



**NOTICE OF A REGULAR MEETING OF THE PLANNING COMMISSION
OF THE TOWN OF CLARKDALE
TUESDAY, OCTOBER 15, 2024 AT 4:30 PM**

In Person: Clark Memorial Clubhouse, 19 N. Ninth St., Clarkdale AZ

OR

Join Zoom Meeting

<https://zoom.us/j/9554994085>

Meeting ID: 955 499 4085

Unless otherwise stated, the public will have physical access to the meeting place 15 minutes prior to the start of the meeting.

Town of Clarkdale Vision

The Town of Clarkdale connects our unique history, proximity to the Verde River, and small-town charm to a future with a vibrant economy.

We cultivate an environment where residents and businesses can thrive; providing services and jobs for our residents and capitalizing upon tourism.

We sustainably enhance our infrastructure, support the arts and education, and develop recreational opportunities to create a bright future for our entire community.

PURSUANT TO A.R.S. §38-431.02, NOTICE IS HEREBY GIVEN that the Planning Commission will hold a Regular Meeting open to the public on Tuesday, October 15, 2024, at 4:30 PM at 19 N. Ninth Street, Clarkdale, Arizona, Clark Memorial Clubhouse, Men's Lounge. A quorum of Town Council members may be present at this meeting; however, they will not deliberate or take action on any items. All members of the public are welcome to attend.

ALL ITEMS ON THIS AGENDA ARE SCHEDULED FOR DISCUSSION AND POSSIBLE ACTION, UNLESS OTHERWISE NOTED.

1. CALL TO ORDER

2. ROLL CALL

3. PUBLIC COMMENT

The Planning Commission invites the public to provide comments at this time. Members of the Planning Commission may not discuss items that are not specifically identified on the agenda. Therefore, pursuant to A.R.S. §38-431.01, action taken as a result of public comment will be limited to directing staff to study the matter, responding to any criticism, or scheduling the matter for further consideration and decision at a later date. Persons interested in making comments on a

specific agenda item are asked to complete a brief form and submit it to the Clerk or liaison during the meeting. Each speaker is asked to limit their comments to five minutes.

4. MINUTES

A. Approval of Minutes

Discuss, consider and act upon the draft minutes from the regular meeting held on July 16, 2024.

5. NEW BUSINESS

A. Public Hearing - The Highlands at Clarkdale Preliminary Development Plan

The Planning Commission will hold a Public Hearing to take public comment on application #230147, submitted by Jon Lash - Plateau Partners II, APN 400-05-010G, regarding the Highlands at Clarkdale, for approval of the Preliminary Plat, comprised of 48 single-family residential lots on approximately 18.56 acres of an approximately 23.84-acre vacant parcel of land generally located at the Northwest corner of SR89A, Cement Plant Road and Clarkdale Parkway.

B. The Highlands at Clarkdale Preliminary Development Plan

Discuss, consider and act upon application #230147, submitted by Jon Lash - Plateau Partners II, APN 400-05-010G, regarding the Highlands at Clarkdale, for approval of the Preliminary Plat, comprised of 48 single-family residential lots on approximately 18.56 acres of an approximately 23.84-acre vacant parcel of land generally located at the Northwest corner of SR89A, Cement Plant Road and Clarkdale Parkway.

6. FUTURE AGENDA ITEMS

Planning Commission may propose items to be placed on a future agenda. This item is for discussion only.

7. ADJOURNMENT

Values

Values are the guiding principles that provide an organization with purpose and direction. The Town of Clarkdale's organizational values are:

COPPER

Customer focused

Open, transparent and equitable

Preserving our history, charm, and environment

Planning for a sustainable future

Economic and social resiliency

Resourceful and innovative

Mission

The Town of Clarkdale serves the community by providing amenities, infrastructure, services, and public safety to enhance quality of life. We are stewards of our history while we sustainably and resiliently plan for the future with an emphasis on community engagement

and transparency.

Persons with a disability may request reasonable accommodations by contacting the Town Hall at (928) 639-2400 (TTY: 1-800-367-8939) at least 72 hours in advance of the meeting.



**SUMMARIZED MINUTES OF A REGULAR MEETING OF THE PLANNING COMMISSION
OF THE TOWN OF CLARKDALE
TUESDAY, JULY 16, 2024 AT 4:30 PM**

(To listen to the full audio/video of the meeting,
please visit www.clarkdale.az.gov – agendas & minutes)

Members Present: *Vice Chair Carol Johnson, Commissioners Allen Spence, Joe Conk, and Andrew Kelly.*

Members Absent: *Chair Ida de Blanc*

Other municipal officials present: *Community Development Director & Assistant Town Manager, Ruth Mayday; Community Development Project Manager, Spencer Jones; Associate Planner, Britania Esparza; Community Development Technician, Guss Espolt; Council Member Babbitt-Pierce; and Council Member O'Neill.*

Audience: *Approximately eight members of the public present.*

Zoom: *Approximately one person was present on Zoom.*

- 1. CALL TO ORDER** – *Vice Chair Johnson called the meeting to order at 4:30 p.m.*
- 2. ROLL CALL** – *4- Present: Vice Chair Johnson, Commissioner Spence, Commissioner Conk, and Commissioner Kelly, 1- Absent: Chair de Blanc.*
- 3. PUBLIC COMMENT**
No public comment.
- 4. MINUTES**

A. Approval of Minutes

Consider and act upon the draft minutes from the regular meeting held on April 16, 2024.

Motion: *Approve the draft minutes from the regular meeting held on April 16, 2024.*

First motion: *Commissioner Kelly* **Second:** *Commissioner Spence*

Approved 4-0

Board Member	Ayes/Nays
Chair de Blanc	Not Present
Vice Chair Johnson	Aye

Commissioner Spence	Aye
Commissioner Conk	Aye
Commissioner Kelly	Aye

5. NEW BUSINESS

A. Public Hearing - Ordinance #427 - Updates to the Town of Clarkdale Zoning Code

The Planning Commission held a public hearing to take comments from the public regarding updates to the Town of Clarkdale Zoning Code by adding words and terms related to Chapter 2, Definitions, and adding Article 4-250 Flagpole Regulations, to Chapter 4, General Provisions.

No public comment.

B. Ordinance #427 - Updates to the Town of Clarkdale Zoning Code

Discuss, consider and act upon Ordinance #427, making updates to the Town of Clarkdale Zoning Code by adding words and terms related to Chapter 2, Definitions, and adding Article 4-250 Flagpole Regulations, to Chapter 4, General Provisions.

Motion: Motion to approve, with a stipulation that language be added pertaining to the dark sky ordinance, specifically direction of light and cover of flagpole lights.

First motion: *Commissioner Kelly* **Second:** *Commissioner Spence*

Approved 4-0

Board Member	Ayes/Nays
Chair de Blanc	Not Present
Vice Chair Johnson	Aye
Commissioner Spence	Aye
Commissioner Conk	Aye
Commissioner Kelly	Aye

C. Public Hearing - Ordinance #428 - Text Amendments to the Town of Clarkdale Zoning Code

The Planning Commission held a Public Hearing to take comment on Ordinance #428, Text Amendments to the Zoning Code as follows: Section 2-010, Definitions, Chapter 5, Conditional Use Permit Table of Contents, Section 5-070, Term of a Conditional Use Permit, Section 5-090, Renewal of a Conditional Use Permit, Section 5-100, Abandonment of a Conditional Use Permit, Section 6-020, Standards for Planned Area Development, Section 11-050, Expiration of Design Review Approval, Section 11-140, Post Approval Activities, Section 11-180, Amendments to the Code, Chapter 12, Subdivision Regulations Table of Contents, Section 12-2-020, Words and Terms Defined, Section 12-3-050, Dedicated Access, Section 12-4-030, Stage II – Preliminary Plat, Section 12-4-050, Stage IV – Final Plat, Recording and Post Approval, and Section 12-5-060, Significance of Minor Subdivision Plat Approval.

Public Comment: Todd Green – concerns about consensus of the prior neighborhood meeting for this ordinance. "Open-gov" recommendation for tracking changes.

D. Ordinance #428 - Text Amendments to the Town of Clarkdale Zoning Code

Discuss, consider and act upon Ordinance #428, making Text Amendments to the Zoning Code as follows: Section 2-010, Definitions, Chapter 5, Conditional Use Permit Table of Contents, Section 5-070, Term of a Conditional Use Permit, Section 5-090, Renewal of a Conditional Use Permit, Section 5-100, Abandonment of a Conditional Use Permit, Section 6-020, Standards for Planned Area Development, Section 11-050, Expiration of Design Review Approval, Section 11-140, Post Approval Activities, Section 11-180, Amendments to the Code, Chapter 12, Subdivision Regulations Table of Contents, Section 12-2-020, Words and Terms Defined, Section 12-3-050, Dedicated Access, Section 12-4-030, Stage II – Preliminary Plat, Section 12-4-050, Stage IV – Final Plat, Recording and Post Approval, and Section 12-5-060, Significance of Minor Subdivision Plat Approval.

Motion: *Motion to approve*

First motion: *Commissioner Conk* **Second:** *Commissioner Kelly*

Approved 4-0

Board Member	Ayes/Nays
Chair de Blanc	Not Present
Vice Chair Johnson	Aye
Commissioner Spence	Aye
Commissioner Conk	Aye
Commissioner Kelly	Aye

E. Public Hearing - Ordinance #430 - 89A Corridor Commercial Overlay District

The Planning Commission held a Public Hearing to take comment on Ordinance #430, 89A Corridor Commercial Overlay District, amending Chapter 3, Zoning Districts, articles 3-100, Commercial (C), 3-110, Neighborhood Commercial, and 3-120 Highway Commercial, and Article 3-130, 89A Corridor Commercial Overlay District, by deleting the Section in its entirety.

Todd Green: Concerns about design aspects of metal buildings. Concerns about the ASU project that provided input on the 89A overlay, specifically because the project consisted of mainly students. Commented that they (Citizens of Clarkdale) were promised to vote on the general plan, which did not come to fruition. Concerns about the term "NIMBY" (not in my backyard) being present in the ASU plan.

F. Ordinance #430 - 89A Corridor Commercial Overlay District

Discuss, consider and act upon Ordinance #430, 89A Corridor Commercial Overlay District, amending Chapter 3, Zoning Districts, articles 3-100, Commercial (C), 3-110, Neighborhood Commercial, and 3-120 Highway Commercial, and Article 3-130, 89A Corridor Commercial Overlay District, by deleting the Section in its entirety.

Motion: *Motion to approve*

First motion: *Vice Chair Johnson* **Second:** *Commissioner Conk*

Approved 4-0

Board Member	Ayes/Nays
Chair de Blanc	Not Present
Vice Chair Johnson	Aye

Commissioner Spence	Aye
Commissioner Conk	Aye
Commissioner Kelly	Aye

6. FUTURE AGENDA ITEMS

Planning Commission did not propose items to be placed on a future agenda. This item is for discussion only.

7. ADJOURNMENT – *Vice Chair Johnson adjourned the meeting without objection at 5:38 p.m.*

Motion: *Motion to adjourn.*

First motion: *Commissioner Spence* **Second:** *Commissioner Kelly*

Approved 4-0

Board Member	Ayes/Nays
Chair de Blanc	Not Present
Vice Chair Johnson	Aye
Commissioner Spence	Aye
Commissioner Conk	Aye
Commissioner Kelly	Aye

Ida Meri de Blanc, Chair

Ruth Mayday, Community Development Director



Staff Report

Item Number: 5.A.

Agenda Item: **Public Hearing - The Highlands at Clarkdale Preliminary Development Plan**

The Planning Commission will hold a Public Hearing to take public comment on application #230147, submitted by Jon Lash - Plateau Partners II, APN 400-05-010G, regarding the Highlands at Clarkdale, for approval of the Preliminary Plat, comprised of 48 single-family residential lots on approximately 18.56 acres of an approximately 23.84-acre vacant parcel of land generally located at the Northwest corner of SR89A, Cement Plant Road and Clarkdale Parkway.

