

EMBREY KIERLAND NORTH

CASE Z-61-19-2

LOCATED NORTH OF THE NORTHWEST CORNER OF
SCOTTSDALE ROAD AND TIERRA BUENA LANE



Date of Initial Submission: November 12, 2019
Second Submittal: February 14, 2020
Hearing Draft: May 6, 2020
City Council Adopted: July 1, 2020

CITY OF PHOENIX
JUL 24 2020
Planning & Development
Department

A Planned Unit Development (“PUD”) is intended to be a stand-alone document of zoning regulations for a particular project. Provisions not specifically regulated by the PUD are governed by the Zoning Ordinance. A PUD may include substantial background information to help illustrate the intent of the development. The purpose and intent statements are not requirements that will be enforced by the City. The PUD only modifies Zoning Ordinance regulations and does not modify other City Codes or requirements. Additional public hearings may be necessary, such as, but not limited to, right-of way abandonments.

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A. PURPOSE AND INTENT

A1: Project Overview and Goals

Embrey Kierland North is a six (6) story luxury rental residential community that will add high quality dwelling units along the Scottsdale Road corridor, the location of other high-end living opportunities. The goal of the Project is to provide quality modern urban living experiences for its future residents and to create a pedestrian friendly, walkable environment streetscape along its Scottsdale Road frontage for the benefit of the larger community.

A2: Overall Design Concept

The design is focused on a “modern suburban” feel, complementing the built environment and pedestrian experience of Kierland Commons and following a development trend that has reinvented this area with quality pedestrian edges, elimination of surface parking lots and an emphasis on quality design that has visual interest at a walking pace. The Project also follows the established height pattern on the surrounding parcels, keeping a 70-foot maximum height and building form that is consistent with other redevelopment in the immediate area, particularly along the nearby 71st Street corridor.

To support the “modern suburban” concept, all parking is located below grade or, if at grade, within the structure (except for a few spaces on the north side of the building near the Leasing entrance intended primarily for delivery, taxi and ride share use and a loading bay located along the western access drive). The Project includes ground level residential units along Scottsdale Road which activate the streetscape and add interest to the pedestrian experience along Scottsdale Road (which is currently lacking). By adding ground level street accessing units and detaching and widening the sidewalk along Scottsdale Road, walking by the Project will be both interesting and safe. A key Project goal is to create a streetscape design that supports a stronger pedestrian network on Scottsdale Road, which historically has been heavily auto oriented in its design and experience. It is hoped that the proposed streetscape will be replicated with other redevelopment along Scottsdale Road to reinvent the experience for this portion of Kierland.

Beyond the building’s design and placement of amenities and units, interest to those passing by is enhanced by the use of quality, durable materials. Additionally, great care has been taken to create enhanced corners on both the north and south sides of the building fronting onto Scottsdale Road, adding to a visually intriguing design that will be an asset to the overall corridor.

In summary, the overall design concept is a building that (i) fits the surrounding scale by maintaining similar heights as its neighbors, (ii) reinforces a strong pedestrian environment by concealing vehicle parking, providing ground level dwelling units and enhanced streetscape design as well as (iii) the expression of the Kierland area’s reputation for a quality built environment via a rich blend of materials and colors combined with current, yet timeless, design.

B. LAND USE PLAN

B1: Proposed Land Use Categories

The Project is a proposed residential luxury multifamily community of up to 285 dwelling units (a maximum density of 128 du/ac) and supporting private resident amenities on a 2.41 acre site.

B2: Conceptual Site Plan Summary

The following provides an overview of the conceptual site plan provided with this PUD:

Underground Levels 1 and 2 are the below grade parking garage floors with 68 parking spaces on Level 2 and 180 parking spaces on Level 1, plus ancillary storage and equipment rooms/spaces.

Grade Level is the location of the remainder of the vehicular parking (totaling 166 parking stalls) which is carefully screened by (i) ground level dwelling units that front Scottsdale Road, each with direct ingress/egress from these units to the street and (ii) the use of architectural screening materials on the interior building facades to conceal the internal parking from off-site views. The northeast corner is the location of the clubhouse and leasing areas for the Project. Entry to the site is via a driveway on the north side, with garage access located along this façade, secondary access to the garage is on the west side adjacent to the service drive. This is also the location of the loading bay to service resident move-ins/move-outs.

Level 2 is the location of the main amenity level, containing the Pool Courtyard in the interior of the building as well as clubhouse and fitness facilities. This courtyard will contain active and passive amenities for residents. The remainder of Level 2 will be resident dwelling units.

Level 3-6 are typical representation of the upper levels of the building. Here the residential dwelling units continue above the grade level podium. As the resident focused areas of the Project, there are no amenities on these upper levels.

Roof Level will not be occupied. All mechanical equipment shall be screened.

C. LIST OF USES

C1: Permitted Uses

- Multifamily Residential Dwelling Units as Governed Herein
- C-2 Uses in Section 623 of the City of Phoenix Zoning Ordinance are subject to all listed conditions in said section.

C2: Temporary Uses

- All temporary uses shall comply with Section 708 of the City of Phoenix Zoning Ordinance

C3: Prohibited Uses

The following land uses are not permitted:

- All Special Permit uses otherwise permitted in the C-2 Zoning District are prohibited.
- Auto Title Loan Establishments
- Automobile Parts and Supplies, New Retail and Wholesale
- Boats, Retail Sale
- Car Wash
- Compressed Natural Gas Retail Sales
- Gas Stations
- Garage, Repair
- Hospital
- Motorcycles, Repair and Sales
- Nonprofit Medical Marijuana Dispensary Facility
- Pawn Shop
- Service Stations, Automobile
- Tobacco Oriented Retailers
- Veterinarian Offices
- Veterinarian Hospitals
- Window Glass Installation Shop

Note: The Site is subject to specific use standards as per the Kierland Master Association Covenants, Conditions and Restrictions (CC&R's); while those provisions are not enforced by the City of Phoenix, this PUD does not intend to override or otherwise alter those CC&R's and/or other applicable private agreements, restrictions or other controls on the use of the Site. The CC&R standards are more restrictive than the standards of the City of Phoenix Zoning Ordinance.

D. DEVELOPMENT STANDARDS

D1: Development Standards Table

The following development standards apply to any multifamily development of the Property (including mixed-use); in the event that stand-alone non-multifamily development occurs, the development standards applicable to such development shall be those of Section 623, the C-2 General Commercial, Zoning District.

a. Maximum Residential Unit Count	
Max Dwellings	285 dwelling units
Maximum Density	128 dwelling units per gross acre
b. Minimum Lot Width/Depth	No Minimum
c. Minimum Building Setbacks	From Property Line
North (Internal Property Line)	20'
West (Internal property Line)	20'
South (Internal Property Line)	10'
East (Scottsdale Road)	15'
<p><u>Exceptions:</u> South Setback – limited to the above ground floors (floors 2 – 6), (i) balconies for the units at the southeast corner of the building (the corner units only) may encroach up to 18 inches and (ii) units may encroach up to 2 inches, but for no more than 12 % of the total south façade.</p> <p>East Setback – A shade awning is permitted to encroach no more than 6" for no more than 21% of east façade.</p>	
d. Maximum Building Height	70 Feet
e. Maximum Lot Coverage	80% of Total Net Site Area

D2: Landscape Standards Table

Landscaping setbacks for the site are customized to respond to existing access easements that burden the parcel. On the west side, there is a 25-foot-wide access easement to provide part of the shared "alley" (private accessway) that serves entire development block (see MCR Book 488, Page 21). Along the north, the abutting furniture store to the north shares the access drive with the subject site, so that access must be maintained as-is pursuant to a reciprocal easement agreement (see MCR 98-0551926). Therefore, internal edge treatments are as follows:

Minimum Landscape Setbacks	
North (Internal Property Line)	0' Minimum/8' Average Landscape Setback
West (Internal Property Line)	12' Landscape Setback
South (Internal Property Line)	10' Landscape Setback
East (Scottsdale Road)	5' Minimum/15' Average Landscape Setback

Due to existing private accessways and utilities, landscape setbacks along the north, west, and south property lines are measured from the back of curb of the private accessway easement. Landscape setback along the east property line is measured from the property line.	
<u>Exceptions:</u> (1) For balcony and unit encroachments, same as D1. (2) Shade awnings on the east elevation, limited to 21% of façade and the north elevation, limited to 32% of façade, are permitted to encroach into landscape setback. (3) Required Off-Street Loading Spaces may be located within the west landscape setback (see D3).	
Minimum Landscape Standards	
a. Streetscape - Adjacent to Scottsdale Road (East Property Line)	<p><u>Landscape Strip:</u> Provide minimum 5' landscape strip between back of curb and sidewalk. Trees of 3"-caliper planted 20' on center or in equivalent groupings, except for within driveways, sidewalks or sight visibility triangles. Five (5) 5-gallon drought-resistant shrubs per tree (maximum 24 inches tall at maturity).</p> <p><u>On-Site Landscaping:</u> One (1) 2"-caliper tree to be planted for every 500 square feet of total landscape area, to be planted within a raised planter¹; Five (5) 5-gallon drought-resistant shrubs per tree to be planted at grade. At grade, 50% living groundcover coverage.</p>
b. Perimeter Property Lines – Not Adjacent to Public Right-of-Way (North, West, and South Property Line)	<p>Trees planted 20' on center or in equivalent groupings, except for within driveways or sidewalks.</p> <p>100% 2"-caliper trees; Five (5) 5-gallon drought-resistant shrubs per tree.</p> <p>Open Space requirement: Open space areas (outside of landscape setbacks) shall include landscaping materials at a minimum of 50% living groundcover.</p>
c. Minimum Common Open Space	A "Pool Courtyard" private common open space amenity shall be provided. Said amenity shall be a minimum of 15% of gross site area. 45% shade to be provided. See Section D.5 for shade requirements and Section E.4 for amenity requirements.
d. Minimum Total Open Space	Minimum of 15% of total Gross Site Acreage. May be located above grade (i.e. on podium deck). Excludes required landscape setback areas.

¹ The long-term viability of trees in planter conditions is assured by the Master Declaration of Covenants, Restriction and Development Standards recorded at MCR 1996-0570473, which specifically requires that all property owners in Kierland to keep "plant materials in a healthy, growing condition" and to remove and replace "any dead plant materials" (Section 9.1.6) or be subject to enforcement actions by the Master Association (Section 9.2).

D3: Parking

Parking Standards	
Minimum Parking Standards a. Residents b. Unreserved Visitor c. Off-Street Loading Space d. Bicycle Parking	1.40 spaces per dwelling unit 0.13 spaces per dwelling unit 1 required Comply with Section 1307.H.6.d plus provide four (4) visitor spaces, to be located near main lobby entrance.
Surface Parking Lots of more than five (5) spaces shall comply with landscaping standards applicable to development under C-2, General Commercial Zoning District, Section 623.	
Parking Location, Automotive	Up to three (3) “on-street” parking spaces located adjacent to leasing center along private drive. All other parking areas are to be screened from public view. Section 702.B.2.a.(2) and Section 702.B.2.b.(5) do not apply.
Off-Street Loading Space Location	Unless located completely within the parking garage or building (in which case location is not regulated), Off-Street Loading Spaces shall be located only along the west side of the building, abutting the accessway. Such spaces shall be a 10’x30’ minimum in size, exclusive of access aisles and maneuvering space.
Parking Location, Bicycle	To be installed in conformance with Section 1307.H, except as follows: (i) Inverted-U style bicycle racks or artistic style racks consistent with the City of Phoenix preferred designs (see Comprehensive Bicycle Master Plan, Appendix K) shall be provided and (ii) secure resident bike storage may be located within the parking garage.

D4: Fences/Walls

Fences/Walls	
Multifamily Residential:	Screen walls up to eight (8) feet in height are allowed within the north, west and south setbacks to screen mechanical equipment or similar building supporting infrastructure.
All other uses:	Comply with Section 703.

D5: Shade

Shade	
Building and Shade	
Shading, which may be vegetative or structural, or any combination thereof, shall be provided as follows. All shade calculations shall be based on the summer solstice at noon.	
a. Public Sidewalk Shading	75% minimum.
b. Private Sidewalk Shading	50% minimum.
c. Amenity Courtyard Shading	45% minimum of useable area. Total percentage required excludes pool surface and pool deck area (the area within the pool fence enclosure).

D6: Lighting Plan

Lighting
All lighting will be consistent with the standards of Section 704, Section 507.Tab A.II.A.8 and Section 23-100 of the Phoenix Zoning Ordinance and City Code.
Pedestrian lighting to be provided along public and private sidewalks that comply with the standards of Section 1304.D and Section 1304.H.5.

E. DESIGN GUIDELINES

E1: Design Guidelines. The following design guidelines shall be provided for in the final plans for a multifamily structure (those standards not addressed herein, and for non-residential development, comply with Section 507 Tab A):

E1: Design Guidelines	
a. Exterior Materials	<p>Façade to include a minimum:</p> <ul style="list-style-type: none"> • 10% masonry • 30% masonry with a stucco finish • 25% glazing (excludes ground floor) <p>Materials (at least two)</p> <ul style="list-style-type: none"> • Concrete • Masonry • Brick • Non-reflective coated metals • Stucco • Wood, painted or stained • Tile
b. Color Palette	Warm earth and gray tones and wood-like accents
c. Private Balconies	<p>Minimum of: 40 square feet with a depth of 5 feet</p> <p>Shall not encroach or project into landscape setbacks, except under limited conditions as per Section D1/D2.</p>
d. Building Corners	<p>These corners shall be designed to include the following:</p> <ul style="list-style-type: none"> • At the northeast and southeast corners, provide a change in color or material from immediately adjacent building sections on balconies. • At the northeast and southeast corners, provide balconies on floors 4 through 6 that extend to the corner of the façade and have railings on both facades. • At the northeast and southeast corners, provide windows at both ground level corners. • At the northeast and southeast corners, utilize glass railings on balconies. • At the northeast and southeast corners, utilize wood or metal material on balcony ceilings (painted drywall or sheetrock product is not permitted). • Final design for these corners should be generally consistent with the image below:

	
<p>f. Ground Level Units</p>	<ul style="list-style-type: none"> • First-floor units shall include a private entrance to the adjacent public right of way or accessway. • Ground level units fronting onto Scottsdale Road shall have space defining walls creating a private entry courtyard space for each unit. • Patios and patio walls shall not encroach into required landscape setbacks (except for any D1 or D2 exceptions).
<p>g. Rooftop Mechanical Equipment Screening Methods</p>	<p>Methods to screen rooftop equipment:</p> <ul style="list-style-type: none"> • Building parapets. • Independent, structurally supported screen walls providing screening for rooftop mechanical equipment when the parapet is lower than the mechanical units. • Removable decorative panels. • Other enhanced features comprised of complementary building materials.

h. Satellite Dishes	Installation of such equipment on individual patios prohibited by developer, unless otherwise limited by federal law.
i. Screen Walls	Architectural detailing consistent or complementary to the building facade.
j. Garage Screening	Any portion of the parking garage visible from the public right-of-way or an off-site building should be screened with material and design consistent with the primary building façade.
k. Scottsdale Road Ground Floor Unit Frontages	<p>This façade has the following features:</p> <ul style="list-style-type: none"> • Ground floor blank walls visible from the public sidewalk not to exceed 20 linear feet without being interrupted by a window, or variation in building treatment or design • Each dwelling unit will have its primary building entrance fronting Scottsdale Road, oriented toward the street. • All pedestrian entrances (at main entry and dwelling unit entries) will be defined by the use of distinctive materials and architectural elements. • Each dwelling unit will have an entry porch of a minimum area 30 square feet. • The entry porch will be partially covered overhead by the building or architectural element at the door entry. • Each dwelling unit shall have a semi-private courtyard or enhanced porch area which shall include a minimum perimeter wall of 40" or higher.

