TE KIPPE ENGINEERING
P.O. Box 357
MANCHESTER, IA. 52057

FILED
Date 1-2-2003
John R Klausly
County Assessor
JAN 2 2003

FILED
SHARON McCRABB
DELAWARE COUNTY AUDITOR
51.00

BOOK 2003 PAGE 20
DELAWARE COUNTY IOWA
FILED
2003 JAN -2 PM 1:29

TeKIPPE ENGINEERING, P.C., 128 South Vine Street, West Union, Iowa 52175 Phone #563/422-5131

Final Plat

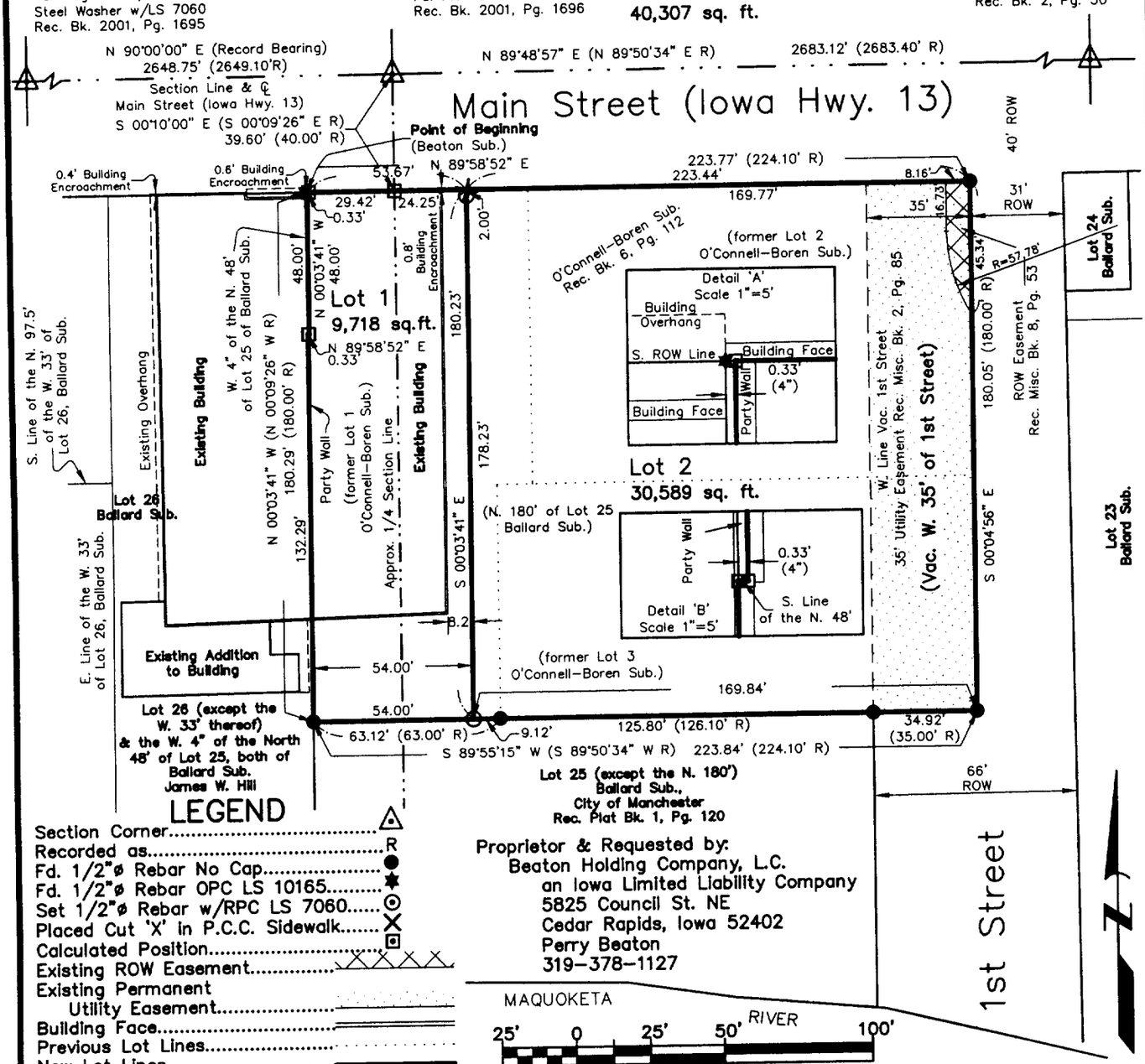
Beaton Subdivision, a part of O'Connell-Boren Subdivision in the City of Manchester, Delaware County, Iowa

