

INDEX LEGEND	
CITY: COUNCIL BLUFFS	
COUNTY: POTTAWATTAMIE	
SUBDIVISION: GETHSEMANE GARDENS, REPLAT 2	
LOTS: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 AND OUTLOT "A"	
PROPRIETOR: GETHSEMANE GARDENS, LLC	
REQUESTED BY: GETHSEMANE GARDENS, LLC	
PREPARED BY: ROGERS SURVEYING	
LAND SURVEYING COMPANY: ROGERS SURVEYING	

R FEE \$ 125.00 RMA \$ 1.00
 A FEE \$ _____ ECOM \$ 1.00
 T TAX \$ _____

2017-16804
 RECORDER MARK BRANDENBURG
 POTTAWATTAMIE COUNTY, IA
 FILE TIME: 12/18/2017 02:16:46 PM
 RECORDING FEE 125.00
 RMA FEE 1.00
 ECM FEE 1.00


FINAL PLAT OF GETHSEMANE GARDENS, REPLAT 2

BEING A RE-PLATTING OF LOTS 10, 11, 12, 13, 14, AND 15 OF GETHSEMANE GARDENS, COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.

OWNER: GETHSEMANE GARDENS, LLC
 2006 SOUTH 11 STREET, COUNCIL BLUFFS, IOWA 51501

LEGEND:

- - SET 5/8" REBAR WITH ALUMINUM CAP MARKED #7717, UNLESS OTHERWISE DESCRIBED ON DRAWING
- - FOUND 5/8" REBAR WITH ORANGE PLASTIC CAP MARKED #17108, UNLESS OTHERWISE DESCRIBED ON DRAWING

SCALE: 1" = 40'




PREPARED BY: CARL H. ROGERS, JR. PHONE: (712) 366-9009
 1688 ROLLING HILLS LOOP, COUNCIL BLUFFS, IOWA 51503

LEGAL DESCRIPTION:

BEING A RE-PLATTING OF LOTS 10, 11, 12, 13, 14 AND 15 OF GETHSEMANE GARDENS, PART OF THE SOUTHWEST ONE-QUARTER OF SECTION 18, TOWNSHIP 74 NORTH, RANGE 43 WEST OF THE FIFTH PRINCIPAL MERIDIAN, POTTAWATTAMIE COUNTY, COUNCIL BLUFFS, IOWA. MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 15 OF GETHSEMANE GARDENS AND POINT OF BEGINNING; THENCE SOUTH 88°27'36" EAST, (ASSUMED BEARING), ALONG THE NORTH LINES OF SAID LOTS 10 THUR 15, INCLUSIVE OF GETHSEMANE GARDENS AND ALONG THE SOUTH RIGHT OF WAY LINE OF WALLACE AVENUE, A DISTANCE OF 433.72 FEET TO THE NORTHEASTERLY CORNER OF SAID LOT 10 OF GETHSEMANE GARDENS; THENCE SOUTH 11°39'49" WEST, ALONG THE EASTERLY LINE OF SAID LOT 10 OF GETHSEMANE GARDENS AND ALONG THE WESTERLY RIGHT OF WAY LINE OF EAST MANAWA DRIVE, A DISTANCE OF 187.93 FEET TO THE SOUTHEASTERLY CORNER OF SAID LOT 10 OF GETHSEMANE GARDENS; THENCE NORTH 88°27'36" WEST, ALONG THE SOUTH LINES OF LOTS 10 THUR 15, INCLUSIVE OF GETHSEMANE GARDENS, A DISTANCE OF 400.69 FEET TO THE SOUTHWEST CORNER OF SAID LOT 15 OF GETHSEMANE GARDENS; THENCE NORTH 1°32'24" EAST, ALONG THE WEST LINE OF SAID 15 OF GETHSEMANE GARDENS, A DISTANCE OF 185.00 FEET TO THE POINT OF BEGINNING. PARCEL CONTAINS 1.772 ACRES, MORE OR LESS.

PROPRIETOR'S DEDICATION AND STATEMENT

KNOW ALL PERSONS BY THESE PRESENTS THAT GETHSEMANE GARDENS, LLC, BEING THE SOLE OWNER OF THE PROPERTY DESCRIBED IN THE LEGAL DESCRIPTION AND EMBRACED WITHIN THIS PLAT, HAVE CAUSED THE SAME TO BE SUBDIVIDED INTO LOT 1, LOT 2, LOT 3, LOT 4, LOT 5, LOT 6, LOT 7, LOT 8, LOT 9, LOT 10 AND OUTLOT "A" AND TO BE KNOWN AS GETHSEMANE GARDENS, REPLAT 2.

THE STORM DRAINAGE AND RETENTION POND EASEMENT LOCATED IN OUTLOT "A" IS RESERVED BY GETHSEMANE GARDENS, LLC. SAID GETHSEMANE GARDENS, LLC SHALL BE RESPONSIBLE FOR THE CONTINUED MAINTENANCE OF SAID EASEMENT. THIS EASEMENT SHALL BE BINDING ON GETHSEMANE GARDENS, LLC AND ON THEIR SUCCESSORS AND ASSIGNS.

INDIVIDUAL LOT OWNERS, THEIR SUCCESSORS, AND ASSIGNS SHALL BE RESPONSIBLE TO PROVIDE AND MAINTAIN STORMWATER MANAGEMENT BEST MANAGEMENT PRACTICE(S) BMP(S) TO MANAGE BOTH QUALITY AND QUANTITY TO CITY OF COUNCIL BLUFFS STANDARDS AND SPECIFICATIONS. STORMWATER MANAGEMENT BMP(S) SHALL BE APPROVED BY THE COUNCIL BLUFFS PUBLIC WORKS ENGINEERING DIVISION PRIOR TO CONSTRUCTION. COUNCIL BLUFFS PUBLIC WORKS ENGINEERING DIVISION ALSO RESERVES THE RIGHT TO INSPECT THE INSTALLED BMP(S) TO ENSURE PROPER MAINTENANCE.

IN WITNESS THEREOF I DO HEREUNTO SET MY HAND THIS 7th DAY OF December, 2017.

John A. Heining
 GETHSEMANE GARDENS, LLC, MANAGING MEMBER, JOHN A. HEININGER

I HEREBY CERTIFY THAT WE WILL MEET ALL EQUAL OPPORTUNITY AND FAIR MARKETING OBJECTIVES CONSISTENT WITH FEDERAL, STATE AND LOCAL GUIDELINES.

I HEREBY CERTIFY THAT THE FOLLOWING DOCUMENTS WILL BE RECORDED WITH THE OFFICE OF THE POTTAWATTAMIE COUNTY RECORDER CONTEMPORANEOUSLY WITH THE FILING OF THE FINAL PLAT:

- A. THERE WILL BE PRIVATE RESTRICTIONS AND/OR COVENANTS FOR THIS SUBDIVISION.
- B. CERTIFIED STATEMENT RESOLUTION OF EACH GOVERNING BODY APPROVING THE SUBDIVISION OR WAIVING THE RIGHT TO REVIEW.
- C. STATEMENT OF MORTGAGE HOLDER, IF ANY, THAT THE PLAT IS PREPARED WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRE OF THE MORTGAGE HOLDER, AND ISSUED A RELEASE FOR ALL AREAS CONVEYED TO THE GOVERNING BODY OR DEDICATED TO THE PUBLIC.

IN WITNESS THEREOF, I DO HEREBY RATIFY AND APPROVE OF THIS DISPOSITION OF, GETHSEMANE GARDENS, LLC PROPERTY AS CONTAINED HEREIN ON THIS 7th DAY OF December, 2017.

