

KITTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

411 N. Ruby St., Suite 2, Ellensburg, WA 98926

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ADMINISTRATIVE APPEAL STAFF REPORT

TO: Kittitas County Board of Commissioners
FROM: Noah Goodrich, Staff Planner
DATE: August 22, 2006
SUBJECT: Rogers Short Plat (SP-06-43) Appeal

I. GENERAL INFORMATION

Proposal: Chuck Cruse of Cruse and Associates, authorized agent for Floyd Rogers, landowner, has applied for a three (3) lot short plat within the Rural-3 zoning district. Kittitas County Community Development Services, Environmental Health and Public Works received the short plat application on June 7, 2006. (*See Index #3*)

Approval of the short plat would create two lots consisting of one 3.00 acre lot, and one 3.56 acre lot. The proposed short plat encompasses 9.56 acres as surveyed.

Location: The subject property is located southeast of the City of Cle Elum, west of Casassa Road off of Palouse Road, Cle Elum, WA 98922, a portion of the SE $\frac{1}{4}$ of Section 7, T.19N., R.16E., W.M., Kittitas County, Washington, Tax parcel number 19-16-07053-0003.

II. SITE INFORMATION

Site Characteristics: An administrative site analysis was completed by Community Development Services in compliance with Title 17A. The subject property is not located within a regulated critical area. There is one existing residence and garage located on Lot 1 of the proposed short plat.

Adjacent and to the West of the proposed Rogers Short Plat is another proposed Short Plat from Gary Fletcher (SP-06-44). This is a 2 lot Short Plat being served off of Palouse and Casassa Roads. Located directly to the North of the proposed Fletcher Short Plat is a third proposed Short Plat from Gary McDaniel (SP-06-42). This 3 lot Short Plat being served off of Colfax and Casassa Roads. The three Short Plats are part of the appeal hearings to be heard by the Board of County Commissioners on August 29, 2006.

DARRYL PIERCY, DIRECTOR

ALLISON KIMBALL, ASSISTANT DIRECTOR

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III. TIMELINES

The Rogers Short Plat was received by Kittitas County Community Development Services on June 7, 2006 and forwarded to the Kittitas County Environmental Health Department and Public Works Department on the same day. A letter of receipt from the Environmental Health Department was received on June 7, 2006. (*See Index #4*)

On June 23, 2006, staff sent a letter to Chuck Cruse of Cruse and Associates requesting a SEPA application be filed to address cumulative impacts to the road infrastructure as well as the build out of the area served by Casassa Road. Also enclosed in that letter are SEPA requests for the Fletcher and McDaniel's Short Plats. (*See Index #5*)

On July 10, 2006 the Board of County Commissioner received three separate appeals from Jeff Slothower, attorney representing Cruse and Associates and the applicants. (*See Index #6*)

As of August 22, 2006 no Notice of Applications has been issued and comments have yet to be received from Kittitas County Public Works.

IV. APPEAL ELEMENTS

The Board of County Commissioners received a timely appeal from Jeff Slothower, Attorney for Cruse and Associates and the applicants, on July 10, 2006 (*See Index #6*). Kittitas County Community Development Services received notice of the appeal from the Board of County Commissioners on July 10, 2006, which included the following appeal issues:

Appeal Issue # 1:

Appellant:

The basis for the appeal is that the short plats involved are categorically exempt from SEPA pursuant to Washington State Law.

In addition, Kittitas County Code Section 15.04.090 and WAC 197-11-305 establish the categorical exemptions under SEPA. Under WAC 197-11-305 these three short plat applications are exempt because they are not physically or functionally related together and together they do not have a probable significant adverse environmental impact.

Staff Response:

Staff does agree that individually each project has met the categorical exemption criteria pursuant to KCC 15.04.090 (1)(a) For residential dwelling units under WAC 197-11-800 (1)(c)(i): up to nine (9) dwelling units.

WAC 197-11-305(1)(b)(ii) Categorical Exemption: (1) If a proposal fits any of the criteria of the provisions in Part Nine of these rules, the proposal shall be categorically exempt from threshold determination requirements (WAC 197-11-720) *except* as follows: (b)(ii) "A series of exempt actions that are physically or functionally related to each other, and that together may have a probable significant adverse environmental impact in the judgment of an agency with jurisdiction. If so, that agency shall be the lead agency..."

