



When recorded, return to:

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DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS FOR  
CLIFFSIDE ESTATES SUBDIVISION AND  
LOTS 69, 70, 71 AND 72  
SWITZER MESA UNIT TWO

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
CLIFFSIDE ESTATES SUBDIVISION AND  
LOTS 69, 70, 71 AND 72  
SWITZER MESA UNIT TWO

This Declaration of Covenants, Conditions and Restrictions (hereinafter the "Declaration"), made this 28<sup>th</sup> day of August, 2003, by Tom E. Krause and Nancy M. Krause, husband and wife, (hereinafter the "Declarant").

WHEREAS, Declarant is the Owner of real property in Coconino County, Arizona (hereinafter the "Property") legally described on Exhibit "A" attached hereto.

WHEREAS, Declarant desires to establish a general uniform plan for the use and enjoyment of the subdivision property and which covenants, conditions, and restrictions shall attach to all lots and shall be for the benefit of all owners thereof;

NOW, THEREFORE, Declarant declares that the Property is and shall be held, conveyed, encumbered, leased and used subject to the following covenants, conditions and restrictions which are for the purpose of enhancing and protecting the value of the Property. The covenants, conditions and restrictions set forth herein shall run with the Property; shall be binding upon all persons having any interest in the Property; shall inure to the benefit of and be binding upon Declarant, its successors, each Owner and their successors; and may be enforced by Declarant or its successors, by any Owner or their successors, or by any entity having an interest in the Property.

ARTICLE I

DEFINITIONS

Unless the context otherwise specifies or requires, the following words and phrases shall have the following meanings:

Section 1.01 "Articles" and "Bylaws" mean Articles of Incorporation and Bylaws of the Association, as amended from the time to time.

Section 1.02 "Assessments" means the Annual Assessment and any Special Assessments.



Section 1.03 "Assessment Lien" means the lien created and imposed by Section 3.04 hereof.

Section 1.04 "Association" means Homeowners' Association of Cliffside Estates, Inc., an Arizona non-profit corporation, its successors and assigns.

Section 1.05 "Board" means the Board of Directors of the Association.

Section 1.06 "Common Maintenance Areas" mean those areas within the subdivision which are designated on the final plat of Cliffside Estates Subdivision as being common areas, pedestrian easements, water and access easements, utility easements, roadways and/or roadway easements, along with drainage and retention easements, if any. Maintenance of the roadways shall be the obligation of the Declarant and/or the Association as set forth in Section 2.05.

Section 1.07 "Declarant" means Tom E. Krause and Nancy M. Krause, husband and wife, their heirs, successors, or assigns.

Section 1.08 "Declaration" shall mean the covenants, conditions and restrictions herein set forth in this entire document, as the same may be from time to time amended.

Section 1.09 "Dwelling Unit" shall mean the structure constructed on a lot, designated to be used as a place of residence.

Section 1.10 "Improvement" or "Improvements" shall mean any and all alterations of the land, other than interior modifications of existing structures, including, but not limited to, outbuildings, garages, guest houses, servant's quarters, swimming pools, walls, fencing, landscaping and driveways, whether intended to be temporary or permanent.

Section 1.11 "Lot" shall mean Lots 1 through 5 of Cliffside Estates Subdivision and Lots 69 through 72 Switzer Mesa Unit Two as legally described on Exhibit A attached hereto and incorporated herein by this reference.

Section 1.12 "Member" means a lot owner in the Subdivision and a member of the Association.

Section 1.13 "Owner" shall mean (1) the record Owner, whether one or more persons of legal title in the fee simple of any Lot, or (2) the purchaser of a lot under a recorded executory contract for the sale of real property. The foregoing does not include persons who hold an interest in a lot as security for the performance of an obligation, or a lessee or tenant, or a purchaser under an executory contract of sale which has not "closed" and been recorded in the Office of County Recorder of Coconino County, Arizona.



Section 1.14 "Person" shall mean an individual or any other entity with the legal right to hold title to real property.

Section 1.15 "Plat" shall mean the final subdivision plat for the Cliffside Estates Subdivision.

Section 1.16 "Property" or "Subdivision" shall mean Cliffside Estates Subdivision as described on the Plat recorded in the Office of the Coconino County Recorder or Lots 69 through 72 Switzer Mesa Unit Two.

## ARTICLE II

### USES AND RESTRICTIONS

Without the written permission of the Architectural Review Committee first obtained in accordance with Article IV, no person or entity of any nature shall commence or maintain any improvements of any nature upon any of said Lots, including without limitation excavation, site preparation, tree removal, demolition of existing improvements, landscaping, fences, walkways, roadways, driveways, signs, exterior lights, foundations, exterior painting, walls or buildings of any nature (other than repainting in colors substantially similar to the colors originally approved). In no event shall the Architectural Review Committee approve any buildings or improvements, nor shall any buildings or improvements be constructed or maintained upon any of said Lots, which violate any of the following restrictions:

#### Section 2.01 Construction and Architectural Restrictions.

A. There may be erected on any one lot not more than one single-family residence (which may include guest quarters) plus such accessory and auxiliary garages as are incidental to the single-family residential use. All structures erected or maintained on any lot or tract must be of new construction and no buildings or structures may be moved from any other location onto said lots or tracts.

B. Only detached single-family dwellings containing a minimum livable area of One Thousand Eight Hundred (1,800) square feet may be erected on any lot.

C. Each single-family dwelling must have a minimum 2-car garage with a floor area of not less than Four Hundred (400) square feet. The design and style of the garage, whether attached or detached, shall be essentially the same as the main dwelling.

D. Guest quarters may be erected to be occupied solely by non-paying guests or servants. Any quarters for guests or servants may be connected to the main residence by a common roof and the area of said quarters will not be included in the minimum livable area of the main residence set forth above. All construction for the



guest quarters will be of the same type and materials as the main residence and comply with current City standards for guest quarters.

E. All dwellings must have standard architectural appearance and no non-conventional home may be constructed.

F. The body and roof of the main residence and any guest house shall be of standard materials and in colors that are aesthetically pleasing as determined in the discretion of the Architectural Review Committee described in Article IV below.

G. A residence, guest house, garage, or similar structure may be erected on a lot prior to construction of the primary single-family residence; however, construction of the primary residence must be commenced within one year from start of construction on said structure. All materials must be new or approved by the City Building Inspector and the Architectural Review Committee. All construction shall (i) be according to the rules and regulations governing construction in the City of Flagstaff, (ii) be accomplished under a permit issued by the City of Flagstaff, and (iii) be completed under the latest codes and requirements in effect in the City of Flagstaff at the time of construction.

H. All utility services such as electricity, telephone, cable TV, water lines, or gas lines shall be installed underground in accordance with local City codes at the time of installation, and subject to the requirements of the supplying utility company.

I. Any fences erected on the property shall be constructed in a manner and fashion consistent with the character of the surrounding area. The fencing shall be installed in a neat and professional manner using new materials. All fencing shall be constructed of standard materials as approved at the discretion of the Architectural Review Committee described in Article IV below. The finished height of any fence shall not exceed six (6) feet. No fences shall be constructed within the twenty-five percent (25%) slope resource as outlined on Cliffside Estates Subdivision final plat.

