

FILED SAMPY CO. NE.
INSTRUMENT NUMBER
2007-02507

2007 JAN 25 11:41 R

Glenn J. Sampy
REGISTER OF DEEDS

COUNTER ah S.E. ah
VERIFY ah D.E. ah
PROOF LM
FEES \$ 152.00
CHECK # 1002
CHG _____ CASH _____
REFUND _____ CREDIT _____
SHORT _____ NCR _____

FIFTH AMENDMENT TO SUBDIVISION AGREEMENT
(MAYFAIR SUBDIVISION)

THIS FIFTH AMENDMENT made this 16th day of January, 2007, to that certain Subdivision Agreement dated March 18, 1998, as heretofore amended, between L & B Properties, L.L.C., One Mayfair Place, L.L.C., RKS Family Trust, Tranquility Realty L.L.C., Thomas E. & Tonya D. Lewis, Lazlo's La Vista Property Holdings L.L.C. and J & J Properties, (the commercial property owners of Mayfair Commons, hereinafter referred to as "Owners"), and the City of La Vista, a Municipal Corporation in the State of Nebraska (hereinafter referred to as "City");

WITNESSETH:

WHEREAS, the parties wish to amend the Subdivision Agreement entered into between them to eliminate certain building design criteria as referenced in paragraph 11 of the Fourth Amendment to the Mayfair Subdivision Agreement, and outlined in that Amendment's Exhibit "I".

NOW, THEREFORE, IT IS AGREED by Owners, District, and City as follows:

1. Commercial Design Guide and Criteria, Private Street Lighting, Parking Area Lighting and Building Facades. The City's Commercial Architectural and Site Design Guidelines Design Guide and Criteria ("Commercial Criteria") dated June 10, 2006 with a revision date of October 9, 2006, a copy of which is attached hereto and made part of the Fifth Amendment to the Mayfair Subdivision Agreement as Exhibit "A" shall act as a guide for the commercial development of all affected property, as shown in Exhibit "B" attached hereto.
2. ShopKo Store et al. Site Plan. Paragraph 2 of the Fourth Amendment to the Mayfair Subdivision Agreement is hereby eliminated as it is inapplicable because ShopKo has deeded their entire fee interest in this property to L & B Properties, L.L.C.

rcd'
Ronald Bergsten

02507

A

3. Exhibit Summary:

- a. Exhibit "A": Commercial Building Design Guide and Criteria dated June 10, 2006 with a revision date of October 9, 2006 (prepared by The Schemmer Associates, Architects.Engineers)
- b. Exhibit "B": Final Plat of Mayfair 2nd Addition Replat One

Except as herein specifically amended, the provisions of the Subdivision Agreement, as amended by the First, Second, Third and Fourth Amendments hereto, shall remain in full force and effect as heretofore written.

IN WITNESS WHEREOF, we, the parties hereto, by our respective duly authorized agents, hereto affix our signatures the day and year first above written.

B

ATTEST:



CITY OF LA VISTA, NEBRASKA

Pamela A. Buethe

Pamela A. Buethe, CMC
City Clerk

Douglas Kindig

Douglas Kindig, Mayor

ACKNOWLEDGEMENT OF NOTARY

STATE OF NEBRASKA)
COUNTY OF Sarpy)

On this 18th day of January, 2007, before me a Notary Public, duly commissioned and qualified in and for said County, appeared Douglas Kindig, personally known to me to be the Mayor of the City of La Vista, and Pamela A. Buethe to me personally known to be the City Clerk of the City of La Vista, the identical persons whose names are affixed to the foregoing Subdivision Agreement, and acknowledged the execution thereof to be their voluntary act and deed.

WITNESS my hand and Notarial Seal the day and year last above written.



Karen S. Fagin
Notary Public

C

L&B PROPERTIES, L.L.C.

By *Larry G. Buland*
Larry G. Buland, Managing Partner

ACKNOWLEDGEMENT OF NOTARY

STATE OF NEBRASKA)
COUNTY OF Douglas)

On this 19 day of December, 2006, before me a Notary Public, duly commissioned and qualified in and for said County, appeared Larry G. Buland, personally known to me to be the Managing Partner of L&B Properties, L.L.C., the identical person whose name is affixed to the foregoing Subdivision Agreement, and acknowledged the execution thereof to be his voluntary act and deed.

WITNESS my hand and Notarial Seal the day and year last above written.

Jennifer Blair Simon
Notary Public



D

ATTEST:

ONE MAYFAIR PLACE, L.L.C.

Charles W. Clatterbuck
Secretary

By Charles W. Clatterbuck

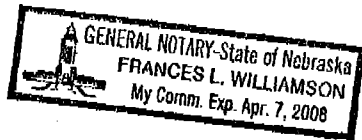
ACKNOWLEDGEMENT OF NOTARY

STATE OF NEBRASKA)
COUNTY OF Sarpy)

On this 12 day of November, 2006, before me a Notary Public, duly commissioned and qualified in and for said County, appeared Charles W. Clatterbuck personally known to me to be the _____ of One Mayfair Place, L.L.C., and _____, to me personally known to be the Secretary of One Mayfair Place, L.L.C., and the identical persons whose names are affixed to the foregoing Subdivision Agreement, and acknowledged the execution thereof to be their voluntary act and deed.

WITNESS my hand and Notarial Seal the day and year last above written.

Frances L. Williamson
Notary Public



E

Witness:

RKS FAMILY TRUST

Stalley B. Snook

By Robert M. Gonderinger
Robert M. Gonderinger, Successor
Trustee of RKS Family Trust

ACKNOWLEDGEMENT OF NOTARY

STATE OF NEBRASKA)
COUNTY OF DOUGLAS)

On this 14th day of December, 2006, before me a Notary Public, duly commissioned and qualified in and for said County, appeared Robert M. Gonderinger, personally known to me to be the Successor Trustee of RKS Family Trust, the identical person whose name is affixed to the foregoing Subdivision Agreement, and acknowledged the execution thereof to be his voluntary act and deed.

