



COUNTY OF SANTA CRUZ

PLANNING DEPARTMENT

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

KATHLEEN MOLLOY PREVISICH, PLANNING DIRECTOR

June 23, 2017

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

Agenda Date: July 26, 2017

APN: 085-092-01

Application: 171128

Agenda Item: 8

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 May 8, 2017, the County Planning Department accepted this application for rezoning one parcel, of approximately 9.5 acres, from the Special Use (SU) zone district to the Timber Production (TP) designation. The parcel is located on the east side of Highway 9 where Teilh Drive intersects Highway 9, just south of Shiloh Court, about 3.5 miles north of Boulder Creek. The parcel is currently undeveloped and covered by a dense redwood and Douglas-fir forest.

Background and Discussion

The property owners, Roger & Michele Burch, own an approximately 115-acre Timber Production (TP) zoned parcel, 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 an 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).

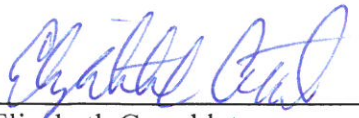
Conclusion

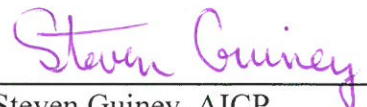
All of the criteria have been met for rezoning the subject parcel to the Timber Production zoning designation. All required findings can be made to approve this application pursuant to California State Government Code Section 51113.5. There are no Williamson Act contracts that apply to the SU-zoned parcel.

Recommendation

It is recommended that the Commission adopt the Resolution (Exhibit A), sending a recommendation to the Board of Supervisors for approval of Application 171128, to adopt the

Ordinance rezoning the property to the TP zone district.


Elizabeth Cramblet
Project Planner
Development Review

Reviewed By: 
Steven Guiney, AICP
Principal Planner

Exhibits:

- A. Planning Commission Resolution, with Ordinance
- 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 Michael Duffy, Registered Professional Forester, dated May 25, 2017
- 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. 171128, involving property located on the east side of Highway 9 where Teilh Drive intersects Highway 9, just south of Shiloh Court, about 3.5 miles north of Boulder Creek; 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 finds that the proposed rezoning is consistent with Government Code 51113.5 as discussed 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**

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 on the east side of Highway 9 where Teilh Drive intersects Highway 9, just south of Shiloh Court, about 3.5 miles north of Boulder Creek, 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 finding in support thereof without modification as set forth below:

1. The property meets the requirements of Government Code Section 51113 or 51113.5.

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>
085-092-01	Special Use (SU)	Timber Production (TP)

EXHIBIT A

SECTION IV

This ordinance shall take effect on the 31st 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

