, Bozeman, Montana 59718.

**I.  
DEFINITIONS**

Unless the context expressly provides otherwise, the following definition shall pertain throughout this Declaration and in the interpretation thereof:

1. Aggregate Voting shall mean the entire number of votes or persons present or available to vote in person or by proxy in a particular circumstance.
2. Association or Association of Unit Owners shall mean all of the Unit Owners acting as a group and in accordance with duly adopted Bylaws and this Declaration.
3. Board or Board of Directors shall mean the Board of Directors of the Association as more particularly defined in the Bylaws.
4. Building shall mean a multiple unit building or buildings comprising a part of the property.
5. Bylaws shall mean the Bylaws promulgated by the Association under this Declaration and the Unit Ownership Act.
6. Common Elements shall mean both general common elements and limited common elements.
  - (a) General Common Elements include all those elements which are for the use of all Unit Owners and guests of Unit Owners of **CHASE WAY**.



Specifically included are: grounds surrounding the building, the land on which the buildings are located, paths, sidewalks and walkways, any portion of the parking areas not specifically allocated to a particular unit, any irrigation system placed on the property or landscape maintenance, any portions of the buildings designated on the floor plans as common to all Units, electrical, gas, telephone, water and sewer lines and connections serving all of the units, landscaping, plants and other materials and improvements separate from and outside of the buildings containing the units, and other elements necessary for the safety, maintenance and existence of **CHASE WAY** in which each Unit Owner shall have his designated percentage of interest, as set forth in paragraph IV below.

- (b) Limited Common Elements as used in this Declaration shall mean those common elements which are reserved for the use of fewer than all of the owners and guests of Unit Owners of **CHASE WAY**, to the exclusion of other such owners and guests. As to any given Unit Owner or Owners, limited common elements shall mean the common elements which are located within or affixed to the building containing his unit, and which are for the use of the Unit Owners and guests of that Unit in which the elements are located or situated on the real property. Specifically included are:

Flues, chimneys, ducts, cables, conduits, public utility lines, water, sewer, electrical, gas, cable television lines, hot and cold water pipes (all such utility pipes and lines are limited common elements where they service only one or two units; where they service all units, they shall be general common elements), stairways, balconies, entrances, stoops, furnaces, patios, decks, garages, driveways, boilers, hot water tanks, and fixtures, or other portions of the building servicing only a particular unit or less than all of the units. The percentage of the separate unit's interest in the limited common elements shall be computed by determining the number of units that have use of the limited common elements and dividing that number into the total value of those limited common elements.

7. Common Expenses shall mean expenses of administration, maintenance, repair or replacement of general common elements, expenses agreed upon as common by the Association of all Unit Owners, and expenses declared common by the Unit Ownership Act.



8. Declaration shall mean this document and all parts attached thereto or incorporated by reference.
9. Limited Expenses shall mean the expenses attributable to the maintenance, repair and replacement of limited common elements, and are expenses only for owners of units within the respective building for which the expenses are accrued.
10. Manager shall mean the manager, the Board of Directors, management corporation, or any other person or group of persons retained or appointed by the Association of Unit Owners for the purpose of conducting the day-to-day operation of **CHASE WAY**.
11. Property shall mean the land, buildings, improvements and structures thereon, and all easements, rights and appurtenances belonging thereto, which are herewith submitted to the provisions of the Unit Ownership Act.
12. Recording Officer shall mean the county officer charged with the duty of filing and recording deeds, mortgages and all other instruments or documents relating to this Declaration and the property which is its subject.
13. Unit shall be the separate condominium units of **CHASE WAY** and is a parcel of real property including and containing one or more rooms occupying one or more floors or a part or parts thereof, intended for any type of independent use, and with a direct exit to a public street or highway or to a common area or areas leading to a public street or highway.
14. Unit Designation shall mean the combination of letters, numbers, or words which identifies the designated units.
15. Unit Owner shall mean the person or persons owning a fee simple absolute, or one who is a co-owner in any real estate tenancy relationship that is recognized under the laws of the State of Montana, in one or more units of **CHASE WAY**.

## II. REAL ESTATE

### Description

The property which is by this Declaration submitted and subject to the Montana Unit Ownership Act is described in Exhibit "A" attached hereto.



## Condominium Units

Each Unit, together with the appurtenant undivided interest in the common elements of **CHASE WAY** shall together comprise one condominium unit, shall be inseparable, and may be conveyed, leased, rented, devised or encumbered as a condominium unit.

## Encroachments

If any portion of the general common elements or limited common elements encroaches upon a Unit or Units, a valid easement for the encroachment and for the maintenance of the same, so long as it stands, shall and does exist. If any portion of Unit encroaches upon the general common elements, or limited common elements, or upon an adjoining Unit or Units, a valid easement for the encroachment and for the maintenance of the same, so long as it stands, shall and does exist. Such encroachments and easements shall not be considered or determined to be encumbrances either on the general common elements, the limited common elements, or on the Units for the purpose of marketability of title.

## Parking Areas

The limited common elements include parking areas on the driveway in front of each garage for automobiles of the respective Unit Owners. These areas will be initially laid out by the Declarant, and shall be assigned to each unit. The right to use the parking spaces on the driveway in front of the garage for each unit shall be an appurtenance to that unit. Subsequent use and assignment of additional parking spaces shall be pursuant to regulation of the Association; provided that no change in designation of parking spaces shall be made for the benefit of the Unit Owner which discriminates against another Unit Owner without the latter's consent.

## Unit Boundaries

Each unit shall include the part of the building containing the Unit that lies within the boundaries of the Unit, which boundaries are as follows:

(a) Upper and Lower Boundaries: the upper and lower boundaries of the Unit shall be the following boundaries extended to an intersection with the perimetrical boundaries:

1. Upper Boundary: the plane of the lowest surfaces of the upper floor or ceiling joists for all units.
2. Lower Boundary: the plane of the highest surface of the floor joists.



(b) **Perimetrical Boundaries:** the perimetrical boundaries of the Unit shall be the following boundaries extended to an intersection with the upper and lower boundaries;

1. **Exterior Building Walls:** the plane formed by the center line of the exterior walls of the buildings except that such boundary shall be extended so as to include within it all windows in the Unit.
2. **Interior Building Walls:** the vertical planes of the centerline of the walls bounding a Unit extended to an intersection with other perimetrical boundaries. Where walls between units are of varying thicknesses, the plane of the centerline of the boundary wall shall be the median line drawn between the two outermost boundaries of such wall.

### III.

### **EASEMENT, COMMON ELEMENT – INTERIOR REMODELING**

#### **Common Element Easements**

A nonexclusive right of ingress, egress and support through the limited common elements within the buildings is appurtenant to each unit, and all of the general common elements are subject to such rights.

#### **Easement for Utilities**

Each Unit may have its air space penetrated by electrical wires and lines, gas lines, mechanical equipment including air handling ducts, hot and cold water lines, waste water lines and vents and other utility and mechanical lines, pipes or equipment. A nonexclusive easement shall exist through, over and across each unit for inspection, installation, maintenance, replacement and repair of such utility lines and mechanical equipment for the use of all of the Unit Owners or the Unit Owners being serviced by the air space being penetrated by such lines and/or equipment to a minimum, ingress and egress for the purpose of such inspection, installation, maintenance, replacement or repair of such easement rights shall only be done under the direction and approval and with the authority of the Owners Association and/or the Manager unless an emergency exists in which event any action may reasonably be taken which is justified under the circumstances to minimize damage which would otherwise occur as a consequence of such emergency.

