

7734886

**DEVELOPMENT AGREEMENT
FOR
CANYON RIDGE AT AKAGI FARM, PHASE II
P.U.D. SUBDIVISION**

Parcel # 28 33-376-004

7734886
10/06/2000 04:57 PM NO FEE
Book - 8393 Pg - 2081-2094
NANCY WORKMAN
RECORDER, SALT LAKE COUNTY, UTAH
CITY OF DRAPER
12441 S 900 E
DRAPER UT 84020
BY: RDJ, DEPUTY - WI 14 p.

THIS DEVELOPMENT AGREEMENT (the "Agreement") is made and entered into as of the 5th day of April, 2000, by and between the CITY OF DRAPER, a municipal corporation of the State of Utah, hereinafter referred to as the "City," and DRAPER LAND DEVELOPMENT COMPANY, INC., a Utah Corporation hereinafter referred to as the "Developer."

RECITALS:

- A. The Developer is developing approximately 21.20 acres of land located within the City, which property is more particularly described in Exhibit "A" attached hereto and by this reference made a part hereof (the "Property").
- B. Developer has previously filed an Application with the City and received approval of Developer's project on the Property as an open space planned unit development. Developer's project is known as Canyon Ridge at Akagi Farm, Phase II PUD Subdivision (the "Project"), a 33 lot single-family residential subdivision.
- C. The Property is presently zoned under the City's Zoning Ordinance as RR-22. The RR-22 zoning was approved by the City on March 5, 1996, subject to development of the Property as represented on the Concept Plan presented by the Developer and accepted by the City Council on said date. The Property is subject to all of the City's ordinances and regulations including the provisions of the City's General Plan, the City's Zoning Ordinances and any permits issued by the City pursuant to the foregoing ordinances and regulations (collectively the "City's Laws").
- D. Developer's Application to the City for approval of the Project as an Open Space Planned Unit Development has been granted by the City. This Agreement includes various conditions consistent therewith which must be satisfied by Developer in developing the Project.
- E. Persons and/or entities hereinafter developing the Property or any portions of the Project thereon shall accomplish such development in accordance with the City's Laws and the provisions set forth in this Agreement.
- F. This Agreement contains certain requirements for designs and development of the property and the Project in addition to those contained in the City's Laws.

BK8393PG2081

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and Developer hereby agree as follows:

I. Incorporation of Recitals. The Recitals are hereby incorporated into this Agreement.

1. Property Development. Developer shall develop the Project on the property as an Open Space Planned Unit Development in the form of a planned development subdivision.

2. Site Plan. The Project has received final plat approval and must be developed in strict accordance with the approved final plat. No amendments or modifications to the final plat for any phase shall be made by the Developer without the prior written approval of the City and in compliance with procedures requiring the same.

3. Development of the Project. The Project shall be developed by the Developer and/or Developer's successors and assigns in accordance with all of the requirements contained herein.

a. Open Space and Neighborhood Park. The Developer shall improve and dedicate to the City a portion of the subject Property as a neighborhood park and other dedicated open space, as illustrated in Exhibit "B" attached hereto and incorporated herein by this reference. Maintenance of the open space, neighborhood park and all amenities within the open space and park shall be the responsibility of the City. Amenities to be provided in the neighborhood park shall include playground equipment, picnic tables and landscaping elements of grass, trees and irrigation system as per City standards. A trail connection improved to Draper City standards for a Soft Surface Trail Type II shall be provided between the park and the east UTA right-of-way (aka Draper City East Porter Rockwell Trail), as illustrated in Exhibit "C".

b. Trail in UTA Right of Way. The Utah Transit Authority ("UTA") has agreed in principle to grant Draper City a license or other agreement permitting use of the eastern UTA right-of-way south of 13200 South as a recreational trail and permitting access to Draper City's Equestrian Park which is located directly south of the subject Property. When Draper City obtains such license or agreement, the Developer shall construct a natural, soft-surface trail according to Draper City standards for a Primitive Trail Type III for such public recreational use as depicted on Exhibit "D." The City shall be responsible for maintenance of this recreational trail.

c. Parkstrips along Highland Drive and 13200 South Street. The Developer shall install and construct all parkstrip improvements along Highland Drive and 13200 South Street in accordance with approved road and landscape plans. The parkstrip for Highland Drive shall include sod and street trees as illustrated on Exhibit "B", attached hereto. The

parkstrip along 13200 South shall include a Safety Street-side Pathway Type V, as depicted on Exhibits "B" and "E". Ongoing maintenance of these parkstrips shall be the responsibility of the City.