It is often easy to overlook the larger picture when developing land and under these circumstances the larger picture needs to be addressed. Looking back at the creation of the parent parcels for all three Short Plats (*See Index #2-E*) a series of consecutive Short Plats were submitted to the county for review and received approval in 1996.

If development continues on Palouse Road, at maximum build out for the R-3 zone, a total of 21 lots on 65.15 acres could occur. Similarly, Colfax Road is possibly facing a maximum build out of 34 lots on 120 acres. The request for SEPA will assist the county in addressing the affects of maximum build out on the existing infrastructure of both private and public road systems as well as addressing any and all possible environmental impacts associated with development. At maximum build out Casassa Road would serve over 200+ lots including the lots associated with Sky Meadows and lots possibly developed on the East side of Casassa Road.

According to the SEPA handbook, which gives a historical and functional overview of why SEPA exists and how it is implement, the main purposes of SEPA is to “Consider environmental information (impacts, alternatives, and mitigation) before committing to a particular course of action” (WAC 197-11-055(2)(c)). In addition the SEPA handbook directs agencies to “ Identify and evaluate probable impacts, alternatives and mitigations measures, emphasizing environmental impacts and alternatives (including cumulative, short-term, long-term, direct and indirect impacts)” (WAC 197-11-030(2)(b) and (g)). SEPA provides a way to address and respond to possible impacts and provide a “comprehensive review” of land use actions.

In conclusion, the purpose of requesting SEPA for the Rogers Short Plat as well as the other Short Plats involved in the appeal is not to cause undue requirements for the applicant, but to address possible impacts to the surrounding environment as well as the primary infrastructure serving these lots and all possible lots in the future.

Lathrop, Winbauer, Harrel, Slothower & Denison L.L.P.

Attorneys at Law

Post Office Box 1088, 201 West Seventh Avenue, Ellensburg, WA 98926

F. Steven Lathrop, P.S.
John P. Winbauer
Susan K. Harrel
Jeff Slothower
James T. Denison, Jr.
D. Keith B. Dunnagan

Tel (509) 925-6916
Fax (509) 962-8093

RECEIVED

OCT 27 2006

KITTITAS COUNTY
KITTITAS COUNTY
CDS

October 26, 2006

Mr. Daryl Piercy
Director, Kittitas County Community Development
411 N. Ruby STE 2
Ellensburg, WA 98926

Re: Administrative Appeal of
Kittitas County Community Development Services
Dated June 23, 2006
McDaniel (SP-06-42), Rogers (SP-06-43)
And Fletcher (SP-06-44)

Dear Daryl:

It's my understanding based upon our agreement which we had the commissioners adopt on October 25, 2006 that Kittitas County will now process these three short plats. As soon as you have language developed for the plats to implement our agreed resolution of these administrative appeals I would appreciate it if you would forward the language on to me for review prior to plat finalization.

If you have any questions in this regard, please don't hesitate to contact me.

Very truly yours,



Jeff Slothower
Cc: clients
Chuck Cruse

Lathrop, Winbauer, Harrel, Slothower & Denison L.L.P.

Attorneys at Law

Post Office Box 1088, 201 West Seventh Avenue, Ellensburg, WA 98926

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JUL 10 2006

**1ST 2ND 3RD
BOARD OF KITTITAS COUNTY COMMISSIONERS**

July 10, 2006

Mr. David Bowen
Chairman of the Kittitas County Board of County Commissioners
Kittitas County Courthouse
5th and Main
Ellensburg WA 98926

Re: Administrative Appeal of
Kittitas County Community Development Services
Dated June 23, 2006
McDaniel (SP-06-42), Rogers (SP-06-43)
And Fletcher (SP-06-44)

Dear Chairman Bowen:

Please accept this as an appeal of an administrative decision made by Community Development Services on June 23, 2006. This appeal is filed with ten (10) working days of the date of the decision and is submitted to you together with the appeal fee of \$225.00.

This appeal is an appeal of the June 23, 2006 decision of Noah Goodrich, Kittitas County Community Development Services. A copy of the June 23, 2006 decision is attached hereto as Exhibit "A".

The basis for the appeal is that the short plats involved are categorically exempt from SEPA pursuant to Washington State Law.

In addition, Kittitas County Code Section 15.04.090 and WAC 197-11-305 establish the categorical exemptions under SEPA. Under WAC 197-11-305 these three short plat applications are exempt because they are not physically or functionally related together and together they do not have a probable significant adverse environmental impact.

