DATE: November 1, 2007

TO: Humboldt County Planning Commission

FROM: Kirk A. Girard, Director of Community Development Services

SUBJECT: Staff Report # 10 for November 15th Meeting

RECOMMENDED COMMISSION ACTION:
It is recommended that the Commission take the following actions:

STAFF RECOMMENDATIONS:
1. Open the public hearing and receive the staff report on revisions to the County TPZ Regulations and Forest Resources Policies.
2. Take public input.
3. Approve staff recommended revisions on the County TPZ Regulations and Forest Resources Policies, as may be modified, and direct staff to forward report of action to the Board of Supervisors for consideration at their December 11th, 2007 hearing.

SUMMARY
Due to a Board of Supervisors referral regarding TPZ and Forest Resources policies, the previously scheduled GPU discussion topics of Group 7b are postponed until after your Commission reports out recommendations on these referral matters.

BACKGROUND
On October 9th, 2007 the Board of Supervisors adopted a temporary interim zoning ordinance to suspend the processing of residential permit applications on lands zoned Timber Production (TPZ) while the County considers the policy options currently under review as part of the General Plan Update. The ordinance included an exception clause to allow hardship cases to be considered on a case-by-case basis. The Board action included a direction to review County TPZ regulations for a determination of consistency with State statutes for residential development in TPZ.

On October 23rd, the Board received a report from County Counsel indicating that current County TPZ regulations were inconsistent with State statutes, and referred the matter to your Commission for a report back within 60 days, not to exceed 90 days. The Board directed specific consideration of the following issues:

1) Revisions to the inland and coastal TPZ zoning regulations to make residences conditionally permitted uses where necessary for the management of timberland.
2) Provide criteria for determining where residences would be considered necessary for the management of timberland, and give consideration to approval by conditional use permit or special permit where criteria are met.
3) Consider revisions to ensure consistency between County second unit and non-conforming use regulations and State TPZ statutes.
4) Consider two general plan land use designations, Industrial Timberland and Timberland, and address entitlements and consider inclusion of incentives like transfer of development rights to more suitable areas.

The Board also requested a monthly report on the number of building permit applications in TPZ, including the number of after-the-fact applications, and number of applications for rezones out of TPZ.
The first four of these referral items are associated with revised zoning regulations. The fifth item is part of the general plan update discussion. These two matters are related in that the zoning regulations provide implementation of general plan policy.

**State Requirements**

*Cal. Govt. Code § 51100 et seq.*, known as the California Timberlands Productivity Act of 1982, contains the main body of state statute relevant to TPZ regulations (Attachment A). The Act creates and defines TPZ, and provides procedures for zoning and rezoning lands into and out of TPZ.

**Residential Uses**

CGC§ 51104(h) defines “Compatible use” as follows:

“(h) Compatible use” is any use which does not significantly detract from the use of the property for, or inhibit, growing and harvesting timber, and shall include, but not be limited to, any of the following, unless in a specific instance such a use would be contrary to the preceding definition of compatible use:”

“… (6) A residence or other structure necessary for the management of land zoned as timberland production.” (emphasis added)

With respect to the “but not be limited to” clause, CGC § 51111 provided an opportunity for the County to adopt a list of additional uses prior to October 2, 1976. Minutes from meetings of the Humboldt County Planning Commission show that the Planning Commission considered the State compatible use list in August and September, 1976, and that the Board of Supervisors adopted Ordinance 1099 on September 13, 1976. No additional compatible uses were proposed.

The Planning Commission minutes indicate considerable discussion on the appropriate level of review for proposed residences in TPZ. In the end the Planning Commission voted to recommend residences as principally permitted compatible uses. Minor revisions to the TPZ regulations have occurred over the years, but the list of compatible uses has remained essentially unchanged, except for a recent reformatting which rearranged the compatible use list.

The County’s TPZ regulations fail to address the finding as required by State law that the residence is “necessary for the management of land zoned as timberland production”. While it can be argued that the County has legislatively determined that a residence, built in accordance with zoning standards, is a normally compatible use, this is only part of the State required test for a residence in TPZ. The other part of the test, that it is necessary for the management of the timberland, is not addressed. This test for an individual residence in a specific instance cannot be met through a general legislative finding. There are certainly cases where a proposed residence in TPZ may not be necessary and could possibly detract from the management of timberland. This State law requirement can only be met through a discretionary review process that is either handled administratively or through a public process such as that required for a conditional use permit.

It has been argued that the clause “necessary for the management of land zoned as timberland production” only applies to the “or other structure” part of the definitional clause, not to residences:

“… (6) A residence or other structure necessary for the management of land zoned as timberland production.” (emphasis added)

Such a reading of the definition might have some validity if it were not for the word “other”. The word “other” in the clause ties “structure” and “residence” together, and both classes of development must be “necessary for the management of land zoned as timberland production”.

It is recommended that the County’s TPZ regulations be revised to correct this deficiency.

**Ensuring Compatibility**

A second deficiency is that, in making a blanket legislative finding for compatible uses, the County ordinance fails to provide a means of discretionary review of the listed uses to ensure compatibility in specific instances. The State definition of compatible use includes the clause “…unless in a specific instance such a use would be
contrary to the preceding definition of compatible use’ (CGC § 51104(h)). The County code partially addresses this issue in the introduction of the compatible use list:

“The following accessory uses are deemed to be compatible with the growing and harvesting of timber provided they do not significantly detract from the use of the property for, or inhibit, growing and harvesting of timber: (HCC 313-7.4, emphasis added)”.

The County Code however provides no procedural mechanism to implement this compatibility test. It is recommended that the County’s TPZ regulations be revised to correct this deficiency.

Second Units

The Humboldt County Code (§314-87.1) provides for second units in various zones including TPZ. Again, CGC§ 51104(h) lists: “… (6) A residence or other structure …” (emphasis added). Listing uses in the singular form is common in zoning ordinances, and does not necessarily indicate an intent to limit those uses to one. The context of this singular reference in the State statute may indeed be meaningful, however, and the intent of the statute may be to limit the use to one residence per parcel.

A recent letter from the California Department of Forestry and Fire Protection supports this reading (Attachment C), and states: “The Department does not support establishing more than one residence per TPZ parcel… Allowing more than one residence or other structure per parcel will likely detract from the use of the property for growing and harvesting timber and will likely take land out of timber production.” While the Department was commenting on a broader clustering proposal being considered in the General Plan update, they have raised the issue as to whether or not second units are consistent with the TPZ statute.

It is recommended that the County’s TPZ regulations consider revisions to address this potential conflict.

Non-Conforming Uses

CGC § 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.

This section of the State TPZ law is somewhat more restrictive than County Code for non-conforming uses (HCC 314-131,132). The County code allows alterations that would tend to make such uses more permanent, and specifies a cessation period of two years rather than one.

It is recommended that the County’s TPZ regulations consider revisions to address these inconsistencies.

Enforceable Restrictions

The State places the burden of regulation of TPZ properties on local jurisdictions:

CGC § 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.

The meaning of this section is that the land must be enforceably restricted (e.g. subject to a zoning consistency determination) in a manner that justifies the tax deferral, so as not to constitute an unfair tax advantage. It could be argued that there is an unfair tax advantage for TPZ land if the allowed residential uses on TPZ lands are indistinguishable from other rural timbered properties.

State law emphasizes that on lands zoned TPZ timber operations are “reasonably expected to and will occur (on the parcel).” (CGC § 51115.1(a)) The legislature declared 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.” (CGC §51115.1(b))
The County is responsible for enforcing the zoning restrictions and is empowered to conduct such enforcement through any action in court that might be necessary including an action for specific performance or injunction. (CGC §51116).

It is recommended that the County’s TPZ regulations consider revisions to address this potential conflict.

**TPZ ZONING REGULATIONS REVISIONS**

The following code changes are being considered based on the preceding analysis and Board direction:

**TPZ: Timberland Production Zone (Inland)**

1. Amend Section 314-7.4 to remove one family dwellings and normal accessory uses and structures from a use type listed as principally permitted and adding them to a use type permitted with a Use Permit; and
2. Amend Section 7.4.1.6 “Special Restrictions Regarding Residences,” to include standards for approval of residential structures in the TPZ zoning category; and
3. Amend Section 314-87.1 to remove TPZ as a zone that allows Second Units; and
4. Amend Sections 314-131 and 314-132 (Nonconforming Uses) to be consistent with State TPZ regulations (Government Code 51115.2); and
5. Other relevant code changes concerning residences in the TPZ district as may be necessary.

**TPZ: Timberland Production Zone (Coastal):**

6. Amend Section 163.1.9.10 and Section 163.1.9.11 to remove Single Family Residences as a use type listed as principally permitted in TPZ and TC zoning districts and adding them to a use type permitted with a Use Permit; and
7. Add a Section, or reference the Inland zoning section titled “Special Restrictions Regarding Residences”, to include standards for approval of residential structures in the TPZ and TC zoning categories; and
8. Amend Section 313-87.1 to remove TPZ as a zone that allows Second Units;
9. Other relevant code changes concerning residences in the TPZ district as may be necessary.

**Criteria for Residential Uses**

Among the revisions under consideration, the criteria for permitting residences in TPZ are the amendments that warrant the most discussion and perhaps need for further revision. The two key findings that need to be made are: 1) that the residence is necessary for the management of the timberland, and 2) that the residence does not significantly detract from the use of the property for, or inhibit, growing and harvesting of timber.

The ordinance revisions could just include these two required findings, and the conditional use permit process would gather information necessary to make a case by case decision. Such an approach offers the most flexibility and discretion for your Commission in making decisions, but also carries more uncertainty and possibly longer permit processing time. These two criteria are the first two new criteria added to Section 7.4.1.6 “Special Restrictions Regarding Residences”, added as 7.4.1.6.4 and .5. The Commission could consider taking this approach on an interim basis until more experience was gained, and more prescriptive standards were developed. It is noted that in many cases, the zoning regulations do not provide any specific standards for determining the appropriateness of conditionally permitted uses.

Additional criteria are provided in Sections 7.4.1.6.6,.7,.8,.9.10,.11, and .12 that address the following issues:

1. that the property has a suitable timber management plan.
2. a right to harvest acknowledgement is secured.
3. compatibility with any relevant Habitat Conservation Plan
4. that the residence is not part of a larger project
5. allowing a residence if a 10-year slide out is initiated
6. adequate structural fire protection
7. prevent water withdrawals during low flow periods to temperature impaired watersheds.
Please see the attached draft revisions (Attachment G) for the precise language suggested for these issues. Staff considers the list of issues and the proposed draft language preliminary, and warrants review and refinement. This list of issues is based on ideas that were presented during public input sessions before the Board of Supervisors. This language will have been reviewed by the FRC on Nov 7th and on Nov 13th, and hopefully they will forward their recommendations for revisions for your consideration.

In addition, Attachment D provides a summary of TPZ regulations from other counties, including the top 10 ten timber producing counties and adjacent counties. El Dorado County had more complete standards for determining compatibility and necessity, and the full text of their ordinance is included as an example (Attachment E). There may be other county examples that warrant consideration, and the Commission should consider other valid examples that are brought forth as part of the public input.

