Item No. 7C

CITY OF FLAGSTAFF
STAFF SUMMARY REPORT

To: The Honorable Mayor and City Council

From: Vince Knaggs, Planning Development Manager
Community Development Department
779-7631, Ext. 7356

Date: June 4, 2008

Meeting Date: June 17, 2008

TITLE: **PC SUB 08-005, A REQUEST FOR PRELIMINARY PLAT APPROVAL BY ANTELOPE RIDGE INVESTMENTS, LLC FOR ANTELOPE RIDGE, A SINGLE-FAMILY RESIDENTIAL SUBDIVISION CONTAINING NINE LOTS ON AN APPROXIMATELY 5.23-ACRE PARCEL LOCATED AT 1901 NORTH MESA DRIVE IN THE UR, URBAN RESIDENTIAL DISTRICT.**

RECOMMENDED ACTION:

It is recommended that the City Council approve the Preliminary Plat as recommended by the Planning and Zoning Commission.

ACTION SUMMARY:

On May 27, 2008, the Planning and Zoning Commission voted 4-1 (one member excused) to forward the Preliminary Plat to the City Council with a recommendation for approval subject to the condition that the development complies with all applicable conditions of the Development Review Board approval of April 24, 2008. In addition the Planning and Zoning Commission voted to instruct staff to work with the developer to see what can be done about reducing the height of the buildings to as reasonable a height as possible.

DISCUSSION:

Background/History:

The applicant is proposing to subdivide the 5.23-acre site into nine (9), detached, single-family lots. Due to the extensive slope conditions on this property and to achieve a higher density, the developer is proposing to utilize the "Lot-Line House" planned development option as identified in the Land Development Code and has designed the subdivision to conform to the residential performance standards for this unit type. The applicant received conditional approval by the Development Review Board on April 24, 2008. There is one applicable Development Review Board condition that the developer

must meet which is to overlay Mesa Drive along the subdivision frontage due to the number of pavement cuts required to provide water and sewer taps to the nine lots. Additional information regarding the proposed subdivision is provided in the Preliminary Plat Report PC SUB 08-005, included with this staff report.

Key Considerations:

The City Council shall find the proposed Preliminary Plat meets the requirements of the Flagstaff Land Development Code and the Flagstaff Engineering Design and Construction Standards and Specifications. If Council approves the requested Preliminary Plat, the developer may submit public improvement plans for review and approval and prepare a Final Plat for review by the Development Review Board and approval by the City Council.

Community Benefits and Considerations:

Affordable Housing Consideration - An element within the Flagstaff Area Regional Land Use and Transportation Plan, stresses the consideration to increase the supply and integration of affordable housing within residential or mixed-use projects. City staff attempted to work towards a number of solutions with the applicant to incorporate affordable housing into their project. While the applicant realized this need within the city, site constraints and current affordable housing policies did not provide the needed opportunity for the developer to consider incorporating affordable housing. Additional information regarding community benefits and considerations is addressed in the Preliminary Plat report PC SUB 08-005, included with this staff report.

Community Involvement:

Preliminary Plats are not subject to public hearing requirements. However the Planning and Zoning Commission did receive public input from several citizens at the May 27, 2008, Planning and Zoning Commission meeting. Citizen concerns included; the incompatibility of two-story structures along Mesa Drive with the existing single-story structures in the adjacent neighborhood to the east, the difficulty in constructing houses on the steep slopes and unstable soils, the use of narrow roads in the existing neighborhood by construction traffic, and the safety of children in the neighborhood during construction.

As indicated by the Commission's recommendation forwarded to the City Council, commission members are also concerned with the incompatibility of two-story structures along Mesa Drive with the existing single-story structures in the adjacent neighborhood. Staff has discussed this issue with the developer. In response to citizen and Commission concern, the developer has provided a provision in the revised Subdivision Covenants, Conditions, and Restrictions limited the height of structures to twenty-five feet above the top of the street curb on the Mesa Drive elevation. The Antelope Ridge Homeowner's Association will enforce this provision, as the City of Flagstaff does not have authority to regulate private Covenants, Conditions, and Restrictions.

Financial Implications:

Not applicable to this proposal.

Options and Alternatives:

The City Council may consider the following options and alternatives:

- Approve the Preliminary Plat as recommended by the Planning and Zoning Commission.
- Conditionally approve the Preliminary Plat by including additional conditions or removing conditions as recommended by the Planning and Zoning Commission.
- Disapprove the Preliminary Plat if the plat does not meet the requirements of the Flagstaff Land Development Code and the Flagstaff Engineering Design and Construction Standards and Specifications.

Attachments/Exhibits:

- Draft Minutes of the May 27, 2008, Planning and Zoning Commission Meeting.
- Preliminary Plat Report PC SUB 08-005.
- Preliminary Plat Application
- Vicinity Map
- Reduced Copies of the Preliminary Plat for the Antelope Ridge Subdivision.
- Subdivision Covenants, Conditions, and Restrictions.

Mark Landsiedel

Department Head *(Acknowledgment that all reviews have been completed and required approvals initiated.*

INITIALS	RESPONSIBILITY	DATE	INITIALS	RESPONSIBILITY	DATE
	BIDS/PURCHASES			FINANCE/BUDGET	
	GRANTS			CONTRACTS	
	LEGAL			IGAS	
				DEVELOPMENT SERVICES	6/9/08

DATE OF COUNCIL APPROVAL: _____

Motion: Motion to close public Hearing. **Action:** Approve, **Moved by** Commissioner Khalsa, **Seconded by** Commissioner Duncan.

Motion carried unanimously.

Motion: Motion to approve PU CUP 08-006 with the following conditions as recommended by staff.

1. The subject property is developed according to the site plan, including the quality of building architecture as presented with the Conditional Use Permit request.
2. When Industrial Drive is constructed, the emergency vehicle exit driveway shall be relocated to Industrial Drive as indicated on the site plan presented with the Conditional Use Permit request.

Action: Approve, **Moved by** Commissioner Khalsa, **Seconded by** Commissioner Moore.

Motion carried unanimously.

III. OTHER BUSINESS

1. ANTELOPE RIDGE SUBDIVISION

Address:	1901 N. Mesa Drive
Parcel Number:	102-07-002
Property Owner:	Antelope Ridge Investments, LLC
Applicant:	Mogollon Engineering
Agent:	Kent Hotsenpillar
Application Number:	**PC SUB 08-005**
City Staff:	Vince Knaggs
Action Sought:	Preliminary Plat Approval

A request for preliminary plat approval for a 9-lot, detached, single-family, residential subdivision on a 5.23-acre site located in the UR, Urban Residential Zoning District.

RECOMMENDED ACTION: Approve with conditions

Vince Knaggs provided a presentation on the project.

Comments and concerns by the Commission were:

- The percentage of slope on the driveways.
- Whether houses should be built in this area.
- Water retention; how it would be managed.
- Drainage of water into the street.
- Roadway improvements.
- The height of the houses to be built, if they should be limited to one story along Mesa Drive.
- Whether the trees would be retained on the maintenance access drive
- Where the right-of-way ended, if it was at the end of the cliff.

- If soil testing was included in the application process.
- How the track behind the houses would be used.
- If the power lines would be overhead lines.

Applicant - Jerry Nabors, Attorney for developer and Kent Hotsenpillar were present to address the concerns of the Commission.

