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BROOKE SHAW ZUMPFT

Douglas County - NV  
Werner Christen - Recorder  
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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

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KCD  
CC & R's  
by:

DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION, made on the date hereinafter set forth by KIT CARSON DEVELOPMENT, LTD., a Nevada Limited Liability Company, hereinafter referred to as Declarant,

**WITNESSETH:**

WHEREAS, Declarant is the owner of certain property in Gardnerville, County of Douglas, state of Nevada, which is more particularly described as:

See Map attached hereto as Exhibit A; and

WHEREAS, Declarant wishes to create a community for person over the age of 55 consisting of cottages, condominiums, assisted living facilities and areas for the common use and enjoyment of those persons;

NOW, THEREFORE, Declarant hereby declares that all of the properties described above, shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

Declarant hereby repeals any covenants, conditions and restrictions heretofore recorded against the subject property.



## ARTICLE I

### DEFINITIONS

Section 1. "Association" shall mean and refer to HERITAGE NEVADA HOMEOWNERS ASSOCIATION, its successors and assigns.

Section 2. "Cottages" means Lot numbers 1 – 59 as shown on the attached map.

Section 3. "Cottage Owners Association" shall refer to the Cottage owners, collectively, whether organized as incorporated entity, or not.

Section 4. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot or Unit which is a part of the properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 5. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 6. "Board" shall mean the Board of Directors of the Association.

Section 7. "By-laws" shall mean and refer to the duly adopted By-laws of the Association.

Section 8. "CC&Rs" means this Declaration of Covenants, Conditions and Restrictions.

Section 9. "Common Area" shall mean all real property, including the improvements thereto, owned by the Association for the common use and enjoyment of the owners. The Common Area to be owned by the Association at the time of the



conveyance of the first lot is described as follows:

See map attached hereto as Exhibit "A"

Section 10. "Governing Documents" means these CC&Rs and the Articles of Organization of the association and the duly adopted By-laws.

Section 11. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area and shall include Cottages and Condominiums.

Section 12. "Declarant" shall mean and refer to KIT CARSON DEVELOPMENT, LTD., a Nevada Limited Liability Company, its successors and assigns, if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

## ARTICLE II

### PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (a) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;
- (b) the right of the Association to suspend the voting rights and right to use of the recreational facilities by owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;
- (c) the right of the Association to dedicate or transfer all or any part of



the Common Area free and clear of any easements of quiet enjoyment.

(d) the right of individual owners to the exclusive use of parking spaces as provided in this article, if any.

Section 2. Delegation of Use. Any owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

### ARTICLE III

#### ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

Section 1. Creation of Association. The owners of units shall constitute an Owners Association. Every owner of a lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. Membership. The Association shall have two classes of voting membership:

Class A. Class A members shall be all owners, with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, such persons shall be members. The Vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot. Following the annexation of the condominium units, Class A membership shall be further divided into two (2) separate subclasses for the Cottage owners and the Condominium owners. The votes for each subclass shall be counted separately.

Class B. Class B member(s) shall be the Declarant and shall be entitled to



three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class Membership; or
- (b) on 1 April 2010

ARTICLE IV

AUTHORITY OF BOARD

Section 1. Administration of Project. Prior to the organizational meeting and thereafter, until their successors are elected, the initial Board or its duly appointed successors, shall manage the affairs of the Association. The Board as constituted, from time to time, shall at all times be responsible for the day-to-day operation and management of the affairs of the Association, and shall have the sole power and duty to perform and carry out the powers and duties of the Association, as set forth in the governing documents, except for action or activity expressly set forth in the governing documents or the Nevada Revised Statutes, as requiring the vote or assent of members of the Association, or a given percentage thereof. Without limiting the generality of the foregoing, the Board shall have the following powers and duties:

- (a) To enforce the applicable provisions of the governing documents, the Board shall have the right to adopt reasonable rules and to amend the same from time to time relating to the use of the Common Area and limited common area and any recreational and other facilities situated thereon, by owners and their tenants or guests, and conduct of such persons with respect to automobile maintenance and parking, outside



storage of boats, trailers, bicycles, and other objects, visitors and their length of stay, disposal of waste materials, drying of laundry, control of pets, television and radio antennas, flags signs and other public displays, noise, landscaping, and other activities, which, if not so regulated might detract from the appearance of the community or offend or cause inconvenience or danger to persons residing or visiting therein. Such rules may provide that the owner whose occupants leave property on the Common Area in violation of the rules, may be assessed to cover the expense incurred by the Association in removing such property and storing and disposing thereof. The Board may provide in such rules for reasonable rental charges to be made with respect to the use of any storage areas or facilities which may exist upon the Common Area, provided that such charge shall, in no way, impose liability upon the Directors or any of its members for damage or loss to property so stored, it being intended that the use of any such, storage area or facility be solely at the risk of the person using the same. A copy of such rules and all amendments thereto, shall be mailed to each owner and a copy shall be posted in one or more places on the Common Area where the same may be conveniently inspected.

(b) To pay taxes and assessments which are or could become a lien on the Common Area or some portion thereof.

(c) To delegate its powers to committees, officers, or employees.

(d) To contract for materials and/or services for the Common Area or the Owners Association with the term of any service contract limited to a duration of one year, except with approval of a majority of members of the Association, exclusive of the vote of Declarant.

(e) To maintain the Common Area, all improvements thereon and all



utilities thereunder, except those maintained by public utility companies, in, good, clean, attractive, and sanitary order and repair.

(f) To maintain, repair, and keep in good operating condition that portion of the sewer system, which is located upon the project and which connects to the public sewer.

(g) To operate all recreational equipment and facilities located within the Common Area.

(h) To maintain the portion of the project not occupied by the units in good, clean, attractive and sanitary order and repair.

(i) To pay premiums, taxes and other assessments against the Common Area.

(j) To meet the costs of any liability insurance and fire insurance of Common Area, fidelity bonds, Board of Director errors and omissions insurance, out-of-pocket expenses of the Board relating to the operation of the Association, legal and accounting a fees and, including without limitation, fees of any manager hereinbefore provided and a reasonable reserve for contingencies with respect to the Common Area.

(k) To contract for fire, casualty, liability, and other insurance on behalf of the Owners' Association. The Board shall carry fire insurance with extended coverage endorsement or other form of coverage providing protection equal to or greater than the amount of the full insurable replacement value (as determined by appraisal or such other method as shall be deemed appropriate by the Board and be acceptable to the insurance carrier and reviewed at least annually), of all buildings, structures, and other improvements (including furnishings and equipment related thereto) situated upon the





Common Area excluding trees, shrubs and other foliage, if the Board so elects Such insurance shall be payable to the Board. In the event of damage to or destruction of any building, structure or other improvement situated upon the Common Area, the Board shall cause the same to be repaired, rebuilt or replaced. In the event the cost of such repair, rebuilding or replacement exceeds the, insurance proceeds payable by reason of said damage or destruction, the amount of the difference shall be prorated among the owners and assessed to such owners in accordance with the provisions of Articles VI and X. In the event the amount of such insurance proceeds exceed the cost of such repair, rebuilding, or replacement, the surplus shall be retained by the Association and shall be taken into consideration in determining the amount of the annual assessment for the next budget period. Further, the Board shall carry a blanket policy or policies of casualty insurance with a special form all-risk coverage endorsement, for the full insurable replacement cost, from time to time, of the Common Area and the condominium units (or such other blanket fire and casualty insurances that give substantially equal or greater protection) insuring the Board, the Association, the owner or owners of each unit hereunder and their mortgagee or mortgagees, as their respective interests may appear, against loss due to fire and/or other casualty customarily insured against by homeowners, which policy or policies may provide for separate protection for each unit to the full insurable replacement cost thereof, and a separate loss-payable endorsement in favor of the mortgagee or mortgagees of each unit, if any, and shall contain provisions to the extent possible, protecting against any reduction in the amount of the proceeds payable, as a result of any fire or similar insurance independently carried by any owner of or in respect of any unit. The Board shall carry a policy or policies insuring the Association,



the Board and each and all of the owners and management agent, if any, against any liability to the public or to the owners or any other person, resulting from or incident to, the ownership, management, and use of the project by the Association, the Board, the owners, their invitees and tenants, and members of the public, the liability limits under which insurance shall not be less than \$1,000,000 for the total personal injury from any one accident, \$500,000 personal injury to one person, and \$500,000 for property damage (such limits to be reviewed annually by the Board and increased in its discretion). The Board shall have authority to obtain such errors and omissions insurance or other insurance as it deems advisable, insuring the Board and each member thereof, against any liability for an act or omission in carrying out their obligations hereunder, or resulting from their membership on the Board, or any committee thereof. The premiums for insurance purchased pursuant to the foregoing, shall be payable out of the maintenance fund. If any additional insurance is required due to extra hazardous use made of any unit or because of improvements to any unit installed by its owner, which increases the premiums for the required amount of coverage, the costs thereof shall be assessed to the owner of such unit. In order to facilitate the provision and maintenance of adequate and proper insurance, it is coverage, covering the entire project prior to or concurrently with the financing of such sales and any obligations or commitments for the payment of premiums or expenses otherwise incurred by Declarant, under any such blanket policy or coverage, whether or not the same is also a personal obligation of the purchaser or purchasers of any units, shall become an obligation of the Board and shall be paid out of the maintenance fund as provided herein. The owner of any unit may purchase such fire and casualty insurance as he may deem advisable for his own account and at his own



expense, except that the carrying of any insurance individually by any owner, shall not relieve him of the obligation to pay such portion of assessments as he may be made, from time to time, for the purpose of paying premiums or other charges on fire and casualty insurance carried or contracted for by the Board, for the benefit of the entire project, and provided that, any such insurance shall contain a loss-payable clause in favor of such owner's mortgagee or mortgagees and the Board, as their respective interest may appear. No such insurance coverage or the terms of any such insurance policy shall defeat or contravene the purpose and intent these CC&Rs.

(l) To enter upon any privately owned Lot and any Improvements thereon for the purpose of enforcing any of the provisions of the governing documents or Rules or for the purpose of maintaining and repairing such Lot and any improvements located thereon, if for any reason whatsoever, the owner thereof fails to maintain and repair the same as required by the governing documents.

(m) To send to each member of the Association written notice of regular and special meetings. Except in emergency situations, at least 10 days notice of any meeting shall be provided. The notice shall specify the place, day and hour of the meeting and, in the case of a special meeting, the nature of the business to be undertaken.

(n) The fiscal year shall commence on January 1<sup>st</sup> and shall end on December 31<sup>st</sup>. The Board shall prepare or cause to be prepared a balance sheet and an operating (income) statement for the Association, on a biannual basis, for the periods ending June 30<sup>th</sup> and December 31<sup>st</sup>. The Board shall distribute the balance sheet and operating statement to each of the owners on not less than 90 days after the close of accounting period. The operating statement shall include a schedule of assessments



received and receivable, identified by the number of the unit interest and the name of the owner so assessed. Ordinarily, an audit by an independent accountant shall be required for fiscal year financial statements (other than budgets) for any fiscal year in which the gross income to the Association exceeds \$75,000.

(o) To establish and collect regular monthly assessments to defray expenses attributable to ownership, use and operation of the Common Area and facilities with said assessments to be levied against each owner, including Declarant, according to the fractional interest in the Common Area owned by each owner.

(p) To establish and collect special assessments for capital improvements or other purposes on the same basis as regular assessments.

