THIS IS A CONFORMED COPY OF INSTRUMENT
RECORDED ON DATE 1-17-03 TIME 3:36
IN BOOK 3994 PAGE 257
PATSY JENNEY-COLON, RECORDER
DEPUTY

#03-015

DEVELOPMENT AGREEMENT
PRESCOTT HEIGHTS CHURCH

WHEREAS the City of Prescott (hereinafter referred to as "City") is entitled to enter into this agreement pursuant to ARS Section 9-500.05; and

WHEREAS Prescott Heights Church, (hereinafter collectively referred to as "Property Owner") are the owners of the real properties referred to herein; and

WHEREAS the parties hereto wish to enter into a Development Agreement to provide for the development of certain property upon certain terms and conditions.

NOW, THEREFORE, IN CONSIDERATION OF THE COVENANTS CONTAINED HEREIN, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each party to the other, it is hereby agreed as follows:

1. That this agreement shall relate to those specific properties, more particularly identified in Exhibits "A", "B" and "C", attached hereto and made a part hereof, hereinafter collectively referred to as "the Property".

2. That this agreement shall become operative upon the recordation of this Agreement with the Yavapai County Recorder.

3. That in the event that the Property described in Exhibit "A" is not rezoned to the Residential Office Zoning District within 180 days of the approval of the Agreement by the Prescott City Council, then and in that event this Agreement shall terminate and be of no further force and effect.

4. That in the event that the Property described in Exhibit "B" is not rezoned to the Neighborhood-Oriented Business Zoning District within 180 days of the approval of the Agreement by the Prescott City Council, then and in that event this Agreement shall terminate and be of no further force and effect.

5. That the development of the Property shall be consistent with the City's General Plan, as adopted by the Prescott City Council on August 27, 1997.

03-015

6. That in the event that the Property described in Exhibit A is rezoned to the Residential Office Zoning District Zoning District, then and in that event the Property Owner hereby agrees that notwithstanding said zoning, the Property may only be used for the following purposes: adult day care; offices; medical and dental offices, with regular operating hours limited to 8 AM to 6 PM, Monday through Saturday; and may only be used for the following conditional uses (subject to a CUP being granted by the City's Board of Adjustment pursuant to Section 4.42(C) of the Zoning Code): churches, elementary schools (K through 8), pre-schools and day care centers subject to the limitations and considerations as set forth in ZC Section 4.43(C)(5); and public utility buildings, high voltage power transmission lines, and other similar structures.

7. That in the event that the Property described in Exhibit B is rezoned to the Neighborhood-Oriented Business Zoning District, then and in that event the Property Owner hereby agrees that notwithstanding said zoning, the Property may only be used for the following purposes: adult day care; day care center; artisan studios (as limited by ZC Section 4.43(B)(13); personal and professional services (as limited and defined by ZC Section 4.43(B)(14); offices; medical and dental clinics; gymnasiums; parking lots; churches; public institutions; retail sales (as defined and limited by ZC Section 4.43(B)(24); banks; grocery stores' libraries, museums, conservatories and greenhouses; restaurants and delicatessens (as limited by ZC Section 4.43(B)(32); studios; and veterinary clinics (provided there is no boarding of animals); and may only be used for the following conditional uses (subject to a CUP being granted by the City's Board of Adjustment pursuant to Section 4.43C) of the Zoning Code): family game centers (as limited by ZC Section 4.43(C)(2); public utility buildings, high voltage power transmission lines and other similar structures; any building for any Permitted Use as listed in ZC Section 4.43(B) which exceeds 10,000 square feet in total floor area; and elementary schools (K through 8), pre-schools and day care centers, subject to the limitations and considerations as set forth in ZC Section 4.43(C)(5).

8. That the Property Owner further agrees that prior to any development of the Property described in Exhibit "B", the Property Owner shall first submit said proposed development to the City's Transportation Coordinating Committee, and shall comply with any and all recommendations of said Committee to mitigate or address traffic circulation issues resulting from said development.

9. That the Property Owner further agrees that any development of the Property is subject to site plan approval by the Prescott City Council.

