



COUNTY OF SANTA CRUZ

PLANNING DEPARTMENT

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

TOM BURNS, PLANNING DIRECTOR

March 19, 2008

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

Agenda Date: April 9, 2008 , 4/23/08 , 5/14/08

APN: 089-081-21

Application: 07-0587

Item #: 20 23 8

Time: After 9 AM

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

Members of the Commission:

On September 20, 2007, the County Planning Department accepted this application for a rezoning to Timber Production (TP). This is a proposal to rezone 34 acres from the Special Use (SU) zone district to the Timber Production (TP) zone district. The uses on the property consist of a single-family dwelling, associated accessory structures and a contractor's storage yard (an approved home occupation). Neither a home occupation nor a contractor's storage yard is an allowed use in the TP zone district.

Background

This project does not qualify for a rezoning under California Government Code Section 51113. This section allows a property owner to petition the County to rezone land to the TP zone. The requirements for this type of rezoning are listed in Government Code section 51113(c)¹. The County may not place any additional requirements on this petition to rezone the property to TP. County Code Section 13.10.375(c) – "Zoning to the TP District" implements Government Code section 51113 and specifies the six criteria which must be met in

¹ c) On or before March 1, 1977, the board or council by ordinance shall adopt a list of criteria required to be met by parcels being considered for zoning as timberland production under this section.

The criteria shall not impose any requirements in addition to those listed in this subdivision and in subdivision (d). The following shall be included in the criteria:

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

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

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

(3) (A) The parcel shall currently meet the timber stocking standards as set forth in Section 4561 of the Public Resources Code and the forest practice rules adopted by the State Board of Forestry and Fire Protection for the district in which the parcel is located, or the owner shall sign an agreement with the board or council to meet those stocking standards and forest practice rules by the fifth anniversary of the signing of the agreement. If the parcel is subsequently zoned as timberland production under subdivision (a), failure to meet the stocking standards and forest practice rules within this time period provides the board or council with a ground for rezoning of the parcel pursuant to Section 51121.

(B) Upon the fifth anniversary of the signing of an agreement, the board shall determine whether the parcel meets the timber stocking standards in effect on the date that the agreement was signed.

Notwithstanding the provisions of Article 4 (commencing with Section

51130), if the criteria fails to meet the timber stocking standards, the board or council shall immediately rezone the parcel and specify a new zone for the parcel, which is in conformance with the county general plan and whose primary use is other than timberland.

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

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

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

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

(2) The land shall be a certain site quality class or higher under

Section 434 of the Revenue and Taxation Code, except that the parcel shall not be required to be of the two highest site quality classes.

order to rezone to TP.

The project fails to meet all of 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 property to be rezoned.
2. A Timber Management Plan, undated, prepared by a registered professional forester has been submitted for the property (Exhibit E).
3. The parcel currently meets 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 parcel is located (see Exhibit E).
4. The parcel is timberland, as the entire parcel is capable of producing a minimum of 15 cubic feet of timber per acre annually and is almost entirely located within a mapped Timber Resource area.
5. The uses on the parcel are **not** in compliance with the Timber Production Zone uses set forth in Section 13.10.372. A contractor's storage yard is not listed as an allowed use in the TP zone district.
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, and is comprised of at least five acres in area.

This project qualifies for a statutory exemption (Exhibit D) in accordance with the California Environmental Quality Act and the County Environmental Review Guidelines (Article 17, Section 1703).

Conclusion

Because the property contains an incompatible use, all of the criteria have not been met for rezoning the parcel to the Timber Production zoning designation and the required findings cannot be made to approve this application.

Recommendation

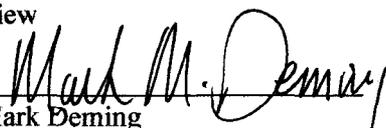
Staff recommends that your Commission adopt the attached Resolution (Exhibit A), sending a recommendation to the Board of Supervisors for denial of Application No. 07-0587 based on the finding that the property contains an incompatible use.

EXHIBITS

- A. Planning Commission Resolution, with Ordinance/ Findings
- B. APN Map
- C. Location, Current Zoning and General Plan Designation Maps
- D. Notice of Exemption from CEQA
- E. Timber Management Plan by Gary Paul, RPF #1829, dated December 15, 2007.

Maria Porcila Perez
Project Planner
Development Review

Reviewed By:


Mark Deming
Assistant Planning Director

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

RESOLUTION NO. _____

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

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

WHEREAS, the Planning Commission has held a public hearing on Application No. 07-0587, involving property located on the east side of Hopkins Gulch Road (900 Hopkins Gulch Road) about ¾ of mile north from the intersection with Bear Creek Road, and the Planning Commission has considered the proposed rezoning, all testimony and evidence received at the public hearing, and the attached staff report, and

WHEREAS, the property contains uses that are not compatible with the uses listed in Section 13.10.372(b) the County Code and adopted as the County's compatible uses as required by Government Code Section 51111.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission recommends that the Board of Supervisors not adopt the attached ordinance amending the Zoning Ordinance by changing property from the Special Use (SU) zone district to the Timber Production (TP) zone district.

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

PASSED AND ADOPTED by the Planning Commission of the County of Santa Cruz, State of California, this _____ day of _____, 2008, by the following vote:

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

Chairperson

ATTEST: _____
MARK DEMING, Secretary

APPROVED AS TO FORM: _____


COUNTY COUNSEL

EXHIBIT A

ORDINANCE NO. _____

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

The Board of Supervisors of the County of Santa Cruz ordains as follows:

SECTION I

The Board of Supervisors finds that the public convenience, necessity and general welfare require the amendment of the County Zoning Regulations to implement the policies of the County General Plan and Local Coastal Program Land Use Plan regarding the timber resource property located on the east side of Hopkins Gulch Road (900 Hopkins Gulch Road) about $\frac{3}{4}$ of mile north from the intersection with Bear Creek Road; finds that the zoning to be established herein is consistent with all elements of the Santa Cruz County General Plan and the Santa Cruz County Code, as modified by the *Big Creek* decision; and finds and certifies that the project is subject to a statutory exemption under the California Environmental Quality Act.

SECTION II

The Board of Supervisors hereby adopts the Zoning Plan Amendment as described in Section III, and adopts the findings in support thereof without modification as set forth below:

1. The proposed zone district will allow a density of development and types of uses which are consistent with the objectives and land use designations of the adopted General Plan; and
1. The proposed zone district is appropriate for the level of utilities and community services available to the land; and
2. The character of development in the area where the land is located has changed or is changing to such a degree that the public interest will be better served by a different zone district; and
3. The property meets the requirements of Government Code section 51113 or 51113.5 and County Code Section 13.10.375(c).

SECTION III

Chapter 13.10 - Zoning Regulations of the Santa Cruz County Code is hereby amended by amending Section 13.10.210 - Zoning Plan to change the following properties from the existing zone district to the new zone district as follows:

<u>Assessor's Parcel Number</u>	<u>Existing Zone District</u>	<u>New Zone District</u>
089-081-21	Special Use (SU)	TP

SECTION IV

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

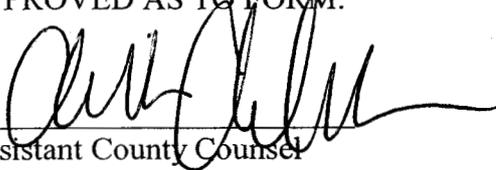
PASSED AND ADOPTED THIS _____ day of _____ 2008, by the Board of Supervisors of the County of Santa Cruz by the following vote:

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

Chairman of the Board of Supervisors

ATTEST: _____
Clerk of the Board

APPROVED AS TO FORM:



Assistant County Counsel

Exhibit: Rezoning Map

DISTRIBUTION: County Counsel
Planning
Assessor
County

GIS

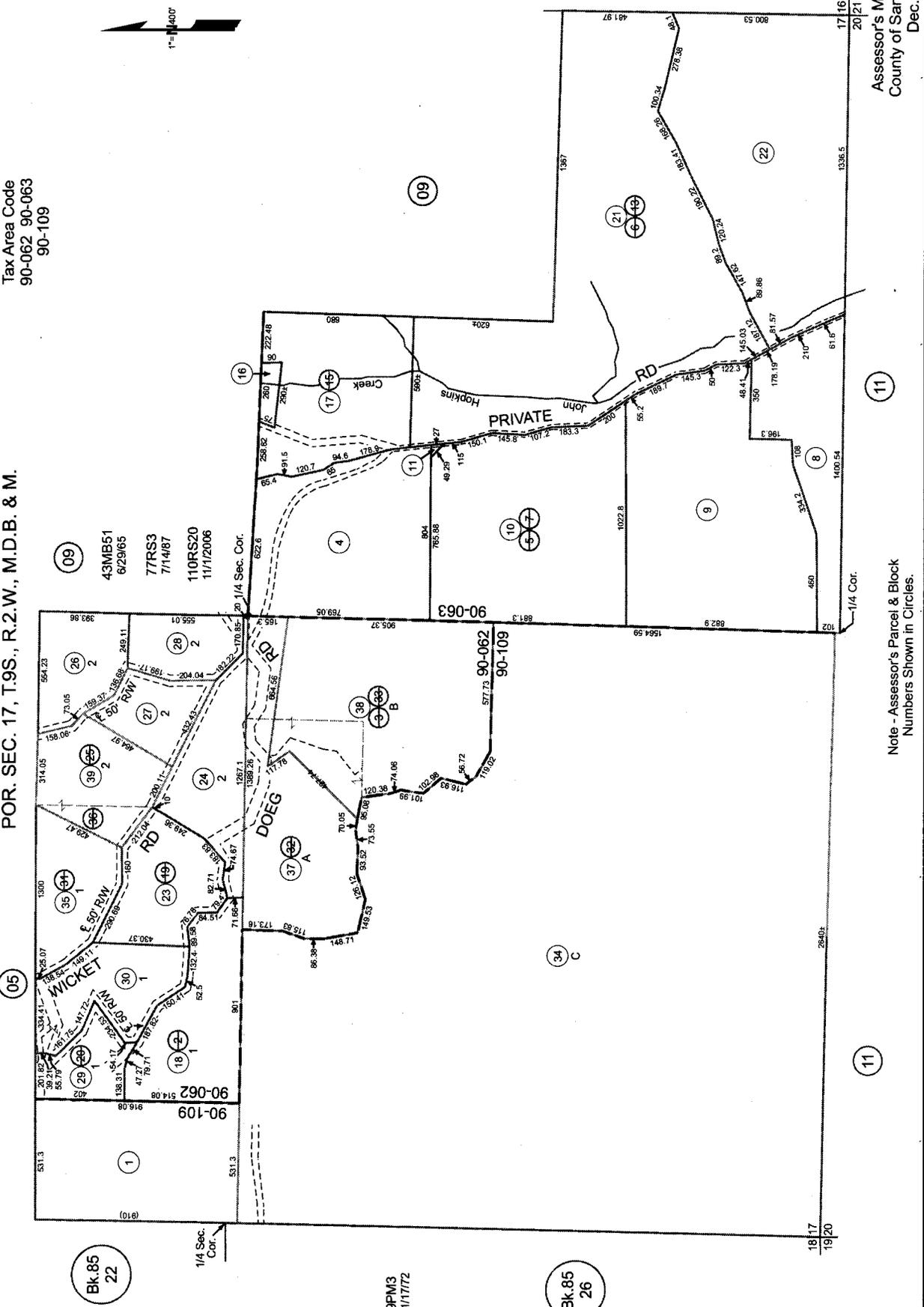
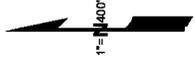
EXHIBIT A

89-08

Tax Area Code
90-062 90-063
90-109

POR. SEC. 17, T.9S., R.2.W., M.D.B. & M.