(q) To file liens against unit owners on account of nonpayment of assessments duly levied and to foreclose said liens.

(r) To receive complaints concerning violations of the Restrictions, By-Laws, and/or other instruments for management and control of the Association; to hold hearings to determine whether or not to discipline members of the Association who violate said management documents to suspend use privileges and voting rights of members who violate said management documents after a hearing on the alleged violation has been held pursuant to the provisions of the By-Laws.

(s) To acquire and hold for the benefit of the unit owners, tangible and intangible personal property and to dispose of same by sale or otherwise.

(t) To bond any members of any management body which participates in management affairs of the Association.

(u) Any professional management body selected by Declarant or by



the initial Board prior to the organizational meeting, shall be employed to manage only until the first annual owners meeting, at which time, the continuance of same or the selection of another body or agent shall be determined by majority vote of the owners, exclusive of the vote of Declarant; neither Declarant nor its agent nor the Board shall enter into any contract which binds the Association for a period in excess of one year, unless said contract is approved by a majority of members of the Association with the following exception: (i) a management contract, the terms of which have been approved by FHA or VA; (ii) a contract with a public utility company if the rates charged for materials or services are regulated by the Public Utilities Commission; provided, however, that the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate; (iii) prepaid casualty and/or liability insurance policies not to exceed three years duration, provided that the policy permits for short rate cancellation by the insured.

(v) The Board shall carry worker's compensation insurance covering all persons employed by it in performance of its responsibilities under this Declaration and may obtain fidelity bonds for such of its employees as it may deem advisable.

(w) With respect to each contract made by the Board for repainting of exterior surfaces of buildings and car storage spaces and each contract for work and/or materials related to maintenance, repair, rebuilding, or replacement of any building, structure, or other improvement situated upon the Common Area, in which the amount to be paid by the Board exceeds \$500, the Board shall secure at least three bids from responsible contractors and shall accept the lowest bid so obtained. The Board shall require from each contractor which it engages, satisfactory evidence that adequate



worker's compensation and liability insurance is carried with respect to the employees and activities of such contractor. In cases where a completion bond is not required, the Board shall require labor and material releases to be furnished by the contractor prior to making payment to same, unless the Board deems such requirements to be impractical or unnecessary to afford protection against liens.

(x) Only with written consent of a majority of the voting power of the Association residing in members, other than Declarant: (i) to incur aggregate expenditures for capital improvements to the Common Area in any fiscal year in excess of 5% of the budgeted gross expenses of the Association for that fiscal year; (ii) pay compensation to members of the Board or to officers of the Association for services performed in the conduct of the Association business; provided, however, that the Board may cause a member or officer to be reimbursed for expenses incurred in carrying on the business of the Association.

(y) To adopt a budget, in accordance with the reserve requirements and other requirements of the Nevada Revised Statutes and the governing documents, and to fix annual assessments accordingly.

## ARTICLE V

### COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such



assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Properties, and for the improvement and maintenance of the Common Area and any improvements situated thereon.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be TWO HUNDRED FIFTY Dollars (\$250.00) per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an owner, the maximum annual assessment may be increased each year not more than five percent (5%) above the maximum assessment for the previous year without a vote of the membership as provided below.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an owner, the maximum annual assessment may be increased above five percent (5%) by a vote of two thirds (2/3rds) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.



Notwithstanding any other restrictions in these CC&Rs, the maximum annual assessment may be increased beyond this limit without a vote of the membership as may be necessary to meet statutory reserve requirements.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum, including any percentage increases as authorized above.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, or to satisfy the Association's obligation with regard to exterior maintenance, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class and subclass of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum For Action Authorized Under Sections 4 and 5. Written notice of any meeting called for the purpose of taking any action authorized under Sections 4 or 5 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class and subclass of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required





quorum at the preceding meeting. No such subsequent meeting shall be held, more than sixty (60) days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly or quarterly basis as determined by the Board of Directors.

Section 7. Date of Commencement of Annual Assessments: Due Dates.

The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of six percent (6%) per annum. The Association may bring an action at law against the owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Area or abandonment



of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

## ARTICLE VI

### ARCHITECTURAL CONTROL

The architectural committee shall consist of the same number of members as constitute the Board and shall be appointed by the Board. The Board may, but need not, serve as the architectural committee. No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the architectural committee. In the event the architectural committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. The Board may adopt reasonable rules and standards for the workings of the architectural committee and the review of matters that come before the committee. Neither the

architectural committee nor any member thereof shall be liable to the Association or to any Owner for any damage, loss or prejudice suffered or claimed on account of any of the committee's activities.

## ARTICLE VII

### USE RESTRICTIONS

Section 1. One use, business usage prohibited. All units in the project above described shall be used solely for single family residences.

Section 2. Management of Unit. The owners of each Lot [exclusive of owners of any condominium units] shall maintain in, good repair, the interiors and exteriors of their units and shall have the exclusive right, at their sole cost and expense, to paint, repaint, tile, wax, paper, or otherwise refinish and decorate the surfaces of the walls, ceilings, floors, windows and doors bounding their respective units. If an owner fails to so maintain his unit or make repairs thereto in such manner as may be deemed necessary if the judgment of the Board, to preserve and protect the attractive appearance and value of the project, the Board shall give written notice to such owner, stating with particularity the work of maintenance or repair which the Board finds to be required and requesting that same be carried out within a period of 60 days from the giving of such notice. If such owner fails to carry out such maintenance or repair within the period specified by the Notice, the Board shall cause such work to be done and shall assess the cost thereof to such owner, such assessment to be due and payable within 30 days after the Board gives written notice thereof.

