

Colonel Gary A. Vaughan, USMC (ret)

2126 Falcon Ridge Dr. (Lot #49)

Draper, UT 84020

garyavaughan@comcast.net

801-403-5100 (h) / 801403-5100(c)

5 May 2013

Subject: Encroachment

Honorable City Leaders,

I want to take a moment to thank you for your service to our city. As a volunteer, and Chairman of our Emergency Preparedness District Representative Committee, I have seen many of you function in your various areas of responsibility. I applaud your tireless efforts to keep Draper one of the finest places to live in Utah.

I regret my inability to attend your May 7th meeting where some discussion will take place regarding an encroachment issue and surplus land purchase in SunCrest. The duties of my job prevent my attendance.

To quickly summarize my feelings on the issues: 1. I have no problems with my neighbors exercising their opportunities to purchase what is being termed "surplus land." However, given that the City apparently purchased the land for pennies per square foot, I feel the residents are being overcharged at the proffered price of \$9 per square foot. In light of the current economic conditions and the additional issues that have plagued the property values in SunCrest, I trust my neighbors will be able to negotiate a fair price which I would determine not to exceed \$1 per square foot.

2. I disagree with the allegation of "encroachment." From the day I moved in, October 2005, to the present, my family and I have been directed to care for the small piece of land that constitutes a swale for water drainage and erosion control. By default, it also serves as a small firebreak, which, with the my professional experience and lessons learned from many recent fires, is a small but necessary deterrent or buffer. You will find this highly advised by UFA (Unified Fire Authority) as we move forward to make SunCrest our first Fire-Wise community in Draper, and thus open to additional grant money for community use. What we have done is to simply comply with our directed responsibilities, which has, in fact, strengthened our position as the first fire-line of defense for SunCrest---and that fire will come.

I simply feel the City has acted in haste, relying on an aerial overview without any serious discussion with residents as to why things are as they appear. I am a former military and current airline pilot. I spend my life in the air. What is seen from above does not always provide a clear understanding of what has happened on the ground below. I do not find any of the city options acceptable based on those observations.

In the package you should have received, I have provided more detailed information and some recommendations for considerations. I will return for a few days on Thursday and am happy to host a visit to further explain why I feel what has been done is necessary for the overall protection of the community—not encroachment.

Again, thank you for your service and your careful consideration of this matter. Due to my inability to attend the May 7th meeting, I have asked that this letter be read into the record at the appropriate time by my wife, Jeri Vaughan, or a neighbor we call upon should she be unable to attend.

Sincerely,



Gary A. Vaughan

Draper Encroachment Discussion

I have attached my concerns for your consideration in the matter of encroachment. If you have more in-depth questions, hopefully you will find more detail in the attachments. When our mutual schedules allow, I will try schedule time for discussion with you when I am home.

Please review the attachment section first to get a more comprehensive picture of my position.

Summary: I moved into my residence at 2126 Falcon Ridge Dr., Lot #49 of the SunCrest Community, in October 2005. The house, including drainage swale, was approved by city inspectors. With the onset of winter, we elected to wait until spring 2006 to landscape the property.

As the winter eased, we submitted our landscaping plan to the HOA/Developer and it was approved. Through the winter, we discovered that the drainage swale, though approved, had actually been improperly set, as water did not drain completely across the back of the lot, pooling in the southeast corner, before eventually flowing east. This was likely due to excavation that occurred during construction and was not noted by City inspectors when we were approved for occupancy. The landscape/erosion netting, twisted in the swale, along with remnants of weeds and trash had produced a tangled mess, and was of great concern to us, despite having passed inspection.

To make sure we did things right, I had conversations with the HOA. To remedy the issues, first we had one of the developer's excavation workers re-sculpt the swale as he had done originally. We then had a professional landscaper come in and build the rock walls per plans we had submitted to and had approved by the HOA/Developer. With constant reminders from the HOA that we were responsible for maintaining the swale area, to keep it clear and able to handle drainage waters, we took it to heart and cleaned it up so that it would prevent erosion and provide a fire buffer from the weeds/dry plant-life that grow behind our house. I personally pulled out the existing netting, untangled it, and re-laid it in the swale per the specs I had been given.

Interestingly enough, when we first bought the property, the property stakes had been placed at the far south reaches of the property, placing the swale well within the property boundaries as indicated in Attachment 2. As we did our landscaping work, I noted one day that surveyors had come in and moved the stakes north approximately 10 feet. Frankly, I didn't care as I knew no one could build behind me and it was clear that we had been given the responsibility to maintain the land anyway.

We completed major portions of our landscaping in 2006-2007. In 2007, the HOA had commissioned a group to inspect the swale and areas we had worked on. After review of their findings, in early 2008 we were provided a letter (Attachment 6) that stated what we had done was in compliance, with another reminder that we were still responsible for the upkeep of the area. Since that time we have not made any changes, and have not received a single note about compliance issues or concerns; until we received the City letter alleging encroachment.

