

PREPARED

FINAL PLAT OF OPAL 2ND ADDITION

OWNER AND DEVELOPER
 OPAL DRIVE, L.L.C.
 JOHN H. JERKOVICH, MEMBER
 NEIL R. BACH, MEMBER
 RONALD D. JOHNSON, MEMBER
 301 WEST BROADWAY
 COUNCIL BLUFFS, IOWA 51503

INST # 6511
 RECORDING FEE 155.00
 AUDITOR FEE _____
 RMA FEE 1.00

FILED FOR RECORD
 POTTAWATTAMIE CO. IA.
 97 DEC -4 AM 10:00
 JOHN SCIORRINO
 RECORDER

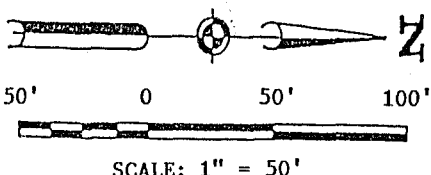
HAT OPAL DRIVE, L.L.C.,
 BEING THE SOLE OWNER AND
 THE LEGAL DESCRIPTION
 CAUSED THE SAME TO BE
 AS OPAL 2ND ADDITION,
 LOTS 10 AND 10A, AND
 PROPERTY AS SHOWN ON
 THIS PLAT DEDICATED TO THE
 CITY OF COUNCIL BLUFFS,
 IOWA, EXCEPT THE WEST 15 FEET THEREOF, ALL OF THE ABOVE MORE PARTICULARLY DESCRIBED AS
 FOLLOWS:

LEGAL DESCRIPTION:
 A PARCEL OF LAND LOCATED IN PART OF LOT 6 OF AN AUDITOR'S SUBDIVISION OF THE SOUTHWEST QUARTER OF
 THE SOUTHEAST QUARTER OF SECTION 18, TOWNSHIP 75 NORTH, RANGE 43 WEST OF THE 5TH PRINCIPAL MERIDIAN,
 POTTAWATTAMIE COUNTY, COUNCIL BLUFFS, IOWA, AND LOT 5, OPAL 1ST ADDITION TO THE CITY OF COUNCIL
 BLUFFS, IOWA, EXCEPT THE WEST 15 FEET THEREOF, ALL OF THE ABOVE MORE PARTICULARLY DESCRIBED AS
 FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 8 OF SAID OPAL 1ST ADDITION AND POINT OF BEGINNING;
 THENCE NORTH 0°00'00" EAST ALONG THE EAST LINE OF SAID LOT 8, OPAL 1ST ADDITION, AND ALONG THE EAST
 LINE OF LOT 6, OPAL 1ST ADDITION, AND ALONG A PORTION OF THE EAST LINE OF SAID OPAL 1ST ADDITION, A
 DISTANCE OF 209.00 FEET TO A POINT ON THE NORTH RIGHT OF WAY LINE OF OPAL DRIVE; SAID POINT ALSO BEING
 THE SOUTHEAST CORNER OF SAID LOT 5, OPAL 1ST ADDITION; THENCE NORTH 89°58'30" WEST ALONG SAID NORTH
 LINE OF OPAL DRIVE, SAID LINE ALSO BEING THE SOUTH LINE OF SAID LOT 5, OPAL 1ST ADDITION, A DISTANCE OF
 40.00 FEET; THENCE NORTH 0°00'00" EAST AND PARALLEL WITH SAID EAST LINE OF OPAL 1ST ADDITION, A DISTANCE
 OF 160.00 FEET TO A POINT ON THE NORTH LINE OF SAID LOT 5, OPAL 1ST ADDITION; THENCE NORTH 89°57'00" EAST
 ALONG SAID NORTH LINE OF LOT 5, OPAL 1ST ADDITION, A DISTANCE OF 40.00 FEET TO THE NORTHEAST CORNER OF
 SAID LOT 5, OPAL 1ST ADDITION; THENCE SOUTH 89°57'55" EAST ALONG THE NORTH LINE OF SAID LOT 6 OF AN
 AUDITOR'S SUBDIVISION OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER, A DISTANCE OF 541.93 FEET
 TO THE NORTHEAST CORNER OF SAID LOT 6, SAID CORNER BEING ON THE EAST LINE OF SAID SOUTHWEST
 QUARTER OF THE SOUTHEAST QUARTER; THENCE SOUTH 1°32'14" WEST ALONG THE EAST LINE OF SAID LOT 6, SAID
 LINE ALSO BEING THE EAST LINE OF SAID SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER, A DISTANCE OF
 369.60 FEET TO THE SOUTHEAST CORNER OF SAID LOT 6, SAID CORNER ALSO BEING THE SOUTHEAST CORNER OF
 SAID SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER; THENCE NORTH 89°55'13" WEST ALONG THE SOUTH
 LINE OF SAID LOT 6, SAID LINE ALSO BEING THE SOUTH LINE OF SAID SOUTHWEST QUARTER OF THE SOUTHEAST
 QUARTER, A DISTANCE OF 532.01 FEET TO THE POINT OF BEGINNING. PARCEL CONTAINS 4.699 ACRES, MORE OR
 LESS.

NOTE: THE EAST LINE OF SAID OPAL 1ST ADDITION IS ASSUMED TO BEAR NORTH 0°00'00" EAST FOR THIS
 DESCRIPTION.

LOT 6, AUDITOR'S SUBDIVISION,
 SE 1/4 SE 1/4, SECTION 18,
 T 75 N, R 43 W, EXCEPT THE SOUTH 10 ACRES.



SCALE: 1" = 50'

LIABILITY COMPANY

OUR HANDS THIS 25th
 1997.

DATE 11/25/97
 DATE 11/25/97
 DATE 11/25/97

POTTAWATTAMIE COUNTY, IOWA

POTTAWATTAMIE COUNTY, IOWA

AND CERTIFIED

1997.

