

WARREN COUNTY, IOWA
FILED FOR RECORD

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2003 PAGE 5801
JUSTIN K. TATRO RECORDER

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Prepared by, and when recorded, return to: R. Michael Hayes, Hubbell Realty Company,
6900 Westown Parkway, West Des Moines, Iowa 50265-2520 (515) 280-2051

SPACE ABOVE THIS LINE FOR RECORDER

**THIRD MODIFICATION OF DECLARATION OF COVENANTS,
CONDITIONS, EASEMENTS AND RESTRICTIONS
APPLICABLE TO THE LEGACY
NORWALK, WARREN COUNTY, IOWA**

**THIS THIRD MODIFICATION OF DECLARATION OF COVENANTS,
CONDITIONS, EASEMENTS AND RESTRICTIONS APPLICABLE TO THE
LEGACY, NORWALK, WARREN COUNTY, IOWA** is made this *25th* day of April,
2003, by **H-CM, L. L. C.**, an Iowa limited liability company, ("**Declarant**").

WHEREAS, Declarant, as the Owner of The Legacy, as defined in Section 1.02(n) thereof, subjected The Legacy to that certain Declaration of Covenants, Conditions, Easements and Restrictions Applicable to The Legacy, Norwalk, Warren County, Iowa, dated September 17, 2001 and filed for record in the Office of the Recorder for Warren County, Iowa on September 18, 2001 in Book 2001 at Page 9480, as amended by that certain First Modification of Declaration of Covenants, Conditions, Easements and Restrictions Applicable to The Legacy, Norwalk, Warren County, Iowa, dated November 13, 2001 and filed for record in the Office of the Recorder for Warren County, Iowa on November 29, 2001 in Book 2001 at Page 12532, and as amended by that Second Modification of Declaration of Covenants, Conditions, Easements and Restrictions Applicable to The Legacy, Norwalk, Warren County, Iowa, and Substitution of The Legacy Declaration for the Amended and Substituted Declaration of Covenants for Colonial Meadows Plat 3 and Substitution of The Legacy Declaration for the Declaration of Covenants for Colonial Meadows Plat 4, dated July 25, 2002 and filed for record in the Office of the Recorder for Warren County, Iowa on July 31, 2002 in Book 2002 at Page 8785, (collectively the "Legacy Declaration"); and

WHEREAS, Subsection 6.12 of the Legacy Declaration provided that Declarant could amend the Legacy Declaration by a written amendment so long as it owns any lot in the Legacy, as defined in Subsection 1.02(n) of the Legacy Declaration; and

WHEREAS, Declarant owns (a) Lots 1 through 25 and Lots 27 through 61, The Legacy Plat 3, (b) Lots 1, 2, 3, 5, 7, 8, 10, 11, 12, 15, 18 and 19, Colonial Meadows Plat 3, (c) Lots 2 and 4, Colonial Meadows Plat 4, (d) Lot 1 and Outlot Z, Colonial Meadows Plat 5, (e) Lots 1 through 20 and Lot 25, The Legacy Plat 5, (f) the portion of Outlot X, The Legacy Plat 1, that is currently platted as Outlots R4 and X4, The Legacy Plat 4, (g)

the portion of Outlot Y, The Legacy Plat 1, that is currently platted as Outlot Y2, The Legacy Plat 2 Amended, and (h) Outlots U and Z, The Legacy Plat 1; all Official Plats, now included in and forming a part of the City of Norwalk, Warren County, Iowa ; and

WHEREAS, Declarant desires to amend Section 2.06 of the Declaration to allow flagpoles.

NOW, THEREFORE, Declarant hereby amends the Legacy Declaration as follows:


1. Section 2.06 of the Legacy Declaration is hereby amended by deleting the sentence that reads "No flagpole is permitted on any Lot other than a model or a sales and display office." therefrom in its entirety.