In the phone message I received from the City, we have been given three options: 1) buy the land; 2) rip it all out (which is a strip of curbing used for weed control and a sodded grass cap to minimize erosion, and a strip of gravel I placed in the swale to also minimize erosion and prevent weeds and trash from accumulating and blocking drainage. This also serves as a small fire break which is needed and

recommended by UFA); 3) I could declare a hardship (but no details of what that meant were provided thus far.)

For my neighbors who may simply wish to put this aside, who can easily pay for the land at whatever the City asks just to silence the issue, I have no objection to their purchase of the surplus property. However, I am disappointed for the City asking such an unreasonable price in light of the work and expenses privately funded to maintain the land as directed and up to now, and unopposed (to my knowledge) by the HOA or previous owners.

I have been told that the City paid approximately \$.05 per square foot. I have also been informed that other cities facing similar issues are only considering charges of \$1 to \$3 per square foot. In light of the other issues that have negatively affected property values in SunCrest, it is only fair to reconsider the proffered price of \$9 per square foot. I recommend no more than \$1 per square foot (basically gaining 20 times what it paid with no payout for improvements.)

Whereas the City gave us residents three courses of action to consider, I offer three in return, based on the facts of assigned care, obvious erosion control, and the fire buffers needed-- exacerbated by local wildfires in the past few years:

1. Status-quo: Leave the land as is and allow homeowners to continue to care for the land, providing the buffers that minimize erosion/slide possibilities and enhance fire protection. The City or HOA can inspect as necessary and provide notices to clean-up /fix issues that are not compliant with swale drainage, erosion, or providing the first line of fire defense for the neighborhood. (While my neighbors have much larger parcels in question than I, I was grateful for the day that I saw them finally cut down the tall weeds posing the extreme fire hazards, and make the areas safer. Some needed greater persuasion and did not take action until the recent Alpine fire.
2. Grant ownership to the residents which will obviously give them larger pieces of property subject to taxation for the City/County accounts. In part, this will reimburse residents for the time, efforts, weed/fire control/erosion expenses incurred over the many years in residence per the HOA direction to care for the areas. The City/HOA can continue to enforce issues where swale/erosion/fire dangers are not properly cared for. Any resident who fails to care for the property would clearly endanger the rest of the community for fire or erosion/slide issues.
3. Sell the land to the residents, but at a cost no more than \$1 per square foot, which still results in a substantial profit to the City. Previous land charges set are not valid, as values have changed dramatically with the economy; and the argument exists as to whether the "surplus land" can be called "improved." In addition, it was mandated that residents care for this land, though not their own, and at their own expense already. Residents involved were simply doing what they were expected to do in order to minimize hazards to the community. It is obvious that benefits of the upkeep were different to each family, but the fact remains, we are all safer for their efforts. I like the beauty and safety my neighbors have afforded me. In addition, all residents I have spoken with on the opposite side of the street were happy with our clean-up efforts-- the first to face the flames, to have cleared the weeds, and kept the areas safer for the community at large. They paid nothing, the HOA paid nothing, the City paid nothing. The residents on the front line have born all the expense—based on the stated responsibility to care for the areas.

Now, if none of these are acceptable, we need to continue discussions to achieve a reasonable result without the perception or actual penalization of residents who have merely complied with what they thought was expected, and was not disputed as “in error” by previous owners. It will be a sad day if residents have additional financial burdens levied by having to hire legal consultants to address this issue created by insufficient study and discussion. This is an issue that reasonable leaders and residents should be able to reach agreement on.

Those of us who reside on the south side of Falcon Ridge Drive remain, by default, the first line of defense for any major fire that may rage up the hill. I ask that you reconsider your approach to the “encroachment” allegation and seek a more reasonable solution for those who have worked long and hard to meet their assigned responsibilities and thus providing greater protection to the City at large.

I base my discussion on many years of work in emergency preparedness in the military and with many civil defense agencies, and in consideration of the standing recommendations that accompany the establishment of a Fire-Wise Community, which Draper itself has already asked the residents of SunCrest to become. It is also based on true intent to follow through with what was described as my responsibility, and which was done in consultation with the HOA/developer prior to the Draper City purchase.

Thank you for your time.

A handwritten signature in black ink, appearing to read "A. Vaughan". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

5 May 2013

Attachments: Draper City Land Encroachment Challenge: Vaughan, 2126 Falcon Ridge Dr. Lot #49

Information provided to help City Leaders better understand Vaughan's differing point of view as to "encroachment."

Attachment 1: Encroachment Letter received from City. Please note: I was on an extended trip to the Far East when the letter was mailed delaying my initial responses.