E2: Landscape Design Guidelines. The primary goal of the Conceptual Landscape Plan is to soften the building’s exterior adjacent to sidewalks to enhance the pedestrian experience. To accomplish this goal, the following requirements apply to multifamily residential development (those standards not addressed herein, and for non-residential development, comply with Section 507 Tab A):

E2. Landscape	
a. Uniform Perimeter Design	<p>Following should be included:</p> <ul style="list-style-type: none"> • themed street trees included in the plan. • use of a mix of flowering desert shrubs and groundcovers. • all screen walls will include architectural detailing consistent or complementary to the building façade.
b. Landscape Planting Width	Section D2 standards are modified for narrow conditions as follows. The landscaping strip needs to be at least 5 feet wide for trees. If the strip is less than 4 feet wide (2 feet to 4 feet) the strip shall be planted with 5-gallon shrubs. If the strip is less than 2 feet, 1-gallon groundcover plants and vines shall be planted.
E3. Amenities	

a. Resident Amenities	<p>In building:</p> <ul style="list-style-type: none"> • Clubhouse/Event Space no less than 2,000 feet • Fitness Center no less than 1,500 square feet • Bicycle Repair Room of no less than 120 square feet <p>On podium:</p> <ul style="list-style-type: none"> • Swimming pool and/or spa no less than 950 square feet with at least three (3) of the following: <ul style="list-style-type: none"> ○ Lounge deck ○ Shaded outdoor dining area ○ Water feature(s) ○ Outdoor fitness area ○ Fire feature(s) ○ Seating node(s) ○ Art Installation
b. Public Amenities	<p>At least two of the following:</p> <ul style="list-style-type: none"> • Bench Seating • Public Art • Dog Waste Station • Decorative Landscape Containers
c. Implementation	<p>To implement the above, amenities standards are provided below, where applicable:</p> <ul style="list-style-type: none"> • Lounge Decks shall include sufficient space for permanent or placed seating, tables, and/or reclining sun chairs for a minimum of 20 persons. • Shaded Outdoor Dining Area shall be an area for the location of no less than four (4) table and chair sets under a cover (structural and/or vegetative) and shall have an enclosure element to separate the space from other areas, which may be a wall, planters or other feature to delineate the area. • Water Features should be designed to limit loss of water by evaporation by avoiding placement in locations that experience long periods of direct sunlight and using non-spraying fountains (ie water features that move water via gravity, not larger pump driven fountains). Also see 507 Tab A.11.3.4.1. • Outdoor Fitness Area shall provide sufficient area for a minimum of 10 persons to exercise; these areas shall be separated from other amenities via screening. • Fire Feature shall be designed as a gathering space that includes sufficient clear area around for seating and/or a built-in seating area around the feature (i.e. a fire pit with large border for sitting on).

	<ul style="list-style-type: none">• Seating Node areas shall be areas that are separated from other areas via wall, planters or other features to delineate the space.• Bench Seating shall be permanent installation of seating surfaces for at least three (3) persons.• Public Art options include murals, sculpture, frescos, decorative screening, individual art pieces (such as paintings) or other non-structural features.
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F. SIGNS

F: Signs

Unless otherwise permitted herein, signage shall comply with Section 705 of the Zoning Ordinance. Signage shall also comply with the existing Kierland Comprehensive Sign Plan and any amendments thereto. If developed with commercial uses, signage standards must comply with the commercial standards of Section 1308.

If developed with multifamily residential, signage standards must comply with the multifamily residential standards in Table D-1 of Section 705 and the following:

F1. Permitted Signs. This PUD only permits the following signage for multifamily development:

Project Name Signage. These are signs to provide the name and/or logo of the building for branding and marketing purposes.

Total Permitted: One (1) sign which may be either Wall Mounted (120 Square Feet Max) or Freestanding (110 Square Feet Max). Wall Mounted signs shall not be placed above the building's second floor.

Garage Wayfinding Signage. These are signs to identify the entrance to the parking garage. These should be designed to include the building name or logo. Signs saying "Parking Entrance" only are discourage.

Total Permitted: One (1) sign per garage entryway, located above the garage entryway, up to 120 square feet.

See Exhibit F: Signage for approximate location of signage.

F2. Prohibited Signs. This PUD prohibits the following signage for multifamily development:

- a. Animated Signs;
- b. Blade Signs;
- c. Electronic Message Display Signs;
- d. All banners, flags, and pennants;
- e. Inflatable Signs or any type of portable signs;
- f. Roof Signs;
- h. Strobe lights.

G. SUSTAINABILITY

G1: City Enforced Standards

The following are standards that are measurable and enforceable by the City and will be provided:

- As encouraged by Reimagine Phoenix, recycling receptacles and chutes will be provided in the refuse room. These will be commercial bins, serviced by private solid waste provider.
- Dual Glaze Windows with High Performance Low-e Glazing.
- All primary site lighting will be LED lighting.
- Site design for minimized heat island effect. Resident parking is shaded below building minimizing asphalt exposure, building roof to be light colored to maximize SRI.
- A minimum of four (4) Level II E.V. car charging stations will be provided.
- Provide water efficient landscaping (drought tolerant plants).
- Utilize a drip irrigation system with a 'smart' controller to minimize water waste.

G2: Developer Enforced Standards

The following are sustainability practices that are highly encouraged and planned to be utilized but which are not enforceable by the City:

- Utilize low water usage plumbing fixtures.
- Encourage the design of buildings' HVAC systems to eliminate the usage of CFC's and CFC based refrigerants.
- Encourage the use of water-based adhesives on all VCT and vinyl flooring to minimize VOC off gassing.
- Lower flow toilets and showerheads.
- Energy Star Rated appliances.
- Use of synthetic turf (outside of any landscape setback) on podium. Provide as much shade as practical.
- On-site amenities and activity programs to encourage residents to remain on property, reducing off-site traffic trips.
- Recycling services will be provided for tenants.
- Tenant invoicing and billing services will be paperless
- Consider use of grey water or condensate to supplement potable irrigation water

H. INFRASTRUCTURE

H1: Grading and Drainage

There are existing offsite flows from the site that enter the site from the site north of the project which are conveyed through the project via pavement and an aboveground swale. The site outfalls to the shared drive that bounds the west side of the project. The shared drive is part of a reciprocal easement for access and drainage purposes between the surrounding properties. There are catch basins near the intersection of Tierra Buena Lane and 71st Street that eventually collect the flow from this site and all other surrounding properties. These flows are captured in the City of Phoenix storm drain facility. There are no existing retention facilities on the site.

It is proposed that historical drainage patterns and outfall locations be maintained to prevent adverse impact to the downstream properties. Retention volumes provided will be the greater of the first flush of 0.5 inches or the pre versus post construction drainage calculations for the proposed project. The retention will be provided through underground tank or vault within the project area to achieve the volume required. The tank or vault will be dewatered through a proposed drywell.

H2: Water and Wastewater

Water. It is understood that there currently is sufficient existing water infrastructure (both lines and capacity) to support the proposed project.

Wastewater. There are existing sewer lines servicing the property. There are some capacity challenges in the area and improvement plans will address final sewer service needs with the City of Phoenix Water Department.

H3: Circulation Systems

The adjacent public roadway (Scottsdale Road) is built to a full public standard and is at its final build-out size and configuration. No changes are proposed for this roadway. This PUD is not anticipated to negatively impact existing roadway capacities.

I. LEGAL DESCRIPTION

I. Legal Description: Per Special Warranty Deed recorded at 2016-0589771

Lot 4 of KIERLAND PARCEL 4C-3, according to the plat of record in the office of the County Recorder of Maricopa County, Arizona, IN Book 488 of Maps, Page 21.

AND

An Easement for private access as set forth in Reciprocal Easement Agreement recorded June 29, 1998, in Instrument No. 98-0551926 and Supplement to Reciprocal Easement Agreement recorded January 11, 1999 in Instrument No. 99-0023826.

Exhibit A - Site Plan

KIERLAND NORTH					EMBREY		2019245
UNIT TABULATION - 5 STORY BUILDING OVER 2.25 STORY PODIUM (1.25 UNDERGROUND)							3/3/20
UNIT NAME	UNIT TYPE	NET AREA(SF)	UNIT COUNT	PERCENTAGE	TOTAL AREA	% BREAKDOWN	
A1	1br/1ba	841	33	12%	21,153	68%	
A2	1br/1ba	708	82	31%	59,286		
A3	1br/1ba	804	38	14%	31,122		
A4	1br/1ba	863	29	11%	25,462		
B1	2br/2ba	1,091	57	21%	63,156	32%	
B2	2br/2ba	1,178	21	8%	25,116		
B3	2br/2badeen	1,390	5	2%	6,950		
B3-ALT	2br/2badeen	1,333	1	0%	1,333		
TOTALS			268	100%	233,578		

UNIT AVERAGE NET SF :

878

*NET AREA IS COMPUTED TO INCLUDE SQUARE FOOTAGE FROM EXTERIOR FACE OF ALL EXTERIOR FRAME WALLS THAT ENCLOSE AIR SPACE
IT DOES NOT INCLUDE PATIOS, BALCONIES, PATIO/BALCONY STORAGE

PROJECT DATA

UNIT AVERAGE NET SF :

878 S.F.

ACREAGE :

2.41 GROSS ACRES

DENSITY :

110 UNITS/ACRE

PARKING :

REQUIRED

399 SPACES

SURFACE PARKING PROVIDED

3 SPACES (PARTIALLY EXISTING)

GARAGE SPACES PROVIDED

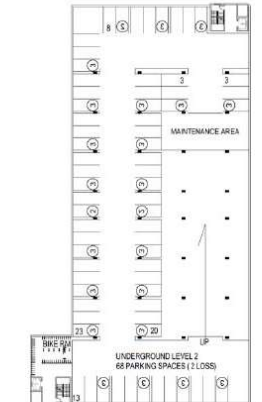
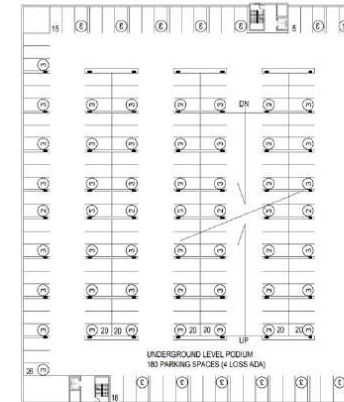
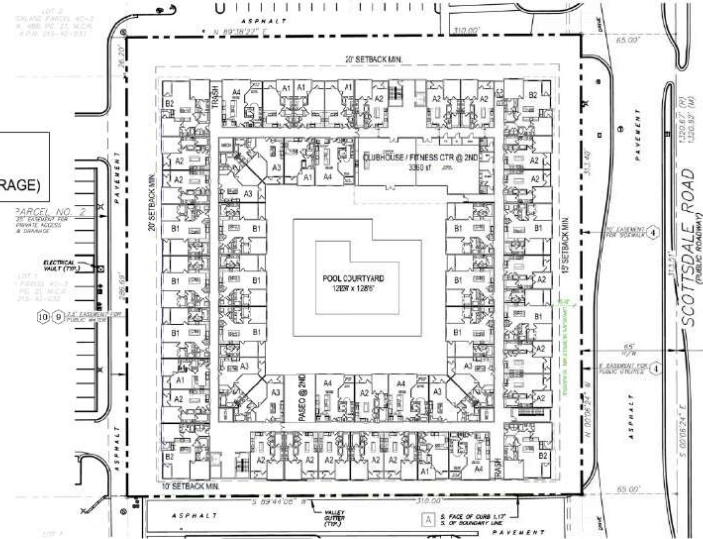
414 SPACES

TOTAL PROVIDED

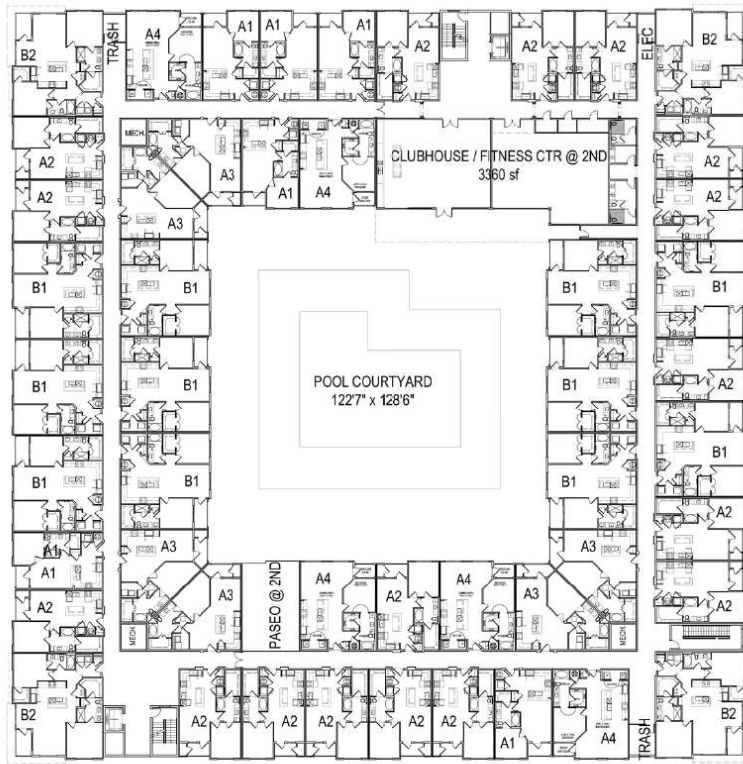
417 SPACES

1.57 SPACES/UNIT

NOTES:
MAX # UNITS : 285
BIKE SPACES : 68 (60 IN GARAGE)



