



COUNTY OF PLACER
Community Development/Resource Agency

Michael J. Johnson, AICP
Agency Director

PLANNING

MEMORANDUM

TO: Honorable Board of Supervisors
FROM: Michael J. Johnson, Director Community Development Resource Agency
DATE: March 16, 2010
SUBJECT: REZONE – BUNCH CREEK TIMBERLAND PRODUCTION ZONE PROPERTY
(PREAT20060521)

ACTION REQUESTED

The Board is being asked to direct staff to present the modified project to the Agricultural Commission, the Weimar-Applegate-Colfax Municipal Advisory Council and the Planning Commission for further consideration, and return to the Board of Supervisors with the Planning Commission's recommendation on the modified project, as well as the Mitigated Negative Declaration prepared for the project.

BACKGROUND

The project site (APN 071-270-003, 071-310-001, 071-320-001, and 071-330-008) is located near Yankee Jim Road, one mile east of Canyon Way in the Colfax area. The project site is currently undeveloped and is located within a State Timberland Production Zone area.

On June 24, 2008, the Board of Supervisors considered a request from Jack Remington, on behalf of Fred Basquin and Jed Parker, for the immediate rezone and conversion of the 598-acre Bunch Creek property from TPZ (Timberland Production Zone) to RF-B-X-80 Acre minimum (Residential Forest, Combining 80-acre Minimum Lot Size). At that hearing, the Board adopted a motion (5-0) to continue the project to a date uncertain in order for staff to research the State statutes regarding Timberland Production Zones. In making its motion, the Board directed staff to work with the applicant on the requirements for a ten-year roll out of TPZ and to research the State's requirements regarding whether or not residences are allowed by right within TPZ areas and whether or not the States mandates the lot size requirements for parcels within TPZ areas.

Staff has worked with the applicants as directed by the Board of Supervisors and has conducted further research on State TPZ regulation. This report contains information related to the State's Timberland Production statutes as the statutes relate to the option to "roll-out" of TPZ within a ten-year time period, and allowed uses and lot sizes within TPZ areas.

APPLICANT'S PROPOSAL

Since the June 24, 2008 hearing, the applicants have modified their project description to include either an immediate rezoning/conversion of the TPZ to RF-BX-80 Acre Minimum, or a 10-year roll out from the TPZ to RF-BX-80 Acre Minimum; and a modification to an approved Minor Land Division, which created a three-parcel Tentative Parcel Map (one 277.5 acre parcel, and two 160-acre parcels). The proposed modification to the approved Tentative Parcel Map is for the purpose of creating a 100-foot agricultural setback along the property lines that abut other TPZ parcels, thereby creating a buffer between adjacent agricultural/timberland uses and the project site. In addition, since June 2008, the project has been under CEQA review, and a Mitigated Negative Declaration has prepared.

DISCUSSION OF ISSUES

TPZ – STATE STATUTES

As directed by the Board, staff has conducted further research on the State TPZ statutes. The California Timberland Productivity Act of 1982 (the "TPZ Act"), which governs the forest resources and timberlands of the State, is contained in Government Code section 51000--51155. The State regulates the conversion of land out of TPZ to alternate uses and sets forth criteria for doing so in the TPZ Act.

Residential Uses

Under the State's TPZ statutes, residential units are identified as a compatible use under TPZ and are allowed within TPZ areas; however, the regulation of the use is left to county and city jurisdictions. Section 51115 of the TPZ Act states that "Parcels zoned as timberland production shall be zoned as to restrict their use to growing and harvesting timber and to compatible uses". Compatible uses are defined in Section 51104(h) of the TPZ Act, which states that a "Compatible use is any use which does not significantly detract from the use of the property for, or inhibit, growing and harvesting timber, and shall include, but not be limited to, . . . (6) A residence or other structure necessary for the management of land zoned as timberland production" (See Exhibit G). Under the TPZ Act, the State does not provide for a distinction between the overall type or identification of residences that are allowed. For example, the Statute does not distinguish between single-family residential dwelling or caretaker and employee housing.

Under Placer County zoning regulations, caretaker and employee housing is an allowable use in the TPZ zoning district. Furthermore, while the use of caretaker or employee housing requires the approval of a Minor Use Permit in the County's TPZ zoning district, the size or scale of the housing is not regulated. Therefore, caretaker or employee housing can be constructed such that it has the appearance of a single-family residence. Because of this, it is staff's determination that Placer County is consistent with the State's TPZ statutes as it relates to the compatibility of residential units within TPZ areas.

Minimum Lot Sizes

The California Timberland Productivity Act initially allowed for smaller parcels to be included within the zoning district; however, a 160-acre minimum lot size has been established. Accordingly, there are TPZ-zoned parcels within the County that are less than 160 acres, most of which were likely converted to TPZ in 1982 under the Timber Productivity Act. Under Placer County Code, the minimum lot size standard under the TPZ zoning district is currently 160 acre minimum.

Section 51119.5 of TPZ Act states that "Parcels zoned as timberland production under this chapter may not be divided into parcels containing less than 160 acres unless the original owner prepares a joint timber management plan prepared or approved as to content by a registered professional forester for the parcels to be created". This Section further states that "The joint timber management plan shall provide for the management and harvesting of timber by the original and any subsequent

owners, and shall be recorded with the county recorder as a deed restriction on all newly created parcels..." (See Exhibit G).

TPZ – COUNTY REGULATIONS

Lands zoned TPZ within Placer County are regulated by Section 17.16.010 (Timberland Production – TPZ) of the Zoning Ordinance (See Exhibit F). As previously stated, the minimum lot size under the TPZ zoning district for "...each parcel proposed for development or a new land use, and each parcel proposed in a subdivision..." is 160-acres. Single-family residences are not allowed; however, caretaker and employee housing are allowed with the approval of a Minor Use Permit.

Caretaker and employee housing uses are regulated by Section 17.56.090 (Caretaker and Employee Housing) of the Zoning Ordinance (See Exhibit F). When applications for Minor Use Permit requests for caretaker or employee housing within the TPZ zoning districts are processed, staff is required to ensure that the requested uses meet the standards set forth within this Section. Section 17.56.090 (A)(1) states that caretaker and employee housing is required to meet specific criteria, including: "Caretaker housing shall be allowed only where the principal commercial, industrial, institutional, agricultural, or lumbering use of the site involves operations, equipment or other resources that require 24-hour oversight".

Therefore, it has typically been the policy of the Planning Commission to require forest management plans for projects where the applicant is requesting a use permit for a caretaker residence in order to provide 24-hour oversight of a forest management or timber production operation on parcels zoned TPZ. Historically, it has been the determination of the Placer County Zoning Administrator that under these circumstances, a forest management plan helps to provide staff with information regarding the overall character of the forest management or timber production use of the site, and helps to provide justification of a caretaker residence to provide 24-hour oversight of such an operation.

COMPARISON OF JURISDICTION REGULATIONS FOR TPZ

As directed by the Board, staff has also researched TPZ regulations and standards set forth by other counties within the State. Twenty-seven counties which contain areas of TPZ lands were selected (See Exhibit I).

Staff's research found that the minimum lot size allowed for TPZ under the other county zoning standards varies from 40 to 160 acres; however, the majority of the counties (59 percent) require a minimum lot size of 160 acres. As previously noted, the minimum lot size for the State TPZ areas is currently 160 acres; however the TPZ Act initially allowed all sizes of parcels. Therefore, it is possible that the zoning codes of the respective jurisdictions which require minimum lot sizes less than 160 acres have not been updated for consistency with Section 51119.5.

Research was also conducted on whether or not the selected counties allow for residential units within TPZ zoning districts (See Exhibit I). Staff's research found that majority (74 percent) of the counties allow for residential units (single-family dwellings). However, of the counties that allow for residential units, 30 percent require Planning Department review (Administrative Review, Use Permits, and Timber Management Plans). The remaining 26 percent of the counties surveyed allow for caretaker and employee housing on TPZ zoned parcels.

TPZ – TEN-YEAR ROLL OUT

TPZ property owners may elect, in any year, to rezone a parcel from its current TPZ zone to an alternate zoning district through a ten-year roll out process. This process is regulated by Sections 51120 and 51121 of the TPZ Act. (See Exhibit H) Under Section 51120(c), the State requires the approval by the County of a rezoning to an alternate zone district. If approved, the new zoning district becomes effective ten (10) years from the date of the approval. Accordingly, pursuant to Section 17.60.090 of the Placer County Zoning Ordinance, should the property owners desire to

pursue a request to rezone the subject properties to an alternate zone district under a ten (10) year roll out, they would be required to submit a rezoning application with the County. A 10-year roll out rezoning proposal would be subject to the California Environmental Quality Act and the Board of Supervisors may approve, modify or disapprove the rezoning request.

TPZ – IMMEDIATE REZONING/CONVERSION

In order for this project to go forward with an immediate rezoning of property from the TPZ district to an alternate zone district, The TPZ Act requires the approval of the State of California Board of Forestry and the local jurisdiction to make certain findings in order to recommend approval of the rezoning to the State Board of Forestry (see Exhibit D). Depending upon the circumstances, these findings include:

1. The conversion would be in the public interest.
2. The conversion would not have a substantial and unmitigated adverse effect upon the continued timber-growing use or open-space of other land zoned as timberland preserve and situated within one mile of the exterior boundary of the land upon which immediate rezoning is proposed.
3. The soils, slopes, and watershed conditions would be suitable for the uses proposed if the conversion is approved.
4. The immediate rezoning is not inconsistent with the purposes of subdivision (j) of Section 3 of Article XIII of the Constitution

Section 51134 also states "(t)he existence of an opportunity for an alternative use of the land shall not alone be sufficient reason for conditionally approving an application for conversion. Conversion shall be considered only if there is no proximate and suitable land which is not zoned as timberland production for the alternate use not permitted within a timberland production zone," and "(t)he uneconomic character of the existing use shall not be sufficient reason for the conditional approval of conversion. The uneconomic character of the existing use may be considered only if there is no other reasonable or comparable timber-growing use to which the land may be put."

MODIFIED PROJECT DESCRIPTION AND ENVIRONMENTAL ANALYSIS

The applicant has stated that they now intend to request, in the alternative, an immediate rezoning/conversion or a 10-year roll-out from Timberland Production Zone to Residential Forest, combining an 80-acre minimum lot size; and a modification to an approved Minor Land Division, which created a 3-lot tentative parcel map. The modification to the tentative parcel map is for the purpose of creating a 100' foot agricultural setback along the property lines that abut other Timberland Production Zone parcels, thereby creating a buffer between adjacent agricultural/timberland uses and the project site.

The modified project description has been under CEQA review since June, 2008, and a Mitigated Negative Declaration has been prepared for the project and circulated for review pursuant to CEQA. Should the Board desire, staff will present the modified project before the Agricultural Commission, the Weimar-Applegate-Colfax Municipal Advisory Council and the Planning Commission for further consideration, and return to the Board of Supervisors with the Planning Commission's recommendation on the modified project, as well as the Mitigated Negative Declaration prepared for the project.

CONCLUSION/STAFF DETERMINATION

While single-family residential units are not allowed in the County's TPZ zoning district, the use of caretaker or employee housing is allowed with the approval of a Minor Use Permit, and the size or scale of such housing is not regulated. Therefore, caretaker or employee housing can be constructed such that it has the appearance of a single-family residence. Because of this, it is staff's opinion that Placer County is consistent with the State's TPZ statutes as it relates to the compatibility

of residential units within TPZ areas. Accordingly, staff concludes that a modification to the County's TPZ zoning text to allow for single-family residences, is not necessary.

With regard to the applicant's modified project description to allow for a ten-year roll-out Rezoning of TPZ to Residential Forest combining an 80-acre minimum lot size, it is staff's determination that a rezoning to Residential Forest can be supported with a modified minimum lot-size from what is proposed. Specifically, a rezoning of the site (through the ten-year roll-out process) to Residential Forest with a minimum lot size of 160-acres can be supported by staff. The Residential Forest zoning district allows for timberland operation uses and management, and while it also allows for lot sizes of 80-acres, it is staff's determination that a larger minimum lot size of 160-acres would provide a higher level of land use compatibility with surrounding land uses and would be more appropriate for the site. This zone district and minimum lot size would allow for some residential development, while maintaining a minimum parcel size that is consistent with a lot size that the State has concluded is appropriate for timberland operations and management (160-acres). Therefore, the rezoning would result in lot sizes that would be more suitable for timberland operations and management, thus maintaining the overall characteristics and timberland harvest potential of the site and the surrounding land.

Staff is prepared to support the modified project description with the larger minimum lot size discussed above, and has concluded that the modified project description, along with staff's recommendation, should be considered by the County's advisory committees and the Planning Commission. Therefore, staff is seeking the Board's direction to present the modified project and staff's recommended modified project request to the Agricultural Commission, the Weimar-Applegate-Colfax Municipal Advisory Council and the Planning Commission for further consideration prior to returning to the Board of Supervisors.

RECOMMENDATION

Staff recommends that the Board of Supervisors take the following actions:

1. Direct staff to present the modified project including ten-year roll-out Rezoning of the TPZ site to Residential Forest combining a 160-acre minimum lot size before the Agricultural Commission, the Weimar-Applegate-Colfax Municipal Advisory Council and the Planning Commission for further consideration; and to return to the Board of Supervisors with the Planning Commission's recommendation on the modified project as well as the Mitigated Negative Declaration prepared for the project.
2. Should the Board of Supervisors desire to allow single-family residences within Timberland Production Zone districts (consistent with California Government Code Section 51110.1), direct staff to bring forward a Zoning Text Amendment to Section 17.16.010 of the Placer County Zoning Ordinance (TPZ allowed uses).

