

## DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (hereinafter "Agreement") made and entered into this 3 day of April 2007, by and between THE CITY OF PAPILLION, NEBRASKA, a Municipal Corporation, (hereinafter "City") and Tuscany Place, LLC, a Nebraska Limited Liability Company. (hereinafter "Developer").

### WITNESSED:

WHEREAS, Developer is the legal owner of the following legally described real estate, to-wit:

Lot 208, Stockman's Hollow, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska (the "Property");

WHEREAS, City, in the interest of maintaining the public health, safety and welfare, desires to assure that the Property be developed substantially in accordance with this Development Agreement and therefore considers this Agreement to be in the best interests of the City; and

WHEREAS, Developer is willing to commit itself to the development of the Property substantially in accordance with this Development Agreement and desires to have a reasonable amount of flexibility to carry out the development and therefore considers this Agreement to be in its best interests; and

WHEREAS, this agreement does not relinquish the developer from any requirements set forth in the City Zoning Ordinance and Subdivision Regulations; and

WHEREAS, the City and Developer desire to set forth in this Agreement their respective understandings and agreements with regard to the development of the Property.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties agree as follows:

1. Development of the Property. Except as otherwise permitted in this Agreement, the Property shall be developed in accordance with the terms and conditions of this Agreement with respect to the maximum density, site plan, building elevations, building materials and colors of the proposed structures to be constructed on the Property.

2. Minimum Standards and Site Regulators. The following minimum standards shall apply to the development of the Property:

(a) Maximum Density. The maximum density for the Property shall be 13 Units/Acre.

(b) Site Plan. The Property shall be developed generally in accordance with the site plan attached hereto as Exhibit "A" and incorporated herein by this reference (the "Site Plan"). It is intended that the Site Plan constitute a general schematic of the development indicating the manner in which the Developer intends to meet the requirements of this Agreement. All parties recognize that from time to time for good and sufficient reasons it may be necessary for the Developer to alter the size, location or type of the residential structures or other site improvements.

(c) Building Elevations. The building elevations for the residential structures shall be generally in accordance with the building elevations set forth on Exhibit "B" with respect to height, massing, setback and general design character. It is understood and agreed that the design details for the elevations, windows, building materials, and other architectural features may be modified from time to time by the owner or developer of such building, provided the general concept and integrity of such elevations, building materials and architectural features are generally complied with.

(d) Building Materials and Colors. The residential structures shall be composed of the following building materials: brick with coyne accents on the corners of the buildings, siding material of wood or simulated wood such as Hardi Plank. The deck railings will be made of metal or coated metal. The exterior color of the residential structures shall generally be earth tones with a theme reminiscent of the Tuscany area of Italy.

3. Amendments. Developer reserves the right to modify the Minimum Standards and Site Regulators set forth in Section 2, above by minor amendment provided that such modifications generally conform to the requirements set forth in Section 2, above. City reserves the right to require modifications to Minimum Standards and Site Regulators as part of Administrative site plan review, prior to the issuance of any building permit. All material changes that waive or are less restrictive to the Minimum Standards and Site Regulators shall be considered major amendments to be reviewed by the Planning Commission and approved by the City Council. The City Planning Director is authorized at his/her discretion to approve amendments to this Development Agreement; provided that:

(a) A written request is filed with the Planning Director, along with information specifying the exact nature of the proposed amendment.

(b) The amendment does not materially alter the approved Minimum Standards and Site Regulators set forth in Section 2, above, as reasonably determined by the City Planning Director.

4. Miscellaneous Provisions.

(a) Administration. The City Administrator of the City of Papillion or his or her designee, shall have the authority to administer this Agreement on behalf of the City and to exercise discretion with respect to those matters contained herein so long as the development proceeds in general accord with the Minimum Standards and Site Regulators and with regard to those matters not fully determined at the date of this Agreement. The provisions of this Agreement shall run with the Property in favor of and for the benefit of the City and shall be binding upon present and all successor owners of the Property.

(b) Nondiscrimination. Developer shall not, in the performance of this Agreement, discriminate or permit discrimination in violation of federal or state laws or local ordinances because of race, color, sex, age, political or religious opinions, affiliations, or national origin.

(c) Applicable Law. Parties to this contract shall conform with all existing and applicable City ordinances, resolutions, state and federal laws, and all existing and applicable rules and regulations. Nebraska law will govern the terms and the performance under this Agreement.

(d) Severability. If any provision of this Agreement is held invalid, such provision shall be deemed to be exercised therefrom and the invalidity thereof shall not affect any of the other provisions contained herein.

IN WITNESS WHEREOF, the undersigned have executed this Agreement on or before the day and year first above written.