SCALE: 1" = 30' - 0" (24"x36" SHEET)
0 30 60 120



SCALE: 1/16" = 1'-0" (24"x36" SHEET)
 0' 16' 32' 64'

HUMPHREYS & PARTNERS ARCHITECTS, L.P.
 5338 Alpha Rd., Suite 300 Dallas, TX 75240 | 972.701.9838 | www.humphreys.com

EMBREY

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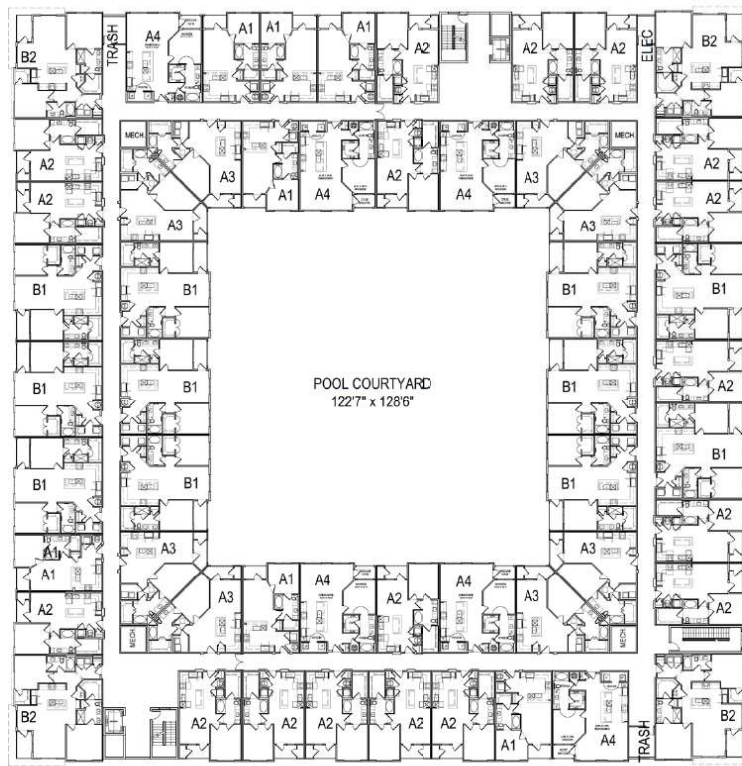
2ND. FLOOR PLAN

February 14, 2020

KIERLAND NORTH
 PHASE 2A
 HPAM 18245

A412

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SCALE: 1/16" = 1'-0" (24"x36" SHEET)
 0' 16' 32' 64'

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 5338 Alpha Rd., Suite 300 Dallas, TX 75240 | 972.701.9838 | www.humphreys.com

EMBREY

Page 44 of 68

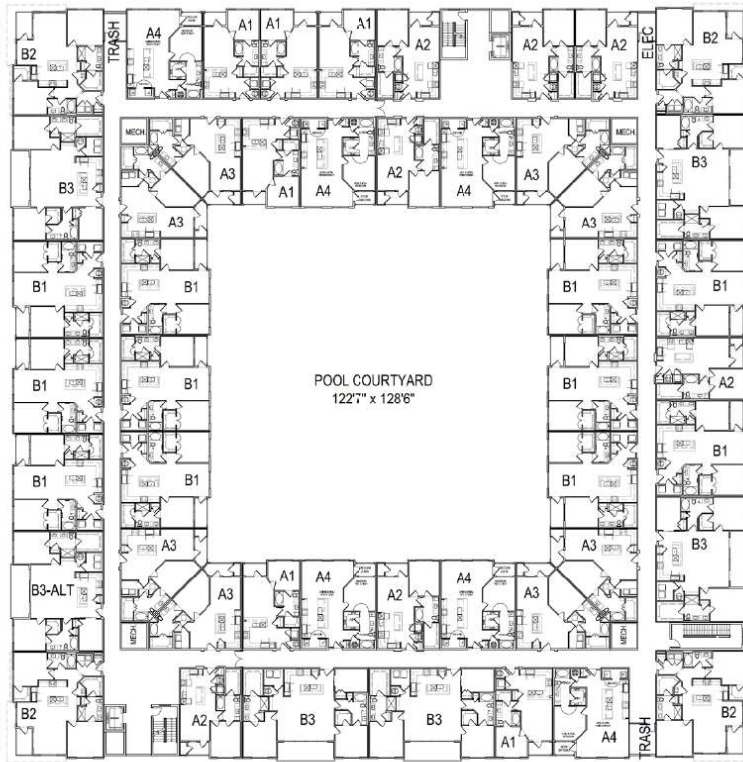
3RD. TO 5TH. FLOOR PLAN

February 14, 2020

KIERLAND NORTH
 PHASE 02
 HPAM 19245

A413

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SCALE: 1/16" = 1'-0" (24"x36" SHEET)
 0' 16' 32' 64'

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Page 45 of 68

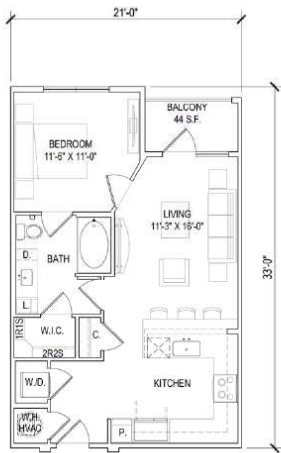
6TH FLOOR PLAN

February 14, 2020

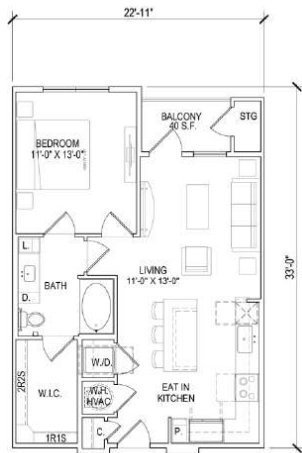
KIERLAND NORTH
 PHASE 2A
 HP#A19245

A414

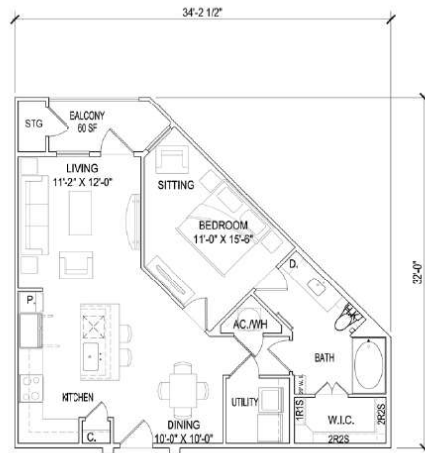
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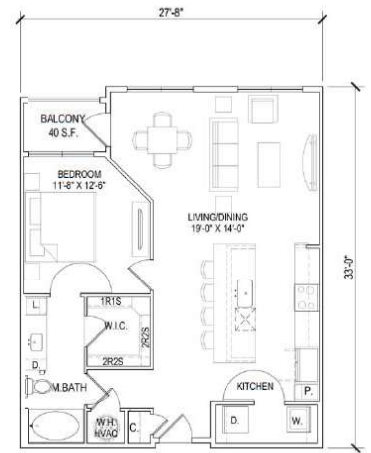
UNIT A1 (BORDEN)
NET - 641 S.F.
50% TO HAVE SHOWERS



UNIT A2 (BORDEN)
NET - 708 S.F. (INCLUDES STG. AREA)
50% TO HAVE SHOWERS



UNIT A3 (BORDEN)
NET - 804 S.F. (INCLUDES STG. AREA)
50% TO HAVE SHOWERS



UNIT A4 (BORDEN)
NET - 863 S.F.

SCALE: 1/4" = 1'-0" (24"x36" SHEET)
0' 4' 8' 16'



UNIT B1 (BORDEN)
NET - 1091 S.F.

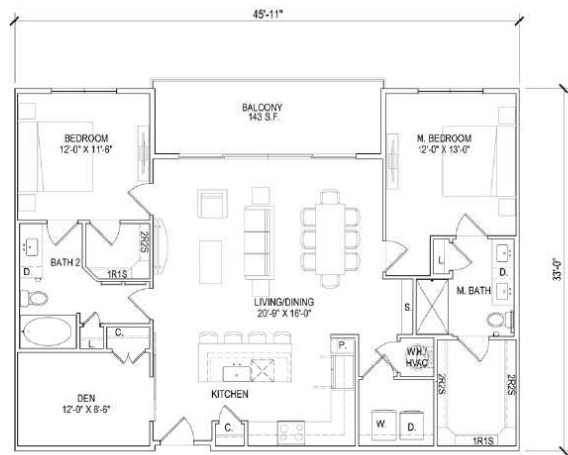


UNIT B2 (RIVER PARK)
NET - 1178 S.F.

SCALE: 1/4" = 1'-0" (24"x36" SHEET)
0' 4' 8' 16'

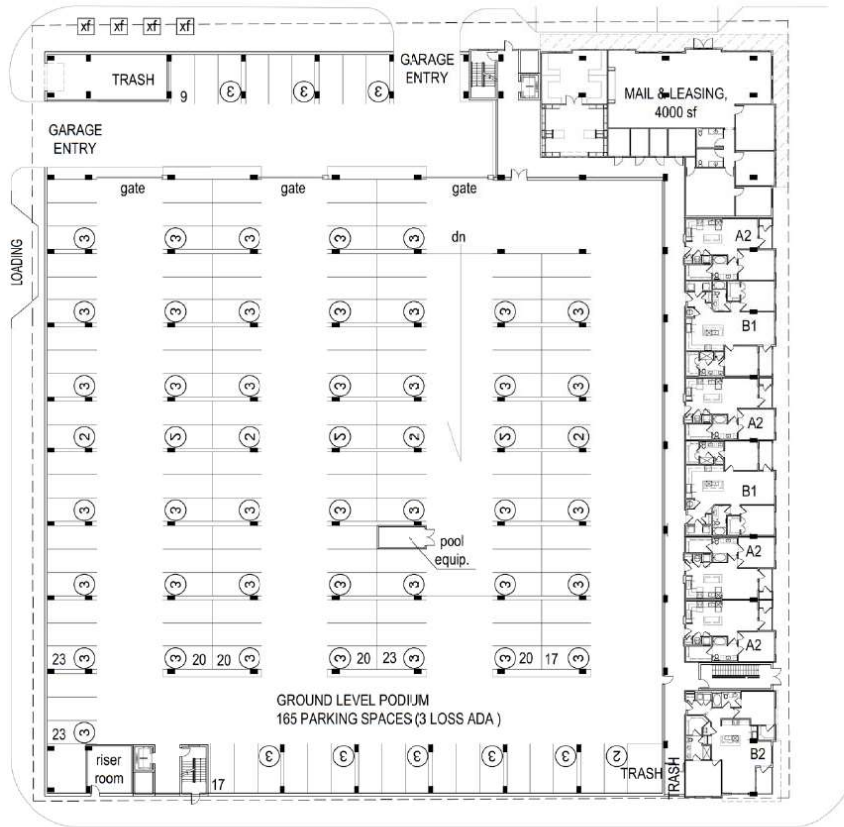


UNIT B3 - ALT (NEW)
NET - 1333 S.F.



UNIT B3 (NEW)
NET - 1390 S.F.

SCALE: 1/4" = 1'-0" (24"x36" SHEET)
0' 4' 8' 16'



SCALE: 1/16" = 1'-0" (24"x36" SHEET)
 0' 16' 32' 64'

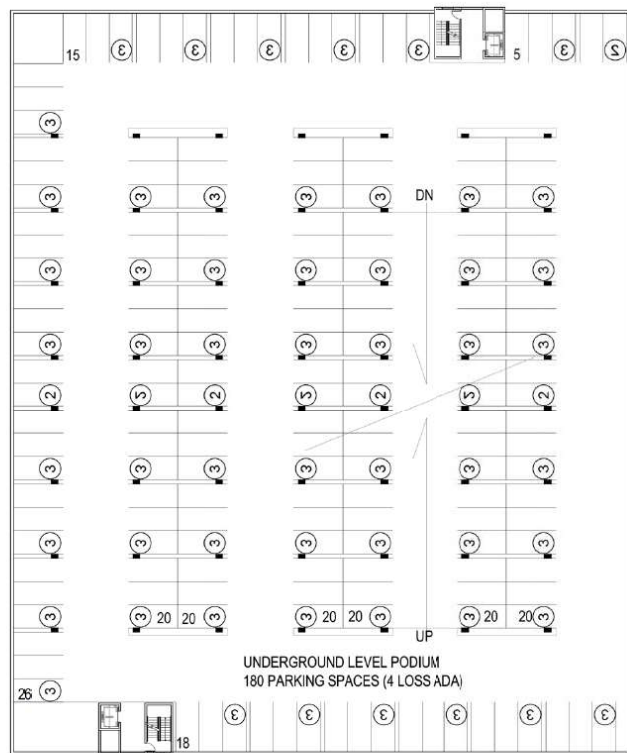
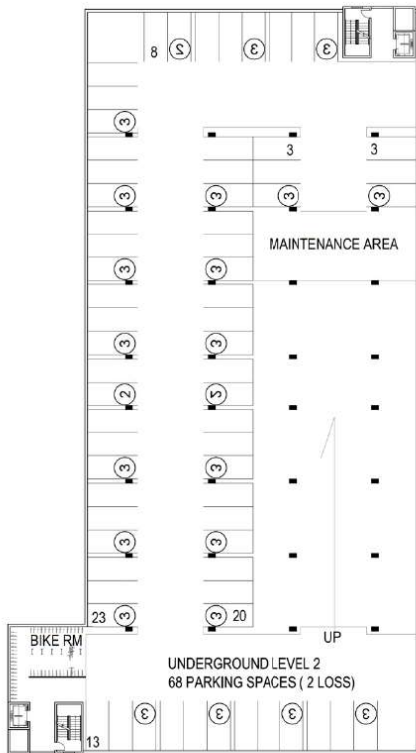
HUMPHREYS & PARTNERS ARCHITECTS, L.P.
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EMBREY

Page 49 of 68 1ST. FLOOR PLAN - GROUND LEVEL PODIUM
 February 14, 2020

A411
KIERLAND NORTH
 PHASE 02
 HP&P 19245

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SCALE: 1/16" = 1'-0" (24"x36" SHEET)
 0' 16' 32' 64'