WITNESS my hand and Notarial Seal the day and year last above written.



LaTisha R. Hough
Notary Public

F

TRANQUILITY REALTY L.L.C.

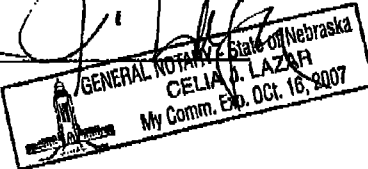
By Mike Shramek
Mike Shramek, Division Manager

ACKNOWLEDGEMENT OF NOTARY

STATE OF NEBRASKA
COUNTY OF Douglas)

On this 15th day of Dec, 2006, before me a Notary Public, duly commissioned and qualified in and for said County, appeared Mike Shramek, personally known to me to be the Division Manager of Tranquility Realty, L.L.C., and the identical person whose name is affixed to the foregoing Subdivision Agreement, and acknowledged the execution thereof to be their voluntary act and deed.

WITNESS my hand and Notarial Seal the day and year last above written

Celia J. Lazari
Notary Public


WITNESS:

[Signature]

[Signature]

Thomas E. Lewis

WITNESS:

[Signature]

[Signature]

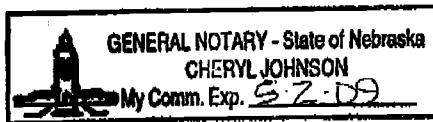
Tonya D. Lewis

ACKNOWLEDGEMENT OF NOTARY

STATE OF NEBRASKA)
COUNTY OF Douglas)

On this 15 day of DEC, 2006, before me a Notary Public, duly commissioned and qualified in and for said County, appeared Thomas E. Lewis, personally known to me to be the identical person whose name is affixed to the foregoing Subdivision Agreement, and acknowledged the execution thereof to be his voluntary act and deed.

WITNESS my hand and Notarial Seal the day and year last above written.



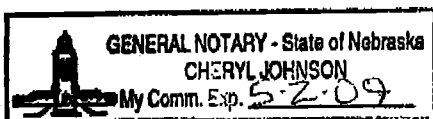
[Signature]
Notary Public

ACKNOWLEDGEMENT OF NOTARY

STATE OF NEBRASKA)
COUNTY OF Douglas)

On this 15 day of DEC, 2006, before me a Notary Public, duly commissioned and qualified in and for said County, appeared Tonya D. Lewis, personally known to me to be the identical person whose name is affixed to the foregoing Subdivision Agreement, and acknowledged the execution thereof to be her voluntary act and deed.

WITNESS my hand and Notarial Seal the-day and year last above written.



[Signature]
Notary Public

H

Lazlo's LaVista Property Holdings L.L.C.

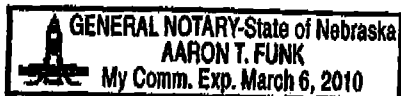
By Scott Miller
Scott C. Miller, President

ACKNOWLEDGEMENT OF NOTARY

STATE OF NEBRASKA)
COUNTY OF LANCASTER)

On this 15th day of January, 2007, before me a Notary Public, duly commissioned and qualified in and for said County, appeared Scott C. Miller, personally known to me to be the President of Lazlo's La Vista Property Holdings, L.L.C., the identical person whose name is affixed to the foregoing Subdivision Agreement, and acknowledged the execution thereof to be their voluntary act and deed.

WITNESS my hand and Notarial Seal the day and year last above written.



Aaron T. Funk
Notary Public

I

ATTEST:

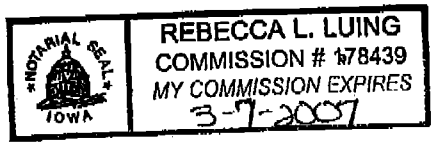
J & J PROPERTIES,

By: Richard J. Johansen
Richard J. Johansen, Partner

STATE OF IOWA)
)ss
COUNTY OF STORY)

On this 11th day of January, 2007, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared **Richard J. Johansen**, to me personally known, who being by me duly sworn, did say that the person is one of the partners of J & J Properties, a partnership, and that the instrument was signed on behalf of the partnership by authority of the partners; and the partner acknowledged the execution of the instrument to be the voluntary act and deed of the partnership by it and by the partner voluntarily executed.

Rebecca L. Luong
Notary Public in and for the State of Iowa



Rebecca L. Luong
(Printed Signature of Notary Public)

7

ARCHITECTURAL AND SITE
DESIGN GUIDELINES
Mayfair Commons Development
La Vista, Nebraska

La Vista City Hall
8116 Park View Boulevard
La Vista, Nebraska
10 June 2006
Revised 8 September 2006
Revised 9 October 2006

EXHIBIT "A"

K

I. INTRODUCTION

1. The City of La Vista, in partnership with Metropolitan Community College, has made a significant investment in the community with the new La Vista Public Library/MCC Sarpy Center. The city's desire is that this project be the standard of quality for all Commercial Building Projects within the City of La Vista. Consequently, the City of La Vista has developed the *Building Design Guide and Criteria incorporated within the Gateway Corridor and Giles Road sub-area Overlay District* that deals with the design of the site, building and structures, planting, signs, street hardware, and miscellaneous other objects that are observed by the public.
2. The Mayfair Commons development will contribute as a gateway to the City of La Vista. This coupled with the size of the overall development, led the City of La Vista and the Mayfair Commons developer to jointly establish this set of Design Guidelines that are unique for the Mayfair Commons development. These guidelines supercede any conflicting regulations in the Gateway Corridor or Giles Road Sub-Area Overlay District. All other design criteria shall be required.
3. The criteria contained herein are not intended to restrict imagination, innovation, or variety, but rather to assist in focusing on design principles that can result in creative solutions that will develop a satisfactory visual appearance within the Mayfair Commons development, preserve taxable values, and promote the public health, safety, and welfare.

