

MICHELLE "MICKI" UTSLER, COUNTY RECORDER
MADISON IOWA

COMPUTER	<input checked="" type="checkbox"/>
RECORDED	<input checked="" type="checkbox"/>
COMPARED	<input type="checkbox"/>

C
C
C

PREPARER
INFORMATION JOHN E. CASPER 223 E. COURT AVENUE WINTERSET, IA 50273 515-462-4912

**THIRD AMENDMENT
TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR SAWYERS TOWNHOUSES**

THIS THIRD AMENDMENT TO THE DECLARATION, is made on the date set forth below, by Steven C. Sawyers and Amy Sawyers, Husband and Wife; Tamara L. Booth, a single person; Robert Niblo and Betty M. Niblo, Husband and Wife; Donald D. Frank and Velma F. Frank, husband and wife; and, Charles M. Powers and L. Marguerite Powers, husband and wife, hereinafter referred to as the "*Declarant*", pursuant to the Iowa Horizontal Property Act (the Act), Iowa Code Chapter 499B.

WITNESSETH:

WHEREAS, Declarant has previously submitted certain property in Winterset, County of Madison, State of Iowa, which is more particularly described as:

Lots One (1) and Two (2) in Block Seven (7) of the Original Town of Winterset, Madison County, Iowa; and, Lot Five (5) and the West 20.12 feet of Lot Six (6) in Block Eight (8) of Pitzer and Knight's Addition to the City of Winterset, Madison County, Iowa,

to the Act pursuant to the Declaration of Covenants, Conditions and Restrictions, dated May 18, 2001 and filed for record on May 18, 2001 in the Madison County Recorder's Office in Book 2001 at Page 2018 (hereafter the Declaration). The Declaration has been amended previously by a First Amendment which is dated March 6, 2002 and filed for record on March 8, 2002 in the Madison County Recorder's Office in Book 2002 at Page 1122; and, by a Second Amendment which is dated August 26, 2003 and filed for record on August 27, 2003 in the Madison County Recorder's Office in Book 2003 at Page 5138.

WHEREAS, the Declarant now desires to add additional real estate to this Declaration.

WHEREAS, the additional real estate to be submitted to the Act is as follows:

WHEREAS, the Declarant are the fee simple titleholders to all the real estate subject to this Third Amendment to the Declaration.

WHEREAS, the additional real estate subject to the Declaration requires changes to the original declaration to conform to increased number of units to be part of this Association, which changes are set forth below.

WHEREAS, the Declaration desires to amend the Declaration to add the above described the real estate to be submitted to the Act and to reaffirm the Declaration in all respects as to this additional real estate.

NOW, THEREFORE, Declarant hereby declares that the Declaration and the First and Second Amendment thereto previously made and filed as described above be and is hereby amended to describe the real estate subject to the Act and to the Declaration of Covenants, Conditions and Restrictions under the Act to be as follows:

Lots One (1) and Two (2) in Block Seven (7) of the Original Town of Winterset, Madison County, Iowa;

and

Lot Five (5) and the West 20.12 feet of Lot Six (6) in Block Eight (8) of Pitzer and Knight's Addition to the City of Winterset, Madison County, Iowa.

and

Lot "C"- A parcel of land in a portion of Lot Seven (7) and a portion of Lot Six (6), Block Eight (8), Pitzer & Knights Addition to the City of Winterset, Madison County, Iowa more particularly described as follows:

Commencing at the Southeast Corner of Lot Seven (7), Block Eight (8), Pitzer & Knights Addition to the City of Winterset, Madison County, Iowa thence North 89°58'46" West 51.06 feet along the South line of said Block Eight (8) to the Point of Beginning; thence continuing North 89°58'46" West 60.60 feet along the South line of said Block Eight (8); thence North 00°27'13" East 132.51 feet to a point on the North line of Lot Six (6) of said Block Eight; thence South 89°53'18" East 59.61 feet along the North line of Lot Six (6) and Lot Seven (7) of said Block Eight (8); thence South 00°01'29" West 132.41 feet to the Point of Beginning containing 0.183 acres.

