



BK 0803 PG 325



MISC 1987 01860

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION, made on the date hereinafter set forth by FUCINARO EXCAVATING CO., INC., a Nebraska corporation, hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the sole owner of certain real estate described as follows, to-wit:

See the attached Exhibit "D" which is incorporated herein by this reference as if fully set out.

and

WHEREAS, Declarant, for valuable consideration, receipt of which is hereby acknowledged, is desirous of subjecting the above described real estate to the conditions, covenants, restrictions and reservations hereinafter set forth to insure proper use and appropriate development of said real estate.

NOW, THEREFORE, Declarant hereby declares that the subject real estate described in Exhibit "D" above shall be held, sold and conveyed subject to the following restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with the real estate and be binding on all parties having any right, title or interest in the subject real estate or any part thereof, their heirs, successors and assigns.

Handwritten notes:
D
1222

803 6-14-13 KP
325-332 6-14-13 MA 1N
OP [Signature] COMP [Signature] F/B 01-60000

GEORGE J. BUSLEWICZ
REGISTER OF DEEDS
DORRIS COUNTY, NEBR.

1907 FEB - 3 AM 11:33

RECEIVED

PERMITTED USES

Declarant shall be permitted to continue the present use of said real estate as allowed by special permit from the City of Omaha as a limited refuge filling operation. Upon the sale or transfer of said real estate to a third party said use shall no longer be permitted.

Subject to the foregoing, Declarant and any third party who may acquire any interest in the subject real estate by purchase or otherwise shall be limited as to the use of said real estate to those uses permitted under Section 55-552 relating to I-1 zoning under the Omaha Municipal Code, except that no special permits shall be applied for or allowed for certain uses as provided under said section, and further, that there shall, in no event, be erected upon any part of the subject property any building in which shall be carried on any business offensive, noxious or detrimental to the use of the adjoining land described as Tracts A, B and C on Exhibit "E" attached hereto and incorporated herein by this reference, nor shall the subject real estate described in Exhibit "D" be used for any purpose that as a matter of common experience, tend to create a nuisance. Additionally, no building erected on the subject real estate shall exceed thirty feet in height.

COVENANTS

Declarant further covenants that in placing fill on the subject property that the surface elevation will be an extension of the same drainage and grade as that of Tracts A, B and C described in Exhibit "E" attached hereto excepting only that area within the drainage storm sewer easement along the south and west side of Exhibit D, and that said fill on the subject real estate will be uniformly filled to not more than five feet above the grade of Tracts A, B and C, and, in no event, shall interfere with the drainage flow or cause runoff on said tracts.

Additionally, the final eighteen inches of fill placed on the subject property shall be dirt, free of debris and rubble and declarant agrees to plant grass or appropriate vegetation on the subject property at the time said final eighteen inches of fill is completed. Declarant agrees not to use the subject property as a dirt borrow or dirt storage upon completion of the fill to final elevation as specified above.

OPERATION, TERMINATION, MODIFICATION

This Declaration shall become effective and be filed of record upon the exercise of the Option to Purchase Tracts A, B and C by Thomas C. Lauritsen, Trustee, or his assignee.

This Declaration or any provision hereof, or any restriction, covenant, conditions or reservations contained herein, may only be terminated, extended, modified or amended, as to the whole of said subject real estate or any portion thereof with the written consent of the owner(s) of Tracts A, B and C.

Declarant and the owner(s) of Tracts A, B and C shall have the right to enforce the provisions of this Declaration in law or equity.

IN WITNESS WHEREOF, Fucinaro Excavating Co., Inc. has executed this instrument this 28 day of February, 1986.

FUCINARO EXCAVATING CO., INC.

BY Anthony J. Fucinaro
Anthony J. Fucinaro, President

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me on this 28 day of February, 1986 by Anthony Fucinaro, President of Fucinaro Excavating Co., Inc., a Nebraska corporation, on behalf of the corporation.