10. That the Property Owner shall place an Avigation Easement over the Property, in a form acceptable to the City.

11. This agreement shall run with the land, and shall be binding upon the Property Owner's successors in interest and assigns.

12. Pursuant to A.R.S. Section 38-511, the City of Prescott may cancel this agreement, without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the agreement on behalf of the City is, at any time while the agreement or any extension of the agreement is in effect, an employee or agent of any other party to

the agreement in any capacity or a consultant to any other party of the agreement with respect to the subject matter of the agreement. In the event of the foregoing, the City of Prescott further elects to recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting or creating this agreement on behalf of the City of Prescott from any other party to the agreement arising as a result of this agreement.

13. That the Property Owner hereby agrees to indemnify and hold harmless the City, its departments and divisions, its employees and agents, from any and all claims, liabilities, expenses or lawsuits as a result of this agreement, whether said claims, liabilities, expenses or lawsuits arise by the acts or omissions of the Property Owner or its agents or employees.

14. The parties hereto expressly covenant and agree that in the event of a dispute arising from this Agreement, each of the parties hereto waives any right to a trial by jury. In the event of litigation, the parties hereby agree to submit to a trial before the Court.

15. The parties hereto expressly covenant and agree that in the event of litigation arising from this Agreement, neither party shall be entitled to an award of attorneys fees, either pursuant to the Contract, pursuant to ARS Section 12-341.01(A) and (B), or pursuant to any other state or federal statute.

16. This Agreement is the result of negotiations by and between the parties. Although it has been drafted by the Prescott City Attorney, it is the result of the negotiations between the parties. Therefore, any ambiguity in this Agreement is not to be construed against either party.

17. Time is of the essence in this agreement. The failure of either party to require the strict performance by the other of any provision of this agreement shall not be deemed a waiver of the right of said party thereafter to require strict performance of that or any other provision of this agreement in accordance with the terms hereof, and without notice.

DATED this 7 day of January, 2003

:

Prescott Heights Church Chairman of the board

STATE OF ARIZONA)
) ss.
County of Yavapai)

The foregoing instrument was acknowledged before me this 7 day of January, 2003 by Douglas Rupp, personally known to me or proven to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and acknowledged that he executed it.

OFFICIAL SEAL
LAURE M. BADILLA
NOTARY PUBLIC - State of Arizona
YAVAPAI COUNTY
My Comm. Expires Nov. 22, 2006

[Seal]

Notary Public

PASSED, APPROVED AND ADOPTED by the Mayor and Council of the City of Prescott this 14 day of JAN., 2003

ROWLE P. SIMMONS, Mayor

ATTEST:

MARIE L. WATSON
City Clerk

APPROVED AS TO FORM:

JOHN R. MOFFITT
City Attorney

STATE OF ARIZONA)
) ss.
County of Yavapai)

The foregoing instrument was acknowledged before me this 16th day of January, 2003, by Rowle P. Simmons, Mayor of the City of Prescott, personally known to me or proven to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and acknowledged that he executed it.

JUDITH A. CARSON - NOTARY PUBLIC
County of Yavapai
State of Arizona
My Commission Expires Aug. 8, 2006
[Seal]

Judith A. Carson
Notary Public

DATED this 16th day of January, 2003

Prescott Heights Church Secretary

STATE OF Arizona)
) ss.
County of Yavapai)

The foregoing instrument was acknowledged before me this 6 day of January, 2003 by Paul Elmer, personally known to me or proven to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and acknowledged that she executed it.

Kathy Newlin
[Seal]

Notary Public

KATHY NEWLIN
Notary Public - Arizona
Yapavai County
My Comm. Expires May 5, 2004

EXHIBIT "A"

FAMAS LAND SURVEYORS, INC.
P.O. BOX 4357 PRESCOTT, AZ 86302
PHONE (928)-717-2844 FAX (928)-717-2840

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
27737
DUANE FAMAS
10-31-02
SIGNED
ARIZONA U.S.A.