Lot "D"- A parcel of land in Lot Seven (7), Block Eight (8), Pitzer & Knights Addition to the City of Winterset, Madison County, Iowa more particularly described as follows:

Beginning at the Southeast Corner of Lot Seven (7), Block Eight (8), Pitzer & Knights Addition to the City of Winterset, Madison County, Iowa; thence North 89°58'46" West 51.06 feet along the South line of said Lot Seven (7); thence North 00°01'29" East 132.41 feet to a point on the North line of said Lot Seven (7); thence South 89°53'18" East 52.00 feet to the Northeast Corner of said Lot Seven (7); thence South 00°25'58" West 132.34 feet to the Point of Beginning containing 0.157 acres.

IT IS FURTHER DECLARED that Sections three (3) and four (4) of Article III of the Declaration be and is hereby amended to provide as follows:

Section 3. The building to be constructed on the Land is two buildings each having two connected Units that share a common wall with about 1,200 square feet of space each and an attached one-car garage for each Unit. Each townhouse shall be one story, with a full basement, predominantly frame construction, and vinyl siding. Each Lot is divided by a Plat of Survey into two parcels, such that a common wall for two adjoining townhouses is constructed on the boundary line separating the two Units. Each townhouse shall have a house number, assigned as a street number by the City of Winterset. There are no limited common elements and facilities on this property. The boundary of each Unit shall consist of the space contained within the following described boundaries: a) below the undecorated surface of the Unit ceiling; b) above the basement concrete floor; c) Within the undecorated interior surfaces of the perimeter walls (including doors and windows) of the Unit as outlined in the building floor plans shown as Exhibit "A" attached hereto. Each Unit shall include, within the space it occupies, decorative surfaces, finished floor coverings, interior walls, partitions and doors, lighting fixtures, plumbing fixtures, individual heating and air conditioning units, and all other equipment, fixtures and materials not otherwise defined as part of the common elements. Each Unit shall also include any equipment located outside its boundaries which constitutes an integral operating part of the heating and cooling system contained within its boundaries. Exhibit "A" shows the Building Floor Plans and the Units designated by number. Exhibit "A" to this Third Amendment to the Declaration is the floor plans of the Units located upon the real estate which is added to this Declaration and submitted to the Act.

Section 4. A duly certified Plat of Survey of the real estate added to this Declaration is attached as Exhibit "B". Such Exhibit contains and such contents shall govern for purposes of this Declaration and the Act the requirements concerning the dimensions, area and location of the common elements

affording access to each unit; the full and exact copy of the Plans of the building graphically showing common elements; and, the unit number of each Unit, statement of its location, approximate area, number of rooms and other data necessary for its proper identification.

IT IS FURTHER DECLARED that Section five (5) of Article IV of the Declaration be and is hereby amended to provide as follows:

Section 5. Common Expenses.

Each Unit located upon the real estate legally described as:

Lots One (1) and Two (2) in Block Seven (7) of the Original Town of Winterset, Madison County, Iowa,

shall have an undivided one-half ($\frac{1}{2}$) interest in the common elements and common expenses of this property of the Association.

Each Unit located upon the real estate legally described as:

Lot Five (5) and the West 20.12 feet of Lot Six (6) in Block Eight (8) of Pitzer and Knight's Addition to the City of Winterset, Madison County, Iowa.

shall have an undivided one-half ($\frac{1}{2}$) interest in the common elements and common expenses of this property of the Association.

Each Unit located upon the real estate legally described as:

Lot "C"- A parcel of land in a portion of Lot Seven (7) and a portion of Lot Six (6), Block Eight (8), Pitzer & Knights Addition to the City of Winterset, Madison County, Iowa more particularly described as follows:

Commencing at the Southeast Corner of Lot Seven (7), Block Eight (8), Pitzer & Knights Addition to the City of Winterset, Madison County, Iowa thence North 89°58'46" West 51.06 feet along the South line of said Block Eight (8) to the Point of Beginning; thence continuing North 89°58'46" West 60.60 feet along the South line of said Block Eight (8); thence North 00°27'13" East 132.51 feet to a point on the North line of Lot Six (6) of said Block Eight; thence South 89°53'18" East 59.61 feet along the North line of Lot Six (6) and Lot Seven (7)

of said Block Eight (8); thence South 00°01'29" West 132.41 feet to the Point of Beginning containing 0.183 acres.

