



Public Comment #45
 County of El Dorado Clerk of the Board <edc.cob@edcgov.us>
BOS Recd. 5-10-22

Affordable Housing Comments

3 messages

Larry Rolla <rollaskate@gmail.com>

Mon, May 9, 2022 at 11:45 PM

To: Clerk of the Board <edc.cob@edcgov.us>

Cc: Alicia Selby <newcreation00@gmail.com>, Sue Taylor <sue-taylor@comcast.net>

Dear Clerk of the Board,

Unfortunately, I am unable to attend the discussion tomorrow on affordable housing but have put my thoughts together below which I would like to submit for the record.

Affordable Housing is a term often used to justify large housing developments people believe will be sold at below market prices. Another concern you might hear is from parents who want their kids to be able to purchase a home in the same town / county they currently live in. All valid points but lacking an understanding of the real housing challenges. When you start to dig deeper into the issues, you soon realize there are several factors that determine the cost of a house. Below are some of the items related to housing prices.

Overall Housing Cost: When we look at the cost of a house in a free market society, the market is driven by supply and demand. During times of low supply and high demand the prices go up and vice versa when the reverse is true. Trying to increase the supply of homes could have an effect on the market but other factors come into play such as labor costs, cost of materials, permit fees, arborists, septic testing (perc test), well drilling, power line costs, phone availability, etc., and don't forget the target profit for the builder. With inflation rearing its head in 2022, you can expect home prices to increase as a result of higher costs to build. There are many contractors already charging a gas surcharge to their costs as a result of the current gas prices.

Location / Condition: Another factor is certainly the location of the house and condition. If the house is in a desirable location and in good condition, the house will be priced higher than similar homes in a different location.

Location also comes into play with construction costs. Remote building sites usually have less accessible services available, thus increasing the construction cost to bring those services to the site. Sites closer to freeway may have more services available, which equates to a less expensive build per unit. Remote sites could also require extensive road development to meet fire standards. All development costs will be passed onto the buyer in the home price.

Jobs: The location of employment also needs to be considered. People who cannot afford to purchase or rent a home close to work, tend to reside in "affordable" housing that is further away from their job. They are then faced with higher transportation costs in order to get from point A to B.

We should ensure that our jobs market is tracking to the rate of the housing market in order to reduce people's commute time and cost. The type of jobs is also an important factor. If we have nothing but minimum wage jobs close to our affordable housing then we don't have affordable housing. There is a balancing act between affordable housing and well paying jobs.

Local Topography: While not a huge factor for affordable housing it is a very serious factor when you consider emergency evacuation. Affordable housing will most likely be higher density in smaller acreage. This equates to a higher concentration of people per acre. El Dorado county, located in the Sierra foothills, consists of peaks and valleys, with two-lane roads dating back to the Gold Rush days. We seriously lack interior expressways that allow traffic to swiftly flow from our homes to freeways. Our roads don't have the capacity to handle a dense population during commute times and certainly not during emergency evacuation. In the interest of human safety, in El Dorado County, the further away from the major highways you travel, the less dense our population should be. We should be focusing our high density and smaller units along the Hwy 50 corridor.

Affordable: What is affordable for one person is not affordable for another. Income, interest rates, credit scores, and working history are all factors that come into play when trying to buy a home.

The Federal Department of Housing and Urban Development (HUD) defines an "affordable dwelling" as one **that a household can obtain for 30 percent or less of its income**. But this varies from city to city.

For El Dorado County we have an example of low income affordable housing being planned in the town of El Dorado. The target is 80% of Area Median Income (AMI) for 50% of the units being built in this complex. See table below for breakdown.

Table 1. 2021 State Income Limits for El Dorado County

Income Category		Number of Persons in Household							
		1	2	3	4	5	6	7	8
Extremely Low Income	30% AMI	\$ 19,050	\$ 21,800	\$ 24,500	\$ 27,200	\$ 31,040	\$ 35,580	\$ 40,120	\$44,660
Very Low Income	50% AMI	\$31,750	\$36,250	\$40,800	\$ 45,300	\$48,950	\$52,550	\$ 56,200	\$59,800
Low Income	80% AMI	\$50,750	\$58,000	\$65,250	\$ 72,500	\$78,300	\$84,100	\$ 89,900	\$95,700

At \$35/hr you would make \$72,800 a year. At the \$15/hr minimum wage your yearly salary is \$31,200.

Using a family with 4 people in the household, a buyer with a 6% loan could only afford payments on a \$350,000 home when taxes and insurance are included. So without help from a family member / friend, or a lot higher down payment, anything over \$400,000 would preclude actual low income households. Another option is an adjustable loan which often turns into foreclosures when the market interest is rising and the new fixed rate is unattainable by someone who just barely qualified in the first place.

Conclusion: Clearly affordable housing is a complex issue that needs careful examination and long term planning in order to be successful. Just throwing more homes in a given area might be a recipe for disaster and cost human lives if we have another fire like Caldor, or Santa Rosa, or Paradise just to name a few in the recent past.

Kind Regards,

Larry Rolla

Diamond Springs / El Dorado Community Coalition



County of El Dorado Clerk of the Board <edc.cob@edcgov.us>

Agenda # 22-0807 Affordable Housing Workshop - May 10, 2022

Raelene Nunn <raelenenunn@sbcglobal.net>

Mon, May 9, 2022 at 9:00 PM

To: "edc.cob@edcgov.us" <edc.cob@edcgov.us>, The BOSONE <bosone@edcgov.us>, John Hidahl <john.hidahl@edcgov.us>, Jon Vegna <jvegna@edcgov.us>

Members of the El Dorado County Board of Supervisors and Planning Commission,

I am a homeowner and resident of El Dorado Hills since 1983. I am commenting on the informational workshop developing an affordable housing ordinance in El Dorado County.

El Dorado County needs affordable housing for all demographics, and age friendly housing,

As you know, El Dorado County has one of the largest percentages of senior residents in the state, and this demographic is growing quickly. I am asking that you make sure that the ordinance recognizes the need for affordable age friendly-senior housing.

There are many examples of affordable housing that fit senior needs. Examples include:

- ADA Accessible / Adaptable units
- Affordable Villages for Seniors
- ADUs, PADUs and Tiny Homes

I advocate that you feature *senior friendly housing* language in the ordinance, as it should be an integral part of the ordinance. The ordinance, of course, must also represent affordable housing for all demographics.

Thank You,

Raelene Nunn
Resident District 1



El Dorado County affordable housing workshop on Tuesday

Rachel Carson <rachel.carson@pressmail.ch>
To: edc.cob@edcgov.us

Mon, May 10, 2022

Greetings El Dorado County affordable housing workshop:

Don't Destroy our State Scenic Corridor and our Restored Land Parcels with the Osgood government housing project. This is what the view looked like on those parcels in 1965:



This is what it looks like today:



Thanks to the very hard work of environmentalists, this segment of Highway 50 was restored, and became part of the State Scenic Highway system. However, now it is being threatened again:

Osgood Housing Project will Illegally Destroy Restored State Scenic Corridor.

(e.g., SRI & SR5—Attach. C & G/Table I3-3 & I3-6; LU-1, LU-2.2, CD-1, CD-2, VEG-2.2, SR-1, IAP-1, DP-1; Ord. 66



This not only destroys a restored scenic segment, but it is prohibited development on a Class 1B rated land capability (Stream Enviro. Zone):

Osgood Housing Project will Illegally Cover Stream Environmental Zone Land (Class II (e.g., SC2; LU-2.4B, LU-2.5B, S-I.1, S-I.2, S-I.5, S-I.7, SEZ-I.2, & SEZ-I.5; Ord. 4.4, 30.4, &



Osgood Parcel in 1965



Osgood Parcels after Restoration

Legend

- Osgood Housing Units
- Impervious Land Coverage
- Osgood Housing Parcels
- Land Capability - Bailey**
 - 1A, Environmentally Sensitive
 - 1B, SEZ, Environmentally Sensitive
 - 1C, Environmentally Sensitive
 - 2, Environmentally Sensitive
 - 3, Environmentally Sensitive
 - 4, Non-Sensitive Land
 - 5, Non-Sensitive Land
 - 6, Non-Sensitive Land
 - 7, Non-Sensitive Land



Please do not do this. Also, tomes of peer-reviewed research show that living adjacent to a highway is causal to a lower life expectancy, carcinogenic automobile emission exposure, noise related stress, hazardous traffic maneuvers, and pedestrian fatalities. This is contrary notion of environmental justice, which requires people are housed in ordinary houses located deep within residential neighborhoods distributed throughout the city. This government housing project looks like a dense ghetto.

Thank You,
Rachel Carson

Resolution 34 series 2016_deed restriction acquisitions.pdf
107K

**RESOLUTION NO. 34
SERIES 2016**

**A RESOLUTION OF THE VAIL TOWN COUNCIL APPOINTING THE
VAIL LOCAL HOUSING AUTHORITY AS THE TOWN'S AGENT TO
NEGOTIATE AND PURCHASE DEED RESTRICTIONS IN THE TOWN**

WHEREAS, through Resolution No. 29, Series 2016, the Town Council adopted Vail Housing 2027, "A Strategic Plan for Maintaining and Sustaining Community through the Creation and Support of Resident Housing in Vail" (the "Plan");

WHEREAS, the Town Council and the Vail Local Housing Authority (the "VLHA") acknowledged in the Plan that "the acquisition of deed restrictions on homes for Vail residents is critical to maintaining and sustaining community"; and

WHEREAS, the Town Council desires to appoint the VLHA as the Town's agent for the purpose of negotiating and purchasing Deed Restrictions in accordance with the Plan.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF VAIL:

Section 1. The Town Council hereby designates the VLHA as the Town's agent solely for the purposes set forth herein.

Section 2. The Town Council hereby delegates to the VLHA the authority to:

- a. Implement the Plan through the negotiation and purchase of Deed Restrictions in the Town;
- b. Make, enter into, and execute purchase and sale agreements, deed restrictions, documents, instruments, papers and other forms necessary for the purchase of Deed Restrictions in accordance with the Vail Town Code and the Plan; and
- c. Expend funds that have been budgeted and appropriated in the Town's housing fund for costs associated with the acquisition of Deed Restrictions pursuant to the Plan, including without limitation costs for purchases, appraisals, legal fees, filing fees, closing costs and title insurance.

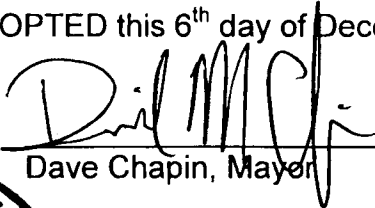
Section 3. The following criteria and findings shall be used by the VLHA when determining whether to acquire a deed restriction:

- Supports and maintains a permanent year-round resident population that grows a diverse community where a wide range of demographics, economics, occupations and family household sizes are served.
- Furthers the goal adopted in the Vail Housing 2027 Strategic Plan

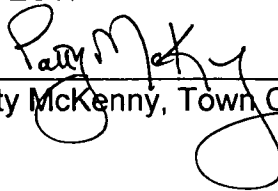
- Consistent with the housing policies adopted by the Vail Town Council for the acquisition of deed restrictions for resident housing
- Demonstrated demand exists within the resident housing market for the type of residential product (studio, flat, townhome, duplex, single family, etc.) that is to be deed restricted
- Fulfills a demonstrated need within a defined segment (i.e. for rent, for sale, owner occupied, etc.) of the residential property market.
- Demonstrates a quantifiable return on investment based upon the conclusions of the Economic Value of the Town's Investment in Employee Housing Report, prepared by BBC, dated March 12, 2012
- The market value of the deed restriction is comparable in value to other existing deed restrictions within the community as demonstrated by a licensed real estate appraiser
- Most cost effective and efficient use of the Town's limited supply of financial resources
- Fair market value is paid for the deed restriction relative to current market conditions (i.e. supply & demand)
- A transaction cap of \$200,000 per dwelling unit to be deed restricted

Section 4. The Town Council may modify or revoke the VLHA's agency designation or the authority of the VLHA under the agency designation at any time, in the Town Council's sole discretion.

INTRODUCED, READ, APPROVED AND ADOPTED this 6th day of December, 2016.


Dave Chapin, Mayor

ATTEST:


Patty McKenny, Town Clerk





County of El Dorado Clerk of the Board <edc.cob@edcgov.us>

El Dorado County affordable housing workshop

2 messages

Sydney B. Griffin <sydney.griffin@pressmail.ch>

Mon, May 9, 2022 at 9:17 PM

To: edc.cob@edcgov.us

Dear El Dorado County affordable housing workshop,

Don't destroy our conserved land parcels! This will release thousands of tons of sequester carbon dioxide into the atmosphere, and **set a horrible precedent on developing conserved lands**. The highly divisive Tahoe "Prosperity" Center, all its real estate investment capitalist board members, Chase Janvrin, and Heidi Hill-Drum have rigged the housing debate such that we can have housing or save the environment, but not both. It is a completely bogus argument. **Do not develop Tahoe Conservancy lands**. This will have a significant effect on the environment. This conserved land was supposed to be retired in a natural state without impervious coverage in accordance with the TRPA threshold standards and the regional plan.

The corrupt Tamara Wallace is undermining the environmental mission of the Tahoe Conservancy through her board membership. Despite her bragging how well she understood city planning laws and plans, she already illegally tried to stop the restoration of the "Motel 6" stream environmental zone, despite such being mandated by the regional plan:

Stop this nonsense.

Sydney B. Griffin

5 attachments

**Sugar Pine Village.pdf**

4549K

**032-291-028-100_ELDCO Recorder.pdf**

29K

**032-291-028-100_HPI.pdf**

172K

**032-291-031-100_ELDCO Recorder.pdf**

28K

**032-291-031-100_HPI.pdf**

173K

County of El Dorado Clerk of the Board <edc.cob@edcgov.us>

Tue, May 10, 2022 at 8:28 AM

To: The BOSONE <bosone@edcgov.us>, The BOSTWO <bostwo@edcgov.us>, The BOSTHREE <bosthree@edcgov.us>, The BOSFOUR <bosfour@edcgov.us>, The BOSFIVE <bosfive@edcgov.us>, Donald Ashton <don.ashton@edcgov.us>, Planning Department <planning@edcgov.us>

FYI, public comment #45, 22-0727.

Office of the Clerk of the Board
El Dorado County
330 Fair Lane, Placerville, CA 95667
530-621-5390

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----- Forwarded message -----

From: **Sydney B. Griffin** <sydney.griffin@pressmail.ch>

Date: Mon, May 9, 2022 at 9:18 PM

Subject: El Dorado County affordable housing workshop

To: <edc.cob@edcgov.us>

Dear El Dorado County affordable housing workshop,

Don't destroy our conserved land parcels! This will release thousands of tons of sequester carbon dioxide into the atmosphere, and **set a horrible precedent on developing conserved lands**. The highly divisive Tahoe "Prosperity" Center, all its real estate investment capitalist board members, Chase Janvrin, and Heidi Hill-Drum have rigged the housing debate such that we can have housing or save the environment, but not both. It is a completely bogus argument. **Do not develop Tahoe Conservancy lands**. This will have a significant effect on the environment. This conserved land was supposed to be retired in a natural state without impervious coverage in accordance with the TRPA threshold standards and the regional plan.

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Sydney B. Griffin

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032-291-028-100_HPI.pdf

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032-291-031-100_ELDCO Recorder.pdf

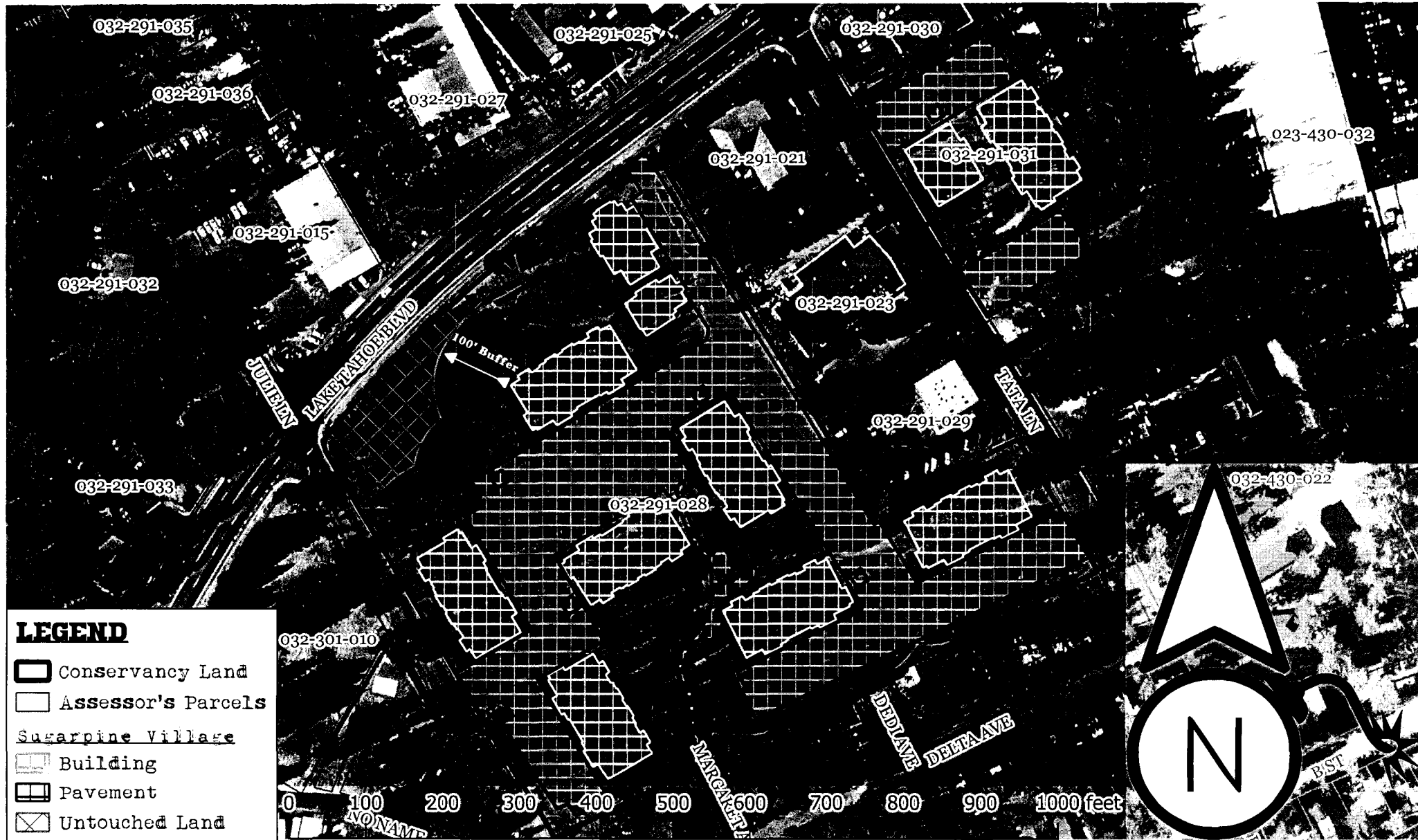
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032-291-031-100_HPI.pdf

173K

SUGAR PINE VILLAGE WILL DESTROY 11 ACRES OF CONSERVED LANDS



The California Tahoe Conservancy was established in 1985 to lead efforts to restore and enhance the extraordinary natural and recreational resources of the Lake Tahoe Basin. Parcels 28 and 31 were purchased just a few years later in the spring of 1989 towards this goal. In the decades since, development interests have hijacked the Conservancy, with plans to destroy and pave over a healthy stand of forest habitat releasing thousands of tons of climate-warming CO₂ from this "carbon sink." The construction footprint will be 6.5 acres of the combined 11.6 acre lot. A statutory (PRC § 4291) 100' buffer from structures for "defensible space" will result in the clearcutting of 95% of the conserved lands with only 0.56 acres of habitat remaining.

Assessor Parcel Number 03229128100

1989-0015341 • B: 03107 P: 641 • GRANT DEED

Recording Date

03/28/1989 12:00 AM

Grantor (2)

**PESKIN HENRIETTA ETAL
PESKIN LEON D ETAL**

Grantee

CAL ST RESOURCES AGCY



Office of the Assessor

Historical Property Information

Parcel Number: 032-291-28-100

Property Address: 1860 LAKE TAHOE BLVD

Assessor's information is for assessment and tax purposes only and should not be relied upon for status of development or building purposes.

Property Description:

Primary Use**: 30, VACANT COMMERCIAL LAND

Subdivision Tract Number: 275

Subdivision Tract Name: TAHOE VALLEY CENTER UNIT NO 3

APN Status: 11, Inactive - Non-Taxable

Reference: POR L 5

Tax Rate Area: 002-002

School District:

Last Appraisal Effective Date: 2/1/1975

Last Appraisal Reason:

MPR Card: 032-291-28

Associated Maps for: 032-291-28-100

Most Recent Plat: Assessor's Plat 032-29

Historical Plat: Historical Plat 032-29

Subdivision Maps: Tahoe Vly Cntr #3: C-109

Tahoe Vly Cntr #3: C-109A

**The USE is only reviewed at the time of the last taxable event, and may not be a legal use

2020 - 2021 Taxable Property Values for: 032-291-28-100

Property	Value
Land Total	\$0
Improvement Total	\$0
Personal property Total	\$0
Total Roll	\$0
(Exemptions Total)	\$0
Net Roll	\$0

Event List for: 032-291-28-100

Roll	Event Date	Bill Status	Event Status	Seq #	Event Type	Stmt. Status	ID	Tax Bill #	Value
2018	1/1/2018	Inactive	Annual Roll	1	Roll	No Bill			\$0
2017	1/1/2017	Inactive	Annual Roll	1	Roll	No Bill			\$0
2016	1/1/2016	Inactive	Annual Roll	1	Roll	No Bill			\$0
2015	1/1/2015	Inactive	Annual Roll	1	Roll	No Bill			\$0
2014	1/1/2014	Inactive	Annual Roll	1	Roll	No Bill			\$0
2013	1/1/2013	Inactive	Annual Roll	1	Roll	No Bill			\$0
2012	1/1/2012	Inactive	Annual Roll	1	Roll	No Bill			\$0
2011	1/1/2011	Inactive	Annual Roll	1	Roll	No Bill			\$0
2010	1/1/2010	Inactive	Annual Roll	1	Roll	No Bill			\$0
2009	1/1/2009	Inactive	Annual Roll	1	Roll	No Bill			\$0
2008	1/1/2008	Inactive	Annual Roll	1	Roll	No Bill			\$0
2007	1/1/2007	Inactive	Annual Roll	1	Roll	No Bill			\$0
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1999	1/1/1999	Inactive	Annual Roll	1	Roll	No Bill			\$0
1998	1/1/1998	Inactive	Annual Roll	1	Roll	No Bill			\$0
1997	1/1/1997	Inactive	Annual Roll	1	Roll	No Bill			\$0
1996	3/1/1996	Inactive	Annual Roll	1	Roll	No Bill			\$0
1995	3/1/1995	Inactive	Annual Roll	1	Roll	No Bill			\$0

1994	3/1/1994	Inactive	Annual Roll	1	Roll	No Bill			\$0
1993	3/1/1993	Inactive	Annual Roll	1	Roll	No Bill			\$0
1992	3/1/1992	Inactive	Annual Roll	1	Roll	No Bill			\$0
1991	3/1/1991	Inactive	Annual Roll	1	Roll	No Bill			\$0
1990	3/1/1990	Inactive	Annual Roll	1	Roll	No Bill			\$0
1989	3/1/1989	Inactive	Annual Roll	1	Roll	No Bill			\$0
1988	3/1/1988	Active	Annual Roll	1	Roll	Pending			\$30,165

Property Characteristics for: **032-291-28-100**

Property Characteristic	Description
Book Category Number	2032
Current Record Flag	Yes

Parcel Split Background for: **032-291-28-100**

This Parcel Has No Split Background Records.

Related Accounts for: **032-291-28-100**

This Parcel Has No Related Accounts.

Owner Change History for: **032-291-28-100**

Recorded Document: 1989-3107641

Record Change Date: 3/28/1989

Effective Owner Change Date: 3/28/1989

Preliminary Change of Ownership: **1989-3107641**

Recorded Document:

Recorder's Book and Page: 0909-188

Record Change Date: 11/21/1968

Effective Owner Change Date: 11/21/1968

Preliminary Change of Ownership: **1-0909188**

Assessor Parcel Number 03229131100

1989-0018637 • B: 03117 P: 37 • GRANT DEED

Recording Date

04/13/1989 12:00 AM

Grantor (10)

**WEIR PAULINE ETAL
MORELAND CAROL C ETAL
MORELAND W D ETAL
WEIR DONALD E ETAL
WEIR PATRICIA ETAL**

Grantee

CAL ST RESOURCES AGCY



Office of the Assessor

Historical Property Information

Parcel Number: 032-291-31-100

Property Address: 1029 TATA LN

Assessor's information is for assessment and tax purposes only and should not be relied upon for status of development or building purposes.

Property Description:

Primary Use**: 82, PARKING LOT

Subdivision Tract Number: 275

Subdivision Tract Name: TAHOE VALLEY CENTER UNIT NO 3

APN Status: 11, Inactive - Non-Taxable

Reference: PM 2/52/2

Tax Rate Area: 002-002

School District:

Last Appraisal Effective Date: 2/1/1979

Last Appraisal Reason:

MPR Card: 032-291-31

Associated Maps for: 032-291-31-100

Most Recent Plat: Assessor's Plat 032-29

Historical Plat: Historical Plat 032-29

Subdivision Maps: Tahoe Vly Cntr #3: C-109

Tahoe Vly Cntr #3: C-109A

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(Exemptions Total)	\$0
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Event List for: 032-291-31-100

Roll	Event Date	Bill Status	Event Status	Seq #	Event Type	Stmnt. Status	ID	Tax Bill #	Value
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2014	1/1/2014	Inactive	Annual Roll	1	Roll	No Bill			\$0
2013	1/1/2013	Inactive	Annual Roll	1	Roll	No Bill			\$0
2012	1/1/2012	Inactive	Annual Roll	1	Roll	No Bill			\$0
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2010	1/1/2010	Inactive	Annual Roll	1	Roll	No Bill			\$0
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2007	1/1/2007	Inactive	Annual Roll	1	Roll	No Bill			\$0
2006	1/1/2006	Inactive	Annual Roll	1	Roll	No Bill			\$0
2005	1/1/2005	Inactive	Annual Roll	1	Roll	No Bill			\$0
2004	1/1/2004	Inactive	Annual Roll	1	Roll	No Bill			\$0
2003	1/1/2003	Inactive	Annual Roll	1	Roll	No Bill			\$0
2002	1/1/2002	Inactive	Annual Roll	1	Roll	No Bill			\$0
2001	1/1/2001	Inactive	Annual Roll	1	Roll	No Bill			\$0
2000	1/1/2000	Inactive	Annual Roll	1	Roll	No Bill			\$0
1999	1/1/1999	Inactive	Annual Roll	1	Roll	No Bill			\$0
1998	1/1/1998	Inactive	Annual Roll	1	Roll	No Bill			\$0
1997	1/1/1997	Inactive	Annual Roll	1	Roll	No Bill			\$0
1996	3/1/1996	Inactive	Annual Roll	1	Roll	No Bill			\$0
1995	3/1/1995	Inactive	Annual Roll	1	Roll	No Bill			\$0

1994	3/1/1994	Inactive	Annual Roll	1	Roll	No Bill			\$0
1993	3/1/1993	Inactive	Annual Roll	1	Roll	No Bill			\$0
1992	3/1/1992	Inactive	Annual Roll	1	Roll	No Bill			\$0
1991	3/1/1991	Inactive	Annual Roll	1	Roll	No Bill			\$0
1990	3/1/1990	Inactive	Annual Roll	1	Roll	No Bill			\$0
1989	3/1/1989	Inactive	Annual Roll	1	Roll	No Bill			\$0
1988	3/1/1988	Active	Annual Roll	1	Roll	Pending			\$118,307

Property Characteristics for: 032-291-31-100

Property Characteristic	Description
Acreage	1.600 ac
Book Category Number	2032
Current Record Flag	Yes

Parcel Split Background for: 032-291-31-100

This Parcel Has No Split Background Records.

Related Accounts for: 032-291-31-100

Account Number	Property Type	Status
9-002-013-0010	Possessory	Active, Non-Billable

Owner Change History for: 032-291-31-100

Recorded Document: 1989-3117037
Record Change Date: 4/13/1989
Effective Owner Change Date: 4/13/1989
Preliminary Change of Ownership: **1989-3117037**

Recorded Document:
Recorder's Book and Page: 2404-278
Record Change Date: 2/27/1985
Effective Owner Change Date: 2/27/1985
Preliminary Change of Ownership: **1-2404278**

Recorded Document:
Recorder's Book and Page: 1676-339
Record Change Date: 9/21/1978
Effective Owner Change Date: 9/21/1978
Preliminary Change of Ownership: **1-1676339**

Recorded Document:
Recorder's Book and Page: 1638-195
Record Change Date: 6/8/1978
Effective Owner Change Date: 6/8/1978
Preliminary Change of Ownership: **1-1638195**

Recorded Document:
Recorder's Book and Page: 1480-388
Record Change Date: 3/30/1977
Effective Owner Change Date: 3/30/1977
Preliminary Change of Ownership: **1-1480388**



5-10-2022 El Dorado County affordable housing workshop

Jacques Rousseau <jacques.rousseau@freedommail.ch>
To: edc.cob@edcgov.us

Mon, May 9, 2022 at 9:25 PM

Dear El Dorado County affordable housing workshop:

Chase Janvrin is hypocritically contributing to the affordable housing crisis by **hoarding three houses**. He is a phony padding the wallets of the real estate finance industry from where he comes. Wherein he has a huge conflict-of-interest in addressing the issue, he is so financially compromised as to not be able to address a crisis completely attributable to multiple home ownership. **If he were genuinely and deeply concerned about South Lake Tahoe's affordable housing crisis, he would divest from using Tahoe real estate as an investment vehicle.** We should all divest from this type of investment, just like divesting from stock ownership in coal, oil, and gas companies, or those that benefit from slave labor/genocide.

Mr. Janvrin is completely unfit and un-elected to lead this City in addressing its affordable housing problem. Whereas other neighboring counties in the basin want us to give away our limited environmental resources to solve this problem for them, it makes especial sense for us to first start with an **affordable municipal minimum wage**—this is the solution that the Tahoe Chamber/LTVA/TPC, have strategically tried to avoid, by punting and deflating pressure to address this underlying issue by parrying with CA government provided housing. A large wage increase would cause a disparity outside our municipal boundaries and actually force our loafing county contemporaries to increase wages in their jurisdictions. That is non-divisive positive competition.

We received this **map of second homeowner houses**, from a city employee under the condition of anonymity, because he or she was not authorized to publicly weigh-in on the matter:



Each orange shape represents a second-homeowner property. Nearly half the City's houses are investment vehicles.

It is blatantly obvious that there are enough dwellings in our City to house all of our residents and employees. The problem is that this corrupt and prodigal City has allowed all of our scarce parcels to be unsustainably squandered for use as investment vehicles rather than used as much needed homes.

Make no mistake, the big driver in this is our local finance-development economic complex, of which Chase Janvrin, and Sue Novasel are both part. Ms. Novasel stands to **directly inherit** from her aging father, whatever financial wind she can blow into his sails; conflicts-of-interest are rampant.

When development and housing decisions are made by individuals who have ensconced themselves in public office to advance their own industry, their own investment portfolio, or have ossified their focus on a myopic bottom line rather than the objective public and environmental good, we get corrupt and "pretextual" decision-making that does not directly solve the greater problem.

The TRPA has deliberately capped the number of homes that can be built in the basin, but issuing building permits for vacation homes is how the City and the TRPA have squandered this very limited resource. Because greed never has enough, the Chase Janvrins of the basin now want to develop our earmarked scenic resources, because of the very housing shortages that they exacerbate. The Tahoe "Prosperity" Center (TPC) housing plan is a sham. They hired a consultant to fabricate that our City needs to develop 3,000 new housing units based-off of jobs that do not even exist yet, as a tactic to suppress tourism industry wages and forever deflate pressure to build housing projects in Zephyr Cove. There also appears to be an illicit kickback scheme and laundering of low-income housing tax credits between developers and financiers involved, which means everybody in proximity to the TPC will become radioactive; criminal dealings with federal housing subsidy certificates. **The City needs to divest itself from the Tahoe "Prosperity" Center**, and make its own decisions in-house, and in a very public and transparent manner.

The City needs to buy-back existing VHR's and second-homeowner houses for use as workforce housing, before it considers spending money on unconscionable development. If it needs to take loans, or spend tax credits, so be it for former vacation home acquisition only, and not for new construction. Communal housing—where singles are grouped together and maintain a physical household, family style—has long been known to be more affordable and better for mental and community health than single occupancy apartments or even dormitories. Shared housing also helps reduce the number of cars in the basin. It is certainly the best option for the environment, given our existing built-out infrastructure.

There is only one Lake Tahoe. We have a moral imperative to preserve our scenic corridors, meadows, and **stream environment zones** for the common enjoyment of future generations. It is a well accepted fact that forest canopy and undisturbed land cover prevent water and wind driven erosion which keeps Tahoe blue; asphalt and added development only makes lake clarity worse. You can't exchange trees for bike paths or meadows for affordable housing, or somehow makeup for the fact that **you are removing land area from the ecosystem!** Teshara's voodoo environmental economics is really just a convoluted **fraud** scheme for development. Marchetta would like to delude herself that she's akin to the powerful chair of the Federal Reserve, able to combat **political deflation** by printing out environmental credits. However, the underlying alpine ecosystem for which the TRPA was created to protect is not an economy; there is no universal credit currency (though ATP is close). The natural world is an incredibly intricate system with millions of variables, that combine non-linearly, which cannot be distilled down to a "credit." For all this "environmental improvement" through arbitrary and capricious net development **alchemy**, we **of course** have little if nothing to show for it. **Alchemy does not work!** Lake clarity has ultimately only gone in one direction: worse.

Thanks,

Jacques Rousseau

(1, 2, 3; 1, 2, 3)

27 attachments



Janvrin Parcel A.jpg
113K

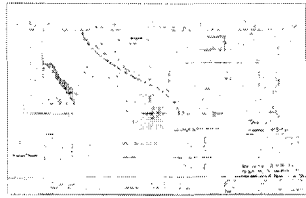
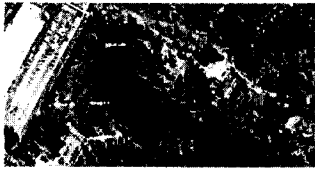


Janvrin Parcel B.jpg
118K

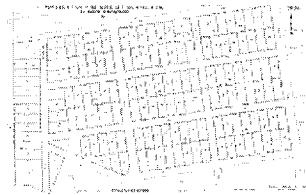


Janvrin Parcel C.jpg
126K

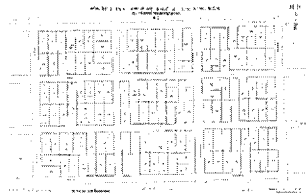
SEZ-Meadows.jpg
295K



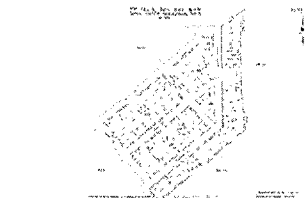
029-441-04.jpg
2263K



026-098-12-100.tif
1258K















026-108-15-100.tif
944K









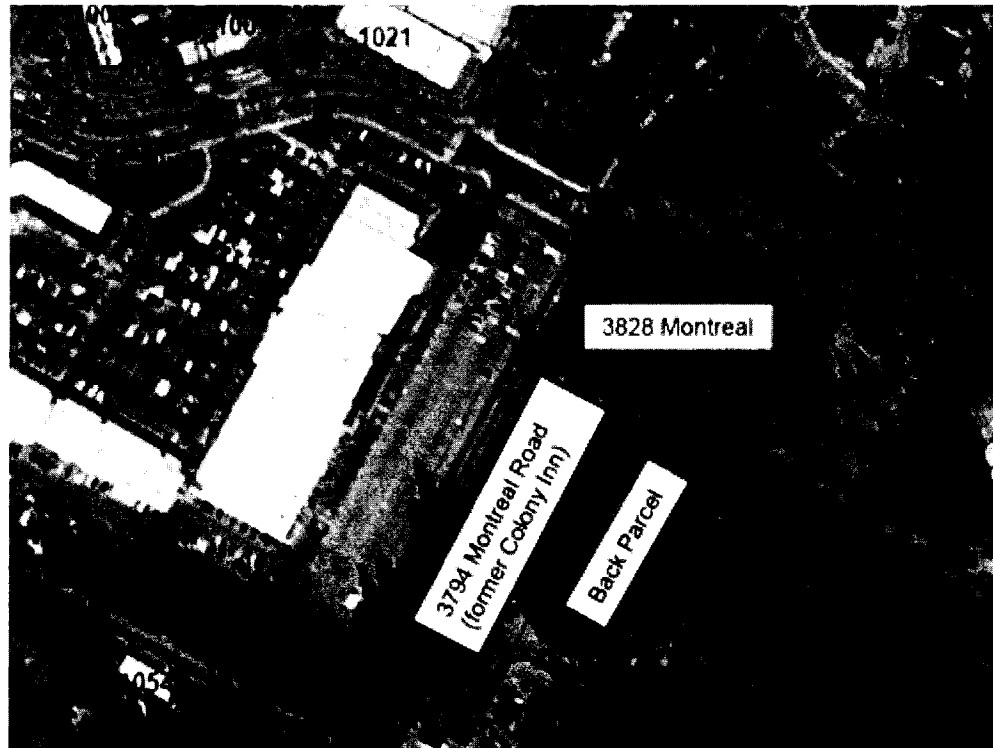
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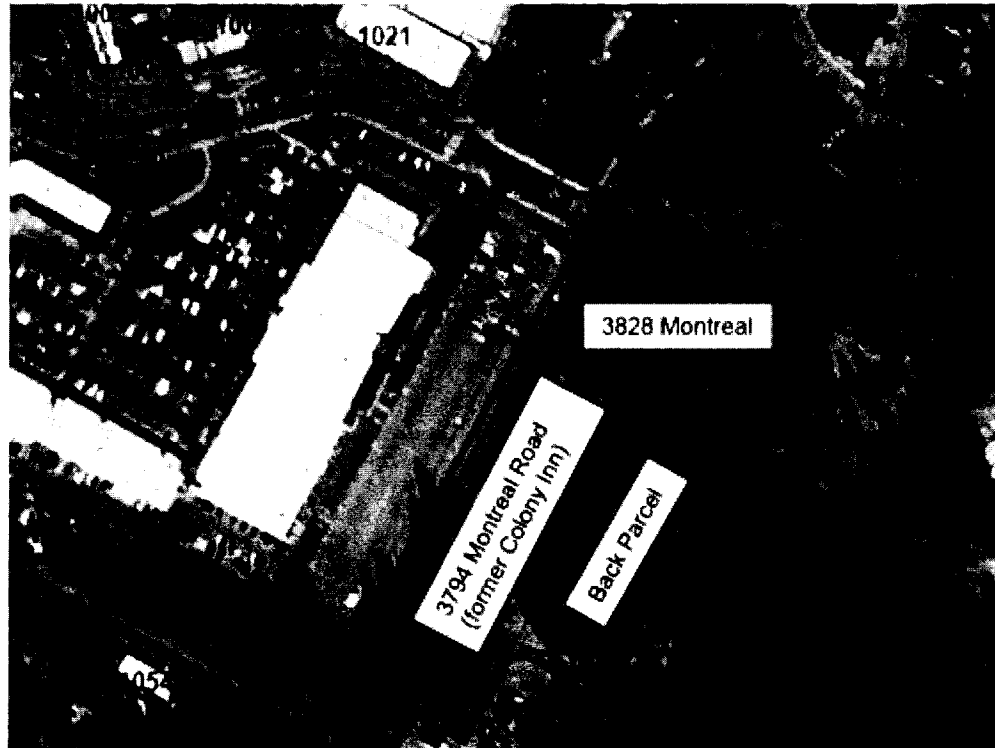


SEZ-Meadows2.jpg
79K

-  **Janvrin Parcel A.pdf**
184K
-  **Janvrin Parcel B.pdf**
181K
-  **Janvrin Parcel C.pdf**
180K
-  **Donors List-Redacted.pdf**
231K
-  **VHRs.pdf**
1513K
-  **TPC_SOS.pdf**
103K
-  **Novasel-McLaughlin_SOS.pdf**
51K
-  **TC-LTVA-TPC.pdf**
3845K
-  **029-44-03&04.pdf**
4915K
-  **029-441-003&004.pdf**
160K
-  **029-24-11.pdf**
3589K
-  **029-240-011.pdf**
76K

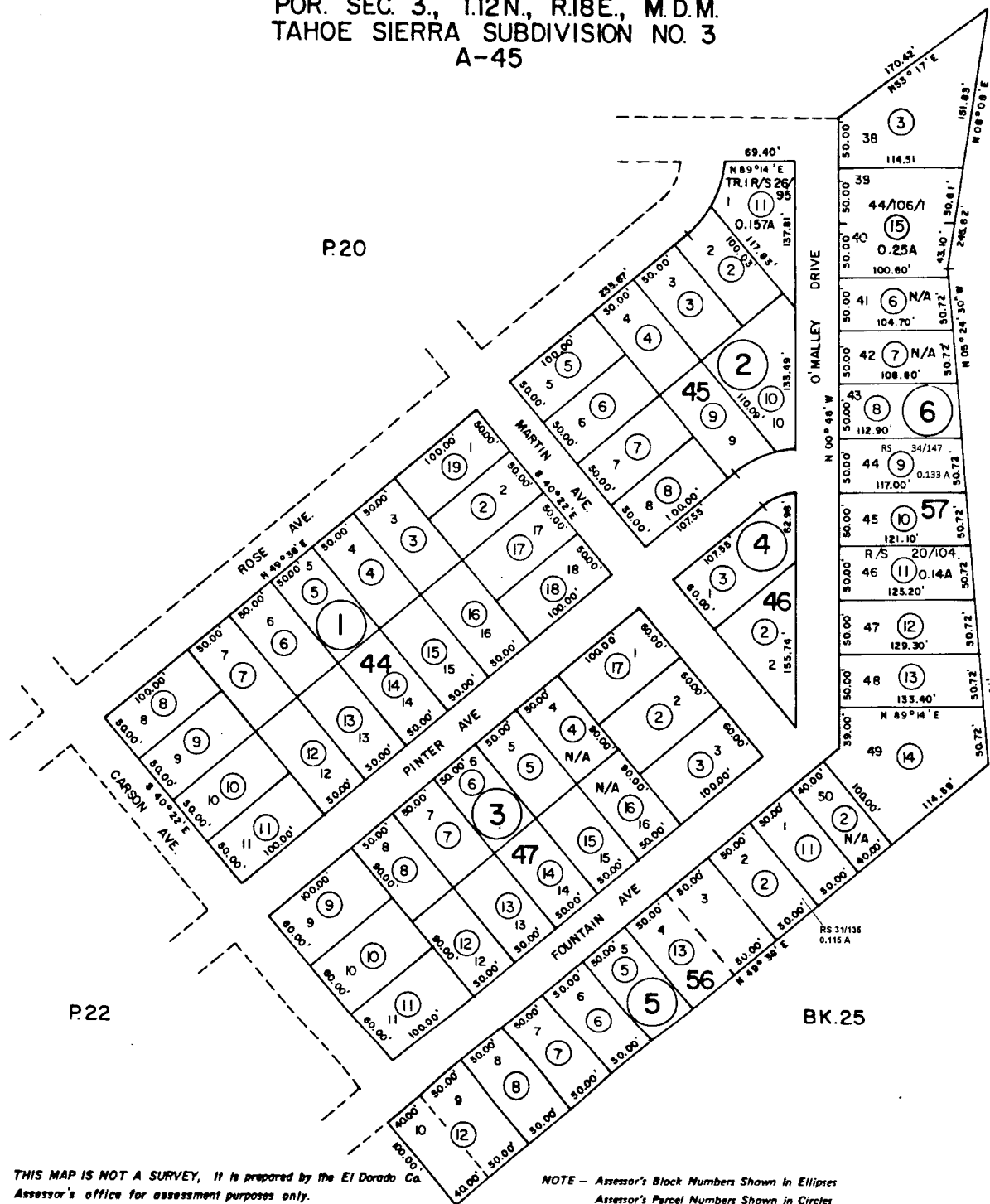
-  **Stream Environmental Zone—Meadows.pdf**
1172K
-  **Feldman Thiel—RESULTS LETTER.pdf**
160K
-  **HVR ACQUISITIONS LLC.pdf**
210K
-  **THE JAMES AND REBECCA MORGAN FAMILY FOUNDATION.pdf**
102K
-  **88 Ops. Cal. Atty. Gen. 153 (Cal.A.G.).pdf**
198K
-  **County of Santa Clara v Superior Court, 170 Cal.App.4th 1301 (2009).pdf**
480K





POR. SEC. 3, T.12N., R.18E., M.D.M.
TAHOE SIERRA SUBDIVISION NO. 3
A-45

3

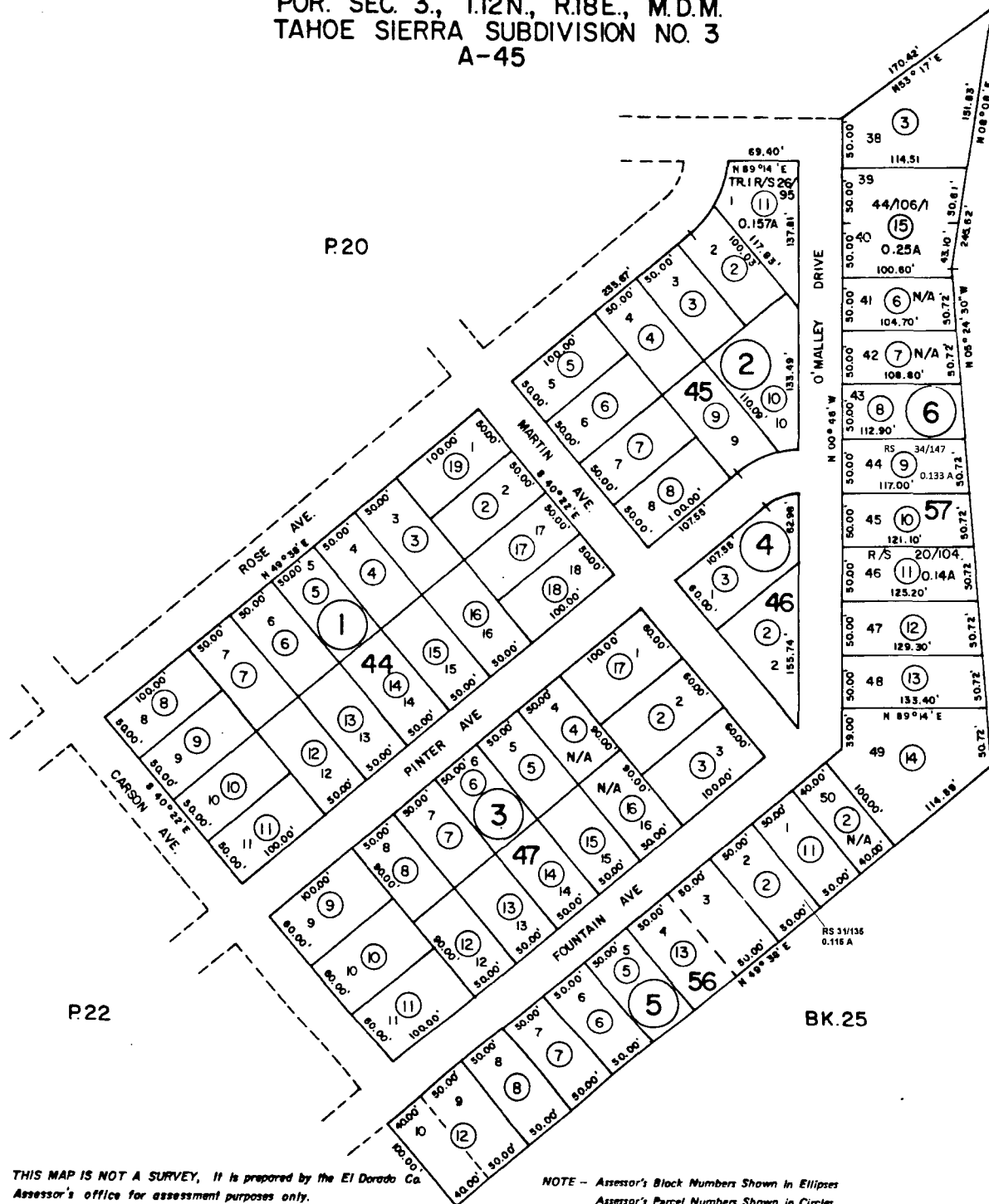


THIS MAP IS NOT A SURVEY, It is prepared by the El Dorado Co. Assessor's office for assessment purposes only.

NOTE - Assessor's Block Numbers Shown in Ellipses
Assessor's Parcel Numbers Shown in Circles

POR. SEC. 3., T.12N., R.18E., M.D.M.
TAHOE SIERRA SUBDIVISION NO. 3
A-45

3



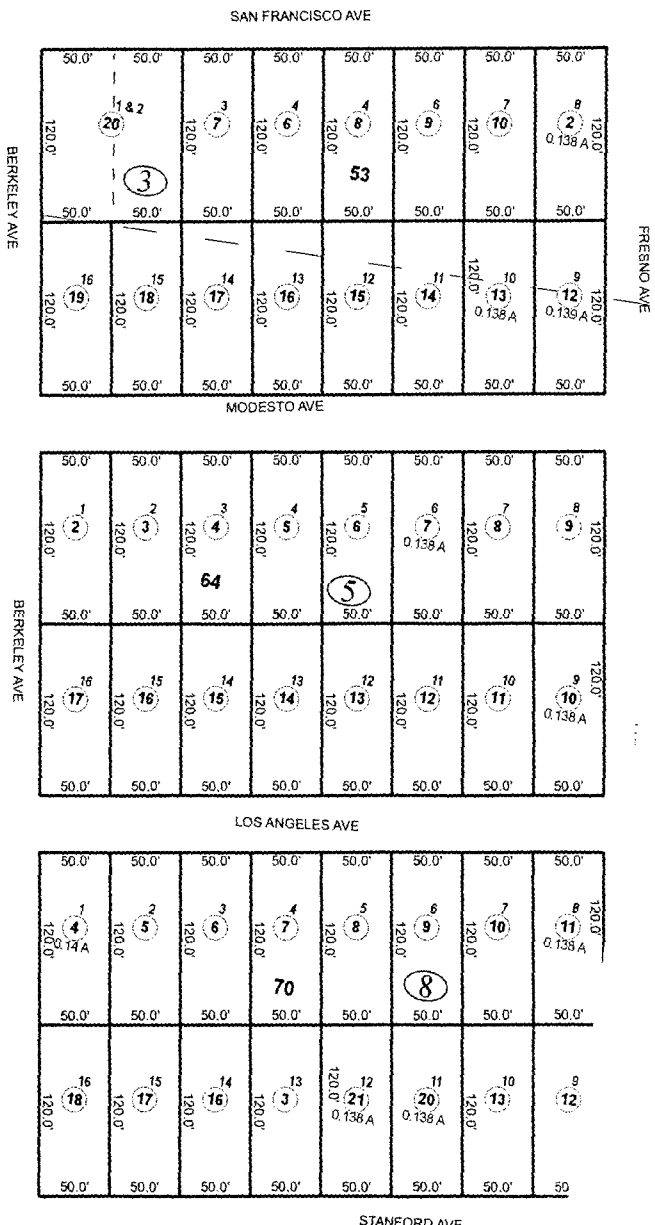
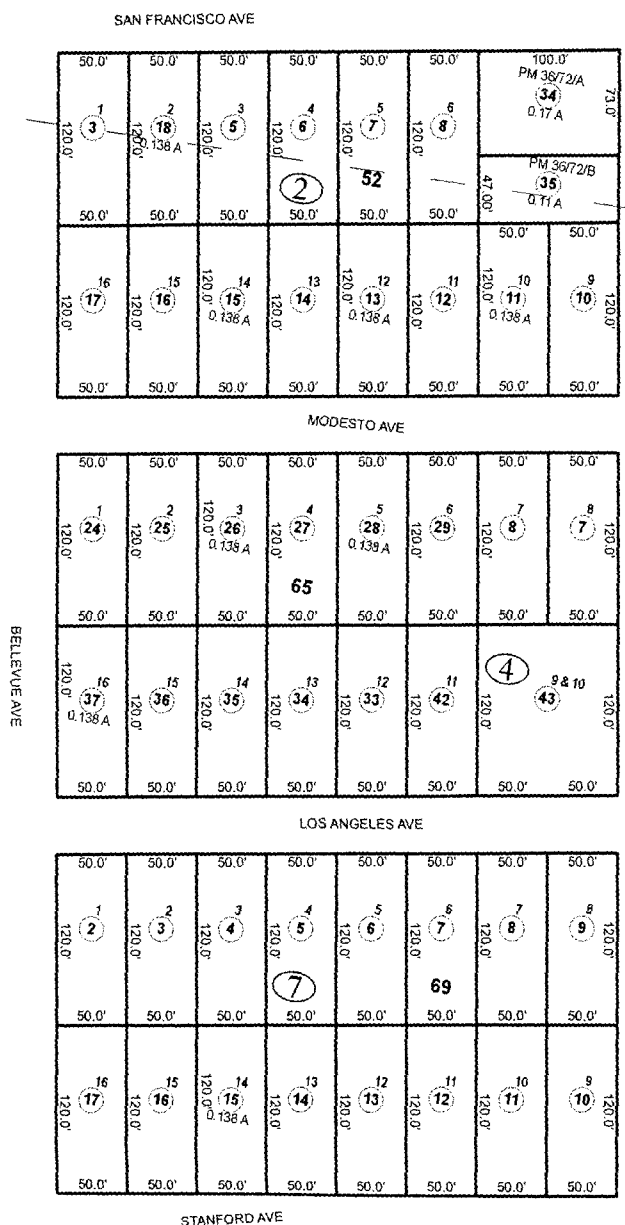
THIS MAP IS NOT A SURVEY, It is prepared by the El Dorado Co. Assessor's office for assessment purposes only.

NOTE - Assessor's Block Numbers Shown in Ellipses
Assessor's Parcel Numbers Shown in Circles

FOR SEC. 4, T.12N., R.18E., & SEC. 32, T.13N., R.18E., M.D.M.
AL TAHOE SUBDIVISION
A-3

Bk 26 Pg 06

Bk 26 Pg 06

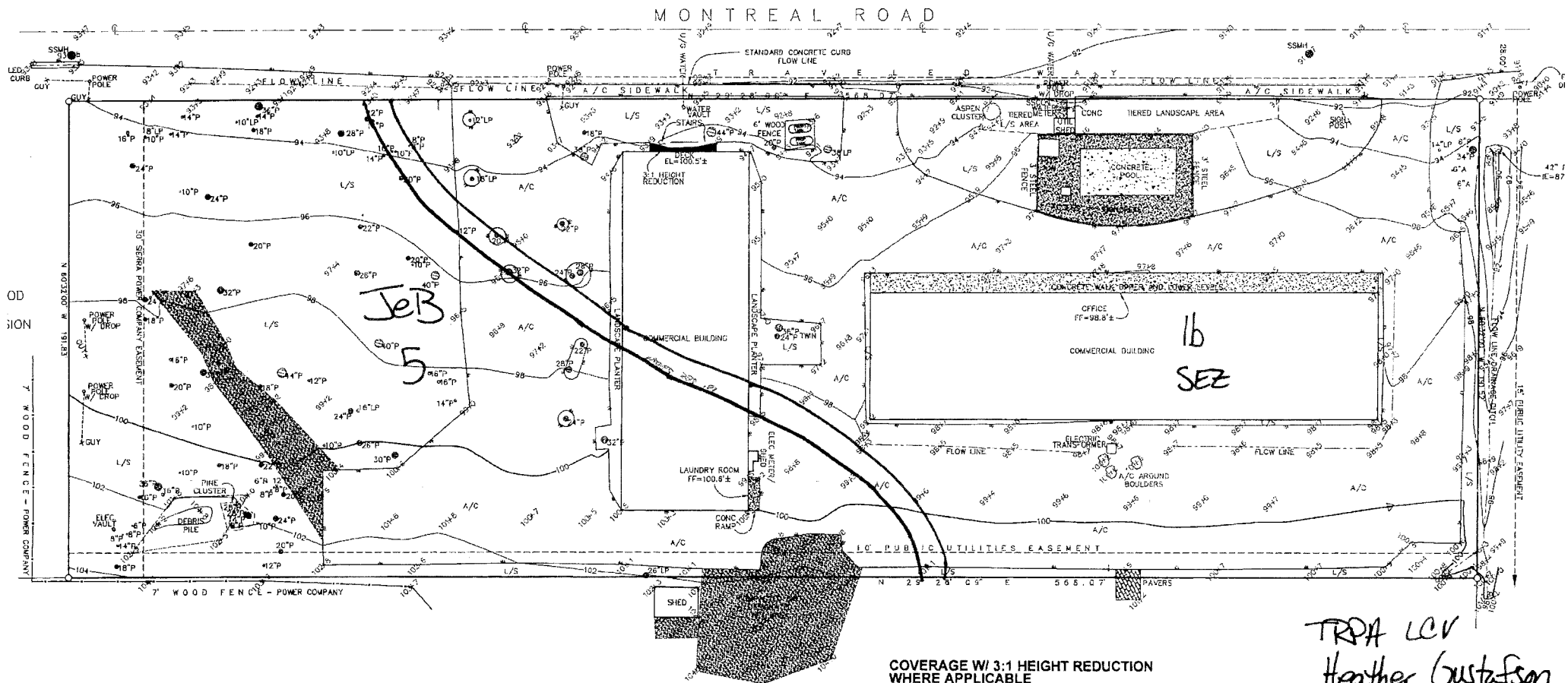


THIS MAP IS NOT A SURVEY, it is prepared by the El Dorado Co. Assessor's office for assessment purposes only. Area calculations and characteristics are not guaranteed. Users should verify items such as dimensions and acreage.

Acreages Are Estimates

Bk 26 Pg 12
 Adjacent Map Pages Shown in Grey Text
 Assessor's Block Numbers Shown in Ellipses
 Assessor's Parcel Numbers Shown in Circles

Bk 26 Pg 12



LEGEND

P	PIKE	△	TOPS STATION
LP	LODGE POLE	▽	SPOT ELEVATION
F	FIR	IP	77-7
C	CEDAR	CP	IRON PIPE
OT	OTHER TREE	CP	CAPIED IRON PIPE
(WBC)	MARKED TO BE CUT	(R)	RECORDED
W	EDGE OF PAVEMENT	(M)	MEASURED
A/C	ASPHALTIC CONCRETE	●	FOUND 3/4" IP W/PLUS PLS 4029
SSM	SANITARY SEWER MANHOLE	●	OR AS NOTED
DI	DRAIN INLET	○	SET 3/4" IP W/PLUS PLS 3519
PP	POWER POLE	○	OR SET AS NOTED
TM	TOP OF WALL	—	NOTHING FOUND OR SET
BW	BOTTOM OF WALL		
L/S	LANDSCAPE		

OWNER & MAILING ADDRESS

FALCON CAPITAL
P.O. Box 456
Zephyr Cove, NV. 89445

LAND AREA

108,855 SQUARE FEET
2.50 ACRES

COVERAGE W/ 3:1 HEIGHT REDUCTION WHERE APPLICABLE

CATEGORY	SQUARE FEET
A/C DRIVEWAY AND PARKING	44,892
NORTHERLY BUILDING	10,474
SOUTHERLY BUILDING	7,384
SHEDS	74
CONCRETE	3,920
COMPACTED DIRT	2,779
PAVERS	53
STAIRS	44
DECK	22
TOTAL	69,022

ESTIMATED OFFSITE COVERAGE

CATEGORY	SQUARE FEET
A/C DRIVEWAY AND SIDEWALK	2,007
COMPACTED DIRT	2,425
SHED	214
PAVERS	86
TOTAL	4,731

TRPA LCV
Heather Gustafson
3-20-08

NOTE

THIS SURVEY HAS BEEN PREPARED WITHOUT USE OF A TITLE REFERENCE HEREON. TURNER & ASSOC. ASSUMES NO RESPONSIBILITY FOR ANY EASEMENTS WHICH MAY AFFECT THIS PROPERTY.

PROPERTY OWNER AND/OR DESIGNER MUST VERIFY BUILDING SET ANY OTHER BUILDING RESTRICTIONS BEFORE ANY DESIGN OR CONSTRUCTION.

ONLY VISIBLE UTILITIES AND FEATURES HAVE BEEN LOCATED. TURNER & ASSOC. ASSUMES NO RESPONSIBILITY FOR ANY EASEMENTS OR FEATURES AFFECT THIS PROPERTY.

THIS DRAWING OR MAP IS THE PROPERTY OF TURNER & ASSOC. IT IS TO BE USED OR REPRODUCED WITHOUT THE CONSENT OF TURNER & ASSOC.

THE PROPERTY LINE INFORMATION SHOWN HEREON IS FROM RECORD DATA AND DOES NOT REPRESENT A BOUNDARY SURVEY.

Revised from 12-12-06 LC
revision due to Submission
field notes w/ Tim Haysen w/

TURNER & ASSOC.

LAND SURVEY

(712) 369-9636

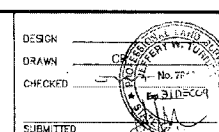
FAX (712) 369-9636

308 DORLA COURT, SUITE 203 - MOBILE, AL

P.O. BOX 5067 - STATELINE, AL

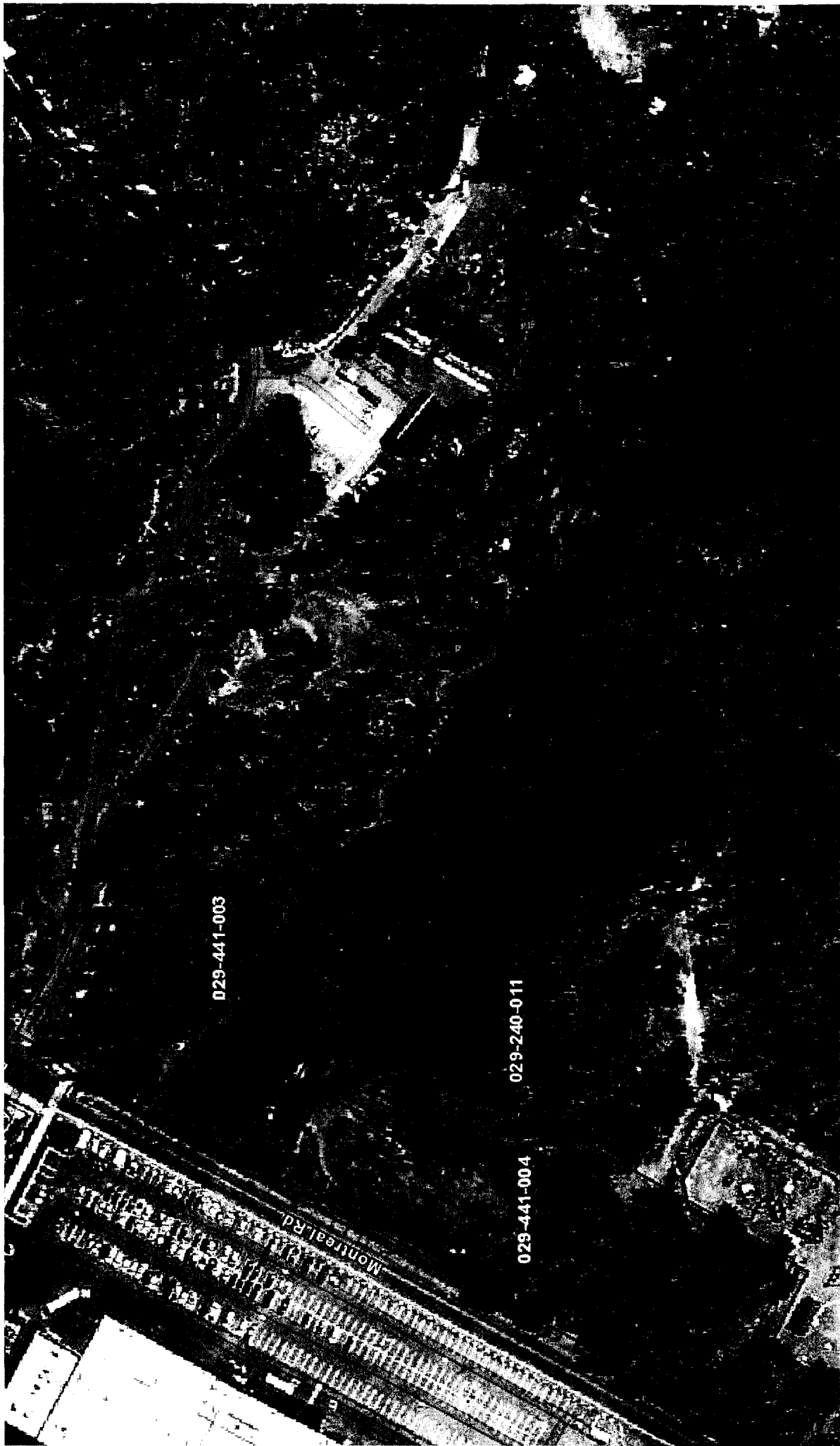
DESCRIPTION	BY	APP'D.	BENCH MARK
NUMBER			MARK
ELEVATION			100.00' DATUM ASSUMED
DESCRIPTION			SET RANDOM
MAG NAIL IN A/C			

TOPOGRAPHIC SURVEY
LOT 4, CRESCENT "V" SUBDIVISION
3794 MONTREAL ROAD - APN 29-441-04
CSLT, EL DORADO COUNTY, CALIFORNIA



DESIGN	DATE
DRAWN	11/20/05
CHECKED	
SUBMITTED	

APN	29-441-04
LOT	4
BLOCK	N/A
SUBDIVISION	CRESCENT "V"
ADDRESS	3794 MONTREAL ROAD
COUNTY	EL DORADO
JOB NO	05375



029-441-003

029-240-011

029-441-004



Access to Public Records
for County Government

[CRiis Home](#)[Contact](#)[AtPac Home](#)

Search Results

Document Details

Record			Grantor
Date	Document Type	Pages	Grantee
07/12/2017	GRANT DEED	002	R R R E E



Office of the Assessor

Historical Property Information

Parcel Number: 026-108-15-100

Property Address: 838 LOS ANGELES AVE

Assessor's information is for assessment and tax purposes only and should not be relied upon for status of development or building purposes.

Property Description:

Primary Use**: 11, IMPROVED SINGLE FAMILY RESIDENTIAL TO 2.5 AC.

Subdivision Tract Number: 4

Subdivision Tract Name: AL TAHOE, AMENDED MAP

APN Status: 00, Active

Reference: L 4 & 5 B 72

Tax Rate Area: 002-002

School District:

Last Appraisal Effective Date: 10/23/2013

Last Appraisal Reason: 100% CHANGE IN OWNERSHIP

MPR Card: 026-108-15

Associated Maps for: 026-108-15-100

Most Recent Plat: [Assessor's Plat 026-10](#)

Historical Plat: [Historical Plat 026-10](#)

Subdivision Maps: Al Tahoe Amended Map: A-003

**The USE is only reviewed at the time of the last taxable event, and may not be a legal use

2019 - 2020 Taxable Property Values for: 026-108-15-100

Property	Value
Land	\$96,960
Land Total	\$96,960
Improvement Structures	\$286,579
Improvement Total	\$286,579
Personal property Total	\$0
Total Roll	\$383,539

(Exemptions Total)	\$0
Net Roll	\$383,539

Event List for: 026-108-15-100

Roll	Event Date	Bill Status	Event Status	Seq #	Event Type	Stmt. Status	ID	Tax Bill #	Value
2018	1/1/2018	Active	Annual Roll	1	Roll	Pending			\$383,539
2017	1/1/2017	Active	Annual Roll	1	Roll	Paid		015056	\$376,019
2016	1/1/2016	Active	Annual Roll	1	Roll	Paid		015062	\$368,647
2015	1/1/2015	Active	Annual Roll	1	Roll	Paid		015067	\$363,112
2014	1/1/2014	Active	Annual Roll	1	Roll	Paid		015099	\$356,000
2013	10/23/2013	Active Suppl	Billed	1	Change in Ownership	Paid	<u>0054112</u>	204193S	\$356,000
2013	2/25/2013	Active Suppl	Billed	1	Change in Ownership	Paid	<u>0010646</u>	200153S	\$311,000
2013	1/1/2013	Active	Annual Roll	1	Roll	Paid		015094	\$236,070
2012	2/25/2013	Active Suppl	Billed	1	Change in Ownership	Paid	<u>0010646</u>	409783S	\$311,000
2012	6/14/2012	Inactive Suppl	Not to be billed	1	Change in Ownership		<u>0028952</u>		
2012	1/1/2012	Active	Annual Roll	1	Roll	Paid		015094	\$231,442
2011	6/14/2012	Inactive Suppl	Not to be billed	1	Change in Ownership		<u>0028952</u>		
2011	1/1/2011	Active	Annual Roll	1	Roll	Paid		015104	\$226,905
2010	1/1/2010	Active	Annual Roll	1	Roll	Paid		015109	\$225,211
2009	1/1/2009	Active	Annual Roll	1	Roll	Paid		015108	\$225,748
2008	1/1/2008	Active	Annual Roll	1	Roll	Paid		015100	\$221,322
2007	1/1/2007	Active	Annual Roll	1	Roll	Paid		015096	\$216,984
2006	1/1/2006	Active	Annual Roll	1	Roll	Paid		014973	\$212,730
2005	1/1/2005	Active	Annual Roll	1	Roll	Paid		014968	\$208,560
2004	1/1/2004	Active	Annual Roll	1	Roll	Paid		014961	\$204,472
2003	1/1/2003	Active	Annual Roll	1	Roll	Paid		014956	\$200,726

2002	7/12/2002	Inactive Suppl	Not to be billed	1	Change in Ownership		<u>0050727</u>		
2002	1/1/2002	Active	Annual Roll	1	Roll	Paid		014952	\$196,791
2001	1/1/2001	Active	Annual Roll	1	Roll	Paid		014957	\$192,933
2000	1/1/2000	Active	Annual Roll	1	Roll	Paid		014970	\$189,151
1999	1/1/1999	Active	Annual Roll	1	Roll	Paid		014937	\$185,443
1998	1/1/1998	Active	Annual Roll	1	Roll	Paid		014982	\$182,070
1997	12/15/1997	Inactive Suppl	Not to be billed	1	Change in Ownership		<u>5057012</u>		
1997	1/1/1997	Active	Annual Roll	1	Roll	Paid		014987	\$178,500
1996	3/1/1996	Active	Annual Roll	1	Roll	Paid		015001	\$175,000
1995	10/4/1995	Active Suppl	Billed	2	Change in Ownership	Paid	<u>4554676</u>	204400S	\$175,000
1995	10/4/1995	Inactive Suppl	Not to be billed	1	Change in Ownership		<u>4554675</u>		
1995	3/1/1995	Active	Annual Roll	1	Roll	Paid		014995	\$140,935
1994	3/1/1994	Active	Annual Roll	1	Roll	Not_Avl			\$139,279
1993	3/1/1993	Active	Annual Roll	1	Roll	Not_Avl			\$136,549
1992	3/1/1992	Active	Annual Roll	1	Roll	Not_Avl			\$133,872
1991	3/1/1991	Active	Annual Roll	1	Roll	Not_Avl			\$131,248
1990	3/1/1990	Active	Annual Roll	1	Roll	Pending			\$128,675
1989	2/2/1990	Active Suppl	Billed	1	Change in Ownership	Not_Avl	<u>3288440</u>	213123S	\$128,675
1989	12/12/1989	Active Suppl	Billed	1	Change in Ownership	Not_Avl	<u>3288438</u>		\$128,675
1989	3/1/1989	Active	Annual Roll	1	Roll	Pending			\$122,144
1988	3/1/1988	Active	Annual Roll	1	Roll	Pending			\$119,750

Property Characteristics for: 026-108-15-100

Property Characteristic	Description
Acreage	0.275 ac
Lot Depth	120 ft
Lot Width	100 ft

Square Foot Range	10,001 - 25,000 sqft
Topography	Level
Ground Cover	Spaced Pine Trees
Water Source	Public Water Service
Sewer Service	Y
Natural Gas Service	Y
Living Area	12000 sqft
Access Type	County or City Road
Road Type	Asphalt
Architectural Attractiveness	Average
Building Type	Modern
Building Shape	Most Complex - 10 Corners
Construction Type	Wood Frame
Construction Quality	6.0/10
Percent Good	99%
Year Built	1953
Effective Year Built	1970
Approximate Area of Improvements	2875 sqft
Total Units	2
Stories	1.0
First Floor Square Feet	1887 sqft
Bedrooms	6
Bathrooms	2.5
Bathrooms on First Floor	2.5
Total Rooms	11
Fireplace and Wood Stove Count	2
Building Design	Single Family Residence
Functional Plan	Average
Building Use	Single Family Residence
Proper Building Use	Yes
Workmanship	Average
Building Condition	Average

Garages	1
Garage Converted To Living Area	No
Garage Shape	Attached
Garage Area	861 sqft
Garage Stalls	2
Book Category Number	2026
Air Conditioner	No
Conformity Code	Average
Cost Table Year	0774
Current Record Flag	Yes
Replacement Cost Less Depreciation	0
Miscellaneous Cost	2350

Parcel Split Background for: **026-108-15-100**

This Parcel Has No Split Background Records.

Related Accounts for: **026-108-15-100**

This Parcel Has No Related Accounts.

Owner Change History for: **026-108-15-100**

Recorded Document:

Recorder's Book and Page: 0054-112

Record Change Date: 10/23/2013

Effective Owner Change Date: 10/23/2013

Proposition 13 Appraisal: Yes

Value Change: 100%

Document Transfer Tax: \$391.60

Preliminary Change of Ownership: 1-0054112

Recorded Document: 2013-0010646
Record Change Date: 2/28/2013
Effective Owner Change Date: 2/25/2013
Proposition 13 Appraisal: Yes
Value Change: 100%
Document Transfer Tax: \$0.00
Preliminary Change of Ownership: 2013-0010646

Recorded Document: 2012-0028952
Record Change Date: 6/14/2012
Effective Owner Change Date: 6/14/2012
Preliminary Change of Ownership: 2012-0028952

Recorded Document: 2002-0050727
Record Change Date: 7/12/2002
Effective Owner Change Date: 7/12/2002
Preliminary Change of Ownership: 2002-0050727

Recorded Document: 1997-5057012
Record Change Date: 12/15/1997
Effective Owner Change Date: 12/15/1997
Preliminary Change of Ownership: 1997-5057012

Recorded Document: 1995-4554676
Record Change Date: 10/4/1995
Effective Owner Change Date: 10/4/1995, Sequence Number: 2
Proposition 13 Appraisal: Yes
Value Change: 100%
Document Transfer Tax: \$192.50
Preliminary Change of Ownership: 1995-4554676

Recorded Document: 1995-4554675
Record Change Date: 10/4/1995
Effective Owner Change Date: 10/4/1995
Preliminary Change of Ownership: 1995-4554675

Recorded Document: 1990-3288440
Record Change Date: 2/2/1990
Effective Owner Change Date: 2/2/1990
Proposition 13 Appraisal: Yes
Value Change: 100%
Document Transfer Tax: \$141.90
Preliminary Change of Ownership: 1990-3288440

Recorded Document: 1990-3288438
Record Change Date: 2/2/1990
Effective Owner Change Date: 12/12/1989
Proposition 13 Appraisal: Yes
Value Change: 100%
Document Transfer Tax: \$0.00
Preliminary Change of Ownership: 1990-3288438

Recorded Document: 1989-3220047
Record Change Date: 10/10/1989
Effective Owner Change Date: 10/10/1989
Preliminary Change of Ownership: 1989-3220047

Recorded Document: 1986-2576247
Record Change Date: 6/4/1986
Effective Owner Change Date: 6/4/1986
Proposition 13 Appraisal: Yes
Value Change: 100%
Document Transfer Tax: \$47.85
Preliminary Change of Ownership: 1986-2576247

Recorded Document: 1985-2446100
Record Change Date: 6/19/1985
Effective Owner Change Date: 6/19/1985
Preliminary Change of Ownership: 1985-2446100

Recorded Document: 1981-1977615
Record Change Date: 5/12/1981
Effective Owner Change Date: 5/12/1981
Proposition 13 Appraisal: Yes
Value Change: %
Document Transfer Tax: \$42.35
Preliminary Change of Ownership: 1981-1977615

Recorded Document:
Recorder's Book and Page: 1960-034
Record Change Date: 3/12/1981
Effective Owner Change Date: 3/19/1980
Proposition 13 Appraisal: Yes
Value Change: %
Document Transfer Tax: \$0.00
Preliminary Change of Ownership: 1-1960034

Recorded Document:

Recorder's Book and Page: 1577-475

Record Change Date: 12/8/1977

Effective Owner Change Date: 12/8/1977

Preliminary Change of Ownership: 1-1577475

Recorded Document:

Recorder's Book and Page: 0058-225

Record Change Date: 11/14/2012

Effective Owner Change Date:

Preliminary Change of Ownership: 1-0058225



Office of the Assessor

Historical Property Information

Parcel Number: 026-098-12-100

Property Address: 3021 FRESNO AVE UNIT 1

Assessor's information is for assessment and tax purposes only and should not be relied upon for status of development or building purposes.

Property Description:

Primary Use**: 12, IMPROVED MULTI RES (2 OR 3 LIVING UNITS)

Subdivision Tract Number: 4

Subdivision Tract Name: AL TAHOE, AMENDED MAP

APN Status: 00, Active

Reference: L 9 B 70

Tax Rate Area: 002-002

School District:

Last Appraisal Effective Date: 9/25/2017

Last Appraisal Reason: 100% CHANGE IN OWNERSHIP

MPR Card: 026-098-12

Associated Maps for: 026-098-12-100

Most Recent Plat: [Assessor's Plat 026-09](#)

Historical Plat: [Historical Plat 026-09](#)

Subdivision Maps: Al Tahoe Amended Map: A-003

**The USE is only reviewed at the time of the last taxable event, and may not be a legal use

2019 - 2020 Taxable Property Values for: 026-098-12-100

Property	Value
Land	\$120,000
Land Total	\$120,000
Improvement Structures	\$301,000
Improvement Total	\$301,000
Personal property Total	\$0
Total Roll	\$421,000

(Exemptions Total)	\$0
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Net Roll	\$421,000
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Event List for: 026-098-12-100

Roll	Event Date	Bill Status	Event Status	Seq #	Event Type	Stmt. Status	ID	Tax Bill #	Value
2018	1/1/2018	Active	Annual Roll	1	Roll	Pending			\$421,000
2017	9/25/2017	Active Suppl	Billed	1	Change in Ownership	Active	<u>0042748</u>	315182S	\$421,000
2017	1/1/2017	Active	Annual Roll	1	Roll	Paid		014938	\$157,471
2016	1/1/2016	Active	Annual Roll	1	Roll	Paid		014944	\$154,384
2015	12/8/2015	Inactive Suppl	Not to be billed	1	Change in Ownership		<u>0017774</u>		
2015	1/1/2015	Active	Annual Roll	1	Roll	Paid		014949	\$152,067
2014	1/1/2014	Active	Annual Roll	1	Roll	Paid		014981	\$149,090
2013	8/1/2013	Inactive Suppl	Not to be billed	1	Change in Ownership		<u>0040499</u>		
2013	1/1/2013	Active	Annual Roll	1	Roll	Paid		014976	\$148,418
2012	1/1/2012	Active	Annual Roll	1	Roll	Paid		014976	\$145,509
2011	5/23/2011	Inactive Suppl	Not to be billed	1	Change in Ownership		<u>0023448</u>		
2011	1/1/2011	Active	Annual Roll	1	Roll	Paid		014986	\$142,656
2010	5/23/2011	Inactive Suppl	Not to be billed	1	Change in Ownership		<u>0023448</u>		
2010	1/1/2010	Active	Annual Roll	1	Roll	Paid		014991	\$141,592
2009	1/1/2009	Active	Annual Roll	1	Roll	Paid		014990	\$141,931
2008	1/1/2008	Active	Annual Roll	1	Roll	Paid		014982	\$139,149
2007	1/1/2007	Active	Annual Roll	1	Roll	Paid		014975	\$136,422
2006	1/1/2006	Active	Annual Roll	1	Roll	Paid		014852	\$133,748
2005	1/1/2005	Active	Annual Roll	1	Roll	Paid		014848	\$131,126
2004	1/1/2004	Active	Annual Roll	1	Roll	Paid		014842	\$128,556
2003	1/1/2003	Active	Annual Roll	1	Roll	Paid		014837	\$126,202

2002	1/1/2002	Active	Annual Roll	1	Roll	Paid		014833	\$123,729
2001	2/1/2001	Inactive Suppl	Not to be billed	1	Change in Ownership		<u>0005409</u>		
2001	1/1/2001	Active	Annual Roll	1	Roll	Paid		014838	\$121,304
2000	2/1/2001	Inactive Suppl	Not to be billed	1	Change in Ownership		<u>0005409</u>		
2000	1/1/2000	Active	Annual Roll	1	Roll	Paid		014850	\$118,927
1999	1/1/1999	Active	Annual Roll	1	Roll	Paid		014816	\$116,596
1998	1/1/1998	Active	Annual Roll	1	Roll	Paid		014860	\$114,476
1997	1/1/1997	Active	Annual Roll	1	Roll	Paid		014864	\$112,232
1996	3/1/1996	Active	Annual Roll	1	Roll	Paid		014878	\$110,032
1995	3/1/1995	Active	Annual Roll	1	Roll	Paid		014872	\$108,826
1994	3/1/1994	Active	Annual Roll	1	Roll	Not_Avl			\$107,549
1993	3/1/1993	Active	Annual Roll	1	Roll	Not_Avl			\$105,441
1992	3/1/1992	Active	Annual Roll	1	Roll	Not_Avl			\$103,375
1991	3/1/1991	Active	Annual Roll	1	Roll	Not_Avl			\$101,349
1990	3/1/1990	Active	Annual Roll	1	Roll	Pending			\$99,363
1989	3/1/1989	Active	Annual Roll	1	Roll	Pending			\$97,416
1988	3/1/1988	Active	Annual Roll	1	Roll	Pending			\$95,507

Property Characteristics for: 026-098-12-100

Property Characteristic	Description
Acreage	0.138 ac
Lot Depth	60 ft
Lot Width	120 ft
Square Foot Range	1 - 6,000 sqft
Topography	Level
Ground Cover	Spaced Pine Trees
Water Source	Public Water Service
Sewer Service	Y

Natural Gas Service	Y
Living Area	6000 sqft
Access Type	County or City Road
Road Type	Asphalt
Architectural Attractiveness	Average
Building Type	Modern
Building Shape	Least Complex - 4 Corners
Construction Type	Wood Frame
Construction Quality	6.0/10
Percent Good	99%
Year Built	1963
Effective Year Built	1963
Approximate Area of Improvements	2136 sqft
Total Units	2
Stories	1.5
First Floor Square Feet	816 sqft
Bedrooms	4
Bathrooms	3.0
Bathrooms on First Floor	3.0
Utility Rooms	1
Total Rooms	8
Fireplace and Wood Stove Count	1
Building Design	Single Family Residence
Functional Plan	Average
Building Use	Single Family Residence
Proper Building Use	Yes
Workmanship	Average
Building Condition	Average
Garages	1
Garage Converted To Living Area	No
Garage Shape	Attached
Garage Area	280 sqft

Garage Stalls	1
Book Category Number	2026
Air Conditioner	No
Conformity Code	Average
Corner Parcel	Y
Cost Table Year	0774
Current Record Flag	Yes
Replacement Cost Less Depreciation	0
Miscellaneous Cost	6730

Parcel Split Background for: **026-098-12-100**

This Parcel Has No Split Background Records.

Related Accounts for: **026-098-12-100**

This Parcel Has No Related Accounts.

Owner Change History for: **026-098-12-100**

Recorded Document: 2017-0042748

Record Change Date: 9/25/2017

Effective Owner Change Date: 9/25/2017

Proposition 13 Appraisal: Yes

Value Change: 100%

Document Transfer Tax: \$463.10

Preliminary Change of Ownership: **2017-0042748**

Recorded Document: 2016-0017774

Record Change Date: 4/27/2016

Effective Owner Change Date: 12/8/2015

Preliminary Change of Ownership: **2016-0017774**

Recorded Document: 2013-0040499
Record Change Date: 8/1/2013
Effective Owner Change Date: 8/1/2013
Preliminary Change of Ownership: 2013-0040499

Recorded Document: 2011-0023448
Record Change Date: 5/23/2011
Effective Owner Change Date: 5/23/2011
Preliminary Change of Ownership: 2011-0023448

Recorded Document: 2001-0005409
Record Change Date: 2/1/2001
Effective Owner Change Date: 2/1/2001
Preliminary Change of Ownership: 2001-0005409

Recorded Document: 1985-2406719
Record Change Date: 3/7/1985
Effective Owner Change Date: 3/7/1985
Proposition 13 Appraisal: Yes
Value Change: 100%
Document Transfer Tax: \$29.15
Preliminary Change of Ownership: 1985-2406719

Recorded Document: 1982-2034729
Record Change Date: 11/30/1981
Effective Owner Change Date: 11/30/1981
Proposition 13 Appraisal: Yes
Value Change: %
Document Transfer Tax: \$0.00
Preliminary Change of Ownership: 1982-2034729

Recorded Document:
Recorder's Book and Page: 1656-728
Record Change Date: 7/31/1978
Effective Owner Change Date: 7/31/1978
Preliminary Change of Ownership: 1-1656728

Recorded Document:
Recorder's Book and Page: 0769-156
Record Change Date: 12/1/1965
Effective Owner Change Date: 12/1/1965
Preliminary Change of Ownership: 1-0769156



Office of the Assessor

Historical Property Information

Parcel Number: 031-231-17-100

Property Address: 1226 MARTIN AVE

Assessor's information is for assessment and tax purposes only and should not be relied upon for status of development or building purposes.

Property Description:

Primary Use**: 11, IMPROVED SINGLE FAMILY RESIDENTIAL TO 2.5 AC.

Subdivision Tract Number: 42

Subdivision Tract Name:

APN Status: 00, Active

Reference: L 17 B 44

Tax Rate Area: 002-002

School District:

Last Appraisal Effective Date: 7/12/2017

Last Appraisal Reason: 100% CHANGE IN OWNERSHIP

MPR Card: 031-231-17

**The USE is only reviewed at the time of the last taxable event, and may not be a legal use

Associated Maps for: 031-231-17-100

Most Recent Plat: Assessor's Plat 031-23

Historical Plat: Historical Plat 031-23

Subdivision Maps: Tahoe Sierra 3: A-045

2019 - 2020 Taxable Property Values for: 031-231-17-100

Property	Value
Land	\$65,000
Land Total	\$65,000
Improvement Structures	\$285,000
Improvement Total	\$285,000
Personal property Total	\$0
Total Roll	\$350,000

(Exemptions Total)	\$0
Net Roll	\$350,000

Event List for: 031-231-17-100

Roll	Event Date	Bill Status	Event Status	Seq #	Event Type	Stmt. Status	ID	Tax Bill #	Value
2018	1/1/2018	Active	Annual Roll	1	Roll	Pending			\$350,000
2017	7/12/2017	Active Suppl	Billed	1	Change in Ownership	Paid	<u>0028537</u>	312367S	\$350,000
2017	1/1/2017	Active	Annual Roll	1	Roll	Paid		020319	\$122,475
2016	1/1/2016	Active	Annual Roll	1	Roll	Paid		020283	\$120,075
2015	1/1/2015	Active	Annual Roll	1	Roll	Paid		020292	\$118,274
2014	2/10/2014	Inactive Suppl	Not to be billed	1	Change in Ownership		<u>0005470</u>		
2014	1/1/2014	Active	Annual Roll	1	Roll	Paid		020287	\$115,959
2013	2/10/2014	Inactive Suppl	Not to be billed	1	Change in Ownership		<u>0005470</u>		
2013	1/1/2013	Active	Annual Roll	1	Roll	Paid		020288	\$115,436
2012	1/1/2012	Active	Annual Roll	1	Roll	Paid		020290	\$113,173
2011	1/1/2011	Active	Annual Roll	1	Roll	Paid		020299	\$110,955
2010	1/1/2010	Active	Annual Roll	1	Roll	Paid		020303	\$110,128
2009	1/1/2009	Active	Annual Roll	1	Roll	Paid		020303	\$110,391
2008	1/1/2008	Active	Annual Roll	1	Roll	Paid		020302	\$108,227
2007	1/1/2007	Active	Annual Roll	1	Roll	Paid		020295	\$106,105
2006	1/1/2006	Active	Annual Roll	1	Roll	Paid		020166	\$104,025
2005	1/1/2005	Active	Annual Roll	1	Roll	Paid		020165	\$101,986
2004	1/1/2004	Active	Annual Roll	1	Roll	Paid		020147	\$99,987
2003	1/1/2003	Active	Annual Roll	1	Roll	Paid		020146	\$98,156
2002	1/1/2002	Active	Annual Roll	1	Roll	Paid		020148	\$96,233
2001	1/1/2001	Active	Annual Roll	1	Roll	Paid		020158	\$94,347

2000	1/1/2000	Active	Annual Roll	1	Roll	Paid		020193	\$92,498
1999	1/1/1999	Active	Annual Roll	1	Roll	Paid		020184	\$90,685
1998	1/1/1998	Active	Annual Roll	1	Roll	Paid		020239	\$89,037
1997	1/1/1997	Active	Annual Roll	1	Roll	Paid		020242	\$87,292
1996	3/1/1996	Active	Annual Roll	1	Roll	Paid		020272	\$85,581
1995	3/1/1995	Active	Annual Roll	1	Roll	Paid		020274	\$84,643
1994	3/1/1994	Active	Annual Roll	1	Roll	Not_Avl			\$83,649
1993	3/1/1993	Active	Annual Roll	1	Roll	Not_Avl			\$82,010
1992	3/1/1992	Active	Annual Roll	1	Roll	Not_Avl			\$80,403
1991	3/1/1991	Active	Annual Roll	1	Roll	Not_Avl			\$78,827
1990	3/1/1990	Active	Annual Roll	1	Roll	Pending			\$77,283
1989	3/1/1989	Active	Annual Roll	1	Roll	Pending			\$75,769
1988	3/1/1988	Active	Annual Roll	1	Roll	Pending			\$74,284

Property Characteristics for: 031-231-17-100

Property Characteristic	Description
Acreage	0.115 ac
Lot Depth	100 ft
Lot Width	50 ft
Square Foot Range	1 - 6,000 sqft
Topography	Level
Ground Cover	Pine Trees
Water Source	Public Water Service
Sewer Service	Y
Natural Gas Service	Y
Living Area	5000 sqft
Access Type	County or City Road
Road Type	Asphalt

Architectural Attractiveness	Average
Construction Type	Wood Frame
Construction Quality	6.0/10
Percent Good	99%
Year Built	1960
Effective Year Built	2005
Approximate Area of Improvements	1750 sqft
Total Units	1
Useable Living Area	5000 sqft
Stories	1.0
First Floor Square Feet	1750 sqft
Bedrooms	4
Bathrooms	2.0
Bathrooms on First Floor	2.0
Total Rooms	8
Fireplace and Wood Stove Count	1
Building Design	Duplex
Functional Plan	Average
Building Use	Single Family Residence
Proper Building Use	Yes
Workmanship	Average
Building Condition	Good
Garage Converted To Living Area	No
Book Category Number	2031
Air Conditioner	No
Conformity Code	Average
Cost Table Year	0774
Current Record Flag	Yes
Replacement Cost Less Depreciation	0
Miscellaneous Cost	2860

Parcel Split Background for: **031-231-17-100**

This Parcel Has No Split Background Records.

Related Accounts for: **031-231-17-100**

This Parcel Has No Related Accounts.

Owner Change History for: **031-231-17-100**

Recorded Document: 2017-0028537

Record Change Date: 7/12/2017

Effective Owner Change Date: 7/12/2017

Proposition 13 Appraisal: Yes

Value Change: 100%

Document Transfer Tax: \$385.00

Preliminary Change of Ownership: **2017-0028537**

Recorded Document: 2014-0005470

Record Change Date: 2/10/2014

Effective Owner Change Date: 2/10/2014

Preliminary Change of Ownership: **2014-0005470**

Recorded Document: 1985-2439315

Record Change Date: 5/31/1985

Effective Owner Change Date: 5/31/1985

Proposition 13 Appraisal: Yes

Value Change: 100%

Document Transfer Tax: \$77.00

Preliminary Change of Ownership: **1985-2439315**

Recorded Document: 1985-2401590

Record Change Date: 2/19/1985

Effective Owner Change Date: 2/5/1985

Proposition 13 Appraisal: Yes

Value Change: 100%

Document Transfer Tax: \$0.00

Preliminary Change of Ownership: **1985-2401590**

Recorded Document: 1984-2347387

Record Change Date: 9/21/1984

Effective Owner Change Date: 9/21/1984

Preliminary Change of Ownership: **1984-2347387**

Recorded Document: 1984-2340009

Record Change Date: 9/4/1984

Effective Owner Change Date: 9/4/1984

Preliminary Change of Ownership: **1984-2340009**

Recorded Document:

Recorder's Book and Page: 1828-391

Record Change Date: 11/29/1979

Effective Owner Change Date: 11/29/1979

Preliminary Change of Ownership: **1-1828391**

Recorded Document:

Recorder's Book and Page: 1629-347

Record Change Date: 5/16/1978

Effective Owner Change Date: 5/16/1978

Preliminary Change of Ownership: **1-1629347**

Recorded Document:

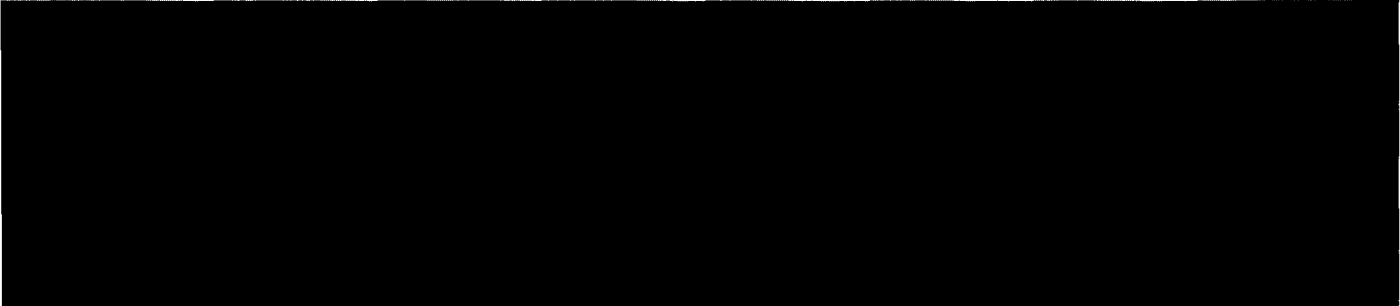

Recorder's Book and Page: 1353-281

Record Change Date: 10/14/1975

Effective Owner Change Date: 10/14/1975

Preliminary Change of Ownership: **1-1353281**

CA 199	CASH CONTRIBUTIONS INCLUDED ON PART I, LINE 3	STATEMENT 1
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CONTRIBUTOR'S NAME	CONTRIBUTOR'S ADDRESS	DATE OF GIFT	AMOUNT
			
SOUTH TAHOE ALLIANCE RESORTS	PO BOX 5878 STATELINE, NV 89449	04/05/18	10,000.
US BANK FOUNDATION	621 CAPITOL MALL, SUITE 990 SACRAMENTO, CA 95814	12/21/18	10,000.
			
BANK OF AMERICA CHARITABLE FOUNDATION	150 N COLLEGE ST CHAROLETTE , NC 28202	10/06/18	30,000.
TOTAL INCLUDED ON LINE 3			291,257.

CA 199	OTHER INCOME	STATEMENT 2
DESCRIPTION		AMOUNT
MISCELLANEOUS		250.
ECONOMIC SUMMIT		32,130.
PROJECT PARTNERSHIP		5,030.
TOTAL TO FORM 199, PART II, LINE 7		37,410.

State line



Bijou Park

Sequoia Beach

South Lake
Tahoe
Recreation Area

Bijou

Bijou Municipal
Golf Course

Al Tahoe

Truckee
Marsh

50

Al Tahoe Blvd

Lake Tahoe
Community
College

Lake Valley

La: Village

Tahoe Island Dr

Tahoe Key Blvd

101 St

Gardner
Mountain

Tahoe Valley

South Lake
Tahoe

Lake Tahoe Blvd

Margaret Dr

Marble Dr

6373 ft

Conquistador Ln

Black Bart Ave

Lake valley

Diagoner Trl

High

6498 ft

7347 ft



State of California Secretary of State

Statement of Information

(Foreign Corporation)

FEES (Filing and Disclosure): \$25.00.

If this is an amendment, see instructions.

IMPORTANT – READ INSTRUCTIONS BEFORE COMPLETING THIS FORM

F

GB80501

FILED

In the office of the Secretary of State
of the State of California

JAN-02 2020

This Space for Filing Use Only

1. CORPORATE NAME

TAHOE PROSPERITY CENTER

2. CALIFORNIA CORPORATE NUMBER

C3408850

No Change Statement (Not applicable if agent address of record is a P.O. Box address. See instructions.)

3. If there have been any changes to the information contained in the last Statement of Information filed with the California Secretary of State, or no statement of information has been previously filed, this form must be completed in its entirety.

☐ If there has been no change in any of the information contained in the last Statement of Information filed with the California Secretary of State, check the box and proceed to Item 13.

Complete Addresses for the Following (Do not abbreviate the name of the city. Items 4 and 5 cannot be P.O. Boxes.)

4. STREET ADDRESS OF PRINCIPAL EXECUTIVE OFFICE CITY STATE ZIP CODE
948 INCLINE WAY, INCLINE VILLAGE, NV 89451

5. STREET ADDRESS OF PRINCIPAL BUSINESS OFFICE IN CALIFORNIA, IF ANY CITY STATE ZIP CODE

6. MAILING ADDRESS OF THE CORPORATION, IF DIFFERENT THAN ITEM 4 CITY STATE ZIP CODE

Names and Complete Addresses of the Following Officers (The corporation must list these three officers. A comparable title for the specific officer may be added; however, the preprinted titles on this form must not be altered.)

7. CHIEF EXECUTIVE OFFICER/ ADDRESS CITY STATE ZIP CODE
HEIDI HILL DRUM 942 KEKIN ST, SOUTH LAKE TAHOE, CA 96150

8. SECRETARY ADDRESS CITY STATE ZIP CODE
DARCIE GOODMAN COLLINS 2608 LAKE TAHOE BLVD., SOUTH LAKE TAHOE, CA 96150

9. CHIEF FINANCIAL OFFICER/ ADDRESS CITY STATE ZIP CODE
BRIAN HOGAN P.O. BOX 5700, STATELINE, NV 89449

Agent for Service of Process If the agent is an individual, the agent must reside in California and Item 11 must be completed with a California street address, a P.O. Box address is not acceptable. If the agent is another corporation, the agent must have on file with the California Secretary of State a certificate pursuant to California Corporations Code section 1505 and Item 11 must be left blank.

10. NAME OF AGENT FOR SERVICE OF PROCESS

HEIDI HILL DRUM

11. STREET ADDRESS OF AGENT FOR SERVICE OF PROCESS IN CALIFORNIA, IF AN INDIVIDUAL CITY STATE ZIP CODE
942 KEKIN ST., SOUTH LAKE TAHOE, CA 96150

Type of Business

12. DESCRIBE THE TYPE OF BUSINESS OF THE CORPORATION
ECONOMIC DEVELOPMENT NONPROFIT

13. THE INFORMATION CONTAINED HEREIN IS TRUE AND CORRECT.

01/02/2020

HEIDI HILL DRUM

CEO

DATE

TYPE/PRINT NAME OF PERSON COMPLETING FORM

TITLE

SIGNATURE



State of California
Bill Jones
Secretary of State

LIMITED LIABILITY COMPANY - STATEMENT OF INFORMATION

Filing Fee \$20.00 - If Amendment, See Instructions

IMPORTANT- Read Instructions Before Completing This Form

1. LIMITED LIABILITY COMPANY NAME: (Do not alter if name is preprinted.)

Westgate Enterprises, LLC

FILED
In the Office of the Secretary of State
of the State of California

MAR 06 2002

Bill Jones
BILL JONES, Secretary of State

This Space For Filing Use Only

2. SECRETARY OF STATE FILE NUMBER

200201810107

3. STATE OR PLACE OF ORGANIZATION

California

4. PRINCIPAL EXECUTIVE OFFICE

STREET ADDRESS 3170 Highway 50, #10

CITY So. Lake Tahoe

STATE CA

ZIP CODE 96150

5. CALIFORNIA OFFICE WHERE RECORDS ARE MAINTAINED (FOR DOMESTIC ONLY)

STREET ADDRESS 3170 Highway 50, #10

CITY So. Lake Tahoe

STATE CA

ZIP CODE 96150

6. CHECK THE APPROPRIATE PROVISION BELOW AND NAME THE AGENT FOR SERVICE OF PROCESS

☒ AN INDIVIDUAL RESIDING IN CALIFORNIA.

☐ A CORPORATION WHICH HAS FILED A CERTIFICATE PURSUANT TO CALIFORNIA CORPORATIONS CODE SECTION 1505.

AGENT'S NAME: Michael J. McLaughlin

7. ADDRESS OF THE AGENT FOR SERVICE OF PROCESS IN CALIFORNIA, IF AN INDIVIDUAL

ADDRESS 2486 Tepee Court

CITY So. Lake Tahoe

STATE CA

ZIP CODE 96150

8. DESCRIBE TYPE OF BUSINESS OF THE LIMITED LIABILITY COMPANY.

Real Estate

9. LIST THE NAME AND COMPLETE ADDRESS OF ANY MANAGER OR MANAGERS, OR IF NONE HAVE BEEN APPOINTED OR ELECTED, PROVIDE THE NAME AND ADDRESS OF EACH MEMBER. ATTACH ADDITIONAL PAGES, IF NECESSARY.

9a. NAME Robert I. Novasel, Managing Member

ADDRESS 3170 Hwy 50, #10

CITY So. Lake Tahoe

STATE CA

ZIP CODE 96150

9b. NAME Richard Schwarte, Managing Member

ADDRESS 3170 Hwy 50, #10

CITY So. Lake Tahoe

STATE CA

ZIP CODE 96150

9c. NAME David E. Barnett, Managing Member

ADDRESS 3170 Hwy 50, #10

CITY So. Lake Tahoe

STATE CA

ZIP CODE 96150

10. CHIEF EXECUTIVE OFFICER (CEO), IF ANY

NAME

ADDRESS

CITY

STATE

ZIP CODE

11. NUMBER OF PAGES ATTACHED, IF ANY:

0

12. THIS STATEMENT IS TRUE, CORRECT, AND COMPLETE.

Robert I. Novasel

TYPE OR PRINT NAME OF PERSON COMPLETING FORM

SIGNATURE

Robert I. Novasel

Managing Member

TITLE

3/4/02

DATE

DUE DATE:

APR 11 2002



TAHOE PROSPERITY CENTER

Type of Meeting: Board of Directors Meeting

Date/Time: March 23, 2018
9am to 11:00am

Location: South Shore
Tahoe Chamber/LTVA
Join from PC, Mac, Linux, iOS or
Android:
<https://zoom.us/j/654131552>
US: +1 646 876 9923
Meeting ID: 654 131 552

Time	Agenda Topic	Who
9am	Welcome	Walker
9:05	Announcement: <ul style="list-style-type: none">New Board member– Darcie Collins Consent Item: <ul style="list-style-type: none">January Draft Board Meeting minutes Discussion Items: <ul style="list-style-type: none">February 2018 FinancialsBoard Survey ResultsBoard Development – Engaging all Board members in TPC work – Board member’s commitment to TPC committees, attendance, fundraising, recruitment, etc. How to ensure that the Board is maximizing its strengths, talents and relationships to further TPC’s mission and goals.	Walker Lind Hogan Lind Walker
10:00	Committee Reports (In packet – Q&A) <ul style="list-style-type: none">Indicators – review final report, provide input on highlights and messaging and discussionWorkforce Housing	Walker Hill Drum
10:45	Board Member Announcements	All
10:55	Meeting Review and Staff Direction	Hill Drum
11:00	Closed Session (If necessary/reconvene to Open Session) or Adjourn	Lind

Mission: Uniting Tahoe’s Communities to Strengthen Regional Prosperity



TAHOE PROSPERITY CENTER

Board Retreat – July 13, 2018

Draft Internal Planning Agenda

Tahoe Chamber Conference Room, 169 Highway 50, Stateline, NV

AGENDA

Goals:

- Develop specific goals and targets for program areas for 2018 and 2019
- Compare organizational goals, needs and the skills, interest and experience of board members
- Energize the board and staff to make great gains in 2018-2019!

#	Time	Topic + Objectives	Roles + Materials
1	8:30	Welcome, introductions and agenda review <ul style="list-style-type: none">• Introduce Darcie Goodman Collins	Facilitator
2	8:35	Administration <ul style="list-style-type: none">• Approve previous meeting notes• Review financials	Jesse Walker, Board Chair
3	8:50	Setting the stage: Overview of the Tahoe Prosperity Center accomplishments 2012-2017	Jesse Walker, Board Chair
4	9:00	Goals and targets for key indicators Setting targets for: <ul style="list-style-type: none">• Housing Tahoe• Workforce Tahoe• Invest in Tahoe• Tahoe Economic Summit	Group Results from Board questionnaires
5	9:45	Thinking big: what can we do with more resources? <ul style="list-style-type: none">• What do we need in terms of staff, infrastructure, funding or other resources?• What are reasonable estimates of fundraising capacity?	Facilitator and Heidi Hill Drum present summary of questionnaires Group brainstorming exercise
6	10:15	Break	
7	10:30	Making the most of the board <ul style="list-style-type: none">• Exercise: mapping board skills, experience and interests versus TPC needs, goals and opportunities	Facilitator and Heidi Hill Drum present summary of questionnaires Group exercise
8	12:00	Next steps: action items, roles and timelines <ul style="list-style-type: none">• Review/adjust subgroups and chairs• Identify tasks and deadlines• Commitments	Action item list
9	12:20	Plan for next Board meeting	
10	12:30	Walk to lunch: <ul style="list-style-type: none">• Walk down to Tahoe Beach Club (highlights of some of the potential homes/lots for Tiny Home conversion)	
11	1:00	Lunch Tahoe Beach Club	Thank you Bob!!!

Mission: Uniting Tahoe's Communities to Strengthen Regional Prosperity

11 Pathway to cyber security: The Morgan family foundation has a link to a company in the Bay Area and we have recently begun facilitating a conversation for a pathway with LTCC's new Cyber program. Retention of the students in this program is important for our community, so we'll ensure the pathway keeps workers here.

Meeting adjourned at approximately 12:10



TAHOE PROSPERITY CENTER

Board Retreat – July 13, 2018

Draft Meeting Summary

Tahoe Chamber Conference Room, 169 Highway 50, Stateline, NV

DRAFT SUMMARY

Action Items

- Lead a special initiative to recruit a specific economic sector: white hat hackers and other hi-tech digital nomads (B. Stern)
- Next steps for board structure and management (Hill Drum with Executive Committee)
 - Identify a chair for each board subcommittee/working group and establish a schedule of meetings
 - Develop simple draft work plans for 2019 for board review in fall 2018
- Schedule an additional board workshop to focus on board structure, roles, responsibility and participation (Hill Drum and J. Walker)
- The Housing Tahoe subcommittee will meet to finalize next steps on Housing Tahoe (B. Roby)
- Collect and collate housing and workforce assessments, including recent TRPA and other reports (Hill Drum)

Overview

The board met with the following goals for the meeting:

- Develop specific goals for program areas for 2018 and 2019
- Compare organizational goals, needs and the skills, interest and experience of board members
- Energize the board and staff to make great gains in 2018-2019!

The majority of the workshop focused on identifying goals for 2018-2019 for housing, workforce, fundraising and the Economic Summit. Broad goals were identified for each category, along with some specific next steps, though additional work is needed to develop measurable objectives and a work plan. Key goals for the next year included:

- Housing: Conduct/complete an assessment of housing needs in the South Shore
- Workforce: Assess north shore workforce needs; convene Tahoe area colleges to coordinate on training programs and regional resources
- Fundraising: Work toward 100% board participation in fundraising
- Economic Summit: Become revenue generator for TPC

The group began discussion of board roles and board development but this discussion was abbreviated due to lack of time. The goals for next discussions with the board are to:

- Develop a strategy for board participation in fundraising
- Match board member interests, experience, and capacity to TPC needs
- Update membership, roles and work plans for working groups/subcommittees



TAHOE PROSPERITY CENTER

Type of Meeting: Board of Directors Meeting

Date/Time: November 16, 2018
9am to 11:00am

Location: South Shore
Tahoe Chamber/LTVA
<https://zoom.us/j/654131552>
Or Telephone
US: +1 646 370 9923
Meeting ID: 654 131 552

Time	Agenda Topic	Who
9am	Welcome	Walker
9:05	Announcement: <ul style="list-style-type: none">Board member application – Frank Gerdeman Consent Item: <ul style="list-style-type: none">Draft July and September Board Meeting minutes Discussion Items: <ul style="list-style-type: none">October 2018 Financials2019 BudgetEnd of Year Funding – Board Giving and Year-endEconomic Summit Debrief/SurveysProposed 2019 Board Calendar	Walker Lind Hogan Hogan Walker/Stern Hill Drum Walker
10:30	Board Member Announcements	All
10:45	Meeting Review and Staff Direction	Hill Drum
10:50	Closed Session (If necessary/reconvene to Open Session) or Adjourn	

Mission: Uniting Tahoe's Communities to Strengthen Regional Prosperity

**Board of Directors Meeting
December 13, 2019, LTVA/Tahoe Chamber**

Meeting started at 9:36 AM

Board members present: Frank Gerdeman, Lisa Granahan, Michelle Risdon, Brian Hogan, Roger Kahn, Rick Link, Joanne Marchetta, Jesse Walker, Bill Kelly, Roger Rempfer, Bob Grant

Board members on phone: Bill Roby, Robert Stern

Staff Present: Heidi Hill Drum, Chase Janvrin, Erin Jones, Shelby Cook

Rick Lind welcomed the board:

- We're the strongest we have ever been financially.
- This year we had a comprehensive management consultant, B, evaluate the CEO and board and we have received helpful feedback.
 - Will begin implementing the recommendations in the next few months.

Group introduced themselves to new Board Member Bill Kelly.

Action Item: Bill Kelly Board membership

Brian Hogan motions, Roger Kahn seconds, board unanimously approves.

Action Item: To approve board members leaving:

Andy Chapman, Cindy Gustafson, Jane Layton and Bob Mecay

Roger Rempfer moves, Bob Stern seconds, board unanimously approves.

Consent Agenda to approve new officers, board terms, financials and meeting minutes:

Roger Rempfer moves, Frank Gerdeman seconds, board unanimously approves.

Brain Hogan & Heidi Hill Drum lead 2020 Budget:

- Bill Kelly moved, Jesse Walker seconds, board unanimously approved 2020 budget.

Board and Committee Meeting Changes:

Shift from fourth Friday mornings, to first Wednesday afternoons from 3-5 PM at various businesses around the lake and then follow it with a happy hour.

Moving forward:

- Get agendas out to committees prior to meetings so they can gauge what their involvement needs to be/prepare.
- We should bring in not only community members, but people who can come in and present on their accomplishments in the fields that we're working on to make this a learning experience.
- TPC to be clearer about dates and times for committee meetings.
- Committee chairs and TPC to set meetings for when they make sense.

2020 board calendar: Joanne Marchetta moved, Roger Rempfer seconds, board unanimously approves.

Action Items:

- Make an updated organization chart (*Heidi*)
- Keep reminding and getting on the board to engage for the Summit. (*Roger Rempfer*)
- Send updated calendar invites for next year. (*Shelby*)
- Send out an ask to the board about what committees they want to be on. (*Shelby*)
- Consider a possible new committee: to discuss with workforce at their meeting and bring back to board next meeting. (*Workforce and Executive Committees*)

Meeting ended at approximately 11:24 AM

**Board Retreat - July 26, 2019
Edgewood Tahoe
Stateline, NV 89449**

Board Members Present: Andy Chapman, Darcie Collins, Lew Feldman, Lisa Granahan, Roger Kahn, Jane Layton, Rick Lind, Joanne Marchetta, Jennifer Merchant, Devin Middlebrook, Sue Novasel, Roger Rempfer, Patrick Rhamey, Michelle Risdon, Bill Roby, Robert Stern, Jesse Walker and Frank Gerdeman.

Staff Present: Heidi Hill Drum, Erin Jones, Shelby Cook

Facilitator: Tawni Janvrin

Meeting began at 8:38am.

Chair Bill Roby welcomed the board:

"When it comes to people and individual's desire for the Lake Tahoe area, there is always one word: thrive. That is the purpose of our work here today - guiding this organization so that we can build a community that thrives."

Heidi led a high-level overview of what TPC has accomplished over the past five years. She also shared an overview of the 2018-2020 Strategic Plan, the 2019 Workplan and Q2 updates.

Specific Strategic Plan accomplishments at the halfway point of the three-year plan:

There are 28 objectives set by the board.

- 12 (43%) are completed.
- 5 of the 28 are halfway toward completion.
- 6 are ongoing.
- 3 are being led by others.
- 2 have yet to begin.

We're on track to complete most of the original Strategic Plan objectives by the end of 2020.

Heidi then introduced Tawni Janvrin, our facilitator for the day. She shared that she has excellent facilitation and corporate retreat experience and is helping with planning for the Tahoe Economic Summit.

Evolutionary Stage of a Board of Directors - this section was led by Bill Roby

How a board evolves affects how an organization evolves.

Growth/evolution usually happen due to a catalyst which pushes a board out of their comfort zone. There are four types of boards: Working, Governance, Strategic, and Visionary

- TPC tends to bounce around between each of these, the two most prominent being Working and Governance.

There are visionary aspects in each step of the board evolution; we can't be in a visionary stage yet as we're still reaching toward our original vision.

- The board at this point in development needs to be strategic and focused on accomplishing particular goals.



TAHOE PROSPERITY CENTER

tahoeprosperity.org

Board of Directors Meeting

December 13, 2019

9:30 AM - 11:30 AM

Tahoe Chamber/LTVA

169 US Highway 50

Conference Call-in Number:

~~1-609-475-6006~~

Access Code 6064452#

- | | |
|----------|---|
| 9:30 AM | 1. Welcome/Call to Order |
| 9:35 AM | 2. New Board Member – Bill Kelly <ul style="list-style-type: none">a. Introductionsb. Approve appointment of Bill Kellyc. Approve resignation of Andy Chapman and Cindy Gustafson |
| 9:45 AM | 3. Consent Agenda <ul style="list-style-type: none">a. Board Retreat Minutesb. Quarterly Financialsc. 2020 Board Officers and Terms |
| 9:50 AM | 4. Discussion Items <ul style="list-style-type: none">a. 2020 Budgetb. 2020 Board Meeting schedulec. Workplan Update and ideas for 2020 |
| 11:00 AM | 5. Meeting Review and Staff Direction |
| 11:15 AM | 6. Board Announcements |
| 11:30 AM | 7. Adjourn |



TAHOE PROSPERITY CENTER
tahoeprosperity.org

TPC Board Retreat Agenda
July 26th, 2019
8:30 AM - 1:30 PM

Location: **Edgewood** – South Room – in original Country Club Building

*The purpose of this retreat is to **unify and Inspire**. Our agenda has been strategically planned to ensure our retreat purpose is served.*

Time	Topic	Led By:
8:30 AM	Welcome	Heidi
8:35 AM	Retreat Purpose: to create consensus & inspire	
8:40 AM	Introductions: Tawni Janvrin, Faciliator & new Program Manager	
8:45 AM	Strategic Plan Accomplishment to Date	
9:10 AM	Strategic Plan Update	
9:30 AM	Role of the Board	Bill
9:35 AM	Working Board → Strategic Board Definition of a strategic board	
10:00 AM	Break	
10:15 AM	Small group breakout to answer the following Strategic Focus Area questions: a. What does success look like for <your strategic focus area>? b. What does TPC's effort in <your strategic focus area> better than anyone else? c. What are we going to accomplish in the next 18 – 24 months in <your strategic focus area>?	<i>Select a secretary & presenter within your group of leaders</i>
11:00 AM	Small Group Recap of questions answered	Tawni
11:30 AM	TPC's Story	Heidi
11:45	Did we achieve the purpose of today's meeting?	Tawni
12:00 PM	Call To Action: Be an Ambassador for the organization Fundraise	Bill
12:15 PM	Eat and Collaborate. Consent Agenda (Board packet)	All



TAHOE PROSPERITY CENTER

Type of Meeting: **Board of Directors Meeting**

Date/Time: **January 25, 2019**
9:30am to 1:00pm

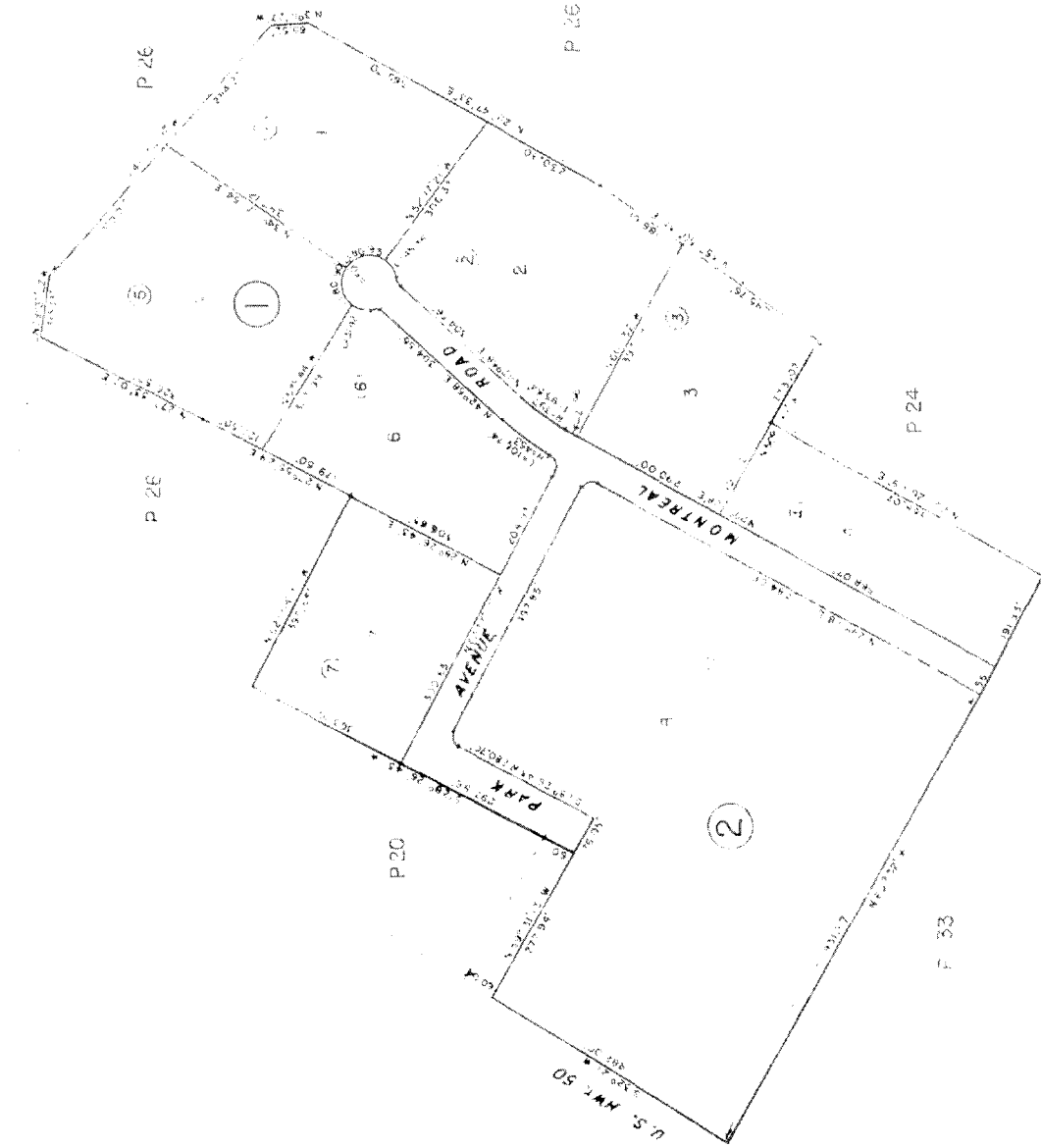
Location: **South Shore**
Tahoe Chamber/LTVA
Zoom info:
Join from PC, Mac, or Android
https://zoom.us/j/654131552
US: +1 646 876 9923
Meeting ID: 654 131 552

Time	Agenda Topic	Who
9:30am	Welcome/Call to Order	Walker
9:35	Consent Agenda: a) Draft November Board Meeting minutes b) 2018 Financials c) Committee Reports Action Items: a) Approval of 2019 Officers b) Approval of New Board Terms c) Board member changes	Walker Roby
10:00	Discussion Items: • 2019 Cash Flow, Reserve and Endowment • Board Annual Self-Evaluation Survey • 2019 Draft TPC Workplan o Tahoe Prosperity Center History o 2018 Accomplishments	Hogan/Roby Roby Tom Greene Hill Drum
10:45	Break	All
11:00	Discussion Items continued: • 2019 Draft TPC Workplan o 2018-2020 Strategic Plan Review o 2019 Workplan Goals for General Operating and Program Areas o Board Role in accomplishing 2019 Workplan	All
12:00	Meeting Review and Staff Direction	Hill Drum
12:15	Board Announcements	All
12:30	Lunch provided	
1:00	Closed Session (If necessary/reconvene to Open Session) or Adjourn	Roby

Mission: Uniting Tahoe's Communities to Strengthen Regional Prosperity

2944

CRESCENT "V" SUBDIVISION
POR. S.W. 1/4 SEC. 27 & POR. N.W. 1/4 SEC. 34 T.13 N., R.18 E., M.D.B. & M.

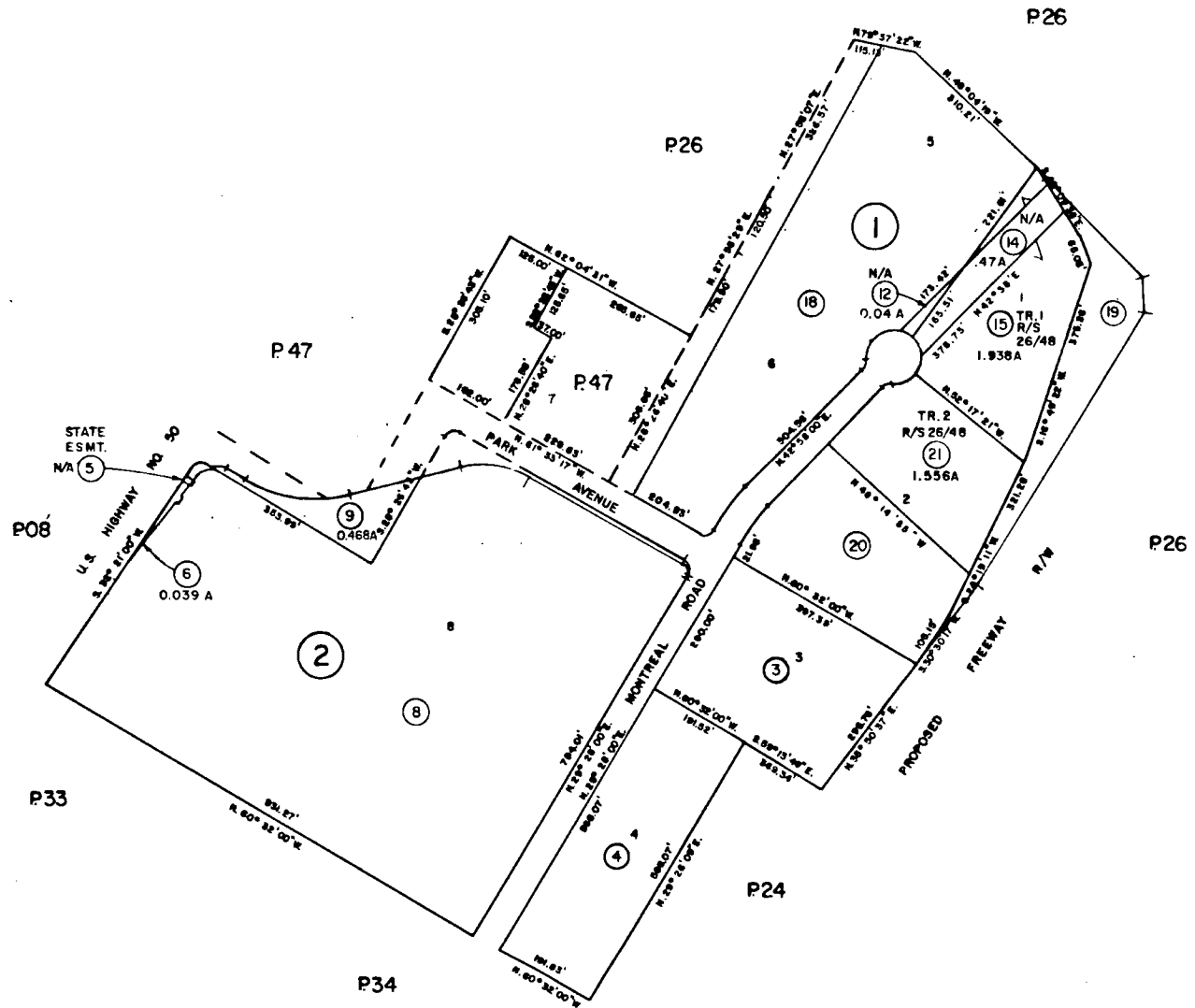


Assessor's Map
County of El Dorado, Calif.

POR. S1/2 SEC. 27, & POR. N1/2 SEC. 34, T.13N., R.18E., M.D.M.
CRESCENT "V" SUBDIVISION
C - 89

Tax Area Code

29:44



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

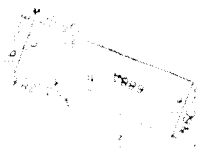
NOTE - Assessor's Block Numbers Shown in Ellipses
Assessor's Parcel Numbers Shown in Circles

Assessor's Map Bk. 29 - Pg. 44
County of El Dorado, California

JUL 21 2013

PUR NE 1/4 SEC 34 T13N R18E MDM.

29:24



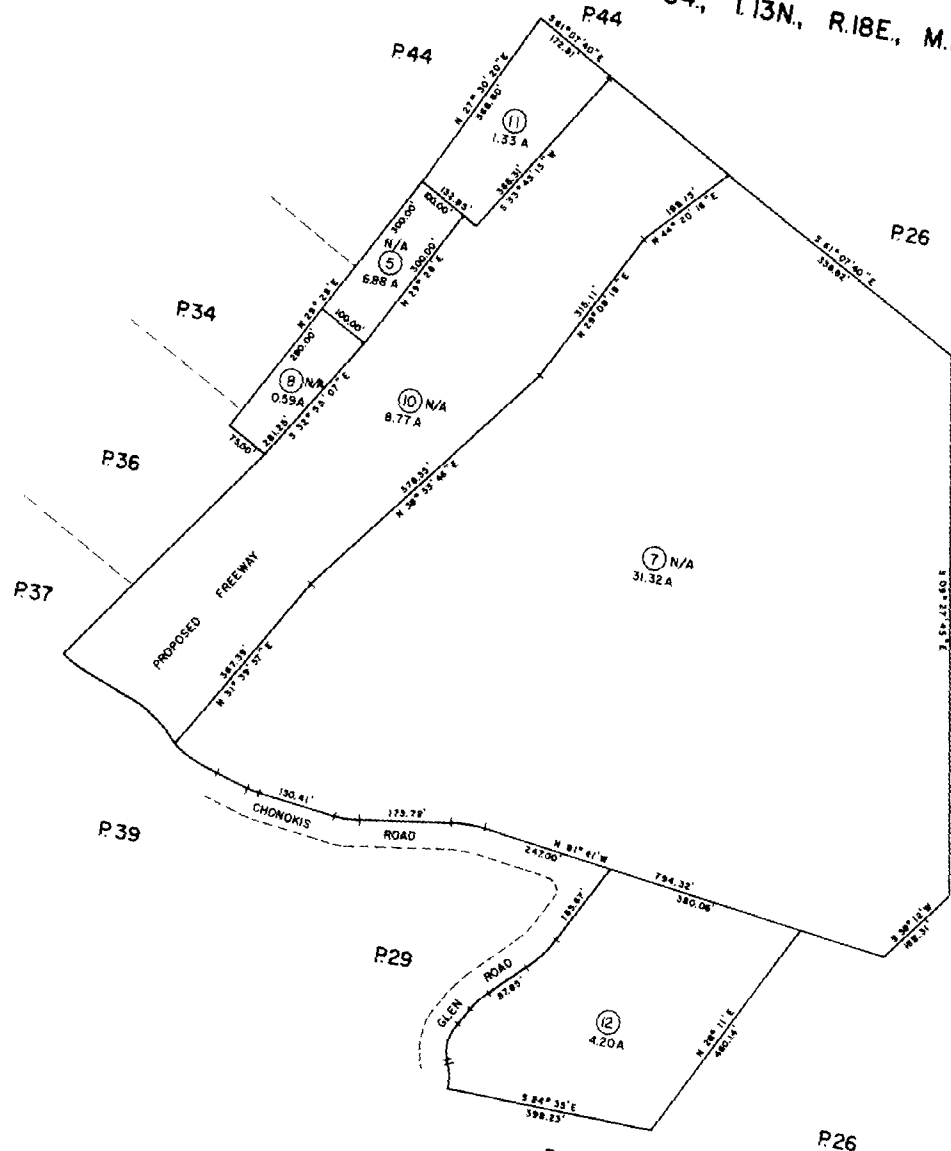
6
4000

27

27

set P44

29:24



P32

NOTE - Assessor's Block Numbers Shown in Ellipses
Assessor's Parcel Numbers Shown in Circles

Assessor's Map Bk. 29 - Pg. 24
County of El Dorado, California



**TAHOE
REGIONAL
PLANNING
AGENCY**

Mail
PO Box 5310
Stateline, NV 89449-5310

Location
128 Market Street
Stateline, NV 89449

Contact
Phone: 775-588-4547
Fax: 775-588-4527
www.trpa.org

April 10, 2020

Kara Thiel
Feldman Thiel LLP
P.O. Box 1309
Zephyr Cove, NV 89448

**VERIFICATION AND BANKING OF POTENTIAL RESIDENTIAL UNIT OF USE
OFF MONTREAL ROAD NEAR HEAVENLY VILLAGE WAY, CITY OF SOUTH LAKE TAHOE, CALIFORNIA
ASSESSOR'S PARCEL NUMBER 029-240-011, TRPA FILE NUMBER VBOU2020-0210**

Dear Ms. Thiel:

This letter is to inform you that Tahoe Regional Planning Agency (TRPA) staff reviewed all available records related to the above-referenced parcel and consequently recognizes that one potential residential unit of use is verified on the parcel and is available for use or transfer. If the subject parcel is merged with an adjacent parcel, the potential residential unit of use will be considered banked upon the resultant parcel.

This letter is not a conceptual approval of any future project. At this time, TRPA has only verified the development right described above. Transfer of said development right requires separate application to TRPA.

TRANSFER OF DEVELOPMENT RIGHTS (TDR) EXCHANGE

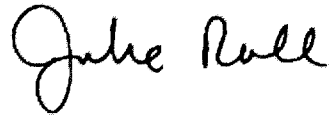
Actions associated with this TRPA approval may have resulted in verification of a transferable commodity. Transferable commodities can be bought and sold within the Tahoe basin and include commercial floor area, tourist accommodations units, residential units of use, residential allocations, residential development rights and land coverage. TRPA has created a Transfer of Development Rights (TDR) Exchange system. This online tool is a means to bring buyers and sellers of commodities together to facilitate the transfer of development within the Lake Tahoe Basin. For additional information please visit the following web page: <http://www.trpa.org/permitting/transfer-development-rights/>.

APPEAL RIGHTS

Pursuant to Rule 11.2 of the TRPA Rules of Procedure, this verification may be appealed within twenty-one (21) days from the time TRPA releases any final decision (**May 1, 2020**).

Thank you for your attention to this matter. If you have any questions, please contact me by phone at (775) 589-5247 or by email at jroll@trpa.org.

Sincerely,

A handwritten signature in black ink that reads "Julie Roll". The signature is written in a cursive, flowing style.

Julie Roll
Senior Planner
Current Planning Department

cc. HVR Acquisitions, LLC, delivered via email



Secretary of State
Statement of Information
(Limited Liability Company)

LLC-12

18-C37310

FILED

In the office of the Secretary of State
of the State of California

JUL 12, 2018

This Space For Office Use Only

IMPORTANT — Read instructions **before** completing this form.

Filing Fee — \$20.00

Copy Fees — First page \$1.00; each attachment page \$0.50;
Certification Fee - \$5.00 plus copy fees

1. **Limited Liability Company Name** (Enter the exact name of the LLC. If you registered in California using an alternate name, see instructions.)

HVR ACQUISITIONS LLC

2. **12-Digit Secretary of State File Number**

201818310409

3. **State, Foreign Country or Place of Organization** (only if formed outside of California)

CALIFORNIA

4. Business Addresses

a. Street Address of Principal Office - Do not list a P.O. Box

40 Main Street

City (no abbreviations)

Los Altos

State

CA

Zip Code

94022

b. Mailing Address of LLC, if different than item 4a

P.O. Box 803

City (no abbreviations)

Zephyr Cove

State

NV

Zip Code

89448

c. Street Address of California Office, if Item 4a is not in California - Do not list a P.O. Box

40 Main Street

City (no abbreviations)

Los Altos

State

CA

Zip Code

94022

5. Manager(s) or Member(s)

If no **managers** have been appointed or elected, provide the name and address of each **member**. At least one name **and** address must be listed. If the manager/member is an individual, complete Items 5a and 5c (leave Item 5b blank). If the manager/member is an entity, complete Items 5b and 5c (leave Item 5a blank). Note: The LLC cannot serve as its own manager or member. If the LLC has additional managers/members, enter the name(s) and addresses on Form LLC-12A (see instructions).

a. First Name, if an individual - Do not complete Item 5b

Michael

Middle Name

Last Name

Wischmeyer

Suffix

b. Entity Name - Do not complete Item 5a

c. Address

P.O. Box 803

City (no abbreviations)

Zephyr Cove

State

NV

Zip Code

89448

6. Service of Process (Must provide either Individual OR Corporation.)

INDIVIDUAL — Complete Items 6a and 6b only. Must include agent's full name and California street address.

a. California Agent's First Name (if agent is not a corporation)

Harry

Middle Name

I.

Last Name

Price

Suffix

b. Street Address (if agent is not a corporation) - Do not enter a P.O. Box

40 Main Street

City (no abbreviations)

Los Altos

State

CA

Zip Code

94022

CORPORATION — Complete Item 6c only. Only include the name of the registered agent Corporation.

c. California Registered Corporate Agent's Name (if agent is a corporation) — Do not complete Item 6a or 6b

7. Type of Business

a. Describe the type of business or services of the Limited Liability Company

Real Estate

8. Chief Executive Officer, if elected or appointed

a. First Name

Middle Name

Last Name

Suffix

b. Address

City (no abbreviations)

State

Zip Code

9. The information contained herein, including any attachments, is true and correct.

07/12/2018

Harry I Price

Attorney

Date

Type or Print Name of Person Completing the Form

Title

Signature

Return Address (Optional) (For communication from the Secretary of State related to this document, or if purchasing a copy of the filed document enter the name of a person or company and the mailing address. This information will become public when filed. SEE INSTRUCTIONS BEFORE COMPLETING.)

Name:

Company:

Address:

City/State/Zip:



State of California Secretary of State

N

Statement of Information

(Domestic Nonprofit, Credit Union and General Cooperative Corporations)

Filing Fee: \$20.00. If this is an amendment, see instructions.

IMPORTANT – READ INSTRUCTIONS BEFORE COMPLETING THIS FORM

G943709**FILED**

In the office of the Secretary of State
of the State of California

SEP-19 2019

This Space for Filing Use Only

1. CORPORATE NAME

THE JAMES AND REBECCA MORGAN FAMILY FOUNDATION

2. CALIFORNIA CORPORATE NUMBER

C1867386

Complete Principal Office Address (Do not abbreviate the name of the city. Item 3 cannot be a P.O. Box.)

3. STREET ADDRESS OF PRINCIPAL OFFICE IN CALIFORNIA, IF ANY CITY STATE ZIP CODE
1 FIRST STREET, STE 15, LOS ALTOS, CA 94022

4. MAILING ADDRESS OF THE CORPORATION CITY STATE ZIP CODE
PO BOX 1742, LOS ALTOS, CA 94023

Names and Complete Addresses of the Following Officers (The corporation must list these three officers. A comparable title for the specific officer may be added; however, the preprinted titles on this form must not be altered.)

5. CHIEF EXECUTIVE OFFICER/ ADDRESS CITY STATE ZIP CODE
REBECCA MORGAN 1 FIRST STREET, STE 15, LOS ALTOS, CA 94022

6. SECRETARY ADDRESS CITY STATE ZIP CODE
JEFF MORGAN 1 FIRST STREET, STE 15, LOS ALTOS, CA 94022

7. CHIEF FINANCIAL OFFICER/ ADDRESS CITY STATE ZIP CODE
JAMES MORGAN 1 FIRST STREET, STE 15, LOS ALTOS, CA 94022

Agent for Service of Process If the agent is an individual, the agent must reside in California and Item 9 must be completed with a California street address, a P.O. Box address is not acceptable. If the agent is another corporation, the agent must have on file with the California Secretary of State a certificate pursuant to California Corporations Code section 1505 and Item 9 must be left blank.

8. NAME OF AGENT FOR SERVICE OF PROCESS [Note: The person designated as the corporation's agent MUST have agreed to act in that capacity prior to the designation.]
LINDA VERHULP

9. STREET ADDRESS OF AGENT FOR SERVICE OF PROCESS IN CALIFORNIA, IF AN INDIVIDUAL CITY STATE ZIP CODE
1 FIRST STREET, STE 15, LOS ALTOS, CA 94022

Common Interest Developments

10. ☐ Check here if the corporation is an association formed to manage a common interest development under the Davis-Stirling Common Interest Development Act, (California Civil Code section 4000, et seq.) or under the Commercial and Industrial Common Interest Development Act, (California Civil Code section 6500, et seq.). The corporation must file a Statement by Common Interest Development Association (Form SI-CID) as required by California Civil Code sections 5405(a) and 6760(a). Please see instructions on the reverse side of this form.

11. THE INFORMATION CONTAINED HEREIN IS TRUE AND CORRECT.

09/19/2019

MARY SMITH

DIRECTOR OF FINANCE

DATE

TYPE/PRINT NAME OF PERSON COMPLETING FORM

TITLE

SIGNATURE

88 Ops. Cal. Atty. Gen. 153 (Cal.A.G.), 05 Cal. Daily Op. Serv.
8771, 2005 Daily Journal D.A.R. 11943, 2005 WL 2464165

Office of the Attorney General

State of California
Opinion No. 04-1105
October 3, 2005

*1 THE HONORABLE JOE NATION
MEMBER OF THE STATE ASSEMBLY

THE HONORABLE JOE NATION, MEMBER OF THE STATE ASSEMBLY, has requested an opinion on the following questions:

1. Is parcel boundary map data maintained in an electronic format by a county assessor subject to public inspection and copying under provisions of the California Public Records Act?
2. If so, in what period of time must a county furnish a copy of the data upon request of a member of the public?
3. What fee may be charged by a county for furnishing a copy of the data to a member of the public?

CONCLUSIONS

1. Parcel boundary map data maintained by a county assessor in an electronic format is subject to public inspection and copying under provisions of the California Public Records Act.
2. A copy of parcel boundary map data maintained in an electronic format by a county assessor must be furnished “promptly” upon request of a member of the public.
3. The fee that may be charged by a county for furnishing a copy of parcel boundary map data maintained in an electronic format by a county assessor is generally limited to the amount that covers the direct cost of producing the copy but may include certain other costs depending upon the particular circumstances as specified in the California Public Records Act.

ANALYSIS

The questions presented for resolution concern detailed geographic information that is regularly prepared, maintained, and updated for use by California's county assessors to describe and define the precise geographic boundaries of “assessor's parcels” - units of real property for which property taxes are assessed throughout the state. Most counties have converted much of this information, including parcel maps, into an electronic format. Once converted, the information may be combined with other kinds of information for use in “geographic information systems,” which provide the ability to conduct complex comparisons and analyses useful to county assessors, other public agencies, and private entities. (See Fish & G. Code, § 2855; Gov. Code, §§ 51010.5, 51017, 65891.5; Health & Saf. Code, §§ 25284.1, 25292.4, 25299.97; Pen. Code, § 3003; Pub. Res. Code, §§ 4750.7, 30335.5; Wat. Code, §§ 13193, 79080; see also *County of Suffolk, N.Y. v. First Am. Real Estate Solutions* (2d Cir. 2001) 261 F.3d 179, 186, fn. 4.)¹

We are asked whether copies of this parcel boundary map data in an electronic format must be made available by counties to members of the public upon request under provisions of the California Public Records Act (§§ 6250-6276.48; “Act”). If

disclosure is required, when must a copy be furnished, and what amount may be charged for the copy? We conclude that disclosure is required and that the Act specifies “prompt” disclosure upon payment of a fee that is limited in most cases to the cost of producing the copy.

1. Right to Inspect and Copy

*2 Most records of state and local public agencies are subject to disclosure to members of the public upon request. Section 6253 provides:

“(a) Public records are open to inspection at all times during the office hours of the state or local agency and every person has a right to inspect any public record, except as hereafter provided. Any reasonably segregable portion of a record shall be available for inspection by any person requesting the record after deletion of the portions that are exempted by law.

“(b) Except with respect to public records exempt from disclosure by express provisions of law, each state or local agency, upon a request for a copy of records that reasonably describes an identifiable record or records, shall make the records promptly available to any person upon payment of fees covering direct costs of duplication, or a statutory fee if applicable. Upon request, an exact copy shall be provided unless impracticable to do so.

“(c) Each agency, upon a request for a copy of records, shall, within 10 days from receipt of the request, determine whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the agency and shall promptly notify the person making the request of the determination and the reasons therefor. In unusual circumstances, the time limit prescribed in this section may be extended by written notice by the head of the agency or his or her designee to the person making the request, setting forth the reasons for the extension and the date on which a determination is expected to be dispatched. No notice shall specify a date that would result in an extension for more than 14 days. When the agency dispatches the determination, and if the agency determines that the request seeks disclosable public records, the agency shall state the estimated date and time when the records will be made available. As used in this section, ‘unusual circumstances’ means the following, but only to the extent reasonably necessary to the proper processing of the particular request:

“(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.

“(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request.

“(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.

“(4) The need to compile data, to write programming language or a computer program, or to construct a computer report to extract data.

“(d) Nothing in this chapter shall be construed to permit an agency to delay or obstruct the inspection or copying of public records. The notification of denial of any request for records required by Section 6255 shall set forth the names and titles or positions of each person responsible for the denial.

*3 “(e) Except as otherwise prohibited by law, a state or local agency may adopt requirements for itself that allow for faster, more efficient, or greater access to records than prescribed by the minimum standards set forth in this chapter.”²

This statutory disclosure requirement promotes the people's right to monitor their government's activities, in recognition of the principle that "access to information concerning the conduct of the public's business is a fundamental and necessary right of every person in this state." (§ 6250; see Cal. Const., art. I, § 3, subd. (b); *Times Mirror Co. v. Superior Court* (1991) 53 Cal.3d 1325, 1338-1339; *CBS, Inc. v. Block* (1986) 42 Cal.3d 646, 651-655; *Marylander v. Superior Court* (2000) 81 Cal.App.4th 1119, 1125; 73 Ops.Cal.Atty.Gen. 236, 237 (1990).)³

In 2000, the Legislature enacted section 6253.9 to address the increasingly widespread use of government documents that are produced in an electronic format. (Stats. 2000, ch. 982, § 2.) Section 6253.9 provides:

"(a) Unless otherwise prohibited by law, any agency that has information that constitutes an identifiable public record not exempt from disclosure pursuant to this chapter that is in an electronic format shall make that information available in an electronic format when requested by any person and, when applicable, shall comply with the following:

"(1) The agency shall make the information available in any electronic format in which it holds the information.

"(2) Each agency shall provide a copy of an electronic record in the format requested if the requested format is one that has been used by the agency to create copies for its own use or for provision to other agencies. The cost of duplication shall be limited to the direct cost of producing a copy of a record in an electronic format.

"(b) Notwithstanding paragraph (2) of subdivision (a), the requester shall bear the cost of producing a copy of the record, including the cost to construct a record, and the cost of programming and computer services necessary to produce a copy of the record when either of the following applies:

"(1) In order to comply with the provisions of subdivision (a), the public agency would be required to produce a copy of an electronic record and the record is one that is produced only at otherwise regularly scheduled intervals.

"(2) The request would require data compilation, extraction, or programming to produce the record.

"(c) Nothing in this section shall be construed to require the public agency to reconstruct a record in an electronic format if the agency no longer has the record available in an electronic format.

"(d) If the request is for information in other than electronic format, and the information also is in electronic format, the agency may inform the requester that the information is available in electronic format.

"(e) Nothing in this section shall be construed to permit an agency to make information available only in an electronic format.

*4 "(f) Nothing in this section shall be construed to require the public agency to release an electronic record in the electronic form in which it is held by the agency if its release would jeopardize or compromise the security or integrity of the original record or of any proprietary software in which it is maintained.

"(g) Nothing in this section shall be construed to permit public access to records held by any agency to which access is otherwise restricted by statute."

Consistent with the terms of section 6253.9 is the broad language of section 6252, subdivision (g), which defines a "writing" as follows:

" 'Writing' means any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, *and every other means of recording upon any tangible thing any form of communication or representation*, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored." (Italics added.)

It is apparent from the provisions of sections 6252 and 6253.9 that parcel boundary map data maintained by a county assessor in an electronic format is subject to inspection and copying by members of the public unless some exemption applies allowing nondisclosure. The Act contains numerous exemptions under which specified records may be kept confidential. (See, e.g., §§ 6254.1, 6254.3, 6254.4, 6254.20, 6254.22, 6254.25.) Such statutory exceptions, however, are to be narrowly construed. (See Cal. Const., art. I, § 3, subd. (b)(2); *City of Hemet v. Superior Court* (1995) 37 Cal.App.4th 1411, 1425; *Rogers v. Superior Court* (1993) 19 Cal.App.4th 469, 476; 79 Ops.Cal.Atty.Gen. 269, 271 (1996).)⁴

Here, we find that two of the Act's exemptions merit our analysis. First, section 6254.9 provides a specific exemption for "computer software," including "computer mapping systems":

"(a) Computer software developed by a state or local agency is not itself a public record under this chapter. The agency may sell, lease, or license the software for commercial or noncommercial use.

"(b) As used in this section, 'computer software' includes computer mapping systems, computer programs, and computer graphics systems.

"(c) This section shall not be construed to create an implied warranty on the part of the State of California or any local agency for errors, omissions, or other defects in any computer software as provided pursuant to this section.

"(d) Nothing in this section is intended to affect the public record status of information merely because it is stored in a computer. Public records stored in a computer shall be disclosed as required by this chapter.

"(e) Nothing in this section is intended to limit any copyright protections."

Does parcel boundary map data maintained in an electronic format by a county assessor constitute a "computer mapping system" for purposes of section 6254.9?

*5 To understand the language of section 6254.9, we apply well recognized rules of statutory interpretation. "In construing a statute, 'we strive to ascertain and effectuate the Legislature's intent.' [Citations.]" " (*In re Dannenberg* (2005) 34 Cal.4th 1061, 1081.) "The words of the statute are the starting point." (*Wilcox v. Birtwhistle* (1999) 21 Cal.4th 973, 977.) "Words used in a statute... should be given the meaning they bear in ordinary use. [Citations.]" (*Lungren v. Deukmejian* (1988) 45 Cal.3d 727, 735; accord, *Curle v. Superior Court* (2001) 24 Cal.4th 1057, 1063.) As so construed, they provide the best indication of the Legislature's intent. (*People v. Smith* (2004) 32 Cal.4th 792, 777-798; *People v. Castenada* (2000) 23 Cal.4th 743, 746-747.) And, as indicated above, since section 6254.9 is an exemption statute, it is to be strictly construed in favor of disclosure. (*City of Hemet v. Superior Court*, *supra*, 37 Cal.App.4th at p. 1425.)

Following these governing principles of statutory construction, we find that the term "computer mapping systems" in section 6254.9 does not refer to or include basic maps and boundary information per se (i.e., the basic *data* compiled, updated, and maintained by county assessors), but rather denotes unique computer *programs* to process such data using mapping functions - original programs that have been designed and produced by a public agency. (See, e.g., §§ 6254.9, subd. (d), 6253.9, subd. (f) [distinguishing "record" from "software in which [record] is maintained"], 51010.5, subd. (i) [defining "GIS mapping system" as *system* "that will collect, store, retrieve, analyze, and display environmental geographic *data*..." (italics added)]; see also *Cadence Design Systems, Inc. v. Avant! Corporation* (2002) 29 Cal.4th 215 [action between two "software developers" who design "place and route software"]; *Edelstein v. City and County of San Francisco* (2002) 29 Cal.4th 164, 171 [delay in implementation of elections system because necessary "software" not yet "developed" and tested]; Computer Dict. (3d ed. 1997) p. 441 [defining "software" as "[c]omputer programs; instructions that make hardware work"]; Freedman, *The Computer Glossary: The Complete Illustrated Dict.* (8th ed. 1998) p. 388 ["A common misconception is that software is also data. It is not.

Software tells the hardware how to process the data. Software is 'run.' Data is 'processed' [.] Accordingly, parcel map data maintained in an electronic format by a county assessor does not qualify as a "computer mapping system" under the exemption provisions of section 6254.9.

The other exemption we must consider is subdivision (k) of section 6254, which provides:

"Except as provided in Sections 6254.7 and 6254.13, nothing in this chapter shall be construed to require disclosure of records that are any of the following:

"....."

"(k) Records, the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege."⁵

*6 As we observed in 76 Ops.Cal.Atty.Gen. 219, 221 (1993), subdivision (k) "does not constitute an independent exemption; rather, it merely incorporates other prohibitions established by law." (See also *CBS, Inc. v. Block*, *supra*, 42 Cal.3d at p. 656; *San Gabriel Tribune v. Superior Court* (1983) 143 Cal.App.3d 762, 775.) Subdivision (k)'s incorporation includes any specific procedures, standards, or burdens governing disclosure in the "other statute," no matter how arduous those requirements may be. (*City of Hemet v. Superior Court*, *supra*, 37 Cal.App.4th at pp. 1422-1431.)

Here, we find that subdivision (k) of section 6254 incorporates the special restrictive definitions of "public documents" set forth in the Revenue and Taxation Code with respect to information and records prepared and maintained by county assessors. Revenue and Taxation Code sections 408, subdivision (a), provides:

"Except as otherwise provided in subdivision (b), (c), (d), and (e), any information and records in the assessor's office that are not required by law to be kept or prepared by the assessor, and homeowners' exemption claims, are not public documents and shall not be open to public inspection...."⁶

Revenue and Taxation Code section 408.3 states:

"(a) Except as otherwise provided in Sections 451 and 481 and in Section 6254 of the Government Code, property characteristics information maintained by the assessor is a public record and shall be open to public inspection.

"(b) For purposes of this section, 'property characteristics,' includes, but is not limited to, the year of construction of improvements to the property, their square footage, the number of bedrooms and bathrooms of all dwellings, the property's acreage, and other attributes of or amenities to the property, such as swimming pools, views, zoning classifications or restrictions, use code designations, and the number of dwelling units of multiple family properties.

"(c) Notwithstanding Section 6257 of the Government Code or any other provision of law, if the assessor provides property characteristics information at the request of any party, the assessor may require that a fee reasonably related to the actual cost of developing and providing the information be paid by the party receiving the information.

"The actual cost of providing the information is not limited to duplication or production costs, but may include recovery of developmental and indirect costs, as overhead, personnel, supply, material, office, storage, and computer costs. All revenue collected by the assessor for providing information under this section shall be used solely to support, maintain, improve, and provide for the creation, retention, automation, and retrieval of assessor information.

"(d) The Legislature finds and declares that information concerning property characteristics is maintained solely for assessment purposes and is not continuously updated by the assessor. Therefore, neither the county nor the assessor shall incur any liability for errors, omissions, or approximations with respect to property characteristics information provided by the assessor to any

party pursuant to this section. Further, this subdivision shall not be construed to imply liability on the part of the county or the assessor for errors, omissions, or other defects in any other information or records provided by the assessor pursuant to the provisions of this part.”⁷

*7 Revenue and Taxation Code section 409, subdivision (a), additionally provides:

“Notwithstanding Section 6257 of the Government Code or any other statutory provision, if the assessor, pursuant to the request of any party, provides information or records that the assessor is not required by law to prepare or keep, the county may require that a fee reasonably related to the actual cost of developing and providing that information be paid by the party receiving the information. The actual cost of providing the information is not limited to duplication or reproduction costs, but may include recovery of developmental and indirect costs, such as overhead, personnel, supply, material, office, storage, and computer costs. It is the intent of this section that the county may impose this fee for information and records maintained for county use, as well as for information and records not maintained for county use. Nothing herein shall be construed to require an assessor to provide information to any party beyond that which he or she is otherwise statutorily required to provide.”

To the extent that these Revenue and Taxation Code provisions exempt or otherwise prohibit disclosure of certain county assessor records, they are incorporated into the Act pursuant to section 6254, subdivision (k). However, such incorporation does not shield from disclosure parcel boundary map data maintained in an electronic format by a county assessor because county assessors are “required by law” within the meaning of Revenue and Taxation Code section 408, subdivision (a), to prepare and maintain parcel boundary maps showing assessor’s parcels, and must make such maps and data available for public inspection. Revenue and Taxation Code section 327 provides in part:

“Where any county or county officer possesses a complete, accurate map of any land in the county, or whenever such a complete, accurate map has been made in compliance with Sections 27556 to 27560, inclusive, of the Government Code, the assessor may number or letter the parcels in a manner approved by the board of supervisors. The assessor may renumber or reletter the parcels or prepare new map pages for any portion of such map to show combinations or divisions of parcels in a manner approved by the board of supervisors, so long as an inspection of such map will readily disclose precisely what land is covered by any particular parcel number or letter in the current or any prior fiscal year. This map or copy shall at all times be publicly displayed in the office of the assessor.”⁸

A county assessor must provide an assessment roll of “all property within the county which it is the assessor’s duty to assess” (Rev. & Tax. Code, § 601), showing a “legal description” of the land (Rev. & Tax. Code, §§ 602, subd. (b), 1255).

Because county assessors are required by law to prepare and keep parcel maps and corresponding boundary information, indexed to parcel identification numbers, such records do not come within the exemption language of Revenue and Taxation Code section 408, subdivision (a).

*8 To be sure, no provision of law dictates that a county assessor must keep this required parcel boundary map data *in an electronic format*; rather, the choice to do so lies within the discretion of each assessor. But once such a format has been selected, the material must be made available for public inspection, and copies of the data, in the electronic format in which it is held, must be provided upon request. Section 6253.9 asks only whether a public agency *has* information constituting a public record “in an electronic format” -- not whether a statute dictates the use of such a format.

Finally, we assume that release of the parcel boundary map data maintained in an electronic format will not “jeopardize or compromise the security or integrity of the original record or of any proprietary software in which it is maintained” (§ 6253.9, subd. (f)), and that the public interest served by disclosure would not be “clearly outweighed” by any public interest in nondisclosure (§ 6255). Application of either of these two statutes would depend upon the particular and unique circumstances involved. No other statutory exemptions appear relevant to our inquiry.⁹

We conclude in answer to the first question that parcel boundary map data maintained by a county assessor in an electronic format is subject to public inspection and copying under provisions of the Act.

2. Time for Responding to Disclosure Request

With respect to the date by which a county must respond to a request for parcel boundary map data maintained in an electronic format, the provisions of section 6253 govern, as quoted above. Since the data is not exempt from disclosure, a county is required to “make the records promptly available to any person upon payment of fees covering direct costs of duplication, or a statutory fee if applicable.” (§ 6253, subd. (b).)

We conclude that parcel boundary map data maintained in an electronic format by a county assessor must be furnished “promptly” upon request of a member of the public.

3. Fees That May Be Charged

The amount of the fees that may be charged by a county for furnishing parcel boundary map data maintained in an electronic format depends upon the particular circumstances specified in section 6253.9. First, the county must “make the information available in any electronic format in which it holds the information.” (§ 6253.9 subd. (a)(1).) If a county no longer has the information in an electronic format, it need not attempt to reconstruct the data. (§ 6253.9, subd. (c).)

If the request is for a copy in an electronic format that the county has used to create copies for its own use or for providing copies to other public agencies, the fee that may be charged is “limited to the direct cost of producing a copy of [the] record in [the] electronic format.” (§ 6253.8, subd. (a)(2); see *North County Parents Organization v. Department of Education* (1994) 23 Cal.App.4th 144, 148 [“ ‘Direct cost’ does not include the ancillary tasks necessarily associated with the retrieval, inspection and handling of the file from which the copy is extracted”]; 85 Ops.Cal.Att’y.Gen. 225, 227-229 (2002).)

*9 If the request is made at a time other than when the data is periodically produced, the fee may additionally include “the cost to construct [the] record, and the cost of programming and computer services necessary to produce a copy of the record.” (§ 6253.9, subd. (b)(1).) The fee may similarly cover such additional costs when “[t]he request would require data compilation extraction, or programming to produce the record.” (§ 6253.9, subd. (b)(2).) In either event, however, the fee may not include expenses associated with the county's initial gathering of the information, or with initial conversion of the information into an electronic format, or with maintaining the information.

We conclude that the fee that may be charged by a county for furnishing a copy of parcel boundary map data maintained in an electronic format by a county assessor is generally limited to the amount that covers the direct cost of producing the copy but may include certain other costs depending upon the particular circumstances as specified in the Act.

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Attorney General
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Deputy Attorney General

Footnotes

1 All references hereafter to the Government Code are by section number only.

2 Section 6255 states:

“(a) The agency shall justify withholding any record by demonstrating that the record in question is exempt under express provisions of this chapter or that on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record.”

“(b) A response to a written request for inspection or copies of public records that includes a determination that the request is denied, in whole or in part, shall be in writing.”

- 3 Our focus here is the scope of *the public's* right to inspect and copy records maintained by a county assessor. We do not address the separate question concerning the circumstances under which such information must be made available to other government entities. (See, e.g., Rev. & Tax. Code, § 408, subd. (b); *State Bd. of Equalization v. Watson* (1968) 68 Cal.2d 307, 312 [State Board of Equalization]; 68 Ops.Cal.Atty.Gen. 209, 219-223 (1985) [Internal Revenue Service]; cf. 52 Ops.Cal.Atty.Gen. 194, 195-196 (1969) [state inheritance tax appraisers]; see also § 6254.5, subd. (e) [confidential disclosure of exempt material to governmental agency in performance of official duties does not constitute waiver of exemption].)
- 4 In addition to its specific exemptions, the Act permits a public agency to withhold a requested public record when “on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record.” (§ 6255, subd. (a); see, e.g., 84 Ops.Cal.Atty.Gen. 55, 56-60 (2001); 81 Ops.Cal.Atty.Gen. 383, 386-388 (1998).)
- 5 Section 6254.7 provides that certain records relating to public health are public records. Section 6254.13 refers to test questions and other materials used by the Department of Education. We note that subdivision (k) of section 6254 is consistent with subdivision (g) of section 6253.9, quoted above, which exempts electronic records “to which access is otherwise restricted by statute.”
- 6 Subdivision (b) of the statute authorizes an assessor to provide appraisal data to any other county assessor, and requires disclosure to specified public officials and agencies. Subdivision (c) concerns the disclosure of information to the county tax collector, and subdivisions (d) and (e) involve disclosure to a property owner whose property is being assessed.
- 7 Revenue and Taxation Code section 451 concerns the contents of property statements required to be filed by specified persons. Revenue and Taxation Code section 481 involves information furnished with respect to a change in property ownership. As noted above, section 6254 provides exemptions from public disclosure. Section 6257 was repealed in 1998 and replaced by section 6253, quoted above. (Stats. 1998, ch. 620, §§ 5, 10.)
- 8 Sections 27556-27560 refer to maps filed for record in the office of the county recorder, the duties of the county surveyor, and the preparation of an assessor's maps.
- 9 We note that the Act “does not allow limitations on access to a public record based upon the purpose for which the record is being requested, if the record is otherwise subject to disclosure.” (§ 6257.5; see *Fairley v. Superior Court* (1998) 66 Cal.App.4th 1414, 1417-1418; *Wilder v. Superior Court* (1998) 66 Cal.App.4th 77, 70.) Also, the fact that a record is costly to produce in the first instance or that a copy thereof may be costly to reproduce for a member of the public does not cause a public record to become exempt from disclosure.

88 Ops. Cal. Atty. Gen. 153 (Cal.A.G.), 05 Cal. Daily Op. Serv.
8771, 2005 Daily Journal D.A.R. 11943, 2005 WL 2464165

170 Cal.App.4th 1301
Court of Appeal, Sixth District, California.

COUNTY OF SANTA
CLARA et al., Petitioners,
v.
The SUPERIOR COURT of Santa
Clara County, Respondent;
California First Amendment
Coalition, Real Party in Interest.

No. H031658.

Feb. 5, 2009.

As Modified Feb. 27, 2009.

Synopsis

Background: Requester filed petition for writ of mandate challenging county's denial of its California Public Records Act (CPRA) request for geographic information system (GIS) basemap. The Superior Court, Santa Clara County, No. CV072630, James P. Kleinberg, J., ordered county to provide data to requester. County petitioned for writ review.

Holdings: The Court of Appeal, McAdams, J., held that:

[1] on issue of first impression, Critical Infrastructure Information (CII) Act prohibition against disclosure applies only to recipients of protected critical infrastructure information (PCII);

[2] CII Act did not apply to county's disclosure of its own basemap;

[3] disclosure of basemap would contribute significantly to public understanding of government activities;

[4] alleged availability of alternative means of obtaining information in basemap did not render public interest in disclosure "minimal";

[5] county's financial interests did not compel nondisclosure;

[6] security concerns did not compel nondisclosure;

[7] on issue of first impression, CPRA provides no statutory authority for an agency to assert copyright interest in public records;

[8] on issue of first impression in California, county could not require requester to sign end user agreement limiting use of disclosed records; and

[9] trial court's failure to rule on ancillary costs associated with production of electronic records required remand.

Writ issued.

West Headnotes (38)

[1] **Records** ➡ Proceedings to obtain or compel access or disclosure

In expedited appellate review by extraordinary writ of an order to disclose public records under the California Public Records Act (CPRA), the scope of review is the same as for direct appeals. West's Ann.Cal.Gov.Code § 6259(c).

[2] **States** ➡ Preemption in general

As a general principle, federal law preempts state law (1) where Congress has said so explicitly, (2) where Congress has said so implicitly, as when federal regulation occupies the field exclusively, and (3) where federal and state law conflict.

[3] **States** ➡ State police power

Unless Congress has demonstrated a clear and manifest purpose to the contrary, the presumption is that federal law does not preempt the states' historic police powers.

[4] **States** ➡ Federal administrative regulations

A federal agency literally has no power to act, let alone preempt the validly enacted legislation of a sovereign State, unless and until Congress confers power upon it.

[5] **Records** ⇌ Matters Exempted or Prohibited from Disclosure Under Other Laws
Critical Infrastructure Information (CII) Act prohibition against disclosure under state law of protected critical infrastructure information (PCII) provided to a state or local government applies only to information in the hands of the governmental recipient; it does not apply to information in the hands of the submitter. 6 U.S.C. § 133(a)(1); 6 C.F.R. §§ 29.1(a, b), 29.8(b), (d)(1), (g).

[6] **Records** ⇌ Matters Exempted or Prohibited from Disclosure Under Other Laws
County was not barred by the Critical Infrastructure Information (CII) Act from disclosing geographic information system (GIS) basemap data pursuant to a California Public Records Act (CPRA) request, even though county had submitted the basemap to the federal government as CII, since the data had been submitted by the county rather than to the county. 6 U.S.C. § 133(a)(1); 6 C.F.R. §§ 29.1(a, b), 29.8(b), (d)(1), (g); West's Ann.Cal.Gov.Code § 6250 et seq.

See Cal. Jur. 3d, Records and Recording Laws, § 19; 2 Witkin, Cal. Evidence (4th ed. 2000) Witnesses, § 288.

[7] **Records** ⇌ General disclosure requirements; freedom of information
The California Public Records Act (CPRA) was enacted for the purpose of increasing freedom of information by giving members of the public access to information in the possession of public agencies. West's Ann.Cal.Gov.Code § 6250 et seq.

6 Cases that cite this headnote

[8] **Records** ⇌ Exceptions and Exemptions from Disclosure in General

All public records are subject to disclosure unless the California Public Records Act (CPRA) expressly provides otherwise. West's Ann.Cal. Const. Art. 1, § 3; West's Ann.Cal.Gov.Code § 6250 et seq.

1 Cases that cite this headnote

[9] **Records** ⇌ Matters Exempted or Prohibited from Disclosure Under Other Laws
The exemption from disclosure under California Public Records Act (CPRA) for materials whose disclosure "is exempted or prohibited pursuant to federal or state law" is not an independent exemption; it merely incorporates other prohibitions established by law. West's Ann.Cal.Gov.Code § 6254(k).

1 Cases that cite this headnote

[10] **Records** ⇌ Discretion and Balancing of Interests in General
The catchall exemption from disclosure under the California Public Records Act (CPRA) allows a government agency to withhold records if it can demonstrate that, on the facts of a particular case, the public interest served by withholding the records clearly outweighs the public interest served by disclosure. West's Ann.Cal.Gov.Code § 6255.

6 Cases that cite this headnote

[11] **Records** ⇌ Rules of construction
Since disclosure of public records is favored, all exemptions from disclosure under the California Public Records Act (CPRA) are narrowly construed. West's Ann.Cal. Const. Art. 1, § 3(b) (2); West's Ann.Cal.Gov.Code §§ 6254, 6255.

6 Cases that cite this headnote

[12] **Records** ⇌ Presumptions, inferences, and burden of proof
An agency opposing disclosure under the California Public Records Act (CPRA) bears the burden of proving that an exemption applies.

West's Ann.Cal. Const. Art. 1, § 3(b)(2); West's Ann.Cal.Gov.Code §§ 6254, 6255.

3 Cases that cite this headnote

[13] Records ☞ Matters Subject to Disclosure in General

Under the California Public Records Act (CPRA), the fact that a public record may contain some confidential information does not justify withholding the entire document. West's Ann.Cal.Gov.Code § 6253(a).

2 Cases that cite this headnote

[14] Records ☞ Discretion and Balancing of Interests in General

The burden of segregating exempt from nonexempt materials is one of the considerations which the court can take into account in determining whether the public interest favors disclosure, in considering whether a record falls within the catchall exemption from disclosure under the California Public Records Act (CPRA). West's Ann.Cal.Gov.Code § 6255.

1 Cases that cite this headnote

[15] Records ☞ Waiver or other loss of privilege
Exemptions from disclosure under the California Public Records Act (CPRA) can be waived. West's Ann.Cal.Gov.Code § 6254.5.

2 Cases that cite this headnote

[16] Records ☞ Prior disclosure in general

Disclosure to one member of the public of material subject to an exemption under the California Public Records Act (CPRA) would constitute a waiver of the exemption, requiring disclosure to any other person who requests a copy. West's Ann.Cal.Gov.Code § 6254.5.

1 Cases that cite this headnote

[17] Records ☞ Preservation of error; waiver and estoppel

The Court of Appeal would not consider the argument, urged only by county's amici on writ review of order for county to disclose geographic information system (GIS) data pursuant to a request under the California Public Records Act (CPRA), that the GIS data was computer software and thus not treated as a public record; the county had raised the argument unsuccessfully in the trial court. West's Ann.Cal.Gov.Code § 6254.9 (a, b).

1 Cases that cite this headnote

[18] Records ☞ Discretion and Balancing of Interests in General

Records ☞ Matters Exempted or Prohibited from Disclosure Under Other Laws

When the catchall exemption from disclosure under the California Public Records Act (CPRA) is invoked, the court undertakes a balancing process, assessing whether on the facts of the particular case, the public interest served by withholding the records clearly outweighs the public interest served by disclosure. West's Ann.Cal.Gov.Code § 6255.

4 Cases that cite this headnote

[19] Records ☞ Proceedings to obtain or compel access or disclosure

In analyzing the availability of the catchall exemption from disclosure under the California Public Records Act (CPRA), a reviewing court accepts the trial court's express and implied factual determinations if supported by the record, but undertakes the weighing process anew. West's Ann.Cal.Gov.Code §§ 6255, 6257.5.

[20] Records ☞ Persons Entitled to Disclosure; Interest or Purpose

In determining the public interest in disclosure of a public record, in considering whether the record falls within the catchall exemption from disclosure under the California Public Records Act (CPRA), the motive of the particular requester is irrelevant. West's Ann.Cal.Gov.Code § 6255.

6 Cases that cite this headnote

- [21] **Records** ⇨ Persons Entitled to Disclosure; Interest or Purpose

The California Public Records Act (CPRA) does not differentiate among those who seek access to public information. West's Ann.Cal.Gov.Code § 6257.5.

3 Cases that cite this headnote

- [22] **Records** ⇨ Discretion and Balancing of Interests in General

If public records sought pertain to the conduct of the people's business, there is a public interest in disclosure, for purposes of determining the availability of the catchall exemption from disclosure under the California Public Records Act (CPRA). West's Ann.Cal. Const. Art. 1, § 3(b)(2); West's Ann.Cal.Gov.Code § 6255.

3 Cases that cite this headnote

- [23] **Records** ⇨ Discretion and Balancing of Interests in General

For purposes of determining the availability of the catchall exemption from disclosure under the California Public Records Act (CPRA), the weight of the public interest in disclosure of a public record pertaining to the conduct of the people's business is proportionate to the gravity of governmental tasks sought to be illuminated, and the directness with which the disclosure will serve to illuminate. West's Ann.Cal.Gov.Code § 6255.

1 Cases that cite this headnote

- [24] **Records** ⇨ General Disclosure Requirements; Freedom of Information

The disclosure of county's geographic information system (GIS) basemap data under the California Public Records Act (CPRA) would contribute significantly to public understanding of government activities, thus supporting the conclusion that the catchall exemption from CPRA disclosure did not apply,

since access to the basemap would contribute to comparisons of property tax assessments, issuance of permits, treatment of tax delinquent properties, equitable deployment of public services, and issuance of zoning variances; the public interest in disclosure was not merely hypothetical. West's Ann.Cal.Gov.Code § 6255.

1 Cases that cite this headnote

- [25] **Records** ⇨ Personal Interests and Privacy Considerations in General

The alleged availability of alternative means of obtaining the information in county's geographic information system (GIS) basemap did not render the public interest in the basemap's disclosure under the California Public Records Act (CPRA) "minimal," and thus did not support application of the catchall exemption from disclosure under the CPRA, since the disclosure of the basemap would not implicate privacy concerns. West's Ann.Cal.Gov.Code § 6255.

- [26] **Records** ⇨ Discretion and Balancing of Interests in General

While the availability of less intrusive means to obtain the information may be a factor in determining the availability of the catchall exemption from disclosure under the California Public Records Act (CPRA), particularly in privacy cases, the existence of alternatives does not wholly undermine the public interest in disclosure. West's Ann.Cal.Gov.Code § 6255.

- [27] **Records** ⇨ Matters Subject to Disclosure in General

Even where a requester has an alternative means to access the information in a public record, it should not prohibit it from obtaining the documents under the California Public Records Act (CPRA). West's Ann.Cal.Gov.Code § 6250 et seq.

1 Cases that cite this headnote

- [28] **Records** ⇨ Weight and sufficiency

Trial court's finding that counties disclosing their geographic information system (GIS) basemap programs had suffered few ill fiscal effects, in finding that a county's financial interests did not compel nondisclosure of its basemap under the catchall exemption from the California Public Records Act (CPRA), was supported by substantial evidence, including a declaration that two counties' basemap programs remained "alive" and "robust" after the counties began to provide their basemaps at little cost, that fourteen California counties provided their GIS basemap data to the public free of charge, and that another twenty-three California counties provided their GIS basemap data for the cost of reproduction. West's Ann.Cal.Gov.Code § 6250 et seq.

[29] Records ⇌ Weight and sufficiency

Trial court's finding that disclosure of county's geographic information system (GIS) basemap would not have major security implications, in concluding that security concerns did not compel nondisclosure under the catchall exemption from the California Public Records Act (CPRA), was supported by substantial evidence, including expert testimony that the availability of information on the locations of water pipe easements would not uniquely aid terrorists, and evidence that the county had sold the basemap to 18 purchasers including three private entities. West's Ann.Cal.Gov.Code § 6255.

[30] Records ⇌ Discretion and Balancing of Interests in General

Security may be a valid factor supporting nondisclosure under the catchall exemption from the California Public Records Act (CPRA). West's Ann.Cal.Gov.Code § 6255.

[31] Records ⇌ Discretion and Balancing of Interests in General

The mere assertion of possible endangerment from the disclosure of public records does not "clearly outweigh" the public interest in access

to these public records, as required to compel nondisclosure under the catchall exemption from the California Public Records Act (CPRA). West's Ann.Cal.Gov.Code § 6255.

5 Cases that cite this headnote

[32] Records ⇌ Findings and conclusions

Trial court did not fail to address county's claim that it could condition its disclosure of its geographic information system (GIS) basemap on requester's execution of an agreement not to violate county's copyright interest in the basemap, where trial court stated in a footnote to its order to disclose the basemap that copyright protection was not appropriate, reading the provision stating that the California Public Records Act (CPRA) did not limit copyright protection in conjunction with the provision stating that records stored on computers were not exempt from disclosure; trial court was not required to also discuss creativity and compilation issues which were not briefed by county. 17 U.S.C.A. § 101 et seq.; West's Ann.Cal.Gov.Code § 6254.9(d, e).

1 Cases that cite this headnote

[33] Records ⇌ Preservation of error; waiver and estoppel

County preserved its claim that it could condition its California Public Records Act (CPRA) disclosure of its geographic information system (GIS) basemap on requester's execution of an agreement not to violate county's copyright interest in the basemap as a "unique arrangement," by arguing to the trial court that it could require execution of such an end user agreement, arguing that it owned a copyright interest in the basemap, and citing to the federal copyright statute. 17 U.S.C.A. § 101 et seq.; West's Ann.Cal.Gov.Code § 6250 et seq.

[34] Copyrights and Intellectual Property ⇌ Other works

State law determines whether a public official may claim a copyright in his office's creations.

2 Cases that cite this headnote

[35] Copyrights and Intellectual Property ➡ Other works

Each state may determine whether the works of its government entities may be copyrighted.

[36] Copyrights and Intellectual Property ➡ Other works

California Public Records Act (CPRA) provision recognizing the availability of copyright protection for software developed by a state or local agency in a proper case provides no statutory authority for an agency to assert any other copyright interest. West's Ann.Cal.Gov.Code § 6254.9.

1 Cases that cite this headnote

[37] Records ➡ In general; necessity

In disclosing geographic information system (GIS) basemap as a public record under California Public Records Act (CPRA), county could not require requester to sign end user agreement limiting the use of the basemap; CPRA required disclosure of records for the cost of reproduction, and that policy would be undercut by permitting county to place extra-statutory restrictions on records. West's Ann.Cal.Gov.Code § 6253(b).

[38] Appeal and Error ➡ Reduction by payment or other satisfaction

Trial court's failure to make an explicit ruling on the issue of whether county was entitled to ancillary costs associated with production of electronic records, in ordering county to disclose its geographic information system (GIS) basemap under California Public Records Act (CPRA), required remand for the trial court to consider the issue, even though the trial court's order specified that the county was to recover only its direct cost; there was a factual disagreement between the requester and the county about whether the disclosure would

require additional programming on the county's part. West's Ann.Cal.Gov.Code § 6253.9(b).

1 Cases that cite this headnote

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The National Security Archive, The Center for Democracy and Technology, Jenner & Block LLP, Paul M. Smith, Iris E. Bennett, Daniel I. Weiner, Peter H. Hanna, The Electronic Frontier Foundation, Marcia Hoffman, American Business Media, Choicepoint Asset Company LLC, First American Core Logic, Inc., National Association of Professional Background Screeners, Real Estate Information Professionals Association, Reed Elsevier Inc., The Software and Information Industry Association, Meyer Klipper & Mohr PLLC, Michael R. Klipper, Christopher A. Mohr; Coblenz Patch Duffy & Bass LLP, Jeffrey G. Knowles, San Francisco, Seventy Seven GIS Professionals, Great Oaks Water Co., Timothy S. Guster, General Counsel, for Amicus Curiae on behalf of Real Party in Interest.

Opinion

McADAMS, J.

***1308** This writ proceeding raises weighty questions of first impression, which illuminate tensions between federal homeland security provisions and our state's open public record laws. This proceeding also requires us to consider a

state law exemption allowing nondisclosure in the *1309 public interest; the impact of copyright claims on disclosure; and the extent to which charges for electronic public records may exceed reproduction costs. After analyzing these important and novel issues, we conclude that the law calls for unrestricted disclosure of the information sought here, subject to the payment of costs to be determined by the trial court.

INTRODUCTION

The writ proceeding before us was instituted by the County of Santa Clara and its executive, Peter Kutas, Jr. (collectively, the County). The County seeks extraordinary relief from a superior court order filed in May 2007, requiring it to disclose its geographic information system “basemap” to the real party in interest, California First Amendment Coalition (CFAC). Having stayed the 2007 order, we issued an order to show cause in March 2008, to which CFAC and the County responded.

The County's petition in this court rests on three main legal arguments, which are asserted in the alternative: (1) paramount federal law promulgated under the Homeland Security Act protects the information from disclosure; (2) the requested information is exempt from disclosure under the California Public Records Act; (3) even if disclosure is required, the County can place restrictions on disclosure under state law provisions recognizing its copyright interests, and it can demand fees in excess of reproduction costs.

After considering the extensive record, the arguments raised by the parties, and the submissions by numerous *amici curiae*, we conclude that the County is not **380 entitled to the relief sought. We therefore deny the County's writ petition on the merits. However, we will remand the matter to the superior court for a determination of whether and to what extent the County may demand fees in excess of the direct costs of reproducing the electronic record requested by CFAC.

FACTUAL AND PROCEDURAL BACKGROUND

On June 12, 2006, CFAC submitted a request for a copy of the County's geographic information system (GIS) basemap.¹ The request was made under the California Public Records Act (CPRA), *1310 Government Code sections 6250 et seq. Two weeks later, the County denied the request, citing statutory exemptions and copyright protection.

On August 16, 2006, CFAC renewed its request for the GIS basemap, with some modifications. Later that month, the County denied the renewed request.

Proceedings in the Superior Court

On October 11, 2006, CFAC filed a petition for writ of mandate, seeking to compel the County to produce the GIS basemap. Among the exhibits attached to the petition was the County's GIS Basemap Data request form, which details the procedure and the required fees for obtaining that data. Based in part on the fee schedule contained in that form, CFAC asserted that the cost of obtaining county-wide parcel information alone “would be approximately \$250,000.” As legal support for its petition, CFAC relied on the CPRA, and on the California Constitution, article 1, section 3. The County answered, then CFAC filed its replication to the answer.

In January 2007, CFAC moved for judgment on its petition. The County opposed the motion, and CFAC replied. At a hearing held in February 2007, the court authorized the County to file a supplemental response, which it did the following month. CFAC successfully sought an opportunity to reply.

The trial court thereafter conducted two further hearings in April 2007. A substantial volume of evidence and argument was presented to the trial court.

On May 18, 2007, the trial court filed a 27–page written order.

In its factual findings, the court described GIS and the GIS basemap. The court determined that the County “sells the GIS basemap to members of the public for a significant fee and requires all recipients to enter into a mutual non-disclosure agreement.” Later in its order, the court observed that the County had “actually entered into agreements with 18 different entities, 15 of those being government entities.”

**381 Addressing the legal issues, the court noted both parties' agreement that “the resolution of this dispute turns on whether the public record is exempt.” *1311 The court then discussed various proffered CPRA exemptions, ultimately rejecting them all for different reasons.

Having found that no exemption was available under the CPRA, the court ordered the County to provide CFAC with the GIS basemap, at the County's direct cost. The court stayed

the order until June 25, 2007, to permit the parties to pursue appellate review.

Proceedings in This Court

[1] On June 12, 2007, the County initiated this writ proceeding.² It filed a petition accompanied by a memorandum of points and authorities. At the County's request, we issued a temporary stay. CFAC filed preliminary opposition, to which the County replied.

Order to Show Cause; Responses

In March 2008, we issued an order to show cause to the respondent superior court, inviting opposition by CFAC as the real party in interest.

CFAC filed a return in April 2008, to which the County replied the following month.

Numerous *amici curiae* applied for leave to file five separate briefs in this court. We granted all five applications.³

The Record

In connection with its June 2007 petition in this court, the County filed an eight-volume petitioner's appendix consisting of nearly 2,000 pages. The following month, we granted the County's request to augment the record with transcripts of the two hearings conducted by the superior court in April 2007.

*1312 In 2008, we received and granted three requests for judicial notice.⁴ Despite **382 having taken judicial notice of these documents, we need not rely on them in resolving this proceeding. (*Doers v. Golden Gate Bridge etc. Dist.* (1979) 23 Cal.3d 180, 184, fn. 1, 151 Cal.Rptr. 837, 588 P.2d 1261; see also, *Windham at Carmel Mountain Ranch Assn. v. Superior Court* (2003) 109 Cal.App.4th 1162, 1173, fn. 11, 135 Cal.Rptr.2d 834; *Kaufman & Broad Communities, Inc. v. Performance Plastering, Inc.* (2005) 133 Cal.App.4th 26, 30, 34 Cal.Rptr.3d 520.)

CONTENTIONS

As indicated above, the County offers three grounds to support its petition, which asserts trial court error in mandating disclosure of its GIS basemap.

The County's first argument relies on federal law, including the Critical Infrastructure Information Act of 2002. According to the County, that statute and its accompanying regulations preempt state law. And under those superseding federal provisions, disclosure of the GIS basemap is prohibited, because it has been validated by the United States Department of Homeland Security as protected critical infrastructure information.

The County's second argument is based on state law, the CPRA. According to the County, even if the CPRA is not preempted by federal law, its "catchall" exemption shields the GIS basemap from public disclosure.

As the third ground for its petition, the County posits that even if neither preemption nor exemption supports nondisclosure, it should be allowed (a) to *1313 demand end user agreements, because the GIS basemap is copyrightable, and (b) to recover more than its direct cost of providing the record, based on a provision of the CPRA.

DISCUSSION

Addressing each of the County's three contentions in turn, we first provide an overview of the relevant general principles of law. We then set forth the parties' arguments in greater detail, followed by our analysis.

I. Federal Homeland Security Law

A. Overview

1. The Statute

The federal statute at issue here is the Critical Infrastructure Information Act of 2002 (CII Act). (6 U.S.C. §§ 131–134.) The CII Act is part of the Homeland Security Act of 2002, which established the Department of Homeland Security (DHS). (See *id.*, §§ 101, 111(a).) Within the DHS, Congress established an Office of Intelligence and Analysis and an Office of Infrastructure Protection. (6 U.S.C. § 121(a).) The statutory responsibilities associated with those offices include carrying out "comprehensive assessments of the vulnerabilities of the key resources and critical infrastructure of the United States," and developing "a comprehensive national plan for securing the key resources and critical infrastructure of the United States, including power production, generation, and distribution systems, information technology and telecommunications systems

(including satellites), electronic financial and property
**383 record storage and transmission systems, emergency preparedness communications systems, and the physical and technological assets that support such systems.” (*Id.*, (d)(2), (5).)

At the heart of the CII Act is the protection of critical infrastructure information (CII), statutorily defined as “information not customarily in the public domain and related to the security of critical infrastructure or protected systems...” (6 U.S.C. § 131(3).) “The CII Act authorized DHS to accept information relating to critical infrastructure from the public, owners and operators of critical infrastructure, and State, local, and tribal governmental entities, while limiting public disclosure of that sensitive information under the Freedom of Information Act ... and other laws, rules, and processes.” (71 Fed. Reg. 52262 (September 1, 2006).)

The CII Act contains a section aimed at protecting voluntarily shared critical infrastructure information. (6 U.S.C. § 133.) Concerning the disclosure of such information, it provides *1314 in pertinent part: “Notwithstanding any other provision of law, critical infrastructure information (including the identity of the submitting person or entity) that is voluntarily submitted to [the DHS] for use by that agency regarding the security of critical infrastructure and protected systems ... [¶] (A) shall be exempt from disclosure under ... the Freedom of Information Act[.]” and “(E) shall not, if provided to a State or local government or government agency ... [¶] ... be made available pursuant to any State or local law requiring disclosure of information or records[.]” (*Id.*, (a)(1)(A), (E)(i); see O'Reilly, 1 Federal Information Disclosure 3d (2000 & Westlaw Dec. 2008 update) § 13:14 [describing this provision as a “much-tinkered clause” that was “hotly contested as the bills were debated”].)

The CII Act directs the Department of Homeland Security to “establish uniform procedures for the receipt, care, and storage by Federal agencies of critical infrastructure information that is voluntarily submitted to the Government.” (6 U.S.C. § 133(e)(1).) It further provides that those procedures “shall include mechanisms” for “the protection and maintenance of the confidentiality of such information so as to permit the sharing of such information within the Federal Government and with State and local governments, and the issuance of notices and warnings related to the protection of critical infrastructure and protected systems, in such manner as to protect from public disclosure

the identity of the submitting person or entity, or information that is proprietary, business sensitive, relates specifically to the submitting person or entity, and is otherwise not appropriately in the public domain.” (*Id.*, (e)(2)(D).)

2. Regulations

The federal regulations implementing the CII Act are found in the Code of Federal Regulations, volume 6, part 29. Those regulations are intended to implement the federal statute “through the establishment of uniform procedures for the receipt, care, and storage of Critical Infrastructure Information (CII) voluntarily submitted to the Department of Homeland Security (DHS).” (6 C.F.R. § 29.1(a) (2007).)

As stated in the regulations: “Consistent with the statutory mission of DHS to prevent terrorist attacks within the United States and reduce the vulnerability of the United States to terrorism, DHS will encourage the voluntary submission of CII by safeguarding and protecting that information from unauthorized disclosure and by ensuring that such information is, as necessary, securely shared with State and
**384 local government pursuant to ... the CII Act. As required by the CII Act, these rules establish procedures regarding: ... [¶] The receipt, validation, handling, storage, proper marking and use of information as PCII[.]” (6 C.F.R. § 29.1(a) (2007).)

*1315 Protected CII (PCII) is CII that has been validated by DHS. (6 C.F.R. § 29.2(g) (2007).)

Among the regulations is one relied on by the County, which states that PCII “shall be treated as exempt from disclosure under the Freedom of Information Act and any State or local law requiring disclosure of records or information.” (6 C.F.R. § 29.8(g) (2007).)

3. Preemption

The County's reliance on federal law rests on its contention that the CII Act and accompanying regulations preempt the CPRA.

[2] [3] [4] As a general principle, federal law preempts state law (1) where Congress has said so explicitly, (2) where Congress has said so implicitly, as when federal regulation occupies the field exclusively, and (3) where federal and state law conflict. (*Lorillard Tobacco Co. v. Reilly* (2001) 533 U.S. 525, 541, 121 S.Ct. 2404, 150 L.Ed.2d 532.) Unless Congress has demonstrated a clear and manifest purpose to the contrary,

the presumption is that federal law does not preempt the states' historic police powers. (*Id.* at pp. 541–542, 121 S.Ct. 2404; *Jevne v. Superior Court* (2005) 35 Cal.4th 935, 949–950, 28 Cal.Rptr.3d 685, 111 P.3d 954.) Moreover, a federal “agency literally has no power to act, let alone pre-empt the validly enacted legislation of a sovereign State, unless and until Congress confers power upon it.” (*Louisiana Public Serv. Comm. v. FCC* (1986) 476 U.S. 355, 374, 106 S.Ct. 1890, 90 L.Ed.2d 369.)

B. The Parties' Contentions

1. Preemption

The County claims express federal preemption under 6 Code of Federal Regulation, part 29.8(g), which exempts PCII from the operation of federal, state, and local laws requiring the disclosure of public records. As the County points out, the preamble to the final rule promulgated by Department of Homeland Security notes “the preeminence of PCII status under the CII Act and these regulations in relation to any State, territorial, or tribal public disclosure laws or policies.” (71 Fed.Reg., *supra*, at p. 52268.) That same document also states: “This rulemaking, as required by the underlying statute, preempts State, local and tribal laws that might otherwise require disclosure of PCII....” (*Id.* at p. 52271; see also, O'Reilly, 2 Federal Information Disclosure 3d, *supra*, § 27.22.)

The County also asserts that Congress has implicitly preempted state law, arguing that “the Federal Regulations set forth a scheme for PCII validation *1316 that is so pervasive, it is unreasonable to infer that Congress intended the states to occupy the field.” (See *Jevne v. Superior Court*, *supra*, 35 Cal.4th at p. 958, 28 Cal.Rptr.3d 685, 111 P.3d 954.)

CFAC disputes the County's preemption claim. In its view, “the CII Act does not preempt” the CPRA, but “merely creates a rule of nondisclosure” that has no application to this case.

2. Statutory Arguments

According to CFAC, the County's position rests on a misreading of the federal act as it relates to CII that has been voluntarily submitted to the federal government, such as the GIS basemap at issue here. (See 6 U.S.C. § 133(a).) In CFAC's view, the provisions in the federal statute **385 limiting disclosure apply only to those entities *receiving* PCII from DHS, not to those *submitting* it. Furthermore, CFAC argues, the federal protection for CII has been incorporated into

state law as an exemption in the CPRA, but that exemption was waived by the County's sale of the GIS basemap to non-governmental entities. (See Gov.Code, §§ 6254, subds. (k) [provision incorporating federal law exemptions], (ab) [provision exempting CII], 6254.5 [waiver provision].)

The County disputes this view of the CII Act, arguing that it imposes “an artificial distinction” between submitting and receiving entities. The County also dismisses CFAC's waiver argument, calling it “irrelevant” given federal preemption of the CPRA.

C. Analysis

We agree with CFAC that the pertinent question here is not whether federal homeland security law trumps state disclosure law. Instead, the analysis in this case turns on whether the federal act and accompanying regulations apply at all. As we now explain, we conclude that the CII Act does not apply here because the County is a *submitter* of CII, not a *recipient* of PCII. Given that conclusion, we need not consider whether the CII Act preempts the CPRA.

1. Federal law distinguishes between submitters and recipients of PCII.

In undertaking our statutory analysis, we begin by examining the language of the relevant provisions. (*Smith v. Superior Court* (2006) 39 Cal.4th 77, 83, 45 Cal.Rptr.3d 394, 137 P.3d 218.) Statutory interpretation presents a legal *1317 question, which we decide *de novo*. (*Ibid.*; *Los Angeles Unified School Dist. v. Superior Court* (2007) 151 Cal.App.4th 759, 767, 60 Cal.Rptr.3d 445.)

The CII Act provides that critical infrastructure information that has been voluntarily submitted “shall be exempt from disclosure” under the federal Freedom of Information Act. (6 U.S.C. § 133(a)(1)(A).) As more particularly relevant here, it also prohibits disclosure of PCII “pursuant to any State or local law requiring disclosure of information or records”—but only “if provided to a State or local government....” (*Id.*, (a)(1)(E)(i), *italics added*.)

We are not aware of any case law interpreting this provision. But the regulations promulgated under the CII Act bear out the statute's apparent distinction between the submission of CII and the receipt of PCII, as we now explain.

We begin with the specific regulation cited by the County, 6 Code of Federal Regulations, part 29.8. Subdivision (g) of

that regulation provides in part that PCII “shall be treated as exempt from disclosure under the Freedom of Information Act and any State or local law requiring disclosure of records or information.” (6 C.F.R. § 29.8(g) (2007).) We acknowledge that subdivision (g) does not distinguish between CII submitters and PCII recipients. But another subdivision of this regulation does reflect that distinction.

Subdivision (b) of 6 Code of Federal Regulations, part 29.8 thus states in pertinent part: “PCII may be provided to a state or local government entity for the purpose of protecting critical infrastructure or protected systems....” (6 C.F.R. § 29.8(b) (2007), italics added.) “The *provision* of PCII to a State or local government entity will normally be made only pursuant to an arrangement with the PCII Program Manager providing for compliance ... and acknowledging the understanding and responsibilities of the *recipient*. State and local governments *receiving* such information will acknowledge **386 in such arrangements the primacy of PCII protections under the CII Act” and “agree to assert all available legal defenses to disclosure of PCII under State, or local public disclosure laws, statutes or ordinances....” (*Ibid.*, italics added.)

This emphasis on recipients of PCII also appears at subdivision (d) of the next regulation, which provides: “State and local governments *receiving* information marked ‘Protected Critical Infrastructure Information’ shall not share that information” except as allowed by the regulations. (6 C.F.R. § 29.8(d)(1) (2007), italics added.) On the subject of enforcement, subdivision (d) continues: “if the PCII Program Manager determines that an entity or person who has *received* PCII has violated the provisions of *1318 this Part or used PCII for an inappropriate purpose, the PCII Program Manager may disqualify that entity or person from future receipt of any PCII or future receipt of any sensitive homeland security information....” (*Id.*, § 29.9(d)(2), italics added.)

Other regulations reflect the same dichotomy between the submission of CII and the receipt of PCII, as the following excerpts demonstrate. “The regulations in this Part apply to all persons and entities that are authorized to handle, use, or store PCII or that otherwise *accept receipt* of PCII.” (6 C.F.R. § 29.1(b) (2007), italics added.) The regulations help ensure that CII is “securely *shared with* State and local government pursuant to ... the CII Act.” (*Id.*, § 29.1(a), italics added.) “A Federal, State or local agency that *receives* PCII may utilize the PCII only for purposes appropriate under the CII Act, including securing critical infrastructure or protected

systems.” (*Id.*, § 29.3(b), italics added.) “All Federal, State and local government entities shall protect and maintain information as required by these rules or by the provisions of the CII Act when that information is *provided to the entity* by the PCII Program Manager....” (*Id.*, § 29.5(c), italics added.)

The preamble to the final regulations likewise confirms the submitter/recipient distinction. For example, it clarifies that “State, local and tribal contractors” are not “precluded from *receiving* PCII” and it notes a change in the final regulations “to permit employees of Federal, State, local, and tribal contractors who are engaged in the performance of services in support of the purposes of the CII Act, to communicate with a *submitting* person ... when authorized by the PCII Program Manager or ... designee.” (71 Fed.Reg., *supra*, at p. 52269, italics added.)

[5] Taken as a whole, this consistent and pervasive regulatory language supports our construction of the relevant provision of the CII Act, 6 United States Code section 133(a)(1)(E)(i). As we interpret that provision, it draws a distinction between the submission of CII and the receipt of PCII. In the hands of the submitter, the nature of the information remains unchanged; in the hands of the governmental recipient, it is protected from disclosure.⁵

This interpretation is also consonant with other aspects of the statute and regulations, particularly those that limit the uses of PCII in the hands of governmental recipients. As provided in the statute, PCII provided to a state or local government or agency shall not “be used other than for the purpose of protecting critical **387 infrastructure or protected systems, or in furtherance of *1319 an investigation or the prosecution of a criminal act [.]” (6 U.S.C. § 133(a)(1)(E)(iii).) The regulations are to the same effect: “A Federal, State or local agency that receives PCII may utilize the PCII only for purposes appropriate under the CII Act, including securing critical infrastructure or protected systems.” (6 C.F.R. § 29.3(b) (2007).) If the GIS basemap constitutes PCII in the County’s hands, as it maintains, then federal law strictly restricts use of that data to the narrow purposes enumerated in the CII Act.

In sum, we conclude that the CII Act distinguishes between submitters of CII and recipients of PCII, with the result that the federal statute’s prohibition on disclosure of protected confidential infrastructure information applies only when it has been “*provided to* a State or local government or

government agency....” (6 U.S.C. § 133(a)(1)(E)(i), italics added.)

2. Because the County did not receive PCII, the federal provisions do not apply.

[6] In this case, the information at issue was submitted by the County, not to it. Because the County is a submitter of CII, not a recipient of PCII, neither the CII Act nor the accompanying regulations apply here.

Having concluded that federal homeland security law does not apply in this case, we turn to the County's contention that the CPRA exempts the GIS basemap from disclosure.

II. State Law Disclosure Exemption

As before, we summarize the governing law, then we describe and analyze the parties' contentions.

A. Overview

“In 1968, the Legislature clarified the scope of the public's right to inspect records by enacting the CPRA.” (*County of Los Angeles v. Superior Court* (2000) 82 Cal.App.4th 819, 825, 98 Cal.Rptr.2d 564.) “The CPRA ‘replaced a hodgepodge of statutes and court decisions relating to disclosure of public records.’ ” (*Los Angeles Unified School Dist. v. Superior Court, supra*, 151 Cal.App.4th at p. 765, 60 Cal.Rptr.3d 445.) The CPRA is codified in the Government Code, starting at section 6250.⁶

1. Policy Favoring Disclosure

[7] [8] The CPRA “was enacted for the purpose of increasing freedom of information by giving members of the public access to information in the *1320 possession of public agencies.” (*Filarsky v. Superior Court, supra*, 28 Cal.4th at pp. 425–426, 121 Cal.Rptr.2d 844, 49 P.3d 194.) Legislative policy favors disclosure. (*San Lorenzo Valley Community Advocates for Responsible Educ. v. San Lorenzo Valley Unified School Dist.* (2006) 139 Cal.App.4th 1356, 1408, 44 Cal.Rptr.3d 128 (*San Lorenzo*)). “All public records are subject to disclosure unless the Public Records Act expressly provides otherwise.” (*BRV, Inc. v. Superior Court* (2006) 143 Cal.App.4th 742, 751, 49 Cal.Rptr.3d 519.)

California voters endorsed that policy in 2004 by approving Proposition 59, which amended the state constitution to explicitly recognize the “right of access to information

concerning the conduct of the people's business” and to provide that “the writings of public officials and agencies shall be open to public scrutiny.” (Cal. Const., art. 1, § 3, subd. (b)(1); see *BRV, Inc. v. Superior Court, supra*, 143 Cal.App.4th at p. 750, 49 Cal.Rptr.3d 519; *Los Angeles Unified School Dist. v. Superior Court, supra*, 151 Cal.App.4th at p. 765, 60 Cal.Rptr.3d 445.)

2. Exemptions

“The right of access to public records under the CPRA is not absolute.” (*Copley Press, Inc. v. Superior Court* (2006) 39 Cal.4th 1272, 1283, 48 Cal.Rptr.3d 183, 141 P.3d 288.) The CPRA “states a number of exemptions that permit government agencies to refuse to disclose certain public records.” (*Ibid.*) To a large extent, these exemptions reflect legislative concern for privacy interests. (*Ibid.*; *Commission on Peace Officer Standards and Training v. Superior Court* (2007) 42 Cal.4th 278, 289, 64 Cal.Rptr.3d 661, 165 P.3d 462.) The CPRA features two categories of exemptions: “(1) materials expressly exempt from disclosure pursuant to section 6254; and (2) the ‘catchall exception’ of section 6255....” (*City of San Jose v. Superior Court* (1999) 74 Cal.App.4th 1008, 1019, 88 Cal.Rptr.2d 552, fn. omitted; *San Lorenzo, supra*, 139 Cal.App.4th at p. 1408, 44 Cal.Rptr.3d 128.)

a. Enumerated Exemptions

[9] “The Legislature has assembled a diverse collection of exemptions from disclosure in section 6254.” (*Haynie v. Superior Court* (2001) 26 Cal.4th 1061, 1068, 112 Cal.Rptr.2d 80, 31 P.3d 760; see also, §§ 6254.1–6254.29.) For example, public records need not be disclosed if their disclosure “is exempted or prohibited pursuant to federal or state law” (§ 6254, subd. (k); cf. *Rim of the World Unified School Dist. v. Superior Court* (2002) 104 Cal.App.4th 1393, 1397, 129 Cal.Rptr.2d 11.) But “this exemption ‘is not an independent exemption. It merely incorporates other prohibitions established by law.’ ” (*Copley Press, Inc. v. Superior Court, supra*, 39 Cal.4th at p. 1283, 48 Cal.Rptr.3d 183, 141 P.3d 288.) Also listed among the express exemptions is: “Critical infrastructure information, as defined in *1321 Section 131(3) of Title 6 of the United States Code, that is voluntarily submitted to the California Office of Homeland Security for use by that office” (§ 6254, subd. (ab).)

b. Catchall Provision

[10] Section 6255 “allows a government agency to withhold records if it can demonstrate that, on the facts of a particular case, the public interest served by withholding the records clearly outweighs the public interest served by disclosure.” (*San Lorenzo, supra*, 139 Cal.App.4th at p. 1408, 44 Cal.Rptr.3d 128.) This catchall exemption “contemplates a case-by-case balancing process, with the burden of proof on the proponent of nondisclosure to demonstrate a clear overbalance on the side of confidentiality.” (*Michaelis, Montanari & Johnson v. Superior Court* (2006) 38 Cal.4th 1065, 1071, 44 Cal.Rptr.3d 663, 136 P.3d 194.) “Where the public interest in disclosure of the records is not outweighed by the public interest in nondisclosure, courts will direct the government to disclose the requested information.” (*City of San Jose v. Superior Court, supra*, 74 Cal.App.4th at p. 1018, 88 Cal.Rptr.2d 552.)

c. Operation

[11] [12] Since disclosure is favored, all exemptions are narrowly construed. (Cal. Const., art. I, § 3, subd. (b)(2); *Board of Trustees of California State University v. Superior Court* (2005) 132 Cal.App.4th 889, 896, 34 Cal.Rptr.3d 82.) The agency opposing disclosure bears the burden of proving that an exemption applies. (*Board of Trustees of California State **389 University v. Superior Court*, at p. 896, 34 Cal.Rptr.3d 82.)

[13] [14] Moreover, if only part of a record is exempt, the agency is required to produce the remainder, if segregable. (§ 6253, subd. (a).) In other words, “the fact that a public record may contain some confidential information does not justify withholding the entire document.” (*State Bd. of Equalization v. Superior Court, supra*, 10 Cal.App.4th at p. 1187, 13 Cal.Rptr.2d 342; see *Connell v. Superior Court* (1997) 56 Cal.App.4th 601, 614, 65 Cal.Rptr.2d 738 [the superior court’s “limited disclosure order eliminated the Controller’s legitimate security concern”].) “The burden of segregating exempt from nonexempt materials, however, remains one of the considerations which the court can take into account in determining whether the public interest favors disclosure under section 6255.” (*American Civil Liberties Union Foundation v. Deukmejian* (1982) 32 Cal.3d 440, 453, fn. 13, 186 Cal.Rptr. 235, 651 P.2d 822.)

[15] [16] Exemptions can be waived. (§ 6254.5; *County of Los Angeles v. Superior Court* (2005) 130 Cal.App.4th 1099, 1107, 30 Cal.Rptr.3d 708.) “Disclosure to one member of the public would constitute a waiver of the exemption *1322 [citation], requiring disclosure to any other person

who requests a copy.” (86 Ops.Cal.Atty.Gen. 132, 137 (2003), citing § 6254.5; *City of San Jose v. Superior Court, supra*, 74 Cal.App.4th at p. 1018, 88 Cal.Rptr.2d 552.)

B. The Parties’ Contentions

At issue here is whether the GIS basemap is exempt from disclosure under the CPRA. As stated in the trial court’s decision: “Given County’s admission that the GIS basemap and data elements are a public record, both parties agree that the resolution of this dispute turns on whether the public record is exempt.”

[17] [18] In this court, the County proffers only one exemption, the catchall provision of section 6255.⁷ That provision reads in pertinent part: “The agency shall justify withholding any record by demonstrating that the record in question is exempt **390 under express provisions of this chapter or that on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record.” (§ 6255, subd. (a).) When this exemption is invoked, the court undertakes a balancing process. (*Michaelis, Montanari & Johnson v. Superior Court, supra*, 38 Cal.4th at p. 1071, 44 Cal.Rptr.3d 663, 136 P.3d 194.) The court assesses whether “on the facts of [the] particular case, the public interest served by withholding the records clearly outweighs the public interest served by disclosure.” (*San Lorenzo, supra*, 139 Cal.App.4th at p. 1408, 44 Cal.Rptr.3d 128.)

*1323 Addressing the disclosure prong of the balancing test, the County asserts that the public interest in obtaining the GIS basemap is both minimal and hypothetical. Concerning the nondisclosure prong, the County asserts two reasons for withholding the record: one related to straitened public finances and the other arising from security concerns. Weighing the two prongs, the County says, “the balance clearly favors the County’s position of nondisclosure because concerns over security and the risk of undermining the County’s ability to continue providing valuable services to County residents clearly outweighed CFAC’s hypothetical interest.”

CFAC disagrees, with particular emphasis on countering the County’s security argument.

C. Analysis

[19] In analyzing the availability of this exemption, we accept the trial court’s express and implied factual

determinations if supported by the record, but we undertake the weighing process anew. (*Connell v. Superior Court*, *supra*, 56 Cal.App.4th at p. 612, 65 Cal.Rptr.2d 738.) As our high court has explained, “although a reviewing court should weigh the competing public interest factors de novo, it should accept as true the trial court’s findings of the ‘facts of the particular case’ [citation], assuming those findings are supported by substantial evidence.” (*Michaelis, Montanari & Johnson v. Superior Court*, *supra*, 38 Cal.4th at p. 1072, 44 Cal.Rptr.3d 663, 136 P.3d 194.)

In this case, the trial court considered the evidence, made factual findings, and engaged in the weighing process before concluding that the balance of interests favored disclosure. Though it described both parties’ “competing interests” as “somewhat hypothetical,” the court nevertheless concluded that the County had “not shown a ‘clear overbalance’ in favor of non-disclosure.”

On independent review of the competing interests, we agree with the trial court’s conclusion. In our view, the County has both understated the public interest in disclosure and overstated the public interest in nondisclosure.

1. Public Interest in Permitting Disclosure

According to the County, “CFAC’s interest in disclosure of the GIS Basemap is hypothetical,” and it is also “minimal” since acquiring the information “can be accomplished by lesser means.” We disagree.

a. The public interest in disclosure is not hypothetical.

In pressing its characterization of CFAC’s interest as hypothetical, the County cites the trial court’s concerns about CFAC’s standing, since it *1324 “represents no citizen.” The County paraphrases the trial court’s observation: “Other than a generalized proclamation of the ‘public’s **391 right to know,’ CFAC[] has *no* interest in the GIS Basemap.”

[20] [21] In making that argument, the County misapprehends the focus of the inquiry. As CFAC points out, the motive of the particular requester is irrelevant; the question instead is whether disclosure serves the *public* interest. “The Public Records Act does not differentiate among those who seek access to public information.” (*State Bd. of Equalization v. Superior Court*, *supra*, 10 Cal.App.4th at p. 1190, 13 Cal.Rptr.2d 342; see also, e.g., *American Civil Liberties Union Foundation v. Deukmejian*, *supra*, 32 Cal.3d at p. 451, 186 Cal.Rptr. 235, 651 P.2d 822; *Connell v. Superior*

Court, *supra*, 56 Cal.App.4th at pp. 611–612, 65 Cal.Rptr.2d 738; § 6257.5.)

[22] [23] “ ‘If the records sought pertain to the conduct of the people’s business there *is* a public interest in disclosure. The *weight* of that interest is proportionate to the gravity of governmental tasks sought to be illuminated and the directness with which the disclosure will serve to illuminate.’ ” (*Connell v. Superior Court*, *supra*, 56 Cal.App.4th at p. 616, 65 Cal.Rptr.2d 738.) “The existence and weight of this public interest are conclusions derived from the nature of the information.” (*Ibid.*) As this court put it, the issue is “whether disclosure would contribute significantly to public understanding of government activities.” (*City of San Jose v. Superior Court*, *supra*, 74 Cal.App.4th at p. 1018, 88 Cal.Rptr.2d 552.)

[24] Here, the trial court summarized some of CFAC’s proffered “examples as to how access to the GIS basemap will contribute to its understanding of government activities” including “comparison of property tax assessments, issuance of permits, treatment of tax delinquent properties, equitable deployment of public services, issuance of zoning variances.” As these examples show, the public’s interest in disclosure is very real, given “ ‘the gravity of governmental tasks sought to be illuminated and the directness with which the disclosure will serve to illuminate.’ ” (*Connell v. Superior Court*, *supra*, 56 Cal.App.4th at p. 616, 65 Cal.Rptr.2d 738.)

b. The public interest in disclosure is not minimal.

[25] In support of its second point, the County cites a decision of this court for the principle that “public interest in disclosure is minimal ... where the requester has alternative, less intrusive means of obtaining the information sought.” (*City of San Jose v. Superior Court*, *supra*, 74 Cal.App.4th at p. 1020, 88 Cal.Rptr.2d 552.) The trial court explicitly recognized that principle, saying “the availability of alternate sources of obtaining the information is relevant in weighing the public interest in disclosure.” The court also stated that “CFAC *1325 could obtain the same information found in the GIS basemap by performing a (more laborious) search of other publicly available records.”⁸

The County misplaces its reliance on our decision in *City of San Jose v. Superior Court*, *supra*, 74 Cal.App.4th 1008, 88 Cal.Rptr.2d 552. That case is factually distinguishable, since it involved privacy concerns that are not in play here. In *City of San Jose*, we determined that “airport noise

complainants have a significant privacy interest in their names, addresses, and telephone numbers as well as in the fact that they have made a complaint to their government, and that disclosure of this information would have a chilling effect on future complaints.” **392 (*Id.* at pp. 1023–1024, 88 Cal.Rptr.2d 552.) Concerning the CPRA catchall exemption, we explained: “In determining whether the public interest in nondisclosure of individuals’ names and addresses outweighs the public interest in disclosure of that information,” courts evaluate whether disclosure serves “the legislative purpose” of illuminating the performance of public duties. (*Id.* at p. 1019, 88 Cal.Rptr.2d 552.) “Where disclosure of names and addresses would not serve this purpose, denial of the request for disclosure has been upheld.” (*Ibid.*) “Courts have also recognized that the public interest in disclosure is minimal, even when the requester asserts that personal contact is necessary to confirm government compliance with mandatory duties, where the requester has alternative, less intrusive means of obtaining the information sought.” (*Id.* at p. 1020, 88 Cal.Rptr.2d 552.) Conversely, “where the disclosure of names and addresses is necessary to allow the public to determine whether public officials have properly exercised their duties by refraining from the arbitrary exercise of official power, disclosure has been upheld.” (*Ibid.*)

[26] [27] While the availability of less intrusive means to obtain the information may be a factor in the analysis, particularly in privacy cases, the existence of alternatives does not wholly undermine the public interest in disclosure. (Cf. *City of San Jose v. Superior Court*, *supra*, 74 Cal.App.4th at p. 1025, 88 Cal.Rptr.2d 552.) Even where a requester “has an alternative means to access the information, it should not prohibit it from obtaining the documents under the CPRA.” (*Los Angeles Unified School Dist. v. Superior Court*, *supra*, 151 Cal.App.4th at p. 772, fn. 6, 60 Cal.Rptr.3d 445.) The records at issue here “ ‘pertain to the conduct of the people’s business’ ” so “ ‘there is a public interest in disclosure.’ ” (*Connell v. Superior Court*, *supra*, 56 Cal.App.4th at p. 616, 65 Cal.Rptr.2d 738.) For the reasons proffered by CFAC and summarized by the trial court, it also appears that “disclosure would contribute significantly to public understanding of government activities.” (*City of San Jose v. Superior Court*, at p. 1018, 88 Cal.Rptr.2d 552.)

In sum, we conclude, the public interest in disclosure of the GIS basemap is neither hypothetical nor minimal. That brings us to the second prong of the balancing test, assessing the public interest in nondisclosure.

*1326 2. Public Interest in Preventing Disclosure

The County proffers two interests to support nondisclosure. First, the County cites financial issues, positing its “continuing effort to provide the public with a high level of service during challenging economic times” and emphasizing the threatened impact on first responders. Second, the County raises public safety concerns, stressing the need “to protect sensitive infrastructure information not customarily in the public domain.” We consider and reject each in turn.

a. The County’s financial interests do not compel nondisclosure.

According to the County, it developed the GIS basemap “at a significant cost in terms of time, effort and resources.” If “forced to provide the GIS Basemap to all requesters at the direct cost of production,” the County contends, it will lose its ability to sell the technology, with the result that “the County alone will have to shoulder the obligation of maintaining the GIS Basemap—a difficult task during times of ever increasing budget deficits. The end result will be a reduction in service levels to the public.” The County also asserts that losing “control over its intellectual **393 property (copyright interests in the GIS Basemap) with the dissemination of electronic copies ... will negatively impact the tools used by first responders” in the county. It argues: “This is no hypothetical scenario, but is based upon actual experiences of other counties.”

In support of this claim in the trial court, the County submitted a declaration stating that San Diego and Ventura counties “saw their programs wither away once outside funding disappeared (due to providing the GIS maps at little or no cost to the public).”

[28] CFAC countered below with a declaration that “San Diego County’s GIS basemap program ... is alive and thriving” and “Ventura County’s GIS operation is robust and growing.” That declaration also averred that “fourteen counties in California ... provide their GIS basemap data in electronic format to the public free of charge” while another “twenty-three counties in California ... provide their GIS basemap data in electronic format to the public for the cost of reproduction.”

Addressing the financial issues, the trial court expressed concern “that County will have difficulty recouping the expense incurred in creating the GIS basemap,” but it noted the “dearth of evidence that this was County’s initial plan.”

Additionally, as just noted, CFAC offered evidence that other counties disclosing their GIS basemap programs had suffered few ill fiscal effects. The trial court apparently credited this evidence. Applying the *1327 deferential substantial evidence review standard, we do so as well. (*Connell v. Superior Court*, *supra*, 56 Cal.App.4th at p. 613, 65 Cal.Rptr.2d 738.)

Beyond the state of the evidence in this particular record, there are other reasons to accord little weight to the financial concerns. As has been said: “There is nothing in the Public Records Act to suggest that a records request must impose *no* burden on the government agency.” (*State Bd. of Equalization v. Superior Court*, *supra*, 10 Cal.App.4th at p. 1190, fn. 14, 13 Cal.Rptr.2d 342; see also *Connell v. Superior Court*, *supra*, 56 Cal.App.4th at p. 614, 65 Cal.Rptr.2d 738.) Thus, for example, the \$43,000 cost of compiling an accurate list of names was not “a valid reason to proscribe disclosure of the identity of such individuals.” (*CBS Broadcasting Inc. v. Superior Court* (2001) 91 Cal.App.4th 892, 909, 110 Cal.Rptr.2d 889; cf. *American Civil Liberties Union Foundation v. Deukmejian*, *supra*, 32 Cal.3d at pp. 452–453, 186 Cal.Rptr. 235, 651 P.2d 822 [courts should not “ignore any expense and inconvenience involved in segregating nonexempt from exempt information”].)

b. The proffered security concerns do not compel nondisclosure.

The County also asserts a public safety interest in guarding against terrorist threats, based on its contention that the GIS basemap contains sensitive information that is not publicly available, such as the exact location of Hetch Hetchy reservoir components. The County cites the precision of its “georeferenced parcel map” (described as accurate “within +/-1 foot in the developed areas and +/-5 feet in the hilly areas”) in arguing that disclosure of the basemap would “allow anyone to locate the parcels overlaying the Hetch Hetchy water lines. Matching the GIS Basemap with orthophotographs, which are in the public domain, would allow anyone to pinpoint weak spots in the system and quickly and effectively plan a terrorist attack.” By contrast, the County maintains, other publicly available maps “are not georeferenced, do not contain GPS coordinates, do not include orthophotographs, and are not a continuous representation of the Hetch Hetchy water supply system—key elements **394 to disclosing precise locations of the critical infrastructure.”

To prove this claim in the trial court, the County submitted the declaration of Robert Colley, Acting GIS Manager for its Information Services Department, which includes these statements: “Requiring the County to provide the GIS Basemap in electronic format to the public will jeopardize public safety because it will provide the public with access to sensitive information that is not otherwise publicly available.” “For public safety reasons, it is critical that geospatial information such as the GIS Basemap stay out of the public domain.” “The actual location of the Hetch Hetchy water lines are generally known, but not provided in any detail for obvious reasons—to minimize the threat of terrorist attack on the water system.” “The *1328 exact location of Hetch Hetchy water lines is an integral part of the GIS Basemap and not easily segregable.”

To refute that claim, CFAC offered the declaration of Bruce Joffe, a member of the Geospatial Working Group, which “is organized by the U.S. Department of Homeland Security” and “is comprised of GIS professionals from various federal agencies ... and the private sector” who “discuss issues of GIS technology and national security.” Joffe declared: “Based on my knowledge, skill, experience, training and education in the areas of GIS, the lines identified by the County in each of the documents as Hetch Hetchy ‘water pipelines’ are actually not the pipelines themselves, but the land easement areas or rights-of-way. The easements cover an area greater than the pipelines themselves, and do not indicate the specific location of pipes, which are buried underground.” “The location of the Hetch Hetchy easements can be obtained from other sources....” Joffe opined “that the location of the Hetch Hetchy easement [s] is not the kind of information that would uniquely aid terrorists.... Restricting public access to the County’s GIS basemap data is unlikely to be a major impediment for terrorists in identifying and locating their desired targets.” Joffe also addressed segregability, declaring: “The County could easily disclose the data elements and descriptive attribute data requested by CFAC in its June 12, 2006 Public Record Act request without also disclosing the location of the Hetch Hetchy easements, if it chose to do so.” He then described how that could be done.

[29] Addressing these issues, the trial court explained that not everything in the GIS basemap has security implications. As the County conceded and the trial court found, “some of the information in the GIS basemap” is a matter of public record that has “nothing to do with critical infrastructure.” By way of example, the court cited “the assessed value of a single family home in San Jose” and questioned why it

should be “cloaked with the protection of CII/PCII simply by submission to OHS” (the California Office of Homeland Security). The court continued: “It appears County has belatedly focused on to the information pertaining to ‘water lines’ and used that as its primary, if not sole, basis for obtaining the CII/PCII designation without any concession that the GIS basemap consists of any other publicly available information.” The court concluded: “County has not made the initial effort to establish that all information contained in the GIS basemap is CII. Having failed to meet its initial burden, County’s assertion of this particular exemption fails.” The record supports these findings. (Cf., e.g., *Williams v. Superior Court* (1993) 5 Cal.4th 337, 355, 19 Cal.Rptr.2d 882, 852 P.2d 377 [a public agency may not “shield a record from public disclosure, regardless of its nature, simply **395 by placing it in a file label[]ed ‘investigatory’ ”].)

Furthermore, the trial court observed, “it does not appear this has been an overriding concern to County, as shown by the dissemination of the GIS *1329 basemap to others, albeit relying on a form of non-disclosure agreement.” As noted above, the County sold the GIS basemap to 18 purchasers, including three private entities. In the trial court’s view: “If the security issue were of greater importance, one would think there would be no dissemination of the GIS basemap whatever.” We see no reasoned basis for overturning that inference. (Cf. § 6254.5, subd. (e) [no waiver of exemption where disclosure is made to *government* agency that “agrees to treat the disclosed material as confidential”]; *County of Los Angeles v. Superior Court*, *supra*, 130 Cal.App.4th 1099, 1107, 30 Cal.Rptr.3d 708 [this section “provides a means for governmental agencies to share privileged materials without waiving the privilege”].)

[30] [31] Security may be a valid factor supporting nondisclosure. (See, e.g., *Times Mirror Co. v. Superior Court* (1991) 53 Cal.3d 1325, 1346, 283 Cal.Rptr. 893, 813 P.2d 240 [governor’s private appointment schedule]; *Procunier v. Superior Court* (1973) 35 Cal.App.3d 211, 212, 110 Cal.Rptr. 531 [diagrams depicting correctional facility], disapproved on other grounds in *Shepherd v. Superior Court* (1976) 17 Cal.3d 107, 124, 130 Cal.Rptr. 257, 550 P.2d 161; 73 Ops.Cal.Atty.Gen. 236, 237–239 (1990) [same].) But the “mere assertion of possible endangerment does not ‘clearly outweigh’ the public interest in access to these public records.” (*CBS, Inc. v. Block* (1986) 42 Cal.3d 646, 652, 230 Cal.Rptr. 362, 725 P.2d 470; accord, *Commission on Peace Officer Standards and Training v. Superior Court*, *supra*, 42 Cal.4th at p. 302, 64 Cal.Rptr.3d 661, 165 P.3d 462.) While we

are sensitive to the County’s security concerns, we agree with the trial court that the County failed to support nondisclosure on this ground.

3. Weighing the Competing Interests

The balancing test is applied on a case-by-case basis. (*Michaelis, Montanari & Johnson v. Superior Court*, *supra*, 38 Cal.4th at p. 1071, 44 Cal.Rptr.3d 663, 136 P.3d 194; *CBS Broadcasting Inc. v. Superior Court*, *supra*, 91 Cal.App.4th at p. 908, 110 Cal.Rptr.2d 889.) As the party seeking to withhold the record, the County bears the burden of justifying nondisclosure. (*Board of Trustees of California State University v. Superior Court*, *supra*, 132 Cal.App.4th at p. 896, 34 Cal.Rptr.3d 82; *Los Angeles Unified School Dist. v. Superior Court*, *supra*, 151 Cal.App.4th at p. 767, 60 Cal.Rptr.3d 445.)

Independently weighing the competing interests in light of the trial court’s factual findings, we conclude that the public interest in disclosure outweighs the public interest in nondisclosure. We thus agree with the trial court that the County failed to “demonstrate a clear overbalance on the side of confidentiality.” (*Michaelis, Montanari & Johnson v. Superior Court*, *supra*, 38 Cal.4th at p. 1071, 44 Cal.Rptr.3d 663, 136 P.3d 194.)

*1330 III. Limitations on Disclosure

Having concluded that neither federal nor state law provides a basis for withholding the GIS basemap, we turn to the County’s arguments for limitations on disclosure. As previously noted, the County argues for the right (A) to demand end user agreements, because the GIS basemap is copyrightable, and (B) to recover more than its direct costs of production, based on section 6253.9, subdivision (b), of the CPRA.

**396 A. Copyright Protection

1. Background

In arguments below, the County raised similar copyright arguments, relying on section 6254.9. Section 6254.9 permits the nondisclosure of computer software, defined to include computer mapping systems. (§ 6254.9, subs. (a), (b).) This statutory exemption is based on a legislative determination that software is not a public record. (*Id.*, subd. (a).) Nevertheless, as subdivision (d) explains: “Nothing in this section is intended to affect the public record status of

information merely because it is stored in a computer. Public records stored in a computer shall be disclosed as required by this chapter.” (*Id.*, subd. (d).) Subdivision (e) addresses copyright as follows: “Nothing in this section is intended to limit any copyright protections.” (*Id.*, subd. (e).) Relying on that last subdivision, the County argued that it could “require end users to execute an agreement not to violate [its] copyright interest in the GIS Basemap.”

CFAC disagreed. It asserted: “No reported California decision has ever concluded that a public agency may refuse to release copies of public records to protect its own purported copyright.”

The trial court agreed with CFAC. The court briefly explained its reasoning in footnote 19 *1331 of the court's May 2007 order. The court first quoted section 6254.9, subdivision (e), then stated: “CFAC is correct in its interpretation that, when read in conjunction with subdivision (d), copyright protection is not appropriate here.”

2. The Parties' Contentions

In this court, the County raises both procedural and substantive arguments concerning copyright.

Procedurally, the County complains that the trial court did not reach its copyright claim. The County acknowledges the court's holding in footnote 19. But it maintains that the court made its ruling in the context of deciding that the GIS basemap is not “computer software” and thus does not qualify for exemption under section 6254.9, subdivision (a). In the County's view, “the trial court should not have summarily dismissed the County's request for an end user agreement, without first examining the creativity and compilation issues.” (See 17 U.S.C. § 101 [defining compilation]; *Feist Publications, Inc. v. Rural Telephone Service Co., Inc.* (1991) 499 U.S. 340, 345, 111 S.Ct. 1282, 113 L.Ed.2d 358 [recognizing a low threshold of creativity for copyright protection].)

In its substantive arguments, the County maintains that copyright law protects its compilation of data as a “unique arrangement.” The County seeks the right to demand an end user agreement upon disclosure of the GIS basemap, to protect its rights as the “rightful owner” of copyrightable intellectual property in the map.

CFAC disputes both the procedural and substantive arguments interposed by the County. Countering the County's

procedural claim, CFAC points to footnote 19 of the trial court's order, characterizing it as an explicit rejection of the County's copyright arguments. Substantively, CFAC argues, the CPRA does not recognize copyright interests in public records such as these, and it thus precludes the imposition of an end user agreement upon their release.

3. Analysis

[32] [33] At the outset, we reject the County's procedural claim that the trial court should have examined “the creativity and compilation issues” involved in its copyright claim. For one thing, the County did not brief those specific issues in its papers below. It simply made the bald **397 assertion that it owns a “copyright interest in the GIS Basemap” followed by a citation to the federal copyright statute. (17 U.S.C. § 101 et seq.) And that assertion was addressed and rejected by the trial court, as shown by its citation to authority. In any event, the County preserved its substantive copyright claim, which we now review.

a. State Law Question

[34] [35] State law “determines whether [a public official] may claim a copyright in his office's creations.” (*Microdecisions, Inc. v. Skinner* (2004) 889 So.2d 871, 875; see *County of Suffolk, New York v. First American Real Estate Solutions* (2001) 261 F.3d 179, 188; *Building Officials & Code Adm'rs, Inc. v. Code Tech, Inc.* (1980) 628 F.2d 730, 735–736.) “Each state may determine whether the works of its government entities may be copyrighted.” (*Microdecisions, Inc. v. Skinner*, at p. 876.)

*1332 In some states, statutes explicitly recognize the authority of public officials or agencies to copyright specific public records that they have created. (See *Microdecisions, Inc. v. Skinner*, *supra*, 889 So.2d at pp. 874, 875 [Florida state law authorized “certain agencies to obtain copyrights” and “permitted certain categories of public records to be copyrighted,” but it gave county property appraisers “no authority to assert copyright protection in the GIS maps, which are public records”]; cf. *County of Suffolk, New York v. First American Real Estate Solutions*, *supra*, 261 F.3d at p. 189 [New York's public record law “did not specifically address the impact on a state agency's copyright”].)

At issue here is how California's public records law treats the County's copyright claim. That is a question of first impression in this state. Because it requires statutory interpretation of the CPRA, it is also a question of law,

which we review de novo. (*Los Angeles Unified School Dist. v. Superior Court*, *supra*, 151 Cal.App.4th at p. 767, 60 Cal.Rptr.3d 445.) We begin our analysis with the specific provision cited by the County in support of its copyright interest.

b. Section 6254.9

The CPRA references copyright protection in a single provision, section 6254.9, subdivision (e). As previously noted, that provision states: “Nothing in this section is intended to limit any copyright protections.” (§ 6254.9, subd. (e).)

As the County reads that statutory language, it “expressly provides for copyright protection despite production of public records.” Furthermore, the County says, copyright protection “is not limited to computer software,” which has its own discrete exemption in section 6254.9, subdivision (a).⁹

We reject the County's interpretation. At the outset, we reiterate the principle that restrictions on disclosure are narrowly construed. (Cal. Const., art. 1, § 3, subd. (b)(1)(2); *Board of Trustees of California State University v. Superior Court*, *supra*, 132 Cal.App.4th at p. 896, 34 Cal.Rptr.3d 82.) With that principle in mind, ****398** we consider the County's contentions, applying settled rules of statutory construction. As the California Supreme Court recently reaffirmed, “our fundamental task is to ascertain the Legislature's intent so as to effectuate the purpose of the statute.” (*Smith v. Superior Court*, *supra*, 39 Cal.4th at p. 83, 45 Cal.Rptr.3d 394, 137 P.3d 218.)

***1333** (i) *Statutory Language*

In undertaking our analysis, we start with the language of the provision. (*Smith v. Superior Court*, *supra*, 39 Cal.4th at p. 83, 45 Cal.Rptr.3d 394, 137 P.3d 218; *Los Angeles Unified School Dist. v. Superior Court*, *supra*, 151 Cal.App.4th at p. 767, 60 Cal.Rptr.3d 445.) We again quote that language, emphasizing two words that guide our construction: “Nothing in this *section* is intended to *limit* any copyright protections.” (§ 6254.9, subd. (e), italics added.)

First, the provision uses the word “section.” (§ 6254.9, subd. (e).) It does not employ the broader term “chapter,” which would encompass the entire CPRA. That word choice directs our focus to the subject of section 6254.9, which is computer software. Given this context, use of the word “section”

strongly suggests that the referenced copyright protection is limited to computer software.

[36] Second, the provision states that it does not “limit” copyright protection. (§ 6254.9, subd. (e).) In our view, that phrasing operates only as a legislative *recognition* that copyright protection for software is available in a proper case; it cannot be read as an affirmative *grant of authority* to obtain and hold copyrights. The Legislature knows how to explicitly authorize public bodies to secure copyrights when it means to do so. For example, the Education Code includes a number of provisions authorizing copyrights, including this one: “Any county board of education may secure copyrights, in the name of the board, to all copyrightable works developed by the board, and royalties or revenue from such copyrights are to be for the benefit of the board securing such copyrights.” (Ed.Code, § 1044; see also, e.g., *id.*, §§ 32360, 35170, 72207, 81459.) The Health and Safety Code contains this provision, which references the statute at issue here: “Copyright protection and all other rights and privileges provided pursuant to Title 17 of the United States Code are available to the [Department of Toxic Substances Control] to the fullest extent authorized by law, and the department may sell, lease, or license for commercial or noncommercial use any work, including, but not limited to, videotapes, audiotapes, books, pamphlets, and computer software as that term is defined in Section 6254.9 of the Government Code, that the department produces whether the department is entitled to that copyright protection or not.” (Health & Saf.Code, § 25201.11, subd. (a); see also, e.g., *id.*, § 13159.8, subd. (c).) Here, by contrast, section 6254.9 contains no such express authorization to secure copyrights.

(ii) *Legislative History*

“If the statutory terms are ambiguous, we may examine extrinsic sources, including ... the legislative history.” ***1334** (*Smith v. Superior Court*, *supra*, 39 Cal.4th at p. 83, 45 Cal.Rptr.3d 394, 137 P.3d 218; accord, *Los Angeles Unified School Dist. v. Superior Court*, *supra*, 151 Cal.App.4th at pp. 767–768, 60 Cal.Rptr.3d 445.)

On the other hand, where “legislative intent is expressed in unambiguous terms, we must treat the statutory language as conclusive; ‘no resort to extrinsic aids is necessary or proper.’ ” ****399** (*Equilon Enterprises v. Consumer Cause, Inc.* (2002) 29 Cal.4th 53, 61, 124 Cal.Rptr.2d 507, 52 P.3d 685; see also, e.g., *Kaufman & Broad Communities, Inc. v. Performance Plastering, Inc.*, *supra*, 133 Cal.App.4th at pp. 29–30, 34 Cal.Rptr.3d 520.) That is the situation here.

By the express terms of section 6254.9, the Legislature has demonstrated its intent to acknowledge copyright protection for software only.

In sum, while section 6254.9 recognizes the availability of copyright protection for software in a proper case, it provides no statutory authority for asserting any other copyright interest.

c. End User Restrictions

Having found no specific statutory copyright authorization, we now consider whether the County may demand licensing agreements or otherwise impose restrictions on end users.

While no California court has addressed this question, courts in two other jurisdictions have, reaching opposite conclusions. Applying New York law, the court in *County of Suffolk* found end user agreements permissible. (*County of Suffolk, New York v. First American Real Estate Solutions, supra*, 261 F.3d at pp. 191–192.) There, the court construed the “plain language” of New York’s public records law “to permit [the] County to maintain its copyright protections while complying with its obligations” under the statute. (*Id.* at p. 191.) Three years later, applying Florida law, the court in *Microdecisions* rendered a contrary decision. *1335 (*Microdecisions, Inc. v. Skinner, supra*, 889 So.2d at p. 872.) There, the court decided that a county property appraiser could not “require prospective commercial users of the records created in his office to first enter into a licensing agreement.” (*Ibid.*)

[37] As a matter of first impression in California, we conclude that end user restrictions are incompatible with the purposes and operation of the CPRA. In arriving at that conclusion, we find ourselves in agreement with the Florida decision in *Microdecisions, Inc. v. Skinner, supra*, 889 So.2d 871. That case addressed similar statutory provisions, and its reasoning is persuasive. (*Id.* at pp. 875–876.) By contrast, we find the *County of Suffolk* case less consistent with our state’s law. (See *County of Suffolk, New York v. First American Real Estate Solutions, supra*, 261 F.3d at pp. 191–192.)

As the discussion in *Microdecisions* reflects, Florida’s public records law is similar to California’s in at least two important respects. (*Microdecisions, Inc. v. Skinner, supra*, 889 So.2d at p. 875.) For one thing, under Florida law: “A requester’s motive for seeking a copy of documents is irrelevant.” (*Ibid.*) The same is true in California. By express legislative mandate, the CPRA “does not allow limitations on access to a public

record based upon the purpose for which the record is being requested, if the record is otherwise subject to disclosure.” (§ 6257.5; see *City of San Jose v. Superior Court, supra*, 74 Cal.App.4th at p. 1018, 88 Cal.Rptr.2d 552.) In addition, California shares a second key similarity with Florida law: both states limit the fees that may be charged for producing a public record. In Florida, “the fee prescribed by law” is “generally the cost of reproduction.” (*Microdecisions, Inc. v. Skinner*, at p. 875.) California law incorporates the same general limitation. (§ 6253, subd. (b).)

Beyond these factual similarities, we find the Florida court’s reasoning persuasive. The *Microdecisions* court discussed “the interplay between the federal copyright act and Florida’s public records law.” (*Microdecisions, Inc. v. Skinner, supra*, 889 So.2d at p. 876.) It explained: “The copyright act gives the holder the exclusive rights to reproduce and distribute a **400 work and to authorize others to do so.” (*Ibid.*, citing 17 U.S.C. § 106(1), (3).) “As such, a copyright owner may refuse to provide copies of the work or may charge whatever fee he wants for copies of the work or a license to use the work.” (*Ibid.*) “The Florida public records law, on the other hand, requires State and local agencies to make their records available to the public for the cost of reproduction.” (*Ibid.*, citing § 119.07(1)(a), Florida Statutes (2002).) “This mandate overrides a government agency’s ability to claim a copyright in its work unless the legislature has expressly authorized a public records exemption.” (*Microdecisions, Inc. v. Skinner*, at p. 876.)

The same persuasive reasoning applies to the interplay between copyright law and California’s public records law, with the result that unrestricted disclosure is required. Doing so serves effectuates the purpose of the statute, which is “increasing freedom of information by giving members of the public access to information in the possession of public agencies.” (*Filarsky v. Superior Court, supra*, 28 Cal.4th at pp. 425–426, 121 Cal.Rptr.2d 844, 49 P.3d 194.) This same “policy is enshrined in the Constitution.” (*Los Angeles Unified School Dist. v. Superior Court, supra*, 151 Cal.App.4th at p. 776, 60 Cal.Rptr.3d 445, citing Cal. Const., art. I, § 3, subd. (b).) That policy would be undercut by permitting the County to place extra-statutory restrictions on the records that it must produce, through the use of end user agreements.

d. Conclusion

The CPRA contains no provisions either for copyrighting the GIS basemap or for conditioning its release on an end user or

licensing agreement by the *1336 requester. The record thus must be disclosed as provided in the CPRA, without any such conditions or limitations.

B. Recovery of Additional Costs

In its final argument in this court, the County seeks the right to charge additional amounts for producing the GIS basemap, beyond its direct cost, pursuant to section 6253.9, subdivision (b).

1. Overview

Generally speaking, an agency may recover only the direct cost of duplicating a record. (§ 6253, subd. (b).) The agency “shall make the records promptly available to any person upon payment of fees covering direct costs of duplication, or a statutory fee if applicable.” (*Ibid.*) For paper records, direct cost has been interpreted to cover the “cost of running the copy machine, and conceivably also the expense of the person operating it” while excluding any charge for “the ancillary tasks necessarily associated with the retrieval, inspection and handling of the file from which the copy is extracted.” (*North County Parents Organization v. Department of Education* (1994) 23 Cal.App.4th 144, 148, 28 Cal.Rptr.2d 359; compare *id.* at p. 149, 28 Cal.Rptr.2d 359 (dis. opn. of Huffman, J.); see also *Los Angeles Unified School Dist. v. Superior Court*, *supra*, 151 Cal.App.4th at p. 770, 60 Cal.Rptr.3d 445; 88 Ops.Cal.Atty.Gen., *supra*, at p. 164.)

For electronic records, however, the statute allows an agency to recover specified ancillary costs in either of two cases: (1) when it must “produce a copy of an electronic record” between “regularly scheduled intervals” of production, or (2) when compliance with the request for an electronic record “would require data compilation, extraction, or programming to produce the record.” (§ 6253.9, subd. (b)(1), (2); see 88 Ops.Cal.Atty.Gen., *supra*, at p. 164.) Under those circumstances, **401 the agency may charge “the cost to construct a record, and the cost of programming and computer services necessary to produce a copy of the record” (§ 6253.9, subd. (b).)

2. The Parties' Contentions

Here, the County asserts entitlement to greater costs on both statutory bases. (§ 6253.9, subd. (b)(1), (2).) The County maintains: “It is undisputed that in order to comply with CFAC's request, the County would be required to produce a copy of the electronic GIS Basemap at an unscheduled

interval. It is also undisputed that compliance requires data compilation, extraction, or programming to produce the GIS Basemap.” According to the County, it raised this issue below, but the trial court failed to address it.

*1337 CFAC acknowledges that the County raised the issue below. But in its view, the County failed to advise the trial court of the amount claimed “nor did it indicate how it proposes to calculate that cost, an omission that no doubt led to the respondent court's order to produce the basemap for the direct cost of duplication.”

CFAC also questions whether the statute applies, saying “since the County sends copies of the basemap to its paid subscribers on a regular basis, it does not appear that any additional programming would be necessary to fulfill CFAC's request for the data under the PRA.” (See § 6253.9, subd. (b) (1).)

The County disputes this last point in its reply.

3. Analysis

[38] Given the parties' opposing factual contentions, coupled with the absence of an explicit ruling by the trial court on this point, remand is warranted on the question of costs.

SUMMARY OF CONCLUSIONS

I. Federal homeland security provisions do not apply here.

As recognized in both the Critical Infrastructure Information Act and the accompanying regulations promulgated by Department of Homeland Security, there is a distinction between submitters of critical infrastructure information (CII) and recipients of protected critical infrastructure information (PCII). The federal prohibition on disclosure of protected confidential infrastructure information applies only to recipients of PCII. Because the County did not receive PCII, the federal provisions do not apply.

II. The proffered California Public Records Act exemption does not apply.

After independently weighing the competing interests in light of the trial court's factual findings, we conclude that the public interest in disclosure outweighs the public interest in nondisclosure.

III. A. There is no statutory basis either for copyrighting the GIS basemap or for conditioning its release on a licensing agreement. B. The matter will be remanded to the trial court to allow it to determine allowable costs that the County may charge for producing the GIS basemap.

directed to conduct a new hearing to determine allowable costs that the County may charge for producing the requested public record. The stay issued on **402 June 14, 2007, by this court shall remain in effect until this opinion is final. Costs in this original proceeding are awarded to real party in interest, CFAC.

***1338 DISPOSITION**

WE CONCUR: ELIA, Acting P.J., and MIHARA, J.

Let a peremptory writ of mandate issue commanding respondent court to set aside that portion of its order of May 18, 2007, that directs the County to "[c]harge CFAC the direct cost for the copy provided." In all other respects, the County's request for an extraordinary writ is denied. Respondent is

All Citations

170 Cal.App.4th 1301, 89 Cal.Rptr.3d 374, 37 Media L. Rep. 1331, 09 Cal. Daily Op. Serv. 1526, 2009 Daily Journal D.A.R. 1802

Footnotes

- 1 As described in the County's 2002 GIS strategic plan: "Geographic information systems (GIS) are a class of information technology that has been widely adopted throughout government and business sectors to improve the management of location-based information." As further explained in that document: "GIS is an information management technology that combines computer mapping and database technologies to improve the management and analysis of location based information." Among the essential geographic elements of the GIS basemap are "parcels, streets, assessor parcel information, jurisdictional boundaries, orthophotos [aerial photographs], and buildings."
According to a declaration submitted by the County in the proceedings below: "The GIS Basemap starts with the Assessor's map data, and builds layers of information onto it. The 'GIS Basemap' is a computer mapping system that (1) tells the hardware where to gather information from a variety of separate databases and (2) tells the hardware how to intelligently render the various bits of data into a structured output format."
- 2 The CPRA contains a provision for expedited appellate review by extraordinary writ only. (Gov.Code, § 6259, subd. (c); *Filarsky v. Superior Court* (2002) 28 Cal.4th 419, 426–427, 121 Cal.Rptr.2d 844, 49 P.3d 194.) The scope of review is the same as for direct appeals. (*State Bd. of Equalization v. Superior Court* (1992) 10 Cal.App.4th 1177, 1185, 13 Cal.Rptr.2d 342.)
- 3 One brief was filed in support of the County by two *amici*, the California State Association of Counties and the League of California Cities. The other four *amicus* briefs were offered in support of CFAC, by (1) the California Newspaper Publishers' Association, and various news and other organizations; (2) the National Security Archive, the Center for Democracy and Technology, and the Electronic Frontier Foundation; (3) American Business Media, et al., commercial and nonprofit entities that compile public records for various uses; and (4) 77 GIS Professionals.
- 4 The first request for judicial notice was submitted by the County's *amici*, the California State Association of Counties and the League of California Cities. The subject of this request for judicial notice is the legislative history of Assembly Bill No. 3265 (Chapter 447, Statutes of 1988), which enacted Government Code section 6254.9, part of the California Public Records Act. We received and granted this request for judicial notice in June 2008. Shortly thereafter, CFAC opposed the request and moved for reconsideration. In doing so, CFAC expressed no objection "to the Court's taking judicial notice of legislative history materials that may be pertinent to showing the intent of the Legislative as a whole when enacting the bill." But it argued that a large number of documents included in the request for judicial notice fail to satisfy that standard. In opposing the motion for reconsideration, petitioner's *amici* urged the propriety of noticing one particular document targeted by CFAC, a 1988 memorandum from the City of San Jose, which sponsored the bill. In reply, CFAC disagreed with *amici's* assessment of the 1988 memorandum.
The second request for judicial notice was made by CFAC's *amici*, the California Newspaper Publishers' Association, et al.; it was received and granted in June 2008. Attached to that request are 10 newspaper articles, offered "to establish the widespread use of GIS basemap data in reporting, which is relevant to this Court's Government Code § 6255 inquiry into the public interest served by releasing GIS basemap data."

The third request for judicial notice was filed by the County in July 2008. It asks this court to judicially notice documents from the United States Copyright Office demonstrating that two California cities have registered copyrights.

5 As one commentator observed in the context of voluntary submissions of CII by private industry, "firms cannot use DHS as a 'black hole' in which to hide information that would otherwise have come to light [.]" (Bagley, Benchmarking, Critical Infrastructure Security, and the Regulatory War on Terror (2006) 43 Harv. J. on Legis. 47, 57, fn. omitted.)

6 Further unspecified statutory citations are to the Government Code.

7 In the trial court, the County urged other exemptions, including section 6254, subdivision (ab), which exempts "Critical infrastructure information, as defined in Section 131(3) of Title 6 of the United States Code, that is voluntarily submitted to the California Emergency Management Agency for use by that office, including the identity of the person who or entity that voluntarily submitted the information." As stated in papers that the County filed in January 2007, it was then "in the process of submitting the GIS Basemap as 'Critical Infrastructure Information' to the California Office of Homeland Security" pursuant to section 6254, subdivision (ab). In a similar vein, the County also relied below on section 6254, subdivision (k), which incorporates other exemptions "pursuant to federal or state law," together with the federal regulations governing CII. The County proffered several other statutory exemptions as well. The trial court rejected all of the County's statutory exemption arguments. With the exception of the catchall exemption of section 6255, the County does not renew any of those arguments here.

In this court, by contrast, the County's *amici* urge an additional exemption, based on section 6254.9, which the County argued unsuccessfully below. Under that section, computer software—defined to include computer mapping systems—is not treated as a public record. (§ 6254.9, subds.(a), (b).)

Since the point is raised only by *amici*, we need not and do not consider it. "Amici curiae must take the case as they find it. Interjecting new issues at this point is inappropriate." (*California Assn. for Safety Education v. Brown* (1994) 30 Cal.App.4th 1264, 1275, 36 Cal.Rptr.2d 404; see also, e.g., *Professional Engineers in California Government v. Kempton* (2007) 40 Cal.4th 1016, 1047, fn. 12, 56 Cal.Rptr.3d 814, 155 P.3d 226.) We therefore decline to address the exemption issue raised solely by the County's *amici* here.

8 CFAC contends that the trial court was mistaken factually as to this point.

9 Section 6254.9, subdivision (a) provides: "Computer software developed by a state or local agency is not itself a public record under this chapter." The County conceded below that the GIS basemap is a public record. The contrary arguments of its *amici* notwithstanding, that concession appears well-founded. (Cf. 88 Ops.Cal.Atty.Gen. 153, 157 (2005) ["parcel boundary map data maintained by a county assessor in an electronic format is subject to public inspection and copying" under CPRA].) Since the GIS basemap is a public record, the County cannot claim the computer software exemption of section 6254.9, subdivision (a). Nor does it attempt to do so here. (See fn. 7, *ante*.)



Public Comment 4 tomorrow's El Dorado County affordable housing workshop

1 message

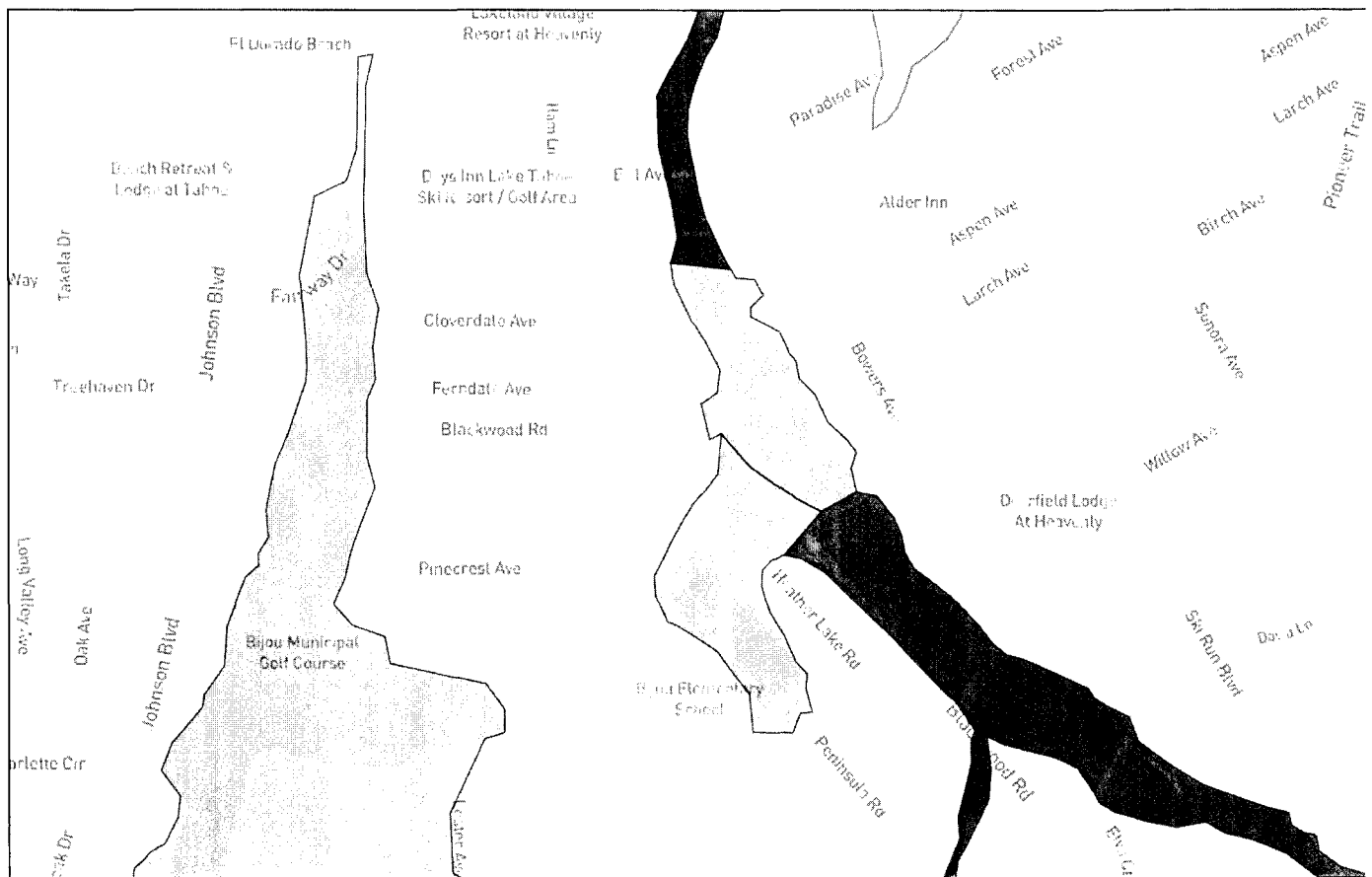
John Powell <john.w.powell@barmail.ch>
To: edc.cob@edcgov.us

Mon, May 9, 2022

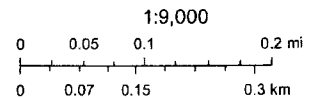
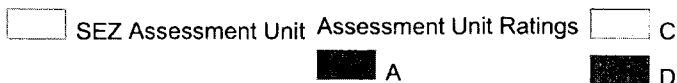
Hello El Dorado County affordable housing workshop attendees,

I am extremely disappointed in the City of South Lake Tahoe's handling of the Bijou Park Creek Restoration fiasco. Like many purported environmental improvements, it has been but a classic bait and switch; a pretext for a strip mall development giveaway with no substantial improvement. The "Creek" behind the purported Whole Foods improvement is a foul and hideous cesspool, that wafts wretched odor distant outdoor dining areas.

Bijou Park Creek SEZ Rating

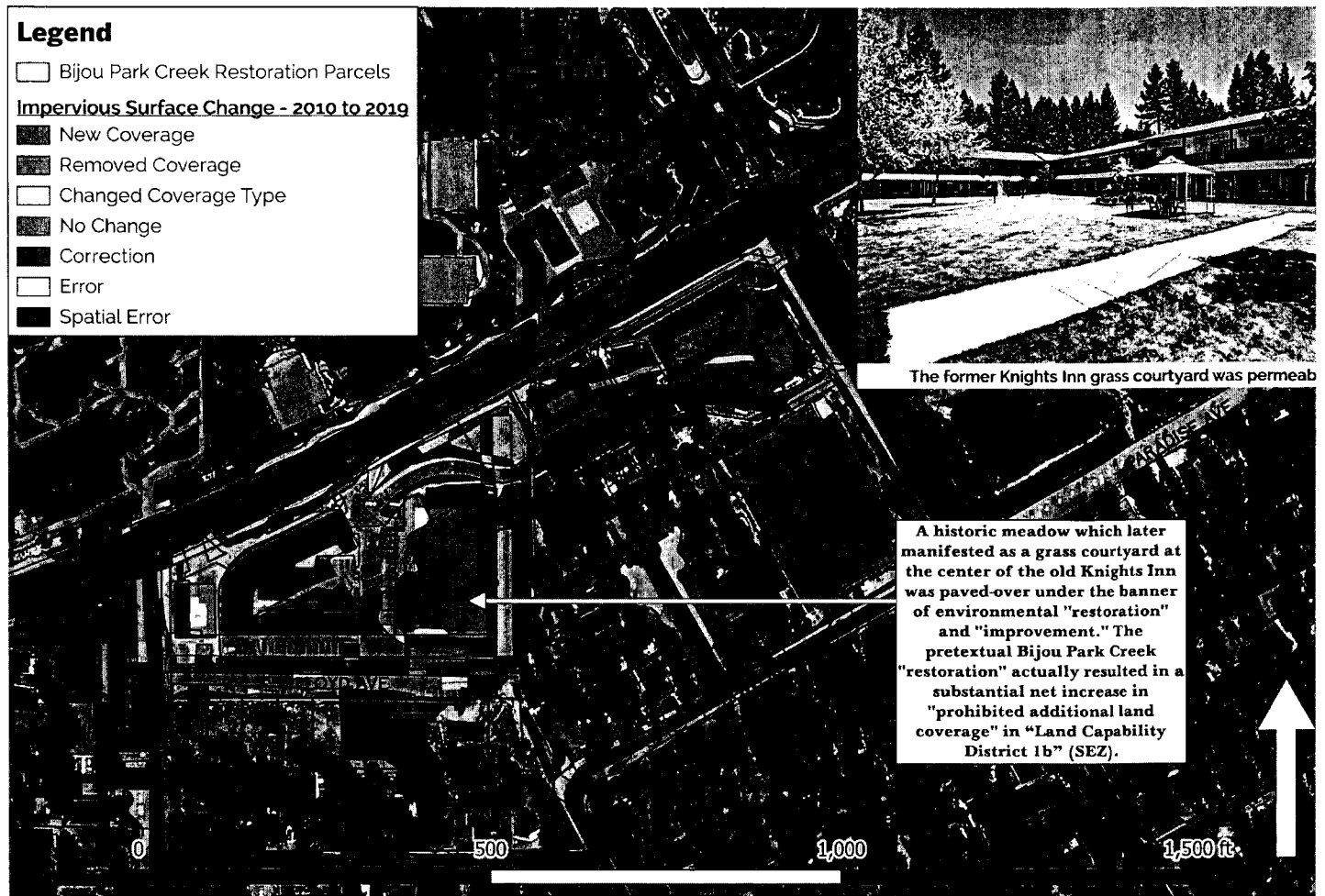


3/14/2022

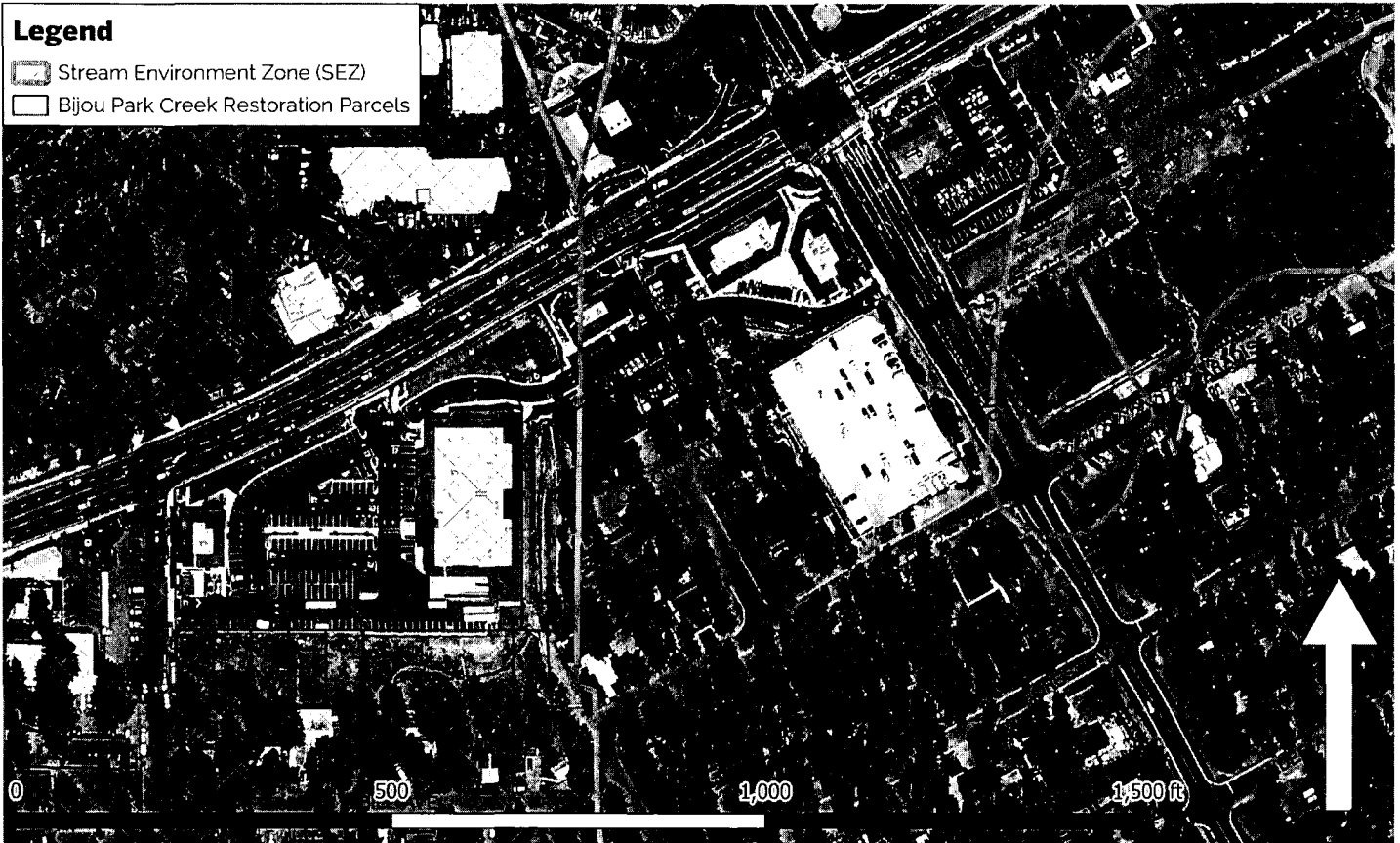


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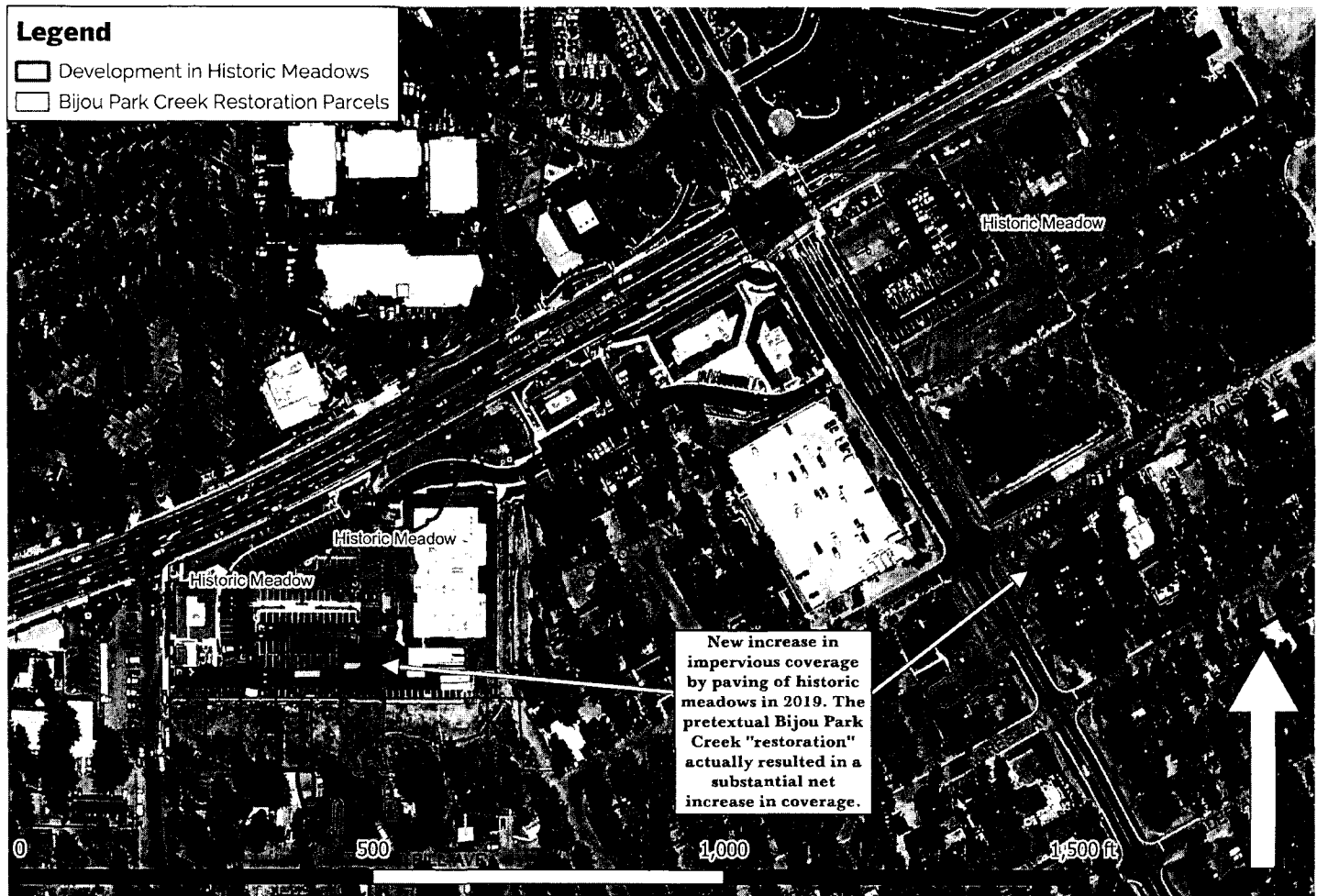
Bijou Park Creek Restoration and Improvement Project Failed



Whole Foods (Amazon Inc.) Development Occurred Inside Stream Environmental Zone (SEZ) Exceeded 1% Impervious Coverage Limit, Replaced "Nonconforming Structures," Modified "Nonconforming Uses," and Permanently Impeded Lower Bijou Park Creek Restoration Improvement in Violation of TRPA Threshold Standards, Regional Plan, and Code of Ordinances (e.g., SC2; LU-2.4B, LU-2.5B, S-1.1, S-1.2, S-1.5, S-1.7, SEZ-1.2, & SEZ-1.5; Ord. 4.4, 30.4, & 30.5)



Bijou Park Creek Restoration and Improvement Project Failed



The city made a huge myopic mistake in not purchasing the properties in the Bijou Park Creek stream zone—this was part of the ass deal in our consenting to the Whole Foods development. The city should have been the bigger entity and stepped-up to the plate even had to make its own expenditures. In the scheme of things—such as new vehicle purchases, police armored "tanks," office upgrades investment would actually have had real and sustainable returns to the community and the environment. By removing houses from directly above and polluting the streambed, the meadows would be able to function in cleansing the runoff which is draining into our namesake blue lake. By restoring the land into a "wild and free" meandering creek & (dog) park, it would have improved the property of the surrounding neighborhood; the city would not only have been able to recover from this investment, but would further get a return years to come—if not indefinitely.

Thank you,

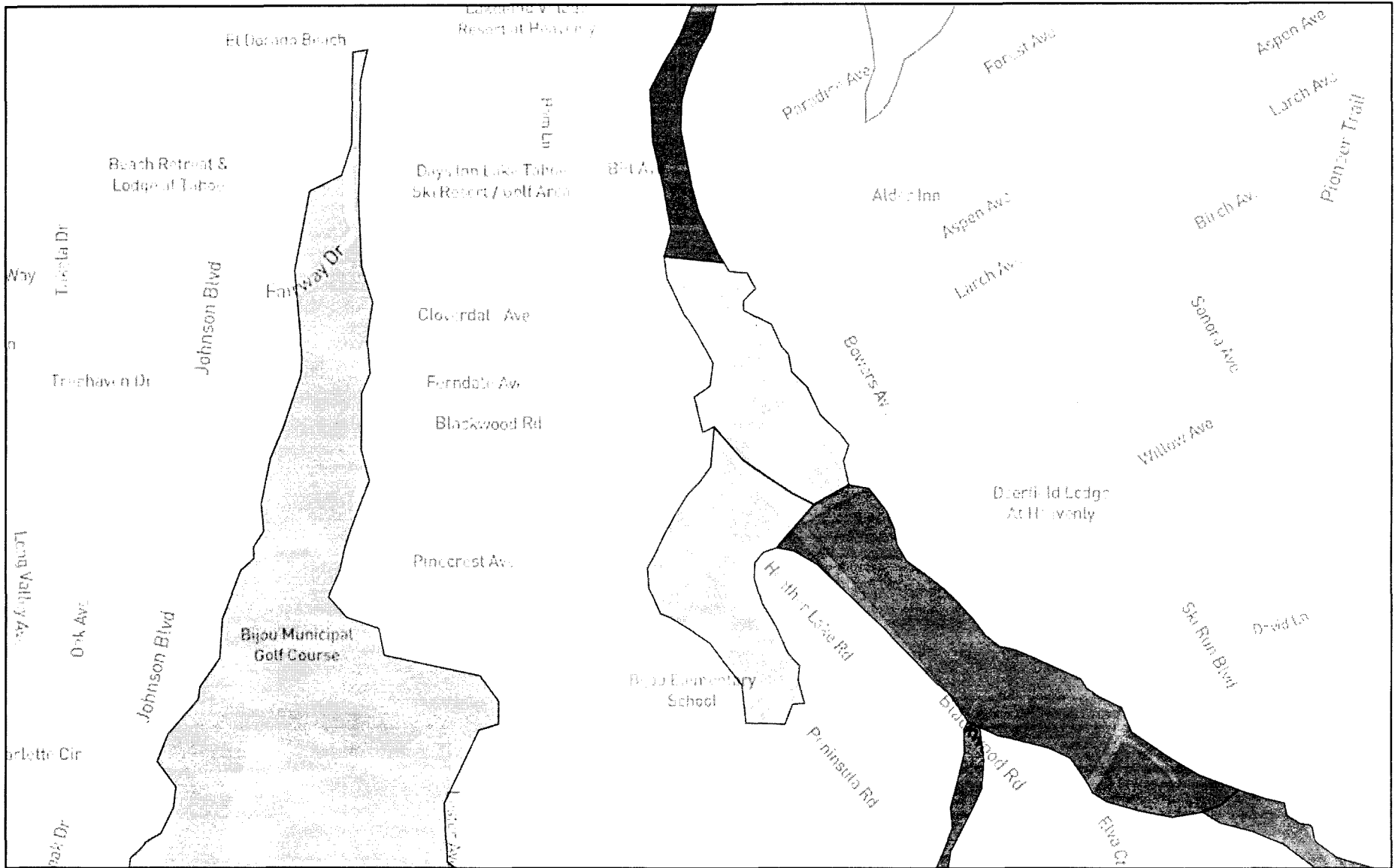
John Wesley Powell

"Years of drought and famine come and years of flood and famine come, and the climate is not changed with dance, libation or prayer"

5 attachments

- Bijou Park Creek SEZ Rating.pdf
577K
- Bijou Park Creek Restoration Failed.pdf
12269K
- Relevant TRPA Threshold Standards, Regional Plan, and Ordinances.pdf
541K
- Continued Lake Clarity Decline.pdf
973K
- Bijou Park Creek Pedestrian Parkway.pdf
4891K

Bijou Park Creek SEZ Rating



3/14/2022

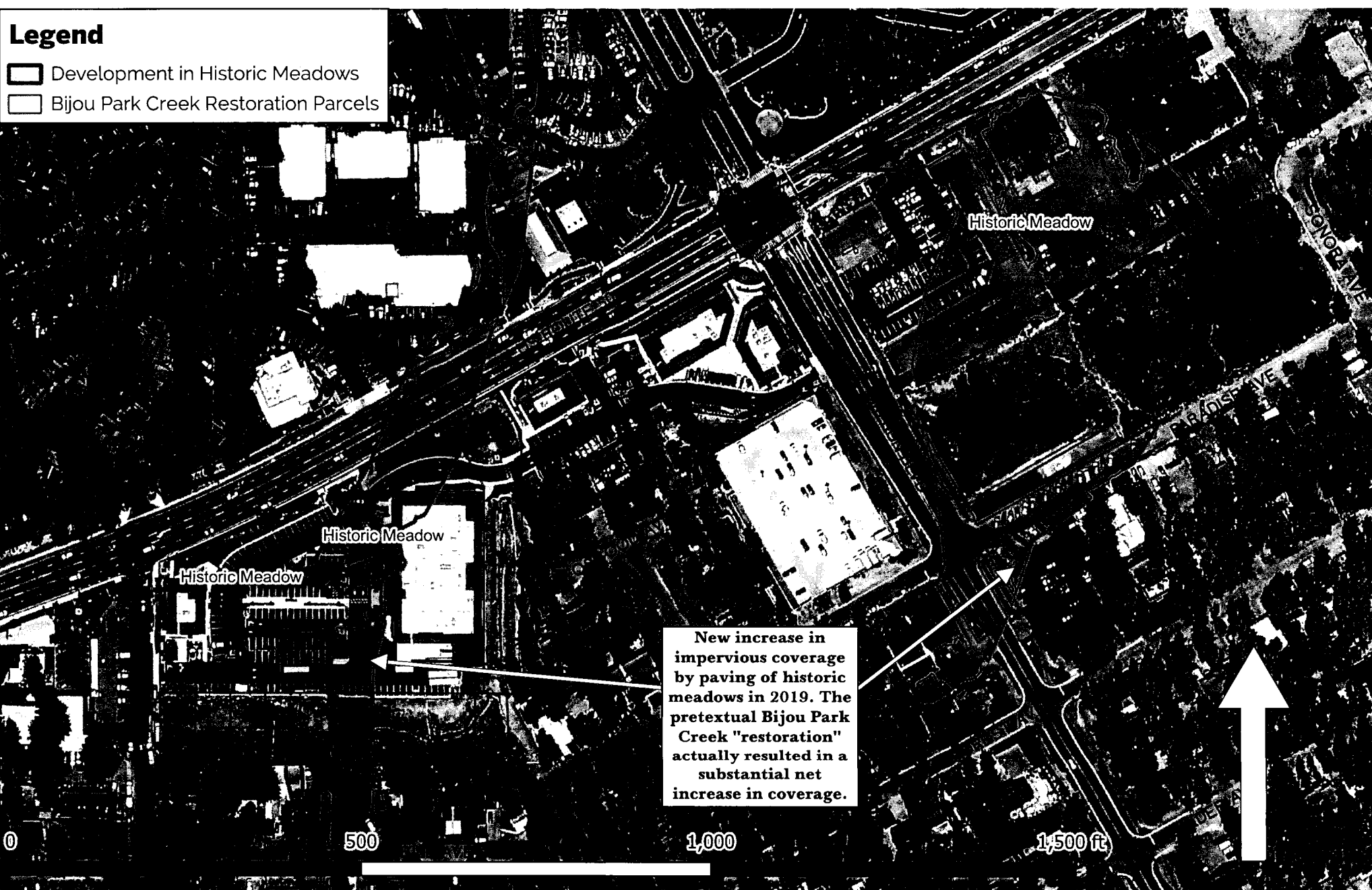
SEZ Assessment Unit Assessment Unit Ratings

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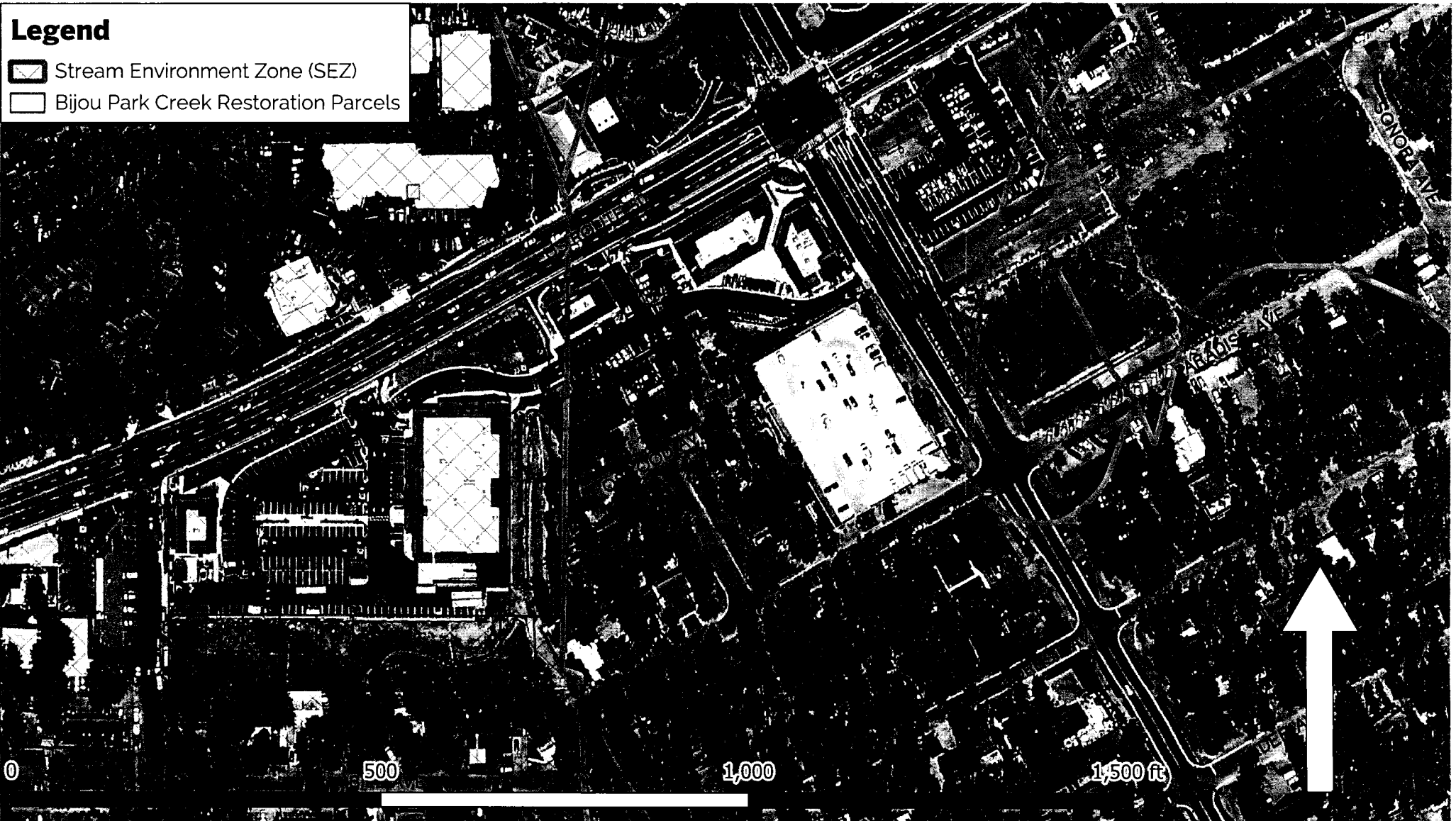
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Bijou Park Creek Restoration and Improvement Project Failed

Legend

□ Bijou Park Creek Restoration Parcels

Impervious Surface Change - 2010 to 2019

■ New Coverage

■ Removed Coverage

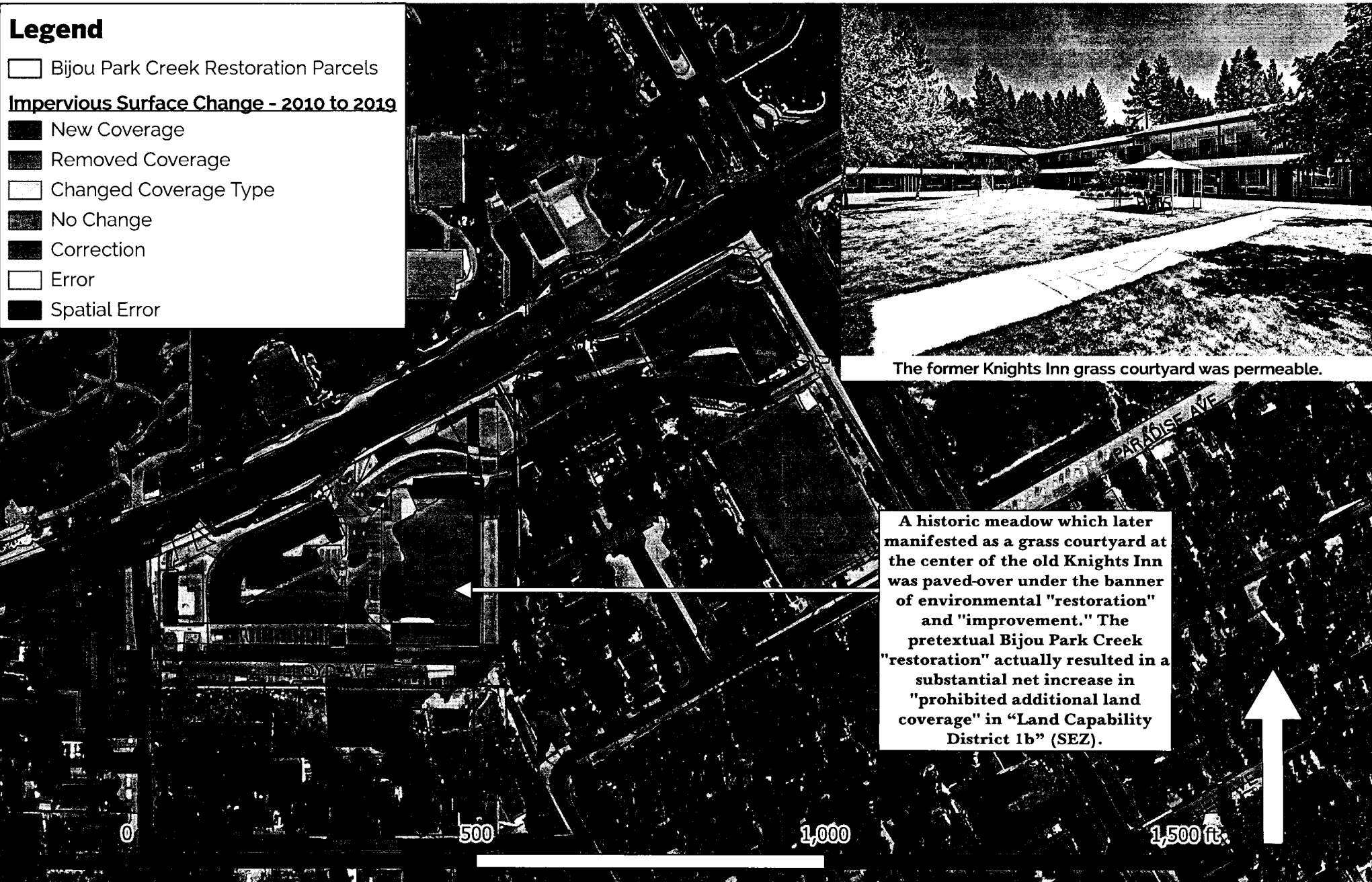
□ Changed Coverage Type

■ No Change

■ Correction

□ Error

■ Spatial Error



The former Knights Inn grass courtyard was permeable.

A historic meadow which later manifested as a grass courtyard at the center of the old Knights Inn was paved-over under the banner of environmental "restoration" and "improvement." The pretextual Bijou Park Creek "restoration" actually resulted in a substantial net increase in "prohibited additional land coverage" in "Land Capability District 1b" (SEZ).

In formulating and maintaining the regional plan, the planning commission and governing body shall take account of and shall seek to harmonize the needs of the region as a whole, the plans of the counties and cities within the region, the plans and planning activities of the State, Federal and other public agencies and nongovernmental agencies and organizations which affect or are concerned with planning and development within the region.

(d) The regional plan shall provide for attaining and maintaining Federal, State, or local air and water quality standards, whichever are strictest, in the respective portions of the region for which the standards are applicable.

The agency may, however, adopt air or water quality standards or control measures more stringent than the applicable State implementation plan or the applicable Federal, State, or local standards for the region, if it finds that such additional standards or control measures are necessary to achieve the purposes of this compact. Each element of the regional plan, where applicable shall, by ordinance, identify the means and time schedule by which air and water quality standards will be attained.

(e) Except for the Regional Transportation Plan of the California Tahoe Regional Planning Agency, the regional plan, ordinances, rules and regulations adopted by the California Tahoe Regional Planning Agency in effect on July 1, 1980, shall be the regional plan, ordinances, rules and regulations of the Tahoe Regional Planning Agency for that portion of the Tahoe region located in the State of California. Such plan, ordinance, rules or regulation may be amended or repealed by the governing body of the agency. The plans, ordinances, rules and regulations of the Tahoe Regional Planning Agency that do not conflict with, or are not addressed by, the California Tahoe Regional Planning Agency's plans, ordinances, rules and regulations referred to in this subdivision shall continue to be applicable unless amended or repealed by the governing body of the agency. No provision of the regional plan, ordinances, rules and regulations of the California Tahoe Regional Planning Agency referred to in this subdivision shall apply to that portion of the region within the State of Nevada, unless such provision is adopted for the Nevada portion of the region by the governing body of the agency.

(f) The regional plan, ordinances, rules and regulations of the Tahoe Regional Planning Agency apply to that portion of the region within the State of Nevada.

(g) The agency shall adopt ordinances prescribing specific written findings that the agency must make prior to approving any project in the region. These findings shall relate to environmental protection and shall insure that the project under review will not adversely affect implementation of the regional plan and will not cause the adopted environmental threshold carrying capacities of the region to be exceeded.

(h) The agency shall maintain the data, maps and other information developed in the course of formulating and administering the regional plan, in a form suitable to assure a consistent view of developmental trends and other relevant information for the availability of and use by other agencies of government and by private organizations and individuals concerned.

94 STAT. 3242

(i) Where necessary for the realization of the regional plan, the agency may engage in collaborative planning with local governmental jurisdictions located outside the region, but contiguous to its boundaries. In formulating and implementing the regional plan, the agency shall seek the cooperation and consider the recommendations of counties and cities and other agencies of local government, of State and Federal agencies, of educational institutions and research organizations, whether public or private, and of civic groups and private persons.

Attachment B. Impervious cover shall comply with the Land-Capability Classification of the Lake Tahoe Basin, California-Nevada, A Guide For Planning, Bailey, 1974.

- SC1) Allowable percent of impervious cover in Land Capability subclass 1a - 1%.
- SC2) Allowable percent of impervious cover in Land Capability subclass 1b - 1%.
- SC3) Allowable percent of impervious cover in Land Capability subclass 1c - 1%.
- SC4) Allowable percent of impervious cover in Land Capability class 2 - 1%.
- SC5) Allowable percent of impervious cover in Land Capability class 3 - 5%.
- SC6) Allowable percent of impervious cover in Land Capability class 4 - 20%.
- SC7) Allowable percent of impervious cover in Land Capability class 5 - 25%.
- SC8) Allowable percent of impervious cover in Land Capability class 6 - 30%.
- SC9) Allowable percent of impervious cover in Land Capability class 7 - 30%.

in a greater amount, a different location, or a greater rate of development than otherwise permitted by this plan.

- H. Division of land through air space condominiums in two resort recreation designated areas with the approval of a project associated with an approved transfer of development. In order to subdivide a project under this provision, the project itself shall be approved prior to the approval of the division and in no case shall the division result in a greater amount, a different location or a greater rate of development than otherwise permitted by this plan. Subdivisions shall be limited to air space condominium divisions with no lot and block subdivisions allowed, development shall be transferred from outside the area designated as resort recreation, and transfers shall result in the retirement of development.

LU-2.3 BUILDINGS, WHETHER CONFORMING OR NONCONFORMING, WHICH ARE DAMAGED OR DESTROYED BY FIRE OR OTHER SIMILAR CALAMITY, MAY BE REPAIRED OR REBUILT WITH NO REQUIREMENT FOR REDUCTION IN COVERAGE OR HEIGHT BY WAY OF FEE OR OTHERWISE. THIS POLICY APPLIES ONLY IF THE BUILDING IS RECONSTRUCTED IN SUBSTANTIAL CONFORMANCE WITH THE ORIGINAL STRUCTURE AND, WITH NO INCREASE IN FLOOR AREA, LAND COVERAGE, HEIGHT, OR VOLUME. OTHER PROVISIONS GENERALLY APPLICABLE TO REHABILITATION OR RECONSTRUCTION OF BUILDINGS SHALL APPLY. THIS POLICY IS SUBJECT TO THE NATURAL HAZARDS SUBELEMENT. SPECIAL PROVISIONS SHALL APPLY TO BUILDINGS IN THE SHOREZONE, LAKEWARD OF THE HIGHWATER LINE.

LU-2.4 STRUCTURES, LEGALLY EXISTING AS OF THE EFFECTIVE DATE OF THIS PLAN, BUT WHICH, BY VIRTUE OF THEIR DESIGN OR LOCATION, ARE PROHIBITED, ARE CONSIDERED NONCONFORMING AND SUBJECT TO THE FOLLOWING POLICIES:

- A. Nonconforming structures may be maintained or repaired. Maintenance and repair shall be defined in implementing ordinances.
- B. Nonconforming structures may not be enlarged, replaced, or rebuilt without the approval of TRPA. Such approval shall occur through direct TRPA review, through the conformance review process for Area Plans, or through Memorandum of Understanding with applicable governments and shall be based on criteria set forth in implementing ordinances to ensure that:
 - i. the activity shall not increase the extent of nonconformity; and
 - ii. if the structure is subject to a specific program of removal or modification by TRPA, the activity shall not conflict with that program.

LU-2.5 USES, LEGALLY EXISTING AS OF THE EFFECTIVE DATE THIS PLAN, BUT WHICH ARE NOW PROHIBITED, ARE CONSIDERED NONCONFORMING AND SUBJECT TO THE FOLLOWING POLICIES:

- A. Nonconforming uses may continue as they exist except where specifically subject to a program of removal or modification.
- B. Nonconforming uses may not be modified, expanded, or intensified, nor resumed following a significant interruption without the approval of TRPA. Such approval shall occur through direct TRPA review, through the conformance review process for Area Plans, or through Memorandum of Understanding with applicable governments and shall be based on criteria set forth in ordinances to ensure that:

- i. the activity shall not increase the extent of nonconformity.
 - ii. the activity shall not make it more difficult to attain and maintain environmental threshold carrying capacities.
 - iii. the use is otherwise consistent with applicable Plan Area Statements and Community Plans.
- C. Additional rules regarding excess land coverage are set forth in this Land Use Subelement, Policies LU-2.11 and 2.12.

LU-2.6 USES OF THE BODIES OF WATER WITHIN THE REGION SHALL BE LIMITED TO OUTDOOR WATER-DEPENDENT USES REQUIRED TO SATISFY THE GOALS AND POLICIES OF THIS PLAN.

This policy is intended to promote the use of waters of the Region for water-dependent outdoor recreation and to protect the scenic and natural qualities of such waters. Plan Area Statements or conforming Area Plans shall detail the specific policies.

LU-2.7 RESTORATION AND REHABILITATION SHALL BE A HIGH PRIORITY FOR IMPROVING ENVIRONMENTAL QUALITY AND COMMUNITY CHARACTER OF AREAS DESIGNATED FOR REDIRECTION BUT NOT INCLUDED IN A REDEVELOPMENT PLAN.

The Regional Plan calls for improvement of environmental quality and community character in redirection areas through restoration and rehabilitation. Implementation of rehabilitation and restoration strategies shall be by ordinance.

LU-2.8 THE PROVISIONS SET FORTH IN ARTICLE VI (d) THROUGH VI (i) OF THE BI-STATE COMPACT APPLY TO TRPA REGULATION OF STRUCTURES HOUSING GAMING.

LU-2.9 ALLOWABLE LAND COVERAGE IN THE TAHOE REGION SHALL BE SET FORTH IN ACCORDANCE WITH THE LAND CAPABILITY DISTRICT CLASSIFICATION METHODOLOGY AND DISTRICT BASED LAND COVERAGE LIMITATIONS SET FORTH IN "THE LAND CAPABILITY CLASSIFICATION OF THE LAKE TAHOE BASIN, CALIFORNIA-NEVADA, A GUIDE FOR PLANNING, BAILEY, 1974."

This policy limits allowable impervious land coverage associated with new development. These policies set allowable land coverage by applying the recommended Bailey land coverage coefficients to specifically defined and related areas. In some instances, provisions are made to allow additional coverage by transfer. The transfer programs shall operate by a direct offset method. In addition, land capability is one of the basic factors in determining the suitability of lands for development and appropriateness of land uses.

LU-2.10 ALLOWED BASE LAND COVERAGE FOR ALL NEW PROJECTS AND ACTIVITIES SHALL BE CALCULATED BY APPLYING THE BAILEY COEFFICIENTS, AS SHOWN BELOW, TO THE APPLICABLE AREA WITHIN THE PARCEL BOUNDARY, OR AS OTHERWISE SET FORTH IN A, B, AND C OF THIS POLICY.

LAND CAPABILITY DISTRICT	MAXIMUM ALLOWED LAND COVERAGE
1a	1 percent
1b	1 percent
1c	1 percent

SOILS

In addition to serving as a growth medium for plants, soil provides numerous chemical, physical, and biological functions that are critical to sustaining healthy ecosystems and maintaining environmental quality, including water quality. Accordingly, the Bi-State Compact identifies the need to establish and adopt environmental standards for soil conservation. The Soils Subelement establishes Goals and Policies intended to maintain and enhance the soil resource environmental thresholds.

GOAL S-1

MINIMIZE SOIL EROSION AND THE LOSS OF SOIL PRODUCTIVITY.

Protection of the Region's soil is important for maintaining soil productivity and vegetative cover and preventing excessive sediment and nutrient transport to the streams and lakes. Soil protection is especially critical in the Region where the soils are characteristically shallow and highly susceptible to erosion. Strategies for soil conservation are consistent with thresholds established for soil, water, and vegetation.

POLICIES:

S-1.1 ALLOWABLE IMPERVIOUS LAND COVERAGE SHALL BE CONSISTENT WITH THE THRESHOLD FOR IMPERVIOUS LAND COVERAGE.