John A. Heining
 GETHSEMANE GARDENS, LLC, MANAGING MEMBER, JOHN A. HEININGER

NOTES:

1. A 10.00 FOOT WIDE PERMANENT EASEMENT ALONG ALL FRONT AND ALL REAR LOT LINES AND A 5.00 FOOT WIDE PERMANENT EASEMENT ALONG ALL SIDE PERIMETER LOT LINES IS RESERVED FOR THE INSTALLATION AND MAINTENANCE OF UTILITIES:

A) ERECTION OF STRUCTURES PROHIBITED: GRANTOR SHALL NOT ERECT ANY STRUCTURE OVER OR WITHIN THE EASEMENT AREA WITHOUT OBTAINING THE PRIOR WRITTEN CONSENT OF THE CITY ENGINEER WHICH SHALL NOT BE UNREASONABLY WITHHELD, PROVIDED HOWEVER GRANTOR SHALL HAVE THE RIGHT TO PLACE AND MAINTAIN A SURFACED ROADWAY OVER AND WITHIN THE EASEMENT AREA.

B) CHANGE OF GRADE PROHIBITED: GRANTOR SHALL NOT CHANGE THE GRADE, ELEVATION OR CONTOUR OF ANY PART OF THE EASEMENT AREA WITHOUT OBTAINING THE PRIOR WRITTEN CONSENT OF THE CITY ENGINEER WHICH SHALL NOT BE UNREASONABLY WITHHELD.

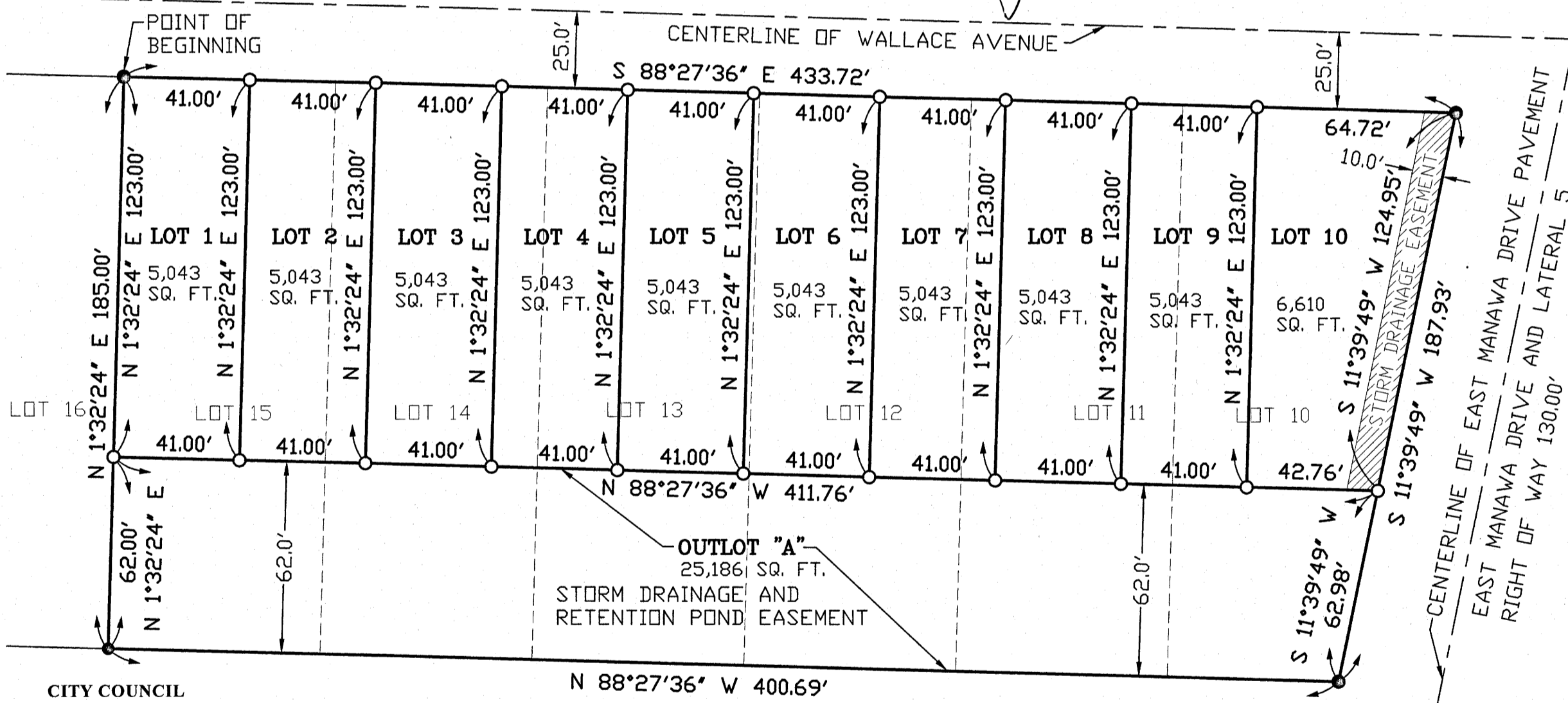
C) RIGHT OF ACCESS: CITY SHALL HAVE THE RIGHT OF ACCESS TO THE EASEMENT AREA AND HAVE ALL RIGHT OF INGRESS AND EGRESS REASONABLY NECESSARY FOR THE USE AND ENJOYMENT OF THE EASEMENT AREA AS HEREIN DESCRIBED.

D) REMOVAL AND REPLACEMENT: WITH THE EXCEPTION OF EXISTING STRUCTURES, THE COST OF REMOVAL AND REPLACEMENT OF ANY UNAUTHORIZED IMPROVEMENT OR STRUCTURES WITHIN THE EASEMENT AREA, NECESSITATED BY THE EXERCISE OF THE RIGHTS UNDER THIS EASEMENT, SHALL BE BORNE BY THE GRANTOR OR THEIR SUCCESSORS OR ASSIGNS.

E) SURFACE RESTORATION: CITY'S LIABILITY TO RESTORE THE SURFACE WITHIN THE EASEMENT AREA SHALL BE LIMITED ONLY TO GRADING AND SEEDING.

F) DUTY TO REPAIR: CITY AGREES THAT ANY DRAIN TILE, DRIVE OR ACCESS WAY, FENCE, OR YARD OR OTHER IMPROVEMENTS OUTSIDE OF THE EASEMENT AREA WHICH MAY BE DAMAGED AS A RESULT OF ANY ENTRY MADE THROUGH AN EXERCISE OF THE CITY'S RIGHT OF ACCESS SHALL BE REPAIRED AT NO EXPENSE TO GRANTOR AND TO GRANTOR'S SATISFACTION.

G) EASEMENT RUNS WITH LAND: THIS EASEMENT SHALL BE DEEMED TO RUN WITH THE LAND AND SHALL BE BINDING ON GRANTOR AND ON GRANTOR'S SUCCESSORS AND ASSIGNS.



CITY COUNCIL N 88°27'36" W 400.69'

APPROVED BY MAYOR: Matthew J. Walsh DATE 12-7-17
 THE HONORABLE MATTHEW J. WALSH

ATTESTED TO BY: Jodi Quakenbush DATE 12-7-17
 CITY CLERK: JODI QUAKENBUSH

Brandon Garrett DATE 12-7-17
 COMMUNITY DEVELOPMENT DIRECTOR: BRANDON GARRETT

CERTIFICATE OF TREASURER OF POTTAWATTAMIE COUNTY, IOWA.

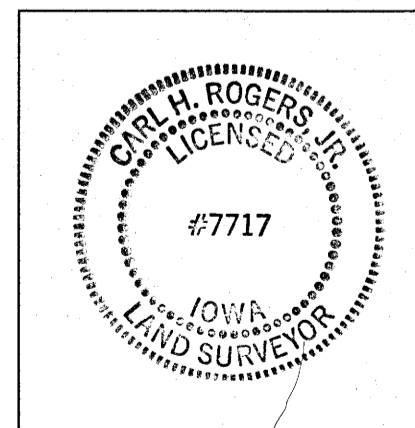
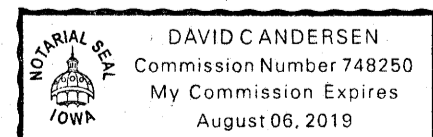
I, THE TREASURER OF POTTAWATTAMIE COUNTY, IOWA, HEREBY CERTIFY THAT THE PROPERTY INCLUDED IN GETHSEMANE GARDENS, REPLAT 2 SUBDIVISION, IS FREE FROM CERTIFY TAXES AND CERTIFY SPECIAL ASSESSMENTS.