FOR TAX PURPOSES ONLY
THE ASSESSOR MAKES NO GUARANTEE AS TO MAP ACCURACY NOR ASSUMES ANY
LIABILITY FOR OTHER USES. NOT TO BE REPRODUCED. ALL RIGHTS RESERVED.
© COPYRIGHT SANTA CRUZ COUNTY ASSESSOR 1999



Assessor's Map No. 89-08
County of Santa Cruz, Calif.
Dec., 1999

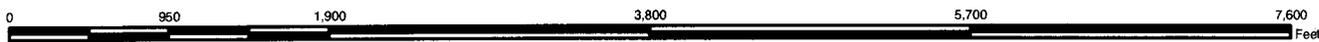
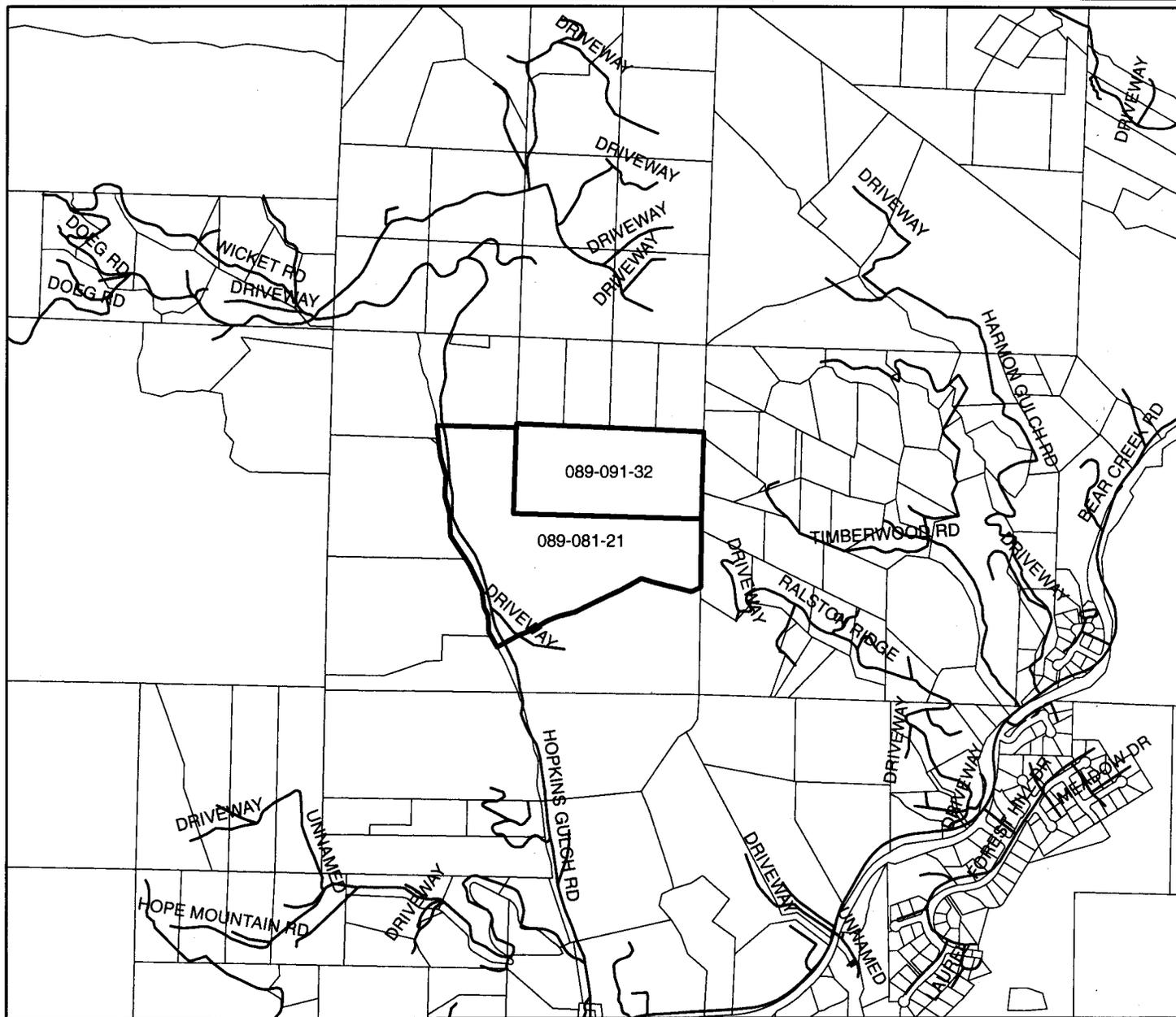
Note - Assessor's Parcel & Block
Numbers Shown in Circles.

Electronically Redrawn 12/29/99 mm
Rev. 10/10/07 id (add Doe Rd as per 77RS3)
Rev. 11/28/07 mm (Comb. form, 1-39)

EXHIBIT B

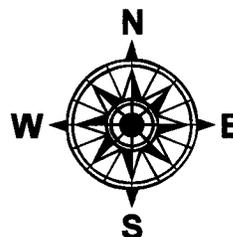


Location Map



LEGEND

-  APN: 089-091-32
-  APN: 089-081-21
-  Assessors Parcels
-  Streets

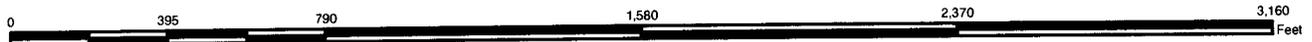
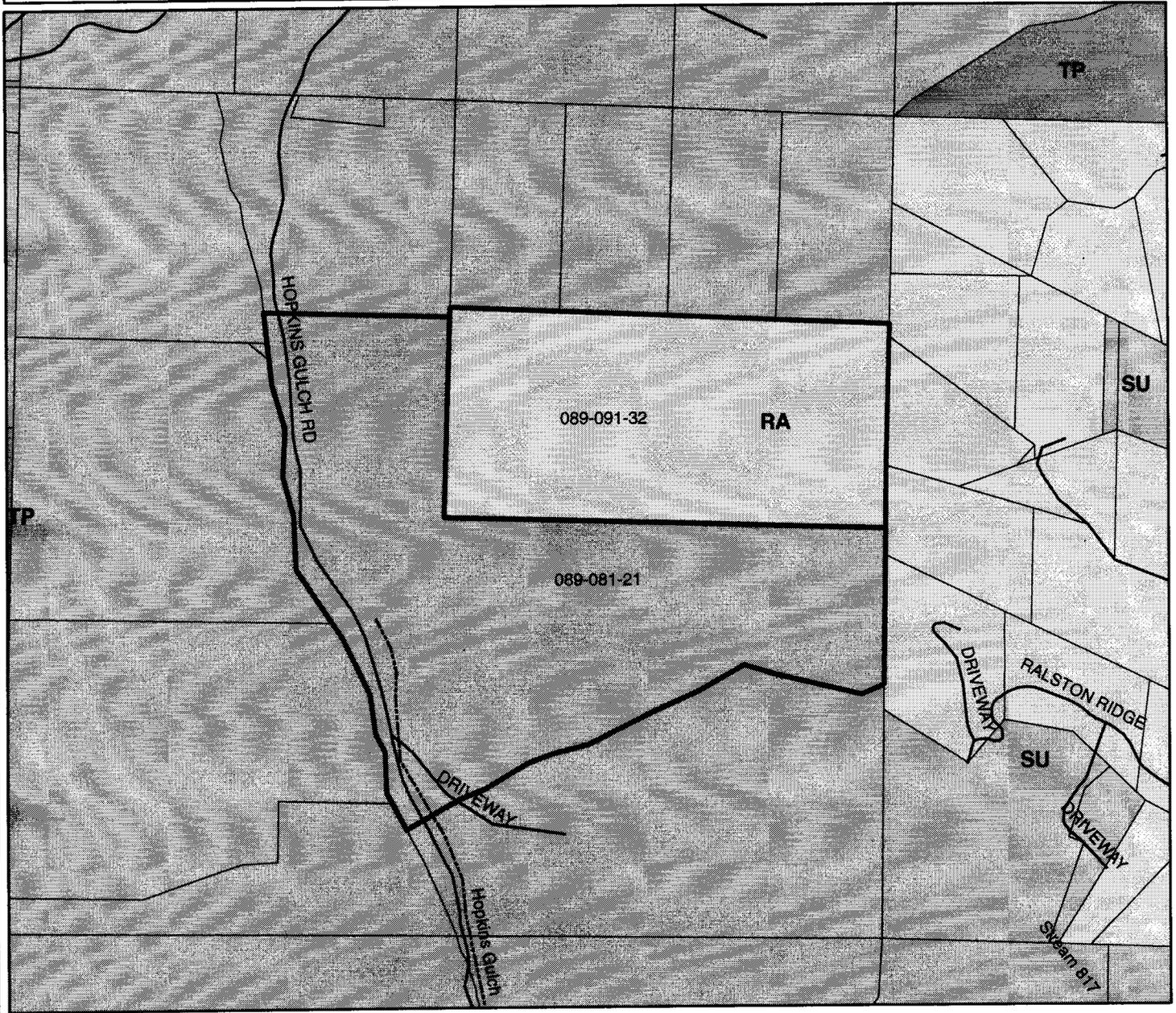


