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REC FOR: ROY CITY

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
WHISPERING MEADOWS,
a Utah planned residential development**

**LOCATED IN
CITY OF ROY,
COUNTY OF WEBER,
STATE OF UTAH**

**IVORY DEVELOPMENT, LLC
DECLARANT**

WHEN RECORDED RETURN TO:

*IVORY DEVELOPMENT, LLC
1544 Woodland Park Dr., Suite 300
Layton, Utah 84041*

**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR
WHISPERING MEADOWS,
a Utah planned residential development**

THIS DECLARATION OF COVENANTS FOR WHISPERING MEADOWS, a Utah planned residential development (the "Declaration") is executed by IVORY DEVELOPMENT, LLC, of 1544 Woodland Park Dr., Layton, Utah 84041 (the "Declarant"), with reference to the following:

RECITALS

A. Declarant is the fee simple owner of record of that certain real property located in Weber County, Utah and described with particularity on Exhibit "A" attached hereto and incorporated herein by this reference (the "Property").

B. The Property is an area of unique natural beauty, featuring distinctive terrain;

C. Whereas, Declarant has constructed or is in the process of constructing upon the Property a planned residential development which shall include certain Lots, Common Area, and other improvements of a less significant nature. The construction will be completed in accordance with the development agreement with the City and the plans contained in the Plat Map to be recorded concurrently herewith. The Project will consist of 36 Lots, numbered 1-36.

D. Declarant has sold and intends to sell to various purchasers the fee title to the individual Lots contained in the Development, together with corresponding membership interest in the Association, which shall own the Common Area, subject to the Plat Map and the covenants, conditions and restrictions set forth herein.

E. The Project is to be known as "WHISPERING MEADOWS."

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0036

F. Since the completion of the Project may be in phases, the completed Project will consist of the original phase and all subsequent phases.

Now, therefore, for the reasons recited above, the Declarant hereby covenants, agrees, and declares that the Property shall be subject to the following covenants, conditions and restrictions:

1. **Definitions.** The following definitions shall apply to this Declaration:

1.1 "Accessory Building" shall mean and refer to any structure which is not the primary structure, containing at least 120 square feet and requires a building permit. The term "Accessory Building" shall not include any shed, shack, or other out-building for which a

building permit is not required. If there is a dispute as to what constitutes an "Accessory Building," the decision of the Architectural Review Committee shall be final, binding and conclusive.

1.2 "**Architectural Review Committee**" shall mean the person or persons appointed to review the designs, plans, specifications, homes, architecture, fencing, and landscaping within the Project (the "ARC").

1.3 "**Assessment**" shall mean and refer to any amount imposed upon, assessed or charged a Lot Owner or Resident at the Project.

1.4 "**Association**" shall mean all of the Owners acting as a group in accordance with the Declaration.

1.5 "**Builder**" shall mean an owner, Declarant or contractor who obtains a construction or occupancy permit for one or more Lots.

1.6 "**Capital Improvements**" shall mean and refer to all new improvements intended to add to, enhance or upgrade the nature, scope, utility, value, or beauty of the Project, as opposed to ordinary repair and maintenance.

1.7 "**Common Area**" or "**Common Areas and Facilities**" shall mean and refer to all of the common elements in the Project including by way of illustration but not limitation the entry, entry monument, planter boxes, landscaping buffer and perimeter fencing.

1.8 "**Common Expense**" shall mean and refer to all expenses incurred by the Association in maintaining, repairing, and replacing the Common Area and Facilities.

1.9 "**Declaration**" shall mean and refer to this Declaration of Covenants, Conditions, and Restrictions for WHISPERING MEADOWS.

1.10 "**Design Guidelines**" shall mean and refer to the then current Design Guidelines for Ivory Homes.

1.11 "**Development**" shall mean and refer to Whispering Meadows planned residential development.

1.12 "**Dwelling**" shall mean and refer to a Dwelling Unit.

1.13 "**Dwelling Unit**" shall mean and refer to the home constructed upon a Lot.

1.14 "**Eligible Insurer**" shall mean and refer to an insurer or governmental guarantor of a mortgage or trust deed who has requested notice in writing of certain matters from the Association in accordance with this Declaration.

1.15 "**Eligible Mortgagee**" shall mean and refer to a mortgagee, beneficiary under a trust deed, or lender who has requested notice in writing of certain matters from the Association in accordance with this Declaration.

1.16 "**Eligible Votes**" shall mean and refer to those votes available to be cast on any issue before the Association, ARC or the Management Committee. A vote which is for any reason suspended is not an "eligible vote".

1.17. "**Entry**" shall mean the entry way into the development.

1.18 "**Entry Monument**" shall mean the monument identifying the Development and surrounding landscaping and planter area located at the Entry to the Project.

1.19 "**Ivory Homes**" shall mean and refer to the Declarant, Ivory Development, LLC.

1.20 "**Lot**" or "**Lots**" shall mean the subdivided and recorded lot or lots within Property and where the context so requires any Dwelling constructed thereon.

1.21 "**Management Committee**" or "**Committee**" shall mean and refer to the group of volunteer Owners who direct the affairs fo the Association.

1.22 "**Managing Member**" shall mean and refer to the person appointed by the Declarant to unilaterally make all day-to-day business decisions for the Association, ARC and Management Committee.

1.23 "**Mortgage**" shall mean and refer to both a first mortgage or first deed of trust on any Lot.

1.24 "**Mortgagee**" shall mean and refer to the holder of the mortgage or mortgagee under a first mortgage or a beneficiary under a first deed of trust on any Lot.

1.25 "**Open Space**" shall mean and refer to the landscaped areas within the development.

1.26 "**Owner**" or "**Owners**" shall mean the record owner or owners of a fee simple title to any Lot, whether one or more natural persons or legal entities, and excluding those persons having such interest merely as security for the performance of an obligation.

1.27 "**Period of Declarant Control**" shall mean and refer to a period of time commencing on the date this Declaration is recorded and terminating on the occurrence of last of the following Events: (1) Four months after 100% of the Dwellings constructed upon Lots owned by Declarant have been sold; or (2) Ten years from the effective date of this Declaration; or (3) When in its sole discretion the Declarant so determines.

1.28 **"Plans and Specifications"** shall mean and refer to any and all documents designed to guide or control the construction of an Improvement, or alterations, modifications, changes, additions and the like thereto, including without limitation all documents indicating the size, shape, configuration and/or materials, to be incorporated; all site plans, excavation and grading plans, elevation drawings, floor plans, techniques, samples of exterior colors, plans for utility services, and all other documentation or information relevant to the improvement or proposal in question.

1.29 **"Plat Map"** shall mean and refer to the "Plat(s)" or "Map(s)" of the Development, as it may be amended from time to time. The Plat Map will show the location of the Lots, Open Space and Common Area.

1.30 **"Person"** shall mean and refer to a natural person, corporation, partnership, trust, limited liability company, or other legal entity.

1.31 **"Project Documents"** shall mean and refer to the Declaration, By Laws, Rules and Regulations, and Articles of Incorporation.

1.32 **"Property"** shall mean and refer to all of the land or real estate, improvements and appurtenances submitted to this Declaration.

1.33 **"Project"** shall mean WHISPERING MEADOWS planned residential development..

1.34 **"Recreational, Commercial or Oversized Vehicle"** shall mean and refer to any recreational, commercial or oversized vehicle, eighteen wheeler, motor home, commercial vehicle, tractor, golf cart, mobile home or trailer (either with or without wheels), camper, camper trailer, boat or other watercraft, boat trailer, horse trailer, or any other recreational, oversized or commercial transportation device of any kind.

1.35 **"Parking Pad"** shall mean and refer to a cement or concrete, (or other construction material approved in writing by the ARC) parking pad constructed or installed on a Lot for the purpose of parking or storing of a Recreational, Commercial, or Oversized Vehicle.

1.36 **"Parking Pad Fence"** shall mean and refer to the cinder block, vinyl or wood (or other construction material approved by the ARC in writing) fence surrounding the Parking Pad.

1.37 **"Repair"** shall mean and refer to merely correcting the damage done sometimes by accident or fire or other cause, but more often due to the ravages of time and the deterioration resulting from ordinary wear and tear, by substituting for the damage, decayed or worn-out parts, new material, usually similar to that replaced, and so restoring the structure to its original sound condition.

1.38 **"Planned Residential Development"** shall mean and refer to

WHISPERING MEADOWS.

3. **Area of Application.** This Declaration shall apply to all of the Property, described with particularity on Exhibit "A" attached hereto and incorporated herein by this reference, which is hereby submitted to the Declaration. The Property is hereby made subject to, and shall be governed by the Declaration, and the covenants, conditions and restrictions set forth herein. The Property is SUBJECT TO the described easements and rights of way.

TOGETHER WITH all easements, rights-of-way, and other appurtenances and rights incident to, appurtenant to, or accompanying the above-described parcel of real property.

ALL OF THE FOREGOING IS SUBJECT TO: All liens for current and future taxes, assessments, and charges imposed or levied by governmental or quasi-governmental authorities; all Patent reservation and exclusions; any mineral reservations of record and rights incident thereto; all instruments of record which affect the above-described Tract or any portion thereof, including, without limitation, any mortgage or deed of trust; all visible and necessary easements and rights-of-way; all easements and rights-of-way of record; any easements, rights of-way, encroachments, or discrepancies shown on or revealed by the Plat Maps or otherwise existing; an easement for each and every common area improvement, equipment, pipes, lines, cables, wires, utility systems, or similar facilities which traverse or partially occupy the above-described Property; and all easements necessary for servicing, repairing, ingress to, egress from, maintenance of, and replacement of all such common area improvements, equipment, pipes, lines, cables, wires, utility systems, and similar facilities.

4. **Right to Expand Application.** Without any other additional approval required, the Declarant shall have the unilateral right expand the application of this Declaration to other real property by written amendment to this Declaration duly recorded.

5. **Description of Improvements.** The significant improvements contained in the Project include Lots, Common Area, and Open Space. The Project will also contain other improvements of a less significant nature. The location and configuration of the improvements referred to in the foregoing sentences are depicted on the Plat Map.

