



## Staff Report to the Planning Commission

Application Number: **161294**

**Applicant:** Gene Forsburg  
**Owner:** PACIFIC SKYLINE COUNCIL  
BOY SCOUTS OF AMERICA  
**APN:** 09028101

**Agenda Date:** 5-10-2017  
**Agenda Item #:** 7  
**Time:** After 9:00 a.m.

**Project Description:** Proposal to rezone a contiguous parcel from Special Use (SU) to Timber Production (TP). Requires a rezoning.

Property located at the end of a one-mile dirt road (14586 Bear Creek Road) that turns south off Bear Creek Road approximately 1.25 miles east of the intersection of Bear Creek Road and Highway 9.

**Supervisory District:** District 5 (District Supervisor: McPherson)

### Staff Recommendation:

- Determine that the proposal is exempt from further Environmental Review under the California Environmental Quality Act.
- Adopt Resolution (Exhibit A), sending a recommendation to the Board of Supervisors for approval of Application 151333, to adopt the Ordinance rezoning the property to the TP zone district.

### Exhibits

- |  |  |
|--|--|
| A. Planning Commission Resolution, with Ordinance/ Findings                  | D. Notice of Exemption from CEQA   |
| B. APN map   | E. Statement of Gene Forsburg, Registered Professional Forester, dated 3-30-2017 |
| C. Location, Current Zoning and General Plan Designation, and Ownership maps | F. State Government Code Sections  |

### Parcel Information

|                                  |                            |
|----------------------------------|----------------------------|
| Parcel Size:                     | 34 acres                   |
| Existing Land Use - Parcel:      | Vacant                     |
| Existing Land Use - Surrounding: | R-M (Mountain Residential) |
| Project Access:                  | Bear Creek Road            |
| Planning Area:                   | San Lorenzo Valley         |

|                                    |                                 |   |
|------------------------------------|---------------------------------|---|
| Land Use Designation:              | R-M (Mountain Residential)      |   |
| Zone District:                     | SU (Special Use)                |   |
| Coastal Zone:                      | <input type="checkbox"/> Inside | <input checked="" type="checkbox"/> Outside |
| Appealable to Calif. Coastal Comm. | <input type="checkbox"/> Yes    | <input checked="" type="checkbox"/> No      |

### Environmental Information

|                    |  |
|--------------------|--|
| Geologic Hazards:  | Possible landslide per Cooper-Clark  |
| Soils:             | Nisene-Aptos, 50-75 percent slopes   |
| Fire Hazard:       | Not a mapped constraint  |
| Slopes:            | Range – see map  |
| Env. Sen. Habitat: | California Natural Diversity Database: mapped as potential occurrence of Ben Lomond spineflower ( <i>Chorizanthe pungens</i> var. <i>hartwegiana</i> ) and white-rayed pentachaeta ( <i>Pentachaeta bellidiflora</i> ) |
| Grading:           | No grading proposed  |
| Tree Removal:      | Potential future timber harvest  |
| Scenic:            | Not a mapped resource  |
| Drainage:          | Fritch Creek   |
| Archeology:        | Mapped potential occurrence  |

### Services Information

|                            |   |   |
|----------------------------|---|---|
| Urban/Rural Services Line: | <input type="checkbox"/> Inside                     | <input checked="" type="checkbox"/> Outside |
| Water Supply:              | None  |   |
| Sewage Disposal:           | None  |   |
| Fire District:             | California Division of Forestry and Fire Protection |   |
| Drainage District:         | NA  |   |

### History

On September 21, 2016, the County Planning Department accepted this application for rezoning one parcel, of approximately 34 acres, from the Special Use (SU) zone district to the Timber Production (TP) designation. The parcel is currently vacant and forested with second growth redwood.

A Forest Management Plan was prepared for the owner in 1981 by Gene Forsburg, Registered Professional Forester, providing for the periodic harvesting of four units of which the subject parcel comprises roughly one. Under that plan two harvests were conducted twice previously, in 1987 and 2001.