Map created by
 County of Santa Cruz
 Planning Department
 August 2007

EXHIBIT C

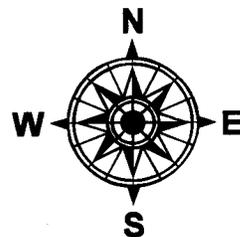


Zoning Map



LEGEND

-  APN: 089-091-32
-  APN: 089-081-21
-  Assessors Parcels
-  Streets
- STREAMTYPE**
-  PERENNIAL
-  INTERMITTENT
-  AGRICULTURE RESIDENTIAL
-  TIMBER PRODUCTION
-  SPECIAL USE

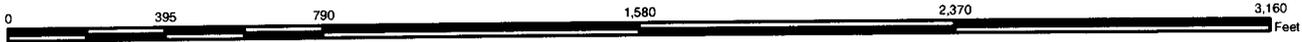
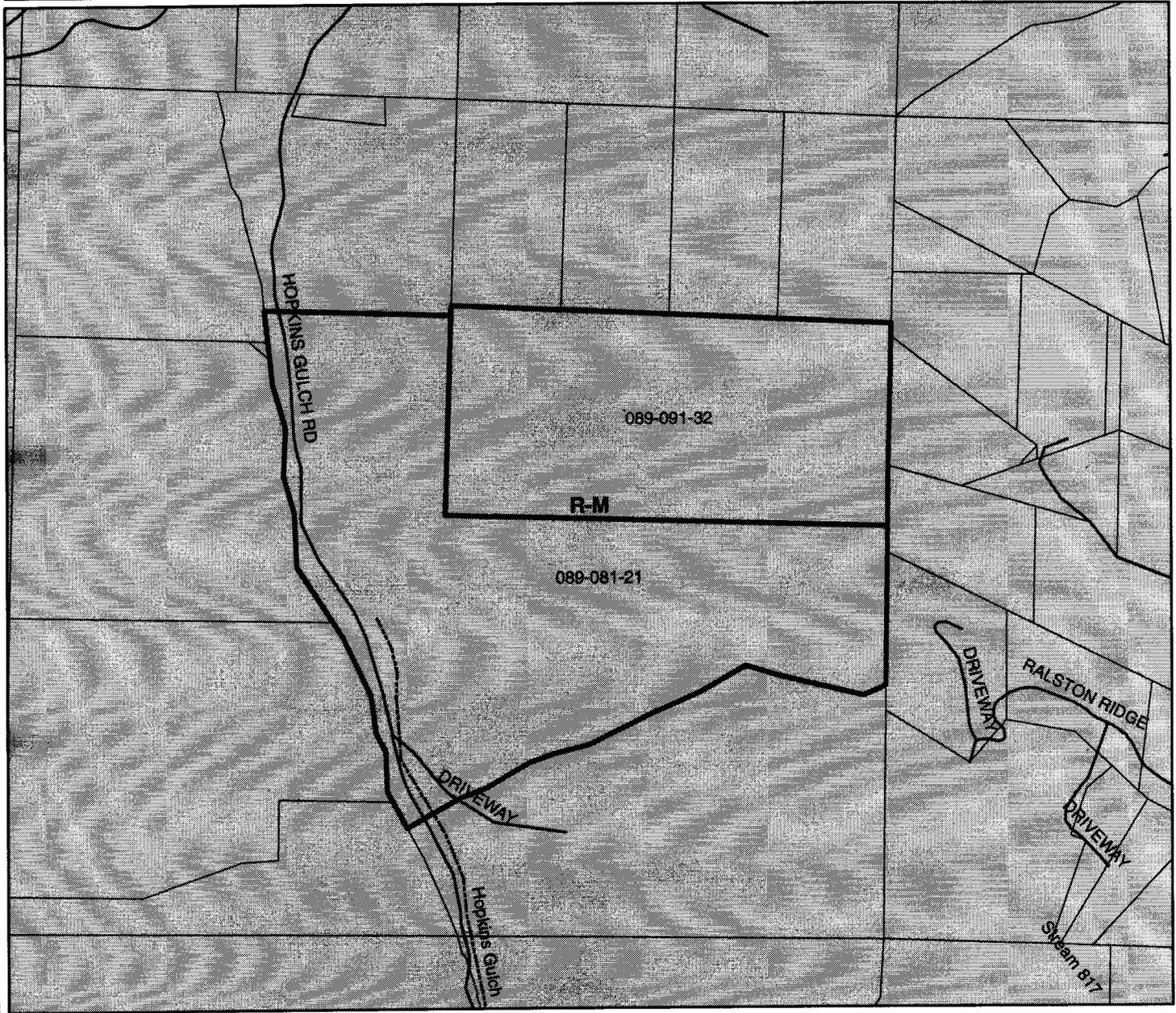


Map created by
County of Santa Cruz
Planning Department
August 2007

EXHIBIT C



General Plan Designation Map

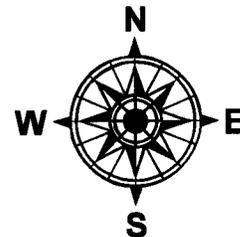


LEGEND

-  APN: 089-091-32
-  APN: 089-081-21
-  Assessors Parcels
-  Streets

STREAMTYPE

-  PERENNIAL
-  INTERMITTENT
-  Residential-Mountain



Map created by
County of Santa Cruz
Planning Department
August 2007

EXHIBIT C

CALIFORNIA ENVIRONMENTAL QUALITY ACT NOTICE OF EXEMPTION

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

Application Number: 07-0587

Assessor Parcel Number: 089-081-21

Project Location: Property located on the east side of Hopkins Gulch Road (900 Hopkins Gulch Road) about ¾ of mile north from the intersection with Bear Creek Road.

Project Description: Rezone a parcel from the Special Use (SU) zone district to the Timber Production (TP) zone district.

Person or Agency Proposing Project: Earl Kieser

Contact Phone Number: (831) 338-2244

- A. The proposed activity is not a project under CEQA Guidelines Section 15378.
B. The proposed activity is not subject to CEQA as specified under CEQA Guidelines Section 15060 (c).
C. **Ministerial Project** involving only the use of fixed standards or objective measurements without personal judgment.
D. **Statutory Exemption** other than a Ministerial Project (CEQA Guidelines Section 15260 to 15285). [Section 1703]

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



Maria Porcila Perez, Project Planner

Date: 3/26/08

Copy
ek

Timber Management Plan
for the lands of

John Jackson 2 ←
APNS 089-081-21, ~~089-091-27~~ Hopkins Gulch

Santa Cruz County, Calif.

Aug. 15, 2007

Prepared by
Steven M. Butler, RPF #2390
781 Oak Drive
Felton CA 95018



The purpose of this management plan is to provide basic forest management details and information to the landowner and to meet the county requirements for rezoning said parcels from their current zoning designation of Rural Agriculture (RA) and Special Use (SU) to Timber Production Zoning (TPZ).

TPZ is a zoning classification applied to private timberland and State forests by local government under the Forest Taxation Reform Act of 1976. In addition to the definition of "timberland" applied in the Forest Practice Act, land within a TPZ is also subject to the definition in Section 51104 (f) of the Government Code (GC). In the GC timberland means privately owned land or land acquired for state forest purposes, which is devoted to and used for growing and harvesting timber, or for growing and harvesting timber and compatible uses, and which is capable of growing an average annual volume of wood fiber of at least 15 cubic feet per acre.

Land zoned TPZ is restricted for use in timber growing or compatible uses, such as outdoor recreation or grazing. This restriction on use lasts ten years and is renewed each year; in return, landowners receive reduced property tax assessments on the land.

"Conversion" from timber growing to other land uses may occur either on land that is zoned for timber production or land that is still timberland but which is not zoned for timber production. Within TPZ lands, timberland conversion means the immediate rezoning of TPZ, whether timber operations are involved or not. Some exemptions may apply. Within non-TPZ timberlands, under Section 1100 (g) of the California Code of Regulations (CCR), timberland conversion means transforming timberland to a non-timber growing use through timber operations where:

1. Future timber harvests will be prevented or infeasible because of land occupancy and activities thereon; or
2. Stocking requirements of the applicable district forest practice rules will not be met within five years after completion of timber operations; or
3. There is a clear intent to divide timberland into ownerships of less than three acres. In these cases, a timberland conversion permit is required.

EXHIBIT E

A timberland conversion exemption is applicable to the following situations of converting timberland for (Section 1104, CCR):

1. Non-timber use only, of less than three acres in one contiguous ownership, whether or not it is a portion of a larger land parcel and shall not be part of a THP;
2. Construction or maintenance of right-of-way by a public agency on its own or any other public property;
3. Construction and maintenance of gas, water, sewer, oil, electric, and communication right-of-way by private or public utility; and
4. Subdivision development outside of TPZ.

NOTE-Two of these parcels are adjacent to each other in the Hopkins Gulch watershed. These total 53.6 acres in size.

General Property Description-
Hopkins Gulch Parcels-

089-081-21 is currently zoned SU. It is 33.4 acres in size and is partially covered by the counties Timber Resource Overlay. Portion of Sec 17 T9S R2W MDB&M

089-091-32 is currently zoned RA. It is 20.2 acres in size. It is not covered by the Timber Resources Overlay. S1/2 of the NE1/4 of the SE1/4 of Sec 17 T9S R2W MDB&M.

These parcels are adjacent and have been managed as a unit so they will be described together. The parcels are located on the Castle Rock USGS Quad map. The parcels are a mix of redwood forest, Douglas-fir forest and stands of hardwood and grassy openings. The topography is variable, large gently sloped areas exist near the bottom of the parcel and along the ridge. The mid slope areas are a mix of flats and steeper slopes. Elevations range from 620' where the class II watercourse (Hopkins Gulch) leaves the property to 1,120' along the ridge line near the East boundary of the parcels. A couple of small class III watercourses occur on the parcel. The parcels are used for running a small excavation business and as a residence.