6. **Description and Legal Status of the Property.** The Plat Map shows the type and location of each Lot and its Lot Number and the Common Area in the vicinity. The Common Area shall be deeded to and owned by the Association. Each Lot Owner shall have an appurtenant equal undivided percentage of ownership interest in the Association. All Lots shall be capable of being independently owned, encumbered, and conveyed, and shall have separate tax identification or parcel numbers.

7. **Membership in the Association.** Membership in the Association is mandatory, may

not be partitioned from the ownership of a Lot, and each Lot Owner by virtue of his accepting a deed or other document of conveyance to a Lot is deemed to be a member of the Association.

8. **Conveyancing.** Any deed, lease, mortgage, deed of trust, or other instrument conveying or encumbering a Lot shall describe the interest or estate involved substantially as follows:

All of Lot No. _____ contained within WHISPERING MEADOWS, a Utah planned residential development, as the same is identified in the Plat Map recorded in Weber County, Utah as Entry No. _____ in Book _____ at Page _____ of the official records of the County Recorder of Weber County, Utah (as said Record of Survey Map may have heretofore been amended or supplemented) and in the Declaration of Covenants, Conditions, and Restrictions of WHISPERING MEADOWS, a Utah planned residential development recorded in Weber County, Utah as Entry No. _____ in Book _____ at Page _____ of the official records of the County Recorder of Weber County, Utah (as said Declaration may have heretofore been supplemented), together with an undivided percentage of ownership interest in the Association.

Regardless of whether or not the description employed in any such instrument is in the above-specified form, all provisions of this Declaration shall be binding upon and shall inure to the benefit of any party who acquires any interest in a Lot. Neither the membership in the Association, nor percentage of ownership interest in the Association shall be separated from the Lot to which it appertains; and, even though not specifically mentioned in the instrument of transfer, such mandatory membership in the Association and such right of exclusive use shall automatically accompany the transfer of the Lot to which they relate.

9. **Duty of Association.** The Association shall administer the Declaration and maintain, repair, and replace the Common Areas and Facilities, as the need arises from time to time.

10. **Management.** The Association shall be managed by a Management Committee, who may delegate its authority to a Managing Member.

11. **General Status and Authority and Duties of Management Committee.** The Management Committee shall adopt an annual budget, insure the Common Areas and Facilities, pay all Common Expenses, allocate the Common Expenses among the Owners, bill the Owners for their portion of the Common Expenses, collect the Assessments, and take all other actions necessary or incident thereto. Any instrument executed by the Management Committee, its legal representative or Managing Member which recites facts which, if true, would establish the power and authority to accomplish through such instrument what is purported to be accomplished thereby, shall conclusively establish said power and authority in favor of any person who in good faith and for value relies upon said instrument. The Management Committee shall constitute a legal entity capable of dealing in its own name or in behalf of two or more Owners. The Management Committee and Managing Member shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Section and its

decisions. The Management Committee may appoint officers and agents of the Association, such as a President and Secretary, who may but need not be members of the Committee. Until the end of the Period of Declarant's Control, the Declarant shall have the exclusive, unilateral and irrevocable right to appoint the members of the Management Committee and the Managing Member. In addition, the Management Committee shall have:

a. **Access.** The power and authority to access to each Lot: (1) from time to time during reasonable hours and after reasonable notice to the occupant of the Lot being entered, as may be necessary for the maintenance, repair, or replacement of any of the Common Areas and Facilities; and (2) for making emergency repairs necessary to prevent damage to the Common Areas and Facilities or to another Lot or Lots, provided that a reasonable effort is made to provide notice to the occupant of the Lot prior to entry.

b. **Grant Easements.** The power and authority, without the vote or consent of the Owners, Mortgagees, insurers or guarantors of any Mortgage, or of any other person, to grant or create, on such terms as it deems advisable, reasonable permits, licenses, and non-exclusive easements over, under, across, and through the Common Areas for utilities, roads, and other purposes reasonably necessary or useful for the proper maintenance, operation or regulation of the Project.

c. **Execute Documents.** The power and authority to execute and record, on behalf of all Owners, any amendment to the Declaration or Record of Survey Map which has been approved by the vote or consent necessary to authorize such amendment.

d. **Standing.** The power to sue and be sued.

e. **Enter Into Contracts.** The power and authority to enter into contracts which in any way concern the Project, so long as any vote or consent necessitated by the subject matter of the agreement has been obtained.

f. **Transfer Interests in Real Property.** The power and authority to exchange, convey or transfer any interest in real property, so long as it has been approved by at least seventy five percent (75%) of the Owners.

g. **Add or Purchase Property.** The power and authority to purchase, otherwise acquire, and accept title to, any interest in real property, so long as it has been approved by at least seventy five percent (75%) of the Owners.

h. **Promulgate Rules.** The power and authority to promulgate such reasonable administrative guidelines, rules, regulations, policies and procedures as may be necessary or desirable to aid the Committee in carrying out any of its functions or to insure that the Project is maintained and used in a manner consistent with the Act and this Declaration.

i. **Meetings.** The power and authority to establish procedures for decorum at and the conducting of its meetings and those of the Association.

j. **Delegation of Authority.** The power and authority to delegate its responsibilities over the management and control of the Common Areas and regulation of the Project to a manager, reserving the right, power and authority, however, to control and oversee the administration thereof.

k. **All other Acts.** The power and authority to perform any and all other acts, and to enter into any other transactions which may be reasonably necessary for the Management Committee to perform its functions on behalf of the Owners.

12. **Delegation of Management Responsibilities.** The Management Committee may delegate some of its management responsibilities to either a professional management company, an experienced on-site manager, an independent contractor, through service contracts, or any combination thereof. The Manager may be an employee or an independent contractor. The termination provision of any such contract must not require a termination penalty or any advance notice of any more than sixty (60) days, and no such contract or agreement shall be for a term greater than one (1) year. The Management Committee may also employ general laborers, grounds crew, maintenance, bookkeeping, administrative and clerical personnel as necessary to perform its management responsibilities.

13. **Owners Meetings.** The Association shall meet at least annually at a time and place set by the Management Committee.

14. **Lists of Lot Owners, Eligible Mortgagees, and Eligible Insurers or Guarantors.** The Committee shall maintain up-to-date records showing: (a) the name of each person who is an Owner, the address of such person, and the Lot which is owned by him; (b) the name and address of each Resident; (c) the name of each person or entity who is an Eligible Mortgagee, the address of such person or entity, and the Lot which is encumbered by the Mortgage held by such person or entity; and (d) the name of each person or entity who is an Eligible Insurer or Guarantor, the address of such person or entity, and the Lot which is encumbered by the Mortgage insured or guaranteed by such person or entity. In the event of any transfer of a fee or undivided fee interest in a Lot, either the transferor or transferee shall furnish the Committee with written evidence verifying that the transfer has occurred, that the Deed or other instrument accomplishing the transfer is of record in the office of the County Recorder of Weber County, Utah, and that the transferee has received a copy of the Declaration and By-Laws then in force. The Committee may for all purposes act and rely on the information concerning Lot ownership in its records or, at its option, the records of the county recorder. The address of any Owner shall be deemed to be the address of the Lot owned by such person unless the Committee is otherwise advised in writing.

15. **Expenditures for Capital Improvements.** Expenditures for capital improvements must be approved by at least sixty-seven percent (67%) of the Owners.

16. **The Maintenance Responsibility of the Association.** The Association shall maintain and keep in good repair all Common Area and any other item designated as a common

responsibility or responsibility of the Association herein. (collectively, "Area of Common Responsibility").

17. **The Maintenance Responsibility of the Owners.** Each Owner shall maintain and keep in good repair his Lot and all improvements thereon (the "Area of Personal Responsibility").

18. **Alterations to the Common Area.** Anything to the contrary notwithstanding and until the termination of the Period of Declarant's Control, the Declarant may make changes to the Common Area without the consent of either the Association, ARC or the Management Committee; provided, however, no Owner or resident may at any time modify the drainage patterns or systems, landscaping, or make any structural alterations, modifications, changes or improvements to the Common Area or Facilities, including but not limited to the construction or installation of any additions, the extension or enclosure of any existing structures not shown on the approved plans and specifications, without the prior written consent of the ARC. If a Buyer purchases a home on a Lot which includes a common improvement, including by way of illustration but not limitation an Entry, Entry Monument, planter, planter box, landscaping buffer strip or strips, perimeter fence, wall, street light, exterior lighting, or other Open Space or landscaping treatment of any kind, shall, he, at his expense, shall maintain such common elements in good condition, and may not improve his property or place any plant, hedge, tree, bush, shrub, or other object, natural or artificial, over, under, behind or in front of, or so as to impair, obstruct, block or impede the view or purpose of Entry, Entry Monument, planter, planter box, landscaping buffer strip or strips, perimeter fence, wall, street light, exterior lighting, or other Open Space or landscaping treatment of any kind, in any way.

19. **Common Profits, Expenses, and Voting Rights.** The common profits of the Property shall be distributed among, the Common Expenses shall be charged to, and the voting rights shall be available to, the Lot Owners equally.

20. **Debt Collection.** An Assessment or fine is a debt of the Owner at the time it is made and is collectible as such. Suit to recover a personal judgment for unpaid Assessments or fines is maintainable without foreclosing or waiving the lien securing it. If any Owner fails or refuses to make any payment of an Assessment or fine when due, that amount constitutes a lien on the interest of the Owner in the Property, and upon the recording of notice of lien, it is a lien upon the Owner's interest in the Property prior to all other liens and encumbrances, recorded or unrecorded, except: (a) tax and special assessment liens on the Lot in favor of any assessing unit or special improvement district; and (b) encumbrances on the interest of the Owner recorded prior to the date such notice is recorded which by law would be a lien prior to subsequently recorded encumbrances.

21. **Late Fees.** A late fee of \$20.00 may be charged on all payments received more than ten (10) days after they were due.

22. **Finance Charge.** A finance charge of 1.5% per month may be assessed on the outstanding balance of all delinquent accounts.

