

# Heartland

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The Highlands  
Natural Habitat  
Deed Restrictions

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**AMENDMENT TO DEDICATION AND RESTRICTIONS  
OF THE HIGHLANDS OF HEARTLAND TO STATE AMENDED  
RESTRICTIONS FOR PHASE 4**

The undersigned, Jagoe Development, LLC of 3624 Wathens Crossing, Owensboro, Kentucky, (the "Developer"), is the owner of certain real estate lying and being in Daviess County, Kentucky, known as The Highlands of Heartland, Phase 4, (the "Subdivision"), which Subdivision is shown and described on Plat of record in the Office of the Daviess County Court Clerk's Office, Plat Book 38, Page 1 ("Phase 4 of The Highlands of Heartland").

The undersigned does hereby dedicate for public use the streets and easements as shown on the recorded Plat of Phase 4 of the Highlands of Heartland.

Phase 4 of The Highlands of Heartland is subject to the Dedication and Restrictions of The Highlands of Heartland Phase 1 recorded at **Deed Book 796, Page 550**, in the Office of the Daviess County, Kentucky, Court Clerk, all of which are incorporated herein by reference, except that the following Section 26 is hereby added as an amendment:

**Section 26. Special Restrictions for Lots 585-595 for Dedicated Area  
along Stream and Subject to U.S. Army Corp of Engineers Permit.** Lots

585-595 are subject to the declaration of Restrictions of National City Bank, agent for the James C. Ellis Estate Trust, dated the 13<sup>th</sup> day of September, 2004, and recorded at Deed Book 789, Page 377, Daviess County, Kentucky, Court Clerk's Office. These Restrictions are attached hereto. They apply to the area shown on the attached copy of the said Restrictions and the requirements imposed by them include, BUT ARE NOT LIMITED TO, the requirements to maintain the stand of grass, leave trees standing, replace trees with like tress, construct no buildings or structures, and make

no topographical changes within the area or stream. The purpose of this restriction is to call to the attention of all owners of Lots 585-595 that their lots are subject to the Declaration of Restrictions at Deed Book 789, Page 377, and those restrictions do not terminate.

IN WITNESS WHEREOF, said Jagoe Development, LLC has caused this instrument to be executed by its duly authorized officer, this September 25<sup>th</sup>, 2008.

JAGOE DEVELOPMENT, LLC

By:   
William R. Jagoe, III, Manager

COMMONWEALTH OF KENTUCKY  
COUNTY OF DAVIESS

The foregoing instrument was signed and acknowledged before me by **William R. Jagoe, III, Manager**, Jagoe Development, LLC, a Kentucky limited liability company, for and on behalf of said corporation, on this September 25<sup>th</sup>, 2008.

  
Notary Public, Kentucky State at Large  
My Commission Expires: 2/21/2012

Prepared by:

**BAMBERGER, ABSHIER & BRANCATO, PLC**  
111 West Second Street, P.O. Box 1676  
Owensboro, KY 42302-1676  
Voice: 270/926-4545; Fax: 270/684-0064

By:   
Frank A. Brancato

17497

BOOK 799 PAGE 406

BOOK 789 PAGE 377

DECLARATION OF RESTRICTIONS

OF

BOOK 856 PAGE 694

NATIONAL CITY BANK, AGENT FOR THE JAMES C. ELLIS ESTATE TRUST

THIS DECLARATION OF RESTRICTIONS, made this 13<sup>th</sup> day of September, 2017 by National City Bank, Agent for the James C. Ellis Estate Trust, Agent.

WHEREAS, National City Bank, is the owner of the property entitled "Area A" (the "Property") shown on Exhibits "A" and "B" attached hereto and more specifically described as:

Area A Approximately : 1260 Linear Feet along the Perennial Stream and the area between two lines, one on each side of the stream and each line parallel to and 25 feet parallel from the ordinary high water mark on either side of the stream.

Located on Former James C. Ellis Estate Trust Property and having been conveyed to National City Bank Escrow Agent for James C. Ellis Estate Trust by Deed dated September 5, 1996, recorded at Deed Book 665, page 703, Office of the Daviess County, Kentucky, Court Clerk.

WHEREAS, National City Bank, desires to impose on said property a restrictive covenant expressing Owner's intent to preserve the Property in perpetuity in its natural state by prohibiting stream destruction or alternations, building construction, addition of fill material, cultivation, pruning, or tree harvesting.

