

24276

DECLARATION OF EASEMENT

THIS DECLARATION OF EASEMENT made this 20th day of September, 1984, by LINCOLN LAWN AND HOME CENTER, INC., a Nebraska Corporation, and Donley F. Gerbig and Julia V. Gerbig, hereinafter collectively referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner in fee of the parcels of real estate, described on Exhibit "A" which is attached hereto and,

WHEREAS, Declarant contemplates conveying all or some of the above described parcels to each other or owners who would develop and utilize said parcels for appropriate commercial purposes and for that reason Declarant desires to establish a uniform flow of traffic through and upon the above described properties so as to allow Declarant or any successors in title to make use of the access to and from the streets abutting said properites, namely 14th Street and Pioneer Boulevard through and over the various entrances and exist provided to such streets and along the separate parcels above described and so as to establish a mutually advantageous flow of vehicular and pedestrian traffic to and from such exits,

NOW, THEREFORE, Declarant being the owner in fee of the above described parcels of real estate does hereby declare as follows:

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1. Declarant or its successors in title shall have a right-of-way at all times, in common with the owners of all parcels hereinbefore described, and all the tenants and licensees and customers thereof for motor vehicles and pedestrians over the said commercially zoned property so as to permit a free flow of such traffic to and from any and all street entries or exit whether said entries or exits are established now or in the future to and from said respective properties. The Declarant or any successors in title will maintain the driveways upon their respective properties in such a manner as to permit such flow of traffic between the several properties. The document hereto attached, as Exhibit "B" and incorporated herein by such reference is intended to show part of the intention of the Declarant with reference to such traffic flow; but it is expressly understood and agreed that any buildings or structures shown on said exhibit are by way of illustration only, and that neither Declarant or any successors in title are in any manner obligated to construct or develop in accordance with said exhibit, but that rather said exhibit is designed to show the intention of developing the traffic flow upon the several parcels in such manner as to permit the traffic to flow between the separate parcels without using a public street and without creating traffic hazards.

2. The right-of-way referred to in Paragraph 1 above shall not be less than thirty (30) feet in width on straight

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portions thereof, and shall have a radius of not less than thirty (30) feet on the curved portions thereof. The location of such rights-of-way may be varied by the Declarant or its successors in title from time to time in such manner as shall be deemed most convenient, so long as the access is provided to the driveway areas and exits and entrances referred to, and so long as the requirements as to minimum width thereof shall be complied with. Neither the Declarant or its successors in title shall build or maintain or permit to be built or maintained any structure on a driveway which will interfere with the flow of traffic to and from the premises, except as hereinbefore provided; and in the event either Declarant or its successors in title shall desire to change the traffic pattern, as set forth on the attached document, such party shall provide adequate substitute means of ingress and egress to and from the property of the other parties so as to provide a flow of traffic as contemplated herein.

3. When Declarant or any successors in title shall develop the respective parcels such party shall then maintain and keep in good repair the parking areas and rights-of-way situated thereon, and shall keep the same free and clear of snow, ice, rubbish and obstructions and shall provide adequate drains and lightning thereon. Parking areas and right-of-way on the respective parcels shall meet at equal grades; and no obstruction shall be erected or permitted upon the premises which shall in any way interfere with any right granted by this Agreement.

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4. Nothing herein contained shall prevent Declarant or any successors in title from constructing a building or other structure upon any portion of the parking and driveway areas shown on the attached exhibits, provided that no building or structure shall be erected so as to interfere with the flow of traffic to and through any curb cut.

5. This Agreement shall continue for a term of twenty-five (25) years from the date hereof, or so long as any of the parcels herein described shall be used for one or more commercial establishments, whichever shall be longer.

6. The terms of this Agreement shall constitute covenants running with the land, and shall inure to the benefit of, and be binding upon the Declarant, its respective successors and assigns, including, but without limitation, all subsequent owners of the premises herein described, and all persons claiming under the parties hereto.

IN WITNESS WHEREOF, the Declarant has executed these presents the day and year first above written.

LINCOLN LAWN AND HOME CENTER,
A Nebraska Corporation,

BY Kathleen M. Evans
Its VICE PRESIDENT.