Section 3. Other structural changes. No owner shall, at his own expense or otherwise, make any alteration, addition or modification to the 'building in which his unit



is located or to any part or portion of the Common Area without the prior written approval of the Board. With respect to the installation of awnings, sunshades, screen doors and other minor installations to any individual unit, the prior written consent of the Board shall be exercised with a view toward promoting uniformity and thereby enhancing the attractiveness of the property as a whole. No radio or television receiving or transmitting antennae or external apparatus shall be installed on or upon any unit, or in, on or upon any part of the Common Area without prior written approval of the Board, which approval may also be set forth in rules or regulations adopted by the Board pursuant to Article IV. Approval of the Board is not required for normal radio and television installations within an individual unit.

Section 4. Signs. The owner of a unit, or his agent, may display a sign of customary and reasonable dimension, advertising his unit for sale or lease, which shall be of a professional type and dignified appearance and shall be placed in some appropriate location, as determined by the Board on the Common Area open to public view. The owner or his agent may include advertising on the sign which indicates that: (a) the property is for sale, lease or exchange; (b) the agent's or owner's name; and (c) the address and telephone number of the agent or owner. Such sign may be the sign of a licensed real estate broker, engaged by an owner for the purpose of selling or leasing his unit. Nothing herein contained shall prohibit or restrict, in any way, Declarant's right to construct such promotional signs or other sales aids on or about any portion of the premises which it shall deem reasonably necessary in conjunction with its original sales program, for a period not to exceed three years after the issuance of the Final Subdivision Public Report.



Section 5. Offensive activity. No owner shall permit or suffer anything to be done or kept upon the project which shall increase the rate of insurance thereon or which shall obstruct or interfere with the rights of other owners or annoy them by unreasonable noises or otherwise, nor shall he commit or permit any nuisance on the project, or commit or suffer any immoral or illegal act to be committed thereon.

Each owner shall comply with all applicable ordinances and statutes and with the requirements of the local and/or state Board of Health with respect to the occupancy and use of his unit.

Section 6(a). Owner liability – Generally. Each owner shall be liable to the Board for any damage to the Common Area or to any of the equipment or improvements thereon which may be sustained by reason of the conduct of said owner or of his family members, his relatives, guests, or invitees, both minor and adult. Said owner shall be assessed by the Board for the cost of repair or replacement thereof, together with costs and attorneys fees, such assessment to be due and payable within 30 days after written notice thereof by the Board. In the case of joint ownership of a unit, the liability of such owners shall be joint and several. In the event of personal injury or property damage sustained by any one person while physically within a unit or private balcony, patio or limited common area thereof, and in the further event the Association or any other owner shall be sued or a claim made against him for said injury or damage, the owner(s) of the units in which said injury or damage shall occur, shall fully indemnify and hold harmless the Association and any such other owners against whom such claim shall be made and shall further defend any such other owners at their own expense in the event of litigation of such claim; provided, however, that such protection shall not extend to any other owner whose own



negligence may have caused or contributed to the cause of any such injury or damage.

Section 6(b). Owner liability – Lessees, Renters, Guests, and Invitees.

It shall be the duty of the owners to comply with these CC&Rs and the Rules and Regulations, including any amendments thereto (“Rules”). It shall also be the duty of the owner to ensure that all persons who occupy his unit comply with these CC&Rs and the Rules.

Any owner who allows another to occupy his unit, whether as a lessee, renter, guest, licensee or otherwise, shall advise such person in writing that the unit, and all persons occupying the unit, are subject to the governing documents and to the Rules and Regulations, including any amendments thereto (“Rules”). It shall be the duty of the owner to provide a written copy of the Rules to any persons occupying the unit. Any lease entered into after the recording date of this amendment shall expressly require the lessee to abide by this Declaration and the Rules.

Section 6(c). Owner Liability – Damages, Costs and Attorney’s Fees.

If a violation of the governing documents or Rules continue after the owner has received written notice of the violation, the owner may be joined in any suit in law or equity, or arbitration or other proceeding, instituted by the Association to enforce the provisions of these governing documents or Rules. In the event that the Association is the prevailing party in any suit in law or equity, or arbitration or other proceeding, instituted to enforce this Declaration or Rules, the owner and the violating party, if not the owner, shall be responsible for damages that shall include costs to correct the violation, if any, and all costs and attorney’s fees associated with the proceedings. These provisions apply regardless of whether the violation was caused by the owner or by some

other person occupying the owner's unit, and regardless of whether the judgment, decision or award was entered against the owner or against a person other than the owner who caused the violation. If any amount awarded to the Association as the prevailing party, whether denoted as damages, costs, attorney's fees or otherwise, shall go unpaid, the same shall be assessed to the owner, and the assessment may be enforced in accordance with Article V of these CC&Rs.

Section 7. Common Area Improvements. No fence, hedges or walls shall be erected and maintained upon the Common Area, except such as are installed in accordance with the initial construction of the building located thereon, or approved in writing by the Board and further, no building, fence, structure, or wall shall be constructed upon any of the open spaces unless approval for such construction has been specifically obtained from the Architectural Control Board of the Association.

Section 8. Child Provision. Each owner shall be accountable to the remaining owners for the behavior and conduct of children visiting the property.

Section 9. Association Maintenance and Decoration Authority. The Board or its duly appointed agent, including the Manager, if any, shall have the exclusive right to paint, decorate, repair, maintain, and alter or modify the exterior walls, balconies, railings, exterior door surfaces, roof and all installations and improvements in the Common Area, and no owner of a unit shall be permitted to do or have done any such work. The prior written approval of the Architectural Committee shall be required for installation of any awnings, sunshades, or screen doors, painting the exterior, replacing doors, roofs or windows, or altering the landscaping. The restrictions set forth herein shall not apply to the initial construction of buildings and improvements by Declarant.



Section 10. Exploration of minerals. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in the project, or within five hundred (500) feet below the surface of the property, and no derrick or other structure designed for use in boring for water, oil, or natural gas, shall be erected, maintained, or permitted upon any portion of the project.

