



# COUNTY OF SANTA CRUZ

## PLANNING DEPARTMENT

701 OCEAN STREET - 4<sup>TH</sup> FLOOR, SANTA CRUZ, CA 95060  
(831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123

KATHLEEN MOLLOY PREVISICH, PLANNING DIRECTOR

February 9, 2017

Planning Commission  
County of Santa Cruz  
701 Ocean Street  
Santa Cruz, CA 95060

**Agenda Date: 3/22/17**

**APN: 098-151-03**

**Application: 161416**

Agenda Item: 7

**Subject: A public hearing to consider a proposal to rezone a lot of record from the Special Use (SU) zone district to the Timber Production (TP) zone district.**

Members of the Commission:

On November 21, 2016 the County Planning Department accepted this application for rezoning one parcel, of approximately 24 acres, from the Special Use (SU) zone district to the Timber Production (TP) designation. The parcel is located on both sides of Comstock Mill Road approximately 2 miles east of the intersection with Stetson Road, within the Summit Planning area. The parcel is currently undeveloped and forested with second growth redwood.

### Background and Discussion

The property owner, Barbara Wicht, owns an approximately 26.1-acre Timber Production (TP) zoned parcel, APN 097-151-10, which is contiguous with the subject property. The property owner has other timber holdings in the vicinity as well. The project qualifies for a rezoning under California Government Code Section 51113.5, which allows a property owner with TP-zoned land that meets all of the requirements of that section, to petition the County to rezone contiguous land to the TP zone district. This type of rezoning must also meet the definitions of Government Code Section 51104(f) and (g).

51104(f) "Timberland" means privately owned land, or land acquired for state forest purposes, which is devoted to and used for growing and harvesting timber, or for growing and harvesting timber and compatible uses, and which is capable of growing an average annual volume of wood fiber of at least 15 cubic feet per acre.

51104(g) "Timberland production zone" or TPZ" means an area which has been zoned pursuant to Section 51112 or 51113 and is devoted to and used for growing and harvesting timber, or for growing and harvesting timber and compatible uses, as defined in subdivision (h).

51104(h) "Compatible use" is any use which does not significantly detract from the use of the property for, or inhibit, growing and harvesting timber, and shall include, but

not be limited to, any of the following, unless in a specific instance such a use would be contrary to the preceding definition of compatible use:

- (1) Management for watershed.
- (2) Management for fish and wildlife habitat or hunting and fishing.
- (3) A use integrally related to the growing, harvesting and processing of forest products, including but not limited to roads, log landings, and log storage areas.
- (4) The erection, construction, alteration, or maintenance of gas, electric, water, or communication transmission facilities.
- (5) Grazing
- (6) A residence or other structure necessary for the management of land zoned as timberland production.

Government Code Section 51113.5 expressly prohibits local jurisdictions from placing any additional requirements under Government Code 51113 on applications to rezone the property to TP. The proposed zoning is consistent with the General Plan, as Timber Production is an implementing zone district for the Mountain Residential (R-M) General Plan designation of the parcel.

In accordance with Section 51113.5 of the State Government Code, and Section 51104 by reference, the project meets the following criteria for rezoning to Timber Production:

- 1) The property is contiguous with Timber Production zoned property under the ownership of one person, as defined in Section 38106 of the Revenue and Taxation Code (Exhibit F).
- 2) The property is timberland, as it is capable of producing an average of 50.4 cubic feet of timber per acre annually (Exhibit E).
- 3) The uses on the parcel, including watershed, wildlife habitat, and timber management, comply with the Timber Production Zone uses set forth in Section 13.10.372, and as determined by the Registered Professional Forester (Exhibit E).

### **Environmental Review**

This project qualifies for a statutory exemption in accordance with the California Environmental Quality Act Article 18, Section 15264 (Exhibit D).

### **Conclusion**

All of the criteria have been met for rezoning the subject parcel to the Timber Production zoning designation. All required findings can be made to approve this application pursuant to California State Government Code Section 51113.5. There are no Williamson Act contracts that apply to the SU-zoned parcel.

## **Recommendation**

It is recommended that the Commission Adopt Resolution (Exhibit A), sending a recommendation to the Board of Supervisors for approval of Application 161416, to adopt the Ordinance rezoning the property to the TP zone district.

\_\_\_\_\_  
Nathan MacBeth  
Project Planner  
Development Review

Reviewed By: \_\_\_\_\_  
Steven Guiney, AICP  
Principal Planner

## **Exhibits**

- A. Planning Commission Resolution, with Ordinance/ Findings
- B. APN map
- C. Location, Aerial, Current Zoning and General Plan Designation, and Ownership maps
- D. Notice of Exemption from CEQA
- E. Timber Management Plan prepared by Joseph Culver, Registered Professional Forester, dated November 18, 2016
- F. State Government Code Sections

BEFORE THE PLANNING COMMISSION  
OF THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA

RESOLUTION NO. \_\_\_\_\_

On the motion of Commissioner  
duly seconded by Commissioner  
the following Resolution is adopted:

PLANNING COMMISSION RESOLUTION  
SENDING RECOMMENDATION TO THE BOARD OF SUPERVISORS  
ON PROPOSED AMENDMENT TO THE ZONING ORDINANCE

---

WHEREAS, the Planning Commission has held a public hearing on Application No. 161416, involving property located on the both sides of Comstock Mill Road approximately 2 miles east of the intersection with Stetson Road; and the Planning Commission has considered the proposed rezoning, all testimony and evidence received at the public hearing, and the attached staff report.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission recommends that the Board of Supervisors adopt the attached ordinance amending the Zoning Ordinance by changing property from the Special Use zone district to the Timber Production zone district.

BE IT FURTHER RESOLVED, that the Planning Commission makes findings on the proposed rezoning as contained in the Report to the Planning Commission.

