



PLACER, County Recorder
JIM MCCAULEY

DOC- 2014-0018329-00

RECORDING REQUESTED BY AND
WHEN RECORDED, MAIL TO:

City Clerk
City of Roseville
311 Vernon Street
Roseville, CA 95678
Attn: Sonia Orozco

TUESDAY, MAR 25, 2014 11:52:31
MIC \$0.00 | AUT \$0.00 | SBS \$0.00
ERD \$0.00 | RED \$0.00 | * \$0.00
ADD \$0.00

Ttl Pd \$0.00 Rcpt # 02345519
CLKH1MLFJ1/ST/1-14

(SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE)

**NINTH AMENDMENT OF
DEVELOPMENT AGREEMENT BY AND BETWEEN
THE CITY OF ROSEVILLE AND BBC DIAMOND CREEK, LLC
RELATIVE TO THE NORTH ROSEVILLE SPECIFIC PLAN
(Diamond Creek Parcel 31C)**

THIS NINTH AMENDMENT (the "Ninth Amendment") is entered into this 19th day of March, 2014 by and between the CITY OF ROSEVILLE, a municipal corporation ("City"), and BBC DIAMOND CREEK, LLC, a California limited liability company (hereinafter "Landowner"), pursuant to the authority of Section 65864 through 65869.5 of the Government Code of California.

WITNESSETH:

A. On September 19, 1997, the City and Landowner's predecessor in interest entered into that certain agreement entitled "Development Agreement By and Between The City of Roseville and Diamond Creek Partners Relative to the North Roseville Specific Plan", which was recorded in the Official Records of Placer County on September 29, 1997, as Document No. 97-0059806 (the "Original Development Agreement").

B. Thereafter, City and Landowner's predecessor(s) in interest and/or successor(s) in interest to Diamond Creek Partners entered into the following Amendments to the Original Development Agreement: the First Amendment, dated August 31, 1998, and recorded September 15, 1998 as Document No. 98-0073814; the Second Amendment, dated November 30, 1999, and recorded December 15, 1999 as Document No. 1999-0106726; the Third Amendment, dated October 9, 2002, and recorded November 14, 2002 as Document No. 2002-0143109; the Fourth Amendment, dated April 20, 2004, and recorded May 7, 2004 as Document No. 2004-0058294; the Fifth Amendment, dated September 15, 2004, and recorded November 12, 2004 as Document No. 2004-0151579; the Sixth Amendment, dated March 15, 2006, and recorded March 21, 2006 as Document No. 2006-0029929; the Seventh Amendment, dated March 7, 2007, and recorded April 11, 2007 as Document No. 2007-0036507; and the Eighth Amendment, dated June 20, 2012, and recorded July 25, 2012 as Document No. 2012-0066789 (collectively, the "Prior Amendments"). The Prior Amendments and Original Development Agreement are collectively referred to herein as the

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"Development Agreement." Except as otherwise defined herein, all capitalized terms used herein shall have the meanings ascribed thereto in the Development Agreement.

C. This Ninth Amendment amends the Development Agreement as to the property identified in the North Roseville Specific Plan as a portion of Parcel 31, which property is more particularly described in **Exhibit "A"** attached hereto (the **"DC-31C Property"**). This Ninth Amendment shall run with the land with respect to the DC-31C Property.

D. On January 23, 2014, the City Planning Commission, designated by Roseville Ordinance No. 3014 as the planning agency for purposes of development agreement review pursuant to Government Code Section 65867, in a duly noticed and conducted public hearing, considered this Ninth Amendment and recommended that the City Council approve this Agreement.

E. On March 5, 2014, the City Council ratified as adequate and complete the Addendum to North Roseville Specific Plan EIR and Mitigated Negative Declaration (the **"Addendum"**) for the residential development of the DC-31C Property (the **"Project"**). Mitigation measures were suggested in the Addendum and are incorporated in the Project and in the terms and conditions of this Agreement, as reflected by the findings adopted by the City Council concurrently with this Agreement.

F. The City Council has determined that the adoption of this Ninth Amendment involves no new impacts not considered in the Addendum; therefore, no further environmental documents relating to the adoption of this Agreement are required.

G. The City Council has found and determined that this Ninth Amendment of the Development Agreement is consistent with the General Plan and the North Roseville Specific Plan.

