

SUMMIT ROAD DRIVEWAY EASEMENT

Recommended Action: Adopt Resolution 17-03-05 (Attachment 1) authorizing the conveyance of an easement through Conservancy-owned land (Placer County Assessor's Parcel Number [APN] 092-072-009) providing driveway access to adjoining privately owned land (Placer County APN 092-072-012).

Location: 3975 Summit Road is within the Fulton Acres Subdivision in Placer County, approximately one and a half miles southwest of Carnelian Bay off Old County Road and a mile west of the Lake Tahoe shoreline (Attachment 2).

Fiscal Summary: The proposed authorization would result in incidental staff costs related to preparing and recording the easement. The owner of the private property is responsible for the cost of the engineering and surveying for the easement legal description and site plan or map.

Overview

Description of Recommended Action

Staff recommends the Conservancy convey an easement through Conservancy-owned land (APN 092-072-009) to provide driveway access to adjoining privately-owned land (APN 092-072-012) (Attachment 3). The proposed easement addresses the landowners' long-standing and continuing use of the unpaved driveway and resolves erosion and water quality issues by requiring Best Management Practices (BMPs) along with proposed driveway improvements.

The unpaved driveway originates at Summit Road and crosses another private parcel (APN 092-072-007) before entering the Conservancy's property. The landowner will need to obtain permission to use APN 092-072-007 before the easement from the Conservancy is conveyed.

The recommended easement is non-exclusive. The Conservancy reserves the right to continue to use the driveway for its access to the entirety of the Conservancy land for management purposes. The easement requires ongoing maintenance of the driveway BMP's, which will be designed and constructed consistent with local and regional permit requirements. The easement contains liability protection for the Conservancy through indemnification and hold harmless provisions for personal injury or property damage resulting from private use and requires the landowner to notify potential tenants of the easement and the Conservancy land ownership.

The survey of the easement description and map or site plan, and required permits, approvals, or fees will be obtained and paid for by the private landowner prior to conveyance of the easement. The landowner will provide copies of all permits and plans to staff for review. Construction of all BMPs and proposed driveway improvements, such as paving, will occur after the easement has recorded. The landowner will provide evidence of insurance upon written request.

History

In May 1988, the Board authorized the acquisition of APN 092-072-009, along with 42 other parcels, under the Environmentally Sensitive Lands Program. At the time of purchase, the parcel was classified as high hazard land, as it is located on a steep slope and subject to a high risk of erosion if disturbed by new development.

Prior to acquisition, the Conservancy performed a pre-acquisition inspection, which noted periodic use by the adjacent landowner for driveway access. Although the inspection also noted the driveway should be blocked after acquisition, staff's May 1988 recommendation to the Board did not include a requirement that the driveway be removed.

After acquiring the property, the Conservancy did not block the driveway and the private use continued unabated. Over the course of several conversations and site visits, however, the landowner demonstrated to the satisfaction of staff that he used the driveway continually for at least 14 years prior to the Conservancy acquisition.

The landowner had purchased the adjoining private property in 1971, used the driveway to construct a single family residence in the early to mid-1970's, and continued to use the driveway for access at least on a periodic basis until he sold the home to the current owner in the fall of 2013. The current owner uses the driveway regularly. The home has a direct alternative driveway access to Summit Road, but this

access is very short, steep, and difficult to use in the winter. The access through the Conservancy's parcel is substantially longer so it is less steep.

Due to the long-term nature of the former owner's use prior to the Conservancy's acquisition and the current landowner's plan to improve the driveway, staff have not taken any additional steps to prohibit access.

The Tahoe Regional Planning Agency (TRPA) has identified the unpaved dirt driveway as a water quality and erosion issue on multiple occasions. The unpaved driveway originates at Summit Road and crosses another private parcel (APN 092-072-007) before entering the Conservancy's property. In 2007, as part of an Allocation Assignment Transfer Permit to the owners of APN 092-072-007, the TRPA required the owners to block the driveway with boulders at the entrance. A private contractor installed boulders at the driveway intersection with Summit Road in 2007. An unknown party removed the boulders shortly after installation.

In 2008, TRPA staff contacted Conservancy staff to discuss a potential Cease and Desist Order to the owner of APN 092-072-012, but TRPA did not issue a Cease and Desist Order at that time, for reasons unknown to current Conservancy staff. In the summer of 2013, TRPA issued a new Cease and Desist Order to the previous owner of the parcel. The property was sold after the Cease and Desist Order was issued. The current owner contacted the Conservancy to begin a process of establishing a driveway easement and obtaining permits for the improvements, in lieu of initiating legal action to perfect a right to cross through the Conservancy property and the other adjacent parcel (APN 092-072-007).