#### **Interior Remodeling**

Each Unit Owner shall have the exclusive right to paint, repaint, tile, wax, paper, panel, carpet, brick or otherwise maintain, refinish and decorate the inner surfaces of the





walls, ceilings, floors, windows and doors bounding his own Unit, and the interior thereof, so long as such owner does not affect the structural integrity of the building in which his Unit is located.

**IV.**  
**OWNERSHIP AND VOTING - EXHIBITS - USE**

**Percentage of Interest**

Each Unit Owner shall be entitled to the exclusive ownership, use and possession of his Unit. Additionally, each Unit Owner shall have a percentage of undivided interest in the general common elements of **CHASE WAY**. Such percentage represents his ownership interest in the general common elements, and his liability for common expenses. The percentage of interest in the general common elements for the respective owners shall be computed by taking the value of each Unit at the date of filing this Declaration and dividing it by the then combined value of all the units having an interest in the general common elements of **CHASE WAY**. Such percentage of interest owned by each of the Units in **CHASE WAY** shall be according to the percentages set forth below:

**PHASE I**

<b><u>UNIT NO.</u></b>	<b><u>SQUARE FOOTAGE</u></b>	<b><u>PERCENT OF INTEREST IN GENERAL COMMON ELEMENTS</u></b>
314		6.76%
321A		6.66%
321B		6.66%
346A		6.66%
346B		6.66%
355A		6.66%
355B		6.66%
362A		6.66%
362B		6.66%
379A		6.66%
379B		6.66%
380A		6.66%
380B		6.66%
393A		6.66%
393B		6.66%



### Floor Plans and Exhibits

For identification and descriptive purposes the following Exhibits are attached and by reference hereto incorporated into and made a part of this Declaration:

Exhibit B: showing the floor plans and elevations for each of the Units of **CHASE WAY**, the area of each, and the dimensions and the designation for each Unit.

Exhibit C: showing the site plan of **CHASE WAY** and the location of the buildings containing **CHASE WAY** Units on the Property.

### Construction Materials

The principal materials of construction of the Units are concrete for the foundations, footings, and slabs, wood for the framing, structural and finish work, sheetrock, composite board, and plywood for the interior, carpet, wood or tile for the floors, lap siding for exterior wall surfaces, and shingles for the roof of the buildings.

### Use

The use of all of the units in **CHASE WAY** shall be for residential purposes only and there shall be no commercial use whatsoever, except that nothing shall prohibit a Unit Owner from leasing or renting his Unit to third persons or holding it out for lease or rental, or entering into an Agreement or contract with others for the lease or rental, or entering into an Agreement or contract with others for the lease or rental of his unit for residential use. However, the respective unit shall not be rented by the owners thereof for transient or hotel purposes, which shall be defined as rental for any period less than thirty (30) days; or any rental if the unit's occupants are provided customary hotel services, such as room service for food and beverage, maid service, laundry and linen service or bell boy service. The use of the general common areas shall be for the recreation and enjoyment of the Unit Owners, their guests, tenants, lessees and invitees. The units and common elements shall be limited as follows:

- (a) There shall be no obstruction of the common elements, nor shall anything be stored in or on the general common elements without the prior written consent of the Association. Owners with units which have usable space in the limited common area beneath the living area of their unit may use this space for storage provided such use does not constitute a hazard to any unit and does not block any access beneath the unit or obstruct any easement for utility service, or result in cancellation or rate increase of Association insurance. Each Owner shall be obligated to maintain and keep in good order and repair the interior of his own unit.



- (b) Nothing shall be done or kept in any Unit or in the common elements which will increase the rate of insurance on the building or contents thereof, without the prior written consent of the Association. No owner shall permit anything to be done or kept in his Unit or in the common elements which will result in the cancellation of insurance on the building, or contents thereof, or which would be in violation of any law. No waste will be permitted on the common elements.
- (c) Unit Owners shall not cause or permit anything to be hung or displayed on the outside of windows or placed on the outside walls of a building, and no sign, awning, canopy, radio or television antenna shall be affixed to or placed upon the exterior walls or roof of any part thereof, without the prior written consent of the Association. Seasonal decorations that are promptly removed after the season and reasonable name plates or identification signs for individual units may be allowed.
- (d) No nuisances shall be allowed upon the property nor shall any use or practice be allowed which is a source of annoyance to Unit Owners or which interferes with the peaceful possession and proper use of the property by its residents. No offensive or unlawful use shall be made of the property nor any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed.
- (e) Nothing shall be done in any unit or in, on or to the common elements which will impair the structural integrity of the building or which would structurally change the building, except as is otherwise provided herein.
- (f) No animals of any kind shall be raised, bred, or kept in any Unit, except that dogs, cats, and other household pets may be kept subject to rules and regulations from time to time adopted or amended by the Association. All dogs must be kept on a leash while on the condominium property in accordance with the laws of the City of Bozeman. Additionally, Unit Owners, their tenants, and any guests, shall be responsible for the immediate clean-up of any pet waste and the repair of any damage caused by pets to any of the general or limited common areas.
- (g) Nothing shall be altered or constructed in or removed from the common elements, and no easements, liens or encumbrances placed on the common elements, except upon the written consent of two-thirds of the aggregate interest of the Unit Owners affected by such action.
- (h) All garbage shall be kept in appropriate containers, and stored inside the garage for each Unit unless put out for collection. After collection, all garbage containers shall be placed back in the garage for each Unit.



However, all garages are to be used primarily for storage of Owner's vehicles.

- (i) Campers, trailers, boats and other recreational vehicles may only be brought onto the condominium properties for loading and unloading for immediate use. No inoperable vehicles, and no campers, boats, recreational vehicles, or trailers, shall be left parked in the condominium parking areas or on driveways or garage parking pads for more than 24 hours at one time. Repeated parking of such vehicles or trailers is also prohibited.

#### Exclusive Ownership

Each Owner or Owners shall be entitled to exclusive ownership and possession of their Unit. Such Owners may use the general and limited common elements in accordance with the purposes for which they are intended and as they may otherwise agree between themselves, so long as they do not hinder or encroach upon the lawful rights of other Unit Owners.

### V.

#### THE ASSOCIATION

##### Membership

Any Owner of a Unit in **CHASE WAY** shall automatically, upon becoming the Owner of said Unit, be a member of the Owners Association, hereinafter referred to as the Association, and shall remain a member of said Association until such time as his membership in said Association shall automatically cease. The membership shall be limited to Unit Owners as defined in this Declaration.

##### Function

It shall be the function of the Association to:

- (a) Adopt Bylaws for the governance of the Association.
- (b) Make provisions for the general management and/or repairs and maintenance of **CHASE WAY**.
- (c) Levy assessments as provided for in the Declaration, Bylaws and Unit Ownership Act.
- (d) Adopt and implement a policy for the affairs of the condominium.