PROPERTY DESCRIPTION
2.00 ACRE PARCEL

October 31, 2002

All that portion of Section 36, Township 15 North, Range 2 West of the Gila and Salt River Base and Meridian, Yavapai County, Arizona, described as follows:

BEGINNING at the East quarter corner of Section 36, marked by a capped 2" pipe;

Thence North 89°06'43" West 1008.34 feet along the East-West midsection line to a point on the Northerly right-of-way line of the Airport Connector Road (connector), as recorded in Book 3724 of Official Records, Page 821, Record's of Yavapai County;

Thence South 77°21'09" West 416.63 feet along said North right-of-way line to a point;

Thence South 71°13'34" West 250.16 feet, along said North right-of-way line to a point;

Thence South 80°06'24" West 161.94 feet along said North right-of-way line to a found aluminum ADOT monument;

Thence South 71°13'34" West 351.73 feet, along said Northerly right-of-way line to an aluminum ADOT monument;

Thence South 69°13'34" West 288.88 feet along said Northerly right-of-way line to a point;

Thence South 69°13'34" West 511.77 feet along said Northerly right-of-way line to an aluminum ADOT monument;

Continued...

PROPERTY DESCRIPTION
2.00 ACRE PARCEL

October 31, 2002

Thence 118.62 feet along the Northerly right-of-way line of the connector on a curve to the left with a radius of 7,875.00 feet, a central angle of 0°51'47", and a chord bearing South 69°39'27" West 118.62 feet, to an aluminum ADOT monument;

Thence South 65°28'56" West 693.72 feet along the Northerly right-of-way line of the connector, to an aluminum ADOT monument;

Thence South 76°18'23" West 190.15 feet along the Northerly right-of-way line of the connector to THE TRUE POINT OF BEGINNING;

Thence South 76°18'23" West 506.44 feet along the Northerly right-of-way line of the connector to a point;

Thence 62.26 feet along said Northerly right-of-way line of the connector on a curve to the right, with a radius of 1449.84 feet, a central angle of 2°27'38", and a chord bearing South 76°45'24" West 62.26 feet, to the intersection with the Southerly right-of-way line of Larry Caldwell Drive according to the plat of record found in Book 24 of Maps and Plats, page 24, Yavapai County Record's, and marked with an aluminum ADOT monument;

Thence Northeasterly 204.59 feet along the Southerly right-of-way line of Larry Caldwell Drive on a non-tangent curve to the left with a radius of 637.26 feet, a central angle of 18°23'41", and a chord bearing North 45°01'51" East 203.72 feet to a found one-half inch rebar;

Thence North 35°50'00" East 136.37 feet along the South line of Larry Caldwell Drive, to a found one-half inch rebar;

Thence Northeasterly 195.58 feet along the Southerly right-of-way line of Larry Caldwell Drive on a non-tangent curve to the right with a radius of 520.00 feet, a central angle of 21°33'00", and a chord bearing of North 46°36'30" East 194.43 feet, to a found one-half inch rebar with a tag marked LS 17564;

Continued...

PROPERTY DESCRIPTION
2.00 ACRE PARCEL

October 31, 2002

Thence North 57°23'00" East 20.96 feet along the Southerly right-of-way line of Larry Caldwell Drive to a point;

Thence South 32°37'00" East 314.91 feet to THE TRUE POINT OF BEGINNING.

Containing 2.00 acres more or less.

EXHIBIT "B"

FAMAS LAND SURVEYORS, INC.
P.O. BOX 4357 PRESCOTT, AZ 86302
PHONE (928)-717-2844 FAX (928)-717-2840

REGISTERED LAND SURVEYOR
CERTIFICATE NO. 27737
DUANE FAMAS
DATE SIGNED 10.31.02
ARIZONA U.S.A.

