

DEVELOPMENT AGREEMENT FOR AN ASSISTED LIVING FACILITY

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THIS AGREEMENT is made and entered into this 17th day of August, 2012, by and between Kaysville City, a municipal corporation organized and existing under the laws of the State of Utah (hereinafter the "City"), and Toucan Investment, Real Estate and Development, LLC (hereinafter the "Developer;" "Developer" includes successors and/or assigns of Toucan Investment, Real Estate and Development, LLC), as follows:

07-286-0001

RECITALS

WHEREAS, Developer is desirous of developing a type I assisted living facility (the "Facility") on certain real property located in the City of Kaysville, County of Davis, State of Utah and more particularly described on the approved site plan, construction drawings and building plans. The conceptual site plan is attached hereto as Exhibit A (the "Site Plan"); and

WHEREAS, the purpose of this Agreement is to define the development standards, conditions and improvements, schedule for development of the Facility and other terms and conditions pursuant to which the Facility proposed by Developer is to be developed within the City; and

WHEREAS, the City is willing to authorize the development of the Facility proposed by Developer in conformance with this Agreement, City Ordinances, and applicable Utah law;

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth herein, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties agree as follows:

E 2703850 B 5658 P 320-334
RICHARD T. MAUGHAN
DAVIS COUNTY, UTAH RECORDER
11/30/2012 10:05 AM
FEE \$38.00 Pgs: 15
DEP RTT REC'D FOR KAYSVILLE CITY C
ORP

AGREEMENT

1. GENERAL DESCRIPTION.

A. Area Description. The property upon which the Facility shall be developed (the "Property") is located as shown on the Site Plan, a copy of which is attached as Exhibit A hereto and incorporated by reference herein. The property is further described as All of Lot 1 Baer Creek ~~Health Care~~ Residential Subdivision.

B. Project Description. The project proposed by Developer is an Assisted Living Facility which is a residential facility that provides assistance with activities of daily living and social care to residents who require protected living arrangements and are capable of achieving mobility sufficient to exit the facility without the assistance of another person. The Facility and approved site improvements will be the only development on the Property.

2. DEVELOPMENT STANDARDS AND GUIDELINES

A. Adoption of Development Standards. The City hereby adopts, as the development standards and guidelines for the Facility (the "Development Standards"), the following in addition to all other applicable City Ordinances, standards and guidelines:

(1) Compliance With Approved Plans. Developer shall comply with all requirements identified in the approved site plan, construction drawings and building plans related to all of the improvements to be constructed on the Property, and the development of the Facility shall conform in all material respects with the approved site plan, construction drawings and building plans.

(2) Architecture. Developer shall construct the Facility in substantial compliance and conformance with the Architecture as set forth in Exhibit B, Main Level Floor Plan, Exhibit C, Lower Level Floor Plan, Exhibit D, Front Elevation and Rear Elevations, and Exhibit E, Landscape Plan, attached hereto and incorporated by reference herein.

B. Findings of Compatibility. In adopting the Development Standards identified in Section 2.A., the City hereby expressly finds that the development of the Facility, in conformance with the Development Standards and this Agreement, promotes the creation of a desirable type I assisted living facility in an appropriate location. The City further finds that the development of the Facility, in conformance with the Development Standards and this Agreement, will not violate the general purposes, goals and objectives of the City Ordinances and any plans adopted by the Planning Commission and City Council of the City.

Subject to the Developer's performance and compliance with the terms of this Agreement and City Ordinances in effect on the date of this Agreement, Developer's rights to develop the Facility in accordance with the approved site plan, construction drawings and building plans is vested.

3. ON-SITE PROJECT IMPROVEMENTS

Developer shall construct and install all site improvements, including utilities, required for the Facility, at Developer's sole cost and expense, in compliance with approvals, and all applicable ordinances, regulations, standards and statutes of the City, the secondary water provider, The Central Davis Sewer District, other providers and the State of Utah.

4. OFF-SITE PROJECT IMPROVEMENTS

In accordance with applicable standards and subject to the design approval of the City Engineer, Developer shall construct and install street improvements, utilities, and drainage improvements, on Main Street as shown on the approved construction drawings, with construction of the on-site improvements.