EXHIBIT A

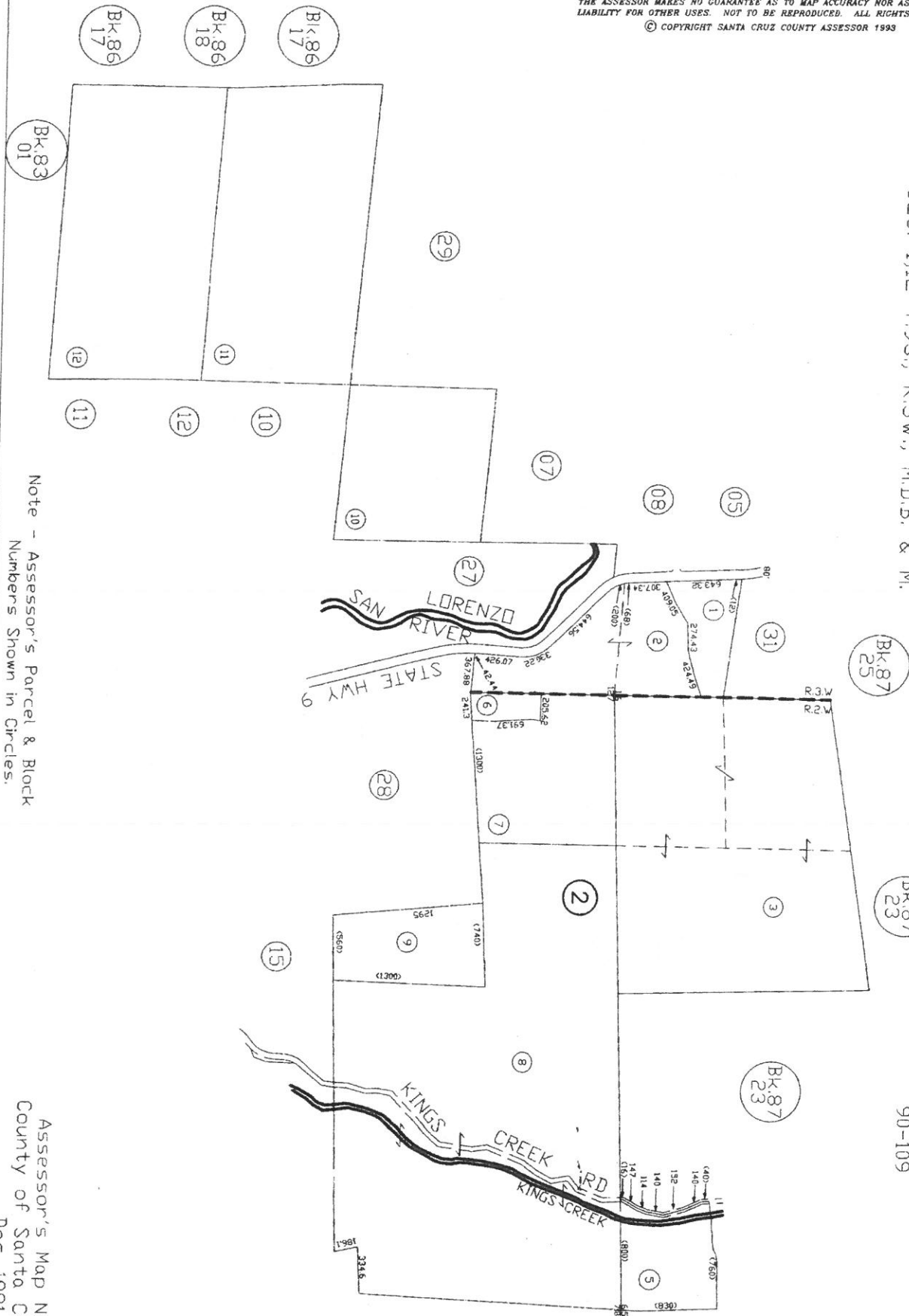
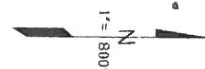
FOR TAX PURPOSES ONLY

THE ASSESSOR MAKES NO GUARANTEE AS TO MAP ACCURACY NOR ASSUMES ANY
 LIABILITY FOR OTHER USES. NOT TO BE REPRODUCED. ALL RIGHTS RESERVED.
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PDR. SEC. 6,7 T.9S., R.2W., &
 SEC. 1,12 T.9S., R.3W., M.D.B. & M.

