

COMPARED ROTH'S HILLSIDE SECOND ADDITION REPLAT ONE

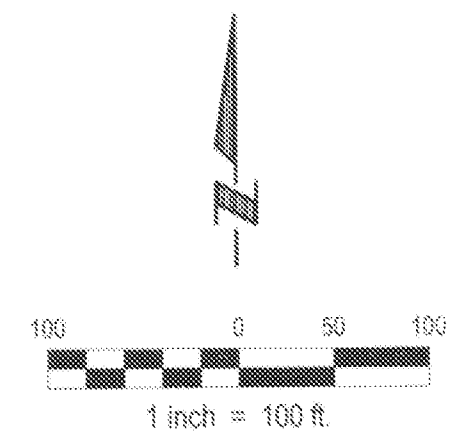
Pottawattamie County, IA 2007-007597
Recorder: John Schlotting
Book: Page: 2007-007597
File Time: 08/14/2007 @ 11:52:19 AM



LEGEND

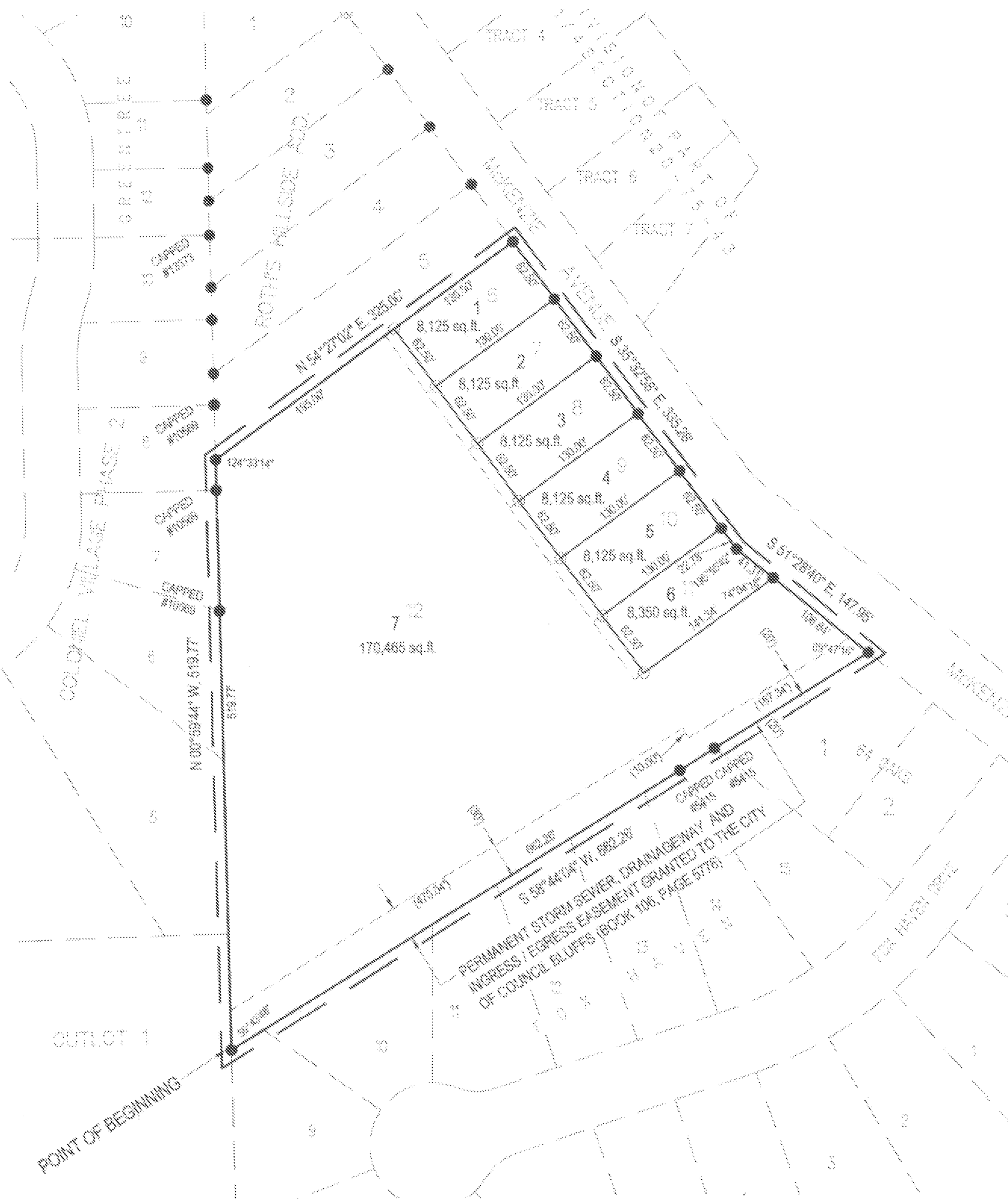
- PINS FOUND, 5/8" X 30" REBAR WITH ALUMINUM CAP #3823
(UNLESS OTHERWISE NOTED)
- PINS SET, 5/8" X 30" REBAR WITH ALUMINUM CAP #13373
- ⊠ PINS SET, 5/8" STEEL PLUG
- ⊙ SECTION CORNER FOUND

Ordered for Taxation MAY 14 2007
Pottawattamie County Auditor



A REPLATTING OF LOTS 6 THRU 12 INCLUSIVE, ROTH'S HILLSIDE SECOND ADDITION,
A SUBDIVISION LOCATED IN SECTION 20, TOWNSHIP 75 NORTH, RANGE 43 WEST, OF
THE 5TH P.M., POTTAWATTAMIE COUNTY, IOWA.