John D. Wood
 POTTAWATTAMIE COUNTY, IOWA

SECTION 18, T 75 N, R 43 W.
 41.93'

251.11'

CITY LIMITS

SW 1/4 SE 1/4,

T 75 N, R 43 W

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

THIS RESERVED FOR DRAINAGE PURPOSES AND FOR THE INSTALLATION AND
VE FEET IN WIDTH ALONG ALL SIDE LOT LINES, EXCEPT THE LOT LINES BETWEEN
LOTS 10 AND 10A, WHICH ARE EXEMPT FROM SAID EASEMENTS. SAID DRAINAGE
ARE PRIVATE AND SHALL BE INSTALLED AND MAINTAINED BY LOT OWNERS. ALSO,
RE RESERVED OVER REAR, SIDE AND FRONT LOT LINES AS SHOWN IN THE

FINAL PLAT OF
OPAL 2ND ADDITION

DEDICATION:

KNOW ALL PEOPLE OF THESE PRESENTS: THAT OPAL DRIVE, L.L.C.,
AN IOWA LIMITED LIABILITY COMPANY, BEING THE SOLE OWNER AND
PROPRIETOR OF THE LAND DESCRIBED IN THE LEGAL DESCRIPTION
AND EMBRACED WITHIN THIS PLAT, HAS CAUSED THE SAME TO BE
SUBDIVIDED INTO LOTS AND TO BE KNOWN AS OPAL 2ND ADDITION,
LOTS 1 AND 1A, LOTS 2 THROUGH 9, AND LOTS 10 AND 10A, AND
WE HEREBY RATIFY AND APPROVE OF OUR PROPERTY AS SHOWN ON
THIS PLAT AND OPAL DRIVE RIGHT OF WAY IS DEDICATED TO THE
CITY OF COUNCIL BLUFFS, IOWA.

IN WITNESS WHEREOF WE DO HEREBY SET OUR HANDS THIS 25th
DAY OF November, 1997.

OPAL DRIVE, L.L.C., AN IOWA LIMITED LIABILITY COMPANY

BY: John H. Jerkovich 11/25/97 DATE

JOHN H. JERKOVICH, MEMBER

BY: Neil R. Bach 11/25/97 DATE

NEIL R. BACH, MEMBER

BY: Ronald D. Johnson 11/25/97 DATE

RONALD D. JOHNSON, MEMBER

CERTIFICATE OF TREASURER OF POTTAWATTAMIE COUNTY, IOWA

I, JUDY ANN MILLER, TREASURER OF POTTAWATTAMIE COUNTY,
IOWA, HEREBY CERTIFY THAT THE LAND INCLUDED IN OPAL 2ND
ADDITION IS FREE FROM CERTIFIED TAXES AND CERTIFIED
SPECIAL ASSESSMENTS.

DATED THIS 7 DAY OF December, 1997.

Judy Ann Miller by Patricia S. Glassed Deputy
JUDY ANN MILLER, TREASURER OF POTTAWATTAMIE COUNTY, IOWA

LOT 5, AUDITOR'S SUBDIVISION, SW 1/4 SE 1/4, SECTION 18, T 75 N, R 43 W.

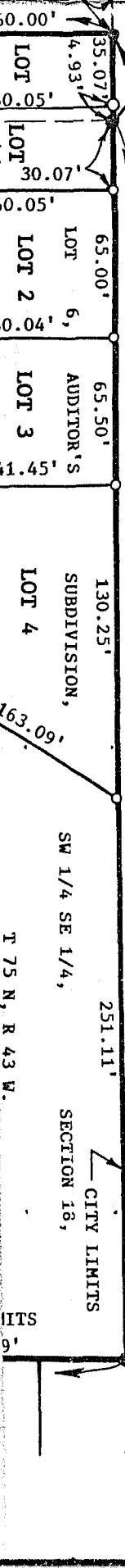
S 89°57'55" E 541.93'

251.11'

SW 1/4 SE 1/4,

CITY LIMITS

LOT 6, AUDITOR'S
SE 1/4 SE 1/4, S
T 75 N, R 43 W,



59332-86

59332-86

SE 1/4 SE 1/4, SECTION 18,
T 75 N, R 43 W, EXCEPT THE SOUTH 10 ACRES.



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. *Nov. 24, 1997*
CARL H. ROGERS, JR. DATE

LICENSE NUMBER: 7717

MY LICENSE RENEWAL DATE IS DECEMBER 31, 1998.

SHEETS COVERED BY THIS SEAL: SHEET 1 OF 1

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

a. ALL PRIVATE RESTRICTIONS AND/OR COVENANTS, IF ANY, WHICH WILL BE A PART OF THE SUBDIVISION.