A Non-Industrial Timber Management permit for the ownership was approved by the Department of Forestry and Fire Protection in 2012 (1-12NTMP-003 SMO/SCR). Under the NTMP, harvesting of the parcel is contingent on rezoning to TP (Timber Production).

### Zoning & General Plan Consistency

The property owner, Boy Scouts of America, owns an approximately 45-acre Timber Production



(TP) zoned parcel, APN 090071110, which is contiguous with the subject property. The property owner has two additional TP-zoned parcels that are serially contiguous to 090071110: these are 09007109 and 08952101. 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, with annual conifer growth of greater than 200 cubic feet of timber per acre (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).

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.

### **Staff Recommendation**

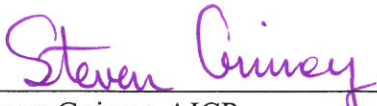
- Determine that the proposal is exempt from further Environmental Review under the California Environmental Quality Act.
- Adopt the attached Resolution (Exhibit A), sending a recommendation to the Board of Supervisors for approval of Application 151333, to adopt the Ordinance rezoning the property to the TP zone district.

The County Code and General Plan, as well as hearing agendas and additional information are available online at: [www.co.santa-cruz.ca.us](http://www.co.santa-cruz.ca.us)

Report Prepared By: \_\_\_\_\_

  
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Report Reviewed By: \_\_\_\_\_

  
Steven Guiney, AICP  
Principal Planner  
Development Review  
Santa Cruz County Planning Department

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

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WHEREAS, the Planning Commission has held a public hearing on Application No. 161294, involving property located at the end of a one-mile dirt road (14586 Bear Creek Road) that turns south off Bear Creek Road approximately 1.25 miles east of the intersection of Bear Creek Road and Highway 9; 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

EXHIBIT A



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

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

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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 regarding the timber resource property located at the end of a one-mile dirt road (14586 Bear Creek Road) that turns south off Bear Creek Road approximately 1.25 miles east of the intersection of Bear Creek Road and Highway 9, 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> |
|---------------------------------|-------------------------------|--------------------------|
| 090-281-01                      | 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

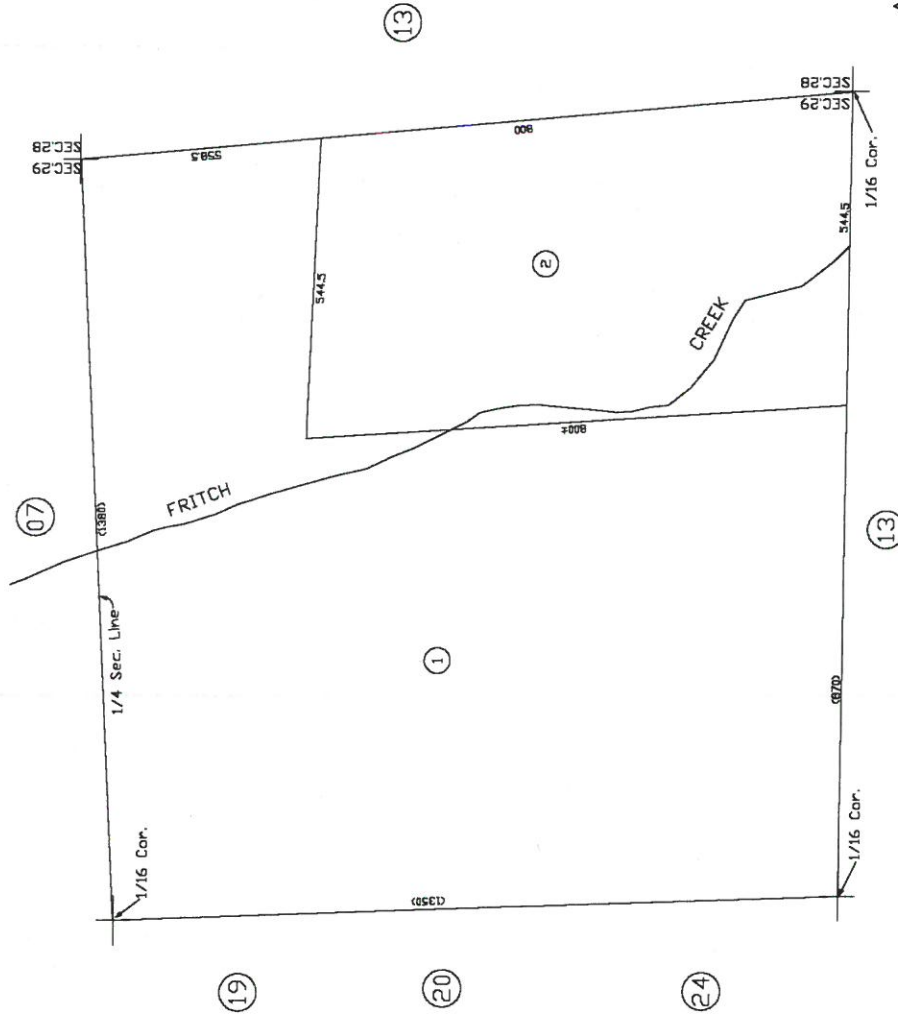
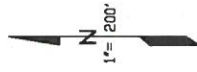
DISTRIBUTION: County Counsel  
Planning  
Assessor