PASSED AND ADOPTED by the Planning Commission of the County of Santa Cruz, State of California, this \_\_\_\_\_ day of \_\_\_\_\_, 2017, by the following vote:

AYES: COMMISSIONERS  
NOES: COMMISSIONERS  
ABSENT: COMMISSIONERS  
ABSTAIN: COMMISSIONERS

\_\_\_\_\_  
Chairperson

ATTEST: \_\_\_\_\_  
STEVE GUINEY, Secretary

APPROVED AS TO FORM:

  
\_\_\_\_\_  
COUNTY COUNSEL

**ORDINANCE NO. \_\_\_\_\_**

**ORDINANCE AMENDING CHAPTER 13  
OF THE SANTA CRUZ COUNTY CODE  
CHANGING FROM ONE ZONE DISTRICT TO ANOTHER**

---

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 timber resource property located both sides of Comstock Mill Road approximately 2 miles east of the intersection with Stetson Road, and that the zoning to be established herein is consistent with all elements of the Santa Cruz County General Plan and the Santa Cruz County Code, as modified by the *Big Creek* decision.

**SECTION II**

The Board of Supervisors hereby adopts the Zoning Plan Amendment as described in Section III, and adopts the 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 a Statutory Exemption has been prepared pursuant to the California Environmental Quality Act (CEQA), and
2. The proposed zone district is appropriate for the level of utilities and community services available to the land; and
3. 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; and
4. The property meets the requirements of Government Code section 51113 or 51113.5 and County Code Section 13.10.375(c).

### SECTION III

Chapter 13.10 - Zoning Regulations of the Santa Cruz County Code is hereby amended by amending Section 13.10.210 - Zoning Plan to change the following properties 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>
098-151-03	Special Use (SU)	Timber Production (TP)

### SECTION IV

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

PASSED AND ADOPTED THIS \_\_\_\_\_ day of \_\_\_\_\_ 2017, by the Board of Supervisors of the County of Santa Cruz by the following vote:

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

\_\_\_\_\_  
Chairman of the Board of Supervisors

ATTEST: \_\_\_\_\_  
Clerk of the Board

APPROVED AS TO FORM:

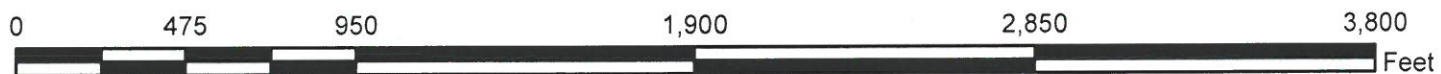
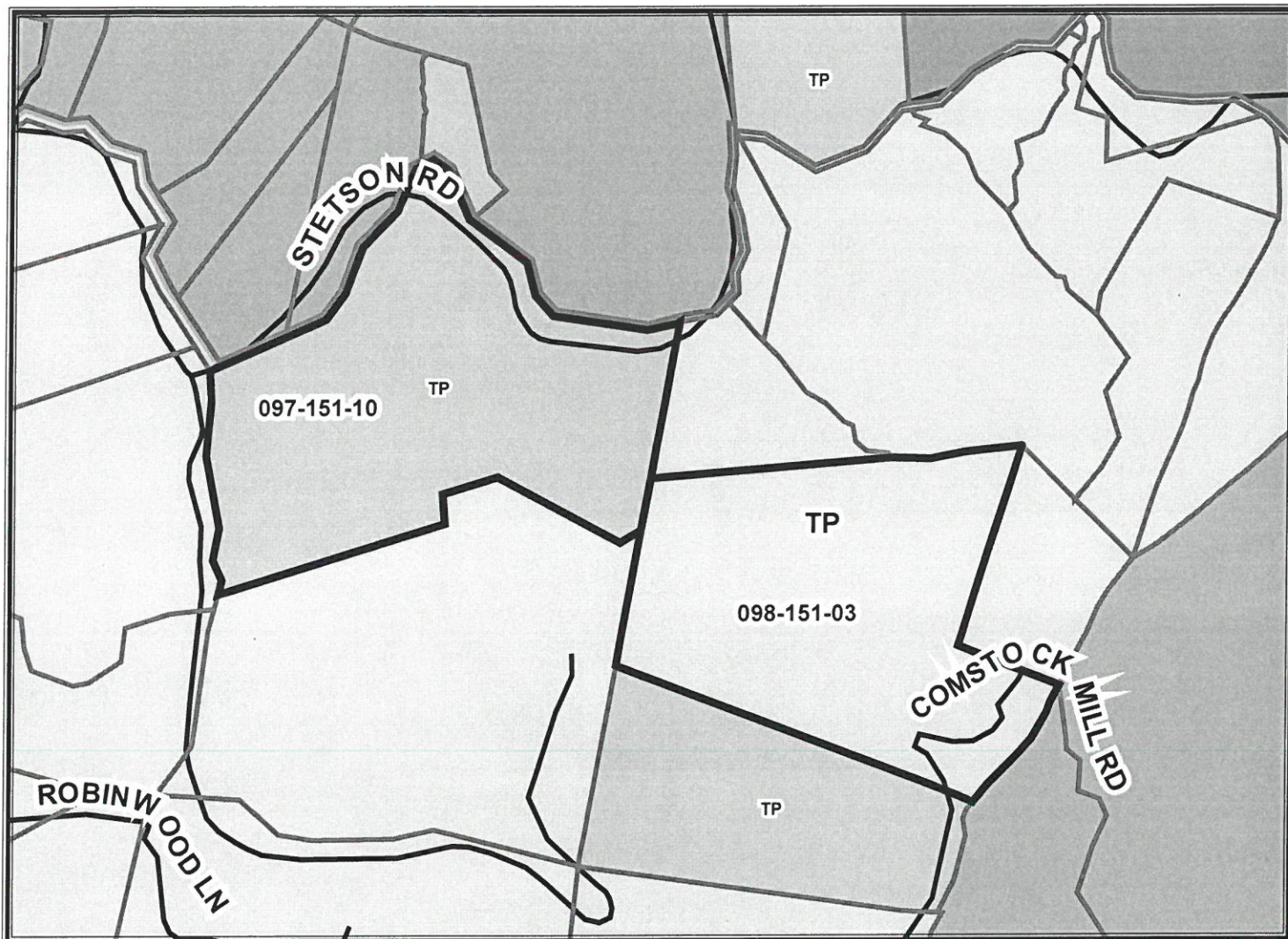
  
\_\_\_\_\_  
Assistant County Counsel

Exhibit: Rezoning Map






DISTRIBUTION:    County Counsel  
                         Planning  
                         Assessor  
                         County GIS



# Rezoning Map



## LEGEND

-  APN: 097-151-10
-  APN: 098-151-03
-  Assessors Parcels
-  Streets
-  TIMBER PRODUCTION



Map Created by  
County of Santa Cruz  
Planning Department  
February 2017

# FOR TAX PURPOSES ONLY

THE ASSESSOR MAKES NO GUARANTEE AS TO MAP ACCURACY NOR ASSUMES ANY LIABILITY FOR OTHER USES. NOT TO BE REPRODUCED. ALL RIGHTS RESERVED.  
© COPYRIGHT SANTA CRUZ COUNTY ASSESSOR 1997

SOQUEL AUGMENTATION RANCHO  
POR. SEC. 35 & 36 T.9S., R.1W., &  
POR. SEC. 1 & 2, T.10S., R.1W., M.D.B. & M.

