



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

September 18, 2018

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

Agenda Date: September 26, 2018
APN: 098-151-11
Application: 181116
Agenda Item: 6

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 10, 2018, the County Planning Department accepted this application for rezoning one parcel, of approximately 5 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 two miles east of the intersection with Stetson Road, within the Summit Planning area. No structures are located on the parcel.

Background and Discussion

The property owner, Roger Mason, owns an approximately 23-acre Timber Production (TP) zoned parcel, APN 098-151-03, 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

Agenda Date: September 26, 2018

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 C).
- 2) The property is timberland, as it is capable of producing an average of 55.3 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 181116, to adopt the Ordinance rezoning the property to the TP zone district.



Jonathan DiSalvo
Project Planner
Development Review

Reviewed By: 

Steve Guiney
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 June 1, 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. 181116, involving property located on both sides of Comstock Mill Road, approximately two 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 _____, 2018, 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 regarding the timber resource property located on both sides of Comstock Mill Road, approximately two 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).

EXHIBIT A

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>
098-151-11	Special Use (SU)	Timber Production (TP)

SECTION IV

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

PASSED AND ADOPTED THIS _____ day of _____ 2018, 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 THE ACCURACY OF THE ASSessor'S MAP. THE ASSessor'S MAP IS FOR INFORMATION ONLY. THE ASSessor'S MAP IS NOT TO BE USED FOR ANY OTHER PURPOSE. ALL RIGHTS RESERVED.

