



## Staff Report to the Planning Commission

Application Number: **02-0431**

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**Applicant:** Cassady Bill Vaughn  
**Owner:** Ann Schwarzmenn, et. al.; Victor  
Smith  
**APN:** 089-021-15,16 and 58

**Agenda Date:** October 13,2004  
**Agenda Item #:**  
**Time:** After 9:00 a.m.

**Project Description:** Proposal to rezone three parcels from Special Use (SU) to the Timber Production (TP) zone district.

**Location:** The properties are located on ~~Hartman~~ Creek Road about 600 feet north of the intersection of ~~Hartman~~ Creek Road and Deer Creek Road, 120 ~~Hartman~~ Creek Road, Boulder Creek.

**Supervisory District:** 5<sup>th</sup> District (District Supervisor: Mark Stone)

**Permits Required:** Rezoning

### Staff Recommendation:

- Adopt the Resolution sending a recommendation to **the** Board of Supervisors for approval of Application 02-0431 based on the attached findings.
- Recommend certification that the proposal is statutorily exempt from ~~further~~ Environmental Review under the California Environmental Quality Act.

### Exhibits

- |    |   |    |                            |
|----|---|----|----------------------------|
| A. | Findings                                    | F. | Location Map               |
| B. | Statutory Exemption (CEQA<br>determination) | G. | Assessor's Parcel Map      |
| C. | Resolution                                  | H. | Zoning & General Plan Maps |
| D. | Original Agreements                         | I. | Timber Resource Map        |
| E. | Revised Agreements & Declarations           | J. | Timber Management Plan     |

### Parcel Information

Parcel Size:                      089-021-15 - ~~34~~ acres  
   089-021-16 - ~~37~~ acres  
   089-021-58 - ~~17~~ acres

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County of Santa Cruz Planning Department  
701 Ocean Street, 4<sup>th</sup> Floor, Santa Cruz CA 95060

Existing Land Use - Parcel:	Timberland, vacant rural land
Existing Land Use - Surrounding:	Timberlands, rural residential and vacant rural properties
Project Access:	Hartman Creek Rd. a private right-of-way
Planning Area:	San Lorenzo Valley (15, 16), Skyline (58)
Land Use Designation:	R-M (Mountain Residential)
Zone District:	SU (Special Use)
Coastal Zone:	<u>  </u> Inside <u>XX</u> Outside

### Environmental Information

Geologic Hazards:	Some unstable slopes mapped - see Timber Management Plan
Soils:	Ben Lomond sandy loam, Ben Lomond-Catelli-Sur complex, Mayman-rock outcrop complex
Fire Hazard:	Portions within a mapped constraint
Slopes:	10-75%
Env. Sen. Habitat:	<b>Riparian</b> - Deer Creek
Grading:	Existing skid trails and timber landings
Tree Removal:	Future Timber Harvest Proposed
Scenic:	Not located within a scenic viewshed
Drainage:	No changes to existing drainage patterns
Traffic:	N/A
Roads:	Existing roads adequate
Parks:	N/A
Archeology:	Mapped within a resource area, reconnaissance required as part of timber harvest permit process

### Services Information

Urban/Rural Services Line:	<u>  </u> Inside <u>XX</u> Outside
Water Supply:	N/A
Sewage Disposal:	N/A
Fire District:	California Department of Forestry/County Fire
Drainage District:	N/A

### History

On August 21, 2002, the County Planning Department accepted this application for rezoning three parcels totaling approximately **89** acres from the Special Use (SU) zone district to Timber Production (TP). The California State Government Code Section 51113 and County Code Section 13.10.375(c), zoning to the TP district specify the six criteria, which must be met in order to rezone to TP. This project qualifies for a statutory exemption (Exhibit B) in accordance with the California Environmental Quality Act and the County Environmental Review Guidelines (Article 17, Section 1703).

### Project Setting

The project site is located at the boundaries of the San Lorenzo Valley and Skyline planning areas. The property is about 88 acres and is developed only with a road system and a non-habitable structure on

parcel 58. Deer Creek is a perennial stream running north to south through the property and is a tributary to Bear Creek. Both Bear and Deer Creeks provide spawning and rearing habitat for Southern steelhead trout (*Oncorhynchus mykiss irideus*), a Federally listed threatened species. About 60 acres of the property is conifer forestlands (redwood and fir) with the remainder being predominantly oak woodland. According to the Timber Management Plan, the redwoods on the property are second growth with the exception of approximately ten ancient trees, which shall be retained.

## Zoning & General Plan Consistency

The subject parcel has a 1994 General Plan land use designation of Mountain Residential. All three parcels are currently zoned Special Use. The Special Use and Timber Production zoning districts implement the Mountain Residential General Plan designation, as specified in Section 13.10.170 of the County Code.

Deer Creek meets the definition of Sensitive Habitat under General Plan policy 5.1.2(c) through (f), (i) and (j). General Plan policy 5.1.4 states “implement the protection of sensitive habitats by maintaining the existing Sensitive Habitat Protection ordinance” (this ordinance is Chapter 16.32 of the County Code). In addition, General Plan policy 5.1.6 states that sensitive habitats shall be protected against any significant disruption of habitat values; any proposed development within or adjacent to these areas must maintain or enhance the functional capacity of the habitat. Projects must be reduced in scale, redesigned, mitigated or, if no alternative exists, denied. Policy 5.1.7 includes the following language, “Protect sensitive habitats against any significant disruption or degradation of habitat values in accordance with the Sensitive Habitat Protection ordinance.” The Sensitive Habitat Protection ordinance’s definition of development includes the following “the removal or harvesting of major vegetation other than for ... timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z’berg-Nejedly Forest Practice Act of 1973; the disturbance of any rare, endangered, or locally unique plant or animal or its habitat”. Thus, timber harvesting under a CDF Timber Harvest Permit is specifically exempted from the regulations of Chapter 16.32. Nevertheless, as timber harvesting is not allowed under the subject parcels’ current zoning, the proposed rezoning must be analyzed with respect to and found in conformance with the County’s General Plan policies for protecting the County’s biological resources.

The property owners have entered into an Agreement with the County of Santa Cruz setting limitations on certain timber harvesting activities on the subject parcels, resolving the aforementioned conflicts between timber harvesting activities and the County’s General Plan. Specifically, the property owners have agreed to a “no cut zone” within 50 feet of Deer Creek. This no cut zone is consistent with the County’s riparian corridor protection policies and corridor widths for a perennial stream. This undisturbed area will also provide adequate protection for this sensitive biotic habitat consistent with the County’s Sensitive Habitat protection policies.

The original owners have sold two of the three parcels to a second party during the time it has taken to process this application, and the original agreement was modified to address this ownership change. Subsequently, the project forester has determined that some cable yarding may be necessary to harvest on these properties at some future time should they not be harvested jointly. This may require tree trimming and removal within the riparian corridor to provide a pathway to convey the fallen logs. The property owners are willing to agree to obtain Riparian Exception Permits from the County of Santa Cruz for the removal and trimming of trees within the riparian setback necessary to create the cable corridors, should this be necessary. The Riparian Exception permit would be a staff level review and would ensure corridor widths are minimized. These measures would provide adequate protection for this sensitive habitat consistent with the County’s Sensitive Habitat protection policies and is the superior solution to new road

construction. In addition, the ownership of parcel 089-021-58 has been modified. Thus, staff has included revised Agreements as Exhibit E to be signed by the property owners to include these changes. In the revised agreements, the property owners will further agree to permanently preserve the trees over 200 years of age on their respective properties.

In accordance with California State Government Code Section 51113 and County Code Section 13.10.375, Special Standards and Conditions for the Timber Production (TP) District, the project meets the following six criteria for rezoning to Timber Production:

1. A map has been submitted with the legal description or assessor's parcel number **of** the properties to be rezoned (Exhibit G).
2. A Timber Management Plan, prepared by a registered professional forester **has** been submitted for the property (Exhibit J). The Timber Management Plan has been reviewed and accepted by the Planning Department as meeting **minimum** standards.
3. The parcels currently meet **the** timber stocking standards as set forth in Section 4561 of the Public Resources Code and the Forest Practice Rules for the district in which **the** parcels are located.
4. The parcels are timberland, as each entire parcel is capable of producing a minimum of 15 cubic feet of timber per acre annually.
5. The uses on the parcels are in compliance with the Timber Production Zone uses set forth in Section 13.10.372.
6. The land area to be rezoned is in the ownership of one person, as defined in Section 38106 of the Revenue and Taxation Code, **as** APN 089-021-15 and 16 are in the sole ownership and control of Victor Smith and APN 089-021-58 is in the sole ownership and control of **Ann** Schwarzmann and Grant Codiga Trust. The property within each ownership and is comprised of at least five acres in area.

## Conclusion


All of the criteria have been met for rezoning the subject parcels to the Timber Production zoning designation. All required findings **can be** made to approve this application and the rezoning is consistent with the General Plan policies and land use designations pursuant to California State Government Code Section 51113 and County Code Section 13.10.375 and subject to the revised Agreement (Exhibit E). Please see Exhibit A ("Findings") for a complete listing **of** findings and evidence related to the above discussion.

## Staff Recommendation

- Adopt the Resolution (Exhibit C), sending a recommendation to the Board of Supervisors for approval of Application 02-0431 based on **the** attached findings.
- Recommend certification that the proposal **is** statutorily exempt from further Environmental Review under the California Environmental Quality Act.

Supplementary reports and information referred to in this report are on file and available for viewing at the Santa Cruz County Planning Department, and are hereby made a part of the administrative record for the proposed project.

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)

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Report Reviewed By:   
Cathy Graves  
Principal Planner  
Development Review

## **REZONING FINDINGS**

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,

The rezoning will allow a density of development and types of uses, which are consistent with the objectives and the land use designations of Mountain Residential. The uses will more closely conform with the General Plan as a result of the zoning of three parcels which contains timber resources meeting the timber stocking standards.

Deer Creek is a perennial stream running north to south through the property and is a tributary to Bear Creek. Both Bear and Deer Creeks provide spawning and rearing habitat for Southern steelhead trout (*Oncorhynchus mykiss irideus*), a Federally listed threatened species. Deer Creek meets the definition of Sensitive Habitat under General Plan policy 5.1.2(c) through (f), (i) and (j). General Plan policy 5.1.4 states "implement the protection of sensitive habitats by maintaining the existing Sensitive Habitat Protection ordinance" (this ordinance is Chapter 16.32 of the County Code). In addition, General Plan policy 5.1.6 states that sensitive habitats shall be protected against any significant disruption of habitat values; any proposed development within or adjacent to these areas must maintain or enhance the functional capacity of the habitat. Projects must be reduced in scale, redesigned, mitigated or, if no alternative exists, denied. Policy 5.1.7 includes the following language, "Protect sensitive habitats against any significant disruption or degradation of habitat values in accordance with the Sensitive Habitat Protection ordinance." The Sensitive Habitat Protection ordinance's definition of development includes the following "the removal or harvesting of major vegetation other than for ... timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973; the disturbance of any rare, endangered, or locally unique plant or animal or its habitat". Thus, timber harvesting under a CDF Timber Harvest Permit is specifically exempted from the regulations of Chapter 16.32. Nevertheless, as timber harvesting is not allowed under the subject parcels' current zoning, the proposed rezoning must be analyzed with respect to and found in conformance with the County's General Plan policies for protecting the County's biological resources.

In order to provide the highest level of protection of these resources, the property owners have entered into an Agreement with the County of Santa Cruz setting limitations on certain timber harvesting activities on the subject parcels, resolving the aforementioned conflicts between timber harvesting activities and the County's General Plan. Specifically, the property owners have agreed to a general "no cut zone" within 50 feet of Deer Creek. This no cut zone is consistent with the County's riparian corridor protection policies and corridor widths for perennial streams. The project forester states that future cable yarding of timber may be necessary across the Deer Creek channel. This method may require some tree cutting and trimming to create corridors for transporting the fallen logs. This method will minimize disturbance by eliminating the need to construct new logging roads. The property owners agree to obtain a Riparian Exception in accordance with the General Plan policies for riparian protection to ensure cable corridors are located to minimize disturbance and corridor widths are minimized. Potential adverse effects on the riparian corridor will be minimized through the County permit process, permit conditions and inspections.

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Owner: Ann Schwarzmann, et. al.; Victor Smith

Approximately ten trees on this property appear to be over 200 years old meeting the definition of an Ancient Tree. This determination is based on tree structure and habitat **value**. The property owners agree to preserve these trees in perpetuity.

With these agreements, the proposed rezoning will conform with the General Plan's policies for the protection of sensitive habitat and riparian corridors.

2. THE PROPOSED ZONE DISTRICT IS APPROPRIATE OF THE LEVEL OF UTILITIES AND COMMUNITY SERVICE AVAILABLE TO THE LAND; AND,

The proposed TP zone district **is** appropriate to the level of utilities and community services available to the parcel. The subject parcels are accessed via Hartman Creek Road, a privately maintained road off of Deer Creek Road. The parcel is located outside of the Urban Services Line and is, therefore, rural in nature.

1. THE PROPOSED REZONING IS NECESSARY TO PROVIDE FOR A COMMUNITY RELATED USE WHICH WAS NOT ANTICIPATED WHEN THE ZONING PLAN WAS ADOPTED,

The proposed rezoning is necessary to provide for a community related **use** - timber harvesting and timberland management. Timber harvesting was permitted in the SU zone districts in the past in certain circumstances under the jurisdiction of the County and later under the sole authority of the California Department of Forestry. Presently, timber harvesting is only allowed within the Timber Production, Parks and Recreation and Mineral Extraction zone districts and the CA zone district outside of the Coastal Zone. The subject parcels contain timber stands exceeding the timber stocking standards. The rezoning will allow the continuation of harvesting and management of the timberlands on the subject parcels.

# 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: 02-0431

Assessor Parcel Number: 089-021-15,16 and 58

Project Location: 120 Hartman Creek Road, Boulder Creek

**Project Description: Proposal to rezone three parcels from the Special Use (SU) to the Timber Production (TP) zone district.**

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

Specify type: **Article 17, Section 1703. Timberland Preserves**

**E.      Categorical Exemption**

Specify type:

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

  
Cathleen Carr, Project Planner

Date: 9/29/04



**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. 02-0431, involving property located on Hartman Creek Road about 600 feet north of the intersection of ~~Hartman~~ Creek Road and Deer Creek Road (120 ~~Hartman~~ Creek Road) 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 properties from the "SU" Special Use zone district to **the** "TP" Timber Production zone district.

BE IT FURTHER RESOLVED, that the Planning Commission makes findings on the proposed rezoning as contained in Exhibit **A** of the Report to the Planning Commission dated October 13, 2004.

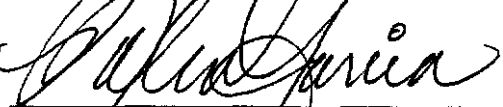
PASSED AND ADOPTED by the Planning Commission of **the** County of Santa Cruz, State of California, this 13th day of October, 2004, by the following vote:

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

\_\_\_\_\_  
RENEE SHEPHERD, Chairperson

ATTEST: \_\_\_\_\_  
CATHY GRAVES, Secretary

APPROVED AS TO FORM:

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

## AGREEMENT CONCERNING APPLICATION FOR REZONE TO TIMBER PRODUCTION ZONE DISTRICT

The County of Santa Cruz ("County") and Victor Smith ("Owner") agrees as follows:

1. The County and Owner enter into this Agreement Concerning Application for Rezone to Timber Production Zone District ("Agreement") on the basis of the following facts, understandings, and intentions:
  - A. Owner is the owner of certain real property, totaling approximately 71.8 acres (APN 089-021-15 and 16) ("Property") located on Hartman Creek Road about 600 feet north of the intersection of Hartman Creek Road and Deer Creek Road. Boulder Creek.
  - B. The Property is currently zoned SU (Special Use).
  - C. On August 21, 2002, Owner submitted an application, including a timber management plan ("TMP"), to the County to rezone the Property to a Timber Production ("TP") zone district.
  - D. In December 1998, litigation was filed against the County which included, among other claims, a challenge to the criteria that the County may consider in reviewing applications to rezone property to a TP zone district. The litigation is currently pending in the California Court of Appeal (Big Creek, et al. v. County of Santa Cruz, Civil No. H023778).
  - E. It is the County's position that it is required by state law to ensure that all zoning decisions, including rezoning property to a TP zone district, are consistent with the policies set forth in the County's General Plan and Local Coastal Program Land Use Plan ("General Plan/LCP") and that it has the authority to deny TP rezone applications where necessary to ensure such consistency. Given that the County's authority in this area is currently at issue in pending litigation before the Court of Appeal, the County, in order to avoid the potential for duplicative additional litigation, **has** refrained from acting on rezone applications that present clear conflicts with its General Plan/LCP pending a final judicial decision.
  - F. The County Planning Department has determined that rezoning the Property to the TP zone district would, at a **minimum**, create the following potential conflicts between timber harvesting on the property and the designated County General Plan/LCP policies:

## 5.1 Biological Diversity

### 5.1.6 Development within Sensitive Habitats

#### 5.1.7 Site Design and Use Regulations

### 5.2 Riparian Corridors and Wetlands

#### 5.2.2 Riparian Corridor and Wetland Protection Ordinance

#### 5.2.3 Activities Within Riparian Corridors and Wetlands

#### 5.2.4 Riparian Corridor Buffer Setback

#### 5.2.7 Compatible Uses with Riparian Corridors

## 6.2 Slope Stability

Deer Creek, classified as a perennial stream, bisects the subject property. Deer Creek provides spawning and rearing habitat to Steelhead trout, a Federally listed ~~as~~ Threatened species and eventually flows into Bear Creek, which provides prime Steelhead trout habitat. Timber harvesting activities could conflict with the County's riparian and sensitive habitat protection General Plan policies. The removal of trees within the 50-foot riparian corridor of Deer Creek could damage downstream salmonid habitat through increased water temperatures through loss ~~of~~ shade. Moreover, the site disturbance resulting from timber harvesting activities can increase erosion, resulting in increased turbidity and sedimentation within the stream, thereby degrading in stream water quality and aquatic habitats.

Slope instability in the form ~~of~~ debris flows are noted in the Timber Management Plan. Slope instability could be exacerbated by certain timber harvesting techniques. Furthermore, the proximity of the debris ~~flows~~ to the stream and drainage channels could lead to degradation of salmonid habitat and water quality from increased sedimentation and turbidity from timber harvesting activities.