INST # 018518
RECORDING FEE 75.00
AUDITOR FEE 1.00
RMA FEE 1.00 ECOM 1.00



NOTES:

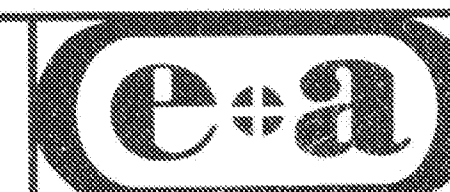
1. ALL ANGLES ARE 90° UNLESS OTHERWISE NOTED
2. ALL LOT LINES ARE RADIAL TO CURVED STREETS UNLESS INDICATED BY N.R.
3. A PERPETUAL EASEMENT 5 FEET IN WIDTH IS RESERVED ALONG THE SIDE LOT LINES OF LOTS, A 10 FEET IN WIDTH ALONG THE FRONT LOT LINES OF ALL LOTS, AND 5 FEET IN WIDTH ALONG THE REAR LOT LINES OF ALL LOTS, SAID EASEMENTS ARE FOR UTILITY INSTALLATION AND MAINTENANCE AND FOR DRAINAGE. SAID DRAINAGE AREAS AND ANY INCLUDED DRAINAGE SYSTEMS ARE PRIVATE AND ARE TO BE INSTALLED AND MAINTAINED BY THE OWNERS OF THE LOTS ADJOINING THEM.
4. PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS HAVE BEEN PREPARED FOR THIS DEVELOPMENT AND WILL BE RECORDED SIMULTANEOUSLY WITH THE FINAL PLAT.

| | |
|--------------|---------------|
| Proj No: | P2004.089.002 |
| Date: | 02/15/2007 |
| Designed By: | MAA |
| Drawn By: | LDD |
| Scale: | 1" = 100' |
| Sheet | 1 of 2 |

| Revisions | |
|-----------|------------|
| No. | Date |
| 1 | 03/16/2007 |

FINAL PLAT

ROTH'S HILLSIDE SECOND ADDITION
REPLAT ONE
COUNCIL BLUFFS, IOWA



E&A CONSULTING GROUP, INC.
ENGINEERING • PLANNING • FIELD SERVICES

330 NORTH 117TH STREET OMAHA, NE 68154
PHONE: (402) 895-4700 FAX: (402) 895-3639
www.eacg.com

ROTH'S HILLSIDE SECOND ADDITION REPLAT ONE

DEDICATION
KNOW ALL MEN BY THESE PRESENTS: THAT WE, JOHN AND BEVERLY ROTH, BEING THE SOLE OWNER AND PROPRIETOR OF THE LAND DESCRIBED IN THE SURVEYOR'S CERTIFICATE AND EMBRACED WITHIN THIS PLAT, HAVE CAUSED SAID PROPERTY TO BE SUBDIVIDED INTO LOTS AS SHOWN, SAID ADDITION TO BE HEREAFTER KNOWN AS ROTH'S HILLSIDE SECOND ADDITION REPLAT ONE, CONSISTING OF LOTS 1 THRU 7, INCLUSIVE. WE DO HEREBY RATIFY AND APPROVE OF THE DISPOSITION OF OR PROPERTY AS SHOWN ON THIS PLAT.

THE STORM SEWER, DRAINAGEWAY AND INGRESS / EGRESS EASEMENT PREVIOUSLY DEDICATED AND AS SHOWN IN LOT 7, ROTH'S HILLSIDE ADDITION REPLAT ONE IS SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS.

1. ERECTION OF STRUCTURES PROHIBITED: THE OWNERS OF LOT 7, ROTH'S HILLSIDE SECOND ADDITION REPLAT ONE OR THEIR SUCCESSORS OR ASSIGNS SHALL NOT ERECT ANY STRUCTURE OVER OR WITHIN THE EASEMENT AREA WITHOUT OBTAINING THE PRIOR WRITTEN CONSENT OF THE CITY ENGINEER.
2. CHANGE OF GRADE PROHIBITED: THE OWNERS OF LOT 7, ROTH'S HILLSIDE SECOND ADDITION REPLAT ONE OR THEIR SUCCESSORS OR ASSIGNS 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.
3. RIGHT OF ACCESS: CITY SHALL HAVE THE RIGHT OF ACCESS TO THE EASEMENT AREA AND HAVE ALL RIGHTS OF INGRESS AND EGRESS REASONABLY NECESSARY FOR THE USE AND ENJOYMENT OF THE EASEMENT AREA AS HEREIN DESCRIBED.
4. REMOVAL AND REPLACEMENT: 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 DEDICATION, SHALL BE BORNE BY THE OWNERS OF LOT 7, ROTH'S HILLSIDE SECOND ADDITION REPLAT ONE OR THEIR SUCCESSORS OR ASSIGNS.
5. SURFACE RESTORATION: CITY'S LIABILITY TO RESTORE THE SURFACE WITHIN THE EASEMENT AREA SHALL BE LIMITED ONLY TO GRADING AND SEEDING.
6. 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 THE THE OWNERS OF LOT 7, ROTH'S HILLSIDE SECOND ADDITION REPLAT ONE OR THEIR SUCCESSORS OR ASSIGNS.
7. EASEMENT RUNS WITH LAND: THIS EASEMENT SHALL BE DEEMED TO RUN WITH THE LAND AND SHALL BE BINDING ON THE OWNERS OF LOT 7, ROTH'S HILLSIDE SECOND ADDITION REPLAT ONE OR THEIR SUCCESSORS AND ASSIGNS.

John M. Roth
JOHN M. ROTH

Beverly A. Roth
BEVERLY A. ROTH

A REPLATTING OF LOTS 6 THRU 12 INCLUSIVE, ROTH'S HILLSIDE SECOND ADDITION, A SUBDIVISION LOCATED IN SECTION 20, TOWNSHIP 75 NORTH, RANGE 43 WEST, OF THE 5TH P.M., POTTAWATTAMIE COUNTY, IOWA.