Lot "D"- A parcel of land in Lot Seven (7), Block Eight (8), Pitzer & Knights Addition to the City of Winterset, Madison County, Iowa more particularly described as follows:

Beginning at the Southeast Corner of Lot Seven (7), Block Eight (8), Pitzer & Knights Addition to the City of Winterset, Madison County, Iowa; thence North 89°58'46" West 51.06 feet along the South line of said Lot Seven (7); thence North 00°01'29" East 132.41 feet to a point on the North line of said Lot Seven (7); thence South 89°53'18" East 52.00 feet to the Northeast Corner of said Lot Seven (7); thence South 00°25'58" West 132.34 feet to the Point of Beginning containing 0.157 acres.

shall have an undivided one-half (1/2) interest in the common elements and common expenses of this property of the Association.

The ownership interest in the common elements shall be an undivided interest, and the common elements shall be owned by the Unit owners as tenants in common in accordance with their respective percentage of ownership. The ownership of each Unit shall not be conveyed separate from the undivided ownership in the common elements corresponding to each Unit. The undivided ownership in the common elements corresponding to each Unit shall be deemed conveyed or encumbered with that Unit, even though the legal description in the instrument conveying or encumbering each Unit may refer only to the title to that Unit, or may refer to an incorrect percentage for that Unit.

IT IS FURTHER DECLARED that Section three (3) of Article V of the Declaration be and is hereby amended to provide as follows:

Section 3. All Owners shall be entitled to one vote in the Association for each Unit. When more than one person holds an interest in any Unit, all such persons shall be members. This vote for such Unit shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Unit. Each vote shall be 1/6th of the total votes with one vote for each Unit shown on the record Plat of Survey.

IT IS FURTHER DECLARED that the Declaration and the First and Second Amendment thereto be and is hereby ratified, approved and confirmed in all respects except as amended above.

IT IS FURTHER DECLARED that this Third Amendment to the Declaration shall be a covenant and restriction as part of the original Declaration and shall run with and bind the land for a term of twenty (20) years from the date the Declaration is recorded after which time they shall be automatically extended for successive periods of ten (10) years as provided by the original Declaration.

Dated this 23rd day of September, 2004.

Steven C. Sawyers
Steven C. Sawyers

Amy Sawyers
Amy Sawyers

Tamara L. Booth
Tamara L. Booth

Betty M. Niblo
Betty M. Niblo

Robert Niblo POA ^{Betty M. Niblo}
Betty M. Niblo POA
Robert Niblo by Betty M. Niblo, attorney-in-
fact under Power of Attorney, dated June 20,
2001

Donald D. Frank
Donald D. Frank

Velma F. Frank
Velma F. Frank

Charles M. Powers
Charles M. Powers

L. Marguerite Powers
L. Marguerite Powers

STATE OF IOWA :
: SS
MADISON COUNTY :

On this 23rd day of September, 2004, before me, the undersigned, a Notary Public in and for said State, personally appeared Steven C. Sawyers & Amy ^{Sawyers} to me known to be the identical persons named in and who executed the foregoing instrument and acknowledged that they executed the same as their voluntary act and deed.

Elisha R Busch

Notary Public in and for the State of Iowa

STATE OF IOWA :
: SS
MADISON COUNTY :



On this 7th day of September, 2004 before me, a Notary Public, personally appeared Betty M. Niblo to me known to be the person who executed the foregoing instrument on behalf of Robert Niblo, and acknowledged that person executed the same as the voluntary act and deed of said Robert Niblo.