Lea A. Voss DATE 12-12-17
 TREASURER OF POTTAWATTAMIE COUNTY, IOWA: LEA A. VOSS

STATE OF IOWA)
) SS
 COUNTY OF POTTAWATTAMIE)

ON THIS 7th DAY OF December, 2017, BEFORE ME, A NOTARY PUBLIC IN AND FOR THE STATE OF IOWA, PERSONALLY APPEARED JOHN A. HEININGER, TO ME PERSONALLY KNOWN, WHOM BEING BY ME DULY SWORN, DID SAY HE IS THE MANAGING MEMBER OF GETHSEMANE GARDENS, LLC, AND SAID JOHN A. HEININGER ACKNOWLEDGE THE EXECUTION OF THIS INSTRUMENT TO BE HIS VOLUNTARY ACT AND DEED.

David Andersen
 NOTARY PUBLIC IN AND FOR SAID STATE



I HEREBY CERTIFY THAT THIS LAND SURVEYING DOCUMENT WAS PREPARED AND THE RELATED SURVEY WORK WAS PERFORMED BY ME OR UNDER MY DIRECT PERSONAL SUPERVISION AND THAT I AM A DULY LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF IOWA.

Carl H. Rogers, Jr. DECEMBER 7, 2017
 CARL H. ROGERS, JR.

LICENSE NUMBER: 7717
 MY LICENSE RENEWAL DATE IS DECEMBER 31, 2018.
 NUMBER OF SHEETS COVERED BY THIS SEAL: SHEET 1 OF 1

ROGERS SURVEYING 1688 ROLLING HILLS LOOP COUNCIL BLUFFS, IOWA		TITLE: FINAL PLAT OF GETHSEMANE GARDENS, REPLAT 2	
SCALE: 1" = 40'	PHONE: (712) 366-9009	DRAWN BY: J.A.T.	CLIENT: GETHSEMANE GARDENS, LLC 2006 SOUTH 11 STREET COUNCIL BLUFFS, IOWA 51501
DATE: 12-07-2017	REVISED		SHEET 1 OF 1

John P. Fahey

Attorney-at-Law
535 West Broadway, Suite 203
Council Bluffs, IA 51503

Bar No. 19050

(712) 328-1017
FAX (712) 328-1161

December 17, 2017

Gethsemane Gardens LLC
2006 So. 11th St.
Council Bluffs, IA 51501

RE: Lots 10, 11, 12, 13, 14, 15, 17, 18, 19 and 20, Gethsemane Gardens
Subdivision, Council Bluffs, Pottawattamie County, Iowa.

Dear Sir / Madam:

I have examined title to the above-described real estate as disclosed by
an abstract last certified by Abstract Guaranty Company consisting of
11 entries as of December 11, 2017, 2017, 2017 at 8:00 a.m.

After such examination, it is the opinion of the undersigned that good
and merchantable fee simple title as of December 11, 2017, is indefeasibly
vested in Gethsemane Gardens LLC subject only to the following:

Entry #1. Final Plat of Gethsemane Gardens, containing subject
property and other property references dedication of street,
grants access easements, utility easements and storm sewer
easements on specific arears of subject property.

EXAMINER'S NOTE: In my previous opinion on another portion of
Gethsemane Gardens - various governmental
ordinances were referenced that may affect
subject property.

Entry #6. A mortgage executed by TAMCO Properties, LLC, an
Iowa Limited Liability Company to Foundation One Bank, dated
December 1, 2016, filed December 7, 2016 in Book 2016, Page
16901 to secure \$650,000.00. (Includes other property)

Entry #10. Judgment Lien Search: Gethsemane Gardens LLC
Tamco Properties LLC
Arthur Camenzind
Art Camenzind Farms LLC

None Found

December 17, 2017

Page -2-

Entry #11. Real Estate Taxes: The 2015 real estate taxes and all prior years paid.

2016/2017 Real Estate Taxes, first half paid; second half paid.

P-744318351022;

P-744318351023;

P-744318351024;

P-744318351025;

P-744318351027;

P-744318351028;

P-744318351029;

P-744318351030;

P-744318351031;

P-744318351032

CAUTION

Your attention is called to the fact that you should investigate certain matters not shown by the abstract, including the boundaries of the property, whether there is anyone other than record title holders in possession of all or part of the property having any claims against the property, whether the property meets building codes and fire codes and has smoke detectors, whether there are public improvements in process or recently made in the vicinity for which special assessments might later be made, whether there has been any construction or improvement within the last 90 days for which Mechanic's Liens might later be filed, whether there are restrictions or controls by governmental authorities on usage of the property or on access to public streets or highways, whether or not there is access to the property, and any rights acquired by adverse possession by fences, driveways, etc., which might be indicated upon inspection or survey of the premises.

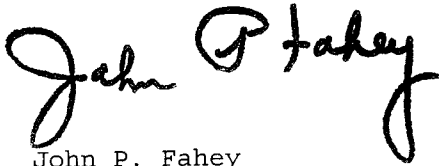
You should determine whether any solid wastes, hazardous substances, pollutants, above or below ground storage tanks, drainage wells, water wells, landfill sites or other environmentally regulated conditions exist on the property. Such conditions are not ordinarily shown in the abstract, but they may result in injunctions, fines, required cleanup, or other remedial actions under federal, state or local laws. These laws may impose liens against the property and personal liability against the owner, even though the owner did nothing to create the condition, and acquired the property without knowing about it. You should carefully inspect the property or have an environmental assessment completed by a professional. If you are uncertain about what are hazardous materials you should contact the Environmental Protection Agency or the Iowa Department of Natural Resources.

The abstract does not mention whether there are any garbage assessments or sewer and water bills remaining unpaid. We advise you that these bills become a lien upon the property when certified to the County Treasurer's Office. You should check with the water company to determine if there are any such assessments that are unpaid. Your check should be done as close to the time of closing your transaction as possible. If any of these items remain unpaid, then they should be paid prior to the time of closing or sufficient assets should be retained to insure that those items are in fact paid.

You are cautioned that Iowa has a fence law which determines your rights and obligations regarding the maintenance of boundary fences. You should determine by asking the neighbors if there are any fencing agreements that are not of record which affect the line and boundary fences. Your investigation should be done before closing the transaction and if there are any agreements, you should be made aware of the terms and conditions of those agreements and you should check with the seller to see if those are in fact the terms and conditions of the fencing agreements. It is always advisable to have any fencing agreement in written form and recorded.

This Opinion is for the benefit of the addressee only. No other persons are entitled to rely hereon.

Respectfully submitted,

A handwritten signature in black ink that reads "John P. Fahey". The signature is written in a cursive style with a large, stylized "J" and "F".

John P. Fahey
Attorney-at-Law

JPF/lr

CERTIFICATE AND RECEIPT

=====

STATE OF IOWA


} SS.

POTTAWATTAMIE COUNTY,

The undersigned, City Clerk of the City of Council Bluffs, Iowa, hereby certifies:
Resolution 17-251 and proof of publication are the same that appears as record in this
office.

Witness my hand and seal of Council Bluffs, Iowa,

this 7th day of December, 2017



Jodi Quakenbush
City Clerk of the City of Council Bluffs

=====

RESOLUTION NO. 17-251

A RESOLUTION GRANTING FINAL PLAT APPROVAL OF AN 11-LOT RESIDENTIAL SUBDIVISION TO BE KNOWN AS GETHSEMANE GARDENS, REPLAT 2.