Tax Area Code
 90-109

85-09

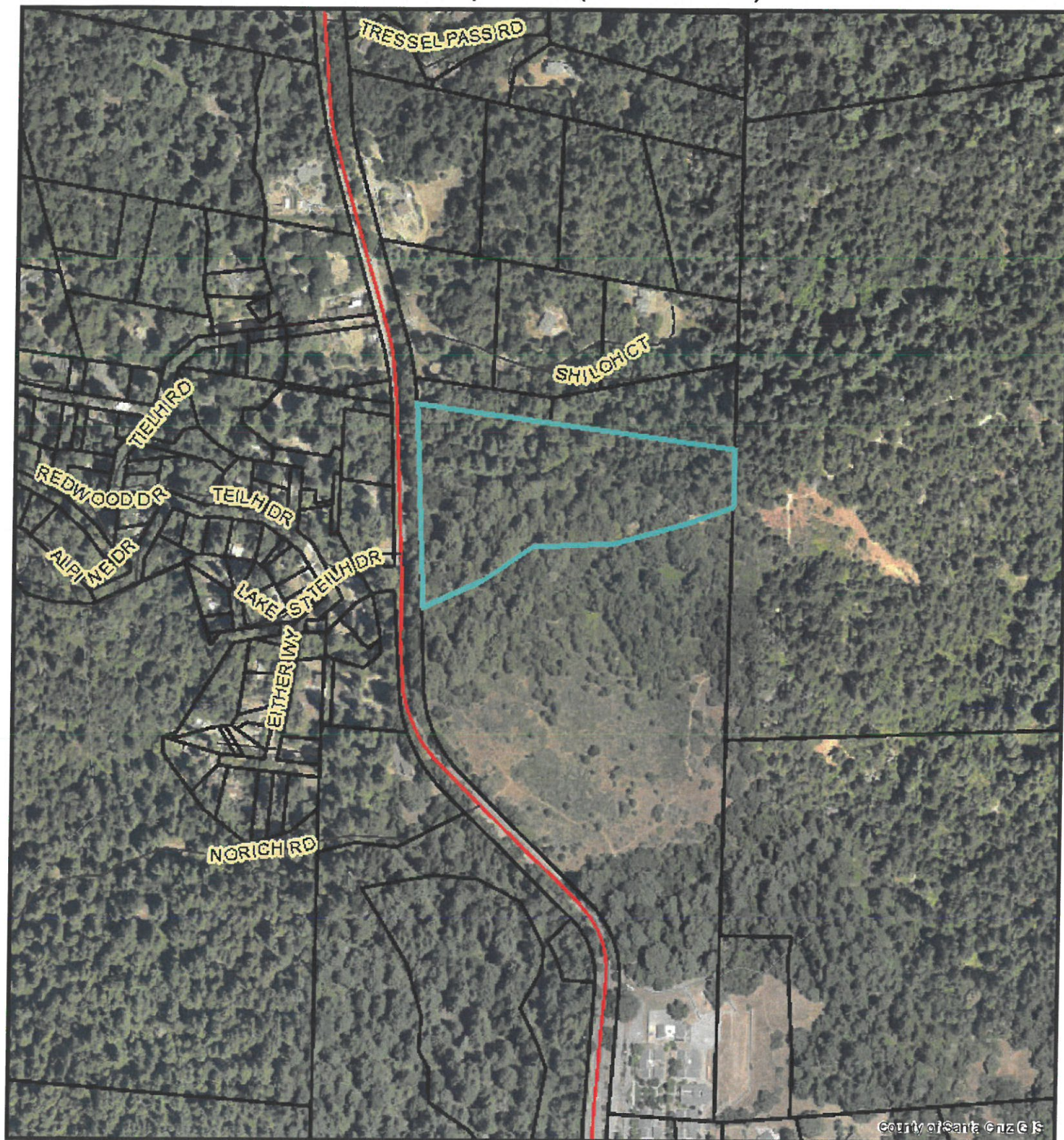


Note - Assessor's Parcel & Block
 Numbers Shown in Circles.

Assessor's Map No. 85-09
 County of Santa Cruz, Calif.
 Dec. 1991



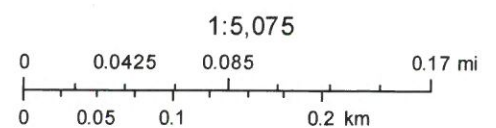
Aerial Map View (085-092-01)



County of Santa Cruz GIS

- | | | |
|----------------|---------------|---------|
| Parcels | Levee | Unnamed |
| Streets | | |
| Alley | Major Road | |
| Business Route | Ramp | |
| Driveway | State Highway | |
| | Street | |

