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BOOK 236 PAGE 888

Return Address:

Brad Bea
301 Cape Horn Rd.
Washougal, WA 98671

FILED
SEAL
BY Jada Bea
FEB 6 12 46 PM '03
J. MICH
J. MICH

Document Title(s) or transactions contained herein:

Amendment to Director's Decision NSA-97-28

GRANTOR(S) (Last name, first name, middle initial)

Bea, Brad

☐ Additional names on page _____ of document.

GRANTEE(S) (Last name, first name, middle initial)

Skamania County

☐ Additional names on page _____ of document.

LEGAL DESCRIPTION (Abbreviated: i.e., Lot, Block, Plat or Section, Township, Range, Quarter/Quarter)

P4 SW 1/4 Sect. 10 T1N R5EWM

☐ Complete legal on page 5 of document.

REFERENCE NUMBER(S) of Documents assigned or released:

Vol 181 Pg 198 AF132809 9/10/98

☐ Additional numbers on page _____ of document.

ASSESSOR'S PROPERTY TAX PARCEL/ACCOUNT NUMBER

01-05-10-0-0-1200-00

☐ Property Tax Parcel ID is not yet assigned☐ Additional parcel numbers on page _____ of document.

The Auditor/Recorder will rely on the information provided on the form. The Staff will not read the document to verify the accuracy or completeness of the indexing information.



**Skamania County
Department of Planning and
Community Development**

Skamania County Courthouse Annex
Post Office Box 790
Stevenson, Washington 98648
509 427-9458 FAX: 509 427-4839

February 10, 1999

Brad Bea
301 Cape Horn Road
Washougal, WA 98671

Re: Amendment to NSA-97-28

Dear Brad:

The Planning Department issued a final Director's Decision on July 29, 1997 for the above referenced application. On February 2, 1999, you submitted a request to amend the original Director's Decision in order to make it consistent with the Forest Service's conditions on your Conservation Easement. Your letter requests a change to several of the conditions of approval. The County will address each of those conditions below. Additions are italicized and deletions are struck through.

Condition # 14 reads:

- 14) The proposed shop shall be located no farther than 75 feet east of the home location.

You are requesting the above distance be changed to 115 feet east of the home location in order to be consistent with the Forest Service's Conservation Easement conditions.

The new condition reads:

- 14) The proposed shop shall be located no farther than ~~75~~ 115 feet east of the home location.

Condition # 16 reads:

- 16) The separate access road to the proposed barn shall be prohibited.

You are requesting the above condition be deleted as the Forest Service's Conservation Easement requires the barn be located northwest of the home rather than at the location approved in the original Director's Decision.

CONDITION # 16 IS NOW DELETED.

Condition # 21 reads:

- 21) Applicant shall be required to retain all existing vegetation except that which needs to be removed for site development. All existing vegetation farther than 75 feet away from the

home and shop shall also be retained. Applicant shall also be required to replace in kind any trees removed for windfall purposes. These replacement trees shall be planted south and west of the proposed home site and no farther than 100 feet from the proposed home site. These trees shall be interspersed among the existing trees and placed in such a manner as to retain a natural appearance.

You are requesting that the County change a portion of the third sentence of this condition deleting the phrase "in kind" as the Forest Service has specific landscaping requirements within the Conservation Easement.

The new condition reads:

- 21) ... Applicant shall also be required to replace in kind any trees removed for windfall purposes. ...

Condition # 22 reads:

- 22) Applicant shall also be required to replace in kind all trees and/or vegetation removed for the construction of the barn. These replacement trees shall be planted to the west of the proposed barn for screening purposes.

Again, you are requesting that the County remove the phrase "in kind". Also no replacement trees should be needed in the Forest Service's approved location. This condition should, therefore, be deleted.

CONDITION # 22 IS NOW DELETED.

Condition # 23 reads:

- 23) Native plants such as pine or fir shall be planted when replacing trees that were removed for the barn and for windfall purposes with the home and shop.

You are requesting that this condition be changed so that it is clear no trees, other than trees removed for windfall purposes, need to be replaced.

The new condition reads:

- 23) Native plants such as pine or fir shall be planted when replacing trees that were removed for the barn and for windfall purposes with for the home, barn and shop.

Condition # 24 reads:

- 24) Applicant shall maintain a 200 foot buffer from the pond and spring area on the subject parcel. No development or land disturbance shall be allowed within that 200 foot buffer.

