

**VINTAGE HEIGHTS CUP PUMP STATION  
AND FORCE MAIN AGREEMENT**

This Vintage Heights CUP-Pump Station and Force Main Agreement and Use Restriction ("Agreement and Use Restriction") is made and entered into as of this 22 day of FEBRUARY, 2016, by and between Pine Lake Development, LLC, a Nebraska limited liability company ("Developer") and the City of Lincoln, Nebraska, a municipal corporation ("City").

**RECITALS**

A. Developer is the owner of a tract of land legally described as Outlot "B", Vintage Heights 11<sup>th</sup> Addition, Outlot "C", Vintage Heights 20<sup>th</sup> Addition, Outlot "A", Vintage Heights 23<sup>rd</sup> Addition, Outlot "A", Vintage Heights 25<sup>th</sup> Addition, and Outlot "A", Vintage Heights 26<sup>th</sup> Addition, all located in the East Half of Section 14, Township 9 North, Range 7 East of the 6<sup>th</sup> P.M., Lincoln, Lancaster County, Nebraska, said tract contains 1,350,112.86 square feet, or 30.99 acres, more or less ("Property"). The Property is highlighted in yellow on the attached map marked as Attachment "A".

B. The Property was annexed in 1999 as part of a larger annexation of 340.23 acres more or less. The annexation was associated with the Developer's request to develop the annexed 340.23 acres under a special permit designated as Special Permit No. 1762 – Vintage Heights Community Unit Plan ("Vintage Heights CUP") consisting of 392 multiple family dwelling units, 170 two-family dwelling units, 24 three-family dwelling units, 15 acreage family dwellings and 360 single family lots. Since the lots (which included the Property) for the 15 acreage family dwelling units could not be serviced by the City's gravity flow sanitary sewer system the conditions of approval for the Vintage Heights CUP prohibited those lots from being final platted into smaller lots until gravity flow sewer was available.

C. In 2004 the Developer submitted an application designated as Special Permit 1762B to amend the Vintage Heights CUP which included a request to replace the 15 acreage lots along South 98<sup>th</sup> Street with urban sized lots, the majority of which (including the Property) could not be serviced with gravity flow sanitary sewer. The Developer proposed to serve the non-gravity flow lots through the use of a pump station and force main which would need to be operated for a period of 20 or more years, (i.e. estimated length of time before gravity sanitary sewer would be extended by the City to serve these lots). The Developer's request to serve these lots, including the Property with the pump station and force main was denied, however the condition requiring the Property to be serviced by gravity flow sanitary sewer was amended to provide that "all lots that cannot be serviced by gravity sanitary sewer shall not be final platted

until such time that gravity sanitary sewer is available or the City adopts a policy that allows this pump station.” (*emphasis added*). The phrase “this pump station” is a reference to the Developer’s proposed pump station which would need to be operated for 20 or more years.

D. Although on December 6, 2004 the City Council for the City of Lincoln, Nebraska approved Resolution No. A-83112 adopting the City’s Policy on Temporary Pump Stations and Force Mains this Policy did not allow the Property to be served by a pump station to be operated for 20 or more years.

E. The City of Lincoln currently has long range plans to construct a large Stevens Creek gravity flow trunk sewer line to serve the Tier I, Priority A areas located on the west side of the Stevens Creek Basin, including the Property. The City’s plans also include construction of an extension trunk sewer line running from the large Stevens Creek trunk sewer line generally southwesterly to serve the area within Vintage Heights proposed to be served by the pump station and force main, together with land lying generally easterly of the Vintage Heights CUP. The construction of these trunk sewers (“Trunk Sewers”) is not in the current Capital Improvements Program, and no determination has been made as to when such Trunk Sewers will be included or when they will be constructed. However, it is anticipated that it will be a minimum of thirty years before the Trunk Sewers will be in place to serve the Tier I, Priority A areas, including the Property by gravity sewer.

