



Document 2011 1100

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INDX ✓  
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LISA SMITH, COUNTY RECORDER  
MADISON COUNTY IOWA

Preparer; Brett T. Osborn, 974 - 73<sup>rd</sup> Street, Suite 20, Des Moines, IA 50324 (515) 223-6000

When recorded, Return to: ~~Brett T. Osborn, 974 - 73<sup>rd</sup> Street, Suite 20, Des Moines, IA 50324 (515) 223-6000~~

Mark & Mary Beatty, 1423 Pitzer Rd., Earlham IA 50072

**DECLARATION EASEMENT**

WHEREAS, Brent Findley ("Owner") is the titleholder to the following described parcel of property in Madison County, Iowa, to-wit:

Parcel 1:

The Southeast Quarter (SE1/4) EXCEPT that part of Parcel "B" located in the SE ¼ as described in Plat of Survey filed April 11, 1996 in Book 2 on Page 669 in the office of the Madison County Recorder, AND EXCEPT Parcel "A" in the E1/2 of the SE1/4, as described in Plat of Survey recorded on February 15, 2011 in Book 2011 on Page 479 in the office of the Madison County Recorder, all in Section Twenty-one (21), Township Seventy-seven (77) North, Range Twenty-nine (29) West of the 5th P.M., Madison County, Iowa;

WHEREAS, Mark L. Beatty and Mary K. Beatty are the purchasers ("Buyer") and upon closing of the purchase will be the titleholder to the following described parcel of property in Madison County, Iowa, to-wit:

Parcel 2:

Parcel "E" located in the Southwest Quarter (1/4) of the Southeast Quarter (1/4) of Section Twenty-one (21), Township Seventy-seven (77) North, Range Twenty-nine (29) West of the 5th P.M., Madison County, Iowa, containing 12.72 acres, more or less, as shown in Plat of Survey filed in Book 2011, Page 872 on April 7, 2011, in the Office of the Recorder of Madison County, Iowa;

WHEREAS, the Owner desires to sell Parcel 2 to Buyer and to induce Buyer to Buy desired to Grant an Easement for the benefit of Parcel 2 over and across Parcel 1, which upon closing will be exclusive of Parcel 2.

WHEREAS, the legal description of the easement area is:

A thirty foot wide easement for access to Parcel "E" the perimeter of which is described as follows:

Beginning at the Northeast Corner of the portion of existing Parcel "B" in the Southeast Quarter of the Southeast Quarter of Section 21, Township 77 North, Range 29 West of the 5<sup>th</sup> P.M., Madison County, Iowa; thence North 89°33'07" West 1,315.79 feet to the Northwest Corner of Parcel "B" which is also a point on the East line of Parcel "E" in the Southwest Quarter of the Southeast Quarter of Section 21; thence North 39°15'29" West 38.00 feet along a line of said Parcel "E"; thence South 89°33'07" East 1,340.36 feet to the East line of the Southeast Quarter of said Section 21; thence South 00°11'55" East 30.00 feet to the Point of Beginning.

NOW, THEREFORE, in consideration of one dollar and other good and valuable consideration, including Buyers purchase of Parcel 2, the receipt and sufficiency of which is hereby acknowledged, Owner, does hereby Grant and establish an easement over and across Parcel 1, described above, for the right of access for ingress and egress from 135<sup>th</sup> Street, being the county roadway lying east of Parcel 1 to Parcel 2 for the benefit of Parcel 2. Said easement area is described on the Plat of Survey filed April 7, 2011 in Book 2011 on Page 872 of the Madison County Recorder's Office being thirty (30) feet in width running parallel to the south line of Parcel 1 and east of the Northeast line of Parcel 2. It is the intent that the easement be wide enough to accommodate vehicles and their accessories and to meet the requirements of Madison County for future Residential Development of Parcel 2. See Exhibit A. This easement shall be a burden on Parcel 1 and shall be for the benefit of Parcel 2, all as described above, and shall run with the land and bind the heirs, successors and assigns of Parcel 1.

The owner of Parcel 1 is currently farming the area upon which the easement is located. The parties contemplate the continued farming of the easement area so long as the easement is not used by Buyer or their successors and/or assigns. The timing and extent of the use of the easement shall be determined by the Buyer in their sole discretion. Should the easement area be used by Buyer or Buyer's successors and/or assigns as a regular access for residential purposes, then the owners of Parcel 2 shall bear the responsibility and maintenance of the access easement at such time, and only at such time as Buyer begins using the easement area. Buyer shall pay Owner \$6,500.00 as compensation for the easement upon use of the easement area and for any incidental crop damage that may be caused by that first use.

