

WHEN RECORDED, MAIL TO:

Paul M. Durham, Esq.  
DURHAM JONES & PINEGAR  
111 E. Broadway, Suite 900  
Salt Lake City, Utah 84111

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**DECLARATION AND GRANT**

**OF**

**EASEMENT**

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This Declaration and Grant of Easement ("**Declaration and Grant**") is made and entered into as of December 29<sup>th</sup>, 2005, by and between FOX POINT, LLC, a Utah limited liability company, and UTAH HOME BUILDING COMPANY, a Utah corporation (collectively "**Grantor**"), whose address is 4682 South 150 West, Murray, Utah 84107, and THE HOMESTEAD, INC., a Utah corporation ("**Grantee**"), whose address is 700 N. Homestead Drive, Midway, Utah 84049.

RECITALS

WHEREAS, Grantor desires to grant to Grantee, and Grantee desires to receive from Grantor an easement upon, over and across the road or roads (the "**New Roads**" or the "**Easement Property**") to be built upon that certain real property owned by Grantor and located in Wasatch County, State of Utah, as more particularly described in Exhibit "A" attached hereto and incorporated herein (the "**Grantor Property**").

WHEREAS, Grantor, will extend utility services, to include main sewer line, main water line, electric power, natural gas, and telephone (the "**Utilities**") to Grantee's property line at the Access Point more particularly described in Exhibit "B",.

WHEREAS, the easement with respect to the New Roads is for the purpose of providing Grantee with non-exclusive access over and across the New Roads to and from that certain real property of Grantee (the "**Grantee Property**") located north of Grantor's northern property line at the Access Point more particularly described in Exhibit "B" attached hereto and incorporated herein; provided, however, that such use shall be limited to Grantee and the owners of no more than five (5) lots developed or to be developed by Grantee located to the east of hole No. 10 on the Homestead Golf Course and such lot owner's guests and invitees.

NOW, THEREFORE, to these ends and in consideration of the terms and conditions of this agreement, as well as the mutual benefits to be derived herefrom and TEN AND NO/100 DOLLARS (\$10.00) paid by Grantee and received this day by Grantor and other good and valuable consideration, Grantor and Grantee agree as follows:

1. Grantor hereby grants and conveys to Grantee a nonexclusive easement and right of way (the "*Easement*") upon, over and across the Easement Property to utilize the New Roads and utilities solely for the uses described herein. As used hereinafter, "Grantee" shall include Grantee, its successors and assigns, and the owners of the five (5) lots developed or to be developed by Grantee on the Grantee Property located to the east of the hole No. 10 green on the Homestead Golf Course, and such lot owner's successors and assigns, employees, tenants, guests, permittees, representatives, agents, and invitees. Notwithstanding the earlier recordation of this Easement, this Easement will only become effective and Grantee may only begin to use the Easement for the uses described herein once Grantor has completed construction of the New Roads and Utilities. Grantee shall have no obligation at any time for the costs of design, construction or maintenance of the New Roads or Utilities.

2. Exclusive use of the Easement Property is not hereby granted, and the right and easement for ingress and egress in common with Grantee hereby is expressly reserved by Grantor. Grantor reserves the right to make any use of the Easement Property and to grant others the right to use the Easement Property including without limitation the dedication of the Easement Property for the public use, so long as any such use does not permit any person to unreasonably interfere with the non-exclusive right and easement for use and related ingress and egress which is herein granted to Grantee.

3. The use by the holders of the dominant tenements of the easement granted herein shall be limited to such uses as are described herein, which uses shall be made in such a manner as will least interfere with the use of the servient tenements by the owners and lessees thereof.

4. This Declaration and Grant may not be modified except with the consent of Grantor and Grantee and, then, only by written instrument duly executed and acknowledged and recorded in the office of the County Recorder of Wasatch County, Utah. Grantee may elect to terminate its use of the Easement Property at any time. In connection with any such termination, Grantee shall execute and deliver to Grantor, suitable for recording, a termination of this Declaration and Grant, to evidence such termination and to remove any encumbrance therefor on the Grantor Property.