PROPERTY DESCRIPTION
5.24 ACRE PARCEL

October 31, 2002

All that portion of Section 36, Township 15 North, Range 2 West of the Gila and Salt River Base and Meridian, Yavapai County, Arizona, described as follows:

BEGINNING at the East quarter corner of Section 36, marked by a capped 2" pipe;

Thence North 89°06'43" West 1008.34 feet along the East-West midsection line to a point on the Northerly right-of-way line of the Airport Connector Road (connector), as recorded in Book 3724 of Official Records, Page 821, Record's of Yavapai County;

Thence South 77°21'09" West 416.63 feet along said North right-of-way line to a point;

Thence South 71°13'34" West 250.16 feet, along said North right-of-way line to a point;

Thence South 80°06'24" West 161.94 feet to a found aluminum ADOT monument and THE TRUE POINT OF BEGINNING;

Thence South 71°13'34" West 351.73 feet, along said Northerly right-of-way line to an aluminum ADOT monument;

Thence South 69°13'34" West 288.88 feet said Northerly right-of-way line to a point;

Thence North 00°21'30" East 507.26 feet to a point on the Southerly right-of-way line of Larry Caldwell Drive according to the plat of record found in Book 24 of Maps and Plats, page 24, Yavapai County Record's;

Thence South 89°38'30" East 510.72 feet along said right-of-way line of Larry Caldwell Drive to a point on the Westerly line of the Connector overpass;

Continued...

PROPERTY DESCRIPTION
5.24 ACRE PARCEL

October 31, 2002

Thence South 44°36'52" East 85.58 feet along the Westerly line of the Connector overpass to a point;

Thence South 00°23'40" West 74.78 feet to a point;

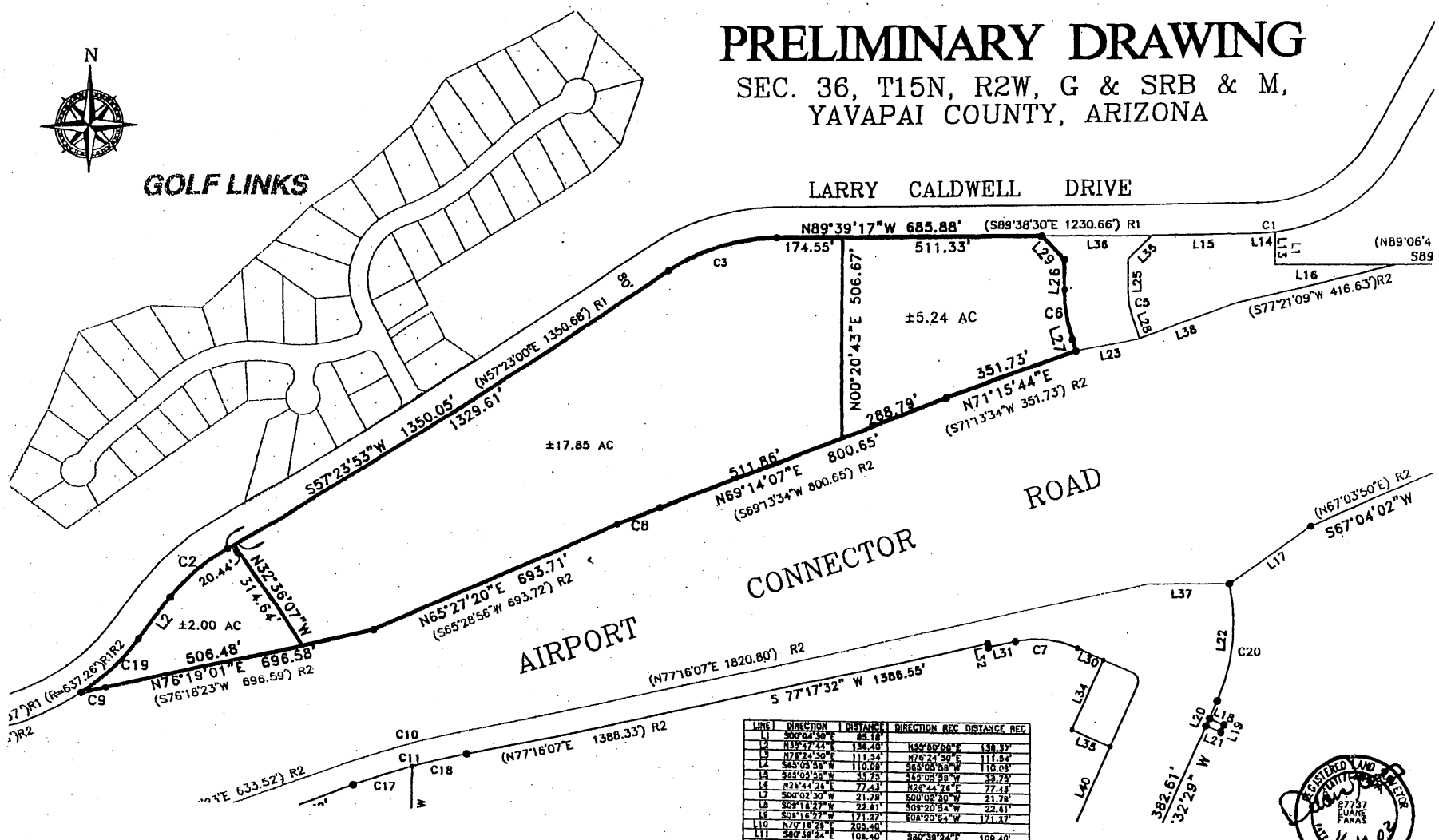
Thence Southeasterly 127.13 feet along a curve to the left having a radius of 380.00 feet, a central angle of 19°10'07" , and a chord bearing South 09°11'23" East 126.54 feet, to a point;