- That slope questions will be dealt with during the building stage. They have worked through different possibilities with slope considerations.
- On sewer concerns, the least intrusive would be directing drainage to Mesa Drive instead of Fort Valley Road.
- The property owners will maintain the individual detention systems, which may include roof water collection tanks that can used for irrigation. Drainage will not be directed to the street.
- The track behind the houses is not a drive way it is only for construction and maintenance.
- To propose a limitation on height is outside the limitation of the Commission and cannot be a condition of approval by the Commission.

The meeting was opened to the public to allow them to express their comments and concerns. Those who spoke were:

Dan Labanc

Margie White

Peggy Sheldon -Scurlock

Derrick Young

Randy Scott

Teresa Lane

Commissioner discussion:

- Significant impacts to the neighborhood but property owners do have the right to develop.
- Whether this is compactable to the existing neighborhood.
- Inappropriate to the neighborhood to west to build two story houses. Ask developer if they would limit height of structure to one story above Mesa Drive.
- Since this is just a preliminary plat request will it be brought back to the Commission? The answer was that this will go to the City Council and this is the Commissioner's time to make recommendations.
- There is a k-6 school on Cedar Avenue and children walk through this area. Serious concern about safety during construction.
- Concerns about people being deprived of sunlight and could be a case for a law suit.
- Impose a height limit instead of a story limit.

Staff discussion:

- A preliminary drainage report has been provided to the Storm water Division for review. Individual on-lot detention systems will be permitted due to the number of lots being proposed, and the extensive disturbance to the slopes/open space that would occur with the construction of a single detention basin for the sub-division.
- A soils report must be provided to the Building Division prior to building permit review.
- The existing overhead power lines will have to be underground only if it is necessary to relocate them. Private utility lines serving the individual homes are required to be underground.
- A traffic control plan is required for review and approval with the subdivision construction plans.

Motion: Move that the Planning and Zoning Commission recommend that the City Council approve the preliminary plat for SUB 08-005 so long as (1) the conditions of the Development Review Board Meeting of April 24, 2008 are met, (2) that the buildings heights be limited to 25 feet above Mesa Drive, **Action:** Approve, **Moved by** Commissioner McCarthy, **Seconded by** Commissioner Duncan.

Discussion on the motion:

- Commissioner Duncan asked what their votes would indicate at this point, if they were to vote no, what does this mean? Answer was that another motion could be made to approve as is.
- Comments were asked from the staff on the condition as stated and they were told that the Commission had authority to make recommendations to the Council.
- Legal advice was sought at this point and it was decided to go into an Executive Session.

Motion: Motion to begin an executive session to further discuss the issue. **Action:** Approve, **Moved by** Vice Chair Leary, **Seconded by** Commissioner Moore.

Motion carried unanimously. Commission adjourned into executive session at 6:09 p.m.

Executive session adjourned at 6:40

The Regular Meeting of the Planning and Zoning Commission reconvened at 6:42. The motion was restated again.

Motion: The Planning and Zoning Commission recommends that the City Council approve the preliminary plat for SUB 08-005 as long as (1) the conditions of the Development Review Board Meeting of April 24, 2008 are met and (2) that the building heights be limited to 25 feet above Mesa Drive.

Action: Approve, **Moved by** Commissioner McCarthy, **Seconded by** Commissioner Duncan.

VOTE: 1 in favor, 4 against. Motion failed.

Motion: That we recommend to the City Council for approval of SUB 08-005 with the conditions as stated in the Development Review Board and with the additional instruction to staff to work with the developer to see what can be done about restricting the height of the buildings to as reasonable a height as possible.

Action: Approve, **Moved by** Commissioner Moore, **Seconded by** Commissioner McCarthy.

VOTE: 4 in favor, 1 opposed. Motion carried.

PEAKS PLAZA CONDOMINIUMS

PLANNING AND DEVELOPMENT SERVICES DIVISION
PRELIMINARY PLAT REPORT

PC SUB 08-005

DATE: May 22, 2008
MEETING DATE: May 27, 2008
REPORT BY: Vincent Knaggs

REQUEST:

PC SUB 08-005, a request for Preliminary Plat approval by Antelope Ridge Investments, LLC for the Antelope Ridge Subdivision, a nine (9) lot, detached, single-family, residential subdivision on a 5.23-acre site located at 1901 North Mesa Drive in the UR, Urban Residential Zoning District.

STAFF RECOMMENDATION:

Staff recommends the Planning and Zoning Commission forward the Preliminary Plat to the City Council with a recommendation for approval subject to the condition that the development complies with all applicable conditions of the Development Review Board approval of April 24, 2008.

PRESENT LAND USE:

Undeveloped land.

PROPOSED LAND USE:

Residential subdivision development consisting of nine (9) detached single-family lots.

NEIGHBORHOOD DEVELOPMENT:

North: Undeveloped Land, R1 zoning district;
South: Undeveloped Land, RMM-E zoning district;
East: Detached Singe-family Residential, R1-E zoning district;
West: Multi-Family Residential and Commercial, RMM-E and C1-E zoning districts.

REQUIRED FINDINGS:

The Planning and Zoning Commission shall find the proposed preliminary plat meets the requirements of the City of Flagstaff Land Development Code and City of Flagstaff Engineering Design and Construction Standards and Specifications.

STAFF REVIEW:

Introduction

This property was rezoned from RMM-E to UR with the 1991 adoption of the Land Development Code. The applicant is proposing to subdivide the 5.23-acre site into nine (9) detached, single-family lots. Due to the extensive slope conditions on this property and to achieve a higher density, the developer is proposing to utilize the "Lot-Line House" planned development option as identified in the Land Development Code and has designed the subdivision to conform to the residential performance standards for this unit type. The applicant received conditional approval by the Development Review Board on April 24, 2008.

Flagstaff Area Regional Land Use and Transportation Plan

The current land use designation for the site is Open Space due to the significant hillsides located on the site. However, the parcel is currently zoned Urban Residential. In instances where zoning is vested, the development rights provided by the zoning district take precedent over the Open Space land use designation. The applicant has provided an open space element as identified by the 1.32-acre, Tract "B" on the Preliminary Plat. This dedicated open space tract will be owned by the nine property owners and maintained by the homeowner's association. The dedicated open space tract meets the open space requirement of 1.30 acres per the development standards for a Planned Option development within the UR district. Staff believes the applicant has designed the site in conformance to the City's open space plan by providing Tract "B" as open space dedicated to the homeowners association.

This parcel does appear in the Open Space Commission's land inventory for possible acquisition. However, is not currently within the priority listing of lands to be acquired.

ZONING REQUIREMENTS

Site Capacity/Density

Utilizing the planned development option, the site capacity calculations for this site yield a maximum of fifteen (15) dwelling units. Given the extensive slope conditions on the property, the proposed development is for a total of nine (9) detached, single-family units.

Bulk Standards

According to the Land Development Code, the "Lot-Line House" planned development option consists of a single-family, fully detached residence located on an individual lot which is set within five (5) feet of the lot line. The minimum required lot size is 7,000 square feet with a minimum lot width of seventy (70) feet. The proposed lots range in size from 11,520 to 17,853 square feet with lot widths that exceed 100 feet with the exception of lot 1 that has a lot width of approximately 80 feet. Specific development areas have been identified with a minimum front yard setback of eight (8) feet from the property line to side-loaded garages and twenty-five (25) feet to street facing garage doors. Side yard setbacks are five (5) feet and twenty-five (25) feet with the exception of lot 1 which has sideyard setbacks of five (5) feet and fifteen (15) feet. Maximum on-lot building coverage will be limited to 25%, and the structure height will be limited to thirty-five (35) feet as defined by building height in the Land Development code. The code does allow for structures greater then thirty-five (35) feet in height provided the lowest part of the structure is not finished floor (livable) area at the time of permit approval and construction and future modifications do not include conversion to livable area.

