

**EL DORADO COUNTY DEVELOPMENT SERVICES
ZONING ADMINISTRATOR
STAFF REPORT**

Agenda of:	September 5, 2007
Item No.:	6.c.
Staff:	Tom Dougherty

PARCEL MAP CORRECTION

FILE NUMBER: P78-0280C

APPLICANT: Kenneth Teague

REQUEST: Request to amend Parcel Map 25-143 to remove the 100 foot non-building easement and replace it with a 15 foot wide drainage casement.

LOCATION: On the east side of Rainbow Trail approximately 0.25 mile northeast of the intersection with Speckled Road in the Pollock Pines area, Supervisorial District II. (Exhibit A).

APN: 042-280-34

ACREAGE: 1.12

GENERAL PLAN: Medium-Density Residential (MDR) (Exhibit C)

ZONING: Single-family Two-acre Residential (R2A) (Exhibit D)

ENVIRONMENTAL DOCUMENT: The map correction is statutorily exempt pursuant to Section 15268 (b) (3) of the CEQA Guidelines.

RECOMMENDATION

Staff recommends the Zoning Administrator take the following actions:

1. Certify that P78-0280C is statutorily exempt from the requirements of CEQA pursuant to Section 15268 (b) (3).
2. Approve P78-0280C based on the Conditions of Approval contained in Attachment 1 and the Findings contained in Attachment 2.

BACKGROUND: Parcel Map 25-143 was resultant of Tentative Parcel Map P78-0280 which was recorded on December 20, 1979. There is 100 foot Non-building Easement recorded within the

subject parcel created by this map. A gazebo, concrete driveway/patio and carport with a flat roof were built without permits and within this setback. The resultant Building Code and Zoning Ordinance violations came to light from a complaint filed with Building Services during that construction which resulted in *Code Compliance file #178538*. That complaint led to the applicants filing for County *Building Permits #179056* for the gazebo, and *#179098* for the carport in February of 2007. Both permits are pending the decision of this application request. During the review of those permits it was determined by Development Services Permit Center Staff that the applicants would need to file a *Map Amendment for Parcel Map* application to attempt to rectify the situation.

For undeterminable reasons, the actual drainage ditch location is different from that recorded on the original map and there is no physical evidence from vegetation or slope that it was altered. The submitted site map shows the current location of the drainage channel in Exhibit F. Exhibit J4 shows the area where the recorded 100 foot Non-building Easement is located in the real world on-site.

STAFF ANALYSIS

Project Description: Request to amend the recorded Parcel Map 25-143 to abandon the 100 foot Non-building Easement setback line and the applicant seeks to replace it with a 15 foot wide drainage easement for Parcel B only.

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 the filing a certificate of correction or amending the map. Should the Zoning Administrator approve the amendment, a certificate of correction is recommended to affect the relocation of the road and public utility easement.

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

Site Description: The 1.12 acre parcel is located at approximately the 3,600 foot elevation above sea level. The parcel is covered with random aged conifers spaced apart with very little understory. There is an existing 2,290 square foot single-family dwelling built in 2001 as well as various accessory structures. The drainage swale in question shows no evidence by vegetation, high water mark or a distinctive cut channel that it is anything but a linear depression swale. The swale is fed by a spring just past the subject parcel boundary on the south side and that is where the intermittent portion of the stream shown on the Sly Park U.S.G.S. Quadrangle begins. (Exhibit H).

Adjacent Land Uses:

	Zoning	General Plan	Land Use/Improvements
Site	R2A	MDR	Single-family residence
North	R2A	MDR/LDR	Single-family residence
South	R2A	MDR/HDR	Single-family residence
East	R2A	MDR/LDR	Single-family residence
West	R2A	MDR	Single-family residence

Discussion: This is a residential subdivision area with single-family residences and supporting accessory buildings with supporting infrastructure established.

General Plan: The General Plan designates the subject site as Medium-Density Residential (MDR) allowing parcel sizes between one to five acres with a maximum allowable density of one dwelling unit per one acre. This designation establishes areas for detached single-family residences with larger lot sizes which allow structures such as the subject deck/carport and gazebo as accessory structures to a residential use, pursuant to the underlying Zone District designation.

Policy 7.3.3.4 directs the County to provide buffers and special setbacks for the protection of riparian areas and wetlands. A minimum setback of 100 feet from all perennial streams, rivers, lakes, and 50 feet from intermittent streams and wetlands. These interim standards may be modified in a particular instance if more detailed information relating to slope, soil stability, vegetation, habitat, or other site- or project-specific conditions supplied as part of the review for a specific project demonstrates that a different setback is necessary or would be sufficient to protect the particular riparian area at issue.

The applicants submitted an *Analysis of General Plan Policy 7.3.3.4 Regarding Construction at 4871 Rainbow Trail, El Dorado County, CA.*, from Sycamore Environmental Consultants, Inc. and dated February 1, 2007 that analyzes the potential wetland classification of the swale, (Exhibit I). The study concludes that "County setbacks under Policy 7.3.3.4 do not apply because there are no wetlands, intermittent or perennial streams, or other water features within 50 feet of the concrete pad or carport." During a site visit, Planning Services staff confirmed the gazebo, which is the closest structure in question, was 7.5 feet from the centerline of the existing drainage swale as it exists today.

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 abandonment of the recorded 100 foot Non-building Easement and replacement with a 15 foot drainage easement legitimizing the real location of the drainage swale. The drainage swale, in its current state could not be recognized as an intermittent stream or wetland by definition and classifying it as a drainage easement would not adversely impact any public agency or any party with interest in this easement.

Zoning: The project site is zoned Single-family Two-acre Residential (R2A). The setbacks required by Zoning Code Section 17.28.340 are 30 feet in the front, 20 feet on the sides and 30 feet in the rear. Outside of the Non-building Easement infringements, a gazebo as well as a deck/carport would be permitted by right in the R2A Zone District. Neither encroaches into any Zoning Code required setback. Staff finds the proposed map correction requests, as conditioned, is consistent with all applicable provisions of County Zoning Ordinance Title 17.

2004 Subdivision Map Act: 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, 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.

ENVIRONMENTAL REVIEW

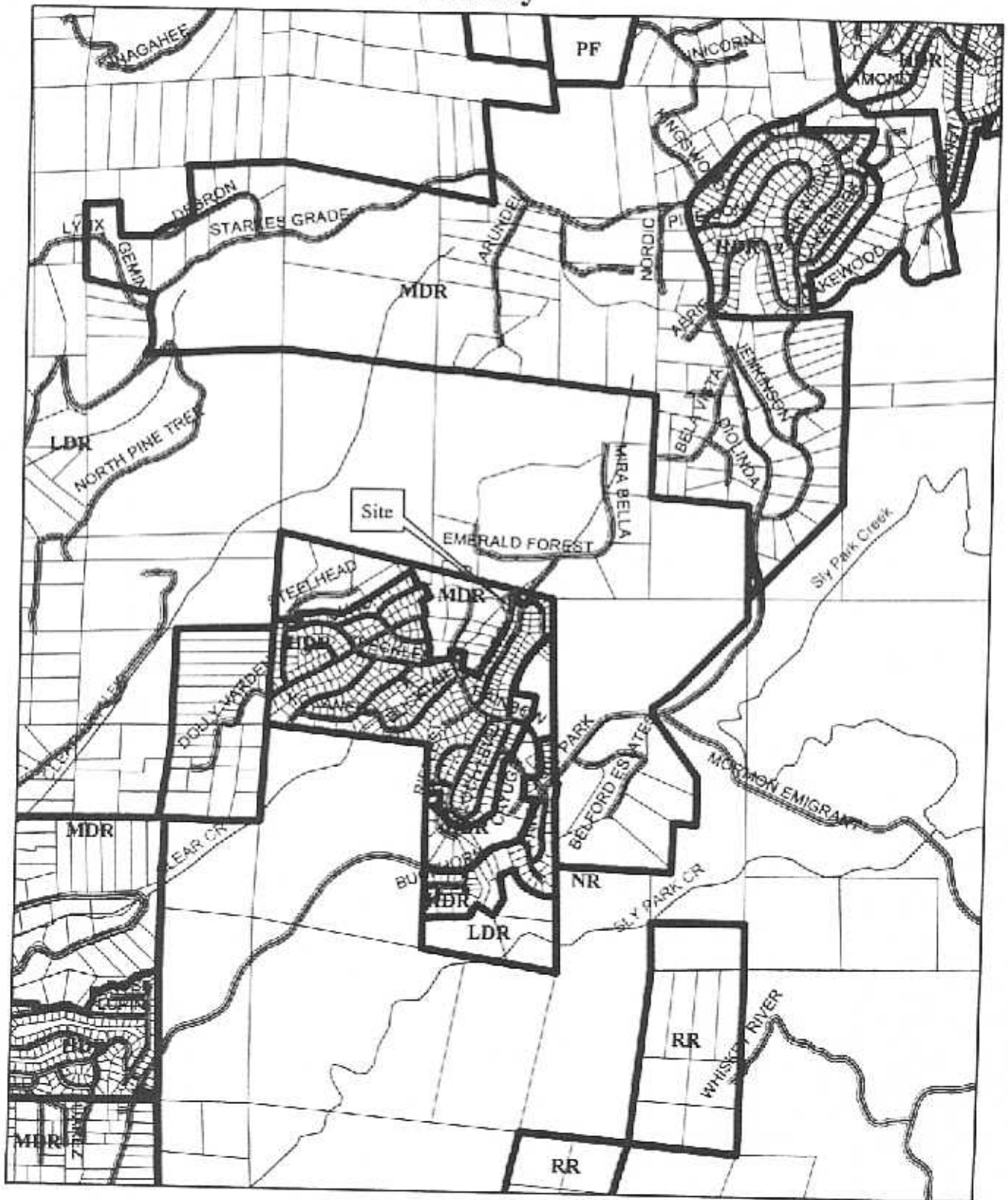
The map correction project has been found to be Statutorily Exempt from the requirements of CEQA Guidelines, pursuant to Section 15268 (b) (3) stating that the approval of final subdivision map is presumed to be ministerial and is exempt from further environmental review. Pursuant to Resolution No. 240-93,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

SUPPORT INFORMATION

Attachments to Staff Report:

Exhibit A	Vicinity Map
Exhibits B	Assessor's Parcel Map
Exhibit C	General Plan Land Use Map
Exhibit D	Zoning Map
Exhibit E	Parcel Map 25-143
Exhibit F	Proposed map correction site plan dated April 15, 2007
Exhibit G	Site plan submitted for Building Permits 179098 and 179056
Exhibit H	Sly Park U.S.G.S. Quadrangle
Exhibit I	“Analysis of General Plan Policy 7.3.3.4...,” Sycamore Environmental Consultants, summery pages, dated February 1, 2007, 2 pages.
Exhibits J1, J2, J3, J4, J5	Site visit photos
Exhibits K	Aerial Photo

Vicinity





THIS MAP IS NOT A SURVEY. It is prepared by the El Dorado Co. Assessor's Office for assessment purposes only.

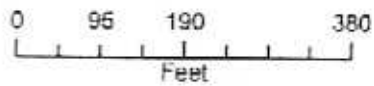
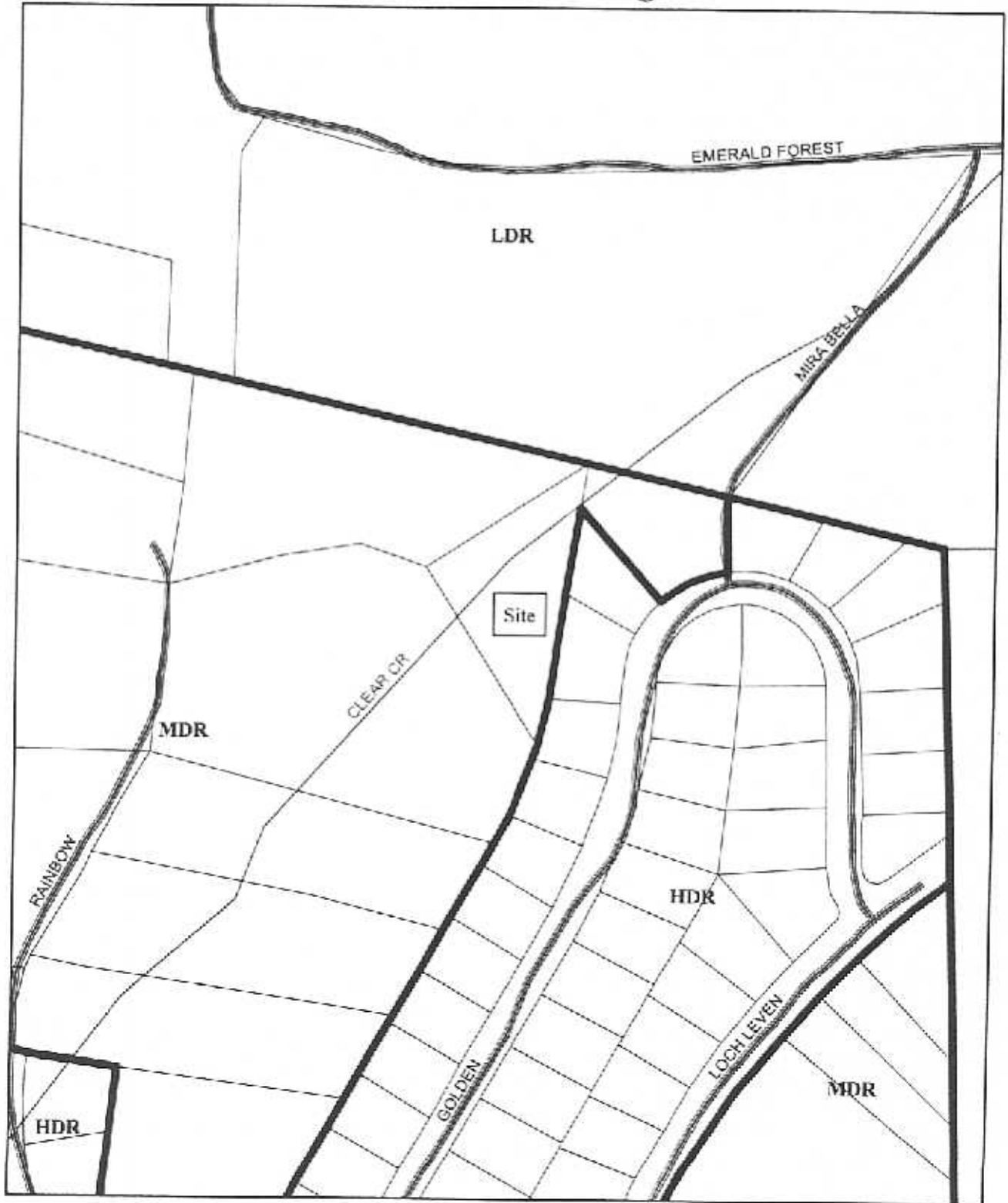
NOTICE - Assessor's Field Station Shows in Eastern Assessor's Office Records Shows in Central

PROPERTY INFORMATION
COUNTY CLERK
Assessor's Map 28, 42 - Pg. 24
County of El Dorado, California
2018-01-11 11:11:11

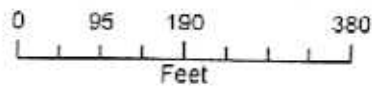
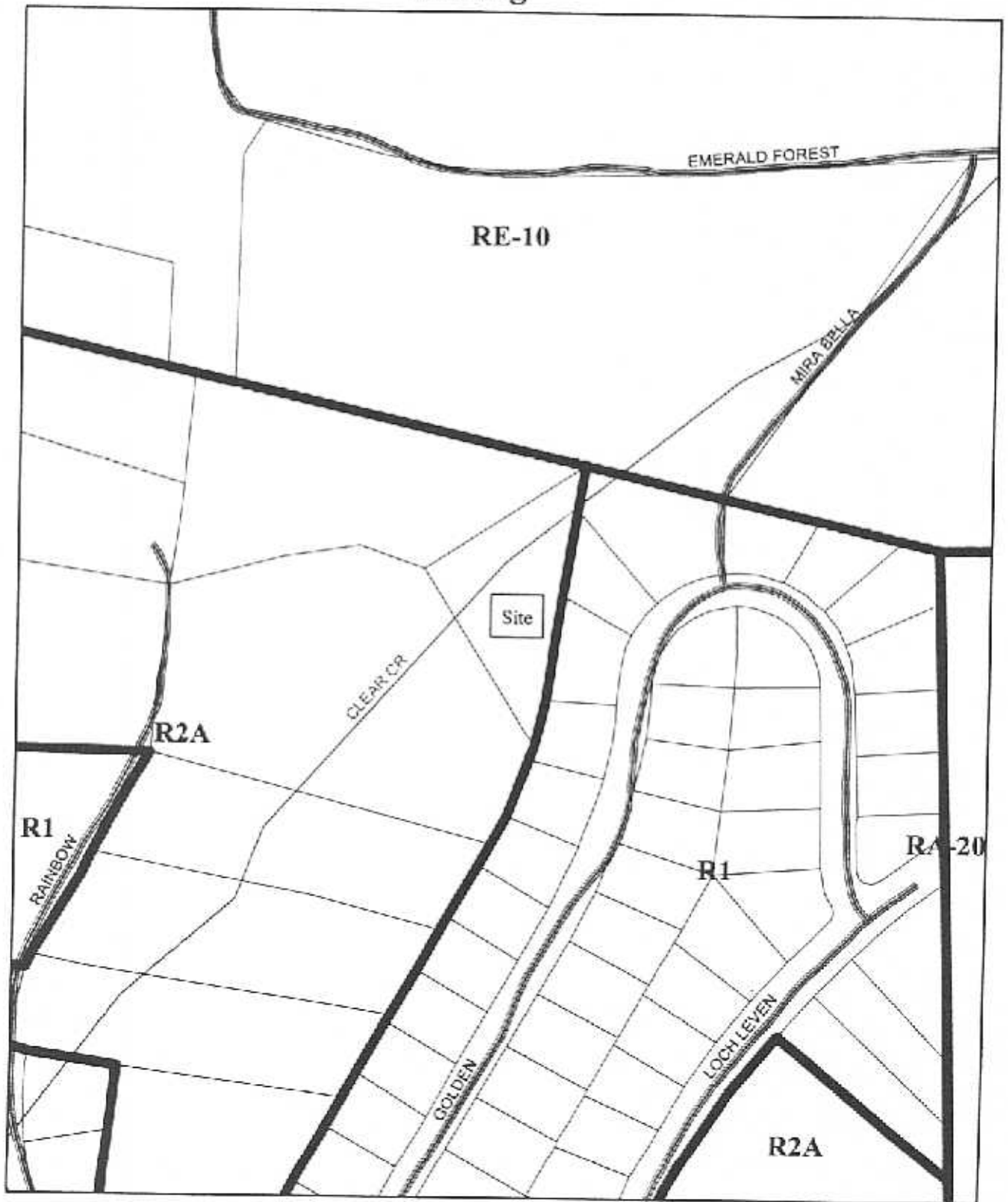
Exhibit B

P 78-0280 C

General Plan Land Use Designation



Zoning



25-113

PLANNING DEPARTMENT

PARCEL MAP

A PORTION OF
NW 1/4 SECTION 18
 T10N R13E, MDM
 BEING PARCEL 3, D.M. 12-24
 COUNTY OF EL DORADO, STATE OF CALIFORNIA
 SEPTEMBER, 1979 SCALE: 1" = 100'
 RICHARD H. JONES L.S. NO 2093



LEGEND:

- 0 THE 1/2" OF SECTION
- THE 3/4" OF SECTION
- THE 1/4" OF SECTION

BASIS OF BEARINGS:

THE BEARINGS ON THIS SURVEY IS IDENTICAL TO THAT OF D.M. 12-24 FROM CALLED MONUMENTS AND IS TRUE NORTH

NOTE:

PARCELS A, B & C ARE A DIVISION OF Parcel 3, D.M. 12-24

REFERENCES:

- D.M. 12-24 AND C 78 A
- D.M. 12-24 AND 22-122
- D.M. 12-24 AND C 122-124
- D.M. 22-121 AND C 122-122

SURVEYOR'S CERTIFICATE:

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND I HAVE CONDUCTED FIELD SURVEYS CONFORMABLE WITH THE REQUIREMENTS OF THE SURVEYING ACT, AND I HEREBY CERTIFY THAT THE PARCEL MAP REPRESENTS THE APPROVED TRACTING MAP AND THE DOCUMENTING IS CORRECT. THESE DOCUMENTS WERE REQUIRED TO BE SUBMITTED TO THE COUNTY OF EL DORADO, CALIFORNIA.

Richard H. Jones
 RICHARD H. JONES
 L.S. NO 2093

COUNTY SURVEYOR'S CERTIFICATE:

THIS MAP CONFORMS WITH THE REQUIREMENTS OF THE SURVEYING ACT AND LOCAL ORDINANCES.

Dated Dec 26, 1979.
Richard H. Jones
 RICHARD H. JONES
 COUNTY SURVEYOR
 COUNTY OF EL DORADO



COUNTY RECORDER'S CERTIFICATE:

FILED THIS 10th DAY OF DECEMBER 1979, WITH D.M. 12-24 AND PARCEL MAP AT PAGE 122 AT THE REQUEST OF R.H. JONES.

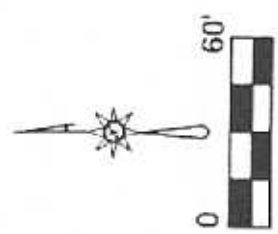
FILED BY *Shirley*
 DEANE LACE
 COUNTY RECORDER
 COUNTY OF EL DORADO
 BY *Merry Link*

P 78-0280 C

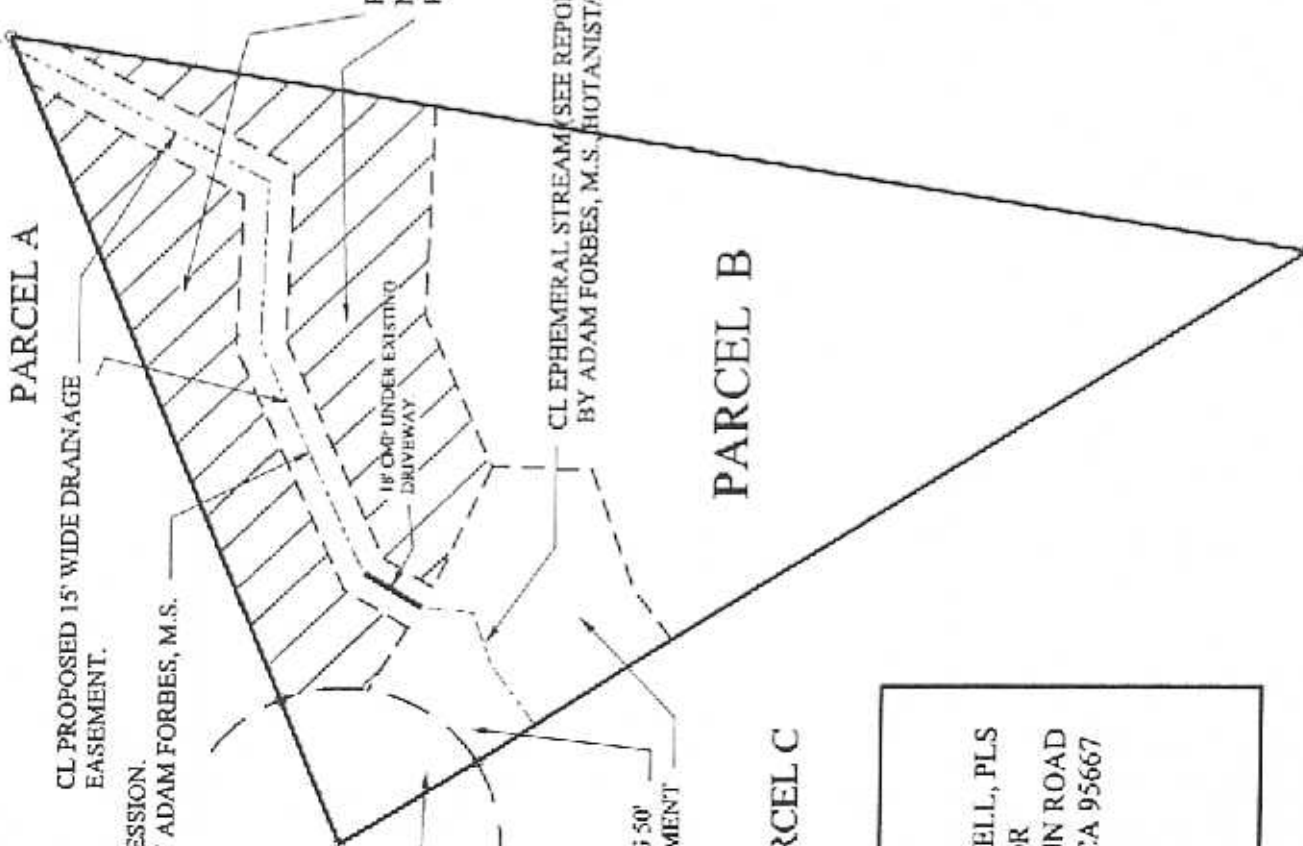
Exhibit E

EN-55

PROPOSED MAP AMENDMENT EXHIBIT MAP



PORTIONS OF EXISTING 50' WIDE
NON-BUILDING EASEMENT TO BE
REMOVED.



PARCEL A

CL PROPOSED 15' WIDE DRAINAGE
EASEMENT.

CL EXISTING LINEAR DEPRESSION.
(SEE REPORT PREPARED BY ADAM FORBES, M.S.
BOTANIST/BIOLOGIST.)

RAINBOW TRAIL
EXISTING 50' NON-EXCLUSIVE
ROAD & P.U.E. AND 50' RADIUS
CUL-DE-SAC EASEMENT TO
REMAIN.

IF CAP UNDER EXISTING
DRIVEWAY

CL EPHEMERAL STREAM (SEE REPORT PREPARED
BY ADAM FORBES, M.S. BOTANIST/BIOLOGIST)

PARCEL B

PORTIONS OF THE EXISTING 50'
WIDE NON-BUILDING EASEMENT
TO REMAIN.

PARCEL C

PREPARED FOR:
KEN TEAGUE
4871 RAINBOW TRAIL
POLLOCK PINES, CA 95726
(530) 644-0201
PARCEL B, PM 25-143
APN 042-280-34

PREPARED BY:
DAVID F. WADDELL, PLS
LAND SURVEYOR
5481 GRASSY RUN ROAD
PLACERVILLE, CA 95667
(530) 676-0963
April 15, 2007

RECEIVED
PLANNING DEPARTMENT
APR 14 3 46 PM '07

00-125

Traverse PC

P78-0280 C

Exhibit F

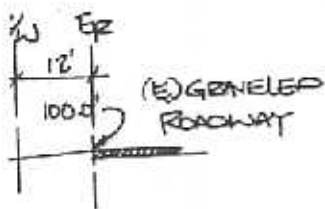
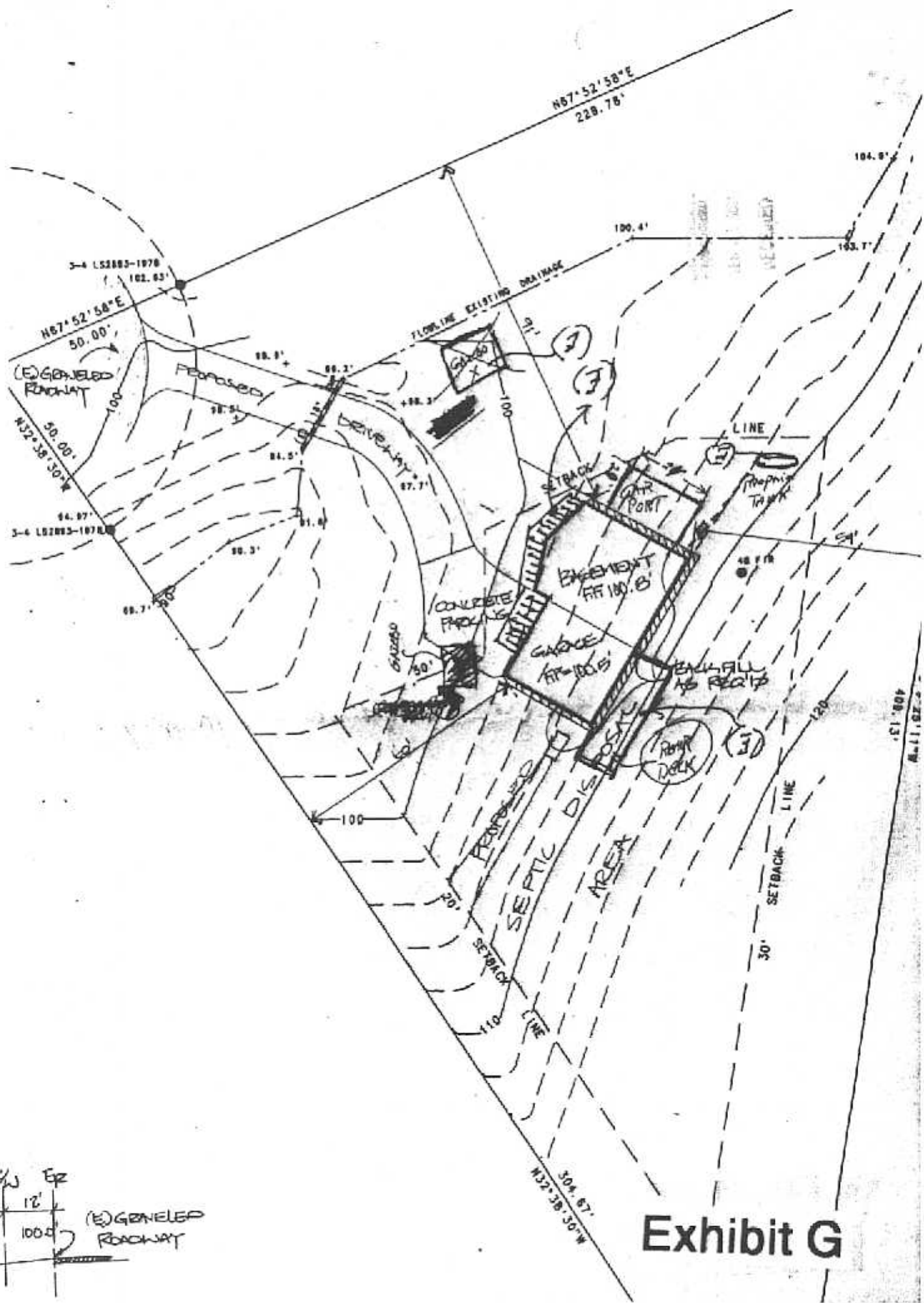
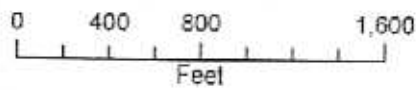
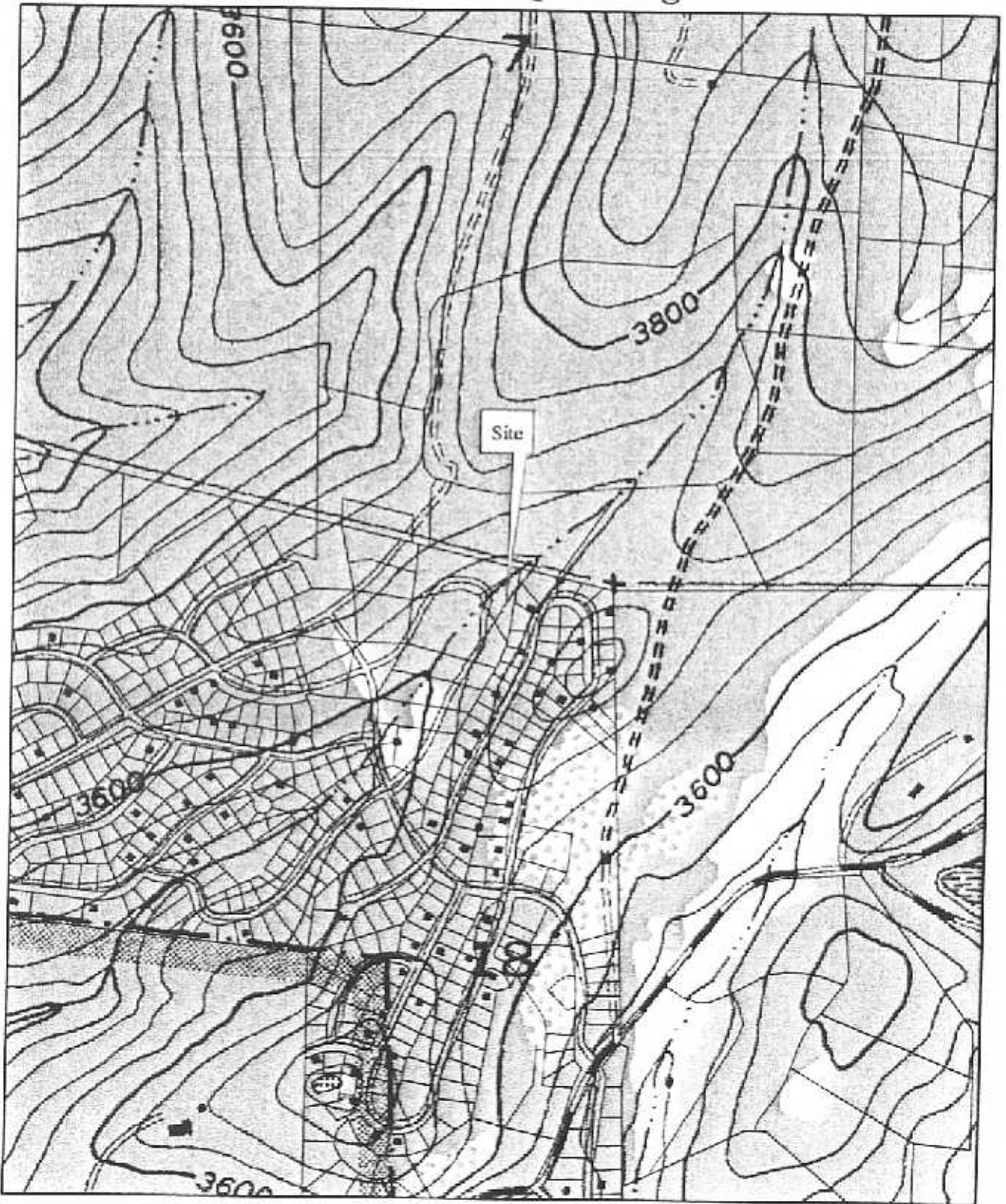


Exhibit G

Sly Park U.S.G.S. Quadrangle



File no. P78-0280C

Exhibit H



SYCAMORE ENVIRONMENTAL CONSULTANTS, INC.

6355 Riverside Blvd., Suite C, Sacramento, CA 95831
916/427-0703

Fax/427-2175

RECEIVED
FEB 14 PM 3:43

RECEIVED
PLANNING DEPARTMENT

1 February 2007

Mr. Ken Teague
4871 Rainbow Trail
Pollock Pines, CA 95726

Phone: 530/644-0201

Subject: Analysis of General Plan Policy 7.3.3.4 regarding Construction at 4871 Rainbow Trail, El Dorado County, CA.

Dear Mr. Teague:

This letter evaluates construction of a carport and adjacent concrete pad for consistency with El Dorado County General Plan Policy 7.3.3.4 and the Interim Interpretive Guidelines (adopted 22 June 2006) for setbacks from riparian areas and wetlands. I understand the County has requested this information as part of the building permit application process. I visited the site on 30 January 2007. The potential for the site to provide habitat for special-status species associated with wetlands, streams, or other aquatic features was considered. A completed County Site Assessment Form is in Attachment A.

The U.S. Geological Survey Sly Park quad map indicates there is an intermittent channel near the home in question. The pictures in Attachment C demonstrate that the feature in question is not an intermittent channel. There is a linear depression located north of the existing carport and concrete pad that is the feature of interest. The linear depression does not drain a large enough area to result in the presence of an Ordinary High Water Mark (OHWM). The U.S. Army Corps of Engineers uses the presence of an OHWM to determine the boundary of channels that are jurisdictional under the Federal Clean Water Act. The County's definitions regarding streams in the Interim Interpretive Guidelines are based on the concept of an OHWM. There is no prevalence of hydrophytic or riparian vegetation within 50 ft of the construction, hence the area is not a wetland. Since no OHWM is present, and the area is not a wetland, federal and state laws protecting creeks, wetlands, and riparian areas do not apply.

Our review indicates the County's Interim Interpretive Guidelines also do not apply in this instance, since by definition they apply only to setbacks from streams, wetlands, or other water features. The linear depression does become an ephemeral stream greater than 50 from the construction area, on the south side of a driveway serving the home. However, the County 50 ft setback requirement applies to intermittent streams, not ephemeral ones. The Interim Interpretive Guidelines defines "intermittent stream" as:

"A stream that normally flows for at least thirty days after the last major rain of the season and is dry the remainder of the year, not including manmade drainage. Intermittent streams do not include ephemeral watercourses."

The Interim Interpretive Guidelines do not require setbacks from ephemeral streams. Review of the photographs in Attachment C indicates that if water flows through the area in question, it is only during large precipitation events, and certainly not "thirty days after the last major rain of the season". Even if the area in question were considered an ephemeral stream, which it is not, such a feature is not subject to setbacks under General Plan Policy 7.3.3.4.

Conclusions

- County setbacks under Policy 7.3.3.4 do not apply because there are no wetlands, intermittent or perennial streams, or other water features within 50 of the concrete pad and carport.
- The construction has had no impact on regional special-status species associated with aquatic habitats.
- At the nearest point the linear depression is approximately 12 ft from the concrete pad and 31 ft from the carport.
- No federal or state permits concerning wetlands or waters are necessary.

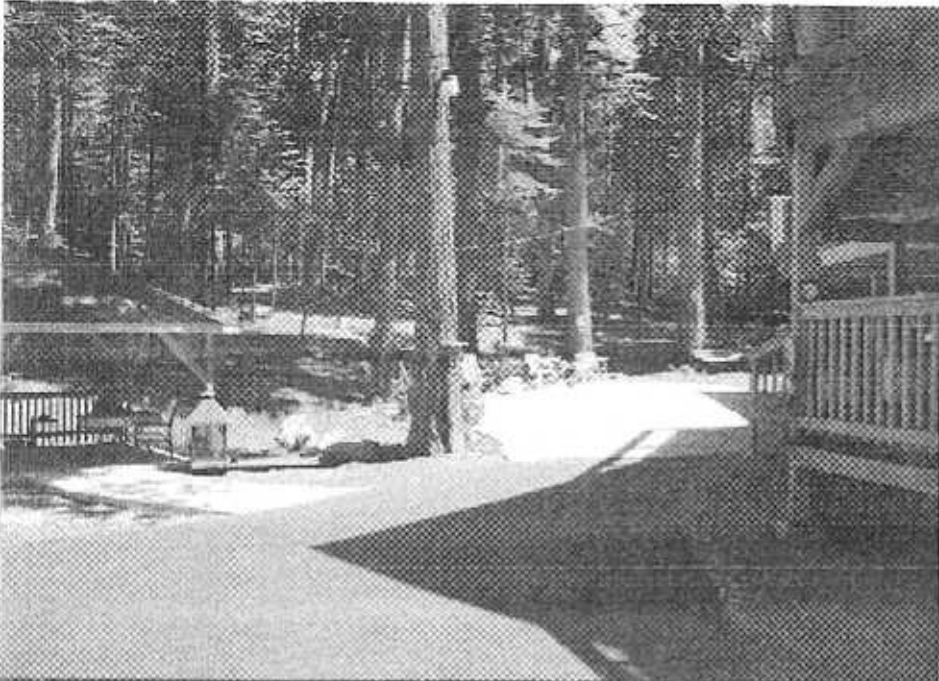
Please contact me with any questions.

Yours truly,



Adam Forbes, M.S.
Botanist/ Biologist

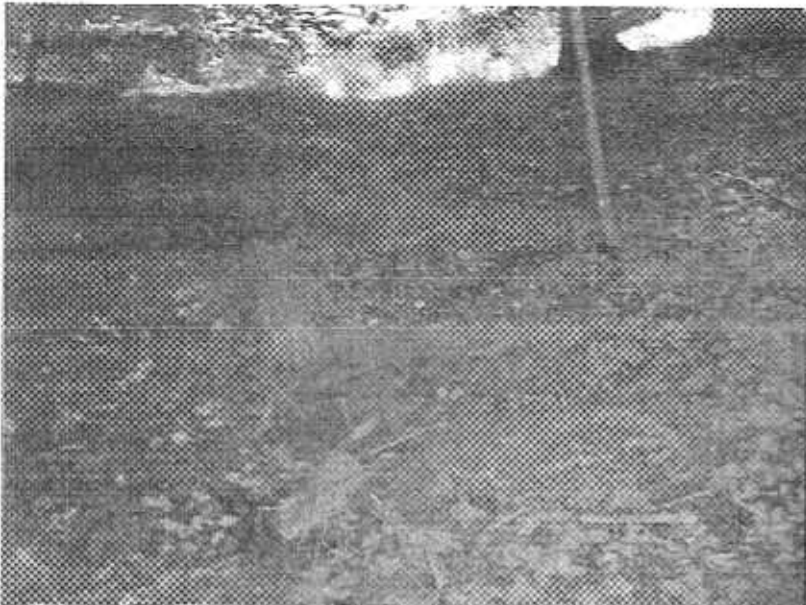
- Attachment A. Site Assessment Form
- Attachment B. Resume of Adam Forbes
- Attachment C. Photographs



Comment: Standing on the driveway by the house looking north towards the drainage channel and gazebo.



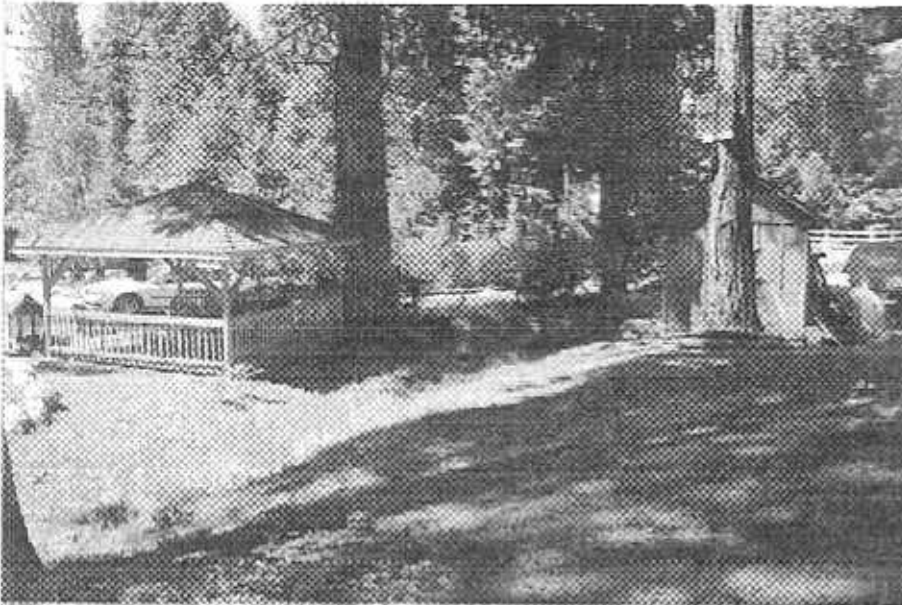
Comment: Standing on the concrete deck next to the gazebo looking at the drainage channel.



Comments: Drainage channel at upper position after it enters the parcel.



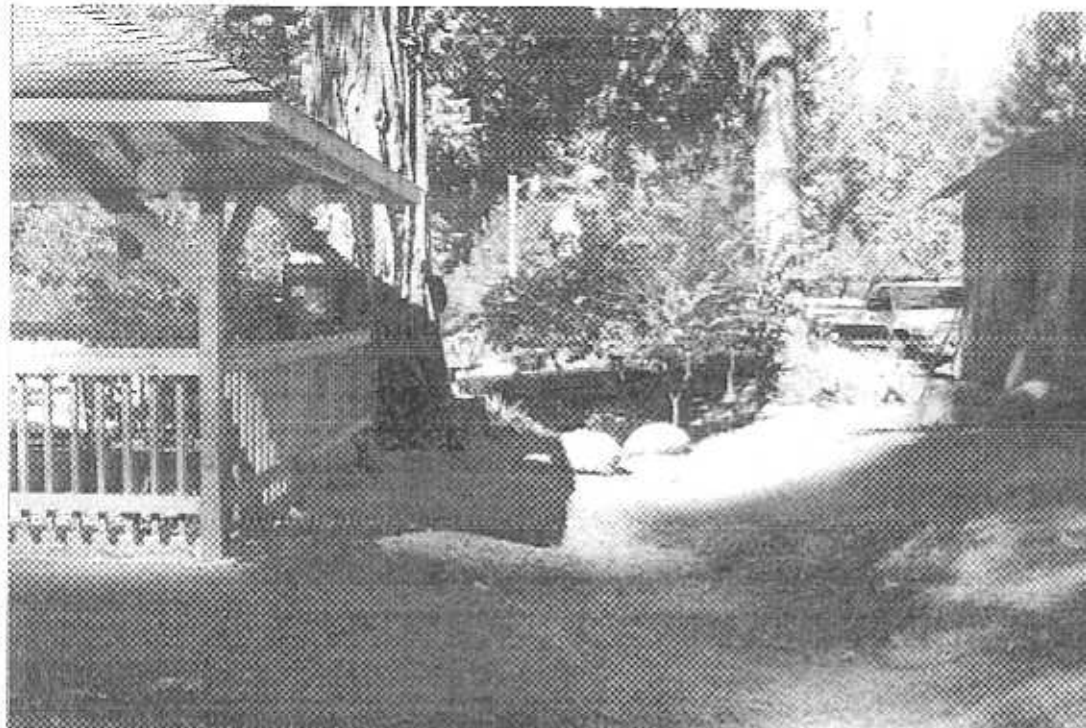
Comments: Standing north of the dwelling looking southwest towards the cul-de-sac entrance.



Comment: Close up view of gazebo next to drainage channel.



Comment: Drainage channel as it exits under the driveway.



Comment: Subject swale as it passes past the garage to the culvert under the access driveway.



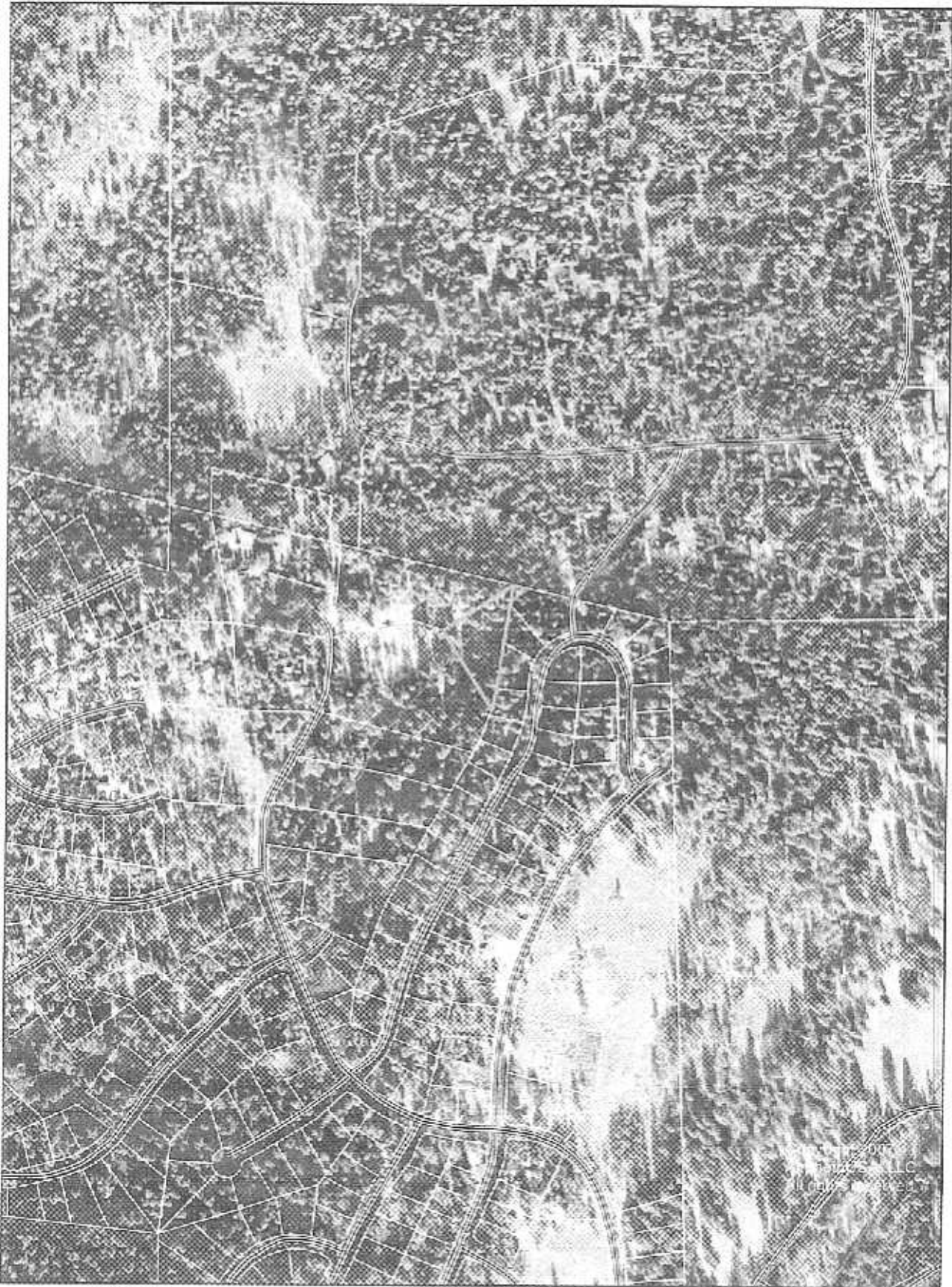
Comment: Area where the recorded 100-foot Non-building Easement actually was originally located.



Comment: Respect with Rail foot.

EXHIBIT J5

0 125 250 500 750 1,000 Feet



Disclaimer:

This depiction was compiled from unverified public and private sources and is illustrative only. No representation is made as to the accuracy of this information. Parcel boundaries are particularly unreliable. Users make use of this depiction at their own risk.

EXHIBIT K