



**FEE #: 2007-08230**

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REQ BY: MICHAEL W. CURTIS REALTY  
REC BY: Johnna Erwin

**PLAZA DEL ESTE SUBDIVISION  
AND PARCELS C & D OF PLAZA DEL ESTE LOT SPLIT  
BUSINESS AND RETAIL CENTER  
DECLARATION OF PROTECTIVE COVENANTS**

This Declaration of Protective Covenants ("Declaration") is imposed by Michael W. Curtis Realty, LLC ("Declarant"), Owner of the real property commonly known as Plaza Del Este Business and Retail Center (the "Center") and legally described as:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

The provisions of this Declaration are hereby imposed on the Center real property owned by the Declarant. This Declaration is intended to assure compatibility with existing and planned development, to protect property values, to ensure quality construction of improvements that are compatible with a harmonious development of the Center and to provide for a fair and equitable apportionment of costs of common services and facilities to property Owners and tenants within the Center.

This Declaration and its covenants, conditions, restrictions and reservations shall be deemed to run with real property situated in the Center including each and every parcel thereof. This Declaration shall bind and be applicable to all Owners and occupants of the Center and their respective officers, agents, employees, customers, licensees, invitees, tenants, subtenants, mortgages, successors, assignees and any other person having any interest in or to any part of the Center or possession thereof by, through or under an Owner, occupant or possessor. The covenants, conditions and restrictions provided in this Declaration shall not apply to existing structures in the Center, but shall apply to replacements of such existing structures.

**ARTICLE 1**

**Definitions**

1.1 Declarant. The Declarant refers to the Michael W. Curtis Realty, LLC, ("Developer") and its successors and or assigns, or any other entity or organization that succeeds to Michael W. Curtis Realty, LLC legal interest or obligations in the Center.

1.2 Owners and Tenants Association. Owners and Tenant's Association refers to the Association that may be formed at Michael W. Curtis Realty, LLC's discretion, among the then existing Owners of real property situated in the Center at such time as Michael W. Curtis Realty LLC and its successors or assigns determine that formation of an Owners and Tenants Association is desirable.

1.3 Owner(s). Owner or Owners refers to those who acquire a fee simple interest in real property situated in the Center, by deed or real estate contract, that are governed by this Declaration.

1.4 Common Easement Areas. The Common Easement Areas are defined on the Site Plans set forth in the legal descriptions applicable to each parcel of real estate within the Center.

1.5 Facilities. The term Facilities refers to utilities including water, sewer, gas, electric and cable. It also includes sidewalks, landscaping, drainage and similar improvements within the Common Easement Areas, and all parking lot and/or spaces within the Center, wherever located. The term also encompasses future items of like nature.

## ARTICLE II

### Development Standards

At the time of development of each parcel within the Center, and at such other times as an Owner may apply for a building permit for improvements of a parcel, or apply for any other permit from a public agency, the Declarant intends that Owners comply with the development standards set forth herein, and as set forth in the Plaza Del Este Phase One Development Guidelines Manual prepared by BMA ("Development Guidelines").

2.1 Review of Plans. No building, structure, road, parking area, lighting, utilities or other improvements including landscaping of any nature, shall be commenced, erected, or planted on the property located in the Center, nor shall any exterior addition or modification to, or change or alteration thereof, be made until the plans and specifications showing the nature, kind, shape, elevation, color, materials, species, lighting plan, utility plan, and location of the same shall have been submitted to and approved in writing by Declarant. In the event Declarant fails to approve, disapprove or otherwise respond to such design and location within 60 days after said plans and specifications have been submitted to it, approval will be deemed to have been granted. The purpose of this requirement is to permit Declarant to review compliance with applicable regulations, this Declaration and Development Guidelines.

2.2 Guidelines. In order to obtain and maintain the harmony of external design and location in relation to surrounding structures and topography herein and in order to maintain the general plan of improvement for the mutual benefit of the Center, Declarant shall be guided by the Development Guidelines.

## ARTICLE III

### Maintenance Standards

The maintenance standards are intended to outline minimum standards and the required level of upkeep and repair for structures.