Respectfully submitted,



MICHAEL J. JOHNSON, AICP
Director of Community Development / Resource Agency

ATTACHMENTS:

- Exhibit A – Project Rezoning Exhibit
- Exhibit B – Existing Zoning Map
- Exhibit C – Vicinity Map
- Exhibit D – Copy of State Public Resources Code 4621.2
- Exhibit E – June 24, 2008 BOS Report
- Exhibit F – County Zoning Ordinance Standards
- Exhibit G – Copy of California Government Code Section 51100-51119.5
- Exhibit H – Copy of California Government Code Section 51120-51121
- Exhibit I – Jurisdictional TPZ Standards Matrix Summary

cc

Jack Remington - Applicant
Fred Basquin - Property Owner
Jed Parker - Property Owner

Copies Sent by Planning:

Rebecca Taber - Engineering and Surveying Division
Kil Keamy - Environmental Health Services
Yu-Shuo Chang - Air Pollution Control District
Vance Kimbrell - Parks Department
Christa Darlington - County Counsel
Scott Finley - County Counsel
Tom Miller - County Executive Officer
John Mann - CDRA Director
Crystal Jacobsen - Supervising Planner
Subject/chrono files

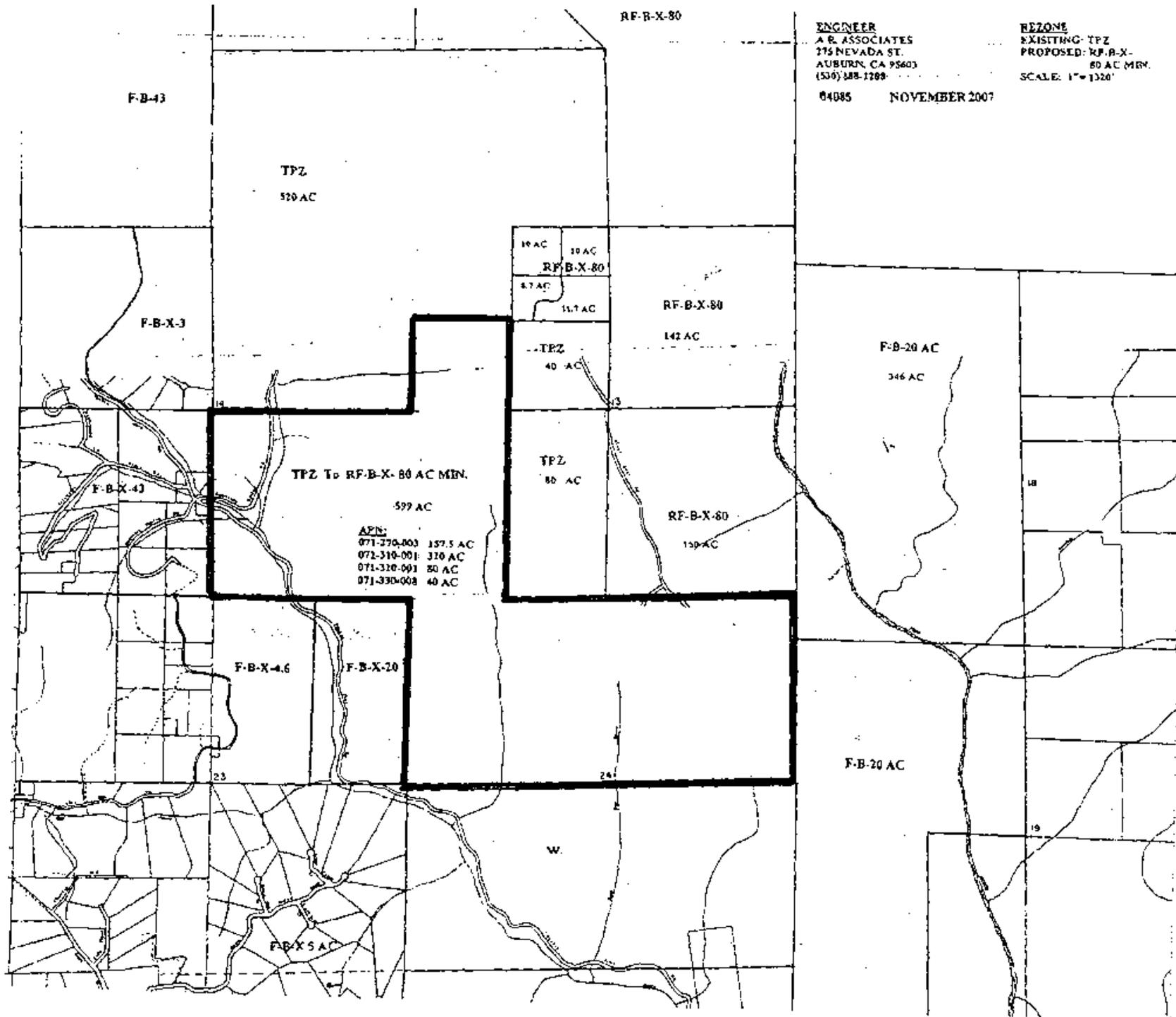
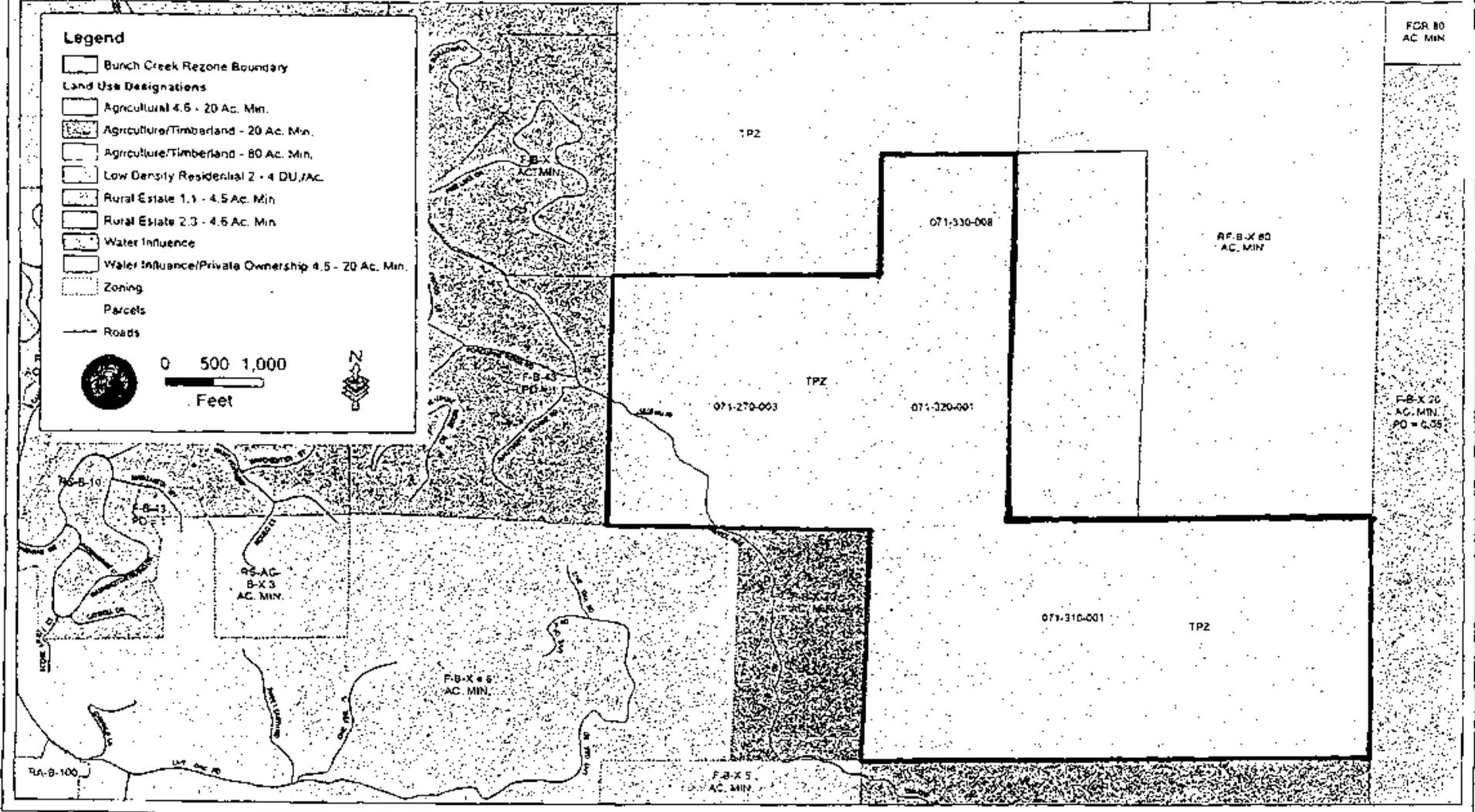


EXHIBIT A 49

Bunch Creek Rezone

May 10, 2007



FBR 80 AC. MIN.

FB-X 20 AC. MIN. PO = 0.35

TPZ

071-330-008

FB-X 80 AC. MIN.

071-270-003

TPZ

071-320-001

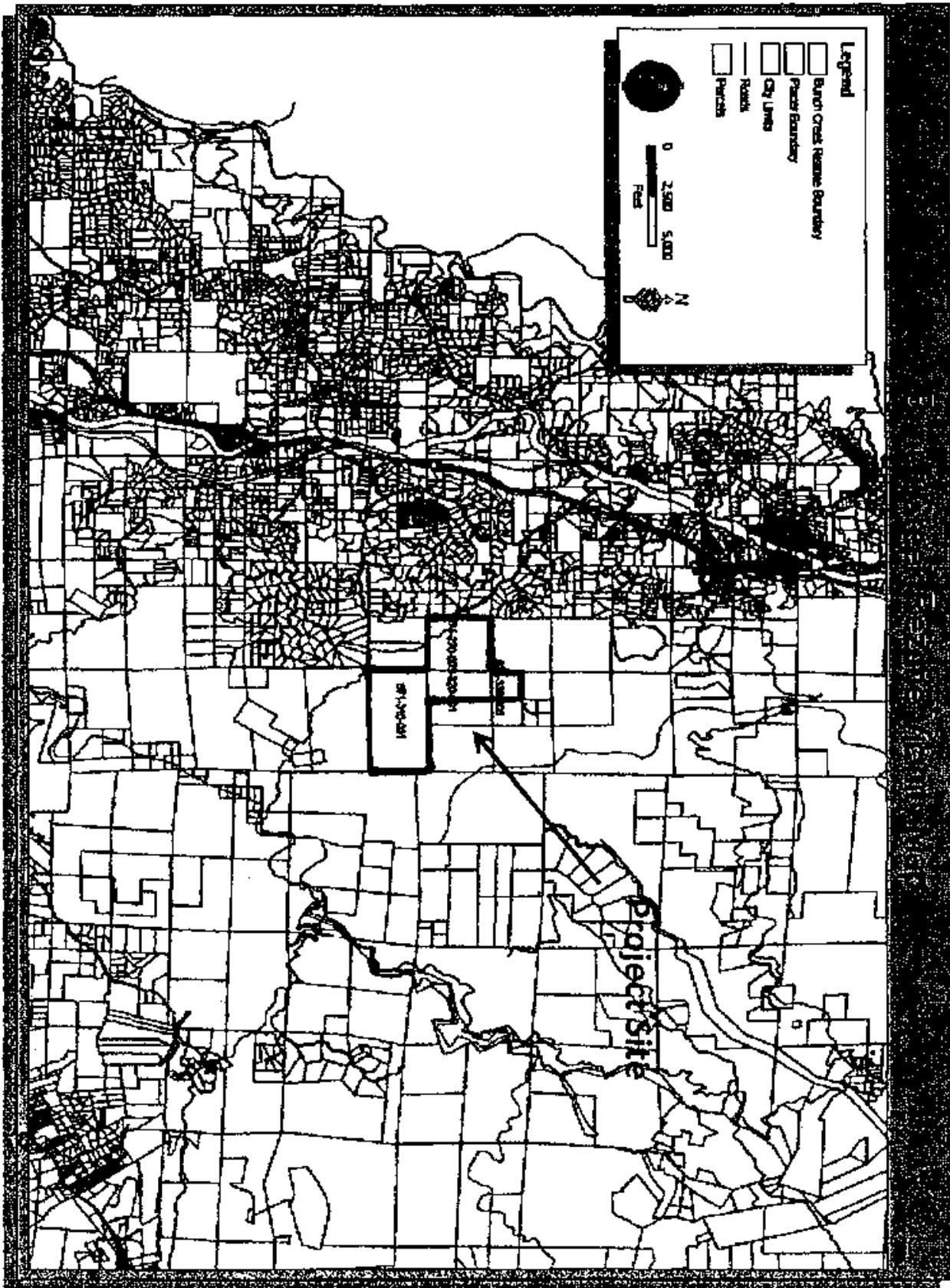
071-310-001

TPZ

FB-X 4.5 AC. MIN.

FB-X 5 AC. MIN.

RS-AC B-X 3 AC. MIN.



PUBLIC RESOURCES CODE

SECTION 4621-4628

4621. (a) Any person who owns timberlands which are to be devoted to uses other than the growing of timber shall file an application for conversion with the board. The board shall, by regulation, prescribe the procedures for, form, and content of, the application. An application for a timberland conversion permit shall be accompanied by an application fee, payable to the department, in an amount determined by the board pursuant to subdivision (b).

(b) The board shall establish, by regulation, a system of graduated timberland conversion permit fees to finance the cost of administering this article.

4621.2. (a) If the timberlands which are to be devoted to uses other than the growing of timber are zoned as timberland production zones under Section 51112 or 51113 of the Government Code, the application shall specify the proposed alternate use and shall include information the board determines necessary to evaluate the proposed alternate use. The board shall approve the application for conversion only if the board makes written findings that all of the following exist:

(1) The conversion would be in the public interest.

(2) The conversion would not have a substantial and unmitigated adverse effect upon the continued timber-growing use or open-space use of other land zoned as timberland preserve and situated within one mile of the exterior boundary of the land upon which immediate rezoning is proposed.

(3) The soils, slopes, and watershed conditions would be suitable for the uses proposed if the conversion were approved.