EXHIBIT C

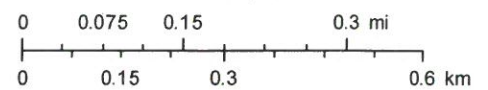


June 20, 2017

Zoning Map



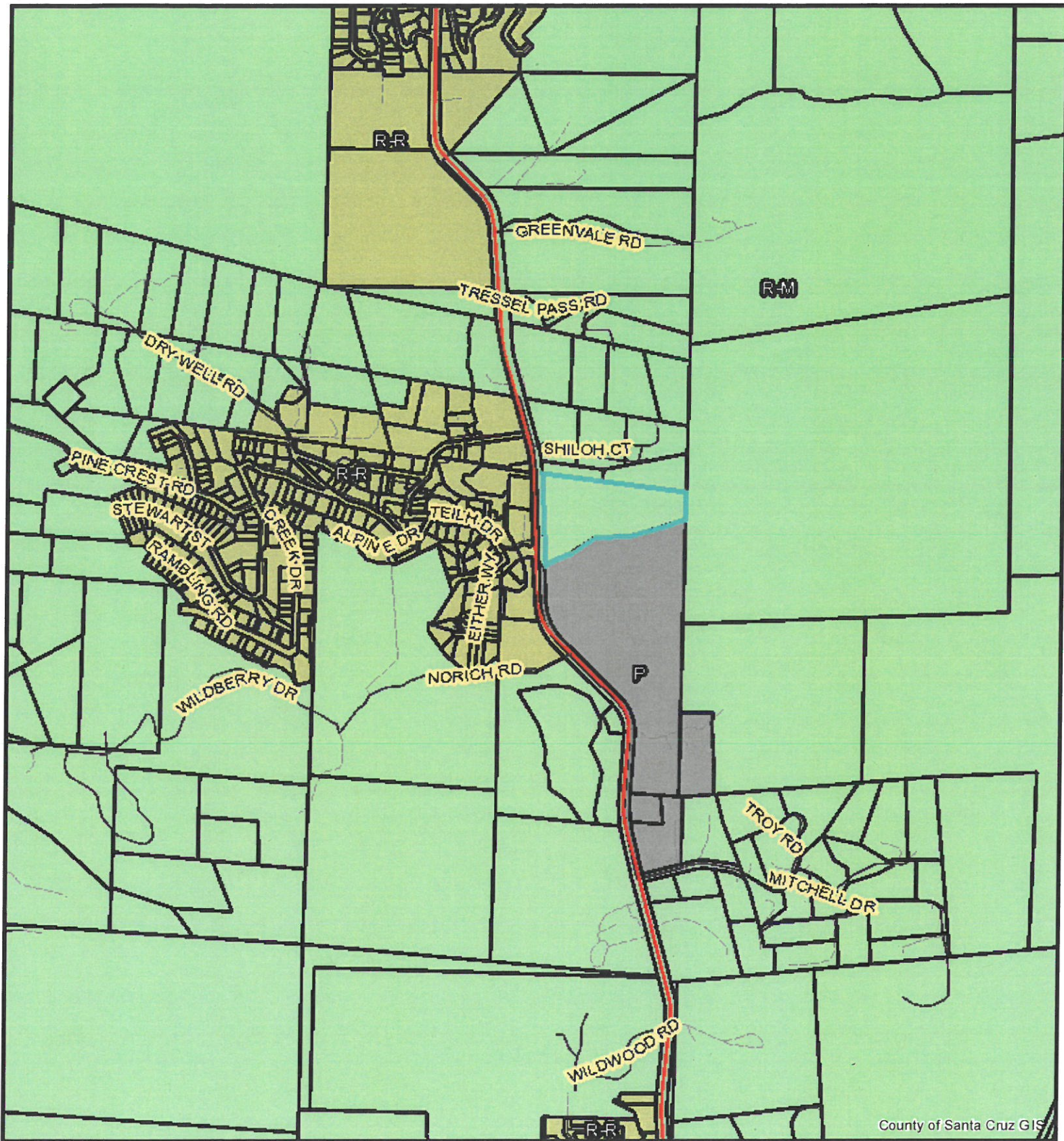
EXHIBIT C



1:11,278

June 20, 2017

General Plan Designation Map



County of Santa Cruz GIS

EXHIBIT C



Scale bar showing distances in miles (0 to 0.3) and kilometers (0 to 0.6).