An option that has been used by some Counties and has been discussed in the General Plan Update is two different TPZ classifications, one more appropriate for small landowner holdings and one more appropriate for larger scale commercial timber holdings.

Revisions are also included to address the second unit and non conforming use issues raised in the State Requirements section above.

CEQA COMPLIANCE

Staff believes that the proposed revisions, based on the approach taken for the Grading Ordinance revisions, may be found either to be exempt or not to be a project because of no potential for significant environmental effects. Further, Ca. Gov. Code § 51119 exempts any action to zone land TPZ from the requirements to prepare an EIR, and the West Code Historical Note indicates that this applies “to all activities undertaken pursuant to” the statute.

ATTACHMENTS

Attachment B:  Appendix from 1984 Framework Plan Timberlands Policy Background Study discussing legislative history of TPZ.
Attachment C:  CDF letter dated August 6, 2007 regarding allowing more than one residence per parcel.
Attachment D:  Summary of Other County TPZ Regulations
Attachment E:  El Dorado County TPZ Regulations
Attachment F:  State TPZ Statutes
Attachment G:  TPZ Zoning Regulations Proposed Revisions
Attachment A:
1976 Planning Commission minutes discussing TPZ Regulations.
HUMBOLDT COUNTY PLANNING COMMISSION

MINUTES

August 26, 1976

Present: Commissioners: Ellis Hemenway, Glen Dickinson, W. Don Hill, Ted Trichilo, Gerald Partain

Staff: John Cook (Deputy County Counsel); Stanley Mansfield, Samuel Winston, Janice Mulanax (Planning Department)

Absent: Commissioners: Joseph Russ IV, Charles Whitson

The meeting was called to order at 7:30 p.m. in the Board of Supervisors Chambers, Humboldt County Courthouse, Eureka; Chairman Glen Dickinson presiding.

PROPOSED AMENDMENT TO ORDINANCE 519 ESTABLISHING A TIMBERLAND PRESERVE ZONE (TPZ)

Mr. Mansfield, referring to his memorandum to the Commission concerning the revised draft of the Timberland Preserve Zone, stated that past experience with timber harvesting in R-1 zones has found that there are problems where residences have been located on properties being logged. He stated he did not feel the findings required by the Legislature and included in the Act could be made if single family dwellings were allowed in Timberland Preserve zones. He also stated that he felt allowing such a use would prove to be a tax shelter for future subdivision investments. Continuing, Mr. Mansfield suggested the Commission consider a policy statement concerning reserving timberland for resource preservation, and urged the Commission be cautious in implementing the legislation. Letters from Charles C. Wagner of the Wagner Corporation and Bruce Bayless of the California Forest Protective Association were also presented and Mr. Mansfield advised that some of their concerns and advice were taken into consideration in preparing the revised draft of the ordinance.

The ensuing discussion brought out the fact that the Commission must set the minimum parcel size for inclusion on List "C" (those property owners petitioning for inclusion in a TPZ). Mr. Mansfield explained that those parcels already included in a TPZ may subdivide down to the minimum size parcel allowed. Thus, if 20 acres were established as a viable minimum, larger parcels al-
ready within a preserve may divide down to 20 acres and still benefit from the preserve.

Mr. Cook spoke concerning the history of the Williamson Act (agricultural preserve), its application in Humboldt County, and similarities to the TPZ. He stated that the TPZ program is massive (talking about zoning 1 million acres) and the effect it will have upon tax revenues in the County are unknown. He suggested that, as advised by the Planning Director, the Commission take a cautious approach, especially where List "A" (those automatically included) is concerned. Mr. Cook noted that the Williamson Act allows one dwelling for not less than 160 acres. He suggested the Commission not include single family dwellings and strictly limit the program to those in the timber business. At a later date an assessment could be made of the program and its impacts and an amendment to the ordinance could be accomplished allowing single family dwellings. Responding to questions from Commissioner Dickinson pertaining to amendment of the ordinance, Mr. Cook stated that there is nothing in the legislation to prevent the Commission from making the ordinance more restrictive or less restrictive at a later date. The legislation is being enacted as part of the zoning ordinance pursuant to the Planning Act, which specifically allows amendments to the zoning ordinance.

Discussion was held concerning some of the procedures to be followed in implementing the legislation. Mr. Cook advised that List "A" (those properties presently being taxed as timberland) is prepared by the Assessor. If the property owner does not want to be included in the preserve, he is allowed to contest his inclusion and is placed on a special list of owners contesting the zoning. A majority vote of the Board of Supervisors allows withdrawal of the property from the TPZ. If the property owner later desires inclusion, he may petition the Board for inclusion under List "C". If inclusion in a TPZ is not contested by the List "A" property owner, the property must be included in the zone. The List "A" property owner, in order to avoid the TPZ, must prove that the property will not grow 15 cubic feet of timber per acre or that the use of the property has changed since March 1, 1976.

After enactment of the TPZ, the timberland is assessed for tax purposes as timberland. The compatible use structure is assessed separately, including a portion of land upon which it is established. The remaining TPZ property is not then assessed for its potential as a building site.

Responding to Commissioner Hill, Mr. Cook advised that any uses left off the list of compatible uses would have to be provided for by inclusion in the list of those uses permitted by a use permit or by amendment to the list of compatible uses. Dis-
discussion arose concerning "Section C. Other Regulations" in the proposed ordinance. Mr. Mansfield noted that administration would be provided through some minor discretions on the part of the Planning Director as stated in the preamble to that section: Uses may be established provided they do not significantly detract from the harvesting and growing of timber. The responsibility of the Planning Director will be to determine where such uses do inhibit preservation of timber. Where the Planning Director has any hesitation as to whether the use will affect the growing of timber, the proposal will be referred to the Planning Commission and that decision will be appealable to the Board of Supervisors. Mr. Cook noted that "accessory uses", as defined by the ordinance, require a case by case determination as to compatibility. In response to Commissioner Partain, he noted that discretion for single family dwellings could be provided through requiring a use permit or the review of the Planning Director.

Discussion of campgrounds and recreational uses arose. It was noted that many recreational uses would be compatible with the TPZ (hunting, fishing, hiking, horseback riding, etc.). Commissioner Hemenway suggested that the proposed ordinance would conflict with the Wild and Scenic Rivers Act; Commissioner Partain noted that the ordinance would regulate the types of uses allowed in river conservation areas, thus avoiding some of the pressure to allow other types of uses. Mr. Cook read the recreational provisions of the Williamson Act and the Commission generally agreed that some additional types of recreational uses (less intensive uses) should be allowed, except for those that would require establishing "hard" facilities which would be incompatible with the zone. Ray Flynn, County Assessor, agreed, stating that a fish hatchery could be construed as a compatible use, but that campgrounds, etc. were not meant to be included in the TPZ. Commissioner Hill suggested that some camping areas with minor facilities could be provided through a use permit.

The public hearing was opened. Richard Roberts objected to the extent of the Planning Director's discretion over private property. He expressed his fear that some of the uses which might be desired by the individual (such as a mini-mill for harvesting timber to build one's own home, livestock uses, and agricultural uses which would be too large to restrict to the homsite) would not be allowed. Mr. Roberts also objected to not being able to choose his own homesite or clear a piece of ground within the timber area for a homesite, and inclusion of his property in the TPZ when he had no intention of ever harvesting the timber. Commissioner Trichilo stated the Commission should be concerned with timber that is destined for the commercial market; properties containing timber that is never destined for commercial use should not be included in the TPZ. Continuing, Mr. Roberts stated that no evidence had been presented to determine the minimum parcel size. Speaking from a personal viewpoint, he stated he felt those parcels of 40 acres and less should be left to the discretion of the property owner.
Lowell Chapman, representing Arcata Redwood, objected to the wording of the proposed ordinance and suggested that the Commission use only the State's wording (referring to "compatible uses" and the definition of timberland given in Section 51100). Mr. Mansfield noted that the wording was taken directly from the legislation and that Paragraph 2 of Section C included various sections of the Act. During discussion, it was discovered that Section 51100 had been inadvertently omitted. Mr. Chapman also suggested that agricultural uses and single family dwellings be added to the list of compatible uses and 5 more specific items as set forth in a letter directed to the Commission. He again set forth his objections to the wording used and to the discretionary power given to the Planning Director in determining compatible uses. Commissioner Partain noted that if an attempt is made to list all the compatible uses and one is left out, there would be no discretion to include it as a compatible use. Mr. Chapman disagreed and stated that the draft ordinance is too restrictive.

Richard Roberts reappeared, stating that single family dwellings should be a principal permitted use and should not be required to be necessary to the timber operation.

Mr. Cook noted that the required conformance to timber growing and harvesting is part of the State Act. The State Act cannot be adopted as the zoning ordinance since no land use planning went into the Act. He referred to the difficulty being encountered in trying to use the land use techniques discussed in the Act since they do not follow standard procedures. Also, adoption of the State Act would do great violence to the existing ordinance and the State Planning Act. The TPZ legislation also requires the Commission to review on a case-by-case basis all compatible uses; this review cannot be accomplished if they are categorized as principal permitted uses. Commissioner Trichilo agreed that it would not be possible to provide for all situations and there must be provisions for discretion on the part of the decision makers.

Loren Leitner, representing Simpson Timber Company, suggested the Commissioners confine their activities to defining compatible uses and not try to determine the minimum parcel size as yet. Commissioner Partain pointed out the difficulty in keeping the two separate as compatible uses would be allowed in all TPZ's regardless of parcel size. Mr. Leitner continued, suggesting the Commission to be cautious in defining the TPZ considering the impact it will have on the County; that it will be the largest zone in the County. He also suggested that as much public input as possible be obtained and that compatible uses be defined now without an amendment to the zoning ordinance. It was explained that given the time frames within which the Commission, Board of Supervisors and Assessor must work, adoption of zoning on the parcels involved should be immediate, which would also require prior adoption of the regulations to be applied to those properties.
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Mr. Leitner suggested that if this is the case, only those compatible uses listed in the legislation be enacted by the ordinance. Mr. Mansfield referred to his memorandum of August 26, pointing out the problems with adopting the State list of compatible uses, and reminding the Commission that there must be provision for discretion, as advised by County Counsel. Commissioner Partain remarked that the State law did not say that compatible uses should not be discretionary. Mr. Leitner suggested the elimination of as much discretion as possible.

Ray Flynn stated that property does not have to be zoned TPZ in order to pay taxes on the timber only when it is cut; that timber properties will not pay the ad valorem tax on timber regardless of the zone, they will only pay a yield tax at the time the timber is sold. He also stated he has difficulty in disassociating the minimum size parcel with compatible uses and suggested that the Commission set a minimum size parcel of 160 acres and completely eliminate single family dwellings from the zone. He explained that List "A" contains many parcels upon which single family dwellings have already been constructed; that the property surrounding the dwelling will not be included in the TPZ unless the dwelling is located in the middle of the forest. List "B", he stated, will be comprised of those parcels which in his opinion should be included in the preserve. The MidHumboldt County area will be a problem in this regard and he advised the Commission that he will be examining very closely those parcels which will be included on List "B", that it should be limited to those growing and harvesting timber. Those parcels coming into a preserve on List "C" will have to meet a long list of criteria, making it more difficult for entrance into the TPZ in some areas.