Section 11. All subject to the Declaration. All units in the project above described shall be subject to the terms and conditions of these CC&Rs and any amendments hereto. These CC&Rs shall run with the land, and shall be binding on owners, their heirs, successors and assigns.

## ARTICLE VIII

### AGE RESTRICTIONS

Section 1. Senior Housing Definitions. For purposes of this Article, the following terms shall have the following definitions:

- (a) **Cohabitants:** Persons living together as husband and wife or persons who are domestic partners within the meaning of any governing federal or state law.
- (b) **Permitted Healthcare Resident:** A person hired to provide live-in, long-term, or terminal healthcare to a Senior Citizen or a family member of the Senior Citizen providing that care. The care must be substantial in nature and must provide assistance with necessary daily activities, medical treatment, or both.
- (c) **Qualified Disabled Resident:** A disabled person or person with a disabling illness or injury who is a child or grandchild of the Senior Citizen or a Qualified Permanent Resident who needs to live with the Senior Citizen or Qualified Permanent





Resident because of the disabling condition, illness, or injury. A "disabled" person means a person with a disability as defined in Nevada Revised Statutes § 426.068. A "disabling injury or illness" means an illness or injury that results in a condition meeting the definition of disability in Nevada Revised Statutes § 426.068.

(d) **Qualified Permanent Resident:** A person who satisfies both of the following requirements: (a) the person was residing with the Senior Citizen before the Senior Citizen's death, hospitalization, or other prolonged absence or before the dissolution of marriage with the Senior Citizen; and (b) the person is age 45 or older; was the spouse of the Senior Citizen, was a Cohabitant with the Senior Citizen, or was providing the primary physical or economic support to the Senior Citizen.

(e) **Senior Citizen:** A person age 55 or older.

Section 2. Age Restriction Occupancy Requirements. This Development is designed to provide housing for Senior Citizens and is intended to qualify as a senior citizen housing development within the meaning of. On commencement of occupancy of the dwelling Unit, at least one resident must be a Senior Citizen who intends to reside in the dwelling Unit as his or her primary residence on a permanent basis. All other residents must qualify under one of the following categories: (i) the resident is age 45 or older; (ii) the resident is the spouse of the Senior Citizen; (iii) the resident and the Senior Citizen are Cohabitants; (iv) the resident is providing the primary physical or economic support to the Senior Citizen; (v) the resident is a Qualified Disabled Resident; or (vi) the resident is a Permitted Healthcare Resident. On the death or dissolution of marriage or on hospitalization or other prolonged absence of the Senior Citizen, a Qualified Permanent Resident or Qualified Disabled Resident may continue to reside in the dwelling Unit as

long as at least 80 percent of the occupied residences in the Development are occupied by a person age 55 or older and the continued occupancy by the Qualified Permanent Resident or Qualified Disabled Resident does not reduce the percentage to less than 80 percent so as to disqualify the Development as "housing for older persons" under federal law.

Section 3. Termination of Disability. For anyone who is a Qualified Disabled Resident and the disabling condition ends and the Qualified Disabled Resident does not otherwise qualify to reside in the dwelling Unit under paragraph (b), the Board may require the formerly disabled resident to cease residing in the Development on receipt of six months' written notice; the Board may, however, allow the person to remain a resident for up to one year after the disabling condition ends.

Section 4. Termination of Occupant Rights of a Qualified Disabled Resident. The Board may take action to prohibit or terminate the occupancy by a person who is a Qualified Disabled Resident solely because of a disability if the Board, based on credible and objective evidence, finds that the person is likely to pose a significant threat to the health or safety of others that cannot be ameliorated by means of a reasonable accommodation; provided that the action to prohibit or terminate the occupancy may be taken only after satisfying each of the following conditions:

(i) The Board gives reasonable notice to and an opportunity to be heard for the disabled person whose occupancy is being challenged and reasonable notice to the co-resident parent or grandparent of that person; and

(ii) The Board gives due consideration to the relevant, credible, and objective information provided at the hearing. The evidence shall be taken and held in a



confidential manner under a closed session by the Board to preserve the privacy of the affected person. The affected persons shall be entitled to have present at the hearing an attorney or any other person authorized by them to speak on their behalf or to assist them in the matter.

Section 5. Occupancy by a Permitted Healthcare Resident. A Permitted Healthcare Resident may occupy a dwelling Unit during any period that the Permitted Healthcare Resident is actually providing live-in, long-term, or terminal healthcare to the Senior Citizen for compensation. Compensation shall include provisions of lodging and food in exchange for care. A Permitted Healthcare Resident shall be entitled to continue his or her residency if the Senior Citizen is absent from the dwelling Unit on satisfaction of each of the following conditions:

(i) The Senior Citizen became absent owing to hospitalization or other necessary medical treatment and expects to return to the dwelling unit within 90 days after the date the absence began; and

(ii) The absent Senior Citizen or an authorized person acting for the Senior Citizen submits a written request to the Board stating that the Senior Citizen desires that the Permitted Healthcare Resident be allowed to remain in order to be present when the Senior Citizen returns to reside in the dwelling Unit.

Section 6. Temporary Residency. Nothing in this section shall prohibit the temporary residency of any person under age 55 as a guest of the Senior Citizen or Qualified Permanent Resident. "Temporary residency" shall mean occupancy of a dwelling Unit for no more than 60 days in any consecutive 12-month period.

Section 7. Federal Law Requirements. The Development is also intended to



qualify as "housing for older persons" exempt from the age restriction prohibition in the Federal Fair Housing Amendments Act of 1988 as amended by the Housing for Older Persons Act of 1995 (the "Acts"). To meet the requirements of the Acts, at least 80 percent of the occupied Cottages must be occupied by at least one person age 55 or older; and the Association shall:

(i) publish and adhere to policies and procedures that demonstrate an intent by the Association to provide housing for persons age 55 or older; and

(ii) adopt and implement procedures for the periodic verification of compliance with the age restrictions, including procedures for routinely determining the occupancy of each Lot, including the identification of whether at least one occupant is a Senior Citizen. The procedures shall provide for regular updates at least once every two years.