Attachment 2: Land Plat map provided by my builder at property purchase. The topographic lines clearly show portions of the swale being inside the boundaries of the south property line. In fact, when I bought the property, the south property stakes were located on the south side of the swale. They were loosely placed in the ground and I freely admit it was hard to really determine their initial intended locations. I do not recall the exact time, but survey teams had been seen from time to time in the area and on one occasion, I noted the stakes had been re-located to the north side of the swale, which per the topographic lines can be disputed as to location. To my knowledge, no one has since moved them again. They do more closely represent the lines shown on Attachment 1. I had understood the swale to be an easement anyway, and that I had been directed to care for it, so I really didn't care about the stake location as it affected such a small parcel of land that I, per HOA direction, was to care for anyway.

Attachment 3: Same land plat map, but with landscaping planning annotated. I drew in the rock walls and emphasized the swale location. The topographic lines still support the original understanding I had of the property lines per the plat map in relation to the swale or now designated "surplus property" by the City.

Attachment 4: Pages from landscaping plan provided to and approved by the HOA. Please refer to the "back of house" section. The only change was not placing plants (vinca) in the swale, and to use a coarse gravel instead-- to lessen the possibilities of water-flow blockage, enhance weed control, and provide a better fire barrier from the heavy weeds growing south of the swale, down the steep hill.

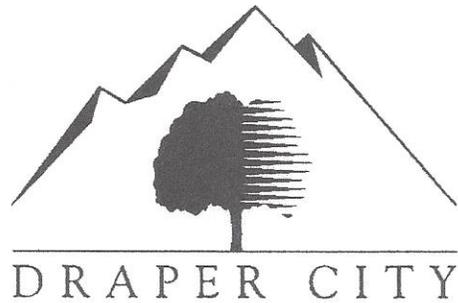
Attachment 5: Contract with Worthington Landscape Construction to show that major portions of the landscaping was done before HOA Letter that acknowledged the swale work done (showing improvements met requirements). 2006.

Attachment 6: HOA letter (2008) advising us that the work we had performed was acceptable, and that again reminded us of our responsibility to maintain the areas in question. No changes have been made to the area, except to replace any dead plants/fire hazard.

I have other documentation that shows our planning, intentions, materials/plant purchases, etc. that are dated well before Attachment 6 and I am happy to provide for review.

Our actions and planning should clearly show we had no intention of encroachment, and with the assignments given to care for the area in question, we do not feel we encroached. We simply maintained what we were told we had responsibility for, and Attachment 6 clearly shows what we did was allowable.

A handwritten signature in cursive script, appearing to read "A. Vaughan", with a long horizontal flourish extending to the right.



March 22, 2013

Gary A and Jeri L Vaughan

2126 E Falcon Ridge Dr

Draper Ut

Dear Homeowner:

Draper City recently purchased land adjacent to your property. As part of the purchase an ALTA survey was created, which revealed that some homeowners have extended their backyards beyond their property line. According to the survey, it appears that your property is one of those encroaching into the City's open space.

Enclosed is an aerial photo with approximate property lines, and the original plat which specifies the measurements of your lot. Please contact me immediately at 801-576-6387 to explain how this apparent encroachment happened and how you propose to resolve the issue. Your immediate attention is appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "G. Hinbig".