NW Corner
Section 32-89-5
Fd. Mag Nail w/Stainless
Steel Washer w/LS 7060
Rec. Bk. 2001, Pg. 1695

N 1/4 Corner
Section 32-89-5
Fd. PK Nail
Rec. Bk. 2001, Pg. 1696

Total Area of
Beaton Subdivision
40,307 sq. ft.

NE Corner
Section 32-89-5
Fd. PK Nail
Rec. Bk. 2, Pg. 50



LEGEND

- Section Corner
- Recorded as ... R
- Fd. 1/2"ø Rebar No Cap
- Fd. 1/2"ø Rebar OPC LS 10165
- Set 1/2"ø Rebar w/RPC LS 7060
- Placed Cut 'X' in P.C.C. Sidewalk
- Calculated Position
- Existing ROW Easement
- Existing Permanent Utility Easement
- Building Face
- Previous Lot Lines
- New Lot Lines
- Subdivision Boundary
- Orange Plastic Cap ... OPC
- Red Plastic Cap ... RPC

Proprietor & Requested by:
Beaton Holding Company, L.C.
an Iowa Limited Liability Company
5825 Council St. NE
Cedar Rapids, Iowa 52402
Perry Beaton
319-378-1127

Survey was completed on November 15, 2002.

PROF. ENGR. & LAND SURVEYOR
LYLE G. TeKIPPE
7060
IOWA

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. The unadjusted error of closure does not exceed 1:10,000 for the subdivision boundary and does not exceed 1:5,000 for any individual lot.

Lyle G. TeKippe — Date: 12-5-02
License number 7060
My license renewal date is December 31, 2002.
Sheets covered by this seal: P1

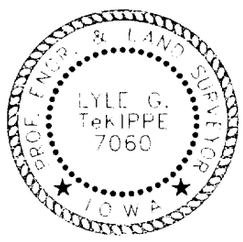
TeKIPPE ENGINEERING, P.C.
128 South Vine Street
West Union, IA 52175
PH. (563) 422-5131
FAX (563) 422-5884

1919 210th Street
P.O. Box 357
Manchester, IA 52057
PH. (563) 927-2060
FAX (563) 927-3603

X:_projects\2002\02253LS\dwg\02253LS.dwg
Field Book: Manchester #1 Pages 16-18
Project No. 02253.LS Sheet P1

BOOK 2003 PAGE 20

TeKIPPE ENGINEERING, P.C., 128 South Vine Street, West Union, Iowa 52175 Phone #563/422-5131



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.

Lyle G. TeKippe — 12-5-02 Date

License Number 7060
My license renewal date is December 31, 2002.
Pages covered by this seal: BD-1 through BD-2

State of Iowa)
ss.
County of Fayette)

Subscribed and sworn to before me by Lyle G. TeKippe this 5th day of December, 2002.