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

OPAL DRIVE, L.L.C., AN IOWA LIMITED LIABILITY COMPANY

BY: *John H. Jerkovich* 11/25/97 DATE
JOHN H. JERKOVICH, MEMBER

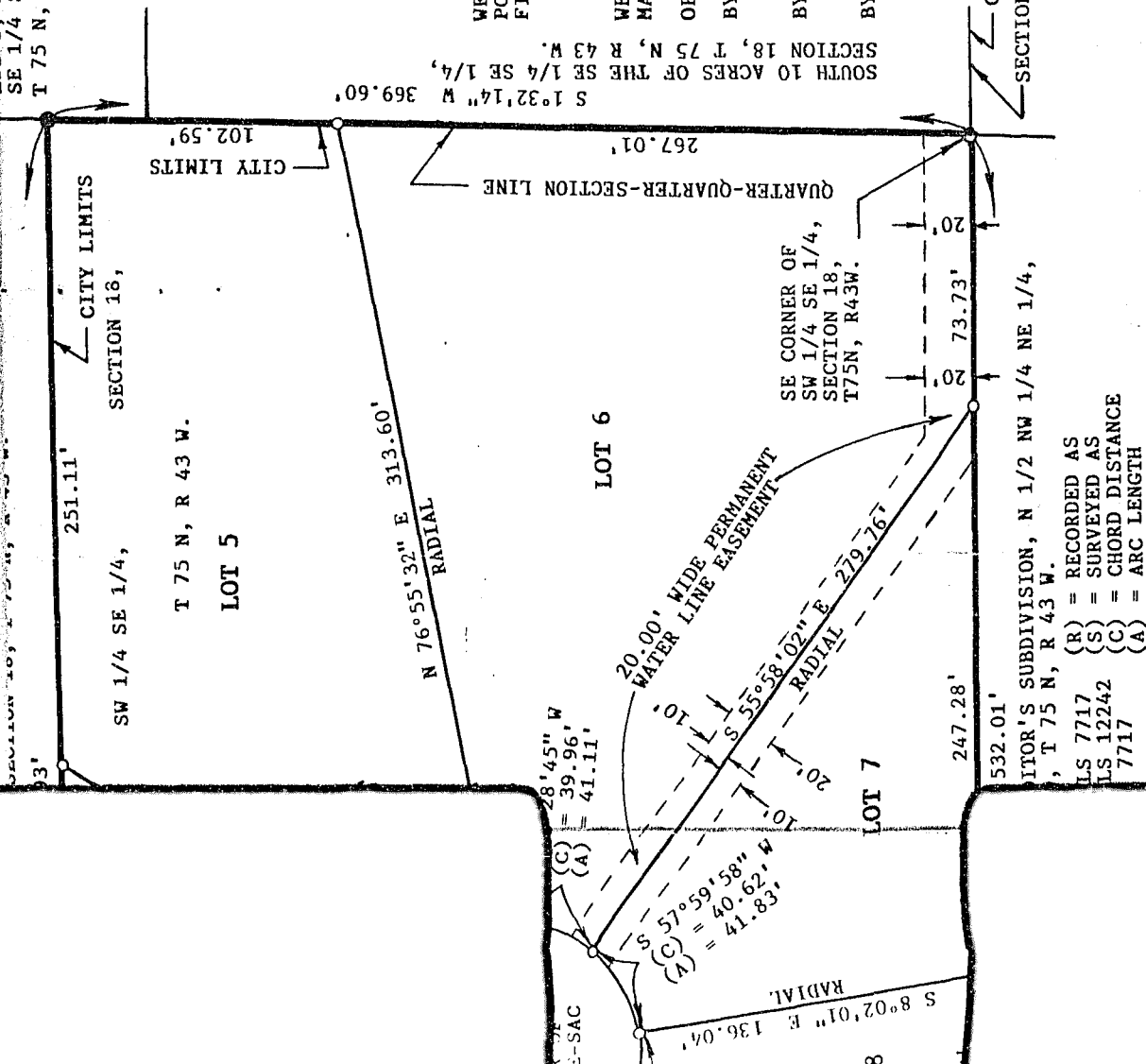
BY: *Neil R. Bach* 11/25/97 DATE
NEIL R. BACH, MEMBER

BY: *Ronald D. Johnson* 11/25/97 DATE
RONALD D. JOHNSON, MEMBER

ROGERS SURVEYING

1688 ROLLING HILLS LOOP COUNCIL BLUFFS, IOWA

SCALE: 1" = 50'	APPROVED BY:	DRAWN BY S.L.H.
DATE: 9-25-97	C.H.R., JR.	REVISED
CLIENT: OPAL DRIVE, L.L.C., MEMBER: JOHN JERKOVICH 301 WEST BROADWAY COUNCIL BLUFFS, IOWA 51503		
TITLE: FINAL PLAT OF OPAL 2ND ADDITION		DRAWING NUMBER 103597



SECTION 18
CITY LIMITS

LOTOR'S SUBDIVISION, N 1/2 NW 1/4 NE 1/4,
T 75 N, R 43 W.
LS 7717 (R) = RECORDED AS
LS 12242 (S) = SURVEYED AS
7717 (C) = CHORD DISTANCE
(A) = ARC LENGTH

COMPARSED

SMITH PETERSON LAW FIRM

EST. 1908
35 MAIN PLACE, SUITE 300
P.O. BOX 249
COUNCIL BLUFFS, IOWA 51502
(712) 328-1833
FAX (712) 328-8320

- HAROLD T. BECKMAN
- *ROBERT J. LAUBENTHAL
- *RICHARD A. HEININGER
- *LAWRENCE J. BECKMAN
- *GREGORY G. BARNTSEN
- *STEVEN H. KROHN
- *W. CURTIS HEWETT
- *RANDY R. EWING
- *JOSEPH D. THORNTON

RAYMOND A. SMITH (1892-1977)
JOHN LEROY PETERSON (1894-1969)

OMAHA OFFICE
9290 West Dodge Road, Suite 205
Omaha, NE 68114

- ASSOCIATES
- *THOMP J. PATTERMANN
- DANIEL L. FRETHEIM
- +PAUL M. SHOTKOSKI

- *LICENSED IN IOWA AND NEBRASKA
- +LICENSED IN IOWA, NEBRASKA AND ILLINOIS

October 29, 1997

Entered for Taxation **DEC 4 1997**

Raymond J. Drake

COUNTY AUDITOR

Pottawattamie County Treasurer
Pottawattamie County Recorder
227 South 8th Street
Council Bluffs, IA 51501

RE: Opal 2nd Addition/Platting

We have examined abstract of title to:

A parcel of land located in part of Lot 6 of an Auditor's Subdivision of the SW¼ SE¼ of Section 18, Township 75, Range 43, Pottawattamie County, Council Bluffs, Iowa, and Lot 5, Opal 1st Addition to the City of Council Bluffs, Iowa, EXCEPT the West 15 feet thereof, all of the above more particularly described as follows:

Commencing at the Southeast corner of Lot 8 of said Opal 1st Addition, and Point of Beginning; thence N 0° 00' 00" E along the East line of said Lot 8, Opal 1st Addition, and along the East line of Lot 6, Opal 1st Addition, and along a portion of the East line of said Opal 1st Addition, a distance of 209.00 feet to a point on the North right of way line of Opal Drive; said point also being the Southeast corner of said Lot 5, Opal 1st Addition; thence N 89° 58' 30" W along said North line of Opal Drive, said line also being the South line of said Lot 5, Opal 1st Addition, a distance of 40.00 feet; thence N 0° 00' 00" E and parallel with said East line of Opal 1st Addition, a distance of 160.00 feet to a point on the North line

COMPARED

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October 29, 1997

of said Lot 5, Opal 1st Addition, thence N 89° 57' 00" E along said North line of Lot 5, Opal 1st Addition, a distance of 40.00 feet to the Northeast corner of said Lot 5, Opal 1st Addition; thence continuing S 89° 57' 55" E along the North line of said Lot 6 of an Auditor's Subdivision of the SW¼ SE¼ a distance of 541.93 feet to the Northeast corner of said Lot 6, said corner being on the East line of said SW¼ SE¼; thence S 1° 32' 14" W along the East line of said Lot 6, said line also being the East line of said SW¼ SE¼, a distance of 369.90 feet to the Southeast corner of said Lot 6, said corner also being the Southeast corner of said SW¼ SE¼; thence N 89° 55' 13" W along the South line of said Lot 6, said line also being the South line of said SW¼ SE¼, a distance of 532.01 feet to the Point of Beginning.