History- The parcels were originally harvested for old growth timber in the early 1900's. They has been harvested once for second growth timber in 1988. The THP was 1-88-605SCR, a copy of the THP map is attached. Historically the area was operated as farm/ranch.

Access and Boundaries- The parcels are accessed from Hopkins Gulch Road a private road. This road forms the west boundary of parcel 089-081-21. The north boundary is at least partially fenced. The southerly boundary follows a spur ridge.

Timber/Cover Types-The parcels have 3 distinct cover types:
G-Grasslands and areas that were historically cleared. Species include grasses and invasion of coyote brush, black berry and French broom.

R-Redwood forested areas typically found on the deeper soils along the drainage ways and gentle bowl shaped area on the parcels. Species include redwood, Douglas-fir, Tan Oak, Madrone and Bay Laurel.

D-Douglas-fir and mixed hardwood forest found on the thinner soil more exposed portions of the parcels nearer the ridges and spur ridges. Species include Douglas-fir, an occasional redwood, Tan Oak, Live Oak, Madrone and Bay Laurel.

Soils-There are 5 mapped soil types on the property and soils are highly variable in this location. The 5 soils that are mapped as occurring on the parcel are:

- 115-Ben Lomond-Felton Complex 30-50% slopes. These are typically good timber soils, and support stands of redwood and Douglas-fir on these parcels.
- 149-Madonna Loam 15-30% slopes. This soil is typically a poor timber soil but supports good stands of redwood and Douglas-fir on a portion of these parcels, the remainder of this soil type is cleared.
- 152-Maymen Madonna Complex 30-75% slopes. Portions of this soil type support stands of redwood and Douglas-fir, other portions support only scattered conifer trees in stands of hardwood, portion is grassland.
- 169-Santa Lucia Clay Loam 50-75% slope. Portions of this mapped soil type support stands of redwood, the remainder is hardwood and brush with scattered Douglas-fir.
- 173-Sur-Catelli Complex 50%-75% slope. These soils support hardwood forest with a scattered conifer component.

Volume Growth and Yield-Approximately 15 acres is productive site class III redwood forest (R), another 27 acres is site IV and V timberlands (D), the remainder is open ground (G). The redwood forest is roughly stocked between 15,000-20,000 Board feet (BF) per acre. For an estimated total volume of 275,000 BF. The low site timberland are stocked at about 2,000 BF/acre for an estimated total volume of 40,000BF. There is an additional 5-8 cords per acre in this type. Total standing volume by parcel:

APN 089-081-21 165,000BF

APN 089-091-32 110,000BF

These parcels are productive timber lands which are available and capable of growing a crop of commercial tree species in quantities greater than 15 cubic feet (cuft) of wood fiber per year. The site index for the redwood forest is estimated at 130-150 and the area is about 50% stocked. The yield table give a value of 8,250 cuft per acre. Growth is estimated at 3%, 246 cu ft/acre /year or 525 BF/acre/year.

Future Timber Management and Units- Approximately 15 acres are accessible for harvest utilizing traditional ground skidding access. The remaining 27 acres of low site timber is harvestable but the scattered nature of the timber would be harder to access and require careful mapping to meet stocking requirement after harvest.

This 15 acre portion of the property is anticipated to yield 120 MBF (thousand board feet) under a 50% - 60% selection harvest. This could be repeated on a 14 year cycle. Utilizing the stumpage values (price paid for standing trees) provided by the California

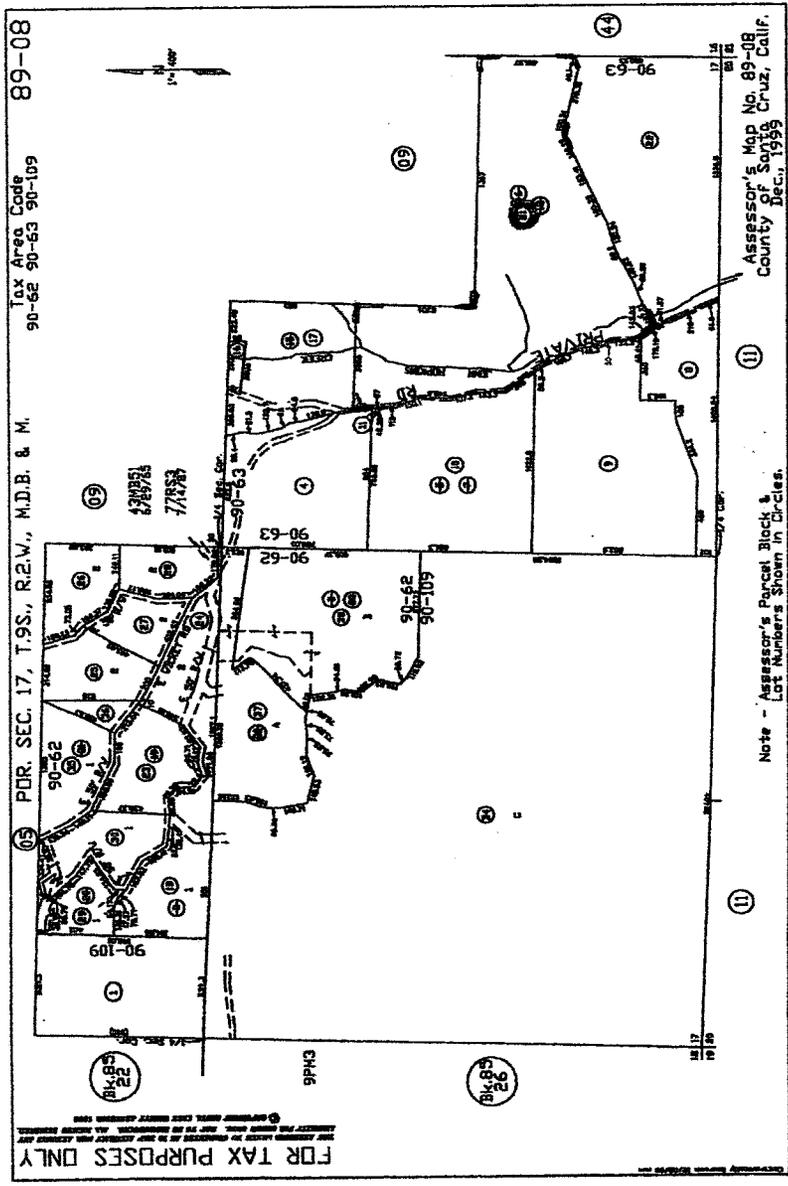
Tax Board the stumpage value of such a sale would yield \$580/ MBF x 120 MBF = \$69,600.

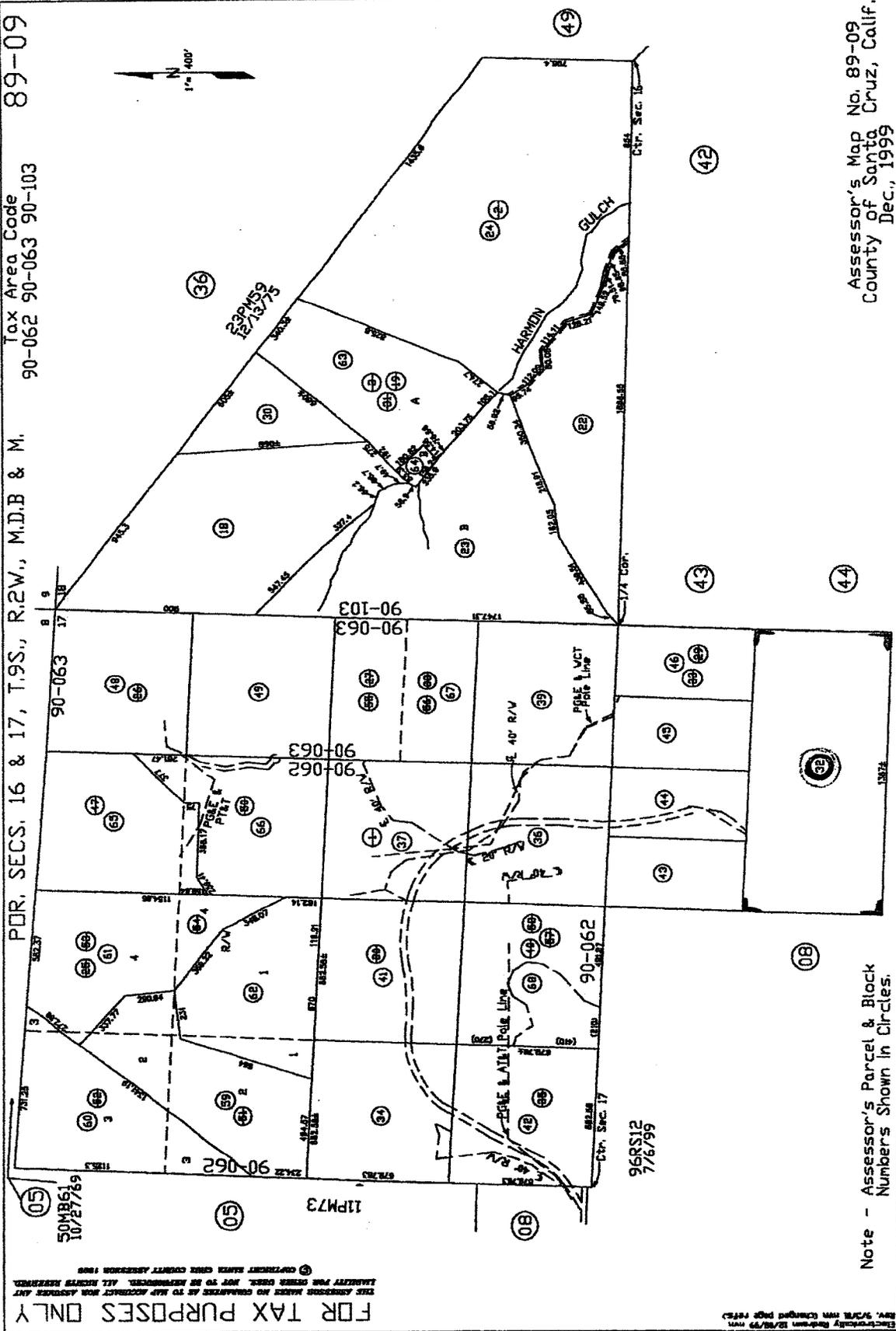
The cost of obtaining a Timber Harvest Plan (THP; harvesting permit) would need to be subtracted from this value. THP's are fairly expensive and carry a high fixed cost. To obtain a THP for your 15 acres could cost \$15,000 - \$20,000.