Staff Contact: Ruth Mayday, Community Development Director

Meeting Date: October 15, 2024

Strategic Goal: This agenda item supports the following Clarkdale Strategic Goal Area:

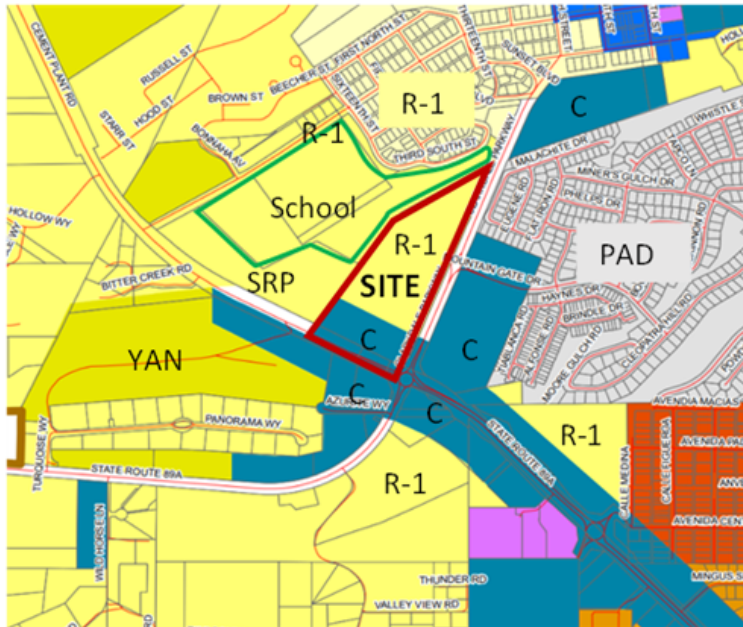
- Goal Area 5 - Plan for the maintenance and growth of quality infrastructure that is sustainable and resilient.

Background: **SUMMARY:**

The purpose of this Public Hearing is to take comment on the proposed Preliminary Plat for approximately 48 single-family residential lots on 18.56 acres of a 23.84-acre parcel located at the Northwest corner of SR 89A, Cement Plant Road and Clarkdale Parkway. This application replaces the Planned Area Development (PAD) rezoning request and preliminary plat approval sought at the Feb. 20, 2024, Planning Commission meeting.

As no rezoning is required, the action item associated with this public hearing will be to approve the preliminary plat as submitted, as amended, or deny approval and forward it to Town Council with a recommendation for the same. The Commission may also return the item to Staff for additional work if it finds that the plat does not comply with the requirements set forth in the Zoning Code.

This Preliminary Plat proposes the subdivision of approximately 18.56 acres of an approximately 23.84-acre parcel into 48 lots for development of single-family residences and concomitant improvements. The remaining 5.28 acres will be developed in a future phase and are not a part of this application.



PROJECT INFORMATION:

PARCEL NUMBER

400-05-010G

CURRENT ZONING

R-1 Single Family Residential

C - Commercial

Land Use Designation

MXD – Mixed Use

ADJACENT ZONING:

'R-1' Single Family Residential

'R-2' Single Family Residential

'PAD' Mountain Gate

'C' Commercial

SITE ACREAGE:

Total Parcel = 23.84 acres

18.56 acres (this subdivision)

SINGLE FAMILY RESIDENTIAL

48 Single Family lots of approximately 8,960 square feet

PARKING

Garage Parking

2 spaces per unit x 48 lots = 96

Street Parking

38 spaces (one side of street only)

Total Spaces = 134

Required = 96

Density Transfer: The applicant proposes reserving 1.94 acres of the wash area as open space, which allows for a reduction of 1,040 square feet per lot.

Neighborhood Meeting: The applicant held a neighborhood meeting in the Men's Lounge of the Clarkdale Memorial Clubhouse on Aug. 15, 2024, at 5:30 p.m. Approximately 50 residents were in attendance. Concerns expressed included capacity of water and wastewater systems, water supply, funding for schools, business model of the developer, and price points for homes. There is no requirement in code or statute for a neighborhood meeting for a preliminary plat. However, in the interests of transparency, the developer agreed to conduct one to better inform the community on the project.

Public Notification: In compliance with A.R.S. 9-462.04, all property owners of record within 300' of the subject property were notified of the proposal and public hearing via first-class mail on Sept. 27, 2024. Because Section 12-4-030 (D) (3) specifies that notice is required for owners within 300' of the project boundary, staff cannot notify in excess of that requirement to ensure transparency with adjacent neighborhoods. A notice was posted on the property on that same date and a notice was published in the Verde Independent on Sept. 28, 2024.

ZONING AND GENERAL PLAN COMPLIANCE:

The subject property is zoned Single Family Residential (R1), which allows for a minimum lot size of 10,000 square feet. The size can be reduced by preservation of wash areas; in this case, 1.94 acres has been set aside, which reduces the minimum lot size to 8,960 square feet. The General Plan Mixed Use designation applies to the subject parcel as well. This designation allows for a combination of residential and commercial uses, which includes the proposed subdivision.

PROCESS:

The process for approval of a Preliminary Plat is set forth in Chapter 12, Subdivision Regulations, Article 12-4, Subdivision Platting Procedures and Requirements.

Stage 1 is a pre-application conference. Staff has been meeting with the developer and his consultants since shortly after the Feb. 20, 2024 Planning Commission meeting to refine the proposed development to meet the zoning requirements under Chapter 3, Zoning Districts, Article 3-010 Single Family Residential (R1).

Stage 2 is Preliminary Plat approval, which is the current status of the project. The purpose of this stage is to develop the plat and development plan in enough detail to provide the Town and the public with information about the proposed project without requiring the detail necessary for final development plan/final plat approval. Complete engineering plans are not required at this stage as the developer must have an approved preliminary plat to finalize engineering and related development plans.

The Preliminary Plat then goes through the approval process that is set forth in Chapter 12, Subdivision Regulations, Article 12-4, Subdivision Platting Procedures and Requirements. While the code calls for at least one (1) meeting before the Planning Commission that provides an opportunity for public comment, staff has scheduled this item as a Public Hearing to ensure adequate notice and opportunity for public comment. The Planning Commission will then forward the application to Town Council with a recommendation of approval, approval with amendments, or denial. A second Public Hearing is held before Town Council, who then renders its decision.

There are two (2) types of approvals that are granted by Town Council: Legislative and Administrative. Legislative approvals typically set policy for future action and thus generally involve changes to adopted planning and zoning regulations – zone changes and text amendments are two examples of legislative approvals. Legislative decisions such as zone changes also allow for exactions, or developer concessions, as they are asking for permission to change adopted regulations. Thus, a jurisdiction may require certain things from an applicant (contributions to park improvements, utility improvements) as conditions of approval; they are usually set forth in a Development Agreement that is also approved by Town Council. However, these administrative approvals do not involve changes in adopted codes, general plan designations, or zoning districts. Rather, they apply and affirm compliance with the regulations set forth in the aforementioned governing documents. If a proposed project meets the standards set forth in codes, it must be approved by the recommending and governing bodies. If it does not meet the standards, it must go back to staff and the applicant for corrective action. Courts have consistently found that if a proposed subdivision plat meets all requirements of the relevant adopted codes, jurisdictions must approve the plat; denial of a plat that meets all current zoning requirements has been determined by the courts to be arbitrary and capricious. Failure to approve a plat that conforms with adopted codes exposes the jurisdiction to litigation; extraordinary relief is available to the applicant for wrongful denial of a subdivision plat by a governing body.

Once the Preliminary Plat is approved, the project is subject to Technical Review. This step requires the submittal of fully developed improvement plans for infrastructure to ensure concordance with the requirements set forth in relevant chapters of the zoning code.

After Technical Review, the Final Plat is submitted for review and approval by staff and Town Council. The final documents reflect any changes required through the Preliminary Plat approvals, dedications of easements for public use, and finalized dimensions of all lots described on the plan. Once approved, the developer is required to provide a financial assurance for completion of infrastructure construction, and then the plat is recorded with the Yavapai County Recorder's Office.

PRELIMINARY PLAT REVIEW:

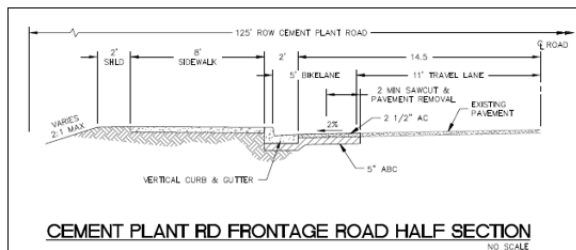
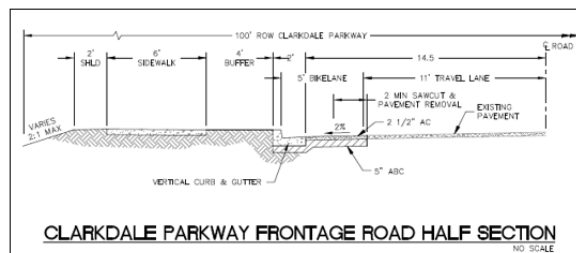
As required by Section 12-4-030, the Community Development Director has reviewed the application and finds all components have been submitted and reviewed for substantial conformance to the applicable code. The applicant has submitted all engineering documents required at this stage, including initial water and wastewater design, drainage and grading reports, preliminary street design, and letters of serviceability from all utilities serving the proposed subdivision. The documents have been provided to the Town Engineer, Mark Woodson, who has reviewed and approved the reports and preliminary design. All comments and corrections have been addressed by the applicant.

The following is an analysis of the applicable Zoning Code requirements:

1. Letter of intent from the developer describing the subdivision and proposed name of subdivision and its location by Section, Township and Range, reference by dimension and bearing to an acceptable government section or quarter-section corner. The proposed subdivision name shall not duplicate any other recorded plat in Clarkdale or adjacent communities.
 - *The Letter of Intent (LOI) was submitted on June 3, 2024.*
2. Name, address, email address and telephone number of the owner of record of the property, and of the applicant, if not the owner of record.
 - *This information has been included in the application and on the face of the plat.*
3. A copy of the title paperwork for the property.
 - *The owner of record has supplied title insurance documentation that includes a title search indicating ownership of the property.*
4. Name, title, address, email address and telephone number of the engineering, land planning, surveying, architectural firm, or individual preparing the plat.
 - *This information has been included in the application and on the face of the plat.*
5. Name, book and page number of any recorded subdivision adjacent to or having common boundaries with this plat.
 - *Recordation information for Mountain Gate subdivision has been included. It is the only platted subdivision adjacent to the subject property.*
6. Scale (written and bar graph), north point and date of preparation, including dates of any subsequent revision.
 - *This information is located in the lower left-hand corner on the face of the plat.*
7. Total subdivision acreage and dimensions. Do not include previously dedicated rights-of-way in this figure.
 - *This information is located in the upper right-hand corner on the face of the plat.*
8. Fully dimensioned boundary lines.
 - *All boundary lines are fully dimensioned.*
9. A vicinity map that shows the relationship of the proposed subdivision to dedicated rights-of-way and any other facilities and developments

that locate the subdivision. This map may be on the Preliminary Plat, but, if it is not practical, then a separate map showing title, scale, north point and date shall be provided.

- *The vicinity map is located in the upper right-hand corner of the face of the plat.*
- 10. Names, locations and widths of adjacent streets, highways, ways, railroads and utility easements, including streets and rights-of-way providing legal dedicated right-of-way access to the property.
 - *As identified on the face of the plat.*
- 11. Location, names, areas, width, proposed grade curve, super elevations, sight distances, and radii for all streets, highways and ways in the proposed subdivision and off-site, if required, to provide adequate access to the subdivision. Including connections to adjoining platted tracts, public lands and streets contained therein.
 - *Preliminary street design showing connections to adjacent platted tracts, public lands and streets therein are shown on the plat, as are locations, names, widths and related information.*
 - *The developer will install the following improvements on Clarkdale Parkway and Cement Plant Road with 6' sidewalks on Clarkdale Parkway and 8' sidewalks on Cement Plant Road:*



-
- 12. The width and approximate locations of all existing or proposed public or private easements or rights-of-way for streets, ways, trails, drainage, sewers, public utilities, flood control purposes, access to adjacent public land, or other community facilities.
 - *Included as part of the preliminary drainage and grading report.*
- 13. Typical lot dimensions (scaled); dimensions of all corner lots, all lots of more than four (4) sides and lots of curvilinear sections of streets; each lot numbered individually and consecutively; total number of lots or dwelling units.
 - *All lots are dimensioned; typical lot table on page 3 of the preliminary plat.*
- 14. Designations of all land to be dedicated or reserved for public use with use indicated, including land reserved for parks, recreational facilities, school sites, and fire stations pursuant to A.R.S. 9.463.01.0.

