

COMPARSED

FILED FOR RECORD
POTTAWATTAMIE CO. IA.

03 MAR 20 PM 3:14

JOHN SCIORCHINO
RECORDER

INST # **13999** ✓
RECORDING FEE 215⁰⁰
AUDITOR FEE _____
RMA FEE 1⁰⁰

MARK E. EHRHART - EHRHART GRIFFIN & ASSOCIATES, 3915 CLAWING STREET, OMAHA, NEBRASKA 68131-1211 - (402) 551-0631

Chg & Return Peters Law Firm
Leo MARTIN
P.O. Box 1078
CO Beuffs IA 5752

FERNDALE PHASE 1 FIRST REPLAT

LOTS 1-A THROUGH 6-B INCLUSIVE
BEING A REPLAT OF LOTS 1 THROUGH 6,
FERNDALE PHASE 1,
AS PLATTED AND RECORDED IN
POTTAWATTAMIE COUNTY, IOWA.

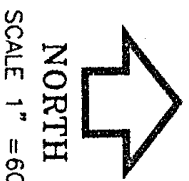
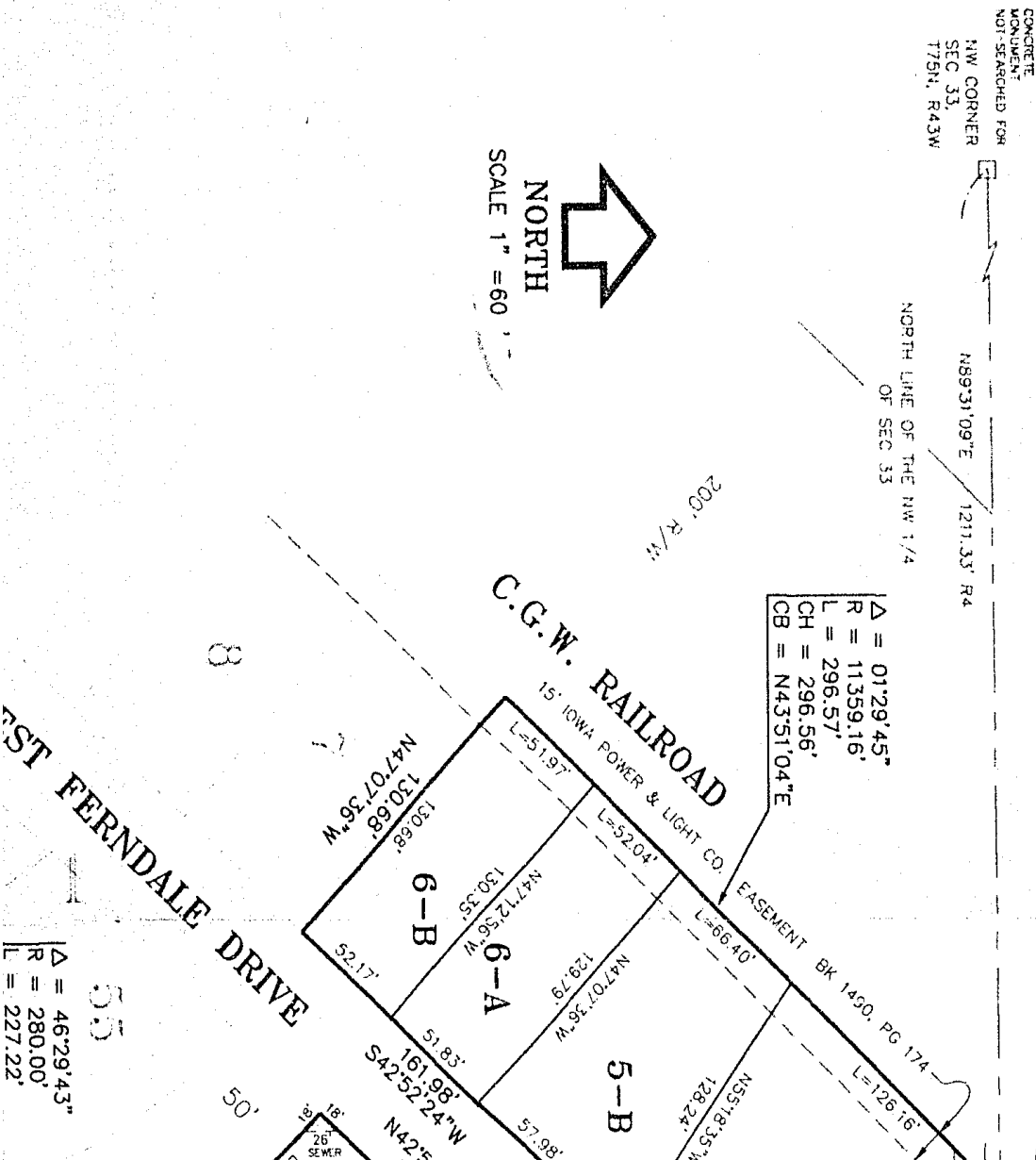
COMPARSED

SEE
DETAIL

McPH
(OLD)

MAR 20 1998

OVERHEAD UTILITY



Δ = 46°29'43"
R = 280.00'
L = 227.22'

DALE PHASE 1 FIRST REPLAT

LOTS 1-A THROUGH 6-B INCLUSIVE
 BEING A REPLAT OF LOTS 1 THROUGH 6,
 FERNDALE PHASE 1,
 AS PLATTED AND RECORDED IN
 POTTAWATTAMIE COUNTY, IOWA.

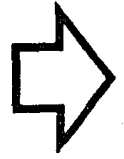
COMPARED

MCPHERSON AVENUE
 (OLD HIGHWAY NO. 6)

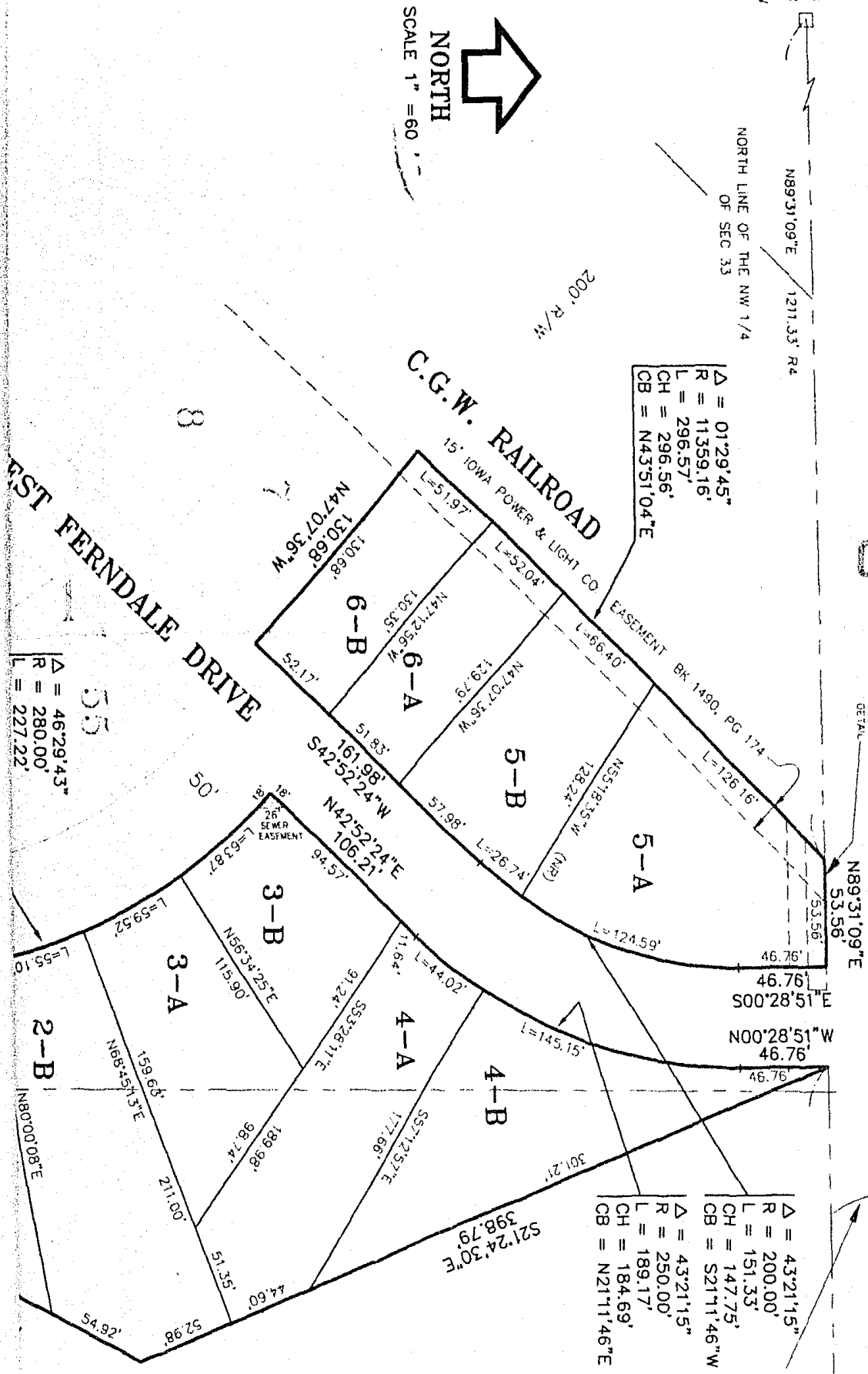
HWY R.O.W.

CONCRETE
 MONUMENT
 NOT SEARCHED FOR
 NW CORNER
 SEC. 33
 T75N. R43W

NORTH LINE OF THE NW 1/4
 OF SEC 33



SCALE 1" = 60'



$\Delta = 01^{\circ}29'45''$
 $R = 11359.16'$
 $L = 296.57'$
 $CH = 296.56'$
 $CB = N43^{\circ}51'04''E$

$\Delta = 43^{\circ}21'15''$
 $R = 200.00'$
 $L = 151.33'$
 $CH = 147.75'$
 $CB = S21^{\circ}11'46''W$

$\Delta = 46^{\circ}29'43''$
 $R = 280.00'$
 $L = 227.22'$

LAT

COMPARED

MCPHERSON AVENUE
(OLD HIGHWAY NO. 6)

FIRST FERNDALE DRIVE

RAILROAD
15' IOWA POWER & LIGHT CO.

= 01'29'.45"
= 11359.16'
= 296.57'
= 296.56'
= N43°51'04"E

SEE
DETAIL

N89°31'09"E
53.56'

N00°28'51"W
46.76'

△ = 43°21'15"
R = 200.00'
L = 151.33'
CH = 147.75'
CB = S21°11'46"W
△ = 43°21'15"
R = 250.00'
L = 189.17'
CH = 184.69'
CB = N21°11'46"E

HWY R.O.W.