5. No person shall be deemed to be in default of any provision of this Declaration and Grant except upon the expiration of ten (10) days from receipt of written notice specifying the particulars in which such person has failed to perform the obligations of this Declaration and Grant, unless such person, prior to the expiration of said ten (10) days, has rectified the particulars specified in said notice. Failure to cure any such default shall entitle the nonbreaching party to any remedies at law or equity including without limitation reasonable expenses, attorney fees and costs.

6. After Grantor has completed its construction of the New Roads over the Easement Property, it shall be Grantor's sole responsibility and obligation to maintain, repair and keep in good condition the New Roads until such time as the New Roads becomes a publicly dedicated street or road.

7. Grantee shall indemnify and agrees to defend and hold Grantor harmless from any claims, causes of action, damages or litigation arising from the use of the Easement by Grantee or any employees, tenants, guests, permittees, representative, agents, and invitees of Grantee. Similarly, any successor or assign of Grantee shall indemnify and agrees to defend and hold Grantor harmless from any claims, causes of action, damages or litigation arising from the use of the Easement by such successor or assign or any successors and assigns, employees, tenants, guests, permittees, representative, agents, and invitees of such successor or assign of Grantee. Grantor shall indemnify and agrees to defend and hold Grantee harmless from any claims, causes of action, damages or litigation arising from the use of the Easement by Grantor or any employees, tenants, guests, permittees, representatives, agents, and invitees of Grantor. Similarly, any successor or assign of Grantor shall indemnify and agrees to defend and hold Grantee harmless from any claims, causes of action, damages or litigation arising from the use of the Easement by such successor or assign or any employees, tenants, guests, permittees, representatives, agents, and invitees of such successor or assign of Grantor.

8. The failure of a person to insist upon strict performance of any of the terms, covenants, conditions or agreements contained herein shall not be deemed a waiver of any rights or remedies that said person may have, and shall not be deemed a waiver of any subsequent breach or default in any of the terms, covenants, conditions or agreements contained herein by the same or any other person.

9. The provisions of this Declaration and Grant are not intended to create, nor shall they be in any way interpreted or construed to create, a joint venture, partnership or any similar relationship between the parties. This Declaration and Grant contains the entire agreement between the parties and supersedes all prior agreements, oral or written, with respect to the subject matter hereof, except for the Development Agreement and that certain Declaration of Covenants, Conditions and Restrictions entered into by Grantee and Grantor and recorded on or about this day with the office of the County Recorder of Wasatch County, Utah. The provisions of this Declaration and Grant shall be construed as a whole and not strictly for or against any party.

10. This Declaration and Grant shall be governed by and construed in accordance with the laws of the State of Utah. This Declaration and Grant shall be recorded in the records of the County Recorder of Wasatch County, Utah.

11. All of the provisions in this Declaration and Grant, including the benefits and burdens, shall be and are binding upon and inure to the benefit of the successors and assigns of the parties hereto. The grant of the Easement herein is coupled with an interest for the benefit of the Grantee Property and shall run with the land of the Grantor Property.

12. Nothing in this Declaration and Grant is intended to create an enforceable right, claim or cause of action by any third party against any party to this Declaration and Grant.

[Signature Page Follows]

IN WITNESS WHEREOF Grantor and Grantee hereby enter into this Declaration and Grant effective as of the date first indicated above.

GRANTOR:

FOX POINT, LLC,  
a Utah limited liability company

By \_\_\_\_\_  
Its: \_\_\_\_\_

DATE: \_\_\_\_ day of \_\_\_\_\_, 2005.

UTAH HOME BUILDING COMPANY,  
a Utah corporation

By \_\_\_\_\_  
Its: \_\_\_\_\_

DATE: \_\_\_\_ day of \_\_\_\_\_, 2005

GRANTEE:

THE HOMESTEAD, INC.  
a Utah corporation

*Brett Mathwick*  
\_\_\_\_\_

DATE: 29 day of December, 2005.

STATE OF Utah )  
 : ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2005, by \_\_\_\_\_, the \_\_\_\_\_ of Fox Point, LLC, a Utah limited liability company.