J. None of the Lots may be subdivided into smaller lots. Two adjacent lots may be combined into one parcel, subject to the prior written approval of Declarant and the City of Flagstaff. Such combined parcel, however, shall continue to be assessed as two lots for the purpose of Section 3.04(c) below.

K. All lot owners shall post their address number on their residence. All numbers shall be at least four inches in height and shall be visible from the street.

#### Section 2.02 General Use Restrictions.

A. No boarders or renters of a portion of any of said Lots shall be



permitted, but an entire Lot, together with the improvements thereon, may be rented only to a single family.

B. No garage, trailer, mobile home, motor vehicle or any temporary structure of any nature may be used as a permanent residence on any lot.

C. No open fires or burning shall be permitted on any Lot and no incinerators or like equipment shall be placed, allowed or maintained upon any Lot. The foregoing shall not be deemed to preclude the use in customary fashion of outdoor barbeques or grills, unless such use is prevented or restricted by fire protection rules or regulations.

D. All fireplace chimneys and outlets from stoves must be protected from flying sparks by the use of approved spark arrestors. All other fire management issues shall be under the control of the Association.

E. Each Owner shall at all times maintain his entire Lot cleared of hazardous growth, vegetation, dead wood, and other flammable or host materials.

F. No motor-driven vehicles of any kind shall make use of any easements or areas set aside for pedestrian use.

Section 2.03 Noise and Visual Restrictions.

A. Storing of trailers, boats, campers, cars or horse trailers shall be kept reasonably out of sight so as not to be a visual nuisance to adjoining properties; either in a garage or approved outbuilding, along side yards in a neat, inconspicuous manner, or within fenced or planted perimeters. Under no circumstances may a stored trailer be lived in during the period of storage.

B. No tanks of any kind, elevated above the surface of the ground or visible in any manner, shall be erected, placed or permitted on any of said Lots. No exterior clothesline equipment shall be permitted on any of said Lots. All rubbish, trash or garbage shall be kept in airtight containers and not allowed to accumulate on any of said Lots. Woodpiles, service yards, and said rubbish, trash or garbage containers shall be kept screened by fencing or adequate planting so as to conceal them from view of streets and of neighboring parcels or any recreation areas. Incineration of rubbish, trash, garbage, or vegetation shall not be permitted.

C. No motor vehicle which is under repair and not in operating condition shall be placed or permitted to remain on the road or any portion of any lot unless it is within an enclosed garage or structure.

D. No advertising signs, billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on any of said lots or tracts, nor shall the premises be used in any way for any purpose which may endanger the health or



unreasonably disturb the holder or occupant of any surrounding property; PROVIDED, HOWEVER, that a single "For Sale" sign, not larger than twenty-four inches (24") by twenty-four inches (24"), may be placed on any lot and such signs shall not be deemed in violation of these restrictions.

E. No lot shall be used, in whole or in part, for the storage of any property or thing that will cause the land to appear in an unclean or untidy condition, or that will be obnoxious to the eye; nor shall any substance or material be kept upon any lot that will emit a foul or obnoxious odor, or cause any noise that will or might disturb the peace, quiet, comfort or serenity of the occupants of the surrounding property.

F. All rubbish, trash and garbage shall be removed from the lots and shall not be allowed to accumulate thereon. All garbage must be kept in closed containers, and must be concealed from view of the surrounding lots and roads.

G. Noises which would be of nuisance to neighbors such as continually barking dogs, abnormally loud motors or engines, excessively loud music, or any other noise-producing sources which disturb the normal levels of sound shall not be permitted.

H. No outside speakers, amplifiers or other sound producing equipment shall be permitted to be installed or maintained on any Lot. Ordinary television antennas may be erected provided they do not extend above the roof of the house more than ten (10) feet. Satellite dishes are permitted provided they are installed in a location not visibly offensive to neighboring properties and provided they do not exceed two (2) feet in diameter.

Section 2.04 Animal Restrictions. Outside animals may be kept on the property, subject to all applicable leash laws and other local ordinances governing the keeping of animals. In no event, however, are any fighting-type animals permitted on any lots. No farm animals are allowed to be kept on the property, exceptions are made for animals kept in yard or cages that are a 4-H project, which may include rabbits, minks or other small non-nuisance type animals.

Section 2.05 Roads and Maintenance Obligations. Until such time as control has transferred to the Association pursuant to Article III, Section 3.01, the following items shall be maintained by the Declarant:

A. All roads within the subdivision (including street signs, snow removal, paving, etc). All roads within the subdivision shall be paved.

B. All common areas.

Upon transfer of control pursuant to Article III, Section 3.01, the maintenance of all of the foregoing items shall be the responsibility and obligation of



the Association. Pursuant to Article III, Section 3.04, the Association shall have the right to assess and collect such fees as are necessary to maintain the items set forth herein.

Section 2.06 Water and Mining Restrictions.

A. No surface or ground water appurtenant to the subject real property shall be contaminated in any manner, nor may surface water be used or stored in a manner injurious to any adjacent property owners. The placing or throwing of refuse, debris, garbage or any other material not occurring naturally into any surface water, drainage channel or stream bed is prohibited. An owner of any parcel created from the property may divert or use surface water on his parcel in a reasonable manner, provided that drainage to property adjoining the parcel shall not be changed.

B. No oil or mineral drilling, development, refining, quarrying, or mining operation of any nature shall be permitted on the property. No derrick or other structure designed or used in boring for oil or natural gas shall be erected, placed or permitted upon any part of the property, nor shall any oil, natural gas, petroleum, asphaltum or hydrocarbon products or minerals of any kind, with the exception of water, be produced or extracted therefrom.

ARTICLE III

HOMEOWNERS ASSOCIATION, DUES AND VOTING REGULATIONS

Section 3.01. Nature of Association. All rights, duties, and obligations described herein shall be vested in the Declarant until such time as one hundred percent (100%) of all of the lots have been sold. At such time, control shall thereafter be vested in the Association. The Association shall have all rights and powers prescribed by law, provided that all acts shall be consistent with the provisions of this Declaration and shall be necessary, desirable, or convenient for effectuating the purposes set forth herein.

Section 3.02. Association Rules. By a majority vote of the Board, the Association may, from time to time, adopt, amend and repeal nondiscriminatory Association Rules not inconsistent with this Declaration, as the Board deems necessary or convenient to carry out the intents and purposes of the Declaration and the duties of the Board including Association Rules establishing charges for services and copies provided by the Association pursuant to this Declaration.

Section 3.03. Membership. Each Owner shall automatically become a Member of the Association; provided, however, that:

(a) Membership shall be appurtenant to each Lot and run with the title thereto. Such Membership shall commence upon becoming an Owner and automatically terminate when he ceases to be an Owner; and upon the transfer of his





ownership interest to the new Owner succeeding to such ownership interest shall likewise automatically succeed to such membership in the Association.

(b) If there is more than one Owner of any Lot, all of the Owners of such Lot shall designate one person to be the Member.

(c) If one person owns more than one Lot, the owner shall be entitled to one vote for each lot owned, and shall pay all assessments hereinafter described, for each Lot owned.

