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Charlotte Mills-Gallatin Co MTMISC 111.00

**AMENDMENT NO. 2 TO THE CONDOMINIUM  
DECLARATION AND BYLAWS FOR  
KAGY VILLAGE CONDOMINIUMS**

THIS AMENDMENT executed as of the day and year which corresponds to the signatures below, is made pursuant to the amendment provisions and procedures set forth in the Preliminary Condominium Declaration and Bylaws of and for the Kagy Village Condominiums, which were recorded on April 5, 2006 as Document No. 2223832, records of the Gallatin County Clerk and Recorder's office and which by this reference are fully and completely incorporated herein. The purpose of this Amendment No. 2 is to remove and release the unimproved Lots 2 and 3 from the condominium. This Amendment No. 2 is therefore also made pursuant to the provisions of Section X of the Declaration (page 24 of 33) entitled Removal or Partition and pursuant to Section 70-23-801 of the Montana Unit Ownership Act. All of the owners of Units in Kagy Village Condominiums as well as all holders of liens on the real property have consented to this removal and release as evidenced by their signatures below. A further purpose of this Amendment No. 2 is to set forth the revised legal description of Kagy Village Condominiums and to allow for the subsequent aggregation of said removed lots in the Condominium as may be determined at a later date by the original Declarant or said Declarant's successors or assigns.



NOW, THEREFORE, the following Amendment to the Condominium Declaration and Bylaws for Kagy Village Condominiums is as follows:

1. That the recitals as set forth above are hereby incorporated herein by reference.
2. That lots 2 and 3 are hereby removed from the condominium and a revised legal description is attached hereto as Exhibit "A" and incorporated herein by this reference.
3. That a revised site plan for all of the condominiums contained on Lot 1 is attached hereto as Exhibit "C" and incorporated herein by reference and shall replace the site plan previously on file and of record in the office of the Gallatin County Clerk and Recorder's Office filed as Exhibit "C" to Document No. 2223832 (Pages C-1, C-2 and C-3). Two proposed future site plans describing the possible aggregation of Lots 2 and 3 are attached hereto as Exhibits "D-1" and "D-2" and incorporated herein by reference.
4. That the subsection entitled "Description and Future Units" contained in section 2, Real Estate, is deleted in its entirety and replaced as follows:

Description and Future Units

The property which is by this Declaration submitted and subject to the Montana Unit Ownership Act is described in revised Exhibit "A" attached to Amendment No. 2 to the Condominium Declaration and Bylaws for Kagy Village Condominiums.

The condominium consists of three possible phases of three separate buildings in each phase as set forth on the proposed future site plans attached as Exhibit "D" to the Amendment No. 2 to the Condominium Declaration and Bylaws for Kagy Village Condominiums. Phase 1 as built consists of three separate buildings and nine (9) separate units, designated Units A-1, A2-1, A2-2, A-3, B1,

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B2, B3 and C1 and C2. The provisions of this Declaration and the Bylaws shall be construed to be covenants running with the land, and shall include every Unit and shall be binding up on the Unit Owners, their heirs, successors, personal representatives and assigns for as long as this Declaration and Bylaws for Kagy Village Condominiums are in effect.

Furthermore, Declarant anticipates constructing up to an additional six (6) separate buildings, each containing two or more Units in one or more phases on the adjacent real property described as Lot 2 and Lot 3 in Block 2 of Correction Plat of Kagy Crossroads Subdivision. All Owners, their heirs, successors and assigns agree that this real property may be aggregated to the real property upon which the condominiums which are the subject of this Declaration and Bylaws are located. In this regard, all Owners, purchasers, their heirs, successors and assigns of any Unit or interest in and to the condominiums created hereunder, agree to and do hereby appoint the Declarant or the Declarant's successor, assign or designee as having a Power of Attorney to effectuate the aggregation of property described as Lot 2 and Lot 3 in Block 2 of Correction Plat of Kagy Crossroads Subdivision.

5. That section 6 entitled "Declarant's Right to Change" (page 16 of 33) is deleted in its entirety and replaced as follows:

Declarant's Right to Change

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

As discussed, described and noted above in this Declaration and Bylaws, the Declarant has

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reserved the right to aggregate the real property described as Lot 2 and/or Lot 3 in Block 2 of Correction Plat of Kagy Crossroads Subdivision and to construct up to an additional six (6) future buildings thereon as generally depicted on the proposed future site plans attached as Exhibits "D-1" and "D-2" to Amendment No. 2 to the Declaration and Bylaws of Kagy Village Condominiums and that with the creation of such buildings the percentage ownership and voting percentages of Unit Owners shall be diluted. Such aggregation of real property and construction of up to an additional six (6) buildings described throughout this Declaration and Bylaws may be done by Declarant or Declarant's successors or assigns without vote of the Unit Owners or Association as acceptance of a condominium Unit constitutes consent and acceptance for the aggregation of real property and construction of the additional buildings as described throughout this document.