3.1 Buildings. Exterior walls and facings shall not be allowed to become cracked, chipped, faded or in any way deteriorated so that the aesthetics are impaired as determined by Declarant. Broken windows, doors or other exterior members of structures shall be repaired or replaced promptly.

3.2 Landscaping. All landscaping shall be maintained by the Association in an attractive manner. Each owner or tenant shall be responsible for a pro-rata cost of the landscaping maintenance.

## ARTICLE IV

### Common Easement Areas and Facilities

4.1 Common Easement Areas. Common Easement Areas and Facilities described or shown on the Building Site Plans of the Center or otherwise of record for the installation and maintenance of utility lines and Facilities, drainage facilities, roadways and walkways and the private water and sewer systems serving the Center are for the common use of all occupants of the Center. Declarant reserves for itself, utility providers and governmental entities, the right at any reasonable time to enter upon Owner's property for the purpose of locating, relocating, installing, constructing, maintaining or otherwise dealing with the Common Easement Areas and Facilities located or to be located in, on, over, under or across the Owner's Property.

4.2 Owner's Right to Enjoyment. The Owners of property in the Center shall have the right to use and enjoy the Common Easement Areas and Facilities, including, but not limited to, the right of ingress and egress across all walkways, roadways and driveways in the Center, easements for utilities, sewage and drainage, and such easements shall be appurtenant to and shall pass with the title to property within the Center subject to the following provisions:

- a. The right of Declarant to establish uniform rules and regulations (including traffic control measures) pertaining to the use, maintenance and improvement of the Common Easement Areas and Facilities;
- b. The Right of Declarant to dedicate the common roadway areas and utilities to public use;
- c. In the event an Owner desires to relocate its access point for ingress/egress over an easement area or drainage area, Owner shall be responsible for compliance with all federal, state and local regulations that may be applicable and all costs associated with compliance. In addition, to the extent exiting utilities, sewage, and drainage, walkways, roadways, driveways, and parking areas are affected within the Common Easement Areas, Owner shall be responsible for payment of all costs associated with the interruption, relocation, repair or other costs of the affected item or utility, whether the affected entity is Declarant, another purveyor of utilities, an adjacent real property owner, or governmental entity.

4.3 Walkways and Driveways. There shall be no obstruction of any walkways, roadways and driveways located within the Common Easement Areas of the Center, which would interfere with the circulation of foot or vehicle traffic except such obstruction as may be reasonably required in connection with repairs of such walkways, driveways, or other Common Easement Areas.

4.4 Water and Sewer Systems. Declarant has installed main water and sewer lines at various locations throughout the Center for the use of Owners and their tenants. Declarant shall not be responsible for installation or maintenance of drainage systems or water or sewer lines on Owner's property except within the easement area as required or provided for by the applicable Binding Site Plan. Installation of fire hydrants and service lines or similar facilities from the easement area to the Owner's facility shall be the responsibility of the Owner of the property. Declarant will charge and Owners shall pay for utilities that are owned and operated by Declarant and consumed by Owners and occupants at rates established by Declarant, said rates to be bona fide and comparable to similarly situated purveyors of utilities.

## ARTICLE V

### Assessments

5.1 Cost of Operation and Maintenance. Declarant shall operate and maintain the Common Easement Areas and Facilities, including water and sewer systems (but excluding public streets and facilities owned by third parties), the cost of which shall be borne by all Owners and occupants within the Center, pro rata. Declarant shall have full authority to establish and determine the amount of assessments, such determination to be based on Declarant's best bona fide estimate of the cost of providing services and operation and maintenance for the Common Easement Areas and Facilities. Assessments will be made for services provided by Declarant to Owners and occupants of the Center to the extent the services are reasonable and necessary components of operational and maintenance expenses.

5.2 Calculation. Assessments shall be prorated based upon the ratio of the square footage of the property including pad area and common area. Declarant shall notify the property Owner in writing of any regular or special assessment and the amount owed by Owner by regular mail at least thirty (30) days prior to said assessment becoming due.

