



# County of Santa Cruz

## PLANNING DEPARTMENT

701 OCEAN STREET, 4<sup>TH</sup> FLOOR, SANTA CRUZ, CA 95060

(631) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123

ALVIN D. JAMES, DIRECTOR

**Agenda Date: December 7, 1999**

November 18, 1999

Board of Supervisors  
County of Santa Cruz  
701 Ocean Street  
Santa Cruz, CA 95060

Subject: Proposal to revise language for Condition II.A. for Application 98-0569, a proposal to rezone Assessor's Parcel Number: 086-011-04 from the Special Use (SU) zone district to the Timber Production (TP) zone district and amend paragraph A, of Section IV of Ordinance 4554 to incorporate the revised condition language.

APPLICATION NUMBER: 98-0569

APN: 086-01 1-04

APPLICANT: Hamilton-Swift

OWNER: Redtree Properties

LOCATION: The northeast side of China Grade Road approximately six miles up China Grade Road northwest from the intersection of China Grade and Highway 236 north of Big Basin State Park.

Members of the Board:

On August 3, 1999, your Board considered Application 98-0569 and approved the rezoning of APN 084-01 1-04 from the Special Use (SU) to the Timber Production (TP) zone district. At the public hearing the applicant requested a language change for Condition II.A. of the Conditions of Approval. Condition II.A. as contained in the August 3<sup>rd</sup> Board Report reads as follows:

The [sic] any future logging roads constructed under a timber harvest permit are "new roads" as defined in Chapter 16.22.030 of the County Code. Use of the access road and any other logging road for any purpose other than timber harvesting, non-vehicular recreation and fire suppression is strictly prohibited unless all required County permits are obtained.

The applicant requested that your Board consider revising the second sentence of this condition to read as follows:

The use of new logging roads for residential, commercial, industrial or commercial recreational purposes is prohibited unless the appropriate County permits are obtained.

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Your Board directed County Counsel to review this condition and the applicant's proposed language (Attachment 1). Based upon Counsel's review of the County's Erosion Control ordinance (Chapter 16.22) and the County's definition of "development" in Section 13.10.700 of the County Code, County Counsel has recommended alternative language to this condition which differs both from the original language and the applicant's alternate language proposed at the noticed public hearing. County Counsel recommends that Condition II.A. be amended to read as follows:

Any future logging road constructed under a timber harvest permit is a "new road" as defined in Chapter 16.22.030 of the County Code. Any use of a new logging road, constructed under the terms of a State timber harvest permit, for a purpose connected in any way with subsequent "development", as defined by Section 13.10.700-D of the County Code, is strictly prohibited unless all County permits are obtained.

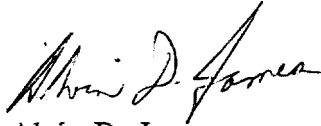
The revised wording of Condition II.A. will allow the use of new timber roads for purposes which would not be considered new development and would, therefore, not violate the requirements of Chapter 16.22, the Erosion Control ordinance. The proposed language clarifies that there may be uses in addition to those specified under the originally proposed condition which would not violate the requirements of Sections 16.22.030 and 16.22.050. County Counsel's complete analysis is provided as Attachment 2.

Your Board has already taken action to (1) approve the determination that the project is statutorily exempt from CEQA; (2) adopt an ordinance amending Chapter 13.10 of the Santa Cruz County Code that conditionally rezones APN 086-01 1-04 from the SU zone district to the TP zone district; and (3) direct the Planning Department to update the General Plan Timber Resources Map to include the boundaries of APN 086-01 1-04 as Timber Resources; at the August 3, 1999 public hearing. Thus, Ordinance Number 4554 was adopted to amend Chapter 13.10 of the County Code conditionally changing the zone district of the subject parcel from SU to the TP zone district (Attachment 3). Consequently, your Board need only consider and act upon the recommendation of County Counsel and the Planning Director concerning Condition II.A. and take the necessary related actions. As the conditions of approval are contained within Section IV of the Ordinance 4554, Ordinance 4554 must be amended should your Board adopt the revised language before you. An amended ordinance is included as Attachment 4 for your consideration.

