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City of Hiawatha

Community Development Department

Building, Zoning, Code Enforcement & Development

101 Emmons St., Hiawatha Iowa, 52233-1697
PHONE (319) 294-2929 FAX (319) 393-1516

Purpose:	Final Plat	**Date: 06/13/2018**
To:	Hiawatha City Council	
Name of Plan:	Sherman Square 9th Addition	
Address:	1535 Stamy Road (tentative)	**Zone**: C-4
Number of Lots:	1 lot of 13 acres plus two ROW dedications totaling 2.1 acres	
Reviewed by:	Patrick Parsley, Community Development Director	

Description: This property is located on the west side of Stamy Road and north of Kacena Road. The applicant is proposing improvements to utilities to make sewer and water available and to construct a road along the west side of the property. The final plat is for the development of one lot. No rezoning is associated with this plat as it was completed as part of the preliminary plat.

Report: The proposed lot and road locations are in substantial compliance with the preliminary plat. The proposed plat also complies with the Hiawatha Unified Development standards. A plan of improvements and development agreement will be submitted for the completion of the road and utilities adjacent to the lot. It will include the construction of Anchor Drive, sewer, water, storm water, sidewalks and a temporary turn-around.

The site development will include on-site storm water detention. The developer will submit a SWPPP and NPDES before being permitted to do excavating or filling on this lot.

The submittal for the final plat includes the necessary blue bounds, utility sign offs and development agreements. No Certificate of Occupancy will be issued prior to the acceptance of the improvements associated with this plat.

Recommendation: Community Development and the Planning and Zoning Commission recommend approval the Final Plat with the developer's agreement for completion and acceptance of the plan of improvements.

City of Hiawatha

Engineering Department

101 Emmons St., Hiawatha Iowa, 52233-1697
PHONE (319) 393-1515 ext. 511 FAX (319) 393-1516

To: **Mayor and City Council** **Date:** **June 14, 2018**

From: John C Bender PE, City Engineer

Re: **Sherman Square 9th Addition Final Plat**

Description: **Final Plat**

Report:

This is a 1 lot plat located on the west side of Stamy Road and north of Kacena Road. Proposed utilities are on the west side of the property along Anchor Road are included in the plan of improvements. No rezoning is associated with this plat as it was completed as part of the preliminary plat.

This 1 lot plat being developed as another phase of the Sherman Square Addition with a preliminary plat dated in the 1990's. Engineering has reviewed the final plat and find it in substantial compliance with the preliminary plat.

The plan of improvements is not totally completed at this time. The plat and developers agreement can be approved by Council subject to the plan of improvements coming to Council for approval within the next few weeks. We have a signed developer's agreement that includes several requirements but most important items:

- Requirement that all improvements will be completed and accepted before any final occupancy permits are issued.
- Outlot "A" and "B" are dedicated as street right-of -way
- The developer will install 5-LED street lights

Engineering recommends approval. If you have any questions please let me know.

DEVELOPMENT AGREEMENT

This Development Agreement (this "Agreement") is entered into this 31st May 2018 by and between the undersigned property owner (hereinafter referred to as the (DEVELOPER) and the City of Hiawatha, Linn County, Iowa (hereinafter referred to as the CITY).

RECITALS

1. The DEVELOPER is owner of the following described property:

   Sherman Square Ninth Addition to the City of Hiawatha, Linn County, Iowa, containing 15.18 Acres

2. The DEVELOPER proposes to record a final plat situated on a portion of the Real Estate to be known as Sherman Square Ninth Addition to the City of Hiawatha, Linn County, Iowa, and has prepared a proposed final plat of such addition (the "Plat"). Said Addition shall consist of Lot 1, Lot A and Lot B.

3. The public improvements that lie within or provide service to the area included in the proposed final plat of Sherman Square Ninth Addition to the City of Hiawatha, Linn County, Iowa have not yet been completed to date, and in order to receive the CITY's approval of the proposed plat the DEVELOPER by this Agreement is willing to obligate Lot 1, Sherman Square Ninth Addition to the City of Hiawatha, Linn County, Iowa, for the construction and costs of said improvements.

