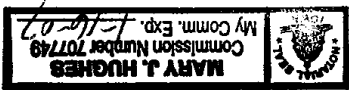


BK 105PG07338

1-221



MY COMMISSION EXPIRES 1-16-07  
NOTARY PUBLIC IN AND FOR SAID STATE  
*Mary J. Hughes*

ON THIS DAY OF October, 2004, BEFORE ME A NOTARY PUBLIC IN AND FOR THE STATE OF IOWA, PERSONALLY APPEARED JOHN H. JERKOVICH, TO ME PERSONALLY KNOWN, WHO BEING BY ME DULY SWORN, DID SAY HE IS ONE OF THE MEMBERS OF EAGLES NEST, L.L.C., THAT NO SEAL HAS BEEN PROCURED BY THE SAID LIMITED LIABILITY COMPANY, AND THAT SAID INSTRUMENT WAS SIGNED ON BEHALF OF THE SAID LIMITED LIABILITY COMPANY BY AUTHORITY OF ITS MEMBERS AND THE SAID JOHN H. JERKOVICH ACKNOWLEDGED THE EXECUTION OF THE INSTRUMENT TO BE THE VOLUNTARY ACT AND DEED OF SAID LIMITED LIABILITY COMPANY BY IT VOLUNTARILY EXECUTED.

BY: *John H. Jerkovich*  
JOHN H. JERKOVICH

IN WITNESS WHEREOF, I DO HEREBY RATIFY AND APPROVE OF THE DISPOSITION OF EAGLES NEST, L.L.C.'S PROPERTY AS CONTAINED HEREIN ON THIS DAY OF October, 2004.

EASEMENT RUNS WITH THE LAND: THIS EASEMENT SHALL BE DEEMED TO RUN WITH THE LAND AND SHALL BE BINDING ON EAGLES NEST, L.L.C., ITS SUCCESSORS OR ASSIGNS.  
ERECTION OF STRUCTURES PROHIBITED: EAGLES NEST, L.L.C., OR ITS SUCCESSORS OR ASSIGNS SHALL NOT ERECT ANY STRUCTURE OVER NOR WITHIN THE EASEMENT AREA WITHOUT OBTAINING THE PRIOR WRITTEN CONSENT OF THE CITY ENGINEER.  
CHANGE OF GRADE: EAGLES NEST, L.L.C., OR ITS SUCCESSORS OR ASSIGNS SHALL NOT CHANGE THE GRADE, ELEVATION, NOR THE CONTOURS OF ANY PART OF THE EASEMENT AREA WITHOUT OBTAINING THE PRIOR WRITTEN CONSENT OF THE CITY ENGINEER.  
RIGHT OF ACCESS: THE CITY SHALL HAVE THE RIGHT OF ACCESS TO THE EASEMENT AREA AND HAVE ALL RIGHTS OF INGRESS AND EGRESS REASONABLY NECESSARY FOR THE USE AND ENJOYMENT OF THE EASEMENT AREA HEREIN DESCRIBED.  
REMOVAL AND REPLACEMENT: THE COST OF REMOVAL AND REPLACEMENT OF ANY UNAUTHORIZED IMPROVEMENT OR STRUCTURES WITHIN THE EASEMENT AREA, NECESSITATED BY THE EXERCISE OF THE RIGHTS UNDER THIS EASEMENT, SHALL BE BORNE BY SAID EAGLES NEST, L.L.C., OR ITS SUCCESSORS OR ASSIGNS.  
SURFACE RESTORATION: CITY'S LIABILITY TO RESTORE THE SURFACE WITHIN THE EASEMENT AREA SHALL BE LIMITED TO GRADING AND SEEDING.  
DUTY TO REPAIR: CITY AGREES THAT ANY DRAIN TILE, DRIVE OR ACCESS WAY, FENCE, YARD, OR OTHER IMPROVEMENT OUTSIDE OF THE EASEMENT AREA WHICH MAY BE DAMAGED AS A RESULT OF ANY ENTRY MADE THROUGH AN EXERCISE OF THE CITY'S RIGHT OF ACCESS SHALL BE REPAIRED AT NO EXPENSE TO SAID EAGLES NEST, L.L.C., OR ITS SUCCESSORS OR ASSIGNS.

SECTION 19, TOWNSHIP 74 NORTH, RANGE 43  
COUNTY, IOWA, MORE PARTICULARLY DESCRIBED  
99 DEGREES 30 MINUTES 17 SECONDS EAST,  
POINT ON A NON-TANGENT CURVE, CONCAVE  
MINUTES 55 SECONDS EAST, 414.80 FEET, SAID  
DEGREES 01 MINUTE 47 SECONDS, 123.29 FEET  
AND POINT BEING ON A NON-TANGENT CURVE,  
DEGREES 42 MINUTES 28 SECONDS EAST, 355.00  
D CURVE THROUGH A CENTRAL ANGLE OF 78  
NORTH 01 DEGREE 11 MINUTES 58 SECONDS  
EAST, 100.00 FEET TO A POINT ON THE  
LINE ON THE EASTERLY RIGHT-OF-WAY LINE OF

MR. MARKETING  
HEREBY CERTIFY  
TAMIE COUNTY

**FINAL PLAT OF  
EAGLE TRAIL SUBDIVISION PHASE 1**  
OWNERS/DEVELOPERS:  
EAGLES NEST, L.L.C.  
P.O. BOX 683  
AVOCA, IOWA 51523  
*Wendy J. Drake*  
COUNTY AUDITOR  
Entered for Taxation OCT 14 2004

51502 (712) 323-0530

FILED FOR RECORD POTTAWATTAMIE CO., IA.  
OCT 14 2004  
AUDITOR FEE 1.00  
RECORDING FEE 155.00  
INST # 7355  
RMA FEE 1.00  
OCT 14 AM 11:21  
COMPARED

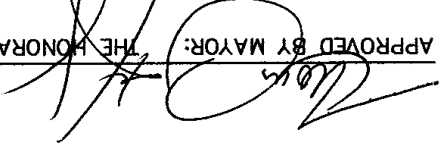
**FINA**  
**EAGLE TRAIL**

Prepared by: Melvin G. Samples, HGM Associates, Inc., 640 Fifth Avenue, Council Bluffs, Iowa 51502 (712) 323-0530


HOME 10483 DRAWING 10483 EAGLE TRAIL DWS\10483 FINAL PLAT.DWG

INST #  
RECORDING  
AUDITOR FEE  
RMA FEE

CITY COUNCIL

APPROVED BY MAYOR:   
DATE: 10-02-04

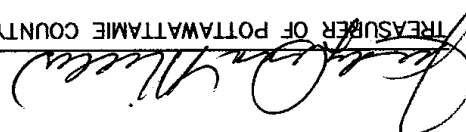
ATTESTED TO BY:

CITY CLERK:   
DATE: 10-04-04

COMMUNITY DEVELOPMENT DIRECTOR: DONALD GROSS  
DATE: 10/14/04

CERTIFICATE OF TREASURER OF POTTAWATTAMIE COUNTY, IOWA

I, THE TREASURER OF POTTAWATTAMIE COUNTY, IOWA, HEREBY CERTIFY THAT THE PROPERTY INCLUDED IN EAGLE TRAIL SUBDIVISION, IS FREE FROM CERTIFIED TAXES AND CERTIFIED SPECIAL ASSESSMENTS.

  
TREASURER OF POTTAWATTAMIE COUNTY, IOWA: JUDY ANN MILLER  
DATE: 10/14/04

WE HEREBY CERTIFY THAT WE WILL MEET ALL EQUAL OPPORTUNITY AND FAIR MARKETING OBJECTIVES CONSISTENT WITH FEDERAL, STATE AND LOCAL GUIDELINES. WE HEREBY CERTIFY THAT THE FOLLOWING DOCUMENTS WILL BE RECORDED WITH THE POTTAWATTAMIE COUNTY RECORDER CONTEMPORANEOUSLY WITH THE FILING OF THE FINAL PLAT.

A. ALL PRIVATE RESTRICTIONS AND/OR COVENANTS, IF ANY, WHICH WILL BE A PART OF THE SUBJECT DEVELOPMENT.

B. CERTIFIED RESOLUTION OF EACH GOVERNING BODY APPROVING THE SUBDIVISION OR WAIVING THE RIGHT TO REVIEW.

LEGAL DESCRIPTION

A PARCEL OF LAND BEING A PORTION OF THE NORTHWEST QUARTER (NW1/4) OF SECTION 19, TOWNSHIP 74 NORTH, RANGE 43 WEST OF THE 5th PRINCIPAL MERIDIAN, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST QUARTER CORNER (W1/4) OF SAID SECTION 19;

THENCE ALONG THE SOUTH LINE OF SAID NORTHWEST QUARTER (NW1/4), SOUTH 89 DEGREES 30 MINUTES 17 SECONDS EAST, 611.57 FEET;

THENCE NORTH 00 DEGREES 20 MINUTES 43 SECONDS WEST, 647.87 FEET TO A POINT ON A NON-TANGENT CURVE, CONCAVE NORTHWESTERLY, TO WHICH POINT A RADIAL LINE BEARS SOUTH 64 DEGREES 36 MINUTES 55 SECONDS EAST, 414.80 FEET, SAID POINT BEING THE TRUE POINT OF BEGINNING;

THENCE NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 17 DEGREES 01 MINUTE 47 SECONDS, 123.29 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF EAST MANAWA DRIVE, SAID POINT BEING ON A NON-TANGENT CURVE, CONCAVE NORTHWESTERLY, TO WHICH POINT A RADIAL LINE BEARS SOUTH 12 DEGREES 42 MINUTES 28 SECONDS EAST, 355.00 FEET;

THENCE NORTHWESTERLY ALONG SAID SOUTHERLY RIGHT-OF-WAY AND ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 78 DEGREES 28 MINUTES 56 SECONDS, 486.14 FEET;

THENCE ALONG THE EASTERLY RIGHT-OF-WAY LINE OF SAID EAST MANAWA DRIVE, NORTH 01 DEGREE 11 MINUTES 58 SECONDS WEST, 806.33 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF NAVAJO ROAD;

THENCE NORTH 84 DEGREES 31 MINUTES 44 SECONDS EAST, 50.14 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF SAID HARRIER HOLLOW;

THENCE NORTH 88 DEGREES 48 MINUTES 02 SECONDS EAST, 100.00 FEET;

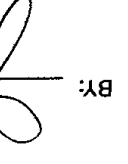
THENCE SOUTH 01 DEGREE 11 MINUTES 58 SECONDS EAST, 122.00 FEET;

THENCE NORTH 87 DEGREES 56 MINUTES 46 SECONDS EAST, 102.20 FEET;

THENCE SOUTH 12 DEGREES 43 MINUTES 18 SECONDS WEST, 410.16 FEET;

THENCE SOUTH 80 DEGREES 00 MINUTES 14 SECONDS EAST, 102.73 FEET TO A POINT ON THE NORTHWESTERLY RIGHT-OF-WAY LINE OF MERLIN LANE;

STATE OF IOWA  
COUNTY OF POTTAWATTAMIE

BY:   
NOTARY PUBLIC

DEDICATION: KNOW ALL PERSONS BY SAID PROPERTY TO BE SAID PROPERTY TO BE RIGHT-OF-WAY FOR HA SAID PROPERTY TO BE HEREBY DEDICATE TO (0.700 ACRES, MORE OR ACRES, MORE OR LESS) DEDICATE TO THE CITY OF POTTAWATTAMIE, IOWA ALL RIGHTS OF DEDICATION TO THE CITY OF POTTAWATTAMIE, IOWA. EASEMENT 25 FEET IN WIDTH, BEING LOTS 21 AND 22, 47 AND 48 AS SHOWN ON THE PLAT OF SAID SUBDIVISION. HOMEOWNERS ASSOCIATION FILLING OR GRADING WITH CONSTRUCTION OR MAIN BE CONSTRUCTED ON OR FOLLOWING TERMS AND EASEMENT RUNS WITH THE SUBDIVISION. SHALL BE BINDING ON ALL PERSONS WHOSE INTERESTS ARE AFFECTED BY THIS DEDICATION. ERECTION OF STRUCTURES NOT ERRECT ANY STRUCTURE CHANGE OF GRADE, ELEVATION, NOR PRIOR WRITTEN CONSENT OF THE CITY OF POTTAWATTAMIE, IOWA. RIGHT OF ACCESS: THE EASEMENT AREA HEREIN REMOVAL AND REPLACEMENT OR STRUCTURE RIGHTS UNDER THIS EASEMENT ASSIGNS. SURFACE RESTORATION: BE LIMITED TO GRADING DUTY TO REPAIR: CITY IMPROVEMENT OUTSIDE MADE THROUGH AN EXISTING SAID EAGLES NEST, L.L.