23. **Architectural and Related Issues.** Since aesthetics, the integrity and harmony of the original design, and the quality of construction and materials throughout the development is important, all architectural designs, plans, specifications, construction materials, and construction must be (a) reviewed and approved by the ARC or its designee and (b) consistent with the restrictions set forth herein governing the development.

24. **Architectural Review Committee ("ARC").** Until the termination of the "Period of Declarant Control," the ARC has the sole right and exclusive authority to resolve all architectural issues and may, in its sole discretion, designate one or more persons from time to time to act on its behalf in reviewing applications hereunder as the ARC, which before the termination of the "Period of Declarant Control" shall consist of three individuals, two of whom must be appointed by Declarant and the third must be appointed by the Declarant, and thereafter may consist of (a) a single individual, architect or engineer, or (b) a committee comprised of architects, engineers or other persons who may or may not be Owners, or (c) a combination thereof. Powers may be delegated by the ARC, provided any such delegation shall specify the scope of responsibilities delegated, and, prior to the termination of the Period of Declarant Control, shall be subject to the irrevocable right of Declarant to revoke such delegation at any time and reassume jurisdiction over the matters previously delegated and/or to veto any decision which Declarant determines, in its sole discretion, to be inappropriate or inadvisable. The initial ARC will be made up of Vic C. Arnold, who shall serve until such time as his successors are qualified and appointed. Members serving on the ARC shall be appointed or elected to serve two (2) year terms. Any member of the ARC who fails on three (3) successive occasions to attend regularly scheduled meetings or who has failed to attend at least twenty-five percent (25%) of all regularly scheduled meetings held during any twelve (12) month period shall automatically forfeit his seat. Except for members of the ARC appointed by the Declarant prior to the termination of the Period of Declarant Control, members of the ARC may be removed at any time by the affirmative vote of at least a majority of the Owners. Unless he forfeits or otherwise loses his seat as herein provided, a member shall serve on the ARC until his successor qualifies and is properly appointed by the Declarant or, after the termination of the Period of Declarant Control, appointed by the Management Committee. Members of ARC shall not be compensated for their services, although they may be reimbursed for costs advanced.

25. **ARC Powers and Standing.** Any instrument executed by the ARC or its legal representative that recites facts which, if true, would establish the power and authority to accomplish through such instrument what is purported to be accomplished thereby, shall conclusively establish said power and authority in favor of any person who in good faith and for value relies upon said instrument. The ARC shall constitute a legal entity capable of dealing in its own name or in behalf of two or more Owners. The ARC shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Section and its decisions, including without limitation:

a. **Access.** The power and authority to enter into or upon any Lot to make inspections, evaluations or repairs and to do other work necessary for the proper maintenance and operation of the development or to enforce the decisions of the ARC. Except in the case of

an emergency, residents shall be given at least twenty-four (24) hours prior notice before the ARC may exercise this power.

b. **Respond to Complaints.** While the ARC will not police the development, it shall have the power and authority, but not the obligation, to respond to written concerns of Owners about architectural issue.

c. **Execute Documents.** The power and authority to execute and record, on behalf of the ARC, any amendment to the Declaration which has been approved by the vote or consent necessary to authorize such amendment.

d. **Standing.** The power to sue and be sued.

e. **Contractual Authority.** The power and authority to enter into contracts which in any way concern the development.

f. **Promulgate Rules.** The power and authority to promulgate such reasonable rules and regulations as may be necessary or desirable to aid the ARC in carrying out any of its functions, including by way of illustration but not limitation Pool Rules and Park Rules.

g. **Designate Common Expenses.** The power and authority to designate a cost or expense as a Common Expense, Individual Assessment or fine.

h. **All other Acts.** The power and authority to perform any and all other acts, and to enter into any other transactions which may be reasonably necessary for the ARC to perform its functions for and in behalf of the Owners.

In the event of a dispute between the ARC and the Management Committee, the decision of the latter shall in all respects govern and control.

26. **Common Utilities.** The Declarant may elect to provide common water and power utility services through a meter or meters on an individual Lot or Lots. Each such Owner agrees, by accepting a deed or other document of conveyance to such Lot, to provide those common water and power utility services to the Common Areas and Facilities not separately metered and billed to the Association by the provider; provided, however, in such circumstance the Owner of each such Lot shall be entitled to the following credits:

a. **Water.** A monthly credit an amount equal to the difference between the water bill for each such Lot and the average water bill for all of the other Lots in the Project; and

b. **Power.** A monthly credit in an amount equal to the greater of (1) \$5.00 or (2) a sum equal to the number of watts in the light bulb, multiplied by the Kilowatt rate of the local power company, multiplied by 4,000, divided by 1,000, and divided by 12.

27. **Insurance.** The Association shall obtain adequate public liability insurance,

property insurance, directors and officers insurance, and a fidelity bond, the cost of which shall be a Common Expense.

28. Destruction or Condemnation. If the Open Space or Common Area and Facilities, in whole or in part, is destroyed or condemned, any proceeds obtained by the taking shall be divided and the cost of restoring any damaged property not covered by insurance shall be a Common Expense allocated equally among the Owners.

29. Termination of Legal Status. Any action to terminate the legal status of the Project after substantial destruction or condemnation occurs shall be agreed to by Owners who represent at least sixty-seven (67%) percent of the total allocated votes in the Association and by Eligible Mortgagees who represent at least fifty-one (51%) percent of the votes of the Lots that are subject to mortgages held by eligible holders.

30. Classes of Membership and Voting Allocations. The Association shall have two (2) classes of membership: Class A and Class B. Class A Members shall be all Owners with the exception of the Class B Members. Class A Members shall be entitled to vote on all issues before the Association, subject to the following:

(1) **One Vote.** Each Lot shall have one (1) vote;

(2) **Subject To Assessment.** No vote shall be cast or counted for any Lot not subject to assessment;

(3) **Multiple Owners.** When more than one (1) person or entity holds such interest in a Lot, the vote for such Lot shall be exercised as those persons or entities themselves determine and advise the Secretary of the Association prior to any meeting. In the absence of such advice, the vote of the Lot shall be suspended in the event more than one (1) person or entity seeks to exercise it.

(4) **Assignment of Voting Rights to Lessee.** Any Owner of a Lot which has been leased may, in the lease or other written instrument, assign the voting right appurtenant to that Lot to the lessee, provided that a copy of such instrument is furnished to the Secretary at least three (3) days prior to any meeting.

The Class B Control Period shall mean and refer to the period of time during which the Class B Member is entitled to appoint all or a majority of the members of the ARC and/or the Management Committee. The Class B Member shall be the Declarant and any successor of Declarant who takes title for the purpose of development and sale of Lots, and who is designated as such in a recorded instrument executed by Declarant. The Class B Member shall originally be entitled to five (5) votes per Lot owned. The Class B membership and the Class B Control Period shall terminate, and Class B membership shall convert to Class A membership at the end of the Period of Declarant's Control. From and after the happening of this event, the Class B Member shall be deemed to be a Class A Member entitled to one (1) vote for each Lot owned. At such time, the Declarant shall call a meeting, to formally transfer control and management.

31. **Consent in Lieu of Vote.** In any case in which this Declaration requires the vote of an Owner for authorization or approval of an act or a transaction, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Owners who collectively hold the required percentages, subject to the following conditions: (a) a copy of the notice and ballot must be given to each Owner, (b) all necessary ballots and consents must be obtained prior to the expiration of sixty (60) days from the time the first written ballot or consent is obtained, (c) any change in ownership of a Lot which occurs after consent has been obtained from the Owner having an interest therein shall not be considered or taken into account for any purpose, and (d) if approved, written notice of the approval must be given to all Owners at least ten (10) days before any action is required by them.

32. **Transfer of Control of Management and Control.** Within forty-five (45) days after the termination of the Period of Declarant Control, unless otherwise agreed by the parties in writing, Declarant shall transfer the right to elect the Members of the Management Committee to the Lot Owners, acting as a group in accordance with this Declaration.

33. **Procedures for Approval of Plans and Specifications.** Architectural designs, plans and specifications showing the nature, kind, shape, color, size, materials, and location of all proposed structures and improvements shall be submitted to the ARC for review and approval (or disapproval). In addition, information concerning irrigation systems, drainage, lighting, landscaping and other features of proposed construction shall be submitted as applicable. In reviewing each submission, the ARC may consider the proposed design, harmony of external design with existing structures and the common scheme, the location in relation to surrounding structures, topography, finish grade and elevation, among other things. Decisions of the ARC may be based on purely aesthetic considerations. Each Owner acknowledges that opinions on aesthetic matters are subjective and may vary as ARC members change over time. In the event that the ARC fails to approve or to disapprove any application within thirty (30) days after submission of all information and materials reasonably requested, the application shall be deemed approved; provided, however, anything to the contrary notwithstanding, no Dwelling shall be constructed or altered unless it meets the following minimum requirements:

- a. Only single family residential Dwellings are allowed.
- b. The height of any Dwelling shall not exceed two stories above ground.
- c. No slab on grade Dwellings are permitted.
- d. Without the prior written consent of the ARC, a basement is required for each Dwelling.
- e. Without the prior written consent of the ARC, each Dwelling shall have a private garage for not less than two motor vehicles.
- f. The Dwelling exteriors, in their entirety, must consist of either maintenance free

stucco and masonry, unless another construction material is approved by the ARC in writing. No aluminum or vinyl is permitted.

g. The following conditional uses may also be allowed: Swimming pool, cabana, equipment building/other outdoor recreational activities (e.g., tennis courts, basketball court, soccer pitch, batting/pitching apparatus, etc.); and Accessory Buildings, permanent storage sheds, detached garage structures, workshops, detached conservatories and greenhouses. No tin sheds are allowed.

h. Designs submitted for approval shall be limited to those prepared by architects or by qualified residential designers of outstanding ability whose previous work may be reviewed as a part of the approval process.