It is, therefore, RECOMMENDED that your Board, based on the attached analysis by County Counsel (Attachment 2):

1. Approve the revised language for Condition II.A. for Zoning Approval 98-0569 (Attachment 5); and
2. Adopt the attached Ordinance amending Paragraph A. of Section IV of Ordinance 4554 (Attachment 4)

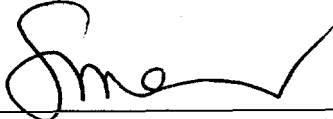
Sincerely,



Alvin D. James  
Planning Director

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RECOMMENDED:



SUSAN A. MAURIELLO  
County Administrative Officer

cc: Hamilton-Swift 1509 Seabright St. Suite A-1, Santa Cruz, CA 95062  
Redtree Properties P.O.Box 1041 Santa Cruz, CA 95061  
Dave Herman, J.E. Greig, Inc. 100 Ponderosa Court Santa Cruz, CA 95060

Attachments:

1. Minutes of August 3, 1999 Board Hearing for Application 98-0569
2. Letter of County Counsel dated October 6, 1999
3. Ordinance 4554 Amending Chapter 13.10 of the County Code  
Changing Properties from One Zone District to Another
4. Proposed Ordinance Amending Ordinance 4554
5. Revised Conditions of Approval

COUNTY OF SANTA CRUZ

STATE OF CALIFORNIA

0640

ATTACHMENT 1



AT THE BOARD OF SUPERVISORS MEETING

On the Date of August 3, 1999

REGULAR AGENDA Item No. 087

(Public hearing held to consider the proposal to rezone (APN: 086-011-04 from the Special Use (SU) zone (district to the Timber Production (TP) zone district. (Requires a rezoning. The property is located on the (northeast side of China Grade Road approximately six (miles up China Grade Road northwest from the (intersection of China Grade and Highway 236 north of (Big Basin State Park. Application No. 98-0569; (Assessor's Parcel No. 086-011-04; Applicant: Hamilton-Swift; Owner: Redtree Properties; closed public (hearing; approved staff recommendations based on the (Findings and Conditions which: approved the (determination that the project is statutorily exempt (from the California Environmental Quality Act; adopted (ORDINANCE NO. 4554 amending Chapter 13.10 of the Santa (Cruz County Code that Conditionally Rezones Assessor's (Parcel Number 086-011-04 from the SU zone district to (the TP zone district; and directed the Planning (Department to update the General Plan Timber Resources (Map to include the area within the boundaries of (Assessor's Parcel Number 086-011-04 as Timber (Resources; with an additional direction that the (specific language on IIA of the Conditions return to (the Board after an evaluation by County Counsel to (determine the exact wording in order to perhaps allow (some beneficial non-timber road uses but to eliminate (the potential for residential, commercial or other (kinds of uses...

Public hearing held to consider the proposal to rezone APN: 086-011-04 from the Special Use (SU) zone district to the Timber Production (TP) zone district. Requires a rezoning. The property is located on the northeast side of China Grade Road approximately six miles up China Grade Road northwest from the intersection of China Grade and Highway 236 north of Big Basin State Park, Application No. 98-0569; Assessor's Parcel No. 086-011-04; Applicant: Hamilton-Swift; Owner: Redtree Properties;

Closed public hearing;

State of California, County of Santa Cruz-ss.

I, Susan A. Mauriello, Ex-officio Clerk of the Board of Supervisors of the County of Santa Cruz, State of California, do hereby certify that the foregoing is a true and correct copy of the order made and entered in the Minutes of said Board of Supervisors. In witness thereof I have hereunto set my hand and affixed the seal of said Board of Supervisors.