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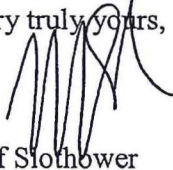
Chairman Bowen

7/10/06

Page 2 of 6

I request notice of when this matter will be placed upon your calendar for the setting of a date so I can provide input on available and non-available dates.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Jeff Slothower', with a stylized, cursive flourish.

Jeff Slothower

Cc: clients

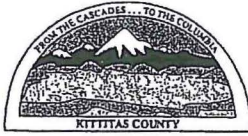
T:\Cruse & Associates\McDaniel, Rogers and Fletcher\Victor Bowen 7-10-06

EXHIBIT "A"

Chairman Bowen

7/10/06

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Office (509) 962-7506

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June 23, 2006

Cruse & Associates
PO Box 959
Ellensburg, WA 98926

RE: McDaniel (SP-06-42)³, Rogers (SP-06-43)³, & Fletcher (SP-06-44)^{2LOT}

Dear Chuck Cruse:

It has come to our attention that these short plats are served by Casassa Road. The department has seen several projects in recent weeks that have separate owners, but are adjacent to one another and share infrastructure. In recent direction by the Board of County Commissioners, such projects are not categorically exempt from SEPA pursuant to WAC 197-11-305 (1) (b) (ii). Each project will require a SEPA checklist and the standard fee of \$200 to address the cumulative impacts to infrastructure and the environment.

If you have any further questions, please give me a call,

A handwritten signature in black ink, appearing to read "Noah Goodrich".

Noah Goodrich
CDS Planner 1
Kittitas County

DARRYL FIERCY, DIRECTOR

ALLISON KIMBALL, ASSISTANT DIRECTOR

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EXHIBIT "A"
CONTINUED

15.04.090 Flexible thresholds for categorical exemptions.

1. Kittitas County establishes the following exempt levels for minor new construction under WAC 197-11-800(1)(b) based on local conditions:

- a. For residential dwelling units in WAC 197-11-800(1)(c)(i): up to nine dwelling units.
- b. For agricultural structures in WAC 197-11-800(1)(b)(ii): (A) For projects located within urban growth areas and urban growth nodes: covering up to ten thousand square feet.
- c. For projects located within all other areas: thirty thousand square feet.
- d. For office, school, commercial, recreational, service or storage buildings in WAC 197-11-800(1)(b)(iii): up to twelve thousand square feet of gross floor area and up to forty parking spaces.
- e. ~~For parking lots in WAC 197-11-800(1)(b)(iv): up to forty parking spaces.~~
- f. For landfills and excavations in WAC 197-11-800(1)(b)(v): up to five hundred cubic yards.

2. Whenever the county establishes new exempt levels under this section, it shall send them to the Department of Ecology, Headquarters Office, Olympia, Washington, 98504 under WAC 197-11-800(1)(c). (Ord. 98-10 (part), 1998).

EXHIBIT "A"
CONTINUED

WAC 197-11-305: Categorical exemptions.

Page 1 of 1

197-11-300 << 197-11-305 >> 197-11-310

WAC 197-11-305

Categorical exemptions.

(1) If a proposal fits within any of the provisions in Part Nine of these rules, the proposal shall be categorically exempt from threshold determination requirements (WAC 197-11-720) *except* as follows:

(a) The proposal is not exempt under WAC 197-11-908, critical areas.

(b) The proposal is a segment of a proposal that includes:

(i) A series of actions, physically or functionally related to each other, some of which are categorically exempt and some of which are not; or

(ii) A series of exempt actions that are physically or functionally related to each other, and that together may have a probable significant adverse environmental impact in the judgment of an agency with jurisdiction. If so, that agency shall be the lead agency, unless the agencies with jurisdiction agree that another agency should be the lead agency. Agencies may petition the department of ecology to resolve disputes (WAC 197-11-946).

For such proposals, the agency or applicant may proceed with the exempt aspects of the proposals, prior to conducting environmental review, if the requirements of WAC 197-11-070 are met.

(2) An agency is not required to document that a proposal is categorically exempt. Agencies may note on an application that a proposal is categorically exempt or place such a determination in agency files.

[Statutory Authority: RCW 43.21C.110, 95-07-023 (Order 94-22), § 197-11-305, filed 3/6/95, effective 4/6/95; 84-05-020 (Order DE 83-39), § 197-11-305, filed 2/10/84, effective 4/4/84.]