You are requesting that this condition be amended. However this condition does not need to be modified, rather it needs to be clarified. You have demonstrated that the pond is man-made and that the Forest Service Conservation Easement does allow for some uses within the above mentioned 200 foot buffer. Although the pond is man-made and it is actually fed by a piped water source, and will probably mostly be used for stock

watering, the Gorge Commission and Forest Service both have indicated that the 200 foot buffer should still apply. Condition # 24 must remain unchanged.

You have indicated that the only land disturbing activity occurring within 200 feet of the pond, in the development of the property, will be the access road. If that access is within 200 feet, then a water resource mitigation plan must be completed. As a side note, the previous water resource mitigation plan submitted was denied by the Forest Service as it was not completed by a water resource specialist.

Condition # 25 reads:

- 25) Adding any fill or draining of the pond and/or spring shall be prohibited.

You have requested that this condition be modified or deleted. This condition should be deleted as the pond is fed by a small creek off property. If the creek dries up, you can no longer maintain the pond through no fault of your own. Furthermore, you have applied to the County, NSA-98-68, to complete save modifications to your pond. All future activities related to filling and grading of your pond will be regulated by that application.

CONDITION # 25 IS NOW DELETED.

You have also requested that you be allowed to temporarily live in your barn while building your home and developing the property. Condition # 27 should be added and should state:

- 27) The applicant shall be allowed to temporarily live in the barn while constructing his residence. Within 30 days of the issuance of occupancy permit for the permanent residence, the applicant shall remove all kitchen facilities from the temporary residence. The County Building Inspector shall assure that all modifications to the garage portion of the home are de-commissioned as a residence in accordance with all State and County Building Codes.

In summation that following conditions have been amended and are written as follows:

- 14) The proposed shop shall be located no farther than 115 feet east of the home location.
- 16) DELETED.
- 21) Applicant shall be required to retain all existing vegetation except that which needs to be removed for site development. All existing vegetation farther than 75 feet away from the home and shop shall also be retained. Applicant shall also be required to replace any trees removed for windfall purposes. These replacement trees shall be planted south and west of the proposed home site and no farther than 100 feet from the proposed home site. These trees shall be interspersed among the existing trees and placed in such a manner as to retain a natural appearance.
- 22) DELETED.
- 23) Native plants such as pine or fir shall be planted when replacing trees that were removed for windfall purposes for the home, barn and shop.

- 24) UNCHANGED FROM ORIGINAL.
- 25) DELETED.
- 27) The applicant shall be allowed to temporarily live in the barn while constructing his residence. Within 30 days of the issuance of occupancy for the permanent residence, the applicant shall remove all kitchen facilities from the temporary residence. The County Building Inspector shall assure that all modifications to the garage portion of the home are de-commissioned as a residence in accordance with all State and County Building Codes.

Pursuant to SCC §22.06.080(B), a change or alteration to an approved action, if determined to be minor by the Director, may be "deemed consistent with the provisions of this Title and the findings and conclusions on the original application." I have determined that the proposed request constitutes a minor change, as the County is merely making its decision consistent with the provisions in the Forest Service's Conservation Easement for this property. All the alterations and amendments granted above still remain consistent with the County's National Scenic Area Ordinance and are deemed minor.

All of the conditions in the original Director's Decision that have not been amended shall still be complied with. If you have any further questions, please give me a call at 509-427-9458.

Sincerely,

Kari R. Fagerness

Kari R. Fagerness
Planner

Attachments

APPEALS

This Administrative Decision of the Director shall be final unless reversed or modified on appeal. A written Notice of Appeal may be filed by an interested person within 20 days from the date hereof. Appeal may be made to the Skamania County Board of Adjustment, P.O. Box 790, Stevenson, WA 98648, on or before March 3, 1999. Notice of Appeal forms are available at the Department Office.

cc: Skamania County Building Department
Skamania County Assessor's Office
Persons submitting written comments in a timely manner
Yakama Indian Nation
Confederated Tribes of the Umatilla Indian Reservation
Confederated Tribes of the Warm Springs
Nez Perce Tribe
Columbia River Gorge Commission
U.S. Forest Service - NSA Office
Board of County Commissioners

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National Scenic Area so as to help accomplish the purposes for which the Area has been established by Public Law 99-663.