- (e) Enter into contracts or hire personnel for the management of the affairs of the Association and the maintenance and repair of the common areas.
- (f) Be responsible for the perpetual maintenance of the landscaping, common open space, parking lots, and driving lanes.

### Voting

On all matters, unless excluded by this Declaration, to be decided by the Association, each Unit Owner shall have one vote. An owner of a condominium unit, upon becoming an Owner, shall be a member of the Association and remain a member for the period of his Unit Ownership. Except as otherwise provided in the Unit Ownership Act, this Declaration or the Bylaws, a majority of the aggregate interest present at any meeting or by proxy shall be sufficient to act on matters brought before the Association. Meetings of the Association shall only be conducted when a quorum is present, as defined in the Association Bylaws.

### Failure to Comply

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

### Payment of Assessments

All assessments shall be due ten (10) days from the date of mailing such assessment following the meeting at which time assessments are levied by the Association, and may be payable in one annual payment or in quarterly installments, at the option of the Unit Owner. The amount of the common expenses assessed against each Unit, and the amount of limited common expenses assessed against each Unit shall be the personal and individual debt of the owner thereof. No owner may exempt himself from liability for this contribution toward the common expenses and the limited expenses by waiver of the use of enjoyment of any of the general common elements or limited common elements or by abandonment of his Unit. All assessments which are not paid within thirty (30) days from the date they are due and payable become delinquent and are subject to interest and penalty charges.

The Association or Manager shall have the responsibility of taking prompt action to collect any unpaid assessment which becomes delinquent. In the event of delinquency in



the payment of the assessment, the Unit Owner shall be obligated to pay interest at the then current legal rate of interest per annum on the amount of the assessment from the due date thereof, together with all expenses, including attorney fees incurred, together with such interest and late charges as are provided in the Bylaws of the Association. Suit to recover a money judgment for unpaid common expenses and limited expenses may be maintainable without foreclosing or waiving the lien securing the same.

#### Levying Assessments - When Made - Purposes

The Association of Unit Owners shall levy assessments upon the Unit Owners in the following manner and for the following reasons:

- (a) Assessments shall be made as a part of the regular business of the Association at any regular or special meeting thereof as provided in the Bylaws of the Association. Notice of the assessment, amount thereof, and the purpose for which it is made whether regular or special, including an annual budget for expenditures and operation, shall be served on all Unit Owners affected by delivering a copy of the same to the Owner personally or by mailing a copy of the notice to the Owners at their addresses of record at least ten (10) days prior to the date of such meeting.
- (b) Assessments shall be made for the repair, replacement, general maintenance, management and administration of common elements, fees, costs and expenses of the manager, taxes for common areas if any, and for the Unit Owner's percentage share of any Special Improvement District Assessments. Assessments shall be based upon and computed by using the percentage of interest that each Unit Owner has in the general common elements.
- (c) Assessments may also be made for the payment of limited common element expenses such that the Unit Owners are chargeable only for the expenses relating to their respective units or building. Unit Owners shall share in the payment for limited expenses for the repair, maintenance and replacement of limited common elements of their respective Units in accordance with the percentage the Unit or Units have in the limited common elements for which the assessment is being made. If only one unit is associated with the limited common elements involved, then the entire cost of such repair, maintenance or replacement shall be borne by that Unit.
- (d) Assessments may also be made on a monthly basis or as otherwise determined by the Association for water usage, it being understood and acknowledged that there shall be one water meter for the Condominium complex which is read by the City of Bozeman and billed by the City of Bozeman to the Association. There may be one or more additional water



meters associated with **CHASE WAY** which are not read nor billed by the City of Bozeman. The Association shall and does hereby accept the responsibility for reading the non-City meters and for creating and distributing equitable assessments based upon usage as itemized by such meters. Assessments for water usage shall be paid to the Association within thirty (30) days of presentation of the same.

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

## VI.

### DECLARANT'S RIGHT TO CHANGE

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



Until seventy-five percent (75%) of each phase of units have been built and sold, Declarant reserves the right to establish easements, reservations, exceptions and exclusions consistent with the condominium ownership project. This provision shall apply to each phase of the condominium as set out in the expansion provisions.

Notwithstanding any other provision expressly or impliedly to the contrary contained in this Declaration, the Articles of Incorporation or Bylaws of the Association, Declarant reserves the right to exercise the rights, duties and functions of the Board of Directors of the Association until seventy-five percent (75%) of the condominium units in the first phase have been sold. During the period of development and sale of the remaining condominium units, the monthly assessment for common expenses shall be based upon the estimate of the actual cost thereof, excluding therefrom any estimated amount for contingencies, reserves or sinking funds, and Declarant shall pay his pro rata share thereof only for those condominium units which have been completed. During the period when fewer than all of the Units have been erected, the common expenses shall be allocated among the Owners of such existing Units, and during such period, Declarant shall pay the real estate taxes and assessments on that part of the land described in Exhibit "A" which remains undeveloped but on which condominium units will be subsequently constructed.

## VII.

### AMENDMENT

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

At any regular or special meeting of the Association of Unit Owners, such amendment may be proposed as a resolution by any Unit Owner, the Board or Manager. Upon adoption of the resolution by a majority vote of those present, the amendment shall be made a subject for consideration at the next succeeding meeting of the Association with notice thereof, together with a copy of the amendment, to be furnished to each owner no later than thirty (30) days in advance of such meeting. At such meeting, the amendment shall be approved upon receiving the favorable vote of seventy-five percent (75%) of the total percentage vote of all the Unit Owners. If so approved, it shall be the responsibility of the Association to file the amendment with the Clerk and Recorder's Office of Gallatin County, Montana.

Notwithstanding the procedure set forth above, the Declarant may amend this Declaration, or any other project document, prior to any sale or lease of a Unit or interest thereof.





## VIII.

### **CHANGES, REPAIRS AN LIENS**

#### **Alterations by Unit Owners Association**

The interior plan of a Unit may be changed by the owner. The boundaries between Units may be changed only by the Owners of the Units affected. No Units may be subdivided. No change in the boundaries of Units shall encroach upon the boundaries of the common elements.

Boundary walls must be equal in quality of design and construction to the existing boundary walls. A change in the boundaries between Units shall be set forth in an amendment to this Declaration. In addition to compliance with the provisions of Paragraph VII above, such amendment must further set forth and contain plans for the Units concerned showing the Units after the change in boundaries, which plans shall be drawn by an architect licensed to practice in Montana, and attached to the amendment as exhibits, together with the certificate of architect or engineer required by the Unit Ownership Act. Such an amendment shall be signed and acknowledged by the owners of the Units concerned, as well as those owners with an interest in any common element affected. The amendment shall also be approved by the Board of Directors of the Association, and signed and acknowledged by all lienors and mortgagees of the Units concerned.

#### **Maintenance by Unit Owners**

Each owner shall maintain and keep in repair the interior of his own Unit, including the fixtures thereof. All fixtures and equipment installed in the Unit, commencing at a point where the utilities enter the Unit, shall be maintained and kept in repair by the owner thereof. An owner shall do no act nor any work that will impair the structural soundness or integrity of the building or impair any easement.