34. Ivory Homes Catalogue. Any and every home design, plan or specification contained within the then current Ivory Homes Catalogue, and having a minimum finished square footage of 1,300 or greater on the main floor, shall be considered approved and qualify for construction, and no other consent shall be required.

35. Preliminary Architectural Drawings, Plans and Specifications. The ARC may require, as a minimum, the following:

- a. Plot plan to scale of entire site with buildings located and elevation of floors shown above or below a designated point on the street.
- b. Floor plans of each floor level to scale.
- c. Elevations to scale of all sides of the Dwelling.
- d. One major section through Dwelling.
- e. A perspective (optional).
- f. Specifications of all outside materials to be used on the exterior of the Dwelling.

36. Final Plans and Specifications and Working Drawings. The ARC may require, as a minimum, the following:

- a. Plot plans to scale showing the entire site, building, garages, walks, drives, fence, carriage lights, retaining walls, with elevations of the existing and finished grade and contours including those at the outside corners of the buildings and at adjacent property lines and street fronts, and elevations of floors from a designated point on the street.
- b. Detailed floor plans.

- c. Detailed elevations, indicating all materials and showing existing and finished grades.
- d. Detailed sections, cross and longitudinal.
- e. Details of cornices, porches, windows, doors, garages, garden walls, steps, patios, fences, carriage lights, etc. Specifications shall give complete description of materials to be used with supplements, addenda or riders noting the colors of all materials to be used on the exterior of the Dwelling.

37. **No Waiver of Future Approvals.** The approval of the ARC of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of such Committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matters whatever subsequently or additionally submitted for approval or consent.

38. **Variance.** The ARC may authorize variances from compliance with any of the architectural guidelines when circumstances such as topography, natural obstructions, hardship, aesthetic, or environmental considerations require, but only in accordance with its duly adopted rules and regulations. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing, (b) be contrary to the restrictions set forth in the body of this Declaration, or (c) estop the ARC from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit or the terms of financing shall not be considered a hardship warranting a variance.

39. **Limitation of Liability.** Neither the Declarant nor the ARC, or any of their employees, agents, representatives or consultants shall be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance with the provisions of this Declaration, nor for any structural or other defects in any work done according to such plans and specifications. By accepting a deed or other document of conveyance to a Lot, each Owner agrees to and shall defend, indemnify, save and hold the Declarant and the ARC, and their employees, agents, representatives or consultants, harmless from any and all loss, damage or liability they may suffer, including defense costs and attorney fees, as a result of any claims, demands, actions, costs, expenses, awards or judgments arising out of their review or approval of architectural designs, plans and specifications.

40. **Enforcement of Architectural Guidelines.** Any construction, alteration, or other work done in violation of this Declaration shall be considered to be nonconforming. Upon written request from the ARC an Owner shall at his own cost and expense remove such non-conforming construction, alteration, or other work and shall restore the land to substantially the same condition as existed prior to the non-conforming construction, alteration, or other work. Should an Owner fail to remove and restore as required hereunder, the ARC shall have the right to enter the property, remove the violation, and restore the property to substantially the same

condition as existed prior to the construction, alteration or other work, without being deemed to be a trespasser.

41. Contractors. Any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Declaration may be excluded by the ARC from the development, subject to the notice and the opportunity to be heard. In the event of sanctions after notice and hearing, neither the ARC or the Declarant, nor their employees, agents, representatives or consultants shall be held liable to any person for exercising the rights granted by this Section.

42. Use Restrictions and Nature of the Project. The Lots are subject to the following use restrictions which shall govern both the architecture and the activities within the Development:

a. Private Residence. No Lot shall be used except for residential purposes and all residents shall be obligated by the following requirements: no temporary structure including trailers, tents, shacks, garages, barns or other outbuildings shall be used on any Lot at any time.

b. Business Use. No resident may operate a commercial trade or business in or from his Lot with employees of any kind. No commercial trade or business may store any inventory over 250 cubic feet, and it must be contained within the Dwelling Unit. No commercial trade or business may be conducted in or from a Lot or Dwelling Unit unless (a) the business activity conforms to all home occupation and zoning requirements governing the Project; (b) the operator has a city issued business license; (c) the business activity satisfies the Home Occupation Guidelines adopted by the Management Committee, as they may be modified from time to time; and (d) the resident has obtained the prior written consent of the Management Committee. Notwithstanding the foregoing, the leasing of a Lot shall not be considered a trade or business within the meaning of this subsection.

c. Storage and Parking of Vehicles. The driving, parking, standing, and storing of motor vehicles in, on or about the development shall be subject to the following:

1) The parking rules and regulations adopted by the ARC from time to time;

2) No motor vehicle or trailer, including but not limited to any car, automobile, truck, van, or any other transportation device of any kind may be parked or stationed in such a manner so as to block access to any driveway or Dwelling or to create an obstacle or potentially dangerous condition.

3) No Resident shall repair or restore any vehicle of any kind in, on or about any Lot, except for emergency repairs, and then only to the extent necessary to enable movement thereof to a proper repair facility.

4) No garage may be altered in such a manner that the number of motor

vehicles which may reasonably be parked therein after the alteration is less than the number of motor vehicles that could have been reasonably parked in the garage as originally designed and constructed.

5) All garages shall be used primarily for the parking and storage of vehicles.

6) Daytime parking on the street is allowed.

7) Overnight parking on the street is not allowed.

8) All motor vehicles parked so as to be visible from the street or another Lot must be undamaged (less than \$1000.00 to repair), in good mechanical condition, registered, and licensed.

9) Except as otherwise expressly permitted, motor vehicles may not be "stored" so as to be visible from the street or another Dwelling.

10) Except for purposes of loading or unloading passengers or supplies (for a period of time not to exceed twenty-four (24) hours), Recreational, Commercial, and Oversized Vehicles shall be stored either on a Parking Pad provided it is located in a side yard behind the house line or in the rear of the Lot, and it is in running condition and properly licensed or in a garage so as not to be visible from the street or any other Lot.

11) Vehicles parked in violation of this Declaration may be immobilized, impounded, or towed by the ARC or its designee without further notice and at the owner's sole risk and expense.

d. Maintenance. All Lots and Dwellings shall be kept by the Owner in good repair and maintenance and in a clean, safe, sanitary and attractive condition.

e. Garbage and Refuse Disposal. No Lot shall be used as a dumping ground. All trash, garbage, debris, rubbish or other waste shall be kept in a sealed, sanitary bag or container, and stored out of sight except for a twenty-four (24) hour period on pick-up days.

f. Aerials, Antennas, and Satellite Systems. No aerials, antennas, satellite dishes or systems shall be erected, maintained or used in, on or about any Dwelling, outdoors and above ground, whether attached to or on top of any building, structure, Dwelling, or otherwise, within the development without the prior written consent of the Declarant or ARC, which shall not be unreasonably withheld. In making its decisions, the Declarant and/or ARC shall abide by and be subject to all relevant local, state and federal laws, including but not limited to all FCC guidelines, rules and regulations as they may be amended or supplemented from time to time. Insofar as is reasonably possible without impairing reception, satellite dishes, aerials and antennae shall be positioned so that they are screened from view from the street.

g. Animals and Pets. The keeping of animals other than those ordinarily kept as

family pets within the Development is forbidden. Large animals are not allowed. No pets, animals, livestock or poultry of any kind shall be bred in, on or about the Project. Up to two domestic pets per Dwelling are allowed. All pets must be properly licensed and registered. Pets may not create a nuisance. The following acts of an animal may constitute a nuisance: (1) it causes damage to the property of anyone other than its owner; (2) it causes unreasonable fouling of the air by odors; (3) it causes unsanitary conditions; (4) it defecates on any common area and the feces are not immediately cleaned up by the responsible party; (5) it barks, whines or howls, or makes other disturbing noises in an excessive, continuous or untimely fashion; (6) it molests or harasses passersby by lunging at them or chasing passing vehicles; (7) it attacks people or other domestic animals; (8) it otherwise acts so as to bother, annoy or disturb other reasonable residents or interferes with their right to the peaceful and quiet enjoyment of their property; or (9) by virtue of the number of pets maintained, they are offensive or dangerous to the health, welfare or safety of other residents. Pets outside the Owner's Lot or in the Open Space or Common Area must be in a cage or on a leash and under the control of a responsible person.

h. **Laws.** Nothing shall be done or kept in, on or about any Lot or any part thereof, which would be a violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body.

i. **Damage or Waste.** Each Owner shall repair any damage he or any other residents, guests, or invitees of his Lot may cause to another Owner, Lot, or Dwelling, and promptly restore the property to its original condition.

j. **Signs.** No signs, billboards or advertising structures or devices of any kind may be built, installed or displayed on the Property or any Lot except for a single sign with a maximum size of 2' x 2' for specific purpose of advertising the sale of a home. No "For Rent" or "For Lease" signs are allowed within the community, in the common area, on a lot, or in, on or about the home, at any time or for any reason.

k. **Zoning.** All land use and buildings shall be in compliance with all zoning and land use ordinances as well as all regulations of the municipalities and agencies governing the development land use and buildings.

l. **Landscaping.** All Lot landscaping must be completed within six (6) months from the date of closing. Landscaping, grading and drainage shall be designed in such a way to control water run-off so that any Lot within the Project will not be adversely affected by another. Furthermore, the grades initially established by the Declarant may not be altered without the prior written consent of the ARC. All landscaping must conform to the Landscaping Guidelines as adopted by the ARC. The Buyer is responsible for the planting of trees in accordance with the Street Tree Planting Plan attached. Declarant will provide a landscaping bond with the City whenever possible. In the event that a bond is placed, the Buyer will receive the amount of the bond upon completing the City landscaping requirements. If Declarant is required to install front yard landscaping prior to receiving a final inspection from the City, then the Buyer acknowledges, understands and agrees, by accepting a deed or other document of conveyance, that only a basic front yard landscaping will be provided by Declarant and this is done in lieu of

the 2,000 sq. ft. of sod promised on any of Declarant's promotional materials (including but not limited to the Purchase Price Addendum and the Ivory Homes Catalogue of Homes).