Thence South 18°46'26" East 29.35 feet to THE TRUE POINT OF BEGINNING.

Containing 5.24 acres more or less.

PRELIMINARY DRAWING

SEC. 36, T15N, R2W, G & SRB & M, YAVAPAI COUNTY, ARIZONA



CURVE	RADIUS	LENGTH	LENGTH (REC)	TANGENT	CHORD	BEARING	DELTA	DELTA (REC)
C1	400.00'	35.32'	(35.32')	17.67'	35.31'	N87°48'44"E	05°03'32"	(05°03'32")
C2	520.00'	195.65'	(195.56')	98.00'	194.50'	S46°31'20"W	21°33'28"	(21°33'00")
C3	520.00'	289.28'	(289.27')	153.82'	285.18'	S73°55'11"W	32°58'38"	(32°58'30")
C4	420.00'	165.58'	(165.58')	84.33'	164.07'	S68°04'00"W	28°19'00"	(28°19'00")
C5	220.00'	73.60'	(73.60')	37.15'	73.28'	S08°11'22"E	19°10'07"	(19°10'07")
C6	380.00'	127.17'	(127.13')	64.18'	126.63'	S10°07'45"E	19°10'07"	(19°10'07")
C7	255.00'	161.75'	(161.75')	83.70'	158.05'	N64°33'56"W	36°20'55"	(36°20'55")
C8	7875.00'	118.85'	(118.82')	59.32'	118.85'	N69°43'06"E	00°51'48"	(00°51'47")
C9	1448.84'	82.89'	(82.84')	41.33'	82.84'	N78°47'20"E	02°28'31"	(02°28'31")
C10	2025.00'	313.82'	(313.82')	157.22'	313.60'	S72°49'44"W	08°52'45"	(08°52'45")
C11	1865.00'	306.13'	(304.51')	153.37'	305.81'	S72°51'10"W	08°55'33"	(08°52'44")
C12	35.00'	27.35'	(27.35')	14.33'	26.64'	S08°03'38"E	45°03'38"	(45°05'30")
C13	35.00'	21.03'	(21.11')	10.88'	20.72'	S61°00'08"W	34°25'57"	(34°33'20")
C14	30.00'	149.92'	(149.92')	887.13'	93.74'	S17°33'32"W	171°47'44"	(171°47'54")
C15	30.00'	53.35'	(53.32')	29.52'	50.84'	S88°31'37"E	81°06'34"	(81°06'04")
C16	30.00'	23.38'	(23.35')	11.81'	23.17'	N47°11'08"E	28°47'57"	(28°43'31")
C17	1865.00'	160.98'		80.52'	160.91'	S70°44'11"W	04°41'35"	
C18	1865.00'	145.17'		72.62'	145.14'	S75°11'58"W	04°13'58"	
C19	637.26'	205.36		103.58'	203.00'	S44°36'27"W	18°27'30"	(18°27'30")
C20	500.00'	301.53'	(301.52')	155.58'	297.08'	S08°16'14"W	34°33'52"	(34°33'04")