Each owner shall also keep any balcony, entrance or deck area appurtenant to this Unit in a clean and sanitary condition. The right of each owner to repair, alter, and remodel is coupled with the obligation to replace any finishing or other materials removed with similar type or kinds of materials. All glass replacement shall be with similar quality, shade and design. No act or alteration, repairing or remodeling by any Unit Owner shall impair in any way the integrity of the adjoining units or the integrity of limited common elements or general common elements.

#### **Exterior Alterations**

No Owner may change, alter or remodel the exterior of his Unit without the prior written approval of the Association.



### Liens for Alterations

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

### Liens and Foreclosure

All sums assessed but unpaid for the share of general common expenses and limited common expenses chargeable to any Unit shall constitute a lien on such Unit superior to all other liens and encumbrances, except only for tax and special assessment liens on the Unit in favor of any assessing authority, and all sums unpaid on a first mortgage, a first trust indenture, or contract for deed of record. To evidence such lien, the Association shall prepare a written notice of lien assessment setting forth the amount of such unpaid indebtedness, the amount of accrued interest and late charges thereon, the name of the Unit Owner, and a description of the Unit. Such notice shall be signed and verified by one of the officers of the Association or by the Manager, or his authorized agent, and shall be recorded in the office of the Clerk and Recorder of Gallatin County, Montana. Such lien shall attach from the date of recording such notice. Such lien may be enforced by the foreclosure of the defaulting Owner's Unit by the Association as provided in the Unit Ownership Act in like manner as foreclosure of a mortgage on real property. In any foreclosure, the Unit Owner shall be required to pay a reasonable rental for the unit, if so provided in the Bylaws, and the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect the same. Suit to recover a money judgment for unpaid common expenses shall be maintainable without foreclosure or waiving the lien securing the same. In any such proceeding the Owner may be required to pay the costs, expenses and attorney's fees incurred in filing a lien, and in the event of foreclosure proceedings, additional costs, expenses and attorney's fees incurred.

### Bidding at Foreclosure

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



## IX.

### INSURANCE

#### Purchase

All insurance policies upon **CHASE WAY** or limited common elements, property shall be purchased by the Association and shall be issued by an insurance Company authorized to do business in Montana.

- (a) **Named Insured:** The named insured shall be the Association individually and as agent for the Unit Owners without naming them. Such policies shall provide that payments for losses thereunder by the insurer shall be paid to the insurance Trustee hereinafter designated, and all policies and endorsements thereon shall be deposited with the insurance Trustee. Unit Owners may obtain insurance coverage, at their own expense, upon their own personal property and for their personal liability and living expense.
- (b) **Copies to Mortgagees:** One copy of each insurance policy and of all endorsements thereon shall be furnished by the Association to each mortgagee of a Unit Owner on request.

#### Coverage

- (a) **Casualty:** All buildings and improvements upon the land shall be insured in an amount equal to the full insurable replacement value, and all personal property included in the common elements shall be fully insured, with all such insurance to be based on current replacement value, as determined annually by the Board of Directors, but subject to such deductible clauses as are required in order to obtain coverage at reasonable costs. Such coverage shall afford protection against:
  - (1) Loss or damage by fire and other hazards covered by a standard extended coverage endorsement; and
  - (2) Such other risks as from time to time shall be customarily covered with respect to buildings similar in construction, location and use as the building on the land, including, but not limited to, vandalism and malicious mischief.
  - (3) Errors or Omissions Insurance for the Directors, Officers and Managers, if the Association so desires, in amounts to be determined by the Board.



The policies shall state whether air handling or service equipment, interior fixtures and carpets are included within the coverage in order that Unit Owners may insure themselves if the items are not insured by the Association.

- (b) **Public Liability:** In such amounts and with such coverage as shall be required by the Board of Directors of the Association, including, but not limited to, hired automobile and non-owned automobile coverage, if applicable, and with cross-liability endorsement to cover liabilities of the Unit Owners as a group to a Unit Owner.
- (c) **Other Insurance:** Such other insurance as the Board of Directors of the Association shall determine from time to time to be desirable and as may be required by the Federal and State laws.

### Premiums

Premiums for insurance policies purchased by the Association shall be paid by the Association as a common expense, except that the amount of increase in the premium occasioned by use, misuse, occupancy or abandonment of a Unit or its appurtenances or of the common elements by a Unit Owner shall be assessed against the Owner. Not less than ten (10) days prior to the date when a premium is due, evidence of such payment shall be furnished by the Association to each mortgagee listed in the roster of mortgagees.

### Insurance Trustee

All insurance policies purchased by the Association shall be for the benefit of the Association and the Unit Owners and their mortgagees as their interests may appear, and shall provide that all proceeds covering property losses shall be paid to such bank in Montana with trust powers as may be designated as insurance trustee by the Board of Directors of the Association, which trustee is herein referred to as the insurance trustee. The insurance trustee shall not be liable for payment of premiums, nor for the renewal or the sufficiency of policies, nor for the failure to collect any insurance proceeds. The duty of the insurance trustee shall be to receive such proceeds as are paid and hold the same in trust for the purposes elsewhere stated in this instrument and for the benefit of the Unit Owners, and their mortgagees in the following shares, but which shares need not be set forth on the records of the insurance trustee:

- (a) **Unit Owners -** An undivided share for each Unit Owner, such share being the same as the undivided share in the common elements appurtenant to his Unit.



- (b) **Mortgagees** - In the event a mortgagee endorsement has been issued as to a Unit, the share of the Unit Owner shall be held in trust for the mortgagee and the Unit Owner as their interests may appear; provided, however, that no mortgagee shall have any right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired, and no mortgagee shall have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds except distributions thereof made to the Unit Owner and mortgagee pursuant to the provision of this Declaration.

#### Distribution of Proceeds

Proceeds of insurance policies received by the insurance trustee shall be distributed to or for the benefit of the beneficial owners in the following manner:

- (a) **Miscellaneous:** Expenses of administration, the insurance trustee, and construction or remodeling supervision shall be considered as part of the cost of construction, replacement or repair.
- (b) **Reconstruction or Repair** - If the damage for which the proceeds are paid is to be repaired or reconstructed by the Association, the remaining proceeds shall be paid to defray the costs thereof as elsewhere provided. Any proceeds remaining after defraying such costs shall be distributed to the beneficial owners, remittances to Unit Owners and their mortgagees being payable jointly to them.
- (c) **Failure to Reconstruct or Repair** - If it is determined in the manner elsewhere provided that the damage for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed to the beneficial owners, remittances to Unit Owners and their mortgagees being payable jointly to them.
- (d) **Certificate** - In making distribution to Unit Owners and their mortgagees, the insurance trustee may rely upon a certificate from the Association made by its representative or Manager as to the names of the Unit Owners and their respective shares of distribution.

#### Association as Agent

The Association is irrevocably appointed agent for each Unit Owner and for each Owner of a mortgage or other lien upon a Unit and for each Owner of any other interest in the condominium property to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims.