m. **Easements.** Easements and rights of way for the installation and maintenance of utilities, drainage systems and facilities, and irrigation are reserved, as set forth herein and in the legal descriptions of the Property. Within these easements and rights of way, no structure, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in, on or about the easements and rights of way, or which may obstruct or retard the flow of water through the drainage channels in the easements and rights of way. The easement and right of way area of each Lot and all improvements within said area shall be maintained continuously by their Owners, excepting those improvements for which a public authority or utility company is expressly responsible.

n. **Slope and Drainage Control.** No structure, plant, improvement or other material may be placed or permitted to remain, or other activities undertaken which may damage or interfere with established Lot ratios, create erosion or sliding problems, or which may change the direction or flow of drainage channels, or obstruct or retard the flow of water through the channels. The slope control area of each Lot and all improvements therein shall be maintained continuously by the Owner of the Lot, excepting those improvements for which a public authority or utility company is expressly responsible. It shall be the responsibility of the Owner to see that his Lot strictly conforms with the grading and drainage plan established by the Declarant and Weber County.

o. **Accessory Buildings.** Accessory Buildings are considered "conditional uses." Any and all accessory building plans must be submitted, reviewed and approved in advance. Any detached Accessory Building must conform in design and construction materials with the primary residential Dwelling. The maximum height of an Accessory Building is 9 feet. The term Accessory Building shall mean and refer to any structure which is not the primary structure, contains at least 120 square feet, and requires a building permit. The term Accessory Building shall not include any shed, shack or other out-building for which a building permit is not required. If there is any dispute as to what constitutes an Accessory Building the decision of the ARC shall be final, binding and conclusive.

p. **Owner-Occupied.** A Dwelling Unit must be owner-occupied for a period of at least two (2) years after closing. For purposes of this section the term "owner-occupied" shall mean a Unit occupied by one of the following: (a) The vested owner (as shown on the records of the Weber County Recorder); (b) The vested owner and/or his spouse, children or siblings; or (c) The shareholder, partner, member, trustor, beneficiary or other legal representative of an institutional owner (provided, such person holds a beneficial interest in such legal entity of at least 50.0%) and/or his spouse, children or parents.

q. **Leases.** No Owner shall be permitted to lease his Lot or Dwelling Unit for short term, transient, hotel, vacation, seasonal or corporate use purposes. For purposes of this Section the term "short term" shall be considered to be any rental with an initial term of less than six (6) months. Daily or weekly rentals are expressly prohibited. No Owner may lease

individual rooms to separate Persons or less than his entire Dwelling Unit, including by way of illustration but not limitation letting a room to domestic help or a caretaker, without the prior express written consent of the Management Committee. "For Rent" or "For Lease" signs are prohibited. The Management Committee must approve in writing all lease and rental agreements as to form. Each Owner agrees by the acceptance of a deed or other document of conveyance to a Lot, that any such lease or rental agreement not approved or in violation of the Project Documents shall be considered "non-conforming" and voidable by the Management Committee. Other than as stated in this Section, there is no restriction on the right of any Owner to lease or otherwise grant occupancy rights to his Lot or Dwelling Unit.

s. **Transfer Fee.** Each Owner, by virtue of his acceptance of a deed or other document of conveyance, agrees to and shall pay to the Association a sum equal to five percent (5%) of the gross sales price on the home as a transfer fee if his Lot is sold or if he enters into a Lease/Option or similar Agreement on the home during the initial two (2) year period after closing.

t. **Nuisances.** No noxious or offensive activity shall be carried on, in or about the Property, nor shall anything be done or permitted thereon which may be or may become an annoyance, disturbance, bother or nuisance to the neighborhood, or which might interfere with the right of other residents to the quiet and peaceful enjoyment of their property.

u. **Temporary Structures.** No structure of a temporary nature or character, including but not limited to any trailer, shack, shed, tent, garage, barn or other out-building shall be used on any Lot at any time as a residence.

v. **Fencing.** Vinyl fencing is allowed without additional approval required. Wood and masonry fencing may be allowed with prior express written consent, although the request can be denied. Fence heights are restricted to 6' in the rear and side yards. Front yard fencing is generally not allowed. If front yard fencing is allowed, the height of the fence may not exceed 3'. Any fencing or similar structure using other construction materials requires the prior express written approval of the ARC. If there is a dispute as to what constitutes a front, side or rear yard, the decision of the ARC shall be final, binding and conclusive.

43. **Fines and Sanctions.** After written notice of the violation and a reasonable opportunity to be heard, the ARC or Management Committee may fine or otherwise sanction an Owner for his failure to comply with the provisions of this Declaration or any rules and regulations adopted by the them from time to time, including by way of illustration but not limitation the suspension of the right to use the amenities.

44. **Declarant's Sales Program.** Notwithstanding anything to the contrary and until the termination of the Period of Declarant Control, neither the Owners nor the Declarant shall interfere or attempt to interfere with Declarant's completion of improvements and sale of all of its remaining Lots and Dwellings, and Declarant shall have the following rights in furtherance of any sales, promotions or other activities designed to accomplish or facilitate the sale of all Lots and Dwellings owned by it:

a. **Sales Office and Models.** Declarant shall have the right to maintain one (1) or

more sales offices and one (1) or more model Lots, Homes or Dwellings at any one time. Such office and/or models may be one or more of the Lots owned by it, or one or more of any separate structures or facilities placed on the Property for the purpose of aiding Declarant's sales effort, or any combination of the foregoing;

b. **Promotional.** Declarant shall have the right to maintain a reasonable number of promotional, advertising and/or directional signs, banners or similar devices at any place or places on the Property.

c. **Relocation and Removal.** Declarant shall have the right from time to time to locate or relocate any of its sales offices, models, or signs, banners or similar devices, but in connection with each such location or relocation shall observe the limitations imposed by the preceding portion of this Section. Within a reasonable period of time after the happening of the occurrence, Declarant shall have the right to remove from the development any signs, banners or similar devices and any separate structure or facility which was placed on the Property for the purpose of aiding Declarant's sales effort.

d. **Limitation on Improvements by the ARC.** Until the termination of the Period of Declarant Control, the Owner may not, without the written consent of Declarant, make any improvement to the Open Space or Common Area or alteration to any improvement created or constructed by Declarant.

e. **Declarant's Rights Assignable.** All of the rights of Declarant under this Declaration may be assigned or transferred either by operation of law or through a voluntary conveyance, transfer or assignment. Any Mortgage covering all Lots or Dwellings in the development title to which is vested in Declarant shall, at any given point in time and whether or not such Mortgage does so by its terms, automatically cover, encumber, and include all of the then unexercised or then unused rights, powers, authority, privileges, protection and controls which are accorded to Declarant (in its capacity as Builder) herein.

45. **Interpretation.** To the extent Utah law is consistent with this Declaration, such provisions shall supplement the terms hereof and are incorporated herein. The captions which precede the Articles and Sections of this Declaration are for convenience only and shall in no way affect the manner in which any provision hereof is construed. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, the term "shall" is mandatory and the term "may" is permissive, the whole shall include any part thereof, and any gender shall include both other genders. The invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder hereof.

46. **Covenants to Run with Land.** This Declaration and all the provisions hereof shall constitute covenants to run with the land or equitable servitudes, as the case may be, and shall be binding upon and shall inure to the benefit the Declarant and all parties who hereafter acquire any interest in a Lot, the development or the Property, and their respective grantees, transferees, heirs, devisees, personal representative, successors, and assigns. Each Owner or resident of a Lot shall comply with, and all interests in all Lots shall be subject to, the terms of this

Declaration and the provisions of any rules, regulations, agreements, instruments, supplements, amendments, and determinations contemplated by this Declaration. By acquiring any interest in a Lot, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

47. Enforcement and Right to Recover Attorneys Fees. Should the ARC, Managing Member, Management Committee, Association, or an aggrieved Owner be required to take action to enforce or construe the Declaration or any rules and regulations adopted from time to time, or to pursue any remedy provided hereunder or by applicable law, including a claim for injunctive relief or damages, whether such remedy is pursued by filing suit or otherwise, the prevailing party shall be entitled to recover his reasonable attorneys fees, costs and expenses which may arise or accrue.

48. Limitation of Liability. The covenants, conditions and restrictions set forth in this Declaration, together with any rules and regulations hereafter adopted, are established for the benefit of the Property and the Owners. Any damage, loss, claim or liability which might arise due to any decision, act, or failure to act of Declarant, ARC or the Management Committee or any of their members, agents, representatives or employees shall be exempt from any civil claim or action, including negligence, brought by any person owning or having an interest in any Lot, and they shall be indemnified, saved and held harmless from any such action or failure to act, and exempt from any civil claim or action resulting from any such action or failure to act (whether intended or implied) while functioning as a member of the ARC, or for decisions that they may render during the course of their service, unless said party is guilty of intentional misconduct.

49. Mortgagee Protection. Nothing herein contained, and no violation of these covenants, conditions and restrictions, shall invalidate or impair the lien of any mortgage or deed of trust, given in good faith and for value. The lien or claim against a Unit for unpaid Assessments shall be subordinate to any Mortgage recorded on or before the date a notice of lien securing payment of any such Assessments is recorded in the Office of the County Recorder of Weber County, Utah.

50. Amendments. This Declaration may be amended unilaterally by the Developer at any time. In addition, upon the affirmative written approval of at least a majority of the Owners of the Lots provided, however, (a) so long as Developer shall own at least one (1) Lot in the Subdivision, no amendment shall be valid or enforceable without its express prior written consent, and (b) any amendments affecting fencing, grading, or any Orem City Ordinances shall require the prior written consent of the city. The Mortgagee Protection section cannot be amended without the consent of all first mortgagees. An amendment shall be valid immediately upon recording of the document amending the Declaration in the office of the County Recorder of Utah County, Utah.

52. Duration. The covenants and restrictions of this Declaration shall endure for a term of twenty (20) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years.

Dated the 4th day of April, 2007.

