

#319

Doc #319
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PAGE 504 REGISTER OF DEEDS, CASS CO., NEBR
#14250 *Patricia Misinger*

COMPARED

DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS
AND EASEMENTS
FOR
THE COMMONS,
A PLANNED UNIT DEVELOPMENT

Declarations made by B.U.S. & S., Inc., owners of the real property, known as Declarant:

WITNESSETH:

WHEREAS. Declarant is the owner of the following described real property, to wit:

The Commons
Lots 7, 8, 9, 10 and 11, Block 57, City of Plattsmouth, Cass County, Nebraska, together with all portions of vacated alley adjacent thereto, all in Block 57, Original Town, City of Plattsmouth, Cass County, Nebraska
WHEREAS, the Declarant desires to create on the

hereinabove described real property a residential community with various improvements, open spaces and other common facilities for the benefit of said community:

WHEREAS, Declarant desires to provide the preservation of the values and amenities in said community and for the maintenance of said private improvements, open spaces, and other common facilities; and to this end, desire to subject the hereinbelow described real property to the covenants, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof;

WHEREAS, Declarant has deemed it desirable for the efficient preservation of the values and amenities in said community, to create an agency which would be delegated and assigned the powers of maintaining and administering and enforcing the covenants and restrictions and collecting and

disbursing the assessments and charges hereinafter created; and

WHEREAS, Declarant has incorporated The Commons Homeowner's Association, a not for profit corporation, under the laws of the State of Nebraska, the purpose of which shall be to exercise the functions aforesaid;

WHEREAS, Declarant will convey the described real property, subject to certain protective covenants, conditions, restrictions, easements, liens and charges as hereinafter set forth.

NOW, THEREFORE, Declarant hereby declares that all of the real property described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of said real property. These easements, covenants, restrictions, and conditions shall run with the real property and shall be binding upon all parties having or acquiring any right, title or interest in the described property or any part thereof, and shall inure to the benefit of each owner thereof.

ARTICLE I

Definitions

Section 1. "Architectural Control Committee" shall mean the committee appointed by the Board of Directors of The Commons Homeowner's Association, a Nebraska not for profit association, its successors and assigns.

Section 2. "Association" shall refer to The Commons Homeowner's Association, a Nebraska not for profit association, its successors and assigns.

Section 3. "Common Properties" shall mean and refer to those areas of land listed on Exhibit "____" and attached hereto and by this reference incorporated herein. All common property shall be devoted to the exclusive common use and enjoyment of the owners and guests of the owners of the properties.

Section 4. "Declarant" shall mean and refer to B.U.S. & S., Inc., a Nebraska corporation, its successors and assigns.

Section 5. "Living Unit" shall mean and refer to any building situated upon the properties designated and intended for the use and occupancy as a residence by a single family.

Section 6. "Building Site" shall mean and refer to any parcel of land, whether all or a portion of any platted lot shown upon any recorded map or plat of the properties, upon which a living unit shall be built, or is proposed to be built, with the exception of the Common Properties, as heretofore defined. The Building Sites subject to this Declaration are shown and described in Exhibit "B" attached hereto and by this reference incorporated herein. Any supplemental declaration hereinafter filed shall similarly reflect these Building Sites thereunder subject to this Declaration, or otherwise legally described the real property to become subject to this Declaration.

Section 7. "Member" shall mean and refer to every

person or entity who holds membership in the association.

Section 8. "Owner" shall mean and refer to the record owners, whether one or more persons or entities, of a fee simple title to all or any part, parcel or portion of a platted lot or building site which is a part of the properties, but excluding having such interest merely as security for the performance of an obligation.

Section 9. "The Properties" shall mean and refer to all such properties as are subject to the Declaration or any Supplemental Declaration and provisions of Article II hereof, which shall initially consist of Lots 7,8,9,10 & 11 lying West of Chicago Avenue, all in Block 57, together with all portions of the vacated alley adjacent thereto, in the City of Plattsmouth, Cass County, Nebraska.

Section 10. "Supplemental Declaration" shall mean and refer to any written instrument filed under the provisions of Article II hereof which shall subject additional real estate to this Declaration.