(d) The Association may, in addition to the other remedies hereinafter provided, suspend any Member or limit his voting rights for failure to pay dues and assessments or any violation of the Rules and Regulations of the Association.

#### Section 3.04.

(a) Each Owner of any Lot, other than the Developer, by acceptance of a deed therefor or by execution, as a buyer, of a contract to purchase a Lot, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay the Association annual assessments for road maintenance and upkeep and special assessments for capital improvements, such assessments to be fixed, established, and collected from time to time as hereinafter provided, the annual and special assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on each Lot.

(b) The assessments levied by the Association shall be used exclusively to maintain those items set forth in Article II, Section 2.05, as well as promoting the recreation, health, safety and welfare of the residents of the subdivision and the services and facilities located therein.

(c) When 100% of the lots have been sold by Declarant, the maximum annual assessment shall be \$300.00 per year, payable at the rate of \$25.00 per month. The maximum annual assessment may be increased effective January 1 of each year by the Board without a vote of the members by an amount not to exceed ten percent (10%) of the maximum annual assessment for the previous calendar year; provided, however, that such limitations may be exceeded at any time with the assent of 51% of the Lot owning Members who are voting in person or by proxy at a meeting duly called for this purpose after not less than thirty (30) days' written notice to all such Members.

(d) In addition to the annual assessments authorized above, the Association may levy in any assessment year a special assessment applicable to that year only for the purpose of defraying in whole or in part the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement including the necessary fixtures and personal property related thereto; provided, however, that any such assessment shall have the assent of 51% of the Lot owning



Members who are voting in person or by proxy at a meeting duly called for this purpose after not less than thirty (30) days' written notice to all such Members.

(e) Both annual and special assessments must be fixed at a rate uniform for all lots and may be collected on a monthly, quarterly, semi-annual or annual basis, as may be determined by the Association.

(f) The annual assessments provided for herein shall commence when 100% of the lots have been sold by Declarant. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period and notify the Members within a reasonable time thereafter. The Association shall, upon demand at any time from any interested person, furnish a certificate in writing signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A reasonable charge may be made by the Board for the issuance of these certificates. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

(g) Any assessments which are not paid when due shall be delinquent. Each member of the Association shall pay to the Association within thirty (30) days of receipt of an invoice setting forth the amount of the assessment. In the event any invoice is not paid within thirty (30) days from the date the same is deposited in the United States mail addressed to the Member at his address as shown on the records of the Association, the amount of such invoice shall be and become a lien upon said Lot when the Association causes to be filed in the office of the County Recorder of Coconino County an affidavit of non-payment of such invoice and mails a copy of same by certified mail, return receipt requested, to such Member at his address as shown on the records of the Association. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the highest legal rate per annum, and the Association may bring an action at law against the Owner obligated to pay the same, or foreclose the lien against the Lot pursuant to Arizona law pertaining to foreclosure of realty mortgages.

(h) Subordination of the Lien to Mortgages: The lien for all such assessments shall be junior and subordinate to the lien of any purchase money or construction mortgage or re-financing made in good faith and for value. In other words, the Homeowners Association does not have first lien rights on a said Lot, and would take a second position to any lending institution carrying a first mortgage on the property.

(i) Until 100% of the lots have been sold, all Lots owned by the Declarant shall be exempt from the assessments created in this Section.

(j) The Association shall not be obligated to spend in any year all of the sums received by it in such year (whether by way of annual or special



assessments, fees or otherwise) and may carry forward as surplus any balances remaining (rather than apply such surplus to reduction of the annual assessment in future years) in such amounts as the Board, in its discretion, may determine to be desirable for the greater financial security of the Association.

(k) Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such lot owner from liability for any assessments thereafter becoming due or from the lien thereof.

#### ARTICLE IV

##### ARCHITECTURAL REVIEW COMMITTEE

Section 4.01. Organization, Power of Appointment and Removal of Architectural Design Review Committee Members. An Architectural Review Committee is hereby established to perform the functions set forth in this Declaration with respect to architectural control and other controls contained in this Declaration. The Architectural Review Committee shall be the Declarant until such time as 100% of the lots have been sold, at which time the Board of Directors of the Association will serve as the Architectural Review Committee upon the following terms and conditions:

(a) Committee Composition. The Architectural Review Committee shall consist of the Board of Directors of the Association. No member shall be required to be an architect or to meet any other particular qualifications for membership. In the event one or two of the regular members are absent or disabled, the remaining Architectural Review Committee member or members, even though less than a quorum, may, but are not required to, designate either or both of the alternate members to act as substitutes and such alternates shall then assume the full authority of regular members of that meeting. The members of the Architectural Review Committee shall serve without compensation.

(b) Terms of Office. The term of office for each Architectural Review Committee member shall be two (2) years or until the appointment of a successor. Any new member appointed to replace a member who has resigned or been removed shall serve such member's unexpired term. Any member who has resigned, been removed or whose term has expired may be reappointed if such member accepts reappointment.

(c) Appointment and Removal. The right to appoint and remove members of the Architectural Review Committee at any time so long as Declarant owns a single Lot shall be and is hereby vested solely in the Declarant or its nominee. Notwithstanding the foregoing, the Declarant may at any time relinquish the right to appoint and remove members of the Architectural Review Committee. Upon such early



relinquishment by Declarant of its right to appoint the members of the Architectural Review Committee and after the Declarant owns no Lots, the right to appoint and remove all regular members of the Architectural Review Committee at any time shall be and is hereby vested solely in the Owners by majority vote; provided, however, that no regular member may be removed from the Architectural Review Committee except by the vote or written consent of 51% of all of the Owners. The regular members shall have the right to appoint up to two (2) alternate members of the Architectural Review Committee. Such appointees must be Owners at the time of such appointment and shall serve until such time as the regular members designate. Exercise of the right of appointment and removal of regular members, as set forth herein, shall be evidenced by the recordation of a declaration identifying each new regular member appointed to the Architectural Review Committee and each regular member replaced or removed therefrom and shall not be effective until a notice setting forth the name and address of the person or persons appointed or removed is signed by the owners of more than 50% of Lots and recorded.

(d) Resignations. Any regular or alternate member of the Architectural Review Committee may at any time resign from the Architectural Review Committee by recording a notice of their resignation.

Section 4.02. Duties. It shall be the right and duty of the Architectural Review Committee to consider and act upon any and all proposals or plans submitted to it pursuant to the terms hereof, to adopt Architectural Review Committee Rules, and to carry out all other duties imposed upon it by this Declaration. Without in any way limiting the generality of the foregoing provisions of this Section, the Architectural Review Committee or any member thereof may, but is not required to, consult with or hear the view of any Owner with respect to any plans, drawings, specifications or other proposals submitted to the Architectural Review Committee.

Section 4.03. Meetings. The Architectural Review Committee shall meet from time to time as necessary to perform its duties hereafter, shall appoint a committee chairman, and shall prepare Minutes of Meetings. The vote of any two members at a meeting shall constitute the act of the Architectural Review Committee unless the unanimous decision of the Architectural Review Committee is otherwise required.