G. Owner **seeks** to have the County rezone the Property to a TP zone district prior to the issuance of the Court of Appeal decision in the Big Creek litigation so that they may proceed at their discretion to obtain all required approvals to timber harvest the Property and obtain any tax benefit resulting from the rezone. Owners ~~further~~ desire to ensure that future timber harvesting on the Property is consistent, to **the** extent feasible, with the County General Plan/LCP.

H. The County seeks to **ensure** that it complies with state law by approving an application to **rezone the** Property to TP **only** where the rezone would be consistent with the policies set forth in its General Plan/LCP.

I. Both Owner **and** the County **seek to** avoid the expense and **risks** inherent in litigation and

to permit the rezone to go forward in a manner that is mutually satisfactory and beneficial to both parties.

J. In July of 2004, Owner initiated a series of discussions with the County Planning Department to discuss whether the identified potential General Plan/LCP inconsistencies could be resolved by an agreement regarding any future timber harvesting on the Property.

K. After extensive discussions, Owner and the County have agreed to enter into this Agreement and to comply with the terms and conditions set forth herein, including the timber harvesting conditions set forth in paragraph 8, below, which they believe are **just**, fair and adequate.

2. Owner shall promptly submit a revised TMP to the County that complies with the timber harvesting conditions set forth in paragraph 8, below.

3. Owner shall execute and provide the County with **the** notarized original of **the** Declaration of Restrictions attached hereto and incorporated herein as Exhibit A, which includes the timber harvesting conditions that shall govern all future timber harvesting operations on the Property.

4. The County, after receipt of **the** revised TMP, shall promptly review the TMP to determine its consistency with the provisions of this Agreement. Once the County determines that the revised **TMP** fully complies with the terms of this Agreement, the County shall notice a public hearing before the Planning Commission to consider Owner's application to rezone **the** Property to TP.

5. The Planning Department staff shall diligently seek to procure approval of Owner's rezone application. Nothing herein contained, however, shall be deemed to restrict the discretion of the Planning Commission or, if **an** appeal is filed, the Board of Supervisors to consider such matters as may be appropriate, to propose modifications to **this** Agreement, or to deny the rezone application.

6. The parties to this Agreement shall make every effort and shall cooperate diligently to have all proceedings before the Planning Commission and any proceedings before the Board of Supervisors with regard to the rezone application concluded expeditiously

7. If **the** County does not approve Owner's application to rezone the Property to TP in accordance with the terms set forth in this Agreement, then, 1) **this** Agreement shall have no further force or effect and shall

be deemed terminated; and 2) the Declaration of Restrictions executed by Owners shall have no further force or effect, shall be deemed terminated, and shall not be filed with the Office of the County Recorder of the County of Santa Cruz.

8. If the County approves the application to rezone the Property to TP, then the County shall file the Declaration of Restrictions with the Office of the County Recorder of the County of Santa Cruz. In addition, Owner agrees that any Timber Harvest Plan ("THP") application that they submit to the California Department of Forestry ("CDF") to conduct timber harvesting on the Property at any time during which the Property is zoned TP or is in a zone district in which commercial timber harvesting is permitted under County law shall, at a minimum, include and be consistent with the timber harvesting conditions set forth below:

- a. *Timber harvesting and/or tree removal is prohibited within 50 feet of Deer Creek with the following exceptions:*
  - Tree(s) posing an imminent hazard to public health and safety may be removed. However, any such tree located within 50 feet of Deer Creek shall require a Riparian Exception Permit prior to removal.*
- b. *Timber harvesting and/or tree removal within the mapped debris flow areas shown in the Timber Management Plan is allowed if evaluated by a certified engineering geologist and determined by the geologist to not have any detrimental effects on slope stability.*
- c. *Construction of new logging roads and skid trails are prohibited within the debris flow/unstable areas shown in the Timber Management Plan.*
- d. *Nothing contained in this Agreement shall be deemed to restrict the discretion of the CDF or to preclude CDF, in approving a THP for the Property, from imposing conditions on the THP that are more restrictive on timber harvesting than the terms set forth in this Agreement.*

9. This Agreement shall run with the Property and be binding upon the parties hereto, and their respective employees, counsel, agents, successors and assigns.

10. Each signatory hereto represents that he or she is authorized to execute this Agreement so as to bind the parties on whose behalf he or she is a signatory. The parties have read and understand the terms of this Agreement. Each party is fully aware of the contents of this Agreement and its legal effect, although Owners have chosen not to be represented by counsel in their negotiations for, and in the preparation of, this Agreement.

11. This Agreement constitutes the entire agreement between the parties and all other prior

agreements or understandings, written or oral, are merged into and superseded by the terms of this Agreement, which may not be altered, modified, or otherwise changed excepted by a writing signed by the duly authorized representatives of the parties to this Agreement.

12. Owner and the County shall reasonably cooperate with one another in order to effectuate the purposes of this Agreement. The parties to this Agreement shall attempt in good faith to resolve through negotiation any dispute, claim or controversy regarding the interpretation or application of this Agreement. Either party may initiate negotiations by providing written notice in letter form to the party from whom relief is requested, setting forth the subject of the dispute and the relief requested. The recipient of such notice shall respond within five days with a written statement of its position on, and recommended solution to, the dispute. If the dispute is not resolved by this exchange of correspondence, ~~then~~ representatives of the parties shall meet at a mutually agreeable time and place (either in person or by telephone) within ten days of the date of the initial notice in order to exchange relevant information and perspectives, and to attempt to resolve the dispute.

13. Any written communications concerning this Agreement shall be delivered to the parties at the addresses set forth below:

County of Santa Cruz:

Planning Director  
Planning Department  
701 Ocean Street, 4<sup>th</sup> Floor  
Santa Cruz, CA 95060

Owner:

Victor Smith  
4508 Carlyle Court #822  
Santa Clara, CA 95054


These addresses may be modified by written notification to the other party.

14. This Agreement shall be interpreted and construed in the manner best calculated to carry out its purposes of achieving the objectives set forth in paragraph 1, subparagraphs G, H, and I, above.

15. This Agreement shall become effective on the date that it is signed by the signatories set forth below,

16. **This** Agreement shall be **signed** by the **parties** below **and** may be executed **in** separate counterparts.

DATED: 8/5/04

By   
Victor Smith

DATED: \_\_\_\_\_

COUNTY OF SANTA CRUZ, et al.

By \_\_\_\_\_  
Chair, Board of **Supervisors**

APPROVED AS TO FORM:

  
ASSISTANT COUNTY COUNSEL

[02-0431TP rezone agreement.wpd]

## AGREEMENT CONCERNING APPLICATION FOR REZONE TO TIMBER PRODUCTION ZONE DISTRICT

The County of ~~Santa~~ Cruz ("County") and Ann Schwarzmman and Greg Haagenson ("Owners") agree as follows:

1. The County and Owners enter into this Agreement Concerning Application for Rezone to Timber Production Zone District ("Agreement") on the basis of the following facts, understandings, and intentions:
  - A. Owners are the owners of certain real property, totaling approximately 17 acres (APN 089-021-58) ("Property") located on Hartman Creek Road about 600 feet north of the intersection of Hartman Creek Road and Deer Creek Road (120 Hartman Creek Road). Boulder Creek.
  - B. The Property is currently zoned SU (Special Use).
  - C. On August 21, 2002, Owners submitted an application, including a timber management plan ("TMP"), to the County to rezone the Property to a Timber Production ("TP") zone district.
  - D. In December 1998, litigation was filed against the County which included, among other claims, a challenge to the criteria that the County may consider in reviewing applications to rezone property to a TP zone district. The litigation is currently pending in the California Court of Appeal (Bie Creek, et al. v. County of Santa Cruz, Civil No. H023778).
  - E. It is the County's position that it is required by state law to ensure that all zoning decisions, including rezoning property to a TP zone district, are consistent with the policies set forth in the County's General Plan and Local Coastal Program Land Use Plan ("General Plan/LCP") and that it has the authority to ~~deny~~ TP rezone applications where necessary to ensure such consistency. Given that the County's authority in this area ~~is~~ currently at issue in pending litigation before the Court of Appeal, the County, in order to avoid the potential for duplicative additional litigation, has ~~refrained~~ from acting on rezone applications that present clear conflicts with its General Plan/LCP pending a ~~find~~ judicial decision.
  - F. The County Planning Department has determined that rezoning the Property to the TP zone district would, at a minimum, create the following potential conflicts between timber harvesting on the



property and the designated County General Plan/LCP policies:

*5.1 Biological Diversity*

*5.1.6 Development within Sensitive Habitats*

*5.1.7 Site Design and Use Regulations*

*5.2 Riparian Corridors and Wetlands*

*5.2.2 Riparian Corridor and Wetland Protection Ordinance*

*5.2.3 Activities Within Riparian Corridors and Wetlands*

*5.2.4 Riparian Corridor Buffer Setback*

*5.2.7 Compatible Uses with Riparian Corridors*

*6.2 Slope Stability*

*Deer Creek, classified as a perennial stream, bisects the subject property. Deer Creek provides spawning and rearing habitat to Steelhead trout, a Federally listed as Threatened species and eventually flows into Bear Creek, which provides prime Steelhead trout habitat. Timber harvesting activities could conflict with the County's riparian and sensitive habitat protection General Plan policies. The removal of trees within the 50-foot riparian corridor of Deer Creek could damage downstream salmonid habitat through increased water temperatures through loss of shade. Moreover, the site disturbance resulting from timber harvesting activities can increase erosion, resulting in increased turbidity and sedimentation within the stream, thereby degrading stream water quality and aquatic habitats.*

*Slope instability in the form of debris flows are noted in the Timber Management Plan. Slope instability could be exacerbated by certain timber harvesting techniques. Furthermore, the proximity of the debris flows to the stream and drainage channels could lead to degradation of salmonid habitat and water quality from increased sedimentation and turbidity from timber harvesting activities.*

G. Owners seek to have the County rezone the Property to a TP zone district prior to the issuance of the Court of Appeal decision in the Big Creek litigation so that they may proceed at their discretion to obtain all required approvals to timber harvest the Property and obtain any tax benefit resulting from the rezone. Owners further desire to ensure that future timber harvesting on the Property is consistent, to the extent feasible, with the County General Plan/LCP.

H. The County seeks to ensure that it complies with state law by approving an application to rezone the Property to TP only where the rezone would be consistent with the policies set forth in its General Plan/LCP.

I. Both Owners and the County seek to avoid the expense and risks inherent in litigation and to permit the rezone to go forward in a manner that is mutually satisfactory and beneficial to both parties.

J. In April of 2004, Owners initiated a series of discussions with the County Planning Department to discuss whether the identified potential General Plan/LCP inconsistencies could be resolved by an agreement regarding any future timber harvesting on the Property.

K. After extensive discussions, Owners and the County have agreed to enter into this Agreement and to comply ~~with~~ the terms and conditions set forth herein, including the timber harvesting conditions set forth in paragraph 8, below, which they believe are just, fair and adequate.

2. Owners shall promptly submit a revised TMP to the County that complies with the timber harvesting conditions set forth in paragraph 8, below.

3. Owners shall execute and provide the County with the notarized original of the Declaration of Restrictions attached hereto and incorporated herein as Exhibit A, which includes the timber harvesting conditions that shall govern all future timber harvesting operations on the Property.

4. The County, after receipt of the revised TMP, shall promptly review the TMP to determine its consistency with the provisions of this Agreement. Once the County determines that the revised TMP fully complies with the terms of this Agreement, the County shall notice a public hearing before the Planning Commission to consider Owners' application to rezone the Property to TP.

5. The Planning Department ~~staff~~ shall diligently seek to procure approval of Owners' rezone application. Nothing herein contained, however, shall be deemed to restrict the discretion of the Planning Commission or, if an appeal is filed, the Board of Supervisors to consider such matters as may be appropriate, to propose modifications to this Agreement, or to deny the rezone application.

6. The parties to **this** Agreement shall make every effort and shall cooperate diligently to have all proceedings before the Planning Commission and any proceedings before the Board of Supervisors with regard to the rezone application concluded expeditiously

7. If the County does not approve Owners' application to rezone the Property to TP in accordance

with the terms set forth in this Agreement, then, 1) this Agreement shall have no further force or effect and shall be deemed terminated; and 2) the Declaration of Restrictions executed by Owners shall have no further force or effect, shall be deemed terminated, and shall not be filed with the Office of the County Recorder of the County of Santa Cruz.

8. If the County approves the application to rezone the Property to TP, then the County shall file the Declaration of Restrictions with the Office of the County Recorder of the County of Santa Cruz. In addition, Owners agree that any Timber Harvest Plan ("~~THP~~") application that they submit to the California Department of Forestry ("CDF") to conduct timber harvesting on the Property at any time during which the Property is zoned TP or is in a zone district in which commercial timber harvesting is permitted under County law shall, at a minimum, include and be consistent with the timber harvesting conditions set forth below:

- a. *Timber harvesting and/or tree removal is prohibited within 50 feet of Deer Creek with the following exceptions:*  
*Tree(s) posing an imminent hazard to public health and safety may be removed. However, any such tree located within 50 feet of Deer Creek shall require a Riparian Exception Permit prior to removal.*
- b. *Timber harvesting and/or tree removal within the mapped debris flow areas shown in the Timber Management Plan is allowed if evaluated by a certified engineering geologist and determined by the geologist to not have any detrimental effects on slope stability.*
- c. *Construction of new logging roads and skid trails are prohibited within the debris flow/unstable areas shown in the Timber Management Plan.*
- d. *Nothing contained in this Agreement shall be deemed to restrict the discretion of the CDF or to preclude CDF, in approving a THP for the Property, from imposing conditions on the THP that are more restrictive on timber harvesting than the terms set forth in this Agreement.*

9. This Agreement shall run with the Property and be binding upon the parties hereto, and their respective employees, counsel, agents, successors and assigns

10. Each signatory hereto represents that he or she is authorized to execute this Agreement so as to bind the parties on whose behalf he or she is a signatory. The parties have read and understand the terms of this Agreement. Each party is fully aware of the contents of this Agreement and its legal effect, although Owners have chosen not to be represented by counsel in their negotiations for, and in the preparation of, this Agreement

11. This Agreement constitutes the entire agreement between the parties and all other prior agreements or understandings, written or oral, are merged into and superseded by the terms of this Agreement, which may not be altered, modified, or otherwise changed excepted by a writing signed by the duly authorized representatives of the parties to this Agreement.

12. Owners and the County shall reasonably cooperate with one another in order to effectuate the purposes of this Agreement. The parties to this Agreement shall attempt in good faith to resolve through negotiation any dispute, claim or controversy regarding the interpretation or application of this Agreement. Either party may initiate negotiations by providing written notice in letter form to the party from whom relief is requested, setting forth the subject of the dispute and the relief requested. The recipient of such notice shall respond within five days with a written statement of its position on, and recommended solution to, the dispute. If the dispute is not resolved by this exchange of correspondence, then representatives of the parties shall meet at a mutually agreeable time and place (either in person or by telephone) within ten days of the date of the initial notice in order to exchange relevant information and perspectives, and to attempt to resolve the dispute.

13. Any written communications concerning *this* Agreement shall be delivered to the parties at the addresses set forth below:

County of Santa Cruz:

Planning Director  
Planning Department  
701 Ocean Street, 4<sup>th</sup> Floor  
Santa Cruz, CA 95060

Owners:

**Ann** Schwarzmman and Greg Haagenson  
P.O. Box 317  
Boulder Creek, CA 95006

These addresses may be modified by written notification to the other party.

14. This Agreement shall be interpreted and construed in the manner best calculated to carry out its purposes of achieving the objectives set forth in paragraph 1, subparagraphs G, H, and I, above.

15. This Agreement shall become effective on the date that it is signed by the signatories set forth

below:

16. **This** Agreement shall be signed by the parties below and may be executed in separate counterparts:

DATED: \_\_\_\_\_

By \_\_\_\_\_  
Ann Schwarzmnn

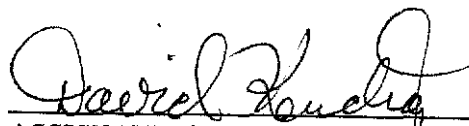
By \_\_\_\_\_  
Greg Haagenson

DATED: \_\_\_\_\_

COUNTY OF SANTA CRUZ, et al.

By \_\_\_\_\_  
Chair, Board of Supervisors

APPROVED AS TO FORM:

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

[02-0431TP rezone agreement.wpd]

## **AGREEMENT CONCERNING APPLICATION FOR REZONE TO TIMBER PRODUCTION ZONE DISTRICT**

The County of Santa Cruz ("County") and Victor Smith ("Owner") agrees as follows:

1. The County and Owner enter into this Agreement Concerning Application for Rezone to Timber Production Zone District ("Agreement") on the basis of the following facts, understandings, and intentions:

A. Owner is the owner of certain real property, totaling approximately 71.8 acres (APN 089-021-15 and 16) ("Property") located on Hartman Creek Road about 600 feet north of the intersection of Hartman Creek Road and Deer Creek Road, Boulder Creek.

B. The Property is currently zoned SU (Special Use).

C. On August 21, 2002, Owner submitted an application, including a timber management plan ("TMP"), to the County to rezone the Property to a Timber Production ("TP") zone district.

D. In December 1998, litigation was filed against the County which included, among other claims, a challenge to the criteria that the County may consider in reviewing applications to rezone property to a TP zone district. The litigation is currently pending in the California Court of Appeal (Big Creek, et al. v. County of Santa Cruz, Civil No. H023778).

E. It is the County's position that it is required by state law to ensure that all zoning decisions, including rezoning property to a TP zone district, are consistent with the policies set forth in the County's General Plan and Local Coastal Program Land Use Plan ("General Plan/LCP") and that it has the authority to deny TP rezone applications where necessary to ensure such consistency. Given that the County's authority in this area is currently at issue in pending litigation before the Court of Appeal, the County, in order to avoid the potential for duplicative additional litigation, has refrained from acting on rezone applications that present clear conflicts with its General Plan/LCP pending a final judicial decision.

