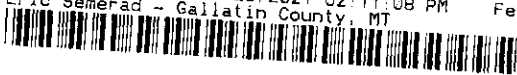


After recording, please return to:  
Wallace Babcock Properties, LLC  
101 South Wallace Ave, Suite 301  
Bozeman MT 59715

**2718834**

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Eric Semerad - Gallatin County, MT MISC



# DECLARATION AND BYLAWS

FOR

# WALLACE COMMERCIAL CONDOMINIUM

## **WALLACE COMMERCIAL CONDOMINIUM DECLARATION**

This Wallace Commercial Condominium Declaration is made by and entered into by WALLACE-BABCOCK PROPERTIES, LLC, a Montana limited liability company ("Declarant").

### **RECITALS:**

The Declarant holds title to the Development. Declarant intends to submit and subject the Property to this Wallace Commercial Condominium Declaration and the Act.

The Declarant holds title to the Development, which is commonly known as 100 South Wallace Avenue and 548 East Babcock Street, Bozeman, Gallatin County, Montana. Immediately prior to the recording of this Declaration, the Declarant, as the "Administrative Entity", recorded that certain Declaration of Cross Easements and Cost Sharing Provisions for Wallace-Babcock Project ("DCE") with respect to the Development. By recording this Declaration, the Declarant shall make the Property hereunder subject to this Declaration and the Act as the "Wallace Commercial Condominium" (as that term is defined in the DCE). Immediately after recording of the DCE and this Declaration, the Administrative Entity will also Record the "Wallace Residential Condominium Declaration" (as that term is defined in the DCE) which will create the "Wallace Residential Condominium" (as that term is defined in the DCE). This Wallace Commercial Condominium Declaration will be recorded with respect to that portion of the Development which is below a horizontal plane between the ceiling of the third floor of the Wallace Building and the floor of the fourth floor of the Wallace Building. The Wallace Residential Condominium Declaration will be recorded with respect to the portion of the Development which is above such horizontal plane. The portion of the Development which will be subject to each of this Wallace Commercial Condominium Declaration and the Wallace Residential Condominium Declaration is legally described in Exhibit A to the DCE and depicted on Exhibit B to the DCE. Thus, after the recording of the DCE and this Wallace Commercial Condominium Declaration, the Property hereunder will be subject to the terms of the DCE and will also be subject to the terms of this Wallace Commercial Condominium Declaration. Similarly, after the Recording of the DCE and the Wallace Residential Condominium Declaration, the Wallace Residential Condominium will be subject to the terms of the Wallace Residential Condominium Declaration and the DCE. In the event of a conflict between the terms of this Declaration or the terms of the Wallace Residential Condominium Declaration and the terms of the DCE, to the extent not prohibited by applicable law, the terms of the DCE shall prevail.

Pursuant to the terms of the DCE, the Administrative Entity shall be responsible for the maintenance, repair and replacement of certain portions of the Development and the Buildings, including portions of the Common Elements hereunder. The Condominium Association shall be responsible for the administration of the Condominium and the maintenance, repair and replacement of the Common Elements (other than those maintained, repaired and replaced by the Administrative Entity pursuant to the DCE), and shall set budgets and fix assessments to pay the expenses incurred in connection with

such duties and for the payment of amounts due to the Administrative Entity pursuant to the terms of the DCE. Each Owner of a Unit shall be assessed to pay the Owner's proportionate share of the Common Expenses required to operate the Condominium and amounts due to the Administrative Entity, all as more fully provided for in this Condominium Declaration and the DCE.

The Declarant shall retain certain rights set forth in this Condominium Declaration with respect to the Condominium Property and the Condominium Association including, without limitation, the right, prior to the Turnover Date, to appoint all members of the Board, the right to come upon the Property in connection with efforts to promote the sale or rental of Units and other rights reserved in Article Ten.

NOW, THEREFORE, Declarant as record title holder of the Property, hereby declares as follows:

**ARTICLE ONE**  
Definitions

For the purpose of brevity and clarity, certain words and terms used in this Condominium Declaration are defined as follows:

1.01 ACT: The Unit Ownership Act of the State of Montana, as amended from time to time.

1.02 BOARD: The board of directors of the Condominium Association, as constituted at any time or from time to time.

1.03 BABCOCK BUILDING: The two-story building containing Unit 548 of the Wallace Commercial Condominium and located at 548 East Babcock Street on the Development.

1.04 BUILDINGS: Both the Babcock Building and the Wallace Building.

1.05 BYLAWS: The Bylaws of the Condominium Association which are attached hereto as Exhibit I.

1.06 COMMON ELEMENTS: All of the Condominium Property, except the Units.

1.06 COMMON EXPENSES: The expenses of administration (including management and professional services) of the Property; except as otherwise specifically provided herein, the cost of maintenance, repair, and replacement of the Common Elements; except as specifically provided herein, the cost of additions, alterations, or improvements to the Common Elements; the cost of insurance required or permitted to be obtained by Board under Article Five; utility expenses for the Common Elements; any expenses designated as Common Expenses by the Act, this Condominium Declaration, or the Bylaws; if not separately metered or charged to the Owners, the cost of waste removal, water, sewer, or other necessary utility services to the Property; and any other

expenses lawfully incurred by or on behalf of the Condominium Association for the common benefit of all of the Owners. The Common Expenses shall include any amounts payable by the Association to the Administrative Entity under the DCE.

1.07 CONDOMINIUM or THE CONDOMINIUM. The Wallace Commercial Condominium created by this Condominium Declaration

1.07 CONDOMINIUM ASSOCIATION OR ASSOCIATION: The Wallace Commercial Condominium Association, a Montana non-profit corporation, its successors and assigns.

1.08 CONDOMINIUM DECLARATION OR DECLARATION OR WALLACE COMMERCIAL CONDOMINIUM DECLARATION: This instrument with all Exhibits hereto, as amended or supplemented from time to time.

1.09 COUNTY: Gallatin County, Montana, or any political entity which may from time to time be empowered to perform the functions or exercise the powers vested in the County as of the recording of this Condominium Declaration.

1.10 DECLARANT: WALLACE-BABCOCK PROPERTIES, LLC, a Montana limited liability company, its successors and assigns.

1.11 DECLARATION OF CROSS EASEMENTS AND COST SHARING PROVISIONS or DCE: That certain Declaration of Cross Easements and Cost Sharing Provisions recorded with respect to the Development immediately before the Recording of this Declaration.

1.12 DEVELOPMENT: The real estate described in Exhibit A hereto with all improvements thereon and rights appurtenant thereto.

1.14 EXCLUSIVE LIMITED COMMON ELEMENTS: With respect to each Unit, the following Limited Common Elements shall be Exclusive Limited Common Elements:

(a) Perimeter doors and door frames, windows and window frames which serve the Unit;

(b) The interior surface of the perimeter walls, ceilings and floors which define the boundary planes of the Unit;

(c) Any system or component part thereof which serves one Unit exclusively to the extent that such system or component part is located outside the boundaries of the Unit, including the air-conditioning units which are located on the roof of the Building;

(d) The storage area, if any, assigned to each Unit;

(e) Ducts, cables, conduits, pipes, and utility lines where they service only one Unit;

(f) Balconies, entrances, stoops, furnaces, patios, boilers, hot water tanks, and fixtures, or other portions of the Buildings servicing only one Unit; and

(g) The entire Babcock Building containing Unit 548 (but excluding Unit 548 itself) and all systems or components attached to the outside of the Babcock Building shall be an Exclusive Limited Common Element to Unit 548

1.15 FIRST MORTGAGE: A bona fide first mortgage, first trust deed or equivalent security interest covering a Unit Ownership.

1.16 FIRST MORTGAGEE: An institutional holder, insurer or guarantor of a First Mortgage.

1.17 FLOOR PLANS: The floorplans attached hereto as Exhibit C, as such exhibit may be amended or supplemented from time to time, which sets forth the measurements, elevations, and locations of the Condominium Property, the location of the planes which constitute the perimeter boundaries of each Unit, a distinguishing number or other symbol to identify each Unit and such other data as may be required by the Act or this Condominium Declaration.

1.18 LIMITED COMMON ELEMENTS: A portion or portions of the Common Elements which are reserved for the use of fewer than all of the Owners and guests of Unit Owners and which may further be designated by this Declaration or the Floor Plans as being a Limited Common Element appurtenant to and for the exclusive use of Owners of one or more, but less than all, of the Units. See Section 1.14 for the definition of those Limited Common Elements which shall be Exclusive Limited Common Elements hereunder.

1.19 MUNICIPALITY: The City of Bozeman, Montana.

1.24 OCCUPANT: An individual who occupies in a Unit and who is either an Owner, a tenant of the Owner, a contract purchaser of the Unit, or a relative of any such Owner, tenant or contract purchaser.

1.21 OWNER: A Record owner, whether one or more Persons, of fee simple title to any Unit, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

1.22 PERSON: A natural individual, corporation, partnership, trustee or other legal entity capable of holding title to real property.

1.23 PROPERTY OR CONDOMINIUM PROPERTY: All the land, property and space legally described in Exhibit B hereto, all improvements and structures erected, constructed or contained therein and thereon, and all easements, rights and appurtenances belonging thereto, and all fixtures and equipment intended for the mutual use, benefit or enjoyment of the Owners, hereby or hereafter submitted and subjected to the provisions of this Condominium Declaration and the Act as part of the Condominium Property. For avoidance of doubt, the Condominium Property consists of the entire Development except that portion within the Wallace Residential Condominium.

1.24 RECORD: To record with the Clerk and Recorder of Deeds of the County.

1.25 TURNOVER DATE: The date on which any one of the following shall first occur:

(a) Sixty (60) days after Declarant has conveyed 100% of the number of Units which are subject to this Condominium Declaration; or

(b) The date designated in written notice from the Declarant to all of the Owners as being the Turnover Date.

1.26 UNDIVIDED INTEREST: The percentage of ownership interest in the Common Elements appurtenant to a Unit as herein and hereafter allocated on Exhibit D hereto, as Exhibit D may be amended from time to time.

1.28 UNIT: A part of the Condominium Property designed or intended for independent use and having lawful access to a public way. Each Unit shall consist of the space enclosed and bounded by the planes constituting the boundaries of such Unit as shown on the Floor Plans and as defined below and the fixtures and improvements located wholly within such boundaries which serve such Unit exclusively. There are ten (10) Units in the Condominium. Each Unit is identified on the Floor Plans by a distinguishing number as Units 101, 201, 301, 548, G1, G2, G3, G4, G5 and G6.

#### 1.29 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 ceiling joists of the uppermost floor for the Unit.

2. Lower Boundary: the plane of the lowest surface of the floor joists of the lowest floor for the Unit.

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 of the innermost interior surface of the exterior walls of the Buildings except that such boundary shall be extended so as to include within it all windows and doors 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 a boundary wall shall be the median line drawn between the two outermost boundaries of such wall.

A Unit shall not include the following, wherever located:

(a) any structural components of the Condominium Property; or

(b) any component of a system which serves more than one Unit where such component is an integral part of such system and is not intended to serve the Unit exclusively.

1.28 **UNIT OWNERSHIP:** A part of the Condominium Property consisting of one Unit and its Undivided Interest.

1.29 **VOTING MEMBER:** The individual who shall be entitled to vote in person or by proxy at meetings of the Owners, as more fully set forth in Article Four.

1.30 **WALLACE BUILDING:** The five-story building located at 101 South Wallace Avenue on the Development.

## **ARTICLE TWO**

### **Scope of Condominium Declaration and Certain Property Rights**

2.01 **REAL ESTATE SUBJECT TO CONDOMINIUM DECLARATION:** Declarant, as the owner of fee simple title to the Property, expressly intends to and, by recording this Condominium Declaration, does hereby subject and submit the Property to the provisions of the Act and this Condominium Declaration.

2.02 **CONVEYANCES SUBJECT TO CONDOMINIUM DECLARATION:** All easements, restrictions, conditions, covenants, reservations, liens, charges, rights, benefits, and privileges which are granted, created, reserved or declared by this Condominium Declaration shall be deemed to be covenants appurtenant, running with the land and shall at all times inure to the benefit of and be binding on any Person having at any time any interest or estate in the Condominium Property, and their respective heirs,

successors, personal representatives or assigns, regardless of whether the deed or other instrument which creates or conveys the interest makes reference to this Condominium Declaration.

2.03 ENCROACHMENTS: In the event that, by reason of the construction, repair, reconstruction, settlement or shifting of the Condominium Property or any part thereof, (i) any part of the Common Elements encroaches or shall hereafter encroach upon any part of any Unit, or (ii) any part of any Unit encroaches or shall hereafter encroach upon any part of any other Unit or the Common Elements, then, in any such case, there shall be deemed to be an easement in favor of the Owners for the maintenance and use of any of the Common Elements which may encroach upon a Unit and there shall be deemed to be an easement in favor of any Owner for the exclusive use of any part of his Unit which shall encroach upon the Common Elements or any other Unit; provided, however, that in no event shall an easement for any encroachment be created in favor of any Owner if such encroachment occurred due to the intentional, willful or negligent conduct of such Owner or the Owner's agent.

2.04 OWNERSHIP OF COMMON ELEMENTS: Each Owner shall own an undivided interest in the Common Elements as a tenant in common with all the other Owners. Each Unit's corresponding percentage of ownership in the Common Elements (Undivided Interest) has been determined by Declarant, as required under the Act, and is set forth in Exhibit D attached hereto. Exhibit D may not be changed without unanimous written approval of all Owners and all First Mortgagees, except as hereinafter provided in Section 8.03 and Section 5.06 or 5.07, or as permitted under the Act. The Common Elements shall remain undivided and no Owner shall bring any action for partition.

2.05 OWNERS' RIGHTS TO USE THE COMMON ELEMENTS:

(a) Each Owner shall have the right to use the Common Elements (except the Limited Common Elements or portions occupied pursuant to leases, licenses or concessions made by the Board) in common with all other Owners, as may be required for ingress and egress to and from his or her respective Unit, and for such other purposes not prohibited hereunder.

(b) Each Owner shall have the right to the exclusive use and possession of his or her Unit and the Exclusive Limited Common Elements which serve his or her Unit. Each Owner shall have the right to the non-exclusive use, in common with other Owners, of the Limited Common Elements which serve his Unit and the Units of such other Owners.

(c) The rights to use and possess the Common Elements, including the Limited Common Elements, as herein provided, shall extend to each Owner, and the agents, servants, tenants, and invitees of each Owner and such rights and easements shall be subject to and governed by the provisions of the Act, this Condominium Declaration, the Bylaws, and the reasonable rules and regulations of the Board.



2.06 LEASE OF COMMON ELEMENTS: The Board shall have the right and authority, subject to the provisions of this Condominium Declaration and the Bylaws, to lease or grant licenses or concessions with regard to parts of the Common Elements (other than Limited Common Elements). The rental, fees and terms of any such lease, license or concession shall be determined by the Board and any and all proceeds therefrom shall be used to pay the Common Expenses and shall be taken into account in the preparation of the annual budget.

2.07 UTILITY EASEMENTS: All public utilities serving the Condominium Property are hereby granted the right to lay, construct, renew, operate, and maintain conduits, cables, pipes, wires, transformers, switching apparatus and other equipment, into and through the Condominium Property for the purpose of providing utility services to the Development.

2.08 ADDITIONAL EASEMENTS: In addition to the easements provided for herein, the Board, on behalf of all of the Owners, shall have the right and power (a) to grant such easements with respect to the Common Elements (except the Limited Common Elements) as the Board deems necessary and proper, including, without limitation, access easements for emergency and service vehicles operated by any governmental authority or private enterprise and/or easements related to the installation and operation of a cable or satellite television system or other communication systems and/or (b) to agree to cancel, alter, change or modify any easement which affects the Condominium Property and does not benefit an Owner, as the Board shall, in its discretion, determine. Without limiting the foregoing, until such time as the Declarant no longer holds title to a portion of the Development, the Board shall grant such easements as the Declarant may from time to time request including, but not limited to, such easements as may be required to construct, keep and maintain improvements upon the Common Elements or to provide owners of portions of the Development with necessary utility services. Each Person, by acceptance of a deed, mortgage, trust deed, other evidence of obligation, or other instrument relating to a Unit Ownership, shall be deemed to grant a power coupled with an interest to the Board, as attorney-in-fact to, grant, cancel, alter or otherwise change the easements provided for in this Section. Any instrument executed pursuant to the power granted herein shall be executed by the President and attested to by the Secretary of the Condominium Association and duly recorded. The County, the Municipality and any other governmental authority which has jurisdiction over the Condominium Property or which undertakes to provide services to the Condominium Property are hereby granted a non-exclusive, perpetual easement for access over and across the Condominium Property for police, fire, ambulance, waste removal, snow removal services, or for the purpose of furnishing other municipal or emergency services to the Condominium Property. The Administrative Entity shall have a non-exclusive, perpetual easement for access over and across the Condominium Property for the purpose of furnishing services, as permitted under the DCE.

