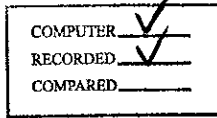


FOR PLAT SEE  
BOOK 2004, PAGE 3847MICHELLE "MICKI" UTSLER, COUNTY RECORDER  
MADISON IOWA

**PLAT AND CERTIFICATE  
FOR SCHWANEBECK ADDITION, CITY OF WINTERSET, IOWA**

I, Robert Hendricks, Zoning Administrator for the City of Winterset, Madison County, Iowa, do hereby certify that the Plat to which this certificate is attached is a plat of a subdivision known and designated as Schwanebeck Addition, City of Winterset, Iowa; and that the real estate comprising said Plat is described as follows:

The South 132 feet of the North Half of the Southeast Quarter of the Southwest Quarter of Section 36, Township 76 North, Range 28 West of the 5<sup>th</sup> P.M., City of Winterset, Madison County, Iowa except the West 165 feet and the South 11.00 feet thereof more particularly described as follows:

Beginning at the Southeast Corner of Kingery Court Addition to the City of Winterset, Madison County, Iowa which is a point on the East line of the Southeast Quarter of the Southwest Quarter of Section 36, Township 76 North, Range 28 West of the 5<sup>th</sup> P.M., City of Winterset, Madison County, Iowa; thence South 00°00'00" East 120.54 feet along said East line to the North line of West Washington Street right-of-way; thence North 89°26'10" West 494.95 feet along the North line of West Washington Street right-of-way; thence North 00°44'41" East 120.64 feet to the South line of said Kingery Court Addition; thence South 89°25'25" East 493.38 feet to the Point of Beginning containing 1.368 acres.

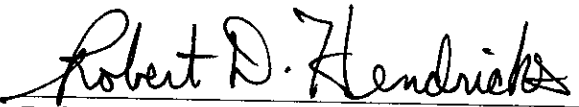
I do further certify that attached hereto are true and correct copies of the following documents which have been submitted in connection with said Plat:

1. Certified land surveying document for Schwanebeck Addition, City of Winterset, Iowa, prepared by J.M. Hochstetler, licensed land surveyor;
2. Affidavit Re: Statement of Proprietors Under Iowa Code §354.11(1);
3. Affidavit Re: Statement of Mortgage Holders or Lienholders Under Iowa Code §354.11(2);

4. Certificate of County Treasurer Under Iowa Code §354.11(5);
5. Title opinion prepared by Amy J. Hughbanks, Attorney at Law;
6. Resolution of the City Council of the City of Winterset approving the Final Plat of Schwanebeck Addition, City of Winterset, Iowa; and
7. Groundwater Hazard Statement.

The aforementioned documents are duly certified in accordance with Iowa Code Chapter 354 and the Zoning Ordinance of the City of Winterset.

Dated this 17<sup>TH</sup> day of AUGUST, 2004.

  
Robert Hendricks, Zoning Administrator



**AFFIDAVIT RE: STATEMENT OF  
MORTGAGE HOLDERS OR LIENHOLDERS  
UNDER IOWA CODE §354.11(2)**


State of Iowa            )  
                                  )        ss:  
County of Adair        )

I, Amy J. Hughbanks, having been duly sworn upon oath do hereby depose and state that I am attorney at law practicing in Greenfield, Adair County, Iowa, and that I have examined the abstract of title to the following described real estate, to-wit:

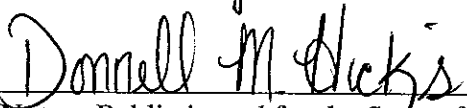
The South 132 feet of the North Half of the Southeast Quarter of the Southwest Quarter of Section 36, Township 76 North, Range 28 West of the 5<sup>th</sup> P.M., City of Winterset, Madison County, Iowa except the West 165 feet and the South 11.00 feet thereof more particularly described as follows:

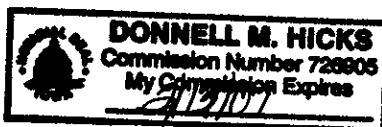
Beginning at the Southeast Corner of Kingery Court Addition to the City of Winterset, Madison County, Iowa which is a point on the East line of the Southeast Quarter of the Southwest Quarter of Section 36, Township 76 North, Range 28 West of the 5<sup>th</sup> P.M., City of Winterset, Madison County, Iowa; thence South 00°00'00" East 120.54 feet along said East line to the North line of West Washington Street right-of-way; thence North 89°26'10" West 494.95 feet along the North line of West Washington Street right-of-way; thence North 00°44'41" East 120.64 feet to the South line of said Kingery Court Addition; thence South 89°25'25" East 493.38 feet to the Point of Beginning containing 1.368 acres.

