

**EL DORADO COUNTY DEVELOPMENT SERVICES
BOARD OF SUPERVISORS
STAFF REPORT**



Staff:

Thomas A. Lloyd

SUBDIVISION MAP CORRECTION

FILE NUMBER: TM59-0012C(5)

APPLICANT: Jafar Saidiazar and Kristina Hill

REQUEST: Request to amend Subdivision Map C-35 for Lot 1233, Tahoe Paradise, Unit 16, to remove the 20 foot front setback for construction of a garage addition.

LOCATION: On the south side of Erie Circle 174 feet east of the intersection with Apache Avenue, in the Meyers area (Supervisory District V) (Exhibit A).

APN: 034-363-10 (Exhibit D)

LOT SIZE: 10,200 square feet

GENERAL PLAN: Adopted Plan (AP): TRPA Plan Area Statement 122 (Exhibit B)

ZONING: Tahoe One-family Residential (TR1) (Exhibit C)

ENVIRONMENTAL DOCUMENT: The map correction/amendment is Statutorily Exempt pursuant to Section 15268(b)(3) of the CEQA Guidelines.

RECOMMENDATION

Staff recommends the Board of Supervisors take the following actions:

1. Certify that Map Correction TM59-0012C(5) is Statutorily Exempt from the requirements of CEQA pursuant to Section 15268(b)(3).
2. Approve Map Correction TM59-0012C(5) based on the Conditions of Approval contained in Attachment 1 and the Findings contained in Attachment 2.

BACKGROUND: Tahoe Paradise, Unit 16, Subdivision Map C-35 was recorded on November 2, 1959. There is 20 foot front yard setback line that was recorded on the map for all lots. The 20 foot front yard setback on the final map appears to have been implemented in order to be consistent with the development standards of the zoning designation at the time. The applicant is requesting a reduction from 20 to 10 feet to allow the construction of a garage. The subject property has a slope of approximately 29 percent. While this request for reduction is consistent with County Zoning Ordinance Section 17.14.020 which allows a 50 percent reduction in front yard setback if the front half of the property is comprised of slopes greater than 25 percent, it was determined the applicants would need to file a map correction/amendment to proceed with the addition as the setback is shown on the final map.

Sierra Pacific Power Company (SPPC), South Tahoe Public Utility District (STPUD), American Telephone and Telegraph (AT&T, formerly SBC), Pacific Gas & Electric (PG&E), and Charter Communication have had the project proposal distributed to their staff. None have expressed concerns with modification of the setback line from 20 feet to ten feet.

STAFF ANALYSIS

Project Description: Request to amend the recorded final map for Tahoe Paradise Unit 16 subdivision to remove the 20-foot front setback line required by Subdivision Map C-35 for Lot 1233 only. An approved map correction/amendment will make the parcel subject only to the 20 foot front yard setback required by the Tahoe One-family Residential (TR1) Zone District, a setback which could then be reduced by 50 percent for slope.

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 is recommended to remove the 20-foot setback line from the recorded map.

Section 16.72.040 of the County Code requires the approving authority make specific findings as set forth in Attachment 3.

Site Description: The 10,200 square foot parcel is located at approximately 6,500 feet above sea level. The parcel is covered with random aged conifers spaced apart with very little understory.

Adjacent Land Uses:

	Zoning	General Plan	Land Use/Improvements
Site	TR1, PAS 122*	AP (TRPA Regional Plan)	Single-family residence
North	TR1, PAS 122	AP	Single-family residence
South	TR1, PAS 122	AP	Single-family residence
East	TR1, PAS 122	AP	Vacant/ CA Tahoe Conservancy Lot
West	TR1, PAS 122	AP	Vacant/ U.S. Forestry Service

*Plan Area Statement 122, Tahoe Paradise Mandan

Discussion: Covered structures for cars are typical on the parcels in the surrounding subdivision because of the snowy conditions in the winter season. It is typical that they encroach into the setback as many were built either prior to building permits or with building permits but with less regard for encroachment into front setbacks and more emphasis on wintertime access with close proximity to the access road to reduce snow clearing needed.

General Plan: The General Plan designates the subject site as an Adopted Plan, being within the Tahoe Regional Planning Agency’s Regional Plan. All projects within the Tahoe Basin must be consistent with the Regional Plan which includes TRPA’s Code of Ordinances, Plan Area Statements and other TRPA regulations as well as El Dorado County’s General Plan Policies and Zoning Code. The parcel is located within TRPA Plan Area Statement (PAS) 122, which is a residential PAS.

Conclusion: Staff finds that the proposed project, as conditioned, is consistent with the above requirements of the 2004 General Plan and Section 66472.1 of the California Government Code, (Subdivision Map Act) because the removal of the recorded 25-foot subdivision setback line would not adversely impact any public agency or any party with interest in this easement.

Zoning: The project site is zoned Tahoe One-family Residential (TR1). The setbacks required by Zoning Code Section 17.56.040 are 20 feet in the front, 5 feet on the sides and 15 feet in the rear. Without the Tahoe Paradise Unit 16 20-foot setback stipulation, any future Building Permit request would be subject to the setback requirements of the TR1 Zone District and could seek up to a 50 percent reduction of said setback pursuant to County Zoning Ordinance Section 17.14.020. Staff finds the proposed map correction request, as conditioned, consistent with all applicable provisions of County Zoning Ordinance Title 17.

2004 Subdivision Map Act Section 66474, 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 by Stats. 1982, Ch. 518.)

Discussion: In order to approve the map correction/amendment, the County must find that the corrected map complies with the Government Code. Accordingly, based on comments received from public agencies, and the analysis contained within this report, staff finds that the project would not be detrimental to the public health, safety and welfare and nor be injurious to the neighborhood.

Tahoe Regional Planning Agency also requires a subdivision modification application for review and approval that is separate from the El Dorado County Map Amendment application process.

ENVIRONMENTAL REVIEW

The map correction project has been found to be Statutorily Exempt from the requirements of CEQA pursuant to Section 15268 (b) (3) stating that the approval of final subdivision maps is presumed to be ministerial and is exempt from further environmental review. Pursuant to Resolution No. 240-93, a \$50.00 processing fee is required by the County Recorder to file the Notice of Exemption.

SUPPORT INFORMATION

Attachments to Staff Report:

Attachment 1	Conditions of Approval
Attachment 2	Findings
Exhibit A	Vicinity Map
Exhibit B	General Plan Land Use Map
Exhibit C	Zoning Map
Exhibit D	Assessor's Parcel Map
Exhibit E	Subdivision Map C-35

ATTACHMENT 1

CONDITIONS OF APPROVAL

FILE NUMBER TM59-0012C(5)

Planning Services Site Specific and Standard Conditions

1. The subject Certificate of Correction is based upon and limited to compliance with the project description, the Board of Supervisors hearing exhibits marked Attachments 1 - 8 dated December 11, 2007, 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:

Request to amend Subdivision Map C-35 for Lot 1233 only to remove the 20 foot front setback to allow construction of a garage addition

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. The property and any portions thereof shall be sold, leased, or financed in compliance with this project description and the approved hearing exhibits and conditions of approval hereto. All plans (such as Landscape and Tree Protection Plans) must be submitted for review and approval and shall be implemented as approved by the County.

2. 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, as provided in Section 66474.9(b) of the California Government Code.

The applicant 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 subdivision, which action is brought within the time period provided for in Section 66499.37.

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

3. The map correction project has been found to be Statutorily Exempt from the requirements of CEQA pursuant to Section 15268(b)(3) stating that the approval of final subdivision maps is presumed to be ministerial and is exempt from further environmental review. Pursuant to

Resolution No. 240-93, a \$50.00 processing fee is required by the County Recorder to file the Notice of Exemption.

4. All Planning Services fees shall be paid in full prior to recording of the Certificate of Correction.

County of El Dorado Office of the County Surveyor

5. The applicant shall file a Certificate of Correction, prepared by an appropriately licensed professional with the El Dorado County Surveyor's Office pursuant to the Subdivision Map Act and County Code for review. Then, upon approval by the County Surveyor, the Certificate of Correction shall be recorded in the County Records Office. The property owners are responsible for all associated processing and recording fees.

ATTACHMENT 2
FINDINGS

FILE NUMBER TM59-0012C(5)

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 pursuant to Section 66472.1 of the California Government Code:

FINDINGS FOR APPROVAL

1.0 CEQA Findings

- 1.1 The map correction project is 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 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.*

The changes in circumstances are a result of the Tahoe Paradise Unit 16 subdivision being developed in 1959, prior to the existence and requirements of the current El Dorado County Zoning Ordinance. Under the current zone district, Section 17.14.020 allows a 50 percent reduction in front yard setback if the front half of the property is comprised of slopes greater than 25 percent. Without the recorded map setback, Section 17.14.020 could be applied to development on this parcel. The parcel, therefore, is difficult to develop as allowed by right (TR1) 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.*

Amend recorded Subdivision Map C-35 for Lot 1233 within Tahoe Paradise Unit 16 subdivision to remove the recorded 20-foot front yard setback line for the subject parcel, (Assessor's Parcel Number 034-363-10), would 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.*

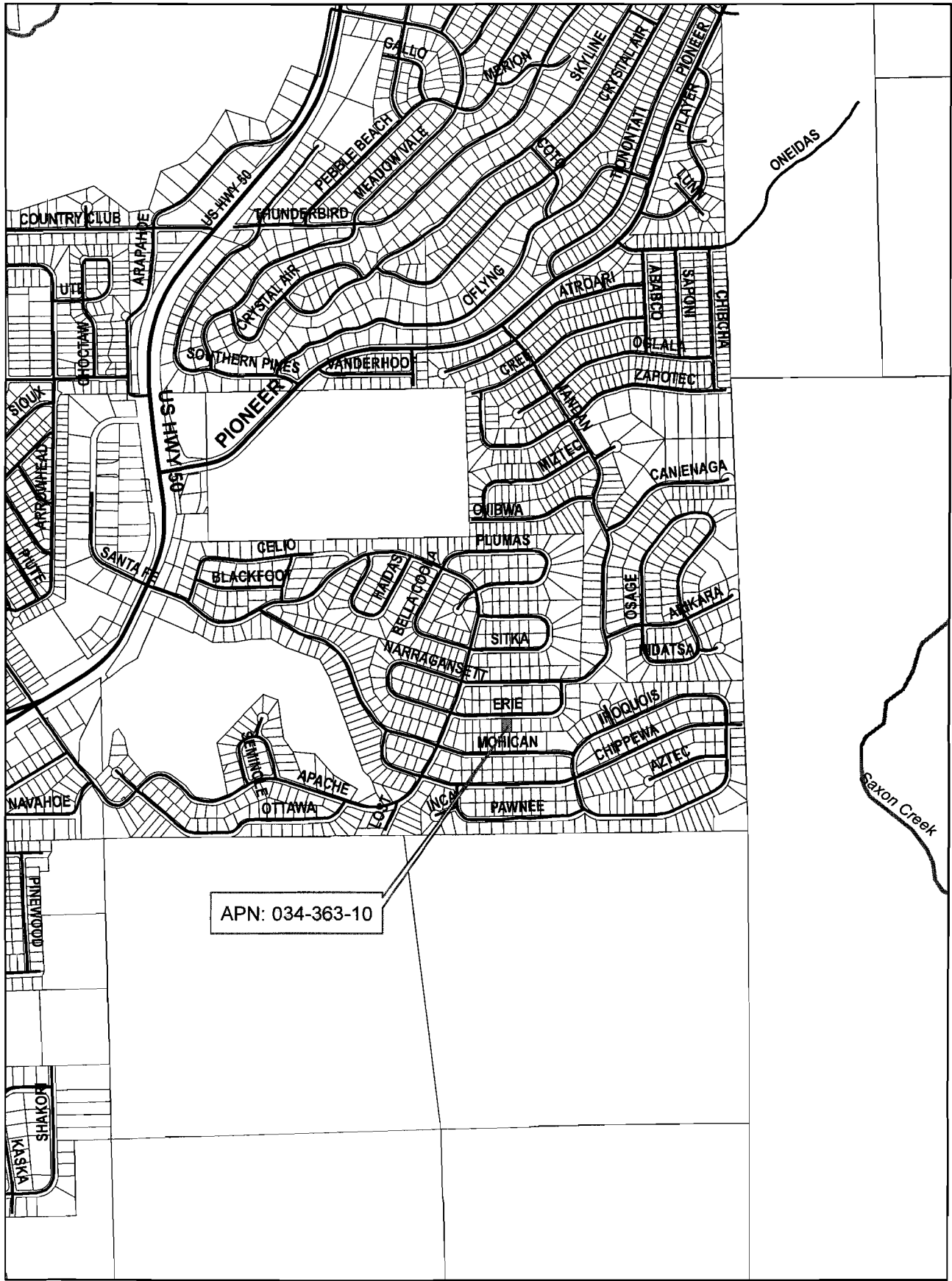
The 20-foot front setback line was presumably originally established in 1959 to match the

setback required by the zoning regulations at that time. Sierra Pacific Power Company (SPPC), South Tahoe Public Utility District (STPUD), American Telephone and Telegraph (AT&T, formerly SBC), all of whom have interest in the easement, have had the project proposal distributed to their staff and none responded with concerns regarding the removal of the 20-foot front yard setback line.

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 reduction of the 20-foot front yard setback line to 10-feet from Subdivision Map C-35 will not conflict with easements for access through or use of, property within Tahoe Paradise Unit 16 subdivision. No utility company, public agency, or parcel owner with interest in the easement areas within the subject setback line for Lot 1232, objected to the setback reduction.

Vicinity



Prepared by:
Thomas A. Lloyd
El Dorado County
Development Services

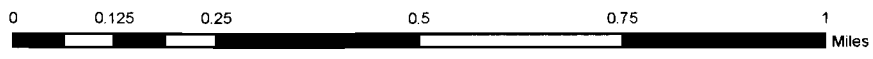
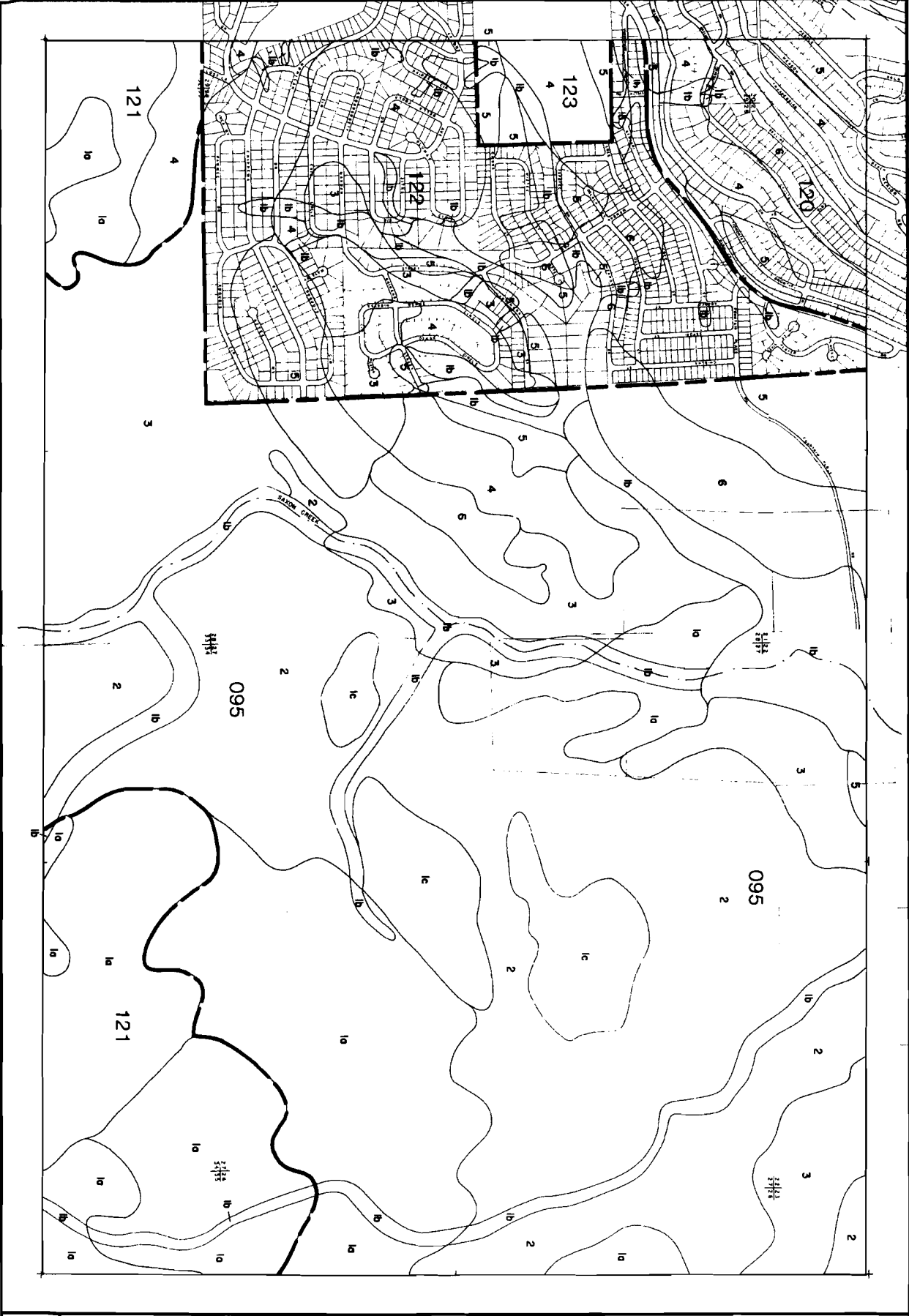
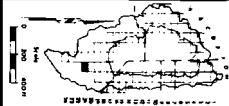


Exhibit A:



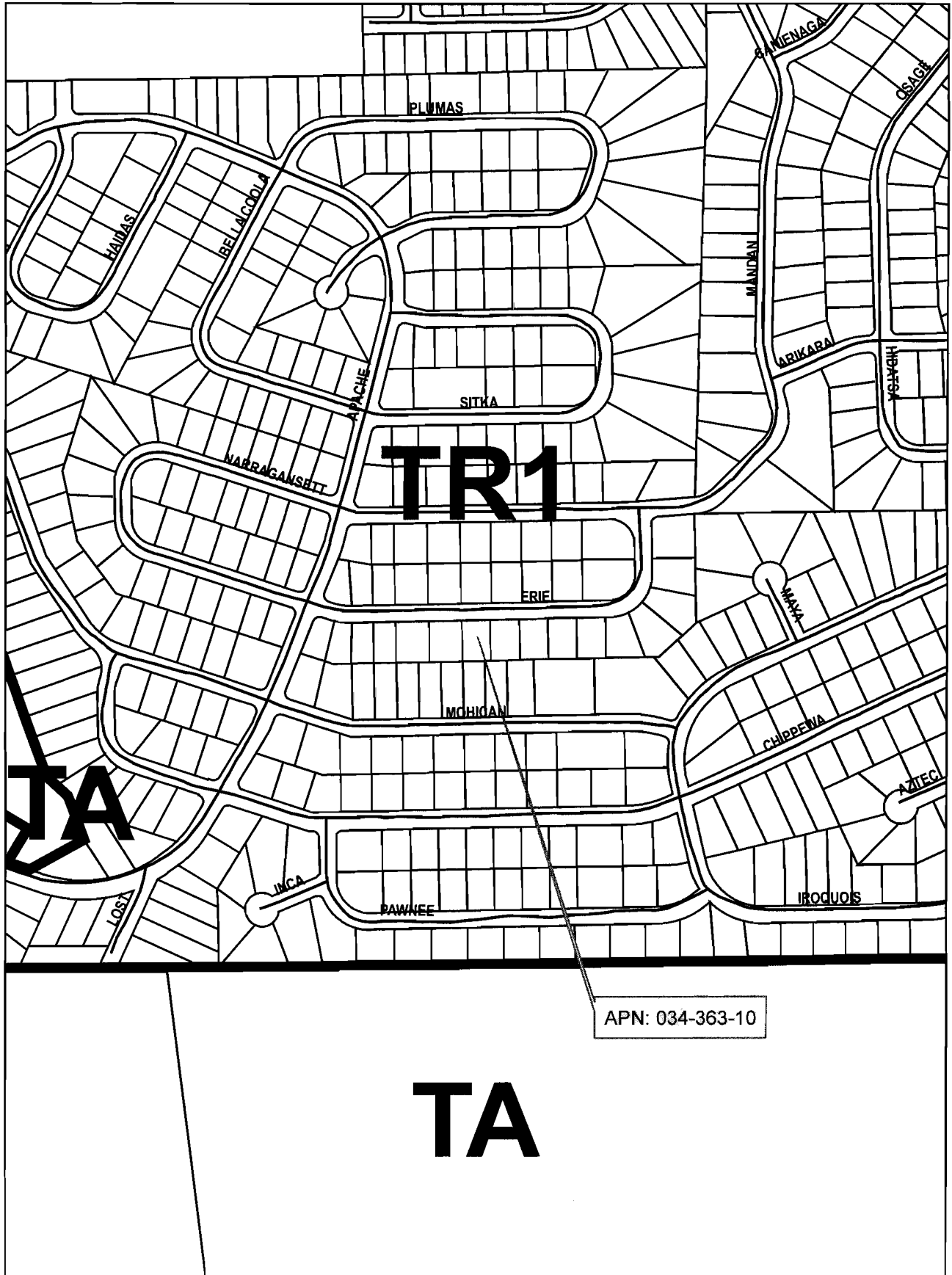
TAHOE REGIONAL PLANNING AGENCY

 <p style="font-size: small; text-align: center;">LAKE TAHOE REGION</p>	PLAN AREAS Ordinance <input type="checkbox"/> Revised <input type="checkbox"/>	LAND CAPABILITY Ordinance <input type="checkbox"/> Revised <input type="checkbox"/>	
	<i>Arthur G. Seltzer</i> <small>Governing Board Chairman</small>	<i>Arthur G. Seltzer</i> <small>Governing Board Chairman</small>	<small>7-1-87</small> <small>Date</small>

G-21

Exhibit B:

Zoning



Prepared by:
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El Dorado County
Development Services

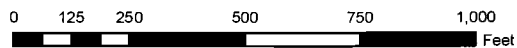
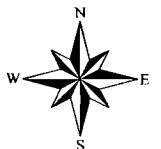
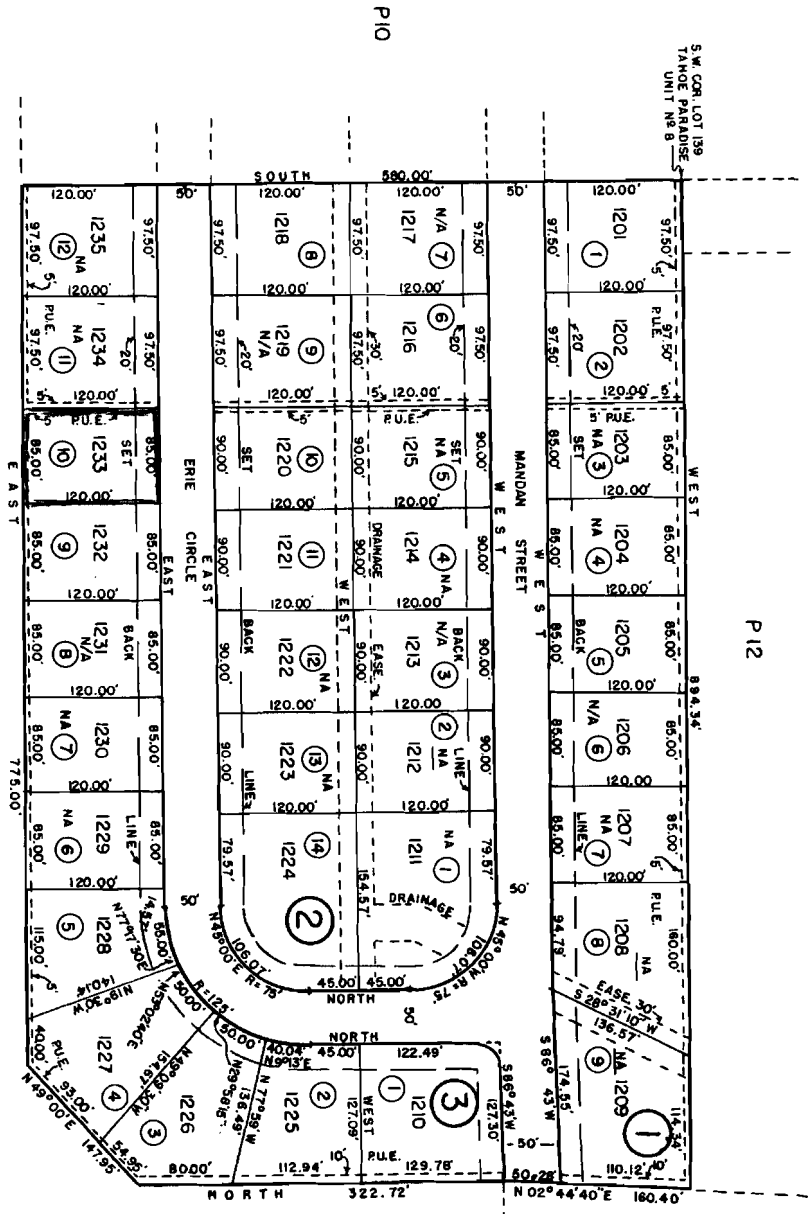


Exhibit C:



TAHOE PARADISE UNIT N°16
 FOR SEC. 28, T.12N, R.18E, M.D.M.

34:36

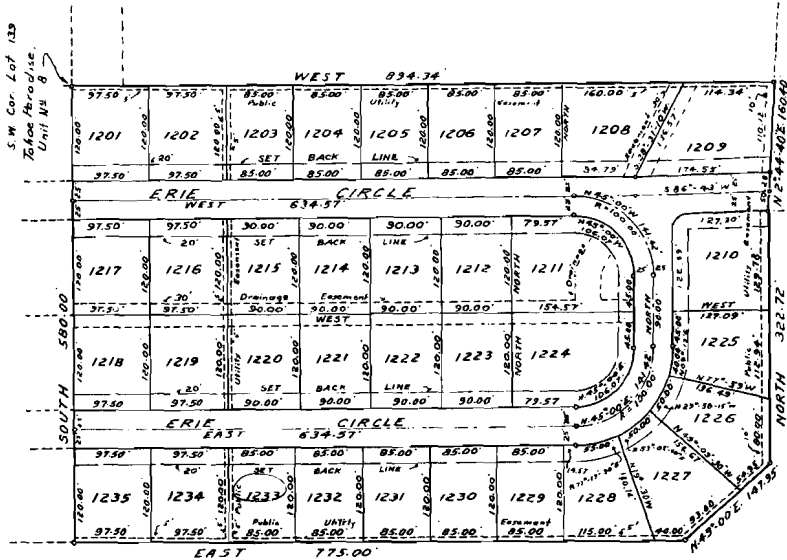


NOTE: FOR M/R & W/R SEE P. 74

Assessor's Map
 County of El Dorado, Calif.

Exhibit D:

MAP OF
TAHOE PARADISE UNIT NO. 16
 COMPRISING A PORTION OF SECTION 28, T. 12 N. R. 18 E. M. D.B. & M.
 COUNTY OF EL DORADO, CALIFORNIA SEPTEMBER 1959 SCALE: 1 IN. = 100 FT.
 HAROLD S. PRESCOTT CIVIL ENGINEER
 SHEET 1 OF 1 SHEET



NOTES:
 The meridian of this survey is identical to that of TAHOE PARADISE, UNIT No. 9
 All distances on curved lines are chord measurement
 All street corners have a 20 foot radius curve of the property line, unless otherwise shown
 Distances along the frontages of corner lots are to the intersection of street lines produced.
 All lot corners have 3/4" diameter capped iron pipes stamped with the lot numbers.

LEGEND

SET BACK LINE
 Public Utility and Drainage Easement

The undersigned hereby consents to the preparation and recording of this map and offers for dedication and does hereby dedicate to my and all public purposes the circle shown hereon and also offer for dedication and do hereby dedicate for particular purposes the following.

(a) Rights of way and easements for water, gas, sewer and drainage pipes, and for poles, and overhead and underground wires; and conduits for electric and telephone service together with any and all appurtenances appertaining thereto, on, over and across these strips of land lying between the rear and/or side lines of lots and the lines shown hereon designated "Public Utility Easement Line."

(b) Easements for light and air and for public utility poles, wires and crossarms 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.

(c) 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.

(d) Easements for drainage of surface water over those strips of land lying between the lines shown hereon and designated "Drainage Easement Line."

TAHOE PARADISE HOMES, a corporation

by Jim A. Wilson, Pres
 President

by Drexel A. Mooske, Treas
 Treasurer

STATE OF CALIFORNIA }
 County of El Dorado }

On this 20th day of October, 1959 before me, Dorothy Wallace, a notary public in and for said County, personally appeared Jim A. E. Wilson and Drexel A. Mooske known to me to be the president and treasurer, respectively of Tahoe Paradise Homes, a corporation, the corporation that executed the above instrument, and acknowledged to me that said corporation executed the same.

Dorothy Wallace
 Notary Public in and for the
 County of El Dorado, State
 of California

My commission expires 11-30-60

I hereby certify that there are no liens for unpaid state, county or local taxes or assessments against the land embraced within this subdivision or against any part thereof except taxes or special assessments not yet payable, and that this certificate not include any assessment of any assessment district, the bond of which have not yet become a lien against said land or any part thereof.

John M. Russell
 Tax Collector, County of El Dorado,
 State of California.

I, Harold S. Prescott, do hereby certify that this map correctly represents a survey made under my supervision, that the monuments are of the character and occupy the position shown, and are sufficient to enable the survey to be retraced.

Harold S. Prescott
 Registered Civil Engineer No. 7400

I hereby certify that I have examined this map of TAHOE PARADISE HOMES, UNIT No. 16 and find it to be substantially the same as the revised tentative map submitted to the Board of Supervisors, of El Dorado County, that all applicable County Ordinances have been complied with, and that said map is technically correct.

Edmund J. ...
 County Supervisor, County of El Dorado,
 State of California

It is ordered that this map of TAHOE PARADISE UNIT No. 16 be, and the same is hereby approved; that the circle, rights-of-way and easements shown upon said map are hereby accepted on behalf of the public for the purposes for which the same are offered for dedication. The Clerk of this Board is directed to endorse upon the face of this map a copy of this order authentic for the use of the Board of Supervisors.

This acceptance is subject to exception that that the County of El Dorado does not agree to construct said roads hereon dedicated for public use.

I hereby certify that the foregoing order was adopted by the Board of Supervisors at a meeting of said Board held on the 20th day of October, 1959.

Edmund J. ...
 County Clerk and ex-officio Clerk of the
 Board of Supervisors, of the County of
 El Dorado, State of California.

John M. Russell
 Chairman of the Board of Supervisor of
 the County of El Dorado, State of
 California.

Accepted for record and recorded of the request of HAROLD S. PRESCOTT, in the office of the County Recorder of the County of El Dorado, this 21st day of November, 1959, in Book C of Maps, Map No. 35, at 2:58 PM. The Certificate No. 35591 Document No. 32269.

Joseph W. ...
 County Recorder of the County of
 El Dorado, State of California.

by _____
 Deputy

RESTRICTIONS
 SEE VOLUME 487 OF OFFICIAL RECORDS PAGE 573