WHEREAS, Gethsemane Gardens, LLC as the applicant, and TAMCO Properties, LLC as the owner, have requested review and approval of a Final Subdivision Plat for a 10-lot (and one additional outlot) residential subdivision to be known as Gethsemane Gardens, Replat 2; and

WHEREAS, The proposed land consists of 1.772 acres, more or less, of land, and is located at the southwest corner of East Manawa Drive and Wallace Avenue and is legally described as: Being a replat of lots 10 through 15, Gethsemane Gardens; and

WHEREAS, The following comments were provided for the proposed subdivision request:

1. The proposed subdivision is consistent with the purpose and intent of the Council Bluffs Municipal Subdivision and Zoning Ordinances.
2. The subject property is zoned R-2/Two-Family Residential District. All building construction within the proposed subdivision shall comply with the standards stated in Chapter 15.09.050, *Site development regulations, R-2/Two-Family Residential District* of the Council Bluffs Municipal Code (Zoning Ordinance).
3. The platted outlot adjacent to the rear lot line of the dwelling units is to be used as a storm drainage and retention pond. Gethsemane Gardens, LLC is responsible for the continued maintenance of the retention pond.
4. All electric, cable and communication facilities shall be installed underground. All costs to construct, remove and/or relocate any utilities for the proposed subdivision shall be the responsibility of the applicant and not the City.
5. The Council Bluffs Public Works Department provided the following comments:
 - a. Note 1 only identifies an easement along the front lot line, we require 10 foot rear yard easements, and 5 foot front yard easements along perimeter lot lines.
 - b. Note 2 is not needed. Stormwater BMP maintenance should be added to the dedication of the pond as requirements.
6. MidAmerican Energy Company stated they have no objections to this replat, but noted there are existing electric facilities on and adjacent to this proposal, and the current owner/developer will be responsible for any relocation or easement expenses associated with the request.
7. A public sidewalk shall be installed along the frontages of each lot prior to issuance of a Certificate of Occupancy for a dwelling on each lot, at no cost to the City.
8. A copy of the any private easements/covenants shall be provided to the City and recorded with the final plat.

9. The following technical corrections shall be made to the final plat prior to being executed:
 - a. Sheet 1 of 1:
 - i. Change the name of the City Clerk to "Jodi Quakenbush".
 - ii. Add Stormwater BMP Statements to the Proprietor's Dedication and Statement, and remove Note 2; and

WHEREAS, The Community Development Department recommends final plat approval of a 10-lot residential lot, and one outlot subdivision, to be known as Gethsemane Gardens, Replat 2, as legally described above and as shown on Attachment 'A', subject to all comments stated above and following conditions:

- a. All technical corrections shall be incorporated into the final plat document prior to being executed; and
- b. The final plat shall be recorded within 90 days of City Council approval or the plat shall become null and void unless an extension of has been requested and granted by the Community Development Department Director; and
- c. Conform to all City standards and specifications, the zoning and subdivision ordinances and the Department of Public Works Standards for Public Improvements; and
- d. All utilities shall be installed underground. Any cost to remove and/or relocate any utilities shall be the sole expense of the applicant and not the City; and
- e. The applicant shall provide a copy of any proposed covenants and/or private restrictions associated with the subdivision to the City; and
- f. A public sidewalk shall be installed along the frontages of each lot prior to issuance of a Certificate of Occupancy for a dwelling unit on each lot, at no cost to the City; and
- g. The developer shall provide the City with two sets of as-built construction drawings and a two-year maintenance bond, upon acceptance of all required improvements.

**NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA**

That the final plat approval for 11-lot residential subdivision to be known as Gethsemane Gardens, Replat 2, as legally described above, is hereby approved subject to all local, state and federal regulations; and


Planning Case No. #SUB-17-010

BE IT FURTHER RESOLVED

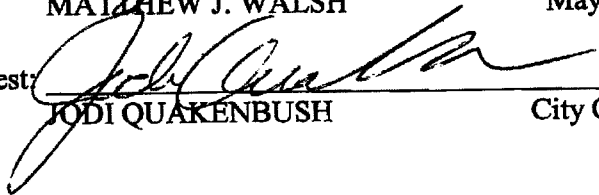
That the Mayor and City Clerk are hereby authorized and directed to endorse the final plat.

ADOPTED
AND
APPROVED

November 13, 2017.



MATTHEW J. WALSH Mayor

Attest: 

JODI QUAKENBUSH City Clerk

PROOF OF PUBLICATION

STATE OF IOWA
POTTAWATTAMIE COUNTY

I, Amy McKay, on my oath do solemnly swear that I am the Controller of the COUNCIL BLUFFS DAILY NONPAREIL, a newspaper issued DAILY and printed in said county, COUNCIL BLUFFS, IOWA.

The attached notice was published in said newspaper for 1 consecutive time(s) as follows:

The first publication thereof began on the 5th day of November, 2017

Signed in my presence by the said Amy McKay and by her sworn to before me this 6th day of November, A.D. 2017.

NOTICE OF PUBLIC HEARING

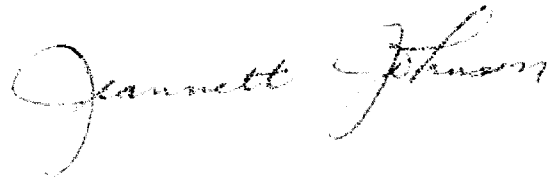
TO WHOM IT MAY CONCERN:

You and each of you are hereby notified that the City Council of the City of Council Bluffs, Iowa, has scheduled a public hearing on the request of Gethsemane Gardens, LLC for final plat approval of an 11-lot residential subdivision to be known as Gethsemane Gardens, Replat 2, legally described as: Being a replat of lots 10 through 15, Gethsemane Gardens.

You are further notified that a public hearing on said matter will be held by the City Council of the City of Council Bluffs, Iowa, at its regular meeting held at 7:00 p.m., on the 13th day of November, 2017 in the City Council Chambers, 2nd Floor of City Hall, 209 Pearl Street, Council Bluffs, Iowa at which time and place all persons interested in said matter will be given an opportunity to be heard. 2017(11)5-1 Sunday

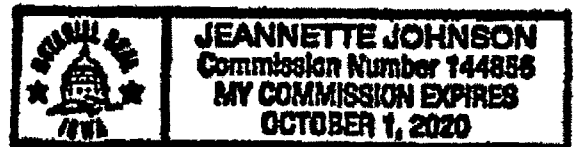


Amy McKay
Daily Nonpareil Controller



Jeannette Johnson
Notary Public

Filed this 6th day of November, A.D. 2017.
Publication Cost: \$ 12.00



Customer Number: 35700
Order Number: 20441338

**DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR THE REPLATTING OF GETHSEMANE GARDENS
REPLAT TWO**

These Declaration of Restrictions and Covenants for Gethsemane Gardens Replat Two is made this 7 of December 2017 by The GETHSEMANE GARDENS Townhomes Association, Inc. (hereinafter "Association"), and GETHSEMANE GARDENS, LLC (hereinafter "Developer"), collectively referred to as "Parties".

WITNESSETH:

WHEREAS, Declarant is the owner of the real estate in the City of Council Bluffs, Pottawattamie County, Iowa, as described on Exhibit "A".

WHEREAS, Declarant desires to provide for the preservation of the values and amenities of GETHSEMANE GARDENS, LLC, and for the maintenance of the character and residential integrity of GETHSEMANE GARDENS, LLC.

NOW, THEREFORE, Declarant hereby declares that all of the property herein above described shall be held, sold and conveyed subject to the following covenants, conditions, restrictions and easements which are for the purpose of protecting the value and desirability of, and which shall run with, all of said real property and shall be binding on all parties having any right, title or interest in said properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof. These covenants, conditions and restrictions supplement all prior covenants and restrictions for The Seven at Fox Run Landing.

**ARTICLE ONE
DEFINITIONS**

Section 1. "Association" shall mean and refer to The GETHSEMANE GARDENS Townhomes Association, Inc., an Iowa corporation, its successors and assigns.