LEGAL DESCRIPTION

ALL OF LOTS 6 THRU 12 INCLUSIVE, ROTH'S HILLSIDE SECOND ADDITION, A SUBDIVISION LOCATED IN SECTION 20, TOWNSHIP 75 NORTH, RANGE 43 WEST OF THE 5TH P.M., POTTAWATTAMIE COUNTY, IOWA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 12, ROTH'S HILLSIDE SECOND ADDITION, SAID POINT ALSO BEING THE NORTHWEST CORNER OF LOT 9, FOX HAVEN, A SUBDIVISION LOCATED IN SAID SW1/4 OF THE NW1/4 OF SECTION 20, SAID POINT ALSO BEING ON THE EAST LINE OF OUTLOT 1, COLONEIL VILLAGE PHASE 2, A SUBDIVISION LOCATED IN THE SE1/4 OF THE NE1/4 OF SECTION 19, THENCE N60°58'44"W (ASSUMED BEARING) ALONG THE WEST LINE OF SAID LOT 12, ROTH'S HILLSIDE SECOND ADDITION, SAID LINE ALSO BEING THE EAST LINE OF SAID OUTLOT 1, COLONEIL VILLAGE PHASE 2, AND ALSO THE EAST LINE OF LOTS 5 THRU 8, INCLUSIVE, COLONEIL VILLAGE PHASE 2, A DISTANCE OF 519.77 FEET TO THE NORTHWEST CORNER OF SAID LOT 12, ROTH'S HILLSIDE SECOND ADDITION, SAID POINT ALSO BEING THE SOUTHWEST CORNER OF LOT 5, SAID ROTH'S HILLSIDE SECOND ADDITION; THENCE N54°27'02"E ALONG THE SOUTHERLY LINE OF SAID LOT 5, ROTH'S HILLSIDE SECOND ADDITION, SAID LINE ALSO BEING THE NORTHERLY LINE OF SAID LOTS 12 AND 6, ROTH'S HILLSIDE SECOND ADDITION, A DISTANCE OF 325.00 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF MCKENZIE AVENUE, SAID POINT ALSO BEING THE SOUTHEAST CORNER OF SAID LOT 5, ROTH'S HILLSIDE SECOND ADDITION, SAID POINT ALSO BEING THE NORTHERLY CORNER OF SAID LOT 6, ROTH'S HILLSIDE SECOND ADDITION; THENCE S35°32'58"E ALONG SAID WESTERLY RIGHT-OF-WAY LINE OF MCKENZIE AVENUE, SAID LINE ALSO BEING THE EASTERLY LINE OF SAID LOTS 6 THRU 11 INCLUSIVE, ROTH'S HILLSIDE SECOND ADDITION, A DISTANCE OF 335.28 FEET; THENCE S51°28'40"E ALONG SAID WESTERLY RIGHT-OF-WAY LINE OF MCKENZIE AVENUE, SAID LINE ALSO BEING SAID EASTERLY LINE OF LOT 11, ROTH'S HILLSIDE SECOND ADDITION, AND ALSO THE EASTERLY LINE OF SAID LOT 12, ROTH'S HILLSIDE SECOND ADDITION, A DISTANCE OF 147.95 FEET TO THE NORTHERLY CORNER OF LOT 1, 64 OAKS, A SUBDIVISION LOCATED IN SAID SW1/4 OF THE NW1/4 OF SECTION 20, SAID POINT ALSO BEING THE SOUTHEAST CORNER OF SAID LOT 12, ROTH'S HILLSIDE SECOND ADDITION; THENCE S58°44'04"W ALONG THE WESTERLY LINE OF SAID LOT 1, 64 OAKS, AND ALSO THE WESTERLY LINE OF LOTS 15 THRU 9, INCLUSIVE, FOX HAVEN, A SUBDIVISION LOCATED IN SAID SECTION 20, SAID LINE ALSO BEING THE SOUTHERLY LINE OF SAID LOT 12, ROTH'S HILLSIDE SECOND ADDITION, A DISTANCE OF 602.25 FEET TO THE POINT OF BEGINNING.

SAID TRACT OF LAND CONTAINS AN AREA OF 219.440 SQUARE FEET OR 5.038 ACRES, MORE OR LESS.

APPROVAL OF COUNCIL BLUFFS COMMUNITY DEVELOPMENT DEPARTMENT

THIS FINAL PLAT OF ROTH'S HILLSIDE SECOND ADDITION REPLAT ONE, WAS APPROVED BY THE COUNCIL BLUFFS COMMUNITY DEVELOPMENT DEPARTMENT ON THIS 16th DAY OF April, 2007.

Donald Gross

DONALD GROSS, DIRECTOR

APPROVAL OF COUNCIL BLUFFS CITY COUNCIL

THIS FINAL PLAT OF ROTH'S HILLSIDE SECOND ADDITION REPLAT ONE WAS APPROVED BY THE COUNCIL BLUFFS CITY COUNCIL ON THIS 16th DAY OF April, 2007.

Thomas J. Hanafan
THOMAS J. HANAFAN, MAYOR

ATTEST:
CITY CLERK *Judith Riddle*
JUDITH RIDGLEY

COUNTY TREASURER'S CERTIFICATE

THIS IS TO CERTIFY THAT I FIND NO REGULAR OR SPECIAL TAXES, DUE OR DELINQUENT, AGAINST THE PROPERTY DESCRIBED IN THE SURVEYOR'S CERTIFICATE AND EMBRACED IN THIS PLAT AS SHOWN ON THE RECORDS OF THIS OFFICE THIS 16th DAY OF May, 2007.