Part I - Property Description

Skamania County, Washington

T. 1 N., R. 5 E., W.M.

sec. 10, NE1/4SW1/4 and a tract of land in the SE1/4NW1/4 described as follows:

BEGINNING at a point 300 feet west of the center of section 10, T. 1 N., R. 5 E., W.M., on the south line of the NE1/4 of said section 10; thence north 500 feet more or less to the intersection with the south right-of-way line of Cape Horn Road (County Road #10050), as it existed on November 23, 1986; thence following said right-of-way line west and south to the intersection with the south line of the NW1/4 of section 10, T. 1 N., R. 5 E., of the Willamette Meridian; thence 825 feet, more or less, east to the point of beginning.

The land described above contains 48.71 acres, more or less.

Part II - Reservations of Rights by Grantors

All right, title, and interest in the subject property is vested in the United States except those rights specifically and expressly reserved unto the Grantors. The rights reserved with associated terms and conditions are as follows:

- A. Record title to the subject property.
- B. The right to use the subject property in ways that are consistent with the current or past agricultural uses of the subject property, provided that any and all uses shall not violate the conservation spirit and intent of the easement conveyance and are in accordance with all applicable laws, regulations, ordinances, and orders set forth in Chapter 1 of the Management Plan of the Columbia River Gorge National Scenic Area, adopted February 13, 1992. All proper permits and licenses shall be obtained and approved when necessary in accordance with County Ordinances and with concurrence by the United States, their successors, and assigns.

The present pre-existing regular uses of the subject property, including ownership and continued uses of the 48.71 acres.

The proposed residence and building(s) currently allowed to be built on Site 1 of the subject property will be limited in development and relocated to a less visually sensitive area, Site 2 as shown on Exhibit A. The Forest Service will have final approval of all design standards, and the Grantors and the United States mutually agree to limit said residence and building(s) permanently on Site 2 as follows:

- Residence, an 2,500 square foot footprint
- Garage, 900 square foot footprint
- Shop 1,800 square foot footprint
- Barn, 2050 square foot footprint
- Chicken House, 225 square foot footprint

- C. Said residence and building(s) shall be consistent with the standards of Section 6 and the purposes of the Act and are hereby limited to the following conditions:

The height of the residence and building(s) shall not exceed 26 feet above the existing grade. Height and grade shall be used as defined in the Uniform Building Code.

The exterior color of the residence and building(s), including the roof, doors, and trim shall be nonreflective, dark earthtones that shall not noticeably contrast with the surrounding environment. Prior to construction of the residence and building(s), the Grantors, successors, or assigns shall submit to the Forest Service samples of proposed exterior colors. The samples shall be reviewed and approved in writing by the Forest Service to assure the exterior colors will blend in with the residence and building(s) surroundings.

All denuded areas and grading scars visible from key viewing areas shall be rounded and shaped to blend in with the existing landform. These areas shall be replanted with native grasses each season until the impacted site is completely revegetated.

The residence design features shall include low reflecting window glass, extended eaves, etc. to reduce the amount of window glare to insignificant levels as seen from key viewing areas. This shall be reviewed and approved in writing by the Forest Service prior to construction.

Except as necessary to prepare the actual building sites, existing trees surrounding the residence and building(s) shall be retained in a manner that will screen the buildings as seen from key viewing areas. Additionally, the buildings shall be sited so that the existing wooded vegetation will screen the dwelling as seen from key viewing areas. Prior to construction of Site 2 buildings, the Grantors shall submit to the Forest Service a detailed site and landscape plan. The plans shall show the exact site location of the residence and building(s). The landscape

plan shall include the location, species, and height of trees within one hundred (100) feet of the buildings. Said plans shall be reviewed and approved by the Forest Service prior to construction to assure that the siting of the buildings and the existing vegetation will visually subordinate the residence and building(s).

Any exterior lighting shall be sited, limited in intensity, shielded, and hooded in a manner that prevents light from being highly visible as seen from key viewing areas and from noticeably contrasting with the surrounding environment.

Should any historic or prehistoric cultural resources be uncovered during the construction phase, all work shall cease and the Grantors shall immediately notify the Forest Service.