F. In order to allow development of the Property, prior to extension of the Trunk Sewers, Developer has submitted an application designated as Special Permit No. 1762E to amend the existing special permit for the Vintage Heights CUP to permit for an indefinite period of time the use of a sanitary sewer pump station and force main to sewer 85 dwelling units within the existing Vintage Heights CUP on the Property that cannot be served by gravity sewer flow.

Specifically Developer has requested that Note #24 from the existing approved site plan for the Vintage Heights CUP be deleted. Note #24 states: “All lots that cannot be served by gravity sanitary sewer shall not be final platted until such time that gravity sewer is available or the City adopts a policy that allows this pump station.”

G. Notwithstanding the restriction in Section 2.1 of the Sanitary Sewer Design Standards and the fact that the Developer’s application does not comply with all of the requirements in the Policy on Temporary Pump Stations and Force Mains, the City is willing to approve the Developer’s request to amend the Vintage Heights CUP to allow use of a pump station and force main to sewer the 85 dwelling units which cannot be served by gravity sanitary sewer until such time as the above described gravity flow Trunk Sewers are extended to serve the Property; provided that Developer assumes full responsibility for the total cost to (i) provide the pump station and force main sanitary sewer service to the Property, (ii) operate, repair and maintain the pump station and force main until such time as the Trunk Sewers are extended to serve the Property, (iii) abandon and decommission the pump station and force main after the Trunk Sewers are extended, and (iv) construct any extension main from the Property east to connect to the Trunk Sewers.

H. Developer desires to and is willing to enter into this agreement as an inducement for and in consideration of the City approving Special Permit No. 1762E-Vintage Heights CUP.

NOW THEREFORE in consideration of the above Recitals which are made a part hereof and the mutual covenants contained herein the parties agree as follows:

1. Approval of Special Permit No. 1762E. The City hereby agrees to approve Special Permit No. 1762E and the deletion of Note #24 from the approved site plan to allow the construction of 85 dwelling units on the Property as shown on the approved site plan for Special Permit No. 1762E to be served by the pump station and force main.

2. Location of Pump Station and Force Main. The Developer agrees at its own cost and expense to acquire or provide suitable land and related improvements for the pump station, including any access drives without any reimbursement from the City. The pump station may not be located in the public right-of-way. The force main may be located in street right-of-way, if space is available. Otherwise, the Developer at its own cost and expense shall obtain suitable land and easements for the force main. It is anticipated that the pump station will be located in the southeast portion of Outlot "C", Vintage Heights 20<sup>th</sup> Addition, and that the force main will be located in Forest Glen Drive as shown on the Site Plan attached hereto, marked as Attachment B.

3. Design and Construction of Pump Station and Force Main. The Developer agrees at its own cost and expense to design and construct the pump station and force main. The pump station and force main will only be designed to serve the Property. Construction plans shall be approved by the Director of Public Works and Utilities Department and be per city standards.

4. Ownership and Operation of Pump Station and Force Main. Once inspections have been completed and the facilities are found acceptable, the Developer will (i) convey at no cost to the City the pump station and force main (including salvage rights), (ii) grant the City a permanent easement on the land the pump station and force main are located upon to operate, repair, and maintain the pump station and force main and (iii) grant the City any associated easements.

5. Advance Payment of City's Costs. The Developer agrees at its own cost and expense to pay the City the lump sum of \$364,253.85 which the parties agree is the present day value of the costs necessary to cover the City's costs, including personnel costs for (i) operating and maintaining the pump station and force main during the 30 to 40 years the facility is expected to be in use and (ii) properly abandoning the pump station and force main, including any costs for restoring all property damaged thereby and constructing any extension sewer main necessary to connect the Property to the Trunk Sewers. Developer understands and agrees that no building permit shall be issued for construction of any of the 85 dwelling units allowed to be constructed on the Property and sewerred by the pump station and force main under Special Permit No. 1762E until a final plat for the Property has been submitted to and approved by the City of Lincoln and Developer has paid the City the sum of \$364,253.85.