(b) The existence of an opportunity for an alternative use of the land shall not alone be sufficient reason for conditionally approving an application for conversion. Conversion shall be considered only if there is no proximate and suitable land which is not zoned as timberland production for the alternate use not permitted within a timberland production zone.

(c) The uneconomic character of the existing use shall not be sufficient reason for the conditional approval of conversion. The uneconomic character of the existing use may be considered only if there is no other reasonable or comparable timber-growing use to which the land may be put.

(d) In the event that the board delegates its responsibilities under this section to the director pursuant to Section 4627, the director shall make the written findings required by subdivision (a).

In the event that the director denies a conversion, the applicant may request a hearing before the board within 15 days of the denial. The hearing shall be scheduled within 60 days from the filing of the appeal.

4622. Approval of an application for conversion shall be conditioned upon the granting of the necessary rezoning or use permit if rezoning or a use permit is required. Except as provided in Section 4584, all timber shall be cut pursuant to an approved conversion pursuant to Section 4581, excluding requirements for stocking and methods of silviculture, except that the timber harvesting plan required by that section need not be prepared by a registered professional forester, and no timber operations shall commence until the granting of such rezoning or use permit as may be required and until the timberland conversion permit is recorded in the county recorder's office in each county wherein the timberland to be converted is located.

4623. The application shall be accompanied by an affidavit by the applicant that the applicant has a present bona fide intent to convert the land to a use other than timber growing. The board may require such additional proof of intent to convert as it deems necessary.

4624. The board shall deny a timberland conversion permit for any of the following reasons:

- (a) The applicant is not the real person in interest.
- (b) Material misrepresentation or false statement in the application.
- (c) The applicant does not have a bona fide intention to convert the land.
- (d) The failure or refusal of the applicant to comply with the rules and regulations of the board and the provisions of this chapter.
- (e) The failure of the proposed alternate use in the application to meet the findings required in subdivision (a) of Section 4621.2 and other provisions of that section.

4624.5. A person whose application for a timberland conversion permit has been denied shall be entitled to a hearing before the board pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

4625. If the board finds the applicant does have a bona fide intention to convert the land, it shall approve the application, authorizing the applicant to cut and remove any and all trees, provided that he otherwise complies with this chapter.

4626. If at any time the board finds that the applicant has failed to conform to the intent to convert, as set forth in the application and proof, the board may revoke the permit and require full compliance with this chapter. Any permit revocation shall be recorded in the same manner as the original permit.

4627. The board may, by regulation, delegate its authority and responsibilities under this article to the director if it determines that the director can more efficiently exercise such authority and carry out such responsibilities.

4628. (a) Notwithstanding any provision of this article or of Section 4581, no public agency shall be required to submit a timber harvesting plan or file an application for conversion with the board where the purpose of its timber operations is to construct or maintain a right-of-way on its own or on any other public property.

(b) Removal of trees for subdivision development, except on lands zoned as a timberland production zone pursuant to Section 51112 or 51113 of, and as defined in subdivision (g) of Section 51104, of the Government Code, where the subdivision has had a tentative subdivision map approved and a subdivision use permit granted by the city or county having jurisdiction, may be exempted by regulation from the provisions of this article, if the exemption is consistent with the purposes of this chapter.



COUNTY OF PLACER
Community Development Resource Agency

John Marin, Agency Director

PLANNING

Michael J. Johnson
Planning Director

MEMORANDUM

TO: Honorable Board of Supervisors
FROM: Michael J. Johnson, Director
Planning Department, Community Development Resource Agency
DATE: June 24, 2008
SUBJECT: REZONE – BUNCH CREEK TIMBERLAND PRODUCTION ZONE PROPERTY
(PREAT20060521)

ACTION REQUESTED

The Board of Supervisors is being asked to consider a request from Jack Remington on behalf of Fred Basquin and Jed Parker, for the immediate rezone and conversion of the 598-acre Bunch Creek property from TPZ (Timberland Production Zone) to RF-B-X-80 Acre minimum (Residential Forest, Combining 80-acre Minimum Lot Size).

BACKGROUND

Project Site

The project site (APN 071-270-003, 071-310-001, 071-320-001, and 071-330-008) is located near Yankee Jim Road, one mile east of Canyon Way in the Colfax area. The project site is undeveloped, and elevations on the property range from approximately 1600 feet above sea level to just over 2,600 feet. The property is bisected by three generally north-to-south flowing watercourses, with the majority of the site falling within the drainages of three tributaries of Bunch Creek, which flows through a western corner of the site and into the North Fork American River about 2.3 miles southeast of the property.

Nearly 70 percent of the property was burned in the 2001 Ponderosa wildfire, while the remaining 30 percent was left unburned. The unburned portion is located in the northwestern area of the site. This area is characterized as a young Douglas-fir/Oak forest on north facing slopes, an Oak woodland on ridge tops and south facing slopes, and scrub oak brushland on low elevation canyon slopes. Along the watercourses and ravines, riparian forest of willow and alder trees exist.

In the burned area of the site, nature has produced new vegetation in almost the entire burn area. This vegetation is dominated by resprouting of hardwoods and brush stumps, as well as grasses and forbs.

According to the Forest Management Plan, the soils found on the property can typically support mixed forests of hardwoods and conifers, mainly California Black Oak and Interior Live oak hardwoods, and Ponderosa pine, Douglas-fir and Foothill pine for conifers. The very highest elevations of the property can support Sugar pines. The site also supports and contains open annual grasslands and scrub oak and brushfields.

EXHIBIT E

The purpose of the TPZ zone district is to encourage prudent and responsible forest resource management and the continued use of timberlands for the production of timber products and compatible uses. The zone was established in conformance with the Forest Taxation Reform Act of 1976 (California Government Code Section 51100 et seq.). The TPZ district is intended to be an exclusive area for the growing and harvesting of timber and those uses that are an integral part of a timber management operation. The TPZ district replaced the use of the Williamson Act contracts on timberland and functions in much the same way as the Williamson Act. The subject property can "roll out" of the TPZ program as done under the Williamson Act, during a ten-year period. Also, under the TPZ zoning district, the subject property cannot be developed with residential single-family uses and is required to maintain a 160-acre minimum lot size.

According to a Forest Management Plan prepared March 27, 2006 by Douglas Ferrier (RPF No. 1672) for the project (see Exhibit D), the subject property has been previously utilized for timberland production. The Plan notes that from the mid 1940s to the mid 1970s the site was managed as a tree farm, with associated tree improvement practices, and with the likely occurrence of small harvests. In 1994, a Timber Harvest Plan from the State of California (2-94-29-PLA (3)) was approved, and the subject property was logged within three years. Following the logging, approximately 379 acres of the property were completely burned from the August 2001 Ponderosa Wildfire. Another 21 acres was partially burned, and the remaining 198 acres of the property was not burned. No attempts have been made to reforest the subject property since the 2001 Ponderosa Wildfire.

In June 2005, the property owners were granted approval of a Minor Land Division (PMLDT20050487), which resulted in three parcels (one 277.5 acre parcel, and two 160-acre parcels). To date, the Parcel Map for the Minor Land Division has not been recorded. The Tentative Parcel Map will expire on June 29, 2008.

In 2006, the property owners applied for a Minor Use Permit (MUP) for a caretaker's residence on the subject property. Under the TPZ zone district, a caretaker's residence is allowed with the approval of a Minor Use Permit. The proposed Minor Use Permit for the caretaker's residence was denied at a May 18, 2006 Placer County Zoning Administrator hearing. The denial was based on the fact that there were no timber harvesting operations on the subject property which would warrant the need for a 24-hour caretaker to reside on the premises.

In January 2007, the applicant applied for a rezone of the subject property. The request to rezone the property from Timberland Production Zone to Residential Forest zoning would allow the property owners to develop the property with residential uses which are not otherwise allowed under the existing zoning district. Moreover, under the Residential Forest zoning district with a combining 80-acre minimum lot size as proposed, the three subject parcels as created through the 2005 Minor Land Division, could be further subdivided, with the potential of creating four new parcels, resulting in a total of seven parcels.

Project Description

The project includes a proposal to rezone the subject property from TPZ (Timberland Production) to RF-BX-80 Acre Minimum (Residential Forest, combining an 80-acre minimum lot size). The project site currently consists of one 597.5-acre parcel, which includes four Assessor Parcel Numbers (071-270-003, 071-310-001, 071-320-001, and 071-330-008). However, as noted above, a Minor Land Division (PMLDT20050487) was approved in June 2005 which resulted in the creation of two new parcels, totaling three. The three resulting parcels include a 277.5 acre parcel and two 160-acre parcels. The applicant's requested rezone, if approved, would result in the potential for a total of seven residential parcels.

In order for this project to go forward (with an immediate rezoning of property from the TPZ district to an alternate zone district), State of California Government Code Section 51133 requires the approval of the State of California Board of Forestry and requires local jurisdictions to make specific findings in

order to recommend approval of the rezoning to the State Board of Forestry (see Exhibit F). Pursuant to California Public Resources Code Section 4621.2, the following findings must be made by the Board of Supervisors:

1. The conversion would be in the public interest.
2. The conversion would not have a substantial and unmitigated adverse effect upon the continued timber-growing use or open-space of other land zoned as timberland preserve and situated within one mile of the exterior boundary of the land upon which immediate rezoning is proposed.
3. The soils, slopes, and watershed conditions would be suitable for the uses proposed if the conversion is approved.

This code section further provides that: "(b) The existence of an opportunity for an alternative use of the land shall not alone be sufficient reason for conditionally approving an application for conversion. Conversion shall be considered only if there is no proximate and suitable land which is not zoned as timberland production for the alternate use not permitted within a timberland production zone; (c) The uneconomic character of the existing use shall not be sufficient reason for the conditional approval of conversion. The uneconomic character of the existing use may be considered only if there is no other reasonable or comparable timber-growing use to which the land may be put."

According to the applicant, the following provides their justification for the support of the rezone:

- The site was harvested for marketable timber in 1990 by the previous owners
- Approximately two-thirds of the 597 acres was burned in August 2001 during the Ponderosa fire
- Following the Ponderosa fire, a salvage timber harvest permit was obtained and additional timber was removed
- The previous owner, who sold the property in 2004, made no attempt to reforest the site after the timber salvage operation
- The current owners have a Forest Management Plan prepared in March 2006 that showed that the property had been jointly owned by two families. The original overall property (1,120 acres) was split into two separate ownerships and placed in the timber production zoning for tax purposes
- The Federal Soil Conservation Service in 1980 published the Soils of Western Placer County. The maps show the property as having soils that are generally shallow in depth, moderate to well-drained, slow to moderate permeability and only fair effective rooting depths. Overall site quality is poor, with conifers only estimated to reach 95 feet in 100 years of growth. The property to the north is also zoned TPZ, but has slightly better soil and growing conditions.
- The current TPZ designation does not permit a permanent on-site owner resident to have a residence. The proposed rezone would allow a smaller parcel (80 acres) with a permanent residence and the ability to manage the entire 80-acre parcel for fire hazard reduction and potential timber replanting on a smaller scale timber company operation.

ACTION OF THE PLANNING COMMISSION

On April 24, 2008, the Planning Commission adopted a motion (5-1, with Commissioner Stafford voting against the motion and Commissioner Farinha absent) recommending that the Board of Supervisors deny the requested Rezone. In making its recommendation, a majority of the Planning Commission concluded the property was in fact suitable for timber production and that the request was contrary to the purpose of the Timberland Production Zone district, which is to preserve lands suitable for timberland production and related uses.

DISCUSSION OF ISSUES

General Plan/Zoning Consistency

The Placer County General Plan land use designation for the subject property is Agricultural/Timberland, 80-acre minimum. Under this land use designation, agricultural and timberland production are the primary uses identified; however, single-family residences can also be constructed. The project proposes to rezone the site from Timberland Production to Residential Forest, combining an 80-acre minimum lot size. Under the Residential Forest zone district, residential uses, as well as forestry and agricultural uses, are allowed. Because of this, the request for a rezone of the property to Residential Forest with an 80-acre minimum lot size is consistent with the Placer County General Plan.

However, properties within the Timberland Production Zone District are intended to be an exclusive area for the growing and harvesting of timber, and those uses that are an integral part of timber management. As noted above, the purpose of the Timberland Production Zone District is to encourage prudent and responsible forest resource management and the continued use of timberlands for the production of timber products and compatible uses. Because of this, the rezoning of the site to the Residential Forest Zone District will result in the conversion of designated farmable timberlands, and conflicts with the intent of the Timberland Production Zone District.

Consistency with Surrounding Zone Districts

The project is bounded on the south, west and portions of the east by zone districts that allow residential uses (see Exhibit B for existing zoning map). Such districts include Farm, with minimum lot sizes ranging from one to 20 acres. Under the Farm zone district, residential uses are allowed in addition to agricultural and forestry uses.

The project is also bounded on the north and portions of the east by Timberland Production and Residential Forest zone districts. Both of these zone districts allow for agricultural and forestry uses; however while the Timberland Production zone district does not allow for residential uses, the Residential Forest zone district does.

While the proposed rezoning to allow for a Residential Forest zone district with a minimum lot size of 80 acres is consistent with the zone districts to the south, west and portions of the east, the proposed rezoning is not consistent with the remaining Timberland Production zone district located to the north and east. Specifically, the proposed rezone would result in the fracture of the existing TPZ zone district, creating a "pocket" or "island" of TPZ property located to the east of the project site. Therefore, as a result of the proposed rezoning this area of the existing TPZ zone district would not remain connected to other areas of the TPZ zone district (the proposed rezoning would split the existing TPZ zone district in two).

Consistency with Required State Findings

As noted above, an immediate rezoning of TPZ property requires approval of the California State Board of Forestry, and approval can only be granted if specific findings can be made. These findings are contained within California Public Resources Code Section 4621.2 and have been outlined above (see Exhibit F).