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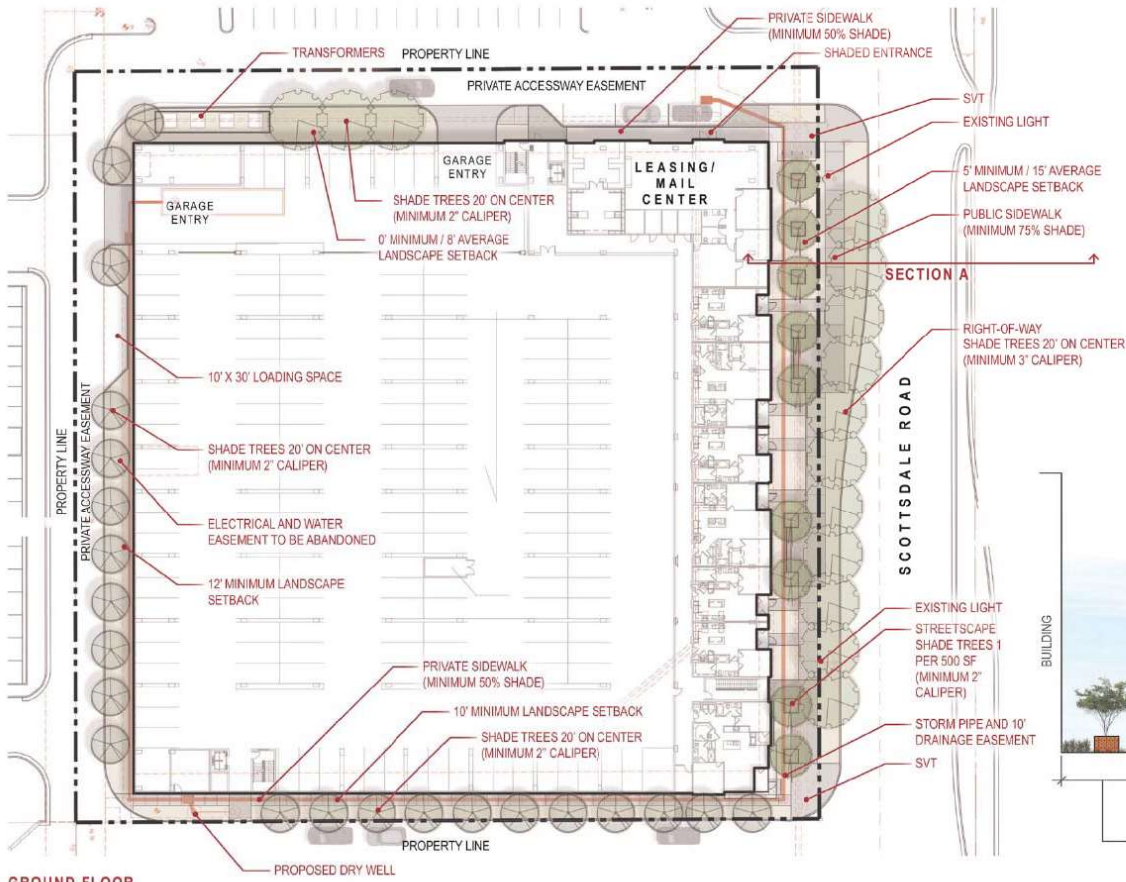
UNDERGROUND LEVEL 2 & 1
 February 14, 2020

KIERLAND NORTH
 PRELIM. AC
 HPA# 19245

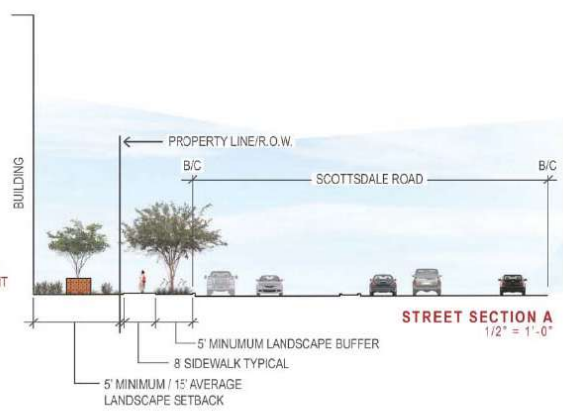
A410

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Exhibit B - Setback Exhibit

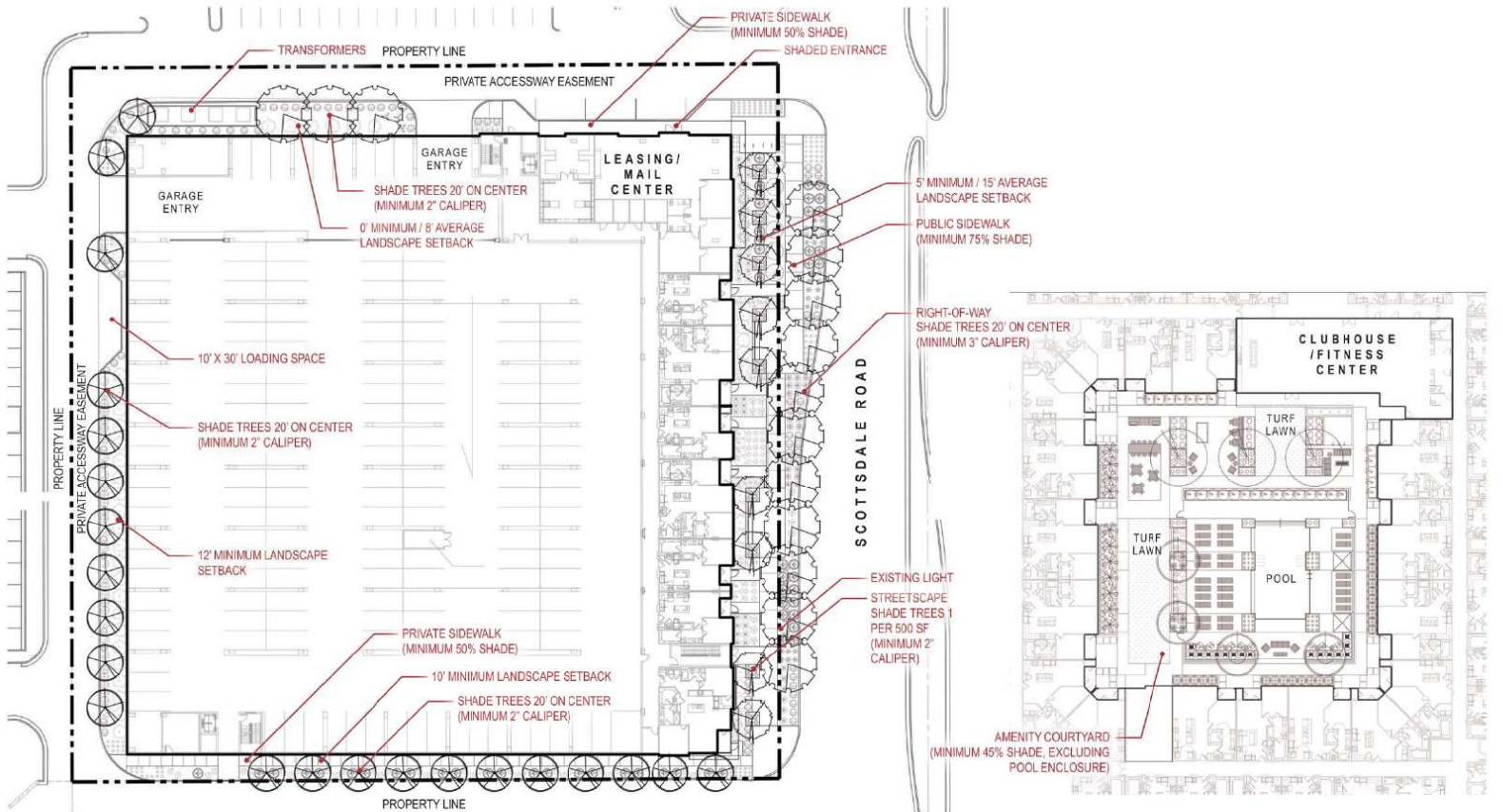


LANDSCAPE SETBACK NOTES:
 LANDSCAPE SETBACKS FOR THE NORTH, WEST AND SOUTH ARE MEASURED FROM BACK OF CURB/PRIVATE ACCESSWAY EASEMENT. LANDSCAPE SETBACKS ON THE EAST SIDE ARE MEASURED FROM PROPERTY LINE/R.O.W.



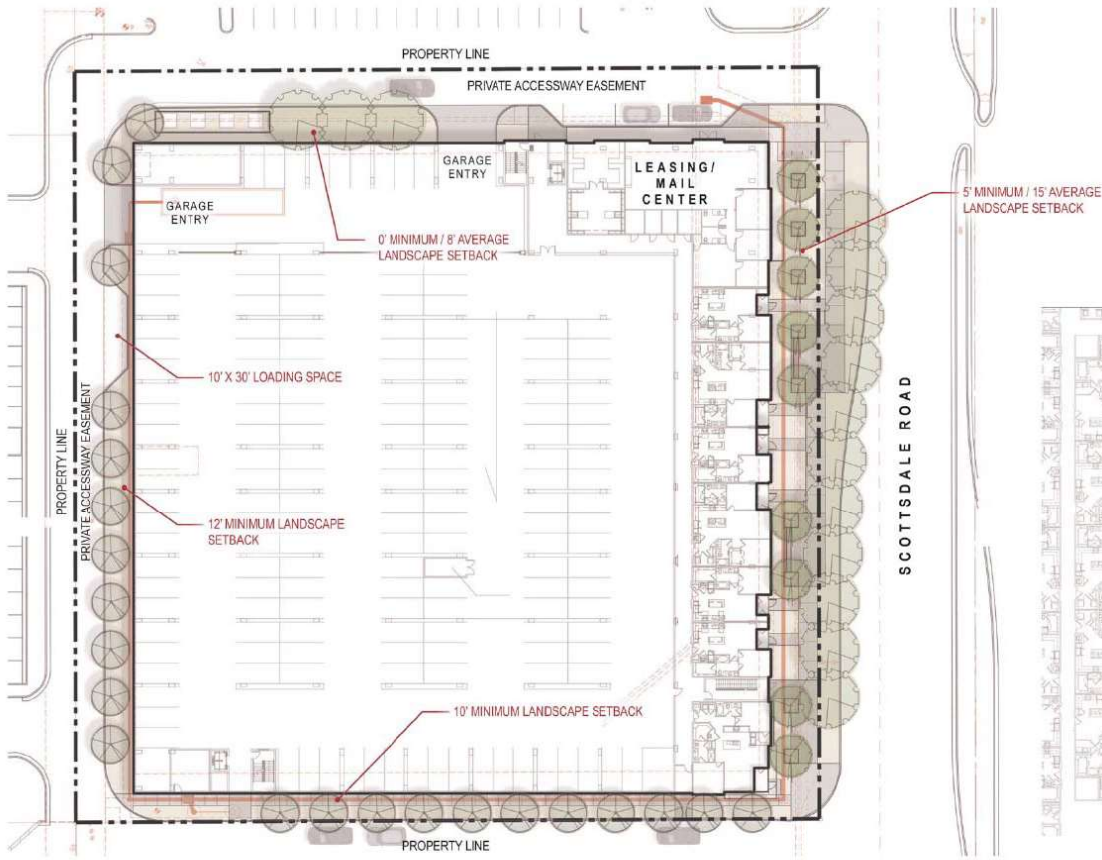
GROUND FLOOR

Exhibit C - Landscape Plan



GROUND FLOOR

2ND FLOOR AMENITY AREA



GROUND FLOOR

COMMON OPEN SPACE
 AMENITY AREA | ±16,000 SF*
 *INCLUDES 5,940 SF POOL ENCLOSURE AREA
TOTAL COMMON OPEN SPACE PROVIDED | ±16,000 SF / 15%