SANDRA J KLOSTERMAN
Iowa Notarial Seal
Commission Number: 706806
My Commission Expires: 11-9-2003

Sandra J Klosterman
Notary Public

BEATON SUBDIVISION:

Deed Description and formerly known as:

> Lots One (1), Two (2), and Three (3) of O'Connell-Boren Subdivision of the Northerly 180.0 feet of Lot 25 and The Northerly 180.0 feet of the Westerly 35.0 feet of First Street lying South of the Southerly Line of West Main Street of the Ballard Subdivision of Part of Lot I and of Lots M and N of the Iowa Land Company's Subdivision of part of the City of Manchester, Section Thirty-Two (32), Township Eighty-Nine North (T89N), Range Five West (R5W) of the Fifth Principal Meridian, Delaware County, Iowa, according to plat recorded in Book 6 Plats, Page 112, except the West four (4) inches of the North forty eight (48) feet of said Lot One (1).
> (Recorded August 13, 1997, Town Lot Deeds Book 56, Page 106.)

Hereinafter known as Beaton Subdivision a part of O'Connell-Boren Subdivision in the City of Manchester, Delaware County. Iowa, and more particularly described as follows:

Beaton Subdivision Boundary Description:

> Commencing at the North Quarter Corner of Section 32, Township 89 North, Range 5 West of the 5th P.M., in the City of Manchester, Delaware County, Iowa;
>
> Thence **South 00°-10'-00" East 39.60 feet** to the South Right-of-Way Line of West Main Street (Iowa Highway 13);

Thence **South 89°-58'-52" West 29.42 feet** along said South Right-of-Way Line to the Northeast Corner of the West 4 inches of the North 48 feet of Lot 25 of Ballard Subdivision in said City and the Point of Beginning;

Thence **North 89°-58'-52" East 223.44 feet** along said Right-of-Way Line to the West Line of the East 31 feet of First Street;

Thence **South 00°-04'-56" East 180.05 feet** along said West Line to the Easterly extension of the South Line of the North 180 feet of Lot 25 of said Ballard Subdivision;

Thence **South 89°-55'-15" West 223.84 feet** along said Easterly extension and South Line to the East Line of Lot 26 of said Ballard Subdivision;

Thence **North 00°-03'-41" West 132.29 feet** along said East Line of Lot 26;

Thence **North 89°-58'-52" East 0.33 feet**;

Thence **North 00°-03'-41" West 48.00 feet** to the Point of Beginning;

Containing **40,307 square feet**, subject to easements of record. (See plat attached to this original survey description.)

Note: The Section Line from the Northwest Corner of said Section 32 to the North Quarter Corner of said Section 32 has a record bearing of North 90°-00'-00" East.

References are hereby made to Ballard Subdivision of Lot I and Lots M and N of Iowa Land Company's Subdivision of Part of the Village of Manchester, recorded in Plat Book 1, page 120; to a Survey and Plat of Lot 25 of Ballard Subdivision made by Roger R. Mohn, recorded September 10, 1990, in Plat Book 6, page 90; to Resolution R-606-90, passed by the City Council September 24, 1990, recorded in Misc. Book 2, Page 97; to O'Connell-Boren Subdivision of the North 180 feet of Lot 25 of Ballard Subdivision made by Roger R. Mohn, recorded January 14, 1991, in Plat Book 6, page 112; to a Deed recorded August 13, 1997, in Town Lot Book 56, Page 106; and to an Easement for Public Highway recorded July 10, 1998, in Misc. Book 8, Page 53, all on file in the Delaware County Recorder's office, Manchester, Iowa.

OWNER'S ACKNOWLEDGMENT

I, Perry Beaton of Linn County, State of Iowa, do hereby certify that the above survey, as shown by attached Plat, is made with our free consent, and in accordance with our desire.

Perry Beaton

State of Iowa)
ss.
County of Linn)

On this 10th day of December, 2002, before me a Notary Public in and for said County, personally appeared Perry Beaton, to me know to be the person named and who executed the foregoing instrument, and acknowledged that they executed the same as his voluntary act and deed.

KATHLEEN E. FRERICHS
Commission Number 191173
My Commission Expires
7-16-03

Notary Public in and for said County

ATTORNEY'S OPINION

I, _____, a practicing attorney at law in the City of Manchester, Delaware County, Iowa, have examined the abstract of title to the land included in **Beaton Subdivision, a part of O'Connell-Boren Subdivision in the City of Manchester, Delaware County, Iowa,** on premises more specifically described in the Surveyor's Certificate of Lyle G. TeKippe, dated _____, 2002.

