

* Hickman West Industrial Park
Plats 1 & 2

**DECLARATION OF PROTECTIVE COVENANTS
AND RESTRICTIONS**

KNOW ALL MEN BY THESE PRESENTS:

JOSEPH S. BRICK and JANET L. BRICK, THE KEN BRATNEY COMPANY, an Iowa Corporation, and WAUKEE LAND COMPANY, an Iowa General Partnership consisting of Mike Alexander and Emmet Brody, being the owners and record titleholders of the following described premises situated in Waukee, Dallas County, Iowa, to-wit:

SEE EXHIBIT "A" ATTACHED HERETO AND BY THIS
REFERENCE MADE A PART HEREOF,

hereby impose upon such property and hereby bind themselves and their successors in interest in the continuing use of such property by the following restrictions:

1. Any building shall be constructed and located so as to comply with the following setback distances, in accordance with City of Waukee zoning ordinance:

A minimum thirty (30) foot frontage setback from the property line of any public street.

2. Provisions shall be made on the premises for off-street parking with a surface of asphalt, concrete or other approved hard surfacing material.

3. Facilities for handling all freight shall be located at the sides or rear of any building; provided, however, exceptions to this provision can be and may be approved solely at the discretion of the Architectural Control Committee, which consists of Joseph S. Brick; Mike Alexander and Emmet Brody, representing Waukee Land Company; Paul Bratney, President of and representative of The Ken Bratney Company; and the City Administrator of the City of Waukee. The Committee may be enlarged by Joseph S. Brick, but all new members shall be required to have an ownership interest in the premises covered by these covenants. A record of the committee membership shall be maintained in the office of Joseph S. Brick, 550 39th Street, Des Moines, Iowa, and shall be open for inspection upon appointment.

4. Metal walls of all buildings or structures facing a street shall be completely finished decoratively with face brick, stone or concrete. Side and rear walls may be of metal, brick, tile, stone or painted concrete block. Any other exterior material shall be first approved by the Architectural Control Committee.

5. A flat wall mounted sign identifying the firm occupying the premises shall be permitted. All other identifying signs shall be approved by the Architectural Control Committee.

6. Each property owner shall keep the exterior of that owner's building in a good state of repair and shall maintain the same in a neat and attractive manner.

7. Each property owner shall have the grounds landscaped and keep the grass within their tract mowed and grounds free of weeds and debris.

8. Outside storage of equipment or machinery, and other storage incidental to the business shall not be allowed in accordance with provisions of the M-1 District of the City of Waukee zoning ordinance.

9. These restrictions shall run with the land and shall be binding upon all owners of the property set forth in Exhibit "A", or any persons claiming by, through or under them until January 1, 2000, and shall automatically continue thereafter for successive periods of twenty-five (25) years each; provided, however, at any time the owners of the fee simple title of more than seventy-five percent (75%) of the property subjected to these restrictions may release all or any part of the property so restricted from any one or more of these restrictions or may alter, amend, modify or revoke any one or more restrictions by executing and acknowledging an appropriate agreement or agreements in writing for such purposes and filing the same for record in the office of the Recorder of Dallas County, Iowa.

10. Invalidity of any one of these restrictions or any part thereof by judgment or court order shall in no way affect any of the remaining provisions hereof which shall not have been declared invalid.

11. It is specifically contemplated that JOSEPH S. BRICK and JANET L. BRICK, WAUKEE LAND COMPANY, and THE KEN BRATNEY COMPANY, and their successors or assigns may, in individual deeds or conveyances, impose specific requirements which are not included herein and which may be more restrictive or stringent than the restrictions set forth in this instrument.

12. In order to preserve the general design for the development of the entire property as a fine industrial area, no building of any kind, or any addition or exterior alteration thereto, shall be erected upon any lot contained in the property described in Exhibit "A" unless the titleholders shall have first submitted a set of the plans and specifications for such building, addition and/or exterior alterations to the Architectural Control Committee and shall have obtained the written approval of the Committee. Written approval of such plans by the Architectural Control Committee shall be considered as proof of compliance with these restrictions and shall not be unreasonably withheld. In the event the Committee has not given written approval, rejection and/or objection within twenty (20) days after receipt of the plans

and specifications, they shall be deemed to have been approved by the absence of a response.