1988 Q MOSQUITO CREEK

N89°31'09"E 1331.70' R4

CONCRETE
MONUMENT
NOT SEARCHED FOR
N 1/4 CORNER
SEC. 33,
T75N, R43W

△ = 46°29'.43"
R = 280.00'
L = 227.22'

2-B

3-A

3-B

4-A

4-B

5-A

5-B

6-A

6-B

SEC 33

LEGAL DESCRIPTION:

FERNDALE PHASE 1 FIRST REPLAT, BEING A REPLAT OF LOTS 1 THROUGH 6, FERNDALE PHASE 1, AS PLATTED AND RECORDED IN POTTAWATTAMIE COUNTY, NEBRASKA

AREA BREAKDOWN

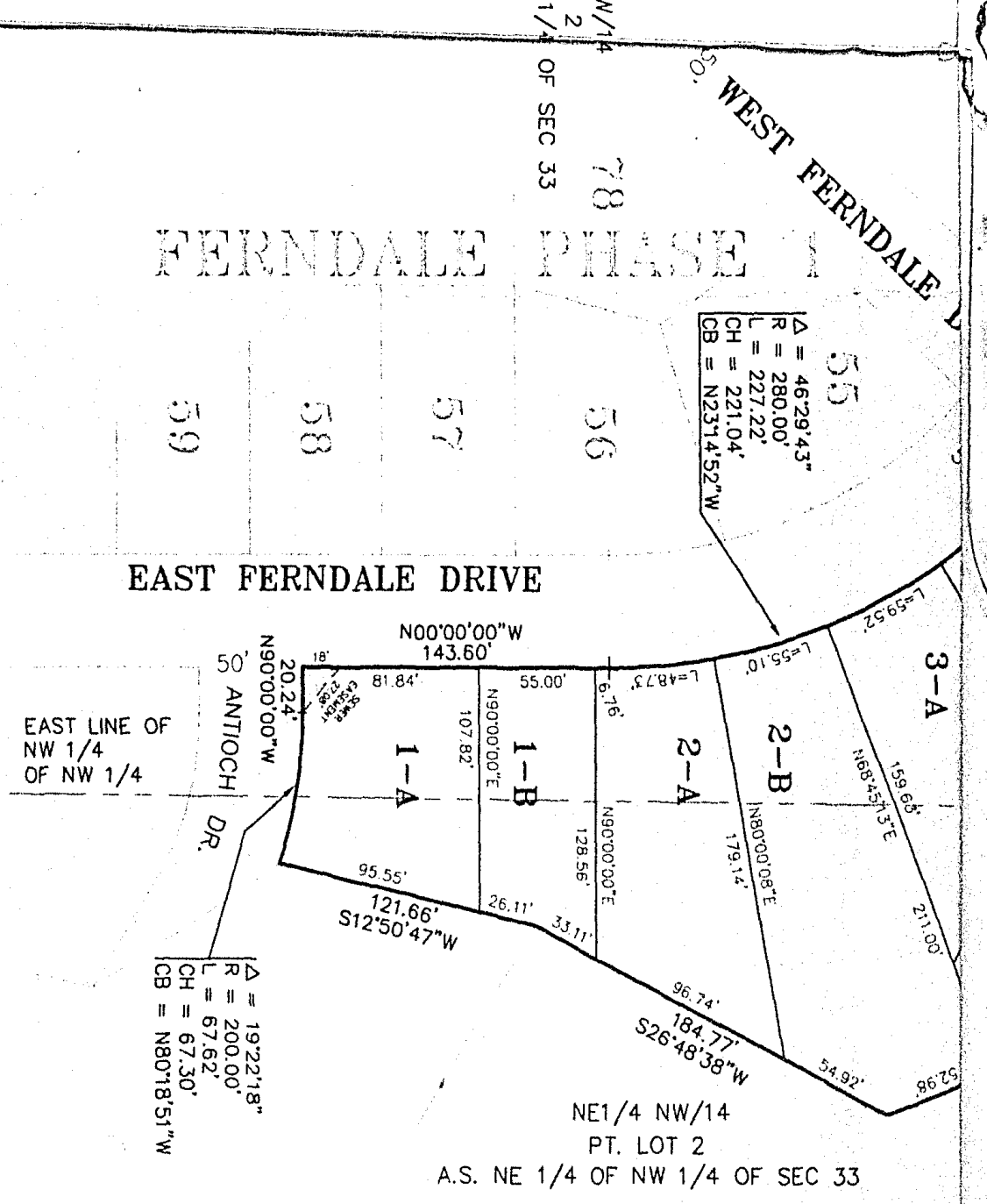
NW OF NW 1.788 ACRES
NE OF NW 1.01 ACRES

SURVEYOR'S CERTIFICATE
 AND SUPERVISING DOCUMENT WAS PREPARED BY
 ME UNDER THE LAWS OF THE STATE OF IOWA.
 DECEMBER 31, 1999
 U.C. NO. 11416


EHRHART & GRIFFIN ASSOCIATES

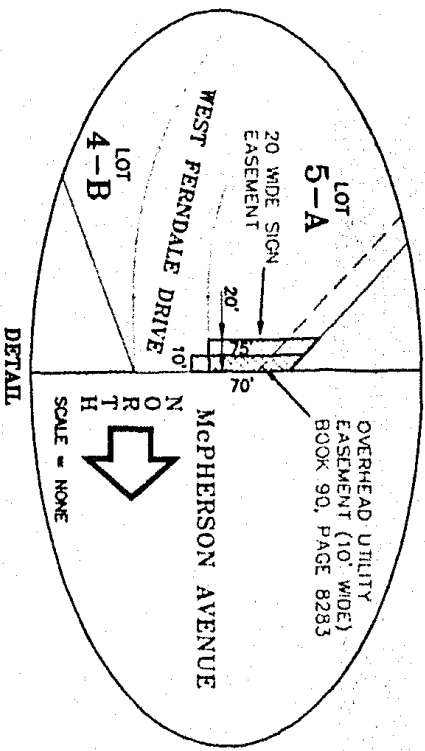
Project No. 940043
FERNDALE PHASE 1 FIRST REPIAT
 ENGINEERING PLANNING LAND SURVEYING
 3915 Curming Street • Omaha, Nebraska 68131 • 402 / 551-0631

SHEET 1 OF 2



Δ = 19°22'18"
 R = 200.00'
 L = 67.62'
 CH = 67.30'
 CB = N80°18'51"W

RESERVED SPACE
MARK E. EHRHART



STANDARD UTILITY EASEMENTS

A PERPETUAL EASEMENT IS RESERVED FOR STORM DRAINAGE AND THE INSTALLATION AND MAINTENANCE OF UTILITIES 5 FEET EACH SIDE OF THE FOLLOWING INTERIOR LOT LINES AND 10 FEET IN WIDTH ALONG ALL FRONT AND REAR LOT LINES. SAID DRAINAGE AREAS AND INCLUDED DRAINAGE SYSTEMS, IF ANY, ARE PRIVATE AND ARE TO BE INSTALLED AND MAINTAINED BY THE OWNERS OF THE LOTS ADJOINING THE SAME.

SURVEYOR'S NOTES

INTERIOR LOT LINES ARE PERPENDICULAR TO OR RADIAL FROM RIGHT-OF-WAY LINES UNLESS NOTED OTHERWISE. DISTANCES SHOWN ALONG A CURVE ARE ARC DISTANCES UNLESS NOTED OTHERWISE.

BASIS OF BOUNDARY BEARINGS AND EXTERIOR BOUNDARY LINES ALONG THE SOUTH, WEST AND NORTH, ARE BASED ON A BOUNDARY SURVEY BY CARL H. ROGERS, J., DATED MAY 26, 1981 DRAWING NO. 125079
5/8" X 30" REBAR WITH ALUMINUM CAPS STAMPED #11416 IRON PINS HAVE BEEN SET AT THE CORNERS OF ALL LOTS, STREETS, ANGLE POINTS, AND THE TERMINAL POINTS OF ALL CURVES.

LEGEND

- ▲ - SET SURVEY POINT 5/8" REBAR W/ ALUMINUM CAP #11416
- - FOUND SURVEY POINT
- C.T.P. - CRIMPED TOP PIPE
- O.T.P. - OPEN TOP PIPE
- S.D.H. - STAR DRILL HOLE
- R1 - GREENMEADOWS 2nd SUBDIVISION
- R2 - WILDWOOD II ADDITION
- R3 - DEEDS TO FERNDALE 82/14302
- R4 - SURVEY BY CARL ROGERS #125079 DATED MAY/26/1981
- (NR) - DENOTES NON-RADIAL LOT LINE



NW1/4 NW/14
PT. LOT 2
A.S. NW 1/4 OF NW 1/4 OF SEC 33

50' WEST FERNDALE D

FERNDALE PHASE 1

Δ = 46'29.43"
R = 280.00'
L = 227.22'
CH = 221.04'
CB = N2314'52"

59
58
57
56

11416-59

LAND SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THIS LAND SURVEYING DOCUMENT WAS PREPARED BY ME OR UNDER MY DIRECT PERSONAL SUPERVISION AND THAT I AM A DULY LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF IOWA.

MARK E. EHRHART

DATE 12/30/57 U.C. NO. 11416
MY LICENSE RENEWAL DATE IS DECEMBER 31, 1999

COMMUNITY DEVELOPMENT
[Signature]

1-5-98

APPROVED BY DIRECTOR, COMMUNITY DEVELOPMENT

DATE

CITY COUNCIL:

[Signature]
APPROVED BY MAYOR

1-6-98

DATE

ATTESIED TO BY:

[Signature]
CITY CLERK

1-6-98

DATE

RECORDED

See attached


CERTIFICATE OF TREASURER OF POTTAWATTAMIE COUNTY, IOWA

I, ~~THE TREASURER OF POTTAWATTAMIE COUNTY, IOWA~~, THE TREASURER OF POTTAWATTAMIE COUNTY, IOWA, HEREBY CERTIFY THAT THE PROPERTY INCLUDED IN FERDALE PHASE 1 FIRST REPLAT, IS FREE FROM CERTIFIED TAXES AND CERTIFIED SPECIAL ASSESSMENTS.

~~TREASURER OF POTTAWATTAMIE COUNTY~~

~~DATE~~

SHEET 2 OF 2



EHRHART & GRIFFIN & ASSOCIATES

Project No.
940043

FERDALE PHASE 1 FIRST REPLAT

ENGINEERING

PLANNING

LAND SURVEYING

3915 Cumming Street • Omaha, Nebraska 68131 • 402 / 551-0631

98-38519

98-38518

COMMUNITY DEVELOPMENT
[Signature]

APPROVED BY DIRECTOR, COMMUNITY DEVELOPMENT

CITY COUNCIL:

[Signature]
APPROVED BY MAYOR

ATTESTED TO BY:

[Signature]
CITY CLERK

COMPLETED

See attached
CERTIFICATE OF TREASURER OF POTTAWATTAMIE COUNTY

I, _____, HEREBY CERTIFY THAT THE PROPERTY IS EXEMPT FROM CERTIFIED TAXES AND CERTIFIED SPECIAL ASSESSMENTS.

TREASURER OF POTTAWATTAMIE COUNTY



GEORGE W. COLLINS
MY COMMISSION EXPIRES
1-7-2000



GEORGE W. COLLINS
MY COMMISSION EXPIRES
1-7-2000

_____, 1998,
MAYOR PUBLIC IN AND FOR SAID COUNTY.

_____,
FERDALE L.C.
CAL PERSON WHOSE NAME IS AFFIXED TO THE
KNOWLEDGES THE EXECUTION THEREOF TO BE
SUCH OFFICER, AND VOLUNTARY ACT AND

AT _____
DATE 1-5-98

_____, 1998,
MAYOR PUBLIC IN AND FOR SAID COUNTY.

_____,
CAL PERSON WHOSE NAME IS AFFIXED TO THE
KNOWLEDGES THE EXECUTION THEREOF TO BE

AT _____
DATE 1-5-1998

EHRHART & GRIFFIN ASSOCIATES
Project No. 940043
ENGINEERING
3915 Cuming Street

98-38519

ACKNOWLEDGEMENT TO DEDICATION

STATE OF IOWA)
COUNTY OF POTTAWATTAMIE)

ON THIS 5 DAY OF JAN, 1998,
BEFORE ME THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR SAID COUNTY,
PERSONALLY CAME,

J F Duncan

AS MANAGER OF FERNDAL L.C.
PERSONALLY KNOWN TO BE THE IDENTICAL PERSON WHOSE NAME IS AFFIXED TO THE
ABOVE DEDICATION, AND HE/SHE ACKNOWLEDGES THE EXECUTION THEREOF TO BE
HIS/HER VOLUNTARY ACT AND DEED AS SUCH OFFICER, AND VOLUNTARY ACT AND
DEED OF SAID FERNDAL L.C.



WITNESS MY HAND AND NOTARIAL SEAL AT _____
George W. Collins 1-5-98
NOTARY PUBLIC DATE

ACKNOWLEDGEMENT TO DEDICATION

STATE OF IOWA)
COUNTY OF POTTAWATTAMIE)

ON THIS 5 DAY OF JAN, 1998,
BEFORE ME THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR SAID COUNTY,
PERSONALLY CAME,

William S. ...

PERSONALLY KNOWN TO BE THE IDENTICAL PERSON WHOSE NAME IS AFFIXED TO THE
ABOVE DEDICATION, AND HE/SHE ACKNOWLEDGES THE EXECUTION THEREOF TO BE
HIS/HER VOLUNTARY ACT AND DEED.



WITNESS MY HAND AND NOTARIAL SEAL AT _____
George W. Collins 1-5-1998
NOTARY PUBLIC DATE

98-38520

98-38519

98

UNRECORDED

FERNDALE PHASE 1 FIRST REPLAT
LOTS 1-A THROUGH 6-B INCLUSIVE
BEING A REPLAT OF LOTS 1 THROUGH 6
FERNDALE PHASE 1,
AS PLATTED AND RECORDED IN
POTTAWATTAMIE COUNTY, IOWA.

DEDICATION:

KNOW ALL PEOPLE OF THESE PRESENTS: THAT

FERNDALE, L.C. AND WILLIAM SMITH

BEING THE SOLE OWNER(S) AND PROPRIETOR(S) OF THE LAND DESCRIBED IN THE LEGAL DESCRIPTION AND EMBRACED WITHIN THIS PLAT, HAVE CAUSED WITH OUR FREE CONSENT AND IN ACCORD WITH OUR DESIRE, THE SAME TO BE SUBDIVIDED INTO LOTS AND TO BE KNOWN AS

FERNDALE PHASE 1 FIRST REPLAT
LOTS 1-A, 1-B, 2-A, 2-B, 3-A, 3-B, 4-A, 4-B, 5-A, 5-B, 6-A AND 6-B INCLUSIVE
AND WE HEREBY RATIFY AND APPROVE OF OUR PROPERTY AS SHOWN ON THIS PLAT, AND THAT ALL STREETS, CIRCLES, AND AVENUES ARE DEDICATED TO THE CITY OF COUNCIL BLUFFS, IOWA, FOR PUBLIC USE, AND THE PERPETUAL EASEMENTS DEPICTED ON THE CORNER OF LOTS 1-A AND 3-B, ARE DEDICATED TO THE CITY OF COUNCIL BLUFFS, IOWA, FOR THE INSTALLATION AND MAINTENANCE OF STORM SEWER PIPES AND APPURTENANCES AND ANY DRAINAGE SYSTEMS DEEMED NECESSARY BY THE CITY OF COUNCIL BLUFFS.

IN WITNESS WHEREOF WE DO HEREUNTO SET OUR HANDS,

THIS 5 DAY OF Jan, 1998 A.D.

William Smith
FERNDALE, L.C., OWNER

THIS 5 DAY OF JAN, 1998 A.D.

William Smith
WILLIAM SMITH

ACKNOWLEDGEMENT TO DEDICATION

STATE OF IOWA)
COUNTY OF POTTAWATTAMIE)

98-38522

ALL PHASE 1 FINDI AND LAL
LOTS 1-A THROUGH 6-B INCLUSIVE
BEING A REPLAT OF LOTS 1 THROUGH 6,
FERDALE PHASE 1,
AS PLATTED AND RECORDED IN
POTTAWATTAMIE COUNTY, IOWA.

WE HEREBY CERTIFY THE FOLLOWING DOCUMENTS WILL BE RECORDED WITH THE
POTTAWATTAMIE COUNTY RECORDER CONTEMPORANEOUS WITH THE FINAL PLAT:

- A. ALL PRIVATE RESTRICTIONS AND/OR COVENANTS, IF ANY, WHICH WILL BE A PART OF THE SUBJECT DEVELOPMENT.
- B. STATEMENT OF MORTGAGE HOLDER, IF ANY, THAT THE PLAT IS PREPARED WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRE OF THE MORTGAGE HOLDER.
- C. TITLE OPINION LETTER OF ATTORNEY.
- D. CERTIFIED RESOLUTION OF EACH GOVERNING BODY AS REQUIRED BY IOWA CODE SEC. 354.8

WE HEREBY CERTIFY THAT WE WILL MEET ALL EQUAL OPPORTUNITY AND FAIR MEETING OBJECTIVES CONSISTENT WITH FEDERAL, STATE AND LOCAL GUIDELINES.

J. J. Auger
FERDALE, L.C. 1-5-98
DATE

William Smith
WILLIAM SMITH 1/2/98
DATE

Paul J. ...
COMMUNITY DEVELOPMENT 1-5-98
APPROVED BY DIRECTOR, COMMUNITY DEVELOPMENT DATE

COPIED

Preparer
Information

LEO P. MARTIN
Individual's Name

233 PEARL STREET
Street Address

CO. BLUFFS
City

712-328-3157
Phone

**FERNDALE PHASE I FIRST REPLAT
LOTS 1-A THROUGH 6-B INCLUSIVE
STATEMENT BY REAL ESTATE OWNERS**

STATE OF IOWA)
) ss.
POTTAWATTAMIE COUNTY)

This statement is made pursuant to Iowa Code Section 354.11(1) by Ferndale L.C., an Iowa limited liability company, and Turnberry Townhomes L.C., an Iowa limited liability company, by and through their Members, and William Smith a/k/a William L. Smith and Judith A. Smith, husband and wife.

1. Ferndale L.C. is the owner of Lots 1, 3, 4 and 5 of Ferndale, Phase I, Pottawattamie County, Iowa, which are to be replatted as Lots 1-A, 1-B, 3-A, 3-B, 4-A, 4-B, 5-A, and 5-B of Ferndale Phase I First Replat.

2. William Smith a/k/a William L. Smith and Judith A. Smith, husband and wife, are the owners of Lot 2, Ferndale Phase I, Pottawattamie County, Iowa, which is to be replatted as Lots 2-A and 2-B of Ferndale Phase I First Replat.

3. Turnberry Townhomes L.C. is the owner of Lot 6 of Ferndale Phase I, Pottawattamie County, Iowa, which is to be replatted as Lots 6-A and 6-B of Ferndale Phase I First Replat.

4. This statement by real estate owners is intended to supplement and amend the dedication shown on the face of the Ferndale Phase I First Replat which showed Ferndale L.C. and William Smith as the sole owners and proprietors of the land described in the legal description of this plat.

5. All of the undersigned hereby ratify and approve of our property as shown on this plat and that all streets, circles and avenues are dedicated to the City of Council Bluffs, Iowa, for public use, and the perpetual easements depicted on the corner of Lots

98-38523

1-A and 3-B are dedicated to the City of Council Bluffs, Iowa, for the installation and maintenance of storm sewers, pipes, and appurtenances and any drainage systems deemed necessary by the City of Council Bluffs.

6. We hereby certify that we will meet all equal opportunity and fair meeting objectives consistent with federal, state and local guidelines.

7. The plat of Ferndale Phase I First Replat regarding the above described property has been prepared with our free consent and in accordance with our desire.

Ferndale L.C.

Turnberry Townhomes L.C.

Jerry F. Duggan
Jerry F. Duggan, Member

James M. Duggan Member
James M. Duggan, Member

William L. Smith
William Smith a/k/a William L. Smith

Judith A. Smith
Judith A. Smith

On this 18 day of March, 1998, before me, a notary public in and for said state, personally appeared **Jerry F. Duggan** to me personally known, who, being by me duly sworn, did say that he is a Member of said limited liability company; that no seal has been procured by the said limited liability company; and that said instrument was signed on behalf of the said limited liability company by authority of its Managers; and the said **Jerry F. Duggan** acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company by it voluntarily executed.



Peggy L. Simpson
Notary Public in and for said State

On this 18 day of March, 1998, before me, a notary public in and for said state, personally appeared **James M. Duggan** to me personally known, who, being by me duly sworn, did say that he is a Member of said limited liability company; that no seal has been procured by the said limited liability company; and that said instrument was signed on behalf of the said limited liability company by authority of its Managers; and the said **James M. Duggan** acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company by it voluntarily executed.



Peggy L. Simpson
Notary Public in and for said State

98-38524

COPIED

On this 18 day of March, 1998, before me, a notary public in and for said state, personally appeared **William Smith a/k/a William L. Smith and Judith A. Smith**, to me known to be the persons named in and who executed the foregoing instrument, and acknowledged that they executed the same as their voluntary act and deed.



Peggy L. Simpson
Notary Public in and for said State

G:\LPM17819\REOWNERS.STM

98-38525

Preparer Information	<u>LEO P. MARTIN</u> Individual's Name	<u>233 PEARL STREET</u> Street Address	<u>CO. BLUFFS</u> City	<u>712-328-3157</u> Phone
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STATEMENT OF MORTGAGE HOLDER
Regarding Ferndale Phase I - First Replat Lots 1-A through 6-B inclusive

STATE OF IOWA)
)ss.
POTTAWATTAMIE COUNTY)

This statement is made pursuant to Iowa Code § 354.11(2), by Roger H. Williams and Todd G. Carlson, for Firststar Bank Iowa, N.A., dated this 18th day of March, 1998.

1. Firststar Bank Iowa, N.A. is the holder of a \$545,000.00 Mortgage granted by Ferndale, L.C., an Iowa limited liability company, dated October 10, 1996, and filed October 16, 1996, in Book 97, Page 14911, regarding Lots 1 through 6 of Ferndale, Phase I, Pottawattamie County, Iowa (and other properties).

2. Firststar Bank Iowa, N.A. is the holder of a \$270,396.95 Mortgage granted by William L. Smith and Judith A. Smith to Firststar Bank Iowa, N.A. dated June 26, 1997 and filed July 7, 1997 in Book 98, Page 1049 which mortgages Lot 2, Ferndale, Phase I, Pottawattamie County, Iowa.

3. Firststar Bank Iowa, N.A. is the holder of a \$210,000.00 Mortgage granted by Turnberry Townhomes L.C. (no seal) an Iowa limited liability company, James M. Duggan, Member; John M. Duggan, Member, dated July 17, 1997, filed August 6, 1997 in Book 98, Page 5422 regarding Lot 6, Ferndale, Phase I, Pottawattamie County, Iowa.

4. Lots 1 through 6, Ferndale, Phase I, Pottawattamie County, Iowa will be replatted as Ferndale Phase I, First Replat Lots 1-A through 6-B inclusive.

5. The plat for Ferndale Phase I, First Replat Lots 1-A through 6-B inclusive, has been prepared with our free consent and in accordance with our desire.

6. The undersigned mortgage holder grants a partial release of the above-described Mortgages as to those portions of the above-described platted real estate that are conveyed to the governing body or dedicated to the public.

98-38526

Firststar Bank Iowa, N.A.

By Roger H. Williams
Its Vice President

By Todd G. Carlson
Its Vice President

On this 18th day of March, 1998, before me, a notary public in and for said state, personally appeared Roger H. Williams and Todd G. Carlson, to me personally known, who being by me duly (sworn or affirmed) did say that they are the Vice President and Vice President of said corporation, that the seal affixed to said instrument is the seal of said corporation, and that said instrument was signed and sealed on behalf of the said corporation by authority of its Board of Directors and the said Vice President and Vice President acknowledge the execution of said instrument to be the voluntary act and deed of said corporation by it voluntarily executed.



Marjorie A. Powell
Notary Public

G:\LPM\17819\MOR-HLDR.ST1:ja



38-38527



PETERS
LAW FIRM,
P.C.

March 20, 1998

Ferndale, L.C.
c/o Jerry F. Duggan
1705 McPherson
Council Bluffs, IA 51503

Examined by
Peters Law Firm, P.C.

233 PEARL STREET
P.O. BOX 1078
COUNCIL BLUFFS,
IOWA 51502-1078
712-328-3157
FAX: 712-328-9092

Abstract Opinion # 3954

William L. Smith and
Judith A. Smith
1705 McPherson, Suite 200
Council Bluffs, IA 51503

GLENWOOD OFFICE
10 NORTH WALNUT
GLENWOOD, IA 51534
712-527-4877
FAX: 712-527-3418

Turnberry Townhomes, L.C.
c/o James M. Duggan
1705 McPherson
Council Bluffs, IA 51503

NEOLA OFFICE
401 FRONT STREET
NEOLA, IA 51559
712-485-2265

RE: Examination of Abstract
Re: Ferndale Phase I - First Replat of Lots 1-A through 6-B Inclusive
Our File No. 17819

JAMES A. CAMPBELL
C. DENNIS LEU
DENNIS M. GRAY
JAMES A. THOMAS
LYLE W. DITMARS
SCOTT H. PETERS
JOHN M. McHALE
JACOB J. PETERS
LEO P. MARTIN
SCOTT J. ROGERS
JON E. HEISTERKAMP
MATTHEW G. WOODS
EDWARD D. JORGENSEN

To Whom It May Concern:

As requested, I have completed an examination of the Abstract of Title provided as to the following described real estate situated in Pottawattamie County, Iowa, described, to-wit:

Lots 1 through 6, Ferndale Phase I in the City of Council Bluffs, Iowa.