- *No lands for dedication or reservation for a public purpose are proposed.*
- 15. Area of all lots and parcels not for single family residential use, in acres. The area of all single-family residential lots in square feet if under or equal to one (1) acre in size, or in acres, if the lots are over one (1) acre in size.
 - *Area of Open Spaces is identified as such and cumulative acreage is shown on the face of the plat.*
- 16. A report by a sanitary engineer describing proposed wastewater disposal.
 - *The report has been submitted and approved. This project will connect to the Town's wastewater system.*
- 17. Locations, elevations, and sizes of culverts, storm drains and detention facilities. This information shall be accompanied by a hydrologic and hydraulic analysis, which meets the criteria set forth in the most recent Yavapai County Flood Control District Storm Water Detention Material and Drainage Criteria Manual.
 - *A full analysis of drainage and grading and related structures is included in the preliminary drainage and grading report.*
- 18. The locations of floodway and floodplain boundaries and base flood elevations as determined on Federal Emergency Management Agency (FEMA) Flood Maps and the location of other water courses and land subject to inundation or flood hazard.
 - *The subject property contains no FEMA flood hazard zones.*
- 19. Engineer's calculations and estimated values for each tributary of storm runoff for twenty-five (25) year and one hundred (100) year frequency storms as specified in the Yavapai County Flood Control District Ordinance. The values shall be indicated along the boundary of the plat for all points of drainage entering and leaving the property.
 - *This information is included in the preliminary drainage and grading report, and the Phase II Flood Control report.*
- 20. Proposed cut and fill areas showing original and proposed grade levels with elevations and contours.
 - *This information is indicated in the preliminary drainage and grading report.*
- 21. Proposed use of all lots, tracts or parcels within the subdivision.
 - *Use of all lots, tracts, or parcels within the subdivision has been identified.*
- 22. Location and dimensions of all existing or proposed structures, walls, fences, irrigation ditches, water wells, pipelines, utilities, and other physical features. Plat shall indicate which improvements are to remain, be altered or removed.
 - *There are no existing structures on the site. Walls and fences may be the decision of the individual lot owner.*
- 23. Letters of serviceability for all utilities proposed to service the subdivision.
 - *Letters of serviceability for all utilities have been received.*
- 24. Contour intervals shall be such as to adequately reflect the character and drainage of the land.

- *Contour details are included in the preliminary drainage and grading report, and the Phase II Flood Control report.*
- 25. School or park sites may be required.
 - *No school or park sites are required.*
- 26. The zoning of all adjacent land.
 - *Zoning of adjacent land indicated.*
- 27. Any deed restrictions or covenants and property owners' association agreements to be or presently imposed upon the plat or any part thereof.
 - *No restrictions or covenants are proposed at this time.*
- 28. A Phase II County Flood Control Report.
 - *This report has been submitted.*

DEVELOPMENT AGREEMENTS AND DEVELOPER CONTRIBUTIONS:

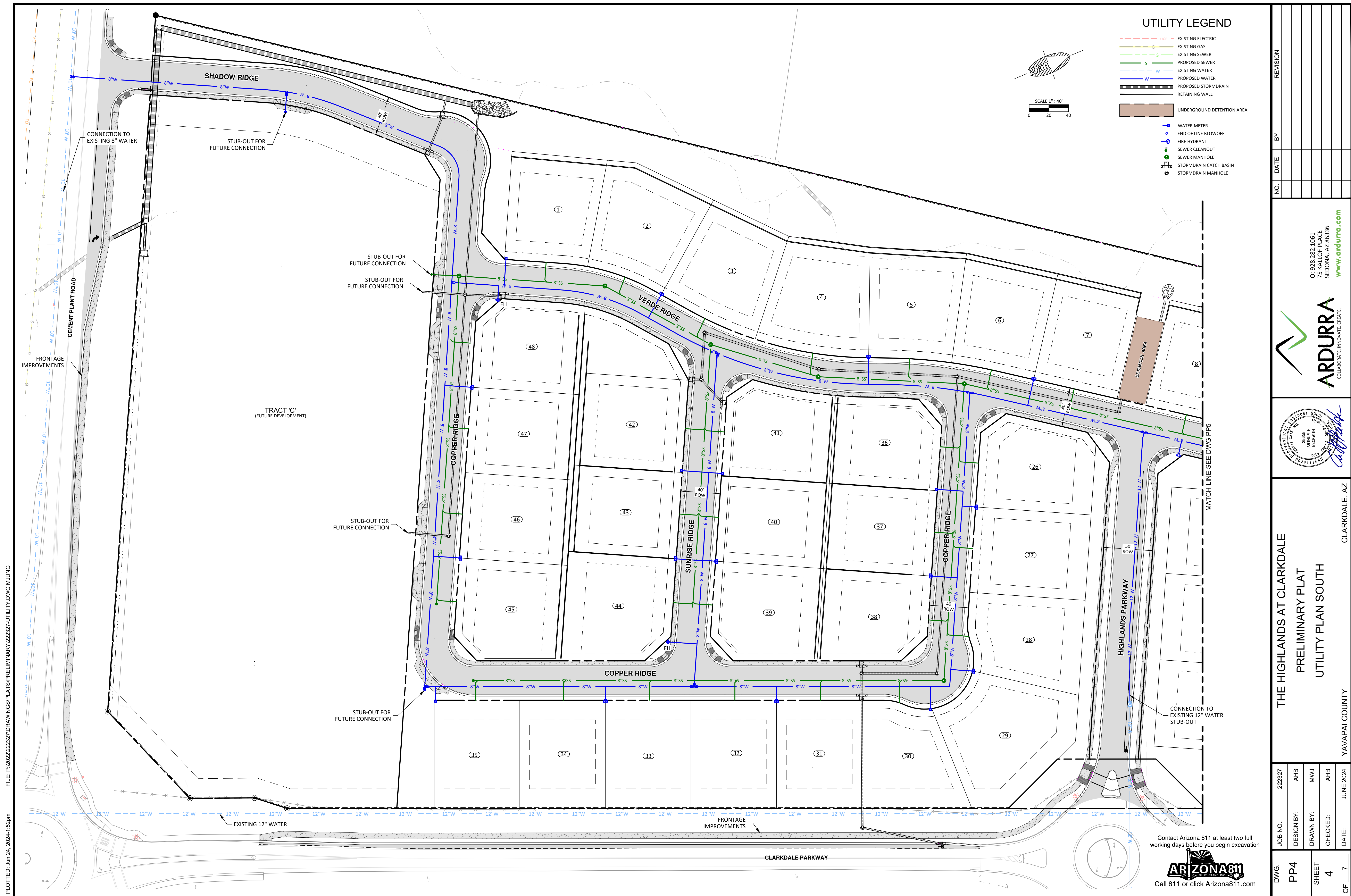
In 2011, the legislature approved, and the governor signed Senate Bill 1525 into law. This legislation significantly changed the way cities, towns, and counties can impose development impact fees (DIFs). Prior to the enactment of the law, there were few regulations on the methodology for calculating DIFs, and they could be used for purposes not necessarily related to development (e.g., public art). This legislation identified specific purposes for assessing DIFs, and required any jurisdiction that imposed said fees to complete an Infrastructure Improvement Plan (IIP) that set forth the infrastructure development needs of the jurisdiction and provides formulas for the imposition of fees. Because Clarkdale chose not to complete an IIP at that time, it cannot now impose DIFs or require a developer to enter into a Development Agreement as a condition of approval of a plat approval for a permitted (by-right) use as the approval is administrative. The Town may, however, enter into a development agreement with an applicant when the approval sought is legislative in nature- a zone change and/or general plan amendment.

Budget Impact: No budget impact.

Recommendation: Public Hearing only. No recommendation.

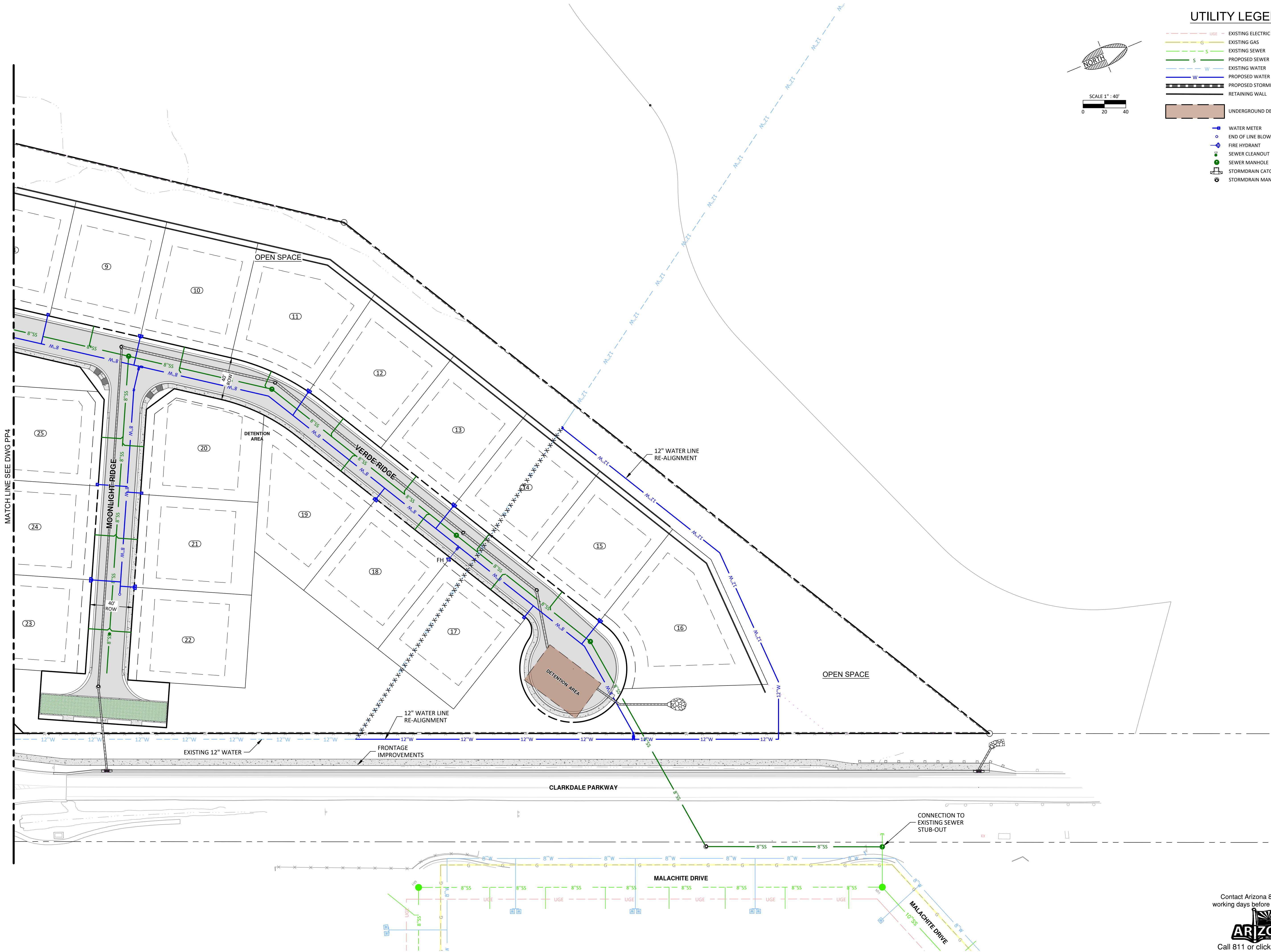


TRACT TABLE			
TRACT	SUARE FEET	ACRES	USE
TRACT 'A'	7,544 SF	0.17	ACCESS EASEMENT/ROADWAY
TRACT 'B'	186,289 SF	4.28	ROADWAY
TRACT 'C'	205,768 SF	4.72	FUTURE DEVELOPMENT
TRACT 'D'	143,606 SF	3.30	OPEN SPACE
TRACT 'E'	4,830 SF	0.11	OPEN SPACE
TRACT 'F'	5,148 SF	0.12	OPEN SPACE



FILE: P:\2022\22327\DRAWINGS\PLATS\PRELIMINARY\22327-UTILITY.DWG MJUNG

PLOTTED: Jun 24, 2024 1:53pm



UTILITY LEGEND

- EXISTING ELECTRIC
- EXISTING GAS
- EXISTING SEWER
- PROPOSED SEWER
- EXISTING WATER
- PROPOSED WATER
- PROPOSED STORMDRAIN
- RETAINING WALL
- UNDERGROUND DETENTION AREA
- WATER METER
- END OF LINE BLOWOFF
- FIRE HYDRANT
- SEWER CLEANOUT
- SEWER MANHOLE
- STORMDRAIN CATCH BASIN
- STORMDRAIN MANHOLE