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SOQUEL AUGMENTATION RANCHO

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

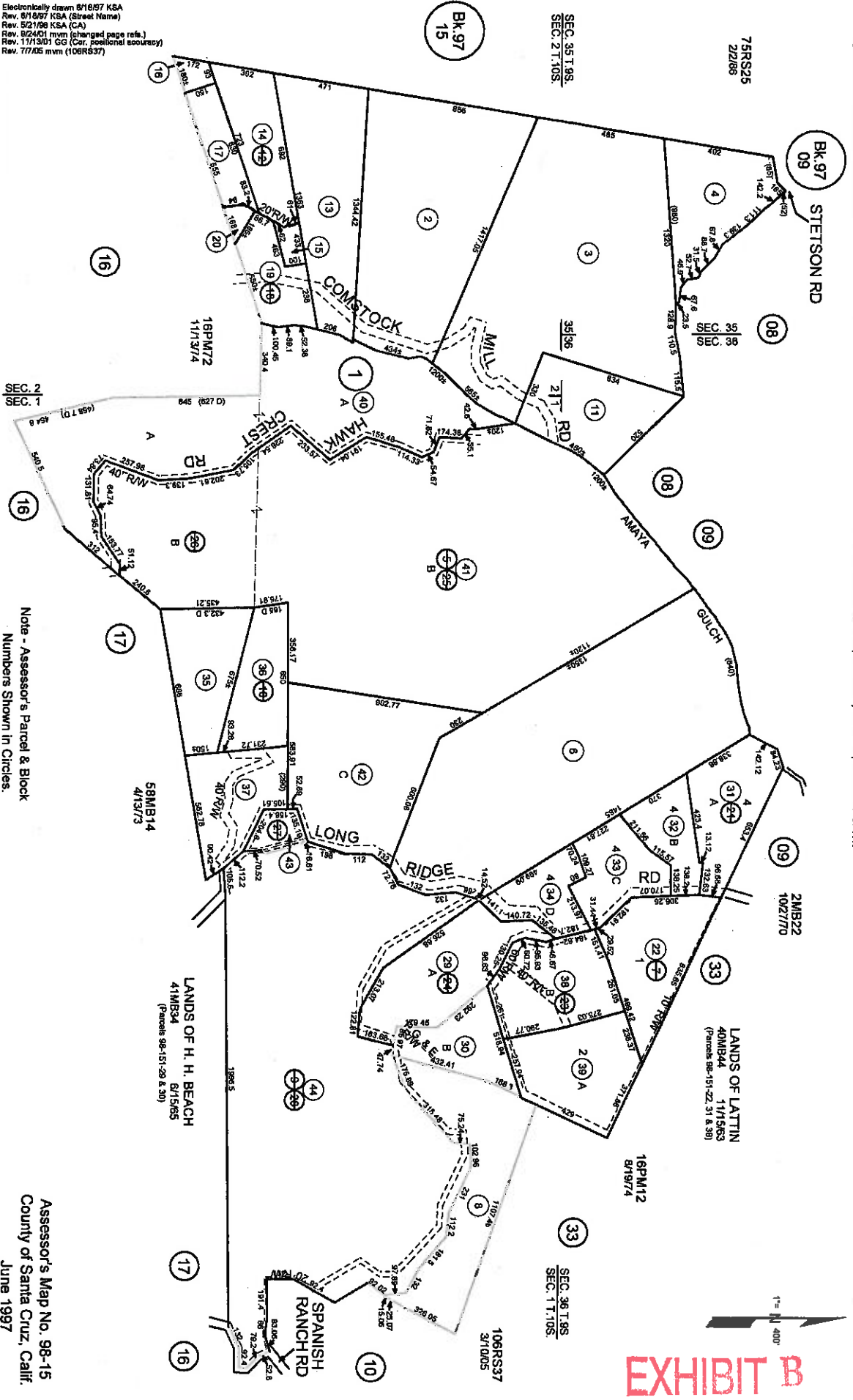
Tax Area Code
79-032

98-15

Electronically drawn 8/16/97 KSA
Rev. 8/16/97 KSA (Street Name)
Rev. 5/21/98 KSA (CA)
Rev. 8/24/01 mmm (changed page refs.)
Rev. 11/13/01 GG (Cor. positional accuracy)
Rev. 7/7/05 mmm (106RS37)

