

15
X SER 5009 PG 667

STATE OF MICHIGAN
COUNTY OF KENT
REGISTERED FOR RECORD

2002 JAN 14 PM 1:52

W. J. Hollman
REG. OF DEEDS

ASSIGNMENT OF DEVELOPER'S RIGHTS

THIS ASSIGNMENT OF DEVELOPER'S RIGHTS (the "Assignment") is made as of September 30, 2001, between B.B.S. CAPITAL, L.L.C., a Michigan limited liability company, whose address is 309 East Main Street, Lowell, Michigan 49331 (the "Developer") and INDEPENDENT BANK, a Michigan banking corporation, whose address is 230 W. Main Street, Ionia, Michigan 48846 (the "Bank").

The Bank has agreed to execute and deliver a Consent to Submission of Real Property to Condominium Project in connection with the Conservancy Woods condominium project (the "Consent").

In consideration of the Bank executing and delivering the Consent, the Developer is entering into this Assignment of Developer's Rights pursuant to the term of this Assignment.

THE PARTIES AGREE AS FOLLOWS:

SECTION 1--ASSIGNMENT OF RIGHTS

Section 1.1. Assignment of Rights. The Developer hereby assigns to the Bank the following specific rights (together with associated powers and interests) that the Developer has under the master deed of the Conservancy Woods condominium project (the "Master Deed") to be located on the real property that is described on attached Exhibit A (the "Condominium Project"):

- a. all rights of Developer to change or modify the size and/or location of units and the common elements appurtenant to or servicing the unit, including, but not limited to the rights of Developer provided in Sections 4.2 (i), 4.5, 5.2, and 5.4 of the Master Deed;
- b. all rights of Developer to expand or contract the Condominium Project, including, but not limited to the rights of Developer provided in Section 6.2, 6.4, 6.5, 6.6 7.1, 7.3, 7.4 and 7.5 of the Master Deed; and
- c. all rights of Developer to amend or terminate the Condominium Project, including, but not limited to the rights of Developer provided in Section 9 of the Master Deed.

Each of the above items (a) through (c) is referred to in this Assignment individually as an "Assigned Right" and collectively as the "Assigned Rights."

Section 1.2 Bank's Consent; Annulment of Assignment. The Bank, in its sole discretion, may give its prior written consent to the Developer's exercise of any Assigned Right (the "Consent"). The Consent shall operate as a partial annulment of the assignment by Developer of such right, but only to the extent specified in the Consent. The Developer shall, therefore, have the right in that specific instance after receiving the Consent to exercise that Assigned Right in accordance with the Consent (which may be conditioned) as if the Assigned Right had never been assigned to the Bank. No partial

DER 509 PG 668

annulment shall have any future affect on any aspect of that right or any other of the Assigned Rights, including, but not limited to, a possible future substantially identical exercise by the Developer of an Assigned Right, which shall require an additional Consent. Any attempted exercise by the Developer of any Assigned Right is null and void unless Bank gives its Consent to the Developer exercising the Assigned Right.

Section 1.3 Bank's Right to Take Action. The Bank shall have the right, but not the duty, to take any or all action as the Bank may at any time or from time to time determine to be necessary or desirable in exercising any power assigned to Bank in this Assignment. The Bank shall incur no liability to Developer if any action taken by it, or in its behalf, in good faith, pursuant to this Section shall prove to be in whole or in part inadequate, ineffective or invalid, and Developer agrees to indemnify and hold the Bank harmless from and against any loss, cost, liability or expense, including, but not limited to reasonable attorneys' fees incurred in connection with any action by the Bank.

Section 1.4. Developer's Representations and Warranties. Developer represents and warrants to the Bank that (i) the execution, delivery, and performance of this Assignment will not violate any law, rule, judgment, order, agreement or instrument binding upon the Developer, or require the approval of any public authority or other third party; and (ii) this Assignment is a valid and binding obligation of Developer, enforceable in accordance with its terms.

Section 1.5. Developer's Continuing Obligation; Indemnification. Neither this assignment nor any action taken by the Bank under this Assignment shall constitute an assumption by the Bank of any obligations under the condominium documents. Developer shall continue to be solely and exclusively liable for all of Developer's obligations under the condominium documents and Developer hereby agrees to perform each and all such obligations. Developer further agrees to indemnify and hold the Bank harmless from and against any loss, cost, liability or expense, including, but not limited to reasonable attorneys' fees, resulting from Developer's default or failure to perform under the condominium documents.

