

RECEIVED
BOARD OF SUPERVISORS
EL DORADO COUNTY

2010 JAN -5 PM 4:48

■ Alan Hines
■ 4226 Greenview Dr.
■ El Dorado Hills, CA 95762

January 4, 2010

El Dorado County
Board of Supervisors
330 Fair Lane
Placerville CA 95667

Re: Board of Supervisors Hearing - P09-0007/Z09-0005

In accordance with the Notice of Public Hearing for the above captioned project, I have enclosed a number of documents for inclusion into the record confirming the denial of this project by the Planning Commission. Specifically the project should be denied based upon two primary failings:

- 1) The applicant does not have approval from the Southpointe Home Owners Association permitting subdivision of the parcel. Neither does the applicant have sufficient rights of access to the proposed new parcel across Southpointe's private roads. Please reference Exhibit A.
- 2) The buildable area identified for the proposed new parcel was created without permit. If not for this unauthorized grading there is no remaining area with slopes of less than 30% capable of supporting a second home site. Please reference Exhibit B.

In short, the subject property only marginally satisfied the criteria to become a parcel in 1992, supporting just one home site. Had the site not been illegally graded, the same conclusion is unavoidable (please reference Ms. Gina Hunter's letter marked with a yellow flag within Exhibit B). The property is too steeply sloped to lend itself to division.

I respectfully request that you join the Southpointe HOA membership, County Planning Commission and the El Dorado Hills Area Planning Advisory Committee and deny the project.

Sincerely,



Alan Hines

DOUGLAS R. ROECA
ATTORNEY AT LAW

3062 CEDAR RAVINE ROAD, PLACERVILLE, CA 95667
TELEPHONE (530) 626-2511 FACSIMILE (530) 626-2514
EMAIL droeca@droecalaw.com

November 25, 2009

Mr. Jon Fong
Development Services
2850 Fairlane Court, Building C
Placerville, CA 95667

Re: P09-0007 and Z09-0005 (APN 110-590-54-100), Owned by Greg Gularte
Our File No. 12,044

Dear Mr. Fong:

I represent Alan Hines, the owner of APN 110-633-13-1, which is contiguous to Mr. Gularte's parcel that is the subject of the above applications. As you are aware, Mr. Gularte's and Mr. Hines' parcels are both within the Southpointe subdivision and are subject to the subdivision CC&Rs. Mr. Hines has made his position clear to you that he believes that the CC&Rs barred Mr. Gularte from further subdivision. Mr. Gularte claimed the CC&Rs did not bar him from subdividing his parcel.

In order to remove any doubt, the members of the Southpointe subdivision recently adopted by a vote of 46 to 19 an amendment to Article 4, Section 19 of the CC&Rs that provides as follows:

Article 4, Section 4.17 Further Subdividing of Lots and Properties. No Lot or Property shall be further subdivided unless such further subdivision is first approved by a vote of two-thirds (2/3) of all Members.

Mr. Gularte has not secured the necessary two-thirds membership approval. Approval is a necessary precondition for him to proceed with the present applications. It would be inappropriate for the County of El Dorado to continue to process these applications as if he had the right to subdivide when he does not. Hence, it is requested that you revise your staff report to reflect this restriction and recommend denial until the applicant has secured the necessary two-thirds membership approval.

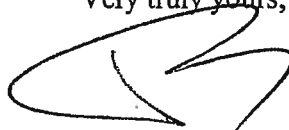
For your information, as soon as Mr. Gularte realized that the Southpointe property owners likely would vote to limit the subdivision of parcels, he asserted, for the first time, that he is not bound by the CC&Rs because his property was never duly annexed into Southpointe. This argument is fresh out of the closet and lacks any substance. If he chooses to go down this path, he will need to take it to court. We've no doubt the court will confirm that Mr. Gularte and his parcel are subject to the requirements and limitations of Southpoint's

Mr. Jon Fong
November 24, 2009
Page 2

CC&Rs. In fact, Gularte purchased directly from Southpointe Partners, and a copy of the sales brochure he received at the time of acquisition is enclosed.

Thank you for your continuing review of this matter. Let me know if you need any further information from me.

Very truly yours,

A handwritten signature in black ink, appearing to be 'DR', written over a large, stylized, handwritten letter 'R'.

DOUGLAS R. ROECA

DRR/cnb

cc: Louis Green

Each Member of the Board of Supervisors

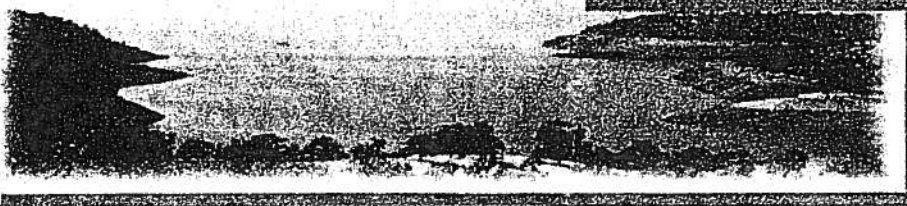
Each Member of the Planning Commission

Enclosure

A RARE FIND....

ESTATE PARCELS IN SOUTHPOINTE

These ten to 20 acre sites are located in the gated community of Southpointe in El Dorado Hills, where lake and land come together to form spectacular vistas over Folsom Lake. As you wind through the community, you'll find many grand homes nestled on one-acre home sites and larger.



Private, but away from the hustle & bustle makes this community very desirable. Hwy 50 is just minutes away taking you east to South Lake Tahoe & west to Sacramento and the Bay area. You'll find the finest schools, shopping and year round recreation, not to mention bike trails and boating just minutes away.

These estate parcels are unique & very desirable, some with incredible Folsom Lake Views while there are others that are level to gentle slopping for a very useable home site. Truly for the most discriminating buyer looking for a one-of-a-kind home site, somewhat rural feeling, yet very exclusive.

See Reverse Price List
And Parcel Map

Debi Ambroff

(916) 440-9232
(916) 939-3140



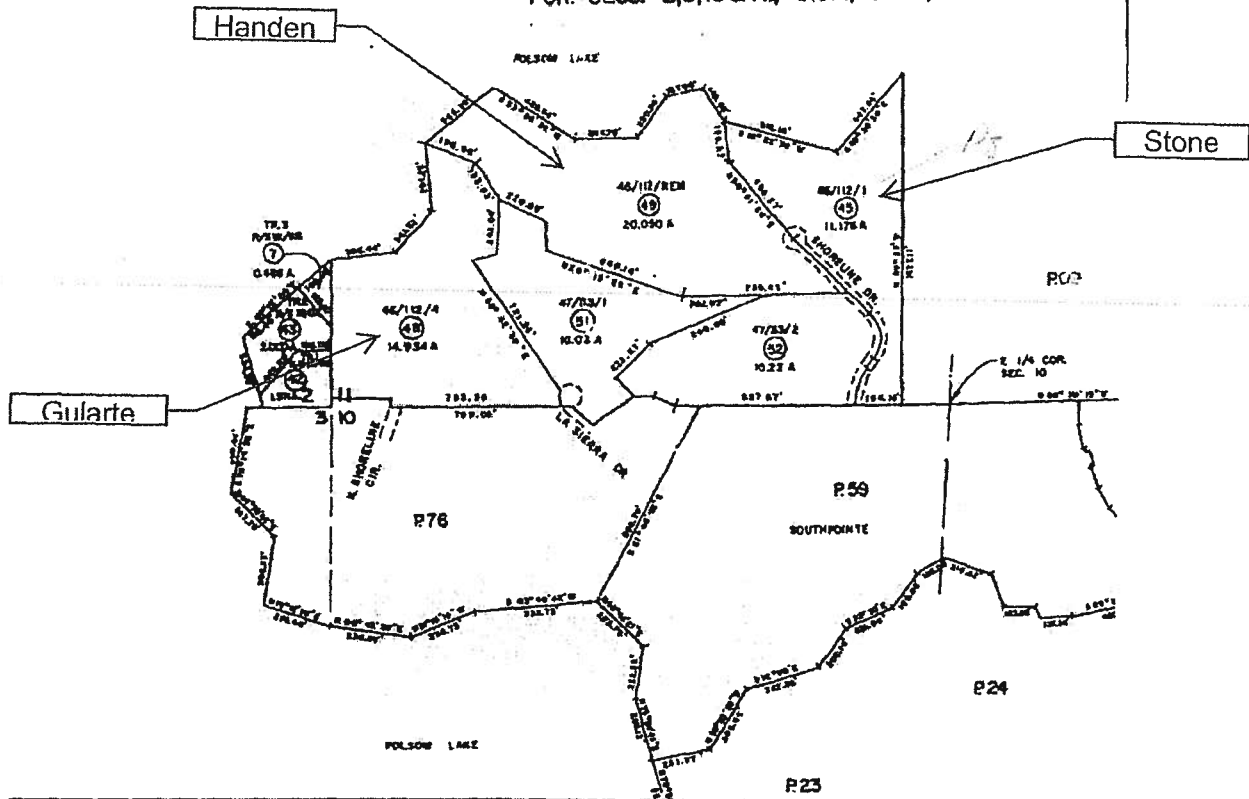
President's Elite
Top 2% Internationally

**COLDWELL
BANKER**

Visit my website debi4homes.com

The seller and other sources have supplied the above information. Coldwell Banker believes this information to be correct, but has not been verified and assumes no legal responsibility for accuracy. Buyers should investigate these issues to their own satisfaction.

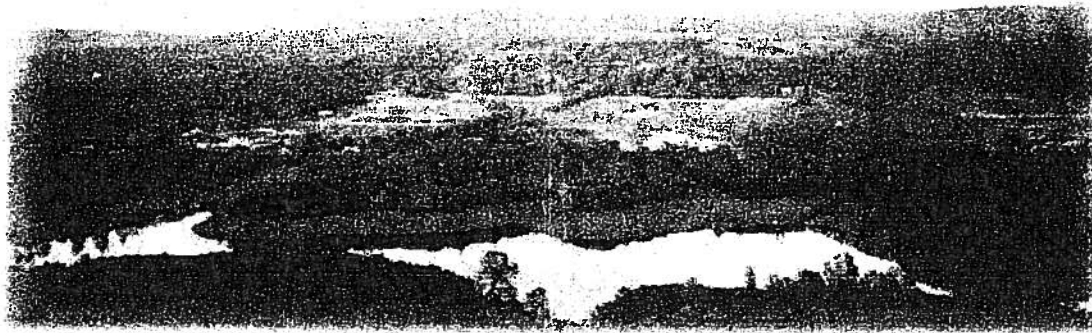
POR. SECS. 2,3,10&11, T10N, R8E, M.D.M.



*Lot #45	\$425,000	11.17 Ac	Useable/level to gentle terrain
Lot #48	Currently off market - Call Listing Agent for Details		
*Lot #49	\$525,000	20.05 Ac	Zoned RE10 - gentle to rolling to sloped terrain
*Lot #51	\$725,000	10.03 Ac	Folsom Lake, New York Creek Views and Sacramento City Light View
Lot #51	\$2,400,000	10.22 Ac	"Top of Mountain" - Folsom Lake, New York Creek and Sacramento Light Views. Very useable level pad, extensive site work completed, water meter paid and sewer available
Lot #52		10.03 Ac	

Note: Lot 51 & 52 are being marketed together unless #51 sells first independently

*EDU'S purchased for water tie-in to existing EID Irrigation system in subdivision



The seller and other sources have supplied the above information. Coldwell Banker believes this information to be correct, but has not been verified and assumes no legal responsibility for accuracy. Buyers should investigate these issues to their own satisfaction



MEMORANDUM

DATE: November 23, 2009
TO: Southpointe Owners
FROM: Shelley Nulton, Association Manager
SUBJECT: CC&R Amendment Results

At a special meeting of the membership held on November 18, 2009, the ballots for the 5th amendment to the CC&Rs were tabulated. For the amendment to pass, at least 43 homeowners needed to vote in favor of the following amendment:

4.17 Further Subdivision of Lots and Properties. No Lot or Property shall be further subdivided unless such further subdivision is first approved by a vote of two-thirds (2/3) of all Members.

RESULTS:

Approve	46 votes
Disapprove	19 votes
Invalid	5 votes
Undecided	2 votes

Once the document has been recorded with the County a copy will be mailed to all property owners.



August 13th 2005

Gregory Gularte
P. O. Box 490
Lincoln, CA 95648

Regarding: Lot 704 – 10 acres - APN 06-250-48-100

Mr. Gularte,

First we would like to apologize for the time that it has taken to respond to your verbal request regarding Lot 704. All of the board members have been either on vacation or extended business trips that precluded their availability to view the lot and give the proper attention to your unique request

The request you have asked the board to consider would grant egress to your lot from a different street (Shoreview) than originally planned while continuing to allow the existing street access (La Sierra Drive) to remain. The stated reason for this request (7/15/05) was to allow simpler access to the your chosen home site while still allowing for an additional home via lot split or a small subdivision as well on your 10 acres.

The board has spent considerable time and resources in evaluating your request as it has potential impact on your immediate neighbors, the remaining large lots as well as the entire Southpointe development. Our conclusion is to allow access to the association's private road (Shoreview) as you have requested for lot 704 with the following conditions:

1. You must abandon the La Sierra road access in writing and file such with the property description at the county recorders office.
2. Association makes no warranties to who owns the property between your parcel and Shoreview. It is your responsibility to provide detailed maps, legal descriptions etc. to verify ownership.
3. If the property in question (item 2 above) is owned by others it shall be your sole responsibility to gain their approval.
4. All road drawings and grading plans in addition to what is described in the CC&R's must be approved by the association prior to the commencement of any construction
5. The existing association homeowners cannot be burdened by any additional costs or dues increases associated with the approval of this request.
6. Access to Shoreview will not be allowed without all the items noted above completed to the associations satisfaction

In granting this request the board agrees with your assessment that the proposed building site you have selected would be beneficial to you both economically and aesthetically if entered from Shoreview and not La Sierra Drive. This is an accommodation to meet your

needs and is it not intended to indicate the association's support or reluctance for additional homes beyond what has already been mapped and disclosed.

All the association members purchased here with a clear understanding of the depth and breath of the development. Any unplanned growth beyond what all agreed to when they originally purchased their lots would require consideration for traffic flow, reserve allocations, security, etc. In addition, a meeting of homeowners to allow for the proper review and comment period would be essential for any proposed rezoning of this magnitude.

This approval will allow you the access of your choice to the parcel while still continuing to maintain the integrity of our community. If you have any future questions or require additional clarification please do not hesitate to contact our property management representative at the number provided below.

Sincerely,

Allyson L. Lynch on behalf of -

Southpointe Homeowners Association - Board of Directors
Kocal Management Group, Inc.
P.O. Box 1459
Folsom, California 95763
Tiffany Lynch - Account Manager (916) 985-3633 ext 108

CC: Angius & Terry Attorneys LLP

■ Alan Hines
■ 4226 Greenview Dr.
■ El Dorado Hills, CA 95762

October 6, 2009

Mr. Jon Fong
El Dorado County, Planning Services Dept.
2850 Fairlane Ct.
Placerville CA 95667

RECEIVED
OCT 06 2009
EL DORADO COUNTY
BUILDING DEPARTMENT

Re: Unauthorized Grading (Permit #170853), Parcel Split (P09-0007/Z09-0005)

Dear Mr. Fong,

As you are aware, the applicant for parcel split (P09-0007) Mr. Gularte, without permit, has graded large portions of his site hoping to create a second building pad, allowing for the parcel split. I have attached as Exhibit A, two El Dorado County letters dated January 14, 2008 and June 10, 2009, acknowledging the unauthorized grading. I hereby request the County mandate the restoration of the site, consistent with the As-Built Grading Plan, dated February 15, 2008, attached hereto as Exhibit B.

The following are the salient facts:

- Property acquired 2005
- Grading Permit issued April 2006
- Grading began and was completed in 2006
- Authorized grading disturbed 29,570 sq ft
- Unauthorized building pad and secondary road
 - Disturbed in excess of 20,000 sq ft
 - 977 cu yd of cut and 1,228 cu yd of fill were created
- Parcel Split and Rezone application May 2009, utilizing unauthorized pad
- Without unauthorized pad, parcel split is not viable

The authorized and unauthorized grading began and was completed in 2006. Attached as Exhibit C are photographs of the site in 2004 and 2008 clearly depicting the scope of the 2006 work. As annotated in the photographs there was significant grading performed beyond that authorized under the grading permit. The applicant, without authorization, disturbed in excess of 20,000 square feet creating the pad near La Sierra Road ("La Sierra Pad") and the unauthorized secondary road ("Secondary Road") connecting to the north pad ("Permitted Pad"), please reference Exhibit D.

The As-Built Grading Plan, Exhibit B, indicates the disturbed area for the work completed in compliance with the permit as 29,750 square feet, just slightly below the 30,000 square foot threshold for reasonable use, established in General Plan Policy 7.1.2.1. If the unauthorized disturbed areas associated with the La Sierra Pad and the Secondary Road are included, total site disturbance exceeds 50,000 square feet.

Carlton Engineering conducted a detailed evaluation of the La Sierra Pad and determined that 711 cubic yards of cut and 962 cubic yards of fill were required to build the pad, disturbing in excess of 14,000 square feet, please reference Exhibit E. In addition, it has been estimated the unauthorized road from the La Sierra Pad to the Permitted Pad resulted in an additional 266 cubic yards of cut and fill respectively and disturbed in excess 5,000 square feet in the creation of the 281 by 16 foot wide road. In total, the unauthorized grading produced in excess of 977 cubic yards of cut and 1,228 cubic yards of fill. These quantities far exceed the 250 cubic yard County limit in effect at the time.

The applicant is a geotechnical engineer and is intimately familiar with County grading requirements. It would be inappropriate for the County to allow him to profit from such willful and intentional violation. I respectfully request that the County not reward this type of action and thereby require that the applicant return the slopes to their original condition. Had the site not been altered without authorization there would be no area with slopes of less than 30 percent within the entire parcel.

In short, the subject property only marginally satisfied the criteria to become a parcel in 1992, supporting just one home site. Due to the unauthorized grading performed by the applicant, the same conclusion is unavoidable. The property is too steeply sloped to lend itself to division as noted by County staff in its June 10, 2009, letter attached as Exhibit A. I request that staff recommend denial of this project.

Sincerely



Alan Hines

Cc: Lou Rain, Planning Commissioner District 1
John Knight, Supervisor District 1
Jim Wassner, Code Enforcement
Tom Burnett, Building Department

Exhibit A

County Letters

January 14, 2008

June 10, 2009

DEVELOPMENT SERVICES DEPARTMENT

County of
EL DORADO

<http://www.co.el-dorado.ca.us/devservices>

170853

File
PLANNING
SERVICES



PLACERVILLE OFFICE:

2850 FAIRLANE COURT
PLACERVILLE, CA. 95667
(530) 621-5355
(530) 642-0508 Fax
Counter Hours: 7:30 AM to 4:30 PM
planning@co.el-dorado.ca.us

LAKE TAHOE OFFICE:

3368 LAKE TAHOE BLVD. SUITE 302
SOUTH LAKE TAHOE, CA 96150
(530) 573-3330
(530) 542-9082 Fax
Counter Hours: 7:30 AM to 4:30 PM
tahoebuild@co.el-dorado.ca.us

EL DORADO HILLS OFFICE:

4950 HILLSDALE CIRCLE, SUITE 100
EL DORADO HILLS, CA 95762
(916) 941-4967 and (530) 621-5582
(916) 941-0269 Fax
Counter Hours: 7:30 AM to 4:30 PM
planning@co.el-dorado.ca.us

January 14, 2008

Mr. Greg Gularte
PO Box 490
Lincoln, CA 95648

RE: Revision to Issued Grading Permit - Planning Review
Assessor's Parcel No. 110-590-54 (Old APN 067-250-54); Building Permit No. 170853

Dear Mr. Gularte:

Planning Services is reviewing the revision to the above issued grading permit for compliance with El Dorado County regulations and the RE-10 zone district.

The natural slopes on the subject parcel are between 45 and 50 percent. Development on slopes greater than 30 percent is prohibited by General Plan policy 7.1.2.1, unless reasonable use of the property would otherwise be denied. The original grading permit was approved based on a disturbance area of approximately 30,000 square feet. This is the threshold for staff approval of development on slopes exceeding 30 percent. The revised grading plan shows an area of disturbance of approximately 50,000 square feet. This is beyond staff's authority to approve, and will need to be reviewed by the Planning Commission for a determination of reasonable use.

The application you will need is a Site Plan Review, and a copy is enclosed for your use. It is also available on the Planning Services website should you need additional copies. The associated application fee is \$300, plus time and materials if additional processing time is required beyond the initial 3 staff hours allotted. The submittal requirements are spelled out in the application and a checklist is included.

Please note that the Planning Commission may or may not approve your application. It is possible that upon review, restoration of the site may be required. Also, the original permit had the dwelling outline labeled as 'house footprint', while the revised plan is labeled as 'possible building site'. The Planning Commission will not approve grading on slopes for a project which is a concept only. Please confirm that this is where the building site will be and revise the plan prior to submittal of the Site Plan Review Application.

You may call for an appointment to submit your application with any Planner in either our Placerville or El Dorado Hills office. If you have any further questions, you may contact me at (916)358-3600.

Sincerely,

Ellen Van Dyke
Associate Planner

Enclosure: 1. Site Plan Review Application
2. Agreement for Payment of Processing Fees (Time & Materials form)

DEVELOPMENT SERVICES DEPARTMENT

COUNTY OF
EL DORADO

<http://www.co.el-dorado.ca.us/devservices>

PLANNING
SERVICES



PLACERVILLE OFFICE:
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Counter Hours: 8:00 AM to 4:00 PM
tahoebuild@co.el-dorado.ca.us

June 10, 2009

Greg Gularte
1560 Ridgeview Circle
Auburn, CA 95603

**Re: Determination of Application Completeness
Lakeview Villas/ Z09-0005/P09-0007
APN 110-590-54**

Dear Mr. Gularte:

Planning Services has reviewed your application and found it to be complete. Preliminary review of the project indicates that it may be exempt from CEQA. Staff will shortly begin review of the project to determine whether it is subject to environmental review under the California Environmental Quality Act (CEQA). An evaluation will also begin of the proposed project's consistency with applicable State and County regulations.

Our review is based on the following project description:

The project would include a Rezone of the property from the Estate Residential -10 Acre (RE-10) zone district to the Estate Residential-5 Acre (RE-5) zone district. A Parcel Map is requested to divide the property into two (2) parcels, Parcel No. 1 to be 8.62 acres and Parcel 2 to be 5.6 acres.

Please review this description carefully. If you believe the project description is incorrect or does not include components that you intend to include as part of the project, please contact us immediately. Further review of the project will be limited to this project description unless you provide us with corrections within five (5) days of receipt of this letter. We reserve the right to request additional information to clarify any changes or additions that are made to the project description in response to this letter, as our completeness determination is based upon the material provided with your application.

Advisories:

1. Review of Grading Permit 170853 for the site and historical files, indicates that grading has occurred that exceeds the limits of which was approved. The possible

building area for Proposed Lot 2 has been graded without a grading permit.

2. The project site was created from Parcel Map 92-30 and was Lot No. 4 of said map. This was the third phase of the larger Southpointe project. The third phase was originally envisioned to be divided into smaller lots, which included a rezone component; however, due to topography, the four (4) lot Parcel Map was processed. In 1992, it was determined that 75 percent of the overall site to be divided exceeded 30 percent slope. More critically, several areas contained slopes exceeding 40 percent slope. County regulations at that time required that building sites not exceed 40 percent slope (Design and Improvement Standards Manual, Section 2.B). In addition, areas over 40 percent slope were to be designated as open space. The analysis within the 1992 staff report stated that due to steep topography and limited access, viable building sites would be severely restricted. In particular, for Lot No. 4, it was questioned whether there would be sufficient areas of less than 40 percent slope for residential development and driveway construction. A driveway location was provided for Lot No. 4 to satisfy the slope and viable development concerns.

As indicated by staff in previous discussions, due to site constraints which exist today, and those identified in 1992, the project would be processed with a recommendation for denial. In accordance with CEQA Section 15270 (Projects which are Disapproved), CEQA does not apply to projects which a public agency rejects or disapproves. An Initial Study and subsequent Negative Declaration would not be prepared for this project.

Technical Advisory Committee (TAC) Review:

This application will be distributed to affected departments and agencies for review and comment. At the end of the comment timeframe (15 or 30 days), a TAC meeting will be scheduled to discuss the comments received. You will receive a separate notice of the TAC meeting date, time and location. The following topics could be discussed at the meeting: 1) review of departmental/agency concerns and draft conditions, 2) discussion of environmental document issues, and 3) review project processing timelines. It is recommended that you or your agent be present at the TAC meeting to discuss the progress of your application.

Project Cost Estimate

Based upon our preliminary review, we estimate that processing of your project will require approximately 22 planner hours. Please refer to the attached Project Cost Estimate Worksheet for additional detail on this estimate. Staff will inform you if unforeseen circumstances arise and the original cost estimate may be exceeded. Any deposit balance remaining at completion of case processing will be refunded.

Once staff has utilized the deposit (less the retainer) a monthly invoice will be mailed out. The invoice will contain detailed information of the planner's activities on your project. If

Greg Gularte
Lakeview Villas/ Z09-0005/P09-0007
Determination of Application Completeness
June 10, 2009
Page 3

payment is not received within 25 days of the date of the invoice, the County may elect to stop work and close the file, per #2 of your signed Agreement for Payment of Processing Fees. Any disputes over the charges can be discussed with management before action is taken to suspend processing or close the file.

Please note that effective January 1, 2007, all environmental documents prepared must be sent to the Department of Fish and Game for review and comment. The Department of Fish and Game charges a filing fee pursuant to section 711.4 of the California Fish and Game Code. These fees should be paid at the end of the environmental review process prior to filing the Notice of Determination. Furthermore, pursuant to Section 711.4(c)(3) of the Fish and Game Code, "no project shall be operative, vested or final, nor shall local government permits for the project be valid until the filing fees required pursuant to this section are paid."

If you have questions regarding this letter, please contact me at the number below. Also, please be aware that substantial revisions to submitted information may affect the estimate of time, cost and level of review for your project. If you have any questions regarding this letter or would like to meet, please call me at (530) [621-5378].

Sincerely,



Gina Hunter, Project Planner

Attachment: Project Cost Estimate Worksheet

Exhibit B
As-Built Grading Plan
February 15, 2008

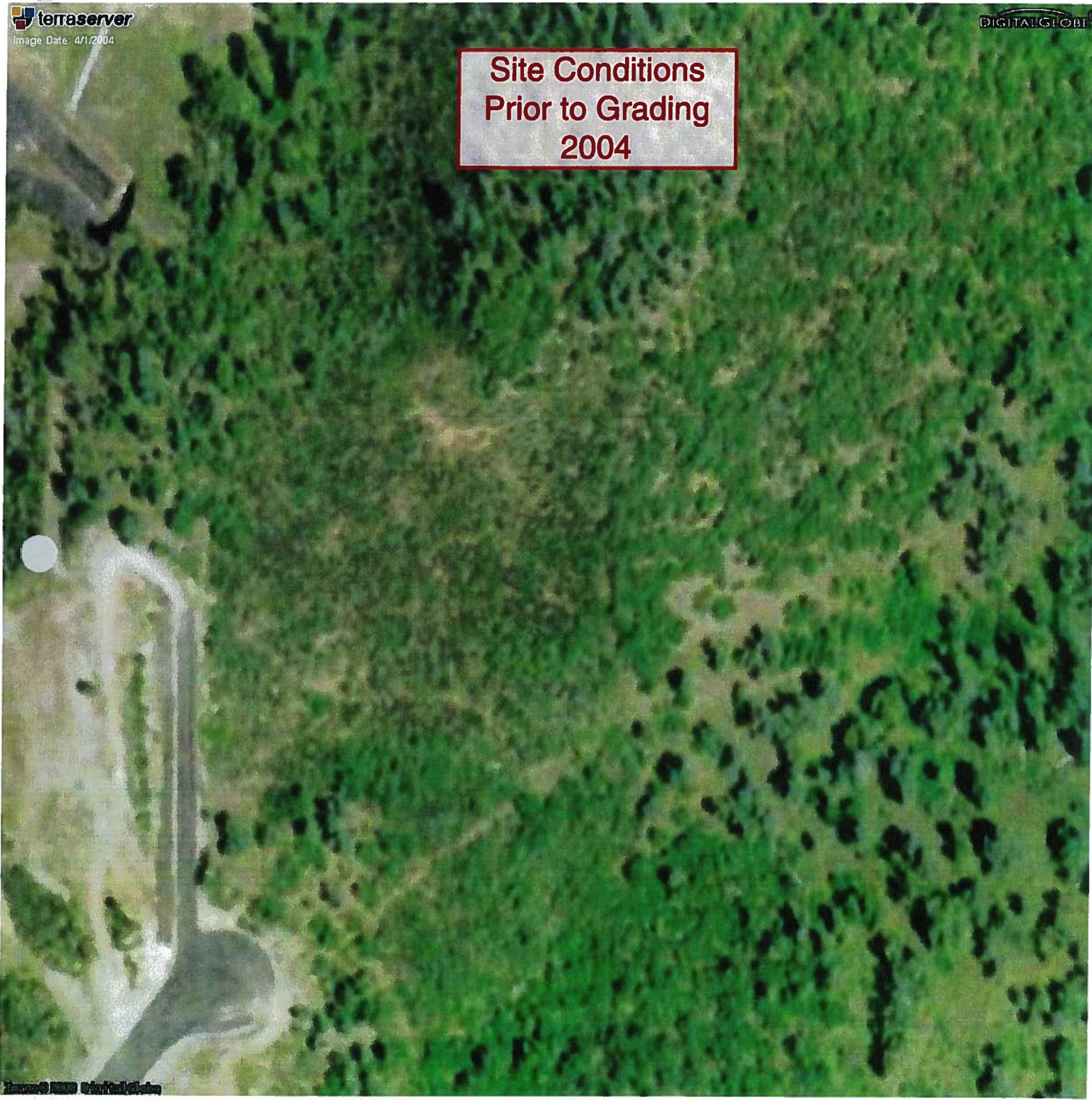
Exhibit C
Site Photographs
2004 & 2008

2004

Gularte Parcel



**Site Conditions
Prior to Grading
2004**



**Site Conditions
2008**

**Grading Permit
170853**

**Unauthorized
Grading**



Exhibit D
Unauthorized
Grading Photographs

2008

"Permitted Pad"
Disturbed Area
29,570 sq ft

Secondary "Road"
Disturbed Area
5,216 sq ft



2008

"La Sierra Pad"
Disturbed Area
14,910 sq ft





Unauthorized Road

Unauthorized Road



Exhibit E
Carlton Engineering
Slope Analysis Studies