IN WITNESS OF EAGLES

ASSIGNS. RIGHTS UNDER THIS EASEMENT ASSIGNS.

REMOVAL AND REPLACEMENT OR STRUCTURE RIGHTS UNDER THIS EASEMENT ASSIGNS.

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ASSIGNS. RIGHTS UNDER THIS EASEMENT ASSIGNS.

I, THE TREASURER OF POTTAWATTAMIE COUNTY, IOWA, HEREBY CERTIFY THAT THE PROPERTY INCLUDED IN EAGLE TRAIL SUBDIVISION, IS FREE FROM CERTIFIED TAXES AND CERTIFIED SPECIAL ASSESSMENTS.

*Judy Ann Miller*  
 TREASURER OF POTTAWATTAMIE COUNTY, IOWA: JUDY ANN MILLER

10/4/04  
 DATE

WE HEREBY CERTIFY THAT WE WILL MEET ALL EQUAL OPPORTUNITY AND FAIR MARKETING OBJECTIVES CONSISTENT WITH FEDERAL, STATE AND LOCAL GUIDELINES. WE HEREBY CERTIFY THAT THE FOLLOWING DOCUMENTS WILL BE RECORDED WITH THE POTTAWATTAMIE COUNTY RECORDER CONTEMPORANEOUSLY WITH THE FILING OF THE FINAL PLAT,

- A. ALL PRIVATE RESTRICTIONS AND/OR COVENANTS, IF ANY, WHICH WILL BE A PART OF THE SUBJECT DEVELOPMENT.
- B. CERTIFIED RESOLUTION OF EACH GOVERNING BODY APPROVING THE SUBDIVISION OR WAIVING THE RIGHT TO REVIEW.

LEGAL DESCRIPTION

A PARCEL OF LAND BEING A PORTION OF THE NORTHWEST QUARTER (NW1/4) OF SECTION 19, TOWNSHIP 74 NORTH, RANGE 43 WEST OF THE 5th PRINCIPAL MERIDIAN, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST QUARTER CORNER (W1/4) OF SAID SECTION 19;

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THENCE NORTH 00 DEGREES 20 MINUTES 43 SECONDS WEST, 647.87 FEET TO A POINT ON A NON-TANGENT CURVE, CONCAVE NORTHWESTERLY, TO WHICH POINT A RADIAL LINE BEARS SOUTH 64 DEGREES 36 MINUTES 55 SECONDS EAST, 414.80 FEET, SAID POINT BEING THE TRUE POINT OF BEGINNING;

THENCE NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 17 DEGREES 01 MINUTE 47 SECONDS, 123.29 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF EAST MANAWA DRIVE, SAID POINT BEING ON A NON-TANGENT CURVE, CONCAVE NORTHWESTERLY, TO WHICH POINT A RADIAL LINE BEARS SOUTH 12 DEGREES 42 MINUTES 28 SECONDS EAST, 355.00 FEET;

THENCE NORTHWESTERLY ALONG SAID SOUTHERLY RIGHT-OF-WAY AND ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 78 DEGREES 28 MINUTES 56 SECONDS, 486.14 FEET;

THENCE ALONG THE EASTERLY RIGHT-OF-WAY LINE OF SAID EAST MANAWA DRIVE, NORTH 01 DEGREE 11 MINUTES 58 SECONDS WEST, 806.33 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF NAVAJO ROAD;

THENCE ALONG SAID NORTHERLY LINE, NORTH 88 DEGREES 48 MINUTES 02 SECONDS EAST, 100.00 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF HARRIER HOLLOW;

THENCE NORTH 84 DEGREES 31 MINUTES 44 SECONDS EAST, 50.14 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF SAID HARRIER HOLLOW;

THENCE NORTH 88 DEGREES 48 MINUTES 02 SECONDS EAST, 100.00 FEET;

THENCE SOUTH 01 DEGREE 11 MINUTES 58 SECONDS EAST, 122.00 FEET;

THENCE NORTH 87 DEGREES 56 MINUTES 46 SECONDS EAST, 102.20 FEET;

THENCE SOUTH 12 DEGREES 43 MINUTES 18 SECONDS WEST, 410.16 FEET;

THENCE SOUTH 80 DEGREES 00 MINUTES 14 SECONDS EAST, 102.73 FEET TO A POINT ON THE NORTHWESTERLY RIGHT-OF-WAY LINE OF MERLIN LANE;

THENCE NORTH 63 DEGREES 28 MINUTES 57 SECONDS EAST, 68.02 FEET TO A POINT ON THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF SAID MERLIN LANE;

THENCE SOUTH 63 DEGREES 38 MINUTES 24 SECONDS EAST, 98.81 FEET;

THENCE NORTH 30 DEGREES 46 MINUTES 20 SECONDS EAST, 759.53 FEET;

THENCE SOUTH 59 DEGREES 13 MINUTES 40 SECONDS EAST, 100.00 FEET TO A POINT ON THE NORTHWESTERLY RIGHT-OF-WAY LINE OF REDTAIL ROAD;

THENCE SOUTH 31 DEGREES 37 MINUTES 33 SECONDS EAST, 56.42 FEET TO A POINT ON THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF SAID REDTAIL ROAD;

THENCE SOUTH 59 DEGREES 13 MINUTES 40 SECONDS EAST, 135.00 FEET TO A POINT ON THE NORTHWESTERLY RIGHT-OF-WAY OF MIDWEST POWER (MIDAMERICAN ENERGY) PROPERTY;

THENCE ALONG SAID RIGHT-OF-WAY SOUTH 30 DEGREES 46 MINUTES 20 SECONDS WEST, 397.55 FEET;

THENCE CONTINUING ALONG SAID RIGHT-OF-WAY, SOUTH 01 DEGREE 28 MINUTES 18 SECONDS EAST, 301.85 FEET TO A POINT ON THE OLD MOSQUITO CREEK CHANNEL;

THENCE ALONG SAID CHANNEL THE FOLLOWING 6 COURSES;

1. SOUTH 75 DEGREES 58 MINUTES 58 SECONDS WEST, 131.99 FEET;
2. SOUTH 58 DEGREES 55 MINUTES 53 SECONDS WEST, 105.99 FEET;
3. SOUTH 49 DEGREES 37 MINUTES 07 SECONDS WEST, 123.30 FEET;
4. SOUTH 68 DEGREES 20 MINUTES 15 SECONDS WEST, 233.65 FEET;
5. SOUTH 63 DEGREES 16 MINUTES 30 SECONDS WEST, 395.41 FEET;
6. SOUTH 67 DEGREES 20 MINUTES 22 SECONDS WEST, 381.18 FEET TO THE TRUE POINT OF BEGINNING.

SAID PARCEL CONTAINS 17.123 ACRES MORE OF LESS INCLUDING THE FOLLOWING RIGHT-OF-WAY, NAVAJO ROAD (0.115 ACRES), HARRIER HOLLOW (0.700 ACRES) REDTAIL ROAD (1.551 ACRES), MERLIN LANE (0.097 ACRES) AND GOSHAWK GLEN (0.11 ACRES).

SHALL BE BINDING ON

ERECTION OF STRUCTURE NOT ERECT ANY STRUCTURE WITHOUT WRITTEN CONSENT OF THE

CHANGE OF GRADE: EACH GRADE, ELEVATION, NOT WITHOUT PRIOR WRITTEN CONSENT

RIGHT OF ACCESS: THE ALL RIGHTS OF INGRESS AND EASEMENT AREA HEREIN

REMOVAL AND REPLACEMENT OF IMPROVEMENT OR STRUCTURE RIGHTS UNDER THIS EASEMENT ASSIGNS.

SURFACE RESTORATION: SHALL BE LIMITED TO GRADING

DUTY TO REPAIR: CITY SHALL BE RESPONSIBLE FOR IMPROVEMENT OUTSIDE THE SAID EAGLES NEST, L.L.C.

IN WITNESS OF EAGLES

BY:

STATE OF IOWA

COUNTY OF

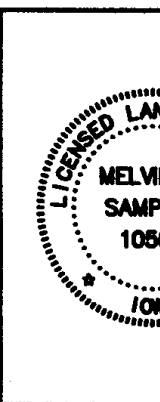
ON THIS \_\_\_\_\_ NOTARY PUBLIC JERKOVICH, ONE OF THE SAID L. OF THE SA JOHN H. JE VOLUNTARILY EXECUTED.

NOTARY PUBLIC

MY COMMISSION

NOTE:

A 5.00 FOOT  
 A 10.00 FOOT  
 5.00 FOOT  
 RESERVED FOR



1 OF 2

10483  
 sheet  
 project no.

project **EAGLE TRAIL SUBDIVISION PHASE 1**

client **EAGLES NEST, L.L.C.  
 922 NORTH WALNUT AVOCA, IOWA 51521**

sheet **FINAL PLAT**

DDI/DEF  
 drawn

SCH  
 designed

MGS  
 approved

SEP. '04  
 date

revision

SHALL BE BINDING ON EAGLES NEST, L.L.C. , ITS SUCCESSORS OR ASSIGNS.

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SURFACE RESTORATION: CITY'S LIABILITY TO RESTORE THE SURFACE WITHIN THE EASEMENT AREA SHALL BE LIMITED TO GRADING AND SEEDING.

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SECTION 19, TOWNSHIP 74 NORTH, RANGE 43 COUNTY, IOWA, MORE PARTICULARLY DESCRIBED

9 DEGREES 30 MINUTES 17 SECONDS EAST,

POINT ON A NON-TANGENT CURVE, CONCAVE MINUTES 55 SECONDS EAST, 414.80 FEET, SAID

DEGREES 01 MINUTE 47 SECONDS, 123.29 FEET MID POINT BEING ON A NON-TANGENT CURVE, DEGREES 42 MINUTES 28 SECONDS EAST, 355.00

D CURVE THROUGH A CENTRAL ANGLE OF 78

NORTH 01 DEGREE 11 MINUTES 58 SECONDS NAVAJO ROAD;

DS EAST, 100.00 FEET TO A POINT ON THE

POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF

POINT ON THE NORTHWESTERLY RIGHT-OF-WAY

POINT ON THE SOUTHEASTERLY RIGHT-OF-WAY

POINT ON THE NORTHWESTERLY RIGHT-OF-WAY

POINT ON THE SOUTHEASTERLY RIGHT-OF-WAY

POINT ON THE NORTHWESTERLY RIGHT-OF-WAY

S WEST, 397.55 FEET;

8 SECONDS EAST, 301.85 FEET TO A POINT ON

E TRUE POINT OF BEGINNING.

RIGHT-OF-WAY, NAVAJO ROAD (0.115 ACRES), GOSHAWK GLEN (0.11 ACRES).

IN WITNESS THEREOF, I DO HEREBY RATIFY AND APPROVE OF THE DISPOSITION OF EAGLES NEST, L.L.C.'S PROPERTY AS CONTAINED HEREIN ON THIS

1st DAY OF October, 2004.

BY: John H. Jerkovich  
JOHN H. JERKOVICH

STATE OF IOWA

COUNTY OF POTTAWATTAMIE

ON THIS 1st DAY OF October, 2004, BEFORE ME A NOTARY PUBLIC IN AND FOR THE STATE OF IOWA, PERSONALLY APPEARED JOHN H. JERKOVICH, TO ME PERSONALLY KNOWN, WHO BEING BY ME DULY SWORN, DID SAY HE IS ONE OF THE MEMBERS OF EAGLES NEST, L.L.C., THAT NO SEAL HAS BEEN PROCURED BY THE SAID LIMITED LIABILITY COMPANY, AND THAT SAID INSTRUMENT WAS SIGNED ON BEHALF OF THE SAID LIMITED LIABILITY COMPANY BY AUTHORITY OF ITS MEMBERS AND THE SAID JOHN H. JERKOVICH ACKNOWLEDGED THE EXECUTION OF THE INSTRUMENT TO BE THE VOLUNTARY ACT AND DEED OF SAID LIMITED LIABILITY COMPANY BY IT VOLUNTARILY EXECUTED.