d. Setbacks. The following minimum setbacks shall be required for all single-family residential structures located within the Project, as measured from property line:

- (1). The front yard setback shall be twenty-five (25) feet,
- (2). The side yard setbacks shall be ten (10) feet,
- (3). The rear yard setback shall be fifteen (15) feet,
- (4). Corner lots shall be considered to have two front yard setbacks parallel to the streets and two side yard setbacks on the remaining sides.

d. Installation of Street Lights. Street lights within the Project shall be installed by Pacificorp at the direction of the City, and shall be of a type and size available from Pacificorp. If Pacificorp offers a variety of light styles for a given lighting situation, the Developer may select the style to be used, with the City Engineer's approval. The Developer shall pay the applicable Street Light Fee prior to recordation of any phase of the Project.

e. Utilities and Infrastructure.

(1) Developer shall install natural gas, underground electrical service, sanitary sewer, and culinary and pressurized irrigation water supply systems for the entire Project up to the boundary lines of the Project. Such installation shall be done according to the reasonable and customary design and construction standards of the utility providers and the City Engineer, all as depicted on the final plat and supporting drawing approved by Draper City.

(2) Developer shall make arrangements with and shall comply with the requirements of the Salt Lake County Sewerage Improvement District No. 1 to provide public sanitary sewer service to the Project and all phases thereof as depicted on the construction drawings approved by Draper City.

(3) Developer shall dedicate, or have dedicated to Draper City, land appropriate for the construction of Highland Drive from 13200 South Street to the south border of the Project. The right-of-way for the road dedication shall be a safe transition at the intersection of 13200 South Street. This right-of-way shall safely transition at the south border of this subdivision as depicted on the construction drawings approved by Draper City.

(4) Developer shall improve the west portion of Highland Drive across the entire frontage of this subdivision to City standards and according to approved construction plans, including curb, gutter, sidewalk, road base, 30 feet of asphalt, and landscaping with an irrigation system installed to City standards.

(5) Developer shall grade an access from the main entrance of the subdivision south to the existing improved Highland Drive and install 8" road base for a minimum width of 20 feet.

(6) Developer shall landscape and irrigate the detention pond adjacent to the secondary access to 13200 South according to landscape plans approved by Draper City. The detention pond and landscaping are to be owned and maintained by the owner of Lot 33, as platted. Draper City shall be granted a storm-drain easement over the detention pond for maintenance of storm drain infrastructure.

f. Dedication or Donation. Prior to, or simultaneously with, the recording of the final plat for the Project in the Office of the Salt Lake County Recorder, the Developer agrees to dedicate, transfer or donate to the City all required land and/or easements for the purpose of owning, constructing, installing, operating, maintaining, repairing and replacing public utilities and improvements.

4. Construction Standards and Requirements. All construction shall be conducted and completed in accordance with the Ordinances and development standards of the City. All required improvements for the Project shall be constructed in accordance with the City's construction standards and/or plans specifically approved for this Project and all required public improvements and easements shall be dedicated to the City. Prior to commencing any construction or development of any building, structures or other work or improvements within the Project, the Developer shall secure any and all permits which may be required by the City or any other governmental entity having jurisdiction over the work. The Developer shall construct, or cause to be constructed, all improvements for the Project in conformity with all applicable federal, state and/or local laws, rules and regulations. The Developer shall be responsible throughout the 18-month guarantee period and any extensions thereof for those improvements included in the subdivision bond. This shall include, but not be limited to, fouling of lot areas with debris, siltation of storm drains due to erosion, etc. caused by or permitted to occur by builders and lot owners.

5. Payment of Fees. The Developer shall pay all required fees to the City in a timely manner which are due or which may become due pursuant to the City's laws in connection with the Project. Developer and its successors shall pay all required fees to the City in those amounts which are in effect at the time the fees are actually in fact paid to the City.

6. City Obligations. Subject to the Developer complying with all of the City's Laws, rules and regulations and the provisions of this Agreement, the City agrees to provide, or cause to

be provided, standard municipal services to the project including police and fire protection, subject to payment of all fees and charges charged or levied therefore by the City. The City will also be responsible for maintenance of all parks, trails, open space, and dedicated public land and improvements within the subdivision.