5. REPRESENTATIONS OF DEVELOPER

A. Authority. Developer hereby represents that it has authority to proceed with the Facility.

B. Ability. Developer represents that it has the ability to timely proceed with the development and construction of the Facility. Developer agrees to begin construction of the Facility as soon as practicable and complete development with occupancy approval by December 31, 2013.

6. ASSIGNMENT

Developer may assign this Agreement to any other third party provided that the City consents to such assignment, which consent shall not be unreasonably withheld, upon a showing to the satisfaction of the City that such third party has the financial ability to perform Developer's obligations hereunder.

7. BINDING EFFECT

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

8. ATTORNEYS' FEES

In the event that this Agreement or any provision hereof shall be enforced by an attorney retained by a party hereto, whether by suit or otherwise, the fees and costs of such attorney shall be paid by the party who breaches or defaults hereunder, including fees and costs incurred upon appeal or in bankruptcy court.

9. SEVERABILITY

If any term or provision of this Agreement shall, to any extent, be determined by a court of competent jurisdiction to be void, voidable, or unenforceable, such void, voidable or unenforceable term or provision shall not affect the enforceability of any other term or provision of this Agreement.

10. CAPTIONS

The section and paragraph headings contained in this Agreement are for the purposes of reference only and shall not limit, expand or otherwise affect the construction of any provisions hereof.

11. GOVERNING LAW

This Agreement and all matters relating hereto, shall be governed by, construed and interpreted in accordance with the laws of the State of Utah.

12. ENTIRE AGREEMENT

This Agreement, together with the exhibits attached hereto, constitutes the entire understanding and agreement by and among the parties hereto, and supersedes all prior agreements, representations or understandings by and among them, whether written or oral, pertaining to the subject matter hereof.

13. CONSTRUCTION

As used herein, all words in any gender shall be deemed to include the masculine, feminine, or neuter gender, all singular words shall include the plural, and all plural words shall include the singular, as the context may require.

14. AUTHORIZATION OF EXECUTION

A. City. The execution of this Agreement by the City has been authorized by the City Council of Kaysville City at a regularly scheduled meeting of that body, pursuant to notice.

B. Developer. The execution of this Agreement has been duly authorized by the Developer.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

TOUCAN INVESTMENT, REAL ESTATE
AND DEVELOPMENT, LLC

ATTEST:

By: 
KEITH R. RUSSELL
Member

Secretary

KAYSVILLE CITY

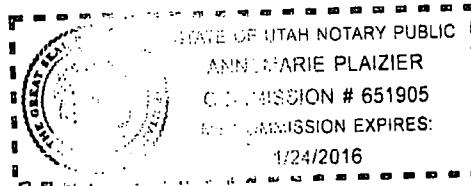
ATTEST:


LINDA ROSS
City Recorder

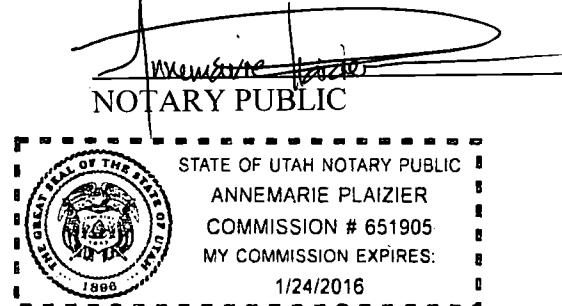
STATE OF UTAH)
: ss.
COUNTY OF DAVIS)

By: 
STEVE A. HIATT
Mayor

On the 17 day of August, 2012, personally appeared before me STEVE A. HIATT, and LINDA ROSS, who being by me duly sworn did say, each for himself and herself that he, the said STEVE A. HIATT, is the Mayor of Kaysville City, Davis County, State of Utah and that she, the said LINDA ROSS, is the City Recorder of Kaysville City, and that the within and foregoing instrument was signed on behalf of the said Kaysville City by authority of the City Council of Kaysville City and said STEVE A. HIATT and LINDA ROSS, each duly acknowledged to me that the said Kaysville City executed the same and that the seal affixed is the seal of the said Kaysville City.