Section 2. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners and all improvements thereon. Outlot "A" will be the Common Area owned by the Association at the time of the initial development of the Subdivision.

Section 3. "Common Area Improvements" shall mean and refer to (i) any improvements, including but not limited to signs, gates, sea walls, walkways, landscaping, lighting standards, common storm drains, utility lines, sewers and other service facilities, not dedicated to the City and located from time to time on the Common Area, and (ii) any perimeter fencing or gate on the Lots or Common Area and any signage which serves all of the Lots.

Section 4. "Declarant" shall mean GETHSEMANE GARDENS, LLC and its successors and assigns.

Section 5. "Lot" shall mean any plot of land shown on the recorded Subdivision plat referred to above with the exception of any Common Area.

Section 6. "Maintenance" shall mean the exercise of reasonable care to keep improvements and fixtures in common comparable to their original conditions, normal wear and tear excepted. Maintenance of landscaping shall further mean the exercise of generally accepted garden management practices necessary to promote a health, weed free environment for optimum plant growth.

Section 7. "Member" shall mean every person or entity who holds membership in the Association.

Section 8. "Mortgage" shall mean a conventional mortgage or deed of trust or a real estate contract of purchase.

Section 9. "Mortgagee" shall mean a holder of a conventional mortgage or a beneficiary under or holder of a deed of trust or the Seller under a real estate contract.

Section 10. "Owner" shall mean and refer to:

- (a) The record Owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Subdivision, but excluding those having such interest merely as security for the performance of an obligation or as an encumbrance upon the interest of the beneficial Owner, and
- (b) The purchaser, whether one or more persons or entities, under a recorded contract for the sale and purchase of a Lot, under which the Seller retains title solely as security for the performance of the purchaser's obligation under the contract.

Section 11. "Subdivision" shall mean the subdivided real property hereinbefore described and such additions thereto as may be brought with the jurisdiction of the Association as hereinafter provided.

ARTICLE TWO MEMBERSHIP IN ASSOCIATION - VOTING RIGHTS

Section 1. Every Owner of a Lot shall be a Member of the Association; membership shall be appurtenant to and may not be separated from ownership of a Lot.

Section 2. The Association shall have two classes of voting Members as follows:

Class A. Class A Members shall be all Owners with the exception of Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in a given Lot, all such persons shall be Members, and the vote for such Lot shall be exercised as they may determine among themselves. In no event shall more than one vote be cast with respect to any Lot owned by Class A. Members.

Class B. The Class B Member shall be Declarant, who shall be entitled to exercise ten (10) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership when the total votes outstanding in the Class A membership are greater than the total votes outstanding in the Class B membership.

ARTICLE THREE ASSESSMENTS

Section 1. Lien and Personal Obligation of Assessments. The Declarant hereby covenants for each Lot and for each Owner of any Lot, by acceptance of a deed therefore or by entering into a contract for the purchase thereof, whether or not it shall be so expressed in such deed or in such contract for the purchase thereof, that it is, and shall be, deemed to covenant and agree to pay to the Association: (1) annual assessments for the Lot, (2) monthly assessments for townhomes, and (3) special assessments for capital improvements. Such assessments will be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorneys' fees, shall be a charge on the land and a continuing lien on each Lot against which such an assessment is made. Each such assessment, together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the person or persons who owned the Lot at the time the assessment fell due, but such personal obligation shall not pass to the successors in title of such person or persons unless expressly assumed by them. (See Article Three, Section 9 hereof for subordination provisions.)

Section 2. Purpose of Annual/Monthly Assessments. The annual/monthly assessments levied by the Association shall be used exclusively to promote the health, safety, welfare, and recreation of the residents in the Subdivision, and for the management, Maintenance, repair, upkeep, and general operation of any Common Area or facilities, for the Maintenance and upkeep of the yards, sidewalks, driveways, and the exterior appearance of all structures on the Lots in the Subdivision. Annual/monthly assessment shall include, and the Association shall acquire and pay for out of the funds derived from annual/monthly assessments, the following:

- (a) Maintenance, repair, and upkeep of all Common Areas for facilities.
- (b) Acquisition of furnishings and equipment for any Common Areas or facilities as may be determined by the Association, including without limitation all equipment, furnishings, and personnel necessary or proper for use of any common recreational facilities.
- (c) Insurance covering the full insurable replacement value of any Common Areas or facilities with extended coverage.
- (d) Liability insurance insuring the Association against any and all liability to the public, to any Owner, or to the family, guests, invitees, or tenants of any Owner, arising out of their occupation and/or use of any Common Areas or facilities, or arising out of the Association's errors and omissions with respect to the

Maintenance and upkeep of the yards, sidewalks, driveways, and the exterior appearance of all structures on the Lots in the Subdivision.

- (e) Workmen's compensation insurance to the extent necessary to comply with applicable law, and any other insurance deemed necessary by the board of directors of the Association.
- (f) A standard fidelity bond covering all Members of the board of directors of the Association and all other employees of the Association in an amount to be determined by the board of directors.
- (g) Maintenance, mowing and upkeep of the yards on the Lots with the townhomes, which shall include the following responsibilities:
 - (i) The Maintenance of landscaping for each Lot, including normal lawn care such as watering and cutting grass, trimming of trees, shrubs and hedges, and weed, insect and disease control, but not including the care of flowers allowed to be planted by any Owner within three feet of his or her residence. Incidental thereto, the Association shall maintain and repair a sprinkler system throughout the yards of all Lots with the townhomes for the purpose of watering lawns; the Owner shall pay for the water utility service associated with such use; each Owner shall pay for the installation of a sprinkler system in the yard of his or her Lot.
 - (ii) The removal of the natural accumulations of snow and ice from all sidewalks (both private and public), including all stoops and porches, walkways and from all driveways, all within a reasonable amount of time. However, it shall not include snow removal at rear of home on patio or decks.
 - (iii) Nothing in this paragraph shall be construed as requiring the Association to maintain or repair the exterior appearance or condition of any brick surface, siding, roofing material, garage door, front door, or window panes on any residence in the Subdivision; nevertheless, the color and style of any brick surface, siding, roofing material, or window pane to be placed by an Owner on the exterior of his or her residence shall be subject to the prior approval of the Association.
 - (iv) The spraying of chemicals on the yards of each Lot and around the exterior perimeters of all residences in the Subdivision to control the proliferation of insects, bugs, mosquitoes, rodents, and other pests.
 - (v) The Maintenance and repair of all Common Areas and Common Area improvements.

- (h) Any other materials, supplies, furniture, labor, services, Maintenance, repairs, structural alterations, insurance, taxes, or assessments which the Association is required to secure or pay pursuant to the terms of this Declaration or the By Laws of the Association, or which shall be necessary or proper in the opinion of the board of directors of the Association for the operating of any Common Areas or facilities, for the Maintenance and upkeep of the yards and the exterior appearance of all structures on the Lots in the Subdivision, for the benefit of Lot Owners, or for the enforcement of these restrictions.
- (i) In the event the need for any Maintenance or repair mentioned in this section is attributable to the willful or negligent act of the Owner of a Lot, or of his or her family, guests or invitees, the cost of such Maintenance or repairs shall be added to and become a part of the assessments to which such Lot is subject.

Section 3. Maximum Annual/Monthly Assessment. The Members of the Association may vote to set a maximum amount for the annual/monthly assessment for any given year. The Board of Directors of the Association may fix the annual/monthly assessment at an amount not in excess of the maximum set by the Members of any given year.

Section 4. Special Assessments for Capital Improvements. In addition to the annual/monthly assessments authorized above, the Association may levy in an assessment year a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of a capital improvement, including fixtures and personal property related thereto, on any Common Area, or on any Lot if such improvement is for the collective benefit of the Members and not just for the particular advantage of the Owner of the Lot. Any such assessment must be approved by a majority of each class of Members.