7. Indemnification. Developer hereby agrees to indemnify and hold the City and its officers, employees, representatives, agents and assigns harmless from all liability, loss, damage, costs or expenses, including attorney's fees and court costs, arising from or as a result of the death of any person or any accident, injury, loss, or damage whatsoever caused to any person or to property of any person which shall occur within the Property and occur in connection with any off-site work done for or in connection with the project which shall be caused by any acts done thereon or act or omission of the Developer or of its agents, contractors, servants, or employees.

8. Compliance with Law. Developer shall comply with all applicable federal, state and City laws, ordinances, rules and regulations pertaining to Developer's activities in connection with the project or any phase thereof.

9. City and Other Governmental Permits. Before Commencement of construction or development of any building, structures, grading or other work or improvements upon any portion of the project, Developer shall, at its expense, secure any and all permits which are required by the City or any other governmental agency having jurisdiction over the work or affected by its construction or development. Failure by the Developer to obtain all required permits when due shall constitute a default on the part of the Developer under this Agreement.

10. Default. In the event any party fails to perform its obligations hereunder or to comply with the terms hereof, within thirty (30) days after giving written notice of default, the non-defaulting party may, at its election, have the following remedies:

a. All rights and remedies available at law and in equity, including injunctive relief, specific performance and/or damages.

b. The right to withhold all further approvals, licenses, permits or other rights associated with any project or development described in this Agreement until such default has been cured.

c. The rights and remedies set forth herein shall be cumulative.

11. Notices. Any notices, requests and demands required or desired to be given hereunder shall be in writing and shall be served personally upon the party for whom intended, or if mailed, by certified mail, return receipt requested, postage prepaid, to such party at its address shown below:

To the Developer:

Draper Land Development Company, Inc..
Attn: LaVar Christensen
P. O. Box 1094
Draper, Utah 84020

To the City:

Draper City
Attn: City Manager
12441 South 900 East
Draper, Utah 84020

Any party may change its address for notice by giving written notice to the other party in accordance with the provisions of this section.

12. Attorneys' Fees. In the event of any lawsuit between the parties hereto arising out of or relating to this Agreement, or any of the documents provided for herein, the prevailing party or parties shall be entitled, in addition to the remedies and damages, if any, awarded in such proceeding, to recover reasonable attorneys' fees and costs.

13. Entire Agreement. This Agreement, together with the exhibits hereto, integrates all of the terms and conditions pertaining to the subject matter hereof and supersedes all prior negotiations, representations, promises, inducements or previous agreements between the parties hereto with respect to the subject matter hereof. Any amendments hereto must be in writing and signed by the respective parties hereto.

14. Headings. The headings contained in this Agreement are intended for convenience only and are in no way to be used to construe or limit the text herein.

15. Non-liability of the Parties. Neither the representatives of the Developer nor any officer, representative, agent, or employee of the City shall be personally liable in the event of any default or breach of this Agreement.

16. No Third Party Rights. The obligations of the parties set forth in this Agreement shall not create any rights in or obligations to any persons or parties other than to the City and the Developer. The City and Developer alone shall be entitled to enforce or waive any provisions of this Agreement to the extent that such provisions are for their benefit.

17. Assignability. Unless otherwise agreed hereafter in writing, neither the Developer

nor the City shall assign this Agreement or any rights or interests herein without the prior written consent of the other party.

18. Binding Effect. This Agreement shall inure to the benefit of, and be binding upon the parties hereto and their respective heirs, representatives, officers, agents, employees, successors and assigns (if any assignments are allowed as provided hereinabove).

19. Termination. The term of this Agreement shall commence as of the date hereof and shall continue in full force and effect until five years thereafter unless sooner terminated as provided herein or as may otherwise be reasonably required to carry out the intent of this Agreement (e.g., City maintenance of open space).

20. Amendment. This Agreement may be amended only in writing signed by the parties hereto.

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE EXECUTED THIS Agreement by and through their respective, duly authorized representatives as of the day and year first hereinabove written.

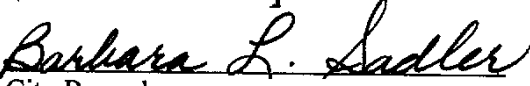
CITY:

DRAPER CITY

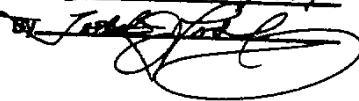
By 
City Mayor



Attest:

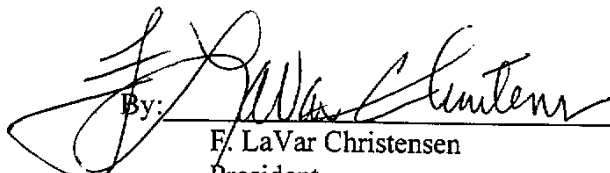

City Recorder

APPROVED AS TO FORM
City Attorney's Office

Date October 18, 1999
By 

DEVELOPER:

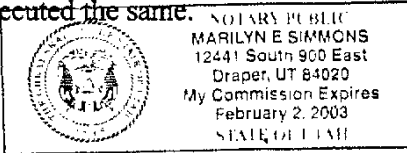
DRAPER LAND DEVELOPMENT CO., INC.