RECEIVED

OCT 25 2006

ROUTED TO:
DPW
PROSECUTOR <i>Harrison</i>
CDS <i>Piercy, Kimball, Valencia</i>
DEPT. <i>L. Denison</i>

Lathrop, Winbauer, Harrel, Slothower & Denison L.L.P.
 Attorneys at Law

1ST X 2ND X 3RD X
 BOARD OF KITTITAS COUNTY COMMISSIONERS

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October 25, 2006

HAND DELIVERED

Commissioner David Bowen
 Kittitas County
 Board of Commissioners
 205 W 5th AVE Suite 108
 Ellensburg WA 98926

Re: Administrative Appeal of
 Kittitas County Community Development Services
 Dated June 23, 2006
 McDaniel (SP-06-42), Rogers (SP-06-43)
 And Fletcher (SP-06-44)

Dear Commissioner Bowen:

As Mr. Piercy and I have previously represented to the Board of County Commissioners, there was an attempt by the landowners and Kittitas County to resolve these appeals. In speaking with Mr. Piercy we have arrived at an agreed resolution of the issues pending and arising as a result of these appeals. Accordingly the McDaniels, the Rogers and the Fetters are withdrawing their respective appeals. In exchange for withdrawing their respective appeals, Kittitas County has agreed to withdraw its decision to require each of these SEPA exempt short plats to go through the SEPA process based upon cumulative impact. Kittitas County's decision to withdraw the SEPA requirement on each of these short plats is based upon the landowners' agreement to conditions on the short plat which provide as follows:

- 1) If, in the future, a decision is made by Kittitas County to convert Colfax Road or Polouse Road to a county road each of individual owner of property subject to the plat will agree to convey to Kittitas County the right of way necessary to ensure a sixty (60) foot right of way. The right of way to be conveyed would be in the location of the currently existing sixty (60) foot private access easements depicted on each of the plats; and

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Commissioner Bowen

10/25/06

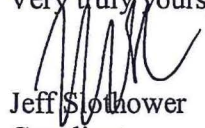
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2) Each owner of the property which is subject to the plat would, in the future, if the landowners in the area and/or Kittitas County sought to form a local improvement district (LID) for the purposes of funding road improvements, agree to join in and support the formation of the local improvement district.

It is my understanding, based upon the withdrawal of the appeal, Kittitas County will now process the three respective short plats with the above referenced conditions as plat conditions of a plat.

Should you have any questions or concerns, please do not hesitate to contact me.

