

TPC FIRST ADDITION

KNOW ALL MEN BY THESE PRESENTS: That Sienna Corporation, a Minnesota corporation, owner and proprietor, and Tournament Players Club of the Twin Cities, LLC, a Minnesota limited liability company, contract purchaser, of the following described property situated in the County of Anoka, State of Minnesota, to wit:

The Northwest Quarter and the Southwest Quarter of Section 16, Township 31, Range 23.

The Northwest Quarter of the Northeast Quarter and that part of the Northeast Quarter of the Northeast Quarter of Section 16, Township 31, Range 23, lying west of County Road No. 52 (formerly known as the Bethel and Rice Creek Road), Except that part thereof described as follows: Beginning at the Northwest corner of said Northeast Quarter of the Northeast Quarter: thence South 89 degrees 21 minutes 38 seconds East, assumed bearing, along the North line of said Northeast Quarter of the Northeast Quarter a distance of 860.78 feet to the center line of County Road No. 52 as now laid out and traveled; thence South 31 degrees 23 minutes 58 seconds East, along said center line, a distance of 300.00 feet; thence North 89 degrees 21 minutes 38 seconds West a distance of 250.00 feet; thence South 60 degrees 38 minutes 22 seconds West a distance of 260.00 feet; thence North 73 degrees 32 minutes 54 seconds West a distance of 566.29 feet to the West line of said Northeast Quarter of the Northeast Quarter; thence North 00 degrees 39 minutes 52 minutes East, along said West line, a distance of 230.00 feet to the point of beginning.

Outlot A, North Oaks West Second Addition

The South Half of the Northeast Quarter of Section 16, Township 31, Range 23; and all that part of the Southwest Quarter of the Northwest Quarter of Section 15, Township 31, Range 23, lying west of County Road No. 52 (formerly known as the Bethel and Rice Creek Road).

That part of the Northeast Quarter of the Southeast Quarter of Section 16, lying Northwesterly of the Bethel and Rice Creek Road, and lying Northeasterly of County Ditch No. Forty-one (41), being in Township 31, Range 23, Anoka County, Minnesota, according to the Government Survey thereof.

All that part of North Half of Southeast Quarter of Section 16, which lies Westerly of the Bethel and Rice Creek Road, EXCEPT that part of the Northeast Quarter of the Southeast Quarter of Section 16, lying Northwesterly of the Bethel and Rice Creek Road, and lying Northeasterly of County Ditch No. Forty-one (41), being in Township 31, Range 23, Anoka County, Minnesota, according to the Government Survey thereof.

Have caused the same to be surveyed and platted as TPC FIRST ADDITION and do hereby donate and dedicate to the public for public use forever the avenues, drive, road, courts, parkway and easements for drainage and utility purposes only. Also dedicating to the County of Anoka the right of access onto County State Aid Highway No. 12 and County Road No. 52, as designated on this plat.

In witness whereof said Sienna Corporation, a Minnesota corporation, has caused these presents to be signed by its proper officer this 4th day of June 1998 and in witness whereof said Tournament Players Club of the Twin Cities, LLC, a Minnesota limited liability company, has caused these presents to be signed by its proper officers this 3rd day of June 1998.

SIENNA CORPORATION

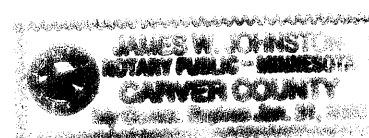
TOURNAMENT PLAYERS CLUB OF THE TWIN CITIES, LLC

B.G. Nimmer
B.G. Nimmer as President

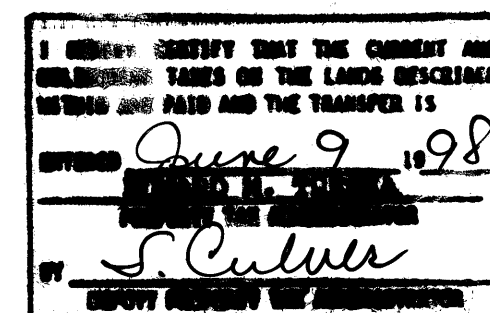
Keith W. Tomlinson
KEITH W. TOMLINSON as TREASURER
Robert H. Enebak
Robert H. Enebak as Manager

STATE OF MINNESOTA
COUNTY OF Hennepin

The foregoing instrument was acknowledged before me this 4th day of June 1998 by B.G. Nimmer as president of Sienna Corporation, a Minnesota Corporation, on behalf of the corporation.

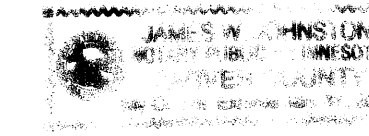


[Signature]
Notary Public, Carver County, Minnesota
My Commission Expires January 31, 2000



STATE OF MINNESOTA
COUNTY OF Anoka

The foregoing instrument was acknowledged before me this 3rd day of June, 1998 by Keith W. Tomlinson and Robert H. Enebak, the Treasurer and Manager respectively, of Tournament Players Club of the Twin Cities, LLC, a Minnesota limited liability company, on behalf of the limited liability company.



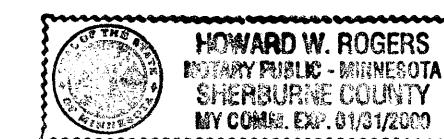
[Signature]
Notary Public, Carver County, Minnesota
My Commission Expires January 31, 2000

I hereby certify that I have surveyed and platted the property described on this plat as TPC FIRST ADDITION; that this plat is a correct representation of the survey; that all distances are correctly shown on the plat in feet and hundredth of a foot; that all monuments have been correctly placed in the ground as shown or will be placed as required by the local governmental unit; that the outside boundary lines are correctly designated on the plat; and that there are no wetlands, in accordance with section 505.02 Subdivision 1, or public highways to be designated other than as shown.

Terrence E. Rothenbacher
Terrence E. Rothenbacher, Land Surveyor
Minnesota License Number 20595

STATE OF MINNESOTA
COUNTY OF Anoka

The foregoing instrument was acknowledged before me this 2nd day of APRIL, 1998, by Terrence E. Rothenbacher, Land Surveyor, Minnesota License No. 20595.



[Signature]
Notary Public, Sherburne County, Minnesota
My Commission Expires January 31, 2000

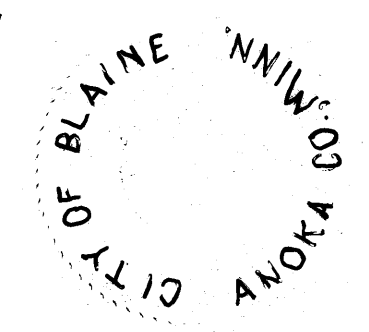
BLAINE, MINNESOTA

This plat of TPC FIRST ADDITION was approved and accepted by the City Council of the City of Blaine, Minnesota, at a regular meeting thereof held this 19th day of February, 1998. If applicable, the written comments and recommendations of the Commissioner of Transportation and the County Highway Engineer have been received by the City or the prescribed 30 day period has elapsed without receipt of such comments and recommendation, as provided by Minnesota Statutes Section 505.03, Section 2.

By: Sam Ferguson, Mayor By: Joyce Thurston, Clerk

Checked and approved this 9th day of JUNE, 1998.

By: [Signature]
Anoka County Surveyor



1347902
OFFICE OF COUNTY RECORDER
STATE OF MINNESOTA, COUNTY OF ANOKA
I hereby certify that the within instrument was filed in this office for record on the 9th day of June, A.D., 1998 at 3 o'clock P.M., and was duly recorded in book 55 page 55

313719
Office of REGISTRAR OF TITLES
STATE OF MINNESOTA
COUNTY OF ANOKA
I hereby certify that the within instrument was filed in this office on JUN - 9 1998 at 3 o'clock P.M.
Edward M. Treska, Registrar of Titles
By: [Signature]
Deputy Registrar of Titles

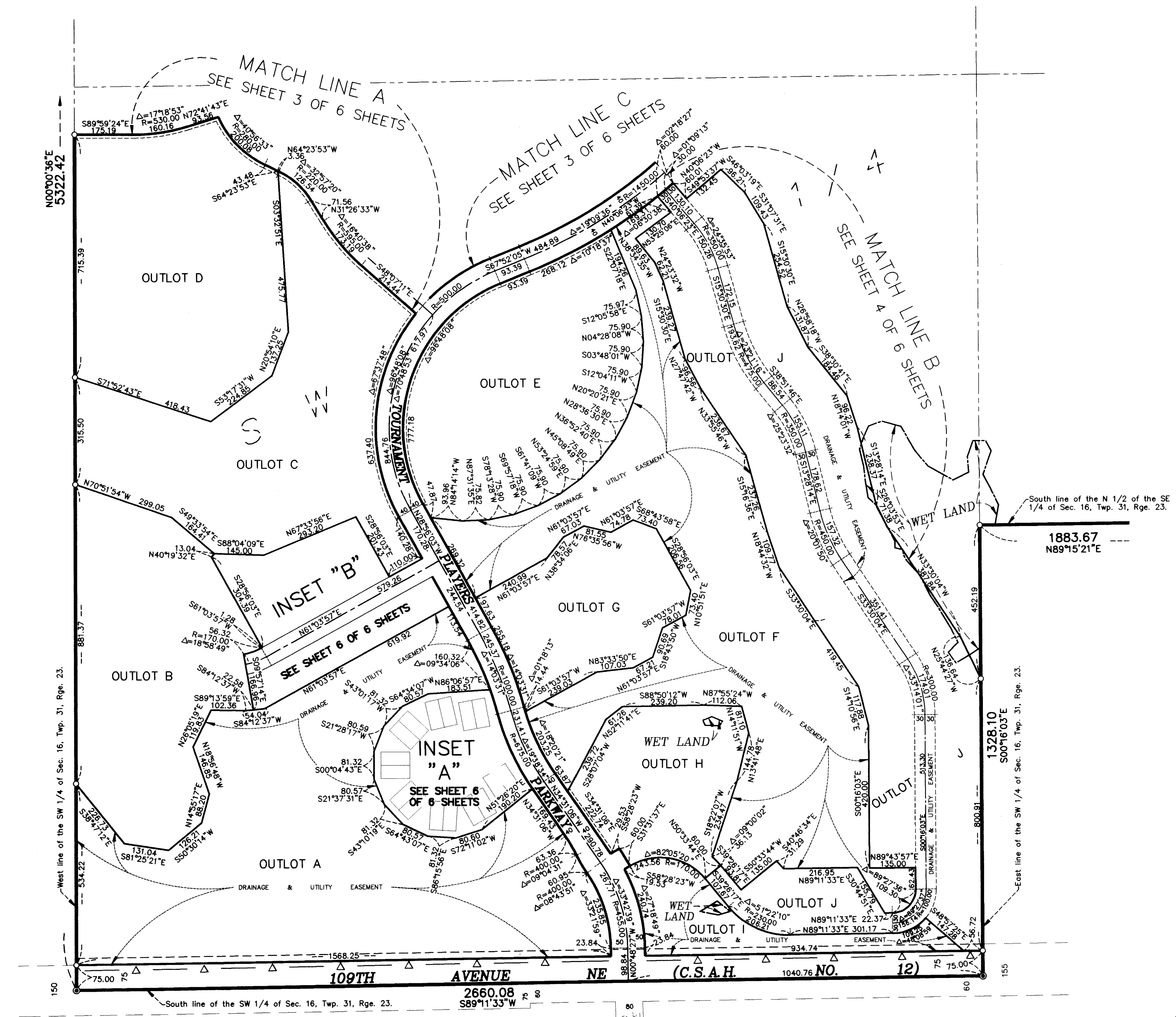
Edward M. Treska
County recorder
By: GKE



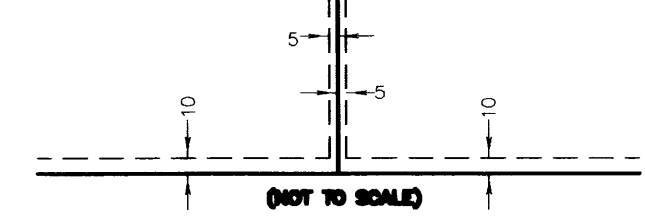
LAND SURVEYORS • CIVIL ENGINEERS
LAND PLANNERS • LANDSCAPE ARCHITECTS

2422 Enterprise Drive
Mendota Heights, MN 55120
(612) 681-1914 FAX: 681-9488
625 Highway 10 N.E.
Blaine, MN 55434
(612) 783-1880 FAX: 783-1883

TPC FIRST ADDITION



DRAINAGE AND UTILITY EASEMENTS ARE SHOWN THUS:

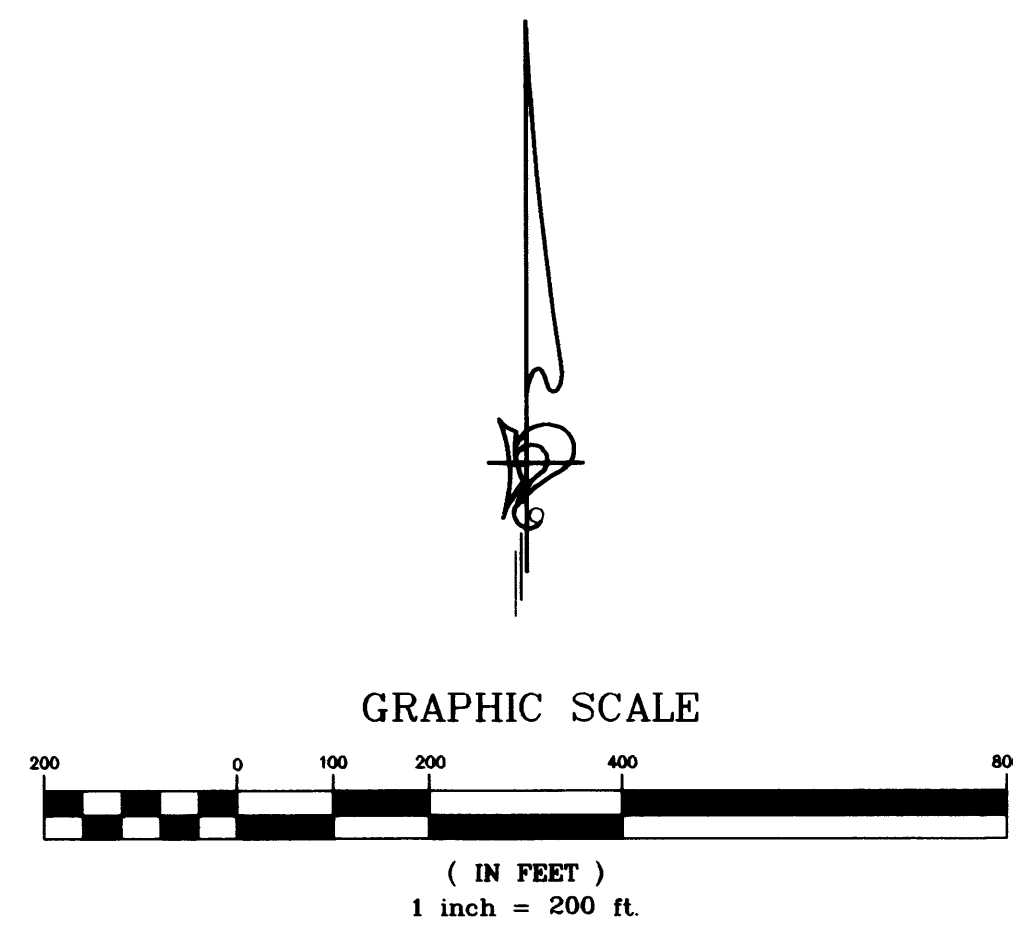


being 5 feet in width, and adjoining lot lines and 10 feet in width and adjoining right-of-way lines and rear lot lines unless otherwise shown on the plat.

All monuments required by Minnesota Statute, and not shown on this plat, will be set within one year of the recording date of this plat, and shall be evidenced by a 1/2 inch by 14 inch iron pipe marked by RLS 20595.

- Δ — Denotes right of access dedicated to Anoka County
- Denotes cast iron monument.
- Denotes found iron monument.
- Denotes 1/2 inch by 14 inch iron monument set and marked by license no. 20595

For the purposes of this plat, the west line of Sec. 16, T. 31, R. 23 is assumed to have a bearing of N 00°00'36" E.



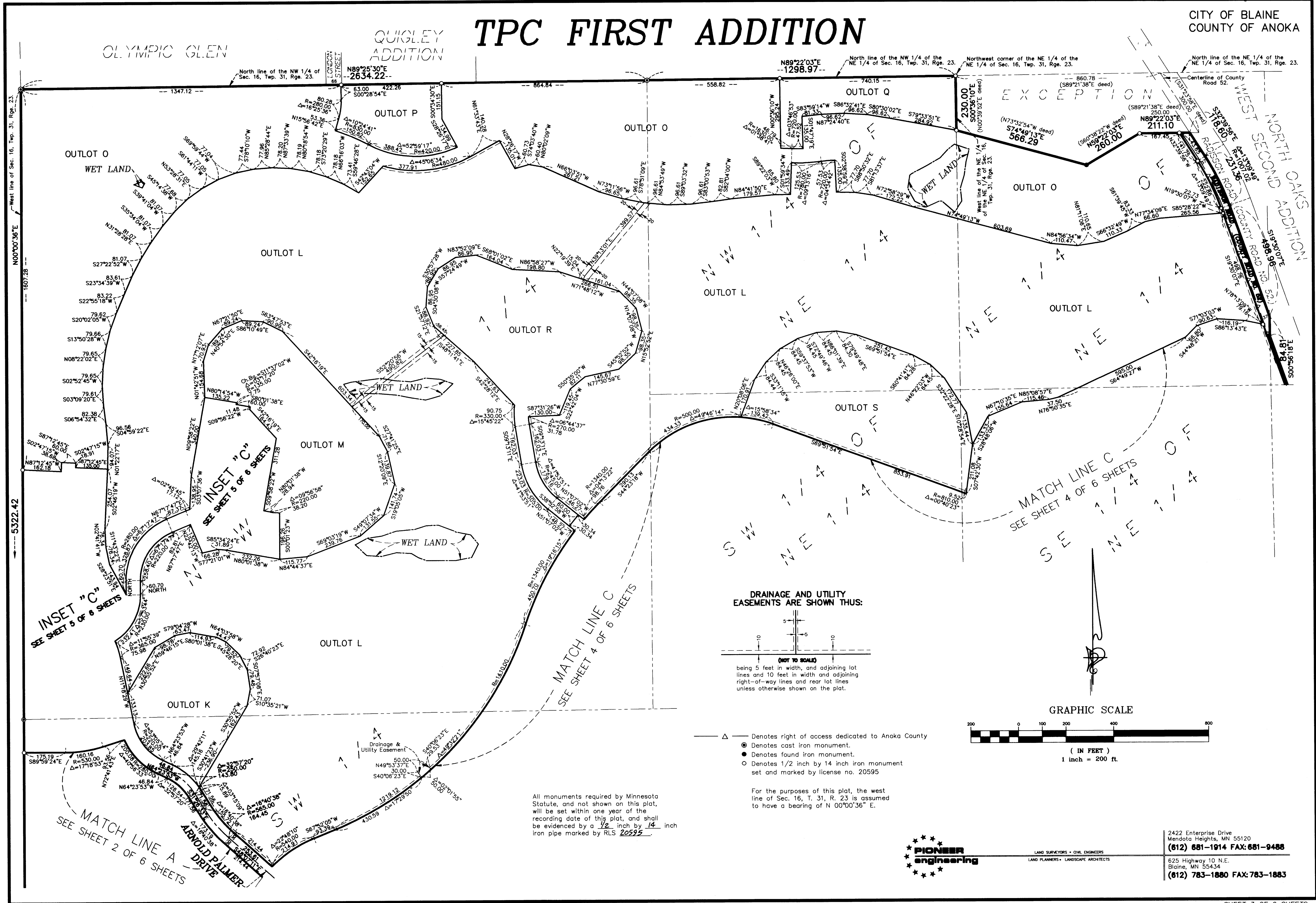
RADISSON INDUSTRIAL PARK



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TPC FIRST ADDITION



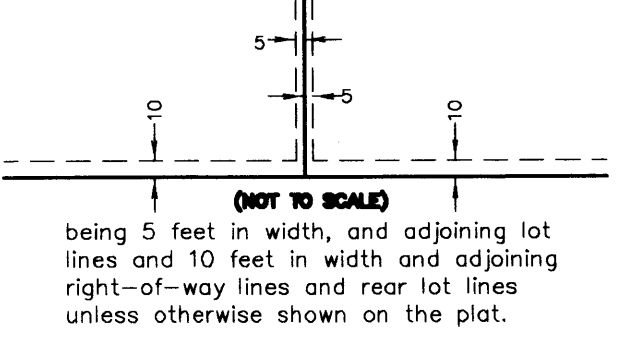
INSET "C"
SEE SHEET 5 OF 6 SHEETS

MATCH LINE A
SEE SHEET 2 OF 6 SHEETS

MATCH LINE C
SEE SHEET 4 OF 6 SHEETS

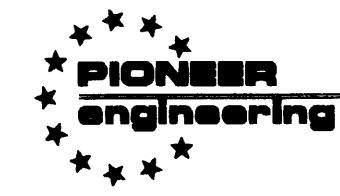
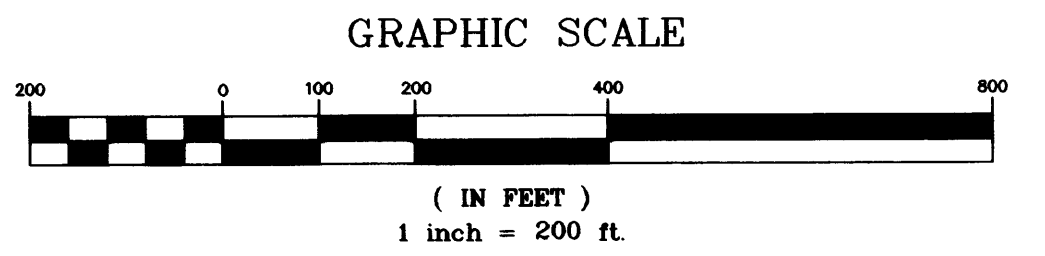
MATCH LINE C
SEE SHEET 4 OF 6 SHEETS

DRAINAGE AND UTILITY EASEMENTS ARE SHOWN THUS:



- △ Denotes right of access dedicated to Anoka County
- Denotes cast iron monument.
- Denotes found iron monument.
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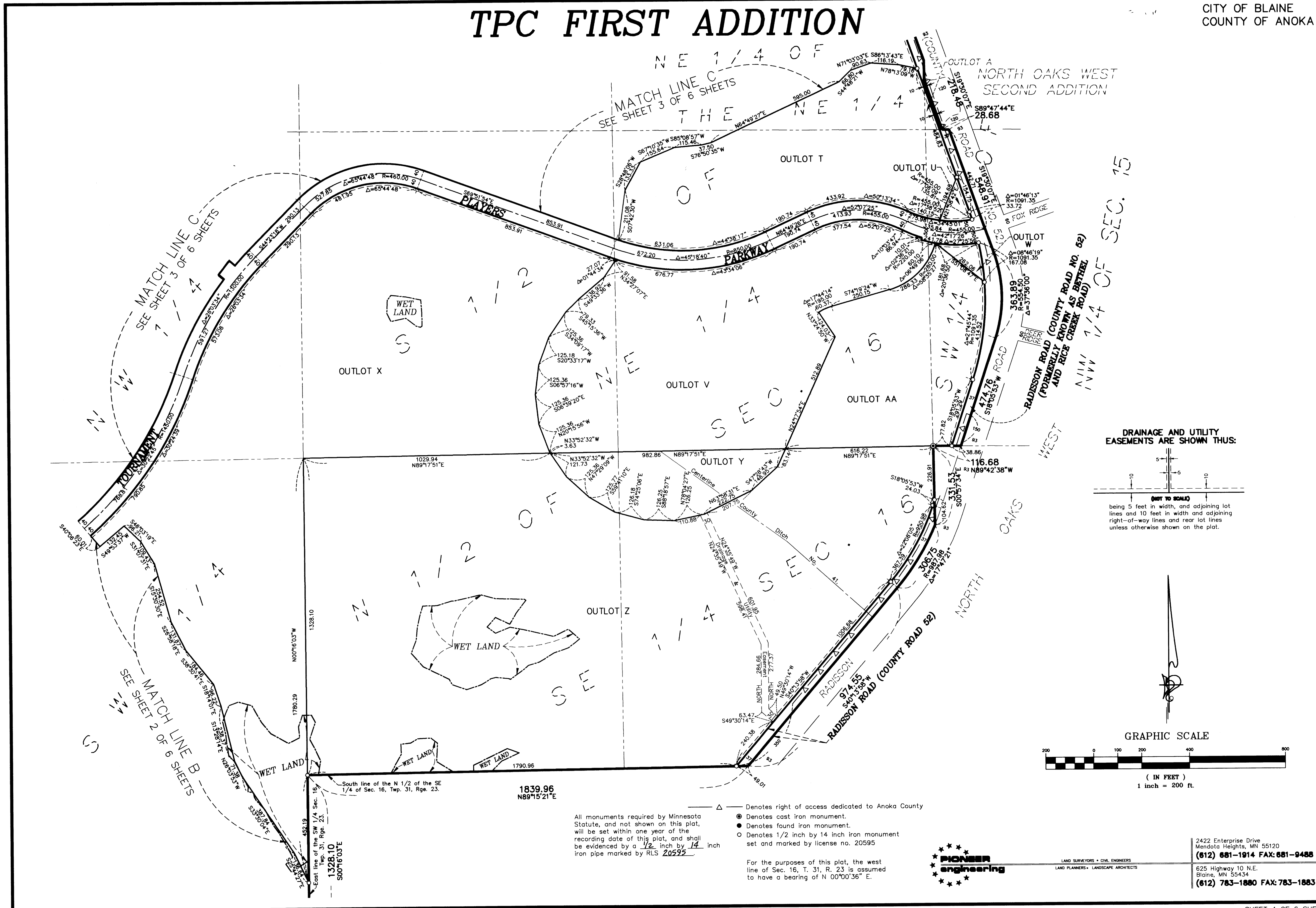
For the purposes of this plat, the west line of Sec. 16, T. 31, R. 23 is assumed to have a bearing of N 00°00'36" E.