Judy Ann Miller
JUDY ANN MILLER, POTTAWATTAMIE COUNTY TREASURER

ACKNOWLEDGEMENT OF NOTARY COUNTY OF POTTAWATTAMIE)

ON THIS 16th DAY OF April, 2007, BEFORE ME THE UNDERSIGNED, A NOTARY PUBLIC, PERSONALLY CAME JOHN M. ROTH, TO ME PERSONALLY KNOWN TO BE THE IDENTICAL PERSON WHOSE NAME IS AFFIXED TO THE FOREGOING INSTRUMENT, AND HE ACKNOWLEDGES THE SAME TO BE HIS VOLUNTARY ACT AND DEED.

NOTARY PUBLIC

MY COMMISSION EXPIRES Sept. 25, 2008



JERRY L. JARES
Commission Number 186743
My Commission Expires
SEPT 25, 2008

ACKNOWLEDGEMENT OF NOTARY COUNTY OF POTTAWATTAMIE)

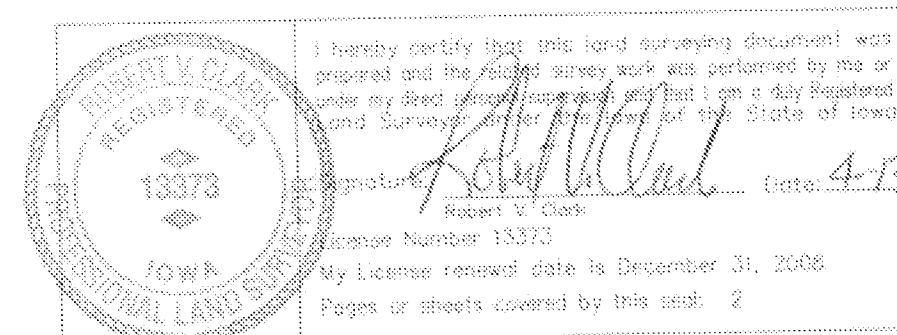
ON THIS 16th DAY OF April, 2007, BEFORE ME THE UNDERSIGNED, A NOTARY PUBLIC, PERSONALLY CAME BEVERLY A. ROTH, TO ME PERSONALLY KNOWN TO BE THE IDENTICAL PERSON WHOSE NAME IS AFFIXED TO THE FOREGOING INSTRUMENT, AND SHE ACKNOWLEDGES THE SAME TO BE HER VOLUNTARY ACT AND DEED.

NOTARY PUBLIC

MY COMMISSION EXPIRES Sept. 25, 2008



JERRY L. JARES
Commission Number 186743
My Commission Expires
SEPT 25, 2008



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

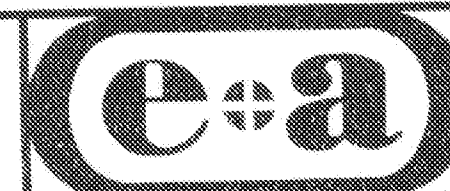
- A. ALL PRIVATE RESTRICTIONS AND/OR COVENANTS, IF ANY, WHICH WILL BE A PART OF THE SUBJECT DEVELOPMENT.
- B. NOTARIZED CERTIFICATION OF OWNER THAT THE SUBDIVISION AS IT APPEARS HEREON IS WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRE OF THE OWNER.
- C. A NOTARIZED STATEMENT FROM THE MORTGAGE HOLDER OR LIENHOLDER, IF ANY, THAT THE PLAT IS PREPARED WITH THEIR FREE CONSENT AND IN ACCORDANCE WITH THEIR DESIRE.
- D. A NOTARIZED PARTIAL RELEASE FROM THE MORTGAGE HOLDER OR LIENHOLDER FOR ALL AREAS CONVEYED TO THE GOVERNING BODY OR DEDICATED TO THE PUBLIC.
- E. CERTIFIED RESOLUTION OF EACH GOVERNING BODY APPROVING THE SUBDIVISION OR WAIVING THE RIGHT TO REVIEW. WE HEREBY CERTIFY THAT I WILL MEET ALL EQUAL OPPORTUNITY AND FAIR MARKETING OBJECTIVES CONSISTENT WITH FEDERAL, STATE AND LOCAL GUIDELINES.

John M. Roth
JOHN M. ROTH

Beverly A. Roth
BEVERLY A. ROTH

FINAL PLAT

ROTH'S HILLSIDE SECOND ADDITION
REPLAT ONE
COUNCIL BLUFFS, IOWA



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| Proj No: | P2004.089.002 | Revisions | |
|--------------|---------------|-----------|------------|
| Date: | 02/15/2007 | (No) | Date |
| Designed By: | MAA | 1 | 03/10/2007 |
| Drawn By: | LDD | | |
| Scale: | 1" = 100' | | |
| Sheet | 2 of 2 | | |



421 West Broadway
Council Bluffs, IA 51503

COMPARED

April 18, 2007

John Scortino, Recorder
Pottawattamie County Recorder's Office
227 South 6th
Council Bluffs, IA 51503

RE: Lots 6-12, Roth's Hillside Second Addition Replat One, City of Council Bluffs
Beverly A. and John M. Roth, Mortgagors

Dear Mr. Scortino:

US Bank currently holds a first mortgage lien against certain (captioned) real property located in 20-75-43. The City of Council Bluffs has granted final plat approval for this property. The subdivision plat for Roth's Hillside Second Addition Replat One is prepared with the consent and in accordance with the desire of U.S. Bank, mortgagee.