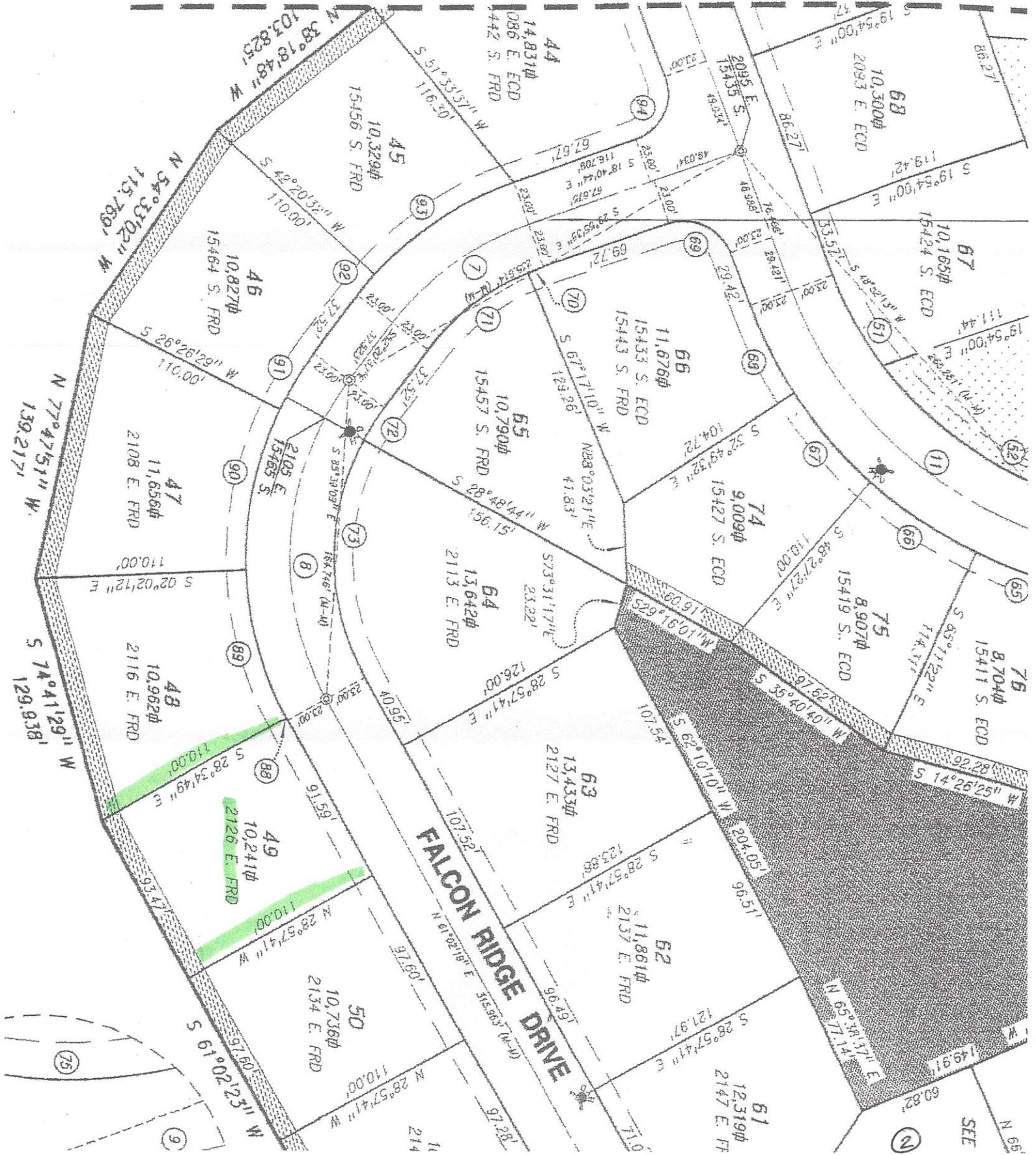
Greg Hinbig

Draper City Open Space Specialist

Enc.