Section 5. Notice and Quorum For Action Authorized Under Section 3 and 4. Written notice of any meeting called for the hereinbefore purpose of taking any action authorized by Section 3 or 4 hereinbefore shall be sent to all Members not less than five (5) nor more than twenty (20) days in advance of such meeting. In the event the proposed action is favored by a majority of the votes cast at such meeting, but less than the requisite majority of each class of Members, Members who were not present in person or by proxy may give their assent in writing within ten (10) days after the date of such meeting.

Section 6. Uniform Rate of Assessment. The annual, monthly and special assessments must be fixed at a uniform rate for all Lots, unless otherwise stated in the assessment.

Section 7. Commencement and Collection of annual Assessments. Any annual assessments provided for herein shall commence as to all Lots on the first day of the month following a determination by the Members of the Association that such assessments shall begin. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The board of directors shall fix the amount of the annual assessment against each Lot at least ten (10) days in advance of the due date thereof and shall fix the dates such amounts become due. Assessments may be made payable monthly. Notice of the annual

assessments shall be sent to every Owner subject thereto. The Association shall, on demand and for a reasonable charge, furnish a certificate signed by an officer of the Association, setting forth whether the assessment against a specific Lot has been paid.

Section 8. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall be deemed in default and shall bear interest from the due date at the rate of ten percent (10%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or may foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of any Common Areas or facilities, or by abandonment of his or her Lot.

Section 9. Subordination of Assessment Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage, first deed of trust, or other initial purchase money security device, and the holder of any first mortgage, first deed of trust, or other initial purchase money security device, on any Lot may rely on this provision without the necessity of the execution of any further subordination agreement by the Association. Sale or transfer of any Lot shall not affect the status or priority of the lien for assessments made as provided herein. The Association, if authorized by its Board of Directors, may release the lien of any delinquent assessments on any Lot as to which the first mortgage, first deed of trust or initial purchase money security device thereon is in default, if such Board of Directors determines that such lien has no value to the Association. No Mortgagee shall be required to collect any assessments due. The Association shall have the sole responsibility to collect all assessments due.

ARTICLE FOUR PROPERTY RIGHTS

Section 1. Owner's Easement of Enjoyment. Every Owner of a Lot shall have a right and easement of enjoyment in and to any Common Areas or facilities which shall be appurtenant to and shall pass with the title to such Lot, subject to the following rights of the Association:

- (a) The right to suspend the right of use of any Common Areas or recreational facilities and the voting rights of any Owner for periods during which assessments against his or her Lot remain unpaid, and the right, after hearing by the board of directors, to suspend such rights for a period not exceeding sixty (60) days for any infraction of the published rules and regulations of the Association.
- (b) The right to dedicate or transfer all or any part of any Common Areas or facilities to any municipality, public agency, authority, or utility for such purposes and subject to such conditions as may be agreed upon by the Members. No such dedication or transfer shall be effective unless an instrument executed by two-thirds (2/3) of each class of Members agreeing to such dedication or transfer has been duly recorded.

Section 2. Delegation of Use. Subject to such limitations as may be imposed by the By Laws, each Owner may delegate his right of enjoyment in and to any Common Areas and facilities to the Members of his or her family, guests, tenants, and invitees.

Section 3. Easements of Encroachment. There shall exist reciprocal appurtenant easements as between adjacent Lots (and between each Lot and any portion or portions of any Common Areas or facilities adjacent thereto) for any encroachment due to the unwilful placement, settling, or shifting of the improvements constructed, reconstructed, or altered thereon, provided such construction, reconstruction, or alteration is in accordance with the terms of this Declaration. No easement for encroachment shall exist as to any encroachment occurring due to the willful conduct of an Owner.

Section 4. Other Easements and Party Walls.

- (a) Easements for installation and Maintenance of utilities and drainage facilities are shown on the recorded Subdivision plat. In addition to the right of use thereof by the utilities, any cable television franchisee of the City of Council Bluffs is also granted the right to install and maintain its lines and equipment in such easements. Within these easements, no structure, planting, or other material shall be placed or permitted to remain which may damage or interfere with the installation and Maintenance of utilities, or which may damage, interfere with, or change the direction or flow of drainage facilities in the easements.
- (b) No dwelling unit or other structure of any kind shall be built, erected, or maintained on any such easement, reservation, or right of way, and such easements, reservations, and rights of way shall at all times be open and accessible to public and quasi-public utility corporations and cable television companies, their employees and contractors, and shall also be open and accessible to Declarant, its successors, and assigns, all of whom shall have the right and privilege of doing whatever may be necessary in, on, under, and above such locations to carry out any of the purposes for which such easements, reservations, and rights of way are reserved.
- (c) Each wall which is built as a common wall separating two dwelling units of a Townhome constructed in the Subdivision shall constitute a party wall (or a wall in common), and the provisions of Chapter 563 of the Code of Iowa regarding walls in common shall apply thereto.

Section 5. Right of Entry. The Association, through its duly authorized employees and contractors, shall have the right, after reasonable notice to the Owner thereof, to enter any Lot at any reasonable hour on any day to perform such Maintenance or repair as may be authorized herein.

Section 6. Partition. There shall be no judicial partition of any Common Area, nor shall Declarant, or any Owner, or any other person acquiring any interest in the Subdivision or any part thereof, seek judicial partition thereof.

**ARTICLE FIVE
RESTRICTIONS AND COVENANTS**

The Subdivision shall be occupied and used only as follows:

Section 1. Each lot shall be used as a residence for a single family and for no other purpose; however, an Owner may use a portion of his or her residence for an office, provided that the activities therein shall not interfere with the quiet enjoyment or comfort of any other Owner.

Section 2. Except as allowed in the preceding section, no business of any kind shall be conducted on any residence, with the further exception of the business of Declarant or the transferees of Declarant in developing all of the Lots as provided in Section 11 hereinafter.

Section 3. No noxious or offensive activity, annoyance, or nuisance shall be carried on in or on any Lot and/or Common Area, with the exception of the business of Declarant or the transferees of Declarant in developing all of the Lots as provided in Section 11 hereinafter.

Section 4. No sign of any kind shall be displayed to public view on a Lot or any Common Area or facility without the prior written consent of the Association, except customary name and address signs, and law signs of not more than five (5) square feet in size advertising a property for sale or rent, and except for signs used by Declarant or the transferees of Declarant in developing all of the Lots as provided in Section 11 hereinafter.

Section 5. Nothing shall be done or kept on any Lot or on any Common Area or facility which would increase the rate of insurance relating thereto without the prior written consent of the Association, and no Owner shall permit anything to be done or kept on his or her Lot or on any Common Area or facility which would result in the cancellation of insurance on any residence or on any part of any Common Area or facility, or which would be in violation of any law.

Section 6. No animals, livestock, poultry, or reptiles of any kind shall be raised, bred, or kept on any Lot or on any Common Area or facility. However, dogs, cats, or other normal household pets may be kept on Lots subject to such rules and regulations of the City of Council Bluffs, so long as they are not kept, bred, or maintained for commercial purposes, and provided that they are kept on leashes whenever outside, and further provided that only one animal house shall be allowed, and it must be approved by the Architectural Control Committee. Each owner is responsible for cleaning up after his or her pets, including the removal of stools left by the pets when being walked. No dog runs of any kind shall be allowed. Any dog house shall be at the rear of residence concealed from public view and the design and location must be approved by the Architectural Control Committee in advance of installation.

Section 7. No debris, rubbish, trash, garbage, or other waste material shall be kept or permitted on any Lot or on any Common Area or facility except in sanitary containers located in appropriate areas concealed from public view. No excess or unused building material shall be

kept, stored, or otherwise maintained on any Lot in a location within public view, other than for use connected with approved or permitted construction.

Section 8. No fence, or other dividing instrumentality shall be construed or maintained on any Lot in the Subdivision. Invisible fencing for animals may be installed at the Owner's expense and with the prior written approval of the Architectural Control Committee.