- D. In the event of fire or other casualty to the proposed residence and building(s), the Grantors shall have the right to repair or reconstruct said residence and building(s) to the same condition and in the same location, Site 2, so long as there is no adverse impact on the scenic, natural, cultural, and recreational resources of the Columbia River Gorge National Scenic Area. The size of the residence and building(s), described in item B above, shall not be in excess of the square feet cited. All plans for said repair or reconstruction shall first be approved in writing by the United States and be completed in compliance with reasonable architectural standards prescribed by the United States which are consistent with Part II, Chapter Seven, of the Columbia River Gorge National Scenic Area Management Plan, adopted February 13, 1992. United States approval for such repair or restoration shall not be unreasonably withheld.
- E. The right to use and maintain the existing road(s) that cross the subject property, shown in Exhibit A, provided that the use and maintenance of said road(s) does not materially impair the conservation values of the subject property.
- F. The right to use motorized equipment, including but not limited to, automobiles, tractors, farm equipment, and lawn mowers, pursuant to the permitted use and maintenance of the subject property.
- G. The right to use the existing utility system, as identified on Exhibit A, as well as the right to maintain same pursuant to the permitted uses of the subject property.
- H. The right to gather and cut only naturally dead and down timber for firewood and domestic uses and to eliminate direct safety hazards to existing structures. All such wood removal shall be approved in writing, in advance, by the Forest Service.

- I. The right to exclude public access over and across the subject property, except as needed by prospective bidders if timber harvest for treatment purposes only is needed. Treatment purposes is defined as enhancement of timbered area for surrounding forest health and/or diseased trees.
- J. The right to use the existing pond and construct a dock for said pond, shown in Exhibit A, by the Grantors, their heirs, successors, and assigns and/or the tenants of the proposed residence. Use of the pond by the Grantors, their heirs, successors, and assigns shall be for stock watering, aerating the approximately **' x **' pond, stocking it with fish and/or amphibious animals, as well as refilling and restocking the pond as necessary to maintain it. The existing access leading to the pond may be maintained to a level not exceeding its present condition.

Part III - General Provisions

- A. A general purpose of this easement is to preserve and maintain the regular uses of the subject property as they existed at the time of this instrument except for rights specifically reserved in Part II, paragraph B. Exhibit A generally depicts the number and location of structures and facilities as of the date of this instrument.
- B. For any activity by the Grantors which requires prior approval by the United States, acting by and through the Forest Service, such approval will be in writing, and will be at the sole discretion of the authorized Forest Service official and such approval shall not be unreasonably withheld. In general, approval will be determined on the basis of whether the proposed activity or improvement is compatible with the conservation of the scenic, cultural, recreational, and natural resources of the Columbia River Gorge National Scenic Area. In making such a determination, the Forest Service shall utilize the same standards of compatibility as are applied to activities on private lands elsewhere within the Special Management Areas of the Columbia River Gorge National Scenic Area. Any activity determined to be incompatible shall be prohibited and shall be construed as a right having been acquired by the United States pursuant to this instrument.
- C. The Grantors have an affirmative obligation to make reasonable repairs and reasonably maintain the subject property, and to preserve its existing aesthetic characteristics. This obligation includes, but is not limited to: not placing any signs or billboards on the subject property (except for sale or rent, no trespassing, or for identifying the owner), not allowing Recreational Vehicles or other vehicles not pertinent to the agricultural uses to occupy or be stored on site, and not allowing the accumulation of trash, debris, or other unsightly materials. The residence, building(s), and grounds will be reasonably maintained in an attractive appearance, and the buildings will utilize, to the extent possible, natural, grey, or earth-toned colors and nonreflective finishes and materials. Dead or dying trees and shrubs

shall be reasonably disposed of or pruned only with advance written approval by the Forest Service.

- D. Public use and entry is not permitted on the subject property. However, representatives and agents of the United States are empowered to make reasonable entry upon such land for purposes related to administering this instrument. The Grantors will be given no less than 24 hours advance notice of any entry unto the subject property by the agents or assigns of the United States, except for emergency situations where such advance notice as is practical will be given to the Grantors. No authorization is granted to the United States for the entry into structures or personal property without the permission of the Grantors, their heirs, successors, or assigns, except under applicable law. Reasonable access will be available to third party operators if the United States decides that timber harvest or other treatment is needed.
- E. This conveyance to the United States of America is authorized by federal law and is in furtherance of the purposes of Public Law 99-663 (100 Stat. 4274; 16 U.S.C. 544g) which created the Columbia River Gorge National Scenic Area. However, any future disestablishment or other modification of the Columbia River Gorge National Scenic Area shall in no way affect the property rights acquired herein by the United States. The acquiring agency is the Forest Service, United States Department of Agriculture. Any rights acquired by the United States, including those expressly acquired in the name of the Forest Service, are fully assignable to any other entity by the Secretary of Agriculture or by Act of Congress.
- F. Nothing in this deed shall prevent the Grantors, their heirs, successors, or assigns, from selling or mortgaging the property subject to the rights acquired herein by the United States; provided, however, said subject property shall not be subdivided, or disposed of as smaller tracts.
- G. All uses of the subject property, including those rights reserved in Part II by the Grantors, shall conform with the applicable County's land application process and all provisions which are, or may be, in effect of the Columbia River Gorge National Scenic Area Management Plan promulgated by the Forest Service pursuant to section 6 of the Act, Guidelines for Land Use Ordinances issued pursuant to section 8 of the Act, and any zoning ordinances which may apply to the subject property. In the event that a specific provision of this easement is more restrictive on the use and development of the subject property than the above referenced Guidelines or ordinances, the provisions of this easement shall prevail.