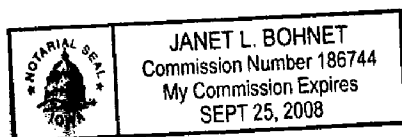
Sincerely,


Jerry L. Jares
Market President

JLJ:jb

COUNTY OF POTTAWATTAMIE)
) ss
STATE OF IOWA)

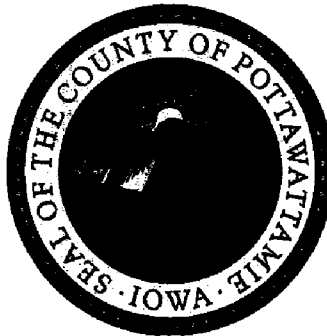
On this 18th day of April 2007, before me, the undersigned, a Notary Public in and for said county and state, personally appeared Jerry L. Jares to me personally known, who, being duly sworn, did say that he is the Market President of said corporation; that said instrument was signed on behalf of said corporation by authority of its Board of Directors; and that the said such officer, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by him voluntarily executed.




Notary Public

Pottawattamie County Auditor's Certification of Subdivision Name Approval

MARILYN JO DRAKE
POTTAWATTAMIE COUNTY AUDITOR
AND ELECTION COMMISSIONER
227 S. 6th St, Room 243
P. O. BOX 649
COUNCIL BLUFFS, IOWA 51502-0649




Gary Herman, First Deputy - Elections
Paula Glade, First Deputy - Real Estate
Donna West, First Deputy - Tax and Finance
Phone (712) 328-5700
FAX (712) 328-4740

I, Marilyn Jo Drake, 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:

ROTH'S HILLSIDE SECOND ADDITION REPLAT ONE


Signed

May 10, 2007

Date

DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS,
FOR

ROTH'S HILLSIDE SECOND ADDITION REPLAT 1
IN THE CITY OF COUNCIL BLUFFS, IOWA

THIS DECLARATION, made this 10th day of May, 2007 by the undersigned,

WITNESSETH:

WHEREAS, the undersigned are the owners of the real estate described in Clause I of this Declaration, and is desirous of subjecting the real property described in said Clause I to the conditions, restrictions, limitations, covenants, reservations, easements, liens and charges hereinafter set forth, each and all of which is and are for the benefit of said property and for each owner thereof and shall inure to the benefit of and pass with said property, and each and every parcel thereof, and shall apply to and bind the successors in interest and any owner thereof;

NOW, THEREFORE, the undersigned hereby declares that the real property described in and referred to in Clause I hereof, is and shall be held, transferred, sold and conveyed, subject to the conditions, restrictions, limitations, covenants, reservations, easements, liens and charges herein set forth.

CLAUSE I

Property Subject to this Declaration

The real property which is, and shall be, held and shall be conveyed, transferred, and sold, subject to these conditions, restrictions, limitations, reservations, easements, liens and charges, with respect to the various portions thereof set forth in the various clauses and subdivisions of this Declaration is located in the City of Council Bluffs, Pottawattamie County, State of Iowa, and is more particularly described in the final plat of Roth's Hillside Second Addition Replat 1 to Council Bluffs, Iowa, attached hereto and incorporated herein by reference.

No property other than that described above shall be subject to this Declaration, unless and until specifically made subject thereto.

CLAUSE II

General Purposes of Conditions

The real property described in Clause I hereof is subject to the conditions, restrictions, limitations, covenants, reservations, easements, liens and charges hereby declared to insure the best use and the most appropriate development and improvement of each building site thereof.

Plans and specifications must be submitted to Roth's Hillside Second Addition Replat 1 Developer for approval to protect owners and guard against improper use of surrounding building sites as will depreciate the value of their property; to encourage and secure the erection of attractive homes thereon; and to secure and maintain proper setbacks from street and adequate free spaces between structures.

1. Lots 1 through 7 described herein shall be known, described and used solely as residential lots, and no structures shall be erected on any lot other than one detached single family dwelling, unless authorized by Developer, and shall not to exceed two stories in height and a garage for not less than two automobiles.

2. No trailer, basement, tent, shack, garage, barn or outbuilding shall be used as a residence, temporarily or permanently, nor shall any residence of a temporary character be permitted.

3. Recreational vehicles, mobile homes, campers, motor homes, trailers, motorcycles, motor boats, house boats or similar water boats may be maintained, stored or kept on any parcel of property covered by these covenants providing they are placed to the rear of the parcel and are screened from view by an attractive fence or housed within the garage of said home.

4. Vehicles belonging to owners or used by owners and/or other occupants of dwelling shall be parked in the garage or driveway and not on the street so as not to inhibit traffic or street maintenance.

5. No building shall be erected on any lot unless the design and location is in harmony with the existing structures and location in the tract, and does not violate any of the protective covenants herein. A one story dwelling, a split entry dwelling, or a split level dwelling shall have not less than 1,000 square feet on the main living floor level; a one and one-half story dwelling shall have not less than 850 square feet on the main living floor level; a two story dwelling shall have not less than 850 square feet on the main living floor level. All square footage requirements referred to are

exclusive of porches and/or attached garages.

6. No changes, alterations, additions, buildings, fences or walls shall be commenced unless such design and location are harmonious with existing structures and do not violate any restrictive covenants.

7. No fence shall be erected on any lot that would extend forward past the rear of any house erected thereon.

8. The title holder or contract holder to each lot, vacant and improved, shall keep his/her lot or lots free of weeds and debris.

9. No lot shall be used or maintained as a dumping ground for rubbish, trash, garbage, or other wastes.

10. No offensive or obnoxious trade shall be carried on upon any lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

11. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept provided they are not kept, bred or maintained for any commercial purposes. No more than two (2) dogs or other domestic animals may be kept in an outside kennel or in the yard.