ARTICLE II

PROPERTIES SUBJECT TO DECLARATION

The property shall be held, transferred, sold, conveyed and occupied subject thereto. The Association shall have the right at any time subsequent to the filing of this Declaration, to add, annex and subject additional contiguous land in Block 57, except Lot 6, Plattsmouth, Nebraska, to this Declaration by filing in the Office of the Register of Deeds of Cass County, Nebraska, a written instrument duly executed and acknowledged by the association to the effect

that such additional land is being subjected hereto. The annexation of additional land to be subject hereto shall require written instrument signed by two-thirds of the membership of the association. Any real property thereby subject to this Declaration shall, after said filing, be subject hereto and the owners thereof shall be subject to all of the same duties, liabilities and rights hereunder as though said additional property had been originally part of the real estate described in Article I hereof on the date of the filing of this Declaration.

ARTICLE III

PROPERTY RIGHTS IN THE COMMON PROPERTY

Section 1. Owner's Easements of Enjoyment. Every Owner and or member of the Association, shall have a right and easement of enjoyment in and to the Common Properties which shall be appurtenant to and shall pass with title to every building site, subject to the following provisions:

a. The right of the association to suspend the voting rights and rights to use the Common Properties by an Owner for any period during which any assessment against his building site remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations.

b. The right of the association to dedicate or transfer all or any part of the Common Properties, subject to any then existing ingress and egress requirements in connection therewith, to any public

agency, not for profit corporation (to use for purposes similar to those for which the association was formed), authority or utility for such purposes and subject to such conditions as may be agreed to by the owners and or members of the association and by persons holding mortgages on any portion of the subject property. No such dedication or transfer shall be effective unless an instrument signed by Owners entitled to cast two-thirds (2/3) of the votes has been recorded, agreeing to such dedication or transfer, and unless written notice of the proposed action is sent to every Owner not less than 30 days or more than 60 days in advance.

c. The right of the association to limit the number of guests of owners on common property.

d. The right of the association to borrow money for the purpose of improving the Common Properties and facilities and in aid thereof to mortgage said Common Properties and facilities, which mortgage shall be subordinate to the rights of the owners hereunder.

e. The right of the association, through its Board of Directors, to pass and amend, from time to time, rules and regulations governing the use of certain parts or all of the Common Properties for the welfare and common good of all the Owners within The Properties.

Section 2. Delegation of Use. Any Owner may delegate, in

accordance with the By-laws, his right to enjoyment of the Common Properties and facilities, together with any other right, license, privilege or easement conferred upon such Owner by this Declaration, to the members of his family, his tenants, guests or contract purchasers who reside on The Property.

Section 3. Title to the Common Properties. The Declarant will convey a fee simple title to the Common Properties described in Exhibit "A", attached hereto and incorporated herein by reference, to the association free and clear of all encumbrances and liens, except easements, restrictions and conditions then of record. The Common Properties may be conveyed by the Declarant to the Association on or before the sale of all of the Building Sites as described herein.

ARTICLE IV

MEMBERSHIP

Declarant, and every owner as defined in Article I, Section 9, under this declaration, shall be a member of the Association. No owner shall have more memberships than the number of living units owned by such owner. Membership shall be appurtenant to and may not be separated from ownership of the living units. Ownership of living units shall be the sole qualifications for membership. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation.

ARTICLE V

VOTING RIGHTS

Members/Owners shall be entitled to one vote for each living unit. When more than one person holds an interest in any living unit, all such persons shall be members. The vote for such living unit shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any living unit.

ARTICLE VI

COVENANTS FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of Lien and Personal Obligation of Assessments. The Declarant, for each building site owned within the properties, subject to Section 7 of this Article, and each Owner of any building site part thereof, except those exempt under Section 9 of this Article, by acceptance of a deed therefor, whether or not it shall be expressed in such deed, hereby covenant and agree to pay to the Association: (1) Annual assessment or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as herein provided. The annual and special assessments, together with interest, costs and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. All subsequent purchasers shall take title to the building sites, or parts thereof, subject to said lien, and shall be bound to inquire to the Association as to the amount of any unpaid assessments. Each such assessment, together with interest, costs and reasonable attorneys" fees, shall also be the

personal obligation of the person who was the owner of such property at the time when the assessment fell due. Thee personal obligation of the delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the health, safety, welfare, and recreation of the residents of the properties, and, in particular, annual assessments shall be used for: the maintenance and repair of the common properties; purchase of liability insurance and payment of real property taxes pertaining the common properties; snow removal; care and maintenance of sidewalks and driveways over which the association has an easement; care and maintenance of open spaces and other common facilities; maintenance and repair of water sprinkler systems used on the common properties; repair, replacement and maintenance of water lines from the municipal water meter to the building site, including payment of water usage bill by each individual owner of the building site.

