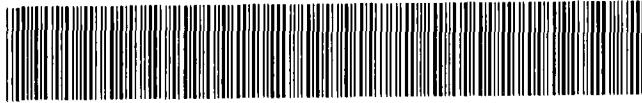




MISC 2013093053



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 see attached  
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 DEL \_\_\_\_\_ SCAN \_\_\_\_\_ FV \_\_\_\_\_

Received - DIANE L. BATTIATO  
 Register of Deeds, Douglas County, NE  
 9/11/2013 14:09:45.15



2013093053

Space above reserved for recording information

After Recording Return to:  
 Larry A. Jobeun  
 Fullenkamp, Doyle & Jobeun  
 11440 West Center Road  
 Omaha, NE 68144

**FIFTH AMENDMENT TO DECLARATION OF EASEMENTS,  
 COVENANTS, CONDITIONS AND RESTRICTIONS FOR A PART OF LEGACY,  
 A SUBDIVISION IN DOUGLAS COUNTY, NEBRASKA**

This Fifth Amendment to Declaration of Easements, Covenants, Conditions and Restrictions for a Part of Legacy, a Subdivision in Douglas County, Nebraska (this “**Fifth Amendment**”) is made effective as of September 11, 2013, and is made to the Declaration of Easements, Covenants, Conditions and Restrictions for a Part of Legacy, a Subdivision in Douglas County, Nebraska dated April 20, 2005 and recorded with the Douglas County Register of Deeds on April 26, 2005 as Instrument No. 2005047001, as amended by the First Amendment Declaration of Easements, Covenants, Conditions and Restrictions for a Part of Legacy, a Subdivision in Douglas County, Nebraska, recorded September 9, 2005, as Instrument No. 2005112708, Miscellaneous Records, as amended by Second Amendment Declaration of Easements, Covenants, Conditions and Restrictions for a Part of Legacy, a Subdivision in Douglas County, Nebraska, recorded December 28, 2006, as Instrument No. 2006147307, Miscellaneous Records, as amended by the Third Amendment to Declaration of Easements, Covenants, Conditions and Restrictions for a Part of Legacy, a Subdivision in Douglas County, Nebraska, recorded February 24, 2012, as Instrument No. 2012017925, Miscellaneous Records, as amended by the Fourth Amendment to Declaration of Easements, Covenants, Conditions and Restrictions for a Part of Legacy, a Subdivision in Douglas County, Nebraska, recorded February 11, 2013, as Instrument No. 2013014116, Miscellaneous Records (collectively, the “**Declaration**”), by and among Continental 159 Fund LLC, a Wisconsin limited liability company, 17070 Wright Plaza, LLC, a Nebraska limited liability company, The Shops of Legacy, L.L.C., a Nebraska limited liability company, Sammy’s, L.L.C., a Nebraska limited liability company (“**Sammy’s**”), SNH LTF Properties, LLC, a Maryland limited liability company, and Heritage at Legacy, LLC, a Nebraska limited liability company (collectively the “**Parties**”, or in the singular, a “**Party**”).

✓ 44764

⓪

RECITALS:

The Declaration was made by Declarant in connection with the development of the real property legally described as follows:

66-22291 M1-22268 M1-22275  
Lot 4, Legacy, Lots 1 and 2 Legacy Replat 5, Lots 1 through 3, inclusive, Legacy Replat 16, and Lot 1, Legacy Replat 17, each a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska (collectively, the "Parcels" and individually a "Parcel"). 66-222-92

The Parties have considered amending various provisions of the Declaration. Section 9.4 of the Declaration allows the Parties to amend the Declaration by written consent of no less than eighty percent (80%) of the member votes of Parcel Owners. The Parties, constituting more than eighty percent (80%) of the member votes of the Parcel Owners have investigated the impact which the proposed Fifth Amendment would have on the Parcels and have determined that the Fifth Amendment would further the character and integrity of Legacy, and would further the benefits and protection afforded to the Parcels by the Declaration.