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

I. Amendment of Development Agreement. The following sections of the Development Agreement for the development of the DC-31C Property are hereby amended as follows:

a. Revised Recital 5 (Entitlements). Recital 5 of the Development Agreement is revised with respect to the DC-31C Property to read as follows:

"5. Entitlements. The Planning Commission has approved the following land use entitlements for the DC-31C Property, which entitlements are the subject of this Agreement:

5.1 A Major Project Permit Modification Stage 2;

5.2 The Tentative Subdivision Map (the **"Tentative Map"**) and Design Guidelines for the residential development of the DC-31C Property, as approved by the Planning Commission; and

5.3 This Ninth Amendment to Development Agreement, as adopted by Ordinance No. 5312 (the **"Adopting Ordinance"**) and as amended hereby."

The approvals described in paragraphs 5.1 through 5.3, inclusive, are referred to herein as the "**Entitlements.**"

b. Revised Section 2.2 (Vested Entitlements). All references in the Agreement with respect to **Exhibit "B"** shall refer to **Revised Exhibit "B"** attached hereto. The approximate land use acreages set forth in Section 2.2 of the Development Agreement with respect to the DC-31C Property are revised to read as follows:

Small Lot, High Density Residential	81 units (HDR- 14) on 6.3 ± acres
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c. Revised Sections 3.2.6 and 3.2.7 (Park Fees and Park Land Dedications). With respect to the DC-31C Property, Sections 3.2.6 and 3.2.7 of the Development Agreement are hereby revised in their entirety to read as follows:

"3.2.6 [Intentionally Omitted]

3.2.7 Park Fees and Parkland Dedications. In consideration of the parkland dedications made and park fees paid in connection with the development of the overall Diamond Creek project, including the development of the Villages Properties described in the Seventh Amendment of the Original Development Agreement (the "**Seventh Amendment**"), Landowner's parkland dedication and park fee obligations shall consist of the following:

3.2.7A Satisfaction of Neighborhood Parkland Dedication. The parties acknowledge that the neighborhood parkland dedication obligation set forth in Section 3.7.2A of the Seventh Amendment has been satisfied.

3.2.7B Satisfaction of City Wide Parkland Dedication. The parties acknowledge that the city wide parkland dedication obligation set forth in Section 3.7.2B of the Seventh Amendment has been satisfied.

3.2.7C Satisfaction of In-Lieu Open Space Dedication. The in-lieu open space dedication requirement originally assigned to the DC-31C Property in Section 3.7.2C of the Seventh Amendment is substantially lowered by the reduction in dwelling units identified in the Tentative Map. Accordingly, the in-lieu open space requirement is hereby deemed satisfied by existing land dedication credits in the North Roseville Specific Plan area.

3.2.7D Park Fees and Credits.

(a) Neighborhood Park Fees. Each single family unit within the Project will be subject to paying the updated and currently established single family Neighborhood Park Fee for the remaining units within the Diamond Creek portion of the North Roseville Specific Plan, which shall initially be \$2,339 per residential unit.

(b) City Wide Park Fees. Each residential unit within the Project will pay the City Wide Park Fee of \$1,981, subject to the City's annual fee adjustments (as described below), with a credit of \$617 for meeting land dedication requirements, for a net City Wide Park Fee of \$1,364 per residential unit.

(c) Pooled Unit Park Fees. The parties acknowledge that the pooled unit park fees required to be paid in Section 3.2.7E(c) of the Seventh Amendment have been paid in full.

(d) Annual Fee Adjustments. All park fees outlined above, excluding the open-space dedication in-lieu obligation, are subject to standard annual City fee adjustment increases on July 1.

(e) Pro-Rata Refund Upon Completion of Development and Parks. At the completion of all residential and neighborhood park development, if there is a remainder fund balance, City shall, within sixty (60) days of filing a notice of completion of the last neighborhood park or bike trail improvement for the North Roseville Specific Plan area, refund the Landowner, a pro-rata share of the remainder fund balance, based on the relative number of units within the Villages Properties.”

d. Revised Section 3.4 (Electric). With respect to the DC-31C Property, Subsection 3.4.4 of the Development Agreement is hereby revised in its entirety to read as follows and New Subsections 3.4.5 and 3.4.6 are hereby added to Section 3.4 of the Development Agreement as follows:

“3.4.4 Electric Efficiency and Demand Reduction. In order to mitigate demand for energy supplies and comply with state mandated energy efficiency goals, the following energy efficiency and load management requirements are hereby established:

A. Residential Air Conditioning Units: All residential dwelling units will install residential air conditioning units with the following sets of parameters, as a minimum standard:

1. Energy Efficiency Ratings. A Seasonal Energy Efficient Rating (“SEER”) of 2 points above the minimum, as defined by the State of California in the current Title 24 of the Code of California Regulations, an Energy Efficient Ratio (“EER”) of 12 or greater, and a thermal expansion valve (“TXV”). The SEER rating of 2 points above the minimum, as defined by the current Title 24, and an EER rating of 12 or greater along with a TXV will be specified on building plans and Title 24 compliance certificates at the time building permits are requested. The SEER and EER ratings will be verified with appropriate documentation. These requirements shall be utilized in the overall energy compliance calculations required for issuance of a building permit for any residential unit. Any variances must be approved by the Electric Department’s Retail Energy Services Department.