COUNTY OF SANTA CRUZ  
STATE OF CALIFORNIA

ATTACHMENT

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0641



AT THE BOARD OF SUPERVISORS MEETING

On the Date of August 3, 1999

REGULAR AGENDA Item No. 087

Upon the motion of Supervisor Wormhoudt, duly seconded by Supervisor Almquist, the Board, by unanimous vote, approved staff recommendations based on the Findings and Conditions which: approved the determination that the project is statutorily exempt from the California Environmental Quality Act; adopted Ordinance No. 4554 amending Chapter 13.10 of the Santa Cruz County Code that Conditionally Rezones Assessor's Parcel Number 086-011-04 from the SU zone district to the TP zone district; and directed the Planning Department to update the General Plan Timber Resources Map to include the area within the boundaries of Assessor's Parcel Number 086-011-04 as Timber Resources; with an additional direction that the specific language on IIA of the Conditions return to the Board after an evaluation by County Counsel to determine the exact wording in order to perhaps allow some beneficial non-timber road uses but to eliminate the potential for residential, commercial or other kinds of uses

Motion made by Supervisor Symons, duly seconded by Supervisor Campos, with Supervisors Beautz, Wormhoudt and Almquist voting "no", to delete, from the Conditions of Approval, under site conditions, item F; motion failed

cc:

CAO

County Counsel

Planning

Cathleen Carr, Planning

Mark Deming, Planning

Martin Jacobson, Planning

Hamilton-Swift, Applicant

Redtree Properties, Owner

J. E. Greig, Consulting Foresters

State of California, County of Santa Cruz-SS

I, Susan A. Mauriello, Ex-officio Clerk of the Board of Supervisors of the County of Santa Cruz, State of California, do hereby certify that the foregoing is a true and correct copy of the order made and entered in the Minutes of said Board of Supervisors. In witness thereof I have hereunto set my hand and affixed the seal of said Board of Supervisors.

Page 2 of 2

by Alicia Mauriello, Deputy Clerk, on August 6, 1999

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# County of Santa Cruz

## OFFICE OF THE COUNTY COUNSEL

701 OCEAN STREET, SUITE 505, SANTA CRUZ, CA 950604068  
(831) 4542040 FAX: (831) 454-2115

DWIGHT L. HERR, COUNTY COUNSEL  
CHIEF ASSISTANTS  
Deborah Steen  
Samuel Torres, Jr.

Assistants  
Harry A. Oberhelman III  
Marie Costa  
Jane M. Scott  
Rahn Garcia  
Tamyra Rice  
Pamela Fyfe  
Ellen Lewis  
Kim Baskett  
Lee Gulliver  
Dana McRae

October 6, 1999

### Agenda: October 19, 1999

Board of Supervisors  
County of Santa Cruz  
701 Ocean Street, Room 500  
Santa Cruz, California 95060

### **Re: Consideration of Condition Limiting Use of New Logging Roads for Application No. 98-0569**

Dear Members of the Board:

On August 3, 1999, your Board considered and approved the rezoning of APN 084-01 1-04 from the Special Use (SU) zone district to the Timber Production (TP) zone district. Included within the Conditions for Approval for the rezoning was item II.A., which reads as follows:

The [sic] any future logging roads constructed under a timber harvest permit are "new roads" as defined in Chapter 1622.030 of the County Code. Use of new logging roads for any purpose other than timber harvesting, timber management as defined in Public Resources Code 4527, non-vehicular recreation and fire suppression is strictly prohibited unless all required County permits are obtained.

The applicant objected to the language contained in the second sentence and proposed that it instead be revised to prohibit use of new logging roads for "residential, commercial, industrial or commercial recreational" purposes unless the appropriate permits are first obtained. Your Board directed this Office to review this condition and report on whether it is possible to authorize non-timber road use on new logging roads constructed pursuant to a State timber harvest permit without violating the environmental

protection provisions of the County Code, and without encouraging non-timber development of the property.