I further state and depose that the name of the proprietors of said Plat are Carol Jacobs and David Spencer in their capacity as Personal Representatives for the Estate of A.L. Schwanebeck; and that the abstract of title revealed no mortgage holders or lienholders of record from whom a statement or consent need be obtained prior to approval of the proposed final subdivision plat, Schwanebeck Addition, City of Winterset, Iowa, containing the above described real estate.

  
\_\_\_\_\_  
Amy J. Hughbanks, Affiant

Subscribed and sworn to before me on this 16<sup>th</sup> day of August, 2004.

  
\_\_\_\_\_  
Notary Public in and for the State of Iowa



**CERTIFICATE OF COUNTY TREASURER  
UNDER IOWA CODE §354.11(5)**

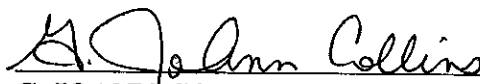
State of Iowa            )  
                                  )  
County of Madison        )        ss:

I, G. JoAnn Collins, County Treasurer of Madison County, Iowa, do hereby certify that the land laid out in lots, block and streets to be known as Schwanebeck Addition, City of Winterset, Iowa is free from tax liens as shown by the records of my office. Real estate taxes for the year 2002, payable fiscal year 2003-2004, are shown as paid. Real estate taxes for the year 2003, payable fiscal year 2004-2005, are shown as due but not delinquent. Said real estate is contained in Parcel No. 820004700211000 (\$154.00 net annual real estate taxes for 2003) and Parcel No. 820004700212000 (\$1248.00 net annual real estate taxes for 2003), and is described as follows:

The South 132 feet of the North Half of the Southeast Quarter of the Southwest Quarter of Section 36, Township 76 North, Range 28 West of the 5<sup>th</sup> P.M., City of Winterset, Madison County, Iowa except the West 165 feet and the South 11.00 feet thereof more particularly described as follows:

Beginning at the Southeast Corner of Kingery Court Addition to the City of Winterset, Madison County, Iowa which is a point on the East line of the Southeast Quarter of the Southwest Quarter of Section 36, Township 76 North, Range 28 West of the 5<sup>th</sup> P.M., City of Winterset, Madison County, Iowa; thence South 00°00'00" East 120.54 feet along said East line to the North line of West Washington Street right-of-way; thence North 89°26'10" West 494.95 feet along the North line of West Washington Street right-of-way; thence North 00°44'41" East 120.64 feet to the South line of said Kingery Court Addition; thence South 89°25'25" East 493.38 feet to the Point of Beginning containing 1.368 acres.

WITNESSETH my hand this 17<sup>th</sup> day of August, 2004.

  
\_\_\_\_\_  
G. JOANN COLLINS, County Treasurer  
in and for Madison County, Iowa



DAVID L. JUNGSMANN, P.C.  
ATTORNEYS AT LAW

David L. Jungmann  
Karen K. Emerson  
Associate: Amy J. Hughbanks  
Email:  
amyhughbanks@iowatelecom.net

113 W. Iowa Street, P.O. Box 329  
Greenfield, Iowa 50849  
Ph. (641) 743-6195  
Fax (641) 743-8977

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July 28, 2004

City Council, City of Winterset  
Zoning Administrator  
Attn: Bob Hendricks  
124 W. Court Avenue  
Winterset, Iowa 50273-1545

Re: A strip of land 132 feet wide off the South side of the North Half (½) of the Northeast Quarter (¼) of the Southeast Quarter (¼) of Section Thirty-six (36), Township Seventy-six (76) North, Range Twenty-eight (28) West of the 5<sup>th</sup> P.M., Madison County, Iowa, EXCEPT the West 165 feet thereof, AND EXCEPT the South Eleven (11) feet thereof.