NOW THEREFORE THIS DECLARATION WITNESSETH:

1. Owner does hereby declare, covenant and agree, for itself and its successors and assigns, that the Property shall be hereafter held and sold subject to the following conditions and restrictions (as to the open ditch section only), to wit:

The Property shall be reserved in perpetuity in its natural state by prohibiting, except as specifically authorized below, stream destruction or alterations, building construction, addition of fill material, cultivation, pruning, and tree harvesting in the area except as approved by the U.S. Army Corps of Engineers.

2. Additionally, the following activities shall be prohibited on the Property:
  - a. Destruction or alteration of streams on the Property other than those alterations authorized by the Louisville District U.S. Army Corps of Engineers.
  - b. Construction or maintenance of buildings or mobile homes.

Mail to: Bill Joyce  
2345 Decent Hill Dr - 42303

109-3

- c. Ditching, draining, diking, filling, excavating, land clearing, plowing, mining or drilling; removal of topsoil, sand or other materials, and any building of roads or alteration in the topography and/or hydrology of the land in any manner except for the earth moving necessary for restoration or as otherwise allowed in this document. However, by way of example and not limitation, the following types structures shall be allowed: picnic tables or children's playground equipment. Lawn grass may be planted and the area maintained as a lawn.
- d. Removal, destruction, and cutting of trees and plants (except as necessary to maintain water control structures and existing roads), except that wildlife management and silvicultural activities may be allowed on a case-by-case basis as approved by the U.S. Army Corps of Engineers.
- e. Silvicultural activities undertaken where the substantial effort or purpose is to generate funds; however, forest activities undertaken to/for/or in association with (for example) control of disease or insect infestation, salvage cutting, to encourage diversity of species and age classes, restore desirable species, to encourage cavities and snags, to create wildlife clearings, for fire management, and authorized construction activities. Timber or other forest products incidentally produced from these activities may be sold.
- f. Clearcutting, except to the extent that it is appropriate for stand regeneration.
- g. Dumping of ashes, trash, garbage, or other unsightly or offensive material, and changing the topography through the placing of soil or other substances or material such as land fill or dredged material are prohibited.
- h. Activities which could cause erosion or siltation on the Property.
3. This Declaration refers to U.S. Army Corps of Engineers Permit No. 200 400 546 gjd and any subsequent permits.

William P. Wilson, SVP  
National City Bank, Agent

9/13/04  
Date

BOOK 799 PAGE 408

BOOK 780 PAGE 379

BOOK 856 PAGE 696

COMMONWEALTH OF KENTUCKY  
COUNTY OF DAVIESS

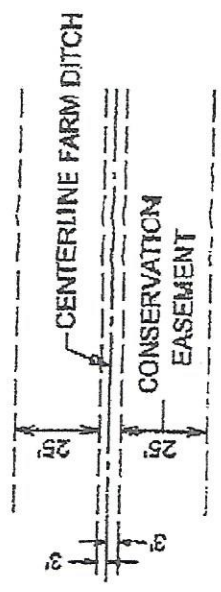
Sworn and subscribed to before me, by William P. Wilson, on behalf  
of National City Bank, Agent for the James C. Ellis Estate Trust, on this the 13th day of  
Sept., 2004.

Susan Duncan  
Notary Public, Kentucky State at Large  
My Commission Expires: 8-27-07

This instrument prepared by:

Ralph Wible

Ralph W. Wible  
326 St. Ann Street  
Owensboro, Kentucky 42303  
(270) 684-3522 (Telephone)  
(270) 684-2790 (Facsimile)