The Abstract in one (1) part containing Entries numbered 1 through 82, both inclusive, is certified through March 20, 1998 at 2:00 p.m., last certified by Abstract Guaranty Company of Council Bluffs, Iowa, Title Guaranty Division Member No. 8146.

The Abstract contains a notice that the Abstract is prepared pursuant to §614.29 to §614.38 of the Code of Iowa, Chapter 11 of the Iowa Land Title Examination Standards, and the Abstracting Standards of the Iowa Land Title Association.

All matters of record prior to the date of the recording of the root of title are omitted herefrom except:

1. Plats and Surveys.

98-38528

- 2. Easements.
- 3. Party Wall and Other Boundary Line Agreements.
- 4. Unexpired Recorded Leases.
- 5. Patents.

TITLE

We find marketable title, subject to the exceptions described below, to be as follows:

Lots 1, 3, 4 and 5 are titled in Ferndale, L.C., an Iowa limited liability company, pursuant to a Special Warranty Deed from Jeffrey W. Christiansen and Lynn A. Christiansen, husband and wife, dated October 1, 1996, filed October 4, 1996 in Book 97, Page 13735 as shown at Entry #49.

Lot 2 is titled in the names William Smith and Judith A. Smith, husband and wife, as joint tenants with full rights of survivorship, and not as tenants in common, pursuant to a Warranty Deed dated June 18, 1997, filed June 19, 1997 in Book 97, Page 47181 as disclosed at Entry #67.

Lot 6 is titled in the name of Turnberry Townhomes, L.C. pursuant to a Warranty Deed dated August 7, 1997, filed August 7, 1997 in Book 98, Page 5832, as disclosed at Entry #69.

EXCEPTIONS

1. Entry #24 discloses an Easement to Iowa Power and Light Company, dated April 26, 1968, filed August 18, 1969 in Book 1490, at Page 174. This Easement provides that a transmission line is to be located within a strip of land 15 feet in width across the property described in the Easement, said strip lying adjacent to the Southeasterly right-of-way line of the Chicago Great Western Railway Company.

2. Entry #26 discloses a Right-of-Way easement granted to St. John's United Church of Christ (Evangelical and Reformed) of Council Bluffs, Iowa, dated December 3, 1967, filed December 4, 1967, in Book 1451, at Page 73, for the purpose of maintaining a driveway for ingress and egress purposes over and across property legally described to-wit:

A tract of land located in the SW¼ NW¼ and part of the NW¼ NW¼ of Section 33, Township 75, Range 43, Pottawattamie County, Iowa, described as follows: Commencing at the Southeast corner of the SE¼ NW¼ of said Section 33, thence North 89° 41' 15" West, 911.40 feet, thence North 46° 13' 45" West, 1408.74 feet to the point of beginning; thence North 35° 13' 20" East, a distance of 200 feet, thence South 10° 5' 40" East, a distance of approximately 29 feet, thence southerly

on a line to a point which is 40 feet Easterly of the point of beginning, thence North 46° 13' 45" West, to the point of beginning.

Entry #62 discloses a Surveyor's Affidavit dated November 26, 1996 which was recorded November 27, 1996 at 8:02 A.M. which states that all of the property described in the right-of-way agreement at Book 1457, Pages 73-75 will be located within the public street and right-of-way known as Cloverdale Drive upon the platting of the subdivision known as Ferndale Phase I.

3. Entry #41 discloses an Easement to Iowa Power and Light Company, dated October 2, 1989, filed October 13, 1989, in Book 90, at Page 8283. This Easement includes an overhead electric line easement for overhang purposes. Entry #60 discloses an Affidavit and Amendment to Easement that amends the legal description of the overhead electric line easement for overhang purposes only dated November 25, 1996 and filed November 26, 1996 at 8:19 A.M., Fee Book #8611. The amended legal description of the property covered by the said easement is described, to-wit:

Commencing at the NE corner of the NW1/4 of the NW1/4, thence West along the North line of said quarter section 35.4 feet to the point of beginning, then West 70 feet to the East edge of the Iowa Interstate Rail-road Right of Way, thence South, parallel and adjacent with said Right of Way, a distance of 10 feet, thence East to 75 feet, thence North 10 feet.

All on and across a portion of the NW1/4 of Section 33, Township 75, Range 43, now included in and forming a part of the City of Council Bluffs, Pottawattamie County, Iowa.

4. Entry #43 discloses Council Bluffs City Resolution No. 94-288 adopted and approved November 14, 1994 and filed November 18, 1994 in Book 95, Page 12583 regarding the annexation of the property under examination and other land into the City of Council Bluffs, Iowa.

5. Entry #45 discloses Council Bluffs City Ordinance No. 95-213 adopted and approved September 25, 1995 and filed October 17, 1995 in Book 96, Page 10706 approving a real estate improvement district pursuant to Iowa Code Chapter 358C, to be known as Ferndale Real Estate Improvement District regarding the property under examination and other property.

6. Entry #57 discloses a Decree dated and filed July 29, 1996, in the matter of Ferndale Real Estate Improvement District, Plaintiff, vs. Ferndale, L.C., an Iowa limited liability company, Defendant, Case No. 70983 in the Iowa District Court in and for Pottawattamie County, which approves the acts of Ferndale Real Estate Improvement District in the adoption of a resolution of necessity pursuant to Chapter 358C of the Iowa Code regarding the construction of public improvements within the district and the levy of special assessments against the property within the district to pay for said public improvements. The assessments as set forth in the petition

(shown at Entry #55) are confirmed as being in compliance with Chapters 384 and 358C of the Iowa Code and are confirmed as such.

7. Entry #58 discloses an Easement Agreement granted by Ferndale, L.P. an Iowa limited liability company, dated July 31, 1996, filed August 6, 1996 in Book 97, Page 5783 which grants the City of Council Bluffs, Iowa, for the benefit of the Council Bluffs City Water Works a permanent non-exclusive easement fifty (50) feet in width, over, across and through the real estate described in said Easement Agreement including the perpetual right to enter upon said, at any time that it may seem fit, and construct, inspect, maintain, repair, replace, and operate or remove underground pipe lines and/or mains for the purpose of conveying water over, across, through and under said real estate, together with the right to excavate and refill ditches and/or trenches for the location of said pipe lines and/or mains, and the further right to remove trees, bushes, undergrowth, and other obstructions interfering with the location, construction and maintenance of said pipe lines and/or mains.

8. Entry #64 discloses the plat of Ferndale Phase I, filed November 27, 1996 in Book 97, Page 21155 through 21191. The plat map states under the heading Standard Utility Easements: "A perpetual easement is reserved for storm drainage and the installation and maintenance of utilities five (5) feet each side of interior lot lines and ten (10) feet in width along all front and rear lot lines. Said drainage areas and included drainage systems, if any, are private and are to be installed and maintained by the owners of the lots adjoining the same." The location of the overhead utility easement recorded in Book 90, Page 8283, described in Exception No. 3 above, is also disclosed on the map.

The plat includes a Declaration of Restrictions for Ferndale Subdivision Phase I recorded in Book 97, Pages 21181 through 21191.

9. Entry #65 discloses Resolution No. 96-276, filed December 5, 1996 in Book 97, Page 21980, granting final plat approval for a subdivision to be known as Ferndale Phase I.

10. Entry #66 discloses an amended declaration of restrictions for Ferndale Subdivision Phase I filed April 21, 1997 in Book 97, Page 38313 through 38325 which amends the Declaration of Restrictions for Ferndale Subdivision Phase I which were recorded November 27, 1996 in Book 97, Page 21181 through 21191 (part of the plat shown at Entry #64 described in Exception No. 9 above).

11. Entry #68 discloses a mortgage in the amount of \$270,396.95 granted by William L. Smith and Judith A. Smith to Firststar Bank Iowa, N.A. dated June 26, 1997 at filed July 7, 1997 in Book 98, Page 1049 which mortgages Lot 2, Ferndale, Phase I, Pottawattamie County, Iowa.

12. Entry #70 discloses a mortgage in the amount of \$210,000.00 granted by Turnberry Townhomes, L.C. (no seal) an Iowa limited liability company James M. Duggan, member; John M. Duggan, member to Firststar Bank Iowa, N.A. dated July 17, 1997, filed August 6, 1997 in Book 98, Page 5422.

13. Entry #71 discloses Zoning Ordinance No. 3967, passed and approved March 6, 1972, and filed March 23, 1972, in Book 72, Page 3769. This ordinance was amended to change Ordinance No. 3967 to No. 3968, recorded in Book 72 at Page 4446. Entry #71 also discloses Ordinances 4948 (Lot definition), 5216 (RE-Single Family Residential Estates), 5217 (Residential Estate Subdivisions), 5255 (Planned Residential Overlay District), 5323 (Off-street Parking and Supplemental Use and Site Development Regulations), and changes in the municipal code.

Entry #72 discloses City of Council Bluffs Ordinance No. 4589, passed and approved April 9, 1984, filed April 13, 1984, in Book 84, Page 18582, which amends the Municipal Code Chapter 1413 regarding subdivision of lots within two miles of the corporate limits of the city.

Entry #73 discloses Ordinance No. 4942 amending the setback requirements for C-2 and C-3 commercial districts (Sections 15.15.070 and 15.16.060 of the Municipal Code of Council Bluffs, Iowa). This ordinance was passed and approved March 26, 1990.

Entry #74 discloses Ordinance No. 5264 filed in the office of the County Recorder, Pottawattamie County, Iowa, May 29, 1996, and recorded in Book 96, Page 35300 regarding the 1995 Municipal Code of Council Bluffs, Iowa amending various chapters.

Entry #75 discloses Resolution No. 5333 filed in the office of the county recorder, Pottawattamie County, September 4, 1997 in Book 98, Page 9649 regarding supplemental use and site development regulations and fence regulations.

SINCE THESE ORDINANCES AFFECT THE PROPERTY UNDER EXAMINATION, YOU ARE REFERRED TO THE RECORD FOR FURTHER PARTICULARS.

14. Entry #76 discloses a lien search including liens in district and federal courts of Pottawattamie County as to the following persons, ONLY:-

Ten years last past:-

- Ferndale L.C., an Iowa Limited Liability Company
- William L. Smith
- Judith A. Smith
- Turnberry Townhomes, L.C.

15. Entry #77 discloses the following:

IT IS NO LONGER POSSIBLE FOR THIS COMPANY TO CERTIFY TO SPECIAL ASSESSMENTS AND/OR UNPAID FEES FOR SERVICES FOR SEWER SYSTEMS, STORM WATER DRAINAGE SYSTEMS, SEWAGE TREATMENT, SOLID WASTE COLLECTION, WATER, AND SOLID WASTE DISPOSAL, WHICH HAVE BEEN CERTIFIED TO THE COUNTY TREASURER FOR COLLECTION UNLESS THESE CHARGES HAVE BEEN

ENTERED ON THE TAX BOOKS. WE WILL CONTINUE TO SHOW ALL THOSE WHICH ARE ON THE TAX BOOKS.

16. Entry #78 discloses the following:

"INASMUCH as the office of the County Treasurer indexes Buildings on Leased Land and assessments for Machinery and Equipment in such a manner it is impossible to determine if there are any which would attach to the real estate under examination, we do not certify to such assessments."

17. Entry #79 discloses the following identical information regarding each Lot under examination:

GENERAL TAXES for the year 1996 and prior years, paid.

Ferndale Real Estate Improvement Special levied 5-19-97
Principal 21,500 15 installments 1 paid.