Tax Area Code  
79-032

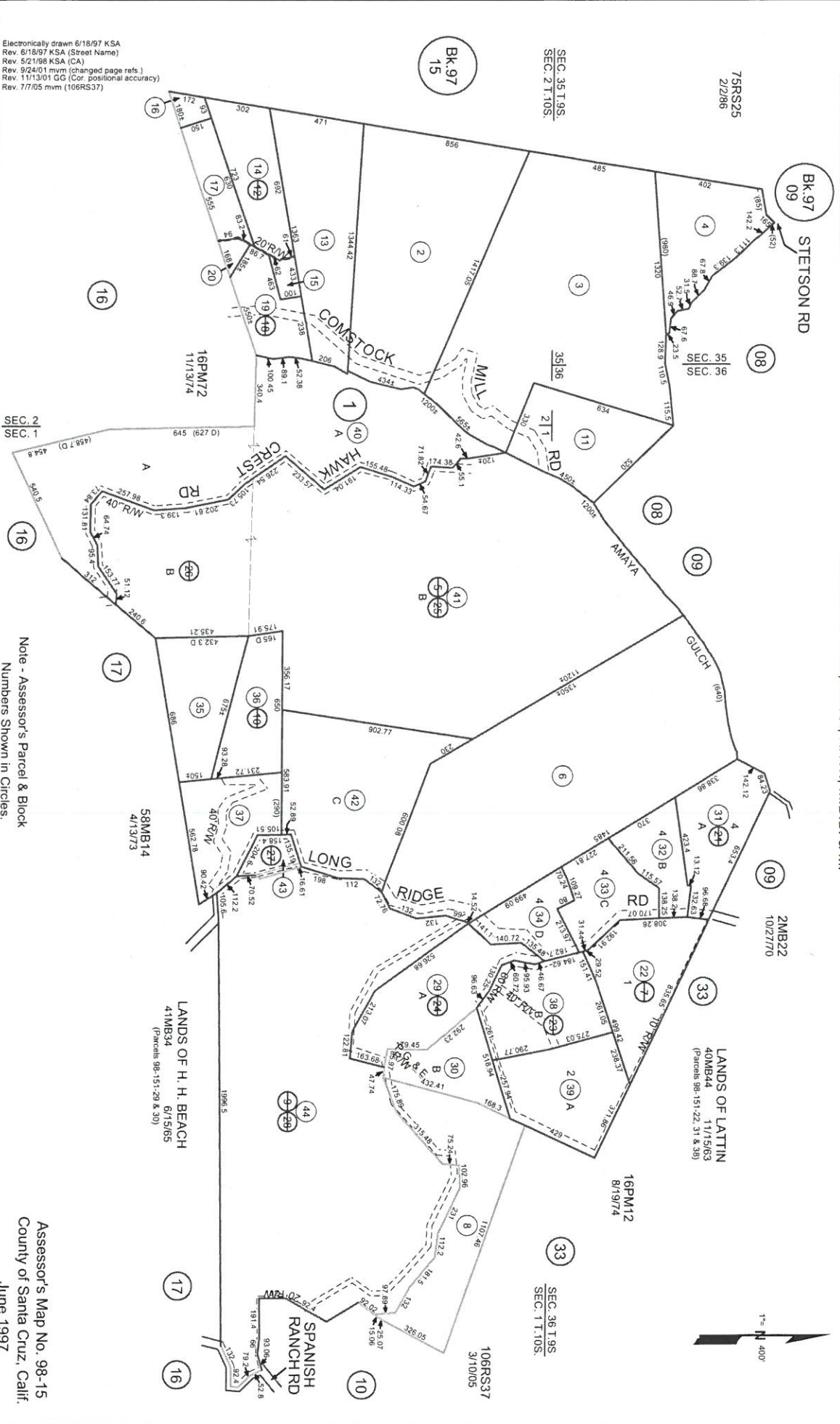
98-15

Electronically drawn 6/18/97 KSA  
Rev. 6/18/97 KSA (Street Name)  
Rev. 5/21/98 KSA (CA)  
Rev. 9/24/01 mmm (changed page refs.)  
Rev. 11/13/01 GG (Cor. positional accuracy)  
Rev. 7/7/05 mmm (106RS37)

SEC. 2  
SEC. 1

Note - Assessor's Parcel & Block  
Numbers Shown in Circles.

Assessor's Map No. 98-15  
County of Santa Cruz, Calif.  
June 1997



**FOR TAX PURPOSES ONLY**  
 THE ASSESSOR MAKES NO GUARANTEE AS TO MAP ACCURACY NOR ASSUMES ANY  
 LIABILITY FOR OTHER USES. NOT TO BE REPRODUCED. ALL RIGHTS RESERVED.  
 ©COPYRIGHT SANTA CRUZ COUNTY ASSESSOR 1997

