

COUNTY OF EL DORADO DEVELOPMENT SERVICES
BOARD OF SUPERVISORS
STAFF REPORT



Agenda of: December 8, 2009

Staff: Gina Hunter

TENTATIVE MAP AMENDMENT

FILE NUMBER: TM69-0048-C-3/Tahoe Paradise Unit 56

APPLICANTS: Kelly and Elizabeth Rosser

AGENT: GS Concepts- Gary Schnakenberg

REQUEST: A request to amend recorded Subdivision Map D-88 to abandon a 20-foot wide setback/easement for light and air and abandon a 10-foot wide public utility easement for Lot 271 within the Tahoe Paradise Unit No. 56 approved by the Board of Supervisors on August 21, 1967 (Exhibit E).

LOCATION: On the east side of Minal Street, approximately 200 feet south of the intersection with Cirugu Street in the Meyers area, Supervisorial District V. (Exhibit A)

APN: 035-213-08 (Exhibit B)

LOT SIZE: 8,827 square feet

GENERAL PLAN: Adopted Plan (AP), Tahoe Regional Planning Agency (TRPA) Regional Plan – Meyers Community Plan (Exhibit C)

ZONING: Meyers Community Plan-5 – Community Design Review (MCP-5-DC) (Exhibit D)

ENVIRONMENTAL DOCUMENT: Statutorily Exempt pursuant to Section 15268 (b) (3) of the CEQA Guidelines

SUMMARY RECOMMENDATION: Staff recommends that the Board of Supervisors take the following actions:

1. Find that the project is Statutorily Exempt pursuant to CEQA Guidelines Section 15268 (b) (3); and
2. Approve Final Map Amendment TM69-0048-C-3 amending recorded map D-88 Tahoe Paradise Unit No. 56 for Lot 271, subject to the Conditions in Attachment 1, based on the Findings in Attachment 2.

BACKGROUND:

The existing residence was built in 1982. The existing site coverage is 2,547 square feet. Due to maximum land coverage provisions, the removal of an existing deck, stairs, a/c paving and a porch would be required to accommodate a new garage. The lot is gradually sloped; therefore, significant grading and earth disturbance, along with tree removals would be necessary if the garage were to be located towards the rear of the lot. To minimize earth disturbance, a reduced setback is found to be necessary for the site.

To achieve a reduced setback, a zoning setback Variance and a Map Amendment are required. The Variance application would be processed by the Zoning Administrator.

The Tahoe Paradise Unit No. 56 Final Subdivision Map was approved by the Board of Supervisors on August 21, 1967. The Final Map provided easements for light and air over those strips of land lying between the front lot line and those lines show as "setback line". As indicated on the Final Map, the setback line was provided at 20 feet. In addition, a 10-foot utility easement was provided.

Project Description: This Subdivision Map Amendment would abandon the 20-foot wide setback/easement for light and air and the 10 foot wide public utility easement. A minimum 5-foot setback would be recorded to allow for the construction of a garage (Exhibit F). No additional properties within the subdivision are included in the proposed amendment.

Amending of Final Maps: Chapter 16.72 of the El Dorado County Code and Section 66472.1 of the Subdivision Map Act allows the amending of Final Maps by either filing a Certificate of Correction or amending the map. Should the Board of Supervisors approve the amendment, a Certificate of Correction would be recommended to affect the changes.

Section 16.72.040 of the County Code requires the approving authority make specific Findings as set forth in Attachment 2.

GENERAL PLAN

The County General Plan designates the subject parcel as Adopted Plan, which refers to the Tahoe Regional Planning Agency's Regional Plan. The parcel is located within the Meyers Community Plan - Upper Truckee Land Use District (Special Area # 5). The property has been developed with a single family home which is an allowed use. The Map Amendment would not alter the use of the property; therefore, the use would continue to conform to the Adopted Plan land use designation.

The County General Plan provides broad deference to the TRPA Regional Plan, for the implementation of related General Plan policies and for the review of County discretionary projects. With regard to the Tahoe Basin, the primary goal of the County General Plan is to integrate the County's regulations with those of TRPA, to eliminate inconsistencies with the Regional Plan and to simplify the regulatory environment in the Tahoe Basin, as articulated in *Goal 2.10* of the *County General Plan* and its associated policies.

ZONING

The applicant proposes a 5-foot front setback for the proposed garage. With the exception of the proposed zoning setback Variance, the construction of the garage would be permitted by right in the MCP-5 Zone District. As proposed, the project would be consistent with all other development standards contained within Section 17.56.040 of the Zoning Ordinance.

Amending Final Parcel Maps: Section 66474 of the Subdivision Map Act states that, "A legislative body of a city or county shall deny approval of a Tentative Map, or a Parcel Map for which a Tentative Map was not required, if it makes any of the following findings:

(g) That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision [Amended, Chapter 518, Statutes 1982]."

Discussion: In order to approve the Map Amendment, the County must find that the removal of easements and alternate easements will be substantially equivalent. Charter Communications, Southwest Gas Corporation, Sierra Pacific Power Company (SPPC), South Tahoe Public Utility District (STPUD), American Telephone and Telegraph (AT&T, formerly SBC), and the County of El Dorado Department of Transportation-Tahoe Engineering Division (EDOT-TED) have reviewed the project proposal. The utility companies responded and did not raise issues with the request. EDOT-TED did have concern with the potential risk of property damage that could be caused by snow removal operations, as the snow blower is capable of throwing snow and pebbles more than 70 feet horizontally and up to 30 feet vertically during routine snow removal operations. Maintenance Division records indicate no less than 1 to 2 claims per year during the winter months. If setbacks continue to be reduced, there would be limited area for the County snow removal crews to store snow plowed from the roads. Therefore, if the Map Amendment and Variance are granted reducing the setback to 5 feet, EDOT-TED recommends that the property owner execute a Hold Harmless and Indemnification Agreement protecting the County from liability arising as a result of the reduced setback for the new living space and new garage.

Agency and Public Comments: The following agencies provided Conditions of Approval noted in Attachment 1:

El Dorado County Surveyor
El Dorado County Department of Transportation

ENVIRONMENTAL REVIEW

The Map Amendment is Statutorily Exempt from the requirements of CEQA pursuant to Section 15268 (b) (3). A \$50.⁰⁰ processing fee is required by the County Recorder to file the Notice of Exemption.

SUPPORT INFORMATION

Attachments to Staff Report:

- Attachment 1Conditions of Approval
- Attachment 2Findings

- Exhibit A.....Location Map
- Exhibit B.....Assessor's Map
- Exhibit C.....Meyers Community Plan
- Exhibit D.....Zoning Map
- Exhibit E.....Tahoe Paradise Unit No. 56 Subdivision Map
- Exhibit F.....Map Amendment to Lot 271

ATTACHMENT 1

CONDITIONS OF APPROVAL

Map Amendment TM69-0048-C-3/Tahoe Paradise Unit 56 (Rosser)
Board of Supervisors/December 8, 2009

CONDITIONS OF APPROVAL

1. This Map Amendment is based upon and limited to compliance with the project description, the Staff Report exhibit marked as Exhibit F, and conditions of approval set forth below. Any deviations from the project description, exhibits, or conditions must be reviewed and approved by the County for conformity with this approval. Deviations may require approved changes to the permit and/or further environmental review. Deviations without the above described approval will constitute a violation of permit approval.

The project description is as follows:

A Subdivision Map Amendment to amend recorded map D-88 to abandon a 20-foot wide setback/easement for light and air and abandon a 10-foot wide public utility easement for Lot 271 within the Tahoe Paradise Unit No. 56. A minimum 5-foot setback would be recorded to allow for the construction of a garage.

The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of structures, parking areas and landscape areas, and the protection and preservation of resources shall conform to the project description above and the hearing exhibits and conditions of approval below. All plans must be submitted for review and approval and shall be implemented as approved by the County.

Planning Services

2. **Hold Harmless:** In the event of any legal action instituted by a third party challenging the validity of any provision of this approval, the developer and landowner agree to be responsible for the costs of defending such suit and shall hold County harmless from any legal fees or costs County may incur as a result of such action.

The developer and land owner shall defend, indemnify, and hold harmless El Dorado County and its agents, officers, and employees from any claim, action, or proceeding against El Dorado County or its agents, officers, or employees to attack, set aside, void, or annul an approval of El Dorado County concerning a variance.

The County shall notify the applicant of any claim, action, or proceeding, and the County shall cooperate fully in the defense.

3. **Development Services Processing Fees:** The applicant shall make the actual and full payment of all Development Services processing fees prior to issuance of a building permit.
4. **Project Conformance Documentation:** Prior to issuance of a building permit, the applicant shall provide a written description, together with appropriate documentation, showing conformance of the project with each condition imposed as part of the project approval.

Department of Transportation

5. **Setback:** The Variance to the setback shall be allowed only within the area necessary to construct the project as described in the project description and as provided within Exhibit F. The reduced setback shall only include the footprint for the new garage. All remaining portions of the existing structure shall remain at the current setback limit.
6. **Hold Harmless and Indemnification:** Prior to building permit issuance, the applicant shall execute a Hold Harmless and Indemnification Agreement protecting the County from liability arising as a result of the approval of the project. The form of said document shall be reviewed and approved by the County Counsel, and once approved, shall be recorded with the El Dorado County Recorder's Office. An official copy shall be sent to the Department of Transportation, South Lake Tahoe office.

County Surveyor

7. **Certificate of Correction:** "It is hereby directed that the property owners shall submit a "Certificate of Correction, Modification or Amendment", prepared by an appropriately licensed professional, to the County Surveyor pursuant to the Subdivision Map Act and County Code for review. Upon approval by the County Surveyor the "Certificate of Correction" shall be recorded in the County Records Office. The property owners shall be responsible for all associated processing and recording fees."

ATTACHMENT 2

FINDINGS

Map Amendment TM69-0048-C-3/Tahoe Paradise Unit 56 (Rosser) Board of Supervisors/December 8, 2009

Based on the review and analysis of this project by staff and affected agencies, and supported by discussion in the staff report and evidence in the record, the following findings can be made:

FINDINGS FOR APPROVAL

1.0 CEQA FINDINGS

- 1.1 The Map Correction has been found to be Statutorily Exempt from the requirements of CEQA pursuant to Section 15268 (b) (3).
- 1.2 The documents and other materials which constitute the record of proceedings upon which this decision is base are in the custody of the Development Services-Planning Services at 2850 Fairlane Court, Placerville, CA.

2.0 MAP CORRECTION FINDINGS

- 2.1 *That there are changes in circumstances which make any and all of the conditions of such a map no longer appropriate or necessary.*

There are changes in circumstances since the approval of the Tahoe Paradise Unit No. 56 subdivision which occurred in June, 1967. The inherent conflict between potential structures located at the 20-foot front building setback line recorded on the subdivision map, and the evolving coverage and driveway requirements of TRPA, make the parcel difficult to develop as is allowed by right under the current zone district (MCP-5) and the 2004 General Plan designation of Adopted Plan (AP).

- 2.2 *That the modifications proposed do not impose any additional burden on the present fee owner of the property.*

The Map Correction would effectively amend Tahoe Paradise Unit No. 56 for Lot 271 only to abandon the 20-foot wide setback/easement for light and air and abandon the 10-foot wide public utility easement. A minimum 5-foot front yard setback would be provided for the garage and a 20-foot front yard setback shall be provided for the primary residence which is to remain. The correction shall benefit, and not burden, the current owner.

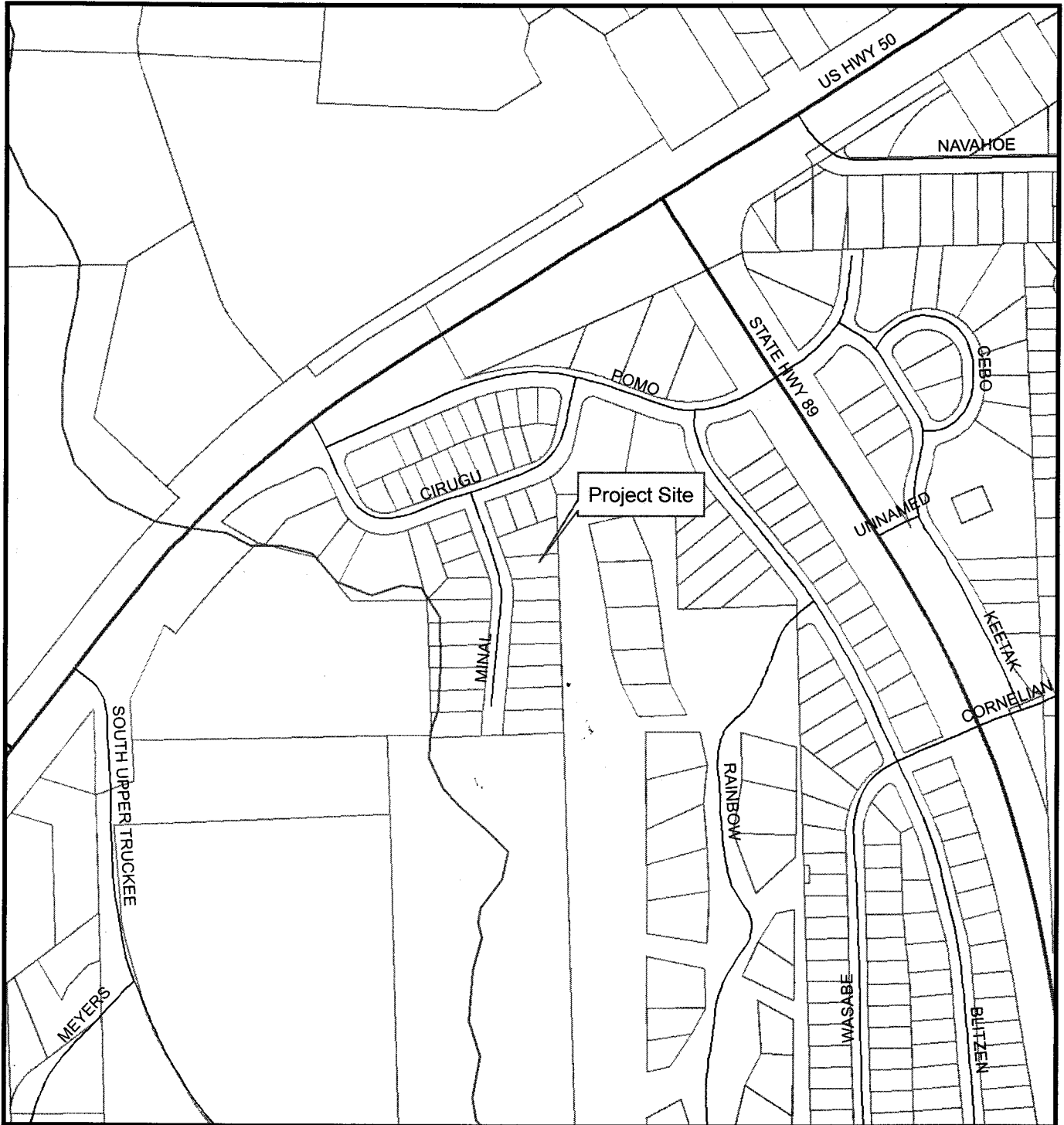
- 2.3 *That the modifications proposed do not alter any right, title or interest in the real property reflected in the recorded map.*

The 20-foot front setback/easement for light and air was established in 1967, for the benefit of Charter Communications, Southwest Gas Corporation, Sierra Pacific Power Company (SPPC), South Tahoe Public Utility District (STPUD), American Telephone and Telegraph (AT&T, formerly SBC), and the County of El Dorado Department of Transportation-Tahoe Engineering Division (EDOT-TED). These agencies were notified regarding the abandonment and do not have concern with the reduction of the front yard setback from 20 feet to 5 feet.

2.4 *That the map as modified conforms to the provisions of Section 66474 of the Government Code.*

The applicable portion of Section 66474(g) requires that the County find the removal of the front yard setback line will not conflict with easements for access through or use of, property within the subdivision. No utility company, public agency, or parcel owner with interest in the easement areas within the subject setback line for Lot 271, objected to the abandonment of the 20-foot front yard setback line and its replacement with a 5-foot front yard setback.

Location Map



- HWY
- MAJOR
- MINOR
- Rivers

V08-0006/TM69-0048C-Rosser
2189 Minal Street - APN 035-213-08



0.25

0.5

Miles

1:5,000

Prepared By:
Gina Hunter
Planning Services Department
December 2, 2009

Exhibit A

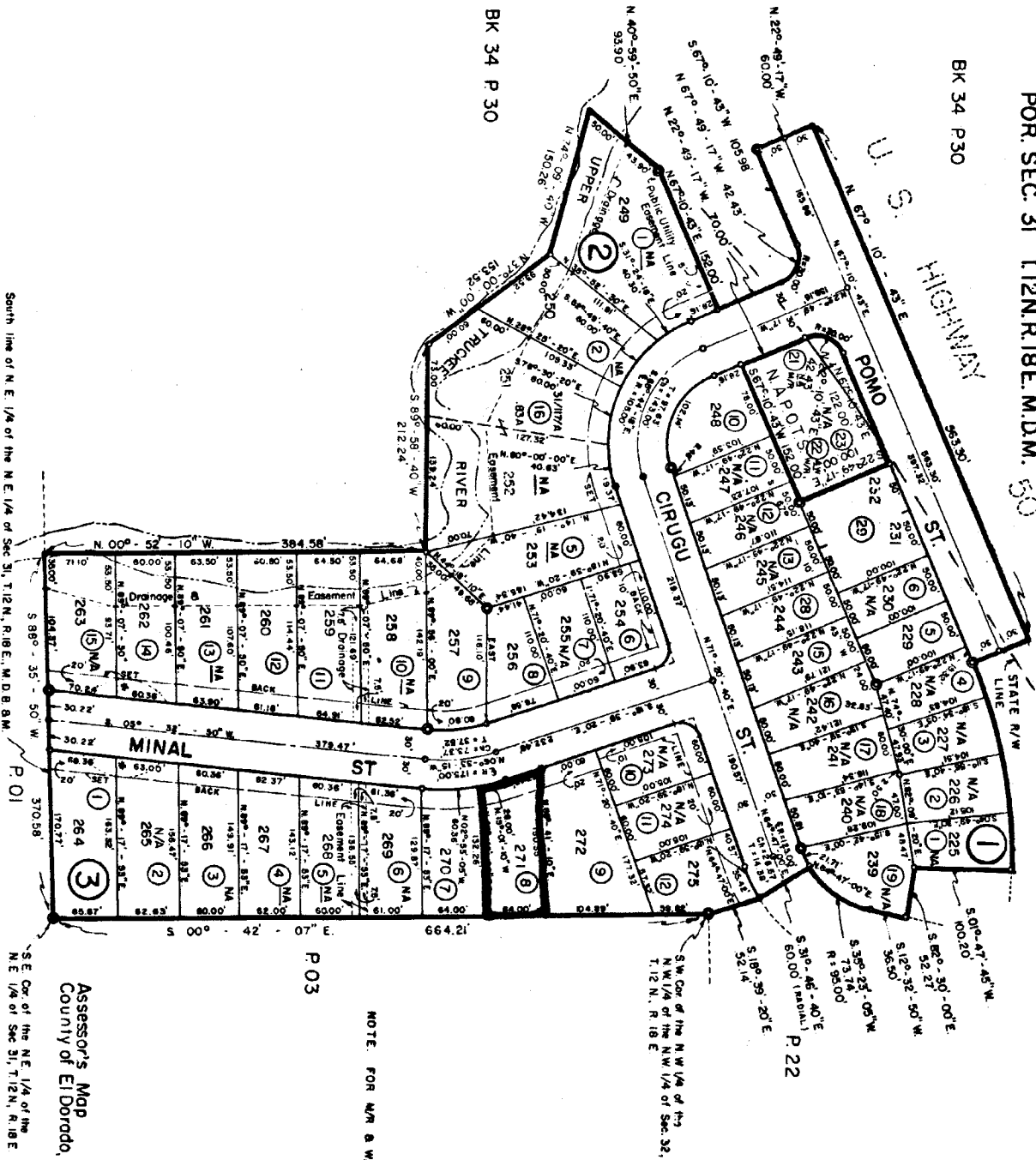
TAHOE PARADISE UNIT No 56
 POR. SEC. 31 T12N.R18E.M.DM. 50

35.21

BK 34 P30

U.S. HIGHWAY

BK 34 P30



South line of N.E. 1/4 of the N.E. 1/4 of Sec. 31, T12N, R18E, M.D.B.M.

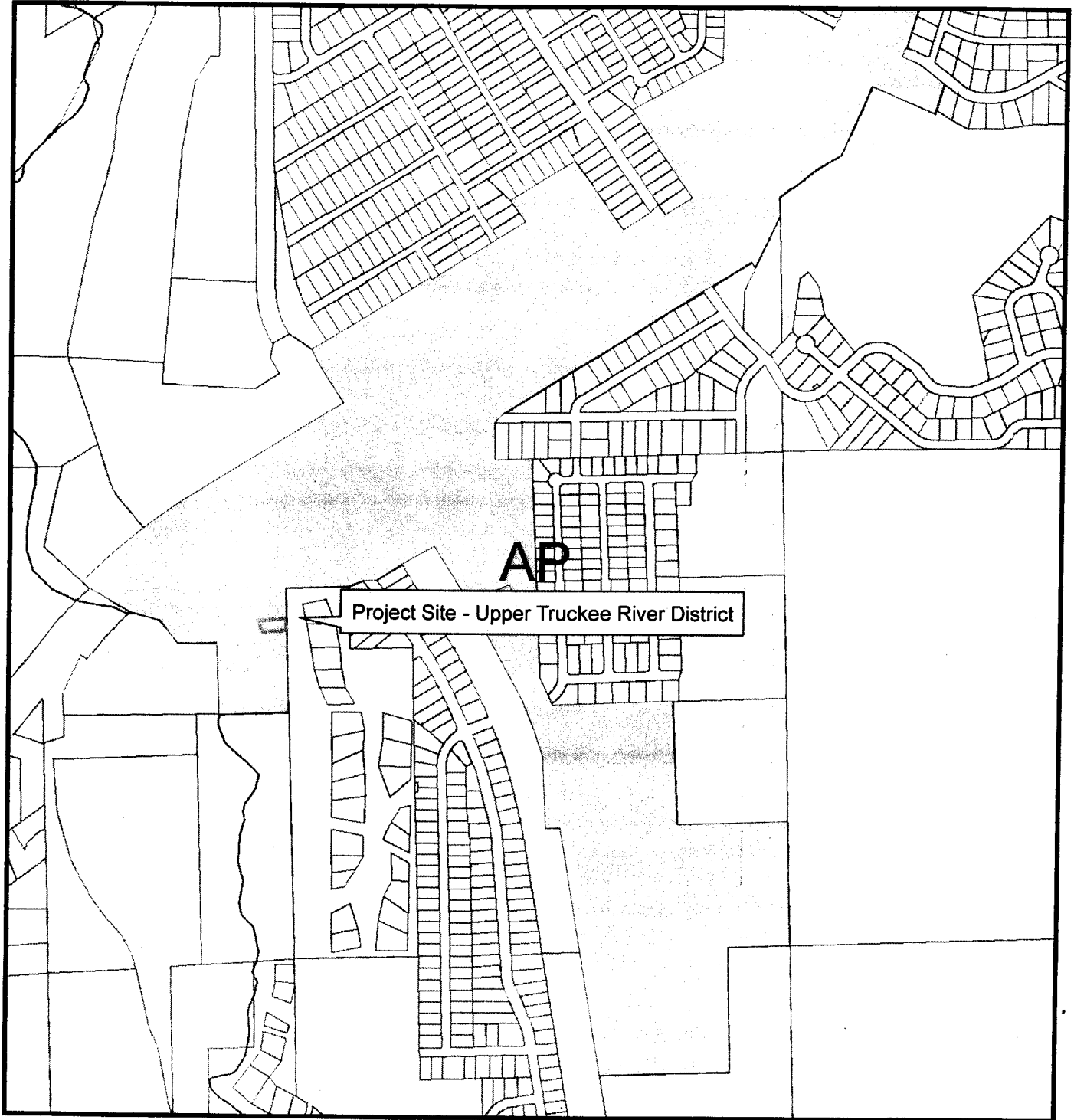
Assessor's Map
 County of Eldorado, Calif.

JUL 18 2005

NOTE: FOR N/W & W/R SEE P. 20

EXHIBIT B

Meyers Community Plan



V08-0006/TM69-0048C-Rosser
2189 Minal Street - APN 035-213-08

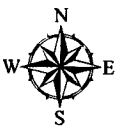
GENERAL PLAN DESIGNATION

AP - Adopted Plan

Meyers Community Plan - Special District No. 5

0 500 1,000
Feet

1:9,500

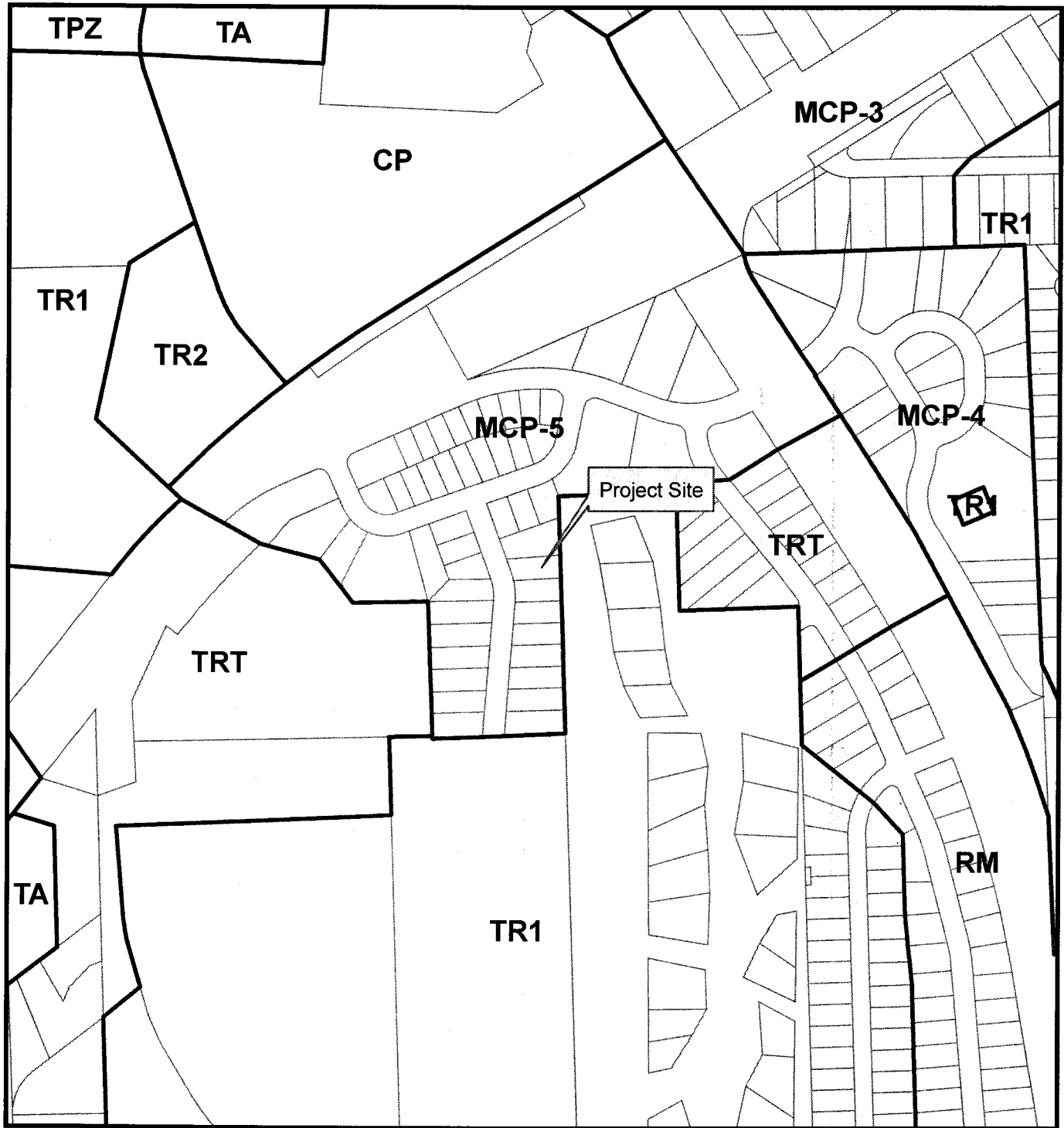


Prepared By:
Gina Hunter
Planning Services Department
December 2, 2009

Exhibit C

09-1411.A.11

Zoning District Map



V08-0006/TM69-0048C-Rosser
2189 Minal Street - APN 035-213-08

LAND USE ZONING DESIGNATION
MCP(-3, -4, and -5) - Meyers Community Plan Districts
TRT - Tourist Residential District
TR1 - One-family Residential District
TA - Tahoe Agricultural District
TPZ - Timberland Preserve Zone District

0 500 1,000 Feet

1:5,000



Prepared By:
Gina Hunter
Planning Services Department
December 2, 2009

Exhibit D

09-1411.A.12

MAP OF
TAHOE PARADISE UNIT No 56
 COMPRISING A PORTION OF SECTION 31, T. 12N., R. 18 E., M. D. B. & M.
 COUNTY OF EL DORADO, CALIF. MAY, 1967 SCALE: 1 IN. = 100 FT.

HAROLD S. PRESCOTT - CIVIL ENGINEER
 SHEET 1 OF 2 SHEETS

The undersigned, owners of record title interest, hereby consents to the preparation and recording of this map, and hereby conveys and offers for dedication to the County of El Dorado the street and other public ways shown hereon, including the underlying fee thereto, for any and all public purposes, and the easements and rights-of-way shown hereon, for the purposes described below:

- (a) Rights-of-way and easements along the Upper Truckee River for use by County, State, Federal and other public agencies for improvement of drainage, flood control and preservation of fish spawning habitat for a minimum of 10 feet from the mean high water line; no fences or other private structures shall be erected in this easement and no removal of gravel, sand or rock to be allowed, and the continuation of good conservation practices to be followed.
- (b) Rights-of-way and easements for water, gas, sewer and drainage pipes, and for poles and underground wires and conduit for electric and telephone service together with any and all appurtenances appertaining thereto, on, over and across those strips of land lying between the rear and/or side lines of lots and the lines shown hereon designated "Public Utility Easement."
- (c) Easements for public utility poles, wires and crossarms over the front 10 feet of all lots at any street property line.
- (d) Easements for guy wires and anchorages over, under and on those strips of land lying 2 feet on either side of all lot side lines and extending 25 feet back from the front and/or rear property lines.
- (e) Easements for drainage of surface water over those strips of land lying between the lines hereon designated "Drainage Easement Line."
- (f) Easements for light and air over those strips of land lying between the front lot line and those lines shown hereon and designated "SET BACK LINE," said strips of land to be kept open and free from buildings.

TAHOE PARADISE, INC., a corporation

Jim A. E. Wilson, Pres.
 President
Francine L. Ewalt, Sec.
 Secretary

STATE OF CALIFORNIA

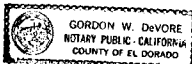
J. A. LEGARRA
 STATE HIGHWAY ENGINEER
H. L. Hamer
 District Engineer, District III

STATE OF CALIFORNIA } ss
 County of El Dorado

On this 5th day of June, 1967, before me, the undersigned, a Notary Public in and for said State, personally appeared Jim A. E. Wilson, known to me to be the President, and Francine L. Ewalt, known to me to be the Secretary of the Corporation that executed the within instrument, known to me to be the persons who executed the within instrument on behalf of the Corporation therein named, and acknowledged to me that such Corporation executed the within instrument pursuant to its by-laws or a resolution of its board of directors.

WITNESS my hand and official seal.

Sheena W. DeVore
Gordon W. DeVore
 Notary Public in and for said State



STATE OF CALIFORNIA } ss
 County of Yuba

On this 19th day of July, 1967, before me, the undersigned, personally appeared W. L. Warren, known to me to be the District Engineer, District III, Division of Highways of the State of California, known to me to be the person who executed the within instrument on behalf of the State of California, and acknowledged to me that he executed the within instrument pursuant to the authority vested in him by the State of California.

WITNESS my hand and official seal.

Marie H. Anderson
 Notary Public in and for said State



I, Harold S. Prescott, hereby certify that the survey and final map of this subdivision, were made under my direction in June, 1967 and are true and complete as shown; that the monuments will be of the character and will occupy the positions indicated, will be set by October 31, 1968 and will be sufficient to enable the survey to be retraced.

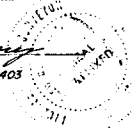
Date June 4, 1967

Harold S. Prescott
 Registered Civil Engineer
 State of California No 7400



I, Fred G. DeBerry, hereby certify that I have examined this final map, that it is substantially the same as the revised tentative map of this subdivision approved on April 24th, 1967 by the Board of Supervisors, that it is technically correct, and that all provisions of Subdivision Map Act and of all applicable county ordinances have been complied with.

Fred G. DeBerry
 County Surveyor
 El Dorado County California L.S. 2403



I, C. A. Steves, Jr., hereby certify that, according to the recorders of this office, there are no liens against this subdivision or any part thereof for unpaid State, County, Municipal or local taxes or special assessments collected as taxes, except taxes or special assessments not yet payable, provided that the final map is accepted for record and filed prior to the next succeeding lien date.

Date Aug. 15, 1967

C. A. Steves, Jr.
 Tax Collector and Redemption Officer
 El Dorado County, California

I, Ronald A. Brazill, hereby certify that all required construction plans and specifications were approved and that the subdivider has executed the necessary agreement and submitted the required bond to secure the completion of the required improvements for this subdivision.

Ronald A. Brazill
 County Engineer
 El Dorado County, California

I, Bruce W. Robinson, hereby certify that this final map conforms substantially to the revised tentative map of this subdivision approved on April 24th, 1967 by the Board of Supervisors, and that all conditions imposed upon said approval have been satisfied.

Bruce W. Robinson
 Planning Director,
 El Dorado County, California

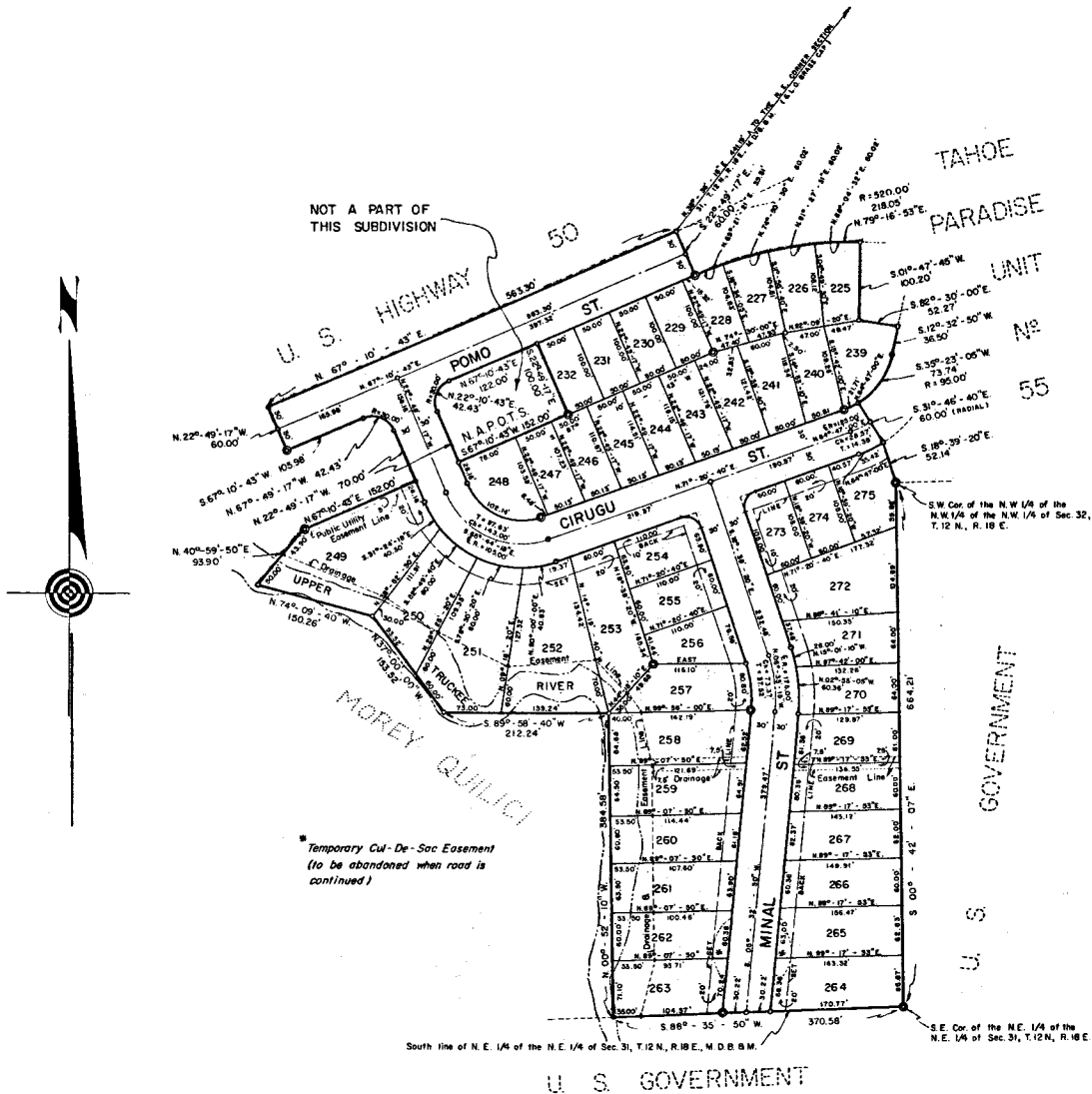
I, Carl A. Kelly, hereby certify that the Board of Supervisors, by order adopted Aug. 21st, 1967, approved the final map of this subdivision and accepted for public use the streets and other public ways and easements shown hereon and offered for dedication.