Section 8. Applicable Law and Amendment Requirements. The provisions in this section are intended to comply with the housing for older persons exemption under the Acts of 1988 and 1995 in effect as of the date this Declaration was recorded in the records of the County. In the event of any conflict between this section and applicable law regulating age restrictions in senior housing developments, the applicable law shall control. If the applicable law is subsequently modified or amended in any manner, this section shall automatically be considered modified and amended in a like manner as necessary to remain in compliance with applicable laws.

## ARTICLE IX

### GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any owner, shall have the right



to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2.     Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3.     Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than seventy-five percent (75%) of each class and subclass of members, and thereafter by an instrument signed by the Secretary of the Association certifying that the amendment has been approved by a vote of not less than seventy-five percent (75%) of each class and subclass of members and that the vote was taken in accordance with the Nevada Revised Statutes and the governing documents of the Association. Any amendment must be recorded.

Section 4.     Annexation. Additional residential property and Common Area may be annexed to the Properties with the consent of two-thirds (2/3) of each class of members.

Section 5.     Alternative Dispute Resolution. Any dispute relating to the interpretation, application or enforcement of these CC&Rs, or any by-laws, rules or

regulations adopted by the Association, or the procedures used for increasing, decreasing or imposing additional assessments, shall be submitted for alternative dispute resolution in compliance with Chapter 38 of the Nevada Revised Statutes.

Section 6. Douglas County has declared it a policy to protect and encourage agricultural operations. If your property is located near an agricultural operation, you may at some time be subject to inconvenience or discomfort arising from agricultural operations. If conducted in a manner consistent with proper and accepted standards, these inconveniences do not create a nuisance for purposes of Douglas County Code.

ARTICLE X  
ANNEXATION

At any time, and from time to time, the Association may annex property to the subdivision and designate it as Common Area or otherwise, and subject the same to the provisions of these CC&Rs. The condominium building as may be shown on a Phase II map will be annexed into the Association upon completion subject only to approval of a majority of the Board. The annexation of any additional property requires the approval of a majority of each class and subclass of members. Such annexation shall become effective when the Association and the owners of the portion of property to be so annexed have executed and recorded in the office of the Recorder of Douglas County, Nevada, a Supplemental Declaration which may consist of more than one document and which shall, among other things:

(a) Set forth a legal description of the real property which is to be annexed, consisting of one or more adjacent parcels, or a portion thereof, and such property shall be referred to as "Added Property";

(b) Declare that such Added Property is held and shall be held, conveyed, hypothecated, encumbered, leased, used, occupied and improved subject to this declaration, and such other limitations, restrictions, covenants or conditions as may be imposed on such Added Property by the Supplemental Declarations. The Association's right to annex Added Property is subject to the restriction that no such annexation shall result in an increase in assessments attributable to such annexation, without the vote of members holding not less than eighty-percent (80%) of the votes eligible to be cast.

(c) Set forth or refer to such additional or other limitations, restrictions, covenants or conditions, applicable to such added. In the event that the Added Property consists of condominium units, the Supplemental Declaration shall, at a minimum require the following:

(i) The owners of those units to organize as a sub-association, with the voting power as identified in Article III Section 2, above;

(ii) The sub-association shall provide exterior maintenance upon each Lot which is subject to assessment thereunder, to paint, repair, replacement and care of roof, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks, and other exterior improvements. Such exterior maintenance shall include exterior window frames, but shall not include glass surfaces;

(iii) The sub-association shall establish a budget in accordance with the Nevada Revised Statutes and the Supplemental Declaration and shall fix dues and assessments to provide therefore;

(iii) Any of other provisions that the Board may require as



applicable to condominium owners associations;

(d) The owners of the Added Property so annexed shall thereupon become Members of the Association and shall be subject to the governing documents and any rules and assessments that thereafter may be made which shall be enforceable in the manner described in these CC&Rs. The Added Property shall be subject to the limitations set forth in this Declaration of Covenants, Conditions and Restrictions as if said Added Property were Lots; provided, however, if any use of structure on any additional parcel is in violation of any of the provisions of these CC&Rs, and such violation existed prior to the annexation, the Board may issue the Owner of the Added Property a variance therefrom if such Board determines that the violation was not intentionally done in contravention of the governing documents or in anticipation of the property becoming annexed.

IN WITNESS WHEREOF, the undersigned, being the Declarant(s) herein,  
have hereunto set their hands this 31<sup>st</sup> day of MARCH 2006.

LTD.

*Kit Carson Develop-*  
KIT CARSON DEVELOPMENT, *mont,*

LTD.

*by: Jack Fleming,*  
*member*

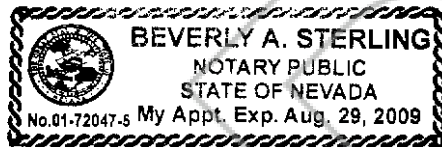
Jack Fleming



STATE OF NEVADA )  
 ) ss.  
COUNTY OF DOUGLAS )

On 3-31 2006, before me, the undersigned, a Notary Public,  
personally appeared Jack Fleming, member known to me or proved to be the person  
who executed the foregoing instrument.