## BACKGROUND

Condition II.A., as proposed by staff, includes language that is consistent with, and in essence, restates the provisions of the County's erosion control regulations. Chapter 16.22 of the County Code is entitled Erosion Control, and its stated purpose is to:

. . .eliminate and prevent conditions of accelerated erosion that have led to, or could lead to, degradation of water quality, loss of fish habitat, damage to property, loss of topsoil and vegetation cover, disruption of water supply, and increased danger from flooding.. ." County Code Section 16.22.010.

County Code Section 16.22.050 establishes density and design standards for all "new development". Subdivision (c) of Section 16.22.050 provides standards for new access roads and driveways:

For any project, access roads and driveways should not cross slopes greater than 30 percent and cuts and fills should not exceed 10 feet.'

"New road or driveway" is defined in Chapter 16.22 as follows:

Any newly constructed road or driveway or any improvement to an existing road bed which requires more than 100 cubic yards grading in any 500-foot segment in order to meet the design standards in Section 16.20.180. Any road or bridge constructed pursuant to a Timber Harvest Permit issued by the State of California shall be considered a new road for the purposes of subsequent development and shall be subject to all current design standards and applicable policies. (Emphasis added.) County Code Section 16.22.030.

As previously noted, Condition II.A. mirrors Section 16.22.030 by expressly making any new logging road built under a State-issued timber harvest permit a "new road" for erosion control purposes. Applying the County's erosion control design standards to State-permitted logging roads meets the objectives of Chapter 16.22 by reducing or eliminating the impact that these roads may have when used for non-timber production purposes. Furthermore, by mandating rigorous erosion control design

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'Under certain conditions, these limitations may be subject to a variance.

standards for these roads prior to permitting a change in the use of the road, it helps guard against the conversion of the property to a non-timber production use which may be incompatible with future harvesting and timber resource management of the site.

The triggering event for the application of Chapter 16.22 is when the property owner proposes that the logging road be used for new or subsequent “development” (see County Code Sections 16.22.030, 16.22.050.) The term “development” is not defined in Chapter 16.22, but is defined in Section 13.10.700 of the Zoning Ordinance as follows:

On land, in or under water , the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z’berg-Nededly Forest Practices Act of 1973 (commencing with Section 45 11). County Code Section 13.10.700-D.

Any use of the logging road proposed by the property owner that is for the purpose of accessing new development, as broadly defined, is prohibited unless the appropriate County approval is first obtained. The property owner can be guided by the definition of development in determining whether a use of the road for other than that authorized under the timber harvest permit would first require County approval.

## CONCLUSION

As currently written, Condition II.A. permits the landowner to use the road for timber management and timber harvesting purposes as defined by Public Resources Code Section 4527 which includes other “incidental” uses. Fire suppression as permitted under Condition II.A. would certainly be considered a use that is incidental to responsible



timber management practices. In addition, Condition II.A. permits the use of the roads for “non-vehicular recreation” which would not be considered new development for the purposes of Section 16.22.030. There may be other potential uses that would not trigger the application of Chapter 16.22, including, but not limited to, wildlife study or park management as proposed by the applicant. In order to clarify that there may be other uses made of a new logging road which would not violate the requirements of Sections 16.22.030 and 16.22.50, the following revision to Condition II.A. is proposed :

Any future logging road constructed under a timber harvest permit is a “new road” as defined in Chapter 16.22.030 of the County Code. Any use of a new logging road, constructed under the terms of a State timber harvest permit, for a purpose connected in any way with subsequent “development”, as defined by Section 13.10.700-D of the County Code, is strictly prohibited unless all County permits are first obtained.

Because your Board has already taken action to (1) approve the determination that the project is statutorily exempt from CEQA; (2) adopt an ordinance amending Chapter 13.10 of the Santa Cruz County Code that conditionally rezones APN 086-01 1-04 from the SU zone to the TP zone district; and (3) direct the Planning Department to update the General Plan Timber Resources Map to include the area within the boundaries of APN 086-01 1-04 as Timber Resources; your Board need only consider and act upon the recommendation of this Office concerning Condition II.A. to complete action on Application No. 98-0569.