6. Upon satisfaction of Developer's responsibility as provided herein the City agrees to operate, repair and maintain the pump station and force main until such time as the Trunk Sewers are extended to serve the Property. At such time as the Trunk Sewers are extended to

serve the property, the City agrees to decommission the pump station, abandon the force main, construct sewer line connection to the Trunk Sewers and release the permanent easement and any associated easements for the pump station and force main.

7. Binding Effect. This Agreement shall run with the Property and be binding upon the Developer, its successors and assigns.

8. Recording. This Agreement shall be recorded by the City with the Register of Deeds of Lancaster County, Nebraska, filing fees therefor to be paid in advance by the Developer.

Executed by the City of Lincoln this \_\_\_\_ day of \_\_\_\_\_, 2016.

**CITY OF LINCOLN, NEBRASKA**

By: \_\_\_\_\_  
Chris Beutler, Mayor

Executed by Pine Lake Development, LLC this \_\_\_\_ day of \_\_\_\_\_, 2016.

**PINE LAKE DEVELOPMENT, LLC**

By: *Thomas C Smith*  
Title: *member*

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF LANCASTER )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2016, by Chris Beutler, Mayor of the City of Lincoln.

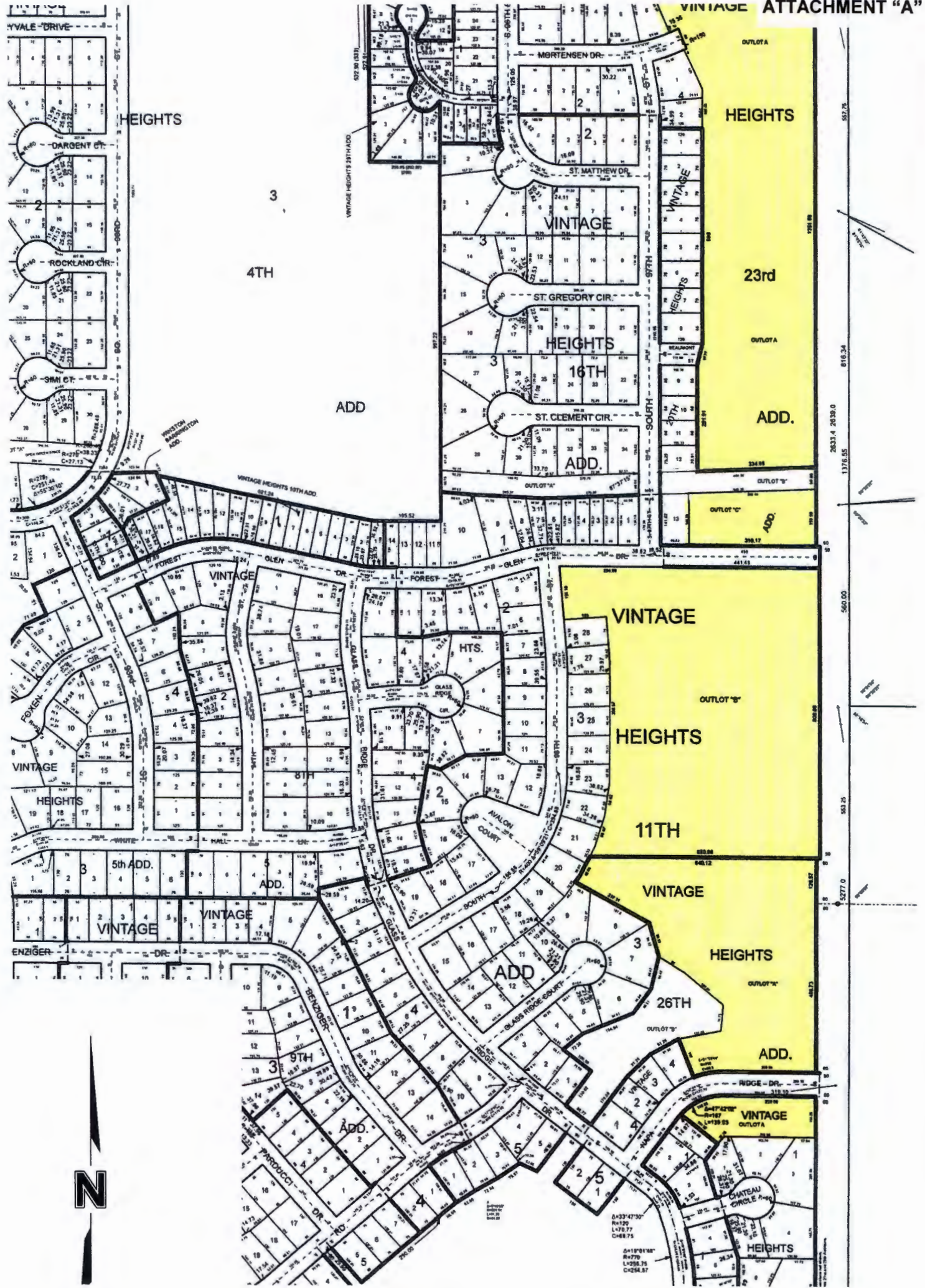
\_\_\_\_\_  
Notary Public

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF LANCASTER )

The foregoing instrument was acknowledged before me this *22nd* day of *February*, 2016, by *Thomas C Smith*, *Member* of Pine Lake Development, LLC.

*Brenda M Merritt*  
Notary Public





507.75  
 816.34  
 2633.4 2639.0  
 1176.65  
 560.00  
 583.25  
 5077.0

Δ=33°47'30"  
 R=770  
 L=258.75  
 C=254.57

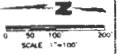
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# VINTAGE HEIGHTS 4TH ADDITION