**SOQUEL AUGMENTATION RANCHO**  
 POR. SEC. 35, T.9S., R. 1W., & SEC. 2, T. 10S., R. 1W., M.D.B. & M.

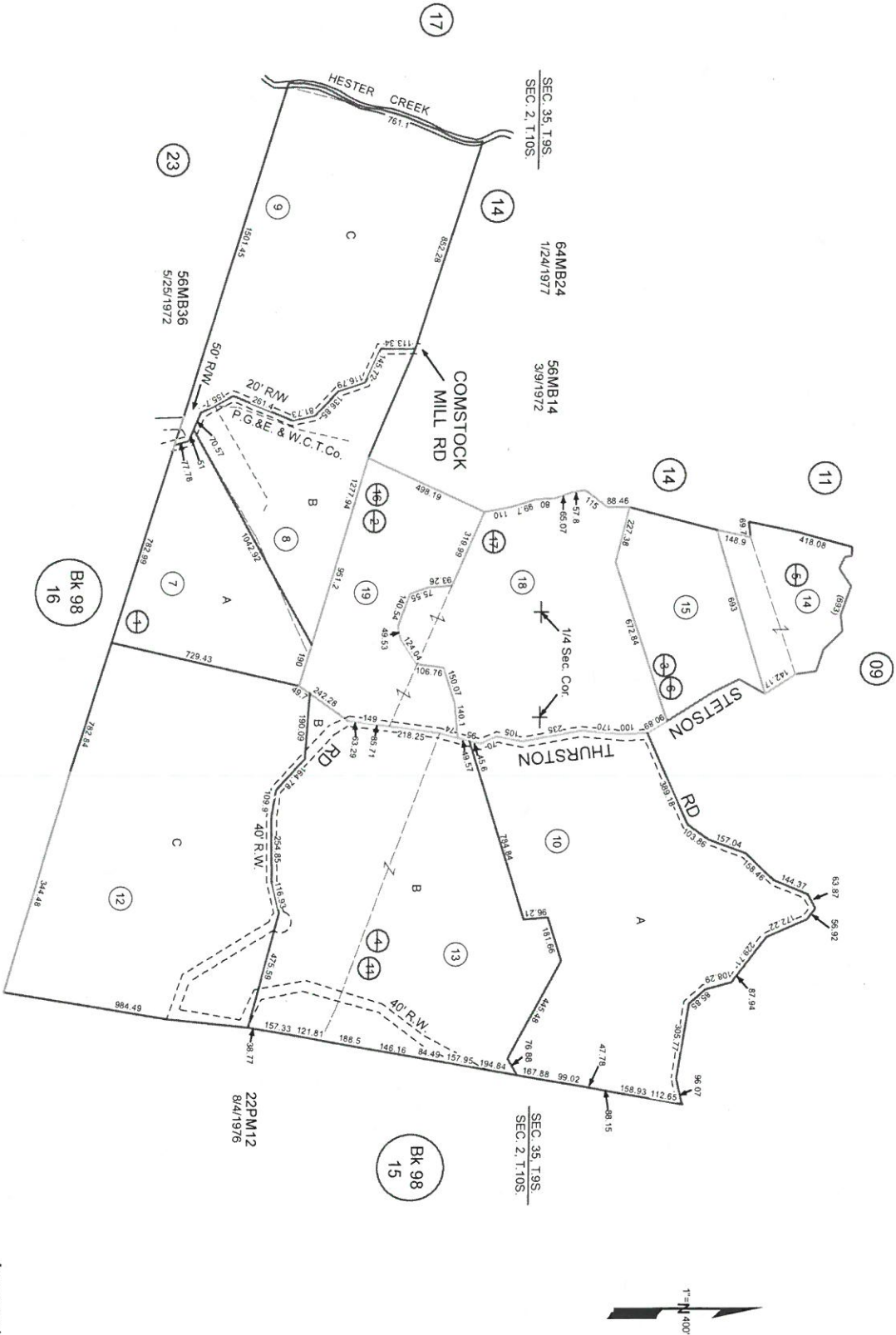
Tax Area Code  
 79-032

97-15

Electronically Redrawn 3/4/97 rw  
 Rev. 5/21/98 KSA (CA)  
 Rev. 6/26/08 CB (8-0032272 & 73, Sp. 1-16 & 17)  
 Rev. 12/23/08 CB (8-0043468 & 70, LBA 1-18 & 19)

Note - Assessor's Parcel & Block  
 Numbers Shown in Circles.

Assessor's Map No. 97-15  
 County of Santa Cruz, Calif.  
 March, 1997






# Location Map



## LEGEND

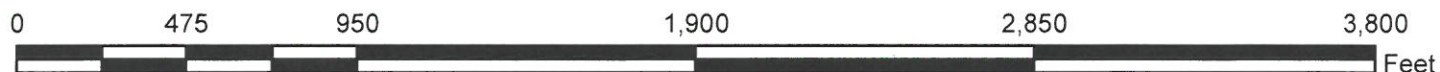
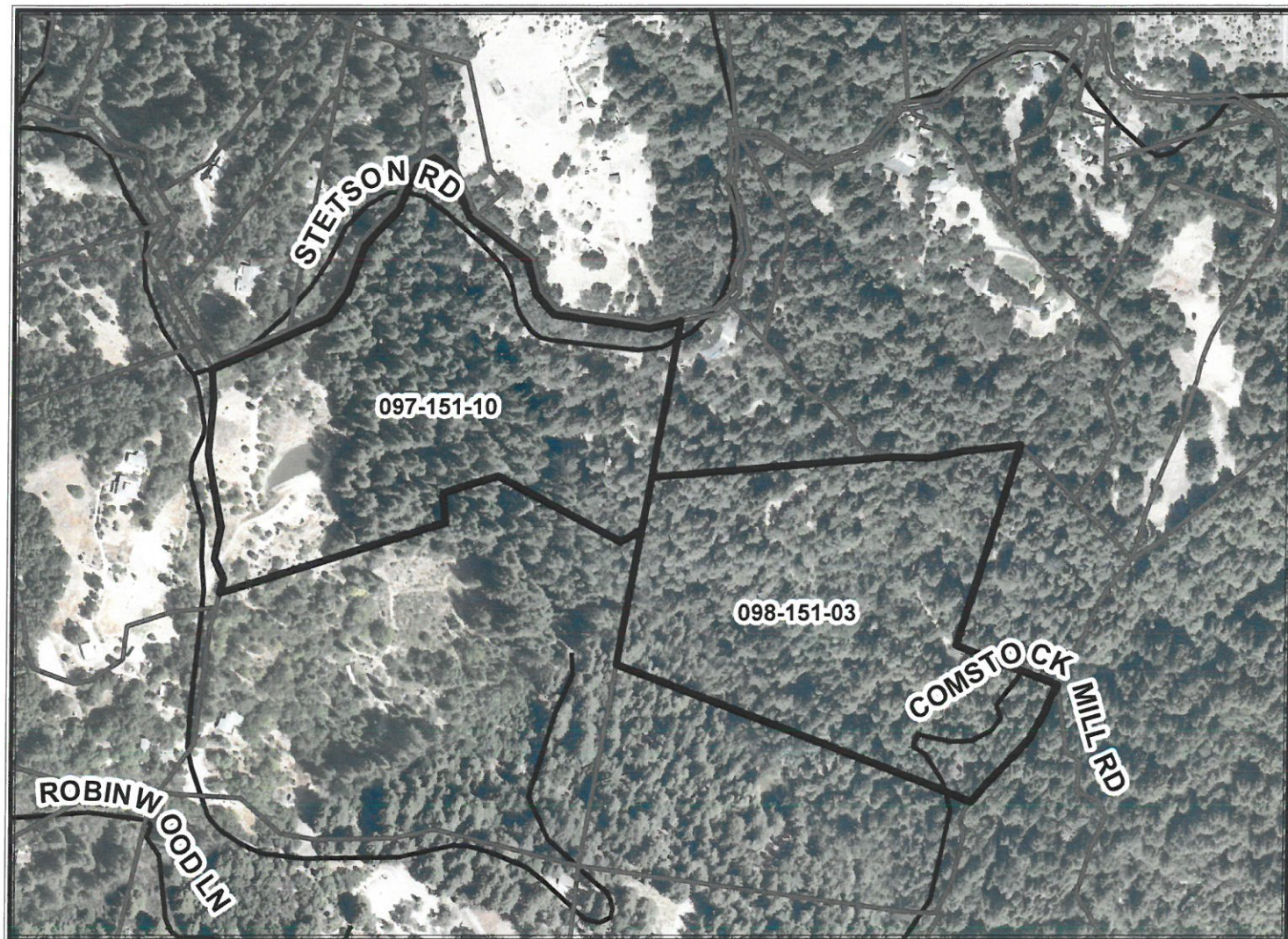
-  APN: 097-151-10
-  APN: 098-151-03
-  Assessors Parcels
-  Streets