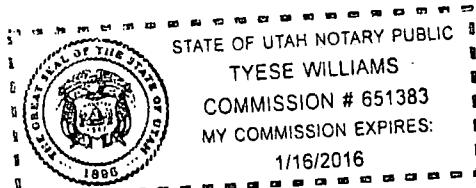
7



(SEAL)

STATE OF UTAH)
: ss.
COUNTY OF DAVIS)

On the 15th day of August, 2012, personally appeared before me, KEITH R. RUSSELL, the signer of the foregoing Development Agreement for Toucan Investment, Real Estate and Development, LLC, who duly acknowledged to me that he executed the same for and on behalf of Toucan Investment, Real Estate and Development, LLC.



(SEAL)

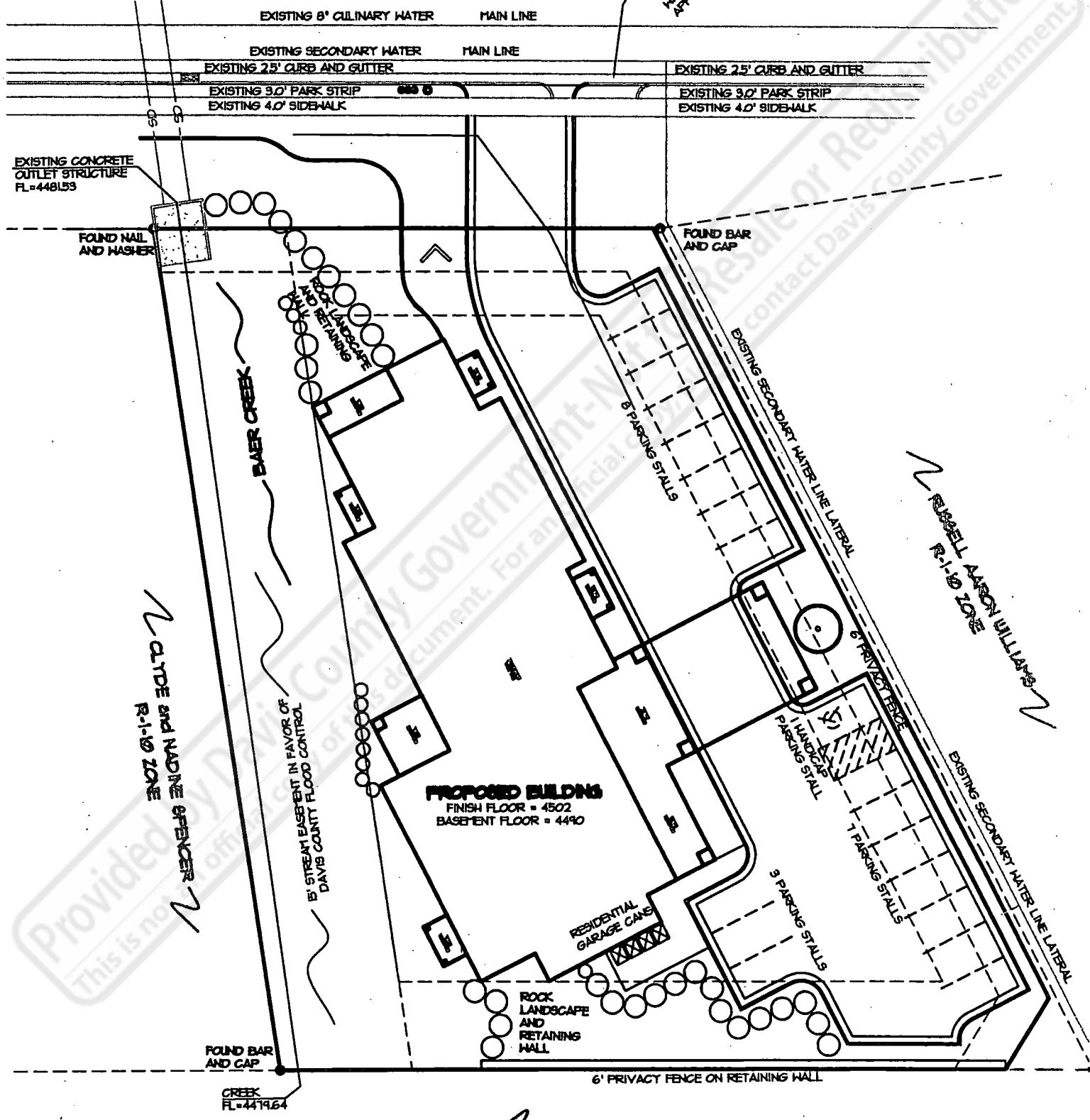
Tyese Williams
NOTARY PUBLIC

209.06 LINEAR FEET OF EXISTING SANITARY SEWER AT 1% SLOPE FROM MANHOLE TO MANHOLE
194.21 LINEAR FEET FROM EXISTING MANHOLE TO NEW MANHOLE