AMENDMENT TO COMMUNITY UNIT PLAN  
SPECIAL PERMIT #1762A

### BENCHMARKS

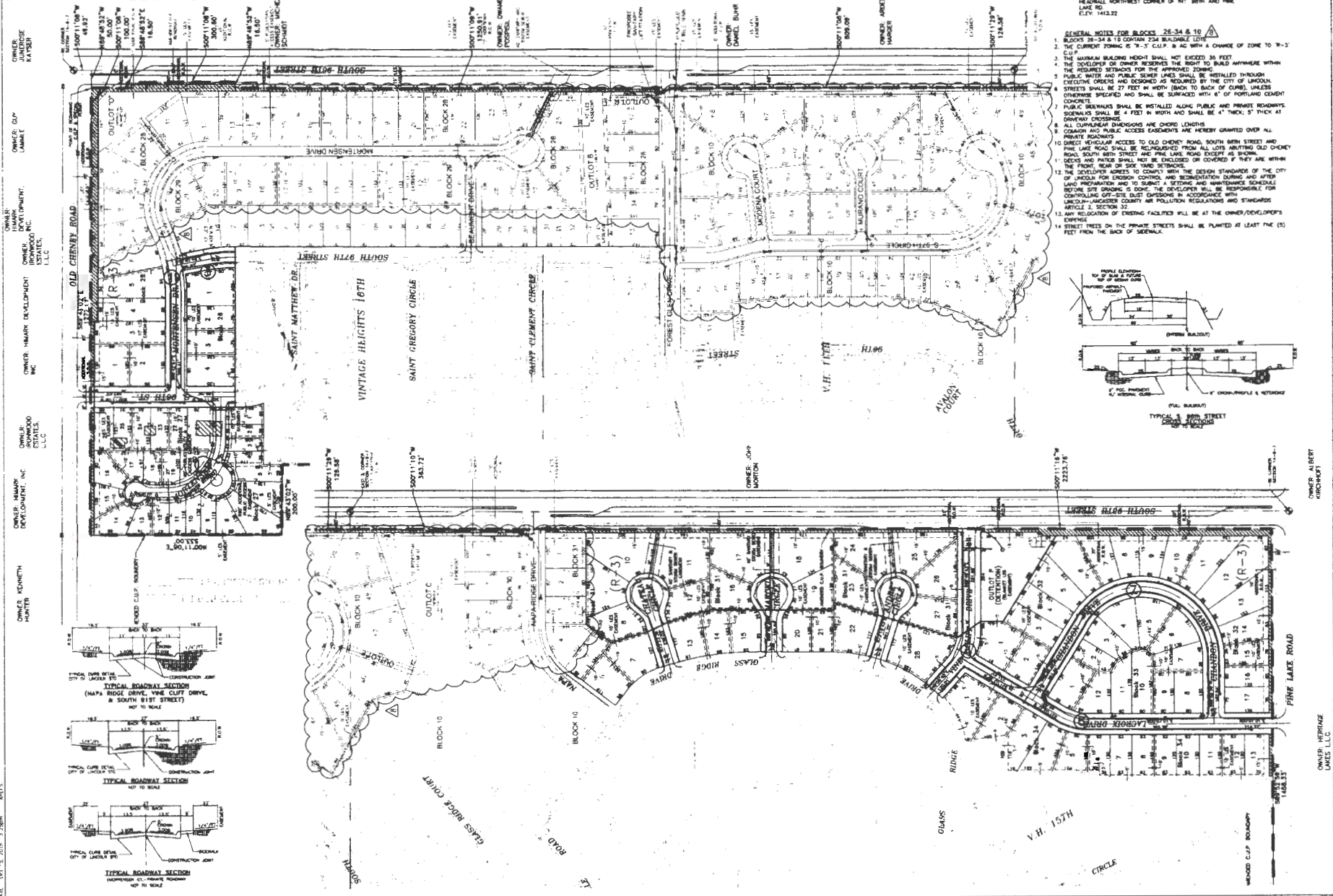
1. BRASS CAP IN EAST END OF CONCRETE HEADWALL, SOUTHWEST CORNER OF BATH & THE LAKE RD. ELEV. 1362.87
2. TOP CAP IN SECTION CORNER REAR, SOUTH 1/4 CORNER, SECTION 14, TOWNSHIP 8 NORTH, RANGE 2 EAST ELEV. 1400.80
3. TOP OF CHISEL "L" IN SOUTH END OF CONCRETE HEADWALL, NORTHWEST CORNER OF "H" BATH AND THE LAKE RD. ELEV. 1443.22



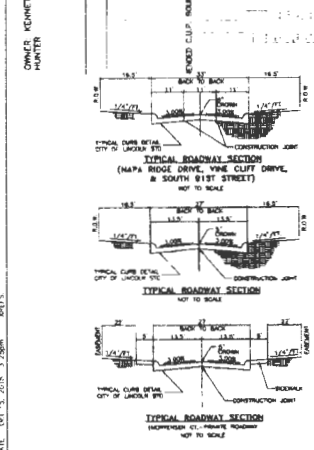
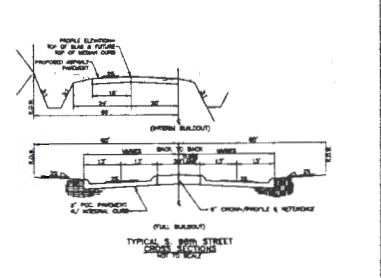
**MOLSSON ASSOCIATES**  
 1001 S. 10TH STREET  
 LINCOLN, NEBRASKA 68502  
 TEL: 402.476.1111  
 FAX: 402.476.1112