Said abstract has been prepared in its entirety by the Delaware County Abstract Company, Inc., and was last certified to by said company on the _____ day of _____, A.D. 2002, at the hour of _____ o'clock ____.M.

My examination of said abstract shows good and merchantable title on the date and hour of the certification to be in

_____

_____

Dated at _____, Iowa, in said County, this _____ day of _____, 2002.

_____
, Attorney at Law

CERTIFICATE OF TREASURER

I, the undersigned, Carolyn A. Wilson, Treasurer of Delaware County, Iowa, do hereby certify that all taxes and special assessments against **Beaton Subdivision, a part of O'Connell-Boren Subdivision in the City of Manchester, Delaware County, Iowa,** have been paid and said real estate is free and clear of all taxes as of this date.

Carolyn A. Wilson, County Treasurer

Pam Klein
Deputy Treas.
12/10/03

F. James Bradley
Byron G. Riley
Michael K. Denney
Patrick M. Courtney
Donald G. Thompson
Kelly R. Baier
Gregory J. Seyfer
Dean A. Spina
Joseph E. Schmall
Bradley G. Hart
William J. Neppl
Phyllis Pearson
Margaret Van Houten
William T. McCartan
Maureen G. Kenney
Vernon P. Squires

BRADLEY & RILEY PC
ATTORNEYS AND COUNSELORS
2007 FIRST AVENUE SE
CEDAR RAPIDS, IA 52402

MAILING ADDRESS:
PO BOX 2804
CEDAR RAPIDS, IA 52406-2804

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WEBSITE ADDRESS: www.bradleyriley.com
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Paul D. Burns
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Janice J. Kerkove
Shannon P. Thompson
David J. Zylstra
Laura C. Mueller
Kevin C. Papp
Kimberly H. Blankenship
Benjamin B. Dvergsten

Counsel:
Melissa Weets Anderson
Boston, Massachusetts
1-800-353-2665

CEDAR RAPIDS • WEST DES MOINES

December 23, 2002

TO WHOM IT MAY CONCERN:

RE: LOTS ONE (1), TWO (2) AND THREE (3) OF O'CONNELL-BOREN SUBDIVISION OF THE NORTHERLY 180.0 FEET OF LOT 25 AND THE NORTHERLY 180.0' OF THE WESTERLY 35.0' OF FIRST STREET LYING SOUTH OF THE SOUTHERLY LINE OF WEST MAIN STREET OF THE BALLARD SUBDIVISION OF PART OF LOT I AND OF LOTS M AND N OF THE IOWA LAND COMPANY'S SUBDIVISION OF PART OF THE CITY OF MANCHESTER, SECTION THIRTY-TWO (32), TOWNSHIP EIGHTY-NINE NORTH (T89N), RANGE FIVE WEST (R5W) OF THE FIFTH PRINCIPAL MERIDIAN, DELAWARE COUNTY, IOWA, ACCORDING TO PLAT RECORDED IN BOOK 6 PLATS, PAGE 112, EXCEPT THE WEST FOUR (4) INCHES OF THE NORTH FORTY EIGHT (48) FEET OF SAID LOT ONE (1)

We have examined for you an abstract of title to the above-described real estate consisting of three parts, Part I consisting of Entries A to D,, both inclusive, and Entries 1 to 61, both inclusive, Part Ii consisting of Entries 1 to 69, both inclusive, and Part III consisting of Entries 70-107, both inclusive, last certified to December 11, 2002, at 8:00 a.m. by Delaware County Abstract Company, Inc., and from such examination we find record title to said real estate to be in the name of

BEATON HOLDING COMPANY, L.C.

subject to the following:

1. The above-described real estate is free and clear of all liens and mortgages except as hereinafter shown.

2. At Entry 98 of the abstract there is shown a Mortgage from Beaton Holding Company, L.C., to Community Savings Bank, which Mortgage is dated August 13, 1997, and was filed for record on August 13, 1997, in Book 45 at Page 72 of the records of the Delaware County, Iowa, Recorder. This is an open-end Mortgage securing advances up to the principal sum of $700,000.00 and is due February 1, 2013. The Mortgagee has executed a Mortgagee's Certificate and Consent pursuant to Iowa Code Section 354.11.