2.09 BOARD'S RIGHT OF ENTRY: The Board or its agents, upon reasonable notice or, in the case of an emergency, without notice, shall have the right to enter any Unit, including any of the appurtenant Limited Common Elements, when necessary in

exercise of its authority under Section 3.02, or in connection with any maintenance, repair and replacement for which the Board is responsible. Such entry shall be made with as little inconvenience to the Owners as practicable, and any damage caused thereby shall be repaired by the Board, as a Common Expense.

2.10 SEPARATE MORTGAGES: Each Owner shall have the right, subject to the provisions herein, to make a separate mortgage or encumbrance or other lien on his respective Unit Ownership. No Owner shall have the right or authority to make or create, or to cause to be made or created, any mortgage or encumbrance or other lien on or affecting the Condominium Property or any part thereof, except only to the extent of the Owner's Unit Ownership.

2.11 LEASE OF UNITS: Any Owner shall have the right to lease all (and not less than all) of his Unit subject to Section 10.02 and to the provisions of subsections (a) and (b):

(a) Any lease shall be in writing and shall provide that such lease shall be subject to the terms of this Condominium Declaration and that any failure of the lessee to comply with the terms of this Condominium Declaration shall be a default under the lease. A lessee shall be bound by the provisions hereof regardless of whether the lease specifically refers to this Condominium Declaration.

(b) Each Owner who leases a Unit shall be required to furnish the Condominium Association with a copy of the lease and shall promptly notify the Condominium Association of any change in status of the lease. The Condominium Association shall maintain a record of such information with respect to all leased Units.

2.12 MECHANICS LIENS: The Board may cause to be discharged any mechanic's lien or other encumbrance which, in the opinion of the Board, may constitute a lien against the Condominium Property or Common Elements, rather than against a particular Unit Ownership. When less than all the Owners are responsible for the existence of any such lien, the Owners responsible shall be jointly and severally liable for the amount necessary to discharge the same and for all costs and expenses (including attorney's fees and expenses) incurred by reason of such lien.

2.13 SHARING OF EXPENSES: To the extent possible and where economies of scale may be realized, the Condominium Association, the Administrative Entity, and/or other condominium associations established to administer, or other owners of, portions of the Development, from time to time, may agree to share certain expenses in connection with the administration, operation and maintenance of the Condominium Property and other portions of the Development, on terms agreed to by the Condominium Association, the Administrative Entity, and/or other condominium associations established to administer, or owners of, other portions of the Development.

2.14 PRINCIPAL MATERIALS OF CONSTRUCTION.

(a) The principal materials of construction of the Wallace Building are concrete for the foundations, footings, and slabs; steel for the framing and structural work; sheet rock, composite board, wood products, and plywood for the interior; carpet, wood, wood products, or tile for the floors; metal, fiber cement and wood-product siding for exterior wall surfaces, and rubberized membrane for the roof of the Building.

(b) The principal materials of construction of the Babcock Building are concrete for the foundations, footings, and slabs; steel and wood for the framing and structural work; sheet rock, stainless steel, composite board, wood products, and plywood tile for the interior; carpet, wood, wood products, or tile for the floors; metal, fiber cement and wood-product siding for exterior wall surfaces, and rubberized membrane for the roof of the Building.

### **ARTICLE THREE**

#### **Use, Occupancy and Maintenance of the Property**

#### 3.01 MAINTENANCE, REPAIR AND REPLACEMENT BY CONDOMINIUM ASSOCIATION:

(a) Except as otherwise specifically provided in the DCE or this Condominium Declaration, decorating, maintenance, repair and replacement of the Common Elements, and improvements located thereon, shall be furnished by the Condominium Association as part of the Common Expenses.

(b) Except as hereinafter provided, with respect to a particular category or class of Limited Common Elements (other than the Exclusive Limited Common Elements appurtenant to a Unit), instead of furnishing the maintenance, repair or replacement of such category or class of Limited Common Elements as a Common Expense, the Board may, in its discretion, (i) require each Owner to furnish such services to the Limited Common Elements which are appurtenant to his Unit at his own expense, or (ii) furnish such services to the Limited Common Elements but assess the cost thereof directly to the Owners of Units benefited thereby on the basis of Undivided Interests, in equal shares or such other reasonable basis as the Board shall deem appropriate.

#### 3.02 MAINTENANCE, REPAIR AND REPLACEMENT OF UNITS AND EXCLUSIVE LIMITED COMMON ELEMENTS:

(a) Each Owner shall furnish and be responsible, at his expense, for all of the maintenance, repairs and replacements within the Owner's Unit and the Exclusive Limited Common Elements appurtenant to the Owner's Unit and shall keep them in good condition and repair. The Board may, in its discretion, cause maintenance services to be performed within a Unit or to the Exclusive Limited Common Elements appurtenant thereto upon the request of an Owner and may charge a reasonable fee for such services. Without limiting the foregoing, to the extent that insurance carried by the Condominium Association covers damage to a Unit or the Exclusive Limited Common Elements

appurtenant thereto (including, without limitation, broken windows, window frames, doors and door frames), the Condominium Association, on reasonable terms and conditions determined by the Condominium Association, shall make any insurance proceeds received by the Condominium Association as a result of any such damage available to the Owner to pay for or reimburse the Owner for payment of the cost of repairing the damage.

(b) Whenever the Board shall determine, in its discretion, that any maintenance, repair, or replacement of any Unit or the Exclusive Limited Common Elements is necessary to protect the Common Elements or any other portion of the Condominium Property (i) if such work is made necessary through the fault of the Owner, then the Board may direct the Owner thereof to perform such maintenance, repair, or replacement and pay the cost thereof to the extent not covered by insurance, if any, carried by the Condominium Association, including, without limitation, the deductible amount under any applicable insurance policy, or (ii) if such work is made necessary through no fault of the Owner, then the Board may cause the work to be done and may, in its discretion, assess the cost thereof directly to the Owners of the Units, or Exclusive Limited Common Elements appurtenant thereto, with respect to which the work is done on the basis of Undivided Interests, equal shares or such other reasonable basis as the Board shall deem appropriate. If an Owner fails or refuses to perform any such maintenance, repair, or replacement within a reasonable time after being so directed by the Board pursuant to the preceding sentence, then the Board may cause such maintenance, repair, or replacement to be performed at the expense of such Owner. The determination of whether or not the work is made necessary through the fault of the Owner shall be made by the Board and such determination shall be final and binding.

### 3.03 ADDITIONS, ALTERATIONS OR IMPROVEMENTS:

(a) Subject to the terms of the DCE, the Board may authorize and charge as a Common Expense (or in the case of Limited Common Elements may charge the Owners benefited thereby) any additions, alterations, or improvements to the Common Elements. Subject to the provisions of Section 6.06, the cost of any such work to the Common Elements may be paid out of a special assessment.

(b) Without the prior written consent of the Board and the Administrative Entity, an Owner shall not (i) make any additions, alterations or improvements (including, without limitation, installation of storm windows, storm doors, plantings, landscaping, or painting, staining, or changes to the color of exterior surfaces of the Building) to any part of the Common Elements which is visible from outside of the Unit or (ii) make any additions, alterations or improvements to the Owner's Unit or to the Exclusive Limited Common Elements appurtenant thereto where such work alters the structure of the Unit or the Building or increases the cost of insurance required to be carried by the Condominium Association hereunder. The Board or the Administrative Entity may (but shall not be required to) condition its consent to the making of an addition, alteration or improvement by an Owner (i) upon the Owner's agreement that any addition, alteration or improvement will be substantially similar in quality of construction and design to any similar addition,

alteration or improvement then on the Condominium Property and (ii) upon Owner's agreement either (A) to be solely responsible for the maintenance of such addition, alteration or improvement, subject to such standards as the Board may from time to time set, or (B) to pay to the Condominium Association from time to time the additional cost of maintenance and/or insurance as a result of the addition, alteration or improvement. If an addition, alteration or improvement is made by an Owner without the prior written consent of the Board and the Administrative Entity, then the Board or the Administrative Entity may, in its discretion, take any of the following actions:

(1) Require the Owner to remove the addition, alteration or improvement and restore the Condominium Property to its original condition, all at the Owner's expense; or

(2) If the Owner refuses or fails to properly perform the work required under (1), then the Board or the Administrative Entity may cause such work to be done and may charge the Owner for the cost thereof as determined by the Board or the Administrative Entity; or

(3) Ratify the action taken by the Owner, and the Board or the Administrative Entity may (but shall not be required to) condition such ratification upon the same conditions which it may impose upon the giving of its prior consent under this Section.

3.04 DAMAGE CAUSED BY OWNER: If, due to the act of or the neglect of a Occupant of a Unit, lessee, guest or invitee of such Occupant, damage shall be caused to a part of the Condominium Property and maintenance, repairs or replacements shall be required which would otherwise be a Common Expense, then the Owner of the Unit in which such Occupant occupies shall pay for such damage and such maintenance, repairs, and replacements, as may be determined by the Board, to the extent not covered by insurance, if any, carried by the Condominium Association, including, without limitation, the deductible amount under any applicable insurance policy.

3.05 USE RESTRICTIONS: Unit 101 shall be used for commercial purposes only including (but not necessarily limited to) retail use. Units 201 and 301 shall be used for commercial purposes only, but retail use is not allowed. Unit 548 shall be used for commercial purposes only including (but not necessarily limited to) retail or restaurant use. Units G1, G2, G3, G4, G5, and G6 shall be used for garage and storage purposes only.

3.06 SPECIAL SERVICES: The Board may furnish to a Unit Owner or Unit Owners special services relating to the use and occupancy of a Unit or Units and may charge the cost of providing such services to the Owner or Owners who benefit from the service. Without limiting the foregoing, the Condominium Association may contract with a provider of a special service, such as internet access or other similar service, either make such service available to all Units or offer such service to each of the Owners on a voluntary basis. The Board may charge the Owner of each Unit which receives any such

service for the reasonable cost of providing such service, which may be allocated in equal shares for each of the Units which is served, on the basis of Undivided Interests or on such other reasonable basis as the Board may deem appropriate. Any amount charged to an Owner for services furnished pursuant to this Section shall be due and payable at such time or times as designated by the Board and failure to pay any such amount shall give rise to a lien provided for in Section 6.01.

3.07 USE AFFECTING INSURANCE: If in the judgment of the Board the use or contents of a Unit causes an increase in any insurance premium required to be obtained by the Condominium Association, the Board may require the Owner to pay the amount of the increase. 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 Condominium Property, or the contents thereof, or which would be in violation of any applicable governmental law, ordinance or regulation.

3.08 SIGNS: Except as provided in Article Eleven, no "For Sale", "For Rent" or any other sign of any kind or other form of solicitation or advertising or window display shall be maintained or permitted on the Condominium Property unless approved, in writing, by the Board and the Administrative Entity.

3.09 ANIMALS: No animals of any kind shall be commercially raised or bred in any Unit. Domesticated pets belonging to the Occupants or Owners of the Units shall be permitted under the following conditions: (1) the Owner of the Unit shall be solely responsible for any damage or claim resulting from such animal's presence in the Unit and/or the Condominium and shall indemnify, defend and hold the Association and all other Owners, tenants, Occupants, licensees and invitees harmless from such damage or claim; (2) all pets must be well-behaved and shall not unreasonably disturb any other Occupant; (3) no more than two dogs may be present in any Unit at any time; and (4) Occupants 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 Common Elements or Limited Common Elements. Any pet which bites another animal or a human upon the premises shall be immediately and permanently removed unless it can be shown by clear and convincing evidence, as determined by the Board, that the animal was unreasonably provoked into such action. Failure to timely remove the pet(s) can result in a fine not to exceed \$50.00 per day for each day the pet remains on the Property or in the Unit, which fine shall become part of the assessments for that Unit. The Board shall be permitted to adopt further rules and regulations regulating the presence of animals in the Condominium, including (but not limited to) adopting weight restrictions for pets, provided such rules are consistent with this Declaration. Failure of an Occupant to adhere to pet regulations and requirements shall be grounds for the Association and other Owners to maintain a nuisance action to remove the offending pet(s). The Association shall have the authority to ban certain breeds of pets or individual pets from the Condominium, provided that such actions are based upon objective criteria related to aggressive tendencies of the breed or individual pet. In the event that an Owner leases his or her Unit to a person who has a pet, the Owner of the Unit shall be responsible for the enforcement of the pet restrictions and rules, and any fines imposed shall be a charge against the Unit, for which the

Association may obtain satisfaction in the same manner as if the Owner failed to pay an assessment imposed against the Unit. The Association shall have the right to file a lien against the Unit and shall have the right to foreclose said lien in the same manner as provided herein.

3.10 ANTENNAE: Subject to applicable federal, state or local laws, ordinances or regulations, no mast, satellite dish, antennae or other structure for transmitting or receiving messages or programs by radio or television shall be erected, permitted or maintained in or upon any part of the exterior of the Condominium Property without the prior written approval of the Board and the Administrative Entity.

3.11 STRUCTURAL IMPAIRMENT: Nothing shall be done in, on or to any part of the Condominium Property which would impair the structural integrity of the Wallace Building.

3.12 PROSCRIBED ACTIVITIES: No noxious or offensive activity shall be carried on in the Condominium Property and nothing shall be done in the Condominium Property, either willfully or negligently, which may be or become an annoyance or nuisance to the Owners or occupants of the Units or units in the Wallace Residential Condominium. No unlawful use shall be made of the Property nor any part thereof, and all valid laws, covenants and restrictions of record, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. Nuisances include, but are not limited to, excessive or offensive noises and odors. No immoral, improper, or offensive use shall be made of the Condominium nor any part thereof, including, but not limited to, the sale, rental, or use of any type of pornographic or obscene products. No Unit shall be used for the growing or sale of marijuana (medical or otherwise) or for the sale of marijuana or tobacco smoking devices. The Property shall not be used for the repair of automobiles, trucks, motorcycles, motorhomes, recreational vehicles, boats, or other vehicles. This prohibition includes the sale and on-site installation of parts, wheel and brake shops, body and fender shops, and similar repair and service activities.

3.13 NO UNSIGHTLY USES: The Condominium Property shall be kept free and clear of all rubbish, debris and other unsightly materials and no waste shall be committed thereon. All rubbish shall be deposited in such areas and such receptacles as shall be designated by the Board.

3.14 RULES AND REGULATIONS:

(a) The use and enjoyment of the Condominium Property shall be subject to reasonable rules and regulations duly adopted by the Board from time to time.

(b) Without limiting the foregoing, the Board may levy a reasonable fine upon the Owners for a violation of a rule or regulation, in accordance with the procedures set forth in Section 7.02.

3.15 CERTAIN UTILITY COSTS: Certain utility costs incurred in connection with the use, operation and maintenance of the Common Elements may not be separately metered and billed to the Condominium Association. If the charges for any such utilities are metered to individual Units rather than being separately metered for the Common Elements, then the following shall apply:

(a) If in the opinion of the Board, each Owner is sharing in a fair and equitable manner the cost for such service, then no adjustment shall be made and each Owner shall pay his own bill; or

(b) If in the opinion of the Board, the Owner of a Unit is being billed disproportionately for costs allocable to the Common Elements, then the Condominium Association shall pay, or reimburse such Owner, an amount equal to the portion of the costs which, in the reasonable determination of the Board, is properly allocable to the Common Elements and the amount thereof shall be Common Expenses hereunder.

3.17 NOISE TRANSMISSION:

(a) An Owner who desires to install or replace flooring in his or her Unit must first apply for and receive approval from the Board. The Board may from time to time adopt rules and regulations governing the installation or replacement of floor covering, including, without limitation noise transmission standards.

(b) The Board and/or the Administrative Entity may enact reasonable restrictions, rules and regulations regarding noise generation in any Unit, including (but not limited to) the imposition of quiet hours to be observed on the Property or restricting the types of businesses and noises that may be generated in association therewith.

3.17 PARKING SPACE ALLOCATION: Parking spaces are available to the Wallace Commercial Condominium on the parking lot on the Development to be administered, regulated and potentially assigned by the Administrative Entity under the terms of the DCE.