Section 4.04. Architectural Review Committee Rules. The Architectural Review Committee may, from time to time, adopt, amend and repeal rules and regulations. The Architectural Review Committee shall interpret and implement this Declaration by setting forth the standards and procedures for design review and the guidelines for architectural design, landscaping, color schemes, exterior window coverings, exterior finishes and materials and similar features which are recommended or required for use within the Property.

Section 4.05. Waiver. The approval by the Architectural Review Committee of any plans, drawings or specifications for any work done or proposed, or



of any other matter requiring the approval of the Architectural Review Committee under this Declaration, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specification or matter subsequently submitted for approval.

Section 4.06. Time for Approval. Subject to the other provisions contained herein, in the event the Architectural Review Committee fails to approve or disapprove any design and location within thirty (30) days after said plans and specifications have been submitted to it, the plans will be deemed rejected.

Section 4.07. Processing Fee. With respect to any requests made to the Architectural Review Committee to review any plans, drawings or specifications for any work done or proposed, the Architectural Review Committee may establish processing fees for such requests or actions. The payment of such fees shall be condition precedent to any Architectural Review Committee action on such request or other item, and the nonpayment of such fee shall be deemed to toll the time for approval of such items set forth in Section 4.06 of this Article.

Section 4.08. Liability. Neither the Architectural Review Committee nor any member thereof nor the Association nor the Declarant shall be liable to any Owner, or to any other party, for any damage, loss or prejudice suffered or claimed on account of (a) the approval or disapproval of any plans, drawings or specifications, whether or not defective; (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications; (c) the development of any Lot, or (d) the execution and filing of any estoppel certificate, whether or not the facts therein are correct; provided, however, that with respect to the liability of a member, such member has acted in good faith on the basis of such information as may be possessed by him. Without in any way limiting the generality of the foregoing provisions of this section, the Architectural Review Committee, or any member thereof, may, but is not required to, consult with or hear the views of the Declarant or any Owner with respect to any plans, drawings, specifications, or any other proposal submitted to the Architectural Review Committee.

## ARTICLE V

### GENERAL PROVISIONS

Section 5.01 Term. The covenants, conditions and restrictions of this Declaration shall remain in full force and effect for a period of twenty (20) years from the date this Declaration is recorded. Thereafter, they shall be deemed to have been renewed and automatically extended for successive periods of ten (10) years each.

Section 5.02. Amendments. This Declaration may be amended by an



instrument in writing, signed by Owners representing two-thirds (2/3) of the Lots and approved by Declarant as long as Declarant owns any Lots. All amendments shall be effective upon recordation with the Coconino County Recorder.

Section 5.03 Enforcement and Non-waiver.

A. Enforcement. Except as otherwise provided herein, the Declarant the Association or any Owner shall have the right to enforce, by any proceeding at law, all covenants, conditions and restrictions. Failure to enforce any of these restrictions, rights, reservations, limitations, covenants and conditions contained herein shall not, in any event, be construed or held to be a waiver thereof or a consent to any further or succeeding breach or violation. Upon the breach or threatened breach of any of said covenants or restrictions, anyone owning or having interest in the lands covered by these restrictive covenants may bring an appropriate action in the proper court to enforce or restrain said violation or to compel compliance with the said covenants or restrictions herein contained or to collect damages on account thereof; provided, however, that a violation of these restrictive covenants, or any one or more of them, shall not affect the lien of any mortgage now of record, or which hereafter may be placed of record, upon said lots, or any part thereof, but provided further that these restrictive covenants shall, without limitation, apply to any lots acquired through foreclosure or any deed in lieu of foreclosure of any said mortgage. In the event legal action is brought to enforce any of the covenants or conditions set forth herein, the prevailing party in such action shall be entitled to recover its costs and attorney's fees. The use of any one or more of the remedies provided for in this paragraph shall not defeat the lien of a purchase money or construction mortgage or deed of trust made in good faith and for value.

B. Prerequisite to Litigation. In the event of a dispute between an Owner, the Association or Declarant, the complainant, as a condition precedent to instituting legal action, must first serve notice in writing on respondent advising them of the alleged grievance, the results desired, and a date and time convenient for a meeting; the respondent shall have a minimum of fifteen (15) days and a maximum of thirty (30) days from receipt of said notice in which to schedule a meeting for the purpose of arriving at a settlement of the controversy with the complainant.

Section 5.04 Construction.

A. Interpretation. The provisions of this Declaration shall be liberally construed to effectuate the purpose of creating a uniform plan for the development and operation of the subdivision and adjoining Lots 69 through 72 Switzer Mesa Unit Two. This Declaration shall be construed and governed by the laws of the State of Arizona. The subdivision shall be subject to any and all rights and privileges which the City of Flagstaff or the State of Arizona may have acquired through dedication or the filing or recording of maps or plats of said property, as authorized by law, and provided further that no conditions, restrictions or privileges or acts performed shall be in conflict with any City of Flagstaff Zoning Ordinance or law.



UNRECORDED

B. Restrictions Severable. Each of the provisions of this Declaration shall be deemed independent and severable, and the invalidity of any provision thereof shall not affect the validity or enforceability of any other provision.

C. Rules Against Perpetuities. In the event the provisions hereunder are declared void by a court of proper jurisdiction by reason of the period of time herein stated for which the same shall be effective, then, in that event, said periods of time shall be reduced to a period of time which shall not violate the rules against perpetuities as set forth in the laws of the State of Arizona.

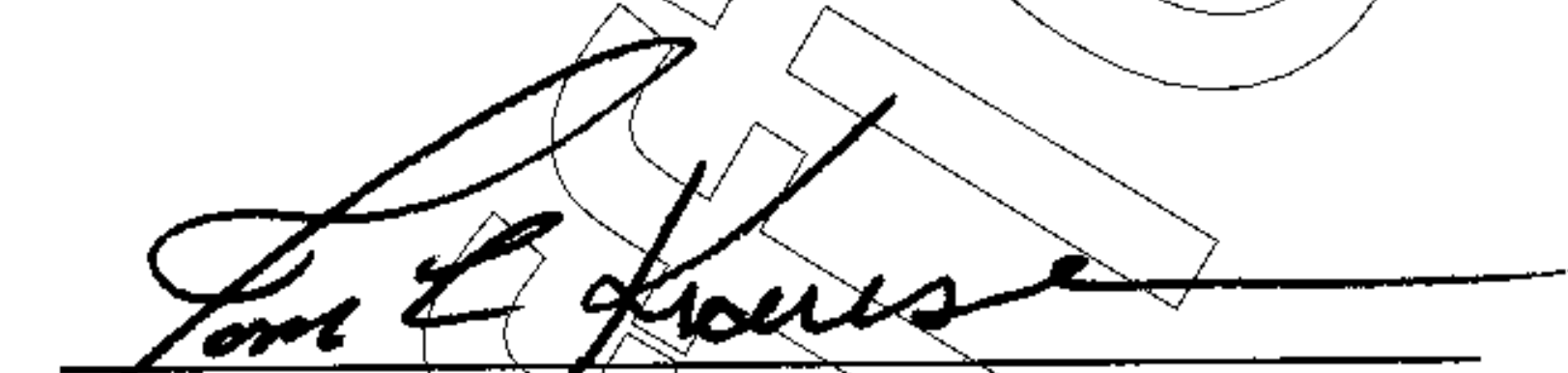
D. Singular Includes Plural. Unless the context requires a contrary construction, the singular shall include the plural, and the plural the singular; and the masculine shall include the feminine or neuter, and the feminine the masculine or neuter.