Section 1.6. Power of Attorney. Developer hereby irrevocably constitutes and appoints the Bank its true and lawful attorney-in-fact, in Developer's name or in the Bank's name with full power of substitution, to execute any and all documents pursuant to or in connection with the Developer's rights under the condominium documents that have been assigned in this Assignment and to enforce all rights and pursue causes of action of Developer under the condominium documents relating to rights that have been assigned in this Assignment. This power of attorney shall be deemed to be a power coupled with an interest, shall be irrevocable, and shall survive the dissolution of Developer.

SECTION 2--GENERAL

Section 2.1 Further Assurances. The Developer shall execute and deliver to the Bank any documents as may be necessary or desirable for the purpose of giving full force and effect to the provisions of this Assignment, and shall do all other things necessary to this end, all without expense to the Bank.

Section 2.2 Relationship of Parties. Nothing contained in this Assignment nor any other act of the parties shall be deemed or construed by any party or by any third party to create the relationship of principal and agent, of partnership, of joint venture, of joint enterprise, or of any association between the Developer and the Bank, nor shall anything contained in this Assignment or any act of the parties be construed to render the Bank liable for the debts or obligations of the Developer.

Section 2.3 No Third Party Beneficiaries. No third party shall be a beneficiary of any provision of this Assignment.

PER 5809 PG 669

Section 2.4. Waiver. No term or provision of this Assignment shall be deemed waived unless the waiver shall be in writing and signed by the Bank. Any failure by the Bank to insist upon the Developer's strict performance of any of the terms of this Assignment shall not constitute a waiver of those or any other terms and shall not prevent the Bank from exercising any rights available to it at law or in equity.

Section 2.5. Headings. All section headings are for convenience only and shall not be interpreted to enlarge or restrict the provisions of this Assignment.

Section 2.6. Notices. All notices shall be in writing and shall be sent to the respective addresses as shown on the first page of this Assignment. A notice may be hand delivered or mailed with postage prepaid, first class, registered or certified, return receipt requested. Any notice sent by mail shall be deemed to have been received on the second business day following the date of mailing.

Section 2.7. Binding Effect. This Assignment shall bind the parties and their respective successors and permitted assigns.

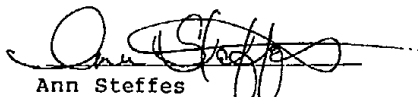
Section 2.8. Amendment. This Assignment may be modified and amended only in writing signed by all parties.

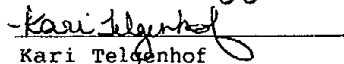
Section 2.9. Severability. In the event any provision of this Assignment shall be held invalid or unenforceable in any legal action by any court or other governmental authority of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Assignment.

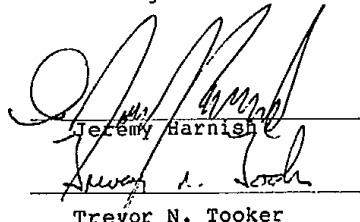
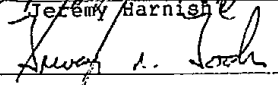
Section 2.10. Applicable Law. This Assignment shall be governed by the laws of the State of Michigan that are applied to agreements made and to be performed in that state.

The parties have executed this Assignment as of the date first written above.

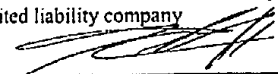
WITNESSES:


Ann Steffes

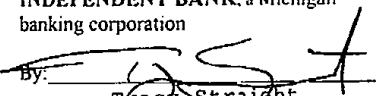

Kari Telgenhof


Jeremy Harnish

Trevor N. Tooker

B.B.S. CAPITAL, L.L.C., a Michigan
limited liability company

By: 
Steve Hanson
Its: Member

INDEPENDENT BANK, a Michigan
banking corporation

By: 
Tracy Straight
Its: Assistant Vice President

5809 PG 670

STATE OF MICHIGAN)
) ss.
COUNTY OF KENT)

Acknowledged before me September 30, 2001, by Steven D. Hanson, the
Authorized Member of B.B.S. CAPITAL, L.L.C., a Michigan limited liability company, on behalf
of the company.