CURVE DATA	
① Δ=275°44'58" R=1400.00' L=1092.24' T=143.86' CB=277°24'30" LC=200.34'	② Δ=117°50'08" R=100.00' L=302.78' T=43.82' CB=207°38'28" LC=255.83'
③ Δ=103°15'41" R=400.00' L=483.37' T=43.79' CB=209°14'46" LC=89.30'	④ Δ=62°42'00" R=100.00' L=109.17' T=15.13' CB=289°27'44" LC=106.78'
⑤ Δ=317°34'48" R=100.00' L=178.46' T=18.72' CB=278°15'17" LC=16.63'	⑥ Δ=148°49'27" R=303.00' L=437.28' T=77.88' CB=177°28'16" LC=81.07'
⑦ Δ=80°00'00" R=100.00' L=139.62' T=100.00' CB=88°18'16" LC=212.15'	⑧ Δ=90°00'00" R=100.00' L=100.00' T=100.00' CB=90°00'00" LC=100.00'

LEGEND	
	PROPOSED PARKING CENTERLINE
	EXISTING PARKING CENTERLINE
	THE LINES FOR DUPLEX/TOWNHOUSE PAIRS
	ALIGNED C.U.P. BOUNDARY
	SECTION LINE
	EXISTING STRUCTURE
	EXISTING STRUCTURE TO BE REMOVED
	PROPOSED UTILITY EASEMENT
	EXISTING UTILITY EASEMENT
	ADDITIONAL PROPERTY ADDED TO C.U.P.
	R.O.W. DEDICATION
	EXISTING WATER MAIN - VALVE & HYDRANT
	PROPOSED WATER MAIN
	EXISTING SANITARY SEWER
	PROPOSED SANITARY SEWER
	EXISTING GAS MAIN
	PROPOSED FIRE HYDRANT
	PROPOSED WATER VALVE
	EXISTING STORM SEWER
	PROPOSED STORM SEWER
	LIMITS OF GRAVITY SEWER
	PROPOSED PAVEMENT



- ### GENERAL NOTES FOR BLOCKS 26-34 & 10
1. BLOCKS 26-34 & 10 CONTAIN 224 BUILDABLE LOTS.
  2. THE CURRENT ZONING IS "R-3" C.U.P. & IS WITH A CHANGE OF ZONE TO "R-3" C.U.P.
  3. THE MAXIMUM BUILDING HEIGHT SHALL NOT EXCEED 30 FEET.
  4. THE DEVELOPER OR OWNER RESERVES THE RIGHT TO BUILD ANYWHERE WITHIN THE REQUIRED SETBACKS FOR THE APPROVED ZONING.
  5. PUBLIC WATER AND PUBLIC SEWER LINES SHALL BE INSTALLED THROUGHOUT EXISTING STREETS AND DESIGN AS REQUIRED BY THE CITY OF LINCOLN. STREETS SHALL BE 27 FEET IN WIDTH (BACK TO BACK OF CURBS), UNLESS OTHERWISE SPECIFIED AND SHALL BE SURFICED WITH 4" OF PORTLAND CEMENT CONCRETE.
  6. PRIVATE SEWER LINES SHALL BE INSTALLED ALONG PUBLIC AND PRIVATE ROADWAYS. SEWER LINES SHALL BE 4 FEET IN WIDTH AND SHALL BE 4" THICK, 9" DEEP AT DRIVEWAY ENTRANCES.
  7. ALL DRIVEWAY DIMENSIONS ARE CHORD LENGTHS.
  8. ALL DRIVEWAY PUBLIC ACCESS EASEMENTS ARE HEREBY GRANTED OVER ALL COMMON AND PRIVATE EASEMENTS.
  9. DIRECT VEHICULAR ACCESS TO OLD CHENEY ROAD, SOUTH BATH STREET AND ROAD SOUTH BATH STREET SHALL BE RELOCATED FROM ALL LOTS ADJACENT OLD CHENEY ROAD, SOUTH BATH STREET AND SPINE LANE ROAD EXCEPT AS SHOWN.
  10. DRIVEWAYS AND PATIOS SHALL NOT BE ENCLOSED OR COVERED IF THEY ARE WITHIN THE FRONT, REAR OR SIDE YARD SETBACKS.
  11. THE DEVELOPER AND OWNER SHALL COMPLY WITH THE DESIGN STANDARDS OF THE CITY OF LINCOLN FOR DESIGN CONTROL AND REGULATION DURING AND AFTER LAND PREPARATION AND TO SUBMIT A SCHEDULE AND MAINTENANCE SCHEDULE BEFORE SITE GRADING IS DONE. THE DEVELOPER WILL BE RESPONSIBLE FOR CONTROLLING OFF-SITE DUST DURING CONSTRUCTION IN ACCORDANCE WITH LINCOLN-LANCASTER COUNTY AIR POLLUTION REGULATIONS AND STANDARDS ARTICLE 2, SECTION 32.
  12. ANY RELOCATION OF EXISTING FACILITIES WILL BE AT THE OWNER/DEVELOPER'S EXPENSE.
  13. STREET TREES ON THE PRIVATE STREETS SHALL BE PLANTED AT LEAST FIVE (5) FEET FROM THE BACK OF SIDEWALK.