Section 3. Annual Assessment. Until January 1, 198__, the maximum annual assessment shall be \$600.00 per owner, payable monthly in twelve (12) equal monthly installments of \$50.00 subject to adjustment as hereinafter set forth:

a. From and after January 1, 198__, the annual assessment may be increased each year not more than five

percent above the assessment for the previous year without a vote of the membership.

b. From and after January 1, 198____, the annual assessment may be increased above 10% of the annual assessment for the previous year by a vote of two-thirds of the members that are voting in person or by proxy at a meeting duly called for this purpose.

c. The Board of Directors must fix the annual assessment.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the common properties, provided that any such assessment shall have the assent of a majority of the votes of members, whether voting in person or by proxy, at meeting duly called for this purpose.

Section 5. Notice of Quorum for Any Action Authorized Under Section 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Sections 3 or 4 of this Article shall be delivered either personally or by mail to all members not less than ten (10) days nor more than sixty (60) days in advance of the meeting. At the first meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes

shall constitute a quorum. If the required quorum is not present, another meeting may be called, subject to the same notice requirement, and the required quorum at the subsequent meeting shall be fifty percent (50%) of all the votes. No subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments may be fixed at a uniform rate for all building sites or subparts thereof, and may be collected on a monthly basis.

Section 7. Date of Commencement of Annual Assessments: Due Dates: The annual assessments provided for herein shall commence as to all building sites or parts thereof on the 1st day of the month following the conveyance of the common properties except that such assessments shall not be applicable to any building site or part thereof owned by the Declarant until December 31, 198 . The first annual assessment shall be adjusted according to the number of months remaining in the calendar year.

The Board of Directors shall adopt a budget for each calendar year, which shall include the estimate of funds required to defray the expenses of the Association in the coming calendar or fiscal year and provide funds for reserves as herein set forth. The budget shall be adopted in February of each year for the coming calendar year, and copies of the budget and proposed annual maintenance and reserve assessments shall be sent to each Owner on or before March,

preceding the year for which the budget is made. The budget shall be amended during a current year when necessary, the copies of the amended budget and proposed increases or decreases in assessments shall be sent to each Owner as promptly as possible. The foregoing requirement of preparation of a budget and the sending of the same to Owner shall not apply to any budgeting for any period prior to December 31, 198__.

The Board of Directors shall fix the amount of annual assessment to be assessed against each building site or subpart thereof at least thirty (30) days prior to the commencement of the fiscal year of the Association, which shall coincide with the annual assessment period commencing on January 1 of each year and terminating on December 31 thereof. Failure of the Board to so notify each Owner in advance shall not however, relieve any Owner of the duty and obligation to pay such assessment or any installment thereof. The Board shall have the authority, in its discretion, to require that all Owners pay an annual assessment in one payment or in installments becoming due at such time or times during the assessment year and payable in such manner as determined by the Board. The annual assessments shall be due and become a lien as of the date of the annual assessment.

The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specific building site have been paid. Such certificate

shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 8. Effect of Non-Payment of Assessments: The Personal Obligation of the Owner; the Lien; Remedies of the Association: If any assessment, or any installment thereof, is not paid on the date when due, then such assessment shall become delinquent, and shall, together with such interest thereon and cost of collection thereof as hereinafter provided, thereupon become a continuing lien upon the property and shall bind such property in the hands of the Owner, his heirs, successors, personal representatives and assigns. The personal obligation of the then owner to pay such assessment, however shall remain his personal obligation for the statutory period and shall not pass a personal obligation to his successors in title unless expressly assumed by them.

Any delinquent assessment or installment thereof not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of twelve percent (12%) per annum. In the event the unpaid assessment is an installment of an annual assessment, the Association may, after such thirty (30) day period and during the continuance of the default, declare all remaining installments of said annual assessment immediately due and payable at its option. The association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the lot, and there shall be added to the amount of

such assessment the costs of preparing and filing of the complaint in such action, and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided, a reasonable attorney fee to be fixed by the Court, together with the costs of the action. No Owner may waive or otherwise escape the liability for the assessment provided for herein by nonuse of the common properties or abandonment of his building site. The mortgagee of the subject property shall have the right to cure any delinquency of an Owner by payment of all sums due, together with interest, costs, and fees. The Association shall assign such mortgagee all of its rights, with respect to such lien, and rights of foreclosure to the mortgagee.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of the subject property shall not affect the assessment lien. However, any sale or transfer pursuant to foreclosure proceeding or in any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to sale or transfer. No sale or transfer shall relieve such property from liability for any assessments thereafter becoming due, or from the lien thereof.