L

landscape development.

II. Definitions

Appearance. The outward aspect visible to the public.

Appropriate. Sympathetic, or fitting, to the context of the site and the whole community.

Appurtenances. The visible, functional objects accessory to and part of buildings.

Architectural concept. The basic aesthetic idea of a building, or group of buildings or structures, including the site and landscape development, that produces the architectural character.

Architectural feature. A prominent or significant part or element of a building, structure, or site.

Architectural style. The characteristic form and detail, as of buildings of a particular historic period.

Attractive. Having qualities that arouse interest or pleasure in the observer.

Berm. A raised form of earth to provide screening or to improve the aesthetic character.

City. City of La Vista

Code. The Municipal Code of the City of La Vista.

Cohesiveness. Unity of composition between design elements of a building or a group of buildings and the

M

Compatibility. Harmony in the appearance of two or more external design features in the same vicinity.

Conservation. The protection and care that prevent destruction or deterioration of historical or otherwise significant structures, buildings, or natural resources.

Cornice. A horizontal molded projection that crowns or completes a building or wall.

Eclectic. Choosing what appears to be the best from diverse sources, systems, or styles.

Exterior building component. An essential and visible part of the exterior of a building.

External design feature. The general arrangement of any portion of a building, sign, landscaping, or structure and including the kind, color, and texture of the materials of such portion, and the types of roof, windows, doors, lights, attached or ground signs, or other fixtures appurtenant to such portions as will be open to public view from any street, place, or way.

Graphic element. A letter, illustration, symbol, figure, insignia, or other device employed to express and illustrate a message or part thereof.

Harmony. A quality that represents an appropriate and congruent arrangement of parts, as in an arrangement of varied architectural and landscape elements.

N

Landscape. Plant materials, topography, and other natural physical elements combined in relation to one another and to man-made structures.

Light cut-off angle. An angle from vertical, extending downward from a luminaire, which defines the maximum range of incident illumination outward at the ground plane.

Logic of design. Accepted principles and criteria of validity in the solution of the problem of design.

Mechanical equipment. Equipment, devices, and accessories, the use of which relates to water supply, drainage, heating, ventilating, air conditioning, and similar purposes.

Miscellaneous structures. Structures, other than buildings, visible from public ways. Examples are: memorials, stagings, antennas, water tanks and towers, sheds, shelters, fences and walls, kennels, transformers, drive-up facilities.

Plant materials. Trees, shrubs, vines, ground covers, grass, perennials, annuals, and bulbs.

Proportion. Balanced relationship of parts of a building, landscape, structures, or buildings to each other and to the whole.

Scale. Proportional relationship of the size of parts to one another and to the human figure.

Screening. Structure of planting that conceals from view from public ways the area behind such structure or planting.

Shrub. A multi-stemmed woody plant other than a tree.

Site break. A structural or landscape device to interrupt long vistas and create visual interest in a site development.

Street hardware. Man-made objects other than buildings that are part of the streetscape. Examples are: lamp posts, utility poles, traffic signs, benches, litter containers, planting containers, letter boxes, fire hydrants.

Streetscape. The scene as may be observed along a public street or way composed of natural or man-made components, including buildings, paving, planting, street hardware, and miscellaneous structures.

Structure. Anything constructed or erected, the use of which requires permanent or temporary location on or in the ground.

Utilitarian structure. A structure or enclosure relating to mechanical or electrical services to a building or development.

Utility hardware. Devices such as poles, crossarms, transformers and vaults, gas pressure regulating assemblies, hydrants, and buffalo boxes that are used for water, gas, oil, sewer, and electrical services to a building or a project.

Utility service. Any device, including wire, pipe, and conduit, which carries gas, water, electricity, oil and communications into a building or development.

0

III. Mayfair Commons Vision

- A. It is anticipated that the Mayfair Commons development will be built out with the following project types:
- B. Office Buildings
- C. Retail & Hospitality Buildings
- D. As a gateway development to the City of La Vista, it is important for Mayfair Commons to pull the diverse project types listed above together into a development that has a sense of place and visual continuity created by common:
- E. Style
- F. Site Elements
- G. Building Elements
- H. Color Palettes
- I. Each of the unifying elements listed above are discussed in more detail within their respective sections of this document.

P

IV. Building Massing

A. Walls

- B.** 1. All facades that are visible from the public right of ways of each building must be designed to be architecturally interesting. The use of massing and horizontal plane changes to create shadows and depth shall be exercised. Building elements such as covered arcades, stepping the facade or recessed entries are suggested to create this building massing requirements.

C. Roofs

1. All buildings with lot frontage along Giles Road or 96th Street and all interior non-office buildings shall have specifically pitched or curved roof shapes. Pitched roofs shall have a 4/12 or 6/12 pitch. Flat roof areas shall not have an area more than 50% of building footprint. Parapets shall be incorporated to hide the ballasting and rooftop mounted equipment from public view.

- D.** 2. In order to maintain a harmonious and even ratio of curved to pitched roof structures within Mayfair Commons, the city shall retain control of the roof determination and provide direction to the project developer at the time of pre-application communication.

- E.** 3. Office Buildings shall have pitched roofs with a 4/12 or 6/12 pitch.