NOTE: The East line of said Opal 1st Addition is assumed to bear N 0° 00' 00" E for this description.

The abstract was last certified to by Abstract Guaranty Company consisting of 351 total entries in three parts with the last part thereof consisting of 6 consecutively numbered entries and extending from the U.S. Government to September 19, 1997, at 8:00 o'clock A.M.

We have conducted our examination under the provisions of the Iowa Marketable Title Act. We find the title at the time of last certification of the abstract as shown by the abstract to be in OPAL DRIVE, L.L.C., an Iowa limited liability company, subject only to the following:

1. At Entry #6, Part C, the general taxes for the year 1996 are shown unpaid, 1995 and prior years are shown paid for Parcels #0-35-610-591-005, 0-35,32-591-001 and 0-35,32-591-002. We assume that the reference to the general taxes for 1995 is a reference to the fiscal year 1995-1996 taxes due and payable in fiscal 1996-1997.
2. At Entry #154, Part A, and Entry #174, Part B, the abstractor makes the notation that it is no longer possible to certify to special assessments and/or unpaid fees for services for sewer systems, storm water drainage systems, sewage treatment, solid waste collection, water, and solid waste disposal which have

CONFIDENTIAL

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October 29, 1997

- been certified to the County Treasurer for collection unless those charges have been entered on the tax books.
3. At Entry #155, Part A, and Entry #175, Part B, the abstractor makes the notation that they do not certify to assessments for buildings on leased land or assessments for machinery and equipment, as the County Treasurer indexes those assessments in such a manner as it is impossible to determine whether there are any which would attach to the real estate.
 4. At Entry #5, Part C, is shown a lien search for Opal Drive, L.L.C., an Iowa limited liability company for ten years last past.
 5. At Entry #162, Part A, and Entry #179, Part B, is shown a mortgage to Firststar Bank Iowa, N.A. in the amount of \$68,850.00 dated October 31, 1996. The mortgage was filed for record November 13, 1996, and recorded in Book 97, Page 19073. The mortgage contains six months redemption and sixty days abandonment clauses in the event of a foreclosure and due on sale clauses. The mortgage secures loans and future advances up to \$68,850.00, plus interest.
 6. At Entry #118, Part B, is shown the plat of Opal 1st Addition, dated June 23, 1979 and filed June 23, 1980 in Book 80 at Page 21632. A five-foot utility easement is shown along the East 5 feet of Lot 5 on the Plat.
 7. At Entry #135, Part B, is shown a Lot Line Adjustment, dated October 10, 1984 and filed November 27, 1984 in Book 85 at Page 10343, wherein the City Community Development Department approved the split of Lots 4 and 5 in Opal 1st Addition into two separate parcels, one being Lot 5 (except the West 15 feet), and the other being Lot 4 and the West 15 feet of Lot 5.
 8. At Entry #121, Part A, is shown an Easement to Iowa Power and Light Company, dated August 18, 1980 and filed August 26, 1980 in Book 81, Page 2934, for the construction, maintenance and operation of an electrical supply line and appurtenances over a portion of the property under examination.
 9. At Entry #117, Part B, is shown an Easement Agreement with City of Council Bluffs, Iowa f/b/o Council Bluffs City Water Works, dated October 24, 1979 and

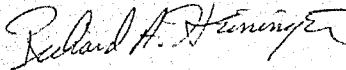
98-23371

COMPARED

Page 4
October 29, 1997

filed November 26, 1979 in Book 80, Page 10621 for a 20-foot wide easement over the Eastern five feet of Lot 5 for the construction, installation, maintenance, etc., of an underground water pipeline and appurtenances.

Very truly yours,



RICHARD A. HEININGER
Title Guaranty Division Member #1849
RAH/rp/AOopal3.sig#(0807-96)

98-23372

CONFIDENTIAL

CONSENT OF MORTGAGEE TO PLATTING

Firststar Bank Iowa, N.A., is the holder of one mortgage on property that is part of the plat to which this Consent of Mortgagee is attached. The first mortgage was executed by Opal Drive, L.L.C., limited liability company on October 31, 1996, and filed for record November 13, 1996, and recorded in the Pottawattamie County Recorder's Office at Book 97, Page 19073. Said mortgage covers real estate described as follows:

The East 545 feet of Lot 6, Auditor's Subdivision of the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 18, Township 75, Range 43; and Lot 5 (except the West 15 thereof), Opal's First Addition to the City of Council Bluffs, Pottawattamie County, Iowa;

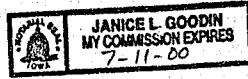
which is now known as and shown on said plat. The real estate is being laid out into lots as designated by the attached plat as Opal 2nd Addition to the City of Council Bluffs, Pottawattamie County, Iowa, pursuant to Chapter 354, Code of Iowa (1997) as amended. Firststar Bank Iowa, N.A., as the holder of said mortgage hereby consents to said platting, and said consent is given pursuant to the provisions of §354.11(2), Code of Iowa (1997) as amended. Since a portion of the property designated on the plat is to be conveyed or dedicated to the local governmental unit within which such land is located, this Consent of Mortgagee shall constitute a partial release of said mortgage for all areas conveyed to the local governmental unit or dedicated to the public. Said Consent by Firststar Bank Iowa, N.A. shall in no way be deemed a release, either total or partial, of any interest in the remainder of the tract of land not conveyed to the local

COMPLETED

as such officers acknowledged the execution of said instrument to be the voluntary act
and deed of said corporation by it and by ^{him} them voluntarily executed.