F. The County Planning Department has determined that rezoning the Property to the TP zone district would, at a minimum, create the following potential conflicts between timber harvesting on the property and the designated County General Plan/LCP policies:

## *5.1 Biological Diversity*

### *5.1.6 Development within Sensitive Habitats*

#### *5.1.7 Site Design and Use Regulations*

## *5.2 Riparian Corridors and Wetlands*

### *5.2.2 Riparian Corridor and Wetland Protection Ordinance*

#### *5.2.3 Activities Within Riparian Corridors and Wetlands*

#### *5.2.4 Riparian Corridor Buffer Setback*

#### *5.2.7 Compatible Uses with Riparian Corridors*

## *6.2 Slope Stability*

*Deer Creek, classified as a perennial stream, bisects the subject property. Deer Creek provides spawning and rearing habitat to Steelhead trout, a Federally listed as Threatened species and eventually flows into Bear Creek, which provides prime Steelhead trout habitat. Timber harvesting activities could conflict with the County's riparian and sensitive habitat protection General Plan policies. The removal of trees within the 50-foot riparian corridor of Deer Creek could damage downstream salmonid habitat through increased water temperatures through loss of shade. Moreover, the site disturbance resulting from timber harvesting activities can increase erosion, resulting in increased turbidity and sedimentation within the stream, thereby degrading in stream water quality and aquatic habitats.*

*Slope instability in the form of debris flows are noted in the Timber Management Plan. Slope instability could be exacerbated by certain timber harvesting techniques. Furthermore, the proximity of the debris flows to the stream and drainage channels could lead to degradation of salmonid habitat and water quality from increased sedimentation and turbidity from timber harvesting activities.*

G. Owner seeks to have the County rezone the Property to a TP zone district prior to the issuance of the Court of Appeal decision in the Big Creek litigation so that they may proceed at their discretion to obtain all required approvals to timber harvest the Property and obtain any tax benefit resulting from the rezone. Owners further desire to ensure that future timber harvesting on the Property is consistent, to the extent feasible, with the County General Plan/LCP.

H. The County **seeks** to ensure that it complies with state law by approving an application to rezone the Property to TP only where the rezone would be consistent with the policies set forth in its General Plan/LCP.

I. Both Owner and the County **seek** to avoid the expense and **risks** inherent in litigation and

to permit the rezone to go forward in a manner that is mutually satisfactory and beneficial to both parties.

J. In July of 2004, Owner initiated a series of discussions with the County Planning Department to discuss whether the identified potential General Plan/LCP inconsistencies could be resolved by an agreement regarding any future timber harvesting on the Property.

K. After extensive discussions, Owner and the County have agreed to enter into this Agreement and to comply with the terms and conditions set forth herein, including the timber harvesting conditions set forth in paragraph 8, below, which they believe are just, fair and adequate.

2. Owner shall promptly submit a revised TMP to the County that complies with the timber harvesting conditions set forth in paragraph 8, below.

3. Owner shall execute and provide the County with the notarized original of the Declaration of Restrictions attached hereto and incorporated herein as Exhibit A, which includes the timber harvesting conditions that shall govern all future timber harvesting operations on the Property.

4. The County, after receipt of the revised TMP, shall promptly review the TMP to determine its consistency with the provisions of *this* Agreement. Once the County determines that the revised TMP fully complies with the terms of **this Agreement**, the County shall notice a public hearing before the Planning Commission to consider Owner's application to rezone the Property to TP.

5. The Planning Department staff shall diligently **seek** to procure approval of Owner's rezone application. Nothing herein contained, however, shall be deemed to restrict the discretion of the Planning Commission or, if an appeal is filed, the Board of Supervisors to consider such matters as may be appropriate, to propose modifications to this Agreement, or to deny the rezone application.

6. The parties to this Agreement shall **make** every effort and shall cooperate diligently to have all proceedings before the Planning Commission and any proceedings before the Board of Supervisors with regard to the rezone application concluded expeditiously.

7. If the County does not approve Owner's application to rezone the Property to TP in accordance with the terms set forth in this Agreement, then, 1) this Agreement shall have no further force or effect and shall



be deemed terminated; and 2) the Declaration of Restrictions executed by Owners shall have no ~~further~~ force or effect, shall be deemed terminated, and shall not be filed with the Office of the County Recorder of the County of Santa Cmz.

8. If the County approves the application to rezone the Property to TP, ~~then~~*the* County shall file the Declaration of Restrictions with the Office of ~~the~~ County Recorder of the County of ~~Santa~~ Cruz. In addition, Owner agrees that any Timber Harvest Plan ("THP") application that they submit to the California Department of Forestry ("CDF") to conduct timber harvesting on the Property at anytime during which the Property is zoned TP or is in a zone district in which commercial timber harvesting is permitted under County law shall, at a ~~minimum~~, include and be consistent with the timber harvesting conditions set forth below:

a. *Prior to commencement ~~of~~ timber harvest operations under an approved Timber Harvest Permit, the owner shall obtain a Riparian Exception Permit from the County of Santa Cruz for all tree removal and trimming for the cable corridors across the creek channel and within 50 feet ~~of~~ the edge of the mean high water mark for the stream. All work shall be completed in conformance with the conditions of the Riparian Permit.*

b. *Timber harvesting and/or tree removal is prohibited within 50 feet ~~of~~ Deer Creek with the following exceptions:*

*Tree(s) posing an imminent hazard to public health and safety may be removed. However, any such tree located within 50 feet of Deer Creek shall require a Riparian Exception Permit prior to removal.*

*Trees removed for cable corridors under an approved Riparian Exception ~~in~~ accordance with condition a. above.*

c. *Timber harvesting and/or tree removal within the mapped debris flow areas shown in the Timber Management Plan is allowed if evaluated by a certified engineering geologist and determined by the geologist to not have any detrimental effects on slope stability.*

d. *Construction ~~of~~ new logging roads and skid trails are prohibited within the debris flow/unstable areas shown in the Timber Management Plan.*

e. *All trees over 200 years of age or with old growth structure or high habitat value, , shall be preserved on site in perpetuity. Harvesting of these trees is prohibited.*

f. *Nothing contained in this Agreement shall be deemed to restrict the discretion ~~of~~ the CDF or to preclude CDF, in approving a THP for the Property, ~~from~~ imposing conditions on the THP that are more restrictive on timber harvesting than the terms set forth in this Agreement.*

9. ~~This~~ Agreement shall run with the Property and ~~be~~ binding upon the parties hereto, and their

respective employees, counsel, agents, successors and assigns.

10. Each signatory hereto represents that he or she is authorized to execute this Agreement so as to bind the parties on whose behalf he or she is a signatory. The parties have read and understand the terms of **this** Agreement. Each party is fully aware of the contents of this Agreement and its legal effect, although Owners **have** chosen not to be represented by counsel in their negotiations for, and in **the** preparation of, this Agreement.

11. This Agreement constitutes the entire agreement between the parties and all other prior agreements or understandings, written or oral, are merged into and superseded by the terms of this Agreement, which may not be altered, modified, or otherwise changed excepted by a writing signed by the duly authorized representatives of the parties to this Agreement.

12. Owner and the County shall reasonably cooperate with one another **in** order to effectuate the purposes of this Agreement. The parties to this Agreement shall attempt in good faith to resolve through negotiation any dispute, claim or controversy regarding the interpretation or application of **this** Agreement. Either party may initiate negotiations by providing written notice in letter form to the party from whom relief is requested, setting forth the subject of **the** dispute and the relief requested. The recipient of such notice shall respond within five days with a written statement of its position on, and recommended solution to, the dispute. If **the** dispute is not resolved by this exchange of correspondence, then representatives of the parties shall meet at a mutually agreeable time and place (either in person or by telephone) within ten days of the date of the initial notice in order to exchange relevant information and perspectives, and to attempt to resolve the dispute.

13. Any written communications concerning **this** Agreement shall be delivered to the parties at the addresses set forth below:

County of Santa Cruz:

Planning Director  
Planning Department  
701 Ocean Street, 4<sup>th</sup> Floor  
Santa Cruz, CA 95060

Owner:

Victor **Smith**  
4508 Carlyle Court #822  
Santa Clara, CA 95054

These addresses may be modified by written notification to the other party.

14. This Agreement shall be interpreted and construed in the manner best calculated to carry out its purposes of achieving the objectives set **forth** in paragraph 1, subparagraphs G, H, and I, above.

15. This Agreement shall become effective on the date that it is signed by the signatories set forth below.

16. This Agreement shall be signed by **the** parties below and may be executed in separate counterparts.

DATED: \_\_\_\_\_

By \_\_\_\_\_  
Victor Smith

DATED: \_\_\_\_\_

COUNTY OF SANTA CRUZ, et al.

By \_\_\_\_\_  
Chair, Board of Supervisors

APPROVED AS TO FORM:

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

[02-0431TP rezone agreement.wpd]

## AGREEMENT CONCERNING APPLICATION FOR REZONE TO TIMBER PRODUCTION ZONE DISTRICT

The County of Santa Cruz ("County") and *Ann* Schwarzmenn and Grant Codiga ("Owners") agree as follows:

1. The County and Owners enter into this Agreement Concerning Application for Rezone to Timber Production Zone District ("Agreement") on the basis of the following facts, understandings, and intentions:

A. Owners are the owners of certain real property, totaling approximately 17 acres (APN 089-021-58) ("Property") located on Hartman Creek Road about 600 feet north of the intersection of Hartman Creek Road and Deer Creek Road (120 Hartman Creek Road), Boulder Creek.

B. The Property is currently zoned SU (Special Use).

C. On August 21, 2002, Owners submitted an application, including a timber management plan ("TMP"), to the County to rezone the Property to a Timber Production ("TP") zone district.

D. In December 1998, litigation was filed against the County which included, among other claims, a challenge to the criteria that the County may consider in reviewing applications to rezone property to a TP zone district. The litigation is currently pending in the California Court of Appeal (Big Creek, et al. v. County of Santa Cruz, Civil No. H023778).

E. It is the County's position that it is required by state law to ensure that all zoning decisions, including rezoning property to a TP zone district, are consistent with the policies set forth in the County's General Plan and Local Coastal Program Land Use Plan ("General Plan/LCP") and that it has the authority to deny TP rezone applications where necessary to ensure such consistency. Given that the County's authority in this area is currently at issue in pending litigation before the Court of Appeal, the County, in order to avoid the potential for duplicative additional litigation, has refrained from acting on rezone applications that present clear conflicts with its General Plan/LCP pending a final judicial decision.

F. The County Planning Department has determined that rezoning the Property to the TP zone district would, at a minimum, create the following potential conflicts between timber harvesting on the

property and the designated County General Plan/LCP policies:

*5.1 Biological Diversity*

*5.1.6 Development within Sensitive Habitats*

*5.1.7 Site Design and Use Regulations*

*5.2 Riparian Corridors and Wetlands*

*5.2.2 Riparian Corridor and Wetland Protection Ordinance*

*5.2.3 Activities Within Riparian Corridors and Wetlands*

*5.2.4 Riparian Corridor Buffer Setback*

*5.2.7 Compatible Uses with Riparian Corridors*

*6.2 Slope Stability*

*Deer Creek, classified as a perennial stream, bisects the subject property. Deer Creek provides spawning and rearing habitat to Steelhead trout, a Federally listed as Threatened species and eventually flows into Bear Creek, which provides prime Steelhead trout habitat. Timber harvesting activities could conflict with the County's riparian and sensitive habitat protection General Plan policies. The removal of trees within the 50-foot riparian corridor of Deer Creek could damage downstream salmonid habitat through increased water temperatures through loss of shade. Moreover, the site disturbance resulting from timber harvesting activities can increase erosion, resulting in increased turbidity and sedimentation within the stream, thereby degrading in stream water quality and aquatic habitats.*

*Slope instability in the form of debris flows are noted in the Timber Management Plan. Slope instability could be exacerbated by certain timber harvesting techniques. Furthermore, the proximity of the debris flows to the stream and drainage channels could lead to degradation of salmonid habitat and water quality from increased sedimentation and turbidity from timber harvesting activities.*

**G.** Owners seek to have the County rezone the Property to a TP zone district prior to the issuance of the Court of Appeal decision in the Bie Creek litigation so that **they** may proceed at their discretion to obtain all required approvals to timber harvest the Property and obtain any tax benefit resulting from the rezone. Owners further desire to ensure that future timber harvesting on the Property is consistent, to the extent feasible, **with** the County General Plan/LCP.

**H.** The County seeks to ensure that it complies with state law by approving an application to rezone the Property to TP only where the rezone would be consistent **with** the policies set forth in its General Plan/LCP.

I. Both Owners and the County **seek** to avoid the expense and risks inherent in litigation and to permit the rezone to go forward in a manner that is mutually satisfactory and beneficial to both parties.

J. In April of 2004, Owners initiated a series of discussions with **the** County Planning Department to discuss whether the identified potential General Plan/LCP inconsistencies could be resolved by an agreement regarding any future timber harvesting **on** the Property.

K. After extensive discussions, Owners and the County have agreed to enter into this Agreement and to comply with the terms and conditions set forth herein, including the timber harvesting conditions set forth in paragraph 8, below, which they believe are just, fair and adequate.

2. Owners shall promptly submit a revised TMP to the County that complies with the timber harvesting conditions set forth in paragraph 8, below.

3. Owners shall execute and provide the County with the notarized original of the Declaration of Restrictions attached hereto and incorporated herein as Exhibit **A**, which includes the timber harvesting conditions that shall govern all future timber harvesting operations on the Property.

4. The County, after receipt of the revised TMP, shall promptly review the TMP to determine its consistency with the provisions of this Agreement. Once the County determines that the revised TMP fully complies with the terms of *this* Agreement, the County shall notice a public hearing before the Planning Commission to consider Owners' application to rezone the Property to TP.

5. The Planning Department staff shall diligently **seek** to procure approval of Owners' rezone application. ~~Nothing~~ herein contained, however, shall be deemed to restrict the discretion of the Planning Commission or, if an appeal is filed, the Board of Supervisors to consider such matters as may be appropriate, to propose modifications to this Agreement, or to deny the rezone application.

6. The parties to this Agreement shall make every effort and shall cooperate diligently to have all proceedings before the Planning Commission and any proceedings before the Board of Supervisors with regard to the rezone application concluded expeditiously

7. If the County does not approve Owners' application to rezone the Property to TP in accordance

with the terms set forth in this Agreement, then, 1) this Agreement shall have no further force or effect and shall be deemed terminated; and 2) the Declaration of Restrictions executed by Owners shall have no further force or effect, shall be deemed terminated, and shall not be filed with the Office of the County Recorder of the County of Santa Cruz.

8. If the County approves the application to rezone the Property to TP, then the County shall file the Declaration of Restrictions with the Office of the County Recorder of the County of Santa Cruz. In addition, Owners agree that any Timber Harvest Plan ("THP") application that they submit to the California Department of Forestry ("CDF") to conduct timber harvesting on the Property at any time during which the Property is zoned TP or is in a zone district in which commercial timber harvesting is permitted under County law shall, at a **minimum**, include and be consistent with the timber harvesting conditions set forth below:

- a. *Prior to commencement of timber harvest operations under an approved Timber Harvest Permit, the owner shall obtain a Riparian Exception Permit from the County of Santa Cruz for all tree removal and trimming for the cable corridors across the creek channel and within 50 feet of the edge of the mean high water mark for the stream. All work shall be completed in conformance with the conditions of the Riparian Permit.*
- b. *Timber harvesting and/or tree removal is prohibited within 50 feet of Deer Creek with the following exceptions:*  
  
*Tree(s) posing an imminent hazard to public health and safety may be removed. However, any such tree located within 50 feet of Deer Creek shall require a Riparian Exception Permit prior to removal*  
  
*Trees removed for cable corridors under an approved Riparian Exception in accordance with condition a. above.*
- c. *Timber harvesting and/or tree removal within the mapped debris flow areas shown in the Timber Management Plan is allowed if evaluated by a certified engineering geologist and determined by the geologist to not have any detrimental effects on slope stability.*
- d. *Construction of new logging roads and skid trails are prohibited within the debris flow/unstable areas shown in the Timber Management Plan.*
- e. *All trees over 200 years of age or with old growth structure or high habitat value, shall be preserved on site in perpetuity. Harvesting of these trees is prohibited.*
- f. *Nothing contained in this Agreement shall be deemed to restrict the discretion of the CDF to preclude CDF, in approving a THP for the Property, from imposing conditions on the THP that are more restrictive on timber harvesting than the terms set forth in this Agreement.*

9. This Agreement shall run with the Property and be binding upon the parties hereto, and their respective employees, counsel, agents, successors and assigns.

10. Each signatory hereto represents that he or she is authorized to execute this Agreement so as to bind the parties on whose behalf he or she is a signatory. The parties have read and understand the terms of *this* Agreement. Each party is fully aware of the contents of this Agreement and its legal effect, although Owners have chosen not to be represented by counsel in their negotiations for, and in the preparation of, *this* Agreement.

11. This Agreement constitutes the entire agreement between the parties and all other prior agreements or understandings, written or oral, are merged into and superseded by the terms of this Agreement, which may not be altered, modified, or otherwise changed excepted by a writing signed by the duly authorized representatives of the parties to *this* Agreement.

12. Owners and the County shall reasonably cooperate with one another in order to effectuate the purposes of this Agreement. The parties to this Agreement shall attempt in good faith **to** resolve through negotiation any dispute, claim or controversy regarding the interpretation or application of this Agreement. Either party may initiate negotiations by providing written notice in letter form to the party from whom relief is requested, setting forth the subject of the dispute and the relief requested. The recipient of such notice shall respond within five days with a written statement of its position on, and recommended solution to, the dispute. If the dispute is not resolved by this exchange of correspondence, then representatives of the parties shall meet at a mutually agreeable time and place (either in person or by telephone) within ten days of the date of the initial notice in order to exchange relevant information and perspectives, and **to** attempt to resolve the dispute.

13. **Any** written communications concerning **this** Agreement shall be delivered to the parties at the addresses set forth below:

county of santa Cruz:

Planning Director  
Planning Department  
701 Ocean Street, 4<sup>th</sup> Floor  
Santa Cruz, CA 95060



Owners:

Ann Schwarzmänn and Grant Codiga  
P.O. Box 317  
Boulder Creek, CA 95006

These addresses may be modified by written notification to the other party.

14. This Agreement shall be interpreted and construed in the manner best calculated to *carry* out its purposes of achieving the objectives set forth in paragraph 1, subparagraphs G, H, and I, above.

15. This Agreement shall become effective on the date that it is signed **by** the signatories set forth below.

16. This Agreement shall be signed by the parties **below** and may be executed in separate counterparts.

DATED: \_\_\_\_\_

By \_\_\_\_\_  
Ann Schwarzmänn

\_\_\_\_\_  
Grant Codiga

DATED: \_\_\_\_\_

COUNTY OF SANTA CRUZ, et al.