Elisha R Busch

Notary Public in and for the State of Iowa



STATE OF IOWA :
: SS
MADISON COUNTY :

On this 22 day of September, 2004, before me, the undersigned, a Notary Public in and for said State, personally appeared Tamara L. Booth, to me known to be the identical person named in and who executed the foregoing instrument and acknowledged that she executed the same as her voluntary act and deed.

Melissa L. Streck

Notary Public in and for the State of Iowa



STATE OF IOWA :
: SS
MADISON COUNTY :

On this 13th day of September, 2004, before me, the undersigned, a Notary Public in and for said State, personally appeared Donald D. Frank, Velma F. Frank, to me known to be the identical persons named in and who executed the foregoing instrument and acknowledged that they executed the same as their voluntary act and deed.



Terri L. Collins
Notary Public in and for the State of Iowa

STATE OF IOWA :
: SS
MADISON COUNTY :

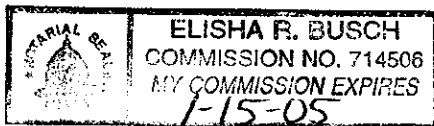
On this 7th day of September, 2004, before me, the undersigned, a Notary Public in and for said State, personally appeared Charles M. Powers, L. Marguerite Powers, to me known to be the identical persons named in and who executed the foregoing instrument and acknowledged that they executed the same as their voluntary act and deed.



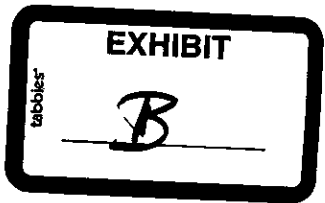
Elisha R. Busch
Notary Public in and for the State of Iowa

STATE OF IOWA :
: SS
MADISON COUNTY :

On this 7th day of September, 2004, before me, the undersigned, a Notary Public in and for said State, personally appeared Betty M. Niblo, to me known to be the identical person named in and who executed the foregoing instrument and acknowledged that she executed the same as her voluntary act and deed.

