FILED
Date 3-27-01
County Assessor

MAR 27 2001

BOOK 2001 PAGE 968
DEBORAH L. PEYTON
DELAWARE CO. RECORDER

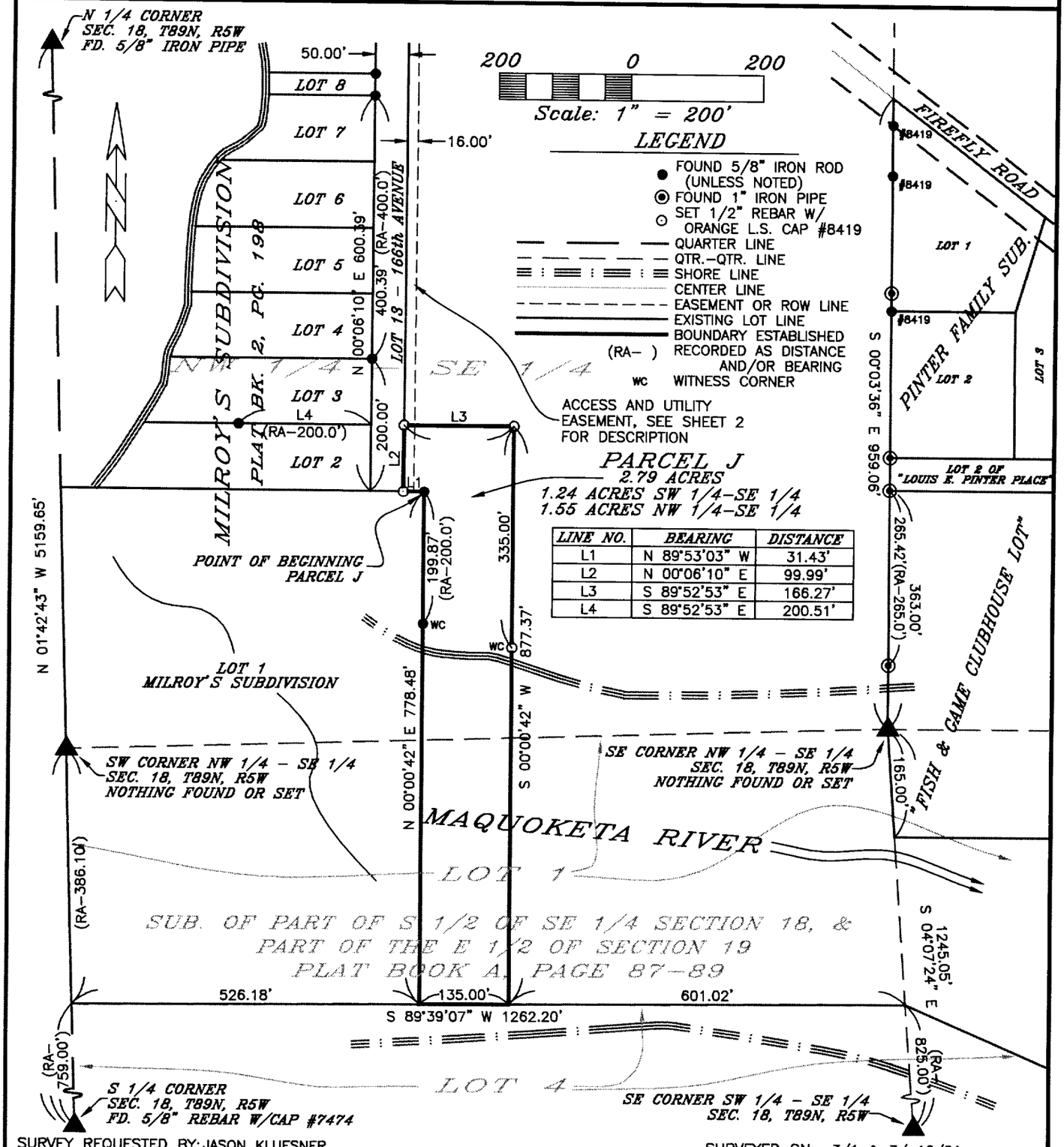
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DELAWARE COUNTY IOWA
FILED