Very truly yours,

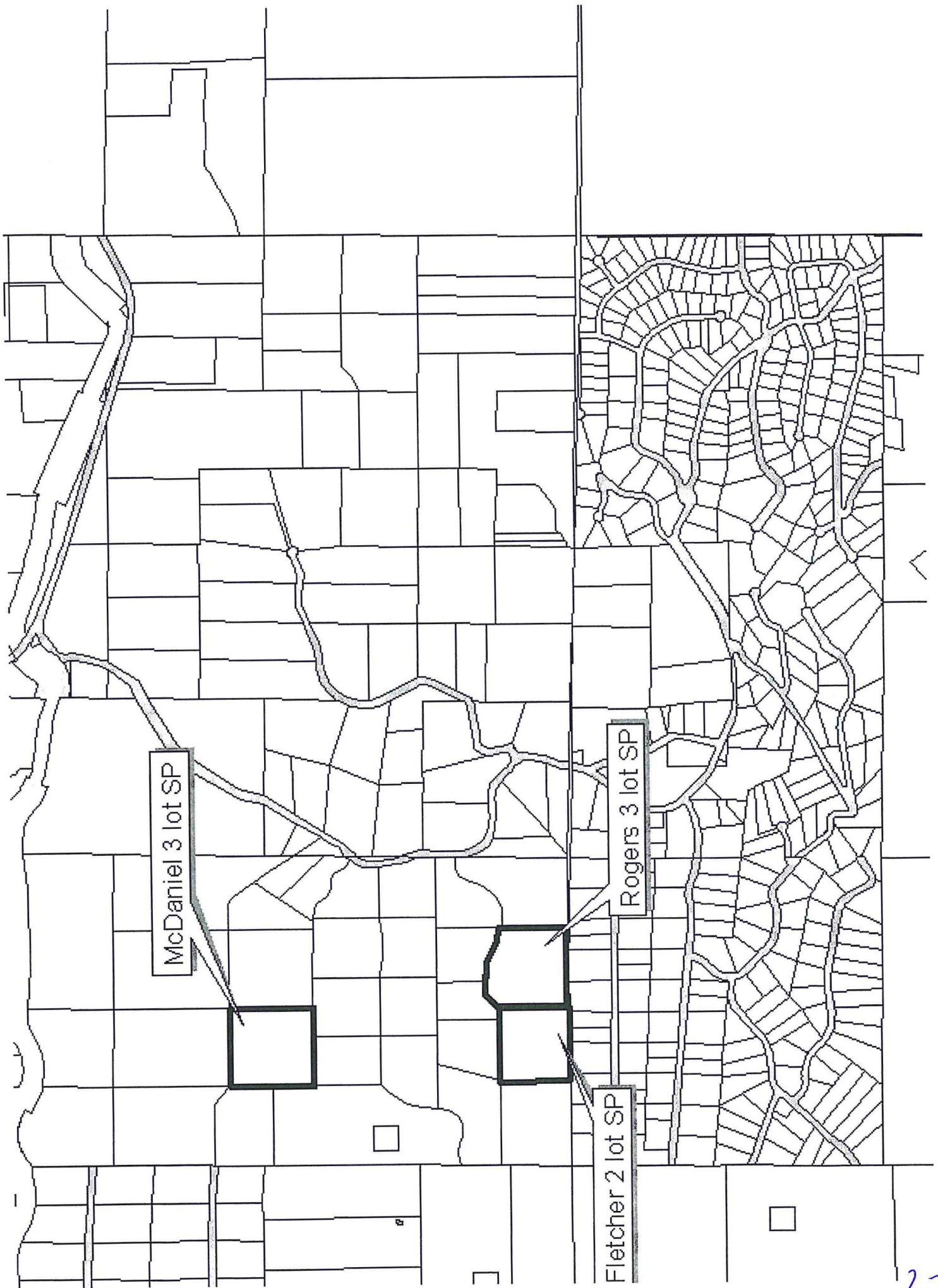


Jeff S. Stohower

Cc: clients

Darryl Piercy

