

WHEN RECORDED, RETURN TO:
Vincent & Marie Mascatello
1076 Bellview Rd.
McLean, Virginia 22102

Ent 251820 Bk 0594 Pg 0015-0022
ELIZABETH M PALMIER, Recorder
WASATCH COUNTY CORPORATION
2002 DEC 13 3:12pm Fee 25.00 MWC
FOR COALITION TITLE

DECLARATION OF SHARED DRIVEWAY ACCESS EASEMENT

THIS DECLARATION OF SHARED DRIVEWAY ACCESS EASEMENT, ("Declaration") is made as of the 12 day of December 2002, by VINCENT AND MARIE MASCATELLO, an individual ("Mascatello"), with reference to the following facts:

A. Vincent Mascatello ("Mascatello") is the fee owner of Lots 86 and 87 in Deer Crest Estates, Phase I Subdivision, as shown on the official plat thereof in the office of the Wasatch County Recorder (respectively, "Lot 86" and "Lot 87").

B. Mascatello, as the owner of both Lot 86 and Lot 87 ("Owner") desires and intends to establish an ingress and egress easement over both Lots 86 and 87 to accommodate the shared access driveway for access to the respective Lots as more fully described herein.

C. The Deer Crest Master Association (the "Association") is the Master Owners Association with responsibility to maintain shared driveways under the terms of Section 3.3 of the Master Declaration of Covenants, Conditions, Restrictions and Easements for Deer Crest dated October 3, 1997 and recorded on November 3, 1997 as Entry No. 198235 in Book 363 at Pages 542-613 in the Official Records of the Wasatch County Recorder (the "Master Declaration").

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt of which is hereby acknowledged, Mascatello hereby declares as follows:

I. **Mutual Grant of Easement.** Mascatello, as Owner of Lot 86, hereby grants to the Owner of Lot 87, and its successors, assigns, agents, employees, licensees and invitees, a permanent, nonexclusive, easement for pedestrian and vehicular ingress and egress over that portion of Lot 86 described on Exhibit "A" and depicted on Exhibit "B," both of which are attached hereto and incorporated herein by this reference. Mascatello, as Owner of Lot 87, hereby grants to the Owner of Lot 86, and its successors, assigns, agents, employees, licensees and invitees, a permanent, nonexclusive, easement for pedestrian and vehicular ingress and egress over that portion of Lot 87 described on Exhibit "A" and depicted on Exhibit "B," both of which are attached hereto and incorporated herein by this reference. All use and enjoyment of the Easements by the parties shall be conducted in such manner as to (a) comply with all applicable laws,

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ordinances and governmental regulations and orders, (b) and to not create any nuisance or waste. The Owners, from time to time, of Lot 86 and Lot 87 are referred to as the "Lot Owners".

2. **Construction of Driveway Improvements.** Deer Crest Associates I, L.C. has improved the Shared Access Driveway Easement Area for driveway purposes (all such improvements constructed by Deer Crest are hereinafter referred to collectively as the "Driveway Improvements") in the approximate location as depicted on Exhibit B. Mascatello has inspected the Driveway Improvements and accepts them in their current condition and without warranty other than typical construction warranties granted by the contractor.

3. **Maintenance and Repair of Access Easement Area.** This Declaration of Easement acknowledges that the Association is obligated to conduct, including snow plowing, routine maintenance of the Driveway Improvements in accordance with Section 3.3 of the Master Declaration. The Lot Owners shall repair at Owners' expense any damage done to, or suffered by, any improvements on the Shared Access Driveway Easement Area or any portion thereof, as such improvements may exist from time to time. In the event the Association fails to maintain the Driveway Improvements as required by the Master Declaration and does not cure such failure after written notice from either Lot Owner or a governmental agency, either Lot Owner shall have the right to perform or provide for such maintenance on behalf of the Association.

4. **Indemnity.** Each Lot Owners hereby waives all claims and demands against and agree to indemnify, protect, defend (with attorneys acceptable to the other Lot Owner and the Association) and hold harmless the other Lot Owner and the Association and its affiliates and the shareholders, officers, directors and partners of each of them (the "Indemnitees"), from and against any and all claims, obligations, expenses, liabilities and costs, including but not limited to attorneys' fees, for property damage and bodily injury, sickness, disability, disease or death of any person or persons, arising directly or indirectly from activities affecting the Shared Access Driveway Easement Area by the indemnifying Lot Owner and/or that Owner's employees, contractors, agents, licensees and invitees, except to the extent such claim, obligation, expense, liability or cost arises out of the willful or negligent act or omission of any Indemnitee.