12. No satellite dish larger than 24 inches in diameter used for television communication purposes shall be placed on any house or lot.

13. No house trailers, prefabricated houses or modular houses will be allowed on any lot. No vinyl siding and/or overhang material will be allowed on any house unless approved by

Developer.

14. Buildings for garden tools, etc. shall be required to have a design similar to the house design with regard to siding materials and roofing materials. Metal storage buildings shall not be allowed.

15. No dwelling shall be moved to any lot within Roth's Hillside Second Addition Replat 1 from outside the development.

16. The maximum time allowed to complete construction and landscaping will be one year from commencement of construction. Excess dirt from excavation shall be hauled from the lot within the construction period. All excavation, backfilling and landscaping shall be done in a manner such that the natural drainage is not altered to such an extent that unreasonable or undesirable drainage or erosion results.

17. Materials and equipment used during the construction and landscaping process shall be stored and maintained on the lot in an orderly manner.

18. No business activities shall be conducted on any lot.

19. No sign, billboard or other structure for advertising or the display of advertising material of any kind shall be erected, altered, placed or permitted to remain on any lot except that real estate for-sale or for-rent signs shall be permitted temporarily in the yards of dwellings which are being offered for sale or rent.

20. Notwithstanding the foregoing provisions, paragraphs "18" and "19" shall not restrict the business activities, advertising, signs and billboard, or the construction and maintenance of

structures by the Roth's Hillside Second Addition Replat 1 Developer, its agents and assignees, during the construction and sale period of this development.

21. A perpetual easement for utility installation, maintenance and drainage facilities is reserved over, across and through the side five feet of all lots, and over, across and through the front and the rear ten feet of all lots.

22. All buildings and improvements shall be constructed in compliance with the pertinent zoning and building codes of the City of Council Bluffs, Iowa.

23. No building shall be erected on any residential lot nearer than 20 feet from the front lot line. The side yard on each side shall be a minimum of 10 percent of the lot width at the building setback line, or a minimum of five feet, whichever is greater; provided, however, that on corner lots the setback for all buildings shall be a minimum of 15 feet on the side abutting a public street or avenue. The rear yard shall be a minimum of 20 feet.

24. Public sidewalks shall be constructed of concrete five feet wide by four inches thick in front of each built-upon lot and along the street side of each built-upon corner lot. The sidewalks shall be placed at the location determined by City of Council Bluffs Public Works Department.

25. Fruit or vegetable gardens shall not be permitted which would extend forward past the rear of any house erected on any lot.

26. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them until May 9, 2032. It shall be lawful for any person or persons owning any lot in Roth's Hillside Second Addition Replat 1 to proceed at law or in equity against

the person or persons violating or attempting to violate such covenant or restriction and either to enjoin him/her or them from so doing and to recover damages from such violation.

27. Invalidation of any of these covenants by judgment of court order shall in no way affect any of the other provisions which shall remain in full force and effect.

28. Developer shall maintain 51 percent of voting rights until the last lot in Roth's Hillside Second Addition Replat 1 is sold.

Executed on the above date set forth:

Beverly A. Roth

Beverly A. Roth, Owner

STATE OF IOWA)

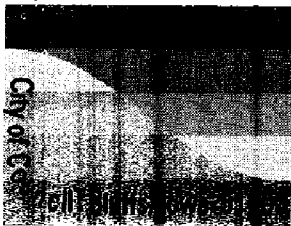
COUNTY OF POTTAWATTAMIE)

On this 10th day of May, 2007, before me the undersigned, a Notary Public in and for said state, personally appeared Beverly A. Roth to me personally known, who being by me duly sworn did acknowledge that she voluntarily executed the foregoing instrument.



Notary Public

Janet L. Bohnet



OFFICE OF:
CITY CLERK
(712) 328-4616

CERTIFICATION

I, Judith H. Ridgeley, City Clerk, City of Council Bluffs, Iowa do certify that the attached Resolution 07-114, is a true and correct copy of said Resolution 07-114, duly passed by City Council March 12, 2007, granting final plat approval for Roth's Hillside Second Addition Replat One.

Judith H. Ridgeley
City Clerk

(seal)

Sworn before me this 18th day of April, 2007 by Judith H. Ridgeley, City Clerk, City of Council Bluffs, Iowa.

Notary Public

My commission expires 10-22-08



RESOLUTION NO. 07-114

A Resolution granting final plat approval for Roth's Hillside Second Addition Replat One.

WHEREAS, John Roth has requested final plat approval for a replat of Lots 6 through 12 in Roth's Hillside Second Addition. This replat takes 10' from the rear of the six lots along McKenzie and adds that area to proposed Lot 7; and

WHEREAS, the City Council approved the final plat for Roth's Hillside Second Addition on February 13, 2006 (Resolution No. 06-43); and

WHEREAS, the proposed replat is consistent with the 1994 Comprehensive Plan and the purpose and intent of the Subdivision and Zoning Ordinances; and

WHEREAS, the subject property and all of the surrounding land are zoned R-1/Single Family Residential; and

WHEREAS, the Community Development Department recommends approval of the final plat for a subdivision to be known as Roth's Hillside Second Addition Replat One, as shown on Attachment "A", subject to incorporating all technical corrections required by the Community Development Department and/or Public Works Department into the final plat document. These items include, but are not limited to the following:

- a. Add a 10' utility easement along the McKenzie Avenue street frontage of each lot and change the 10' rear utility easement to 5'.
- b. Remove the street and drainage/storm sewer dedication from the plat, as both were dedicated with the earlier subdivision, while continuing to show the recorded easement on the plat.