By \_\_\_\_\_  
Chair, Board of Supervisors

APPROVED AS TO FORM:

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

[02-0431TP rezone agreement.wpd]

Recording requested by

COUNTY OF SANTA CRUZ

When recorded, return to:

~~Santa~~ Cruz County Planning Department  
701 Ocean Street  
Santa Cruz, CA 95060  
Attn: Cathleen Carr

RE: APN 089-021-15 and 16

## DECLARATION OF RESTRICTIONS

### RECITALS

A. THIS DECLARATION is made in the County of Santa Cruz, State of California, effective date shown below, by Victor Smith ("Declarants"), owners of real property described in Exhibit "A" attached hereto and incorporated herein by reference ("Subject Property"). Declarants enter into this Declaration for the purpose of complying with the Agreement Concerning Application for Rezone to Timber Production Zone District entered into between the Declarants and the County of Santa Cruz ("County") on \_\_\_\_\_, 2004 ("Agreement").

B. Declarants applied to rezone the Subject Property to a Timber Production ("TP") zone district so that they could conduct timber harvesting on the Subject Property. The County Planning Department determined that timber harvesting on the Subject Property created potential conflicts with the County's General Plan and Local Coastal Program Land Use Plan ("General Plan/LCP"). The Agreement provides, in part, that if the County approved the rezone to TP, Declarants agreed to a number of conditions regarding the manner of harvesting ~~the~~ timber on the Subject Property that would reduce or eliminate the potential General Plan/LCP conflicts. The Agreement states that the Timber Harvest Plan ("THP"), which Declarants must submit to the State in order to conduct timber harvesting on the Subject Property, must include these conditions.

C. The County entered into the Agreement because, among other reasons, it concluded that the Agreement's conditions on timber harvesting reduce or eliminate the potential conflicts that the rezoning would create with the General Plan/LCP and therefore benefit the public at large and, more specifically, the property owners and residents in proximity to the Subject Property, while permitting Declarants to achieve the benefits of rezoning to the TP zone district and to comply with the General Plan/LCP.

D. For purposes of this Declaration, the pertinent provisions of the Agreement are as follows:

1. Paragraph 8 provides that if ~~the~~ County approves ~~the~~ application of Declarants to rezone the Subject Property to TP, Declarants agree that any THP application that they submit to the California Department of Forestry to conduct timber harvesting on ~~the~~ Subject Property shall, at a minimum, include and be consistent with the terms set forth in the remainder of Paragraph 8.

## RESTRICTIONS

Declarants, in consideration of the County's approval of the rezone of the Subject Property to TP, a zone designation in which timber harvest operations are permitted and which benefits the Subject Property, and to comply with the terms of the Agreement, hereby declare that all of the Subject Property shall be held, transferred, sold, and conveyed subject to the following restrictions and conditions for the protection and benefit of the County and of the public at large:

1. Covenant Running with the Land. Declarants covenant and agree to restrict, and by this instrument do restrict, the future use of the Subject Property as set forth below by the establishment of this covenant which shall run with the title to the Subject Property and be binding on all parties having or acquiring any right, title or interest in the Subject Property or any part thereof, their heirs, assigns and any other transferees and successors and shall apply to each owner thereof, while each such owner owns an interest in the subject property.

2. Use of the Subject Property. Neither Declarants nor any other person shall conduct any commercial timber harvesting operations on the Subject Property inconsistent with the terms of the Agreement. In particular, the following timber harvesting conditions, set forth in paragraph 8 of the Agreement, shall govern future timber harvesting on the Subject Property:

- a. *Prior to commencement of timber harvest operations under an approved Timber Harvest Permit, the owner shall obtain a Riparian Exception Permit from the County of Santa Cruz for all tree removal and trimming for the cable corridors across the creek channel and within 50 feet of the edge of the mean high water mark for the stream. All work shall be completed in conformance with the conditions of the Riparian Permit.*
- b. *Timber harvesting and/or tree removal is prohibited within 50 feet of Deer Creek with the following exceptions:*  
  
*Tree(s) posing an imminent hazard to public health and safety may be removed. However, any such tree located within 50 feet of Deer Creek shall require a Riparian Exception Permit prior to removal.*  
  
*Trees removed for cable corridors under an approved Riparian Exception in accordance with condition a. above.*
- c. *Timber harvesting and/or tree removal within the mapped debris flow areas shown in the Timber Management Plan is allowed if evaluated by a certified engineering geologist and determined by the geologist to not have any detrimental effects on slope stability.*
- d. *Construction of new logging roads and skid trails are prohibited within the debris flow/unstable areas shown in the Timber Management Plan.*
- e. *All trees over 200 years of age or with old growth structure or high habitat value, shall be preserved on site in perpetuity. Harvesting of these trees is prohibited.*
- f. *Nothing contained in this Agreement shall be deemed to restrict the discretion of the CDF or to preclude CDF, in approving a THP for the Property, from imposing*

*conditions on the THP that are more restrictive on timber harvesting than the terms set forth in this Agreement.*

3. Term. This Declaration shall commence on the effective date shown below and remain in full force and effect in perpetuity at all times during which the Subject Property is zoned TP or is in a zone district in which commercial timber harvesting is permitted under County law.

4. No Dedication: No Rights of Public Use. The provisions of this Declaration do not constitute a dedication for public use, or a conveyance of an interest in the Subject Property.

5. Enforcement. Any conveyance, contract, or authorization (whether written or oral) by Declarants or their successors in interest which would permit use of the Subject Property contrary to the terms of this Declaration shall be a breach of this Declaration. County or its successor may bring an action by administrative or judicial proceeding when County deems necessary or convenient to enforce this Declaration. Declarants understand and agree that the enforcement proceedings provided in this paragraph are not exclusive and that the County may pursue any appropriate legal and equitable remedies available to it, and County shall recover, provided that County is the prevailing party, reasonable attorneys' fees and costs in bringing any action, whether administrative or judicial, to enforce this Declaration as against the party causing such breach.

6. Recordation of Documents. This Declaration shall be duly recorded in the Office of the County Recorder of the County of Santa Cruz following the rezoning of the Subject Property to the TP zone district. In the event that under the terms and conditions of this document, or any subsequent mutual written agreement, these restrictions are terminated with respect to all or any part of the Subject Property, the County shall, upon written request, execute and record with the County Recorder of the County of Santa Cruz any documents necessary to evidence such termination.

7. Construction of Validity/Severability. If any provision of these restrictions shall be held to be invalid, or for any reason become unenforceable, no other provision shall be thereby affected or impaired, but rather shall be deemed severable.

IN WITNESS WHEREOF, Declarants have executed this Declaration of Restrictions on the \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
Declarant

\_\_\_\_\_  
Declarant

**ALL SIGNATURES ARE TO BE ACKNOWLEDGED BEFORE A NOTARY PUBLIC. IF A CORPORATION, THE CORPORATE FORM OF ACKNOWLEDGMENT SHALL BE ATTACHED.**

ALL SIGNATURES ARE TO BE ACKNOWLEDGED BEFORE A NOTARY PUBLIC. IF A CORPORATION, THE CORPORATE FORM OF ACKNOWLEDGMENT SHALL BE ATTACHED.

STATE OF CALIFORNIA                    )  
  )  
COUNTY OF SANTA CRUZ )  
\_\_\_\_\_

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me \_\_\_\_\_, a notary public in and for said state, personally appeared \_\_\_\_\_, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names **are** subscribed to the within instrument and acknowledged to me that they executed **the same** in their authorized capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public, State of California

Recording requested by:

COUNTY OF SANTA CRUZ

When recorded, return to:

Santa Cruz County Planning Department  
701 Ocean Street  
Santa Cruz, CA 95060  
Attn: Cathleen Carr

RE: APN 089-021-58

## DECLARATION OF RESTRICTIONS

### RECITALS

A. THIS DECLARATION is made in the County of Santa Cruz, State of California, effective date shown below, by **Ann** Schwarzmann and Grant Codiga ("Declarants"), owners of real property described in Exhibit "A" attached hereto and incorporated herein by reference ("Subject Property"). Declarants enter into this Declaration for the purpose of complying with the Agreement Concerning Application for Rezone to Timber Production Zone District entered into between the Declarants and the County of Santa Cruz ("County") on \_\_\_\_\_, 2004 ("Agreement").

B. Declarants applied to rezone the Subject Property to a Timber Production ("TP") zone district so that they could conduct timber harvesting on the Subject Property. The County Planning Department determined that timber harvesting on the Subject Property created potential conflicts with the County's General Plan and Local Coastal Program Land Use Plan ("General Plan/LCP"). The Agreement provides, in part, that if the County approved the rezone to TP, Declarants agreed to a number of conditions regarding the manner of harvesting the timber on the Subject Property that would reduce or eliminate the potential General Plan/LCP conflicts. The Agreement states that the Timber Harvest Plan ("THP"), which Declarants must submit to the State in order to conduct timber harvesting on the Subject Property, must include these conditions.

C. The County entered into the Agreement because, among other reasons, it concluded that the Agreement's conditions on timber harvesting reduce or eliminate the potential conflicts that the rezoning would create with the General Plan/LCP and therefore benefit the public at large and, more specifically, the property owners and residents in proximity to the Subject Property, while permitting Declarants to achieve the benefits of rezoning to the TP zone district and to comply with the General Plan/LCP.

D. For purposes of this Declaration, the pertinent provisions of the Agreement are as follows:

1. Paragraph 8 provides that if the County approves the application of Declarants to rezone the Subject Property to TP, Declarants agree that any THP application that they submit to the California Department of Forestry to conduct timber harvesting on the Subject Property shall, at a minimum, include and be consistent with the terms set forth in the remainder of Paragraph 8.

## RESTRICTIONS

Declarants, in consideration of the County's approval of the rezone of the Subject Property to TP, a zone designation in which timber harvest operations **are** permitted and which benefits the Subject Property, and to comply with the terms of the Agreement, hereby declare that all of the Subject Property shall be held, transferred, sold, and conveyed subject to the following restrictions and conditions for the protection **and** benefit of the County and of the public at large:

1. Covenant Running with the Land. Declarants covenant and agree to restrict, and by this instrument do restrict, the future use of the Subject Property as set forth below by the establishment of this covenant which shall run with the title to the Subject Property and be binding on all parties having or acquiring any right, title or interest in the Subject Property or any part thereof, their heirs, assigns and any other transferees and successors and shall apply to each owner thereof, while each such owner owns an interest in the subject property.

2. Use of the Subject Property. Neither Declarants nor any other person shall conduct any commercial timber harvesting operations on the Subject Property inconsistent with **the** terms of the Agreement. In particular, the following timber harvesting conditions, **set** forth in paragraph 8 of the Agreement, shall govern future timber harvesting on the Subject Property:

a. *Prior to commencement of timber harvest operations under an approved Timber Harvest Permit, the owner shall obtain a Riparian Exception Permit from the County of Santa Cruz for all tree removal and trimming for the cable corridors across the creek channel and within 50 feet of the edge of the mean high water mark for the stream. All work shall be completed in conformance with the conditions of the Riparian Permit.*

b. *Timber harvesting and/or tree removal is prohibited within 50 feet of Deer Creek with the following exceptions:*

*Tree(s) posing an imminent hazard to public health and safety may be removed. However, any such tree located within 50 feet of Deer Creek shall require a Riparian Exception Permit prior to removal.*

*Trees removed for cable corridors under an approved Riparian Exception in accordance with condition a. above.*

c. *Timber harvesting and/or tree removal within the mapped debris flow areas shown in the Timber Management Plan is allowed if evaluated by a certified engineering geologist and determined by the geologist to not have any detrimental effects on slope stability.*

d. *Construction of new logging roads and skid trails are prohibited within the debris flow/unstable areas shown in the Timber Management Plan.*

e. *All trees over 200 years of age or with old growth structure or high habitat value, shall be preserved on site in perpetuity. Harvesting of these trees is prohibited.*

f. *Nothing contained in this Agreement shall be deemed to restrict the discretion of the CDF or to preclude CDF, in approving a THP for the Property, from imposing*

*conditions on the THP that are more restrictive on timber harvesting than the terms set forth in this Agreement.*

3. Term. This Declaration shall commence on the effective date shown below and remain in full force and effect in perpetuity at all times during which the Subject Property is zoned TP or is in a zone district in which commercial timber harvesting is permitted under County law.

4. No Dedication; No Rights of Public Use. The provisions of this Declaration do not constitute a dedication for public use, or a conveyance of an interest in the Subject Property.

5. Enforcement. Any conveyance, contract, or authorization (whether written or oral) by Declarants or their successors in interest which would permit use of the Subject Property contrary to the terms of this Declaration shall be a breach of this Declaration. County or its successor may bring an action by administrative or judicial proceeding when County deems necessary or convenient to enforce this Declaration. Declarants understand and agree that the enforcement proceedings provided in this paragraph are not exclusive and that the County may pursue any appropriate legal and equitable remedies available to it, and County shall recover, provided that County is the prevailing party, reasonable attorneys' fees and costs in bringing any action, whether administrative or judicial, to enforce this Declaration as against the party causing such breach.

6. Recordation of Documents. This Declaration shall be duly recorded in the Office of the County Recorder of the County of Santa Cruz following the rezoning of the Subject Property to the TP zone district. In the event that under the terms and conditions of this document, or any subsequent mutual written agreement, these restrictions are terminated with respect to all or any part of the Subject Property, the County shall, upon written request, execute and record with the County Recorder of the County of Santa Cruz any documents necessary to evidence such termination.

7. Construction of Validity/Severability. If any provision of these restrictions shall be held to be invalid, or for any reason become unenforceable, no other provision shall be thereby affected or impaired, but rather shall be deemed severable.

IN WITNESS WHEREOF, Declarants have executed this Declaration of Restrictions on the \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
Declarant

\_\_\_\_\_  
Declarant

**ALL SIGNATURES ARE TO BE ACKNOWLEDGED BEFORE A NOTARY PUBLIC. IF A CORPORATION, THE CORPORATE FORM OF ACKNOWLEDGMENT SHALL BE ATTACHED.**



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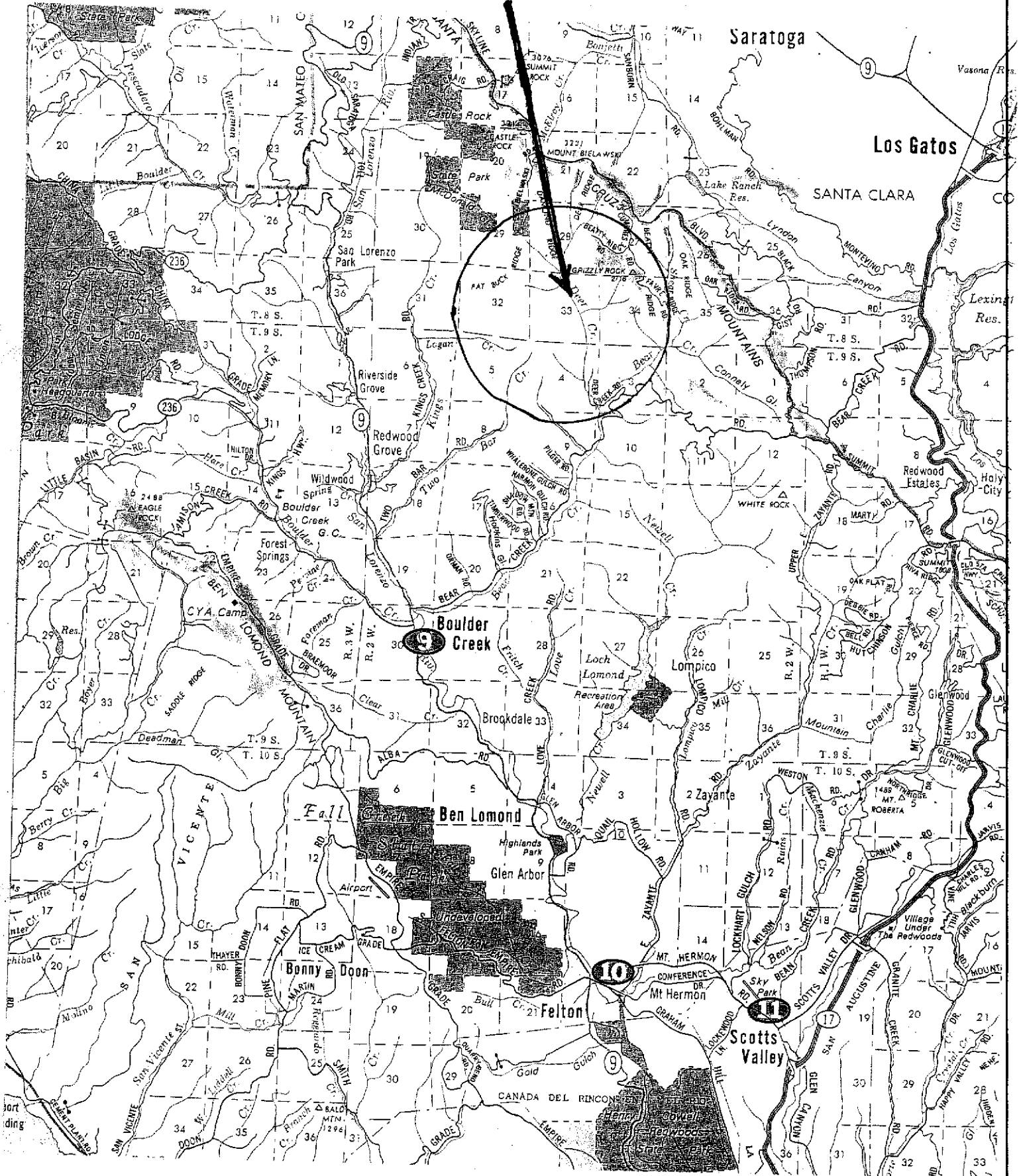
STATE OF CALIFORNIA                    )  
  )  
COUNTY OF SANTA CRUZ )  
\_\_\_\_\_)

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me \_\_\_\_\_, a notary public in and for said state, personally appeared \_\_\_\_\_, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the **entity** upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public, State of California