Landscaping

A preliminary landscape plan provided to staff indicates that existing Ponderosa pine trees will be sufficient to meet minimum requirements for the .30 opacity peripheral bufferyard along the north, south and west subdivision boundaries. A final landscape plan shall be required with the subdivision Final Plat to insure that the trees utilized to meet the required peripheral bufferyard landscaping are maintained; otherwise new landscape plantings will be required. In addition, the on-lot landscaping requirement of one plant unit will also be met by the existing Ponderosa Trees located on the individual lots and will be enforced with review of residential building permits.

Natural Resources

Resources on the site include steep slopes, moderate slopes, and forest. The resource protection plans submitted with the Preliminary Plat application indicates that minimum protection standards will be met. In this case the resource calculations include a 5% credit toward slope and tree resource for preservation of open space as a flexible measure when on-site design conforms to the City's open space plan.

According to the submitted slope resource plan, there is approximately 2.75 acres of steep slope (25 percent and greater) of which 75% must be preserved. Approximately .69 acres is projected to be disturbed by the defined building envelopes and the construction/maintenance easement, leaving approximately 2.06 acres (75%) of the steep slope preserved as required. There is approximately 2.25 acres of moderate slope (between 17 and 25 percent) of which 65% must be preserved. Approximately .54 acres is projected to be disturbed by the construction/maintenance easement, leaving approximately 1.70 acres (75.9%) of the moderate slope preserved exceeding the requirement. A final slope resource plan shall be required with the subdivision Final Plat to insure that the slope resource requirements are being met; otherwise, modifications to the subdivision design will be required.

According to the forest preservation plan, there is approximately .02 acres of existing forest canopy on the non-sloped portion of the site of which 45% must be preserved. This entire forest canopy is projected to be removed. However, according to the Land Development Code the excess moderate slope may be credited to the forest preservation requirement; therefore, the project is in compliance with the resource protection requirements.

Regional Land Use and Transportation Plan

As noted earlier in this report this entire site is designated open space in the Land Use and Transportation Plan. Staff believes the developer has designed the subdivision in conformance to the City's open space plan by providing Tract "B" as open space dedicated to the homeowners. This open space tract will serve as a buffer between the subdivision and the existing, multi-family and commercial development along Fort Valley Road. In addition, the majority of area outside of Tract "B" will also remain undisturbed as large rear yards due to the defined development envelopes located to the east edge of the subdivision along Mesa Drive. The exception to this is a fifteen-foot-wide construction and maintenance drive to be located in Tract "A" that will provide vehicle access to the lots for construction and maintenance of the homes due to the steep slopes along Mesa Drive. The homeowners association will regulate use of this access drive.

F.U.T.S. Trail Development

As indicated on the Preliminary Plat, the developer will dedicate a twenty-five-foot-wide easement located in the northeast corner of the subdivision to accommodate the future construction of a trail segment through the adjacent parcel to the north that will connect to Sechrist School located on Fort Valley Road.

Design Review Guidelines

Levels I, Design Review Guidelines are applicable to single-family subdivisions. The submitted Preliminary Plat meets the applicable guidelines as follows:

- Organizing uses to optimize natural assets of the site

- Enhancing quality open space which exists in key locations
- Providing convenient connections to regional pedestrian and bikeway circulation systems

Private Restrictions

A draft copy of the Conditions, Covenants, and Restrictions for this development is included with this report.

SYSTEMS ANALYSIS:

Access and Traffic

Each lot will have a private driveway access off of Mesa Drive. The developer shall be responsible for edge improvements on Mesa Drive across the property frontage to include roadway widening, curb, gutter, five-foot sidewalk, five-foot parkway and street trees. In addition, the developer will be required to overlay the street due to the number of street cuts necessary to provide water and sewer service taps to the lots.

Transit Facilities

The nearest public transit stop to the proposed subdivision is located to the south at the Flagstaff Medical Center on North Beaver Street, approximately ¾ of a mile from the southern end of the subdivision.

Water and Wastewater

There is an existing eight-inch public sewer line and a six-inch public water line located in Mesa Drive that is adequate to serve this development. Individual taps will be provided to the lots utilizing these existing public lines. In order to achieve gravity flow into the public sewer line, these homes must utilize private grinder pumps.

Stormwater

A Preliminary drainage report was provided and reviewed by staff that indicates that stormwater runoff will be detained on each lot utilizing a water collection detention system to be approved by the stormwater staff at the time of building permit review. The property owner will maintain the approved systems.

RECOMMENDATION:

Staff recommends the Planning and Zoning Commission forward the Preliminary Plat to the City Council with a recommendation for approval subject to the condition that the development complies with all applicable conditions of the Development Review Board approval of April 24, 2008.

ATTACHMENTS:

- Development Review Board Minutes of April 24, 2008
- Preliminary Plat Application
- Draft Covenants, Conditions and Restrictions
- Antelope Ridge Preliminary Plat

2. Antelope Ridge

Address:	**1901 North Mesa Drive**
Application Type:	Preliminary Plat Review
Property Owner:	Antelope Ridge Investments, LLC
Applicant	Mogollon Engineering
Agent:	Mogollon Engineering
Application Number:	**DRB 05-112** (PTPL 2007-005)
City Staff:	Knaggs/Cole/White
REQUESTED ACTION:	Approval

Preliminary plat review for a 9-lot, single-family, residential subdivision on 5.22 acres in the UR zoning district.

This item was represented by Ken Hotsenpiller, Mogollon Engineering.

Mr. Knaggs moved to approve, **DRB 05-112**,a preliminary plat review for a 9-lot, single-family, residential subdivision on 5.22 acres in the UR zoning district, with **five (5) conditions** as listed below, and with notation that condition #5 modified as shown and condition #2 to be further evaluated. Mr. Scheu seconded the motion; the motion carried unanimously.

1. To avoid possible encrouchment onto parcel number 102-07-079B, the home construction and maintenace easment shall be terminated a minimum of fifty (50) feet from the south subdivision boundry and the land area shall be included in the private open space, Tract "B".
2. The 5% reduction in slope resource calculates to 66.5% for (17% to 24.9% slopes) and 76% for (25% and greater slopes). Revise the resource calculations and the distrubed areas accordingly prior to your next submittial.
3. Show the existing PUE (189/234) for the 12" water line that parallels the North property line for this project.
4. Revise drawings to show existing 6" and 12" Water Main(s) on the Site Plan.
5. Overlay of the entire road frontage will be required, note this on road cross section and indicate that the crown can be no greater than 2%.

IV. ANNOUNCEMENTS

None

V. ADJOURNMENT

Acting Chair Sawyers adjourned the meeting at 1:45 pm.