Parcel Numbers: P-002035268005138001
P-002035268005138002
P-002035268005138003
P-002035268005138004
P-002035268005138005
P-002035268005138006

18. Entry #80 discloses the following Abstractor's notation:

NO SEARCH made for Bankruptcies filed subsequent to 1 October 1979. Your attention is directed to the bankruptcy clerk of federal court, Des Moines, Iowa where said matters are not file of record.

19. Entry #82 discloses Council Bluffs City Resolution Number 97-321 dated December 15, 1997, filed February 3, 1998 in Book 98, Page 31277 which approved the final plat of the First Replat of Ferndale Phase I.

CAUTIONARY INSTRUCTIONS

This examination does not constitute a certification that any building or other improvement situated upon the described property are within the platted boundary lines. Such determination could only be made by survey.

This examination does not constitute a certification that any fences or other apparent boundary line markers are situated upon the platted boundaries of the land. This determination could only be made by survey.

If any person is in possession other than the titleholders named in this opinion, you should make inquiry to determine the nature and extent of the claimed right of possession.

You are charged with notice of any visible easements such as power lines, and if any such easements exist, you should make inquiry to determine the nature and extent of the claimed easement right.

Under Iowa law, any person who furnishes labor, services, or materials, incident to the construction of any building or other improvement upon real estate, may file a Mechanic's Lien against the real estate, within ninety days after completion of the improvements, if the improvements have not been paid for. You should therefore satisfy yourself that no recent improvements have been made on the property, or if any such improvements have been made, you should satisfy yourself that all bills, in connection with the improvements, have been paid.

You are charged with notice of any rights to access to and from highways and streets which may be designated as "controlled access facilities" by the state and local authorities.

You are charged with notice that the use of any real estate located in the State of Iowa may be subject to restrictions relating to *Flood Plain Zoning*; these restrictions on use are administered by the Iowa Department of Natural Resources in conjunction with local and federal authorities. In the event the real estate described herein appears to be physically located in an area where there is a potential for flooding from any source, you are directed to consult with the City or County officers having charge of zoning matters to determine whether or not restrictions may apply by virtue of Flood Plain Zoning.

The abstract has not disclosed the existence of hazardous substance, pollutants, contaminants, hazardous wastes, underground storage tanks, drainage wells, active or abandoned water wells, and other environmentally regulated activities. You are cautioned that federal, state and local legislation may, in the event there are environmental and/or public health violations, permit injunctive relief and require removal, remedial actions and/or other "clean up". The cost of such "clean up" may become a lien against the real estate, and a party interested in the real estate may incur personal liability even though said party may not have disposed of any hazardous substances, pollutants, contaminants, or hazardous waste on the real estate or used any underground storage tanks or wells.

You should, therefore, make a careful inspection of the property to determine that such environmental contamination or conditions do not exist. You may also want to consider the following:

CONFIDENTIAL

March 20, 1998

- a) Inquire as to past uses of the property to determine if such uses could have resulted in any contamination or future contamination of the property or the groundwater, and ascertain whether any adjoining property has been or is being used for a purpose which has or could result in contamination of the property under examination; and
- b) Make a visual inspection and/or conduct professional testing to confirm the real estate is free of environmental hazards and contamination.

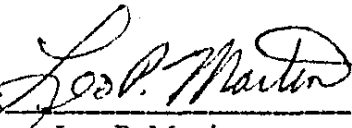
The laws of the U.S.A. relating to bankruptcy provide that all bankruptcy cases are to be filed with the Clerk of the Bankruptcy Court. Since the clerk's office is not in the county in which the real estate is situated, the abstract company cannot certify whether or not the title to the real estate is affected thereby. If a concern should be present regarding the effects of bankruptcy upon the title of the subject real estate, an inquiry should be made to the office of the Clerk of Bankruptcy Court in Des Moines, Iowa.

The Abstract is retained pending further instructions.

If you have any questions, please contact me.

Sincerely,

PETERS LAW FIRM, P.C.

By: 

Leo P. Martin

LPM:ja

G:\LPM\17819\LTR\DUGGAN.317

98-38535

CITY OF IOWA

CERTIFICATE AND RECEIPT

=====

STATE OF IOWA,

} ss.

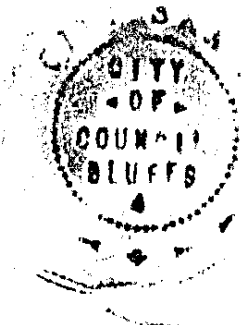
Pottawattamie County,

The undersigned, Clerk of the City of Council Bluffs,
Iowa, hereby certifies that: Resolution 97-321 is of true and
correct copy.

as the same appears of record in this office.

Witness my hand and seal of the City of Council Bluffs, Iowa,
this 7th day of January A.D. 1998.

Alza Ramsey
Clerk of the City of Council Bluffs, Iowa



=====

98-38536

UNRECORDED

PREPARED BY: City of Council Bluffs Legal Department, 209 Pearl Street, Council Bluffs, IA 51503 (712) 328-4670
RETURN TO: City Clerk, 209 Pearl Street, Council Bluffs, IA 51503

RESOLUTION NO. 97-321

A RESOLUTION granting final plat approval of the First Replat of Ferndale Phase 1, located east of Interstate 80, south of McPherson Avenue.

WHEREAS, Ferndale, L.C. has requested approval of a replat of Lots 1 through 6 in Phase 1 of Ferndale Subdivision; and

WHEREAS, these six lots at the entrance, as shown on Attachment "A", were intended for duplexes. The developer intends to sell each townhome lot separately. The proposed replat creates an individual lot for each dwelling unit; and

WHEREAS, the preliminary plan was approved on November 14, 1994, by Resolution No. 94-287. Final plat approval for Phase 1 was granted on November 18, 1996, by Resolution No. 96-276; and

WHEREAS, the replat has been reviewed by the appropriate City departments and utilities with no adverse comments received; and

WHEREAS, all required improvements were installed when the final plat was approved. Separate service lines are required for each dwelling unit; and

WHEREAS, the replat is consistent with the 1994 Comprehensive Plan and the purpose and intent of the Subdivision and Zoning Ordinances; and

WHEREAS, the Community Development Department recommends approval of the First Replat of Ferndale Phase 1, as shown on Attachment "A", subject the following condition:

1. Prior to executing the final plat, all technical corrections required by the Community Development and/or Public Works Departments shall be incorporated into the final plat document.

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

That final plat for the First Replat of Ferndale Phase 1 is hereby approved; and

BE IT FURTHER RESOLVED

That the Mayor and City Clerk are authorized and directed to endorse the final plat.

ADOPTED
AND December 15, 1997
APPROVED

Thomas P. Hanafan
THOMAS P. HANAFAN Mayor

Attest:

Olga Ramirez
OLGA RAMIREZ City Clerk

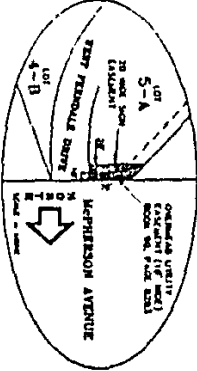
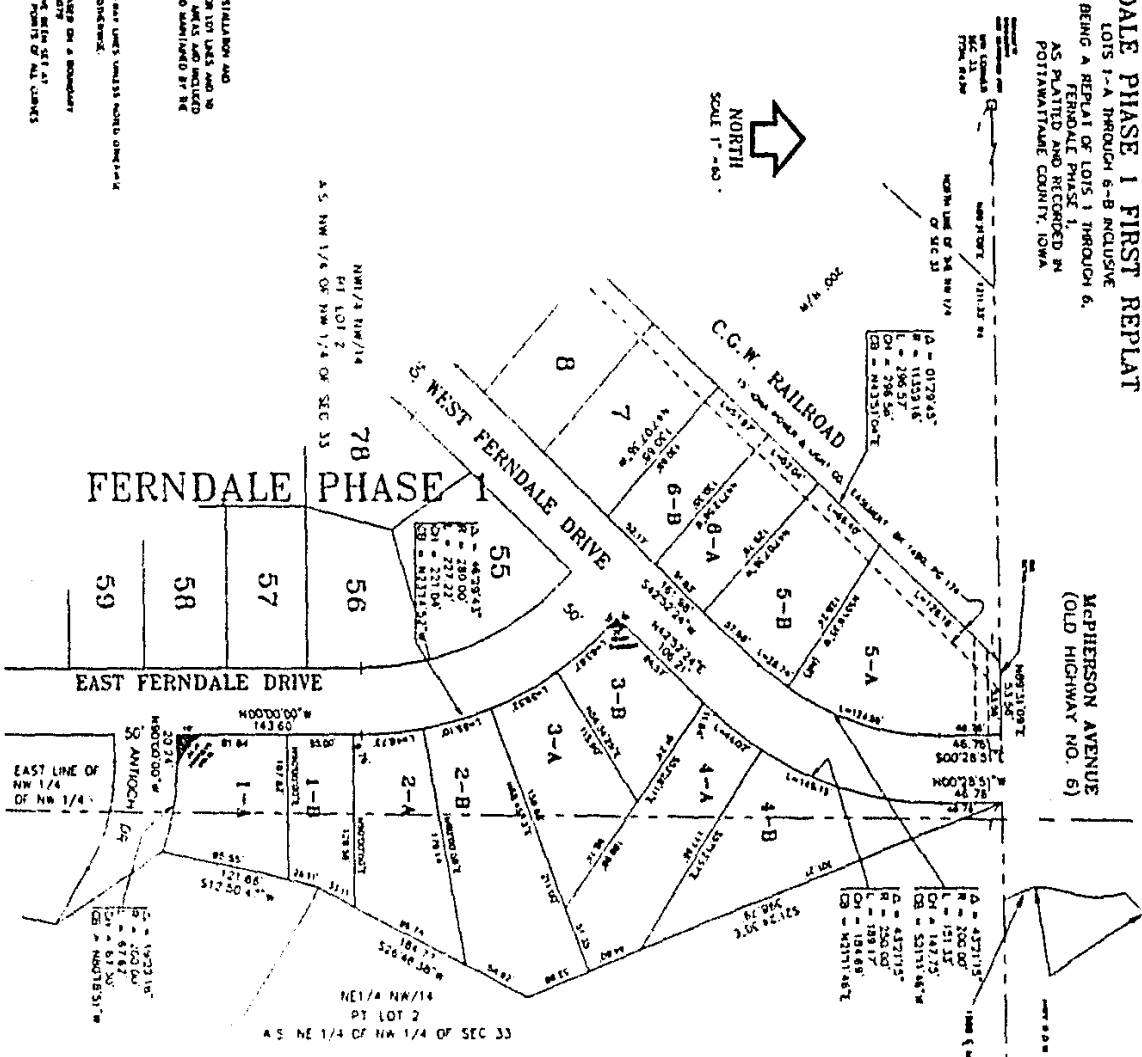
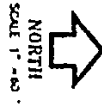
Planning Case #SUB-97-013

**CASE #SUB-97-013
ATTACHMENT 'A'**

FERDLE PHASE 1 FIRST REPLAT

LOTS 1-A THROUGH 6-B INCLUSIVE
BEING A REPLAT OF LOTS 1 THROUGH 6
FERDLE PHASE 1
AS PLATTED AND RECORDED IN
POTTAWATOMIE COUNTY, IOWA

**MCPHERSON AVENUE
(OLD HIGHWAY NO. 6)**



STANDARD UTILITY ESTIMENTS

A REYNOLDS LABORATORY is required for stone balance and the installation and maintenance of utility's tests such as for the consolidation, compression tests and 90% R.R. with and without heat (10' long) and drainage tests and included drainage systems of soil and private and set to be installed and maintained by the owner of the lots adjacent to the street.

SUPERVISOR'S NOTES:
Reference utility and reestablishment to an exact point not far from utility's existing water or sewer main, utility's existing water and sewer main. Utility's existing water and sewer main are shown on the plat. Utility's existing water and sewer main are shown on the plat. Utility's existing water and sewer main are shown on the plat.