Ladies and Gentlemen:

I have examined the abstract of title to the above-described premises from the Root of title which is a Warranty Deed dated March 3, 1945 and recorded March 5, 1945 in Deed Record 79 at Page 496 in the office of the Madison County Recorder. The abstract has been continued to July 27, 2004 at 8:00 a.m. by Madison County Abstract Co., Abstractors.

I find that said abstract shows merchantable title to said real estate to be in:

AUDREY SCHWANEBECK a/k/a A.L. SCHWANEBECK, deceased

subject to the following:

## NON-WAIVABLE EXCEPTIONS

1. The Abstractor certifies that real estate taxes for the year 2002, payable fiscal year 2003-2004, in the total amount of \$1,328.00 are shown as paid. Real estate taxes for the year 2003 for Parcel No. 820004700211000 and Parcel No. 820004700212000, payable fiscal year 2004-2005, have not yet been certified to the Madison County Treasurer. All prior years' taxes are shown as paid.

I note that there is a discrepancy as to the names Audrey Schwanebeck as shown at Entry No. 4 through 6 and A.L. Schwanebeck as shown at Entry No. 7 of the abstract. In accordance with normal title standards regarding such discrepancies, I have prepared and recorded an Affidavit of Identity executed by Carol Jacobs, who was well and personally acquainted with said individual, stating that Audrey Schwanebeck and A.L. Schwanebeck refer to one and same person.

## WAIVABLE EXCEPTIONS

1. At Entry No. 8 of the abstract is shown a Fire Ordinance enacted by the City of Winterset by Ordinance No. 184 dated March 4, 1968 and recorded March 6, 1968 in Book 39 at Page 95, which states that this property is included in the Fire District.

2. At Entry No. 9 of the abstract is shown an Amended Zoning and Subdivision Ordinance by Ordinance No. 499 dated June 17, 2002 and recorded March 3, 2003 in Book 2003 at Page 1290. Said ordinance is to be known as Chapters 10 and 12 of the Winterset Municipal Code. Chapter 10, recorded in Book 2003 at Page 328 in the office of the Madison County Recorder, relates to the division of land and establishes the area of view for all proposed plats within two miles of Winterset city limits. The full text of the zoning and subdivision regulations and the zoning district map are not set forth in the abstract, so your attention is directed to the same which may be found in the office of the Zoning Administrator, City Hall, Winterset, Iowa. You should ascertain that the property is presently in compliance with said ordinance and that any contemplated improvements will be in compliance as well.

## CAUTIONS

An abstract is a multi-page document typically prepared by a commercial abstracting firm. It consists of numbered entries containing information abstracted from the public records on file in the county courthouse that affect the title to the real estate described in the abstract of title. However, these public records do not necessarily disclose all rights in, claims against or restrictions upon the real estate.

Therefore, you should make a careful inspection of the real estate and make diligent inquiry to satisfy yourself as to the following additional matters:

1. The rights of any person in actual possession of the real estate, such as a tenant in possession under a lease agreement.
2. The rights under the Iowa mechanics lien law of persons who have furnished labor or materials in the past 90 days for improvements to the real estate.
3. The rights of creditors under the Iowa Uniform Commercial Code to a security interest in improvements to the real estate in the form of fixtures, such as a furnace or water heater, which have been installed so recently as to allow the creditor to file notice of such rights after the period of time covered by the abstract.
4. Unpaid charges for public utility services furnished to the real estate which may become a claim against the real estate.
5. The existence of any security interest in growing farm crops disclosed by financing statements filed in the office of the Secretary of State.
6. The existence of any easement over the real estate which is apparent from physical evidence of its use or the actual location of the boundary lines of the real estate.
7. Any encroachment upon the real estate from adjacent real estate by way of third party use or by building overlapping the boundary lines and any other facts that may be disclosed by a survey.
8. Availability of reasonable and convenient access to the real estate from an existing public right-of-way.
9. Any law, ordinance or governmental regulation (including but not limited to zoning, subdivision and rental housing ordinances, which are state or local laws, or Federal laws such as the Americans with Disabilities Act or the laws restricting discrimination in housing) restricting, regulating or prohibiting the occupancy, use or enjoyment of the real estate, or regulating the character, dimensions or location of any improvement now or hereafter erected on the real estate, or prohibiting a separation in ownership or a reduction in the dimensions or area of the real estate. For such information, you should consult the local building and zoning officials having jurisdiction or the Federal agencies having jurisdiction.