Map Created by  
County of Santa Cruz  
Planning Department  
February 2017



# Aerial Map



## LEGEND

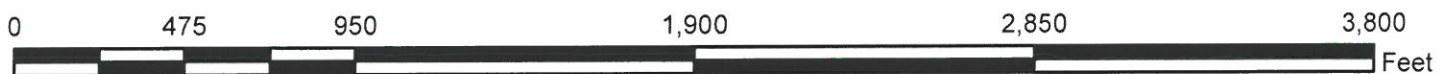
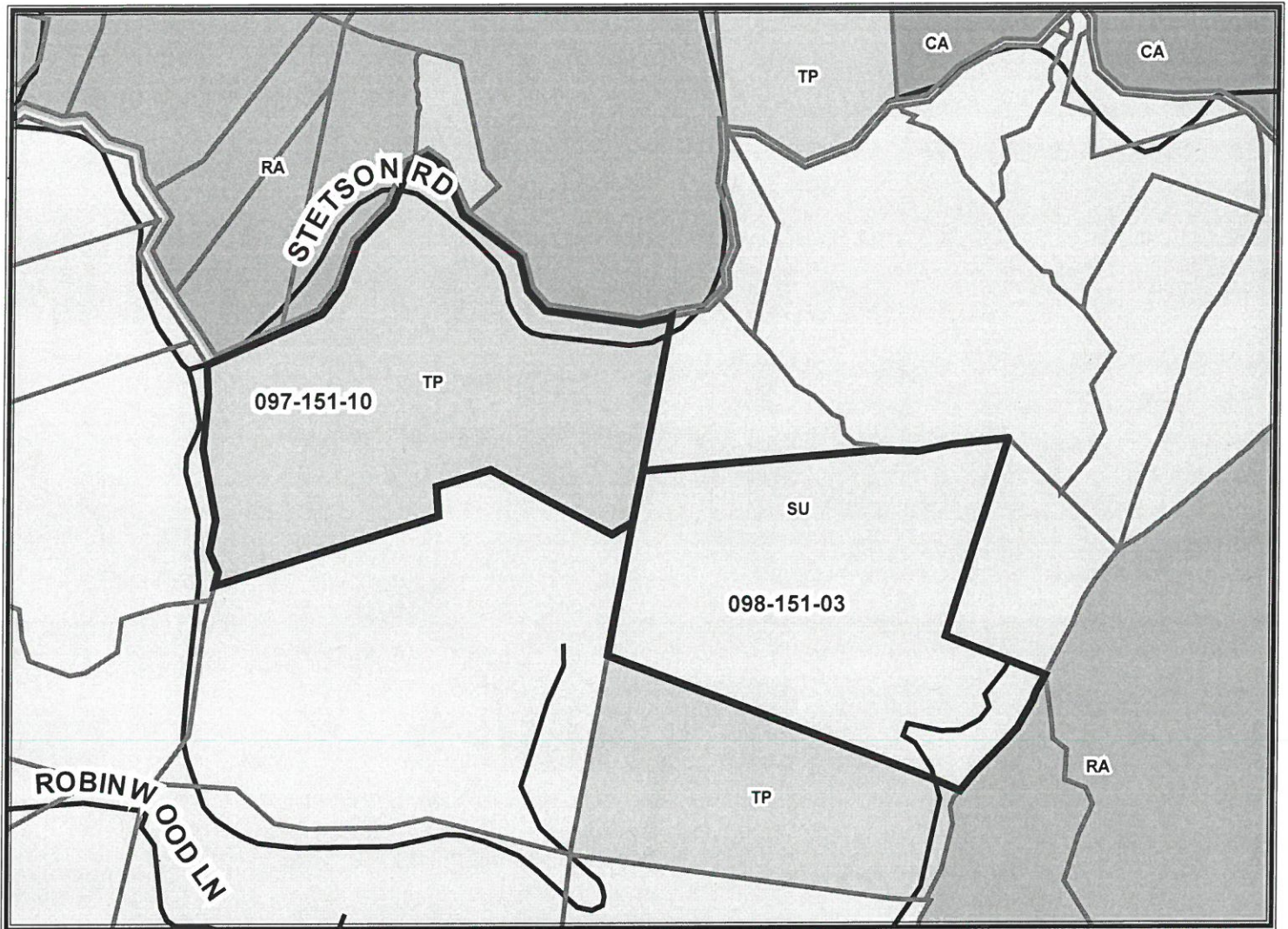
-  APN: 097-151-10
-  APN: 098-151-03
-  Assessors Parcels
-  Street