3. At Entry 45 of Part II of the abstract there is shown an Easement to Northern Natural Gas Company dated November 7, 1956, and filed on August 21, 1957, in Book I at Page 465 of the records of the Delaware County, Iowa, Recorder.

Entry 56 of Part II of the abstract shows that this Easement was assigned to UtiliCorp. United Inc., by an Assignment of Easements dated December 6, 1985, and filed on January 6, 1986, in Book X at Page 192 of the records of the Delaware County, Iowa, Recorder.

4. At Entry 46 of Part II of the abstract there is shown a Right-of-Way Easement to the City of Manchester, Iowa, dated June 29, 1950, and filed on August 9, 1950, in Book H at Page 471 of the records of the Delaware County, Iowa, Recorder.

5. At Entry 77 of Part III of the abstract there is shown an Easement for utilities to the City of Manchester, Iowa, dated September 26, 1990, and filed on October 4, 1990, in Book 2 at Page 87 of the records of the Delaware County, Iowa, Recorder.

6. Entry 78 of Part III of the abstract shows that the above described real estate is included within the Manchester Urban Renewal Plan Area as provided by Resolutions 392-88, 415-89, and 484-89, adopted by the Manchester, Iowa, City Council and recorded in Book 1 at Page 112 of the records of the Delaware County, Iowa, Recorder on September 26, 1989.

7. At Entry 82 of Part III of the abstract there is shown a Minimum Assessment Agreement with the City of Manchester, Iowa, dated September 21, 1990, and filed on November 29, 1990, in Book 2 at Page 111 of the records of the Delaware County, Iowa, Recorder. This Agreement establishes a minimum actual value for land and improvements on the above described real estate.

8. Entry 83 of Part III of the abstract shows that the above described real estate is included within the Manchester Downtown Self-Supported Municipal Improvement District pursuant to the provisions of Chapter 386 of the Iowa Code.

9. Entry 90 of Part III of the abstract shows the above described real estate is subject to the provisions of the Zoning Ordinances of the City of Manchester, Iowa, filed on February 1, 1994, in Book 4 at Page 156 of the records of the Delaware County, Iowa, Recorder. Entries 103, 104 and 105, inclusive show amendments to the Zoning Ordinances of the City of Manchester, Iowa.

10. At Entry 84 of Part III of the abstract there is shown a plat of survey of O'Connell-Boren Subdivision in Delaware County, Iowa. We call your attention to a utility easement as shown on the plat.

11. At Entry 101 of Part III of the abstract there is shown an Easement for Permanent Street Purposes dated June 17, 1998, and filed on July 10, 1998 in Book 8, Misc., at Page 53 of the records of the Delaware County, Iowa Recorder.

12. At Entry 102 of the abstract there is shown an Entrance Permit from the Iowa Department of Transportation to Beaton, Inc. d/b/a Burger King dated June 5, 1998, and filed on July 22, 1998 in Book 8, Misc., at Page 70 of the records of the Delaware County, Iowa Recorder.

13. At Entry 106 of Part III of the abstract it is noted that the general taxes due September 30, 2002, and March 31, 2003, are paid.

14. Your attention is called to any limitations imposed upon the property in the event it lies within a flood plain, and by zoning regulations and restrictions and other use restrictions passed by an appropriate governmental entity (including rules and regulations governing private sewage disposal systems, plats and lot sizes).