SUBD / MNR LND

SUBDIVISION PLAT AND MINOR LAND DIVISION APPLICATION
DEVELOPMENT SERVICES DIVISION
CITY OF FLAGSTAFF

OFFICE USE ONLY

Date Filed: May 1, 2008

PC File No.: SUB 08-005

Date Set For: DRB April 24, 2008

P&Z May 27, 2008

Fee Amount: $2,200.00

Council: June 17, 2008

Fee Receipt No.: 29380

Application:

Final Plant ☐

(Preliminary) ~~Tentative~~ Plat ☒

Minor Land Division ☐

Extension / Renewal ☐

Tabled ☐

To be completed by Applicant

PLEASE TYPE OR PRINT

1. Applicant: Mogollon Engineering + Surveying Phone: 214-0214
   Address: P.O. Box 1952
   Property Interest of Applicant: Agent
   (Agent, contract purchaser, etc.)
2. Owner / Developer of Property: Antelope Ridge Investments LLC
   Address: P.O. Box 1835 Flagstaff AZ 86002 Phone: 774-5577
3. Address / Location of Property: 1901 N. Mesa Dr.
4. County Assessor's Book, Map and Parcel No.(s): 102-07-002
5. Subdivision Name: Antelope Ridge
6. Area of Subdivision / Minor Land Division (acreage) 5.23 ac No. Lots: 9
7. Zoning: Present: UR Proposed:
8. Regional Plan Category: Present: Urban Open Space Proposed:
9. Present Use of Property: vacant
10. Date preliminary Plat Accepted by D.R.B.: 4/24/08

[signature] 5/01/08
Applicant's Signature Date

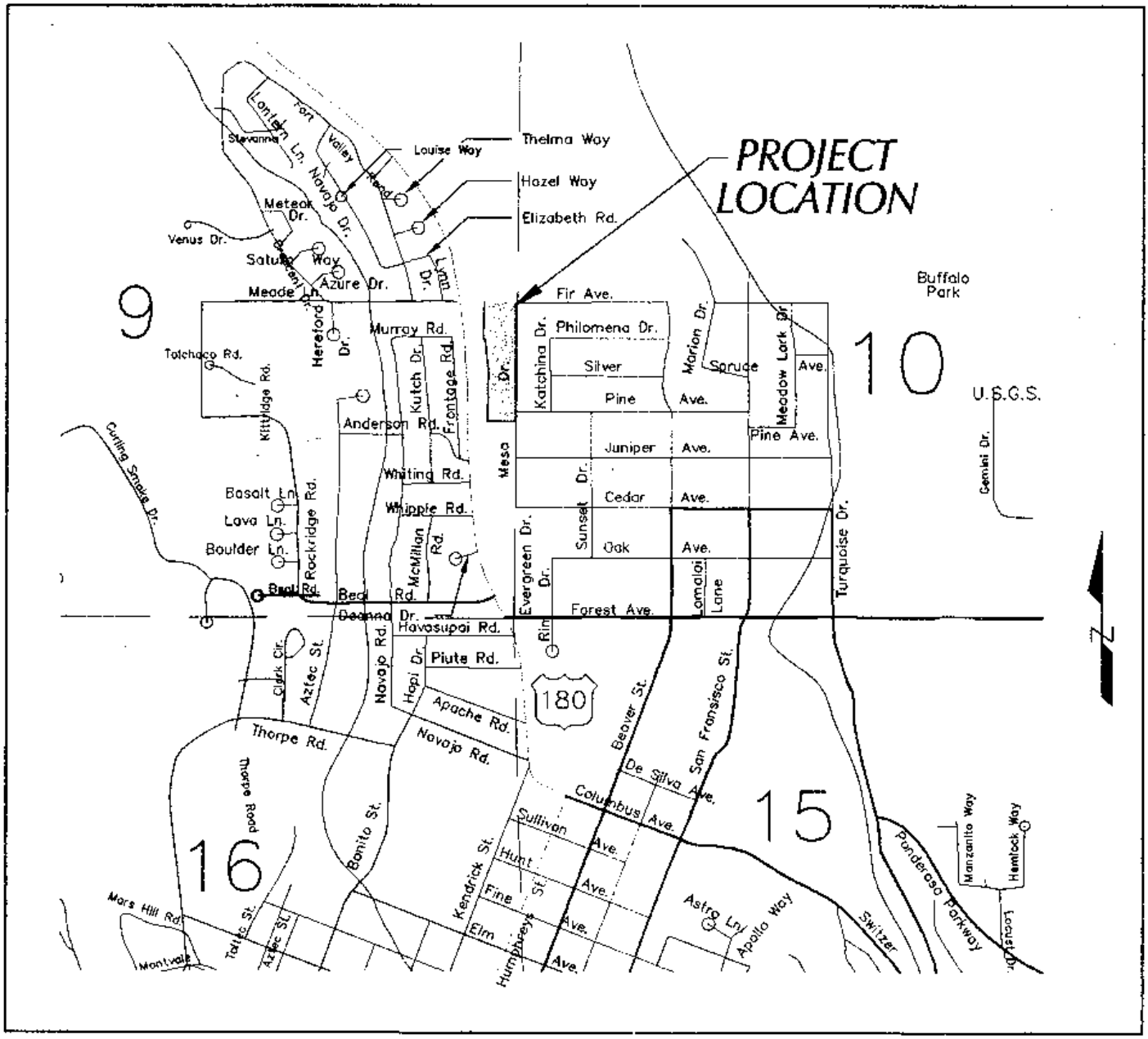
[signature] 5-1-08
Property Owner's Signature Date

K/Users/Dump/Community Development Forms/

* 12

Rev. 2/3/06

PRELIMINARY PLAT
FOR
ANTELOPE RIDGE



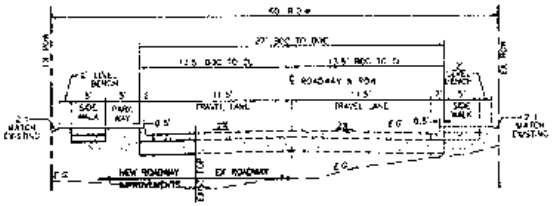
VICINITY MAP

N.T.S.

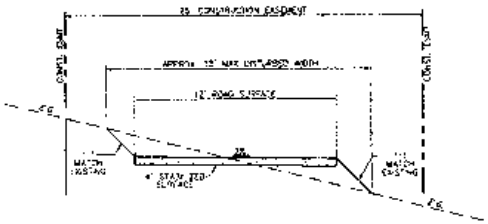
12A

PRELIMINARY PLAT
FOR
ANTELOPE RIDGE

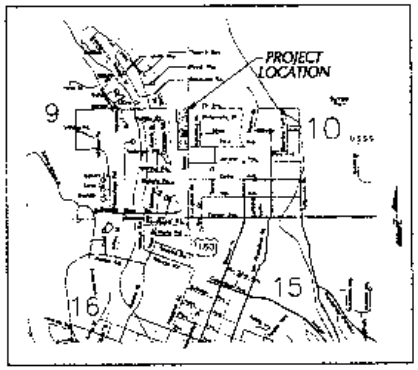
A PROPOSED SUBDIVISION OF 5.23 ACRES.
DOCKET 1800 PAGE 525.
LOCATED IN THE SE 1/4 OF SECTION 9, T21N, R7E, G. & S.R. M.,
FLAGSTAFF, ARIZONA



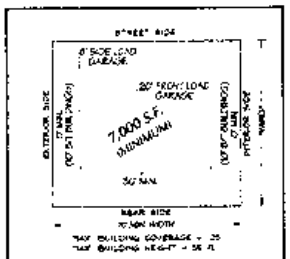
TYPICAL PUBLIC ROADWAY SECTION (60' R.O.W.)
N.T.S.



TYPICAL CONSTRUCTION ACCESS CROSS SECTION
N.T.S.