3.18 STORMWATER MAINTENANCE: The Administrative Entity under the DCE is the entity responsible for performing all obligations under that certain Declaration of Storm Water Maintenance Plan recorded February 9, 2018 as Document No. 2605656 in the office of the Clerk and Recorder of Gallatin County, Montana, as may be amended. The Association shall also comply with any and all applicable provisions of said Declaration of Storm Water Maintenance Plan.

3.19 USE OF GRILLS, BARBECUES, AND OTHER COMBUSTIBLE DEVICES: The Association retains the right to restrict or eliminate the use of, and adopt rules and regulations concerning, grills, barbecues, fireplaces, and other combustible devices anywhere on the Condominium Property including (but not limited to) within a Unit and on any Limited Common Element, such as decks and balconies. Currently, the only permitted combustible devices are electric, natural gas and propane devices that have a



safety certification from a nationally recognized testing laboratory, such as Underwriters Laboratories (UL). The Association, in its discretion may further expand, eliminate or restrict the use of any combustible device. No fireplace or gas insert may be installed within a Unit without the prior written consent of the Association, which consent may be withheld at the absolute discretion of the Association. The consent of the Association shall not constitute a representation, affirmation or warranty from the Association that such device was properly installed and operated by the Unit Owner.

## **ARTICLE FOUR**

### The Condominium Association

4.01 THE CONDOMINIUM ASSOCIATION: Declarant shall cause the Condominium Association to be incorporated as a Montana non-profit corporation. The Condominium Association shall be the governing body for all of the Owners and for the administration and operation of the Property as provided in the Act, this Condominium Declaration and the By-Laws. All agreements and determinations lawfully made by the Condominium Association shall be deemed to be binding on all Owners and their respective successors and assigns.

#### 4.02 MEMBERSHIP:

(a) The Owner of each Unit shall be a member of the Condominium Association. There shall be one membership per Unit Ownership. Membership shall be appurtenant to and may not be separated from ownership of a Unit. Ownership of a Unit shall be the sole qualification for membership. The Condominium Association shall be given written notice of a proposed change of ownership of a Unit within ten (10) days prior to such change.

(b) One individual shall be designated as the "Voting Member" for each Unit Ownership. The Voting Member or his proxy shall be the individual who shall be entitled to vote at meetings of the Owners.

4.03 THE BOARD: From and after the Turnover Date, the Board shall consist of the number of individuals provided for in Article VI of the By-Laws, each of whom shall be an Owner or a Voting Member. Directors shall be elected at each annual meeting of the Owners as provided in the By-Laws.

4.04 VOTING RIGHTS: Whenever a vote of the Owners of the Condominium Association is required, at any meeting of such Owners or otherwise, such votes shall be cast by the Voting Members or their proxies; provided that a contract purchaser of a Unit from a contract seller other than the Declarant, shall have the right to vote for directors of the Condominium Association after the Turnover Date unless such contract seller expressly retains such right in writing. Except as otherwise specifically required under the Act, this Condominium Declaration or the By-Laws, each Voting Member shall have a vote equal to the Undivided Interest assigned to each Unit which he or she represents.

4.05 MANAGING AGENT: The term of any management agreement covering the management of the Condominium Property entered into prior to the Turnover Date shall not exceed two years, and shall be terminable for cause by the Condominium Association on thirty (30) days written notice and without cause or payment of a termination fee by either party on ninety (90) days written notice.

4.06 DIRECTOR AND OFFICER LIABILITY: None of the directors or officers of the Condominium Association whether elected or designated by the Declarant shall be personally liable to the Owners or the Condominium Association for any mistake of judgment or for any other acts or omissions of any nature whatsoever as such directors or officers, except for any acts or omissions found by a court to constitute criminal conduct, gross negligence or fraud. The Condominium Association shall indemnify and hold harmless each of the directors and each of the officers, his heirs, executors or administrators, against all contractual and other liabilities of the Condominium Association, the Owners or others arising out of contracts made by or other acts of the directors and the officers on behalf of the Owners or the Condominium Association or arising out of their status as directors or officers unless any such contractor act shall have been made criminally, fraudulently or with gross negligence. It is intended that the foregoing indemnification shall include indemnification against all costs and expenses (including, but not limited to, counsel fees, amounts of judgments paid and amounts paid in settlement) actually and reasonably incurred in connection with the defense of any claim, action, suit or proceeding, whether civil, administrative, or other, in which a director or officer may be involved by virtue of such person being or having been a director or officer; provided, however, that such indemnity shall not be operative with respect to (i) any matter as to which such person shall have been finally adjudged in such action, suit or proceeding to be liable for criminal conduct, gross negligence or fraud in the performance of his duties as a director or officer, or (ii) any matter settled or compromised, unless, in the opinion of independent counsel selected by or in a manner determined by the Board, there is not reasonable ground for such person being adjudged liable for criminal conduct, gross negligence or fraud in the performance of his duties as a director or officer.

## **ARTICLE FIVE**

### Insurance/Condemnation/Stormwater

5.01 HAZARD INSURANCE: The Board shall have the authority to and shall obtain insurance, from a generally acceptable insurance carrier, for the Condominium Property against loss or damage by fire and such other hazards as may be required under the Act, as the Board may deem desirable, or as reasonably required by First Mortgages, for the full insurable replacement cost of the Common Elements and the Units; provided that the Association shall cooperate with the Administrative Entity to obtain in conjunction with the Wallace Residential Condominium Association (as those terms are defined in the DCE) to obtain and maintain one insurance policy for the Development, with the premiums allocated between and among the Responsible Entities by the Administrative Entity, in its reasonable judgment. Anything herein to the contrary notwithstanding, unless otherwise determined by the Board or required by the Act, the insurance obtained by the

Condominium Association shall only cover restoration of a Unit to the condition of bare walls and floors, before the installation of any Improvements and Betterments. For purposes hereof "Improvements and Betterments" are hereby defined to consist of and include any and all decorating, fixtures and furnishings installed or added to, and located within, the boundaries of the Unit. Such insurance coverage shall be written in the name of, losses under such policies shall be adjusted by, and the proceeds of such insurance shall be payable to, the Board as trustee for each of the Owners in accordance with their Undivided Interests. All such policies of insurance (i) shall contain standard mortgage clause endorsements in favor of the First Mortgagees as their respective interests may appear, (ii) shall provide that the insurance, as to the interests of the Board, shall not be invalidated by any act or neglect of any Owner, (iii) shall provide that notwithstanding any provision thereof which gives the insurer an election to restore damage in lieu of making a cash settlement thereof, such option shall not be exercisable if the Owners elect to sell the Condominium Property or remove the Condominium Property from the provisions of the Act, (iv) to the extent possible, shall provide that such policy shall not be cancelled or substantially modified (including cancellation for nonpayment of premium) without at least thirty (30) days' written notice to the First Mortgagee of each Unit Ownership, (v) shall contain waivers of subrogation with respect to the Condominium Association and its directors, officers, employees and agents (including the managing agent), Owners, occupants of the Unit, First Mortgagees, the Declarant and shall name all such parties as additional insured parties as their interests may appear, and (vi) shall comply with applicable requirements of the Act.

5.02 INSURANCE TRUSTEE/USE OF PROCEEDS: Subject to the terms of the DCE, the Board may engage the services of any bank or trust company authorized to do trust business in Montana to act as trustee, agent or depository on behalf of the Board for the purpose of receiving and disbursing the insurance proceeds resulting from any loss, upon such terms as the Board shall determine consistent with the provisions of the DCE, the Act and this Condominium Declaration. The fees of such corporate trustee shall be Common Expenses. In the event of any loss in excess of \$100,000.00 in the aggregate, the Board shall engage a corporate trustee as aforesaid. In the event of any loss resulting in the destruction of the major portion of one or more Units, the Board shall engage a corporate trustee as aforesaid upon the written demand of the First Mortgagee or any Owner of any Unit so destroyed. The rights of First Mortgagees under any standard mortgage clause endorsement to such policies shall, notwithstanding anything to the contrary therein contained, at all times be subject to the provisions in the Act and this Condominium Declaration with respect to the application of insurance proceeds to the repair or reconstruction of the Units or Common Elements. Payment by an insurance company to the Board or to such corporate trustee of the proceeds of any policy, and the receipt of a release from the Board of the company's liability under such policy, shall constitute a full discharge of such insurance company, and such company shall be under no obligation to inquire into the terms of any trust under which proceeds may be held pursuant hereto, or to take notice of any standard mortgage clause endorsement inconsistent with the provisions hereof, or see to the application of any payments of the proceeds of any policy by the Board or the corporate trustee. In the event of a loss which

affects portions of both Condominiums under the DCE, the provisions of Article Seven of the DCE shall apply.

5.03 OTHER INSURANCE: The Board shall also have the authority to and shall obtain such other insurance as the Board deems necessary or appropriate or which is required under the DCE, the Act or generally applicable commercial lender requirements including, without limitation, the following:

(a) Comprehensive public liability and property damage insurance against claims for personal injury or death or property damage suffered by the public or by any Owner occurring in, on or about the Condominium Property or upon, in or about the streets, private drives and passageways and other areas adjoining the Condominium Property, in such amounts as the Board shall deem desirable (but not less than \$1,000,000 covering all claims for personal injury and/or property damage arising out of a single occurrence).

(b) Such workers compensation insurance as may be necessary to comply with Applicable laws.

(c) Employer's liability insurance in such amount as the Board shall deem desirable.

(d) Fidelity bond indemnifying the Condominium Association, the Board and the Owners for loss of funds resulting from fraudulent or dishonest acts of any employee of the Condominium Association or of any other person handling the funds of the Condominium Association, the Board or the Owners in such amount as the Board shall deem desirable or as required by the Act or the applicable requirements of Fannie Mae.

(e) Directors and officers liability insurance.

(f) Such insurance shall be in such amounts and with such deductible amounts as are required by applicable law or the requirements of commercial lenders and shall include cross liability claims of one or more insured parties against other insured parties. To the extent possible, all of such policies shall provide that they may not be cancelled or substantially modified (including cancellation for nonpayment of premium) without at least 30 days' prior written notice to the Condominium Association and First Mortgagees who specifically request such notice. The premiums for such insurance shall be Common Expenses.

5.04 OWNER'S RESPONSIBILITY: Unless expressly advised to the contrary by the Board, each Owner shall obtain his own insurance on the Improvements and Betterments within the Owner's Unit (as defined in Section 1.29) and the contents of the Owner's Unit and furnishings and personal property therein, and the Owner's personal property stored elsewhere on the Condominium Property, and the Owner's personal liability to the extent not covered by the liability insurance for all of the Owners obtained as part of the Common Expenses as above provided, and the Board shall have no obligation whatsoever to obtain any such insurance coverage on behalf of the Owners.

Except as expressly determined by the Board, the Board shall not be responsible for obtaining insurance on Improvements and Betterments and shall not be obligated to apply any insurance proceeds from policies it is obligated to maintain hereunder to restore the affected Unit to a condition better than the condition existing prior to the making or installation of the Improvements and Betterments.

5.05 WAIVER OF SUBROGATION: The Condominium Association and each Owner hereby waive and release any and all claims which it or he may have against any other Owner, the Condominium Association, its directors and officers, the Declarant, the manager and the managing agent, if any, and their respective employees and agents, for damage to the Common Elements, the Units, or to any personal property located in the Units or Common Elements, caused by fire or other casualty, to the extent that such damage is covered by fire or other form of casualty insurance, and to the extent this release is allowed by policies for such fire or other casualty insurance.

5.06 REPAIR OR RECONSTRUCTION:

(a) In the case of damage by fire or other disaster to a portion of the Condominium Property (a "Damaged Improvement") where the insurance proceeds are sufficient to repair or reconstruct the Damaged Improvement, then the proceeds shall be used by the Condominium Association to repair or reconstruct the Damaged Improvement.

(b) In the case of damage by fire or other disaster to a portion of the Condominium Property where the insurance proceeds are insufficient to repair or reconstruct the Damaged Improvement or the Damaged Improvement cannot be reconstructed as originally designed and built because of zoning, building or other applicable laws, ordinances or regulations, the following procedure shall be followed:

(1) A meeting of the Owners shall be held not later than the expiration of sixty (60) days after the occurrence which caused the damage.

(2) At the meeting, the Board shall present a plan for the repair or reconstruction (to comply with existing law) of the Damaged Improvement and an estimate of the cost of repair or reconstruction, together with an estimate of the amount thereof which must be raised by way of special assessment and a proposed schedule for the collection of a special assessment to pay the excess cost.

(3) A vote shall then be taken on the question of whether or not the Damaged Improvement shall be repaired or reconstructed based on the information provided by the Board under (2) above, including the proposed special assessment. Subject to the provisions of Section 9.02 (a), the Damaged Improvement shall be repaired or reconstructed and the proposed special assessment shall be levied only upon the affirmative vote of Voting Members representing at least 51% of the votes cast.

(4) If the Voting Members do not vote to repair or reconstruct the Damaged Improvement at the meeting provided for in (1) above, then the provisions of the Act shall apply.

(c) If the Damaged Improvement is repaired or reconstructed, it shall be done in a workmanlike manner and the Damaged Improvement, as repaired or reconstructed, shall be substantially similar in design and construction to the improvements on the Condominium Property as they existed prior to the damage, with any variations or modifications required to comply with applicable law.

(d) If the Damaged Improvement is not repaired or reconstructed, then the damaged portion of the Building shall be razed, or secured and otherwise maintained in conformance with the rules or standards adopted from time to time by the Board or the Administrative Entity.

5.07 CONDEMNATION: In the case of a taking or condemnation by competent authority of any part of the Condominium Property, the terms of the DCE shall govern.

## **ARTICLE SIX** Assessments

6.01 CREATION OF LIEN AND PERSONAL OBLIGATION: The Declarant, for each Unit Ownership, hereby covenants, and each Owner of a Unit Ownership, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be and is deemed to covenant and hereby agrees to pay to the Condominium Association such assessments or other charges or payments as are levied pursuant to the provisions of this Condominium Declaration. Such assessments, or other charges or payments, together with interest hereon and costs of collection, if any, as herein provided, shall be a charge on the Unit Ownership and shall be a continuing lien upon the Unit Ownership against which each such assessment is made. Each such assessment, or other charge or payment, together with such interests and costs, shall also be the personal obligation of the Owner of such Unit Ownership at the time when the assessment or other charge or payment is due.

6.02 PURPOSE OF ASSESSMENTS: The assessments levied by the Condominium Association shall be exclusively for the purposes of promoting the recreation, health, safety, and welfare of members of the Condominium Association, to administer the affairs of the Condominium Association, and to pay the Common Expenses and as more particularly provided in the Act. In addition, the Association shall be responsible for all special improvement district (SIDs) applicable to the Condominium, including, but not limited to, lighting districts, street maintenance, tree maintenance or any other properly created SID, and assessments shall be levied for the same as may be administered by the Administrative Entity.

6.03 ASSESSMENTS: Each year at least sixty (60) days before the end of the Condominium Association's fiscal year, and at least thirty (30) days before final adoption

thereof, the Board shall furnish each Owner with a proposed budget for the ensuing fiscal year which shall show the following, with reasonable explanations and itemizations:

(a) The estimated Common Expenses;

(b) The estimated amount, if any, to maintain adequate reserves for Common Expenses;

(c) The estimated net available cash receipts from sources other than assessments, including, without limitation, receipts from any leases, licenses or concessions;

(d) The amount of the "Annual Assessment", which is hereby defined as the amount determined in (a) above, plus the amount determined in (b) above, minus the amount determined in (c) above, minus excess funds, if any, from the current year's operation;

(e) That portion of the Annual Assessment which shall be payable by the Owner with respect to his Unit each month until the next Annual Assessment or revised Annual Assessment becomes effective, which monthly portion shall be equal to one twelfth (1/12th) of the Annual Assessment multiplied by the Unit's Undivided Interest.

6.04 PAYMENT OF ASSESSMENTS: On or before the first day of the fiscal year, and on or before the first day of each and every month thereafter until the effective date of the next Annual Assessment, each Owner of a Unit shall pay to the Condominium Association, or as it may direct, that portion of the Annual Assessment, which is payable by such Owner.

6.05 REVISED ASSESSMENT: If the Annual Assessment proves to exceed funds reasonably needed, then the Board may decrease the assessments payable under Section 6.03 as of the first day of a month by the giving of written notice thereof (together with a revised budget for the balance of the year and reasons for the decrease) not less than ten (10) days prior to the effective date of the decreased assessment.