Beverly A. Sterling  
Notary Public



COPY



BASED ON RECORD  
 PLANS AND FIELD SURVEY  
 CONDUCTED BY THE ENGINEER  
 IN ACCORDANCE WITH THE  
 REQUIREMENTS OF THE  
 STATE OF NEVADA



KIAMPIUNG ROAD

PAPER 2A-1

BLUE OTOOLE WAY

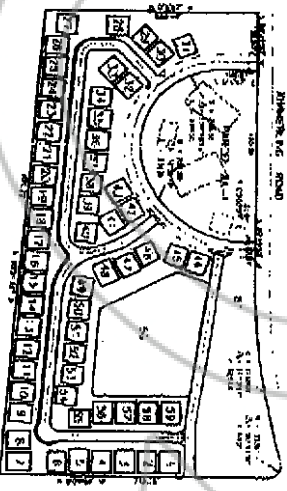
MATCH LINE SEE SHEET 2

SCALE 1" = 40'

TENTATIVE MAP  
 HERITAGE NEVADA SENIOR HOUSING  
 A PLANNED DEVELOPMENT

ENGINEER: [Name]  
 ARCHITECT: [Name]  
 PLANNING: [Name]  
 DATED: [Date]

NO.	DESCRIPTION	AREA (SQ. FT.)	PERCENT
1	LOT 1	1,200	1.2
2	LOT 2	1,200	1.2
3	LOT 3	1,200	1.2
4	LOT 4	1,200	1.2
5	LOT 5	1,200	1.2
6	LOT 6	1,200	1.2
7	LOT 7	1,200	1.2
8	LOT 8	1,200	1.2
9	LOT 9	1,200	1.2
10	LOT 10	1,200	1.2
11	LOT 11	1,200	1.2
12	LOT 12	1,200	1.2
13	LOT 13	1,200	1.2
14	LOT 14	1,200	1.2
15	LOT 15	1,200	1.2
16	LOT 16	1,200	1.2
17	LOT 17	1,200	1.2
18	LOT 18	1,200	1.2
19	LOT 19	1,200	1.2
20	LOT 20	1,200	1.2
21	LOT 21	1,200	1.2
22	LOT 22	1,200	1.2
23	LOT 23	1,200	1.2
24	LOT 24	1,200	1.2
25	LOT 25	1,200	1.2
26	LOT 26	1,200	1.2
27	LOT 27	1,200	1.2
28	LOT 28	1,200	1.2
29	LOT 29	1,200	1.2
30	LOT 30	1,200	1.2
31	LOT 31	1,200	1.2
32	LOT 32	1,200	1.2
33	LOT 33	1,200	1.2
34	LOT 34	1,200	1.2
35	LOT 35	1,200	1.2
36	LOT 36	1,200	1.2
37	LOT 37	1,200	1.2
38	LOT 38	1,200	1.2
39	LOT 39	1,200	1.2
40	LOT 40	1,200	1.2
41	LOT 41	1,200	1.2
42	LOT 42	1,200	1.2
43	LOT 43	1,200	1.2
44	LOT 44	1,200	1.2
45	LOT 45	1,200	1.2
46	LOT 46	1,200	1.2
47	LOT 47	1,200	1.2
48	LOT 48	1,200	1.2
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61	LOT 61	1,200	1.2
62	LOT 62	1,200	1.2
63	LOT 63	1,200	1.2
64	LOT 64	1,200	1.2
65	LOT 65	1,200	1.2
66	LOT 66	1,200	1.2
67	LOT 67	1,200	1.2
68	LOT 68	1,200	1.2
69	LOT 69	1,200	1.2
70	LOT 70	1,200	1.2
71	LOT 71	1,200	1.2
72	LOT 72	1,200	1.2
73	LOT 73	1,200	1.2
74	LOT 74	1,200	1.2
75	LOT 75	1,200	1.2
76	LOT 76	1,200	1.2
77	LOT 77	1,200	1.2
78	LOT 78	1,200	1.2
79	LOT 79	1,200	1.2
80	LOT 80	1,200	1.2
81	LOT 81	1,200	1.2
82	LOT 82	1,200	1.2
83	LOT 83	1,200	1.2
84	LOT 84	1,200	1.2
85	LOT 85	1,200	1.2
86	LOT 86	1,200	1.2
87	LOT 87	1,200	1.2
88	LOT 88	1,200	1.2
89	LOT 89	1,200	1.2
90	LOT 90	1,200	1.2
91	LOT 91	1,200	1.2
92	LOT 92	1,200	1.2
93	LOT 93	1,200	1.2
94	LOT 94	1,200	1.2
95	LOT 95	1,200	1.2
96	LOT 96	1,200	1.2
97	LOT 97	1,200	1.2
98	LOT 98	1,200	1.2
99	LOT 99	1,200	1.2
100	LOT 100	1,200	1.2