VICINITY MAP
N.T.S.



TYPICAL LOT SIZE & SETBACKS
UR ZONING
PLANNED OPTION LOT LINE HOUSE

MISCELLANEOUS INFORMATION

STORMWATER

It is anticipated that each of the individual Lots will provide private on-lot stormwater mitigation facilities (detention basin). These stormwater mitigation facilities will be maintained by the individual lot owner.

UTILITIES

WATER, SEWER AND DRY UTILITIES ARE EXISTING AND LOCATED ALONG THE PARCEL FRONTAGE OF MESA DR. ALL LOTS WILL GRAVITY FLOW SEWER TO THE MAIN LOCATED IN MESA DRIVE.

CERTIFICATION

SURVEY INFORMATION SHOWN HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

PROJECT INFORMATION

SUBDIVISION NAME: ANTELOPE RIDGE
NUMBER OF LOTS: 9
ACREAGE: 5.23
APN NUMBER: 102-07-002
ZONING DISTRICT: UR
PROPOSED USE: SINGLE FAMILY RESIDENTIAL
OWNER DEVELOPER: ANTELOPE RIDGE INVESTMENTS LLC
P.O. BOX 1835
FLAGSTAFF, ARIZONA 86002
(928) 774-5577

UTILITY COMPANY ACKNOWLEDGMENT

By Letter — 10/23/06
UNISOURCE ENERGY SERVICES — DATE

By Letter — 04/27/06
QWEST COMMUNICATIONS — DATE

By Letter — 10/24/06
ARIZONA PUBLIC SERVICE — DATE

By Letter — 04/27/06
NPG CABLE — DATE

BULK USE AND DESIGN GUIDELINES

(C.O.F. L.D.C. 10-06-00-0001 "BULK USE STANDARDS")

B. LOT LINE HOUSE - THIS DWELLING TYPE CONSISTS OF A SINGLE-FAMILY, FULLY DETACHED RESIDENCE LOCATED ON AN INDIVIDUAL LOT WHICH IS SET WITHIN THE BUILDING FOOTPRINT OF THE LOT LINE. EITHER A THE 10 FOOT WIDE MAINTENANCE EASEMENT (TO ALLOW ACCESS AND PERMIT THE MAINTENANCE OF THAT PORTION OF THE PROPERTY WHICH HOUSES THE PROPERTY LINE) SHALL BE PROVIDED FOR THE NEIGHBORING PROPERTY, OR THE LOT LINE HOUSE MAY BE SET BACK 10 FEET FROM THE LINE, OR A USE EASEMENT MAY BE GRANTED TO THE ADJACENT LOT OWNER TO ALLOW FOR PROPERTY MAINTENANCE OF THAT PORTION OF THE PROPERTY LOCATED ON THE PROPERTY LINE. A LOT LINE HOUSE IS PERMITTED ONLY IN PLANNED DEVELOPMENTS AS PROVIDED IN SECTION 10-04-01-0001 AND CONFORMING TO THE RESIDENTIAL PERFORMANCE STANDARDS SET FORTH IN SECTION 10-04-02-0003 AND TABLE 10-04-02-0003.

(C.O.F. L.D.C. 10-16-00-0001 "ADMINISTRATION AND PROCEDURES")

F. SUBDIVISIONS - ALL APPLICATIONS FOR RESIDENTIAL AND NON-RESIDENTIAL SUBDIVISIONS, PER THE REQUIREMENTS AND PROCEDURES ESTABLISHED IN SECTION 10-11-00-0001 OF THE LAND DEVELOPMENT CODE, MUST COMPLY WITH THE GUIDELINES AS OUTLINED BELOW.

1. UNIT OF COMPLIANCE WITH GUIDELINES - ALL APPLICATIONS INVOLVING A SINGLE FAMILY DETACHED, COMMERCIAL OR INDUSTRIAL SUBDIVISION MUST ADDRESS LEVEL 1, NEIGHBORHOOD DESIGN GUIDELINES AS THEY APPLY TO SUBDIVISIONS. APPLICANTS MUST ADDRESS LEVEL 2, TOWNHOUSES, CONDOMINIUMS MUST ADDRESS LEVEL 2, NEIGHBORHOOD DESIGN, LEVEL 2, SITE DESIGN AND LEVEL 3, BUILDING DESIGN GUIDELINES.

SHEET NO. 1 OF 2

C.O.F. DRB # 06-112

Mogollon Engineering & Surveying
4 W. Cherry Ave., Flagstaff, AZ 86001
P.O. Box 1150, Flagstaff, AZ 86002
Phone 928-774-1214 • Fax 928-773-1365

ANTELOPE RIDGE
PRELIMINARY PLAT

04/30/06
FTE06-06604

DATE: 12-20-2005
PROJECT NO. 05-04
DRAWN BY: M.A.S.
FIL. SURVEY BOOK
DRAWN BY: M.A.S.
FIELD BOOK N/A
CHECKED BY: R.V.H.
CHECKED BY: R.V.H.
SITE PLAN
SITE PLAN

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WHEN RECORDED, RETURN TO:
Ann D. Pollock
P. O. Box 1835
Flagstaff, AZ 86002

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR THE ANTELOPE RIDGE SUBDIVISION

This Declaration of Covenants, Conditions, and Restrictions for Antelope Ridge subdivision is made as of _____, 2008, by Antelope Ridge Investments, L.L.C.("Declarant").

RECITALS

A. Declarant is the owner of certain real property located in the City of Flagstaff, County of Coconino, State of Arizona, which is legally described as follows:

> Lots 1 through 9, inclusive, and Tracts A and B, Antelope Ridge, according to the plat of record being instrument _____ Official Records of Coconino County, Arizona.

B. Declarant desires to provide for the sale of the Lots which comprise the Property and for the subsequent construction of single-family residences on those Lots. The Declarant desires to establish covenants, conditions and restrictions upon the Property, and each and every portion thereof, and certain mutually-beneficial restrictions and obligations with respect to the proper use, occupancy and enjoyment of the Property, all for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property and enhancing the quality of life within the Property. Declarant intends that this Declaration will facilitate a general plan for development for the Property.

NOTE: This Declaration imposes certain building requirements on the lots. See Section 6.

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DECLARATION

Now, therefore, Declarant declares that the Property and all Lots and tracts which comprise the Property shall be held, sold, mortgaged, encumbered, leased, rented, used, occupied, improved, and conveyed subject to the following reservations, easements, limitations, restrictions, servitudes, covenants, and conditions (collectively, the "covenants and restrictions"). The covenants and restrictions are intended to be real covenants which touch and concern the Property and all Lots and which effect the physical use and enjoyment of the Property and all Lots. The covenants and restrictions are established for the purpose of protecting the value, attractiveness, and desirability of the Property and all of the Lots. The covenants and restrictions shall benefit, burden, and run with the title to the Property and each Lot and shall be binding upon and shall be enforceable by all parties having or acquiring any right, title, or interest in all or any part of the Property, and their heirs, successors, and assigns. The Declarant further declares as follows:

SECTION 1. DEFINITIONS

1.1 "Architectural Committee" shall mean the Declarant or its designees through the Declarant Control Period.

1.2 "Building Envelope" shall mean the development envelope (if any) for each Lot as depicted on the Plat.

1.3 "Declarant" shall mean Antelope Ridge Investments, L.L.C., and its successors and assigns.