LINE	DIRECTION	DISTANCE	DIRECTION REC	DISTANCE REC
L1	S00°04'30"E	88.18'		
L2	N39°47'44"E	136.40'	N39°39'00"E	136.39'
L3	N76°24'30"E	111.34'	N76°24'30"E	111.34'
L4	S65°05'58"W	110.08'	S65°05'58"W	110.08'
L5	S65°05'58"W	33.75'	S65°05'58"W	33.75'
L6	N26°44'26"E	77.43'	N26°44'26"E	77.43'
L7	S00°02'30"W	21.78'	S00°02'30"W	21.78'
L8	S08°16'27"W	22.61'	S08°20'54"W	22.61'
L9	S08°16'27"W	171.27'	S08°20'54"W	171.27'
L10	N70°18'23"E	200.40'		
L11	S80°39'24"E	108.40'	S80°39'24"E	108.40'
L12	N89°57'28"W	137.48'	N89°00'00"W	137.48'
L13	N00°46'59"W	82.71'	N00°40'59"W	82.71'
L14	S87°14'48"W	44.08'	S87°14'48"W	44.00'
L15	N89°39'00"W	264.30'	N89°39'00"W	264.30'
L16	N89°06'43"W	301.87'	N89°08'43"W	301.87'
L17	N54°10'27"E	248.98'	N54°11'14"E	247.10'
L18	S66°27'31"E	40.00'	S66°27'31"E	40.00'
L19	S23°32'28"W	20.00'	S23°32'28"W	20.00'
L20	S23°32'28"W	48.66'	S23°32'28"W	48.66'
L21	N66°27'31"W	40.00'	N66°27'31"W	40.00'
L22	S08°15'56"W	286.87'	S08°16'56"W	286.87'
L23	S00°06'24"W	161.84'	S00°06'24"W	161.34'
L24	S76°30'27"W	111.89'	S76°30'27"W	111.39'
L25	N00°23'40"E	74.69'	N00°23'40"E	74.69'
L26	S00°16'24"W	74.66'	S00°23'40"W	74.76'
L27	S18°13'45"E	29.13'	S18°44'28"E	29.35'
L28	N18°46'28"W	54.35'	N18°46'28"W	54.35'
L29	S44°26'51"E	85.32'	S44°36'52"E	85.24'
L30	N89°23'10"W	70.81'	N89°23'10"W	70.91'
L31	S77°25'18"W	71.38'	S77°16'07"W	71.25'
L32	N12°43'53"W	10.00'	N12°43'53"W	10.00'
L33	N89°23'10"W	105.03'	N00°23'10"W	105.03'
L34	N23°32'28"E	198.27'	N23°32'28"E	198.27'
L35	N89°23'08"E	65.35'	N89°23'08"E	65.35'
L36	N89°38'56"W	280.62'	N89°39'56"W	280.62'
L37	N89°54'22"E	208.29'	N89°54'22"E	208.29'
L38	S71°13'34"W	250.18'	S71°13'34"W	250.18'
L39	N89°27'31"W	200.00'	N89°27'31"W	200.00'
L40	N23°32'28"E	235.12'	N23°32'28"E	235.12'

REGISTERED LAND SURVEYOR
27737
DUANE FAMAS
DATE 11-14-02
ARIZONA U.S.A.

GRAPHIC SCALE

200 0 100 200 400 800

(IN FEET)
1 inch = 200 ft.

FAMAS LAND SURVEYORS, INC.
P.O. BOX 4357 PRESCOTT, AZ 86302
PHONE (520)-717-2844 FAX (520)-717-2840

EXHIBIT "C"

FAMAS LAND SURVEYORS, INC.
P.O. BOX 4357 PRESCOTT, AZ 86302
PHONE (928)-717-2844 FAX (928)-717-2840

REGISTERED LAND SURVEYOR
CERTIFICATE NO. 27737
DUANE FAMAS
DATE SIGNED 10-31-02
ARIZONA U.S.A.