2. Control Devices. A direct load control device will be installed on all new residential dwelling units to the extent and subject to availability of program funds at the time of final map approval. The device will cycle the air conditioner compressor on/off during summer high peak load hours and operate under the control of Roseville Electric. Roseville Electric will install and maintain the devices at no cost to the builder/homeowner and/or Landowner. Roseville Electric shall install the device in a manner that does not delay Landowner’s construction or sale of the residence. Customers will be automatically enrolled in the load control program and must actively

opt out. Additionally, Landowner shall disclose to all residential buyers the following: (1) their property has been installed with a Roseville Electric owned air conditioner cycling demand switch; (2) the home buyer is automatically enrolled in the program; (3) Landowner will provide the home buyer with an opportunity to opt out of the program at the time of close of escrow and that this information will be provided to the Roseville Electric Retail Services New Construction Program Manager. Note the disclosure stated in Section 3.18.2(e) as to the direct load control device.

B. Other Energy Efficiency Programs. In a further effort to reduce the residential energy load, the Landowner is encouraged to participate in the new construction energy efficiency programs, with regard to all dwelling units in the Project area. All energy efficiency programs are voluntary incentive based programs offered by Roseville Electric.

3.4.5 Notices. Landowner shall include a notice in the project CC&Rs and its sale document advising property owners that there is a 4 foot private maintenance easement from edge of alley for the repair or maintenance of private electric, gas, cable, telephone, sewer, and water utilities.

3.4.6 Electric Facilities. Landowner agrees that any relocation, rearrangement or change to the existing electric facilities due to this development shall be at the Landowner's expense."

e. Revised Section 3.18 (Property Owners Association and Disclosures). Section 3.18 is hereby revised in its entirety with respect to the DC-31C Property to read as follows:

"3.18 Property Owners Association and Disclosures. Landowner shall establish a Property Owners Association ("POA"), or alternative private financing mechanism, for the purposes of funding the maintenance obligations and providing disclosures to prospective homeowners described in this Section below.

3.18.1 Maintenance Obligations. The maintenance obligations required by this Agreement to be funded by the POA and/or alternative private financing mechanism shall consist of the maintenance and repair of all the private roadways, alleys and shared driveway aisles located within the DC-31C Property.

3.18.2 Disclosures. The Project CC&Rs shall disclose the following:

a. Bus Stop Locations: The Project CC&Rs shall disclose the location of bus stops and the possible operation of bus service in the locations identified on the Project Plans.

b. Existence of Development Agreement: The existence of a Development Agreement on the Property. However, this notice shall not extend to the purchaser of a completed individual single family residential unit.

c. Use of Recycled Water for Landscaping: Recycled water will be used to irrigate landscape setbacks and medians along Diamond Creek Boulevard and Blue Oaks Boulevard.

d. Schools and Parks: Location of schools and parks within one mile.

e. Air Conditioning Demand Controls: Demand cycle control units operated by Roseville Electric on residential air conditioner units.

f. Solar Envelope Impact: Landowner shall disclose to all residential and nonresidential buyers that certain properties, specifically those adjacent to major arterials and collector streets where City-maintained landscaping is installed, may impact the buyer's opportunity to install solar panels or structures or the efficiency or effectiveness of such solar panels or structures. And that this is primarily due to the trees within the street landscapes as being generally medium to large shade trees, which may cast shade, leaf litter, or other natural affects onto the adjacent property.

Note: In the event Landowner records any Property CC&Rs, such CC&Rs shall include all the foregoing disclosures and the foregoing disclosures shall not be omitted or deleted from the CC&Rs without the City Attorney's prior written approval."

f. New and Revised Exhibits. New Exhibit "A" and Revised Exhibit "B" are attached hereto and hereby incorporated into and made a part of the Development Agreement.

2. Consistency with General Plan. The City hereby finds and determines that execution of this Ninth Amendment is in the best interest of the public health, safety and general welfare and is consistent with the General Plan.