# Project Location

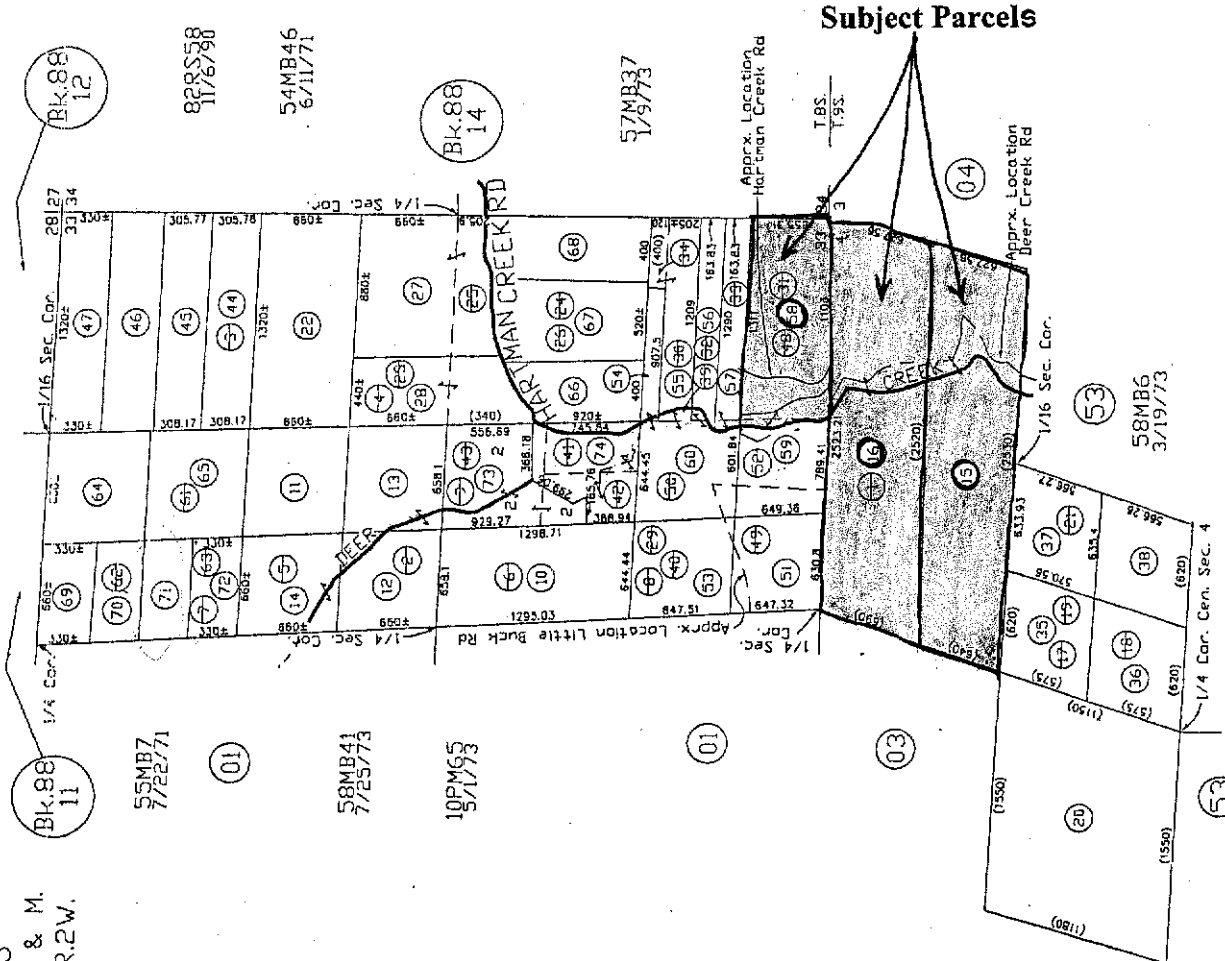


LOCATION MAP

POR. SEC. 33  
T.8S., R.2W., M.D.B. & M.  
& SEC. 4, T.9S., R.2W.

-89-02

Tox 90-018

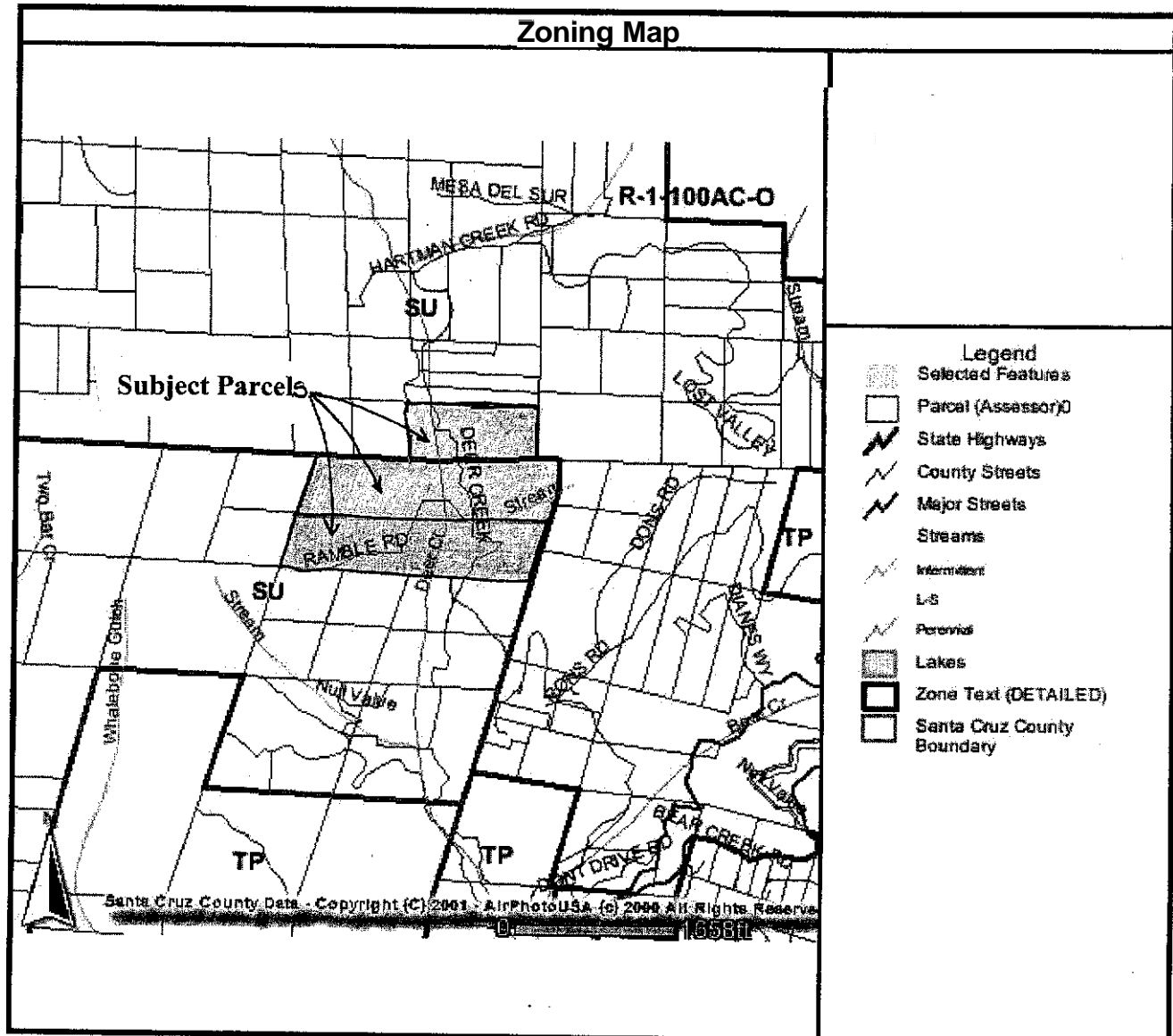


Note - Assessor's Parcel & Block  
Numbers Shown in Circles.

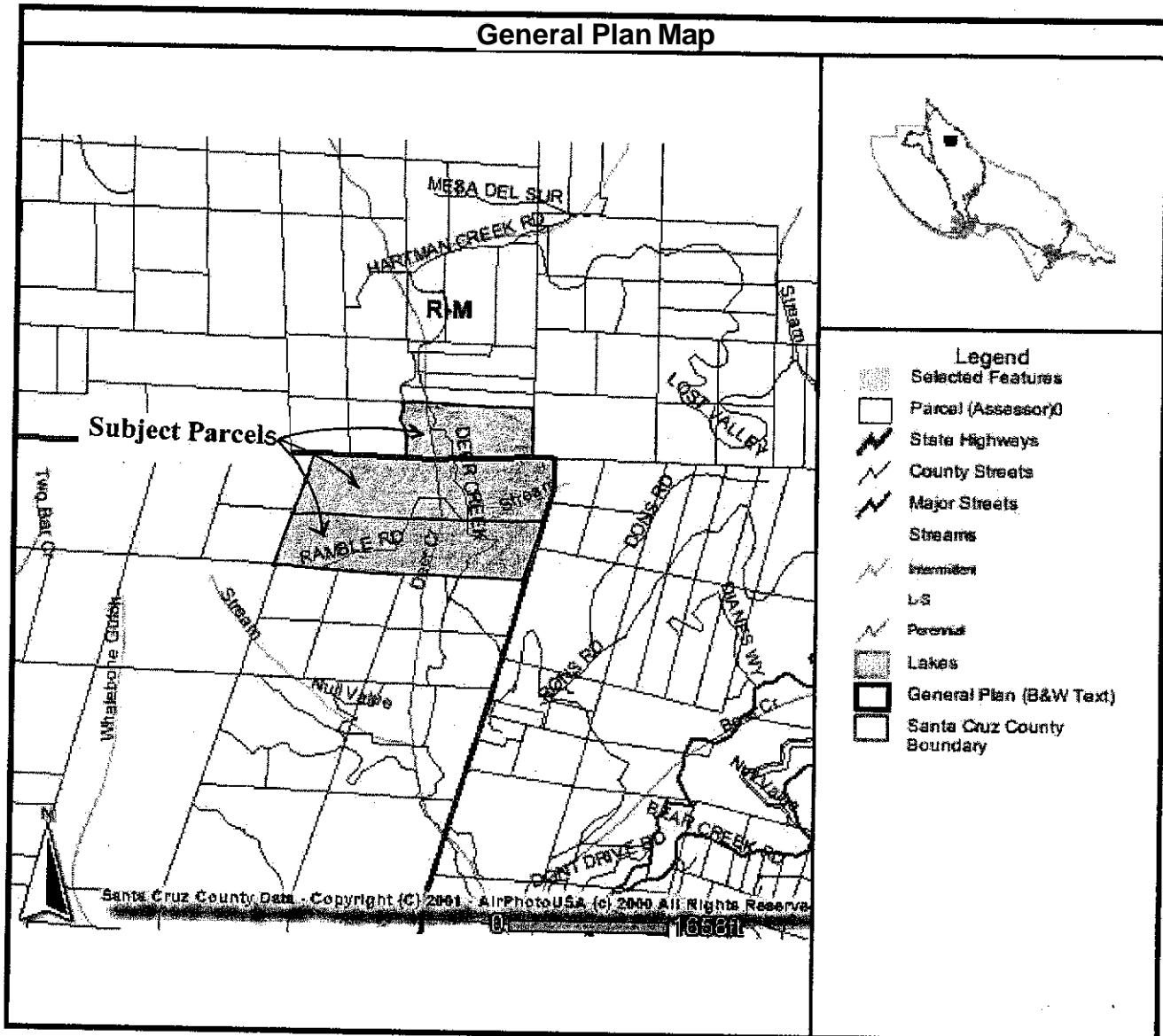
Assessor's Map No. 89-02  
County of Santa Cruz, Calif.  
Dec., 1999

# ASSESSOR'S PARCEL MAP

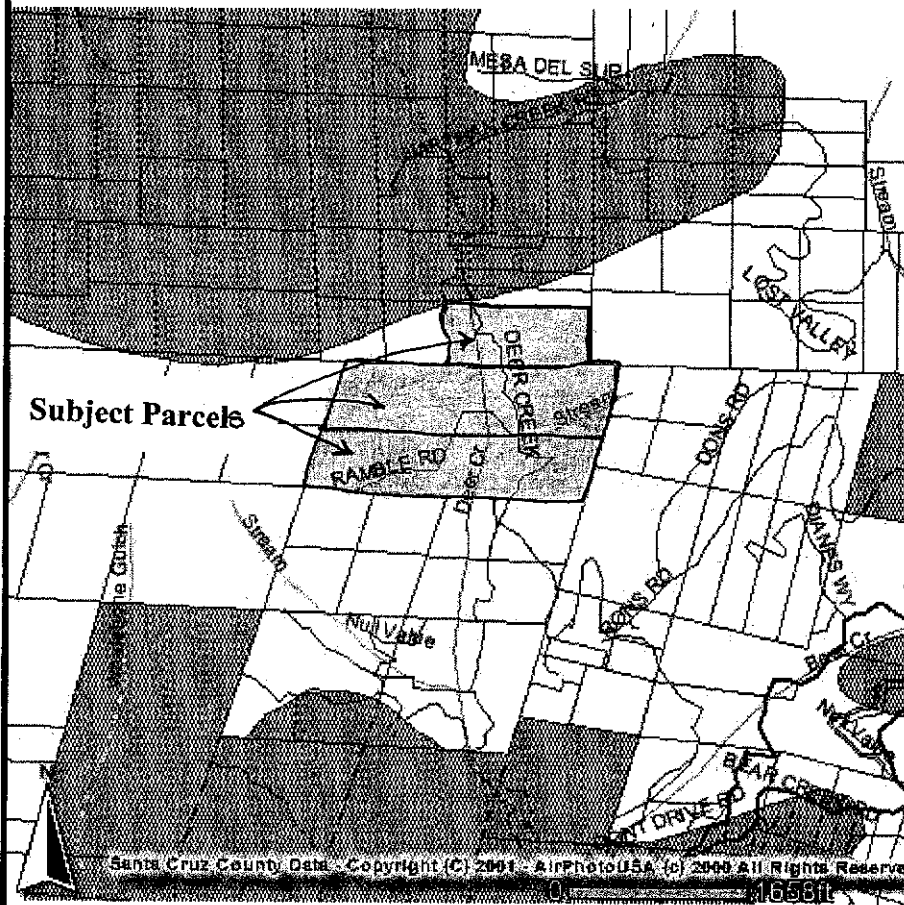
# Zoning Map



# General Plan Map



# Timber Resources Map



Subject Parcels



## Legend

- Selected Features
- Parcel (Assessor's)
- State Highways
- County Streets
- Major Streets
- Streams
- Intermittent
- L/S
- Perennial
- Lakes
- Timber Resources
- Santa Cruz County Boundary

Santa Cruz County Data - Copyright (C) 2001 - AirPhotoUSA, (c) 2000 All Rights Reserved

EXHIBIT 1

*Stephen R. Staub*  
*Forester & Environmental Consultant*



**TIMBER MANAGEMENT PLAN  
FOR TPZ REZONING**

**SANTA CRUZ COUNTY, CA  
APN #'S 089-021-15, 16, & 58**

**Prepared for:  
GREG HAAGENSON & ANN SCHWARZMANN  
PO BOX 317  
BOULDER CREEK, CA 95006**

**Prepared by:  
CASSADY BILL VAUGHAN, RPF #2685  
6010 HWY 9, SUITE 6, FELTON, CA 95018  
AUGUST 2004**

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## **LANDOWNERS**

### **APN # 089-021-58**

Greg Haagenson & Ann Schwarzmann  
PO Box 317  
Boulder Creek, CA 95006

### **APN #s 089-021-15 & 16**

Victor Smith  
4508 Carlyle Ct., Apt# 822  
Santa Clara, Ca 95054

## **PROPERTY LOCATION**

Portion of Section 33, T 8S, R 2W, MDB&M; and Portion of Section 4, T 9S, R 2W, MDB&M. Santa Cruz County, APN #'s 089-021-15, 16, & 58.

## **APN, ZONING, & ACREAGE**

<u>Assessors Parcel Number</u>	<u>Acreage</u>	<u>Current Zoning</u>	<u>Proposed Zoning</u>
089-021-15 (Parcel 01)	34.23 acres	Special Use (SU)	Timber Production (TP)
089-021-16 (Parcel 02)	37.61 acres	Special Use (SU)	Timber Production (TP)
089-021-58 (Parcel 03)	19.04 acres	Special Use (SU)	Timber Production (TP)

TOTAL ACREAGE: 90.88 acres

## **GENERAL DESCRIPTION**

The subject properties are located approximately 4 miles northeast of the town of Boulder Creek in the Deer Creek drainage (See Location Map). To access the properties, take Bear Creek Road east from Boulder Creek approximately 3 miles, then left onto Deer Creek Road, and remain on Deer Creek Road for a mile and half or so to Hartman Creek Road on the right. The situs address for APN # 089-021-58 is 120 Hartman Creek Road (approximately 600' up from the junction of Deer Creek Road and Hartman Road). The ¼ mile section of Deer Creek Road before the junction with Hartman Creek Road runs through parcels 089-021-15 & 16 (See attached APN Map). Land surrounding the subject properties is mainly open space, composed of conifer forests, hardwood stands, and chaparral. Many of the surrounding parcels have been selectively managed for timberland production within the last 20 years. All three of the subject properties are forested with a mix of redwood and Douglas-fir, and are well-suited for selective timber management. A few of the surrounding parcels contain residences, though most are small cabins with minor improvements. The properties' topography is quite variable; ranging from gently sloping ridgetops (10-20%), to steep slopes (50-85%) along portions of Deer Creek's inner-gorge, and among various side-draws. Between these two extremes, there are many midslope flats and other areas of moderate ground. The properties are generally defined by an east-west aspect, which is a function of Deer Creek's north-south trend. Elevations range from 950 feet along the bottom of Deer Creek on the southernmost parcel, to around 1700 feet along the eastern ridgeline.

The properties are somewhat typical of second-growth redwood stands in the Santa Cruz Mountains, characterized by broken topography and small drainages which form as the result of natural, geologic downcutting. There are six drainages on the properties, five small and one large. Using the standard applied by the California Department of Forestry and Fire Protection (CDF), the five small drainages are all Class III watercourses, and the large one represents a Class I watercourse (Deer Creek). Each of the Class III tributaries feeds Deer Creek, which joins with Bear Creek, and then the San Lorenzo River before emptying into the Pacific Ocean at Santa Cruz. Vegetation on the properties is a mix of Coastal Oak Woodland and Redwood Forest, as delineated on the attached Vegetation Type Map. The Redwood Forest (the primary focus of this report) is more or less even-aged, second growth redwood timber with a few scattered old-growth specimens that will be permanently retained. Douglas-fir is found scattered

amongst a predominantly redwood backdrop, though it also occurs as pure stands of a dozen or more trees on drier sites, ridgetops, and areas characterized by shallow soils. Detailed volume, growth, and yield information for conifer species is found under the Management Goals and Objectives below. Preliminary estimates of this well stocked stand indicate that each individual properties are capable of supporting periodic commercial harvests. On the ground layout indicates feasible truck road, skid trail, and landing locations, as shown on the attached Features Map.