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 1996

POR. SECS. 28 & 29,  
 T.9S., R.2W., M.D.B 7 M.

Tax Area Code  
 90-109

90-28



Assessor's Map No. 90-28  
 County of Santa Cruz, Calif.  
 Aug. 1996

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

Electronically drawn 8/11/96 KSA (por. from 90-07)  
 Rev 5/28/98 KSA (CA)

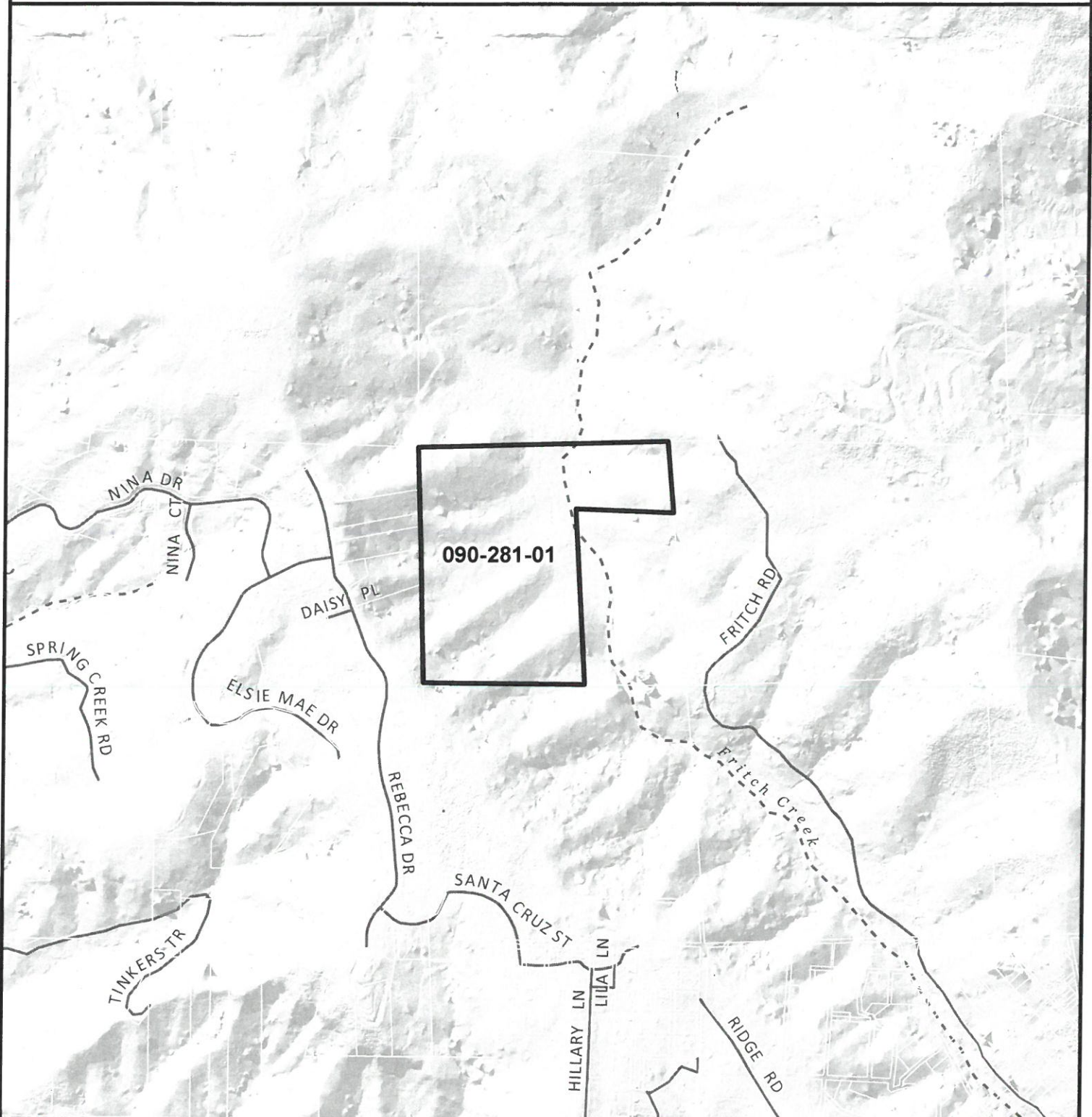




# Parcel Location Map

Santa Cruz County Planning Department

Parcel Number  
**090-281-01**  
Mar. 30, 2017



Location Overview

## Symbol Key

- Street
- - - Perennial Stream



0 280 560  
Feet

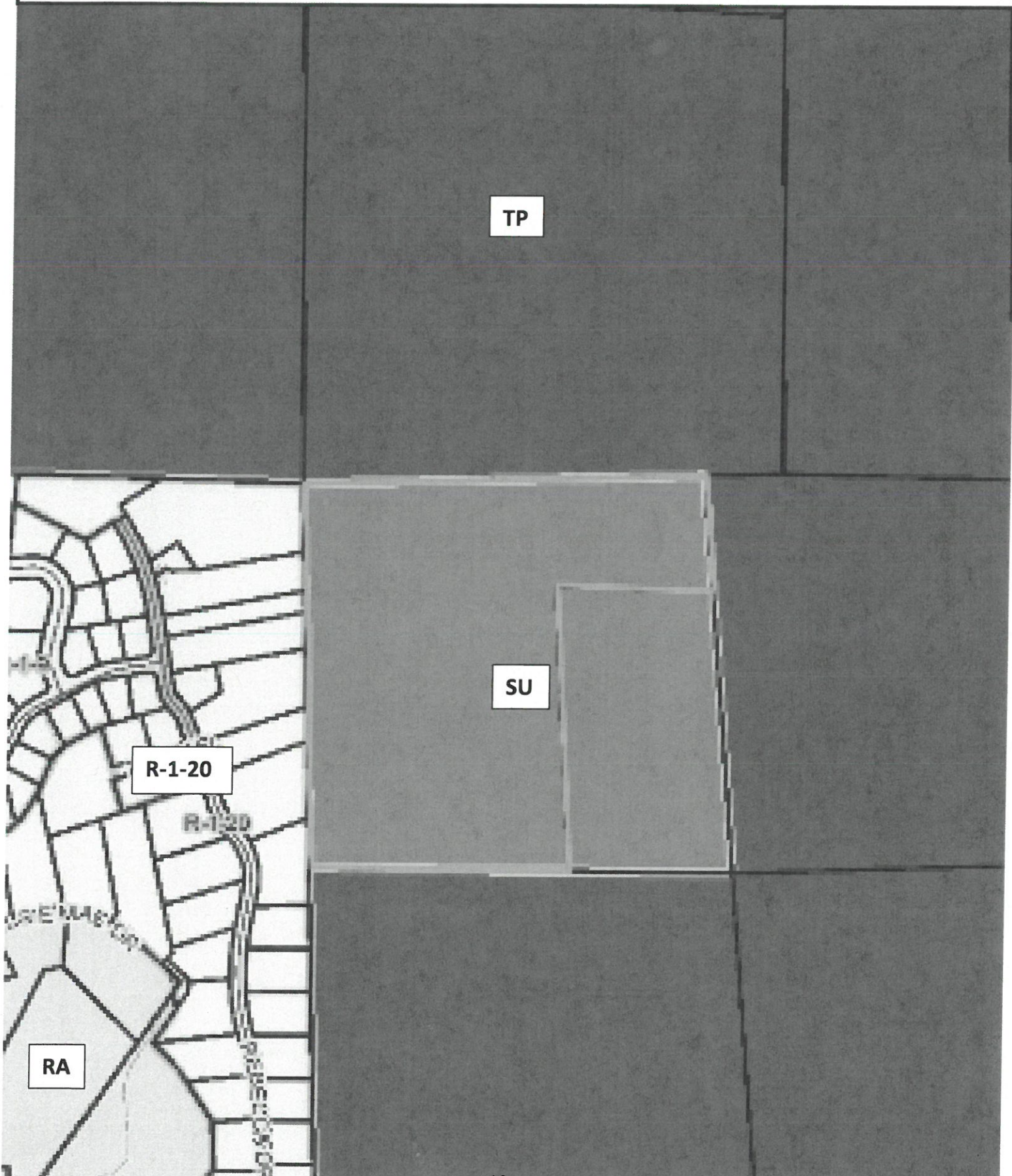




# Parcel Zoning Map

Santa Cruz County Planning Department

Parcel Number  
**090-281-01**  
Mar. 30, 2017





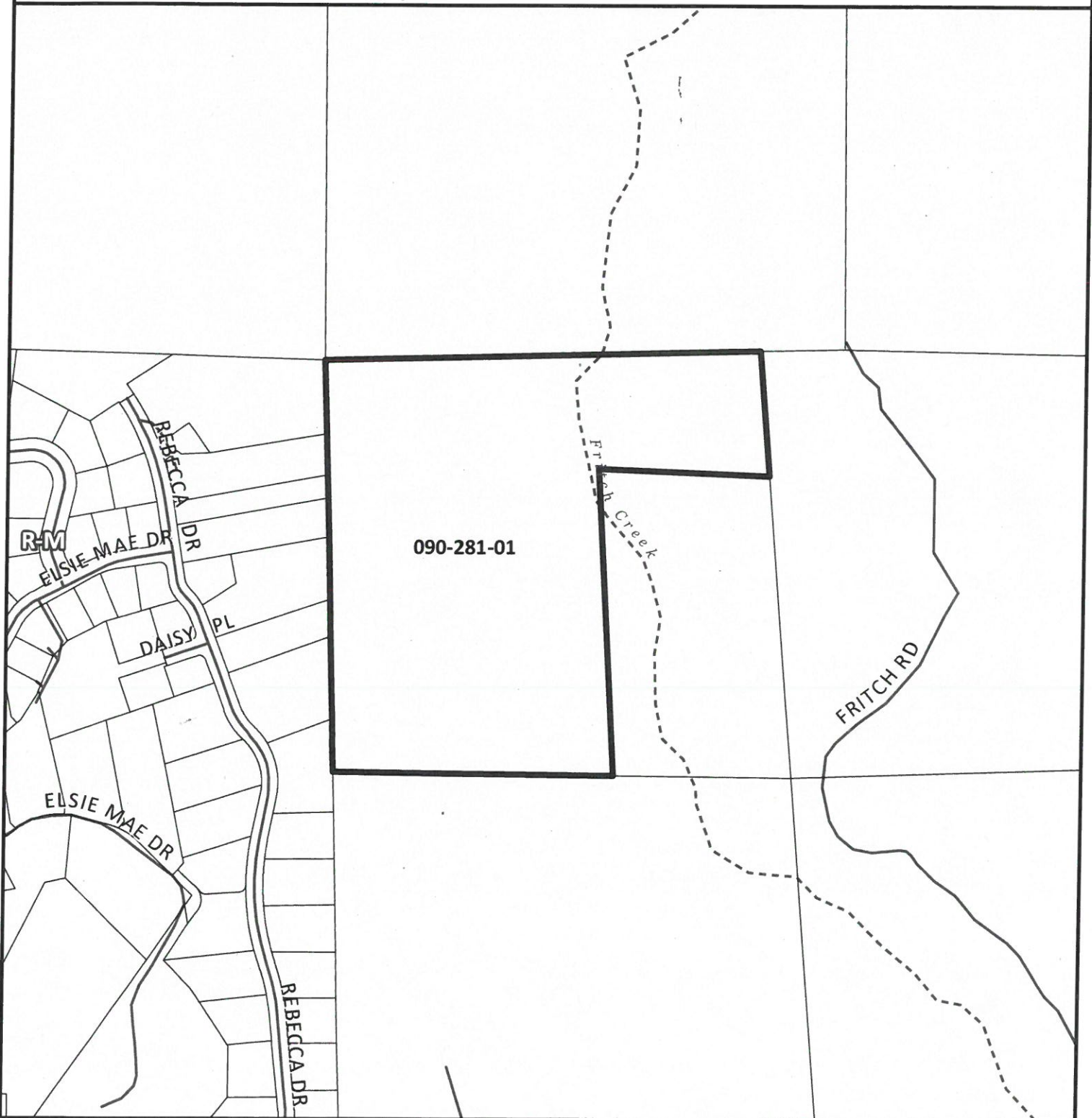
# Parcel General Plan Map

Santa Cruz County Planning Department

Parcel Number

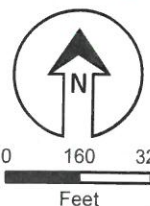