Attachment 1

SEE SHEET 2 OF 10



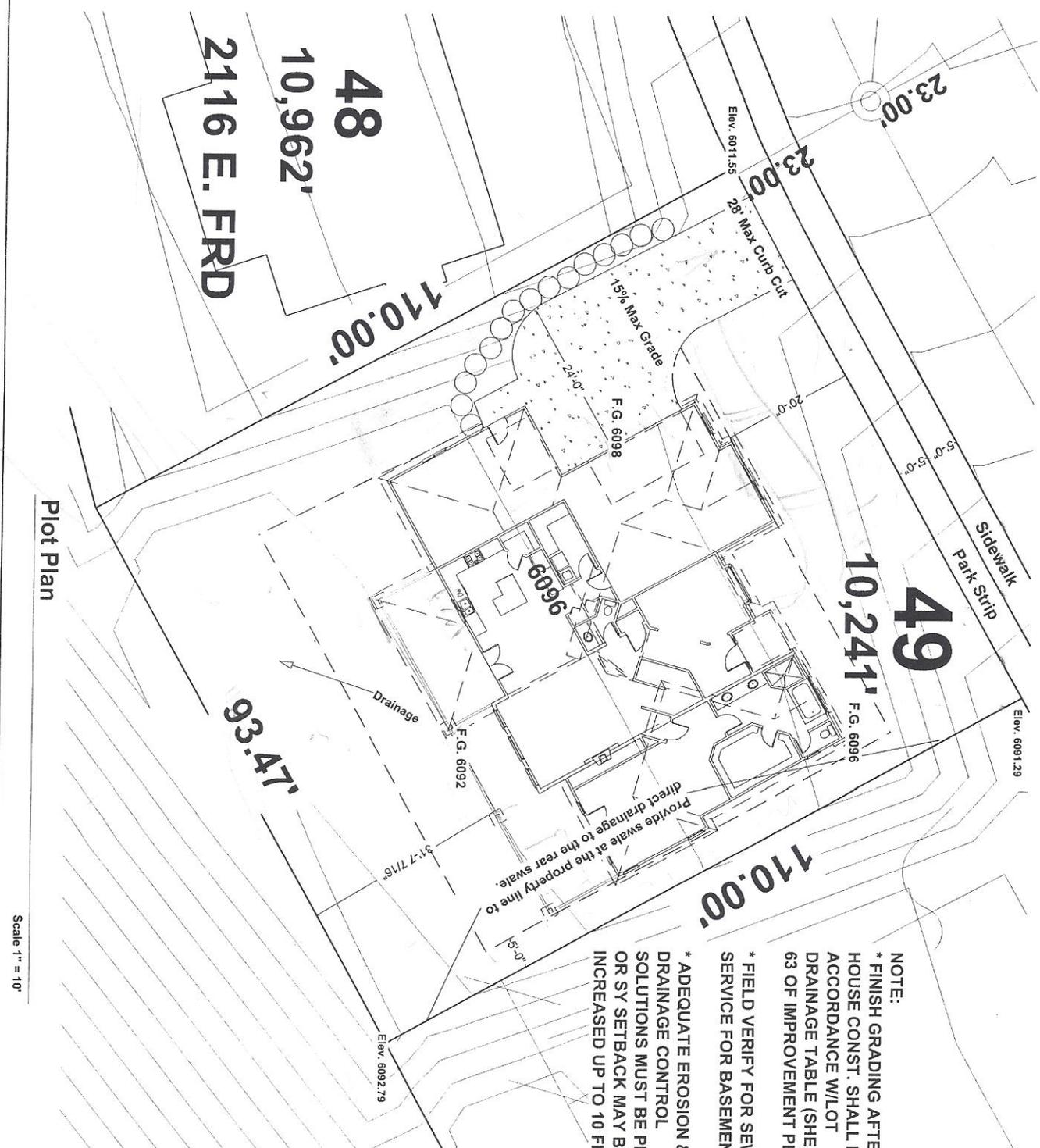


DRAPER CITY

Date: 3/19/2013

2126 E Falcon Ridge Dr Encroachments





NOTE:
 * FINISH GRADING AFTER HOUSE CONST. SHALL BE IN ACCORDANCE W/LOT DRAINAGE TABLE (SHEET 5 OF 63 OF IMPROVEMENT PLANS)
 * FIELD VERIFY FOR SEWER SERVICE FOR BASEMENT

* ADEQUATE EROSION & DRAINAGE CONTROL SOLUTIONS MUST BE PROVIDED OR SY SETBACK MAY BE INCREASED UP TO 10 FEET

J86

Attachment 2

48
 10,962'
 2116 E. FRD

49
 10,241'

Plot Plan

Scale 1" = 10'