## Benefit to Mortgagees

Certain provisions in this paragraph entitled "Insurance" are for the benefit of mortgagees or trust indenture beneficiaries of condominium parcels, and all such provisions are covenants for the benefit of any mortgagee of a Unit and may be enforced by such mortgagee or beneficiary.

## Reconstruction

### (a) Repair After Casualty

If any part of the condominium property shall be damaged by casualty, whether or not it shall be reconstructed or repaired shall be determined in the following manner:

- (1) Lesser Damage - If a Unit or Units are found by the Board of Directors of the Association to be tenantable after the casualty, the damaged property shall be repaired.
- (2) Greater Damage - If a Unit or Units are found by the Board of Directors to be not tenantable after the casualty, the damaged property shall be reconstructed or rebuilt.
- (3) Certificate - The insurance trustee may rely upon a certificate of the Association made by its president and secretary to determine whether or not the damaged property is to be reconstructed or repaired.

### (b) Plans and Specifications

Any reconstruction or repair must be substantially in accordance with the plans for specifications and the original improvements, or if not, then according to plans and specifications approved by the Board of Directors and by more than seventy-five percent (75%) of the Unit Owners, including the Owners of all Units the plans for which are to be altered. Any such reconstruction not in accordance with the original plans and specifications must be set forth in an amendment to the Declaration, which amendment shall be prepared and filed of record in accordance with the provisions of such amended filing, more particularly set forth in Paragraph VII and Paragraph VIII, subparagraph 1, hereinabove.

### (c) Responsibility

The responsibility for reconstruction or repair after casualty shall be the same as for maintenance and repair of the condominium property, and the Association shall work with the insurance trustee to carry out the provisions of this Article.



(d) Assessments

If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction or repair for which the Association is responsible, or if at any time during such reconstruction or repair, or upon completion of such reconstruction or repair, the funds for the payment of the costs thereof are insufficient, assessments shall be made against all Unit Owners in sufficient amounts to provide funds to the payment of such costs. Such assessments shall be in proportion to the Owner's percentage of interest in the general common elements.

(e) Construction Funds

The funds for payment of costs of reconstruction or repair after casualty, which shall consist of proceeds of insurance held by the insurance trustee and funds collected by the Association from assessments against Unit Owners, shall be disbursed in the sound discretion of the trustee and according to the contract of reconstruction or repair, which contract must have the approval of the Board and Unit Owners involved.

(f) Surplus

It shall be presumed that the first monies disbursed in payment of costs of reconstruction and repair shall be from the insurance proceeds. If there is a balance in a construction fund after payment of all costs of the reconstruction and repair for which the fund is established, such balance shall be paid to the Association for the use and benefit of the Unit Owners.

X.

**REMOVAL OR PARTITION - SUBDIVISION**

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

- (a) The Board of Directors of the Association must approve the plans of removal, partition or sale, including the details of how any partition or sale, and the distribution of property or funds, shall be accomplished.
- (b) The plan of removal, partition, or sale must be approved as provided in the Montana Unit Ownership Act. If approval for any of the foregoing is not required by the Unit Ownership Act, then approval shall be required from at least seventy-five percent (75%) of the Owners. Upon obtaining such approval, the Board shall be empowered to implement and carry out the plan of removal, partition, or sale.



- (c) No Unit may be divided or subdivided into a smaller Unit, nor any portion thereof sold or otherwise transferred, except as provided above.
- (d) This section shall not apply to the sale of individual Units and shall not be considered as a right of first refusal.
- (e) The common elements of **CHASE WAY** shall not be abandoned, partitioned, subdivided, encumbered, sold or transferred by removal or partition without compliance with all of the above requirements.

**XI.**

**REMEDIES**

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

**XII.**

**SEVERABILITY**

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

**XIII.**

**INTERPRETATION**

The provisions of the Declaration and of the Bylaws to be promulgated and recorded herewith, shall be liberally construed to effectuate the purpose of the Declaration and Bylaws and to create a building or buildings subject to and under the provisions of the Unit Ownership Act.

**XIV.**

**MISCELLANEOUS**

**Utility Easements**

In addition to the easement provided for herein, easements are reserved through the condominium property as may be required for utility services, including heat, air





conditioning, water, sewer, power, telephone, natural gas and cable television, in order to serve **CHASE WAY** adequately. However, such easements through the property or Units shall be only according to the plans and specification for the Unit building, as set forth in the recorded plat, or as the building is constructed, unless approved in writing by the Unit Owner.

#### Right of Access

The Association shall have the irrevocable right, to be exercised by the Manager or Board of Directors, to have access to each Unit from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any of the limited common elements therein or accessible therefrom, or for making emergency repairs therein necessary to prevent damage to the general or limited common elements or to any other Unit.

Damage to the interior or any part of the Unit resulting from maintenance, repair, emergency repair or replacement of any of the general or limited common elements, or as a result of an emergency repair within another Unit at the instance of the Association, shall be designated either limited or general common expenses by the Association and assessed in accordance with such designation.

#### Expenditures

No single expenditure or debt in excess of \$1,000.00 may be made or incurred by the Association or Manager without the prior approval of seventy-five percent (75%) of the Unit Owners.

#### Benefit

Except as otherwise provided herein, this Declaration shall be binding upon and shall inure to the benefit of the Declarant, the Association and each Unit Owner, and the heirs, personal representatives, successors and assigns of each.

#### Service of Process

The name and address of the person to receive service of process for the Homeowners Association until another designation is filed of record shall be:

**Don Bockhahn**  
1500 Mountain Goat Trail  
Bozeman, MT 59715

#### Warranties

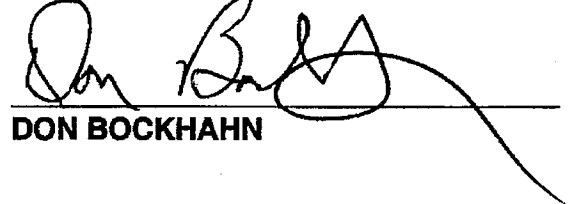
The Declarant expressly makes no warranties or representations concerning the property, the Units, the Declaration, Bylaws, or deeds of conveyance except as specifically set forth therein, and no one may rely upon such warranty or representation not so

2146371  
Page: 25 of 32  
04/13/2004 10:47A  
192.00  
Shelley Vance-Gallatin Co MT MISC

specifically expressed therein. Estimates of common expenses are deemed accurate, but no warranty or guarantee is made or is intended, nor may one be relied upon.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be made and executed according to the provisions of the Montana Unit Ownership Act, Title 70, Section 23, MCA.

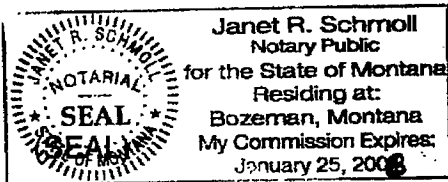
**BOCKHAHN GENERAL CONTRACTING  
INCORPORATED**

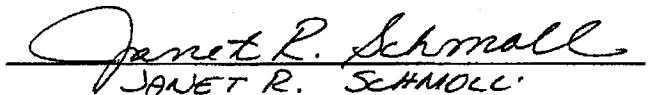
  
DON BOCKHAHN

STATE OF MONTANA    )  
                                  :SS.  
County of Gallatin    )

On this 2nd day of April, 2004, before me, a Notary Public for the State of Montana personally appeared DON BOCKHAHN, known to me to be the President of BOCKHAHN GENERAL CONTRACTING INCORPORATED, and acknowledged to me that he executed the same on behalf of the corporation by and through and authority vested in him.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal as of the day and year first above written.