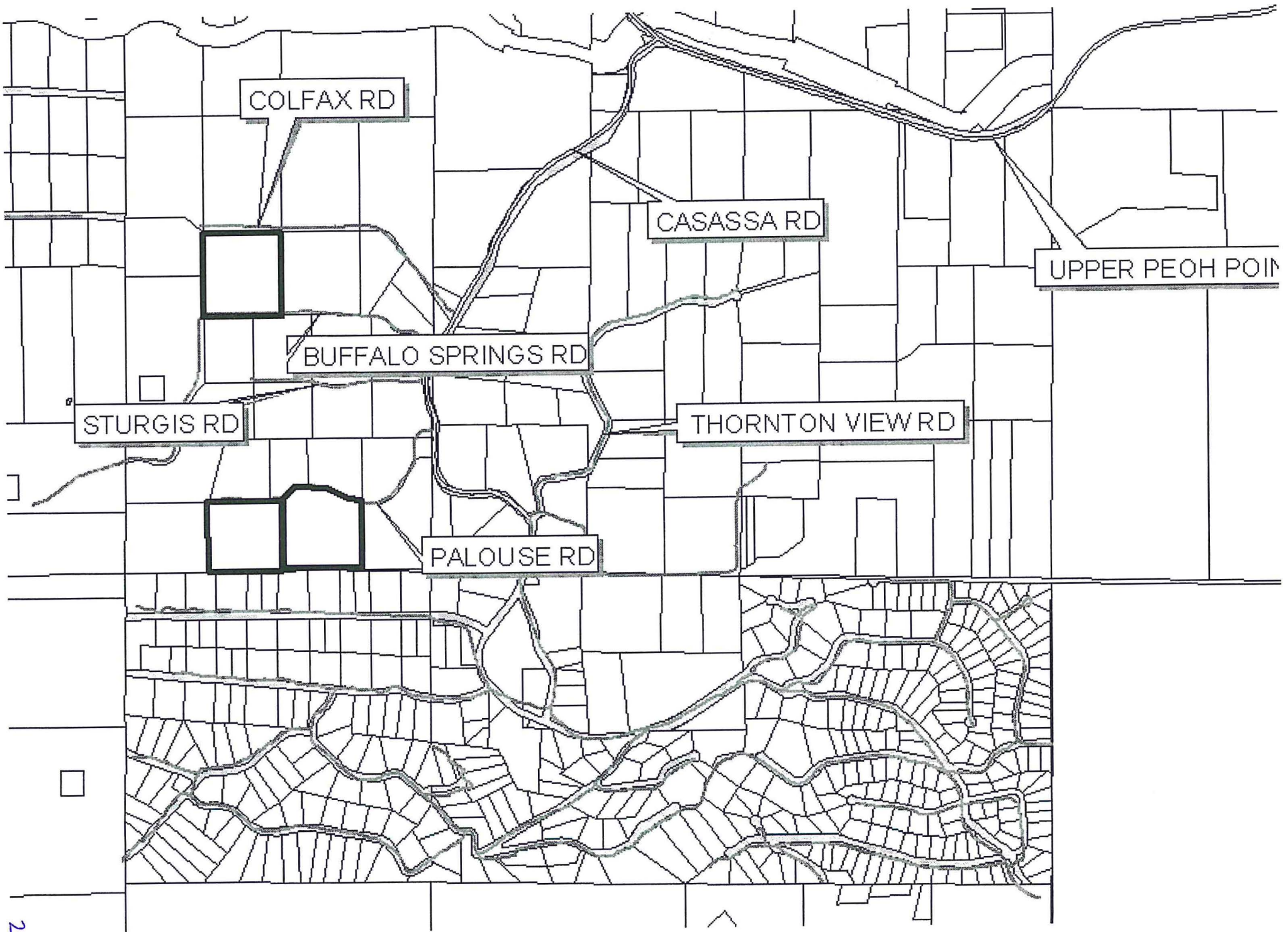
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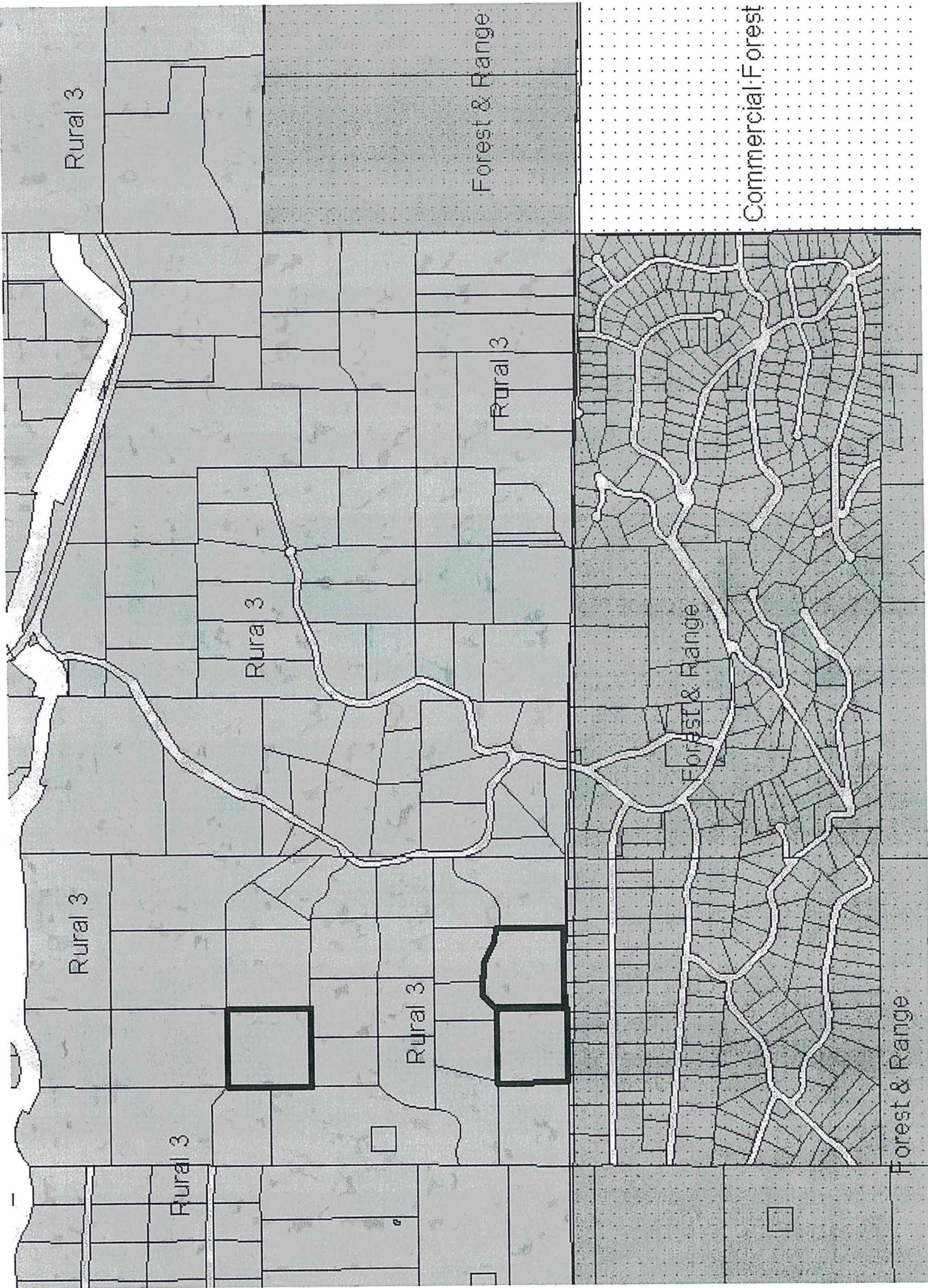