6.06 SPECIAL ASSESSMENT: The Board may levy a special or separate assessment (i) to pay (or buildup reserves to pay) extraordinary expenses incurred (or to be incurred) by the Condominium Association for a specific purpose including, without limitation, to make major repairs, additions, alterations or improvements to the Common Elements, or (ii) to cover an unanticipated deficit under the current or prior year's budget. Each Owner shall be responsible for the payment of the amount of the special assessment multiplied by his Unit's Undivided Interest. The Board shall serve notice of a separate or special assessment on all Owners who will be required to pay such separate or special assessment by a statement in writing giving the amount and reasons therefor, and the separate or special assessment shall be payable in such manner and on such terms as shall be fixed by the Board. Any assessments collected pursuant to this Section

(other than those to cover an unanticipated deficit under the current or prior year's budget) shall be segregated in a special account and used only for the specific purpose set forth in the notice of assessment.

6.07 ANNUAL REPORT: Within a reasonable time after the close of the Condominium Association's fiscal year, the Board shall furnish each Owner with a financial statement and balance sheet for the fiscal year.

6.08 CAPITAL RESERVE: Subject to the terms of the DCE, the Condominium Association shall segregate and maintain a special reserve accounts to be used solely for making capital expenditures in connection with the Common Elements, including a reserve fund for replacements (the "Capital Reserve"). The Board shall determine the appropriate level of the Capital Reserve based on a periodic review of the useful life of improvements to the Common Elements and equipment owned by the Condominium Association as well as periodic projections of the cost of anticipated major repairs or improvements to the Common Elements or the purchase of equipment to be used by the Condominium Association in connection with its duties hereunder. The Capital Reserve may be built up by separate or special assessments or out of the Annual Assessment as provided in the budget. Special accounts setup for portions of the Capital Reserve to be used to make capital expenditures with respect to the Common Elements shall be held by the Condominium Association as agent and trustee for the Owners of Units with respect to which the Capital Reserve is held and such accounts shall be deemed to have been funded by capital contributions to the Condominium Association by the Owners. The budgets which will be adopted from time to time by the Board shall include reserve buildups which the Board deems to be appropriate based on information available to the Board. If the buildup of reserves that the Board provides for in its budgets does not result in sufficient funds to pay for the expenditure when the expenditure must be made, then (i) neither the Board nor any of its past or present members shall be liable to the Condominium Association or the Unit Owners for failing to provide for sufficient reserves and (ii) the Board shall have the right and power (subject to the procedural requirements of the Act, this Condominium Declaration or the Bylaws) to either levy a separate or special assessment to raise the funds to pay the expenditure or to borrow funds to pay the expenditure and repay the borrowed funds out of future Annual Assessments, separate assessments or special assessments.

6.09 INITIAL CAPITAL CONTRIBUTION: Upon the closing of the sale of each Unit by the Declarant to a purchaser for value, the purchasing Owner shall make a capital contribution to the Condominium Association in an amount equal to three (3) months of the current year's Annual Assessment for the Unit, which amount shall be held and used by the Condominium Association for its working capital needs and start-up costs.

6.10 NON-PAYMENT OF ASSESSMENTS: Any assessments or other charges or payments which an Owner is required to make or is liable for hereunder which are not paid when due shall be deemed delinquent. If an assessment or other charge or payment is not paid within fifteen (15) days after the due date, it shall bear interest from the due date at rate of fifteen percent (15%) per annum, and the Board (i) may bring an action



against the Owner personally obligated to pay the same, together with interest, costs and reasonable attorneys' fees of any such action, which shall be added to the amount of such assessment or other charge or payment and shall be included in any judgment rendered in such action and (ii) may enforce and foreclose any lien which it has or which may exist for its benefit. In addition, the Board may in its discretion charge reasonable late fees for the late payment of assessments or other charges. No Owner may waive or otherwise escape liability for the assessments or other charges or payment provided for herein by nonuse, abandonment or transfer of his Unit or non-use of the Common Elements.

**6.11 CONDOMINIUM ASSOCIATION'S LIEN SUBORDINATED TO MORTGAGES:** The lien on each Unit Ownership provided for in Section 6.01 for assessments or other charges or payments shall be subordinate to the lien of any First Mortgage on the Unit Ownership recorded prior to the date that any such assessments or other charges or payments become due. Except as hereinafter provided, the lien provided for in Section 6.01 shall not be affected by any transfer of title to the Unit Ownership. Where title to the Unit Ownership is transferred pursuant to a decree of foreclosure or by deed or assignment in lieu of foreclosure of a First Mortgage, such transfer of title shall to the extent permitted by law extinguish the lien for any assessments or other charges or payments under Section 6.01 which became due prior to (i) the date of the transfer of title or (ii) the date on which the transferee comes into possession of the Unit, whichever occurs first. However, the transferee of a Unit Ownership shall be liable for his share of any assessments or other charges or payments with respect to which a lien against his Unit Ownership has been extinguished pursuant to the preceding sentence which are reallocated among the Owners pursuant to a subsequently adopted annual, revised or special assessment, and nonpayment thereof shall result in a lien against the transferee's Unit Ownership as provided in Section 6.01. If for any reason the Owner of a Unit is permitted to remain in possession of his or her Unit during the pendency of a foreclosure action with respect to the Unit, the Owner shall be required to pay a reasonable rental for such right and the plaintiff in the foreclosure action shall be entitled to the appointment of a receiver to collect such rental.

**6.12 STATEMENT OF ACCOUNT:** Upon seven (7) days' notice to the Board and the payment of a reasonable fee, if any, which may be set by the Board, any Owner shall be furnished with a statement of his account setting forth the amount of any unpaid assessments or other charges due and owing from the Owner as of the date of the statement. The statement shall be executed by a duly authorized officer or agent of the Condominium Association and shall be binding on the Condominium Association.

## **ARTICLE SEVEN**

### **Remedies for Breach or Violation**

**7.01 SELF-HELP BY BOARD:** Subject to the provisions of Section 7.05, in the event of a violation by an Owner of the provisions, covenants or restrictions of the Act, this Condominium Declaration, the Bylaws, or rules or regulations of the Board, where such violation or breach may be cured or abated by affirmative action, the Board, upon not less than ten (10) days prior written notice, shall have the right to enter upon that part

of the Condominium Property where the violation or breach exists and summarily abate, remove or do whatever else may be necessary to correct such violation or breach, provided, however, that where the violation or breach involves an improvement located within the boundaries of a Unit, judicial proceedings shall be instituted before any items of construction can be altered or demolished. Any and all expenses in connection with the exercise of the right provided by this section shall be charged to and assessed against the violating Owner.

**7.02 OTHER REMEDIES OF THE BOARD:** In addition to or in conjunction with the remedies set forth above, in the event of a violation by an Owner of the Act, this Condominium Declaration, the Bylaws, or rules and regulations of the Board, the Board may levy reasonable fines or the Board or its agents shall have the right to bring an action at law or in equity against the Owner and/or others as permitted by law including, without limitation, (i) to foreclose a lien against the Unit Ownership, (ii) for damages, injunctive relief, or specific performance, (iii) for judgment or for the payment of money and the collection thereof, (iv) for any combination of the remedies set forth in this Article or (v) for any other relief which the Board may deem necessary or appropriate. Any and all rights and remedies provided for in this Article may be exercised at any time and from time to time cumulatively or otherwise by the Board in its discretion. The failure of the Board to enforce any provisions of this Condominium Declaration, the Bylaws or rules and regulations of the Board shall in no event be deemed a waiver of the right to do so thereafter. The Board may only levy fines if it adopts a fine schedule and distributes the same to all Owners. Each separate occurrence of a violation, or each day that any Unit remains in nonconformance, shall be considered a separate violation subject to fine. The Board, in its sole discretion, may (but is not required to) issue a warning prior to levying a fine. However, the Board's decision on whether or not to issue a warning in any particular case shall not be binding upon any subsequent decision about whether or not to issue a warning prior to issuing a fine.

**7.03 ENFORCEMENT BY THE BOARD:** Prior to the imposition of any fine and concurrently with the sending of a notice described in Section 7.01 and 7.02, the Board shall notify the Owner or Resident, as the case may be, in writing of the violation of the rule or regulation and the Board's proposed remedy. Any Owner or Resident who receives such notice may, within three (3) days after receipt of such notice, demand a hearing before the Board or its authorized committee. At such hearing a member of the Board shall present to the Owner or Resident the grounds for the notice and the Owner or Resident shall have an opportunity to challenge such grounds and to present any evidence on his behalf subject to such reasonable rules of procedure as may be established by the Board or its authorized committee, which rules shall adhere to the generally accepted standards of due process. If the Owner or Resident demands a hearing as herein provided, such hearing shall be held within ten (10) days after the Board receives the demand and no action shall be taken by the Board until the hearing has been held and notice of the decision of the Board or its authorized committee and the terms thereof has been delivered to the Owner or Resident. The decision of the Board or its authorized committee shall be rendered within three (3) days after the hearing and such decision shall be final and binding on the parties.

7.04 COSTS AND EXPENSES: All expenses incurred by the Board in connection with the enforcement of the provisions of this Condominium Declaration or in connection with the exercise of its rights and remedies under this Article, including without limitation, court costs, attorneys' fees and all other fees and expenses, and all damages, liquidated or otherwise, together with interest thereon at the rate of fifteen percent (15%) per annum, shall be charged to and assessed against the defaulting Owner, and the Condominium Association shall have a lien for all the same upon such Owner's Unit Ownership, as provided in Section 6.01.

7.05 ENFORCEMENT BY OWNERS: Enforcement of the provisions contained in this Condominium Declaration and the rules and regulations adopted hereunder may be by any proceeding at law or in equity by any aggrieved Owner against the Association and/or any person or persons violating or attempting to violate any such provisions, either to restrain such violation or to recover damages.

## **ARTICLE EIGHT**

### Amendments

8.01 SPECIAL AMENDMENT: Declarant reserves the right and power to record a special amendment ("Special Amendment") to this Condominium Declaration at any time and from time to time which amends this Condominium Declaration (i) to comply with requirements of commercial lenders, (ii) to bring this Condominium Declaration into compliance with the Act, (iii) to correct errors, omissions, inconsistencies or ambiguities in this Condominium Declaration or any Exhibit thereto or any supplement or amendment thereto, (iv) to amend this Declaration to conform to the provisions of the DCE and, if the Declarant deems it necessary or appropriate, grant easements or establish cost sharing provisions between the Administrative Entity and/or other condominium associations which administer, or other owners of, portions of the Development, and (v) to comply with the requirements of the Municipality or any governmental authority which has jurisdiction over the Property. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Declarant to vote in favor of, make, or consent to a Special Amendment on behalf of each Owner as proxy or attorney-in-fact, as the case may be. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting a Unit and the acceptance thereof shall be deemed to be a grant and acknowledgement of, and a consent to the reservation of, the power to the Declarant to vote in favor of, make, execute and record Special Amendments. The right of the Declarant to act pursuant to rights reserved or granted under this Section shall terminate five (5) years from such time as the Declarant no longer holds or controls title to a portion of the Development.

8.02 AMENDMENT BY OWNERS: Subject to the provisions of Article Eight, Section 9.01 and Article Ten, and except as otherwise provided in Sections 4.07, 5.06 and 5.07 and the Act, the provisions of this Condominium Declaration may be amended, modified, enlarged or otherwise changed in whole or in part by the affirmative vote of

Voting Members (either in person or by proxy), or by an instrument executed by Owners, representing at least sixty-seven percent (67%) of the Undivided Interests; except that (i) the provisions relating to the rights of Declarant may be amended only upon the written consent of the Declarant, and (ii) any provision which grants rights to the Municipality may be amended only with the written consent of the Municipality. No amendment shall become effective until recorded.

8.03 UNIT SUBDIVISION. Unit 101 may be subdivided into no more than two (2) total Units which shall be designated as Unit 101 and Unit 102. Unit 201 may be subdivided into no more than three (3) total Units which shall be designated as Unit 201, Unit 202 and Unit 203. Unit 301 may be subdivided into no more than three (3) total Units which shall be designated as Unit 301, Unit 302 and Unit 303. No other Units may be subdivided.

Unit subdivision must comply with the zoning requirements of the City of Bozeman, and nothing herein shall be considered as a guarantee that future subdivision of any Unit will be allowed by the City of Bozeman. At such time as an Owner of Unit 101, 201, or 301 wishes to subdivide one of said Units, the Owner thereof shall record in the office of the Clerk and Recorder of Gallatin County, Montana, a Supplemental Declaration containing:

a. Updated floor plans for the new Units created from the subdivided Unit together with the numbers given to the specific Units as set forth above;

b. To be and remain in compliance with the Act, at the time of the filing of such supplemental declaration, a certificate of a registered professional architect, engineer or engineer shall be prepared and recorded, certifying that the said floor plans of the Units created by such subdivision fully and accurately depict the layout of said Units and that construction of said Units has been completed;

c. A revised schedule of the Undivided Interests of the Units resulting from such subdivision. The Undivided Interests of any other Unit that is not being subdivided may not be changed without amending this declaration pursuant to the amendment procedures set forth herein. The percentage of the Undivided Interests of the of the Units created and resulting by such subdivision must not exceed the Undivided Interest of the subdivided Unit before subdivision;

e. A description of any and all Limited Common Elements to the new Units if there shall be any changes to the description contained in the existing declaration or any of the amendments thereto; and

f. The signatures and acknowledgment of all lienors and mortgagees of the Unit being subdivided.

The signatures of the Unit Owners for any Unit not being subdivided shall not be required for the Unit Owner of the Unit being subdivided to file the Supplemental Declaration subdividing his or her Unit in accordance with the provisions set forth herein.

All of the provisions, terms and definitions herein contained and as set forth in the DCE shall, upon recording of the same, be deemed expanded to include the additional Units. Any future condominium Units will be consistent with the initial Units in terms of quality of construction. All Units to be added to the Condominium shall be substantially completed before such Units are added to the existing Condominium regime.

**ARTICLE NINE**  
Rights of First Mortgagees

9.01 NOTICE TO FIRST MORTGAGEES: Each Owner shall notify the Condominium Association of the name and address of his First Mortgagee or its servicing agent, if any, and shall promptly notify the Condominium Association of any change in such information. The Condominium Association shall maintain a record of such information with respect to all Units. Each First Mortgagee shall have the right to examine the books and records of the Condominium Association at any reasonable time and to have an audited statement of the Condominium Association's operations prepared for a fiscal year at its own expense.

9.02 INSURANCE PROCEEDS/CONDEMNATION AWARDS: In the event of (i) any distribution of any insurance proceeds hereunder as a result of substantial damage to, or destruction of, any part of the Condominium Property or (ii) any distribution of the proceeds of any award or settlement as a result of condemnation or eminent domain proceedings with respect to any part of the Condominium Property, any such distribution shall be made to the Owners and their respective First Mortgagees, as their interests may appear, and no Owner or other party shall be entitled to priority over the First Mortgagee of a Unit with respect to any such distribution to or with respect to such Unit; provided, that, nothing in this Section shall be construed to deny to the Condominium Association or the Administrative Entity under the DCE the right to apply any such proceeds to repair or replace damaged portions of the Condominium property or to restore what remains of the Condominium Property after condemnation or taking by eminent domain of a part of the Condominium Property.

**ARTICLE TEN**  
Declarant's Reserved Rights

10.01 IN GENERAL: In addition to any rights or powers reserved or granted to the Declarant under the Act, this Condominium Declaration or the By-Laws, the Declarant shall have the rights and powers set forth in this Article. In the event of a conflict between the provisions of this Article and any other provisions of this Condominium Declaration or the By-Laws, the provisions of this Article shall govern. Except as otherwise provided in this Article, the rights of Declarant under this Article reserved or granted shall terminate

at such time as the Declarant is no longer vested with or in control title to any portion of the Development.

10.02 PROMOTION OF PROJECT: The Declarant shall have the right and power, within its sole discretion, to (i) construct such temporary or permanent improvements, or to do such acts or other things in, on, or to the Condominium Property as the Declarant may, from time to time, determine to be necessary or advisable, or (ii) construct and maintain model units, sales or leasing offices, lighting and banners, or other promotional facilities at such locations and in such forms as the Declarant may deem advisable and to use such model units (including model units which are sold and leased back to the Declarant), sales or leasing offices or other facilities for the purpose of selling or leasing Units on the Condominium Property or at other properties in the general location of the Condominium Property which are being offered for sale by the Declarant or any of its affiliates.

10.03 CONSTRUCTION: Declarant, its agents and contractors shall have the right to come upon the Condominium Property to construct improvements thereon and to make Alterations, repairs or improvements to the Condominium Property and shall have the right to maintain a construction office and store equipment and materials used in connection with such work on the Condominium Property without payment of any fee or charge whatsoever. The rights of the Declarant reserved or granted under this Section shall terminate at one (1) year from such time as the Declarant no longer holds or controls title to a portion of the Development.