The *oak* woodland on these properties is characterized mainly by coast live *oak*, though there is a healthy component of tanoak and madrone, particularly as the oak woodland grades into the redwood type. There are also scattered occurrences of maple, bay, alder, and small stands of buckeye. Generally speaking, the hardwood understory is composed of poison oak, hazelnut, honeysuckle, blackberry, and a variety of forbs and grasses. Where redwood truly dominates the site, there is very little growing in the understory. As the hardwood understory increases relative to the redwood component, there is a proportionate increase in ground cover, including most of the species above as well as sword fern, wood fern, redwood sorrel, hedge nettle, wild pea, with woodwardia and thimbleberry in the more mesic sites. The attached Vegetation Type Map identifies the two vegetation types.

### **TPZ REZONING:**

The owners wish to selectively manage the redwood timber on their properties. Discussions with them indicate a willingness and a desire to implement a conservative “timber stand improvement” approach to managing their forest, where individual tree selection emphasizes removal of diseased, defective, and suppressed stems, while favoring and highlighting the larger, healthier, dominant trees in the stand. The goal is still very much one of commercial management, but with a more conservative approach aimed at retaining a compliment of large trees. Each of the three parcels exceeds the minimum stocking standards per PRC Section 4561, and easily meets the State of California’s minimum productivity standards which require that TPZ lands be capable of producing at least 15 cubic feet/acre/year. The subject parcels are well-suited for timber production, and are logical candidates for rezoning to TP. While each of the parcels could, by themselves, support the overhead of a timber harvest, I would recommend harvesting the parcels in conjunction to take advantage of operational reciprocity, and to maximize economies of scale. To ensure that this application is processed in a timely manner, the landowners have expressed a willingness to enter into negotiations to make future harvests consistent with the County’s General Plan. Therefore, in accordance with the County’s “Agreement Concerning Application for Rezone to Timber Production Zone District” each of the parties above agrees not to harvest timber within 50 feet of Deer Creek unless such removals address an imminent threat to public health and safety or are needed to facilitate installation of cable yarding comdors. In either case, said removals will require a Riparian Exception Permit. Also, consistent with the County “Agreement”, construction of new logging roads and skid trails and removal of trees within the debris flows shown on the Timber Management Plan Maps are allowed only if reviewed by a Certified Engineering Geologist (CEG) and said geologist determines that such activities will not have a detrimental affect on slope stability. California Geological Survey (CGS) participation in the Pre-harvest Inspection for any future harvest plan will satisfy this review requirement, as long as the CGS representative is a CEG.

### **TIMBER MANANGEMENT GOALS AND OBJECTIVES:**

**Site Class:** Site class is simply a means of identifying a particular site’s capacity to produce timber. The most commonly used timber site classification system in this area, Lindquist and Palley’s “Empirical Growth Tables for Young-Growth Redwood”, uses height and age in determining a site’s timber growing potential. The system assigns a rating of I through V (I being the highest) using the average dominant tree height for a 100 year-old stand. Based on historical research, as well as analysis of cut stumps on a recent

harvest adjacent to the southernmost property, the subject stand is estimated to be just over 90-years old. Using regression analysis fitted to the 100-year classification system mentioned above, the properties contains mappable areas of both Site II and Site III land (See attached Site Classification Map).

**Present and Future Stand Conditions:** The subject timberland is an uncut, even-aged, second-growth redwood stand which regenerated following a clear-cut harvest operation some time around 1910, or shortly thereafter. There are inclusions of Douglas-fir within the redwood forest as well as pure stands of Douglas-fir where conditions favor this more drought tolerant species. Of the 91 acres in the ownership, approximately 61 are timbered. As described above, there are pure stands of hardwood which grade into both the redwood and Douglas-fir types. In some cases, the hardwood component is quite significant, and may well be managed to encourage release and growth of adjoining conifers. The timberstand has remained more or less unmanaged since the initial clear-cut, though construction and improvement of various access roads (Deer Creek Road, Hartman Creek Road, Little Buck Road, and the owner's driveway) has altered the landscape. A portion of the hardwood component was recently managed (summer 2002) to remove diseased tanoak and madrone, and to reduce fire hazard around the owners' building site. The project was conducted under an approved Exemption from CDF. The primary plant species on the properties are identified above in General Property Description. Aside from disturbance associated with construction of access roads (see existing roads on the Features Map), the properties have remained more or less undisturbed since the original clear-cut.

Stump sprouts which regenerated following removal of the old-growth timber represent the existing 90+/- year-old second-growth timber stand which is comprised mainly of intermediate and co-dominant trees in the 18-28" diameter class, with a fair number of dominant and larger co-dominant trees in the 30"+ category. Existing conifer basal area (the cross sectional area of a tree at its base) stocking levels were sampled, and are estimated to be 243 square feet per acre on average. Radial growth was sampled within each of six diameter classes, yielding the following estimates of annual percent volume growth:

CURRENT ANNUAL VOLUME GROWTH RATES BY DIAMETER CLASS

6-12"	.044
13-18"	.044
19-24"	.036
25-30"	.061
31-36"	.021
37"+	.018

As the second-growth has matured, canopy closure has severely hampered establishment of healthy redwood seedlings in the understory, except where disturbance (both man created and natural) has created gaps in the canopy which provide opportunities for regeneration. Analysis of the increment cores taken during growth sampling noted a moderate slowing of radial growth in the co-dominant trees as a fixed amount of available resources are distributed amongst overcrowded clumps of densely packed trees. Selective thinning under the guidance of a Registered Professional Forester, and in compliance with the Forest Practice Rules, will assist in developing a more productive, even-aged stand structure, with a diversity of age classes and habitat components.

Under a selection silviculture system, trees whose removal will increase the growth of retained trees and promote regeneration by sprouting from the stump are selected for harvest. Trees that exhibit poor growth form, or display noticeable defect or deformity are selected first, followed by a selected tree's ability to release adjacent stems, create adequate spacing, and produce healthy sprouts. The system requires a balance which retains growing stock for current growth (creating shade, wind protection, visual attractiveness, etc.) while satisfying light and spacing requirements needed to stimulate regeneration by sprouting and maintain healthy growth of smaller trees. The silvicultural objective over time is to ensure

that long-term growth is equal to or greater than the long term harvest volume using a cutting regime which knowledgeably integrates cutting intensity and cutting frequency for release growth and regeneration. The owners have indicated a willingness to manage for what the forestry community has termed "Big Tree Management", which is effectively an uneven-aged stand structure with a significant large tree component (30"+ dbh). Achieving and maintaining the desired structure is a methodical, scientific process which often requires three or four well-planned entries. The table below provides timberstand attributes by diameter class: current volume per acre, current annual percent volume growth, and current volume growth per acre.

### **Present and Future Growth Models:**

Existing stocking levels are undoubtedly limiting percent volume growth on the properties, as the maturing second-growth sprout clumps are competing for limited resources. The relatively closed nature of the canopy has also limited development of trees less than 6", with a few seedlings occurring near the perimeter of the stand and in areas of disturbance. While the timberstand attributes below are fairly impressive with regard to overall volume and for that matter growth, stand health and vigor will undoubtedly improve under careful management. Selective harvesting will offer some competitive release and will result in new openings needed to establish a younger generation of trees. Future growth is modeled using a combination of volume per acre, basal area (see Lindquist and Palley, 1967) and volume growth percent. The growth base of the stand will be maintained by setting a minimum basal area standard of 100 square feet and maintaining an objective for average basal area in the range of 120 to 140 square feet on this Site Class WII land. Maintaining adequate basal area assures good land occupation by trees while permitting establishment and healthy growth of regeneration and small trees during each cutting cycle. Under this regime, it is expected that annual percent volume growth will increase a minimum of .5% in each diameter class, with the intermediate and co-dominant trees realizing the best release. The key is to ensure that the leave stand following each harvest is composed of healthy, vigorous, well-spaced trees. Harvesting to maintain inventory and growth rates within model parameters must coordinate harvest percentages by size class with cutting cycle length as depicted below under the Growth and Harvest Simulations (2003-2033). To eliminate excessive defect and initiate the regeneration component that the stand currently lacks, approximately 40% of the trees over 18" will be targeted during the initial two harvests. And, while the models below may appear to remove too many of the trees in the 6-12" class, removals will be limited to defective, suppressed stems that have been choked out as stand has matured.

The intensity of the initial two harvests will create a stand with stocking levels and structure that provides opportunity for growth in trees of all sizes, while still maintaining a significant large tree component to ensure volume contribution over time. Following the initial two entries, silvicultural management should focus on cutting no more than growth between any given harvest cycle (30-40% on a ten-year reentry), thinning dominant and co-dominant trees to generate spacing and encourage sprout development, remove weaker, poorer growing trees regardless of size class, and remove selected hardwoods where necessary to release suppressed individual or groups of conifers. The early phases of the proposed silvicultural approach are probably best described as "commercial thinning", while the latter would be considered more like the standard "selection silviculture" per 14CCR 913.8(a) required in Santa Cruz County. Using the growth information developed from a 19% cruise of the properties, and following our silvicultural approach, we anticipate an un-even aged stand structure with significant numbers of trees in all diameter classes will emerge over three to four cutting cycles. Applying conservative projected growth rates, and volume by size class, the series of growth and harvest simulations below represent one of many sustainable management approaches. All volumes are presented in board feet.

DBH Class	Volume Per Acre	Annual/Ac. Vol. Growth	Current % Vol Growth	Trees Per Acre	Basal Area Per Acre
6-12"	996	44	0.044	23	11
13-18"	3270	145	0.044	19	26
19-24"	577	308	0.036	19	47
25-30"	9050	550	0.061	12	48
31-36"	12162	252	0.021	10	60
37"+	10637	191	0.018	5	51
Total:	44691	1489	0.033	88	243

#### HARVEST AND GROWTH SIMULATIONS (2003-2033)

DBH Class	2003 Vol/Acre	2003 Proposed % Cut	2003 cut Vol Per Acre	2003 Residual Vol Per Acre	2003-2013 Projected % Vol Growth	2003-2013 10-Year Vol Growth/Acre
6-12"	996	0.50	498	498	0.047	234
13-18"	3270	0.40	1308	1962	0.050	981
19-24"	577	0.40	3431	5146	0.042	2161
25-30"	9050	0.40	3620	5430	0.065	3530
31-36"	12162	0.40	4865	7297	0.026	1497
37"+	10637	0.40	4255	6382	0.022	1404
Total:	44691	0.40	17976	26715	0.038	10207

DBH Class	2013 Vol/Ac	2013 Propose % Cut	2013 Cut Vol Per Acre	2013 Residual Vol/Acre	2013-2023 Projected % Vol Growth	2013-2023 10 year grow Per Acre
6-12"	732	0.50	366	366	0.048	176
13-18"	2943	0.30	883	2060	0.051	1051
19-24"	7307	0.30	2192	5115	0.043	2199
25-30"	8960	0.40	3584	5376	0.066	3548
31-36"	9194	0.40	3678	5517	0.027	1489
37"+	7786	0.40	3114	4672	0.023	1074
Total:	36922	0.37	13817	23105	0.041	9538

DBH Class	2023 Vol/Ac	2023 Proposed % Cut	2023 cut Vol Per Acre	2023 Residual Vol/Acre	2023-2033 Projected % Vol Growth	2023-2033 10 year grow Per Acre
6-12"	542	0.20	108	433	0.048	208
13-18"	3111	0.20	622	2489	0.051	1269
19-24"	7315	0.25	1829	5486	0.043	2359
25-30"	8924	0.30	2677	6247	0.066	4123
31-36"	7006	0.33	2312	4694	0.027	1267
37"+	5746	0.33	1896	3850	0.023	885
Total:	32643	0.29	9444	23198	0.044	10112

**Harvest Cycles:** Special cutting rules within the California Forest Practice Rules (FPR) govern the nature of the selective harvests in Santa Cruz County. Under the current rules a landowner may selectively harvest up to a maximum of 60% of the trees over 18" dbh (diameter at breast height) on the first entry, although we've modeled our cutting prescription using 30-40% removal to maintain adequate growing stock. Following the initial entry, local rule application governs the maximum allowable cut based upon the amount of time since the last cut (14 CCR 926.25): "If reentered in 10 years, then the harvest shall remove no more than 50% of the trees greater than 18. If reentered in 14 years, then the harvest may remove a maximum of 51-60% of the trees over 18. Regardless of the reentry period, no more than 40% of the trees between 14" and 18" shall be removed." Any entry must also maintain the minimum basal requirements and minimum spacing requirements between leave trees (those trees which remain after a harvest). Leave trees to be counted towards cutting percentages and basal area requirements must be "...thrifty coniferous trees which were dominant or co-dominant in crown class prior to timber harvesting or which have crowns typical of such dominant or co-dominant trees. They shall be free from significant damage caused by the operations". While the initial two entries may remove up to 40% of the trees over 18" dbh, the scheduling and harvest percentages outlined above for the third and all subsequent harvests will link harvest intensity to the stand's growth rate and the amount of time between future harvests. Subject to the maximum percentages described above per 14 CCR 926.25, for each year over 10 years, the allowable percent harvest increases by approximately 4%. While changes to this annual percentage bump will likely be modified over time as growth and inventory are monitored, the model is projected to meet our growth model objectives as outlined above. To decrease logging costs, longer cutting cycles at somewhat higher harvest percentages are recommended.

**Management Units:** Each of the individual parcels is capable of supporting a stand-alone harvest, and could, in fact, be considered individual management units if the parcels were broken into different ownerships. In an effort to maximize economies of scale and take advantage of operational reciprocity, however, it is recommended that the parcels be harvested simultaneously. For the purposes of this plan, though, the entire ownership is considered to be a single management unit.

**Recommended Logging Systems:** While portions of each property may be harvested using ground-based logging equipment, the preferred alternative for most of the acreage, particularly where slopes exceed 40%, is to use a small, mobile, tractor-mounted, cable yarding machine. One such machine, operated locally by Archie McLellan (AM Logging), has gained popularity because it minimizes use of equipment on steeper slopes. There are areas, however, where the tailhold would be located above the yarder and the AM machine would not be well-suited because it is not fitted with a "haul-back" winch/line. In such cases, a skyline yarder would be required. As mentioned on the attached Yarding Methods Map, helicopter yarding may also be considered if there is a ship in the area at the time of harvest. Helicopter yarding requires significant notification to adjoining ownerships, but is the least impacting with regard to ground disturbance.

**Forest Improvement:** Timberstand improvement operations (TSI) will be prescribed and implemented as needed and feasible to promote stand vigor, the desired age class distribution and species composition. It is anticipated that stand improvement efforts will occur nearly everywhere on the properties. Small openings created by harvesting or openings that naturally occur within the stand will be interplanted with redwoods to enhance stocking, even though stocking standards will be met immediately upon completion of operations. Sprouts which regenerate following future harvests may be thinned after five or more years so that only 3-4 of the healthiest sprouts per stump are left. The number of sprouts left is generally a function of the diameter of the stump, where the rule of thumb dictates that the number of retained sprouts equals the diameter of the stump in feet. Individual hardwood trees may be removed where doing so would release conifer trees which are either directly underneath or immediately adjacent to the tree to be removed. As hardwoods provide habitat for raptors and other bird species, and are a valuable sources of mast for other forest creatures, individual tree marking should only be done on an as needed basis under the supervision of a Registered

Professional Forester (RPF). For that matter, any of the improvement projects discussed above will require at least some RPF supervision. Debris created as part of such projects shall be lopped to within 30 inches of the ground.

**Fire Protection Plan:** The general area has relatively good fire access as there are roads which run through the middle of the ownership on either side of the Deer Creek. Efforts to reduce fuel loading to make the road system more defensible in the event of a fire are advisable. The owners have made efforts to reduce the amount of fuel near their building site and along roads, and anticipate additional projects elsewhere on the properties. Once the properties have been rezoned, the owners expect to file a Non-industrial Timber Management Plan (NTMP) for the properties. As part of the NTMP, seasonal access roads will be improved and in all likelihood, a few new ones constructed. A small network of skid trails will also provide limited access for tracked equipment. New roads and improvements to existing features will not only facilitate hauling activities, but will also provide access for emergency vehicles should a fire or other emergency necessitate access to the subject properties or adjacent properties. Roads built as part of the NTMP will be designed to accommodate such emergency vehicles. The owners are in the process of developing a water storage system to provide a backup water reserve for fire fighting crews. Available water, well-maintained access, and adherence to the fire hazard reduction provisions discussed below will make a notable fire defense improvement.

There are many rules and regulations which address fire prevention and hazard reduction. Attention should be paid to ensure that any Licensed Timber Operator (LTO) hired to carry out either stand improvement projects or a timber harvest operations under an NTMP conforms with all laws, regulations, and contract provisions pertaining to smoking, fire tool requirements, and fire in general. Some of the more important items include: posting of fire rules, regulation of smoking and lunch and warming fires, care in welding, caution in using chain saws and other spark emitting equipment, prohibiting uncovered glass containers, and daily inspections prior to shutting down operations during the fire season. During the most critical period of the fire season, it may also be prudent to check with the local ranger unit to determine the daily prediction of fire danger. In terms of reducing the potential for fire following a harvest, local logging standards have been adopted to lessen the chance for a fire to start as well as reduce its spread and intensity once it has ignited. These rules include: 1) All woody debris greater than one inch but less than eight inches in diameter created by timber operations shall be removed when located within 100 feet of a permanently located structure maintained for human habitation. 2) All woody debris greater than one inch but less than eight inches in diameter created by timber operations shall be lopped to within 12" of the ground surface when located within 200 feet of a permanently located structure maintained for human habitation. 3) All other debris created by the proposed operations shall be lopped to within 30" of the ground surface. 4) Lopping shall be completed by April 1 of the year following operations. Should a fire break out, standard logging contracts require that the LTO use all available men and equipment to suppress such a fire.

**Snags and Downed Woody Debris Inventory:** Natural flattening of treetops, occasional drought-induced apical dieback, and older fire-scarred redwoods provide an average number of snags on the properties. A few of the highly defective old-growth trees on the properties may provide habitat for cavity nesters as well. Snags identified in the field as actively used habitat will not be harvested. Specific trees or other habitat features that possess unique characteristics that make them desirable for wildlife will be identified and maintained in perpetuity. The subject properties are perhaps slightly above average in terms of the number and quality of downed woody debris, when compared with other timbered properties in the Santa Cruz Mountains. Although there are no consensus standards for optimal large woody debris levels in mixed-age redwood stands, if deemed appropriate, recruitment of snags or large woody debris may be accomplished by selective girdling or felling of

larger trees and/or leaving highly defective redwood logs in the woods following harvesting. A visual evaluation suggests that a selective harvest would yield a number of cull segments that might be dispersed throughout the stand to provide niche habitats.