2. Except as expressly modified by this Third Modification of the Legacy Declaration, all of the terms, conditions, easements, restrictions and provisions of the Legacy Declaration continue and remain in full force and effect.

Dated this 25th day of April, 2003.

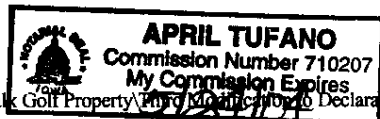
H-CM, L. L. C.
BY: Hubbell Realty Company, Manager

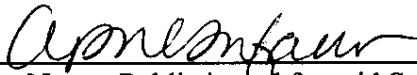
By: 
Rick J. Tollakson, President

By: 
R. Michael Hayes, Secretary

STATE OF IOWA)
)SS.
COUNTY OF POLK)

On this 25th day of April, 2003, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Rick J. Tollakson and R. Michael Hayes, to me personally known, who, being by me duly sworn, did say that they are the President and Secretary, respectively, of **Hubbell Realty Company**, the Manager of **H-CM, L. L. C.**, an Iowa limited liability company; that the foregoing instrument was signed on behalf of said corporate manager by authority of its Board of Directors and on behalf of said limited liability company by authority of its Operating Agreement and members; and that the said Rick J. Tollakson and R. Michael Hayes, as such officers, acknowledged the execution of the foregoing instrument to be the voluntary act and deed of said corporate manager and said limited liability company, by each entity and by them voluntarily executed.



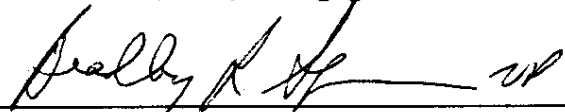

Notary Public in and for said State

MORTGAGEE'S CONSENT AND PARTIAL SUBORDINATION OF MORTGAGE

That **LIBERTY BANK, FSB**, ("Liberty Bank"), the present owner of the Mortgagee's interest in that certain Mortgage, Security Agreement and Assignment of Rents, granted by H-CM, L. L. C., as Mortgagor, to Liberty Bank, as Mortgagee, dated September 20, 2001 and filed for record in the Office of the Recorder for Warren County, Iowa on September 20, 2001 in Book 2001 at Page 9621, (the "Mortgage"), which Mortgage creates a lien on, among other property, the property described as Outlot W2, The Legacy Plat 2 Amended, an Official Plat, now included in and forming a part of the City of Norwalk, Warren County, Iowa (formerly described as Outlot W, The Legacy Plat 2, an Official Plat, now included in and forming a part of the City of Norwalk, Warren County, Iowa), (the "Mortgaged Property"), which is part of the property to be platted as **The Legacy Plat 3**, an Official Plat, now included in and forming a part of the City of Norwalk, Warren County, Iowa, hereby consents to the within and foregoing First Modification of Declaration of Covenants, Conditions, Easements and Restrictions Applicable to The Legacy, Norwalk, Warren County, Iowa, and agrees that the lien of the Mortgage shall be subject, subordinate and inferior to said landscaping easements.

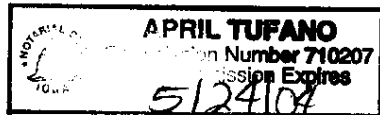
Dated this 25th day of April, 2003.

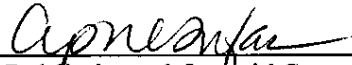
LIBERTY BANK, FSB, Mortgagee

By: 
Bradley R. Sporrer, Vice President

STATE OF IOWA)
)SS.
COUNTY OF POLK)

On this 25th day of April, 2003, before me, a Notary Public in and for the State of Iowa, personally appeared Bradley R. Sporrer, to me personally known, who being by me duly sworn did state that he is the Vice President of **Liberty Bank, FSB**; that said instrument was signed on behalf of said corporation by authority of its Board of Directors; and the said Bradley R. Sporrer, as such officer, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by him voluntarily executed.




Notary Public in and for said State