- LEGEND**
- A - 10' Standard grade, 1/2" depth of aluminum cap 91116
 - B - 10' Standard grade, 1/2" depth of aluminum cap 91116
 - C - 10' Standard grade, 1/2" depth of aluminum cap 91116
 - D - 10' Standard grade, 1/2" depth of aluminum cap 91116
 - E - 10' Standard grade, 1/2" depth of aluminum cap 91116
 - F - 10' Standard grade, 1/2" depth of aluminum cap 91116
 - G - 10' Standard grade, 1/2" depth of aluminum cap 91116
 - H - 10' Standard grade, 1/2" depth of aluminum cap 91116
 - I - 10' Standard grade, 1/2" depth of aluminum cap 91116
 - J - 10' Standard grade, 1/2" depth of aluminum cap 91116



LAND SURVEYORS CERTIFICATE
I HEREBY CERTIFY THAT THIS LAND SURVEYING DOCUMENT HAS BEEN PREPARED BY ME OR UNDER MY DIRECT PERSONAL SUPERVISION AND THAT I AM A LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF IOWA.
DATE OF SURVEY: 7/19/18
DATE OF PLAT: 7/19/18

ERHART & GRIFFIN ASSOCIATES

Project No: 940045
FERDLE PHASE 1 FIRST REPLAT
ENGINEERING
PLANNING
LAND SURVEYING
15315 Cumma Street • Granger, Indiana 49131 • 402 / 551-0831

SHEET 1 OF 2

RECORDED

FERNDALE PHASE 1 FIRST REPLAT

LOTS 1-A THROUGH 6-B INCLUSIVE
BEING A REPLAT OF LOTS 1 THROUGH 6
FERNDALE PHASE 1,
AS PLATTED AND RECORDED IN
POTTAWATTAMIE COUNTY, IOWA

DEDICATION:

KNOW ALL PEOPLE OF THESE PRESENTS, THAT
FERNDALE, L.C. AND WILLIAM SMITH
BEING THE SAID OWNER(S) AND PROPRIETOR(S) OF THE LAND DESCRIBED IN THE OFFICIAL
DESCRIPTION AND IDENTIFIED UNDER THIS PLAT, HAVE CAUSED THE SAID LOTS TO BE
CONVEYED AND IN ACCORD WITH OUR DESIRE, WE DESIRE THE SAME TO BE SUBDIVIDED INTO LOTS
AND TO BE KNOWN AS

FERNDALE PHASE 1 FIRST REPLAT
LOTS 1-A, 1-B, 2-A, 2-B, 3-A, 3-B, 4-A, 4-B, 5-A, 5-B, 6-A AND 6-B INCLUSIVE
AND WE HEREBY PART AND APPROVE OF OUR PROPERTY AS SHOWN ON THIS PLAT,
AND THAT ALL STREETS, CIRCLES, AND AVENUES ARE DEDICATED TO THE CITY OF
COUNCIL BLUFFS, IOWA, FOR PUBLIC USE, AND THE PERPETUAL USE AND BENEFIT OF
THE CITY OF COUNCIL BLUFFS, IOWA, AND WE HEREBY PART AND APPROVE OF THE
SAID DEDICATION AND THE SAID PLAT AND THE SAID MAP AND THE SAID MAPS,
AND APPROVE THEM AND ANY DRAWING, SYSTEMS, DESIGN, NECESSARY BY THE CITY
OF COUNCIL BLUFFS.

IN WITNESS WHEREOF WE DO HERETOFORE SET OUR HANDS.

THIS _____ DAY OF _____ 1997 A.D.

FERNDALE, L.C. OWNER

THIS _____ DAY OF _____ 1997 A.D.

WILLIAM SMITH

ACKNOWLEDGMENT TO DEDICATION

STATE OF IOWA)
COUNTY OF POTTAWATTAMIE)

ON THIS _____ DAY OF _____ 1997,
BEFORE ME THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR SAID COUNTY,
PERSONALLY CAME

AS _____ OF _____ FERNDALE, L.C.
PERSONALLY KNOWN TO BE THE GENERAL PERSON WHOSE NAME IS AFFIXED TO THE
SAID DEDICATION AND WHOSE ACKNOWLEDGMENTS THE EXECUTION HEREOF TO BE
THE ACT OF SAID FERNDALE, L.C. AND SAID WILLIAM SMITH, AND VOLUNTARILY ACT AND
WITNESS MY HAND AND NOTARIAL SEAL AT _____

NOTARY PUBLIC _____ DATE _____

ACKNOWLEDGMENT TO DEDICATION

STATE OF IOWA)
COUNTY OF POTTAWATTAMIE)

ON THIS _____ DAY OF _____ 1997,
BEFORE ME THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR SAID COUNTY,
PERSONALLY CAME

PERSONALITY KNOWN TO BE THE GENERAL PERSON WHOSE NAME IS AFFIXED TO THE
SAID DEDICATION AND WHOSE ACKNOWLEDGMENTS THE EXECUTION HEREOF TO BE
THE ACT OF SAID FERNDALE, L.C. AND SAID WILLIAM SMITH, AND VOLUNTARILY ACT AND
WITNESS MY HAND AND NOTARIAL SEAL AT _____

NOTARY PUBLIC _____ DATE _____

WE HEREBY CERTIFY THE FOLLOWING DOCUMENTS WILL BE RECORDED WITH THE
POTTAWATTAMIE COUNTY RECORDER COMPARTMENTS WITH THE FINAL PLAT
A. ALL PRIVATE RESTRICTIONS AND/OR COVENANTS, IF ANY, WHICH WILL BE A PART OF
THE SUBJECT DEVELOPMENT.
B. STATEMENT OF MORTGAGE INTEREST, IF ANY, THAT THE PLAT IS PREPARED WITH THE
FREE CONSENT AND IN ACCORDANCE WITH THE DESIRE OF THE MORTGAGE HOLDER
C. THE OPINION LETTER OF ATTORNEY.
D. CONTROL RESOLUTION OF EACH GOVERNING BODY AS REQUIRED BY IOWA CODE SEC. 334B
WE HEREBY CERTIFY THAT WE WILL KEEP ALL LOCAL, CITY, COUNTY AND STATE
ORDINANCES CONSISTENT WITH FEDERAL, STATE AND LOCAL ORDINANCES

FERNDALE, L.C. _____ DATE _____

WILLIAM SMITH _____ DATE _____

COMMUNITY DEVELOPMENT

APPROVED BY DIRECTOR, COMMUNITY DEVELOPMENT _____ DATE _____

CITY COUNCIL

APPROVED BY MAYOR _____ DATE _____

ATTEST TO BE:

CITY CLERK _____ DATE _____

CERTIFICATE OF THE ASSURER OF POTTAWATTAMIE COUNTY, IOWA
I, _____, TREASURER OF POTTAWATTAMIE COUNTY, IOWA,
DO HEREBY CERTIFY THAT THE PROPERTY DESCRIBED IN FERNDALE PHASE 1 FIRST REPLAT IS FREE
FROM ENLINED TAXES AND ENLINED SPECIAL ASSESSMENTS
PRESSEUR OF POTTAWATTAMIE COUNTY _____ DATE _____

EHRHART & GRIFFIN ASSOCIATES

Project No.	940043	FERNDALE PHASE 1 FIRST REPLAT
ENGINEERING	PLANNING	LAND SURVEYING
1915 Gunning Street • Council Bluffs, Iowa 51503 • 402 / 551-0631		

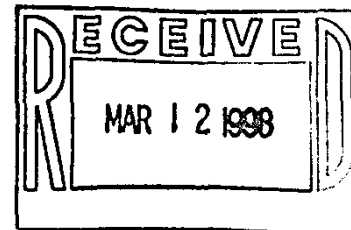
SHEET 2 OF 2



PETERS
LAW FIRM,
P.C.

COMMUNITY DEVELOPMENT

March 12, 1998



Donald D. Gross
DIRECTOR COMMUNITY DEVELOPMENT
205 S. Main St.
Council Bluffs, IA 51503

233 PEARL STREET
P.O. BOX 1078
COUNCIL BLUFFS,
IOWA 51502-1078
712-328-3157
FAX: 712-328-0092

RE: Ferndale Phase I First Replat of
Lots 1-A through 6-B Inclusive
Our File No.: 17819

GLENWOOD OFFICE
10 NORTH WALNUT
GLENWOOD, IA 51534
712-527-4877
FAX: 712-527-3418

Dear Don:

NEOLA OFFICE
401 FRONT STREET
NEOLA, IA 51559
712-485-2265

The City Council adopted Resolution 97-321 granting final plat approval of the first replat of Ferndale Phase I on December 15, 1997. After examining the abstract I have determined that additional signatures are required to reflect that all property owners join in the dedication and to obtain consents of mortgage holders.

JAMES A. CAMPBELL
C. DENNIS LEU
DENNIS M. GRAY
JAMES A. THOMAS
LYLE W. DITMARS
SCOTT H. PETERS
JOHN M. McHALE
JACOB J. PETERS
LEO P. MARTIN
SCOTT J. ROGERS
JON E. HEISTERKAMP
MATTHEW G. WOODS
EDWARD D. JORGENSEN

To allow additional time to obtain the necessary signatures and to complete the platting documents, I request an extension of the deadline for filing the final plat.

I propose that this letter be recorded with the first replat to show the request for an extension and to show that the extension was granted. An additional paragraph after my signature has been added for you to show the granting of the extension. If you have questions or if revisions are required, please notify me.

Sincerely,

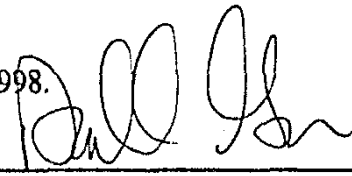
PETERS LAW FIRM, P.C.

By: 
Leo P. Martin

LPM:tr

An extension of the deadline to file the first replat of Ferndale Phase I is granted by the Community Development Department to extend the deadline to April 15th, 1998.

Dated March 13, 1998.


Donald D. Gross, Director
Community Development

98-38541

CONFIDENTIAL

**CERTIFICATE OF TREASURER OF
POTTAWATTAMIE COUNTY, IOWA**

I, Judy Ann Miller, Treasurer of Pottawattamie County, Iowa, hereby certify that the land included in Ferndale Phase I First Replat Lots 1-A through 6-B, inclusive, being a replat of Lots 1 through 6, Ferndale Phase I, as platted and recorded in Pottawattamie County, Iowa, is free from certified taxes and certified special assessments except for special assessments levied by the Ferndale Real Estate Improvement District on May 19, 1997 which are to be paid in 15 installments. All installments of said Ferndale Real Estate Improvement Special Assessments that are currently due are paid. Pursuant to Iowa Code Section 358C.17(5) only special assessment installments that have come due but have not been paid constitute a lien upon the property. The legal description of said property is:

Lots 1-A and 1-B Ferndale Phase I First Replat, Pottawattamie County, Iowa (formerly Lot 1 Ferndale Phase I, Pottawattamie County, Iowa).

Lots 2-A and 2-B Ferndale Phase I First Replat, Pottawattamie County, Iowa (formerly Lot 2 Ferndale Phase I, Pottawattamie County, Iowa).

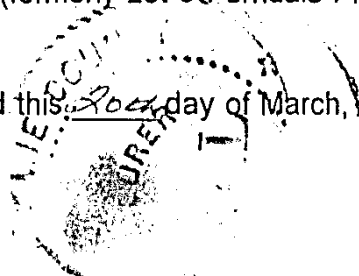
Lots 3-A and 3-B Ferndale Phase I First Replat, Pottawattamie County, Iowa (formerly Lot 3 Ferndale Phase I, Pottawattamie County, Iowa).

Lots 4-A and 4-B Ferndale Phase I First Replat, Pottawattamie County, Iowa (formerly Lot 4 Ferndale Phase I, Pottawattamie County, Iowa).

Lots 5-A and 5-B Ferndale Phase I First Replat, Pottawattamie County, Iowa (formerly Lot 5 Ferndale Phase I, Pottawattamie County, Iowa).

Lots 6-A and 6-B Ferndale Phase I First Replat, Pottawattamie County, Iowa (formerly Lot 6 Ferndale Phase I, Pottawattamie County, Iowa).