PROPERTY DESCRIPTION
17.62 ACRE PARCEL

October 31, 2002

All that portion of Section 36, Township 15 North, Range 2 West of the Gila and Salt River Base and Meridian, Yavapai County, Arizona, described as follows:

BEGINNING at the East quarter corner of Section 36, marked by a capped 2" pipe;

Thence North 89°06'43" West 1008.34 feet along the East-West midsection line to a point on the Northerly right-of-way line of the Airport Connector Road (connector), as recorded in Book 3724 of Official Records, Page 821, Record's of Yavapai County;

Thence South 77°21'09" West 416.63 feet along said North right-of-way line to a point;

Thence South 71°13'34" West 250.16 feet, along said North right-of-way line to a point;

Thence South 80°06'24" West 161.94 feet along said North right-of-way line to a found aluminum ADOT monument;

Thence South 71°13'34" West 351.73 feet, along said Northerly right-of-way line to an aluminum ADOT monument;

Thence South 69°13'34" West 288.88 feet along said Northerly right-of-way line to THE TRUE POINT OF BEGINNING;

Thence South 69°13'34" West 511.77 feet along said Northerly right-of-way line to an aluminum ADOT monument;

PROPERTY DESCRIPTION
17.64 ACRE PARCEL

October 31, 2002

Thence 118.62 feet along the Northerly right-of-way line of the connector on a curve to the left with a radius of 7,875.00 feet, a central angle of 0°51'47", and a chord bearing South 69°39'27" West 118.62 feet, to an aluminum ADOT monument;

Thence South 65°28'56" West 693.72 feet along the Northerly right-of-way line of the connector, to an aluminum ADOT monument;

Thence South 76°18'23" West 190.15 feet along the Northerly right-of-way line of the connector, to a point;

Thence North 32°37'00" West 314.91 feet to a point on the Southerly right-of-way line of Larry Caldwell Drive according to the plat of record found in Book 24 of Maps and Plats, page 24, Yavapai County Record's;

Thence North 57°23'00" East 1329.72 feet along the Southerly right-of-way line of Larry Caldwell Drive, to a found one-half inch rebar;

Thence Northeasterly 299.27 feet along said Southerly right-of-way line of Larry Caldwell Drive on a non-tangent curve to the right, with a radius of 520.00 feet, a central angle of 32°58'29", and a chord bearing North 73°52'13" East 295.16 feet, to a found one-half inch rebar;

Thence South 89°38'30" East 174.99 feet along said Southerly right-of-way line of Larry Caldwell Drive, to a point;

Thence South 00°21'30" West 507.26 feet to THE TRUE POINT OF BEGINNING.

Containing 17.64 acres more or less.

RESOLUTION NO. 3493

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT, YAVAPAI COUNTY, ARIZONA, AUTHORIZING THE CITY OF PRESCOTT TO ENTER INTO A DEVELOPMENT AGREEMENT WITH THE PRESCOTT HEIGHTS CHURCH, AND AUTHORIZING THE MAYOR AND STAFF TO TAKE ANY AND ALL STEPS NECESSARY TO ACCOMPLISH THE ABOVE.

WHEREAS the Prescott Heights Church is the owner of certain real properties in the City limits; and

WHEREAS the parties wish to enter into a Development Agreement, pursuant to ARS Section 9-500.05 relating to the development of those properties.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF PRESCOTT AS FOLLOWS:

Section 1. THAT the City of Prescott hereby approves the Development Agreement with the Prescott Heights Church, attached hereto as Exhibit "1".

Section 2. THAT the Mayor and Staff are hereby authorized to execute the attached Development Agreement and to take any and all steps deemed necessary to accomplish the above.

PASSED, APPROVED AND ADOPTED by the Mayor and Council of the City of Prescott, Arizona, this 14th day of JANUARY, 2003.

ROWLE P. SIMMONS, Mayor

ATTEST:

MARIE L. WATSON, City Clerk

APPROVED AS TO FORM:

JOHN R. MOFFITT, City Attorney