10.04 CONTROL OF BOARD: Until the initial meeting of the Owners (which shall occur no later than the Turnover Date) and the election of the initial Board as provided for in the By-Laws, the rights, titles, powers, privileges, trusts, duties and obligations vested in or imposed upon the Board by the Act, this Condominium Declaration or the By-Laws shall be held and performed by the Declarant. The Declarant may hold and perform such rights and obligations through the Board which, prior to the Turnover Date, shall consist of three (3) individuals designated by the Declarant from time to time. Prior to the Turnover Date the Declarant may appoint from among the Owners non-voting counselors to the Board who shall serve at the discretion of the Declarant.

## **ARTICLE ELEVEN**

### The DCE

11.01 IN GENERAL: The Declarant Recorded the DCE with respect to the Development prior to the recording of this Declaration. The DCE provides, among other things, that the Administrative Entity shall furnish what are defined in the DCE as "AE Provided Maintenance and Services" to the Development, including portions of the Property which is subject to this Declaration. The Administrative Entity shall charge the Association for a share of the cost of providing those AE Provided Maintenance and Services which benefit the Condominium, in the amounts determined as provided in the DCE.

11.02 ANNUAL BUDGET: The Administrative Entity shall prepare annual budgets for the cost of providing AE Provided Maintenance and Services and building up reserves for such costs. Each year prior to October 31, the Administrative Entity shall furnish to the Association a "Budget" as more fully provided in the DCE and the Association shall include the amounts payable by the Association under the Budget in its annual budget as part of the Common Expenses. The Association shall pay to the Administrative Entity each month any amount equal to 1/12 of the annual amount of costs payable by the Association to the Administrative Entity with respect to the year.

11.03 ADMINISTRATIVE ENTITY REMEDY FOR NON-PAYMENT: If the Association fails to make any required payment due to the Administrative Entity, the Administrative Entity shall have a cause of action therefor and the unpaid amount shall be a continuing lien against each Unit as more fully set forth in the DCE.

11.04 SUBORDINATION TO DCE: To the extent not prohibited by law, this Declaration shall be subject to and subordinate in all respects to the DCE and in the event of a conflict between the terms of the DCE and the terms hereof, to the extent not prohibited by applicable law, the terms of the DCE shall prevail.

## **ARTICLE TWELVE**

### **Miscellaneous**

12.01 SEVERABILITY: Invalidation of all or any portion of any of the easements, Restrictions, covenants, conditions and reservations, by legislation, judgment or court order shall not affect any liens, charges, rights, benefits and privileges and other provisions of this Condominium Declaration, which shall remain in full force and effect.

12.02 NOTICES: Any notice required to be sent to any Owner under the provisions of this Condominium Declaration or the Bylaws shall be deemed to have been properly sent if (i) mailed, postage prepaid, to his or its last known address as it appears on the records of the Condominium Association at the time of such mailing, (ii) transmitted by facsimile or e-mail to his or its facsimile number or e-mail address as either appears on the records of the Condominium Association at the time of such transmittal, or (iii) when personally delivered to his or its Unit. The date of mailing, or the date of transmission if the notice is sent by facsimile or e-mail, shall be deemed the date of service.

12.03 CAPTIONS/CONFLICTS: The Article and Section headings herein are intended for convenience only and shall not be construed with any substantive effect in this Condominium Declaration. In the event of any conflict between the statements made in the recitals to this Condominium Declaration and the provisions contained in the body of this Condominium Declaration, the provisions contained in the body of this Condominium Declaration shall govern.

12.04 ASSIGNMENT BY THE DECLARANT: All rights which are specified in this Condominium Declaration to be rights of the Declarant are assignable or transferable. Any successor to, or assignee of, the rights of the Declarant hereunder (including,





**EXHIBIT A TO  
WALLACE COMMERCIAL CONDOMINIUM DECLARATION**

The Development

Lot 13A of the Amended Plat of Lot 13, Lot 14, Lot 15A and Lot 16A, Block A of Rouse's 2nd Addition to Bozeman, according to the official plat thereof on file and of record in the office of the County Clerk and Recorder, Gallatin County, Montana (Plat Reference: C-6-F)

**EXHIBIT B TO  
WALLACE COMMERCIAL CONDOMINIUM DECLARATION**

The Property

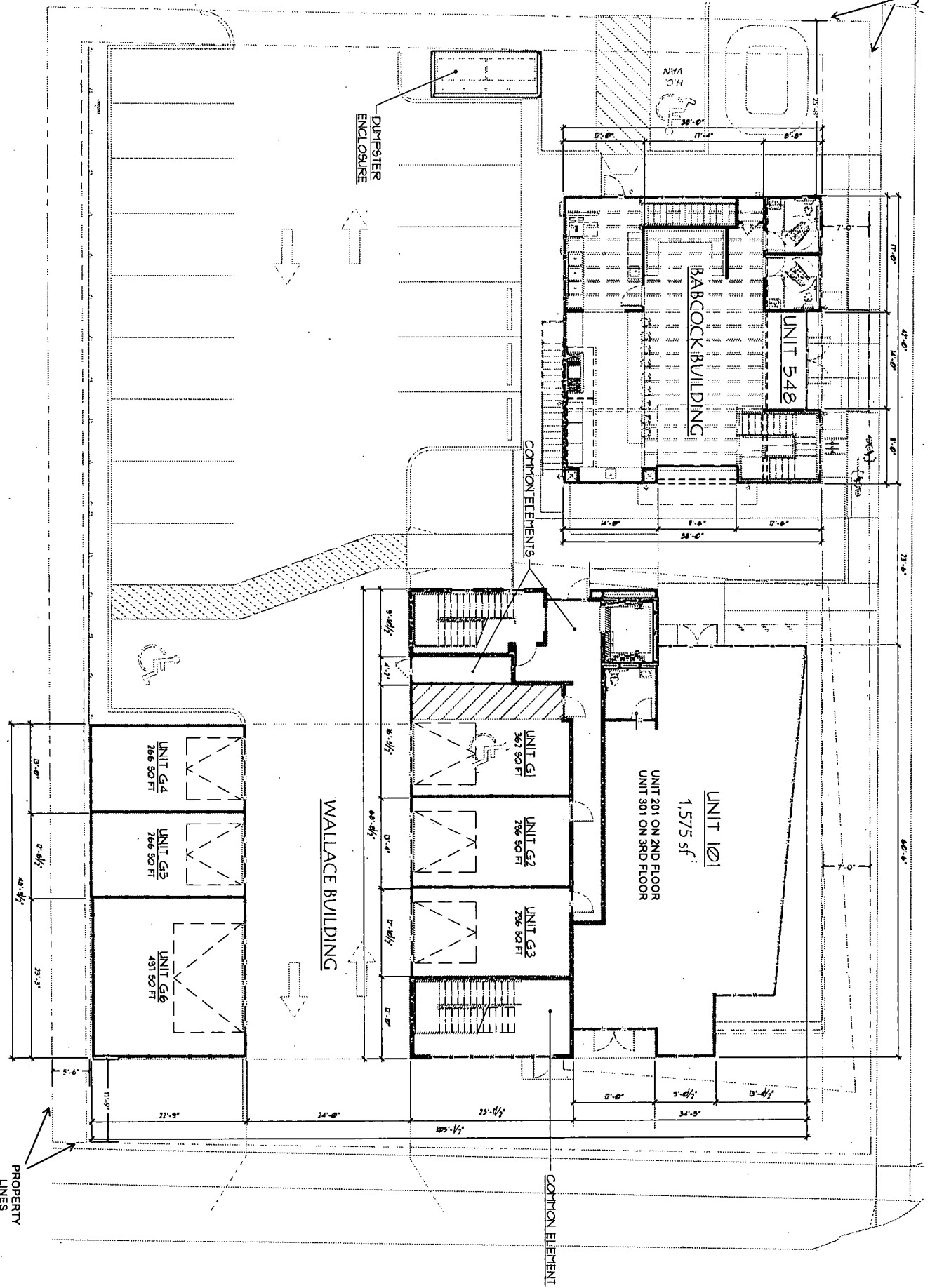
That portion Lot 13A of the Amended Plat of Lot 13, Lot 14, Lot 15A and Lot 16A, Block A of Rouse's 2nd Addition to Bozeman, according to the official plat thereof on file and of record in the office of the County Clerk and Recorder, Gallatin County, Montana (Plat Reference: C-6-F) lying below the horizontal plane located at elevation of 4855 feet, which divides the Wallace Building located thereon between the floor of the fourth floor and the ceiling of the third floor of such Wallace Building as it is currently situated, commonly known as floors one, two and three of the Wallace Building whose address is 101 South Wallace Avenue, Bozeman, Montana 59715, together with the entire building known as the Babcock Building whose address is located at 548 East Babcock Building, Bozeman, Montana 59715, and together with all other portions of said Premises other than the Wallace Residential Condominium located thereon.

Said elevation is referenced to the North American Vertical Datum of 1988. Said datum derived from benchmarked described by the National Geodetic Survey database as J102 (PID QXO224).

**EXHIBIT C TO  
WALLACE COMMERCIAL CONDOMINIUM DECLARATION**

Floor Plans

PROPERTY LINES



SITE PLAN WALLACE COMMERCIAL CONDOMINIUM

Lot 13A - Block A of Rouse's 2nd Addition to Bozeman (Plat C-6-F)

NORTH

PROPERTY LINES

COTTON ELEMENT

DUMPSTER ENCLOSURE

WALLACE BUILDING

BABCOCK BUILDING

UNIT 548

UNIT 101  
1,575 SF

UNIT 201 ON 2ND FLOOR  
UNIT 301 ON 3RD FLOOR

UNIT G1  
362 SQ FT

UNIT G2  
756 SQ FT

UNIT G3  
756 SQ FT

UNIT G4  
766 SQ FT

UNIT G5  
766 SQ FT

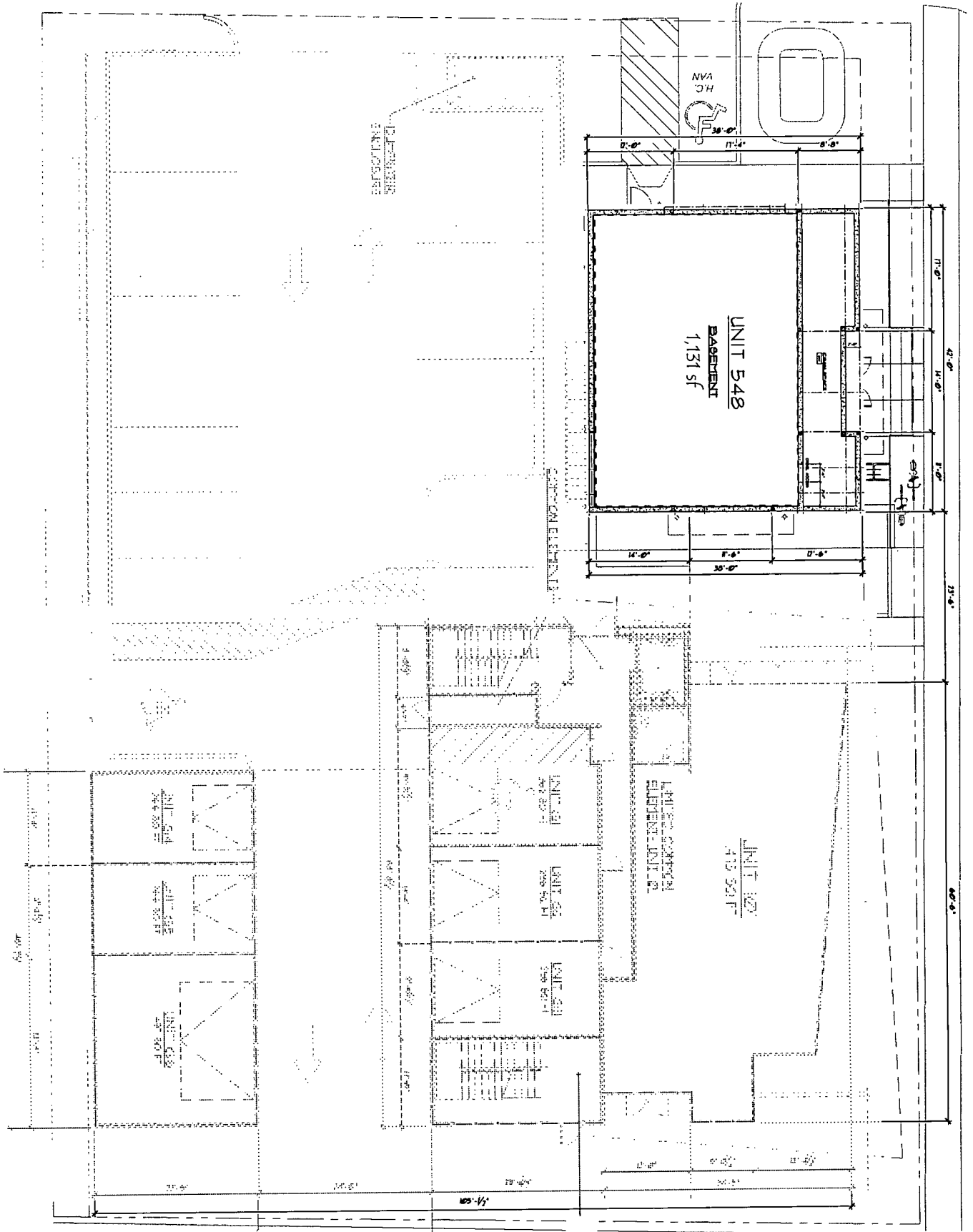
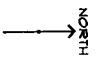
UNIT G6  
497 SQ FT