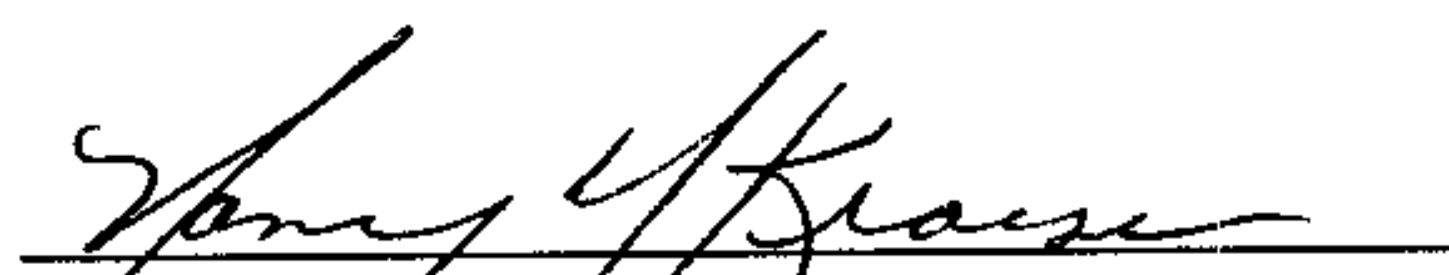
E. Captions. All captions and titles used in this Declaration are intended solely for convenience or reference purposes only and in no way define, limit or describe the true intent and meaning of the provisions hereof.

Section 5.05 Delivery of Notices. Any written notice required by this Declaration may be delivered either personally or by mail. If by mail, it shall be deemed to have been delivered five (5) days after it has been deposited in the United States mail, postage prepaid, addressed as follows: if to an Owner, to the address of the Owner within the subdivision.

Section 5.06. Binding Effect. By acceptance of a deed or acquiring any ownership interest in any of the Property affected by this Declaration, each person, their heirs, personal representatives, successors and assigns, binds themselves, and their heirs, personal representatives, successors and assigns to all of the covenants, conditions and restrictions imposed by this Declaration. In addition, each such person by so doing thereby acknowledges that this Declaration sets forth a general scheme for the Property and hereby evidences their intent that all of the covenants, conditions and restrictions contained herein shall run with the land and be binding on all future Owners. Furthermore, each such person acknowledges that this Declaration shall be mutually beneficial, and enforceable by future Owners.

IN WITNESS WHEREOF, Declarant has executed this Declaration the date and year first above written.

  
\_\_\_\_\_  
Tom E. Krause

  
\_\_\_\_\_  
Nancy M. Krause



STATE OF ARIZONA )  
 ) SS.  
County of Coconino )



SUBSCRIBED AND SWORN TO before me this 28 day of August, 2003  
by Tom E. Krause and Nancy M. Krause

Elizabeth A Baldwin  
Notary Public

My Commission Expires:

10-1-06



Unofficial Copy



EXHIBIT A

Lots 1, 2, 3, 4 and 5, Cliffside Estates Subdivision, Case 9, Map 40440A, Records of Coconino County, Arizona (RCC), situated in the Northeast Quarter of Section 15, Township 21 North, Range 7 East, Gila and Salt River Meridian, Coconino County, Arizona; and

Lots 69, 70, 71 and 72, Switzer Mesa Unit Two, Case 2, Map 344, Records of Coconino County, Arizona (RCC), situated in the Northeast Quarter of Section 15, Township 21 North, Range 7 East, Gila and Salt River Meridian, Coconino County, Arizona.



3238720  
Page: 17 of 17  
SR

Case 9 Map 40

# FINAL PLAT of CLIFFSIDE ESTATES

A SUBDIVISION OF A PARCEL  
SITUATED IN THE SE 1/4 OF  
SECTION 15, TOWNSHIP 21 NORTH,  
RANGE 7 EAST, GILA & SALT RIVER  
MERIDIAN, COCONINO COUNTY, ARIZONA  
CONTAINING 4.30 ACRES

## DEDICATION & RESERVATIONS

STATE OF ARIZONA } ss.  
COUNTY OF COCONINO }  
KNOW ALL MEN BY THESE PRESENTS:

THAT TOM E. KRAUSE AND NANCY M. KRAUSE HAVE SUBDIVIDED A PORTION OF THE SOUTHEAST QUARTER OF SECTION 15, TOWNSHIP 21 NORTH, RANGE 7 EAST, GILA AND SALT RIVER MERIDIAN, COCONINO COUNTY, ARIZONA, UNDER THE NAME "CLIFFSIDE ESTATES", AS PLATTED HEREON. THIS PLAT IS MADE AND RECORDED IN ACCORDANCE WITH THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR CLIFFSIDE ESTATES SUBDIVISION.

TOM E. KRAUSE AND NANCY M. KRAUSE HEREBY PUBLISH THIS PLAT, CONSISTING OF TWO SHEETS, AS AND FOR THE PLAT OF "CLIFFSIDE ESTATES", HEREBY DECLARE THAT THIS PLAT SETS FORTH THE LOCATION AND GIVES THE DIMENSIONS AND MEASUREMENTS OF ALL LOTS, STREETS AND EASEMENTS, AND THAT EACH LOT AND STREET SHALL BE KNOWN BY THE NUMBER OR NAME GIVEN EACH RESPECTIVELY ON THIS PLAT. TRACT "A" IS HEREBY DEDICATED TO THE CLIFFSIDE ESTATES HOMEOWNER'S ASSOCIATION FOR THE PURPOSE OF OPEN SPACE SUBJECT TO THE EASEMENTS SHOWN HEREON. TRACT "B" IS DEDICATED TO THE CLIFFSIDE ESTATES HOME-OWNERS ASSOCIATION FOR THE PURPOSES OF PRIVATE INGRESS/EGRESS TO THE LOTS IN THIS SUBDIVISION AND TO LOTS 69-72, SWITZER, MESA UNIT TWO, CASE 2, MAP 344, RECORDS OF COCONINO COUNTY, ARIZONA, AND AS A PUBLIC UTILITY EASEMENT. SLOPE EASEMENTS ARE HEREBY DEDICATED TO THE CLIFFSIDE ESTATES HOMEOWNERS ASSOCIATION FOR THE PURPOSES OF ROADWAY SLOPES.

IN WITNESS WHEREOF, TOM E. KRAUSE HAS CAUSED HIS NAME TO BE SIGNED AND AFFIXED HERETO AS OF October 15, 2003.

By: Tom E. Krause  
TOM E. KRAUSE

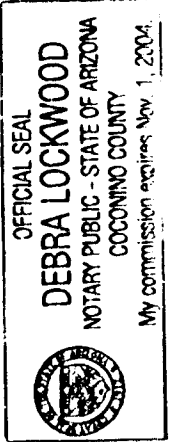
## ACKNOWLEDGMENT

STATE OF ARIZONA } ss.  
COUNTY OF COCONINO }

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON THIS, THE 15 DAY OF October, 2003, BY TOM E. KRAUSE.