Kari Lynn Telgenhof
Ottawa County acting in Kent
Notary Public, Kent County, MI
My Commission Expires: 01-11-2003
Kari Lynn Telgenhof

STATE OF MICHIGAN)
) ss.
COUNTY OF KENT)

Acknowledged before me January 11, 2002 by Tracy Straight, the
Vice President of INDEPENDENT BANK, a Michigan banking corporation, on behalf of the
corporation.

Trevor N. Tooker
Trevor N. Tooker
Notary Public, Kent County, MI
My Commission Expires: 02-23-03

Prepared By and Return To:
Laura J. Luyendyk
McSHANE & BOWIE, P.L.C.
99 Monroe Ave., N.W., #1100
Grand Rapids, MI 49501-0360
-61941 v7

EXHIBIT 5809 PG 671

EXHIBIT A

Legal Description of Real Estate

That part of the Southwest 1/4 of Section 3, Town 6 North, Range 9 West, City of Lowell, Kent County, Michigan, described as: Commencing at the South 1/4 corner of said Section; thence North 00°06'00" West 1385.57 feet along the North-South 1/4 line of said Section to the Point of Beginning; thence South 89°54'00" West 727.00 feet; thence North 00°06'00" West 334.55 feet along the West line of the East 727.00 feet of the Southwest 1/4 of said Section; thence North 89°28'00" West 0.25 feet along the South line of the North 930.00 feet of the Southwest 1/4 of said Section; thence North 00°06'00" West 65.45 feet; thence North 89°54'00" East 727.25 feet; thence South 00°06'00" East 400.00 feet along the North-South 1/4 line to the Point of Beginning.

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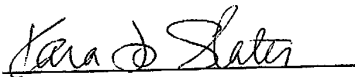
curbs, gutters, landscaping and plantings, provided no such work significantly changes the grade or otherwise limits or impairs the City's access over the Easement. The Grantor agrees not to construct any buildings within the Easement.

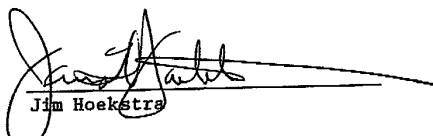
5. The Grantor and its successors or assigns agree that if any buildings or other structures are constructed by it, its successors or assigns, near or adjacent to the Easement, and, because of the construction of such buildings and other structures, it should become necessary to structurally support, shore, brace or otherwise provide for the stability of such buildings, surface or subsurface structures so that the City may perform the work of maintaining, replacing and repairing said public sanitary sewer and the pertinent facilities, the Grantor shall assume such expense for support, shoring and bracing; provided, however, that the City shall consult with the Grantor, its successors and assigns, before performing the work with respect to alternative methods of repair, improvements, maintenance or replacement. The Grantor and the City shall confer promptly and shall avoid jeopardizing the health, welfare and safety of the public by unnecessary delays in consultation.

6. The Grantor reserves the right to grant to others additional easement rights, in the Easement hereby being granted, for the installation and maintenance of gas, electric power, telephone structures and lines; said right being subject to approval by the City as to location and size of the proposed easement and utilities. That approval by the City shall not be unreasonably withheld. All such additional easements shall be subject to the prior rights of the City and additional expenses incurred in the construction, maintenance, repair or replacing of the utilities owned by the City, resulting from these additional easements and the presence of gas, electric or telephone structures and lines, shall be assumed by the owners of the structures of lines causing such extra expense.


IN WITNESS WHEREOF, the Grantor has executed this instrument as of the day and year first above-written.

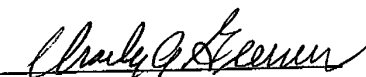
WITNESSES AS TO BOTH
SIGNATURES:


Kara J. Slater


Jim Hoekstra

A & C COMPANY
a Michigan Co-Partnership

By: 
Adrian C. Geenen Trust,
Adrian C. Geenen Trustee

By: 
Charles A. Geenen Trust,
Charles A. Geenen Trustee

LIBER 3995 PG 1301

STATE OF MICHIGAN)
 : ss.
COUNTY OF KENT)

On this 31st day of December, 1996, before me a Notary Public, personally appeared Adrian C. Geenen, Trustee for the Adrian C. Geenen Trust and Charles A. Geenen, Trustee for the Charles A. Geenen Trust, comprising all the partners of A & C Company, a Michigan Co-Partnership.