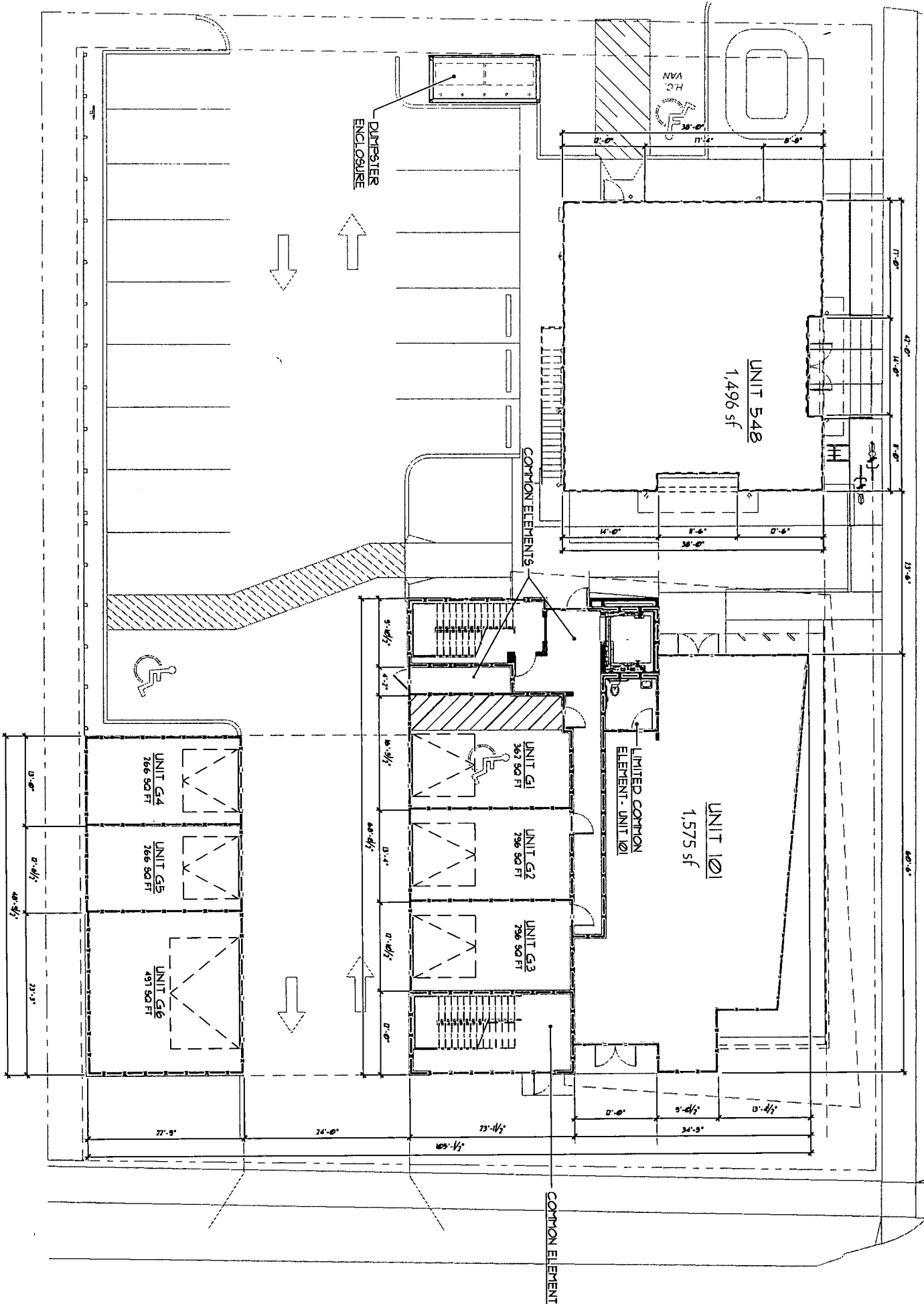
VAN

COTTON ELEMENTS

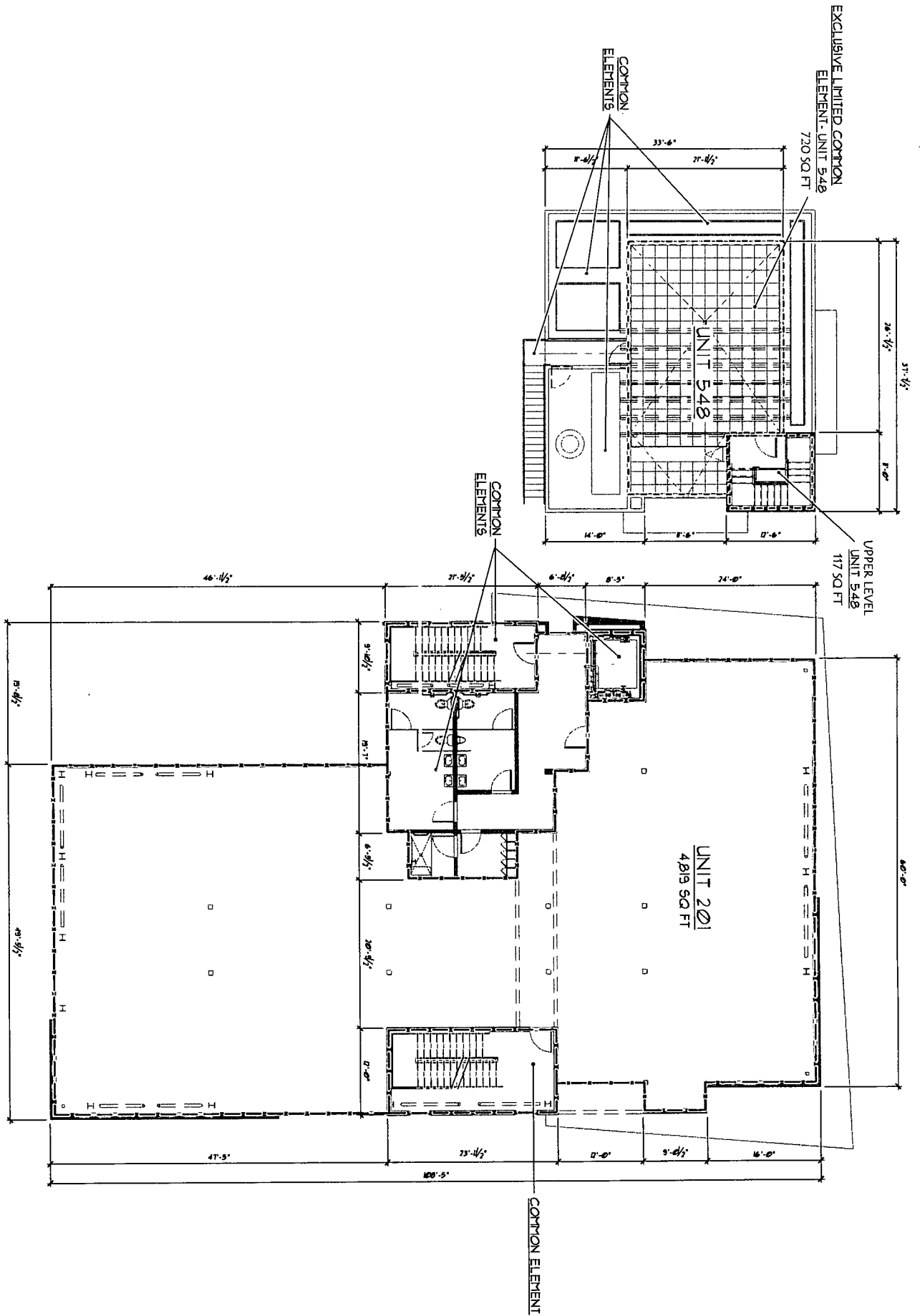
LOWER LEVEL PLAN - WALLACE COMMERCIAL CONDOMINIUM



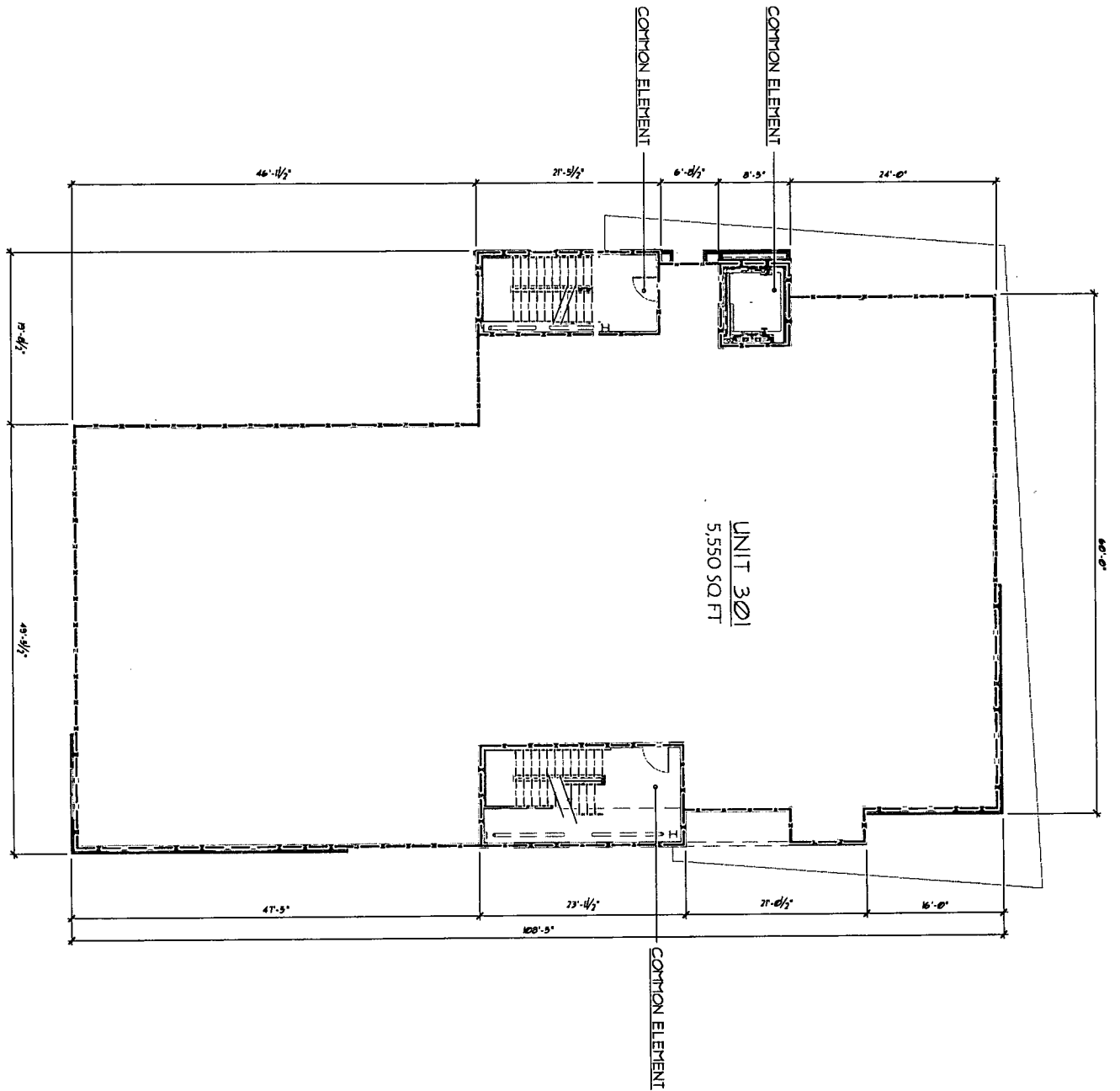
FIRST FLOOR PLAN - WALLACE COMMERCIAL CONDOMINIUM



SECOND FLOOR PLAN - WALLACE COMMERCIAL CONDOMINIUM



THIRD FLOOR PLAN - WALLACE COMMERCIAL CONDOMINIUM





BARCOCK BUILDING

WALLACE BUILDING

1  
A31

SOUTH ELEVATION

4816.5' Ground Level  
Finished Floor

ELEVATION  
4855'