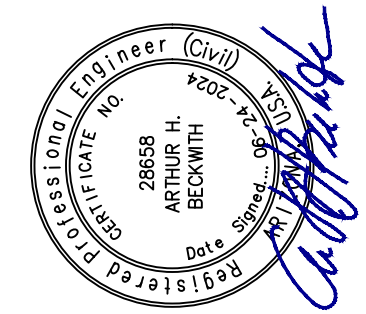
THE HIGHLANDS AT CLARKDALE
PRELIMINARY PLAT
UTILITY PLAN NORTH

YAVAPAI COUNTY
CLARKDALE, AZ

JOB NO.: 222327
DESIGN BY: AHB
DRAWN BY: MWJ
CHECKED: AHB
DATE: JUNE 2024

DWG: PP5
SHEET 5
OF 7

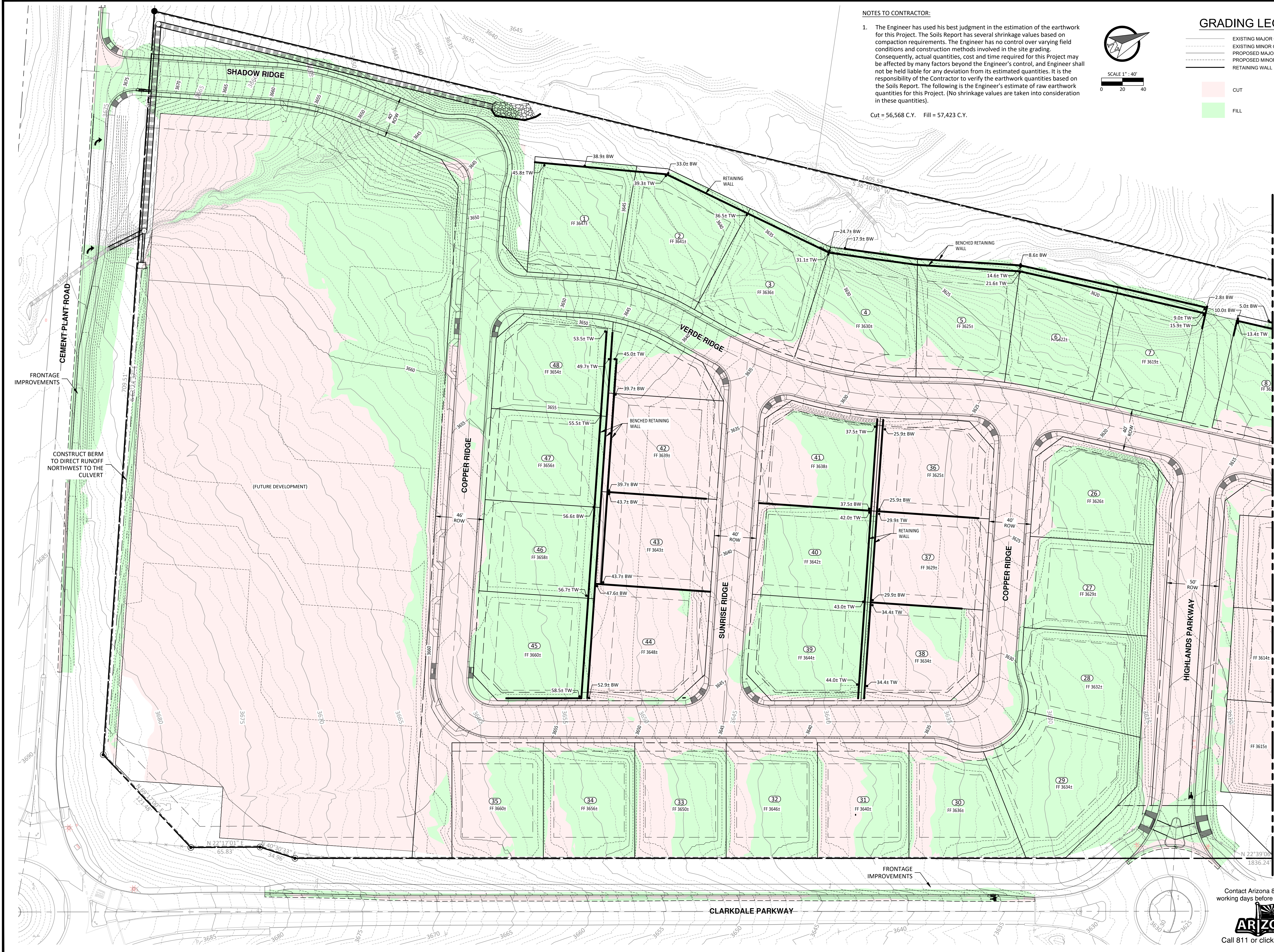
0-928-282-1061
75 KALLOF PLACE
SEDONA, AZ 86336
www.ardurra.com



Contact Arizona 811 at least two full working days before you begin excavation



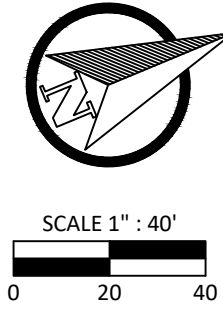
Call 811 or click Arizona811.com



NOTES TO CONTRACTOR:

- The Engineer has used his best judgment in the estimation of the earthwork for this Project. The Soils Report has several shrinkage values based on compaction requirements. The Engineer has no control over varying field conditions and construction methods involved in the site grading. Consequently, actual quantities, cost and time required for this Project may be affected by many factors beyond the Engineer's control, and Engineer shall not be held liable for any deviation from its estimated quantities. It is the responsibility of the Contractor to verify the earthwork quantities based on the Soils Report. The following is the Engineer's estimate of raw earthwork quantities for this Project. (No shrinkage values are taken into consideration in these quantities).

Cut = 56,568 C.Y. Fill = 57,423 C.Y.



GRADING LEGEND

- EXISTING MAJOR CONTOUR
- EXISTING MINOR CONTOUR
- PROPOSED MAJOR CONTOUR
- PROPOSED MINOR CONTOUR
- RETAINING WALL
- CUT
- FILL

THE HIGHLANDS AT CLARKDALE
PRELIMINARY PLAT
GRADING PLAN SOUTH

YAVAPAI COUNTY CLARKDALE, AZ

JOB NO.:	22327
DESIGN BY:	AHB, MWJ
DRAWN BY:	MWJ
CHECKED:	AHB
DATE:	JUNE 2024

DWG.	PP6
SHEET	6
OF	7

ARTHUR H. BURMAN
28658
REGISTERED PROFESSIONAL ENGINEER (CIVIL)
STATE OF ARIZONA

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LAW OFFICES
BOYLE, PECHARICH, CLINE, WHITTINGTON & STALLINGS, P.L.L.C.

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Stephen W. Polk

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Nancy Hargiss-Tatlock
Devon M. White
John C. Stallings, Of Counsel

June 27, 2024

VIA EMAIL ONLY

Susan Guthrie, Town Manager
Town of Clarkdale
P.O. Box 308
Clarkdale, AZ 86324
Susan.Guthrie@clarkdale.az.gov

RE: Legal Standard for Town Council review of Subdivision Final Plat

Dear Town Manager Guthrie,

You have asked for a written opinion from the Town Attorney pursuant to A.R.S. § 38-446, as to the legal standard for Town Council approval or denial of a subdivision final plat that has been put before it.

As Clarkdale Town Attorney, this Firm responds as follows:

Answer:

1. Pursuant to Town Zoning Code § 12-4-050(D)(1), the Town Council is authorized to approve or deny a final plat put before it.
2. The Town Council cannot deny a final plat that meets all Town Zoning Code requirements simply because it is empowered to do so. *Fox v. Town of Oro Valley*, 130 Ariz. 19, 633 P.2d 428 (App. 1984).
3. In evaluating the final plat application, the Town Council must base its decision on substantial evidence and objective criteria as to whether it meets the Town Zoning Code requirements. Any denial must be supported by specific findings that detail how the final plat fails to comply with applicable regulations. *Id.*
4. The Town Council's decision-making process must adhere to principles of due process. This includes providing the applicant with notice of any deficiencies in the final plat and an opportunity to address these issues before a final decision is made.

5. The Town Council is obligated to act within a reasonable time frame to ensure that the approval process does not unduly delay the development. Unreasonable delays without justifiable cause could be considered arbitrary and capricious.
6. Any denial of a final plat must not be based on extraneous factors such as personal biases, political pressures, or community opposition that is not grounded in the Town Zoning Code. The decision must remain focused on whether the final plat meets the established legal standards.

I. Legal Analysis

Section 12-4-050(D)(1) of the Clarkdale Zoning Town Code provides that:

“Upon receipt of a request for Council action from the Director, the Town Clerk shall place the case on the agenda of the next regular Council meeting, whereupon the Council shall approve *or deny* the plat.” [emphasis added]

However, Arizona courts have held that denials of similar plans and plats, when done without good reason based on the established zoning regulations, are improper.

For example, in *Fox v. Town of Oro Valley*, the applicant submitted a development plan that met all Town requirements and incorporated requested modifications from the Town into said plan. However, upon re-submittal, the Town denied the plans anyway, without providing any reason for doing so. 130 Ariz. 19, 633 P.2d 428 (App. 1984). The Court held that such action was “arbitrary and capricious,” and relief to the applicant was appropriate.

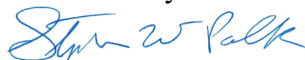
Therefore, we advise that the Town Council must approve a subdivision final plat unless there are legitimate concerns to be addressed based on the established Town Code and Zoning Code regulations.

II. Conclusion

The Town, while empowered to deny the Final Plat, may only do so if the final plat fails to comply with the Town Code and Town Zoning Code requirements.

Sincerely,

BOYLE, PECHARICH, CLINE,
WHITTINGTON & STALLINGS, P.L.L.C.
Town Attorney



By: Stephen W. Polk

SWP/DMW
Cc: Charity Brooks, Town Clerk



Staff Report

Item Number: 5.B.

Agenda Item:**The Highlands at Clarkdale Preliminary Development Plan**

Discuss, consider and act upon application #230147, submitted by Jon Lash - Plateau Partners II, APN 400-05-010G, regarding the Highlands at Clarkdale, for approval of the Preliminary Plat, comprised of 48 single-family residential lots on approximately 18.56 acres of an approximately 23.84-acre vacant parcel of land generally located at the Northwest corner of SR89A, Cement Plant Road and Clarkdale Parkway.

Staff Contact:

Ruth Mayday, Community Development Director

Meeting Date:

October 15, 2024

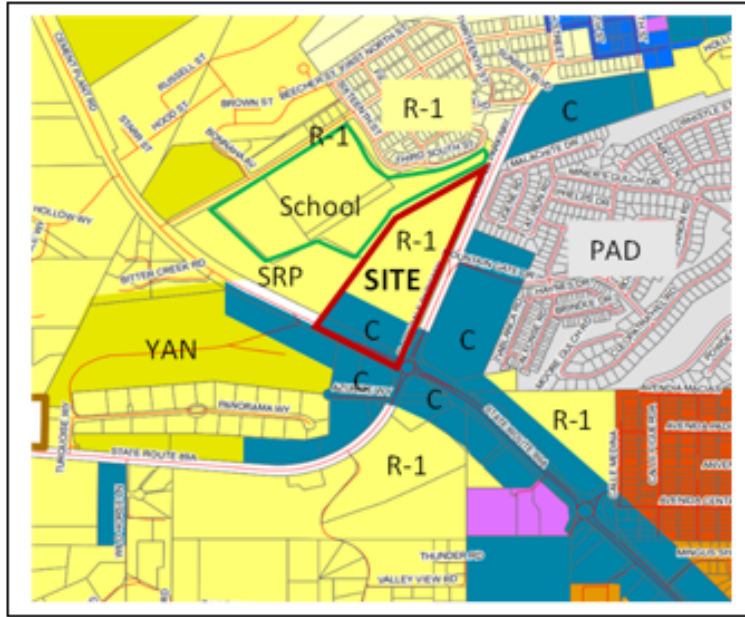
Strategic Goal:

This agenda item supports the following Clarkdale Strategic Goal Area:

- Goal Area 5 - Plan for the maintenance and growth of quality infrastructure that is sustainable and resilient.

Background:**SUMMARY**

The Preliminary Plat proposes the subdivision of approximately 18.56 acres of a 23.84 acre parcel into 48 single family residential lots. The application encompasses 18.56 acres of a 23.84 acre parcel. The remaining 5.28 acres are not a part of this application.



PUBLIC NOTIFICATION

In compliance with A.R.S. 9-462.04, All property owners of record within 300' of the subject property were notified of the proposal and a public hearing via first-class mail on Sep. 27, 2024. A notice was posted on the property on that same date; notice was published in the Verde Independent on Sept. 28, 2024.

Neighborhood Meeting: The applicant held a neighborhood meeting at the Clark Memorial Clubhouse on Aug. 15, 2024, at 5:30 p.m. Approximately 30 people were in attendance. The developer provided exhibits of the proposed Preliminary Plat and gave a brief presentation. Questions from the audience concerned a walking path for students, contribution to Clarkdale-Jerome School, and the developer's business model for the project. The meeting lasted approximately one (1) hour.

ANALYSIS

This action proposes approval of the Preliminary Plat by the Planning Commission or approval with amendments and forwarding the application to Town Council with a recommendation for the same. As discussed in the Staff Brief, denial of a Preliminary Plat can only be issued if the plat is found to be deficient. Staff found that the Preliminary Plat is in compliance with the requirements set forth in the zoning code.