The 15 acre unit discussed is a stand alone unit in that it has its own adequate landing areas and truck and skid road access.

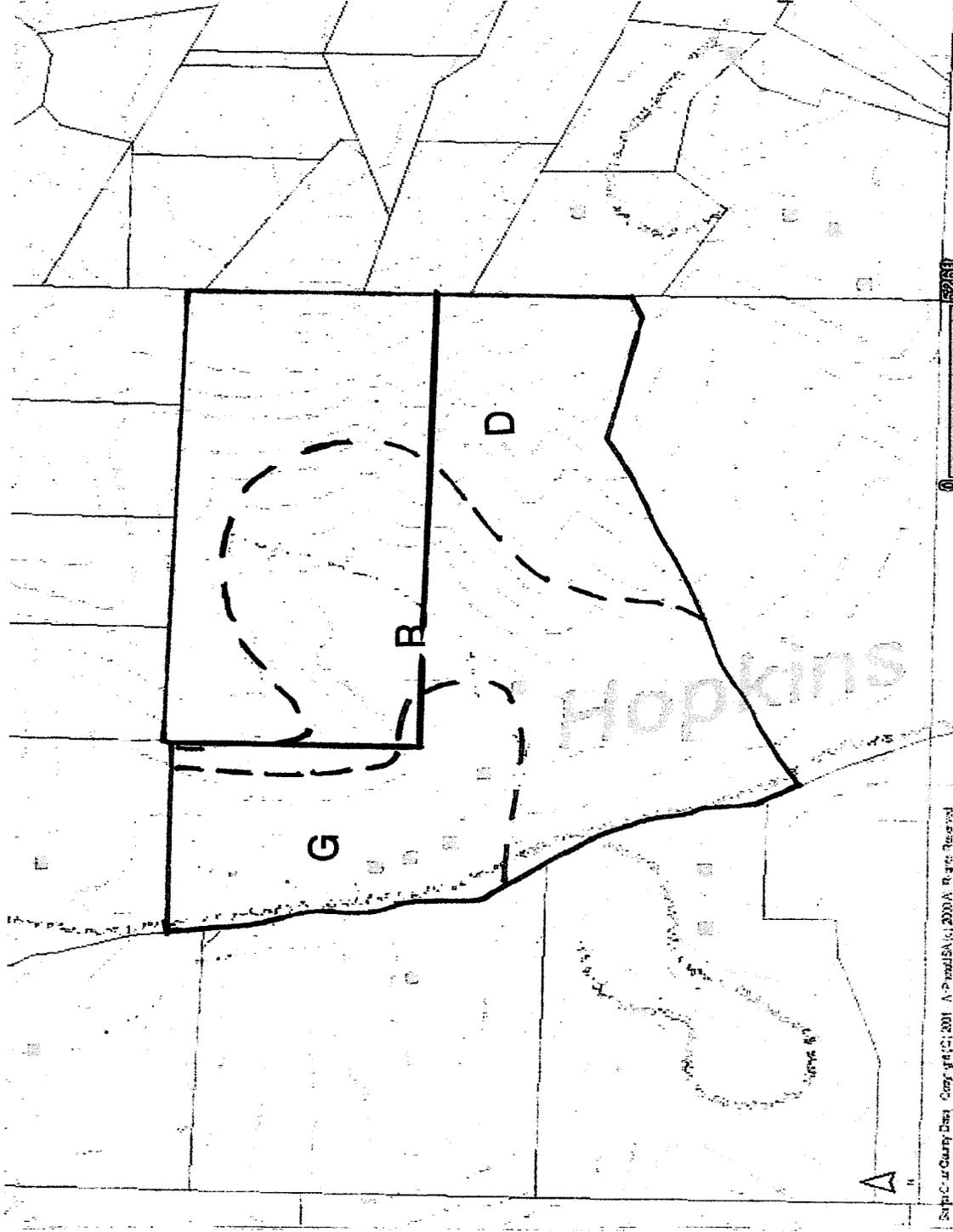
Hopkins Gulch Maps

EXHIBIT E

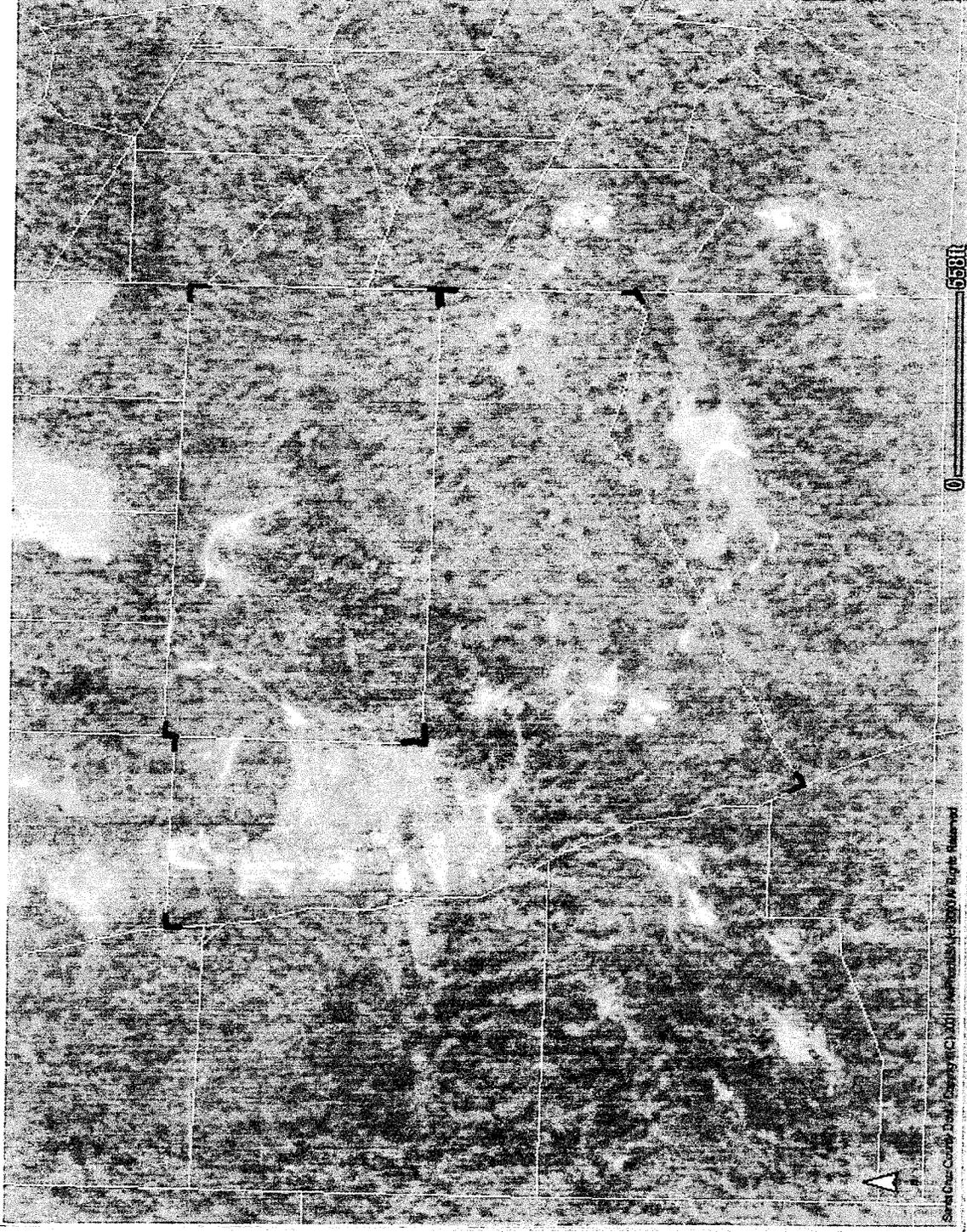




J. Jackson

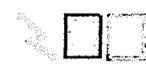


J. Jackson



Legend

- Legend
- Parcel (Assessor)
- State Highways
- City Limits
- Santa Cruz County Boundary