ATTEST:

David J. Myers
Secretary

Donley V. Gerbig
Donley V. Gerbig


Julia V. Gerbig
Julia V. Gerbig

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STATE OF NEBRASKA)
) ss.
LANCASTER COUNTY)

On this 26th day of September, 1984, before me, the undersigned notary public, personally came Cathleen M. Evans and _____, to me known to be the Vice President and Secretary respectively of Lincoln Lawn and Home Center, A Nebraska Corporation, and the identical persons whose names are fixed to the foregoing instrument and acknowledged the execution thereof to be their voluntary act and deed as such officers and the voluntary act and deed of the said Lincoln Lawn and Home Center.

WITNESS my hand and seal the day and year last above written.

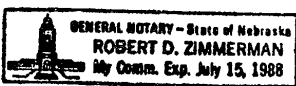


Notary Public

STATE OF NEBRASKA)
) ss.
LANCASTER COUNTY)

On this 25 day of September, 1984, before me the undersigned, a notary public duly commissioned and qualified in and for said county and state, personally appeared Donley F. Gerbig and Julia V. Gerbig, to me known to be the identical persons whose names are affixed to the foregoing instrument on behalf of said corporation; and they acknowledged the execution thereof to be their voluntary act and deed as such and the voluntary act and deed of said corporation.

WITNESS my hand and notarial seal the date and year last above mentioned.





Notary Public

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EXHIBIT "A"

LEGAL DESCRIPTION - PARCEL 1

Beginning at a point 75.00' East and 33.00' North of the southwest corner of section 1, T9N, R6E of the 6th P.M., Lancaster County, Nebraska. Thence in a Northerly direction along the east right-of-way line of South 14th Street on an assumed bearing of N 25°31'00" W a distance of 48.70'; thence continuing along the east right-of-way line of South 14th Street on a bearing of N 2°00'05" W a distance of 109.11'; thence on a bearing of N 90°00'00" E a distance of 213.79'; thence on a bearing of S 0°00'00" W a distance of 153.00'; thence along the north right-of-way line of Pioneers Blvd. on a bearing of S 90°00'00" W a distance of 189.00' to the point of beginning and containing a calculated area of 0.73 acres.

LEGAL DESCRIPTION - PARCEL 2

Commencing at a point 75.00' East and 33.00' North of the southwest corner of section 1, T9N, R6E, of the 6th P.M., Lancaster County, Nebraska. Thence in a Northerly direction along the east right-of-way line of South 14th Street on an assumed bearing of N 25°31'00" W a distance of 48.70'; thence continuing along the east right-of-way line of South 14th Street on a bearing of N 2°00'05" W a distance of 109.11' to the point of beginning; thence continuing along said east right-of-way of South 14th Street on said bearing of N 2°00'05" W a distance of 135.65'; thence continuing along said east right-of-way line of South 14th Street on a bearing of N 3°19'17" W a distance of 100.70' to a point on the southwesterly 50' right-of-way line of the Burlington Northern Railroad as the same is now located, constructed and in operation over and across said Southwest Quarter; thence in a southeasterly direction along a chord bearing of S 59°59'05" E a chord distance of 259.11' to a point on the curve of the southwesterly railroad right-of-way line; thence on a bearing of S 0°00'00" W a distance of 106.48'; thence on a bearing of S 90°00'00" W a distance of 213.79' to the point of beginning and containing a calculated area of 0.84 acres.

LEGAL DESCRIPTION - PARCEL 3

Commencing at a point 75.00' East and 33.00' North of the southwest corner of section 1, T9N, R6E, of the 6th P.M., Lancaster County, Nebraska. Thence in a Easterly direction along the north right-of-way line of Pioneers Blvd. on an assumed bearing of N 90°00'00" E a distance of 189.00' to the point of beginning; thence on a bearing of N 0°00'00" E a distance of 259.48' to a point on the southwesterly 50' right-of-way line of the Burlington Northern Railroad as the same is now located, constructed and in operation over and across said Southwest Quarter; thence in a southeasterly direction along a chord bearing of S 64°51'28" E a chord distance of 182.27' to a point on the curve of the southwesterly railroad right-of-way line; thence on a bearing of S 0°00'00" W a distance of 182.04'; thence along the north right-of-way line of Pioneers Blvd. on a bearing of S 90°00'00" W a distance of 165.00' to the point of beginning and containing a calculated area of 0.83 acres.