IN WITNESS WHEREOF I HERETO SET FORTH MY HAND AND OFFICIAL SEAL.

By: Debra Lockwood  
NOTARY PUBLIC  
MY COMMISSION EXPIRES: Nov 1, 2004



## OCCUPANCY

NO CERTIFICATE OF OCCUPANCY FOR ANY RESIDENCE MAY BE ISSUED NOR MAY ANY RESIDENCE ERRECTED IN THIS TRACT BE OCCUPIED UNTIL THE REQUIRED WATER, SEWER, AND ALL OTHER ESSENTIAL UTILITIES ARE INSTALLED AND AN ALL-WEATHER ACCESS ROADWAY TO THE PROPERTY IS CONSTRUCTED AND APPROVED OR ACCEPTED BY THE CITY ENGINEER.

## NOTES

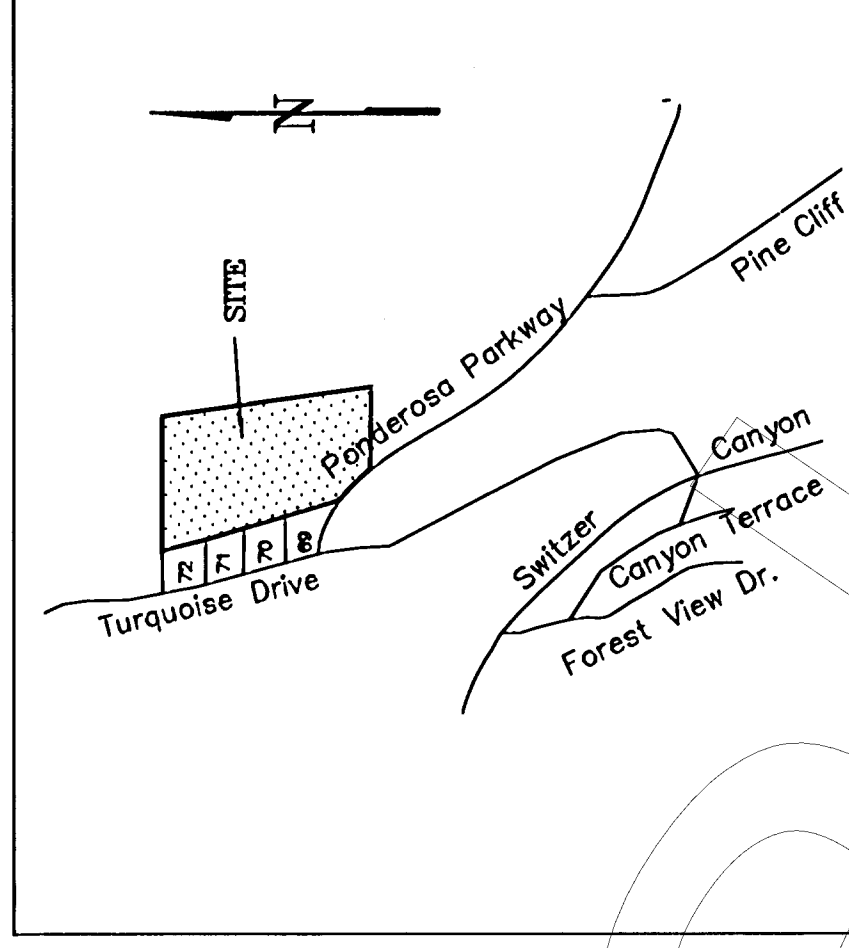
EXCEPT FOR CONSTRUCTION AND IMPROVEMENTS BY GOVERNMENTAL ENTITIES AND CERTIFIED PUBLIC UTILITIES, CONSTRUCTION AND IMPROVEMENTS WITHIN UTILITY EASEMENTS SHALL BE LIMITED TO ONLY THE FOLLOWING:

- A. REMOVABLE WOOD, WIRE OR SECTION-TYPE FENCING
- B. CONSTRUCTION OF STRUCTURES, OR BUILDINGS EXPRESSLY PROHIBITED BY THIS PLAT
- C. ALL PUBLIC UTILITIES THAT USE OR SHALL USE THE EASEMENT.
- FENCING IN THE 25% SLOPE RESOURCE AREA IS PROHIBITED.
- SLOPE AREAS TO BE RETAINED ON-SITE SHALL BE IDENTIFIED AND CONSTRUCTED TO REMAIN OPEN TO THE SKY. TREE REMOVAL, TRENCHING, AND BUILDING CONSTRUCTION.

ALL BUILDING CONSTRUCTION, INCLUDING ACCESSORY BUILDINGS, SHALL BE LIMITED TO A SPECIFIC BUILDABLE AREA FOR EACH LOT AS SHOWN ON THIS PLAT, AND THIS BUILDABLE AREA IS LIMITED TO THE SETBACKS SHOWN.

ALL ON-LOT AREAS NOT DESIGNATED AS BUILDING ENVELOPES, SLOPE EASEMENTS, OR DRIVEWAY EASEMENTS ARE TO BE MAINTAINED AS PERPETUAL RESOURCE PROTECTION EASEMENTS AND BUFFERYARDS TO BE MAINTAINED BY THE INDIVIDUAL LOT OWNERS.

DRIVEWAY CONSTRUCTION FOR SWITZER MESA UNIT 2, LOTS 69 THROUGH 72 SHALL BE WITHIN THE LIMITS OF THE EASEMENTS AS SHOWN ON THIS PLAT AND IN THE RECORDED DECLARATION OF EASEMENTS WITH RESPECT TO SUCH EASEMENTS. SUCH DRIVEWAY CONSTRUCTION MAY REQUIRE THE CONSTRUCTION OF RETAINING WALLS IN ORDER TO PROVIDE AN ACCEPTABLE DRIVEWAY SLOPE. DRIVEWAY CONSTRUCTION SHALL BE LIMITED TO THE DRIVEWAY MUST AND 4'-4.5" CONSTRUCTION OF RECORD. CONSTRUCTION OF THE DRIVEWAY MUST BE AGREED UPON BY THE OWNERS OF LOTS 182 AND LOTS 4 & 5. AS THE CASE MAY BE, PRIOR TO SUBMITTAL OF PLANS TO THE CITY OF FLAGSTAFF.