10. The legal competency (as affected by age or mental disability) of each individual titleholder executing a deed, mortgage or other instrument affecting the real estate; the authority of each person executing a deed, mortgage or other instrument affecting the real estate in a representative or fiduciary capacity; and the authenticity of all signatures appearing on such instruments.

11. Any other matter affecting the real estate which may have been filed as a part of the public records in the county courthouse after the period of time covered by this Title Opinion.

12. To the extent the premises in the caption may include real estate caused by action of any riparian waters, no opinion is expressed as to the marketability of title including accretions to such real estate.


13. There are matters which can only be satisfactorily determined by a survey. The plat or survey shown in the abstract, if one is shown, normally does not show the location of improvements with respect to the boundary lines. Buyers are encouraged to have a site survey (sometimes referred to as an "as built" survey) done to locate any improvements with respect to the boundary lines. This site survey could be recorded to benefit both the buyer and the future buyers of the real estate. A site survey should reveal such problems as encroachments on the property, improvements built too close to or even over the boundary line and substandard lot size. Improvements not meeting zoning requirements may be considered nonconforming uses under applicable zoning and building codes. An owner may be prohibited from or restricted in rebuilding a nonconforming use under applicable zoning or building codes. A nonconforming use may also jeopardize the amount of recovery under the owner's insurance policy. A nonconforming use may also prevent a buyer from obtaining a mortgage on the property.

14. The abstract does not disclose the existence of hazardous substances, pollutants, contaminants, hazardous wastes, underground storage tanks, drainage wells, active or abandoned water wells, and other environmentally regulated activities. You are cautioned that federal, state and local legislation may, in the event there are environmental or public health violations, permit injunctive relief and require removal and remedial actions or other "clean-up." The cost of such "clean-up" may become a lien against the real estate and you may have personal liability even though you may not have disposed of any hazardous substances, pollutants, contaminants, or hazardous wastes on the real estate or used any underground storage tanks or wells.

Subject to such of the foregoing as constitute "EXCEPTIONS," it is my opinion that said abstract will show merchantable title to said real estate to be in Audrey Schwanebeck a/k/a A.L. Schwanebeck, deceased, as aforesaid, and that a final subdivision plat in proper form under Iowa Code Chapter 354 and submitted by proprietors Carol Jacobs and David Spencer as Personal Representatives for the Estate of A.L. Schwanebeck may safely be approved by City of Winterset. It should be promptly recorded.

I am enclosing this preliminary title opinion with other documents submitted for approval of the proposed final plat of Schwanebeck Addition, City of Winterset, Iowa. I have placed the abstract of title in my office vault pending further instruction. Thank you for letting me be of service to you in this matter.

Sincerely,

  
Amy J. Highbanks  
Attorney at Law

Enclosure

**RESOLUTION APPROVING FINAL PLAT OF  
SCHWANEBECK ADDITION, CITY OF WINTERSET, IOWA**

WHEREAS, there was filed in the office of the Zoning Administrator of the City of Winterset a registered land surveyor's Plat of a proposed subdivision known as Schwanebeck Addition, City of Winterset, Iowa; and

WHEREAS, the real estate comprising said Plat is described as follows:

The South 132 feet of the North Half of the Southeast Quarter of the Southwest Quarter of Section 36, Township 76 North, Range 28 West of the 5<sup>th</sup> P.M., City of Winterset, Madison County, Iowa except the West 165 feet and the South 11.00 feet thereof more particularly described as follows:

Beginning at the Southeast Corner of Kingery Court Addition to the City of Winterset, Madison County, Iowa which is a point on the East line of the Southeast Quarter of the Southwest Quarter of Section 36, Township 76 North, Range 28 West of the 5<sup>th</sup> P.M., City of Winterset, Madison County, Iowa; thence South 00°00'00" East 120.54 feet along said East line to the North line of West Washington Street right-of-way; thence North 89°26'10" West 494.95 feet along the North line of West Washington Street right-of-way; thence North 00°44'41" East 120.64 feet to the South line of said Kingery Court Addition; thence South 89°25'25" East 493.38 feet to the Point of Beginning containing 1.368 acres.