  
\_\_\_\_\_  
JANET R. SCHMOLL  
Notary Public for the State of Montana  
Residing at: Bozeman  
My Commission expires: 1-25-2008

 **2146371**  
Page: 25 of 32  
04/13/2004 10:47A  
Shelley Vance-Gallatin Co MT MISC 192.00

# CHASE WAY CONDOMINIUM

## Legal Description

Parcel B of Certificate of Survey No. 2056, located in the NE¼ of Section 11, Township 2 South, Range 5 East, P.M.M., Gallatin County, Montana, according to the official plat thereof on file and of record in the office of the County Clerk and Recorder, Gallatin County, Montana.



**2146371**  
Page: 27 of 32  
04/13/2004 10:47A  
Shelley Vance-Gallatin Co MT MISC 192.00

ARCHITECT, SURVEYOR OR  
ENGINEER'S CERTIFICATE

The undersigned, being a duly registered architect, surveyor or engineer in the State of Montana, herewith certifies the following:

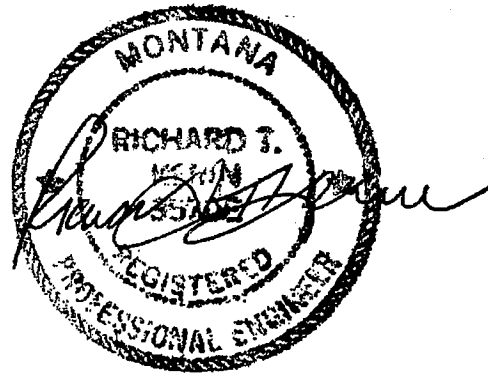
That pursuant to the provisions of MCA § 70-23-306(2), the floor plans for the **CHASE WAY CONDOMINIUMS**, located on:

Parcel B of Certificate of Survey No. 2056, located in the NE¼ of Section 11, Township 2 South, Range 5 East, P.M.M., Gallatin County, Montana, according to the official plat thereof on file and of record in the office of the County Clerk and Recorder, Gallatin County, Montana.

as duly filed with the Declaration and Bylaws thereof, depict the layout of the units and floors of the buildings as of this date.

Dated: 3/30/04

*Richard T. Jeffrin*  
RICHARD T. JEFFRIN  
Printed Name  
Registered RICHARD T. JEFFRIN  
Registration No. 3570 E.

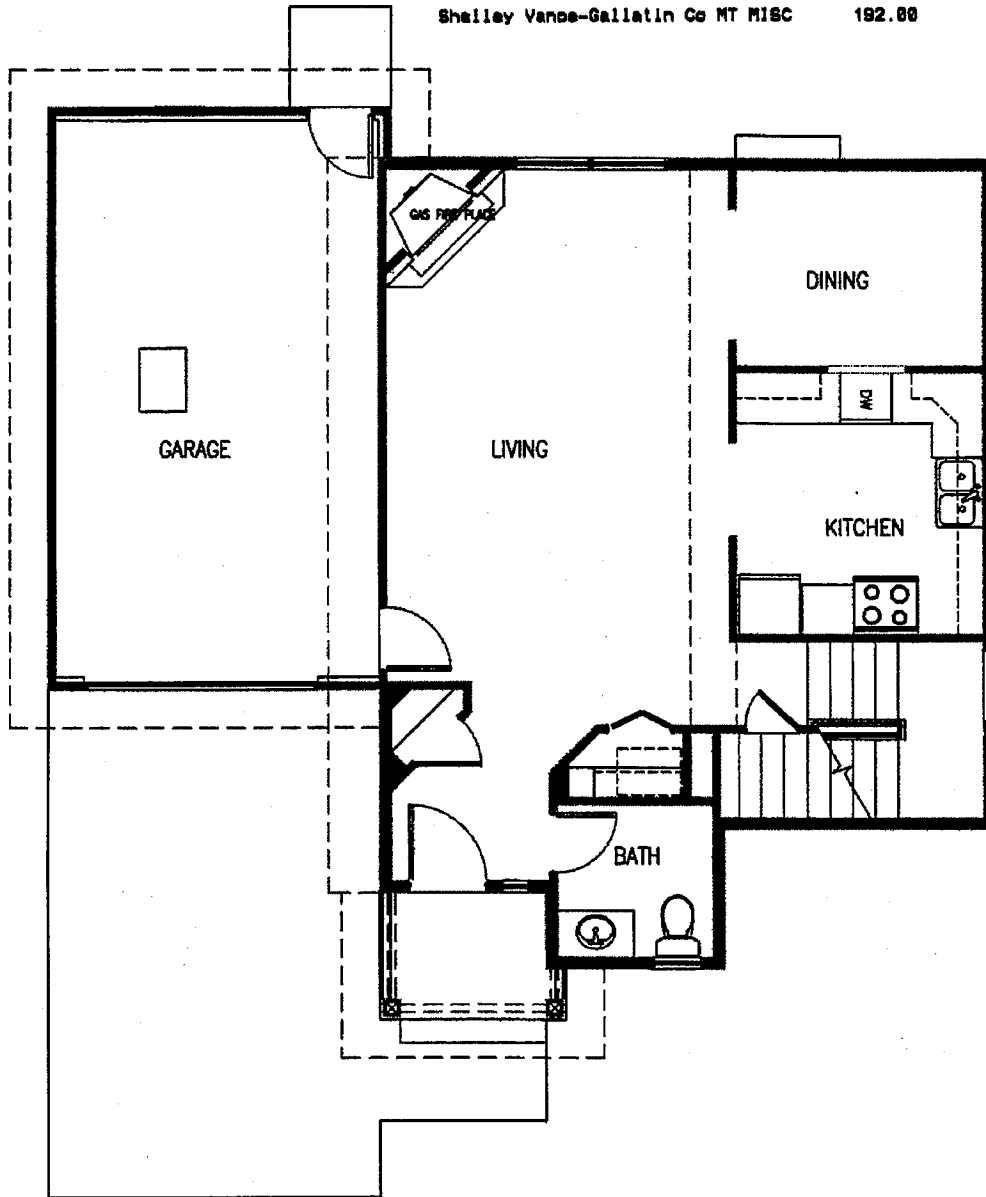


**2146371**  
Page: 28 of 32  
04/13/2004 10:47A




**2146371**  
 Page: 29 of 32  
 04/13/2004 10:47A

Shelley Vance-Gallatin Co MT MISC 192.00



SCALE: NTS

  
**KERIN & ASSOCIATES, P.C.**  
 CONSULTING ENGINEERS/SURVEYING/PLANNERS  
 3409 WEST MAIN, SUITE 2A, BOZEMAN, MONTANA 59718