1.4 "Declarant Control Period" shall mean that period of time commencing on the date hereof and expiring on the date when all of the Lots have completed residences.

1.5 "Declaration" shall mean this Declaration of Covenants, Conditions, and Restrictions for Antelope Ridge and the covenants and restrictions set forth in this document, as may be amended from time to time.

1.6 "Detached Dwelling Unit" shall mean all buildings which are located on a Lot and which are used or are intended to be used for Single Family Residential Use.

1.7 "Lots" shall mean each and every Lot designated on the Plat which is subject to this Declaration.

1.8 "Majority" shall mean those Owners whose Lots constitute five (5) or more Lots within the Property.

1.9 "Mortgage" and "mortgage" shall mean the conveyance or assignment of any Lot, or the creation of a lien on any Lot, to secure the performance of an obligation, and shall mean the instrument evidencing the obligation. All references to a "Mortgage" or "mortgage" shall include deeds of trust, mortgages, assignments, or any other agreements for the purpose of creating a lien to secure an obligation or duty.

1.10 "Owner" shall mean the record owner, whether one or more persons or entities, of fee simple legal title to any Lot. An "Owner" shall not include those persons having an interest merely as security for the performance of an obligation or duty (e.g., mortgagee). In the case of a Lot in which fee simple title is vested of record in a trustee pursuant to Arizona Revised Statutes, §§ 33-801, et seq., the "Owner" of the Lot shall be deemed to be the trustor. In the case of a Lot covered by an Agreement for Sale of Real Property as described in A.R.S., §§ 33-741, et seq., the buyer of the Lot shall be deemed to be the "Owner." Unless the context otherwise requires, the term "Owner" shall include the Declarant.

1.11 "Person" and "person" shall mean a natural person, a corporation, a limited liability company, a partnership, a trust, or other legal entity.

1.12 "Plat" refers to the subdivision plat for "Antelope Ridge" recorded in Coconino County, Arizona, as referenced on page one hereof and as it may be amended from time to time.

1.13 "Property" shall mean the real property described in Recital A of this Declaration, together with all buildings, improvements, and other fixtures of whatever kind now or hereafter located thereon, and all easements, rights, appurtenances and privileges belonging or in any way appurtenant thereto (or any part thereof). All references to the term "Property" will be deemed to refer to all of the Lots and Tracts.

1.14 "Single Family" shall mean a group of one or more persons each related to the other by blood, marriage, or adoption, or a group of not more than three

(3) adult persons not all so related who maintain a common household in a Detached Dwelling Unit located on a Lot.

1.15 "Single Family Residential Use" shall mean the occupation or use of a Detached Dwelling Unit and Lot by a Single Family in conformity with the requirements imposed by applicable zoning laws or other state, county, or municipal rules, ordinances, codes, and regulations.

1.16 "Tract" shall mean the Tracts as depicted and designated on the Plat.

SECTION 2. GENERAL COVENANTS

2.1 Personal Obligation. Each Owner of a Lot, by acceptance of a deed for that Lot (whether or not it is expressed in the deed or conveying instrument) or by otherwise becoming an "Owner," will be deemed to have personally covenanted and agreed to be bound by all covenants and restrictions contained in this Declaration. This personal covenant of each Owner shall be in addition to the real covenants created by this Declaration, and this personal covenant shall not limit or restrict the intent that this Declaration benefit and burden the Property and all Lots and run with title to the Property and all Lots.

2.2 Landscaping. Each Owner of a Lot and their respective tenants, if applicable, must maintain all landscaping located on the Lot in a clean, safe, neat, and attractive manner. Each Owner of a Lot shall keep all shrubs, trees, grass, plantings, and landscaping located on that Owner's Lot (including those located in easement or setback areas, if any) neatly trimmed, properly cultivated, and free from trash and other unsightly material, taking into consideration the natural vegetation located on a Lot.

2.3 General Standards. Each respective Owner of any one of the Lots shall maintain the Detached Dwelling Unit and all other areas located on that Owner's Lot at a level of general maintenance at least equal to the prevailing levels of maintenance in areas of a similar nature located in residential communities commonly and generally deemed to be of highly-desirable quality.

2.4 General Plan. All covenants and restrictions contained in this Declaration are intended to be in furtherance of a general scheme or plan of development. This Declaration has been executed by Declarant for the benefit of all

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subsequent purchasers of any one of the Lots and not merely for the benefit of Declarant and the initial Owners of the Lots.

2.5 Leasing. Whether or not expressly set forth in this Declaration, each covenant and restriction shall be binding not only on the Owner of a Lot but on that Owner's tenant, and no Owner shall be relieved of responsibility for compliance with this Declaration by reason of the rental of the Lot or Detached Dwelling Unit. Any lease of a Lot or any part thereof (including a Detached Dwelling Unit) must be in writing and must provide that the lease is subject in all respects to the provision of this Declaration, and that any failure by the tenant to comply with the terms of this Declaration shall be a default under the lease.

SECTION 3. USE RESTRICTIONS

In addition to all other covenants and restrictions contained in this Declaration, the use of Lots and the use of the Detached Dwelling Unit and all other improvements located (either temporarily or permanently) on a Lot, are subject to the following:

3.1 Restricted Use. Except as expressly provided in Section 3.2 of this Declaration, a Lot shall be used only by a Single Family and only for Single Family Residential Use. All construction on any Lot shall be restricted to Single Family houses and related improvements utilized in connection therewith.

3.2 Business and Related Uses. No Lot or Detached Dwelling Unit shall be used, directly or indirectly, for any business, commercial use, manufacturing, industrial use, vending, or other similar purposes; however, Declarant, and/or its agents, successors, or assigns, may use the Property for any of the foregoing uses as may be required, convenient, or incidental to the sale of Lots and construction of any improvements thereon. The foregoing restriction shall not be deemed to prevent an Owner from conducting his or her personal affairs on the Lot or in the Detached Dwelling Unit and shall not be deemed to prevent an Owner from using the Detached Dwelling Unit for business purposes which: (i) utilize a minimal portion of the Detached Dwelling Unit; (ii) do not result in the use of the Detached Dwelling Unit for business meetings or appointments; and (iii) do not otherwise violate local zoning and use laws.

3.3 Signs. No emblem, logo, sign, or billboard of any kind shall be displayed to the public view on any Lot, except for: (i) one sign not more than thirty-six (36) inches by twenty-four (24) inches in size, advertising the Lot for sale, placed in a reasonable location on the Lot; and (ii) any signs as may be required by legal proceedings; and (iii) temporary political signs during the 60 days preceding an election.

3.4 Noxious or Offensive Activities. No noxious or offensive activity shall be permitted on any Lot. No act or use may be done on any Lot which is an annoyance or nuisance to the Property generally or to the other Owners of Lots specifically, or which, in any way, interferes with the use and quiet enjoyment of any Lot by any Owner, or which increases insurance rates on policies maintained by any Owner with respect to any Lot.

3.5 Restricted Residences. No temporary structure, mobile home, manufactured home, tent, shack, garage, barn, or other similar item or building (excluding temporary construction trailers utilized in the construction of a Detached Dwelling Unit) shall be temporarily or permanently placed, maintained, or used on any Lot at any time, unless (i) in conformity with Section 3.6, or (ii) the item or building is permanently affixed to the Lot and is located behind the front line of the Single Family Residence and is located within the Building Envelope.