PREPARED BY: J. DAVID GIBBS; P.O. BOX 295 MANCHESTER, IA 52057 319-927-2434

PLAT OF SURVEY

PARCEL J, PART OF THE W 1/2 OF THE SE 1/4 OF SECTION 18, (PART OF THE NW 1/4 OF THE SE 1/4, SECTION 18, AND PART OF LOT 1 OF THE SUBDIVISION OF PART OF THE S 1/2 OF THE SE 1/4 OF SEC. 18 & PART OF THE E 1/2 OF SEC. 19), ALL OF T89N, R5W OF THE FIFTH P.M., DELAWARE COUNTY, IOWA.



LINE NO.	BEARING	DISTANCE
L1	N 89°53'03" W	31.43'
L2	N 00°06'10" E	99.99'
L3	S 89°52'53" E	166.27'
L4	S 89°52'53" E	200.51'

SURVEY REQUESTED BY: JASON KLUESNER

SURVEYED ON: 3/1 & 3/ 16/01

PROPRIETORS: *KENNETH S. MILROY & CAROLYN MILROY*
1837 Firefly Road, Manchester, IA

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.

3/16/01

J. DAVID GIBBS, P.E., L.S. LIC. #8419 DATE

MY LICENSE RENEWAL DATE IS DECEMBER 31, 2002

LICENSED LAND SURVEYOR J. DAVID GIBBS 8419 IOWA

PAGES OR SHEETS COVERED BY THIS SEAL: 1-2

GIBBS ENGINEERING & SURVEYING
PROFESSIONAL SERVICES BUILDING
223 WEST MAIN STREET, MANCHESTER, IA 52057

PROJECT NO. 01-04
SCALE: 1"=200'
DATE: 3/7/2001
DRAWN BY: RLR
CHECKED BY: JDG
FIELD BK: D.L.
REVISED
SHEET 1 OF 3

LEGAL DESCRIPTION:

PARCEL J, *PART OF THE WEST ONE HALF (W ½) OF THE SOUTHEAST QUARTER (SE ¼) OF SECTION EIGHTEEN (18), (PART OF THE NORTHWEST QUARTER (NW ¼) OF THE SOUTHEAST QUARTER (SE ¼) OF SECTION EIGHTEEN (18)); AND PART OF LOT 1 OF THE SUBDIVISION OF PART OF THE SOUTH ONE-HALF (S ½) OF THE SOUTHEAST QUARTER (SE ¼) OF SECTION EIGHTEEN (18) AND PART OF THE EAST ONE-HALF (E ½) OF SECTION NINETEEN (19), ALL IN TOWNSHIP EIGHTY-NINE NORTH (T89N), RANGE FIVE WEST (R5W) OF THE FIFTH PRINCIPAL MERIDIAN, DELAWARE COUNTY, IOWA,* containing 2.79 acres, subject to easements of record, and more specifically described by metes and bounds as follows;

BEGINNING at the Northeast Corner of Lot 1 of Milroy's Subdivision as recorded in Book 2 of Plats, Page 198 in the Office of the Delaware County Recorder;

THENCE along the Northerly Line of said Lot 1, North 89° 53' 03" West, to the Southeast Corner of Lot 13 of said Milroy's Subdivision, 31.43 feet;

THENCE along the Easterly Line of said Lot 13, North 00° 06' 10" East, 99.99 feet;

THENCE South 89° 52' 53" East, 166.27 feet;

THENCE South 00° 00' 42" West, to the Southerly Line of Lot 1 of the Subdivision of the South One-half (S ½) of the Southeast Quarter (SE ¼) of Section Eighteen (18) and part of the East One-half (E ½) of Section Nineteen (19) as recorded in Book A of Plats, Pages 87-89 in the Office of the Delaware County Recorder, 877.37 feet;

THENCE along said Southerly Line of said Lot 1, South 89° 39' 07" West, to the Southeast Corner of Lot 1 of said Milroy's Subdivision, 135.00 feet;

THENCE along the Easterly Line of said Lot 1 of Milroy's Subdivision, North 00° 00' 42" East, 778.48 feet to the **POINT OF BEGINNING**;

Containing 2.79 acres and subject to easements of record.