112'-0"  
TO PARAPET  
ROOF ACCESS

164'-6"  
TO PARAPET

163'-0"  
TO PARAPET

67'-0"  
TO PLATE

150'-0"  
TO FINISH FLR

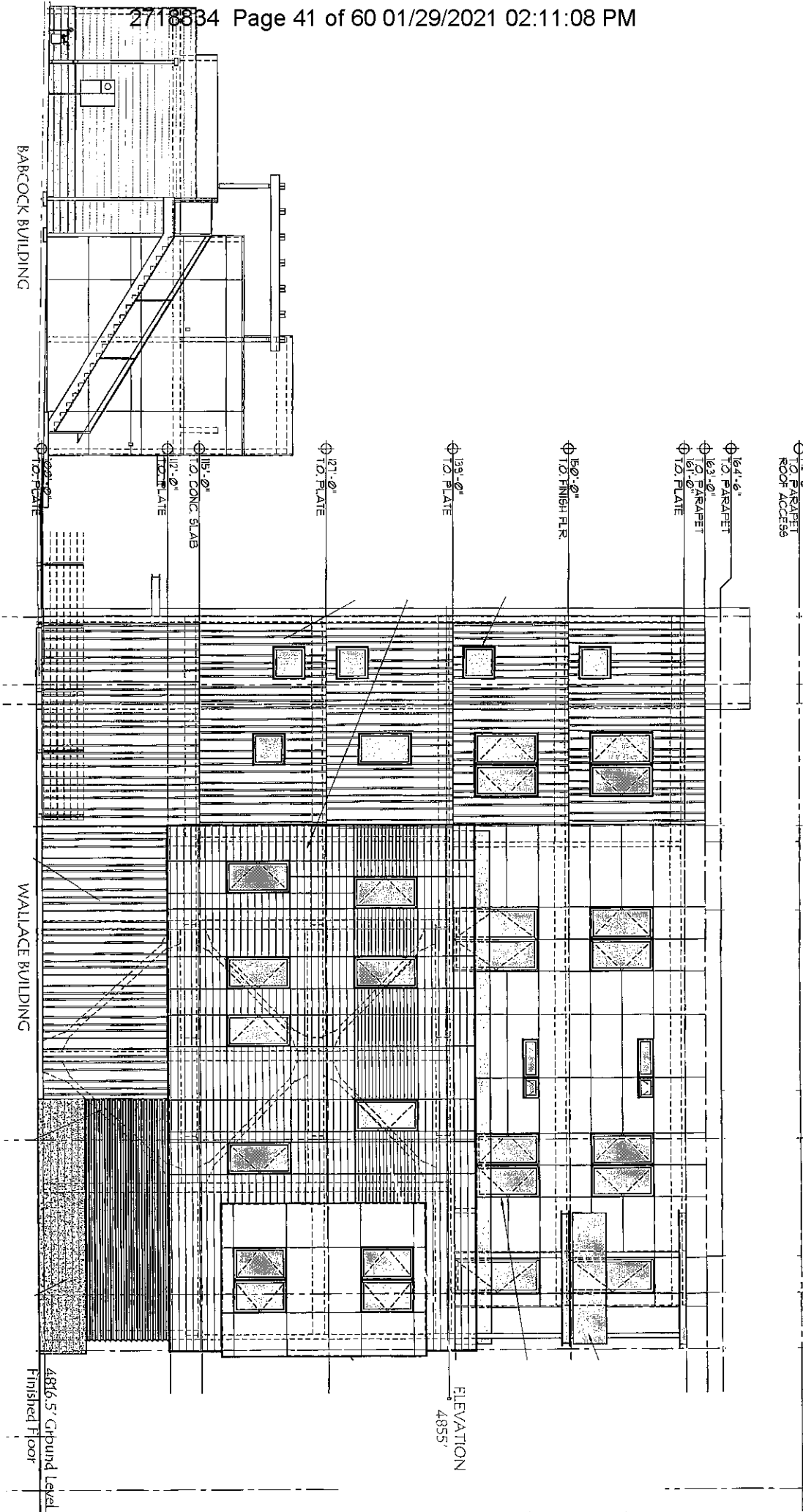
139'-0"  
TO PLATE

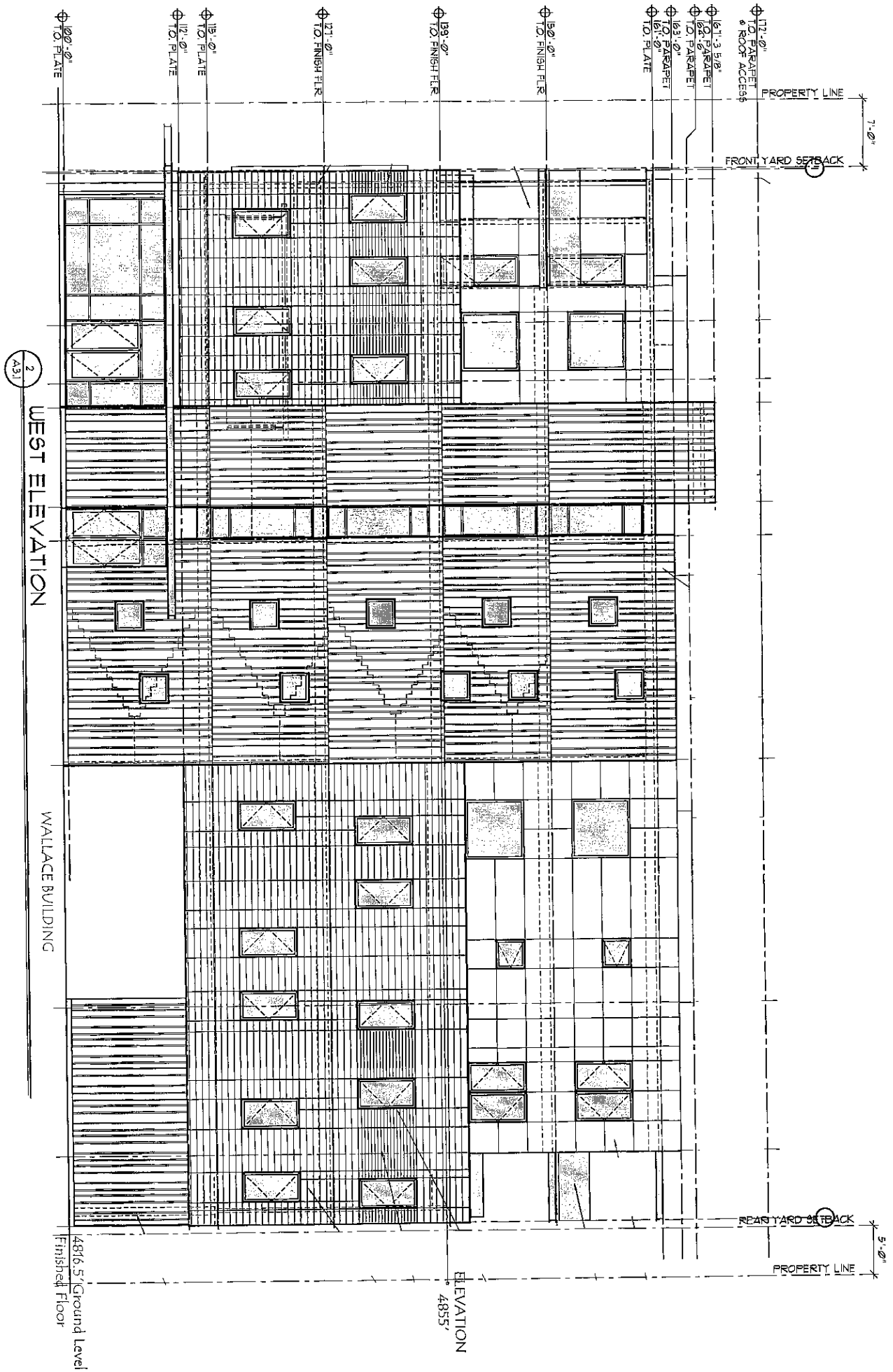
121'-0"  
TO PLATE

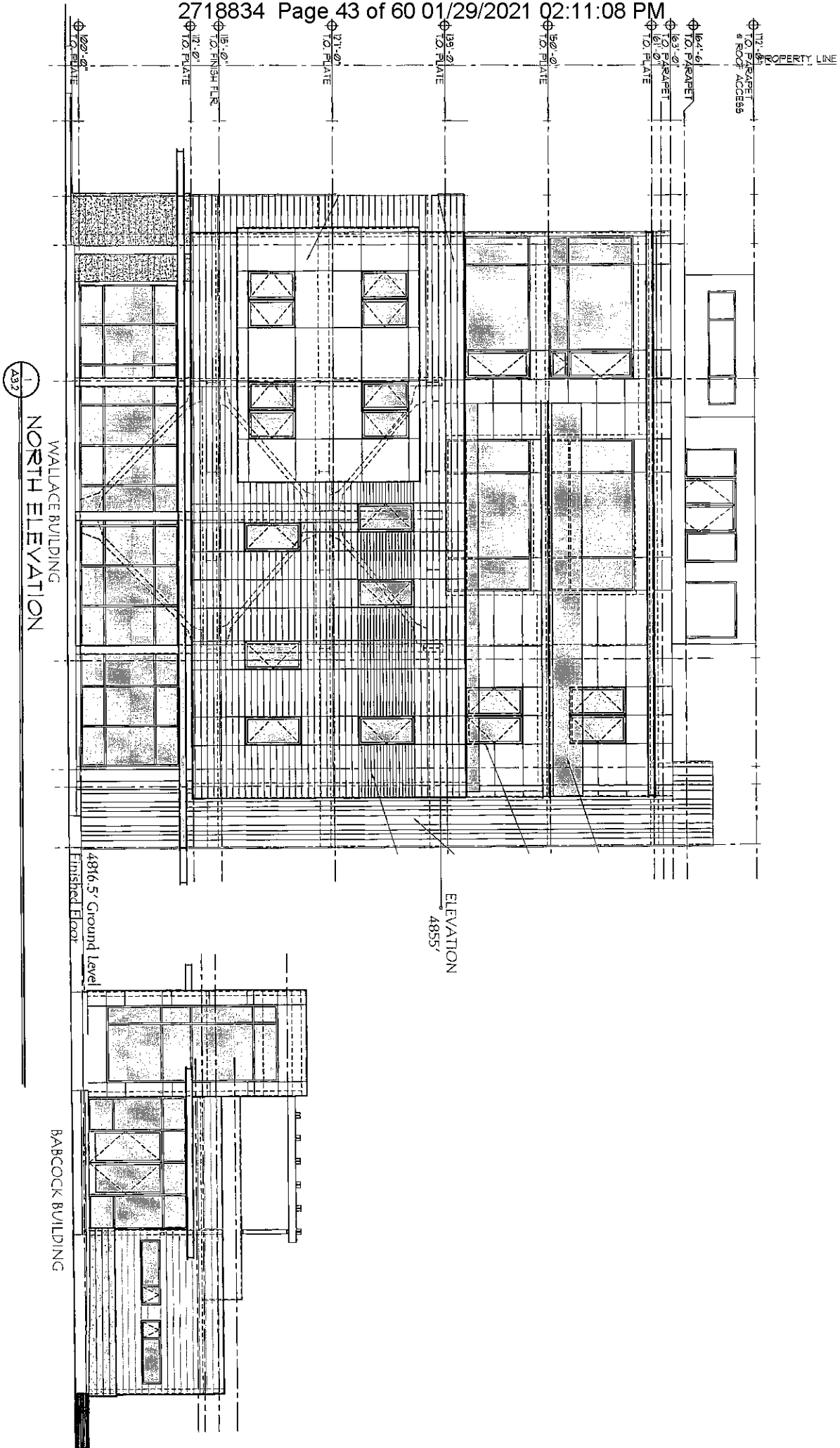
115'-0"  
TO CONC. SLAB

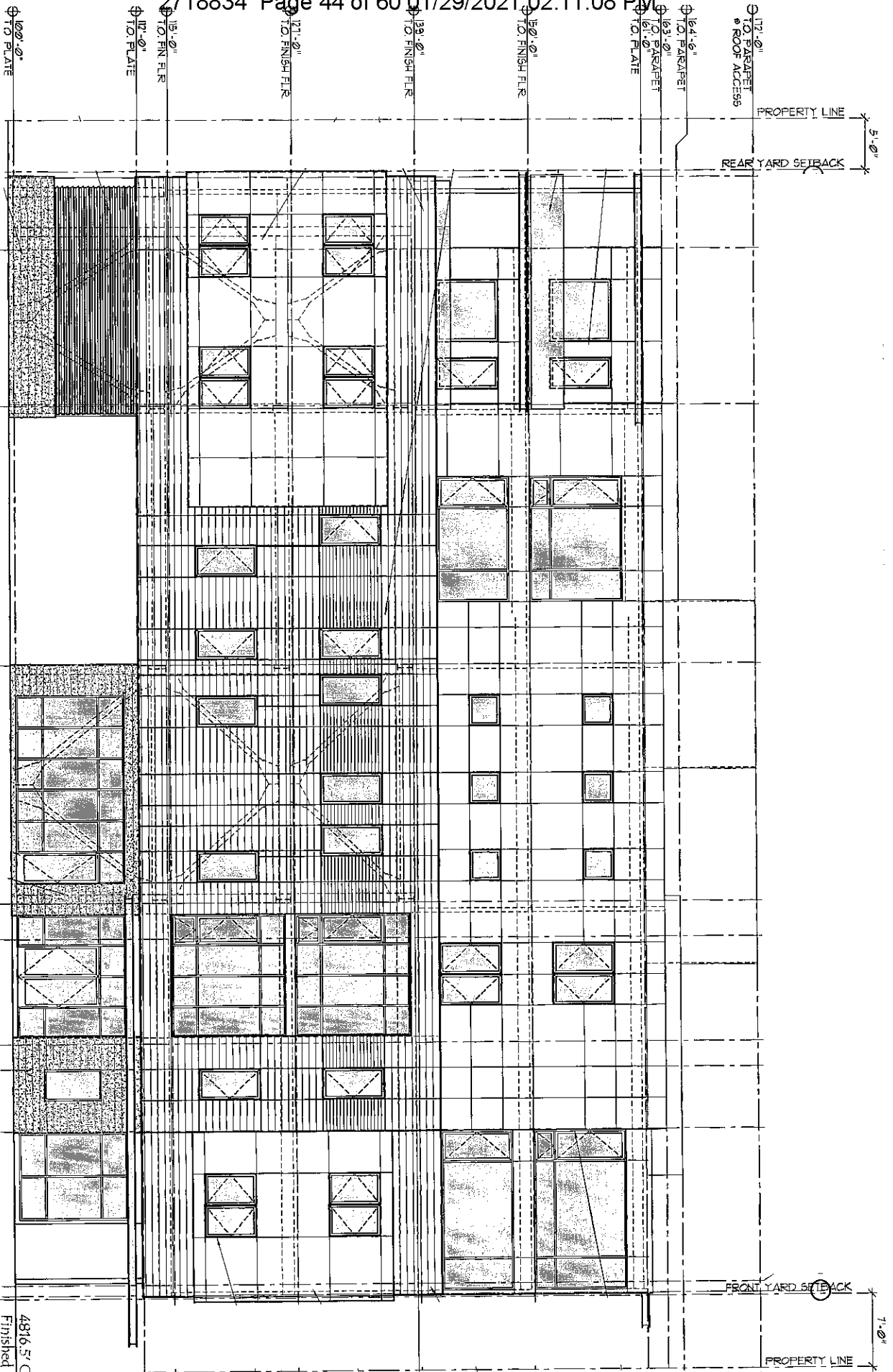
112'-0"  
TO PLATE

PROPERTY LINE









2  
A332

EAST ELEVATION

WALLACE BUILDING

4816.5' Ground Level  
Finished Floor

ELEVATION  
4855'

FRONT YARD SETBACK  
PROPERTY LINE  
7'-0"

PROPERTY LINE  
REAR YARD SETBACK  
5'-0"

**EXHIBIT D TO  
WALLACE COMMERCIAL CONDOMINIUM DECLARATION**

<u>UNIT NO.</u>	<u>SQUARE FOOTAGE*</u>	<u>UNDIVIDED INTEREST</u>
101	1575*	9.51%
201	4819*	29.11%
301	5550*	33.53%
548	2627*	15.87%
G1	362*	2.18%
G2	296*	1.79%
G3	296*	1.79%
G4	266*	1.61%
G5	266*	1.61%
G6	497*	3.00%
<b>TOTAL</b>	<b>16,554*</b>	<b>100.00%*</b>

\* The actual dimensions and boundaries of the Units are set forth in the body of the Declaration. The square footage measurements set forth in this exhibit may not be the actual square footage measurements of the Units as said Units are defined elsewhere in the Declaration. The square footage measurements set forth in this exhibit are used only for the purposes of determining each Unit's Undivided Interest in the Common Elements. No representation or warranty of any kind whatsoever is made that the square footage measurements set forth above are the actual square footage measurements of any Unit

**EXHIBIT E TO  
WALLACE COMMERCIAL CONDOMINIUM DECLARATION  
CONSENT OF MORTGAGEE**

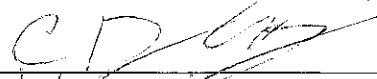
COMES NOW, FIRST INTERSTATE BANK, as the Beneficiary/Lender under that certain Deed of Trust wherein WALLACE-BABCOCK PROPERTIES, LLC, a Montana limited liability company was Grantor, SECURITY TITLE COMPANY was Trustee, and FIRST INTERSTATE BANK was Beneficiary/Lender recorded on May 28, 2019 as Document No. 2645793 in the office of the Clerk and Recorder of Gallatin County, Montana against the following described real property:

Lot 13A of the Amended Plat of Lot 13, Lot 14, Lot 15A and Lot 16A, Block A of Rouse's 2<sup>nd</sup> Addition to Bozeman, according to the official plat thereof on file and of record in the office of the County Clerk and Recorder, Gallatin County, Montana (Plat Reference: C-6-F)

AND HEREBY CONSENTS to the submission of the above described real property to condominium ownership and to the recording of the Declaration for Wallace Commercial Condominium set forth herein.



DATED this 27<sup>th</sup> day of September, 2020.

FIRST INTERSTATE BANK, by

  
Chris Dulaney, Relationship Manager

STATE OF MONTANA    )  
  : ss.  
County of Gallatin    )

On this 28<sup>th</sup> day of September, 2020, before me, a Notary Public in and for said State, personally appeared Chris Dulaney, Relationship Manager of FIRST INTERSTATE BANK, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that the corporation executed the same.

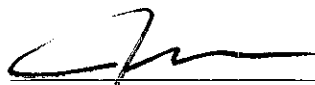
	MITZI QUAM Notary Public for the State of Montana	
	Residing at: Bozeman, Montana	Printed Name: <u>Mitzi Quam</u>
	My Commission Expires: May 22, 2022	Notary Public for the State of Montana. Residing at <u>Bozeman</u> , Montana.
		My commission expires: <u>May 22, 2022</u>

**EXHIBIT F TO  
WALLACE COMMERCIAL CONDOMINIUM DECLARATION  
CERTIFICATE OF FLOOR PLANS**

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

That the floor plans for WALLACE COMMERCIAL CONDOMINIUM, located on That portion Lot 13A of the Amended Plat of Lot 13, Lot 14, Lot 15A and Lot 16A, Block A of Rouse's 2nd Addition to Bozeman, according to the official plat thereof on file and of record in the office of the County Clerk and Recorder, Gallatin County, Montana (Plat Reference: C-6-F) lying below the horizontal plane located at elevation of 4855 feet, which divides the Wallace Building located thereon between the floor of the fourth floor and the ceiling of the third floor of such Wallace Building as it is currently situated, commonly known as floors one, two and three of the Wallace Building whose address is 101 South Wallace Avenue, Bozeman, Montana 59715, together with the entire building known as the Babcock Building whose address is located at 548 East Babcock Building, Bozeman, Montana 59715, and together with all other portions of said Premises other than the Wallace Residential Condominium located thereon as duly filed with the Declaration thereof, fully and accurately depict the layout, location, unit designation and dimensions of WALLACE COMMERCIAL CONDOMINIUM as of this date, and that such floor plans are an accurate copy of the plans filed with and approved by the officials and officers of the City of Bozeman, Montana having jurisdiction to issue building permits. Such floor and site plans render hand representation of the actual buildings as built.

Dated: 2020.12.17



\_\_\_\_\_  
Joshua A. Barr  
Registered Professional Architect  
License No. 2811

**EXHIBIT G TO  
WALLACE COMMERCIAL CONDOMINIUM DECLARATION  
CERTIFICATE OF NAME**

The undersigned being the duly authorized agent of the Department of Revenue of the State of Montana within the County of Gallatin, herewith executes the following certificate relating to WALLACE COMMERCIAL CONDOMINIUM, situated as follows:

That portion Lot 13A of the Amended Plat of Lot 13, Lot 14, Lot 15A and Lot 16A, Block A of Rouse's 2nd Addition to Bozeman, according to the official plat thereof on file and of record in the office of the County Clerk and Recorder, Gallatin County, Montana (Plat Reference: C-6-F) lying below the horizontal plane located at elevation of 4855 feet, which divides the Wallace Building located thereon between the floor of the fourth floor and the ceiling of the third floor of such Wallace Building as it is currently situated, commonly known as floors one, two and three of the Wallace Building whose address is 101 South Wallace Avenue, Bozeman, Montana 59715, together with the entire building known as the Babcock Building whose address is located at 548 East Babcock Building, Bozeman, Montana 59715, and together with all other portions of said Premises other than the Wallace Residential Condominium located thereon.

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

Dated: Dec. 18<sup>th</sup> 2020

  
Montana Department of Revenue



**EXHIBIT H TO  
WALLACE COMMERCIAL CONDOMINIUM DECLARATION**

Municipal Facilities Exclusion

Declarant certifies that WALLACE COMMERCIAL CONDOMINIUM is excluded from review by the Department of Environmental Quality pursuant to 76-4-125 and 76-3-203, MCA.

**76-4-125. Land divisions excluded from review**

(1) A subdivision excluded from the provisions of chapter 3 must be submitted for review according to the provisions of this part, except that the following divisions or parcels, unless the exclusions are used to evade the provisions of this part, are not subject to review:

(d) as certified pursuant to 76-4-127 (iii) divisions or parcels of land that are exempt from the Montana Subdivision and Platting Act review under 76-3-203.

**76-3-203. Exemption for certain condominiums and townhouses.**

Condominiums, townhomes, townhouses, or conversions, as those terms are defined in 70-23-102, constructed on land subdivided in compliance with parts 5 and 6 of this chapter or on lots within incorporated cities and towns are exempt from the provisions of this chapter if:

(2) the condominium, townhome, or townhouse proposal is in conformance with applicable local zoning regulations when local zoning regulations are in effect.



January 6, 2021

Evan Moppert  
Schwasinger & Fallaw  
517 South 22nd Avenue Suite 2  
Bozeman MT 59718

RE: Wallace Commercial Condominium  
Municipal Facilities Exclusion  
EQ# 21-1696  
City of Bozeman  
Gallatin County

Dear Mr. Moppert;

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

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

Wallace Commercial Condominium Municipal Facilities Exclusion will consist of (15) Fifteen Units.