NOW, THEREFORE, for good, lawful and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and in consideration of the mutual covenants and agreements set forth herein, pursuant to the authority granted in Section 9.4 of the Declaration, the Parties hereby agree as follows:

AGREEMENT:

1. Internal Drive. The Declaration is hereby amended by deleting, in its entirety, Exhibit B to the Third Amendment, and replacing the same with Exhibit A attached to this Fifth Amendment.

2. Land Use and Building Type. A sentence is added to the end of Section 3.1 of the Declaration reading as follows:

"Notwithstanding anything to the contrary herein, Lot 3 Legacy Replat 16 may be used for multi-family residential and all incidental uses thereto."

3. Definitions. Terms used in this Fifth Amendment shall have the meanings set forth in the Declaration except as otherwise defined herein.

4. No Other Amendments. Except as set forth herein, the Declaration shall remain in full force and effect.

5. Counterparts. This Fifth Amendment may be executed in any number of counterparts, all of which shall constitute a single agreement. Signature pages may be

detached from the counterparts and attached to a single copy of this Fifth Amendment to form one legally effective document.

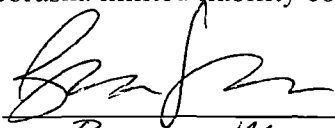
6. Joinder by Mortgagees. Each of the parties hereto represent and warrant to the other parties hereto that there are no holders of mortgages or other liens on its respective parcel other than by those holders of mortgages and other liens joining in this Fifth Amendment.

WHEREFORE, the Parties, representing not less than eighty percent (80%) of the Owners, have executed this Fifth Amendment as of the date stated above.

**[SIGNATURES ON FOLLOWING PAGES]**



17070 Wright Plaza, LLC,  
a Nebraska limited liability company,

By:   
Name: BRIAN MAGEE

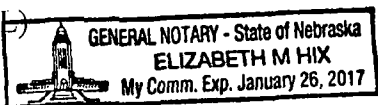
Its: MANAGING MEMBER  
17070 PARTNERS, LLC  
MANAGING MEMBER

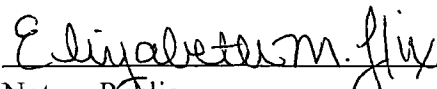
STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF Douglas )

17070 Partners, LLC, the  
Managing Member of (EMM)

The foregoing instrument was acknowledged before me on this 11 day of September, 2013, by Brian Magee, the managing member of 17070 Wright Plaza, LLC, a Nebraska limited liability company by and on behalf of the limited liability company.

(SEAL)



  
Notary Public  
Printed Name: Elizabeth M. Hix

My commission expires: January 26, 2017

The Shops of Legacy, L.L.C.,  
a Nebraska limited liability company,

By: Terrance A. Hogan  
Name: Terrance A. Hogan  
Its: Member

STATE OF NEBRASKA    )  
  ) ss.  
COUNTY OF Douglas )

The foregoing instrument was acknowledged before me on this 20 day of March, 2013,  
by Terrance A. Hogan, the Managing Member of The Shops of Legacy, L.L.C., a Nebraska  
limited liability company, by and on behalf of the limited liability company.

(SEAL)

Nancy S. Wynkoop  
Notary Public  
Printed Name: Nancy S. Wynkoop

My commission expires  GENERAL NOTARY - State of Nebraska  
NANCY S. WYNKOOP  
My Comm. Exp. Sept. 26, 2015

Sammy's, L.L.C.,  
a Nebraska limited liability company,

By: Terrance A Hogan  
Name: Terrance A Hogan  
Its: Member

STATE OF NEBRASKA    )  
  ) ss.  
COUNTY OF Douglas    )

The foregoing instrument was acknowledged before me on this 10 day of Sept., 2013,  
by Terrance A. Hogan, the Managing Member of Sammy's, L.L.C., a Nebraska limited liability  
company, by and on behalf of the limited liability company.