Map Created by  
County of Santa Cruz  
Planning Department  
February 2017



# Zoning Map



## LEGEND

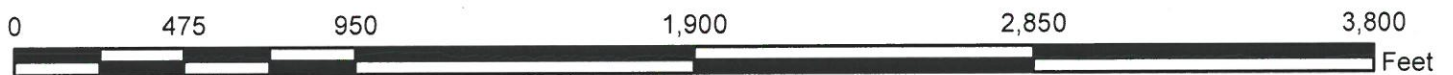
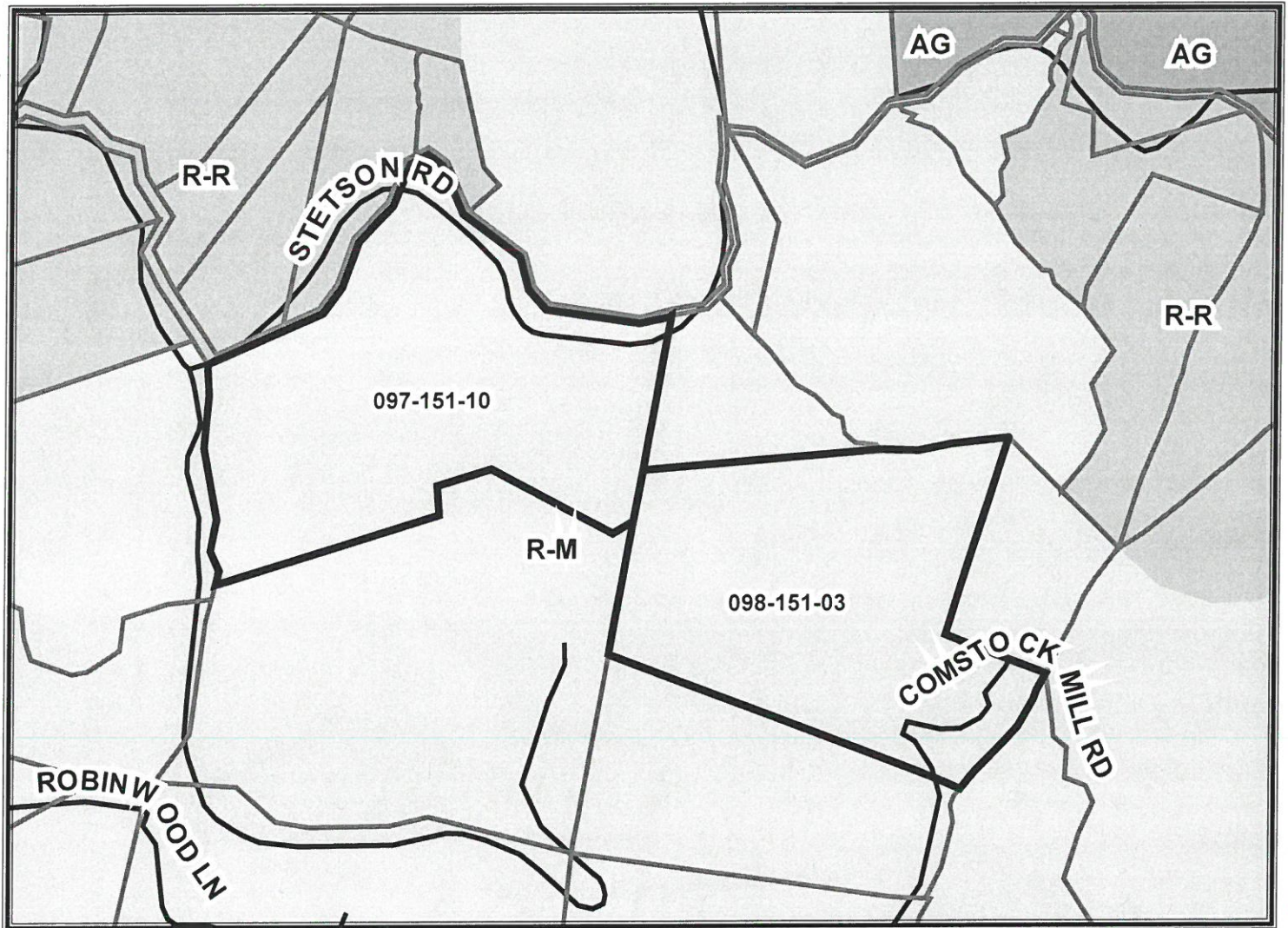
- APN: 097-151-10
- APN: 098-151-03
- Assessors Parcels
- Streets
- SPECIAL USE
- TIMBER PRODUCTION
- AGRICULTURE RESIDENTIAL
- AGRICULTURE COMMERCIAL