**Ancient Trees:** Based on field reconnaissance to date, there are perhaps ten or so trees on the properties that are over 200 years old (ancient trees). The owner's have expressed a willingness to retain such trees. During timber marking, these trees will be painted with a "W", which will be described in the NMTP as permanent wildlife retention trees. As the second-growth stand begins to mature and some of the trees begin to exhibit characteristics typical of old-growth trees, an appropriate retention program will be established.

## **GEOLOGY & SOILS**

The subject properties are located in the Santa Cruz Mountains in the central portion of the Coast Range Physiographic Province of California. The Coast Range Province consists of a series of coastal mountain chains paralleling the pronounced northwest-southeast structural grain of central California geology. The properties are underlain by Butano Sandstone, a bedrock feature which is described on the attached Underlying Geology Map. The San Andreas Fault is approximately 3 miles northeast of the properties. There were large earthquakes along that Fault in 1838, 1865, 1906, and most recently in 1989. Cooper-Clark and Associates mapped two questionable landslides and one questionable earthflow on the properties, each located on the west side of Deer Creek. (See attached Cooper-Clark Landslide Map). On the ground reconnaissance of properties confirmed at least some instability at each of the mapped locations, the age of which suggests movement during the heavy winter of 1982-83. Significant failures and areas of recent instability have been shown on the attached Features Map. Where appropriate, mitigation to avoid unstable areas or improve upon existing design will be included as part of any application, and will receive review a number of agencies, including the State's Division of Mines and Geology (CDMG).

The properties are underlain by a single soil type, described in the 1980 USDA Soil Survey of Santa Cruz County as the Ben Lomond-Catelli-Sur complex (30-75% slopes). This complex is about 30% Ben Lomond sandy loam, 30% Catelli sandy loam, and 20% Sur stony loam. The remaining percentage varies somewhat, but mainly includes traces of Aptos sandy loam, Nisene loam, Zayante coarse sand, and a soil similar to the Catelli soil. While each of the soils in this complex differ, generally they are deep, well-drained soils formed in residuum derived from sandstone, quartz, schist, and granitic rock. Permeability is moderately rapid, and erosion hazard is high to very high, which is consistent with the erosion hazard rating applied below. This complex is considered excellent for timber with rooting depths of up to 60". Rooting depth ranges from 20-60 inches. A Soils Map is attached for reference.

## **EROSION HAZARD INVENTORY AND PLAN**

The subject properties fared relatively well through the heavy El Niño winters of the late 1990s. There were a few debris flows noted along Deer Creek Road, and the owners indicated that a log jam diverted Deer Creek and caused a portion of Deer Creek Road near the northernmost property line to slip away. Continued active maintenance on the part of the landowners and the road association, with emphasis on establishing permanent erosion control features will help protect soil resources on the properties. The properties have been assigned two erosion hazard ratings: High and Extreme, as shown on the attached EHR Map. Following any given timber harvest, waterbars should be installed on roads and trails using the spacing guidelines below, which were developed using both High and Extreme EHR standards. Doing so will ensure that water is not concentrated in amounts that may cause erosion. The waterbar spacing listed below is only a guideline, and should be modified as necessary to account for areas more prone to erosion. Following timber operations, outside road and trail edges shall be pulled back and slash and debris spread



on disturbed areas to the extent feasible. Particular care should be taken when draining and stabilizing roads and landings and they are generally the areas of greatest concern. Upon completion of any given harvest, a Registered Professional Forester or his designated representative shall flag all waterbars on roads within the harvest area, and be on-site to direct the LTO as to the best means of draining landing areas. Soil stabilization measures such as seeding, straw mulching, tractor packing slash, etc. will be prescribed and implemented on a site-specific basis under any given NTMP operation.

#### Waterbar Spacing

Road/Trail Gradient:	<10%	11-25%	26-50%	>50%
High EHR Spacing	150'	100'	75'	50'
Extreme EHR Spacing	100'	75'	50'	50'

### **FISH AND WILDLIFE**

**Watershed Resources:** The subject properties are located in the Deer Creek watershed, which is a subwatershed of Bear Creek. Bear Creek joins with the San Lorenzo River downstream at the town of Boulder Creek, then runs south to Santa Cruz and into the Monterey Bay. The CALWATER watershed identification program (CALWATER Map attached) identifies the Bear Creek watershed as 3304.120300 (Volume 2.2). The Bear Creek watershed is approximately 10,392 acres in size. Much of the watershed is undeveloped wildland, though there are a surprising number of residences scattered about the hills. The subwatershed of Deer Creek is mainly open space, but is again dotted with a number of homes. The general aspect is east-west, the result of Deer Creek's north-south trend. The rather rugged terrain is vegetated with a mix of hardwood forests, redwood timberland, and upland chaparral. Ownership within the Deer Creek watershed is almost entirely private, save approximately 300 acres of the Castle Rock State Park which laps into the uppermost portion of the watershed. Land use is mainly residential, recreational, and timber management. Within both Bear Creek and the Deer Creek drainages, primary impacts to the beneficial uses of water result from poorly located and designed road systems, residences, land clearing, and other non-permitted projects.

Using the standard applied by the California Department of Forestry and Fire Protection (CDF), Deer Creek is considered a Class I watercourse, as it does support steelhead and residential trout populations. The small tributaries which emanate from the properties and join with Deer Creek are considered Class III waters in that they have the ability to transport sediment to higher order streams (I or II). As Deer Creek is an anadromous fish stream, it is assigned protection measures for Threatened and Impaired Watersheds (T&I Rules). Watercourse protection measures specific to the T&I Rules as well as other protection measures prescribed by the California Forest Practice Rules will be prescribed and implemented as part of any future timber harvest project on the properties. Mitigation measures in the form of road rocking, seeding and strawing of landings, slash packing of skid trails, slide repair, and general limitations near watercourse areas, and the 50 foot no-cut zones on either side of Deer Creek will maintain and perhaps even improve surface stability on the properties. The attached Features Map identifies all aquatic features found on the properties. Any future harvest plan will necessarily comply with all regulatory requirements for protection of the beneficial uses of water.

**Wildlife:** The owners have expressed an interest in maintaining the remaining old-growth specimens on the properties which possess exceptional wildlife habitat features, but at the same time wish to selectively

manage the second-growth timber to increase vigor, and develop a multi-layered canopy which will provide some important niche wildlife habitats. While short-term displacement of mammals and birds may occur during active timber harvest operations, the adjoining lands should accommodate such displaced, as many of the adjacent lands contain large tracts of wildland area. No removal of structural elements such as snags is proposed. In fact, creation of snags and recruitment of large woody debris is encouraged under this Management Plan. Non-listed species which are likely to be found on the properties include: band-tailed pigeon, dove, jay, hawk, quail, owl, raptors, hermit thrush, red-shafted flicker, woodpecker, wild turkey, deer, raccoon, coyote, fox, bobcat, skunk, rabbit, squirrel, mice, wood rat, salamander, tree frog, lizard, snake, and many others.

The Natural Diversity Database (NDDDB) lists steelhead trout (*Oncorhynchus mykiss irideus*) as occurring within the Deer Creek drainage. As noted above, combined protection offered by the Threatened and Impaired Watershed Rules, and other provisions of the Forest Practice Rules, and mitigation herein, are sufficient to protect fisheries and watershed values. Santa Cruz County Biotic Resources Maps also identify Deer Creek as an important anadromous fishery resource. Neither of these sources identifies any other listed species in the Deer Creek drainage. Efforts to identify and measures to protect and enhance protection of watershed resources will be included as part of any future harvest plan. Recent concern over non-listed raptor species and their breeding habitat has lead the California Department of Fish and Game (CDFG) to require enforceable mitigation and protection measures for harvest plans. The primary emphasis is to maintain relative occupancy of larger hardwoods, and to protect nest sites during the breeding season, which more or less extends from March 15<sup>th</sup> to August 15<sup>th</sup>. Site visits thus far have not revealed any raptor nest sites. Wildlife habitat should be maintained by the selection system, which maintains a relatively continuous forest canopy.

## **RECREATION & CULTURAL RESOURCES**

**Recreation:** The subject properties are not adjacent to any publicly owned lands, nor do they provide any legal recreational opportunity, although the road network conceivably offers opportunity for at least some trespass traffic. A small portion of the timbered area proposed for management may be visible from a few cabins scattered along the ridgetops, and possibly to a few keen-eyed observers off of Skyline Boulevard and Beatty Ridge. Timber operations adjacent to Deer Creek Road will be adapted somewhat to emphasize removal of backside trees to minimize impacts to visual resources. Similar marking constraints may be applied to areas where tree removal may expose adjoining residents. Seeding and strawing of bare areas, and lopping and debris disposal requirements included as part of an NTMP are heightened in visually sensitive areas to temper impacts. And, while there is a noticeable change in the character of the stand immediately following a selective harvest, such changes *are* very short-lived, and in most cases, often unrecognizable three to four years after the harvest is complete. In many cases, the overall visual appeal of a well-managed property increases in the years following a selective harvest, as vigorous stump sprouts offer diversity in an otherwise depauperate understory. The properties do provide small-scale opportunity for owner-approved hiking, mountain biking, bird watching, camping or just outdoor relaxation and enjoyment of nature.

**Cultural:** A limited archaeological reconnaissance of the properties was conducted by a CDF-qualified archaeological surveyor, and no pre-historic or historic sites were discovered. The one item of interest, though not particularly unique in this area, is an old skid road which meanders back and forth across Deer Creek for the length of the subject properties. Presumably there were log stringer bridges at each crossing of Deer Creek, as the road may have been used for several years during the clear-cut operation which occurred some time around 1910. The Deer Creek drainage is just large enough that one could conceive at least a modest investment into a somewhat permanent road up the gut. At present perhaps ½ of the road length is intact. As part of NTMP preparation, a pre-field pre-historic and historic records check will be filed, as well as a field archaeological reconnaissance. Should a site be discovered during review of this

or any future plan, or during an active operation following approval of an NTMP, a professional archaeologist shall be called in to determine appropriate protection measures.

## **URBAN INTERFACE**

The properties are located just over .four miles north and east of the town of Boulder Creek. As discussed, the Deer Creek watershed is predominately wildland, with very little expected in the way of urban interface issues. In fact, many of the properties within the watershed have been managed for timber production at one time or another. Properties adjacent to the subject ownerships are mainly undeveloped, with perhaps four or five residences bordering the perimeter. Remaining adjacent parcels are either so rugged as to be undevelopable, or are managed for timber production. As mentioned above in the recreational section, selective timber harvesting could be carried out with very little impact to the visual setting or the forested character of the landscape. Noise associated with timber harvesting is unlikely to last more than 5-6 weeks, and will only occur once every ten to fifteen years. As part of the NTMP review process, the public will be invited to attend a Public Hearing, where issues regarding the nature of the conduct of timber operations will be discussed. The owners have taken the time to talk with nearly all of their adjacent neighbors, describing their timber management intentions. Careful adherence to the Forest Practice Rules, in concert with prudent marking and a conservative management approach, is certainly an acceptable land use, and is compatible with surrounding land use.

## **ACCESS**

As discussed above in the General Description, the properties are serviced by three roads and a driveway. Each is maintained through a combination of the Deer Creek Road Association, and the efforts of individual road users where the Association does not have maintenance responsibility. Deer Creek Road, Hartman Creek Road, and the owners' driveway are all-weather, surfaced roads. Little Buck Road, while still all-weather, could use improvement, and has, in fact, been slated for improvement this year by the Deer Creek Road Association. The attached Features Map identifies the roads described above. Each of the roads would be used for hauling under an NTMP, with pre-operational drainage and maintenance required as part of any future harvest. The notion at this point is to utilize short-log trucks (20' log lengths) for log hauling operations, though long-logs (40' log lengths) may be shipped from the east side of the property, where turn radii will accommodate longer trucks. Log trucks may be piloted if deemed necessary during review of the NTMP. Log truck drivers will be required to abide by all speed limits, and will not exceed 10 mph while on Deer Creek Road. In addition, hauling activities will be scheduled, as much as is feasible, to avoid morning and evening commute hours, as traffic outside these times is relatively light. A more detailed assessment of traffic resources would necessarily be included as part of any future NTMP. Suffice it to say that log hauling, with the limitations described above, have been conducted safely on Deer Creek Road many times within the last five years. Prior to hauling activities under future timber operations, it is suggested that the owners document the existing condition of all roads used as part of the harvest, then re-document such conditions following hauling.

## **CONCLUSION:**

Each of the three subject parcels far exceeds the minimum stocking standards per PRC Section 4561, as well as the State of California's minimum productivity standards required for TPZ. It is recommended that future harvests include operationally contiguous portions of the ownerships, regardless of parcel boundaries, to maximize economies of scale from both a timber sale and timber operations perspective. Additionally, disturbance and truck traffic would be limited to a single event, and operational reciprocity would simplify harvesting in many areas. As indicated in the Timber Management Section above, growth rates on the properties exceed the minimum TP requirements, and are expected to improve substantially under active management. At present, it appears that there may be a need for only one temporary

watercourse crossing, and perhaps repair and improvement of features located on or near unstable areas, but all things considered, timber operations are generally located away from watercourses and areas of instability. Cumulative impacts to watershed resources, soil resources, biological resources, recreational resources, visual resources, and traffic resources are unlikely. Future timber harvest operations on the properties will undergo review equivalent to an environmental impact report. As timber management currently represents the highest **and** best use of the subject properties, and that the owners have a real desire to implement a management program, it only seems prudent to apply a zoning designation that is consistent with both. Future management, whether related to an NTMP or not, should be made with consultation with a Registered Professional Forester to ensure compatibility.

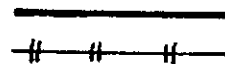
# LOCATION MAP

HAAGENSON/SCHWARZMANN FOREST MANAGEMENT PLAN  
PORTION OF SECTION 33, T 8S, R 2W, MDB&M; AND PORTION  
OF SECTION 4, T 9S, R 2W, MDB&M, SANTA CRUZ COUNTY  
APN #'s 089-021-15, 16, AND 58. LOCATED ON THE CASTLE  
ROCK RIDGE QUADRANGLE.

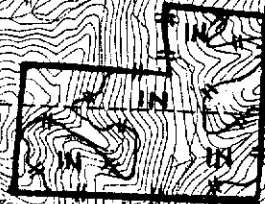
SCALE



## LEGEND




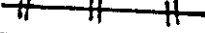










PROPERTY BOUNDARY  
HARVEST BOUNDARY

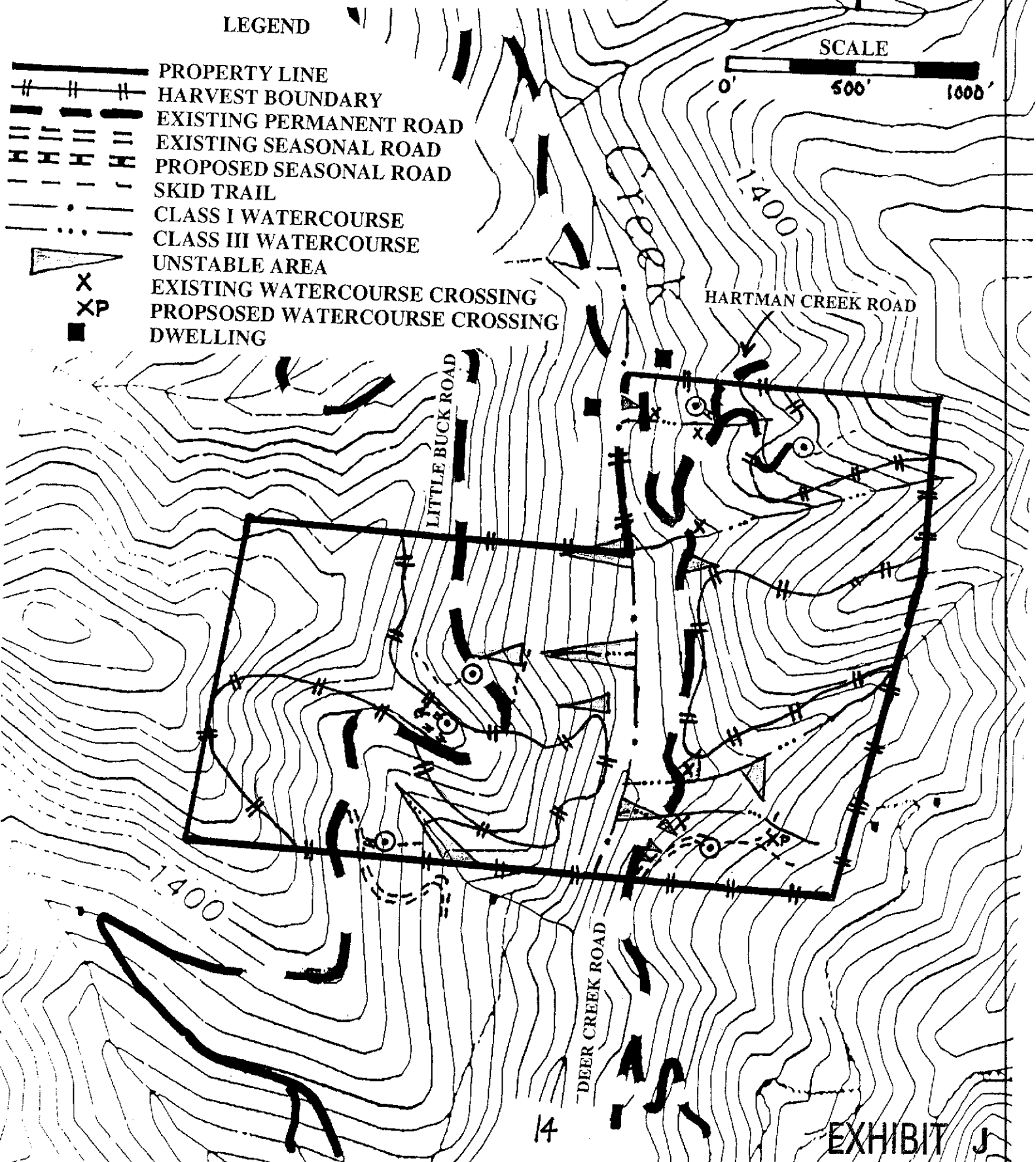


# FEATURES MAP

HAAGENSON/SCHWARZMANN FOREST MANAGEMENT PLAN  
PORTION OF SECTION 33, T 8S, R 2W, MDB&M; AND PORTION  
OF SECTION 4, T 9S, R 2W, MDB&M, SANTA CRUZ COUNTY  
APN #'s 089-021-15, 16, AND 58. LOCATED ON THE CASTLE  
ROCK RIDGE QUADRANGLE.

