



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.

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 Pinley – County Counsel
- Tom Miller – County Executive Officer
- John Marm – CDRA Director
- Crystal Jacobsen – Supervising Planner
- Subject/chronos files

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