3.6 Vehicles and Recreational Equipment. No commercial equipment, shall be kept on any street (public or private) or on any Lot (including any driveway thereon) unless: (i) the equipment is not visible from neighboring property; or (ii) the equipment or vehicle is kept on a nonrecurring and temporary basis. No inoperable vehicle shall be stored or parked on any Lot, driveway or street so as to be visible from neighboring property. Snowmobiles, motorcycles, trailbikes, minibikes, all-terrain-vehicles, mopeds or similar vehicles may not be used or operated within the Property, except that any such vehicle lawfully licensed for use on public roadways may be used for the limited purpose of ingress or egress to a Lot.

3.7 Animals. No animals, livestock, or fowl of any kind shall be raised, bred, or kept on any Lot or within any structure located on a Lot; however, an Owner may keep a reasonable number of dogs, cats and other commonly-accepted household pets on or within an enclosed portion of the rear yard of any Lot or in the Detached Dwelling Unit. Each Owner of a Lot and the Owner's tenant, if applicable, shall be responsible for the immediate removal and disposal of the waste or excrement of all pets permitted to be kept on the Lot and shall be responsible for

ensuring that the pets do not cause an annoyance or nuisance to other Owners. Each Owner of a Lot also shall be liable for all damage caused by that Owner's pets or the pets of their tenants to any other Owner or any other Owner's Lot or Detached Dwelling Unit, or property.

3.8 Trash. All rubbish, trash, and garbage shall be regularly removed from all Lots by their respective Owners and their tenants, if applicable, and shall not be allowed to accumulate on any Lot. No incinerators shall be kept or maintained on any Lot. No refuse pile, garbage or unsightly objects shall be allowed anywhere on a Lot.

3.9 Screening and Fencing. Woodpiles, storage sheds, and storage areas may not be maintained upon any Lot, unless located in the rear yard. Sheets, newspapers, foil, and similar items may not be used as window coverings on any Lot.

3.10 Antennas. No external radio or television antenna or satellite dish larger than thirty (30) inches in diameter or taller than thirty six inches (36") above the highest point of the Detached Dwelling Unit may be installed or constructed on any Lot in a manner that will make the external radio or television antenna or satellite dish visible from neighboring property.

3.11 Restriction on Further Subdivision. No Lot shall be further subdivided or separated into smaller lots or parcels by any Owner, and no portion less than all of the Lot shall be conveyed or transferred unless a Lot is being divided and formally combined with the adjacent Lots so as to create fewer but larger Lots. No Owner shall transfer, sell, assign, or convey any time share (as defined under Arizona law) in any Lot and any such transaction shall be void.

3.12 Diseases and Insects. No Owner shall permit any condition to exist upon any Lot which might induce, breed, or harbor infectious plant diseases or infectious or noxious insects.

3.13 Repair of Buildings. No building or structure located upon any Lot shall be permitted to fall into disrepair, and every building and structure shall be kept at all times in good condition and repair and adequately painted or otherwise finished.

3.14 Safe Condition. Without limiting any other provision in this Section, each Owner shall maintain and keep his Lot at all times in a safe, sound and sanitary condition and repair and shall correct any condition or refrain from any activity which might interfere with the reasonable enjoyment by other Owners (including their tenants, guests, family members and invitees).

3.15 Fires; Fire Protection Standards. Other than barbecues in properly constructed barbecue pits or grills, no open fires shall be permitted on the Lots, nor shall any other similar activity or condition be permitted which would tend to increase the insurance rates for other Owners, except as may be necessary for maintenance of the property.

3.16 Hazardous Wastes. Except as may be necessary for normal household, landscaping, or automotive uses, no Owner shall permit any hazardous materials (as defined under all applicable federal and state laws) to be kept, maintained, stored, or used in, on, or over any Lot.

3.17 Clothes Drying Facilities. Outside clotheslines or other outside facilities for drying or airing clothes shall not be erected, placed, or maintained on any Lot unless they are erected, placed, or maintained in such a manner as to not be conspicuously visible from the street.

3.18 Fences and Walls. No side or rear fence and no side or rear wall, other than the wall of the Detached Dwelling Unit constructed on a Lot, if any, shall be more than six (6) feet in height. For purposes of this Declaration, a side or rear fence or wall shall be called a "Fence" or "Fences." Notwithstanding the foregoing, any prevailing governmental regulations shall take precedent over these restrictions if the governmental regulations are more restrictive. All fences must be erected in a good and workmanlike manner. All Fences shall be maintained in good condition and repair, and Fences, upon being started, must be completed within a reasonable time not exceeding one (1) year from commencement of construction. No fences exceeding three (3) feet in height are allowed between the front property line of a Lot and the Detached Dwelling Unit on that Lot.

3.19 Underground Service. No wires, lines, or other devices for the communication or transmission of electric current or power, including telephone, television, cable television, and radio signals, shall be erected, placed, or maintained

anywhere in or upon any Detached Dwelling Unit or Lot on the Property unless the lines, wire, or other devices are contained in conduits or cables installed and maintained underground or concealed in or on buildings or structures.

3.20 Declarant's Exemption. Nothing contained in this Declaration shall be construed to prevent the erection or maintenance by Declarant, or its duly authorized agents, of structures, improvements or signs necessary or convenient to the construction, development, identification, or sale of Lots or other property within the Property.

SECTION 4. ARCHITECTURAL CONTROL

4.1 Architectural Approval. No building (including a Detached Dwelling Unit), fence (including any Fence described in Section 3.22), solar collector, awning, ramada, outbuilding, or other improvement or structure shall be commenced, erected, constructed or maintained upon any Lot, nor shall any exterior addition to or change or alteration therein be made, until plans and specifications showing the nature, kind, color, shape, height, materials, floor plan, location, and other material attributes shall have been submitted to the Architectural Committee and approved in writing as to harmony and compatibility of external design and location in relation to surrounding structures and topography.

4.2 Establishment of Architectural Committee. Declarant or its designees, for the Declarant Control Period, shall appoint the Architectural Committee.

4.3 Architectural Committee Rules. The Architectural Committee, by unanimous vote or unanimous written consent, may adopt, amend, and repeal rules and regulations regarding the architectural style, nature, kind, shape, height, materials, exterior colors, surface texture, and location of any improvement on a Lot, which such rules and regulations shall be called the Architectural Committee Rules. The Architectural Committee Rules shall not be inconsistent with this Declaration.

4.4 Decision Period. If the Architectural Committee fails to approve or disapprove in writing a submitted plan of design and location within thirty (30)

days after complete and legible copies of the plans and specifications have been submitted to it, the application shall be deemed to be approved.

4.5 Decisions Final. All decisions of the Architectural Committee shall be final. All structures and improvements must also be in conformity with city building codes and may only be commenced if a proper building permit, if applicable, is issued by the appropriate authority. Any such item installed by the Owner without written consent of the Architectural Committee shall be removed immediately by the Owner, at its sole cost and expense, upon receipt of notice from the Architectural Committee.

4.6 Limited Effect of Approval. The approval by the Architectural Committee of any plans, drawings, or specifications for any work done or proposed, or for any other matter requiring prior written approval by virtue of this Declaration shall not be deemed to constitute a waiver of any requirement or restriction imposed by the City of Flagstaff or any other law or requirement or restriction imposed by this Declaration and shall not be deemed an approval of the workmanship or quality or integrity of the work or the plans and specifications.