6. That except for the specific changes, modifications, clarifications and additions contained and set forth above, each and every one and all the terms and conditions of the Condominium Declaration and all amendments thereto remain in full force and effect, unchanged and unaltered by this Amendment except where inconsistent with or in conflict with the terms hereof in which case this Amendment shall control.

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IN WITNESS WHEREOF, this Amendment has been executed as of this 31 day of

December, 2006.

OWNERS:

**KAGY VILLAGE, L.L.C.**

By *Dick Stefani*  
DICK STEFANI  
Its: Member

**DMC INCORPORATED**

By *David Macdonald*  
DAVID MACDONALD  
Its: President  
By *Richard N. Stefani*  
RICHARD N. STEFANI

**PALLADOR, LLC**

By *Robert W. Ostrum*  
Its: Member

By *Robert W. Ostrum*  
ROBERT W. OSTRUM

By *Karen M. Ostrum*  
KAREN M. OSTRUM

LIENHOLDERS:

**BANK OF BOZEMAN**

By: *W. Paul F. ...*  
Its: *Branch*

**MOUNTAIN WEST BANK**

By: *[Signature]*  
Its: *Branch President*





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~~ARIZONA~~  
STATE OF ~~MONTANA~~ )  
~~MARICOPA~~ ss.  
COUNTY OF ~~GALLATIN~~ )

On this 8 day of JANUARY, ~~2006~~<sup>2007</sup>, before me, a notary public in and for the State of Montana, personally appeared ROBERT W. OSTRUM known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

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

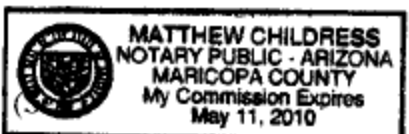


Matthew Childress  
Notary Public, State of ~~Montana~~ ARIZONA  
Residing at: \_\_\_\_\_  
My commissions expires: 5-11-2010

~~ARIZONA~~  
STATE OF ~~MONTANA~~ )  
~~MARICOPA~~ ss.  
COUNTY OF ~~GALLATIN~~ )

On this 8 day of JANUARY, ~~2006~~<sup>2007</sup>, before me, a notary public in and for the State of Montana, personally appeared KAREN M. OSTRUM known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same.

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



Matthew Childress  
Notary Public, State of ~~Montana~~ ARIZONA  
Residing at: \_\_\_\_\_  
My commissions expires: 5-11-2010



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STATE OF MONTANA )  
  ) ss.  
COUNTY OF GALLATIN )

On this 3 day of January, 2007, before me, a notary public in and for the State of Montana, personally appeared Michael Richards known to me to be the Pres./CEO of BANK OF BOZEMAN and the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same pursuant to the authority vested in him/her.

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



Maureen R Horton  
Maureen R Horton  
Notary Public, State of Montana  
Residing at: Bozeman  
My commissions expires: May 01, 2008

STATE OF MONTANA )  
  ) ss.  
COUNTY OF GALLATIN )

On this 3 day of January, 2007, before me, a notary public in and for the State of Montana, personally appeared Jeff A. Cony known to me to be the Branch President of MOUNTAIN WEST BANK and the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same pursuant to the authority vested in him/her.

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

(Seal)



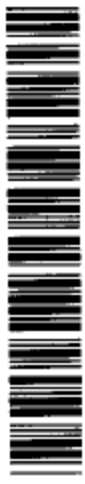
Chayleen Marquis  
Chayleen Marquis  
Notary Public, State of Montana  
Residing at: Bozeman  
My commissions expires: Aug 14 2010

**EXHIBIT "A"**

Lot 1 in Block 2 of Correction Plat of Kagy Crossroads Subdivision, located in the SE1/4 of Section 14, Township 2 South, Range 5 East, P.M.M., City of Bozeman, Gallatin County, Montana, according to the official plat thereof on file and of record in the office of the County Clerk and Recorder, Gallatin County, Montana. (Plat Reference: J-328-A).