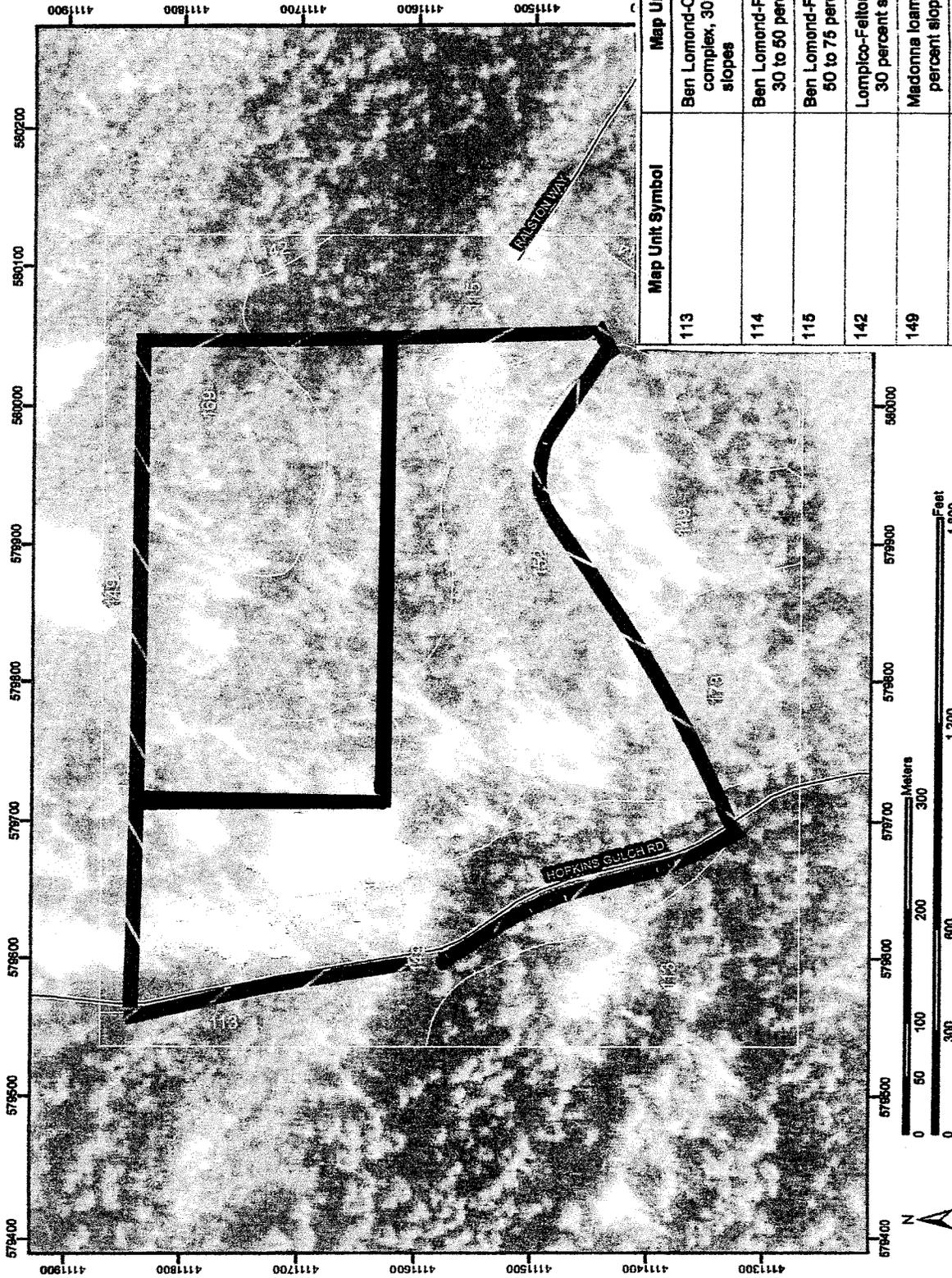
Aerial Photos

6In. Pixel

2Ft Pixel

Santa Cruz County Data: Copyright (C) 2007. All Rights Reserved.

Soil Map—Santa Cruz County, California
(J. Jackson Soils Map)

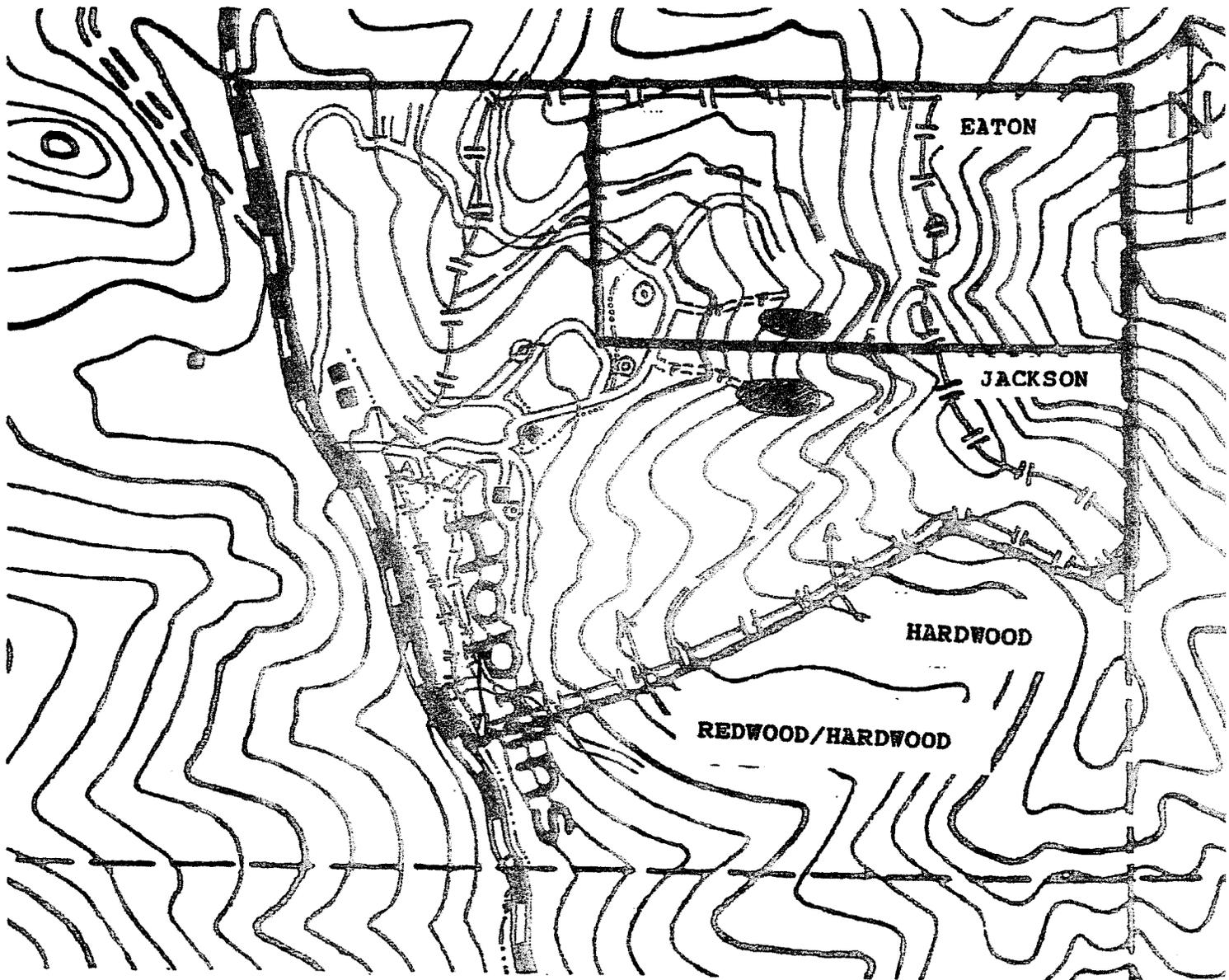


Map Unit Symbol	Map Unit Name
113	Ben Lomond-Cateill-Sur complex, 30 to 75 percent slopes
114	Ben Lomond-Felton complex, 30 to 60 percent slopes
115	Ben Lomond-Felton complex, 50 to 75 percent slopes
142	Lompico-Felton complex, 5 to 30 percent slopes
149	Madonna loam, 16 to 30 percent slopes
152	Meymen-Madonna complex, 30 to 75 percent slopes
169	Santa Lucia shaly clay loam, 50 to 75 percent slopes
173	Sur-Cateill complex, 50 to 75 percent slopes

Natural Resources
Conservation Service

Web Soil Survey 2.0
National Cooperative Soil Survey

JACKSON TIMBER HARVEST PLAN



SCALE: 1 IN = 400 FT

CONTOUR INTERVAL=40 FT

0 400 800 1200 1600 2000

31988

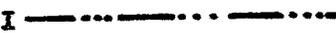
LEGEND:

PROPERTY LINE 

THP BOUNDARY 

WATERCOURSES

CLASS II 

CLASS III 

CLASS IV 

LANDINGS: EXISTING  PROPOSED 

REDWOOD/HARDWOOD 

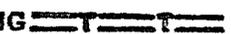
HARDWOOD 

ROADS 

PERMANENT 

SEASONAL 

TRACTOR

EXISTING 

PROPOSED 

 AREAS WHERE SLOPE MAY EXCEED 65%

EXHIBIT E

County of Santa Cruz
Planning Department

Planning Commission
Meeting Date: 04/09/08
Agenda Item: # 20
Time: After 9:00 a.m.

Planning Commission

Materials submitted during the 4/9/08 Public Hearing

Item 20: 07-0587

To: The Planning Commission of Santa Cruz County

Date: 4/8/08

From: John Jackson / Earl Kieser

Subject: Application 07-0587 APN 089-081-21

Overview

We would request that the commission postpone a recommendation to the Board of Supervisors until we can work with the staff and mitigate there concerns with the perceived conflict in the use of this property and the county code.

Background

- 1) The staff reports that "a contractor's storage yard is not listed as an allowed use in the TP zoned district".
- 2) Mr. Jackson has held a Timber Operators License continuously since 1971.
- 3) This parcel has been harvested twice before including once by Mr. Jackson in 1988.
- 4) More than 70% of Mr. Jackson's contractors business is directly timber production related.
- 5) All of Mr. Jackson's equipment is being or has been used in timber production.
- 6) More than 50% of Mr. Jackson's equipment is dedicated to timber production.
- 7) Mr. Jackson's largest customers include Big Creek Lumber, Pacific Conifer, Redwood Empire, and Red Tree Properties which are all timber production concerns.

Conclusion

That a contractor's storage yard for a State Licensed Timber Operator and contractor that caters to the timber production industry is completely compatible with a TP zoned property. We believe that we can work with the Planning staff and mitigate their concerns. We did not receive the staff report until 4/1 and did not have a chance to discuss their findings before this hearing.

Respectfully Submitted



Earl Kieser

Agent for John Jackson

License Number: **A 1070**

Date of Issuance: 12/06/2007

License Valid Period:

01/01/2008 - 12/31/2009

STATE OF CALIFORNIA

THE RESOURCES AGENCY

STATE BOARD OF FORESTRY

TIMBER OPERATOR LICENSE



JOHN JACKSON
900 HOPKINS GULCH RD
BOULDER CREEK, CA 95006

This timber operator license is issued pursuant to the provisions of Article 6, Chapter 8, Division 4 of the Public Resources Code; the regulations of the State Board of Forestry in Article 3, Subchapter 4.1, Chapter 2, Division 2, Title 14 of the Administrative Code; and in response to the licensee's application in the prescribed manner.

This timber operator license does not purport to confer property rights in timber, land, or the products thereof.

CDF STOCK 75401300491

County of Santa Cruz
Planning Department

Planning Commission
Meeting Date: 4/23/08
Agenda Item: # 7.3
Time: After 9:00 a.m.

Planning Commission

Materials submitted during the 4/23/08 Public Hearing

Item: 7.3

To: The Planning Commission of Santa Cruz County

Date: 4/22/08

From: John Jackson / Earl Kieser

Subject: Application 07-0587 APN 089-081-21

Overview

We would request that the commission continue the hearing on this application until your May 14, 2008 meeting. As we discussed with Mark Deming on April 22, 2008, this will allow us to provide the staff with the new information requested for your review.