ARTICLE VII

ARCHITECTURAL CONTROL COMMITTEE

Section 1. Establishment. The Board of Directors of the Association shall appoint three (3) or more persons to serve as Architectural Control Committee (The Committee). The Board as a whole, or one or more members thereof may serve as members of the Committee. Such appointees shall serve until resignation or dismissal by the Board. Vacancies need not be filled unless the Committee has less than three (3) members remaining, in which event a replacement shall be named at the earliest possible opportunity by the Board.

Section 2. Review of Committee.

a. Structures. No structures, whether residences, accessory buildings, tennis courts, swimming pools, antennae, flag poles, fences, walls, driveways, patios, patio enclosures, house numbers, or any other such improvements, shall be constructed or maintained upon any building site, nor shall any grading or excavation be commenced unless complete plans, specifications, showing the exterior design, height, building material and color scheme thereof, the location of the structure platted horizontally and vertically, the location and size of driveways, the general plan of landscaping, fences, walls, and windbreaks, and the grading plan shall have been submitted to and approved in writing by the Architectural Control Committee, and copies of such plans, specifications, and lot plans as finally approved, deposited with the Architectural

Control Committee. The Committee shall have such other powers and duties as set forth in this declaration, the by-laws of the Association and as delegated by the Board of Directors.

b. Structure Procedures. After submission of such plans and requests, the Architectural Control Committee shall make due consideration thereof and shall approve or disapprove all plans and requests in writing within thirty (30) days after submission. In the event the Architectural Control Committee fails to take any action within thirty (30) days after so requested, further approval will not be required and this Article will be deemed to have been fully complied with. A majority vote of the Committee members is required for approval of proposed improvements.

Section 3. Guidelines and Restrictions . All exterior painting will be of a earthy color, and any repainting or changing of color, repainting of any living unit shall be consistent with the approved original plans and specifications for the living unit and shall have the prior affirmative consent of the Architectural Control Committee. The Architectural Control Committee shall exercise its best judgment to see that all improvements, construction, landscaping and alterations on lands within the properties conform to and harmonize with existing surroundings and structures.

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Section 4. Records. The Committee shall maintain written records of all applications submitted to it, the date submitted, and of all actions taken in reference thereto and the dates such action was taken.

Section 5. Liability. The Architectural Control Committee shall not be liable in damage to any person submitting requests for approval or to any Owner within the properties by reason of any action, failure to act, approval, disapproval or failure to approve or disapprove with regard to such requests.

ARTICLE VII

COMMON SCHEME RESTRICTIONS

The following restrictions are imposed as a Common Scheme upon Building Sites and Common Properties for the benefit of each Owner and may be enforced by any Owner of a Building Site or of the Common Properties of the Association.

a. No building site shall be used for except for residential purposes.

b. No noxious or offensive activity shall be carried on upon any Building Site or Common Properties.

c. No structure of a temporary character, trailer, basement, tent, shack, barn or other outbuilding shall be erected upon, or used, on any Building Site any time as a residence, either temporarily or permanently.

d. Dwellings shall not be moved from outside

The Commons to any building site within this addition.

e. No unused building material, junk or rubbish shall be left exposed except during actual building operations on any Building Site. No repair of automobiles will be permitted outside of garages on any Building Site at any time.

f. No boat, camping trailer, auto-drawn trailer of any kind, mobile home, truck, motorcycle, grading or excavating equipment or other heavy machinery or equipment, vehicle undergoing repair, or aircraft shall be stored outside the garage of a living unit or in any manner left exposed on any Building Site at any time. No vehicle in driveway or street except use by guest of owner.

g. Except for the purposes of controlling erosion on vacant areas, no field crops shall be grown upon any area of the property at any time.

h. No incinerator or trash burner shall be permitted on any Building Site unless the same is incorporated into the living unit and not exposed to view from outside of the living unit. No garbage or trash can or container shall be permitted to remain outside of any living unit unless completely screened from view from every street and from all other areas in the planned development. No fuel tanks are permitted.