Mary J. Hughes  
NOTARY PUBLIC IN AND FOR SAID STATE  
MY COMMISSION EXPIRES 1-16-07



NOTE:

A 5.00 FOOT WIDE PERMANENT EASEMENT ON EACH SIDE OF ALL SIDE LOT LINES, A 10.00 FOOT WIDE PERMANENT EASEMENT ALONG ALL FRONT LOT LINES, AND A 5.00 FOOT WIDE PERMANENT EASEMENT ALONG ALL REAR LOT LINES, ARE RESERVED FOR THE INSTALLATION AND MAINTENANCE OF UTILITIES.

	<p>I hereby certify that this land surveying document was prepared and the related survey work was performed by me or under my direct personal supervision and that I am a duly licensed Land Surveyor under the laws of the State of Iowa.</p>
	<p><u>Melvin G. Samples</u> <u>10-1-04</u> MELVIN G. SAMPLES, P.L.S. DATE</p> <p>License Number <u>10569</u> My license renewal date is December 31, <u>2004</u></p> <p>Pages or sheets covered by this seal: <u>SHEET 1 AND 2 OF 2</u></p>

PHASE 1

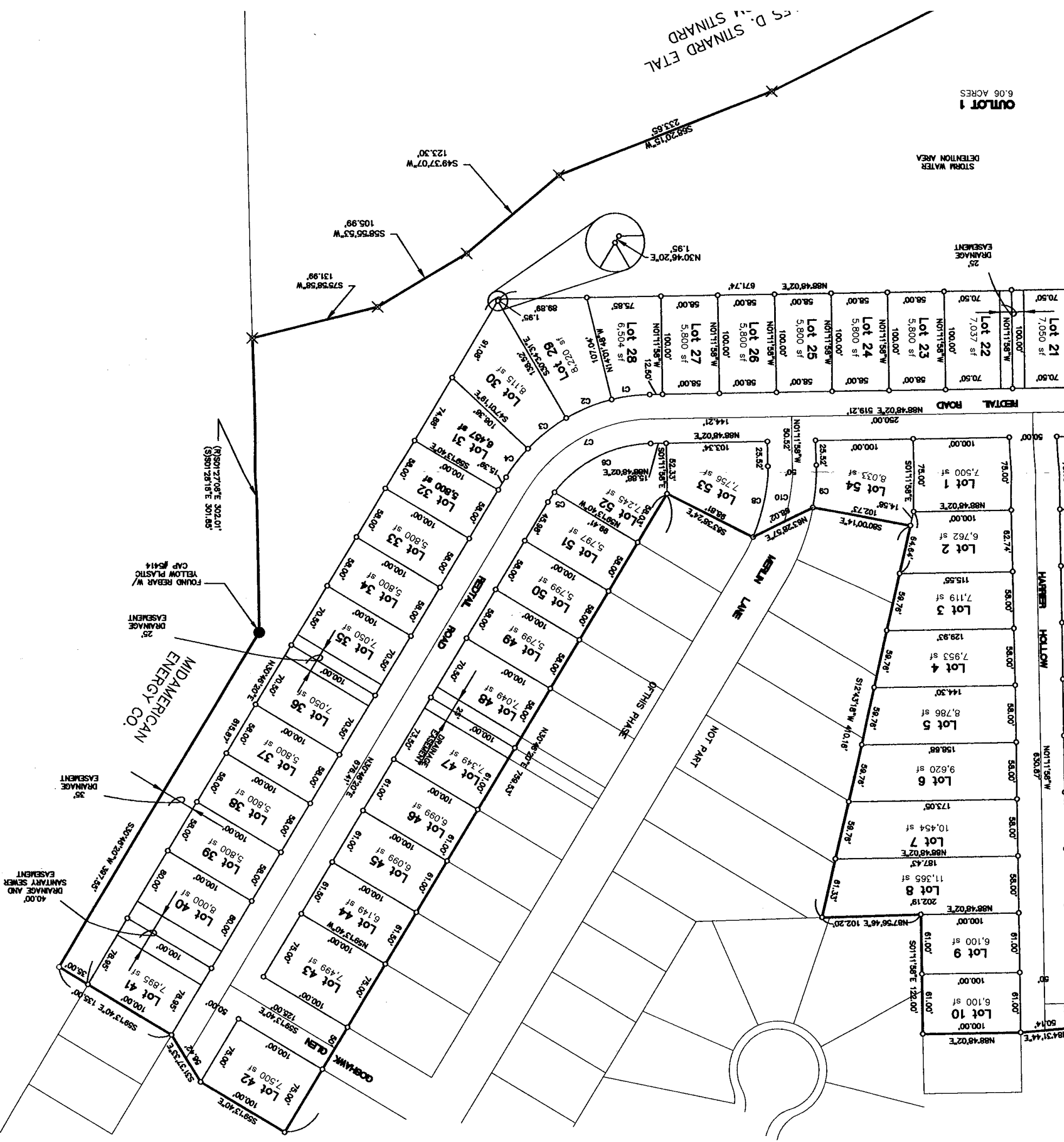
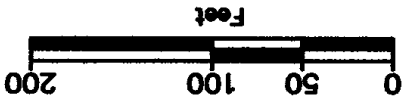
DDI/DEF	_____	_____
drawn	_____	_____
SCH	_____	_____
designed	_____	_____
MGS	_____	_____
approved	_____	_____
SEP. '04	_____	_____
date	revision	date

**hgm**  
ASSOCIATES INC.  
ENGINEERING ARCHITECTURE SURVEYING  
council bluffs omaha

this drawing is being made available by hgm associates inc. for use on this project in accordance with hgm associates inc. agreement for professional services. hgm associates inc. assumes no liability for any use of this drawing or any part thereof except in accordance with the terms of the above agreement.

BK 105PG07338

# FINAL PLAT OF EAGLE TRAIL SUBDIVISION PHASE 1



OUTLOT 1  
9.08 ACRES

STORM WATER  
RETENTION AREA

25'  
DRAINAGE  
EASEMENT

HARRIS HOLLOW

PHASE 2

MIDAMERICAN  
ENERGY CO.

FOUND REBAR W/  
YELLOW PLASTIC  
CAP #414

25'  
DRAINAGE  
EASEMENT

40.00'  
DRAINAGE AND  
SANITARY SEWER  
EASEMENT

(R)S012709°E 302.01'  
(S)S012618°E 301.89'

D. STINARD ET AL

S88°20'15"W  
233.85

N30°46'20"E  
1.95

S75°58'58"W  
131.99

S58°55'53"W  
105.99

S49°37'07"W  
123.30

70.50'

70.50'

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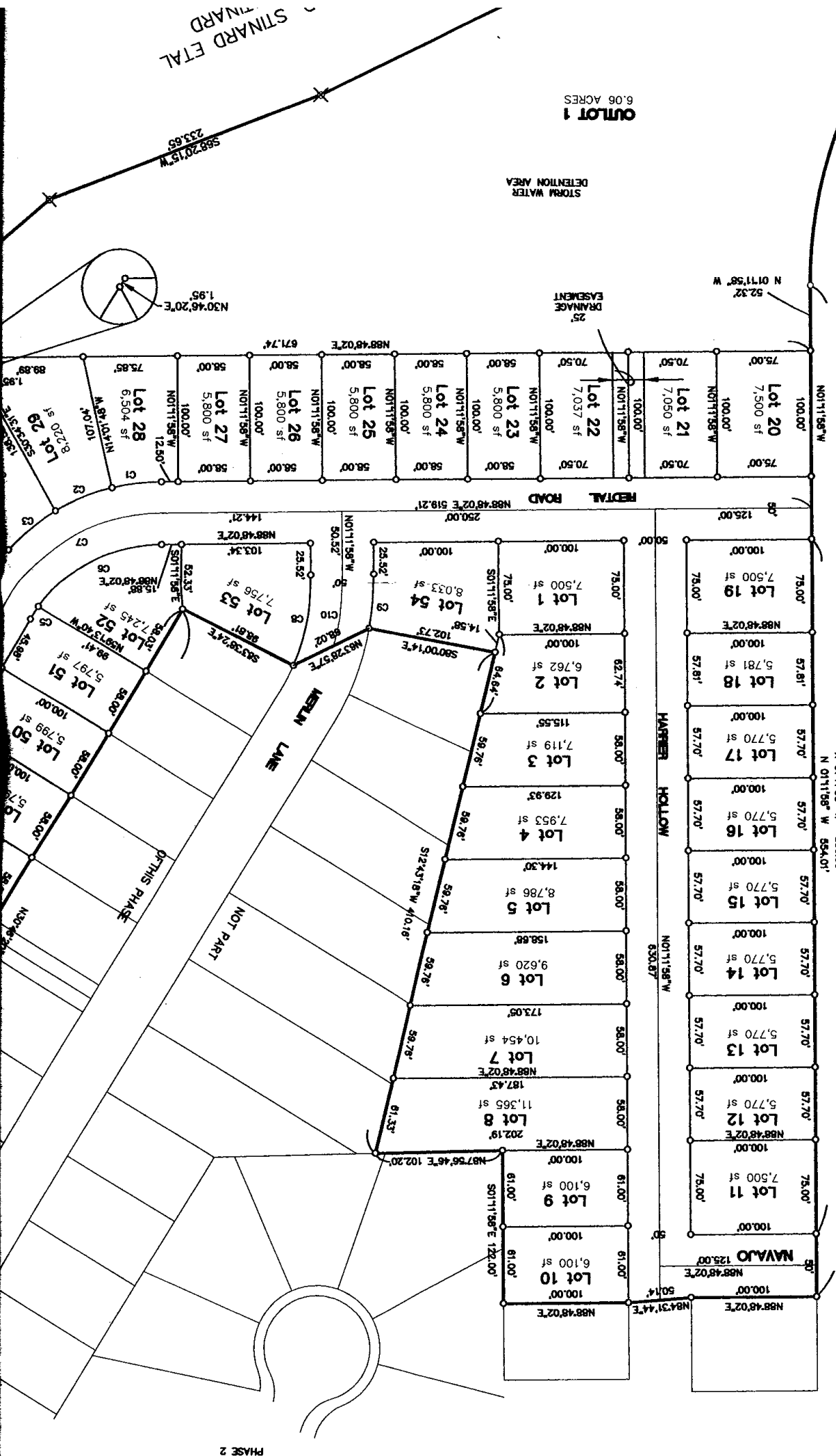
70.50'

70.50'

70.50'

70.50'