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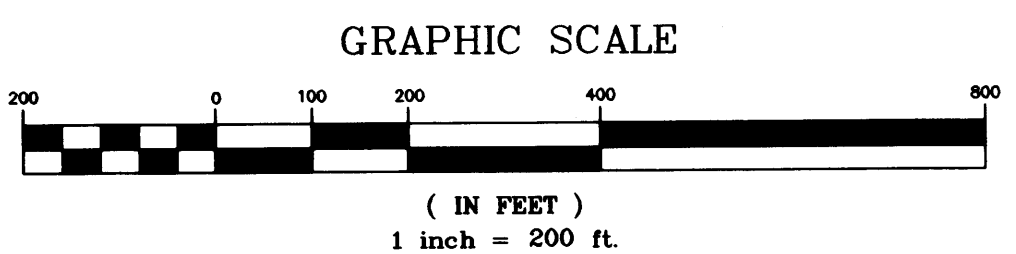
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Blaine, MN 55434
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TPC FIRST ADDITION



DRAINAGE AND UTILITY EASEMENTS ARE SHOWN THUS:

(NOT TO SCALE)
being 5 feet in width, and adjoining lot lines and 10 feet in width and adjoining right-of-way lines and rear lot lines unless otherwise shown on the plat.



All monuments required by Minnesota Statute, and not shown on this plat, will be set within one year of the recording date of this plat, and shall be evidenced by a 1/2 inch by 1/4 inch iron pipe marked by RLS 20592.

- △ Denotes right of access dedicated to Anoka County
- Denotes cast iron monument.
- Denotes found iron monument.
- Denotes 1/2 inch by 1/4 inch iron monument set and marked by license no. 20595

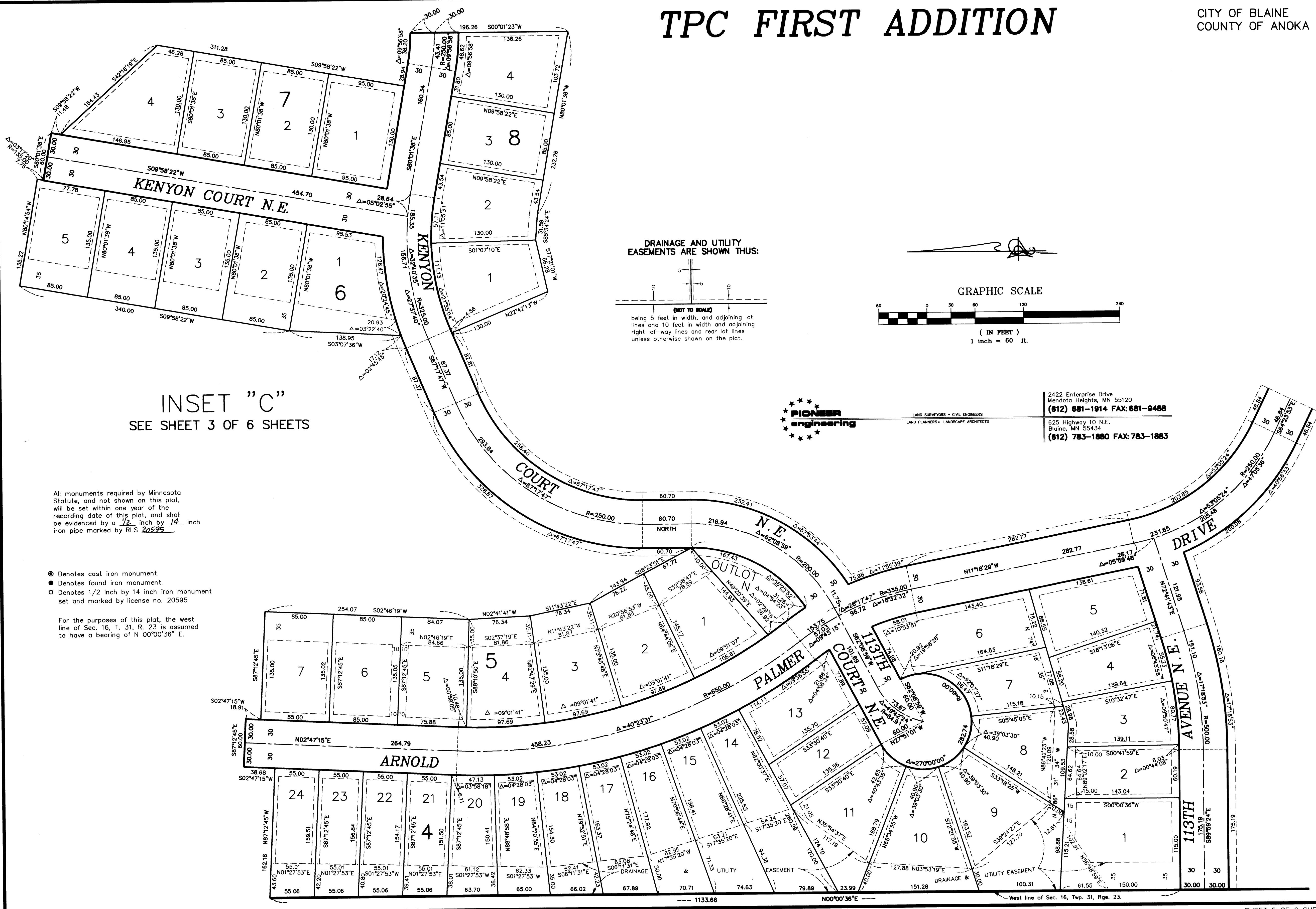
For the purposes of this plat, the west line of Sec. 16, T. 31, R. 23 is assumed to have a bearing of N 00°00'36" E.

PIONEER engineering
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LAND PLANNERS • LANDSCAPE ARCHITECTS

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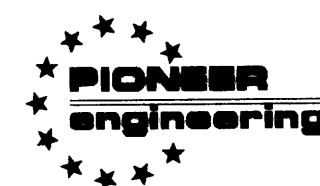
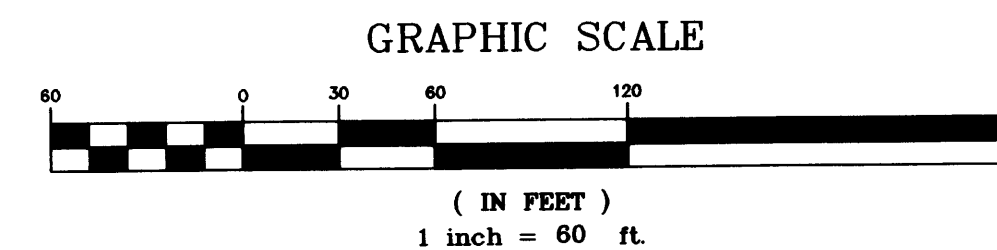
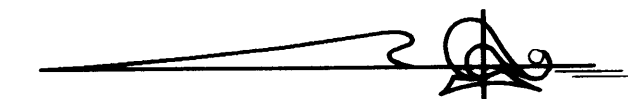
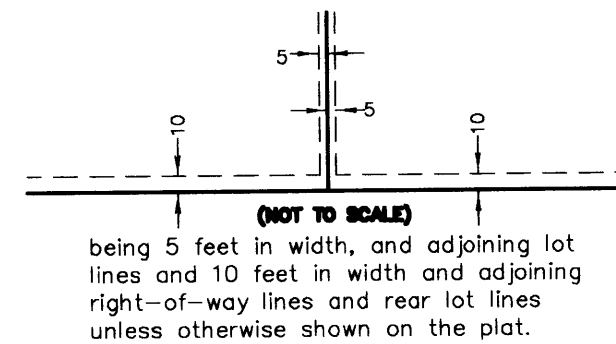
625 Highway 10 N.E.
Blaine, MN 55434
(612) 783-1880 FAX: 783-1883

TPC FIRST ADDITION



INSET "C"
SEE SHEET 3 OF 6 SHEETS

DRAINAGE AND UTILITY EASEMENTS ARE SHOWN THUS:



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- ⊙ Denotes cast iron monument.
- Denotes found iron monument.
- Denotes 1/2 inch by 1/4 inch iron monument set and marked by license no. 20595

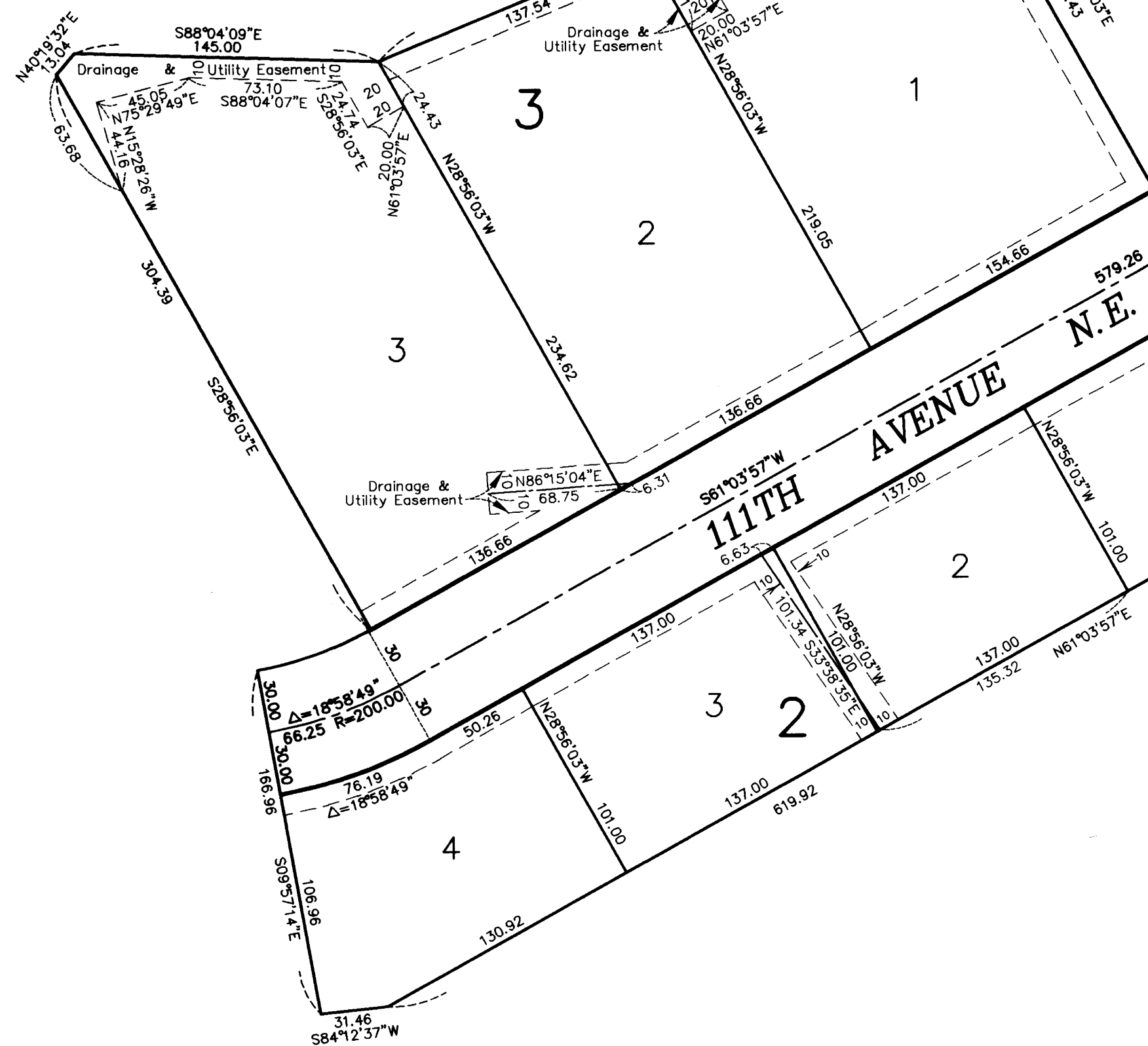
For the purposes of this plat, the west line of Sec. 16, T. 31, R. 23 is assumed to have a bearing of N 00°00'36" E.