4. The street lighting (5-LED UrbanScape Poles and Lamps) shall be installed at the DEVELOPER'S expense in accordance with City Council Resolution 12-138. Or, the DEVELOPER has provided an acceptable verification of payment to the appropriate utility company for said street lighting installation.

NOW BE IT RESOLVED, the DEVELOPER and the CITY hereby agree as follows:

1. All public improvements required by the City for the proposed Plat (the "Improvements") shall be completed in accordance with the construction documents approved by the City Council to provide service to the area being final platted.

2. The DEVELOPER will be allowed to receive foundation permits for Lot 1, and building permits for Lot 1 as soon as water distribution and surface improvements are acceptable by the Fire Chief. Temporary and final certificates of occupancy for Lot 1 will not be allowed prior to completion of improvements.

3. The DEVELOPER and any contractor or other agent employed by the DEVELOPER shall provide insurance as reasonably required by the City Council when working within the public rights-of-way.

4. The Improvements Shall be completed to the satisfaction of the City Council by the DEVELOPER within two years from the date of this Agreement. Upon completion of the Improvements, the City Council shall cause to be filed a release instrument. Such release instrument will indicate that the Improvements have been accepted by the City Council and will release the DEVELOPER and Real Estate from all obligations due under this Agreement and will specifically discharge and release the DEVELOPER and the Real Estate from any lien. If necessary, the City Council shall also cause to be executed and/or filed any additional instrument(s) reasonably required by the DEVELOPER to further demonstrate that the Improvements have been satisfactorily completed.

5. If the DEVELOPER fails to complete the Improvements within the time period as provided in the Agreement, the CITY may cause the Improvements to be constructed in all respects as it shall reasonably deem appropriate. DEVELOPER shall remain for all cost incurred by the CITY in completing the Improvements. In order to assure payment of such costs. If the DEVELOPER has not completed the Improvements within the time period above provided, the CITY and DEVELOPER further agree to the following assessment agreement as provided for in Chapter 165.67.12 of the Hiawatha Unified Development Code.

a. In consideration of the construction of the Improvements by the CITY, the undersigned DEVELOPER hereby waives Notice of such construction, waives all legal formalities required by the laws of Iowa to be observed by cities in the construction of Improvements where the expense of the Improvements is to be assessed, and waives each and every question of jurisdiction. The intention of the DEVELOPER is to authorize and direct the CITY to construct the Improvements without any of the formalities or legal proceedings required of cities in constructing like improvements. The express intention of the DEVELOPER is that the Improvements shall be constructed as aforesaid as if each and every legal requirement pertaining thereto was fully and faithfully observed and performed.

b. It is further agreed that the CITY by and through its Council may make assessments against the properties described herein as Lot 1, Sherman Square Ninth Addition to the City of Hiawatha, Linn County, Iowa, for the cost of the construction of the Improvements, to the extent of the entire actual cost deemed necessary by the City Council. Such cost shall be allocated to each lot according to the benefit received by that lot.

c. It is also agreed that said assessment so made shall be a lien upon the Real Estate, and the undersigned DEVELOPER hereby agrees to pay the amount which is thus assessed against the Real Estate and said assessment shall have the same legal force and effect as if all the legal formalities provided by law in such cases had been fully and faithfully performed and observed. The DEVELOPER hereby expressly waives every objection to said assessment. The DEVELOPER hereby authorizes the Council of the City of Hiawatha, Iowa, to pass any Resolution requisite or necessary to order and secure the Improvements, to provide for the construction of the same and to make assessment herein provided for, without further notice to DEVELOPER or owner of any of the said lot.

d. Notwithstanding anything in this Agreement to the contrary, any assessment made under this Agreement shall not be a lien against any property described herein unless and until the City records with the Linn County Recorder a "Notice of Assessment Lien" which Notice shall describe the property against which the lien attaches and the amount of the lien.

e. Portions of the land included in said Lot 1 shall not be released from the requirements of this Agreement prior to the completion of all required improvements associated with the lot or lots as determined by the City Council.