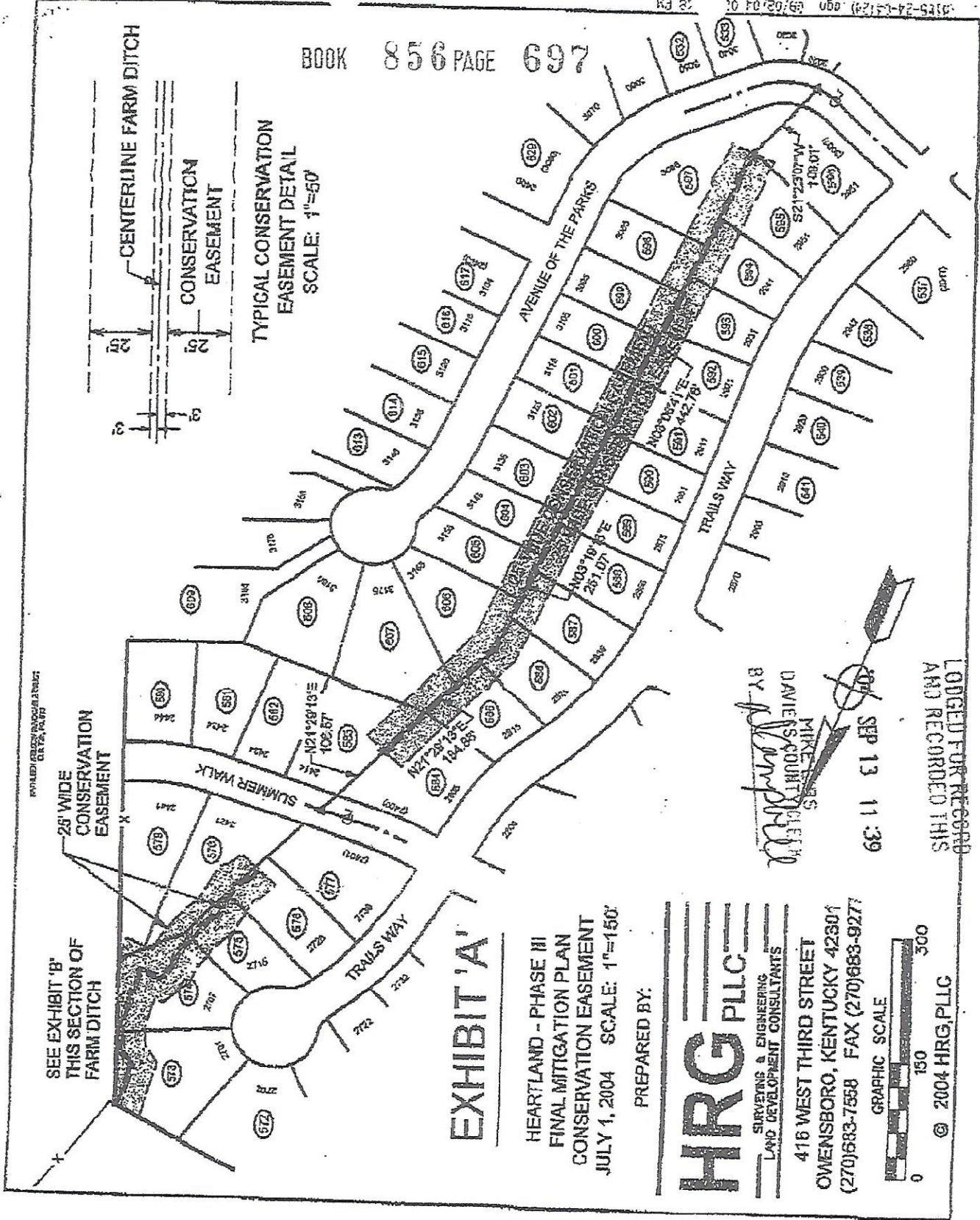


TYPICAL CONSERVATION EASEMENT DETAIL  
SCALE: 1"=50'

SEE EXHIBIT 'B' THIS SECTION OF FARM DITCH

25' WIDE CONSERVATION EASEMENT

PROPERTY OWNERS: RANDOLPH & TRACY GIBBS, JR. & WIFE



# EXHIBIT 'A'

HEARTLAND - PHASE III  
FINAL MITIGATION PLAN  
CONSERVATION EASEMENT  
JULY 1, 2004 SCALE: 1"=150'

PREPARED BY:

**HRG PLLC**

SURVEYING & ENGINEERING  
LAND DEVELOPMENT CONSULTANTS

416 WEST THIRD STREET  
OWENSBORO, KENTUCKY 42301  
(270)683-7558 FAX (270)683-9277



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BY: *[Signature]*  
DAVID S. ADRIAN, CLERM  
MICKEL S. ADRIAN, CLERM

SEP 13 11:39

LOGGED FOR RECORD  
AND RECORDED THIS

BOOK 856 PAGE 638

# EXHIBIT 'B'

HEARTLAND - PHASE III  
FINAL MITIGATION PLAN  
CONSERVATION EASEMENT  
JULY 1, 2004 SCALE: 1"=50'