The applicant has noted that the Forest Management Plan prepared for the project outlines the justification for the rezone. The Plan indicates that because of previous logging during the years of 1994 to 1997, as well as the destruction of the 2001 Ponderosa Wildfire, most of the site does not meet the minimum tree stocking levels of the State Forest Practice Act, and will not for many years unless the site is reforested. Therefore, the applicant contends there is no near term expectation for a commercial harvest of timber on the site. The report notes that if the site were reforested, it would take substantial investments, yielding no immediate economic return; rather there would be an annual outflow of money. It would take up to 50 to 60 years before a commercial harvest could be conducted. The report suggests that because this, and given the naturally occurring poor growing

conditions on this specific site (poor soils, steep slopes, and dense brush vegetation), reforesting the site and conducting timber harvest operations on-site does not make economic sense.

The applicant has also provided written findings for justification of the immediate rezoning (see Exhibit E). In summary, Applicant's findings state that the proposed immediate rezoning is consistent with the required State findings because:

1. The site was burned in the Ponderosa Wildfire and there would be high costs associated in rehabilitating the site. Subsequently, commercial timber management is considered unlikely and therefore, the property should no longer enjoy preferential tax treatment; and
2. a) The proposed immediate rezoning is in the public interest in that the alternative residential use would reduce the fire hazard risk to the Colfax community, given that there would be active fire management strategies in place,
b) the project would not have an adverse impact to California's timber supply capability, given the lack of timber on site, and because it is unlikely that anyone will make the economic investment necessary to restore active commercial timber management, and
c) The current site conditions do not support commercial timber management and "accordingly there are no other known non-TPZ sites which would be superior to the subject property in terms of the proposed uses and potential impacts to timber resources".

The Planning Commission considered the information above, and upon review of required State findings, determined that the proposed rezone is not consistent with the State's requirements for an immediate conversion of TPZ property. Specifically, the Planning Commission determined that the conversion is not consistent with the findings that pertain to the economic character of the use, existing opportunities for alternative uses, and public interest. An analysis of this determination is described below:

Economic Character of Existing Use

California Public Resources Code Section 4621.2(c) states that "The uneconomic character of the existing use shall not be sufficient reason for the conditional approval of conversion. The uneconomic character of the existing use may be considered only if there is no other reasonable or comparable timber-growing use which the land may be put." Although the Forest Management Plan prepared for the project notes that significant amounts of money would have to be spent on the property to generate some future economic value of the site, the Planning Commission determined that the land is still suitable for reasonable timber-growing uses. This is evidenced by the existing forested area in the northeastern portion of the property, the forest regrowth occurring on the remainder of the burned areas on site, and the existence of nearby or neighboring timber harvest operations and forestry uses. Furthermore, the Forest Management Plan notes that the soil types found on site can support mixed forests of hardwoods and conifers, but that work would need to be done to rehabilitate the site.

Existence of Opportunity for Alternate Use

California Public Resources Code Section 4621.2(b) states that "The existence of an opportunity for an alternative use of the land shall not alone be sufficient reason for conditionally approving an application for conversion. Conversion shall be considered only if there is no proximate suitable land which is not zoned as timberland production for the alternate use not permitted within a timberland production zone." The proposed rezone request is for Residential Forest which will allow for residential uses. The Planning Commission determined that there are other suitable lands nearby which are also zoned for residential uses. The properties to the south and west are zoned Farm which allow for residential development. These surrounding zone districts allow for residential lot sizes ranging from one to 20 acres.

Public Interest

California Public Resources Code Section 4621.2(a)(1) states that in order to approve an immediate conversion or rezoning of TPZ land, "The conversion would be in the public interest." The Planning Commission determined that the applicant's request for an immediate rezoning is not in the public interest. This is evidenced by comments received from California Department of Forestry and Fire Protection (Cal Fire) regarding the proposed rezoning (see correspondence in Exhibit G). According to Cal Fire, once TPZ zoning is converted to residential zoning, an increased fire hazard is likely to occur following the future residential development of the property. The Forest Management Plan prepared for the project notes that there may be a benefit by splitting the land into smaller sized parcels, given that the smaller lots would be easier to manage from a fire hazard perspective. However, the Plan does not indicate that the management of smaller parcels would be more effective if they were residentially owned and maintained. It was the Planning Commission's conclusion that the introduction of residential uses would result in an increased fire hazard, given that residential homeowner activities have the potential to begin forest fires (i.e., lawn mowing, slash burning, outdoor barbecuing), and because there would be the potential neglect of adequate forest management of the site. Because of this, the Planning Commission concluded that there would be a greater risk of public safety in the surrounding area, and the request to rezone the property and convert the site to residential uses is not in the best interest of the public.

Land Use Compatibility

Since the project includes the rezoning of the Timberland Production Zone District to Residential Forest, the project would likely result in the conversion of farmable timberlands to residential uses, and may result in subsequent conflicts with surrounding timberland management and production uses. In addition, the conversion of such farmable timberlands may result in the increased potential for further conversion of surrounding farmable timberlands, given that the rezoning of the subject parcels result in the reduction of the Timberland Production Zone District within the area, leaving small islands of the zone district intact. Because of the potential land use conflicts associated with residential uses and timberland management and production, adjoining parcels also zoned Timberland Production may encounter difficulties maintaining their timber harvest operations, which may result in the further reduction or conversion of farmable timberlands.

WEIMAR-APPLEGATE-COLFAX MUNICIPAL ADVISORY COUNCIL

This project was presented before the Weimar-Applegate-Colfax Municipal Advisory Council (WACMAC) as an information item on February 20, 2008. At that meeting, members of the public provided testimony in opposition to the proposed rezoning of the property. The concerns raised were related to land use compatibility and increased fire hazard resulting from the project. A representative from Cal Fire also noted concern regarding the effects that conversions of TPZ land have on forest management, as well as the potential fire hazards resulting from the introduction of residential uses to an otherwise wildland area.

The project was presented before the WACMAC again on March 19, 2008 as an action item. After a lengthy discussion about the project and after hearing public testimony in opposition to the project, the Council voted 3-1 in favor of the rezone request (Council member Marilyn Tausch excused herself due to a conflict of interest and Council member Kurt Sandhoff voted in opposition to the requested rezone). The Council's basis for support of the rezone was with regard to the property owners' inability to utilize the land.

AGRICULTURAL COMMISSION

This project was presented before the Placer County Agricultural Commission on April 14, 2008 as an action item. At the meeting, members of the public provided testimony in opposition to and in support of the proposed project. Those in opposition, raised concerns related to how an immediate rezoning of TPZ property and conversion of timberlands would set a precedent for future residential developers, in that designated TPZ sites could be purchased inexpensively for the purposes of immediate conversion to residential uses. Those in support of the project noted that the property does not hold

timberland or agricultural value and therefore would be more suitable as residentially zoned property. After hearing testimony and discussing the merits of the project, the Commission voted 8-0 in opposition to the proposed project. The basis for the Commission's opposition was with regard to the importance of maintaining designated timberland areas for the potential purpose of the production of timber products and compatible uses.

ENVIRONMENTAL ANALYSIS

The project proposes the immediate rezoning of three parcels totaling 597.5 acres from Timberland Production Zone to Residential Forest. A Mitigated Negative Declaration was initially prepared for the project and circulated for public review pursuant to CEQA. However, after receiving substantial new information from the review (concerns regarding fire hazard, public safety, and impacts to view sheds of the North Fork American River, as well as the potential for archeological sites and biological resources on the property), the staff determined that the Mitigated Negative Declaration as prepared would not be adequate to use for approval of the project.

Staff has concluded that because of the new information received during the public CEQA review for the project, further studies (archeological, biological, public safety and visual impact studies) would be required to be conducted for an environmental document for the project. Given the probable substantial costs associated with such additional studies, and given the lack of necessary findings to support the project, staff determined it was appropriate to bring the project forward without completion of the environmental document.

Should the Board of Supervisors determine the project warrants further consideration, the project will be remanded back to staff for completion of the environmental review process.

RECOMMENDATION

Staff brings forward the Planning Commission's recommendation that the Board of Supervisors deny the requested Rezoning, subject to the following findings.

FINDINGS

CEQA:

The proposed action to deny the project is exempt from CEQA pursuant to Public Resources Code Section 21080(b)(5) ("Projects which a public agency rejects or disapproves").

Rezone:

1. The project is not consistent with the standards set forth in the California Government Code Section 51133 (Immediate Rezoning), or the California Public Resources Code Section 4621.2 (Immediate Rezoning), in that the land is still suitable for reasonable timber-growing uses, there are other suitable lands nearby which are also zoned for residential uses, and because the proposed rezone is not in the public interest.
2. The proposed rezone could have a negative impact on adjacent Timberland Production Zones and existing timberland uses.
3. The proposed lot sizes are not consistent with the existing TPZ zoning, which limits lot sizes to 160 acres or greater.
4. The proposed use is not consistent with the existing zoning. The purpose of the existing zoning (Timberland Production Zone District) is to encourage prudent and responsible forest resource management and the continued use of timberlands for the production of timber products and compatible uses. The rezoning of the site to a residential zone district would

result in the introduction of residential uses on site, and the otherwise fragmentation of the existing TPZ zone district and timberlands.

Respectfully submitted,

MICHAEL J. JOHNSON, AICP
Planning Director

ATTACHMENTS:

- Exhibit A – Rezoning Exhibit
- Exhibit B – Existing Zoning Map
- Exhibit C – Vicinity Map
- Exhibit D – Forest Management Plan
- Exhibit E – Findings and Justification Submitted by Applicant
- Exhibit F – Copy of State Public Resources Code 4621.2
- Exhibit G – Correspondence Received

cc Jack Remington - Applicant

Copies Sent by Planning:

- Rebecca Taber – Engineering and Surveying Division
- Grant Miller – Environmental Health Services
- Yu-Shuo Chang – Air Pollution Control District
- Vance Kimbrell – Parks Department
- Christa Darlington - County Counsel
- Scott Finley – County Counsel
- Tom Miller – County Executive Officer
- John Marin – CDRA Director
- Crystal Jacobsen – Supervising Planner
- Subject/chrono files

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Article 17.16 - TIMBERLAND PRODUCTION (TPZ) DISTRICT

Section 17.16.010 Timberland Production (TPZ)**A. Purpose and Intent.**

1. It is the purpose of the Timberland Production Zone District (TPZ) to encourage prudent and responsible forest resource management and the continued use of timberlands for the production of timber products and compatible uses. The zone is established in conformance with the Forest Taxation Reform Act of 1976 (California Government Code Section 51100 et seq.).
2. The TPZ district is intended to be an exclusive area for the growing and harvesting of timber and those uses that are an integral part of a timber management operation. The TPZ district replaces the use of Williamson Act contracts on timberland. Land use under a TPZ will be restricted for a minimum of ten (10) years to growing and harvesting timber, and to compatible uses as allowed by subsection D of this section. Such zoning generally allows land to be valued for property taxation on the basis of its use for growing and harvesting timber only, and such timber is exempt from ad valorem taxation; however, a yield tax will be imposed at such time as the timber is harvested.

B. State Law Requirements. In addition to the provisions of this section, the requirements of California Government Code Section 51100 et seq. shall also apply to all timberland production zones**C. Requirements for Establishment of Timberland Production Zoning.** Owners of timberland not included on state Lists A or B (California Government Code Section 51110 and Section 51110.1, respectively) may request rezoning of property to the TPZ district as follows, and as provided in Section 17.60.090 (Ordinance amendments and rezonings):

1. **Application.** In addition to the application required for rezonings by Section 17.60.090, a petition for rezoning to TPZ shall also include the following:
 - a. A map showing the legal description(s) or the assessor's parcel number(s) of the property to be rezoned;
 - b. A forest management plan, which shall be prepared or approved as to content by a California-registered professional forester. The forest management plan shall include discussion and recommendations on at least the following:
 - i. A history of past commercial harvesting operations and recommendations for future operations;
 - ii. Provisions for legal and physical access to the property to enable commercial operations;
 - iii. Disease or insect control work;
 - iv. Thinning, slash disposal, pruning and other appropriate silvicultural work;
 - v. A fire protection plan including a fuel management program;
 - vi. Erosion control on existing roads and skid trails and maintenance of existing roads;
 - vii. Planting of a significant portion of the understocked areas of land;

- viii. Whether the parcel currently meets the timber stocking standards in Public Resources Code Section 4561 and the board of forestry forest practice rules for the district where the parcel is located and, if not, whether the parcel can meet such standards within five years.

The forest management plan shall also include a map showing all parcels proposed to be within the TPZ rezoning, together with their assessor's parcel numbers, and the site quality classes (I - V, as defined in California Public Resources Code Section 4528 and Section 4551, and California Revenue and Taxation Code Section 434 et seq.) and acreage in each class.

2. **Criteria for Approval of Rezoning.** The Board of Supervisors shall not approve a rezoning to the TPZ district unless the following criteria are met, in addition to all other applicable provisions of this section:
 - a. The land to be rezoned shall be of site quality class Site V or higher.
 - b. The parcel shall currently meet the timber stocking standards and forest practice rules referenced in California Government Code Section 51113, or the Board of Supervisors shall be satisfied that the parcel will meet such requirements by the fifth anniversary of the effective date of the ordinance that changes the zoning of the parcel to the TPZ zone district.
 - c. The property owner shall execute an agreement with the County that the parcel will meet the timber stocking standards and forest practice rules referenced in subsection (C)(2)(a) of this section, above, by the fifth anniversary of the effective date of the ordinance that changes the zoning of the parcel to the TPZ zone district.
 - d. The Board of Supervisors shall approve the forest management plan.
 3. **Recorded Notice.** Within ten (10) days after the adoption of an ordinance to either rezone property to the TPZ zone district, or from the TPZ district to another zone district, the clerk of the Board of Supervisors shall cause a notice of adoption, including the effective date of the ordinance, a map, and assessor's parcel numbers of the affected parcels, to be recorded by the County recorder. However, failure to comply with this requirement shall not affect the validity of the ordinance nor of any proceeding taken in reliance on the ordinance.
 4. **Effective Date of Rezoning From TPZ.** When the Board of Supervisors adopts a rezoning of property from TPZ to another zone district, the TPZ zoning shall remain effective and applicable to the subject property for a minimum of ten (10) years from the date of adoption of the ordinance rezoning the property. Except that when an ordinance is adopted pursuant to the immediate rezoning provision of California Government Code Section 51130 et seq., the effective date shall be as required by state law governing the adoption of an ordinance changing the boundaries of a zoning district.
- D. **Allowable Land Uses and Permit Requirements.** The following land uses are allowed in the TPZ zone as provided by Section 17.06.050 (Land use and permit tables).