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

STATE OF \_\_\_\_\_ )  
 : ss.  
COUNTY OF \_\_\_\_\_ )

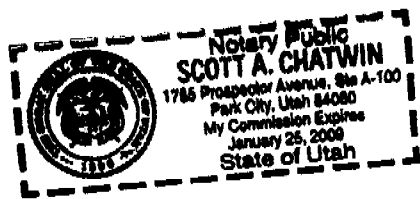
The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2005, by \_\_\_\_\_, the \_\_\_\_\_ of Utah Home Building Company, a Utah corporation.

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

STATE OF Utah )  
 : ss.  
COUNTY OF Summit )

The foregoing instrument was acknowledged before me this 29 day of December, 2005, by Brett Mathwick, the President of The Homestead, Inc., a Utah corporation.

Scott Chatwin  
Notary Public



IN WITNESS WHEREOF Grantor and Grantee hereby enter into this Declaration and Grant effective as of the date first indicated above.

GRANTOR:

FOX POINT, LLC,  
a Utah limited liability company

By: [Signature]  
Its: [Signature]

DATE: \_\_\_\_\_ day of \_\_\_\_\_, 2005.

UTAH HOME BUILDING COMPANY,  
a Utah corporation

By: [Signature]  
Its: [Signature]

DATE: \_\_\_\_\_ day of \_\_\_\_\_, 2005

GRANTEE:

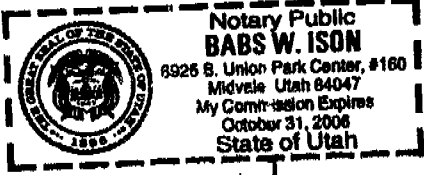
THE HOMESTEAD, INC.  
a Utah corporation

Brett Mathwick

DATE: 29 day of December, 2005.

STATE OF Utah )  
COUNTY OF Salt Lake ) : ss.

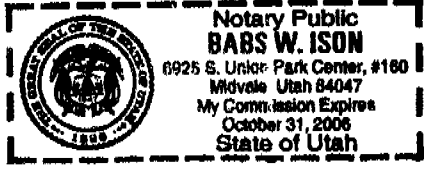
The foregoing instrument was acknowledged before me this 10<sup>th</sup> day of January, 2004, by Jeffrey P. Peterson, the Manager of Fox Point, LLC, a Utah limited liability company.



Babs W. Ison  
Notary Public

STATE OF Utah )  
COUNTY OF Salt Lake ) : ss.

The foregoing instrument was acknowledged before me this 10<sup>th</sup> day of January, 2004, by Jeffrey P. Peterson, the President of Utah Home Building Company, a Utah corporation.



Babs W. Ison  
Notary Public

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) : ss.

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2005, by \_\_\_\_\_, the \_\_\_\_\_ of The Homestead, Inc., a Utah corporation.

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



OMI-0225  
OMI-0270-1

EXHIBIT "A"

Description of Grantor Property

Property located in Wasatch County, Utah, more particularly described as follows:

LINKS AT THE HOMESTEAD P.U.D.  
BOUNDARY DESCRIPTION

BEGINNING AT A POINT WHICH IS SOUTH 214.49 FEET AND EAST 1053.51 FEET FROM THE FOUND BRASS MONUMENT FOR THE SOUTHWEST CORNER OF SECTION 27, TOWNSHIP 3 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN.

THENCE SOUTH 89°58'24" EAST 313.50 FEET;  
THENCE SOUTH 00°49'36" WEST 78.38 FEET;  
THENCE SOUTH 89°58'24" EAST 560.99 FEET;  
THENCE NORTH 87°39'07" EAST 129.07 FEET;  
THENCE NORTH 09°20'30" EAST 895.18 FEET;  
THENCE NORTH 212.68 FEET;  
THENCE EAST 197.77 FEET;  
THENCE SOUTH 699.74 FEET;  
THENCE SOUTH 29°15'03" WEST 325.39 FEET;  
THENCE SOUTH 09°01'36" WEST 408.50 FEET;  
THENCE NORTH 86°58'36" EAST 277.55 FEET;  
THENCE SOUTH 03°01'30" EAST 205.30 FEET;  
THENCE SOUTH 04°23'23" WEST 120.41 FEET;  
THENCE SOUTH 58°08'58" WEST 458.40 FEET;  
THENCE NORTH 68°55'56" WEST 292.29 FEET;  
THENCE NORTH 68°34'46" WEST 560.39 FEET;  
THENCE SOUTH 89°00'36" WEST 234.77 FEET;  
THENCE NORTH 01°38'04" EAST 611.49 FEET TO THE POINT OF BEGINNING.