Q

V. Building Materials

A. Diversity of Building Materials

1. Every building shall have a minimum of three and a maximum of five primary and / or secondary building materials.

B. Office Building Requirements

1. Building facades shall be composed of the following percentages of building material cumulated over all visible facades.

- a. 51% or more but not to exceed 80% of brick. Clay Brick in the earth tone color ranges and
- b. 40% or less but not less than 20% of fiber cement board siding or metal shingles. Colors to be in earth tone range.
- c. All pitched roofs shall be Laminated Asphalt Shingle with heavy shadow lines and a minimum 30 year rating.
- d. All curved roofs shall be standing seam metal.
- e. Clear Glass with painted aluminum frames and mullions.

See Appendix A for color palettes.

C. Retail and Hospitality Building Requirements

1. Building facades shall be composed of following percentages of building material cumulated over all visible facades.

- a. 51% or more but not to exceed 80% of brick. Clay Brick in the earth tone color ranges.
- b. All pitched roofs shall be Laminated Asphalt Shingle with heavy shadow lines and a minimum 30 year rating.
- c. All curved roofs shall be standing seam metal.
- d. Clear Glass with painted aluminum frames and mullions.

R

See Appendix A for color palettes.

D. Materials

E. Primary Building Materials

1. Clay Brick of the color ranges as shown in Appendix A
2. Glass shall be in the clear color ranges.

F. Secondary Building Materials

1. Precast concrete with exposed aggregate and sufficient detail, pattern, or reveals to give scale. Integral color shall be in the same color range as that shown for Natural and Composite Stone in Appendix A.
2. Cast-In-Place concrete with exposed aggregate and sufficient detail, pattern, or reveals to give scale. Integral color shall be in the same color range as that shown for Natural and Composite Stone on Appendix A.
3. Natural or composite stone laid horizontally in the color ranges as shown in Appendix A.
4. Stucco or E.I.F.S.

5

VI. Landscape Design Standards

- A. All landscaping shall conform to City of LaVista minimum standards, Gateway Corridor and Overlay District and Giles Road Sub-Area.
- B. Site lighting shall be the same as lighting used on Omaha State Bank and Elite Dental Sites.

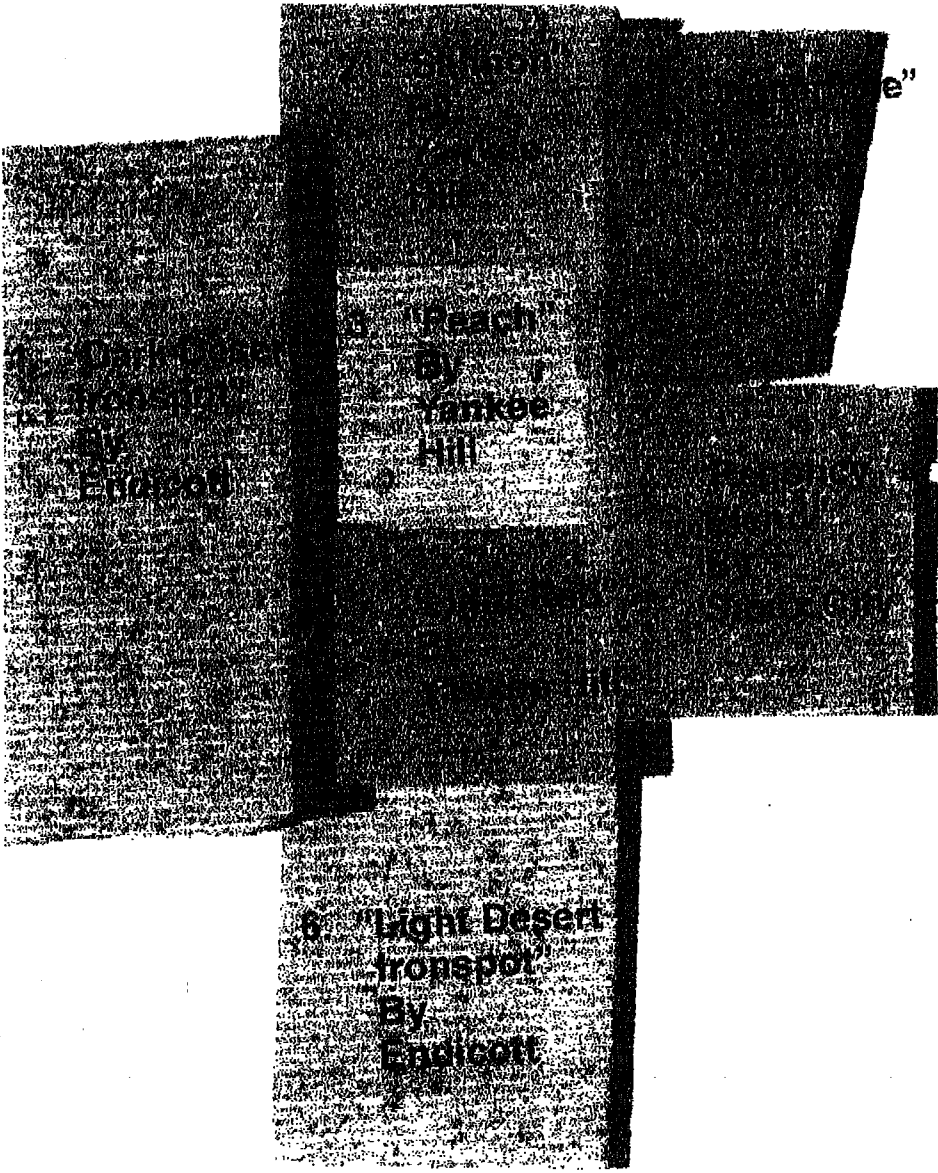
VII. Exceptions

- A. The following exceptions may be considered at the discretion of the City of La Vista.
- B. Building Material exceptions for Office and Retail Buildings.
 - 1. If the building is properly screened (landscape buffer, another building within a development, etc.) so that any given façade cannot be seen from a public right-of way, then that specific façade may be constructed entirely of secondary Building materials as outlined for that specific building type.