6. The DEVELOPER and any contractor or other agent employed by the DEVELOPER shall provide maintenance surety as required by the Hiawatha Unified Development Code prior to acceptance of the completed Improvements by the City.

7. The DEVELOPER agrees to indemnify and hold harmless the CITY for damages or claims for damages that may arise or accrue as a result of City Council approval of this Agreement.

8. This Agreement shall be binding upon the parties hereto and their heirs, successors, and assigns, and the sale by the owner of all or any part of said Lot 1 shall transfer obligations of the DEVELOPER to the successor in interest.

PROPERTY OWNER(S): SHERMAN PROPERTIES, LLC

BY: _____
Christopher T. Sherman, Managing Member

ALL-PURPOSE ACKNOWLEDGMENT

STATE OF Iowa
COUNTY OF Linn } ss:

On this 31 day of May, A.D. 2018, before me, the undersigned, a Notary Public in and for said State, personally appeared Christopher T. Sherman

___ To me personally known
Or ✓ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity(ies) upon behalf of which the person(s) acted, executed the instrument.

Laurie Graham (Sign Name)
Laurie Graham (Print Name)

(SEAL)

CAPACITY CLAIMED BY SIGNER:

_INDIVIDUAL
_CORPORATE
Titles of Corporate Officer(s):
_____
_____
_Corporate Seal is affixed
_No Corporate Seal procured
_PARTNERSHIP:_Limited_Gen'l
_ATTORNEY-IN-FACT
_EXECUTOR(s) or TRUSTEE(s)
_GUARDIAN(s) or
_CONSERVATOR(s)
_OTHER:_____

SIGNER IS REPRESENTING:
Names of entity(ies) or person(s
_____
_____

NOTARIAL SEAL IOWA
LAURIE J GRAHAM
Commission No. 797124
My Commission Expires
7-12-19

PROPERTY OWNER(S): Kathryn A. Sherman Family Trust

BY: _____
Christopher T. Sherman, Trustee

ALL-PURPOSE ACKNOWLEDGMENT

STATE OF Iowa
COUNTY OF Linn } ss:

On this 31 day of May, A.D. 2018, before me, the undersigned, a Notary Public in and for said State, personally appeared Christopher T. Sherman

___ To me personally known
Or ✓ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity(ies) upon behalf of which the person(s) acted, executed the instrument.

Laurie Graham (Sign Name)
Laurie Graham (Print Name)

(SEAL)

CAPACITY CLAIMED BY SIGNER:

__INDIVIDUAL
__CORPORATE
Titles of Corporate Officer(s):
_____
_____
__Corporate Seal is affixed
__No Corporate Seal procured
__PARTNERSHIP:_Limited_Gen'l
__ATTORNEY-IN-FACT
__EXECUTOR(s) or TRUSTEE(s)
__GUARDIAN(s) or
__CONSERVATOR(s)
__OTHER:_____

SIGNER IS REPRESENTING:
Names of entity(ies) or person(s
_____
_____

NOTARIAL SEAL IOWA
LAURIE J GRAHAM
Commission No. 797124
My Commission Expires
7-12-19

RESOLUTION NO. 18-007
Planning & Zoning Commission

RESOLUTION APPROVING THE FINAL PLAT FOR SHERMAN SQUARE 9TH ADDITION HIAWATHA, IOWA

WHEREAS, A FINAL PLAT FOR SHERMAN SQUARE 9TH ADDITION TO HIAWATHA, IOWA, HAS BEEN FILED WITH THE CITY CLERK AND AFTER CONSIDERATION OF THE SAME IS FOUND TO BE CORRECT AND IN ACCORDANCE WITH THE PROVISIONS OF THE LAWS OF THE STATE OF IOWA, AND THE ORDINANCES OF THE CITY OF HIAWATHA, IOWA, IN RELATION TO PLATS AND ADDITIONS TO CITIES, NOW THEREFORE,