5. **Insurance.** Commencing on the date hereof and thereafter for so long as the Easement granted hereby continues to exist, each Lot Owner shall, at the Owner's sole cost and expense, procure, pay for and keep in full force and effect commercial general liability insurance with respect to the Shared Access Driveway Easement Area, the operations of or on behalf of the Association in, on or about the Shared Access Driveway Easement Area, and the use and enjoyment of the Easement by the Easement Users, specifically including personal injury, blanket contractual, owner's protective, broad form property damage liability coverage for not less than One Million Dollars (\$1,000,000) as to combined single limit per occurrence for bodily injury, death and property damage liability.

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6. **Notices.** All notices required or permitted by this Declaration shall be in writing and may be delivered in person to either party or may be sent by registered or certified mail, with postage prepaid, return receipt requested, or delivered by Express Mail or Federal Express, or any other courier service guaranteeing overnight delivery, charges prepaid, or may be transmitted by facsimile transmission and addressed as follows:

If to the Owner of Lot 86: Vincent and Marie Mascatello
1076 Bellview Rd.
McLean, Virginia 22102

If to the Owner of Lot 87: Vincent and Marie Mascatello
1076 Bellview Rd.
McLean, Virginia 22102

Any such notice sent by registered or certified mail, return receipt requested, shall be deemed to have been duly given and received seventy-two (72) hours after the same is so addressed and mailed with postage prepaid. Notices delivered by overnight service shall be deemed to have been given at 5:00 p.m. on the next business day after the date of delivery of the same, charges prepaid, to the U. S. Postal Service or private courier. If any notice is transmitted by facsimile transmission or similar means, the same shall be deemed served or delivered upon confirmation of transmission thereof. Any notice or other document sent by any other manner shall be effective only upon actual receipt thereof. Any party may change its address for purposes of this Paragraph by giving notice to the other party as herein provided and by recording a notice of the changed address, which notice shall refer to this Declaration.

7. **Attorneys Fees.** In the event any action shall be instituted between any party in connection with the enforcement or interpretation of this Declaration, the party prevailing in such action shall be entitled to recover from the other party all of its costs of action, including reasonable attorneys' fees as fixed by the court therein.

8. **Captions.** All captions used herein are inserted for convenience only and shall not be used in any way to modify, limit, construe or otherwise affect this Declaration.

9. **Waivers.** No action taken pursuant to this Declaration by or on behalf of any party shall be deemed to constitute a waiver by the party taking such action of the complete compliance with representations, warranties, covenants or agreements contained herein. No waiver, modification or change shall be binding unless in writing and signed by the party making the waiver. A waiver by any party hereto of a breach of any provision of this Declaration shall not operate or be construed as a waiver of any subsequent breach.

10. **Governing Law.** This Declaration shall be governed by and construed in accordance with the laws of the State of Utah applicable to contracts made and to be performed in that state.

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11. **Severability.** If any term(s) or provision(s) of this Declaration or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Declaration or the application of such term(s) or provision(s) to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby. Each and every term of this Declaration shall be valid and enforced to the fullest extent permitted by law.

12. **Easement and Covenants to Run with the Land.** The easement and other rights granted hereby and the covenants contained herein shall run with the respective Lots, and shall bind and inure to the benefit of the owners of the respective Lots and the Association, and their respective successors and assigns.

13. **Counterparts.** This Declaration may be executed in any number of counterparts, each of which shall be an original but all of which shall constitute one and the same instrument.

14. **Amendments.** Any amendment to this Declaration must in writing and signed by all of the parties benefitted hereby.

IN WITNESS WHEREOF, the undersigned has executed this instrument as of the day and year first above written.

