



BK 0844 PG 350



MISC 1988 05124

THIS PAGE INCLUDED FOR

INDEXING

PAGE DOWN FOR BALANCE OF INSTRUMENT

RECEIVED
1988 APR -4 PM 3:57
GEORGE J. ...
REGISTERED ...
DEPARTMENT OF ...

BOOK 844 PAGE 350

AMENDMENT TO EASEMENT GRANT
AND CROSS EASEMENT

THIS AMENDMENT TO EASEMENT GRANT AND CROSS EASEMENT ("Amendment") is made and executed this 4th day of April, 1988, by SILVERCREST DEVELOPERS, INC., a Nebraska Corporation, herein designated as "Declarant".

WHEREAS, Declarant is the owner of the following described real estate:

Lots 1, 2, and 3 and Out Lot A, in Miracle Hills Park Replat, being a replat of Lot 22 Miracle Hills Park, an addition in Section 17 Township 15 North, Range 12 East of the 6th P.M., Douglas County, Nebraska ("Property") and Lot 21, Miracle Hills Park an addition in Section 17 Township 15 North, Range 12 East of the 6th P.M., Douglas County, Nebraska ("Lot 21").

WHEREAS, Declarant granted on the face of the replat of the Property a permanent ingress and egress easement for the Property over all of the parking areas and driving lanes on the Property for pedestrian and vehicular use ("Easement Grant");

WHEREAS, Declarant has made application with the City of Omaha for an administrative subdivision of Lot 2 of the Property,

WHEREAS, Declarant desires to modify the Easement Grant insofar as the Easement Grant relates to the real property more particularly described on Exhibit "A" attached hereto ("Other Property") and to make provisions for easement rights, common improvements and allocation of costs and expenses between the Property, the Other Property and Lot 21.

NOW, THEREFORE, Declarant hereby amends and modifies the Easement Grant, as it relates to the Property, and declares that the Property, the Other Property and Lot 21 shall hereafter be held, sold, occupied, conveyed and used subject to the following easements, restrictions, covenants and conditions which shall run with the land and which shall be binding on and inure to the benefit of all parties having or acquiring any right, title or interest in or to the Property, the Other Property, Lot 21, or any portion thereof.

*copy
Mace*

1. Modification of Easement Grant. Except as hereinafter set forth, the terms and conditions of the Easement Grant relating to the Other Property are hereby revoked.

BK 844 N 42-91 MA C/O _____ FEE 42
PG 350-357 N 42-1 DEL JK MC WCC
OF Mace COMP JB F/B _____

2. Lot 2 Property Access Easement. Notwithstanding the provisions of paragraph 1 to the contrary, Declarant hereby grants to the owner or owners of all or any portion of the Other Property and the real property more particularly described on Exhibit "B" ("Lot 2 Property"), and to their respective tenants, subtenants, concessionaires, invitees, employees, agents and customers of each for the benefit of the other, a perpetual non-exclusive, right, privilege and easement for the use of that portion of the Other Property and the Lot 2 Property generally described and depicted on Exhibit "C" attached hereto ("Lot 2 Access Easement") for access only to either the Other Property or the Lot 2 Property.

Allocation of Costs. Costs for the construction, maintenance, repair and replacement of the drive over the Lot 2 Access Easement and related island (including a sprinkler system servicing the island) shall be borne 50% by the owner of the Other Property and 50% by the owner of the Lot 2 Property. In the event of failure of an owner to make timely payment as aforesaid, the remaining owner or owners shall have the remedies and protections afforded the provider of labor and materials under the Nebraska Construction Lien Act.

3. Lot 21 Access Easement. Declarant hereby grants to the owner or owners of all or any portion of the Other Property and Lot 21 and to their respective tenants, subtenants, concessionaires, invitees, employees, agents and customers of each for the benefit of the other, a perpetual non-exclusive, right, privilege and easement for the use of that portion of the Other Property and the Lot 21 Property generally described and depicted on Exhibit "D" attached hereto ("Lot 21 Access Easement") for access only to either the Other Property or to Lot 21.

Allocation of Costs. Costs for the construction, maintenance, repair and replacement of the drive over the Lot 21 Access Easement and related island, if necessary, (including a sprinkler system servicing the island) shall be borne 50% by the owner of the Other Property and 50% by the owner of the Lot 21 Property. In the event of failure of an owner to make timely payment as aforesaid, the remaining owner or owners shall have the remedies and protections afforded the provider of labor and materials under the Nebraska Construction Lien Act.