1:11,278

June 20, 2017

Ownership Map

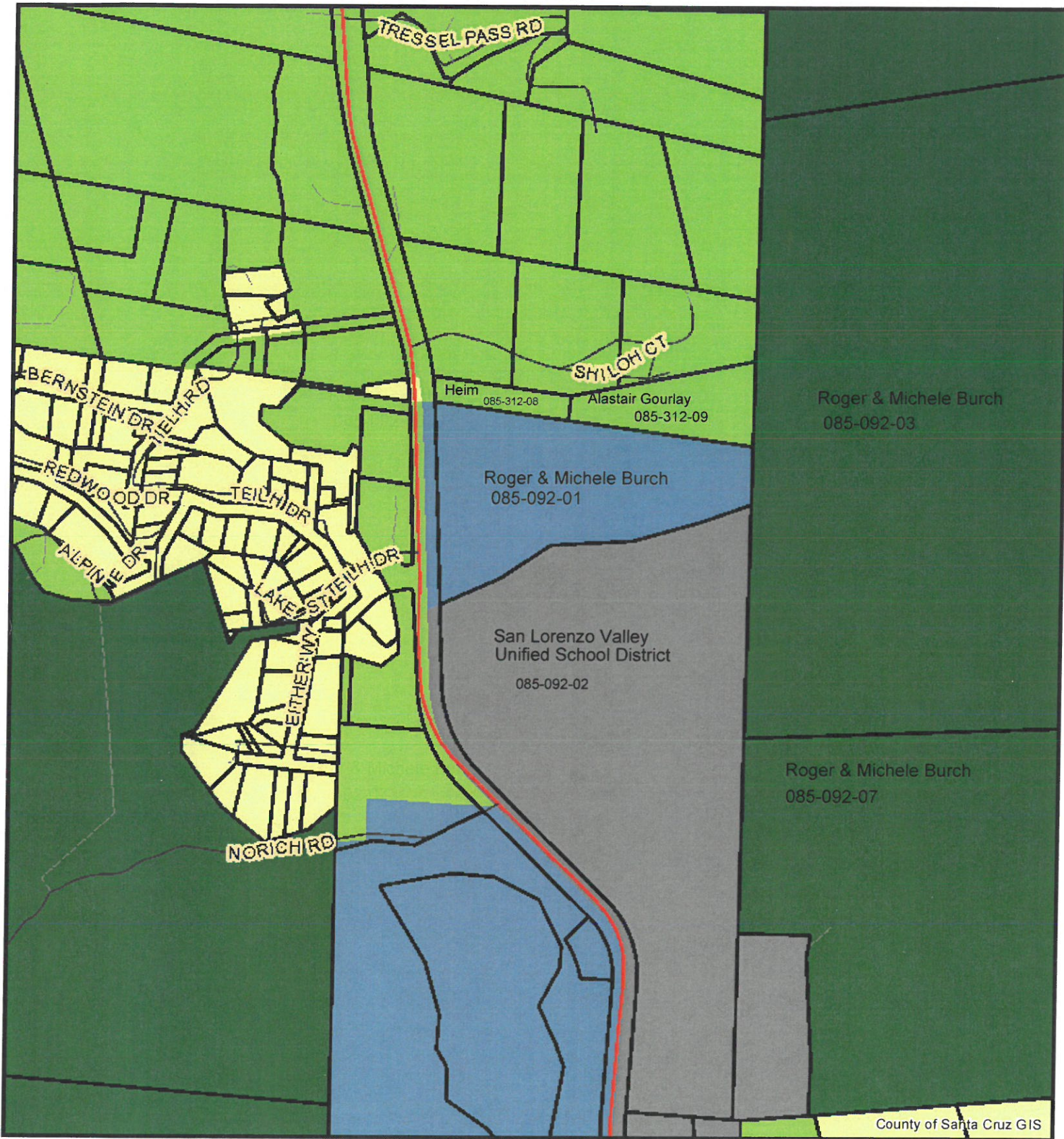
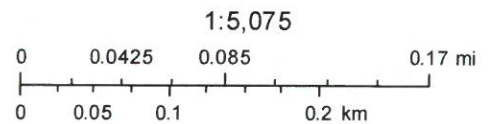


EXHIBIT C



June 20, 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: 171128

Assessor Parcel Number: 085-092-01

Project Location: East side of Highway 9 where Teilh Drive intersects Highway 9, just south of Shiloh Court, about 3.5 miles north of Boulder Creek.

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

Person or Agency Proposing Project: Michael Duffy

Contact Phone Number: (831) 464-8788

- 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. X **Statutory Exemption** other than a Ministerial Project (CEQA Guidelines Section 15260 to 15285).