CONTAINS: 26.14 AC

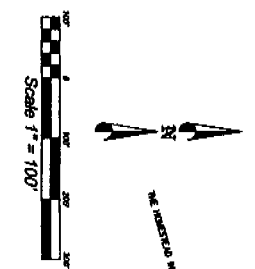
Subject to all restrictions, reservations and other conditions of record as may be disclosed by a record examination of the title.

**BUILDING PAD COORDINATES**

LINE	BEARING	LENGTH	LINE	BEARING	LENGTH	LINE	BEARING	LENGTH
1	S 89°15'00" E	100.00	11	S 89°15'00" E	100.00	21	S 89°15'00" E	100.00
2	S 89°15'00" E	100.00	12	S 89°15'00" E	100.00	22	S 89°15'00" E	100.00
3	S 89°15'00" E	100.00	13	S 89°15'00" E	100.00	23	S 89°15'00" E	100.00
4	S 89°15'00" E	100.00	14	S 89°15'00" E	100.00	24	S 89°15'00" E	100.00
5	S 89°15'00" E	100.00	15	S 89°15'00" E	100.00	25	S 89°15'00" E	100.00
6	S 89°15'00" E	100.00	16	S 89°15'00" E	100.00	26	S 89°15'00" E	100.00
7	S 89°15'00" E	100.00	17	S 89°15'00" E	100.00	27	S 89°15'00" E	100.00
8	S 89°15'00" E	100.00	18	S 89°15'00" E	100.00	28	S 89°15'00" E	100.00
9	S 89°15'00" E	100.00	19	S 89°15'00" E	100.00	29	S 89°15'00" E	100.00
10	S 89°15'00" E	100.00	20	S 89°15'00" E	100.00	30	S 89°15'00" E	100.00

**LINE TABLE**

LINE	BEARING	LENGTH
1	S 89°15'00" E	100.00
2	S 89°15'00" E	100.00
3	S 89°15'00" E	100.00
4	S 89°15'00" E	100.00
5	S 89°15'00" E	100.00
6	S 89°15'00" E	100.00
7	S 89°15'00" E	100.00
8	S 89°15'00" E	100.00
9	S 89°15'00" E	100.00
10	S 89°15'00" E	100.00
11	S 89°15'00" E	100.00
12	S 89°15'00" E	100.00
13	S 89°15'00" E	100.00
14	S 89°15'00" E	100.00
15	S 89°15'00" E	100.00
16	S 89°15'00" E	100.00
17	S 89°15'00" E	100.00
18	S 89°15'00" E	100.00
19	S 89°15'00" E	100.00
20	S 89°15'00" E	100.00



**ACKNOWLEDGMENTS**

DATE OF SURVEY: JUNE 2000

BY: [Signature]