Attachment 2

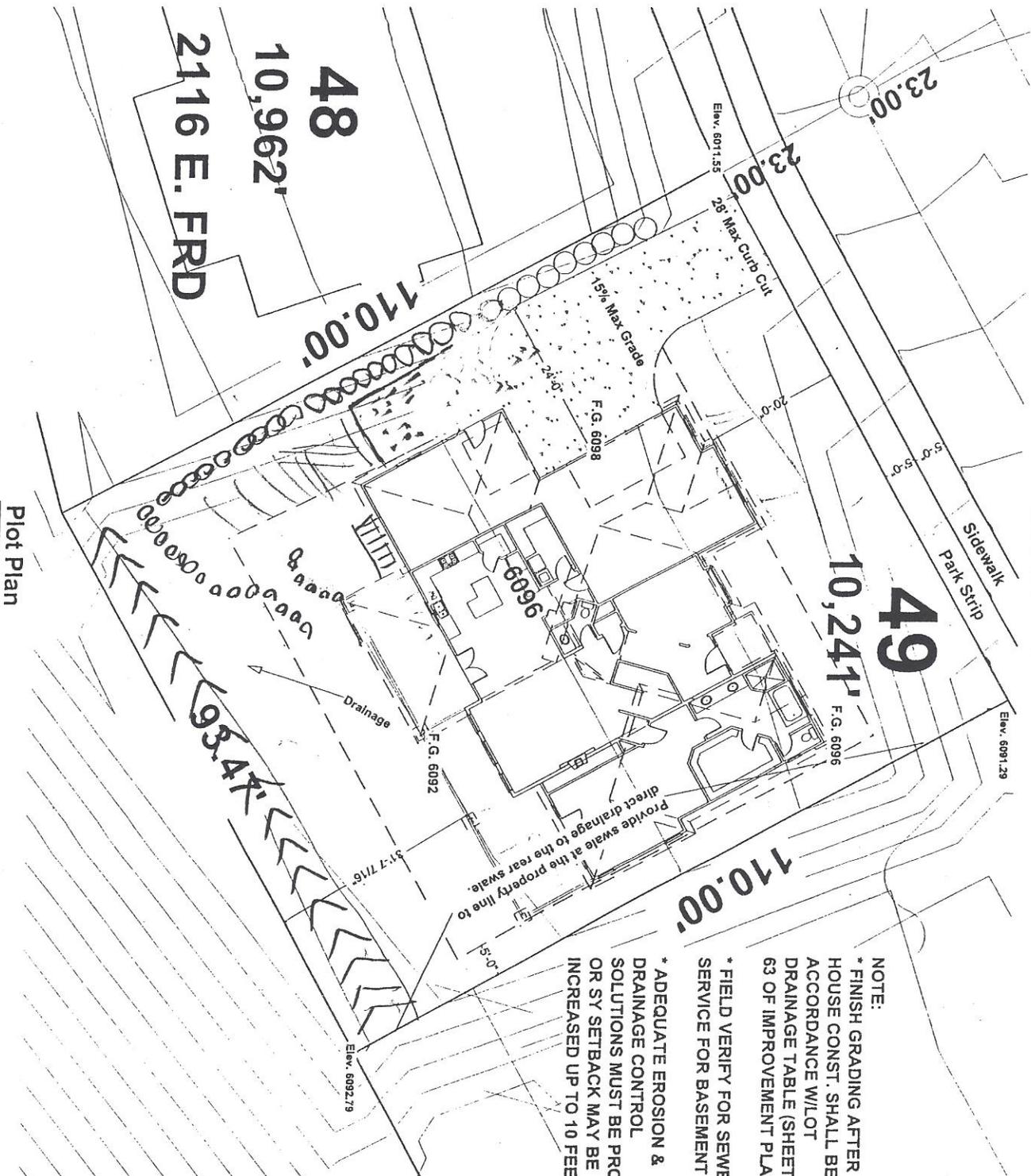
CF #3-60
 Page 10

J&J & Sons Const.
 1270 E. 8600 S.
 Sandy, UT 84094
 255-5922

Plan
 Center

Lot 32 Eagle Crest #1
 1984 E. Eagle Crest Drive
 Draper, UT 84020

Residence For:
 Gary & Veri
 Vaughan
 1216/2004



386

- NOTE:**
- * FINISH GRADING AFTER HOUSE CONST. SHALL BE IN ACCORDANCE W/LOT DRAINAGE TABLE (SHEET 5 OF 63 OF IMPROVEMENT PLANS)
 - * FIELD VERIFY FOR SEWER SERVICE FOR BASEMENT
 - * ADEQUATE EROSION & DRAINAGE CONTROL SOLUTIONS MUST BE PROVIDED OR SY SETBACK MAY BE INCREASED UP TO 10 FEET

Attachment 3

Plot Plan

Scale 1" = 10'

CF #3-60

Page 10

J&J & Sons Const.	
1270 E. 8600 S.	
Sandy, UT 84094	
255-5922	
Plan	
14132 Eagle Crest St	
1944 E. 9th Street Drive	
Draper, UT 84020	
Residence For:	
Gary & Jeri	
Vaughan	
12/16/2004	