--- 1133.66 N00°00'36"E ---

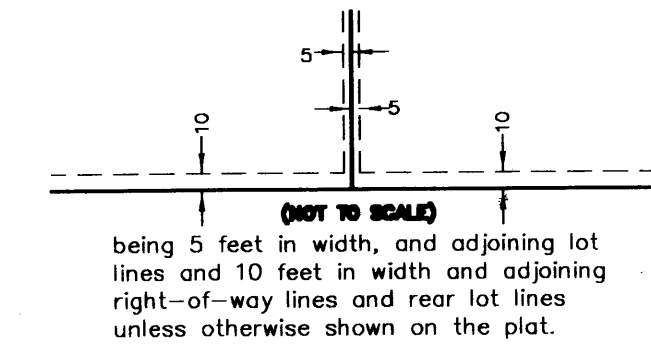
West line of Sec. 16, Twp. 31, Rge. 23.

TPC FIRST ADDITION

INSET "B"
SEE SHEET 2 OF 6 SHEETS



DRAINAGE AND UTILITY
EASEMENTS ARE SHOWN THUS:

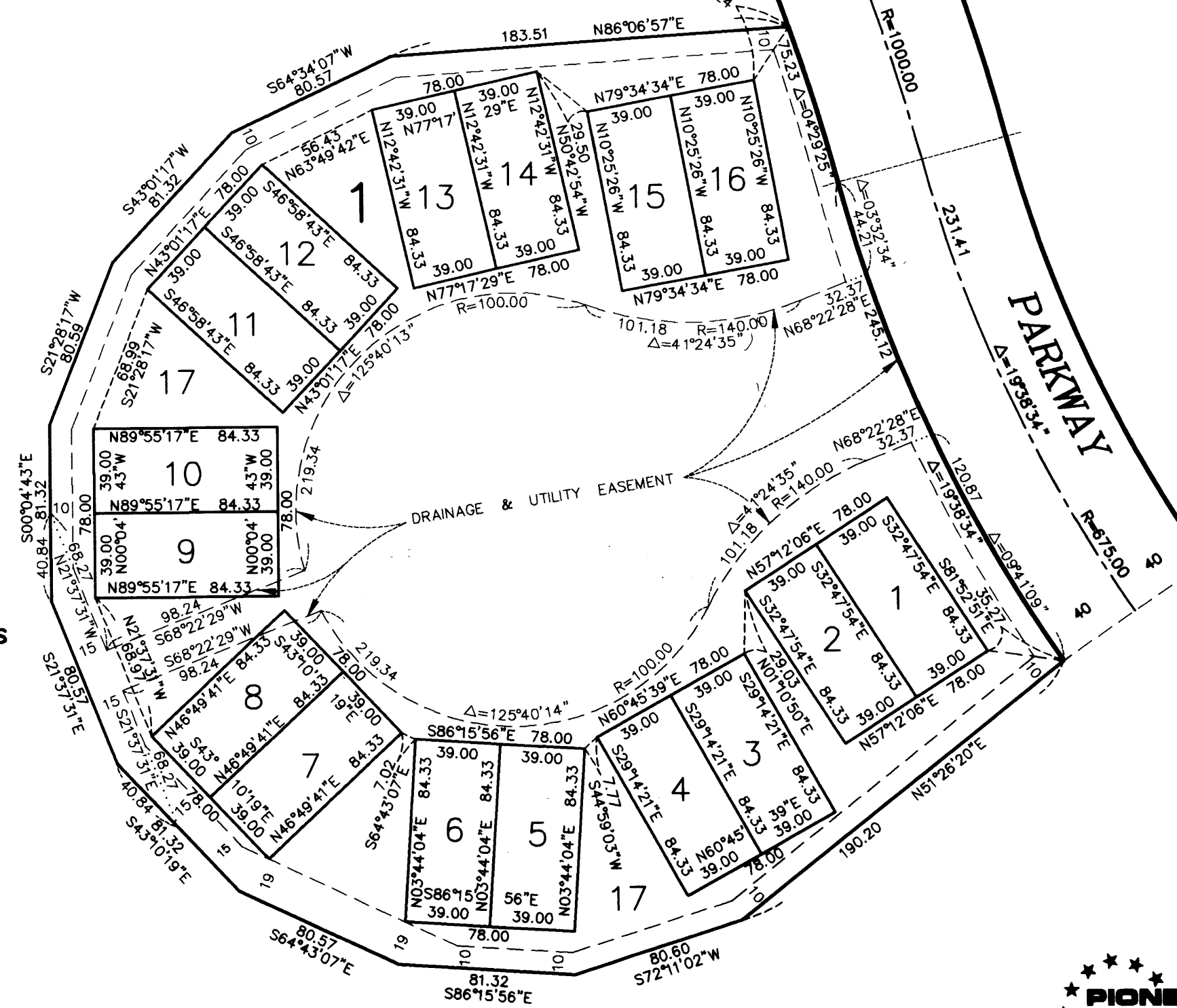


All monuments required by Minnesota Statute, and not shown on this plat, will be set within one year of the recording date of this plat, and shall be evidenced by a $\frac{1}{2}$ inch by $\frac{1}{4}$ inch iron pipe marked by RLS 20595.

- Denotes cast iron monument.
- Denotes found iron monument.
- Denotes 1/2 inch by 1/4 inch iron monument set and marked by license no. 20595

For the purposes of this plat, the west line of Sec. 16, T. 31, R. 23 is assumed to have a bearing of N 00°00'36" E.

INSET "A"
SEE SHEET 2 OF 6 SHEETS



GRAPHIC SCALE



(IN FEET)
1 inch = 60 ft.



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Blaine, MN 55434
(612) 783-1880 FAX: 783-1883

1347902

ALL PLATS ARE MAINTAINED ON A SEPARATE MICROFICHE IN A SEPARATE SECTION RESERVED FOR PLATS. FULL SIZE COPIES OF PLATS ARE STILL AVAILABLE FOR VIEWING.

MUNICIPALITY: Blaine CERTIFIED BY: A ON 6.9.98

MAP # 2033 PLAT BOOK: 55 OF ABST. PAGE 55

DOC. DATE: 6/4/98 NO. OF PAGES: 6 TRACT BOOK: 12 PAGE 190

PLAT SHORT NAME: TPC First Add.
LONG NAME: TPC First Addition

313719

| A/T | PARENT PINS | KEY | RES? | GRANTORS (Fees, C/Ps, Mortgagees) | Marital Status |
|-----|------------------|---------|------|--------------------------------------|----------------|
| A | 16-31-23-32-0001 | 125493 | N | Sienna Corporation | (fee) |
| A | 16-31-23-12-0001 | 125420 | N | Tournament Players | (cp) |
| A | 16-31-23-11-0001 | 955504 | N | Club of the Twin | |
| A | 15-31-23-22-0007 | 1177577 | N | Cities, LLC | |
| A | 16-31-23-13-0001 | 125439 | N | | |
| A | 15-31-23-23-0002 | 125251 | N | | |

FILED BY: Nancy Swanson PHONE: 903-1413
 TAXPAYER NAME: Sienna Corp.
 ADDRESS: 4940 Viking Dr. #608
 CITY: Odena STATE: Tn ZIP: 55449

NEW PARCELS

| LOT | BLOCK | LOT | BLOCK | LOT | BLOCK |
|------|-------|-----|-------|-----|-------|
| 1-17 | 1 | 1-7 | 5 | A-Z | O/L |
| 1-4 | 2 | 1-5 | 6 | AA | O/L |
| 1-3 | 3 | 1-4 | 7 | | |
| 1-24 | 4 | 1-4 | 8 | | |

DELT & CURRENT TAXES ARE PAID: INITIALS: EC DATE: 6-9-98 DIV. NO.:
 DIV. FEE: \$2890

THIS DOCUMENT NUMBER REPRESENTS A PLAT

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MUNICIPALITY: _____ CERTIFIED BY: _____ ON _____

MAP # _____ PLAT BOOK: _____ OF _____ PAGE _____

DOC. DATE: _____ NO. OF PAGES: _____ TRACT BOOK: _____ PAGE _____

PLAT SHORT NAME: TPC First Add.

LONG NAME: _____

| A/T | PARENT PINS | KEY | RES? | GRANTORS (Fees, C/Ps, Mortgagees) | Marital Status |
|-----|------------------|--------|------|--------------------------------------|----------------|
| T | 16-31-23-41-0001 | 125536 | N | | |
| T | 16-31-23-42-0001 | 125527 | N | | |
| A | 16-31-23-21-0001 | 125448 | N | | |
| A | 16-31-23-22-0001 | 125457 | N | | |
| A | 16-31-23-23-0001 | 125466 | N | | |
| A | 16-31-23-24-0001 | 125475 | N | | |

FILED BY: _____ PHONE: _____

TAXPAYER NAME: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____

NEW PARCELS

| LOT | BLOCK | LOT | BLOCK | LOT | BLOCK |
|-----|-------|-----|-------|-----|-------|
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|--------------------------------|---------------------|---------------------|--------------------|
| DELQ & CURRENT TAXES ARE PAID: | INITIALS: <u>EC</u> | DATE: <u>6-9-98</u> | DIV. NO.: _____ |
| | | | DIV. FEE: \$ _____ |

THIS DOCUMENT NUMBER REPRESENTS A PLAT

ALL PLATS ARE MAINTAINED ON A SEPARATE MICROFICHE IN A SEPARATE SECTION RESERVED FOR PLATS. FULL SIZE COPIES OF PLATS ARE STILL AVAILABLE FOR VIEWING.

MUNICIPALITY: _____ CERTIFIED BY: _____ ON _____

MAP # _____ PLAT BOOK: _____ OF _____ PAGE _____

DOC. DATE: _____ NO. OF PAGES: _____ TRACT BOOK: _____ PAGE _____

PLAT SHORT NAME: TPC First Add.

LONG NAME: _____

| A/T | PARENT PINS | KEY | RES? | GRANTORS (Fees, C/Ps, Mortgagees) | Marital Status |
|-----|------------------|--------|------|--------------------------------------|----------------|
| A | 16-31-23-31-0001 | 125484 | N | | |
| A | 16-31-23-33-0001 | 125509 | N | | |
| A | 16-31-23-34-0001 | 125518 | N | | |
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FILED BY: _____ PHONE: _____

TAXPAYER NAME: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____

NEW PARCELS

| LOT | BLOCK | LOT | BLOCK | LOT | BLOCK |
|-----|-------|-----|-------|-----|-------|
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DELO & CURRENT TAXES ARE PAID: INITIALS: EC DATE: 6-9-98

DIV. NO.: _____

DIV. FEE: \$ _____

TORRENS

| | |
|--|---|
| Receipt # <u>50597/59.50</u> | <input type="checkbox"/> Certified Copy Date Mailed _____ |
| Date/Time: <u>JUN 9 1998</u> / <u>15:00</u> | <input type="checkbox"/> Tax Liens / Releases |
| Doc. Order <u>2</u> of <u>3</u> | <input type="checkbox"/> Multi-Co Doc Tax Pd |
| ✓ by: Recordability: <u>SR</u> | <input type="checkbox"/> Transfer <input type="checkbox"/> New Desc. |
| Filing Fees: <u>59.50</u> | <input checked="" type="checkbox"/> Division <input type="checkbox"/> GAC |
| Well Certificate Received this Date: _____ | <input type="checkbox"/> Status <input type="checkbox"/> Def. Spec |
| Refund Rec't # _____ | <input type="checkbox"/> Other <input type="checkbox"/> No Change |
| From <u>84475A</u> # of <u>0</u> Comp. Cert. # <u>84475A</u> New Certs.: <u>0</u> Entry | Notes: _____ |
| Tract Updated: _____ / _____ | |
| Typed _____ Complete _____ | |

BK 266 PG 84475 NO 84475

**DOCUMENT NO. 313719.0 TORRENS
ANOKA COUNTY MINNESOTA**

I HEREBY CERTIFY THAT THE WITHIN INSTRUMENT WAS FILED IN THIS OFFICE FOR RECORD ON JUN 09 98 AT 3:00 PM AND WAS DULY RECORDED. FEES AND TAXES IN THE AMOUNT OF \$59.50 PAID.

RECEIPT NO. 98050597

EDWARD M. TRESKA

ANOKA COUNTY PROPERTY TAX ADMINISTRATOR/RECORDER/REGISTRAR OF TITLES
GKE

BY _____
DEPUTY PROPERTY TAX ADMINISTRATOR/RECORDER/REGISTRAR OF TITLES

ABSTRACT

| | |
|--|---|
| Receipt # <u>50596/2962.50</u> | <input type="checkbox"/> Certified Copy Date Mailed _____ |
| Date/Time: <u>6-9-98</u> / <u>15:00</u> | <input type="checkbox"/> Tax Liens / Releases |
| Doc. Order <u>5</u> of <u>6</u> | <input type="checkbox"/> Multi-Co Doc Tax Pd |
| ✓ by: Pins: <u>SC</u> | <input type="checkbox"/> Transfer <input type="checkbox"/> New Desc. |
| Recordability / Delqs: <u>fc</u> | <input checked="" type="checkbox"/> Division <input type="checkbox"/> GAC |
| Filing Fees: <u>2962.50</u> | <input type="checkbox"/> Status <input type="checkbox"/> Def. Spec |
| Well Certificate Received this Date: _____ Anoka County Recorder | <input type="checkbox"/> Other <input type="checkbox"/> No Change |
| Notes: _____ | |

**DOCUMENT NO. 1347902.0 ABSTRACT
ANOKA COUNTY MINNESOTA**

I HEREBY CERTIFY THAT THE WITHIN INSTRUMENT WAS FILED IN THIS OFFICE FOR RECORD ON JUN 09 98 AT 3:00 PM AND WAS DULY RECORDED. FEES AND TAXES IN THE AMOUNT OF \$2962.50 PAID.