2ND FLOOR AMENITY AREA



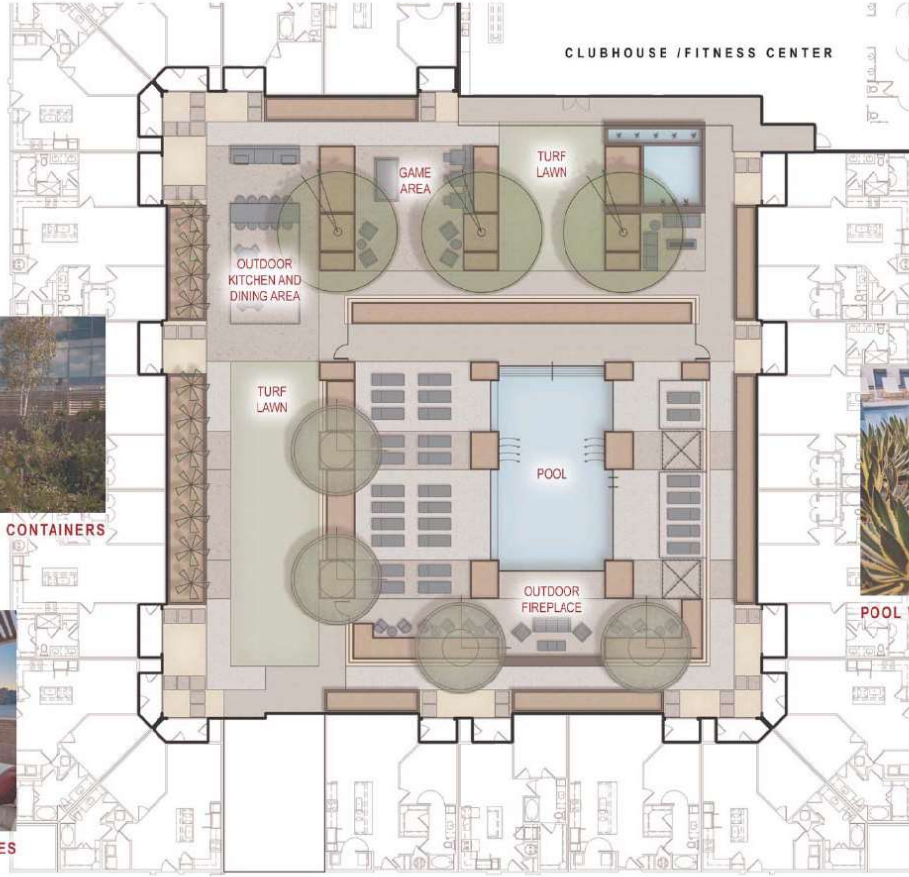
GAME AREAS



SEATING AREAS AND LANDSCAPE CONTAINERS



SHADE STRUCTURES



LOUNGE AREAS



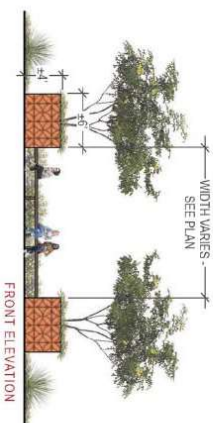
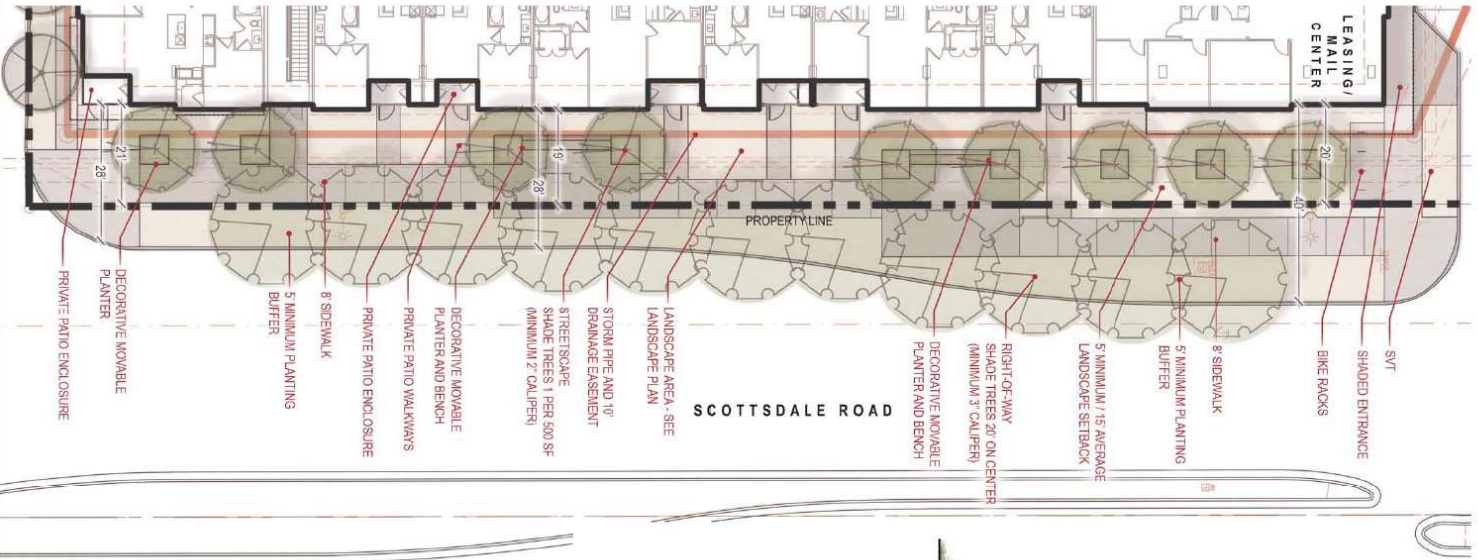
POOL WITH DECORATIVE PLANTING AREAS



FOCAL POINT FIREPLACE

AMENITY AREA DESIGN IS CONCEPTUAL AND SUBJECT TO CHANGE.

Exhibit D - Streetscape Plan



DECORATIVE MOVABLE PLANTER AND BENCH

3/3/21 = 1'-0"

THE PROPOSED DECORATIVE PLANTER AND BENCH IS A DESIGN SOLUTION TO ALLOW TREES TO BE PLANTED IN THE SCOTTSDALE ROAD STREETSCAPE WHICH IS ENCOMPASSED BY UTILITY EASEMENTS. THE PLANTERS HAVE THE OPPORTUNITY TO PROVIDE A UNIQUE VISUAL AND FUNCTIONAL ELEMENT TO THE STREETSCAPE AS WELL AS PRACTICAL FUNCTIONALITY TO THEIR ABILITY TO BE MOVED. WHEN ACCESS TO UNDERGROUND UTILITIES IS NEEDED, THE RAISED TREE PLANTERS PROVIDE ADDITIONAL HEIGHT CLOSER TO THE BUILDING FACADE WHILE THE BENCHES PROVIDE OPENING FOR THE UTILITY WORKERS TO PASSIVE RESERVE SPACE FOR RESIDENTS AND PUBLIC WALKING ALONG SCOTTSDALE ROAD. THE ABOVE ELEVATIONS ARE FOR GRAPHIC REPRESENTATION ONLY AND THE ARTISTIC PANELS ARE TO BE COORDINATED DURING THE DESIGN PHASE OF THIS PROJECT.

Exhibit E - Color Elevations

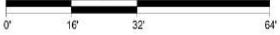


EAST ELEVATION



NORTH ELEVATION

SCALE: 3/32" = 1'-0" (24"x36" SHEET)



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BUILDING ELEVATIONS

March 2, 2020

KIERLAND NORTH

PHASE 0A, 2C
HPAM 19245

A416

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WEST ELEVATION



SOUTH ELEVATION

SCALE: 3/32" = 1'-0" (24"x36" SHEET)
 0' 16' 32' 64'

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 5338 Alpha Rd., Suite 300 Dallas, TX 75240 | 972.701.9838 | www.humphreys.com

EMBREY

Page 41 of 68

BUILDING ELEVATIONS
 March 2, 2020

A417
KIERLAND NORTH
 PHASE 02
 HP# 19245

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Exhibit F - Renderings



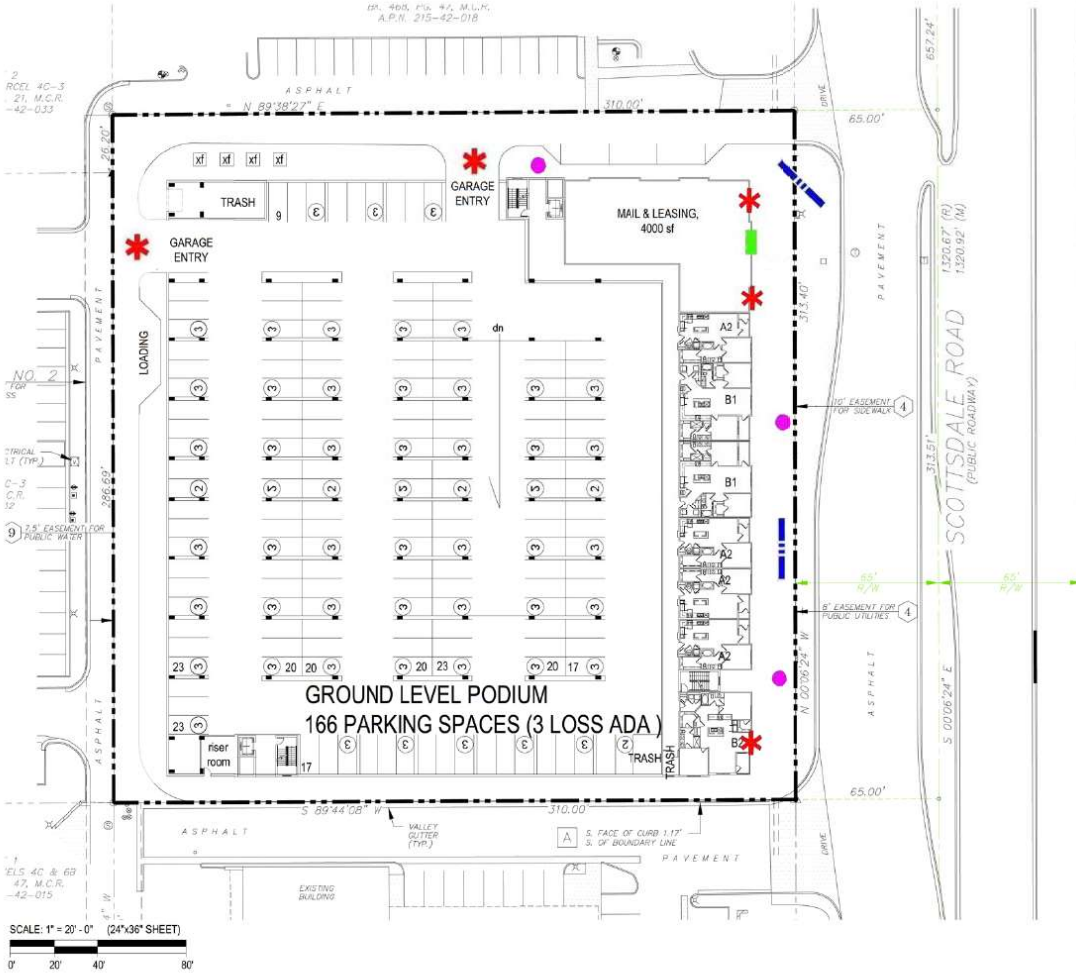




STUDIOSCHAFFER

Exhibit G - Signage

02, 460, 150, 47, M.L.P.
A.P.N. 215-42-018



LEGEND

SYMBOL	DESCRIPTION
	WALL MOUNTED SIGNAGE
	FREE STANDING SIGNAGE
	WAYFINDING SIGNAGE
	ADDRESS NUMBERS SHOWN CONCEPTUALLY. FINAL APPROVED LOCATION PER CITY OF PHOENIX FIRE DEPARTMENT

* ALL SIGN QUANTITIES AND LOCATIONS ARE CONCEPTUAL. FINAL QUANTITIES AND LOCATIONS WILL BE DETERMINED IN ACCORDANCE WITH ATTACHED PROPOSED SIGN GUIDELINES.

SCALE: 1" = 20' - 0" (24"x36" SHEET)

Exhibit H - Access Easements

**FINAL PLAT
FOR
"KIERLAND PARCEL 4C-3"**

A SUBDIVISION OF LOT 3 OF "KIERLAND PARCELS 4C & 6B", BOOK 468, PAGE 47, M.C.R.
SITUATE WITHIN THE EAST HALF (E 1/2) OF SECTION 3, TOWNSHIP 3 NORTH, RANGE 4 EAST,
GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA

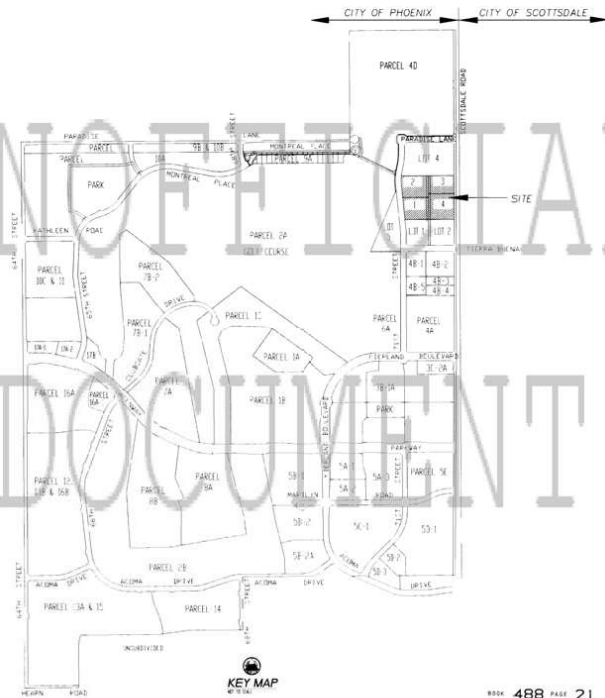
NOTES

- NO STRUCTURE OF ANY KIND SHALL BE CONSTRUCTED NOR ANY VEGETATION BE PLANTED NOR BE ALLOWED TO GROW WITHIN THE DRAINAGE EASEMENT WHICH WELLS UPON THE FLOOR OF WATER OVER LATER OR THROUGH THE EASEMENT. THE CITY OF PHOENIX MAY, IF IT SO DESIRES, CONSTRUCT AND/OR MAINTAIN DRAINAGE FACILITIES ON OR UNDER THE LAND IN THE EASEMENTS.
- ALL NEW UTILITIES, INCLUDING STREET LIGHT AND ELECTRIC LINES UP TO AND INCLUDING 120 V. V. INSTALLED WITH THIS DEVELOPMENT WILL BE PLACED UNDERGROUND AS CONDITIONED UPON A PERMIT ISSUED BY THE CITY ENGINEER.
- THIS PROJECT IS LOCATED IN THE CITY OF PHOENIX WATER SERVICE AREA AND HAS BEEN DESIGNATED AS HAVING AN ASSURED WATER SUPPLY.
- ALL EASEMENTS ARE SUBORDINATE TO DRAINAGE EASEMENTS.
- NO STRUCTURE OF ANY KIND SHALL BE CONSTRUCTED ON OR OVER OR PLACED WITHIN THE PUBLIC UTILITY EASEMENTS EXCEPT WOOD, WIRE OR REMOVABLE SECTION TYPE FENCING, ADVERTISING OR GRASS. THE CITY OF PHOENIX SHALL NOT BE REQUIRED TO REPLACE ANY OBSTRUCTION OR PLANTING THAT MUST BE REMOVED DURING THE COURSE OF MAINTENANCE, CONSTRUCTION, OR RECONSTRUCTION OF CITY UTILITIES.
- THIS SUBDIVISION IS IN PROXIMITY TO THE SCOTTSDALE AIRPORT. DOCUMENTS HAVE BEEN RECORDED WHICH IDENTIFY THE EXISTENCE AND OPERATIONAL CHARACTERISTICS OF THE SCOTTSDALE AIRPORT AS FLIGHT TRAFFIC RELATES TO THE PLANNED COMMUNITY. THIS DOCUMENT WAS PREPARED AND RECORDED TO NOTIFY PROSPECTIVE BUYERS OF THE CHARACTERISTICS OF THE AIRPORT.
- KIERLAND MASTER ASSOCIATION HAS RESPONSIBILITY OF MAINTAINING ALL LANDSCAPING WITHIN THE PUBLIC RIGHT-OF-WAY MEDIAN. ARBITRATING PROPERTY OWNERS WILL BE RESPONSIBLE FOR MAINTAINING ALL LANDSCAPING WITHIN THE PUBLIC RIGHT-OF-WAY OTHER THAN MEDIANS.
- PUBLIC UTILITY EASEMENTS ARE NON-EXCLUSIVE AND ARE DEDICATED FOR THE INSTALLATION OF UNDERGROUND UTILITY LINES AND APPURTENANT FACILITIES THEREON AND ARE GRANTED TO PROVIDERS OF SEWER SERVICE, WATER SERVICE, ELECTRIC SERVICE, CABLE TV SERVICE, GAS SERVICE, TELEPHONE SERVICE AND ANY OF THE ABOVE UTILITIES LONGER OR SHORTER TO USE SAME FOR PROVISION OF SUCH SPECIFIED SERVICES ONLY, AND ANY PERSON OR ENTITY USING A PUBLIC UTILITY EASEMENT SHALL BE RESPONSIBLE FOR REPAIRING ANY DAMAGE TO PAVING, LANDSCAPING, OR IRRIGATION SYSTEMS CAUSED BY SUCH USE. NOTWITHSTANDING THE FOREGOING, PHOENIX LIMITED PARTNERSHIP RESERVES FOR THEMSELVES, THEIR SUCCESSORS, AND ASSIGNS, THE RIGHT TO USE THE SURFACE OF ALL SUCH EASEMENTS FOR INSTALLING LANDSCAPING, FENCES, AND IRRIGATION SYSTEMS, FOR THE PARKING OF VEHICULAR TRAFFIC AND TO CONSTRUCT AND MAINTAIN PAVING ON THE SURFACE OF SUCH EASEMENTS FOR THE PURPOSE OF SUCH RESERVED USES.
- ANY PUBLIC UTILITY SHALL HAVE THE RIGHT TO INGRESS AND EGRESS TO PRIVATE PROPERTY FOR THE PURPOSE OF ACCESSING METERS AND THE MAINTENANCE AND SERVICE REQUIRED AS ORIGINALLY PERFORMED BY THAT UTILITY, SUBJECT TO FOREGOING RESPONSIBILITY OF REPAIR.
- THIS SITE LIES IN AN AREA COVERED BY A REPORT TITLED "GORDON OF SPRAWL SUBSIDENCE AND EARTH FEATURES, NORTH EAST PHOENIX, ARIZONA", DATED SEPTEMBER 1982.
- NO STRUCTURE OF ANY KIND SHALL BE CONSTRUCTED ON OR OVER OR PLACED WITHIN THE PUBLIC SEWER AND WATER EASEMENTS. THE CITY OF PHOENIX SHALL NOT BE REQUIRED TO REPLACE ANY OBSTRUCTION OR PLANTING THAT MUST BE REMOVED DURING THE COURSE OF MAINTENANCE, CONSTRUCTION, OR RECONSTRUCTION OF CITY UTILITIES.