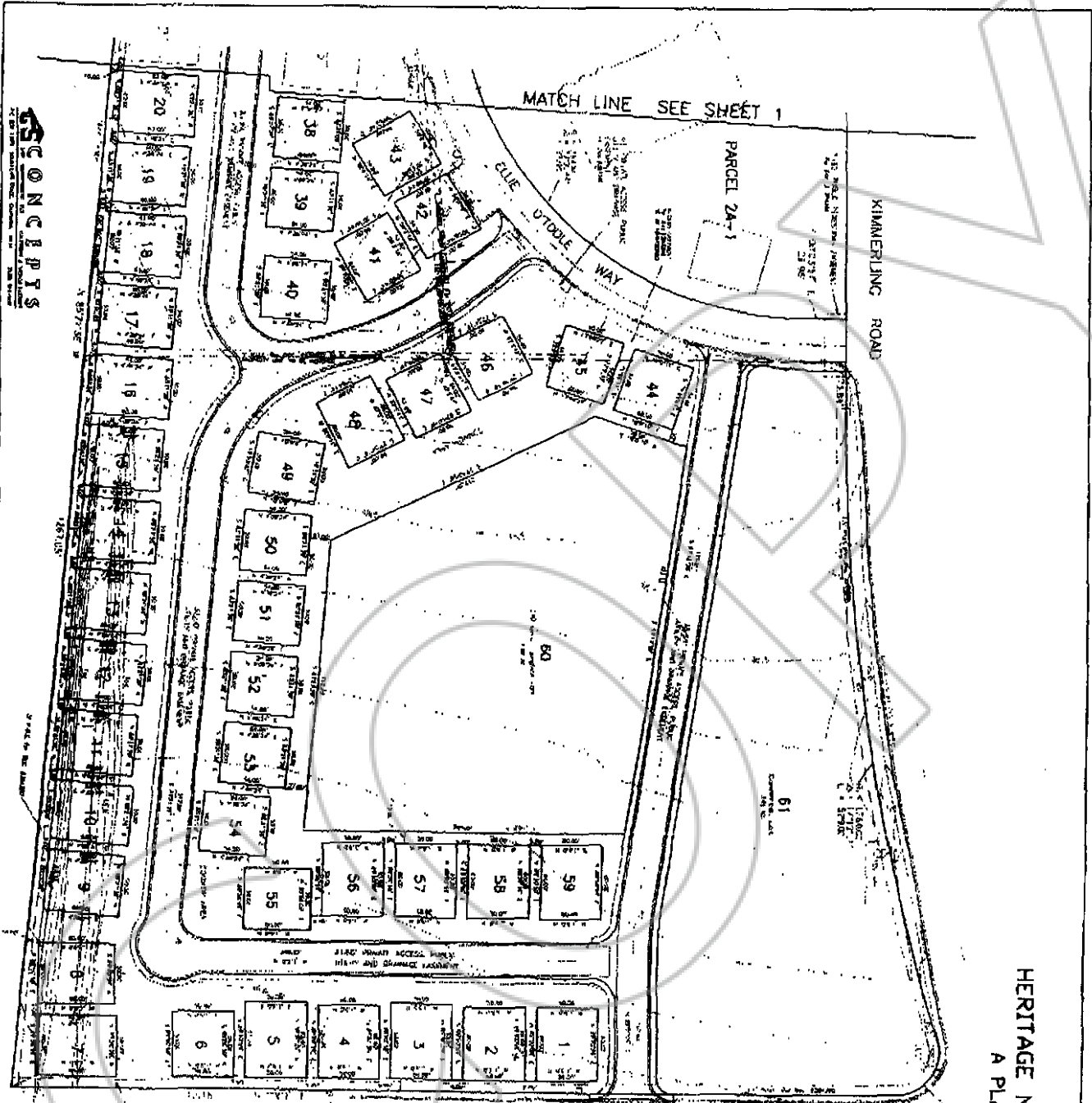
ASCONCEPTS

1000 W. ...

VICINITY MAP



SHEET 1 2



**CONCEPTS**

HERITAGE NEVADA SENIOR HOUSING  
A PLANNED DEVELOPMENT

INITIATIVE MAP

RING ROAD

KIMMERLING ROAD

MATCH LINE SEE SHEET 1

PARCEL 2A-1

SHEET 2 OF 2



BK- 0406  
PG- 863

## EXHIBIT "A"

All that certain lot, piece or parcel of land situate in the County of Douglas, State of Nevada, described as follows:

All that certain real property situate within a portion of the Northwest ¼ of the Northwest ¼ of Section 21, Township 12 North, Range 20 East, Mount Diablo Meridian, further described as Parcel 2A, as shown on the Parcel Map #2035 under Document Number 394380, of the Official Records of Douglas County, Nevada, being more particularly described as follows:

BEGINNING at the Northwest corner of said Parcel 2A of Parcel Map No. 2035, which is also located on the Southerly right-of-way of Kimmerling Road the TRUE POINT OF BEGINNING;  
thence North 89°49'53" East, a distance of 156.50 feet along the South right-of-way of Kimmerling Road;  
thence leaving said right-of-way South 00°03'57" East, a distance of 102.67 feet to the beginning of a tangent curve concave to the Northeast;  
thence along said curve a distance of 394.55 feet, with a radius of 206.50 feet and a central angle of 109°28'16" to a point of compound curve, which is concave to the Northwest;  
thence continuing along said curve, a distance of 350.21 feet, with a radius of 284.50 and a central angle of 70°31'44";  
thence North 00°03'57" West, a distance of 29.96 feet to the Southern right-of-way of Kimmerling Road;  
thence North 89°49'53" East, a distance of 35.50 feet along the Southern right-of-way of Kimmerling Road to the Northeast corner of said Parcel 2A, which is the Northwest corner of Parcel 2B of said Parcel Map;  
thence South 00°03'57" East, a distance of 615.75 feet along the common property line between said Parcels 2A and 2B to the Southeast corner of Parcel 2A;  
thence North 85°21'36" West, a distance of 659.22 feet along the South line of Parcel 2A to the Southwest corner of said parcel;  
thence North 00°03'57" West, a distance of 560.49 feet along the West line of Parcel 2A to the Northwest corner of said parcel to THE TRUE POINT OF BEGINNING.

ALSO SHOWN as Parcel 2A-2 on Parcel Map # LDA 04-083 for Sierra Assisted Living, Inc. recorded January 6, 2005 in Book 0105, Page 1808, as Document No. 633822.

Per NRS 111.312, this legal description was previously recorded on January 28, 2005, in Book 0105, at Page 9672, as Document No. 635389, of Official Records.

APN: 1220-21-102-010

All that certain real property situate within a portion of the Northwest ¼ of the Northwest ¼ of Section 21, Township 12 North, Range 20 East, M.D.M., County of Douglas, State of Nevada, being further described as:

Parcel 2B, as set forth on the Parcel Map #2035 for SIERRA ASSISTED LIVING, INC., filed for record in the Office of the County Recorder, Douglas County, Nevada, on August 16, 1996, in Book 896, Page 2843, as Document No. 394380.

Assessor's Parcel No. 1220-21-102-002