RECEIPT NO. 98050596

EDWARD M. TRESKA

ANOKA COUNTY PROPERTY TAX ADMINISTRATOR/RECORDER/REGISTRAR OF TITLES
GKE

BY _____
DEPUTY PROPERTY TAX ADMINISTRATOR/RECORDER/REGISTRAR OF TITLES

95 lots @ .50¢ = 47.50 + 25.00 = \$72.50

UNIVERSAL TITLE COMPANY TORRENS
777 WASHINGTON AVE S
EDINA MN 55439

FILE IN TORRENS

DECLARATION FOR NEW CIC

THIS PAGE IS NOT PART OF THE ORIGINAL DOCUMENT PRESENTED FOR RECORDING

Added by Anoka County Recorder for posting only.

MUNICIPALITY: Blaine CHECKED BY: Ac ON 10-1-99

MAP # 2239 PLAT BOOK TYPE: _____

DOC. DATE: 9-27-99 NO. OF PAGES: _____ TRACT BOOK: _____ PAGE _____

CIC SHORT NAME: CIC NO 59 TPC 1st Add.

LONG NAME: BY DECLARATION

| AT | PARENT PINS | THRU |
|----|------------------|------|
| | 16-31-23-32-0010 | 0013 |
| | 16-31-23-23-0058 | 0064 |
| | 16-31-23-23-0078 | 0084 |
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| AT | PARENT PINS | THRU |
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DELINQUENT TAXES ARE PAID: INITIALS: SW DATE: 10-1-99

DIV. NO.: _____

COMMON INTEREST COMMUNITY NUMBER 59
(Planned Community)
THE FAIRWAYS AT DEACON'S WALK
(Declaration)

This Declaration is made in the County of Anoka, State of Minnesota, on this 27th day of September, 1999, by Town & Country Homes, Inc., a Minnesota corporation (the "**Declarant**"), pursuant to the provisions of Minnesota Statutes Chapter 515B, known as the Minnesota Common Interest Ownership Act (the "**Act**"), for the purpose of creating The Fairways at Deacon's Walk, a planned community form of Common Interest Community.

RECITALS

A. Declarant is the Owner of certain real property located in Anoka County, Minnesota, legally described in attached **Exhibit A**. Declarant desires to submit that real property and all improvements thereon (collectively the "**Property**") to the Act.

B. Declarant wishes to establish the Property as a Planned Community form of Common Interest Community under the Act, and to subject the Property to a plan for a permanent residential community to be owned, occupied and operated for the use, health, safety and welfare of its resident Owners and Occupants, and for the purpose of preserving the value of the Property.

C. The Property is not subject to an ordinance referred to in Section 515B.1-106 of the Act, governing conversions to common interest ownership, but is subject to a Master Association, as defined in the Act, known as Deacon's Walk Home Owners Association, Inc., a Minnesota non-profit corporation (the "**Master Association**").

DECLARATION

Declarant makes this Declaration and submits the Property to the Act as a planned community form of Common Interest Community (and not as a Condominium or Cooperative) under the name "The Fairways at Deacon's Walk" initially consisting of the Units referred to in Article 2, declaring that this Declaration shall constitute covenants running with the Property, shall be owned, used occupied and conveyed subject to the covenants, restrictions, easements, charges and liens set forth herein, all of which shall be binding upon all Persons owning or acquiring any right, title or interest therein, and their heirs, personal representatives, successors and assigns.

Article 1

DEFINITIONS

The following words when used in the Governing Documents shall have the following meanings (unless the context indicates otherwise):

1.1 **“Association”** shall mean The Fairways at Deacon’s Walk Homeowner’s Association, Inc., a nonprofit corporation which has been created pursuant to Chapter 317A of the laws of the State of Minnesota and Minnesota Statutes Section §515B.3-101, to act as the association of Unit Owners as provided under the Act.

1.2 **“Board”** shall mean the Board of Directors of the Association as provided for in the By-Laws.

1.3 **“By-Laws”** shall mean the By-Laws governing the operation of the Association, as amended from time to time.

1.4 **“CIC Plat”** shall mean the recorded plats depicting the Property pursuant to the requirements of Section 515B.2-110 of the Act, and satisfying the requirements of Minnesota Statutes Chapter 505, including any amended or supplemental plat recorded from time to time in accordance with the Act.

1.5 **“Common Elements”** shall mean all parts of the Property, if any, other than the Units. Initially, the Property does not include any Common Elements. Common Elements shall also be deemed to include any Master Common Elements, as defined in the Master Declaration, with respect to which responsibility for maintenance and repair has been assigned to the Association.

1.6 **“Common Expenses”** shall mean and include all expenditures made or liabilities incurred by or on behalf of the Association and incident to its operation, including, without limitation, allocations to reserves and those items specifically identified as Common Expenses in this Declaration or in the By-Laws. To the extent that the Association has a responsibility, under the Master Declaration, to collect Master Association Assessments from Unit Owners subject to this Declaration, the Association may elect to treat such assessments as Common Expense Assessments hereunder.

1.7 **“Dwelling”** shall mean a single family residence located within the boundaries of a Unit. Dwelling shall include any garage attached thereto or otherwise included within the boundaries of the Unit in which the Dwelling is located.

1.8 **“Eligible Mortgagee”** shall mean any Person owning a mortgage on any Unit, which is first in priority, upon foreclosure, to all other mortgages that encumber such Unit, and which has requested the Association, in writing, to notify it regarding any proposed action which requires approval by a specified percentage of Eligible Mortgagees.

1.9 **“Golf Club”** shall mean the Tournament Players Club of the Twin Cities.

1.10 **“Golf Club Membership”** shall mean the membership in the Tournament Players Club of the Twin Cities owned by the Association.

1.11 **“Governing Documents”** shall mean this Declaration and the Articles of Incorporation and By-Laws of the Association, as amended from time to time, all of which shall govern the use and operation of the Property.

1.12 **“Master Association”** shall mean the Deacon’s Walk Home Owners Association, Inc., a Minnesota non-profit corporation and its successors and assigns.

1.13 **“Master Association Documents”** shall mean the Amended and Restated Master Declaration for Deacon’s Walk and the Articles of Incorporation and Bylaws of the Deacon’s Walk Home Owners Association.

1.14 **“Master Common Elements”** shall mean the common elements owned by the Master Association. The Golf Club property is not a Master Common Element.

1.15 **“Master Declaration”** shall mean the Amended and Restated Master Declaration for Deacon’s Walk. All Units in the Fairways at Deacon’s Walk are subject to the provisions of the Master Declaration.

1.16 **“Member”** shall mean all persons who are Members of the Association by virtue of being Owners as defined in this Declaration. The words “Owner” and “Member” may be used interchangeably in the Governing Documents.

1.17 **“Occupant”** shall mean any person or persons, other than an Owner, in possession of, or residing in, a Dwelling located within the boundaries of a Unit.

1.18 **“Owner”** shall mean a Person who owns a Unit, but excluding contract for deed vendors, mortgagees and other secured parties within the meaning of Section 515B.1-103(29) of the Act. The term “Owner” includes, without limitation, contract for deed vendees and holders of a life estate.

1.19 **“Person”** shall mean a natural individual, corporation, limited liability company, partnership, limited liability partnership, limited partnership, trustee, or other legal entity capable of holding title to real property.

1.20 **“Property”** shall mean all of the real property submitted to this Declaration, and all structures and improvements located thereon, including the Dwellings, now or in the future. The Property as of the date of this Declaration is legally described in attached **Exhibit A**.

1.21 **“Rules and Regulations”** shall mean the Rules and Regulations of the Association as approved from time to time pursuant to **Section 5.6**.

1.20 **“Unit”** shall mean any platted lot subject to this Declaration as defined in the Act or as shown on the CIC Plat, including all improvements thereon.

Any terms used in the Governing Documents, and defined in the Act and not in this Article, shall have the meaning set forth in the Act.

Article 2

DESCRIPTION OF UNITS AND APPURTENANCES

2.1. **Units.** There are initially one hundred forty-seven (147) Units, all of which are restricted exclusively to residential use. Each Unit constitutes a separate parcel of real estate. No additional Units may be created by the subdivision or conversion of Units pursuant to Section 515B.2-112 of the Act. The locations of the Units are as shown on the CIC Plat, which is incorporated herein by reference. The Unit identifier for a Unit shall be its lot and block numbers and the subdivision name.

2.2. **Unit Boundaries.** The front, rear and side boundaries of each Unit shall be the boundary lines of the platted lot as shown on the CIC Plat upon which a Dwelling is located or intended to be located as shown on the Plat. The Units shall have no upper or lower boundaries. Subject to this Article 2, all spaces, walls, and other improvements within the boundaries of a Unit are a part of the Unit.

2.3. **Declarant's Easements.** Declarant shall have, and be the beneficiary of, easements for construction and sales activities as described in **Section 13.5**.

2.4. **Recorded Easements.** The Property shall be subject to such other easements, if any, as may be recorded against it or otherwise shown on the CIC Plat.

2.5. Easements and Rights are Appurtenant. All easements and similar rights now or hereafter burdening or benefiting a Unit or any other part of the Property shall be appurtenant thereto, and shall be permanent, subject only to termination in accordance with the Act or the terms of the easement. Any recorded easement benefiting or burdening the Property shall be construed in a manner consistent with, and not in conflict with, the easements created by this Declaration.

2.6. Impairment Prohibited. No person shall materially restrict or impair any easement benefiting or burdening the Property subject, however, to this Declaration and the right of the Association to impose reasonable Rules and Regulations governing the use of the Property.

Article 3

COMMON ELEMENTS

3.1. Common Elements. There are presently no Common Elements comprising a part of the Property.

Article 4

ASSOCIATION MEMBERSHIP; RIGHTS AND OBLIGATIONS

Membership in the Association and the allocation to each Unit of a portion of the votes in the Association and a portion of the Common Expenses of the Association shall be governed by the following provisions:

4.1 Allocation of Votes and Common Expenses; Formula. Each Unit shall have one (1) vote in the Association. Each Unit's share of the Common Expenses shall be a fraction, the numerator of which is one (1) and the denominator of which is the total number of Units in the Property. Certain expenses may, however, be assessed against a certain Unit or Units in accordance with Section 515B.3-115(h) of the Act.

4.2 Membership. Each Owner shall be a Member of the Association by virtue of Unit ownership, and the membership shall be transferred with the conveyance of the Owner's interest in the Unit. An Owner's membership shall terminate when the Owner's ownership terminates. When a Unit is owned by more than one Person, all such Persons shall be Members of the Association, but multiple ownership of a Unit shall not increase the voting rights allocated to such Unit nor authorize the division of the voting rights. Each Owner is also a Member of the Master Association pursuant to the provisions of the Master Declaration.

4.3. Appurtenant Rights and Obligations. The ownership of a Unit shall include the voting rights and Common Expense obligations described in this Article. Said rights, obligations and interests, and the title to the Units, shall not be separated or conveyed separately. The allocation of the rights and obligations described in this Article may not be changed, except in accordance with the Governing Documents and the Act.

4.4. Authority to Vote. The Owner, or some natural person designated to act as proxy on behalf of the Owner, and who need not be an Owner, may cast the vote allocated to such Unit at meetings of the Association; provided, that if there are multiple Owners of a Unit, only the Owner or other Person designated pursuant to the provisions of the By-Laws may cast such vote. The voting rights of Owners are more fully described in By-Law number 4.

Article 5

ADMINISTRATION

The administration and operation of the Association and the Property, including but not limited to the acts required of the Association, shall be governed by the following provisions:

5.1. General. The operation and administration of the Association and the Property shall be governed by the Governing Documents and the Act. The Property is also subject to the provisions of the Master Declaration. To the extent that a provision of this Declaration conflicts with a provision of the Master Declaration, the applicable provisions of the Master Declaration shall govern. Subject to the rights of the Owners set forth in the Governing Documents and the Act, the Association shall, be responsible for the operation, management and control of the Property. The Association shall have all powers described in the Governing Documents, the Act and the statute under which it is incorporated. All power and authority of the Association shall be vested in the Board unless action or approval by the individual Owners is specifically required by the Governing Documents or the Act. All references to the Association shall mean the Association acting through the Board unless specifically stated to the contrary.