Sam R. Brower
Notary Public

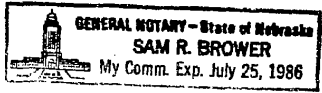


EXHIBIT "D"

A tract of land located in the West 1/2 of the NE 1/4 of Section 6, Township 14 North, Range 13 East of the 6th P.M., Douglas County, Nebraska, more particularly described as follows:

Commencing at the point of intersection of the Northerly right-of-way line of the Chicago and Northwestern Railroad and the West line of said NE 1/4 of Section 6; thence N00°02'23"E (assumed bearing), along said West line of the NE 1/4 of Section 6, a distance of 721.45 feet; thence N86°46'30"E, a distance of 350.00 feet; thence S00°09'48"W, a distance of 356.54 feet; thence N85°16'22"E, a distance of 941.65 feet to a point on the Westerly right-of-way line of 50th Street; thence S00°00'12"W, along said Westerly right-of-way line of 50th Street, a distance of 40.14 feet; thence S85°16'22"W, a distance of 941.76 feet; thence S00°09'48"W, a distance of 306.54 feet to a point on said Northerly right-of-way line of the Chicago and Northwestern Railroad; thence S83°46'47"W, along said Northerly right-of-way line of the Chicago and Northwestern Railroad, a distance of 350.00 feet to the Point of Beginning.

Excepting

A tract of land located in the West ½ of the NE ¼ of Section 6, Township 14 North, Range 13 East of the 6th P.M., in the City of Omaha, Douglas County, Nebraska, more particularly described as follows:

Commencing at the point of intersection of the Northerly Right-of-way line of the Chicago and Northwestern Railroad and the West line of said NE ¼ of Section 6, thence N 00° 02'23"E (Assumed Bearing), along said West line of the NE ¼ of Section 6, a distance of 721.45 feet; thence N 86°46'30"E, a distance of 350.00 feet; thence S 00°09'48"W, a distance of 356.54 feet, to the point of beginning; thence N 85°16'22"E, a distance of 941.65 feet to a point on the Westerly right-of-way line of 50th Street; thence S 00°00'12"W, along said Westerly right-of-way line of 50th Street, a distance of 40.14 feet; thence S 85°16'22"W, a distance of 941.76 feet; thence North 40.00 feet to the point of beginning.

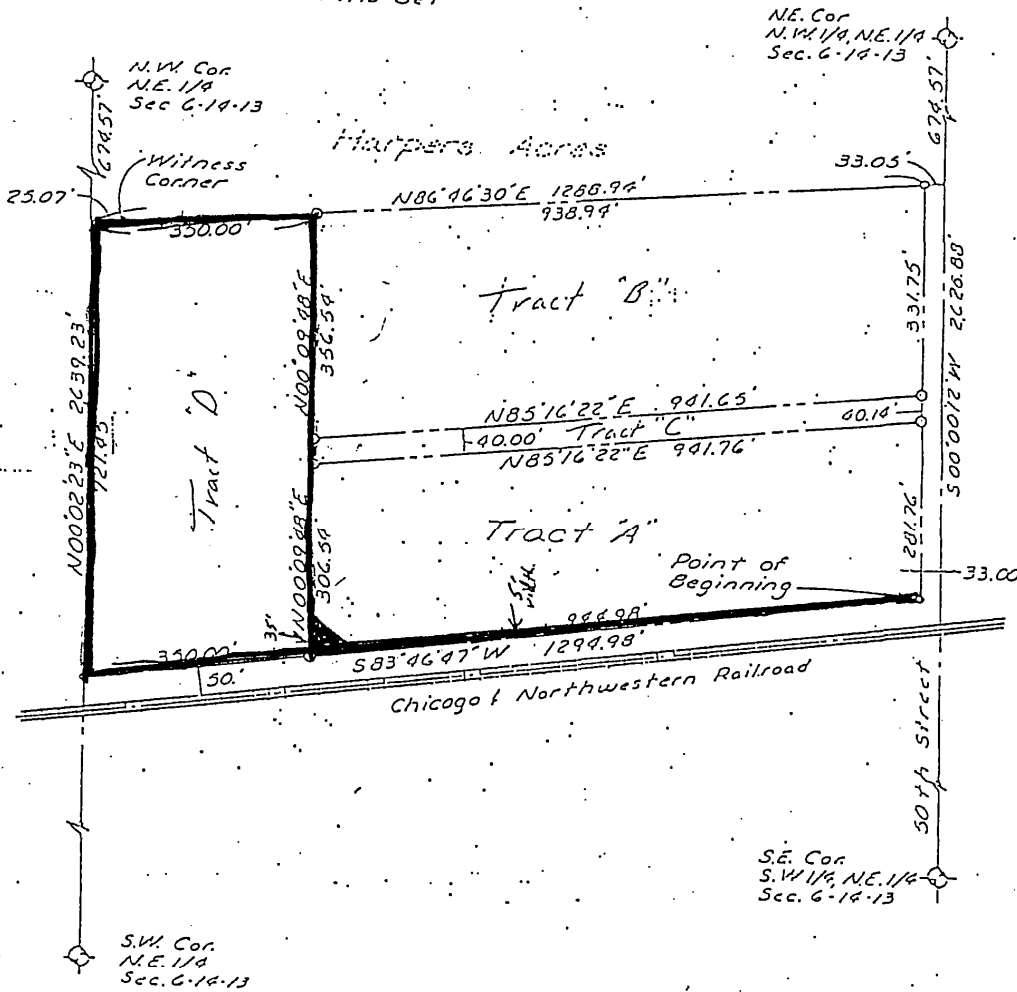
* Said tract of land being outlined in red on page 2 hereof and identified as Tract "D".

