

AFTER RECORDING RETURN TO:

David Weekley Homes  
392 E. 6400 South, #200  
Murray, UT 84107

14126181 B: 11430 P: 3667 Total Pages: 7  
07/06/2023 04:12 PM By: avice Fees: \$40.00  
Rashelle Hobbs, Recorder, Salt Lake County, Utah  
Return To: STEWART TITLE OF UTAH  
6955 S UNION PARK CTR STE 100MIDVALE, UT 840476516

**DECLARATION AND GRANT OF USE EASEMENT**

STATE OF TEXAS           §  
  §           KNOW ALL PERSONS BY THESE PRESENTS:  
COUNTY OF HARRIS       §

This Declaration and Grant of Use Easement ("**Declaration**") is made by WEEKLEY HOMES, LLC, a Delaware limited liability company ("**Weekley**").

**WITNESSETH:**

WHEREAS, Weekley is the sole owner of the lots more particularly described on **Exhibit A** attached hereto (each a "**Lot**" and collectively the "**Lots**") and made a part hereof for all purposes; and

WHEREAS, Weekley desires to grant the Use Easement (as defined below) on the Lots to provide for the most favorable development and use of the Lots and in order to maximize the use, enjoyment and recreation of each owner of the Lots, pursuant to the terms and conditions set forth herein.

NOW, THEREFORE, for and in consideration of the recitals and Ten Dollars (\$10.00) and other good and valuable consideration, Weekley hereby declares, grants and agree as follows:

1. Definitions.
  - a. "**Burdened Lot**" is a Lot described on **Exhibit A** that is burdened by having a Use Easement thereon.
  - b. "**Benefited Lot**" is a Lot described on **Exhibit A** that is benefited by the Use Easement located on the adjacent Burdened Lot.
  - c. "**Use Owner**" is the owner of a Benefited Lot.
  - d. "**Burdened Lot Owner**" is the owner of a Burdened Lot.

2. Declaration and Grant of Use Easements. Weekley hereby declares, establishes and grants a use easement (the "**Use Easement**") of variable width over the Burdened Lot located between the property line shared with the applicable Benefited Lot (the "**Property Line**") and a line running the full depth of the Burdened Lot, and upon which the nearest exterior wall of the residence situated on the Burdened Lot is located as generally described and depicted

on Exhibit A and Exhibit B (each, a “Use Easement Area”). The Use Easement is granted to the applicable Use Owner for the purpose of providing the Use Owner the right and obligation to occupy, maintain (i.e. mow, trim, etc.), use, enjoy, place personalty upon, and construct and maintain fences (including staining of Use Owner’s side of the fence) and other improvements, provided, however:

- a. the Use Owner shall not alter the drainage or grade between such Lots;
- b. the Use Owner shall not install any improvements within the Use Easement Area. No landscaping installed within the Use Easement Area shall be allowed to come into contact with any structure located upon the Burdened Lot. No garbage, refuse, rubbish or cuttings, trash and refuse containers shall be deposited or kept within the Use Easement Area. No tanks of any kind, either elevated or buried, shall be erected, placed or permitted upon any Use Easement Area, including but not limited to barbecue grill tanks;
- c. the Use Owner shall not enter, and shall keep trash and debris from entering, any window wells;
- d. the Use Owner shall not interfere with any air conditioning unit, gas meter, hose bib or other such attachments that may be situated on the Burdened Lot;
- e. the Use Owner shall not construct, install, attach, or affix anything on or about the exterior of any residential improvements located upon the Burdened Lot. The Use Owner shall not conduct any activities that will or could cause any object to impact on or against the exterior of any residential improvements located upon the Burdened Lot;
- f. the Use Owner shall not in any way adversely impact the residence located on the Burdened Lot, or the structural integrity thereof;
- g. the Use Owner shall keep the Use Easement Area free of noxious and hazardous materials, including fire-hazardous materials;
- h. the Use Owner, at their sole cost and expense, shall ensure that appropriate landscaping (i.e., sod, shrubs, gravel, etc.), in accordance with all covenants, conditions and restrictions applicable to the Lots, is maintained in the Use Easement Area;
- i. the Use Owner shall ensure that any landscaping, drainage, and irrigation systems within the Use Easement Area are installed and maintained in such manner that the soil surrounding any improvements constructed on the Burdened Lot shall not become so impregnated with water that they cause expansion or shifting of the soils supporting such improvements or other damage to such improvements and foundation on the Burdened Lot;
- j. the Use Owner shall not plant trees or stack wood in the Use Easement Area;

k. the Use Owner shall remain responsible for maintaining the Benefited Lot;  
and

1. all uses by Use Owner shall be otherwise in accordance with all applicable codes and regulations along with the covenants, conditions and restrictions established in the Community Charter for Daybreak, as supplemented and amended, recorded in the Recorder's Office of Salt Lake County, Utah.