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




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



Location Map



Legend

-  APN: 098-151-11
-  Assessors Parcels
-  Major Road
-  Street






Map Created by
County of Santa Cruz
Planning Department
June 2018

EXHIBIT C

Aerial Map



Legend

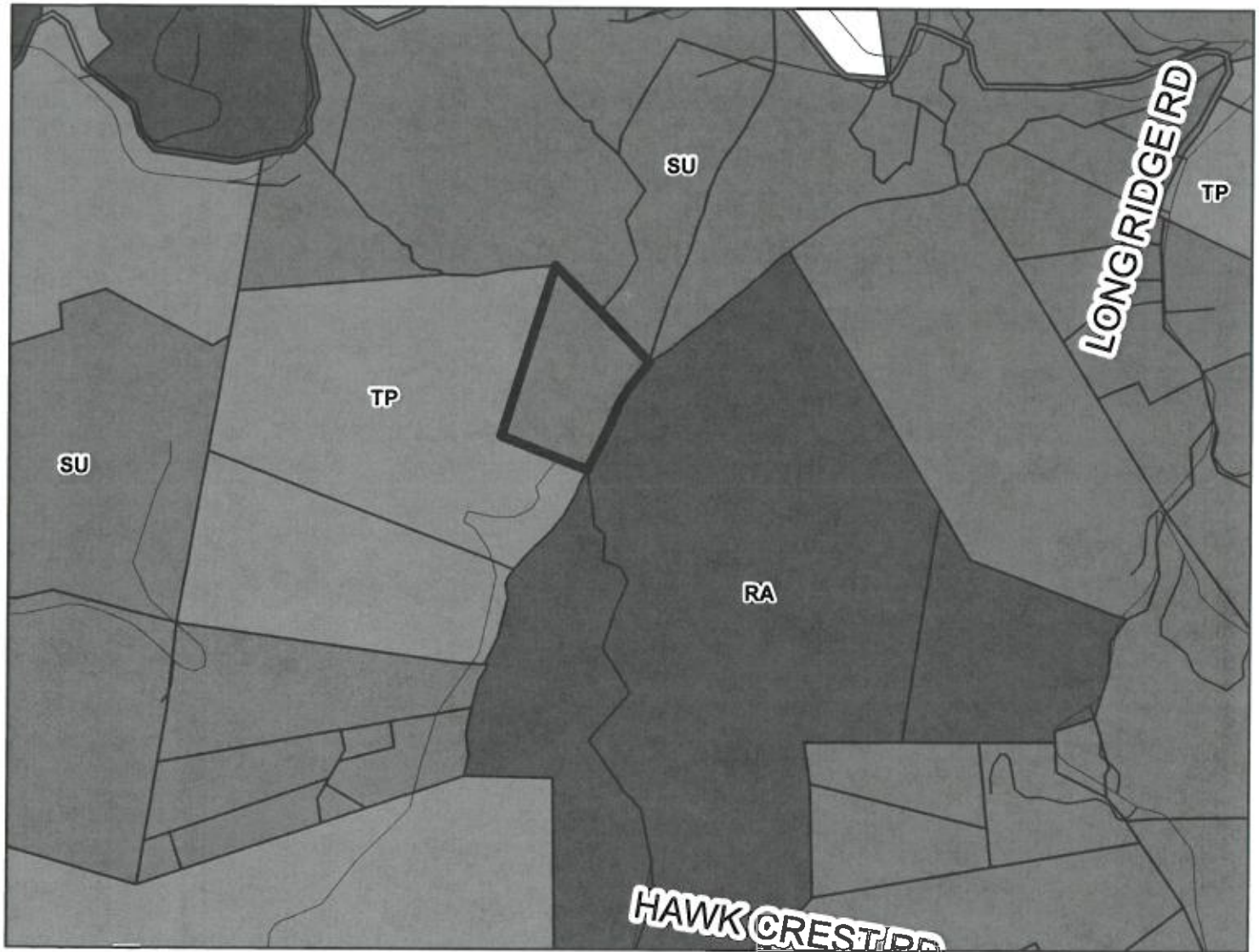
-  APN: 098-151-11
-  Assessors Parcels
-  Street