# FINAL PLAT OF EAGLE TRAIL SUBDIVISION PHASE 1

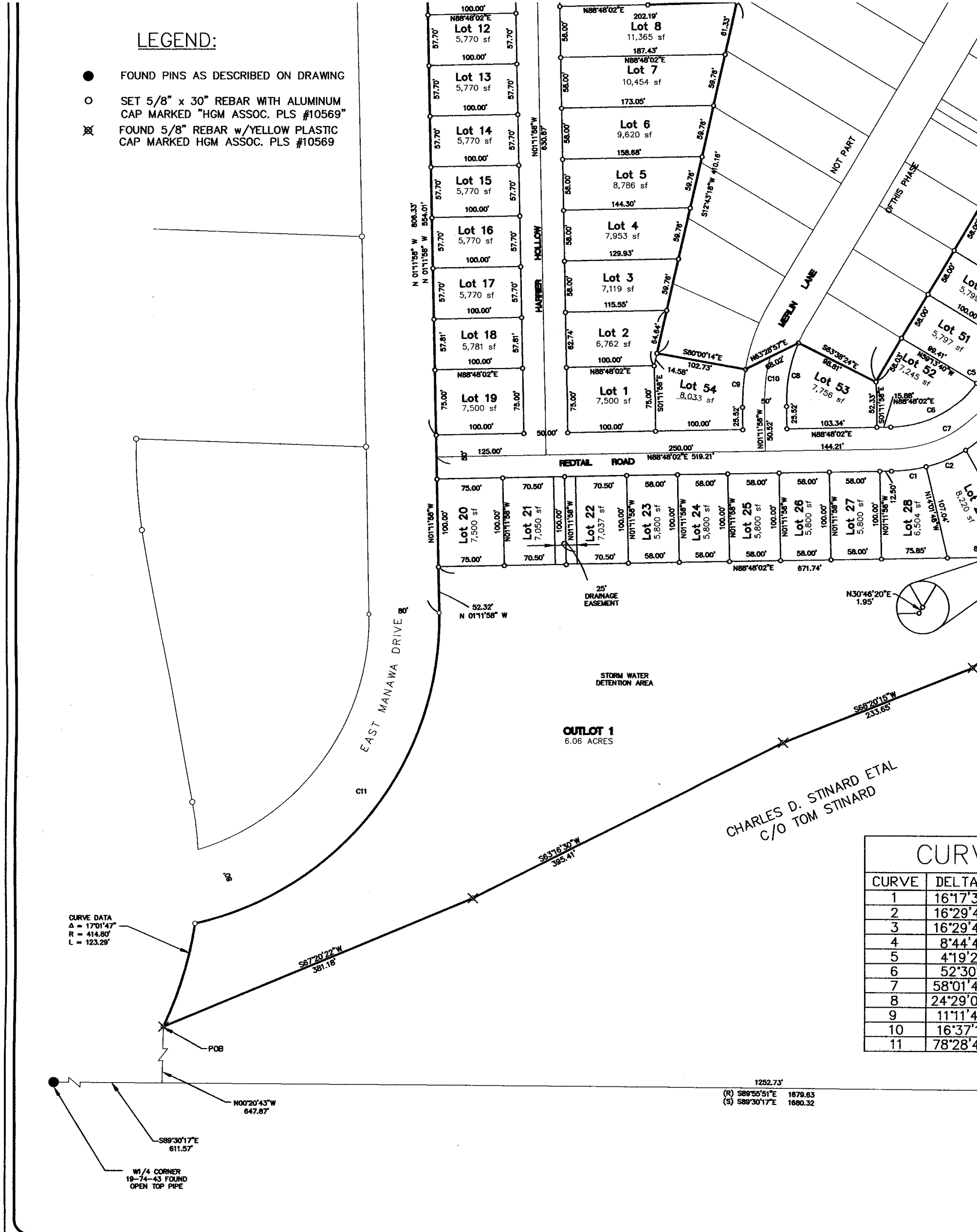


● FOUND PINS AS DESCRIBED ON DRAWING  
○ CAP MARKED "HGM ASSOC. PLS #10569"  
○ CAP MARKED "HGM ASSOC. PLS #10569"  
○ FOUND 5/8" REBAR W/YELLOW PLASTIC  
○ SET 5/8" x 30" REBAR WITH ALUMINUM

## LEGEND:

**LEGEND:**

- FOUND PINS AS DESCRIBED ON DRAWING
- SET 5/8" x 30" REBAR WITH ALUMINUM CAP MARKED "HGM ASSOC. PLS #10569"
- ⊗ FOUND 5/8" REBAR w/YELLOW PLASTIC CAP MARKED HGM ASSOC. PLS #10569



CURVE DATA  
 Δ = 17°01'47"  
 R = 414.80'  
 L = 123.29'

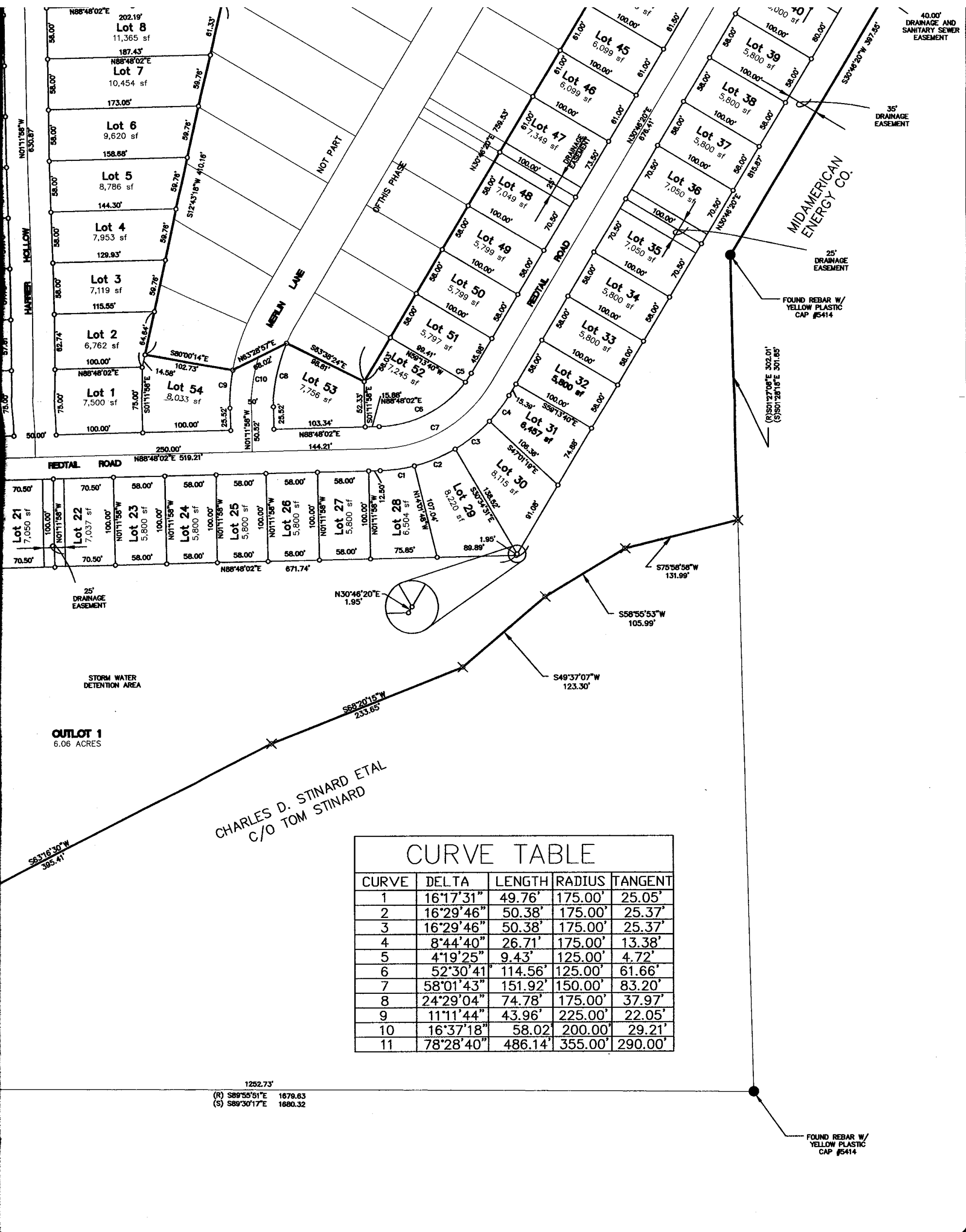
CURVE	
CURVE	DELTA
1	16°17'31"
2	16°29'40"
3	16°29'40"
4	8°44'40"
5	4°19'25"
6	52°30'20"
7	58°01'43"
8	24°29'04"
9	11°11'44"
10	16°37'11"
11	78°28'40"

1252.73'  
 (R) S89°55'51"E 1679.83  
 (S) S89°30'17"E 1680.32

2 OF 2  
 sheet  
 project no. 10483

project **EAGLE TRAIL SUBDIVISION PHASE 1**  
 client **EAGLES NEST, L.C.C.**  
 922 NORTH WALNUT AVOCA, IOWA 51521  
 sheet **FINAL PLAT**

DDI/DEF  
 drawn \_\_\_\_\_  
 SCH  
 designed \_\_\_\_\_  
 MGS  
 approved \_\_\_\_\_  
 SEP '04  
 date \_\_\_\_\_  
 revision \_\_\_\_\_



**CURVE TABLE**

CURVE	DELTA	LENGTH	RADIUS	TANGENT
1	16°17'31"	49.76'	175.00'	25.05'
2	16°29'46"	50.38'	175.00'	25.37'
3	16°29'46"	50.38'	175.00'	25.37'
4	8°44'40"	26.71'	175.00'	13.38'
5	4°19'25"	9.43'	125.00'	4.72'
6	52°30'41"	114.56'	125.00'	61.66'
7	58°01'43"	151.92'	150.00'	83.20'
8	24°29'04"	74.78'	175.00'	37.97'
9	11°11'44"	43.96'	225.00'	22.05'
10	16°37'18"	58.02'	200.00'	29.21'
11	78°28'40"	486.14'	355.00'	290.00'

**PHASE 1**

DDI/DEF  
 drawn \_\_\_\_\_  
 SCH  
 designed \_\_\_\_\_  
 MGS  
 approved \_\_\_\_\_  
 SEP, '04  
 date revision date

**hgm**  
 ASSOCIATES INC.  
 ENGINEERING ARCHITECTURE SURVEYING  
 council bluffs omaha

this drawing is being made available by hgm associates inc. for use on this project in accordance with hgm associates inc. agreement for professional services. hgm associates inc. assumes no liability for any use of this drawing or any part thereof except in accordance with the terms of the above agreement.



Preparer Information: Richard A. Heininger, P.O. Box 249, Council Bluffs, IA 51502-0249 (712) 328-1833

Name

Address

Telephone

### **CONSENT OF MORTGAGEE TO PLATTING**

Midstates Bank N.A. is the holder of one mortgage on property that is part of the plat to which this Consent of Mortgagee is attached. The first mortgage was executed by Eagles Nest, LLC on April 23, 2004, and filed for record April 29, 2004, and recorded in the Pottawattamie County Recorder's Office in Book 104, Page 23208. Said mortgage covers real estate which is now known as and shown on said plat. The real estate as described on the Owner's Certificate attached to this plat, to which the Consent of Mortgagee is attached, is certain real estate which is being laid out into lots as designated by the attached plat of Eagle Trail Subdivision Phase 1, in Pottawattamie County, Iowa, pursuant to Chapter 354, Code of Iowa 2003, as amended. Midstates Bank N.A., as the holder of said mortgage, hereby consents to said platting, and said consent is given pursuant to the provisions of §354.11(2), Code of Iowa, 2003, as amended. Since a portion of the property designated on the plat is to be conveyed or dedicated to the local governmental unit within which such land is located, this Consent of Mortgagee shall constitute a partial release of said mortgage for all areas conveyed to the local governmental unit or dedicated to the public. Said Consent by Midstates Bank N.A., shall in no way be deemed a release, either total or partial, of any interest in the remainder of the tract of land not conveyed to the local governmental unit or dedicated to the public that arises out of the mortgage as referred to above and said Consent

shall in no way subject Midstates Bank N.A. to any expense or liability as a result of said platting procedure.

Dated this 12<sup>th</sup> day of October, 2004.

MIDSTATES BANK N.A.

BY: Christine M. Blum  
Christine M. Blum, Business Banker

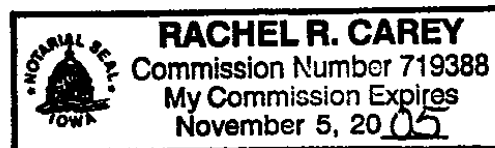
STATE OF IOWA )  
 ) ss.  
COUNTY OF POTTAWATTAMIE )

On this 12<sup>th</sup> day of October, 2004, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Christine M. Blum, to me personally known, who being by me duly sworn, did say that she is a Business Banker of said corporation executing the within and foregoing instrument; that no seal has been procured by said corporation; that said instrument was signed on behalf of said corporation by authority of its Board of Directors; and that the said Christine M. Blum as such officer acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by her voluntarily executed.

Rachel R. Carey  
NOTARY PUBLIC IN AND FOR SAID STATE

(SEAL)

My Commission Expires: 11/5/05



**CERTIFICATE AND RECEIPT**

=====

**STATE OF IOWA**

} ss.

Pottawattamie County,

The undersigned, Clerk of the City of Council Bluffs, Iowa, hereby certifies that Resolution 04-235 and Attachment 'A' are as the same appear of record in this office.

Witness my hand and seal of the City of Council Bluffs, Iowa,

this 1st day of October A.D. 2004



*Cheryl Luntney*  
City Clerk of the City of Council Bluffs, Iowa

=====

*9/10/04* *Debra*  
*Reed*

Prepared by: City of Council Bluffs Legal Department, 209 Pearl Street, Council Bluffs, Iowa 51503 (712) 328-4620  
Return to: City Clerk, 209 Pearl Street, Council Bluffs, Iowa 51503 (712) 328-4616

RESOLUTION NO. 04-235

A RESOLUTION granting final plat approval of Eagle Trail Subdivision, Phase I.