Financing

As stated above, the current landowner is responsible for all costs associated with securing the easement and constructing the driveway improvements, such as paving and slope stabilization, and BMPs.

Authority

Consistency with the Conservancy's Enabling Legislation

The Board's approval of the easement is consistent with the Conservancy's enabling legislation. Specifically, Government Code section 66907.8 authorizes the Conservancy to transfer or convey any real property interest to fulfill the purposes of its enabling legislation including protection of the natural environment and to promote State

planning priorities. Section 66907.9 authorizes the Conservancy to initiate, negotiate, and participate in agreements for the management of land under its ownership and control with private parties. Government Code section 66907.10 authorizes the Conservancy to improve and develop acquired lands for a variety of purposes, including protection of the natural environment.

Consistency with the Conservancy's Strategic Plan

The recommended action is consistent with the Strategic Plan by supporting the implementation of Total Maximum Daily Load (TMDL) requirements through sediment reduction from the existing unpaved driveway through the installation of paving and BMPs (Strategy I.C).

Consistency with the Conservancy's Program Guidelines

The recommended action is consistent with the Board's existing policy direction including Land Transfer Guidelines and Property Management Guidelines and furthers the Conservancy's overall agency policy and purposes.

Consistency with External Authorities

The recommended action will bring the unpaved driveway into compliance with Placer County and TRPA's rules and regulations. The private landowner will secure all necessary permits and install pavement and BMPs consistent with those permits.

Compliance with the California Environmental Quality Act (CEQA)

Pursuant to the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.), certain classes of activities are statutorily exempt from CEQA or are exempt because they have been determined by the Secretary for Natural Resources to have no significant effect on the environment. Staff has evaluated this easement conveyance, and has found it to be exempt under CEQA. This Project qualifies for an exemption under State CEQA Guidelines section 15301 (existing facilities). A Notice of Exemption (NOE) has been prepared for the easement conveyance (Attachment 4). If the Board approves the easement conveyance, staff will file the NOE with the State Clearinghouse pursuant to State CEQA Guidelines, section 15062.

List of Attachments:

- Attachment 1 – Resolution 17-03-05
- Attachment 2 – Location Map

Attachment 3 – Project Map
Attachment 4 – Notice of Exemption

Conservancy Staff Contact:

Kelsey Lemming
kelsey.lemming@tahoe.ca.gov

ATTACHMENT 1

California Tahoe Conservancy
Resolution
17-03-05
Adopted: March 16, 2017

SUMMIT ROAD DRIVEWAY EASEMENT

Staff recommends that the Conservancy adopt the following resolution pursuant to Government Code sections 66907.8, 66907.9, and 66907.10:

“The California Tahoe Conservancy hereby authorizes staff to convey an easement through Conservancy-owned land (Placer County Assessor Parcel Number [APN] 092-072-009) providing driveway access to adjoining private property (Placer County APN 092-072-012), and authorizes staff to take all other steps consistent with the accompanying staff recommendation.”

I hereby certify that the foregoing is a true and correct copy of the resolution duly and regularly adopted by the California Tahoe Conservancy at a meeting thereof held on the 16th day of March 2017.