DECLARANT:
IVORY DEVELOPMENT, LLC

By: *Vic C. Arnold*
Name: Vic C. Arnold
Title: Manager

ACKNOWLEDGMENT

STATE OF UTAH)
 Davis ss:
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this 4th day ^{April 2007} ~~July, 2006~~ by Christopher P. Gamvroulas, the Manager of IVORY DEVELOPMENT, LLC, a Utah limited partnership, and said Christopher P. Gamvroulas duly acknowledged to me that said IVORY DEVELOPMENT, LLC executed the same.

[Signature]
NOTARY PUBLIC
Residing at: Davis Co., UT
My Commission Expires: 5/11/2010

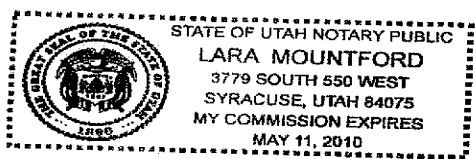


EXHIBIT "A"
LEGAL DESCRIPTION

The Property referred to in the foregoing document as the Property is located in Weber County, Utah and is described more particularly as follows:

WHISPERING MEADOWS BOUNDARY DESCRIPTION

PART OF THE NORTHWEST QUARTER OF SECTION 22, TOWNSHIP 5 NORTH, RANGE 2 WEST, SALT LAKE BASE & MERIDIAN, U S SURVEY, BEGINNING SOUTH 00D25'40" WEST 65.12 FEET AND NORTH 89D45'44" WEST 33.00 FEET FROM THE NORTHEAST CORNER OF SAID NORTHWEST QUARTER RUNNING THENCE NORTHWESTERLY ALONG THE ARC OF A 20.83 FOOT RADIUS CURVE TO THE LEFT A DISTANCE OF 32.66 FEET (LONG CHORD BEARS NORTH 44D40'02" WEST 29.41 FEET, THENCE NORTH 89D45'44" WEST 79.17 FEET, THENCE NORTH 85D58'08" WEST 170.71 FEET, THENCE NORTH 89D45'44" WEST 588.12 FEET, THENCE SOUTH 00D08'00" WEST 604.00 FEET, MORE OR LESS, TO THE RGW RAILROAD RIGHT OF WAY, THENCE EAST ALONG SAID RIGHT OF WAY 855.41 FEET, THENCE NORTH 00D25'40" EAST 363.48 FEET ALONG THE WEST LINE OF 3100 WEST STREET, THENCE NORTH 00D25'40" EAST 204.85 FEET ALONG SAID STREET TO THE BEGINNING.

CONTAINS: 11.80 ACRES

EXHIBIT "B"
BYLAWS
OF
WHISPERING MEADOWS ASSOCIATION

ARTICLE I
NAME AND LOCATION

Section 1 .01 Name and Location. The name of the association is the Whispering Meadows Association (the "Association"). The principal office of the corporation shall be located at 978 East Woodoak Lane, Salt Lake City, UT 84117, but meetings of Members and Management Committee may be held at such places within the State of Utah, as may be designated by Management Committee

ARTICLE II
DEFINITIONS

Section 2.01 Definitions. Except as otherwise provided herein or as may be required by context, all terms defined in Paragraph 1 of the Declaration shall have such defined meanings when used in these Bylaws.

ARTICLE III
MEETINGS OF MEMBERS OF THE ASSOCIATION

Section 3.01 Annual Meeting. The Management Committee shall meet as often as it deems reasonably necessary but not less than semi-annually at a convenient time and place.

Section 3.02 Special Meetings. Special meetings of the Members of the Association may be called at any time by the President or by a majority of the Members of the Management Committee.

Section 3.03 Notice of Meetings. Written notice of each meeting of the Association shall be given to each Owner by or at the direction of the Secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least fifteen (15) days before such meeting to said Owner addressed to the Owner's address last appearing on the books of the Association, or supplied by such Owner to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 3.04 Quorum. A majority of the Owners present shall constitute a quorum for any action except as otherwise provided in the Articles, the Declaration, or these Bylaws.

Section 3.05 Proxies. At all Association meetings, each Owner may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be

revocable and shall expire, if not previously revoked, eleven (11) months after the date it is given by the Owner.

**ARTICLE IV
MANAGEMENT COMMITTEE AND TERM OF OFFICE**

Section 4.01 Number. The affairs of the Association shall be managed by a Management Committee comprised of at least three (3) and no more than nine (9) natural persons, and initially comprised of three (3) individuals. Each Member must be duly qualified and appointed or elected.

Section 4.02 Replacement. If a Member resigns or is otherwise unable or unwilling to serve, then the remaining Members shall appoint a replacement to complete his term of office.

Section 4.03 Term of Office. Each Member on the Management Committee shall serve a term of at least one (1) year.

Section 4.04 Compensation. No Member shall receive compensation for any service he may render to the Association as a member of the Management Committee, although he may be reimbursed for his actual expenses incurred in the performance of his duties and may enter into an independent contract to provide other services. A Member may enter into a separate and independent contract with the Association to provide additional services for a fee.

Section 4.05 Action Taken Without a Meeting. The Management Committee shall have the right to take any action in the absence of a meeting which it could take at a meeting by obtaining the written approval of all the Members. Any action so approved shall have the same effect as though taken at a meeting of the Management Committee.

Section 4.06 Voting. Each Member shall have one vote.

Section 4.07 Managing Member. Anything to the contrary notwithstanding, during the Period of Developer's Control, the Management Committee hereby assigns and delegates all of its rights, power and authority, as set forth in the Project Documents, to a Managing Member selected or to be selected by the Developer, who shall manage the Common Areas and Facilities and administer the Project Documents for and in behalf of the Neighborhood. The Developer hereby designates Vic Arnold as the initial Managing Member of the Association.

**ARTICLE V
POWERS AND DUTIES OF THE MANAGEMENT COMMITTEE**

Section 5.03 Powers. The Association shall have all of the powers of a Utah non-profit corporation, subject only to such limitations upon the exercise of such powers as are expressly set forth in the Articles, the Bylaws and this Declaration. The Association shall have the power to perform any and all lawful acts which may be necessary or proper for, or incidental to, the exercise of any of the express powers of the Association. Without in any way limiting the generality of the foregoing, the Association may act through its Management Committee and shall specifically have the powers and duties set out in this Article V, including

Section 5.03.1 Assessments. The power and duty to levy Assessments on the Owners, and to enforce payment of such assessments in accordance with the Declaration.

Section 5.03.2 Association Property. The right to own and/or lease the Association Property and the duty to maintain and manage the Common Areas and Facilities and improvements thereon. In particular the Association shall:

- a. Maintain and repair in an attractive, safe and functional condition the Common Areas and Facilities;
- b. Pay all taxes and assessments levied upon the Common Areas and Facilities and all taxes and assessments payable by the Association;
- c. Obtain any water, sewer, gas and electric services needed for the Common Areas and Facilities; and
- d. Do each and every other thing reasonable and necessary to operate the Common Areas and Facilities and the Association.

**ARTICLE VI
OFFICERS AND THEIR DUTIES**

Section 6.01 Enumeration of Officers. The officers of the Association shall be a president and secretary, plus such other officers as the Management Committee may from time to time by resolution create. The same individual may not hold the office of president and secretary at the same time. The officers need not be Members of the Management Committee.

Section 6.02 Election of Officers. The Management Committee shall elect or appoint officers at the first meeting of the Management Committee during each calendar year.

Section 6.03 Term. Each officer of the Association shall hold office for one (1) year unless he shall sooner resign, or shall be removed or otherwise disqualified to serve.

Section 6.04 Special Appointments. The Management Committee may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Management Committee may from time to time determine.

Section 6.05 Resignation and Removal. Any officer may be removed from office with or without cause by a majority vote of the Management Committee. Any officer may resign at any time by giving written notice to the Management Committee, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6.06 Vacancies. A vacancy in any office may be filled by appointment by the management Committee. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 6.07 President. The president shall (a) preside at all meetings of the Management Committee, (b) see that orders and resolutions of the Management Committee are carried out and (c) sign all contracts.

Section 6.08 Secretary. The secretary shall (a) record the votes and keep the minutes of all meetings and proceedings of the Management Committee and of the Association, (b) keep the corporate seal of the Association and affix it on all papers requiring said seal, (c) serve notice of meetings of the Management Committee and of the Association, (d) keep appropriate current record, showing the Members of the Association together with their addresses and (e) perform such other duties as may be required by the Management Committee.

ARTICLE VII ARCHITECTURAL REVIEW AND OTHER COMMITTEES

Section 7.01 Architectural Review Committees. The Architectural Review Committee shall consist of at least three (3) and no more than nine (9) members. The members of the Architectural Review Committee shall be appointed by the Developer during the Period of Developer's Control. The initial members of the Architectural Review Committee, who shall serve until their successors are appointed, are Vic C. Arnold, Eric Freebairn and Christopher P. Gamvroulas. During the Period of Developer's Control, the Architectural Review Committee assigns and delegates all of its rights, power and authority to a Managing Member selected by the Developer, who shall manage the Architectural Review Committee and administer the Project Documents. The initial Managing Member of the Association shall be Vic C. Arnold.

Section 7.02 Other Committees. Management Committee may appoint such committees as deemed appropriate in carrying out its purpose.

**ARTICLE VIII
BOOKS AND RECORDS**

Section 8.01 Books and Records. The books and records shall be kept with detailed accounts of the receipts and expenditures affecting the Tract, and the administration of the Tract, specifying the maintenance, repair and any other expenses incurred. The books and records, including any invoices, receipts, bills, proposals, documents, financial statements, and vouchers accrediting the entries thereupon shall be available for examination by the Owners, their duly authorized agents or attorneys, during general business hours on working days at the times and in the manner that shall be set and announced by the Management Committee for the general knowledge of the Owners. All books and records shall be kept in accordance with generally accepted accounting practices.

Section 8.02 Signatures. All checks, drafts, contracts, and legally binding agreements must be signed by at least two (2) persons, one of whom must be the president or secretary, and the other the professional property manager.