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i. No garden, lawn or maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside of any living unit except when in actual use unless completely screened from any street and from other areas of the property. No garage door shall be permitted to remain open except when in entry to and exit from the garages are required. Any exterior air conditioning condensor shall be placed in the rear or side yard.

j. Motor vehicles shall be utilized on designated roadways only. The use of all terrain vehicles, motorcycles, dirt bikes and similar vehicles will not be allowed on any portion of the described properties.

k. No Owner may remove, cut down or transplant any vegetation on any portion of the common properties.

l. No animals, livestock, fowl or poultry of any kind shall be raised, bred, or kept on any building site, except that dogs, cats and other household pets maintained within the living unit may be kept, provided they are not kept, bred, or maintained for any commercial purpose, and provided further, that the total number of dogs and cats kept within the living unit shall not exceed two (2).

m. 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 the properties, except that real estate for sale or for rent signs of a size no greater than 4.5 square feet shall be permitted temporarily in the yards of the living units which are being offered for sale or rent.

n. Exposed portions of the foundation on the front of each living unit are to be covered either with siding or brick, and exposed portion of the foundations on the sides and rear of each living unit shall be covered with brick or siding or shall be painted.

o. All living unites shall have indoor garage space for a minimum of one automobile and shall have driveway space for a minimum of one automobile.

p. A living unit on which construction has begun must be completed within one year from the date the foundation was dug for said living unit.

q. No Owner, other than the Declarant, shall place any structure whatsoever upon the common properties, nor shall any Owner engage in any activity which will temporarily or permanently deny free access to any part of the common properties to all members.

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r. Use of the common properties shall be subject to such rules and regulations as may be adopted from time to time by the Board of Directors of the Association.

ARTICLE IX INSURANCE

Insurance shall be obtained and maintained and the proceeds thereof disposed of by the Association as follows;

Section 1. Coverage. The Association shall obtain and maintain in effect public liability insurance in such limits as determined by the Board of Directors, but in no event less than 500/1,000,000/100,000 covering the common properties with the Association, Board, its employees and agents as insureds.

Section 2. Liability of Board. The Board of Directors shall not be liable to any party upon the amount of insurance coverage obtained in settlement of the insurance claim nor the application of the insurance proceeds, except in the event of loss arising from its gross negligence or willful misconduct.

ARTICLE X EASEMENTS

The Properties are, and shall perpetually be, unless any are terminated, subject to all and each of the following easements for common use, construction, maintenance, support, repair, recreation and other access, private and public sewer and utility line construction and services, and roadway

easements.

Section 1. Utility Easement. Declarant hereby grants to itself and to each of the Association, Nebraska Public Power District, Lincoln Telephone and Telegraph Company, Minnesasco and Plattsouth City Water Department, and their respective assigns and successors, a perpetual easement, together with rights of egress and ingress and other access thereto for purposes of construction, installing, maintaining, operating, renewing, or repairing their respective private sewers, telephone, gas, water, electric, public sewer, or other utility conduits, lines or other facilities in and under the common properties. and including each building site as confined to noninterference with any driveway, sidewalk or structural element of any approved or permitted living unit on any building site. While the utility easement granted herein is a blanket easement, the easement shall not, nor is it intended to interfere with the orderly development of a building site, and the grantees of the above-described easement agree to use only so much of the easement as is necessary for their purposes in order to maximize the available area of each building site. The grantees of the above-described easement further agree that subsequent to the construction of their respective improvements on the properties, that they shall reduce said blanket utility easement to a specific metes and bounds easement, setting forth the actual amount of the properties used for such improvements, and all Owners hereby covenant

and agree to cooperate with the reduction of the blanket utility easement to a specific metes and bounds utility easement. Each such grantee, by acceptance or use of this easement right, shall be deemed to agree to restore any common walls, and restore and compact the surface of the soil excavated for the purposes hereunder to the original contour thereof as near as may be possible and to repair or replace the surface of any lawns, streets, parking areas or driveways which may have been disturbed for any purpose hereunder as near as may be possible to their original condition. Such restoration, repair or replacement shall be performed as soon as may be reasonably possible to do so. The easement as to any of the common properties shall be determined and granted by the Association in the manner set forth in the by-laws as from time to time amended.