Respectfully Submitted

Earl Kieser

Agent for John Jackson



CC: Mark Deming
Maria Pricilla Perez
Dennis Kehoe

Faxed to 454-2131

County of Santa Cruz
Planning Department

Planning Commission
Meeting Date: 4/23/08
Time : After 9:00 am

**Additions to the Staff Report for the
Planning Commission**

ITEMS: 7.1,7.2,7.3,7.4,7.5, & 11

Late Correspondence

Maria Perez

From: ND Fenton [nanidrew@comcast.net]
Sent: Wednesday, April 23, 2008 3:50 AM
To: Maria Perez
Subject: Important public hearing comments for APRIL 23, 2008

Dear Porcila Perez, 454-5321

Please consider the following public comments as to items below. It would be good to receive a response as to these simple concerns.

ITEM

7.1 07-0538* 755 Hopkins Gulch Road, Boulder Creek APN: 089-081-09

Proposal to change the zoning of a Special Use (SU) zoned parcel to Timber Production (TP) zoning. Requires approval of a rezoning to Timber Production zoning

COMMENT: After consideration the Planning Department recommends "DENIAL" to the Board of Supervisors to "NOT" approve of the rezoning to Timber Production zone, due to incompatible land use. There are other types of land use that are also not compatible, but are not mentioned. My questions: Why is this on your agenda when recommendation is to DENY? Shouldn't it just get deleted or removed? Additionally, the proposed document (RESOLUTION) to be adopted by the Board of Supervisors (that you are not recommending) is inconsistent with the findings. Will you deliver this item to the Board as it is? How can the commissioners approve it too?

7.2 07-0572* No Situs APNs: 083-251-47, -48, -49, -50, -51, -54, -55, -56, -57, -58, -59, & -60

Proposal to rezone one parcel from the Agriculture (A) zone district and eleven parcels from the Special Use (SU) zone district to the Timber Production (TP) zone district.

Opposition to proposal because:

- 1) Current land use plan prohibits TPZ,
- 2) project will be in conflict with land uses or operations;
- 2) conflicts with or will be incompatible with the lans use objectives, policies and/or guidance in the county general plan
- 3) substantial conflict with existing or planned land use.
- 4) substantial conflict with existing or planned adjacent land uses
- 5) would physically divide an established community, mainly residential.
- 6) it would result in property damage
- 7) it would result in loss of revenue to commercial business
- 8) it would create construction related hazards for residents.
- 9) no agreement with owner, no restrictions on land use with proposal required to be recorded on deed.
- 10) land use would be restricted to use for the next 20 years (10 + 10 waiting)
- 11) it would lower property values of adjacent home values.
- 12) no court of appeals required this proposal, nor does law. No petition by residents requested it.
- 13) existing land in the county is already desingated TP, reserved for timber production, perhaps the planning dept can spend their time on studying those Timber Harvesting Plan
- 14) the Plan written by a forester claims Compatible Use analysis, he is unable to make any legitimate assessment, and is a planning commission decision -- request written findings for this issue.
- 15) the property requires a biotic report, in order to assess possible environmental, endangered, riparian, protection matters.
- 16) that the rezoning is statutorily exempt from CEQA, not possible because no "Environmental analysis report" was performed, thus statute not applicable.
- 17) the WINDOW of time to have been able to comply with the requirements of Section 51113 (or 51113.5) of the California Government Code, already occurred, thus, "is being processed in conformance" with such is an impossibility.
- 18) the findings are contested because it is clearly not consistent, claim is without proof whatsoever, being made by a bias unreliable source, lack community involvement in process, is without "Timber Committees" set up by county for assiting residents understand the protections to be lost, not to mention the habitat, etc.

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

[use is NOT consistent with the objectives and land use designations. If so, why is there an amendment request?

1. The proposed zone district is appropriate for the level of utilities and community services available to the land; and

[timber operations are appropriate for the level of utilities, are not considered part of community services. The

4/23/2008

community provides a service: roads, of which are not made to withstand lumber hauls.

2. The character of development in the area where the land is located has changed or is changing to such a degree that the public interest will be better served by a different zone district; and

[baseless and false, there is no change and is not changing, but logging operations in RM will create alot of change -- to any degree the public interest could never be served by removing RM protections to an anytime operation logging restriction for 20 years. many residnets will move away.

3. The property meets the requirements of Government Code section 51 11 3 or 51 113.5 and County Code Section 13.10.375(c).

[property can no longer pursue GC section above.]

7.3 07-0587* 900 Hopkins Gulch Road, Boulder Creek APN: 089-081-21

Proposal to rezone a parcel from Special Use (SU) zone district to Timber Production (TP) zone district. Requires a Rezoning.
[same as item 7.1]

7.4 07-0591* 23300 Old Santa Cruz Highway, Los Gatos APN: 096-081-08

Proposal to rezone one parcel from the Special Use (SU) zone district to the Timber Production (TP) zone district. Requires a rezoning.
[same as item 7.2]

7.5 07-0599* 9671 Old Country Road, Ben Lomond APNs: 078-132-04, & -05

[same as item 7.2]

ITEM 11) 07-0577* No Situs APN: 086-123-03

Proposal to rezone one parcel from Special Use (SU) zone district to the Timber Production (TP) zone district. Requires a Rezoning.
[same as item 7.2]

thank you for your time and consideration:
N.D.Fenten

Additions to the Staff Report for the Planning Commission

Item 8: 07-0587

Late Correspondence

Law Offices of
DENNIS J. KEHOE
Law Corporation

311 Bonita Drive
Aptos, California 95003
(831) 662-8444 FAX (831) 662-0227

May 6, 2008

(HAND-DELIVERED)

SANTA CRUZ COUNTY PLANNING COMMISSION
701 Ocean Street, Room 500
Santa Cruz, CA 95060

**Re: TPZ, Application No. 07-0587, APN 089-081-21,
Planning Commission Hearing: May 14, 2008, 9:00 a.m. Agenda**

Dear Planning Commissioners:

The undersigned represents John Jackson in this matter. On April 22, 2008, the undersigned, Mr. Jackson, and Mr. Kieser met with your staff. Additional, new information has been provided to the planning staff since that date, which is incorporated into this letter. This includes letters by Mr. Jackson; his agent, Earl Kieser; and others providing pertinent new data. Additionally, various correspondence from foresters and timbering companies have been provided to staff. Although not all inclusive, the following additional information is highlighted.

(1) Background:

The State law requires that timberland be zoned TPZ at the request of the owner of the parcel. Government Code §51113 Furthermore, the County shall not deny TPZ rezoning to any qualifying parcel, such as this Jackson parcel. Big Creek Lumber Co. v. County of Santa Cruz (2006) 38 Cal.4th 1139, 1160-1161; State of California v. County of Santa Clara (1983) 142 Cal.App.3d 608, 613-614

John Jackson, the applicant and owner of the subject property, has been

**Re: TPZ, Application No. 07-0587, APN 089-081-21,
Planning Commission Hearing: May 14, 2008, 9:00 a.m. Agenda**

Page 1 of 3 Pages

a Licensed Timber Operator by the State of California since the 1970s to this date. His current Timber Operator License, No. A1070, is valid through December 31, 2009. He intends to renew this License for the indefinite future. As a Licensed Timber Operator and inherent in timber harvesting is the use of essential equipment such as currently on the subject parcel.

Moreover, the Jackson property is timberland by State definition. Additionally, there have been at least two (2) prior selective timber harvests of the subject property including one (1) by Mr. Jackson in 1988, Timber Harvest Plan No. 1-88-605SCR. Mr. Jackson also owns other properties in the vicinity zoned TPZ including APN 087-331-05.

(2) The Existing Use Is Compatible with Timber Harvesting and Incidental Thereto:

The standing timber on this project encompasses most but not all of the property. There are a few grassy areas upon which Mr. Jackson's equipment is located. Therefore, the equipment of Mr. Jackson located in the non-timber areas are compatible with, and does not interfere with, the selective harvesting of the standing timber. Please refer to the various maps denoting the location of the standing timber and the grass areas provided by the forester to the County with this Application. Additionally, as mentioned above, this equipment is used, primarily, for timber harvesting, in any event.

(3) The Requested Timber Harvesting In This Application Is Compatible With The Forest Practice Act And The Timber Production Zone.

This application is for **timber harvesting**. State law requires that the application be approved since the requested **timber harvesting** is compatible with the Forest Practice Act and the TPZ zone.

The staff in its March 19, 2008, letter misconstrued this application as well as the law. The request is to harvest timber, which **is** compatible with timber harvesting pursuant to the State mandated law. The staff, incorrectly, asserts that the use under the Use Permit issued in 1981, prior to the permitted 1988 timber harvesting of the property, is "incompatible" and, therefore, recommended denying this application.

Re: TPZ, Application No. 07-0587, APN 089-081-21,
Planning Commission Hearing: May 14, 2008, 9:00 a.m. Agenda
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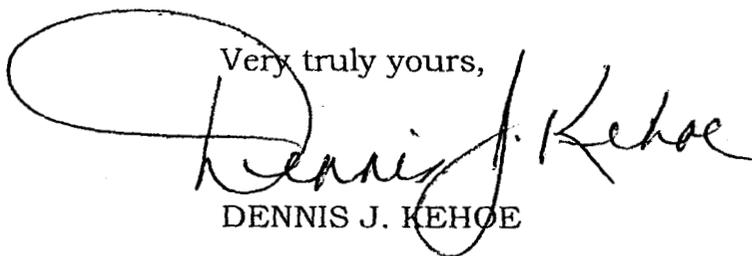
Although not all inclusive, the following must be highlighted. The issue is whether **this** application is compatible with timber harvesting, which obviously it is. Additionally, the open areas, which cannot be harvested since there are no trees, contain the equipment used primarily by Mr. Jackson incidental to timber harvesting.

Furthermore, the County is not empowered to demand Mr. Jackson relinquish his equipment use located in the open areas in order to harvest timber in the treed areas, especially since his equipment is utilized to accomplish timber harvesting. His current use pursuant to the 1981 Use Permit is legal and his application to harvest timber where the trees are located must, as a matter of law, be approved: Government Code § 51113; Big Creek Lumber Co. v. County of Santa Cruz (2006) supra; State of California v. County of Santa Clara (1983) supra

Moreover, County Code §13.10.372 specifically provides that the requested use in this application is Permitted. ("Timber: Herein, harvesting: the cutting and removal of timber and other forest products and work incidental thereto.") The equipment of Mr. Jackson on this property is, indeed, "harvesting, cutting and removal of timber and other forest products, and work incidental thereto." (County Code §13.10.372)

Should you have any questions, please contact the undersigned at your earliest convenience.