Exhibit A

← STATE ROAD No. 273 →

13 →
EXISTING HIS/DRIVE
APPROACHED TO BE REMOVED
WITH NEW 230 DRIVE
APPROACH.



RUSSELL AARON WILLIAMS
R-1-10 ZONE

Exhibit B

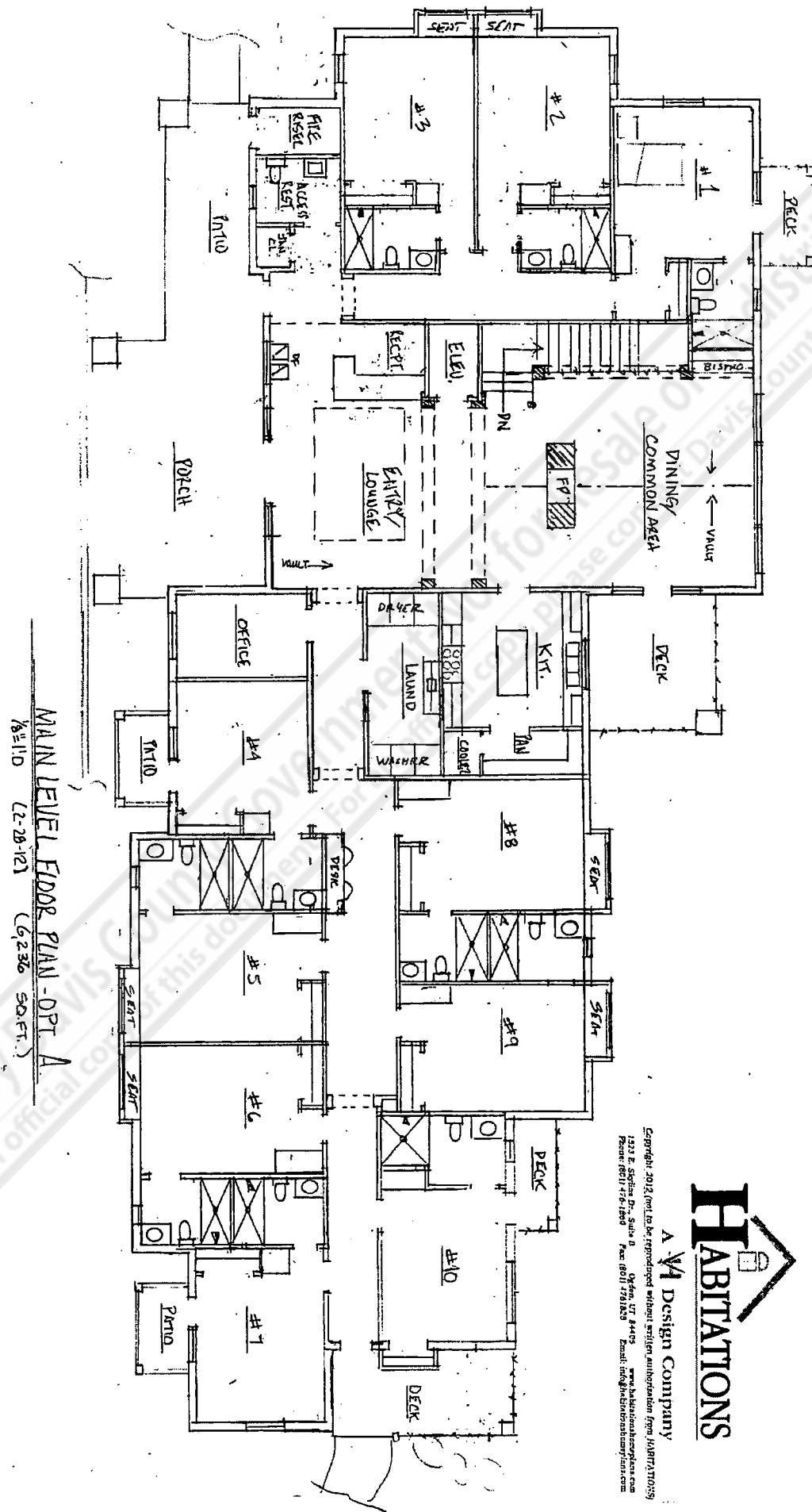


Exhibit C



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1923 E. 50th Dr., Suite D Ogden, UT 84403 www.dentistsofogden.com