Section 2. Telephone and Electric Power Service Lines. All telephone and electric power service lines from and to the living units shall be underground.

ARTICLE XI

GENERAL PROVISIONS

Section 1. Duration. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, the Owners of any property subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a period of five years from the date hereof, after which time said covenants shall be

automatically extended for successive periods of ten years, unless an instrument, signed by a majority of the Owners of all the properties, agreeing to change such covenants, in whole or in part, is filed with the Register of Deeds of Cass County, Nebraska.

Section 2. Amendments. The Covenants and Restrictions of this Declaration may be amended by the Declarant, or their assigns, until such time as the Declarant has conveyed fee simple title to the common properties. Thereafter, this Declaration may be amended by an instrument signed by the Owners of not less than two-thirds (2/3) of the building sites covered by this Declaration. Written notice of any proposed amendment, and a meeting to be called for such purpose, must be sent at least sixty (60) days, but not more than ninety (90) days prior to such proposed meeting, by the Board of Directors of the Association. The notice must contain a full text of the proposed amendment and the date, including a time and place of meeting. Any such amendment so adopted and executed must be properly recorded.

Section 3. Notices. Any notice required to be sent to any members, Owner or mortgagee under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postage paid to the last known address of the person who appears as member or owner on the records of the Association at the time of the mailing, with such mailing to be by regular first class mail. It is the responsibility of the assignee, contract purchaser or mortgagee to notify the

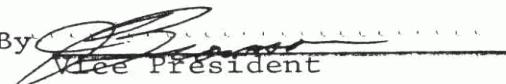
Association in writing of its interest. In an absence of such notice, the Association shall be free from any liability or responsibility to such party or parties arising by reason of performing its' duties hereunder.

Section 4. Enforcement. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction herein. Any failure by the Association or any owner to enforce any covenant or restriction therein contained shall in no event be deemed as a waiver of any subsequent right to do so.

Section 5. Severability. Invalidation of any one of these covenants or restrictions by judgment or Court order shall in no way affect any other provisions, which shall remain in full force and effect.

IN WITNESS WHEREOF, the Declarant has caused these presents to be executed this 16 day of May,
1987.

B.U.S. & S., INC.

By 
Lee President

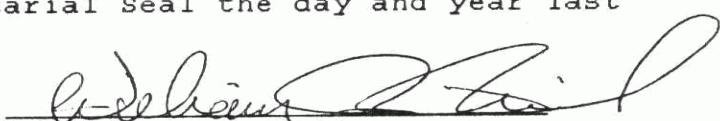
ATTEST:


Dennis K. Brown
Secretary

STATE OF NEBRASKA)
) ss.
COUNTY OF CASS)

Now on this 6th day of May, 1987, before me, a Notary Public, personally came James O. Bronson, Vice-President and Dennis R. Smith, Secretary of B.U.S & S., Inc., and they acknowledged the execution of the foregoing instrument to be their voluntary act and deed as such officers.

Witness my hand and Notarial Seal the day and year last above written.