4. Term. The easements, restrictions, covenants and conditions contained herein shall be perpetual.

5. Covenants Running with the Land. The easements hereby granted, the restrictions hereby imposed, and the agreements herein contained shall be easements, restrictions and covenants running with the land and shall inure to the benefit of and be binding upon, the parties hereto and their respective heirs, successors and assigns, including, but without limitation, all subsequent owners of any part of the Other Property, the Property and Lot 21, and all persons claiming under them.

6. Enforcement. Enforcement of these easements, restrictions, covenants and conditions shall be by any proceeding at law or in equity against any person violating or attempting to violate any provision, either to restrain violation, mandate compliance, or recover damages, and the failure of any owner to enforce any provision herein contained shall in no event be deemed a waiver of the right to do so thereafter.

7. Legal Description. If any owner of either the Lot 2 Property, the Other Property or Lot 21 determines that legal descriptions be prepared for either or both of the easements shown on Exhibits "C" or "D", said descriptions shall be prepared, shall become a part hereof, shall be recorded as a part hereof, and the cost of preparing and recording the descriptions shall be handled as set forth herein with respect to the allocation of costs.

8. Severability. Invalidation of any one of these provisions by a judgment or court order shall in no way affect any other provision which shall remain in full force and effect.

9. Notices. Any notice shall be deemed to have been properly sent when mailed, postage prepaid, to the last known address of the party who appears as owner on the records of the Register of Deeds of Douglas County.

10. Construction. The rule of strict construction does not apply to this Easement. This Easement shall be given a reasonable construction so that the intention of the parties is carried out.

IN WITNESS WHEREOF, the undersigned have executed this instrument on the day and year first written above.

Silvercrest Developers, Inc.,
a Nebraska Corporation,


By Donald J. Day ^{Exec.} V.P.

ATTEST: Robert A. [Signature]
Not. Secy.

ACKNOWLEDGMENT

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

Before me, the undersigned, a notary public in and for said county and state, on this 4th day of April, 1988, personally appeared Gonard E. Dow, to me to be the identical person who executed the within and foregoing instrument, as Vice President of SILVERCREST DEVELOPERS, INC., a Nebraska Corporation, and acknowledged to me that he executed the same as his free and voluntary act and deed, and the free and voluntary act and deed of the Corporation for the uses and purposes therein set forth.

 GENERAL NOTARY-State of Nebraska
BRENDA L. SAVAGE
My Comm. Exp. Dec. 5, 1989

Brenda L. Savage
Notary Public

62

EXHIBIT "A"

Lot 1 and a part of Lot 2, Miracle Hills Park Replat, a subdivision located in Douglas County, Nebraska, more particularly described as follows:

Beginning at the Northeast corner of said Lot 1; thence S 13°30'21" E along the Easterly line of said Lot 1 for 100.00 feet; thence S 0°35'17" E for 319.55 feet to the Southerly line of said Lot 2; thence S 89°24'43" W along the Southerly lines of Lot 2 and Lot 1 for 459.48 feet; thence N 07°10'39" E along the Westerly line of said Lot 1 for 358.95 feet; thence Easterly along the R.O.W. of Miracle Hills Drive along a 420.00 foot radius curve to the left for an arc distance of 151.62 feet (chord bearing N 86°50'09" E for 150.80 feet); thence continuing along the R.O.W. of Miracle Hills Drive N 76°29'39" E for 244.18 feet to the point of beginning and containing 3.742 acres, more or less.

EXHIBIT "B"

All of Lot 2, Miracle Hills Park Replat, a subdivision located in Douglas County, Nebraska, less and except that tract of land more particularly described as follows:

Beginning at the Northeast Corner of Lot 1, Miracle Hills Park Replat; thence S 13° 30' 21" E along the Easterly line of said Lot 1 for 100.00 feet to the point of beginning; thence S 0° 35' 17" E for 319.55 feet to the Southerly line of said Lot 2; thence S 89° 24' 43" W along the Southerly line of said Lot 2 for 140.40 feet; thence N 0° 35' 17" W along the Westerly line of said Lot 2 for 158.42 feet; thence N 3° 10' 54" W along the Westerly line of said Lot 2 for 127.73 feet; thence N 76° 29' 39" E along the Northerly line of said Lot 2 for 150.00 feet to the point of beginning, and containing 0.975 acres, more or less.