The Westerly Line of the Northeast Quarter (NE ¼) and the Southeast Quarter (SE ¼) of Section Eighteen (18), Township Eighty-nine North (T89N), Range Five West (R5W) of the Fifth Principal Meridian, Delaware County, Iowa is assumed to bear North 01° 42' 43" West.

ACCESS AND UTILITY EASEMENT DESCRIPTION

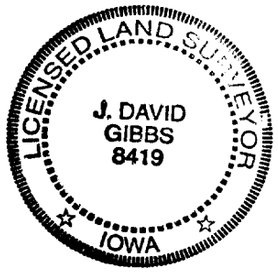
Sixteen (16) feet in width, adjacent and parallel to the easterly line of Lot 13 of said Milroy's Subdivision (166th Avenue), from the northerly line of Lot 1 of said Milroy's Subdivision, north to the centerline of Firefly Road.

SURVEYOR'S CERTIFICATE

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.

3/16/01

J. David Gibbs, L.S. #8419 DATE
My license will be renewed on December 31, 2002



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OWNER'S ACKNOWLEDGMENT

I Kenneth S. Milroy & Carolyn Milroy of Delaware County, State of Iowa, do hereby certify that the above survey, as shown by the attached Plat, is made with our free consent, and in accordance with our desire.

Kenneth S. Milroy

Carolyn Milroy

State of Iowa)
)
County of Delaware) Ss:

On this 12th day of March A.D. 2001, before me a Notary Public in and for said County, personally appeared Kenneth S. Milroy & Carolyn Milroy to me known to be the person(s) named and who executed the foregoing instrument, and acknowledged that they executed the same as their voluntary act and deed.

Notary Public in and for said County

J. DAVID GIBBS
MY COMMISSION EXPIRES
8/17/2002

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RESOLUTION RECOMMENDING GRANTING VARIANCE FROM SUBDIVISION REQUIREMENTS OF MANCHESTER, DELAWARE COUNTY, IOWA.

WHEREAS, the Plat of Survey of *Parcel J, Part of the West One Half (W ½) of the Southeast Quarter (SE ¼) of Section Eighteen (18) All In Township Eighty-Nine North (T89N), Range Five West (R5W) of the Fifth Principal Meridian, Delaware County, Iowa,* affecting premises more specifically described in the Surveyor's Certificate of J. David Gibbs, dated March 16, 2001, has been filed with the Planning and Zoning Commission of the City of Manchester, Delaware County, Iowa; and

WHEREAS, Ken Milroy has represented to the Planning and Zoning Commission that he is the owner of the proposed Parcel J, as shown and legally described in the attached exhibit;

The Planning and Zoning Commission hereby finds:

1. That a request has been made to the Planning and Zoning Commission seeking to create the proposed Parcel J.
2. That the proposed Parcel J is within the 2-mile radius of the City of Manchester, and as such, is subject to subdivision requirements of the Manchester City Code.
3. The Owner has requested he be granted a variance from the formal subdivision requirements to allow a creation of a parcel rather than a subdivision.
4. The proposed parcel is to be developed without connection to the City water, sewer, or utilities, nor shall development of the proposed Parcel J require construction of any new streets.
5. The proposed Parcel J is located along 166th Avenue.
6. That it would not be in the best interest for development in or around the City of Manchester, Iowa, to waive subdivision requirement for any further division of the proposed Parcel J.

NOW, THEREFORE, BE IT RESOLVED that the Commission recommends to the City Council as follows:

1. That a variance is granted to allow a creation of Parcel J, as shown and legally described in the attached exhibit.
2. That in the event any streets or City utilities are proposed to be extended to Parcel J, the property owner shall be required to comply with all subdivision and other requirements of the Manchester City Code. In addition, in the event the owner of Parcel J shall further divide or transfer away a portion of Parcel J, the owner shall be required to comply with all subdivision and other ordinances in effect for the City of Manchester, Iowa.
3. That an additional 16 feet of right of way be added to the East side of 166th Avenue, to provide a total of 66 foot wide road right of way.
4. That no additional; lots shall be allowed to be developed along the east side of 166th Avenue until said private street meets the private street standards established by the City of Manchester.