Section 8.03 Bookkeeping. The accounting and financial statements for Association must be kept and prepared by either the property manager or an independent bookkeeper or accountant, who may not be a member of the Management Committee or an officer of the Association. A monthly profit and loss statement, balance sheet, and check register shall be sent or delivered designee by the bookkeeper or accountant to each Member and Association or their designee. The accountant or bookkeeper shall prepare and file all tax returns for the Association.

Section 8.04 Audit. Either a (a) majority vote of the Members of the Management Committee or (b) majority vote of all of the Owners is necessary and sufficient to require either a Compilation Report, Reviewed Statement or Audited Statement of the MHOA.

**ARTICLE IX
AMENDMENTS**

Section 9.01 Amendment to Bylaws. These Bylaws may only be amended (a) unilaterally by the Developer until the expiration of the Period of Developer's Control or (b) the affirmative vote of a majority of the Owners.

Section 9.02 Conflict Between Articles, Bylaws and Declaration. In the case of any conflict between the Declaration and these Bylaws, the Declaration shall in all respects govern and control.

**ARTICLE X
MISCELLANEOUS**

Section 10.01 Miscellaneous. The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

IN WITNESS WHEREOF, the Developer has hereunto set his hand this 4th day of April, 2007.

DEVELOPER:
IVORY DEVELOPMENT, LLC.

By: *Vic C. Arnold*
Name: Vic C. Arnold
Title: Managing Member

ACKNOWLEDGMENT

STATE OF UTAH,)
 Davis SS:
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this 4th day April, 2007 by Vic C. Arnold, the Managing Member of IVORY DEVELOPMENT, LLC., a Utah limited liability company, and said Christopher P. Gamvroulas duly acknowledged to me that said IVORY DEVELOPMENT, LLC. executed the same.

[Signature]
NOTARY PUBLIC
Residing at: Davis Co., ut
My Commission Expires: 5/11/2010

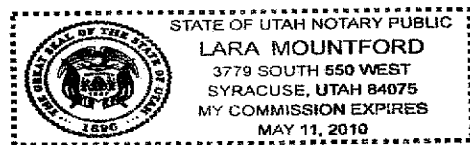
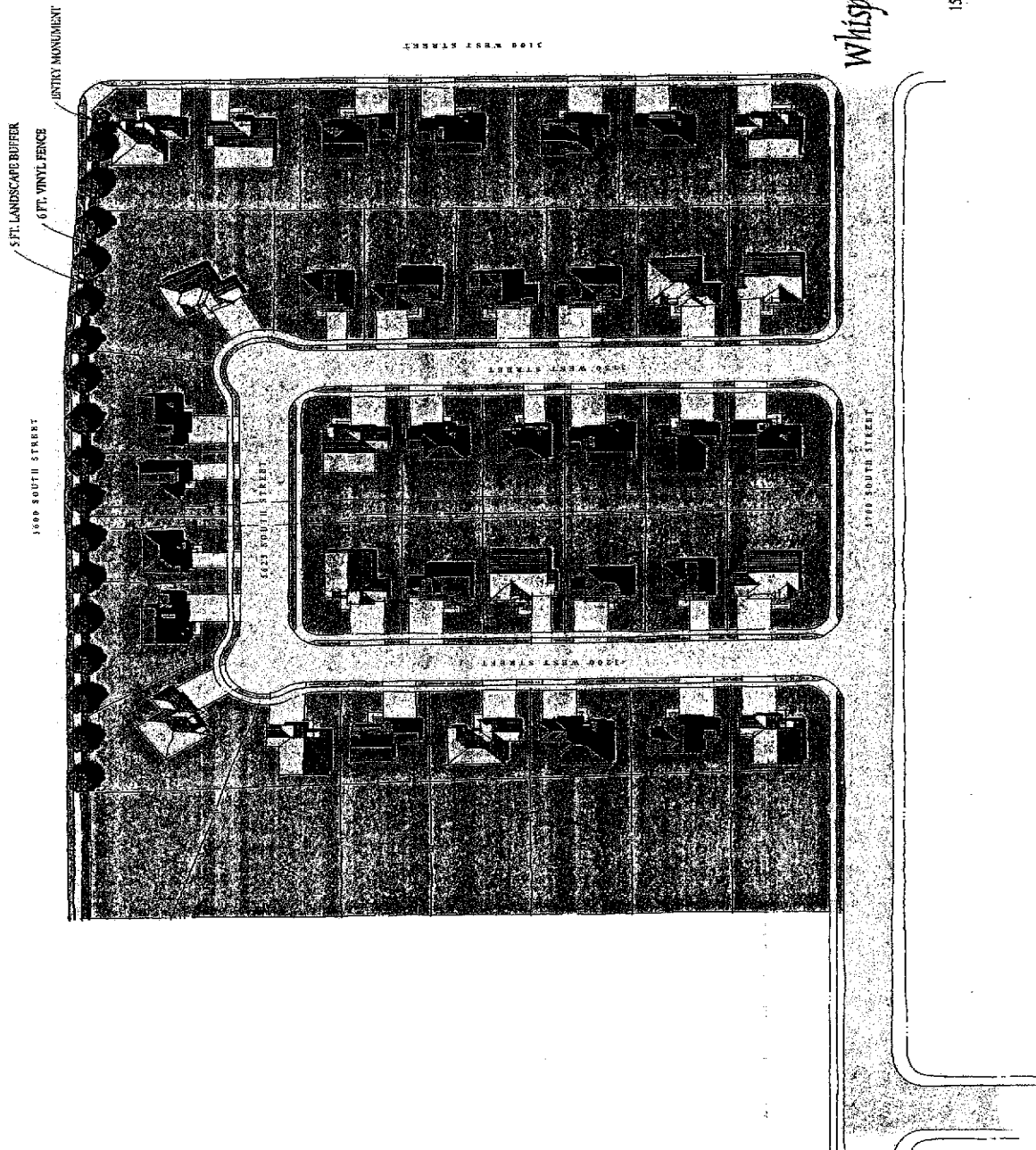


EXHIBIT "C"

STREET TREE PLANTING PLAN



THE
 CONCEPT
 PLAN

Whispering Meadows

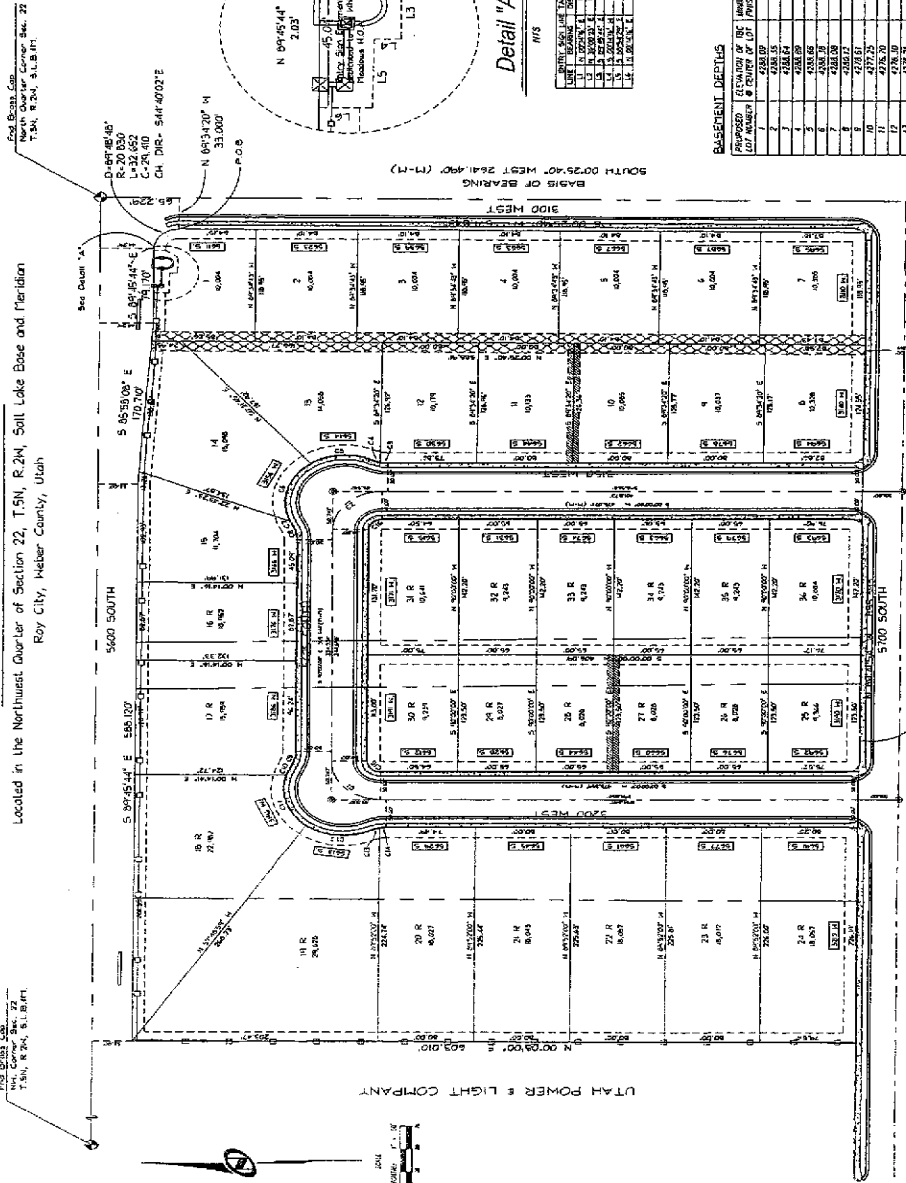
Roy, Utah
 IVORY HOMES
 1544 North Woodland Park Drive
 Layton, Utah

Michael Kelly
 CONSULTANT

CA 01

WHISPERING MEADOWS SUBDIVISION

Located in the Northwest Quarter of Section 22, T.5N, R.2W, Salt Lake Base and Meridian
Roy City, Weber County, Utah



Detail 'A'

LINE	BEARING	DISTANCE
1	N 89°55'44" E	33.000
2	S 85°53'03" E	170.710
3	S 89°55'44" E	540.120
4	S 89°55'44" E	540.120
5	S 85°53'03" E	170.710
6	N 89°55'44" E	33.000