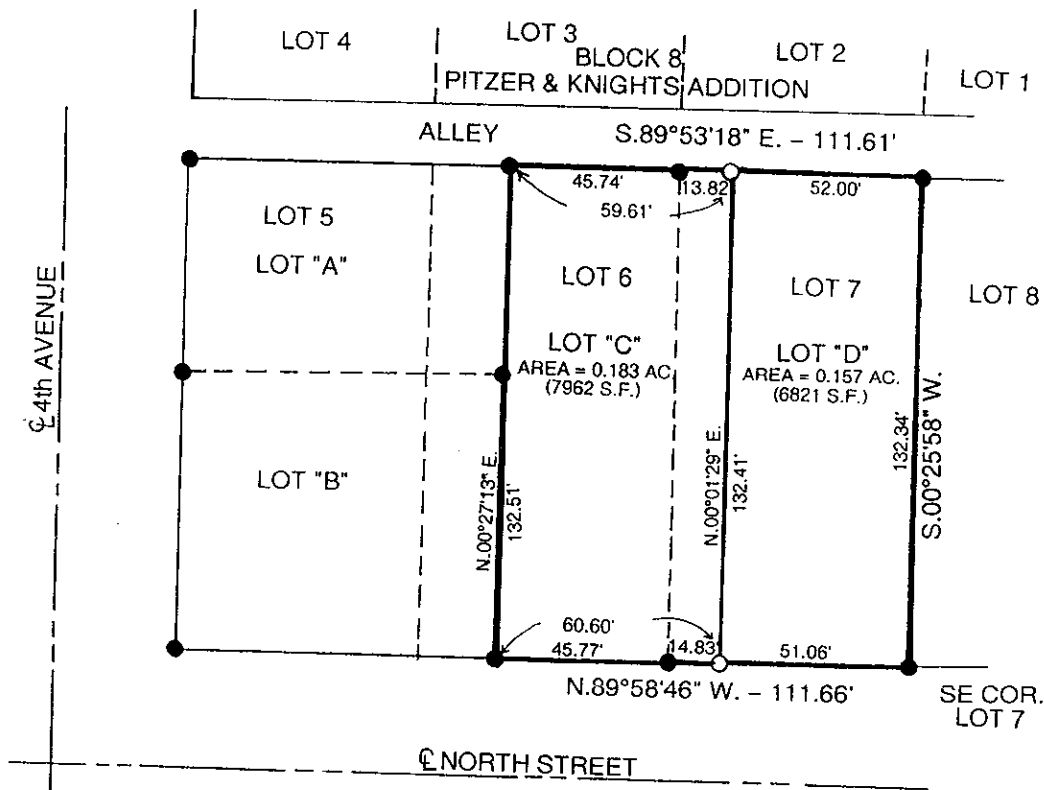


Elisha R. Busch
Notary Public in and for the State of Iowa

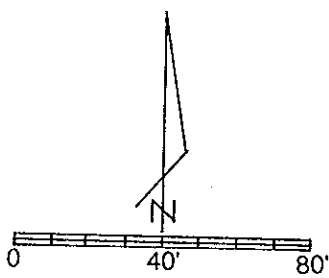


VANCE & HOCHSTETLER, P.C. CONSULTING ENGINEERS, WINTERSET, IOWA (515) 462-3995
 CHARLES T. VANCE, 110 WEST GREEN ST., WINTERSET, IOWA 50273
 JAMES M HOCHSTETLER, 110 WEST GREEN ST., WINTERSET, IOWA 50273

PLAT OF SURVEY FOR STEVE SAWYERS OF A SUBDIVISION OF LOT 7 AND A PORTION OF LOT 6, BLOCK 8, PITZER & KNIGHTS ADDITION TO THE CITY OF WINTERSET, MADISON COUNTY, IOWA.

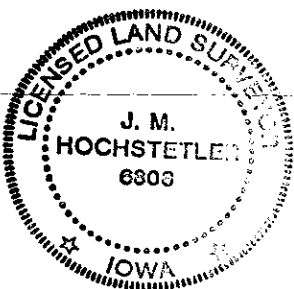


NOTE: This division of Lot 7 and a portion of Lot 6 follows the center wall of an attached duplex which was constructed at the time at the survey.



SCALE 1" = 40'
 DATE OF SURVEY = 8-4-04

○ CAPPED IRON ROD (CIR) #6808 SET
 ● CIR #6808 FOUND



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 8/22/04
 My license renewal date is December 31, 2007
 Pages or sheets covered by this seal: 1

LEGAL DESCRIPTION: (LOT "C")

A parcel of land in a portion of Lot 7 and a portion of Lot 6, Block 8, Pitzer & Knights Addition to the City of Winterset, Madison County, Iowa more particularly described as follows:

Commencing at the Southeast Corner of Lot 7, Block 8, Pitzer & Knights Addition to the City of Winterset, Madison County, Iowa thence North 89°58'46" West 51.06 feet along the South line of said Block 8 to the Point of Beginning; thence continuing North 89°58'46" West 60.60 feet along the South line of said Block 8; thence North 00°27'13" East 132.51 feet to a point on the North line of Lot 6 of said Block 8; thence South 89°53'18" East 59.61 feet along the North line of Lot 6 and Lot 7 of said Block 8; thence South 00°01'29" West 132.41 feet to the Point of Beginning containing 0.183 acres.

LEGAL DESCRIPTION: (LOT "D")

A parcel of land in Lot 7, Block 8, Pitzer & Knights Addition to the City of Winterset, Madison County, Iowa more particularly described as follows:

Beginning at the Southeast Corner of Lot 7, Block 8, Pitzer & Knights Addition to the City of Winterset, Madison County, Iowa; thence North 89°58'46" West 51.06 feet along the South line of said Lot 7; thence North 00°01'29" East 132.41 feet to a point on the North line of said Lot 7, thence South 89°53'18" East 52.00 feet to the Northeast Corner of said Lot 7; thence South 00°25'58" West 132.34 feet to the Point of Beginning containing 0.157 acres.