Notary Public

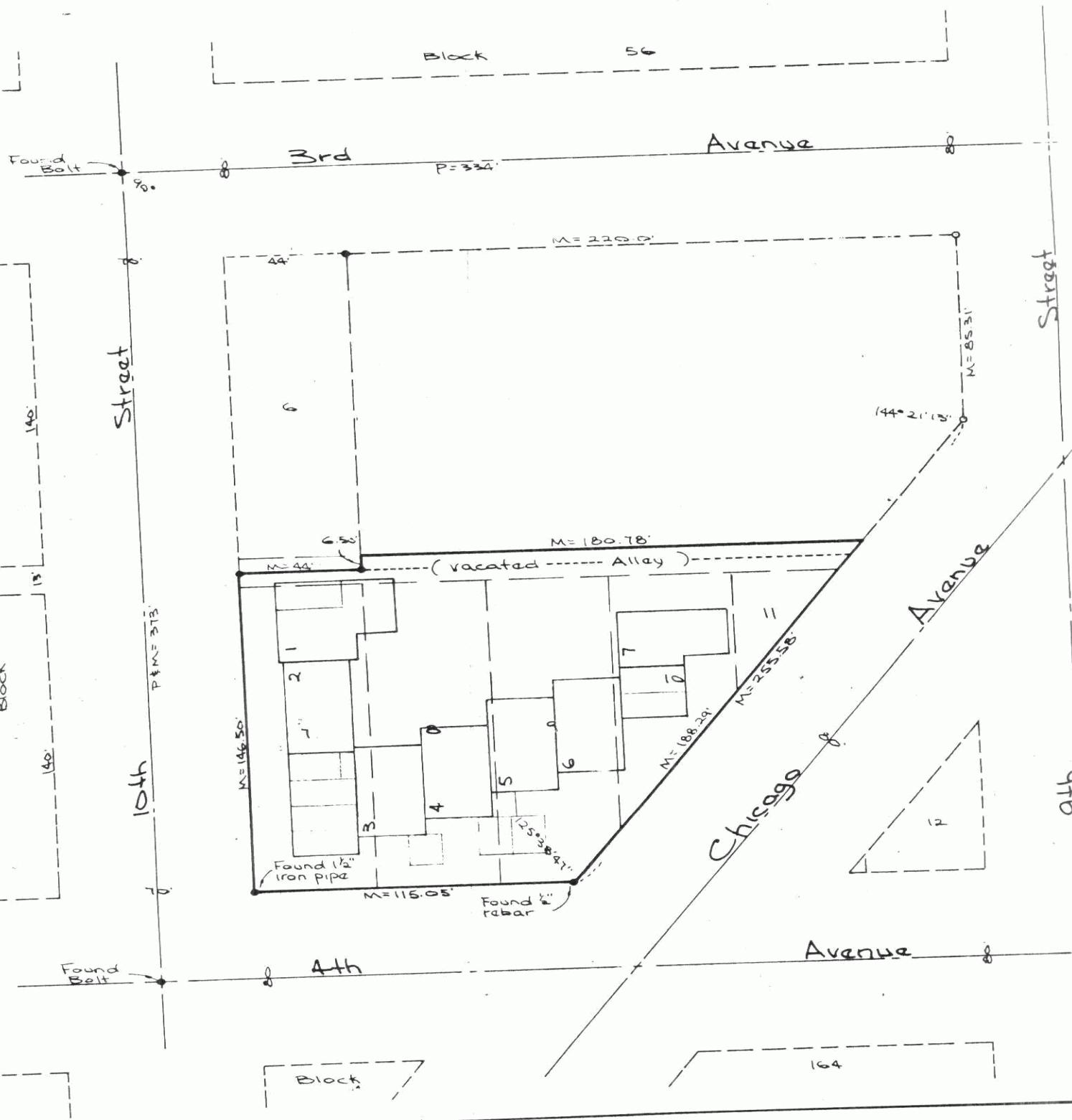


EXHIBIT "A"

Lots 7, 8, 9, 10 and 11, Block 57, City of Plattsmouth,
Cass County, Nebraska, together with all portions of vacated
alley adjacent thereto, all in Block 57, in the Original Town
of Plattsmouth, Cass County, Nebraska, except Building Sites
1 through 7, inclusive as platted and recorded.

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EXHIBIT "B"



RESOLUTION

A special meeting of The Commons Homeowner's Association was held on the 15 day of June, 1988 and all members received written notice of said meeting date, time, place and purpose thereof. The undersigned being all of the record titleholders and representing all of the homeowners of The Commons Homeowner's Association hereby unanimously adopt the following Resolution:

"The Commons Homeowner's Association shall approve and ratify the annexation of additional real estate to be subject to the Covenants, Conditions, Restrictions and Easements for The Commons, a Planned Unit Development as the same were filed for record on May 26, 1987, and that said continuous real estate may be described as follows: Lots 1, 2, 3, 4, and 5, Block 57, *City of Plattsburgh, Cass County, Nebraska, together with all portions of vacated alley adjacent thereto, all in Block 57, Original Town, City of Plattsburgh, Cass County, Nebraska, and that upon filing said Supplemental Declaration with the Register of Deeds of Cass County, Nebraska, said property and owners thereof shall be subject to all of the same duties, liabilities and rights."

Adopted and approved this 15 day of June, 1988.