VINCENT MASCATELLO
MARIE MASCATELLO

By:


Vincent Mascatello

By:


Marie Mascatello

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EXHIBIT A

**LOTS 86 and 87 SHARED ACCESS
Lot 86 DRIVEWAY EASEMENT
March 27, 2002**

A twenty four (24.00) foot wide access easement for the benefit of Lot 86, Deer Crest Estates being twelve (12.00) feet on each side of the following described centerline:

Beginning at a point on the right of way of Jordanelle View Drive which is South $03^{\circ}28'04''$ West 26.52 feet from the corner common to Lots 86 and 87 of the Amended Plat Deer Crest Estates Subdivision Phase I, as filed in the Office of the Wasatch County Recorder as Entry No. 220133 in Book 446 at pages 218-317 (Basis of bearing being South $14^{\circ}15'36''$ West along the centerline of said Jordanelle View Drive from the center of the cul-de-sac), and running thence Northeasterly along the arc of a 25.00 foot radius non-tangent curve to the left (center bears North $06^{\circ}13'06''$ West), a distance of 37.98 feet through a central angle of $87^{\circ}02'08''$; thence North $03^{\circ}15'14''$ West 23.41 feet to a point of curvature of a 25.00 foot radius curve to the right, the center of which bears North $86^{\circ}44'46''$ East; thence Easterly along the arc of said curve 58.80 feet through a central angle of $134^{\circ}45'36''$; thence South $48^{\circ}29'38''$ East 4.66 feet to a point of curvature of a 25.00 foot radius curve to the left, the center of which bears North $41^{\circ}30'22''$ East; thence Northeasterly along the arc of said curve 52.39 feet through a central angle of $120^{\circ}04'23''$ to the point of terminus.

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EXHIBIT A

**LOTS 86 and 87 SHARED ACCESS
Lot 87 DRIVEWAY EASEMENT
March 27, 2002**

A twenty four (24.00) foot wide access easement for the benefit of Lot 87 Deer Crest Estates being twelve (12.00) feet on each side of the following described centerline:

Beginning at a point on the right of way of Jordanelle View Drive which is South $03^{\circ}28'04''$ West 26.52 feet from the corner common to Lots 86 and 87 of the Amended Plat Deer Crest Estates Subdivision Phase I, as filed in the Office of the Wasatch County Recorder as Entry No. 220133 in Book 446 at pages 218-317 (Basis of bearing being South $14^{\circ}15'36''$ West along the centerline of said Jordanelle View Drive from the center of the cul-de-sac), and running thence Northeasterly along the arc of a 25.00 foot radius non-tangent curve to the left (center bears North $06^{\circ}13'06''$ West), a distance of 37.98 feet through a central angle of $87^{\circ}02'08''$; thence North $03^{\circ}15'14''$ West 23.41 feet to a point of curvature of a 25.00 foot radius curve to the right, the center of which bears North $86^{\circ}44'46''$ East; thence Easterly along the arc of said curve 87.95 feet through a central angle of $201^{\circ}33'33''$ to the point of terminus.

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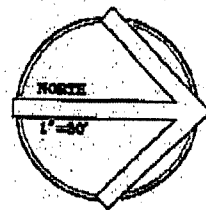
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JORDANELLE VIEW DRIVE

S14°15'36\"W
BASIS OF BEARING

LOT 86

S03°28'04\"W
26.52'

N71°45'24\"W
52.00'

S01°37'38\"E
20.18'

N03°15'14\"W
23.41'

S49°29'38\"E
4.66'

LOT 86

LOT 87

CENTER OF DRIVEWAY EASEMENT
FOR THE BENEFIT OF LOT 87

CENTER OF DRIVEWAY EASEMENT
FOR THE BENEFIT OF LOT 86

DEER CREST ESTATES PHASE I
LOT 86 AND 87 SHARED ACCESS
DRIVEWAY EASEMENT EXHIBIT

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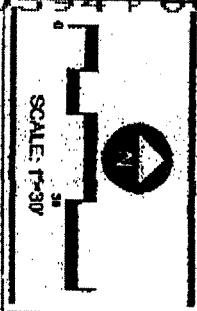


EXHIBIT B

JACK JOHNSON COMPANY



Design: World Innovations
11775 Aurora Ave., Suite 200, Golden, CO 80401
303-440-9900
www.jackjohnson.com

STATE OF Utah)
County of Summit) ss.

On the 12 day of December, A.D. 2002 personally appeared before me Vincent MASCATELLO and MARIE MASCATELLO, the signer(s) of the foregoing instrument, who duly acknowledged to me that he/she/they executed the same.

[Signature]
NOTARY PUBLIC

My commission expires:

Residing in:

