

FRANCIS J. SLAVIN
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*CERTIFIED SPECIALIST REAL ESTATE LAW

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EMAIL: h.dukes@fjslegal.com

August 9, 2017

VIA U.S. MAIL AND EMAIL: ajuhlin@sedonaaz.gov

Ms. Audree Juhlin, Director
CITY OF SEDONA
Community Development Department
102 Roadrunner Drive, Building 104
Sedona, Arizona 86336

RE: Status of Son Silver West Zone Change Application for Tract 40 of the Broken Arrow Subdivision Plat located at 1535 State Route 179 (the "Property")

Dear Director Juhlin:

We are sending this letter on behalf of the owner of the above-referenced Property, the Linda Rose Robson Living Trust dated July 12, 1999, to inform you of the status of the Zone Change application to be filed for the Property. As you are aware, we have been diligently working with our consultants to address staff questions and comments as well as public input from surrounding property owners in an attempt to submit a complete and comprehensive Zone Change application to rezone the Property from the RS-18(b) Single Family Residential district to the Parking (P) district. This Zone Change application is being filed with the City for the purpose of allowing development of a surface parking area to serve the adjacent Son Silver West art gallery located at 1476 State Route 179.

Our clients' initial intention was to process the pending Major Community Plan Amendment and Zone Change applications for the Property concurrently. Although we project being ready to submit the Zone Change application during the week of August 14, 2017, we understand that the requisite comment period and public hearing schedule associated with such Zone Change application will most likely result in the Major Community Plan Amendment and Zone Change applications being heard in sequence rather than concurrently.

We want to thank you for your continued feedback and guidance pertaining to our applications for this Property and look forward to filing our Zone Change application with

Ms. Audree Juhlin, Director of Community Development Department

August 9, 2017

Page 2 of 2

the City of Sedona Community Development Department next week. In the meantime, if you have any questions or concerns, please do not hesitate to contact me at (602)381-8700. Thank you.

Yours very truly,

A handwritten signature in blue ink that reads "Heather N. Dukes". The signature is fluid and cursive, with a long horizontal line extending from the end of the name.

Heather N. Dukes

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EMAIL: h.dukes@fjslegal.com

August 24, 2017

VIA U.S. MAIL AND EMAIL: Ajuhlin@sedonaaz.gov

Ms. Audree Juhlin, Director
CITY OF SEDONA
Community Development Department
102 Roadrunner Drive, Building 104
Sedona, Arizona 86336

RE: Son Silver West Major Community Plan Amendment (“Major CPA”) Case No. PZ17-00011 Requesting Planned Area (“PA”) Land Use Designation for Tract 40 of the Broken Arrow Subdivision Plat located at 1535 State Route 179 (the “Property” or “Tract 40”) - Responses to July 10, 2017 Community Development Department Comments regarding Major CPA Application (the “Department’s Comments”)

Dear Director Juhlin:

On behalf of our client and the owner of the above-referenced Property, the Linda Rose Robson Living Trust dated July 12, 1999, we submit this letter to you in response to the comments received from the Community Development Department (the “Department”) on July 10, 2017 with regard to the above-referenced Major CPA application. For ease of reference, we have provided the Departments’ comments below, followed by our responses. We have also submitted herewith copies of the updated site plan, landscape plan and preliminary grading plan for the Property which were prepared by Coe & Van Loo Consultants, Inc. dated August 15, 2017.

1. Project Schedule

Response: We have reviewed the “Project Schedule” section of the Department’s Comments. No response was required with regard to this section.

2. General Comments

Response: We have reviewed the “General Comments” section of the Department’s Comments. No response was required with regard to this section.

3. **Community Plan Amendment and Zone Change**

We have reviewed the “Community Plan Amendment and Zone Change” section of the Department’s Comments. The additional information requested by the Department with regard to the Zone Change Application will be submitted to the City of Sedona as part of the Robson’s Zone Change application requesting approval to rezone Tract 40 from the RS-18b Single-Family Residential District to the P– Parking District. This letter will provide responses to those Department Comments applicable to the Major CPA Application only.

4. **Letter of Intent (LOI)**

a. **General Comments**

- i. **Discussion related to Covenants, Conditions & Restrictions (CC&Rs) are included in the LOI and provided as an exhibit. These documents do not fall within the City’s review and enforcement authority and will not be considered as part of the review and approval process for either the Major Community Plan Amendment or Zone Change application.**

Response: The Robsons understand that the Broken Arrow CC&Rs do not fall within the City’s enforcement authority. The CC&Rs information was provided as part of the historical background information for Tracts 40 and the Robson’s Son Silver West Property, consisting of Tracts 42 and 41. Such information is relevant to the uses which were contemplated within the Broken Arrow subdivision abutting SR-179 prior to Coconino County’s adoption of its first Zoning Ordinance in 1964 and the City’s incorporation in 1988. In addition, this information regarding the Broken Arrow “business district” created by the CC&Rs was previously requested by the Department as part of the Robson’s prior applications submitted in 2015.

- ii. **The application submitted requests that the Major Community Plan Amendment and Zone Change request applications be considered concurrently. However, the Zone Change portion of the application is incomplete. See Comments 5 (Site Plan) and 6 (Zone Change Application) for additional submittal requirements.**

Response: The additional submittal requirements for the Zone Change application under the Department’s Comments 5 and 6 have been reviewed and will be addressed as part of the Zone Change application.

b. Page 1 of LOI

- i. Introductory Paragraph: The LOI provides detailed history of Tracts 41 and 42 but does not provide an explanation as to why the existing Son Silver West Gallery properties/operations are not included in this application. It is recommended that the LOI address the reason behind the decision to only include Tract 40 in this application.**

Response: The Son Silver West commercial art gallery on Tracts 41 and 42 are currently operating as a legal non-conforming use. The legal non-conforming Son Silver West art gallery has been under-parked since before the City's incorporation in 1988 and has remained under-parked even after the Sedona Planning and Zoning Commission approved a conditional use permit to allow a 17 space parking area to be constructed on Tract 41.

Since the spring of 2017, the Robsons have been working with City of Sedona staff to resolve certain notices of violations which were issued by the City to the Robsons in late 2015. One of the violations which has caused concern for the Robsons, the City and the neighbors pertains to the parking of vehicles on Tract 40 and the overflow parking of employee and customer vehicles along neighborhood streets. In order to be able to park customer and employee vehicles on Tract 40 in the future, the Robsons have applied for Major Community Plan Amendment and Zone Change approvals. The Robsons agreed to submit this Major CPA application for Tract 40 as a first step in obtaining the necessary approvals to alleviate the current parking concerns.

In 2015, the Robsons previously attempted to process a Major Community Plan Amendment and Zone Change application which included Tracts 40, 41 and 42. The application sought approval of a Planned Area land use designation and a Planned Development zone change for all 3 properties. The prior application was met with neighborhood opposition due, in large part, to Tract 41 and 42 being included in the request. After considering the prior opposition and the immediate need to resolve parking violations occurring on Tract 40 as well as overflow parking in the neighborhood, the Robsons believed the neighbors and the City would be more likely to support an application for a transitional Planned Area land use designation coupled with very-limited Parking District zoning for Tract 40 only, rather than an all-inclusive application seeking commercial zoning approvals for all 3 tracts. This application is focused on creating an attractive, screened parking area with Dark-Sky compliant lighting that will address the Robson's, the City's and the neighborhood's pressing concerns regarding traffic and parking. Once these immediate concerns regarding the shortage of parking have been addressed, the Robsons are committed to working with the City and the neighborhood to develop a plan for a potential second application to amend the Community Plan and rezone Tracts 42 and 41 to allow comparable commercial uses.

c. Page 2

- i. It does not appear that the landscaping meets minimum requirements. Please provide a landscape plan that matches the landscaping described in the LOI.**

Response: Please see the attached Preliminary Landscape Plan for Son Silver West prepared by Earl J. Swetland, Registered Landscape Architect of Coe & Van Loo Consultants, Inc. dated August 15, 2017, CVL Project No. 01-0303601.

d. Page 3

- i. It is recommended that the history for Tract 40 be included in the LOI.**

Response: A detailed history of the subdivision plat, CCRs, zoning, ownership and uses pertaining to Tract 40 is included throughout the LOI dated June 5, 2017. See LOI pgs. 1, 3, 4, 6-8, and 10-16. Please contact us if there is specific information which the Department is seeking as to the history of Tract 40.

e. Page 4/5

- i. 1st Paragraph: Point of Clarity: The CUP permitted a total of 5,000 square feet of outdoor display, not an additional 5,000 square feet.**

Response: The allowable outdoor retail display area on Tracts 41 and 42 continues to be a point of discussion between the City and the Robsons.

- ii. 1st Paragraph: Parking: Please provide the parking required in accordance with the LDC for the approved uses in the 1992 CUP.**

Response: The Robsons and the City are continuing to attempt to resolve the approved uses and square footages on Tracts 42 and 41 by evaluating: (1) the legal non-conforming uses and structures on Tract 42, (2) the 1992 CUP approval, (3) the 1993 site plan approval, (4) several building permit approvals issued by the City between 1989 and 2011, and (5) a series of enforcement decisions rendered by former Community Development Directors, Tom Schafer and John O'Brien, between 1992 and 2011. The long-time operation and history of Tracts 42 and 41 has made this task somewhat time consuming, but progress is being made. For instance, it has come to light that the 1992 CUP approval required the Robsons to comply with the uses and square footages identified in both: (1) the September 15, 1992 Staff Report and (2) the 1992 Alternative Site Plan No. 2 approved by the Planning and Zoning Commission. Surprisingly, the uses and square footages in the 1992 Staff Report are significantly different from the uses and square

footages depicted in the scaled, 1992 Alternative Site Plan No. 2. Assuming that we were to consider the uses identified in the 1992 Staff Report only, the parking required in accordance with the present-day Sedona Land Development Code would be as follows:

Uses and Square Footages Identified in September 15, 1992 Staff Report for CUP92-3	Required Parking Under Current Sedona LDC, Section 912
2,250 s.f. of retail in enclosed buildings	(2,250 s.f. ÷ 1 space per 250 s.f. retail) = 9 parking spaces
5,000 s.f. of retail in outside retail display area	(5,000 s.f. ÷ 1 space per 250 s.f. retail) = 20 parking spaces
1,950 s.f. of single-family dwelling unit	(2 parking spaces per dwelling unit) 2 parking spaces
1,300 s.f. of pottery shop with kiln	(1,300 s.f. ÷ 1 space per 250 s.f. retail) = 5.2 parking spaces ≈ 6 parking spaces
590 s.f. of storage space	0 parking spaces
750 s.f. of workshop	0 parking spaces
Total Required Parking Spaces based upon 1992 Staff Report	37 parking spaces