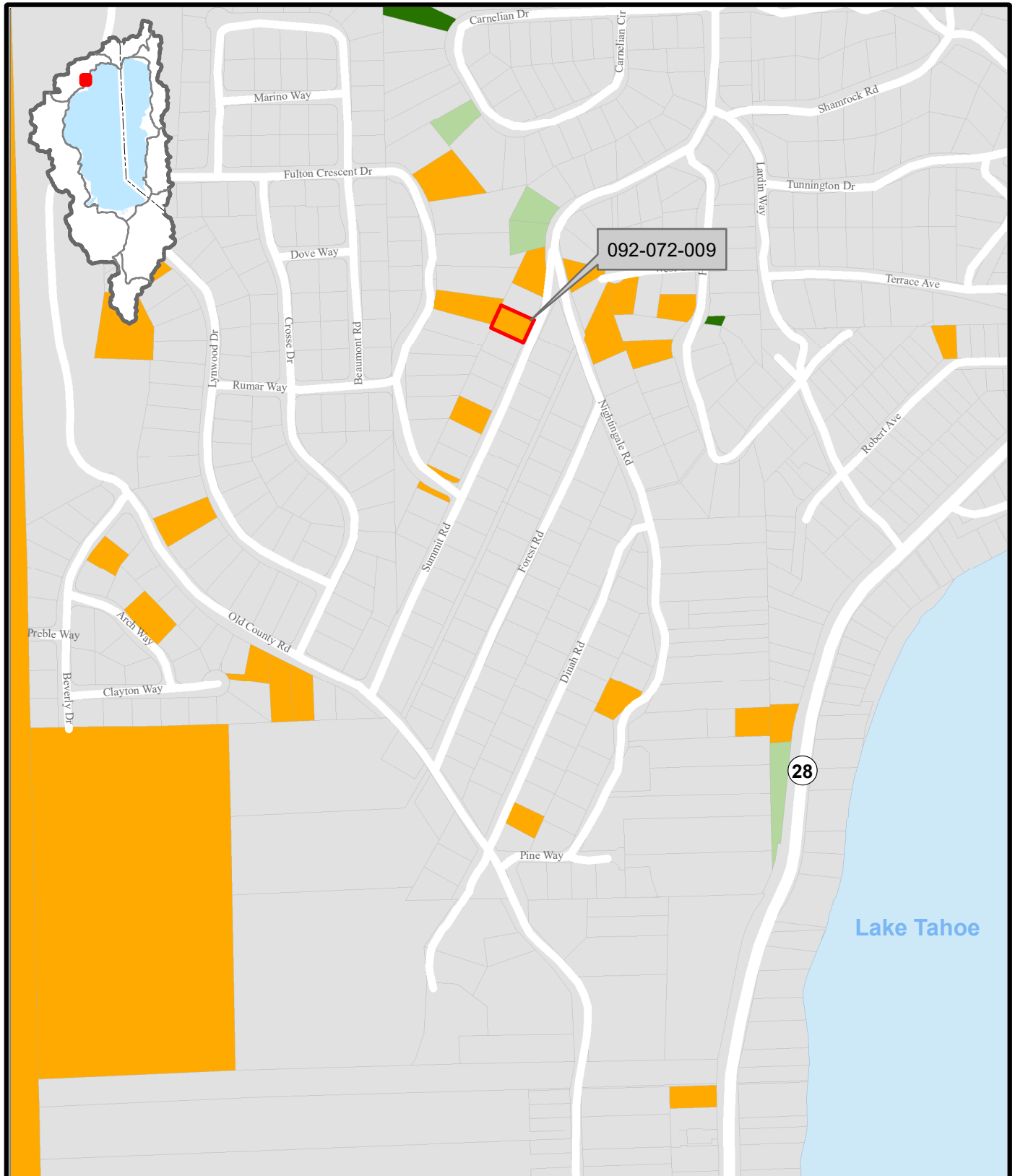
In WITNESS THEREOF, I have hereunto set my hand this 16th day of March 2017.