Discussion arose concerning exclusion from the TPZ and Mr. Flynn advised the Commission that anyone desiring exclusion must state the proposed use of the property. A zone fitting that use and in conformance with the General Plan is then placed on the property and the property is then taxed accordingly.

Hugh Turner stated that the legislation adopted by the State appeared to be a land use bill, not a timber tax bill. He suggested that the ordinance be clarified with respect to contiguous parcels: whether an acreage minimum refers to adjoining parcels or parcels sufficiently near to be manageable as a single forestry unit. He also suggested that a minimum parcel size be established for List "B". Mr. Cook explained that Lists "A" and "B" were specified by Statute and cannot be changed by the Board of Supervisors. He also noted that there will only be one List "A" and one List "B"--a new Assessor may not prepare a new list. List "C" may be changed by the property owner petitioning for entry. Continuing, Mr. Turner suggested that some camping uses be allowed along rivers where the trees cannot be cut in any event. In this way, taxes will be derived from the recreational use.
Louis DeMartin stated the TPZ will be a great asset for those wanting to grow timber (mainly those List "A" property owners); those applying for entry under List "C" would feel the preserve to be beneficial; those objecting to the TPZ would be those property owners falling under List "B". He stated the legislation gives too much power to the Assessor and suggested the County require the State to prepare List "B".

Aline Cargill inquired how the property would be described for adoption of the zone, suggesting that a general description as indicated by Mr. Mansfield would be too inaccurate and cause a considerable amount of confusion and inaccuracy. She also opined that disallowing a single family dwelling in the TPZ would result in almost mandatory soils reports in order to establish the boundary of a TPZ area on a parcel so a dwelling can be constructed on the portion which is not TPZ. Mrs. Cargill also suggested that the minimum for List "C" be established as timberland areas of not less than 160 acres, not a 160 acre minimum parcel size. She continued, stating that small property owners do not want to be part of the TPZ, and urged the Commission consider the County's tax base and the need for housing.

Discussion arose concerning the required timber harvest plans. Commissioner Partain stated that the law does not guarantee the timber will be cut. The harvest plan must show as good an intent as possible but it would be possible to divide the property, erect a home on each parcel and use the TPZ as a tax shelter. Mr. Flynn noted that if a determination is made that there is no intent to harvest the timber, a recommendation could be made to the Board of Supervisors to rezone the property.

Joe Cruz spoke concerning the additional control over private individuals provided by this legislation, and its unconstitutionality.

Steve Wright re-emphasized the statements made concerning the housing shortage. He also suggested skiing areas be included in the list of recreational uses deemed compatible. Further discussion arose in this vein, with the Commissioners generally agreeing that extensive skiing facilities would not be compatible with a TPZ.

The public hearing closed. Further discussion of recreational activities arose. Commissioner Trichilo suggested that recreational uses be very specifically defined. Commissioner Hill noted that the Act includes recreational uses and further defines what these uses are. A rough draft of language providing for recreational uses, somewhat the same as the Williamson Act, was read by Mr. Mansfield, to which he added skiing. Any of these uses, he stated, must not significantly detract from the growing and harvesting of timber. To "Section B, Uses Permitted with a
Conditional Use Permit" he added a trailer camp, recreational park and stables. These uses also may not be approved if they inhibit the growing or harvesting of timber. Commissioner Hill suggested that the compatible uses not be named in order to avoid leaving anything out. Commissioner Trichilo suggested wording which would allow other discretionary recreational uses meeting with all the provisions of the legislation. Commissioner Partain stated his reluctance to include some of the specified uses as principal permitted uses, feeling that there should be some provisions for their control. Agreeing, Commissioner Dickinson stated that a list of principal permitted recreational uses could be drafted. Commissioner Partain noted that other recreational uses could be made compatible with further scrutiny.

Discussion again arose concerning the single family dwelling. Commissioner Dickinson suggested that List "A" disallow single family dwellings since there are provisions for exclusion from the zone, List "B" allowing them as there is no recourse to the action of the Assessor, and List "C" disallowing single family dwellings as the property owner has the option of inclusion in the TPZ. Mr. Mansfield pointed out that the standards must be uniformly applied throughout the zone. Mr. Cook noted that the Commission is under no compulsion to zone a parcel as TPZ if the property owner does not so desire.

Commissioner Trichilo stated he could not act on compatible uses without knowing the minimum parcel size. Mr. Cook noted that minimum parcel size would not apply to List "A" or List "B" or additional parcels belonging to a TPZ property owner desiring to place the additional parcels in the preserve. The Commissioners generally agreed that small parcels containing a dwelling may be difficult to harvest whereas those parcels of a larger size would allow more freedom even while containing a dwelling. Commissioners Partain, Trichilo and Dickinson agreed that larger parcels and no dwelling units would be desirable; however, Commissioner Dickinson pointed out that difficulties may be encountered by the List "B" property owner. Commissioner Partain suggested single family dwellings be allowed as a discretionary use or require a use permit for construction—that single family dwellings were not in the intent of the law. He further stated, however, that a property owner sincere about managing timber who needs a dwelling unit to manage the timber would meet the intent of the law. Commissioner Dickinson indicated he would agree to a single family dwelling with a site location approval, one dwelling per parcel. Commissioner Partain opined the Board of Supervisors would allow removal of smaller individual parcels owned by those who did not desire inclusion.

Mr. Mansfield read the revised provisions for recreational compatible uses, noted that Section 51100 should be added to the language including certain sections of the State legislation
under No. 2 of the ordinance and noted that language should be added to the ordinance providing that compatible uses cannot be approved if they inhibit the harvesting or growing of timber. He added to Section A of the ordinance provisions for public camps, trailer camps and stables with an approved use permit. Commissioner Partain suggested that "Uses Permitted Upon Approval of the Planning Director" be incorporated in the ordinance according to the draft dated August 4, 1976, and that single family dwellings be included in this category—that the single family dwelling be approved when it can be shown it is necessary for the maintenance of the timber management program.

Commissioner Partain moved, Commissioner Trichilo seconded, that a minimum acreage of 160 acres be adopted for zoning property as a Timberland preserve Zone (TPZ) when initiated by the owner or authorized agent(s) (List "C"). The motion carried unanimously.

Discussion arose concerning the numerous parcels smaller than 160 acres which would be zoned TPZ under Lists "A" and "B". When asked about the average size parcel to be included under List "B", Mr. Flynn indicated that probably 40 acres would be the average. He then cautioned the Commission, reminding them that if single family dwellings were allowed in the zone, any size parcel taken in under Lists "A" and "B" could have a dwelling placed upon it. Whether the structure should be directly related to the harvesting of timber was considered and Commissioner Partain noted that if the regulations are more restrictive, the property owner must then decide what the future of the property will be. Mr. Mansfield suggested that single family dwellings be a discretionary decision by the Planning Director when the parcel size is less than 160 acres. Mr. Cook suggested that single family dwellings be allowed under the use permit procedures already provided by the existing zoning ordinance.

Commissioner Trichilo moved the Commission adopt a Resolution recommending construction of only those single family dwellings necessary for timber operation in the Timberland Preserve Zone after approval of the Planning Director. Commissioner Partain seconded the motion. A roll call voted indicated:

**AYES:** Commissioners Partain, Trichilo
**NOES:** Commissioners Hill, Dickinson, Hemenway
**ABSTAIN:** None
**ABSENT:** Commissioners Russ, Whitson

Motion failed to pass for lack of a majority of the Commission membership.

Commissioner Hill moved for adoption of a Resolution recommending allowance of single family dwellings with site location approval
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(the Planning Director review the plot plan and if the location is in conflict with the intent of the TPZ, the permit will not be automatically approved but sent to the Planning Commission for review). Commissioner Hemenway seconded the motion. A roll call vote indicated:

AYES: Commissioners Hill, Hemenway, Dickinson
NOES: Commissioners Trichilo, Partain
ABSTAIN: None
ABSENT: Commissioners Russ, Whitson

Motion failed to pass for lack of a majority of the Commission membership.

Mr. Mansfield suggested a motion to continue the matter to September 2, 1976. Commissioner Dickinson as Chairman so directed. Commissioner Hemenway suggested and Commissioner Dickinson so directed that the problems of the Commission be directed to the Board of Supervisors.

PROPOSED AMENDMENT TO ORDINANCE 776 REGARDING SUBDIVIDING LARGE RANCHES

Continued to September 2 upon direction of Chairman Dickinson.

The meeting was adjourned at 12:15 p.m.
HUMBOLDT COUNTY PLANNING COMMISSION

AGENDA
August 26, 1976
7:30 P.M.
Board of Supervisors' Chambers
County Courthouse
Eureka

I. CALL TO ORDER

II. SALUTE TO THE FLAG

III. ROLL CALL

IV. SCHEDULED MATTERS

Public Hearings

1. Proposed Amendment to Ordinance 519 Establishing a Timberland Preserve Zone (TPZ)

New Business

1. Proposed Amendment to Ordinance 776 Regarding Subdividing Large Ranches

V. ADJOURNMENT
HUMBOLDT COUNTY PLANNING COMMISSION

AGENDA

September 2, 1976

7:30 P.M.
Board of Supervisors' Chambers
County Courthouse, Eureka

I. CALL TO ORDER

II. SALUTE TO THE FLAG

III. ROLL CALL

IV. APPROVAL OF MINUTES – August 5, 1976

V. SCHEDULED MATTERS

Public Hearings

A. Proposed Reclassification from "U" (Unclassified) To A-G-B-5 (Agriculture General) (10 Acre Minimum) Zone or More Restrictive Zones – Hooven Ranch – McKinleyville

Continued Items

B. Proposed Reclassification of Several Parcels from "U" (Unclassified) to A-G (Agriculture General) (2 1/2 Acre Minimum), A-E (Agriculture Exclusive) (20 Acre Minimum) and C-H (Highway Services Commercial) Zones – Indianola Area (Public Hearing Closed) (Continued from August 19, 1976)

C. Proposed Amendment to Ordinance 519 – Timberland Preserve Zone (TPZ) (Public Hearing Closed) (Continued from August 26, 1976)

D. Conditional Use Permit Application to Allow the Construction of Two Family Dwellings on Approximately 40 Acres Located on the North Side of Titlow Hill Road – James Lowry – Berry Summit (Titlow Hill) Area – A.P. #316-185-05 – Case No. UP-209-76 (Public Hearing Closed) (Continued from August 5, 1976)
VI. OLD BUSINESS

A. The Meadows Unit #1 - Garberville - Wallan and Johnson, Inc. (Subdividers) - A.P. #213-123-06 - Case No. 283 (Continued from August 19, 1976)

B. Election of Officers for 1976-77 Fiscal Year (continued from August 5, 1976)

VII. NEW BUSINESS

A. Proposed Amendment to Ordinance 776 Regarding Subdividing Large Ranches (Continued from August 26, 1976)

B. Redwood Valley Solid Waste Container Site - Proposed Acquisition from Barnum Timber Company, Inc. - Conformance to the General Plan

C. Proposed Abandonment - Portion of Former Sprowel Creek Road - Conformance to the General Plan

D. Items to be brought up for discussion or future action by Planning Commissioners

VIII. WRITTEN COMMUNICATIONS

IX. REPORT ON PLANNING MATTERS BEFORE THE BOARD OF SUPERVISORS

X. PUBLIC APPEARANCES - Any person or organization may address the Planning Commission at this time

XI. ADJOURNMENT
HUMBOLDT COUNTY PLANNING COMMISSION

MINUTES

September 2, 1976

Present: Commissioners: Ellis Hemenway, W. Don Hill, 
Gerald Partain, Ted Trichilo, 
Glen Dickinson, Joseph Russ IV

Staff: John Cook (Deputy County Counsel); 
Stanley Mansfield, Samuel Winston, 
Janice Mulanax (Planning Department)

Absent: Commissioners: Charles Whitson

The meeting was called to order at 7:30 p.m. in the Board of 
Supervisors Chambers, Humboldt County Courthouse; Chairman 
Glen Dickinson presiding. Hearing no comments, Chairman 
Dickinson accepted the minutes of the meeting of August 5, 1976 
as submitted.