This resolution shall be recorded in the Office of the Delaware County Recorder.

Passed and adopted this 14th day of March, 2001.

PLANNING & ZONING COMMISSION

Lori Cole, Chairperson

Julie Swanson, Secretary

STATE OF IOWA)
) SS.
COUNTY OF DELAWARE)

On this 21st day of March, 2001, before me Jo Ann Heffernan, a Notary Public in and for the State of Iowa, personally appeared Lori Cole and Julie Swanson, to me personally known, and, who, being by me duly sworn, did say that they are the Chairperson and Secretary, respectively, of the Planning and Zoning Commission of the City of Manchester, Iowa; that the seal affixed to the foregoing instrument is the corporate seal of the corporation, and that the instrument was signed and sealed on behalf of the corporation, by the authority of its Planning and Zoning Commission, as contained in Resolution adopted by the Planning and Zoning Commission on the 14th day of March, 2001, and that Lori Cole and Julie Swanson acknowledge the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the corporation, by it voluntarily executed.

Jo Ann Heffernan
Notary Public.

Jo Ann Heffernan
Notary Public State of Iowa
My Commission Expires 2-19-02

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RESOLUTION R-041-2000

RESOLUTION GRANTING VARIANCE FROM SUBDIVISION REQUIREMENTS OF MANCHESTER, DELAWARE COUNTY, IOWA.

WHEREAS, the City Council for the City of Manchester, Iowa, has been presented with a request from Ken Milroy as owner of certain property set forth herein, seeking a variance from the subdivision requirements for a proposed division of real estate; and

WHEREAS, Ken Milroy has represented to the City Council that he is the owner of the proposed Parcel J, as shown and legally described in the attached exhibit;

The City Council for the City of Manchester hereby finds:

1. That a request has been made to the City Council seeking to create the proposed Parcel J.
2. That the proposed Parcel J is within the 2-mile radius of the City of Manchester, and as such, is subject to subdivision requirements of the Manchester City Code.
3. The Owner has requested he be granted a variance from the formal subdivision requirements to allow a creation of a parcel rather than a subdivision.
4. The proposed parcel is to be developed without connection to the City water, sewer, or utilities, nor shall development of the proposed Parcel J require construction of any new streets.
5. The proposed Parcel J is located along 166th Avenue.
6. That it would not be in the best interest for development in or around the City of Manchester, Iowa, to waive subdivision requirement for any further division of the proposed Parcel J.

NOW, THEREFORE, BE IT RESOLVED as follows:

1. That a variance is granted to allow a creation of Parcel J, as shown and legally described in the attached exhibit.
2. That in the event any streets or City utilities are proposed to be extended to Parcel J, the property owner shall be required to comply with all subdivision and other requirements of the Manchester City Code. In addition, in the event the owner of Parcel J shall further divide or transfer away a portion of Parcel J, the owner shall be required to comply with all subdivision and other ordinances in effect for the City of Manchester, Iowa.
3. That an additional 16 feet of right of way be added to the East side of 166th Avenue, to provide a total of 66 foot wide road right of way.
4. That no additional; lots shall be allowed to be developed along the east side of 166th Avenue until said private street meets the private street standards established by the City of Manchester.
5. The Agreement & Waiver Regarding Alternative Systems for Sewer and Water and Roads/Streets referred to as Exhibit A and attached Survey is approved.

This resolution shall be recorded in the Office of the Delaware County Recorder.

Passed and adopted 19th day of March, 2001.