Patrick Wright
Executive Director

ATTACHMENT 2

Location Map

Summit Road Driveway Easement

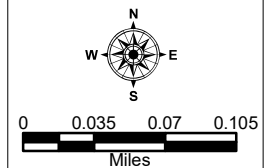


Proposed Items

Project Parcel

Ownership

- CA Tahoe Conservancy
- Placer County
- Private
- US Forest Service



Sources:
TRPA, CTC

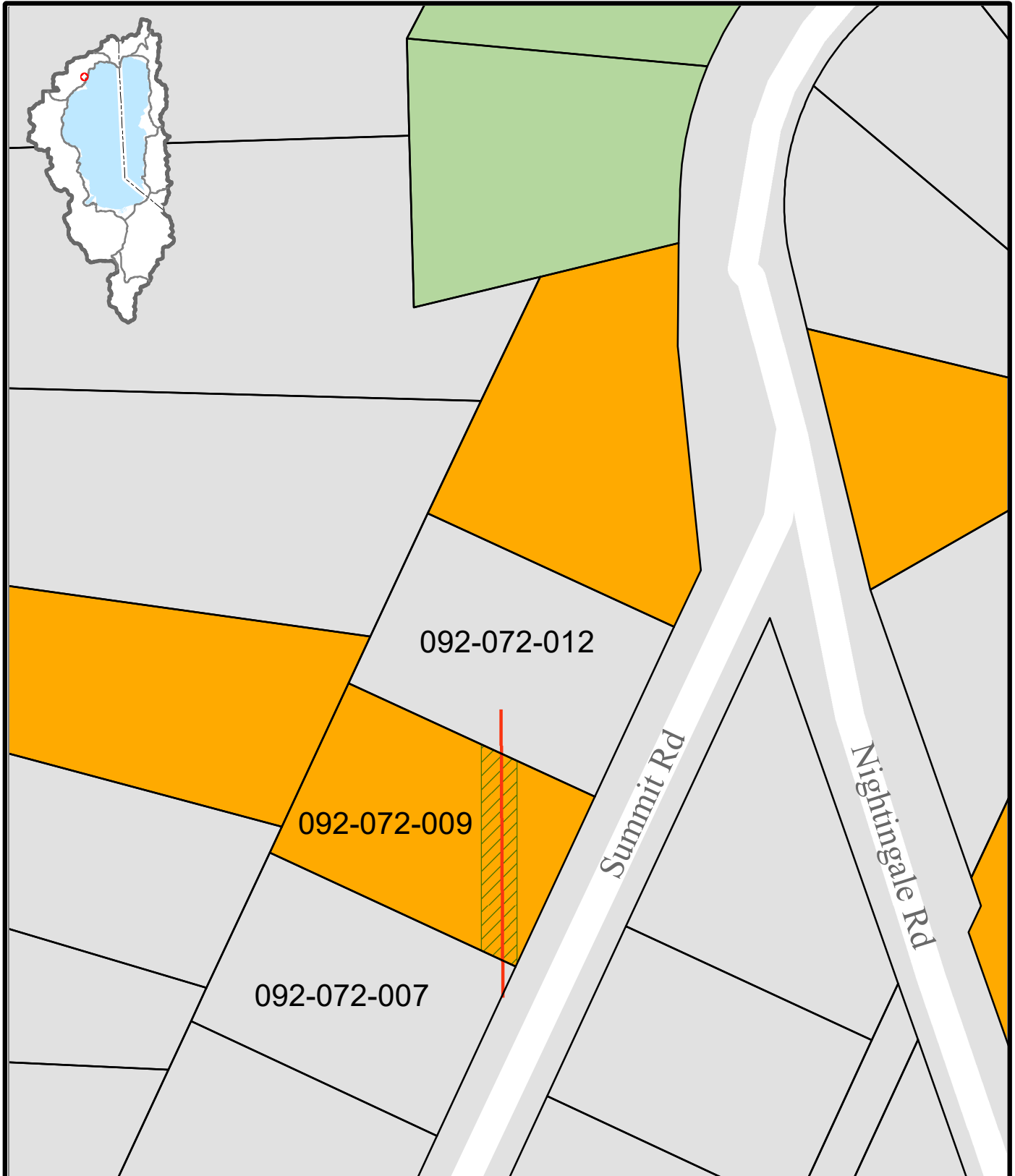
California
Tahoe Conservancy




March 2017

*Map for reference purposes only.

**ATTACHMENT 3
Project Map
Summit Road Driveway Easement**



Proposed Items

 Easement Area

Supporting Features

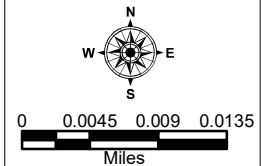
 Existing Driveway Centerline

Ownership

 CA Tahoe Conservancy

 Private

 US Forest Service



Sources:
TRPA, CTC

California
Tahoe Conservancy



March 2017

*Map for reference purposes only.

ATTACHMENT 4

NOTICE OF EXEMPTION

TO: Office of Planning and Research
1400 10th Street, Room 121
Sacramento, CA. 95814

FROM: California Tahoe Conservancy
1061 Third Street
South Lake Tahoe, CA. 96150

Project Title:

Summit Road Driveway Easement

Project Location – Specific:

3975 Summit Rd, Carnelian Bay, CA 96140

Project Location – City:

Unincorporated Area

Project Location – County:

Placer

Description of Nature, Purpose, and Beneficiaries of Project:

Grant of access easement to private residence

Name of Public Agency Approving Project:

California Tahoe Conservancy (Conservancy meeting of 3/16/2017) (Agenda Item 9.a)

Name of Person or Agency Carrying Out Project:

California Tahoe Conservancy

Exempt Status:

- Ministerial (§ 21080 (b)(1); § 15268)
- Declared Emergency (§ 21080 (b)(3); § 15269 (a))
- Emergency Project (§ 21080 (b)(4); § 15269 (b)(c))
- Categorical Exemption. Class 1, § 15301

Reasons Why Project is Exempt:

This project is exempt because the driveway bisecting the Conservancy property has existed for over 30 years. The driveway modifications, including the installation of Best Management Practices, will be negligible and will result in no expansion to existing conditions.

Contact Person:

Kelsey Lemming

Telephone Number:

(530) 543-6046

Date Received for Filing:

Patrick Wright
Executive Director