13. JOSEPH S. BRICK and JANET L. BRICK, WAUKEE LAND COMPANY, and THE KEN BRATNEY COMPANY, their successors or assigns, or the owner or owners of any of the land described in Exhibit "A", shall have the right to sue for and obtain an injunction prohibitive or mandatory to prevent the breach of or to enforce the observance of the restrictions above set forth, in addition to any other permissible legal action for damages, and the failure of JOSEPH S. BRICK and JANET L. BRICK, WAUKEE LAND COMPANY, and THE KEN BRATNEY COMPANY, their successors or assigns, and the titleholder of any lot or lots or building sites hereby restricted, to enforce any of the restrictions herein set forth at the time of such violation, shall in no event be deemed to be a waiver of the right to do so as to any subsequent violation. The violation of these restrictions shall not defeat nor render invalid the lien of any mortgage (or deed of trust) made in good faith and for value. The successor in interest to JOSEPH S. BRICK and JANET L. BRICK, WAUKEE LAND COMPANY, and THE KEN BRATNEY COMPANY, by accepting title to or on any part of the property described in Exhibit "A", agree that the foregoing conditions and restrictions are a part of a general plan for the improvement of the property included within the tract of land described as Exhibit "A", and that said restrictions and conditions are for the benefit of said tract and each and every parcel thereof and shall inure to and pass with said tract and each and every lot and parcel thereof and are imposed upon said premises as a servitude in favor of said tract and each and every lot and parcel of land contained therein as the dominant tenement or tenements and this instrument hereby dedicates said property and each lot and parcel contained therein to such uses and purposes.

THE KEN BRATNEY COMPANY

By *Joseph S. Brick*
JOSEPH S. BRICK

By *Paul Bratney*
Paul Bratney, President

By *Janet L. Brick*
JANET L. BRICK

WAUKEE LAND COMPANY
By *Mike Alexander*
MIKE ALEXANDER

By *Emmet Brody*
Emmet Brody

STATE OF IOWA)
) SS:
COUNTY OF POLK)

On this 9th day of April, 1993, before me, a Notary Public in and for the State of Iowa, personally appeared Joseph S. Brick and Janet L. Brick, to me known to be the identical persons named in and who executed the foregoing instrument, and acknowledged that they executed the same as their voluntary act and deed.

Clifford S. Swartz
Notary Public in and for the State
of Iowa

STATE OF IOWA)
) SS:
COUNTY OF POLK)

On this 9th day of April, 1993, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Mike Alexander and Emmet Brody, to me personally known, who being by me duly sworn did say that they are the sole partners of Waukee Land Company, an Iowa General Partnership, and that the instrument was signed on behalf of the partnership by authority of the partners and the partners acknowledged the execution of the instrument to be the voluntary act and deed of the partnership by it and by the partners voluntarily executed.

Clifford S. Swartz
Notary Public in and for the State
of Iowa

STATE OF IOWA)
) SS:
COUNTY OF POLK)

On this 12th day of April, 1993, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared J. Paul Bratney, to me personally known, who being by me duly sworn, did say that he is the President of the corporation executing the within and foregoing instrument; that the instrument was signed on behalf of said corporation by authority of its Board of Directors; and that the said J. Paul Bratney, as President, acknowledged the execution of the foregoing instrument to be the voluntary act and deed of the corporation, by it and by him voluntarily executed.

Clifford S. Swartz
Notary Public in and for the State
of Iowa

EXHIBIT "A"
LEGAL DESCRIPTION

A TRACT OF LAND IN SECTION 35, TOWNSHIP 79 NORTH, RANGE 26 WEST OF THE 5TH P.M., MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 35; THENCE $SO^{\circ}10'15"E$ ALONG THE WEST LINE OF SAID SECTION 35, A DISTANCE OF 1681.28 FEET TO THE POINT OF BEGINNING; THENCE $N90^{\circ}00'00"E$ 774.31 FEET; THENCE $SO^{\circ}10'15"E$ 961.63 FEET TO A POINT ON THE SOUTH LINE OF THE NORTHWEST 1/4 OF SAID SECTION 35; THENCE $S89^{\circ}54'12"W$ ALONG SAID SOUTH LINE 774.31 FEET TO THE WEST 1/4 CORNER OF SAID SECTION 35; THENCE $NO^{\circ}10'15"W$ 962.94 FEET TO THE POINT OF BEGINNING, ALL BEING IN AND FORMING A PART OF THE CITY OF WAUKEE, DALLAS COUNTY, IOWA, CONTAINING 17.11 ACRES, MORE OR LESS.

(TO BE PLATTED AS HICKMAN WEST INDUSTRIAL PARK PLAT NO. II)

and

A TRACT OF LAND IN SECTION 35, TOWNSHIP 79 NORTH, RANGE 26 WEST OF THE 5TH P.M., MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 35; THENCE $SO^{\circ}10'15"E$ ALONG THE WEST LINE OF SAID SECTION 35, A DISTANCE OF 1080.00 FEET (RECORDED) 1079.88 FEET (MEASURED) TO THE POINT OF BEGINNING; THENCE $N90^{\circ}00'00"E$ 774.31 FEET; THENCE $SO^{\circ}10'15"E$ 601.40 FEET; THENCE $N90^{\circ}00'00"W$ 774.31 FEET TO A POINT ON THE WEST LINE OF SAID SECTION 35; THENCE $NO^{\circ}10'15"W$ 601.40 FEET TO THE POINT OF BEGINNING, ALL BEING IN AND FORMING A PART OF THE CITY OF WAUKEE, DALLAS COUNTY, IOWA, CONTAINING 10.69 ACRES, MORE OR LESS.

(TO BE PLATTED AS HICKMAN WEST INDUSTRIAL PARK PLAT NO. I)