B. U. S. & S., INC.,

BY James P. Ulrich
President
Frank Bierl
Frank Bierl
Leona Bierl
Leona Bierl
Joseph M. Buick
Joe Buick

Retha Buick
Retha Buick
Fred Uhlik
Fred Uhlik
Blanche Uhlik
Blanche Uhlik
Mabel Troop Gorder
Mabel Troop Gorder

COMPARED

File for Record 4-24-89 At 101344 M.
In Book 37 of Deed Page 102
Register of Deeds, Cass Co., NE Platine & Manning
Doc # 281 12-50

Tanya A. Foral
June 15th, 1988



* now known as Units 8,8A,9,9A,10,10A,11,11A,12,12A,13,13A,14 and 14A, The Commons 11, a planned unit development, City of Plattsburgh, Cass County, Nebraska.

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CORPORATION WARRANTY DEED

B.U.S. & S., Inc. , Grantor, a corporation organized and existing under and by virtue of the laws of the State of Nebraska
 in consideration of One & 00/100 -----Dollar
 receipt of which is hereby acknowledged, conveys to
 The Commons Homeowners Association, Inc., a Nebraska corporation , Grantee,
 the following described real estate (as defined in Neb. Rev. Stat. § 76-201) in
 Cass County, Nebraska:

All of the Commons, a planned unit development, a part of former Block 57
 except units 1, 1A, 2, 3, 4, 5, 6, 7, 8, 8A, 9, 9A, 10, 10A, 11, 11A, 12, 12A,
 13, 13A, 14, and 14A, City of Plattsmouth, Cass County, Nebraska

Grantor covenants with the Grantee that Grantor:

- (1) is lawfully seised of such real estate and that it is free from encumbrances
- (2) has legal power and lawful authority to convey the same;
- (3) warrants and will defend the title to the real estate against the lawful claims of all persons.

Executed: June 14, 1990....., 19.....

NEBRASKA DOCUMENTARY
STAMP TAX

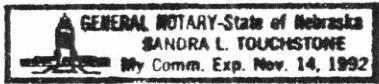
JUN 18 1990 Corp. Seal

\$ Ex #4 BY PM

B.U.S. & S., Inc.
Grantor
by *[Signature]*
Secretary
Title

STATE OF NEBRASKA, County of Cass

The foregoing instrument was acknowledged before me June 14, 1990....., 19.....
 by Jim Bronson, Secretary of B.U.S. & S., Inc.
 (Name and Office) (Name of Corporation)
 a..... Nebraska..... corporation, on behalf of the corporation.



Sandra L. Touchstone
Signature of Person Taking Acknowledgement

.....
Title

STATE OF NEBRASKA
County of Cass.....

COMPARED

Filed for record and entered in Numerical Index on 6.18.90.....
 at 11:00 o'clock A.M., and recorded in Deed Record 148....., Page 311.....

Doc # 261

\$ 600

By: *Patricia J. Neusinger*
 County or Deputy County Clerk
 Register of Deeds or Deputy Register of Deeds

ORDINANCE NO. 726.

COMPARED

AN ORDINANCE TO VACATE THE ALLEY RUNNING EAST AND WEST THROUGH BLOCK 57, CITY OF PLATTSOUTH, NEBRASKA; PROVIDING SAID ALLEY REVERT TO AND BECOME A PART OF LOTS ABUTTING THEREON: AND FIXING THE DATE WHEN SAME SHALL BE EFFECTIVE.

BE IT ORDAINED by the Mayor and City Council of the City of Plattsouth, Nebraska:

Section 1.--The alley running east and west through Block 57 of the City of Plattsouth, Nebraska, be and the same is hereby vacated.

Section 2.-- Ground Heretofore occupied thereby to revert to the owners of the abutting real estate as provided by statute.

Section 3.--This ordinance shall take effect and be in force from and after its passage, approval and publication according to law.

Passed and approved this 28th day of June, A.D. 1937.

Attest:

George Lushinsky,

Mayor.

Albert Olson,

City Clerk.

CERTIFICATE OF CITY CLERK

FILED FOR RECORD 10-10-1975 AT P.M. IN BOOK 18 OF DEEDS
REGISTER OF DEEDS, CASS CO., NEBR.
B. M. Shiffert
B. M. Shiffert
PAGE 32

State of Nebraska) SS
County of Cass)

I hereby certify that the foregoing is a true copy of Ordinance No. 726 passed and approved by the Mayor and City Council as the same appears from the records in my custody.

Witness my hand and seal of the City of Plattsouth, Nebraska this 9th day of October 1975.

Virginia Bunch
City Clerk

(CITY OF PLATTSOUTH)
(SEAL)
(NEBRASKA)