5.2. Operational Purposes. The Association shall operate and manage the Property for the purposes of (i) administering and enforcing the covenants, restrictions, easements, charges and liens set forth in the Governing Documents and the Rules and Regulations and (ii) maintaining, repairing and replacing those portions of the Property, if any, for which it is responsible. The Association shall also act as the sub-association, with respect to the Property, called for under the Master Declaration and shall be responsible for collecting, on behalf of the Master Association, Master Common Expenses assessed against the Units subject to this Declaration. The Association shall also administer the Golf Club Membership pursuant to such rules and regulations applicable to such membership as the Association may from time to time adopt. To the extent that the Association should be responsible, under the Master Declaration, for maintenance of any of the

Master Common Elements, the Association shall carry out such responsibility in accordance with the provisions of the Master Declaration.

5.3. Binding Effect of Actions. All agreements and determinations made by the Association in accordance with the powers and voting rights established by the Governing Documents or the Act shall be binding upon all Owners and Occupants, and their lessees, guests, heirs, personal representatives, successors and assigns, and all secured parties as defined in the Act.

5.4. By-Laws. The Association shall have By-Laws. The By-Laws and any amendments thereto shall govern the operation and administration of the Association.

5.5. Management. The Board may delegate to a manager or managing agent the management duties imposed upon the Association's officers and directors by the Governing Documents and the Act; provided, however, that such delegation shall not relieve the officers and directors of the ultimate responsibility for the performance of their duties as prescribed by the Governing Documents and by law.

5.6. Rules and Regulations. The Board shall have exclusive authority to approve and implement such reasonable Rules and Regulations as it deems necessary or proper from time to time for the purpose of operating and administering the affairs of the Association, regulating the use of the Property and administering the use of the Golf Club Membership. The Rules and Regulations shall not, however, be inconsistent with the Master Declaration, the Governing Documents or the Act. The inclusion in the Master Declaration or in the Governing Documents of authority to approve Rules and Regulations shall be deemed to be in furtherance and not in limitation of the authority granted by this Article. New or amended Rules and Regulations shall be effective only after reasonable notice thereof has been given to the Owners.

5.7. Association Assets; Surplus Funds. All funds and real or personal property acquired by the Association shall be held and used for the benefit of the Owners for the purposes stated in the Governing Documents. Surplus funds remaining after payment of or provision for Common Expenses and reserves shall be credited against future assessments or added to reserves, as determined by the Board.

Article 6

ASSESSMENTS FOR COMMON EXPENSES

6.1. General. Assessments for Common Expenses shall be determined and assessed against the Units by the Board, in its discretion, subject to the limitations set forth in Sections 6.2 and 6.3 and the requirements of the By-Laws. Assessments for Common Expenses shall include annual assessments and may include special assessments. Assessments shall be allocated among

the Units according to the Common Expense allocations set forth in Article 4, subject to the following qualifications:

- a. The Association shall collect Master Common Expenses payable by the Association and by the Units subject to this Declaration in accordance with the provisions of the Master Declaration as though such assessments were Common Expense hereunder.
- b. Any Common Expense or portion thereof benefiting fewer than all of the Units may be assessed exclusively against the Units benefited, on any lawful basis.
- c. Generally speaking, the cost of any insurance maintained by the Association will be assessed on an equal basis, but may be assessed in proportion to value, risk or coverage, and the costs of utilities will be assessed on an equal basis, but may be assessed in proportion to usage, all at the discretion of the Board of Directors.
- d. Reasonable attorneys fees and other costs incurred by the Association in connection with (i) the collection of assessments and (ii) the enforcement of the Governing Documents, the Act, or the Rules and Regulations, against an Owner or Occupant or their guests, may be assessed against the Owner's Unit.
- e. Fees, charges, late charges, fines and interest may be assessed as provided in Section 515B.3-116(a) of the Act.
- f. Assessments levied under Section 515B.3-116 of the Act to pay a judgment against the Association may be levied only against the Units existing at the time the judgment was entered, in proportion to their Common Expense liabilities.
- g. If any damage to (i) any Common Elements from time to time existing within the Property or (ii) another Unit is caused by the act or omission of any Owner or Occupant or their guests, the Association may assess the costs of repairing the damage exclusively against the Owner's Unit to the extent the damage is not covered by insurance.
- h. If any installment of an assessment becomes more than thirty (30) days past due, then the Association may, upon ten (10) days written notice of the Owner, declare the entire amount of the assessment immediately due and payable in full.
- i. If Common Expense liabilities are reallocated for any purpose authorized by the Act, Common Expense assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated Common Expense liabilities.

- j. Assessments under Subsections 6.1.a-h shall not be considered special assessments as described in Section 6.3.

6.2. Annual Assessments. Annual assessments shall be established and levied by the Board, subject only to the limitations set forth in this Section 6.2, Section 6.3 and the Act. Each annual assessment shall cover all of the anticipated Common Expenses of the Association for that year as well as any Master Common Expenses allocable to the Association and the Units subject to this Declaration. Annual assessments shall provide, among other things, for contributions to a separate reserve fund sufficient to cover the periodic cost of maintenance, repair and replacement of any Common Elements which may at any time exist and those parts of the Master Common Elements, if any, for which the Association may be responsible.

- a. Until a Common Expense assessment is levied, Declarant shall pay all accrued expenses of the Common Interest Community.
- b. After a Common Expense assessment is levied, the annual assessment may be subsequently increased by the Board.
- c. Until the termination of the period of Declarant control described in Section 15.7, the increase in the annual assessment for any year shall not exceed the greater of (i) the increase in the U.S. Department of Labor Revised Consumer Price Index for Urban Wage Earners and Clerical Workers for All Items for the prior year; or (ii) five percent (5%) of the total annual assessment for the Association's previous fiscal year, unless such increase is approved by the vote of a majority of those Owners voting, in person or by proxy, at a meeting called for that purpose. Written notice of the meeting shall be sent to all Owners not less than twenty-one (21) days nor more than thirty (30) days in advance of the meeting.

6.3 Special Assessments. In addition to annual assessments, and subject to the limitations set forth in this Article, the Board may levy in any assessment year a special assessment against all Units for the purpose of defraying in whole or in part (i) the cost of any unforeseen or unbudgeted Common Expense and (ii) general or specific reserves for maintenance, repair or replacement. Notwithstanding the foregoing, any special assessment shall be subject to approval by the vote of a majority of those Owners voting, in person or by proxy, at a meeting called for that purpose. Written notice of the meeting shall be sent to all Owners not less than twenty-one (21) days nor more than thirty (30) days in advance of the meeting.

6.4 Working Capital Fund. Declarant shall establish a working capital fund to meet unforeseen expenditures or to purchase additional equipment or services during the period when Declarant is conducting its sales activities. There shall be contributed on a one-time basis for each Unit sold by Declarant an amount equal to two (2) months installments of the estimated Common Expense assessment for the Unit being conveyed. The contribution to the working capital fund

shall be paid by the purchaser of a Unit at the time of closing of sale of the Unit. The amounts paid into this fund are in addition to the regular monthly installments of assessments. The funds shall be deposited into the Association's account and Declarant may not use the funds to defray any of its expenses, reserve contributions, or construction costs, or to make up any budget deficit while Declarant is in control of the Association. However, in the event that Declarant advances funds to the working capital fund allocable to an unsold Unit, then upon closing of an unsold Unit, Declarant may reimburse itself from funds collected at the closing for funds which it contributed to the working capital fund with respect to that Unit.

6.5. Liability of Owners for Assessments. The obligation of an Owner to pay assessments shall commence at the later of (i) the recording of this Declaration or amendment thereto which creates the Owner's Unit, (ii) the time at which the Owner acquires title to the Unit, or (iii) the issuance of a certificate of occupancy for a Dwelling located within a Unit. The Owner, at the time an assessment is payable with respect to the Unit shall be personally liable for the share of the Common Expenses assessed against such Unit. Such liability shall be joint and several where there are multiple Owners of the Unit. The liability is absolute and unconditional. No Owner is exempt from liability for payment of his or her share of Common Expenses by right of set-off, by waiver of use or enjoyment of any part of the Property, by absence from or abandonment of the Unit, by the waiver of any other rights, or by reason of any claim against the Association or its officers, directors or agents, or for their failure to fulfill any duties under the Governing Documents or the Act. The Association may invoke the charges, sanctions and remedies set forth elsewhere in the Governing Documents or the Act, for the purpose of enforcing its rights hereunder.

6.6. Declarant's Alternative Assessment Program. Notwithstanding anything to the contrary in this Article 6, if a Common Expense assessment has been levied, any Unit owned by Declarant for initial sale shall be assessed at the rate of twenty-five percent (25%) of the assessment levied on other Units of the same type until a certificate of occupancy has been issued with respect to such Unit by the municipality in which the Unit is located. This reduced assessment shall apply to each Unit owned by Declarant at the time that the Unit is created, and shall continue until the issuance of the certificate of occupancy as previously described. There are no assurances that this alternative assessment program will not have any negative effect on the level of services for items set forth in the Association's budget.

6.7. Assessment Lien. The Association has a lien on a Unit for any assessment levied against that Unit from the time the assessment becomes due. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due. Fees, charges, late charges, fines and interest charges imposed by the Association pursuant to Section 515B.3-102(a)(10), (11) and (12) of the Act are liens, and are enforceable as assessments, under this Article. Recording of this Declaration constitutes record notice and perfection of any lien under this Article, and no further recordation of any notice of or claim for the lien is required.

6.8. Foreclosure of Lien; Remedies. A lien for Common Expenses may be foreclosed against a Unit (i) by action, or (ii) by advertisement as a lien under a mortgage containing a power of sale all pursuant to the laws of the State of Minnesota. The Association, or its authorized representative, shall have the power to bid in at the foreclosure sale and to acquire, hold, lease, mortgage and convey any Unit so acquired. The Owner and any other Person claiming an interest in the Unit, by the acceptance or assertion of any interest in the Unit, grants to the Association a power of sale and full authority to accomplish the foreclosure. The Association shall, in addition, have the right to pursue any other remedy at law or in equity against the Owner who fails to pay any assessment or charge against the Unit.

6.9. Lien Priority; Foreclosure. A lien under this Article is prior to all other liens and encumbrances on a Unit except (i) liens and encumbrances recorded before this Declaration, (ii) any first mortgage on the Unit, and (iii) liens for real estate taxes and other governmental assessments or charges against the Unit. Notwithstanding the foregoing, if a first mortgage on a Unit is foreclosed, the first mortgage was recorded on or after June 1, 1994, and no Owner redeems during the Owner's period of redemption provided by Chapters 580, 581, or 582, then the holder of the sheriff's certificate of sale from the foreclosure of the first mortgage shall take title to the Unit subject to unpaid assessments for Common Expenses levied pursuant to Sections 515B.3-115(a), (h)(1) to (3), (i), and (l) of the Act which became due, without acceleration, during the six (6) months immediately preceding the first day following the end of the Owner's period of redemption.

6.10. Voluntary Conveyances; Statement of Assessments. In a voluntary conveyance of a Unit the buyer shall not be personally liable for any unpaid assessments and other charges made by the Association against the seller or the seller's Unit prior to the time of conveyance to the buyer, unless expressly assumed by the buyer. However, the lien of such assessments shall remain against the Unit until satisfied. Any seller or buyer shall be entitled to a statement, in recordable form, from the Association setting forth the amount of the unpaid assessments against the Unit, including all assessments payable in the Association's current fiscal year, which statement shall be binding on the Association, seller and buyer.

Article 7

RESTRICTIONS ON USE OF PROPERTY

All Owners and Occupants and all secured parties, by their acceptance or assertion of an interest in the Property or by their occupancy of a Unit, covenant and agree that, in addition to any other restrictions which may be imposed by the Master Declaration, the Act or the Governing Documents, the occupancy, use, operation, alienation and conveyance of the Property shall be subject to the following restrictions:

7.1. General. The Property shall be owned, conveyed, encumbered, leased, used and occupied subject to the Master Declaration, the Governing Documents and the Act, as amended from time to time. All covenants, restrictions and obligations set forth in the Master Declaration and the Governing Documents are in furtherance of a plan for the Property, and shall run with the Property and be a burden and benefit to all Owners and Occupants and to any other Person acquiring or owning an interest in the Property, their heirs, personal representatives, successors and assigns.

7.2. Quiet Enjoyment; Interference Prohibited. All Owners and Occupants and their guests shall have a right of quiet enjoyment in their respective Units, and shall use the Property in such a manner as will not cause a nuisance, nor unduly restrict, interfere with or impede the use of the Property by other Owners and Occupants and their guests.

7.3. Compliance with Law. No use shall be made of the Property which would violate any then existing municipal codes or ordinances, or state or federal laws, nor shall any act or use be permitted which could cause waste to the Property, cause a material increase in insurance rates on the Property, violate the terms of the Master Declaration, or otherwise cause any unusual liability, health or safety risk, or expense, for the Association or any Owner or Occupant.