Map Created by
County of Santa Cruz
Planning Department
June 2018

EXHIBIT C

Existing Zoning Map



Legend

-  APN: 098-151-11
-  Assessors Parcels
-  Street
-  AGRICULTURE RESIDENTIAL
-  SPECIAL USE
-  TIMBER PRODUCTION









*Map Created by
County of Santa Cruz
Planning Department
June 2018*

EXHIBIT C

Proposed Zoning Map



Legend

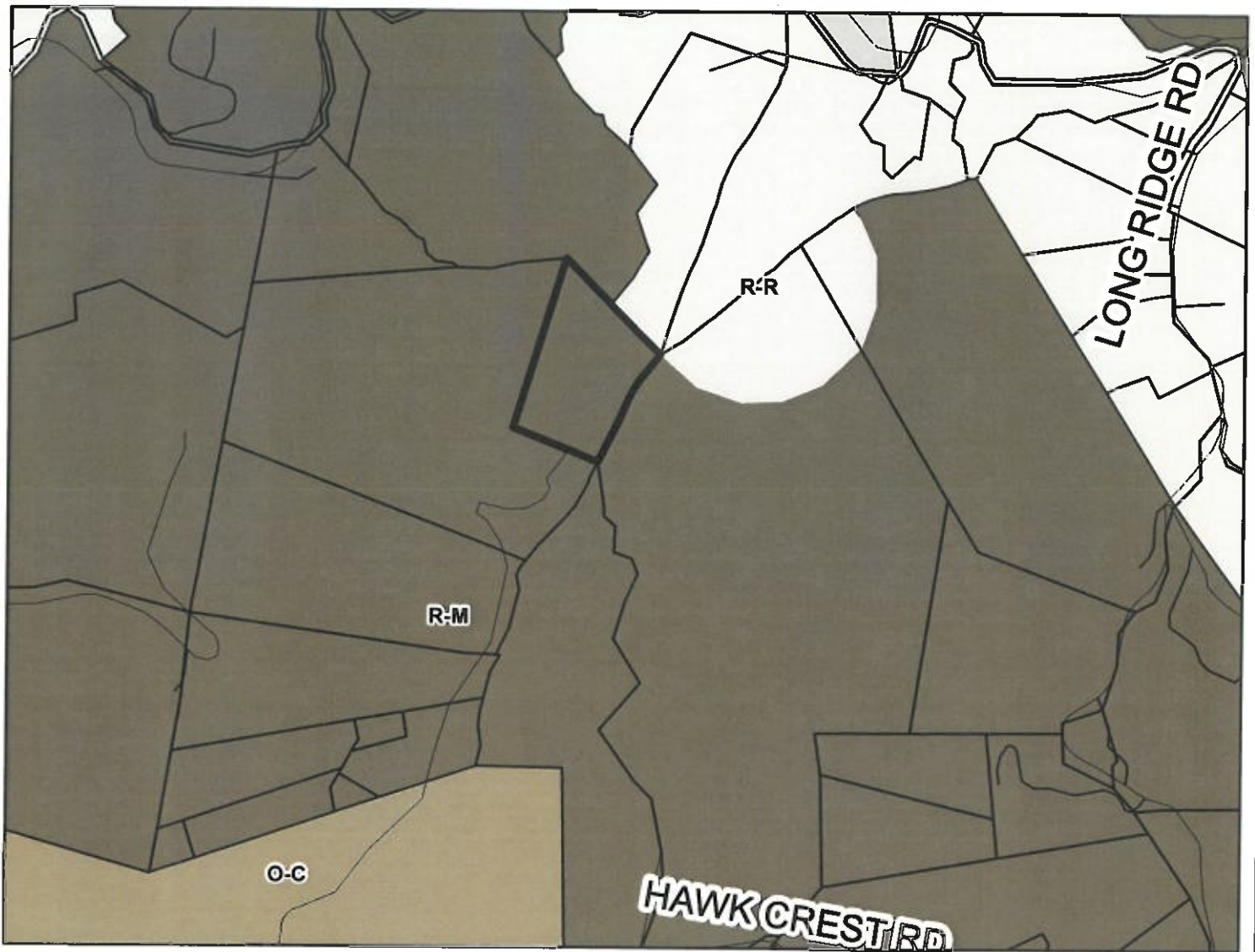
-  APN: 098-151-11
-  Assessors Parcels
-  Street
-  AGRICULTURE RESIDENTIAL
-  SPECIAL USE
-  TIMBER PRODUCTION