Gordon F. Goettsch, Mayor Pro-tem

ATTEST:

Karen K. Cole, City Clerk

STATE OF IOWA)
) SS.
COUNTY OF DELAWARE)

On this 26th day of March ,2001, before me, Julie A. Swanson, a Notary Public in and for the State of Iowa, personally appeared Gordon F. Goettsch and Karen Cole, to me personally known, and, who, being by me duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of Manchester, Iowa; that the seal affixed to the foregoing instrument is the corporate seal of the corporation, and that the instrument was signed and sealed on behalf of the corporation, by the authority of its City Council, as contained in Resolution Number R-041-2001 adopted by the City Council on the 19th day of March, 2001, and that Gordon F. Goettsch and Karen Cole acknowledge the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the corporation, by it voluntarily executed.

Julie A. Swanson, Notary Public.
#224151

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EXHIBIT A

AGREEMENT AND WAIVER REGARDING ALTERNATIVE SYSTEMS FOR SEWER AND WATER AND ROADS/STREETS

PARCEL J, *PART OF THE WEST ONE HALF (W ½) OF THE SOUTHEAST QUARTER (SE ¼) OF SECTION EIGHTEEN (18), (PART OF THE NORTHWEST QUARTER (NW ¼) OF THE SOUTHEAST QUARTER (SE ¼) OF SECTION EIGHTEEN (18)); AND PART OF LOT 1 OF THE SUBDIVISION OF PART OF THE SOUTH ONE-HALF (S ½) OF THE SOUTHEAST QUARTER (SE ¼) OF SECTION EIGHTEEN (18) AND PART OF THE EAST ONE-HALF (E ½) OF SECTION NINETEEN (19), ALL IN TOWNSHIP EIGHTY-NINE NORTH (T89N), RANGE FIVE WEST (R5W) OF THE FIFTH PRINCIPAL MERIDIAN, DELAWARE COUNTY, IOWA.*

Kenneth S. Milroy and Carolyn Milroy, DEVELOPERS

Whereas, Developers have proposed to establish a lot or parcel located in Delaware County, Iowa, more specifically described as:

PARCEL J, *PART OF THE WEST ONE HALF (W ½) OF THE SOUTHEAST QUARTER (SE ¼) OF SECTION EIGHTEEN (18), (PART OF THE NORTHWEST QUARTER (NW ¼) OF THE SOUTHEAST QUARTER (SE ¼) OF SECTION EIGHTEEN (18)); AND PART OF LOT 1 OF THE SUBDIVISION OF PART OF THE SOUTH ONE-HALF (S ½) OF THE SOUTHEAST QUARTER (SE ¼) OF SECTION EIGHTEEN (18) AND PART OF THE EAST ONE-HALF (E ½) OF SECTION NINETEEN (19), ALL IN TOWNSHIP EIGHTY-NINE NORTH (T89N), RANGE FIVE WEST (R5W) OF THE FIFTH PRINCIPAL MERIDIAN, DELAWARE COUNTY, IOWA,*

Whereas, said proposed property is located outside the city limits of the City of Manchester, Iowa, but is within a two-mile radius of the city limits of the City of Manchester, Iowa, and therefore is subject to subdivision regulations for the City of Manchester, Iowa; and

Whereas, the City Council for the City of Manchester, Iowa, has reviewed the proposed subdivision, that alternative systems may be designed to protect the public health, safety, and welfare and meet requirements of State, County, or other applicable health regulations; and

Whereas, the City of Manchester, Iowa, has determined that unusual conditions exist with regard to said proposed subdivision which make a private street desirable; and

Whereas, the Developer and the City of Manchester, Iowa have executed this Agreement to provide notice to all current owners of the real estate that is subject to the proposed subdivision, and all persons or entities who may hereafter acquire an interest in said property as to the agreement set forth in this document.