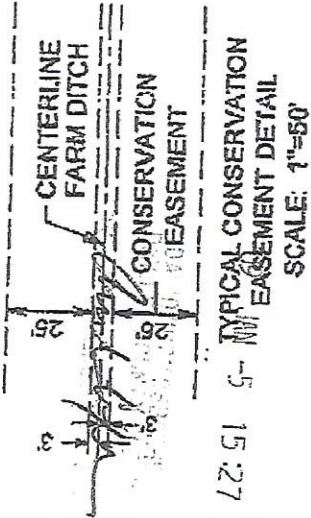
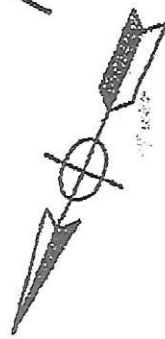
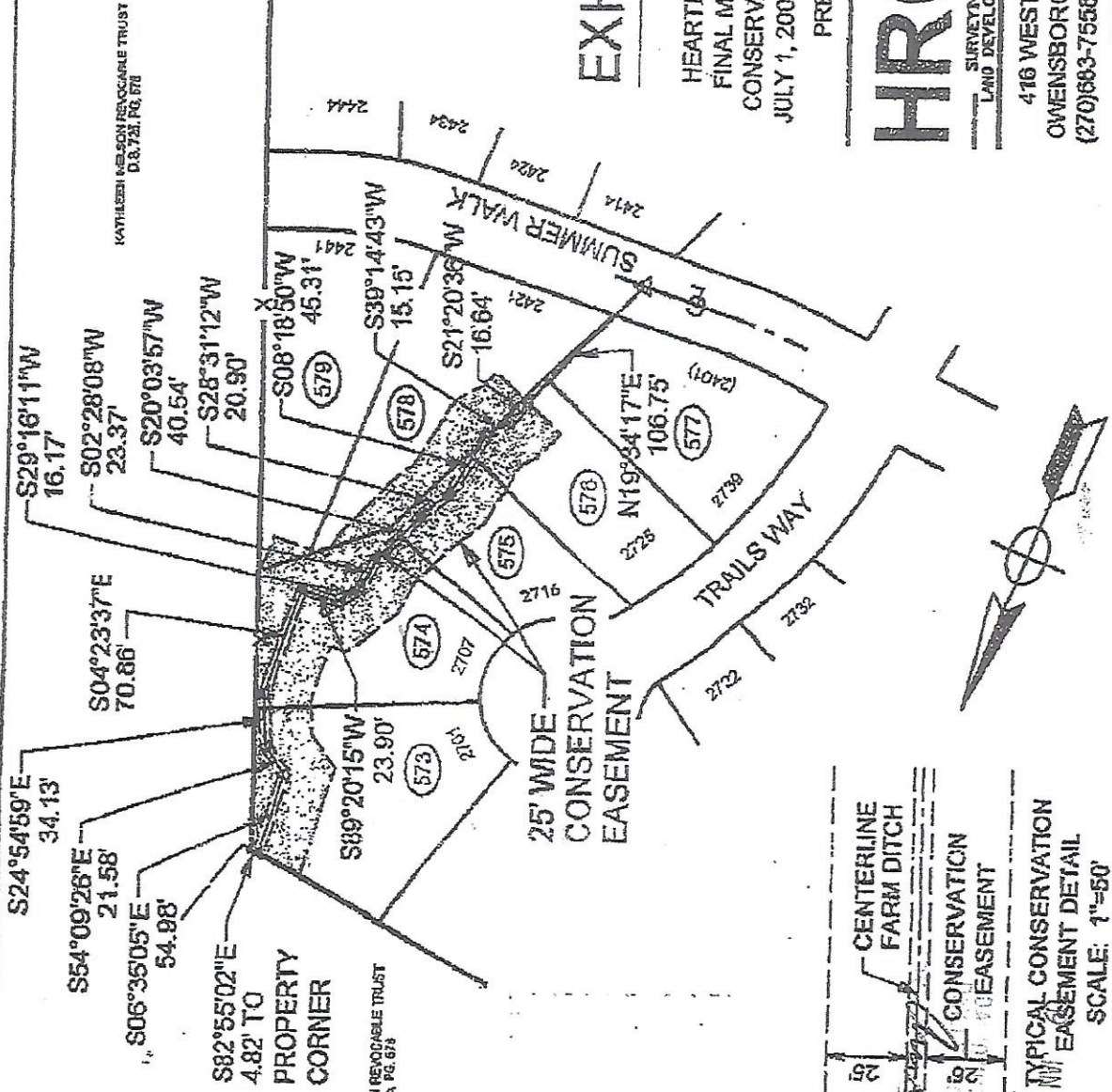
PREPARED BY:



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HRC PLLC  
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BY *[Signature]*

KATHLEEN NELSON REVOCABLE TRUST  
D.B. 7/23, PG. 678

KATHLEEN NELSON REVOCABLE TRUST  
D.B. 7/23, PG. 678

5/16/05  
CINGO PLS 2004-07