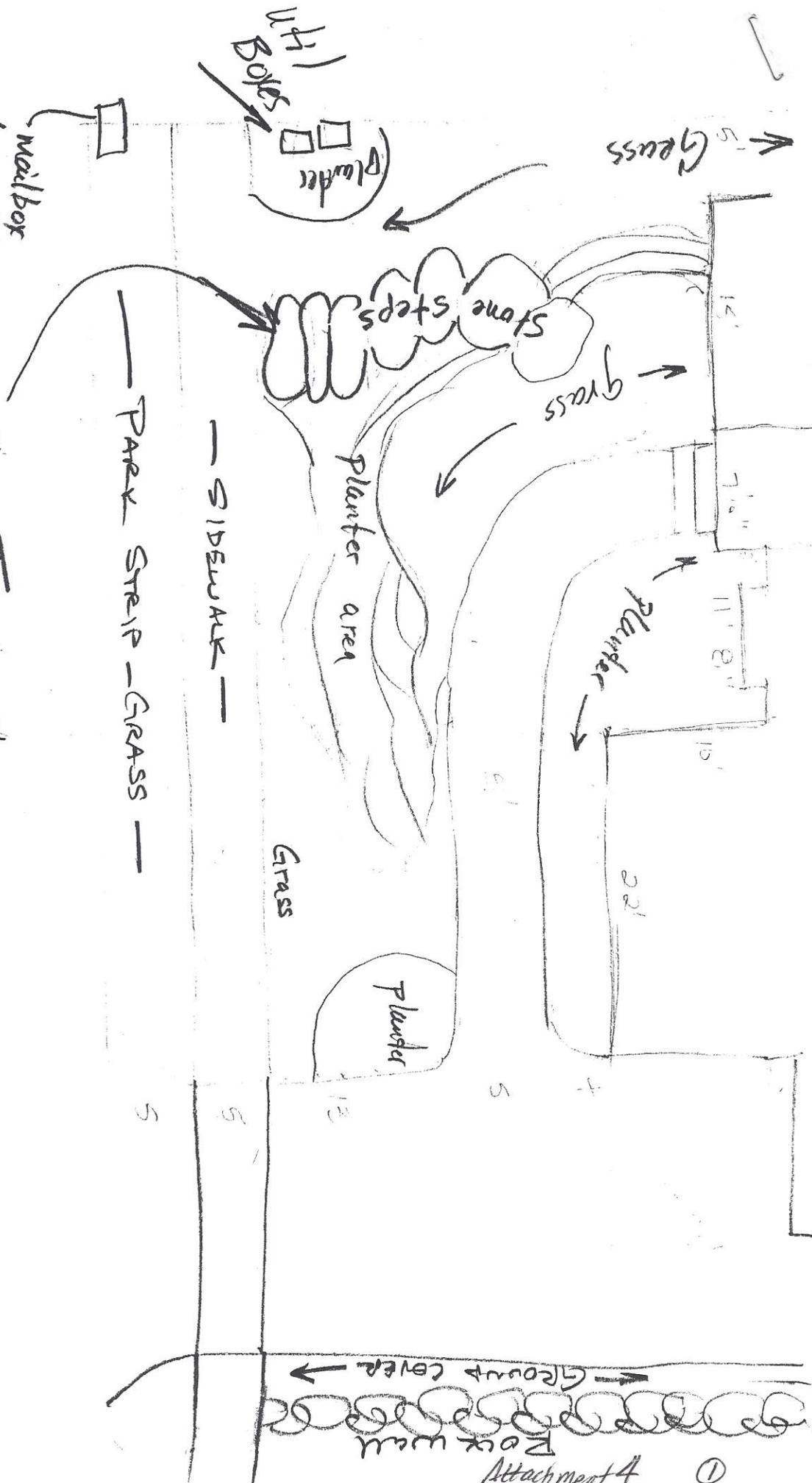
Attachment 3

LOT 49

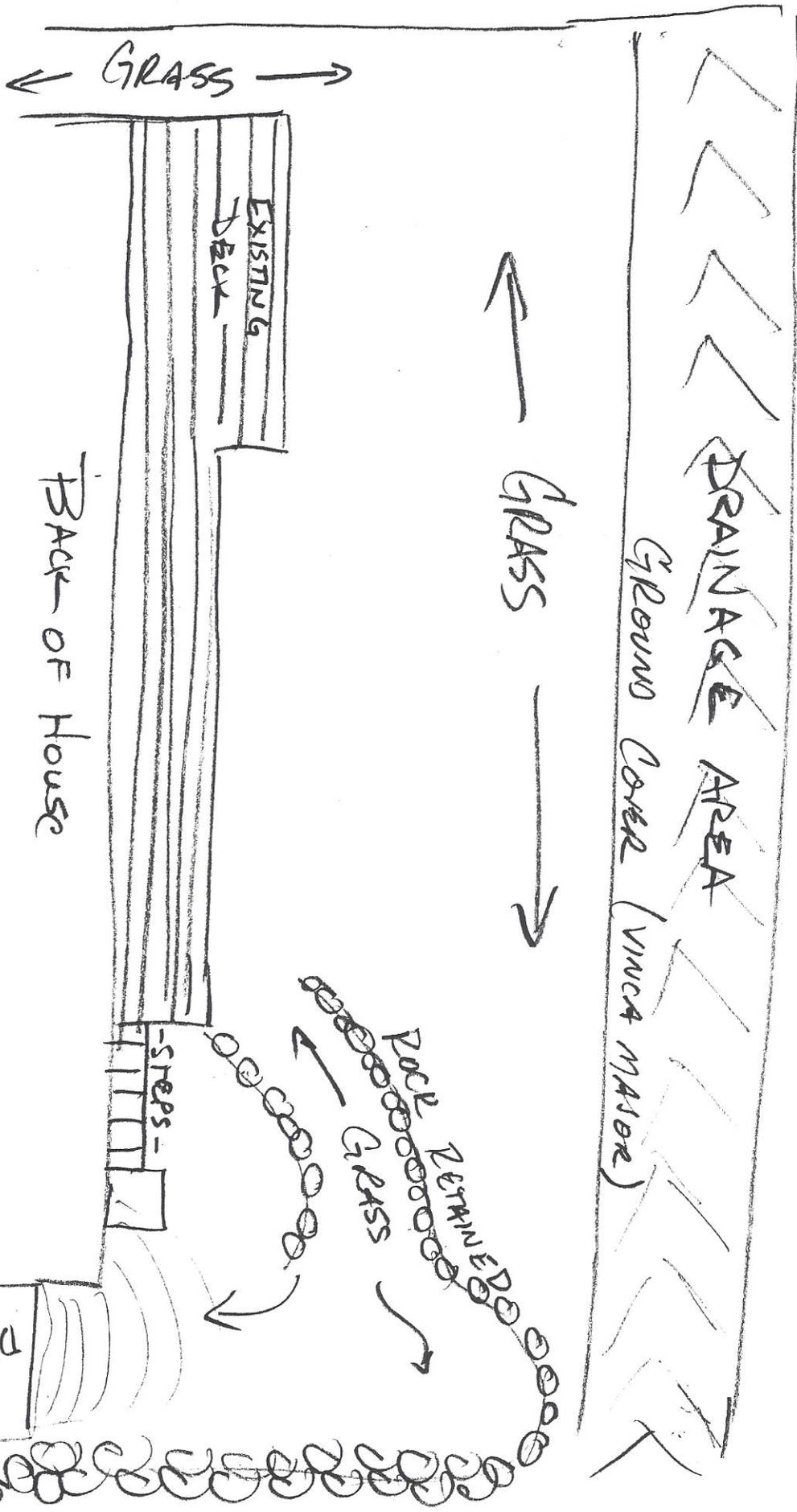
Gary & Jeni VAUGHAN
2126 FALCON RIDGE DR.
553-0318

- Stairs TBD by slope
- Plant placement to resemble pictures provided from similar front style house.
- Overall landscape to resemble pictures provided.

mailbox
(request to move 5'411 in)



South
↓



WORTHINGTON LANDSCAPE CONSTRUCTION

No 0372

Excavating, Snow Plowing, Rock Wall Specialists

6536 South 1300 West
Murray, Utah 84123
Phone: 268-2111

Grading
Top Soil
Sprinkling Systems
Sodding
Clean-Up

Excavating
Fill Dirt
Fencing
Mounds
Hauling

Cement Work
Retainer Walls
Rocks
Plants and Trees
Trenching

BID and CONTRACT

We - **Worthington Landscape Const.** bid to do the following outlined work and furnish the materials specified below for the total price listed below. Payment to be as listed below. Bid price good for 30 days after this date.

4/26/06 #2000

Work to be done and materials furnished.

Furnish Rock & install Rock walls & Terracing in Front & BACK yard.

(1) Front Terrace approx. 40' Long by 8' Terrace with rough steps through under Terrace. \$3,500

(2) Re-work some of back ramp way & install a low block wall on west side Drive to back yard DRAINAGE. approx. 3' x 30-40' Long. wall rework fill dirt. \$1,500

* Move Rock from staging area to wall installation area & place fill provided. \$500

TOTAL \$5,500

* Customer assumes responsibility for damage to any concrete or utilities damaged during Rock installation. Deposit of \$2,150 on 4/26/06 @ 100%.

Additional \$1,000 for moving Rock wall in back yard & 1 load of Rock ad on. Also Drain pipe materials for Downspouts. PAID 6/3/06 check #1057 BAL Due \$3,750

All work and material to be of good quality or as specified. Bid becomes valid contract when signed by both parties. Terms 50 at signing of contract, balance at completion of job. Customer agrees to pay all court costs and attorneys fees necessary to collect full payment. 18 interest to be charged on unpaid balance. **Customer assumes full responsibility for "Blue Staking" of utilities. If digging is requested in a blue staked area, customer assumes responsibility for any damage to utility lines.**

Signed _____

Customer

Lynn D. Worthington
WORTHINGTON LANDSCAPE CONST.

Attachment 5

EC-49



May 20, 2008

Gary Vaughan
2126 E Falcon Ridge Dr
Draper, UT 84020

Dear Gary Vaughan,

SunCrest prides itself on being one of the most desirable master-planned communities in the Salt Lake Valley. In order to maintain the beauty and integrity of our community, and to protect your property values, SunCrest OA performs periodic property inspections throughout the community.

In the fall of 2007, engineers working in behalf of SunCrest OA inspected SunCrest's drainage swale systems. This inspection included the drainage swale(s) located on your property at 2126 E Falcon Ridge Dr. Although no significant problems were found with the swale on your property during this inspection, it is important for you understand your continuing obligations for drainage maintenance. All lot drainage, including the swales located on your lot, must be maintained by **you** the home owner. The drainage system, including the network of drainage swales, is critical to managing the storm water and snow melt runoff within the SunCrest Community. Please be advised you are financially responsible for all damage incurred to your lot and neighboring lots that is caused by obstructing the swales or altering the drainage flows crossing or leaving your lot.

To help you better understand how you can help maintain and "save your swale," we have included the information sheet "**Maintenance of Drainage Swales.**" Please take a moment to review these tips and consider how you can implement them during your spring yard care routine. Additionally, a drainage engineer will be available to provide information and answer questions regarding lot drainage at the Landscape Workshop on May 31, 2008 (see enclosed flier).

Note: If you are planning to do any construction, new landscaping or alterations to your lot, a permit must be obtained from the SunCrest OA prior to commencement of these activities.

Your cooperation in maintaining your swales would be appreciated by the OA and helps to keep SunCrest one of the most desirable locations in Utah. As always, we can provide you with a copy of the rules and regulations as well as answer any questions you may have about this notice.

Thank you for your prompt attention in this matter.

Sincerely,

A handwritten signature in black ink that reads "Tod Bean". The signature is fluid and cursive.

Tod Bean, Community Manager
SunCrest Owners Association, Inc.
tbean@ccmcnet.com

SunCrest OA 14944 Traverse Ridge Road - Draper, UT 84020 Phone: 801.572.1233 Fax: 801.572.9349

Attachment 6