The Robson’s Son Silver West Gallery has been operating with a 17-space parking area on Tract 41 since the approval of the 1992 CUP. The above parking calculations based upon the 1992 Staff Report, which do not take into account the approved Alternative Site Plan No. 2, subsequent City approvals or the whelming tourism traffic, demonstrate that the Son Silver West Gallery has been considerably under-parked since 1992. This parking shortage together with the tourism factor has caused overflow parking to occur on both Tract 40 and throughout the neighborhood.

f. Page 19

- i. The text states there are 19 spaces (Tracts 41 and 42) on site but the map states/shows 18 spaces. The new parking lot (Tract 40) has proposed 40 new spaces, but the text states a total of 58 spaces (18 + 40). Please clarify whether “19” is a typo.**

Response: Since submitting the initial site plan with the Robson’s Major CPA application on June 5, 2017, the Robsons have hired Coe & Van Loo Consultants to prepare a modified and more detailed site plan for Tract 40 which: (i) removes proposed parking and landscaping improvements from the existing access easement along the south boundary of Tract 40, (ii) provides required landscaping in compliance with the Sedona LDC, (iii) provides required retention areas on Tract 40, and (iv) adds 2 handicap accessible parking spaces on Tract 41. See the attached plans. The modified Preliminary Site Plan for Son Silver West dated August 15, 2017 depicts the following: (i) 36 parking spaces on Tract

40, (ii) 2 new handicap accessible parking spaces on Tract 41 in close proximity to the main entrance of the Son Silver West art gallery buildings, and (iii) 14 spaces in the existing parking area on Tract 41. Note that Son Silver West will experience a loss of 3 existing parking spaces on Tract 41 in order to accommodate the 2 new handicap accessible parking spaces. In total, the Robsons would be providing 50 parking spaces and 2 handicap accessible parking spaces with the approval of the Tract 40 parking area.

g. Page 24

- i. Please provide more detail on the proposed “substantial landscaping” described in the LOI and whether this is existing or new landscaping (or a combination).**

Response: Please see the attached Preliminary Landscape Plan for Son Silver West prepared by Earl J. Swetland, Registered Landscape Architect with Coe & Van Loo Consultants, dated August 15, 2017, CVL Project No. 01-0303601. The Preliminary Landscape Plan provides designations for existing and new landscaping on Tract 40, as well as a Concept Plant Schedule which identifies the type of landscaping to be installed. The Robsons are also proposing new landscaping within the ADOT right-of-way which abuts Tracts 40, 41 and 42. This proposed landscaping within the right-of-way would provide additional screening and visual continuity along SR-179. Coe and Van Loo is currently preparing for staff review an additional landscape plan which would depict the proposed landscaping improvements within the ADOT right-of-way.

h. Page 26

- i. In order to address the circulation policy of pedestrian and bicycle improvements, bike racks should be considered in the new parking lot.**

Response: In order to maximize parking on Tract 40, the Robsons are evaluating an appropriate location for bicycle racks on Tract 41. Locating the bicycle racks on Tract 41 would also allow bicyclists to park closer to the Son Silver West Gallery.

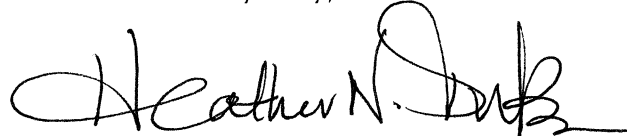
i. Page 28: Community Element/Community Goals/Preserve and Celebrate the Community’s History

- i. The LOI states that Son Silver West Gallery provides art pieces created by the Robsons and other local artists. Please provide additional information regarding this statement, e.g. how many other local artists are represented and what percentage of inventory provided by local artists, other than the business owners.**

Response: The Son Silver West Gallery offers a wide array of art inventory, the source of which varies depending upon the season and supply and demand. The Robsons estimate that, on average, their local artist inventory consists of approximately 15 percent. Inasmuch as the Robsons are local artists themselves, the Son Silver West Gallery offers items for sale from local artists in the range of 20 to 25 percent when considering the pottery and art created by the Robsons as well.

The remaining Department Comments are applicable to the Robson's Zone Change application and will be addressed therein accordingly. If you have any questions or concerns regarding the information provided in this letter or the attached Preliminary Site Plan, Landscaping Plan or Grading Plan, please do not hesitate to contact me at (602)381-8700 or by email at h.dukes@fjslegal.com. Thank you.

Yours very truly,

A handwritten signature in black ink, appearing to read "Heather N. Dukes". The signature is fluid and cursive, with a large initial "H" and "D".

Heather N. Dukes

Enclosures:

1. City of Sedona Community Development Department Comments pertaining to Major CPA Case No. PZ17-00011 dated July 10, 2017.
2. Preliminary Site Plan for Son Silver West prepared by Ryan Weed, P.E. of Coe & Van Loo Consultants, Inc. dated August 15, 2017, CVL Project No. 01-0303601.
3. Preliminary Landscape Plan for Son Silver West prepared by Earl J. Swetland, Registered Landscape Architect with Coe & Van Loo Consultants, Inc. dated August 15, 2017, CVL Project No. 01-0303601.
4. Colored Aerial Rendering of Son Silver West Parking Lot Design for Tract 40, prepared by Coe and Van Loo Consultants, Inc. dated August 14, 2017.
5. Preliminary Grading Plan for Son Silver West prepared by Ryan Weed, P.E. of Coe & Van Loo Consultants, Inc. dated August 15, 2017, CVL Project No. 01-0303601.



City Of Sedona Community Development Department

102 Roadrunner Drive Sedona, AZ 86336

(928) 282-1154 • Fax: (928) 204-7124

To: Francis J. Slavin, Esq. and Heather N. Dukes, Esq., Project Contacts
Linda Rose Robson and William B. Robson, Property Owners

From: Mike Raber, Senior Planner, (928) 204-7126, mraber@sedonaaz.gov
Cari Meyer, Senior Planner, (928) 203-5049, cmeyer@sedonaaz.gov

RE: PZ17-00011 (Major CPA, ZC) Son Silver West Parking Lot
Community Development Department Comments

Date: July 10, 2017

Staff has completed a preliminary review of the submitted materials for the above request and has the following comments. Please note that this preliminary review does not constitute a recommendation to approve or deny the request and does not seek to verify the accuracy of statements made by the applicant.

The following is provided as comments on the initial submittal package for the proposed Major Community Plan Amendment and Zone Change, focusing on the additional information Staff will need in order to complete the review of the application. As the project moves through the process and we come to a better understanding of the proposal, additional questions and comments may be generated.

1. Project Schedule

As this project involves a Major Community Plan Amendment, the following schedule has been set and must be adhered to in order to process the application in accordance with state requirements. If the project misses a meeting, deadline, or does not provide the required information to City Staff by the specified dates, the project may not be able to move forward and would have to wait until next year to be considered. Please note that for these meeting dates, all applications for Major Community Plan Amendments will be included on the agenda. The order of the agenda is yet to be determined and the agenda will be provided to you a minimum of one week in advance of the meeting.

- a. July 21, 2017: Deadline for additional information to be provided to Staff for inclusion in Planning and Zoning Commission meeting materials for Planning and Zoning Commission Work Session #1. Responses to comments are not required at this time, but will be accepted and provided to the Commission if received by the deadline.
- b. August 10, 2017, 3:30 pm: Planning and Zoning Commission Site Visit
- c. August 10, 2017, 6:00 pm: Deadline to withdraw application and receive a refund of noticing fees (if project is withdrawn after this date, the applicant will be responsible for their share of noticing fees incurred by the City).
- d. August 15, 2017, 5:30 pm: Planning and Zoning Commission Work Session #1
- e. August 24, 2017: Revisions in response to comments and public participation report due to Staff for inclusion in meeting materials for Planning and Zoning Commission Work Session #2 and Planning and Zoning Commission Public Hearing
- f. September 14, 2017, 3:30 pm: Planning and Zoning Commission Work Session #2

- g. September 19, 2017, 5:30 pm: Planning and Zoning Commission Public Hearing
- h. October 11, 2017, 3:00 pm: City Council Work Session
- i. October 25, 2017, 3:00 pm: City Council Public Hearing

2. General Comments

- a. The applicant is requesting approval of a Major Sedona Community Plan Amendment and Zone Change to allow for the development of a parking lot to serve an adjacent conditionally allowed commercial use. The subject parcel comprises 0.48 acres along the west side of SR 179 (1535 State Route 179, Sedona; Broken Arrow Subdivision , Tract 40) and is designated “Single-family Low-density (0.5-2DU/AC)” on the Sedona Community Plan’s Future Land Use Map. The major amendment request would re-designate the property as “PA (Planned Area)” on the map. The applicant is also requesting to rezone the property from “RS-18b (Single-family Residential)” to “P (Parking)”.
- b. The proposed parking area (Tract 40) would provide a support use to the existing, adjacent single-family residential lot, with a conditionally allowed commercial use (Tracts 41 and 42). These residential tracts are all within the Morgan Road Community Focus Area (CFA) in the Sedona Community Plan. The Morgan Road CFA allows for the consideration of projects with non-residential uses if key public or neighborhood amenities are provided (e.g. good pedestrian access to neighborhoods, open space retention, or enhancement next to the highway) and provides that new non-residential development can be considered only if compatible with the character of the neighborhood.
- c. Please ensure that any changes made based on the following comments are reflected on all applicable pages of the submitted materials.

3. Community Plan Amendment and Zone Change

- a. While the information provided is generally sufficient for the Major Community Amendment portion of the application, additional information will need to be provided for the Zone Change portion of the application (see additional comments under Comment 5 –4.e Site Plan). While the Zone Change application may be separated from the Community Plan Amendment application, the development of the proposed parking lot would not be permitted unless a Zone Change request is approved; the standards in place at the time of application submittal will be used in reviewing the Zone Change request application.