Map Created by  
County of Santa Cruz  
Planning Department  
February 2017



# General Plan Designation Map



## LEGEND

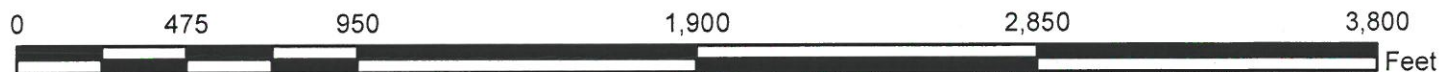
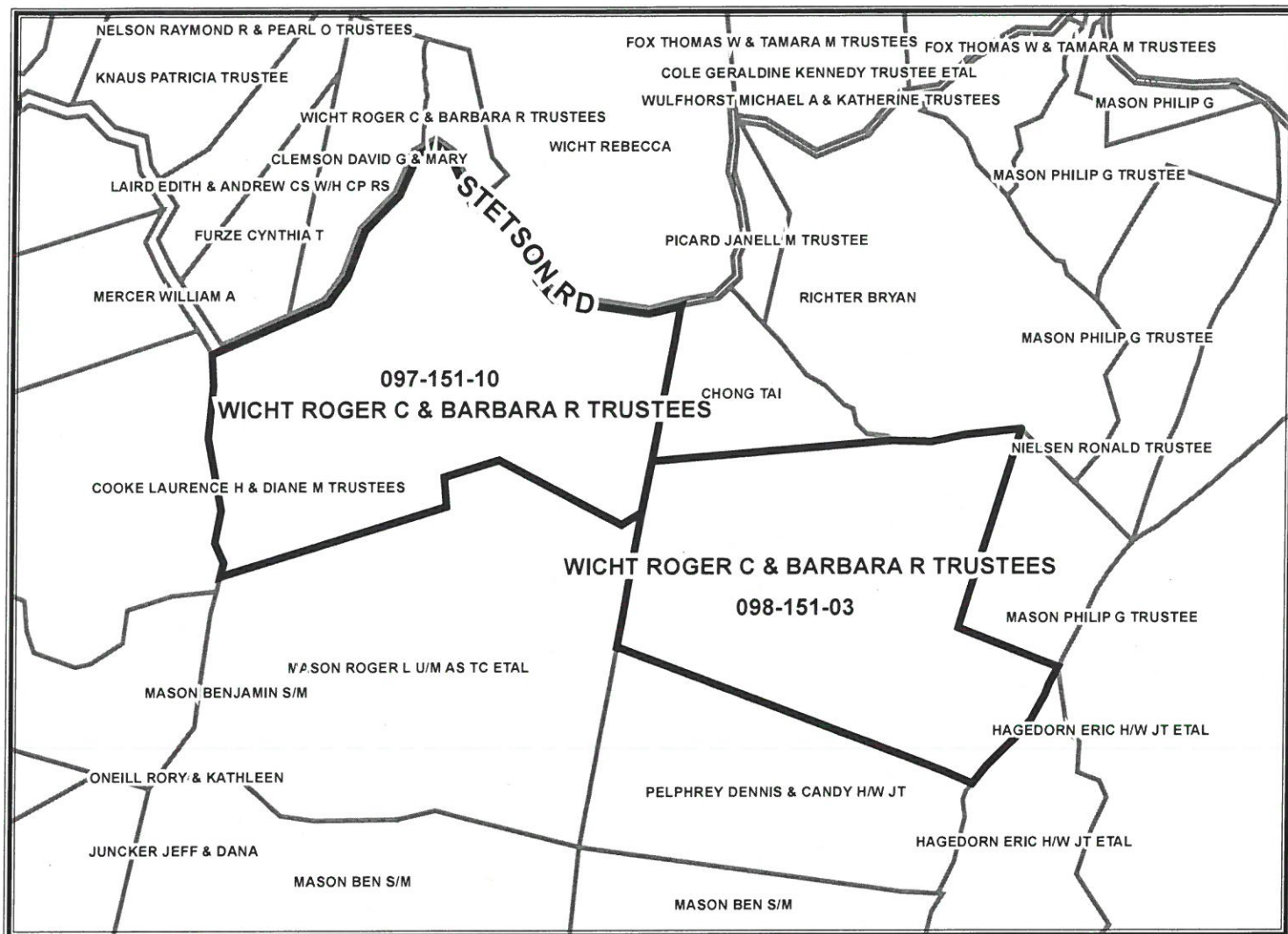
-  APN: 097-151-10
-  APN: 098-151-03
-  Assessors Parcels
-  Streets
-  Residential-Mountain
-  Residential-Rural
-  Agriculture



Map Created by  
County of Santa Cruz  
Planning Department  
February 2017



# Ownership Map



## LEGEND

- APN: 097-151-10
- APN: 098-151-03
- Assessors Parcels
- Streets



Map Created by  
County of Santa Cruz  
Planning Department  
February 2017

## CALIFORNIA ENVIRONMENTAL QUALITY ACT NOTICE OF EXEMPTION

The Santa Cruz County Planning Department has reviewed the project described below and has determined that it is exempt from the provisions of CEQA as specified in Sections 15061 - 15332 of CEQA for the reason(s) which have been specified in this document.

Application Number: 161416

Assessor Parcel Number: 098-151-03

Project Location: Both sides of Comstock Mill Road approximately 2 miles east of the intersection with Stetson Road.

**Project Description: Proposal to rezone Special Use (SU) to Timber Production (TP).  
Requires a Rezoning**

**Person or Agency Proposing Project: Roger Mason**

**Contact Phone Number: (408)529-0254**

- A. ☐ The proposed activity is not a project under CEQA Guidelines Section 15378.  
B. ☐ The proposed activity is not subject to CEQA as specified under CEQA Guidelines Section 15060 (c).  
C. ☐ **Ministerial Project** involving only the use of fixed standards or objective measurements without personal judgment.  
D. ☒ **Statutory Exemption** other than a Ministerial Project (CEQA Guidelines Section 15260 to 15285).  
E. ☐ **Categorical Exemption**

Specify type: Article 18, Section 15264

**F. Reasons why the project is exempt:**

**15264. TIMBERLAND PRESERVES:** Local agencies are exempt from the requirement to prepare an EIR or Negative Declaration on the adoption of timberland preserve zones under Government Code Sections 51100 et seq. (Gov. Code, Sec. 51119).

In addition, none of the conditions described in Section 15300.2 apply to this project.

\_\_\_\_\_  
Nathan MacBeth, Project Planner

Date: \_\_\_\_\_

**JOSEPH CULVER**  
*CONSULTING FORESTER*

November 18, 2016

Santa Cruz Planning Department  
501 Ocean Street  
Santa Cruz, CA 95060



RE: Rezone APN # 098-151-03 to  
Timber Production, Adjacent to TPZ  
Property Under Same Ownership

I have been hired to facilitate the rezoning of APN # 098-151-03 to Timber Production. Barbara Wicht owns the parcel, which is listed by the county assessor as 23.8 acres in size. The parcel is adjacent to APN # 097-151-10, a 26.1 acre parcel already zoned Timber production and also owned by Mrs. Wicht. Because the parcels are contiguous, APN# 098-151-03 qualifies for an "Adjacency Rezoning" under section 51113.5 of the California Code.

In November 2016 I completed a sample inventory of APN # 098-151-03 to determine forest characteristics. The inventory consisted of 7 plots 1/5 acre in size randomly placed across the parcel. At each plot I determined tree diameter, height, and percent defect of all conifers greater than 12 inches in diameter within the plot boundaries. I also cored a smaller sample of trees to determine radial growth of the stand over the last ten years. I then processed the collected data to determine the current stocking levels and growth capability of the parcel as detailed below.

**TIMBER STOCKING:** To rezone a property to the "Timber Production" zoning a property must meet the timber stocking standards set forth in Section 4561 of the Public Resources Code. Section 4561 states in part that "The average residual basal area, measured in stems one inch or larger in diameter.....in areas which the registered professional forester has determined are site II classification or lower, the minimum average residual basal area shall be 50 square feet per acre. Rock outcroppings and other areas not normally bearing timber shall not be considered as requiring stocking." The average residual basal area in the timbered portions of the property is 150 square feet per acre and therefore meets the stocking standards.