CHAPTER 17: PLANNING AND ZONING

Timberland Production (TPZ)

17.16.010

ALLOWABLE LAND USES	LAND USE PERMIT	SPECIFIC STANDARDS IN SECTION
Agricultural, Resource and Open Space Uses		
Agricultural accessory structures	C	17.56.020
Agricultural processing	MUP	
Animal raising and keeping	See Section 17.56.050	
Crop production	A	
Equestrian facilities	See Section 17.56.050	
Fisheries and game preserves	A	
Forestry	A	
Grazing	A	17.04.030
Mining, surface and subsurface	CUP	17.56.270
Oil and gas wells	CUP	
Plant production nurseries	See Section 17.56.165	
Manufacturing and Processing Uses		
Lumber and wood products	CUP	
Paper products	CUP	
Water extraction and storage (commercial)	CUP	
Recreation, Education and Public Assembly Uses		
Campgrounds	MUP	17.56.080
Camping, incidental	A	17.56.080
Rural recreation	MUP	
Temporary events	MUP	17.56.300
Residential Uses		
Caretaker and employee housing	MUP	17.56.090
Home occupations	C	17.56.120
Temporary dwelling	C	17.56.280
Service Uses		
Offices, temporary	C	17.56.030
Storage, accessory	A	17.56.250
Storage of petroleum products for on-site use	C	17.56.250
Transportation and Communications		
Airfields and landing strips	CUP	17.56.040
Antennas, communications facilities	See Section 17.56.060	
Heliports	CUP	17.56.040
Pipelines and transmission lines	A	

KEY TO PERMIT REQUIREMENTS

Allowed use, zoning compliance required (17.06.050)	A
Zoning clearance required (17.06.050)	C
Minor use permit required (17.06.050)	MUP
Conditional use permit required (17.06.050)	CUP
Administrative review permit (17.06.050)	ARP

CHAPTER 17: PLANNING AND ZONING

Timberland Production (TPZ)

17.16.010

- E. Minimum Parcel Size.** Each parcel proposed for development or a new land use, and each new parcel proposed in a subdivision shall comply with the following provisions and Section 17.54.040 (Minimum parcel size). New parcels proposed in a subdivision shall also satisfy all applicable provisions of Chapter 16 of this code (Subdivisions).
1. **Minimum Lot Area.** One hundred sixty (160) acres, unless a -B combining district (Section 17.52.040) applies to the site, or a greater area is required by the Health Department, or the provisions of Subchapter 15 (Specific Use Requirements) for a particular land use.
 2. **Minimum Lot Width.** One-fourth of the lot length. Other minimum lot widths may be required by a -B combining district (Section 17.52.040) applicable to the site.
- F. Site Development Standards.** The following requirements shall apply to all new development in the TPZ zone, except where otherwise provided by Articles 17.54 (General Development Standards) or 17.56 (Specific Use Requirements) for a particular use or situation. Proposed buildings and structures shall be designed and constructed to satisfy the following setback, site coverage, and height limit requirements:

Development Feature	Requirement
Setbacks (1)	
Front (2)	50 feet minimum
Side (3)	30 feet minimum
Rear (3)	30 feet minimum
Site coverage (4)	2 percent maximum
Height limit	25 feet maximum (5)

- (1) Additional requirements for setbacks from watercourses and certain roads, setbacks between structures on the same site, and setbacks in other situations are established by Section 17.54.140 (Exceptions to front, side and rear setbacks) and by Article 17.56 for certain specific land uses.
- (2) Where any abutting road right-of-way is less than fifty (50) feet wide, add twenty-five (25) feet to the front setback, measured from the center of the traveled way. However, the distance from a structure to the edge of the road right-of-way shall not be less than the front setback required in the zone district.
 - (a) Up to 50% reduction in the required setback may be granted subject to Section 17.60.105(A)(1) (Administrative Approvals-Relief from Standards).
- (3) As required by the California Board of Forestry Fire Safe regulations, Section 1276.01, Title 14, California Code of Regulations.
- (4) The percentage of total site area that may be covered by buildings or structures.
- (5) Except as otherwise provided by Section 17.54.020 (Height limits and exceptions), or by Article 17.56 for a specific use, or by Section 17.60.105(A)(1) (Administrative Approval-Relief of Standards).

(ZO § 5.160)

65

17.56.090 Caretaker and Employee Housing

When allowed by Sections 17.06.050 et seq., (Allowable land uses and permit requirements) in the applicable zone, caretaker and employee housing is subject to the requirements of this section. [Note: Except as provided by Subsection F, caretaker and employee housing shall consist of permanent-type construction.]

- A. **Eligibility.** Caretaker and employee housing may be established on the site of another use only as follows:
1. **Caretaker Housing.** Caretaker housing shall be allowed only where the principal commercial, industrial, institutional, agricultural or lumbering use of the site involves operations, equipment or other resources that require twenty-four (24) hour oversight.
 2. **Employee Housing.** Employee housing (including farm labor housing) shall be allowed where the site would otherwise qualify for caretaker housing as provided by Subsection (A)(1), and where the subject business, operation or institution proposing employee housing is in a location where other housing is unavailable or infeasible, or in any other situation where the Planning Director determines that employee housing would reduce vehicle trips and/or increase the viability of an agricultural operation.
- B. **Status of Occupants.** At least one of the occupants of a caretaker or employee housing unit shall be a full-time employee of the business, operation or institution that qualifies for caretaker or employee housing pursuant to this section.
- C. **Location of Housing Unit.** An allowed caretaker or employee housing unit shall be located on the same lot as the principal use needing the housing, as follows:
1. **Commercial or Industrial Zones.** Within commercial or industrial zones, a caretaker or employee dwelling shall be located as follows:
 - a. **Attached Unit.** If the housing unit is to be established within a main building, it shall be located on the second floor or in the rear half of the building.
 - b. **Detached Unit.** A detached housing unit shall be located behind a main building, or on the rear half of the lot.
 2. **Agricultural Zones.** Within agricultural or resource zones, the housing unit shall be located as specified in the use permit.
- D. **Number of Housing Units Allowed.** No more than one caretaker or employee housing unit shall be allowed for any principal use, except that:
1. In the case of temporary employee housing pursuant to Subsection F of this section, the Planning Director may approve the number of additional units that the director determines are necessary for the conduct of the principal use.
 2. The Planning Commission may authorize additional units through Conditional Use Permit approval (Section 17.58.130), based on the Commission making specific findings that document the necessity for the number of approved units.
- E. **Removal of Housing Unit.** A caretaker or employee housing unit shall be used no longer than the existence of the principal use of the site that justifies the caretaker or employee unit. Upon termination of the principal use, the unit shall be removed (or in the case of a site-built or apartment-type unit, converted to another approved use).

- F. **Temporary Housing Units.** The use of a mobile home or travel trailer for caretaker or employee housing is permitted only where necessary for the employees of a timber harvesting or mining operation, or for highway or other temporary construction and is subject to the following requirements.
1. **Where Allowed.** Temporary dwellings for employees are allowed only for the purposes and in the locations specified by Subsections (F)(2) through (F)(4), on sites that are not zoned RS (single-family residential).
 2. **Timber Harvesting.** The use of a single temporary housing unit in support of timber harvesting operations may be permitted only when the site of the temporary dwelling is in a remote area where permanent housing is not feasible, and the site is located in a zone district that permits the timber harvesting operation.
 3. **Mining.** The use of a single temporary housing unit for mining purposes may be permitted on or near the property where any mine is located, provided the housing unit is occupied for mining claim assessment purposes and all of the following conditions are found to apply:
 - a. **Location.** The site of the mobile home is located outside the urban areas, as such are defined by Section 17.04.030 (Definitions), and is not zoned RS (single-family residential).
 - b. **Minimum Lot Area.** The lot is five acres or larger.
 4. **Temporary Construction Work.** The use of a temporary dwelling in connection with highway or other temporary construction work may be permitted only when the construction work will take place outside urban areas where permanent housing is unfeasible and mobile home park, recreational vehicle park, or trailer court space is unavailable.
 5. **Time Limit.** Temporary employee housing units shall be removed from their approved site upon completion of the timber harvesting, mining, or construction project, or after three years, whichever comes first. The Planning Director may authorize additional time periods for unfinished projects. Upon removal, a temporary housing unit shall be relocated to another approved site, or approved storage yard. (ZO § 15.260)

CALIFORNIA CODES
 GOVERNMENT CODE
 SECTION 51110-51119.5

51110. (a) On or before September 1, 1976, the assessor shall assemble a list of all parcels, regardless of size, which as of the lien date in 1976, were assessed for growing and harvesting timber as the highest and best use of the land, including all such parcels or portions thereof under agricultural preserve contracts.

(b) On or before September 1, 1976, the assessor shall notify by mail, which is certified and with return receipt requested, owners of parcels listed under subdivision (a) that their land has been included in such a list. This notice shall be substantially in the following form:

To: (name of taxpayer)

Pursuant to the Z'berg-Warren-Keene-Collier Forest Taxation Reform Act of 1976, _____ County must provide for the zoning of land used for growing and harvesting timber as timberland preserve zone (TPZ).

A TPZ is a 10-year restriction on the use of land, and will replace the use of agricultural preserves (Williamson Act contracts) on timberland. Land use under a TPZ will be restricted to growing and harvesting timber, and to compatible uses approved by the county (or city). In return, taxation of timberland under a TPZ will be based only on such restrictions in use.

To initiate this zoning procedure, the assessor has assembled a list (list "A") of all those parcels assessed for property tax purposes for growing and harvesting timber as the highest and best use of the land as of March 1, 1976. The following parcels of your land have been included in this list "A":

(legal description or assessor's parcel no.)

If you have one or more parcels listed above which you believe have a highest and best use other than growing and harvesting timber, you must submit to the assessor a written affidavit describing the intended use you have for this parcel(s), and do so before October 1, 1976. The assessor will then designate such parcel(s) as "contested" on the final list of these parcels which is submitted to the county board of supervisors (or city council) on October 15, 1976.

A public hearing will be held prior to March 1, 1977, for the consideration of zoning your parcel(s) as TPZ. You will be given at least 20 days' notice of such hearing.

Under the Timber Yield Tax Law, all noncontested parcels included in the final list "A" will be zoned as TPZ unless the owner can demonstrate to the satisfaction of a majority of the full board (or council) that at least one of the following conditions exists:

(i) That the parcel or parcels are not capable of growing an average annual volume of wood fiber of at least 15 cubic feet per acre; or

(ii) That the current use of the parcel has changed subsequent to March 1, 1976, and that such use is no longer the growing and harvesting of timber, and is not compatible with the growing and harvesting of timber.

EXHIBIT G

Parcels designated as "contested" which appear on list "A" will be zoned as TPZ unless the owner can demonstrate to the satisfaction of a majority of the full board (or council) that it would not be in the public interest for such parcels(s) to be zoned as TPZ. Parcels in list "A" not zoned as TPZ will receive an alternate zone, if no appropriate zone currently exists. "Contested" parcels not zoned as TPZ will be valued in the future on a higher and better use of the land.

Detailed information on the TPZ zoning process and the Z'berg-Warren-Keene-Collier Forest Taxation Reform Act in general may be obtained from your county assessor's office.

(c) Upon notification pursuant to subdivision (b) owners of parcels listed pursuant to subdivision (a) may have one or more such parcels designated as "contested" in the following manner:

On or before October 1, 1976, the owner must notify the assessor in a written affidavit that such a parcel has the highest and best use which is not a compatible use for timberland, as determined by the board or council pursuant to Section 51111, and the owner shall state the intended use for such parcel.

Upon receipt of such affidavit, the assessor shall designate such parcels on the list to be submitted to the board or council pursuant to subdivision (d) as "contested". In preparing the assessment roll for the 1977-78 fiscal year and each fiscal year thereafter, the assessor shall take into account the owner's notice of higher and better use in determining the fair market value for such parcels, if such parcels are not zoned as timberland preserve.

(d) On or before October 15, 1976, the assessor shall submit to the board or council a list of all parcels, regardless of size, which as of the lien date in 1976, are assessed for growing and harvesting timber as the highest and best use of the land, including such parcels designated as "contested" pursuant to subdivision (c). This list shall be known as "list A".

(e) On or before August 19, 1976, the State Board of Equalization shall submit to the county assessor for inclusion in list A those parcels on the board roll which are located in the county and which, as of the lien date in 1976, were assessed by the State Board of Equalization for growing and harvesting timber as the highest and best use of the land.

51110.1. (a) On or before September 1, 1977, the assessor shall assemble a list of all parcels, which, as of the lien date in 1976, appeared in the judgment of the assessor to constitute timberland, but which were not assessed for growing and harvesting timber as the highest and best use of the land.

(b) On or before September 1, 1977, the assessor shall notify by mail, which is certified and with return receipt requested, owners of parcels listed under subdivision (a) that their land has been included in such a list. This notice shall be substantially in the following form:

To: (name of taxpayer)

Pursuant to the Z'berg-Warren-Keene-Collier Forest Taxation Reform Act of 1976, _____ County must provide for the zoning of land used for growing and harvesting timber as timberland preserve zone (TPZ).

A TPZ is a 10-year restriction on the use of land, and will replace the use of agricultural preserves (Williamson Act contracts) on timberland. Land use under a TPZ will be restricted to growing

and harvesting timber, and to compatible uses approved by the county (or city). In return, taxation of timberland under a TPZ will be based only on such restrictions in use.