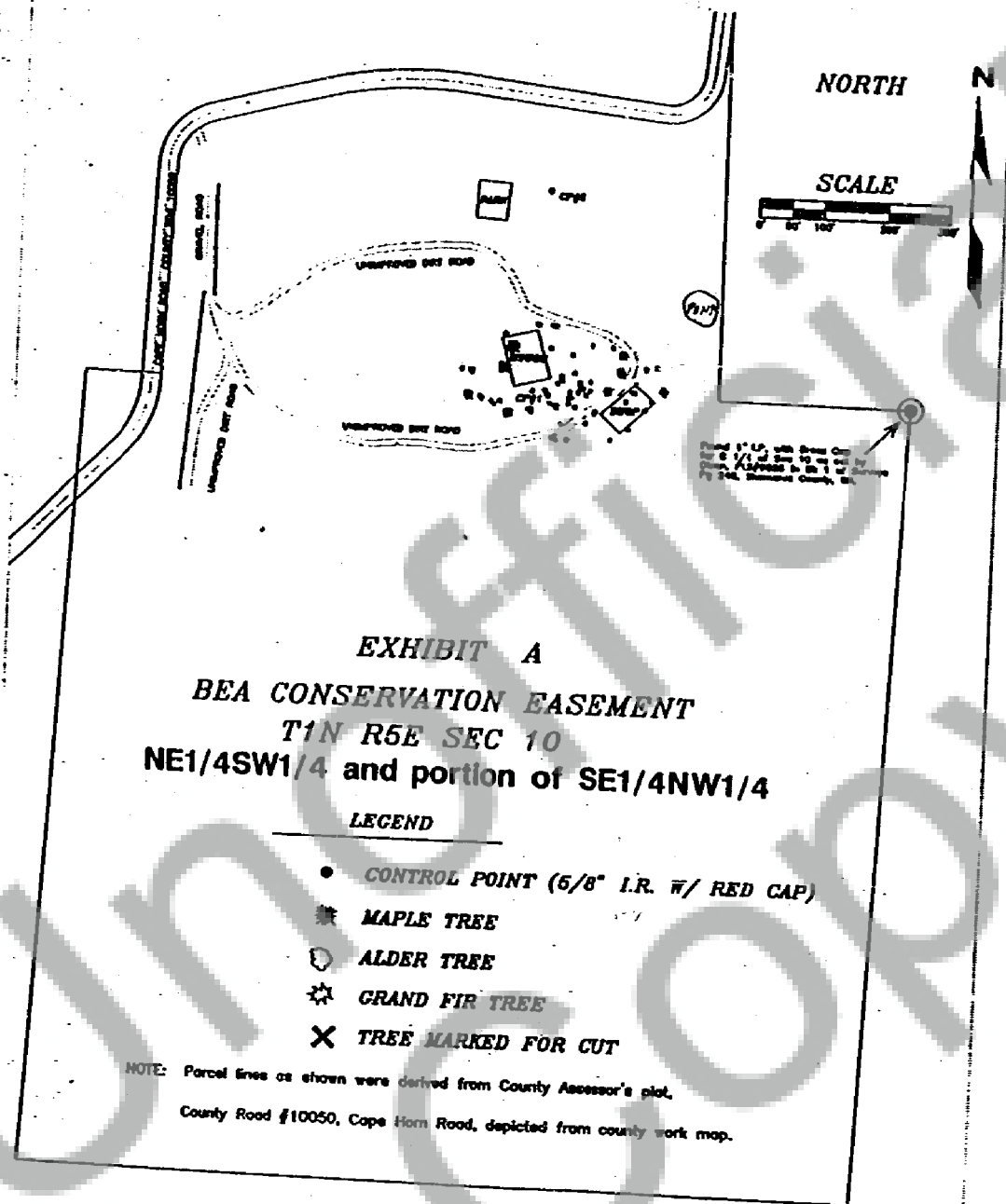


EXHIBIT A
BEA CONSERVATION EASEMENT
T1N R5E SEC 10
NE1/4SW1/4 and portion of SE1/4NW1/4