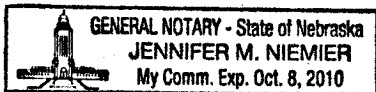
TUSCANY PLACE, LLC, a Nebraska  
Limited Liability Company, DEVELOPER

BY: Brian Bidne  
Authorized Corporate Representative

NOTE ALL OWNERS' SIGNATURES MUST BE NOTARIZED

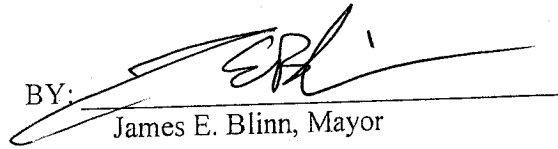
STATE OF NEBRASKA     )  
  ) ss.  
COUNTY OF Sarpy )

Subscribed and sworn to before me, a Notary Public, this 10<sup>th</sup> day of October,  
2008 by Brian Bidne, to me known to be the 1/3 owner manager of Tuscan Place, LLC, a  
Nebraska Limited Liability Company, on behalf of said developer

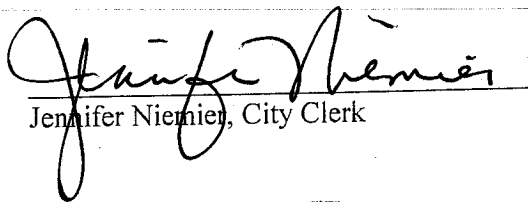


Jennifer M. Niemier  
Notary Public

CITY OF PAPILLION, a Municipal Corporation,

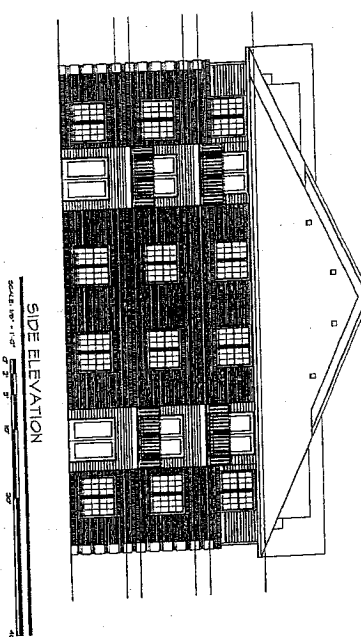
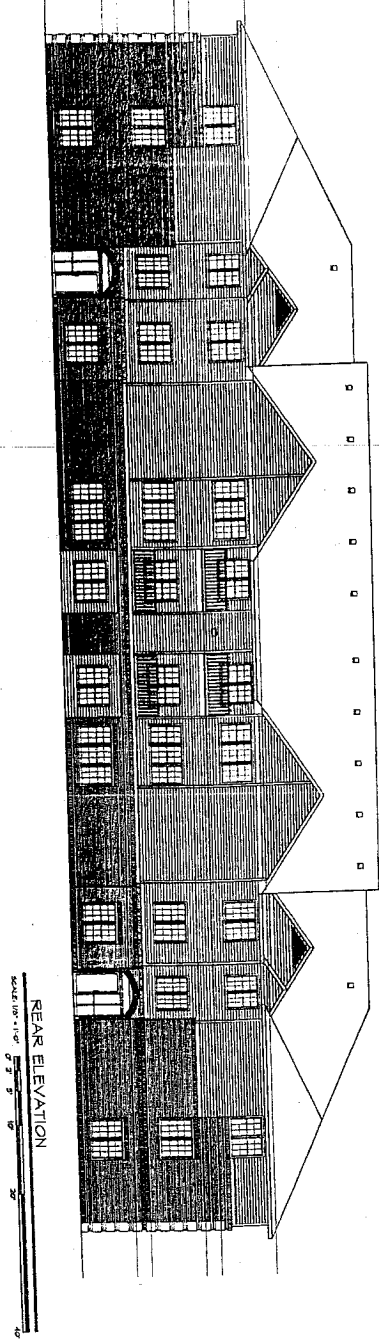
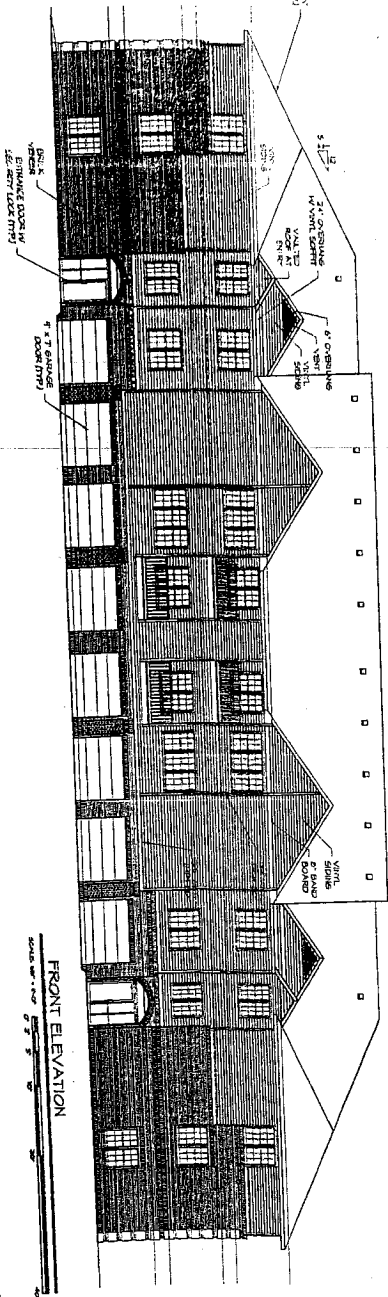
BY:   
James E. Blinn, Mayor