As part of this zoning procedure, the assessor has assembled a list (list "B") of all those parcels which appear to be land used for growing and harvesting timber, but which are not assessed for property tax purposes as this being the highest and best use of the land. The following parcels of your land have been included in this list "B":

(Legal description or assessor's parcel no.)

A public hearing will be held prior to March 1, 1978, for the consideration of zoning your parcel(s) as TPZ. You will be given at least 20 days' notice of such hearing.

Under the Z'berg-Warren-Keene-Collier Forest Taxation Reform Act, all parcels included in this list "B" will be zoned as TPZ unless the owner can demonstrate to the satisfaction of a majority of the full board (or council) that it would not be in the public interest for such parcel(s) to be zoned as TPZ. Parcels on list "B" not zoned as TPZ will receive an alternate zone, if no appropriate zone currently exists.

Detailed information on the TPZ zoning process and the Z'berg-Warren-Keene-Collier Forest Taxation Reform Act in general may be obtained from your county assessors office.

(c) On or before October 15, 1977, the assessor shall submit to the board or council a list of all parcels, which as of the lien date in 1976, appear to constitute timberland, but which are not assessed for growing and harvesting timber as the highest and best use of the land. This list shall be known as "list B".

(d) On or before August 19, 1977, the State Board of Equalization shall submit to the county assessor, for inclusion in list B, those parcels on the board roll which are located in the county and which as of the lien date in 1976, appear to constitute timberland, but which were not assessed by the State Board of Equalization for growing and harvesting timber as the highest and best use of the land.

51110.2. The county or city planning commission shall hold a public hearing on parcels referred to it for review by the board or council pursuant to subdivision (d) of Section 51110 and subdivision (c) of Section 51110.1 according to Section 65854, and shall render its decision in the form of a written recommendation to the board or council according to Section 65855. The planning commission shall include in its recommendation to the board or council considerations as to the exact zoning boundaries to be drawn within each assessors parcel contained in list A or list B.

51110.3. In the event that a landowner does not receive notice pursuant to subdivision (b) of Section 51110.1, such owner may prior to January 1, 1978, petition directly to the board or council to have a parcel owned by such person included on list "B." Such owner must be able to demonstrate that on each such parcel a plan for forest

management has been prepared, or approved as to content, by a registered professional forester prior to October 15, 1977. Such plan shall provide for the harvest of timber within a reasonable period of time, as determined by the preparer of the plan.

In the event that the board or council finds that the parcel does in fact have plans for forest management signed by a registered professional forester prior to October 15, 1977, the board or council shall include the parcel listed in the petition on list "B" without respect to acreage or size and shall consider these parcels under subdivision (c) of Section 51112.

51111. On or before October 1, 1976, the board or council shall adopt a list and a detailed description of additional compatible uses for parcels zoned as timberland production.

51112. (a) On or before March 1, 1977, the board or council by ordinance, after the advice of the planning commission pursuant to Section 51110.2, and after public hearing, shall zone as timberland production all parcels appearing on list A submitted by the assessor pursuant to subdivision (d) of Section 51110 which are not designated as "contest," unless it finds by a majority vote of the full body that a parcel or parcels are not devoted to and used for growing and harvesting timber or for growing and harvesting timber and compatible uses.

The basis for such a finding is limited to either of the following:

(1) The parcel is not in fact capable of growing an average annual volume of wood fiber of at least 15 cubic feet per acre;

(2) The use of the parcel has changed subsequent to the lien date in 1976, and that such use no longer meets the definition of timberland, or of compatible uses as defined and as adopted by the board or council pursuant to Section 51111.

(b) On or before March 1, 1977, the board or council by ordinance, after the advice of the planning commission pursuant to Section 51110.2, and after public hearing, shall zone as timberland production all parcels appearing on list A which are designated as "contested" pursuant to subdivision (c) of Section 51110, except those parcels which it finds by a majority vote of the full body to be in the public interest to exclude from such a zone.

(c) On or before March 1, 1978, the board or council by ordinance, after the advice of the planning commission pursuant to Section 51110.2, and after public hearing, shall zone as timberland production all parcels appearing on list B submitted by the assessor pursuant to subdivision (c) of Section 51110.1, except those parcels which it finds by a majority vote of the full body to be in the public interest to exclude from such a zone.

(d) On parcels excluded from the timberland production zone under this section, the board or council shall apply an alternate zone which is in conformance with the county general plan and whose primary use is other than timberland, if no such appropriate zone currently applies to such parcels.

(e) The owner of the land shall be given written notice at least 20 days prior to the hearing of the board or council, and notice of hearing shall be published pursuant to Section 6061 of this code, and shall include a legal description, or the assessor's parcel number, of the land which is proposed to be included within the timberland

production zone.

51113. (a) (1) An owner may petition the board or council to zone his or her land as timberland production. The board or council by ordinance, after the advice of the planning commission pursuant to Section 51110.2, and after public hearing, shall zone as timberland production all parcels submitted to it by petition pursuant to this section, which meet all of the criteria adopted pursuant to subdivision (c). Any owner who has so petitioned and whose land is not zoned as timberland production may petition the board or council for a rehearing on the zoning.

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

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

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

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

(2) A plan for forest management shall be prepared or approved as to content, for the property by a registered professional forester. The plan shall provide for the eventual harvest of timber within a reasonable period of time, as determined by the preparer of the plan.

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

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

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

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

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

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

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

51113.5. (a) After March 1, 1977, an owner with timberlands in a timberland production zone pursuant to Section 51112 or 51113 may petition the board or council to add to his or her timberland production lands that meet the criteria of subdivisions (f) and (g) of Section 51104 and that are contiguous to the timberland already zoned as timberland production. Section 51113 shall not apply to these lands.

(b) In the event of land exchanges with, or acquisitions from, a public agency in which the size of an owner's parcel or parcels zoned as timberland production pursuant to Section 51112 or 51113 is reduced, the timberland production shall not be removed from the parcel except pursuant to Section 51121 and except for a cause other than the smaller parcel size.

51114. Parcels zoned as timberland production shall be zoned as such for an initial term of 10 years. On the first and each subsequent anniversary date of the initial zoning, a year shall be added to the initial term of 10 years, unless a notice of rezoning is given as provided in Section 51120.

51115. Parcels zoned as timberland production shall be zoned so as to restrict their use to growing and harvesting timber and to compatible uses. The growing and harvesting of timber on those parcels shall be regulated solely pursuant to state statutes and regulations.

51115.1. (a) The zoning of a parcel pursuant to this chapter shall give rise to a presumption that timber operations, as defined in Section 4527 of the Public Resources Code, may reasonably be expected to and will occur on that parcel.

(b) The Legislature hereby declares that the enactment of this section is intended to make clear that the zoning of a parcel pursuant to this chapter is an indication that timber operations are expected to occur on that parcel at a future date. The Legislature further declares that this section is not intended and shall not be construed as altering any substantive or procedural requirement of Chapter 8 (commencing with Section 4511) of Part 2 of Division 4 of the Public Resources Code, or of any rule or regulation adopted pursuant thereto.

51115.2. (a) Changes or additions to any nonconforming use shall be limited to ordinary maintenance and repair, except that no change or addition which enlarges or tends to make more permanent any nonconforming use shall be permitted.

(b) If any nonconforming use ceases for a period of one year or more, use subsequent to the cessation shall comply with this chapter.

51115.5. (a) Notwithstanding any other provision of law, timber operations conducted within a timber production zone pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (Chapter 8 (commencing with Section 4511) of Division 4 of the Public Resources Code) shall not constitute a nuisance, private or public.

(b) This section is not applicable with respect to any timber operation which (1) endangers public health or public safety or (2) prohibits the free passage or use of any navigable lake, river, bay, stream, canal, or basin, or any public park, street, or highway.

(c) For purposes of this section, the term "timber operation" means the cutting, removal, or both, of timber or other wood forest products, including Christmas trees, from timberlands for commercial purposes, together with all the work incidental thereto, including, but not limited to, construction and maintenance of roads, fuel breaks, fire breaks, stream crossings, landings, skid trails, beds for falling trees, fire hazard abatement, and preparation, transportation, and delivery of timber and other wood products to market.

51116. The county or city may bring any action in court necessary to prohibit a use not permitted with respect to land zoned as timberland production, including, but not limited to, an action to enforce the zoning restrictions by specific performance or injunction.

51117. When land is zoned as timberland production or subsequently rezoned from a timberland production zone and after exhaustion of appeals, a notice of timberland production zone status, together with a map and assessor's parcel numbers describing such land, shall be filed for record by the city or county in the recorder's office. The notice and map shall become a part of the official records of the county recorder upon its acceptance by him for filing. The filing for record of a notice of timberland production, together with a map and assessor's parcel numbers describing the land, shall impart constructive notice thereof.

51118. Land zoned as timberland production under this chapter shall be enforceably restricted within the meaning of Section 3(j) of Article XIII of the Constitution and the restriction shall be enforced and administered by the city or county in a manner to accomplish the purposes of that section and this chapter.

51119. Any action of the board or council undertaken to zone a parcel as timberland production pursuant to Section 51112 or 51113 is

exempt from the requirements of Section 21151 of the Public Resources Code.

51119.5. Parcels zoned as timberland production under this chapter may not be divided into parcels containing less than 160 acres unless the original owner prepares a joint timber management plan prepared or approved as to content by a registered professional forester for the parcels to be created. The joint timber management plan shall provide for the management and harvesting of timber by the original and any subsequent owners, and shall be recorded with the county recorder as a deed restriction on all newly created parcels. The deed restriction shall run with the land rather than with the owners, and shall remain in force for a period of not less than 10 years from the date division is approved by the board or council. The division shall be approved only by a four-fifths vote of the full board or council, and only after recording of the deed restriction.

CALIFORNIA CODES
GOVERNMENT CODE
SECTION 51120-51121

51120. (a) If the owner desires in any year to rezone a parcel from its current timberland production zone, the owner shall give written notice, naming the new zone desired, and shall follow procedures established pursuant to Sections 65854 to 65857, inclusive. Unless the written notice is given at least 90 days prior to the anniversary date of initial zoning, the zoning term shall be deemed extended.

(b) Within 120 days of receipt of the written notice of an owner's desire to rezone a parcel, the board or council, after a public hearing, shall rule on the request for rezoning.

(c) The board or council by a majority vote of the full body may remove the parcel from the timberland production zone and shall specify a new zone for the parcel.

(d) The new zone approved pursuant to subdivision (c) shall become effective 10 years from the date of approval. Upon rezoning the parcel shall be valued pursuant to Section 426 of the Revenue and Taxation Code, in the same manner as if a restriction were terminated as provided for in Section 51091 or 51245.

(e) If the board or council denies the owner's request for change of zone pursuant to subdivision (b), the owner may petition for a rehearing.

51121. (a) If the board or council after public hearing and by a majority vote of the full body desires in any year not to extend the term of zoning, the county or city shall give written notice of its intent to rezone following procedures established pursuant to subdivision (b) of Section 51113. A proposed new zone shall be specified. Unless the written notice is given at least 90 days prior to the anniversary date of the initial zoning, the zoning term shall be deemed extended.

(b) Upon receipt by the owner of a notice of intent to rezone from the county or city, the owner may make written protest of the notice and may appeal to the board or council within 30 days of notice from the county or city. The board or council may at any time prior to the anniversary date withdraw the notice of intent to rezone.

(c) The board or council shall hold a public hearing on the proposed change and by a majority vote of the full body may reaffirm its intent to change the zoning and specify a new zone.

(d) A new zone of a parcel shall be effective 10 years from the date of the reaffirmation vote pursuant to subdivision (c). Upon rezoning the parcel shall be valued pursuant to Section 426 of the Revenue and Taxation Code.

(e) The owner may petition to be reheard.

EXHIBIT H

Timberland Production Zones - County Zoning Research (Comparison of County Regulations)				
County	Name	Min. Acres	Single Family Dwelling	Secondary Dwelling
Tulare County	TPZ	160	Yes	N/A
Sierra County	TPZ	160	Yes	N/A
Sonoma County	TP	160	Yes	N/A
Mendocino County Inland	TPZ	160	Yes	No
Mendocino County Costal	TP	160	Yes	No
Lake County	TPZ	160	Yes	No
Glenn County	TPZ	155	Yes	No
Modoc County	TP	80	No / caretaker only	No
Terama County	TPZ	20	No / caretaker only	No
Humboldt County	TPZ	40	Yes with CUP	Yes with Use Permit
Shasta County	TL	40 - 80	Yes	Unclear
Plumas	TPZ	160	No / caretaker only	No
Trinity County	TPZ	160	Yes with Use Permit	No
Siskiyou County	TPZ	40	Yes with Timber Mngmt. Plan	No
Fresno County	TPZ	160	Yes with Admin. Review	No
Mariposa County	TEZ	40	Yes	Yes with CUP

EXHIBIT I

Tuolumne County	TPZ	160	Yes	Yes with CUP
Madera County	TPZ	160	Yes	No
Lassen County	TPZ	40	No	No
Calaveras County	TPZ	160	Yes	No
Amador County	TPZ	40	Yes	No
Alpine County	TP	160	Yes with CUP	No
El Dorado County	TPZ	160	No / caretaker only	No
Nevada County	TPZ	60 or 40 w/ Board approval	Yes with Admin. Review	Unclear
Yuba County	TPZ	160	No / caretaker only	No
Butte County	TPZ	160	No / caretaker only	No
De Norte County	TPZ	20	Yes	No
Ventura County	TP	160	Yes	No

**REZONE / BUNCH CREEK TIMBERLAND
PRODUCTION ZONE PROPERTY
(PREAT20060521) SUPERVISORIAL
DISTRICT 5 (MONTGOMERY)**

Placer County Board of Supervisors

March 16, 2010
10:00 AM

Correspondence Received

Rev 3/9/10

Crystal Jacobsen

From: Michael Garabedian [mikeg@gvn.net]
Sent: Monday, March 01, 2010 4:34 PM
To: Crystal Jacobsen
Subject: Fwd: Board of Forestry Fire Protection Policies re Bunch Creek rezone

Begin forwarded message:

From: Michael Garabedian <mikeg@gvn.net>
Date: March 1, 2010 4:24:01 PM PST
To: cjacobsen@placer.ca.gov
Subject: Board of Forestry Fire Protection Policies re Bunch Creek rezone

From:

http://www.bof.fire.ca.gov/board_joint_policies/board_policies/

0342.5.3.D.