(SEAL)

Nancy S. Wynkoop  
Notary Public  
Printed Name: Nancy S. Wynkoop



My commission expires: 9-26-15

SNH LTF Properties, LLC,  
a Maryland limited liability company,

By: David J. Hegarty  
Name: DAVID J. HEGARTY  
Its: PRESIDENT

STATE OF Massachusetts )  
COUNTY OF Middlesex ) ss.

The foregoing instrument was acknowledged before me on this 1<sup>st</sup> day of August, 2013,  
by David J. Hegarty, the President of SNH LTF Properties, LLC, a Maryland  
limited liability company, by and on behalf of the limited liability company.

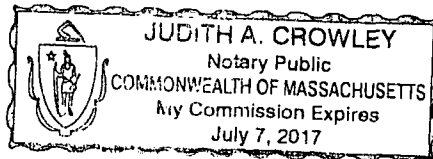
(SEAL)

Imprinted Seal

Judith A. Crowley  
Notary Public

Printed Name: \_\_\_\_\_

My commission expires: \_\_\_\_\_





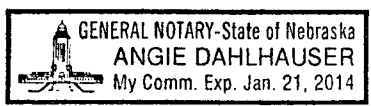
Heritage at Legacy, LLC,  
a Nebraska limited liability company

By: [Signature]  
Name: Farhan Khan  
Its: mr. member

STATE OF ~~IOWA~~ Nebraska )  
COUNTY OF Douglas ) ss.

The foregoing instrument was acknowledged before me on this 18 day of March 2013,  
by Farhan Khan, the CEO of Heritage at Legacy, LLC, a Nebraska  
limited liability company, by and on behalf of the limited liability company.

(SEAL)



[Signature]  
Notary Public  
Printed Name: Angie Dahlhauser

My commission expires: Jan. 21, 2014

CONSENT

LTF Real Estate Company, Inc., a Minnesota corporation, hereby consents to and joins in the foregoing instrument.

LTF REAL ESTATE COMPANY, INC.

By: [Signature]  
Name: Tami Kozikowski  
Its: EVP - Real Estate and Development

STATE OF MINNESOTA )

Hennepin ) SS  
COUNTY OF ~~CARVER~~ )