Section 9. No outbuilding, tent, shack, garage, trailer, shed, or temporary building of any kind shall be constructed or maintained on any lot.

Section 10. Nothing shall be altered in, constructed on, or removed from any Common Area or facility except with the written consent of the Association.

Section 11. Declarant or the transferees of Declarant shall undertake the work of developing all Lots included within the Subdivision. The completing of that work, and the sale, rental, or other disposal of residential units is essential to the establishment and welfare of the Subdivision as an ongoing residential community. In order that such work may be completed and the Subdivision be established as a fully occupied residential community, nothing in the Declaration shall be understood or construed to:

- (a) Prevent Declarant, Declarant's transferees, or the employees, contractors, or subcontractors of Declarant or Declarant's transferees from doing on any part or parts of the Subdivision owned or controlled by Declarant, Declarant's transferees, or their representatives, whatever they determine may be reasonable necessary or advisable in connection with the completion of such work.
- (b) Prevent Declarant, Declarant's transferees, or the employees, contractors, or subcontractors of Declarant or Declarant's transferees from any constructing or maintaining on any part or parts of the Subdivision property owned or controlled by Declarant, Declarant's transferees, or their representatives, such structures as may be reasonable necessary for the completion of such work, the establishment of the Subdivision as a residential community, and the disposition of Lots by sale.
- (c) Prevent Declarant, Declarant's transferees, or the employees, contractors, or subcontractors of Declarant or Declarant's transferees from conducting on any part or parts of the Subdivision property owned or controlled by Declarant, Declarant's transferees, or their representatives, the business of completing such work, of establishing the Subdivision as a residential community, and of disposing of Lots by sale.
- (d) Prevent Declarant, Declarant's transferees, or the employees, contractors, or subcontractors of Declarant or Declarant's transferees from maintaining such sign or signs on any of the Lots owned or controlled by any of them as may be necessary in connection with the sale of Subdivision Lots.

Section 12. No exterior television or radio antenna or disc of any sort shall be permitted on any Lot, unless the same has been approved by the Architectural Control Committee. No tree houses, tool sheds, doll houses, windmills, or similar structures shall be permitted on any Lot.

Section 13. No exterior addition thereto or any change or alteration therein may be made, until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing (as to conformity and harmony of external design with existing structures in the Subdivision, and as to location relating to topography and finished ground elevation) by the board of directors of the Association, or by an Architectural committee composed of three (3) Members of the Association appointed by the board. In the event said board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, such design and location shall be deemed to have been disapproved. Approval shall be revoked if the building or construction associated with the plans has not been commenced within three (3) years of the date of approval of the plans. Construction of improvements must be completed within one (1) year from date of commencement.

Section 14. No boat, camper, trailer, auto-drawn or mounted trailer of any kind, mobile home, truck over one (1) ton capacity, aircraft, camper truck or similar chattel shall be maintained or stored on any part of a Lot (other than in an enclosed structure) for more than twenty (20) days within a calendar year. No motor vehicle may be parked or stored outside on any Lot, except vehicles driven on a regular basis for the occupants of the dwelling located on such Lot. No grading or excavating equipment, tractors or semi-tractors/trailers shall be stored, parked, kept or maintained in any yards, driveways or streets. However, this section 14 shall not apply to trucks, tractors, or commercial vehicles which are necessary for the construction of residential dwellings during the period of construction. All residential Lots shall provide at least the minimum number of off street parking areas or spaces for private passenger vehicles required by the applicable zoning ordinances of the City of Council Bluffs, Iowa. All garage doors must be closed when not in use.

Section 15. No incinerator, trash burner or fuel tank shall be permitted on any Lot. No garbage or trash can or container shall be stored or be permitted to remain outside except for pickup purposes. No garden, lawn or maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside of any dwelling or suitable storage facility unless approved by the Architectural Committee, except when in actual use. No garbage, refuse, rubbish or cutting shall be deposited on any street, road or Lot. No clothes line shall be permitted outside of any dwelling at any time. Produce or vegetable gardens may only be maintained in rear yards.

Section 16. Exterior lighting installed on any Lot shall either be indirect or of such a controlled focus and intensity as not to disturb the residents of adjacent Lots.

Section 17. No external swimming pool may be constructed or maintained on any lot extending more than one foot above ground level.

Section 18. Driveway and driveway approaches on each Lot shall be constructed of concrete. Should repair or replacement of such approach be necessary, the repair or replacement shall also be of concrete. No asphalt overly of a driveway will be permitted.

Section 19. All utility service lines from each Lot line to a dwelling or other improvement shall be underground.

Section 20. No Owner shall be permitted to install a dock on the shoreline unless the dock is approved by the Architectural Committee. All docks will be a standard material and must be maintained.

ARTICLE SIX OWNER'S OBLIGATION TO REPAIR AND MAINTAIN

Except as otherwise provided in this Declaration, each Owner shall, at his or her sole cost and expense, repair, maintain, and restore the exterior appearance of his or her premises and the improvements situated thereon, keeping the same in a condition comparable to the condition of such premises at the time of its initial construction, excepting only normal wear and tear. In the event an Owner of any Lot in the Subdivision shall fail to do so in a manner satisfactory to the board of directors, then the Association after approval by a two-thirds (2/3) vote of the Association Members, shall have the right, through its agents and employees, to enter upon said Lot and to repair, maintain, and restore the Lot and the exterior of the residence and any other improvements erected thereon. The cost of such repair, Maintenance, or restoration shall be added to and become part of the assessment to which such Lot is subject by this Declaration.

ARTICLE SEVEN OWNER'S OBLIGATION TO REBUILD

If all or any portion of a residence or other structure on any Lot is damaged or destroyed by fire or other casualty, it shall be the duty of the Owner thereof, with all due diligence, to rebuild, repair, or reconstruct such residence or other structure in a manner which will substantially restore it to its appearance and condition immediately prior to the casualty. Reconstruction shall be undertaken within three (3) months after the damage occurs, and shall be completed within nine (9) months after the damage occurs, prevented by causes beyond the control of the Owner or Owners.

ARTICLE EIGHT INSURANCE

The Association shall purchase and provide general liability coverage insurance in such amounts as shall be determined from time to time by the Board of Directors of the Association for the Common Area and Common Area Improvements. The Association may provide Directors and Officer liability coverage insurance for the Association, for its Officers, and Members of the Board of Directors. In addition, the Association may purchase such additional insurance against other hazards which may be deemed appropriate by the Board of Directors.

Each Owner shall be responsible for obtaining their own homeowners insurance for both the interior and exterior of their home, and on the contents, as well as their decorations, furnishings and personal property therein and any personal property stored elsewhere on the Subdivision. In addition, each Owner shall purchase insurance to insure against his or her personal liability and loss or damage by fire or other hazards.

The Association will not insure the personal property of the individual Owners as this is the responsibility of the Owners.

The Association may, after the entire project is sold out, insure the exterior of each duplex townhome with a replacement cost, multi-peril policy with a deductible limit as determined by two-thirds (2/3) of the Association Members.

ARTICLE NINE ACCESS

The Association, its officers, employees and agents, and contractors and repairmen designated by the Association, shall have the right to go on any Lot for the purpose of performing Maintenance and repair, making inspections and performing the duties of the Association hereunder, and the Association is hereby granted a specific easement for such purposes.

ARTICLE TEN EASEMENTS

Section 1. There are hereby reserved in favor of the Owners, their families, guests, invitees and servants, a non-exclusive easement to use, free of charge, in common with others entitled to similar use, any and all of the Common Area Improvements existing from time to time in the Subdivision, upon or under the Common Area, subject to such reasonable and uniformly applied rules and regulations as the Board of Directors of the Association may establish from time to time with respect to such use.