Kara J. Sater
Kara J. Sater
 , Notary Public

Kent County, Michigan

My commission expires: _____

Feb. 19, 1999 *K*

ACCEPTED:

CITY OF LOWELL

David M. Pasquale
David M. Pasquale, City Manager

Drafted By:
Richard A. Wendt
DICKINSON, WRIGHT, MOON,
VAN DUSEN & FREEMAN
200 Ottawa Avenue, NW, Suite 900
Grand Rapids, MI 49503

EASEMENT ACQUISITION

PARCEL DESCRIPTION FOR:

A & C COMPANY
400 136th AVENUE, SUITE 205
HOLLAND, MI 49424

Re: Ridgeview Residential

Description

That part of the SW 1/4, Section 3, T6N, R9W, City of Lowell, Kent County, Michigan, described as: BEGINNING at a point on the East line of said SW 1/4, which is N00°07'W 1385.57 feet from the S 1/4 corner of Section 3; thence S89°53'W 727.28 feet; thence N00°07'W 1264.62 feet; thence S89°27'56"E 100.0 feet along the North line of said SW 1/4; thence S00°07'E 200.0 feet; thence S89°27'56"E 627.29 feet; thence S00°07'E 1056.36 feet along the East line of said SW 1/4 to the place of beginning. Subject to highway R.O.W. for Gas Street over the Northerly 33 feet thereof. This parcel contains 18.165 Acres, including highway R.O.W.

PERMANENT EASEMENT DESCRIPTION:

THAT PART OF THE ABOVE DESCRIBED PARCEL BEING A STRIP OF LAND 30 FT. IN WIDTH 15 FT. EITHER SIDE OF A CENTERLINE DESCRIBED AS: BEGINNING ON THE WEST LINE OF SAID PARCEL 752.55 FT. NORTH FROM ITS SOUTHWEST CORNER; THENCE EASTERLY PERPENDICULAR TO THE N & S 1/4 LINE 467.60 FT. (TO A POINT 147.00 FT. NORTH OF THE SOUTH LINE OF SAID PARCEL); THENCE SOUTHEASTERLY 263.8 FT., MORE OR LESS, TO A POINT 91.9 FT. NORTH OF THE SOUTH LINE OF SAID PARCEL, AND A POINT OF ENDING. SAID PERMANENT EASEMENT CONTAINS 0.50 AC.