WHEREAS, Eagles Nest, LLC has requested final plat approval of a 54-lot residential subdivision to be known as Eagle Trail Subdivision, Phase I, located at the intersection of East Manawa Drive and Navajo Road, as shown on Attachment "A"; and

WHEREAS, the preliminary plan for the proposed subdivision was approved on January 12, 2004, by Resolution No. 04-08; and

WHEREAS, the proposed subdivision is consistent with the approved preliminary plan; and

WHEREAS, the final plat has been reviewed by the appropriate city departments and utilities; and

WHEREAS, the Community Development Department recommends approval of the final plat for Eagle Trail Subdivision, Phase I, as shown on Attachment "A", subject to the following conditions:

1. All technical corrections required by the Community Development Department and/or Public Works Department, shall be made on the final plat document prior to execution of the document.
2. Sidewalks shall be installed, at no expense to the City, along Harrier Hollow, Redtail Road, Navajo Road, Merlin Lane, and Goshawk Glen concurrent with the construction of residential structures prior to the issuance of a Certificate of Occupancy for each residence.
3. All public improvements shall be installed and accepted by the City, or the City shall be in receipt of a performance guarantee in an amount determined by the Public Works Department to be sufficient to finish all required public improvements not yet completed and/or certified and accepted by the Public Works Department. Prior to execution of the final plat, the Community Development Department shall be in receipt of the guarantee agreement.
4. Prior to executing the final plat, the applicant shall provide the Community Development Department with a copy of the covenants applicable to the subdivision. A copy shall be recorded concurrent with the final plat.
5. The developer shall provide the City with two sets of as-built construction drawings and a two-year maintenance bond, effective upon acceptance of all required improvements.
6. All fire hydrants shall be active and accessible prior to an framing activity in the subdivision.
7. A fence, in accordance with the approval of the preliminary plan, shall be installed along East Manawa Drive prior to execution of the final plat,

or within six months of final plat approval, subject to review and approval by the Community Development Department. If not installed within six months, the City shall execute the performance guarantee to pay for installation of the fence.

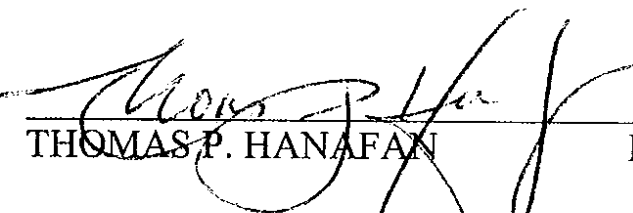
NOW, THEREFORE, BE IT RESOLVED  
BY THE CITY COUNCIL  
OF THE  
CITY OF COUNCIL BLUFFS, IOWA:

That the final plat for Eagle Trail Subdivision, Phase I, as shown on Attachment "A", is hereby approved, subject to the conditions set forth above; and


BE IT FURTHER RESOLVED

That the Mayor and City Clerk are hereby authorized and directed to endorse the final plat.

ADOPTED  
AND September 27, 2004  
APPROVED

  
THOMAS P. HANAFAN Mayor

Attest:

  
CHERYL PUNTENEY City Clerk

# FINAL PLAT OF EAGLE TRAIL SUBDIVISION PHASE 1

OWNERS/DEVELOPERS:  
EAGLES NEST, L.L.C.  
P.O. BOX 683  
AVOCA, IOWA 51523

Prepared by: Melvin G. Samples, HGM Associates, Inc., 640 Fifth Avenue, Council Bluffs, Iowa 51502 (712) 323-0530

CITY COUNCIL

APPROVED BY MAYOR: THE HONORABLE THOMAS P. HANAFAN DATE \_\_\_\_\_

ATTESTED TO BY: \_\_\_\_\_

CITY CLERK: CHERYL PUNTERNEY DATE \_\_\_\_\_

COMMUNITY DEVELOPMENT DIRECTOR: DONALD GROSS DATE \_\_\_\_\_

CERTIFICATE OF TREASURER OF POTTAWATTAMIE COUNTY, IOWA

I, THE TREASURER OF POTTAWATTAMIE COUNTY, IOWA, HEREBY CERTIFY THAT THE PROPERTY INCLUDED IN EAGLE TRAIL SUBDIVISION, IS FREE FROM CERTIFIED TAXES AND CERTIFIED SPECIAL ASSESSMENTS.

TREASURER OF POTTAWATTAMIE COUNTY, IOWA: JUDY ANN MILLER DATE \_\_\_\_\_

WE HEREBY CERTIFY THAT WE WILL MEET ALL EQUAL OPPORTUNITY AND FAIR MARKETING OBJECTIVES CONSISTENT WITH FEDERAL, STATE AND LOCAL GUIDELINES. WE HEREBY CERTIFY THAT THE FOLLOWING DOCUMENTS WILL BE RECORDED WITH THE POTTAWATTAMIE COUNTY RECORDER CONTEMPORANEOUSLY WITH THE FILING OF THE FINAL PLAT,

- A. ALL PRIVATE RESTRICTIONS AND/OR COVENANTS, IF ANY, WHICH WILL BE A PART OF THE SUBJECT DEVELOPMENT.
- B. CERTIFIED RESOLUTION OF EACH GOVERNING BODY APPROVING THE SUBDIVISION OR WAIVING THE RIGHT TO REVIEW.

DEDICATION:

KNOW ALL PERSONS BY THESE PRESENTS THAT EAGLES NEST, L.L.C. BEING THE SOLE OWNER OF THE PROPERTY DESCRIBED WITHIN THE LEGAL DESCRIPTION AND EMBRACED WITHIN THIS PLAT, HAS CAUSED SAID PROPERTY TO BE SUBDIVIDED AS LOTS 1 THROUGH 54, INCLUSIVE, AND PUBLIC STREET RIGHT-OF-WAY FOR HARRIER HOLLOW, MERLIN LANE, GOSHAWK GLEN, NAVAJO ROAD AND REDTAIL ROAD. SAID PROPERTY TO BE KNOWN AS EAGLE TRAIL SUBDIVISION PHASE 1. SAID EAGLES NEST, L.L.C. DOES HEREBY DEDICATE TO THE CITY OF COUNCIL BLUFFS, IOWA, THE RIGHT-OF-WAY FOR HARRIER HOLLOW (0.700 ACRES, MORE OR LESS), MERLIN LANE (0.097 ACRES, MORE OR LESS), REDTAIL ROAD (1.551 ACRES, MORE OR LESS), GOSHAWK GLEN (0.115 ACRES, MORE OR LESS), AND NAVAJO ROAD (0.115 ACRES, MORE OR LESS). EAGLES NEST, L.L.C. DOES HEREBY DEDICATE TO THE CITY OF COUNCIL BLUFFS, IOWA ALL RIGHTS OF DIRECT ACCESS TO EAST MANAWA DRIVE. EAGLES NEST, L.L.C. DOES HEREBY DEDICATE TO THE CITY OF COUNCIL BLUFFS, IOWA A PERPETUAL STORM SEWER AND DRAINAGE EASEMENT 25 FEET IN WIDTH, BEING 12.50 FEET IN WIDTH ON EACH SIDE OF THE LOT LINE COMMON TO LOTS 21 AND 22, 47 AND 48, 35 AND 36, AND A PERPETUAL STORM SEWER AND DRAINAGE EASEMENT 40 FEET IN WIDTH, BEING 20 FEET IN WIDTH ON EACH SIDE OF THE LOT LINE COMMON TO LOTS 40 AND 41 AS SHOWN ON THE DRAWING. THE DEDICATION OF THESE EASEMENTS SHALL BE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS.

EASEMENT RUNS WITH THE LAND: THIS EASEMENT SHALL BE DEEDED TO RUN WITH THE LAND AND SHALL BE BINDING ON EAGLES NEST, L.L.C., ITS SUCCESSORS OR ASSIGNS.

ERECTOR OF STRUCTURES PROHIBITED: EAGLES NEST, L.L.C., OR ITS SUCCESSORS OR ASSIGNS SHALL NOT ERECT ANY STRUCTURE OVER NOR WITHIN THE EASEMENT AREA WITHOUT OBTAINING THE PRIOR WRITTEN CONSENT OF THE CITY ENGINEER.

CHANGE OF GRADE: EAGLES NEST, L.L.C., OR ITS SUCCESSORS OR ASSIGNS SHALL NOT CHANGE THE GRADE, ELEVATION, NOR THE CONTOURS OF ANY PART OF THE EASEMENT AREA WITHOUT OBTAINING THE PRIOR WRITTEN CONSENT OF THE CITY ENGINEER.

RIGHT OF ACCESS: THE CITY SHALL HAVE THE RIGHT OF ACCESS TO THE EASEMENT AREA AND HAVE ALL RIGHTS OF INGRESS AND EGRESS REASONABLY NECESSARY FOR THE USE AND ENJOYMENT OF THE EASEMENT AREA HEREIN DESCRIBED.

REMOVAL AND REPLACEMENT: THE COST OF REMOVAL AND REPLACEMENT OF ANY UNAUTHORIZED IMPROVEMENT OR STRUCTURES WITHIN THE EASEMENT AREA, NECESSITATED BY THE EXERCISE OF THE RIGHTS UNDER THIS EASEMENT, SHALL BE BORNE BY SAID EAGLES NEST, L.L.C., OR ITS SUCCESSORS OR ASSIGNS.

SURFACE RESTORATION: CITY'S LIABILITY TO RESTORE THE SURFACE WITHIN THE EASEMENT AREA SHALL BE LIMITED TO GRADING AND SEEDING.

DUTY TO REPAIR: CITY AGREES THAT ANY DRAIN TILE, DRIVE OR ACCESS WAY, FENCE, YARD, OR OTHER IMPROVEMENT OUTSIDE OF THE EASEMENT AREA WHICH MAY BE DAMAGED AS A RESULT OF ANY ENTRY MADE THROUGH AN EXERCISE OF THE CITY'S RIGHT OF ACCESS SHALL BE REPAIRED AT NO EXPENSE TO SAID EAGLES NEST, L.L.C., OR ITS SUCCESSORS OR ASSIGNS.

IN WITNESS WHEREOF, I DO HEREBY RATIFY AND APPROVE OF THE DISPOSITION OF EAGLES NEST, L.L.C.'S PROPERTY AS CONTAINED HEREIN ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2004.

BY: JOHN H. JERKOVICH

STATE OF IOWA )  
COUNTY OF POTTAWATTAMIE ) SS.

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2004, BEFORE ME A NOTARY PUBLIC IN AND FOR THE STATE OF IOWA, PERSONALLY APPEARED JOHN H. JERKOVICH, TO ME PERSONALLY KNOWN, WHO BEING BY ME DULY SWORN, DID SAY HE IS ONE OF THE MEMBERS OF EAGLES NEST, L.L.C., THAT NO SEAL HAS BEEN PROCURED BY THE SAID LIMITED LIABILITY COMPANY, AND THAT SAID INSTRUMENT WAS SIGNED ON BEHALF OF THE SAID LIMITED LIABILITY COMPANY BY AUTHORITY OF ITS MEMBERS AND THE SAID JOHN H. JERKOVICH ACKNOWLEDGED THE EXECUTION OF THE INSTRUMENT TO BE THE VOLUNTARY ACT AND DEED OF SAID LIMITED LIABILITY COMPANY BY IT VOLUNTARILY EXECUTED.

NOTARY PUBLIC IN AND FOR SAID STATE

MY COMMISSION EXPIRES \_\_\_\_\_

NOTE:

A 5.00 FOOT WIDE PERMANENT EASEMENT ON EACH SIDE OF ALL SIDE LOT LINES, A 10.00 FOOT WIDE PERMANENT EASEMENT ALONG ALL FRONT LOT LINES, AND A 5.00 FOOT WIDE PERMANENT EASEMENT ALONG ALL REAR LOT LINES, ARE RESERVED FOR THE INSTALLATION AND MAINTENANCE OF UTILITIES.