**EXHIBIT "B",** TYPICAL FIRST FLOOR PLAN  
 CHASE WAY CONDOMINIUMS  
 BOZEMAN, MT

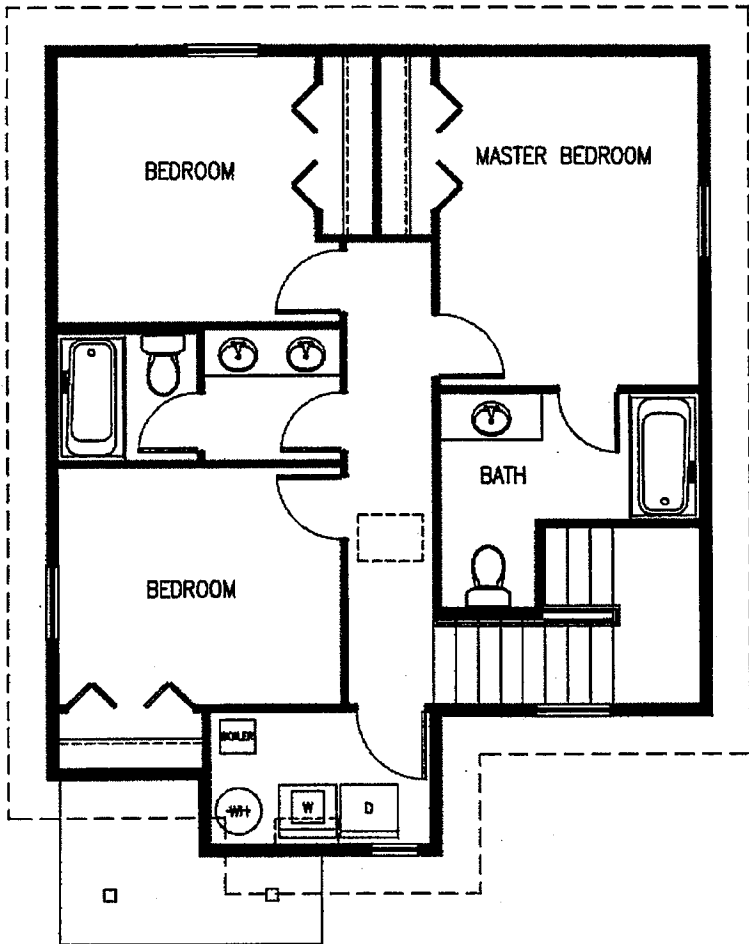
**EXHIBIT**

**B**



**2146371**  
 Page: 30 of 32  
 04/13/2004 10:47A

Shelley Vance-Gallatin Co MT MISC 192.00



SCALE: NTS



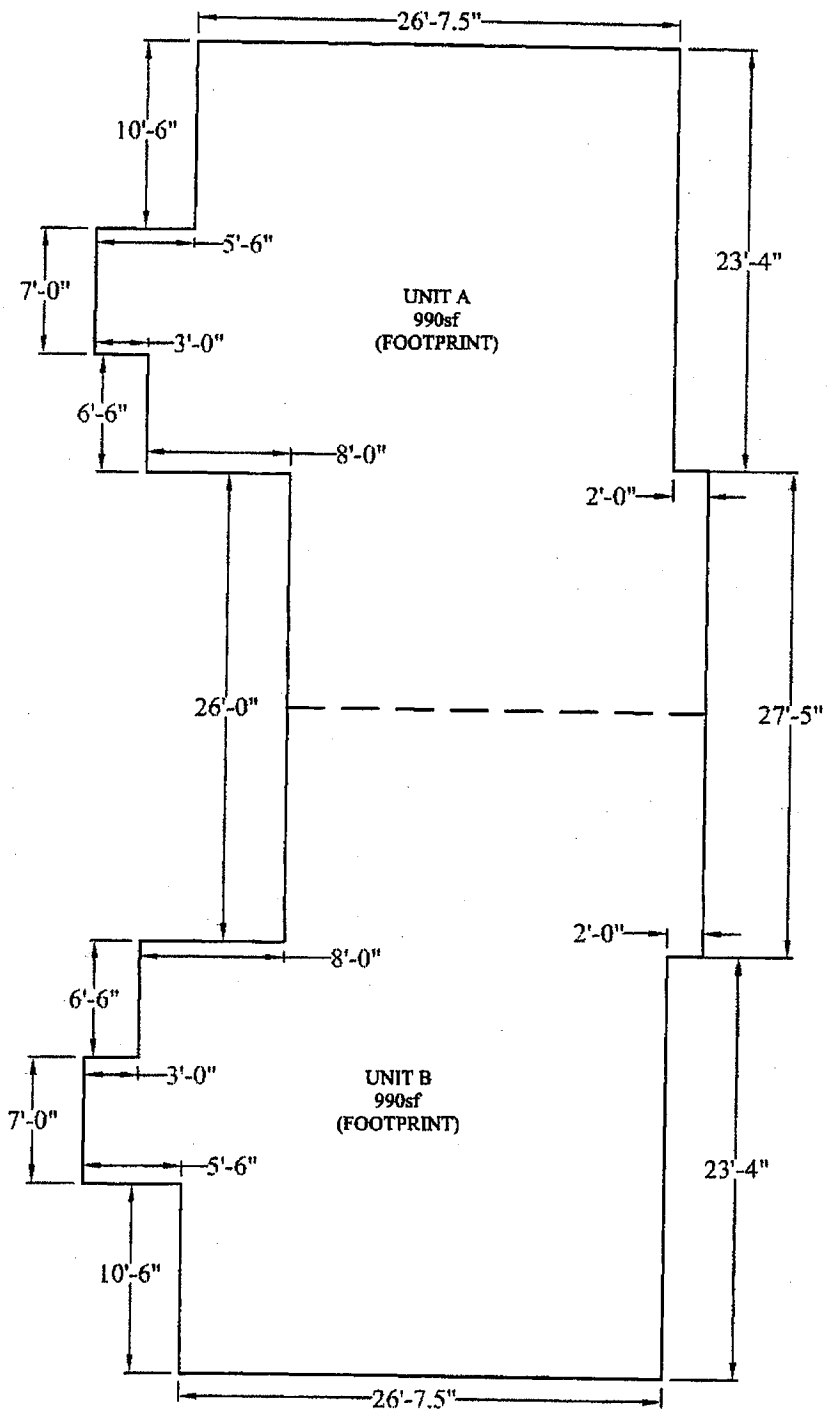
**KERIN & ASSOCIATES, P.C.**  
 CONSULTING ENGINEERS/SURVEYING/PLANNERS  
 8408 WEST MAIN, SUITE 2A, BOZEMAN, MONTANA 59715

**EXHIBIT "B", TYPICAL SECOND FLOOR PLAN  
 CHASE WAY CONDOMINIUMS  
 BOZEMAN, MT**

**EXHIBIT**

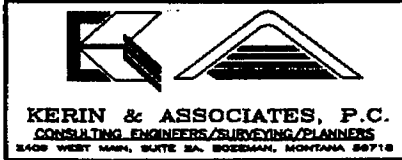
**B**

2146371  
 Page: 31 of 32  
 04/19/2004 10:47A  
 192.00  
 Shelley Vance-Gallatin Co MT RISC



SCALE 1" = 10'