So long as Owner is farming the easement area, Owner is responsible for its maintenance. No farming activity or use of the easement area by Owner or Owner's heirs, successors or assigns shall be construed as adverse possession of the land subject to this easement. The cost of gravel, asphalt, concrete or other material to improve the easement shall be born by Buyer. Buyer shall have the right in their sole discretion to improve, grade, alter, repair, replace or maintain the easement area as they determine in their sole discretion. Any non-performing party or breach of this agreement will be subject to an action to enforce the easement and the prevailing party shall be entitled to their costs and attorneys fees.

Should Buyer or their heirs, successors or assigns ever purchase or acquire Parcel "B" located in the SE ¼ as described in Plat of Survey filed April 11, 1996 in Book 2 on Page 669 in the office of the Madison County Recorder, this Easement will automatically terminate as access will be available through Parcel B.

These easements are non-exclusive in nature, but shall be both a benefit and burden on the parcels described above in the manner set forth above, and shall be binding on the heirs, successors and assigns of the parcels described above.

Signed this 3 day of May, 2011.

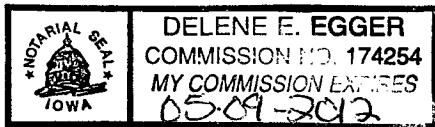
Brent Findley  
Brent Findley

Mark L. Beatty  
Mark L. Beatty

Mary K. Beatty  
Mary K. Beatty

STATE OF IOWA )  
COUNTY OF Adair ) SS

On this 28<sup>th</sup> day of April, 2011, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Brent Findley, to me known to be the identical person named in and who executed the within and foregoing instrument and acknowledged that he executed the same as his voluntary act and deed.



Delene E. Egger  
NOTARY PUBLIC

STATE OF IOWA )  
COUNTY OF Dallas ) SS

On this 3<sup>rd</sup> day of May, 2011, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Mark L. Beatty and Mary K. Beatty, husband and wife, to me known to be the identical person named in and who executed the within and foregoing instrument and acknowledged that they executed the same as their voluntary act and deed.



Patricia Everett  
NOTARY PUBLIC

Document 2011 872

Book 2011 Page 872 Type 06 026 Pages 1  
Date 4/07/2011 Time 9:19 AM  
Rec Ant \$7.00

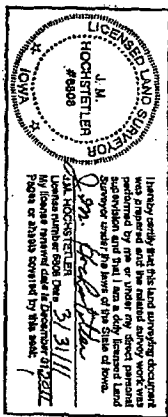
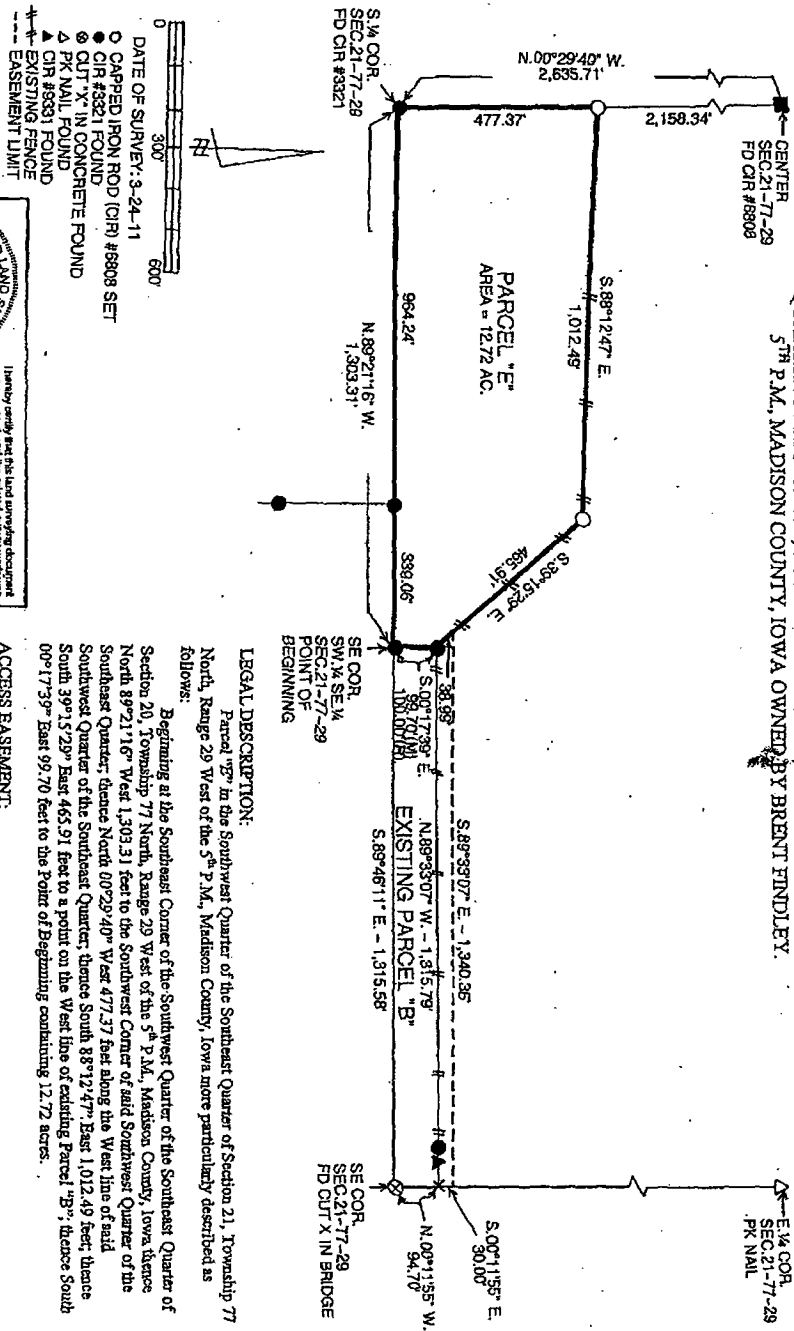
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LISA SMITH, COUNTY RECORDER  
MADISON COUNTY IOWA