2. Structural development in State Responsibility Areas:
 - a. Severely complicates and handicaps the ability of a fire protection agency to control the spread of wildfires, while at the same time trying to protect values of exposed life and property;
 - b. Substantially restricts the ability of fire protection agencies to use certain techniques such as prescribed burning to reduce and control the large volume of flammable vegetation intermingled with the property values;
 - c. Increases the State's expenditure of public funds for fighting wildfires because of the greater number of fire starts and the requirement for more fire protection resources and fire prevention inspections;
 - d. Results in more state involvement in structural fire protection;
 - e. Can result in damage to watersheds from grading of residential and industrial sites and road building, as well as from increased fire incidence;
 - f. Frequently includes a citizenry who does not appreciate or understand the risks from wildfires to themselves and to their property. This lack of awareness in wildland and suburban communities can drastically restrict the ability of fire protection agencies to implement necessary programs risk and hazard reduction;
 - g. Historically, has resulted in the loss of thousands of homes located in and adjacent to these areas by fires originating in the wildlands and spreading into inhabited areas and from fire which originated in urbanized areas and spread into the adjacent wildlands;
 - h. Generally brings an increase in locally supported fire protection resources to protect life and property.

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MAR 09 2010
CLERK OF THE
BOARD OF SUPERVISORS



Sq Ft	0
Baths F/H	0/0
Bedrooms	0.0
Lot Size	605
Type	Land
Style	Lots/Acreage
Year Built	
Stories	1.0
MLS #	80087305



Marilynn (Lynn) Tausch,
Broker/Realtor®
Cell: (530) 305-6689
Sierra Junction Realty
233 So. Auburn St., Suite 110 & 120,
Po. Box. 886
Colfax, CA 95713
Office: (530) 346-2288
Fax: (530) 346-2075
Email: Lynnsjr@sierrajunction.com
www.sierrajunction.com

\$2,330,000 FOR SALE - 9999 Gillis Hill Rd, Weimar CA 95736

Property Features

- Land Property
- County: Placer
- Approximately 605 acre(s)
- Zoned TPZ. Details available. Homes can be built on TPZ. Great tax advantages. Process also available to remove from TPZ.
- Topography: Agricultural land, Oaks and Pines, some Brush.
- Utilities present: Wells, excellent. Additional Irrigation water supply from spring/stream/river.
- Improvement plans approved and ready for Construction.
- Road work approved, required for split Details available..
- Buy all or part! Also available as separate parcels; 160,160 & 285.
- Owner willing to complete split during escrow. Buyer can purchase prior to split or individual lots following split.
- Owner financing considered with approved terms.

Area Description

Set in Weimar less than 10 minutes from major Interstate with access to Tahoe and Sierra Foothills. Beautiful area with Pines and Oaks, bubbling streams, panoramic views.

Approximately 15 minutes East of Auburn on Highway 80. 30 minutes to ski resorts; 1 hour to Tahoe/Truckee or Sacramento. Airport, Hospitals in Auburn.

This property is great for those who want a natural setting and good access to rivers, lakes and the mountain recreation areas for leisure time and great transportation options for business in Sacramento, Reno or the Bay Area.

Property Description

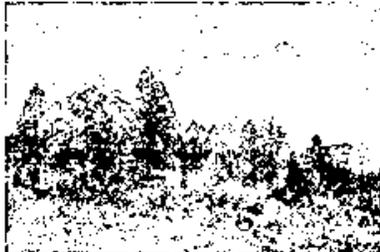
Land Property, County: Placer, Split in process for 3 parcels. (160,160 & 285). Price is as shown for entire 605 acres. Parcels may be purchased separately from \$854,000. A well is in on each parcel and P & M tests are complete at one of the building sites on each parcel. Incredible, 360 degree world class views. Multiple building site options on each parcel. Creek runs through, plenty of usable acreage. Once in a lifetime opportunity. Truly a remarkable property in a fantastic location. Just 1 hour to ski slopes, minimal snow at 2400 foot elevation, 10 minutes to Highway 80, 45 minutes to Sacramento. Rollins Lake, American River, Bear River, Stevens trail all just minutes away.



View from east line



Building site



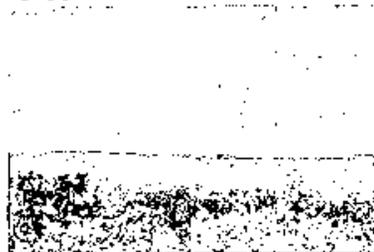
BUilding site



Creek



Building-site



View



RECEIVED
FEB 16 2010
CDRA

APPLICANTS STATEMENT

Fred Basquin/Jed Parker

According to the applicant, the following provides their justification for the support of the immediate rezone to 80 acre residential forest:

1. Stewardship/public interest: the best way to manage the widespread fire hazard of overgrown brush is to put homes on smaller parcels. Owners that buy and build on these parcels would effectively reduce the fuel load and help stop a fire moving towards Colfax. Larger parcels are too monumental of a task to manage, as it presently is. This opinion has also been expressed by Douglas Ferrier, the forester for this property (last page of forest report) and Chris Paulus, of Cal Fire. (See attached letter). Cal Fire goes on to say that in a few more years, the brush will be at its peak fire potential, thus the need for immediate action. Presently, the local public is at more risk than before the Ponderosa Fire, when there was more shade and less brush. In a few more years, the problem will be even worse, thus, the need for immediate conversion versus a ten year roll out
2. More public interest: Other than the opponents who are against ALL conversions of this type, this immediate conversion is favored not only by Cal fire, but some of the adjacent parcel owners (letter attached), and by majority vote of the Weimar Area Counsel.
3. Homes on 80 acre parcels would not have an adverse effect on any of the surrounding land. In fact, homes on 80 acre parcels would improve the fire safety and beauty of the area with a good road and maintained land. Any possible adverse effects have been mitigated by the MND. This property is better suited for forest with homes on 80 acre parcels than for just timber.
4. The slopes and watershed of the 600 acres in question is very mild compared to the surrounding areas which are steeper, and as a majority are zoned as 80 acre parcels or smaller, thus this property is very suitable for the proposed immediate rezone to residential forest.
5. Conversion from Timber to Forest is not a major change. Planting of trees will still occur. Harvest of timber will still occur. As the planning commission will concur, Forest and timber are very close to the same thing. The Residential portion of RF-BX-80 also is very similar to TPZ since they both can have homes on them. TPZ has to demonstrate agricultural activity, while RF-BX-80 doesn't.
6. The immediate conversion to residential Forest 80's will provide homes for seven more families in the area, create jobs for the area, and bring more property taxes to the county. Presently, the property brings only \$800 per year to the county, which is up from \$500 since the wells were put in to apply for this rezone. Seven homes will bring approximately \$35,000/year plus timber harvest tax.
7. Timber: Of the 1/3 of the property that did not burn in the Ponderosa fire, 90% of it is hardwoods, which is not considered Timber, making the entire property useless as Timber property in this lifetime.

8. We have exhausted other avenues to do something with this property:

A. We tried to get Caretakers quarters on the property, but it was recommended by the Zoning administrator to either invest money in timber and qualify for caretaker's quarters, or go the Rezone route. We developed a forest plan, did some cost estimates, and since forestation for upwards of ½ million dollars does not realize anything in this lifetime, we chose the Rezone.

B. We tried to sell the property as is, but to no avail.

C. The Property was offered to two different conservancy groups for purchase as non-developmental land and they were not interested.

9. We, as owners feel we have a legal right to an immediate rezone of this property according to government code section 51133(a) 2 and (a) 3, see attached memo.

We have been five years trying to get an immediate rezone, and now we are looking at the ten year roll out as an option which puts us 15 plus years into a rezone. Doesn't it make sense to just do it now?

Fred and Karen Basquin, Jed and Debbi Parker



DEPARTMENT OF FORESTRY AND FIRE PROTECTION

135 Ridgway Avenue
 Santa Rosa, California 95401
 (707) 576-2275
 www.fire.ca.gov



DATE: 1/30/10

TO: Crystal Jacobsen
 Placer county Planning Department
 3091 County Center Drive
 Auburn, CA 95603

RE: Bunch Creek TPZ Rezone

Dear Ms. Jacobsen,

I am the Cal Fire Battalion Chief for the Colfax area in which the Bunch Creek TPZ Rezone proposal is located. Cal Fire Unit Forester, Matthew Reischman, for the Nevada-Yuba-Placer Unit, has reviewed the Mitigated Negative Declaration (MND) for this project and has sent correspondence to you. In his letters he has stated he has no further comments or concerns regarding the approval of this project. Additionally, he has further recommended that I work with Fred Basquin on any specific fuel break or fire control issues I may have in dealing with this project. It is within these guidelines I am submitting this document to you for your consideration.

The Bunch Creek TPZ Rezone project has within its boundaries the Gillis Hill Ridge. This ridge is approximately five miles in length and is the number one ridge of strategic importance for protecting the community of Colfax and the surrounding area, Interstate-80 and the Union Pacific Rail Road lines along with natural and cultural resources. This ridge has been identified as the top priority fuel break project for the Placer Sierra Fire Safe Council Community Wildfire Protection Plan (CWPP). Of principle concern to me is access and fuel modification and reduction along this ridge with adequate water to suppress fires. A large portion of this ridge line, along with approximately two thirds of the proposed project site was burned over during the Ponderosa Fire of 2001. This fire resulted in high mortality of both conifer and oak woodlands. Subsequently, large areas have been converted to brush due to this fire and no reforestation was attempted after the fire and subsequent salvage logging operations. The accumulated forest fuels from the high tree mortality rate along with the fact that the brush was allowed to generate after the fire passage has created an increase in fuel loading. A subsequent fire on the same

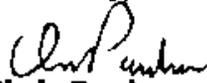
piece of ground will have further devastating affects and will likely result in the mortality of what conifers and oaks did survive.

The project as proposed will provide several advantages to possible fire control and fuel modification and reduction in protecting the public, infrastructure and natural as well as cultural resources. Currently, the road infrastructure to access the ridge are deteriorating due to erosion and brush encroachment and without maintenance will become impassable within a few years. This project will allow for the roads to be maintained ensuring access by fire fighting equipment. The roads themselves will have fuel reduction occurring along them which can serve as alternative fire control lines. Water storage for fire fighting will be part of the mitigation efforts providing water sources where there are currently none. The proposed project parcels of approximately 80 acres per owner increases the likelihood of the property owners of being capable stewards of a smaller parcel of ground for them to manage over what is currently in place or proposed.

I understand there is opposition to this project by both individuals and organizations as it pertains to environmental concerns as further development of what is considered "pristine" wildlands. Unfortunately, the Ponderosa Fire not only left the scars of a "hot" wildfire but also the scars of fire control efforts in the form of control lines. The ground is no longer pristine, but with reforestation and proper fuels management and good stewardship it might be returned to represent what it once was. It is my hope in working with both the developers and the concerned environmentalists we can avoid another damaging fire and reduce the impacts of aggressive fire control that is needed to protect all the resources. Unfortunately, the likelihood of another fire occurring at this same location is substantial given the heavy recreational use of this area and the ease of public access via the Yankee Jims Road to the American River and Shirltail Creek confluence.

If I can be of further assistance please do not hesitate to contact me.

Sincerely,


Chris Paulus
Battalion Chief
Colfax
Nevada-Yuba-Placer Unit

Cc: Matthew Reischman
Gary Brittner



MEMO RE: Findings for Bunch Creek Rezone from TPZ to Residential Forestry.

Pursuant to Government Code section 51133(a)2 and (a)(3), the Board of Supervisors makes the following findings:

1. Immediate rezoning is not inconsistent with the purposes of subdivision (j) of Section 3 of Article XII of the California Constitution and Chapter 6.7 of Title 5, Division 1, Part 1 of the Government Code because:
 - a. The site was heavily burned in the Ponderosa Fire in August, 2001. The timber resources were largely destroyed, and the prior owner failed to restock the site, leaving the site without restocking to Department of Forestry standards. (Forest Management Plan ("FMP"), prepared by Douglas Ferrier, RPF#1672, on file with Planning Department, p. 4.) Given the existing foliage, soil types, steep slopes (FMP p. 3.), there would be extensive costs in rehabilitating the site for commercial timber uses. FMP p. 4, 5. In the opinion of a licensed professional forester, commercial timber management is considered to be unlikely. FMP p. 6. The purpose of the preferential tax treatment and management strategies under the California Constitution and Chapter 4.6 is designed to provide preferential tax treatment for properties actively managed for timber production. The site has not been actively managed for timber resources and existing site conditions make it unlikely that timber production will be resumed in accordance with the Constitution and statutory requirements. Accordingly, the site should no longer enjoy preferential tax treatment.
2. Immediate Rezoning is in the public interest because:
 - a. The alternative use will serve a public need in that the current site condition poses a fire risk to the Colfax community. The Negative Declaration includes nine mitigation measures designed to reduce fire risk. If the project does not go forward, there will be no active fire management strategy in place.
 - b. The adverse environmental impacts of the alternative use and mitigation thereof is acceptable as set forth in the mitigation measures contained in the Negative Declaration, made part of the project approval.
 - c. The project will not have an adverse impact on the long term timber supply capability of California, including the cumulative impact from conversion of similar properties, as the evidence is that the site has not been managed after the Ponderosa Fire for commercial timber purposes, and further the evidence is that it is unlikely, given the existing vegetation, slopes, soils and existing vegetation patterns, that anyone will make the economic investment necessary to restore active commercial timber management (FMP 3,4,5.) Further, the project is conditioned to require a forest set back for adjacent TPZ property (Mitigation Measure IX.1)
 - d. As noted in the FMP, the current conditions do not support commercial timber management and accordingly, on a comparative basis, there are no other known non-TPZ sites which would be superior to this site in terms of proposed uses and potential impacts to timber resources.