IT IS THEREFORE RECOMMENDED that your Board consider revising Condition II.A. of Application No. 98-0569, as proposed by County Counsel.

Very truly yours,

DWIGHT L. HERR, COUNTY COUNSEL

By

  
RAHN GARCIA

Assistant County Counsel

RECOMMENDED:

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SUSAN A. MAURIELLO  
County Administrative Officer

cc: Hamilton-Swift, Applicant  
Planning Department

redtree

ORDINANCE NO. 4554

**ATTACHMENT**

**3**

ORDINANCE AMENDING CHAPTER 13  
OF THE SANTA CRUZ COUNTY CODE  
CHANGING FROM ONE ZONE DISTRICT TO ANOTHER <sup>0646</sup>

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The Board of Supervisors of the County of Santa Cruz ordains as follows:

SECTION I

The Board of Supervisors finds that the public convenience, necessity and general welfare require the amendment of the County Zoning Regulations to implement the policies of the County General Plan and Local Coastal Program Land Use Plan regarding the property located on the northeast side of China Grade Road approximately six miles up China Grade Road northwest from the intersection of China Grade and Highway 236 north of Big Basin State Park; finds that the zoning established herein is consistent with all elements of the Santa Cruz County General Plan; and finds and certifies that all environmental regulations specified in the California Environmental Quality Act, the State and County Environmental Guidelines, and Chapter 16.01 of the County Code have been complied with by the preparation and approval of a Statutory Environmental Exemption for the project.

SECTION II

The Board of Supervisors hereby adopts the recommendations of the Planning Commission for the Zoning Plan amendment as described in Section III, and adopts their findings in support thereof without modification as set forth below:

1. The proposed zone district will allow a density of development and types of uses which are consistent with the objectives and land use designations of the adopted General Plan; and
2. The proposed zone district is appropriate of the level of utilities and community services available to the land; and
3. ☐ a) The character of development in the area where the land is located has changed or is changing to such a degree that the public interest will be better served by a different zone district; or  
☒ b) The proposed rezoning is necessary to provide for a community related use which was not anticipated when the zoning plan was adopted; or  
☐ c) The present zoning is the result of an error; or  
☐ d) The present zoning is consistent with the designation shown on the General Plan.

SECTION III

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ATTACHMENT

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Chapter 13.10, Zoning Regulations, of the Santa Cruz County Code is hereby amended by amending the County Zoning Plan to change the following property from the existing zone district to the new zone district as follows:

<u>Assessor's Parcel Number</u>	<u>Existing Zone District</u>	<u>New Zone District</u>
, 086-01 1-04	"SU"	"TP"

SECTION IV

The rezoning which results from this ordinance shall not become operative until and unless: (1) a Declaration of Restrictions for the property, reviewed and approved by the County Planning Director, has been duly executed and recorded; and (2) the recording of said Declaration of Restrictions takes place within 90 days following the date that the Board of Supervisors adopts this ordinance. This ordinance shall be null and void if said Declaration of Restrictions is not recorded in the manner, and by the time required by this section, The Declaration of Restrictions shall contain the following provisions:

- A. The any future logging roads constructed under a timber harvest permit are "new roads" as defined in Chapter 16.22.030 of the County Code. Use of any new logging road for any purpose other than timber harvesting, timber management as defined in Public Resources Code 4527, non-vehicular recreation and fire suppression is strictly prohibited unless all required County permits are obtained.
- B. The access road shown in the Timber Management Plan (dated 1998, and 1998 Addendum prepared by Dave Herman of J.E.Greig) is a pre-existing road. This road will meet the definition of a "new road" if any improvements resulting in over 100 cubic yards of grading along any 500 foot length are made to the road, and the usage of the road shall then be restricted to those allowed under Condition A above.
- C. Any single family dwelling and/or other structures shall be designed and sited to be physically compatible with the growing and harvesting of a sustained yield tree crop, as well as be consistent with the purposes of the Forest Taxation Reform Act of 1976 and sections 13.10.371 to 13.10.375 of the County Code.