CERTIFICATION

I, SALLY C. WALBORN, HEREBY CERTIFY THAT I AM A REGISTERED LAND SURVEYOR IN THE STATE OF ARIZONA, THAT THIS MAP, CONSISTING OF TWO (2) SHEETS, CORRECTLY REPRESENTS A BOUNDARY SURVEY MADE UNDER MY SUPERVISION DURING THE MONTH OF _____, SEPTEMBER, 1998, THAT THE SURVEY IS TRUE AND COMPLETE AS SHOWN, THAT ALL MONUMENTS SHOWN ACTUALLY EXIST AS SHOWN OR WILL BE SET, THAT THEIR POSITIONS ARE CORRECTLY SHOWN AND THAT SAID MONUMENTS ARE SUFFICIENT TO ENABLE THE SURVEY TO BE REPRODUCED.

BY: SALLY C. WALBORN
REGISTERED LAND SURVEYOR
REGISTRATION # 30268
ALL TERRAIN SURVEYING, INC.
8655 E. VIA DE VENTURA #2020
SCOTTSDALE, AZ 85208
PH. 800 335 6250



BOOK 488 PAGE 21
OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
HELEN PURCELL
98-1137938
12/16/98 03:51

DEDICATION

STATE OF ARIZONA }
COUNTY OF MARICOPA } SS
KNOW ALL MEN BY THESE PRESENTS:
THAT PHOENIX LIMITED PARTNERSHIP, A TEXAS LIMITED PARTNERSHIP, AS OWNER, HAS RESERVED UNDER THE NAME OF KIERLAND PARCEL 4C-3, A SUBDIVISION OF LOT 3 OF KIERLAND PARCELS 4C & 6B, BOOK 468, PAGE 47, M.C.R. LYING WITHIN THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 3, TOWNSHIP 3 NORTH, RANGE 4 EAST, GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA AS SHOWN HEREON AND HEREBY PUBLISHES THIS PLAT AS AND FOR THE PLAT OF SAID "KIERLAND PARCELS 4C-3" AND HEREBY DECLARES THAT SAID PLAT SETS FORTH THE LOCATIONS AND GIVES THE DIMENSIONS OF THE LOTS, STREETS AND EASEMENTS CONSISTING SAME, AND THAT EACH LOT AND STREET SHALL BE KNOWN BY THE NUMBER OR NAME THAT IS GIVEN EACH OF SAID PLAT.
THAT PHOENIX LIMITED PARTNERSHIP, A TEXAS LIMITED PARTNERSHIP, AS OWNER, HEREBY DEDICATES TO THE PUBLIC, FOR USE AS SUCH, THE STREETS AND PUBLIC EASEMENTS AS SHOWN ON SAID PLAT AND INCLUDED IN THE ABOVE DESCRIBED PREMISES.
IN WITNESS WHEREOF:
BY: PHOENIX LIMITED PARTNERSHIP, A TEXAS LIMITED PARTNERSHIP
BY: WOODBINE/NEILAND LTD., A TEXAS LIMITED PARTNERSHIP, DOING BUSINESS IN ARIZONA AS WOODBINE/NEILAND LIMITED PARTNERSHIP, ITS MANAGING GENERAL PARTNER
BY: WOODBINE INVESTMENT CORPORATION, A TEXAS CORPORATION, ITS SOLE GENERAL PARTNER
BY: *[Signature]*
LLOYD R. HALL, ITS VICE PRESIDENT

ACKNOWLEDGMENT

STATE OF ARIZONA }
COUNTY OF MARICOPA } SS
ON THIS 25th DAY OF November 1998, BEFORE ME, THE UNDERSIGNED OFFICER, PERSONALLY APPEARED LLOYD R. HALL WHO ACKNOWLEDGED HIMSELF TO BE THE VICE PRESIDENT OF WOODBINE INVESTMENT CORPORATION, A TEXAS CORPORATION, ON BEHALF OF THE CORPORATION AS THE SOLE GENERAL PARTNER OF WOODBINE/NEILAND LTD., A TEXAS LIMITED PARTNERSHIP, MANAGING GENERAL PARTNER OF PHOENIX LIMITED PARTNERSHIP, A TEXAS LIMITED PARTNERSHIP, AND THAT HE, AS SUCH OFFICER, BEING AUTHORIZED SO TO DO, EXECUTED THE FOREGOING INSTRUMENT FOR THE PURPOSES THEREIN CONTAINED ON BEHALF OF THE CORPORATION AS MANAGING GENERAL PARTNER OF THE PARTNERSHIP AS SOLE GENERAL PARTNER OF THE PARTNERSHIP BY HIMSELF.
IN WITNESS WHEREOF, I HAVE HERETO SET MY HAND AND OFFICIAL SEAL.
NOTARY PUBLIC *[Signature]*
BY COMMISSION EXPIRES 6-2-2000

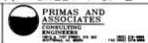
APPROVAL

APPROVED BY: *[Signature]* 12/16/98
FOR DEVELOPMENT SERVICES DEPARTMENT DATE
APPROVED BY THE COUNCIL OF THE CITY OF PHOENIX, ARIZONA THIS 9th
DAY OF December 1998.

ATTEST: *[Signature]*
CITY CLERK

488-21

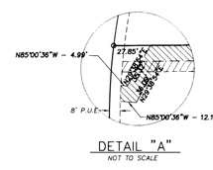
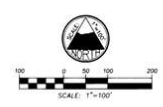
98-12361 Q5.35-44 SHEET 1 OF 2
GROSS AREA = 0.260 ACRES



98-12361 Q5.35-44

FINAL PLAT
FOR
"KIERLAND PARCEL 4C-3"

A SUBDIVISION OF LOT 3 OF "KIERLAND PARCELS 4C & 6B", BOOK 488, PAGE 47, M.C.R.
SITUATE WITHIN THE EAST HALF (E 1/2) OF SECTION 3, TOWNSHIP 3 NORTH, RANGE 4 EAST,
GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA



CURVE TABLE

CURVE #	BEARING	DELTA	LENGTH	TANGENT	CHORD	CHORD BEARING
C1	89°38'27\"/>					

- LEGEND**
- BOUNDARY LINE
 - - - LOT LINE
 - - - 8' WIDE PUBLIC UTILITY EASEMENT (TYPICAL)
 - 6' x 8' PUBLIC WATER EASEMENT
 - EXISTING BRASS CAP
 - CORNER OF THIS SUBDIVISION, BRASS CAP TO BE SET
 - MONUMENT TO BE SET
 - MONUMENT TO BE SET PER BOOK 468, PAGE 47, M.C.R.
 - P.U.E. PUBLIC UTILITY EASEMENT
 - ESM. EASEMENT
 - P.W.E. PUBLIC WATER EASEMENT
 - CT CURVE NUMBER



*NOTE: ALL OTHER EASEMENTS SHOWN ON THIS PLAT ARE FROM BOOK 468, PAGE 47, M.C.R.

PARCEL NO.	LOT	AREA
4C-3A	1	1.97 ACRES
4C-3B	2	1.80 ACRES
4C-3C	3	1.53 ACRES
4C-3D	4	2.23 ACRES

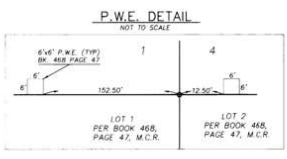
*NOTE: THE ABOVE TABLE SHOWS THE RELATIONSHIP OF THE PLATTED PARCELS TO THE CORRESPONDING LOT NUMBERS.

BOOK 488 PAGE 21
OFFICIAL RECORDS OF
MARICOPA COUNTY BY ORDER
HELEN PARRELL
98-1137938
12/16/98 03:51

488-21



SHEET 2 OF 2
PRIMAK AND ASSOCIATES
SURVEYORS
PHOENIX, ARIZONA



98-12361 Q.S. 35-44

HOLD FOR SECURITY TITLE AGENCY

SECURITY TITLE AGENCY

When Recorded, Return To:

PHXAZ Limited Partnership
c/o Woodbine Southwest Corporation
2398 East Camelback Rd., Suite 300
Phoenix, Arizona 85016
Attention: Daniel W. Gosnell

15-17799 BW
3 of 5



Unofficial Document

OF
MARIC

HELEN PURCELL

98-0551926 06/29/98 11:36

LILIAN 5 OF 123

RECIPROCAL EASEMENT AGREEMENT

RECIPROCAL EASEMENT AGREEMENT

This RECIPROCAL EASEMENT AGREEMENT ("REA") is made this 19th day of June, 1998, by PHXAZ LIMITED PARTNERSHIP, a Texas limited partnership ("Declarant") with its principal place of business in Arizona at c/o Woodbine Southwest Corporation, 2398 East Camelback Road, Suite 300, Phoenix, Arizona 85016.

RECITALS

A. Declarant is the owner of the real property in the Kierland community in the City of Phoenix, described as Lots 1, 2, 3 and 4 of Kierland Parcel 4C (the "Covered Property"), as shown on that certain Plat of KIERLAND PARCELS 4C & 6B, recorded in Book 468 of Maps, at Page 47, in the Official Records of Maricopa County, Arizona (the "Plat").

B. The Covered Property is subject to that certain Master Declaration of Covenants, Restrictions and Development Standards, recorded on August 13, 1996, as Instrument No. 96-0570473, in the Official Records of Maricopa County, Arizona (as amended from time to time, the "Master Declaration") and that certain Parcel Declaration for Kierland Parcel 4C, recorded on June 3, 1998 as Instrument No. 98-469836 in the Official Records of Maricopa County, Arizona (as amended from time to time, the "Parcel Declaration"). This REA is intended to be subordinate to the Master Declaration and the Parcel Declaration.

C. Declarant intends to sell ^{Unofficial Document} portions of the Covered Property to other Persons and desires to establish certain covenants and agreements for the beneficial use of the Covered Property and to grant to each Occupant of the Covered Property certain reciprocal easements in, to, over and across certain portions of the Covered Property, for the benefit of each Owner and Occupant of the Covered Property, all as hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other valuable consideration, Declarant hereby declares that the Covered Property, and all portions thereof and interests therein, shall be held, sold and conveyed subject to the hereinafter described covenants, conditions, restrictions and easements, which are for the purpose of protecting the value and desirability of, and which shall run with, the Covered Property, and which shall be binding on any Person now or hereafter having any right, title or interest in the Covered Property or any part thereof, and their heirs, personal representatives, successors and assigns, and shall inure to the benefit of each Owner of all or any portion thereof, as follows:

1. Definitions. Defined terms used in this REA shall have the first letter of each word in the term capitalized. If not otherwise expressly provided herein, defined terms used in this REA shall have the meanings given to them in the Master Declaration. Each reference in this REA to any of the following terms shall mean:

1.1 Buildings. Structures constructed within the Covered Property for occupancy by Owners and/or other Occupants and covered parking within the Covered Property reserved for use by Owners and/or other Occupants. Except as provided in the preceding sentence

for covered parking, areas covered by such things as building canopies but not enclosed shall not be considered part of the Buildings.

1.2 Building Areas. Those areas of the Covered Property used for the construction of Buildings and related Improvements, exclusive of Parcel Common Area, intended for commercial or other related use by Owners and other Occupants. When construction of a Building is commenced on any portion of the Covered Property, the ground area occupied by the Building shall automatically become a Building Area.

1.3 City. The City of Phoenix.

1.4 Default Rate. The interest rate that is four percent (4%) higher than the then "prime" interest rate charged by Bank One, Arizona, N.A., or its successor, from time to time in Phoenix, Arizona.

1.5 Improvements. All land preparation and excavation, all landscaping, buildings, structures, covered parking structures, parking areas, fences, walls, hedges, plantings, poles, driveways and signs. The term "Improvements" specifically includes both original Improvements and all later changes or alterations.

1.6 Occupant or Occupants. Each Owner and other Person who shall from time to time be entitled to the use and occupancy of any portion of the Building Area on any Parcel that is subject to this REA under any ^{Unofficial Document} lease, license or concession agreement, or other instrument or arrangement under which the Occupant acquires its right to such use and occupancy.

1.7 Owner or Owners. Any Person who is, from time to time, the record owner of fee title to any Parcel, whether or not subject to any mortgage, but excluding those Persons having such an interest merely as security for the performance of an obligation. If fee simple title to a Parcel is vested of record in a trustee pursuant to A.R.S. § 33-801 et seq., fee simple title shall be deemed to be in the trustor. If fee simple title to a Parcel is vested of record in a trustee pursuant to a subdivision trust agreement, dual beneficiary trust agreement, or similar arrangement, the beneficiary of any such trust who, under the terms of the trust, is entitled to possession of the trust property, shall be deemed to be the Owner. If a Parcel is subject to a contract for conveyance of real property under the provisions of A.R.S. § 33-741 et seq., the purchaser (and not the seller) shall be deemed to be the Owner.

1.8 Parcel or Parcels. The Covered Property and any portion of the Covered Property constituting a "Parcel" under the Master Declaration, because it is separately owned.