## SITE DATA

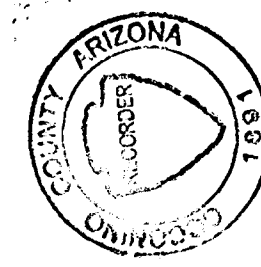
5 SINGLE FAMILY LOTS  
4.30 ACRES  
0.86 UNITS PER ACRE  
ZONING DISTRICT: MR  
G/MG 2000 CATEGORY: OPEN SPACE

## RESOURCES

GROSS SITE AREA = 4.30 ACRES  
FLOODPLAIN = 0.0 ACRES  
STEEP SLOPES  
SLOPE CATEGORY  
SLOPE AREA  
% PROTECTED  
REQUITED PROTECTED RESOURCE  
ADDITIONAL PROTECTED RESOURCE  
SLOPE PRESERVED  
FORESTS = 0.0 ACRES

>17-25% SLOPE	>25% SLOPE	NOT PROTECTED	TOTAL
= 2.800	1.347	0.153	4.300 ACRES
= 70	80	0.000	3.037 ACRES
= 1.960	1.077	0.000	0.000 ACRES
= -0.262	1.262	0.000	3.037 ACRES
= 1.696	1.359		

FIRE APPARATUS ACCESS ROADS SHALL BE PROVIDED ON SITE WHEN ANY PORTION OF THE FACILITY OR BUILDING IS SECOND 150 FEET FROM APPROVED FIRE APPARATUS ACCESS ROADWAYS AS MEASURED BY AN APPROVED ROUTE AROUND THE EXTERIOR OF THE BUILDING OR FACILITY. ADDITIONALLY, WHEN ANY PORTION OF THE BUILDING OR FACILITY IS IN EXCESS OF 500 FEET FROM A HYDRANT ON A PUBLIC STREET, AS MEASURED BY AN APPROVED ROUTE AROUND THE EXTERIOR OF THE BUILDING, THE SITE SHALL BE PROVIDED WITH A CHAPABLE OF SUPPLYING WATER TO THE BUILDING. FIRE PROTECTION MEASURES MEETING THESE REQUIREMENTS WHEN APPROVED BY THE FIRE DEPARTMENT. CONFERR WITH FLAGSTAFF FIRE DEPARTMENT FIRE PREVENTION OFFICER TO DETERMINE SPECIFIC MEANS OF COMPLIANCE.



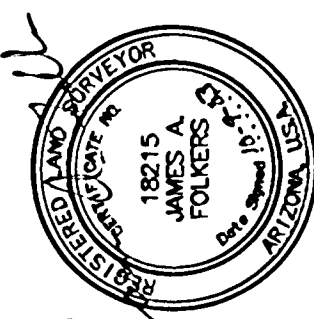
By: Debra Lockwood  
RECORDED AT REQUEST OF  
CITY OF FLAGSTAFF  
DATE December 3, 2003  
BY Case 9 map 40  
Records of Coconino County, Arizona  
CANDACE CHITENS  
County Clerk

W.F.M., INC.  
ENGINEERS & SURVEYORS  
405 N. Beaver St., Suite 7  
Flagstaff, AZ 86001  
(928) 779-4505



By: JAF	Date: 4-08-03
Chkd: DMM	Date: 4-08-03
Revision:	
DRIVEWAY NOTES:	6-08-03 JAF
FIRE NOTES:	8-28-03 JAF
DEDICATION:	8-22-03 JAF
UTILITY ACKNOWLEDGMENTS:	10-9-03 JAF

# FINAL PLAT CLIFFSIDE ESTATES



1 of 2  
01067

Case 9 Map 40A

FND BLM BRASS CAP  
 N 1/4 COR SEC 15, T21N  
 R1E, COGSRM, COF # 1720110  
 NAD83  
 N 466985.752  
 E 239347.763  
 COE LGS  
 E 36733.64  
 PER CITY OF FLAGSTAFF

FND ALUMINUM CAP IN HH  
 N 1/4 COR SEC 15, T21N  
 R1E, COGSRM, COF # 1719150  
 NAD83  
 N 466980.497  
 E 239541.129  
 COE LGS  
 N 57600.39  
 E 34086.09  
 PER CITY OF FLAGSTAFF

323,371.8  
 RECORDED BY REQUEST OF  
 CITY OF FLAGSTAFF  
 DATE December 3, 2003  
 CLASS 9 MAP 40A  
 COUNTY COCONINO  
 COUNTY RECORDS

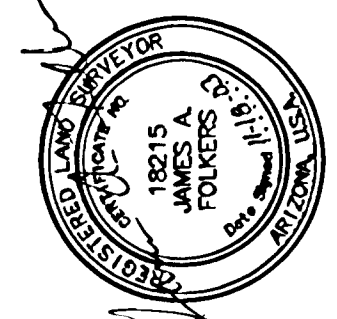


WFM, INC.  
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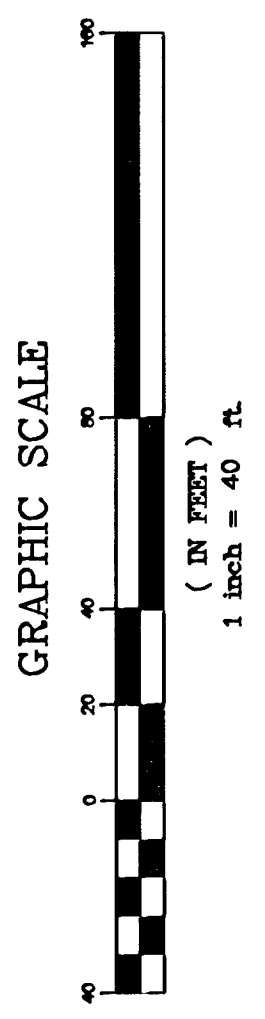


By: JAF	Date: 3-08-03
Chkd: DM	Date: 6-28-03
Revisions:	
Slope resource	6-28-03 JAF
CVE dimensions	7-28-03 JAF
Curve data table	8-13-03 JAF
Future easements	11-17-03 JAF

# FINAL PLAT CLIFFSIDE ESTATES



2 of 2  
 01067



- NOTES**
1. DRIVEWAY EASEMENT #1 PROVIDES ACCESS TO LOTS 69-70 OF SWITZER MESA UNIT 2.
  2. DRIVEWAY EASEMENT #2 PROVIDES ACCESS TO LOTS 71-72 OF SWITZER MESA UNIT 2.
  3. DRIVEWAY EASEMENTS SHOWN ON LOTS 69-70, SWITZER MESA UNIT 2, ARE PROPOSED FUTURE EASEMENTS THAT ARE NOT CREATED BY THIS PLAT.
  3. SLOPE EASEMENTS SHOWN ON LOTS 69-70, SWITZER MESA UNIT 2, ARE PROPOSED FUTURE EASEMENTS THAT ARE NOT CREATED BY THIS PLAT.

