



MISC 2005059524



MAY 24 2005 14:58 P 5

Received - DIANE L. BATTIATO  
Register of Deeds, Douglas County, NE

5/24/2005 14:58:15.83



2005059524

(The Space above the Line is for Recording Information)

### CONSENT TO ENCROACHMENT

**THIS AGREEMENT** is made effective this 20<sup>th</sup> day of May, 2005, by and between Sanitary and Improvement District No. 384 of Douglas County, Nebraska ("SID No. 384"), Saint Andrews United Methodist Church, a Nebraska non-profit corporation (the "Church"), and GDR, LLC, a Nebraska limited liability company ("GDR").

### RECITALS:

A. WHEREAS, SID No. 384 is the Grantee of a certain Permanent Sewer and Drainage Easement located on Lot 175, as noted on the original Final Plat of Torrey Pines, that was recorded in the office of the Douglas County Register of Deeds on October 20, 1995, in Deed Book 2016 at Page 601;

B. WHEREAS, Lot 175, Torrey Pines, was further subdivided into Lots 1 and 2, Torrey Pines Replat 4, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska, by administrative subdivision that was recorded in the office of the Douglas County Register of Deeds on October 15, 1997, in Miscellaneous Book 1225 at Page 516;

C. WHEREAS, Lot 174, Torrey Pines Addition, together with Lot 1, Torrey Pines Replat 4 Addition, were combined into Lot 1, Torrey Pines Replat No. 6, by administrative subdivision that was recorded in the office of the Douglas County Register of Deeds on May 15, 2003, in Miscellaneous Book 1517, at Page 609;

D. WHEREAS, Lot 1, Torrey Pines Replat No. 6, was further subdivided into Lots 1 thru 3, inclusive, Torrey Square, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska;

E. WHEREAS, the Church is the lawful owner of Lot 1, Torrey Square, a subdivision as surveyed, platted and recorded Douglas County, Nebraska; and

F. WHEREAS, GDR is the owner of Lots 2 and 3, Torrey Square, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska.

G. WHEREAS, GDR is desirous of developing Lots 2 and 3, Torrey Square, and as part of the proposed development of Lots 2 and 3, Torrey Square, the City of Omaha, Nebraska, is requiring GDR to mitigate the tree canopy loss in substantial accordance with the tree mitigation plan attached hereto as Exhibit A (the "Tree Mitigation Plan");

H. WHEREAS, SID No. 384 by virtue of its easement rights over Lot 1, Torrey Square, and the Church, by virtue of its ownership of Lot 1, Torrey Square, have agreed to accommodate GDR by allowing the encroachment of the Tree Mitigation Plan as set forth in Exhibit A attached hereto.

NOW, THEREFORE, for and in consideration of this Agreement, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, GDR agrees, at its sole cost and expense, to cause the installation of the Tree Mitigation Plan over Lot 1, Torrey Square, and SID No. 384 and the Church hereby consent to the encroachment of the Tree Mitigation Plan on Lot 1, Torrey Square, as set forth on Exhibit A attached hereto.

This instrument may be executed in two or more counterparts, each of which shall be deemed an original and all of which, when taken together shall constitute one instrument.

✓ 33254

9 misc  
FEE 2650 FB MC-38776  
BKP \_\_\_\_\_ C/O \_\_\_\_\_ COMP B  
DEL \_\_\_\_\_ SCAN \_\_\_\_\_ FV \_\_\_\_\_

This instrument shall operate as a covenant running with both parcels of the above-described land, and shall be binding upon the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, the parties have caused these presents to become effective on the day and year first above written.

Attest:

SANITARY AND IMPROVEMENT DISTRICT  
NO. 384 OF DOUGLAS COUNTY,  
NEBRASKA,

By: Donna M. Nissen  
Clerk of the District

By: Robert P. Horgan  
Chairman of the District

STATE OF NEBRASKA )  
                                  ) ss.  
COUNTY OF DOUGLAS )

The foregoing instrument was acknowledged, subscribed and sworn to before me by **Robert P. Horgan**, Chairman of Sanitary and Improvement District No. 384 of Douglas County, Nebraska, on behalf of said district this 17 day of May, 2005.

Alice J. Long  
Notary Public



GDR, LLC, a Nebraska limited liability company,

By: Eugene Graves  
Title: \_\_\_\_\_

STATE OF NEBRASKA )  
COUNTY OF DOUGLAS ) ss.

The foregoing instrument was acknowledged, subscribed and sworn to before me by Eugene Graves, managing member of GDR, LLC, a Nebraska limited liability company, on behalf of said limited liability company this 20<sup>th</sup> day of May, 2005

Jana L. McDonald  
Notary Public

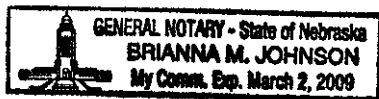


SAINT ANDREWS UNITED METHODIST  
CHURCH, a Nebraska non-profit corporation,

By: Roger A. Flurry  
Title: President

STATE OF NEBRASKA )  
                                  ) ss.  
COUNTY OF DOUGLAS)