NO.	DATE	REVISIONS
1	04/15/2015	44-15-001-001-001
2	04/15/2015	44-15-001-001-002
3	04/15/2015	44-15-001-001-003
4	04/15/2015	44-15-001-001-004
5	04/15/2015	44-15-001-001-005
6	04/15/2015	44-15-001-001-006
7	04/15/2015	44-15-001-001-007
8	04/15/2015	44-15-001-001-008
9	04/15/2015	44-15-001-001-009
10	04/15/2015	44-15-001-001-010
11	04/15/2015	44-15-001-001-011
12	04/15/2015	44-15-001-001-012
13	04/15/2015	44-15-001-001-013
14	04/15/2015	44-15-001-001-014
15	04/15/2015	44-15-001-001-015
16	04/15/2015	44-15-001-001-016
17	04/15/2015	44-15-001-001-017
18	04/15/2015	44-15-001-001-018
19	04/15/2015	44-15-001-001-019
20	04/15/2015	44-15-001-001-020
21	04/15/2015	44-15-001-001-021
22	04/15/2015	44-15-001-001-022
23	04/15/2015	44-15-001-001-023
24	04/15/2015	44-15-001-001-024
25	04/15/2015	44-15-001-001-025
26	04/15/2015	44-15-001-001-026
27	04/15/2015	44-15-001-001-027
28	04/15/2015	44-15-001-001-028
29	04/15/2015	44-15-001-001-029
30	04/15/2015	44-15-001-001-030
31	04/15/2015	44-15-001-001-031
32	04/15/2015	44-15-001-001-032
33	04/15/2015	44-15-001-001-033
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35	04/15/2015	44-15-001-001-035
36	04/15/2015	44-15-001-001-036
37	04/15/2015	44-15-001-001-037
38	04/15/2015	44-15-001-001-038
39	04/15/2015	44-15-001-001-039
40	04/15/2015	44-15-001-001-040
41	04/15/2015	44-15-001-001-041
42	04/15/2015	44-15-001-001-042
43	04/15/2015	44-15-001-001-043
44	04/15/2015	44-15-001-001-044
45	04/15/2015	44-15-001-001-045
46	04/15/2015	44-15-001-001-046
47	04/15/2015	44-15-001-001-047
48	04/15/2015	44-15-001-001-048
49	04/15/2015	44-15-001-001-049
50	04/15/2015	44-15-001-001-050

OWNER: HERITAGE LAKES, LLC  
 VINTAGE HEIGHTS 4TH ADDITION - SITE PLAN  
 AMENDMENT TO SPECIAL PERMIT (C.U.P. NO. 1762A)