Dated this 20th day of March, 1998.



Judy Ann Miller
Judy Ann Miller, Treasurer of
Pottawattamie County, Iowa

G:\LPM\17819\TREASURE.CERT

Preparer
Information

LEO P. MARTIN
Individual's Name

233 PEARL STREET
Street Address

CO. BLUFFS
City

712-328-3157
Phone

DECLARATION OF RESTRICTIONS FOR
FERNDALE PHASE I FIRST REPLAT
LOTS 1-A THROUGH 6-B INCLUSIVE

This Declaration is made this 18th day of March, 1998, by Ferndale, L.C., an Iowa limited liability company, by and through its undersigned Member; William Smith a/k/a William L. Smith and Judith A. Smith, husband and wife; and Turnberry Townhomes L.C., an Iowa limited liability company, by and through its undersigned Member; hereinafter collectively called "Developers."

ARTICLE I

STATEMENT OF INTENT

Developers own the following real estate within the subdivision commonly known as Ferndale Subdivision Phase I in Pottawattamie County, Iowa:

Ferndale L.C. is the owner of Lots 1, 3, 4 and 5 of Ferndale, Phase I, Pottawattamie County, Iowa, which are to be replatted as Lots 1-A, 1-B, 3-A, 3-B, 4-A, 4-B, 5-A, and 5-B of Ferndale Phase I First Replat.

William Smith a/k/a William L. Smith and Judith A. Smith, husband and wife, are the owners of Lot 2, Ferndale Phase I, Pottawattamie County, Iowa, which is to be replatted as Lots 2-A and 2-B of Ferndale Phase I First Replat.

Turnberry Townhomes L.C. is the owner of Lot 6 of Ferndale Phase I, Pottawattamie County, Iowa, which is to be replatted as Lots 6-A and 6-B of Ferndale Phase I First Replat.

Developers desire to provide for the preservation of values in the development of said facilities, and, therefore, desire to subject said real estate to covenants, restrictions, easements, charges, and liens hereinafter set forth which are for the benefit of said property.

THEREFORE, the Developers hereby declare that the subject real estate known as Ferndale Phase I First Replat shall be held, sold, conveyed, and occupied subject to the covenants, restrictions, easements, charges, and liens hereinafter set forth, which shall run with the real property and be binding on all parties having any right, title or

interest in the described properties or any part thereof, their heirs, successors, and assigns, and which shall inure to the benefit of each owner thereof.

Developers further declare that this declaration of restrictions for Ferndale Phase I First Replat Lots 1-A through 6-B inclusive (hereinafter "Ferndale Phase I First Replat") shall apply to the subject real estate only and shall not extend to other additional real estate.

ARTICLE II

FERNDALE REAL ESTATE IMPROVEMENT DISTRICT, POTTAWATTAMIE COUNTY, IOWA

Section 1. All Properties Contained in District. All Properties contained within the Ferndale Subdivision Phase I, including the properties in this Ferndale Phase I First Replat, are part of the Ferndale Real Estate Improvement District ("District") formed pursuant to Chapter 358C of the Iowa Code ("Code"). The District is a body corporate and political with the authority to exercise all powers conferred upon the District by Chapter 358C and other applicable laws.

Section 2. Special Assessments. The District has the power and authority under Chapter 358C to levy and assess special assessments on property within the District, including the replatted Lots in Ferndale Phase I First Replat, to pay for the costs of public improvements within the District. At or near the time of the filing of the final plat for Ferndale Subdivision Phase I, the District levied and assessed certain costs of the public improvements against the Lots within the District.

ANYONE INTERESTED IN PURCHASING A LOT OR A RESIDENCE IN THE DISTRICT, INCLUDING THE REPLATTED LOTS IN FERNDALE PHASE I FIRST REPLAT, MUST VERIFY THE TOTAL AMOUNT OF SPECIAL ASSESSMENTS LEVIED AGAINST SUCH LOT. SPECIAL ASSESSMENTS ARE PAYABLE AS PROVIDED BY IOWA LAW, INCLUDING WITHOUT LIMITATION, CHAPTERS 358C AND 384 OF THE CODE.

Section 3. Taxes. The District has limited authority to tax the owners of Lots in the District as provided under Iowa law, including without limitation, Chapter 358C.

ARTICLE III

DEFINITIONS

For the purpose of these Restrictions, the following words shall be defined as follows:

(1) "Association" shall mean the homeowners' association, if any, established in connection with the Townhome Lots (as defined below) in Ferndale Subdivision in the

manner set forth herein which homeowners' association (if formed) shall be an Iowa non-profit corporation. The provisions of the Declaration concerning the Association shall become effective upon formation of the Association (if ever formed) and shall continue to be effective during the period of time that the Association is in existence pursuant to this Declaration.

(2) "Board" shall mean the board of directors of the Association (if formed), as set forth herein.

(3) "The Properties" shall mean and refer to all such existing properties as are subject to this Declaration and all Common Areas, in the residential community known as Ferndale Subdivision Phase I.

(4) "Lot" shall mean and refer to any separately-owned parcel as may be shown by any recorded subdivision plat of the Properties including all "Townhome Lots." Where the context indicates or requires, the term "Lot" includes any structure on the Lot.

(5) "Townhome Lot" shall mean and refer to Lots 1-A, 1-B, 2-A, 2-B, 3-A, 3-B, 4-A, 4-B, 5-A, 5-B, 6-A, and 6-B of the recorded subdivision plat for the Properties in Ferndale Phase I First Replat.

(6) "Residence" shall mean and refer to any portion of a building situated upon the properties designed and intended for use and occupancy as a residence by a single family.

(7) "Lotowner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot situated upon the Properties. The foregoing does not include persons or entities who hold an interest in any Lot merely as security for the performance of an obligation, unless such person or entity has acquired title pursuant to foreclosure or upon proceeding instead of foreclosure. Lotowner shall include Developers.

(8) "Developer" shall mean and refer to Ferndale L.C., an Iowa limited liability company, its successors and assigns.

(9) "Developers" shall mean and refer to Ferndale, L.C., an Iowa limited liability company, its successors and assigns; William Smith a/k/a William L. Smith and Judith A. Smith, husband and wife; and Turnberry Townhomes L.C., an Iowa limited liability company, its successors and assigns collectively.

(10) "Front Property Line" shall mean the property line of any Lot abutting the right-of-way of any street.

(11) "Outbuilding" shall mean an enclosed, covered structure not directly attached to the Residence to which it is appurtenant.

REVISED

(12) "Exterior Structure" means any structure erected or maintained on a Lot other than the main residential structure or any structural component thereof, including but not limited to any deck, gazebo, greenhouse, doghouse or other animal shelter or run, outbuilding, fence, privacy screen, boundary wall, bridge, patio enclosure, tennis court, paddle tennis court, swimming pool, hot tub, basketball goal, swing set, trampoline, sand box, playhouse, treehouse, or other recreational or play structure.

ARTICLE IV

USE RESTRICTIONS

Section 1. Use of Land. All Townhome Lots may be used or occupied as a duplex intended exclusively for residential purposes. No residential building which has previously been at another location shall be moved onto any Lot. No trailer, outbuilding or exterior structure erected on any Lot shall at any time be used for human habitation, temporarily or permanently, nor shall any residence of temporary character be erected on any of such Lots or used for human habitation; provided, however, that nothing herein shall prevent the Developer from erecting temporary buildings and using such temporary buildings or any residence for model, office, sales or storage purposes during the development of the Properties.

Section 2. Setback Lines. No part of any residence, except as hereinafter provided, may be erected or maintained on any of the Lots nearer to the front street than twenty-five (25) feet. Provided, however, that Developer shall have and do hereby reserve the right with the consent in writing of the record owner of the fee simple title to any such Lot, to change any building line on any such Lot or Lots, without the necessity of obtaining consent from the record owner or owners of other Lots in the Subdivision, so long as the change conforms to such front, rear and side setback lines as are contained in the Pottawattamie County, Iowa Zoning Ordinance for the City of Council Bluffs, Iowa as the same is now enforced or may hereafter be amended.

Section 3. Dwelling Size. Any Residence one story in height erected on any of said Lots shall contain a minimum of 900 square feet of enclosed floor area. Any Residence more than one story in height erected on any of said Lots shall contain a minimum of six hundred and fifty (650) feet of enclosed floor on the first floor and a minimum of one thousand two hundred (1,200) square feet of enclosed floor area in the entire Residence. The words "enclosed floor area" as used in this Section 3 shall include in all cases areas on the first and second floor of the residence enclosed and furnished for all-year occupancy computed on outside measurement of the Residence, and shall not include any area in any basement, garage, porch or attic finished for all-year occupancy and further shall not include any area in any basement, garage, porch or attic finished or unfinished. No Residence erected on any of said Lots shall be more than two stories in height, unless consented to in writing by Developer. Developer shall have and hereby reserve the right to reduce the floor area requirement set forth above, provided the total reduction for any one Residence may not exceed twenty (20) percent of such minimum floor area requirements for such Residence.

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[REDACTED]

Section 4. Approval of Plans, General Contractors and Post-Construction Changes.

a. No Residence or Exterior Structure may be erected upon or moved onto any Lot unless and until the building plans, specifications, exterior color scheme, materials, location, elevation, grade and landscaping thereof and the name of the licensed general contractor have been submitted to and approved in writing by the Developer or, in the case of delegation of such approval power by Developer as provided herein. Nor shall any change or alteration in such building plans, specifications, exterior color scheme, materials, location, elevation, grade and landscaping thereof or the licensed general contractor be made until such change or alterations has been submitted to and approved in writing by the Developer. The approval in writing of the Developer shall be indicated by the Developer's placement of a stamp indicating Developer's approval of said plans, specifications and/or summary of changes or alteration in such plans and specifications.

b. Following the completion of construction of any Residence or Exterior Structure, no exterior colors or landscaping thereof or with respect thereto shall be changed and no exterior additions or alterations to any structure shall be made unless and until the changes have been submitted to and approved in writing by the Developer or in the case of delegation of such approval power by Developer as provided herein. All replacement of all or any portion of a structure because of age, casualty loss or other reason, including, without limitation, roofs and siding, shall be of the same material as the original structure unless the changes have been submitted to and approved in writing by the Developer or, in the case of delegation of such approval power by Developer as provided herein.

c. Architectural Control in the Properties, including the power of approval as set forth in subsections (a) and (b) of this Section 4, shall be solely the function of Developer. Developer may, at its option, delegate all or any part of the function of architectural control to its designee. If such delegation is made, architectural control shall be the function and obligation of the Developer's designee, and it may not be delegated to a separate architectural control committee or other similar group. Any such delegation by Developer of all or part of its architectural control function shall not be effective unless done in writing and signed by a person authorized to act on behalf of Developer. Construction debris will be the responsibility of the Owner/Contractor. Developer will have the right to back charge the Owner and Contractor for any cleanup expenses incurred by the Developer for clean up of construction debris.

Section 5. Building Material Requirements. Exterior walls of all buildings, structures and appurtenances thereto shall be made of steel, vinyl, brick, stone, stucco, wood shingles, wood siding, wood paneling, glass blocks, vinyl siding, steel siding, or any combination thereof. Windows, doors and louvers shall be of wood, fiberglass or metal and glass. Roofs shall be covered with wood shingles, wood shakes, composition shingles, asphalt shingles, slate or tile. Exteriors, except roofs and shake sidewalls, shall be covered with no less than two coats of good paint or stain. No building shall be permitted to stand with its exterior in an unfinished condition for longer than six (6) months after commencement of construction. In the event of fire, windstorm, or other

damages, no building shall be permitted to remain in damaged condition longer than three (3) months. Construction of the entire home must be complete within twelve (12) months from the building permit date.

