

PC 12/10/09
#10
09 DEC -3 PM 3:55
RECEIVED
PLANNING DEPARTMENT

December 3, 2009

El Dorado County
Attn: Planning Comission
2850 Fairlane Court
Placerville, CA 95667

PROJECT: 1850 SHOREVIEW DRIVE

Subject: Additional Information

To whom it may concern:

My neighbor Mr. Hines has evidently mailed a packet to the County alleging multiple items. In response to that information, I've prepared the following information.

All grading was done under permit and County Inspection. I was required to update the grading permit because retaining walls were omitted in favor of fill slopes, still in accordance with County guidelines. Thus new as built drawings were provided to close the permit. The grading was done over 3 years ago. No equipment has been on the property since that time, with the exception of neighbors parking equipment or storing dry good.

The disturbed area was already shown to be less than the 30,000 SF requirement at the time the permit was closed. The 30,000 SF, does not include driveway access. Furthermore, per the guidelines and my discussion with County staff, using the upper part of the property for equipment access does not constitute "disturbed" area as Mr. Hines suggests.

Note that the subject parcel is 14.2 acres, compared to most properties being approximately 1 acre. Even Mr. Hines with the neighboring property combined 2 parcels and only has about 3 acres, approximately ¼ the size of the subject parcel. The updated General Plan allows for 2-acre parcels at my property location. I'm currently requesting a parcel split into a 5 and a 9 acre parcel.

This is personal because he doesn't want another house sharing the top of the hill with his current home being built.

Carlton's earthwork calculations prepared by Mr. Hines are likely based on a 20 year old aerial survey over the property with a significant amount of brush. It is unlikely that this aerial is more accurate than plus or minus multiple feet. It is also easy to "play" with the quantities by varying their spacing of data points

until the desired number is reached.

This isn't a "pad" as Mr. Hines refers. This was my only equipment access prior to grading (the Shoreview Drive entrance had a vertical headwall prior to grading). The parcel has an approximately 30% slope, there is no "pad" as can be seen in the pictures, attached.

Mr. Hines refers to letters from 6/10/09 and 1/14/08 and references "illegal grading". In fact the 1/14/08 letter is labeled "Revision to Issued Grading Permit". At that time, my Civil Engineer, Ms. Nicole Young clarified that the graded area was less than the 30,000 SF required.

With regard to utilities, there is already one extra water meter and sewer stub for the new parcel as a result of Mr. Hines joining two lots.

If desired as a condition of the parcel split, the access road between the parcels could be filled in to create a more natural look.

These items have already been reviewed by the County staff, with Mr. Fong, Mr. Burnett, and Mr. Wassner. The project is recommended by staff for approval as stated on the agenda, and the items that Mr. Hines has brought up has no bearing on approving the Tentative Parcel Map. I have fulfilled any and all requirements for the Tentative Map process.

Respectfully,

A handwritten signature in blue ink, appearing to read "Greg G. Gularte". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Greg G. Gularte, G.E. No 2633



Overview of parcel, looking from upper portion, downward.



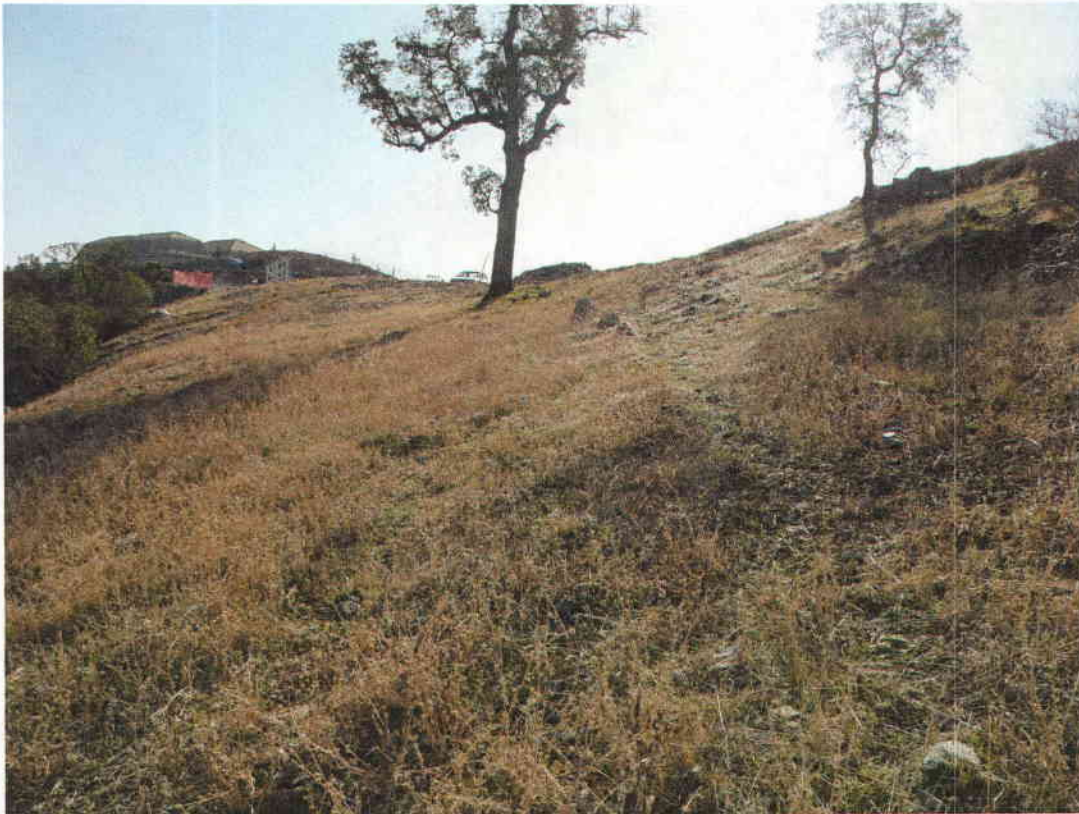
Upper portion of parcel, note tree to left and base of tree in next photo.



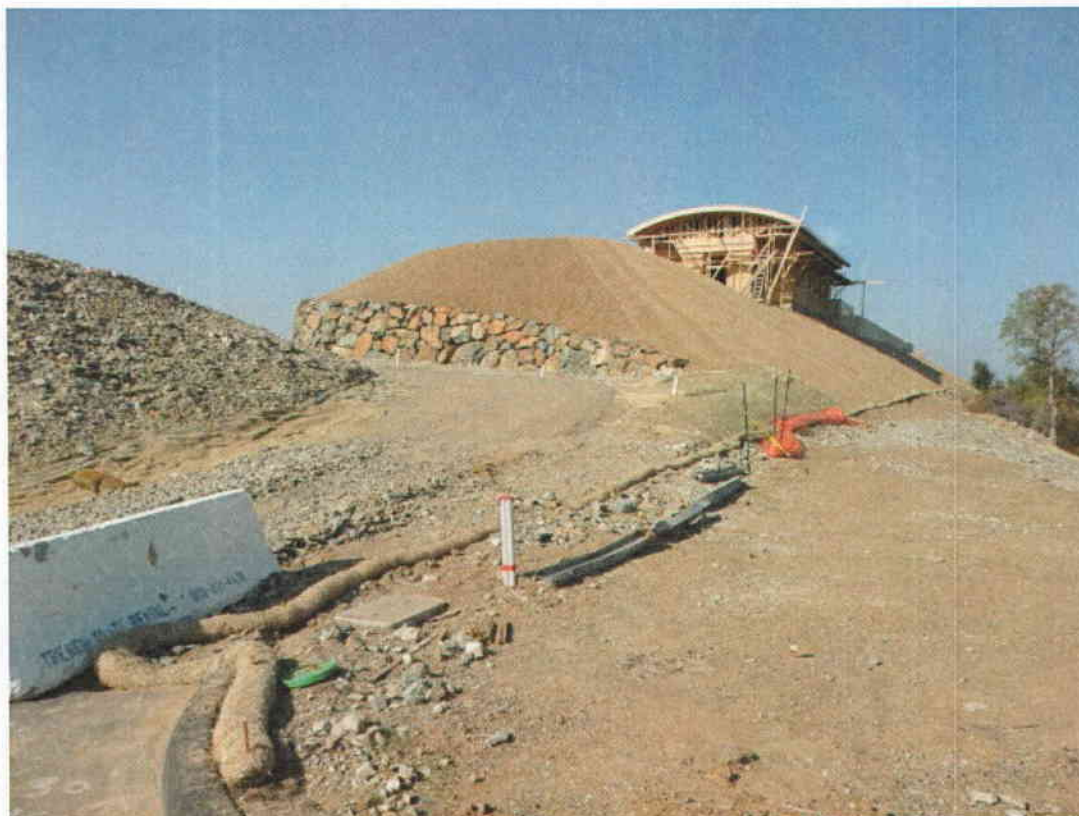
Base of tree, note that base of tree is native ground.



Construction access from upper to lower portion of parcel.



Looking upward and upper portion of parcel. Car above is at La Sierra Drive.



Property Line defined by wattles. Dirt on subject parcel placed during neighbors grading.

Greg Gularte

From: Jim.Wassner@edcgov.us
Sent: Thursday, November 12, 2009 7:53 AM
To: greg@gularteinc.com
Subject: Hines/Gularte 193915

FYI

Jim Wassner
Development Services
Code Enforcement Unit
(530) 621-6539

-----Forwarded by James J Wassner/PV/EDC on 11/12/2009 07:51AM -----

To: James J Wassner/PV/EDC@TCP
From: Thomas J Burnette/PV/EDC
Date: 11/10/2009 03:49PM
Subject: Hines/Gularte 193915

Jim ,

Here are the conclusions of my review of complaints by both Greg Gularte and Alan Hines. Per our previous discussions and based on the information supplied by both parties, I conclude a permit was not required by Greg Gularte contrary to Alan Hines assertion and Alan Hines did not violate County design manual provisions contrary to Greg Gularte assertion.

Tom Burnette , P.E. - Supervising Civil Engineer
El Dorado County Development Services Department - Building
2850 Fairlane Court, Building "C" - Placerville , Ca. 95667

tel : 530-621-6585 fax : 530-622-1708
tjb@co.el-dorado.ca.us

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Formal Resolution of Complaint re: Grading

(Distributed at
meeting)

PC 12/10/09
#10



December 9, 2009

El Dorado County
Planning Commission
2850 Fairlane Court
Placerville CA 95667


Re: Planning Commission Hearing - P09-0007/Z09-0005

Carlton Engineering was retained by Mr. Hines to conduct a slope analysis for the proposed new parcel associated with the Lakeview Villas project captioned above.

Please be advised our analysis was based upon aerial surveys prepared by Hunter Surveying dated December 23, 2003, and May 20, 2009. It is our understanding the December 23, 2003, aerial photogrammetric survey was created utilizing a 1st-order analytical stereo plotter and the May 20, 2009, survey further verified and supplemented the aerial survey with a field survey utilizing a high-precision, 1-second, Leica total-station. We also understand the aerial mapping from 2003 and the subsequent 2009 ground method surveys are on the same horizontal and vertical datums and are accurate to within ± 2.4 inches.

Furthermore, contrary to allegations by Mr. Gularte, I hereby certify the Carlton Engineering work product to be true and correct and in now way contrived or manipulated.

Respectfully,
Carlton Engineering, Inc.


Jeffrey D. Thompson, P.E.
Associate Senior Engineer

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

December 3, 2009

El Dorado County
Planning Commission
2850 Fairlane Ct.
Placerville CA 95667

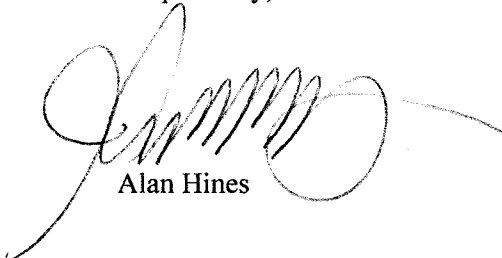
Re: Planning Commission Hearing - P09-0007/Z09-0005

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 supporting the denial of this project. Specifically the project should be denied based upon three 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.
- 3) The Environmental Checklist and Staff Report are incomplete and inaccurate. Please reference Exhibit C.

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. The property is too steeply sloped to lend itself to division.

Respectfully,



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.

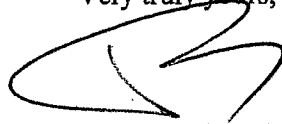
For your information, as soon as Mr. Gularte realized that the Southpointe property owners likely would vote to limit the subdivision of parcels, he asserted, for the first time, that he is not bound by the CC&Rs because his property was never duly annexed into Southpointe. This argument is fresh out 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 Southpointe'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 read 'D. Roeca', written over a large, stylized, handwritten letter 'S'.

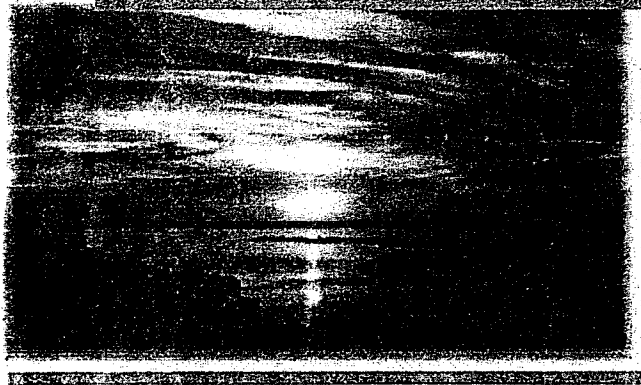
DOUGLAS R. ROECA

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



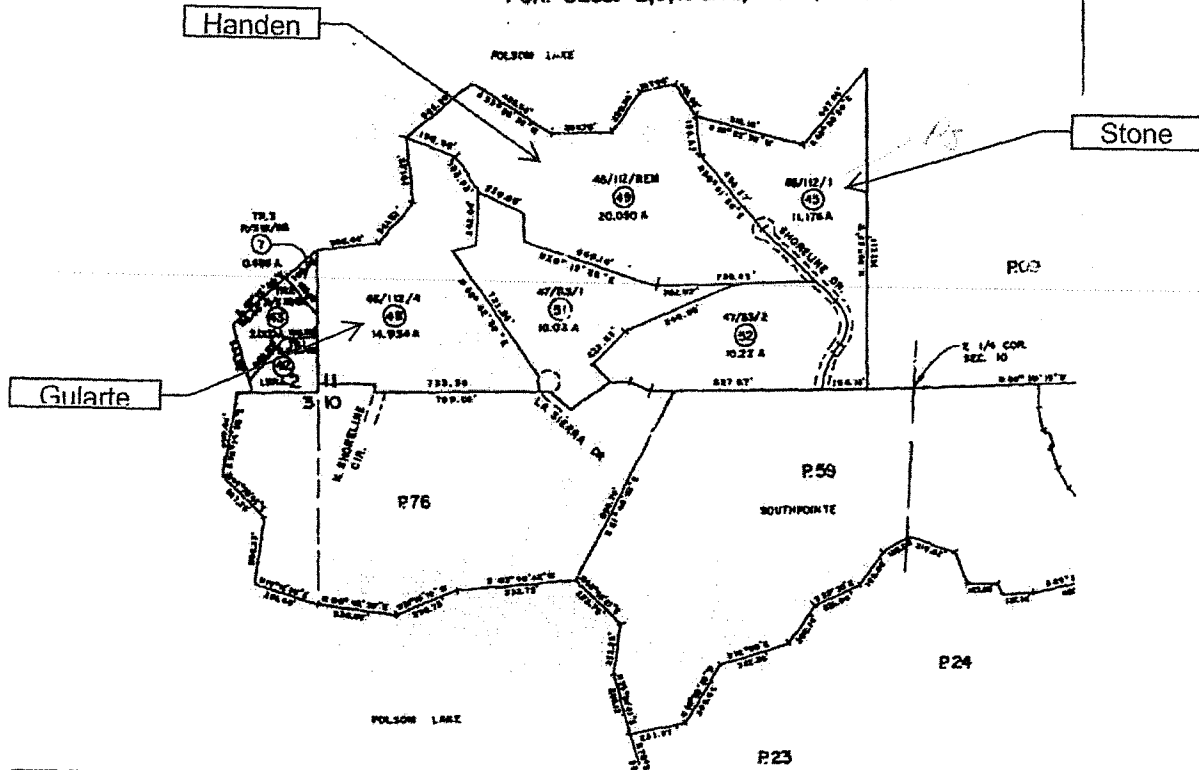
**President's Elite
Top 2% Internationally**



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, R.8E, 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

P. O. Box 1459
Folsom, CA 95763-1459

916.985.3633
Fax: 985.3744

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,

Tiffany 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.

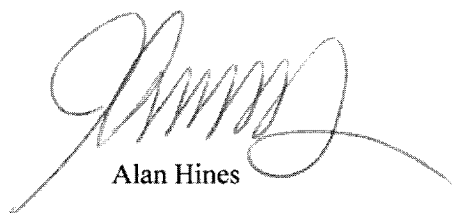
The As-Built Grading Plan, Exhibit B, indicates the disturbed area for the work completed in compliance with the permit as 29,750 square feet, just slightly below the 30,000 square foot threshold for reasonable use, established in General Plan Policy 7.1.2.1. If the unauthorized disturbed areas associated 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

File

County of
EL DORADO

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

170853

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:
2850 FAIRLANE COURT
PLACERVILLE, CA. 95667
(530) 621-5365
(530) 642-0508 Fax
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planning@co.el-dorado.ca.us

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SOUTH LAKE TAHOE, CA 96150
(530) 573-3330
(530) 542-9082 Fax
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



SCAN

170853



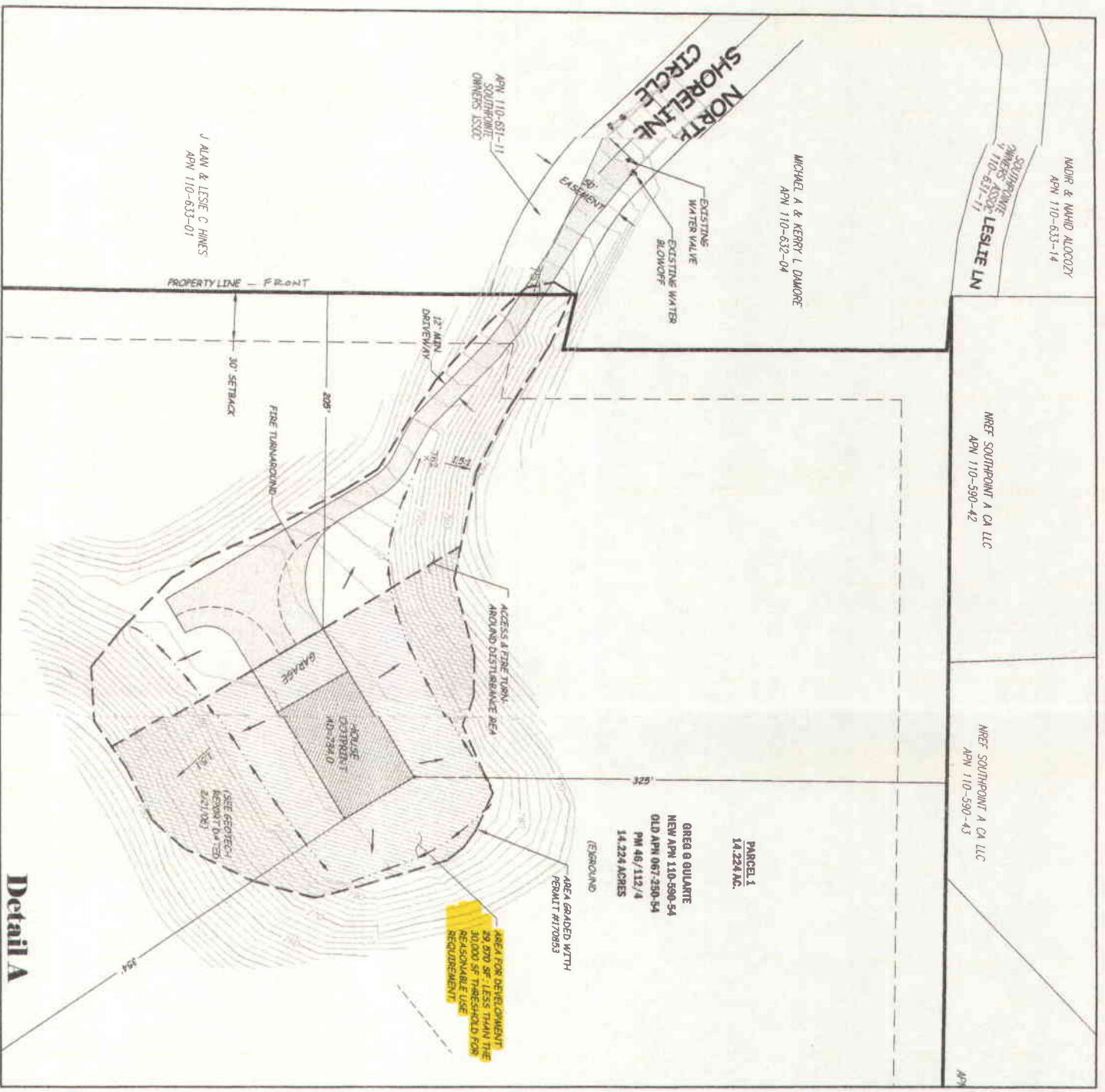
PREPARED BY:
LEBECK • YOUNG
 ENGINEERING, INC.
 3430 ROBIN LANE, BLDG. #2
 CAMERON PARK, CA 95682
 Ph. (530) 877-4080 Fax. (530) 877-4086

AS-BUILT GRADING PLAN

NEW APN: 110-590-54 OLD APN: 067-250-54-1 PM 46/112/4
 SOUTHPPOINT, EL DORADO HILLS, CA

RECEIVED
 FEB 15 2008
 PREPARED FOR:
GREG GULARTE
 P.O. Box 490
 Lincoln, CA 95648
 (916) 765-4284

PROJECT # 05134
 DATE: October 2002 rev April 2008
 Scale: 1" = 40'
 Designed by: N. Young
 SHEET NO. **GI**

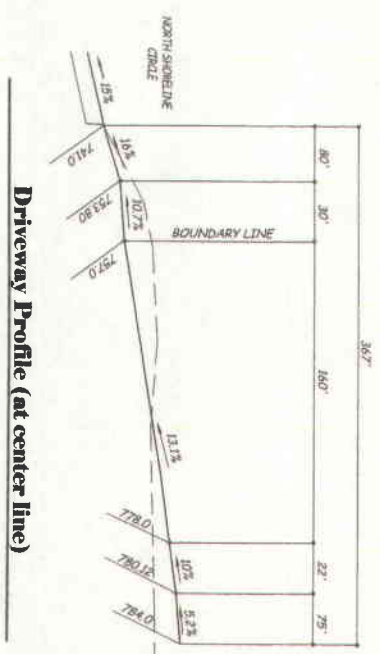


Detail A

GRADING PLAN 1" = 40'

Earthwork Calculations:	Excavation (CY): 1422.12
Fill (CY): 1075.48	Embankment (CY): 2500.00
Total: 1977.60	

Note: earthwork calculation are approximate and may vary based upon construction of the road and/or structures methodology.



Driveway Profile (at center line)
 N.T.S.

LEGEND:
 SS - SEWER SERVICE
 WS - WATER SERVICE
 OS - UTILITY SERVICE
 H - HOUSING
 H-1 - HOUSING UNIT
 H-2 - HOUSING UNIT
 H-3 - HOUSING UNIT
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 H-99 - HOUSING UNIT
 H-100 - HOUSING UNIT

NOTES:

- 1) THE ZONING OF THESE LOTS IS IN THE SETBACK AREAS FROM THE FRONT, SIDES, AND REAR PER EL DORADO COUNTY PLANNING AND ZONING DEPARTMENT.
- 2) ALL CUTS AND FILLS SHOWN HEREON ARE 2:1 MAX. UNLESS OTHERWISE STATED CUTS AND FILLS STEEPER THAN 2:1 REQUIRE APPROVAL FROM A LICENSED GEOTECHNICAL ENGINEER.
- 3) TOPOGRAPHICAL DATA IS FROM AN AERIAL SURVEY PROVIDED BY CLIENT.
- 4) ALL FILLS SHALL BE REVEGETATED AND COMPACTED ACCORDING TO ALL APPLICABLE LOCAL & STATE REQUIREMENTS.

ALL GRADING SHALL BE PERFORMED UNDER THE SUPERVISION OF A LICENSED GEOTECHNICAL ENGINEER. A FINAL GRADING REPORT SHALL BE SUBMITTED TO THE BUILDING DEPARTMENT PRIOR TO BUILDING CONSTRUCTION.

MIN. SETBACKS:	30'
FRONT:	30'
REAR:	30'
SIDE:	30'
REAR:	30'

Grading to meet setbacks with APPROVAL FROM EL DORADO COUNTY PLANNING AND ZONING DEPARTMENT.

SEE SETBACKS FOR ALL LOTS.

SEE SETBACKS FOR ALL LOTS.

SEE SETBACKS FOR ALL LOTS.

SEE SETBACKS FOR ALL LOTS.

SEE SETBACKS FOR ALL LOTS.

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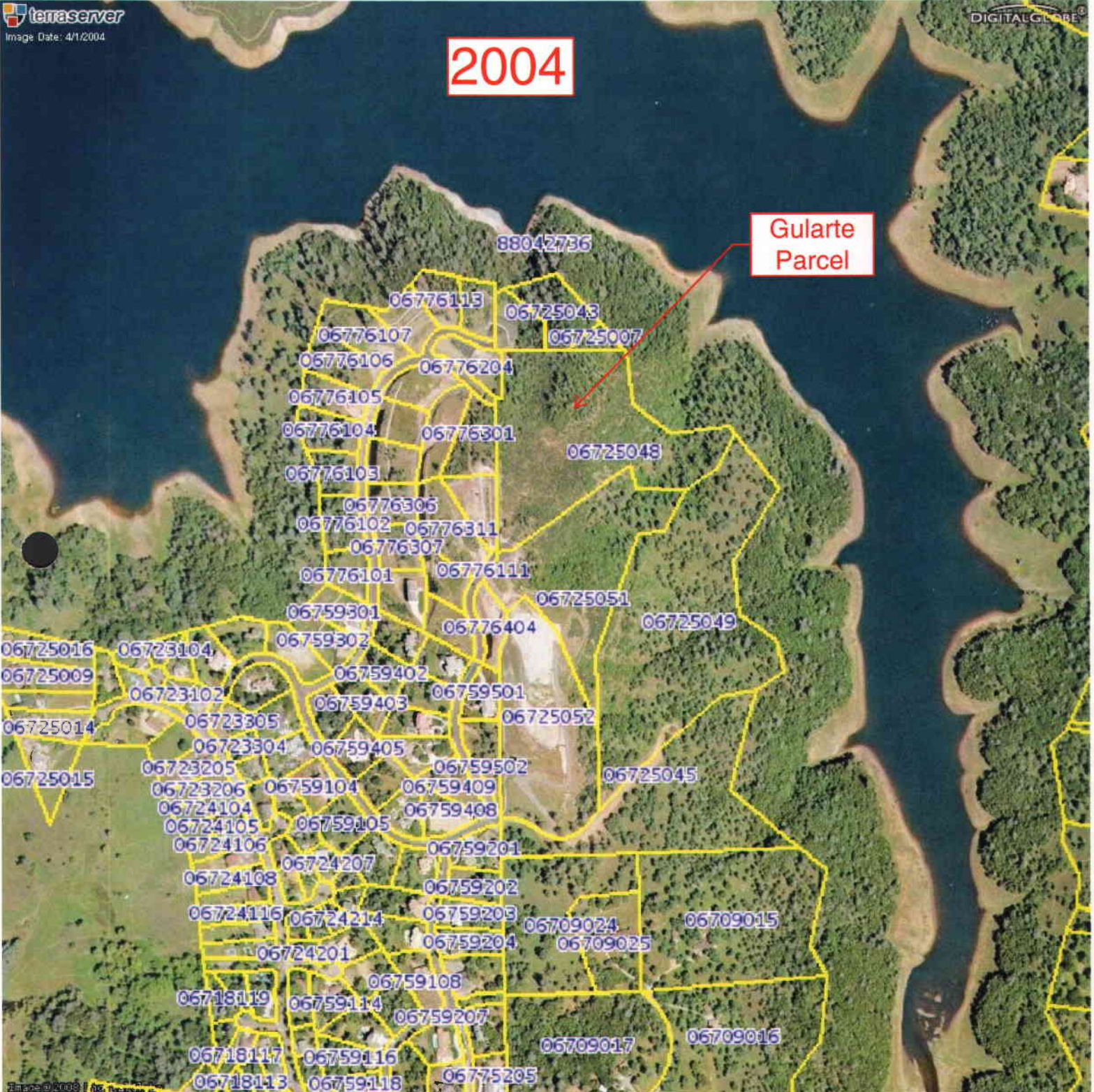
SEE SETBACKS FOR ALL LOTS.

SEE SETBACKS FOR ALL LOTS.

Exhibit C
Site Photographs
2004 & 2008

2004

Gularte Parcel



terraserver
Image Date: 4/12/2004

DIGITALGLOBE®

Site Conditions
Prior to Grading
2004



Image © 2003 DigitalGlobe

Site Conditions
2008

Grading Permit
170853

Unauthorized
Grading

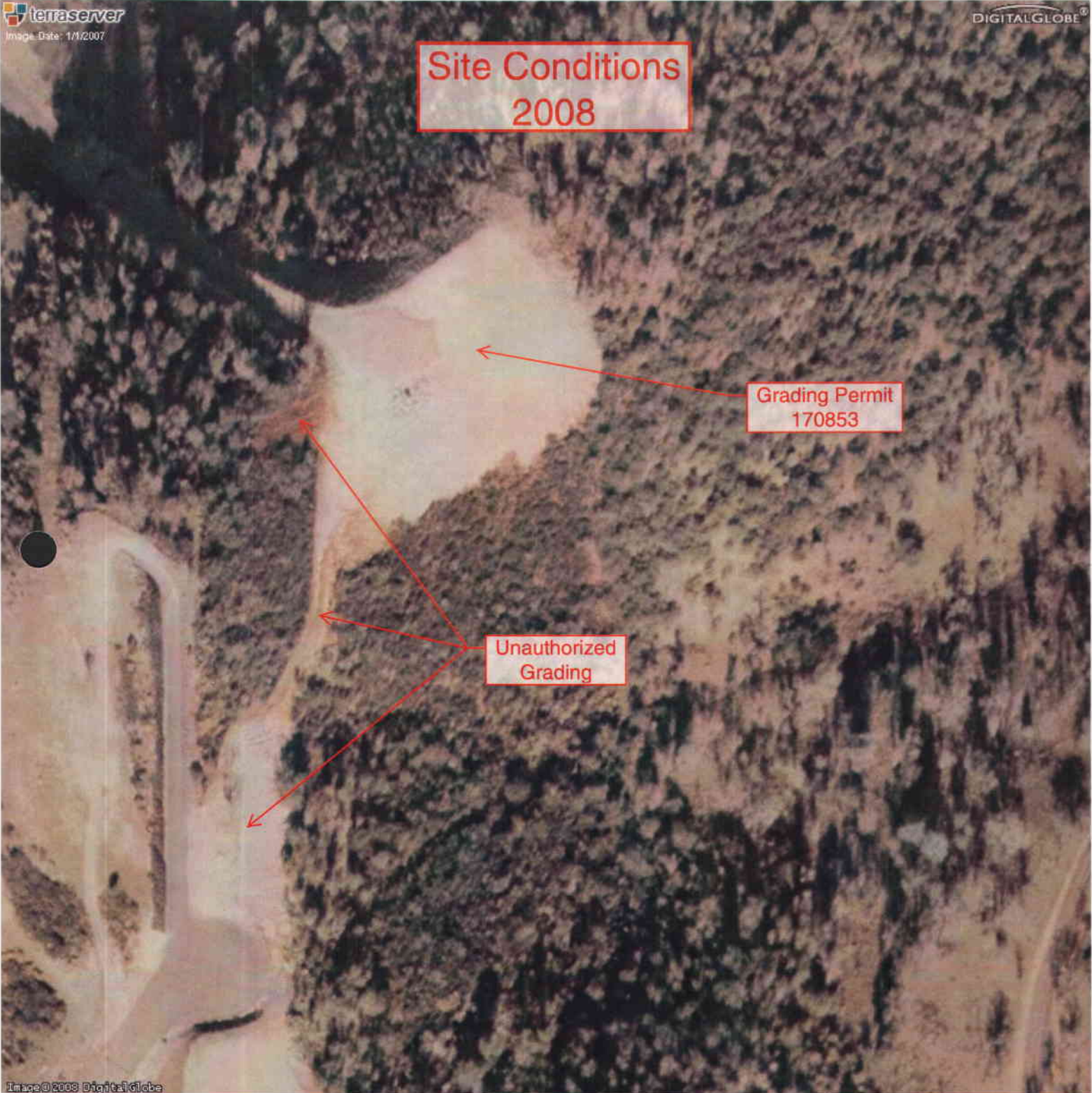


Exhibit D
Unauthorized
Grading Photographs

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

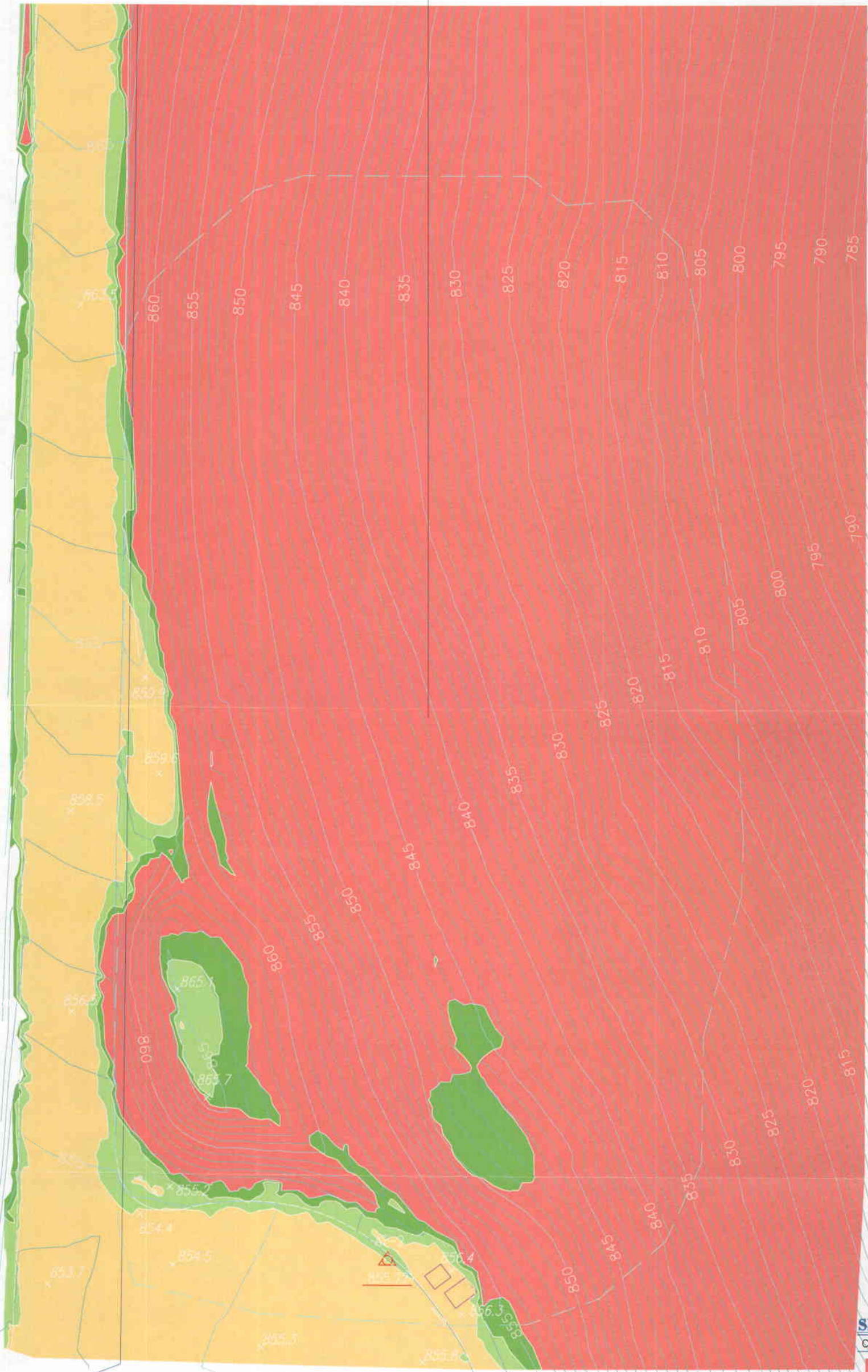
Exhibit E
Carlton Engineering
Slope Analysis Studies



1 inch = 10 ft.

2003 Surface

DASHED LINE INDICATES AREA OF 2009 SURVEY



Slope Analysis

COLOR	RANGE	TOTAL AREA
Red	30%—	80%
Green	21%—30%	3%
Light Green	11%—20%	2%
Yellow	0%—10%	15%

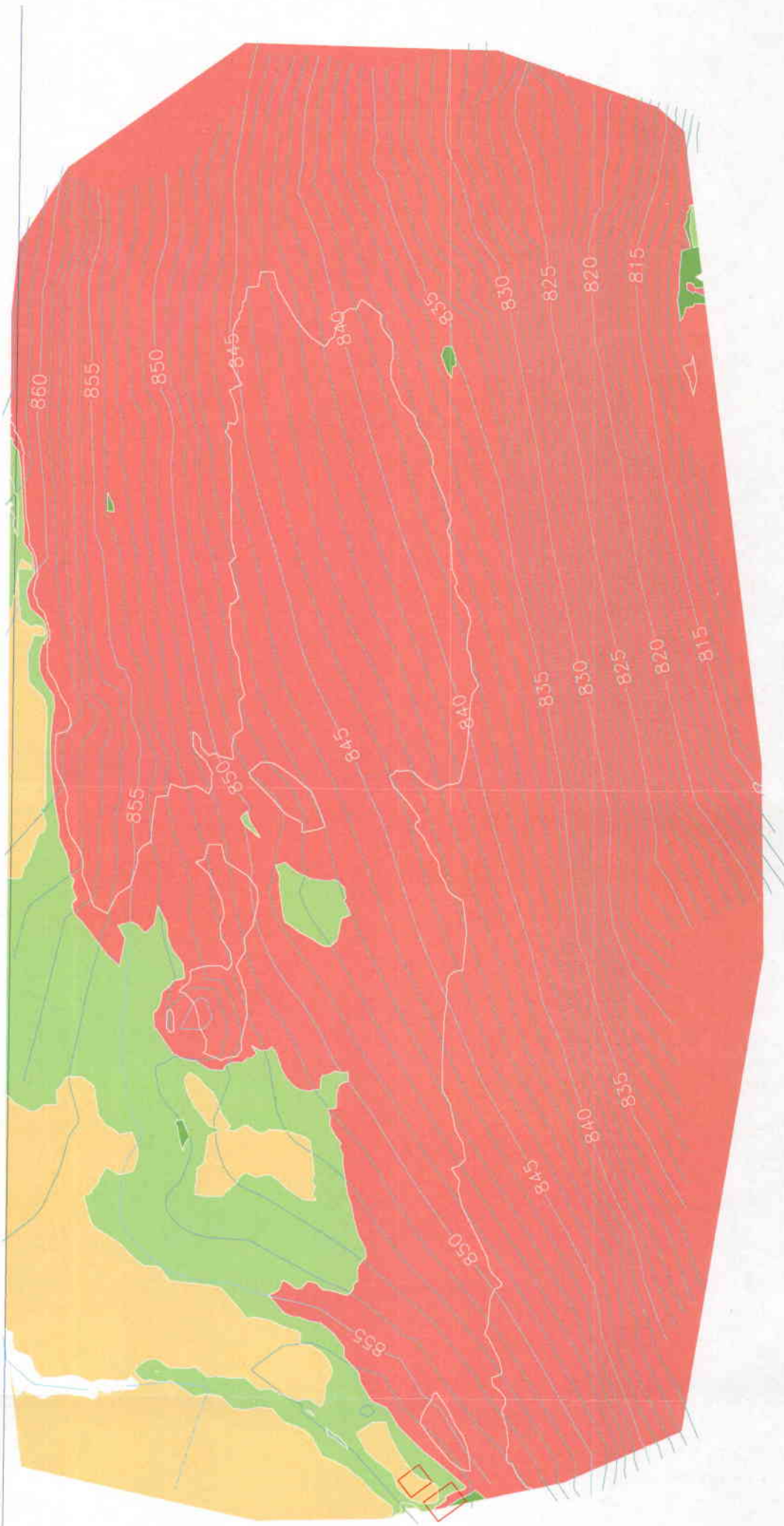
CARLTON
Engineering Inc.

3933 Redwood Street, Orange, CA 92668
Voice: 530.677.6615 Fax: 530.677.6645



0 5 10 20 1 inch = 10 ft.

2009 Surface



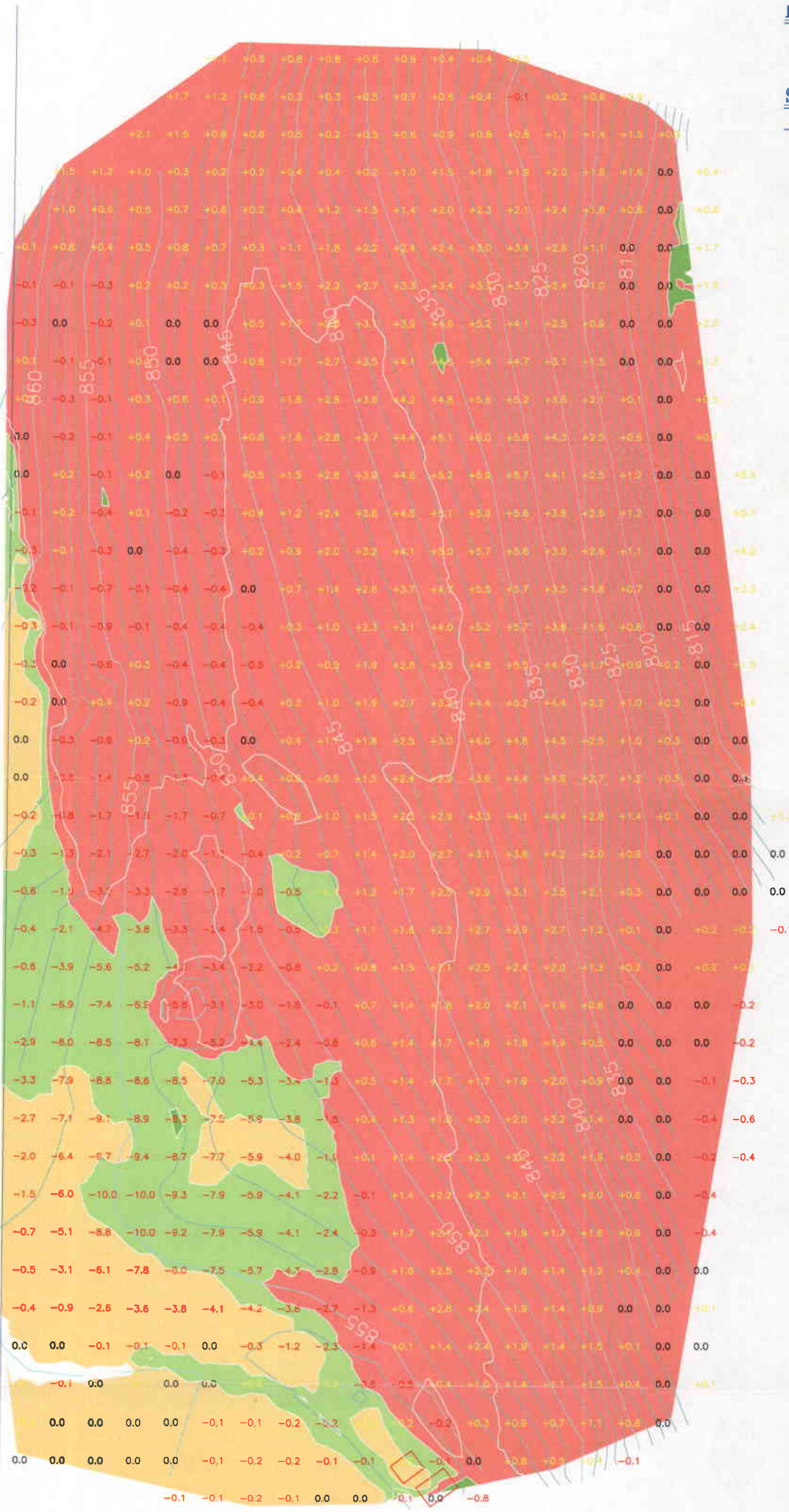
Slope Analysis

COLOR	RANGE	TOTAL AREA
Red	30%+	57%
Green	21%-30%	21%
Light Green	11%-20%	10%
Yellow	0%-10%	12%



1 inch = 10 ft.

2009 Surface



Earthwork Volumes

CUT 711 C.Y.
 FILL 962 C.Y.

Slope Analysis

COLOR	RANGE	TOTAL AREA
Red	30%–	57%
Dark Green	21%–30%	21%
Light Green	11%–20%	10%
Yellow	0%–10%	12%

**COMMENTS ON ENVIRONMENTAL CHECKLIST AND DISCUSSION OF IMPACTS
FOR LAKEVIEW VILLAS (Z09-0005/P09-0007)**

I have reviewed the referenced document and project, as well as photos of the proposed site and have the following comments for your consideration:

- 1) **Project Description:** The project description in the checklist does not provide adequate detail to complete environmental analysis. The project description should include the sponsors name and address, a description of the "whole action" of the project, including "later phases of the project, and any secondary, support, or off-site features necessary for its implementation." (CEQA Guidelines Section 15124 and the Checklist in Appendix G of the Guidelines). Appendix G also indicates other public agencies whose approval is required should also be identified. CEQA Guidelines Section 15124 directs that project objectives be provided for an EIR, and the same standard should hold for an Initial Study that supports a negative declaration. Consideration of the project objectives (e.g. building and selling additional residential lots) identifies indirect but foreseeable impacts that were not addressed in the checklist.

The checklist does reference any figures of the project location, although some are included in the Appendix.

The "Environmental Setting" (page 1 of Checklist) is truncated and inaccurate. The setting is quoted as follows:

Briefly Describe the environmental setting: The project site is located at approximately 700 feet elevation. Slopes on site severely steep with 82 percent of the slopes exceeding 30 percent. Vegetation on site is scattered on site and consists primarily of native grasslands and oak trees. The existing vegetation covers approximately

Note that there appears to be missing text after the word "approximately." Also, the parcels in question are dominated by over 90% chaparral and oak woodland, with a very small area of grasslands. The grasslands appear dominated by mediterranean exotic species. Therefore, the project description reflects inadequate survey information on which to base the subsequent environmental analysis.

- 2) **Cumulative Impacts:** The Checklist fails to address "reasonably foreseeable" indirect effects of the project as described in CEQA Guidelines 15064 (d): Specifically "*(d) In evaluating the significance of the environmental effect of a project, the Lead Agency shall consider direct physical changes in the environment which may be caused by the project and reasonably foreseeable indirect physical changes in the environment which may be caused by the project.*"

If the re-zone is granted, it can be reasonably anticipated that an additional residence (s) would then be constructed, access roads would be constructed and houses sold to people who would increase incrementally the population of El Dorado. The project description indicates that no roadways would be constructed as part of the project, but that the parcel would be accessed from a driveway at La Sierra Court. Since this driveway road does not exist it is a reasonably foreseeable impact of the project and therefore should be evaluated. Construction of the driveway would require grading in an area that may exceed 30 % slopes and cause additional (and unnecessary) loss of vegetation and habitat.

It is evident that granting the parcel and re-zone has the potential to cause foreseeable indirect effects with adverse impacts on the environment. The project would contribute incrementally to cumulative impacts in the County on Water Supply, Hazardous Materials, and Biological Resources. Because indirect and foreseeable effects can be identified that have not been addressed, the project should be reviewed as an EIR or mitigated negative declaration.

3) **Soil Conservation:** Soil Conservation; General Plan Policy 7.1.2.1 specifies that development or disturbance shall be prohibited on slopes exceeding 30% as follows:

"Policy 7.1.2.1 Development or disturbance shall be prohibited on slopes exceeding 30 percent unless necessary for access. The County may consider and allow development or disturbance on slopes 30 percent and greater when:

- *Reasonable use of the property would otherwise be denied.*
- *The project is necessary for the repair of existing infrastructure to avoid and mitigate hazards to the public, as determined by a California registered civil engineer or a registered engineering geologist.*
- *The project is necessary for the repair of existing infrastructure to avoid and mitigate hazards to the public, as determined by a California-registered civil engineer or an engineering geologist.*
- *Replacement or repair of existing structures would occur in substantially the same footprint.*
- *The use is a horticultural or grazing use that utilizes "best management practices (BMPs)" recommended by the County Agricultural Commission and adopted by the Board of Supervisors. "*

Access corridors on slopes 30 percent and greater shall have a site specific review of soil type, vegetation, drainage contour, and site placement to encourage proper site selection and mitigation. Septic systems may only be located on slopes under 30 percent. Roads needed to complete circulation/access and for emergency access may be constructed on such cross slopes if all other standards are met."

It appears that the area adjacent to La Sierra Drive may have been greater than 30 % prior to grading and supported various oaks and chaparral vegetation. The area was not identified in the grading permit issued for the project. The current checklist now identifies the area as "flat" and without vegetation. Allowing the subdivision and foreseeable development of this parcel would contradict General Plan Policy 7.1.2.1.

4) **Air Quality Impacts:**

4.1) Asbestos-containing ultramafic rock is common in El Dorado County and from field visits it appears serpentine is present on the project site. Grading and earth moving, which is a foreseeable future action if the proposed subdivision is granted, could result in asbestos dust being airborne during grading. The analysis of air quality is incomplete without a discussion of the potential presence of asbestos, and a suitable plan for addressing asbestos if present. No evidence is provided in this section that the potential for airborne asbestos to affect public health was evaluated.

4.2) The analysis refers to regulations of the South Coast Air District as follows:

"Furthermore, construction fugitive dust emissions would be considered not significant and estimation of fugitive dust emissions is not required if complete mitigation is undertaken as part of the project (or mandatory condition of the project) in compliance with the requirements of Rule 403 of the South Coast

AQMD, such that there will be no visible dust beyond the boundaries of the project. (EDC APCD-CEQA Guide, 1st Ed, 2002)"

Since the South Coast AQMD has no authority in this area, the County should refer to EDC APCD rules.

4.3) The El Dorado County APCD CEQA guidelines require an analysis of Toxic Air Contaminants (TAC) as follows:

"Toxic Air Contaminants...The project will result in construction or operations emissions of toxic air contaminants (TACs) that cause a lifetime cancer risk greater than one in one million (10 in one million if best available technology for toxic air contaminants is applied), or ground-level concentrations of non-carcinogenic TACs with a Hazard Index greater than 1. Special attention is given to asbestos emissions and Diesel engine emissions. (EDC APCD 2002).

No analysis of TACs generated by the project is evident in the checklist. As noted above, the region appears to have abundant serpentine which may contain asbestos.

4.4) No quantitative evidence is provided that the project will not exceed significance thresholds. The EDC APCD CEQA guidelines recommend:

"The Initial Study should analyze project construction and operation, as well as cumulative impacts. When considering a project's impact on air quality, a lead agency should provide substantial evidence that supports its conclusions in an explicit, quantitative analysis whenever possible. Lead Agencies are encouraged to use the methodologies provided in this document, or approved computer programs, to perform quantified screening-level air quality analyses." (EDC APCD 2002, Section 3.1).

The Checklist contains no quantitative analysis to support its conclusion that the significance threshold of 82 lbs/ per day would be exceeded. The following is the analysis provided:

"Emissions of NO_x and ROG from construction equipment are the primary pollutants. However, short-term thresholds for these would most likely not exceed 82 pounds per day."

The air quality analysis is conclusory and lacks supporting evidence, which is contrary to both the APCD and CEQA guidelines.

5) Biological Resources:

5.1) The biological setting is described in the Checklist as "scattered oak woodlands and native grasslands," which is inaccurate. Most of the parcel is chaparral vegetation.

5.2) Noxious Weed Management. It was observed that areas that were graded adjacent to La Sierra Drive were dominated (November 2009) with yellow star thistle considered a noxious weed. General Plan Policy 7.4.1.7 directs the county to support the Noxious Weed Management Group to eliminate noxious weed infestations.

Policy 7.4.1.7 : The County shall continue to support the Noxious Weed Management

Group in its efforts to reduce and eliminate noxious weed infestations to protect native habitats and to reduce fire hazards.

5.3) No Biological Study Report. The biological analysis for endangered species provided in the checklist is as follows:

"The project site is located within Mitigation Area 1 which are lands not known to have rare plants but soil types capable of sustaining rare or endangered plants. The project site has been previously disturbed with a developable site on each of the proposed lots. These buildable sites are devoid of any vegetation. Due to the topography of the site, these areas are the only developable sites due to General Plan Policies restricting development on slopes exceeding 30 percent. In accordance with the County Code, payment of Mitigation In-Lieu fees would be required at building permit issuance. There would be a less than significant impact to any special status species or natural communities as a result of the project."

The analysis does not refer to any biological studies or surveys performed on the site to determine the presence of any endangered species, although it acknowledges that soils are suitable to support such species. Without surveys, the determination of less-than-significant impacts is conclusory and meets neither the intent of CEQA, nor that of the county in expressing the following goal:

"[Within 4 years of General Plan Adoption]. Develop guidelines for the preparation of biological study reports. [Policy 7.4.1.6]"

Further, the checklist fails to note the reason the two sites are devoid of any vegetation is because they were cleared and graded by the applicant. In addition, historical aerial photographs indicate some oak trees were removed in this grading and clearing which is not consistent with current General Plan policy.

5.4) The County has already determined significant impacts to biological resources from further development. The Checklist should acknowledge this and refer to it.

"In addition, in adopting the General Plan, the County also found that impacts from development would contribute to significant adverse impacts to rare plants, even after mitigation, and the County adopted a statement of overriding considerations citing numerous social and economic benefits that potentially outweighed the loss of rare plants and habitat." (Pine Hill Preserve, a Brief History & Issue Paper, Prepared by El Dorado County Staff, March 23, 2007 U.S. Fish and Wildlife Service Comments-June 12, 2007)

5.5) The practice of accepting "in-lieu" fees as mitigation for biological impacts is not consistent with mitigation requirements of CEQA.

Recently the Third District court upheld (April 2009) a case from the Native Plant Society against the Congregate Care Project. Relevant findings included the following:

1. *"The General Plan called for full mitigation, but the relevant General Plan implementation tool, the Integrated Natural Resources Management Plan, had never been adopted. For an in-lieu fee system to*

completely satisfy the duty to mitigate the fee program must be evaluated by CEQA or the in-lieu fees or other mitigation must be evaluated on a project-specific basis."

2. The County violated its own mitigation strategy by failing to conduct annual reviews of the fee amount and efficacy of the Fee Program. This rendered the Fee Program unsound. Lack of County follow through undermined the County's argument that payment of the fee constituted full mitigation."

Until the County adopts the INRMP program, and the in-lieu fee system is evaluated under CEQA, in-lieu fees are not adequate mitigation for cumulative losses to biological resources. Cultural Resources: The site is characterized as low to moderate cultural sensitivity, but there are no references to a California Historic Records Inventory Service (CHRIS) search, field survey or documents to support cultural resources evaluations.. Based on this information, the statement that impacts to cultural resources would be less than significant is conclusory; without evidence. The Checklist identifies the area as one of Low to Moderate cultural sensitivity, and some independent monitoring should be required.

6) **CONDITIONS:**

6.1) **Condition 2.3 is missing a word** after "severely" that appears to characterize most of the site having slopes exceeding 30 percent. The sentence should be revised. The following statement specifies that developable areas are available on each of the proposed parcels, but does not note how an area previously characterized with 30 % slopes was graded to be "developable." This discrepancy should be explained.

"2.3. The site is physically suitable for the type of development proposed.

The project site is severely with the majority of the slopes exceeding 30 percent. The project has demonstrated that developable areas are available on each of the proposed parcels which avoid 30 percent slopes."

6.2) Condition 2.6 refers to the site being accessed by existing roads that do not exist.

"2.6. The design of the subdivision or type of improvements are not likely to cause serious public health or safety hazards.

The proposed parcels would be accessed by existing roads which meet the Fire Safe Regulations. The project does not include any improvements that would pose a risk to public health."

However, there are no driveways between La Sierra Drive and the project site. Appendix H of the Initial Study shows the Tentative Map provided with the 1992 Checklist, but fails to show that the driveways across the site were deleted from the approval as follows:

[Condition 12]

~~12. "A looped road system, connecting North Shoreline Circle with La Sierra Drive shall be included in on-site improvements."~~

However, there is no existing looped road from La Sierra Drive and construction of the road in this area should be considered in the environmental review, along with the potential for asbestos dust.

7) **Soils and Geology Report should be signed by Objective Qualified Expert.** Condition 22 refers to a soils and geologic hazards report that will be required for the project. It is known that the applicant is a geotechnical engineer, with authority to sign such reports. However, as he is an interested party in this case, there is clear conflict-of-interest in signing reports for his own development. We suggest that the County require that the soils and geology report be signed by an objective, independent qualified expert who is not subject to conflict-of-interest concerns.

SUMMARY

Based on the comments above, it is apparent that the Environmental Checklist used to support this decision is lacking in important information necessary to complete a competent environmental review. There are numerous places where conclusory statements are unsupported by substantial evidence as CEQA requires. There are indications (air quality, hazards, biological impacts, cultural impacts, aesthetics) where a reasonable argument can be made that significant impacts could occur. It is my opinion that the Initial Study provided here does not support a negative declaration finding and should be further evaluated by County Staff.

Attachment 1: Photographs.

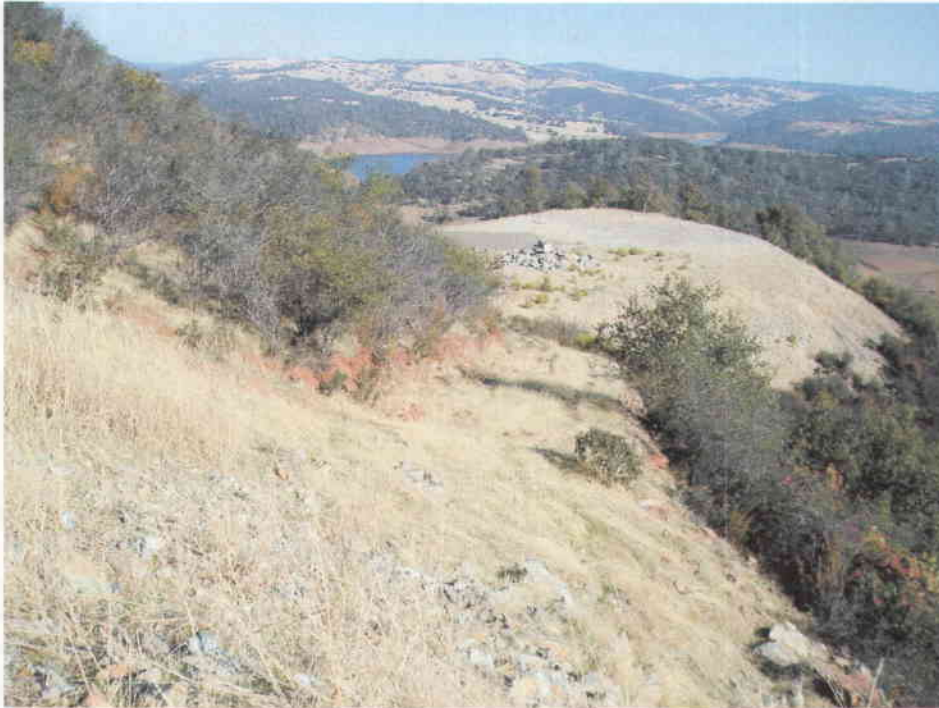


Figure 1. Project parcel showing two graded and filled pads totalling more than 45,000 square feet.



Figure 2. Rock on edge of La Sierra Drive- Greenish and waxy, consistent with serpentine.

PC 12/10/09

#10

SOUTHPOINTE OWNERS ASSOCIATION

By Facsimile at (530) 642-0508
By e-mail at planning@edcgov.us

County of El Dorado Planning Services
2850 Fairlane Court
Placerville, CA 95667

Re: December 10, 2009 Hearing of County of El Dorado Planning Commission
Rezone Z09-0005/Parcel Map P09-0007/Lakeview Villas/Greg Gularte

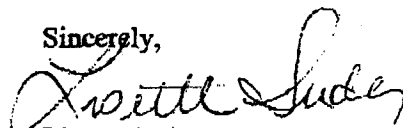
Dear Planning Services Office:

I am president of the Southpointe Owners Association ("SOA"). I write regarding the above-referenced proposed rezone and lot split which comes on for hearing at 8:30 a.m. on December 10, 2009.

SOA's recently amended Conditions, Covenants, and Restrictions provide that no lot may be further subdivided without the approval of two-thirds vote of the SOA membership. Mr. Gularte has not sought such approval from the SOA membership.

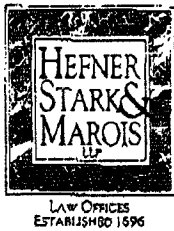
Thank you for your courtesy and attention in this matter.

Sincerely,



Lisette Suder
President

CO DEC 10 09 11:10
RECEIVED
PLANNING DEPARTMENT



2150 River Plaza Drive, Suite 450
Sacramento, CA 95833-3883
Telephone: (916) 925-6620
Facsimile: (916) 925-1127

FACSIMILE TRANSMITTAL

DATE: December 3, 2009

NO. OF PAGES (Including cover page): 2

SEND TO:	FACSIMILE NO.: (530) 642-0508
COMPANY: County of El Dorado Planning Services	TELEPHONE NO.: (530) 621-5355

FROM: Kirk E. Giberson

CLIENT/MATTER NO.: 1000.0001

If you do not receive all the pages, please contact Carol Garlow at (916) 567-7385.

MESSAGE:

Please find attached a letter from Southpointe Owners Association regarding the December 10, 2009 hearing of the County of El Dorado Planning Commission.

DECEMBER 3 2009 10
RECEIVED
PLANNING DEPARTMENT

THE INFORMATION CONTAINED IN THIS FACSIMILE IS CONFIDENTIAL AND MAY ALSO CONTAIN PRIVILEGED ATTORNEY CLIENT INFORMATION OR WORK PRODUCT. THE INFORMATION IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHOM IT IS ADDRESSED. IF YOU ARE NOT THE INTENDED RECIPIENT, ANY USE, DISSEMINATION OR DISTRIBUTION OF THIS COMMUNICATION IS PROHIBITED. IF YOU HAVE RECEIVED THE FACSIMILE IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE, AND RETURN THE ORIGINAL MESSAGE TO US. THANK YOU.

K:\Performance Contracting Group Incl\Orange Grove Avenue Lease (7570-0002)\fax county of el dorado.wpd