LIBER 3995 PG 1302

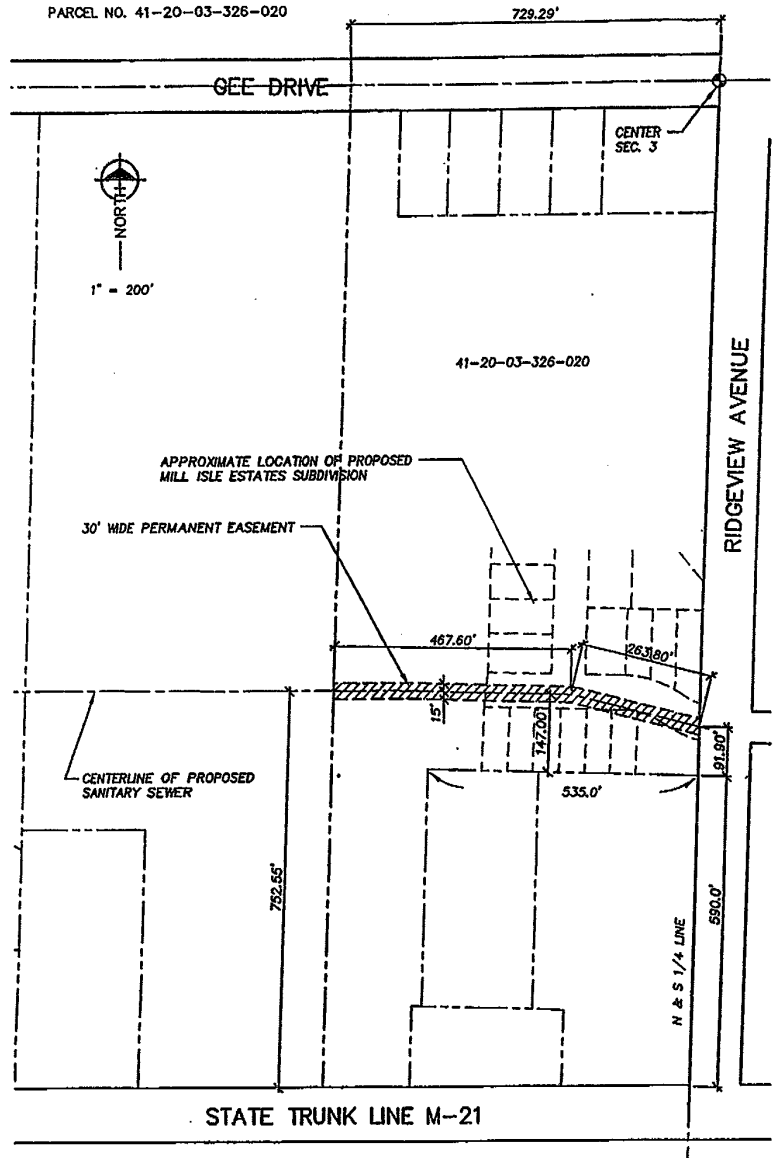
LIBER 3995 PG 1303

EASEMENT ACQUISITION

PARCEL DESCRIPTION FOR:

A & C COMPANY
400 136th AVENUE, SUITE 205
HOLLAND, MI 49424

PARCEL NO. 41-20-03-326-020



172
LIBER 5609 PG 565

STATE OF MICHIGAN
COUNTY OF KENT
RECEIVED FOR RECORD

2001 SEP 12 PM 12:40

Mary Holliman
REG. OF DEEDS

ACCESS EASEMENT

THIS AGREEMENT is made as of Aug. 24, 2001, between the **CITY OF LOWELL**, a Michigan municipal corporation, whose address is 301 E. Main Street, Lowell, Michigan 49331 (the "Grantor"), and **B.B.S. CAPITAL, L.L.C.**, a Michigan limited liability company, whose address is 309 East Main, Lowell, Michigan 49331 (the "Grantee") upon the following terms and conditions:

1. Purpose. Grantor and Grantee own adjacent parcels of land. Grantor has agreed to grant Grantee an easement across Grantor's parcel as set forth in this Agreement.

2. Burdened Property and Description of Easement. The Grantor is the owner of land in the City of Lowell, Kent County, Michigan, and grants to the Grantee, for good and valuable consideration, the receipt and sufficiency of which is acknowledged, a nonexclusive easement for ingress, egress and utilities over the Burdened Premises legally described as follows:

See the attached Exhibit A (the "Easement Property").

This instrument is exempt from transfer tax pursuant to MCLA 207.505(a) and 207.526(a).

3. Benefited Property. The Grantee is the owner of adjacent land in the City of Lowell, Kent County, Michigan legally described as follows:

See the attached Exhibit B (the "Benefited Property").

Grantee intends to develop a condominium project on the Benefited Property.

4. Use. Grantee may construct a roadway on the Easement Property. The Easement Property may be used by the Grantee, its successors and assigns (including any condominium association and its members), for pedestrian and vehicular access to Ridgeview Avenue and/or Sibley Street and for the installation of underground utilities serving the Benefited Property. No parking of vehicles shall be permitted within the Easement Property.

LIBER 5609 PG 566

5. Maintenance of the Easement Property. The Grantor shall, at its expense, maintain the roadway to be constructed on the Easement Property in good condition, and the Grantor shall also be responsible for snow removal on the Easement Property.

6. Interest in Realty. The Easement Property shall be a perpetual easement over the Burdened Property for the use and benefit of the Benefited Property and is to be an appurtenance to the Benefited Property, shall run with the land, and be an interest in realty.

7. Dedication as a Public Road. The Grantor may cause this Easement Property to be dedicated as a public road at a future date. If this Easement Property is dedicated as a public road, this Agreement shall terminate and be of no further force or effect.

8. Indemnity. The Grantee shall indemnify and hold the Grantor harmless from all claims, judgments, costs and expenses (including attorney fees) arising in connection with or as a result of the exercise of the rights of use granted in this Agreement.

9. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.

10. Entire Understanding. This Agreement contains the entire understanding of the parties and the parties acknowledge that there have been no representations or understandings other than those expressly set forth in this Agreement.

11. Modification. Any waiver, alteration or modification of any of the provisions of this Agreement shall not be valid unless in writing and executed by the parties.

12. Parties Bound. The terms and conditions of this Agreement shall bind and benefit the successors and assigns of the parties.