By: 
F. LaVar Christensen
President

CITY ACKNOWLEDGMENT

STATE OF UTAH)
:SS.
COUNTY OF SALT LAKE)

On the 5th day of April, 2000, personally appeared before me Richard D. Alsop, who being duly sworn, did say that he is the Mayor of DRAPER CITY, a municipal corporation of the State of Utah, and that the foregoing instrument was signed in behalf of the City by authority of its governing body and said Richard D. Alsop acknowledged to me that the City executed the same.



Marilyn E. Simmons
Notary Public

My Commission Expires:

Feb. 2, 2003

Residing at:

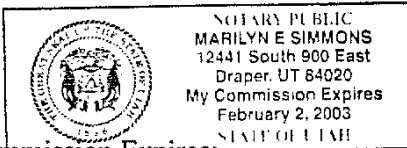
Salt Lake County

NOTARY SEAL NOT LEGIBLE
- CO RECORDER -

DEVELOPER ACKNOWLEDGMENT

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

On the 5th day of April, 2000, personally appeared before me Richard Christensen who being by me duly sworn did say that (s)he is the President of DRAPER LAND DEVELOPMENT COMPANY, INC., a Utah corporation, and that the within and foregoing instrument was signed in behalf of said corporation by authority of a resolution of its Board of Directors; and they duly acknowledged to me that said corporation executed the same.



Marilyn E. Simmons
Notary Public

My Commission Expires:

Feb. 2, 2003

Residing at:

Salt Lake County

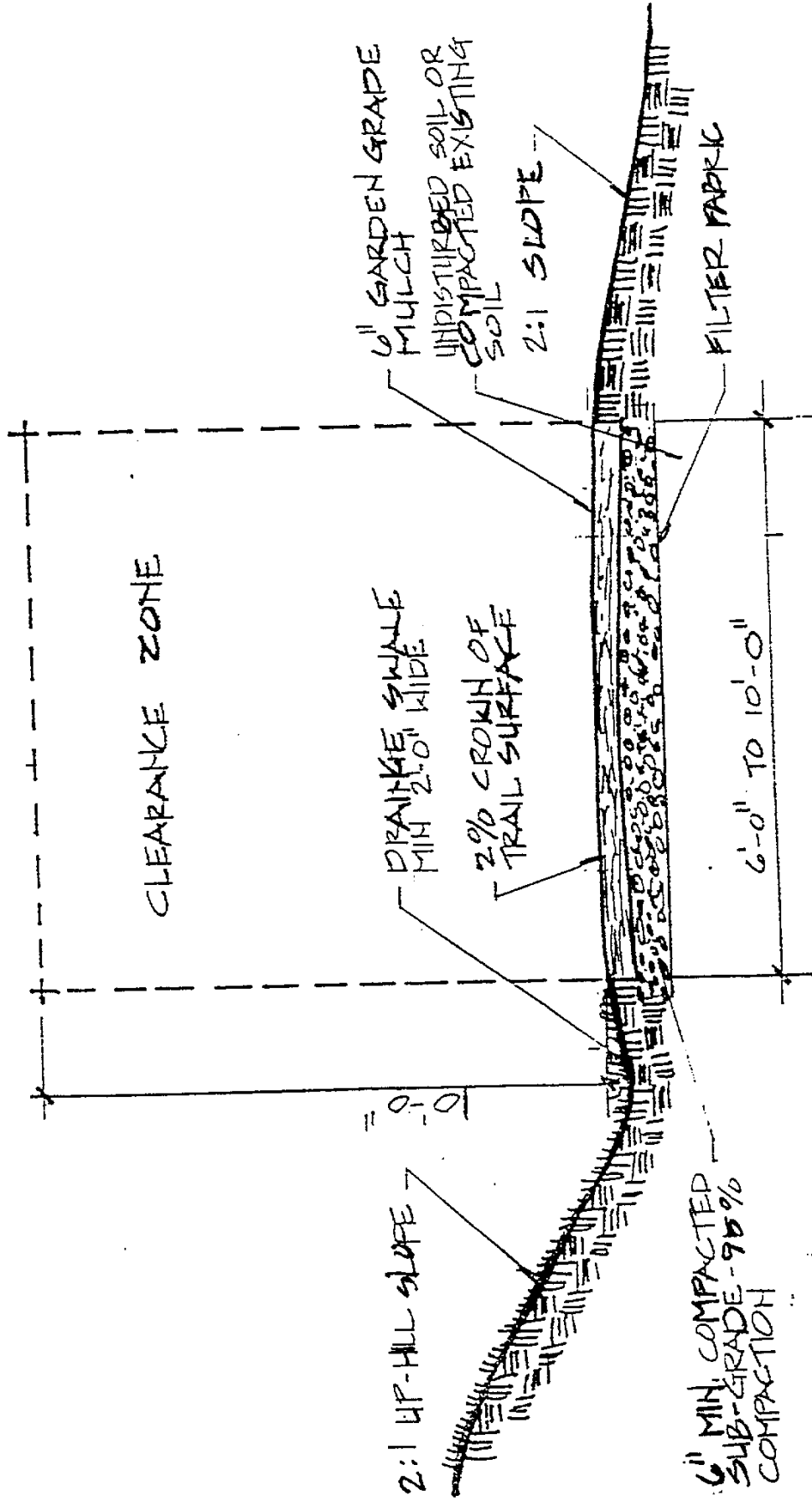
NOTARY SEAL NOT LEGIBLE
- CO RECORDER -

EXHIBIT A

BEGINNING AT THE SOUTH 1/4 CORNER OF SECTION 33, TOWNSHIP 3 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN; THENCE N.89°14'59"W. 1148.091 FEET TO THE EAST LINE OF THE UTA RIGHT OF WAY; THENCE NORTHERLY ALONG SAID EAST LINE N.35°30'20"E. 846.522 FEET TO A POINT ON A 2994.266 FOOT RADIUS CURVE TO THE LEFT (CHORD BEARS N.29°54'36"E. 661.847 FEET—CENTRAL ANGLE 12°41'26"); THENCE NORTHERLY 663.202 FEET ALONG THE ARC OF SAID CURVE; THENCE S.88°49'22"E. 28.383 FEET; THENCE N.23°33'11"E 60.000 FEET; THENCE N.88°49'22"W. 30.000 FEET; THENCE N.23°33'11"E 16.839 FEET; THENCE S.89°19'51"E. 297.056 FEET; THENCE S.00°00'31"E. 1344.850 FEET TO THE POINT OF BEGINNING. CONTAINS 21.208 ACRES.

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Exhibit "C"