LEGAL DESCRIPTION

A PARCEL OF LAND BEING A PORTION OF THE NORTHWEST QUARTER (NW1/4) OF SECTION 19, TOWNSHIP 74 NORTH, RANGE 43 WEST OF THE 5th PRINCIPAL MERIDIAN, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST QUARTER CORNER (W1/4) OF SAID SECTION 19;

THENCE ALONG THE SOUTH LINE OF SAID NORTHWEST QUARTER (NW1/4), SOUTH 89 DEGREES 30 MINUTES 17 SECONDS EAST, 811.57 FEET;

THENCE NORTH 00 DEGREES 20 MINUTES 43 SECONDS WEST, 647.87 FEET TO A POINT ON A NON-TANGENT CURVE, CONCAVE NORTHWESTERLY, TO WHICH POINT A RADIAL LINE BEARS SOUTH 84 DEGREES 36 MINUTES 55 SECONDS EAST, 414.80 FEET, SAID POINT BEING THE TRUE POINT OF BEGINNING;

THENCE NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 17 DEGREES 01 MINUTE 47 SECONDS, 123.29 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF EAST MANAWA DRIVE, SAID POINT BEING ON A NON-TANGENT CURVE, CONCAVE NORTHWESTERLY, TO WHICH POINT A RADIAL LINE BEARS SOUTH 12 DEGREES 42 MINUTES 28 SECONDS EAST, 355.00 FEET;

THENCE NORTHWESTERLY ALONG SAID SOUTHERLY RIGHT-OF-WAY AND ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 78 DEGREES 28 MINUTES 56 SECONDS, 486.14 FEET;

THENCE ALONG THE EASTERLY RIGHT-OF-WAY LINE OF SAID EAST MANAWA DRIVE, NORTH 01 DEGREE 11 MINUTES 58 SECONDS WEST, 806.33 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF NAVAJO ROAD;

THENCE ALONG SAID NORTHERLY LINE, NORTH 88 DEGREES 48 MINUTES 02 SECONDS EAST, 100.00 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF HARRIER HOLLOW;

THENCE NORTH 84 DEGREES 31 MINUTES 44 SECONDS EAST, 50.14 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF SAID HARRIER HOLLOW;

THENCE NORTH 88 DEGREES 48 MINUTES 02 SECONDS EAST, 100.00 FEET;

THENCE SOUTH 01 DEGREE 11 MINUTES 58 SECONDS EAST, 122.00 FEET;

THENCE NORTH 87 DEGREES 56 MINUTES 46 SECONDS EAST, 102.20 FEET;

THENCE SOUTH 12 DEGREES 43 MINUTES 18 SECONDS WEST, 410.16 FEET;

THENCE SOUTH 80 DEGREES 00 MINUTES 14 SECONDS EAST, 102.73 FEET TO A POINT ON THE NORTHWESTERLY RIGHT-OF-WAY LINE OF MERLIN LANE;

THENCE NORTH 83 DEGREES 28 MINUTES 57 SECONDS EAST, 88.02 FEET TO A POINT ON THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF SAID MERLIN LANE;

THENCE SOUTH 63 DEGREES 38 MINUTES 24 SECONDS EAST, 98.81 FEET;

THENCE NORTH 30 DEGREES 46 MINUTES 20 SECONDS EAST, 759.53 FEET;

THENCE SOUTH 59 DEGREES 13 MINUTES 40 SECONDS EAST, 100.00 FEET TO A POINT ON THE NORTHWESTERLY RIGHT-OF-WAY LINE OF REDTAIL ROAD;

THENCE SOUTH 31 DEGREES 37 MINUTES 33 SECONDS EAST, 56.42 FEET TO A POINT ON THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF SAID REDTAIL ROAD;

THENCE SOUTH 59 DEGREES 13 MINUTES 40 SECONDS EAST, 135.00 FEET TO A POINT ON THE NORTHWESTERLY RIGHT-OF-WAY OF MIDWEST POWER (MIDAMERICAN ENERGY) PROPERTY;

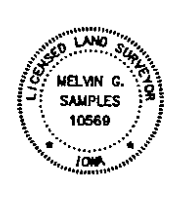
THENCE ALONG SAID RIGHT-OF-WAY SOUTH 30 DEGREES 46 MINUTES 20 SECONDS WEST, 397.55 FEET;

THENCE CONTINUING ALONG SAID RIGHT-OF-WAY, SOUTH 01 DEGREE 28 MINUTES 18 SECONDS EAST, 301.85 FEET TO A POINT ON THE OLD MOSQUITO CREEK CHANNEL;

THENCE ALONG SAID CHANNEL THE FOLLOWING 6 COURSES;

1. SOUTH 75 DEGREES 58 MINUTES 58 SECONDS WEST, 131.99 FEET;
2. SOUTH 58 DEGREES 55 MINUTES 53 SECONDS WEST, 105.99 FEET;
3. SOUTH 49 DEGREES 37 MINUTES 07 SECONDS WEST, 123.30 FEET;
4. SOUTH 68 DEGREES 20 MINUTES 15 SECONDS WEST, 233.65 FEET;
5. SOUTH 63 DEGREES 16 MINUTES 30 SECONDS WEST, 395.41 FEET;
6. SOUTH 67 DEGREES 20 MINUTES 22 SECONDS WEST, 381.18 FEET TO THE TRUE POINT OF BEGINNING.

SAID PARCEL CONTAINS 17.123 ACRES MORE OR LESS INCLUDING THE FOLLOWING RIGHT-OF-WAY, NAVAJO ROAD (0.115 ACRES), HARRIER HOLLOW (0.700 ACRES) REDTAIL ROAD (1.551 ACRES), MERLIN LANE (0.097 ACRES) AND GOSHAWK GLEN (0.11 ACRES).



I hereby certify that this land surveying document was prepared and the related survey work was performed by me or under my direct personal supervision and that I am a duly licensed Land Surveyor under the laws of the State of Iowa.

*Melvin G. Samples*      9-14-04  
 MELVIN G. SAMPLES, P.L.S.      DATE

License Number      10569  
 My license renewal date is December 31,      2004

Pages or sheets covered by this plat:      SHEET 1 AND 2 OF 2

1  
OF  
2

**project** EAGLE TRAIL SUBDIVISION PHASE 1

**client** EAGLES NEST, L.L.C.  
922 NORTH WALNUT AVOCA, IOWA 51521

**sheet** FINAL PLAT

**DDI/DEF** \_\_\_\_\_

**SCH** \_\_\_\_\_

**MGS** \_\_\_\_\_

**SEP '04** \_\_\_\_\_

date      revision

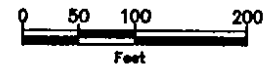
**hgm**  
ASSOCIATES INC.

This drawing is being made available by type distribution for use on this project. It is understood that this type distribution is approved for professional use, does not constitute a contract, and does not constitute a warranty or liability for any use of this drawing or any part thereof.

ATTACHMENT 'A'

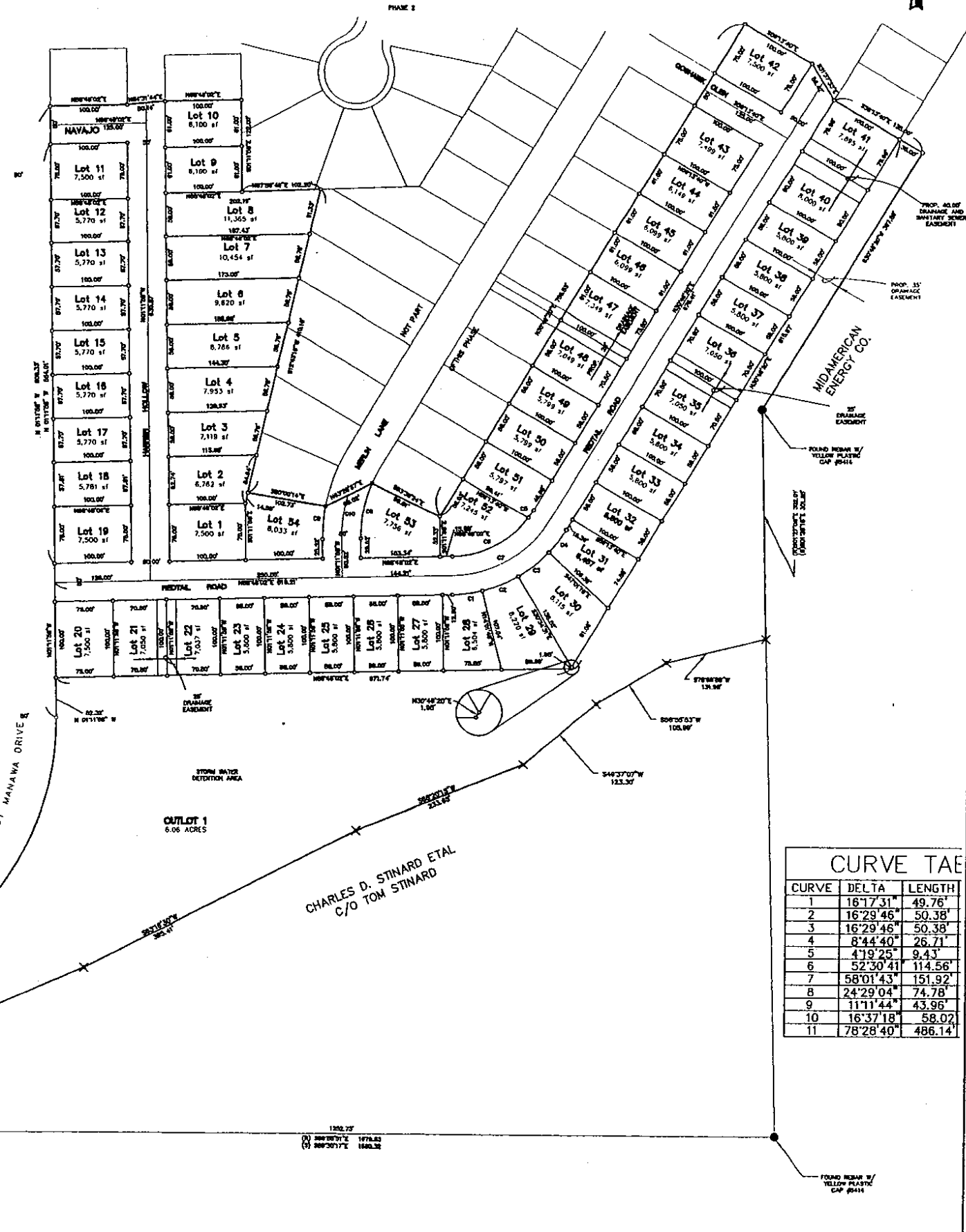
4D

# FINAL PLAT OF EAGLE TRAIL SUBDIVISION PHASE 1



**LEGEND:**

- FOUND PINS AS DESCRIBED ON DRAWING
- SET 5/8" x 30" REBAR WITH ALUMINUM CAP MARKED "HGM ASSOC. PLS #10569"
- ✕ FOUND 5/8" REBAR w/YELLOW PLASTIC CAP MARKED HGM ASSOC. PLS #10569



CURVE TAE		
CURVE	DELTA	LENGTH
1	16°17'31"	49.76'
2	16°29'46"	50.38'
3	16°29'46"	50.38'
4	8°44'40"	26.71'
5	4°19'25"	9.43'
6	52°30'41"	114.56'
7	58°01'43"	151.92'
8	24°29'04"	74.78'
9	11°11'44"	43.96'
10	16°37'18"	58.02'
11	78°28'40"	486.14'

CURVE DATA  
 Δ = 170°40'  
 R = 414.82'  
 L = 123.29'

1/4 CORNER  
 18-74-42 FOUND  
 OPEN TOP PILE

FOUND REBAR w/  
 YELLOW PLASTIC  
 CAP #1044

2 OF 2  
 10483

Project **EAGLE TRAIL SUBDIVISION PHASE 1**  
 client **EAGLES NEST, L.C.C.**  
 922 NORTH WALNUT AVOCA, IOWA 51521  
 sheet **FINAL PLAT**

DDI/DEF  
 SCH  
 MGS  
 approved  
 SEP '04  
 date revision date

**hgm**  
 ASSOCIATES INC.  
 ENGINEERING ARCHITECTURE SURVEYING  
 council bluffs omaha

This drawing is being made available by legal attachment to the plat on this project in accordance with Iowa Code Chapter 181, approved for professional printing, high resolution file, however no liability for any use of this drawing or any part thereof except in connection with the terms of the above agreement.