T

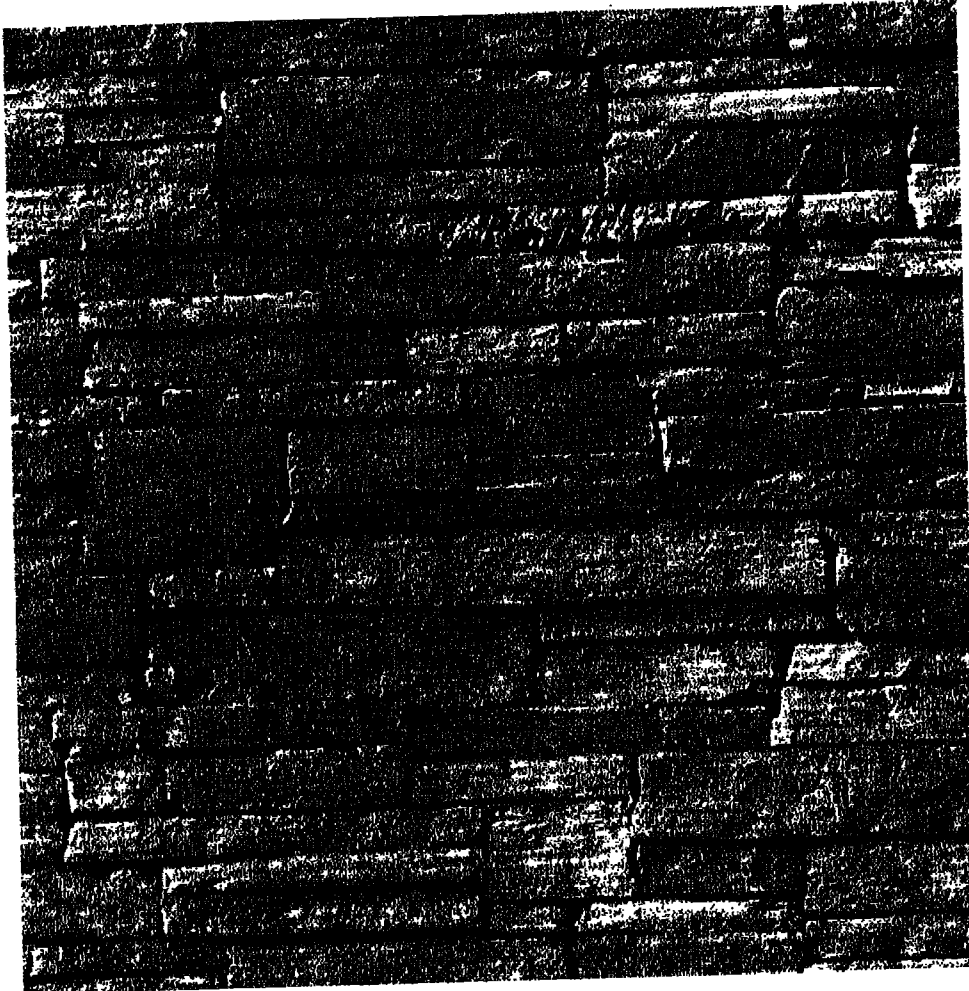
VIII. Appendix "A"

A. Clay Brick Selection Options (textures shall be Velour or Artisan)



U

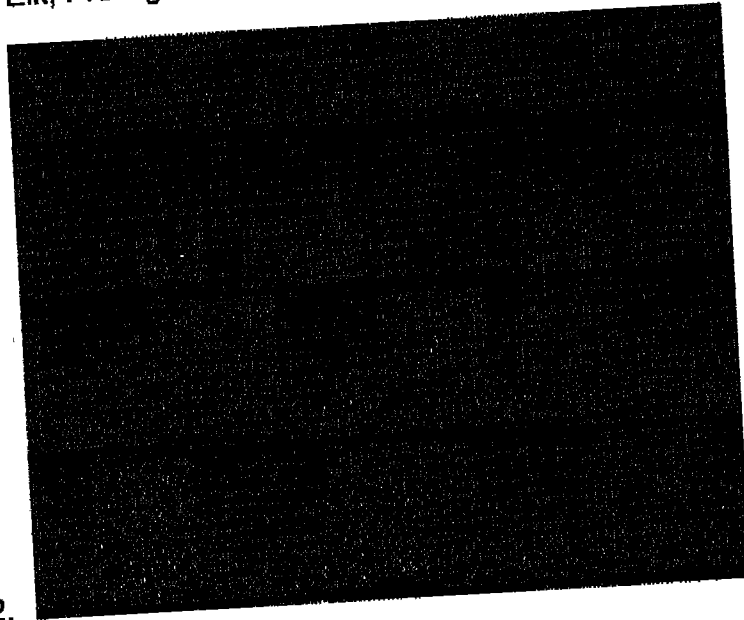
B. Stone Selections – Cultured Stone – Aspen Country Ledgestone



✓

C. Laminated Asphalt Shingles

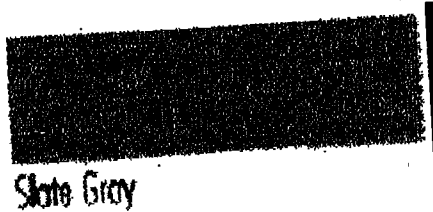
1. Elk, Prestige Plus High Definition, Antique Slate:



2.