ATTEST:

  
Jennifer Niemier, City Clerk







REVISIONS			
NO.	DATE	BY	DESCRIPTION

Exhibit B

**TUSCANY PLACE APARTMENTS**  
 615 AND 66th Street  
 PAPERILLON, NE

**Architects & Associates**  
 3025 South 87th Street  
 Omaha, Nebraska 68124  
 (402) 397-1390



**FIRST AMENDMENT TO DEVELOPMENT AGREEMENT**

THIS FIRST AMENDMENT TO DEVELOPMENT AGREEMENT is made on this 20<sup>th</sup> day of December 2011 and entered into by and between the CITY OF PAPILLION, NEBRASKA, a municipal corporation (hereinafter referred to as "City"), and TUSCANY PLACE, LLC, a Nebraska limited liability company (hereinafter referred to as "Developer").

WITNESSETH:

WHEREAS, the City and Developer have entered into a certain Development Agreement (the "Agreement"), approved by the City Council of the City of Papillion on April 3, 2007, by Resolution No. R07-0046, setting forth certain conditions with respect to the development of property owned by the Developer known as Tuscan Place Apartments, located on Lot 208, Stockman's Hollow; and

WHEREAS, the Developer desire to amend Section 2(a) of the Development Agreement to increase the density from thirteen units per acre to twenty units per acre; and

WHEREAS, the Developer desires to modify the approved site plan to allow for an increase in density to twenty units per acre; and

WHEREAS, the Developer desires to modify the approved elevation drawings.

NOW, THEREFORE, the following is agreed between the parties hereto:

1. Capitalized Terms. All capitalized terms used in this Amendment shall have the meanings set forth in the Agreement except as otherwise defined herein.

2. Amendment: The Development Agreement is hereby amended as follows:

A. Section 2(a) of the Development Agreement shall be replaced in its entirety with the following:

Density. The maximum density for the Property shall be 20 units/acre.

B. The attached Site Plan, labeled Exhibit A-1, hereby replaces the site plan submitted with the original Development Agreement.

C. The elevation depiction, attached hereto as Exhibit B-1, is hereby incorporated into the Development Agreement.

Except as specifically set forth herein, the Development Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the executing parties, by their respective duly authorized agents, have entered into this Amendment to the Development Agreement effective on the date of the Mayor's signature.



CITY OF PAPIILLION, NEBRASKA, a Municipal Corporation,

By: [Signature]  
David P. Black, Mayor

ATTEST:

[Signature]  
Elizabeth Butler, City Clerk of Papillion

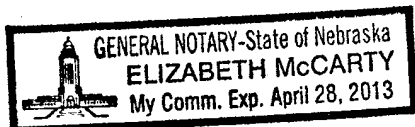
DEVELOPER:

TUSCANY PLACE, LLC, a Nebraska limited liability company,

By: [Signature]  
Its: Managing Member

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF Sarpy )