I hereby certify that this plat, map, survey or report was made by me or under my direct personal supervision and that I am a duly Registered Land Surveyor under the laws of the State of Nebraska.

Legal Description Attached

Legend

- - Pins Found
- - Pins Set



[Handwritten Signature]
 Signature of Land Surveyor

DATE RECEIVED: _____
 OFFICIAL ADDRESS: _____
 BLOC. PERMIT NO. _____

Date: 3-24-00
 Rec. No. 205
 0612 79793 Bk. 745

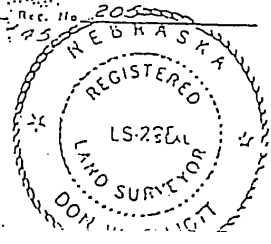


Exhibit "E"

Parcel A

A tract of land located in the West 1/2 of the NE-1/4 of Section 6, Township 14 North, Range 13 East of the 6th P.M., in the City of Omaha, Douglas County, Nebraska, more particularly described as follows:

Commencing at the point of intersection of the Northerly right-of-way line of the Chicago and Northwestern Railroad and the Westerly right-of-way line of 50th Street said point being 33.00 feet Westerly of the East line of said West 1/2 and 50.00 feet Northerly of the centerline of said railroad right-of-way; thence N00°00'12"E (assumed bearing) along said 50th Street right-of-way, a distance of 5.03 feet to the point of beginning; thence S83°46'47"W along a line 5.00 feet North of and parallel to said Northerly right-of-way line of Chicago and Northwestern Railroad, a distance of 909.97 feet; thence N48°01'42"W, a distance of 46.66 feet; thence N00°09'48"E, a distance of 266.51 feet; thence N85°16'22"E, a distance of 941.76 feet to a point on the Westerly right-of-way line of 50th Street; thence S00°00'12"W, along said Westerly right-of-way line of 50th Street, a distance of 276.73 feet to the point of beginning.

The above described tract contains 270,828 square feet.

Parcel B

A tract of land located in the West 1/2 of the NE 1/4 of Section 6, Township 14 North, Range 13 East of the 6th P.M., Douglas County, Nebraska, more particularly described as follows:

Commencing at the Northeast corner of the NW 1/4 of the NE 1/4 of said Section 6; thence S00°00'12"W (assumed bearing), along the East line of said West 1/2 of Section 6, a distance of 674.57 feet; thence S86°46'30"W, a distance of 33.05 feet to a point on the Westerly right-of-way line of 50th Street, said point also being the Point of Beginning; thence S00°00'12"W, along said Westerly right-of-way line of 50th Street, a distance of 331.75 feet; thence S85°16'22"W, a distance of 941.65 feet; thence N00°09'48"E, a distance of 356.54 feet; thence N86°46'30"E, a distance of 938.94 feet to the Point of Beginning.

Said tract of land contains an area of 7.409 acres, more or less.

Parcel C:

A tract of land located in the West 1/2 of the NE 1/4 of Section 6, Township 14 North, Range 13 East of the 6th P.M., in the City of Omaha, Douglas County, Nebraska, more particularly described as follows:

Commencing at the point of intersection of the Northerly Right-of-way line of the Chicago and Northwestern Railroad and the West line of said NE 1/4 of Section 6, thence N 00° 02'23"E (Assumed Bearing), along said West line of the NE 1/4 of Section 6, a distance of 721.45 feet; thence N 86°46'30"E, a distance of 350.00 feet; thence S 00°09'48"W, a distance of 356.54 feet, to the point of beginning; thence N 85°16'22"E, a distance of 941.65 feet to a point on the Westerly right-of-way line of 50th Street; thence S 00°00'12"W, along said Westerly right-of-way line of 50th Street, a distance of 40.14 feet; thence S 85°16'22"W, a distance of 941.76 feet; thence North 40.00 feet to the point of beginning.