PROPOSED RECLASSIFICATION FROM "U" (UNCLASSIFIED) TO A-G-B-5 
(AGRICULTURE GENERAL) (10 ACRE MINIMUM) ZONE OR MORE RESTRICTIVE 
ZONES - HOOVEN RANCH - MC KINLEYVILLE

Mr. Winston presented the proposal as shown on Exhibit I and 
reviewed the staff report. He advised that a petition was re-
ceived from a majority of the property owners, requesting a 10 
acre minimum zone. The original ranch consisting of eight 
hundred acres, he noted, was divided into 60 acre parcels. 
Parcels 6, 10 and 15 have been re-divided into 20 acre parcels 
and parcels 7, 11 and 12 are presently being considered for 
similar division. Staff recommended denial of the 10 acre 
minimum zoning as the proposal would be inconsistent with the 
McKinleyville land use element of the General Plan in which the 
area is designated as 80 per cent forestry and watershed and 20 
per cent low density. Inconsistency with the Open Space-Conservation 
element of the General Plan, which designates the area as conifer 
woodland and timber sites I, II and III, also prompted the re-
commendation for denial. Staff suggested reclassification to A-E 
(Agriculture Exclusive) (20 Acre Minimum) zoning as depicted by 
Exhibit II. Exhibit II is in conformance with the General 
Plan and also with existing commission policy that timber sites 
I, II and III shall not be divided into parcels smaller than 20 
acres. Mr. Winston explained that if the smaller zoning were 
approved, in essence the Commission would be assuring each property 
owner a 10 acre minimum subdivision.

Discussion was held concerning whether the property would be 
included in the Timberland Preserve zone. It was noted that the 
property has been timber producing up to this time, but staff was
not informed as to its TPZ status. The public hearing was opened.

Bob Ziemer spoke in favor of the proposal for 10 acre minimums. (Commissioner Russ entered at this point). He stated it is difficult to maintain timber harvests on the basis of 20 acres and agreed that the property is prime timber land. Mr. Ziemer referred to the Public Works Department stringent road requirements, inconsistent with the 20 acre parcels being created, based on the department's belief that the 20 acre parcels would be split further. He advised their only intention in creating 20 acre parcels was to have a piece of property upon which they could have some agricultural uses and be isolated. Ten acres, he stated, is large enough for this purpose and small enough to be handled by a family. Commissioner Dickinson inquired whether Mr. Ziemer would rather have 60 acres or 10, if financially able to maintain it, and Mr. Ziemer responded that he would prefer the larger parcel. He was then advised that it is potentially possible under the proposed timberland preserve zoning.

In response to Commissioner Trichilo, Mr. Ziemer advised that he desires to split below 20 acres as it is possible to sell off portions of a larger parcel and thus obtain a relatively cheap smaller piece of property; that he is not in a position to manage a 60 acre parcel. He also advised that he purchased the property with the idea of splitting it.

Asked whether he was aware that the petition submitted is in opposition to the General Plan, Mr. Ziemer replied that Mr. Walker received a lot split which was definitely in conflict with the General Plan. Mr. Mansfield clarified this, advising that the minor subdivision had been denied by the Planning Commission. When Mr. Walker improved the road going to the property from the Central Avenue-Dows Prairie area, he met the improvement standards for creating parcels below 20 acres. Mr. Ziemer remarked that the petition is an assurance that the property will not be split again and also a way for the property owners to avoid road improvement standards required for smaller parcel.

David Doolaegge stated that the Baruth and Yoder General Plan provides for a large increase in population in the McKinleyville area. If subdivisions are kept at 20 acre minimums, the County will not be able to provide for these people. He suggested that the property cannot be logged again for another 50 years and that people need a place to live more than a tree does. Continuing, Mr. Doolaegge stated that all of the timber site I, II and III properties comprise only about 5 per cent of the County, the remainder being owned by the government or timber companies. He stated he did not want to devalue his property for the sake of the timber companies.
Commissioner Partain questioned his statements concerning devaluation and Mr. Doolaege replied that very few could pay taxes on a 60 acre parcel. Commissioner Partain noted that the increased population referred to by Mr. Doolaege and increased demand for property will increase the value of Mr. Doolaege's property.

Discussion arose concerning the difficulty in logging small parcels because of the disturbance to neighboring parcels. Mr. Doolaege stated that the deed restrictions could provide for timber growing and residential purposes, thus informing all potential purchasers of the possibility that neighboring parcels would be logged. Mr. Doolaege also opined that logging operations could be conducted on parcels smaller than 10 acres in size without undue disturbance to neighboring parcels. He noted that 30 per cent of all timber harvest plans are for parcels smaller than 10 acres in size; that out of 400 timber harvest plans, 85 are for parcels smaller than 3 acres in size. Commissioner Partain reminded Mr. Doolaege that the Commission just received testimony, as it has in the past, that 20 acres is not an economically viable parcel to keep in the timber growing industry. Mr. Doolaege agreed, stating that it is not possible to hire someone to log a parcel as large as 60 acres; that it must be at least 160 acres in size; that it would not be possible to hire a forester to manage timberland smaller than 5,000 acres in size. Mr. Doolaege asked for Commissioner Russ' agreement that ranches are not able to hire foresters; Commissioner Russ disagreed, stating that his ranch does maintain a forester.

When asked by Commissioner Trichilo his purpose in purchasing the property originally, Mr. Doolaege responded that he intended to log it, and after one or two loggings, to make homesites out of the property. He further responded that he was aware of the General Plan when he purchased the property.

Bud Forbes testified that the property is within the water district and should be considered for residential purposes because of this. Responding to questions from the Commissioners, Mr. Forbes noted that the water district is under no obligation to provide water to the properties in the district, that it must be at the owner's expense; that there is a lake with ample water to serve a community the size of McKinleyville. Commissioner Dickinson noted that there is no assessment for the water district included in taxes; that a $1 dollar assessment was initiated for the purpose of financing paper work, studies and engineering costs. Mr. Forbes reminded the Commissioner of the McKinleyville-Fieldbrook road and suggested the County allow division of properties in order to recover some of the revenue spent on the road and to further utilize the road.

Pete Cargill stated that today the property would not be considered the same for timber growing purposes as it was 50 years ago.
Commissioner Dickinson stated that it was not a question of whether 20 acres would be an economically viable parcel, but whether division of the property would inhibit the growing of timber. The public hearing was closed.

Discussion was held concerning improvement requirements for division to low density. Mr. Mansfield stated that the difference between improvements required for 60 acre parcels or 20 acre parcels would not be much; that there would be a considerable difference, however, in the improvements required for 10 acre parcels.

Discussion was held concerning the upcoming McKinleyville General Plan and timberland preserve zoning. It was agreed that the matter should be continued in order to have further information on the McKinleyville General Plan and timberland preserves prior to acting on the zoning. Mr. Mansfield noted that a decision must be made within 50 days of the date of closing the hearing or the project would be deemed denied. Commissioner Russ moved, Commissioner Hill seconded, that the public hearing be re-opened and the matter continued to November 18, 1976. The motion carried by a majority.

PROPOSED RECLASSIFICATION OF SEVERAL PARCELS FROM "U" (UNCLASSIFIED) TO A-G (AGRICULTURE GENERAL) (2 1/2 ACRE MINIMUM), A-E (AGRICULTURE EXCLUSIVE) (20 ACRE MINIMUM) AND C-H (HIGHWAY SERVICES COMMERCIAL) ZONES – INDIANOLA AREA (PUBLIC HEARING CLOSED) (CONTINUED FROM AUGUST 19, 1976)

Chairman Dickinson, referring to the numerous times the proposal has come before the Commission, restricted the Commissioners to five minutes for questioning staff, and suggested that the Commission then make a decision on the project.

Mr. Mansfield advised that a minor change was made on the proposed C-2 zoning at the intersection of Old Arcata Road and the Old Indianola Road, now reflecting parcel lines, thus allowing the Commission to consider a modified Exhibit "C" if it so desired. He also noted that a decision must be made within 50 days of the date of closing the hearing or the project is deemed denied and a letter was received prior to the meeting which could not be entered into the record since the public hearing has been closed.

In response to Commissioner Russ' inquiry as to any solid developments in the proposed annexation of a portion of the subject area into the City of Eureka, Mr. Mansfield advised that the City has agreed to the proposal and forwarded it to LAFCO. Discussion was held concerning the effect the proposed zoning would have upon zoning by the City of Eureka if the property is annexed, and Mr. Mansfield noted that zoning by the County would have no
bearing on City zoning. He also advised that LAFCO has a requirement for prezoning and that the City of Eureka also designates the area as agriculture on their General Plan, although he is unaware of the minimum acreage requirements.

Commissioner Partain moved for acceptance of staff's recommendation and adoption of a Resolution recommending approval of Exhibit "C" as the proposed zoning for the area. He remarked that the proposed reclassification had been studied carefully and that the Commission is aware of the potential for annexation. He stated he believed the Commission has a responsibility to make decisions when citizens come to the Commission with requests, and remarked upon the uncertainty of the proposed annexation. Commissioner Trichilo seconded the motion. Commissioner Russ remarked upon the impossibility of pleasing all property owners and noted that Exhibit "C" would please the vast majority and still be in the best interests of the County. A roll call vote indicated:

AYES: Commissioners Partain, Trichilo, Russ, Dickinson
NOES: Commissioner Hemenway
ABSTAIN: Commissioner Hill
ABSENT: Commissioner Whitson

Motion carried by a majority of the Commission membership. Commissioner Hemenway stated he did not think the Commission should zone something which the City is in the operation of annexing.

PROPOSED AMENDMENT TO ORDINANCE 519 ESTABLISHING A TIMBERLAND PRESERVE ZONE (TPZ) (CONTINUED FROM AUGUST 26, 1976)

Mr. Mansfield presented the August 31, 1976 draft of the ordinance, the following revisions being incorporated in the draft: Section B now indicates that permits authorized under a Conditional Use Permit cannot be approved if the use will detract or inhibit the growing or harvesting of timber. Trailer camps, public camps and stables have been added to the list of those uses permitted with a Conditional Use Permit. Under Section C (h), compatible uses such as hiking, walking, fishing, hunting, skiing, etc. have been added similar to the Williamson Act provisions for recreational uses. Section C 2 has been corrected to reflect inclusion of Section 51100 of the State Act. Section C 3 now incorporates additional language to reflect adoption of a 160 acre minimum for inclusion on List "C" preserves.

Mr. Cook withdrew his advice at the meeting of August 26, 1976 concerning amendments to the proposed ordinance. He noted that the legislation is very unclear as to whether the list of compatible uses may be amended in the future; that there is no
statutory authorization to do so. He suggested the Commission treat the list of compatible uses with caution as practical difficulties could be encountered if the Commission later desires to make compatible uses more restrictive. Relaxing restrictions, however, could be much more easily accomplished.

Discussion arose concerning the 160 acre minimum adopted at the last meeting. Mr. Cook noted that some problems may be encountered in ascertaining the 160 acres as it applies to a particular property owner (whether it would apply to 160 acres of timberland, or 160 acres, only a portion of which is timberland). Mr. Mansfield stated that he is under the assumption that it would be a combination of both timberland and other type lands, such as grazing. The Commissioners agreed that this would be an administrative problem which must be settled at a later date. Commissioner Partain pointed out the State Law refers to timberland areas which shall be under one ownership comprised of single or contiguous parcels of a minimum number of acres provided that that minimum does not exceed 160 acres. Upon Mr. Mansfield's inquiry as to whether the 160 acres must all be timberland, Commissioner Partain stated that he felt it must and Commissioner Dickinson disagreed, stating that the property only must be capable of producing 15 cubic feet of timber per acre, that parcels could be combined to reach an average production per acre. Commissioner Partain stated that the law does not refer to an "average" and that it would not make sense to allow a combination of timberlands and non-timberlands on List "C" when Lists "A" and "B" contain timberlands only.

Commissioner Hemenway inquired whether plantation planted smaller parcels would be included, stating the Assessor's office indicated these parcels should remain as subdivision properties since it would be more beneficial to the County from a tax standpoint.

Discussion arose concerning establishing minimum parcels sizes, setbacks, etc., normal requirements of any zone. It was agreed to include items 3, 4, 5 and 6 of Section 415 (A-E, Agriculture Exclusive) as requirements for the Timberland Preserve zone.

Commissioner Russ moved for adoption of a Resolution recommending approval of the August 31, 1976 draft of the Timberland Preserve Zone, including the amendments which would include the requirements for setbacks, etc. Commissioner Hill seconded the motion.

Commissioner Partain reminded the Commission of the difficulties encountered at the last meeting when discussing single family dwellings and suggested this be resolved before adoption of the ordinance. He referred to the unknown tax impact of allowing single family dwellings on the numerous small parcels on Lists "A" and "B". He indicated he would have to oppose any motion which would allow single family dwellings without any real degree
of control. Commissioner Trichilo stated he felt the zone as proposed would provide a tax shelter for a large number of people to the disadvantage of the County.

Discussion arose concerning property owners entering a preserve with no intentions of ever harvesting the timber. Commissioner Dickinson stated that in effect this would be meeting the intent of the legislation as it would be preserving the timber for a period of time and that eventually, as the trees increased in value or the property changed ownership, the trees would be harvested. Commissioner Partain noted that in the future many such small parcels may have difficulty in harvesting the timber so preserved due to the development which has occurred around them, and reminded the Commission of the environmental controls which must be met.

Commissioner Hill referred to the considerable amount of property which will be affected by the zone--70 per cent of the privately owned property in the County being classified as timberland--and the enormous administrative problems which will be encountered if controls over single family dwellings are restrictive.

Mr. Cook reminded the Commission that if single family dwellings are included in the list of compatible uses and later developments point out the need for their removal, considerable difficulty could be encountered in attempting to do so. Removal of a single family dwelling would make the zone considerably less attractive and yet those properties already included in a preserve could not be removed for 10 years without suffering penalties. Commissioner Partain pointed up the advantages of starting out with something more restrictive and later analyzing the effect the ordinance has upon the implementation of the preserve program. He suggested that single family dwellings be subject to the approval of the Planning Director, noting that such a restriction would cause a number of owners of small parcels to declare their intentions for the property much earlier than they might otherwise do so. Commissioner Dickinson pointed out that parcels which are not included in the preserve due to excessive restrictions might be prevented from division by the Open Space-Conservation Element.

A roll call vote on the motion found:

AYES: Commissioners Hill, Russ, Hemenway, Dickinson
NOES: Commissioners Partain, Trichilo
ABSTAIN: None
ABSENT: Commissioner Whitson

Motion carried.
CONDITIONAL USE PERMIT APPLICATION TO ALLOW THE CONSTRUCTION OF TWO FAMILY DWELLINGS ON APPROXIMATELY 40 ACRES LOCATED ON THE NORTH SIDE OF TITLOW HILL ROAD - JAMES LOWRY - BERRY SUMMIT (TITLOW HILL) AREA - A.P. #316-185-05 - CASE NO. UP-209-76 (PUBLIC HEARING CLOSED) (CONTINUED FROM AUGUST 5, 1976)

Mr. Mansfield advised that the building code requirements for conversion of the building to a church would be exorbitant. The applicant is now asking only for approval of the two single family dwellings already constructed on the property. At the time the parcel upon which the building are constructed was created findings were made which would allow only one dwelling unit per parcel. A minor subdivision could be applied for, although Mr. Mansfield would not comment upon the possibilities of success. Commissioner Russ moved for denial based upon staff findings and recommendations. Commissioner Hemenway seconded the motion, which carried by a majority, Commissioner Hill abstaining.

THE MEADOWS UNIT #1 - GARBERVILLE - WALLAN AND JOHNSON, INC. (SUBDIVIDERS) - A.P. #213-123-06 - CASE NO. 283 (CONTINUED FROM AUGUST 19, 1976)

Mr. Lashbrook advised that he has been in frequent contact with the applicants. They are dealing with two state agencies and ask for another continuance to the meeting of September 16, 1976. Mr. Mansfield advised that Mr. Lashbrook has been authorized by the applicant to request the continuance. Commissioner Hill moved, Commissioner Russ seconded, that the matter be continued to September 16, 1976. Motion carried unanimously.

ELECTION OF OFFICERS FOR 1976-77 FISCAL YEAR (CONTINUED FROM AUGUST 5, 1976)

Mr. Mansfield advised the matter had been continued until more Commission members were present, that the positions had officially expired as of July 1, 1976. Commissioner Hemenway moved, Commissioner Hill seconded, to continue with the officers presently holding the positions (Chairman Dickinson, Vice-Chairman Russ). Motion carried unanimously.

PROPOSED AMENDMENT TO ORDINANCE 776 REGARDING SUBDIVIDING LARGE RANCHES (CONTINUED FROM AUGUST 26, 1976)

Mr. Mansfield presented maps prepared by the department of Public Works depicting what happens with 60 acre subdivisions as they progress down to smaller parcels via the minor subdivision process. Two proposals for reclassification prior to acceptance of tentative maps were presented: the division of 160 acres into two or more parcels, and the division of parcels which could be further divided in accordance with the density depicted by the General Plan. Mr. Mansfield indicated his hesitation to adopt
the second proposal due to the shortage of manpower in the department and the delays which would be experienced by the applicants (two or three months to process a reclassification at a minimum).

Mr. Mansfield indicated that the tentative map cannot be approved until after adoption of the zoning since improvements will be predicated on the zoning. If the tentative map is accepted prior to zoning and improvements dictated, these cannot be changed if the zoning is not adopted.

Further discussion resulted in changing the language of the second proposal: from zoning "shall be" to "may be" predicated upon the number of parcels proposed consistent with the General Plan. Mr. Cook noted that although the applicant would be requesting a specific zone, the Commission would have the discretion to recommend zoning which it feels is most desirable, and suggested that wording be stricken. The Commission disagreed and decided the wording should be as amended. Commissioner Partain moved the Commission recommend the proposed amendment to Ordinance 776 to the Board of Supervisors, including the amendment. Commissioner Trichilo seconded the motion.

Hugh Turner approached the Commission and objected to the lack of information available to the public. He spoke to building conditions in the county and the unavailability of land. Commissioner Dickinson disagreed, feeling that the proposal would eliminate many of the problems now being experienced with minor subdivisions and improving conditions for the purchaser.

Mr. Mansfield agreed with Mr. Turner, that statements of the developer will determine the zoning on the property (if he states he will not divide below 10 acres, for example, the property will be zoned for 10 acre minimums, not a lower density as appeared to be understood by the Commission). Improvement requirements will be determined by the zoning. Mr. Turner noted that it is illegal for the property owner to commit himself to further divisions of the property than presently allowed by State law that no one will submit an application for zoning to a higher density than proposed by his tentative map.

Commissioner Trichilo stated that zoning will inform the purchaser of exactly what possibilities exist for the property and what he is limited by. Mr. Turner remarked upon the unlikelihood of studying each proposal for potential R-1 zoning when the applicant is proposing division into two larger parcels. Commissioner Partain commented upon the eventual subsidization of improvements by the taxpayers when property is divided without someone making necessary improvements at the time of division. Mr. Turner disagreed, stating that the County does not make improvements to private roads; that each divider would have to make a portion of the improvements at each station of division. Commissioner Russ commented upon past indications that purchases of property were made with the idea of further division.
Further discussion was held concerning the minor subdivision process, reclassification process and environmental review. The problem of when the tentative map should be accepted in relationship to processing of the reclassification was also discussed. Commissioner Russ moved to amend the motion allowing for concurrent reclassification when ten parcels or less are created; that when ten parcels or more are created, the reclassification must be completed prior to acceptance of the tentative map. Further discussion was held concerning the numbers and sizes of lots being created. Commissioner Russ then withdrew his motion to amend the motion for approval. Suggestions were made for continuing the portion of the policy pertaining to minor subdivisions.

Commissioner Russ moved to strike Item G (1) from his motion for approval. Commissioners Partain and Trichilo indicated their acceptance of the amendment to their motion. It was noted that in effect the motion would now recommend that the Board of Supervisors amend the subdivision ordinance to provide for reclassification of parcels when division of 160 acres into two or more parcels is involved. Motion carried unanimously. Mr. Mansfield indicated he would return the remainder of the policy to the Commission at a later date.