3. Entry by Burdened Lot Owner. The Burdened Lot Owner shall not use the Use Easement Area within their Lot in any manner inconsistent with the grant of the Use Easement herein and shall only be permitted to enter the Use Easement Area within their Lot for the limited purposes of (i) conducting reasonable inspections of the Use Easement Area, and (ii) performing inspections and maintenance of the exterior of the residential improvements within their Lot, including installing and maintaining utilities and related improvements. All non-emergency entries onto the Use Easement Area by the Burdened Lot Owner shall be at reasonable times and following reasonable notice to the Use Owner.

4. Taxes. The Burdened Lot Owner, as the record owner of the Use Easement Area, shall be obligated to pay all real estate property taxes and assessments related to the Burdened Lot, including the Use Easement Area.

5. Insurance. In addition to whatever other coverage the owner of a Lot may desire, from time to time, the owner of each Lot shall keep its Lot and residence insured against loss or damage by fire and extended coverage perils for one hundred percent (100%) of the replacement value thereof (i.e., 100% of current "replacement of cost" exclusive of the land, and other items normally excluded from coverage), with such insurance to be issued by a responsible insurance company or companies authorized to do business in the State of Utah. The insurance shall provide a standard, non-contributory mortgagee clause in favor of the holder of each first mortgage or first deed of trust on such Lot. Such insurance may cover such other risks, and may contain such other provisions, in addition to the foregoing, as the owner of the Lot covered by such insurance may determine in its sole discretion, from time to time. Upon reasonable request, the owner of each Lot shall deliver to the owner of the adjacent Lot, within a reasonable period of time, then-current certificate(s) evidencing the insurance that is required to be carried hereunder.

6. Indemnities. The Use Owner, on behalf of itself and its tenants, subtenants, occupants, invitees and guests ("Permittees") (but not on behalf of other third parties), shall save, defend, indemnify, hold harmless, and waive and release any and all claims, rights and causes of action against the Burdened Lot Owner, and their successors and assigns, for loss of life, personal injury, property damage or otherwise which arises or may arise in connection with the use of the Use Easement Area by the Use Owner or its Permittees and from and against any and all damages or destruction caused to the surface area of the Use Easement Area or to any improvement located on the Burdened Lot, in the exercise of such Use Owner's or Permittee's rights with respect to the Use Easement Area. The Use Owner, on behalf of themselves and their Permittees, hereby knowingly assume any risk of loss related to or associated with their use of the Use Easement Area.

7. No Interest in Condemnation Awards or Other Payments. In the event of any exercise of eminent domain or transfer in lieu thereof for any Lot, the award or payment made in connection with such exercise of eminent domain or transfer in lieu thereof shall be payable only to the parties then owning fee simple title to the Lot, and no claim or award shall be made to any other party by virtue of rights granted under this Declaration.

8. Covenants Running with the Land. The grants and obligations, benefits and burdens of the parties hereto shall be covenants appurtenant to and running with the land affected hereby, and shall apply to, and be binding upon and inure to the benefit of all owners of the Lots, and their heirs, successors, and assigns.

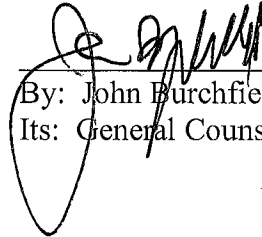
9. No Merger. It is expressly understood and agreed that the parties hereto do not intend that there be, and there shall in no event be, a merger of the Use Owner and Burdened Lot Owner tenements hereunder by virtue of the ownership of any of said tenements being vested in the same person or entity, but do intend that the easement servitudes granted as to each Lot shall not be extinguished thereby and that the said Use Owner and Burdened Lot Owner tenements shall be kept separate for the benefit of the individuals and entities referred to herein.

10. No Public or Third-Party Benefit. The party hereto specifically acknowledges that this Declaration creates private easements and is not for a dedicated public street, road or right-of-way. This Declaration is not intended nor shall it be construed to create any third-party beneficiary rights to, or in favor of, any person or entity who is not a party hereto unless otherwise expressly provided herein.

[Signature page follows.]

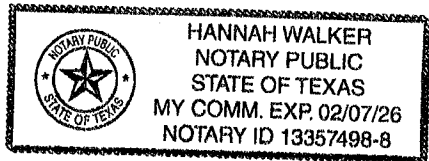
IN WITNESS WHEREOF, the parties have executed this Declaration as of the 3<sup>rd</sup> day of July, 2023.

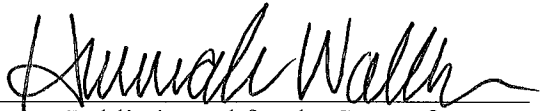
WEEKLEY HOMES, LLC,  
a Delaware limited liability company

  
By: John Burchfield  
Its: General Counsel

STATE OF TEXAS           §  
  §  
COUNTY OF HARRIS     §

This instrument was acknowledged before me on the 3<sup>rd</sup> day of July, 2023, by John Burchfield, as General Counsel of WEEKLEY HOMES, LLC, a Delaware limited liability company, on behalf of such limited liability company.