**CONSENT OF MORTGAGEE TO RECORD**

DATE: \_\_\_\_\_

**EXISTING EASEMENTS**

DATE: \_\_\_\_\_

**LINKS AT THE HOMESTEAD P.U.D.**

DATE: \_\_\_\_\_

**RESERVATION OF COMMON AREA**

DATE: \_\_\_\_\_

**ACCEPTANCE BY MIDWAY CITY**

DATE: \_\_\_\_\_

**PLANNING COMMISSION APPROVAL**

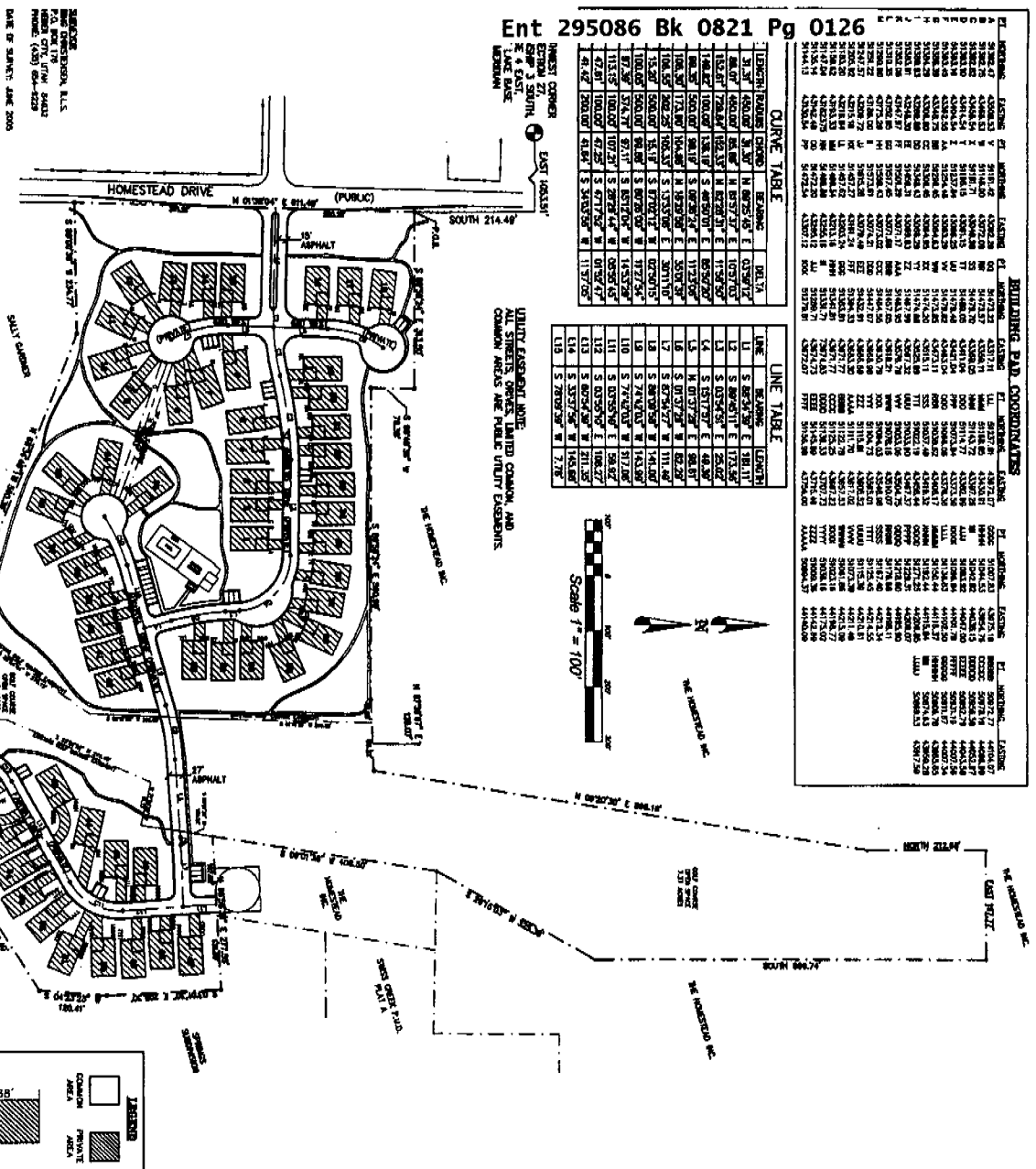
DATE: \_\_\_\_\_

**ACKNOWLEDGMENT**

DATE: \_\_\_\_\_

**BOUNDARY DESCRIPTION**

DATE: \_\_\_\_\_



**ADDRESS TABLE**

LOT	ADDRESS
1	601 ST. ANDREW'S DRIVE
2	602 ST. ANDREW'S DRIVE
3	603 ST. ANDREW'S DRIVE
4	604 ST. ANDREW'S DRIVE
5	605 ST. ANDREW'S DRIVE
6	606 ST. ANDREW'S DRIVE
7	607 ST. ANDREW'S DRIVE
8	608 ST. ANDREW'S DRIVE
9	609 ST. ANDREW'S DRIVE
10	610 ST. ANDREW'S DRIVE
11	611 ST. ANDREW'S DRIVE
12	612 ST. ANDREW'S DRIVE
13	613 ST. ANDREW'S DRIVE
14	614 ST. ANDREW'S DRIVE
15	615 ST. ANDREW'S DRIVE
16	616 ST. ANDREW'S DRIVE
17	617 ST. ANDREW'S DRIVE
18	618 ST. ANDREW'S DRIVE
19	619 ST. ANDREW'S DRIVE
20	620 ST. ANDREW'S DRIVE
21	621 ST. ANDREW'S DRIVE
22	622 ST. ANDREW'S DRIVE
23	623 ST. ANDREW'S DRIVE
24	624 ST. ANDREW'S DRIVE
25	625 ST. ANDREW'S DRIVE
26	626 ST. ANDREW'S DRIVE
27	627 ST. ANDREW'S DRIVE
28	628 ST. ANDREW'S DRIVE
29	629 ST. ANDREW'S DRIVE
30	630 ST. ANDREW'S DRIVE



LOCATED IN THE SOUTHWEST CORNER OF SECTION 34, TOWNSHIP 3 SOUTH, RANGE 4 EAST, SALT LAKE BASIN & MERIDIAN.