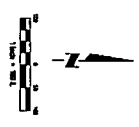
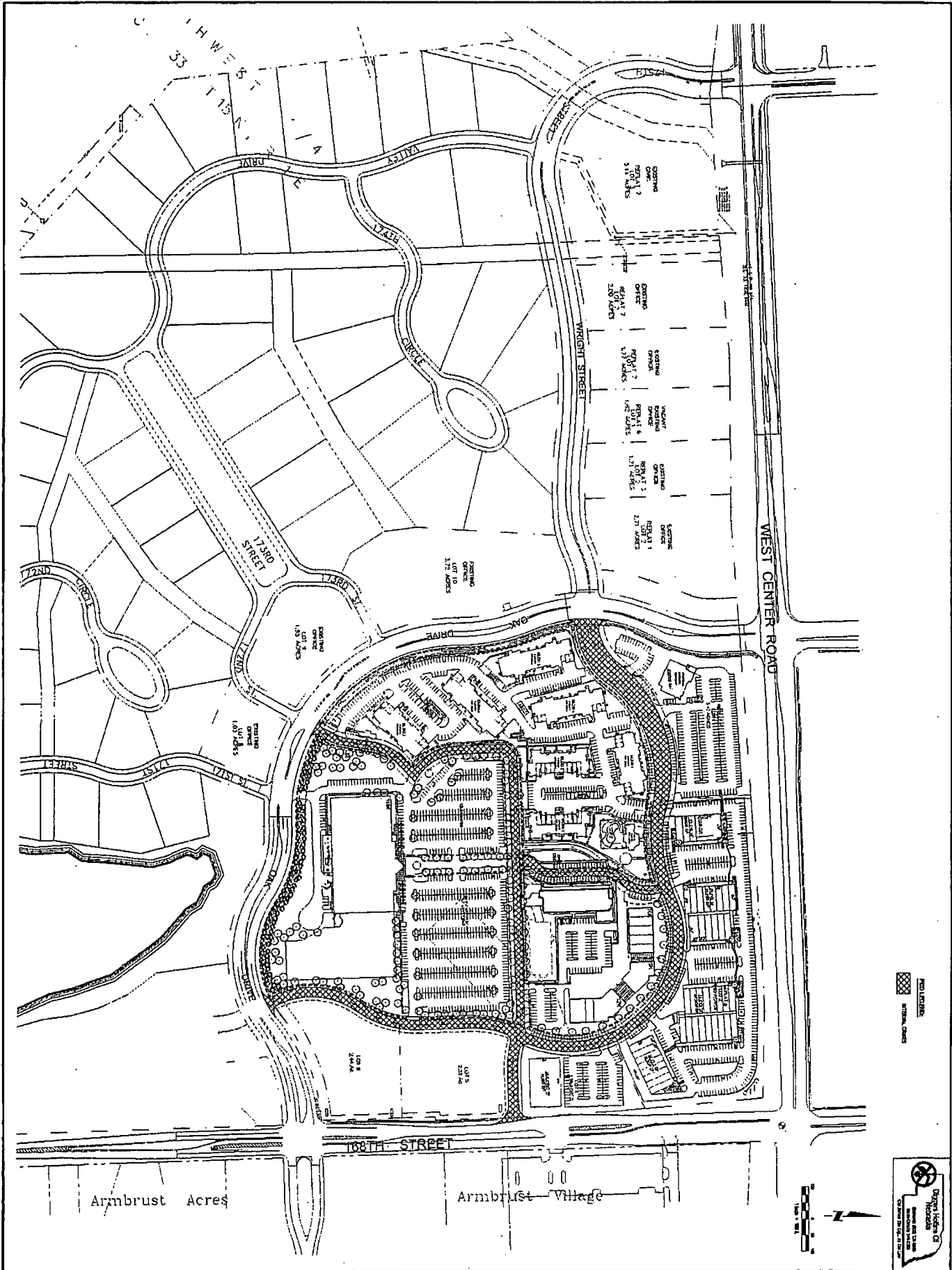
Personally came to me this 16<sup>th</sup> day of August, 2013, the above named Tami A Kozikowski, the EVP - Real Estate and Development of LTF Real Estate Company, Inc., a Minnesota corporation, to me known to be such Executive Vice President and acknowledge that he/she executed the foregoing instrument as the deed of said corporation, by its authority.

[Signature]  
Notary Republic



Exhibit "A"

Attached.



<b>EX-B</b>	Project No.	220101001
	Date	12/21/11
	Prepared By	J.P.
	Drawn By	J.P.
	Checked By	J.P.

EXHIBIT "B"  
INTERNAL DRIVES

LEGACY  
MIXED USE DEVELOPMENT PLAN



**E & A CONSULTING GROUP, INC.**  
Engineering • Planning • Environmental & Field Services

220101001  
Phone 813.415.4400 Fax 813.415.4401  
www.eandagroup.com

CONSENT BY LENDER

Great Southern Bank, a Missouri chartered trust company is the Beneficiary of the Construction Deed of Trust and Fixture Filing dated as of February 24, 2012 and recorded February 24, 2012, as Instrument No. 2012017933 of the Records of Douglas County, Nebraska, which Construction Deed of Trust and Fixture Filing affects certain real estate that is subject to the Declaration. The Beneficiary hereby consents to this Amendment and agrees that the Construction Deed of Trust and Fixture Filing will be subordinate and subject to this Amendment.

Dated this 19 day of August 2013.

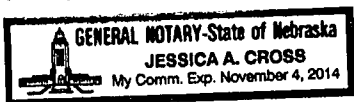
GREAT SOUTHERN BANK

By: [Signature]  
Name: Steve Sorensen  
Its: Vice President

STATE OF Nebraska )  
 ) ss.  
COUNTY OF Douglas )

The foregoing instrument was acknowledged, subscribed and sworn to before me by Steve Sorensen, Vice President of Great Southern Bank, a Missouri chartered trust company, on behalf of said company, this 19 day of August, 2013.

[Seal]



[Signature]  
Notary Public