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Polk County Iowa
JULIE M. HAGGERTY RECORDER
File# 2008-00013458

BK **12327** PG **991-993**

RETURN TO:

Prepared by and Return to: Chad Quick, City of Altoona, 407 8th Street SE, Altoona, IA 50009 (515) 967-5136

RESTRICTIVE COVENANT

KNOW ALL MEN BY THESE PRESENTS:

THAT WHEREAS, Hubbell Properties ILL.C., hereinafter referred to as Declarant(s), is the owner of the following described real estate to-wit:

A parcel of land being part of the W 1/2 of Section 20, Township 79, Range 22, now included in and forming a part of the City of Altoona, Polk County, Iowa, more particularly described as follows:

Commencing at the NE Corner of said W 1/2 of the NW 1/4 of said Section 20, Thence S00°15'22"E along the East line of the W 1/2 of the NW 1/4 of said Section 20, 84.68 to the South Right-of-Way of 8th Street and the Point of Beginning; Thence continuing S00°15'22"E along said East line of said section, 263.70 feet; Thence N89°57'31"W, 1274.39 feet to the East Right-of-Way of 14th Avenue SE; Thence N00°19'30"W along said East Right-of-Way, 250.01 feet to the South Right-of-Way of 8th Street; Thence N86°48'44"E along said South Right-of-Way, 156.64 feet; Thence N86°17'14"E E along said South Right-of-Way, 379.80 feet; Thence S89°56'16"E E along said South Right-of-Way, 455.00 feet; Thence S78°31'54"E E along said South Right-of-Way, 102.80 feet; Thence N89°52'24"E E along said South Right-of-Way, 183.48 feet to the Point of Beginning. Said parcel of land contains 7.98 acres and is subject to easements and restrictions of record.

AND WHEREAS, The City of Altoona, Iowa, by the action of the Altoona City Council at the council meeting on the 6th day of August, 2007, proposed an ordinance to rezone the subject real estate from A-1 (Agricultural) to the classification of C-2 (General Commercial).

AND WHEREAS, Declarant(s) agreed to prohibit certain uses of the subject real estate.

NOW THEREFORE in consideration of the rezoning of the subject real estate to a C-2 (General Commercial) permitted use in the City of Altoona, Iowa, the subject real estate is restricted and not to be used for any of the following purposes:

Tuscany Neighborhood Commercial:

This property is intended and designed to provide space for profession, retail, and service activities, which serve adjacent residential areas with reasonable proximity for the satisfaction of

daily consumer needs. Since such area will be adjacent to residential neighborhoods, it is essential to maintain an aesthetically pleasing appearance through proper design, site layout, and landscaping. This property is subject to the requirements of the C-2 General Commercial zoning district and other pertinent ordinances of the City of Altoona. The following paragraphs detail the excluded uses and the additional requirements this property is subject to:

1. Excluded Principal Uses
 - a. Auto supply and sales
 - b. Automotive repair, undercoating, and towing services
 - c. Funeral homes
 - d. Grocery stores larger than 10,000 square feet
 - e. Hotels, not to exclude bed and breakfast facilities
 - f. Household appliance repair and sales
 - g. Meat market for storage and retail sales
 - h. Plumbing, heating, and air-conditioning shops
 - i. Refrigeration and air conditioning service and repair, electrical
 - j. Overnight boarding and lodging of animals, Veterinarian critical-care only.
2. Additional Requirements to Principal Permitted Uses
 - a. Clothes cleaning and laundry pickup
 - b. Carwashes, as an auxiliary use to a convenience store. Automatic doors shall be required.
 - c. Drug stores less than 10,000 square feet
 - d. Gift Shops
 - e. Photographic studios
 - f. Home design centers
 - g. Movie rental
3. Bulk Regulations. The following requirements shall be observed subject to this property
 - a. Rear yard. Shall maintain a buffer to include planting and noise attenuation. Buffer shall be used to mitigate noise, storage, or other aspects of use that could conflict with adjacent residential uses.
 - b. The maximum height of buildings shall be 35 feet or 2 1/2 stories whichever is greater.
 - c. Accessory buildings shall not exceed one story in height.
4. Performance Standards
 - a. Commercial operations shall cease between the hours of 12:00 a.m. and 5:00 a.m.
 - b. Signage shall be limited to once monument sign per street front and one building sign per storefront. The monument sign shall not exceed 10 feet in height and 40 square feet in area. Monument signs shall be constructed of similar or complimentary material to the principal structure. Landscaping shall accompany the sign.
 - c. Convenience stores may have an additional sign to the common sign at the street front, it shall be allowed to show the price of petroleum and the name of the operating facility. Landscaping elements shall accompany the sign.
 - d. Pedestrian scale of development is encouraged. The landscaping, parking, and walk areas should incorporate sound aesthetic design.

- e. Pedestrian amenities such as benches, landscaping elements, connections, etc. are encouraged.
- f. Storefronts and building design shall incorporate at least 40% of frontage as a glazed surface, excluding door openings. Fronts longer than 50 feet shall incorporate staggered design in character with adjacent residential aesthetics. Rooflines shall vary and incorporate a residential feel with designs such as gabled and hipped roofs, and dormers.
- g. Where this property is immediately adjacent to any property by property line zoned for a residential use, a buffer shall be provide:
 - i. Lining the exterior of the fence shall be a combination of over-story trees, coniferous trees, and shrubs. Trees shall be spaced along the fence to create aesthetically pleasing landscape design and spread across the length of the fence.
 - ii. The buffer yard shall be located on the lot line perimeter
 - iii. No part of the buffer shall be used for parking, storage, loading, refuse, or similar activity that will create a nuisance that it is designed to mitigate.
 - iv. The commercial property is responsible to provide the buffer at the time of vertical construction.
 - v. The site layout and design shall have a strong connection with pedestrians and the adjacent neighborhood.

THAT this Restrictive Covenant shall remain in force and effect against the subject real estate is zoned C-2 (General Commercial) in the City of Altoona, Polk County, Iowa.

THAT this Declaration and Restrictive Covenant is effective upon its recording.

*Hubbell Properties, LLC. by Hubbell Realty Company
ITS Managing Member*

DATED: July 19th, 2007

[Signature]
Owner/Representative *Vice President, Land Development*

Owner/Representative

STATE OF IOWA:

:SS

POLK COUNTY:

On this 19th day of July, 2007, before me the undersigned, a Notary Public in and for the State of Iowa, personally appeared Dan. D. Dutcher, to me known to be the identical person named in and who executed the foregoing instrument.



Bethanie S. Wright
Notary Public in and for the State of Iowa