REDWOOD VALLEY SOLID WASTE CONTAINER SITE - PROPOSED ACQUISITION FROM BARNUM TIMBER COMPANY, INC. - CONFORMANCE TO THE GENERAL PLAN

PROPOSED ABANDONMENT - PORTION OF FORMER SPROWEL CREEK ROAD - CONFORMANCE TO THE GENERAL PLAN

Mr. Mansfield presented the proposals, noting that staff reviewed them and found them to be in conformance with the General Plan. Commissioner Russ moved that the Commission so find. The motion was seconded by Commissioner Partain and carried unanimously.

VAN DUZEN WATERWAY MANAGEMENT PLAN

Mr. Mansfield advised that the public hearing would be held on September 23, 1976.

REPORT ON PLANNING MATTERS BEFORE THE BOARD OF SUPERVISORS

Mr. Mansfield continued his report on those items coming before the Board of Supervisors, advising he would make his report at the next meeting.
PUBLIC APPEARANCES

Bob McKee spoke to the commission on the proposed policy concerning division of large acreage ranches. He stated that it is not possible for the Commission or the subdivider to anticipate the use of the property at the time it is being divided, and that the Commission is leaving no room for personal desires. Mr. McKee then distributed some information he prepared concerning the demand for properties. Considerable discussion was held concerning removal of land from agricultural uses, costs of services to subdivisions, increased demand for timber and increased cutting over the past 30 years, and the effect division of timber lands will have upon the supply of timber.

The meeting was adjourned at 11:50 p.m.
Attachment B: Appendix from 1984 Framework Plan Timberlands Policy Background Study discussing legislative history of TPZ.
FOREST TAXATION REFORM ACT OF 1976

by

J. Laurence Mintier

INTRODUCTION

Amid the controversy over legislation dealing with coastal and agricultural lands in 1976, the Forest Taxation Reform Act was passed without fanfare by the California Legislature and signed by the Governor. It was a significant piece of tax legislation to be sure. But it was also one of the most significant pieces of land use legislation enacted in California this decade.

The Forest Taxation Reform Act radically restructured the taxation of timber and timberland by substituting a yield tax on harvested timber for an ad valorem tax on standing timber and establishing a uniform statewide system of preferential assessment of timberland. To protect timberland from conversion to other uses, the Act instituted statewide Timberland Preservation Zoning which restricts the use of timberland to timber production for ten years.

Despite its long-term significance, this bill was surprisingly uncontroversial. It enjoyed the support of the California Associated Loggers, California Forest Protective Association, the California Farm Bureau Federation, Forest Land Owners of California, California Taxpayers Association, the California Assessors Association, and the Sierra Club. Not a single vote was cast against it on the floor of either house of the Legislature. Again, there was virtually no controversy when the State Legislature amended the Act in 1977 to correct a number of minor problems.

Ad Valorem Tax and Pressure for Reform

Prior to the Forest Taxation Reform Act, standing timber was considered "real property" and, therefore, subject to annual ad valorem property taxes. Because of the negative effects of the property tax on timber growing, the basic ad valorem tax structure as it applied to timber and timberland was modified twice over the years.

J. Laurence Mintier, Intergovernmental Program Analyst, works in the Community Assistance Division of OPR as a field representative for cities, counties, and regional planning agencies in Northern California.
In 1926, the California voters amended Article XIII of the Constitution to include Section 12 3/4, which exempted from the general property tax natural growth or trees planted on land from which 70% of the merchantable timber had been removed. This exemption lasted for 40 years or until the timber was declared mature by a timber maturity board. The land itself remained subject to taxation on its bare land value.

The intent of this exemption was to promote the long-term supply of timber by providing a tax incentive to land owners to retain title to their timberland instead of allowing the land to revert to the State for delinquent taxes. It was felt that the trees remaining after the harvest of at least 70% of the timber would act as seed stock for the reforestation of the cut-over land. Many also felt that timber should receive the same tax treatment as other farm crops which were only taxed at maturity.

The second major modification in assessment procedures for timber and timberland was the extension of the provision of the California Land Conservation Act to apply to timberland. In 1969, Section 423.5 was added to the Revenue and Taxation Code pursuant to Article XXVIII of the State Constitution. This section provided that timberland placed under open contract -- that is, a Williamson Act contract -- had to be assessed for ad valorem property tax purposes based on the capitalized future income from growing trees instead of on a "highest and best use" valuation based on comparable sales data.

However, neither of these two modifications of the tax structure for timber and timberland effectively served the goal of promoting the long-term supply of timber in California. Agitation for more basic changes in the timber tax system date back to the late 1950s, shortly after the first of the original 40-year exemptions expired. In the last 20 years, the subject has been studied by several state agencies and boards, standing committees and special committees of the California Legislature, universities, forester, assessors, economists, and the timber industry.

The shortcomings of the ad valorem tax on timber and timberland, even as modified, have been repeatedly enumerated.

1. The unmodified ad valorem tax created cash flow problems for owners of immature trees with little or no harvesting income with which to pay taxes. This was particularly a problem for those with small timberland holding without other sources of income.

2. The ad valorem tax, in general, tended to promote excessive cutting by timber owners who wished to reduce or avoid tax liabilities.

3. To qualify or requalify for the 12 3/4 exemption, timber owners were prompted to harvest near the end of the 40-year exemption period, when often good management practice argued in favor of a longer rotation cycle.

4. Use of the 12 3/4 exemption by some landowners and not others led to an uneven sharing of the tax burden.

5. Assessment procedures under the ad valorem tax system were complex and cumbersome. The possibilities for disparities in treatment of properties within the same county and differences in practices among counties were great.
6. Local governments faced the prospect of a long-term decline in tax revenues because of the extensive use of the 12 3/4 exemption; and

7. The tax structure as a whole did not help to increase the long-term timber supply in California.

Several of the studies during the 1960s and early 1970s examined alternatives to the ad valorem tax system. The 1972 report by the Institute of Ecology at the University of California, entitled Public Policy for California Forest Lands, and the 1974 report by the National Institute for Applied Research, entitled Tax Policy for California Timberlands, both commissioned by the State Assembly, argued persuasively for a yield tax as the best alternative.

In early 1974 the Constitutional Revision Commission presented to the Legislature a package of revisions to Article XIII of the Constitution. These proposed revisions were the result of a continuing program to update and shorten the State Constitution and were not directly related to timber taxation concerns. However, included among the provisions of the rewritten Article XIII was Section 3(j) which consisted of the old 12 3/4 exemption along with a paragraph providing that the Legislature could supersede the 12 3/4 exemption with an alternative system of taxing or exempting forest trees or timber. This paragraph stipulates that the alternative system had to: (1) provide for exemption of the unharvested immature trees; (2) encourage the continued use of timberlands for the production of trees for timber products; and, (3) provide for restricting the use of timberland to the production of timber products and compatible uses with provisions for taxation of timberland based on the restrictions. Both the timber industry and county assessors supported the provision for an alternative taxation system.

By vote of the Legislature, the revisions to Article XIII including Section 3(j) were placed on the November 1974 ballot as Proposition 8. One would have had to look closely to see Section 3(j) among all the other provisions of Article XIII. There was no organized opposition to Proposition 8 and the measure passed easily in November. The passage of Proposition 8 set the stage for the introduction to the Legislature in January 1975 of AB 1258, the Forest Taxation Reform Act.

SEARCH FOR AN ENFORCEABLE RESTRICTION

One of the major challenges in drafting AB 1258 was to devise a system of land use regulations that satisfied the intent of Section 3(j)’s requirement for a restriction on the use of timberland to the production of timber products and compatible uses.

In its original version, AB 1258 relied on a timberland classification system tied to the county general plan. The county assessor initially would classify eligible timberland and the city or county governing body would then assign an appropriate zoning designation consistent with the county general plan. Owners could refuse classification or could request classification if their land was not initially included. Land could be declassified at the request of the land owner or at the determination of the assessor that the land was no longer primarily devoted to and used for growing and harvesting timber.
At the request of Assemblyman Z'berg, the question of whether such a land use regulatory system met the intent of Section 3(j) was submitted to the Legislative Counsel. The Legislative Counsel answered that AB 1258 as written did not meet the intent of Section 3(j), since it left too much to the discretion of the property owner. The bill was subsequently amended to provide for a uniform, statewide system of Timberland Preservation Zoning (TPZ) with rigorous requirements for the application of such zoning and tough criteria for removal of land from TPZ.

The system of Timberland Preservation Zoning was a radical departure from the tradition of land use regulation in California. Because of the long tradition of home rule in California, the State Legislature has in the past left much to local discretion in carrying out state interests in land use and resource protection matters. The general approach has been to require local governments to incorporate state interests into the local general plan. Over the years since 1955, the Legislature has specified nine elements which must be included in the general plan: land use, circulation, housing, open space, conservation, noise, seismic safety, safety, and scenic highway. Once the general plan was adopted, local government was free to implement the plan elements in ways it felt most appropriate. Except for open space zoning to implement the open space element, however, zoning was not required of cities and counties.

In 1971, the state zoning enabling laws and Subdivision Map Act were amended to require zoning and subdivision approvals to be consistent with the adopted general plan. Even with this requirement for consistent implementation, the basic system of regulating land use through the general plan, zoning, and subdivision ordinance has serious short comings as a vehicle for carrying out state policy.

In the first place, the general plan requirements are procedural in nature and provide little direction as to how, to what end, or to what extent land and resources should be managed. Further, the requirements for consistency in zoning and subdivision ordinances are vague as to what constitutes consistency, making interpretation by the local government speculative and monitoring of compliance by the State extremely difficult. Finally zoning is somewhat transitory in nature in that it is easily altered by local governments in response to the vicissitudes of local politics and the demands of property owners.

In addition to land use regulations, the State in 1965 established a system of incentives to promote the preservation of agricultural lands. Through the California Land Conservation Act (Williamson Act) local governments can designate agricultural preserves within which they offer 10- to 20-year open space contracts to owners of agricultural lands, including timberlands, in exchange for preferential assessment based on the capitalized value of future income from crops.

Property owners have the option of entering into an open space contract with the city/county and can terminate the contract by a fairly simple process and the payment of a cancellation fee.

The Williamson Act, even as amended numerous times, has not proven effective in preserving land and valuable open space and containing urban sprawl, all of which are its stated goals. With regard to timberland, there has been an additional problem. Very little timberland acreage was eligible for open space contracts. Counties heavily dependent on timberland tax revenues were understandably reluctant to extend preferential assessment to such lands.
The authors of AB 1258 recognized the shortcomings of traditional land use regulations and the Williamson Act. The traditional approach, they had been told by the Legislative Counsel, would not satisfy the intent of Section 3(j). In light of this, they wrote what amounts to a very precise local zoning ordinance. This effort was the first time the State mandated specific zoning and the furthest the State had ever gone in dictating to local government in matters of land use regulation.

One of the shortcomings of this new system is that it virtually bypasses the local general plan process. The Act merely requires that a timber preserve element be adopted as part of the county general plan. The intent of the state planning and zoning law is to have zoning conform to the general plan, instead of the reverse, which seems to be the implication of the Act.