5.3 Budget. Declarant shall prepare an annual budget for projected operational and maintenance expenses associated with the Center. Declarant shall prepare an annual report comparing actual operating and maintenance expenses with budgeted operating and maintenance expenses. Upon request of Owners of real property within the Center, Declarant shall make copies of these reports available to the requesting Owner.

## ARTICLE VI

### Enforcement

6.1 Declarant shall have the right to enforce this Declaration and the covenants, conditions and restrictions by any proceedings at law or in equity that it deems appropriate. Unpaid assessments shall constitute a lien against an Owner's property and may be enforced by filing the assessment as a lien by recording notice thereof with the Yuma County Recorder's Office and enforced by foreclosure action in Yuma County Superior Court, following the same procedure as is set forth for the foreclosure of liens for the furnishing of labor and materials. The prevailing party shall be entitled to recover their costs and reasonable attorney's fees in any enforcement action. In addition, Declarant shall have the right to suspend access to Common Easement Areas and Facilities located within them for violation of any covenant, condition or restriction or failure to pay any assessments when due. Prior to the initiation of any enforcement proceeding or other remedy, Declarant shall provide 30 days written notice to the offending party specifying the alleged default. During this notice period, the offending party is permitted to cure the default alleged in the written notice. If the default alleged is not cured within the notice period, then Declarant may invoke any of the enforcement proceedings or remedies provided for in this Declaration or otherwise available by law.

## ARTICLE VII

### Owners and Tenants Association

7.1 Creation. Declarant may establish an Owners and Tenants Association at such time as Declarant determines that formation of the Owners and Tenants Association is desirable. The purpose for such Owners and Tenants Association is for the Declarant, at its sole discretion and option, to transfer all or any portion of Declarant's interest in the Common Easement Areas and Facilities, including utility lines and facilities, drainage facilities, roadways, walkways, water system and sewer systems, and in such case, the Owners and Tenants Association shall become the successor to whatever interest in the Common Easement Areas and Facilities Declarant transfers to the Owners and Tenants Association. In the event Declarant elects to transfer its utility lines or water facilities, or sewer lines or facilities, the Owners and Tenants Association may be required to assume Declarant's obligation to provide such utilities or services to Owners of the real property in the Center. Declarant may, at its sole option and discretion, transfer said facilities to other purveyors of utilities or governmental organizations as it deems appropriate.

7.2 Control. The Owners and Tenants Association may adopt rules and regulations or other administrative or operative procedures consistent with this Declaration to carry out and implement the obligations of this Declaration. The Owners and Tenants Association shall be empowered to enforce whatever interests that Declarant may transfer to it under Article 7.1 according to the terms of this Declaration.

## ARTICLE VIII

### Environmental Covenants

8.1 Hazardous Materials. Owners shall not engage in or allow the generation, use, manufacture, treatment, transportation, storage or disposal of any hazardous substance in, on,

under or adjacent to their real property that in any way is prohibited by applicable federal, state and local laws, regulations and orders.

Owner shall not engage in or allow the unlawful release (from underground tanks or otherwise) of any hazardous substance in, on, under, or adjacent to Owner's real property (including air, surface water, and ground water on, in, under or adjacent to the real property). Owner shall at all times be in compliance with all applicable law (and shall cause its employees, agents and contractors to be) with respect to the real property or any hazardous substance and shall handle all hazardous substances in compliance with good industry standards and management practices. As used in this Declaration, the term "hazardous substance" shall mean any substance, chemical or waste, including any petroleum products or radioactive substances that is now or shall hereafter be listed, defined or regulated as hazardous, toxic or dangerous under any applicable laws. As used in this Declaration, "applicable law" shall mean any federal, state, or local laws, ordinances, rules, regulations and requirements now or hereafter enacted (including consent decrees and administrative orders) relating to the generation, use, manufacture, treatment, transportation, storage, disposal, or release of any hazardous substance.