40

# SMITH PETERSON LAW FIRM, LLP

PARTNERS  
\*ROBERT J. LAUBENTHAL  
\*RICHARD A. HEININGER  
\*LAWRENCE J. BECKMAN  
\*GREGORY G. BARNTSEN  
\*STEVEN H. KROHN  
\*JOSEPH D. THORNTON  
\*THOMP J. PATTERMANN  
DANIEL L. FRETHEIM  
ASSOCIATES  
\*MARVIN O. KIECKHAFFER  
NATHAN R. WATSON

EST. 1908  
35 MAIN PLACE, SUITE 300  
P.O. BOX 249  
COUNCIL BLUFFS, IOWA 51502  
(712) 328-1833  
FAX (712) 328-8320  
www.smithpeterson.com  
email@smithpeterson.com

RAYMOND A. SMITH (1892-1977)  
JOHN LEROY PETERSON (1894-1969)

OF COUNSEL  
HAROLD T. BECKMAN

\*LICENSED IN IOWA AND NEBRASKA

October 13, 2004

Pottawattamie County Recorder  
Pottawattamie County Courthouse  
227 South 6<sup>th</sup> Street  
Council Bluffs, IA 51501

RE: Eagle Trail Subdivision Phase 1 Platting

We have examined abstract of title to:

A parcel of land being a portion of the Northwest Quarter (NW  $\frac{1}{4}$ ) of Section 19, Township 74 North, Range 43 West of the 5<sup>th</sup> Principal Meridian, City of Council Bluffs, Pottawattamie County, Iowa, more particularly described as follows:

Commencing at the West Quarter corner (W  $\frac{1}{4}$ ) of said Section 19; thence along the South line of said Northwest Quarter (NW  $\frac{1}{4}$ ), South 89°30'17" East, 611.57 feet; thence North 00°20'43" West, 647.87 feet to a point on a non-tangent curve, concave Northwesterly, to which point a radial line bears South 64°36'55" East, 414.80 feet, said point being the true point of beginning; thence Northeasterly along said curve through a central angle of 17°01'47", 123.29 feet to a point on the Southerly right-of-way line of East Manawa Drive, said point being on a non-tangent curve, concave Northwesterly, to which point a radial line bears South 12°42'28" East, 355.00 feet; thence Northwesterly along said Southerly right-of-way and along said curve through a central angle of 78°28'56", 486.14 feet; thence along the Easterly right-of-way line of said East Manawa Drive, North 01°11'58" West, 806.33 feet to a point on the Northerly right-of-way line of Navajo Road; thence along said Northerly line, North 88°48'02" East, 100.00 feet to a point on the Westerly right-of-way line of Harrier Hollow; thence North 84°31'44" East, 50.14 feet to a



point on the Easterly right-of-way line of said Harrier Hollow; thence North 88°48'02" East, 100.00 feet; thence South 01°11'58" East, 122.00 feet; thence North 87°56'46" East, 102.20 feet; thence South 12°43'18" West, 410.16 feet; thence South 80°00'14" East, 102.73 feet to a point on the Northwesternly right-of-way line of Merlin Lane; thence North 63°28'57" East, 68.02 feet to a point on the Southeasterly right-of-way line of said Merlin Lane; thence South 63°38'24" East, 98.81 feet; thence North 30°46'20" East, 759.53 feet; thence South 59°13'40" East, 100.00 feet to a point on the Northwesternly right-of-way line of Redtail Road; thence South 31°37'33" East, 56.42 feet to a point on the Southeasterly right-of-way line of said Redtail Road; thence South 59°13'40" East, 135.00 feet to a point on the Northwesternly right-of-way of Midwest Power (MidAmerican Energy) property; thence along said right-of-way South 30°46'20" West, 397.55 feet; thence continuing along said right-of-way, South 01°28'18" East, 301.85 feet to a point on the old Mosquito Creek Channel; thence along said channel the following 6 courses;

1. South 75°58'58" West, 131.99 feet;
2. South 58°55'53" West, 105.99 feet;
3. South 49°37'07" West, 123.30 feet;
4. South 68°20'15" West, 233.65 feet;
5. South 63°16'30" West, 395.41 feet;
6. South 67°20'22" West, 381.18 feet to the true point of beginning.

The abstract also covers other land which is not included in the Plat of Eagle Trail Subdivision Phase 1. The abstract was last certified to by Abstract Guaranty Company consisting of 62 consecutively numbered entries and extending from March 17, 1936 at 8:00 A.M. to October 7, 2004 at 8:00 o'clock A.M.

We have conducted our examination under the provisions of the Iowa Marketable Title Act. We find marketable title at the time of last certification of the abstract as shown by the abstract to be in EAGLES NEST, L.L.C., an Iowa limited liability company, subject only to the following:

1. At Entry #62 the general taxes for the year 2003 are shown 2<sup>nd</sup> half unpaid, first half and prior years are shown paid for Parcel #003035,70014866001. This Examiner has reviewed a receipt (not included in the abstract) showing payment in full of the 2<sup>nd</sup> half of the 2003 taxes on October 13, 2004. We assume that the reference to the general taxes for 2003 is a reference to the fiscal year 2003-2004 taxes due and payable in fiscal 2004-2005.
2. At Entry #22 the abstractor makes the notation that it is no longer possible to certify to special assessments and/or unpaid fees for services for sewer systems, storm water drainage systems, sewage treatment, solid waste collection, water, and solid waste disposal which have been certified to the County Treasurer for collection unless those charges have been entered on the tax books.
3. At Entry #23 the abstractor makes the notation that they do not certify to assessments for buildings on leased land or assessments for machinery and equipment, as the County Treasurer indexes those assessments in such a manner as it is impossible to determine whether there are any which would attach to the real estate.
4. At Entry #61 a lien search was shown for Eagles Nest, L.L.C. for ten years last past, to October 7, 2004 at 8:00 A.M.
5. At Entry #18, #19, #40, #42, #43, #45, #46, and #47 the abstractor makes a notation that the property under examination is controlled by the City of Council Bluffs Zoning Ordinance.
6. At Entry #20 the abstractor makes note of the City of Council Bluffs Ordinance number 4589. This ordinance mandates that any property owner who owns land within the City of Council Bluffs or within two miles of the corporate limits of the City of Council Bluffs and who subdivides or proposes a lot line adjustment to the land, must commence proceedings under the City's subdivision ordinance.
7. At Entry #57 is shown a mortgage to Midstates Bank, N.A. in the amount of \$1,107,408.00 dated April 23, 2004 . The mortgage was filed for record April 29, 2004, and recorded in Book 104, Page 23208. The balance of the mortgage is due on April 23, 2007, and the mortgage contains six months redemption and sixty days abandonment in the event of a foreclosure and due on sale clauses. The mortgage secures loans and future advances up to \$1,107,408.00, plus interest.

8. At Entry #58 is shown an Agreement by and between Eagles Nest, L.L.C. and The National Cooperative Refinery Association, dated May 10, 2004, and filed May 25, 2004, in Book 104 at Page 25068, which limits the pipeline easement shown in paragraph #15 below to a strip of ground 100 feet in width as shown on the plat attached thereto, and requires Eagles Nest, L.L.C. to provide any required casing of the pipeline by reason of the hard surfacing of any street which crosses the pipeline, and to seed and provide erosion control for the easement area within three years of the date of the Agreement. The Agreement also requires Eagles Nest to obtain the prior written consent of NCRA prior to commencement of any construction on the easement area, and to provide written plans and specifications for the installation and construction of all proposed utilities, streets, roads, alleys, driveways, parking lots, tracks, structures or other improvements.
9. At Entry #54 is shown is shown City of Council Bluffs Ordinance #5778, adopted February 9, 2004, and filed March 5, 2004, in Book 104 at Page 19680, which amends the Zoning Map to repeal the PR/Planned Residential Overlay on a portion of the property under examination.
10. At Entry #53 is shown City of Council Bluffs Ordinance #5777, adopted February 9, 2004, and filed March 5, 2004, in Book 104 at Page 19679, which amends the Zoning Map to change the designation of a portion of the property under examination from R-1/PR-Single Family Residential District with a Planned Residential Overlay to R-3/PR-Low Density Multi-Family Residential District with a Planned Residential Overlay.
11. At Entry #38 is shown City of Council Bluffs Ordinance #5267, adopted June 24, 1996, and filed July 15, 1996, in Book 97 at Page 2381, wherein the Zoning Classification of the property under examination and other land was changed from A-2/Parks, Estates and Agricultural, to an R-1/PR - Single Family Residential District with a Planned Residential Overlay.
12. At Entry #37 is shown an Easement for Road and Storm Drainage Improvement Right of Way to the City of Council Bluffs, Iowa, dated April 30, 1996, and filed April 30, 1996, in Book 96 at Page 31706.
13. At Entry #36 are shown Condemnation Proceedings by the City of Council Bluffs for Lateral 5 Drainage Improvement Project filed January 29, 1996 in Book 96 at Page

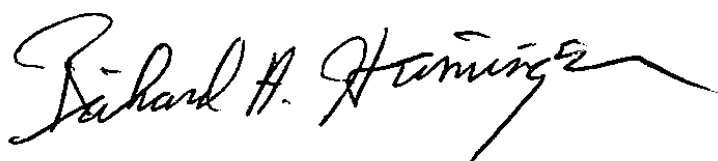
20801, wherein several parcels adjacent to the property under examination were acquired for highway drainage and maintenance.

14. At Entry #31 is shown a Special Warranty Deed from Paul E. Delanty and Elsie M. Delanty to John H. Jerkovich, dated December 22, 1993, and filed December 27, 1993, in Book 94 at Page 21597 wherein Grantors reserved an easement for a four-inch sewer line over a portion of the property under examination for the benefit of Parcel "A" in the NW  $\frac{1}{4}$  NW  $\frac{1}{4}$  of Section 19-74-43.
15. At Entry #10 is shown an Easement to Mosquito Creek Drainage District No. 22, dated September 28, 1950, and filed September 28, 1950, in Book 1034 at Page 374, for drainage purposes.
16. At Entry #7 is shown an Easement to The Globe Oil & Refining Company, dated May 2, 1941, and filed July 3, 1941, in Book 872 at Page 198 for the installation, maintenance, operation and repair of a pipeline over a portion of the property under examination. At Entry #8 the Easement was assigned to The National Cooperative Refinery Association by an Assignment, dated July 26, 1943, and filed August 27, 1943, in Book 884 at Page 374.
17. At Entry #5 is shown an Easement to Pottawattamie County, Iowa, dated April 13, 1933, and filed June 3, 1933, in Book 779 at Page 412.
18. Your attention is called to the fact that you should investigate certain matters not shown by the abstract, including the boundaries of the property, whether there is anyone other than record titleholders in possession of all or part of the property having any claims against the property, whether the property meets building codes and fire codes and has smoke detectors, whether there are public improvements in process or recently made in the vicinity for which special assessments might later be made, whether there has been any construction or improvement within the last 90 days for which Mechanic's Liens might later be filed, whether there are restrictions or controls by governmental authorities on usage of the property or on access to public streets or highways whether or not there is access to the property, and any rights acquired by adverse possession by fences, driveways, etc., which might be indicated upon inspection or survey of the premises.

Page 6  
October 13, 2004

19. You should determine whether any solid wastes, hazardous substances, pollutants, above or below ground storage tanks, drainage wells, water wells, landfill sites or other environmentally regulated conditions exist on the property. Such conditions are not ordinarily shown in the abstract, but they may result in injunctions, fines, required cleanup, or other remedial actions under federal, state or local laws. These laws may impose liens against the property and personal liability against the owner, even though the owner did nothing to create the condition, and acquired the property without knowing about it.
20. At Entry #25 your attention is called to the fact that the abstractor's certificate specifically excludes a search of the records for bankruptcies since all bankruptcies are now filed in the Bankruptcy Clerk's Office.
21. The abstract does not mention whether there are any garbage assessments or sewer and water bills remaining unpaid. We advise you that these bills become a lien upon the property when certified to the County Treasurer's Office.

Very truly yours,



RICHARD A. HEININGER  
Title Guaranty Division Member #1849

RAH/ J:\075402\@AOEagleTrailPlatting.sej.wpd

Direct Email: raheining@smithpeterson.com

Preparer

Information Richard A. Heininger, P.O. Box 249, Council Bluffs, IA 51502-0249 (712) 328-1833

Name

Address

Phone

DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS,  
FOR  
EAGLE TRAIL SUBDIVISION PHASE 1  
IN THE CITY OF COUNCIL BLUFFS, IOWA

THIS DECLARATION, made this 13th day of October, 2004 by the undersigned, Eagles Nest, L.L.C., an Iowa limited liability company.

WITNESSETH:

WHEREAS, the undersigned is the Owner and Developer of the real estate described in Clause I of this Declaration, and is desirous of subjecting the real property described in said Clause I to the conditions, restrictions, limitations, covenants, reservations, easements, liens and charges hereinafter set forth, each and all of which is and are for the benefit of said property and for each owner thereof and shall inure to the benefit of and pass with said property, and each and every parcel thereof, and shall apply to and bind the successors-in-interest and any owner thereof;

NOW, THEREFORE, the undersigned hereby declares that the real property described in and referred to in Clause I hereof, is and shall be held, transferred, sold and conveyed, subject to the conditions, restrictions, limitations, covenants, reservations, easements, liens and charges herein set forth.