Janice L. Goodin
NOTARY PUBLIC IN AND FOR SAID STATE

(SEAL)



98-23375

COMPARED

CERTIFICATE AND RECEIPT

=====

STATE OF IOWA,

} ss.

Pottawattamie County,

The undersigned, Clerk of the City of Council Bluffs,
Iowa, hereby certifies this is a true and correct copy of
Resolution 97-280

as the same appears of record in this office.

Witness my hand and seal of the City of Council Bluffs, Iowa,
this 24th _____ day of November A.D. 1997, _____



Olga Ramirez
Clerk of the City of Council Bluffs, Iowa.

=====

INST # 7026 ✓
RECORDING FEE 1500
AUDITOR FEE -
RMA FEE 00

FILED FOR RECORD
POTTAWATTAMIE CO. IA.

COMPLAID

97 NOV -6 AM 11:16

JOHN SCIORTINO
RECORDER

44 B

PREPARED BY: City of Council Bluffs Legal Department, 209 Pearl Street, Council Bluffs, IA 51503 (712) 328-4620
RETURN TO: City Clerk, 209 Pearl Street, Council Bluffs, IA 51503

RESOLUTION NO. 97-280

A RESOLUTION granting final plat approval for a 12-lot residential subdivision to be known as Opal 2nd Addition, located on 4.699 acres in part of Lot 6, Auditor's Subdivision of the SW¼ SE¼ of Section 18-75-43, and Lot 5, Opal 1st Addition, generally located east of the intersection of Kimberly and Opal Drives.

WHEREAS, Opal Drive L.L.C. has applied for final plat approval for a 12-lot residential subdivision to be known as Opal 2nd Addition, as set out on attached Exhibit "A", legally described as:

Part of Lot 6, Auditor's Subdivision of the SW¼ SE¼, Section 18-75-43, and Lot 5, Opal 1st Addition, Council Bluffs, Pottawattamie County, Iowa; and

WHEREAS, the proposed subdivision is consistent with the 1994 Comprehensive Plan and the purpose and intent of the Subdivision and Zoning Ordinances. The lots meet or exceed the minimum lot size required by the Zoning Ordinance. The proposed lots all have direct abutting access to public street right-of-way; and

WHEREAS, the final plat of Opal 2nd Addition is generally consistent with the preliminary plan approved on December 12, 1983, by Resolution No. 83-517. Lot lines have been adjusted to accommodate single family lots, rather than the duplexes proposed earlier. The last 35 feet of Lot 5, Opal 1st Addition have been incorporated into Opal 2nd, as part of Lot 1; and

WHEREAS, the sanitary sewer was inspected and repairs have been made as required by the Public Works Department. Arrangements have been made for the installation of electricity, natural gas, telephone and cable television; and

WHEREAS, the water distribution system and fire hydrants are in place, consistent with the requirements of the Water Works and the Fire Safety Code; and

WHEREAS, covenants have been prepared, which will be recorded with the final plat; and

WHEREAS, the preliminary plan for Opal 2nd is void because the former owner did not file for final plat approval in a timely manner. The property has been purchased by Opal Drive L.L.C. The requirements for final plat approval have been met; and

WHEREAS, the final plat has been reviewed by the appropriate City departments and utilities, with no adverse comments received; and

WHEREAS, the Community Development Department recommends confirmation of the preliminary plan, approved by Resolution No. 83-517 on December 12, 1983, and approval of the final plat for a subdivision to be known as Opal 2nd Addition, as shown on Attachment "A", subject to the following conditions:

98-19114

98-23377

1-66

CONFIDENTIAL

RESOLUTION: 97-280

PAGE TWO

1. Prior to executing the final plat, all technical corrections required by the Community Development and/or Public Works Departments shall be incorporated into the final plat document;
2. Sidewalks shall be installed at no expense to the City, along the street frontage of Lots 1 through 10A, prior to issuance of a certificate of occupancy for each dwelling.

NOW, THEREFORE, BE IT RESOLVED

BY THE CITY COUNCIL

OF THE

CITY OF COUNCIL BLUFFS, IOWA:

That final plat for Opal 2nd Addition is hereby approved; and

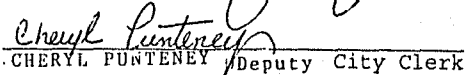
BE IT FURTHER RESOLVED

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

ADOPTED
AND October 27, 1997
APPROVED


THOMAS P. HANAFAN Mayor

Attest:


CHERYL PUNTENEV Deputy City Clerk

Planning Case #SUB-97-011

98-19115

98-23378

COMPARISON

FINAL PLAN OF OPAL 2ND ADDITION

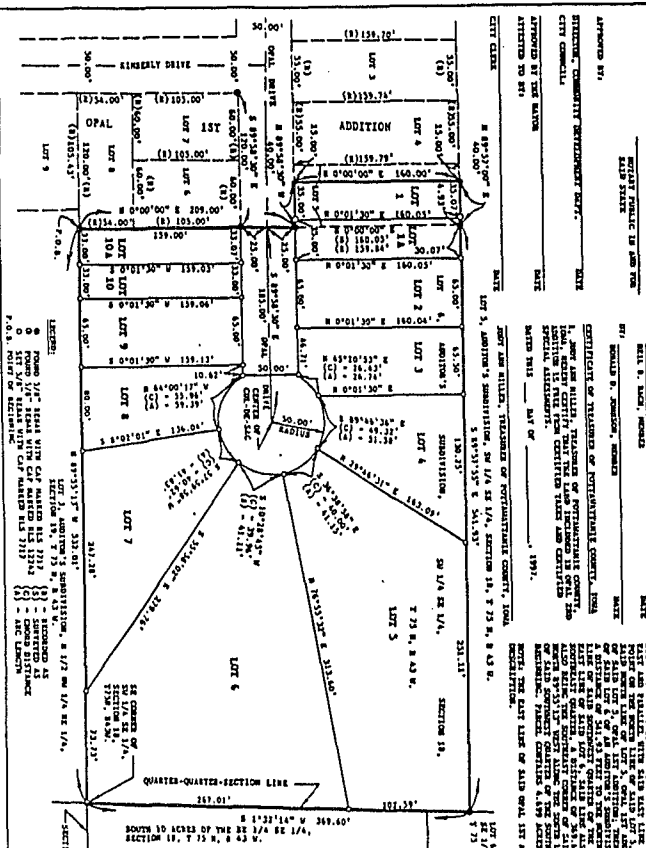
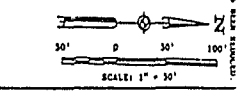
PRELIMINARY COPY FOR REVIEW ONLY