LEGEND

- CONTROL POINT (5/8" I.R. w/ RED CAP)
- ☸ MAPLE TREE
- ⊙ ALDER TREE
- ★ GRAND FIR TREE
- ✕ TREE MARKED FOR CUT

NOTE: Parcel lines as shown were derived from County Assessor's plot.
 County Road #10050, Cape Horn Road, depicted from county work map.

SHOWN BY
 PLATED BY
 CHECKED BY
 DATE

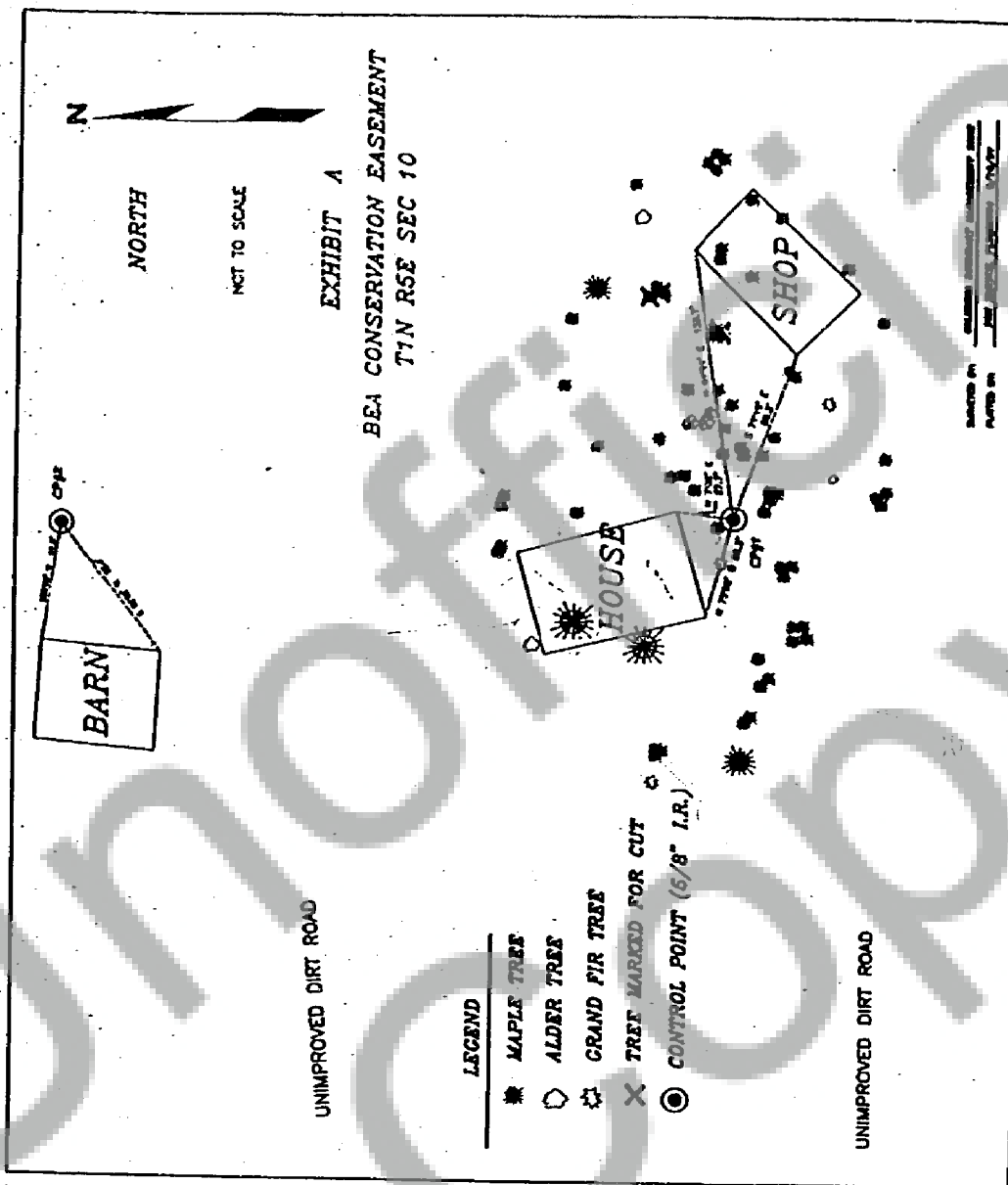


Exhibit A, Sheet 2 of 11

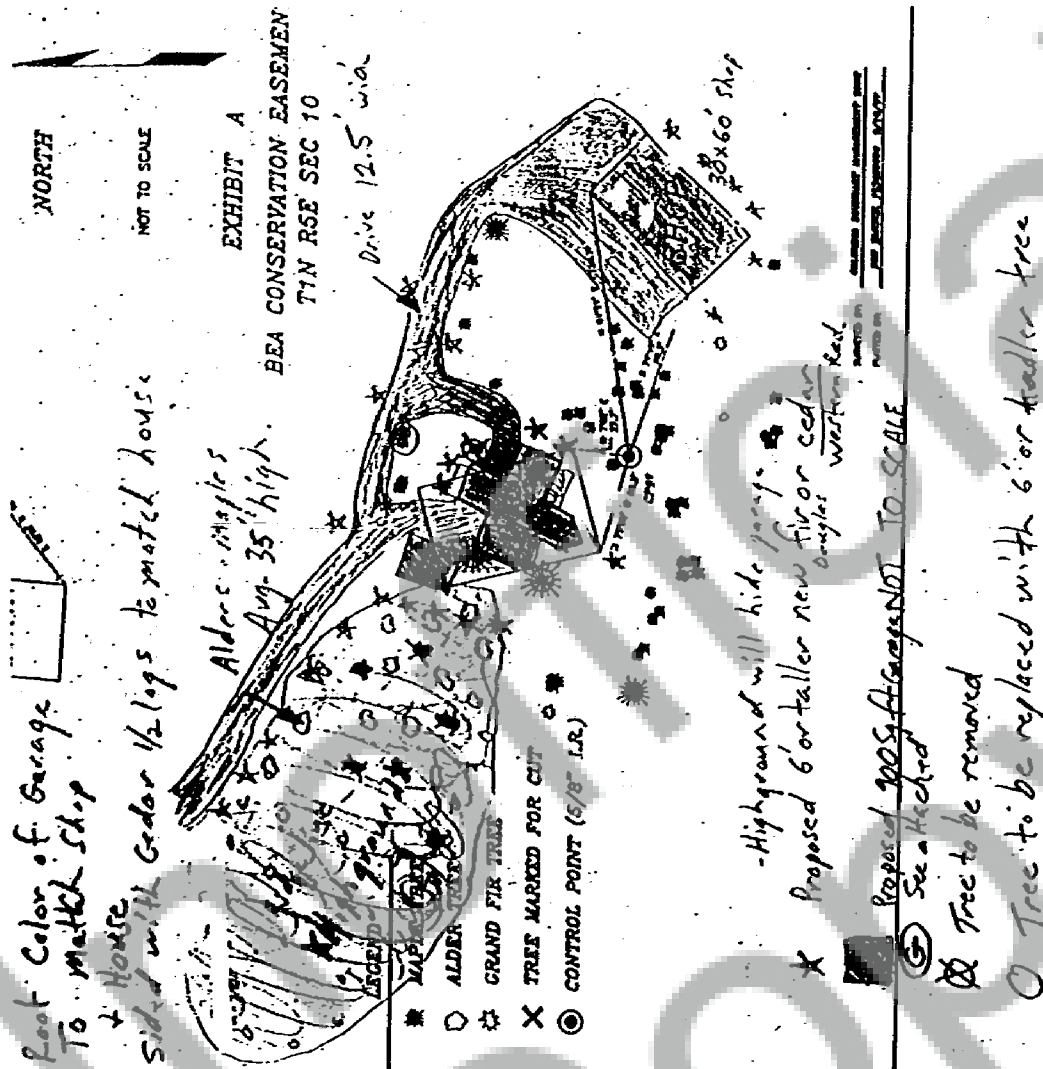


Exhibit A, Sheet 2 of 11