Phone: (801) 476-1600 Fax: (801) 476-3233 Email: info@dentistsofogden.com

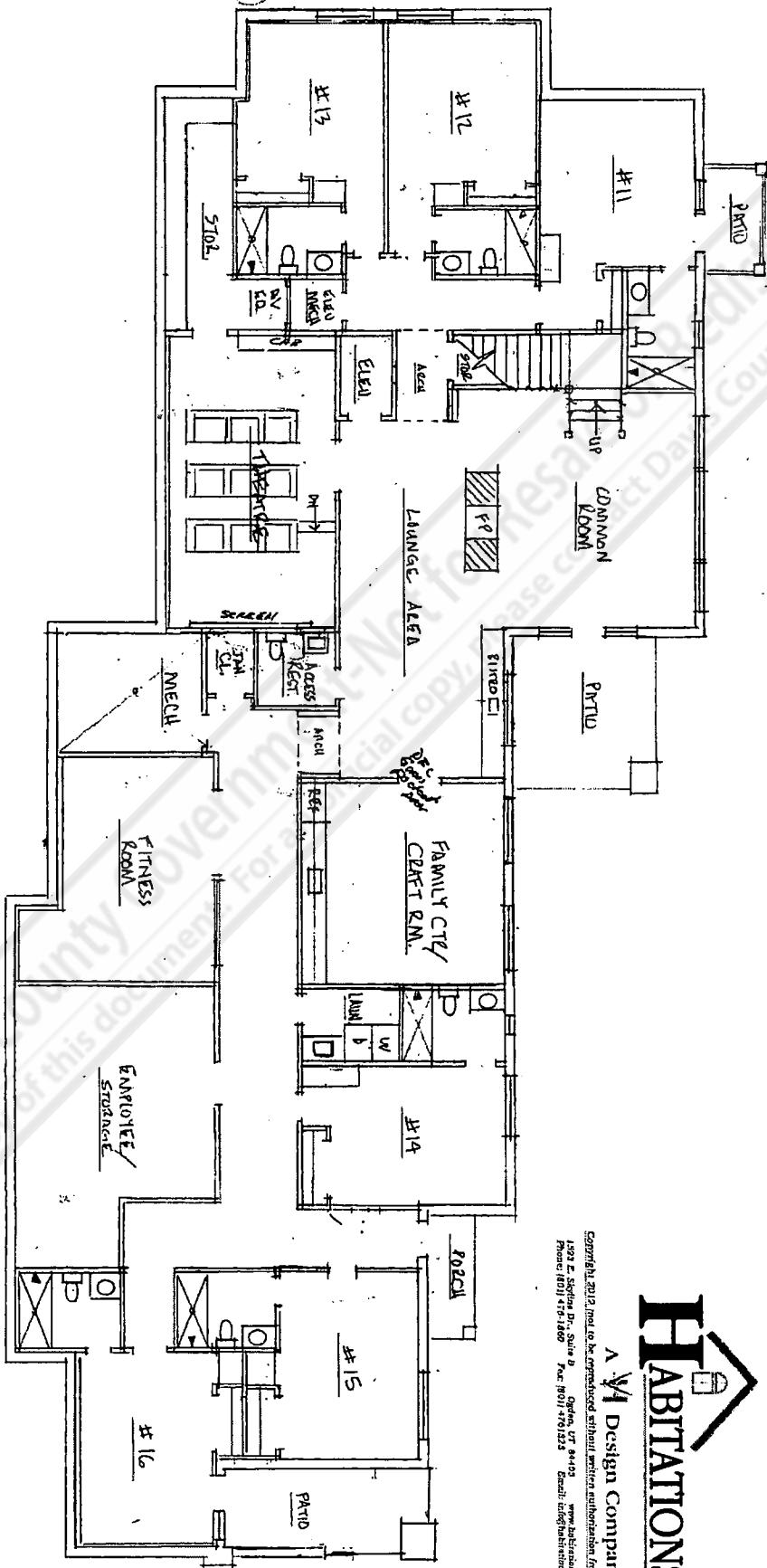
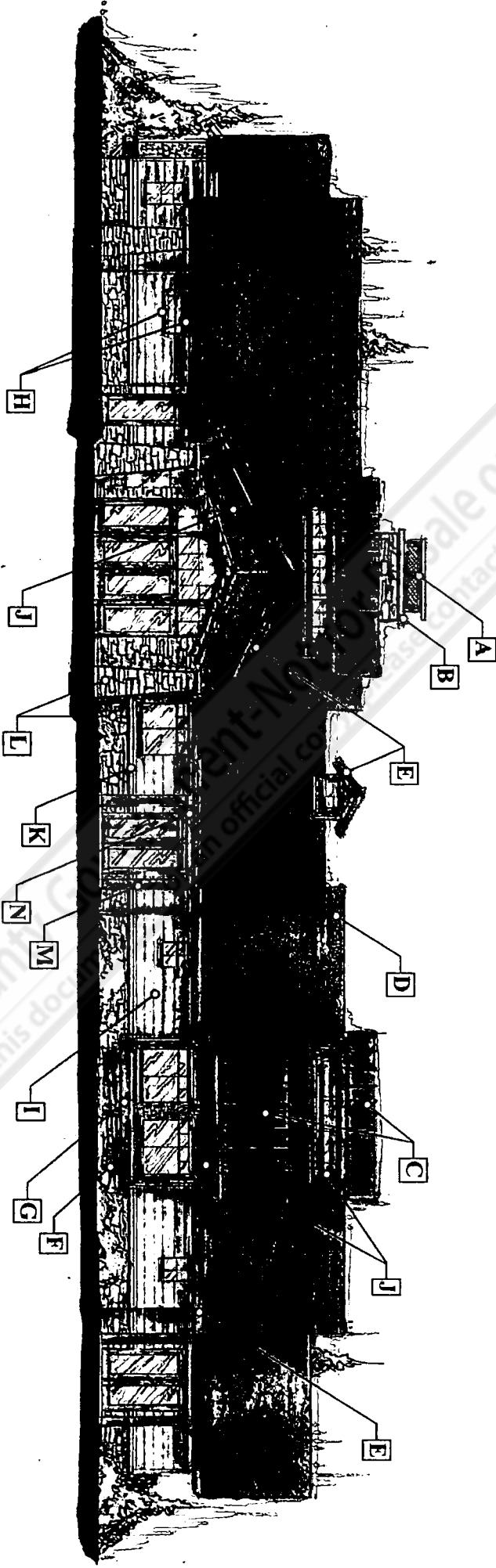