Owner shall promptly notify adjacent real property Owners, in writing, if Owner has or acquires notice or knowledge that any hazardous substance has been or is threatened to be unlawfully released, discharged or disposed of, on, in, under or from the real property. Owner shall immediately take such action as is necessary to report to governmental agencies as required by applicable law and to detain the spread of and remove, to the satisfaction of any governmental agency having jurisdiction, any hazardous substances released, discharged or disposed of as the result of or in any way connected with the conduct of Owner's business, and which is now or is hereafter determined to be unlawful or subject to governmentally imposed remedial requirements.

Owner shall at all times maintain an employee or consultant familiar with applicable law and charged with responsibility for Owner's compliance with all applicable law relating to hazardous substances. Owner shall implement a system to revise Owner's hazardous substance activities on a regular basis and shall in good faith (consistent with sound business practices) implement and maintain best management practices to minimize the hazards posed by materials utilized by Owner, for example, by reducing the amounts of hazardous substances used and disposed of, by utilizing less dangerous or less toxic materials or by implementing programs to ensure the safe and proper handling, labeling, use and disposal of hazardous substances.

## ARTICLE IX

### Other Regulations

9.1 Zoning. Real property in the Center may be used as permitted by applicable zoning regulations of City of Yuma, Arizona, or any other governmental body having jurisdiction over zoning except to the extent restricted by this Declaration. In the event of conflict between zoning regulations and this Declaration, the provisions of this Declaration shall control. With the exception of shipping and receiving dock areas and to the extent permitted by

governmental authorities, all business functions conducted within the Center shall be conducted indoors. There shall be no parking lot sales.

9.2 Boats, Trailers and Vehicles: No boats, boat trailers, travel trailers or vehicles other than passenger cars and pick-up trucks will be parked in open driveways. Inoperable cars and automobiles undergoing repair shall be garaged or otherwise hidden from public view. No short wave radio equipment shall be operated on or from any lot, nor will any short wave radio antennae be placed on any lot.

9.3 Offensive Trade. No unlawful, noxious or offensive trade or activity shall be carried out upon the property, nor shall anything be done thereon which may be or so become an annoyance or nuisance to neighboring Owners or occupants, nor shall sound and external noise and odors be permitted which exceeds applicable governmental regulations.

9.4 Signs. Declarant's intent is to permit reasonable signage in the Center provided the signage complies with the Development Standards. To ensure compliance with this Declaration, all sign designs, materials, location, size, colors and details must be submitted to Declarant for approval prior to installation. Signage shall be coordinated so far as is reasonable possible with the exterior design and colors of the building to which the signs apply. Signage is prohibited within all Common Easement Areas of the Center as delineated on the Development Standards and Site Plan. The purpose of this restriction is to avoid interference with the maintenance of landscaping and periodic excavation of utility lines located within the area.

9.5 Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on the property.

9.6 Rubbish. All rubbish, trash and garbage shall be regularly removed from the property and shall not be allowed to accumulate thereon for a period in excess of seven (7) days.

9.7 General Parking. Parking of all vehicles shall be in designated spaces only. No vehicle of any type shall be parked in prohibited or undesignated areas.

9.8 Building Site Plan. Each Owner of property in the Center shall comply with the conditions and covenants imposed on the Center in connection with the Development Standards and Site Plan or plot plan.

9.9 Sewer. Each owner understands that construction for sewer hookup to the City of Yuma facilities is contemplated. Each Owner agrees that should sewer hookup become available, owner shall use its best efforts to obtain same within six months after notice from Development.

9.10 Maintenance. Each Owner shall keep the property and improvements in good order and repair including, without limitation, all buildings, landscaping and other improvements thereon. The Owner shall follow a regular course of maintenance for all buildings and improvements and shall regularly mow and water all lawn areas and regularly maintain all other landscaping on the Owner's property which is not maintained by Declarant. The Owner shall not

permit the property, landscaping or any improvements thereon to exhibit signs of deterioration, disrepair or neglect.

9.11 Owners/Tenants. In the event an Owner leases to, or allows possession of, Owner's real property by a tenant, each such tenant shall be bound by all of the Owner's obligations imposed by this Declaration.

9.12 Amendment. This Declaration of Protective Covenants cannot be amended except in writing and signed by all of the Owners of real property subject to those covenants and Plaza Del Este Partnership, its successors or assigns.