## LEGEND


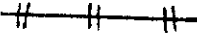










-  PROPERTY LINE
-  HARVEST BOUNDARY
-  EXISTING PERMANENT ROAD
-  EXISTING SEASONAL ROAD
-  PROPOSED SEASONAL ROAD
-  SKID TRAIL
-  CLASS I WATERCOURSE
-  CLASS III WATERCOURSE
-  UNSTABLE AREA
-  EXISTING WATERCOURSE CROSSING
-  PROPOSED WATERCOURSE CROSSING
-  DWELLING

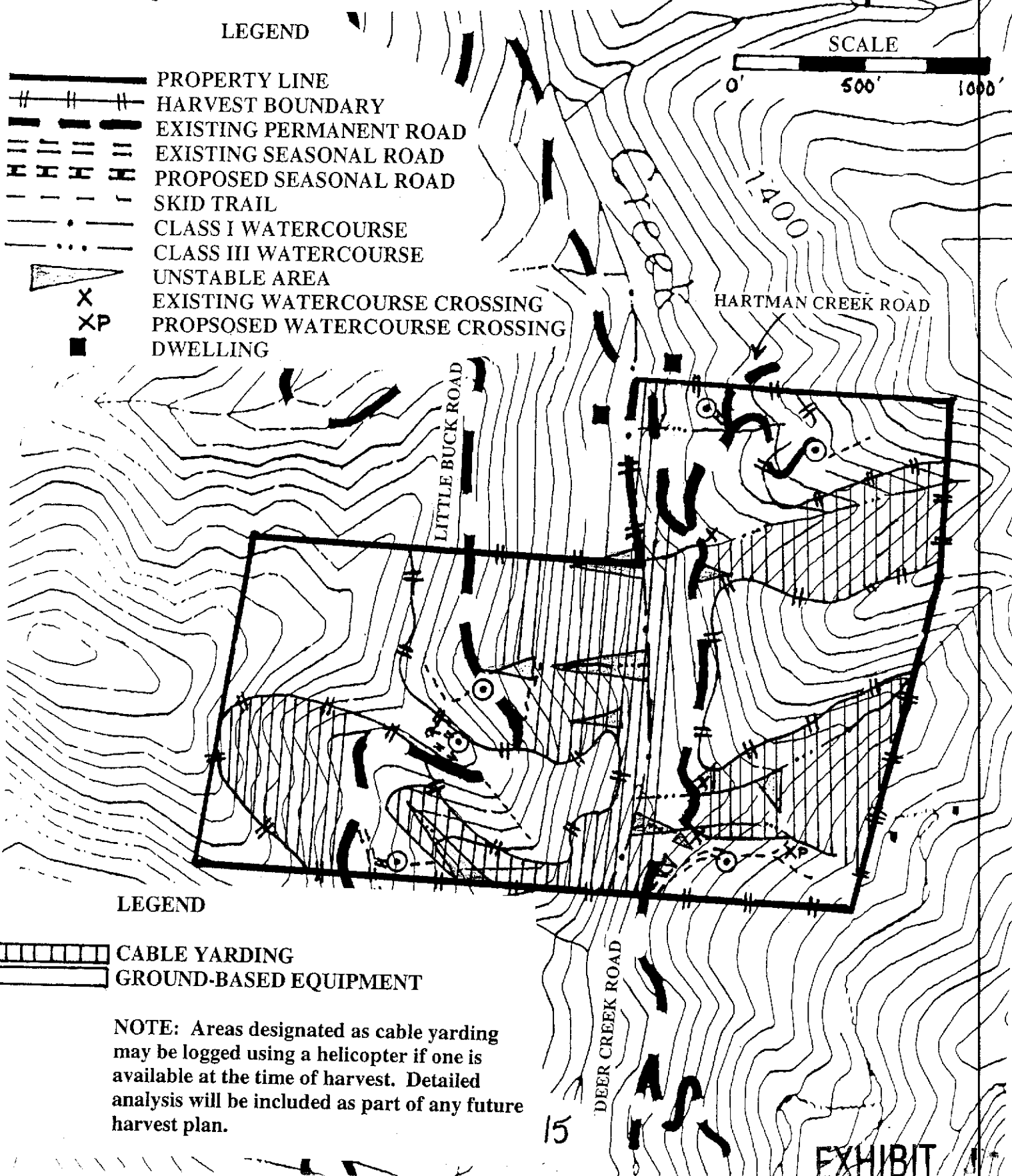


# YARDING METHODS MAP

HAAGENSON/SCHWARZMANN FOREST MANAGEMENT PLAN  
PORTION OF SECTION 33, T 8S, R 2W, MDB&M; AND PORTION  
OF SECTION 4, T 9S, R 2W, MDB&M, SANTA CRUZ COUNTY  
APN #'s 089-021-15, 16, AND 58. LOCATED ON THE CASTLE  
ROCK RIDGE QUADRANGLE.

## LEGEND

-  PROPERTY LINE
-  HARVEST BOUNDARY
-  EXISTING PERMANENT ROAD
-  EXISTING SEASONAL ROAD
-  PROPOSED SEASONAL ROAD
-  SKID TRAIL
-  CLASS I WATERCOURSE
-  CLASS III WATERCOURSE
-  UNSTABLE AREA
-  EXISTING WATERCOURSE CROSSING
-  PROPOSED WATERCOURSE CROSSING
-  DWELLING

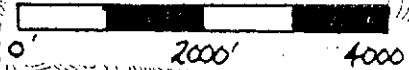




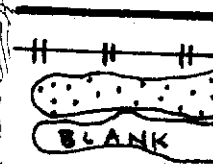
# SITE CLASSIFICATION MAP

HAAGENSON/SCHWARZMANN FOREST MANAGEMENT PLAN  
PORTION OF SECTION 33, T 8S, R 2W, MDB&M; AND PORTION  
OF SECTION 4, T 9S, R 2W, MDB&M, SANTA CRUZ COUNTY  
APN #'s 089-021-15, 16, AND 58. LOCATED ON THE CASTLE  
ROCK RIDGE QUADRANGLE.

SCALE



## LEGEND



PROPERTY BOUNDARY  
HARVEST BOUNDARY  
SITE II  
SITE III

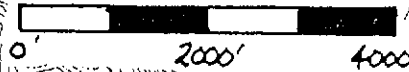




# VEGETATION TYPE MAP

HAAGENSON/SCHWARZMANN FOREST MANAGEMENT PLAN  
PORTION OF SECTION 33, T 8S, R 2W, MDB&M; AND PORTION  
OF SECTION 4, T 9S, R 2W, MDB&M, SANTA CRUZ COUNTY  
APN #'s 089-021-15, 16, AND 58. LOCATED ON THE CASTLE  
2 ROCK RIDGE QUADRANGLE.

SCALE



SUBJECT PROPERTY

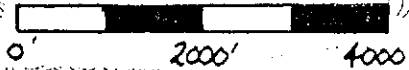
## LEGEND

-  REDWOOD FOREST
-  COASTAL OAK WOOLDAND

# EHR MAP

HAAGENSON/SCHWARZMANN FOREST MANAGEMENT PLAN  
PORTION OF SECTION 33, T 8S, R 2W, MDB&M; AND PORTION  
OF SECTION 4, T 9S, R 2W, MDB&M, SANTA CRUZ COUNTY  
APN #'s 089-021-15, 16, AND 58. LOCATED ON THE CASTLE  
ROCK RIDGE QUADRANGLE.

SCALE



## LEGEND

- PROPERTY BOUNDARY
- HARVEST BOUNDARY
- BLANK HIGH EHR
- EXTREME EHR



# SOILS MAP

HAAGENSON/SCHWARZMANN FOREST MANAGEMENT PLAN  
PORTION OF SECTION 33, T 8S, R 2W, MDB&M; AND PORTION  
OF SECTION 4, T 9S, R 2W, MDB&M, SANTA CRUZ COUNTY  
APN #'s 089-021-15, 16, AND 58. LOCATED ON THE CASTLE  
ROCK RIDGE QUADRANGLE.

SCALE

0' 2000' 4000'

SUBJECT PROPERTY

# UNDERLYING GEOLOGY MAP

HAAGENSON/SCHWARZMANN FOREST MANAGEMENT PLAN  
PORTION OF SECTION 33, T 8S, R 2W, MDB&M; AND PORTION  
OF SECTION 4, T 9S, R 2W, MDB&M, SANTA CRUZ COUNTY  
APN #'s 089-021-15, 16, AND 58. LOCATED ON THE CASTLE  
ROCK RIDGE QUADRANGLE.

**SUBJECT PROPERTY**

**BUTANO SANDSTONE:** sandstone, interbedded with mudstone and shale. Sandstone is very fine-to very coarse-grained; generally moderately-sorted; arkosic in composition; and light-gray to buff in color. It is hard where carbonate cemented, which is common in the thicker beds. Interbeds of mudstone and shale are firm to soft, and dark-to light-gray where fresh, weathering to red or brown. Conglomerate occurs locally in the lower part of the section and includes boulders of granitic and metamorphic rocks up to several feet in diameter, and well-rounded cobbles and pebbles of quartzite. A few marine clams are the only large fossils that have been found in the Butano Sandstone. Fossil foraminifers and fish scales are common in the mudstone and shale. The Butano Sandstone is about 9,000 feet thick. This unit can be distinguished from the Vaqueros Sandstone (Tvg) only with knowledge of the stratigraphic sequence or diagnostic fossils.



COOPER-CLARK LANDSLIDE MAP

HAAGENSON/SCHWARZMANN FOREST MANAGEMENT PLAN  
PORTION OF SECTION 33, T 8S, R 2W, MDB&M; AND PORTION  
OF SECTION 4, T 9S, R 2W, MDB&M, SANTA CRUZ COUNTY  
APN #'s 089-021-15, 16, AND 58. LOCATED ON THE CASTLE  
ROCK RIDGE QUADRANGLE.

SUBJECT PROPERTY

EXHIBIT J

PBR. SEC. 33

ASSESSOR'S PARCEL MAP

Tax Area Code

89-02

T.8S., R.2W., M.D.B. & M.  
 & SEC. 4, T.9S., R.2W.

HAGENSON/SCHWARZMANN FOREST MANAGEMENT PLAN  
 PORTION OF SECTION 33, T.8S., R.2W., M.D.B. & M.; AND PORTION  
 OF SECTION 4, T.9S., R.2W., M.D.B. & M., SANTA CRUZ COUNTY  
 APN #'s 089-021-15, 16, AND 58. LOCATED ON THE CASTLE  
 ROCK RIDGE QUADRANGLE.

Bk.88  
 11

Bk.88  
 12

54MB46  
 6/11/71

82RS58  
 11/6/78

58MB41  
 7/25/73

10PM65  
 5/1/73

Bk.88  
 14

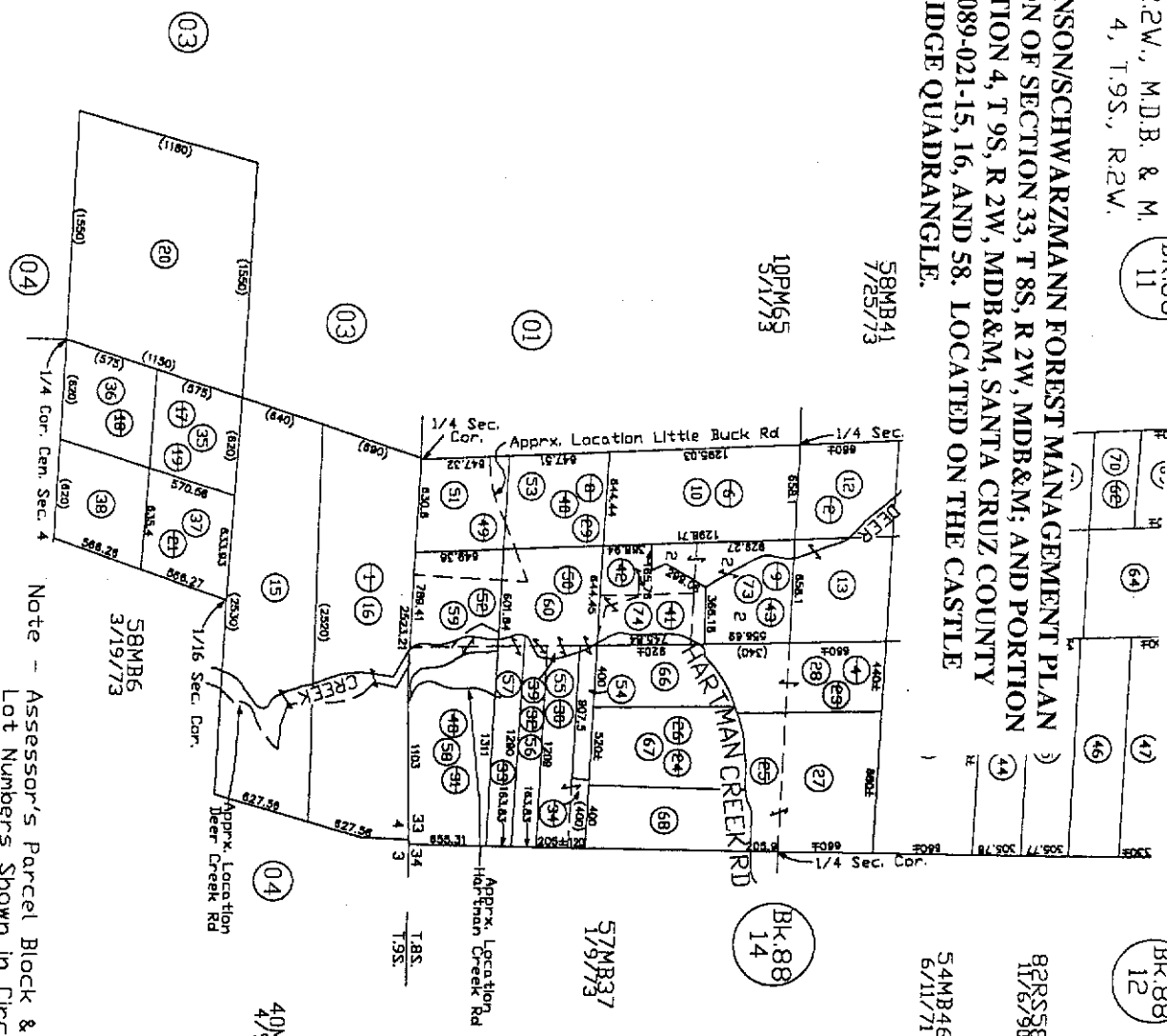
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 1/9/73

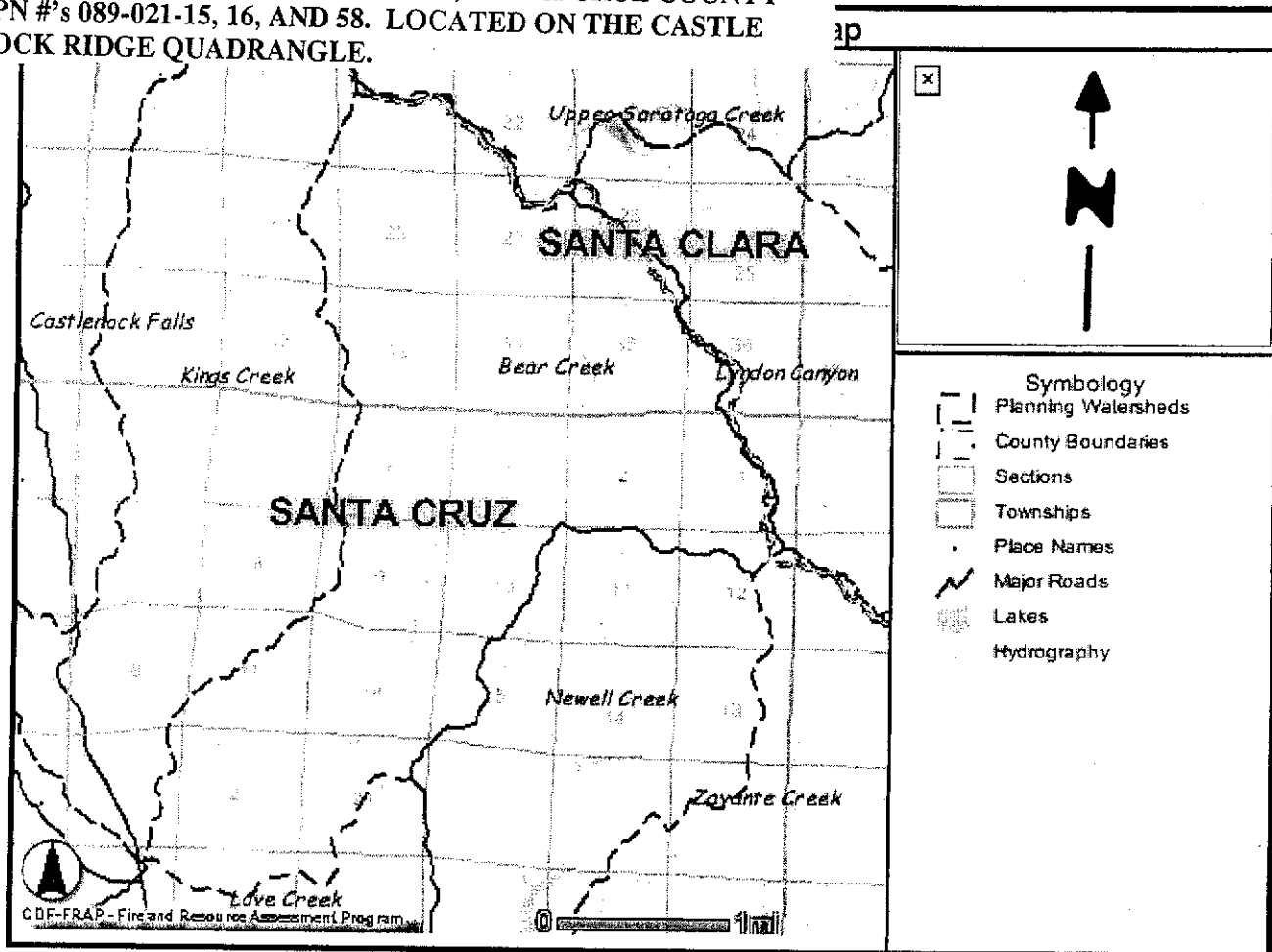
40MB65  
 4/9/84

58MB6  
 3/19/73

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

Assessor's Map No. 89-02  
 County of Santa Cruz, Calif.  
 Dec., 1999





CALWATER WATERSHED MAP