BE IT RESOLVED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF HIAWATHA, IOWA, THAT SAID FINAL PLAT AND DEDICATIONS OF SAID SHERMAN SQUARE 9TH ADDITION TO HIAWATHA, LINN COUNTY, IOWA, IS HEREBY ACKNOWLEDGED AND APPROVED ON THE PART OF THE PLANNING AND ZONING COMMISSION OF HIAWATHA, IOWA, AND THAT THE CHAIRMAN AND SECRETARY OF THE HIAWATHA PLANNING AND ZONING COMISSION ARE HEREBY DIRECTED TO CERTIFY THIS RESOLUTION OF APPROVAL AND AFFIX THE SAME TO SAID PLAT AS BY LAW PROVIDED, AND RECOMMEND THAT THE HIAWATHA CITY COUNCIL APPROVE SAME.

PASSED THIS 21st DAY OF MAY, 2018.

Mark Powers

Mark Powers, Chair

ATTEST: Jennifer Goerg

Jennifer Goerg, Community Development Clerk

STATE OF IOWA)
)SS
LINN COUNTY)

We, Mark Powers, Chair; and Jennifer Goerg, Community Development Clerk, do hereby certify that the above and foregoing resolution is a true and correct copy of the resolution passed by the Planning and Zoning Commission of the City of Hiawatha, Iowa, on this 21st day of May, 2018.