LEGAL DESCRIPTION - PARCEL 4

Commencing at a point 75.00' East and 33.00' North of the southwest corner of section 1, T9N, R6E of the 6th P.M., Lancaster County, Nebraska. Thence in a Easterly direction along the north right-of-way line of Pioneers Blvd. on an assumed bearing of S 90°00'00" W a distance of 354.00' to the point of beginning; thence on a bearing of N 0°00'00" E a distance of 182.04' to a point on the southwesterly 50' right-of-way line of the Burlington Northern Railroad as the same is now located, constructed and in operation over and across said Southwest Quarter; thence in a southeasterly direction along a chord bearing of S 72°31'41" E a chord distance of 606.31' to a point on the curve of the southwesterly railroad right-of-way line, said point also being on the North right-of-way line of Pioneers Blvd. thence on a bearing of S 90°00'00" W a distance of 578.34' to the point beginning and containing a calculated area of 1.06 acres.

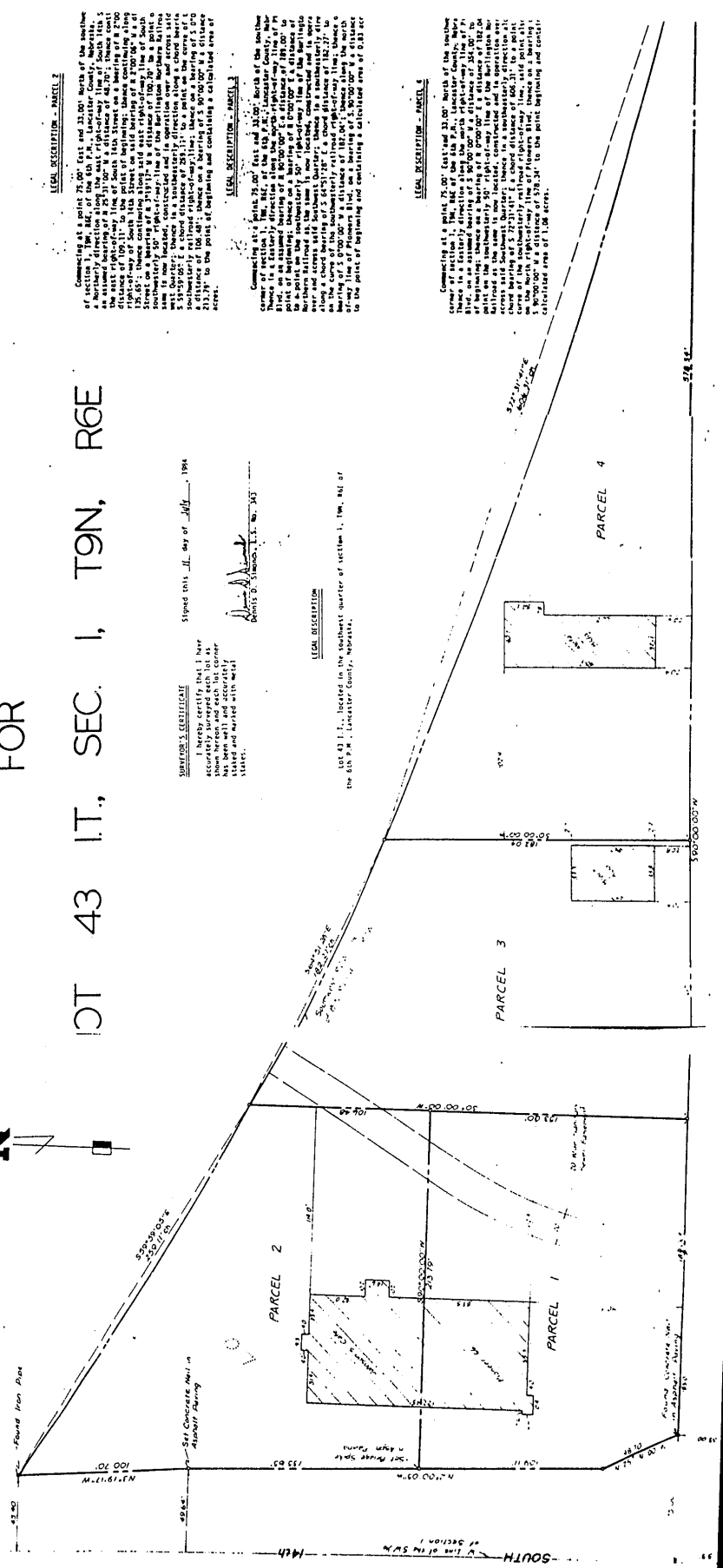
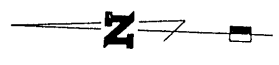
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ADMINISTRATIVE SUBDIVISION FOR