Carl A. Kelly
 County Clerk, Ex-Officio Clerk
 of the Board of Supervisors,
 El Dorado County, California
 By _____
 Deputy

I, James W. Sweeney, hereby certify that Inter-County Title Company title certificate No 74132, was filed with this office, and that this final map was accepted for record and recorded in Subdivision Map Book 7, Page 88, Document No 14436, on August 22, 1967, 57 Min. past 12 o'clock A. M.

JAMES W. SWEENEY
 County Recorder
 El Dorado County, California
 By Donna Brennan
 Deputy

MAP OF
TAHOE PARADISE UNIT No 56
 COMPRISING A PORTION OF SECTION 31, T. 12 N., R. 18 E., M. D. B. & M.
 COUNTY OF EL DORADO, CALIF. MAY, 1967 SCALE: 1 IN. = 100 FT.
HAROLD S. PRESCOTT - CIVIL ENGINEER
 SHEET 2 OF 2 SHEETS



NOTES:

- The meridian of this survey is identical to that of TAHOE PARADISE UNIT No 55.
- All lot corners and curve points have capped iron pipes at least 3/4 inch diameter stamped "R. C. E. 7400", except those backing on the river.
- All street corners have a 20 foot radius curve at the property line unless otherwise shown.
- All distances on curved lines are chord measurements.
- Distances along the frontages at corner lots are to the intersection of street lines produced, unless otherwise shown.

— LEGEND —

- Drainage and/or Public Utility Easement Line
- SET BACK LINE
- 2 inch iron pipe monument stamped "R. C. E. 7400" ○
- Current edge of Upper Truckee River

4-3311 11-76-1

11-76-1

D-88-H

D-88-A

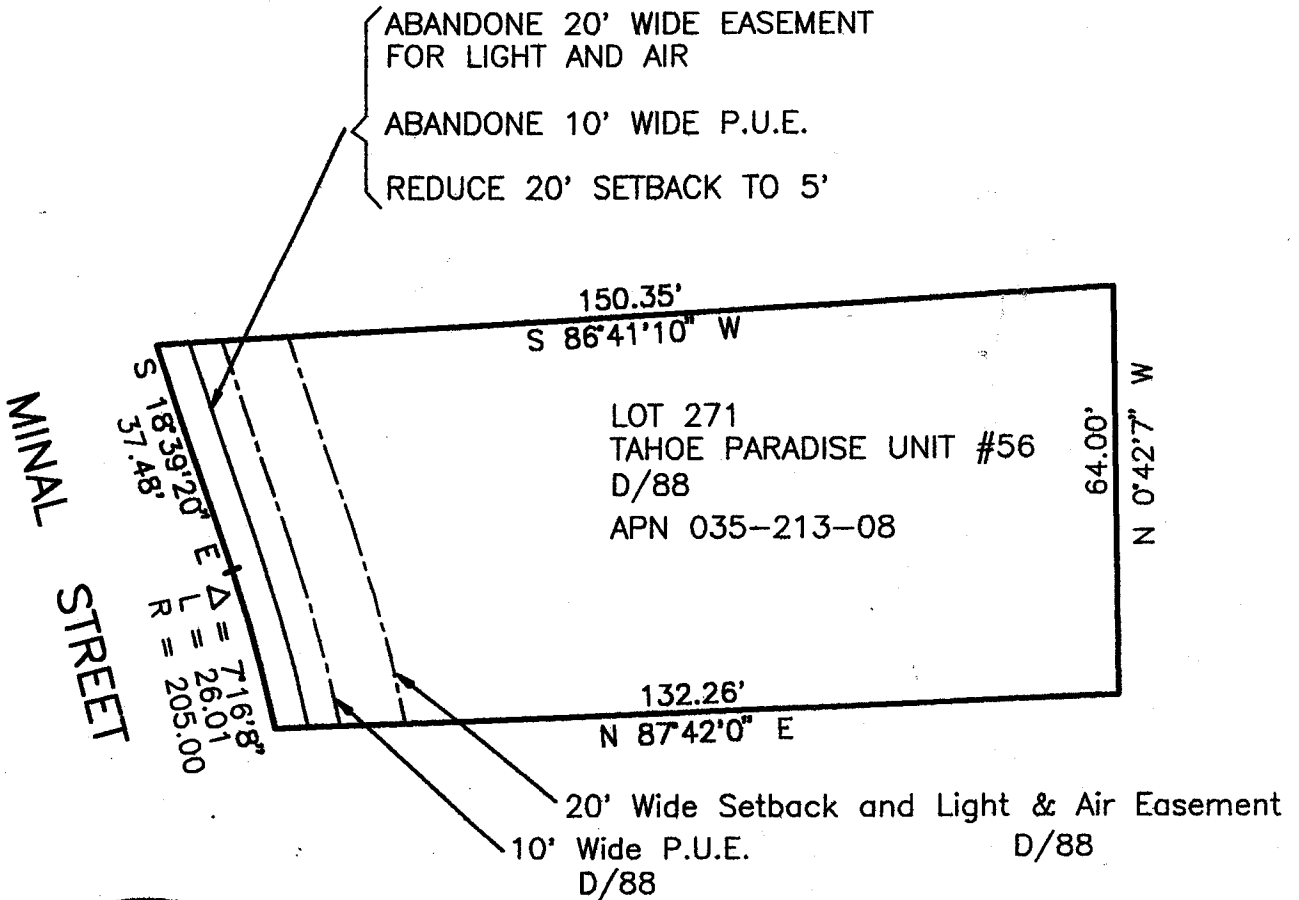
MAP AMENDMENT

TO

LOT 271

TAHOE PARADISE UNIT #56

EL DORADO COUNTY - CALIFORNIA



9/22/09



SCALE: 1" = 30'

EXHIBIT F

TM 69-0048 C

V 08-0006