The process is set forth in Chapter 12, Subdivision Regulations, Article 12-4, Subdivision Platting Procedures and Requirements, and discussed in detail in the staff report for the public hearing on the Preliminary Plat application.

Staff has reviewed the application and finds that it meets the requirements set forth in Section 12-4-030, Stage II- Preliminary Plat. The Preliminary Plat has been circulated among agencies having jurisdiction for their review and comment. The Preliminary drainage and grading report, civil improvements,

and related engineering documents submitted have been reviewed by the Town Engineer, Mark Woodson. All comments and corrections have been clarified and corrected in subsequent submittals.

RECOMMENDATION

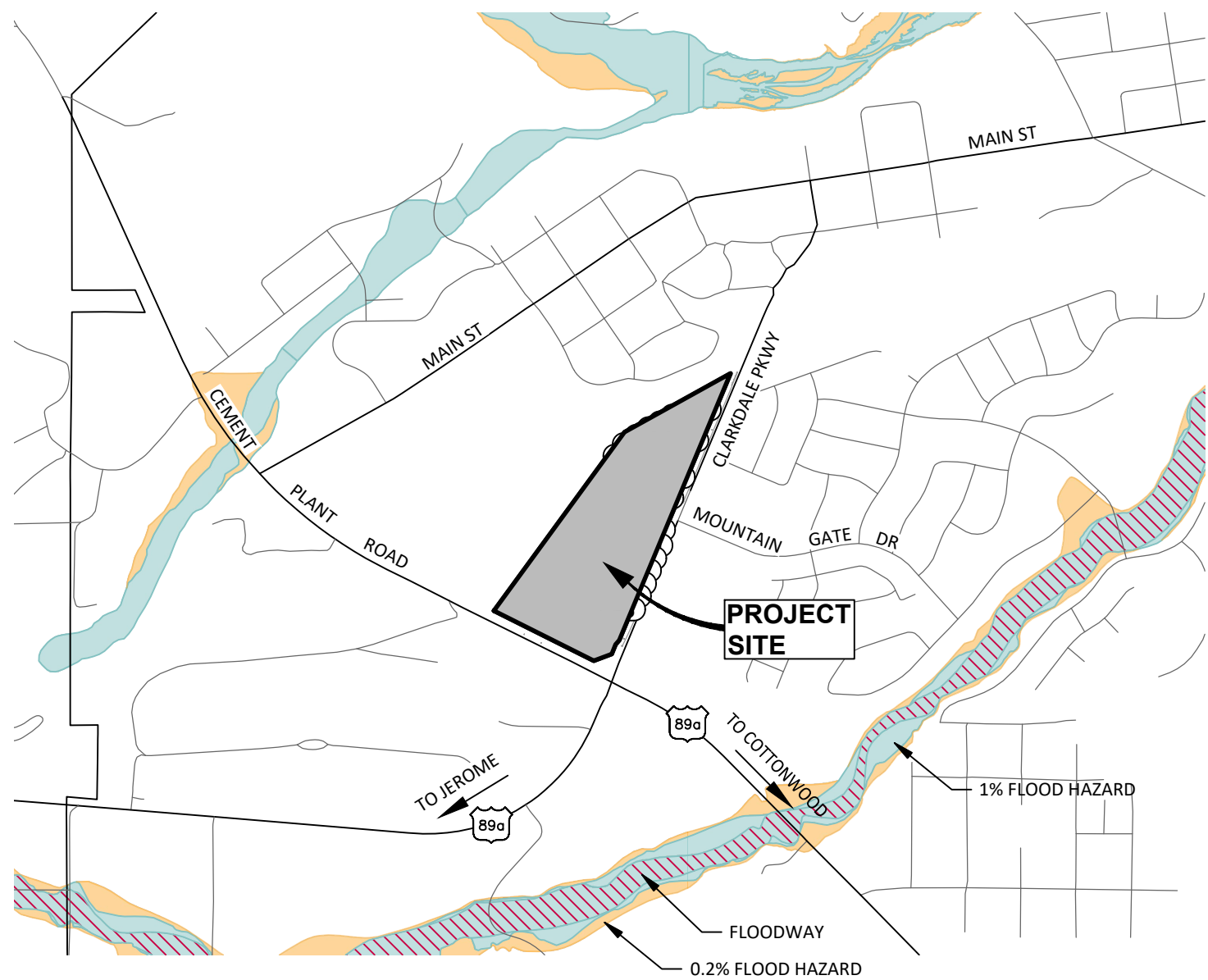
This application meets the requirements set forth Chapter 12, Subdivision Regulations, Article 12-4, Subdivision Platting Procedures and Requirements. Therefore, Staff recommends that the Commission approve the Preliminary Plat and forward it to the Town Council with recommendation for the same.

Budget Impact: No budget impact.

Recommendation: Staff recommends that the Planning Commission approve application #230147, submitted by Jon Lash - Plateau Partners II, APN 400-05-010G, regarding the Highlands at Clarkdale, for approval of the Preliminary Plat, comprised of 48 single-family residential lots on approximately 18.56 acres of an approximately 23.84-acre vacant parcel of land generally located at the Northwest corner of SR89A, Cement Plant Road and Clarkdale Parkway and forward to Town Council with a recommendation for the same.

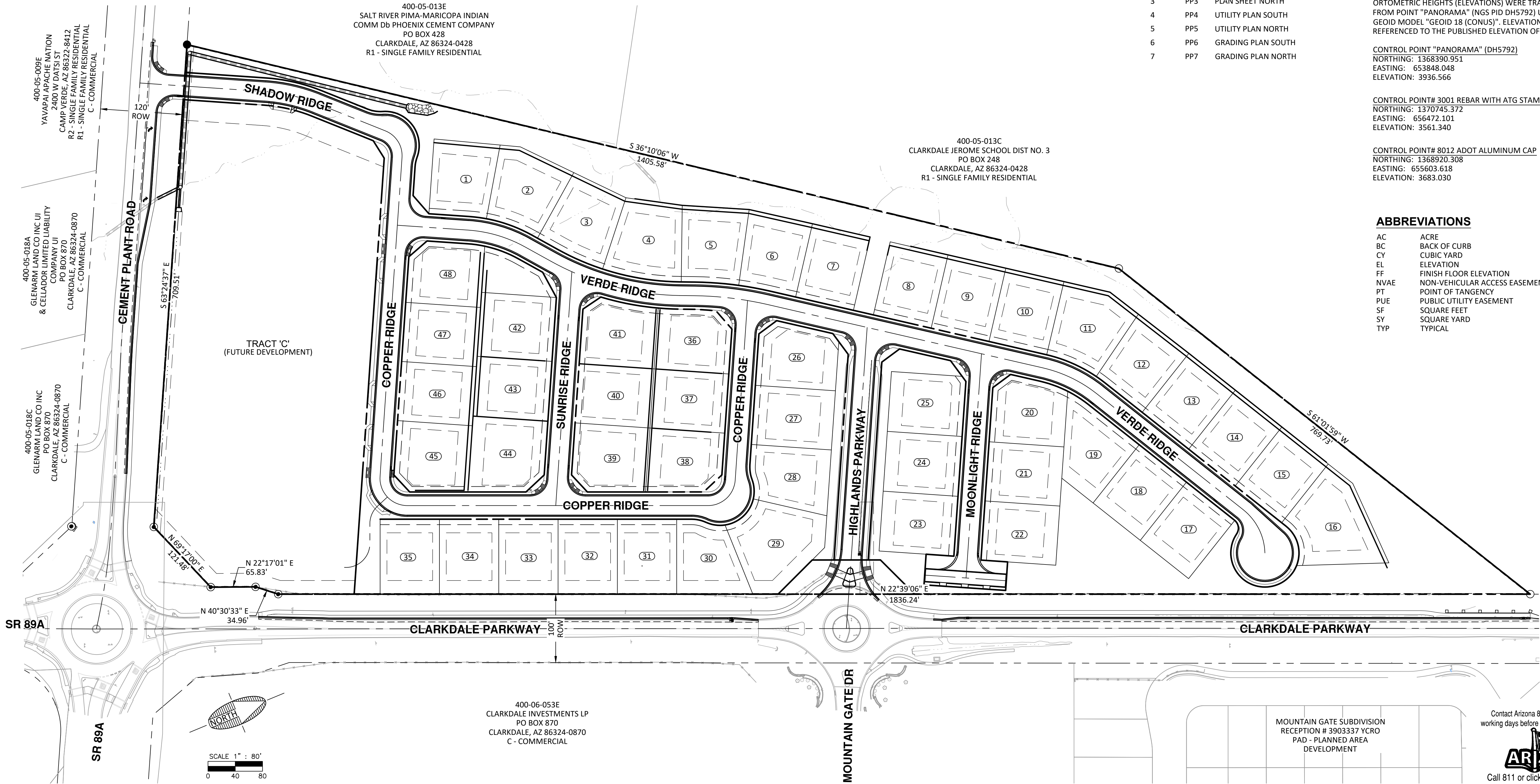
PRELIMINARY PLAT FOR THE HIGHLANDS AT CLARKDALE

PORTIONS OF SECTION 19 AND 20, TOWNSHIP 16 NORTH, RANGE 3 EAST
GILA AND SALT RIVER MERIDIAN, YAVAPAI COUNTY, ARIZONA
APN:400-05-010G



VICINITY MAP

NO SCALE



DEVELOPER

PLATEAU PARTNERS, LLC
28025 ACANA ROAD
RANCHO PALOS VERDES, CA 90275
JON LASH
jon.lashonline@gmail.com
PH:(310)948-9607

OWNER

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an Arizona Limited Partnership
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Flagstaff, AZ 86001
Michael Mongini
mem@h2m2law.com
PH:(928)226-0000

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znagy@bassenianlagoni.com
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UTILITY COMPANIES

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GARBAGE PATRIOT DISPOSAL
GAS UNISOURCE ENERGY SERVICES
WATER & SEWER ... TOWN OF CLARKDALE
PHONE CENTURYLINK
INTERNET SPARKLIGHT

POLICE & FIRE PROTECTION

CLARKDALE POLICE DEPARTMENT
VERDE VALLEY FIRE DISTRICT STATION 36

PROJECT INFORMATION

PROJECT LOCATION
CLARKDALE, ARIZONA

APN:
400-05-010G
C - COMMERCIAL
R1 - SINGLE FAMILY RESIDENTIAL

R1 LOTS
48 (8,960 SF MIN AFTER 1.94 AC WASH EXCHANGE)

OPEN SPACE
3.53 ACRES

SITE ACREAGE
23.84 ACRES (TOTAL)
18.56 ACRES (R1 SINGLE FAMILY)
5.28 ACRES (COMMERCIAL)

DENSITY/ACRE
2.58

GENERAL NOTES

- THE SUBDIVIDER HEREBY DECLARES AND AGREES THAT THE NUMBERED LOTS & LETTERED TRACTS ARE SHOWN AT THE MINIMUM SIZE PERMISSIBLE AND SHALL NOT BE FURTHER DIVIDED. THIS PROHIBITION AGAINST FURTHER DIVISIONS OF NUMBERED LOTS SHALL BECOME BINDING UPON EACH AND EVERY SUCCESSIVE OWNER.
- THE PROPERTY IS LOCATED IN FEMA ZONE X, AREA OF MINIMAL FLOOD HAZARD.
- NO PUBLIC PARKS OR SCHOOLS ARE PROPOSED WITH THIS APPLICATION.

COORDINATE SYSTEM DETAILS

LINEAR UNIT: INTERNATIONAL FOOT

GEODETIC DATUM: NAD 1983 (NA 2011)

VERTICAL DATUM: NAVD 1988 (SEE BELOW)

SYSTEM: AZ STATE PLANE COORDINATE SYSTEM

ZONE: ARIZONA CENTRAL 0202

PROJECTION

TRANSVERSE MERCATOR
LATITUDE OF GRID ORIGIN: 31°00'00" N
LONGITUDE OF CENTRAL MERIDIAN: 111°55'00" W
NORTHING AT GRID ORIGIN: 0.000 FT
EASTING AT CENTRAL MERIDIAN: 700,000 FT
SCALE FACTOR (AT PANORAMA): 0.1.0002819298 (GROUND)

ORTOMETRIC HEIGHTS (ELEVATIONS) WERE TRANSFERRED TO THE SITE FROM POINT "PANORAMA" (NGS PID DH5792) USING GPS WITH NGS GEOID MODEL "GEOID 18 (CONUS)". ELEVATIONS SHOWN HEREON ARE REFERENCED TO THE PUBLISHED ELEVATION OF THIS STATION.