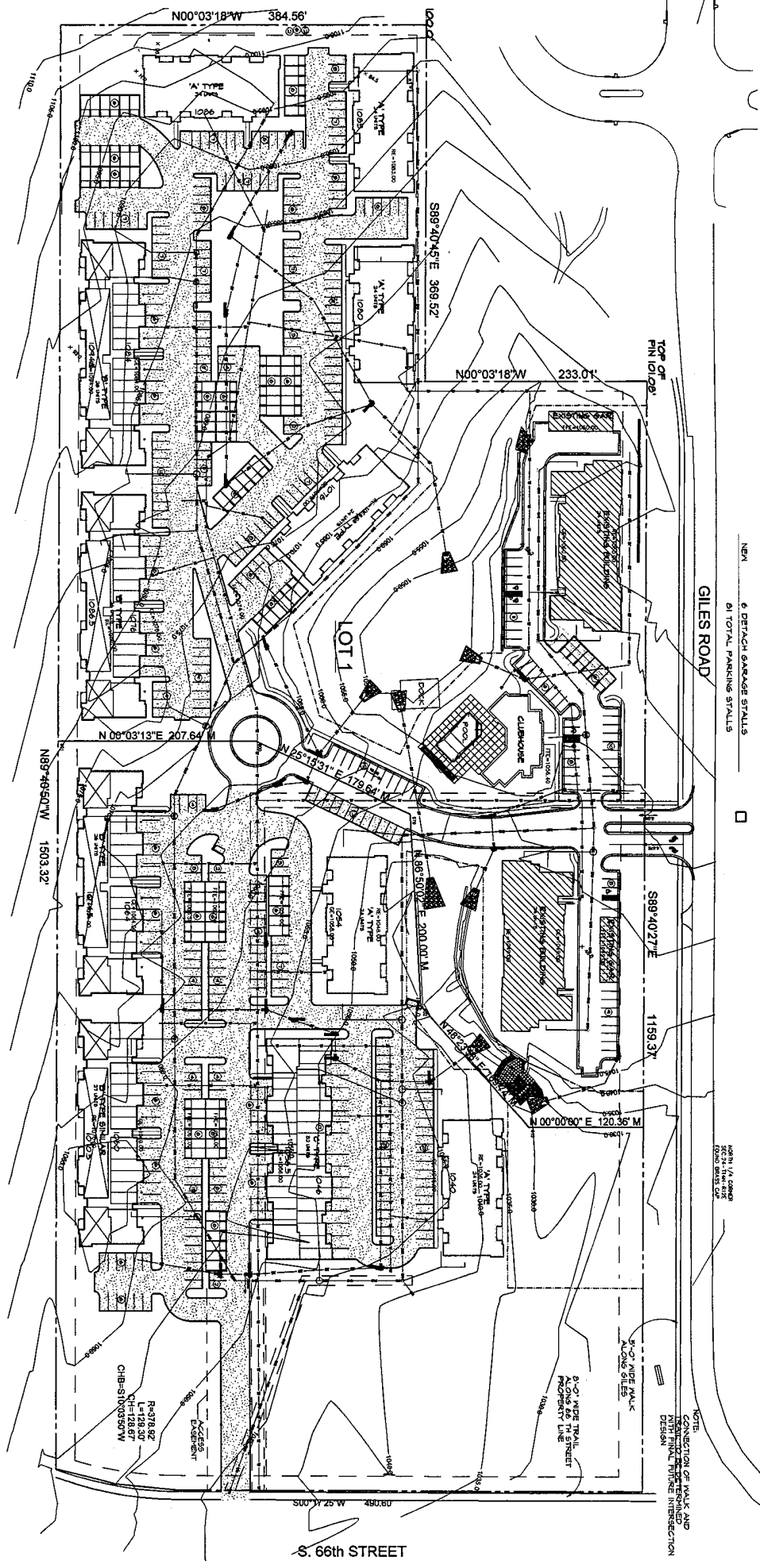
The foregoing instrument was acknowledged before me this 20<sup>th</sup> day of December, 2011, by David Schmidt, known to me to be the Managing Member of Tuscany Place, LLC, a Nebraska limited liability company, on behalf of said limited liability company.



[Signature]  
Notary Public



Exhibit A - 1



- EXISTING**
- EXISTING TOTAL NUMBER OF UNITS 49
  - EXISTING 63 CARS OPEN STALLS
  - EXISTING 12 DETACH GARAGE STALLS
  - EXISTING 6 DETACH GARAGE STALLS
  - EXISTING 81 TOTAL PARKING STALLS

- PHASE 1**
- TOTAL NUMBER OF UNITS • 148
  - 79 CARS OPEN STALLS
  - 47 CARS TANDUM STALLS
  - 24 ATTACHED GARAGES
  - 207 TOTAL PARKING
  - 24 TANDUM STALLS & ATTACHED GARAGES
  - 207 TOTAL PARKING INC. TANDUM STALLS

- PHASE 2**
- TOTAL NUMBER OF UNITS • 189
  - 140 CARS OPEN STALLS
  - 52 CARS TANDUM STALLS
  - 55 ATTACHED GARAGES
  - 229 TOTAL PARKING
  - 55 TANDUM STALLS & ATTACHED GARAGES
  - 202 TOTAL PARKING INC. TANDUM STALLS

SITE PLAN

Tuscany Place Apartments



**PRELIMINARY**

JOB NUMBER	61021
TITLE	SITE PLAN
DATE	08/20/2007
SCALE	AS SHOWN
DESIGNER	MCNEILL
CHECKED	MCNEILL
DATE	08/20/2007
PROJECT	TUSCANY PLACE APARTMENTS
CLIENT	MCNEILL

TUSCANY PLACE APARTMENTS

NOTE:  
 CONNECTION OF WALK AND  
 DRIVE FINAL FUTURE INTERSECTION  
 DESIGN

S. 66th STREET

Exhibit B-1