**090-281-01**

Mar. 30, 2017



## General Plan

R-M - Residential-Mountain







# Ownership Map

090-071-09

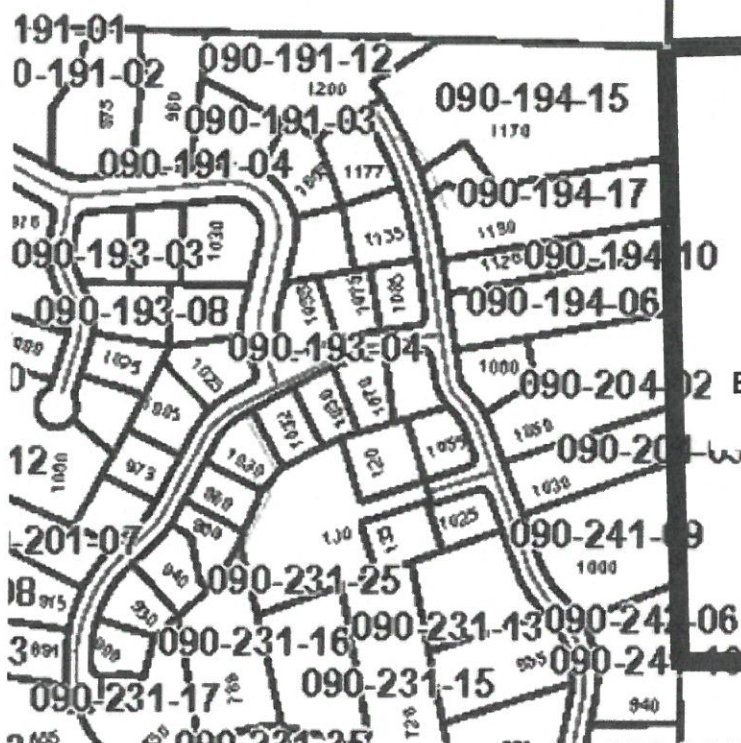
Boy Scouts of America

090-071-11

Boy Scouts of America

090-071-10

Boy Scouts of America



# 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: 161294

Assessor Parcel Number: 09028101

Project Location: 14586 BEAR CREEK RD

**Project Description: Proposal to rezone a contiguous parcel from Special Use (SU) to Timber Production (TP). Requires an adjacency rezoning.**

**Person or Agency Proposing Project: Gene Forsburg**

**Contact Phone Number: (510) 299-4101**

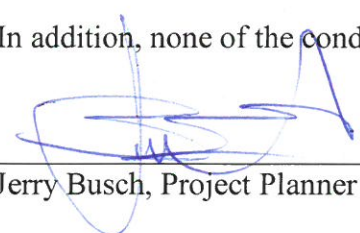
- A. ☐ The proposed activity is not a project under CEQA Guidelines Section 15378.
- B. ☐ The proposed activity is not subject to CEQA as specified under CEQA Guidelines Section 15060 (c).