7.4. Alterations. Alterations of Dwellings and other improvements constructed within the Units are governed by the provisions of the Master Declaration.

7.5. Time Shares Prohibited. The time share form of ownership, or any comparable form of lease, occupancy rights or ownership which has the effect of dividing the ownership or occupancy of a Unit into separate time periods, is prohibited.

Article 8

ARCHITECTURAL RESTRICTIONS

8.1. Restrictions on Alterations. The Master Declaration contains certain restrictions and requirements applicable to alterations on the Property to which all Units in the Property are subject.

Article 9

ASSOCIATION MAINTENANCE RESPONSIBILITY

9.1. Maintenance by Association. The Association shall provide for all maintenance, repair or replacement (collectively referred to as "maintenance") of any Common Elements as may from time to time exist within the Property, as well as for maintenance, repair or replacement of any

Master Common Elements for which the Association may from time to time agree to be responsible.

9.2 Optional Maintenance by Association. In addition to the maintenance described in this Article, the Association may, with the approval of a majority of votes cast in person or by proxy at a meeting called for such purposes, undertake to provide maintenance services for the Units.

9.3 Maintenance by Owner. Subject to the provisions of Section 9.2, all maintenance of the Dwellings and Units shall be the sole responsibility and expense of the Owners thereof. The exteriors of Units shall be maintained in a good and attractive state of repair. Lawns and landscaping within Units shall be properly maintained in a neat and visually attractive manner.

Article 10

INSURANCE

10.1. Required Coverage. The Association shall obtain and maintain, at a minimum, a master policy or policies of insurance in accordance with the insurance requirements set forth in the Act and the additional requirements set forth herein, issued by a reputable insurance company or companies authorized to do business in the State of Minnesota, as follows;

- a. To the extent that the Association should at any time own any real property or tangible personal property, the Association shall maintain property insurance in broad form covering all risks of physical loss in an amount equal to one hundred percent (100%) of the insurable "replacement cost" of the Property, less deductibles, exclusive of land, footings, excavation and other items normally excluded from coverage (but including all building service equipment and machinery). The policy or policies shall cover personal property owned by the Association. The policy or policies shall also contain "Inflation Guard" and "Agreed Amount" endorsements, if reasonably available. Such policy or policies shall include such additional endorsements, coverages and limits with respect to the foregoing and other hazards as may be required from time to time by the regulations of the FHA or Federal National Mortgage Association ("FNMA") as a precondition to their insuring, purchasing or financing a mortgage on a Unit. The Board may also, on behalf of the Association, enter into binding written agreements with a mortgagee, insurer or servicer, including without limitation the FHA or FNMA, obligating the Association to keep certain specified coverages or endorsements in effect.
- b. To the extent that there should at any time exist Common Elements, or should the Association be charged with the responsibility for the maintenance and repair of any Master Common Elements, the Association shall maintain comprehensive public

liability insurance covering the use, operation and maintenance of the Common Elements, with minimum limits of \$1,000,000 per occurrence, against claims for death, bodily injury and property damage, and such other risks as are customarily covered by such policies for projects similar in construction, location and use to the Property. The policy shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of an Owner or Occupant because of negligent acts of the Association or other Owners or Occupants. The policy shall include such additional endorsements, coverages and limits with respect to such hazards as may be required by the regulations of the FHA or FNMA as a precondition to their insuring, purchasing or financing a mortgage on a Unit.

- c. Fidelity bond or insurance coverage against dishonest acts on the part of directors, officers, manager, trustees, employees or persons responsible for handling funds belonging to or administered by the Association if deemed to be advisable by the Board or by the regulations of the FHA or FNMA as a precondition to the purchase or financing of a mortgage on a Unit. The fidelity bond or insurance shall name the Association as the named insured and shall, if required by the regulations of the FHA or FNMA as a precondition to their insuring, purchasing or financing of a mortgage on a Unit, be written in an amount equal to the greater of (i) the estimated maximum of Association funds, including reserves, in the custody of the Association or management agent at any given time while the bond is in force, or (ii) a sum equal to three months aggregate assessments on all Units plus reserves. An appropriate endorsement to the policy to cover any persons who serve without compensation shall be added if the policy would not otherwise cover volunteers, or a waiver of defense based upon the exclusion of persons serving without compensation shall be added.
- d. Workers' Compensation insurance as required by law.
- e. At the option of the Board of Directors, directors and officers liability insurance with such reasonable limits and coverages as the Board shall determine from time to time.
- f. Such other insurance as the Board may determine from time to time to be in the best interests of the Association and the Owners.

10.2. Premiums; Improvements; Deductibles. All insurance premiums shall be assessed and paid as a Common Expense.

10.3. Loss Payee; Insurance Trustee. All insurance coverage maintained by the Association shall be written in the name of, and the proceeds thereof shall be payable to, the Association (or a qualified insurance trustee selected by it) as trustee for the benefit of the Owners

and secured parties, including Eligible Mortgagees, which suffer loss. The Association, or any insurance trustee selected by it, shall have exclusive authority to negotiate, settle and collect upon any claims or losses under any insurance policy maintained by the Association.

10.4. Waivers of Subrogation. All policies of insurance shall contain waivers of subrogation by the insurer against the Association, other Owners, the members of each Owner's household, the officers or directors, as applicable, and, if available, waivers of any defense based on co-insurance or of invalidity from any acts of the insured.

10.5. Cancellation; Notice of Loss. All policies of property insurance and comprehensive liability insurance maintained by the Association shall provide that the policies shall not be cancelled or substantially modified, for any reason, without at least thirty (30) days prior written notice to the Association, to the FHA or FNMA (if applicable), all of the insureds and all Eligible Mortgagees.

10.6. Restoration in Lieu of Cash Settlement. All policies of property insurance maintained by the Association shall provide that, despite any provisions giving the insurer the right to elect to restore damage in lieu of a cash settlement, such option shall not be exercisable (i) without the prior written approval of the Association (or any Insurance Trustee) or (ii) when in conflict with provisions of any insurance trust agreement to which the Association may be a party, or any requirement of law.

10.7. No Contribution. All policies of insurance maintained by the Association shall be the primary insurance where there is other insurance in the name of the Owner covering the same property, and may not be brought into contribution with any insurance purchased by Owners or their Eligible Mortgagees.

10.8. Effect of Acts Not Within Association's Control. All policies of insurance maintained by the Association shall provide that the coverage shall not be voided by or conditioned upon (i) any act or omission of an Owner or Eligible Mortgagee, unless acting within the scope of authority on behalf of the Association, or (ii) any failure of the Association to comply with any warranty or condition regarding any portion of the Property over which the Association has no control.

10.9. Owner's Personal Insurance. Each Owner shall separately insure, at said Owner's expense, the Dwelling and other improvements within said Owner's Unit. Each Owner may obtain such other insurance coverage at his or her own expense covering fire and other casualty to his or her Unit, personal property or personal liability. All insurance policies maintained by Owners shall provide that they are without contribution as against the insurance purchased by the Association.

Article 11

EASEMENTS

11.1. Easements for Utilities. The Property shall be subject to non-exclusive, appurtenant easements for all utilities, including natural gas, electric, telephone, water, sewer, and similar services, which exist from time to time, as constructed or referred to in the CIC Plat, or as otherwise described in this Declaration or any other duly recorded instrument.

Article 12

COMPLIANCE AND REMEDIES

Each Owner and Occupant, and any other Person owning or acquiring any interest in the Property, shall be governed by and comply with the provisions of the Act, the Governing Documents, the Rules and Regulations, the decisions of the Association and such amendments thereto as may be made from time to time. A failure to comply shall entitle the Association to the relief set forth in this Article, in addition to the rights and remedies authorized elsewhere by the Governing Documents and the Act.

12.1. Entitlement to Relief. The Association may commence legal action to recover sums due, for damages, for injunctive relief or to foreclose a lien owned by it, or any combination thereof, or an action for any other relief authorized by the Governing Documents or available at law or in equity. Legal relief may be sought by the Association against any Owner, or by an Owner against the Association or another Owner, to enforce compliance with the Governing Documents, the Rules and Regulations, the Act or the lawful decisions of the Association. However, no Owner may withhold any assessments payable to the Association, or take (or omit) other action in violation of the Master Declaration, the Governing Documents, the Rules and Regulations or the Act, as a measure to enforce such Owner's position, or for any other reason.

12.2. Sanctions and Remedies. In addition to any other remedies or sanctions, expressed or implied, administrative or legal, the Association shall have the right, but not the obligation, to implement any one or more of the following actions against Owners and Occupants and/or their guests, who violate the provisions of the Master Declaration, the Governing Documents, the Rules and Regulations or the Act:

- a. Commence legal action for damages or equitable relief in any court of competent jurisdiction.

- b. Impose late charges of up to fifteen percent (15%) of each late payment of an assessment or installment thereof.
- c. In the event of default of more than thirty (30) days in the payment of any assessment or installment thereof, all remaining installments of assessments assessed against the Unit owned by the defaulting Owner may be accelerated and shall then be payable in full if all delinquent assessments, together with all costs of collection and late charges, are not paid in full prior to the effective date of the acceleration. Reasonable advance written notice of the effective date of the acceleration shall be given to the defaulting Owner.
- d. Impose reasonable fines, penalties or charges for each violation of the Act, the Governing Documents or the Rules and Regulations of the Association.
- e. Restore any portions of the Common Elements which may from time to time exist within the Property damaged or altered, or allowed to be damaged or altered, by any Owner or Occupant or their guests in violation of the Governing Documents, and, subject to the provisions of this Declaration, to assess the cost of such restoration against the responsible Owners and their Units.
- f. Enter any Unit (but not the Dwelling on said Unit) in which, or as to which, a violation or breach of the Governing Documents or Rules and Regulations exist which materially affects, or is likely to materially affect in the near future, the health or safety of the other Owners or Occupants or their guests, or the safety or soundness of any Dwelling or other part of the Property or the property of the Owners or Occupants, and to summarily abate and remove, at the expense of the offending Owner or Occupant, any structure, thing or condition within the Unit which is causing the violation; provided, that any improvements which are within a Unit may be altered or demolished only pursuant to a court order or with the agreement of the Owner.
- g. Foreclose any lien arising under the provisions of the Governing Documents or under the Act or applicable law, in the manner provided for the foreclosure of mortgages by action or under a power of sale in the state of Minnesota.

12.3. Rights to Hearing. In the case of imposition of any of the remedies authorized by this Article, the Board shall, upon written request of the offender, grant to the offender a fair and equitable hearing as contemplated by the Act. The offender shall be given notice of the nature of the violation and the right to a hearing, and at least ten (10) days within which to request a hearing. The hearing shall be scheduled by the Board and held within thirty (30) days of receipt by the Board of the hearing request, and with at least ten (10) days prior written notice to the offender. If the offending Owner fails to appear at the hearing then the right to a hearing shall be waived and

the Board may take such action as it deems appropriate. The decision of the Board and the rules for the conduct of hearings established by the Board shall be final and binding on all parties. The Board's decision shall be delivered in writing to the offender within ten (10) days following the hearing, if not delivered to the offender at the hearing.

12.4. Lien for Charges, Penalties, Etc. Any assessments, charges, fines, penalties or interest imposed under this Article shall be a lien against the Unit of the Owner or Occupant against whom the same are imposed and the personal obligation of such Owner in the same manner and with the same priority and effect as an assessment under Article 6. The lien shall attach as of the date of imposition of the remedy, but shall not be final as to violations for which a hearing is held until the Board gives written notice following the hearing. All remedies shall be cumulative, and the exercise of, or failure to exercise, any remedy shall not be deemed a waiver of the right to pursue any others.

12.5. Costs of Proceeding and Attorney Fees. With respect to any collection measures, or any measures or action, legal, administrative, or otherwise, which the Association takes to enforce the provisions of the Act, Governing Documents or Rules and Regulations, whether or not finally determined by a court or arbitrator, the Association may assess the violator and his or her Unit with any expenses incurred in connection with such enforcement, including without limitation fines or charges previously imposed by the Association, reasonable attorneys, fees, and interest (at the highest rate allowed by law) on the delinquent amounts owed to the Association.

12.6. Liability for Owners' and Occupants' Acts. An Owner shall be liable for the expense of any maintenance, repair or replacement of the Property rendered necessary or proper by such Owner's acts or omissions, or by that of Occupants or guests in the Owner's Unit, to the extent that such expense is not covered by the proceeds of insurance carried by the Association or such Owner or Occupant. However, any insurance deductible amount and/or increase in insurance rates, resulting from the Owner's acts or omissions may be assessed against the Owner responsible for the condition and against his or her Unit.

12.7. Enforcement by Owners. The provisions of this Article shall not limit or impair the independent rights of other Owners to enforce the provisions of the Master Declaration, Governing Documents, the Rules and Regulations, and the Act as provided therein.