**RESERVATION OF COMMON AREA**

THE OWNER HAS RESERVATED CERTAIN COMMON AREAS INTENDED FOR THE USE BY THE OWNERS, THEIR HEIRS, ASSIGNEES, AND AGENS HEREBY RESERVED FOR THEIR COMMON USE AND ENJOYMENT AS PROVIDED HEREIN. THESE COMMON AREAS ARE SHOWN ON THE ATTACHED PLANS AND ARE IDENTIFIED BY THE SHADING INDICATED THEREON. THESE COMMON AREAS ARE RESERVED AS SHOWN ON THE ATTACHED PLANS AND ARE IDENTIFIED BY THE SHADING INDICATED THEREON.

**OWNER'S DEDICATION**

KNOW ALL MEN BY THESE PRESENTS THAT THE UNDERSIGNED OWNER(S) OF THE PROPERTY DESCRIBED HEREON HAVE CAUSED THE SAME TO BE SURVEYED AND LOTS, PUBLIC STREETS, PRIVATE DRIVE, EASEMENTS, LOTS, COMMON AREAS AND COMMON AREAS AND IN ACCORDANCE WITH THE PROVISIONS OF THE PLANNING COMMISSION AND THE CITY OF MIDWAY CITY, UTAH, TO BE LAYED OUT AS SHOWN ON THE ATTACHED PLANS AND ARE IDENTIFIED BY THE SHADING INDICATED THEREON. THESE COMMON AREAS ARE RESERVED AS SHOWN ON THE ATTACHED PLANS AND ARE IDENTIFIED BY THE SHADING INDICATED THEREON.

**ACKNOWLEDGMENT**

STATE OF UTAH )  
 COUNTY OF WASHINGTON ) SS. I, A.B. JOHNSON, being the owner of the above described property, do hereby acknowledge to all that the same is the same as the capacity indicated.

**ACCEPTANCE BY MIDWAY CITY**

THE CITY COUNCIL OF MIDWAY CITY, WASHINGTON COUNTY, STATE OF UTAH, HEREBY APPROVES THIS PLANNING UNIT DEVELOPMENT AND AGREES TO THE RESERVATION OF EASEMENTS AND PUBLIC UTILITIES SHOWN ON THESE PLANS.