CONTROL POINT "PANORAMA" (DH5792)

NORTHING: 1368390.951
EASTING: 653848.048
ELEVATION: 3936.566

CONTROL POINT# 3001 REBAR WITH ATG STAMPED "RLS 60237"

NORTHING: 1370745.372
EASTING: 656472.101
ELEVATION: 3561.340

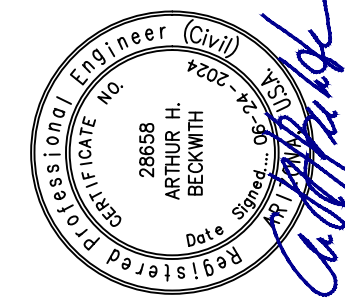
CONTROL POINT# 8012 ADOT ALUMINUM CAP

NORTHING: 1368920.308
EASTING: 655603.618
ELEVATION: 3683.030

ABBREVIATIONS

AC ACRE
BC BACK OF CURB
CY CUBIC YARD
EL ELEVATION
FF FINISH FLOOR ELEVATION
NVAE NON-VEHICULAR ACCESS EASEMENT
PT POINT OF TANGENCY
PUE PUBLIC UTILITY EASEMENT
SF SQUARE FEET
SY SQUARE YARD
TYP TYPICAL

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THE HIGHLANDS AT CLARKDALE

PRELIMINARY PLAT

COVER SHEET

CLARKDALE, AZ

YAVAPAI COUNTY

JOB NO.:	222327
DESIGN BY:	AHB
DRAWN BY:	MMW
CHECKED:	AHB
DATE:	JUNE 2024

DWG.	PP1
SHEET	1
OF	7

MOUNTAIN GATE SUBDIVISION
RECEPTION # 3903337 YCRO
PAD - PLANNED AREA
DEVELOPMENT

Contact Arizona 811 at least two full
working days before you begin excavation





ABBREVIATIONS

L= CURVE LENGTH

E= EASTING

N= NORTHING

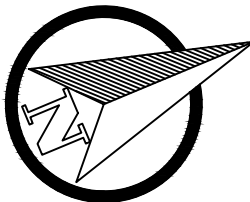
NVAE= NONE VEHICULAR ACCESS EASEMENT

PC= POINT OF CURVATURE

PT= POINT OF TANGENCY

PUE= PUBLIC UTILITY EASEMENT

R= CURVE RADIUS



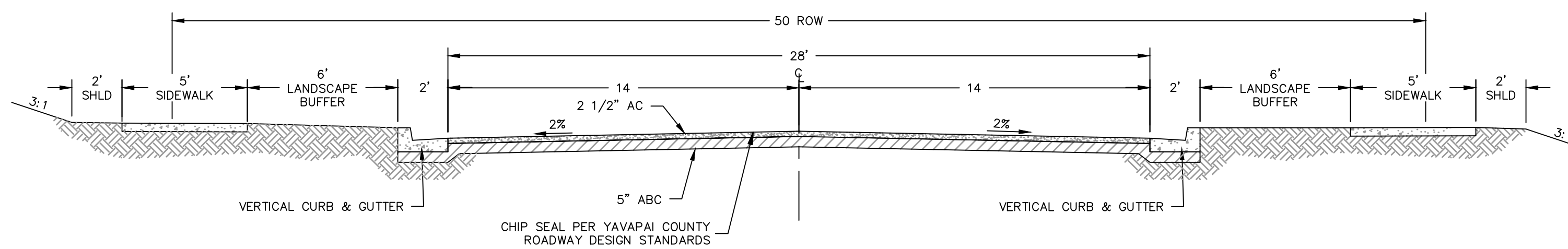
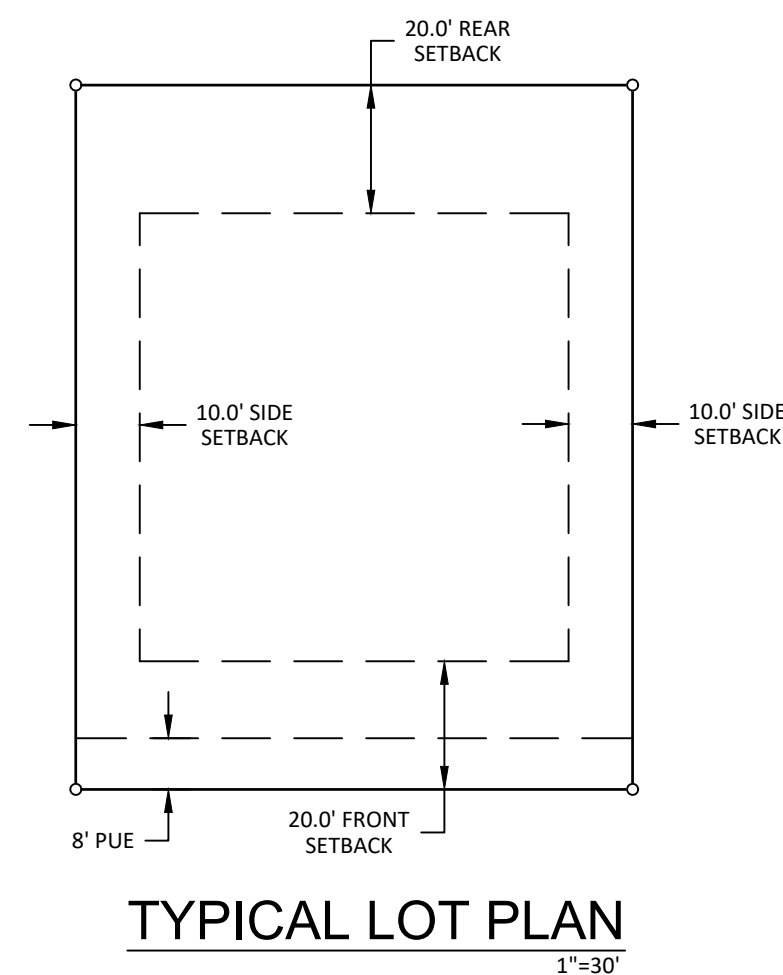
SCALE 1" = 40'

MATCH LINE SEE DWG PP5

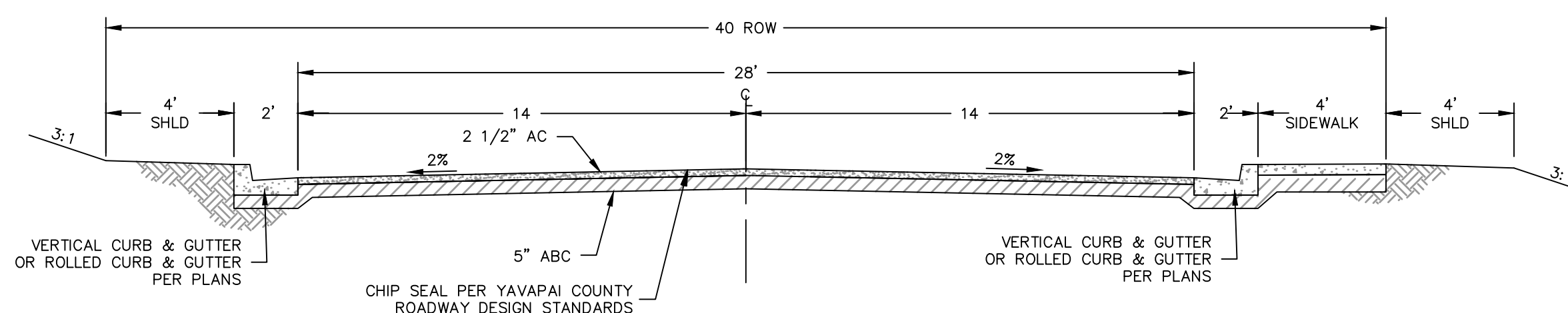
Contact Arizona 811 at least two full working days before you begin excavation



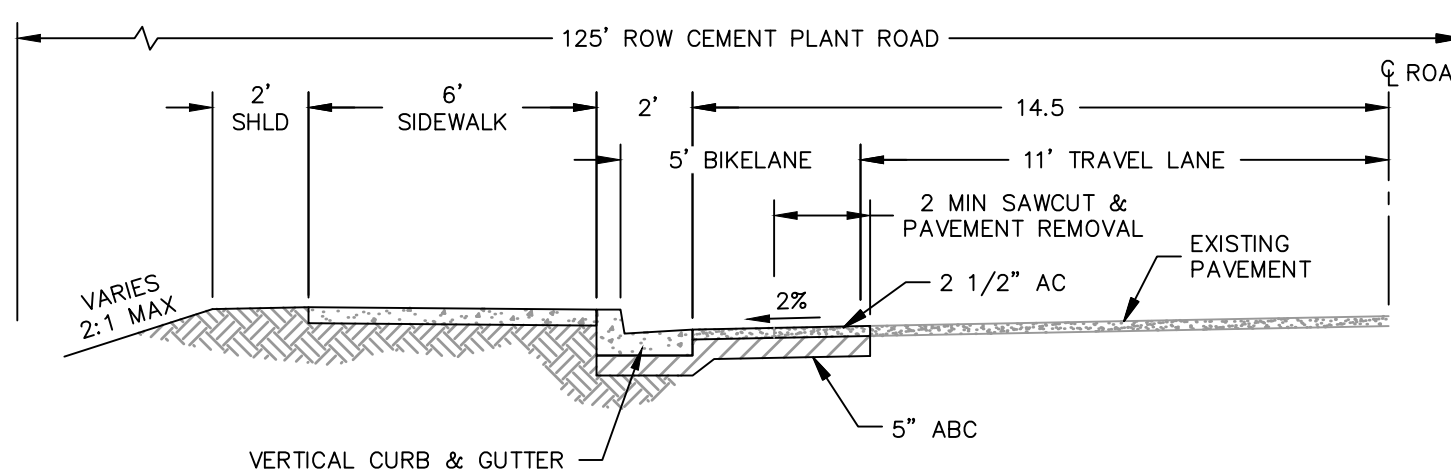
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222327		AHB		MWJ		AHB	
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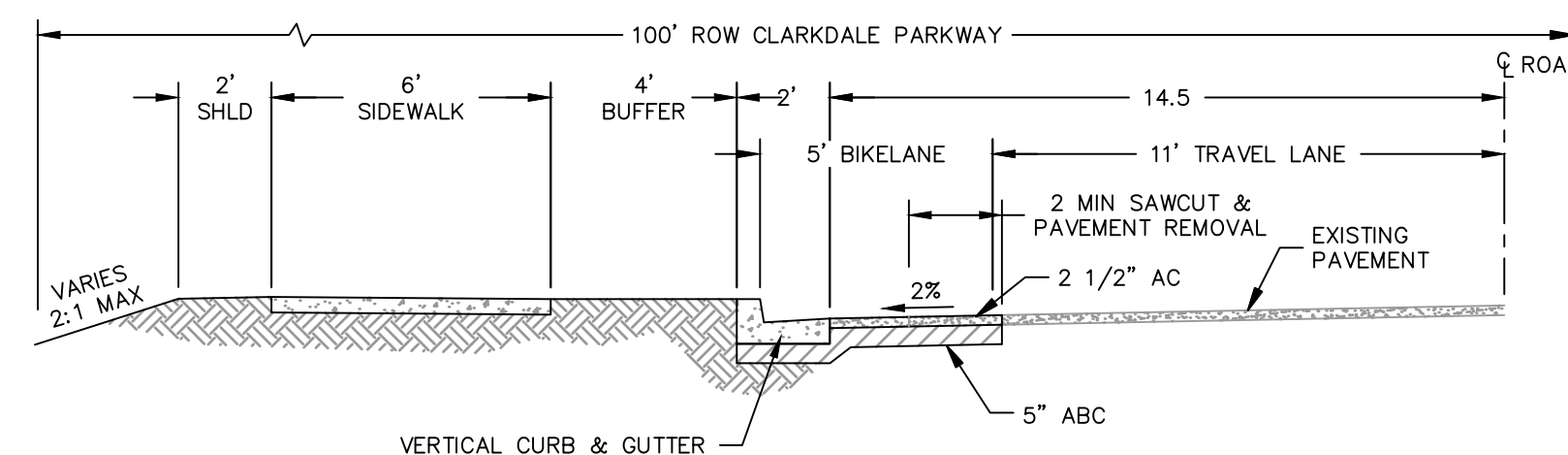
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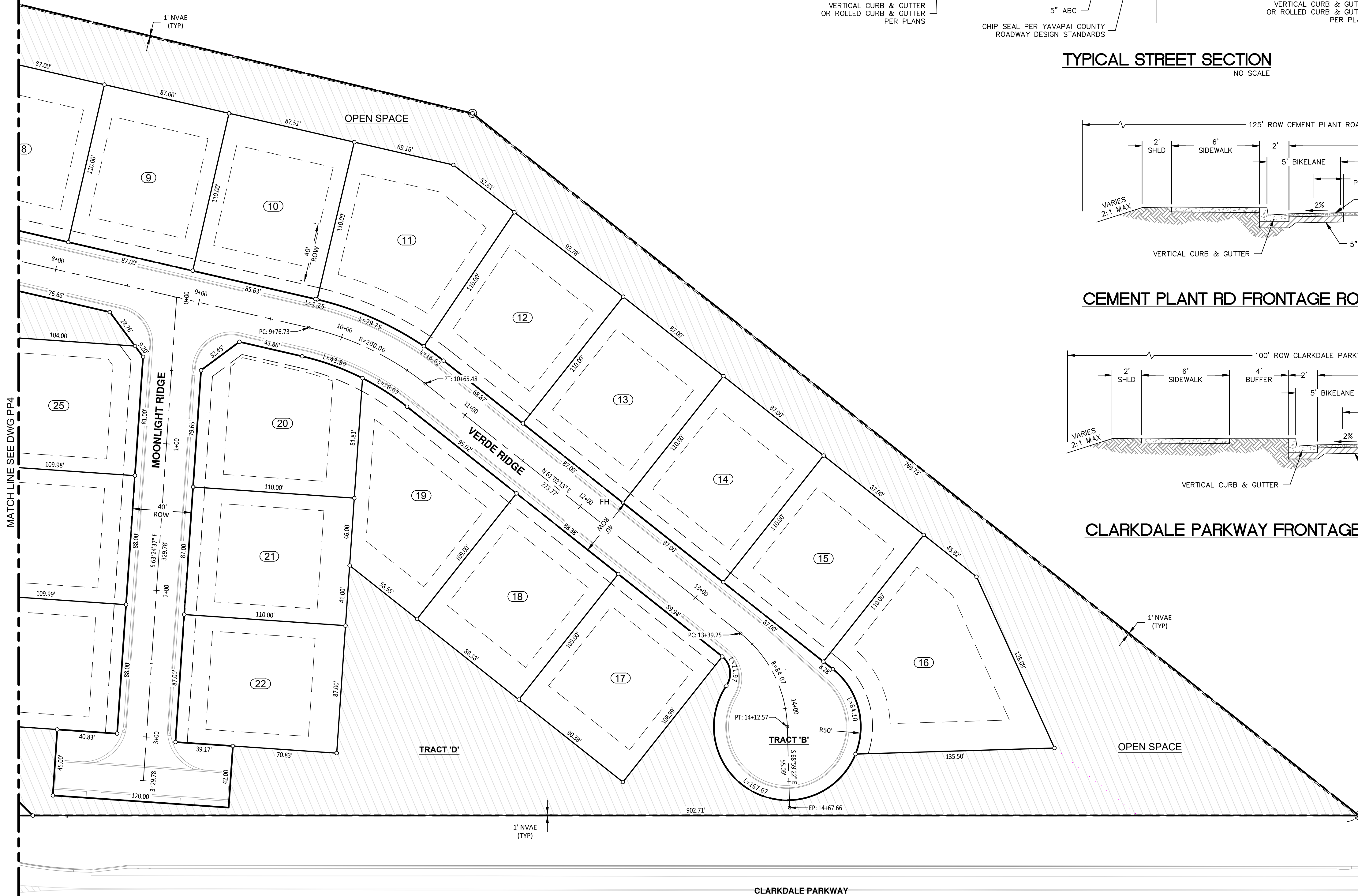
TYPICAL STREET SECTION
NO SCALE