FOOT PRINT SQUARE FOOTAGE = 990sf



**EXHIBIT "B" - FOOTPRINT, TYPICAL UNIT**  
 FOOTPRINT AND SQUARE FOOTAGE  
 CHASE WAY CONDOMINIUMS  
 BOZEMAN, MT

**EXHIBIT**  
 B

2146371

Page: 32 of 32  
04/13/2004 10:47A



192.00

Shelley Vance-Gallatin Co MT MISC



SCALE 1" = 60'

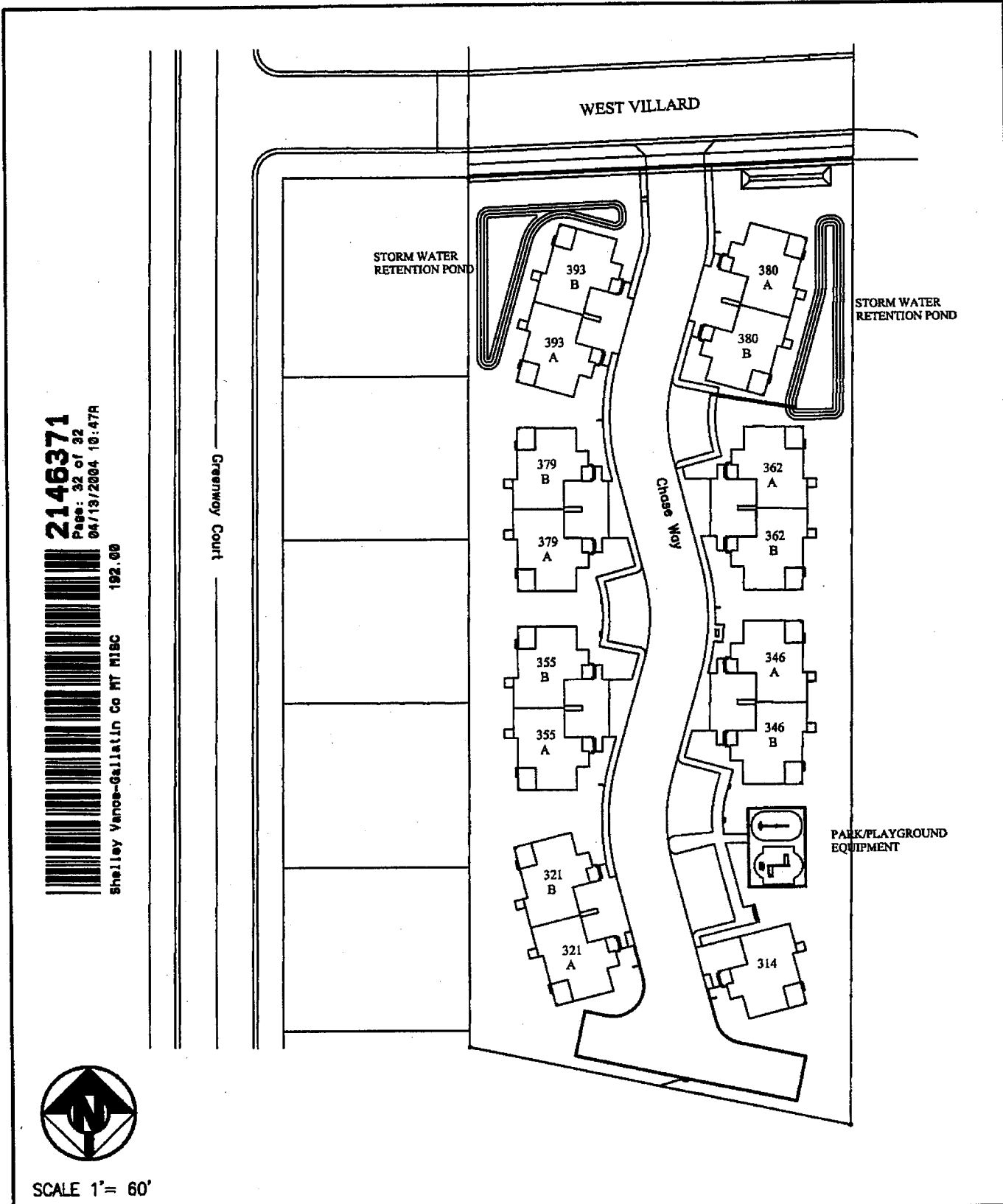


**KERIN & ASSOCIATES, P.C.**  
CONSULTING ENGINEERS/SURVEYING/PLANNERS  
2409 WEST MAIN, SUITE 2B, BOZEMAN, MONTANA 59718

**EXHIBIT "C" - SITE PLAN, INCLUDING  
UNIT DESIGNATIONS AND LOCATIONS  
CHASE WAY CONDOMINIUMS  
BOZEMAN, MT**

**CB & ASSOCIATES**  
**Professional Land Surveyors**

2409 West Main, Suite 2B  
Bozeman, MT 59718







2155841

Page: 1 of 3  
07/08/2004 10:55A

Shelley Vance-Gallatin Co MT MISC 18.00



**FIRST AMENDMENT**

**TO**

**DECLARATION for the  
CHASE WAY CONDOMINIUMS**

This First Amendment, made, entered into and executed this 29 day of June, 2004, by the undersigned Declarant, is as follows:

**WITNESSETH:**

WHEREAS, the Declarant did heretofore file a Declaration for the Chase Way Condominiums, which document was recorded in the office of the Gallatin County Clerk and Recorder as Document No. 2146371; and

WHEREAS, the Declarant is desirous of clarifying by this First Amendment certain aspects of the Condominium Declaration previously recorded as described above.

NOW, THEREFORE, the Declarant does hereby set forth and establish this First Amendment to the Declaration for the Chase Way Condominiums as follows:

1. That the recitals as set forth above are hereby incorporated herein by reference.
2. That the title of the document shall hereafter be known and referred to as Declaration and Bylaws for the Chase Way Condominiums.
3. That any mortgagee claiming an interest in and to the Condominium units by virtue of any security agreement, deed of trust, mortgage, lien or otherwise, shall have the right to inspect and examine the homeowners

Accommodation Recording Only  
STC 22004



association documents, financial records, books, minutes and other papers kept in the ordinary course of business by the homeowners association.

4. Any mortgagee claiming an interest in the Condominium complex by deed of trust, mortgage or otherwise, shall be entitled to written notice of any material change to the Condominium complex including, but not limited to, any taking by eminent domain or condemnation, fire or casualty loss to common elements effecting a mortgagee, and any claim, cause of action, lawsuit or demand against the homeowners association.
5. That the units within the Chase Way Condominium shall only be used for residential purposes. They shall not be established, used, sold or marketed as time share condominiums nor as commercial condominiums. Nothing herein shall prohibit the operation of an in-home business, so long as such activity can be conducted without changing or altering the residential character of the unit or surrounding property.
6. Any unit leased must be leased for a period of thirty (30) days or more. No unit may be leased for increments, periods or terms of less than 30 days.
7. That except for the specific changes and amendments set forth herein, each and every one and all of the terms and conditions of the original Declaration remain in full force and effect, except where modified or inconsistent with the provisions of this First Amendment.