13. Construction. This Agreement shall be governed by and construed according to the laws of the State of Michigan.

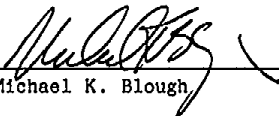
LIBER 5609 PG 567

THE PARTIES have signed this Agreement as of the date set forth above.

WITNESSES:

Grantor:

CITY OF LOWELL,
a Michigan municipal corporation

By: 
Michael K. Blough


Title: Mayor

And Attest By: 
Betty J. Morlock

Title: Clerk

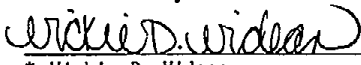
Grantee:

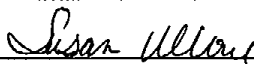
B.B.S. CAPITAL, L.L.C.,
a Michigan limited liability company

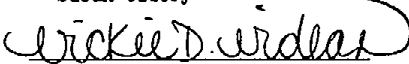
By: 
WILLIAM OVERBECK JR.


Its: MEMBER


* Susan Ullery


* Vickie D. Videan


* Susan Ullery

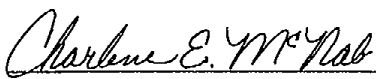

* Vickie D. Videan


* Roy D. Hight

STATE OF MICHIGAN)
) ss.
COUNTY OF Kent)

The foregoing instrument was acknowledged before me this 21st day of August, 2001, by Michael K. Blough, the Mayor of the City of Lowell, a Michigan municipal corporation, on behalf of the municipal corporation.

CHARLENE E. McNAB
Notary Public, Kent County, MI
My Comm. Expires 4/23/2002


* Notary Public, Kent County, Michigan
My commission expires: 04/23/2002

NUMBER 5609 PG 568

STATE OF MICHIGAN)
) ss.
COUNTY OF Kent)

The foregoing instrument was acknowledged before me this 21st day of August, 2001, by Betty R. Morlock, the Clerk of the City of Lowell, a Michigan municipal corporation, on behalf of the municipal corporation.

CHARLENE E. McNAB
Notary Public, Kent County, MI
My Comm. Expires 4/23/2002

Charlene E. McNab
*
Notary Public, Kent County, Michigan
My commission expires: 04/23/2002

STATE OF MICHIGAN)
) ss.
COUNTY OF KENT)

The foregoing instrument was acknowledged before me this 24th day of Aug, 2001, by WILLIAM OVERBECK JR, the MEMBER of B.B.S. Capital, L.L.C., a Michigan limited liability company, on behalf of the limited liability company.

William J. Blaw
* William J. Blaw
ACTING IN KENT
Notary Public, Kenosha County, Michigan
My commission expires: 4-8-2003

Drafted by:

Jonathan W. Anderson, Esq.
Varnum, Riddering, Schmidt & Howlett
P.O. Box 352
Grand Rapids, MI 49501-0352

After recording, please return to:
Jonathan W. Anderson

LIBER 5609 PG 569

EXHIBIT A

(The "Easement Property")

That part of the SE 1/4 of Section 3, T6N, R9W, City of Lowell, Kent County, Michigan, described as: Commencing at the South 1/4 corner of said Section; thence N 00°06'00" W 1511.20 feet along the N - S 1/4 line of said Section to the Point of Beginning; thence S 89°45'00" E 100.00 feet; thence N 00°06'00" W 200.00 feet; thence N 89°45'00" W 100.00 feet; thence S 00°06'00" E 200.00 feet along the N - S 1/4 line of said Section to the Place of Beginning.

LIBER 5609 PG 570

EXHIBIT B

(the "Benefited Parcel")

That part of the SW 1/4 of Section 3, T6N, R9W, City of Lowell, Kent County, Michigan, described as: Commencing at the South 1/4 corner of said Section; thence N00°06'00"W 1385.57 feet along the N-S 1/4 line of said Section to the Point of Beginning; thence S89°54'00"W 727.00 feet; thence N00°06'00"W 334.55 feet along the West line of the East 727.00 feet of the SW 1/4 of said Section; thence N89°28'00"W 0.25 feet along the South line of the North 930.00 feet of the SW 1/4 of said Section; thence N00°06'00"W 65.45 feet; thence N89°54'00"E 727.25 feet; thence S00°06'00"E 400.00 feet along the N-S 1/4 line to the Point of Beginning.