CEMENT PLANT RD FRONTAGE ROAD HALF SECTION



CLARKDALE PARKWAY FRONTAGE ROAD HALF SECTION



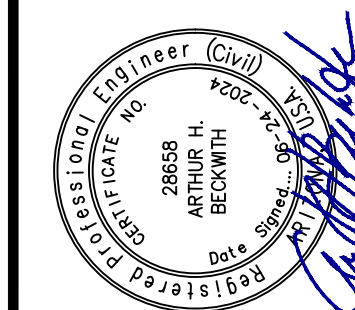
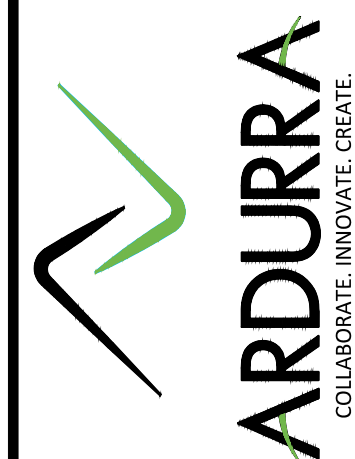
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2	10,877 SF	0.25 AC	26	10,397 SF	0.24 AC
3	10,627 SF	0.24 AC	27	10,238 SF	0.24 AC
4	11,337 SF	0.26 AC	28	10,046 SF	0.23 AC
5	10,131 SF	0.23 AC	29	13,713 SF	0.31 AC
6	9,936 SF	0.23 AC	30	9,613 SF	0.22 AC
7	9,570 SF	0.22 AC	31	9,570 SF	0.22 AC
8	9,570 SF	0.22 AC	32	9,570 SF	0.22 AC
9	9,570 SF	0.22 AC	33	9,570 SF	0.22 AC
10	9,592 SF	0.22 AC	34	9,570 SF	0.22 AC
11	11,301 SF	0.26 AC	35	9,570 SF	0.22 AC
12	9,825 SF	0.23 AC	36	9,655 SF	0.22 AC
13	9,570 SF	0.22 AC	37	9,571 SF	0.22 AC
14	9,570 SF	0.22 AC	38	9,618 SF	0.22 AC
15	9,570 SF	0.22 AC	39	10,451 SF	0.24 AC
16	13,883 SF	0.32 AC	40	9,571 SF	0.22 AC
17	9,851 SF	0.23 AC	41	10,168 SF	0.23 AC
18	9,633 SF	0.22 AC	42	10,340 SF	0.24 AC
19	10,409 SF	0.24 AC	43	9,680 SF	0.22 AC
20	10,168 SF	0.23 AC	44	11,545 SF	0.27 AC
21	9,570 SF	0.22 AC	45	10,813 SF	0.25 AC
22	9,570 SF	0.22 AC	46	9,570 SF	0.22 AC
23	9,679 SF	0.22 AC	47	9,570 SF	0.22 AC
24	9,679 SF	0.22 AC	48	9,792 SF	0.22 AC

TRACT TABLE			
TRACT	SUARE FEET	ACRES	USE
TRACT 'A'	7,544 SF	0.17	ACCESS EASEMENT/ROADWAY
TRACT 'B'	186,289 SF	4.28	ROADWAY
TRACT 'C'	205,768 SF	4.72	FUTURE DEVELOPMENT
TRACT 'D'	143,606 SF	3.30	OPEN SPACE
TRACT 'E'	4,830 SF	0.11	OPEN SPACE
TRACT 'F'	5,148 SF	0.12	OPEN SPACE

REVISION

[illegible]

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 SEDONA, AZ 86336
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THE HIGHLANDS AT CLARKDALE
PRELIMINARY PLAT
PLAN SHEET NORTH

CLARKDALE, AZ

YAVAPAI COUNTY

JOB NO.:	222327
DESIGN BY:	AHB
DRAWN BY:	MWJ
CHECKED:	AHB
DATE:	JUNE 2024

DWG.
PP3
SHEET
3
OF 7

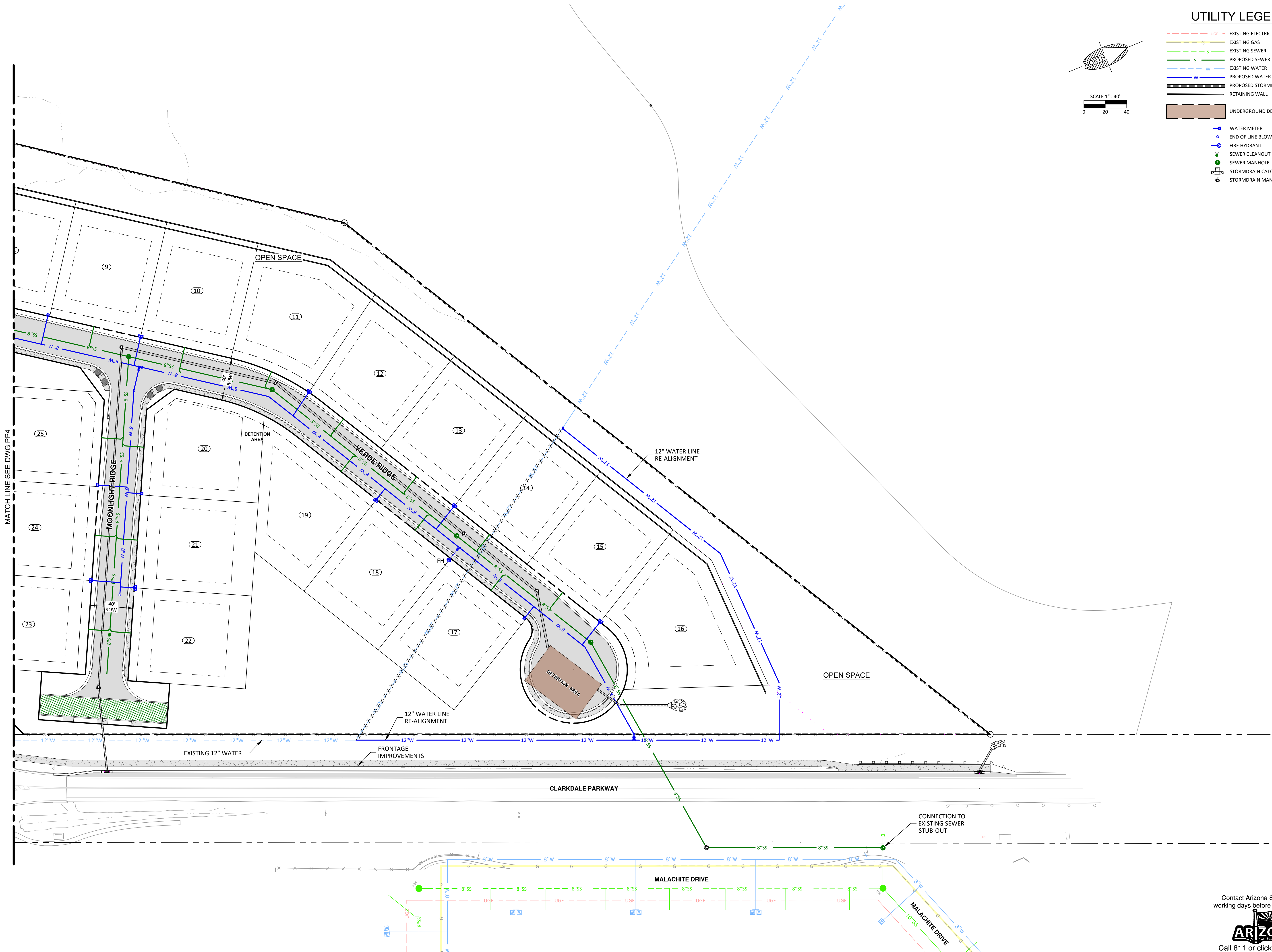
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FILE: P:\2022\22327\DRAWINGS\PLATS\PRELIMINARY\22327-UTILITY.DWG MJUNG

PLOTTED: Jun 24, 2024 1:53pm



UTILITY LEGEND

- EXISTING ELECTRIC
- EXISTING GAS
- EXISTING SEWER
- PROPOSED SEWER
- EXISTING WATER
- PROPOSED WATER
- PROPOSED STORMDRAIN
- RETAINING WALL
- UNDERGROUND DETENTION AREA
- WATER METER
- END OF LINE BLOWOFF
- FIRE HYDRANT
- SEWER CLEANOUT
- SEWER MANHOLE
- STORMDRAIN CATCH BASIN
- STORMDRAIN MANHOLE

