

When Recorded, Mail To:  
Karl G. Maeser Preparatory Academy  
Attn: Steve Whitehouse  
320 West 600 South  
Lindon, UT 84042

ENT 49485:2017 PG 1 of 12  
**Jeffery Smith**  
**Utah County Recorder**  
2017 May 23 03:21 PM FEE 35.00 BY CS  
RECORDED FOR Greenbrier Title Insurance Ag  
ELECTRONICALLY RECORDED

With a Copy To:  
Ridgeway Construction, Inc.  
Attn: Chris Knapp  
266 West 570 North  
Lindon, UT 84042

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(Space above for recorders use only)

### **EASEMENT AGREEMENT**

THIS EASEMENT AGREEMENT (this "**Agreement**") is made and executed this \_\_\_\_ day of May 12, 2017 (the "**Effective Date**"), by and between RIDGEWAY CONSTRUCTION, INC., a Utah corporation ("**Ridgeway**"), and the KARL G. MAESER PREPARATORY ACADEMY, a Utah nonprofit corporation ("**Maeser**"). Ridgeway and Maeser are hereinafter individually referred to as a "**Party**" and collectively as the "**Parties**."

### **RECITALS**

A. Ridgeway owns certain real property (the "**Ridgeway Property**") located in Utah County, Utah. The Ridgeway Property is more particularly described on Exhibit A, attached hereto and incorporated herein by this reference.

B. Maeser also owns certain real property, which is adjacent to the Ridgeway Property (the "**Maeser Property**"), located in Utah County, Utah. The Maeser Property is more particularly described on Exhibit B, attached hereto and incorporated herein by this reference. The Ridgeway Property and the Maeser Property are collectively referred to herein as the "**Properties**".

C. Ridgeway has developed a site plan for the Ridgeway Property, which includes construction and installation of (i) a parking lot for the benefit of the Ridgeway Property (the "**Parking Lot**"), (ii) a driveway access to the Maeser Property (the "**Driveway**"), and (iii) a retaining wall along the northern boundary of the Ridgeway Property (the "**Retaining Wall**"). A copy of the site plan is attached hereto as Exhibit C (the "**Site Plan**") and incorporated herein by this reference.

D. Maeser desires to obtain a perpetual, non-exclusive easement on, over, and across the portion of the Ridgeway Property located North of the Maeser Construction Line shown in the Site Plan (the "**Easement Area**") for the purposes more particularly described herein. Ridgeway

is willing to grant the easement to Maeser for such purposes subject to the terms and conditions set forth herein. The Easement Area is more particularly described in the legal description on Exhibit D attached hereto and incorporated by this reference. Should there be any discrepancy between the legal description and the depiction in the Site Plan, the legal description will control.

E. The Parties also desire to enter into other covenants and agreements that are intended to run with the land and bind all future owners of the Properties.

### TERMS AND CONDITIONS

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and based upon the mutual promises and subject to the conditions set forth below, the Parties agree as follows:

1. Grant of Easement. Ridgeway hereby conveys to Maeser a non-exclusive easement on, over and across the Easement Area for the purposes of: (i) constructing, operating, using, maintaining, expanding, repairing, and replacing the Parking Lot, Driveway, Retaining Wall and related improvements located North of the Maeser Construction Line as shown in the Site Plan (collectively the “**Improvements**”), and (ii) vehicular and pedestrian ingress and egress on, over and across the Driveway.

2. Construction. Ridgeway hereby conveys to Maeser a temporary, non-exclusive easement over the Ridgeway Property for the taking of all action necessary to construct the Improvements (excepting any landscaping) in accordance with the Site Plan. The easement granted by this Section 2 shall terminate and be of no further force or effect upon the completion of the construction improvements. Maeser shall bear sixty-six percent (66%) of the expenses for the construction of the Improvements on the Ridgeway portion of the easement and Ridgeway shall bear thirty-four percent (34%) of such expenses under the following terms. Within fifteen (15) days after the completion of Construction, Maeser shall provide to Ridgeway an accounting with reasonable evidence of all amounts spent by Maeser for construction for construction of the Improvements (the “Construction Accounting”). Within thirty (30) days of receipt of such Construction Accounting, Ridgeway shall remit to Maeser thirty four percent (34%) of the amount spent by Maeser for construction of the Improvements. Ridgeway shall be responsible for the installation of all landscaping in the Easement Area at its sole cost and expense. Ridgeway reserves the right to perform all construction of improvements on Ridgeway Property and be reimbursed by Maeser sixty-six percent (66%) of improvement cost of the work completed on the Ridgeway Property that has been outlined in the attached estimate from Ridgeway Construction, Inc. The Estimate as per site plan for Maeser portion of sixty-six percent (66%) is included with this agreement. Reimbursement shall be made to Ridgeway within thirty (30) days of completion of improvements, amount of reimbursement is not to exceed the attached estimate, unless agreed upon in writing by Ridgeway and Maeser. Ridgeway shall construct retaining walls for entire access (both Maeser and Ridgeway property) according to included estimate at a rate of Twenty-five dollars (\$25.00) per square foot. Ridgeway will use its best efforts to eliminate and minimize as much rock wall as possible in the construction process.

3. Access: Maeser and all students, invitees, guests, customers, agents, employees, consultants, contractors, subcontractors, successors and assigns of Maeser (collectively, the “**Maeser Parties**”) shall have the right to enter upon the Easement Area for the purposes permitted by this Agreement. Maeser and the Maeser Parties shall enter upon the Easement Area at their sole risk and hazard, and Maeser and the Maeser Parties hereby release Ridgeway from any claims relating to the condition of the Easement Area and the entry upon the Easement Area by Maeser and the Maeser Parties.

4. Property Condition.

4.1. Condition of the Easement Area. Maeser and the Maeser Parties accept the Easement Area and all aspects thereof in “AS IS”, “WHERE IS” condition, without warranties, either express or implied, “WITH ALL FAULTS”, including but not limited to both latent and patent defects. Maeser hereby waives all warranties, express or implied, regarding the title, condition and use of the Easement Area, including, but not limited to any warranty of merchantability or fitness for a particular purpose.

4.2. Condition of the Improvements. Upon completion of the Improvements, Ridgeway and all invitees, guests, customers, agents, employees, consultants, contractors, subcontractors, successors and assigns of Ridgeway (collectively, the “**Ridgeway Parties**”) accept the Improvements and all aspects thereof in “AS IS”, “WHERE IS” condition, without warranties, either express or implied, “WITH ALL FAULTS”, including but not limited to both latent and patent defects. Ridgeway hereby waives all warranties, express or implied, regarding the title, condition and use of the Easement Area and the Improvements, including, but not limited to any warranty of merchantability or fitness for a particular purpose.

5. Maintenance and Restoration. After completion of construction as provided in Section 2 above, the Parties shall maintain the Improvements as follows:

5. Maintenance

5.1. Snow Removal. If the hours of Maeser’s or the Maeser Parties’ use of the Driveway requires snow removal, Maeser may, in its discretion, conduct snow removal activities on the Driveway or the Parking Lot at Maeser’s sole cost and expense. If the hours of Ridgeway’s or the Ridgeway Parties’ use of the Driveway or the Parking Lot require additional snow removal, Ridgeway may, in its discretion, conduct snow removal activities on the Driveway or the Parking Lot at Ridgeway’s sole cost and expense. Neither Party shall be entitled to require that the other Party provide any snow removal on the Easement Area nor shall any Party providing snow removal on the Easement Area be entitled to reimbursement from the other Party.

5.2. Retaining Wall and Landscaping. Ridgeway shall maintain and repair the Retaining Wall, landscaping, and all related improvements in good order and condition.

5.3. Driveway and Parking Lot. Each Party shall maintain and repair the Driveway, the Parking Lot and all related improvements in good order and condition.

Notwithstanding the foregoing, neither Party shall have the right to conduct any maintenance or repairs, including asphalt repairs and repaving, without the express written consent of the other, which consent will not be unreasonably withheld or delayed. In the event Ridgeway elects to conduct maintenance and repairs under this Section 5.3, Ridgeway shall provide notice to Maeser at least sixty (60) days prior to commencement. In the event Maeser elects to conduct maintenance and repairs under this Section 5.3, Maeser shall provide notice to Ridgeway at least twenty-eight (28) days prior to commencement. Hereafter, the Party providing notice of its election to conduct maintenance and repairs shall be referred to as the “**Maintaining Party**” and the other Party shall be referred to as the “**Non-Maintaining Party**”. After receipt of such notice as provided under this Section 5.3, the Non-Maintaining Party may provide an objection explaining why the Non-Maintaining Party should not have to share the cost of the proposed maintenance and repairs. Provided that a reasonable objection is provided, the Maintaining Party shall be solely responsible for the costs and expenses of such maintenance and repairs. In the event no reasonable objection is provided prior to commencement of the maintenance or repairs, the costs and expenses to maintain and repair the Driveway and the Parking Lot shall be shared proportionately, with Maeser responsible for sixty-six percent (66%) of the costs and Ridgeway responsible for thirty-four percent (34%) of the costs. Within thirty (30) days of completion of the maintenance and repairs and receipt of an accounting from the Maintaining Party, the Non-Maintaining Party shall reimburse the Maintaining Party for its proportionate share of the costs and expenses.

5.4. Damage to Easement Area. Any damage, other than ordinary wear and tear, caused by either Party to any portion of the Easement Area shall be completely repaired at such Party’s sole cost and expense and within thirty (30) days after such damage. In the event any such damages are not timely repaired by the responsible Party, the other Party shall have the right, but not the obligation, to repair such damages for the account of the responsible Party with thirty (30) calendar days advance written notice and, upon completion of such repairs, the responsible Party shall reimburse the other Party the actual costs of such repairs, together with an administrative fee equal to five percent (5.0%) of such actual costs, within thirty (30) calendar days.

6. Liens. Each Party performing, or causing to be performed, any work with respect to the Easement Area or the Improvements (the “**Performing Party**”) shall keep the Properties, or any portion thereof, free from any liens arising out of any work performed, materials furnished, or obligations incurred by or for the Performing Party. Any such liens must be released of record within thirty (30) days, or, if contested, as soon thereafter as reasonably possible. Any amount spent by the non-performing party to remove, or cause to be released, any such lien shall be reimbursed by the Performing Party within 30 days of the Performing Party’s receipt of written notice and reasonable proof of such costs incurred by the non-performing party.

7. Indemnification. Each Party, and its successors and assigns, hereby agrees to indemnify, defend and hold the other Party harmless from and against any and all liens, encumbrances, costs, demands, claims, judgments, and/or damages caused by or arising out of: (i) the acts and omissions of such Party and their agents, servants, employees, and/or contractors; (ii) the use of the Easement Area and the Improvements located thereon by such Party, their agents, servants, employees, or contractors; and (iii) any work performed on the Easement Area and the Improvements located thereon, by such Party or their successors or assigns, and their agents, servants, employees, consultants and/or contractors. The terms and conditions of this provision

shall remain effective, notwithstanding the expiration or termination of this Agreement. Without limiting or expanding the terms of this Section 7, each Party, and their respective permitted users, successors and assigns hereby releases the other Party and their successors and assigns for any claims that may arise as a direct or indirect result of snow, ice, sleet, water or otherwise inclement weather that may affect the general condition of the Driveway or the Parking Lot.

8. Covenants Running with the Land. This Agreement and the easements, covenants, and restrictions created by this Agreement are intended by the Parties hereto to be and shall constitute covenants running with the land as to each of the Maeser Property and the Ridgeway Property, and shall be binding upon and shall inure to the benefit of the owner of each of the Properties, and any person who acquires or comes to have any interest in any of the Properties, and their respective grantees, transferees, lessees, heirs, devisees, personal representatives, successors, and assigns. This Agreement and all of the easements, covenants, provisions, and requirements hereof shall also inure to the benefit of each and every person and entity owning any interest in or occupying any portion of the Properties. By acquiring title to, in any way coming to have an interest in, or occupying, any portion or part of the Properties, including becoming the fee owner of either the Maeser Property or the Ridgeway Property, the person or entity so acquiring, coming to have such interest in, or occupying, an interest in the Properties, shall be deemed to have consented to, and shall be bound by, each and every provision of this Agreement.

9. Assignment. Each Party shall have the right to assign this Agreement and/or rights granted herein to any successor or assign of such Party's respective property. No other assignment, transfer or subletting of this Agreement by any Party shall be allowed. Any assignment or transfer, or attempted assignment or transfer, of this Agreement by any Party in violation of this Section 9, shall be deemed and considered null and void and have no force or effect.

10. Notices. Any notice required or desired to be given under this Agreement will be considered given: (a) when delivered in person to the recipient named below, (b) when delivered by a reputable overnight delivery service, or (c) three (3) days after deposit in the United States mail in a sealed envelope or container, either registered or certified mail, return receipt requested, postage prepaid, addressed by name to the person and Party intended. All notices shall be given at the following addresses:

If to Maeser:	Karl G. Maeser Preparatory Academy Attn: Karyl Montgomery 320 West 600 South Lindon, UT 84042
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With a copy to:	Kirton McConkie Attn.: Joel Wright 2600 W. Executive Pkwy. Suite 400 Lehi, UT 84043
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If to Ridgeway:	Ridgeway Construction, Inc. Attn: Chris Knapp 266 West 570 North
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Lindon, UT 84042

With a copy to:

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Either Party may designate a different individual or address for notices, by giving written notice thereof in the manner described above.

11. Miscellaneous.

11.1. Interpretation. Section titles and captions to this Agreement are for convenience only and shall not be deemed part of this Agreement and in no way define, limit, augment, extend, or describe the scope, content, or intent of any part of this Agreement. This Agreement has been arrived at through negotiation between Ridgeway and Maeser.

11.2. Successors. The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the Parties, their successors and assigns.

11.3. Integration. This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter hereof, and supersedes all prior agreements and understandings pertaining thereto. No covenant, representation, or condition not expressed in this Agreement will affect or be deemed to interpret, change, or restrict the express provision hereof. Any amendment or modification to this Agreement must be in writing and signed by authorized agents or officers of the Parties.

11.4. Waiver. No failure by any Party to insist upon the strict performance of any covenant, duty, agreement, or condition of this Agreement or to exercise any rights or remedy for a breach of this Agreement will constitute a waiver of any such breach or of such right or remedy or of any other covenant, agreement, term, or condition.

11.5. Rights and Remedies. The rights and remedies of any of the Parties stated herein are not intended to be exclusive, and the exercise of one or more of the provisions of this Agreement does not preclude the exercise of any other provisions. Each of the Parties confirms that damages at law may be an inadequate remedy for a breach or threatened breach of any provision hereof. The respective rights and obligations hereunder may be enforceable by specific performance, injunction, or other equitable remedy, but nothing herein contained is intended to or will limit or affect any rights at law or by statute or otherwise of any Party aggrieved as against the other Party for a breach or threatened breach of any provision hereof, it being the intent of this paragraph to make clear the agreement of the Parties that the respective rights and obligations of the Parties hereunder will be enforceable in equity as well as at law or otherwise.

11.6. Enforceability and Litigation Expenses. If any action, suit, or proceeding is brought by a Party hereto with respect to a matter or matters covered by this Agreement or if a

Party finds it necessary to retain an attorney to enforce its rights under this Agreement, all costs and expenses of the prevailing Party incident to such proceeding or retention, including reasonable attorneys' fees, will be paid by the non-prevailing Party.

11.7. Authorization. Each individual executing this Agreement represents and warrants that he or she has been duly authorized by appropriate action of the governing body of the Party for which he/she signs to execute and deliver this Agreement in the capacity and for the entity set forth where he/she signs and that as a result of his/her signature, this Agreement is binding upon the Party for which he/she signs.

11.8. No Public Use/Dedication. Ridgeway's Property is and will at all times remain the private property of Ridgeway. The use of the relevant portion of Ridgeway's Property for the Easement Area is permissive and is limited to the express purposes contained herein. Neither Maeser, nor its successors or assigns, nor the public may acquire or be entitled to claim or assert any rights to Ridgeway's Property beyond the express terms and conditions of this Agreement.

EXECUTED by Ridgeway and Maeser as of the Effective Date.

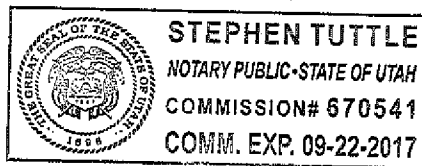
RIDGEWAY:

RIDGEWAY CONSTRUCTION, INC., a  
Utah corporation

By:

Name:

Title:



STATE OF UTAH )  
 )  
 ) :SS  
COUNTY OF Leah )

On this 23 day of May, 2017, personally appeared before me Chris Knapp, known or satisfactorily proved to me to be the President of Ridgeway Construction, Inc., a Utah corporation, who acknowledged to me that he signed the foregoing instrument as President for said corporation.

Notary Public

MAESER:

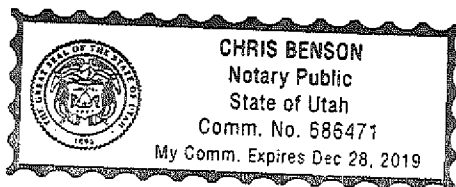
KARL G. MAESER PREPARATORY  
ACADEMY, a Utah nonprofit corporation

By: Steven Whitehouse  
Name: Steven Whitehouse  
Title: Chief Financial Officer

STATE OF UTAH )

COUNTY OF Utah ) ss.

On this 17 day of May, 2017, personally appeared before me Steven Whitener known or satisfactorily proved to me to be the Utah Drivers Lic. of Karl G. Maeser Preparatory Academy, a Utah nonprofit corporation, who acknowledged to me that he signed the foregoing instrument as CFO for said corporation.



~~Notary Public~~



**Exhibit A**

[Legal Description of the Ridgeway Property]

That certain real property located in Utah County, Utah, specifically described as follows:

Parcel 1

Commencing North 529.91 feet and West 2646.84 feet from the East quarter corner of Section 4, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence North 0 Deg. 09' 34" West 104.15 feet; thence North 87 Deg. 38' 21" East 114.48 feet; thence South 00 Deg. 44' 59" West 108.19 feet; thence South 89 Deg. 39' 07" West 112.67 feet to the point of beginning.

Parcel 2

Commencing North 425.91 feet and West 2646.55 feet from the East quarter corner of Section 4, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence North 0 Deg. 9' 34" West 104 feet; thence North 89 Deg. 39' 7" East 112.75 feet; thence South 0 Deg. 44' 59" West 104.02 feet; thence South 89 Deg. 39' 6" West 111.1 feet to the point of beginning.