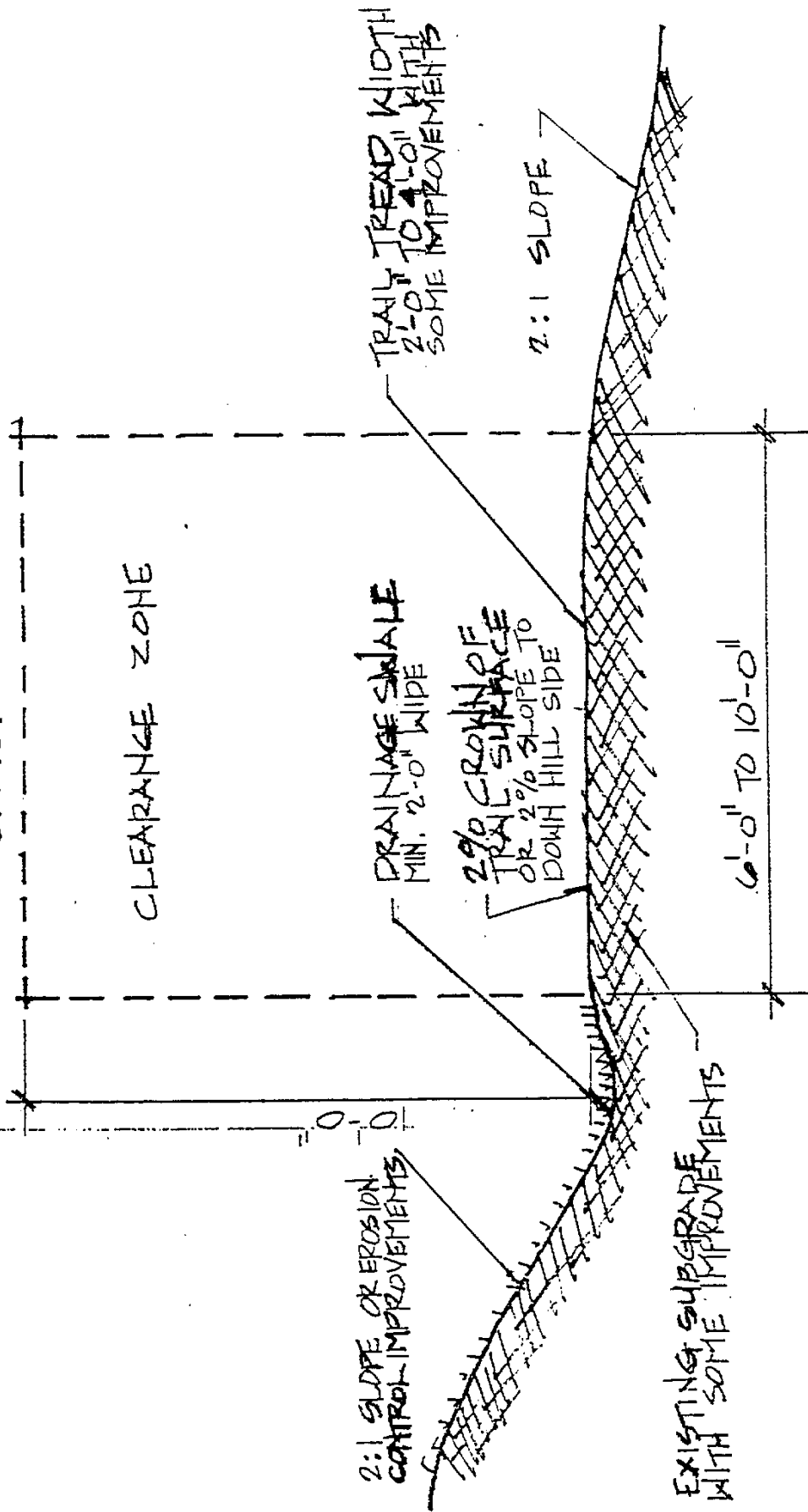


SOFT SURFACE TRAIL TYPE II

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POOR COPY
CO. RECORDER

Exhibit "D"