1.9 Parcel Common Area. All areas of the Covered Property, other than Buildings and Building canopies, support columns, overhangs and footings located within Building Areas or projecting into the Parcel Common Area, encompassing all those facilities within or upon the Covered Property now or hereafter available for the use, convenience and benefit of Owners, Occupants and Users in common, including, but not limited to, reserved or unreserved parking

areas (other than covered parking deemed to be a part of the Building pursuant to the terms hereof); service areas; driveways (including any Private Access Driveways); areas of ingress and egress; sidewalks and other pedestrian ways; perimeter sidewalks adjacent and contiguous to Buildings; roadways; delivery areas; Landscaped Areas (including planters and areas located between perimeter sidewalks and Buildings or next to exterior Building walls); and common corridors. Any enlargement of or addition to Parcel Common Area shall be included in the definition of Parcel Common Area for purposes of this REA.

1.10 Person or Persons. Any individual, partnership, limited liability company, firm, association, corporation, trust, governmental agency, administrative tribunal, or any other form of business or legal entity.

1.11 Private Access Easements. The private access easement created in Section 3.3 of this REA, as it may be extended from time to time, and any similarly-named easement subsequently created by Declarant over portions of the Covered Property then owned by Declarant, through an instrument recorded in the Official Records of Maricopa County, Arizona.

1.12 Private Access Driveways. Service or similar driveways constructed within any Private Access Easement on the Covered Property.

1.13 Users. The customers, patrons, employees, suppliers, licensees and invitees of each Owner and Occupant.

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2. Restrictive Covenants.

2.1 Utilities. All utilities servicing each portion of the Covered Property owned by separate Owners shall be separately metered, and all costs in connection therewith shall be borne by the Owner of the property served, at no cost or expense to other Owners.

2.2 No Parking Area Fees. No Owner or Occupant shall impose, or attempt to impose, any charge or service fee or exact any other consideration in exchange for the right of a User to enter or depart from or park a motor vehicle in any parking area in connection with the use of the Parcel Common Area for purposes contemplated herein unless such charges are lawfully ordered by appropriate governmental authority having jurisdiction over the Covered Property.

2.3 Reserved Parking. No Owner or Occupant shall be entitled to reserve any parking spaces within the Parcel Common Area on the Owner's or Occupant's Parcel for the exclusive use of the Owner or Occupant (or the employees or invitees of the Owner or Occupant), except as may be specifically approved by the Kierland Design Review Committee pursuant to its powers under the Master Declaration.

2.4 No Walls, Fences or Barriers. No walls, fences or barriers of any sort or kind shall be constructed or erected within the Covered Property, or any portion thereof, which shall prevent or materially impair the use or exercise of any of the access rights or easements

granted herein, or the access and movement of Occupants and Users including, but not limited to, pedestrian and vehicular traffic between the various Parcels as contemplated by this REA. However, reasonable traffic control signs and devices, directional barriers and parking stops, as may be necessary to guide and control the orderly flow of traffic, may be installed so long as access driveways to the parking areas within the Covered Property are not closed or blocked and the traffic circulation pattern of the Parcel Common Area is not materially impaired.

3. Easements.

3.1 Grant of Easements. Each Owner and Occupant shall have nonexclusive easements over, across, in, under and through the Parcel Common Area, for the uses and purposes set forth in Section 3.2, which shall in each case be nonexclusive for use in common with all other Owners, Users and Occupants (except to the limited extent that reserved parking is permitted pursuant to Section 2.3 hereof). Notwithstanding the foregoing, the Owners of each Parcel shall have the right to close off those portions of the Parcel Common Area located within each Owner's Parcel for such reasonable period(s) of time as may be legally necessary to prevent the acquisition of prescriptive rights by any other Person, including any other Owner or Occupant of the Covered Property.

3.2 Parcel Common Area Easements. The Parcel Common Area shall be used only for the following purposes related to the businesses and activities conducted within the Covered Property:

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(a) Parking. Parking of motor vehicles.

(b) Ingress and Egress. Ingress and egress by any Users and any motor vehicles of such Users to and from any portion of the Parcel Common Area, to and from any Parcel, and for access to and from the public streets adjacent to the Parcel Common Area.

(c) Utilities. Installation, maintenance and operation of the utility lines and related facilities and services for the Parcel Common Area or Building Areas, together with and including, but not limited to, vaults, manholes, meters, transformers, pipelines, valves, hydrants, sprinkler controls, conduits, sewage facilities, and all related facilities, all of which shall whenever and wherever reasonably feasible be located below the surface of the Parcel Common Area, or the surface of any other above-ground improvements located thereon.

(d) Pedestrian Traffic. Pedestrian traffic by Users between business establishments in the Building Areas, between the Building Areas and the Parcel Common Area, and for pedestrian access to and from the public streets and sidewalks adjacent to the Parcel Common Area.

(e) Comfort and Convenience. Minor comfort and convenience facilities for Users, such as mailboxes, public telephones, and benches, as each Owner may

from time to time deem appropriate to construct or permit to be constructed on its Parcel; provided, however, that no such facilities shall unreasonably interfere with, restrict or impede other Users.

(f) Temporary Construction Activity. Construction, maintenance, repair, replacement, rearrangement and remodeling of Buildings and Improvements within Building Areas and the Parcel Common Area so long as reasonably and diligently prosecuted to completion. In connection with construction performed within Building Areas, incidental encroachment upon the Parcel Common Area may occur as a result of the use of ladders, scaffolding, storefront barricades and similar facilities resulting in temporary obstruction of portions of the Parcel Common Area, all of which are permitted hereunder so long as their use is kept within reasonable requirements of construction work expeditiously pursued. Subject to all of the other terms of this REA, the Parcel Common Area may be used for ingress and egress of vehicles transporting construction materials, equipment and individuals employed in connection with any work provided for herein, and the Parcel Common Area located on the constructing Owner's Parcel may also be used for temporary storage of materials and vehicles being used in connection with such construction.

(g) Service and Delivery Vehicles. Ingress, egress, and temporary parking of delivery and service vehicles traveling to and from the Building Areas, or any portion thereof, and the ^{Unofficial Document} public streets adjacent to the Covered Property, for the delivery of goods, wares, merchandise, furniture, fixtures, supplies and equipment to any Occupant.

(h) Foundations and Footings. Installation, repair, replacement and maintenance of Building foundations and footings extending from any portion of the Building Area of any Parcel, over, onto, under and into the Parcel Common Area; provided, however, that Building foundations and footings shall not extend a lateral distance greater than five (5) feet from the Building Area within which the Building is located.

(i) Safety Codes. Ingress, egress and access over each Owner's Parcel leading from adjacent Building Areas to the Parcel Common Area, if required from time to time by applicable building, fire and safety codes.

(j) Repairs, Maintenance and Replacement. Ingress, egress and access over, along, and under each Owner's Parcel (other than Buildings) for the purpose of effectuating any necessary repairs, maintenance or replacements in connection with the exercise of the common nonexclusive easements and other rights granted under this REA with respect to each Parcel, as permitted under this REA.

3.3 Private Access Easement. Private Access Easements and Private Access Driveways shall be established within the Covered Property as provided in this Section.

(a) Creation of Easement. A Private Access Easement is hereby created over the property described on Exhibit "A" attached hereto. From time to time as site planning for the Covered Property develops, Declarant may extend the Private Access Easement northward within the Covered Property along approximately the same alignment as the alignment described herein by recording a supplement to this REA in the Official Records of Maricopa County, Arizona. Any such supplement may be recorded by Declarant without the consent or approval of any other Person. Such a supplement to this REA shall refer to the powers reserved in this Section and shall describe with particularity the additional portions of the Covered Property then being subjected to the Private Access Easement.

(b) Construction of Road Improvements. Subject to any approvals by the Kierland Design Review Committee required by the Master Declaration or Parcel Declaration, any Owner of a Parcel in the Covered Property which is served by a Private Access Easement may construct a private service or similar drive within the Private Access Easement. Any construction or installation of such a Private Access Driveway must be completed in conformance with plans and specifications approved by the Kierland Design Review Committee, in accordance with the approval procedures set forth in the Master Declaration, and must be built in a good and workmanlike manner and in accordance with any applicable requirements of governmental authorities. To the extent reasonably possible, Owners shall coordinate construction of any Private Access Driveway with other affected Owners to minimize ^{Unofficial Document} disruption and encourage consistency of construction and materials.

4. Parcel Common Area Maintenance and Operation. Each Owner shall cause the portions of the Parcel Common Area located within the Owner's Parcel to be operated and maintained in a clean, safe, sightly and functional condition, based on the standards of first-class commercial properties in the surrounding area, including, but not limited to, the following:

4.1 Paved Areas. Maintaining all paved surfaces and curbs of the Parcel Common Area. Maintenance work shall include cleaning, sweeping, restriping, repainting, repairing, replacing, resealing and resurfacing of the paved portions of the Parcel Common Area and curbs, to the extent necessary to keep the paved areas in safe, orderly, presentable, and functional condition. To the extent reasonably practical, Owners shall coordinate maintenance and repair of paved areas to achieve and maintain consistent appearance of pavement.

4.2 Debris and Refuse. Removal of all papers, debris, filth, and refuse, and sweeping the Parcel Common Area to the extent necessary to keep the Parcel Common Area in a clean and orderly condition.

4.3 Signals and Markers. Placing, maintaining, cleaning, replacing and repainting any appropriate directional signs, markers and lines, including, but not limited to, signs and markers for handicapped individuals.

4.4 Parcel Common Area Lighting. Operating, maintaining, cleaning and replacing such Parcel Common Area lighting facilities as are reasonably required, including all lighting necessary or appropriate for Parcel Common Area security and exterior lights attached to Buildings, which are intended to illuminate the Parcel Common Area.

4.5 Landscaped Areas. Cleaning and maintaining all Landscaped Areas, including landscaping and planters adjacent to exterior walls of Buildings, repairing automatic sprinkler systems and water lines in the Parcel Common Area, weeding, pruning, fertilizing and replacing trees, shrubs and other landscaping as necessary.

4.6 Utilities. Maintaining, cleaning and repairing all storm drains, utility lines, sewers and other common utility systems and services located in the Parcel Common Area, which are necessary for the operation of the Parcel Common Area, other than the separate utilities for any Building Area, which shall be operated and maintained by the Owner thereof without cost or expense to the other Owners

4.7 Signs. Maintaining and repairing any and all monument or pylon signs in the Parcel Common Area.

4.8 Governmental Requirements. Complying with all applicable requirements of governmental agencies pertaining to the Parcel Common Area, including, but not limited, to any alterations or additions required to be made to, or safety appliances and devices required to be maintained in or about the Parcel Common Area under any laws, ordinances, rules regulations or orders now or hereafter adopted, enacted or made and applicable to the Parcel Common Area.

5. Private Access Driveways; Extraordinary Maintenance Costs; Reimbursement.

5.1 Private Access Driveways. Except as provided in Section 8 for damage to the property of others, but notwithstanding anything to the contrary contained in Section 4, each Owner whose Parcel is served by a Private Access Driveway shall be responsible for a share of the costs of "extraordinary maintenance, repair and replacement" (as defined below) of the Private Access Driveway that serves that Owner's Parcel. Each such Owner's share shall be determined as provided in this Section. The costs to be shared shall be allocated prorata over all Parcels served by the Private Access Driveway in question except that the share of costs allocated to a Parcel primarily used for office purposes shall be at one-half the rate applicable to Parcels primarily used for other purposes. The Owners of Parcels served by a Private Access Driveway shall cooperate reasonably with one another to determine when and to what extent extraordinary maintenance, repair and replacement of the Private Access Driveway is needed.

5.2 Reimbursement. If any Owner (an "Owed Owner") incurs any expense for which it is entitled to reimbursement from the other Owners (collectively, the "Owing Owners," and individually, an "Owing Owner"), the Owed Owner shall submit to the Owing Owners a request for payment that includes a description of the expenses incurred, a calculation of

each Owing Owner's share of the expenses, and any additional documentation necessary to establish the amount of expenses incurred and that all such expenses have been paid in full. Each Owing Owner shall reimburse the Owed Owner within thirty (30) days after receiving the Owed Owner's request for payment delivered pursuant to this Section 5 (the "Repayment Date"). If any Owing Owner fails to reimburse the Owed Owner on or before the Repayment Date, then the Owed Owner shall be entitled to receive, from the Owing Owner, interest on the amounts owed accruing at the Default Rate from the Repayment Date until the date when all such amounts have been paid by the Owing Owner.

5.3 Extraordinary Defined. For purposes of this Section 5, the phrase "extraordinary maintenance, repair and replacement" shall be deemed to refer to maintenance, repair and replacement obligations beyond the ordinary, day-to-day, normal or routine maintenance, repair and replacement obligations intended to be covered by Section 4.

6. Mechanics' Liens. No Owner shall cause or permit any mechanics' or materialmen's lien against any portion of the Covered Property owned by another Person.

7. Default; Cure; Lien.

7.1 If any Owner (a "Defaulting Owner") fails to:

(a) maintain or repair the Parcel Common Area on its portion of the Covered Property in accordance with ^{Unofficial Document} Section 4, then any other Owner may undertake the Defaulting Owner's maintenance and repair obligations on behalf of the Defaulting Owner if it delivers to the Defaulting Owner and each other Owner a notice specifying the maintenance or repair that must be performed and the date upon which the Owner intends to perform required work, which date must be at least thirty (30) days after the delivery of the notice to the Defaulting Owner and the other Owners (unless emergency repairs become necessary, in which event they may be undertaken following such notice as may be reasonably feasible), and each Owner hereby grants to each other Owner a temporary nonexclusive easement to enter upon the grantor's portion of the Covered Property to the extent necessary to exercise maintenance and repair rights in accordance with this Section 7.1(a); or

(b) pay any amount due under this REA within thirty (30) days after receipt of written notice from the Owner that is owed such amounts, then such amounts shall constitute a lien on the portion of the Covered Property owned by the Defaulting Owner (the "Defaulting Property"). The lien shall attach and take effect only upon the recordation of a claim of lien in the Official Records of the Maricopa County, Arizona Recorder by the Owner making the claim. Any such claim shall set forth the name of the Defaulting Owner, a description of the Defaulting Property, and the amount secured thereby. The lien so claimed may be foreclosed, in the manner for foreclosing mortgages on real property, by an appropriate proceeding in a court of competent jurisdiction.