THIS IS A PRELIMINARY STATEMENT OF INTENT FOR PAID-UP PERIODS AND FOR THE... STATE OF IOWA... COURT OF INVESTMENT

SECTION 1. ALL PORTIONS OF THESE RESERVES... SECTION 2. THE PORTION OF THE LAND... SECTION 3. THE PORTION OF THE LAND...

SECTION 4. THE PORTION OF THE LAND... SECTION 5. THE PORTION OF THE LAND... SECTION 6. THE PORTION OF THE LAND...

SECTION 7. THE PORTION OF THE LAND... SECTION 8. THE PORTION OF THE LAND... SECTION 9. THE PORTION OF THE LAND...



SECTION 10. THE PORTION OF THE LAND... SECTION 11. THE PORTION OF THE LAND... SECTION 12. THE PORTION OF THE LAND...

SECTION 13. THE PORTION OF THE LAND... SECTION 14. THE PORTION OF THE LAND... SECTION 15. THE PORTION OF THE LAND...

CASE #SUB-97-011 ATTACHMENT 'A'

98-23379

COMPARES

Preparer

Information: Richard A. Heiringer, P.O. Box 249, Council Bluffs, IA 51502 (712) 328-1833

RESTRICTIONS AND COVENANTS OPAL 2nd ADDITION IN THE CITY OF COUNCIL BLUFFS, IOWA

Declarant is the owner of all of the lots of Opal 2nd Addition, a subdivision located in the City of Council Bluffs, Iowa, and does hereby adopt the following Restrictions and Covenants, to-wit:

1. As used herein, the following definitions shall apply:
 - a. "Subdivision" shall mean Opal 2nd Addition.
 - b. "Addition" shall mean Opal 2nd Addition.
 - c. "Architectural Control Committee" shall mean the Developer or a committee appointed by the Developer.
 - d. "Declarant" shall mean Opal Drive, L.L.C., its assigns and successor developers.
 - e. "Developer" shall mean the Declarant, its assigns and successor developers.
 - f. "Lot" shall mean and refer to any plat of land shown upon the recorded plat of the addition.
 - g. "Owner" or lot owner means:
 - (1) Any person, including Declarant, who holds fee simple title to any lot in the subdivision which is at any time subject to the provisions of this Declaration.

98-23380

- (2) Any person or legal entity who has contracted to purchase fee simple title to a lot pursuant to a written agreement in which case the seller under said agreement shall cease to be the Owner while said agreement is in effect.
- (3) Any person or legal entity who has commenced legal proceedings to forfeit a contract of sale or foreclose a mortgage on any lot or serves as a court appointed receiver to manage said lot or serves as a Trustee under the bankruptcy law.

h. "Residence" shall mean custom-built, duplexes or single-family attached dwellings.

2. The Subdivision shall be subject to the control of the following architectural control covenants.

- a. Scope of Architectural Control. No building, fence, wall or other structure, shall be commenced, erected or maintained upon a lot, nor shall any exterior addition to, change or alteration therein, be made until the plans, specifications, exterior siding, color scheme, and plot plan showing the nature, kind, shape, height, materials and location of the same have been submitted to and location of the same have been submitted to and approved in writing as to harmony of external design and location in relation to the surrounding structures and topography by the Developer, or by an architectural control committee appointed by said Developer. In the event the Developer or its designated committee fails to approve or disapprove in writing such design and location within thirty days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. All such plans and specifications shall be submitted to the Developer in care of Heartland Properties, Inc., 301 West Broadway, Council Bluffs, Iowa 51503, or such other place as the Developer may designate.

CONTINUED

- b. Guidelines for Architectural Control. The following statements regarding design, location and construction of Residences are intended to be merely guidelines, not absolute criteria, that the Developer or the Architectural Control Committee will use in granting architectural approval. Deviations from the guidelines will be made in order to protect the unique topography and existing timber and other native growth that are essential elements to both the nature and character of the Addition.
- (1) Living trees over six inches in diameter (measured at a point two feet above ground level) may be removed from the lots with the approval of the Developer. The plans submitted to the Developer pursuant to the provisions of Article 2, Paragraph a., above, must identify each tree proposed to be removed.
 - (2) Each individual lot owner is to take all steps necessary to reasonably and adequately regulate the drainage from the owner's lot and to control unreasonable and undesirable erosion.
 - (3) The provisions of the Council Bluffs City Code will govern the setback requirements for the lots in the Addition, subject to the approval of the Architectural Control Committee or Developer. Rear setbacks shall not be less than 10 feet. Furthermore, side and rear setback variances will be granted only in the event that it is necessary to achieve reasonable and proper slope control, drainage, and preservation of existing trees and other native growth. Provided, however, said side and rear setback variances will not be granted if to do so would produce undesirable design, location, scenic or aesthetic results. As to the common side yard, side yard setbacks shall not apply to zero lot line town home construction; however the side yard setbacks shall apply to the side yards adjacent to other lots.