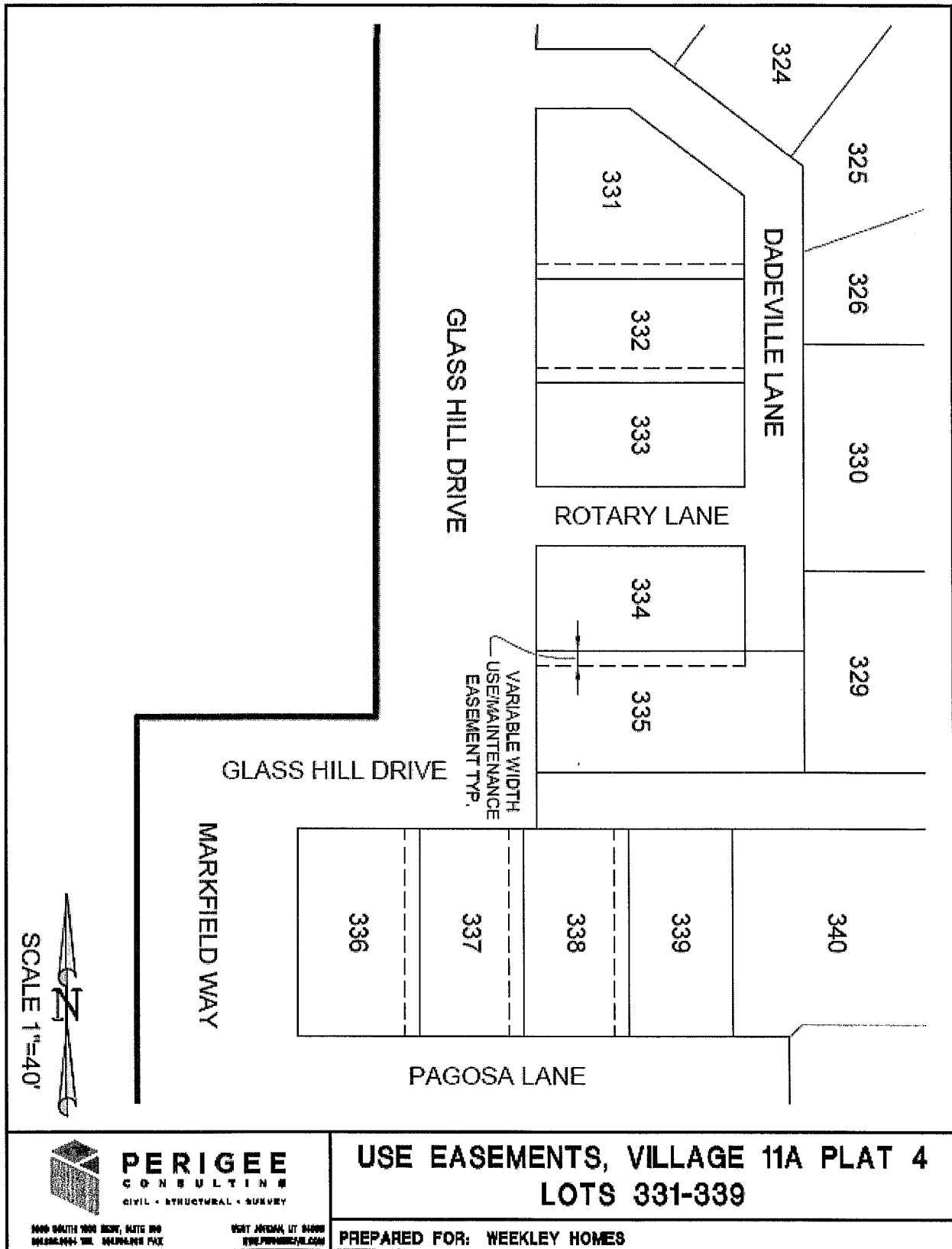
  
Notary Public in and for the State of Texas

**EXHIBIT A**

Lots 331 through 339, inclusive, according to Daybreak Village 11A Plat 4 Subdivision Amending Lot Z101 of the VP Daybreak Operations-Investments Plat 1, recorded June 2, 2021 as Entry No. 13679592, Book 2021P, at Page 145 in the Recorder's Office, Salt Lake County, Utah.

Lot upon which Use Easement is located (Burdened Lot)	Use Owner's Lot (Benefited Lot)
LOT NUMBER	LOT NUMBER
331, V11AP4	332, V11AP4
332, V11AP4	333, V11AP4
335, V11AP4	334, V11AP4
336, V11AP4	337, V11AP4
337, V11AP4	338, V11AP4
338, V11AP4	339, V11AP4

**EXHIBIT B**



SCALE 1"=40'

1000 SOUTH 1000 WEST, SUITE 100  
DALLAS, TEXAS 75210-1000

**PERIGEE**  
CONSULTING  
CIVIL • STRUCTURAL • SURVEY

BOB JORDAN, LIC. 04000  
BOB@PERIGEE.COM

**USE EASEMENTS, VILLAGE 11A PLAT 4  
LOTS 331-339**

PREPARED FOR: WEEKLEY HOMES