**PLANNING COMMISSION APPROVAL**

APPROVED: \_\_\_\_\_ DATE: \_\_\_\_\_

**EXHIBIT "B"**

**Description Access Point to Grantee's Property**

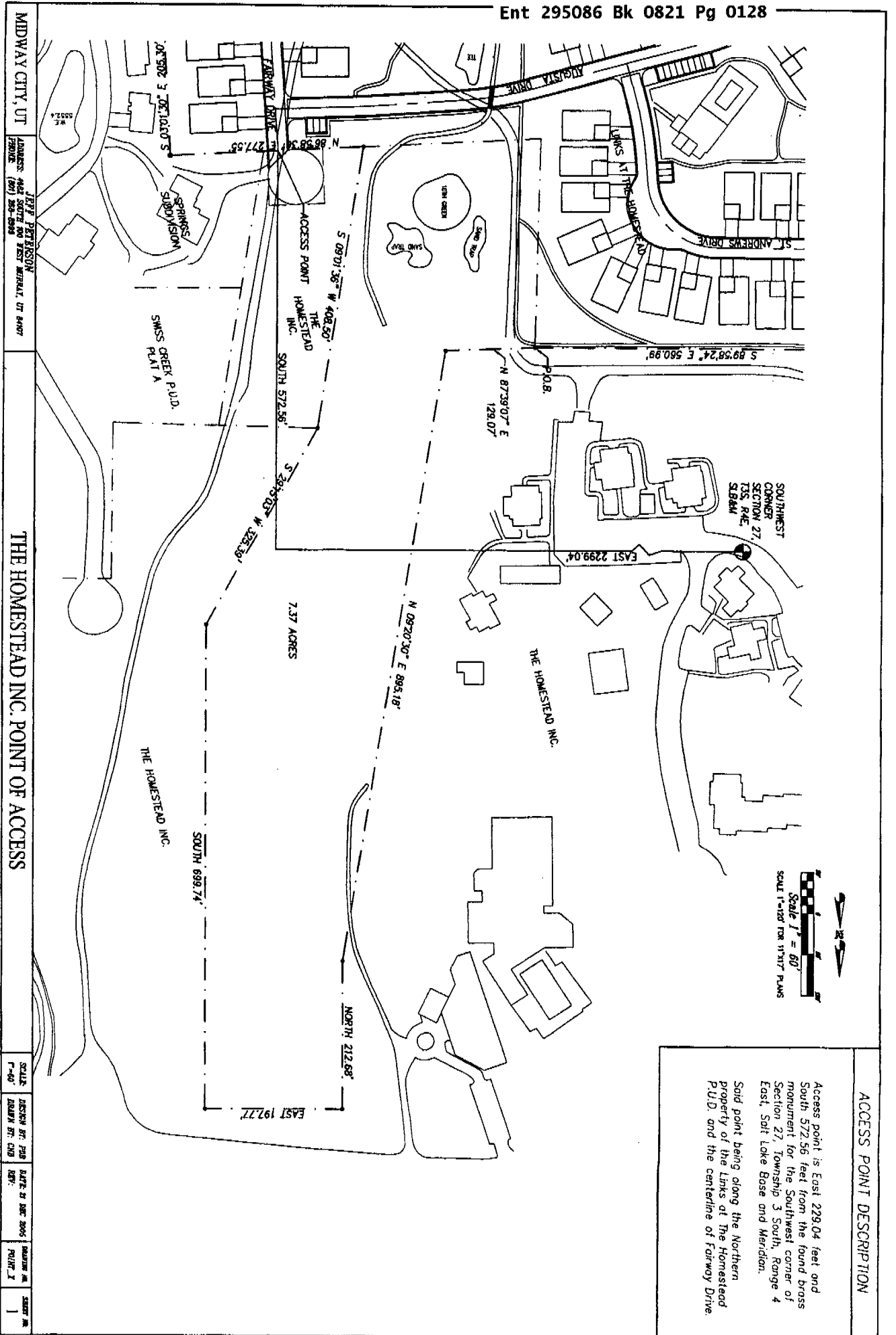
Property located in Wasatch County, Utah, more particularly described as follows:

**Links at The Homestead P.U.D.  
The Homestead Inc. Point of Access Description**

Access point is East 229.04 feet aSouth 572.56 feet from the found brass monument for the Southwest corner of Section 27, Township 3 South, Range 4 East, Salt Lake Base and Meridian.

Said point being along the Northern property of the Links at The Homestead P.U.D. and the centerline of Fairway Drive.

Subject to all restrictions, reservations and other conditions of record as may be disclosed by a record examination of the title.



MIDWAY CITY, UT  
 JEFF DERRINGTON  
 LICENSE: 442 270 700 WEST MERRILL, UT 84007  
 PHONE: (801) 265-1500

THE HOMESTEAD INC. POINT OF ACCESS

SCALE: 1"=60'  
 DESIGN BY: JSD  
 DRAWN BY: CDB  
 DATE: 08/20/06  
 SHEET NO: 1