Any proposed single family dwelling or other non-timber growing and harvesting use shall be consistent with any future timber harvesting or timber production use on the subject parcel.

- D. Timber stands meeting minimum stocking standards shall be maintained as required by Section 13.10.375(c)3.
- E. In the event that future County inspections of the subject property disclose noncompliance with any Conditions of this approval or any violation of the County Code, the Zoning Approval Holder shall pay to the County the full cost of such County inspections, including any follow-up inspections and/or necessary enforcement

Permit No. 98-0569

Assessor's Parcel No.086-011

0648

ATTACHMENT

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actions, up to and including permit revocation.

- F. Future timber harvesting shall conform with the cutting restrictions set forth in Chapter 13.10.695 "Locational Criteria for Timber Harvesting" of the County Code.

## SECTION V

This ordinance shall take effect on the 31<sup>st</sup> day after the date of final passage.

PASSED AND ADOPTED this 3<sup>rd</sup> day of August, 1999, by the Board of Supervisors of the County of Santa Cruz by the following vote:

AYES: SUPERVISORS Wormhoudt, Almquist, Symons, Beautz & Campos  
 NOES: SUPERVISORS None  
 ABSENT: SUPERVISORS None  
 ABSTAIN: SUPERVISORS None

JEFF ALMQUIST


JEFF ALMQUIST

Chairperson of the Board of Supervisors

ATTEST: SUSAN M. ROZARIO

Clerk of the Board

APPROVED AS TO FORM:

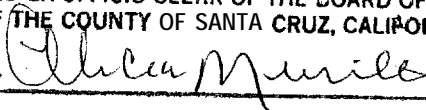


Assistant County Counsel

DISTRIBUTION: County Counsel  
 Planning- Cathleen Carr  
 Planning -Bernice Romero  
 Assessor

I HEREBY CERTIFY THAT THE FOREGOING INSTRUMENT  
 IS A CORRECT COPY OF THE ORIGINAL ON FILE IN THE  
 OFFICE ATTEST MY HAND AND SEAL THIS 3<sup>rd</sup> DAY  
 OF August 1999  
 SUSAN A MAURIELLO, COUNTY ADMINISTRATIVE OFFICER  
 AND EX-OFFICIO CLERK OF THE BOARD OF SUPERVISORS  
 OF THE COUNTY OF SANTA CRUZ, CALIFORNIA.

BY



DEPUTY

0649

## ORDINANCE NO. \_\_\_\_

**ORDINANCE AMENDING ORDINANCE 4554, WHICH  
REZONED ASSESSOR PARCEL 057-071-12, 057-071-15, 057-081-45,  
AND 057-081-54, BY REVISING PROVISION RESTRICTING USE  
OF ANY LOGGING ROAD AUTHORIZED BY TIMBER HARVEST PERMIT**

The Board of Supervisors of the County of Santa Cruz ordains as follows:

## SECTION I

Paragraph A. of Section IV of Ordinance 4554 is hereby amended to read as follows:

~~The a~~Any future logging roads constructed under a timber harvest permit ~~are is a~~ "new roads" as defined in Chapter 1622.030 of the County Code. ~~Use of new logging roads for any purpose other than timber harvesting, timber management as defined in Public Resources Code 4527, non-vehicular recreation and fire suppression~~ Any use of a new logging road, constructed under the terms of a State timber harvest permit, for a purpose connected in any way with subsequent "development", as defined by Section 13.10.700-D of the County Code, is strictly prohibited unless all required County permits are first obtained.

## SECTION II

This ordinance shall take effect on the 3 1st day after the date of final passage.

PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 1999, by the Board of Supervisors of the County of Santa Cruz by the following vote:

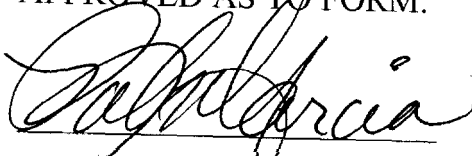
AYES: SUPERVISORS  
NOES: SUPERVISORS  
ABSENT: SUPERVISORS  
ABSTAIN: SUPERVISORS

\_\_\_\_\_  
Chairperson of the  
Board of Supervisors

Attest: \_\_\_\_\_  
Clerk of the Board

0650

APPROVED AS TO FORM:

  
Assistant County Counsel

ORDINANCE NO.     

0657

**ORDINANCE AMENDING ORDINANCE 4554, WHICH  
REZONED ASSESSOR PARCEL 057-071-12, 057-071-15, 057-081-45,  
AND 057-081-54, BY REVISING PROVISION RESTRICTING USE  
OF ANY LOGGING ROAD AUTHORIZED BY TIMBER HARVEST PERMIT**

The Board of Supervisors of the County of Santa Cruz ordains as follows:

**SECTION I**

Paragraph A. of Section IV of Ordinance 4554 is hereby amended to read as follows:

Any future logging road constructed under a timber harvest permit is a "new road" as defined in Chapter 16.22.030 of the County Code. Any use of a new logging road, constructed under the terms of a State timber harvest permit, for a purpose connected in any way with subsequent "development", as defined by Section 13.10.700-D of the County Code, is strictly prohibited unless all required County permits are first obtained.

**SECTION II**

This ordinance shall take effect on the 3 1st day after the date of final passage.

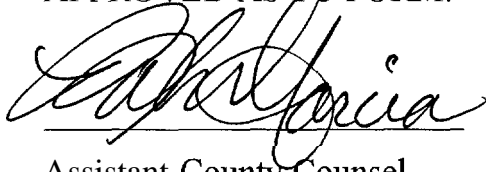
PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 1999, by the Board of Supervisors of the County of Santa Cruz by the following vote:

AYES:       SUPERVISORS  
NOES:       SUPERVISORS  
ABSENT:    SUPERVISORS  
ABSTAIN:   SUPERVISORS

\_\_\_\_\_  
Chairperson of the  
Board of Supervisors

Attest: \_\_\_\_\_  
Clerk of the Board

APPROVED AS TO FORM:



Assistant County Counsel

0652



Permit No. 980569

Applicant: Hamilton-Swift for Redtree Properties

Assessor's Parcel No. 086-01 1-04

### CONDITIONS OF APPROVAL

Approval No. 98-0569

Applicant and Property Owner: Hamilton-Swift for Redtree Properties

Assessor's Parcel No. 086-01 1-04

Property location and address: The northeast side of China Grade Road approximately six miles up China Grade Road northwest from the intersection of China Grade and Highway 236 north of Big Basin State Park. No situs.

North Coast Planning Area

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Exhibits:

- H. Timber Management Plan dated 1998 and 1998 addendum prepared by Dave Herman, of J.E. Greig, Inc. Registered Professional Foresters
- 

- I. This approval authorizes the rezoning of parcel 086-011-04 to the Timber Production zone district. Prior to revision of the Zoning Map and to exercising any rights granted by this permit including, without limitation, any construction or site disturbance, the Zoning Approval Holder shall:
- A. Sign, date, and return to the Planning Department one copy of the approval to indicate acceptance and agreement with the conditions thereof.
  - B. Record the conditions of rezoning on the subject parcel. The Zoning Approval Holder shall submit proof that these conditions have been recorded in the official records of the County of Santa Cruz (Office of the County Recorder) within 90 days of final approval of the rezoning by the Board of Supervisors.
  - C. Record a Declaration of Acknowledgment Regarding a Timber Management Plan for APN 086-011-04 with the County Recorder. Submit proof of recordation to the Planning Department.
- II. Site Conditions.
- A. Any future logging road constructed under a timber harvest permit is a "new road" as defined in Chapter 16.22.030 of the County Code. Any use of a new