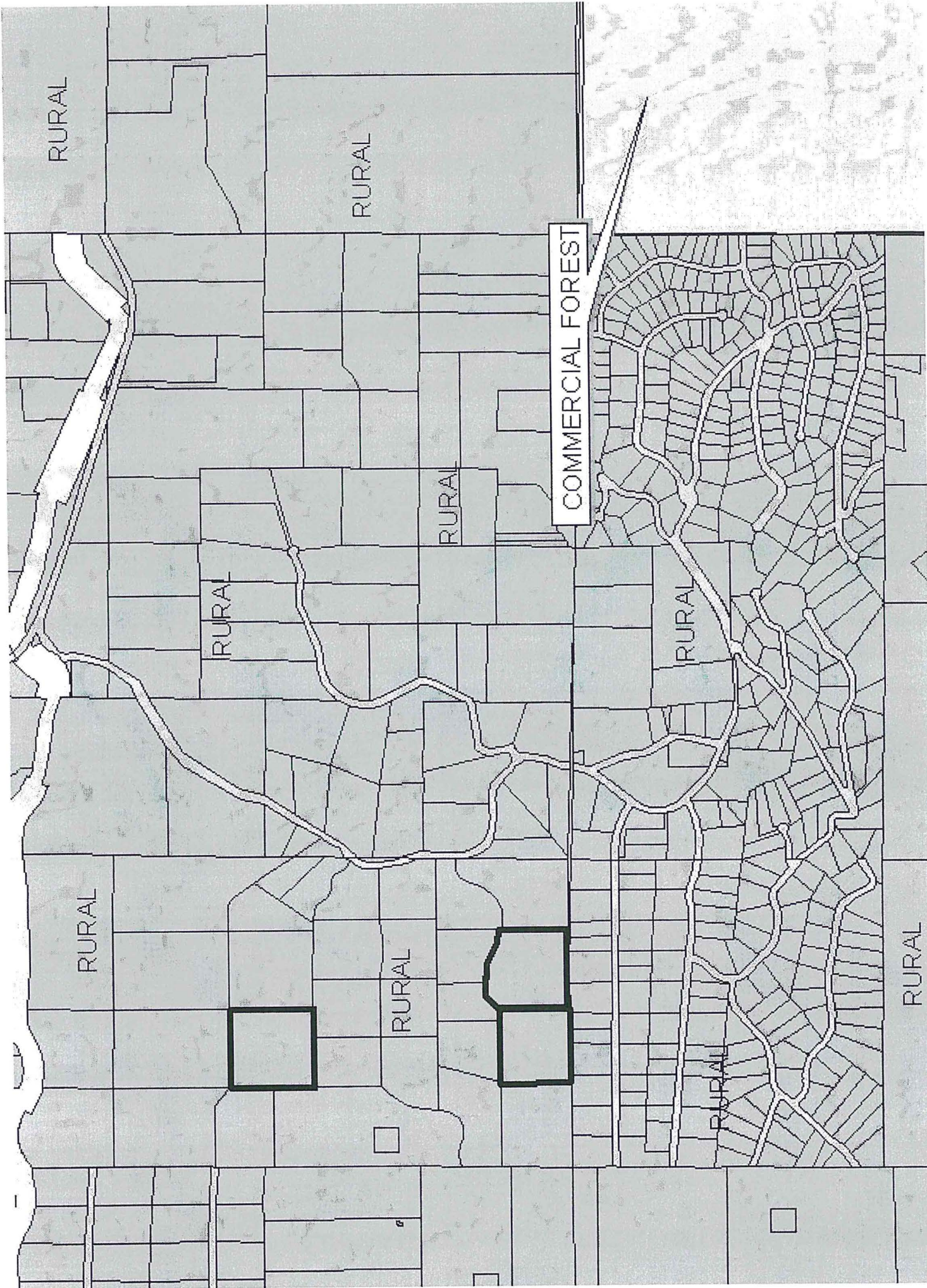
McDaniel 3 lot SP