SECTION 5. RESERVATION OF AND LIMITATIONS ON EASEMENTS

5.1 Utility and Other Easements. By executing and recording this Declaration, Declarant reserves and creates a blanket easement upon, across, over, and under that portion of each Lot which may be necessary or desirable for the installation and maintenance of electric, telephone, water, gas, cable television, drainage facilities, sanitary sewer, or similar utility lines. This blanket easement shall be for the benefit of Declarant (and its assigns) and any providing utility or service company. This blanket easement shall in no way affect any other recorded easements and shall not interfere with or prevent Detached Dwelling Units from being constructed on a Lot.

5.2 Limitations on Access. No Owner may grant any easement or other rights of ingress, egress and/or access to or from any Lot or Tract described on the Plat on, over or through his or her Lot to any property not a part of the Property without the prior written and recordable consent of a Majority of the Owners, and any such grant without such consent shall be null and void.

5.3 Use of Tract B. Tract B (as shown on the Plat) is for the use of Lot Owners (and their contractors) as temporary construction and maintenance access only. It may not be used as a driveway. No driveway may be built between Tract B and a residence.

SECTION 6. BUILDING REQUIREMENTS

6.1 Drainage. No improvement which increases the impermeable area of any lot will be made until a stormwater retention/detention plan has been submitted and approved in writing as part of the building permit application. Stormwater plans will include a rainwater capture system with a holding capacity of at least 4000 gallons, per the drainage report accompanying the plat, and will be the responsibility of the lot owner to install and maintain. The residence on each Lot must be constructed so that the water drainage from the roof of the residence (and any ancillary buildings and garage) and the driveway must be drained to the detention system. The drainage system must be approved by the City of Flagstaff building department.

6.2 Sewer. Each residence must be designed so that it will have a gravity flow sewer to the sewer main under Mesa Drive. Details are available from the City of Flagstaff building department.

6.3 Minimum Size. Each residence must have a liveable area (excluding garage) of 1,600 square feet.

6.4 Building Area. The City of Flagstaff has restrictions as to construction on sloped land. Consult with the City of Flagstaff building department as to what areas of a Lot may not be disturbed or built upon because of slopes or building envelopes.

6.5 Height Restrictions. No structure may be built on any Lot that exceeds 25 feet in height as measured from the top of the street curb on the east edge of such Lot. Further, no structure can exceed 35 feet in height from the lowest

finished floor elevation to the highest point of the structure. Vent pipes, flues and chimneys shall not be considered part of the structure for this paragraph.

SECTION 7. MISCELLANEOUS PROVISIONS

7.1 Enforcement. Any Owner of a Lot or group of Owners of Lots may enforce at any time all covenants and restrictions contained in this Declaration. As used in this Section, the term "Enforcing Party" shall mean the party entitled to enforce this Declaration, as established in the preceding sentence of this Section. Failure of any Owner of a Lot to enforce any covenant and restriction in this Declaration shall not be deemed a waiver of the right of any other Owner from doing so in the future. Deeds of conveyance of any Lot may incorporate the covenants and restrictions by reference to this Declaration, but, whether or not such reference is made in such deeds, each and every covenant and restriction shall be valid and binding upon all Owners of a Lot and all subsequent grantees. In the event of a breach by any Owner (or the tenant, family, guest, licensee, agent, or invitee of any Owner) of any covenant and restriction contained in this Declaration, the Enforcing Party shall deliver written notice ("Notice") of the violation to the offending Lot Owner ("Offending Lot Owner"). The Offending Lot Owner then shall have twenty-five (25) business days within which to remedy or otherwise cure the breach of this Declaration which is the subject of the Notice. If the breach complained of in the Notice cannot be reasonably expected to be cured within the twenty-five day period, the Offending Lot Owner, within this twenty-five day period, shall commence to cure the breach complained of and shall provide notice of such cure to the Enforcing Party, and shall pursue the cure to completion in a diligent manner and within a reasonable time (no longer than 90 days). The failure of any Offending Lot Owner to timely cure any breach of this Declaration which is the subject of a Notice shall give rise to the right of any Enforcing Party to institute a civil action in any court of competent jurisdiction and seek any remedy available under Arizona law including injunctive relief, specific performance, and damages against the Offending Lot Owner; however, a violation of these covenants and restrictions (or any one or more of them) shall not affect the lien of any Mortgage now of record or which in the future may be placed of record upon any of the Lots. The remedies established in this Declaration may be exercised jointly, severally, cumulatively, successively, and in any order.

7.2 Severability. Invalidation of all or any part of this Declaration by judgment or court order shall not affect the validity of any other provisions of this Declaration, which shall remain in full force and effect.

7.3 Construction. This Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan and scheme for the development of the Lots, including Detached Dwelling Units constructed thereon. Section headings have been inserted for convenience only and shall not be considered or referred to in resolving questions of interpretation or construction. All terms and words used in this Declaration (including any defined terms), regardless of the number and gender in which they are used, shall be deemed and construed to include any other number and any other gender as the context or sense of this Declaration may require, with the same effect as if such number and words had been fully and properly written in the required number and gender. Any reference to this Declaration shall automatically be deemed to include all amendments to this Declaration.

7.4 Notices. Any notice permitted or required to be delivered under this Declaration must be in writing and must be delivered either personally, by certified mail, or by express delivery service. Notices delivered in this manner will be deemed effective even though never actually claimed or received by the Owner, provided they are delivered to the occupant of the Detached Dwelling Unit located on the Lot or mailed by Certified Mail or sent by express delivery service to the street address for the Lot and to the owner's address of record at the Coconino County Treasurer (if different from the Lot address).

7.5 Joint and Several Liability. In the case of joint ownership of a Lot, the liabilities and obligations of each of the joint Owners of the Lot set forth in or imposed by the Declaration shall be joint and several.

7.6 Attorneys' Fees. If an action is instituted to enforce any of the covenants and restrictions contained in this Declaration by either the Declarant or any Owner or any group of Owners, as the case may be, the party prevailing in the action shall be entitled to recover from the other party all attorney fees (in a reasonable amount) and court costs.

7.7 Waiver. The waiver of, or failure to enforce any breach or violation of this Declaration shall not be deemed a waiver or abandonment of any

provision of this Declaration or a waiver of the right to enforce any subsequent breach or violation of this Declaration. The foregoing shall apply regardless of whether any person affected by this Declaration (or having the right to enforce this Declaration) has or had knowledge of the breach or violation.

7.8 Amendment. Until the termination of the Declarant Control Period, Declarant may unilaterally amend this Declaration, and any of the covenants and restrictions contained in this Declaration, for any purpose. After the Declarant Control Period this Declaration and any of the covenants and restrictions contained in this Declaration may be amended only by a written and recorded instrument which is actually signed and acknowledged by the Owners of six (6) of the Lots. To be effective, any proposed amendment must have a uniform effect on all Lots or, if the amendment is not intended to have a uniform effect, must be approved by all Owners upon whom the amendment has an adverse effect. Within thirty (30) days after the recordation of any amendment, the amendment shall be delivered by the recording party to all Owners. The provisions of Section 6 may only be amended with the consent of the City of Flagstaff.

"Declarant"

ANTELOPE RIDGE INVESTMENTS, L.L.C.

By_____
Ann D. Pollock, authorized member

STATE OF ARIZONA)
) ss.
County of Coconino)

The foregoing instrument was acknowledged before me this ___ day of _____, 2008, by Ann D. Pollock, authorized member of Antelope Ridge Investments, L.L.C., who executed the foregoing for the purposes therein contained.

_____
Notary Public

My Commission Expires: