

✓ Minden Ironwood Part  
c/o Doug Pastello  
PO Box 487  
Glenbrook NU  
#9413

DECLARATION OF ESTABLISHMENT  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
AND  
GRANTS OF EASEMENTS

This DECLARATION is made this 21<sup>st</sup> day of MARCH,  
1997, by MINDEN IRONWOOD PARTNERS, a Nevada Limited Partnership  
("Declarant").

R E C I T A L S

WHEREAS, Declarant owns that certain real property  
located in the town of Minden, County of Douglas, Nevada (the  
"Subject Property"), more particularly described in Exhibit "A"  
attached hereto.

WHEREAS, Declarant desires to burden the Subject Property  
to the covenants, conditions and restrictions hereinafter set forth  
and to establish the appurtenant easements hereinafter described,  
pursuant to a general plan for the improvement of the Subject  
Property for the mutual benefit of the present and future owner(s)  
of the Subject Property and their respective heirs, successors,  
assigns, grantees, mortgagees, lessees, tenants and subtenants, so  
that the Subject property and portions thereof subsequently created  
(referred to herein as "Parcels") shall each be subject to this  
Declaration and shall be encumbered and burdened by, and entitled  
to, the benefits of this Declaration. As used herein, an "Owner"  
shall be the fee simple legal title holder of a Parcel or any  
portion thereof.

NOW, THEREFORE, Declarant declares that the Subject  
Property is hereby burdened by the covenants, conditions and  
restrictions hereinafter set forth and the easements hereinafter  
described.

1. Establishment of Restrictions. Declarant declares  
that each lot, Parcel or any portion thereof comprising the Subject  
Property is held and shall be held, conveyed, hypothecated or  
encumbered, leased, rented, used, occupied and improved subject to  
the following limitations, restrictions, conditions and covenants,  
all of which are declared to be in furtherance of Declarant's plan  
for the improvement and sale of such land and are established for  
the purpose of enhancing and protecting the value, desirability and  
attractiveness of the Subject Property in every part. All of the  
limitations, restrictions, conditions and covenants shall run with  
the land and shall be binding on all Owners, entities or persons  
having or acquiring any right, title or interest in the Subject  
Property or any part thereof.

0408981  
BK0397PG3610

2. Easements for Ingress and Egress. Declarant hereby creates, and agrees to grant to subsequent holders of any interest in the Subject Property or any portions thereof, and similarly reserves therefrom, non-exclusive easements appurtenant to the Subject Property for the purpose of ingress and egress along the "Common Access Drives" shown on Exhibit "B" attached hereto, to and between the respective Parcels and the public streets adjoining said parcels.

3. Appointment of Property Manager. The Declarant shall either act as Property Manager of the Subject Property identified in Exhibit "A" or, at its election, it may hire a third party Property Manager (the "Manager"). In the event Declarant is no longer an Owner, a majority (as determined by improved square footage) of the remaining owners shall elect a Property Manager.

The responsibilities of the Manager shall include, but not be limited to, interpretation, enforcement and administration of these Covenants, Conditions and Restrictions. In addition, the Manager shall coordinate and implement the repair, maintenance, billing and enforcement, if necessary, of all common areas or other obligations of the Owners under this Agreement. In this regard it shall be the responsibility of the Manager to bill and collect funds in addition to setting up and maintaining reserves for future maintenance to common areas, common access drives and drainage facilities.

The Managers shall be entitled to reasonable compensation to be paid through the common area budget.

4. Establishment of Annual Budget. The Manager shall send to all Owners a proposed common area budget not later than October 31 of the year preceding the budget period. The common area budget shall include, but not be limited to, common area maintenance expenses and revenue contribution for capital improvements such as resurfacing of parking lots, manager compensation and any other items that, in the sole and absolute discretion of the Manager is necessary and appropriate.

5. Allocation of Common Area Costs. Common area costs shall be allocated to each Owner (or any portion thereof) in accordance with that percentage which each Owner's improved square footage bears in relation to the total improved square footage of the Subject Property. Attached hereto as Exhibit "C" and incorporated herein by reference as though set forth more fully is the initial schedule designating the appropriate percentage of common area costs of the various current Owners. Each additional Owner shall be assessed his proportionate share of common area costs in the same method and manner described in this provision.

6. Designation of Common Areas. The areas designated on the attached Exhibit "D" which is incorporated herein by

reference as though set forth more fully are hereby designated common areas of the Subject Property, subject to assessment costs for maintenance, upkeep and repair and any other items described herein.

7. Improvement, Maintenance and Repair, Insurance and Real Property Taxes for the Four (4) Front Parcels.

(a) **Common Access Drives Maintenance and Repair.** Each Owner of a Parcel (or any portion thereof) identified on Exhibit "E" attached hereto and incorporated herein by reference, shall be responsible for the expense of keeping its parcel in good condition and repair, clean and free of rubbish and other hazards to persons using such areas. The maintenance required by this provision shall include, without limitation, the following items:

(i) Removal of all paper, debris, litter, filth, refuse and obstructions from the Common Access Drives, and washing or thoroughly sweeping the Common Access Drives;

(ii) Maintenance of lighting fixtures located within the respective parcels, as necessary, and relamping of lighting fixtures within three (3) days after burnout; and

(iii) Repainting of striping, markers, and directional signs as reasonably necessary on their site, but in no event less often than every five (5) years.

(b) **Insurance.** Each Owner shall be responsible for the expense of insuring its Parcel against occurrences giving rise to liability of the Owners or any of them according to general all risk liability policies in an amount acceptable to the Owners, as determined pursuant to Section 13(i) hereof. Each Owner shall name each other Owner as "additional insureds" under each such insurance policy required to be maintained by the terms of this Declaration. Until decided by the Owners to the contrary, Three Million Dollars (\$3,000,000) of liability insurance shall be carried with respect to the liability of the Owners.

(c) **Taxes.** Each Owner of a Parcel (or any portion thereof) shall be responsible for the payment of all taxes and assessments levied against its own Parcel without the right to reimbursement or contribution by any other Owner of a Parcel.

8. Minimum Parking Requirements. No building or other improvement will be constructed or maintained on any Parcel, unless and until provision is made for the construction and maintenance of motor vehicle parking areas on such Parcel sufficient to comply with the minimum requirements of governmental agencies having jurisdiction in the matter, without the need for a variance.

9. Maintenance of Unimproved Parcels. All Parcels (or portions thereof) which have not been improved with buildings shall be kept by the Owner neat, orderly, and free of any and all debris, weeds, trash or unsightly material until improved and constructed and in compliance with an requirements imposed by local governmental agencies. All Parcels, including unimproved Parcels, shall be maintained by the Owner thereof so as to control and suppress the likelihood of dust being generated from such Parcel. Such dust control measures shall include those measures reasonably necessary to limit the creation of dust, including, but not limited to, hydration or the application of other liquid or spray, or the planting of ground cover.

10. Maintenance and Repair of Improved Parcels. Each Owner shall maintain, or cause to be maintained, the exterior of buildings from time to time located on such Owner's Parcel, in good repair, clean condition, and free of trash and debris. Each Owner shall maintain all landscape and hardscape in a clean, neat and orderly fashion, free of all dirt and debris.

(a) Damage to Improvements. In the event any building, structure or other improvement on a Parcel shall be damaged or destroyed by any casualty, the Owner, lessee or user of the Parcel shall promptly:

(i) repair and/or reconstruct such improvement to the condition which existed prior to the damage or destruction, or

(ii) level such improvement, remove the debris from the Parcel and keep the Parcel neat and orderly as required by Section 5, until subsequently improved.

(b) Insurance of Improvements. At all times during the term of this Declaration, each Owner of a Parcel shall keep improvements on its respective Parcel insured at its sole cost and expense against loss or damage by fire and other perils and events as may be insured against, with such insurance to be for the full replacement cost of the insured improvements, with a deductible no greater than ten percent (10%) of replacement costs. An Owner (or an Owner's tenant with a contractual obligation of repair or rebuild in the event of damage or destruction) may satisfy the insurance

requirements of this Section 6(b) through a blanket insurance policy or policies.

- (i) Each Owner shall provide to each other Owner certificates, upon written request, evidencing the fact that the requisite insurance has been obtained.
- (ii) Each Owner for itself and its property insurer, shall release each other Owner and their proper insurers from and against any and all liabilities, claims, causes of action, obligations, demands, damages, losses, costs, or expenses, including attorneys' fees and costs, for damage to the other Owner's property or loss of rents or profits of such Owner resulting from or in any way connected with any fire or other casualty whether or not such fire or other casualty shall have been caused by intentional action, negligence or the contributory negligence of the Owner being released or by any officer, agent, employee or associate of the Owner being released, this release being to the extent that such damage or loss is covered by the property insurance which the releasing Owner is obligated hereunder to carry, or, if the releasing Owner is not carrying that insurance, then to the extent such damage or loss would be covered if the releasing Owner were carrying that insurance.

**11. Maintenance and Repair of On-Site Drainage Facilities.** Each Owner shall be responsible for its pro-rata share of the maintenance of all on-site drainage facilities and appurtenances, including any and all sand-oil interceptors. (The "Drainage Improvements"). The Town of Minden shall have the right of entry to effect maintenance or repairs to the Drainage Improvements not completed by the Owners. Any repairs or maintenance that the Town of Minden requests shall be directed to the Manager in the form of a work order with a detailed scope of work and estimate of charges. The Manager will either advise within ten (10) days of receipt of the work scope and estimate of charges from the Town of Minden that the Manager will perform the work itself or agree to have the Town of Minden perform the work. Should the Manager not respond to the notice within ten (10) days, then and in that event, the Manager will be deemed to accept the Town of Minden proposal. Should the Manager accept the work scope, the work shall be performed in a good and workmanlike manner and completed promptly. Should the Town perform the work, it shall do

so in a good and workmanlike manner and completed promptly. Upon completion, the Town shall bill the Manager with the right to lien the entire property for the cost of said maintenance and repairs. This provision may not be amended, modified or terminated without the prior written approval of the Town of Minden, which approval may not be unreasonably withheld.

12. Reservation of Utility Easements. There is hereby granted and reserved non-exclusive easements over each Parcel comprising the Subject Property for the installation, maintenance, repair and operation of public utility services to any buildings or structures now or hereafter situated on any Parcel comprising the Subject Property, including, but not limited to, electricity, gas, telephone, cable television, sewer, water and drainage facilities, together with the right to grant the same. All such facilities and/or installations shall be constructed even with or below the surface of the ground and shall be located within the area designated by the Manager as the "Utility Easements", unless the Owners of the affected Parcels mutually agree on a different location. To the extent that any of the above permitted installations are required to be located above the surface, then such installations shall be located so that there shall be an unimpeded access for vehicles and trucks to and from public streets from and to any buildings situated on any Parcel comprising the Subject Property. In no event, however, shall such facilities be located in such a manner as to hinder or impede the other uses and/or maintenance of any portion of the Common Access Drives provided for in this Declaration. Each Owner shall be responsible for provision of utilities to its own Parcel. No other Owner shall be obligated to pay for the provision or delivery of utilities to another Owner's Parcel, unless such Owners have entered into an explicit written agreement which allocates such obligation.

13. Eminent Domain. The awards and proceeds attributable to eminent domain proceedings on the Subject Property shall be governed as follows:

(a) Owner's Right to Award. Nothing herein shall be construed to give any Owner any interest in any award of payment made to the other Owner in connection with any exercise of eminent domain or transfer in lieu thereof affecting such other Owner's Parcel or giving the public or any government any rights in said parcel. In the event of any exercise of eminent domain or transfer in lieu thereof of any part of the Common Access Drives, the award attributable to the land and improvements of such portion of the Common Access Drives shall be payable only to the Owner thereof, and no claim thereon shall be made by the Owners of any other portion of the Common Access Drives.

(b) **Collateral Claims.** All other Owners of Parcels may file collateral claims with the condemning authority for their losses which are separate and apart from the value of the land area and improvements taken from another Owner.

(c) **Restoration of Common Access Drives.** The Owner of any portion of the Common Access Drives or other improvements to a Parcel so condemned shall promptly repair and restore the remaining portion of the Common Access Drives and the improvements to its Parcel as nearly as practicable to the condition of the same immediately prior to such condemnation or transfer, to the extent that the proceeds of such award are sufficient to pay the cost of such restoration and repair and without contribution from any other Owner.

14. **Mechanics Liens.** In the event any mechanics liens are filed against a Parcel of any Owner, the Owner permitting or causing such lien to be filed shall be obligated either to pay the same and have it discharged of record, promptly, or to take such action as may be required to reasonably and legally object to such lien, or to have the lien removed from such Parcel, and in all events such Owner shall have such lien discharged prior to the entry of judgment for foreclosure of such lien.

15. **Term and Termination.**

(a) The covenants, conditions and restrictions contained in this Declaration shall run with the land and shall be binding upon each and all of the Owners of any part thereof and upon all persons claiming under them. Any easements granted or reserved herein regarding ingress, egress and utility installations shall be perpetual and shall not be affected by a termination of this Declaration.

(b) This Declaration may be canceled, changed, modified or amended in whole or in part only by a written and recorded agreement of a majority (as determined by improved square footage) of the then record fee Owners of all of the lots or Parcels subject to this Declaration. Any such cancellation, change, modification or amendment to this Declaration shall not require the consent or execution by any mortgagee, lessee or subtenant.

(c) This Declaration, executed as of the date hereof, shall take effect only upon, from and after its recording in the Office of the County Recorder of Douglas County.

16. Breach of Obligations by an Owner. If any Owner neglects or refuses to perform its obligations contained in this or any other Section of this Declaration within ten (10) days after delivery of a written notice setting forth such default, the Property Manager (as reflected in paragraph 15, herein) may perform such obligations and shall be entitled to receive from the defaulting Owner its apportioned share of the cost of curing such default. Such apportioned share shall be due and payable within ten (10) days of the delivery of a bill and if not paid, the Owner advancing such costs shall be entitled to recover from the defaulting Owner the amount of such bill, including interest thereon at the maximum legal rate from the date originally due until the date paid, together with reasonable collection costs, including attorneys' fees. A lien shall be imposed on the property of any defaulting Owner for the amount of such cost, to secure payment of the bill and such lien may be foreclosed as provided hereinafter.

17. Enforcement. The obligations provided herein may be enforced by a lien on the parcel so affected and subsequent sale of the property by a notice of delinquent assessment. Such sale to be made by the Manager or any of its authorized officers or attorneys or by another Owner, its authorized officers or attorneys in accordance with the provisions of Covenants numbered 6, 7 and 8 of NRS 107.030 and in accordance with the provisions of NRS 107.080 and 107.090 applicable to the exercise of powers of sale in deeds of trust, or in any other manner provided by law. In exercising the power of sale herein contained, the Manager or Owner shall be deemed to occupy the position of Trustee and Beneficiary and the delinquent parcel owner the position of defaulting Trustor. In addition to the above enumerated items constituting the lien, the Manager or Owner may also realize from the sale the costs of such sale together with a reasonable attorneys' fees. The Manager or Owner may be a bidder at the sale.

18. Miscellaneous Provisions.

(a) Each and all of the foregoing covenants, conditions and restrictions (1) shall apply to and bind the Owners of the Parcels subject to this Declaration and each and all of the Owners of any and all portions of the Subject Property and each and all of their respective heirs, successors, assigns, grantees, mortgagees, tenants and subtenants; (2) are hereby imposed pursuant to a general plan for the improvements and use of the Subject Property and are designed for the mutual benefit of said Owners, tenants and occupants of any and all portions thereof; and (3) shall obligate, inure to and pass with each and every Parcel comprising the Subject Property or any portion thereof and shall remain in force and effect as hereinafter provided.



(b) The legal description of each of the Parcels shall be deemed to include any and all rights, title and interest in that portion of the street, roadway, highway or other public right-of-way abutting or bounding each of said Parcels now or hereafter owned by al persons or other entities who may own said Parcel or any portion thereof or any interest therein and the respective heirs, successors, assigns, grantees, mortgagees, tenants and subtenants thereof. Accordingly, such right, title and interest shall be, in all respects, subject and subordinate to the covenants, conditions and restrictions established by and the easements granted in this Declaration.

(c) Breach of any of the covenants or restrictions contained in this Declaration shall not defeat nor render invalid the lien of any mortgage or deed of trust made in good faith and for value as to the Subject Property or any part thereof; but, all of the foregoing provisions, restrictions and covenants shall be binding and effective against any Owner of any Parcel subject to this Declaration or any part thereof whose title thereto is acquired by foreclosure, trustee's sale or otherwise. The term "mortgagee" wherever used herein shall be construed to include beneficiaries and trustees under deeds of trust.

(d) Any person or persons owning or holding any portion of the Subject Property may prosecute any proceedings at law or in equity against any person or entity violating or attempting to violate any of the covenants, conditions and restrictions herein and either prevent it, him or them from so doing and to recover damages from or on account of such violation.

(e) Invalidation of any one of the covenants, conditions, restrictions or other provisions herein contained by judgment or court order shall in no way affect any of the other covenants, conditions, restrictions or provisions hereof, and the same shall remain in full force and effect.

(f) This Declaration shall create privity of contracts and estate with and among all Owners and grantees of all or any part of the Subject Property and their respective heirs, executors, administrators, successors, assigns, mortgagees, tenants and subtenants thereof. In the event of a breach of attempted or threatened breach by any Owner of any part of the Subject Property of any of the terms, covenants and conditions hereof, any one or all such other Owners of a Parcel subject to this Declaration shall be entitled forthwith

to full and adequate relief by injunction and all such other available legal and equitable remedies from the consequence of such breach. all costs and expenses of any such suit or proceedings, including attorneys' fees as hereinafter provided, shall be assessed against the defaulting Owner until paid, effective upon recording notice thereof in the Office of the Douglas County Recorder, but any such lien shall be subordinate to any bona fide mortgage or first deed of trust covering any portion of the Subject Property, and any purchaser at any foreclosure or trustee's sale (as well as any grantee under a deed in lieu of foreclosure or trustee's sale) under any such mortgage or deed of trust shall take title free from any such lien, but, otherwise, subject to the provisions hereof. The remedies permitted at law or equity of any one or all such Owners specified herein shall be cumulative as to each and as to all.

(g) In the event that suit is brought for the enforcement of this Declaration or as the result of any alleged breach thereof, the prevailing party to such suit shall be entitled to be paid reasonable attorneys' fees and costs by the losing party, and any judgment or decree rendered shall include an award thereof.

(h) The captions heading the various sections of this Declaration are for convenience and identification only and shall not be deemed to limit or define the contents of their respective sections.

(i) All the provisions of this Declaration shall be covenants running with the land pursuant to applicable law. Each covenant to do or refrain from doing some act on the Subject Property or any part thereof [A] is for the benefit of the land of the covenantee, [B] runs with both the land owned by the covenantor and the land owned by the covenantee, and [C] shall benefit or be binding upon each successive Owner during its ownership of any portion of the land affected hereby.

(j) The provisions of this Declaration shall not be deemed to constitute a dedication for public use nor to create any rights in the general public.

(k) Whenever any action or decision may be taken by the Owners pursuant to this Declaration [including modification of the minimum liability insurance applicable to the Common Access Drives pursuant to Section 3(c)], such action or decision must be consented to by Owners of fee simple interest who hold, in the aggregate, more than fifty percent (50%) of the area of the Subject Property. Portions of the Subject Property

dedicated or otherwise transferred to a public or quasi-public body shall not be included within the Subject Property for purposes of this determination, nor will such public or quasi-public body be entitled to vote on such action or decision.

IN WITNESS WHEREOF, this Declaration is executed by the undersigned as of the day and year first above written.

MINDEN IRONWOOD PARTNERS, a Nevada Limited Partnership

By: Douglas P. Rastello

President of Douglas Capital, Inc.  
as General Partner

*Douglas P Rastello*

STATE OF NEVADA )

) ss:

COUNTY OF DOUGLAS )

On the 21 day of ~~February~~ <sup>March</sup>, 1997, before me, the undersigned, a Notary Public in and for said State, personally appeared DOUGLAS P. RASTELLO, <sup>President of Douglas Capital, Inc.</sup> ~~as General Partner~~ of MINDEN IRONWOOD PARTNERS, a Nevada Limited Partnership, known to me to be the person whose name is subscribed to the within instrument and acknowledged that she executed the same.

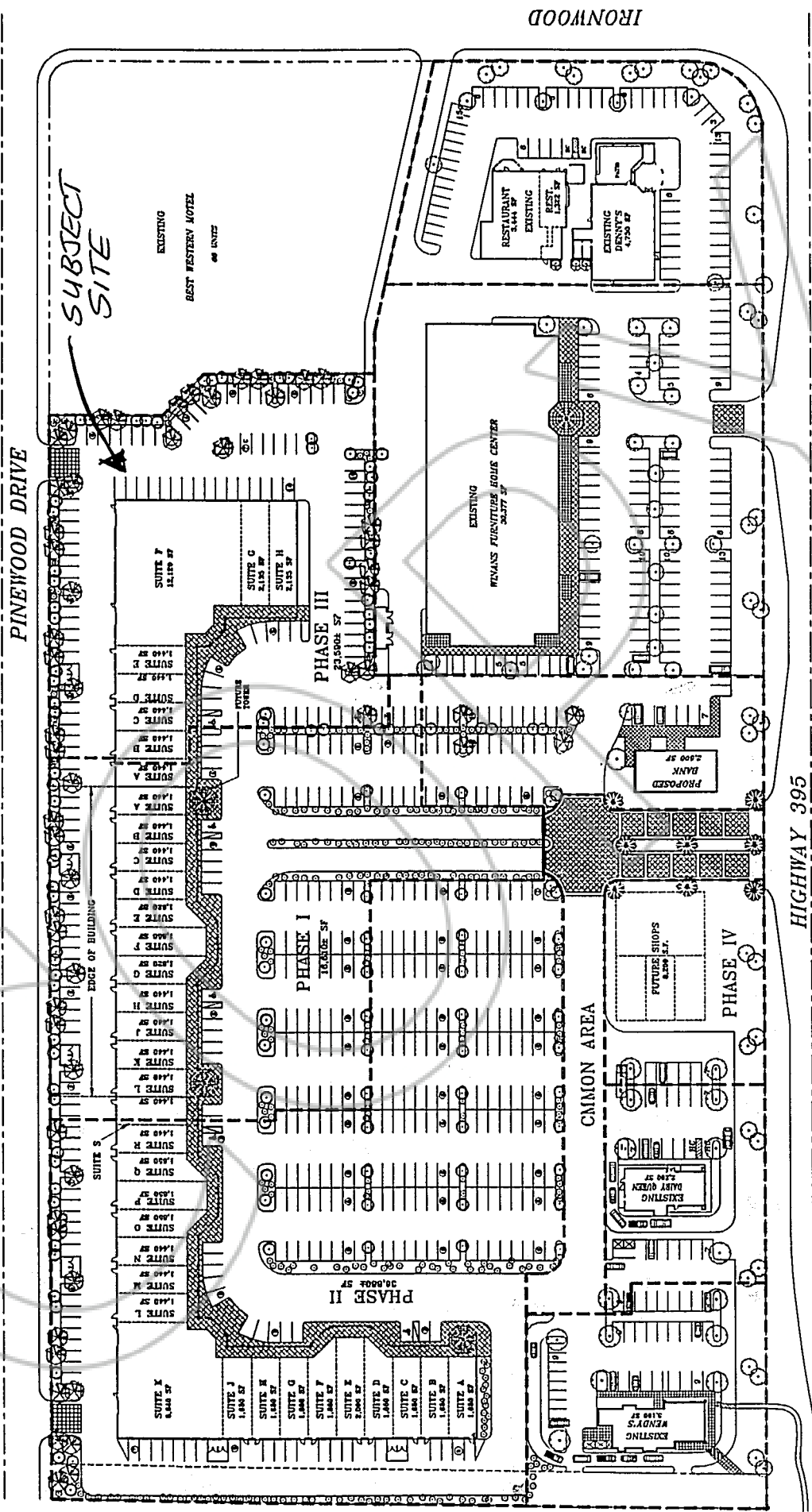
Karen Pawloski  
Notary



0408981

BK0397PG3620

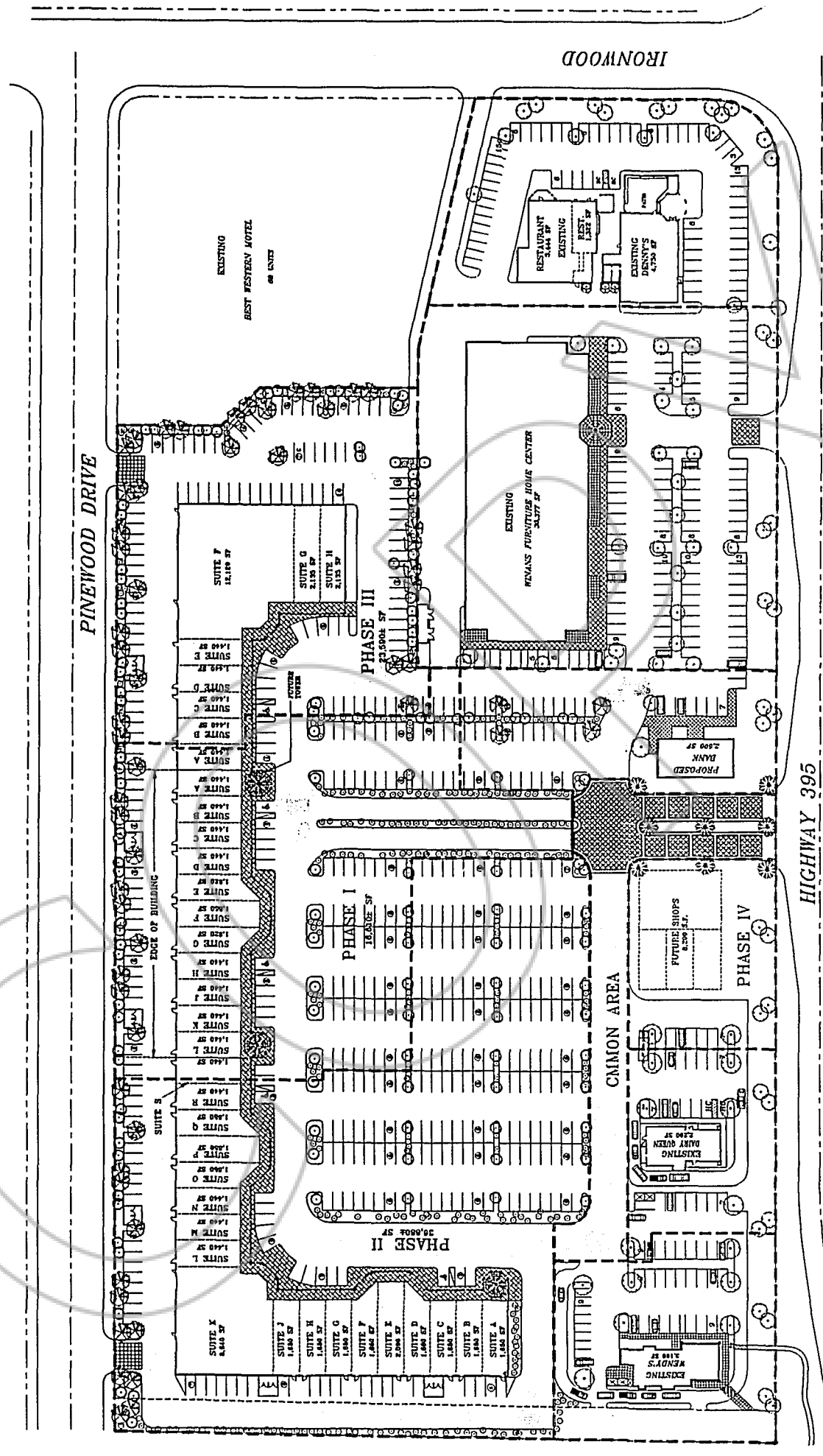
EXHIBIT A - SUBJECT PROPERTY - MINDEN IRONWOOD PARTNERS  
 APN 17-222-11; FINAL SUBDIVISION MAP 2015  
 T13N, R20E, SECTION 30 A COMMERCIAL SUBDIVISION IRONWOOD CENTER  
 PARCEL 4-A-1 10.09 ACRES



0408981  
 BK0397PG3621

EXHIBIT B - COMMON ACCESS DRIVES =

IRONWOOD CENTER  
NORTH



1868981

BK0397P63622

EXHIBIT C  
IMPROVED SQUARE FOOTAGE

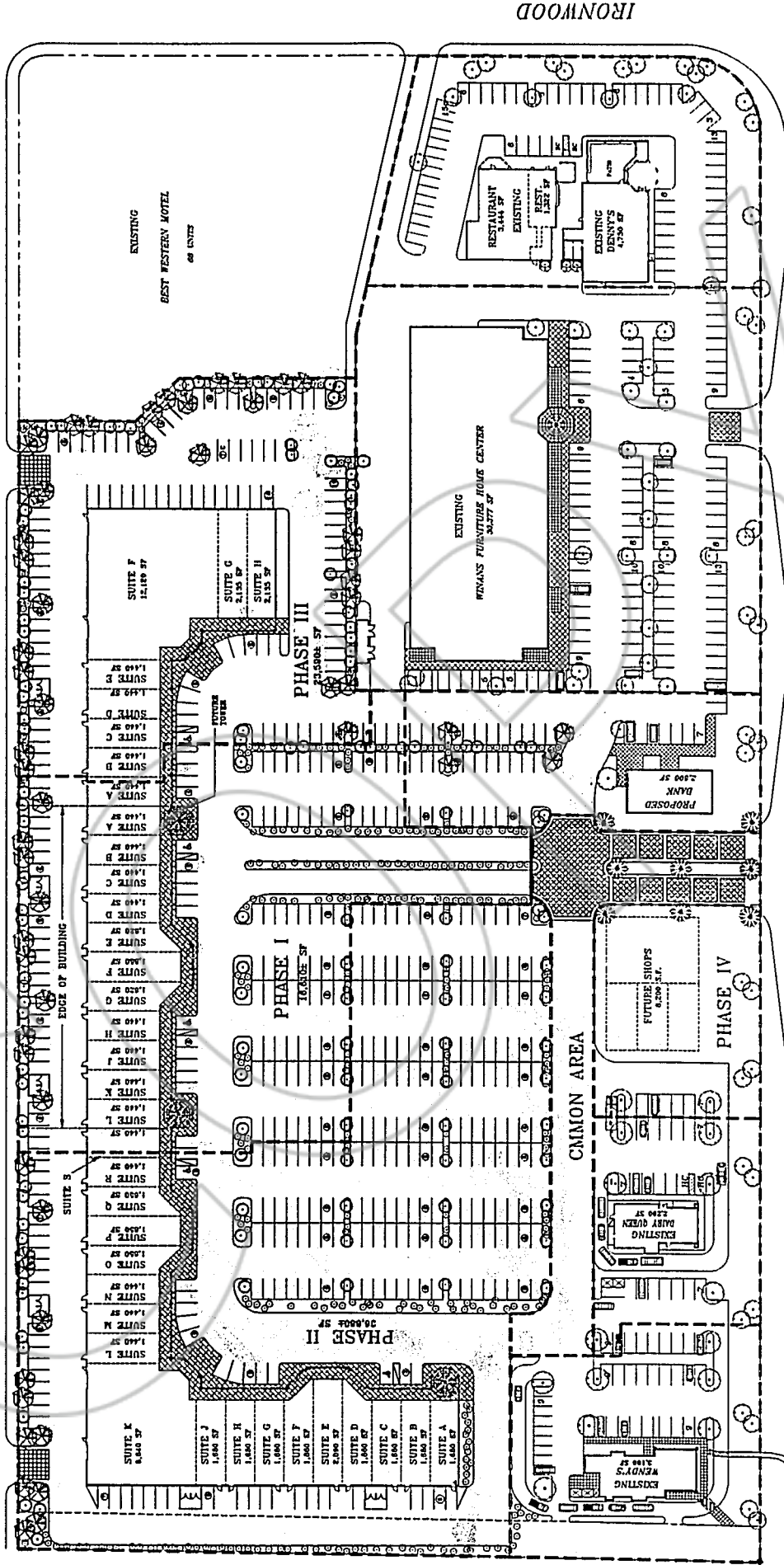
<u>Improved Area</u>	<u>Owner</u>	<u>Percentage</u>
Phase I	16,610 Foothill Development Group, LLC	88.30%
Phase II	0 Foothill Development Group, LLC	0.00%
Phase III	0 Foothill Development Group, LLC	0.00%
Dairy Queen	2,200 Foothill Development Group, LLC	11.70%
"Bank Pad"	0 Foothill Development Group, LLC	0.00%
Phase IV	0	0.00%
<u>Total</u>	<u>18,810</u>	<u>100.00%</u>