3. Amendment. This Ninth Amendment amends, but does not replace or supersede, the Development Agreement except as specified herein. All remaining terms, covenants and conditions of the Development Agreement not amended hereby shall remain in full force and effect, including without limitation, the provisions set forth in the Seventh Amendment to the Development Agreement applicable to the Villages Properties not otherwise amended hereby. This Ninth Amendment only affects the development of the DC-31C Property described in Exhibit "A" attached hereto and does not amend or modify the rights or obligations associated with the development of any other Parcels within the Specific Plan.

4. Form of Amendment. This Ninth Amendment is executed in two duplicate counterparts, each of which is deemed to be an original.

[Signatures on Following Page]

IN WITNESS WHEREOF, the City of Roseville, a municipal corporation, has authorized the execution of this Amendment in duplicate by its City Manager and the attestation to this Amendment by its City Clerk under the authority of Ordinance No. 5312, adopted by the Council of the City of Roseville on the 19th day of March, 2014, and Landowner has caused this Amendment to be executed.

CITY:

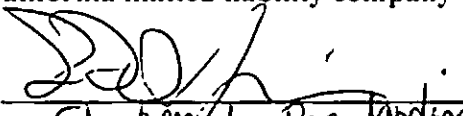
**CITY OF ROSEVILLE,
a municipal corporation**

BY: 

Ray Kerridge
City Manager

LANDOWNER:

**BBC DIAMOND CREEK, LLC,
a California limited liability company**

By: 

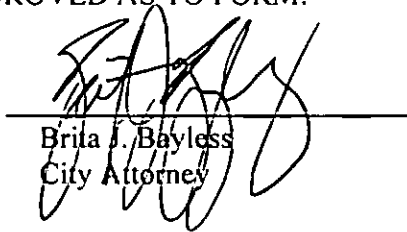
Name: Stephen L. Desjardins
Title: Manager

ATTEST:

BY: 

Sonia Orozco
City Clerk

APPROVED AS TO FORM:

BY: 

Brita J. Bayless
City Attorney

[ALL SIGNATURES MUST BE NOTARIZED]

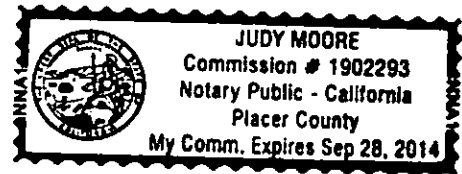
STATE OF CALIFORNIA)
 : ss.
COUNTY OF PLACER)

On March 20, 2014, before me, Judy Moore, Notary Public, personally appeared Ray Kerridge, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of the which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Judy Moore
Notary Public in and for said State



Document: Ninth Amendment of Development Agreement
By and Between The City of Roseville and BBC Diamond Creek LLC
Relative to the North Roseville Specific Plan
(Diamond Creek Parcel 31C)

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

State of California

County of Placer

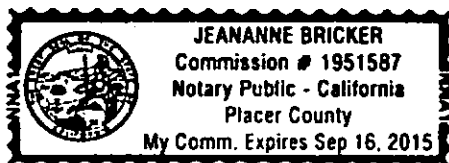
On February 11 2014 before me,

Jeananne Bricker, Notary Public

personally appeared

Stephen L. Desjardins
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person~~(s)~~ whose name~~(s)~~ is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity~~(ies)~~, and that by his/~~her/their~~ signature~~(s)~~ on the instrument the person~~(s)~~, or the entity upon behalf of which the person~~(s)~~ acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: Jeananne Bricker

Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Gen Amendment of Development Agreement

Document Date: _____

Number of Pages: 10

Signer(s) Other Than Named Above: City of Roseville Officials

Capacity(ies) Claimed by Signer(s)

Signer's Name: Stephen L. Desjardins

Signer's Name: _____

☐ Corporate Officer — Title(s): _____

☐ Corporate Officer — Title(s): _____

☐ Individual

☐ Individual

☐ Partner — ☐ Limited ☐ General

☐ Partner — ☐ Limited ☐ General

☐ Attorney in Fact

☐ Attorney in Fact

☐ Trustee

☐ Trustee

☐ Guardian or Conservator

☐ Guardian or Conservator

☒ Other: manager

☐ Other: _____

Signer Is Representing: BBC Diamond Creek, LLC

Signer Is Representing: _____

RIGHT THUMBPRINT
OF SIGNER

Top of thumb here

RIGHT THUMBPRINT
OF SIGNER

Top of thumb here

EXHIBIT "A"

Legal Description of DC-31C Property

That certain real property situated in the City of Roseville, County of Placer, State of California, described as follows:

Parcel 3, as said parcel is shown and delineated on that certain Parcel Map recorded November 30, 2007, in Book 34 of Parcel Maps, at Page 19, Placer County Records.