3-18-2008

- patterns, that anyone will make the economic investment necessary to restore active commercial timber management (FMP 3,4,5.) Further, the project is conditioned to require a forest set back for adjacent TPZ property (Mitigation Measure IX.1)
- d. As noted in the FMP, the current conditions do not support commercial timber management and accordingly, on a comparative basis, there are no other known non-TPZ sites which would be superior to this site in terms of proposed uses and potential impacts to timber resources.

3/18/2008

Fred and Karen Basquin
22057 Porcupine Ridge
Colfax, CA 95713

February 15, 2010

Supervisor Jennifer Montgomery
Placer County Board of Supervisors
175 Fulweiler Ave
Auburn, CA 95603

Dear Supervisor Montgomery,

This letter is a personal introductory letter from Fred and Karen Basquin, part owners of the Bunch Creek Property:

Fred Basquin has lived in Placer County 45 years with 32 of those years residing in rural Colfax. He became a General Contractor in 1978 and is self employed.

Karen Basquin has lived in Placer County 47 years with 23 of those years residing in rural Colfax. She has worked for the Placer County Sheriff's Department for the past 10 years.

Our home, on Porcupine Ridge, is located approximately ¼ mile from the Bunch Creek property. We have been familiar with this property for years because we had previous owners' permission to horseback ride and walk on their property. We have always dreamed of owning property on Gillis Hill Ridge. In June of 2001 we bought 9 acres on the top of Gillis Hill Ridge, which adjoined the Bunch Creek Property. We began spending our weekends clearing brush and cleaning up all of the deadfall on our new property. Two months later, in August of 2001, our Gillis Hill property burned in the Ponderosa Fire. We were also evacuated from our home located on Porcupine Ridge. Fortunately for us and our neighbors, with the efforts of local and neighboring fire fighters, the fire was brought under control after 5 days of round the clock work. We have included a stat sheet of the Ponderosa Fire, showing the fire facts. It was incredibly difficult to watch all of the land burn and not know if our home would be saved. Throughout the years, there have been numerous fires that could have been devastating to many home owners in our area. Because of continued and ongoing efforts from the forestry department for residential brushing and clearing, rural areas of Colfax are groomed more often to reduce fire hazards.

In September 2004, we purchased 600 acres in the burn area, currently referred to as Bunch Creek Property. Prior to our purchase, the previous owners salvage logged any remaining timber. The timber harvest was the only land management involved with the Bunch Creek Property after the fire and prior to our purchase.

As a couple, we have always enjoyed the beauty of the American River Canyon. We have rafted it, fished it, hiked all over it by foot and horseback. We do our part in keeping it beautiful by always picking up trash along our way. We do not want to exploit or destroy the natural resources or beauty of the American River Canyon. We use good forestry management practices on our existing properties by clearing the brush, pruning trees, installing a fire hydrant and improving the existing roads.

We have worked hard and been diligent in our efforts to supply the planning department with all required reports for the rezone and land division of the Bunch Creek Property. We appreciate your consideration with our project.

Sincerely,

Fred and Karen Basquin

About Jed Parker

Jed Parker spent most of his life in what is now called Granite Bay since before grade school. After college Jed became a general contractor and started a business called Folsom Lake Asphalt in the early 80's. Jed landed in Newcastle in the 90's and is raising his family there now. After 27 years Jed sold Folsom Lake Asphalt. His retirement project is to do something good with the Bunch Creek Property. Jed is proud to be a long standing 43 year resident of Placer County. He welcomes any and all comments on this project and can be reached at 916-417-01700 or at jedparker@live.com

Larry Risser
PO Box 11
Colfax, CA 95713
APN 071-330-005-000
APN 071-330-012-00

Supervisor Jennifer Montgomery
Placer County Board of Supervisors
175 Fulweiler Ave.
Auburn, CA 95603

Supervisor Montgomery,

As a landowner in the immediate area, I would like to express my support for the Bunch Creek rezone request from Timber Production Zone (TPZ) to Forest Residential. There are many reasons for permitting the rezone, but the most important is fire safety. As you know, the property was devastated by the 2001 Ponderosa Fire. Since that time, the land has been overtaken by brush and invasive species. It has become an extreme fire hazard. Any fire in the area would tear through the Bunch Creek property quickly, threatening my land and home as well as many others in the Colfax-Weimar area. What took days to burn in 2001 would take only hours to burn in its current state.

In its current state, the property is not being managed as forestland or managed in any practical way. This has allowed the brush and invasive species to grow uncontrolled, with little new growth of trees or native species. It's nice to think of this as forest land, but only a small portion of the 600 acres is actually forested. Without homeowners with a vested interest in preserving the property and preventing fire, I'm afraid it will lie idle until the next fire, which I know will be considerably worse and faster-moving than the one in 2001.

My understanding of the legislation establishing the TPZ zone is that it is a financially-motivated provision to allow forestland owners to continue growing timber without paying the high cost of property taxes on land in California. As such, rezoning to TPZ is by request of a landowner and cannot be imposed by the County. The landowner must also meet minimum tree stocking standards to qualify for TPZ zoning. If the Bunch Creek partners requested rezoning to TPZ today, the Board would be forced to deny their request as the land does not come close to minimum stocking standards.

As a tax-sheltering zone that is requested by a landowner, it should also be permissible for the landowner to request removal from the zone when timber production is no longer viable. It would behoove the County and taxpayers to grant such a request to remove the tax shelter it provides when land is no longer in production. Such is the case for this property.

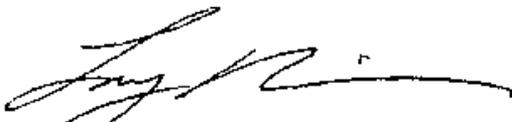
I do not believe allowing 7 homes on 80-acre lots would be a burden on the land or impact the area. In fact, I believe landowners with a vested interest in protecting their property would add enhanced fire protection. Any impacts this few homes would have can be easily mitigated by situating them in areas that will not impact the landscape or viewshed. A look at surrounding properties show parcel sizes of 10, 4 and smaller acreage. Eighty-acre lots are in keeping with the County General Plan and surrounding land uses, including property directly contiguous.

We currently own 120 acres zoned TPZ directly adjacent to the Bunch Creek property. We are actively managing our land, clearing brush and planting trees, but I hope that if timber production is not viable we will also be able to request a rezone. As it is, we may never see the fruits of our labor but as 23-year residents of Placer County we feel it our responsibility to rebuild the land as best we can.

We spend many hours cutting brush, creating shaded fuel brakes and defensible space, planting trees and maintaining the road. Our home was surrounded by the Ponderosa Fire and we were evacuated for 4 days during the fire. Because of our work to create defensible space, the firefighters were able to save our home and found our property safe enough to set up their base camp. It will only be a matter of time before some careless person down at the American River starts another fire similar to Ponderosa and another fire rages through the area. I would much rather have seven property owners working to make the area fire safe.

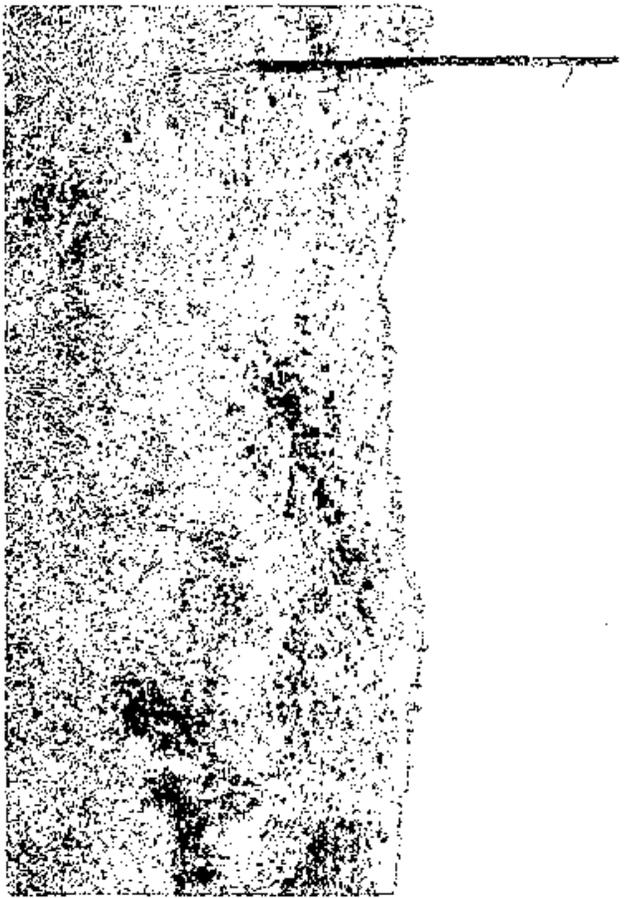
I believe consideration must be given to safety above all else. In this case, fire safety would be best served by allowing the rezone. I hope you and the Board will consider supporting this rezone and land division. I believe with sufficient mitigations to reduce environmental impacts can be put in place. The greatest threat to the environment and quality of life of the surrounding area is that this land continues to be unmanaged and become an extreme fire hazard.

Sincerely,



Larry Risser

Current Condition



Bunch Creek



REBAR



unburned area - 90% hardwoods

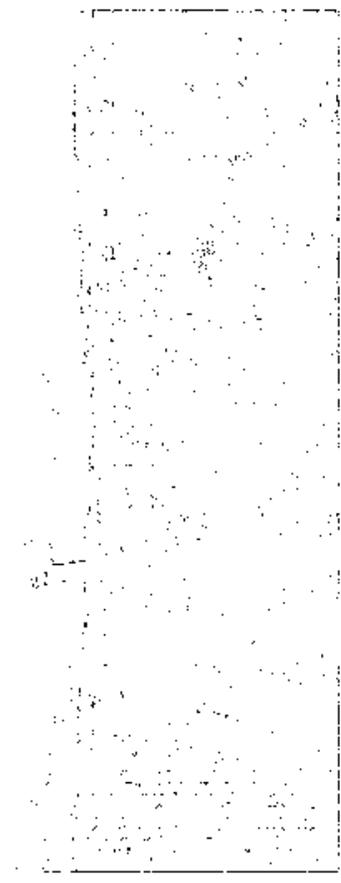


Current Condition

1921



Pride of Ownership



LABOR RISERS PROPERTY



ADJUNCT

ACCUMULATE - LIVED ON



DEPARTMENT OF FORESTRY AND FIRE PROTECTION

Nevada-Yuba-Placer Unit
 13760 Lincoln Way
 Auburn, CA 95603
 530-899-0111
 Website: www.fire.ca.gov

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MAR 09 2010

CLERK OF THE
BOARD OF SUPERVISORS

March 8, 2010

Placer County Board of Supervisors
 175 Fulweiler Avenue
 Auburn, CA 95603

Dear Board of Supervisors:

I am writing in regard to the Bunch Creek Rezone Mitigated Negative Declaration. Battalion Chief Chris Paulus submitted a letter on 1/30/10 to Crystal Jacobsen on this topic. My letter is to present the Department of Forestry and Fire Protection's (CAL FIRE's) position on this project.

Chief Paulus correctly points out that the project can be mitigated to provide advantageous fire control features. However, that should not be interpreted as a project endorsement. CAL FIRE values timberland and vegetative cover for:

- a. Beneficial water production;
- b. Wood products;
- c. Livestock forage and wildlife habitat;
- d. Recreation and aesthetics; and
- e. Soil erosion control and flood prevention;

CAL FIRE has concerns with structural development in State Responsibility Area for fire protection. Policy 0342.5.3 finds that structures:

- a. Severely complicates and handicaps the ability of a fire protection agency to control the spread of wildfires, while at the same time trying to protect values of exposed life and property;
- b. Substantially restricts the ability of fire protection agencies to use certain techniques such as prescribed burning to reduce and control the large volume of flammable vegetation intermingled with the property values;
- c. Increases the State's expenditure of public funds for fighting wildfires because of the greater number of fire starts and the requirement for more fire protection resources and fire prevention inspections;
- d. Results in more state involvement in structural fire protection;

CONSERVATION IS WISE—KEEP CALIFORNIA GREEN AND GOLDEN

PLEASE REMEMBER TO CONSERVE ENERGY. FOR TIPS AND INFORMATION, VISIT "FLEX YOUR POWER" AT WWW.CA.GOV.

97

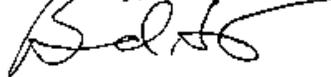
- e. Can result in damage to watersheds from grading of residential and industrial sites and road building, as well as from increased fire incidence;
- f. Frequently includes a citizenry who does not appreciate or understand the risks from wildfires to themselves and to their property. This lack of awareness in wildland and suburban communities can drastically restrict the ability of fire protection agencies to implement necessary programs risk and hazard reduction;
- g. Historically, has resulted in the loss of thousands of homes located in and adjacent to these areas by fires originating in the wildlands and spreading into inhabited areas and from fire which originated in urbanized areas and spread into the adjacent wildlands;
- h. Generally brings an increase in locally supported fire protection resources to protect life and property.

In light of these findings, cities and counties of California are urged to carefully consider the placement of any developments and individual structures in wildlands designated as having a high fire hazard severity on maps prepared by the various counties as part of the safety element of their general plans. Clustered development which reserves substantial open space to be managed through fire environment modification is preferred to dispersed development.

It is important to maintain timber growing land in California as a permanent source of current and future timber supply. It is in the public interest to generally oppose diversion to uses which preclude timber growing and harvesting which have been classified as timberland preserve zone (TPZ).

My staff is ready to advise and support any landowner that wishes to participate in any of our programs that improve wild land resources and enhance fire defense improvements.

Sincerely,



BRAD HARRIS
Unit Chief

cc: Crystal Jacobsen