- C. ☐ Ministerial Project involving only the use of fixed standards or objective measurements without personal 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.

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

  
\_\_\_\_\_  
Jerry Busch, Project Planner

Date: 3-30-17

**Information to accompany application  
to rezone A.P.N. 090-281-01 to TPZ  
(revised)**

Subject parcel: A.P.N. 090-281-01 (was 090-071-07). No situs; located near the headwaters of Fritch Creek. Note that the subject adjoins other T.P.Z. parcels in the same ownership.

Current use: This parcel is part of the Boulder Creek Scout Reservation, a 312 acre property owned by the Pacific Skyline Council of Boy Scouts of America (formerly Stanford Area Council). The subject parcel is used for selective timber harvesting and outdoor recreation.

A Forest Management Plan was prepared for B.C.S.R. by the undersigned in 1981 and provides for periodic harvesting of four management units of which the subject comprises roughly one. Under that plan the subject has been harvested twice previously: in 1987 and 2000. A Non-Industrial Timber Management permit for the ownership was approved by the Dept. of Forestry and Fire Protection in 2012 (1-12NTMP-003 SMO/SCR); under the N.T.M.P. harvesting of the subject parcel is contingent on rezoning to T.P.Z.

Access: A seasonal dirt road reaches the subject across the other parcels of the ownership. This provides access directly to Bear Creek County Road.

Improvements: The subject parcel is improved only by dirt roads and primitive campsites (all of B.C.S.R.'s buildings and infrastructure are located on its two northernmost parcels along Bear Creek).

Timberland: I certify that the current use of the subject parcel is as described above and that it is timberland within the meaning of Public Resources Code 4526 and CGC 51104(f), (g) and (h).

Stocking: I further certify that the subject has timber resources sufficient to meet the stocking standards of 14 CCR 932.7 and to engage in sustainable timber management [the subject met post-harvest stocking standards in 1987 and 2000, and our inventory data show that conifer stocking of 235 sq ft. per acre was present in 2012].

Productivity: I further certify that the subject property is capable of growing an average annual volume of wood fiber of at least 15 cubic feet per acre in accordance with CGC 51104(f) [our inventory data indicate that annual conifer growth is in excess of 200 cubic feet per acre].

/s/  3/30/17  
Gene Forsburg, R.P.F. #1873

Attached:  
Assessor's parcel map  
Map showing all B.C.S.R. parcels  
Deed  
Preparer's qualifications



**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.

(I) "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,".