Exhibit D



A  Design Company

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1522 E. 3000 Dr., Suite B, Ogden, UT 84403
Phone: (801) 476-1860 Fax: (801) 476-1873 Email: info@habitationsinc.com



FRONT ELEVATION

Project Information:

Name: Baer Creek
Assisted Living Center
Address: 770 South Main Street
Kaysville City, Davis County, Utah

Owner/Developer: Hansen & Hunt Investment, LP

Layton, Utah

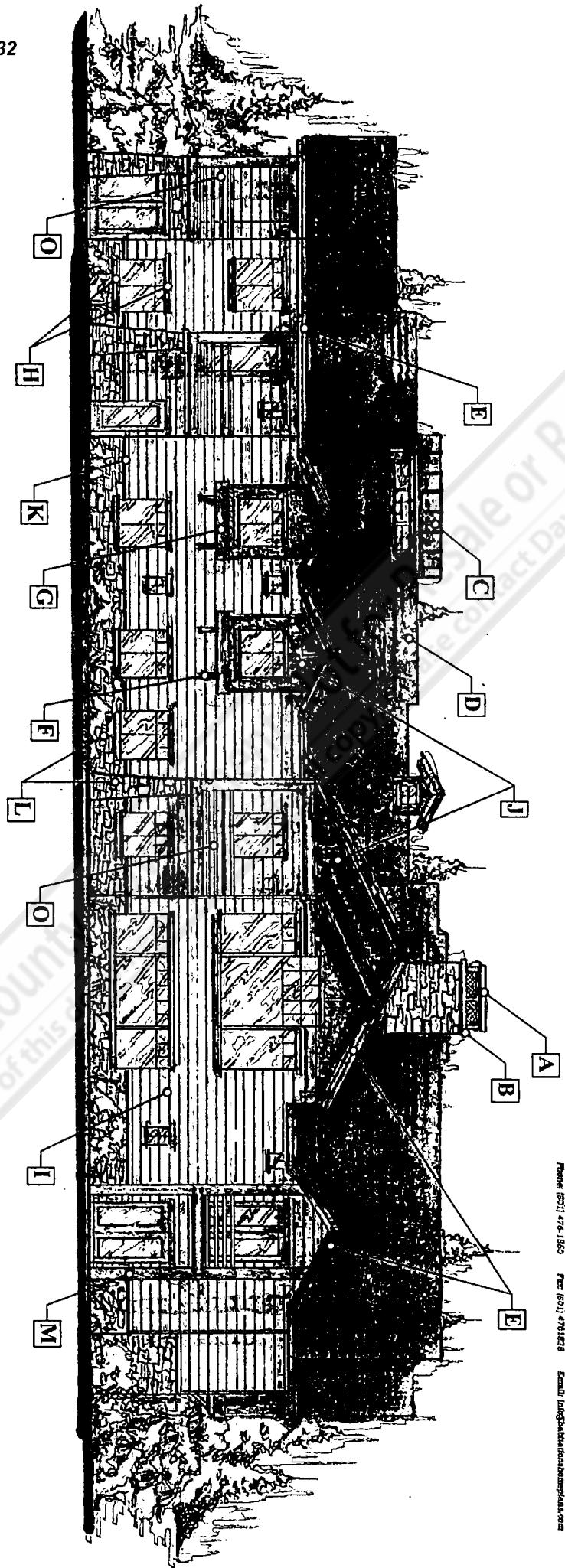
Designer/Architect: Habitations, a VH Design Company

South Ogden, Utah

Civil Engineer: Ensign Engineering & Land Surveying, Inc.

Layton, Utah

REAR ELEVATION



HABITATIONS

A  Design Company

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Baer Creek Assisted Living Center