*Map Created by
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June 2018*

EXHIBIT C

General Plan Designation



Legend

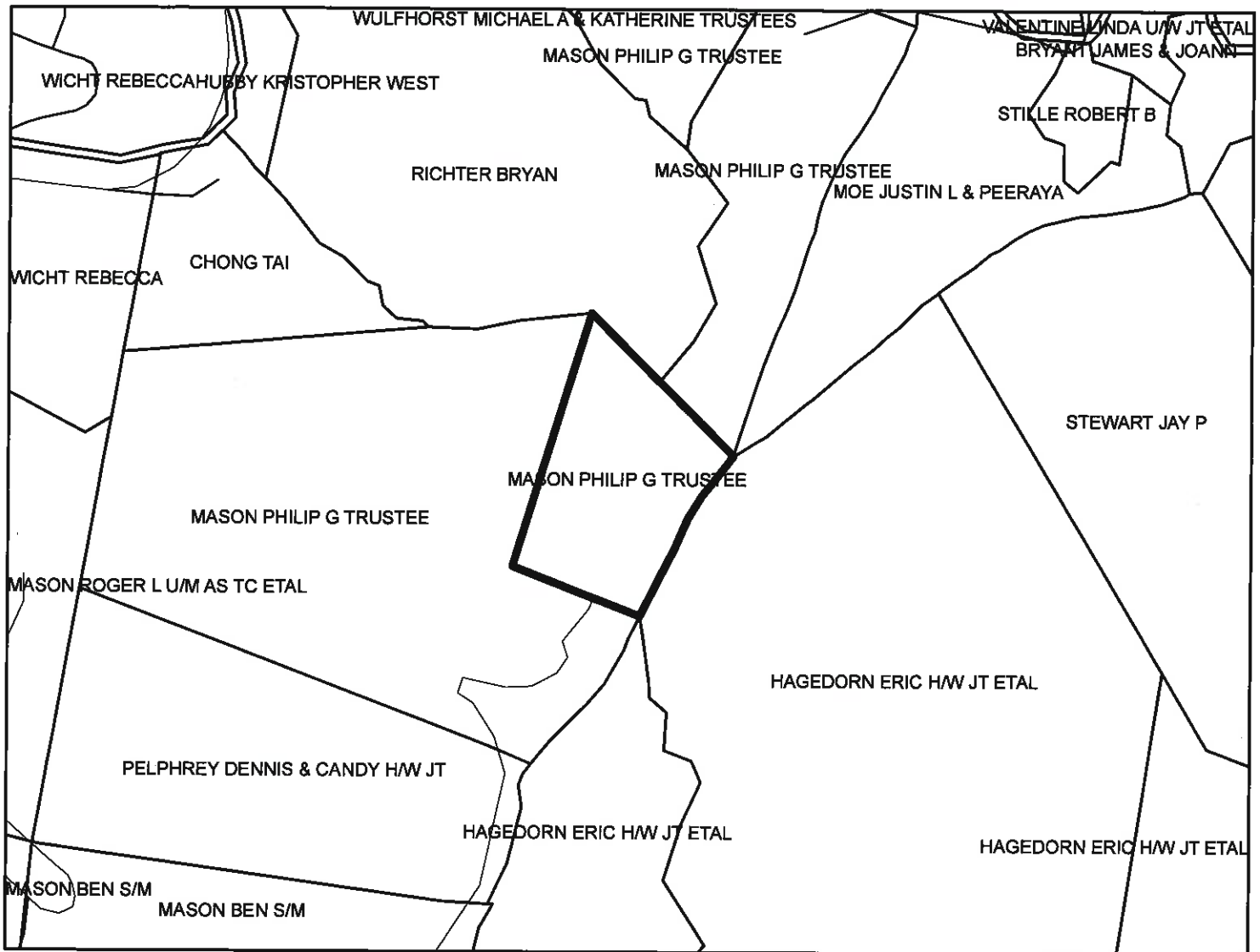
-  APN: 098-151-11
-  Assessors Parcels
-  Street
-  Residential-Mountain
-  Residential-Rural
-  Resource Conservation





Map Created by
County of Santa Cruz
Planning Department
June 2018

EXHIBIT C

Parcel Ownership Map



Legend

-  APN: 098-151-11
-  Assessors Parcels



Map Created by
County of Santa Cruz
Planning Department
June 2018

EXHIBIT C

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: 181116

Assessor Parcel Number: 098-151-11

Project Location: No Situs Address. Located on both sides of Comstock Mill 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.


Jonathan DiSalvo, Project Planner

Date: 9/18/18

EXHIBIT D

JOSEPH CULVER
CONSULTING FORESTER

June 1, 2017

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



RE: Rezone APN # 098-151-11 to
Timber Production,
Adjacent to TPZ/Timberland
Property Under Same Ownership

098 RLM

I have been hired to facilitate the rezoning of APN # 098-151-11 to Timber Production. Roger Mason owns the parcel, which is listed by the county assessor as 5.1 acres in size. The parcel is adjacent to APN # 097-151-03, a 23.8 acre parcel already zoned Timber production and also owned by Mr. Mason. APN # 097-151-03 meets the state definition of timberland as determined in a stocking and growth analysis of the property completed in November of 2016. Because the parcels are contiguous, APN# 098-151-11 qualifies for an "Adjacency Rezoning" under section 51113.5 of the California Code.

In May 2017 I completed a sample inventory of APN # 098-151-11 to determine forest characteristics. The inventory consisted of 4 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 165 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 55.3 cubic feet per acre and therefore meets the definition of timberland.