Article 13

SPECIAL DECLARANT RIGHTS

Declarant hereby reserves exclusive and unconditional authority to exercise the following special declarant rights within the meaning of Section 515B.1-103 (31) of the Act for as long as it owns a Unit, or for such shorter period as may be specifically indicated:

13.1. Complete Improvements. To complete Dwellings and other improvements located within the Units and to make alterations to accommodate its sales facilities;

13.2. Relocate Boundaries. To relocate boundaries between Units;

13.3. Sales Facilities. To construct, operate and maintain one or more sales offices, management offices, model Units and other development, sales and rental facilities within the portions of the Property owned by Declarant;

13.4. Signs. To erect and maintain signs and other sales displays offering the Units for sale or lease, in or on any Unit owned by Declarant and on any portion of the Master Common Elements as may be permitted by the Master Association;

13.5. Easements. To have and reasonably use easements, for itself, its employees, contractors, representatives, agents and prospective purchasers within the Property for the purpose of exercising its Special Declarant Rights; and

13.6. Control of Association. To control the operation and administration of the Association, including without limitation the power to appoint and remove the Members of the Board pursuant to Section 515B.3-103 of the Act, until the earliest of: (i) voluntary surrender of control by Declarant, (ii) an Association meeting which shall be held within sixty (60) days after conveyance to Owners other than Declarant of seventy-five percent (75%) of the total number of Units authorized to be included in the Property or (iii) the date five (5) years following the date of the first conveyance of a Unit to an Owner other than a Declarant. Notwithstanding the foregoing, the Owners other than a Declarant shall have the right to nominate and elect not less than Thirty-three and one-third percent (33 1/3%) of the directors at a meeting of the Owners which shall be held within sixty (60) days following the conveyance by Declarant of fifty percent (50%) of the total number of Units authorized to be included in the Property.

13.7. Consent to Certain Amendments. As long as Declarant owns any unsold Unit, Declarant's written consent shall be required for any amendment to the Governing Documents or Rules and Regulations which directly or indirectly affect or may affect Declarant's rights under the Governing Documents.

Article 14

RIGHTS TO RELOCATE UNIT BOUNDARIES

14.1 Rights to Relocate Boundaries. Existing or future Unit boundaries may be relocated only in accordance with the following conditions:

- a. Relocation of Boundaries. The boundaries between adjoining Units may be relocated in accordance with Section 515B.2-114 of the Act.
- b. Subdivision or Conversion. No additional Units may be created by the subdivision or conversion of a Unit (within the meaning of the Act) into two (2) or more Units, nor into other Units, Common Elements or Limited Common Elements.
- c. Requirements. The relocation of boundaries may be accomplished only in accordance with the following conditions:

(1) The prior written consent of the Association shall be required for any relocation, except relocation of boundaries by Declarant. Where required, such consent shall be requested in writing by each Owner whose Unit boundary is to be relocated, accompanied by such explanation, drawings, and specifications relating to the proposed relocation as may be reasonably required by the Association or the first mortgagee of the Unit. The Association shall give such Owner(s) notice in an expeditious manner, granting, denying or qualifying its consent.

(2) The Association may require that the Owners of the Units whose boundaries are being relocated pay all costs of processing and documentation for the request and the preparation and recording of any necessary amendment to the Governing Documents, including without limitation such costs as filing, surveyors' and attorneys' fees, incurred by the Association in connection with the relocation.

Article 15

AMENDMENTS

This Declaration may be amended by the consent of (i) Owners of Units to which are allocated at least sixty-seven percent (67%) of the votes in the Association, (ii) the percentage of Eligible Mortgagees (based upon one (1) vote per first mortgage owned) required by Article 16 as to matters prescribed by said Article and (iii) the consent of Declarant to certain amendments as provided in **Section 13.7**. Consent of the Owners may be obtained in writing or at a meeting of the

Association duly held in accordance with the By-Laws. Consents of Eligible Mortgagees and the Declarant shall be in writing. Any amendment shall be subject to any greater requirements imposed by the Act. During any period of Declarant control, any amendment to this Declaration shall require the written consent of the Secretary of the United States Department of Veterans' Affairs. The Amendment shall be effective when recorded as provided in the Act. An affidavit by the Secretary of the Association as to the outcome of the vote, or the execution of the foregoing agreements or consents, shall be adequate evidence thereof for all purposes, including without limitation, the recording of the amendment.

Article 16

RIGHTS OF ELIGIBLE MORTGAGEES

Notwithstanding anything to the contrary in the Governing Documents, and subject to any greater requirements of the Act or other laws, Eligible Mortgagees shall have the following rights and protections:

16.1. Consent to Certain Amendments. The written consent of Eligible Mortgagees representing at least fifty-one percent (51%) of the Units that are subject to first mortgages held by Eligible Mortgagees (based upon one (1) vote per first mortgage owned) shall be required for any amendment to the Governing Documents which causes any change in the following: (i) voting rights; (ii) assessments, assessment liens, or priority of assessment liens; (iii) reserves for maintenance, repair and replacement of Common Elements; (iv) responsibility for maintenance and repairs; (v) reallocation of interests in any Common Elements that may from time to time exist, or rights to their use; (vi) redefinition of any Unit boundaries affecting the Unit encumbered by such Mortgagee's mortgage; (vii) convertibility of Units into Common Elements or vice versa; (viii) expansion or contraction of the Property or the addition, annexation or withdrawal of property to or from the Property (except as provided in Article 16); (ix) insurance or fidelity bonds; (x) leasing of Units; (xi) imposition of any restrictions on an Owner's right to sell or transfer his or her Unit; (xii) a decision by the Association to establish self management when professional management is in effect as required previously by the Governing Documents or an Eligible Mortgagee; (xiii) restoration or repair of the Property (after damage or partial condemnation) in a manner other than that specified in the Governing Documents; (xiv) any action to terminate the legal status of the Common Interest Community after substantial destruction or condemnation occurs; or (xv) any provisions that expressly benefit Eligible Mortgagees, or insurers or guarantors of mortgages.

16.2. Consent to Certain Actions. The written consent of Eligible Mortgagees representing at least sixty-seven percent (67%) of the Units that are subject to first mortgages held by Eligible Mortgagees (based upon one (1) vote per first mortgage owned) shall be required to (i) abandon or terminate the Common Interest Community; (ii) change the allocations of voting rights, Common Expense obligations or interest in the Common Elements; (iii) partition or subdivide a

Unit except as permitted by statute; (iv) abandon, partition, subdivide, encumber or sell such Common Elements as may from time to time exist; or (v) use hazard insurance proceeds payable to the Association for other than the repair, replacement or reconstruction of the improvements insured by such insurance, except as otherwise provided by law.

16.3. Consent to Subdivision. No Unit may be partitioned or subdivided without the prior written approval of the Owner, any Eligible Mortgagee thereof and the Association.

16.4. No Right of First Refusal. The right of an Owner to sell, transfer or otherwise convey his or her Unit shall not be subject to any right of first refusal or similar restrictions.

16.5. Priority of Lien. Any holder of a first mortgage on a Unit or any purchaser of a first mortgage at a foreclosure sale, that comes into possession of a Unit by foreclosure of the first mortgage or by deed or assignment in lieu of foreclosure, takes the Unit free of any claims for unpaid assessments or any other charges or liens imposed against the Unit by the Association which have accrued against such Unit prior to the acquisition of possession of the Unit by said first mortgage holder or purchaser except (i) as provided in Sections 6.7, 6.9 and the Act and (ii) that any unreimbursed assessments or charges may be reallocated among all Units in accordance with their interests in the Common Elements.

16.6. Priority of Taxes and Other Charges. All taxes, assessments and charges which may become liens prior to the first mortgage under state law shall relate only to the individual Units and not to the Property as a whole.

16.7. Priority for Insurance Proceeds and/or Condemnation Awards. No provision of the Governing Documents shall give an Owner, or any other party, priority over any rights of the Eligible Mortgagee of the Unit pursuant to its mortgage in the case of a distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Unit and/or such Common Elements as may from time to time exist. The Association shall give written notice to all Eligible Mortgagees of any condemnation or eminent domain proceeding affecting the Property promptly upon receipt of notice from the condemning authority.

16.8. Requirements of Management Agreements. The term of any agreement for professional management of the Property may not exceed two (2) years. Any such agreement must provide, at a minimum, for termination without penalty or termination fee by either party (i) with cause upon thirty (30) days prior written notice, and (ii) without cause upon ninety (90) days prior written notice.

16.9. Access to Books and Records/Audit. Eligible Mortgagees shall have the right to examine the books and records of the Association upon reasonable notice during normal business hours, and to receive, free of charge, upon written request, copies of the Association's annual reports and other financial statements. Financial statements, including those which are audited,

shall be available within one hundred twenty (120) days of the end of the Association's fiscal year. If a request is made by FNMA or any institutional guarantor or insurer of a mortgage loan against a Unit, for an audit of the Association's financial statements for the preceding year, the Association shall cause an audit to be made and deliver a copy to the requesting party.

16.10. Notice Requirements. Upon written request to the Association, identifying the name and address of the holder, insurer or guarantor of a mortgage on a Unit, and the Unit number or address, the holder, insurer or guarantor shall be entitled to timely written notice of:

- a. A condemnation loss or any casualty loss which affects a material portion of the Property or the Unit securing the mortgage;
- b. A sixty (60) day delinquency in the payment of assessments or charges owed by the Owner of a Unit on which it holds a mortgage;
- c. A lapse, cancellation or material modification of any insurance policy maintained by the Association; and
- d. A proposed action which requires the consent of a specified percentage of Eligible Mortgagees.

Article 17

MISCELLANEOUS

17.1. Severability. If any term, covenant, or provision of this instrument or any exhibit attached hereto is held to be invalid or unenforceable for any reason whatsoever, such determination shall not be deemed to alter, affect or impair in any manner whatsoever any other portion of this instrument or exhibits.

17.2. Construction. Where applicable the masculine gender of any word used herein shall mean the feminine or neutral gender, or vice versa, and the singular of any word used herein shall mean the plural, or vice versa. References to the Act, or any section thereof, shall be deemed to include any statutes amending or replacing the Act, and the comparable sections thereof.

17.3. Tender of Claims. In the event that any incident occurs which could reasonably give rise to a demand by the Association against Declarant for indemnification pursuant to the Act, the Association shall promptly tender the defense of the action to its insurance carrier, and give Declarant written notice of such tender, the specific nature of the action and an opportunity to defend against the action.

COMMON INTEREST COMMUNITY NO. 59

THE FAIRWAYS AT DEACON'S WALK

EXHIBIT A TO DECLARATION

LEGAL DESCRIPTION OF PROPERTY

Lots 1 through 11, Block 4, TPC First Addition
Lots 1 through 7, Block 5, TPC First Addition
Lots 1 through 11, Block 6, TPC Seventh Addition
Lots 1 through 25, Block 6, TPC Eighth Addition
Lots 1 through 16, Block 7, TPC Eighth Addition
Lots 1 through 17, Block 8, TPC Eighth Addition
Lots 1 through 7, Block 1, TPC Ninth Addition
Lots 1 through 9, Block 2, TPC Ninth Addition
Lots 1 through 19, Block 3, TPC Ninth Addition
Lots 1 through 21, Block 4, TPC Ninth Addition
Lots 1 through 4, Block 5, TPC Ninth Addition, all in Common Interest Community No. 49,
Anoka County, Minnesota.

ABSTRACT

| | |
|--|--|
| Receipt # <u>105203/40.50</u> | <input type="checkbox"/> Certified Copy Date Mailed _____ |
| Date/Time: <u>10.1 / 15:30</u> | <input type="checkbox"/> Tax Liens / Releases |
| Doc. Order <u>1</u> of <u>1</u> | <input type="checkbox"/> Multi-Co Doc Tax Pd |
| ✓ by: Pins: <u>SW</u> | <input type="checkbox"/> Transfer <input type="checkbox"/> New Desc. |
| Recordability / Delays: <u>SW</u> | <input checked="" type="checkbox"/> Division <input type="checkbox"/> GAC |
| Filing Fees: <u>40.50 NS</u> | <input type="checkbox"/> Status <input type="checkbox"/> Def. Spec |
| Well Certificate Received this Date: _____ Anoka County Recorder | <input type="checkbox"/> Other <input checked="" type="checkbox"/> No Change |
| Notes: <u>copy / xtra pas / NS</u> | |

DOCUMENT NO. 1459879.0 ABSTRACT

ANOKA COUNTY MINNESOTA

I HEREBY CERTIFY THAT THE WITHIN INSTRUMENT WAS FILED IN THIS OFFICE
FOR RECORD ON OCT 01 1999
AT 3:30 PM AND WAS DULY RECORDED.
FEES AND TAXES IN THE AMOUNT OF \$40.50 PAID.

RECEIPT NO. 1999105203

EDWARD M. TRESKA

ANOKA COUNTY PROPERTY TAX ADMINISTRATOR/RECORDER/REGISTRAR OF TITLES

RP

BY _____
DEPUTY PROPERTY TAX ADMINISTRATOR/RECORDER/REGISTRAR OF TITLES