VANCE & HOCHSTETLER, P.C. • CONSULTING ENGINEERS • WINTERSSET, IOWA • 50273

CHARLES T. VANCE • 110 WEST GREEN ST., WINTERSSET, IOWA • (515) 462-3995  
JAMES M HOCHSTETLER • 110 WEST GREEN ST., WINTERSSET, IOWA • FAX: (515) 462 9845

PLAT OF SURVEY IN THE SOUTHWEST QUARTER OF THE SOUTHEAST  
QUARTER OF SECTION 21, TOWNSHIP 77 NORTH, RANGE 29 WEST OF THE  
5TH P.M., MADISON COUNTY, IOWA OWNED BY BRENT FINDLEY.



- DATE OF SURVEY: 3-24-11
- CAPPED IRON ROD (CIR) #8808 SET
- CIR #3321 FOUND
- ⊗ CUT X IN CONCRETE FOUND
- ▲ PK NAIL FOUND
- △ CIR #3331 FOUND
- EXISTING FENCE
- - - EASEMENT LIMIT

**LEGAL DESCRIPTION:**  
Parcel "E" in the Southwest Quarter of the Southeast Quarter of Section 21, Township 77 North, Range 29 West of the 5th P.M., Madison County, Iowa more particularly described as follows:  
Beginning at the Southeast Corner of the Southeast Quarter of the Southeast Quarter of Section 20, Township 77 North, Range 29 West of the 5th P.M., Madison County, Iowa thence North 89°21'16" West 1,303.31 feet to the Southwest Corner of said Southeast Quarter of the Southeast Quarter of the Southeast Quarter, thence North 00°29'40" West 477.37 feet along the West line of said Southwest Quarter of the Southeast Quarter, thence South 88°12'47" East 1,012.49 feet, thence South 39°15'29" East 465.91 feet to a point on the West line of existing Parcel "B"; thence South 00°17'39" East 92.70 feet to the Point of Beginning containing 12.72 acres.

**ACCESS EASEMENT:**  
A utility foot wide easement for access to Parcel "E" the perimeter of which is described as follows:  
Beginning at the Northeast Corner of the portion of existing Parcel "E" in the Southeast Quarter of the Southeast Quarter of Section 21, Township 77 North, Range 29 West of the 5th P.M., Madison County, Iowa, thence North 89°33'07" West 1,315.79 feet to the Northeast Corner of Parcel "B" which is also a point on the East line of Parcel "E" in the Southwest Quarter of the Southeast Quarter of said Section 21; thence North 39°15'29" West 38.99 feet along a line of said Parcel "E"; thence South 89°33'07" East 1,340.36 feet to the East line of the Southeast Quarter of said Section 21; thence South 00°11'55" East 30.00 feet to the Point of Beginning.

EXHIBIT "A"