4. Letter of Intent (LOI)

- a. General Comments
 - i. Discussion related to Covenants, Conditions & Restrictions (CC&Rs) are included in the LOI and provided as an exhibit. These documents do not fall within the City’s review and enforcement authority and will not be considered as part of the review and approval process for either the Major Community Plan Amendment or Zone Change application.
 - ii. The application submitted requests that the Major Community Plan amendment and Zone Change request applications be considered concurrently. However, the Zone Change portion of the application is incomplete. See Comments 5 (Site Plan) and 6 (Zone Change Application) for additional submittal requirements.
- b. Page 1

- i. Introductory Paragraph: The LOI provides detailed history of Tracts 41 and 42 but does not provide an explanation as to why the existing Son Silver West Gallery properties/operations are not included in this application. It is recommended that the LOI address the reason behind the decision to only include Tract 40 in this application.
- c. Page 2
 - i. It does not appear that the landscaping meets minimum requirements. Please provide a landscape plan that matches the landscaping described in the LOI.
- d. Page 3
 - i. It is recommended that the history for Tract 40 be included in the LOI.
- e. Page 4/5
 - i. 1st Paragraph: Point of clarity: The CUP permitted a total of 5,000 square feet of outdoor display, not an additional 5,000 square feet.
 - ii. 1st Paragraph: Parking: Please provide the parking required in accordance with the LDC for the approved uses in the 1992 CUP.
- f. Page 19
 - i. The text states there are 19 spaces (Tracts 41 and 42) on site but the map states/shows 18 spaces. The new parking lot (Tract 40) has proposed 40 new spaces, but the text states a total of 58 spaces (18 + 40). Please clarify whether “19” is a typo.
- g. Page 24
 - i. Please provide more detail on the proposed “substantial landscaping” described in the LOI and whether this is existing or new landscaping (or a combination). See comment 4.c.i.
- h. Page 26
 - i. In order to address the circulation policy of pedestrian and bicycle improvements, bike racks should be considered in the new parking lot.
 - i. Page 28: Community Element/Community Goals/Preserve and celebrate the community’s history
 - i. The LOI states that Son Silver West Gallery provides art pieces created by the Robsons and other local artists. Please provide additional information regarding this statement, e.g. how many other local artists are represented and what percentage of inventory provided by local artists, other than the business owners.

5. Site Plan

- a. The site plan provided is sufficient for the Major Community Plan Amendment application but not for the Zone Change application. Therefore, a complete and thorough review cannot be completed at this time. A complete, detailed site plan with complete dimension and landscape information will be required for the zone change application. Once that is submitted, staff may have additional comments or requests for additional information. While a complete review is not possible at this time, based on the conceptual information submitted, the following items will need to be addressed/further detailed:
 - i. Show all existing easements on the site plan.

- ii. The information provided on the landscape plans is insufficient for complete review. Please refer to LDC Article 910 (Landscaping) for all landscape requirements.
- iii. The parking lot is shown going all the way to the southern property line. It is our understanding that there is a 20 foot wide ingress/egress easement along this property line that is shared with the lot to the south (Tract 39), with 10 feet on each property. The parking lot, including landscaping, should not encroach into the easement.
- iv. For comments regarding the area shown as the private driveway at the southwest corner of the lot associated with Tract 49, please see Public Works comments.
- v. The site plan needs to identify existing trees that will remain and those that are proposed to be removed. This information will be reviewed for compliance with LDC Article 909 (Trees).
- vi. Please provide plant species to be used as part of the landscape plan. Plant species should be chosen from the City's Approved Plant List (Design Review Manual, Appendix A) and meet the requirements of LDC 910.05.D.
- vii. It appears that the landscaping shown along the street frontage on the site plan does not meet the minimum requirements for street frontage landscaping. Additionally, it does not appear to reflect the applicant's statements that substantial, mature landscaping will be provided along the street frontage to enhance the streetscape/pedestrian experience along this stretch of SR 179. See Land Development Code (LDC) Section 910.05.L for street frontage landscaping requirements.
- viii. It appears that the landscaping plan does not show the required 3 foot tall landscape berm or decorative wall between the parking lot and street. (LDC 910.05.L.2, LDC 910.08.A, LDC Figure 9-41)
- ix. It appears that the landscaping shown along the southern and western property lines does not meet minimum requirements. (LDC 910.05.M.1)
- x. It appears that the landscaping shown in the peninsulas does not meet minimum requirements. (LDC 910.05.M.2)
- xi. Please review LDC Section 912.05 (Site Development Standards for Off-Street Parking Areas) and ensure the proposed parking lot meets all applicable requirements.
- xii. A 40 space parking requires a minimum of 2 ADA parking spaces and a ADA path of travel from the spaces to the use being served by the parking spaces. (LDC 912.09)

6. Zone Change Application

- a. In addition to providing the additional information requested for the Site Plan (see above), the Zone Change portion of the application requires the following information:
 - i. Sign plan (if new signs are proposed)
 - ii. Lighting plan
 - iii. Development phasing/proposed timing schedule
 - iv. Title Report or ALTA Survey



City of Sedona

Public Works Department

102 Roadrunner Drive Sedona, AZ 86336

(928) 204-7111 • Fax: (928) 282-5348; Ryan Mortillaro, EIT (928) 203-5091

PZ17-00010 (DEV)

Son Silver West Parking Lot (Conceptual Review)

6/29/2017

Engineering Comments

For the next level of review:

1. Provide a preliminary grading and drainage plan to address impacts of property improvements.
2. For paved parking lots, either an oil water separator device or first flush retention shall be installed on site, per Article 912.02.G of the Land Development Code.
3. In the event that additional ADA parking stalls are required, an accessible route must be identified and designed to meet ADA standards, per Article 912.09.C of the Land Development Code.
4. Show all existing easements on the site plan. It appears that easements are either omitted or abandoned, however it's not clearly stated so on the site plan. Please clarify the intent. The City's comments do not reflect approval to abandon or relocate said easements, where intent is not expressly stated.
5. Technical information appears to be misrepresented by professional registrant and corporate endorsement, please clarify. Furthermore, technical data appears to be in violation of Board of Technical Registration requirements, as it is missing the appropriate registrant information.
6. Per Article 600.4 of the Land Development Code, all lots shall have vehicular access on a dedicated street, unless other permanent vehicular access has been approved by the Director. For the proposed 12' wide private driveway access, please clarify the following:
 - a. Is this driveway for vehicular use? If so, it will need to be approved by the Director.
 - b. The gate appears to restrict existing public utility easements. Are there utilities at this location? Have utilities approved this restriction of utility access?
 - c. What type of material will the driveway be composed of?
 - d. How often will it be used?
 - e. If it is being proposed for vehicular access, how will vehicles access the driveway (there appears to be curbing, landscaping and parking stalls that would limit access)?

Prior to Issuance of Building Permit:

- Applicant shall follow the City of Sedona Land Development Code in its entirety.

PRELIMINARY SITE PLAN FOR SON SILVER WEST

OWNER:
WILLIAM B. ROBSON AND LINDA ROSE ROBSON,
TRUSTEES OF THE LINDA ROSE ROBSON LIVING
TRUST DATED JULY 12, 1999
SON SILVER WEST
1476 S.R. 179
SEDONA, AZ 86336
PHONE: (928) 282-3580

OWNER'S REPRESENTATIVE:
FRANCIS J. SLAVIN, ESQ.
FRANCIS J. SLAVIN, P.C.
2198 EAST CAMELBACK ROAD, SUITE 285
PHOENIX, ARIZONA 85016
PHONE: (602)381-8700

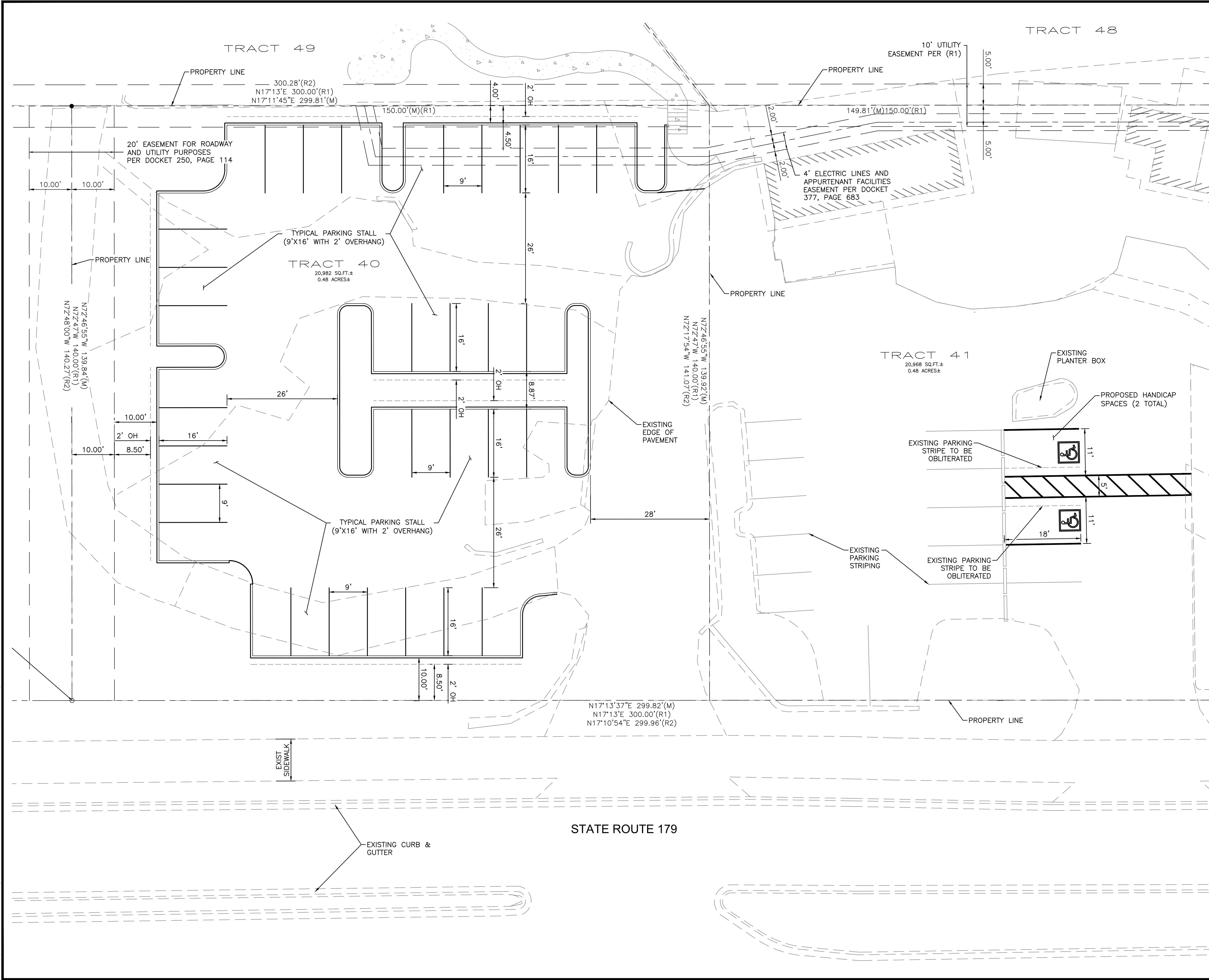
PREPARED BY:
COE & VAN LOO CONSULTANTS INC.
4550 N. 12TH STREET
PHOENIX, AZ 85014
PHONE: (602) 264-6831
FAX: (602) 264-0928
CONTACT: DAVE COBLE