CURVE	DELTA	RADIUS	LENGTH
C1	28251.11°	490.951	292.22
C2	1347.32°	490.951	118.18
C3	4749.23°	490.951	376.39
C4	2423.43°	490.951	165.14
C5	5012.27°	490.951	43.05
C6	8704.52°	26.88	40.54
C7	2118.32°	150.00	58.70
C8	5939.17°	16.80	17.49
C9	5939.17°	16.80	17.49
C10	2341.07°	490.951	22.00
C11	2341.07°	490.951	22.00
C12	9414.44°	5.00	8.22
C13	40582.28°	77.00	58.07
C14	9309.02°	4.68	7.60

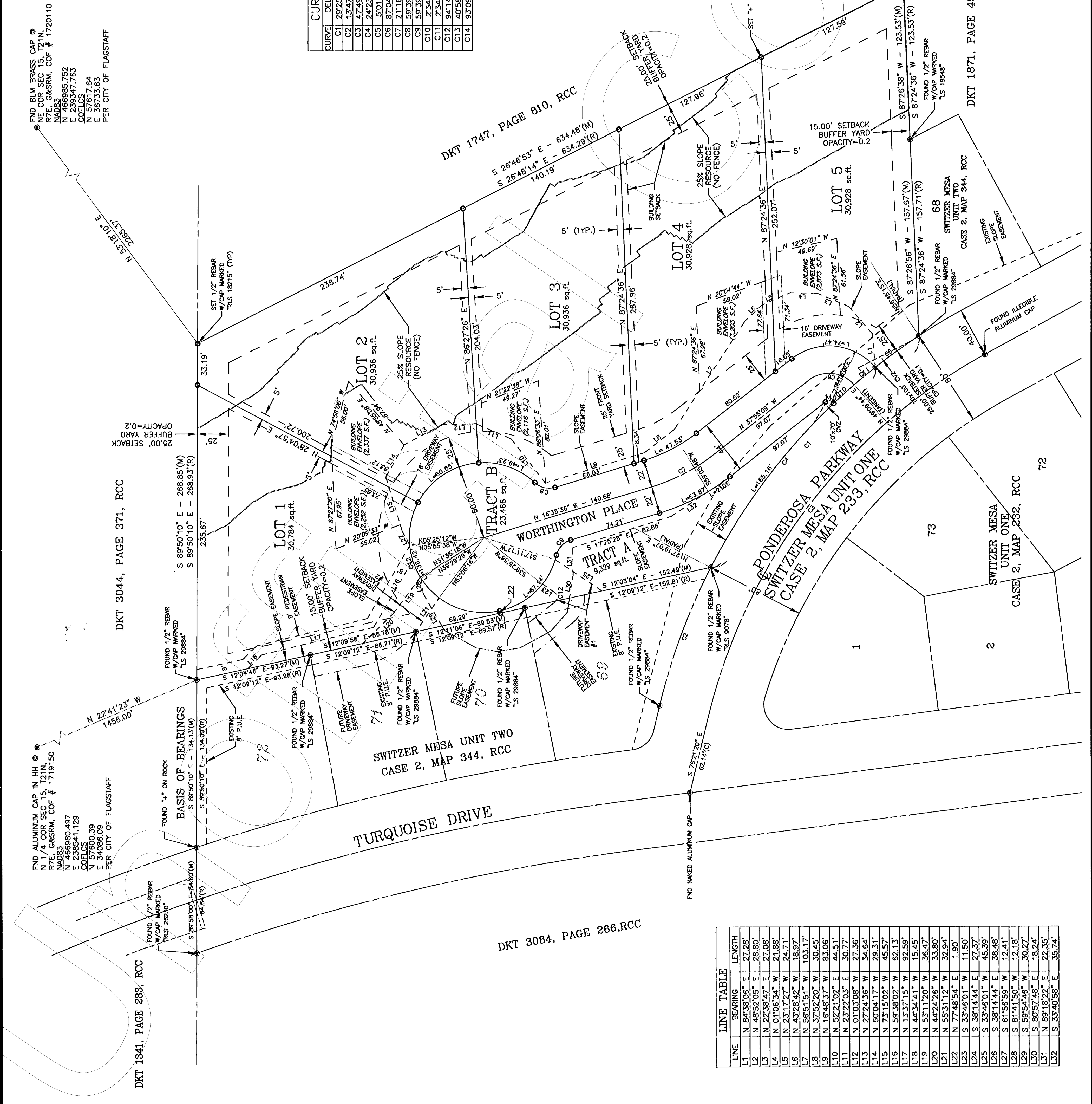
**LEGEND**

- FOUND MONUMENT AS NOTED
- SET 1/2" REBAR W/CAP OR MAG NAIL W/TAG MARKED "RLS 18215" UNLESS NOTED OTHERWISE
- C CALCULATED DATA
- CVE PORTION OF PROPERTY SUBJECT TO THE RESTRICTIONS OF A CLEAR VIEW ZONE PER LOC 10-07-003-005 DEVELOPMENT CODE
- LDC: CITY OF FLAGSTAFF LAND
- M: MEASURED DATA
- R: BOOK 17, PAGE 53, RCC
- RCC: RECORDS OF COCONINO COUNTY, ARIZONA

SITE DATA  
 5 SINGLE FAMILY LOTS  
 4.30 ACRES  
 0.86 UNITS PER ACRE

**SURVEYOR'S CERTIFICATION**  
 THIS IS TO CERTIFY THAT THIS PLAT AND THE BOUNDARY SURVEY UPON WHICH IT IS BASED WERE PERFORMED BY ME OR UNDER MY DIRECTION TO THE BEST OF MY KNOWLEDGE AND BELIEF THIS PLAT IS AN ACCURATE AND COMPLETE REPRESENTATION THEREOF ALL PROPERTY CORNERS ARE MONUMENTED WITH A 1/2" REBAR OR MAG NAIL WITH CAP OR TAG MARKED "RLS 18215" UNLESS OTHERWISE NOTED. CORNERS ARE LOCATED AS DESCRIBED.

COF PROJECT NO. 04-01242



LINE	BEARING	LENGTH
L1	N 84°38'06" E	27.28'
L2	N 48°52'05" E	28.80'
L3	N 27°38'47" E	27.08'
L4	N 01°06'34" W	21.88'
L5	N 23°17'27" W	24.71'
L6	N 43°28'42" W	18.97'
L7	N 56°51'51" W	103.17'
L8	N 15°48'37" W	30.45'
L9	N 52°21'02" E	44.51'
L10	N 23°22'03" E	30.77'
L11	N 01°03'08" W	27.36'
L12	N 27°24'36" W	34.64'
L13	N 60°04'17" W	20.31'
L14	N 73°15'02" W	45.57'
L15	N 59°35'02" W	62.15'
L16	N 13°37'15" W	15.45'
L17	N 44°34'41" W	35.47'
L18	N 53°11'20" W	33.80'
L19	N 44°24'26" W	33.80'
L20	N 55°51'12" W	32.94'
L21	N 77°48'54" E	1.90'
L22	S 35°46'01" W	11.50'
L23	S 38°14'44" E	27.37'
L24	S 35°46'01" W	45.39'
L25	S 38°14'44" E	38.48'
L26	S 81°41'50" W	12.11'
L27	S 61°56'59" W	30.27'
L28	S 81°41'50" W	12.11'
L29	S 59°54'46" W	18.24'
L30	S 80°57'48" E	22.35'
L31	N 89°18'22" E	35.74'
L32	S 33°40'58" E	35.74'

DKT 3084, PAGE 286, RCC

DKT 1841, PAGE 288, RCC

DKT 3044, PAGE 371, RCC

DKT 1747, PAGE 810, RCC

DKT 1871, PAGE 451, RCC

SWITZER MESA UNIT TWO  
 CASE 2, MAP 344, RCC

GRONDEROSA PARKWAY  
 SWITZER MESA UNIT ONE  
 CASE 2, MAP 238, RCC

SWITZER MESA UNIT TWO  
 CASE 2, MAP 344, RCC

TURQUOISE DRIVE

WORTHINGTON PLACE

3239718  
 04-01242