IN WITNESS WHEREOF, this Declaration and the covenants stated herein are duly executed this 31<sup>st</sup> day of JANUARY 2007.

MICHAEL W. CURTIS REALTY, LLC.

By:

[Signature]  
Michael W. Curtis

Its MANAGER

STATE OF ARIZONA )

) ss.

COUNTY OF YUMA )

On this 31<sup>st</sup> day of JANUARY, 2007, personally appeared Michael W. Curtis known to be the MANAGER of Michael W. Curtis Realty, LLC, the Developer that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said Partnership, for the uses and purposes therein mentioned, and on oath stated that he as authorized to execute the said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



[Signature]  
Notary Public in and for the State of Arizona,  
Residing at Yuma, AZ  
My Commission Expires: 1-27-10



EXHIBIT "A"

**PARCEL NO. 1::**

Lots 1 through 10, PLAZA DEL ESTE UNIT NO. 1 and Tract "A"; and Lots 11 through 18, PLAZA DEL ESTE UNIT NO. 2, according to the plat of record on file in the office of the County Recorder of Yuma County, Arizona, in Book 23 of Plats, pages 34, 35 and 36;

EXCEPT one half of all oil mineral rights, as reserved in instrument recorded in Docket 225, page 546, records of Yuma County, Arizona, as to that portion lying within the East half of the Southwest quarter of Section 3, Township 9 South, Range 22 West of the Gila and Salt River Base and Meridian, Yuma County, Arizona.

**PARCEL NO. 2:**

Parcel C, PLAZA DEL ESTE LOT SPLIT, according to the plat on file in the office of the County Recorder of Yuma County, Arizona, in Book 21 of Plats, page 64, being a lot split of Parcel 1, PANKEY LOT SPLIT, according to Book 17 of Plats, page 39, records of Yuma County, Arizona, being a portion of the Southwest quarter of Section 3, Township 9 South, Range 22 West of the Gila and Salt River Base and Meridian, Yuma County, Arizona;

EXCEPT one half of all oil mineral rights, as reserved in instrument recorded in Docket 225, page 546, records of Yuma County, Arizona.

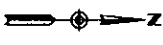
**PARCEL NO. 3:**

Parcel D, PLAZA DEL ESTE LOT SPLIT, according to the plat on file in the office of the County Recorder of Yuma County, Arizona, in Book 21 of Plats, page 64, being a lot split of Parcel 1, PANKEY LOT SPLIT, according to Book 17 of Plats, page 39, records of Yuma County, Arizona, being a portion of the Southwest quarter of Section 3, Township 9 South, Range 22 West of the Gila and Salt River Base and Meridian, Yuma County, Arizona;