LOT 43 I.T., SEC. 1, T9N, R6E

STOCKWELL STREET



LEGAL DESCRIPTION - PARCEL 1

Beginning at a point 75.00' East and 31.00' North of the southeast corner of section 1, T9N, R6E of the 6th P.M., Lancaster County, Nebraska, a westerly direction along the east right-of-way line of South 14th Street a distance of 100.00'; thence along the north right-of-way line of South 14th Street a distance of 210.00'; thence along the east right-of-way line of South 14th Street on a bearing of 180°00'00\"/>

LEGAL DESCRIPTION - PARCEL 2

Commencing at a point 75.00' East and 31.00' North of the southeast corner of section 1, T9N, R6E of the 6th P.M., Lancaster County, Nebraska, an assumed bearing of 25°31'00\"/>

LEGAL DESCRIPTION - PARCEL 3

Commencing at a point 75.00' East and 31.00' North of the southeast corner of section 1, T9N, R6E of the 6th P.M., Lancaster County, Nebraska, an assumed bearing of 89°00'00\"/>

LEGAL DESCRIPTION - PARCEL 4

Commencing at a point 25.00' East and 31.00' North of the southeast corner of section 1, T9N, R6E of the 6th P.M., Lancaster County, Nebraska, a westerly direction along the east right-of-way line of South 14th Street a distance of 100.00'; thence along the north right-of-way line of South 14th Street on a bearing of 180°00'00\"/>

Witness my hand and seal of office this 11th day of July, 1984.

I hereby certify that I have examined the above plat and that it shows the lot and each lot corner as shown and that the same has been well and accurately surveyed and divided into equal lots.

[Signature]
Dennis G. Stinson, L.S. No. 303

LEGAL DESCRIPTION

Lot 43 I.T., located in the southeast quarter of section 1, T9N, R6E of the 6th P.M., Lancaster County, Nebraska.

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ADDENDUM TO DECLARATION OF EASEMENT

This is an Addendum to the Declaration of Easement dated September 26, 1984, by and between LINCOLN LAWN AND HOME CENTER, INC., a Nebraska corporation, and DONLEY F. GERBIG and JULIA V. GERBIG, whereby the parties further agree as follows:

1. The Declaration of Easement referred to above shall not be released, terminated, revoked or amended without the express written consent of the Transportation Department of the City of Lincoln.

2. All the provisions of the Declaration of Easement shall remain in full force and effect.

ATTEST:

BY:

David J. Myers
Its Secretary

LINCOLN LAWN AND HOME CENTER, INC.,
A Nebraska Corporation

BY:

Kathleen M. Gurnus
Its Vice President

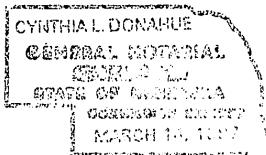
Donley F. Gerbig
Donley F. Gerbig

Julia V. Gerbig
Julia V. Gerbig

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

On this 1st day of October, 1984, before me, the undersigned notary public, personally came Kathleen M. Evans and David J. Myers, to me known to be the Vice President and Secretary respectively of Lincoln Lawn and Home Center, Inc., a Nebraska corporation, and the identical persons whose names are fixed to the foregoing instrument and acknowledged the execution thereof to be their voluntary act and deed as such officers and the voluntary act and deed of the said Lincoln Lawn and Home Center, Inc.

WITNESS my hand and seal the day and year last above written.

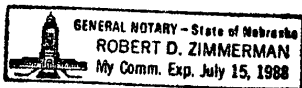


Cynthia L. Donahue
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

On this 1 day of October, 1984, before me the undersigned, a notary public duly commissioned and qualified in and for said county and state, personally appeared Donley F. Gerbig and Julia V. Gerbig, to me known to be the identical persons whose names are affixed to the foregoing instrument and who acknowledged their execution thereof to be their voluntary act and deed.

WITNESS my hand and seal the day and year last above written.



Robert D. Zimmerman
Notary Public

INDEXED
MICRO-FILED
GENERAL

LANCASTER COUNTY CLERK
Don J. [unclear]
REGISTER OF DEEDS
1984 OCT -3 AM 11:55

NOTARIAL PUBLIC
FILED FOR RECORD AS:

M:sc.
INST. NO. 84- 24276

\$45.50

U.S.