LEGAL DESCRIPTION:
TRACT 40, BROKEN ARROW
SUBDIVISION, AS SHOWN ON THE PLAT
THEREOF, RECORDED IN BOOK 2 OF
MAPS, PAGE 71, RECORDS OF
COCONINO COUNTY, ARIZONA

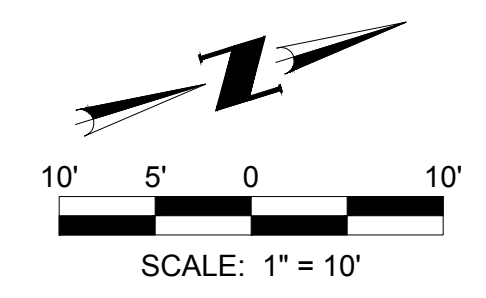
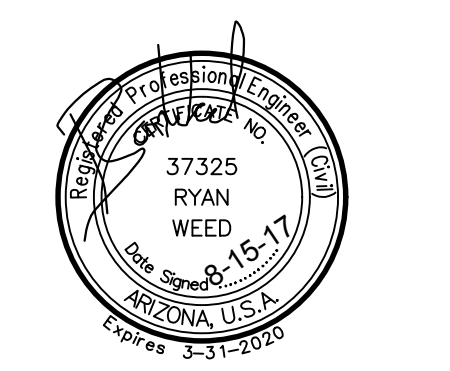
PARKING SPACES:
36 NEW PARKING SPACES
2 NEW HANDICAP PARKING SPACES

LOSS OF 3 EXISTING PARKING SPACES
DUE TO CONVERSION TO HANDICAP SPACES

NOTE:
INFORMATION ON THIS PLAN WAS DERIVED
FROM TWO PLANS:
1. TOPOGRAPHIC SURVEY
BY SHEPHARD & WESNITZER, INC.,
SEALED BY JAMES CROWLEY,
SEAL DATE 7-31-2015
2. CONCEPTUAL SITE PLAN
BY SHEPHARD & WESNITZER, INC.,
SEALED BY JAMES CROWLEY,
SEAL DATE 5-21-2015



CVL
CONSULTANTS
4550 N. 12TH STREET
PHOENIX, AZ 85014
PHONE 602.264.6831
FAX 602.264.0928
WEB www.cvlci.com



SHEET NUMBER
1 OF 1
CVL Contact: D. COBLE
CVL Project #: 01-0303601
CVL File #:

Printed By: Parker Print Date: August 15, 2017 File Name: N:\01\0303601\CADD\Preliminary\DS SITE.dwg

PRELIMINARY GRADING PLAN FOR SON SILVER WEST

OWNER:
 WILLIAM B. ROBSON AND LINDA ROSE ROBSON,
 TRUSTEES OF THE LINDA ROSE ROBSON LIVING
 TRUST DATED JULY 12, 1999
 SON SILVER WEST
 1476 S.R. 179
 SEDONA, AZ 86336
 PHONE: (928) 282-3580

OWNER'S REPRESENTATIVE:
 FRANCIS J. SLAVIN, ESQ.
 FRANCIS J. SLAVIN, P.C.
 2198 EAST CAMELBACK ROAD, SUITE 285
 PHOENIX, ARIZONA 85016
 PHONE: (602)381-8700

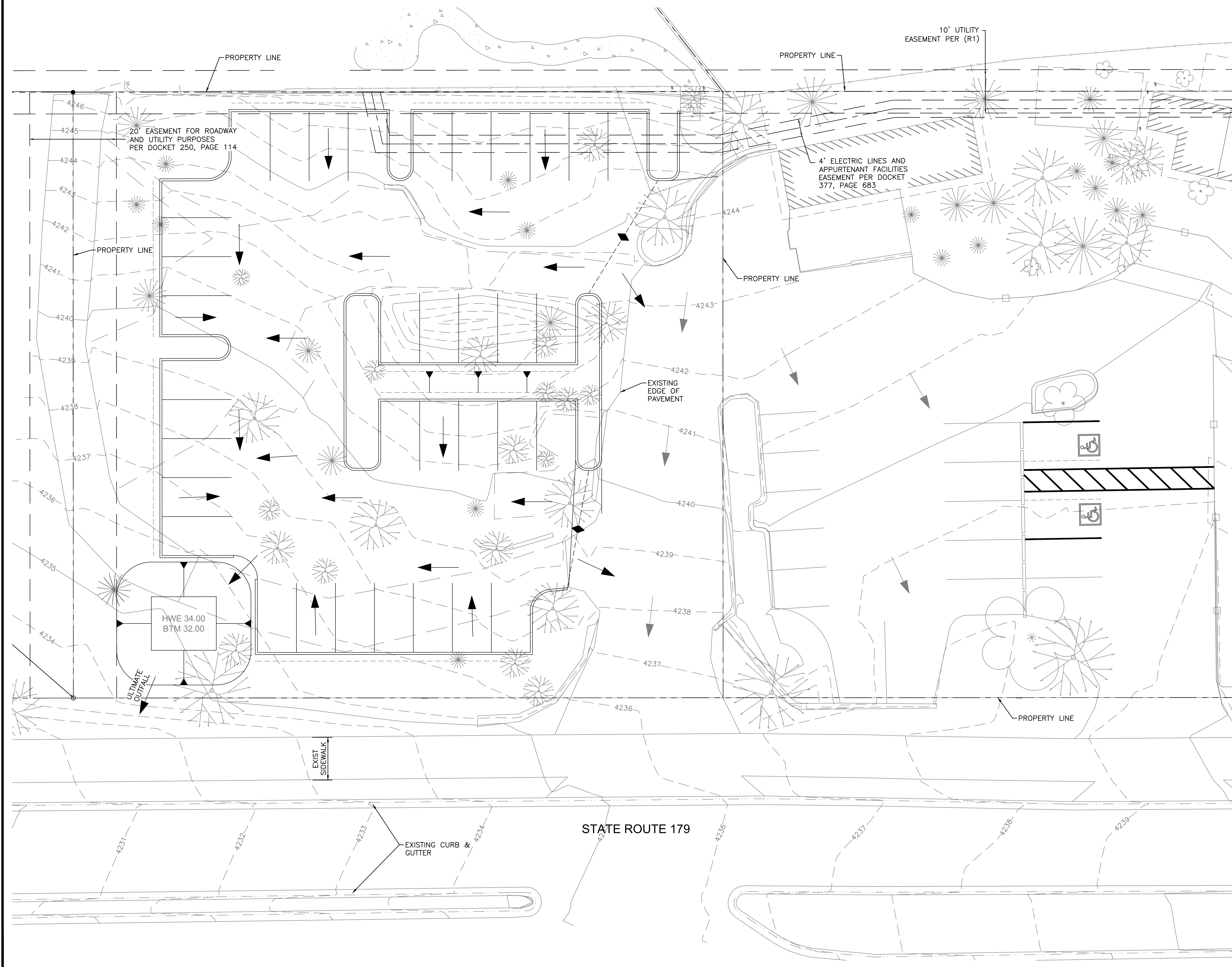
PREPARED BY:
 COE & VAN LOO CONSULTANTS INC.
 4550 N. 12TH STREET
 PHOENIX, AZ 85014
 PHONE: (602) 264-6831
 FAX: (602) 264-0928
 CONTACT: DAVE COBLE

LEGAL DESCRIPTION:
 TRACT 40, BROKEN ARROW
 SUBDIVISION, AS SHOWN ON THE PLAT
 THEREOF, RECORDED IN BOOK 2 OF
 MAPS, PAGE 71, RECORDS OF
 COCONINO COUNTY, ARIZONA

ON-SITE RETENTION CALCUALTIONS:
 (RETENTION CALCUALTIONS ARE FOR NEW
 PAVEMENT ADDITIONS ONLY)

FIRST FLUSH	Vreq = 875 Cu-Ft
PRE-DEVELOPMENT	Vreq = 1976 Cu-Ft
POST-DEVELOPMENT	Vreq = 2858 Cu-Ft
PRE vs. POST	Vreq = 882 Cu-Ft
VOLUME REQUIRED	Vreq = 882 Cu-Ft
VOLUME PROVIDED	Vpro = 907 Cu-Ft

- NOTE:**
 INFORMATION ON THIS PLAN WAS DERIVED
 FROM TWO PLANS:
- TOPOGRAPHIC SURVEY
 BY SHEPHARD & WESNITZER, INC.,
 SEALED BY JAMES CROWLEY,
 SEAL DATE 7-31-2015
 - CONCEPTUAL SITE PLAN
 BY SHEPHARD & WESNITZER, INC.,
 SEALED BY JAMES CROWLEY,
 SEAL DATE 5-21-2015