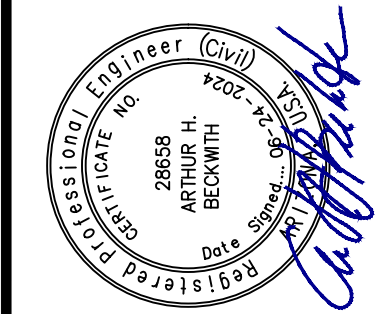
THE HIGHLANDS AT CLARKDALE PRELIMINARY PLAT UTILITY PLAN NORTH

CLARKDALE, AZ
YAVAPAI COUNTY

JOB NO.: 222327
DESIGN BY: AHB
DRAWN BY: MWJ
CHECKED: AHB
DATE: JUNE 2024

DWG: PP5
SHEET 5
OF 7

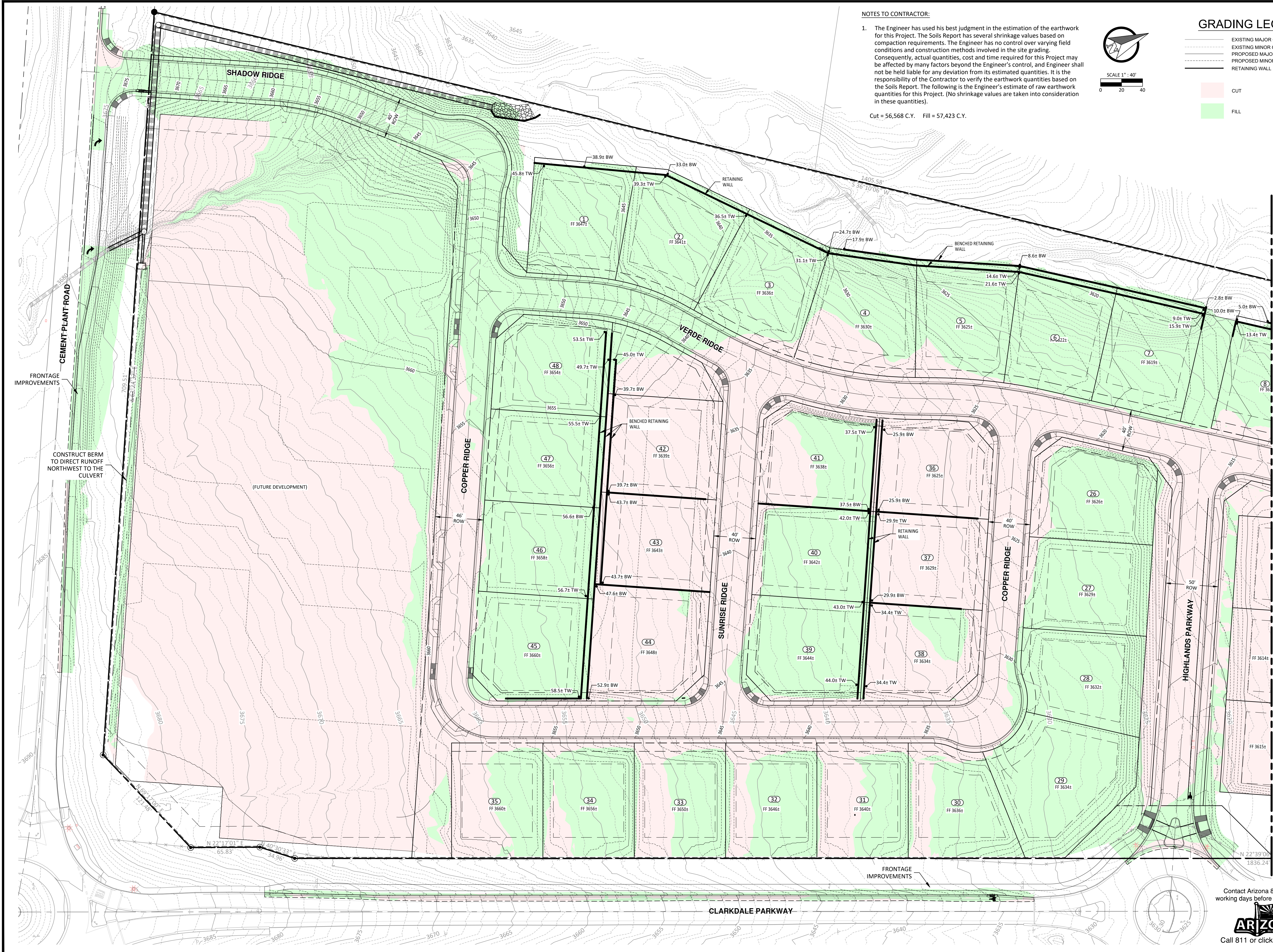
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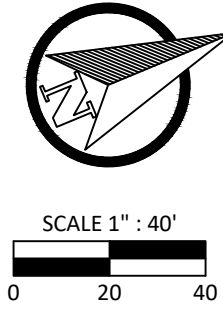
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NOTES TO CONTRACTOR:

- The Engineer has used his best judgment in the estimation of the earthwork for this Project. The Soils Report has several shrinkage values based on compaction requirements. The Engineer has no control over varying field conditions and construction methods involved in the site grading. Consequently, actual quantities, cost and time required for this Project may be affected by many factors beyond the Engineer's control, and Engineer shall not be held liable for any deviation from its estimated quantities. It is the responsibility of the Contractor to verify the earthwork quantities based on the Soils Report. The following is the Engineer's estimate of raw earthwork quantities for this Project. (No shrinkage values are taken into consideration in these quantities).

Cut = 56,568 C.Y. Fill = 57,423 C.Y.



GRADING LEGEND

- EXISTING MAJOR CONTOUR
- EXISTING MINOR CONTOUR
- PROPOSED MAJOR CONTOUR
- PROPOSED MINOR CONTOUR
- RETAINING WALL
- CUT
- FILL

DWG.	JOB NO.:	22327	DESIGN BY:	AHB, MWJ	DRAWN BY:	MWJ	CHECKED:	AHB	DATE:	JUNE 2024	YAVAPAI COUNTY	CLARKDALE, AZ		 ARDURRA COLLABORATE. INNOVATE. CREATE.	O: 928.282.1061 75 KALLOF PLACE SEDONA, AZ 86336 www.ardurra.com	NO.	DATE	BY	REVISION
PP6	THE HIGHLANDS AT CLARKDALE PRELIMINARY PLAT GRADING PLAN SOUTH																		
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ARTHUR H. BURMAN
28658
REGISTERED PROFESSIONAL ENGINEER (CIVIL)
STATE OF ARIZONA

ARDURRA
COLLABORATE. INNOVATE. CREATE.

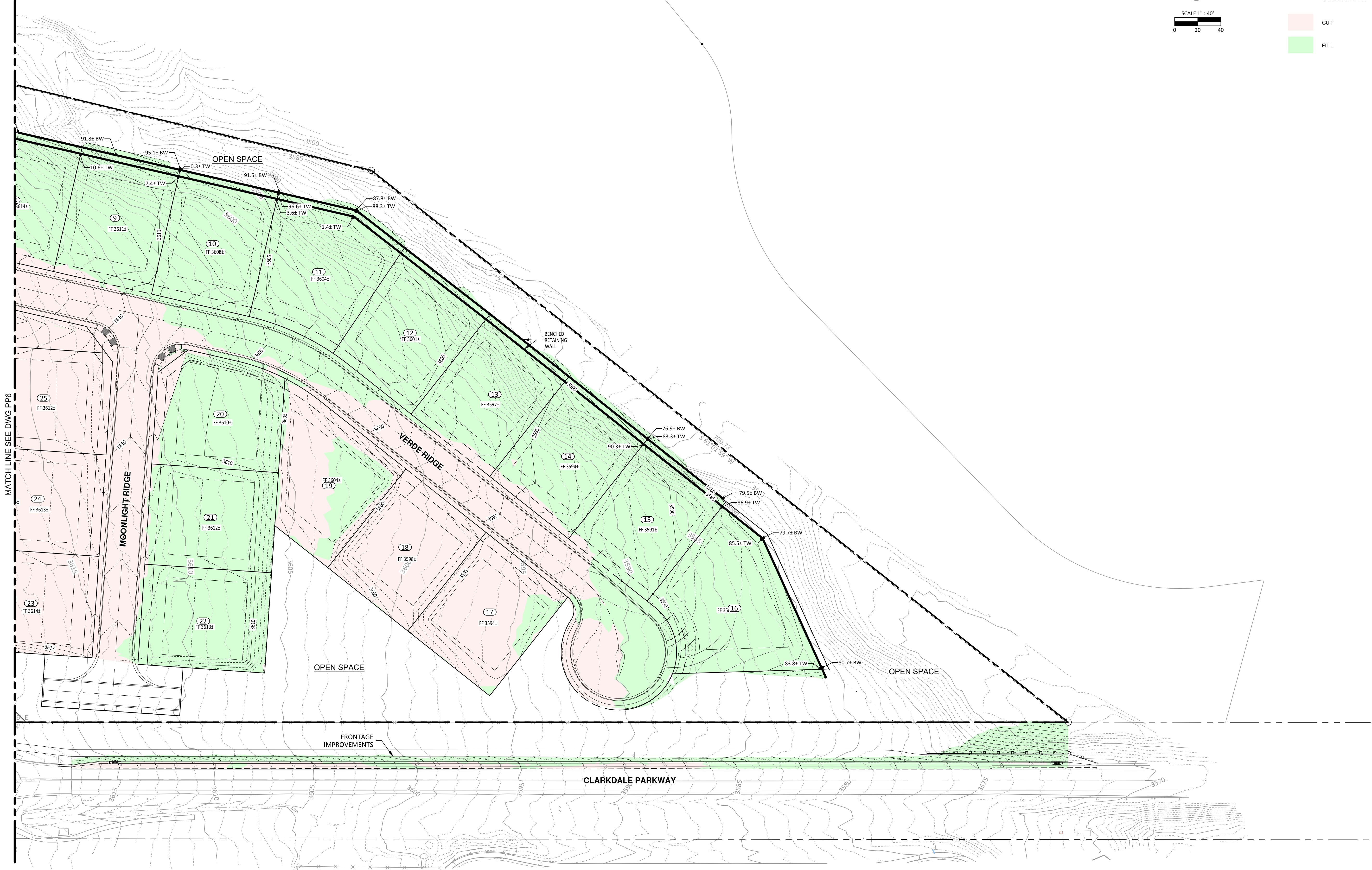
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Nancy Hargiss-Tatlock
Devon M. White
John C. Stallings, Of Counsel

June 27, 2024

VIA EMAIL ONLY

Susan Guthrie, Town Manager
Town of Clarkdale
P.O. Box 308
Clarkdale, AZ 86324
Susan.Guthrie@clarkdale.az.gov

RE: Legal Standard for Town Council review of Subdivision Final Plat

Dear Town Manager Guthrie,

You have asked for a written opinion from the Town Attorney pursuant to A.R.S. § 38-446, as to the legal standard for Town Council approval or denial of a subdivision final plat that has been put before it.

As Clarkdale Town Attorney, this Firm responds as follows:

Answer:

1. Pursuant to Town Zoning Code § 12-4-050(D)(1), the Town Council is authorized to approve or deny a final plat put before it.
2. The Town Council cannot deny a final plat that meets all Town Zoning Code requirements simply because it is empowered to do so. *Fox v. Town of Oro Valley*, 130 Ariz. 19, 633 P.2d 428 (App. 1984).
3. In evaluating the final plat application, the Town Council must base its decision on substantial evidence and objective criteria as to whether it meets the Town Zoning Code requirements. Any denial must be supported by specific findings that detail how the final plat fails to comply with applicable regulations. *Id.*
4. The Town Council's decision-making process must adhere to principles of due process. This includes providing the applicant with notice of any deficiencies in the final plat and an opportunity to address these issues before a final decision is made.

5. The Town Council is obligated to act within a reasonable time frame to ensure that the approval process does not unduly delay the development. Unreasonable delays without justifiable cause could be considered arbitrary and capricious.
6. Any denial of a final plat must not be based on extraneous factors such as personal biases, political pressures, or community opposition that is not grounded in the Town Zoning Code. The decision must remain focused on whether the final plat meets the established legal standards.

I. Legal Analysis

Section 12-4-050(D)(1) of the Clarkdale Zoning Town Code provides that:

“Upon receipt of a request for Council action from the Director, the Town Clerk shall place the case on the agenda of the next regular Council meeting, whereupon the Council shall approve *or deny* the plat.” [emphasis added]

However, Arizona courts have held that denials of similar plans and plats, when done without good reason based on the established zoning regulations, are improper.

For example, in *Fox v. Town of Oro Valley*, the applicant submitted a development plan that met all Town requirements and incorporated requested modifications from the Town into said plan. However, upon re-submittal, the Town denied the plans anyway, without providing any reason for doing so. 130 Ariz. 19, 633 P.2d 428 (App. 1984). The Court held that such action was “arbitrary and capricious,” and relief to the applicant was appropriate.

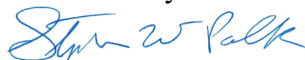
Therefore, we advise that the Town Council must approve a subdivision final plat unless there are legitimate concerns to be addressed based on the established Town Code and Zoning Code regulations.

II. Conclusion

The Town, while empowered to deny the Final Plat, may only do so if the final plat fails to comply with the Town Code and Town Zoning Code requirements.

Sincerely,

BOYLE, PECHARICH, CLINE,
WHITTINGTON & STALLINGS, P.L.L.C.
Town Attorney



By: Stephen W. Polk

SWP/DMW
Cc: Charity Brooks, Town Clerk