WHEREAS, there was also filed with said Plat a Statement of Proprietors to the effect that the subdivision, as it appears on the Plat, is with the free consent and in accordance with the desire of the proprietors, Carol Jacobs and David Spencer in their capacity as Personal Representatives for the Estate of A.L. Schwanebeck.

WHEREAS, said Plat was accompanied by an opinion from the attorney at law showing that title in fee simple is Audrey Schwanebeck a/k/a A.L. Schwanebeck, deceased, and that the platted land is free from encumbrance.

WHEREAS, said Plat was accompanied by a Certificate of County Treasurer for Madison County, Iowa, showing that the platted land is free from taxes.

WHEREAS, the City Council of the City of Winterset, Iowa, finds that said Plat conforms to the provisions of Iowa Code Chapter 354 (2004) and the Zoning Ordinance of the City of Winterset and that the Plat and the attachments presented therewith should be approved by the City Council; and that said Plat, known as Schwanebeck Addition, City of Winterset, Iowa, should be approved by the City Council of the City of Winterset, Iowa.

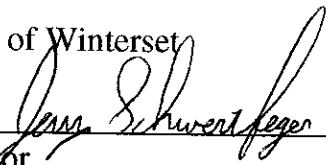
NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Winterset, Iowa:

Section 1. That said Plat, known as Schwanebeck Addition, City of Winterset, Iowa, prepared in connection with said Plat and subdivision, is hereby approved.

Section 2. That the Zoning Administrator of the City of Winterset, Iowa, is hereby authorized and directed to certify this Resolution which shall be affixed to said Plat to the County Recorder of Madison County, Iowa; and that the Zoning Administrator is further authorized and directed to attend to the filing and recording of the Plat and all necessary attachments which should be filed and recorded in connection therewith.

Dated this 17<sup>TH</sup> day of August, 2004.

City of Winterset

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_

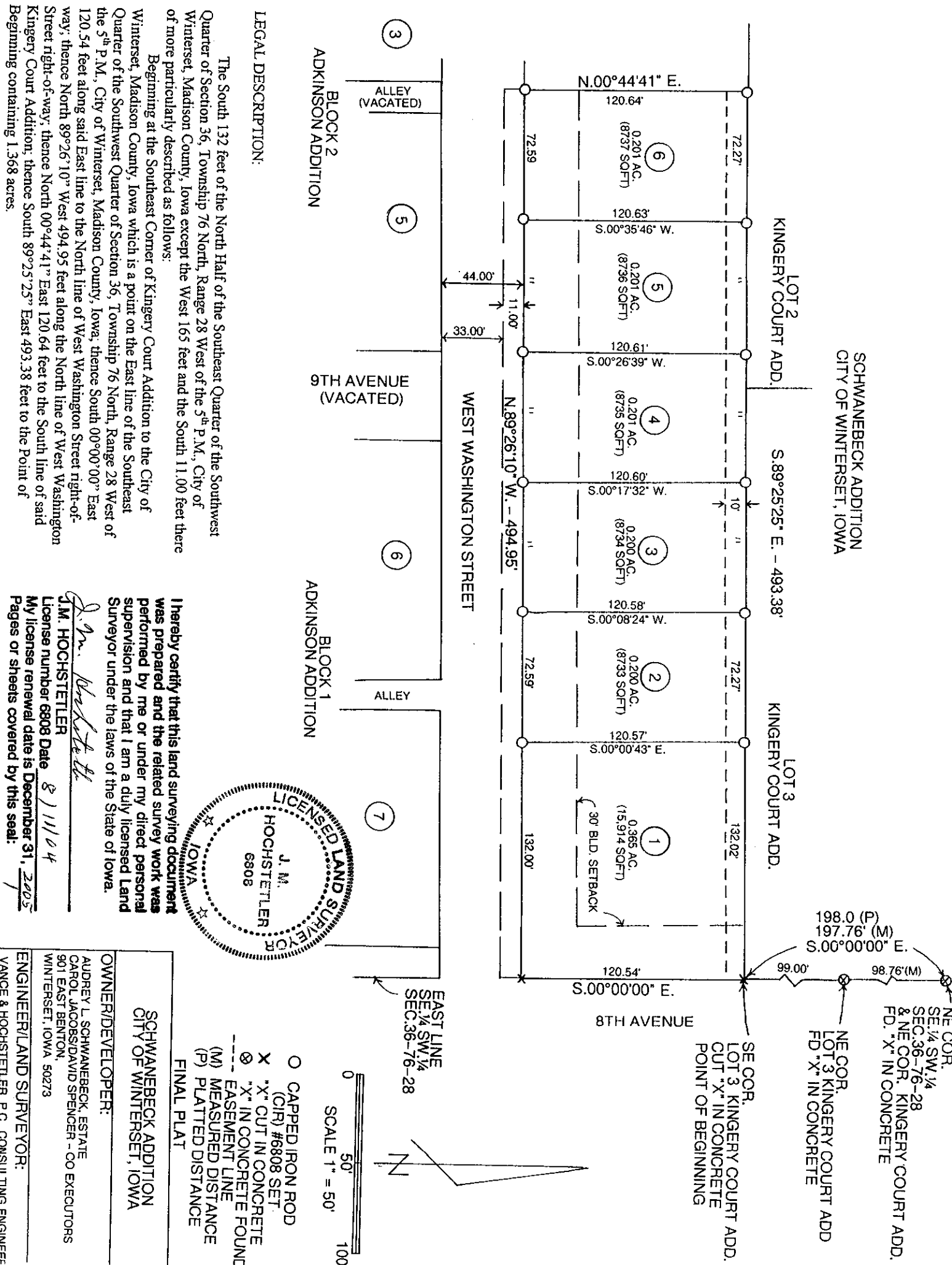
City Clerk



FOR DEDICATION,  
 RESOLUTION &  
 CERTIFICATES SEE  
 RECORD 2004-3847

MICHELLE "MICKI" UTSLER, COUNTY RECORDER  
 MADISON IOWA

VANCE & HOCHSTETLER, P.C. CONSULTING ENGINEERS, WINTERSET, IOWA (515) 462-3995  
 CHARLES T. VANCE, 110 WEST GREEN ST., WINTERSET, IOWA 50273  
 JAMES M HOCHSTETLER, 110 WEST GREEN ST., WINTERSET, IOWA 50273



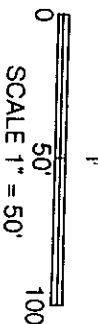
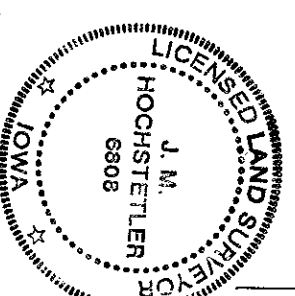
LEGAL DESCRIPTION:

The South 132 feet of the North Half of the Southeast Quarter of the Southwest Quarter of Section 36, Township 76 North, Range 28 West of the 5th P.M., City of Winterset, Madison County, Iowa except the West 165 feet and the South 11.00 feet there of more particularly described as follows:

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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.

*J.M. Hochstetler*  
**J.M. HOCHSTETLER**  
 License number 6808 Date 8/11/04  
 My license renewal date is December 31, 2005  
 Pages or sheets covered by this seal: 7



**OWNER/DEVELOPER:**  
 AUDREY L. SCHWANEBECK, ESTATE  
 CAROL JACOBS/DAVID SPENCER - CO EXECUTORS  
 WINTERSET, IOWA 50273

**ENGINEER/LAND SURVEYOR:**  
 VANCE & HOCHSTETLER, P.C. CONSULTING ENGINEER  
 110 WEST GREEN ST. WINTERSET, IOWA 50273

**SCHWANEBECK ADDITION**  
 CITY OF WINTERSET, IOWA

- CAPPED IRON ROD (CIR) #6808 SET.
- X "X" CUT IN CONCRETE
- ⊗ "X" IN CONCRETE FOUND
- EASEMENT LINE
- (M) MEASURED DISTANCE
- (P) PLATTED DISTANCE
- FINAL PLAT