BASINEMENT DETAILS

PROPOSED LOT NUMBER	SECTION OF LOT	MEASUREMENT	PERCENTAGE OF LOT
1	1	0.0000	0.00%
2	1	0.0000	0.00%
3	1	0.0000	0.00%
4	1	0.0000	0.00%
5	1	0.0000	0.00%
6	1	0.0000	0.00%
7	1	0.0000	0.00%
8	1	0.0000	0.00%
9	1	0.0000	0.00%
10	1	0.0000	0.00%
11	1	0.0000	0.00%
12	1	0.0000	0.00%
13	1	0.0000	0.00%
14	1	0.0000	0.00%
15	1	0.0000	0.00%
16	1	0.0000	0.00%
17	1	0.0000	0.00%
18	1	0.0000	0.00%
19	1	0.0000	0.00%
20	1	0.0000	0.00%
21	1	0.0000	0.00%
22	1	0.0000	0.00%
23	1	0.0000	0.00%
24	1	0.0000	0.00%
25	1	0.0000	0.00%
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27	1	0.0000	0.00%
28	1	0.0000	0.00%
29	1	0.0000	0.00%
30	1	0.0000	0.00%
31	1	0.0000	0.00%
32	1	0.0000	0.00%
33	1	0.0000	0.00%
34	1	0.0000	0.00%
35	1	0.0000	0.00%
36	1	0.0000	0.00%

LEGEND

SYMBOL	DESCRIPTION
(Circle with dot)	ROUND LIBERTY COUNTY SECTION CORNER
(Circle with cross)	PROPOSED STREET MONUMENT
(Circle with 'X')	MONUMENT TO MONUMENT
(Dashed line)	1" OR DRAINAGE EASEMENT
(Dotted line)	CENTERED ON LOT LINE
(Cross-hatched area)	EXISTING POWER LINE EASEMENT

NOTES:

- THIS SUBDIVISION IS LOCATED WITHIN AN UNINCORPORATED AREA OF WEBCOUNTY, UTAH. THE CITY OF ROY CITY, UTAH, HAS ADOPTED A LOCAL ORDINANCE THAT REQUIRES ALL APPLICABLE PLANS AND ORDINANCES PRESENTED TO THE CITY ENGINEER FOR APPROVAL BY THE CITY ENGINEER TO BE APPROVED BY THE CITY COUNCIL OF THE CITY OF ROY CITY, UTAH. THIS PLAN HAS BEEN APPROVED BY THE CITY ENGINEER AND THE CITY COUNCIL OF THE CITY OF ROY CITY, UTAH.
- THE ENGINEER HAS CONDUCTED A VISUAL INSPECTION OF THE PROPERTY AND HAS FOUND THAT THE PROPERTY IS SUITABLE FOR THE PROPOSED SUBDIVISION.
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SURVEYOR'S CERTIFICATE

I, the undersigned, being duly qualified and sworn, do hereby certify that the foregoing is a true and correct copy of the original records of the Surveyor's Office, and that the same have been duly recorded in the public records of the County of Weber, Utah, in accordance with the provisions of the laws of the State of Utah, and that the same have been duly recorded in the public records of the County of Weber, Utah, in accordance with the provisions of the laws of the State of Utah.

Date of Survey: _____

Surveyor: _____

BOUNDARY DESCRIPTION

Commencing at the North Quarter Corner of Section 22, Township 5 North, Range 2 West, Salt Lake Base and Meridian (Point of Beginning) and running North 89°55'44" East, 33.000 feet to a point on the line of the Northwest Quarter of Section 22, Township 5 North, Range 2 West, Salt Lake Base and Meridian (Point of Beginning) and running South 85°53'03" East, 170.710 feet to a point on the line of the Northwest Quarter of Section 22, Township 5 North, Range 2 West, Salt Lake Base and Meridian (Point of Beginning) and running South 89°55'44" East, 540.120 feet to a point on the line of the Northwest Quarter of Section 22, Township 5 North, Range 2 West, Salt Lake Base and Meridian (Point of Beginning) and running South 89°55'44" East, 540.120 feet to a point on the line of the Northwest Quarter of Section 22, Township 5 North, Range 2 West, Salt Lake Base and Meridian (Point of Beginning) and running South 85°53'03" East, 170.710 feet to a point on the line of the Northwest Quarter of Section 22, Township 5 North, Range 2 West, Salt Lake Base and Meridian (Point of Beginning) and running North 89°55'44" East, 33.000 feet to the Point of Beginning.

H.O.A. NOTE:

This plan is filed in the office of the Surveyor's Office, and the Surveyor's Office is not responsible for the accuracy of the information contained herein, and the Surveyor's Office is not responsible for the accuracy of the information contained herein.

OWNER'S DEDICATION

WHISPERING MEADOWS SUBDIVISION

I, the undersigned, do hereby dedicate to the public use of the State of Utah, the easements and interests herein described, and I do hereby dedicate to the public use of the State of Utah, the easements and interests herein described, and I do hereby dedicate to the public use of the State of Utah, the easements and interests herein described.

ACKNOWLEDGMENT

I, the undersigned, do hereby acknowledge the foregoing instrument, and I do hereby acknowledge the foregoing instrument, and I do hereby acknowledge the foregoing instrument.

NOTICE

BY THE SURVEYOR

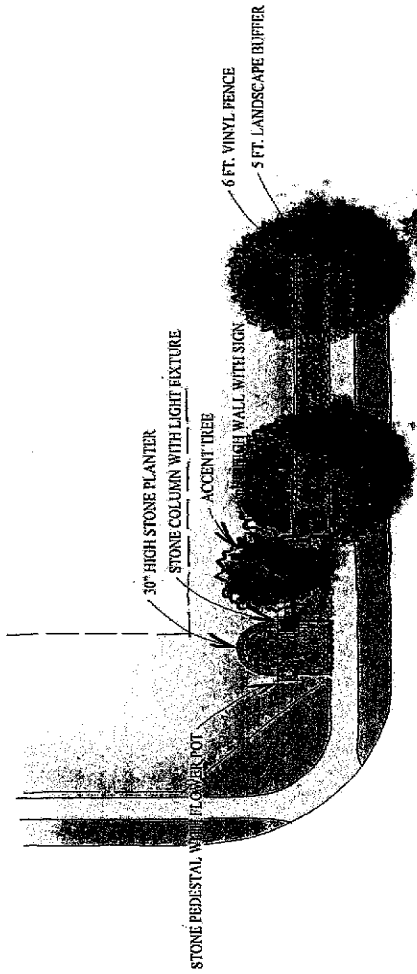
DATE: _____

APPROVED BY THE CITY ENGINEER

DATE: _____

APPROVED BY THE CITY COUNCIL

DATE: _____



PLAN
1/8"=1'-0"



ELEVATION
1/8"=1'-0"

10 1/2" x 11" x 1/4" Thick
Entry Monument

Concept Plan

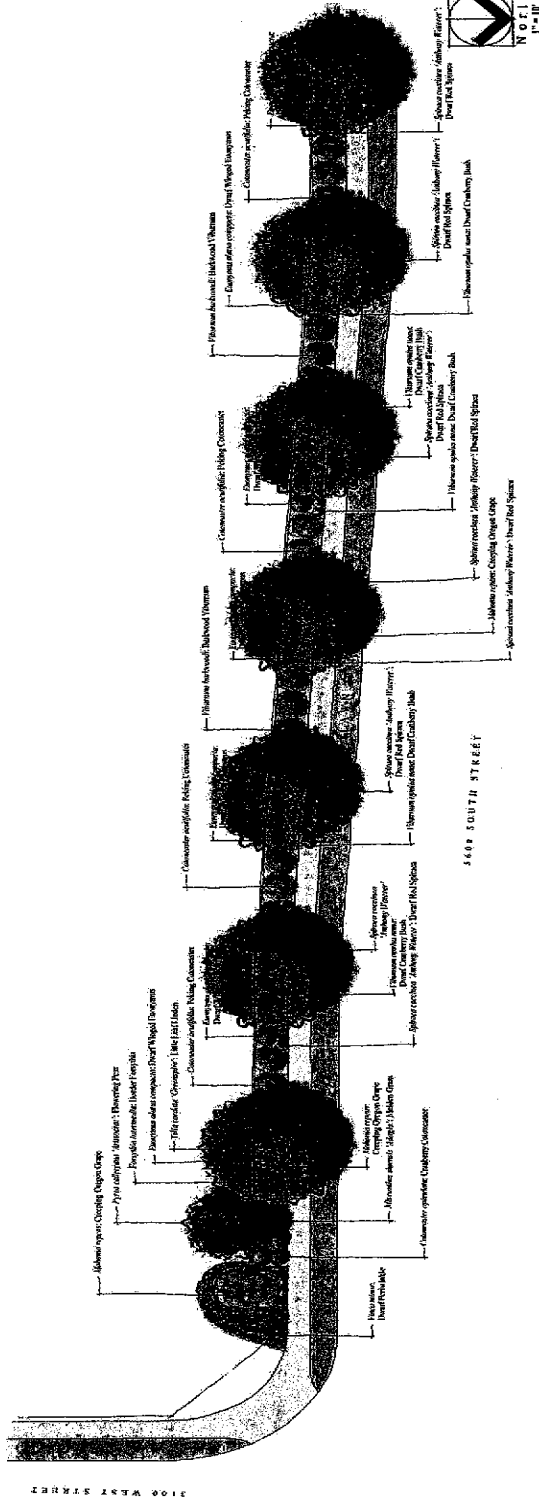
Whispering Meadows

Roy, Utah

IVORY HOMES

1544 North Woodland Park Drive
Layton, Utah 84045

ARCHITECTURAL
CONSULTANTS
LANDSCAPE ARCHITECTS



Buffer Landscaping
 Concept Plan

Whispering Meadows

ROY, UTAH
 IVORY HOMES
 1544 North Woodland Park Drive
 Layton, Utah

Shirley K. Smith
 CONSULTANT
 LANDSCAPING