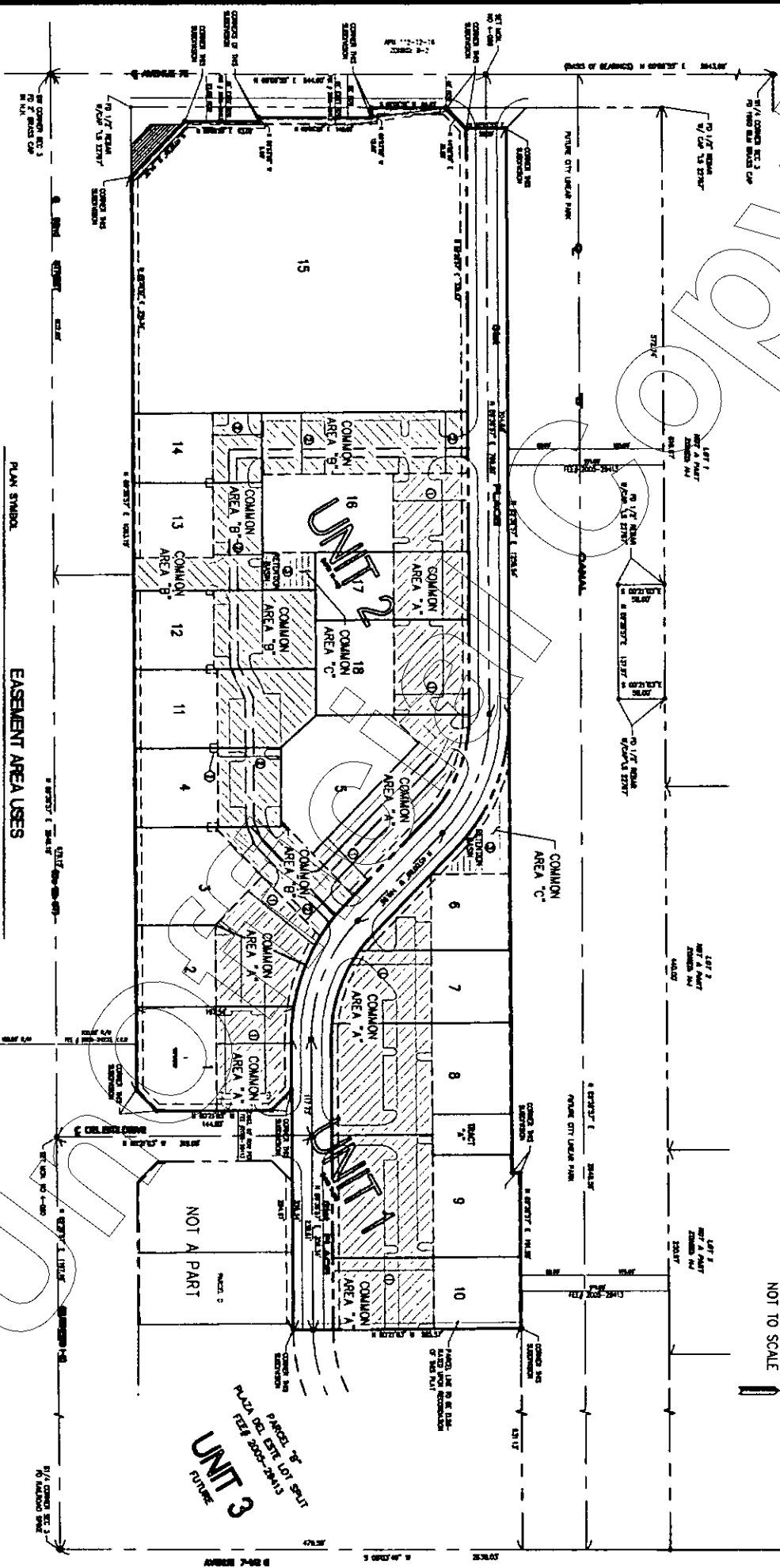
EXCEPT one half of all oil mineral rights, as reserved in instrument recorded in Docket 225, page 546, records of Yuma County, Arizona.

# PLAZA DEL ESTE - UNIT NO. 1 & 2

NOT TO SCALE



C 1/4 CORNER  
 10 1/2' REAR SETBACK  
 10 1/2' REAR SETBACK



## EASEMENT AREA USES

PLAN SYMBOL

- ① REPRODUCTION OF THE ORIGINAL PLAN AND DRAWINGS FOR THE USE OF THE TENANTS, OWNERS, AND PATRONS OF THIS SUBDIVISION FACILITIES TO COLLECT AND STORE STORMWATER GENERATED BY THE PARCEL OR PARCELS NEAR THE RETENTION BASINS
- ② REPRODUCTION OF THE ORIGINAL PLAN AND DRAWINGS FOR THE USE OF THE TENANTS, OWNERS, AND PATRONS OF THIS SUBDIVISION FACILITIES TO COLLECT AND STORE STORMWATER GENERATED BY THE PARCEL OR PARCELS NEAR THE RETENTION BASINS
- ③ REPRODUCTION OF THE ORIGINAL PLAN AND DRAWINGS FOR THE USE OF THE TENANTS, OWNERS, AND PATRONS OF THIS SUBDIVISION FACILITIES TO COLLECT AND STORE STORMWATER GENERATED BY THE PARCEL OR PARCELS NEAR THE RETENTION BASINS



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