D. Standing Seam Metal Roof

1. Copper Sales inc. UNA Clad, Slate Gray:

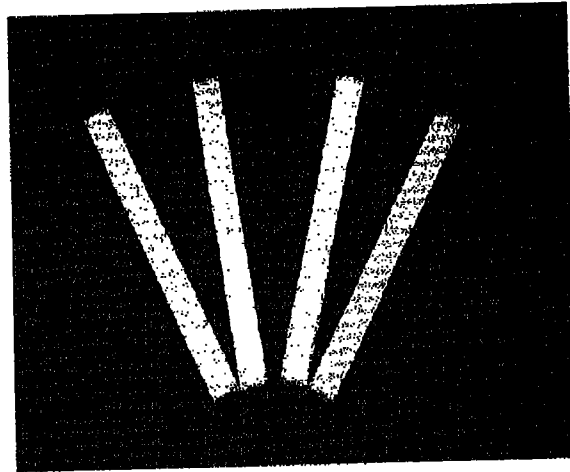


Slate Gray

2. Centria, Metallic 3 Coat 9967 XL Pewter:

W

E. Mortar Color

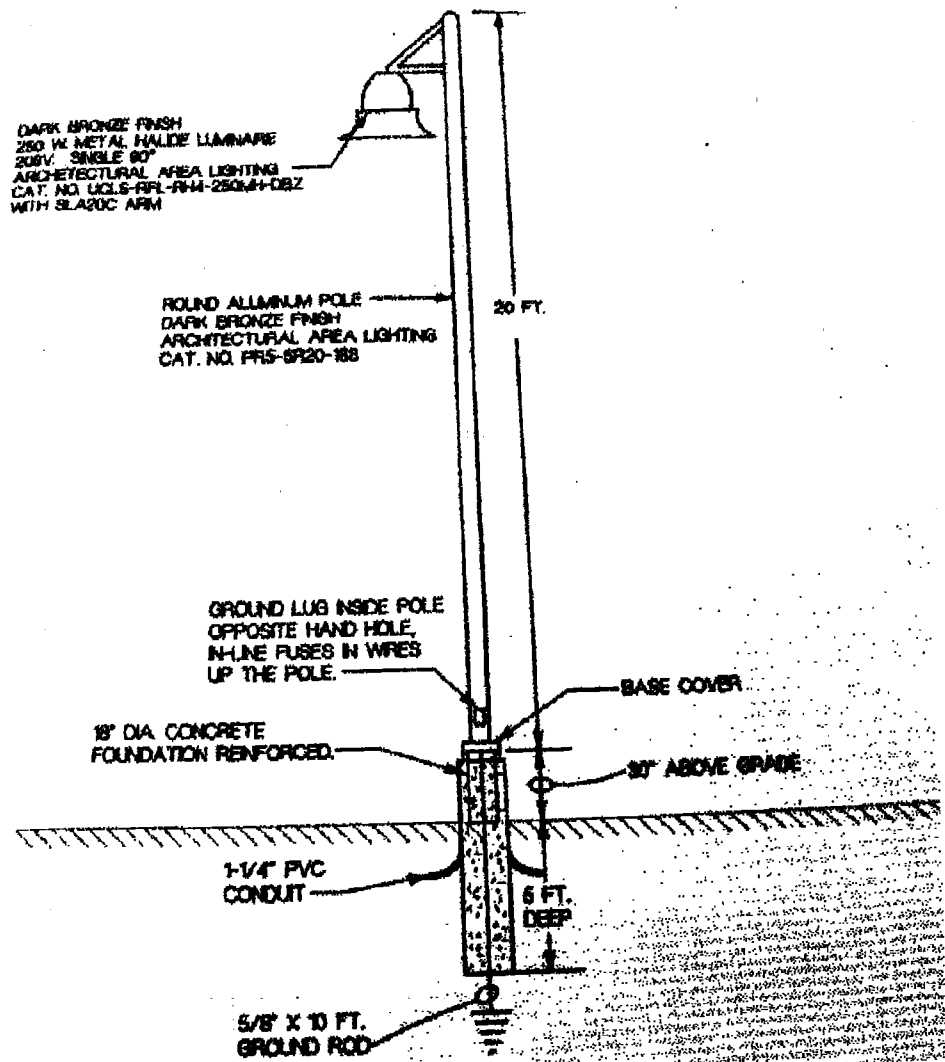


1. Spec Mix:: (L to R) Prism P2510 Fawn Tan, P2620 Camel, P3410 Beach Sand, P3420 Beach Sand.

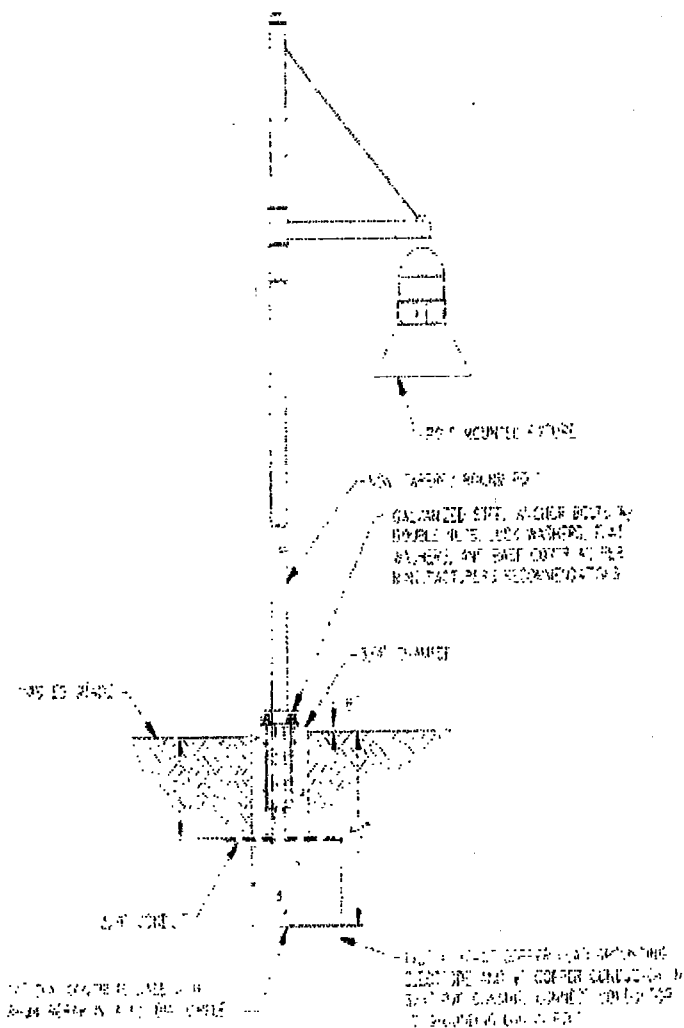
X

F. Lighting Details

Manufacturer sales Rep.:
Lighting Specialists
4727 Center Street
Omaha, NE 68106
(402) 558-4812



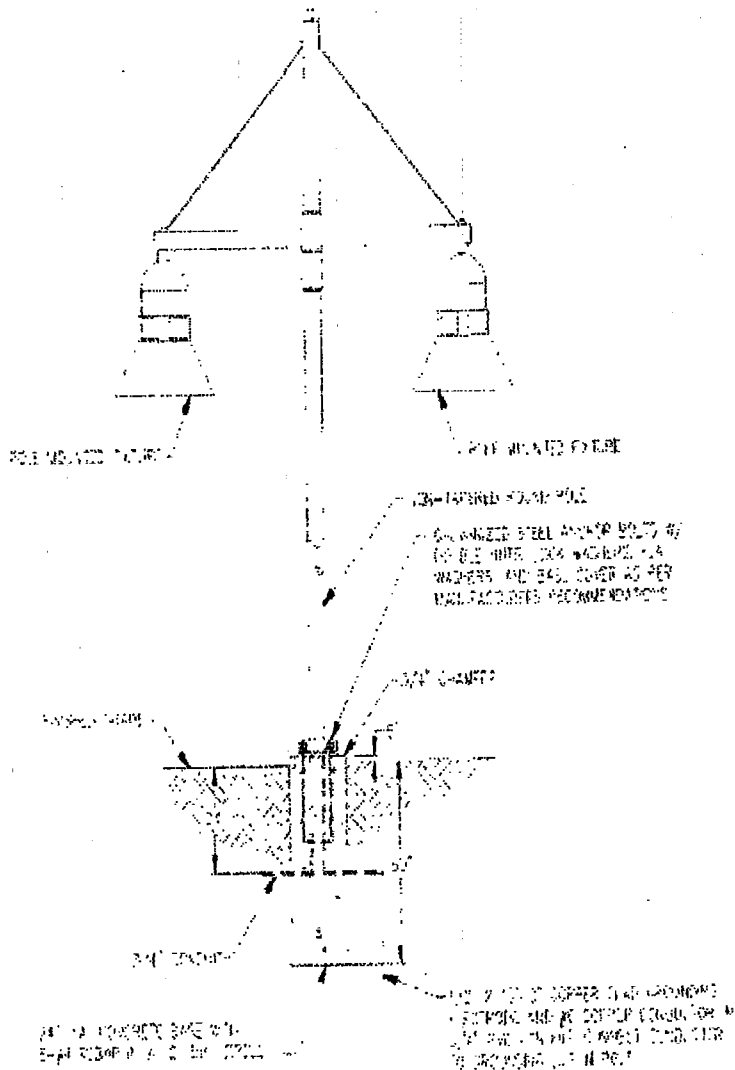
Y



TYPE 25 & 26 POLE MOUNTED LIGHT FIXTURE DETAIL

NO SCALE

2



TYPE 27 POLE MOUNTED LIGHT FIXTURE DETAIL

NO SCALE

26	EXTERIOR ILLUMINATION WITH ASSEMBLY PER LIGHTING PATTERNS, CASE ALUMINUM FINISHING AND FLAT GLASS LENS 20" DIA. ROUND, NON-TAPERED ALUMINUM POLE	SEE POLE DETAIL ON THIS SHEET	1 200 WATT VIAL HALOGEN	AAA 200-WATT-1/2" DIA. 220V-60Hz-1/4" DIA. 1/2" DIA. W/ 2" OF ANODIZED NON-TAPERED ALUMINUM POLE AND FIT + FASTENERS	SUBMIT FOR PROOF APPROVAL
27	EXTERIOR ILLUMINATION WITH ASSEMBLY PER LIGHTING PATTERNS, CASE ALUMINUM FINISHING AND FLAT GLASS LENS 2" DIA. DIA. 2" DIA. OF POLE, NON-TAPERED ALUMINUM POLE	SEE POLE DETAIL ON THIS SHEET	2 270 WATT METAL HALOGEN	AAA 270-WATT-1/2" DIA. 220V-60Hz-1/4" DIA. 1/2" DIA. W/ 2" OF ANODIZED NON-TAPERED ALUMINUM POLE AND FIT + FASTENERS	SUBMIT FOR PROOF APPROVAL