The abstract that we have examined for you is an abstract of the public records of Delaware County, Iowa, affecting the title to this real estate. There may be other matters not of public record affecting the title such as rights of parties in possession; facts that would be disclosed by a survey; mechanic's liens for labor performed or materials furnished in the past ninety (90) days in connection with repairs or improvements to the property; pending marriage dissolution proceedings; taxes or special assessments for recent improvements not yet shown as liens by the public records; the presence of solid waste, radioactive waste, hazardous waste or hazardous substances, including those substances defined to be hazardous in 42 U.S.C. § 9601(14) and Chapter 455B, Code of Iowa (2001); the rights under federal bankruptcy law of any party in the chain of title, or their successors or assigns, to void any deed or conveyance; and other matters that can only be determined by independent inquiry and investigation.

Very truly yours,

BRADLEY & RILEY, P.C.

Joseph E. Schmall
Iowa Title Guaranty Member #1245

Abstract No. 9097
Beaton Subdivision Plat Opinion

00075800.WPD

Prepared by: Joseph E. Schmall of Bradley & Riley PC, P.O. Box 2804, Cedar Rapids, IA 52406-2804 (319) 363-0101
(Space above this line for recording purposes)

BEATON SUBDIVISION, A PART OF O'CONNELL-BOREN SUBDIVISION IN THE CITY OF MANCHESTER, DELAWARE COUNTY, IOWA

MORTGAGEE'S CERTIFICATE AND CONSENT

KNOW ALL MEN BY THESE PRESENTS: That Community Savings Bank, being the owner of a Mortgage dated August 13, 1997, and filed for record on August 13, 1997, in Book 45 at Page 72 of the records of the Delaware County, Iowa, Recorder, which Mortgage is a lien upon a portion of the real estate included in BEATON SUBDIVISION, A PART OF O'CONNELL-BOREN SUBDIVISION IN THE CITY OF MANCHESTER, DELAWARE COUNTY, IOWA does hereby acknowledge and declare pursuant to Iowa Code Section 354.11 the subdivision to be prepared by its free consent and in accordance with its desires and does hereby release from the Mortgage its lien against any streets or public ways that have been set apart and dedicated to the public, and does hereby consent to the filing of the plat.

COMMUNITY SAVINGS BANK

By: _____ VP/Sr.

STATE OF IOWA)
) ss:
COUNTY OF DELAWARE)

On this 19th day of December, 2002, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Brett W. Nagel, to me personally known, who being by me duly sworn, did say that (s)he is the VP/Sr. Commercial Lender of the corporation executing the within and foregoing instrument; that said instrument was signed on behalf of the corporation by authority of its Board of Directors; and that Brett W. Nagel, as such officer acknowledged the execution of the foregoing instrument to be the voluntary act and deed of the corporation, by it and by him/her voluntarily executed.

Donna Knipper
Notary Public in and for the State of Iowa

DONNA KNIPPER
Commission Number 223743
My Commission Expires
1-28-05

{00075866.DOC}

RESOLUTION APPROVING PRELIMINARY AND FINAL PLAT

WHEREAS, the preliminary and final plat of *Beaton Subdivision, to the City of Manchester, Delaware County, Iowa*, affecting premises more specifically described in the Surveyor's Certificate of Lyle G. TeKippe, dated December 5, 2002, has been filed with the Planning and Zoning Commission of the City of Manchester, Delaware County, Iowa; and

WHEREAS, preliminary and final plat of *Beaton Subdivision, to the City of Manchester, Delaware County, Iowa*, should be approved with the following variances, declaration and conditions;

1) No determination has been made as to compliance with this subdivision and platting requirements which are set forth in the Code of Iowa.
2) Variance to locating existing and proposed utilities and contours on the plat since the lots have already been developed.
3) The area within this subdivision is currently zoned B-3 and will remain the same.
4) The entire subdivision is located within the 100-year flood plain, although a portion of lot 2 has been elevated. Both lots currently have existing buildings. Any new construction on these lots must comply with the City's flood plain management ordinance.

