

FILED SARPY CO. NE.  
INSTRUMENT NUMBER  
2001-36800

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*Glenn J. Dowling*  
REGISTER OF DEEDS

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Fee \$ 42.00

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STAMP COPY

Prepared and Submitted by:  
Christopher D. Curzon, #19513  
Dwyer, Smith, Gardner, Lazer,  
Pohren, Rogers & Forrest  
8712 West Dodge Road, Suite 400  
Omaha, NE 68114  
TEL: 402.392.0101

**DECLARATION TO MAKE CONVEYANCE**

THIS DECLARATION to Make Conveyance, hereinafter "Declaration," made by JPS Enterprises, L.L.C., a Nebraska limited liability company, hereinafter "Declarant," wherein Declarant states and declares as follows:

1. Declarant is the developer (including as successor in interest to Avian Development Company, L.L.C.) of the subdivision known as Avian Forest, a Subdivision, as surveyed, platted and recorded in Sarpy County, Nebraska, which has been replatted as Avian Forest Replat I, an addition to the City of Bellevue, as surveyed, platted and recorded in Sarpy County, Nebraska, in which there are fifty-three (53) lots platted for development as single family residential lots or townhome lots (Said subdivision is herein referred to as "Subdivision").

2. Declarant is the owner of Outlot A in the Subdivision, which Outlot is legally known as follows:

Outlot "A" in Avian Forest, Replat I, and addition to the City of Bellevue, as surveyed, platted and recorded, in Sarpy County, Nebraska

3. Declarant hereby covenants, declares and agrees that it will convey Outlot A to Avian Forest Homeowner's Association, a Nebraska not-for-profit corporation, hereinafter "Homeowner's Association," as created in accordance with that Declaration of Covenants, Restrictions and Easements of Avian Forest, a subdivision in Sarpy County, Nebraska, recorded as Instrument No. 97-019133 in the real estate records of the Register of Deeds of Sarpy County, Nebraska, and Avian Forest Townhome Association, a Nebraska not-for-profit corporation, hereinafter "Townhome Association," as created in accordance with the Amendments to Declaration of Covenants, Conditions and

*2001*  
mail to:  
Joanne Sharples  
9518 Blondo St  
Omaha NE 68134

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Restrictions and Easements of Avian Forest, a subdivision in Sarpy County, Nebraska, as recorded in Instrument No. 36759 in the real estate records of Sarpy County, Nebraska, as tenants in common.

4. The conveyance of Outlot A shall be made upon the earlier of the following:

- a) The time when Declarant (including any predecessor as developer of the Subdivision) has conveyed to purchasers for construction of residences (single family or townhome) title to forty-seven (47) of the platted lots in the Subdivision; or
- b) The twentieth (20<sup>th</sup>) anniversary of the date of this Declaration.

5. Declarant intends Outlot A to remain as an undeveloped forested lot within the Subdivision for the benefit, enjoyment and use of Lots one (1) through fifty-three (53); and upon conveyance to the Homeowner's Association and Townhome Association, as described in paragraph 4, above, said associations shall maintain Outlot A for the benefit, enjoyment and use of the residents within the Subdivision. Said associations shall bear all costs for maintenance, preservation and real estate taxes.

6. Outlot A shall not be subdivided, developed or altered from its natural state and condition except for such purposes as may be necessary to maintain the natural character of Outlot A. Further, no easements, right-of-way or such other conveyances shall be granted to any resident within the Subdivision. Only those easements and covenants that are necessary for the benefit of the entire subdivision or mandated by governmental dictate shall be permitted, and in those cases, best effort shall be exercised to maintain the natural integrity of Outlot A.

7. This Declaration shall be recorded on Outlot A and shall constitute a covenant running with the land for the benefit of Lots one (1) through fifty-three (53).

Dated this 7<sup>th</sup> day of November, 2001.

JPS ENTERPRISES, L.L.C.,  
Declarant

By: [Signature]  
TITLE: Member

2001-36800B

STATE OF NEBRASKA )  
 )ss  
COUNTY OF DOUGLAS )

The foregoing instrument was acknowledged before me this 7<sup>th</sup> day of November, 2001, by Joanna Sharples, managing member of JPS Enterprises, L.L.C.



*Michealine A Ruff*  
Notary Public