318 AVALON STREET, SANTA CRUZ, CA 95060, (831) 359-5989
culverforestry.com

EXHIBIT E

COMPATIBLE USE: Current property use of the parcel includes watershed, wildlife habitat and timber management. 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 he 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,



Joseph Culver
RPF #2674

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culverforestry.com

EXHIBIT E

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.)

GOVERNMENT CODE - GOV

TITLE 5. LOCAL AGENCIES [50001 - 57550]

(Title 5 added by Stats. 1949, Ch. 81.)

DIVISION 1. CITIES AND COUNTIES [50001 - 52203]

(Division 1 added by Stats. 1949, Ch. 81.)

PART 1. POWERS AND DUTIES COMMON TO CITIES AND COUNTIES [50001 - 51298.5]

(Part 1 added by Stats. 1949, Ch. 81.)

CHAPTER 6.7. Timberland [51100 - 51155]

(Chapter 6.7 added by Stats. 1976, Ch. 176.)

ARTICLE 2. Timberland Production Zones [51110 - 51119.5]

(Heading of Article 2 amended by Stats. 1982, Ch. 1489, Sec. 5.5.)

51113.

(a) (1) An owner may petition the board or council to zone his or her land as timberland production. The board or council by ordinance, after the advice of the planning commission pursuant to Section 51110.2, and after public hearing, shall zone as timberland production all parcels submitted to it by petition pursuant to this section, which meet all of the criteria adopted pursuant to subdivision (c). Any owner who has so petitioned and whose land is not zoned as timberland production may petition the board or council for a rehearing on the zoning.

(2) This section shall not be construed as limiting the ability of the board or council to zone as timberland production any parcel submitted upon petition that is timberland, defined pursuant to subdivision (f) of Section 51104, and which is in compliance with the compatible use ordinance adopted by the board or council pursuant to Section 51111.

(b) The board or council, on or before March 1, 1977, by resolution, shall adopt procedures for initiating, filing, and processing petitions for timberland production zoning and for rezoning. The rules shall be applied uniformly throughout the county or city.

(c) On or before March 1, 1977, the board or council by ordinance shall adopt a list of criteria required to be met by parcels being considered for zoning as timberland production under this section. The criteria shall not impose any requirements in addition to those listed in this subdivision and in subdivision (d). The following shall be included in the criteria:

(1) A map shall be prepared showing the legal description or the assessor's parcel number of the property desired to be zoned.

(2) A plan for forest management shall be prepared or approved as to content, for the property by a registered professional forester. The plan shall provide for the

eventual harvest of timber within a reasonable period of time, as determined by the preparer of the plan.

(3) (A) The parcel shall currently meet the timber stocking standards as 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 for the district in which the parcel is located, or the owner shall sign an agreement with the board or council to meet those stocking standards and forest practice rules by the fifth anniversary of the signing of the agreement. If the parcel is subsequently zoned as timberland production under subdivision (a), failure to meet the stocking standards and forest practice rules within this time period provides the board or council with a ground for rezoning of the parcel pursuant to Section 51121.

(B) Upon the fifth anniversary of the signing of an agreement, the board shall determine whether the parcel meets the timber stocking standards in effect on the date that the agreement was signed. Notwithstanding the provisions of Article 4 (commencing with Section 51130), if the parcel fails to meet the timber stocking standards, the board or council shall immediately rezone the parcel and specify a new zone for the parcel, which is in conformance with the county general plan and whose primary use is other than timberland.

(4) The parcel shall be timberland, as defined in subdivision (f) of Section 51104.

(5) The parcel shall be in compliance with the compatible use ordinance adopted by the board or council pursuant to Section 51111.

(d) The criteria required by subdivision (c) may also include any or all of the following:

(1) The land area concerned shall be in the ownership of one person, as defined in Section 38106 of the Revenue and Taxation Code, and shall be comprised of single or contiguous parcels of a certain number of acres, not to exceed 80 acres.

(2) The land shall be a certain site quality class or higher under Section 434 of the Revenue and Taxation Code, except that the parcel shall not be required to be of the two highest site quality classes.

(Amended by Stats. 1998, Ch. 972, Sec. 5. Effective January 1, 1999.)