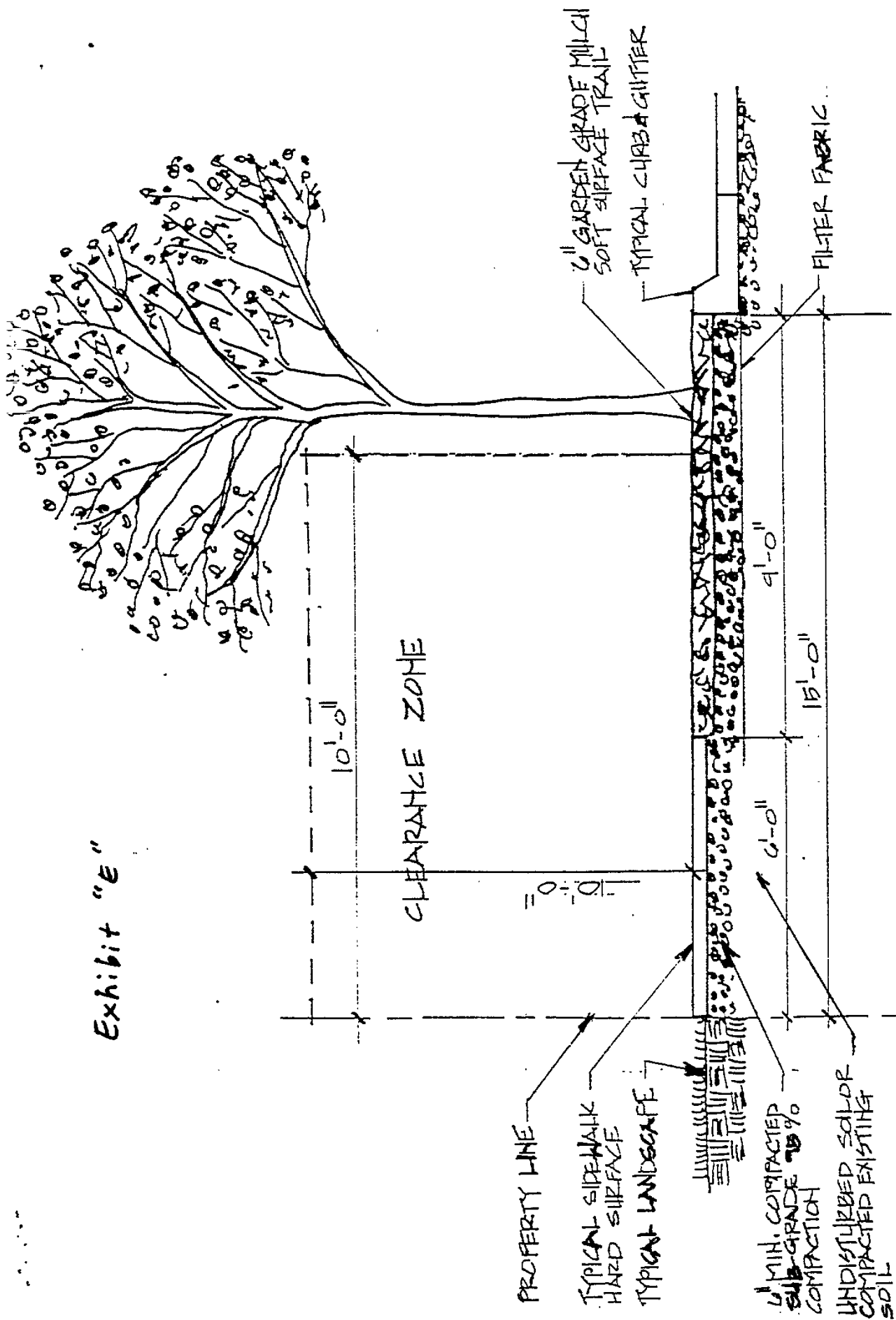
PRIMITIVE TRAIL TYPE III - LEVEL II

MECHANICAL METHODS OF IMPROVEMENTS SHALL ONLY BE APPROVED BY THE CITY OF DRAPER

-POOR COPY-
CO. RECORDER

BK8393PG2091

Exhibit "E"