Sincerely,

*Ashley Kroon*  
Ashley Kroon  
Department of Environmental Quality  
Engineering Bureau  
Public Water & Subdivision Review  
(406) 461-9844  
email [akroon@mt.gov](mailto:akroon@mt.gov)

cc: City Engineer  
County Sanitarian  
Owner  
file

**EXHIBIT I TO  
WALLACE COMMERCIAL CONDOMINIUM DECLARATION**

BYLAWS OF THE WALLACE COMMERCIAL CONDOMINIUM ASSOCIATION

I.  
**PURPOSE AND APPLICATION**

These Articles are and shall be the Bylaws of the Wallace Commercial Condominium Association ("the Association"). These Bylaws shall, upon being recorded with the Clerk and Recorder of Gallatin County, State of Montana, govern and control the administration of the Wallace Commercial Condominium ("the Condominium"). All Owners, their invitees, guests, and lessees, present and future, shall have the responsibilities described in these Bylaws and shall be subject to the provisions thereof. These Bylaws are attached as Exhibit I to the Wallace Commercial Condominium Declaration ("Declaration"). All terms used herein shall have the meanings set forth in the Condominium Declaration.

The acquisition of an ownership interest in a Unit, or the act of occupancy of a Unit, in the Condominium signifies that the Owner and/or tenant accepts, ratifies and agrees to comply with these Bylaws.

II.  
**MEMBERSHIP**

Each person owning an ownership interest in a Unit in the Condominium shall be a member of the Association. An owner may not decline membership in the Association. Membership begins concurrently with the acquisition of an ownership interest and terminates at the time such ownership interest is terminated. Such termination shall not relieve any owner of liability for obligations incurred while a member of the Association; further, membership in the Association does not in any way negate or impair any owner's legal remedies, right to bring legal action, or defenses to any and all actions involving the Association, other Owners, which may arise from or be incidents of unit ownership.

III.  
**OBLIGATIONS**

Each Owner shall be obligated to comply with these Bylaws, the Declaration, and the laws of the Municipality, the County, the State of Montana and any other governing body with jurisdiction. Such obligations shall include, but not be limited to, the paying of assessments levied by the Association, and the adherence to the protective covenants which are a part of the Declaration. Failure of any owner to abide by these Bylaws, and all rules made pursuant thereto, and/or the Declaration, shall be grounds for appropriate legal action by the Association or by an aggrieved Owner against such noncomplying

Owner. Each Owner shall also comply with the terms and conditions of the DCE as defined in the Declaration.

IV.  
**MEETING AND VOTING**

The initial meeting of the Owners shall be held upon not less than twenty-one (21) days' written notice given by the Declarant. If not called earlier by the Declarant, the initial meeting of the Owners shall be held not more than thirty (30) days after the Turnover Date. Thereafter there shall be an annual meeting of the Owners within thirty (30) days from the anniversary date of the initial annual meeting at such time and on such date designated by the Board.

Pursuant to these Bylaws, the Association may at any time hold special meetings. Such special meetings may be called: on the initiative of the President of the Association; by the Board of Directors; by a signed request of the Manager; or by a petition signed by Owners representing at least forty percent (40%) of the Undivided Interest in the Condominium. Notice of any special meeting must specify the reason for such meeting and the matters to be raised. Only matters set forth in the petition or request may be brought before such meeting unless at least forty percent (40%) of the Undivided Interest present agree otherwise.

A. Notice.

Notice of all meetings, regular or special, shall be emailed or mailed by the Association's Secretary to every Owner of record at his or her address of record at least ten (10) business days prior to the time for holding such meeting. Such notice shall specify the date, time and place of the meeting and shall make provisions to allow for the voting of each Voting Member's interest by ballot or proxy at the discretion of the Voting Member. The mailing of a notice in the manner provided in this paragraph or the personal delivery of such notice by the Secretary of the Association shall be considered as notice served.

B. Quorum.

No meeting of Owners, regular or special, shall be convened to conduct business of the Owners unless a quorum is present in person or by proxy. A quorum shall consist of at least fifty percent (50%) of the Undivided Interest of the Condominium. An Owner may participate in any meeting by means of a conference telephone or similar communication equipment through which all persons participating in the meeting may communicate with the other participants. Participation in a meeting pursuant to this section constitutes presence in person at the meeting. At any time, during any Owner's meeting that a quorum is not present, such meeting shall be adjourned forthwith.

V.  
**VOTING INTEREST**

The Association shall have one class of membership. Each Unit at Owner's meetings shall have a vote equal to said Unit's Undivided Interest as set forth in the Declaration. There shall be one individual with respect to each Unit who shall be entitled to vote at any meeting of the Owners (the "Voting Member"). If the Owner of a Unit is one individual, then such individual shall be the Voting Member. If the Record ownership of a Unit shall be in more than one individual or if the Owner is a trustee, corporation, partnership or other legal entity, then the Voting Member shall be designated by the Owner or Owners in writing to the Board, and if in the case of multiple individual Owners no designation is given, then the Board may, at its selection, recognize an individual Owner of the Unit as the Voting Member for such Unit. In the event that there is a dispute between the Owners of the same Unit as to who shall serve as the Voting Member, the Association may suspend the Unit's vote until the dispute is resolved to the Board's satisfaction. Any or all Owners may be present at any meeting of the Owners, but the voting rights shall be vested exclusively in the Voting Members; provided, however, that a Voting Member may vote either in person or by proxy executed in writing by the Voting Member or his or her duly authorized attorney-in-fact and filed with the Secretary before the meeting. No proxy shall be valid after eleven (11) months from the date of its execution. Each Voting Member shall have a vote equal to the Undivided Interest assigned to each Unit which he or she represents. Except as otherwise specifically provided in the Declaration or these Bylaws, any action requiring the consent of the Unit Owners shall require the affirmative vote or written consent of a majority of the Undivided Interest of the Condominium present at a duly held meeting in which a quorum is present.

VI.  
**BOARD OF DIRECTORS**

The governance of the Association shall be by a Board of three (3) Directors, elected among the Owners. Notwithstanding the foregoing, until the Turnover Date, the Board shall consist of three (3) persons appointed by the Declarant, who shall serve until the first annual meeting of the Association, at which time a new Board shall be elected. The initial directors appointed by the Declarant are listed below. The Board shall have all powers and responsibilities attendant to the general administration and control of the condominium. Additionally, the Board shall have the authority necessary to carry into effect the powers and duties specified by these Bylaws. A quorum for a meeting of the Board of Directors shall consist of at least two members of the Board of Directors.

VII.  
**OFFICERS OF THE BOARD OF DIRECTORS**

The Association shall be governed by a Board of Directors, who shall also serve as officers of the Association, which shall consist of a President, Secretary, and Treasurer, who shall all serve for a term of one (1) year. The manner of election of the Board of Directors shall be as follows:

At the first and all subsequent annual meetings of the Association after the Turnover Date, nominations for positions on the Board shall be accepted from any of the Owners present. Voting will be noncumulative, with each Unit having a vote equal to said Unit's Undivided Interest for each nominated person. Board members shall be elected by majority vote of the Undivided Interest present or voting by proxy at any annual or special meeting at which a quorum is reached. After the Turnover Date, members of the Board of Directors must be members of the Association.

Prior to the Turnover Date, the Declarant shall appoint all three (3) directors and officers of the Association.

The respective officers of the Association shall have such powers and duties as are from time to time prescribed by the Board and as are usually vested in such officers of a Montana Not-For-Profit Corporation including without limitation, the following:

(a) The President shall be the Chief Executive Officer of the Condominium Association and shall preside at all meetings of the Owners and at all meetings of the Board and shall execute amendments to the Condominium Declaration and these Bylaws, as provided for in the Act, the Declaration and these Bylaws;

(b) The Secretary shall keep minutes of all meetings of the Owners and of the Board and have charge of such other books, papers and documents as the Board may prescribe, and shall be responsible for giving and receiving all notices to be given to or by the Association under the Act, the Declaration or these Bylaws;

(c) The Treasurer shall be responsible for Association funds and for keeping full and accurate accounts of all receipts and disbursements in the Condominium Association books of accounts kept for such purpose. The Treasurer shall be responsible for the deposit of all moneys and other valuable effects in the name, and to the credit, of the Association in such depositories as may from time to time be designated by the Board.

The officers shall receive no compensation for their services except as expressly provided by a resolution duly adopted by the Voting Members.

#### VIII.

#### **POWERS AND DUTIES OF THE BOARD OF DIRECTORS**

Subject to the provisions of Section 11.04 of the Declaration, the Association shall have and exercise all powers as are now or may hereafter be granted by the Non-Profit Corporation Act of the State of Montana, the Act, the Declaration and these Bylaws. The Association, acting through the Board of Directors shall have the following specific powers and duties:

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

- B. To conduct elections of the Board of Directors.
- C. To enforce the provisions of the Declaration, these Bylaws, and duly adopted rules and regulations by appropriate action as allowed by the Declaration.
- D. To promulgate and adopt rules and regulations for the use of the Common Elements and for the occupancy of the Units so as not to interfere with the peace and quiet of all the residents. Such rules may be revoked or modified by majority vote of the Undivided Interest at any regular or special meeting of the Association.
- E. 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 Common Elements.
- F. 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.
- G. 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.
- H. To delegate authority to the Manager for the routine conduct of condominium business, however, such authority shall be precisely defined with ultimate authority at all time residing in the Board of Directors.
- I. To provide a means of hearing grievances of Owners and to respond appropriately thereto.
- J. To meet at regularly scheduled times and to hold such meetings open to all Owners or their agents.
- K. To prepare an annual budget for the Condominium in order to determine the amount of the assessments payable by the Owners to meet the Common Expenses and, and allocate and assess such charges among the Owners according to Undivided Interests as more particularly set forth in the Declaration.
- 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 operating or maintenance expenses, costs, or additional capital expenses, or because of emergencies as more particularly set forth in the Declaration.

- M. To take appropriate legal action to collect any delinquent assessments, payments or amounts due from Owners, or from any person or persons owing money to the Condominium or 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 Condominium or the Association is a party defendant.
- O. To enter into contracts necessary to carry out the duties herein set forth.
- P. To establish a bank account for the Association, and to keep therein all funds of the Association. Withdrawal of monies from such accounts shall only be by checks signed by such persons as are authorized by the Board of Directors.
- Q. In general, to act for and carry on the administration and affairs of the Association as authorized and prescribed by the Declaration, and to do all those things which are necessary and reasonable in order to carry out the governance and operation of the Condominium.
- R. To make repairs, alterations, additions, and improvements to the Common Elements consistent with managing the Condominium in a first-class manner and in the best interest of the Owners as more particularly set forth in the Condominium.
- S. To provide funds for the perpetual maintenance of the general common open area and landscaping, the parking areas and driving lanes, and any stream/ditch and irrigation canals pursuant to the terms of the DCE and the requirements of the Administrative Entity, and to make any assessments necessary for such maintenance as provided herein. Such maintenance shall specifically include the control of County declared noxious weeds.
- T. To arrange, keep, maintain and renew the insurance for the Association as set forth in the Declaration.
- U. To levy fines as more particularly set forth in the Declaration.
- V. To carry out the duties and responsibilities of the Board in all other matters as may be authorized, needed or required by the Declaration.

IX.

**VACANCIES AND REMOVAL**

Should a vacancy occur on the Board of Directors after the Turnover Date, the remaining members of the Board of Directors, shall appoint a member of the Association to serve for the unexpired term. Such vacancy shall be filled no later than the next regular



Board meeting after which it occurs. If the Board is unable to fill the vacancy, a special meeting of the Owners shall be called for such purpose.

After the Turnover Date, at any regular or special meeting of the Association, any member of the Board may be removed by majority vote of the Undivided Interest. Such vacancy shall be filled by the Owners. Such removal matter must be announced in the notice of such regular or special meeting. Prior to the Turnover Date, a member of the Board may only be removed by the Declarant. After the Turnover Date, if a Director ceases to be an Owner or a Voting Member, he or she shall be deemed to have resigned as of the date of such cessation.

X.  
**COMPENSATION**

No member of the Board of Directors shall receive any compensation for acting as such. Nothing herein, however, shall be construed to preclude compensation being paid to Managers who are hired by the Board of Directors. Upon the presentation of receipts or other appropriate documentation, a Director shall be reimbursed by the Association for reasonable out-of-pocket expenses incurred in the course of the performance of his or her duties as a Director.

XI.  
**MANAGER**

If the Board elects to hire a Manager, said Manager shall be appointed and/or removed by the Board of Directors. The Manager (or any member of the Board or Association handling Association funds or having power to withdraw or spend such funds) shall be bonded if required by the Board of Directors, and shall maintain the records of the financial affairs of the Condominium. The Manager shall keep detailed accurate records in chronological order of the receipts and expenditures affecting the Common Elements, itemizing the maintenance and repair expenses of the Common Elements and any other expenses incurred. The receipts and expenditures of the Association shall be under the direction of the Manager, and shall include a provision for current expenses which shall include all receipts and expenditures to be made within the year for which the budget is made, including a reasonable allowance for contingencies and working funds, except expenditures chargeable to reserves or betterments. All records shall be available for examination during normal business hours to any Owner or his or her assigned representative or First Mortgagee. All functions and duties herein provided for the Manager shall be performed by the respective officers of the Association if the Board should decide not to have a Manager.

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

XII.

**AMENDMENT OF BYLAWS**

These Bylaws may be amended at any regular or special meeting of the Association. Upon a vote of at least seventy-five percent (75%) of the Undivided Interest, the amendment shall be declared adopted.

An amendment may also be adopted at any time without a meeting if it is approved in writing by the notarized signatures of one hundred percent (100%) of the Owners.

The Secretary shall as soon as practicable after adoption, prepare a copy of these Bylaws as amended for certification by the President and Secretary of the Association. Such amended and certified Bylaws shall then be filed and recorded in the office of the Clerk and Recorder of Gallatin County, State of Montana. Bylaws as amended shall become effective at the time of such recording.

XIII.

**ASSESSMENTS**

In accordance with each Unit's Undivided Interest as set forth in the Declaration, each Unit shall be assessed for Common Expenses, which shall include the expenses of any properly created special improvement districts (SIDs) affecting the property, including, but not limited to, lighting districts, street maintenance and tree maintenance. The amount of assessments described above and any other assessments allowed by these Bylaws, the Declaration, and by the State of Montana, shall be fixed by the Board of Directors at any regular or special meeting. Notice of each Unit assessments shall be mailed to the Owners for each Unit at their address of record.

XIV.

**THE DECLARATION**

The undersigned has filed, along with these Bylaws, a Declaration whereby the properties known as Wallace Commercial Condominium are submitted subject to the Act (Title 70, Chapter 23, M.C.A). The Declaration shall govern the acts, powers, duties and responsibilities of the Association, and in the event these Bylaws and the Declaration are in conflict, the Declaration shall prevail.

By virtue of these Bylaws and the Declaration, each Owner has the right to membership in the Association and any Owner may be on the Board of Directors of the Condominium subject to the Declarant's rights to appoint the Board as provided herein.

The Association and its Board of Directors shall have the primary and final authority on all matters solely affecting the Condominium area, subject to the laws, rules and regulations of the Municipality, the County, and the State of Montana.



# BOZEMAN<sup>MT</sup>

Community Development

## CONDOMINIUM REVIEW DECISION

### APPLICATION

Date: 01/25/2021 Number of Units total / this phase: 15 units

File Number: 20-401 Original Project File number, if applicable: 17-263

Condominium Name: Wallace Commercial Condominiums

Legal Description: Lot 13A of Rouse's 2nd Addition Subdivision, Amended Plat C-6-F, 0.457 Acres, located on Block A of Section 07, Township 02 South, Range 06 East, P.M.M., City of Bozeman, Gallatin County, Montana

### STATUTE

**"76-3-203. Exemption for certain condominiums.** Condominiums constructed on land subdivided in compliance with parts 5 and 6 of this chapter or on lots within incorporated cities and towns are exempt from the provisions of this chapter if:

- (1) the approval of the original subdivision of land expressly contemplated the construction of the condominiums and any applicable park dedication requirements in 76 -3-621 are complied with; or
- (2) the condominium proposal is in conformance with applicable local zoning regulations when local zoning regulations are in effect."

### FINDINGS

Per the above statute, the Department of Community Development finds the condominium development noted above meets the Subdivision & Platting Act (SPA) and Sanitation in Subdivision Act (SiS) by:

- SPA) Does not require subdivision review and has satisfied the exemption criteria.
- SPA) Has completed review as a subdivision.
- SiS) A municipal facilities exemption has been granted (see attached).
- SiS) Exempt from Sanitation Review per:

### DIRECTOR SIGNATURE

# Brian Krueger

Digitally signed by Brian Krueger  
 DN: C=US, E=bkrueger@bozeman.net, O=City of Bozeman, OU=Community Development, CN=Brian Krueger  
 Date: 2021.01.28 08:59:03-07'00'

Martin Matsen, AICP, Director, City of Bozeman Department of Community Development

### CONTACT US

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