Permit No. 98-0569

Applicant: Hamilton-Swift for Redtree Properties

Assessor's Parcel No.086-01 1-04

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logging road, constructed under the terms of a State timber harvest permit, for a purpose connected in any way with subsequent "development", as defined by Section 13.10.700-D of the County Code, is strictly prohibited unless all County permits are obtained.

- B. The access road shown in Exhibit H is a pre-existing road. This road will meet the definition of a "new road" if any improvements resulting in over 100 cubic yards of grading along any 500 foot length are made to the road, and the usage of the road shall then be restricted to those allowed under Condition II.A.
- C. Any single family dwelling and/or other structures shall be designed and sited to be physically compatible with the growing and harvesting of a sustained yield tree crop, as well as be consistent with the purposes of the Forest Taxation Reform Act of 1976 and sections 13.10.371 to 13.10.375 of the County Code.

Any proposed single family dwelling or other non-timber growing and harvesting use shall be consistent with any future timber harvesting or timber production use on the subject parcel.

- D. Timber stands meeting minimum stocking standards shall be maintained as required by Section 13.10.375(c)3.
  - E. In the event that future County inspections of the subject property disclose noncompliance with any Conditions of this approval or any violation of the County Code, the Zoning Approval Holder shall pay to the County the full cost of such County inspections, including any follow-up inspections and/or necessary enforcement actions, up to and including permit revocation.
  - F. Future timber harvesting shall conform with the cutting restrictions set forth in Chapter 13.10.695 "Locational Criteria for Timber Harvesting" of the County Code.
- III. As a condition of this rezoning approval, the holder of this rezoning approval ("Zoning Approval Holder"), is required to defend, indemnify, and hold harmless the COUNTY, its officers, employees, and agents, from and against any claim (including attorneys' fees), against the COUNTY, its officers, employees, and agents to attack, set aside, void, or annul this zoning approval of the COUNTY or any subsequent amendment of this approval which is requested by the Zoning Approval Holder.
- A. COUNTY shall promptly notify the Zoning Approval Holder of any claim, action, or proceeding against which the COUNTY seeks to be defended,

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indemnified, or held harmless. COUNTY shall cooperate fully in such defense. If COUNTY fails to notify the Zoning Approval Holder within sixty (60) days of any such claim, action, or proceeding, or fails to cooperate fully in the defense thereof, the Zoning Approval Holder shall not thereafter be responsible to defend, indemnify, or hold harmless the COUNTY if such failure to notify or cooperate was significantly prejudicial to the Zoning Approval Holder.

- B. Nothing contained herein shall prohibit the COUNTY from participating in the defense of any claim, action, or proceeding if both of the following occur:
1. COUNTY bears its own attorney's fees and costs; and
  2. COUNTY defends the action in good faith.
- C. Settlement. The Zoning Approval Holder shall not be required to pay or perform any settlement unless such Zoning Approval Holder has approved the settlement. When representing the County, the Zoning Approval Holder shall not enter into any stipulation or settlement modifying or affecting the interpretation or validity of any of the terms or conditions of the zoning approval without the prior written consent of the County.
- D. Successors Bound. "Zoning Approval Holder" shall include the applicant and the successor'(s) in interest, transferee(s), and assign(s) of the applicant.
- E. Within 90 days of the adoption of this Zoning approval, the Zoning Approval Holder shall record in the office of the Santa Cruz County Recorder an agreement which incorporates the provisions of these conditions, or this Zoning approval shall become null and void.

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Minor variations to this permit which do not affect the overall concept or density may be approved by the Planning Director at the request of the applicant or staff in accordance with Chapter 18.10 of the County Code.