Aa

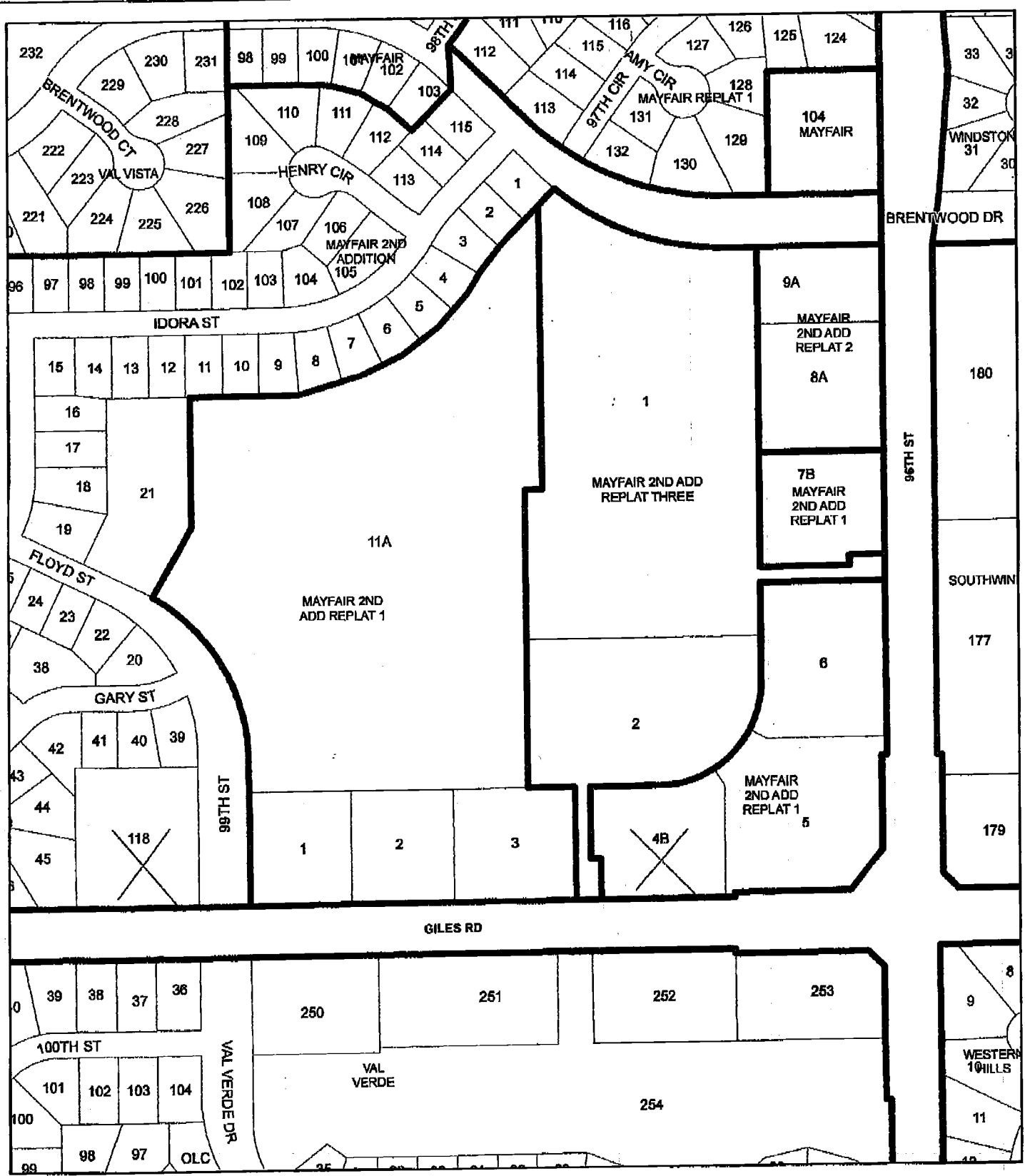


EXHIBIT
"B"

Mayfair 2nd Addition Replats 1, 2, & 3

Sarpy County GIS
1210 Golden Gate Drive Suite 1130
Papillion, Nebraska 68048
www.sarpy.com/gisviewer
Source: Sarpy County GIS
Created in ArcGIS 9.1 using ArcEditor
Prepared by NG - 01/10/2007



RLT

2007-02307 Ab

BURNS LAW FIRM

222 SOUTH 72ND STREET
SUITE 302
OMAHA, NEBRASKA 68114

(402) 397-0800
FAX (402) 397-0807

E-MAIL: burnslaw@burnslawfirm.net

JOHN M. BURNS*
JOSEPH A. VILLARREAL**
CELIA J. LAZAR, PARALEGAL

*ALSO ADMITTED IN IOWA
**ALSO ADMITTED IN OREGON

January 25, 2007

Lloyd J. Dowding
Sarpy County Register of Deeds
1210 Golden Gate Drive - Suite 1109
Papillion NE 68046-2897

Dear Mr. Dowding:

With this letter are five copies of an amended subdivision agreement that needs to be recorded. The subdivision is in the City of LaVista and has been signed by all the appropriate parties including Mayor Kindig. On the last page of the packet is a document labeled Exhibit B. It is titled Mayfair Second Addition Replat One, Two and Three. The amended subdivision agreement affects the following lots:

- Mayfair Lot 104
- Mayfair Second Addition Lot 118
- Mayfair Second Addition Replat One Lots 11A, 1, 2, 3, 4B, 5, 6, 7B
- Mayfair Second Addition Replat Two Lots 8A, 9A
- Mayfair Second Addition Replat Three Lots 1, 2

The above listed lots are the only lots within the Mayfair Second Addition, and any of its replats, that are affected by the 5th Amendment to the Subdivision Agreement dated January 16, 2007.

After recording, please contact me at the above-listed address or phone number so I may arrange to get the recorded documents back to the city.

Sincerely,


Joseph A. Villarreal

JAV:cjl
Enclosures