IT IS THEREFORE AGREED as follows:

1. The City of Manchester, Iowa, approves the use of alternate facilities for the distribution of water and the collection and disposal of sanitary waste, however, such alternative facilities must be designed to fully protect the public health, safety, and welfare and shall meet all requirements of State, County, of other applicable health regulations.
2. Approval of the subdivision by the City of Manchester, Iowa, does not constitute a finding by the City of Manchester, Iowa, that alternative water systems or alternative systems for collection and disposal of sanitary waste do in fact meet with the requirements of State, County, or other applicable health regulations. Plans for private sewage disposal facilities and private water systems shall be submitted to the City for approval prior to development of any lot to be served by such facilities. Plans shall include a location of building sewer and water service line at the building entry points, suitable for possible future connection to public sewer and public water main. Private disposal systems or water supply systems, and costs thereof, shall be the responsibility of the property owner developing such private facility, including costs incurred by the City to review and inspect such alternate system. In the event it is determined that a public sewer is necessary to serve the above described property, it is acknowledged and agreed by the developer that the City of Manchester, Iowa, may not be required to incur expense for the subsequent installation of a sewer facility serving the above premises.
3. The purchasers of real estate contained in the proposed subdivision are hereby put on notice that the City of Manchester, Iowa, shall not be required to install sewer or water facilities serving the land set forth in the proposed subdivision.
4. The Developers shall be solely responsible for development and creation of alternative facilities for the distribution of water or collection and disposal of sanitary waste. The Developer shall further hold harmless the City of Manchester, Iowa, for any cost, liability, damage, or other injury of any kind resulting from the creation of said alternate facilities for the distribution of water or the collection and disposal of sanitary waste.

5. The proposed subdivision provides for use of existing private roads. Streets/roads set forth in the subdivision shall not be dedicated to the City of Manchester, Iowa. The construction or reconstruction of any improvements necessary to meet City standards and the assessment of all cost to property owners in the event of annexation and dedication and acceptance is hereby required. This contract shall provide notice to purchasers of lots of this obligation.

6. The City shall have the authority to prohibit the construction of any private street that does not comply with standards for streets in the City of Manchester, Iowa, as modified by variances duly approved by the City.

7. The City of Manchester, Iowa will not and shall not assume any obligation for maintenance, repair, construction, or other responsibility for streets shown in the proposed subdivision. Developer and all subsequent owners of property in the subdivision shall indemnify and hold harmless the City of Manchester, Iowa, for any claim or cause of action arising from inadequate maintenance, snow removal or repair of private streets.

8. The terms and conditions set forth in this Agreement shall be binding upon the Developers and other current owners of the property more specifically described in the proposed subdivision. Terms, conditions, and obligations set forth in this Agreement shall further be binding upon all heirs, assigns, devisees, or other persons acquiring land contained in the proposed subdivision and the terms of the Agreement shall further run with the land.

9. Purchasers and owners of land described in the proposed subdivision have expressly, by the creation of this Agreement, waived any right to require the City to incur any expense for subsequent installation of streets, storm sewer, sanitary sewer, sidewalks or water facilities serving the land set forth in the proposed subdivision.

10. This Agreement is executed in compliance with Manchester Code of Ordinances 1997, Section 127.12 and 127.17(15).

11. By entering into this Agreement, the City of Manchester, Iowa, does not warrant of otherwise make any expression as to the suitability or desirability of the private streets set forth in the subdivision or their manner of construction.

Kenneth S. Milroy

Carolyn Milroy

Subscribed and sworn to before me by Kenneth Milroy & Carolyn Milroy this 12th day of March, 2001.

Notary Public in and for the State of Iowa

J. DAVID GIBBS
MY COMMISSION EXPIRES
8/17/2002

CITY OF MANCHESTER, IOWA

Gordon Goettsch, Mayor Pro-tem

Karen K. Cole, City Clerk

STATE OF IOWA)
) SS.
COUNTY OF DELAWARE)

On this 26th day of March, 2001, before me, Julie A. Swanson, a Notary Public in and for the State of Iowa, personally appeared Gordon Goettsch and Karen Cole, to me personally known, and, who, being by me duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of Manchester, Iowa; that the seal affixed to the foregoing instrument is the corporate seal of the corporation, and that the instrument was signed and sealed on behalf of the corporation, by the authority of its City Council, as contained in Resolution Number R-041-2001 adopted by the City Council on the 19th day of March, _____, and that Gordon Goettsch and Karen Cole acknowledge the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the corporation, by it voluntarily executed.

Julie A. Swanson, Notary Public #224151

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