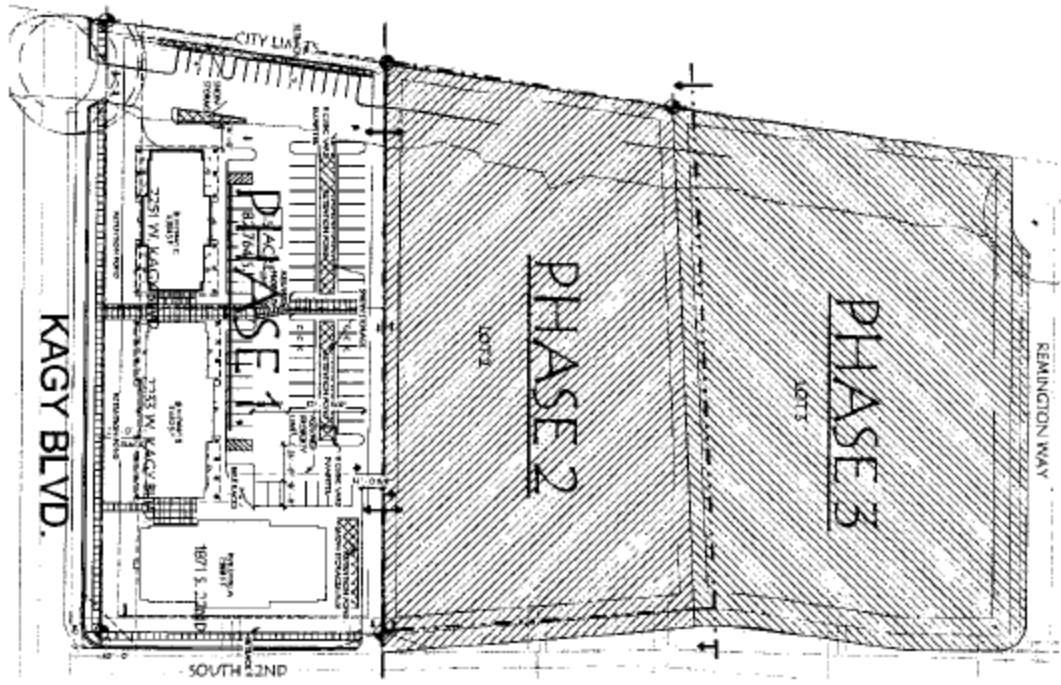
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1 REVISED SITE PLAN - EXHIBIT C



SCALE 1"=20'-0"

PLAN ARCHITECTS	PROJECT NAME	OWNER
201 N. 22nd Ave, Suite 1 Bozeman, MT 59718 Phone: 404-254-6777 Fax: 404-254-6778 Website: <a href="http://www.planarchitect.com">www.planarchitect.com</a>	KAGY VILLAGE - PHASE II & III KAGY VILLAGE LOT 1	DMC, INC RICHARD STEFANI BOZEMAN, MT 59718

ISSUED	REVIEWED	APPROVED	REVISIONS

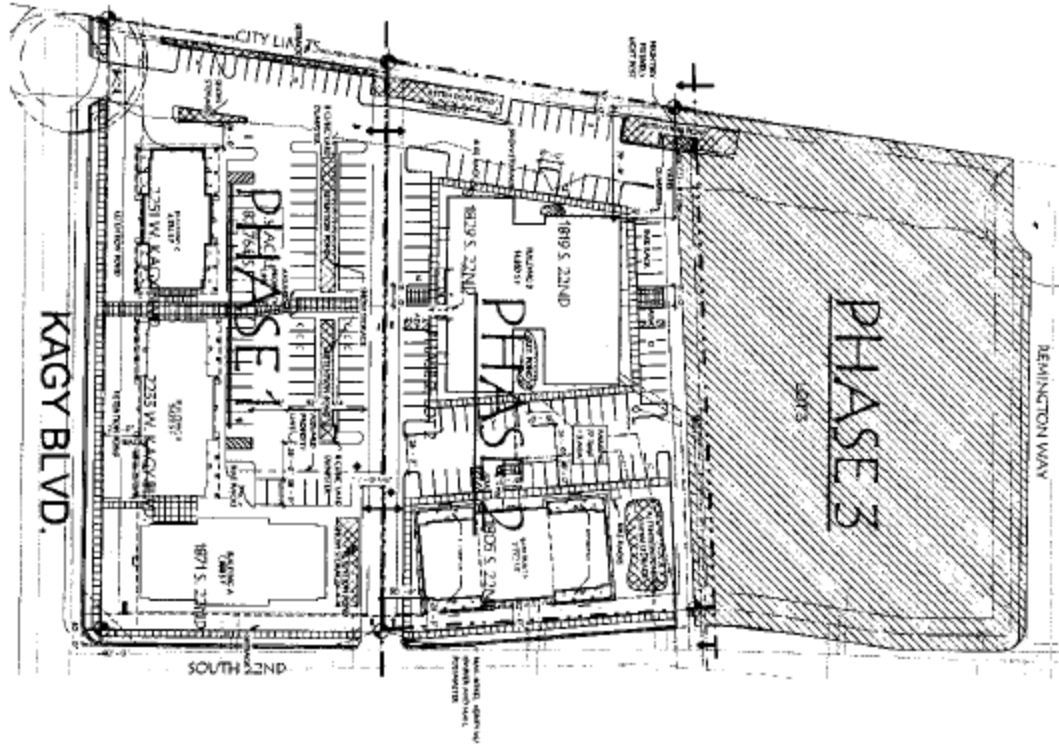
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PROPOSED FUTURE SITE PLAN - EXHIBIT D1



A1.0B

**DILARI ARCHITECTS**  
 207 W. 2nd Ave., Suite 2  
 Bozeman, MT 59709  
 Phone: 406.592.4572  
 Fax: 406.592.4573  
 Cell: 406.592.1799  
 Website: [www.dilari.com](http://www.dilari.com)

**PROJECT NAME**  
 KAGY VILLAGE - PHASE II & III  
 KAGY VILLAGE - LOTS 1,2,3

**OWNER**  
 DMC, INC  
 RICHARD STEFANI  
 BOZEMAN, MT 59719

ISSUED	REVIEWED	APPROVED	REVISIONS

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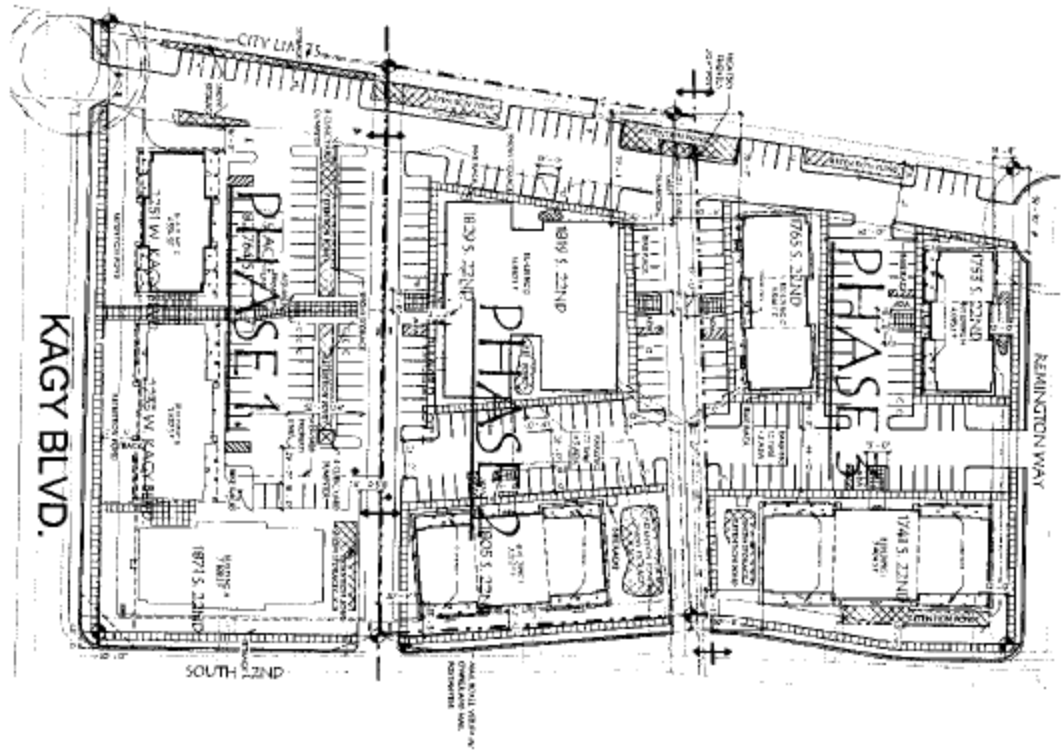
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1 PROPOSED FUTURE SITE PLAN - EXHIBIT D2



A1.0C

**PILAR ARCHITECTS**  
 201 N. 22nd Ave., Suite B  
 Charlotte, NC 28206  
 Phone: 704.366.8770  
 Fax: 704.366.8771  
 Email: info@pillar.com

**PROJECT NAME**  
 KACY VILLAGE - PHASE II & III  
 KACY VILLAGE LOTS 1,2,3

**OWNER**  
 DMC, INC  
 RICHARD STEFANI  
 BOZEMAN, MT 59718

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