**Exhibit B**

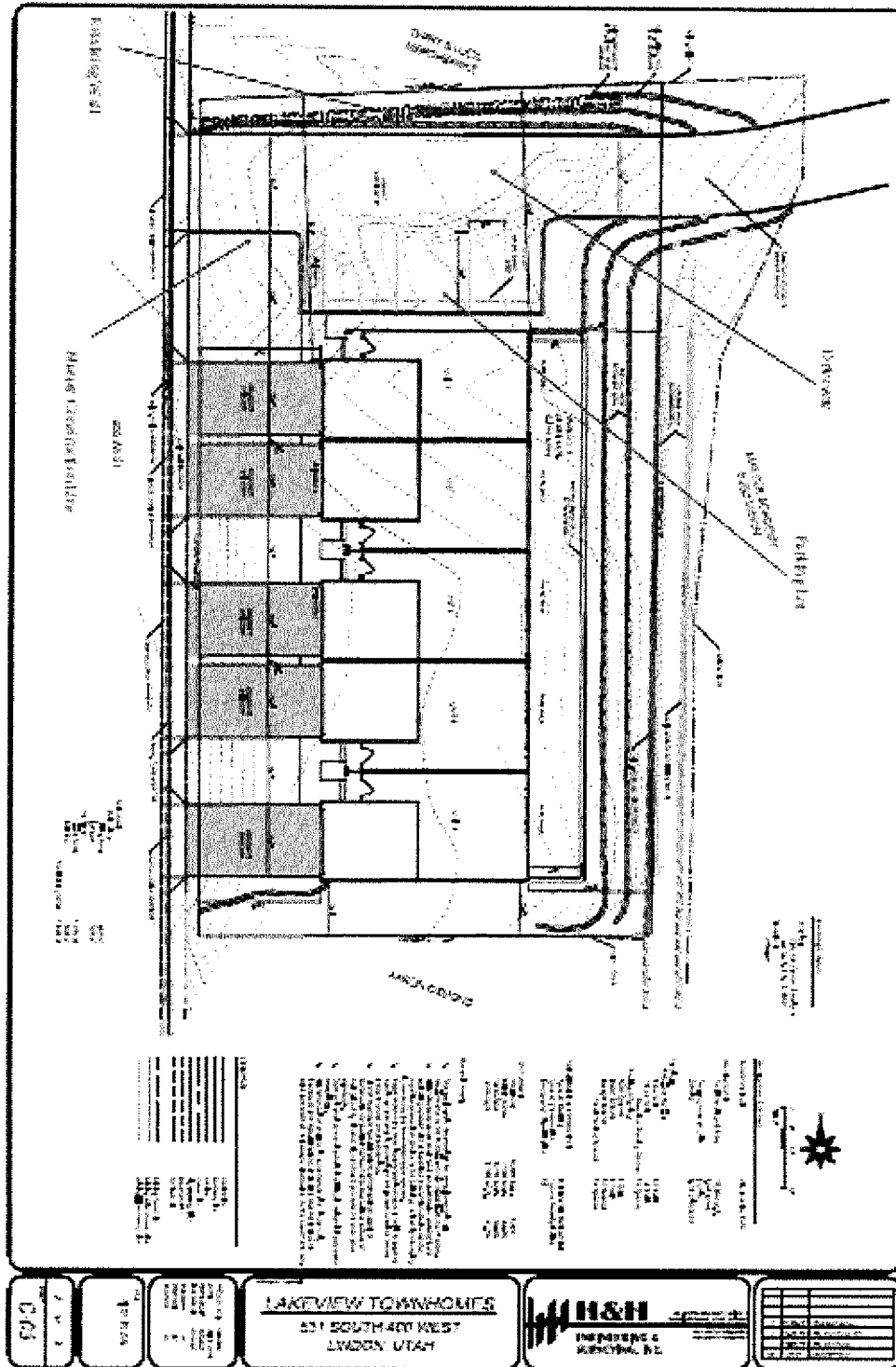
[Legal Description of the Maeser Property]

That certain real property located in Utah County, Utah, specifically described as follows:

Lot 1, Plat "A", Maeser Academy Subdivision, Lindon, Utah, according to the official plat thereof on file in the office of the Utah County Recorder.

**Exhibit C**

[Site Plan]



**Exhibit D****[Legal Description of the Easement Area]**

Beginning at the northwest corner of Lot 1, Plat "B" Maeser Academy Subdivision, said point being North 00°40'38" West along Section Line 573.17 feet and South 89°59'43" West 2526.55 feet and North 00°28'30" East 65.65 feet from the East Quarter Corner of Section 4, Township 6 South, Range 2 East, Salt Lake Base and Meridian;

Thence South 00°28'30" West 33.90 feet; thence South 89°51'19" West 24.51 feet to the beginning of a curve to the left having a radius of 4.50 feet; thence along the arc of said curve a length of 7.07 feet, passing through a central angle of 90°00'00", chord bears South 44°51'19" West 6.36 feet; thence South 00°08'40" East 19.50 feet; thence South 89°51'19" West 60.00 feet; thence North 00°08'40" West 17.50 feet to the beginning of a curve to the left having a radius of 2.50 feet; thence along the arc of said curve a length of 3.93 feet, passing through a central angle of 90°00'00", chord bears North 45°08'40" West 3.54 feet; thence South 89°51'19" West 22.51 feet; thence North 00°09'51" West 33.45 feet, thence North 87°38'04" East 114.48 feet to the point of beginning.

Containing 5,163 square feet of 0.119 acres, more or less

Driveway Area; 2,621 square feet or 0.060 acres

Parking Lot: 1,322 square feet of 0.030 acres

Landscaping, Retaining Wall: 1,220 square feet or 0.028 acres