NOW, THEREFORE, BE IT RESOLVED, by this Planning and Zoning Commission of the City of Manchester, Delaware County, Iowa, that said *Beaton Subdivision, to the City of Manchester, Delaware County, Iowa*, be, and the same is hereby acknowledged, approved and accepted on the part of the Planning and Zoning Commission of the City of Manchester, Delaware County, Iowa, and the Commission hereby recommends to the City Council the acceptance of the same and the Chairperson and the Secretary are hereby authorized and directed to certify this resolution of approval and affix the same to said plat as provided by law.

Adopted and passed this 11th day of December, A.D., 2002.

CITY OF MANCHESTER IOWA SEAL

PLANNING & ZONING COMMISSION
CITY OF MANCHESTER, IOWA

By Dan Stelken
Dan Stelken, Chairperson

By Laura Thomas
Laura Thomas, Recording Secretary

STATE OF IOWA)
) SS.
COUNTY OF DELAWARE)

On this 11th day of December, 2002, before me, Julie A. Swanson, a Notary Public in and for the State of Iowa, personally appeared Dan Stelken and Laura Thomas, to me personally known, and who, being by me duly sworn, did say that they are the Chairperson and Recording 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 11th day of December, 2002, and that Dan Stelken and Laura Thomas 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

NOTARIAL SEAL IOWA
JULIE A. SWANSON
Commission Number 224151
My Comm. Exp. 8-23-05

RESOLUTION NO. 178-2002

RESOLUTION APPROVING PRELIMINARY & FINAL PLAT

WHEREAS, the final plat of *Beaton Subdivision, to the City of Manchester, Delaware County, Iowa* affecting premises more specifically described in the Surveyor's Certificate of Lyle G. TeKippe, dated December 5, 2002, has been filed with the City Clerk of the City of Manchester, Delaware County, Iowa, and has been acknowledged and approved by the Planning and Zoning Commission of the City of Manchester, Delaware County, Iowa, who have recommended acceptance;

WHEREAS, the City Council has fully considered the same and found the same to be in accordance with the ordinances of the City of Manchester, Iowa, relating to plats and additions to the City; and

WHEREAS, the subdivision plat and its attachments conform to Sections 354.6, 354.11, and 355.8 of the Iowa Code and therefore can be approved pursuant to 354.8 of the Iowa Code; and

WHEREAS, preliminary and final plat of *Beaton Subdivision, to the City of Manchester, Delaware County, Iowa*, should be approved with the following variances, declaration and conditions;

1) No determination has been made as to compliance with this subdivision and platting requirements which are set forth in the Code of Iowa.
2) Variance to locating existing and proposed utilities and contours on the plat since the lots have already been developed.
3) The area within this subdivision is currently zoned B-3 and will remain the same.
4) The entire subdivision is located within the 100-year flood plain, although a portion of lot 2 has been elevated. Both lots currently have existing buildings. Any new construction on these lots must comply with the City's flood plain management ordinance.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Manchester, Delaware County, Iowa, that said *Beaton Subdivision, to the City of Manchester, Delaware County, Iowa*, be, and the same is hereby acknowledged, approved and accepted on the part of the City of Manchester, Delaware County, Iowa.

The Mayor and City Clerk are hereby directed to certify this approval and affix the same to said plat as by law provided.

Passed this 16th day of December, A.D., 2002.

Milt L. Kramer

Milt L. Kramer, Mayor

ATTEST:

Erin Rempe, City Clerk

STATE OF IOWA)
) SS.
COUNTY OF DELAWARE)

On this 18th day of December, 2002, before me, Julie A. Swanson, a Notary Public in and for the State of Iowa, personally appeared Milt L. Kramer and Erin Rempe, 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 178-2002 adopted by the City Council on the 16th day of December, 2002, and that Milt L. Kramer and ErinRempe 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

JULIE A. SWANSON
Commission Number 224151
My Comm. Exp. 8-23-05