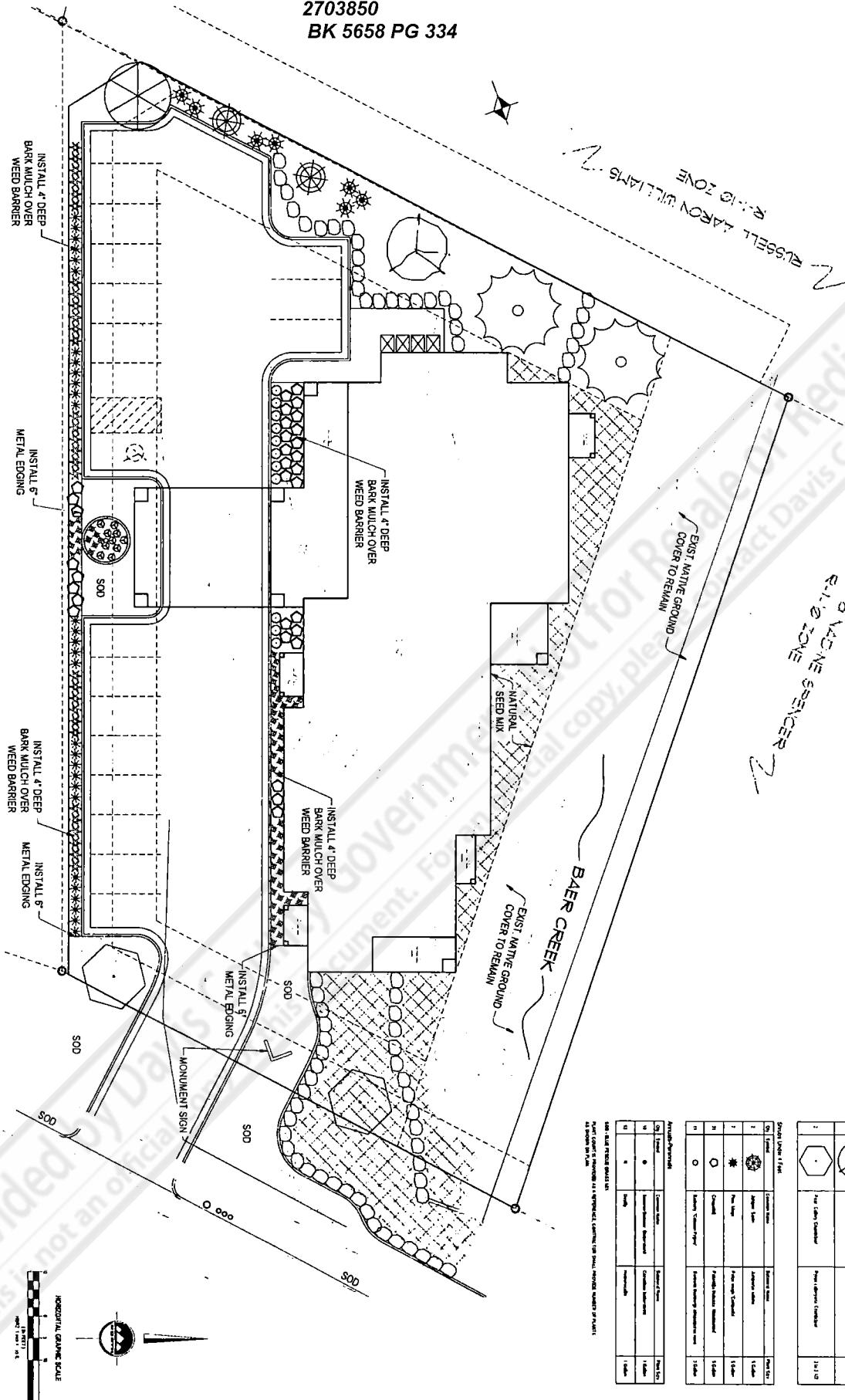
Materials legend

- A. Powder coated steel chimney cap w/Aged bronze color.
- B. Cut natural stone chimney cap (gray color - quarry quartz by Natural Stone Connection)
- C. Standing seam metal roof (painted steel w/ aged bronze color)
- D. 35 year architectural grade asphalt/fiberglass shingles (country gray color)
- E. 2-tiered fascia (aluminum w/ aged bronze color)
- F. Rough sawn timber corbel (Cabot – Pinecone stain color)
- G. 1x10 Rough sawn - Douglas Fir trim (Cabot - Pinecone stain color)
- H. Rough sawn timber header/ sills (Cabot - Pinecone stain color)
- I. Fiber-cement 8" lap siding (Sherwin Williams - Plymouth Green)
- J. Fiber-cement 6" shingle siding (Sherwin Williams - Tansy Green)
- K. Cut natural stone sill cap (gray color - quarry quartz by Natural Stone Connection)
- L. Thin cut natural stone veneer (Yosemite Ledge - by Natural Stone Connection)
- M. Rough sawn – Douglas Fir posts (Cabot - Pinecone stain color)
- N. Rough sawn - Douglas Fir pergola shade structure (Cabot - Pinecone stain color)
- O. Stainless steel cable handrail system

Exhibit E



2703850
BK 5658 PG 334



NOTE: Landscaping is a suggested, lasting use plan. Actual needs of plants are determined by the grower.

LANDSCAPE PLAN

2703850

BK 5658

PG 334

APPLE HOLLOW AT BAER CREEK
RETIREMENT HOME
770 SOUTH MAIN STREET
KAYSVILLE, UTAH



LANDSCAPE PLAN

2703850

BK 5658

PG 334

APPLE HOLLOW AT BAER CREEK
RETIREMENT HOME
770 SOUTH MAIN STREET
KAYSVILLE, UTAH

LANDSCAPE PLAN

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PG 334

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