7.2 The lien described and provided for in Section 7.1(b) shall be subordinate to the lien and charge of a first mortgage or first deed of trust and to the lien of the Kierland Master Association arising pursuant to the Master Declaration and the Parcel Declaration. Any lien established by the recording of a notice of lien, as specified and provided in Section 7.1(b), shall be extinguished and terminated by the sale or transfer of the Defaulting Property by exercise of the power of sale granted and conveyed by, or the judicial foreclosure of, any first mortgage or first deed of trust, or any proceeding in lieu thereof, or the acquisition of title to the Defaulting Property by means of a deed in lieu of the exercise of the power of sale or judicial foreclosure (any such sale or transfer by the holder of a first mortgage or deed of trust is referred to herein as a "Foreclosure"). Any Foreclosure shall extinguish and terminate the right to file and to establish or create any such lien with respect to any payments that may have come due prior to the Foreclosure or with respect to any amounts owed or advanced prior to the Foreclosure pursuant to Sections 5, 6, 7 or 8. The extinguishment of any such lien shall not relieve any Owner of its personal obligation for payment of the indebtedness previously secured by any lien or liens, or with respect to which a lien might otherwise have been established; provided, however, that the term "Defaulting Owner" shall not include any mortgagee or other Person who may have acquired title pursuant to such a Foreclosure. No Foreclosure shall affect the lien, or the right to the lien, for amounts that become due or expenses incurred after the Foreclosure.

7.3 In the event of a default by a Defaulting Owner as specified in Sections 7.1(a) and 7.1(b), in addition to the rights and remedies specifically described therein, the non-defaulting Owners shall be entitled to exercise ^{Unofficial Document}any and all other rights and remedies available at law or in equity, including, but not limited to, the right to sue for recovery of amounts owed without having to initiate or pursue lien rights and foreclosure.

8. Damage to Improvements. If any Owner, or the employees or agents of any Owner, (a "Damaging Owner") damages any Improvements (including, but not limited to, landscaping Improvements) located within any portion of the Covered Property owned by another Owner (the "Damaged Owner"), then the Damaging Owner shall repair the Improvements in a good and workmanlike manner to substantially their same condition within thirty (30) days following the occurrence of the damage. However, if the damage cannot reasonably be repaired within this thirty (30) day period and the Damaging Owner diligently pursues the repair to completion, the Damaging Owner shall have a reasonable period of time to complete the repair. If the Damaging Owner fails to complete any repairs required by this Section 8, the Damaged Owner may, but shall not be required to, undertake required repairs at the Damaging Owner's expense. If the Damaged Owner undertakes such repairs, then it shall be entitled to recover all reasonable amounts expended to repair the damage, together with interest thereon accruing at the Default Rate from the date the Damaged Owner incurs the expenses until the Damaged Owner has been paid in full.

9. Covenants Run With the Land. All of the provisions, agreements, rights, powers, covenants, conditions and obligations contained in this REA shall be binding upon and inure to the benefit of the Owners, their respective heirs, successors (by merger, consolidation or otherwise) and assigns, devisees, administrators, representatives, Occupants and all other Persons

acquiring any Parcel, or any portion thereof, or any interest therein, whether by operation of law or in any manner whatsoever. All of the provisions of this REA shall constitute equitable servitudes and be covenants running with the land pursuant to applicable law. It is expressly acknowledged that each covenant to do or refrain from doing some act on each Parcel (i) is for the benefit of each other Parcel and is a burden upon each other Parcel, (ii) runs with each Parcel, and (iii) shall benefit or be binding upon each successive Owner during its ownership of each Parcel, or any portion thereof, and each Person having any interest therein derived in any manner through any owner of any Parcel, or any portion thereof. Notwithstanding the foregoing, this REA is not intended to supersede, modify, amend or otherwise change the provisions of any prior instrument affecting the real property burdened hereby including, but not limited to, the Master Declaration and the Parcel Declaration. Any transferee of any part of the Covered Property shall automatically be deemed, by acceptance of the title to any portion of the Covered Property, to have assumed all obligations of this REA relating thereto following the date of the transfer to the extent of its interest in its Parcel and to have agreed with the then Owner or Owners of all other portions of the Covered Property to execute any and all instruments and to do any and all things reasonably required to carry out the intention of this REA, and the transferor shall, upon the completion of such transfer, be relieved of all further liability under this REA, except liability, with respect to matters that may have arisen during its period of ownership of the portion of the Covered Property so conveyed that remain unsatisfied.

10. Notices. All notices and other communications to any Owner required or permitted hereunder shall be in writing and ^{Unofficial Document} shall be given by personal delivery, facsimile transmission, overnight courier, or by deposit in the United States mail, first class, registered or certified, return receipt requested, postage prepaid, correctly addressed to the intended recipient at the last known address for such Owner (or if no address is known, at the address of the Owner as shown in the property-ownership records of Maricopa County, Arizona). Notices and other communications shall be deemed to be received upon actual receipt (or refusal to accept delivery), if delivered personally, by facsimile during normal business hours of the recipient, or by courier; the next business day, if delivered by facsimile after normal business hours of the recipient; or three days following deposit in the mail, if delivered by mail.

11. No Waiver; Rights Cumulative. No waiver of any term or condition of this REA shall be effective unless it is in writing and is signed by the Person against whom enforcement of the waiver is sought, and then only in the particular circumstances specified. No failure by a Person to exercise any right or privilege provided for herein, or to require timely performance of any obligation herein in strict accordance with the provisions hereof, shall preclude the exercise of such rights or privileges or the enforcement of such obligations in different circumstances or upon the reoccurrence of the same or similar circumstances. Moreover, the exercise of any remedy provided for at law, in equity, or herein shall not impliedly preclude the exercise of any other remedy except when, and then only to the extent that, the other remedy is expressly forbidden or limited by the provisions hereof.

12. Time. Time is of the essence of this REA and each and every provision hereof.

13. Excusable Delays. Whenever performance is required of any Owner hereunder, that Owner shall use all due diligence to perform and take all necessary measures in good faith to perform; provided, however, that if completion of performance shall be delayed at any time by reason of acts of God, war, civil commotion, riots, strikes, picketing, other labor disputes, damage to work in progress by reason of fire or other casualty or cause beyond the reasonable control of an Owner (financial inability, imprudent management or negligence excepted), then the time for performance as herein specified shall be appropriately extended by the amount of the delay actually so caused.

14. Negation of Partnership. None of the terms or provisions of this REA shall be deemed to create a partnership between or among the Owners, Users or Occupants in their respective businesses or otherwise, nor shall it cause them to be considered joint venturers or members of any joint enterprise. This REA is not intended nor shall it be construed to create any third party beneficiary rights in any Person who is not an Owner or Occupant, unless expressly otherwise provided.

15. Not A Public Dedication. Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Covered Property, or of any Parcel, or portion thereof, to the general public, for the general public or for any public use or purpose whatsoever.

16. No Additional Approval Rights. The use of the term "Parcel Common Area" herein is for convenient reference and iUnofficial Document intended to grant Owners, Occupants or Users rights with respect to the Covered Property other than those expressly set forth herein. In particular, no use of the term shall be deemed to create or grant to any Person any separate or additional approval rights with respect to the design, construction, reconstruction or location of Improvements beyond or in addition to the approval rights of the Kierland Design Review Committee pursuant to the terms of the Master Declaration.

17. Effective Upon Recording. This REA shall take effect upon its recordation in the Official Records of the Maricopa County, Arizona.

18. Termination and Amendment. This REA may be canceled, changed, modified or amended in whole or in part only by written and recorded instrument executed by all Persons who are then Owners of any portion of the Covered Property and the Declarant under the Master Declaration.

19. Attorneys' Fees. If any Person commences litigation or other legal proceedings for a default hereunder or to enforce the provisions hereof, the prevailing party in any such proceeding shall be entitled to recover its costs and expenses, including reasonable attorneys' fees and expert witness fees, with attorneys' fees to be determined by the court and not a jury in any such litigation.

20. Interpretation. As used in this REA, the masculine, feminine and neuter gender and the singular or plural shall each be construed to include the other whenever the context so requires. This REA shall be construed as a whole and in accordance with its fair meaning,

without regard to any presumption or rule of construction causing this REA or any part of it to be construed against the Person causing the REA to be written. If any words or phrases in this REA have been stricken, whether or not replaced by other words or phrases, this REA shall be construed (if otherwise clear and unambiguous) as if the stricken matter never appeared and no inference shall be drawn from the former presence of the stricken matters in this REA or from the fact that such matters were stricken.

21. Conflict. In the event of any conflict between the terms and provisions of this REA and the terms and provisions of the Master Declaration, the Master Declaration shall govern and control. In the event of any conflict between the terms and provisions of this REA and the terms and provisions of the Parcel Declaration, the Parcel Declaration shall govern and control.

22. Invalidity. If any provision hereof or the application thereof to any part hereto, or to any Person or circumstance is held invalid, void or illegal by any court or governmental authority having jurisdiction, the remaining portions hereof and the application of such provisions other than those to which it is held to be invalid, void or illegal shall nevertheless remain in full force and effect and not be affected thereby.

23. Governing Law; Venue. This REA shall be governed by and construed in accordance with the laws of the State of Arizona. The proper venue for any legal proceedings arising out of this REA shall be the Superior Court of Maricopa County, Arizona.

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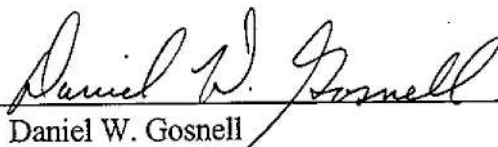
IN WITNESS WHEREOF, the Declarant has executed and acknowledged this REA as of the date first above written.

DECLARANT:

PHXAZ LIMITED PARTNERSHIP,
a Texas limited partnership

By: Woodbine/Kierland, Ltd., a Texas limited partnership, doing business in Arizona as Woodbine/Kierland, Limited Partnership, its managing general partner

By: Woodbine Investment Corporation, a Texas corporation, its sole general partner

By: 
Daniel W. Gosnell

Its: Vice President

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EXHIBIT "A"

Private Access Easement
Legal Description

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EXHIBIT "A"

February 24, 1998

LEGAL DESCRIPTION FOR

A PORTION OF KIERLAND PARCELS 4C & 6B, according to Book 468 of Maps, page 47, records of Maricopa County, Arizona, more particularly described as:

That part of the Southeast Quarter of Section 3, Township 3 North, Range 4 East, of the Gila and Salt River Meridian, Maricopa County, Arizona, more particularly described as follows:

Commencing at the Southeast Corner of said Section 3;

Thence North $00^{\circ}06'24''$ West, along the East line of the Southeast Quarter of said Section 3 and the monument line of "Scottsdale Road," as shown on the Map of Dedication of "Desert Springs," as recorded in Book 191 of Maps, Page 35, Maricopa County Records, a distance of 1,320.67 feet to the intersection of "Tierra Buena," as shown on the Final Plat of "Kierland Parcels 4B & 6A," as recorded in Book 443 of Maps, Page 39, Maricopa County Records;

Thence South $89^{\circ}44'08''$ West, along the monument line of said "Tierra Buena," a distance of 362.50 feet;

Thence North $00^{\circ}06'24''$ West, a distance of 35.00 feet to a point on the Northerly right-of-way of "Tierra Buena," and the True Point of Beginning;

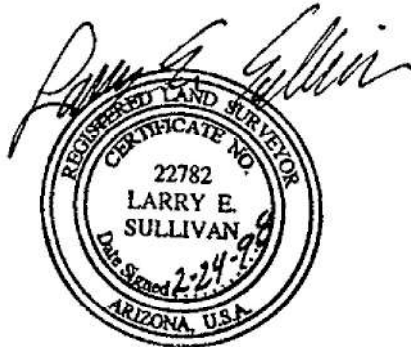
Thence South $89^{\circ}44'08''$ West, along said Northerly right-of-way of "Tierra Buena," a distance of 25.00 feet;

Thence North $00^{\circ}06'24''$ West, a distance of 315.17 feet to a point on a line which is parallel with and 315.17 feet Northerly, as measured at right angles, from said Northerly right-of-way of "Tierra Buena";

Thence North $89^{\circ}44'08''$ East, along said parallel line a distance of 25.00 feet;

Thence South $00^{\circ}06'24''$ East, a distance of 315.17 feet to the True Point of Beginning.

Containing 0.181 Acres, more or less.



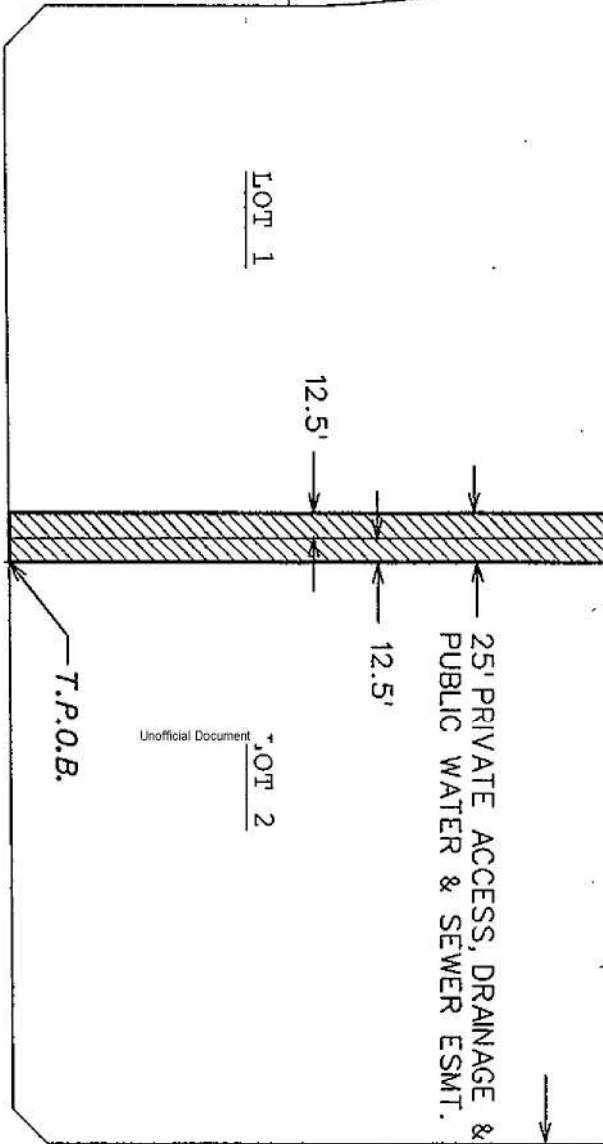
SCALE: 1" = 100'



KIERLAND 4B & 6A
BK. 443 OF MAPS, PG. 39

TIERRA BUENA

71ST. STREET



Unofficial Document
LOT 2

DESERT SPRINGS
BK. 191 OF MAPS, PG. 35

SCOTTSDALE ROAD

65'



S.E. COR. SEC. 3
T.3N. R.4E.

EXHIBIT

KIERLAND PARCEL 4C & 6B
25 FT. PRIVATE ACCESS ESMT.

JOB NO
47003705

4550 NORTH 12TH STREET
PHOENIX, ARIZONA 85014
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SHEET
1 OF 1