**TIMBERLAND:** To rezone a property to the "Timber Production" zoning a property must meet the definition of timberland. Section 51104 of the California Code states that "Timberland means privately owned land.....capable of growing an average annual volume of wood fiber of at least 15 cubic feet per acre." The property proposed for rezoning is capable of growing an annual average volume of wood fiber of 50.4 cubic feet per acre and therefore meets the definition of timberland.

COMPATIBLE USE: Current property use of the parcel includes watershed, wildlife habitat and timber management. A seasonal road traverses the parcel. No structures are located on the parcel. Existing infrastructure on the parcel does not significantly detract from the use of the property for, or inhibit, growing and harvesting timber.

The property is well suited for timber management into the future. The property was selectively harvested approximately 20 years ago and the forest resource is currently healthy and experiencing a growth rate consistent with managed forests. The owner has indicated that she wants to continue to manage the timber resource and stand conditions warrant another harvest in the near future. The property meets required state stocking levels, qualifies as "Timberland," and the current use is compatible with the Timber Production zoning.

Thank you for your time in this matter,

A handwritten signature in cursive script that reads "Joseph Culver".

Joseph Culver  
RPF #2674

## California Government Code

### 51104.

As used in this chapter, unless otherwise apparent from the context:

(a) "Board" means the board of supervisors of a county or city and county, whether general law or chartered, which establishes or proposes to establish a timberland production zone pursuant to this chapter.

(b) "Contiguous" means two or more parcels of land that are adjoining or neighboring or are sufficiently near to each other, as determined by the board or council, that they are manageable as a single forest unit.

(c) "Council" means the city council of a city, whether general law or chartered, which establishes or proposes to establish a timberland production zone pursuant to this chapter.

(d) "County" or "city" means the county or city having jurisdiction over the land.

(e) "Timber" means trees of any species maintained for eventual harvest for forest products purposes, whether planted or of natural growth, standing or down, on privately or publicly owned land, including Christmas trees, but does not mean nursery stock.

(f) "Timberland" means privately owned land, or land acquired for state forest purposes, which is devoted to and used for growing and harvesting timber, or for growing and harvesting timber and compatible uses, and which is capable of growing an average annual volume of wood fiber of at least 15 cubic feet per acre.

(g) "Timberland production zone" or "TPZ" means an area which has been zoned pursuant to Section 51112 or 51113 and is devoted to and used for growing and harvesting timber, or for growing and harvesting timber and compatible uses, as defined in subdivision (h).

With respect to the general plans of cities and counties, "timberland preserve zone" means "timberland production zone."

(h) "Compatible use" is any use which does not significantly detract from the use of the property for, or inhibit, growing and harvesting timber, and shall include, but not be limited to, any of the following, unless in a specific instance such a use would be contrary to the preceding definition of compatible use:

(1) Management for watershed.

(2) Management for fish and wildlife habitat or hunting and fishing.

(3) A use integrally related to the growing, harvesting and processing of forest products, including but not limited to roads, log landings, and log storage areas.

(4) The erection, construction, alteration, or maintenance of gas, electric, water, or communication transmission facilities.

(5) Grazing.

(6) A residence or other structure necessary for the management of land zoned as timberland production.

(i) "Parcel" means that portion of an assessor's parcel that is timberland, as defined.

(j) "Anniversary date" means the anniversary of the date on which zoning is established pursuant to Section 51112 or 51113 takes effect.

(k) "Tax rate area" means a geographical area in which there is a unique combination of tax levies.

(l) "Nonconforming use" means any use within a TPZ which lawfully existed on the effective date of zoning established pursuant to Sections 51112 and 51113, and continuing since that time, which is not a compatible use.

*(Added by renumbering Section 51100 by Stats. 1982, Ch. 1489, Sec. 1.)*

## **Revenue and Taxation Code**

### **Division 2. Other Taxes**

#### **PART 18.5. TIMBER YIELD TAX**

#### **CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS**

##### **SECTION 38106**

38106. "**Person**". "Person" includes any individual, firm, partnership, joint venture, association, social club, fraternal organization, corporation, limited liability company, estate, trust, business trust, receiver, trustee, syndicate, this state, any county, city and county, municipality, district, or other political subdivision of the state, or any other group or combination acting as a unit.

**History.**—Stats. 1994, Ch. 1200, in effect September 30, 1994, substituted "partnership," for "copartnership," after "firm," and added "limited liability company," after "corporation,".

# Government Code Provisions

## Provisions Relating to Timberland

### CHAPTER 6.7. TIMBERLAND\*

#### ARTICLE 2. TIMBERLAND PRODUCTION ZONES†

##### SECTION 51113.5

51113.5. **Additions to timberland production lands.** (a) After March 1, 1977, an owner with timberlands in a timberland production zone pursuant to Section 51112 or 51113 may petition the board or council to add to his or her timberland production lands that meet the criteria of subdivisions (f) and (g) of Section 51104 and that are contiguous to the timberland already zoned as timberland production. Section 51113 shall not apply to these lands.

(b) In the event of land exchanges with, or acquisitions from, a public agency in which the size of an owner's parcel or parcels zoned as timberland production pursuant to Section 51112 or 51113 is reduced, the timberland production shall not be removed from the parcel except pursuant to Section 51121 and except for a cause other than the smaller parcel size.

**History.**—Stats. 1977, Ch. 853, in effect September 17, 1977, substituted "and (g) of section 51100 and that contiguous to the timberland already zoned as timberland preserve." for "of Section 51100 or other holdings that now satisfy that section in subdivision (a)." Stats. 1982, Ch. 1489, in effect January 1, 1983, substituted "production" for "preserve" after "timberland" wherever applicable, and added "or her" after "his" and substituted "51104" for "51100" after "Section" in the first sentence of subdivision (a).

\* Chapter 6.7 was added by Stats. 1976, Ch. 176, p. 305, in effect May 24, 1976. Secs. 20 and 21 thereof provided no payment by state to local governments because of this act.

† Article 2 heading was amended by Stats. 1982, Ch. 1489, in effect January 1, 1983.