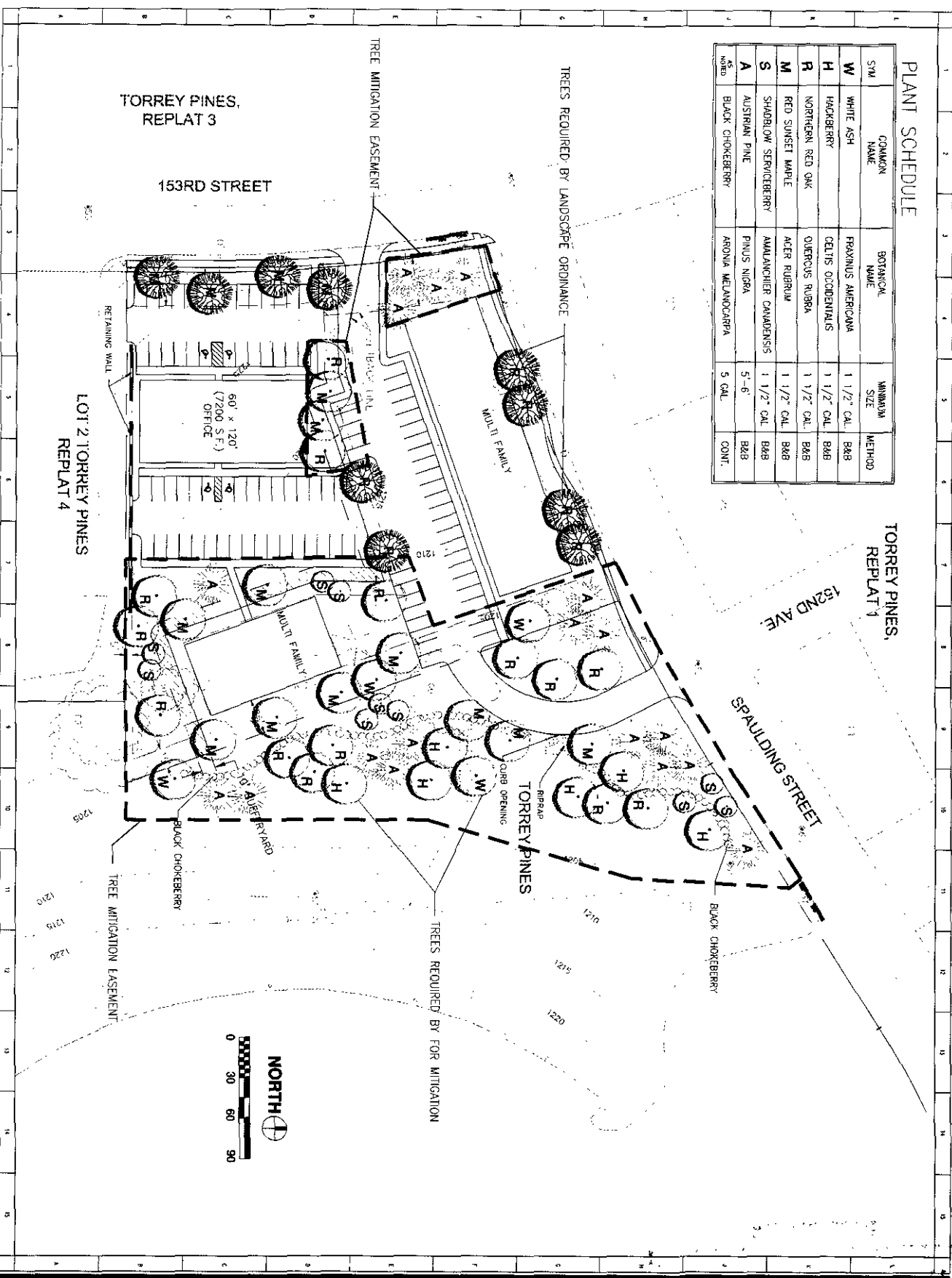
The foregoing instrument was acknowledged, subscribed and sworn to before me by  
Roger A. Flurry, President of Saint Andrews United Methodist Church, a  
Nebraska non-profit organization, on behalf of said corporation this 13 day of May, 2005



Brian M. Johnson  
Notary Public

PLANT SCHEDULE

SYM	COMMON NAME	BOTANICAL NAME	MINIMUM SIZE	METHOD
W	WHITE ASH	FRAXINUS AMERICANA	1 1/2" CAL.	B&B
H	HACKBERRY	CELTIS OCCIDENTALIS	1 1/2" CAL.	B&B
R	NORTHERN RED OAK	QUERCUS RUBRA	1 1/2" CAL.	B&B
M	RED SUNSET MAPLE	ACER RUBRUM	1 1/2" CAL.	B&B
S	SHADBLOW SERVICEBERRY	AMALANCHIER CANADENSIS	1 1/2" CAL.	B&B
A	AUSTRIAN PINE	PINUS NIGRA	5'-6"	B&B
A	BLACK CHOKEBERRY	ARONIA MELANOCARPA	5 GAL.	CONT.



PROJECT No.: TORRET SQUARE LANDSCAPE AND TREE MITIGATION PLAN



DESIGNED: DATE: 2/1/78  
 DRAWN: REVISIONS:  
 CHECKED: BY: DATE: BY: REVISIONS: