



August 2, 2018

MEMO TO: Stanislaus County Planning Commission

FROM: Department of Planning and Community Development

**SUBJECT: TIME EXTENSION VESTING TENTATIVE SUBDIVISION MAP NO. 2006-06 –
KNIGHTS FERRY OVERLOOK**

PROJECT DESCRIPTION

This is a request for a one year time extension for Vesting Tentative Subdivision Map (VTSM) No. 2006-06 - Knights Ferry Overlook. The VTSM application was approved to subdivide a 33.70± acre parcel (31.58± net acres when Oakdale Irrigation District lateral is excluded) into 8 lots ranging from 0.50 acres to 5 acres in size and to create a 12.03 acre remainder parcel. The project site is located at the southeast corner of Cemetery and Frymire Roads, in the Knights Ferry area. The project was approved by the Board of Supervisors on May 22, 2012, as reflected in the attached Board of Supervisor's Report (See Attachments 3 - *Board of Supervisors Agenda Report, dated May 22, 2012*).

DISCUSSION

On May 21, 2018, the applicant submitted a request for a one year time extension to record the approved vesting tentative subdivision map (VTSM). The applicant's stated reason for requesting a one year time extension is to fulfill conditions of approval for the approved map (See Attachment 1 - *Applicant's May 21, 2018, Time Extension Request including Exhibits*). The proposed time extension was referred out to all interested parties and responsible agencies. To date, no responses expressing opposition to the extension have been received.

In accordance with Section 20.40.010 – Filing Time Limit, of the Stanislaus County Subdivision Ordinance, final maps for a VTSM shall be filed for recording within twenty-four months after conditional approval or in conjunction with any extension provided by state law; however, upon written application by the subdivider, filed prior to the expiration time limit, the Commission may extend the time limit for filing the final map for a period not to exceed an additional twelve months from the date of approval. Currently, the VTSM utilized allowable statutory extensions for a total of six years, keeping the map alive until May 22, 2018.

ENVIRONMENTAL REVIEW

Under California law, a request for time extension of a project that previously was subject to California Environmental Quality Act (CEQA) review may be exempt from CEQA or may be evaluated under the standard triggering subsequent or supplemental CEQA review (under Public Resources Code Section 21166 and CEQA Guidelines Section 15162). A Mitigated

Negative Declaration was adopted for this project on May 22, 2012. In order to trigger additional review when the project was previously approved with a Mitigated Negative Declaration, a significant environmental effect must be identified. No significant environmental effects have been identified.

RECOMMENDATION

1. Find there is no evidence of any significant changes involving this project since the time it was originally approved, which could trigger a significant environmental effect.
2. Grant a one year time extension allowing for the final map to be recorded no later than May 22, 2019, with all other approved Conditions of Approval remaining in effect.

Contact Person: Jeremy Ballard, Associate Planner, (209) 525-6330

Attachments:

Attachment 1 - Applicant's May 21, 2018, Time Extension Request including Exhibits
Attachment 2 - Maps
Attachment 3 - Board of Supervisors Agenda Report, May 22, 2012
Attachment 4 - Notice of Exemption
Attachment 5 - Environmental Referral Responses

Nicholas Honchariw, Trustee
3 Via Paraiso West
Tiburon CA 94920
nhpart@gmail.com

Ms Kristin Doud
Department of Planning & Community Development
1010 10th Street, Suite 3400
Modesto CA 95354

May 17, 2018

Dear Ms Doud:

On your advice that that our Vesting Tentative Map No. 2006-06 -- Knights Ferry Overlook expires on May 22 2018, we request a 1-year extension. This would be our first and only expected extension. Per your April 11 email, enclosed is our check for \$530 on behalf of the Honchariw Family Trust.

This will allow us to finalize plans for the fire suppression system newly-required by the County as part of our initial improvements to extend the Knights Ferry Community Services District ("KFCSD") water system to serve our four new 1-acre lots within the District. Our improvement plans have otherwise long-since been revised to comply with the County Plan Review Letter. We believe we have satisfied other requirements of our Conditions of Approval, and the County Surveyor has cleared our proposed final map, which has now been printed in mylar for execution and recordation.

We are making this request in the context of repeated delays in obtaining the necessary will serve and development letters for water service from KFCSD and approval of the plans for the water line extension required by our Conditions of Approval. Following the lengthy delays, the County's late and unexpected requirement of a full fire suppression system to be built into the initial required improvements has caused severe time and financial pressures. The Department had represented in its Action Agenda Summary at the 2012 approval hearing that fire flow requirements would be determined at the time that lot buyers applied for building permits and undertook construction in accordance with the California Fire Code. We believe that we are entitled to a period of well over a year but a year will be adequate.

We are providing a brief Memorandum outlining our efforts and the delays.



Nicholas Honchariw, Trustee

Memorandum

After a unanimous California Court of Appeal decision in 2011 overturned the County's 2009 disapproval of Knights Ferry Overlook, the Board approved our Map on May 22 2012.

We at once started to take steps to finalize the map. We had already applied for water service from KFCSD on May 7 2012, received an application form from KFCSD by letter dated June 7 2012, and submitted our signed "Will Serve Letter Request Form" on June 26 2012. Because KFCSD had issued a "will not serve" letter to us in 2007, the County inquired and KFCSD confirmed its ability and willingness to serve the project. Nevertheless KFCSD did not issue its "will serve" letter until 5 months later in November 2012.

Our engineers, Giuliani & Kull ("G&K"), toured the system, discussed parameters of the extension under the 1972 KFCSD Ordinance, and began to prepare improvement plans. Our improvement plans were substantially complete by April 2013 and sent out for budgetary bids. However we soon suspended our efforts because of the continuing market weakness from the financial crash. It was unclear whether the project remained viable. As the California Legislature extended the life of approved maps several times in recognition of the market problems, we let our "will serve" letter lapse.

In early 2015, with signs of a market recovery, we determined to re-start and have been trying ever since to finalize the map but have faced repeated water-connected delays. When we approached KFCSD for re-issuance of a "will serve" letter, KFCSD alerted us that its supplier, Oakdale Irrigation District ("OID"), had announced a cut-off of water to Knights Ferry, precluding re-issuance at the time. When, after some months of uncertainty, OID ultimately backed away from its threats, we submitted a formal request for re-issuance on June 25 2015. Unfortunately, despite repeated requests, another "will serve" letter was not issued until January 26, 2016, over 7 months later. It was now a year after we approached KFCSD in early 2015. It was substantially in the form of the 2012 letter. We accepted with our check in the amount of \$650, which was cashed by KFCSD (copy attached).

G&K promptly submitted plans to KFCSD on February 4 2016 substantially similar to the 2013 plans. Unfortunately KFCSD soon demanded a series of over-reaching additions and modifications. In recognition of our statutory vested rights under our vesting tentative map, our 2012 Conditions of Approval expressly entitled us to design and build our required water line extension in accordance with KFCSD standards as of the time of our approval (Condition #26 attached), which consisted only of its 1972 Ordinance, as once amended. KFCSD made repeated requests for additions and modifications far beyond any such standards, seeking to burden us with improvement of the antiquated KFCSD system in addition to extension of the water main line to serve our four new 1-acre lots within the KFCSD district.

For example, KFCSD demanded that we replace approximately 500' of its existing substandard 2" or 4" line upstream of our connection point, a demand with no basis in any KFCSD standards. We objected, as in our letter dated March 26 2016 (copy attached). After

much back-and-forth, we settled on plans in a meeting with KFCSD and its outside consultant on April 6 2016. KFCSD dropped its demands for enlarging the existing line and we agreed to increase the size of our water line extension to 6", drop meter connections to the new lots from 2" to 1", limit the booster pump in our pump station to 50 gpm (so as to avoid draining the system), and replace hydrants with risers for the future installation of hydrants. Our Conditions of Approval required the installation of hydrants to serve future structures (Condition #40 attached), but they were not required as part of system improvements which had to be constructed at the outset (Conditions #24 – 26 attached).

Revised plans dated April 14 2016 were promptly circulated by G&K to KFCSD on April 15 2016. When KFCSD requested a few additional changes, they, too, were incorporated and revised drawings were submitted to the Department of Public Works ("DPW") in late April 2016.

Unfortunately, although Govt Code Sec. 66456.2 generally requires action within 60 working days, DPW did not prepare a Plan Review Letter until November 22 2016, or 7 months later (copy attached), despite repeated requests. It had now been almost 2 years since we approached KFCSD in early 2015 for re-issuance of a "will serve" letter.

(It now appears that the DPW delay may have been partially attributable to the continuing attempts by KFCSD to disavow and replace our January 26 2016 letter agreement with a new agreement so as to include new additions and changes to the terms of service and the improvement plans we had submitted to the County. KFCSD presented us with drafts dated June 15 2016 and later December 14 2016 (copies attached). The June 15 draft was furnished to DPW, apparently leading DPW to conclude that there was still no agreement with KFCSD. We continued to insist that we already had an agreement. Finally, upon the belated involvement of its outside counsel, Bart Barringer, in late 2016, KFCSD acknowledged in a "development agreement", as called for by the January 26 2016 letter, that that the January 26 2016 letter was in force and effect and formally accepted the proposed plans as submitted to the County in Spring 2016, subject to County review and County requirements (copy attached).)

The DPW Plan Review Letter contained only a small number of requests, and they generally appeared to be manageable. We promptly undertook to make the necessary changes in the plans and provide the requested calculations. But in early 2017 the County took the position -- not taken by anyone before --- that the initial improvements had to include a fire suppression system with full fire flows through hydrants. This was made clear in a meeting with DPW in early March 2017.

KFCSD had not taken that position ---- just the opposite, it requested that hydrants be replaced by risers at initial construction and that our booster pumps be limited to 50 gpm. The Consolidated Fire District had not taken that position --- at the request of KFCSD, it had confirmed that hydrants could be installed later on the basis of alternative measures provided in the Fire Code. The Plan Review Letter itself did not call for that --- while it did call for the installation of hydrants, it did not require full fire flows. It simply required calculations showing

that the improvements were “sized” to allow full fire flows, which is all that is required by Sec. 6.4 of the County Standards. G&K provided the calculations.

Everyone understood at the time of the 2012 approval that the KFCSD system was antiquated and incapable of fire flows. Its pumps were rated at 150 gpm, far below fire suppression standards of 500 or 1000 gpm, and fed old and substandard lines. No one understood at the time that the project itself had to supply full fire suppression measures --- this was simply not called for --- but only prepare for possible future upgrade, e.g., installing hydrants to serve future new structures. KFCSD already had a number of hydrants, and these would add several more.

In recognition of the deficiencies of the KFCSD system, the Action Agenda Summary submitted to the Board of Supervisors for the 2012 approval hearing by Angela Freitas, Interim Planning & Community Development Director, expressly provided that fire suppression measures would be determined at the time of issuance of building permits and construction by lot buyers (page 8):

“The project in its present form, will be obtaining water for domestic use and fire protection from the KFCSD. Any fire flow requirements will be handled through the building permit process and at the time of construction, as required under the California Fire Code.”

We argued with the County that the demands for a full fire suppression system thus violated our vested rights under our vesting tentative map. We failed, and the matter is now in litigation. We are forced to comply in order to go forward with the project while reserving our rights.

G&K submitted plans for a fire suppression system in Fall 2017 with the level of detail of the previous pumping station plans. That should have been fully acceptable, but they were returned with a request for more detailed specifications and manuals. Since further specifications were beyond G&K’s expertise, they approached local specialized firms for assistance. Unfortunately, apparently because of the unusual nature of the requirements, G&K faced months-long delays.

When, finally in March 2018, one firm did respond, the cost estimate rendered the project infeasible. The costs of the fire suppression system integrated with the pumping station were estimated at over \$257,000, subject to a number of exclusions, and this was on top of the costs earlier estimated at over \$300,000 for the basic water line extension and road widening --- all to serve four 1-acre lots within the KFCSD system. The most recent lot sale in Knights Ferry --- sale of a 2-acre parcel with available KFCSD water hook-up in summer 2016 --- was at \$100,000.

We at once retained an expert state-wide consultancy to re-design and price a system to try to salvage the project. Work is underway. This brings us to the present need for an extension.

We believe that we are entitled as a matter of law to additional time of at least a year to try to finalize the project. Separate and apart from failure of DPW to comply with the 60-day requirement for action under Govt Code Sec 66456.2, Sec. 66452.6(b), (f) provides that the time

during which a reviewing agency --- including KFCSD --- creates a “development moratorium” by failing to take timely action extends the life of a vesting tentative map. We believe that we have suffered delays of well over a year despite our diligent efforts. Since we are set in other respects, it is the fire suppression system which is causing the delay, and we expect a year extension to be more than sufficient.

KNIGHTS FERRY COMMUNITY SERVICES DISTRICT

Received At 5/17/16

January 24, 2016

Nicholas Honchariw
3 Via Paraiso West
Tiburon, CA 94920

Re: Will Serve Letter for the proposed Application #2006-06 for Knights Ferry Overlook Subdivision

Dear Mr. Honchariw,

The purpose of this correspondence is to notify Nicholas Honchariw, hereafter referred to as "Developer", of the Knights Ferry Community Services District's, hereafter referred to as the "KFCSD", conditional intent to issue a "Will Serve Letter" and accept the proposed 4-parcel residential domestic water system for the Knights Ferry Overlook subdivision, hereafter referred to as "subject water system".

The conditions of the "Will Serve Letter" are as follows:

- 1) Developer must submit a tentative map for review and approval by the KFCSD, State of California and Stanislaus County.
- 2) Developer must submit a hydraulic analysis performed by a registered engineer to the KFCSD, State of California and Stanislaus County on the subject water system for review and approval. The hydraulic analysis shall accompany the tentative map and include such items as, but not limited to, proposed water line pipe sizes, flow and pressure calculations and topography survey.
- 3) Developer must submit improvement plans for review and approval by the KFCSD prior to construction of subject water system
- 4) Developer must obtain a KFCSD Developer Agreement and all necessary construction permits, bonds, easements and rights-of-way, etc. required for the construction and future maintenance of the subject water system.
- 5) Developer shall construct and install, at developers expense, the subject water system in accordance with the KFCSD's guidelines and Stanislaus County standards. Developer will be responsible for all fees and costs associated with the construction and installation of the subject water system.
- 6) Developer shall construct, complete and dedicate the subject water system in accordance with the KFCSD, State of California Department of Health Services and Stanislaus County conditions, requirements and specifications.

- 7) KFCSD shall supply domestic water for four (4) 1"-inch metered domestic water services for the subject water system. The Developer shall pay KFCSD, upon dedication of the completed water system, a non-refundable buy-in fee of \$ 5,000.00 per lot, for a total buy in fee of \$20,000.00.
- 8) Existing well(s) located within the boundaries of the proposed water system shall be abandoned and destroyed. Well(s) destruction shall be performed in accordance with Stanislaus County Department of Environmental Resources standards. The actual destruction process shall be inspected by Stanislaus County and the KFCSD.
- 9) A Resolution of Acceptance is required by the Board of Directors for ownership, maintenance and operation of the subject water system to become part of KFCSD's Rural Water System.
- 10) This "Will Serve Letter" will be valid for two (2) years from the date of issuance. The Developer may petition the District's Board of Directors for an extension 30 days prior to the expiration date if the subject water system will not be completed as agreed in these conditions. Failure to complete the installation of the proposed improvement will result in OID rescinding this letter of intent.
- 11) Developer shall pay a non-refundable \$650.00 (Six Hundred and Fifty Dollar) processing fee made payable to the KFCSD prior to issuance of a "Will Serve Letter", or any construction or installation of the subject water system

Please contact the Knights Ferry Community District office at (209) 881-3300 if you have any questions.

Sincerely,

Board of Directors
Knights Ferry Community Services District

The signatures below indicate agreement of issuance and acceptance of conditions of subject "Will Serve Letter".



Nicholas Honchariv
Developer

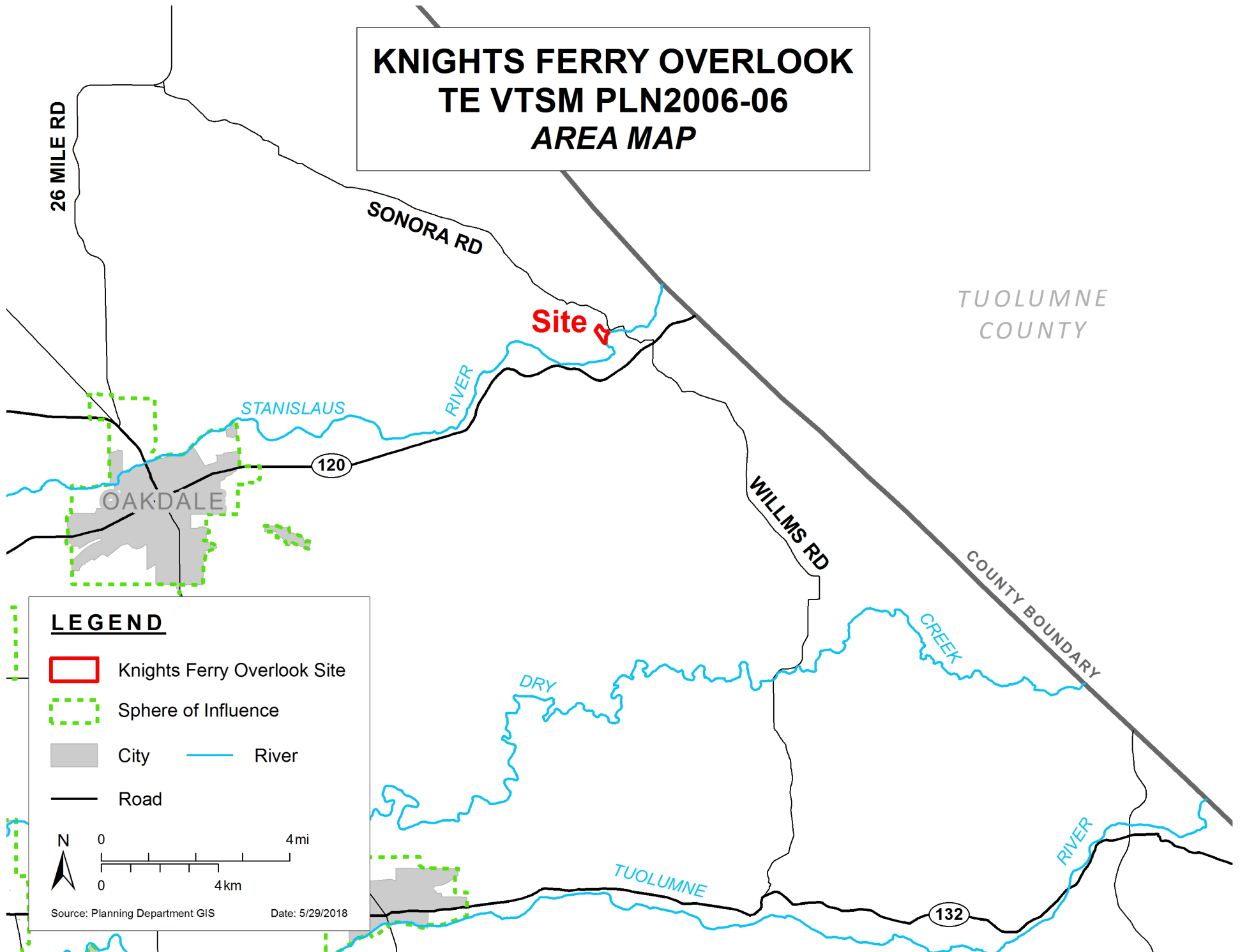
2/10/12

Date

Eric Ulrich
President, KFCSD






Date

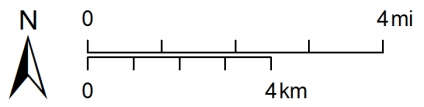
KNIGHTS FERRY OVERLOOK TE VTSM PLN2006-06 AREA MAP



TUOLUMNE
COUNTY

LEGEND

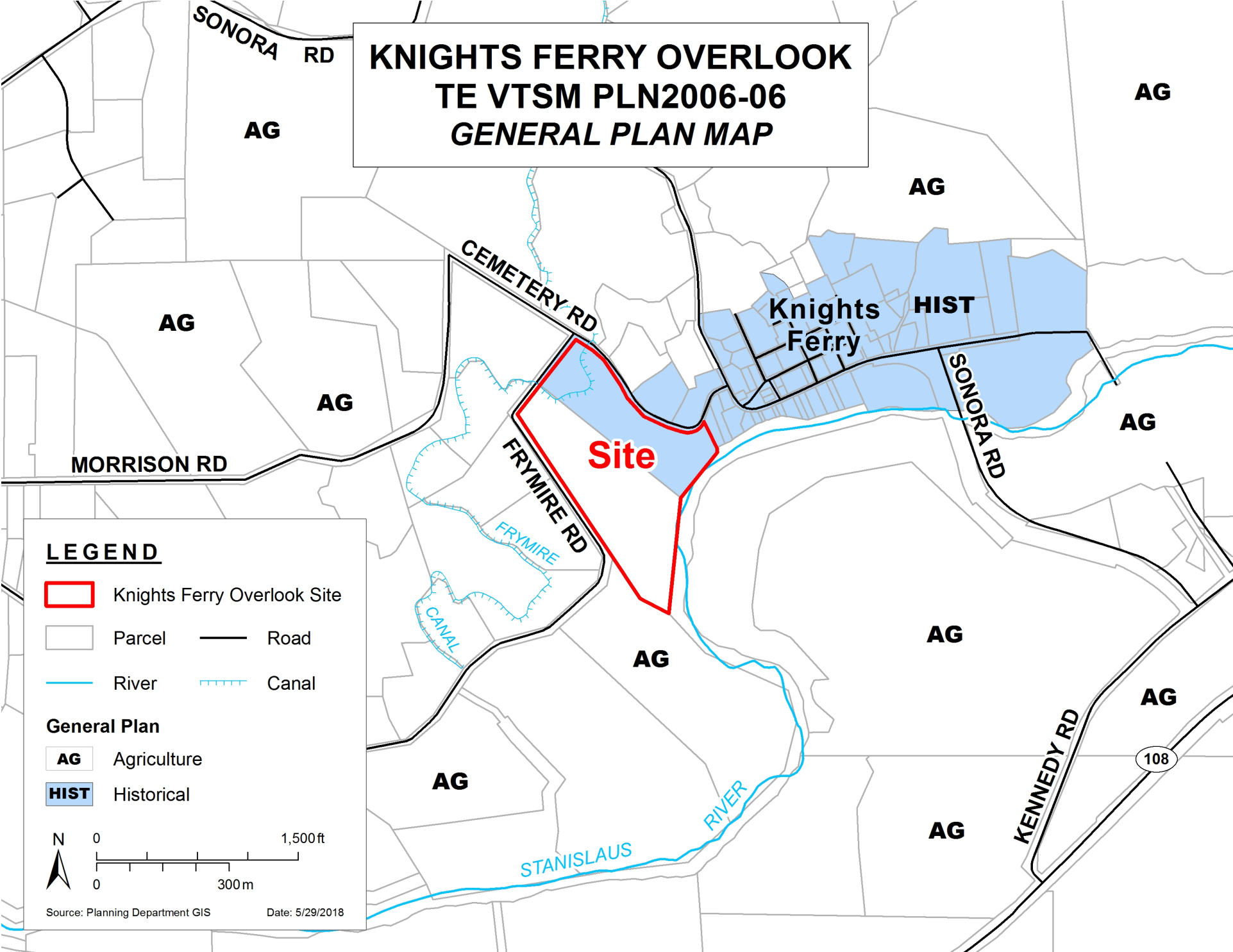
-  Knights Ferry Overlook Site
-  Sphere of Influence
-  City
-  River
-  Road



Source: Planning Department GIS Date: 5/29/2018

ATTACHMENT 2

KNIGHTS FERRY OVERLOOK TE VTSM PLN2006-06 GENERAL PLAN MAP

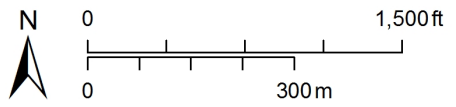


LEGEND

- Knights Ferry Overlook Site
- Parcel
- Road
- River
- Canal

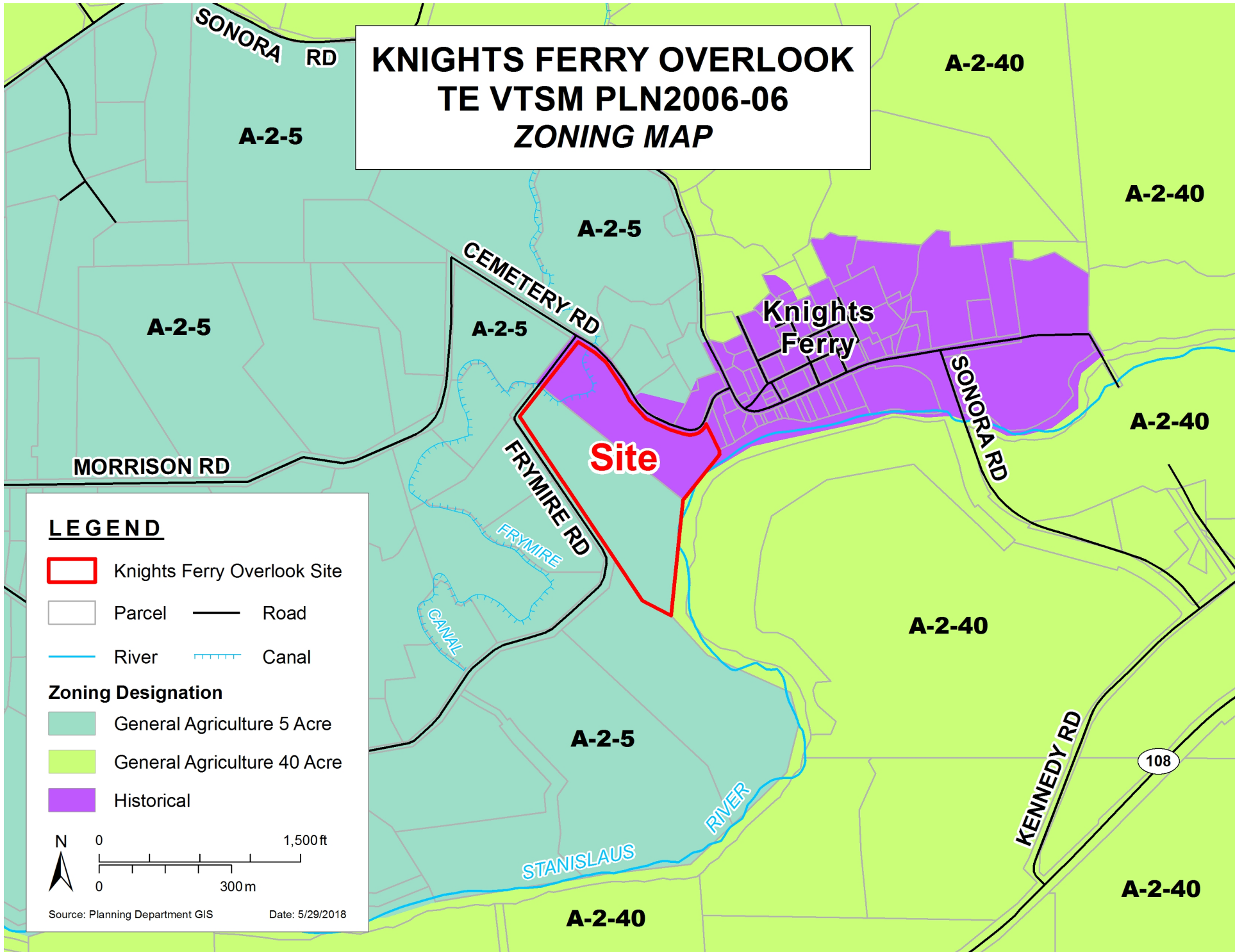
General Plan

- AG Agriculture
- HIST Historical



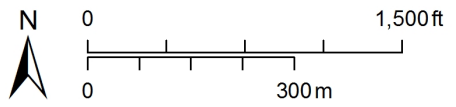
Source: Planning Department GIS Date: 5/29/2018

KNIGHTS FERRY OVERLOOK TE VTSM PLN2006-06 ZONING MAP



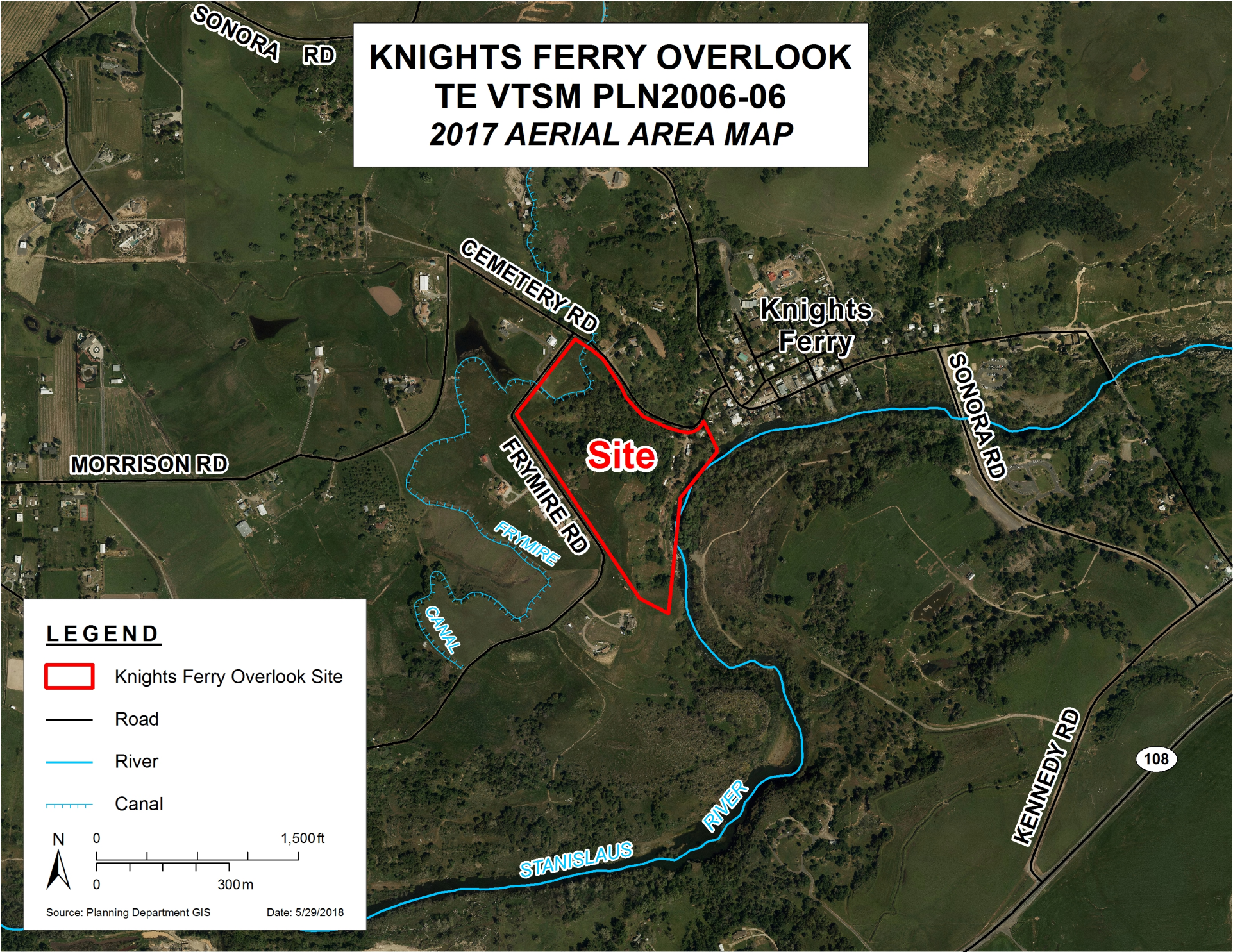
LEGEND

- Knights Ferry Overlook Site
 - Parcel
 - Road
 - River
 - Canal
- Zoning Designation**
- General Agriculture 5 Acre
 - General Agriculture 40 Acre
 - Historical



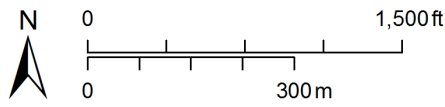
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KNIGHTS FERRY OVERLOOK TE VTSM PLN2006-06 2017 AERIAL AREA MAP



LEGEND

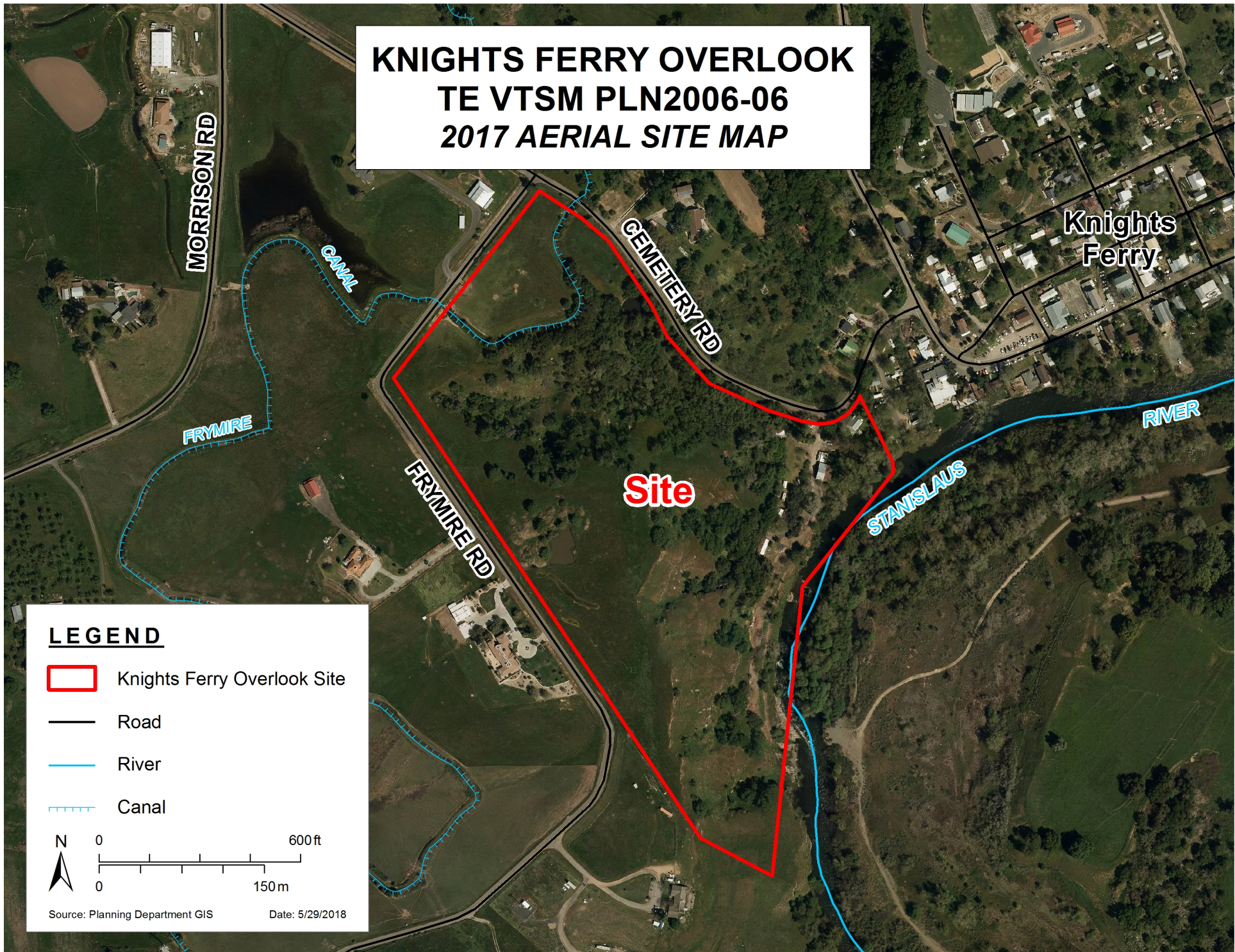
-  Knights Ferry Overlook Site
-  Road
-  River
-  Canal



Source: Planning Department GIS Date: 5/29/2018

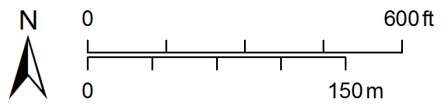
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**KNIGHTS FERRY OVERLOOK
TE VTSM PLN2006-06
2017 AERIAL SITE MAP**

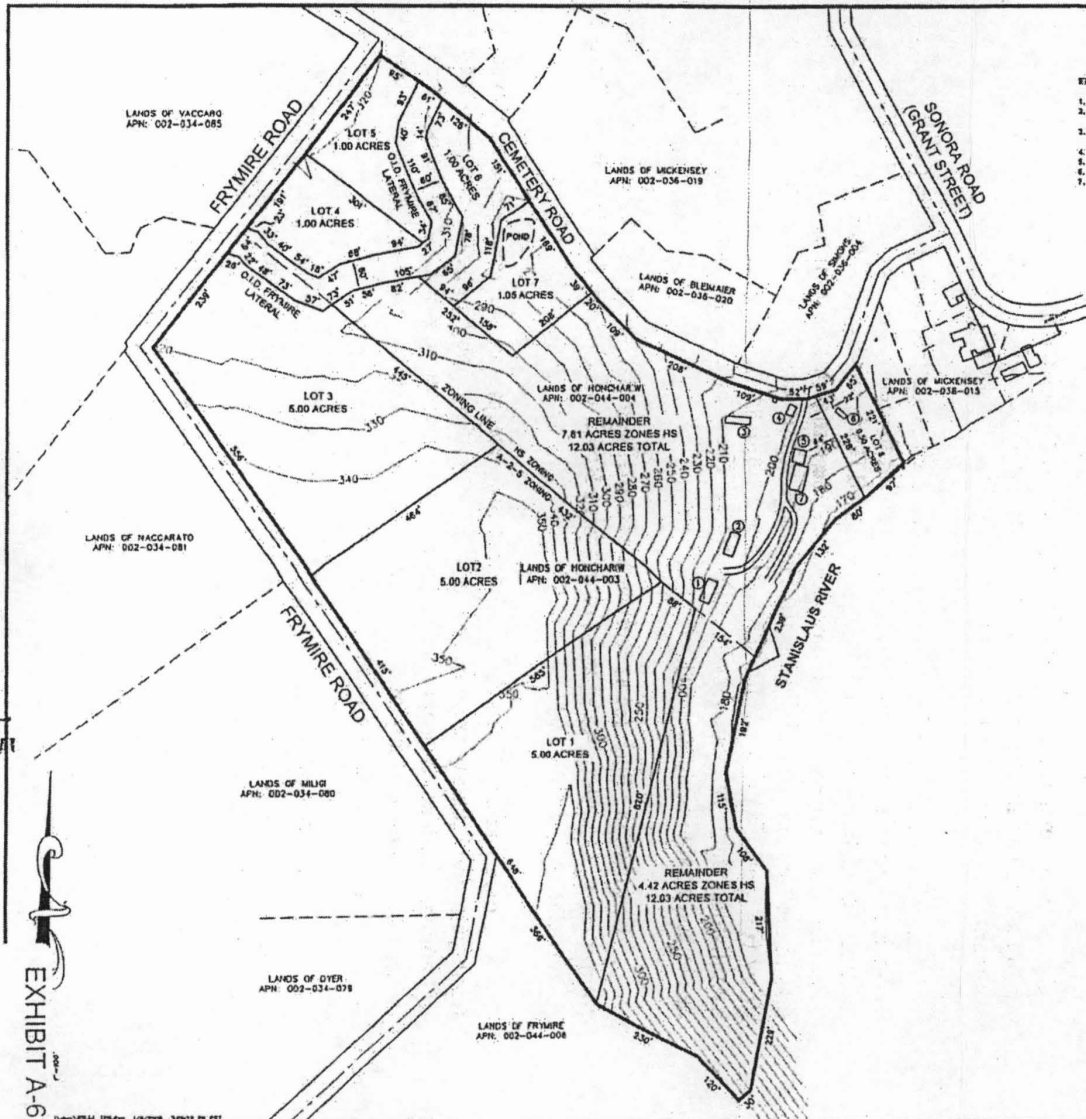


LEGEND

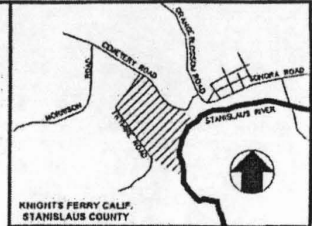
-  Knights Ferry Overlook Site
-  Road
-  River
-  Canal



Source: Planning Department GIS Date: 5/29/2018



- EXISTING IMPROVEMENTS ①**
1. OCCUPIED CARPENTER'S RESIDENCE W/ POWER & PLUMBING
 2. BUILDING USED FOR STORAGE BUILT AS RESORT
UNITS ALL INCLUDE POWER & PLUMBING
 3. BUILDING USED FOR STORAGE BUILT AS RESORT
UNITS ALL INCLUDE POWER & PLUMBING
 4. BUILDING USED FOR STORAGE W/ POWER & PLUMBING
 5. BARN USED FOR STORAGE HAS MULTIPLE POWER
 6. OCCUPIED RESIDENCE REMODELED BY 2003
 7. BUILDING USED FOR STORAGE W/ POWER & PLUMBING



VICINITY MAP

OWNER/APPLICANT: HONCHARIW REVOCABLE TRUST
3 VIA PARADISE WEST
TUBURON, CA 94970
(415) 435-8302

PREPARED BY: GIULIANI & KULL, INC.
440 S. YOSEMITE AVENUE SU11
OAKDALE, CA 95361
(209) 847-8728

TOTAL AREA: 2.85 AC±
NO. OF PARCELS: 8 + REMAINDER
A.P.N.: 002-044-001, 002-044-004
ZONING: A-2-S & HS
WATER: KNIGHTS FERRY AND INDIVIDUAL WELLS
SANITARY SEWER: SEPTIC SYSTEM
STORM DRAIN: ON-SITE DISPOSAL
SLOPE OF LAND: VARIES 15-50%

**VESTING TENTATIVE
SUBDIVISION MAP**

PORTION OF PARCEL 1 AND 2 AS DESCRIBED IN DEED FROM GEORGE D. CHENEY TO IWAN S. HONCHARIW, RECORDED ON PAGE 160, VOLUME 2587, OFFICIAL RECORDS OF STANISLAUS COUNTY ON OCTOBER 24, 1973, LYING 30 FEET MEASURED AT RIGHT ANGLES TO THE EXISTING RIGHT BANK OF THE STANISLAUS RIVER, PARCEL 1 AND 2 STANISLAUS COUNTY, CALIFORNIA SCALE 1" = 100' APRIL 2001

GK Giuliani & Kull, Inc.
CONSULTING ENGINEERS & ARCHITECTS
440 S. YOSEMITE AVENUE, SUITE A, OAKDALE, CA 95361
(209) 847-8728 Fax (209) 847-7323
Auburn • Oakdale • San Jose

EXHIBIT A-6

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: Planning and Community Development Af

BOARD AGENDA # 9:10 a.m.

Urgent Routine

AGENDA DATE May 22, 2012

CEO Concurs with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Public Hearing to Reconsider an Appeal of the Planning Commission's February 5, 2009, Decision to Deny Vesting Tentative Subdivision Map Application No. 2006-06, Knights Ferry Overlook to Divide a 33.70 Acre Parcel to Create 8 Parcels Ranging in Size from 0.50 to 5.00 Acres with a 12.03-acre "Remainder" Located at the Southeast Corner of Cemetery and Frymire Roads, in the Knights Ferry Area - **Continued from the May 15, 2012 Board of Supervisors Meeting**

STAFF RECOMMENDATIONS:

After conducting a public hearing at its regular meeting of February 5, 2009, the Stanislaus County Planning Commission, on a 6-2 (Layman, DeLaMare) vote, denied the approval of this proposed project.

If the Board decides to uphold the Planning Commission decision to deny the application, the Board must complete a two part analysis required by Government Code §65589.5 (j).

(Continued on page 2)

FISCAL IMPACT:

The fiscal impacts associated with the Board's reconsideration of this project is related to the staff time spent reviewing, evaluating and preparing the Board report. Due to the legal action, requiring the Board to reconsider this project, time spent by the Planning and Community Development staff was not accounted for with fees collected as part of the original application process. As such, any fiscal impacts incurred are absorbed by the Department's existing operating budget.

BOARD ACTION AS FOLLOWS:

No. 2012-261

On motion of Supervisor Chiesa, Seconded by Supervisor Withrow

and approved by the following vote,

Ayes: Supervisors: Chiesa, Withrow, Monteith, and De Martini

Noes: Supervisors: Chairman O'Brien

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

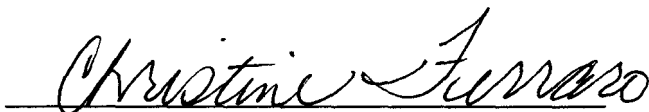
1) Approved as recommended

2) Denied

3) Approved as amended

4) Other:

MOTION: **SEE AMENDED MOTION ATTACHED ON PAGES 1-a AND 1-b**



ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

ATTACHMENT 3
File No.

Public Hearing to Reconsider an Appeal of the Planning Commission's February 5, 2009, Decision to Deny Vesting Tentative Subdivision Map Application No. 2006-06, Knights Ferry Overlook to Divide A 33.70 Acre Parcel To Create 8 Parcels Ranging in Size From 0.50 to 5.00 Acres with a 12.03-Acre "Remainder" Located at the Southeast Corner of Cemetery and Frymire Roads, in the Knights Ferry Area

Page 1-a **MOTION CONTINUED FROM PAGE 1**

Approved the appeal and adopted the Mitigated Negative Declaration pursuant to CEQA Guidelines Section 15074(b), by finding that on the basis of the whole record, including the Initial Study and any comments received, that there is no substantial evidence the project will have a significant effect on the environment and that the Mitigated Negative Declaration reflects Stanislaus County's independent judgement and analysis; finds that: (a) the substitute language (Mitigation Measures No. 1-10) is equivalent or more effective in mitigating or avoiding potential significant effects and that it in itself will not cause any potentially significant effect on the environment; adopted the Mitigation Monitoring Plan, with the substitute language for Mitigation Measures No. 1-10, pursuant to CEQA Guidelines Section 15074(d); ordered the filing of a Notice of Determination with the Stanislaus County Clerk-Recorder's Office pursuant to Public Resources Code Section 21152 and CEQA Guidelines Section 15075; finds that: (a) The proposed map is consistent with applicable general and specific plans as specified in Section 65451, (b) The design or improvement of the proposed subdivision is consistent with applicable general and specific plans, (c) The site is physically suitable for the type of development, (d) The site is physically suitable for the proposed density of development. (e) The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat, (f) The design of the subdivision or type of improvements are not likely to cause serious public health problems, (g) The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements for access or for use will be provided, and that these will be substantially equivalent to ones previously acquired by the public, (h) The project will increase activities in and around the project area, and increase demands for roads and services, thereby requiring dedication and improvements, (i) The fulfillment of construction requirements for improvements, on the designated "Remainder" parcel, is necessary for reasons of: 1. The public health and safety; or 2. The required construction is a necessary prerequisite to the orderly development of the surrounding area; the Board **amended** the "Revised" Conditions of Approval/Mitigation Measures to add Condition No. 41 as follows: "Applicant's proposed tentative map does not identify public access to the Stanislaus River as required by Government Code sections 66478.1 through 66478.14. Pursuant to sections 66478.4 and 66478.5, Applicant shall provide, or have available, reasonable public access by fee or easement from a public highway to that portion of the bank of the river, and a public easement along the riverbank, bordering or lying within the proposed subdivision. Pursuant to section 66478.4, reasonable public access shall be determined by the County. Pursuant to section 66478.5, the County shall determine the width and character of the public easement to achieve reasonable public use of the river consistent with public safety. The approved access shall be shown on the Final Map in compliance with Map Act section 66478.6. For purposes of this project, County considers "reasonable access" under section 66478.4, to mean an access of not less than 10 feet in width to the bank of the river and "public easement" under section 66478.5, to mean a public easement of 10 feet in width above the high-water mark, with both access and easement suitable for pedestrian, bicycle, equestrian or other

Public Hearing to Reconsider an Appeal of the Planning Commission's February 5, 2009, Decision to Deny Vesting Tentative Subdivision Map Application No. 2006-06, Knights Ferry Overlook to Divide A 33.70 Acre Parcel To Create 8 Parcels Ranging in Size From 0.50 to 5.00 Acres with a 12.03-Acre "Remainder" Located at the Southeast Corner of Cemetery and Frymire Roads, in the Knights Ferry Area

Page 1-b **MOTION CONTINUED FROM PAGE 1-a**

non-motorized transport of persons, and for access to the river for small boats. The approved river access shall connect between Cemetery Road and the portion of the riverbank lying within the proposed subdivision; and the public easement shall lie along the entire portion of the riverbank bordering or lying within the proposed subdivision.”, and to add Condition No. 42 as follows: “Prior to the recording of the final map, the Applicant shall construct road improvements along the project frontage to Frymire Road and Cemetery Road to Stanislaus County Public Works Standards and Specifications, 1998 Edition, including Plate 3-A6, “Rural Collector”. The roadway improvements shall include asphalt road widening of Frymire Road and Cemetery Road so that the travel lane portion of Frymire and Cemetery Roads are twelve feet in width, with a one foot asphalt shoulder, and a three foot gravel shoulder. The road improvements shall taper to the existing width of the bridge crossing the Oakdale Irrigation District Frymire Lateral on Cemetery Road on both approaches. Prior to Construction, Applicant shall submit road improvement plans to, and for approval by, Stanislaus County Department of Public Works. Applicant shall obtain an Encroachment Permit prior to any work being done in the County’s road right-of-way.”; the Board approved Vesting Tentative Subdivision Map Application No. 2006-06 - Knights Ferry Overlook, subject to the “Revised” Conditions of Approval/Mitigation Measures as amended

Public Hearing to Reconsider an Appeal of the Planning Commission's February 5, 2009, Decision to Deny Vesting Tentative Subdivision Map Application No. 2006-06, Knights Ferry Overlook to Divide a 33.70 Acre Parcel to Create 8 Parcels Ranging in Size from 0.50 to 5.00 Acres with a 12.03-acre "Remainder" Located at the Southeast Corner of Cemetery and Frymire Roads, in the Knights Ferry Area **(Continued from the May 15, 2012 Board Meeting)**

Page 2

STAFF RECOMMENDATIONS: (Continued)

1. To deny the application the Board must first determine whether the project complies with applicable, objective general plan and zoning standards and criteria in effect at the time of the application. If the Board determines the project does not comply the Board may deny the application, however, it must identify the standards or criteria with which the project failed to comply.
2. If the project does comply with applicable, objective general plan and zoning standards and criteria, to deny the application the Board must make additional written findings supported by substantial evidence on the record that both of the following conditions exist:
 - (a) The project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density; and
 - (b) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified, other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

If the Board decides to approve the project, the Board should take the following actions:

1. Adopt the Mitigated Negative Declaration pursuant to CEQA Guidelines Section 15074(b), by finding that on the basis of the whole record, including the Initial Study and any comments received, that there is no substantial evidence the project will have a significant effect on the environment and that the Mitigated Negative Declaration reflects Stanislaus County's independent judgement and analysis.
2. Find that:
 - (a) The substitute language (Mitigation Measures No. 1-10) is equivalent or more effective in mitigating or avoiding potential significant effects and that it in itself will not cause any potentially significant effect on the environment
3. Adopt the Mitigation Monitoring Plan, with the substitute language for Mitigation Measures No. 1-10, pursuant to CEQA Guidelines Section 15074(d).

Public Hearing to Reconsider an Appeal of the Planning Commission's February 5, 2009, Decision to Deny Vesting Tentative Subdivision Map Application No. 2006-06, Knights Ferry Overlook to Divide a 33.70 Acre Parcel to Create 8 Parcels Ranging in Size from 0.50 to 5.00 Acres with a 12.03-acre "Remainder" Located at the Southeast Corner of Cemetery and Frymire Roads, in the Knights Ferry Area **(Continued from the May 15, 2012 Board Meeting)**

Page 3

4. Order the filing of a Notice of Determination with the Stanislaus County Clerk-Recorder's Office pursuant to Public Resources Code Section 21152 and CEQA Guidelines Section 15075.
5. Find that:
 - (a) The proposed map is consistent with applicable general and specific plans as specified in Section 65451.
 - (b) The design or improvement of the proposed subdivision is consistent with applicable general and specific plans.
 - (c) The site is physically suitable for the type of development.
 - (d) The site is physically suitable for the proposed density of development.
 - (e) The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
 - (f) The design of the subdivision or type of improvements are not likely to cause serious public health problems.
 - (g) The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements for access or for use will be provided, and that these will be substantially equivalent to ones previously acquired by the public.
 - (h) The project will increase activities in and around the project area, and increase demands for roads and services, thereby requiring dedication and improvements.
 - (i) The fulfillment of construction requirements for improvements, on the designated "Remainder" parcel, is necessary for reasons of:
 1. The public health and safety; or
 2. The required construction is a necessary prerequisite to the orderly development of the surrounding area.
6. Approve Vesting Tentative Subdivision Map Application No. 2006-06 - Knights Ferry Overlook, subject to the attached "Revised" Conditions of Approval/Mitigation Measures attached to this report (*see Attachment No. 7 of the May 15, 2012, Board of Supervisors report*).

Public Hearing to Reconsider an Appeal of the Planning Commission's February 5, 2009, Decision to Deny Vesting Tentative Subdivision Map Application No. 2006-06, Knights Ferry Overlook to Divide a 33.70 Acre Parcel to Create 8 Parcels Ranging in Size from 0.50 to 5.00 Acres with a 12.03-acre "Remainder" Located at the Southeast Corner of Cemetery and Frymire Roads, in the Knights Ferry Area **(Continued from the May 15, 2012 Board Meeting)**

Page 4

DISCUSSION:

After receiving the report from County staff, and both oral and written testimony by the applicant and the opponents of the project, the Board continued this item from May 15, 2012, to this date. The purpose of the continuance was to provide the applicant additional time to review new Conditions of Approval proposed by staff at the May 15th meeting regarding access to the river under Government Code Sections 66478.1 to 66478.14 and for roadway improvements due to traffic safety concerns.

Prior to the previous Board meeting, staff was made aware that the applicant's Vesting Tentative Map (VTM) did not identify "reasonable public access" to the Stanislaus River as required by the Subdivision Map Act (Government Code § 66478.1-66478.14). Staff prepared a proposed Condition of Approval to address this requirement and provided the applicant with a copy just prior to the start of the Board meeting; however, notice of the need to provide reasonable public access (including reference to the applicable code sections) was provided to the applicant the morning of the Board meeting. At the meeting, the applicant requested additional time to adequately research and review relevant Government Code sections before agreeing or opposing the condition. Proposed Condition of Approval, No. 41, states:

41. *Applicant's proposed tentative map does not identify public access to the Stanislaus River as required by Government Code sections 66478.1 through 66478.14. Pursuant to sections 66478.4 and 66478.5, Applicant shall provide, or have available, reasonable public access by fee or easement from a public highway to that portion of the bank of the river, and a public easement along the riverbank, bordering or lying within the proposed subdivision. Pursuant to section 66478.4, reasonable public access shall be determined by the County. Pursuant to section 66478.5, the County shall determine the width and character of the public easement to achieve reasonable public use of the river consistent with public safety. The approved access shall be shown on the Final Map in compliance with Map Act section 66478.6.*

For purposes of this project, County considers "reasonable access" under section 66478.4, to mean an access of not less than 10 feet in width to the bank of the river and "public easement" under section 66478.5, to mean a public easement of 10 feet in width above the high-water mark, with both access and easement suitable for pedestrian, bicycle, equestrian or other non-motorized transport of persons, and for access to the river for small boats. The approved river access shall connect between Cemetery Road and the portion of the riverbank lying within the proposed subdivision; and the public easement shall lie along the entire portion of the riverbank bordering or lying within the proposed subdivision."

Public Hearing to Reconsider an Appeal of the Planning Commission's February 5, 2009, Decision to Deny Vesting Tentative Subdivision Map Application No. 2006-06, Knights Ferry Overlook to Divide a 33.70 Acre Parcel to Create 8 Parcels Ranging in Size from 0.50 to 5.00 Acres with a 12.03-acre "Remainder" Located at the Southeast Corner of Cemetery and Frymire Roads, in the Knights Ferry Area **(Continued from the May 15, 2012 Board Meeting)**

Page 5

Additionally, based on comments from the public and the Board regarding traffic safety, the Director of the Stanislaus County Public Works Department identified the need for Cemetery and Frymire Roads to be improved and widened to the County standards in affect at the time the application was complete in order to provide safe access from the proposed parcels to Cemetery and Frymire Roads. The Public Works Department is proposing that the Board add Condition of Approval No. 42 as follows:

42. *Prior to the recording of the final map, the Applicant shall construct road improvements along the project frontage to Frymire Road and Cemetery Road to Stanislaus County Public Works Standards and Specifications, 1998 Edition, including Plate 3-A6, "Rural Collector." The roadway improvements shall include asphalt road widening of Frymire Road and Cemetery Road so that the travel lane portion of Frymire and Cemetery Road Roads are twelve feet in width, with a one foot asphalt shoulder, and a three foot gravel shoulder. The road improvements shall taper to the existing width of the bridge crossing the Oakdale Irrigation District Frymire Lateral on Cemetery Road on both approaches. Prior to Construction, Applicant shall submit road improvement plans to, and for approval by, Stanislaus County Department of Public Works. Applicant shall obtain an Encroachment Permit prior to any work being done in the County's road right-of-way.*

The proposed widening provides for a design exception to the standard 4-foot asphalt concrete improved shoulders. Considering the nature of the historic district of Knights Ferry the improved shoulder only require 1-foot of asphalt concrete and the remaining 3 feet is permitted to be gravel.

POLICY ISSUES:

The Board of Supervisors was directed by the Court to vacate its March 24, 2009 denial of the applicant's appeal, which it did formally on April 17, 2012, and reconsider the project. The Board should determine if the project is consistent with its priority of striving for a Well Planned Infrastructure System.

STAFFING IMPACT:

There are no staffing impacts associated with this item. Bringing this item for reconsideration as instructed by the Court was made possible through the work of the Department of Planning and Community Development and the Office of County Counsel using available staffing.

Public Hearing to Reconsider an Appeal of the Planning Commission's February 5, 2009, Decision to Deny Vesting Tentative Subdivision Map Application No. 2006-06, Knights Ferry Overlook to Divide a 33.70 Acre Parcel to Create 8 Parcels Ranging in Size from 0.50 to 5.00 Acres with a 12.03-acre "Remainder" Located at the Southeast Corner of Cemetery and Frymire Roads, in the Knights Ferry Area **(Continued from the May 15, 2012 Board Meeting)**

Page 6

CONTACT PERSON:

Angela Freitas, Interim Planning and Community Development Director
Telephone: 525-6330

ATTACHMENTS:

- A. May 15, 2012, Board of Supervisors Report

i:\planning\staff reports\trm\2006\trm 2006-06 knight's ferry overlook\bos reconsider - 5-15-12\board report.doc

**ATTACHMENTS AVAILABLE
FROM CLERK**



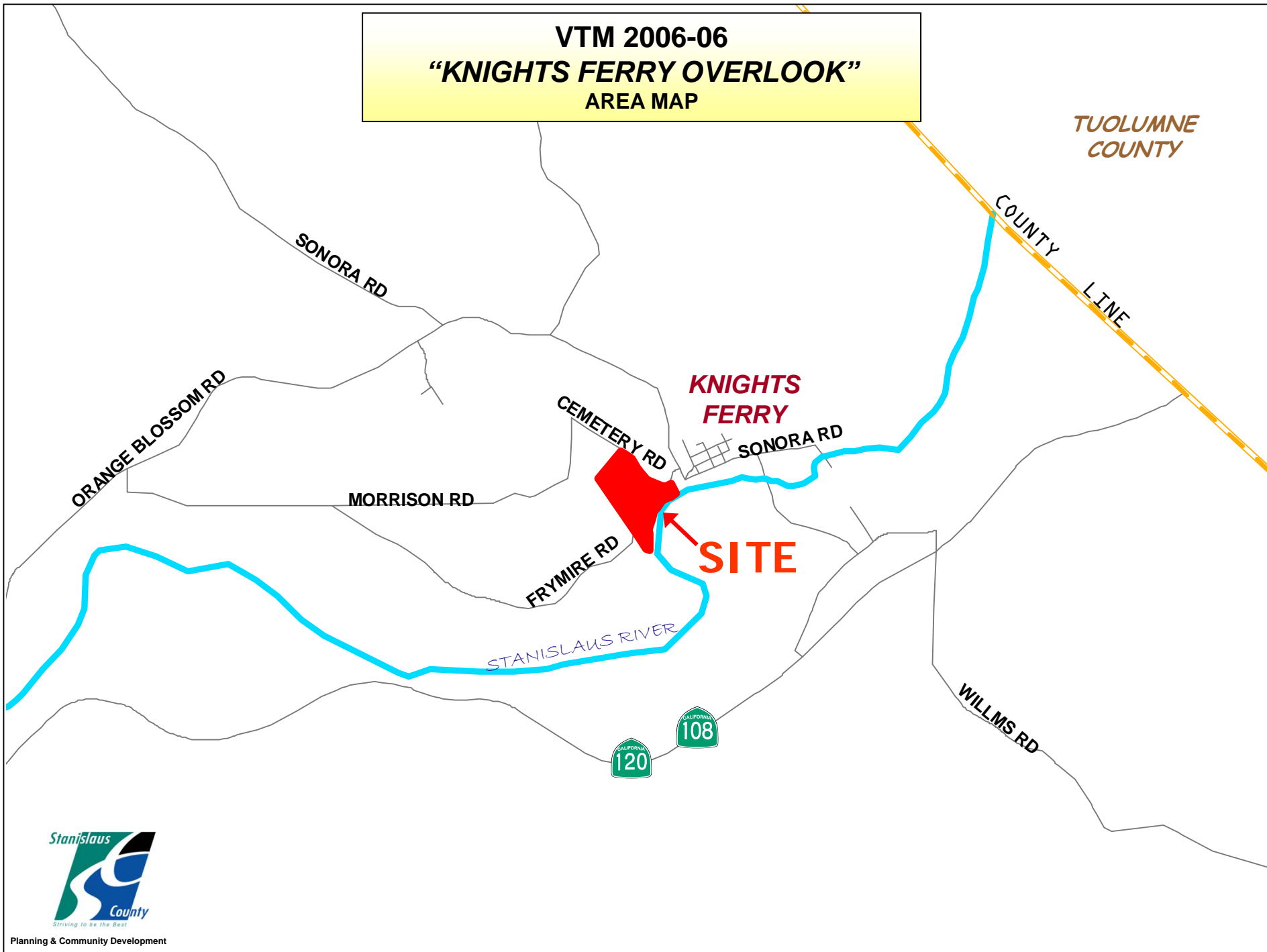
Planning & Community Development

"KNIGHTS FERRY OVERLOOK"

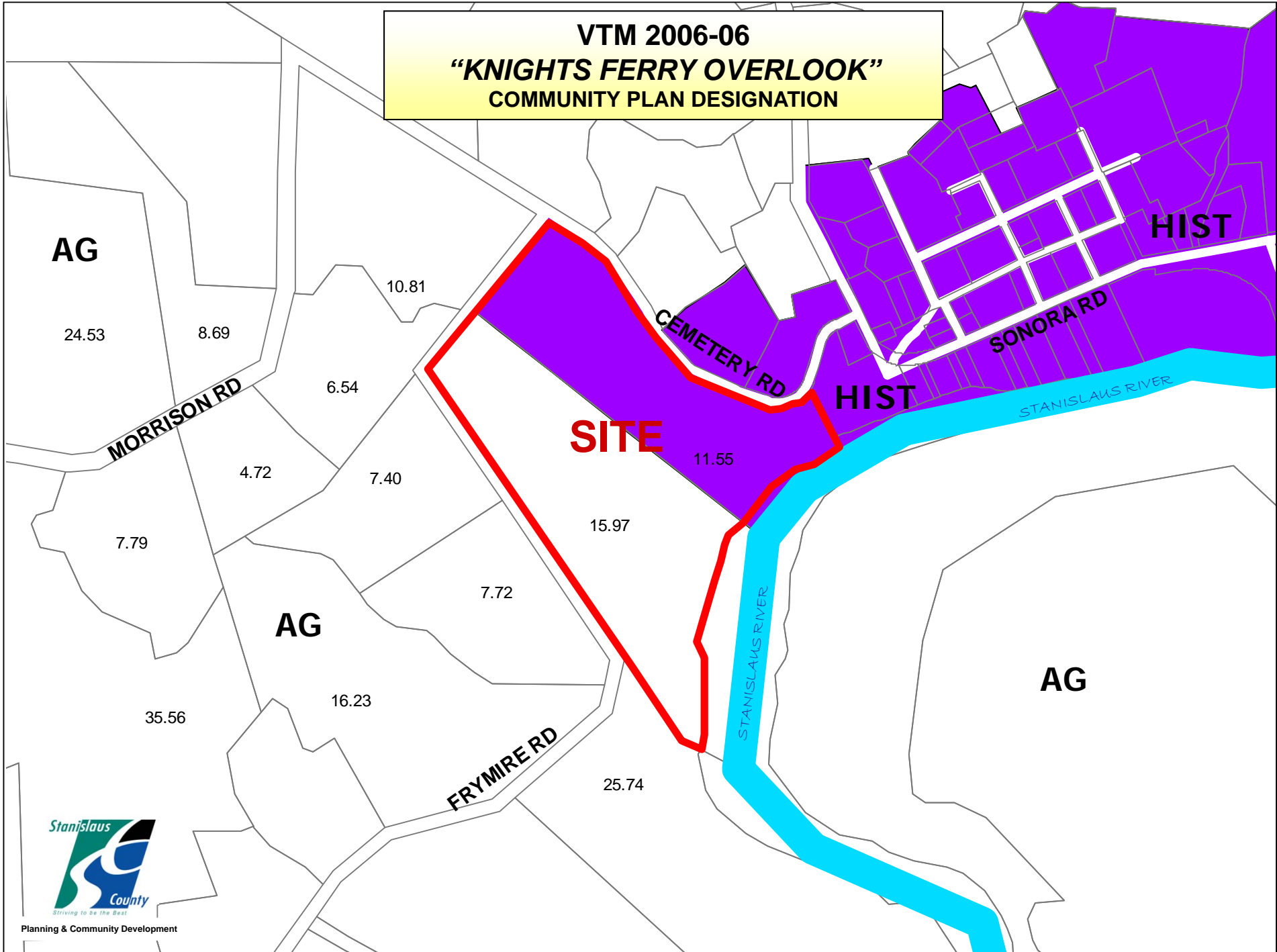
- Continued from May 15th, 2012 - BOS Meeting -

VTM 2006-06
"KNIGHTS FERRY OVERLOOK"
AREA MAP

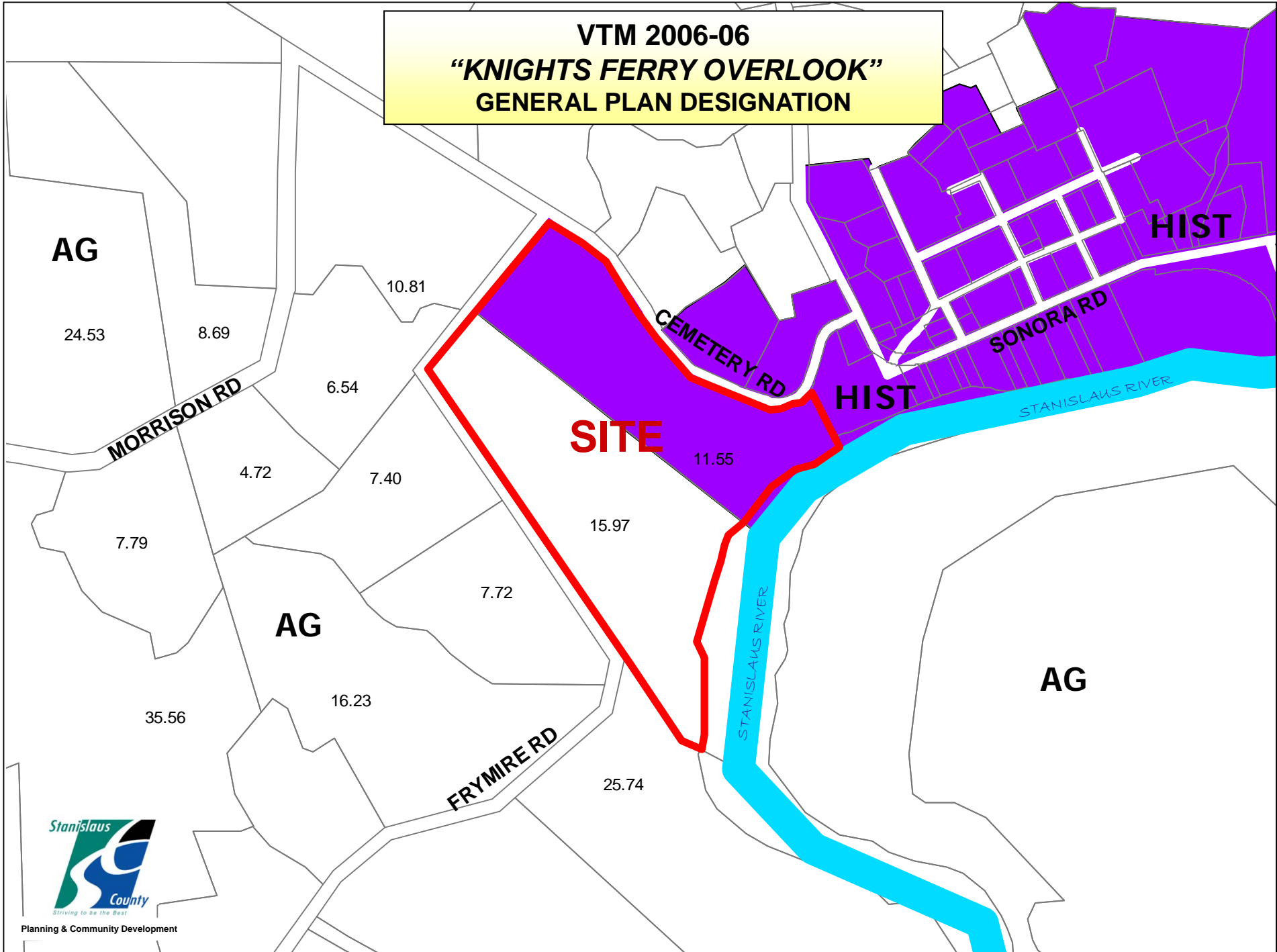
TUOLUMNE
COUNTY



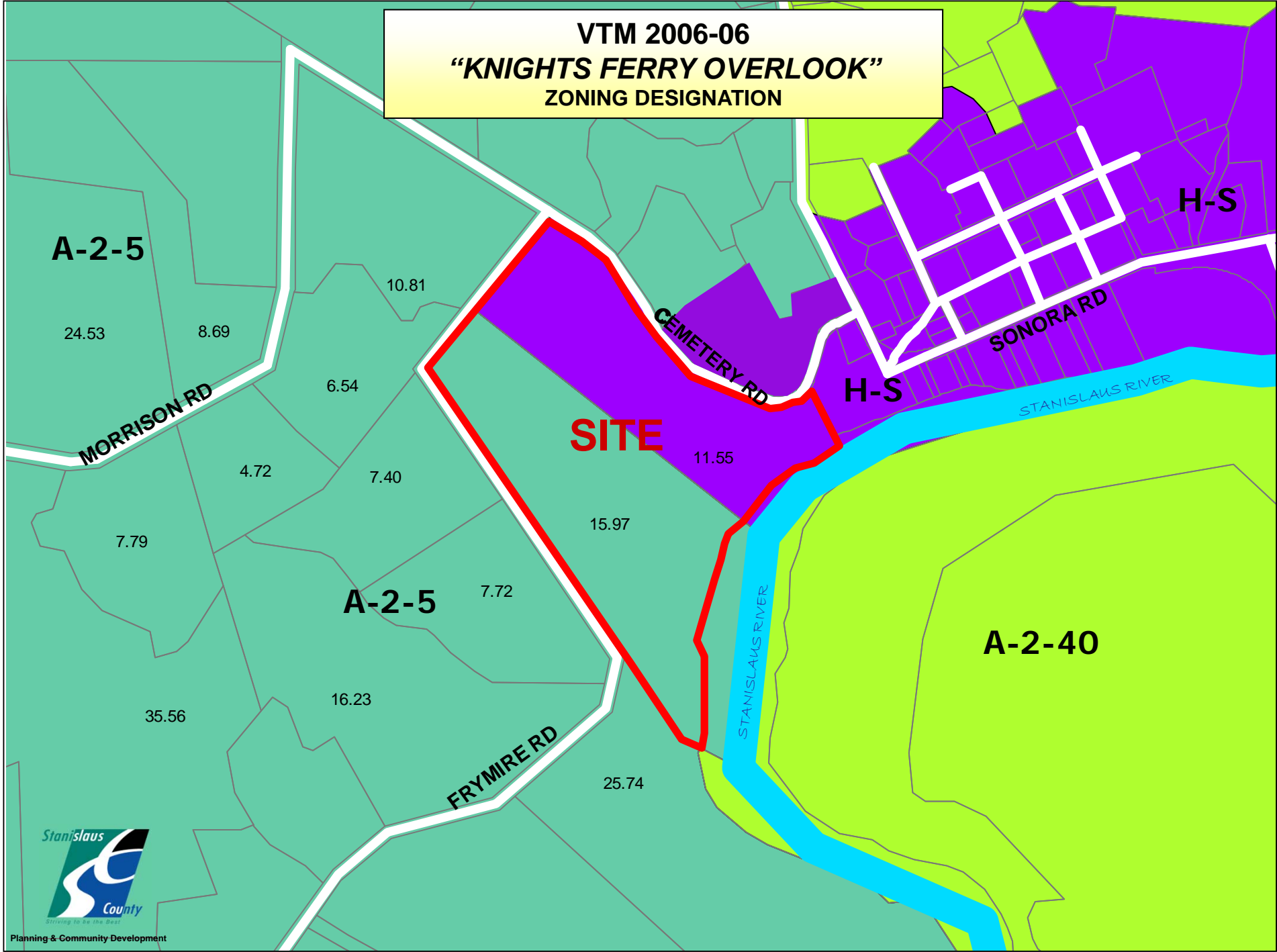
VTM 2006-06
"KNIGHTS FERRY OVERLOOK"
COMMUNITY PLAN DESIGNATION



VTM 2006-06
"KNIGHTS FERRY OVERLOOK"
GENERAL PLAN DESIGNATION



VTM 2006-06
"KNIGHTS FERRY OVERLOOK"
ZONING DESIGNATION





FRYWIRE L.A.T-01D

CEMETERY RD

SONORA RD

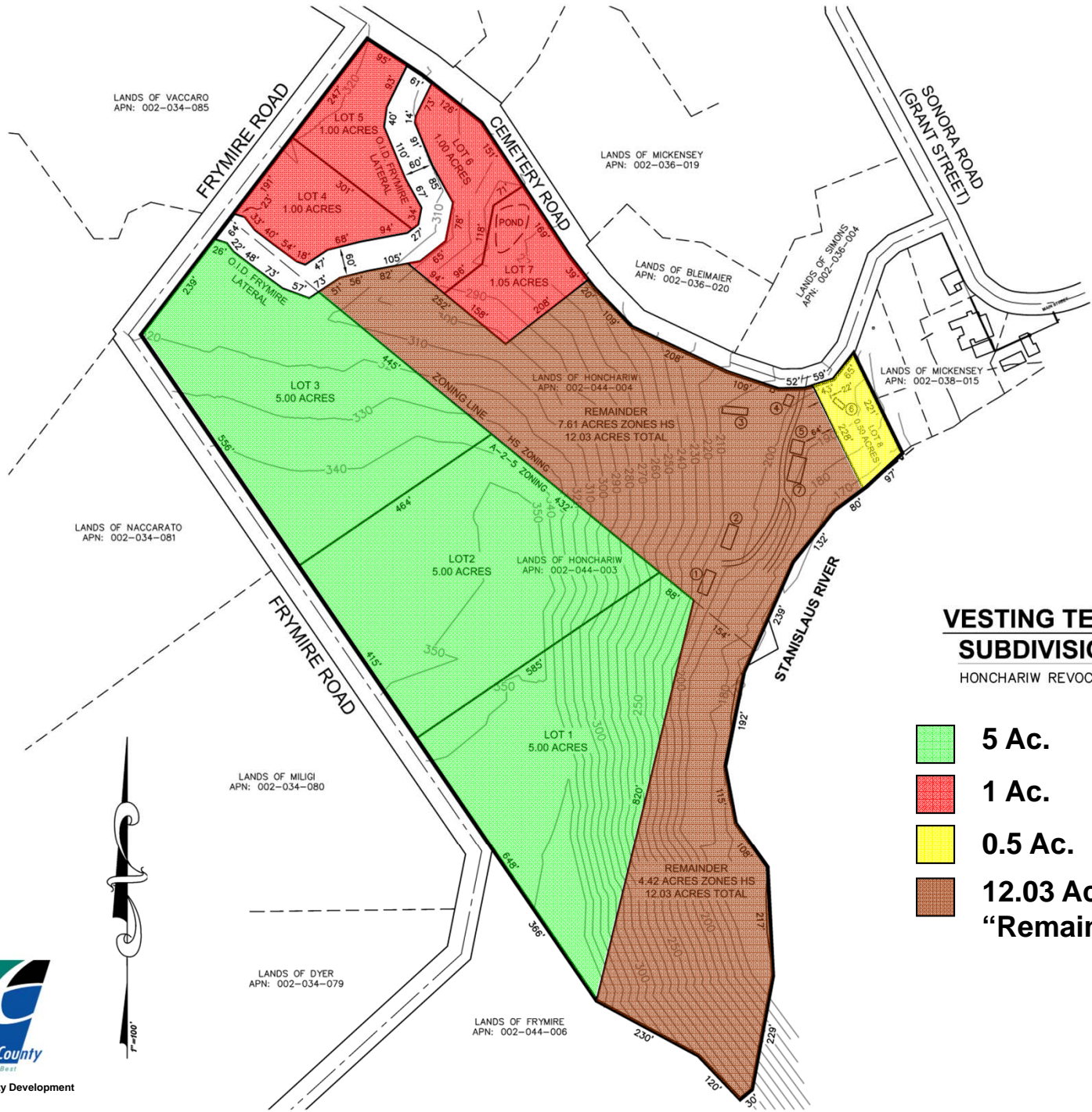
Stanislaus River

SITE

FRYWIRE RD



Planning & Community Development



**VESTING TENTATIVE
SUBDIVISION MAP**

HONCHARIW REVOCABLE TRUST

- 5 Ac. Lots 1-3**
- 1 Ac. Lots 4-7**
- 0.5 Ac. Lot 8**
- 12.03 Ac. "Remainder"**



VTM 2006-06

“Knights Ferry Overlook”

Continued from May 15th

- **River Access**

- Public Access to the River may needs to be provided by the applicant (*Gov't Code §66478.1- .14*)
- Proposed Condition of Approval No. 41

- **Road Improvements**

- Safety Concerns
- Proposed Condition of Approval No. 42



VTM 2006-06

“Knights Ferry Overlook”

No. 42 (Part 1 of 2)

Prior to the recording of the final map, the Applicant shall construct road improvements along the project frontage to Frymire Road and Cemetery Road to Stanislaus County Public Works Standards and Specifications, 1998 Edition, including Plate 3-A6, "Rural Collector." The roadway improvements shall include asphalt road widening of Frymire Road and Cemetery Road so that the travel lane portion of Frymire and Cemetery Road Roads are twelve feet in width, with a one foot asphalt shoulder, and a three foot gravel shoulder.



VTM 2006-06

“Knights Ferry Overlook”

No. 42 (Part 2 of 2)

The road improvements shall taper to the existing width of the bridge crossing the Oakdale Irrigation District Frymire Lateral on Cemetery Road on both approaches. Prior to Construction, Applicant shall submit road improvement plans to, and for approval by, Stanislaus County Department of Public Works. Applicant shall obtain an Encroachment Permit prior to any work being done in the County’s road right-of-way.



VTM 2006-06

“Knights Ferry Overlook”

Board Actions:

1. Uphold the Commission’s Decision, deny the Appeal, and determine if the project complies with applicable, objective GP & Zoning criteria as required by §65589.5(j)



VTM 2006-06 “Knights Ferry Overlook”

Board Actions: §65589.5(j)

If the BOS determines the project does not comply with applicable, objective GP & Zoning criteria, the Board must make specific findings that both of the following conditions exist:



VTM 2006-06

“Knights Ferry Overlook”

Board Actions: §65589.5(j)

(a) the project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density;
and



VTM 2006-06

“Knights Ferry Overlook”

Board Actions: §65589.5(j)

(b) there is no feasible method to satisfactorily mitigate or avoid the adverse impact identified, other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.



VTM 2006-06

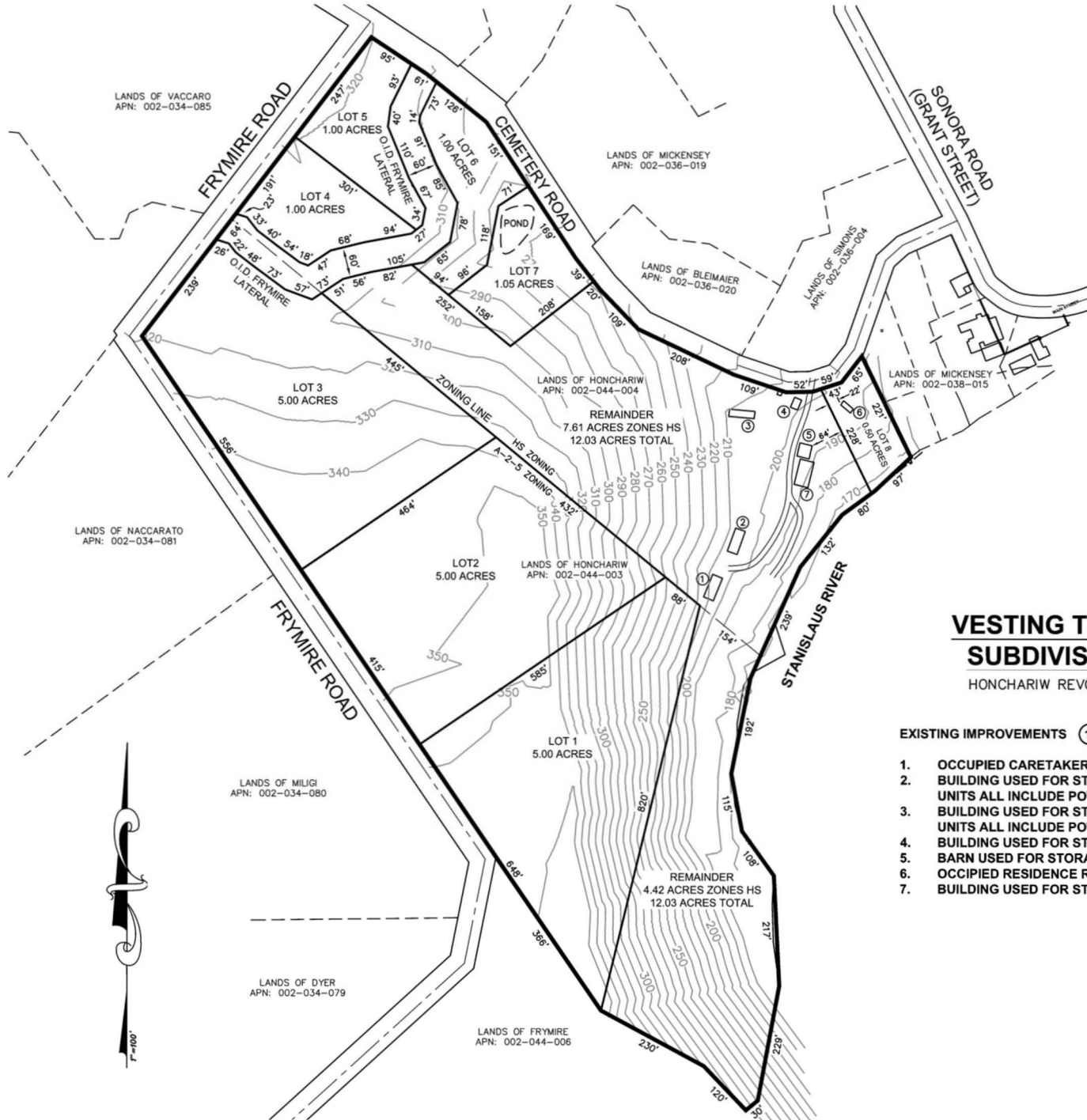
“Knights Ferry Overlook”

Board Actions:

2. **Approve the Appeal and as such Approve the Request, outlined as Actions 1-6 (Pages 2 & 3 of Board Report)**



Driving to be the Best



VESTING TENTATIVE SUBDIVISION MAP

HONCHARIW REVOCABLE TRUST

EXISTING IMPROVEMENTS ①

1. OCCUPIED CARETAKERS RESIDENCE W/ POWER & PLUMBING
2. BUILDING USED FOR STORAGE BUILT AS RESORT
UNITS ALL INCLUDE POWER & PLUMBING
3. BUILDING USED FOR STORAGE BUILT AS RESORT
UNITS ALL INCLUDE POWER & PLUMBING
4. BUILDING USED FOR STORAGE W/ POWER & PLUMBING
5. BARN USED FOR STORAGE HAS MULTIPLE POWER
6. OCCUPIED RESIDENCE REMODELED IN 2003
7. BUILDING USED FOR STORAGE W/ POWER & PLUMBING



Planning & Community Development

VTM 2006-06

“Knights Ferry Overlook”

No. 41 (Part 1 of 2)

Applicant’s proposed tentative map does not identify public access to the Stanislaus River as required by Government Code sections 66478.1 through 66478.14. Pursuant to sections 66478.4 and 66478.5, Applicant shall provide, or have available, reasonable public access by fee or easement from a public highway to that portion of the bank of the river, and a public easement along the riverbank, bordering or lying within the proposed subdivision. Pursuant to section 66478.4, reasonable public access shall be determined by the County. Pursuant to section 66478.5, the County shall determine the width and character of the public easement to achieve reasonable public use of the river consistent with public safety. The approved access shall be shown on the Final Map in compliance with Map Act section 66478.6.



VTM 2006-06

“Knights Ferry Overlook”

No. 41 (Part 2 of 2)

For purposes of this project, County considers “reasonable access” under section 66478.4, to mean an access of not less than 10 feet in width to the bank of the river and “public easement” under section 66478.5, to mean a public easement of 10 feet in width above the high-water mark, with both access and easement suitable for pedestrian, bicycle, equestrian or other non-motorized transport of persons, and for access to the river for small boats. The approved river access shall connect between Cemetery Road and the portion of the riverbank lying within the proposed subdivision; and the public easement shall lie along the entire portion of the riverbank bordering or lying within the proposed subdivision.”



VTM 2006-06

“Knights Ferry Overlook”

§66478.8 Finding that Reasonable Public Access is Available

Nothing in Sections 66478.1 to 66478.10, inclusive, of this article shall require a local agency to disapprove either a tentative or final map solely on the basis that the reasonable public access otherwise required by this article is not provided through or across the subdivision itself, if the local agency makes a finding that the reasonable public access is otherwise available within a reasonable distance from the subdivision and identifies the location of the reasonable public access.

The finding shall be set forth on the face of the tentative or final map.



VTM 2006-06

“Knights Ferry Overlook”

§66478.4 Local Agencies must require Public Access

(a) No local agency shall approve either a tentative or a final map of any proposed subdivision to be fronted upon a public waterway, river, or stream which does not provide, or have available, reasonable public access by fee or easement from a public highway to that portion of the bank of the river or stream bordering or lying within the proposed subdivision.



VTM 2006-06

“Knights Ferry Overlook”

§66478.4 Local Agencies must require Public Access

(b) Reasonable public access shall be determined by the local agency in which the proposed subdivision is to be located. In making the determination of what shall be reasonable access, the local agency shall consider all of the following:

- (1) That access may be by highway, foot trail, bike trail, horse trail, or any other means of travel.**
- (2) The size of the subdivision.**
- (3) The type of riverbank and the various appropriate recreational, educational, and scientific uses, including, but not limited to, swimming, diving, boating, fishing, water skiing, scientific collection, and teaching.**
- (4) The likelihood of trespass on private property and reasonable means of avoiding these trespasses.**



TM 2006-06
“KNIGHTS FERRY OVERLOOK”
CEMETERY RD – South



TM 2006-06
“KNIGHTS FERRY OVERLOOK”
CEMETERY RD – South



VTM 2006-06
"KNIGHTS FERRY OVERLOOK"
CEMETERY RD - South



TM 2006-06 & EXC 2008-02
"KNIGHTS FERRY OVERLOOK"
CEMETERY RD - South



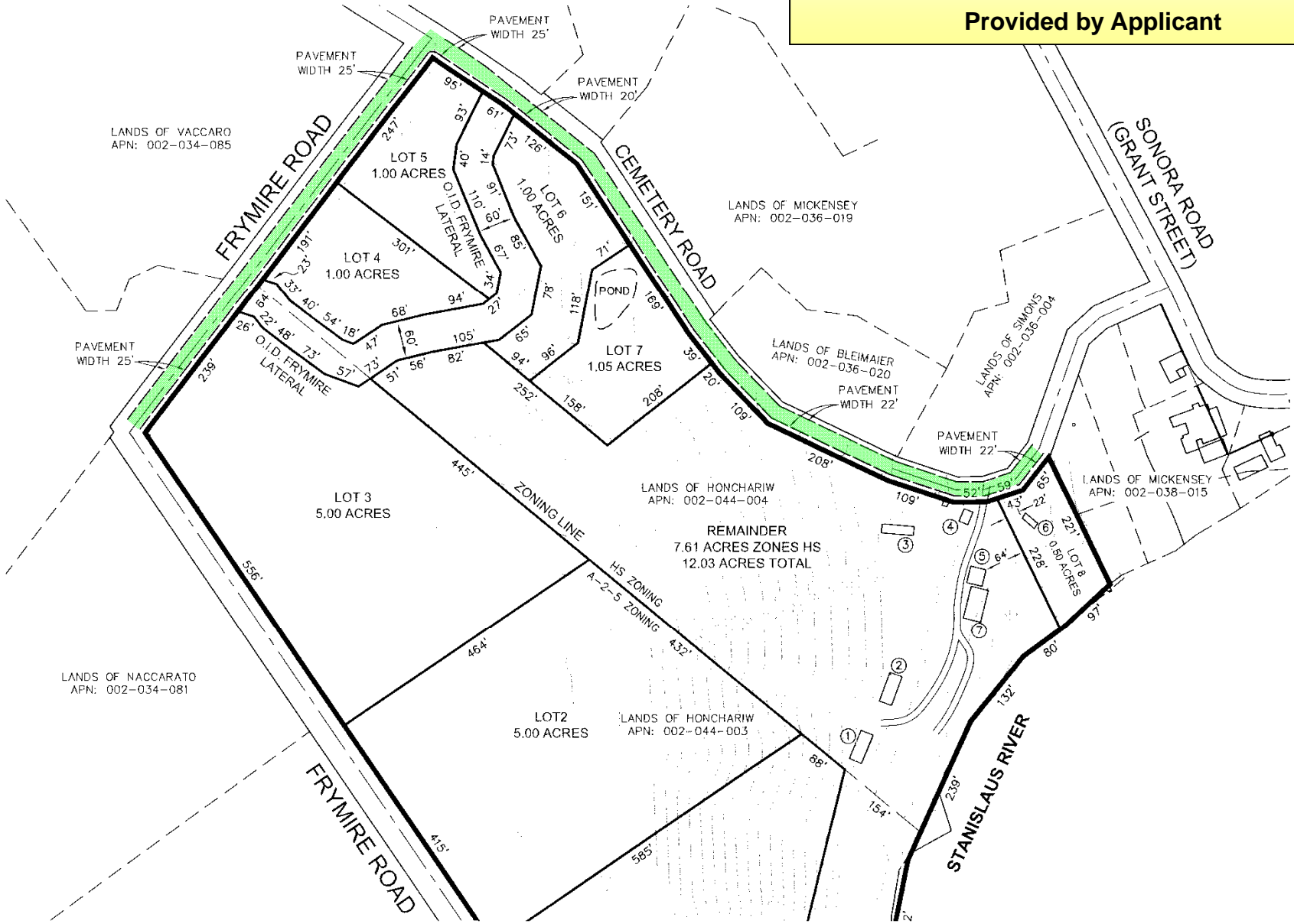
TM 2006-06
“KNIGHTS FERRY OVERLOOK”
CEMETERY RD – North



TM 2006-06
“KNIGHTS FERRY OVERLOOK”
CEMETERY RD – North



VTM 2006-06
"KNIGHTS FERRY OVERLOOK"
ROAD WIDTH
Provided by Applicant



TM 2006-06 & EXC 2008-02
“KNIGHTS FERRY OVERLOOK”
FRYMIRE ROAD INTERSECTION - West



TM 2006-06 & EXC 2008-02
“KNIGHTS FERRY OVERLOOK”
FRYMIRE ROAD - West



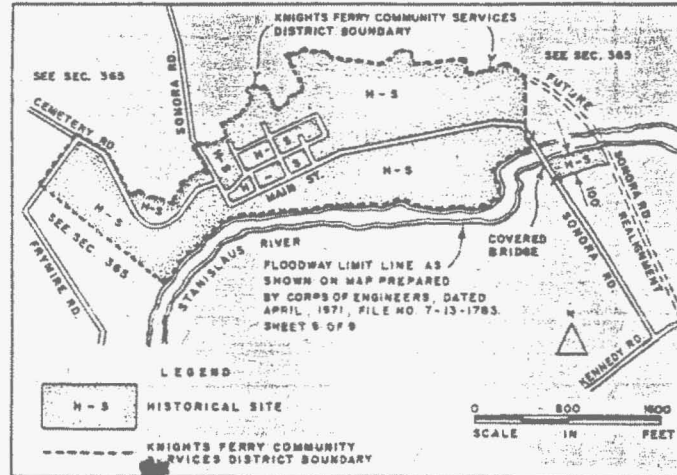
LEGAL NOTICE

ORDINANCE NO. N.S. 390
AN ORDINANCE AMENDING TITLE 9, CHAPTER 3, OF THE ORDINANCE CODE OF STANISLAUS COUNTY, BY ADDING SECTIONAL DISTRICT MAP NO. 9-110.461 THERETO FOR THE PURPOSE OF REZONING THE KNIGHTS FERRY AREA.

The Board of Supervisors of the County of Stanislaus, State of California, do ordain as follows:

Section 1. Sectional District Map No. 9-110.461 is added to Title 9, Chapter 3, of the Ordinance Code of Stanislaus County to appear as follows:

SECTIONAL DISTRICT MAP NO. 9 - 110.461



Section 2. This Ordinance shall take effect and be in full force thirty (30) days from and after the date of its passage and before the expiration of fifteen (15) days after its passage it shall be published once, with the names of the members voting for and against same, in the Oakdale Leader, a newspaper published in said County of Stanislaus, State of California.

Upon motion of Supervisor Fahey and second by Supervisor Paul the foregoing ordinance was passed and adopted at a regular meeting of the Board of Supervisors of the County of Stanislaus, State of California, this 29th day of August, 1972, by the following called vote:

AYES: Supervisors: Fahey, Paul, Thurman, Vander Wall, and Chairman Franzen.

NOES: Supervisors: None

ABSENT: Supervisors: None

James Franzen
Chairman of the Board of Supervisors
of the County of Stanislaus, State
of California.

ATTEST:
STEVE R. NELSON, County Clerk and
Ex-Officio Clerk of the Board of
Supervisors of the County of
Stanislaus, State of California.
By Lloyd R. Brouillard
Deputy
Published September 6, 1972

EFFECTIVE: 28 Sept 72

PREVIOUS MAP: none



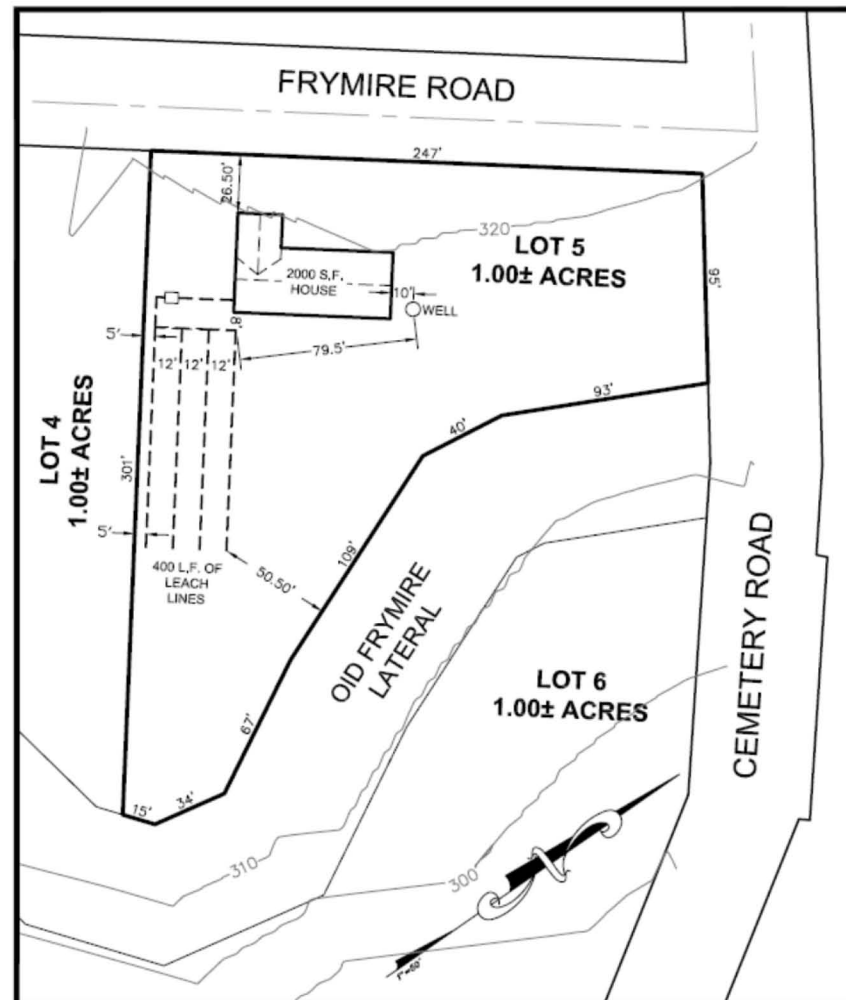
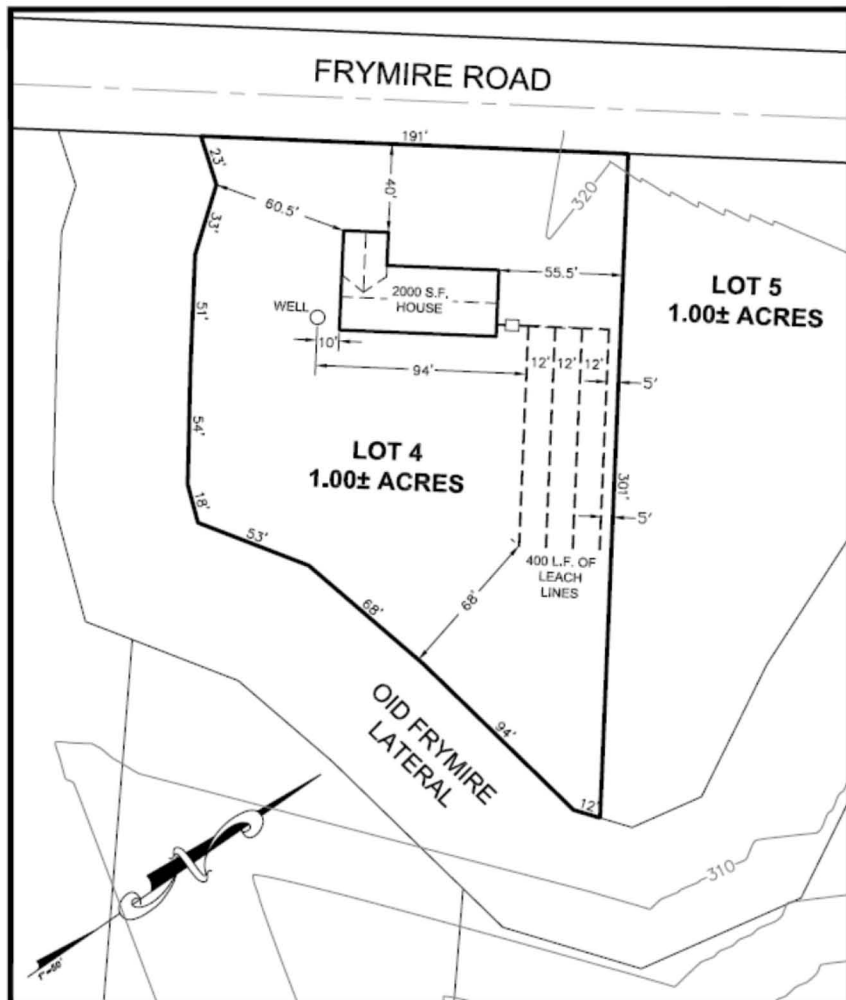
TM 2006-06
“KNIGHTS FERRY OVERLOOK”
A-2-5 LOTS – 5 Acres



TM 2006-06 & EXC 2008-02
“KNIGHTS FERRY OVERLOOK”
LOTS 6 & 7



VTM 2006-06
"KNIGHTS FERRY OVERLOOK"
LOTS 4 & 5 – EXAMPLE LAYOUT



GK Giuliani & Kull, Inc.
 Engineers • Planners • Surveyors
 440 S. Yosemite Avenue, Suite A, Oakdale, CA 95361
 (209) 847-8726 Fax (209) 847-7323
 Auburn • Oakdale • San Jose

SCALE: 1" = 50'
 DRAWN: K. COLE
 CHECKED: WFK
 JOB NO.: 05164
 SHEET: 1 OF 1

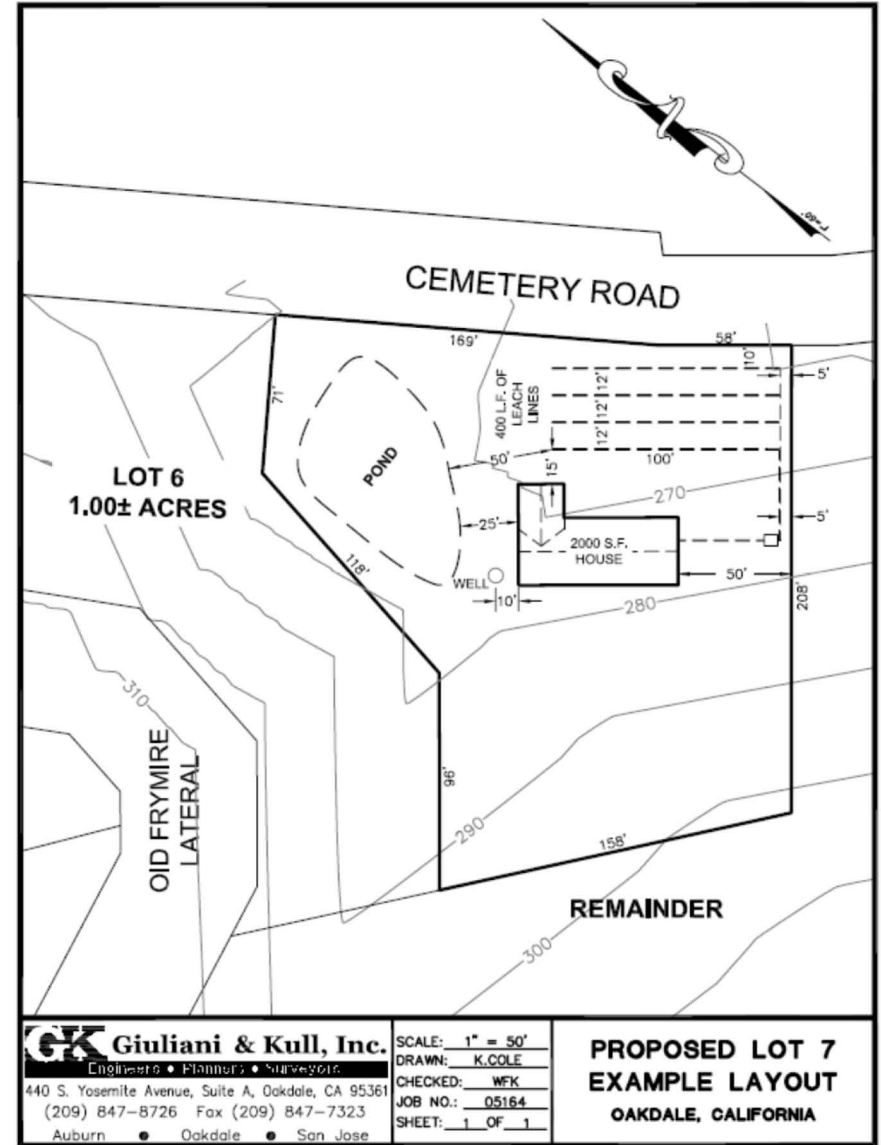
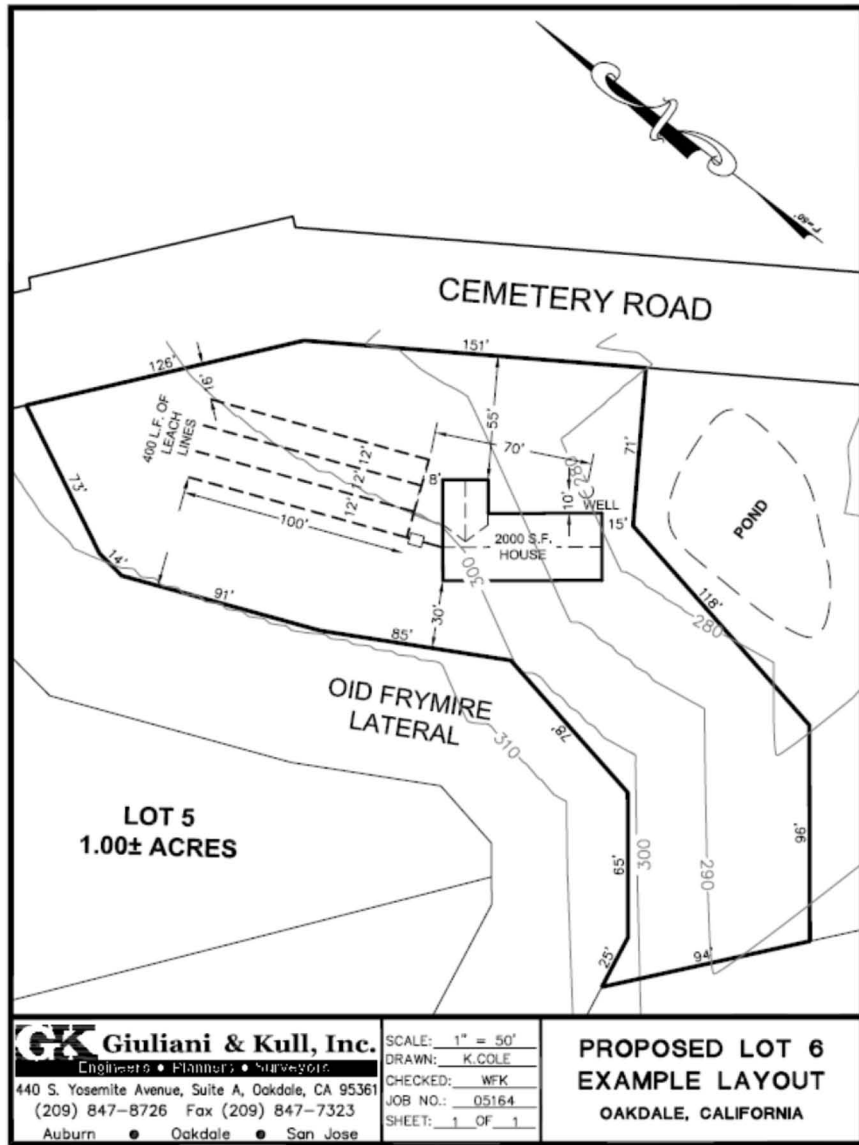
**PROPOSED LOT 4
 EXAMPLE LAYOUT**
 OAKDALE, CALIFORNIA

GK Giuliani & Kull, Inc.
 Engineers • Planners • Surveyors
 440 S. Yosemite Avenue, Suite A, Oakdale, CA 95361
 (209) 847-8726 Fax (209) 847-7323
 Auburn • Oakdale • San Jose

SCALE: 1" = 50'
 DRAWN: K. COLE
 CHECKED: WFK
 JOB NO.: 05164
 SHEET: 1 OF 1

**PROPOSED LOT 5
 EXAMPLE LAYOUT**
 OAKDALE, CALIFORNIA

VTM 2006-06
"KNIGHTS FERRY OVERLOOK"
LOTS 6 & 7 – EXAMPLE LAYOUT



VTM 2006-06

“Knights Ferry Overlook”

- **Planning Commission Hearing:**
 - **February 5, 2009**
 - **9 People spoke in opposition**
 - **The Applicant spoke in favor**
- Planning Commission**
- Staff Report – Attachment # 2**
- Minutes – Attachment # 3**



VTM 2006-06

“Knights Ferry Overlook”

- Planning Commission Decision:
 - Opposition
 - Several residents of Knights Ferry spoke in opposition to the project expressing a general concern regarding the impact that the 1-acre lots would have to Knights Ferry



VTM 2006-06

“Knights Ferry Overlook”

- Planning Commission Decision:
 - Opposition
 - Impacts of additional septic systems to the Knights Ferry area
 - Additional driveways & traffic along Cemetery Road
 - No significant issues with the lots located in the A-2-5 zoned area (5 acre lots)



VTM 2006-06

“Knights Ferry Overlook”

- Planning Commission Decision:
 - Primary issues discussed
 - Commission discussion focused on the same issues raised by those in opposition to the project
 - The 1 acre lots may not be physically suitable for a septic system, private well, and a single-family dwelling



VTM 2006-06

“Knights Ferry Overlook”

- Planning Commission Decision:
 - Primary issues discussed
 - Staff’s recommendation was to approve the project as proposed
 - The Commission voted 6-2 (Layman, DeLaMare) to deny the proposed project
 - Commissioners could not make the Subdivision Map Findings, noted as being Finding No. 5 (C, D, E, & F)



VTM 2006-06

“Knights Ferry Overlook”

- **Board of Supervisors – March 24th, 2009**
 - **Board concerned with project site development and potential septic tank/water well issues**
 - **Community Members raised similar issues**
 - **BOS Voted 5-0 to Deny the Appeal**
(O’Brien/Chiesa)



VTM 2006-06

“Knights Ferry Overlook”

Legal Challenge

- June 15, 2009 – Stanislaus Superior Court held that the County properly denied the application.
- The applicant appealed this decision to the CA Court of Appeals, 5th District



VTM 2006-06

“Knights Ferry Overlook”

Legal Challenge

- November 14, 2011 – 5th Appellate District issued an opinion that the County was required to comply with Gov’t Code §65589.5(j) in denying the project.
- January 24, 2012 – Stanislaus Superior Court issued a Writ of Mandate ordering the Board to vacate it’s denial and reconsider the application.



EXCEPTION REQUEST

- **An Exception was originally part of the applicant's request**
- **Four 1-Acre Lots, located in the H-S Zoning District & K.F.C.S.D. were proposed to be served by Private Wells, not Municipal Water Service**
- **Court took no issue with BOS & PC denial of this portion of the application**



VTM 2006-06

“Knights Ferry Overlook”

Current Issues

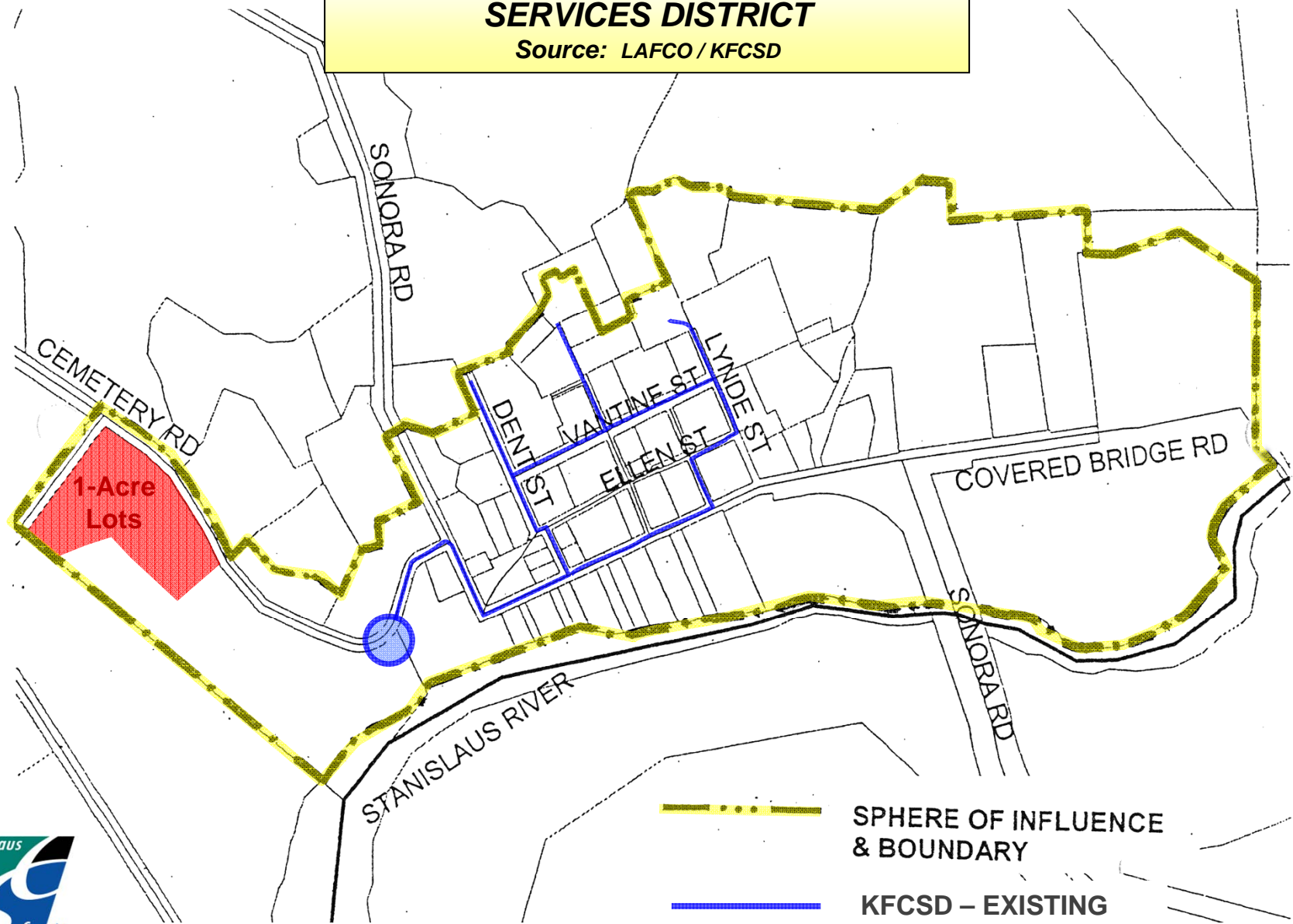
- **Water Service to the Four 1-Acre Lots**
 - Lots will be required to connect to KFCSD Water
 - Water Availability
 - KFCSD Water Infrastructure Extension
 - KFCSD Letter dated May 3rd, 2012
 - Infrastructure extension costs will be the applicant’s responsibility (*KFCSD Water Ordinance-1971*)





Striving to be the Best

KNIGHTS FERRY COMMUNITY SERVICES DISTRICT

Source: LAFCO / KFCSD



-  SPHERE OF INFLUENCE & BOUNDARY
-  KFCSD - EXISTING WATER LINE



VTM 2006-06

“Knights Ferry Overlook”

Gov't Code §66424.6

The fulfillment of construction requirements for improvements, on the designated "Remainder" parcel, is necessary for reasons of:

- 1. The public health and safety; or**
- 2. The required construction is a necessary prerequisite to the orderly development of the surrounding area.**



THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: Planning and Community Development *AF*

BOARD AGENDA # 6:35 p.m.

Urgent Routine

AGENDA DATE May 15, 2012

CEO Concur with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Public Hearing to Reconsider an Appeal of the Planning Commission's February 5, 2009, Decision to Deny Vesting Tentative Subdivision Map Application No. 2006-06, Knights Ferry Overlook to Divide a 33.70 Acre Parcel to Create 8 Parcels Ranging in Size from 0.50 to 5.00 Acres with a 12.03-acre "Remainder" Located at the Southeast Corner of Cemetery and Frymire Roads, in the Knights Ferry Area

STAFF RECOMMENDATIONS:

After conducting a public hearing at its regular meeting of February 5, 2009, the Stanislaus County Planning Commission, on a 6-2 (Layman, DeLaMare) vote, denied the approval of this proposed project.

If the Board decides to uphold the Planning Commission decision to deny the application, the Board must complete a two part analysis required by Government Code §65589.5 (j).

(Continued on page 2)

FISCAL IMPACT:

The fiscal impacts associated with the Board's reconsideration of this project is related to the staff time spent reviewing, evaluating and preparing the Board report. Due to the legal action, requiring the Board to reconsider this project, time spent by the Planning and Community Development staff was not accounted for with fees collected as part of the original application process. As such, any fiscal impacts incurred are absorbed by the Department's existing operating budget.

BOARD ACTION AS FOLLOWS:

No. 2012-231

On motion of Supervisor Chiesa, Seconded by Supervisor Monteith
and approved by the following vote,

Ayes: Supervisors: Chiesa, Withrow, Monteith, De Martini, and Chairman O'Brien

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) Approved as recommende

2) Denied

3) Approved as amended

4) X Other:

MOTION: THIS PUBLIC HEARING WAS CONTINUED TO MAY 22, 2012 AT 9:10 A.M.



ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

STAFF RECOMMENDATIONS: (Continued)

1. To deny the application the Board must first determine whether the project complies with applicable, objective general plan and zoning standards and criteria in effect at the time of the application. If the Board determines the project does not comply the Board may deny the application, however, it must identify the standards or criteria with which the project failed to comply.
2. If the project does comply with applicable, objective general plan and zoning standards and criteria, to deny the application the Board must make additional written findings supported by substantial evidence on the record that both of the following conditions exist:
 - (a) the project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density; and
 - (b) there is no feasible method to satisfactorily mitigate or avoid the adverse impact identified, other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

If the Board decides to approve the project, the Board should take the following actions:

1. Adopt the Mitigated Negative Declaration pursuant to CEQA Guidelines Section 15074(b), by finding that on the basis of the whole record, including the Initial Study and any comments received, that there is no substantial evidence the project will have a significant effect on the environment and that the Mitigated Negative Declaration reflects Stanislaus County's independent judgement and analysis.
2. Find that:
 - (a) The substitute language (Mitigation Measures No. 1-10) is equivalent or more effective in mitigating or avoiding potential significant effects and that it in itself will not cause any potentially significant effect on the environment
3. Adopt the Mitigation Monitoring Plan, with the substitute language for Mitigation Measures No. 1-10, pursuant to CEQA Guidelines Section 15074(d).

Public Hearing to Reconsider an Appeal of the Planning Commission's February 5, 2009, Decision to Deny Vesting Tentative Subdivision Map Application No. 2006-06, Knights Ferry Overlook to Divide a 33.70 Acre Parcel to Create 8 Parcels Ranging in Size from 0.50 to 5.00 Acres with a 12.03-acre "Remainder" Located at the Southeast Corner of Cemetery and Frymire Roads, in the Knights Ferry Area
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4. Order the filing of a Notice of Determination with the Stanislaus County Clerk-Recorder's Office pursuant to Public Resources Code Section 21152 and CEQA Guidelines Section 15075.
5. Find that:
 - (a) The proposed map is consistent with applicable general and specific plans as specified in Section 65451.
 - (b) The design or improvement of the proposed subdivision is consistent with applicable general and specific plans.
 - (c) The site is physically suitable for the type of development.
 - (d) The site is physically suitable for the proposed density of development.
 - (e) The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
 - (f) The design of the subdivision or type of improvements are not likely to cause serious public health problems.
 - (g) The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements for access or for use will be provided, and that these will be substantially equivalent to ones previously acquired by the public.
 - (h) The project will increase activities in and around the project area, and increase demands for roads and services, thereby requiring dedication and improvements.
 - (i) The fulfillment of construction requirements for improvements, on the designated "Remainder" parcel, is necessary for reasons of:
 1. The public health and safety; or
 2. The required construction is a necessary prerequisite to the orderly development of the surrounding area.
6. Approve Vesting Tentative Subdivision Map Application No. 2006-06 - Knights Ferry Overlook, subject to the attached "Revised" Conditions of Approval/Mitigation Measures attached to this report (*see Attachment No. 7*).

Public Hearing to Reconsider an Appeal of the Planning Commission's February 5, 2009, Decision to Deny Vesting Tentative Subdivision Map Application No. 2006-06, Knights Ferry Overlook to Divide a 33.70 Acre Parcel to Create 8 Parcels Ranging in Size from 0.50 to 5.00 Acres with a 12.03-acre "Remainder" Located at the Southeast Corner of Cemetery and Frymire Roads, in the Knights Ferry Area
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DISCUSSION:

The item before the Board of Supervisors presently, is an appeal by Nicholas Honchariw, the applicant, of the Stanislaus County Planning Commission's decision to deny a Vesting Tentative Subdivision Map (VTM) Application, a request to divide a 33.70 acre parcel to create 8 parcels ranging in size from 0.50 to 5.00 acres with a 12.03-acre ""Remainder"". Mr. Honchariw's appeal letter and analysis of the decision by the Planning Commission is included as an attachment to this report (Attachment "1").

The site is designated both "Agriculture" (Lots 1-3) and "Historical" (Lots 4-8) on the Land Use Element of the General Plan. As proposed, the 12.03-acre ""Remainder"" parcel is considered to be split-zoned with half designated as A-2-5 (General Agriculture), which requires a minimum lot size of 5 acres for the creation of new parcels, and H-S (Historical Site District), which allows minimum lot sizes based on the availability of municipal services. In this particular case, the overall "Remainder" parcel meets the minimum lot size requirements for both zoning districts. Lots 1-3, are all located in the A-2-5 zoning district, are proposed as being 5.00 acres in size, which is consistent with the minimum lot size of 5.00 acres for newly created parcels. The applicant is proposing four 1.00-acre parcels, located within the Historical zoning district, which would be served by private septic tanks and water from the Knights Ferry Community Services District (KFCSD). There is also a 0.50-acre parcel (Lot 8) being proposed in the Historical zoning district, that currently is developed with a dwelling, currently being served by municipal water service (KFCSD) and a private septic tank. The General Plan designation of "Historical" allows for residential building intensity of 1 to 7 units per net acre with population density of 2 to 25 persons per net acre.

An Exception Application (*Exception No. 2008-02*), to the County Subdivision Ordinance, was originally requested due to the fact that the four (4) proposed 1.00-acre parcels, located within the area zoned H-S (Historical Site District), would not be served with municipal water service from the Knights Ferry Community Services District. The end result of the Exception would have meant the applicant could have installed domestic water wells on each of the 1-acre lots. As stated in the ensuing "*Legal Challenge*" section of this report, the court took no issue with the Board's denial and as such the denial of the Exception is viewed as being valid.

The appeal of the proposed project was previously heard by the Board of Supervisors on March 24, 2009. At the time that this project's original appeal was heard, the Board unanimously decided (5-0 O'Brien/Chiesa) to uphold the Planning Commission's decision to deny the project, including both the Exception and VTM portions of the project.

Public Hearing to Reconsider an Appeal of the Planning Commission's February 5, 2009, Decision to Deny Vesting Tentative Subdivision Map Application No. 2006-06, Knights Ferry Overlook to Divide a 33.70 Acre Parcel to Create 8 Parcels Ranging in Size from 0.50 to 5.00 Acres with a 12.03-acre "Remainder" Located at the Southeast Corner of Cemetery and Frymire Roads, in the Knights Ferry Area

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Legal Challenge

The applicant challenged the Board's denial of the proposed VTM application; however, the applicant did not challenge the denial of the Exception application, a key point to the appeal presently before this Board. On June 15, 2009, the Stanislaus County Superior Court (Superior Court Case 642200) held that the County properly denied the application, the applicant appealed the Superior Court's decision to the California Court of Appeals, Fifth District (Case No. F060788).

On November 14, 2011, the Fifth Appellate District issued its opinion (F042089) concluding that the County was required to comply with the requirements of Government Code §65589.5(j) in denying this project. For purposes of housing projects (which the Court found this project to be), Government Code § 65598.5 (j) requires the County adopt findings, justifying the denial or density reduction in circumstances in which the project complies with "applicable, objective general plan and zoning standards and criteria, including design review standards." When initially heard, the Board did not believe that Government Code § 65589.5(j) applied to the project. Therefore, the Board did not evaluate and/or consider this finding.

On January 24, 2012, the Stanislaus County Superior Court, in accordance with the Fifth Appellate District's order, issued a Writ of Mandate ordering the Board of Supervisors to vacate and to reconsider its action denying the VTM application.

The Board's denial of the applicant's Exception Application (EXC 2008-02) was not contested. Therefore, the applicant must comply with County Code §20.52.210(A) which specifically requires:

"All lots of a subdivision shall be connected to a public water system and a sanitary sewer whenever available. Sanitary sewers and public water systems are considered as being available whenever a system is located within two thousand six hundred forty feet of any part of the property being subdivided, and the proposed subdivision lies within a sanitary sewer or water service area adopted by the governing board of the system. Installation of sanitary sewers and water systems shall include all appurtenances and service lines to the boundary of every lot in the system. ..."

Planning Commission Hearing - February 5th, 2009

The Stanislaus County Planning Commission (PC) held a public hearing on this project at its regular meeting of February 5, 2009. The full PC staff Report and associated documents are contained within Attachment "2" of this report. Staff believed that this application did meet the necessary findings for approval for both the Exception and Subdivision Map. Staff's recommendation was to approve the project as proposed, thus

Public Hearing to Reconsider an Appeal of the Planning Commission's February 5, 2009, Decision to Deny Vesting Tentative Subdivision Map Application No. 2006-06, Knights Ferry Overlook to Divide a 33.70 Acre Parcel to Create 8 Parcels Ranging in Size from 0.50 to 5.00 Acres with a 12.03-acre "Remainder" Located at the Southeast Corner of Cemetery and Frymire Roads, in the Knights Ferry Area
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allowing the four 1-acre lots, located within the KFCSD boundaries, to be served by septic tanks and private on-site water wells. The KFCSD had provided the applicant a letter stating the District, presently "will not" serve water to the lots within its boundaries. As such, Conditions of Approval were placed on the four 1-acre lots, requiring "dry water lines" to be installed, at time of development, so that future connection to the KFCSD water system can be made once water is available.

At the public hearing, multiple residents of Knights Ferry spoke in opposition to the project expressing a general concern regarding the impact that the 1-acre lots would have to the Knights Ferry area. The general theme that those in opposition spoke about was related to the impacts of additional wells and septic systems. Also, noted was the impact of additional driveways along Cemetery Road. Most of those who spoke stated that they had no significant issues with the lots located in the A-2-5 zoned area (5 acre lots). A complete list of those who spoke in opposition of the project are contained within the attached Planning Commission Minutes (see Attachment "3"). Prior to the Planning Commission meeting, staff also received two letters of opposition that were provided to the Planning Commission the night of the meeting. These letters are attached to this report (see Attachment "4").

Following the closing of the hearing, the Planning Commission discussed the project indicating positions both against and in favor of the project. The Commission discussion focused primarily on the topics related to the same issues raised by those in opposition to the project. Many of the Commissioners struggled with the specific Subdivision Map findings and in the end felt that they could make some, but not all of the findings necessary for approval. The specific findings that the Commissioners struggled with were the Subdivision Map Findings, noted as being Finding No. 5 (C, D, E, & F) of this Board report and the Planning Commission staff report. Commissioner Souza stated that with Cemetery Road being 13-foot wide, the additional driveways resulting from Lots 6 and 7 would present an overwhelming safety issue. Commissioner Navarro cited that the 1-acre lots may not be physically suitable for a septic system, private well, and a single-family dwelling. No comments were made on the Exception findings not being able to be made. On a motion by Commissioner Navarro and seconded by Commissioner Poore, the Commission voted 6-2 (Layman, DeLaMare) to deny the proposed project. At the meeting, staff had recommended that condition of approval "6-B" be modified to allow Lots 6 and 7 to have the ability to install separate driveways rather than a single shared driveway, with final location(s) to be approved by the Department of Public Works, prior to any building permits being issued on the proposed lots. This recommendation, of a modified condition of approval, is reflected in the "Revised" Conditions of Approval attached to this report (see Attachment "7").

Public Hearing to Reconsider an Appeal of the Planning Commission's February 5, 2009, Decision to Deny Vesting Tentative Subdivision Map Application No. 2006-06, Knights Ferry Overlook to Divide a 33.70 Acre Parcel to Create 8 Parcels Ranging in Size from 0.50 to 5.00 Acres with a 12.03-acre "Remainder" Located at the Southeast Corner of Cemetery and Frymire Roads, in the Knights Ferry Area
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Board of Supervisors Hearing - PC Appeal - March 24th, 2009

Following the Planning Commission's decision to deny the applicant's request, the applicant submitted a letter to the Clerk of the Board, requesting the Board of Supervisors conduct a hearing to appeal the Planning Commission's decision (see Attachment "1"). The applicant submitted additional information that attempted to address some of the questions or concerns raised by the Planning Commissioners. As stated in the appeal letter, the applicant's impression is that the Planning Commission's decision was partially based off a false claim, that Cemetery Road is only 13-feet wide, made by a resident of Knights Ferry during the PC hearing. The information provided by the applicant's engineer, shows the true width of Cemetery Road as being between 22 and 25-feet wide, not the 13-foot width stated at the Planning Commission meeting. A conceptual site plan was also provided that illustrated how the 1-acre lots might potentially be developed, containing a septic system, private water well, and a single-family dwelling. This information is available as an attachment to this report (see Attachment "5").

At the appeal hearing, the Board was concerned with the project site not being physically suitable for the proposed development. There were concerns raised by the Board that the use of individual septic systems on the 1-acre lots, in close proximity to an existing Oakdale Irrigation District canal (*OID - Frymire Lateral*) and an existing private pond, would result in water quality problems. The Board also expressed concern that the proposed ""Remainder"" would create a split zoning issue. Community members spoke at the hearing and raised some of the same concerns mentioned above and brought forth at the Planning Commission hearing. As previously stated, the Board unanimously decided (5-0; O'Brien/Chiesa) to uphold the Planning Commission's decision to deny the project in its entirety.

Current Issues to Consider

One of the core issues of this project and appeal, is the source of water service for the four 1-acre lots. In this case, many concerns were raised during the original Planning Commission and Board hearings that focused on the availability and quality of ground water should the applicant drill on-site water wells to serve the lots in question. As currently being reconsidered, the source of water will be public water provided by the KFCSD. County staff has recently met with the KFCSD to discuss the KFCSD's ability to provide water to the applicant's site. The KFCSD has stated verbally to staff that the water capacity to serve the applicant's four 1-acre lots is available, however the necessary infrastructure is not currently in place to provide the water service. As such, any water connection provided by the KFCSD to the applicant's site, will require the applicant to install the necessary infrastructure to extend the KFCSD's water service. In a recent letter, dated May 3, 2012, the KFCSD indicated that the applicant will need to file a formal application with the District to explore current conditions and determine the type of water system improvements needed, in order to provide water to the project site

Public Hearing to Reconsider an Appeal of the Planning Commission's February 5, 2009, Decision to Deny Vesting Tentative Subdivision Map Application No. 2006-06, Knights Ferry Overlook to Divide a 33.70 Acre Parcel to Create 8 Parcels Ranging in Size from 0.50 to 5.00 Acres with a 12.03-acre "Remainder" Located at the Southeast Corner of Cemetery and Frymire Roads, in the Knights Ferry Area
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(see Attachment "8"). Conditions of Approval have been added to reflect the District's application and water system connection requirements. If this project is approved, actual improvements and associated costs will be the sole responsibility of the applicant and will be required to be in place prior to recording the VTM.

As part of this reconsideration, staff is recommending the designated "Remainder" also be connected to public water. Pursuant to Government Code Section 66424.6, staff also recommends that the Board make a finding (*Finding: 5-1*), to require water service connections be extended and connected to the designated "Remainder" parcel for reasons of health and safety, or that it's a necessary prerequisite to the orderly development of the surrounding area, prior to recording of the Final Map. In this case, the designated "Remainder" is currently developed with various structures and would be sandwiched between the proposed 1-acre lots and the existing water connection on the proposed 0.50± acre lot. Requiring the water service connection on the "Remainder" parcel at this time, may relieve some issues brought forth by members of the public relating to possible water well contamination issues in the area and ensure that orderly development occurs. Without requiring the water connection at this time, the "Remainder" parcel would be the last "un-connected" property in this area of the KFCSD boundaries. Revised Conditions of Approval rejecting the need for the "Remainder" to connect have been attached to this report and can be seen in Attachment "7".

As outlined in the "Legal Challenge" section of this report, Government Code § 65598.5 (j) requires specific findings to be made, if the Board decides to uphold the Planning Commission's denial of the project. The required findings are listed in the section titled "Staff Recommendations."

Staff has removed a condition of approval that was originally placed on the project by the Oakdale Irrigation District (OID) when the project was circulated for review in 2007-2008. This condition would have required the applicant to provide OID with written verification that the Stanislaus Consolidated Fire Protection District will either waive the fire-flow requirements for development on the project site or state that the development is not subject to fire-flow requirements. Considering the fact that neither OID or Stanislaus Consolidated Fire have fire related jurisdiction over the project site, staff is uncertain why OID requested this condition and therefore has removed it as part of the Revised Conditions of Approval (see Attachment "7"). The project in its present form, will be obtaining water for domestic use and fire protection from the KFCSD. Any fire flow requirements will be handled through the building permit process and at the time of construction, as required under the California Fire Code. OID has been contacted and informed of staff's recommendation to remove this condition.

Public Hearing to Reconsider an Appeal of the Planning Commission's February 5, 2009, Decision to Deny Vesting Tentative Subdivision Map Application No. 2006-06, Knights Ferry Overlook to Divide a 33.70 Acre Parcel to Create 8 Parcels Ranging in Size from 0.50 to 5.00 Acres with a 12.03-acre "Remainder" Located at the Southeast Corner of Cemetery and Frymire Roads, in the Knights Ferry Area
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POLICY ISSUES:

The Board of Supervisors has been directed by the Court to vacate its March 24, 2009 denial of the applicant's appeal and reconsider the project which it did formally on April 17, 2012. The Board should determine if the project is consistent with its priority of striving for a Well Planned Infrastructure System.

STAFFING IMPACT:

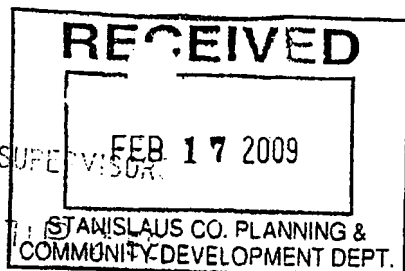
There are no staffing impacts associated with this item. Bringing this item for reconsideration as instructed by the Court was made possible through the work of the Department of Planning and Community Development and the Office of County Counsel using available staffing.

CONTACT PERSON:

Angela Freitas, Interim Planning and Community Development Director
Telephone: 525-6330

ATTACHMENTS:

- 1: Appeal Letter, dated February 13, 2009, from Nicholas Honchariw
- 2: Planning Commission Staff Report dated February 5, 2009
- 3: Planning Commission Minutes dated February 5, 2009
- 4: Letters of Opposition Submitted to Planning Commission on February 5, 2009
- 5: Supplemental Information Submitted by Applicant
- 6: Letter(s) of Opposition Submitted to Board of Supervisors
- 7: Revised Conditions of Approval - VTM 2006-06
- 8: Letter dated May 3, 2012 - Knights Ferry CSD, Bart Barringer



BOARD OF SUPERVISORS

2009 FEB 17

Nicholas Honchariw, Trustee
Honchariw Revocable Trust
3 Via Paraiso West
Tiburon CA 94920

Board of Supervisors
Stanislaus County
1010 10th Street
Modesto CA 95354

February 13, 2009

SUBJECT: VESTING TENTATIVE SUBDIVISION MAP APPLICATION NO. 2006-06 & EXCEPTION APPLICATION NO. 2008-02 --- KNIGHTS FERRY OVERLOOK

APNs: 002-044-03 & 002-044-004

Applicant Nicholas Honchariw, trustee, appeals the Planning Commission's denial of his application on February 5, 2009. Attached is the Department notice together with a check in the amount of \$580.

The Commission's determination was made in abuse of its discretion on incorrect and / or inadequate findings of fact and contrary to law. A decision must be based on adequate findings of fact. Govt C Sec. 66452.5(e). Department Staff had made all of the findings of fact necessary for approval and recommended approval in the Staff Report dated February 5, 2009 (incorporated by this reference). The Commission did not make any specific contrary findings of fact for its adverse determination, but various Commission members voting to deny the application echoed several claims made by representatives of the Knights Ferry Municipal Advisory Council ("MAC") and neighbors. As summarized below, however, some of the claims are simply wrong, and none constitutes an adequate finding of fact.

Application:

The application subdivides two adjacent parcels owned by Applicant in the Knights Ferry area. One parcel of approximately 20 acres is zoned A-2-5, allowing 5-acre parcels with a residence, and the application proposes three 5-acre parcels with a remainder. The other parcel of approximately 13 acres is entirely within the Knights Ferry Historical Site District and is zoned H-S, with no minimum zoning except for water and sewer / septic requirements. Under the County General Plan as well as the specific plan for Knights Ferry, the H-S zone is designed for development (while the surrounding land is zoned for agriculture). The application proposes four 1-acre parcels, a 1/2 acre parcel already developed (served by public water), and a remainder of approximately 8 acres preserving most of the sensitive woodlands of the property intact.

BOARD OF SUPERVISORS
FEB 17 P 2 50

Planning Commission Determination:

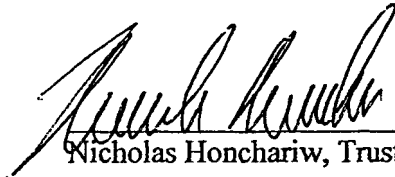
Because the role of the Planning Commission is purely advisory for subdivision applications under county ordinance, a hearing will be de novo. However, let me capsule the objections raised and identify their various errors and inadequacies.

Opposition was focused on the four 1-acre parcels. No opposition was raised to the subdivision of the A-2-5 parcel into three 5-acre parcels plus remainder. In fact, that was expressly approved by the MAC Chairman and offered as a model by others. Nor was there any opposition to the creation of the single ½ acre parcel in the H-S zone, already developed with a residence, or to the remainder of over 12 acres spanning both parcels, preserving the wooded terrain of the property largely intact.

The objections to the four 1-acre parcels fell into the following categories:

- 1) **Traffic / Safety.** Unfortunately, opponents misrepresented at the hearing that Cemetery Road was only 13 ½ feet wide, a claim picked up by 2 or 3 of the Commission members. This of course would not allow two cars to pass each other. In fact, as known by the Department and confirmed by our engineers, the roadway exceeds 20' in width. The Department found no "significant traffic impact" upon county roads, and its recommended conditions were all incorporated into the Conditions of Approval.
- 2) **Water.** Even though the four 1-acre lots are in its service area, the local water district, Knights Ferry Community Services District, has refused to provide service (necessitating the Exception). The 1-acre lots comply with zoning requirements for well water, and, in fact, well water is enjoyed by all of the neighboring residents, without problems. There was no evidence to the contrary. In accordance with Department policy, no water tests were required or conducted now, but the Conditions of Approval expressly require suitable wells as a condition of issuance of building permits.
- 3) **Septic Systems.** The 1-acre lots comply with zoning requirements for septic systems (and many lots within the water district are much smaller). Again no evidence was offered that septic systems would be inadequate. The Conditions of Approval require engineered systems for wastewater disposal for all proposed parcels.
- 4) **Density.** Ultimately this was the heart of the opposition --- various neighbors are simply unhappy with 1-acre lots. This objection was initially made by the MAC Chairman upon the misconception that at least two of the 1-acre lots (those bordering Frymire Road) were in the A-2-5 zone. But all of the 1-acre lots are within the H-S zone, and the General Plan expressly envisions density of 1 to 7 residences per net acre --- the proposed 1-acre lots are already at the limit of that guideline. Reducing density further would fly in the face of the General Plan, the specific plan for Knights Ferry, and California statutory requirements for housing developments.

The subdivision proposal has been carefully crafted to comply with the General Plan, the specific plan for Knights Ferry, and local zoning, while retaining the sensitive wooded area of the property outside proposed development. As found by Department Staff, it complies with all applicable requirements and guidelines and deserves approval.

A handwritten signature in black ink, appearing to read "Nicholas Honchariw", written over a horizontal line.

Nicholas Honchariw, Trustee

STANISLAUS COUNTY PLANNING COMMISSION

February 5, 2009

STAFF REPORT

VESTING TENTATIVE SUBDIVISION MAP APPLICATION NO. 2006-06 AND EXCEPTION APPLICATION NO. 2008-02 KNIGHTS FERRY OVERLOOK

REQUEST: TO DIVIDE A 33.70-ACRE PARCEL TO CREATE 8 PARCELS RANGING IN SIZE FROM 0.50 TO 5.00 ACRES WITH A 12.03-ACRE "REMAINDER". THE PROPERTY IS SPLIT-ZONED, CONSISTING OF BOTH A-2-5 (GENERAL AGRICULTURE) AND H-S (HISTORICAL SITE DISTRICT). AN EXCEPTION IS BEING REQUESTED ON THE FOUR 1.00-ACRE PARCELS WHICH WOULD NOT HAVE MUNICIPAL WATER SERVICE/CONNECTION FROM THE KNIGHTS FERRY COMMUNITY SERVICES DISTRICT. THE PROPERTY IS LOCATED AT THE SOUTHEAST CORNER OF CEMETERY AND FRYMIRE ROADS, IN THE KNIGHTS FERRY AREA.

APPLICATION INFORMATION

Owner/Applicant:	Nick Honchariw - Honchariw Revocable Trust
Location:	The southeast corner of Cemetery and Frymire Roads, in the Knights Ferry area
Section, Township, Range:	17-1-12
Supervisory District:	One (Supervisor O'Brien)
Assessor's Parcel:	002-044-003 & 002-044-004
Referrals:	See Exhibit J Environmental Review Referrals
Area of Parcels:	Parcel 1-3: 5.0 acres each Parcel 4-7: 1.0 acres each Parcel 8: 0.5 acres Remainder: 12.03 acres OID Canal: 2.17 acres (not included inmap)
Water Supply:	Parcel 1-7 & Remainder: Water well Parcel 8: Public Water
Sewage Disposal:	Septic tank/leach fields
Existing Zoning:	Lots 1-3: A-2-5 (General Agriculture) Lots 4-8: H-S (Historical Site District)
General Plan Designation:	Lots 1-3: Agriculture & Lots 4-8: Historical
Community Plan Designation:	Lots 4-8: Historical (portion of project site)
Williamson Act Contract Number:	Not applicable
Environmental Review:	Mitigated Negative Declaration
Present Land Use:	Single-family dwelling & family campground / resort
Surrounding Land Use:	Agricultural uses, scattered single-family dwellings, and the historic Community of Knights Ferry

ATTACHMENT 2

PROJECT DESCRIPTION

This is a request to divide a 33.70 acre parcel to create 8 parcels ranging in size from 0.50 to 5.00 acres with a 12.03-acre "remainder." An Exception is being requested on the four 1.00 acre parcels which would not have municipal water service/connection from Knights Ferry Community Services District (as required by 20.52.210 of the Stanislaus County Subdivision Ordinance). Parcels 1-7 will be served by septic systems and private wells. A single water connection from the Community Services District currently exists on Parcel 8 and it will continue to serve this parcel if approved.

SITE DESCRIPTION

The project site is located at the southeast corner of Cemetery and Frymire Roads, in the Knights Ferry area. The project site currently consists of a single-family dwelling and various storage buildings. Agricultural uses, scattered single-family dwellings and the town of Knights Ferry surround the site. Small portions of both proposed Parcel No. 8 and the remainder parcel, areas immediately adjacent to the Stanislaus River, are located within the boundary of the 100-year flood zone. The "remainder" parcel also contains several buildings that have been used, over the last 40-50 years, as part of a private / Honchariw family "campground" or resort (as identified in Exhibit A). Although these buildings may have been sleeping quarters at one time, today they are used for storage only. Due to incomplete records, Staff has been unable to fully document the history and validity of this family campground/resort.

DISCUSSION

The site is designated both "Agriculture" (Lots 1-3) and "Historical" (Lots 4-8) on the Land Use Element of the General Plan. It is also split-zoned with half designated as A-2-5 (General Agriculture), which requires a minimum lot size of 5 acres for the creation of new parcels, and H-S (Historical Site District), which allows minimum lot sizes based on the availability of municipal services. In this particular case, the applicant is proposing four 1.00-acre parcels, which is the minimum parcel size that would allow a private well and septic tank. However, an exception is required due to these 1.00-acre parcels which would not have municipal water service/connection from Knights Ferry Community Services District (as required by 20.52.210 of the Stanislaus County Subdivision Ordinance). There is also a 0.50-acre parcel (Lot 8) being proposed, that currently has a dwelling with municipal water service and a septic tank. The minimum lot size requirement for a lot with municipal water service and a septic tank is 20,000 square feet (0.45 acre). The project site is not currently enrolled in a Williamson Act Contract. Based on the conformance with the zoning ordinance and the existence of legal and physical access to a county-maintained road, staff believes this project is consistent with the County General Plan.

The project site also contains a river-front campground and boat launching area, commonly known as Father John's River Camp. The campground is currently operating through an annual permit issued by the Department of Environmental Resources. All permits on file with the Department of Environmental Resources identify a total of 25 campground spaces. Due to limited County records, it is a little unclear how the campground was originally established. The applicant has stated that the campground does date back to at least the 1960's. A letter dated February 26, 1964 from the

Stanislaus County "Health Department" seems to substantiate this claim. Looking at the available records, Staff has concluded that the campground is considered a legal "non-conforming use" and as such, any modification, alteration, or enlargement would be subject to the procedures outlined in Chapter 21.80 of the Stanislaus County Zoning Ordinance.

Exception:

An Exception is being requested due to the fact that the four (4) proposed 1.00-acre parcels, located within the area zoned H-S (Historical Site District), will not be served with municipal water service from the Knights Ferry Community Services District (KFCSD). Stanislaus County Subdivision Ordinance Section 20.52.210(A) specifically states that, "Proposed subdivisions of five or more parcels, all of which are located more than two thousand six hundred forty feet (2,640 ft.) from an existing sewer or water line, but within an officially adopted sanitary sewer or public water service area, shall either extend the existing sanitary sewers and water lines to the subdivision and each of its lots or parcels, or shall install dry sewers and water lines, complete with service laterals, to the boundary of every lot or parcel."

The following findings must be made in order for the Planning Commission to grant an Exception:

- A. That there are special circumstances or conditions applying to the property being divided;
- B. That the Exception is necessary for the preservation and enjoyment of a substantial property right of the owner;
- C. That the granting of the Exception will not be detrimental to the public welfare, injurious to other property in the neighborhood of the subdivision, and that it will not constitute a special privilege not enjoyed by others under similar circumstances.
- D. The granting of the Exception will not be in conflict with the purposes and objectives of the general plan, or any element thereof, or any specific plan.

A Findings Statement has been submitted on behalf of the property owner, please see attached Exhibit B. The primary justification for the Exception would seem to be contained in the statement: "...the Knights Ferry Community Services District is refusing water service to the property, thereby making compliance with Section 20.52.210 impossible..." The physical location of Parcels 4 thru 7 presents a significant limitation for the Community Services District's ability to serve these proposed parcels. In order for the Community Services District to provide water (and comply with the Subdivision Ordinance), the applicant would have to upgrade the existing water system and provide the necessary infrastructure to pump the water a vertical distance of approximately 120± feet uphill to the proposed parcels (Parcels 4-7).

Obviously, the cost of extending the water lines uphill for only 4 lots is not practical. It is also fairly easy to understand why someone might question the wisdom of such a requirement since the proposed parcels meet the minimum lot size requirement to have both a domestic well and a septic system. In addition, this proposal would result in parcels that are both consistent with the H-S zoning district requirements and similar in size to other parcels in the Community of Knights Ferry.

In the Findings Statement submitted with the application, the applicant also states that the granting of the Exception will preserve the property rights allowed to other properties in the vicinity. Staff has identified that the majority of the properties (57 out of 70) in the Community of Knights Ferry are below 1.00 acre, many of which are old "township" lots, and most of which are connected to municipal water service (KFCSD). Staff does believe that the limitations on the ability of the Knights Ferry Community Services District to provide water service are a "special circumstance or condition applying to the property being divided."

Staff does not believe allowing a domestic well until there is sufficient infrastructure to provide water service to the subject parcels will "constitute a special privilege not enjoyed by others under similar circumstances." Staff does support the position that this Exception is necessary, due to special circumstances, to maintain the owner's property rights.

Staff does not believe that the approval of this application would set a precedence for other owners of existing parcels to request Exceptions for further subdivision of H-S properties in the Community of Knights Ferry. It would not be practical to expect the applicant to provide the necessary upgrades to the Community Services District infrastructure in order to serve just four parcels. However, Condition of Approval No. 21 requires new structures located within proposed Parcels 4-7 to be pre-plumbed to allow for connection to the District's infrastructure if water becomes available at the time of dwelling construction or construction of any addition to a dwelling greater than 500 square feet in size or construction of any addition adding a water connect.

Staff believes the Exception application should be approved due to the circumstances and information noted above. None of the agencies to which this application was referred, including the Department of Environmental Resources, offered any objections to the allowance of this Exception.

ENVIRONMENTAL REVIEW

Pursuant to the California Environmental Quality Act (CEQA), the proposed project was circulated to all interested parties and responsible agencies for review and comment and there were no significant issues raised (see Exhibit J - Environmental Review Referrals). The project had two referrals: at the Early Consultation, and Initial Study circulation periods. The proposed Mitigated Negative Declaration declares the proposed project will not have a significant effect on the environment and incorporates the Mitigation Measures identified in the Initial Study. Conditions of Approval, which include the Mitigation Measures, have been placed on the project (Exhibit C). As required by the Stanislaus County Subdivision Ordinance, a subdivision committee meeting was held on June 4, 2008. No significant issues were raised by any of the departments in attendance. Due to the project's location and the possibility of sensitive biological resources, an Archaeological Survey and Biological Survey have been conducted:

Archaeological Survey:

An Archaeological Survey was conducted, with a single site visit on August 29, 2005, by Darren Andolina and Linda Thorpe on behalf of Far Western Anthropological Research Group. The complete report is on file with the Planning Department, but due to the sensitive information, access may be restricted (see Exhibit H). The archaeological survey identified the general vicinity

as being within the North Valley Yokuts former territory and was occupied from approximately 3000-2500 BP through the early twentieth century. The survey went on to state that during the mid-1800's, the Town of Knights Ferry was established as a small Euro-American settlement. Shortly thereafter, during the "gold-rush" era, the town experienced a significant population growth that dramatically altered the natural environment. The field survey identified four isolated historic features and two archaeological sites: one historic and one with both historic and prehistoric attributes. The survey recommended that no further work be conducted on these resources as part of the filing of this subdivision map. However, to mitigate potential impacts to less than significant levels, Mitigation Measures and Conditions of Approval that reflect the information provided in the Archaeological Survey have been added (see Exhibits C & E).

Biological Survey:

A Biological Reconnaissance Survey was conducted, with multiple site visits during March of 2005, on the project site by Diane S. Moore of Moore Biological Consultants. The complete report is provided as an attachment (see Exhibit G). The biological survey identified some areas of suitable habitat for sensitive plants although the likelihood of occurrence on the project site is considered generally low. The site also contains potentially suitable habitat for Swainson's hawk, listed salmonids, western pond turtle, California tiger salamander, western spadefoot, vernal pool tadpole shrimp, vernal pool fairy shrimp, sensitive bats, and valley elderberry longhorn beetle. None of these species were observed during the survey and further surveys would be needed in order to determine their presence.

Within the project site, there are a number of potential jurisdictional waters of the United States (U.S.). Along the eastern boundary of the site is the Stanislaus River, a navigable water of the U.S., which is under the jurisdiction of the Army Corps of Engineers (ACOE), California Department of Fish & Game (CDFG), California Regional Water Quality Control Board (RWQCB), and the State Reclamation Board. There is a cluster of seasonal wetlands in the northern portion of the project site that appears to have been created by mine tailings. Also noted, was at least one intermittent drainage within the northern portion of the site that appears to drain into the Stanislaus River. A single canal owned by the Oakdale Irrigation District is also located on the northern edge of the site and is part of the Oakdale area irrigation system. The survey recommended total avoidance of all potential jurisdictional waters of the U.S.

Elderberry shrubs were identified on site along with several trees that could be used by nesting raptors and other protected birds. The report went on to identify possible mitigation measures to minimize or avoid any impacts that may occur as a result of this project. Mitigation Measures and Conditions of Approval that reflect the information provided in the attached Biological Survey have been added to mitigate possible impacts as a result of this project (see Exhibit E & C).

Knights Ferry Municipal Advisory Council:

A CEQA referral response letter was received from the Knights Ferry Municipal Advisory Council (MAC), which stated six "areas" of concern regarding this project (see Exhibit I). The majority of their concerns, such as light trespass, traffic, domestic water wells and septic tanks have been addressed through the Conditions of Approval. The letter also stated that one acre parcels with dwellings will degrade the habitat of animal species in the area. Staff feels that the mitigation

measures imposed on this project adequately mitigate and protect the habitat (see Exhibit E). The last concern was that the property being divided must be compatible to the existing density and lot size in the Community. Staff has researched the existing parcel sizes in the H-S zoning district of Knights Ferry. There currently are approximately 70 parcels, 57 of which are less than 1.00 acre in size, 10 parcels are between 1.00 - 4.00 acres, and the remaining 3 parcels are over 4.00 acres in size. According to a Municipal Service Review conducted in 2004 (by LAFCO), there are currently 64 lots with public water connections and 6 lots served by domestic wells. Both Public Works and the Department of Environmental Resources were provided with copies of the Knights Ferry MAC comments and both agencies are satisfied that the Conditions of Approval placed on this project are adequate to address the issues raised by the MAC.

Mitigation Monitoring Plan:

The Initial Study and Mitigation Monitoring Plan that was originally circulated for the subject project, identified detailed mitigation measures addressing both biological and archeological resources. At the request of the applicant's Biological Consultant, the "biological" mitigation measures have been modified so that they are better able to be implemented. These modified mitigation measures were sent to the California Department of Fish and Game on December 10, 2008 for comment and review. To date no response has been received. In order to substitute the original mitigation measure, the new mitigation measure must be found to be equivalent or more effective in mitigating or avoiding potential significant effects and that it in itself will not cause any potentially significant effect on the environment. Staff believes the proposed substitutions (modifications) for mitigation measures 1-10, are just as effective in addressing potential "biological" impacts associated with the proposed project. The modified mitigation measures can be found in Exhibit "E" and are shown with strikethrough/bold text.

RECOMMENDATION

Based on all evidence on the record, staff recommends that the Planning Commission take the following actions regarding this project.

1. Adopt the Mitigated Negative Declaration pursuant to CEQA Guidelines Section 15074(b), by finding that on the basis of the whole record, including the Initial Study and any comments received, that there is no substantial evidence the project will have a significant effect on the environment and that the Mitigated Negative Declaration reflects Stanislaus County's independent judgement and analysis.
2. Find That:
 - (a) The substitute language (Mitigation Measure No. 1-10) is equivalent or more effective in mitigating or avoiding potential significant effects and that it in itself will not cause any potentially significant effect on the environment
3. Adopt the Mitigation Monitoring Plan, with the substitute language for Mitigation Measures No. 1-10, pursuant to CEQA Guidelines Section 15074(d).
4. Order the filing of a Notice of Determination with the Stanislaus County Clerk-Recorders Office pursuant to Public Resources Code Section 21152 and CEQA Guidelines Section 15075.

5. Find that:
- (a) The proposed map is consistent with applicable general and specific plans as specified in Section 65451.
 - (b) The design or improvement of the proposed subdivision is consistent with applicable general and specific plans.
 - (c) The site is physically suitable for the type of development.
 - (d) The site is physically suitable for the proposed density of development.
 - (e) The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
 - (f) The design of the subdivision or type of improvements are not likely to cause serious public health problems.
 - (g) The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public.
 - (h) The project will increase activities in and around the project area, and increase demands for roads and services, thereby requiring dedication and improvements.
 - (i) There are special circumstances or conditions applying to the property being divided.
 - (j) The Exception is necessary for the preservation and enjoyment of a substantial property right of the owner.
 - (k) The granting of the Exception will not be detrimental to the public welfare, injurious to other property in the neighborhood of the subdivision, and that it will not constitute a special privilege not enjoyed by others under similar circumstances.
 - (l) The granting of the Exception will not be in conflict with the purposes and objectives of the general plan or any element thereof or any specific plan.
6. Approve Vesting Tentative Subdivision Map Application No. 2006-06 and Exception Application No. 2008-02 - Knights Ferry Overlook, subject to the attached Conditions of Approval/Mitigation Measures.

Note: Pursuant to California Fish and Game Code Section 711.4, all project applicants subject to the California Environmental Quality Act (CEQA) shall pay a filing fee for each project. Therefore, the applicant will further be required to pay **\$2,050.00** for the Department of Fish and Game, and the Clerk Recorder filing fees. The attached Conditions of Approval ensure that this will occur.

Report written by: Joshua Mann, Associate Planner, January 21, 2009

Attachments:

- Exhibit A - Maps
- Exhibit B - Findings Statements & Knights Ferry Community Service District letter
- Exhibit C - Conditions of Approval
- Exhibit D - Initial Study
- Exhibit E - Mitigation Monitoring Plan - Modified
- Exhibit F - Mitigated Negative Declaration
- Exhibit G - Biological Reconnaissance Survey
- Exhibit H - Archaeological Survey Report
- Exhibit I - Knights Ferry Municipal Advisory Council letter
- Exhibit J - Environmental Review Referrals

Reviewed by:

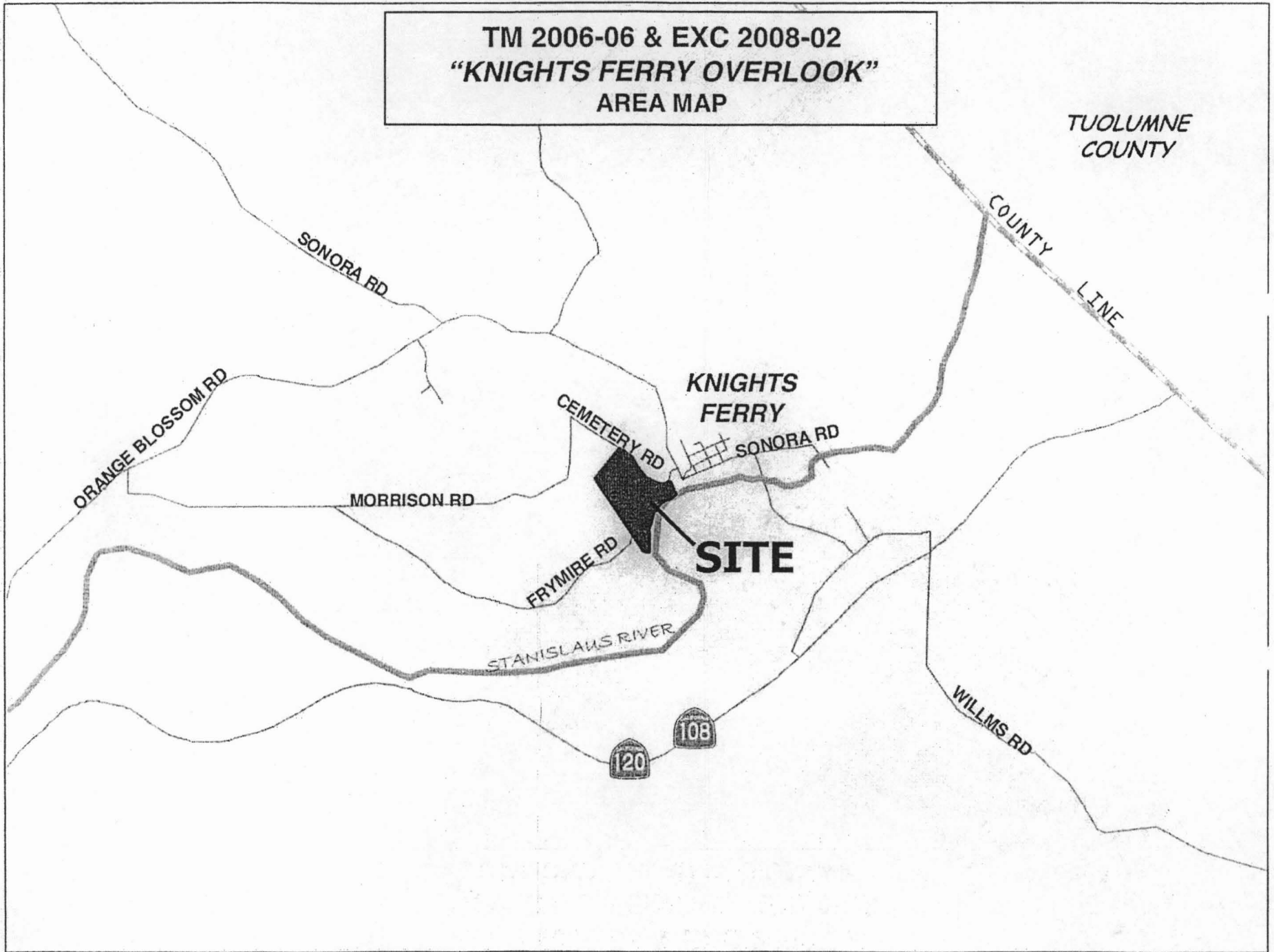


Bill Carlson, Senior Planner

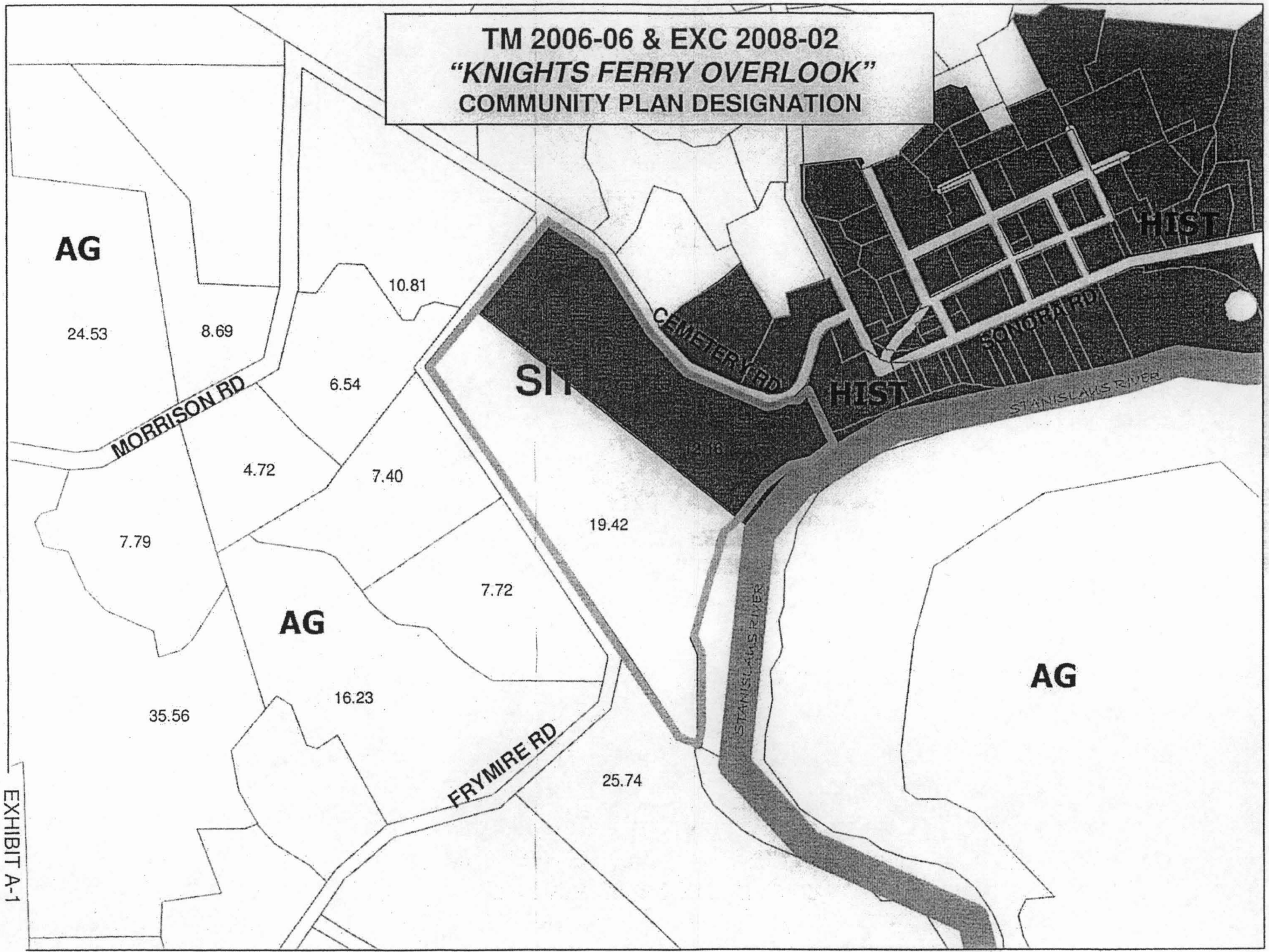
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TM 2006-06 & EXC 2008-02
"KNIGHTS FERRY OVERLOOK"
AREA MAP

TUOLUMNE
COUNTY



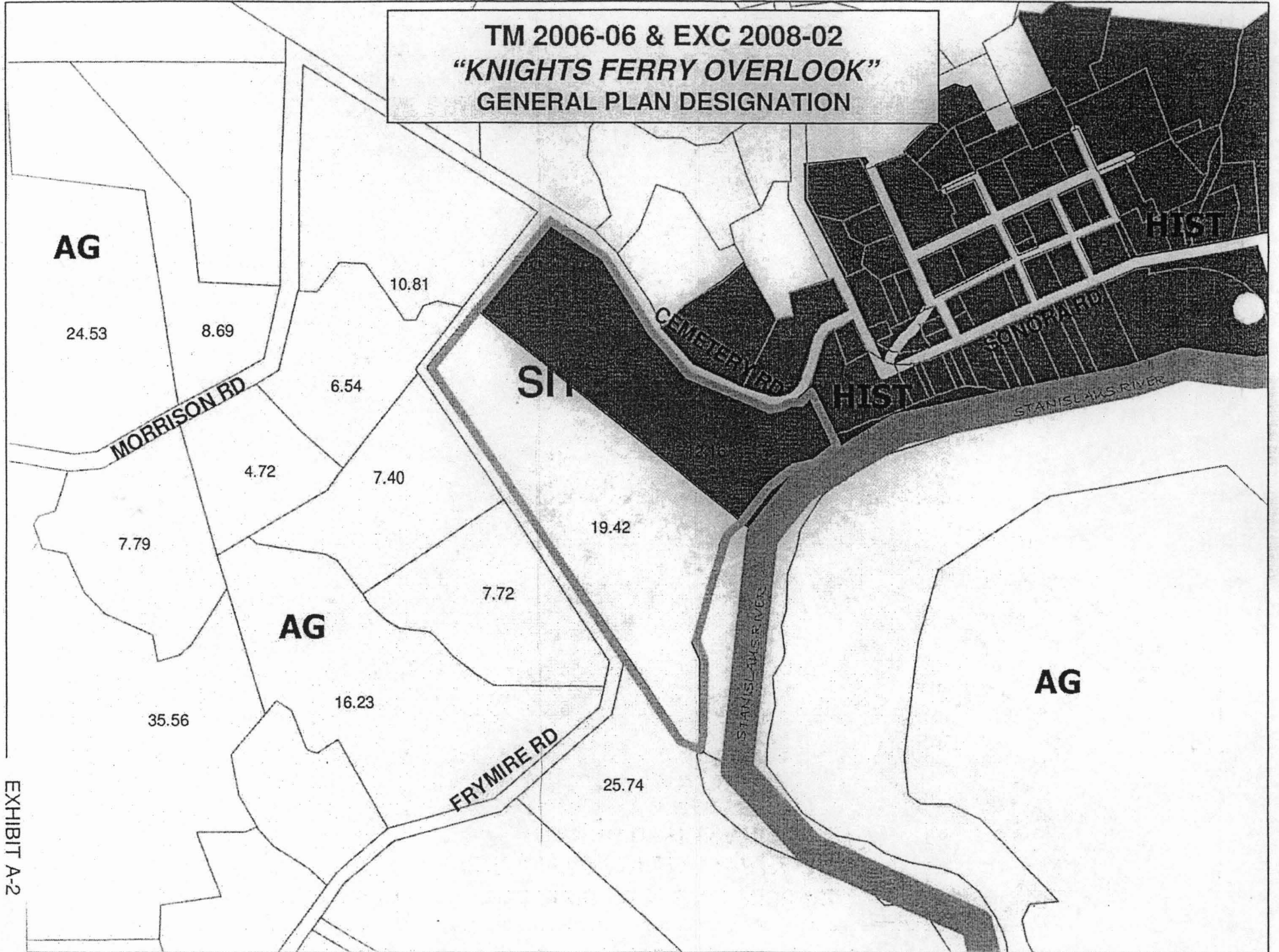
TM 2006-06 & EXC 2008-02
"KNIGHTS FERRY OVERLOOK"
COMMUNITY PLAN DESIGNATION



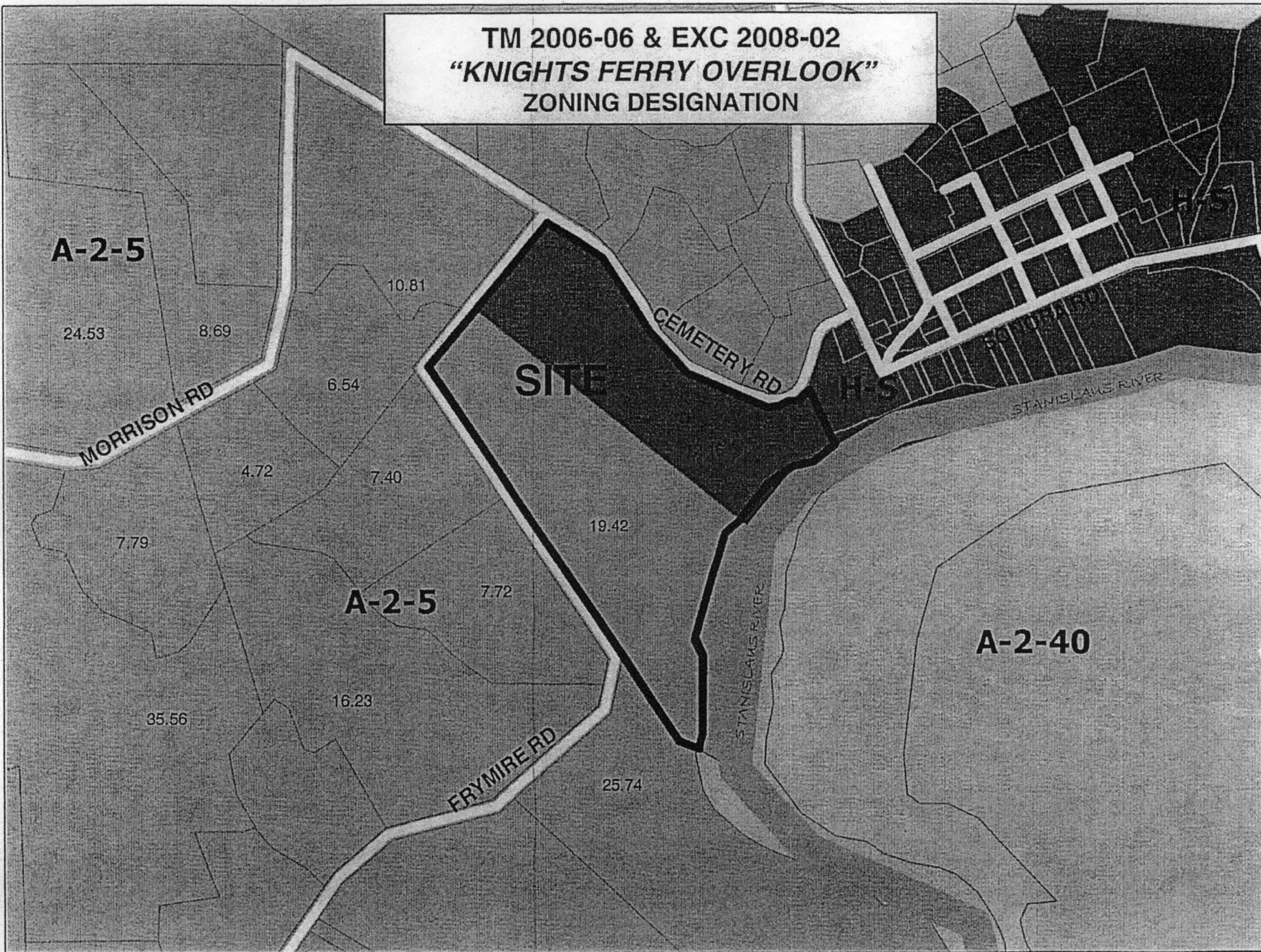
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EXHIBIT A-1

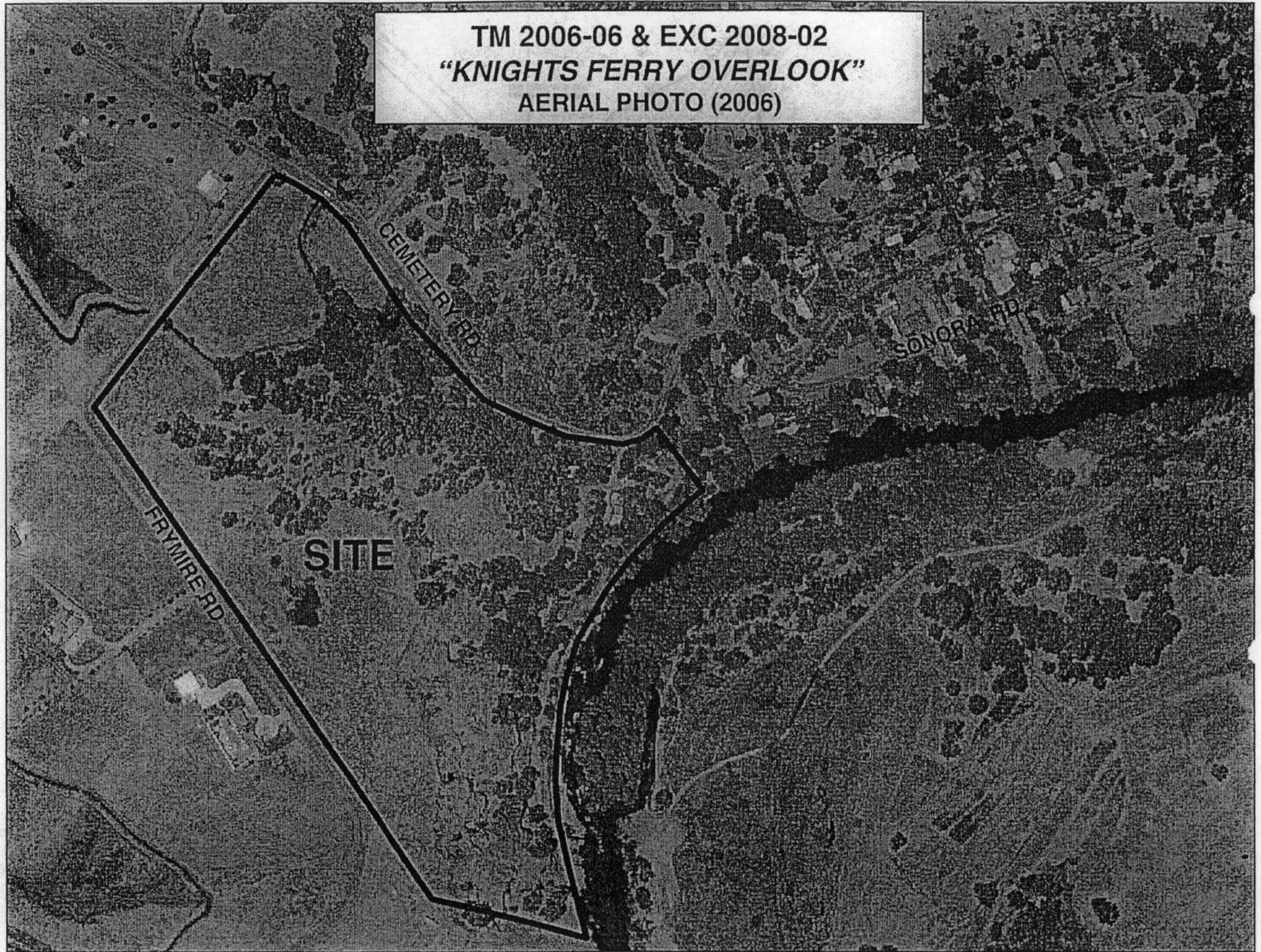
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"KNIGHTS FERRY OVERLOOK"
GENERAL PLAN DESIGNATION

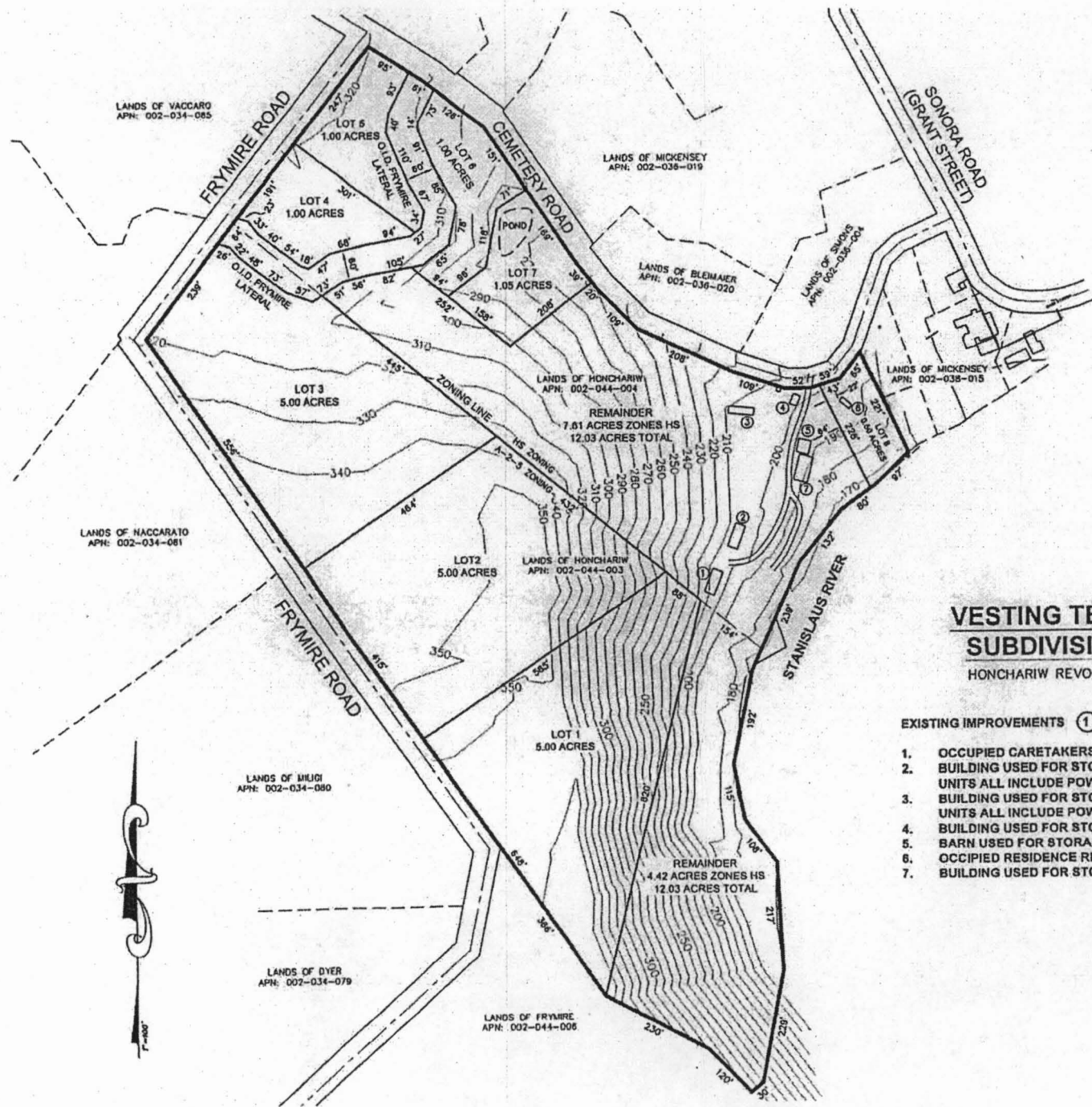


TM 2006-06 & EXC 2008-02
"KNIGHTS FERRY OVERLOOK"
ZONING DESIGNATION



TM 2006-06 & EXC 2008-02
"KNIGHTS FERRY OVERLOOK"
AERIAL PHOTO (2006)



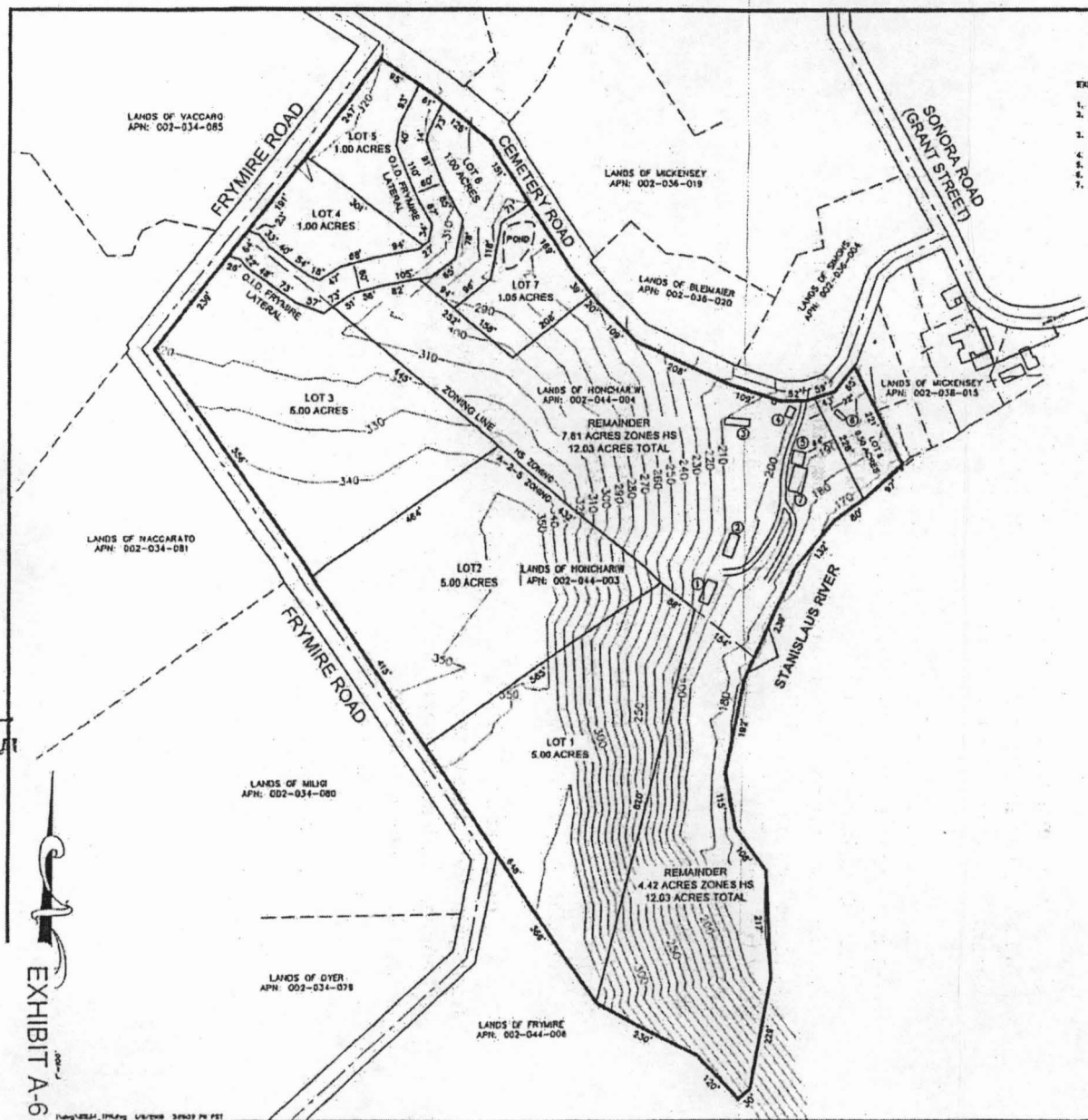


**VESTING TENTATIVE
SUBDIVISION MAP**
HONCHARIW REVOCABLE TRUST

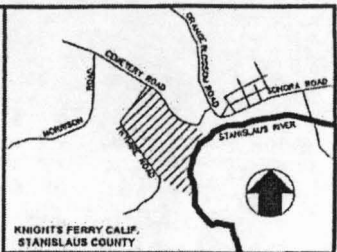
EXISTING IMPROVEMENTS ①

1. OCCUPIED CARETAKERS RESIDENCE W/ POWER & PLUMBING
2. BUILDING USED FOR STORAGE BUILT AS RESORT UNITS ALL INCLUDE POWER & PLUMBING
3. BUILDING USED FOR STORAGE BUILT AS RESORT UNITS ALL INCLUDE POWER & PLUMBING
4. BUILDING USED FOR STORAGE W/ POWER & PLUMBING
5. BARN USED FOR STORAGE HAS MULTIPLE POWER
6. OCCUPIED RESIDENCE REMODELED IN 2003
7. BUILDING USED FOR STORAGE W/ POWER & PLUMBING





- EXISTING IMPROVEMENTS (1)**
- 1. OCCUPIED CARETAKERS RESIDENCE W/ POWER & PLUMBING
 - 2. BUILDING USED FOR STORAGE BUILT AS RESORT UNITS ALL INCLUDE POWER & PLUMBING
 - 3. BUILDING USED FOR STORAGE BUILT AS RESORT UNITS ALL INCLUDE POWER & PLUMBING
 - 4. BUILDING USED FOR STORAGE W/ POWER & PLUMBING
 - 5. BARN USED FOR STORAGE HAS MULTIPLE POWER
 - 6. OCCUPIED RESIDENCE REMODELED IN 2002
 - 7. BUILDING USED FOR STORAGE W/ POWER & PLUMBING



VICINITY MAP

OWNER/APPLICANT: HONCHARIW REVOCABLE TRUST
 3 VIA PARADISE WEST
 TUBURON, CA 94970
 (415) 435-8302

PREPARED BY: GIULIANI & KULL, INC.
 440 S. YOSEMITE AVENUE SUITE 101
 DANA POINT, CA 92629
 (209) 847-8728

TOTAL AREA: 2.85 AC.
 NO. OF PARCELS: 8 + REMAINDER
 A.P.N.: 002-044-003, 002-044-004
 ZONING: A-2-S & HS
 WATER: KNIGHTS FERRY AND INDIVIDUAL WELLS
 SANITARY SEWER: SEPTIC SYSTEM
 STORM DRAIN: ON-SITE DISPOSAL
 SLOPE OF LAND: VARIES 1%-50%

**VESTING TENTATIVE
 SUBDIVISION MAP**

PORTION OF PARCEL 1 AND 2 AS DESCRIBED IN DEED FROM GEORGE D. CHENEY TO IWAN S. HONCHARIW, RECORDED ON PAGE 160, VOLUME 2587, OFFICIAL RECORDS OF STANISLAUS COUNTY ON OCTOBER 24, 1973, LYING 30 FEET MEASURED AT RIGHT ANGLES TO THE EXISTING RIGHT BANK OF THE STANISLAUS RIVER, PARCEL 1 AND 2 STANISLAUS COUNTY, CALIFORNIA SCALE 1" = 100' APRIL 2001

GK Giuliani & Kull, Inc.
 440 S. Yosemite Avenue, Suite A, Dana Point, CA 92629
 (209) 847-8728 Fax (209) 847-7323
 Auburn • Oakdale • San Jose

Project Description: Knights Ferry Overlook

The Project is a subdivision of approx. 34 acres of property ("Property") located along and above the Stanislaus River adjacent to Knights Ferry consisting of two contiguous parcels, one of approx. 13 acres zoned HS, and the other of approx. 20 acres zoned A-2-5, into 8 lots totalling approx. 20 acres and a Remainder of approx. 14 acres. With the exception of one already improved lot of ½-acre on the Stanislaus River, all of the proposed lots are on the upper grasslands of the property overlooking the town and the river, and all of the river frontage and substantially all of the woodlands are retained as part of the Remainder.

The approx. 13-acre parcel zoned HS is within the Knights Ferry Historical District. The parcel will be subdivided into 4 1-acre lots and one ½-acre lot, with the remaining approx. 8+ acres included in the Remainder.

The approx. 20-acre parcel zoned A-2-5 will be subdivided into 3 5-acre parcels with the remaining approx. 5+ acres included also in the Remainder.

I. The proposed map (and design) of the Project is consistent with the General Plan of the County as well as all applicable specific plans. In particular, it is consistent with all applicable elements of the General Plan, including as follows:

Land Use. The subdivision is consistent with existing zoning. The parcel zoned A-2-5 is subdivided into three 5-acre parcels with the remaining portion of 5+ acres included in the Remainder, and the parcel zoned HS is subdivided into four 1-acre parcels and one already improved ½-acre parcel with the remaining portion of 8+ acres included also in the Remainder. Building in the HS zone will of course be subject to the Knights Ferry Historical District requirements, and the applicant intends to record CC&Rs establishing significant open space restrictions. The Project is surrounded by residential use in and around Knights Ferry.

Circulation. Each lot as well as the Remainder will open onto uncongested county roads, Cemetery Road and / or Frymire Road, which provide adequate facilities for circulation.

Conservation / Open Space. With minor exceptions, the woodlands and river frontage of the Property are retained in the Remainder. The Applicant commissioned and has attached both an environmental report and an archaeological / cultural report to confirm the absence of any material adverse impact upon the environment or cultural legacy of the area from the subdivision.

The applicant presented the subdivision in concept to the Knights Ferry Municipal Advisory Commission in Fall 2004 and received no objections, simply a request to keep the commission informed.

II. The Property is fully suitable for the proposed density and type of development. It is already encircled by residential development of comparable density and type, and sensitive areas are by and large retained in the Remainder.

III. The environmental report commissioned by the applicant confirms the absence of any substantial environmental damage or substantial and unavoidable injury to fish or wildlife or their habitat.

IV. There is no reason to expect that the Project will cause serious public health problems.

V. There are no public easements established by a court of competent jurisdiction which may be impaired by the Project.

**FINDINGS FOR EXCEPTION TO SUBDIVISION ORDINANCE
TENTATIVE MAP APPLICATION 2006-06, "KNIGHT'S FERRY OVERLOOK"
APN: 002-044-003, 002-044-004**

Stanislaus County development application requirements require that certain findings be made for new development applications. The following provides findings that recommend an Exception to the County Subdivision Ordinance for the above-referenced project.

The specific section of the Subdivision Ordinance for which an Exception is requested is Section 20.52.210: Sewage disposal and water supply, Part A. This section states:

"All lots of a subdivision shall be connected to a public water system and a sanitary sewer whenever available. Sanitary sewers and public water systems are considered as being available whenever a system is located within two thousand six hundred forty feet on any part of the property being subdivided, and the proposed subdivision lies within a sanitary sewer or water service area adopted by the governing board of the system."

The subject property lies within the service area of the Knights Ferry Community Services District (KFCSO). However, it is the intent of the development to use private wells and septic systems for each of the proposed lots, rather than connecting to KFCSO facilities. The KFCSO has issued a "Will Not Serve" letter regarding this project, thereby refusing to provide additional water service to the property.

In accordance with Stanislaus County Development Application requirements, the following findings must be made regarding an Exception to the Subdivision Ordinance:

1. *"That there are special circumstances or conditions applying to the property being divided".*

Finding: As indicated in the "Will Not Serve" letter, the KFCSO is refusing water service to the property, thereby making compliance with Section 20.52.210 impossible to accomplish.

2. *"That the exception is necessary for the preservation and enjoyment of a substantial property right of the owner."*

Finding: The Owner seeks the legal entitlement of the subject properties, and will comply with the Conditions of Approval for the Tentative Map. However, the Exception must first be granted in order to receive approval of the Tentative Map.

3. *"That the granting of an exception will not be detrimental to the public welfare, injurious to other property in the neighborhood of the subdivision, and that it will not constitute a special privilege not enjoyed by others under similar circumstances."*

Finding: Private onsite water wells and sewer septic tanks will be installed in accordance with Stanislaus County requirements, including requirements of the Dept. of Environmental Resources. The minimum 1.0 acre size of the lots will allow for the construction of water wells and septic systems for each lot.

4. *"That the granting of an exception will not be in conflict with the purposes and objectives of the general plan, or any element thereof, or any specific plan."*

Finding: The construction of water wells and septic systems, as opposed to using facilities of the KFCSD, will not conflict with the purposes, objectives or policies of the General Plan, nor of any Specific Plans.

In summary, based on the above Findings, an Exception to Subdivision Ordinance Section 20.52.210 should be granted for the development of the subject property.

05164

KNIGHTS FERRY COMMUNITY SERVICES DISTRICT
P.O. BOX 860
KNIGHTS FERRY, CA 95361
(209) 881-3300

April 21, 2007

Stanislaus County
Department of Planning and Community Development
Joshua Mann, Assistant Planner
1010 10th Street, Suite 3400
Modesto, CA 95354

Re: Water Service - Tentative Map Application 2006-06, Knights Ferry Overlook

Dear Mr. Mann,

The Knights Ferry Community Services District (KFCSD) currently serves water to one meter located on the property owned by Nicholas Honchariw at Cemetery Road (also known as the Knights Ferry Overlook). The KFCSD will not serve water to any other locations at this property.

Sincerely,

The Board of Directors
Knights Ferry Community Services District

cc: Nicholas Honchariw

DRAFT

CONDITIONS OF APPROVAL

**VESTING TENTATIVE SUBDIVISION MAP APPLICATION NO. 2006-06
AND EXCEPTION APPLICATION NO. 2008-02
KNIGHTS FERRY OVERLOOK**

Stanislaus County - Department of Public Works

1. The recorded subdivision map shall be prepared by a licensed land surveyor or a registered civil engineer.
2. All existing non-public facilities and/or utilities that do not have lawful authority to occupy the Frymire Road or Cemetery Road right-of-ways shall be relocated onto private property upon request of the Department of Public Works.
3. All structures not shown on the tentative map shall be removed prior to the final map being recorded.
4. A 10-foot wide public utility easement (P.U.E.) shall be located adjacent to the following:
 - A. Frymire Road frontage of Lots 1, 2, 3, 4, and 5; and,
 - B. Cemetery Road frontage of Lots 5, 6, 7, 8, and the Remainder.

The P.U.E. shall be shown on the final map to be recorded.

5. Road right-of-way shall be deeded to Stanislaus County to provide the following:
 - A. 30 feet northeast of the centerline of Frymire Road adjacent to Lots 1, 2, and 3;
 - B. 30 feet southeast of the centerline of Frymire Road adjacent to Lots 3, 4, and 5;
 - C. 30 feet south of the centerline of Cemetery Road adjacent to Lots 5, 6, 7, 8, and the Remainder; and,
 - D. The chord distance of a 25 foot radius at the Frymire/Cemetery intersection at Lot 5 and at the corner in Frymire Road at Lot 3.

This dedication shall be shown on the final map to be recorded.

6. An encroachment permit shall be obtained for any driveway taking access from the County road for construction of a dwelling. Public Works shall approve the location of any driveway for the project. To further define the amount of driveways allowed for this project, these conditions will apply to locating the new driveways:
 - A. There shall be a shared driveway between Lots 4 and 5, with the corresponding recorded easements.
 - B. There shall be a shared driveway between Lots 6 and 7, with the corresponding recorded easements.
 - C. Lot 3 shall take access only off of the northwest bound portion of Frymire Road.

EXHIBIT C

7. The applicant shall pay Public Facilities Fees prior to or at the time of any building permit issuance as the applicant's fair share contribution to mitigate any potential traffic impact to area roads.
8. One bench mark shall be established within the subdivision on a brass cap. A completed Bench Mark card shall be furnished to the Department of Public Works.
9. The boundary of the 100-year flood zone of the Stanislaus River shall be clearly shown on the final map to be recorded.
10. Any development within the 100-year flood zone shall comply with the County's "Flood Damage Prevention Ordinance."

Stanislaus County - Department of Planning & Community Development

11. The developer shall pay all applicable Public Facilities Impact Fees and Fire Protection Development/Impact Fees as adopted by Resolution of the Board of Supervisors at the time of issuance of any building permits within the area of the vesting tentative map. For the Public Facilities Impact Fees, the fees shall be based on the Guidelines Concerning the Fee Payment Provisions established by County Ordinance C.S. 824 as approved by the County Board of Supervisors, and shall be payable at the time determined by the Department of Public Works.
12. The subdivider is required to defend, indemnify, or hold harmless the County, its officers and employees from any claim, action, or proceedings against the County to set aside the approval of the map as set forth in Government Code Section 66474.9. The County shall promptly notify the subdivider of any claim, action, or proceeding to set aside the approval and shall cooperate fully in the defense.
13. Pursuant to Section 711.4 of the California Fish and Game Code (effective January 1, 2009), the applicant is required to pay a Department of Fish and Game filing fee at the time of recording a "Notice of Determination." Within five (5) days of approval of this project by the Planning Commission or Board of Supervisors, the applicant shall submit to the Department of Planning and Community Development a check for **\$2,050.00** made payable to **Stanislaus County**, for the payment of Fish and Game, and Clerk Recorder filing fees.

Pursuant to Section 711.4 (e)(3) of the California Fish and Game Code, no project shall be operative, vested, or final, nor shall local government permits for the project be valid, until the filing fees required pursuant to this section are paid.
14. Pursuant to Section 404 of the Clean Water Act, prior to construction, the developer shall be responsible for contacting the US Army Corps of Engineers to determine if any "wetlands," "waters of the United States," or other areas under the jurisdiction of the Corps of Engineers are present on the project site, and shall be responsible for obtaining all appropriate permits or authorizations from the Corps, including all necessary water quality certifications, if necessary.

15. Pursuant to the federal and state Endangered Species Acts, prior to construction, the developer shall be responsible for contacting the US Fish and Wildlife Service and California Department of Fish and Game to determine if any special status plant or animal species are present on the project site, and shall be responsible for obtaining all appropriate permits or authorizations from these agencies, if necessary.
16. Pursuant to Section 1600 and 1603 of the California Fish and Game Code, prior to construction, the developer shall be responsible for contacting the California Department of Fish and Game and shall be responsible for obtaining all appropriate streambed alteration agreements, permits or authorizations, if necessary.
17. Pursuant to State Water Resources Control Board Order 99-08-DWQ and National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002, prior to construction, the developer shall be responsible for contacting the California Regional Water Quality Control Board to determine if a "Notice of Intent" is necessary, and shall prepare all appropriate documentation, including a Storm Water Pollution Prevention Plan (SWPPP). Once complete, and prior to construction, a copy of the SWPPP shall be submitted to the Stanislaus County Department of Public Works.
18. Should any archeological or human remains be discovered during development/construction, work shall be immediately halted within 150 feet of the find until it can be evaluated by a qualified archaeologist. If the find is determined to be historically or culturally significant, appropriate mitigation measures to protect and preserve the resource shall be formulated and implemented.
19. Subsequent development/construction on the project site shall comply with standardized dust controls adopted by the San Joaquin Valley Air Pollution Control District.
20. Prior to the issuance of building permits for any dwelling, the owner/developer shall pay a fee of \$339.00 per dwelling to the County Sheriff's Department.
21. Any new structure(s) located within Parcels 4-7 shall be pre-plumbed (water connection only), for future connection to the District's water system (when available), in accordance with the District's then applicable standards and specifications. If available, connection to the water system shall be made at the time of dwelling construction or construction of any addition to a dwelling greater than 500 square feet in size or construction of any addition adding a water connect.
22. On Parcels 1 thru 8, all exterior lighting shall be designed (aimed down and toward the site) to provide adequate illumination without a glare effect. This shall include but not be limited to the use of shielded light fixtures to prevent skyglow (light spilling into the night sky) and the installation of shielded fixtures to prevent light trespass (glare and spill light that shines onto neighboring properties).
23. The Department of Planning and Community Development shall record a Notice of Administrative Conditions and Restrictions with the County Recorder's Office within 30 days of project approval. The Notice includes: Conditions of Approval/Development Standards and Schedule; any adopted Mitigation Measures; and a project area map.

24. The final recorded map shall contain the following statement:

"All persons purchasing lots within the boundaries of this approved map should be prepared to accept the inconveniences associated with the agricultural operations, such as noise, odors, flies, dust or fumes. Stanislaus County has determined that such inconveniences shall not be considered to be a nuisance if agricultural operations are consistent with accepted customs and standards."

Stanislaus County - Building Permits Division

25. When improvements take place, building permits will be required, per Title 24 of the California Building Code, Section 106.1.

Stanislaus County - Department of Environmental Resources (DER)

26. Parcels 1-7 and Remainder shall have an approved independent water supply (if not provided public water service). Prior to the issuance of building permit, each parcel shall have it's own well. A drilling permit shall be obtained from the Department of Environmental Resources. (Stanislaus County Policy and State Model Well Standards Ordinance)
27. The existing septic system(s) is/are to be contained within Parcel 8 and Remainder 7.61 acres boundaries as per required Department setback standards.
28. Parcels No. 1, 2, 3 and Remainder 4.42 acres are subject to Measure X requirements and must have Primary and Secondary Treatment Plants.
- On-site wastewater disposal system (OSWDS) shall be individual Primary and Secondary wastewater treatment units, operated under conditions and guidelines established by Measure X.
29. Parcels 4-7 shall have a conventional septic system for on-site sewage disposal.
30. The on-site wastewater disposal system for all proposed parcels and the remainder parcel are to be engineered design. Plans should be submitted to DER for review and approval, prior to recording of the parcel.
31. The applicant shall determine, to the satisfaction of the Department of Environmental Resources (DER), that a site containing (or formerly containing) residences or farm buildings, or structures, has been fully investigated (via Phase I and II studies) prior to the issuance of a grading permit. Any discovery of underground storage tanks, former underground storage tank locations, buried chemicals, buried refuse, or contaminated soil shall be brought to the immediate attention of DER.

Oakdale Irrigation District (OID)

32. The Frymire Lateral shall be correctly shown on the Final Subdivision Map as a sixty (60) foot wide strip of land, labeled "OID Frymire Lateral" with the recorded Instrument Number of the original system purchase shown. No property lines shall cross the Frymire Lateral, nor shall the centerline of the facility be used as a property line.

33. The applicant shall review and comply with the four (4) sections of conditions required in the OID Subdivision Parcel Map Policy.
34. Oakdale Irrigation District requires a signature block for the proposed subdivision map with the following language:

OAKDALE IRRIGATION DISTRICT

This map has been reviewed for compliance with Oakdale Irrigation District Subdivision Parcel Map Policy and project approval conditions. The recorded rights-of-way and/or easements for Oakdale Irrigation District as shown on this map meet the Conditions of Approval and Oakdale Irrigation District approves of the filing of this map.

By: _____
Steve Knell, P.E.
General Manager

Date: _____

35. OID requests this statement be added to the final map:

STORM DRAINAGE

“Oakdale Irrigation District is not responsible for channeling, diverting nor conveying any storm drainage that takes place within the boundaries of this Parcel Map, nor passes through the properties identified on this parcel map.”

36. Given the existing limitations of the Knights Ferry Community Services District to provide additional services, including fire protection services, OID requests that the landowner provide OID with written verifications that the Stanislaus Consolidated Fire District will either waive the fire-flow requirements for this project or state that this project is not subject to said fire-flow requirements.

Oakdale Rural Fire Protection District

37. The project would be required to have 20 foot wide all weather access roads to any and all structures.
38. It is the District's recommendation that hydrants be extended to serve these structures with no structure residing farther than 1000 feet from a hydrant. However, if hydrants are not provided there would be a charge, to each parcel of \$800.00, payable to the Oakdale Rural Fire District water delivery fund. All requirements must be met prior to any structures being built or erected on any of the newly formed or existing parcels. No fees would be due if the property was not improved otherwise.

Mitigation Measures

(Pursuant to California Public Resources Codes 15074.1: Prior to deleting and substituting for a mitigation measures, the lead agency shall do both of the following:

- 1) Hold a public hearing to consider the project; and***
- 2) Adopt a written finding that the new measure is equivalent or more effective in mitigating or avoiding potential significant effects and that it in itself will not cause any potentially significant effect on the environment.)***

1. Prior to removal of any healthy oak trees or shrubs on the property or within the County right-of-way within a lot to be developed (i.e., lots 1-7) and prior to any construction or ground disturbing activity within such lot; an oak tree protection and replacement plan shall be provided by the lot owner to, and approved by the Department of Planning and Community Development and the California Department of Fish and Game (CDFG).
2. Prior to any construction or ground disturbing activity, pre-construction survey(s) shall be conducted to determine if any special status plants or vernal pool animal or plant species, exist within these lots.
3. If pre-construction surveys determine that any special status plants, including Colusa grass, dwarf downingia, beaked clarkia, or Hartweg's golden sunburst are present on the project site, development shall be planned to avoid impacts to the special status plants. If impacts cannot be avoided a mitigation plan including location of restoration areas, propagation and planting techniques to be employed for the restoration effort, timetable for implementation, and performance criteria, adaptive management techniques, and a site maintenance plan shall be prepared by a qualified biologist and submitted to the Stanislaus County Planning Department for review.
4. Prior to recording the final map or any construction or ground disturbing activity, all blue elderberry shrubs with a stem diameter of one inch or greater at ground level shall be surveyed. The locations of each blue elderberry shrub shall be shown on the recorded final map. If possible, a 100-foot development-free buffer shall be established around each blue elderberry shrub. For any blue elderberry shrubs within 100 feet of lots to be developed (i.e., lots 1-7), any portion of the buffer that falls within the lot to be developed shall be fenced during construction. If full avoidance is not possible, consultation with USFWS shall be undertaken to further assess the potential impacts to valley elderberry longhorn population and determine any needed mitigation. Mitigation usually involves planting replacement shrubs at an approved mitigation site or payment of fees to an approved mitigation bank or in-lieu species fund.
5. Any trees that need to be removed for construction in the lots to be developed (i.e., lots 1-7) or within the County right-of-way shall be removed between September 1 and January 31, if possible. If tree removal occurs during the avian nesting season (February 1 to August 31), a qualified wildlife biologist shall conduct a nesting bird survey to determine if nests are active or occupied in the project site. The survey shall be undertaken no more than 15 days prior to tree removal. Any active nests shall be protected with an appropriate buffer determined by the biologist in consideration of species, stage of nesting, location of the

nest, and type of construction activity. The buffer areas shall be enclosed with temporary fencing, and construction equipment and workers shall not enter the enclosed setback areas for the duration of the breeding season. Buffers should remain in place for the duration of the breeding season or until it has been confirmed by a qualified biologist that all chicks have fledged and are independent of their parents.

6. Prior to construction of any on-site residences, or any roads to serve any new residences, or any other on-site improvements, or any land disturbing activities, within the lots to be developed, all seasonal swales, wetlands, and vernal pools shall be accurately mapped and shall be avoided where possible. Specific language shall be included on the recorded final map that prohibits any construction within 50-feet of the identified seasonal swales, wetlands, elderberry plants/bushes, and vernal pools without any necessary prior authorization from the appropriate state or federal regulatory agency. The applicant shall forward copies of all surveys and maps to the Stanislaus County Planning Department for verification prior to issuance of any building or grading permit.

7. Prior to any construction or ground disturbing activity within a lot to be developed in or along the Stanislaus River, its tributaries, the OID canal, or the stock ponds and seasonal wetlands on the site, pre-construction survey(s) shall be conducted to determine if any Western pond turtles exist within such lot.

If pre-construction surveys determine that western pond turtles are present in the construction zone, the turtles shall be relocated by a qualified biologist to suitable habitat just outside the construction zone. If Western pond turtle relocation is undertaken, silt fencing shall be erected and maintained around construction zones to prevent western pond turtles from moving back into these areas.

8. No construction or development of access roads or other improvements shall be allowed within 50 feet of areas that fall within the jurisdiction of the U.S. Army Corps of Engineers (Corps), California Department of Fish and Game (CDFG), or within 50 feet of any vernal pool or seasonal wetland or swale without first obtaining appropriate permits and authorizations from those agencies where necessary.
9. The applicant shall be responsible for contacting the Corps and CDFG prior to construction of any access roadways or other improvements to determine if permits or authorizations are warranted. The applicant shall forward copies of all correspondence with the Corps and/or CDFG to the Stanislaus County Planning Department of verification prior to construction of any on-site residences, or any roads to serve any new residences, or any other on-site improvements, or any land disturbing activities.
10. Pursuant to the federal and state Endangered Species Acts, prior to construction, the developer shall be responsible for contacting the US Fish and Wildlife Service and California Department of Fish and Game to determine if any special status plant or animal species are present on the project site, and shall be responsible for obtaining all appropriate permits or authorizations from these agencies, if necessary.

11. Prior to any ground disturbing activities or demolition of the existing features or structures, the project site shall be evaluated for eligibility to the California Register of Historic Places. Historic era sites and features shall be evaluated by an historic archaeologist; the prehistoric bedrock mortar features/site shall be evaluated by a prehistoric archaeologist.

*Please note: If Conditions of Approval/Development Standards are amended by the Planning Commission or Board of Supervisors, such amendments will be noted in the upper right-hand corner of the Conditions of Approval/Development Standards, new wording is in **bold**, and deleted wording will have a ~~line through it~~.*

(I:\Staffrpt\TM2006\TM 2006-06 Knight's Ferry Overlook\Staff Report.wpd)



Stanislaus County

Planning and Community Development

1010 10th Street, Suite 3400
Modesto, California 95354

Phone: (209) 525-6330
Fax: (209) 525-5911

CEQA INITIAL STUDY

Adapted from CEQA Guidelines APPENDIX G Environmental Checklist Form, Final Text, October 26, 1998

1. **Project title:** Vesting Tentative Subdivision Map Application No. 2006-06 & Exception Application No. 2008-02 - Knights Ferry Overlook
2. **Lead agency name and address:** Stanislaus County
1010 10th Street, Suite 3400
Modesto, CA 95354
3. **Contact person and phone number:** Joshua Mann, Associate Planner
(209) 525-6330
4. **Project location:** The southeast corner of Cemetery and Frymire Roads, in the historic Community of Knights Ferry. (APN: 002-044-003 & 002-044-004)
5. **Project sponsor's name and address:** Nick Honchariw - Honchariw Revocable Trust
3 Via Paraiso West
Tiburon, CA 94920
6. **General plan designation:** Historical & Agriculture
7. **Zoning:** H-S (Historical Site District) & A-2-5 (General Agriculture)
8. **Description of project:**
Request to divide a 33.70 acre parcel to create 8 parcels ranging in size from 0.50 to 5.00 acres with a 12.03 acre "Remainder". An Exception is being requested on the four 1.00 acre parcels which would not have municipal water service/connection from Knights Ferry Community Services District (as required by 20.52.210 of the Stanislaus County Subdivision Ordinance).
9. **Surrounding land uses and setting:** Historic Community of Knights Ferry, Small Agricultural Parcels
10. **Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement.):** Stanislaus County Public Works Department
Department of Environmental Resources
Oakdale Rural Fire Protection District

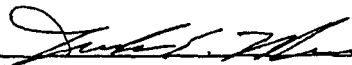
ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- Aesthetics
- Biological Resources
- Hazards & Hazardous Materials
- Mineral Resources
- Public Services
- Utilities / Service Systems
- Agriculture Resources
- Cultural Resources
- Hydrology / Water Quality
- Noise
- Recreation
- Mandatory Findings of Significance
- Air Quality
- Geology /Soils
- Land Use / Planning
- Population / Housing
- Transportation/Traffic

DETERMINATION: (To be completed by the Lead Agency)
On the basis of this initial evaluation:

- I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.


Signature

April 30, 2008
Date

Joshua Mann, Associate Planner
Printed name

EVALUATION OF ENVIRONMENTAL IMPACTS:

- 1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
- 2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- 3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
- 4) "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section XVII, "Earlier Analyses," may be cross-referenced).
- 5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration.

Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:

- a) **Earlier Analysis Used.** Identify and state where they are available for review.
 - b) **Impacts Adequately Addressed.** Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
 - c) **Mitigation Measures.** For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
- 6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
 - 7) **Supporting Information Sources:** A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
 - 8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.
 - 9) The explanation of each issue should identify:
 - a) the significant criteria or threshold, if any, used to evaluate each question; and
 - b) the mitigation measure identified, if any, to reduce the impact to less than significant.

ISSUES

I. AESTHETICS -- Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Have a substantial adverse effect on a scenic vista?			X	
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?				X
c) Substantially degrade the existing visual character or quality of the site and its surroundings?			X	
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?			X	

Discussion: The project site is "split-zoned" with the smaller parcels (0.5 and 1.00 acres - Parcels 4, 5, 6, 7, & 8) being within an area designated as Historical Site District. Due to the historic character of the Community of Knights Ferry, special building standards have been instituted to ensure that any development is compatible with the aesthetic guidelines set forth in the General Plan. As such, these parcels will be subject to design guidelines during the building permit process and will be reviewed by the Planning Department to ensure compatibility. For the proposed parcels within the area designated as H-S (Historical Site District), a Condition of Approval will be added that requires new construction and rehabilitation to meet these aesthetic requirements.

Mitigation: None.

References: Stanislaus County General Plan¹, Stanislaus County Zoning Ordinance, Knights Ferry Community Plan, County policies, and staff experience.

II. AGRICULTURE RESOURCES -- In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?				X
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?				X
c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?				X

Discussion: Half of the project site is designated Historical on both the Community Plan and General Plan, and zoned H-S (Historical Site District). The remaining half is designated Agriculture and zoned A-2-5 (General Agriculture). Soils on the project site are classified on the United States Department of Agriculture's 1951 soils survey as Amador Cobbly Fine Sandy Loam and Redding Gravely Loam. Amador Cobbly Fine Sandy Loam, comprises roughly ninety percent of the site, and has: 20 to 40 percent slopes, Index Rating of 57, Grade 3. Redding Gravely Loam consists of: 3 to 8 percent slopes,

Index Rating of 14, Grade 5. The site is not under a Williamson Act Contract, however, the adjacent parcels to the west and north are enrolled in the Williamson Act although they are less than 10 acres in size. The site is presently utilized as unirrigated rangeland. The surrounding parcels range in size from one acre to ten acres and are primarily utilized as home-sites and rangeland. The project will not conflict with the limited agricultural activities in the area or with the Williamson Act.

Mitigation: None.

References: United States Department of Agriculture - Stockton Area California Soil Survey of 1951, County Policies, Stanislaus County General Plan and Support Documentation¹, Stanislaus County Agricultural Element¹, and the Stanislaus County Zoning Ordinance.

III. AIR QUALITY – Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Conflict with or obstruct implementation of the applicable air quality plan?				X
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?				X
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?			X	
d) Expose sensitive receptors to substantial pollutant concentrations?			X	
e) Create objectionable odors affecting a substantial number of people?				X

Discussion: The project site is within the San Joaquin Valley Air Basin, which has been classified as "severe non-attainment" for ozone and respirable particulate matter (PM-10) as defined by the Federal Clean Air Act. The San Joaquin Valley Air Pollution Control District (SJVAPCD) has been established by the State in an effort to control and minimize air pollution. As such, the District maintains permit authority over stationary sources of pollutants.

The primary source of air pollutants generated by this project would be classified as being generated from "mobile" sources. Mobile sources would generally include dust from roads, farming, and automobile exhausts. Mobile sources are generally regulated by the Air Resources Board of the California EPA which sets emissions for vehicles and acts on issues regarding cleaner burning fuels and alternative fuel technologies. As such, the District has addressed most criteria air pollutants through basin wide programs and policies to prevent cumulative deterioration of air quality within the Basin. A referral response has been received from the SJVAPCD stating that based on the size and nature of the project, the District does not expect residential development (as a result of the project) to exceed the thresholds of significance for ozone precursors of 10 tons per year of reactive organic gases (ROG) and oxides of nitrogen (NOx).

Mitigation: None.

References: Referral response from the SJVAPCD dated October 30, 2006, Stanislaus County General Plan and Support Documentation¹.

IV. BIOLOGICAL RESOURCES -- Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?		X		
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?		X		
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?		X		
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?			X	
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?			X	
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?			X	

Discussion: A Biological Reconnaissance Survey was conducted, with multiple site visits during March of 2005, on the project site by Diane S. Moore of Moore Biological Consultants. The complete report is provided as an attachment to this Initial Study. The biological survey identified some areas of suitable habitat for sensitive plants although the likelihood of occurrence on the project site is considered generally low. The site also contains potentially suitable habitat for Swainson's hawk, listed salmonids, western pond turtle, California tiger salamander, western spadefoot, vernal pool tadpole shrimp, vernal pool fairy shrimp, sensitive bats, and valley elderberry longhorn beetle. None of these species were observed during the survey and further surveys would be needed in order to determine their presence.

Within the project site, there are a number of potential jurisdictional waters of the United States. Along the eastern boundary of the site is the Stanislaus River, a navigable water of the U.S., which is under the jurisdiction of the Army Corps of Engineers (ACOE), California Department of Fish & Game (CDFG), California Regional Water Quality Control Board (RWQCB), and the State Reclamation Board. There is a cluster of seasonal wetlands in the northern portion of the project site that appears to have been created by mine tailings. Also noted was at least one intermittent drainage within the northern portion of the site that appears to drain into the Stanislaus River. A single canal owned by the Oakdale Irrigation District is also located on the northern edge of the site and is part of the Oakdale area irrigation system. The survey recommended total avoidance of all potential jurisdictional Waters of the U.S.

Elderberry shrubs were identified on site along with several trees that could be used by nesting raptors and other protected birds. The report went on to identify possible mitigation measures to minimize or avoid any impacts that may occur as a result of this project. Mitigation Measures that reflect the information provided in the attached Biological Survey have been added to mitigate possible impacts to less than significant.

Mitigation:

1. Prior to removal of any trees or shrubs and prior to any construction or ground disturbing activity; an oak tree protection and replacement plan shall be provided to, and approved by the Department of Planning and Community Development and the California Department of Fish and Game (CDFG).
2. Prior to any construction or ground disturbing activity, the applicant shall conduct a pre-construction survey, in a manner consistent with accepted survey protocols, to determine if any special status plants, swainson hawk, vernal pool animal or plant species, elderberry shrubs (with a diameter greater than one inch), California tiger salamanders, Western spadefoot toads, Western pond turtles, tree-nesting raptors, or bats exist on the project site.
3. If pre-construction surveys determine that any special status plants, including Colusa grass, dwarf downingia, beaked clarkia, or Hartweg's golden sunburst are present on the project site measures shall be taken to avoid impacts to the plants. If impacts cannot be avoided a mitigation plan including location of restoration areas, propagation and planting techniques to be employed for the restoration effort, timetable for implementation, monitoring plan and performance criteria, adaptive management techniques, and a site maintenance plan shall be submitted to the Stanislaus County Planning Department for review and circulation to all applicable federal, state and local regulatory agencies for approval.
4. If pre-construction surveys determine that elderberry shrubs with a diameter of one inch or greater are present on the project site a 100-foot development-free buffer shall be established around each shrub. If full avoidance is not possible the following minimization requirements will be required:

Permanent guardrails shall be placed around the elderberry shrubs that are in close proximity to construction areas, and temporary fencing should be placed around shrubs that are in secluded areas. Fencing shall be placed within the 100-foot buffer zone prior to construction and shall be 20 feet from the drip line of each shrub. Elderberry shrubs within the 100-foot buffer zone should be flagged and signed. Legible signs should be erected on the fencing of each shrub with the following information: "This area is habitat of the valley elderberry longhorn beetle, a threatened species, and must not be disturbed. This species is protected by the Endangered Species Act of 1973, as amended. Violators are subject to prosecution, fines and imprisonment." Areas adjacent to the elderberry shrubs should be watered several times a day when construction is occurring within 100 feet of any elderberry shrub to minimize dust. No oil-based (petroleum) palliatives should be used. Construction should preferably take place between the months of July and January when VELB is not within its flight season. A qualified biologist shall visit the site periodically when construction is occurring within 100 feet of the shrubs to assess and report VELB impacts.

Compliance with standard mitigation ratios set forth by the USFWS shall be required if elderberry shrubs are removed. In addition to having plant replacement elderberry shrubs and associated native species, the project proponent shall consult with the USFWS via either Section 7 (requires a Federal Nexus) or Section 10 of the Endangered Species Act as it relates to getting "take" authorization of a listed species if the development scenario results in the removal of any or all of the elderberry shrubs.

5. The applicant shall conduct a pre-construction survey for nesting Swainson hawks within 0.25 miles of the project site or as required by California Department of Fish and Game. This survey should be conducted for construction activities between March 1 and September 15, and be conducted in accordance with all requirements set forth by California Department of Fish and Game. If an active nest is found, a qualified biologist should determine the need (if any) for temporal restrictions on construction. The determination should be made pursuant to criteria set forth by California Department of Fish and Game (1994).
6. To prevent disturbance of raptor habitat all large mature trees, planned for removal, should be removed during the non-breeding season (September 1 through January 31).

If pre-construction surveys, conducted during the breeding season (February 1 through August 31), determine that tree nesting raptors occupy the site or immediately adjacent lands (i.e., within 250 feet of the site boundary), a construction-free buffer of 250 feet shall be established around all active raptor nests. The buffer areas shall be enclosed with temporary fencing, and construction equipment and workers shall not enter the enclosed setback

areas for the duration of the breeding season. Buffers should remain in place for the duration of the breeding season or until it has been confirmed by a qualified biologist that all chicks have fledged and are independent of their parents. After the breeding season, passive relocation of any remaining raptors may take place as described above. Permanent loss of raptor habitat shall be compensated with onsite or offsite habitat replacement of equal or higher value than the habitat lost at a ratio of 6.5 acres per nesting pair and a 1:1 replacement-to-removal ratio.

7. Prior to construction of any on-site residences, or any roads to serve any new residences, or any other on-site improvements, or any land disturbing activities, all seasonal swales, wetlands, and vernal pools shall be accurately mapped and shall be avoided. Specific language shall be included on the recorded final map that prohibits any construction within 50-feet of the identified seasonal swales, wetlands, elderberry plants / bushes, and vernal pools without prior authorization from the appropriate state or federal regulatory agency. The applicant shall forward copies of all surveys and maps to the Stanislaus County Planning Department and California Department of Fish & Game for verification prior to issuance of any building or grading permit.

8. Implementation of the following measures should be taken during any construction occurring in or along the Stanislaus River, its tributaries, the OID canal, or the stock ponds and seasonal wetlands on the site to avoid take of individual Western pond turtles.

If pre-construction surveys determine that western pond turtles are present on the project site, they shall be relocated by a qualified biologist. Construction zones shall be cleared, and silt fencing erected and maintained around construction zones to prevent western pond turtles from moving into these areas. A biological monitor shall be present onsite during particular times of construction to ensure that no western pond turtles are harmed, injured, or killed during project build out.

9. No construction or development of access roads or other improvements shall be allowed within 50 feet of areas that fall within the jurisdiction of the U.S. Army Corps of Engineers (Corps), California Department of Fish and Game (CDFG), or within 50 feet of any vernal pool or seasonal wetland or swale without first obtaining appropriate permits and authorizations from those agencies.

10. The applicant shall contact the Corps and CDFG prior to construction of any access roadways or other improvements to determine if permits or authorizations are warranted. The applicant shall forward copies of all correspondence with the Corps and/or CDFG to the Stanislaus County Planning Department of verification prior to construction of any on-site residences, or any roads to serve any new residences, or any other on-site improvements, or any land disturbing activities.

11. Pursuant to the federal and state Endangered Species Acts, prior to construction, the developer shall be responsible for contacting the US Fish and Wildlife Service and California Department of Fish and Game to determine if any special status plant or animal species are present on the project site, and shall be responsible for obtaining all appropriate permits or authorizations from these agencies, if necessary.

References: California Natural Diversity Database (CNDDDB), Biological Reconnaissance Survey conducted in March of 2005 by Moore Biological Consultants, Stanislaus County General Plan and Support Documentation¹.

V. CULTURAL RESOURCES – Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?			X	
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?		X		
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?			X	

d) Disturb any human remains, including those interred outside of formal cemeteries?			X	
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Discussion: An Archaeological Survey was conducted, with a single site visit on August 29, 2005, by Darren Andolina and Linda Thorpe on behalf of Far Western Anthropological Research Group. The complete report is provided as an attachment to this Initial Study. The archaeological survey identified the general vicinity as being within the North Valley Yokuts former territory and was occupied from approximately 3000-2500 BP through the early twentieth century. The survey went on to state that during the mid-1800's, the Town of Knights Ferry was established as a small Euro-American settlement. Shortly thereafter, during the "gold-rush" era, the town experienced a significant population growth that dramatically altered the natural environment. The field survey identified four isolated historic features and two archaeological sites: one historic and one with both historic and prehistoric attributes. The survey recommended that no further work be conducted on these resources as part of the filing of this subdivision map. However, to mitigate potential impacts to less than significant levels, mitigation measures that reflect the information provided in the attached Archaeological Survey have been added.

Mitigation:

12. *Prior to any ground disturbing activities or demolition of the existing features or structures, the project site shall be evaluated for eligibility to the California Register of Historic Places. Historic era sites and features shall be evaluated by an historic archaeologist; the prehistoric bedrock mortar features/site shall be evaluated by a prehistoric archaeologist.*

References: Archaeological Survey conducted August 29, 2005 by Far Western Anthropological Research Group (Davis, CA), Stanislaus County General Plan and Support Documentation¹.

VI. GEOLOGY AND SOILS -- Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.				X
ii) Strong seismic ground shaking?			X	
iii) Seismic-related ground failure, including liquefaction?			X	
iv) Landslides?				X
b) Result in substantial soil erosion or the loss of topsoil?			X	
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?				X
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?			X	

e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?				X
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Discussion: As contained in Chapter 5 of the General Plan Support Documentation¹, the areas of the County subject to significant geologic hazard are located in the Diablo Range, west of Interstate 5. Any structures resulting from this project will be designed and built according to all applicable building codes and ordinances.

Mitigation: None.

References: Stanislaus County General Plan and Support Documentation¹.



VII. HAZARDS AND HAZARDOUS MATERIALS -- Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?			X	
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?			X	
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?				X
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?				X
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?				X
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?				X
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?				X
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?			X	

Discussion: No known hazardous materials are on site. Pesticide exposure is a risk in agricultural areas. Sources of exposure include contaminated groundwater which is consumed and drift from spray applications. Application of sprays, on-site and on neighboring properties, is strictly controlled by the Agricultural Commissioner and can only be accomplished after first obtaining permits. The County Department of Environmental Resources is responsible for overseeing hazardous materials in this area and their department has responded with no comments regarding any hazardous materials for this project site.

Mitigation: None.				
References: Referral response from the Department of Environmental Resources dated October 24, 2006, Stanislaus County General Plan and Support Documentation ¹ .				
VIII. HYDROLOGY AND WATER QUALITY -- Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Violate any water quality standards or waste discharge requirements?				X
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?				X
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?			X	
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?				X
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?				X
f) Otherwise substantially degrade water quality?				X
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?			X	
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?			X	
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?			X	
j) Inundation by seiche, tsunami, or mudflow?				X
Discussion: A very small portion of the eastern most property boundary, abutting the Stanislaus River, lies within the 100 year flood zone identified in accordance with the Federal Emergency Management Act. The remaining portion of the property, because of a severe increase in elevation, lies well outside of the 100 year flood zone. There is no evidence to suggest significant impacts as a result of the small section located in the flood zone. No new uses are being proposed and there is ample room for the location of permitted structures without encroachment onto the flood zone. Run-off is not considered an issue because of several factors which limit the potential impact. These factors include permeable soils and relatively low rainfall intensities. The site's location to the river is discussed in the biological resources section of this study, which finds no significant impact.				

A referral response was received from the State Department of Water Resources regarding the portion of the property that is in the 100 year flood zone. They stated that prior to any on-site activities, on the portion of the property within the 100 year flood zone, an enchoachment permit is needed from the State Reclamation Board. This requirement will be added as a Condition of Approval to ensure compliance.

Mitigation: None.

References: Referral response from the California Department of Water Resources dated October 17, 2006, Stanislaus County General Plan and Support Documentation¹.

IX. LAND USE AND PLANNING -- Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Physically divide an established community?				X
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?				X
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?				X

Discussion: As discussed earlier in this document, the site is split zoned. The project is consistent with the Agriculture designation and A-2-5 (General Agriculture) zoning of the site. The remaining portion is also consistent with the historical designation and H-S (Historical Site District) zoning designation. The features of this project will not physically divide an established community and/or conflict with any habitat conservation plan or natural community conservation plan. This project is not known to conflict with any applicable land use plan, policy, or regulation of any agency with jurisdiction over the project.

Mitigation: None.

References: Application information, Stanislaus County General Plan and Support Documentation¹.

X. MINERAL RESOURCES -- Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?				X
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?				X

Discussion: The location of all commercially viable mineral resources in Stanislaus County has been mapped by the State Division of Mines and Geology in Special Report 173. If present, mineral resources would not be precluded from extraction as a result of this application.

Mitigation: None.

References: State Division of Mining & Geology-Special Report 173 (1993), Stanislaus County General Plan and Support Documentation¹.

XI. NOISE -- Would the project result in:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?				X
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?				X
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?				X
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?			X	
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?				X
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?				X

Discussion: Any construction as a result of this project should not increase the area's ambient noise level. Any noise impacts associated with increased on-site activities and traffic is not anticipated to exceed the areas existing level of noise.

Mitigation: None.

References: Stanislaus County General Plan and Support Documentation¹.

XII. POPULATION AND HOUSING -- Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?				X
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?				X
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?				X

Discussion: The proposed use of the site will not create significant service extensions or new infrastructure which could be considered as growth inducing, as services are already available to this property. No housing or persons will be displaced by this project. This project is consistent with the County General Plan and does not propose any type of significant growth inducing features, therefore, adverse affects created by population growth should not occur.

Mitigation: None.

References: Stanislaus County General Plan and Support Documentation¹.

XIII. PUBLIC SERVICES:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
Fire protection?			X	
Police protection?			X	
Schools?			X	
Parks?			X	
Other public facilities?			X	
<p>Discussion: The County has adopted a standardized mitigation measure requiring payment of all applicable Public Facilities Fees, as well as one for the Fire Facility Fees on behalf of the appropriate fire district, to address impacts to public services. In addition, first year costs of the Sheriff's Department have been standardized based on studies conducted by the Sheriff's Department. These fees will be required upon issuance of any building permits and will be placed as Conditions of Approval for this project. Per a referral response from the Oakdale Rural Fire District, if these parcels are developed with structures, they will be subject to an \$800.00 mitigation fee payable to the Rural Water Delivery Fund. This will also be placed as a Condition of Approval for the project.</p>				
<p>Mitigation: None.</p>				
<p>References: Referral response from the Oakdale Rural Fire District dated October 30, 2006, Stanislaus County General Plan and Support Documentation¹.</p>				
XIV. RECREATION:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?				X
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?				X
<p>Discussion: The increased use of existing recreational facilities as a result of this project is anticipated to be less than significant since the project does not propose any dwellings at this time. The proposed parcels are of substantial size to offer on-site recreation opportunities to the respective owners, if warranted.</p>				
<p>Mitigation: None.</p>				
<p>References: Stanislaus County General Plan and Support Documentation¹.</p>				

XV. TRANSPORTATION/TRAFFIC – Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?			X	
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?				X
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?				X
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?				X
e) Result in inadequate emergency access?				X
f) Result in inadequate parking capacity?				X
g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?				X
<p>Discussion: This project will not substantially increase traffic for this area, and the proposed parcels will have direct access to Cemetery and Frymire Road, both of which are County-maintained roads. The Stanislaus County Public Works Department has reviewed this project and has identified improvements associated with the project, but a potentially significant impact has not been identified. As such, the improvements will be addressed as Conditions of Approval and not mitigation measures.</p>				
<p>Mitigation: None.</p>				
<p>References: Referral response from Stanislaus County Public Works dated October 19, 2006, Stanislaus County General Plan and Support Documentation¹.</p>				
XVI. UTILITIES AND SERVICE SYSTEMS – Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?			X	
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				X
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?			X	

d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?				X
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?				X
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?				X
g) Comply with federal, state, and local statutes and regulations related to solid waste?				X

Discussion: The project site is currently developed with a single-family residence and various accessory buildings, on what would be the 0.50 acre parcel. This parcel is currently and will continue to be served with municipal water service from the Knights Ferry Community Services District. The four proposed 1.00 acre parcels, currently undeveloped, will be served by a private on-site septic system and water wells. A letter dated July 20, 2006 from the Knights Ferry Community Services District states that they will provide water service (as currently is the case) only to the proposed 0.50 acre parcel. The same letter states that due to municipal water service infrastructure limitations in the area, the District can not serve the 1.00 acre parcels with water connections. The applicant has made every attempt to be granted a water connection but has been unable to secure such a connection for the proposed 1.00 acre parcels.

As stated above, the proposed 1.00 acre parcels are unable to be provided with a water connection. Section 20.52.210(A) of the Stanislaus County Subdivision Ordinance states that, "All lots of a subdivision shall be connected to a public water system and a sanitary sewer whenever available. Sanitary sewers and public water systems are considered as being available whenever a system is located within two thousand six hundred forty feet of any part of the property being subdivided, and the proposed subdivision lies within a sanitary sewer or water service area adopted by the governing board of the system....." An Exception to the above section of the Subdivision Ordinance is being requested due to the fact that the proposed subdivision lies within two thousand six hundred forty feet of the existing water connection on the 0.50 acre parcel. All of the proposed 1.00 acre parcels are also within the adopted Knights Ferry Community Services District. In regards to the 1.00 acre parcels, a Condition of Approval will be added that will require all structures or dwellings to be pre-plumbed for future connection to the District's water system, once such a connection is feasible. A referral response from the Department of Environmental Resources has not indicated any concerns in this area.

Mitigation: None.

References: Application information, Knights Ferry Community Services District - letter dated April 21, 2007, referral response from the Department of Environmental Resources dated October 24, 2006, Stanislaus County Subdivision Ordinance, Stanislaus County General Plan and Support Documentation¹.

XVII. MANDATORY FINDINGS OF SIGNIFICANCE:

	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?		X		

<p>b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?</p>				<p>X</p>
<p>c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?</p>				<p>X</p>
<p>Discussion: Any potential impacts from this project have been mitigated to less than significant.</p>				

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¹Stanislaus County General Plan and Support Documentation adopted in October 1994, as amended. Optional and revised elements of the General Plan and Support Documentation: **Agricultural Element** adopted on April 23, 1992. **Housing Element** adopted on December 12, 2003, and certified by the California Department of Housing and Community Development Department on March 26, 2004. **Circulation Element** and **Noise Element** adopted on April 18, 2006.

Stanislaus County

Planning and Community Development

1010 10th Street, Suite 3400
Modesto, CA 95354

Phone: (209) 525-6330
Fax: 525-5911

Mitigation Monitoring Plan

Adapted from CEQA Guidelines sec. 15097 Final Text, October 26, 1998

April 30, 2008

1. **Project title and location:** Vesting Tentative Subdivision Map Application No. 2006-06 & Exception Application No. 2008-02 - Knights Ferry Overlook
2. **Project Applicant name and address:** Nick Honchariw - Honchariw Revocable Trust
3 Via Paraiso West
Tiburon, CA 94920
3. **Person Responsible for Implementing Mitigation Program :** Nick Honchariw
Honchariw Revocable Trust Representative
4. **Contact person at County:** Joshua Mann, Associate Planner
(209) 525-6330

MITIGATION MEASURES AND MONITORING PROGRAM:

List all Mitigation Measures by topic as identified in the Mitigated Negative Declaration and complete the form for each measure.

IV. BIOLOGICAL RESOURCES

- No. 1 Mitigation Measure: Prior to removal of any trees or shrubs and prior to any construction or ground disturbing activity; an oak tree protection and replacement plan shall be provided to, and approved by the Department of Planning and Community Development and the California Department of Fish and Game (CDFG).

Who Implements the Measure: Applicant/Developer

When should the measure be implemented: Prior to construction

When should it be completed: Prior to construction

Who verifies compliance: Stanislaus County Department of Planning and Community Development and California Department of Fish and Game

Other Responsible Agencies: Applicable federal, state and local regulatory agencies

- No. 2 Mitigation Measure: Prior to any construction or ground disturbing activity, the applicant shall conduct a pre-construction survey, in a manner consistent with accepted survey protocols, to determine if any special status plants, swainson hawk, vernal pool animal or plant species, elderberry shrubs (with a diameter greater than one inch), California tiger salamanders, Western spadefoot toads, Western pond turtles, tree-nesting raptors, or bats exist on the project site.

Who Implements the Measure: Applicant/Developer
When should the measure be implemented: Prior to construction
When should it be completed: Prior to construction
Who verifies compliance: Stanislaus County Department of Planning and Community Development
Other Responsible Agencies: Applicable federal, state and local regulatory agencies

No. 3 Mitigation Measure: If pre-construction surveys determine that any special status plants, including Colusa grass, dwarf downingia, beaked clarkia, or Hartweg's golden sunburst are present on the project site measures shall be taken to avoid impacts to the plants. If impacts cannot be avoided a mitigation plan including location of restoration areas, propagation and planting techniques to be employed for the restoration effort, timetable for implementation, monitoring plan and performance criteria, adaptive management techniques, and a site maintenance plan shall be submitted to the Stanislaus County Planning Department for review and circulation to all applicable federal, state and local regulatory agencies for approval.

Who Implements the Measure: Applicant/Developer
When should the measure be implemented: Prior to construction
When should it be completed: Prior to construction
Who verifies compliance: Stanislaus County Department of Planning and Community Development
Other Responsible Agencies: Applicable federal, state and local regulatory agencies

No. 4 Mitigation Measure: If pre-construction surveys determine that elderberry shrubs with a diameter of one inch or greater are present on the project site a 100-foot development-free buffer shall be established around each shrub. If full avoidance is not possible the following minimization requirements will be required:

Permanent guardrails shall be placed around the elderberry shrubs that are in close proximity to construction areas, and temporary fencing should be placed around shrubs that are in secluded areas. Fencing shall be placed within the 100-foot buffer zone prior to construction and shall be 20 feet from the drip line of each shrub. Elderberry shrubs within the 100-foot buffer zone should be flagged and signed. Legible signs should be erected on the fencing of each shrub with the following information: "This area is habitat of the valley elderberry longhorn beetle, a threatened species, and must not be disturbed. This species is protected by the Endangered Species Act of 1973, as amended. Violators are subject to prosecution, fines and imprisonment." Areas adjacent to the elderberry shrubs should be watered several times a day when construction is occurring within 100 feet of any elderberry shrub to minimize dust. No oil-based (petroleum) palliatives

should be used. Construction should preferably take place between the months of July and January when VELB is not within its flight season. A qualified biologist shall visit the site periodically when construction is occurring within 100 feet of the shrubs to assess and report VELB impacts.

Compliance with standard mitigation ratios set forth by the USFWS shall be required if elderberry shrubs are removed. In addition to having plant replacement elderberry shrubs and associated native species, the project proponent shall consult with the USFWS via either Section 7 (requires a Federal Nexus) or Section 10 of the Endangered Species Act as it relates to getting "take" authorization of a listed species if the development scenario results in the removal of any or all of the elderberry shrubs.

Who Implements the Measure:	Applicant/Developer
When should the measure be implemented:	Prior to and during construction
When should it be completed:	Prior to and during construction
Who verifies compliance:	Stanislaus County Department of Planning and Community Development
Other Responsible Agencies:	U.S. Fish and Wildlife Service

No. 5 Mitigation Measure: The applicant shall conduct a pre-construction survey for nesting Swainson hawks within 0.25 miles of the project site or as required by California Department of Fish and Game. This survey should be conducted for construction activities between March 1 and September 15, and be conducted in accordance with all requirements set forth by California Department of Fish and Game. If an active nest is found, a qualified biologist should determine the need (if any) for temporal restrictions on construction. The determination should be made pursuant to criteria set forth by California Department of Fish and Game (1994).

Who Implements the Measure:	Applicant/Developer
When should the measure be implemented:	Prior to construction
When should it be completed:	Prior to construction
Who verifies compliance:	U.S. Fish and Wildlife Service and California Department of Fish and Game
Other Responsible Agencies:	None

No. 6 Mitigation Measure: To prevent disturbance of raptor habitat all large mature trees, planned for removal, should be removed during the non-breeding season (September 1 through January 31).

If pre-construction surveys, conducted during the breeding season (February 1 through August 31), determine that tree nesting raptors occupy the site or immediately adjacent lands (i.e., within 250 feet of the site boundary), a construction-free buffer of 250 feet shall be established around all active raptor nests. The buffer areas shall be enclosed with temporary fencing, and construction equipment and workers shall not enter the enclosed setback areas for the duration of the breeding season. Buffers should remain in place for the duration of the breeding season or until it has

been confirmed by a qualified biologist that all chicks have fledged and are independent of their parents. After the breeding season, passive relocation of any remaining raptors may take place as described above. Permanent loss of raptor habitat shall be compensated with onsite or offsite habitat replacement of equal or higher value than the habitat lost at a ratio of 6.5 acres per nesting pair and a 1:1 replacement-to-removal ratio.

Who Implements the Measure:	Applicant/Developer
When should the measure be implemented:	Prior to construction
When should it be completed:	Prior to construction
Who verifies compliance:	Stanislaus County Department of Planning and Community Development
Other Responsible Agencies:	U.S. Fish and Wildlife Service, California Department of Fish and Game

No. 7 Mitigation Measure: Prior to construction of any on-site residences, or any roads to serve any new residences, or any other on-site improvements, or any land disturbing activities, all seasonal swales, wetlands, and vernal pools shall be accurately mapped and shall be avoided. Specific language shall be included on the recorded final map that prohibits any construction within 50-feet of the identified seasonal swales, wetlands, elderberry plants / bushes, and vernal pools without prior authorization from the appropriate state or federal regulatory agency. The applicant shall forward copies of all surveys and maps to the Stanislaus County Planning Department and California Department of Fish & Game for verification prior to issuance of any building or grading permit.

Who Implements the Measure:	Applicant/Developer
When should the measure be implemented:	Prior to construction
When should it be completed:	Prior to construction
Who verifies compliance:	Stanislaus County Department of Planning and Community Development
Other Responsible Agencies:	U.S. Fish and Wildlife Service and the California Department of Fish and Game

No. 8 Mitigation Measure: Implementation of the following measures should be taken during any construction occurring in or along the Stanislaus River, its tributaries, the OID canal, or the stock ponds and seasonal wetlands on the site to avoid take of individual Western pond turtles.

If pre-construction surveys determine that western pond turtles are present on the project site, they shall be relocated by a qualified biologist. Construction zones shall be cleared, and silt fencing erected and maintained around construction zones to prevent western pond turtles from moving into these areas. A biological monitor shall be present onsite during particular times of construction to ensure that no western pond turtles are harmed, injured, or killed during project build out.

- Who Implements the Measure: Applicant/Developer
- When should the measure be implemented: Prior to and during construction
- When should it be completed: Prior to and during construction
- Who verifies compliance: Stanislaus County Department of Planning and Community Development
- Other Responsible Agencies: California Department of Fish and Game
- No. 9 Mitigation Measure: No construction or development of access roads or other improvements shall be allowed within 50 feet of areas that fall within the jurisdiction of the U.S. Army Corps of Engineers (Corps), California Department of Fish and Game (CDFG), or within 50 feet of any vernal pool or seasonal wetland or swale without first obtaining appropriate permits and authorizations from those agencies.
- Who Implements the Measure: Applicant
- When should the measure be implemented: Ongoing
- When should it be completed: Ongoing
- Who verifies compliance: U.S. Army Corps of Engineers and/or the California Department of Fish and Game
- Other Responsible Agencies: Planning Department to be delivered copies of all correspondence
- No. 10 Mitigation Measure: The applicant shall contact the Corps and CDFG prior to construction of any access roadways or other improvements to determine if permits or authorizations are warranted. The applicant shall forward copies of all correspondence with the Corps and/or CDFG to the Stanislaus County Planning Department of verification prior to construction of any on-site residences, or any roads to serve any new residences, or any other on-site improvements, or any land disturbing activities.
- Who Implements the Measure: Applicant
- When should the measure be implemented: Ongoing
- When should it be completed: Ongoing
- Who verifies compliance: U.S. Army Corps of Engineers and/or the California Department of Fish and Game
- Other Responsible Agencies: Planning Department to be delivered copies of all correspondence
- No. 11 Mitigation Measure: Pursuant to the federal and state Endangered Species Acts, prior to construction, the developer shall be responsible for contacting the US Fish and Wildlife Service and California Department of Fish and Game to determine if any special status plant or animal species are present on the project site, and shall be responsible for obtaining all appropriate permits or authorizations from these agencies, if necessary.

Who Implements the Measure:	Applicant
When should the measure be implemented:	Ongoing
When should it be completed:	Ongoing
Who verifies compliance:	U.S. Fish and Wildlife Service and/or the California Department of Fish and Game
Other Responsible Agencies:	Planning Department to be delivered copies of all correspondence

V. CULTURAL RESOURCES

No. 12 Mitigation Measure: Prior to any ground disturbing activities or demolition of the existing features or structures, the project site shall be evaluated for eligibility to the California Register of Historic Places. Historic era sites and features shall be evaluated by an historic archaeologist; the prehistoric bedrock mortar features/site shall be evaluated by a prehistoric archaeologist.

Who Implements the Measure:	Applicant/Developer
When should the measure be implemented:	Prior to construction and/or grading
When should it be completed:	Prior to construction and/or grading
Who verifies compliance:	Stanislaus County Department of Planning and Community Development
Other Responsible Agencies:	Central California Information Center; Native American Heritage Commission

I the undersigned, do hereby certify that I understand and agree to be responsible for implementing the Mitigation Program for the above listed project.

SIGNATURE ON FILE
Honchariw Revocable Trust Representative
Responsible for Mitigation Compliance

April 30, 2008
Date

Stanislaus County

Planning and Community Development

1010 10th Street, Suite 3400
Modesto, CA 95354

Phone: (209) 525-6330
Fax: 525-5911

Mitigation Monitoring Plan

Adapted from CEQA Guidelines sec. 15097 Final Text, October 26, 1998

December 9, 2008

1. **Project title and location:** Vesting Tentative Subdivision Map Application No. 2006-06 & Exception Application No. 2008-02 - Knights Ferry Overlook
2. **Project Applicant name and address:** Nick Honchariw - Honchariw Revocable Trust
3 Via Paraiso West
Tiburon, CA 94920
3. **Person Responsible for Implementing Mitigation Program :** Nick Honchariw
Honchariw Revocable Trust Representative
4. **Contact person at County:** Joshua Mann, Associate Planner
(209) 525-6330

MITIGATION MEASURES AND MONITORING PROGRAM:

List all Mitigation Measures by topic as identified in the Mitigated Negative Declaration and complete the form for each measure.

IV. BIOLOGICAL RESOURCES

- No. 1 Mitigation Measure: **Prior to removal of any healthy oak trees or shrubs on the property or within the County right-of-way within a lot to be developed (i.e., lots 1-7) and prior to any construction or ground disturbing activity within such lot; an oak tree protection and replacement plan shall be provided by the lot owner to, and approved by the Department of Planning and Community Development and the California Department of Fish and Game (CDFG).**

Who Implements the Measure:	Applicant/Developer
When should the measure be implemented:	Prior to construction
When should it be completed:	Prior to construction
Who verifies compliance:	Stanislaus County Department of Planning and Community Development and California Department of Fish and Game
Other Responsible Agencies:	Applicable federal, state and local regulatory agencies

- No. 2 Mitigation Measure: ~~Prior to any construction or ground disturbing activity, the applicant shall conduct a pre-construction survey(s) shall be conducted in a manner consistent with accepted survey protocols, to determine if any special status plants, swainson hawk, or vernal pool animal or plant species;~~

elderberry shrubs (with a diameter greater than one inch), California tiger salamanders, Western spadefoot toads, Western pond turtles, tree-nesting raptors, or bats exist on the project site within these lots.

Who Implements the Measure: Applicant/Developer
When should the measure be implemented: Prior to construction
When should it be completed: Prior to construction
Who verifies compliance: Stanislaus County Department of Planning and Community Development
Other Responsible Agencies: Applicable federal, state and local regulatory agencies

No. 3 Mitigation Measure: If pre-construction surveys determine that any special status plants, including Colusa grass, dwarf downingia, beaked clarkia, or Hartweg's golden sunburst are present on the project site ~~measures shall be taken to avoid impacts to the plants~~, **development shall be planned to avoid impacts to the special status plants.** If impacts cannot be avoided a mitigation plan including location of restoration areas, propagation and planting techniques to be employed for the restoration effort, timetable for implementation, ~~monitoring plan~~ and performance criteria, adaptive management techniques, and a site maintenance plan shall be **prepared by a qualified biologist and** submitted to the Stanislaus County Planning Department for review. ~~and circulation to all applicable federal, state and local regulatory agencies for approval.~~

Who Implements the Measure: Applicant/Developer
When should the measure be implemented: Prior to construction
When should it be completed: Prior to construction
Who verifies compliance: Stanislaus County Department of Planning and Community Development
Other Responsible Agencies: Applicable federal, state and local regulatory agencies

No. 4 Mitigation Measure: ~~If pre-construction surveys determine that~~ **Prior to recording the final map or any construction or ground disturbing activity, all blue elderberry shrubs with a stem diameter of one inch or greater are present on the project site a 100-foot development-free buffer shall be established around each shrub at ground level shall be surveyed. The locations of each blue elderberry shrub shall be shown on the recorded final map. If possible, a 100-foot development-free buffer shall be established around each blue elderberry shrub. For any blue elderberry shrubs within 100 feet of lots to be developed (i.e., lots 1-7), any portion of the buffer that falls within the lot to be developed shall be fenced during construction. If full avoidance is not possible, consultation with USFWS shall be undertaken to further assess the potential impacts to valley elderberry longhorn**

population and determine any needed mitigation. Mitigation usually involves planting replacement shrubs at an approved mitigation site or payment of fees to an approved mitigation bank or in-lieu species fund. the following minimization requirements will be required:

~~Permanent guardrails shall be placed around the elderberry shrubs that are in close proximity to construction areas, and temporary fencing should be placed around shrubs that are in secluded areas. Fencing shall be placed within the 100-foot buffer zone prior to construction and shall be 20 feet from the drip line of each shrub. Elderberry shrubs within the 100-foot buffer zone should be flagged and signed. Legible signs should be erected on the fencing of each shrub with the following information: "This area is habitat of the valley elderberry longhorn beetle; a threatened species, and must not be disturbed. This species is protected by the Endangered Species Act of 1973, as amended. Violators are subject to prosecution, fines and imprisonment." Areas adjacent to the elderberry shrubs should be watered several times a day when construction is occurring within 100 feet of any elderberry shrub to minimize dust. No oil-based (petroleum) palliatives should be used. Construction should preferably take place between the months of July and January when VELB is not within its flight season. A qualified biologist shall visit the site periodically when construction is occurring within 100 feet of the shrubs to assess and report VELB impacts.~~

~~Compliance with standard mitigation ratios set forth by the USFWS shall be required if elderberry shrubs are removed. In addition to having plant replacement elderberry shrubs and associated native species, the project proponent shall consult with the USFWS via either Section 7 (requires a Federal Nexus) or Section 10 of the Endangered Species Act as it relates to getting "take" authorization of a listed species if the development scenario results in the removal of any or all of the elderberry shrubs.~~

Who Implements the Measure:	Applicant/Developer
When should the measure be implemented:	Prior to and during construction
When should it be completed:	Prior to and during construction
Who verifies compliance:	Stanislaus County Department of Planning and Community Development
Other Responsible Agencies:	U.S. Fish and Wildlife Service

~~No. 5 Mitigation Measure: The applicant shall conduct a pre-construction survey for nesting Swainson hawks within 0.25 miles of the project site or as required by California Department of Fish and Game. This survey should be conducted for construction activities between March 1 and September 15, and be conducted in accordance with all requirements set forth by California Department of Fish and Game. If an active nest is found, a qualified biologist should determine the need (if any) for temporal restrictions on construction. The determination should be made pursuant to criteria set forth by California Department of Fish and Game (1994).~~

~~Who Implements the Measure: Applicant/Developer~~

~~When should the measure be implemented: Prior to construction~~

When should it be completed: Prior to construction

Who verifies compliance: U.S. Fish and Wildlife Service and California Department of Fish and Game

Other Responsible Agencies: None

No. 6.5 Mitigation Measure: ~~To prevent disturbance of raptor habitat all large mature trees, planned for removal, should be removed during the non-breeding season (September 1 through January 31).~~

~~If pre-construction surveys, conducted during the breeding season (February 1 through August 31), determine that tree nesting raptors occupy the site or immediately adjacent lands (i.e., within 250 feet of the site boundary), a construction-free buffer of 250 feet shall be established around all active raptor nests. Any trees that need to be removed for construction in the lots to be developed (i.e., lots 1-7) or within the County right-of-way shall be removed between September 1 and January 31, if possible. If tree removal occurs during the avian nesting season (February 1 to August 31), a qualified wildlife biologist shall conduct a nesting bird survey to determine if nests are active or occupied in the project site. The survey shall be undertaken no more than 15 days prior to tree removal. Any active nests shall be protected with an appropriate buffer determined by the biologist in consideration of species, stage of nesting, location of the nest, and type of construction activity. The buffer areas shall be enclosed with temporary fencing, and construction equipment and workers shall not enter the enclosed setback areas for the duration of the breeding season. Buffers should remain in place for the duration of the breeding season or until it has been confirmed by a qualified biologist that all chicks have fledged and are independent of their parents. After the breeding season, passive relocation of any remaining raptors may take place as described above. Permanent loss of raptor habitat shall be compensated with onsite or offsite habitat replacement of equal or higher value than the habitat lost at a ratio of 6.5 acres per nesting pair and a 1:1 replacement-to-removal ratio.~~

Who Implements the Measure: Applicant/Developer

When should the measure be implemented: Prior to construction

When should it be completed: Prior to construction

Who verifies compliance: Stanislaus County Department of Planning and Community Development

Other Responsible Agencies: U.S. Fish and Wildlife Service, California Department of Fish and Game

No. 7.6 Mitigation Measure: Prior to construction of any on-site residences, or any roads to serve any new residences, or any other on-site improvements, or any land disturbing activities, **within the lots to be developed**, all seasonal swales, wetlands, and vernal pools shall be accurately mapped and shall be avoided **where possible**. Specific language shall be included on the recorded final map that prohibits any construction within 50-feet of the

identified seasonal swales, wetlands, elderberry plants / bushes, and vernal pools without **any necessary** prior authorization from the appropriate state or federal regulatory agency. The applicant shall forward copies of all surveys and maps to the Stanislaus County Planning Department and California Department of Fish & Game for verification prior to issuance of any building or grading permit.

Who Implements the Measure:	Applicant/Developer
When should the measure be implemented:	Prior to construction
When should it be completed:	Prior to construction
Who verifies compliance:	Stanislaus County Department of Planning and Community Development
Other Responsible Agencies:	U.S. Fish and Wildlife Service and the California Department of Fish and Game

No. 8 7 Mitigation Measure: ~~Implementation of the following measures should be taken during any construction occurring~~ **Prior to any construction or ground disturbing activity within a lot to be developed** in or along the Stanislaus River, its tributaries, the OID canal, or the stock ponds and seasonal wetlands on the site, **pre-construction survey(s) shall be conducted to determine if any to avoid take of individual Western pond turtles exist within such lot.**

If pre-construction surveys determine that western pond turtles are present ~~on the project site in the construction zone, they the turtles~~ shall be relocated by a qualified biologist **to suitable habitat just outside the construction zone.** ~~Construction zones shall be cleared; and If Western pond turtle relocation is undertaken, silt fencing shall be erected and maintained around construction zones to prevent western pond turtles from moving back into these areas. A biological monitor shall be present onsite during particular times of construction to ensure that no western pond turtles are harmed, injured, or killed during project build-out.~~

Who Implements the Measure:	Applicant/Developer
When should the measure be implemented:	Prior to and during construction
When should it be completed:	Prior to and during construction
Who verifies compliance:	Stanislaus County Department of Planning and Community Development
Other Responsible Agencies:	California Department of Fish and Game

No. 9 8 Mitigation Measure: No construction or development of access roads or other improvements shall be allowed within 50 feet of areas that fall within the jurisdiction of the U.S. Army Corps of Engineers (Corps), California Department of Fish and Game (CDFG), or within 50 feet of any vernal pool or seasonal wetland or swale without first obtaining appropriate permits and authorizations from those agencies **where necessary.**

Who Implements the Measure: Applicant

When should the measure be implemented: Ongoing

When should it be completed: Ongoing

Who verifies compliance: U.S. Army Corps of Engineers and/or the California Department of Fish and Game

Other Responsible Agencies: Planning Department to be delivered copies of all correspondence

No. ~~10~~ 11 Mitigation Measure: The applicant shall **be responsible for contacting** the Corps and CDFG prior to construction of any access roadways or other improvements to determine if permits or authorizations are warranted. The applicant shall forward copies of all correspondence with the Corps and/or CDFG to the Stanislaus County Planning Department of verification prior to construction of any on-site residences, or any roads to serve any new residences, or any other on-site improvements, or any land disturbing activities.

Who Implements the Measure: Applicant

When should the measure be implemented: Ongoing

When should it be completed: Ongoing

Who verifies compliance: U.S. Army Corps of Engineers and/or the California Department of Fish and Game

Other Responsible Agencies: Planning Department to be delivered copies of all correspondence

No. ~~11~~ 10 Mitigation Measure: Pursuant to the federal and state Endangered Species Acts, prior to construction, the developer shall be responsible for contacting the US Fish and Wildlife Service and California Department of Fish and Game to determine if any special status plant or animal species are present on the project site, and shall be responsible for obtaining all appropriate permits or authorizations from these agencies, if necessary.

Who Implements the Measure: Applicant

When should the measure be implemented: Ongoing

When should it be completed: Ongoing

Who verifies compliance: U.S. Fish and Wildlife Service and/or the California Department of Fish and Game

Other Responsible Agencies: Planning Department to be delivered copies of all correspondence

V. CULTURAL RESOURCES

No. ~~12~~ 11 Mitigation Measure: Prior to any ground disturbing activities or demolition of the existing features or structures, the project site shall be evaluated for eligibility to the California Register of Historic Places. Historic era sites and features

shall be evaluated by an historic archaeologist; the prehistoric bedrock mortar features/site shall be evaluated by a prehistoric archaeologist.

Who Implements the Measure:	Applicant/Developer
When should the measure be implemented:	Prior to construction and/or grading
When should it be completed:	Prior to construction and/or grading
Who verifies compliance:	Stanislaus County Department of Planning and Community Development
Other Responsible Agencies:	Central California Information Center; Native American Heritage Commission

I the undersigned, do hereby certify that I understand and agree to be responsible for implementing the Mitigation Program for the above listed project.

SIGNATURE ON FILE

Honchariw Revocable Trust Representative
Responsible for Mitigation Compliance

January 8th, 2009

Date

MITIGATED NEGATIVE DECLARATION

NAME OF PROJECT: Vesting Tentative Subdivision Map Application No. 2006-06 & Exception Application No. 2008-02 - Knights Ferry Overlook

LOCATION OF PROJECT: The southeast corner of Cemetery and Frymire Roads, in the historic Community of Knights Ferry. (APN: 002-044-003 & 002-044-004)

PROJECT DEVELOPERS: Nick Honchariw - Honchariw Revocable Trust
3 Via Paraiso West
Tiburon, CA 94920

DESCRIPTION OF PROJECT: Request to divide a 33.70 acre parcel to create 8 parcels ranging in size from 0.50 to 5.00 acres with a 12.03 acre "Remainder". An Exception is being requested on the four 1.00 acre parcels which would not have municipal water service/connection from Knights Ferry Community Services District (as required by 20.52.210 of the Stanislaus County Subdivision Ordinance).

Based upon the Initial Study, dated April 30, 2008, the Environmental Coordinator finds as follows:

1. This project does not have the potential to degrade the quality of the environment, nor to curtail the diversity of the environment.
2. This project will not have a detrimental effect upon either short-term or long-term environmental goals.
3. This project will not have impacts which are individually limited but cumulatively considerable.
4. This project will not have environmental impacts which will cause substantial adverse effects upon human beings, either directly or indirectly.

The aforementioned findings are contingent upon the following mitigation measures which shall be incorporated into this project:

1. *Prior to removal of any healthy oak trees or shrubs on the property or within the County right-of-way within a lot to be developed (i.e., lots 1-7) and prior to any construction or ground disturbing activity within such lot; an oak tree protection and replacement plan shall be provided by the lot owner to, and approved by the Department of Planning and Community Development and the California Department of Fish and Game (CDFG).*
2. *Prior to any construction or ground disturbing activity, pre-construction survey(s) shall be conducted to determine if any special status plants or vernal pool animal or plant species, exist within these lots.*
3. *If pre-construction surveys determine that any special status plants, including Colusa grass, dwarf downingia, beaked clarkia, or Hartweg's golden sunburst are present on the project site, development shall be planned to avoid impacts to the special status plants. If impacts cannot be avoided a mitigation plan including location of restoration areas, propagation and planting techniques to be employed for the restoration effort, timetable for implementation, and performance criteria, adaptive management techniques, and a site maintenance plan shall be prepared by a qualified biologist and submitted to the Stanislaus County Planning Department for review.*
4. *Prior to recording the final map or any construction or ground disturbing activity, all blue elderberry shrubs with a stem diameter of one inch or greater at ground level shall be surveyed. The locations of each blue elderberry shrub shall be shown on the recorded final map. If possible, a 100-foot development-free buffer shall be established around each blue elderberry shrub. For any blue elderberry shrubs within 100 feet of lots to be developed (i.e., lots 1-7), any portion of the buffer that falls within the lot to be developed shall be fenced during construction. If full avoidance is not*

possible, consultation with USFWS shall be undertaken to further assess the potential impacts to valley elderberry longhorn population and determine any needed mitigation. Mitigation usually involves planting replacement shrubs at an approved mitigation site or payment of fees to an approved mitigation bank or in-lieu species fund.

5. Any trees that need to be removed for construction in the lots to be developed (i.e., lots 1-7) or within the County right-of-way shall be removed between September 1 and January 31, if possible. If tree removal occurs during the avian nesting season (February 1 to August 31), a qualified wildlife biologist shall conduct a nesting bird survey to determine if nests are active or occupied in the project site. The survey shall be undertaken no more than 15 days prior to tree removal. Any active nests shall be protected with an appropriate buffer determined by the biologist in consideration of species, stage of nesting, location of the nest, and type of construction activity. The buffer areas shall be enclosed with temporary fencing, and construction equipment and workers shall not enter the enclosed setback areas for the duration of the breeding season. Buffers should remain in place for the duration of the breeding season or until it has been confirmed by a qualified biologist that all chicks have fledged and are independent of their parents.
6. Prior to construction of any on-site residences, or any roads to serve any new residences, or any other on-site improvements, or any land disturbing activities, within the lots to be developed, all seasonal swales, wetlands, and vernal pools shall be accurately mapped and shall be avoided where possible. Specific language shall be included on the recorded final map that prohibits any construction within 50-feet of the identified seasonal swales, wetlands, elderberry plants/bushes, and vernal pools without any necessary prior authorization from the appropriate state or federal regulatory agency. The applicant shall forward copies of all surveys and maps to the Stanislaus County Planning Department for verification prior to issuance of any building or grading permit.
7. Prior to any construction or ground disturbing activity within a lot to be developed in or along the Stanislaus River, its tributaries, the OID canal, or the stock ponds and seasonal wetlands on the site, pre-construction survey(s) shall be conducted to determine if any Western pond turtles exist within such lot.

If pre-construction surveys determine that western pond turtles are present in the construction zone, the turtles shall be relocated by a qualified biologist to suitable habitat just outside the construction zone. If Western pond turtle relocation is undertaken, silt fencing shall be erected and maintained around construction zones to prevent western pond turtles from moving back into these areas.
8. No construction or development of access roads or other improvements shall be allowed within 50 feet of areas that fall within the jurisdiction of the U.S. Army Corps of Engineers (Corps), California Department of Fish and Game (CDFG), or within 50 feet of any vernal pool or seasonal wetland or swale without first obtaining appropriate permits and authorizations from those agencies where necessary.
9. The applicant shall be responsible for contacting the Corps and CDFG prior to construction of any access roadways or other improvements to determine if permits or authorizations are warranted. The applicant shall forward copies of all correspondence with the Corps and/or CDFG to the Stanislaus County Planning Department of verification prior to construction of any on-site residences, or any roads to serve any new residences, or any other on-site improvements, or any land disturbing activities.
10. Pursuant to the federal and state Endangered Species Acts, prior to construction, the developer shall be responsible for contacting the US Fish and Wildlife Service and California Department of Fish and Game to determine if any special status plant or animal species are present on the project site, and shall be responsible for obtaining all appropriate permits or authorizations from these agencies, if necessary
11. Prior to any ground disturbing activities or demolition of the existing features or structures, the project site shall be evaluated for eligibility to the California Register of Historic Places. Historic era sites and features shall be evaluated by an historic archaeologist; the prehistoric bedrock mortar features/site shall be evaluated by a prehistoric archaeologist.

The Initial Study and other environmental documents are available for public review at the Department of Planning and Community Development, 1010 10th Street, Suite 3400, Modesto, California.

Initial Study prepared by: Joshua Mann, Associate Planner

Submit comments to: Stanislaus County
Planning and Community Development Department
1010 10th Street, Suite 3400
Modesto, California 95354

(I:\Staffrpt\TM2006\TM 2006-06 Knight's Ferry Overlook\Mit Neg Dec.wpd)

MOORE BIOLOGICAL CONSULTANTS

April 21, 2005

Ms. Sher Honchariw
3 Via Paraiso West
Tiburon, CA 94920

Subject: BASELINE BIOLOGICAL RESOURCES INVENTORY FOR THE 30 +/- ACRE
"KNIGHTS FERRY" PROJECT SITE, STANISLAUS COUNTY, CALIFORNIA

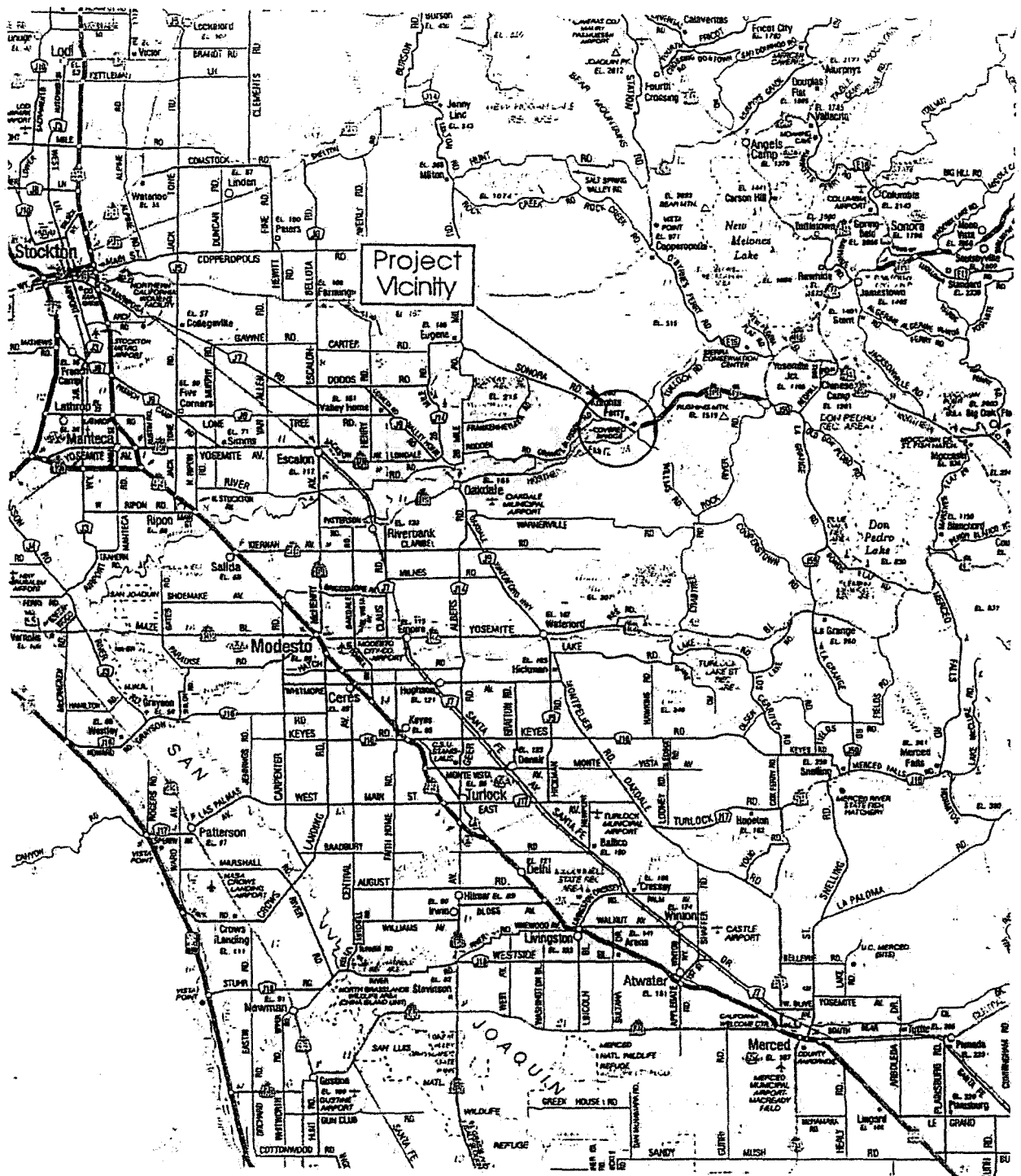
Dear Sher:

Thank you for contracting with Moore Biological Consultants to conduct a biological resources inventory for the Knights Ferry project site along the Stanislaus River (Figures 1 and 2). The focus of our work was to conduct a site evaluation for waters of the U.S., including wetlands, and suitable habitat for or presence of sensitive species. This letter report details the methodology and results of our investigation.

Methods

Prior to the field survey, we conducted a search of California Department of Fish and Game's (CDFG) California Natural Diversity Database (CNDDDB, 2005). This information was utilized to identify species that have been previously documented in the project vicinity or have the potential to occur in the project vicinity based on suitable habitat. Since the project site is located in the center of the USGS 7.5-minute Knights Ferry topographic quadrangle, the CNDDDB search area encompassed only this quadrangle, which is an area of approximately 70 square miles around the site.

A field survey was conducted on March 31, 2005. The survey consisted of walking throughout the site, making observations and noting habitat conditions, surrounding land uses, and plant and wildlife species. We conducted a search for jurisdictional



Scale: 1 inch = 9 miles

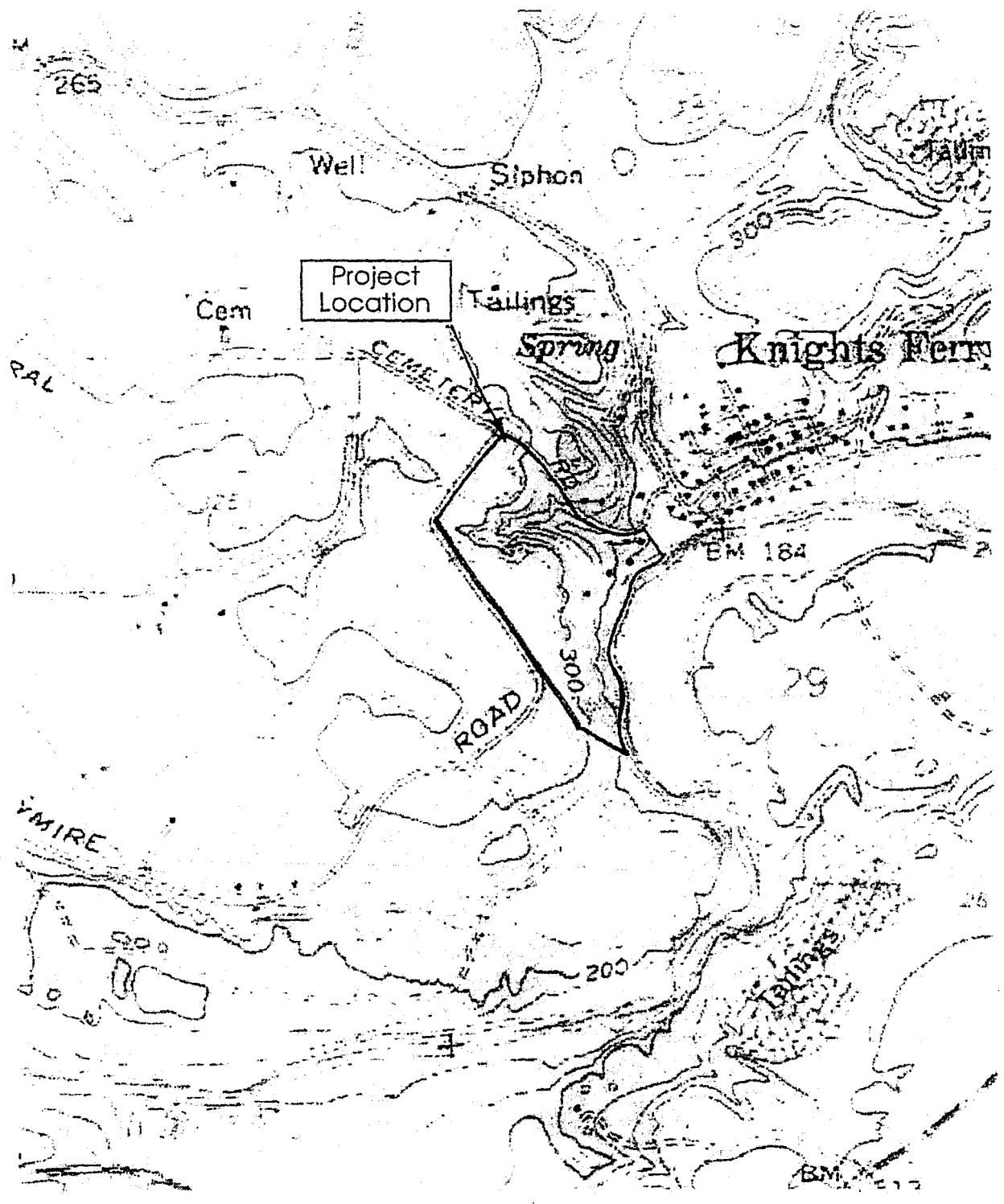
Source: Calif. State Automobile Association



N

MOORE BIOLOGICAL

FIGURE 1
PROJECT VICINITY



Scale: 1 inch = 1,000 feet
 Source: USGS 7.5-minute Knights Ferry
 topographic quadrangle

MOORE BIOLOGICAL



FIGURE 2
PROJECT LOCATION

waters of the U.S. (a term that includes wetlands) as defined by the U.S. Army Corps of Engineers (ACOE, 1987), sensitive species and suitable habitat for sensitive species (e.g., elderberry shrubs, vernal pools).

Results

GENERAL SETTING: The project site is located within Section 29, Township 1 South, Range 12 East of the USGS 7.5-minute Knights Ferry topographic quadrangle (Figure 2). Terrain at the project site is terraced and consists of a east-facing slope that ranges in elevation from 150 to 325 feet above mean sea level. The project site is a mosaic of habitats that generally consist of mixed oak woodlands, grasslands, cliffs, and areas associated with the Stanislaus River (Figure 3). There are residences located in the site just upslope of the Stanislaus River riparian corridor and a picnic area with some landscape trees located along the riparian corridor.

Land uses in the immediate vicinity of the project site are rangeland, open space, recreation, and ranchettes. There are ranchette-style residences located to the north and there is rangeland and open space consisting of mostly grassland and woodland habitats located to the west of the site. Similar open space habitats are located to the east of the site and to the south of the site, across the Stanislaus River.

VEGETATION: Mixed oak woodland and California annual grassland series (Sawyer and Keeler-Wolf, 1995) best describe the natural habitat associations present within the project site. The grassland areas within the site are vegetated with various native as well as non-native annual and perennial grassland species such as filaree (*Erodium botrys*), ripgut brome (*Bromus diandrus*), rattail fescue (*Vulpia myuros*), blue wild rye (*Elymus glaucus*), purple needle grass (*Nassella pulchra*), and soft chess (*Bromus hordeaceus*). Plant species observed within the project site are listed in Table 1.

Trees and shrubs within the site are located within both the mixed oak woodlands and the riparian corridor along the Stanislaus River. Trees and shrubs within the mixed oak woodland habitats include, but are not limited to blue oak (*Quercus douglasii*), interior live oak (*Quercus wislizenii*), California buckeye (*Aesculus californicus*), poison oak (*Toxicodendron diversilobum*) and toyon (*Heteromeles arbutifolia*). Within the site these species are associated primarily with the draws and along the cliff.

TABLE 1
PLANT SPECIES OBSERVED DURING THE 2005 SURVEY

<i>Aesculus californica</i>	California buckeye
<i>Allanthus altissima</i>	tree-of-heaven
<i>Aira caryophyllea</i>	silver European hairgrass
<i>Amsincka menziesii</i>	rancher's fireweed
<i>Avena s fatua</i>	wild oat
<i>Avena</i> sp.	oat
<i>Briza minor</i>	quaking grass
<i>Brodiaea elegans</i>	elegant brodiaea
<i>Bromus diandrus</i>	ripgut brome
<i>Bromus hordeaceus</i>	soft chess brome
<i>Callitriche marginata</i>	water starwort
<i>Claytonia perfoliata</i>	miner's lettuce
<i>Collinsia heterophylla</i>	Chinese house
<i>Erodium botrys</i>	filaree
<i>Eryngium</i> sp.	coyote thistle
<i>Eschscholzia californica</i>	California poppy
<i>Geranium dessectum</i>	geranium
<i>Heteromeles arbutifolia</i>	toyon
<i>Holocarpha virgata</i>	tarweed
<i>Hordeum murinum</i>	foxtail barley
<i>Layia pentachaeta</i>	layia
<i>Lasthenia crysantha</i>	goldfields
<i>Lolium perenne</i>	perennial ryegrass
<i>Lomatium utriculatum</i>	foothill lomatium
<i>Lotus purshianus</i>	lotus
<i>Lupinus</i> sp.	lupine
<i>Nassella pulchra</i>	purple needle grass
<i>Orthocarpus erianthus</i>	butter and eggs
<i>Pholistoma auritum</i>	pholistoma
<i>Plagiobothrys nothofulvus</i>	popcornflower
<i>Populus fremontii</i>	Fremont cottonwood
<i>Prunus</i> sp.	plum, almond
<i>Punica granatum</i>	pomegranite

TABLE 1 (continued)
 PLANT SPECIES OBSERVED DURING THE 2005 SURVEY

<i>Quercus douglasii</i>	blue oak
<i>Quercus lobata</i>	valley oak
<i>Quercus wislizenii</i>	interior live oak
<i>Rubus discolor</i>	Himalayan blackberry
<i>Rubus ursinus</i>	California blackberry
<i>Salix</i> sp.	willow
<i>Sambucus mexicana</i>	blue elderberry
<i>Sidalcea calycosa</i>	vernal pool sidalcea
<i>Silybum marianum</i>	milk thistle
<i>Toxicodendron diversilobum</i>	poison oak
<i>Trifolium hirtum</i>	rose clover
<i>Trifolium wormskjoldii</i>	cow clover
<i>Vicia sativa</i>	common vetch
<i>Vulpia myuros</i>	rattail fescue

The riparian habitats within the site are associated with both the Stanislaus River and the various drainages and seeps within the project site. These habitats are heavily vegetated with species such as willow (*Salix* sp.), Fremont cottonwood (*Populus fremontii*), valley oak (*Quercus lobata*), and black walnut (*Juglans californicus*). There were two areas that we observed blue elderberry shrubs within the project site (Figure 3).

WATERS OF THE U.S AND WETLANDS: Waters of the U.S., including wetlands, are broadly defined under 33 Code of Federal Regulations (CFR) 328 to include navigable waterways, their tributaries, and adjacent wetlands. State and federal agencies regulate these habitats and Section 404 of the Clean Water Act requires that a permit be secured prior to the discharge of dredged or fill materials into any waters of the U.S., including wetlands. Both CDFG and ACOE have jurisdiction over modifications to riverbanks, lakes, stream channels and other wetland features.

Jurisdictional wetlands are vegetated areas that meet specific vegetation, soil, and hydrologic criteria defined by the ACOE *Wetlands Delineation Manual* (ACOE, 1987).

Waters of the U.S. are drainage features or water bodies as described in 33 CFR 328.4. ACOE holds sole authority to determine the jurisdictional status of waters of the U.S., including wetlands. Jurisdictional wetlands and Waters of the U.S. include, but are not limited to, perennial and intermittent creeks and drainages, lakes, seeps, and springs; emergent marshes; riparian wetlands; and seasonal wetlands. Wetlands and Waters of the U.S. provide critical habitat components, such as nest sites and a reliable source of water, for a wide variety of wildlife species.

Within the project site, there are a number of potential jurisdictional waters of the U.S. (Figure 3). While these potential jurisdictional wetlands are addressed below, it is important to note that this preliminary mapping of wetlands is intended to be utilized for the environmental planning process, and is not a formal wetland delineation.

The Stanislaus River, which is navigable waters of the U.S., is located along the eastern boundary of the site (see attached photographs). The Stanislaus River channel is associated with a narrow floodplain, which consists of open water and a low gradient run and pool habitats and a predominant gravel and cobble substrate. The edges of the Stanislaus River support a well-developed riparian corridor with a tree layer dominated by large cottonwoods, willows and valley oaks. Himalayan blackberry (*Rubus discolor*) is the dominant species in the shrub layer.

There is a cluster of seasonal wetlands in the northern portion of the project site that appears to be created by mine tailings (Figure 3). One of the wetlands is particularly deep and is vegetated with mostly creeping spikerush (*Eleocharis macrostachya*); this wetland was full of water during the recent survey and supported a notable population of Pacific chorus frogs (*Pseudacris regilla*). The other seasonal wetlands in this mine tailing area are shallower and are vegetated with coyote thistle (*Eryngium vaseyi*), sidalcea (*Sidalcea calycosa*), and goldfields (*Lasthenia* sp.). There are also some vernal pools and a wetland swale near the mine tailing area that appears to be natural in origin (see attached photographs). These wetlands contained the same species as the mine tailing wetlands.

There is at least one intermittent drainage within the northern portion of the project site (Figure 3). This drainage is ephemeral and appears to convey flows from west to east toward the Stanislaus River. There is a pipe that conveys water from this drainage into a ditch that runs into the Stanislaus River at the eastern end of the site.

There is a second apparent seep located near the toe of the cliff south of the westernmost residence within the site (Figure 3). There was water seeping out of this area during the recent survey. This seep is located within a draw vegetated with some cottonwoods, blackberries and willows. As this area was choked with vegetation (mostly blackberry) we could not pinpoint the exact origin of this seep.

There is an unnamed canal located in the northern portion of the project site that is currently functioning to convey irrigation through the site (see attached photographs). Water in this canal appears to originate from the South San Joaquin Main Canal, which is located to the north of the site. Vegetation within the canal consisted mainly of rushes (*Juncus* sp.). There was some piping coming from the southern bank of the canal that conveyed water into a small stock pond located within the site approximately 100 feet east of the canal, along Cemetery Road (see attached photographs).

WILDLIFE: A variety of bird species were observed during the field survey; all of these are common species found in agricultural and riparian areas of Stanislaus County (Table 2). Several birds were flying around and over the site as well as perching in trees. Turkey vulture (*Cathartes aura*), red-shouldered hawk (*Buteo lineatus*), mourning dove (*Zenaida macroura*), and western kingbird (*Tyrannus verticalis*) and are representative of the avian species observed in the immediate project vicinity.

A variety of mammals are expected to occur in the immediate project vicinity. Mule deer was the only mammal observed during the recent survey. Raccoon (*Procyon lotor*), desert cottontail (*Sylvilagus audubonii*), California ground squirrel (*Spermophilus beecheyi*), coyote (*Canis latrans*), black-tailed hare (*Lepus californicus*) and striped skunk (*Mephitis mephitis*) are known from the greater project vicinity and are expected to occur within the project site. A number of species of small rodents including mice (*Mus musculus*, *Reithrodontomys megalotis*, and *Peromyscus maniculatus*) and voles (*Microtus californicus*) also are likely to occur.

Based on habitat types present, a limited number of amphibians and reptiles may use habitats within the immediate project vicinity. Pacific chorus frog and western fence lizard (*Sceloporus occidentalis*) were observed within the project site during the recent survey. The large mine tailing wetland is suitable for California tiger salamander (*Ambystoma californiense*), which has been found in the greater project vicinity.

TABLE 2
WILDLIFE SPECIES OBSERVED DURING THE 2005 SURVEY

Birds

Mallard	<i>Anas platyrhynchos</i>
Turkey vulture	<i>Cathartes aura</i>
Red-shouldered hawk	<i>Buteo lineatus</i>
Mourning dove	<i>Zenaida macroura</i>
Black phoebe	<i>Sayornis nigricans</i>
Western kingbird	<i>Tyrannus verticalis</i>
Tree swallow	<i>Tachycineta bicolor</i>
American crow	<i>Corvus brachyrhynchos</i>
Song sparrow	<i>Melospiza melodia</i>
White-crowned sparrow	<i>Zonotrichia leucophrys</i>
Western meadowlark	<i>Sturnella neglecta</i>

Mammals

Mule deer	<i>Odocoileus hemionus</i>
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Amphibians and Reptiles

Pacific chorus frog	<i>Pseudacris regilla</i>
Western fence lizard	<i>Sceloporus occidentalis</i>

SENSITIVE SPECIES: The site contains suitable habitat for sensitive fish species, valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*), California tiger salamander (*Ambystoma californiense*), western pond turtle (*Emys marmorata*), vernal pool tadpole shrimp (*Lepidurus packardii*), vernal pool fairy shrimp (*Branchinecta lynchi*), and western spadefoot (*Spea hammondi*). The likelihood of occurrence of other listed, candidate, and other sensitive species in the project site is generally considered low. Table 3 provides a summary of the listing status and habitat requirements of sensitive species that have been documented in the greater project vicinity or for which there is potentially suitable habitat in the site. This table also includes an assessment of the likelihood of occurrence of each of these species at the project site. The evaluation of the potential for occurrence of each species is based on the distribution of regional occurrences (if any), habitat suitability, and field observations.

TABLE 3

SENSITIVE PLANT AND WILDLIFE SPECIES DOCUMENTED OR POTENTIALLY OCCURRING IN THE GREATER PROJECT VICINITY

Common Name	Scientific Name	Federal Status ¹	State Status ²	CNPS List ³	Habitat	Potential for Occurrence in the Project Site
Plants						
Dwarf downingia	<i>Downingia pusilla</i>	None	None	2	Vernal pools.	Low: there are a few vernal pool and seasonal wetland areas within the site, however this species was not observed during the field visit. The nearest documented occurrence of dwarf downingia is located approximately 3 miles south of the site (CNDDDB, 2005).
Hartweg's golden sunburst	<i>Pseudobahia bahifolia</i>	E	E	1B	Clay soils on north-facing slopes, moist areas along shady creeks, and vernal pools within valley and foothill grassland and cismontane woodlands.	Low: there are a few vernal pools and moist shady areas suitable for this species within the project site, however this species was not observed during the recent survey. The nearest documented occurrence of Hartweg's golden sunburst is located 4.5 miles southwest of the site (CNDDDB, 2005).
Beaked clarkia	<i>Clarkia rostrata</i>	None	None	1B	North facing slopes in valley and foothill grassland and cismontane woodlands.	Very low: there is marginal habitat within the project site for beaked clarkia, however this species was not observed during the field survey. The nearest documented occurrence of beaked clarkia is a historical sighting located approximately 0.25 miles east of the project site (CNDDDB, 2005).
Colusa grass	<i>Neostapfia colusana</i>	T	E	1B	Large, deep vernal pools.	Very low: there are a few vernal pool and seasonal wetland areas within the project site that are marginally suitable habitat, however this species was not observed during the field survey. The nearest documented occurrence is located approximately 4 miles southeast of the project site (CNDDDB, 2005).
Wildlife						
Swainson's hawk	<i>Buteo swainsoni</i>	None	T	N/A	Nesting: large trees, usually within riparian corridors. Foraging: agricultural fields and grassland.	Very low: the site is located at or just outside of the range for nesting Swainson's hawk. Further, nesting has not been documented near the site and there are no occurrences within the CNDDDB (2005) search area.

TABLE 3

SENSITIVE PLANT AND WILDLIFE SPECIES DOCUMENTED OR POTENTIALLY OCCURRING IN THE GREATER PROJECT VICINITY

Common Name	Scientific Name	Federal Status ¹	State Status ²	CNPS List ³	Habitat	Potential for Occurrence in the Project Site
California tiger salamander	<i>Ambystoma californiense</i>	T	SC	N/A	Require seasonal water sources for breeding and small mammal burrows for summer refugia.	Low: one of the mine tailing wetlands within the project site represents suitable breeding habitat for California tiger salamander. The nearest documented occurrence is located approximately 2 miles southwest of the project site (CNDDDB, 2005).
Western spadefoot	<i>Spea hammondi</i>	None	SC	N/A	Require seasonal water sources for breeding and egg-laying.	Low: the seasonal wetlands within the site are suitable habitat for western spadefoot. The nearest documented occurrence is located approximately 2 miles southwest of the project site (CNDDDB, 2005).
Western pond turtle	<i>Emys marmorata</i>	None	SC	N/A	Perennial bodies of water with basking site such as log and snags.	Moderate: there is suitable habitat for this species within the project, however western pond turtles were not observed while at the project site. The closest documented occurrence of western pond turtle is approximately 0.25 miles east of the project site (CNDDDB, 2005).
Vernal pool invertebrates	<i>Branchinecta lynchi</i> ; <i>Lepidurus packardii</i>	T & E	None	N/A	Vernal pools and seasonally wet depressions within the Central Valley.	Low: there are a few vernal pool and seasonal wetland areas within the project site. The nearest documented occurrence of vernal pool tadpole shrimp is located approximately 2 miles east of the project site (CNDDDB, 2005).
Pale big-eared bat	<i>Corynorhinus townsendii pallascens</i>	None	SC	N/A	Wide variety of habitats, most common in mesic sites.	Low: there is marginally suitable habitat for this species within the project site. The closest documented occurrence of pale big-eared bat is approximately 3.5 miles northeast of the project site (CNDDDB, 2005).
Western mastiff bat	<i>Eumops perotis californicus</i>	None	SC	N/A	Open, semi-arid to arid habitats.	Low: there is marginally suitable habitat for this species within the site. The closest documented occurrence of western mastiff bat is approximately 4 miles northeast of the site (CNDDDB, 2005).

TABLE 3

SENSITIVE PLANT AND WILDLIFE SPECIES DOCUMENTED OR POTENTIALLY OCCURRING IN THE GREATER PROJECT VICINITY

Common Name	Scientific Name	Federal Status ¹	State Status ²	CNPS List ³	Habitat	Potential for Occurrence in the Project Site
Central Valley steelhead	<i>Oncorhynchus mykiss</i>	T	None	N/A	Deep flowing pools with adequate spawning substrate and water temperatures below 27 degrees Celsius.	Present in the Stanislaus River: this species occurs in the Stanislaus River to spawn during the winter months (December through March). This species is not documented in the CNDDDB (2005) search area.
Fall-run Chinook salmon	<i>Oncorhynchus tshawytscha</i>	C	C	N/A	Deep flowing pools with adequate spawning substrate and water temperatures below 27 degrees Celsius.	Present in the Stanislaus River: this species arrives in the Stanislaus River to spawn during the fall months (October through December); young-of-the-year move downstream in the mid- to late-Spring. This species is not documented in the CNDDDB (2005) search area.

¹ E = Endangered; T = Threatened.

² E = Endangered; SC=State of California Species of Special Concern.

³ CNPS List 1B species includes plants that are rare, threatened, or endangered in California and elsewhere; List 2 includes plants that are rare, threatened, or endangered in California but more common elsewhere.

While the project site may have provided habitat for a subset of the sensitive species listed in Table 3 at some time in the past, past mining, development and grazing have substantially modified natural habitats in the project vicinity. Through reviewing Table 3, it becomes apparent that the likelihood of occurrence of listed, candidate, and other sensitive species in the body of the site is considered moderate to low. Potential habitat for a few sensitive species exists on-site and sensitive salmonids are known to occur in the Stanislaus River. The highly disturbed mine tailing wetlands and elderberry shrubs within the site also provide suitable habitat for sensitive species known from the region.

SENSITIVE PLANTS: Four species of sensitive plants were identified in the CNDDDB search area. These species are Colusa grass (*Neostapfia colusana*), dwarf downingia (*Downingia pusilla*), Hartweg's golden sunburst (*Pseudobahia bahiifolia*) and beaked clarkia (*Clarkia rostrata*). Sensitive plants that occur in the greater project vicinity generally occur in relatively undisturbed areas and are largely found within unique vegetation communities and/or habitats such as vernal pools.

No sensitive plants species were observed during the recent survey. However, the vernal pools and seasonal wetland swale habitats within the site are marginally suitable for some of the sensitive plant species known from the greater project vicinity. Further, beaked clarkia has been documented in the Knight's Ferry area, with an historical observation just 0.25 miles east of the site. Since sensitive plants are not geographically widespread, the likelihood of sensitive plants occurring within this 30-acre site is generally considered low. However, surveys during the appropriate blooming periods would need to be conducted to confirm presence or absence.

SENSITIVE WILDLIFE: The overall potential for intensive use of habitats within the project site by sensitive wildlife species is considered moderate to low. Six sensitive wildlife species were identified in the CNDDDB search area. These species are California tiger salamander, western spadefoot toad, vernal pool tadpole shrimp, western pond turtle, pale big-eared bat (*Corynorhinus townsendii pallescens*) and western mastiff bat (*Eumops perotis californicus*). Swainson's hawk (*Buteo swainsoni*), vernal pool fairy shrimp, Chinook salmon (*Oncorhynchus tshawytscha*), and steelhead (*O. mykiss*) were added to Table 3 based on presence of suitable habitat and/or because the site is within the species' range.

Given that most wildlife species are mobile, there is a chance that sensitive birds could fly over or roost in trees in the site. Similarly, sensitive mammals could potentially wander through the site. Swainson's hawk and listed salmonids are expected to occur in the greater project vicinity based on suitable habitat and local distribution. Of the species identified in Table 3, listed salmonids, western pond turtle, California tiger salamander, western spadefoot, vernal pool fairy and tadpole shrimp, and valley elderberry longhorn beetle are species with highest potential to occur within the project site on more than a transitory basis.

SWAINSON'S HAWK: The Swainson's hawk is listed as Threatened by the CDFG and is a Federal Species of Special Concern. In the Central Valley, this hawk typically nests in oak or cottonwood trees in or near riparian habitats. Swainson's hawks prefer nesting sites that provide sweeping views of nearby foraging grounds consisting of grasslands, irrigated pasture, alfalfa, hay, and wheat crops. Most Swainson's hawks are migratory, wintering in Mexico and breeding in California and elsewhere in the western United States. The raptor generally arrives in the Central Valley in mid-March, and begins courtship and nest construction immediately upon arrival at the breeding sites. The young fledge in early July, and most Swainson's hawks leave their breeding territories by late August to early September.

Nesting Swainson's hawks could conceivably use the trees within the site and especially those within the riparian corridor for nesting. However, no Swainson's hawks were observed during survey and the site is on the extreme eastern edge of the species range. Further, the CNDDDB (2005) does not contain records of Swainson's hawks nesting in trees in or near the site. This species is widespread in the Central Valley and suitable trees exist on the project site. Although the potential use of on-site or nearby trees by nesting Swainson's hawks in the future can not be precluded with certainty, it is considered very low due to the location of the site at the edge of the species' range.

VALLEY ELDERBERRY LONGHORN BEETLE: The Valley elderberry longhorn beetle (VELB) is listed as a federally threatened species and its host plant is the blue elderberry shrub. The United States Fish and Wildlife Service (USFWS, 1999) *Conservation Guidelines for the Valley Elderberry Longhorn Beetle* identifies stems in excess of 1 inch diameter at ground level as potential habitat for the beetle. These guidelines direct that, if possible, elderberry shrubs should be avoided by a ground disturbance set back of at least twenty feet from the drip line of each shrub. The guidelines further direct buffer areas

between 20 and 100 feet from the driplines of the shrubs that are subject to temporary ground disturbance should be restored or revegetated.

There are two clusters of blue elderberry shrubs located within the project site (Figure 3). One shrub is located along the Stanislaus River riparian corridor and the other is located in the northern portion of the project site (see attached photographs). No exit holes indicative of VELB occupancy were observed within any of the stems of these shrubs.

WESTERN POND TURTLE: The western pond turtle is a state and federal species of concern, but is not a listed species at the state or federal level. Western pond turtles are associated with permanent or nearly permanent bodies of water with adequate basking sites such as logs, rocks or open mud banks. The Stanislaus River and the stock pond in the northern portion of the site serve as suitable habitat for western pond turtles. However, no western pond turtles were observed within the site during the recent survey.

CALIFORNIA TIGER SALAMANDER: California tiger salamander is a State of California Species of Special Concern and was recently listed as threatened by the USFWS under the Federal Endangered Species Act (USFWS, 2004a). In August 2004, USFWS also proposed rules for designated critical habitat for the California tiger salamander (USFWS, 2004b; 2004c). Review of the USFWS map of proposed critical habitat for California tiger salamander indicates that the project site is not within a proposed Critical Habitat Unit for California tiger salamander.

California tiger salamanders require stock ponds without game fish or deep, large vernal pools, which hold water well into the spring (i.e., April or May) for breeding (Jennings and Hayes, 1994). Following breeding, the young disperse across upland habitats up to 1.5 miles and spend the summer months in subterranean refugia such as small mammal burrows. Relatively deeper vernal pools in the greater project vicinity serve as potential breeding habitat for this species and the nearby grasslands contain burrows and cracks suitable for over-summering.

There are a few vernal pools or seasonal wetlands created by mining within the site that could provide breeding habitat for California tiger salamander. While very little summer refugia for this species was observed within the site, surveys would need to be conducted to determine species presence of absence with certainty.

WESTERN SPADEFOOT TOAD: Western spadefoot toad is a State of California Species of Concern. The western spadefoot occurs primarily within grassland habitats, but can also be found in valley-foothill hardwood woodlands. Vernal pools and other seasonal wetlands are essential for egg-laying and breeding. Vernal pools and the mine tailing wetlands within the site could serve as suitable breeding habitat for this species, although none were observed during the recent survey.

VERNAL POOL TADPOLE SHRIMP: The seasonal wetlands and mine tailings within the site could represent potentially suitable habitat for the federally endangered vernal pool tadpole shrimp. Due to the presence of suitable habitat within the site, vernal pool tadpole shrimp may occur within the site, although no protocol-level shrimp surveys have been conducted.

SENSITIVE SALMONIDS: The Stanislaus River provides suitable spawning habitat for two sensitive salmonids that occur in the area on a seasonal basis: fall-run Chinook salmon and Central Valley steelhead. Central Valley drainages, including the Stanislaus River, have recently been classified as Designated Critical Habitat for federally listed anadromous salmonids. The project site is located within the Central Valley California Steelhead ESU (i.e., Evolutionarily Significant Unit) which supports both Chinook salmon and steelhead trout.

While fall-run chinook salmon are known to occur in the Stanislaus River, federally-listed winter-run Chinook salmon only use Central Valley drainages located further to the north. Both fall-run chinook salmon and steelhead use the Stanislaus River for spawning and rearing; salmon migrate out to sea the same year they are hatched, while steelhead spend one to two years in fresh water before moving to the ocean. In the fall, salmon commence their spawning migration, with steelhead following in the late-fall and winter.

SENSITIVE CHIROPTERANS: On-site habitats may be used by sensitive bats such as pale big-eared bat and western mastiff bat, both of which are documented in the CNDDDB (2005) a few miles northeast of the site. Bats typically use a variety of different habitats such as caves, mine shafts, and snags for maternity sites, roosting sites, and hibernacula. While the site contains suitable habitat for bats, use of these habitats by bats is unknown to date.

Conclusions and Recommendations

- Although there are some areas of suitable habitat for sensitive plants in the site, the likelihood of occurrence of listed, candidate, and other sensitive plants within the site is considered generally low. Surveys during the appropriate blooming periods of each species would need to be conducted to confirm presence or absence of sensitive plants in the site.
- The site contains potentially suitable habitat for Swainson's hawk, listed salmonids, western pond turtle, California tiger salamander, western spadefoot, vernal pool tadpole shrimp, vernal pool fairy shrimp, sensitive bats, and valley elderberry longhorn beetle. While none of these species were observed during the recent baseline survey, protocol-level surveys would need to be conducted to confirm presence or absence of sensitive wildlife species in the site.
- The Stanislaus River clearly meets the technical and regulatory criteria of waters of the U.S. under the jurisdiction of ACOE, CDFG, California Regional Water Quality Control Board (RWQCB), and the State Reclamation Board. Some of the on-site intermittent tributaries to the Stanislaus River and other wetlands within the site could potentially fall under the jurisdiction of the ACOE, CDFG and RWQCB.
- Total avoidance of all potential jurisdictional Waters of the U.S. and wetlands is recommended. As ACOE holds sole authority to determine the jurisdictional status of waters of the U.S., including wetlands, a wetland delineation (which is a stand-alone technical report) is recommended prior to any disturbance or construction in potential wetland areas.
- If fill, utility lines, structures (i.e. culverts, road crossings, outfall structures etc.) are to be placed within potential on-site Waters of the U.S., wetland permits and/or certification should be obtained from ACOE, CDFG, and the Regional Water Quality Control Board. As a part of the permit review, ACOE would likely consult with the USFWS on potential for "take" of federally listed species.

- Disturbance to the elderberry shrubs within the site should be avoided, if feasible, by restricting activities within 20 feet of the drip line of the elderberry shrubs. In the event that complete avoidance of elderberry shrubs is infeasible, formal consultation with USFWS would need to be undertaken to further assess the potential impacts to VELB and determine the need for mitigation. Under this scenario, any needed mitigation would likely be accomplished pursuant to the mitigation guidelines for VELB (USFWS, 1999).
- There are several trees within the site that could be used by nesting raptors and other protected birds. Any of the trees that need to be removed should be felled between September 1 and January 31, outside of the general nesting season for raptors and other birds. Alternately, a pre-construction survey for nesting birds shall be conducted prior to tree removal between February 1 and September 1. Temporal restrictions shall be determined by a qualified biologist.

Thank you, again, for asking Moore Biological Consultants to conduct this work. Please call me at (209) 365-6828 with any questions.

Sincerely,



Diane S. Moore, M.S.
Principal Biologist

References

ACOE (U.S. Army Corps of Engineers). 1987. Technical Report Y87-1. U.S. Army Corps of Engineers Waterways Experiment Station, Vicksburg, MI.

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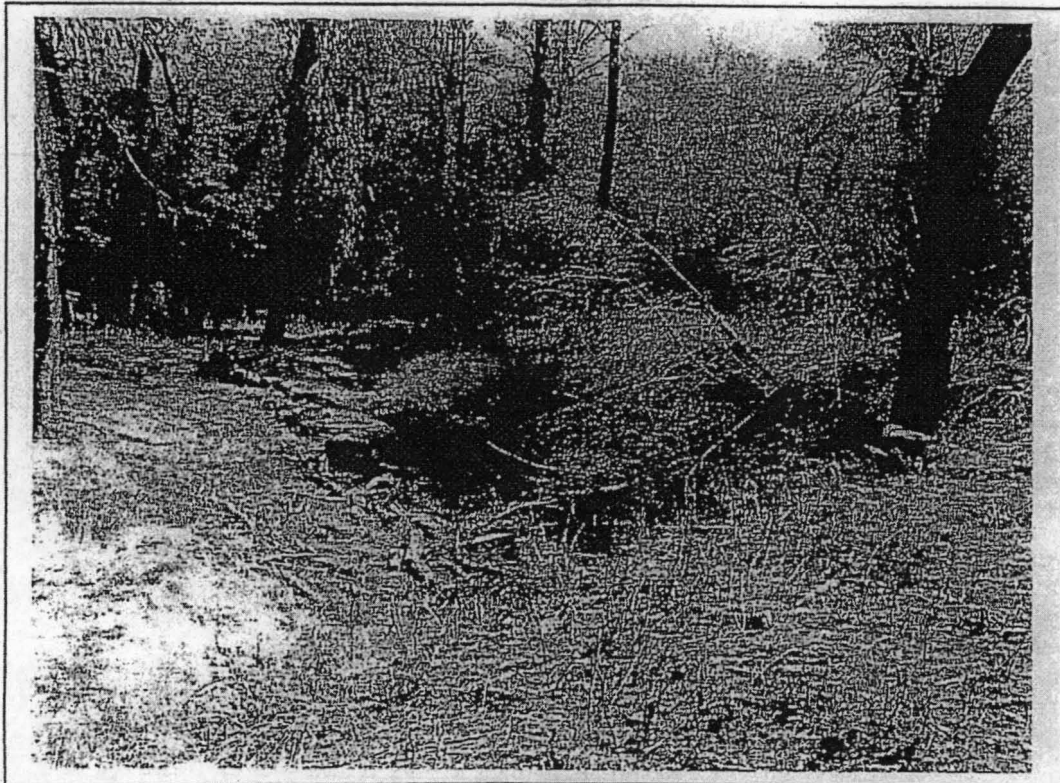
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USFWS. 2004b. Proposed Rules for Designated Critical Habitat for the California Tiger Salamander. Federal Register vol. 69, No. 153, August 10, 2004, pp. 48570 - 48649.

USFWS. 2004c. U.S. Fish & Wildlife Service, Sacramento Fish and Wildlife Office Critical Habitat Maps. "http://sacramento.fws.gov/es/crit_hab-maps.htm"

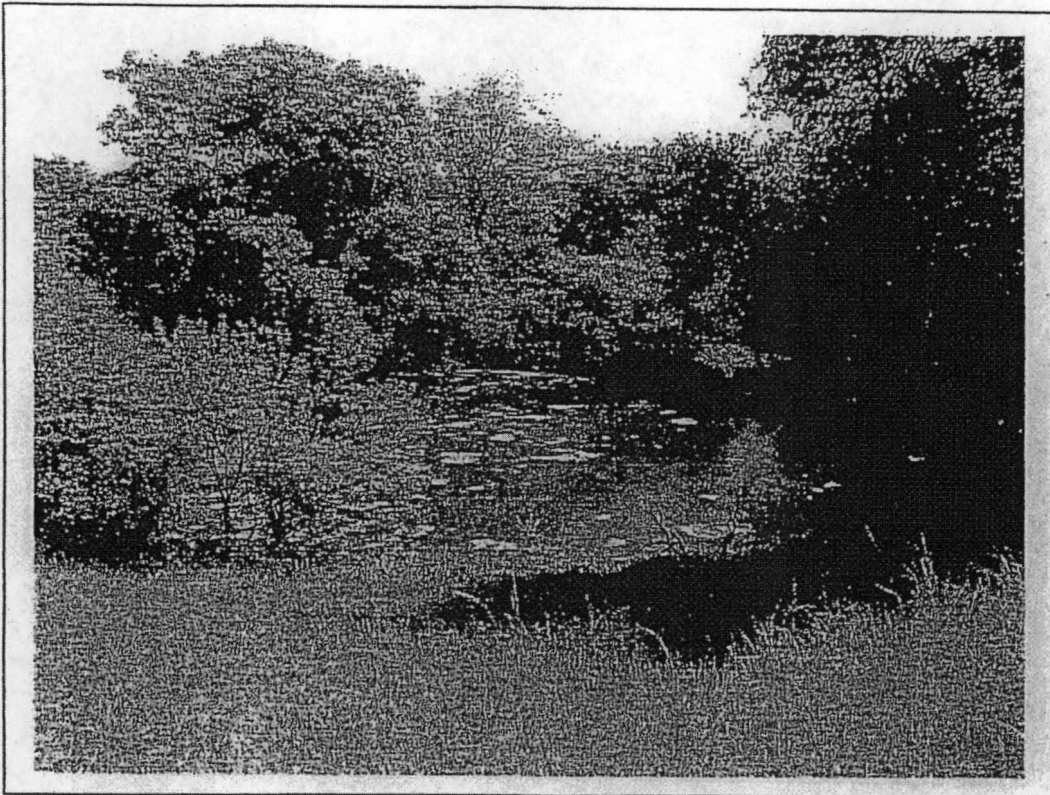


Canal in the northern portion of the site, looking west; 3/31/05

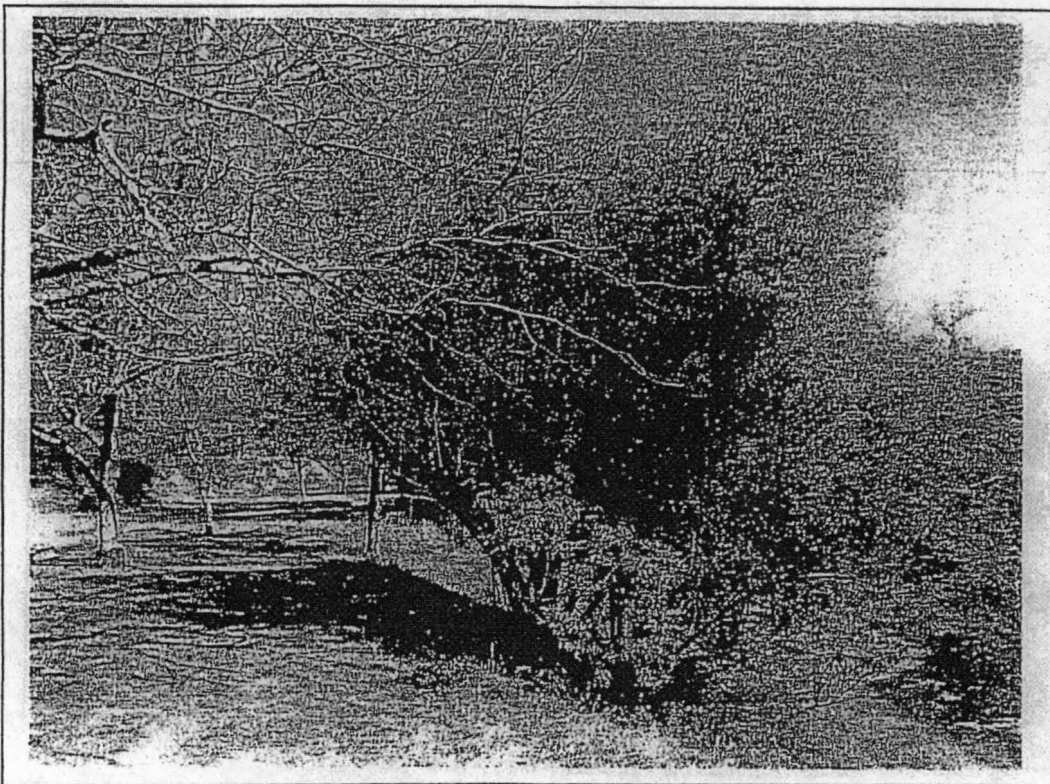


Pipe and ditch that drains from an intermittent tributary to the Stanislaus River; looking east; 3/31/

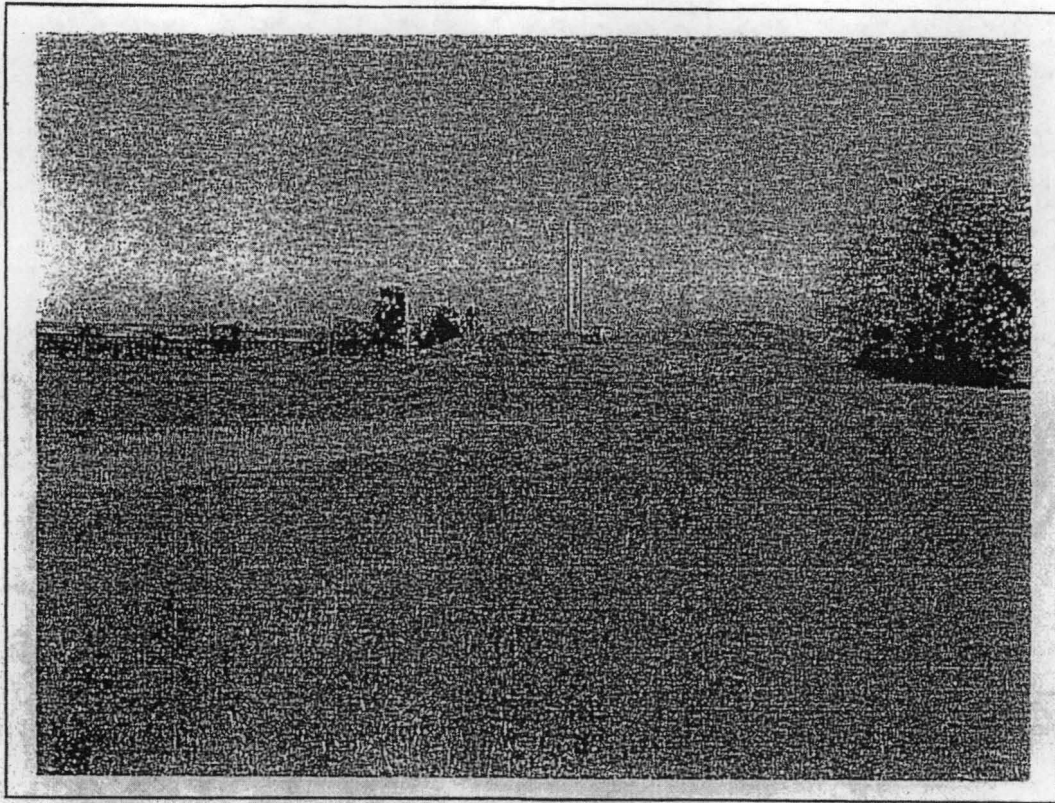
MOORE BIOLOGICAL



Stock pond in the northern portion of the site, looking northeast; 3/31/05



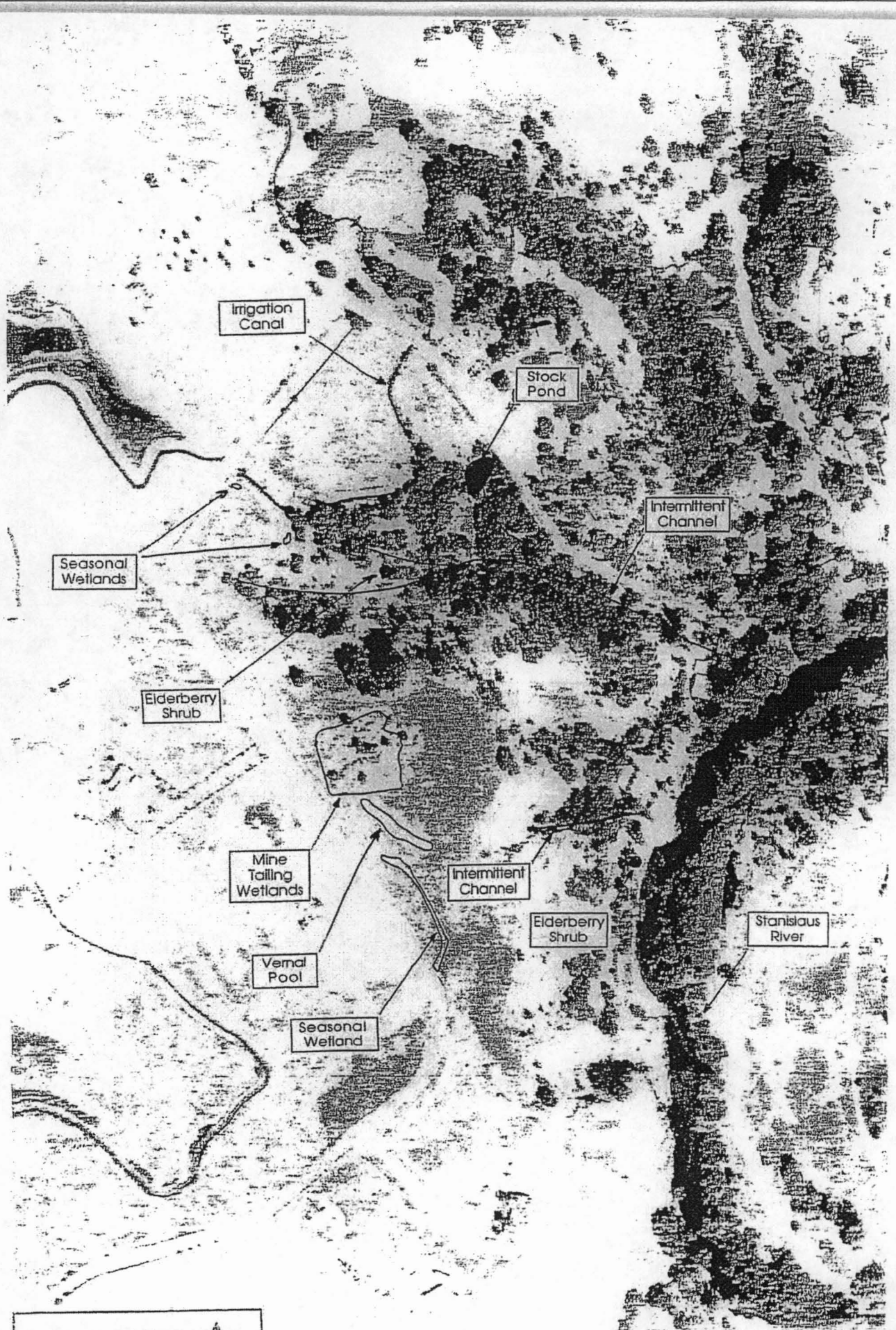
Elderberry shrub along the Stanislaus River, looking north; 3/31/05



Vernal pool in the northern portion of the site, looking northeast; 3/31/05



Stanislaus River, looking east from the top of the cliff; 3/31/05



Scale: 1 inch = 200+/- feet
Source: WAC, Inc. (9/17/00)

MOORE BIOLOGICAL N

FIGURE 3
AERIAL PHOTOGRAPH

EXHIBIT 'H'

ON FILE WITH THE DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT*

*In accordance with the California Public Records Act (California Government Code Section 6254.10), the Archeological Report is confidential because it includes sensitive information regarding the location of archaeological sites. Therefore, access to Archeological Report data is restricted.



KNIGHTS FERRY MUNICIPAL ADVISORY COUNCIL

P.O. Box 846, Knights Ferry CA 95361

Stanislaus County CEQA Response Form
June 19th, 2008

1. **Traffic:** Cemetery road in Knights Ferry is approximately 22.5 feet wide. It is steep, with a sharp curve and poor visibility. There is a bottleneck area, which is hazardous at best. Emergency vehicles utilize this road to access both Frymire and Morrison roads.
2. **Light Pollution:** Light and glare from this subdivision will disturb the natural habitat, as well as disturb the privacy of those who purchased larger lots to enjoy country living.
3. **Habitat Degregation:** One acre lots with homes, swimming pools and outdoor entertainment can only degrade the habitat of red fox, grey fox, deer, wild turkeys etc.
4. **Water :** Why would well water be approved given our current drought conditions? Would there be adequate water for a hydrant? Would these new wells in any way affect existing wells in the area? The KF MAC does not feel this issue can be mitigated.
5. **Septic Tanks:** Addressing particularly the four one acre lots that would mean four septic tanks, four leech lines and four wells on four acres. Assuming that aerobically engineered septic tanks would be required, please remember the problems these type of septic tanks caused several years ago in the large subdivision just east of Oakdale. The requisite level of protecting against groundwater contamination would be prohibitively expensive. The KF MAC does not feel this issue can be mitigated.
6. **Density:** Fryimire road is zoned A 2 – 5. This committee feels strongly that any property divided in this project must be comparable with existing density. The KF MAC does not feel this issue can be mitigated.

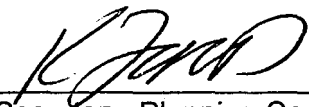
Thank you,

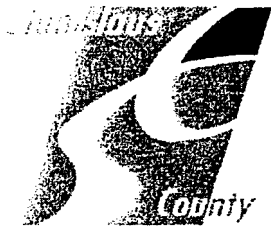

Rick Feichter
Chairman

SUMMARY OF RESPONSES FOR ENVIRONMENTAL REVIEW REFERRALS
PROJECT: VESTING TENTATIVE SUBDIVISION MAP APPLICATION NO. 2006-06 & EXCEPTION APPLICATION NO. 2008-02 - KNIGHTS FERRY OVERLOOK

REFERRED TO:	PUBLIC HEARING NOTICE		RESPONDED		RESPONSE			MITIGATION MEASURES		Conditions	
	DATE: May 12, 2008		YES	NO	WILL NOT HAVE SIGNIFICANT IMPACT	MAY HAVE SIGNIFICANT IMPACT	NO COMMENT NON CEQA	YES	NO	YES	No
AGRICULTURE COMMISSIONER	X	X		X							
AIRPORT LAND USE COMMISSION											
CA DEPT OF FORESTRY											
CALTRANS DISTRICT 10	X	X	X				X		X		X
CENTRAL CALIF. INFO. CENTER - CSUS											
CITY OF											
COM SVCS DISTRICT: Knights Ferry	X	X		X							
CORPS OF ENGINEERS											
COUNTY COUNSEL	X	X		X							
POSTMASTER											
DEPARTMENT OF CONSERVATION											
BUILDING PERMITS	X	X	X				X		X		X
ENVIRONMENTAL RESOURCES	X	X	X		X			X	X	X	
FIRE PROTECTION DIST: Oakdale Rural	X	X	X		X			X	X	X	
STANISLAUS FIRE PREVENTION BUREAU	X	X		X							
FISH & GAME	X	X		X							
HOSPITAL DISTRICT:											
IRRIGATION DISTRICT: Oakdale	X	X	X		X			X	X	X	
LAECO	X	X	X		X			X	X		X
MOSQUITO DISTRICT: Eastside	X	X		X							
MOUNTAIN VALLEY EMERGENCY MEDICAL	X	X	X				X	X	X		X
MUN ADV COUNCIL: Knights Ferry	X	X	X			X		X	X		X
PARKS & FACILITIES	X	X		X							
P.G. & E.	X	X		X							
PUBLIC WORKS	X	X	X		X			X	X	X	
PUBLIC WORKS - TRANSIT	X	X		X							
REDEVELOPMENT											
REGIONAL WATER QUALITY	X	X		X							
StanCOG	X	X		X							
SCHOOL DISTRICT 1: Knights Ferry	X	X		X							
SCHOOL DISTRICT 2: Oakdale Joint	X	X		X							
SHERIFF	X	X		X							
STANISLAUS COUNTY FARM BUREAU	X	X		X							
STANISLAUS ERC	X	X	X		X			X	X		X
STATE CLEARINGHOUSE	X	X	X				X	X	X		X
STATE LANDS BOARD											
SUPERVISORIAL DISTRICT 1: O'Brien	X	X		X							
TELEPHONE COMPANY: SBC	X	X		X							
TUOLUMNE RIVER PRESERVATION TRUST											
US FISH & WILDLIFE	X	X		X							
US MILITARY 5 AGENCIES (SB 1462)	X	X		X							
VALLEY AIR DISTRICT	X	X	X		X			X	X		X
DEPT. OF WATER RESOURCES											

- C. **VESTING TENTATIVE SUBDIVISION MAP APPLICATION NO. 2006-06 & EXCEPTION APPLICATION NO. 2008-02 - KNIGHTS FERRY OVERLOOK** - This is a request to divide a 33.70-acre parcel to create 8 parcels ranging in size from 0.50 to 5.00 acres with a 12.03 acre "Remainder." The property is split zoned, consisting of both A-2-5 (General Agriculture) and H-S (Historical Site District). An Exception is being requested on the four 1.00 acre parcels which would not have municipal water service/connection from Knights Ferry Community Services District. The property is located at the southeast corner of Cemetery and Frymire Roads, in the Community of Knights Ferry. The Planning Commission will consider a Mitigated Negative Declaration on this project.
APN: 002-044-003 & 002-044-004
Staff Report: Joshua Mann Recommends **APPROVAL ALONG WITH AMENDED CONDITION OF APPROVAL NO. 6.**
Public hearing opened.
OPPOSITION: Eric Feichter; Lisa Frymire-Dolling; Michael McKibben, 17367 Cemetery Road; Shavon Haskell, 17510 Ellen Road; Karen Eakin, 6142 Dale Road, Modesto; Sally Goehring, 17560 Sonora Road; Carol Davis, 1707 Hwy 120, Oakdale; Richard Bell, Morrison Road; Sharon Page, Morrison Road
FAVOR: Nick Honchariw, 3 Via Paraiso West, Tiburon
Public hearing closed.
Navarro/Poore, 6-2 (Layman, DeLaMare), **DENIED THE PROJECT BASED ON AN INABILITY TO MAKE FINDINGS AS REQUIRED BY THE SUBDIVISION MAP ACT AND THE STANISLAUS COUNTY CODE SECTION 20.64.030.**

<p style="text-align: center;">EXCERPT</p> <p style="text-align: center;">PLANNING COMMISSION</p> <p style="text-align: center;">MINUTES</p> <p style="text-align: center;"></p> <p>Secretary, Planning Commission</p> <p style="text-align: center;"><u>3/18/09</u></p> <p>Date</p>



KNIGHTS FERRY MUNICIPAL ADVISORY COUNCIL
P.O. Box 846, Knights Ferry, CA 95361

January 28, 2009

Department of Planning & Community Development
1010 10th Street, Suite 3400
Modesto, CA

Attention: Kirk Ford
Planning Director

Subject: Vesting Tentative Subdivision Map Application No. 2006-06 & Exception Application
No. 2008-02 – Knights Ferry Overlook

Dear Mr. Ford:

Please accept this letter from the Knights Ferry Municipal Advisory Council as a formal objection to adoption of a Mitigated Negative Declaration for the above subject project.

This will be our third (3rd) time we have notified the Department of Planning and Community Development of our objections to the creation of 1 Acre lots in the HS Zoning of which we have jurisdiction. However your department continues to try and override our objections.

Please reference our initial CEQA referral response submitted on November 3, 2006, the 2nd response CEQA referral response submitted on June 12, 2008. Consistently we have objected to the one (1) acre lots on Cemetery Road, yet the Department of Planning continues to accept the Subdivision Map with no consideration to our objection.

The Department of Planning and Community Developments intention of adopting the Mitigated Negative Declaration circumvents the Knights Ferry Municipal Advisory Councils final decision for "NO" 1 acre lots.

Sincerely,

Eric Feichter
President

Cc: Supervisor O'Brien

From: "M. Jean Dyer"
To: <planning@co.stanislaus.ca.us>
Date: 1/26/09 8:55 pm
Subject: Assessor Parcel Number: 002-044-033 & 002-004-004

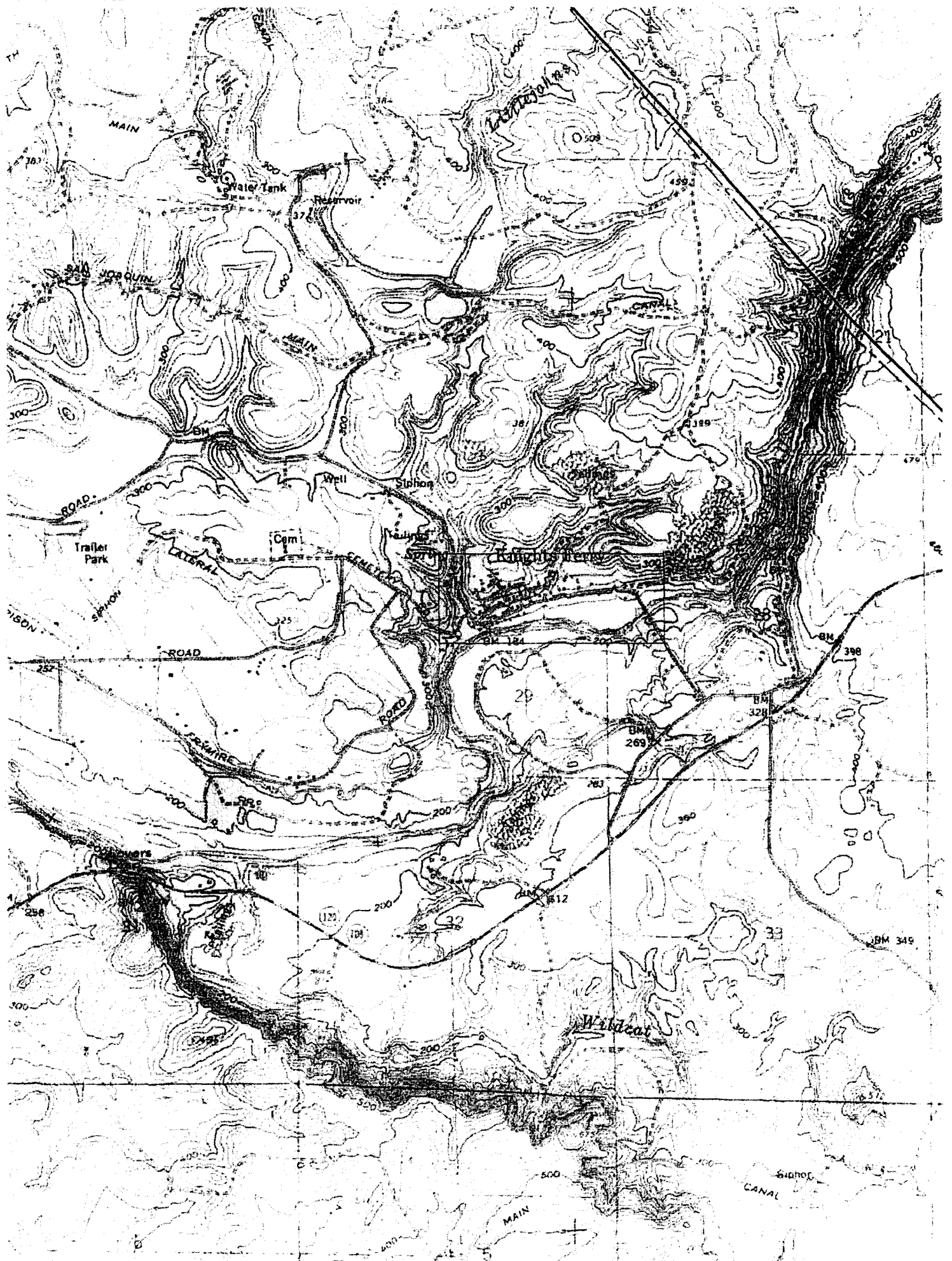
BlankMy husband and I own property on Frymire Rd. and oppose this 1.00 acre parcel split request.

Property in that area has been zoned A-2-5. This area is Historical and General Agriculture. If this request is approved. Property owners in the area will also want to divide their zoned A-2-5 acreage into 1.00 acre parcels.

Let's try to protect our open areas. Enforce the A-2-5 zone rule.

Thank you for the opportunity to voice my opinion.

M. Jean Dyer
1644 Poplar St.
Oakdale, CA 95361-2851



1975

P-50-000543

~~D~~
~~F~~ Letter dictated
G
S

ENTRIES IN THE NATIONAL REGISTER

STATE CALIFORNIA

Date Entered APR 28 1975

<u>Name</u>	<u>Location</u>
Knights Ferry	Knights Ferry Stanislaus County

COPY OF CONGRESSIONAL NOTIFICATION

Also Notified

Hon. Alan Cranston
Hon. John V. Tunney
Hon. B.F. Sisk



CALIFORNIA STATE UNIVERSITY, STANISLAUS

Elizabeth A. Greathouse
Coordinator, Central California Information Center
Department of Anthropology

801 West Monte Vista Avenue • Turlock, California 95382
Phone: (209) 667-3307 • Fax: (209) 667-3324
E-mail: EGreathouse@csustan.edu

Revised application submitted to Washington 3/75
P50-000545

Form 10-300
(July 1969)

UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

NATIONAL REGISTER OF HISTORIC PLACES
INVENTORY - NOMINATION FORM

(Type all entries - complete applicable sections)

STATE: CALIFORNIA	
COUNTY: STANISLAUS	
FOR NPS USE ONLY	
ENTRY NUMBER	DATE

1. NAME

COMMON:
Knights Ferry

AND/OR HISTORIC:
Knights Ferry

2. LOCATION

Northeastern Stanislaus County on the Stanislaus River about 1.5 miles downstream from the Stanislaus-Calaveras line

CITY OR TOWN:
Knights Ferry

STATE:
California

COUNTY:
Stanislaus

CODE:
099

3. CLASSIFICATION

CATEGORY (Check One)	OWNERSHIP	STATUS	ACCESSIBLE TO THE PUBLIC
<input checked="" type="checkbox"/> District <input type="checkbox"/> Site <input type="checkbox"/> Building <input type="checkbox"/> Structure <input type="checkbox"/> Object	<input checked="" type="checkbox"/> Public <input checked="" type="checkbox"/> Private <input type="checkbox"/> Both	Public Acquisition: <input type="checkbox"/> In Process <input type="checkbox"/> Being Considered	<input checked="" type="checkbox"/> Occupied <input type="checkbox"/> Unoccupied <input type="checkbox"/> Preservation work in progress
PRESENT USE (Check One or More as Appropriate)			
<input checked="" type="checkbox"/> Agricultural <input type="checkbox"/> Commercial <input type="checkbox"/> Educational <input type="checkbox"/> Entertainment	<input type="checkbox"/> Government <input type="checkbox"/> Industrial <input type="checkbox"/> Military <input type="checkbox"/> Museum	<input checked="" type="checkbox"/> Park <input checked="" type="checkbox"/> Private Residence <input type="checkbox"/> Religious <input type="checkbox"/> Scientific	<input type="checkbox"/> Transportation <input checked="" type="checkbox"/> Other (Specify) Rural Farming

4. OWNER OF PROPERTY

OWNER'S NAME:
VARIOUS OWNERS

STREET AND NUMBER:

CITY OR TOWN:

STATE:

CODE:

5. LOCATION OF LEGAL DESCRIPTION

COURTHOUSE, REGISTRY OF DEEDS, ETC:
Clerk-Recorder

STREET AND NUMBER:
1100 Eye Street, Room 122

CITY OR TOWN:
Modesto

STATE:
California

CODE:
06

6. REPRESENTATION IN EXISTING SURVEYS

TITLE OF SURVEY:
None

DATE OF SURVEY:

DEPOSITORY FOR SURVEY RECORDS:
Clerk-Recorder

STREET AND NUMBER:
1100 Eye Street, Room 122

CITY OR TOWN:
Modesto

STATE:
California

CODE:
06

SEE INSTRUCTIONS

STATE: CALIFORNIA
COUNTY: STANISLAUS
ENTRY NUMBER:
DATE:

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P-50-000545

7. DESCRIPTION

CONDITION	(Check One)					
	<input type="checkbox"/> Excellent	<input type="checkbox"/> Good	<input checked="" type="checkbox"/> Fair	<input type="checkbox"/> Deteriorated	<input type="checkbox"/> Ruins	<input type="checkbox"/> Unexposed
	(Check One)			(Check One)		
	<input checked="" type="checkbox"/> Altered	<input type="checkbox"/> Unaltered	<input type="checkbox"/> Moved	<input checked="" type="checkbox"/> Original Site		

DESCRIBE THE PRESENT AND ORIGINAL (if known) PHYSICAL APPEARANCE.

Knights Ferry is located at a point where the Stanislaus River leaves the confines of its narrow canyon and begins to meander and form a wider valley as it approaches the Great Central Valley of California. This natural river crossing site provided an ideal location for William Knight's trading post. The traffic generated by the Gold Rush enabled the site to develop into a major river crossing and trading center, as the main road from the Central Valley to the Southern Mines passed through this point.

The trading settlement at the ferry crossing developed into a town, and as placer deposits in the immediate vicinity proved to be gold-bearing the town became a center of mining activity in the 1850's. The townsite was laid out on the north bank of the river; Main Street, the commercial and political axis of the town, was laid out parallel to the river. Residences were built on the hillside rising behind the main street; additional buildings on the lower side of Main Street were subject to the rise and fall of floodwaters of the Stanislaus River, but the remainder of the town stood above the level of normal winter flooding.

Knights Ferry remains as the most picturesque of the old Stanislaus River towns with many buildings remaining from its period of primary historical significance as an early mining and trading center and seat of county government. A number of buildings still show the Classical and Gothic Revival preferences of their builders. Along Main Street, some of the remaining buildings include the old Knights Ferry Hotel; the General Store, which has been in operation since 1852; and the old Odd Fellows Lodge Hall. At the edge of the "plaza" (the site of the courthouse when Knights Ferry served as the county seat from 1862 to 1872) stand the Masonic Hall and the Abraham Schell House; these two Classical Revival buildings were constructed by Schell, who arrived in Knights Ferry in 1856 from New York. They appear in a photo dated 1860, hence their date of construction falls within the 1856-60 period.

Many of the side streets on the hillside above Main Street are terraced with walls of locally quarried native sandstone. In this area a number of houses remain from the early period of the town's history, retaining the basic Gothic Revival lines of their original designs, although alterations have taken place through the years. The Methodist Episcopal Church, a small shingled structure built in the early 1900's, occupies the site of the earlier Methodist Episcopal Church of 1860. The Dent House, also referred to as the "Long House", was constructed in the early 1850's and still retains the integrity of its original design.

In the 1860's the top of the hill overlooking the town became the site of Knights Ferry's schoolhouse; this building was replaced in 1899 by another schoolhouse structure. The 1899 building survived until recently when a new, modern school replaced it on the same site overlooking the town.

At the eastern end of the district, stand the ruins of an early grist mill. The original mill, constructed in 1854, was swept away in the flood of 1862. The brick warehouse of the 1854 mill still stands, but the present stone

(continued)

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NATIONAL PARK SERVICE

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INVENTORY -- NOMINATION FORM

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grist mill constructed by David Tulloch dates from 1862. The imposing ruins of the mill and its millrace can still be seen along the river adjacent to the Knights Ferry covered bridge. The stone buildings of the grist mill and the piers and abutments of the covered bridge were all built by T. Vincent, an English stonemason. The pink and brown stone used in the Tulloch Mill is local sandstone quarried from the nearby slopes. Other stones in the main east and south walls are from granite and conglomerate river boulders. The Knights Ferry covered bridge, constructed after the flood of 1862 washed out an earlier bridge at the site, is one of only 11 such structures remaining in California; it is the longest covered bridge in the State, and is still in operation carrying vehicular traffic across the Stanislaus River.

The modern community of Knights Ferry still retains strong integrity of setting, located in the picturesque river valley of the Stanislaus. From a distance the town appears to have retained much of its early appearance. Unfortunately, some changes have intruded upon the overall integrity of the district. A number of historic structures formerly stood on the south side of Main Street between the street and the river. Many of these have been lost to flooding through the years, including the old firehouse, which was lost in the flood of 1955. Modern intrusions can be noticed in the district, especially mobile homes which have been placed on vacant lots within the town. Some of the historic structures in the district have had alterations to their design and fabric. However, the district has a high concentration of historic structures dating from its early history, and the picturesque old river town still retains much of the feeling of the early mining and trading center of the 1860's.

B. SIGNIFICANCE

PERIOD (Check One or More as Appropriate)

<input type="checkbox"/> Pre-Columbian	<input type="checkbox"/> 16th Century	<input type="checkbox"/> 18th Century	<input type="checkbox"/> 20th Century
<input type="checkbox"/> 15th Century	<input type="checkbox"/> 17th Century	<input checked="" type="checkbox"/> 19th Century	

SPECIFIC DATES: (If Applicable and Known)

AREAS OF SIGNIFICANCE (Check One or More as Appropriate)

<input type="checkbox"/> Aboriginal	<input type="checkbox"/> Education	<input checked="" type="checkbox"/> Political	<input type="checkbox"/> Urban Planning
<input type="checkbox"/> Prehistoric	<input type="checkbox"/> Engineering	<input type="checkbox"/> Religion/Philosophy	<input checked="" type="checkbox"/> Other (Specify) <u>Gold Rush Town</u>
<input type="checkbox"/> Historic	<input type="checkbox"/> Industry	<input type="checkbox"/> Science	_____
<input type="checkbox"/> Agriculture	<input type="checkbox"/> Invention	<input type="checkbox"/> Sculpture	_____
<input checked="" type="checkbox"/> Architecture	<input type="checkbox"/> Landscape	<input type="checkbox"/> Social/Humanitarian	_____
<input type="checkbox"/> Art	<input type="checkbox"/> Architecture	<input type="checkbox"/> Theater	_____
<input checked="" type="checkbox"/> Commerce	<input type="checkbox"/> Literature	<input type="checkbox"/> Transportation	_____
<input type="checkbox"/> Communications	<input type="checkbox"/> Military		
<input type="checkbox"/> Conservation	<input type="checkbox"/> Music		

STATEMENT OF SIGNIFICANCE

The historic town of Knights Ferry is situated on the north bank of the Stanislaus River just where it discharges from the foothill canyons to begin its meandering course through the plains of the San Joaquin Valley, an ideal point for a river crossing. With the advent of the California Gold Rush of 1848, William Knight, a trader and scout for John C. Fremont, established a trading post and ferry at this site. The ferry became an important river crossing on the road to the Southern Mines; this, along with the subsequent discovery and exploitation of local placer gold deposits, contributed to the growth of the town around the ferry crossing in the mid-1850's. William Knight's success was short-lived, as it is said that he was gunned down on the streets of the settlement late in 1849 and is buried near the Masonic Hall in the town. With the death of Knight, John and Lewis Dent and James Vantine took over Knight's business interests. Captain John Dent was the head of an Indian agency which had been established by the United States government in 1850 at Knights Ferry. John and Lewis Dent's sister, Julia, married Ulysses S. Grant; Grant visited his brothers-in-law in Knights Ferry in 1854. The Dent brothers and David M. Locke constructed a grist mill on the river bank some 300 yards east of the ferry site, making the town an industrial site as well as a mining and trading center. The remains of the mill are still evident, although the structure has deteriorated into ruins through the years. With the increased Gold Rush traffic at the river crossing and the development of mining in the Knights Ferry area, the need was evident for a bridge to span the Stanislaus at this point. The first bridge was constructed in the late 1850's up-river from the ferry crossing by David Locke, who is said to have used plans based upon a design by Ulysses S. Grant. The first bridge, along with most of the town, washed out in the flood of 1862 and was replaced by the present covered bridge in the same year. A large portion of the grist mill was also lost in the flood; the mill was rebuilt after the flood by David Tulloch.

The town of Knights Ferry became an important mining and trading center during the 1850's and its importance was further validated by its designation as the county seat of Stanislaus County in 1862, a distinction which it held for a period of 10 years. Many of its earliest structures still survive. Several of the town's oldest buildings were built by Abraham Schell, who came west from New York during the Gold Rush. Schell settled in Knights Ferry in July of 1856. In that same year, he loaned money to the San Joaquin Water Company to complete the mining ditch then in

(continued)

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NATIONAL PARK SERVICE

P-50-000545

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INVENTORY -- NOMINATION FORM

CONTINUATION SHEET

ITEM NUMBER 8 PAGE 1

the progress of construction to bring water to the rich surface diggines lying in and about Knights Ferry. Schell was also a lawyer and banker and his early entrepreneurial efforts brought him a considerable amount of success, as evidenced by the quality of the buildings which he constructed which have survived to the present. Schell built an impressive Classical Revival home overlooking the main street of Knights Ferry. The building also functioned as Schell's bank. Mr. Schell constructed another building adjacent to his home for use as a town hall; the upper story was sold to the Masonic Order in 1864. The building is still in use as the Masonic Hall. The design of Schell's two buildings are remarkably similar; they were constructed some time in the period between 1856 and 1860. In the 1860's, Schell purchased 3-1/2 leagues of land embraced in the Mexican land grant known as "Rancheria del Rio Estanislao". Upon a portion of this property, Schell established a number of vineyards and his early efforts at wine production became known throughout California and also on the East Coast. In a newspaper of the period, the Stockton Independent, dated March 1, 1873, the following description appears: "The largest and most complete vineyard in this portion of the state is located about one mile from Knights Ferry on Littlejohn Creek in Stanislaus County. It is called Red Mountain Vineyard and is owned by A. Schell. Seventy-five acres are planted with vines and the vineyard contains about 60,000 vines. The winehouse and cellar are constructed on the side of a hill...While visiting this cellar we counted 58 butts in the tunnel holding about 150 gallons each, all filled with wine of superior quality and marked for shipment to New York."

A number of other structures remain from this early period of Knights Ferry's history. Some residences still show Gothic Revival detailing while the Schell buildings show strong elements of Classical Revival styling popular during the period of the late 1850's. The covered bridge itself is one of the last remaining covered bridges in California and has been photographed probably more than any other point of interest in Stanislaus County. The County purchased the bridge in 1884 for \$7,000 and it still serves as the primary access route to the town.

The town of Knights Ferry still remains one of the most picturesque of the old river towns with its covered bridge and grist mill complex at one end and its collection of buildings dating primarily from the late 1850's-early 1860's. It presents a relatively intact unit depicting the period when Knights Ferry was an important placer mining and trading center.

9. MAJOR BIBLIOGRAPHICAL REFERENCES

A Brief History of Stanislaus County, by Margaret Annear, Herbert C. Florcken and Dr. Hugh Baker, published 1950 by Stanislaus County Schools.
 Elias, Sol P., Stories of Stanislaus, c. 1924, published in Modesto Branch, L., History of Stanislaus County, Elliott and Moore, San Francisco, 1881.
 Tinkham, George H., History of Stanislaus County, Historic Record Co., Los Angeles, 1921.
 Rentch, H. E. and Hoover, E. G., Mildred Brook, Historic Spots in California, Stanford University Press, 1933.

10. GEOGRAPHICAL DATA

LATITUDE AND LONGITUDE COORDINATES DEFINING A RECTANGLE LOCATING THE PROPERTY			LATITUDE AND LONGITUDE COORDINATES DEFINING THE CENTER POINT OF A PROPERTY OF LESS THAN TEN ACRES	
CORNER	LATITUDE	LONGITUDE	LATITUDE	LONGITUDE
NW	Degrees Minutes Seconds 37° 49' 19"	Degrees Minutes Seconds 120° 40' 26"	Degrees Minutes Seconds	Degrees Minutes Seconds
NE	37° 49' 19"	120° 39' 41"		
SE	37° 49' 06"	120° 39' 41"		
SW	37° 49' 06"	120° 40' 26"		

APPROXIMATE ALIENAGE OF NOMINATED PROPERTY: 107

LIST ALL STATES AND COUNTIES FOR PROPERTIES OVERLAPPING STATE OR COUNTY BOUNDARIES

STATE	CODE	COUNTY	CODE
STATE:	CODE	COUNTY:	CODE
STATE:	CODE	COUNTY:	CODE
STATE:	CODE	COUNTY:	CODE

11. FORM PREPARED BY

NAME AND TITLE: William Tiernan (Revised: History Preservation Section)
Park Director Calif. Dept. of Parks & Rec.

ORGANIZATION: County of Stanislaus DATE: 6-30-70

STREET AND NUMBER: 1100 Eye Street, Room 300

CITY OR TOWN: Modesto STATE: California CODE: 06

12. STATE LIAISON OFFICER CERTIFICATION

As the designated State Liaison Officer for the National Historic Preservation Act of 1966 (Public Law 89-665), I hereby nominate this property for inclusion in the National Register and certify that it has been evaluated according to the criteria and procedures set forth by the National Park Service. The recommended level of significance of this nomination is:

National State Local

Name: [Signature]

Title: State Liaison Officer

Date: October 15, 1970

NATIONAL REGISTER VERIFICATION

I hereby certify that this property is included in the National Register.

[Signature]
 Chief, Office of Archeology and Historic Preservation

Date: _____

ATTEST:

[Signature]
 Keeper of The National Register

Date: _____

S E E I N S T R U C T I O N S

P-50-000545

Form 10-301
(July 1969)

UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

NATIONAL REGISTER OF HISTORIC PLACES
PROPERTY MAP FORM

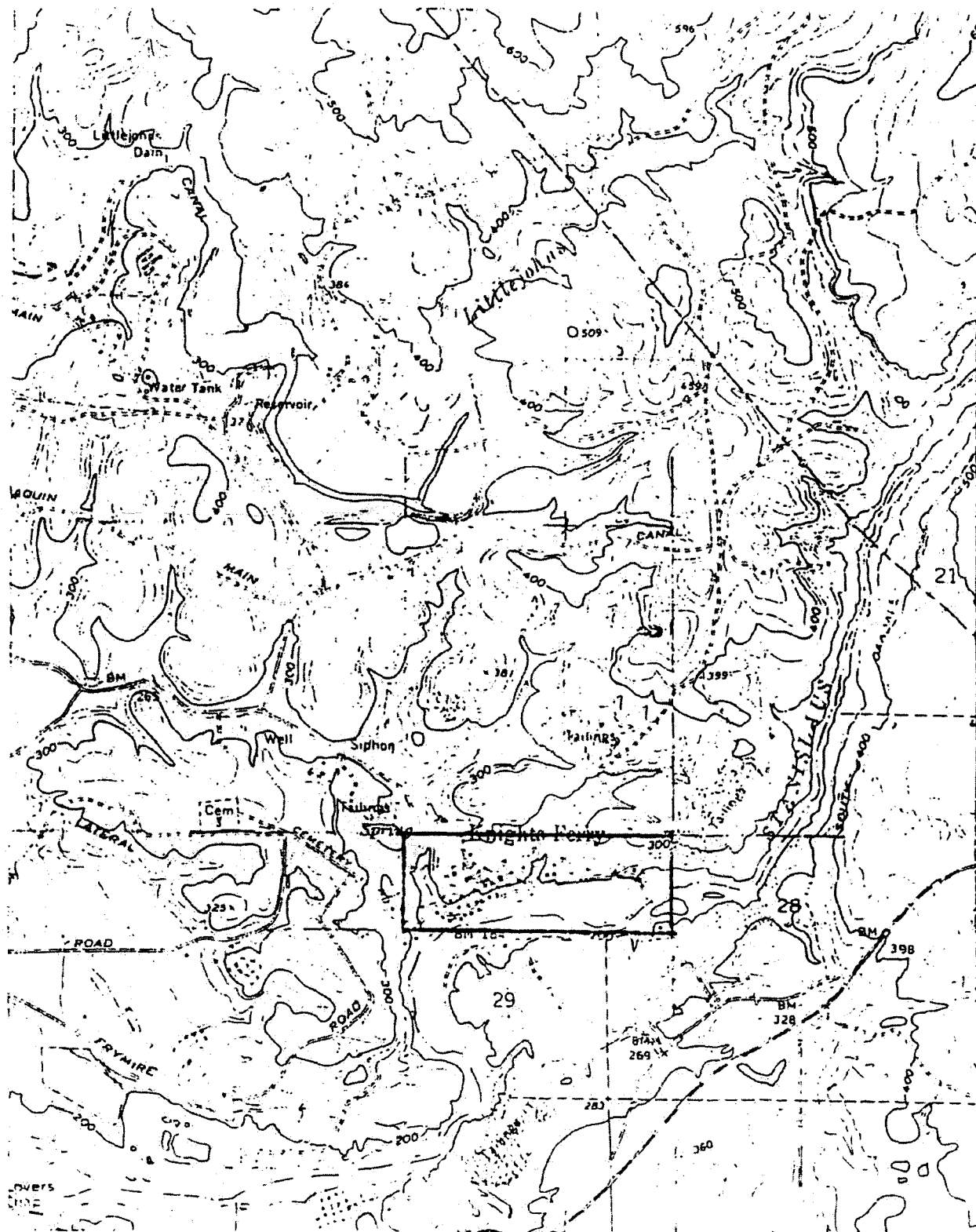
(Type all entries - attach to or enclose with map)

STATE California	
COUNTY Stanislaus	
FOR NPS USE ONLY	
ENTRY NUMBER	DATE

SEE INSTRUCTIONS

1. NAME			
COMMON: Knights Ferry			
AND/OR HISTORIC: Knights Ferry			
2. LOCATION			
NORTH BANK OF Stanislaus River in Lot 37 of the Rancharia Del Rio Estanislao, T. 1S, R 12 E. M.D.B. & M.			
CITY OR TOWN: Knights Ferry			
STATE: California	CODE 95361	COUNTY: Stanislaus	CODE 95361
3. MAP REFERENCE			
SOURCE: U. S. G. S. (Knights Ferry Quadrangle) California 7.5 Minute Series (Topographic)			
SCALE: 1:24000			
DATE: 1962			
4. REQUIREMENTS			
TO BE INCLUDED ON ALL MAPS			
1. Property boundaries where required.			
2. North arrow.			
3. Latitude and longitude reference.			

P-50-000545



Knights Ferry Historic District Map

1970 Form by Morrison

P-50-000545

537-51

Form 10-300
(July 1969)

UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

NATIONAL REGISTER OF HISTORIC PLACES
INVENTORY - NOMINATION FORM

(Type all entries - complete applicable sections)

STATE: CALIFORNIA	
COUNTY: STANISLAUS	
FOR NPS USE ONLY	
ENTRY NUMBER	DATE

1. NAME

COMMON:
Knights Ferry

AND/OR HISTORIC:
Knights Ferry

2. LOCATION

Northern Stanislaus County on the Stanislaus River about two miles downstream from the Stanislaus-Calaveras line

CITY OR TOWN:
Knights Ferry

STATE California	CODE 95361	COUNTY: Stanislaus	CODE 95361
---------------------	---------------	-----------------------	---------------

3. CLASSIFICATION

CATEGORY (Check One)	OWNERSHIP	STATUS	ACCESSIBLE TO THE PUBLIC
<input checked="" type="checkbox"/> District <input type="checkbox"/> Site <input type="checkbox"/> Object	<input checked="" type="checkbox"/> Public <input checked="" type="checkbox"/> Private <input type="checkbox"/> Both	Public Acquisition: <input type="checkbox"/> In Process <input type="checkbox"/> Being Considered	Yes: <input checked="" type="checkbox"/> Restricted <input type="checkbox"/> Unrestricted <input type="checkbox"/> No
PRESENT USE (Check One or More as Appropriate)			
<input checked="" type="checkbox"/> Agricultural <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Educational <input type="checkbox"/> Entertainment	<input type="checkbox"/> Government <input type="checkbox"/> Industrial <input type="checkbox"/> Military <input type="checkbox"/> Museum	<input checked="" type="checkbox"/> Park <input checked="" type="checkbox"/> Private Residence <input type="checkbox"/> Religious <input type="checkbox"/> Scientific	<input type="checkbox"/> Transportation <input type="checkbox"/> Comments <input checked="" type="checkbox"/> Other (Specify) Rural Farming

4. OWNER OF PROPERTY

OWNER'S NAME:
VARIOUS OWNERS

STREET AND NUMBER:

CITY OR TOWN: STATE: CODE

5. LOCATION OF LEGAL DESCRIPTION

COURTHOUSE, REGISTRY OF DEEDS, ETC:
Clerk-Recorder

STREET AND NUMBER:
1100 Eye Street, Room 122

CITY OR TOWN: STATE: CODE
Modesto California 95354

6. REPRESENTATION IN EXISTING SURVEYS

TITLE OF SURVEY:
None

DATE OF SURVEY: Federal State County Local

DEPOSITORY FOR SURVEY RECORDS:
Clerk-Recorder

STREET AND NUMBER:
1100 Eye Street, Room 122

CITY OR TOWN: STATE: CODE
Modesto California 95354

SEE INSTRUCTIONS

STATE: CALIFORNIA
COUNTY: STANISLAUS
ENTRY NUMBER
DATE

P-50-000545

7. DESCRIPTION

CONDITION	(Check One)					
	<input type="checkbox"/> Excellent	<input type="checkbox"/> Good	<input checked="" type="checkbox"/> Fair	<input type="checkbox"/> Deteriorated	<input type="checkbox"/> Ruins	<input type="checkbox"/> Unexposed
	(Check One)			(Check One)		
	<input checked="" type="checkbox"/> Altered	<input type="checkbox"/> Unaltered		<input type="checkbox"/> Moved	<input checked="" type="checkbox"/> Original Site	

DESCRIBE THE PRESENT AND ORIGINAL (If known) PHYSICAL APPEARANCE

Please see Attachment A.

SEE INSTRUCTIONS

The historic town of Knights Ferry is situated on the Stanislaus River just where it discharges from the foothill canyons to begin its more meandering course through the plains of the San Joaquin Valley. In the gold rush days, the town was an ideal point for a river crossing, and that is no doubt why the town began.

The town was founded by Captain William Knight, an associate of Captain Fremont, who settled on the north bank of the river and established a trading post and the ferry. With the advent of the gold rush, the ferry became an important river crossing point and the trading post became a town. William Knight, himself, is said to have been gunned down on the streets of the town and is buried beneath what later became the Masonic Temple.

The Knights Ferry Bee in August, 1859, and later an account in the San Francisco Bulletin of May 7, 1856, described the town as follows, according to the account of historian Sol P. Elias in his Stories of Stanislaus:

"Knight's Ferry is a pleasant mining camp, situated in the southeast corner of San Joaquin county, where this county corners with the counties of Calaveras, Tuolumne, and Stanislaus, and occupies a romantic position on the north bank of the Stanislaus river, just where that stream, after rushing through mountain gorges, debouches into the beautiful valley of the San Joaquin.

"It was called Knight's Ferry in honor of William Knight, deceased, who established a trading post at this point in 1848. In 1849 Dent, Vantine & Co. purchased from the administrator of the estate of Knight this property, and proceeded directly to the construction of the first ferry boat on the Stanislaus, for the accommodation of the immense travel then setting in for the southern mines. In 1852 the Dent Brothers, having purchased the interest of Captain Vantine, enjoyed the exclusive and very remunerative trade at this point until the year 1855, when the introduction of water to the rich placers hereabouts attracted the attention of the miners, and the site then became important for more than extended operations. A town was duly laid off by Captain John C. Dent, the survey being made by Judge A. G. Stakes and D. Beaumont, our present county surveyor. Lots were sold and donated, and a little town sprang up like magic, now numbering about 800 inhabitants. The old ferry boats have been abandoned, and substantial bridges have taken their place. The venerable tribes of Digger Indians (and we well recollect a few years back rancherias numbering 1200 to 1500 Indians) have given away as the march of civilization demanded their removal, while the particular localities where once stood their huts and muskals now are occupied by the fireproof storehouses of our merchants, or the numerous

cottage buildings of our citizens, handsomely decorated gardens, "blooming as the rose," or orchards teeming with rich, luscious fruit. The industry of our citizens, the richness of our mines, the fertility of our soil, the ready market for our produce, our public and private schools, our manufactories, all point to our future permanence and greatness; and we cannot but conclude we will some day assume our proper position among the important towns of the state."

A correspondent writing for the San Francisco Bulletin from Knight's Ferry, under date of May 7, 1856, gives the following description of the life and activities of the settlement:

"The miners of this vicinity are industriously engaged in taking out gold, having now an abundance of water which is supplied by the San Joaquin Ditch Co. If there are any idlers in your city, let them come hither; there is room enough and plenty of soil untouched. They can earn from \$3 to \$6 per day.

"During the last year a large town or village has sprung into existence here, and improvements still increase. There is one thing, however, which has retarded the growth somewhat-the high price of lots. Many of these are held as high as \$2,000. Another reason is, we have only a ferry boat, whereas we want a bridge. The traveling community demand the latter, and for want of it, much of the travel which has formerly passed through here now goes to Six Mile Bar. This can be prevented. All we want is a few enterprising men with capital to come in here, and in less than one year we can boast of as large and enterprising a city as Columbia or Sonora. Our facilities are greater, we have the never-failing Stanislaus taking its course through our village, and as there are miles of good pay dirt with the rich placers at Keeler's Ferry, why should not we boast of our future prospect.

"Mr. Parrish has just closed his series of dancing schools. We have an occasional ball by way of variety. The Metropolitan Dramatic and Operatic Company paid us a visit a few evenings since. This is decidedly the best company that has traveled this way for some time. It is composed of Messrs. Wheatleigh, Collins, Coad, etc. We gave them a crowded house, and many went away unable to procure seats. Mr. Editor, we have about fifty families here, but no schoolhouse, where the young idea may learn to shoot. 'Tis education forms the common mind," and were you to see the dangers of children here without the means of instruction, you would almost doubt of this being a part of Uncle Sam's domain..."

The bridge so sorely needed to replace the ferries first built in 1857 by David Locke, who used plans said to have been engineered by Ulysses S. Grant. The bridge, along with most of the town, washed out in the flood of 1861-62 and was replaced by the present covered structure in the same year. Stanislaus County purchased the bridge in 1884 for \$7,000, and it still serves the primary access route to the town. The bridge is one of the few covered structures in California and has probably been photographed more than any other point of interest in the County.

In the middle 1850's, a flour mill was constructed near the north end of the covered bridge, making the town an industrial site as well as a mining community. The remains of the mill still are evident, though the structure has suffered from the years. Many of the other older buildings of the town still exist and are in use, and the town retains much of its original charm.

The construction of a small reservoir and park has been proposed by the United States Bureau of Reclamation, in conjunction with construction of the East Side Division of the Central Valley Project. The East Side Canal would pass close to La Grange, and the park plan has been described as particularly attractive.

At the other end of town, Orange Blossom Road, along the north bank of the Stanislaus River, has been proposed as a County scenic highway, being one of the most picturesque roads in the valley.

Knights Ferry is close to the site of New Melones Dam, with initial construction beginning by the United States Army Corps of Engineers. This 2.4 million-acre-foot reservoir will be one of the largest in California, and will be operated by the United States Bureau of Reclamation for recreation purposes, making the proximity of Knights Ferry significant as a historical asset. Should the New Melones Reservoir become part of the suggested Mother Lode National Recreation Area, the advantages increase.

P-SD-000545

SIGNIFICANCE

PERIOD (Check One or More as Appropriate)

<input type="checkbox"/> Pre-Columbian	<input type="checkbox"/> 16th Century	<input type="checkbox"/> 18th Century	<input type="checkbox"/> 20th Century
<input type="checkbox"/> 15th Century	<input type="checkbox"/> 17th Century	<input checked="" type="checkbox"/> 19th Century	

SPECIFIC DATE(S) (If Applicable and Known)

AREAS OF SIGNIFICANCE (Check One or More as Appropriate)

<input type="checkbox"/> Aboriginal	<input type="checkbox"/> Education	<input checked="" type="checkbox"/> Political	<input type="checkbox"/> Urban Planning
<input type="checkbox"/> Prehistoric	<input type="checkbox"/> Engineering	<input type="checkbox"/> Religion/Philosophy	<input checked="" type="checkbox"/> Other (Specify)
<input type="checkbox"/> Historic	<input type="checkbox"/> Industry	<input type="checkbox"/> Science	<u>Gold Rush Town</u>
<input checked="" type="checkbox"/> Agriculture	<input type="checkbox"/> Invention	<input type="checkbox"/> Sculpture	_____
<input checked="" type="checkbox"/> Architecture	<input type="checkbox"/> Landscape Architecture	<input type="checkbox"/> Social/Humanitarian	_____
<input type="checkbox"/> Art	<input type="checkbox"/> Literature	<input type="checkbox"/> Theater	_____
<input checked="" type="checkbox"/> Commerce	<input type="checkbox"/> Military	<input type="checkbox"/> Transportation	_____
<input type="checkbox"/> Communications	<input type="checkbox"/> Music		_____
<input checked="" type="checkbox"/> Conservation			_____

STATEMENT OF SIGNIFICANCE

See Attachment A.

SEE INSTRUCTIONS

P-50-000545

9. MAJOR BIBLIOGRAPHICAL REFERENCES

A Brief History of Stanislaus County, by Margaret Annear, Herbert C. Florcken and Dr. Hugh Baker, published 1950 by Stanislaus County Schools.

Elias, Sol P., Stories of Stanislaus, c. 1924, published in Modesto.

Branch, L., History of Stanislaus County, Elliott and Moore, San Francisco, 1881.

Tinkham, George H., History of Stanislaus County, Historic Record Co., Los Angeles, 1921.

Renteh, H. E. and Hoover, E. G., Mildred Brook, Historic Spots in California, Stanford University Press, 1933.

10. GEOGRAPHICAL DATA

LATITUDE AND LONGITUDE COORDINATES DEFINING A RECTANGLE LOCATING THE PROPERTY			O R	LATITUDE AND LONGITUDE COORDINATES DEFINING THE CENTER POINT OF A PROPERTY OF LESS THAN TEN ACRES		
CORNER	LATITUDE	LONGITUDE		LATITUDE	LONGITUDE	
NW	Degrees Minutes Seconds 37° 49' 18"	Degrees Minutes Seconds 120° 40' 18"		Degrees Minutes Seconds .	Degrees Minutes Seconds .	
NE	37° 49' 18"	120° 39' 45"		.	.	
SE	37° 49' 06"	120° 39' 45"		.	.	
SW	37° 49' 06"	120° 40' 18"		.	.	

APPROXIMATE ACREAGE OF NOMINATED PROPERTY: 70.

LIST ALL STATES AND COUNTIES FOR PROPERTIES OVERLAPPING STATE OR COUNTY BOUNDARIES

STATE:	CODE	COUNTY:	CODE

11. FORM PREPARED BY

NAME AND TITLE:
Paul R. Morrisson, Park Director

ORGANIZATION: **County of Stanislaus** DATE: **6-30-70**

STREET AND NUMBER:
1100 Eye Street, Room 300

CITY OR TOWN: **Modesto** STATE: **California** CODE: **95354**

12. STATE LIAISON OFFICER CERTIFICATION NATIONAL REGISTER VERIFICATION

As the designated State Liaison Officer for the National Historic Preservation Act of 1966 (Public Law 89-665), I hereby nominate this property for inclusion in the National Register and certify that it has been evaluated according to the criteria and procedures set forth by the National Park Service. The recommended level of significance of this nomination is:

National State Local

Name _____

Title _____

Date _____

I hereby certify that this property is included in the National Register.

Chief, Office of Archeology and Historic Preservation

Date _____

ATTEST:

Keeper of The National Register

Date _____

SEE INSTRUCTIONS

P-50-000545

Form 10-301
(July 1969)

UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

NATIONAL REGISTER OF HISTORIC PLACES
PROPERTY MAP FORM

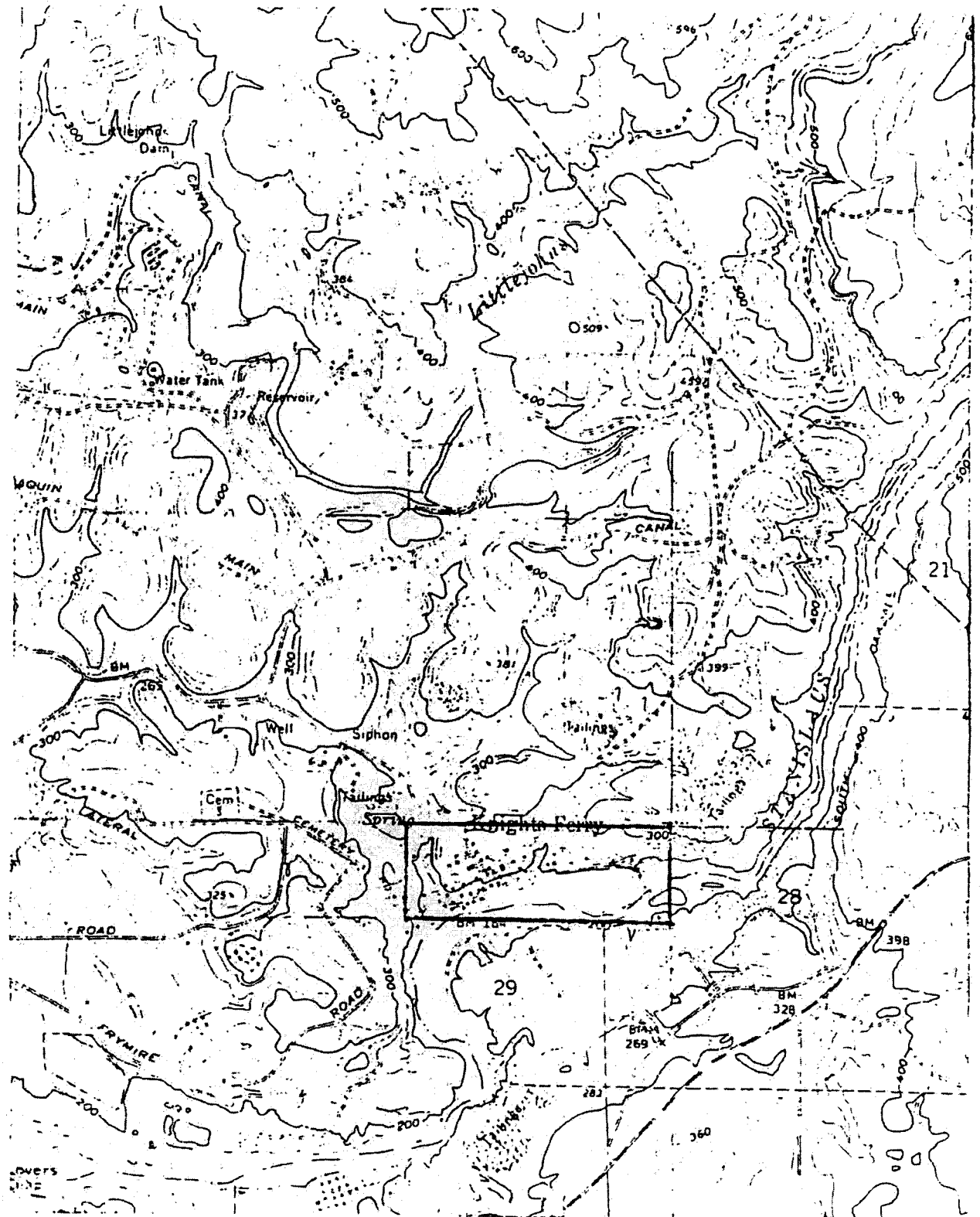
(Type all entries - attach to or enclose with map)

STATE	California
COUNTY	Stanislaus
FOR NPS USE ONLY	
ENTRY NUMBER	DATE

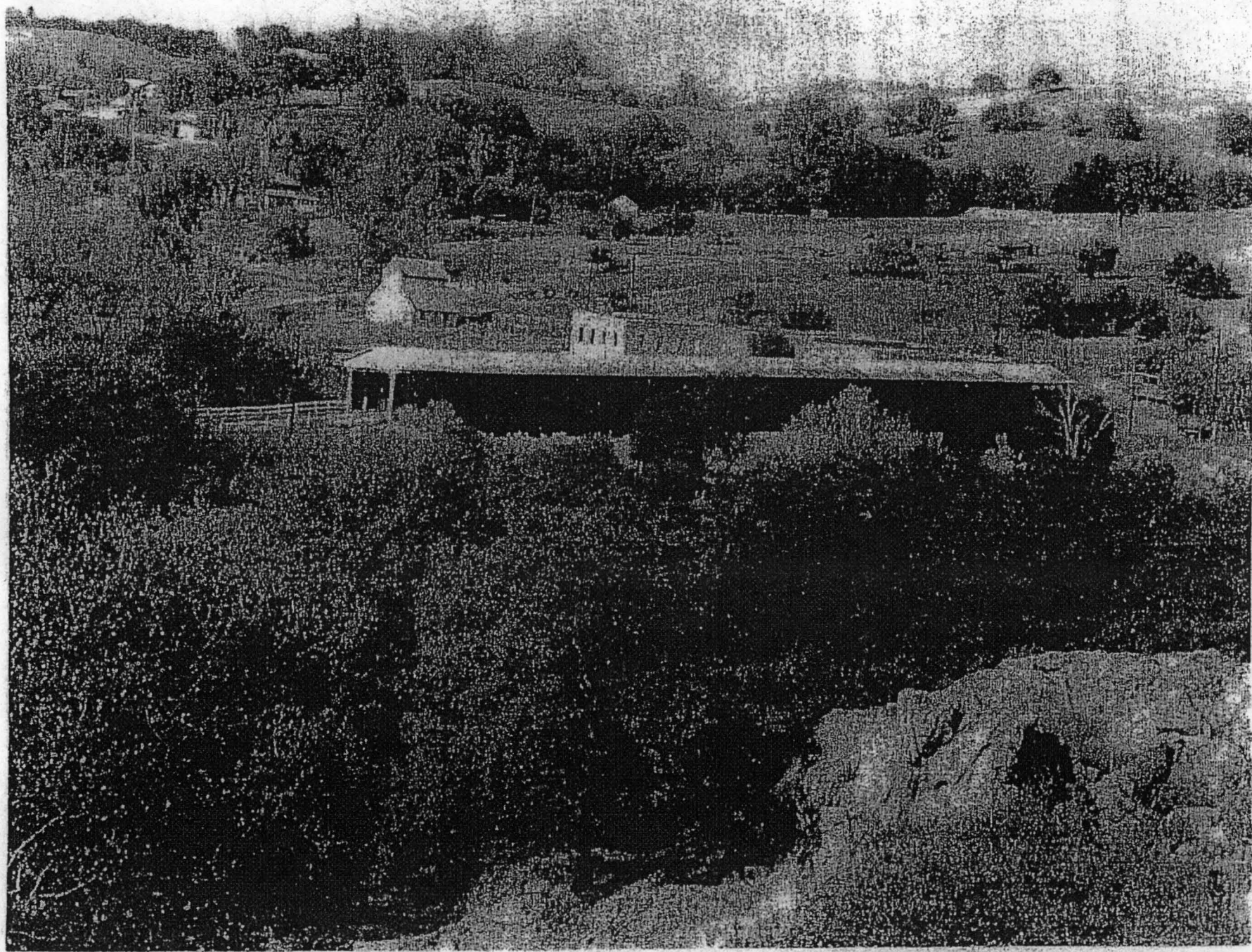
SEE INSTRUCTIONS

1. NAME			
COMMON: Knights Ferry			
AND/OR HISTORIC: Knights Ferry			
2. LOCATION			
NORTH BANK OF Stanislaus River in Lot 37 of the Rancharia Del Rio Estanislao, T. 1S, R 12 E. M.D.B. & M.			
CITY OR TOWN: Knights Ferry			
STATE:	CODE	COUNTY:	CODE
California	95361	Stanislaus	95361
3. MAP REFERENCE			
SOURCE: U. S. G. S. (Knights Ferry Quadrangle) California 7.5 Minute Series (Topographic)			
SCALE: 1:24000			
DATE: 1962			
4. REQUIREMENTS			
TO BE INCLUDED ON ALL MAPS			
1. Property boundaries where required.			
2. North arrow.			
3. Latitude and longitude reference.			

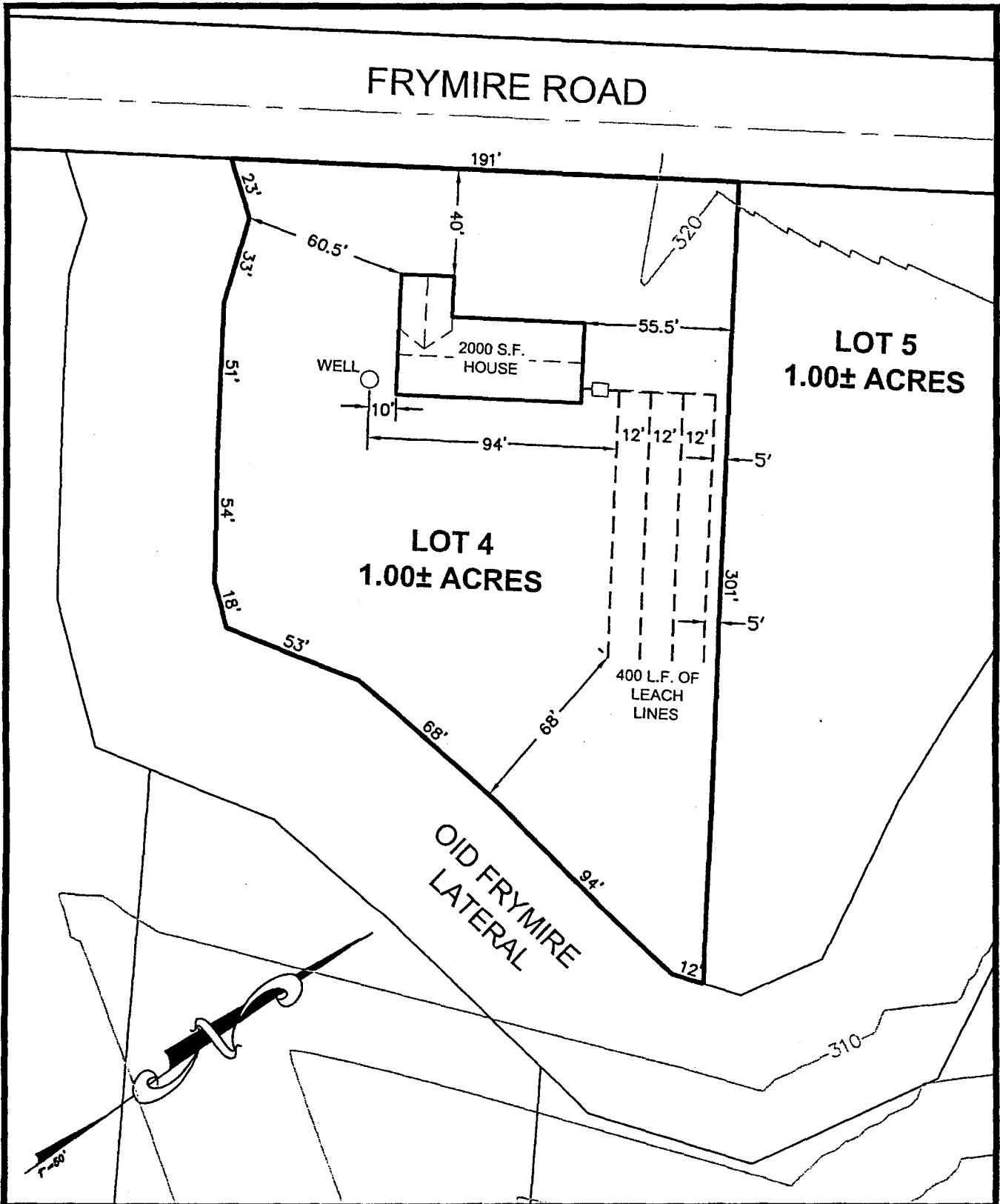
P-50-000545



Knights Ferry Historic District Map



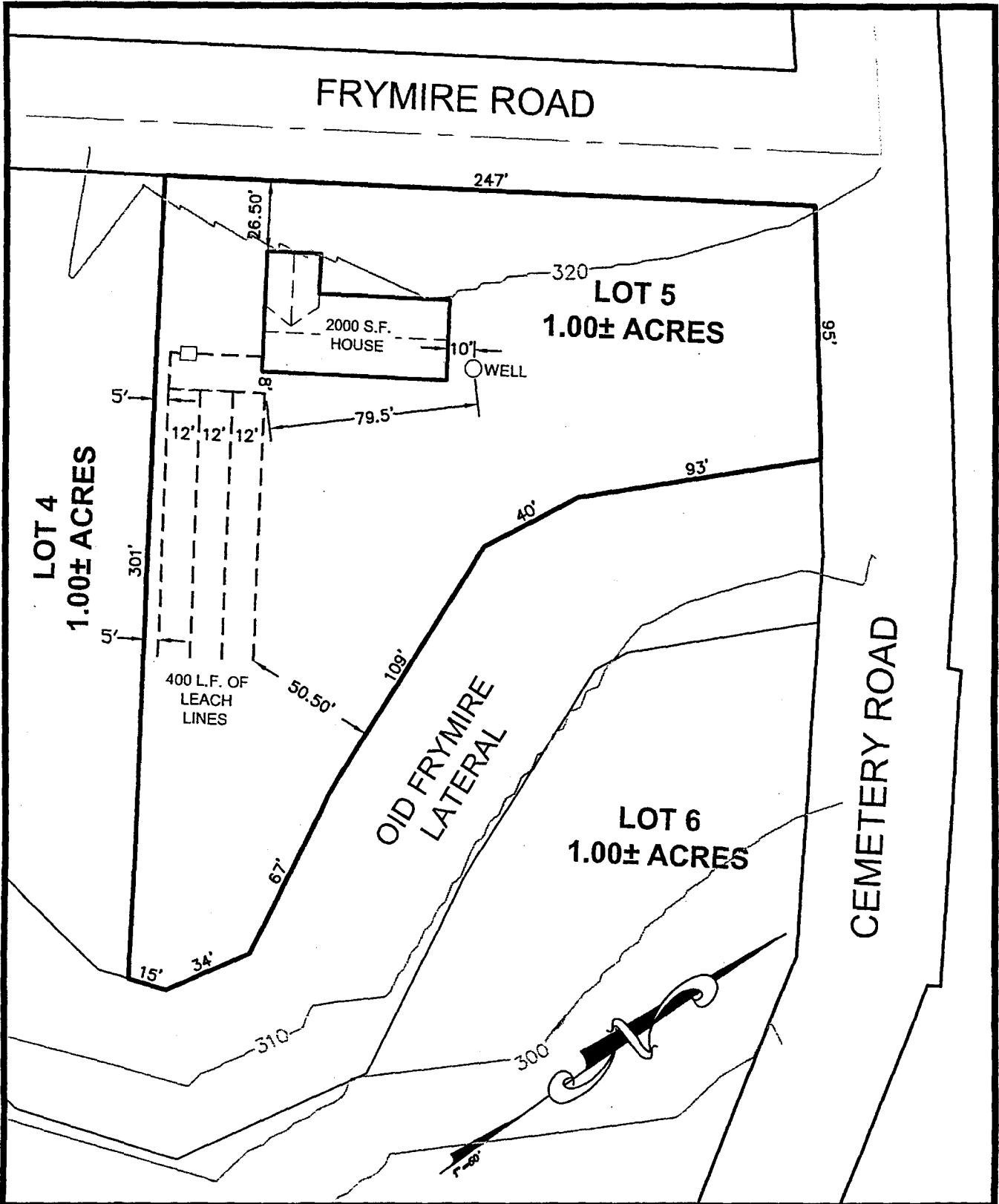
P-50-000545



GK Giuliani & Kull, Inc.
 Engineers • Planners • Surveyors
 440 S. Yosemite Avenue, Suite A, Oakdale, CA 95361
 (209) 847-8726 Fax (209) 847-7323
 Auburn • Oakdale • San Jose

SCALE: 1" = 50'
 DRAWN: K.COLE
 CHECKED: WFK
 JOB NO.: 05164
 SHEET: 1 OF 1

**PROPOSED LOT 4
 EXAMPLE LAYOUT
 OAKDALE, CALIFORNIA**

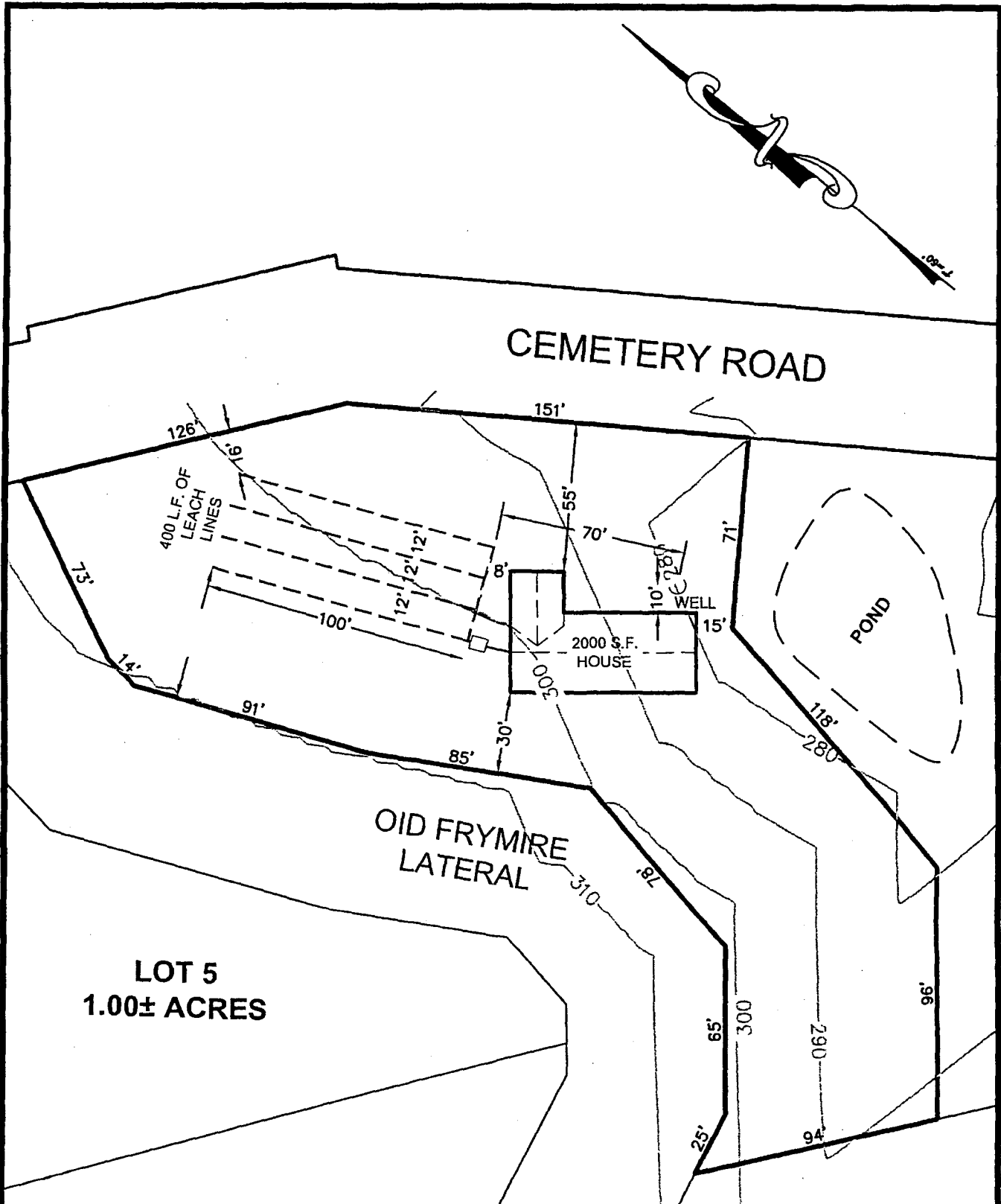


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SCALE: 1" = 50'
 DRAWN: K. COLE
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 JOB NO.: 05164
 SHEET: 1 OF 1

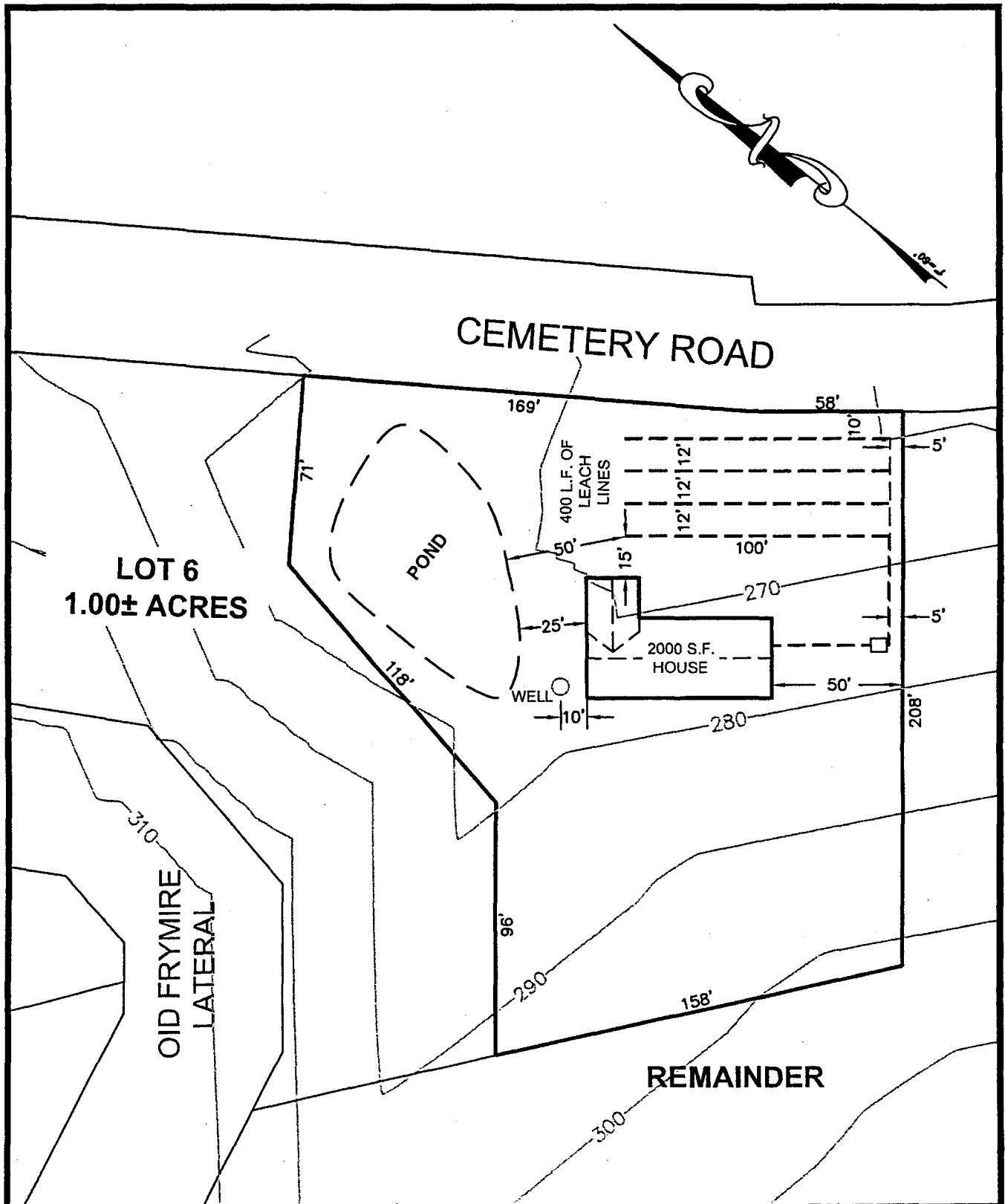
**PROPOSED LOT 5
 EXAMPLE LAYOUT**
 OAKDALE, CALIFORNIA



GK Giuliani & Kull, Inc.
 Engineers • Planners • Surveyors
 440 S. Yosemite Avenue, Suite A, Oakdale, CA 95361
 (209) 847-8726 Fax (209) 847-7323
 Auburn • Oakdale • San Jose

SCALE: 1" = 50'
 DRAWN: K.COLE
 CHECKED: WFK
 JOB NO.: 05164
 SHEET: 1 OF 1

**PROPOSED LOT 6
 EXAMPLE LAYOUT
 OAKDALE, CALIFORNIA**



GK Giuliani & Kull, Inc.
 Engineers • Planners • Surveyors

440 S. Yosemite Avenue, Suite A, Oakdale, CA 95361
 (209) 847-8726 Fax (209) 847-7323
 Auburn • Oakdale • San Jose

SCALE: 1" = 50'
 DRAWN: K. COLE
 CHECKED: WFK
 JOB NO.: 05164
 SHEET: 1 OF 1

**PROPOSED LOT 7
 EXAMPLE LAYOUT
 OAKDALE, CALIFORNIA**

LANDS OF VACCARO
APN: 002-034-085

LANDS OF MICKENSEY
APN: 002-036-019

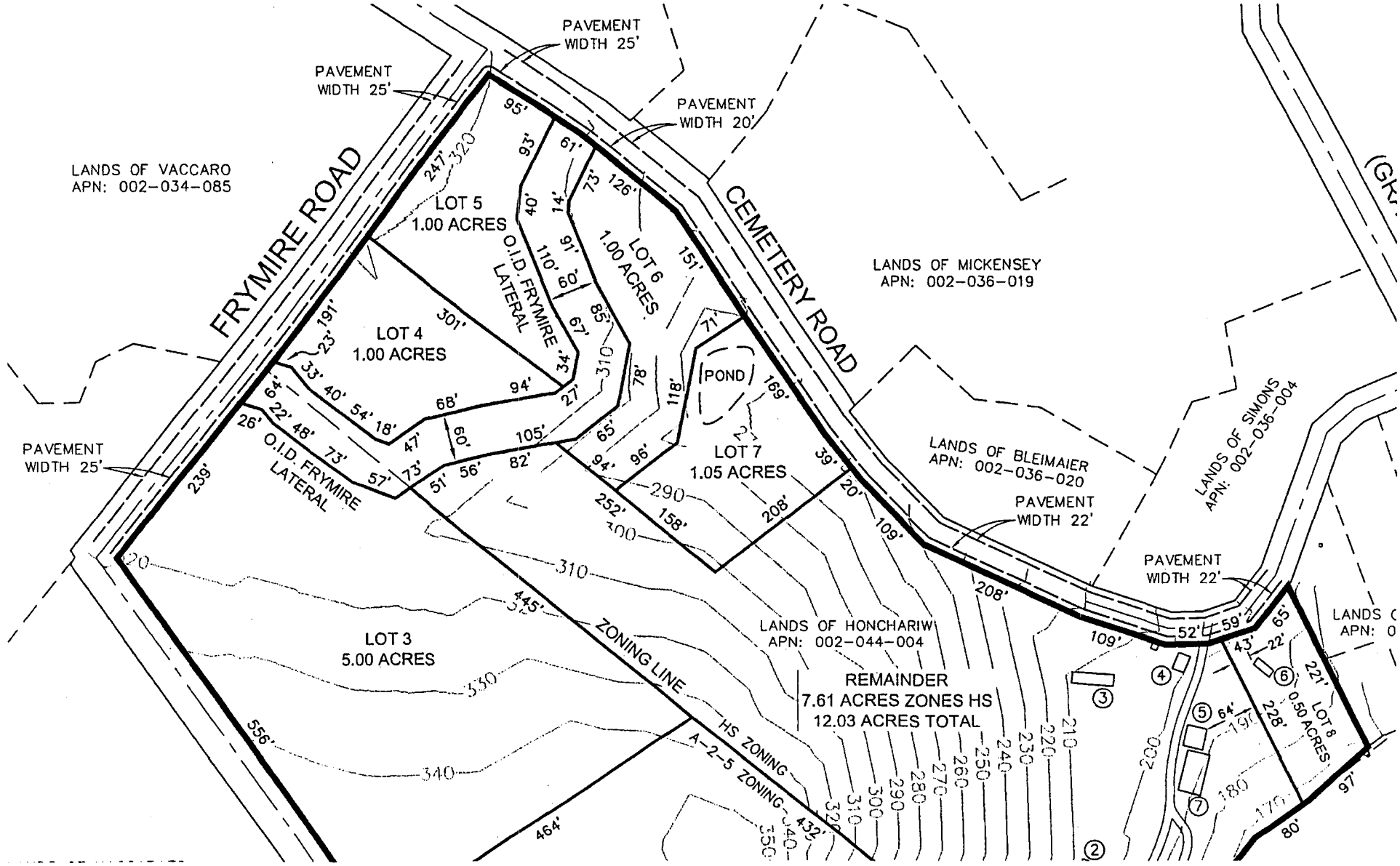
LANDS OF BLEIMAER
APN: 002-036-020

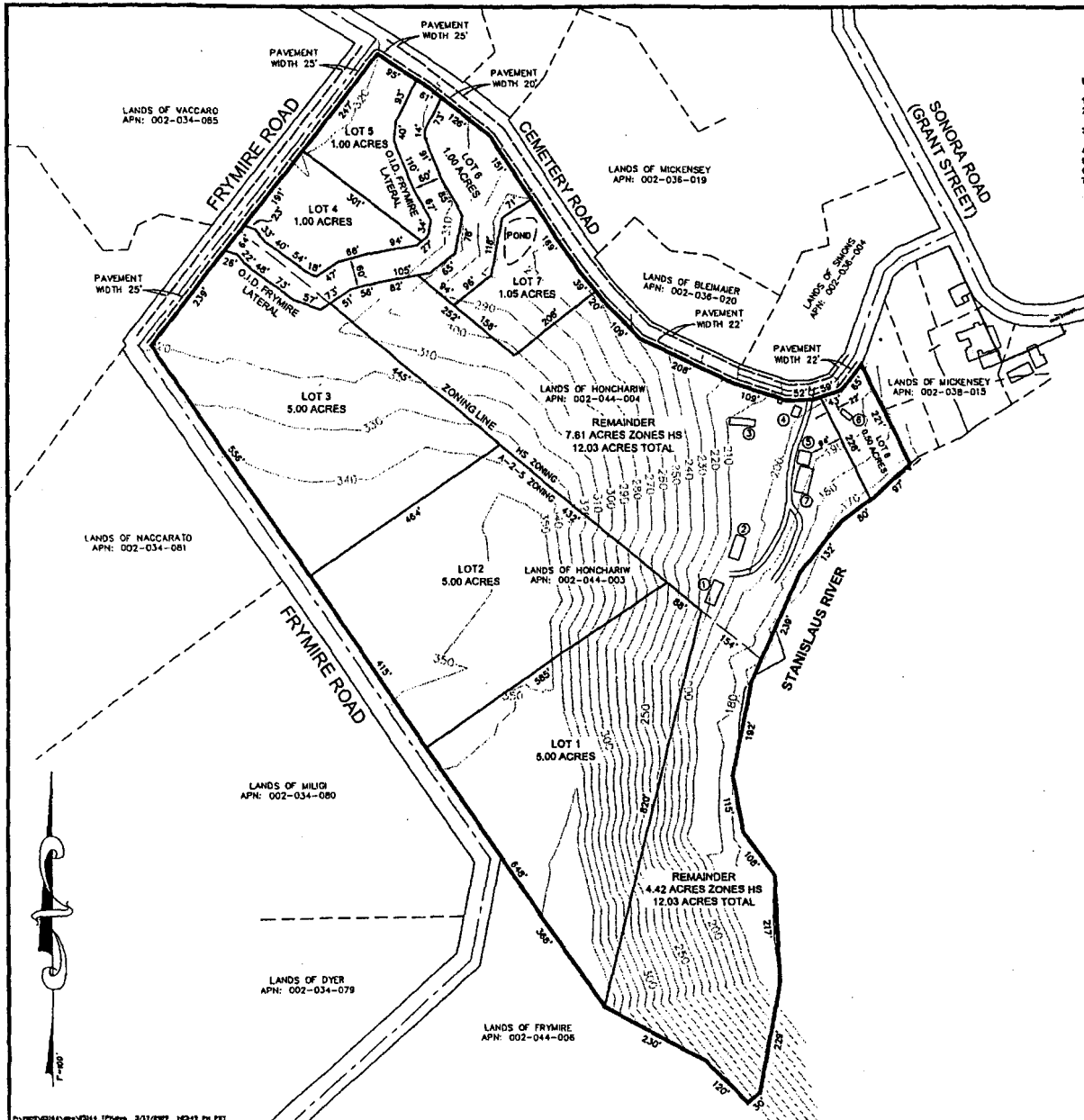
LANDS OF SIMONS
APN: 002-036-004

LANDS OF HONCHARIW
APN: 002-044-004

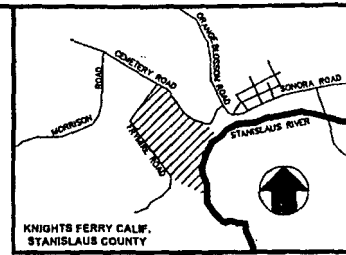
LANDS C
APN: 0

REMAINDER
7.61 ACRES ZONES HS
12.03 ACRES TOTAL





- EXISTING IMPROVEMENTS ①
1. OCCUPIED CARETAKERS RESIDENCE W/ POWER & PLUMBING
 2. BUILDING USED FOR STORAGE BUILT AS RESORT UNITS ALL INCLUDE POWER & PLUMBING
 3. BUILDING USED FOR STORAGE BUILT AS RESORT UNITS ALL INCLUDE POWER & PLUMBING
 4. BUILDING USED FOR STORAGE W/ POWER & PLUMBING
 5. BARN USED FOR STORAGE HAS MULTIPLE POWER
 6. OCCUPIED RESIDENCE REMODELED IN 1993
 7. BUILDING USED FOR STORAGE W/ POWER & PLUMBING



VICINITY MAP

OWNER/APPLICANT: HONCHARIIV REVOCABLE TRUST
3 VIA PARAISO WEST
TUBURON, CA 94920
(415) 435-8302

PREPARED BY: GIULIANI & KULL, INC.
440 S. YOSEMITE AVENUE SUITE A
OAKDALE, CA 95361
(209) 847-8726

TOTAL AREA: 2.85 AC.±
NO. OF PARCELS: 8 + REMAINDER
A.P.N.: 002-044-003, 002-044-004
ZONING: A-2-5 & HS
WATER: KNIGHTS FERRY AND INDIVIDUAL WELLS
SANITARY SEWER: SEPTIC SYSTEM
STORM DRAIN: ON-SITE DISPOSAL
SLOPE OF LAND: VARIES 1%-50%

**VESTING TENTATIVE
SUBDIVISION MAP**

PORTION OF PARCEL 1 AND 2 AS DESCRIBED IN DEED FROM GEORGE D. CHENEY TO IWAN S. HONCHARIIV, RECORDED ON PAGE 160, VOLUME 2587, OFFICIAL RECORDS OF STANISLAUS COUNTY ON OCTOBER 24, 1973, LYING 30 FEET MEASURED AT RIGHT ANGLES TO THE EXISTING RIGHT BANK OF THE STANISLAUS RIVER, PARCEL 1 AND 2 STANISLAUS COUNTY, CALIFORNIA SCALE 1" = 100' APRIL 2001

GK Giuliani & Kull, Inc.
Engineers • Planners • Surveyors
440 S. Yosemite Avenue, Suite A, Oakdale, CA 95361
(209) 847-8726 Fax (209) 847-7323
Auburn • Oakdale • San Jose

P:\002-044-003-004-1714.dwg 3/17/2001 12:44:33 PM DTD

3-24-09
9:15 a.m.

LISA FRYMIRE DOLLING
17525 Frymire Rd.
Oakdale, CA 95361
(209) 881-0440
March 19, 2009

✓ BOARD OF SUPERVISORS

2009 MAR 20 A 8:48

Stanislaus County Board of Supervisors
William O'Brien, 1st District
1010 10th Street, Suite 6500
Modesto, California 95354

Dear Board of Supervisors:

I am writing you with my feelings and those of my immediate family on the development of the Knights Ferry Overlook Project. I attended the Planning Commission Meeting held on February 5, 2009 to voice my negative concerns. Due to work constraints I am not able to attend this meeting so I am sending this letter instead to let you all know how myself, my husband and my parents feel. My husband and I live directly across the street and my parents Phil & Carmen Frymire live adjacent to this project on Frymire road. We all love and appreciate the uniqueness of the Knights Ferry area. Both of our families have lived & worked here for over 100 years, and we are not going anywhere soon. We plan on living here the rest of our lives. That's why it is so important that you know how we feel. Mr. Honchariw in contrast lives in Tiburon, CA and is totally distanced from Knights Ferry and this property. We know that development is something that cannot be stopped and should not be, but it can be planned and developed reasonably with the area and its residents in mind.

Mr. Honchariw has proposed various size lots within his project. The only true objective we have is with the four one acre lots. The three main concerns we have are: 1) Drinking water wells. The well I have is 360 feet deep and only produces approximately 18 gallons per minute, which is pretty minimal. There is only so much water in the aquifer available for use and the more you divide it up the less if any there will be for each land owner. 2) Septic systems. The properties are basically located on a hillside. There could be some problems with how the septic systems will percolate and also with there close proximity to the OID canal which passes right thru the identified properties. 3) Driveway access. I don't know if all or part of the driveways will come out onto Cemetery Road but the roadway is a very steep and narrow hill. This could lead to traffic/accident hazards for both the proposed new property owners and all others who use the roadway.

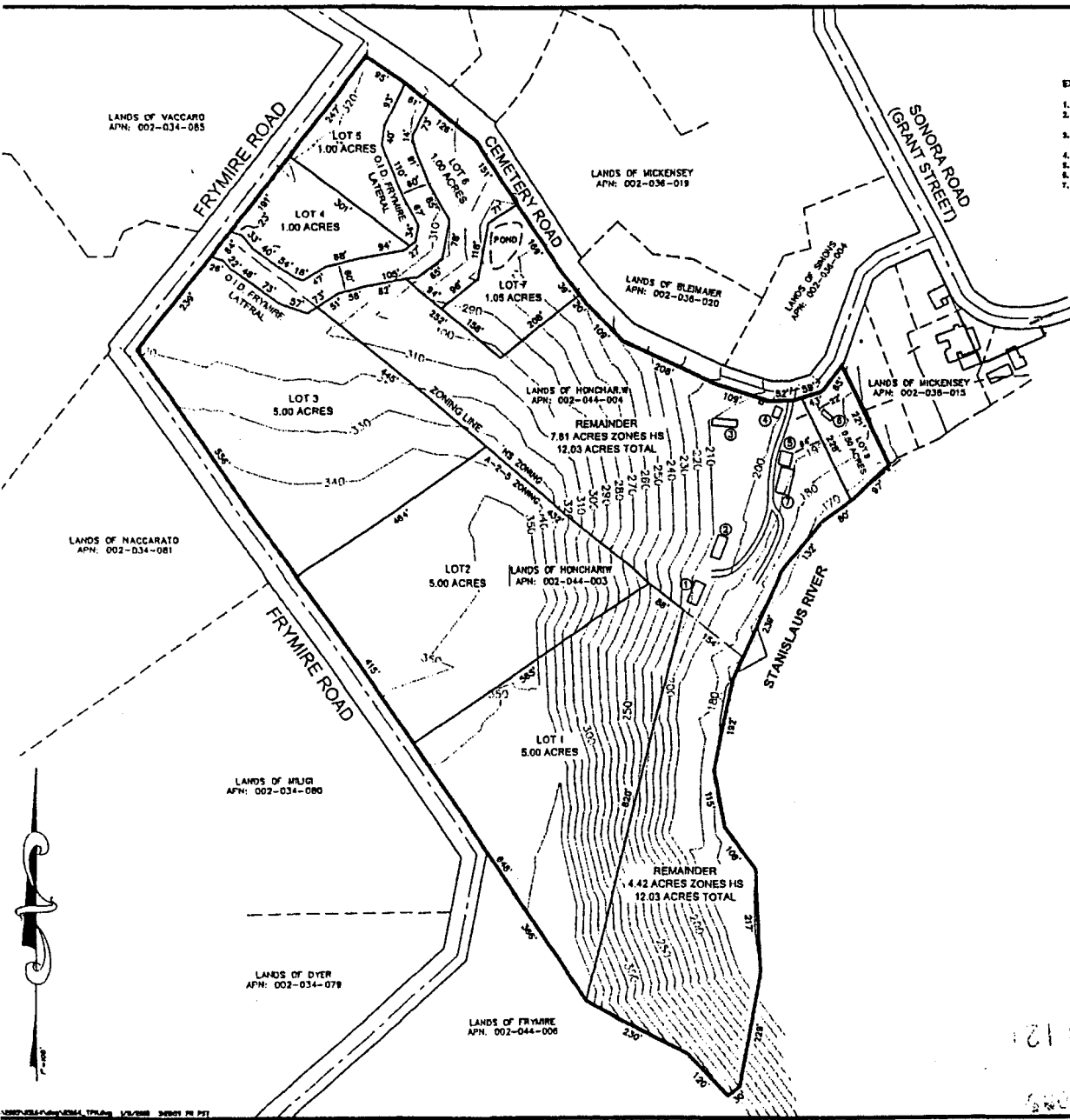
We are hoping Mr. Honchariw would reconsider proceeding with the project as is with one change, making the four one acre parcels into a single four acre parcel. This would greatly minimize the impact to all of these resources on the land and also the special aesthetic value of the area. Thank you for reading my letter and considering our personal opinions on this proposed project.

Sincerely,

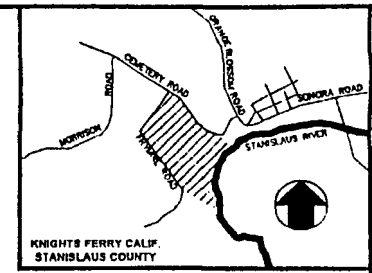
Lisa Frymire Dolling
Lisa Frymire Dolling

We hereby concur with all of the above statements:

<u>Fred Dolling</u>	<i>Fred Dolling</i>	<u>3-19-09</u>
<u>Carmen Frymire</u>	<i>Carmen Frymire</i>	<u>3-19-09</u>
<u>Phil Frymire</u>	<i>Phil Frymire</i>	<u>3/19/2009</u>



- EXISTING IMPROVEMENTS ①**
1. OCCUPIED CARPENTERS RESIDENCE W/ POWER & PLUMBING
 2. BUILDING USED FOR STORAGE BUILT AS REBORT
 3. BUILDING USED FOR STORAGE BUILT AS REBORT
 4. BUILDING USED FOR STORAGE W/ POWER & PLUMBING
 5. BARN USED FOR STORAGE HAS MULTIPLE POWER
 6. OCCUPIED RESIDENCE REWOODED BY 2843
 7. BUILDING USED FOR STORAGE W/ POWER & PLUMBING



VICINITY MAP

OWNER/APPLICANT: HONCHARIW REVOCABLE TRUST
3 VIA PARADISO WEST
MILPITAS, CA 95020
(415) 435-8302

PREPARED BY: GIULIANI & KULL, INC.
440 S. YOSEMITE AVENUE SUITE
OAKDALE, CA 95361
(209) 847-8726

TOTAL AREA: 2.85 AC.±
NO. OF PARCELS: 8 + REMAINDER
A.P.N.: 002-044-003, 002-044-004
ZONING: A-2-5 & HS
WATER: KNIGHTS FERRY AND INDIVIDUAL WELLS
SANITARY SEWER: SEPTIC SYSTEM
STORM DRAIN: ON-SITE DISPOSAL
SLOPE OF LAND: VARIES 1% - 30%

3/24/09
9:15 AM

**VESTING TENTATIVE
SUBDIVISION MAP**

PORTION OF PARCEL 1 AND 2 AS DESCRIBED IN DEED FROM GEORGE D. CHENEY TO IWAN S. HONCHARIW, RECORDED ON PAGE 160, VOLUME 2587, OFFICIAL RECORDS OF STANISLAUS COUNTY ON OCTOBER 24, 1973, LYING 30 FEET MEASURED AT RIGHT ANGLES TO THE EXISTING RIGHT BANK OF THE STANISLAUS RIVER, PARCEL 1 AND 2 STANISLAUS COUNTY, CALIFORNIA SCALE 1" = 100' APRIL 2001

GK Giuliani & Kull, Inc.
Engineers • Planners • Surveyors
440 S. Yosemite Avenue, Suite A, Oakdale, CA 95361
(209) 847-8728 Fax (209) 847-7323
Auburn • Oakdale • San Jose

2009 MAR 23 - A 11:12 AM
BOARD OF SUPERVISORS

We do not support the proposed subdivision for the Knights Ferry Overlook at Cemetery and Frymire Rds

NAME	ADDRESS
1. Carol Davis	17707 Hwy 120 Oakdale
2. Karen Eakin	16142 Dale Rd.
3. Oliver Raphael	16401 MORRISON RD
4. Loretta Raphael	
5. Linda Meyer	5207 River Rd.
6. Bob Meyer	5207 TILDE RD
7. Vivia Segui	16300 Orange Blossom
8. Belea Morgan	16300 Orange Blossom
9. Mary Sue Shearn	16998 Morrison Rd
10. Shearn	16998 Morrison Rd
11. Jerry	16247 meersun K E
12. Cathy Murray	16247 MORRISON K F
13. Roberta Harvey	4913 Elmwood Rd
14. Francis H. Bryant	972 So. Stearns ^{Oakdale} Oakdale
15. M. D. Bryant	972 So. Stearns Oakdale
16. Harvey	10336 Alvarado Rd Oakdale
17. R. Wright	1033 Alvarado Rd Oakdale
18. R. Miller	16731 FRYMIRE RD
19. etley Haccarat	17317 FRYMIRE RD
20. Jean P. Haccarat	14317 Frymire Rd
21. Barbara Johnson	17538 Lorena Rd
22. Bill Harvey	
23. John Harvey	22012 Barnett Rd
24. Jay Bottel	16848 MORRISON Rd. Waterford Co. 95386
25. Harvey	13206 Horsehoe Rd Oakdale

We do not support the proposed subdivision for the Knights Ferry Overlook at Cemetery and Frymire Rds

NAME	ADDRESS
1. [unclear]	[unclear]
2. [unclear]	[unclear]
3. [unclear]	[unclear]
4. Larry Bell	3521 Rosell Ave. Modest
5. Bill TELFAIR	17701 Vantine St K.F. Ca.
6. Tom H [unclear]	14837 Sonora Rd KF
7. Barbara Hadelom	14861 Hwy 120
8. Gordon Guesner	14861 Hwy 120
9. Tom Van [unclear]	17705 Hwy 120
10. Bill [unclear]	16848 B MORRISON KC. CA.
11. Ken Ruts	13607 Horse Shoe Ln
12. Denise Cassinetti	17262 Hwy 120 Oakdale
13. MR & MRS. RICH WYATT	14962 Dent St. KF Ca
14. Julie [unclear]	17850 VANTINE ST. KF
15. [unclear]	17136 Sonora Rd. K.F.
16. [unclear]	17136 Sonora Rd, K.F.
17. Carolyn Courtright	176 N BRYAN AVE OAKDALE CA
18. Coray Sheets	17525 SONORA RD KNIGHTSFERRY CA
19. Chrissie Sheets	17525 SONORA RD KNIGHTS FERRY
20. Lori Lutz	176 N. Bryan Oakdale
21. ED Fortuny.	
22. CHRIS Dennis	900 Olive Ave. Patterson
23. HENRY RODRIGUEZ	1560 SPRINGUIGEWAY [unclear]
24. CHRIS LEWIS	13606 HORSESHOE LN OAKDALE CA
25. P. ALBARICO	12801 DEAN ST KF

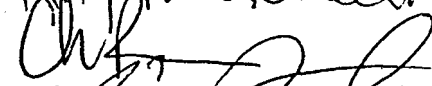
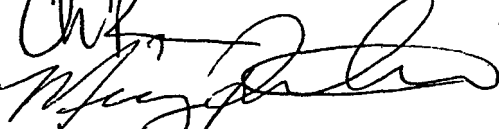
We do not support the proposed subdivision
for the Knights Ferry Overlook at Cemetery and Frymire Rds

NAME	ADDRESS
1. MICHELLE MULLER	16731 Frymire Rd K.F.
2. Lisa Frymire	14718 Sonora Rd K.F.
3. Kyle Hight	16848 Morrison KF
4. Mary Hight	1108 Poplar St, Oakdale
5. Cathie Ulrich	12719 Dent St. Knights Ferry CA
6. Rebecca Rorabaugh	13206 horseshoe Rd. Oakdale CA
7. Jin Wyatt	2660 BARBARA WAY TURLOCK CA
8. Heather Scott	17506 Dent St. Knights Ferry CA
9. Amanda Wright	17601 Ellen St. Knights Ferry CA
10. Tracy Grewson	P.O. 1745 OAKDALE CA 95361
11. Anne Doshes	325 California Ave. Oakdale
12. Pat Frymire	17268 Frymire Rd. Oakdale
13. Michel Guesain	17705 Hwy 120 OAKDALE
14. Cameron Lyming	17261 Frymire Rd. Oakdale
15. Sara Harris	17272 Frymire Rd., Knights Ferry
16. Winnie Mullin	12501 Valley Home, Oakdale
17. Tom Cream	17625 Ellen St. Knights Ferry
18. Melvin Asher	435 N. 6th Ave Oakdale
19.	
20.	
21.	
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23.	
24.	
25.	

We do not support the proposed subdivision
for the Knights Ferry Overlook at Cemetery and Frymire Rds.

NAME	ADDRESS
1. MARK SCHLEGEL	16636 MORRISON RD. K.F
2. Sherry Schlegel	16636 Morrison Rd. K.F
3. Alec Mederos	16636 ^B Morrison Rd K.F.
4. Kathy Mergante	16360 Orange Blossom Rd Orange
5. Linda Meligi	17301 Frymire Rd. K.F.
6. Tony Meligi	17301 Frymire Rd K.F.
7. Jim Mangano	16407 Orange Blossom Rd. Oakhill Ca.
8. Walter Gigeri	15324 orange Blossom Rd
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We do not support the proposed subdivision
for the Knights Ferry Overlook at Cemetery and Frymire Rds.

	NAME	ADDRESS
1.	Kay Martindale	17172 Sonora Rd.
2.		17184 Sonora Rd.
3.		17184 Sonora Rd.
4.	Debbie D. Martindale	17172 Sonora Rd.
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24.		
25.		

9. MAJOR BIBLIOGRAPHICAL REFERENCES

A Brief History of Stanislaus County, by Margaret Annear, Herbert C. Florcken and Dr. Hugh Baker, published 1950 by Stanislaus County Schools.

Elias, Sol P., Stories of Stanislaus, c. 1924, published in Modesto Branch, L., History of Stanislaus County, Elliott and Moore, San Francisco, 1881.

Tinkham, George H., History of Stanislaus County, Historic Record Co., Los Angeles, 1921.

Rentch, H. E. and Hoover, E. G., Mildred Brook, Historic Spots in California, Stanford University Press, 1933.

10. GEOGRAPHICAL DATA

LATITUDE AND LONGITUDE COORDINATES DEFINING A RECTANGLE LOCATING THE PROPERTY			O R	LATITUDE AND LONGITUDE COORDINATES DEFINING THE CENTER POINT OF A PROPERTY OF LESS THAN TEN ACRES		
CORNER	LATITUDE	LONGITUDE		LATITUDE	LONGITUDE	
NW	Degrees Minutes Seconds 37. 49. 19.	Degrees Minutes Seconds 120. 40. 26.		Degrees Minutes Seconds	Degrees Minutes Seconds	
NE	37. 49. 19.	120. 39. 41.		.	.	
SE	37. 49. 06.	120. 39. 41.		.	.	
SW	37. 49. 06.	120. 40. 26.		.	.	

APPROXIMATE ACREAGE OF NOMINATED PROPERTY 107

LIST ALL STATES AND COUNTIES FOR PROPERTIES OVERLAPPING STATE OR COUNTY BOUNDARIES

STATE	CODE	COUNTY	CODE
STATE:	CODE	COUNTY:	CODE
STATE:	CODE	COUNTY:	CODE
STATE:	CODE	COUNTY:	CODE
STATE:	CODE	COUNTY:	CODE

11. FORM PREPARED BY

NAME AND TITLE: William Tiernan (Revised: History Preservation Section) Park Director (Calif. Dept. of Parks & Rec.)

ORGANIZATION: County of Stanislaus DATE: 6-30-70

STREET AND NUMBER: 1100 Eye Street, Room 300

CITY OR TOWN: Modesto STATE: California CODE: 06

12. STATE LIAISON OFFICER CERTIFICATION

As the designated State Liaison Officer for the National Historic Preservation Act of 1966 (Public Law 89-665), I hereby nominate this property for inclusion in the National Register and certify that it has been evaluated according to the criteria and procedures set forth by the National Park Service. The recommended level of significance of this nomination is:

National State Local

Name: [Signature]

Title: State Liaison Officer

Date: October 14, 1970

NATIONAL REGISTER VERIFICATION

I hereby certify that this property is included in the National Register.

Chief, Office of Archeology and Historic Preservation

Date: _____

ATTEST:

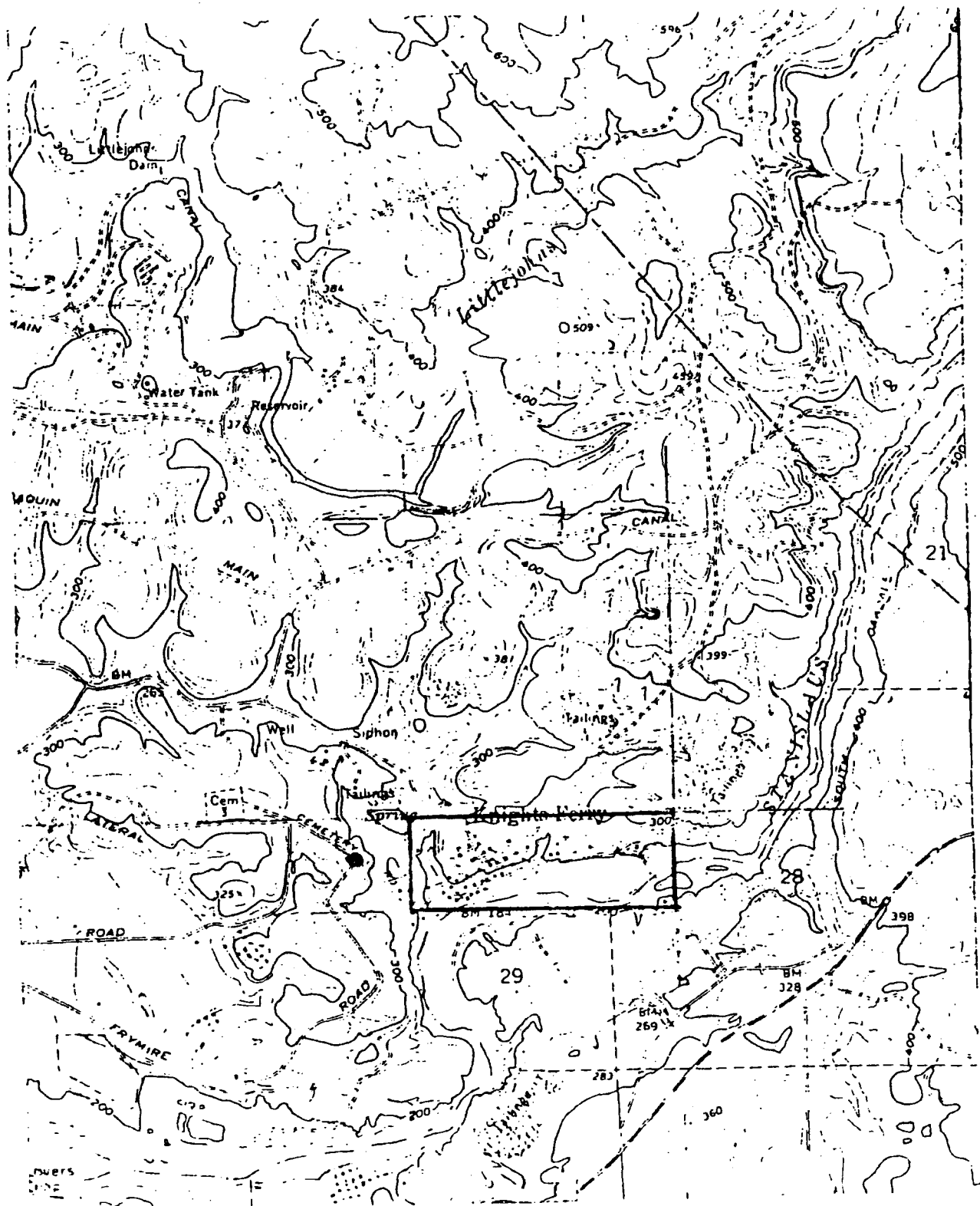
Keeper of The National Register

Date: _____

RECORDED OF SEP 17 1970
MAR 23 11:12

SEE INSTRUCTIONS

P-50-000545



Knights Ferry Historic District Map

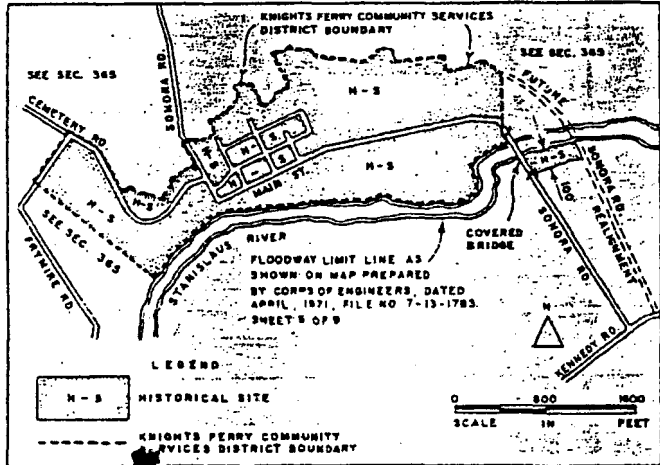
LEGAL NOTICE

ORDINANCE NO. N.S. 390
AN ORDINANCE AMENDING TITLE 9, CHAPTER 3, OF THE ORDINANCE CODE OF STANISLAUS COUNTY, BY ADDING SECTIONAL DISTRICT MAP NO. 9-110.461 THERE TO, FOR THE PURPOSE OF REZONING THE KNIGHTS FERRY AREA.

The Board of Supervisors of the County of Stanislaus, State of California, do ordain as follows:

Section 1. Sectional District Map No. 9-110.461 is added to Title 9, Chapter 3, of the Ordinance Code of Stanislaus County to appear as follows:

SECTIONAL DISTRICT MAP NO. 9 - 110 461



Section 2. This Ordinance shall take effect and be in full force thirty (30) days from and after the date of its passage and before the expiration of fifteen (15) days after its passage it shall be published once, with the names of the members voting for and against same, in the Oakdale Leader, a newspaper published in said County of Stanislaus, State of California.

Upon motion of Supervisor Fahey and second by Supervisor Paul the foregoing ordinance was passed and adopted at a regular meeting of the Board of Supervisors of the County of Stanislaus, State of California, this 29th day of August, 1972, by the following called vote:

AYES: Supervisors: Fahey, Paul, Thurman, Vander Wall, and Franzen, Chairman.

NOES: Supervisors: None

ABSENT: Supervisors: None

James Franzen
Chairman of the Board of Supervisors
County of Stanislaus, State
of California.

ATTEST:
STEVE R. NELSON County Clerk and
Ex-Officio Clerk of the Board of
Supervisors of the County of
Stanislaus, State of California.
By Lloyd R. Brown
Deputy
Published September 11, 1972

EFFECTIVE: 28 Sept 72

PREVIOUS MAP: none

TM 2006-06 & EXC 2008-02
"KNIGHTS FERRY OVERLOOK"
AERIAL PHOTO (2006)



***REVISED* - CONDITIONS OF APPROVAL**

**VESTING TENTATIVE SUBDIVISION MAP APPLICATION NO. 2006-06
KNIGHTS FERRY OVERLOOK**

Revisions made after the March 24, 2009 original consideration of this project by the Board of Supervisors are reflected in stricken and bolded text.

Stanislaus County - Department of Public Works

1. The recorded subdivision map shall be prepared by a licensed land surveyor or a registered civil engineer.
2. All existing non-public facilities and/or utilities that do not have lawful authority to occupy the Frymire Road or Cemetery Road right-of-ways shall be relocated onto private property upon request of the Department of Public Works.
3. All structures not shown on the tentative map shall be removed prior to the final map being recorded.
4. A 10-foot wide public utility easement (P.U.E.) shall be located adjacent to the following:
 - A. Frymire Road frontage of Lots 1, 2, 3, 4, and 5; and,
 - B. Cemetery Road frontage of Lots 5, 6, 7, 8, and the Remainder.

The P.U.E. shall be shown on the final map to be recorded.

5. Road right-of-way shall be deeded to Stanislaus County to provide the following:
 - A. 30 feet northeast of the centerline of Frymire Road adjacent to Lots 1, 2, and 3;
 - B. 30 feet southeast of the centerline of Frymire Road adjacent to Lots 3, 4, and 5;
 - C. 30 feet south of the centerline of Cemetery Road adjacent to Lots 5, 6, 7, 8, and the Remainder; and,
 - D. The chord distance of a 25 foot radius at the Frymire/Cemetery intersection at Lot 5 and at the corner in Frymire Road at Lot 3.

This dedication shall be shown on the final map to be recorded.

6. An encroachment permit shall be obtained for any driveway taking access from the County road for construction of a dwelling. Public Works shall approve the location of any driveway for the project. To further define the amount of driveways allowed for this project, these conditions will apply to locating the new driveways:
 - A. There shall be a shared driveway between Lots 4 and 5, with the corresponding recorded easements.
 - B. ~~There shall be a shared driveway between Lots 6 and 7, with the corresponding recorded easements.~~
The driveways for Lots 6 and 7 may be separate, but the location of the driveways will need an encroachment permit and approval from Public Works prior to issuance of any building permit for the lot(s).
 - C. Lot 3 shall take access only off of the northwest bound portion of Frymire Road.

7. The applicant shall pay Public Facilities Fees prior to or at the time of any building permit issuance as the applicant's fair share contribution to mitigate any potential traffic impact to area roads.
8. One bench mark shall be established within the subdivision on a brass cap. A completed Bench Mark card shall be furnished to the Department of Public Works.
9. The boundary of the 100-year flood zone of the Stanislaus River shall be clearly shown on the final map to be recorded.
10. Any development within the 100-year flood zone shall comply with the County's "Flood Damage Prevention Ordinance."

Stanislaus County - Department of Planning & Community Development

11. The developer shall pay all applicable Public Facilities Impact Fees and Fire Protection Development/Impact Fees as adopted by Resolution of the Board of Supervisors at the time of issuance of any building permits within the area of the vesting tentative map. For the Public Facilities Impact Fees, the fees shall be based on the Guidelines Concerning the Fee Payment Provisions established by County Ordinance C.S. 824 as approved by the County Board of Supervisors, and shall be payable at the time determined by the Department of Public Works.
12. The subdivider is required to defend, indemnify, or hold harmless the County, its officers and employees from any claim, action, or proceedings against the County to set aside the approval of the map as set forth in Government Code Section 66474.9. The County shall promptly notify the subdivider of any claim, action, or proceeding to set aside the approval and shall cooperate fully in the defense.
13. Pursuant to Section 711.4 of the California Fish and Game Code (effective January 1, 2012), the applicant is required to pay a Department of Fish and Game filing fee at the time of recording a "Notice of Determination." Within five (5) days of approval of this project by the Planning Commission or Board of Supervisors, the applicant shall submit to the Department of Planning and Community Development a check for **\$2,158.50**, made payable to **Stanislaus County**, for the payment of Fish and Game and Clerk Recorder filing fees.

Pursuant to Section 711.4 (e)(3) of the California Fish and Game Code, no project shall be operative, vested, or final, nor shall local government permits for the project be valid, until the filing fees required pursuant to this section are paid.
14. Pursuant to Section 404 of the Clean Water Act, prior to construction, the developer shall be responsible for contacting the US Army Corps of Engineers to determine if any "wetlands," "waters of the United States," or other areas under the jurisdiction of the Corps of Engineers are present on the project site, and shall be responsible for obtaining all appropriate permits or authorizations from the Corps, including all necessary water quality certifications, if necessary.

15. Pursuant to the federal and state Endangered Species Acts, prior to construction, the developer shall be responsible for contacting the US Fish and Wildlife Service and California Department of Fish and Game to determine if any special status plant or animal species are present on the project site, and shall be responsible for obtaining all appropriate permits or authorizations from these agencies, if necessary.
16. Pursuant to Section 1600 and 1603 of the California Fish and Game Code, prior to construction, the developer shall be responsible for contacting the California Department of Fish and Game and shall be responsible for obtaining all appropriate streambed alteration agreements, permits or authorizations, if necessary.
17. Pursuant to State Water Resources Control Board Order 99-08-DWQ and National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002, prior to construction, the developer shall be responsible for contacting the California Regional Water Quality Control Board to determine if a "Notice of Intent" is necessary, and shall prepare all appropriate documentation, including a Storm Water Pollution Prevention Plan (SWPPP). Once complete, and prior to construction, a copy of the SWPPP shall be submitted to the Stanislaus County Department of Public Works.
18. Should any archeological or human remains be discovered during development/construction, work shall be immediately halted within 150 feet of the find until it can be evaluated by a qualified archaeologist. If the find is determined to be historically or culturally significant, appropriate mitigation measures to protect and preserve the resource shall be formulated and implemented.
19. Subsequent development/construction on the project site shall comply with standardized dust controls adopted by the San Joaquin Valley Air Pollution Control District.
20. Prior to the issuance of building permits for any dwelling, the owner/developer shall pay a fee of \$339.00 per dwelling to the County Sheriff's Department.
21. On Parcels 1 thru 8, all exterior lighting shall be designed (aimed down and toward the site) to provide adequate illumination without a glare effect. This shall include but not be limited to the use of shielded light fixtures to prevent skyglow (light spilling into the night sky) and the installation of shielded fixtures to prevent light trespass (glare and spill light that shines onto neighboring properties).
22. The Department of Planning and Community Development shall record a Notice of Administrative Conditions and Restrictions with the County Recorder's Office within 30 days of project approval. The Notice includes: Conditions of Approval/Development Standards and Schedule; any adopted Mitigation Measures; and a project area map.

23. The final recorded map shall contain the following statement:

"All persons purchasing lots within the boundaries of this approved map should be prepared to accept the inconveniences associated with the agricultural operations, such as noise, odors, flies, dust or fumes. Stanislaus County has determined that such inconveniences shall not be considered to be a nuisance if agricultural operations are consistent with accepted customs and standards."

24. **Prior to recording the "Final" Subdivision Map, the applicant shall contact the Knights Ferry Community Services District (KFCSD) and submit a written application to obtain water service (domestic & fire suppression) for all lots within the Community Services District boundaries, in accordance with all applicable KFCSD rules, regulations, standards, and ordinances, and shall cause all public improvements required by KFCSD to be completed and accepted for public use.**
25. **Prior to recording the "Final" Subdivision Map, water service provided by the Knights Ferry Community Services District, shall be established, constructed and operational for the four (4) proposed 1-Acre Lots, identified as being Lots No. 4-7 on the Tentative Subdivision Map, and the designated "Remainder" parcel.**
26. **If, at the time of approval of the final map, any public improvements required by a local agency, including without limitation the Knights Ferry Community Services District, have not been completed and accepted in accordance with standards established by the local agency by ordinance applicable at the time of the approval or conditional approval of the tentative map, the applicant shall enter into a Subdivision Improvement Agreement in compliance with Government Code § 66462.**
27. **Prior to the sale, leasing, or financing of, or the issuance of a building permit on the designated "Remainder" parcel, a certificate of compliance or a conditional certificate of compliance shall be obtained from the Stanislaus County Department of Public Works and filed/recorded with the County Recorder's Office (pursuant to Government Code Section 66424.6).**

Stanislaus County - Building Permits Division

28. When improvements take place, building permits will be required, per Title 24 of the California Building Code, Section 106.1.

Stanislaus County - Department of Environmental Resources (DER)

29. **Parcels 1-3 and the portion of the designated Remainder parcel within the A-2 Zoning District, shall have an approved independent water supply (if not provided public water service). Prior to the issuance of building permit, each parcel shall have its own well. A drilling permit shall be obtained from the Department of Environmental Resources. (Stanislaus County Policy and State Model Well Standards Ordinance)**

30. The existing septic system(s) is/are to be contained within Parcel 8 and Remainder 7.61 acres boundaries as per required Department setback standards.
31. Parcels No. 1, 2, 3 and Remainder 4.42 acres are subject to Measure X requirements and must have Primary and Secondary Treatment Plants.

On-site wastewater disposal system (OSWDS) shall be individual Primary and Secondary wastewater treatment units, operated under conditions and guidelines established by Measure X.
32. Parcels 4-7 shall have a conventional septic system for on-site sewage disposal.
33. The on-site wastewater disposal system for all proposed parcels and the remainder parcel are to be engineered design. Plans should be submitted to DER for review and approval, prior to recording of the parcel.
34. The applicant shall determine, to the satisfaction of the Department of Environmental Resources (DER), that a site containing (or formerly containing) residences or farm buildings, or structures, has been fully investigated (via Phase I and II studies) prior to the issuance of a grading permit. Any discovery of underground storage tanks, former underground storage tank locations, buried chemicals, buried refuse, or contaminated soil shall be brought to the immediate attention of DER.

Oakdale Irrigation District (OID)

35. The Frymire Lateral shall be correctly shown on the Final Subdivision Map as a sixty (60) foot wide strip of land, labeled "OID Frymire Lateral" with the recorded Instrument Number of the original system purchase shown. No property lines shall cross the Frymire Lateral, nor shall the centerline of the facility be used as a property line.
36. The applicant shall review and comply with the four (4) sections of conditions required in the OID Subdivision Parcel Map Policy.
37. Oakdale Irrigation District requires a signature block for the proposed subdivision map with the following language:

OAKDALE IRRIGATION DISTRICT

This map has been reviewed for compliance with Oakdale Irrigation District Subdivision Parcel Map Policy and project approval conditions. The recorded rights-of-way and/or easements for Oakdale Irrigation District as shown on this map meet the Conditions of Approval and Oakdale Irrigation District approves of the filing of this map.

By: _____
Steve Knell, P.E.
General Manager

Date: _____

38. OID requests this statement be added to the final map:

STORM DRAINAGE

"Oakdale Irrigation District is not responsible for channeling, diverting nor conveying any storm drainage that takes place within the boundaries of this Parcel Map, nor passes through the properties identified on this parcel map."

- ~~39. Given the existing limitations of the Knights Ferry Community Services District to provide additional services, including fire protection services, OID requests that the landowner provide OID with written verifications that the Stanislaus Consolidated Fire District will either waive the fire-flow requirements for this project or state that this project is not subject to said fire-flow requirements.~~

Oakdale Rural Fire Protection District

39. The project would be required to have 20 foot wide all weather access roads to any and all structures.
40. Fire hydrants shall be extended to serve any new structures, on parcels within the Community Services District boundaries, with no structure residing further than 1000 feet from a hydrant or as required by Knights Ferry Community Services District ordinance, whichever provides a higher level of fire protection.

Mitigation Measures

(Pursuant to California Public Resources Codes 15074.1: Prior to deleting and substituting for a mitigation measures, the lead agency shall do both of the following:
1) Hold a public hearing to consider the project; and
2) Adopt a written finding that the new measure is equivalent or more effective in mitigating or avoiding potential significant effects and that it in itself will not cause any potentially significant effect on the environment.)

1. Prior to removal of any healthy oak trees or shrubs on the property or within the County right-of-way within a lot to be developed (i.e., lots 1-7) and prior to any construction or ground disturbing activity within such lot; an oak tree protection and replacement plan shall be provided by the lot owner to, and approved by the Department of Planning and Community Development and the California Department of Fish and Game (CDFG).
2. Prior to any construction or ground disturbing activity, pre-construction survey(s) shall be conducted to determine if any special status plants or vernal pool animal or plant species, exist within these lots.
3. If pre-construction surveys determine that any special status plants, including Colusa grass, dwarf downingia, beaked clarkia, or Hartweg's golden sunburst are present on the project site, development shall be planned to avoid impacts to the special status plants. If impacts cannot be avoided a mitigation plan including location of restoration areas, propagation and

- planting techniques to be employed for the restoration effort, timetable for implementation, and performance criteria, adaptive management techniques, and a site maintenance plan shall be prepared by a qualified biologist and submitted to the Stanislaus County Planning Department for review.
4. Prior to recording the final map or any construction or ground disturbing activity, all blue elderberry shrubs with a stem diameter of one inch or greater at ground level shall be surveyed. The locations of each blue elderberry shrub shall be shown on the recorded final map. If possible, a 100-foot development-free buffer shall be established around each blue elderberry shrub. For any blue elderberry shrubs within 100 feet of lots to be developed (i.e., lots 1-7), any portion of the buffer that falls within the lot to be developed shall be fenced during construction. If full avoidance is not possible, consultation with USFWS shall be undertaken to further assess the potential impacts to valley elderberry longhorn population and determine any needed mitigation. Mitigation usually involves planting replacement shrubs at an approved mitigation site or payment of fees to an approved mitigation bank or in-lieu species fund.
 5. Any trees that need to be removed for construction in the lots to be developed (i.e., lots 1-7) or within the County right-of-way shall be removed between September 1 and January 31, if possible. If tree removal occurs during the avian nesting season (February 1 to August 31), a qualified wildlife biologist shall conduct a nesting bird survey to determine if nests are active or occupied in the project site. The survey shall be undertaken no more than 15 days prior to tree removal. Any active nests shall be protected with an appropriate buffer determined by the biologist in consideration of species, stage of nesting, location of the nest, and type of construction activity. The buffer areas shall be enclosed with temporary fencing, and construction equipment and workers shall not enter the enclosed setback areas for the duration of the breeding season. Buffers should remain in place for the duration of the breeding season or until it has been confirmed by a qualified biologist that all chicks have fledged and are independent of their parents.
 6. Prior to construction of any on-site residences, or any roads to serve any new residences, or any other on-site improvements, or any land disturbing activities, within the lots to be developed, all seasonal swales, wetlands, and vernal pools shall be accurately mapped and shall be avoided where possible. Specific language shall be included on the recorded final map that prohibits any construction within 50-feet of the identified seasonal swales, wetlands, elderberry plants/bushes, and vernal pools without any necessary prior authorization from the appropriate state or federal regulatory agency. The applicant shall forward copies of all surveys and maps to the Stanislaus County Planning Department for verification prior to issuance of any building or grading permit.
 7. Prior to any construction or ground disturbing activity within a lot to be developed in or along the Stanislaus River, its tributaries, the OID canal, or the stock ponds and seasonal wetlands on the site, pre-construction survey(s) shall be conducted to determine if any Western pond turtles exist within such lot.

If pre-construction surveys determine that western pond turtles are present in the construction zone, the turtles shall be relocated by a qualified biologist to suitable habitat just outside the construction zone. If Western pond turtle relocation is undertaken, silt fencing shall be erected and maintained around construction zones to prevent western pond turtles from moving back into these areas.

8. No construction or development of access roads or other improvements shall be allowed within 50 feet of areas that fall within the jurisdiction of the U.S. Army Corps of Engineers (Corps), California Department of Fish and Game (CDFG), or within 50 feet of any vernal pool or seasonal wetland or swale without first obtaining appropriate permits and authorizations from those agencies where necessary.
9. The applicant shall be responsible for contacting the Corps and CDFG prior to construction of any access roadways or other improvements to determine if permits or authorizations are warranted. The applicant shall forward copies of all correspondence with the Corps and/or CDFG to the Stanislaus County Planning Department of verification prior to construction of any on-site residences, or any roads to serve any new residences, or any other on-site improvements, or any land disturbing activities.
10. Pursuant to the federal and state Endangered Species Acts, prior to construction, the developer shall be responsible for contacting the US Fish and Wildlife Service and California Department of Fish and Game to determine if any special status plant or animal species are present on the project site, and shall be responsible for obtaining all appropriate permits or authorizations from these agencies, if necessary.
11. Prior to any ground disturbing activities or demolition of the existing features or structures, the project site shall be evaluated for eligibility to the California Register of Historic Places. Historic era sites and features shall be evaluated by an historic archaeologist; the prehistoric bedrock mortar features/site shall be evaluated by a prehistoric archaeologist.

*Please note: If Conditions of Approval/Development Standards are amended by the Planning Commission or Board of Supervisors, such amendments will be noted in the upper right-hand corner of the Conditions of Approval/Development Standards, new wording is in **bold**, and deleted wording will have a ~~line through it~~.*

LAW OFFICES OF
Mayol & Barringer

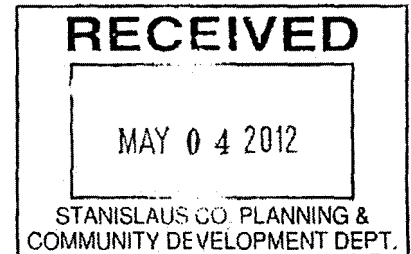
James D. Mayol
jmayol@mblaw.com

1324 "J" Street, Modesto, CA 95354
P.O. Box 3049, Modesto, CA 95353

Telephone: (209) 544-9555
Fax: (209) 544-9875

Bart W. Barringer
bbarringer@mblaw.com

May 3, 2012



Joshua Mann
Associate Planner
Stanislaus County Department of Planning and Community Development
1010 10th Street, Suite 3400
Modesto, CA 95354

Re: Vesting Tentative Map Application No. 2006-06;
Knight's Ferry Overlook, A.P.N.: 002-044-004

Dear Mr. Mann:

This office represents the Knights Ferry Community Services District ("KFCSD") and I am writing you in response to your March 20, 2012, letter to the KFCSD Board of Directors. In your letter you requested further clarification of the April 21, 2007, letter the KFCSD sent you regarding the above-mentioned application. The purpose of this letter is to try and better explain the KFCSD's position regarding the proposed water service to the proposed subdivision.

The KFCSD has specific guidelines that must be followed in order for it to provide water to a subdivision such as the one mentioned above. In order to provide the water to an Applicant, the Applicant must follow the guidelines set forth in Water Ordinance Number 4-13-72, entitled, "An Ordinance Establishing Rates, Rules and Regulations for Water Service by the Knights Ferry Community Services District". Therefore in order for the KFCSD to determine whether it can and will provide water to the above-mentioned project, the Applicant must follow the guidelines set forth in the Ordinance, including, but not limited to, Article 6 dealing with Main Extensions and Article 7 dealing with Subdivisions. To my knowledge, the Applicant has not made a written application for either a Main Extension and/or an Application for a Subdivision. Upon written application by the Applicant, the KFCSD can determine whether it can provide the water requested by the Applicant for the above-mentioned project.

I hope this letter better clarifies the KFCSD's April 21, 2007, letter and the process that must be completed prior to determining whether water can be provided to the above-mention project. If you have any questions or comments, please feel free to contact me.

Sincerely,

LAW OFFICES OF MAYOL & BARRINGER



Bart Barringer

BB/aek

cc: KFCSD;
Thomas Boze, Esq. (via e-mail)

PH 0:35

From: Jennifer Carlson
To: DeMartini, Jim; Ferraro, Christine; King, Liz; Monteith, Dick; O'Bri...
Date: 5/15/2012 3:21 PM
Subject: Fwd: Knights Ferry Overlook

Jennifer Carlson
Stanislaus County Board of Supervisors
District 1 Supervisor, William O'Brien 209-525-4440
District 2 Supervisor, Vito Chiesa 209-525-6440
1010 10th Street
Modesto, CA 95354

>>> Carol Davis <caroldinkf@gmail.com> 5/15/2012 2:09 PM >>>
Attn: Board of Supervisors

I am strongly opposed to the one acre parcels on Cemetery Road and Frymire Road in the Knights Ferry Overlook proposed by Mr. Honchariw. Cemetery Road is too narrow and steep to add any more driveways. The water for four additional wells, plus septic systems would not be good planning.

As an appointed member of the Knights Ferry Cemetery Board, I feel traffic on Cemetery Road should be curtailed from further congestion. There are many mothers driving down this road in a rush to get their children to school. There are runners and bike riders on the weekends on this road. This is a safety factor for you to consider.

As a fourth generation resident of the Knights Ferry area, I have a great interest in maintaining the historic flavor in our town. My family has always been active in the various organizations of the community.

I hope you will consider my wish to maintain our scenic country road leading to the Cemetery. Any questions call 881-3217.

Sincerely---Carol J. Davis

BOARD OF SUPERVISORS
2012 MAY 15 P 3:22

Rec'd
at BOS meeting
6:35 pm

PROPOSED ADDITIONAL CONDITION OF APPROVAL:

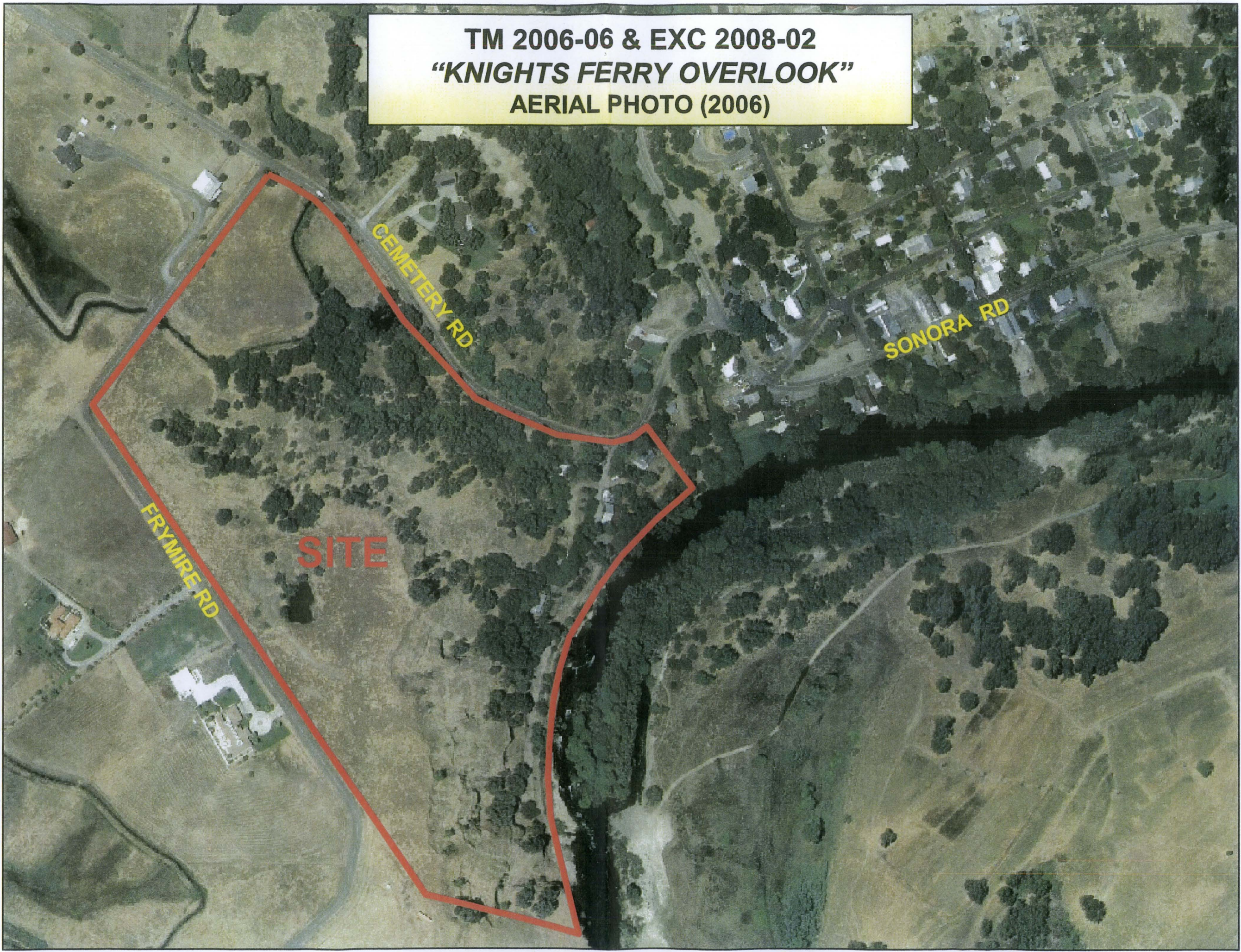
Vesting Tentative Subdivision Map Application 2006-06 Knights Ferry Overlook.

"Board of Supervisors May 15, 2012:

- No. 41. Applicant's proposed tentative map does not identify public access to the Stanislaus River as required by Government Code sections 66478.1 through 66478.14. Pursuant to sections 66478.4 and 66478.5, Applicant shall provide, or have available, reasonable public access by fee or easement from a public highway to that portion of the bank of the river, and a public easement along the riverbank, bordering or lying within the proposed subdivision. Pursuant to section 66478.4, reasonable public access shall be determined by the County. Pursuant to section 66478.5, the County shall determine the width and character of the public easement to achieve reasonable public use of the river consistent with public safety. The approved access shall be shown on the Final Map in compliance with Map Act section 66478.6.

For purposes of this project, County considers "reasonable access" under section 66478.4, to mean an access of not less than 10 feet in width to the bank of the river and "public easement" under section 66478.5, to mean a public easement of 10 feet in width above the high-water mark, with both access and easement suitable for pedestrian, bicycle, equestrian or other non-motorized transport of persons, and for access to the river for small boats. The approved river access shall connect between Cemetery Road and the portion of the riverbank lying within the proposed subdivision; and the public easement shall lie along the entire portion of the riverbank bordering or lying within the proposed subdivision."

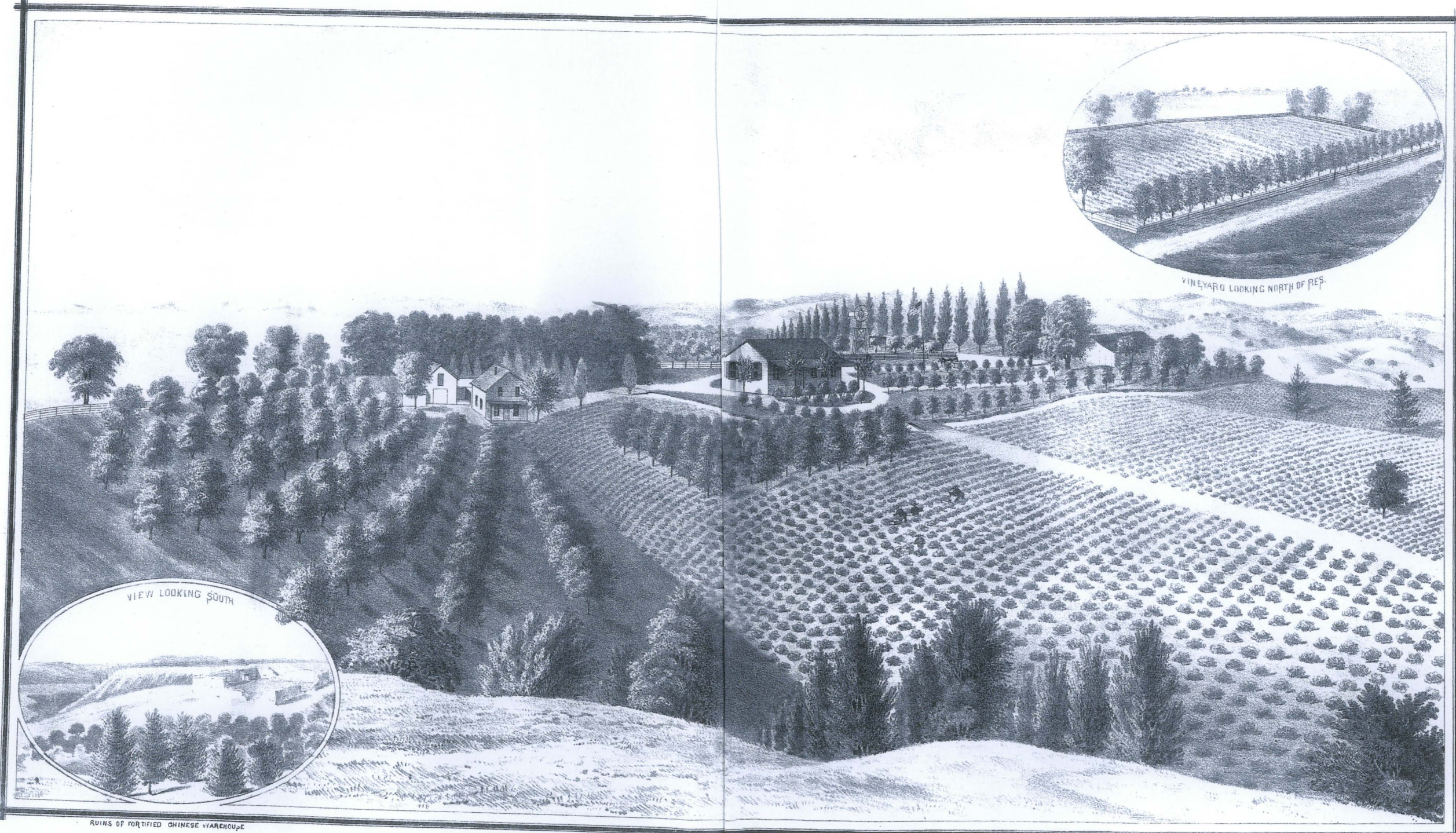
TM 2006-06 & EXC 2008-02
"KNIGHTS FERRY OVERLOOK"
AERIAL PHOTO (2006)



BOARD OF SUPERVISORS
2012 MAY 14 A 11:30

To: BOS
From: Karen Eakin
Re: Pub clearing
6:35 pm @
5/15/12 BOS
Meeting





VIEW LOOKING SOUTH

VINEYARD LOOKING NORTH OF RES.

RUINS OF FORTIFIED CHINESE WAREHOUSE

ORCHARD VINEYARD & RES. OF E. & J. LOOTMANN KNIGHT'S FERRY STANISLAUS CO. CAL.

DESCRIPTION ON PAGE 166

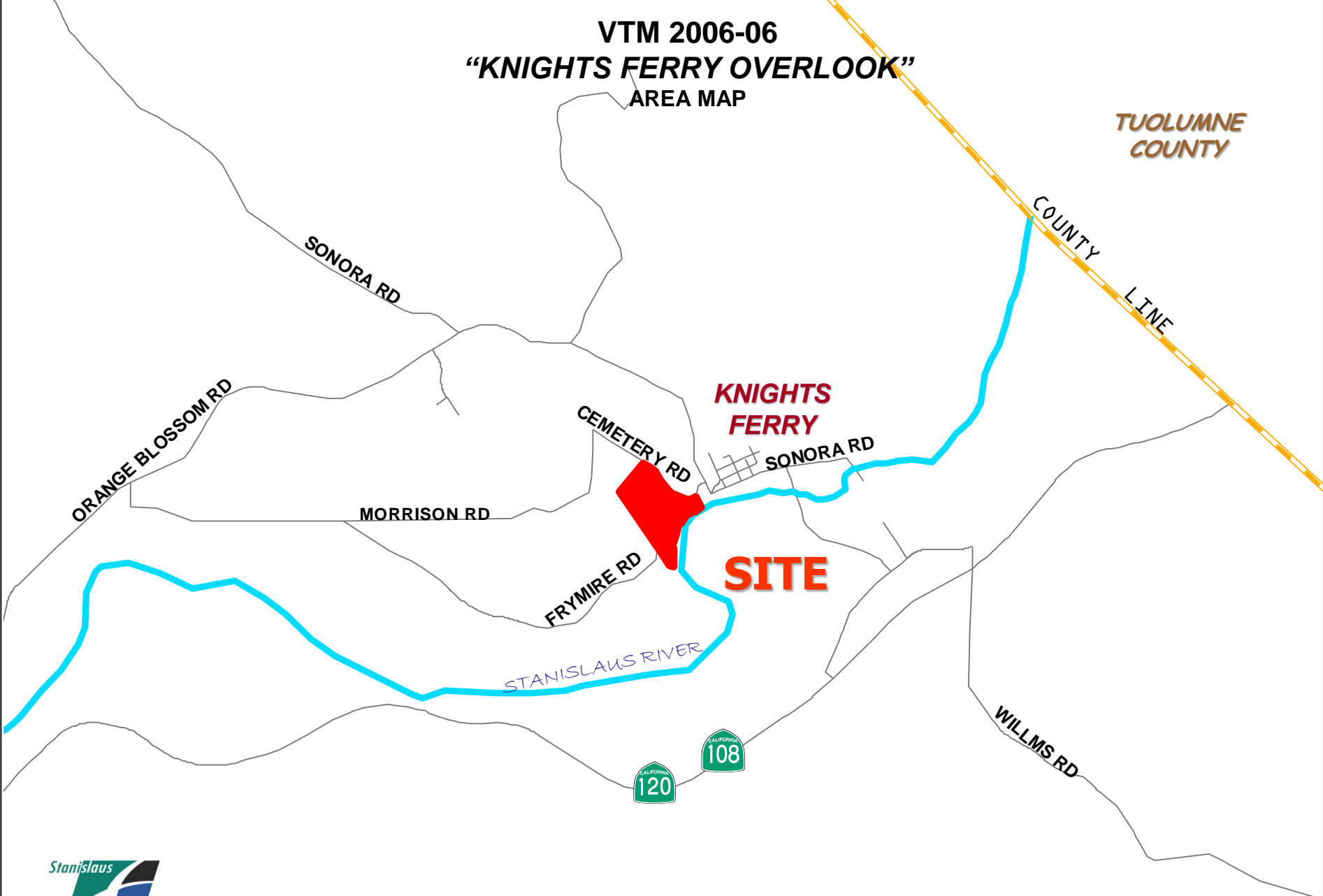
APPEAL OF THE PLANNING COMMISSION'S DECISION ON FEBRUARY 5, 2009 TO DENY VESTING TENTATIVE MAP APPLICATION NO. 2006-06



“KNIGHTS FERRY OVERLOOK”

VTM 2006-06
"KNIGHTS FERRY OVERLOOK"
AREA MAP

**TUOLUMNE
COUNTY**



VTM 2006-06
"KNIGHTS FERRY OVERLOOK"
COMMUNITY PLAN DESIGNATION

AG

HIST

SITE

HIST

AG

AG

24.53

8.69

10.81

6.54

4.72

7.40

7.79

15.97

7.72

11.55

35.56

16.23

25.74

MORRISON RD

CEMETERY RD

SONORA RD

FRYMIRE RD

STANISLAUS RIVER

STANISLAUS RIVER



VTM 2006-06
"KNIGHTS FERRY OVERLOOK"
GENERAL PLAN DESIGNATION

AG

HIST

SITE

HIST

AG

AG

24.53

8.69

10.81

6.54

4.72

7.40

7.79

15.97

7.72

11.55

35.56

16.23

25.74

MORRISON RD

CEMETERY RD

SONORA RD

FRYMIRE RD

STANISLAUS RIVER

STANISLAUS RIVER



VTM 2006-06
"KNIGHTS FERRY OVERLOOK"
ZONING DESIGNATION

A-2-5

H-S

SITE

H-S

A-2-40

MORRISON RD

CEMETERY RD

SONORA RD

FRYMIRE RD

STANISLAUS RIVER

STANISLAUS RIVER

24.53

8.69

10.81

6.54

4.72

7.40

7.79

15.97

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A-2-5

7.72

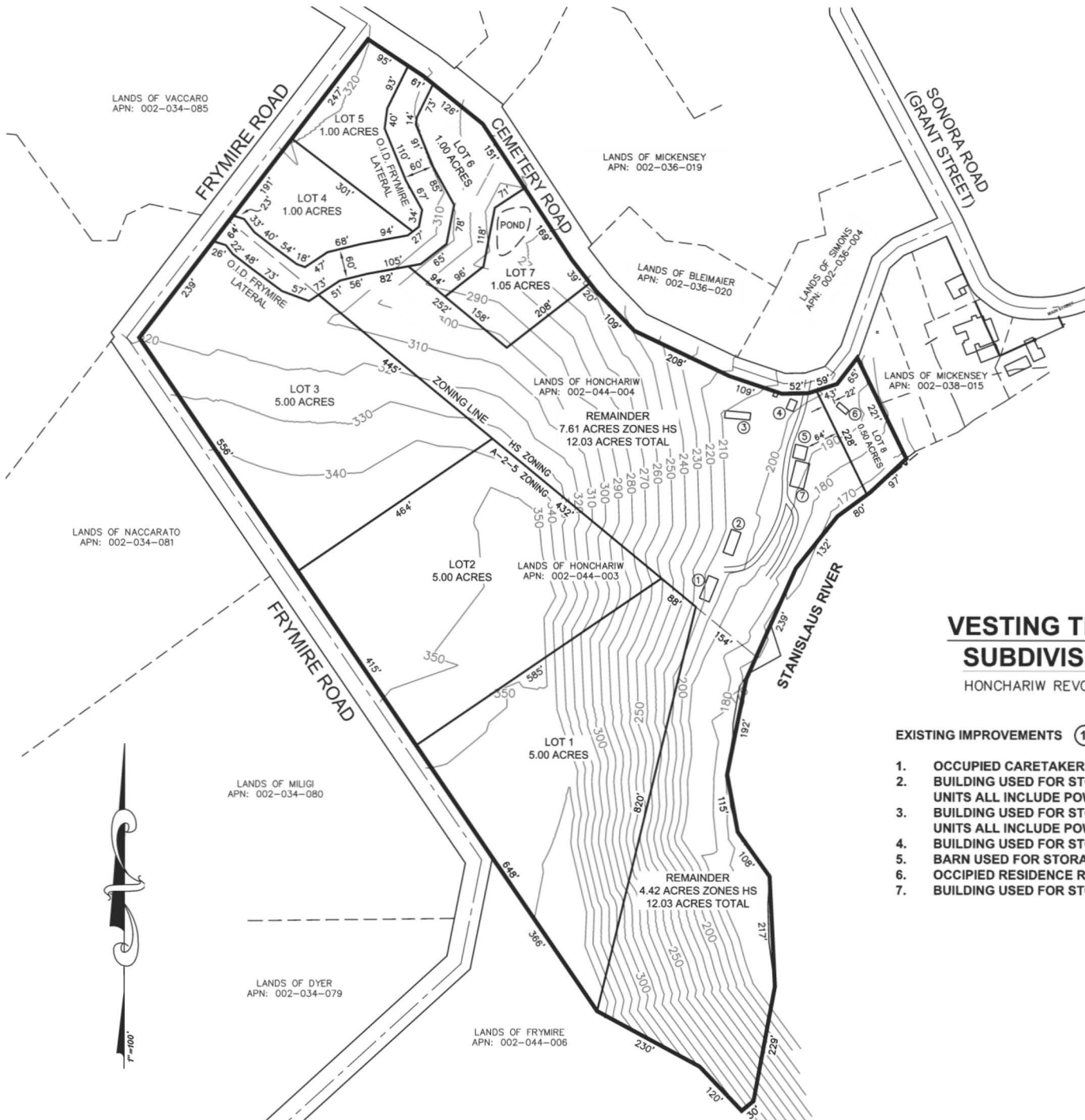
35.56

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SITE





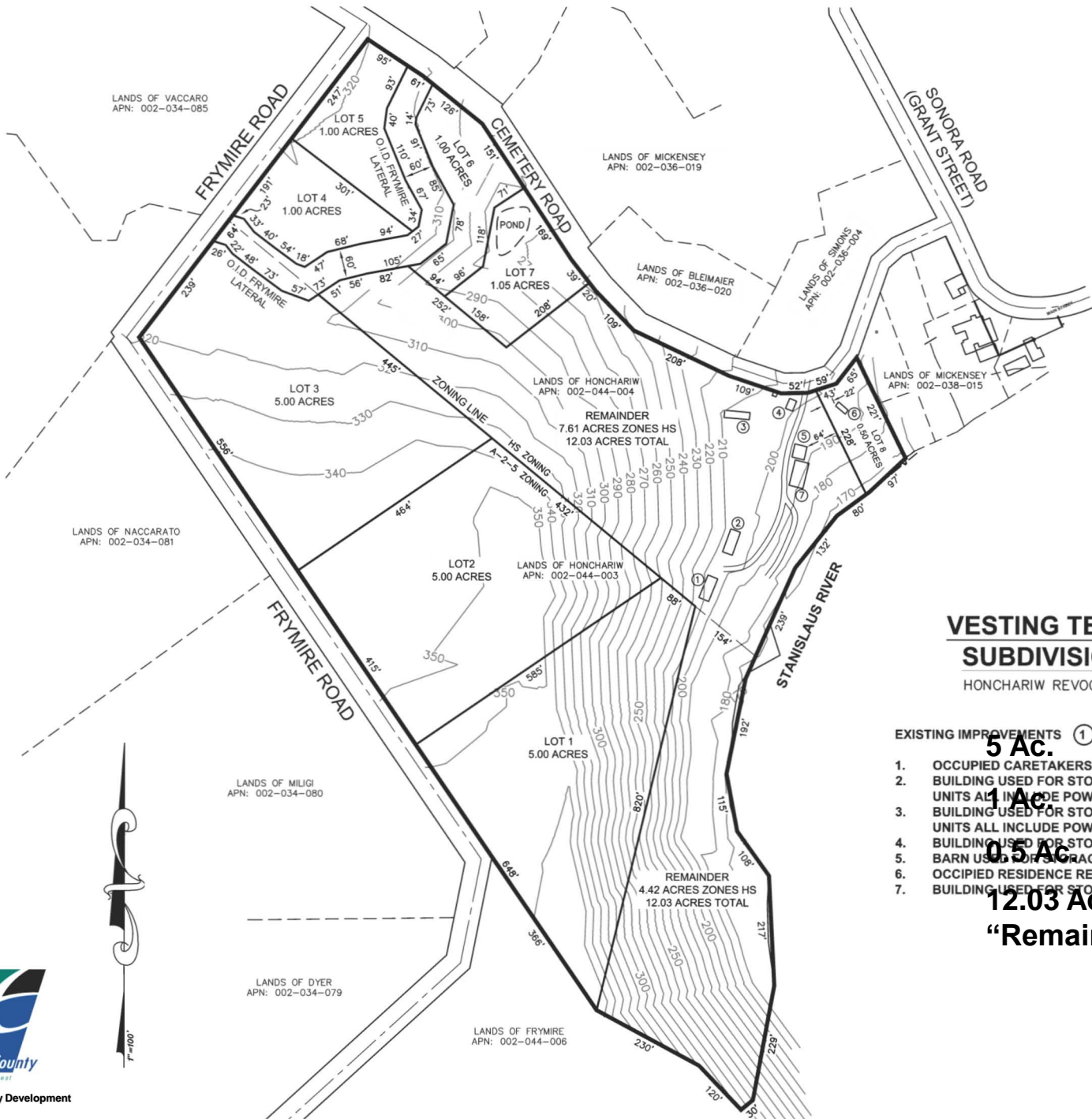
VESTING TENTATIVE SUBDIVISION MAP

HONCHARIW REVOCABLE TRUST

EXISTING IMPROVEMENTS ①

1. OCCUPIED CARETAKERS RESIDENCE W/ POWER & PLUMBING
2. BUILDING USED FOR STORAGE BUILT AS RESORT
UNITS ALL INCLUDE POWER & PLUMBING
3. BUILDING USED FOR STORAGE BUILT AS RESORT
UNITS ALL INCLUDE POWER & PLUMBING
4. BUILDING USED FOR STORAGE W/ POWER & PLUMBING
5. BARN USED FOR STORAGE HAS MULTIPLE POWER
6. OCCUPIED RESIDENCE REMODELED IN 2003
7. BUILDING USED FOR STORAGE W/ POWER & PLUMBING





**VESTING TENTATIVE
SUBDIVISION MAP**
HONCHARIW REVOCABLE TRUST

- EXISTING IMPROVEMENTS
- 1. OCCUPIED CARETAKERS RESIDENCE W/ POWER & PLUMBING
 - 2. BUILDING USED FOR STORAGE BUILT AS RESORT UNITS ALL INCLUDE POWER & PLUMBING
 - 3. BUILDING USED FOR STORAGE BUILT AS RESORT UNITS ALL INCLUDE POWER & PLUMBING
 - 4. BUILDING USED FOR STORAGE W/ POWER & PLUMBING
 - 5. BARN USED FOR STORAGE HAS MULTIPLE POWER
 - 6. OCCUPIED RESIDENCE REMODELED IN 2003
 - 7. BUILDING USED FOR STORAGE W/ POWER & PLUMBING
- 5 Ac. ① Lots 1-3**
1 Ac. ① Lots 4-7
0.5 Ac. ① Lot 8
12.03 Ac.
"Remainder"



VTM 2006-06

“Knights Ferry Overlook”

- **Planning Commission Hearing:**
 - **February 5, 2009**
 - **9 People spoke in opposition**
 - **The Applicant spoke in favor**
- Planning Commission**
- Staff Report – Attachment # 2**
- Minutes – Attachment # 3**

VTM 2006-06

“Knights Ferry Overlook”

- Planning Commission Decision:
 - Opposition
 - Several residents of Knights Ferry spoke in opposition to the project expressing a general concern regarding the impact that the 1-acre lots would have to Knights Ferry

VTM 2006-06

“Knights Ferry Overlook”

- **Planning Commission Decision:**
 - **Opposition**
 - **Impacts of additional septic systems to the Knights Ferry area**
 - **Additional driveways & traffic along Cemetery Road**
 - **No significant issues with the lots located in the A-2-5 zoned area (5 acre lots)**

VTM 2006-06

“Knights Ferry Overlook”

- **Planning Commission Decision:**
 - **Primary issues discussed**
 - **Commission discussion focused on the same issues raised by those in opposition to the project**
 - **The 1 acre lots may not be physically suitable for a septic system, private well, and a single-family dwelling**

VTM 2006-06

“Knights Ferry Overlook”

- Planning Commission Decision:
 - Primary issues discussed
 - Staff’s recommendation was to approve the project as proposed
 - The Commission voted 6-2 (Layman, DeLaMare) to deny the proposed project
 - Commissioners could not make the Subdivision Map Findings, noted as being Finding No. 5 (C, D, E, & F)

VTM 2006-06

“Knights Ferry Overlook”

- **Board of Supervisors – March 24th, 2009**
 - **Board concerned with project site development and potential septic tank/water well issues**
 - **Community Members raised similar issues**
 - **BOS Voted 5-0 to Deny the Appeal**
(O’Brien/Chiesa)

VTM 2006-06

“Knights Ferry Overlook”

Legal Challenge

- **June 15, 2009 – Stanislaus Superior Court held that the County properly denied the application.**
- **The applicant appealed this decision to the CA Court of Appeals, 5th District**

VTM 2006-06

“Knights Ferry Overlook”

Legal Challenge

- November 14, 2011 – 5th Appellate District issued an opinion that the County was required to comply with Gov’t Code §65589.5(j) in denying the project.
- January 24, 2012 – Stanislaus Superior Court issued a Writ of Mandate ordering the Board to vacate it’s denial and reconsider the application.

EXCEPTION REQUEST

- **An Exception was originally part of the applicant's request**
- **Four 1-Acre Lots, located in the H-S Zoning District & K.F.C.S.D. were proposed to be served by Private Wells, not Municipal Water Service**
- **Court took no issue with BOS & PC denial of this portion of the application**

VTM 2006-06

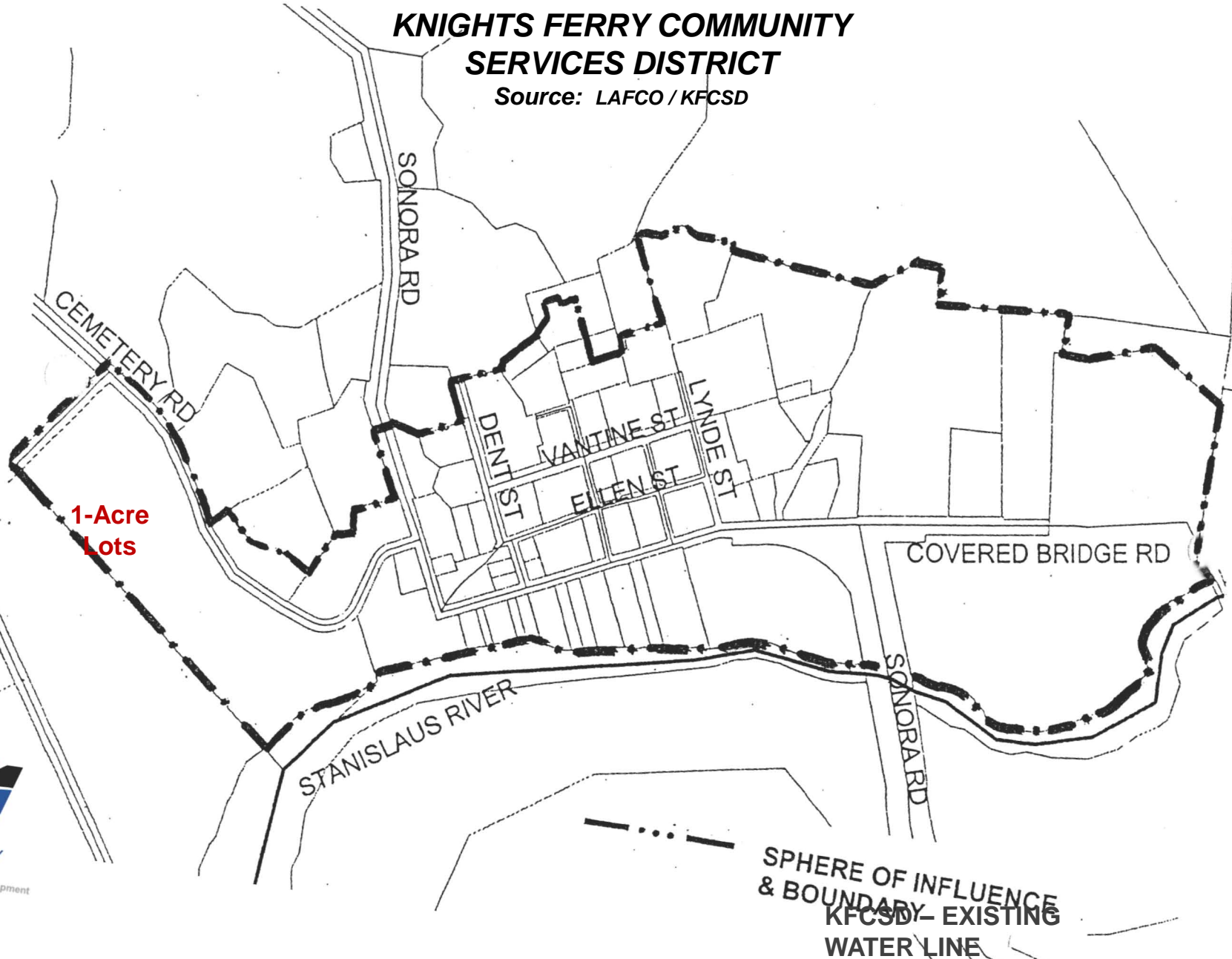
“Knights Ferry Overlook”

Current Issues

- **Water Service to the Four 1-Acre Lots**
 - **Lots will be required to connect to KFCSD Water**
 - **Water Availability**
 - **KFCSD Water Infrastructure Extension**
 - **KFCSD Letter dated May 3rd, 2012**
 - **Infrastructure extension costs will be the applicant’s responsibility (*KFCSD Water Ordinance-1971*)**

KNIGHTS FERRY COMMUNITY SERVICES DISTRICT

Source: LAFCO / KFCSD



VTM 2006-06

“Knights Ferry Overlook”

Current Issues

- **Remainder Parcel**
 - Remainder will be required to connect to KFCSD Water
 - Gov't Code §66424.6 requires specific findings be made in order to condition a Remainder parcel
- **River Access**
 - Public Access to the River may need to be provided by the applicant (*Gov't Code §66478.1- .14*)
 - Unless Public Access exists within a reasonable distance

VTM 2006-06

“Knights Ferry Overlook”

Gov't Code §66424.6

The fulfillment of construction requirements for improvements, on the designated "Remainder" parcel, is necessary for reasons of:

- 1. The public health and safety; or**
- 2. The required construction is a necessary prerequisite to the orderly development of the surrounding area.**

VTM 2006-06

“Knights Ferry Overlook”

Board Actions:

1. Uphold the Commission’s Decision, deny the Appeal, and determine if the project complies with applicable, objective GP & Zoning criteria as required by §65589.5(j)

VTM 2006-06

“Knights Ferry Overlook”

Board Actions: §65589.5(j)

If the BOS determines the project does not comply with applicable, objective GP & Zoning criteria, the Board must make specific findings that both of the following conditions exist:

VTM 2006-06

“Knights Ferry Overlook”

Board Actions: §65589.5(j)

(a) the project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density; and

VTM 2006-06

“Knights Ferry Overlook”

Board Actions: §65589.5(j)

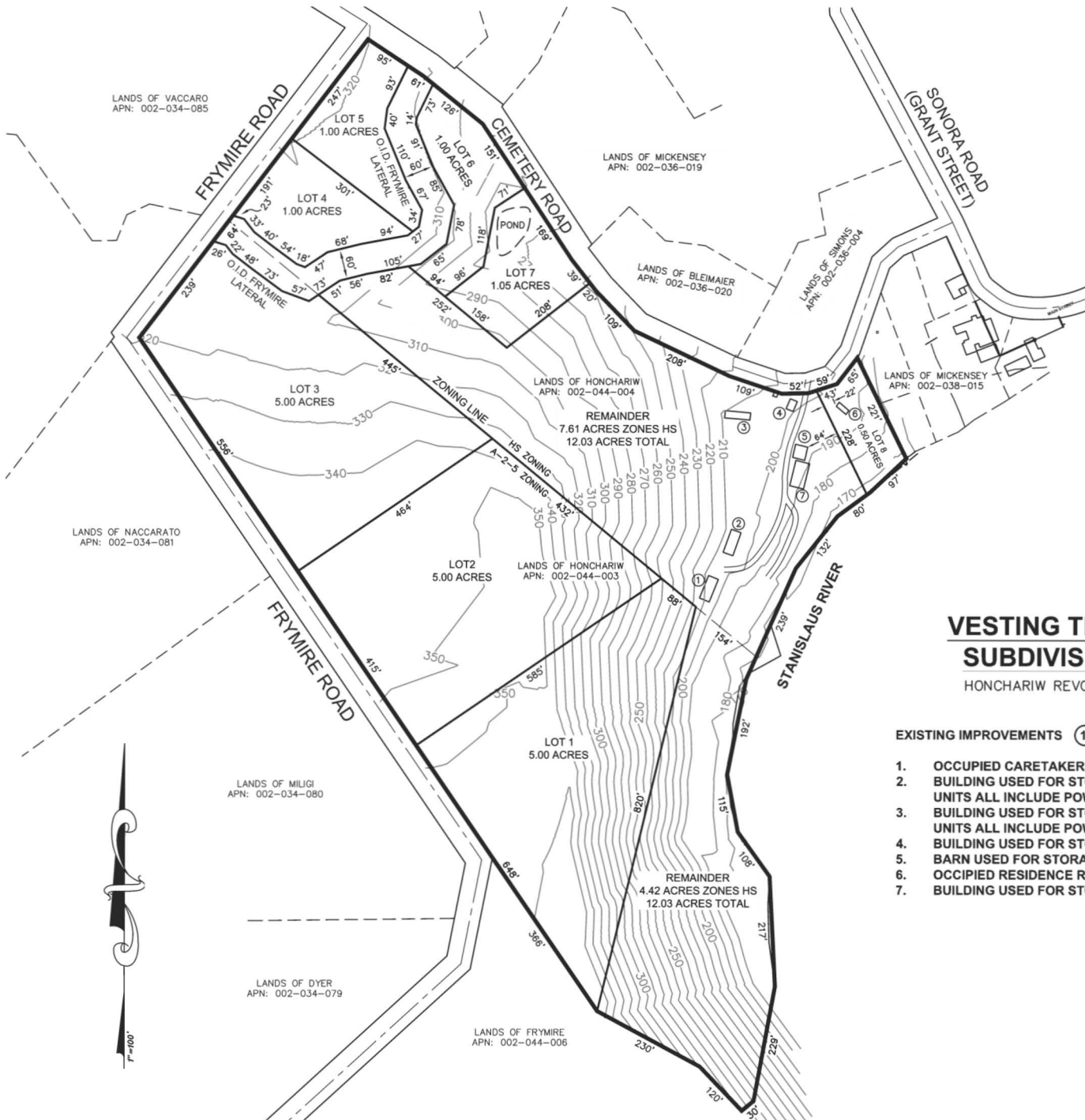
(b) there is no feasible method to satisfactorily mitigate or avoid the adverse impact identified, other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

VTM 2006-06

“Knights Ferry Overlook”

Board Actions:

2. Approve the Appeal and as such Approve the Request, outlined as Actions 1-6 (Pages 2 & 3 of Board Report)



VESTING TENTATIVE SUBDIVISION MAP

HONCHARIW REVOCABLE TRUST

EXISTING IMPROVEMENTS ①

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VTM 2006-06

“Knights Ferry Overlook”

No. 41 (Part 1 of 2)

Applicant’s proposed tentative map does not identify public access to the Stanislaus River as required by Government Code sections 66478.1 through 66478.14. Pursuant to sections 66478.4 and 66478.5, Applicant shall provide, or have available, reasonable public access by fee or easement from a public highway to that portion of the bank of the river, and a public easement along the riverbank, bordering or lying within the proposed subdivision. Pursuant to section 66478.4, reasonable public access shall be determined by the County. Pursuant to section 66478.5, the County shall determine the width and character of the public easement to achieve reasonable public use of the river consistent with public safety. The approved access shall be shown on the Final Map in compliance with Map Act section 66478.6.



VTM 2006-06

“Knights Ferry Overlook”

No. 41 *(Part 2 of 2)*

For purposes of this project, County considers “reasonable access” under section 66478.4, to mean an access of not less than 10 feet in width to the bank of the river and “public easement” under section 66478.5, to mean a public easement of 10 feet in width above the high-water mark, with both access and easement suitable for pedestrian, bicycle, equestrian or other non-motorized transport of persons, and for access to the river for small boats. The approved river access shall connect between Cemetery Road and the portion of the riverbank lying within the proposed subdivision; and the public easement shall lie along the entire portion of the riverbank bordering or lying within the proposed subdivision.”

VTM 2006-06

“Knights Ferry Overlook”

§66478.8 Finding that Reasonable Public Access is Available

Nothing in Sections 66478.1 to 66478.10, inclusive, of this article shall require a local agency to disapprove either a tentative or final map solely on the basis that the reasonable public access otherwise required by this article is not provided through or across the subdivision itself, if the local agency makes a finding that the reasonable public access is otherwise available within a reasonable distance from the subdivision and identifies the location of the reasonable public access.

The finding shall be set forth on the face of the tentative or final map.

VTM 2006-06

“Knights Ferry Overlook”

§66478.4 Local Agencies must require Public Access

(a) No local agency shall approve either a tentative or a final map of any proposed subdivision to be fronted upon a public waterway, river, or stream which does not provide, or have available, reasonable public access by fee or easement from a public highway to that portion of the bank of the river or stream bordering or lying within the proposed subdivision.

VTM 2006-06

“Knights Ferry Overlook”

§66478.4 Local Agencies must require Public Access

(b) Reasonable public access shall be determined by the local agency in which the proposed subdivision is to be located. In making the determination of what shall be reasonable access, the local agency shall consider all of the following:

- (1) That access may be by highway, foot trail, bike trail, horse trail, or any other means of travel.**
- (2) The size of the subdivision.**
- (3) The type of riverbank and the various appropriate recreational, educational, and scientific uses, including, but not limited to, swimming, diving, boating, fishing, water skiing, scientific collection, and teaching.**
- (4) The likelihood of trespass on private property and reasonable means of avoiding these trespasses.**

TM 2006-06
“KNIGHTS FERRY OVERLOOK”
CEMETERY RD – South



TM 2006-06 & EXC 2008-02
“KNIGHTS FERRY OVERLOOK”
FRYMIRE ROAD INTERSECTION - West



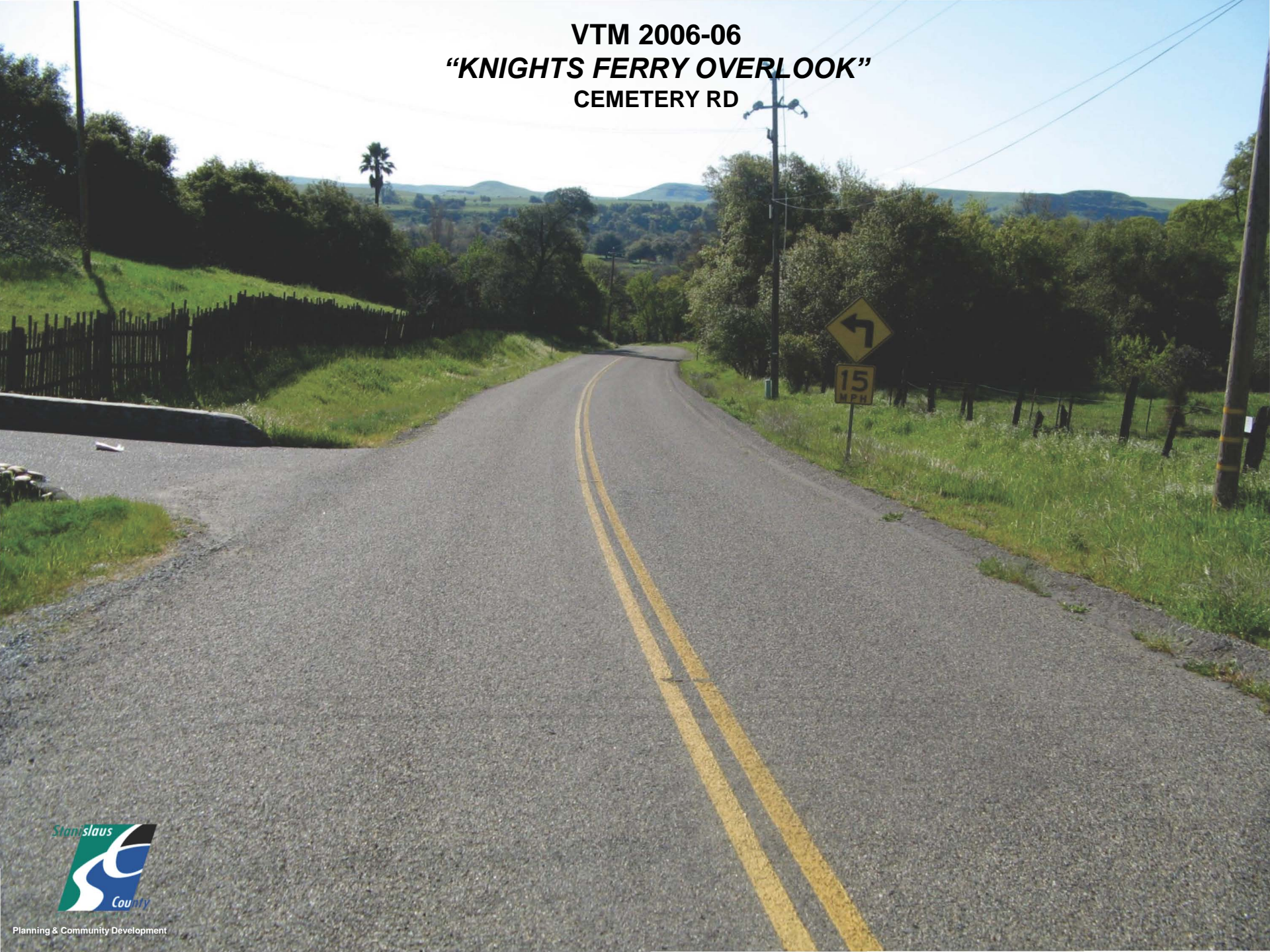
TM 2006-06 & EXC 2008-02
“KNIGHTS FERRY OVERLOOK”
LOTS 6 & 7



TM 2006-06 & EXC 2008-02
"KNIGHTS FERRY OVERLOOK"
CEMETERY RD - South



VTM 2006-06
“KNIGHTS FERRY OVERLOOK”
CEMETERY RD



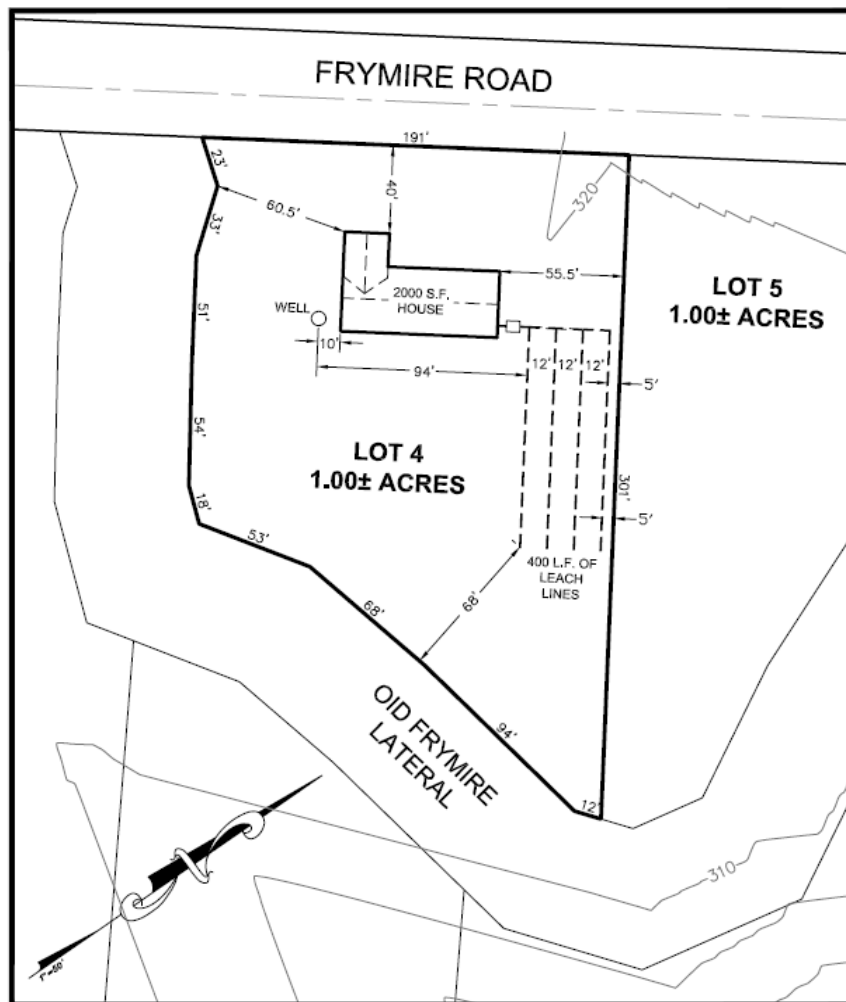
TM 2006-06
“KNIGHTS FERRY OVERLOOK”
A-2-5 LOTS – 5 Acres



VTM 2006-06

"KNIGHTS FERRY OVERLOOK"

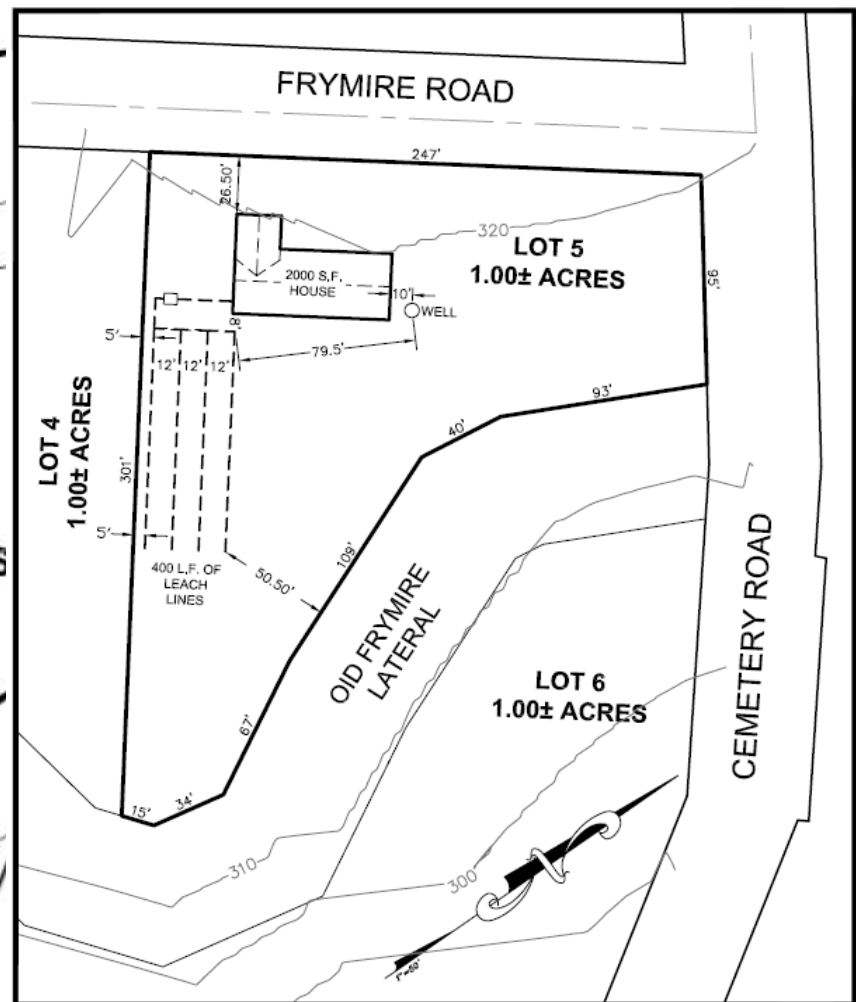
LOTS 4 & 5 - EXAMPLE LAYOUT



GK Giuliani & Kull, Inc.
 Engineers • Planners • Surveyors
 440 S. Yosemite Avenue, Suite A, Oakdale, CA 95361
 (209) 847-8726 Fax (209) 847-7323
 Auburn • Oakdale • San Jose

SCALE: 1" = 50'
 DRAWN: K. COLE
 CHECKED: WFK
 JOB NO.: 05164
 SHEET: 1 OF 1

**PROPOSED LOT 4
 EXAMPLE LAYOUT**
 OAKDALE, CALIFORNIA

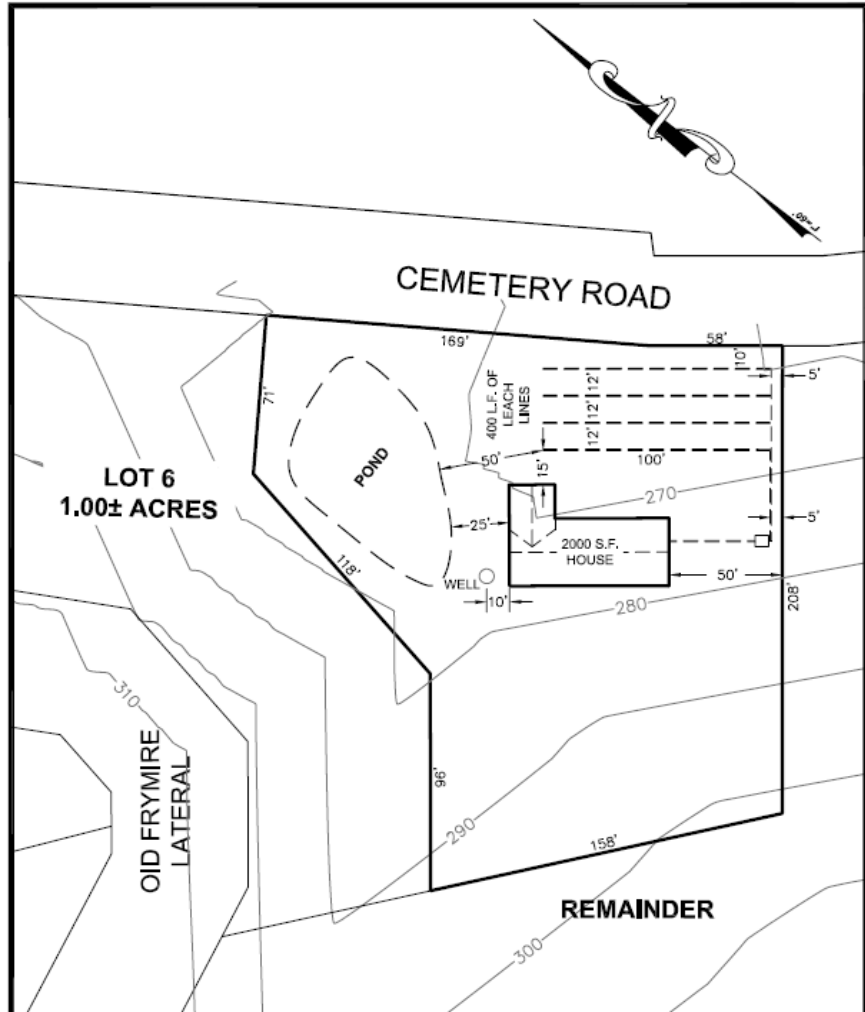
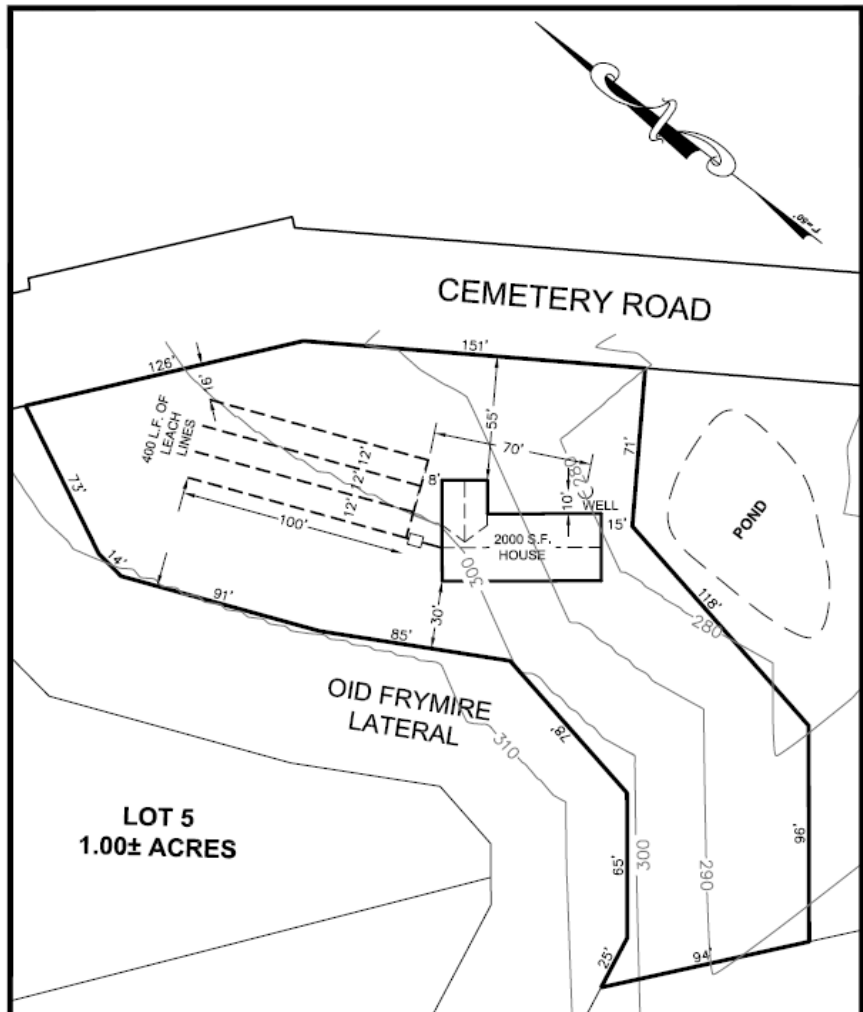


GK Giuliani & Kull, Inc.
 Engineers • Planners • Surveyors
 440 S. Yosemite Avenue, Suite A, Oakdale, CA 95361
 (209) 847-8726 Fax (209) 847-7323
 Auburn • Oakdale • San Jose

SCALE: 1" = 50'
 DRAWN: K. COLE
 CHECKED: WFK
 JOB NO.: 05164
 SHEET: 1 OF 1

**PROPOSED LOT 5
 EXAMPLE LAYOUT**
 OAKDALE, CALIFORNIA

VTM 2006-06
 "KNIGHTS FERRY OVERLOOK"
 LOTS 6 & 7 - EXAMPLE LAYOUT



Giuliani & Kull, Inc.
 Engineers • Planners • Surveyors
 440 S. Yosemite Avenue, Suite A, Oakdale, CA 95361
 (209) 847-8726 Fax (209) 847-7323
 Auburn • Oakdale • San Jose

SCALE: 1" = 50'
 DRAWN: K. COLE
 CHECKED: WFK
 JOB NO.: 05164
 SHEET: 1 OF 1

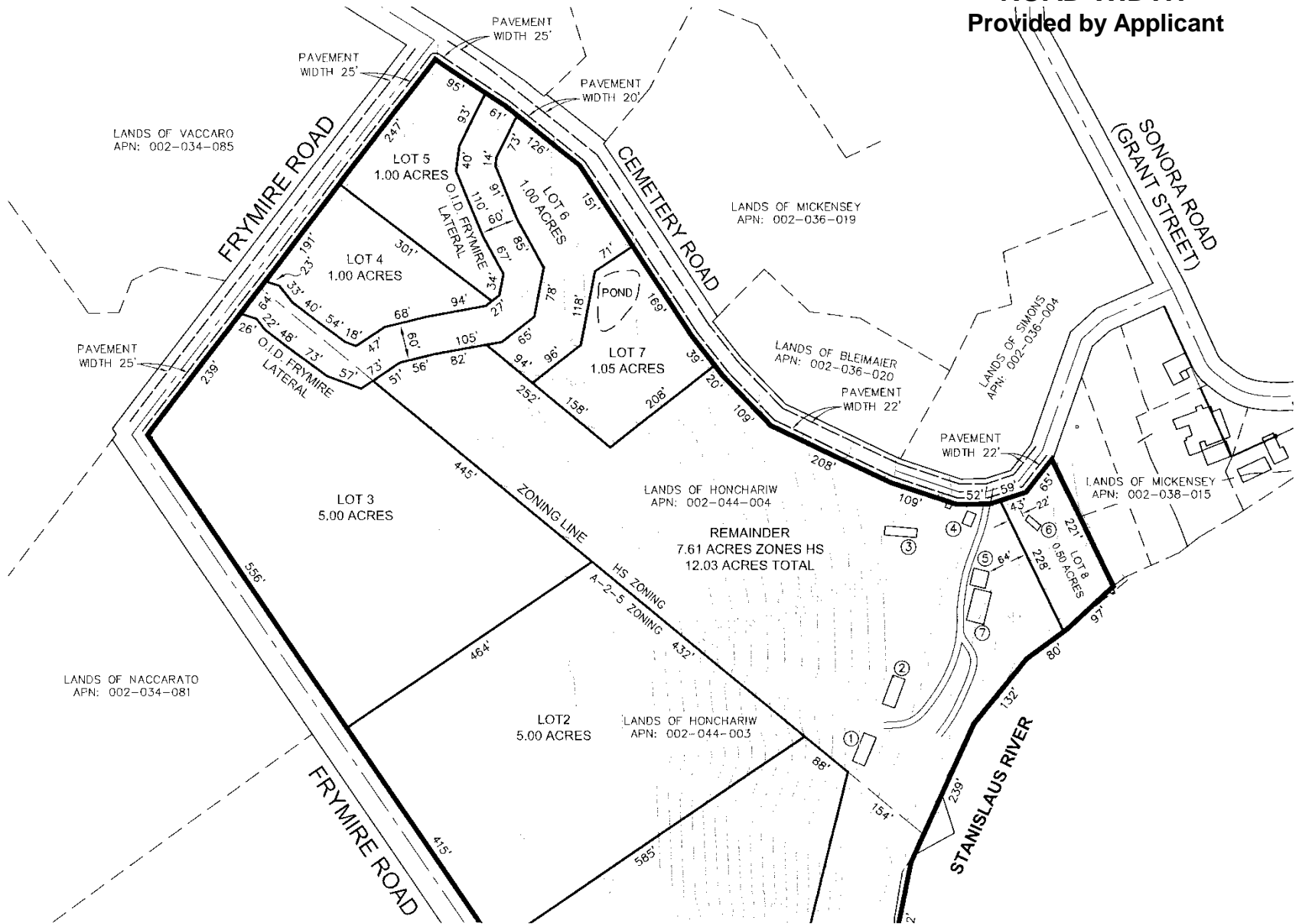
**PROPOSED LOT 6
 EXAMPLE LAYOUT**
 OAKDALE, CALIFORNIA

Giuliani & Kull, Inc.
 Engineers • Planners • Surveyors
 440 S. Yosemite Avenue, Suite A, Oakdale, CA 95361
 (209) 847-8726 Fax (209) 847-7323
 Auburn • Oakdale • San Jose

SCALE: 1" = 50'
 DRAWN: K. COLE
 CHECKED: WFK
 JOB NO.: 05164
 SHEET: 1 OF 1

**PROPOSED LOT 7
 EXAMPLE LAYOUT**
 OAKDALE, CALIFORNIA

VTM 2006-06
“KNIGHTS FERRY OVERLOOK”
ROAD WIDTH
 Provided by Applicant



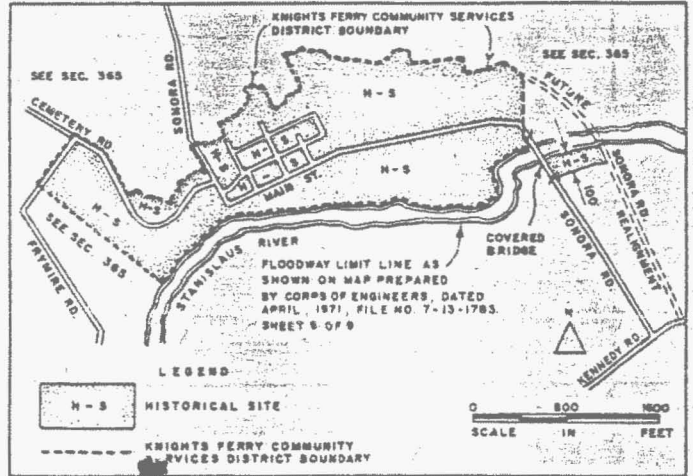
LEGAL NOTICE

ORDINANCE NO. N.S. 390
AN ORDINANCE AMENDING TITLE 9, CHAPTER 3, OF THE ORDINANCE CODE OF STANISLAUS COUNTY, BY ADDING SECTIONAL DISTRICT MAP NO. 9-110.461 THERETO FOR THE PURPOSE OF REZONING THE KNIGHTS FERRY AREA.

The Board of Supervisors of the County of Stanislaus, State of California, do ordain as follows:

Section 1. Sectional District Map No. 9-110.461 is added to Title 9, Chapter 3, of the Ordinance Code of Stanislaus County to appear as follows:

SECTIONAL DISTRICT MAP NO. 9 - 110 . 461



Section 2. This Ordinance shall take effect and be in full force thirty (30) days from and after the date of its passage and before the expiration of fifteen (15) days after its passage it shall be published once, with the names of the members voting for and against same, in the Oakdale Leader, a newspaper published in said County of Stanislaus, State of California.

Upon motion of Supervisor Fahey and second by Supervisor Paul the foregoing ordinance was passed and adopted at a regular meeting of the Board of Supervisors of the County of Stanislaus, State of California, this 29th day of August, 1972, by the following called vote:

AYES: Supervisors: Fahey, Paul; Thurman, Vander Wall, and Chairman Franzen.

NOES: Supervisors: None

ABSENT: Supervisors: None

James Franzen
Chairman of the Board of Supervisors
of the County of Stanislaus, State
of California.

ATTEST:
STEVE R. NELSON, County Clerk and
Ex-Officio Clerk of the Board of
Supervisors of the County of
Stanislaus, State of California.
By Lloyd R. Brouillard
Deputy
Published September 6, 1972

EFFECTIVE: 28 Sept 72

PREVIOUS MAP: none



SUBDIVISION FINDINGS

- (c) The site is physically suitable for the type of development.

- (d) The site is physically suitable for the proposed density of development.

SUBDIVISION FINDINGS

- (e) The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

- (f) The design of the subdivision or type of improvements are not likely to cause serious public health problems.

Knights Ferry Overlook:

May 15, 2012

Housing Accountability Act

- **Court found that Knights Ferry Overlook qualifies for review under the California Housing Accountability Act, commonly known as the “Anti-NIMBY Act”, designed to help curb the skyrocketing costs of housing in California.**
- **Legislature found that part of the reason for the high costs was that local agencies inappropriately disapproved desirable housing subdivisions in the face of NIMBY opposition under typical subjective standards of local subdivision laws.**

Operation of Act

- **Broadly, housing project in compliance with objective requirements of local general plan and zoning standards cannot be disapproved, or density reduced, unless the project would have a significant, adverse impact upon public health or safety that cannot be eliminated or mitigated.**
- **This overrides other state and local subdivision laws, eg, findings requirements of local ordinance.**
- **Court found that no such findings made here. They cannot be made.**

Legal Standard

- **Under Government Code Sec. 65589.5(j), when housing development complies with “applicable, objective general plan and zoning standards and criteria,” denial of subdivision, or reduction in density, requires “written findings supported by substantial evidence on the record” that both of the following conditions exist:**
 - **(1) “... project would have a specific, adverse impact upon the public health or safety [unless disapproved or approved upon reduced density]’, and**
 - **(2) “There is no feasible method to satisfactorily mitigate or avoid the adverse impact ... other than disapproval ... [or approval at lower density].”**

Legal Standard

- **“‘Specific, adverse impact’ means a “significant, quantifiable, direct and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions...”**
- **Without such a finding, qualifying project cannot be disapproved.**

Qualification of Knights Ferry Overlook

- **Knights Ferry Overlook complies with “applicable, objective general plan and zoning standards and criteria”:**
 - **Planning Staff has consistently found full compliance, without any challenge.**
 - **County did not challenge in the litigation.**

General Plan

- In fact, disapproval flies in the face of General Plan requirements for historical zone: “For residential uses ... building intensity should normally be from one to seven units per net acre with a population density of two to 25 persons per net acre.” (Plan, p1-28).
- Staff determined that of the 70 lots with the Knights Ferry H-S, 57 are under 1-acre.

Knights Ferry Community Plan

- **The BOS adopted a community plan for Knights Ferry on September 14, 1976, providing that the property is zoned for development: “Land within the Community Services District is designated on the Land Use map of the General Plan and zoned for development.” (Plan, p4)**
- **Plan stressed that it was “in no way intended to discourage new development within the historically designated area.” (Plan, p2)**
- **Construction is governed by design standards of the community to be compatible with the character of the community. (Plan, p2)**

No Specific, Adverse Impact

- **The record shows no “specific, adverse” impact, upon public health or safety, even with well water:**
 - **Opposition based on conjectures without any expert opinion or analysis of dangers to public health or safety.**
 - **Public Works and Department of Environmental Resources were provided by Staff with KF MAC comments and were satisfied that Conditions of Approval were adequate to address any concerns (BOS Staff Report, p6).**
 - **In fact, County counsel forced to concede at oral argument before Court of Appeal: “The findings that are required ... you have to find a health and safety issue and that it can't be mitigated, Well, [the] project is not going to raise any particular health and safety issues”.**

Application Update

- **Changing circumstances since 2009 have eliminated any water and septic system concerns:**
- **KFCSD now has water available to serve the proposed 1-acre lots within the District.**
- **OID is abandoning the Frymire Lateral near the 1-acre lots.**

KFCSD Public Water

- **Apparently as a result of new large storage tank, KFCSD now has ample supply of water to serve the project, including, as requested by Staff, the remainder parcel, as well as any foreseeable hook-ups in the District.**
- **Petitioner has submitted application for water to the KFCSD and is cooperating to design extension of main. Will comply with its established requirements and practices.**
- **With public water, lots could be under 1/2-acre in size.**

Septic Systems

- Even with well water, proposed 1-acre lots were deemed suitable by DER for septic system.
- No sewer system in KF, so much smaller lots, sometimes on or close to river, have operated without problems. In recent years, there have been lot splits within the District into smaller parcels, including next door along the river.

OID Ditch

- **This stretch of the OID irrigation ditch (Frymire Lateral) is being abandoned in favor of a new water pipeline. OID is now acquiring easements for construction.**
- **This will eliminate unfortunate design constraints for the lots imposed by OID claim / requirements to exclude 2.14 acres (60' corridor around canal) --- acquiesced by County even though County surveyor rejected the claim. Lots could not include any portion of corridor and lot lines could not cross. Litigation suspended.**
- **Will eliminate any concerns of water quality from proximity of ditch to septic systems and wells.**

STANISLAUS COUNTY
DEPARTMENT OF PLANNING AND
COMMUNITY DEVELOPMENT
1010 10th Street, Suite 3400
Modesto, California 95354

NOTICE OF EXEMPTION

Project Title: Time Extension for Vesting Tentative Subdivision Map No. PLN2006-06 – Knights Ferry Overlook

Applicant Information: Nick Honchariw, Trustee of Honchariw Family Trust

Project Location: Southeast corner of Cemetery and Frymire Roads, in the Knights Ferry area. APN: 002-044-003 and 002-044-004

Description of Project: Request for a one year time extension for Vesting Tentative Subdivision Map (VTSM) Application No. PLN2006-06 – Knights Ferry Overlook. The approved VTSM subdivided a 33.70 acre parcel into 8 lots ranging from 0.50 acres and 5 acres in size and a 12.03 remainder parcel. The extension is being requested to fulfill conditions of approval.

Name of Agency Approving Project: Stanislaus County Planning Commission

Lead Agency Contact Person: Jeremy Ballard, Associate Planner

Telephone: (209) 525-6330

Exempt Status: (check one)

- Ministerial (Section 21080(b)(1); 15268);
- Declared Emergency (Section 21080(b)(3); 15269(a));
- Emergency Project (Section 21080(b)(4); 15269(b)(c));
- Categorical Exemption. State type and section number: _____
- Statutory Exemptions. State code number: _____
- General Exemption.

Reasons why project is exempt: This project will extend the final recordation of the subdivision map by one year, and there is no evidence in the record that this action will have any direct physical impact on the environment.

June 25, 2018
Dated

Signature of File
Jeremy Ballard
Associate Planner

SUMMARY OF RESPONSES FOR ENVIRONMENTAL REVIEW REFERRALS

PROJECT: TE FOR VTSM PLN2006-06 - KNIGHTS FERRY OVERLOOK

REFERRED TO:			RESPONDED		RESPONSE			MITIGATION MEASURES		CONDITIONS	
	2 WK	PUBLIC HEARING NOTICE	YES	NO	WILL NOT HAVE SIGNIFICANT IMPACT	MAY HAVE SIGNIFICANT IMPACT	NO COMMENT NON CEQA	YES	NO	YES	NO
CA DEPT OF FISH & WILDLIFE	X	X		X							
CA DEPT OF TRANSPORTATION DIST 10	X	X		X							
CA OPR STATE CLEARINGHOUSE	X	X		X							
CA RWQCB CENTRAL VALLEY REGION	X	X	X				X		X		X
COMMUNITY SERVICES / SANITARY DIST: KNIGHTS FERRY	X	X	X				X		X		X
COOPERATIVE EXTENSION	X	X		X							
FIRE PROTECTION DIST: OAKDALE RURAL	X	X		X							
HOSPITAL DISTRICT: OAK VALLEY	X	X		X							
IRRIGATION DISTRICT: OID	X	X	X				X		X		X
MOSQUITO DISTRICT: EASTSIDE	X	X		X							
MT VALLEY EMERGENCY MEDICAL	X	X		X							
MUNICIPAL ADVISORY COUNCIL: KNIGHTS FERRY	X	X	X				X		X		X
PACIFIC GAS & ELECTRIC	X	X		X							
SAN JOAQUIN VALLEY APCD	X	X		X							
SCHOOL DISTRICT 1: KNIGHTS FERRY UNION	X	X		X							
SCHOOL DISTRICT 2: OAKDALE JOINT UNIFIED	X	X		X							
STAN CO AG COMMISSIONER	X	X		X							
STAN CO BUILDING PERMITS DIVISION	X	X		X							
STAN CO CEO	X	X		X							
STAN CO DER	X	X		X							
STAN CO ERC	X	X		X							
STAN CO FARM BUREAU	X	X		X							
STAN CO HAZARDOUS MATERIALS	X	X		X							
STAN CO PARKS & RECREATION	X	X		X							
STAN CO PUBLIC WORKS	X	X		X							
STAN CO SHERIFF	X	X		X							
STAN CO SUPERVISOR DIST 1:OLSEN	X	X		X							
STAN COUNTY COUNSEL	X	X		X							
STANISLAUS FIRE PREVENTION BUREAU	X	X		X							
STANISLAUS LAFCO	X	X		X							
SURROUNDING LAND OWNERS	X	X		X							
TELEPHONE COMPANY: ATT	X	X		X							
US ARMY CORPS OF ENGINEERS	X	X		X							
US FISH & WILDLIFE	X	X		X							
US MILITARY AGENCIES											
(SB 1462) (5 agencies)	X	X		X							