E. _____ **Categorical Exemption**

Specify type: Article 18, Section 15264

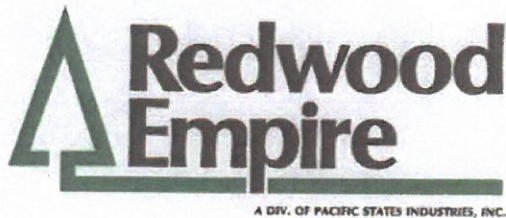
F. Reasons why the project is exempt:

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.

Elizabeth Cramblet, Project Planner

Date: _____



MAILING ADDRESS: 1395 41st Ave. Suite D
• Capitola, CA 95010
(831) 464-8788 • FAX (831) 464-8780

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

May 25, 2017

Re: App# 171128, Re-zone APN #085-092-01 to TPZ, Adjacent to TP parcels

Dear County Representative,

This letter is submitted on behalf of landowners Roger and Michele Burch, as trustees of the RMB Revocable Family Trust, to alter the zoning of parcel 085-092-01, a 9.5-acre parcel in Santa Cruz County. The landowner is requesting to change the zoning from its current Special Use (SU), to Timber Production (TP). The landowner also owns the adjacent parcel (085-092-03) which is zoned for Timber Production (TP). The timber type is redwood forest with a site index of III. The area proposed for re-zoning is also contiguous with the larger portion of the parcel that is presently zoned for Timber Production. It is the intent of the landowners to utilize the Timber Production Zoning to manage the parcel through periodic, selection timber harvests.

Current Condition and Use: The parcel was previously harvested in 1990 under THP 1-89-540 SCR. Since 1990 the parcel has been used to access the adjoining Timber Production parcels. It is covered by a dense redwood and Douglas-fir forest. There are no structures or improvements on the parcel.

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 and the Forest Practice Rules adopted by the State Board of Forestry and Fire Protection. Section 4561 requires: "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 timber stocking on the parcel exceeds the standards as set forth in Section 4561 of the Public Resources Code. There is currently approximately 300 square feet of basal area per acre on site.

Timberland: To rezone a property to the "Timber Production" zoning a property must meet the definition of timberland. Section 51104 of the California Code defines timberland as: "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 over 120 cubic feet per acre and therefore meets the definition of timberland.

Thank you for your consideration of this proposed zoning change. Please contact our office at 831-464-8788 if you have any questions or concerns regarding this submittal.

Sincerely,

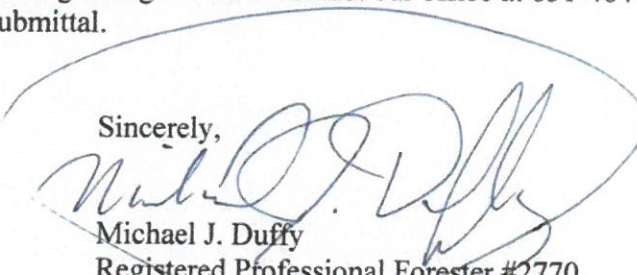

Michael J. Duffy
Registered Professional Forester #2770
Redwood Empire Sawmills

EXHIBIT E

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.

Do you have feedback about the BOE website?

Government Code Provisions

Provisions Relating to Timberland

CHAPTER 6.7. TIMBERLAND*

ARTICLE 1. GENERAL PROVISIONS

SECTION 51104

51104. **Definitions.** 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.

History.—Stats. 1977, Ch. 853, in effect September 17, 1977, deleted "a" in subdivision (j) between "which" and "zoning". Stats. 1982, Ch. 1489, in effect January 1, 1983, renumbered the section which was formerly numbered 51100; substituted "production" for "preserve" after "timberland" in subdivisions (a) and (c); substituted "production" for "preserve" before, and added "or TPZ" after "zone" in the first paragraph, and added the second paragraph in subdivision (g); added "any of" after "limited to," in the first sentence, and added subsection (6) in subdivision (h); and added subdivision (l).

Construction.—Land is "maintained for eventual harvest for forest product purposes" and "devoted to and used for growing or harvesting timber" where it is inherently capable of being so used or maintained and has not been rendered unsuitable for forest product purposes by prior activity. The definitions of timber and timberland herein are not to be measured by any one owner's subjective intent. *Clinton v. Santa Cruz County*, 119 Cal.App.3d 927.

* 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.

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,".