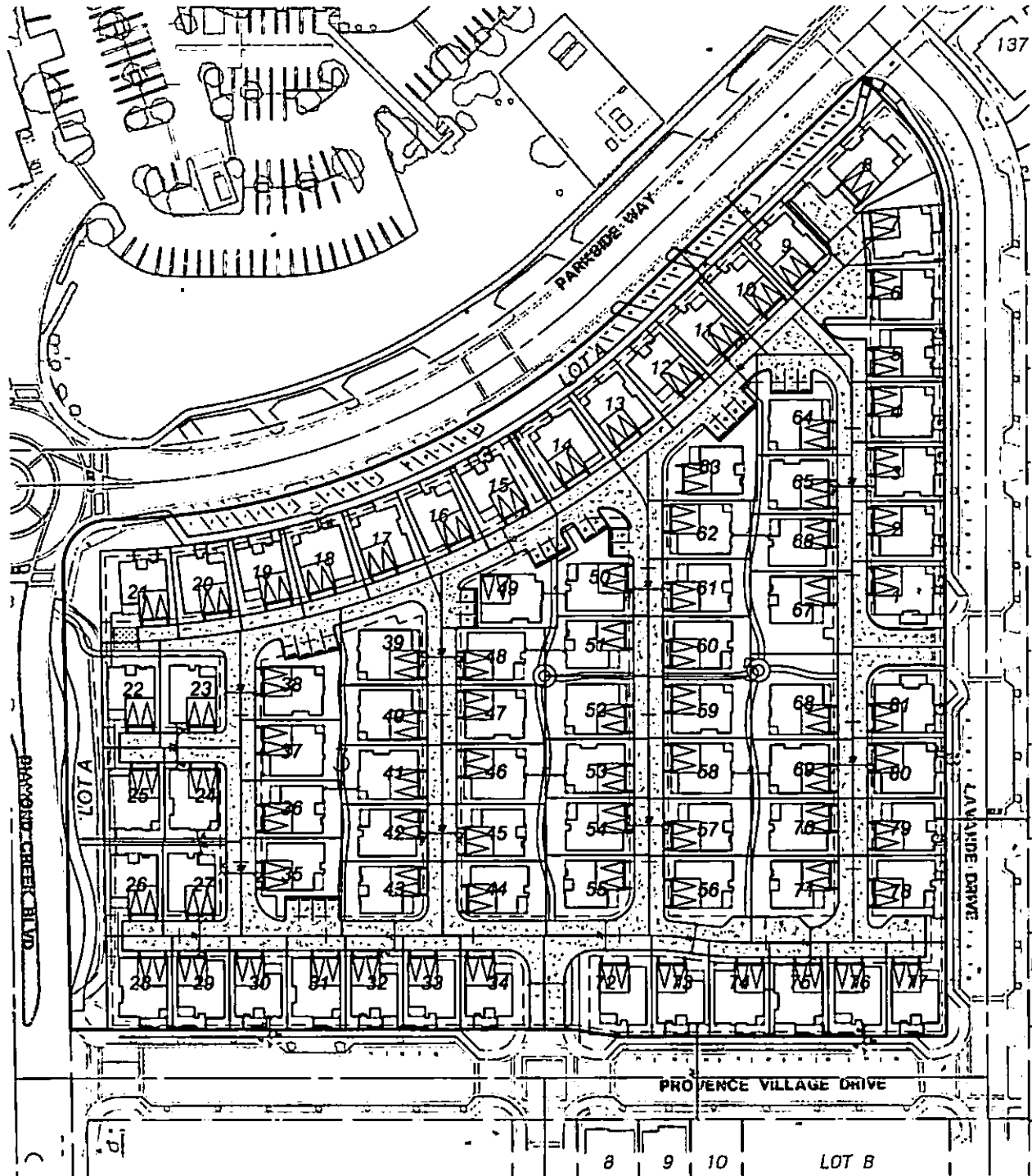
APN: 017-117-071-000

REVISED EXHIBIT “B”

Revised Land Use Map for the DC-31C Property

EXHIBIT 'B'

REVISED LAND USE MAP FOR THE DC-31C PROPERTY



DECEMBER 30, 2013

LOT B
GRAPHIC SCALE