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- (4) Should an unattached maintenance structure be desired on the lot, it shall be of the same design and construction as the accompanying Residence.
- (5) No lot shall be further subdivided and each lot is limited to the construction of one Residence.
- (6) There shall be no fences in the front yard and no sign obstructing structures or plants shall be allowed in the front yard including but not limited to wind breaks, row of Poplar trees, evergreens, hedges, earthen berms.
- (7) All foundation walls of any Residence shall face any adjoining street shall be covered with either brick or siding in harmony with the design and construction of the Residence. The exterior surface of all other foundation walls will be designed and finished to compliment the design and construction of the Residence.
- (8) Areas which will be used to store, repair or routinely park recreational vehicles, or other vehicles will be designed to include a reasonable screening device to insure, where appropriate, that the contents of said area cannot be seen from any adjoining street or lot. In no event may said vehicles be parked or repaired in the front yard for a period longer than 24 hours.
- (9) Residences designed for construction on lots in the Addition will be required to have the following square footage, whenever practicable in light of the unique topography, existing trees and other nature growth, and the other provisions of these covenants, conditions and restrictions, to-wit:
 - (a) One-Story Residences: 900 square feet will be required on the ground level.

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- (b) One and One-Half Story and Two-Story Residences: At least 650 square feet required on the first floor above the basement level and a total square footage of 1300 square feet not counting the basement.
 - (c) Bi-Level, Split-Level, and Split-Entry Residences: 900 square feet of finished living area will be required.
 - (d) The above square footage requirements shall not include the attached car garage.
 - (e) The Developer reserves the right to amend these square footage requirements by up to 20% of the above amounts, which amendment shall be effective upon the recording of same.
- (10) No single family residence shall be designed or be converted for the use of more than one family. No zero lot line duplex residence shall be designed or be connected for the use of more than one family in each one-half of the duplex.
- (11) The side yard, front yard and rear yard setback law shall not apply to open patios or uncovered porches.
- (12) No earth homes or other subterranean homes shall be allowed.
- (13) Each lot owner shall construct a public sidewalk in front of each lot and upon each side street side of each corner lot. Construction of the sidewalk shall be in accordance with the City of Council Bluffs specifications and shall be completed before the residence is occupied, or as soon thereafter as weather permits.

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- c. No responsibility, liability or obligation shall be assumed by or imposed upon Developer by virtue of the authority granted to Developer in this section, or as a result of any act or failure to act by Developer with respect to any proposed improvement.

3. The construction and landscaping of each residence shall be completed within 12 months from the date the construction of the residence's foundation is commenced. Excess dirt resulting from excavation done on any lot shall be hauled from the lot or used in landscaping the lot within the construction time period. All excavation or alteration of the existing topography and native growth will be done in a manner such that the natural drainage or designated drainage is not altered to such an extent that unreasonable or undesirable drainage or erosion results. Improvements not so completed, or upon which construction has ceased for 90 consecutive days, or which have been partially or totally destroyed and not rebuilt within 12 months shall be deemed nuisances. Declarant may remove any such nuisance or repair or complete the same at the cost of the owner.

4. Material and equipment used during the construction and landscaping process will be stored and maintained on the lot in an orderly manner and discarded materials, rubbish and unneeded equipment will be removed from the lot weekly.

5. Construction and landscaping activities will be confined to the lot on which the construction is in process. The individual lot owner is responsible for any expenses related to providing utilities to the residence.

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6. No hazardous conditions or equipment shall be acquiesced to or maintained by the lot owner during construction or any other time without reasonable and proper warnings and safeguards.

7. No lot owner shall use, suffer or permit any person or persons in any manner whatsoever, to use owner's lot for any purpose in violation of the laws and regulations of the United States, the laws and regulations of the State of Iowa, or the ordinances and regulations of the City of Council Bluffs, Iowa, or any other lawful authority. No lot owner shall use, suffer or permit any person or persons in any manner whatsoever, to use owner's lot for any purpose which will constitute an unreasonable and improper invasion upon the quiet use and enjoyment of any other lot owner's property. Each lot owner shall maintain owner's lot in a clean and wholesome condition and all health and police regulations shall in all respects and at all times be fully complied with by the lot owner so as to prevent noxious and offensive activities or conditions which could constitute a public or private nuisance.

8. The City of Council Bluffs City Code shall control the types and numbers of animals that may be kept on the lots; provided, however, that under no circumstances are any poultry, including but not limited to chickens, ducks, geese or turkeys, to be raised, bred or kept on any lot. All household pets shall be confined to the owner's lot and not allowed to run at large.

9. No vegetable gardens shall be permitted in the front yard.

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10. No lot shall be used or maintained as a dumping ground for solid waste, dirt, stone, brick or similar inorganic material, organic material, hazardous waste or nuclear material. No lot shall be used or maintained as a composting, recycling or salvage yard. No vehicles offensive to the neighborhood shall be visibly stored, parked, or abandoned on any lot. The terms herein shall be defined by the Iowa Code.

11. No unsightly objects will be erected, placed or maintained on any lot. No billboards and signs shall be permitted unless approved by the Architectural Control Committee. No advertising signs will be allowed on any lot unless approved by the Architectural Control Committee; provided, however, one "For Sale" sign of not more than 4 square feet may be placed or maintained on a lot. Notwithstanding the foregoing provisions, this paragraph shall not restrict the business activities, advertising, signs and billboards, or the construction and maintenance of structures by the Declarant, its agents and assigns, during the construction and sale period of this Addition.

12. No boat, camping trailer, auto-drawn trailer of any kind, mobile home, truck, motorcycle, van, aircraft, grading or excavating equipment, or any other portable vehicle shall be stored, repaired, or routinely parked on Opal Drive in front of the Addition as shown by the plat. Each lot owner shall provide off-street parking to adequately meet his or her needs and, in any event, off-street parking for two automobiles, shall be provided in addition to the attached double car garage space.

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13. Except on pick-up days, no garbage or trash shall be permitted outside of any dwelling unless within an area that is fully screened from view from any adjoining street or lot.

14. Maintenance of Lots. All lots and parcels, whether occupied or unoccupied, and any improvements placed thereon shall at all times be maintained in such manner as to prevent their becoming unsightly, unsanitary or a hazard to health. If not so maintained, Declarant or the Architectural Control Committee shall have the right to enforce this covenant by legal proceedings, including a suit for specific performance, and for the costs of such action, including reasonable attorney fees.

15. Ditches, Culverts and Swales. Each owner shall keep drainage ditches, culverts and swales located on owner's lot free and unobstructed and in good repair and shall provide for the installation of such culverts upon owner's lot as may be reasonably required for proper drainage.

16. Reservations. The following easements over each lot or parcel and the right to ingress or egress to the extent reasonably necessary to exercise such easements, are reserved to Declarant and its licensee:

- A. Utility and Drainage Easements. An easement on, over and under the rear 10 feet, the side 5 feet (except the zero lot line side), and the front 10 feet of each lot in the Development for the purpose of installing, maintaining and operating utilities thereon or thereunder, for the purpose of drainage control; for access to any lot or parcel; and for purposes of maintenance of said lots. This easement shall include the right to trim or remove trees, fences or other obstructions.

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- B. Duplex Party Wall Easement. The common wall between the duplex residences shall be a party wall to the center of the wall. The owners of each side of said party wall shall have a right to use it jointly to the middle of said party wall. Any extension of the wall shall be a party wall and part of the existing wall. If it becomes necessary or desirable to repair or rebuild the whole or any part of the wall, the repairing or rebuilding expense shall be borne equally by the parties, or by their heirs and assigns who shall be using it at the time of the repair or rebuilding. Any repairing or rebuilding of the wall shall be on the same location and of the same size as the original wall or part of the original wall, and of the same or similar material of the same quality as that used in the original wall or part of the original wall. This easement shall run with the land and shall bind the respective parties and their heirs, legal representatives and assigns.
- C. Duplex Easements. Each duplex unit built will contain common elements beneficial to the owners of each side. These common elements are the roof, exterior walls and foundation. As to each duplex the repair, painting, maintenance and replacement of these common elements shall be borne equally by the parties or by their heirs, legal representatives and assigns. Any repairing or rebuilding shall be on the same location and of the same size as the original duplex or part thereof and of the same or similar quality materials as used in the original construction. Any disputes between the owners of a duplex shall be submitted to the Architectural Control Committee for resolution. A majority vote of the members of the Architectural Control Committee on any dispute shall control. All repair, painting, maintenance and replacement shall first be approved by the Architectural Control Committee.
- D. Duplex Utility Easement. In the event pipes, wires, conduits or other public utility lines run through one side of a duplex unit which are utilized for or serve the other side, a valid easement for the maintenance of said pipes, wires, conduits or other public utility lines shall exist and in the

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event any part of the building is partially or totally destroyed and later rebuilt, repaired or restored as hereinafter provided, a valid easement for replacement and maintenance of said pipes, wires, conduits or other public utility lines shall exist.

- E. Other Easements. Any other easements shown on the plat.
- F. Use of and Maintenance by Owners. The areas of any lots affected by the easements reserved herein shall be maintained continuously by the owner of such lot, but no structures, plantings or other material shall be placed or permitted to remain or other activities undertaken thereon which may damage or interfere with the use of said easements for the purposes herein set forth. Improvements within such areas shall be maintained by the owner except those for which a public authority or utility company is responsible.
- G. Declarant reserves an easement across each lot for ingress and egress to any lots owned by Declarant. Once Declarant has sold all lots, this easement shall terminate.

17. Liability for Use Easements. No owner shall have any claim or cause of action against Declarant or its licensees arising out of the exercise or failure to exercise any easement reserved hereunder or shown on the plat except in cases of willful or wanton misconduct.

18. If an owner in the Subdivision or their heirs or assigns shall violate or attempt to violate any of the covenants or the restrictions contained herein, it shall be lawful for declarant or any other person or persons owning any lots in said Subdivision, to prosecute any proceedings at law or in equity against the person or

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persons violating or attempting to violate any such covenant or restriction and either to prevent him or them from doing so or to recover damages or both for such violations.

19. Cumulative Rights. Remedies specified herein are cumulative and any specifications of them shall not be taken to preclude an aggrieved party's resort to any other remedy at law or in equity. No delay or failure on the part of an aggrieved party to invoke an available remedy in respect to a violation of any provision of this declaration shall be held to be a waiver by that party of any right available to him upon the recurrence or continuance of said violation or the occurrence of a different violation.

20. Grantee's Acceptance. Each grantee or purchaser of any lot or parcel shall, by acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from Declarant or a subsequent owner of such lot or parcel, accept such deed or contract upon and subject to each and all of the provisions of these restrictions and covenants and to the jurisdiction, rights, powers, privileges and immunities of Declarant and of the Architectural Control Committee. By such acceptance, such grantee or purchaser shall, for himself or herself, his or her heirs, devisees, personal representatives, grantees, successors and assigns, lessees and/or lessors, covenant, consent and agree to and with Declarant and the grantee or purchase of each other lot to keep, observe, comply with and perform the covenants, conditions and restrictions contained in this document.

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21. Amendment. The covenants, conditions and restrictions of this document shall run with and bind the land, and shall inure to the benefit of and be enforceable by the declarant, any lot owner, their legal representatives, heirs, successors and assigns, subject to this declaration, for a period of twenty-one (21) years from the date this declaration is filed in the records of the County Recorder of Pottawattamie County, Iowa, and after which time said covenants, conditions and restrictions may be automatically preserved and extended for successive periods of twenty-one (21) years by at least one lot owner, properly filing a claim once every twenty-one (21) years. The covenants, conditions and restrictions of this document may be amended during the first twenty-one (21) year period by an instrument signed by the owners of 100 percent of the lots in said subdivision, except that Developer may amend same without the approval of any lot owners until all lots are sold. Amendments of the Developer shall take precedent over all other amendments.

22. Severability Clause. In the event any portion of these restrictions and covenants shall, for any reason be held to be invalid, illegal and unenforceable in whole or in part, the remaining provisions shall not be affected thereby and shall continue to be valid and enforceable and if, for any reason, a court finds that any provision of these restrictions and covenants are invalid, illegal or unenforceable as written, but that by limiting such provision it would become valid, legal and enforceable,

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of said instrument to be the voluntary act and deed of said limited liability company by
it and by them voluntarily executed.



Christine M. Ritter

NOTARY PUBLIC IN AND FOR SAID STATE

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