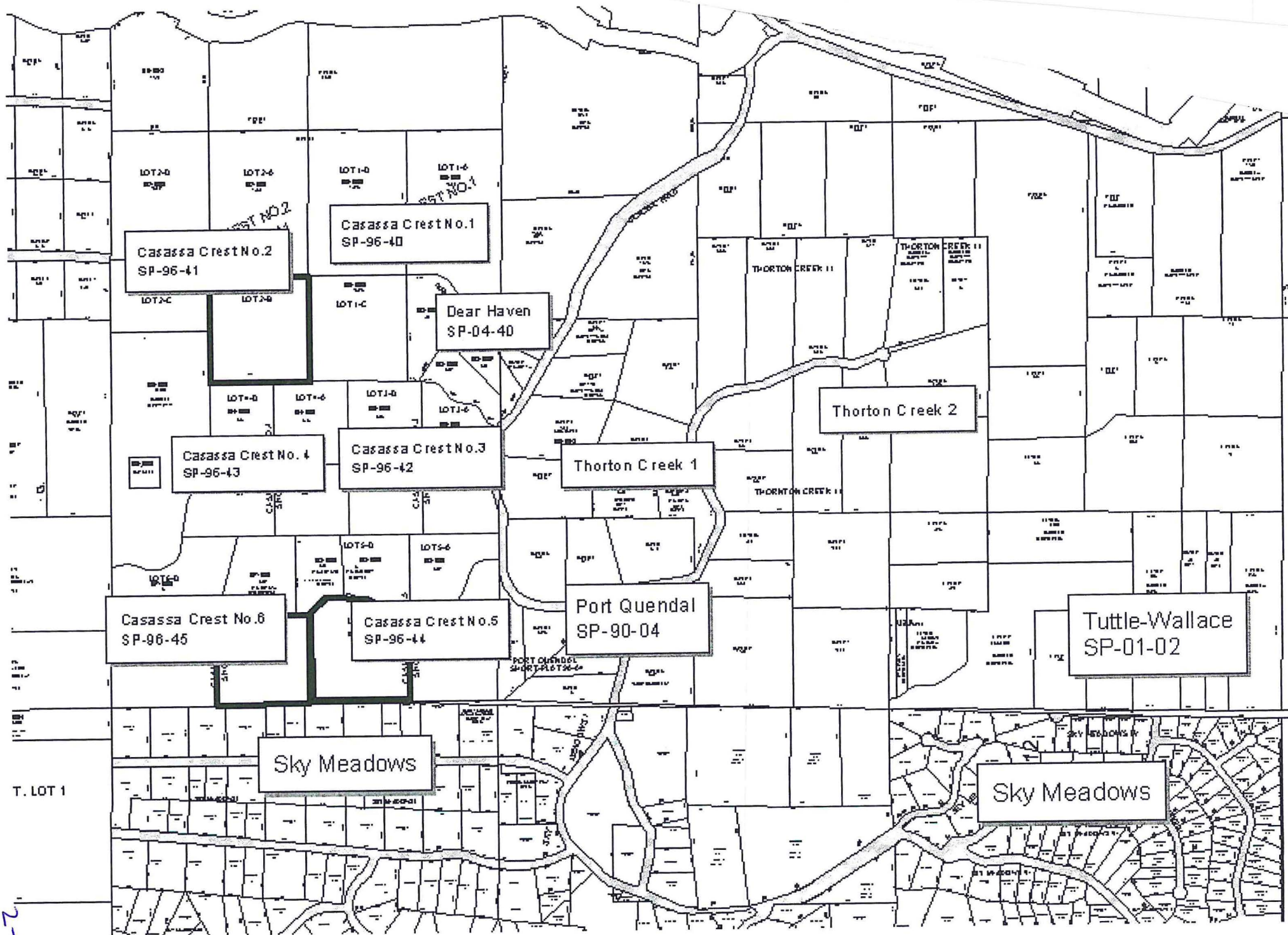
Rogers 3 lot SP

Fletcher 2 lot SP









2-E