Very truly yours,



DENNIS J. KEHOE

DJK:jlc

c: Tom Burns, Planning Director, (Hand-Delivered)
Mark Deming, (Hand-Delivered)
Chris Cheleden, Assistant County Counsel, (Hand-Delivered)
John Jackson
Earl Kieser

Re: TPZ, Application No. 07-0587, APN 089-081-21,
Planning Commission Hearing: May 14, 2008, 9:00 a.m. Agenda
Page 3 of 3 Pages

To: Santa Cruz County Planning Commission

Date: 5/5/08

Santa Cruz County Planning Department Staff

From: John Jackson / Earl Kieser

Subject: Application 07-0587 APN 089-081-21

Agenda: May 14,2008

Overview

In our April 22, 2008 meeting you requested additional information demonstrating the extent of participation in the "work incidental to the growing, harvesting, cutting and removal of timber and other forest products". This document is intended to provide you some of that information as does Mr. Kehoe's letter. We have provided a generally accepted definition of the "work incidental to", a list of our equipment with a description of how it is used and how often it is used and letters from some of the foresters and timber production customers describing our interactions over the last 10 years. We have also reviewed Mr. Jackson's income for 2006 and 2007 and found that 87% and 86%, respectively, of that income was derived directly from the work incidental to timber production.

The Definitions

It is impossible to discuss "the work incidental to" without having a common understanding of those tasks. I would like to draw your attention to Appendix A. This is a timber industry accepted list of the "work incidental to". Most people understand the falling and hauling of the trees. Most people do not have a feel for the effort involved in the maintenance of gravel roads, constant erosion control, daily or weekly dust control, preparation of the haul roads for the cutting season, and the preparation of the haul roads for the rainy season. Most people would not appreciate the amount of maintenance, repair and the stock of spare parts required to keep timber production equipment in operation.

Our Equipment

I have provided a list of our equipment in appendix B. I have also included the average percentage of usage and the way it is used in the "work incidental to" timber production. In most of these cases we have multiple pieces of equipment in each category. The type of timber use listed is in no way exhaustive. It is intended to give an example of the application of the piece of equipment.

Our Forestry Client List

Appendix C is a list of our current clients (17) in the timber production field including the State of California Division of Forestry. Many of these clients have provided statements delineating their business interactions over the last 10 years and their opinion of our contributions in the harvest of timber. Some of these statements are contained in appendix D. We will provide additional letters at or before the hearing. Many of these clients are familiar with our equipment and have stated their opinions of the value of that equipment and our service and parts operations in those letters.

Mr. Deming was also concerned that we did not advertise in the Logging Company or Timber Production section of the Yellow Pages. As you can tell from our Client list we are universally known by the foresters in the area and are considered the "Go To People", by some, when there are "Unique Skills and Equipment" required. Additional advertising in this business segment would be a waste of valuable resources.

Licenses

As stated previously Mr. Jackson holds a current Timber Operators License and a General Engineering A License. These licenses are attached in appendix C. Both are issued by the State of California. There was an erroneous concern that holding a General Engineering Contractors License and obtaining the required use permit would, somehow, constitute an "Incompatible use". It is NOT! For example, a General Engineering Contractors License is required, in addition to a Timber Operators License, by the State Of California when you intend to quote for work based on the job rather than by the hour. Holding a Timber Operators License alone is of little use if you are working on jobs that are not on your own property. Also the equipment is stored in the open non-timber areas and is necessary and certainly incidental to harvesting the timber on this property.

Financial Evaluation

We reviewed Mr. Jackson's financial records for the fiscal years of 2006 and 2007. We identified the income directly derived from work on active timber harvests as well as maintenance and erosion control on timber properties. In 2006 87% and in 2007 86% of Mr. Jackson's income was derived directly from "work incidental to" timber harvesting.

Conclusion

In conclusion the holding of a General Engineering Contractor's License and the Use Permit associated with that license do NOT constitute an incompatible use when the primary work performed under that use permit and license is the "work incidental to the growing, harvesting, cutting and removal of timber and other forest products" per county code 13.10.372.

Respectfully Submitted

Earl Kieser

Agent for John Jackson

CC: John Jackson
Mark Deming
Maria Pricilla Perez
Chris Cheleden, County Council
Dennis Kehoe

Appendix A

Our definition of the “work incidental to the growing, harvesting, cutting and removal of timber and other forest products”

Haul road maintenance and construction.

- Spreading rock
- Erosion control
- Install and maintain culverts
- Remove, install and maintain water bars
- Cutting and reconditioning the road
- Periodic watering
- Bridge installation
- Repair asphalt on all weather haul roads
- Repair asphalt on private roads done by haul trucks

Equipment operation and rental

- Rental of equipment with operator
- Rental of equipment without operator
- Use of equipment on your permit

Equipment delivery and movement

- Storage of various truck tractors
- Storage of various trailers

Equipment maintenance

- Shop
- Service trucks
- Fuel trucks
- Tow truck
- Spare and replacement parts storage

Business infrastructure

- Contractors license
- Timber operators license
- Contract management
- Project coordination
- Use permit

Log delivery and transportation

Appendix A

Appendix B

Timber use of Equipment

Equipment	% Timber Use	Type of Timber Use
Cats with winch D6, D7, D8, 750	85%	Skid logs steep terrain, Install/remove water bars
Cat with rippers D6	45%	Install roads, make landings
Log Loaders Track & Tire	95%	Load log trucks
Skidders, rubber tires	100%	Skid logs
Yarders	100%	Move logs to landing Where skidding not practicable
Backhoes	50%	Erosion control, install culvert, Rip Rap
Dump trucks / transfer, end dumps	60%	Rock & pave haul roads, haul logs
Truck Tractors	75%	Haul equipment trailers, end dumps
Equipment Trailers	85%	Haul equipment
paving equipment / rollers	50%	Pave haul roads
Service trucks	70%	Service equipment on site, fuel, lube, flat tires
Water trucks	80%	Dust control on haul roads daily or weekly

Appendix B

Appendix C

Timber Client List

Bob Reynolds Head Registered Forester (Big Creek)

Bob Berlage (Big Creek)

Steve Butler - Registered Forester

Steve Smith - Registered Forester (U.S. Department of Agriculture District Conservationist)

Mike Jani - Registered Forester

Steve Staub - Registered Forester

Matt Bissell - Registered Forester (Red Tree)

Carl Ellis – Owner & Licensed Timber Operator (Pacific Conifer)

David Van Lennap - Registered Forester (Redwood Empire)

Eric Bushnell - Licensed Timber Operator (B&B Lumber)

Jeff Bushnell – Partner (B&B Lumber)

Lee Locatelli - Licensed Timber Operator

Eric Huff - Registered Forester (Calif. State Division of Forestry)

Tim Peet - - Licensed Timber Operator

Gary Paul - Registered Forester

Archie Mc Clellan (Selective Yield Yarding Systems)

Appendix D

Customer Letters

Appendix D

Stephen G. Smith
Forester

April 28, 2008

To whom this may concern:

RE: John Jackson TPZ Rezoning

I have worked with John Jackson for 20 years on timber related projects, both as a regulator with CDF (Cal Fire) and as a consulting forester, implementing forest management projects on timberlands. John Jackson is known in the timber industry as a forest management specialist, the ultimate fixit person. As with any timber harvest operation, there are situation that require unique skills and equipment, such as, bridge installations, power line moving, upgrades of drainage structures, native plant restoration and land surface rehabilitations, fuel hazard reduction, forest soil enhancements, etc.

Between 1988 and 1998 John participated in eight timber harvests in which I have been involved. My helicopter operation required nearly 10 separate pieces of equipment that he had available. Harvest operations in the Santa Cruz mountains require unique and very intensive mitigations to successfully have an environmentally sensitive timber and forest management operations. John is the person to go to person for making operations successful.

I have seen the equipment on his land off Hopkins Gulch Rd and this equipment and the back-up parts are essential to the work of growing, harvesting and removal of forest products

If you have other questions, please let me know.



Stephen G. Smith
Forester

To: John Jackson
From: Jeff Bushnell
B&B Lumber
Subject: Timber Jobs with John Jackson

Date: May 5, 2008

To whom it may concern.

I have worked with John Jackson on timber related projects for more than 15 years and my father worked with him for many years before that. In the last 10 years we have worked on about 20 timber harvests in which I or my company have been involved. He has performed work incidental to the growing, harvesting, cutting and removal of timber and other forest products. This work has included several quotes and jobs under his timber operators license.

I have seen and operated most of the equipment in his yard on timber harvest and other forest product related jobs. His equipment has been essential in the successful completion of many of these jobs.

Jeff Bushnell

B&B Lumber

A handwritten signature in black ink, appearing to read "Jeff Bushnell". The signature is written in a cursive, flowing style with some overlapping strokes.

**STEVEN M. BUTLER, REGISTERED PROFESSIONAL FORESTER
EROSION CONTROL PROFESSIONAL**



781 Oak Dr ♦ Felton, CA 95018 ♦ U.S.A
Phone 831-335-0249 ♦ Fax 831-335-0249

May 1, 2008

County of Santa Cruz
701 Ocean Str.
Santa Cruz CA 95060

Re: Rezoning parcel 089-081-21 to TPZ

Dear County Staff:

I am the Registered Professional Forester who prepared the Timber Management Plan for parcel 089-081-21, Lands of Jackson. In the management plan I acknowledge the other existing uses of the parcel as a primary residence and as an equipment yard for a small excavation company. These uses were in place and active when the parcel was last harvested in 1988. John Jackson is a Licensed Timber Operator (LTO A-1070) in addition to being an Engineering Contractor. The equipment on his parcel is almost all related to work performed for timber harvesting. John has worked on many timber harvest operations for me and my clients over the past 20+ years that we have been working together.

The three uses of the property: primary residence, equipment yard, and the growing and harvesting of timber were compatible uses under the current zoning until the County required John to rezone the parcel in order to continue timber management and harvest activities. These three existing and historic uses will continue to be compatible under the proposed TPZ zoning.

The application to rezone to TPZ should be processed as the parcels meet the definition of timberland and the current uses are and have been shown to be compatible.

Sincerely,

Steven M. Butler
RPF #2390, CPESC #2196