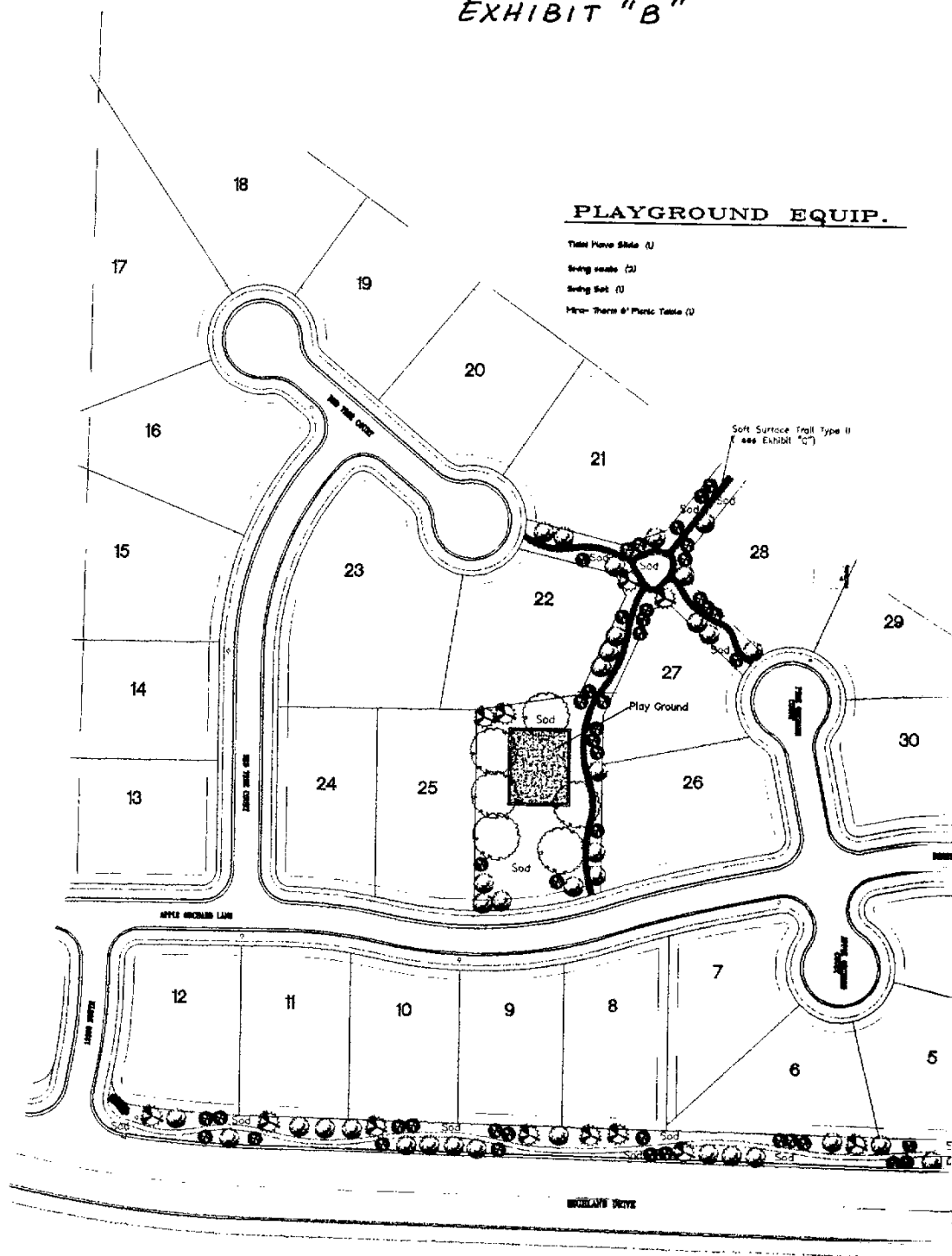


POOR COPY -
CO. RECORDER

SAFETY STREET-SIDE PATHWAY TYPE V

BK8393PG2092

EXHIBIT "B"

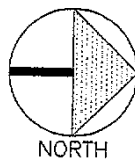
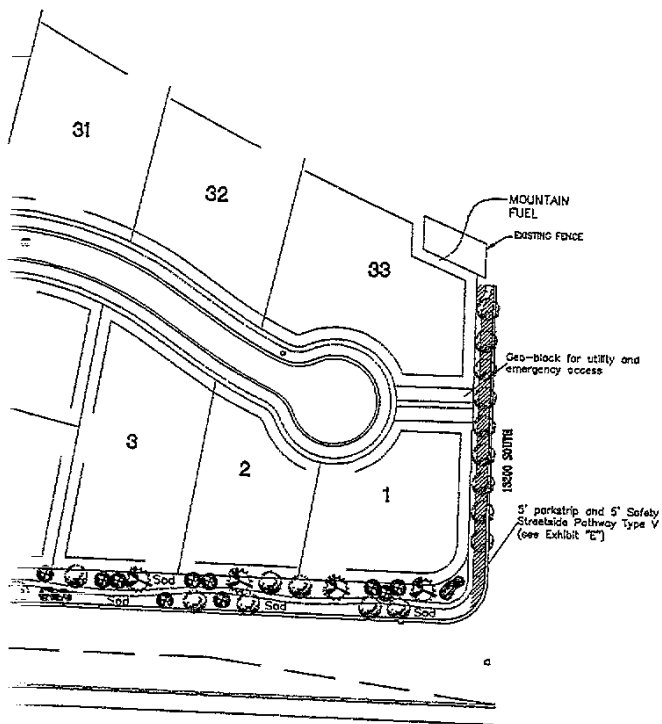


BK. 8393
PG. 2093

PLANTING LEGEND

TREES

| QTY. | SYMBOL | BOTANICAL/COMMON NAME | SIZE | NOTES |
|------------|--------|--|-------------|------------------|
| 16 | | <i>Picea procera glauca</i> COLORADO SPRUCE | 10-12' | |
| 58 | | <i>Betula occidentalis fastigiata</i> WESTERN RED BIRCH | 14-16' | 1/2 TO 2/3 CLUMP |
| 44 | | <i>Picea canadensis 'Briston's'</i> BRISTON'S PINE | 2" GAL. | |
| 6 | | <i>Populus deltoides</i> COTTONWOOD | 2" GAL. | |
| 4 | | <i>Barberry thunbergii</i> 'CRIMSON PIGEON' CRIMSON PIGEON BARBERRY | 2 GAL. | |
| 5 | | <i>Spiraea x bimaculata</i> 'GOLDEN SPIRA' GOLDEN SPIRA | 2 GAL. | |
| 18 | | Dogwood | 1 GAL. | |
| 55 sq. ft. | | Groundcover Vinca Minor | 86/ sq. ft. | |



571-7336

ALLSTATES LANDSCAPE

P.O. BOX 1586 DRAPER, UTAH 84020

Rev. July 99

Akagi Farm - II

Highland Drive & 13200 South

SHEET

1

OF 1

Akagi

Landscape

2094
BK8393PG2096