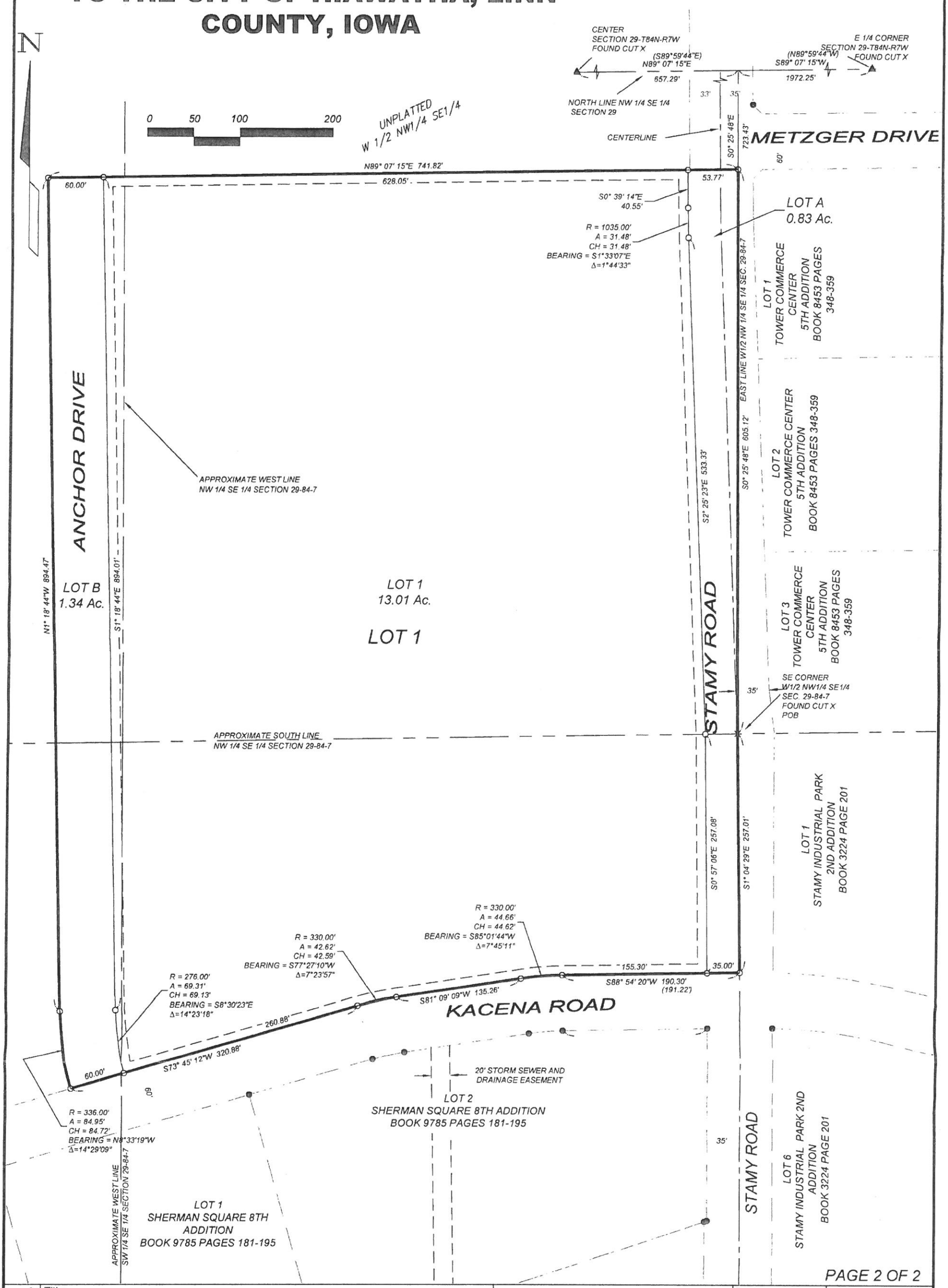
Mark Powers

Mark Powers, Chair

Jennifer Goerg

Jennifer Goerg, Community Development Clerk

FINAL PLAT
SHERMAN SQUARE NINTH ADDITION TO THE CITY OF HIAWATHA, LINN COUNTY, IOWA



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Project No: 400618-10	Title: FINAL PLAT SHERMAN SQUARE NINTH ADDITION	BRAIN ENGINEERING, INC. (CIVIL · LAND DEVELOPMENT · SURVEYING · TRANSPORTATION)	Drawn: SMB 4/16/18	Book: 365
			Checked: SMB 4/16/18	Scale: AS SHOWN

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RESOLUTION NO. 18-
City Council

RESOLUTION APPROVING FINAL PLAT AND DEVELOPMENT AGREEMENT SHERMAN SQUARE NINTH ADDITION, HIAWATHA, IOWA

WHEREAS, a Final Plat of Sherman Square Ninth Addition to the City of Hiawatha, Linn County, Iowa, containing one (1) lot, numbered Lot 1, has been received and reviewed by the City Engineer, Hiawatha Water Superintendent and Planning and Zoning Commission and found to be in conformance with regulations of the City of Hiawatha, and

WHEREAS, the property owner has submitted the following executed agreement, and it is included as part of the final plat documents:

1. Development Agreement

WHEREAS, the City Engineer recommends City Council approval of the Development Agreement as submitted, and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF HIAWATHA, IOWA, to approve the final plat of Sherman Square Ninth Addition to the City of Hiawatha, Linn County, Iowa, containing one (1) lot and further approve the Development Agreement be approved and direct the Mayor and City Clerk to execute the agreement.

AYES:
NAYS:
ABSENT:

PASSED AND APPROVED this 20th day of June, 2018.

_____
Bill Bennett, Mayor

ATTEST:

_____
Kelly Kornegor, City Clerk

STATE OF IOWA, COUNTY OF LINN

DRAFT

I, Kelly Kornegor, City Clerk of the City of Hiawatha, Iowa do certify that the above and foregoing Resolution is a true and correct copy of the Resolution as passed by the City Council of the City of Hiawatha, Iowa on the 20th day of June, 2018.

_____

Kelly Kornegor, City Clerk