CLAUSE I

PROPERTY SUBJECT TO THIS DECLARATION

The real property which is, and shall be, held and shall be conveyed, transferred, and sold, subject to these conditions, restrictions, limitations, reservations, easements, liens and charges, with respect to the various portions thereof set forth in the various clauses and subdivisions of this Declaration is located in the City of Council Bluffs, Pottawattamie County, State of Iowa, and is more particularly described in the final plat of Eagle Trail Subdivision Phase 1 in Council Bluffs, Iowa, attached hereto and incorporated herein by reference, except for Outlot 1 thereof.

No property other than that described above shall be subject to this Declaration, unless and until specifically made subject thereto.

## CLAUSE II

### GENERAL PURPOSES OF CONDITIONS

The real property described in Clause I hereof is subject to the conditions, restrictions, limitations, covenants, reservations, easements, liens and charges hereby declared to insure the best use and the most appropriate development and improvement of each building site thereof.

Plans and specifications must be submitted to the Eagle Trail Subdivision Phase 1 Developer or its designee (hereafter referred to as Eagle Trail Subdivision Phase 1 Developer) for approval to protect owners and guard against improper use of surrounding building sites as will depreciate the value of their property; to preserve, as far as practical, the natural beauty of said property; to guard against erection of poorly designed or proportioned structures, and structures built of improper or unsuitable materials; to insure the highest and best development of said property; to prevent haphazard and inharmonious improvements of building sites; to prevent inappropriate location of structures on building sites; to obtain harmonious color schemes; to encourage and secure the erection of attractive homes thereon; to secure and maintain proper setbacks from street and adequate free spaces between structures; and in general to provide adequately for quality improvement of said property and thereby enhance the values of investments made by the purchasers of the building sites therein.

1. All lots described herein shall be known, described and used solely as residential lots and no structures shall be erected on any lot other than one detached single family dwelling not to exceed two stories in height and a garage for not less than two automobiles and not more than three automobiles.

2. No trailer, basement, tent, shack, garage, barn or outbuilding shall be used as a residence, temporarily or permanently, nor shall any residence of a temporary character be permitted.

3. Recreational vehicles, mobile homes, campers, motor homes, trailers, motorcycles, motor boats, house boats or similar water boats may be maintained, stored or kept on any parcel of property covered by these covenants, provided they are placed to the rear of the parcel and are screened from view by an attractive fence, plans for which shall be submitted to the Eagle Trail Subdivision Phase 1 Developer as referred to in Paragraph 5 or housed within the garage of said home. Unused vehicles shall be housed within the garage

and no lot shall be used for the purpose of selling, leasing or repairing vehicles for commercial purposes.

4. No building shall be erected on any lot unless the design and location is in harmony with the existing structures and location in the tract, and does not violate any of the protective covenants herein. All buildings shall have not less than 950 total square feet of living area. Square footage requirements are exclusive of porches and/or attached garages.

5. No changes, alterations, additions, buildings, fences or walls shall be commenced without submission and approval of plans and specifications to the Eagle Trail Subdivision Phase 1 Developer, showing the nature, kind, shape, height, materials and location of same. In the event such plans are neither approved or disapproved within 30 days after submission, such approval shall not be required so long as such design and location are harmonious with existing structures and do not violate any restrictive covenants. The primary purpose of this covenant is to protect the value of the homes in the development. This covenant is not to be construed as a means of suppressing expressions of individuality.

6. No fence shall be erected on any lot which would extend forward past the rear of any house erected thereon.

7. All front foundations facing streets are to be covered with brick, stone, or painted.

8. The front, side and back yards shall be seeded or sodded with grass.

9. The titleholder or contract holder of each lot, vacant or improved, shall keep his/her lot or lots free of weeds and debris.

10. No lot shall be used or maintained as a dumping ground for rubbish, trash, garbage, or other wastes.

11. No offensive or obnoxious trade shall be carried on upon any lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

12. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept, provided they are not kept, bred or maintained for any commercial purposes.

13. No satellite dish or tower for television or other communication purposes shall be placed on any lot, except one satellite dish, not to exceed 2 feet in diameter, may be placed on each lot.



14. Each property owner shall exercise as much care as is possible to retain natural vegetation, trees, shrubs and other similar growth. Prior to removal of such growth, the plans referred to in paragraph "5" shall be submitted to the Eagle Trail Subdivision Phase 1 Developer for approval.

15. The drainage system as designed in the approved plat, or as may be installed, and the drainage easement may not be altered or interfered with in any manner. Each individual lot owner is to take all steps necessary to reasonably and adequately regulate the drainage from his or her lot and to control unreasonable and undesirable erosion. Necessary repairs to the drainage system shall be done under the supervision of the Eagle Trail Subdivision Phase 1 Developer or its designee.

16. Garden sheds, or other similar type structures, will be allowed upon approval of plans and specifications by the Eagle Trail Subdivision Phase 1 Developer. Buildings for garden tools, etc. shall be required to have a design similar to the house design with regard to siding materials, roofing materials and roof design. Metal storage buildings will not be allowed.

17. No dwelling from outside the development shall be moved to any location within Eagle Trail Subdivision Phase 1.

18. The maximum time allowed to complete construction and landscaping will be one year from commencement of construction. Excess dirt from excavation shall be hauled from the lot within the construction period. All excavation, backfilling and landscaping shall be done in a manner such that the natural drainage is not altered to an extent that unreasonable or undesirable drainage or erosion results.

19. Materials and equipment used during the construction and landscaping process shall be stored and maintained on the lot in an orderly manner.

20. No business activities shall be conducted on any lot if the conduct of said business activity will result in an unreasonable increase in the traffic flow, or an increase in the number of vehicles parked in the street.

21. No sign, billboard or other structure for advertising or the display of advertising material of any kind shall be erected, altered, placed or permitted to remain on any lot except that real estate for-sale or for-rent signs shall be permitted temporarily in the yards of dwellings which are being offered for sale or rent.

22. Notwithstanding the foregoing provisions, paragraphs 20 and 21 shall not restrict the business activities, advertising, signs and billboard, or the construction and

maintenance of structures by the Eagle Trail Subdivision Phase 1 Developer, its agents and assignees, during the construction and sale period of this development.

23. A perpetual easement for utility installation, maintenance and drainage facilities is reserved over, across and through the side five feet of all lots, and over, across and through the rear ten feet of all lots, and as otherwise specified on the final plat.

24. All buildings and improvements shall be constructed in compliance with the pertinent zoning and building codes of the City of Council Bluffs, Iowa.

25. No building shall be erected on any residential lot nearer than 25 feet from the front lot line. The setback for all buildings on the side of any corner lots abutting a public street or avenue shall be a minimum of 15 feet. The side yard set back line on each side of all other lots and on the side of a corner lot that does not abut a public street or avenue shall be a minimum of 10 percent of the lot width at the building setback line, or a minimum of five feet, whichever is greater. The building set back line in the rear yard shall be a minimum of 20 feet for the residence and a minimum of 10 feet for any garden shed as contemplated in paragraph 16.

26. Public sidewalks shall be constructed of concrete four feet wide by four inches thick in front of each built-upon lot and along the street side of each built-upon corner lot.

27. Fruit or vegetable gardens shall not be permitted which would extend forward past the rear of any house erected on any lot.

### CLAUSE III

#### HOMEOWNERS ASSOCIATION

1. Every lot owner, regardless of which phase of the development it is located, shall be deemed to have membership in the Eagle Trail Homeowners Association, Inc. (hereinafter "Association"). Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to this Declaration.

2. The Association shall have two classes of voting membership:

CLASS A. Class A members shall be all lot owners, with the exception of the Eagle Trail Subdivision Phase 1 Developer, and shall be entitled on all issues to one (1) vote for each lot owned. When more than one (1) person holds an interest in a lot, all such persons shall be members. The vote for such lot shall be exercised as each lot owner determines and advises the secretary prior to any meeting. In no event shall more than one (1) vote be cast

with respect to any lot. In the absence of agreement by multiple owners of a lot, that lot's vote shall be suspended if more than one (1) person seeks to exercise it.

CLASS B. The Class B member(s) shall be the Eagle Trail Subdivision Phase 1 Developer, its successors and assigns and shall be entitled to twenty-five (25) votes for each lot owned.

3. Except as specifically set forth in this Declaration, all provisions applicable to notice, voting and quorum requirements for all actions to be taken by the Association shall be set forth in its Bylaws. In any event, if any provisions set forth in this Declaration applicable to notice, voting and quorum requirements are in conflict with any provisions of Iowa law applicable to not-for-profit corporations on the date of this Declaration, or at any time after said date, the applicable provisions of Iowa shall control.

4. Pursuant to the powers granted to it in its Articles and Bylaws, the Association is hereby expressly authorized and empowered to levy ordinary and special assessments against all lots in Eagle Trail Subdivision Phase 1. Provided, however, except as may be otherwise indicated, no assessment shall be levied against lots owned by the Eagle Trail Subdivision Phase 1 Developer or any successor developer. The assessments shall be administered as follows, to-wit:

- a. Notice of each assessment amount and the date for payment shall be given to each lot owner of record in the Pottawattamie County Auditor's office, addressed to such owner at the address of the lot and mailed to such owner by ordinary mail. The notice shall be deemed given when said notice is deposited in the United States Mail, postage prepaid, and addressed as herein provided. If the owner does not live on the lot, then the address shall be the address as shown on the Pottawattamie County Treasurer's office records for the lot owner or such address as the lot owner may designate to the Association Board in writing. The amount of the assessment levied by the Association shall be paid to it on or before the date or dates fixed by resolution of the Board. If not so paid, the amount of such assessment, plus any other charges thereon, including interest at the maximum limit provided by law per annum from date of delinquency and costs of collection, including attorney fees if any, shall constitute and become a lien on the lot so assessed. The Board may cause to be recorded in the office of the Pottawattamie County Recorder, a notice of assessment which shall state the amount of such assessment and such other charges and a description of the lots which have been assessed. Such notice shall be signed by the

Secretary of the Association. Upon satisfaction thereof, the Board shall, within a reasonable time, cause to be recorded a further notice stating the satisfaction and the release of said lien.

- b. Conveyance of any lot shall not affect any lien for assessments provided herein. Such lien shall be prior to all other liens recorded subsequent to said notice of assessment. The assessment lien shall be a lien against the real estate and shall remain a lien on the real estate until paid.
- c. The lien provided for herein may be foreclosed by suit by the Association in like manner as a mortgage and, in such event, the Association may be a bidder at the foreclosure sale. The Association may also pursue any other remedy against any owner owing money to it which is available to it by law or equity for the collection of a debt.
- d. Upon request, the Association shall furnish a statement certifying that all assessments then due have been paid or indicating the amount then due.
- e. The Association shall not be required to transfer membership on its books or to allow the exercise of any rights or privileges of membership on account thereof to any owner or to any persons claiming under them unless or until all assessments and charges to which they are subject have been paid.

#### CLAUSE IV

1. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them until October 13, 2025. It shall be lawful for any person or persons owning any lot in Eagle Trail Subdivision Phase 1 to proceed at law or in equity against the person or persons violating or attempting to violate such covenant or restriction and either to enjoin him/her or them from so doing and to recover damages for such violation.

2. Invalidation of any of these covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

3. This Declaration may be amended by the Eagle Trail Subdivision Phase 1 Developer in any manner which it may determine in its full and absolute discretion, until all lots have been sold or for a period of ten (10) years from the date hereof, whichever first occurs.

Thereafter, this Declaration may be amended by an instrument signed by the owners of not less than 100% of the lots covered by this Declaration. Easements contained herein may not be amended unless they are amended by agreement of all parties concerned with the easement.

Executed on the above date set forth:

EAGLES NEST, L.L.C.

By: John H. Jerkovich  
JOHN H. JERKOVICH, Manager

By: Robert P. McCarthy  
ROBERT P. McCARTHY, Manager

STATE OF IOWA )  
 ) ss.  
COUNTY OF POTTAWATTAMIE)

On this 13<sup>th</sup> day of October, 2004, before me, a Notary Public

in and for the said State, personally appeared John H. Jerkovich and Robert P. McCarthy, to me personally known, who being by me duly sworn did say that they are the Managers of said limited liability company, that no seal has been procured by the said limited liability company, and that said instrument was signed on behalf of the said limited liability company by authority of its members, and the said John H. Jerkovich and Robert P. McCarthy acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company by it voluntarily executed.

Mary J. Hughes  
NOTARY PUBLIC IN AND FOR SAID STATE

(SEAL)

My Commission Expires: 1-16-07