COPY

EXHIBIT D - COMMON AREAS

IRONWOOD CENTER 

PINEWOOD DRIVE



IRONWOOD

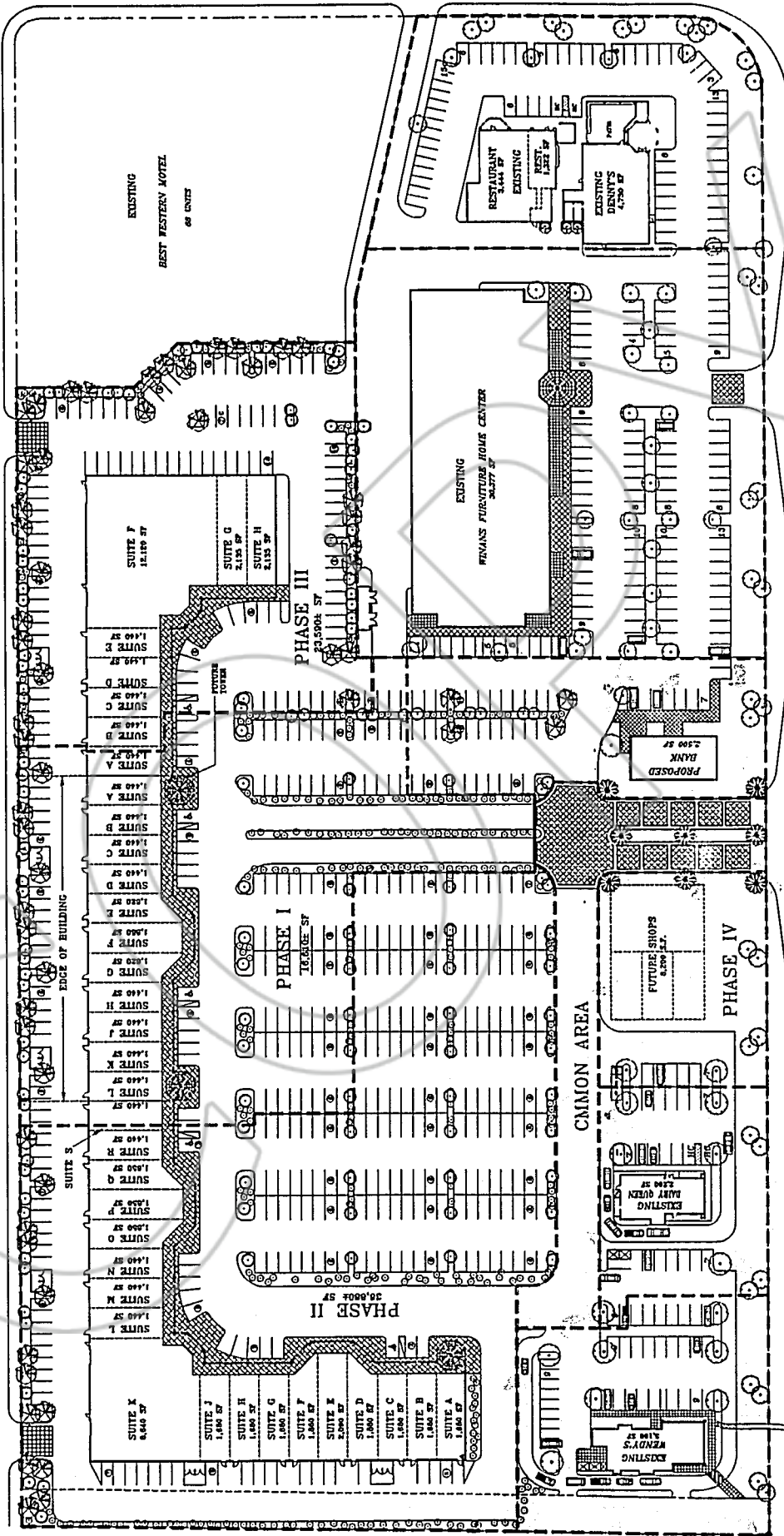
HIGHWAY 395

0408981  
BK0397PG3624

EXHIBIT E - 4 FRONT PARCELS

IRONWOOD CENTER 

PINEWOOD DRIVE



IRONWOOD

HIGHWAY 395

0408981

BK0397PG3625



COPY

REQUESTED BY  
Minden Ironwood Partners  
IN OFFICIAL RECORDS OF  
DOUGLAS CO. NEVADA

'97 MAR 24 P2:24

0408981

BK0397PG3626

LINDA SLATER  
RECORDER  
\$ 23<sup>00</sup> PAID ka DEPUTY