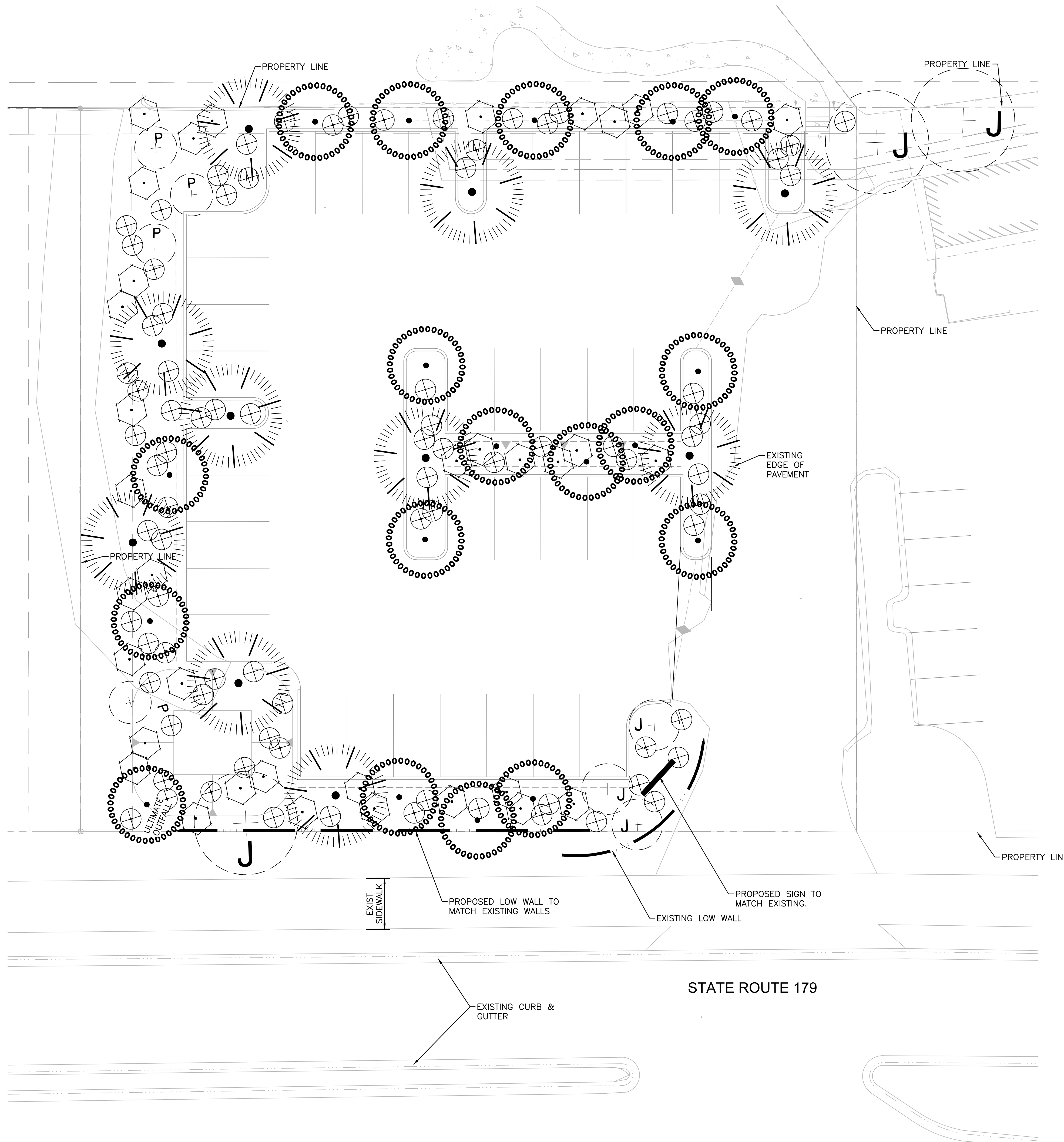


Printed By: Parker Print Date: August 15, 2017 File Name: N:\010303601\CADD\Preliminary\DS-PRE-GRAD.dwg

CVL CONSULTANTS
 4550 N. 12TH STREET
 PHOENIX, AZ 85014
 PHONE 602.264.6831
 FAX 602.264.0928
 WEB www.cvlci.com

SHEET NUMBER
 1 OF 1
 CVL Contact: D. COBLE
 CVL Project #: 01-0303601
 CVL File #:

PRELIMINARY LANDSCAPE PLAN FOR SON SILVER WEST



CONCEPT PLANT SCHEDULE

- XX**
EXISTING TREES
JUNIPERUS OSTEOSPERMA / UTAH JUNIPER
PINUS EDULIS / PINON PINE
- EVERGREEN TREES
JUNIPERUS OSTEOSPERMA / UTAH JUNIPER
PINUS EDULIS / PINON PINE
- DECIDUOUS TREES
CHILOPSIS LINEARIS / DESERT WILLOW
VITEX AGNUS-CASTUS / CHASTE TREE
- ⬠**
LARGE SHRUBS
CEANOTHUS INTEGERRIMUS / DEER BRUSH
CORNUS SERICEA / RED TWIG DOGWOOD
RHUS GLABRA / SMOOTH SUMAC
SOPHORA SECUNDIFLORA / TEXAS MOUNTAIN LAUREL
- ⊕**
MEDIUM SHRUBS
BOUTELLOUA GRACILIS / BLUE GRAMA
MAHONIA HAEMATOCARPA / RED BARBERRY
MUHLENBERGIA RIGENS / DEER GRASS
NOLINA MICROCARPA / SACAHUISTA
YUCCA BACCATA / BANANA YUCCA

PRELIMINARY LANDSCAPE NOTES:

1. THE PROPOSED PLANT MATERIAL SHALL MEET THE REQUIREMENTS FOR THE QUANTITY AND GALLON SIZE PER THE CURRENT CODE SECTION 910.
2. THE PROPOSED PLANT MATERIAL SHALL BE SELECTED FROM THE SEDONA LOW WATER USE PLANT LIST.
3. AN UNDERGROUND IRRIGATION SYSTEM SHALL BE PROVIDED TO THE NEW PLANT MATERIAL.
4. A TREE REMOVAL PLAN SHALL BE SUBMITTED TO THE CITY OF SEDONA FOR APPROVAL BEFORE ANY TREES ARE REMOVED FROM THE SITE.
5. ANY EXISTING TREES TO BE REMAIN IN PLACE SHALL BE EFFECTIVELY PROTECT DURING GRADING AND CONSTRUCTION.

OWNER:
WILLIAM B. ROBSON AND LINDA ROSE ROBSON,
TRUSTEES OF THE LINDA ROSE ROBSON LIVING
TRUST DATED JULY 12, 1999
SON SILVER WEST
1476 S.R. 179
SEDONA, AZ 86336
PHONE: (928) 282-3580

OWNER'S REPRESENTATIVE:
FRANCIS J. SLAVIN, ESQ.
FRANCIS J. SLAVIN, P.C.
2198 EAST CAMELBACK ROAD, SUITE 285
PHOENIX, ARIZONA 85016
PHONE: (602)381-8700

PREPARED BY:
COE & VAN LOO CONSULTANTS INC.
4550 N. 12TH STREET
PHOENIX, AZ 85014
PHONE: (602) 264-6831
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CONTACT: DAVE COBLE

LEGAL DESCRIPTION:
TRACT 40, BROKEN ARROW
SUBDIVISION, AS SHOWN ON THE PLAT
THEREOF, RECORDED IN BOOK 2 OF
MAPS, PAGE 71, RECORDS OF
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SEAL DATE 5-21-2015

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PHOENIX, AZ 85014
PHONE 602.264.6831
FAX 602.264.0928
WEB www.cvlci.com

SCALE: 1" = 10'

SHEET NUMBER
1 OF **1**

CVL Contact: D. COBLE
CVL Project #: 01-0303601
CVL File #:

Printed By: Earl Print Date: August 15, 2017 Filename: N:\010303601\CADD\preliminary\LS-PRE-LAND.dwg

Son Silver West

SEDONA, ARIZONA

Parking Lot Design



Trade 3 parking stalls for 2 handicapped stalls

STATE ROUTE 179

Applicant's Report on Neighborhood Meeting

To: Audree Juhlin, Director of Community Development
From: Francis J. Slavin, P.C. – Applicant on behalf of Rose and Bill Robson
Date: August 2, 2017
Re: Application for Major Community Plan Amendment No. PZ17-00010
(the “Application”)

Applicant's meeting with the Broken Arrow neighborhood, as noticed, took place from 6:30 p.m. to 7:45 p.m. at the Conference Center of the Sedona United Methodist Church located at 110 Indian Cliffs Road in Sedona, Arizona. Present for the Applicant were Rose Robson, her daughter, Fu Robson, Attorney Heather Dukes and Attorney Francis “Buzz” Slavin. Homeowners in attendance were Rob and Christine Evans, 181 Paramount Drive, Debbie Jasinski, 60 Painted Canyon Drive, Scott Schroedor, 121 Arrow Drive, and Scott Hancock, 31 Pine Knoll Drive. Attached is a copy of the sign-in sheet.

Before the meeting commenced, Applicant distributed copies of its narrative in support of its Application which had been included in the letter mailed to the Broken Arrow owners lying within 300 feet of the Applicant's Tract 40 and a copy of an aerial photograph of the Broken Arrow neighborhood obtained on-line from the Coconino County Assessor.

At the outset, after Mr. Slavin gave a brief presentation, the neighbors expressed their views that the Son Silver West gallery located on Tracts 41 and 42 as well as the proposed use of Tract 40 for parking of SSW customers and employees did not comply with the declaration restrictions for Broken Arrow Tracts 38 through 61 lying west of SR 179. After a friendly debate about the declaration of restrictions, Applicant agreed to prepare a letter explaining the history of the

restrictions together with recorded copies of the Broken Arrow (West) Subdivision Plat and the declaration of restrictions. Attached herewith is a copy of the letter dated July 7, 2017 which Mr. Slavin addressed to Mr. Adams and copied to the other neighbors in attendance.

Mr. and Mrs. Adams, Ms. Jasinski and Mr. Schroedor expressed their opposition to the Application. Mr. Hancock voiced his support. The opposition expressed concerns that, were the Application approved, it would cause the following to occur:

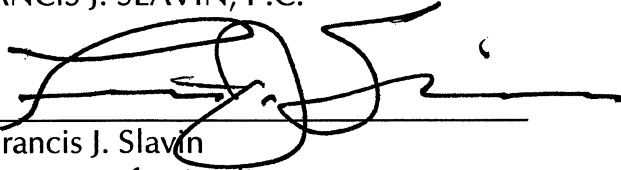
1. The Robsons would expand their business operations on Tracts 41 and 42.
2. The owners of business tracts 38, 39, 43 and 44 would be encouraged to apply to the City for commercial use designations under the Community Plan.
3. Additional parking would generate more traffic on SR 179.

Ms. Jasinski also expressed her concern that more cars wishing to visit the SSW parking areas would miss the turn in from SR 179 and proceed south to Painted Canyon Drive and make a modified u-turn using Ms. Jasinski's driveway and heading back north to access the new parking area. She said that this has been a continual problem experienced by her.

The opposition also mentioned concerns about use of the chapel and the failure of the current parking area lighting to comply with Sedona's dark sky ordinance. Applicant assured them that the chapel area will be gated to prevent customers from accessing the chapel in the future. Applicant will also install dark sky compliant light fixtures.

Near the conclusion of the meeting, Mr. Adams stated that the goal of the Robsons and the Broken Arrow neighbors is to attempt to find common ground. The Applicant offered to attend another meeting called by Mr. Adams and his neighbors. Mr. Slavin and Mr. Adams agreed to stay in touch to attempt to resolve his concerns and those of his neighbors.

FRANCIS J. SLAVIN, P.C.

By: 
Francis J. Slavin
Attorneys for Applicant

SON SILVER WEST NEIGHBORHOOD MEETING
Meeting Held at the Sedona United Methodist Church
110 Indian Cliffs Road
Thursday, June 29, 2017
6:30 pm to 7:30 pm

City of Sedona Case No. PZ17-00010

William B. and Linda Rose Robson are requesting approval of a Major Community Plan Amendment to amend the land use designation for Tract 40 of the Broken Arrow subdivision located at 1535 State Route 179 from Single Family Low Density (0.5 to 2.0 DU/AC) to a Planned Area (PA) designation so as to allow the development of a private parking area for customer and employee overflow parking generated by the existing Son Silver West Gallery.

ATTENDANCE SIGN IN SHEET

	NAME (Print)	ADDRESS	EMAIL (Optional)
1	Debbie Jasinski	60 Painted Canyon Dr.	_____
2	Rob Adams	181 Paramount Dr	_____
3	Christine Adams	" "	_____
4	Scott Schroeder	121 Arrow Dr Sedona	_____
5	Scott Harnick	31 Pine Knoll Dr	

FRANCIS J. SLAVIN
JOSEPH J. MORITZ, JR.*
DANIEL J. SLAVIN
HEATHER N. DUKES

*CERTIFIED SPECIALIST REAL ESTATE LAW

EMAIL: b.slavin@fjslegal.com

July 7, 2017

Mr. Robert M. Adams
181 Paramount Drive
Sedona, AZ 86336

**RE: Declaration of Restrictions – Broken Arrow Subdivision –
Tracts 38 to 61 located west of SR 179 (the “Broken Arrow West”)**

Dear Rob:

On behalf of the Robson family, I thank Christine and you for your attendance and participation at the neighborhood meeting held on Thursday, June 29 at 6:30 pm at the Sedona United Methodist Church regarding the Robsons’ recent application to amend Sedona’s Community Plan to allow for parking on Tract 40, Broken Arrow West. In response to Scott Schroedor’s and your comments regarding application of the Broken Arrow West Declaration of Restrictions, we agreed that I would send you a letter explaining the history of the Broken Arrow West Restrictions.

In that regard, we have enclosed herewith the following copies of Broken Arrow West documents recorded in the Official Records of the Coconino County Recorder:

DOCUMENT	RECORDING DATA
Broken Arrow Subdivision Plat	Recorded on 6/29/1955 in Book 2 of Maps, p. 71
Broken Arrow Declaration of Restrictions	Recorded 7/21/1955 in Book 77, pp. 509-512
Supplemental Restrictions	Recorded 6/13/1956 in Book 91, pp. 44-45
First Amendment to Declaration of Restrictions of Broken Arrow Subdivision, Sedona, Arizona	Recorded 8/17/1992 at Docket 1498, pp. 168-176, Document No. 92-22052

July 7, 2017

Page 2

In 1955, the Broken Arrow Tracts were located in the unincorporated territory of Coconino County. At the time, Coconino County had not yet adopted a zoning ordinance and thus had not designated uses of the Broken Arrow Tracts. So, the original developers, the Bradleys, were left to designate the uses which may be made of their subdivision property.

The key provisions in the Broken Arrow West Restrictions are paragraphs 1 and 13 which read as follows:

1. That said Tracts shall be used for single family dwelling house purposes only, excepting business Tracts hereinafter specified.

* * *

13. The business district shall be confined to those Tracts numbered 38 to 44 inclusive, fronting on Sedona Rim Rock Highway.

So, Paragraph 1 restricted all Tracts for single family uses except business Tracts. Paragraph 13 declared Tracts 38 to 44 fronting on SR 179 to be business district Tracts. There is no provision specifying a minimum or maximum area of Tracts 38 to 44 on which business may be conducted. There is no provision in the Broken Arrow Restrictions defining the terms "business Tracts" or "business district." Custom and usage would be a reasonable method to define these terms. The Robsons have been conducting their art gallery business on Tract 42 for 36 years, and on Tract 41 for 25 years.

Under the Supplemental Restrictions, the Northern Arizona Title Co., as trustee, purported to restrict the business Tracts for use by professionals, e.g., physician, dentist, architect, who would occupy residences located on said Tracts. This document purported to amend certain restrictions recorded in Book 79, p. 509. On its face, the Supplemental Restrictions do not amend the Declaration of Restrictions which were recorded in Book 77, page 509.

The First Amendment was signed by the owners of the majority of the 24 Tracts in the Broken Arrow West Subdivision including the owners of 5 of the 7 business Tracts. The document amends paragraph 1 of the Declaration of Restrictions to as to allow owners of Tracts in Broken Arrow West to grant access easements for other owners of Tracts to public and private roads and streets of the Broken Arrow West Subdivision. The significance of this document is that (1) it

July 7, 2017

Page 3

references and defines the original Broken Arrow West Restrictions recorded at Book 77, pp. 509-512 as the "Declaration of Restrictions" and (2) it ratifies and confirms the recorded Declaration of Restrictions and declares that all of the other provisions of the Declaration of Restrictions will remain in full force and effect. It contains no reference to the Supplemental Restrictions.

Assuming for the sake of argument that the Supplemental Restrictions were valid, this Amendment would restore the business Tract provisions of the original Declaration of Restrictions. Consequently, the Declaration of Restrictions as modified by the 1992 Amendment is the Declaration of Restrictions applicable to Robsons' Tracts 40, 41 and 42.

The statute of limitations in the State of Arizona for a person to bring a lawsuit against another person for breach of contract is 6 years. The Robsons began operating their art gallery business on Tract 42 in 1981. Their predecessor, Ernestine Nestler Todd, had begun operating her art gallery on Tract 42 in 1960. In 1992, the Robsons were granted a conditional use permit by the City of Sedona Planning and Zoning Commission to expand their gallery business onto Tract 41. Assuming for argument's sake that operating an art gallery business on Tracts 42 and 41 would constitute a violation of the Declaration of Restrictions, the statute of limitations for any Broken Arrow West owner to commence a lawsuit to enjoin such violations on Tracts 42 and 41 would have expired about 20 years ago.

I also wanted to address the comments made during the meeting whether the City of Sedona would have the legal authority to enforce the Declaration of Restrictions. A declaration of restrictions is a private contract document enforceable either by an owners' association and/or the owner(s) of any tract(s) or lot(s) covered by the Declaration. Arizona municipalities have not been granted authority by the Arizona legislature to enforce private contracts. You will notice in the penultimate paragraph of the Declaration of Restrictions that only an owner of a Tract in the Broken Arrow West Subdivision may bring a lawsuit to enjoin any owner who violates or threatens or attempts to violate the Declaration of Restrictions.

In summary, Tracts 38 to 44 of Broken Arrow West Subdivision are currently business Tracts which are not restricted as to the type or size of the business. Only an owner of one of the 24 Tracts, 38 to 61, of the Broken Arrow West Subdivision has the legal right to enforce a violation or threatened or attempted violation of the Broken Arrow West Restrictions. The 6-year period for a Tract owner to file a lawsuit to enjoin the business uses being conducted on Tracts 42 and 41 has

July 7, 2017

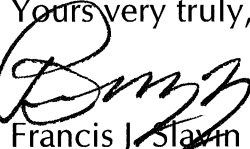
Page 4

expired. The City of Sedona has no legal authority to enforce a private declaration of restrictions.

I would invite you to write or email me if you have any questions about the application of the Broken Arrow West Declaration of Restrictions to Tracts 38 through 44 of the Broken Arrow Subdivision as explained above and/or if you disagree with my analysis or conclusions.

I would be happy to meet with you and a group of your neighbors to discuss your and their concerns about the Son Silver West Gallery and what the Robsons might be willing to do to address such concerns. As I mentioned during the meeting, we have been contacted by Eric Schrode, President of the Broken Arrow Civic Improvement Association, who could not attend the meeting but requested that we meet with him and his neighbors separately to discuss their concerns about the Son Silver West Gallery. It would make sense for our office to coordinate with Mr. Schrode and you to schedule a joint meeting.

Again, it was a pleasure to meet Christine and you. I look forward to working with you to attempt to address and resolve your concerns.

Yours very truly,

Francis J. Slavin

FJS/mbb
Enclosures

cc:
Scott Schroedor
121 Arrow Drive
Sedona, AZ 86336

Debbie Jasinski
60 Painted Canyon Drive
Sedona, AZ 86336

Scott Hancock
31 Pine Knolls Drive
Sedona, AZ 86336

DEDICATION.

KNOW ALL MEN BY THESE PRESENTS: THAT FRANK E. AND ANN BRADLEY, HUSBAND AND WIFE, HAVE SUBDIVIDED UNDER THE NAME OF "BROKEN ARROW SUBDIVISION" TRACTS 38 TO 61 INCLUSIVE, IN S. 3/4 S. 18, SECTION 18, T. 17N. R. 6E. N. 1/4 N. 19, SECTION 19, T. 17N. R. 6E. G. & S. R. B. & M. IN COCONINO COUNTY, ARIZONA, DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTH CORNER SAID SECTION 18, THENCE S. 89° 08' W. 253.10 FT. TO CORN. NO. 2; THENCE S. 10° 30' E. 16.0 FT. TO CORN. 3; THENCE S. 89° 08' W. 17.0 FT. TO CORN. 4; THENCE N. 49° 03' 00" E. A CURVE DISTANCE OF 317.04 FT. ON A CONCAVE CURVE TO THE LEFT WITH A RADIUS OF 998.10 FT. TO COR. NO. 5; THENCE S. 11° 13' W. A CURVE DISTANCE OF 153.65 FT. TO CORN. 6; THENCE S. 11° 13' W. 81.53 FT. TO CORN. 7; THENCE S. 89° 08' W. A CURVE DISTANCE OF 618.27 FT. ON A CURVE WITH A RADIUS OF 250 FEET TO COR. NO. 8; THENCE N. 89° 08' W. 73.7 FT. TO CORN. 9; THENCE N. 10° 30' E. 66.55 FT. TO THE PLACE OF BEGINNING AND CONTAINING 14.8 ACRES OR LESS. I AND HEREBY PUBLISH THIS PLAT AS AND FOR THE PLAT OF SAID "BROKEN ARROW SUBDIVISION" TRACTS 38 TO 61 INCLUSIVE; AND HEREBY DECLARES THAT SAID PLAT SETS FORTH THE LOCATION AND DIMENSIONS THE MEASUREMENTS AND DIMENSIONS OF THE TRACTS, DRIVES AND ROADS CONSTITUTING SAME, AND THAT EACH TRACT AND EACH DRIVE AND ROAD SHALL BE KNOWN BY THE NUMBER OR NAME THAT IS GIVEN TO EACH RESPECTIVELY ON SAID PLAT, AND THEY HEREBY DEDICATE TO THE PUBLIC FOR USE AS SUCH, THE DRIVES, ROADS AND EASEMENTS SHOWN ON THIS PLAT AND INCLUDED IN THE ABOVE DESCRIBED PREMISES. THE EASEMENTS ARE DEDICATED TO THE USE SHOWN. IN WITNESS WHEREOF THEY HAVE HERUNTO AFFIXED THEIR SIGNATURES THIS 24th DAY OF MARCH, 1954.

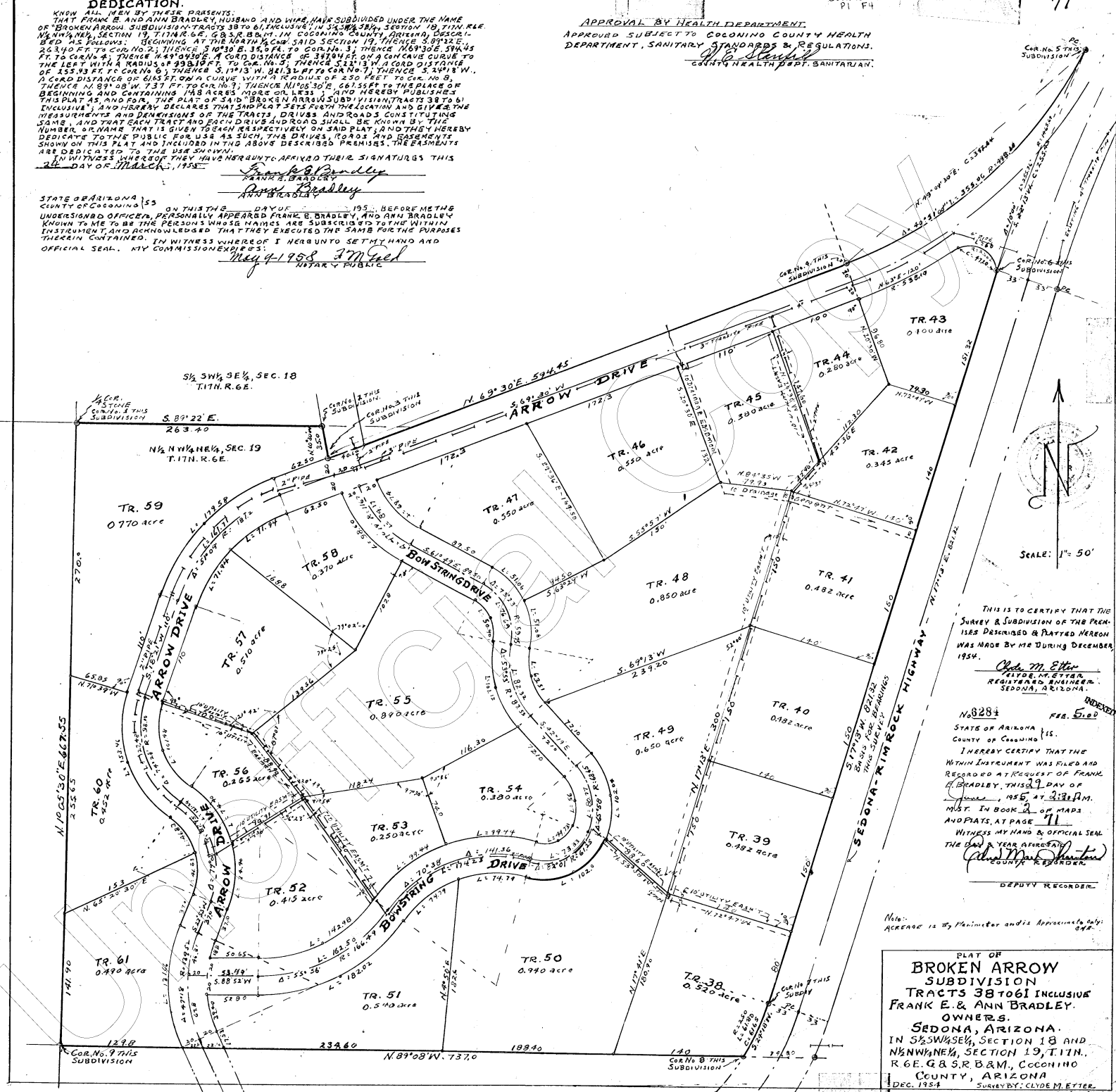
Frank E. Bradley
FRANK E. BRADLEY
Ann Bradley
ANN BRADLEY

STATE OF ARIZONA
COUNTY OF COCONINO
ON THIS 24th DAY OF MARCH, 1954, BEFORE ME THE UNDERSIGNED OFFICER, PERSONALLY APPEARED FRANK E. BRADLEY AND ANN BRADLEY KNOWN TO ME TO BE THE PERSONS WHOSE NAMES ARE SUBSCRIBED TO THE WITHIN INSTRUMENT, AND ACKNOWLEDGED THAT THEY EXECUTED THE SAME FOR THE PURPOSES THEREIN CONTAINED. IN WITNESS WHEREOF I HERUNTO SET MY HAND AND OFFICIAL SEAL. MY COMMISSION EXPIRES:

May 4 1958 J. M. Eiler
NOTARY PUBLIC

APPROVAL BY HEALTH DEPARTMENT.
APPROVED SUBJECT TO COCONINO COUNTY HEALTH DEPARTMENT, SANITARY STANDARDS & REGULATIONS.
W. J. Stewart
COUNTY HEALTH DEPT. SANITARIAN.

COR. NO. 5 THIS SUBDIVISION



THIS IS TO CERTIFY THAT THE SURVEY & SUBDIVISION OF THE PREMISES DESCRIBED & PLATTED HEREON WAS MADE BY ME DURING DECEMBER, 1954.

Clude M. Eiler
CLUDE M. EILER
REGISTERED SURVEYOR
SEDONA, ARIZONA.

N. 8284 FEB. 5 1954
STATE OF ARIZONA
COUNTY OF COCONINO
I HEREBY CERTIFY THAT THE WITHIN INSTRUMENT WAS FILED AND RECORDED AT REQUEST OF FRANK E. BRADLEY, THIS 7th DAY OF MARCH, 1954, AT 2:31 P.M. MUST. IN BOOK 2 OF MAPS AND PLATS, AT PAGE 71.
IN WITNESS MY HAND & OFFICIAL SEAL THE DAY & YEAR AFORESAID.
Clude M. Eiler
DEPUTY RECORDER.

Note: Acreage is by Planimeter and is Approximate only.

PLAT OF
BROKEN ARROW
SUBDIVISION
TRACTS 38 TO 61 INCLUSIVE
FRANK E. & ANN BRADLEY,
OWNERS.
SEDONA, ARIZONA.
IN S. 3/4 S. 18, SECTION 18 AND
N. 1/4 N. 19, SECTION 19, T. 17N.
R. 6E. G. & S. R. B. & M., COCONINO
COUNTY, ARIZONA
DEC. 1954 SURVEY BY: CLUDE M. EILER

No. 6863

RECORDED AT REQUEST OF F. M. Gold
July 21st A. D. 1955 at 9:15 o'clock A.M.
in Book 77 Official Recs Pages 509-512
Records of Coconino County, Ariz.
Edna Mae Thornton County Recorder
By *Edna S. Peabody* Deputy

BROKEN ARROW SUBDIVISION

SEDONA, ARIZONA

FRANK E. BRADLEY and ANN BRADLEY
husband and wife, OWNERS

KNOW ALL MEN BY THESE PRESENTS: that FRANK E. BRADLEY and
ANN BRADLEY, husband and wife, being owners of:

Broken Arrow Subdivision, Tracts 38 to 61
inclusive, a subdivision located in and
being a part of the $S\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section
18 and N $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 19, Town-
ship 17 North, Range 6 East, G&S.R.B.&M.
Coconino County, Arizona, according to
the plat of record in the office of the
County Recorder of Coconino County,
Arizona, in Book 2, of Maps page 71
Official Records of said County and State

hereby declare the following restrictions shall apply to all tracts
in said subdivision:

1. That said Tracts shall be used for single family dwelling
house purposes only, excepting business Tracts hereinafter specified.
2. That no dwelling house shall be erected which contains
less than 1000 square feet of ground floor area, and no guest house
containing less than 750 square feet of ground floor area, exclusive
of such part of a building either attached or not, used for a
garage, also exclusive of porches or patios: and no residence
shall be built more than two stories in height: nor more than one
(1) residence and 1 guest house be built on one (1) Tract. Construc-
tion of all houses to be masonry, flagstone, adobe, cinder block
stuccoed or rock veneered, and all buildings to be completed within
six months after construction is started.
3. The lines of the walls nearest the front property line of
any dwelling house or any garage incident thereto, built on any Tract
or portion thereof, shall be not less than 10 feet from the front
property line, and the side walls thereof shall not be closer than
5 feet from the side property line, and not closer than 10 feet from

the side property line if such property line is on a street, excepting however, any garage detached from the main building, which may be placed on either side or back property line.

4. No building or structure or house or trailer of any nature, detached from the main building either temporary or permanent, shall be built, erected, placed or maintained on any tract, except a garage, limited to a two-car garage with or without servants' quarters attached, but such servants' quarters shall only be used by servants, and further, only by such servants who are employed on the premises where such quarters are located. No garage shall be commenced or erected on any tract until construction of the main building on such tract, complying with these restrictions, shall be started or contracted for with a responsible contractor approved by the Grantors. This paragraph shall not apply to any temporary building used for storage or watchman during the progress of construction continuously prosecuted.

5. No part of said Tracts shall be used as a hospital or sanitarium or other place for hire, for the care or entertainment of persons suffering from any disease or disability whatsoever.

6. No livestock or poultry shall be kept on said Tracts.

7. No business shall be conducted on any residential tract and no intoxicating liquor shall be sold on residential tracts. That intoxicating liquor may be sold on business tracts upon the approval of the Grantors. Improvements on all business Tracts may be constructed up to the front and within 2 feet of Tract line.

8. That no use shall be made of any Tract that will constitute a nuisance, or injure the value of neighboring tracts and no spite fence or other structure shall ever be erected.

9. The foregoing restrictions and covenants run with the

land and shall be binding on all owners of said Tracts and all persons claiming under them until January 1, 1966, at which time said covenants shall be automatically extended for successive periods of ten (10) years each, unless by a majority of the then owners of the Tracts, it is agreed to change the said covenants in whole or in part.

10. No outside toilets shall be erected on the premises except during preliminary construction of living accommodations.

11. Trailer houses may be placed on said tracts if housed in a garage or other similar building, not to be exposed openly and not to be used as a dwelling unit after the dwelling house on said tracts or Tract is completed.

12. No Tract or Tracts shall be split and no part or parts of a Tract shall be sold.

13. The business district shall be confined to those Tracts numbered 38 to 44, inclusive, fronting on Sedona Rimrock Highway.

If there shall be a violation or threatened or attempted violation of any of said restrictions, it shall be lawful for any other person or persons owning any of said Tracts in this subdivision to prosecute any proceeding at law or in equity against the person of said restrictions, and to either restrain or enjoin such violation or to recover damages or other dues for such violation.

Should any of the restrictions herein contained be held to be invalid or void, such invalidation or voidence of any such restrictions shall in no way affect the validity of the rest of the restrictions.

77-512

IN WITNESS WHEREOF, FRANK E. BRADLEY and ANN BRADLEY,
have hereunto set their hands the 8 day of July 1955.

Frank E. Bradley
Frank E. Bradley

(Signed)

Ann Bradley
Ann Bradley

STATE OF ARIZONA :
 : ss
COUNTY OF COCONINO :

This instrument was acknowledged before me this 8 day
of July 1955 by Frank E. Bradley and Ann Bradley.



(Signed)

J. M. Guel

My Commission expires:

May 9, 1958

SUPPLEMENTAL RESTRICTIONS

KNOW ALL MEN BY THESE PRESENTS: That NORTHERN ARIZONA TRUST CO., an Arizona corporation, TRUSTEE, being owner of the legal title to:

TRACTS 38, 39, 40, 41, 42, 43 and 44, of BROKEN ARROW SUBDIVISION, Tracts 38 to 61 inclusive, a subdivision located in and being a part of the S $\frac{1}{2}$ S $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 18 and N $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 19, Township 17 North, Range 6 East, Coconino County, Arizona, according to the plat of record in the office of the County Recorder of Coconino County, Arizona, in Book 2 of Maps, page 71, Official Records of said County and State

heroby amend and supplement, as to said tracts 38, 39, 40, 41, 42, 43 and 44 only, the restrictions placed on all of said subdivision by instrument dated July 8, 1955 and recorded July 21, 1955, in Book 79 of Official Records, page 509, records of Coconino County, Arizona, as follows:

1. Said Tracts 38, 39, 40, 41, 42, 43 and 44 shall be used for single family dwelling home purposes only, except that professional offices for surgeons, physicians, osteopaths, chiropractors, dentists, attorneys, architects, realtors or engineers may be maintained thereon in conjunction with the use of the premises by any such professional persons for their own residential purposes as single family dwellings.

2. Except as above set forth, each and all of said Tracts 38, 39, 40, 41, 42, 43 and 44 shall be considered residential Tracts and as such shall be, and are hereby declared, subject to all of the covenants, conditions and restrictions as set forth in the instrument above referred to as recorded in Book 79 of Official Records, page 509, records of Coconino County, Arizona, and to all of the terms thereof.

IN WITNESS WHEREOF, the said Northern Arizona Title Co., as
Trustee has executed this instrument by its duly authorized officers
this 13th day of June, 1956.

NORTHERN ARIZONA TITLE CO., Trustee,

By Chas. B. Wilson, Jr.
President

ATTEST A. H. Cameron
Secretary



APPROVED:

Frank L. Bradley
Frank L. Bradley

STATE OF ARIZONA }
County of Coconino } ss.

On this, the 13th day of June, 1956, before me, the
undersigned officer, personally appeared Chas. B. Wilson, Jr. and
A. H. Cameron, who acknowledged themselves to be the President and
Secretary, respectively, of the Northern Arizona Title Co., a
corporation, and that they, as such President and Secretary, res-
pectively, being authorized so to do, executed the foregoing in-
strument for the purposes therein contained, by signing the name
of the corporation, by themselves as President and Secretary,
respectively.

IN WITNESS WHEREOF, I have hereunto set my hand and official
seal:

Arnold W. Davis
Notary Public

My commission expires:

November 5, 1958

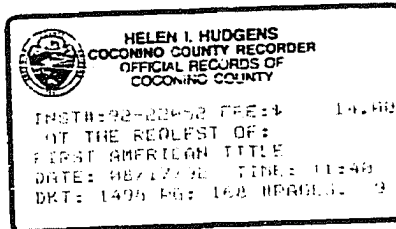
No. 2923

RECORDED AT REQUEST OF Northern Arizona Title Co.

June 13th 1956 3:00 P.M.

By Edna Mae Thornton Recorder

By Edna S. Bishop Secretary



WHEN RECORDED, RETURN TO:

Jack N. Pudel, Esq.
ROBBINS & GREEN, P.A.
1800 Citibank Tower
3300 North Central Avenue
Phoenix, AZ 85012-9826

FIRST AMENDMENT TO
DECLARATION OF RESTRICTIONS OF
BROKEN ARROW SUBDIVISION
SEDONA, ARIZONA

Frank E. Bradley and Ann Bradley, husband and wife, have recorded in the office of the County Recorder of Coconino County, Arizona on July 1, 1955 at Book 77, page 509-512, an instrument of Restrictions (the "Declaration of Restrictions"), relating to certain properties in Coconino County, City of Sedona, State of Arizona described as follows:

Broken Arrow Subdivision, Tracts 38 to 61 inclusive, a subdivision located in and being a part of the S1/2 SW1/4 SE1/4 of Section 18 and N1/2 NW1/4 NE1/4, of Section 19, Township 17 North, Range 6 East, G&S.R. E-M. Coconino County, Arizona, according to the plat of record in the office of the County Recorder of Coconino County, Arizona, on Book 2, of Maps page 71 Official Records of said County and State.

The undersigned owners of not less than a majority of the Tracts hereby desire to amend, supplement and clarify the Declaration of Restrictions, pursuant to paragraph 9 thereof, as follows:

Paragraph 1 of Declaration of Restrictions is hereby amended to permit any Tract within the Broken Arrow Subdivision and the public and private roadways and streets of such Subdivision, to be used for vehicular and pedestrian ingress and egress to and from properties and parcels situated adjacent to said any such Tract, and to permit the owner of any such Tract to grant easements respecting any such Tract consistent therewith, subject to any required approvals of the appropriate governmental authorities, including, without limitation, the City of Sedona.

All other provisions of the recorded Declaration of Restrictions are hereby ratified and confirmed, and will remain in full force and effect. This Amendment may be signed in counterparts, all of which, considered together, will be deemed to be one instrument.

DATED this 15th day of July, 1992.

1498-168

13

PROPERTY OWNER OR OWNERS

LOT OR TRACT

DATE

PROPERTY OWNER OR OWNERS	LOT OR TRACT	DATE
	38	
	39	
	40	
<i>[Signature]</i>	(41)	7-30-92
<i>[Signature]</i>	(42)	7-30-92
	43	
<i>Klaus H. Luback</i>	44	7-22-92
<i>[Signature]</i>	(45)	7-30-92
<i>[Signature]</i>	46	7-28-92
<i>[Signature]</i>	47	7/30/92
<i>Tertha B. Langhin</i>	48	July 27, 1992
<i>Elizabeth A. Tisch</i>	49	July 28, 1992
	50	
	51	
<i>[Signature]</i>	52	July 27, 1992
	53	
	54	
<i>Mallory H. Black</i>	55	July 28, 1992
	56	
<i>Margaret H. Hollenbeck Rose & J. Hollenbeck</i>	57	July 24, 92
<i>[Signature]</i>	58	7/30/92
	59	
<i>[Signature]</i>	60	2-4-92
<i>[Signature]</i>	61	7/30/92

1498-169

STATE OF ARIZONA)
) ss.
COUNTY OF COCONINO)

The foregoing instrument was acknowledged before me
this 24th day of July, 1992 by Mr. & Mrs. David Long owner of
Lot or Tract 607.

Emily C. Bal
Notary public

My Commission Expires:
1-18-94

STATE OF ARIZONA)
) ss.
COUNTY OF COCONINO)

The foregoing instrument was acknowledged before me
this 24th day of July, 1992 by Mr. & Mrs. Mellenkopf owner of
Lot or Tract 57 II.

Emily C. Bal
Notary public

My Commission Expires:
1-18-94

STATE OF ARIZONA)
) ss.
COUNTY OF COCONINO)

The foregoing instrument was acknowledged before me
this 27th day of July, 1992 by Bertha Longtin, owner of
Lot or Tract 48 II.

Emily C. Bal
Notary Public

My Commission Expires:
1-18-94

1498-170

STATE OF ARIZONA)
) ss.
COUNTY OF COCONINO)

The foregoing instrument was acknowledged before me
this 7th day of July, 1992 by Mrs. Mary Schwan owner of
Lot of Tract 57.

Emily C. Bel
Notary Public

My Commission Expires:
1-18-94

STATE OF ARIZONA)
) ss.
COUNTY OF COCONINO)

The foregoing instrument was acknowledged before me
this 20th day of July, 1992 by Klaus Adick owner of
Lot of Tract 44.

Emily C. Bel
Notary Public

My Commission Expires:
1-18-94

STATE OF ARIZONA)
) ss.
COUNTY OF COCONINO)

The foregoing instrument was acknowledged before me
this 28th day of July, 1992 by Elizabeth Seck owner of
Lot of Tract 49.

Emily C. Bel
Notary Public

My Commission Expires:
1-18-94

1498-171

STATE OF ARIZONA)
) ss.
COUNTY OF COCONINO)

The foregoing instrument was acknowledged before me
this 28th day of July, 1992 by Walter Black, owner of
Lot of Tract 557.

Emily C. Bel
Notary Public

My Commission Expires:
1-18-97

STATE OF ARIZONA)
) ss.
COUNTY OF COCONINO)

The foregoing instrument was acknowledged before me
this 28th day of July, 1992 by Clifford Stearns owner of
Lot of Tract 467.

Emily C. Bel
Notary Public

My Commission Expires:
1-18-97

STATE OF ARIZONA)
) ss.
COUNTY OF COCONINO)

The foregoing instrument was acknowledged before me
this 30th day of July, 1992 by Jarvis Rodch, owner of
Lot of Tract 490.

Emily C. Bel
Notary Public

My Commission Expires:
1-18-97

1498-172

STATE OF ARIZONA)
) ss.
COUNTY OF COCONINO)

The foregoing instrument was acknowledged before me
this 30th day of July, 1992 by Jarvis Koch, owner of
Lot or Tract E 8 1/2.

Emily C. Bell
Notary Public

My Commission Expires:
1-18-94

STATE OF ARIZONA)
) ss.
COUNTY OF COCONINO)

The foregoing instrument was acknowledged before me
this 30th day of July, 1992 by Jacob Sherman Heath, owner of
Lot or Tract 41 1/2.

Emily C. Bell
Notary Public

My Commission Expires:
1-18-94

STATE OF ARIZONA)
) ss.
COUNTY OF COCONINO)

The foregoing instrument was acknowledged before me
this 30th day of July, 1992 by Rose Robinson, owner of
Lot or Tract 4 1/2, 4 5.

Emily C. Bell
Notary Public

My Commission Expires:
1-18-94

1498-173

PROPERTY OWNER OR OWNERS

LOT OR TRACT

DATE

Comb B Bank

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1498-174

PROPERTY OWNER OR OWNERS

LOT
OR TRACT

DATE

Robert S. Morrison
Kenneth B. Morrison

38	<u>2/10/92</u>
39	<u>5-10-92</u>
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1498-175

PROPERTY OWNER OR OWNERS

LOT
OR TRACT

DATE

John Hillman

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Aug. 5th 1992

1498-176