Section 6. Building or Uses Other Than For Residential Purposes; Noxious Activities; Miscellaneous.

a. Except as otherwise provided in Article IV, Section 1 above, a Residence or Exterior Structure shall not be placed, erected or used for business, professional, trade or commercial purposes on any Lot, provided, however that this restriction shall not prevent a Lotowner from maintaining an office area in their residence which is not their principal place of business.

b. No noxious or offensive activity shall be carried on with respect to any Lot, nor shall any trash, ashes or other refuse be thrown, placed or dumped upon any Lot or Common Area, or be permitted to accumulate or remain on any Lot except such compost facilities as may be approved by Developer in writing, nor shall anything be done which may be or become an annoyance or a nuisance to the neighborhood, including but not limited to mechanical work on automotive or other equipment of any kind. Each Lotowner shall properly maintain their Lot in a neat, clean and orderly fashion. All Residences and Exterior Structures shall be kept and maintained in good condition and repair at all times. Developer retains the right to keep and maintain such materials and equipment as it deems reasonably necessary to further development of this and any adjacent property owned by Developer.

c. No vehicles including, but not limited to trailers, buses, campers, motor homes, recreational vehicles, boats, trucks, or commercial vehicles or any similar apparatus shall be parked, maintained or stored on any Lot or in any Common Area or on the street for more than a 24 hour period.

d. No television, radio, citizens' band, satellite dish, short wave or other antenna, solar panel, windmill, wind-driven electrical generating system, sun energy system, or other unsightly projection shall be attached to the exterior of any residence or erected in any yard. Should any part or all of the restriction set forth in the preceding sentence be held by a court of competent jurisdiction to be unenforceable because it violates the First Amendment or any other provision of the United States Constitution, or for any other reason, the Developer or its designee shall have the right to establish rules and regulations regarding the location, size, landscaping and other aesthetic aspects of such projections so as to reasonably control the impact of such projections on the neighborhoods and any such rules and regulations shall be binding upon all of the Lots. No lights or other illumination shall be higher than the residence.

e. No speakers, horn, whistle, siren, bell or other sound device, except intercoms and those used exclusively for security purposes, shall be located, installed or maintained upon the exterior of any residence or in any yard.

f. All public utilities shall be underground except for utilities within the fifteen foot (15') area covered by the easement granted to Iowa Power and Light Co., its successors and assigns dated April 26, 1968 recorded August 18, 1969 in Book 1490, Page 174 of the records of the Pottawattamie County Recorder's office, and except for an overhead electric line easement for overhang purposes only, granted to Iowa Power and Light Company dated October 2, 1989, filed October 13, 1989, in Book 90, Page 8283 of the records of the Pottawattamie County Recorder's office as subsequently amended. The location of both easements is shown on the plat of Ferndale Phase I First Replat.

g. In the event of vandalism, fire, windstorm or other damages, no residence or exterior structure shall be permitted to remain in damaged condition for longer than three months.

h. No exterior Christmas lights and/or decorations may be erected or maintained on any of the lots hereby restricted, except during a sixty (60) day period beginning November 15th of each calendar year.

i. Dogs shall be confined to their owner's lot. No dogs shall be allowed to run at large in the Common Area hereby restricted.

j. No greenhouses may be constructed or maintained on any of the lots hereby restricted, without prior consent in writing by Developer.

k. No air conditioning apparatus or unsightly projections shall be attached or affixed to the front of any residence.

l. No bright light (Mercury Vapor or Sodium) shall be placed on the exterior of any structure or constructed separately without the written consent of Developer.

Section 7. Exterior Structures.

a. No Exterior Structure including but not limited to any outbuildings shall be erected upon, moved onto or maintained upon any Lot except (i) with and pursuant to the advance written approval of the Developer or its designees, and (ii) in compliance with the additional specific restrictions set forth in subsection (b) through (e) of this Section 7; provided, however, that the approval of the Developer or its designees shall not be required for any deck, gazebo or similar Exterior Structure that has been specifically approved by the Developer and has been built in accordance with such approved plans.

b. All basketball goals shall be free-standing and not attached to the residence unless the Developer or its designee determines that there are compelling reasons for the goal to be attached to the residence. All basketball goals shall be consistent with the standard designs and materials to be selected by the Developer or its designee. All backboards shall be clear or white and made of fiberglass, plastic or other approved materials. All poles shall be an earthtone color and one-piece construction. There shall be no more than one basketball goal per Lot. The location of each goal shall be

approved by Developer. The Developer or its designee shall have the right to establish reasonable rules regarding the hours of the use of basketball goals and any such rules shall be binding upon all of the Lots.

c. All recreational or play structures (other than basketball goals) shall be located behind the back building line of the residence.

d. No above-ground swimming pools shall be permitted. All pools and hot tubs shall be fenced. All pools and hot tubs shall be clean and maintained in operable condition. All pools and hot tubs shall be located behind the back building line of the house.

e. All residential fences and privacy screen (other than those installed by Developer) shall be consistent with the standard designs, heights and materials to be selected by the Developer or its designees. All fences shall be constructed with the finished side out. Fences or privacy screens shall not be made of metal other than wrought iron, or chain link fence of a maximum height of 48 inches. All fences or privacy screens shall start at a point no more than three (3) feet in front of the back building line of the house and then extended from that point to the back of the Lot. All fences must be maintained and kept up on a regular basis.

Section 8. Animals. No animal of any kind shall be raised, bred or kept on any Lot except that dogs or cats that are household pets may be kept, as long as they are in compliance with the City of Council Bluffs, Iowa, Zoning Ordinance of Pottawattamie County, Iowa, as the same is now enforced or may hereafter be amended.

Section 9. Driveways. All driveways must be improved with hard surface, consisting of a minimum of four (4) inches of reinforced concrete or other materials approved in writing by the Developer.

Section 10. Signs. No sign, advertisements, billboards, or advertising structures of any kind may be erected or maintained on any said lots without the consent, in writing, of Developer; provided, however, that permission is hereby granted for erection and maintenance of not more than one advertising board on each lot or tract as sold and may be used for the sole and exclusive purpose of advertising for sale or lease the lot or tract upon which it is erected.

Section 11. Landscaping and Lawns. Prior to occupancy, and in all events within five months after commencement of construction, all front and back lawns, including, all areas between each Residence and any adjacent streets, regardless of the distance and location of any fence, monument, boundary wall, berm, sidewalk or right-of-way line, shall be fully sodded at all times thereafter; provided, however, that a Lotowner may leave a portion of the Lot as a natural area with the express written permission of the Developer. All vegetable gardens shall be located in the backyard. The Owner of each Lot shall keep the lawn uniformly mowed and clipped with a length of grass not to exceed four inches and shall properly maintain and replace all trees and landscaping. Noxious weeds

and plants shall be kept seasonably mowed and dead or unsightly growth shall be removed from all improved Lots. All fence lines will be kept clean of weeds and brush.

Section 12. Easements for Public Utilities; Drainage; Maintenance. The Developer shall have, and does hereby reserve, the right to locate, erect, construct, maintain and use, or authorize the location, erection, construction, maintenance and use of drains, pipelines, sanitary and storm sewers, gas and water mains and lines, electric and telephone lines and other utilities, and to give or grant right-of-ways or easements and right-of-way shown on the recorded plat of the Properties or any Common Area. All utility easements and right-of-way shall inure to the benefit of all utility companies, for purposes of installing, maintaining or moving any utility lines or services and shall inure to the benefit of all Lotowners in the Properties as a cross-easement for utility line or service maintenance.

ARTICLE V

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION AND VOTING RIGHTS OF THE TOWNHOME LOT OWNERS

Section 1. Membership in the Association. In the event the Association is formed and created in connection with the Townhome Lots, then, upon formation and creation of the Association, every owner of a Townhome Lot shall be a member of the Association, which shall function as a homeowners' association for the owners of Townhome Lots in the Subdivision. Membership shall be appurtenant to, and shall not be separated from, ownership of a Townhome Lot.

Section 2. Voting Rights. (a) Members shall be all owners of Townhome Lots and shall be entitled to one (1) vote for each Townhome Lot. When more than one (1) person holds an interest in a Townhome Lot, the Owners of the interest in the Townhome Lot shall determine how the vote for such Townhome Lot shall be exercised as they among themselves determine.

Section 3. Board of Directors. (a) If the Association is created, the members of the Association shall, subject to the provisions of subparagraph (b) hereof, elect the board of directors (the "Board") of the Association, and the Board shall, by majority rule, conduct all of the business of the Association, except when membership votes are required pursuant to this Declaration or pursuant to the articles of incorporation or bylaws of the Association. Notwithstanding the above provision, for three (3) years after the date hereof, the Developer must approve any decisions made by the Board.

(b) Notwithstanding anything contained in the preceding subparagraph (a) or elsewhere in this Declaration to the contrary, as long as the Developer own any Townhome Lot(s) in the subdivision, the Developer shall be entitled to appoint all of the members of the Board.

Section 4. Bylaws. The Association (if created) may make whatever rules and bylaws it deems desirable to govern the Association and its members; provided, however,

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any conflict between such bylaws and the provisions hereof shall be controlled by the provisions hereof.

Section 5. Inspection Rights. Each owner shall have the right to inspect and examine the books, records and accounts of the Association at reasonable times upon reasonable written notice, provided that such inspection and examination shall be at such owner's sole cost and expense.

ARTICLE VI

GENERAL PROVISIONS

Section 1. Property Subject to This Declaration. The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration as of the Date of this Declaration is that property more specifically identified in the addendum to this Declaration.

Section 2. Duration. The covenants and restrictions of this Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by the Developer, or its successors and assigns, or by the Lotowner of any real estate subject to the Declaration, their respective legal representatives, heirs, successors and assigns, for a term of twenty (20) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of five (5) years, unless an instrument signed by the Lotowners of two-thirds of the Lots has been recorded, agreeing to change said covenants and restrictions in whole or in part; provided, however, that no such agreement to change shall be effective unless written notice of the proposed Agreement is sent to every Lotowner at least sixty (60) days in advance of any action taken.

Section 3. Notices. Any notice required to be sent to any member or Lotowner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postage prepaid, to the last know address of the person who appears as a Lotowner on the records of the Developer at the time of such mailing.

Section 4. Enforcement. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenants or restrictions, either to restrain or to recover damages or both and against the land to enforce any lien created by these covenants, and failure by any Lotowner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 5. Severability. In the event any one of those covenants or restrictions are held invalid by a judgment or court order, this shall in no way affect other provisions which shall remain in full force and effect.

Section 6. Amendment. By written consent of the owners of the Lots within the Ferndale Phase I First Replat as then constituted, evidenced by a Declaration duly

0178-1988

STATE OF IOWA)
) ss.
POTTAWATTAMIE COUNTY)

On this 18 day of March, 1998, before me, a notary public in and for said state, personally appeared **William Smith a/k/a William L. Smith and Judith A. Smith**, to me known to be the persons named in and who executed the foregoing instrument, and acknowledged that they executed the same as their voluntary act and deed.

Peggy L. Simpson
Notary Public in and for said State



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CONTINUED

**ADDENDUM TO DECLARATION OF RESTRICTIONS FOR
FERNDALE PHASE I FIRST REPLAT (LOTS 1-A through 6-B inclusive)**

The real estate which is subject to the Declaration of Restrictions for Ferndale Phase I First Replat, Lots 1-A through 6-B, inclusive, is legally described as follows:

Lots 1-A and 1-B Ferndale Phase I First Replat, Pottawattamie County, Iowa (formerly Lot 1 Ferndale Phase I, Pottawattamie County, Iowa).

Lots 2-A and 2-B Ferndale Phase I First Replat, Pottawattamie County, Iowa (formerly Lot 2 Ferndale Phase I, Pottawattamie County, Iowa).

Lots 3-A and 3-B Ferndale Phase I First Replat, Pottawattamie County, Iowa (formerly Lot 3 Ferndale Phase I, Pottawattamie County, Iowa).

Lots 4-A and 4-B Ferndale Phase I First Replat, Pottawattamie County, Iowa (formerly Lot 4 Ferndale Phase I, Pottawattamie County, Iowa).

Lots 5-A and 5-B Ferndale Phase I First Replat, Pottawattamie County, Iowa (formerly Lot 5 Ferndale Phase I, Pottawattamie County, Iowa).

Lots 6-A and 6-B Ferndale Phase I First Replat, Pottawattamie County, Iowa (formerly Lot 6 Ferndale Phase I, Pottawattamie County, Iowa).

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