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

That the final plat for Roth's Hillside Second Addition Replat One, as shown on Attachment "A", is hereby approved, subject to the conditions set forth above; and

BE IT FURTHER RESOLVED

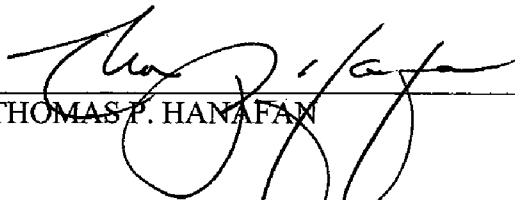
That the Mayor and City Clerk are hereby authorized and directed to endorse the final plat.

ADOPTED
AND
APPROVED


March 12, 2007

RESOLUTION NO. 07-114

PAGE TWO



THOMAS P. HANAFAN Mayor

Attest: 

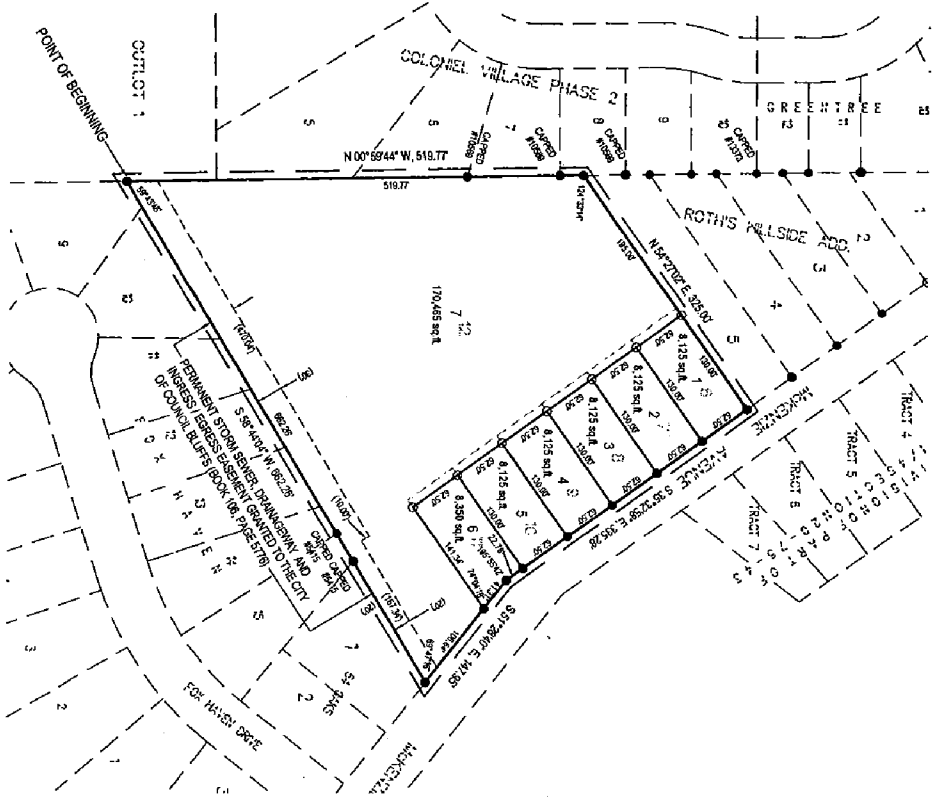
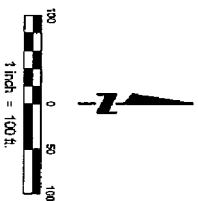
JUDITH RIDGELEY City Clerk

Planning Case No. SUB-07-006

ROTH'S HILLSIDE SECOND ADDITION REPLAT ONE

A REPLAT OF LOTS 6 THRU 12 INCLUSIVE, ROTH'S HILLSIDE SECOND ADDITION, A SUBDIVISION LOCATED IN SECTION 20, TOWNSHIP 75 NORTH, RANGE 43 WEST, OF THE 6TH PL, IOWA TERRITORY, IOWA.

- LEGEND**
- PINS FOUND, 99" X 3/8" REBAR WITH ALUMINUM CAP #8323 (ALL ARE OTHERWISE NOTED)
 - PINS SET, 99" X 3/8" REBAR WITH ALUMINUM CAP #15373
 - PINS SET, 99" STEEL PLUG
 - ⬢ SECTION CORNER ROUND



- NOTES**
1. ALL ANGLES ARE 90° UNLESS OTHERWISE NOTED
 2. ALL LOT LINES ARE ADJACENT TO CURVED STREETS UNLESS INDICATED BY N.P.
 3. A PERPETUAL EASEMENT 5 FEET IN WIDTH IS RESERVED ALONG THE SIDE LOT LINES OF LOTS 6 TO 12 IN WIDTH ALONG THE FRONT LOT LINES OF ALL LOTS, AND 5 FEET IN WIDTH ALONG THE REAR LOT LINES OF ALL LOTS. SAID EASEMENTS ARE FOR UTILITY INSTALLATION AND MAINTENANCE AND FOR DRAINAGE. SAID DRAINAGE AREAS AND ANY INCLUDED DRAINAGE SYSTEMS ARE PRIVATE AND ARE TO BE INSTALLED AND MAINTAINED BY THE OWNERS OF THE LOTS ADJOINING THEM.
 4. PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS HAVE BEEN PREPARED FOR THIS DEVELOPMENT AND WILL BE RECORDED SEPARATELY WITH THE FINAL PLAT.