Section 2. There are hereby reserved in favor of and granted to the Owners, nonexclusive easements under, through and across the Common Area for sewers, electricity, television, water, telephone and all other utility purposes, including the right to use of any such existing systems, structures, mains, sewers, conduits, lines, and other public utilities and service facilities. The grantee of such easement shall bear all costs related to the use of the easement and shall repair to the original specifications any damage to the Common Area resulting from such use, provided the costs of maintaining and repairing common storm drains, utility lines, sewers and other service facilities are expenses in accordance with Article Three.

Section 3. There hereby is reserved in favor of the Owners and their tenants, agents, and invitees, and the agents and invitees of such tenants, a nonexclusive easement to use, free of charge, in common with others entitled to similar use, any and all of the sidewalks existing from time to time within the Common Area. There hereby is further reserved in favor of the Association, its agents and contractors, the right to enter upon each Lot from time to time for the

purpose of construction, repairing and maintaining the sidewalks in the event the Owner fails to provide for such construction, repair, or Maintenance.

Section 4. Individual Owners are responsible to obtain permission to access any other Owner's property including the side, front, and back lawns. Without express permission, said property is off limits.

ARTICLE ELEVEN ARCHITECTURAL CONTROL

Section 1. Appointment. The Directors shall appoint three or more people to serve as the Architectural Control Committee. The Members of the Committee serve at the pleasure of the Directors and may be replaced at any time with or without cause.

Section 2. Power and Duties of the Committee. No building, fence, wall, or other structure shall be commenced, erected or maintained, upon the Subdivision, nor shall any exterior addition or change or alteration therein be made, nor shall any trees, shrubs, or plants be planted or maintained upon the Subdivision, until the plans and specifications therefor showing the nature, kind, shape, height, materials, color and location of the same shall have been submitted to and approved in writing, as to harmony of external design and located in relation to surrounding structures and topography, and in relation to other trees, shrubs and plants, by the Committee. Failure of the Committee to act on such plans as submitted within forty-five (45) days after the date of submission shall be deemed to be approved of such plans, and the Owners may proceed in accordance with such plans and specifications.

Documents submitted for approval shall be clear, concise, complete, consistent and legible. All drawings shall be to scale. Samples of materials to be included in the construction may be required of the applicant at the discretion of the Committee. Submittals for approval shall be made in duplicate and the components and actions of the Committee will be identically marked on both copies of the Submittals. One copy will be returned to the applicant, and one copy will be retained as part of the permanent records of the Committee. Each applicant shall submit to the Committee the following documents, materials and/or drawings:

- 1) Site plans indicating specific construction or improvements and indicating Lot number, street address, grading and surface drainage; and
- 2) Complete construction plans, including, but not limited to, floor plans, floor areas of each level, wall sections, stair and fireplace sections and exterior elevations clearly indicating flues or chimneys, type and extent of siding, roofing, other faces and/or veneer materials.

After the construction of the original structure on each Lot, no change to exterior appearances of the structure, appurtenances (decks, patio, wall or exterior landscaping) shall be permitted without the prior written approval of the Committee. Appropriate documentation will be required by the Committee for proposed changes after the original construction is completed.

**ARTICLE TWELVE
GENERAL PROVISIONS**

Section 1. Enforcement. Declarant, the Association, or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, easements, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure by Declarant, the Association, or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 3. Amendments. this Declaration may be amended by Declarant in any manner which it may determine in its full and absolute discretion until all of the Lots have been sold. Thereafter, this Declaration may be amended by duly recording an instrument executed and acknowledged by not less than two-thirds (2/3) of each class of Members.


Section 4. Subordination. No breach of any of the conditions herein contained, or reentry by reason of such breach, shall defeat or render invalid the lien of any mortgage made in good faith and for value as to the Subdivision or any Lot therein; provided, however, that such conditions shall be binding on any Owner whose title is acquired by foreclosure, trustee's sale, or otherwise.

Section 5. Duration. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association of any Member thereof for a period of twenty-one (21) years from the date hereof, and thereafter shall continue automatically in effect for additional periods of ten (10) years each by the Association or any Lot Owner filing for record in the Pottawattamie County Recorder's Office an affidavit of renewal.

EXECUTED at Council Bluffs, Iowa on this 7th day of December, 2017.


"DECLARANT"

Gethsemane Gardens, LLC



John Heininger, Sole Member

Gethsemane Gardens Townhomes Association by:



Printed Name: John Heininger
Title: Sole Member

EXHIBIT "A"

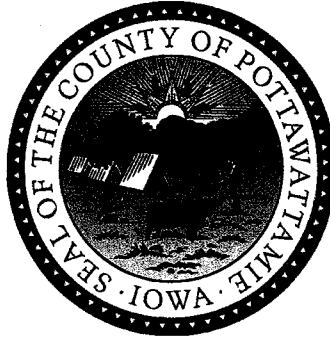
LEGAL DESCRIPTION:

BEING A RE-PLATTING OF LOTS 10, 11, 12, 13, 14 AND 15 OF GETHSEMANE GARDENS, PART OF THE SOUTHWEST ONE-QUARTER OF SECTION 18, TOWNSHIP 74 NORTH, RANGE 43 WEST OF THE FIFTH PRINCIPAL MERIDIAN, POTTAWATTAMIE COUNTY, COUNCIL BLUFFS, IOWA. MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 15 OF GETHSEMANE GARDENS AND POINT OF BEGINNING; THENCE SOUTH 88°27'36" EAST, (ASSUMED BEARING), ALONG THE NORTH LINES OF SAID LOTS 10 THUR 15, INCLUSIVE OF GETHSEMANE GARDENS AND ALONG THE SOUTH RIGHT OF WAY LINE OF WALLACE AVENUE, A DISTANCE OF 433.72 FEET TO THE NORTHEASTERLY CORNER OF SAID LOT 10 OF GETHSEMANE GARDENS; THENCE SOUTH 11°39'49" WEST, ALONG THE EASTERLY LINE OF SAID LOT 10 OF GETHSEMANE GARDENS AND ALONG THE WESTERLY RIGHT OF WAY LINE OF EAST MANAWA DRIVE, A DISTANCE OF 187.93 FEET TO THE SOUTHEASTERLY CORNER OF SAID LOT 10 OF GETHSEMANE GARDENS; THENCE NORTH 88°27'36" WEST, ALONG THE SOUTH LINES OF LOTS 10 THUR 15, INCLUSIVE OF GETHSEMANE GARDENS, A DISTANCE OF 400.69 FEET TO THE SOUTHWEST CORNER OF SAID LOT 15 OF GETHSEMANE GARDENS; THENCE NORTH 1°32'24" EAST, ALONG THE WEST LINE OF SAID 15 OF GETHSEMANE GARDENS, A DISTANCE OF 185.00 FEET TO THE POINT OF BEGINNING. PARCEL CONTAINS 1.772 ACRES, MORE OR LESS.

Pottawattamie County Auditor's Certification Of Subdivision Name Approval

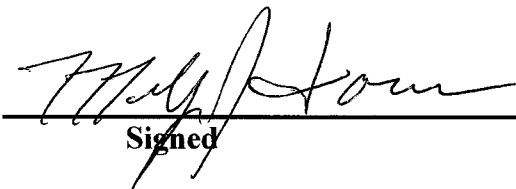
MELVYN J. HOUSER
POTTAWATTAMIE COUNTY AUDITOR
AND ELECTION COMMISSIONER
P. O. BOX 649
COUNCIL BLUFFS, IOWA 51502-0649



Kristi Everett, First Deputy - Elections
Linda Swolley - Real Estate
Rebecca Belt, First Deputy - Tax and
Finance
Phone (712) 328-5700
FAX (712) 328-4740

I, Melvyn J. Houser, Auditor of Pottawattamie County, Iowa, or designee, do hereby certify that the subdivision name of the attached platting is unique within Pottawattamie County and is hereby approved.

Name of new subdivision:
GETHSEMANE GARDENS REPLAT 2


Signed

12-14-17
Date