The Land Use Subelement establishes policies which limit impervious land coverage consistent with the impervious land coverage limits set forth in the *"Land-Capability Classification of the Lake Tahoe Basin, California-Nevada, a Guide for Planning," Bailey, 1974.*

S-1.2 NO NEW LAND COVERAGE OR OTHER PERMANENT DISTURBANCE SHALL BE PERMITTED IN LAND CAPABILITY DISTRICTS 1-3 EXCEPT FOR THOSE USES AS NOTED IN A, B, AND C BELOW:

- A. Single family dwellings may be permitted in land capability districts 1-3 when reviewed and approved pursuant to the individual parcel evaluation system (IPES).
- B. Public outdoor recreation facilities may be permitted in land capability districts 1-3 if:
 - i. The project is a necessary part of a public agency's long range plans for public outdoor recreation;
 - ii. The project is consistent with the recreation element of the Regional Plan;
 - iii. The project, by its very nature must be sited in land capability districts 1-3;
 - iv. There is no feasible alternative which avoids or reduces the extent of encroachment in land capability districts 1-3;
 - v. The impacts are fully mitigated;

- vi. Land capability districts 1-3 lands are restored in the amount of 1.5 times the area of land capability districts 1-3 which is disturbed or developed beyond that permitted by the Bailey coefficients; and
- vii. Alternatively, because of their public and environmental benefits, special provisions for non-motorized public trails may be allowed and defined by ordinances.

To the fullest extent possible, recreation facilities must be sited outside of Land Capability Districts 1-3. However, the six-part test established by the policy allows encroachment of these lands where such encroachment is essential for public outdoor recreation, and precautions are taken to ensure that such lands are protected to the fullest extent possible. The restoration requirements of this policy can be accomplished on-site or off-site, and shall be in lieu of any coverage transfer or coverage mitigation provisions elsewhere in this plan.

- C. Public service facilities are permissible uses in land capability districts 1-3 if:
 - i. The project is necessary for public health, safety or environmental protection;
 - ii. There is no reasonable alternative, which avoids or reduces the extent of encroachment in land capability districts 1-3;
 - iii. The impacts are fully mitigated;
 - iv. Land capability districts 1-3 lands are restored in the amount of 1.5 times the area of land capability districts 1-3 which is disturbed or developed beyond that permitted by the Bailey co-efficients; and
 - v. Alternatively, because of their public and environmental benefits, special provisions for non-motorized public trails may be allowed and defined by ordinances.

Development within Land Capability Districts 1-3 is not consistent with the goal to manage high hazard lands for their natural qualities and shall generally be prohibited except under extraordinary circumstances involving public works. Each circumstance shall be evaluated based on the above four-point test of this policy. The restoration requirements of this policy can be accomplished on-site or off-site, and shall be in lieu of any coverage transfer or coverage mitigation provisions elsewhere in this plan.

S-1.3 THE LAND CAPABILITY MAP MAY BE REVIEWED AND UPDATED.

TRPA shall provide for a procedure to allow land capability challenges for reclassification of incorrectly mapped areas.

S-1.4 TRPA SHALL DEVELOP SPECIFIC POLICIES TO LIMIT LAND DISTURBANCE AND REDUCE SOIL AND WATER QUALITY IMPACTS OF DISTURBED AREAS.

Like impervious surfaces, disturbed and compacted areas result in increased soil loss and surface runoff. The Regional Plan sets policies designed to reduce existing surface disturbance and avoid new disturbance. TRPA shall set guidelines defining "disturbance" and determine what types of disturbed and compacted areas should be counted as impervious surfaces for purposes of applying land coverage limits. Coverage limits shall not be applied so as to prevent application of best management practices to existing disturbed areas.

S-1.5 PRIORITIZE WATERSHEDS OR OTHER AREAS IMPAIRED BY EXCESS LAND

COVERAGE AND INCENTIVIZE THE REMOVAL AND TRANSFER OF COVERAGE FROM APPROPRIATE LOCATIONS WITHIN PRIORITY WATERSHEDS.

TRPA shall maintain specific programs to address the problem of excess coverage and may include limits on new coverage, coverage removal, and remedial erosion and runoff control projects.

S-1.6 MAINTAIN SEASONAL LIMITATIONS ON GROUND DISTURBING ACTIVITIES DURING THE WET SEASON (OCTOBER 15 TO MAY 1) AND IDENTIFY LIMITED EXCEPTIONS FOR ACTIVITIES THAT ARE NECESSARY TO PRESERVE PUBLIC HEALTH AND SAFETY OR FOR EROSION CONTROL.

Impacts related to soil disturbance are highly exaggerated when the soil is wet. For precautionary reasons, all project sites must be adequately winterized by October 15 as a condition for continued work on the site. Exceptions to the grading prohibitions will be permitted in emergency situations where the grading is necessary for reasons of public safety or for erosion control.

S-1.7 ALL EXISTING NATURAL FUNCTIONING STREAM ENVIRONMENT ZONES SHALL BE RETAINED AS SUCH AND DISTURBED STREAM ENVIRONMENT ZONES SHALL BE RESTORED WHENEVER POSSIBLE AND MAYBE TREATED TO REDUCE THE RISK OF CATASTROPHIC WILDFIRE.

Stream Environment Zones (SEZs) shall be managed to perpetuate their various functional roles, especially pertaining to water cleansing and nutrient trapment. This requires enforcement of a non-degradation philosophy. This policy is common to the Water Quality, Vegetation, Stream Environment Zone, and Wildlife Subelements and shall be implemented through the Land Use Element and Environmental Improvement Program (EIP).

STREAM ENVIRONMENT ZONE

Stream Environment Zones (SEZs) and related hydrologic zones consist of the natural marsh and meadowlands, watercourses and drainageways, and floodplains which provide surface water conveyance from upland areas into Lake Tahoe and its tributaries. Stream Environment Zones are determined by the presence of riparian vegetation, alluvial soil, minimum buffer strips, water influence areas, and floodplains. The plant associations of Stream Environment Zones constitute only a small portion of the Region's total land area, but are perhaps the single most valuable plant communities in terms of their role in providing for wildlife habitat, purification of water, and scenic enjoyment. Protection and restoration of Stream Environment Zones are essential for improving and maintaining the environmental amenities of the Lake Tahoe Region and for achieving environmental thresholds for water quality, vegetation preservation, and soil conservation.

GOAL SEZ-1

PROVIDE FOR THE LONG-TERM PRESERVATION AND RESTORATION OF STREAM ENVIRONMENT ZONES.

The preservation of SEZs is a means for achieving numerous environmental thresholds. Policies that promote their maintenance, protection, and restoration are listed below.

POLICIES:

SEZ-1.1 RESTORE ALL DISTURBED STREAM ENVIRONMENT ZONE LANDS IN UNDEVELOPED, UNSUBDIVIDED LANDS, AND RESTORE 25 PERCENT OF THE SEZ LANDS THAT HAVE BEEN DISTURBED, DEVELOPED, OR SUBDIVIDED.

Many acres of SEZ lands were modified or disturbed before adoption of the Regional Plan. Considerable progress has been made to restore disturbed SEZ lands. TRPA shall continue to monitor the status of SEZ lands and identify restoration priorities and activities through actions and programs including the Environmental Improvement Program.

SEZ-1.2 SEZ LANDS SHALL BE PROTECTED AND MANAGED FOR THEIR NATURAL VALUES.

SEZ lands are scarce, as is associated riparian vegetation when compared to other plant communities. Because SEZs provide many beneficial functions (especially pertaining to water quality) only forest management practices, stream improvement programs, habitat restoration projects and those special provisions provided for in Policy SEZ-1.5 below are permissible uses.

SEZ-1.3 GROUNDWATER DEVELOPMENT IN SEZ LANDS SHALL BE DISCOURAGED WHEN SUCH DEVELOPMENT COULD POSSIBLY IMPACT ASSOCIATED PLANT COMMUNITIES OR INSTREAM FLOWS.

Withdrawal of water from SEZ lands may lower surface and ground waters and, by so doing, alter plant composition of the riparian vegetation and reduce instream flows. Groundwater proposals in SEZs and riparian plant communities will be evaluated against those concerns.

SEZ-1.4 GOLF COURSES IN STREAM ENVIRONMENT ZONES SHALL BE ENCOURAGED TO RETROFIT COURSE DESIGN AND IMPLEMENT FERTILIZER MANAGEMENT PLANS TO PREVENT RELEASE OF NUTRIENTS TO ADJOINING GROUND AND SURFACE WATERS.

A combination of strategies to include fertilizer application standards and course redesign may be necessary to control off-site nutrient release from golf course fairways and greens.

SEZ-1.5 NO NEW LAND COVERAGE OR OTHER PERMANENT LAND DISTURBANCE SHALL BE PERMITTED IN STREAM ENVIRONMENT ZONES EXCEPT FOR THOSE USES AS NOTED IN A, B, C, D, E AND F BELOW:

- A. Public outdoor recreation facilities not specified in subsection F below are permissible uses in Stream Environment Zones if:
 - i. The project is a necessary part of a public agency's long range plans for public outdoor recreation;
 - ii. The project is consistent with the recreation element of the Regional Plan;
 - iii. The project, by its very nature, must be sited in a Stream Environment Zone;
 - iv. There is no feasible alternative which would reduce the extent of encroachment in Stream Environment Zones;
 - v. The impacts are fully mitigated;
 - vi. Stream Environment Zone lands are restored in the amount of 1.5 times the area of Stream Environment Zone which is disturbed or developed by the project.

To the fullest extent possible, recreation facilities must be sited outside of Stream Environment Zones. Some recreation facilities, such as river access points or stream crossings for hiking trails, by their very nature require some encroachment of Stream Environment Zones. However, the six-part test established by this policy allows encroachment into SEZs where such encroachment is essential for public outdoor recreation and precautions are taken to ensure that Stream Environment Zones are protected to the fullest extent possible. The restoration requirements of this policy can be accomplished on-site or off-site, and shall be in lieu of any coverage transfer or coverage mitigation provisions elsewhere in this plan.

CHAPTER 4: REQUIRED FINDINGS

4.1. PURPOSE

The Tahoe Regional Planning Compact requires TRPA to make findings before taking certain actions. In addition, the Regional Plan package, including the Code and plan area statements, sets forth other findings that must be made. This chapter sets forth procedures describing how TRPA shall make the findings required.

4.2. APPLICABILITY

Prior to approving any project or taking any other action specified in this Code, TRPA shall make the findings required by the provisions of the Regional Plan package, including the Goals and Policies, the Code, and specifically this chapter and any other requirement of law. All such findings shall be made in accordance with this chapter.

4.3. PROCEDURE FOR FINDINGS

Findings shall be made as provided below.

4.3.1. Written Findings

All required findings shall be in writing and shall be supported by substantial evidence in the record of review. The findings required by Section 4.4 shall be in writing prior to the approval of the proposed matter.

4.3.2. Statement

Required findings shall be accompanied by a brief statement of the facts and rationales upon which they are based.

4.4. THRESHOLD-RELATED FINDINGS

The following specific findings shall be made, pursuant to Articles V(c), V(g) and VI(b) of the Compact, in addition to any other findings required by law.

4.4.1. Findings Necessary to Approve Any Project

To approve any project TRPA shall find, in accordance with Sections 4.2 and 4.3, that:

- A. The project is consistent with and will not adversely affect implementation of the Regional Plan, including all applicable Goals and Policies, plan area statements and maps, the Code, and other TRPA plans and programs;
- B. The project will not cause the environmental threshold carrying capacities to be exceeded; and
- C. Wherever federal, state, or local air and water quality standards apply for the region, the strictest standards shall be attained, maintained, or exceeded pursuant to Article V(d) of the Tahoe Regional Planning Compact.

CHAPTER 4: REQUIRED FINDINGS

4.5 Findings Necessary to Amend the Regional Plan, Including the Goals and Policies and Plan Area Statements and Maps

4.4.2 Making Specific Findings

4.4.2. Making Specific Findings

As part of the findings required by subparagraph 4.4.1, TRPA shall:

- A. Identify the nature, extent, and timing or rate of effects of the project, using applicable measurement standards consistent with the available information, on all applicable:
 - 1. Compliance measures (Section 16.6);
 - 2. Indicators (Section 16.4);
 - 3. Additional factors (subsection 16.4.5); and
 - 4. Supplemental compliance measures (subsection 16.3.8).
- B. Quantify any contribution of the project to any of the cumulative accounts for the items listed in subsection 16.8.2 and record that contribution in the current cumulative account;
- C. Confirm that any resource capacity utilized by the project is within the amount of the remaining capacity available, as that remaining capacity has been identified in any environmental documentation applicable to the project, including the environmental impact statement for the Regional Plan package;
- D. Confirm that the project will not prevent attainment of any adopted target date (subsection 16.5.1) or interim target (subsection 16.5.2);
- E. For project-specific mitigation measures relied upon to confirm the matters in subparagraphs 4.4.1.B and C, TRPA shall identify an adequate means, including setting a baseline status, by which the mitigation measure's effectiveness shall be evaluated; and
- F. Except for recreation projects in the EIP for which an environmental assessment or an environmental impact statement is prepared, and that will use additional water supply, additional sewage capacity, or will create additional vehicle miles of travel greater than forecast in the environmental assessment for the most recent Evaluation Report, TRPA shall confirm that sufficient capacity remains in each of the respective capacities that are utilized by the project to permit development of recreation projects contained in the EIP.

4.5. FINDINGS NECESSARY TO AMEND THE REGIONAL PLAN, INCLUDING THE GOALS AND POLICIES AND PLAN AREA STATEMENTS AND MAPS

To approve any amendment to the Regional Plan, TRPA shall find, in addition to the findings required pursuant to subparagraphs 4.4.1.A and 4.4.1.B, subsection 4.4.2, and Sections 4.2 and 4.3, that the Regional Plan, as amended, achieves and maintains the thresholds.

- b. Pursuant to a maintenance program, including schedule of maintenance, proposed by the owner and approved by TRPA; and
- c. Collection of a security, if deemed necessary by TRPA, to guarantee mitigation.

D. Effect of Approval

If the amendment is approved, the land coverage limitations of the land capability district, whose characteristics are exhibited by the pertinent land, shall apply to the land.

E. Conditions Upon Amendment

Approval of an amendment of the Regional Plan pursuant to this subsection may be granted subject to reasonable conditions in addition to those otherwise referred to in this subsection.

F. Procedure After Amendment

Once TRPA has completed its action on an amendment to the Regional Plan pursuant to this subsection, the agency shall follow the procedure set forth in subparagraph 30.3.3.F as though it applied to an amendment to the Regional Plan pursuant to this subsection including, but not limited to, the report prepared for and action on the amendment.

30.4. LAND COVERAGE LIMITATIONS

No person shall create land coverage in excess of the limitations set forth in this chapter. The means to determine base land coverage, the manner to transfer land coverage, and prohibitions of certain land coverage are set forth in this section.

30.4.1. Base Allowable Land Coverage

A. Base Allowable Land Coverage Coefficients

The base allowable land coverage shall be determined by using the coefficients set forth in *Land Capability Classifications of the Lake Tahoe Basin*, Bailey, R. G. 1974. These coefficients are:

TABLE 30.4.1-1: BASE ALLOWABLE LAND COVERAGE COEFFICIENTS

Lands Located in Land Capability District*	Base Allowable Land Coverage
1a, 1b, 1c	1%
2	1%
3	5%
4	20%
5	25%
6, 7	30%

* Lands located in Geomorphic Group I are classified Land Capability District 1 and are permitted one percent coverage.

B. General Rule and Exceptions

The coefficients shall be applied to the project area in accordance with subparagraph C, except as provided below.

1. Parcels in TRPA-Approved Subdivisions in Conformance with the Bailey Coefficients

In TRPA-approved subdivisions where TRPA applied the coefficients on a subdivision-wide basis and allowable coverage was assigned to individual parcels, the assigned coverage shall be the base allowable land coverage for those parcels. The list of TRPA-approved subdivisions in conformance with Bailey coefficients is provided in Attachment D to the Goals and Policies.

2. Parcels in Existing Planned Unit Developments (PUDs) Not in Conformance with the Bailey Coefficients

To determine the base allowable land coverage for parcels within an existing PUD, the coefficients shall be applied to the entire PUD. This total allowable coverage, minus the existing common area facilities coverage, shall be divided among the individual parcels in proportion to their respective sizes, whether developed or not. Public rights-of-way shall not be included in the calculation. Accordingly, the method of calculation is as follows: first, the area of public rights of-way is not to be counted; second, base allowable land coverage for the remaining area in the PUD is calculated; third, the amount of existing coverage in common areas is subtracted; fourth, the remaining coverage is divided among the individual parcels, in proportion to size. In no case shall parcels of individual ownership be assigned an allowable base coverage of less than zero.

H. Land Bank

Land coverage transfers and land coverage retirement programs may use a land bank pursuant to Chapter 6: *Tracking, Accounting, and Banking*.

30.4.4. Relocation of TRPA-Verified Existing Land Coverage

TRPA-verified existing land coverage may be relocated on the same parcel or project area if TRPA finds that:

- A.** The relocation is to an equal or superior portion of the parcel or project area, as determined by reference to the following factors:
 - 1. Whether the area of relocation already has been disturbed;
 - 2. The slope of and natural vegetation on the area of relocation;
 - 3. The fragility of the soil on the area of relocation;
 - 4. Whether the area of relocation appropriately fits the scheme of use of the property;
 - 5. The relocation does not further encroach into a stream environment zone, backshore, or the setbacks established in the Code for the protection of stream environment zones or backshore;
 - 6. The project otherwise complies with the land coverage mitigation program set forth in Section 30.6.
- B.** The area from which the land coverage was removed for relocation is restored in accordance with subsection 30.5.3.
- C.** The relocation shall not be to Land Capability Districts 1a, 1b, 1c, 2, or 3, from any higher numbered land capability district.
- D.** If the relocation is from one portion of a stream environment zone to another portion, there is a net environmental benefit to the stream environment zone. "Net environmental benefit to a stream environment zone" is defined as an improvement in the functioning of the stream environment zone and includes, but is not limited to:
 - 1. Relocation of coverage from a less disturbed area to a more disturbed area or to an area further away from the stream channel or water body, as applicable;
 - 2. Retirement of land coverage in the affected stream environment zone in the amount of 1.5:1 of the amount of land coverage being relocated within a stream environment zone; or
 - 3. For projects involving the relocation of more than 1,000 square feet of land coverage within a stream environment zone, a finding, based on a report prepared by a qualified professional, that the relocation will improve the functioning of the stream environment zone and will not negatively affect the

CHAPTER 30: LAND COVERAGE

30.4 Land Coverage Limitations

30.4.5 Conversion of Turf Grass Coverage to Synthetic Turf Coverage for Public Athletic Fields

quality of existing habitats, considering factors such as, but not limited to, soil function, hydrologic function, vegetation, and wildlife habitat.

30.4.5. Conversion of Turf Grass Coverage to Synthetic Turf Coverage for Public Athletic Fields

Turf grass public athletic fields may be converted to synthetic turf fields as provided below.

A. Eligibility

TRPA shall find that the turf grass field meets all of the following criteria:

1. The turf grass field shall be composed of non-native turf grasses and receive regular fertilization and periodic irrigation.
2. At least 50 percent of the condition of the turf grass field shall be substantially compacted by repeated pedestrian traffic so as to reduce saturated hydraulic conductivity by 50 percent or more when compared to natural conditions for the same soil type.

B. Construction Standards

The synthetic turf field shall be constructed and maintained to meet all of the following standards:

1. The synthetic turf design shall include a subsurface drainage system that discharges to a water quality treatment area. The subsurface drainage system shall comply with groundwater interception regulations pursuant to subsection 33.3.6 and shall not adversely affect water levels within a stream environment zone;
2. The synthetic turf shall be limited to team playing fields and player staging areas only;
3. Synthetic turf components and fields shall not contain or utilize materials for construction or maintenance that could leach into the ground water, present a health hazard to people, or adversely affect flora or fauna; and
4. The synthetic turf shall not receive runoff or overflow from adjacent lands, except under extraordinary circumstances, such as 20 year or greater storm events.

C. In-Lieu of Excess Coverage Mitigation and Water Quality Mitigation

In order to approve synthetic turf for public athletic turf fields, the coverage shall be mitigated either by:

1. Restoration of an equal area of highly compacted turf grass to native vegetation so as to achieve a saturated hydraulic conductivity of greater than 50 percent of natural conditions for the same soil type; or

CHAPTER 30: LAND COVERAGE

30.5 Prohibition of Additional Land Coverage In Land Capability Districts 1a, 1c, 2, 3, and 1b (Stream Environment Zones)

30.5.1 Exceptions to Prohibition in Land Capability Districts 1a, 1c, 2, and 3

e. Existing Trails Do Not Qualify

Trails constructed prior to January 1, 2013 do not qualify for this coverage exemption.

E. Limit on Aggregate of Coverage Exemptions and Credits on Parcels or Project Areas

The total amount of coverage exemptions and credits on parcels or project areas applies only to non-permanent structures, pervious decks, and pervious coverage and shall not exceed in aggregate ten percent of the total amount of non-sensitive land on a parcel.

F. Restriction on Parcels with Illegal or Excess Coverage

Prior to approval of any coverage credit or exemption for pervious coverage, pervious decks or non-permanent structures, TRPA shall verify that existing coverage on the parcel was legally established or will be removed in conjunction with permitted improvements; and any legally existing excess coverage has been fully mitigated in accordance subsection 30.6.1.

30.5. PROHIBITION OF ADDITIONAL LAND COVERAGE IN LAND CAPABILITY DISTRICTS 1a, 1c, 2, 3, AND 1b (STREAM ENVIRONMENT ZONES)

No additional land coverage or other permanent land disturbance shall be permitted in Land Capability Districts 1a, 1c, 2, 3, and Land Capability District 1b (Stream Environment Zone), except as follows:

30.5.1. Exceptions to Prohibition in Land Capability Districts 1a, 1c, 2, and 3

The following exceptions apply to the prohibition of land coverage and disturbance in Land Capability Districts 1a, 1c, 2, and 3:

A. Individual Parcel Evaluation System (IPES)

Land coverage and disturbance for single-family houses may be permitted in Land Capability Districts 1a, 1c, 2 and 3 when reviewed and approved pursuant to IPES in accordance with Chapter 53: *Individual Parcel Evaluation System*.

B. Public Outdoor Recreation Facilities

Land coverage and disturbance for public outdoor recreation facilities, including public recreation projects on public lands, private recreation projects through use of public lands, and private recreational projects on private lands that are depicted or provided for on a public agency's recreational plan, may be permitted in Land Capability Districts 1a, 1c, 2, or 3 if TRPA finds that:

1. The project is a necessary part of a public agency's long-range plans for public outdoor recreation;
2. The project is consistent with the Recreation Element of the Regional Plan;
3. The project by its very nature must be sited in Land Capability Districts 1a, 1c, 2, or 3, such as a ski run or hiking trail;

CHAPTER 30: LAND COVERAGE

30.5 Prohibition of Additional Land Coverage In Land Capability Districts 1a, 1c, 2, 3, and 1b (Stream Environment Zones)

30.5.2 Exceptions to Prohibition in Land Capability District 1b (Stream Environment Zone)

4. There is no feasible alternative that avoids or reduces the extent of encroachment in Land Capability Districts 1a, 1c, 2, or 3; and
5. The impacts of the coverage and disturbance are fully mitigated through means including, but not limited to, the following:
 - a. Application of best management practices; and
 - b. Restoration, in accordance with subsection 30.5.3, of land in Land Capability Districts 1a, 1c, 2, 3, and 1b (Stream Environment Zone) in the amount of 1.5 times the area of land in such districts covered or disturbed for the project beyond that permitted by the coefficients in Table 30.4.1-1.

C. Public Service Facilities

Land coverage and disturbance for public service facilities may be permitted in Land Capability Districts 1a, 1c, 2, and 3 if TRPA finds that:

1. The project is necessary for public health, safety, or environmental protection;
2. There is no reasonable alternative, including relocation, that avoids or reduces the extent of encroachment in Land Capability Districts 1a, 1c, 2, or 3; and
3. The impacts of the coverage and disturbance are fully mitigated in the manner prescribed by subparagraph 30.5.1.B.5.

D. Water Quality Control Facilities

Land coverage and disturbance may be permitted in Land Capability Districts 1a, 1c, 2, and 3 for erosion control projects, habitat restoration projects, wetland rehabilitation projects, stream environment zone restoration projects, and similar projects, programs, and facilities if TRPA finds that:

1. The project, program, or facility is necessary for environmental protection;
2. There is no reasonable alternative, including relocation, that avoids or reduces the extent of encroachment in Land Capability Districts 1a, 1c, 2, or 3; and
3. Impacts are fully mitigated and, if applicable, transferred land coverage requirements pursuant to subparagraph 30.4.3.B.5 are met.

30.5.2. Exceptions to Prohibition in Land Capability District 1b (Stream Environment Zone)

The following exceptions shall apply to the prohibition of land coverage and disturbance in Land Capability District 1b (Stream Environment Zone):

CHAPTER 30: LAND COVERAGE

30.5 Prohibition of Additional Land Coverage In Land Capability Districts 1a, 1c, 2, 3, and 1b (Stream Environment Zones)

30.5.2 Exceptions to Prohibition in Land Capability District 1b (Stream Environment Zone)

A. Stream Crossings

Land coverage and disturbance for projects to provide access across stream environment zones to otherwise buildable sites, if such projects otherwise comply with applicable development standards in Chapter 32: *Basic Services*, may be permitted in Land Capability District 1b (Stream Environment Zone) if TRPA finds that:

1. There is no reasonable alternative, including relocation, that avoids or reduces the extent of encroachment in the stream environment zone, or that encroachment shall be necessary to reach the building site recommended by IPES; and
2. The impacts of the land coverage and disturbance are fully mitigated in the manner set forth in subparagraph 30.5.1.B.5, with the exception that the restoration requirement in such subsection shall apply exclusively to stream environment zone lands and shall include coverage and disturbance within the permitted Bailey coefficients.

B. Public Outdoor Recreation

Land coverage and disturbance for public outdoor recreation facilities may be permitted in Land Capability District 1b (Stream Environment Zone) if TRPA finds that:

1. The project is a necessary part of a public agency's long-range plans for public outdoor recreation;
2. The project is consistent with the Recreation Element of the Regional Plan;
3. The project by its very nature must be sited in a stream environment zone, such as bridges, stream crossings, ski run crossings, fishing trails, and boat launching facilities;
4. There is no feasible alternative that would avoid or reduce the extent of encroachment in the stream environment zone; and
5. The impacts of the land coverage and disturbance are fully mitigated in the manner set forth in subparagraph 30.5.1.B.5, with the exception that the restoration requirement in such subsection shall apply exclusively to stream environment zone lands and shall include coverage and disturbance within the permitted Bailey coefficients.

C. Public Service

Land coverage and disturbance for public service facilities may be permitted in Land Capability District 1b (Stream Environment Zone) if TRPA finds that:

1. The project is necessary for public health, safety, or environmental protection;
2. There is no reasonable alternative, including a bridge span or relocation, that avoids or reduces the extent of encroachment in the stream environment zone; and

CHAPTER 30: LAND COVERAGE

30.5 Prohibition of Additional Land Coverage In Land Capability Districts 1a, 1c, 2, 3, and 1b (Stream Environment Zones)

30.5.3 Restoration Credit Requirements

3. The impacts of the land coverage and disturbance are fully mitigated in the manner set forth in subparagraph 30.5.1.B.5, with the exception that the restoration requirement in such subsection shall apply exclusively to stream environment zone lands and shall include coverage and disturbance within the permitted Bailey coefficients.

D. Water Quality Control Facilities

Land coverage and disturbance may be permitted in Land Capability District 1b (Stream Environment Zone) for erosion control projects, habitat restoration projects, wetland rehabilitation projects, stream environment zone restoration projects, and similar projects, programs, and facilities if TRPA finds that:

1. The project, program, or facility is necessary for environmental protection;
2. There is no reasonable alternative, including relocation, that avoids or reduces the extent of encroachment in the stream environment zone; and
3. Impacts are fully mitigated and, if applicable, transferred land coverage requirements pursuant to subparagraph 30.4.3.B.5 are met.

E. Vegetation

Indigenous vegetation shall not be removed or damaged in Land Capability District 1b (Stream Environment Zone) unless otherwise authorized under TRPA permit pursuant to subsections 30.5.2, 30.4.4, 61.1.6, 61.3.3, Sections 85.7, 61.2, 64.3, or Chapter 64: *Livestock Grazing*. Species used for revegetation or landscaping shall be species appropriate for the stream environment zone type (e.g., meadow, marsh).

30.5.3. Restoration Credit Requirements

The following requirements apply to restoration:

- A. The restoration requirements of subparagraphs 30.4.3.B.5 and 30.5.1.B.5, may be accomplished onsite and/or offsite by the applicant or another agency approved by TRPA. Such restoration requirements shall be in lieu of any land coverage transfer requirement or water quality mitigation fee pursuant to Chapter 60: *Water Quality*.
- B. Only land that has been disturbed or consists of hard or soft land coverage shall be eligible for restoration credit. Restoration shall result in the area functioning in a natural state and shall include provisions for permanent protection from further disturbance. Lands disturbed by the project and then restored shall not be eligible for credit. Provisions for permanent protection from further disturbance shall include, but are not limited to, recordation by the owner of deed restrictions or other covenants running with the land on a form approved by TRPA, against parcels in private ownership, permanently assuring that the restoration requirements of subparagraphs 30.4.3.B.5 or 30.5.1.B.5 are satisfied, as applicable. On public lands, TRPA shall obtain appropriate assurance from the public agency that the requirements of subparagraph 30.4.3.B.5 or 30.5.1.B.5, as applicable, are met.

(iv) The public entity funding the program has received a funded commitment from another public entity as described in a or b above; or

(v) Any combination of (i) through (iv) above.

c. As a condition of approval, the permittee for the project shall post a security with TRPA, in accordance with Section 5.9, in an amount equal to the excess coverage mitigation fee otherwise required under Section 30.6. If a program to mitigate excess land coverage within the community plan has not been adopted by TRPA and an irrevocable commitment made by the time of final inspection of the project by TRPA, or three years after commencement of construction, whichever is sooner, the security shall be forfeited to TRPA. Securities forfeited to TRPA under this subparagraph shall be forwarded to a land bank to provide land coverage reduction.

C. Determination of Excess Land Coverage Mitigation

The required excess land coverage reduction mitigation shall be calculated as follows:

1. Coverage Reduction Mitigation

For purposes of calculating the square footage reduction of excess coverage to be credited the parcel pursuant to Chapter 6: *Tracking, Accounting, and Banking*; the land coverage reduction square footage shall be calculated by determining the reduction percentage from Table 30.6.1-2 below, based on the amount of TRPA-verified existing excess land coverage on the parcel or project area. The reduction percentage from Table 30.6.1-2 shall be multiplied by the estimated coverage mitigation construction cost of the project and then divided by the mitigation factor of eight.

Land Coverage Reduction (Sq. Ft.) = Fee Percentage x Land Coverage Mitigation Construction Cost (\$) / Mitigation Factor of 8.

2. Excess Land Coverage Mitigation Fee

The excess coverage mitigation fee shall be calculated by determining the amount of required land coverage reduction (sq. ft.), in accordance with subparagraph 1 above. The land coverage reduction square footage shall then be multiplied by the appropriate Mitigation Fee Coverage Cost Factor to determine the Excess Land Coverage Mitigation Fee. The Mitigation Fee Land Coverage Cost Factor(s) shall be established by TRPA staff using an Annual Percentage Growth Rate (APGR) calculation (or best available alternate methodology) based on the best available residential sales information for the Tahoe Region. The APGR shall be calculated regularly, at least every 4 years. The fee shall be updated utilizing the most recently calculated APGR. Fee adjustments are limited to increases, even in instances when the APGR calculation may result in a negative percentage growth, to preserve the intent of the Excess Land Coverage Mitigation Fee program, and maintain consistency with the land bank's cost to acquire and restore land coverage

under this program. The current excess land coverage fee shall be included within the schedule provided in the Rules of Procedure in subsection 10.8.5.

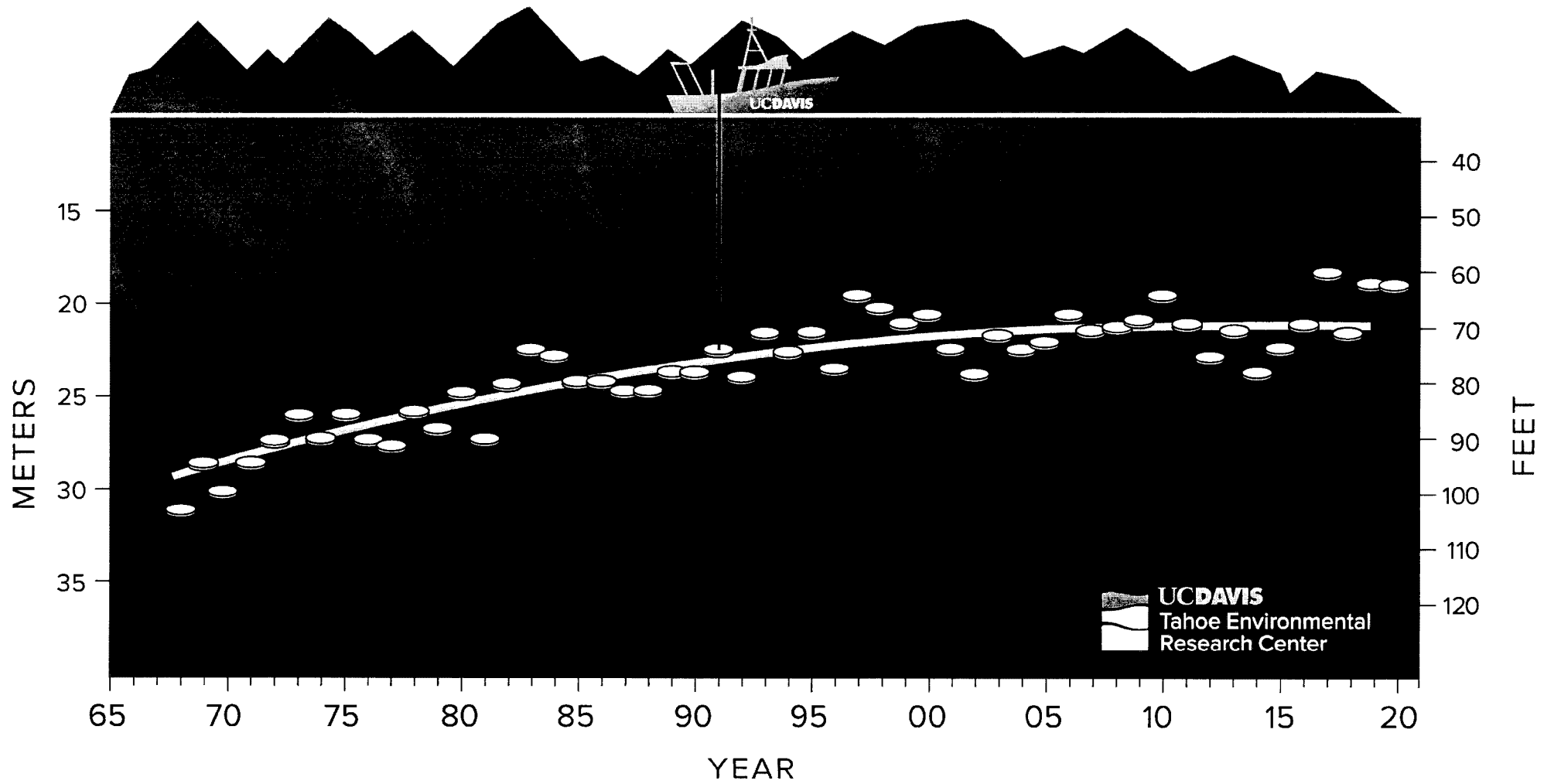
The excess land coverage fee shall be as follows:

Mitigation Fee (\$) = Land Coverage Reduction Sq. Ft. x Mitigation Fee Sq. Ft. Land Coverage Cost Factor.

3. Land Coverage Mitigation Construction Cost

“Land coverage mitigation construction cost” is defined as a cost estimate prepared by a registered engineer, licensed architect, or other qualified professional acceptable to TRPA, of the cost to construct the structural elements of a structure. This includes, without limitation: pier pilings, bracing and supports, bearing walls, rafters, foundations, and base materials under asphalt or concrete. Land coverage mitigation construction cost shall not include non-structural elements such as painting, shingles and other non-bearing roofing materials, siding (except siding necessary to brace or provide shear strength), doors overlays upon existing paved surfaces, HVAC systems, sewer systems, water systems, electrical systems, furniture, and similar decorations and fixtures.

ANNUAL AVERAGE SECCHI DEPTH



Year	Annual (meters)	Winter (meters)	Summer (meters)	Annual (feet)	Winter (feet)	Summer (feet)
2020	19.2	19.5	18.0	63.0	64.0	59.1
2019	19.1	24.7	16.1	62.7	81.0	52.8
2018	21.6	22.4	18.8	70.9	73.5	61.7
2017	18.4	24.0	16.3	60.4	78.7	53.5
2016	21.1	25.4	17.2	69.2	83.3	56.4
2015	22.3	21.8	22.3	73.2	71.5	73.2
2014	23.7	24.1	23.4	77.8	79.1	76.8
2013	21.4	23.7	19.4	70.2	77.8	63.6
2012	22.9	26.9	19.7	75.1	88.3	64.6
2011	21.0	25.9	15.7	68.9	85.0	51.5
2010	19.6	22.2	15.8	64.3	72.8	51.8
2009	20.8	24.8	18.0	68.2	81.4	59.1
2008	21.2	26.0	15.4	69.6	85.3	50.5
2007	21.4	25.1	19.9	70.2	82.3	65.3
2006	20.6	23.4	17.5	67.6	76.8	57.4
2005	22.0	24.5	20.4	72.2	80.4	66.9
2004	22.4	25.4	22.3	73.5	83.3	73.2
2003	21.6	21.6	21.1	70.9	70.9	69.2
2002	23.8	23.9	24.7	78.1	78.4	81.0
2001	22.4	23.7	22.2	73.5	77.8	72.8
2000	20.5	21.5	19.5	67.3	70.5	64.0
1999	21.0	24.7	19.2	68.9	81.0	63.0
1998	20.1	23.2	18.2	65.9	76.1	59.7
1997	19.5	20.0	19.1	64.0	65.6	62.7
1996	23.4	26.9	21.1	76.8	88.3	69.2
1995	21.5	22.9	17.7	70.5	75.1	58.1
1994	22.6	21.8	23.7	74.1	71.5	77.8
1993	21.5	25.8	19.9	70.5	84.6	65.3
1992	23.9	22.1	25.2	78.4	72.5	82.7
1991	22.4	21.6	22.2	73.5	70.9	72.8
1990	23.6	25.8	23.0	77.4	84.6	75.5
1989	23.6	26.7	23.0	77.4	87.6	75.5
1988	24.7	23.6	28.0	81.0	77.4	91.9
1987	24.6	23.2	26.1	80.7	76.1	85.6
1986	24.1	26.9	22.6	79.1	88.3	74.1
1985	24.2	27.3	22.1	79.4	89.6	72.5
1984	22.8	22.0	22.7	74.8	72.2	74.5
1983	22.4	29.0	17.4	73.5	95.1	57.1
1982	24.3	27.6	19.7	79.7	90.6	64.6
1981	27.4	24.9	29.8	89.9	81.7	97.8

1980	24.8	27.7	22.8	81.4	90.9	74.8
1979	26.7	29.0	24.9	87.6	95.1	81.7
1978	25.9	26.7	25.0	85.0	87.6	82.0
1977	27.8	27.8	28.3	91.2	91.2	92.8
1976	27.4	27.6	25.8	89.9	90.6	84.6
1975	26.1	28.8	23.7	85.6	94.5	77.8
1974	27.2	29.7	25.3	89.2	97.4	83.0
1973	26.1	29.5	22.9	85.6	96.8	75.1
1972	27.4	26.1	27.8	89.9	85.6	91.2
1971	28.7	33.5	26.3	94.2	109.9	86.3
1970	30.2	30.3	28.5	99.1	99.4	93.5
1969	28.6	36.3	22.8	93.8	119.1	74.8
1968	31.2	33.4	28.7	102.4	109.6	94.2

"Bijou Park Creek Open Space Preserve" — Ski Run Park Concept — An Active Lifestyle, Interpretive Dog Park, & Cultural Hub.





County of El Dorado Clerk of the Board <edc.cob@edcgov.us>

Affordable Housing

Keith Murray <kmurr@cal.net>
To: edc.cob@edcgov.us

Tue, May 10, 2022 at 1:37 PM

TO: Clerk of the Board

RE: Affordable Housing

Apparently, I didn't read the Article in the Mt. Democrat correctly regarding time of today's meeting. I went into the Supervisor's Bldg. to discover you were doing a zoom meeting. I think that not enough people will be able to take part in your zoom meetings. This will enable the Board to do almost anything.

We certainly do not want to look like Folsom!!!! We can see what all this housing has done to Folsom!!!

I hope I will be able to take part in another meeting.

Sincerely,


Barbara Murray

957 Woodridge RD.

Placerville, CA 95667

S. Ferry BOS 5/10/2022

#45

From: **Stephen Ferry** stephen.ferry@icloud.com 
Subject: Housing
Date: May 10, 2022 at 12:58 PM
To: Beth Ferry beth.ferry@me.com

SF

Northern Virginia Housing Project Gets A \$55 Million Boost From Amazon

By
[Austin Hamblen](#)

May 5, 2022

[Q](#)



Amazon's Housing Equity Fund has committed \$55 million to the Dominion Square affordable housing project in Fairfax County, Virginia.

The plan calls for two high-rise apartment towers that will bring over 500 new affordable housing units within walking distance of a Silver Line Metro stop in Tysons. "In addition to that, this project will also include a 30,000-square-foot community center co-located on the property," said [Board of Supervisors Chair Jeff McKay](#).