| | |
|-------------|---------------|
| Proj. No. | 72004.038.002 |
| Date | 02/15/2007 |
| Designed By | MMA |
| Drawn By | LDD |
| Scale | 1" = 100' |
| Sheet | 1 of 2 |

| | |
|------------|------|
| Revisions | |
| (10) | 0.46 |
| 03/16/2007 | |

FINAL PLAT

ROTH'S HILLSIDE SECOND ADDITION
REPLAT ONE
COUNCIL BLUFFS, IOWA



E&A CONSULTING GROUP, INC.
ENGINEERING • PLANNING • FIELD SERVICES

330 NORTH 11TH STREET, OMAHA, NE 68104
PHONE: (402) 865-4700 FAX: (402) 865-2339
WWW.EAG.COM

A.W. (TONY) TAUKE
STEPHEN C. EBKE
ANGELA WEATHERHEAD
ASSOCIATE
RICHARD A. PORTER (1927-1999)

PORTER TAUKE & EBKE

ATTORNEYS AT LAW
42 NORTH 2ND STREET
P.O. Box 457
COUNCIL BLUFFS, IOWA 51502-0457

TELEPHONE (712) 322-5588
FAX (712) 322-8308
E-MAIL: PTEBKE@QWEST.NET

May 2, 2007

Beverly A. Roth
4 Ridge Drive West
Council Bluffs, Iowa 51503

Dear Beverly:

I have examined the abstract of title to:

SEE LEGAL DESCRIPTION ATTACHED HERETO. (All of Lots 6 thru 12, inclusive, Roth's Hillside Second Addition, etc.)

This abstract does not cover matters included in Chapter 614.29 through 614.38 of the Code of Iowa as amended, the Marketable Title Act and Chapter 11 of the Iowa Land Title Examination Standards and the Abstracting Standards of the Iowa Land Title Association, which are excluded thereunder except plat and surveys, easements, party wall and other boundary line agreements, unexpired recorded leases, and patents, and is certified to April 23, 2007, at 8:00 o'clock A.M. by Abstract Guaranty Company, and is in four parts containing 35 entries in part 1, 13 entries in part 2, 12 entries in part 3 and 4 entries in part 4. From my examination I find marketable title to be in - - -

BEVERLY A. ROTH subject to the following:

1. Entries #18 and #23 of part 1 set forth various Zoning Ordinances which appears to affect the property under examination. For further particulars you are referred to the Ordinances.
2. Entry #19 of part 1 sets forth a Hazardous Waste Ordinance which appears to affect the property under examination. You are referred to the entry for further particulars.
3. Entry #20 of part 1 sets forth a Paunch Manure Ordinance which appears to affect the property under examination. For further particulars you are referred to the Ordinance.
4. Entry #21 of part 1 sets forth an On-site Wastewater Treatment and Disposal System Ordinance which appears to affect the property under examination. For further particulars you are referred to the Ordinance.

5. Entry #22 of part 1 sets forth a Private Water Well Ordinance which appears to affect the property under examination. For further particulars you are referred to the Ordinance.
6. Entry #7 of part 3 sets forth a Mortgage, Security Agreement and Assignment of Rents from John M. Roth and Beverly A. Roth to U.S. Bank N.A. dated September 28, 2005 and recorded October 18, 2005 in Book 106, Page 7989.
7. Entry #1 of part 3 sets forth various Declarations of Covenants, Conditions and Restrictions for Roth's Hillside Addition which may affect the intended use of said subdivision property. You are referred to the entry and Declaration for further particulars.
8. Entry #1 of part 3 and Entry #1 of part 4 set forth surveys that show a permanent storm sewer, drainage way and ingress/egress easement granted to the City of Council Bluffs recorded in Book 106, Page 5776.
9. Entry #1 of part 4 sets forth a survey that reflects a perpetual easement 5 feet in width on the side lot lines and 10 feet in width along the rear lot lines for drainage and utility installation and maintenance. You are referred to the entry and survey for further particulars.
10. Entry #1 of part 4 sets forth various Declarations of Covenants, Conditions and Restrictions for Roth's Hillside Second Addition which may affect the intended use of said subdivision property. You are referred to the entry and Declaration for further particulars.
11. Entry #4 of part 4 shows the General Taxes as "not assessed."

Yours very truly,



A.W. Tauke

AWT: ph

A replatting of Lots 6 thru 12 inclusive, Roth's Hillside Second Addition a subdivision located in Section 20, Township 75, Range 43, Pottawattamie County, Iowa, more particularly described as follows:

Beginning at the Southwest corner of said Lot 12, Roth's Hillside Second Addition, said point also being the Northwest corner of Lot 9, Fox Haven, a subdivision located in said SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 20, said point also being on the East line of Outlot 1, Coloneil Village Phase 2, a subdivision located in the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 19, Township 75, Range 43; thence N 00° 59' 44" W (assumed bearing) along the West line of said Lot 12, Roth's Hillside Second Addition, said line also being the East line of said Outlot 1, Coloneil Village Phase 2, and also the East line of Lots 5 thru 8 inclusive, Coloneil Village Phase 2, a distance of 519.77 feet; thence N 54° 27' 02" E along the Southerly line of Lot 5, Roth's Hillside Second Addition, said line also being the Northerly line of said Lots 12 and 6, Roth's Hillside Second Addition, a distance of 325.00 feet to a point on the Westerly right-of-way line of McKenzie Avenue; thence S 35° 32' 58" E along said Westerly right-of-way line of McKenzie Avenue, a distance of 335.28 feet; thence S 51° 28' 40" E along said Westerly right-of-way line of McKenzie Avenue, a distance of 147.95 feet to the Northerly corner of Lot 1, 64 Oaks, a subdivision located in said SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 20; thence S 58° 44' 04" W along the Westerly line of said Lot 1, 64 Oaks, and also the Westerly line of Lots 15 thru 9, inclusive, Fox Haven, said line also being the Southerly line of said Lot 12, Roth's Hillside Second Addition, a distance of 662.26 feet to the Point of Beginning.