TOWN: Any other
 City of
 County of
 State of
 District of
 Parcel No.
 Assessor's
 Map No.
 of the City

BLOCK: Alameda
 Center
 Corner
 Street
 City

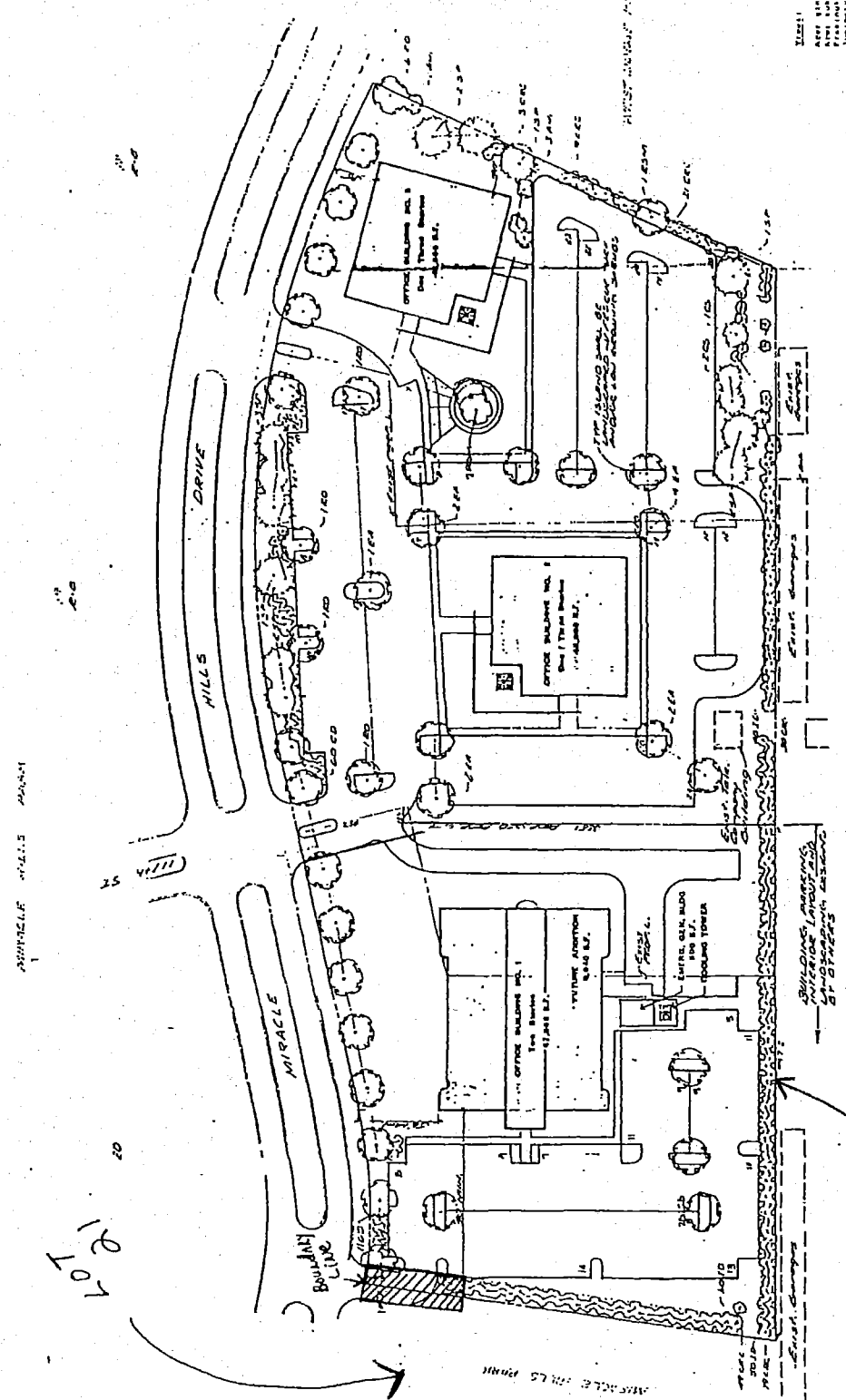


EXHIBIT "D"
 OTHER PROPERTY

107