THE YIELD TAX AND PREFERENTIAL ASSESSMENT

As a tax reform measure, the most significant feature of the Act is the yield tax. In place of the property tax on standing timber, the Act places a tax--initially set at 6%--on timber at the time of harvest. Taxes are calculated by multiplying the 6% rate by the net volume harvested times the applicable immediate harvest value which is established semi-annually by the State Board of Equalization. Timberland itself, which is enforceably restricted by TPZ zoning, still is taxed at the going ad valorem property tax rate, but is subject to preferential assessment. The Act provides that timberland initially be valued at between $20 and $80 per acre depending on its site classification. In 1980 and every three years thereafter the value of each site class will be adjusted by the State Board of Equalization to reflect market transactions.

Several advantages have been pointed out in support of this system.

1. First, it means that major tax payments coincide with income. This is particularly important to the small forest owner who was formerly forced into premature cutting when confronted with the need to raise money.

2. The yield tax provides an incentive to investment. It will encourage longer rotations, greater investment in growing stock, and higher levels of production.

3. The yield tax also provides incentives to better forest management by eliminating the practice of cutting 70% of the timber to qualify for the old 12 3/4 exemption.

4. All trees pay taxes. Under the yield tax, all timber harvesters are subject to the tax, and all are subject to the same proportional tax liability on the value of timber cut.

5. The yield tax encourages conservation since it favors the optional holding of timber on sites where the owner may not wish to cut for environmental reasons, such as along streams or roads, on steep slopes, and in recreation areas.

6. The assessment procedures for land in TPZ eliminate the "highest and best" use valuation which was often based on potential uses other than timber production.
The yield tax is administered by the State instead of local government. The State Board of Equalization collects the yield tax and the Controller distributes the revenues to local governments and other taxing entities. The distribution formula is complex, but generally provides for the return to each local taxing entity of 100% of an annual yield tax revenue guarantee based on the average annual property taxes attributable to timber over a three-year base period of FY 1972-73 to FY 1974-75. Initially, the tax revenues in excess of the amount for the minimum revenue guarantee go into a Timber Tax Reserve Fund, up to a balance of $8,000,000, to ensure there will always be sufficient funds to meet the minimum revenue guarantee. After the Timber Tax Reserve Fund has been filled, excess funds are returned to local governments in proportion to where the taxes originated.

The minimum revenue guarantee was designed to smooth the transition to the new yield tax for local and special purpose governments. By 1981 the Legislature must take action to revise the revenue distribution formula, and it is not clear what type of a new distribution formula will be devised at that time.

OPERATION OF TPZ

In essence, the Timberland Preservation Zone system grafts the concept of the Williamson Act open space contract onto zoning. Central to TPZ is the ten-year rolling zone. Property initially is zoned TPZ for a ten-year period and, at the end of the first year, one more year is automatically added to the remaining nine years of the restriction period. To put TPZ into effect, local governments are required to establish a Timberland Preservation Zone ordinance. The Forest Taxation Reform Act lists five compatible uses which have to be included as a minimum among the list of compatible uses in the local ordinance:

1. Management for watershed;
2. Management for fish and wildlife habitat or hunting and fishing;
3. A use integrally related to the growing, harvesting, and processing of forest products, including but not limited to roads, log landings, and log storage areas;
4. The erection, construction, alteration, or maintenance of gas, electric, water, or communication transmission facilities; and,
5. Grazing.

Land is zoned TPZ by three methods: List A, List B, or application of the property owner.

In the first year, by March 1, 1977, all parcels on List A were to be zoned TPZ. The A List is drawn up by the assessor and includes parcels that were previously assessed for growing and harvesting timber as the highest and best use of the land. The board of supervisors or city council only has two limited areas of discretion. First, it can determine the exact zoning boundaries to be drawn within each parcel. In many cases
such decisions may be significant. In addition, the local board or council may exclude certain parcels on appeal of the property owner if it finds the parcel is not capable of growing an annual average of 15 cubic feet per acre of timber or that the use of the parcel has recently changed and no longer is consistent with the definition of timberland or comparable uses. Stated more succinctly, all parcels devoted to and used for growing and harvesting timber that are consistent with the list of compatible uses and were previously assessed as timberland must be zoned TPZ. The limitation on local discretion in the case of List A was deliberate and assumed that there would be little question that parcels appearing on List A were, indeed, timberland and should remain so for the foreseeable future.

In the second year, by March 1, 1978, all parcels on the B List are to be zoned TPZ. This list is likewise compiled by the assessor and consists of those parcels on which timber is grown and harvested but for some reason were not assessed for growing and harvesting timber as the highest and best use. In addition, a landowner whose land was not included on the B List for some reason may petition to have his land included if a forest management plan was prepared for the land prior to October 15, 1977. With regard to the B List, there is broad local discretion. As in the case of List A, the local governing body has discretion to determine the exact TPZ boundary within each parcel. More importantly, the board or council can, by majority vote, exclude any parcel from the B List solely on the basis of what it feels best serves the public interest.

Finally, there is what is known informally as the C List. After November 1, 1977, landowners may apply to have their parcels zoned TPZ. The local governing body is required to zone these parcels TPZ if they meet certain requirements. The Act establishes three minimum requirements, including a map, a forest management plan, and compliance with timber stocking standards of the Forest Practice Act. At local option, two additional requirements may be imposed, including a minimum acreage requirement not to exceed 160 acres and/or a minimum site class quality of at least three on a scale of five. In drafting the legislation, an assumption was made that various counties and cities would be reluctant to zone parcels TPZ in part because of the potential loss in revenue attributable to restricted use valuations. The C List was a compromise which sought to balance the Legislature's intent to restrict all legitimate timberlands with local government's interest in minimizing tax revenue losses by allowing local governments to adopt more stringent requirements for List C than are statutorily imposed as minimums. However, no county or city is precluded from zoning any parcel as TPZ, as long as that parcel meets the definition of timberland and conforms to permitted compatible uses.

Once a parcel is in TPZ, it may be rezoned for another use by two methods. The first is normal rezoning, initiated by the landowner or the local government. The board or council in this case has complete discretion. The rezoning, however, does not become effective for ten years.

The second avenue is immediate zoning. A parcel granted TPZ status by petition must be immediately rezoned for another use after five years if it fails to meet Forest Practice Act timber stocking standards. Otherwise, immediate rezoning can only be initiated by the landowner. Immediate rezoning is subject to a 4/5 vote of the entire board or council. If an application for a conversion of the timberland to another use is required under the Forest Practice Act, the rezoning is contingent upon approval of the conversion by the State Board of Forestry. If a conversion application is not required, the local government must support its 4/5 approval with findings set out in the Act:

1. The immediate rezoning would be in the public interest;
2. The immediate rezoning 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 rezoning is proposed; and,

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

These required findings—and an associated provision stipulating that the uneconomic character of the existing use is not sufficient reason for immediate rezoning—make it clear that it was the Legislature's intent to make it difficult for owners to remove their land from the TPZ. As further discouragement to immediate rezoning, the successful applicant is subject to a recoupment fee which would equal or exceed tax savings realized from the preferential assessment based on TPZ zoning.

CONCLUSION

The overriding goal of the Forest Taxation Reform Act is to increase California's long-term timber supply through a combination of a revised tax structure for timber and timberland and a statewide system of zoning restricting land for timber production.

The yield tax, according to the various studies, should ultimately lead to a long-term increase in timber supply by removing the former obstacles to reinvestment in timber. But it will take more than a decade to test this theory. The revenue distribution formula devised to return yield tax revenues to local governments will serve to smooth the transition to the yield tax by establishing a base level of revenue for each taxing entity. What problems there are with this system will soon be evident. Before the Legislature modifies the system in 1981, the Act requires the Legislative Analyst to study the operation of the yield tax system, the revenue distribution mechanism, and timberland valuation system and to make recommendation to the Legislature for changes.

Of more importance to the planning community is the precedent the Forest Taxation Reform Act sets for increased state involvement with matters traditionally the province of local government. The Forest Taxation Reform Act was the first dramatic break with the traditional approach to local land use control by requiring the adoption of a very specific zoning ordinance and zoning procedures. The Act was soon followed in the 1976 legislative session by the California Coastal Act which also requires very specific zoning to achieve its goals. Agricultural lands protection is the next item on the Legislature's agenda of resource protection issues, and it is a safe bet that resulting legislation will follow the lead set in 1976 by the Forest Taxation Reform Act and the California Coastal Act.
### Table 6. Landowners by Residence\(^a\) (% of Owners), In-County and Adjacent County Only

<table>
<thead>
<tr>
<th>RESIDENCE</th>
<th>HUMBOLDT</th>
<th>LASSEN</th>
<th>MENDOCINO</th>
<th>PLUMAS</th>
<th>SHASTA</th>
<th>SIERRA</th>
<th>TUOLUMNE</th>
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<tr>
<td>In-County</td>
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### Table 7. Landowners by Residence\(^a\) (% of Owners), All Owners

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<th>RESIDENCE</th>
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<th>SHASTA</th>
<th>SIERRA</th>
<th>TUOLUMNE</th>
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<td>Rural - North</td>
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<td>- South</td>
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\(^a\) Adjusted for incomplete reporting.

\(^b\) 'Rural' is defined as residence in a town or village of less than 1,500 population, while 'Urban' includes all other residences.
### Table 8. Percentage of Owners\(^a\) by Acreage Class of Ownership

<table>
<thead>
<tr>
<th>ACREAGE CLASS(^b)</th>
<th>Humboldt</th>
<th>Lassen</th>
<th>Mendocino</th>
<th>Plumas</th>
<th>Shasta</th>
<th>Sierra</th>
<th>Tuolumne</th>
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### Table 11. Percentage of Total Acres by Acreage Class of Owner\(^a\)

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<tr>
<th>ACREAGE CLASS(^b)</th>
<th>Humboldt</th>
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<th>Plumas</th>
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### TABLE 9. LAND BY RESIDENCE OF OWNER\(^2\) (% TOTAL ACREAGE), IN-COUNTY AND ADJACENT COUNTY ONLY.

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<thead>
<tr>
<th>RESIDENCE</th>
<th>Humboldt</th>
<th>Lassen</th>
<th>Mendocino</th>
<th>Plumas</th>
<th>Shasta</th>
<th>Sierra</th>
<th>Tuolumne</th>
</tr>
</thead>
<tbody>
<tr>
<td>In-County</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rural</td>
<td>78.6</td>
<td>28.9</td>
<td>40.3</td>
<td>26.7</td>
<td>36.5</td>
<td>26.9</td>
<td>47.0</td>
</tr>
<tr>
<td>Urban</td>
<td>48.1</td>
<td>63.0</td>
<td>69.7</td>
<td>8.05</td>
<td>58.3</td>
<td>100.0</td>
<td>51.6</td>
</tr>
<tr>
<td>Adjacent County</td>
<td>1.1</td>
<td>15.3</td>
<td>18.0</td>
<td>17.5</td>
<td>3.7</td>
<td>13.9</td>
<td>10.5</td>
</tr>
<tr>
<td>TOTAL</td>
<td>79.7</td>
<td>44.2</td>
<td>58.3</td>
<td>44.2</td>
<td>40.2</td>
<td>40.8</td>
<td>57.5</td>
</tr>
</tbody>
</table>

### TABLE 10. LAND BY RESIDENCE OF OWNER\(^2\) (% TOTAL ACREAGE), ALL OWNERS

<table>
<thead>
<tr>
<th>RESIDENCE</th>
<th>Humboldt</th>
<th>Lassen</th>
<th>Mendocino</th>
<th>Plumas</th>
<th>Shasta</th>
<th>Sierra</th>
<th>Tuolumne</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rural - North</td>
<td>40.8</td>
<td>32.4</td>
<td>37.8</td>
<td>44.1</td>
<td>25.8</td>
<td>45.6</td>
<td>40.5</td>
</tr>
<tr>
<td>Rural - South</td>
<td>0.5</td>
<td>2.4</td>
<td>0.6</td>
<td>2.4</td>
<td>5.0</td>
<td>0.4</td>
<td>4.7</td>
</tr>
<tr>
<td>Urban - North</td>
<td>46.9</td>
<td>23.2</td>
<td>24.5</td>
<td>12.4</td>
<td>20.7</td>
<td>6.4</td>
<td>30.5</td>
</tr>
<tr>
<td>Urban - South</td>
<td>1.0</td>
<td>4.9</td>
<td>0.2</td>
<td>0.7</td>
<td>1.3</td>
<td>0.1</td>
<td>1.0</td>
</tr>
<tr>
<td>Metropolitan</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SF-Oak</td>
<td>4.4</td>
<td>19.2</td>
<td>24.7</td>
<td>9.1</td>
<td>28.7</td>
<td>15.6</td>
<td>12.6</td>
</tr>
<tr>
<td>Sacramento</td>
<td>0.2</td>
<td>0.3</td>
<td>0.1</td>
<td>0.1</td>
<td>0.4</td>
<td>0.0</td>
<td>0.0</td>
</tr>
<tr>
<td>Fresno</td>
<td>0.0</td>
<td>0.0</td>
<td>0.1</td>
<td>0.1</td>
<td>0.0</td>
<td>0.4</td>
<td>0.0</td>
</tr>
<tr>
<td>La-SanBernardino</td>
<td>1.3</td>
<td>3.3</td>
<td>1.6</td>
<td>4.2</td>
<td>4.7</td>
<td>5.2</td>
<td>7.7</td>
</tr>
<tr>
<td>San Diego</td>
<td>0.2</td>
<td>2.2</td>
<td>4.2</td>
<td>3.8</td>
<td>2.5</td>
<td>8.7</td>
<td>0.8</td>
</tr>
<tr>
<td>Out of State &amp; Foreign</td>
<td>4.2</td>
<td>8.0</td>
<td>6.2</td>
<td>22.6</td>
<td>10.7</td>
<td>16.7</td>
<td>2.2</td>
</tr>
</tbody>
</table>
Attachment C: CDF letter dated August 6, 2007 regarding allowing more than one residence per parcel.
August 6, 2007

Martha Spencer, Senior Planner
Community Development Services
Planning Division
County of Humboldt
3015 H Street
Eureka, CA 95501

RE: Humboldt County Plan Update
Chapter 5.3 Forest Resources

Dear Ms. Spencer:

The Department of Forestry And Fire Protection has reviewed the "clustering" of rural development proposal being considered for Timber Production Zone (TPZ) in the Forest Resources chapter of the Humboldt County General Plan update.

The Department does not support establishing more than one residence per TPZ parcel and hence does not support the "clustering" of rural development on individual TPZ parcels. Government Code 51104 (h) (6) of the California Timberland Productivity Act states “‘Compatible use’ is any use which does not significantly detract from the use of the property for, or inhibit, growing and harvesting timber, and shall include, but not be limited to, any of the following, unless in a specific instance such a use would be contrary to the preceding definition of compatible:

(6) A residence or other structure necessary for the management of land zoned as timberland production.”

Allowing more than one residence or other structure per parcel will likely detract from the use of the property for growing and harvesting of timber and will likely take land out of timber production.

Timberland, in zoning designations other than TPZ, could be considered for "clustering" of rural development. This would prevent the incremental erosion of TPZ.

CONSERVATION IS WISE-KEEP CALIFORNIA GREEN AND GOLDEN
The Department recognizes that there may be instances when re-zoning of TPZ may appropriate. Provisions for re-zoning TPZ are described in Government Code 51120-51121 and 51130-51134.

If you need additional information please contact Deputy Chief Joe Fassler at (707) 726-1250.

Sincerely,

\[Signature\]

Ralph Minnich
Unit Chief

RM/jf
cc: file
Attachment D: Summary of Other County TPZ Regulations
## Other County TPZ regulations

<table>
<thead>
<tr>
<th>County</th>
<th>2006 Value of timber harvested</th>
<th>TPZ zone (tax deferment)</th>
<th>Residences in TPZ?</th>
<th>Parcel Size</th>
<th>Other timber zoning district (no tax defer)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Humboldt</td>
<td>1</td>
<td>Yes</td>
<td>Yes</td>
<td>20 -160</td>
<td>AE</td>
</tr>
<tr>
<td>Mendocino</td>
<td>2</td>
<td>Yes</td>
<td>Yes</td>
<td>160</td>
<td></td>
</tr>
<tr>
<td>Shasta</td>
<td>3</td>
<td>Yes</td>
<td>CUP (only if fully employed on premise)</td>
<td>40</td>
<td>Yes Houses by right</td>
</tr>
<tr>
<td>Siskiyou</td>
<td>4</td>
<td>Yes</td>
<td>SP (approved management plan)</td>
<td>40</td>
<td>No</td>
</tr>
<tr>
<td>Plumas</td>
<td>5</td>
<td>Yes</td>
<td>Yes (only if parcel size greater than 160)</td>
<td>40</td>
<td>No</td>
</tr>
<tr>
<td>Trinity</td>
<td>6</td>
<td>Yes</td>
<td>CUP only</td>
<td>160</td>
<td></td>
</tr>
<tr>
<td>El Dorado</td>
<td>7</td>
<td>Yes</td>
<td>CUP only</td>
<td>160</td>
<td></td>
</tr>
<tr>
<td>Butte</td>
<td>8</td>
<td>Yes</td>
<td>? –compatible w/ timber</td>
<td>160</td>
<td></td>
</tr>
<tr>
<td>Tehama</td>
<td>9</td>
<td>Yes</td>
<td>CUP only</td>
<td>Based on site class</td>
<td>No</td>
</tr>
<tr>
<td>Lassen</td>
<td>10</td>
<td>Yes</td>
<td>NO</td>
<td>160 or 40 JTMP</td>
<td>Yes Houses by right</td>
</tr>
<tr>
<td>Del Norte</td>
<td>13</td>
<td>Yes</td>
<td>CUP</td>
<td>20 - 160</td>
<td></td>
</tr>
</tbody>
</table>

1 According to Leo Salazar, Associate Planner with Shasta County (discussion with staff on October 17, 2007) Shasta County zoning ordinances requires a conditional use permit for houses in their Timber Production Zone (TP) for persons fully employed on the premises. They have issued one in the last five years for a caretaker living on a Christmas tree farm. They do not view these as “residences” but rather “living quarters” for employees. It does not matter if they get a “3 acre conversion” permit from CDF for a residence; they believe that the zoning controls the land use. They have recently received an application to rezone lands zoned Timberlands (TL), a zoning district that does not receive a tax deferment, to TP, but the County is not supporting the rezone because the property currently has a residence on it, and the rezone action would make the residence non conforming. A rezone “slideout” request was recently received by Sierra Pacific for 6-7,000 acres of timberlands to residential. The county approved the rezoning of 1200 acres. The county has not seen much illegal development of housing in timberlands.

2 According to Roland Hickel, Associate Planner with Siskiyou County, (discussion with staff on October 17, 2007) a Timber Management Plan prepared by an RPF (similar to a JTMP) is required for housing on TPZ lands. The Management Plan does require justification for the house and a finding that it will not affect the harvesting and growing of trees. It is approved administratively and is appealable to the Planning Commission and Board. There has not been many in the past but they are seeing the development pressure starting to increase for timberlands.

3 According to Jeanne Bonomini, Senior Planner with Trinity County (discussion with staff on October 18, 2007), a CUP is required for housing for lands zoned TPZ. They must have a management plan on file and demonstrate that it is required for the management of trees. Ms. Bonomini informed staff that she strongly discourages individuals acquiring TPZ lands that only view the property for retirement purposes and counsels that houses are not allowed by right. Staff estimates that they process one CUP for a residence on TPZ lands every couple of years. They do not have a lot of illegal structures as most timberlands are currently owned by industrial timber owners (and they do annual flyovers for illegal structures). Sierra Pacific has recently rezoned approximately 3,000 acres out of TPZ (first requested a residential zone but was rezoned to Open Space).

4 According to Bob Hallopin, Planner II with Tehama County (discussion with staff on October 30, 2007) a CUP is required for housing (caretakers residence) for lands zoned TPZ only when required by the Timber Management Plan prepared by a Forester and approved by the Planning Commission (no cabins, no retirement homes). He has worked their 10 years and never seen a permit approved for housing in TPZ.

5 According to Heidi Kunstal, Senior Planner with Del Norte County (discussion with staff on October 18, 2007), a CUP is required for housing for all lands zoned TPZ (inland and coastal). They must have a foresters report and demonstrate that the house will not affect the harvesting and/or growing of trees, and can only remove 1 acre from production. They have seen an increase of requests and have processed two rezones out of TPZ recently.
Attachment E: El Dorado County TPZ Regulations
Chapter 17.44

TIMBERLAND PRESERVE ZONE (TPZ) DISTRICT

Sections:

17.44.010 Purpose.
17.44.020 General provisions.
17.44.030 Uses permitted by right.
17.44.040 Uses requiring special use permit.
17.44.050 Criteria for residential use.
17.44.060 Development standards.
17.44.070 Forest management plan required.
17.44.080 Notice of classification.

17.44.010 Purpose. The regulations set forth in this chapter shall apply only to those lands subject to the Forest Taxation Reform Act of 1976. (Prior code §9432(A))

17.44.020 General provisions. Lands zoned pursuant to this chapter shall be subject to Chapters 17.14, 17.16 and 17.18. (Prior code §9432(B))

17.44.030 Uses permitted by right. The following uses are allowed by right without special use permit or variance:
A. Growing and harvesting of forest products, whether planted or of natural growth, standing or down, on privately owned land, including Christmas trees and including nursery stock for restocking commercial forest land, but not including nursery stock grown primarily for retail trade;
B. Uses, excluding residences, integrally related to the growing, harvesting and processing of forest products including but not limited to roads, log landings, log storage areas and temporary camps for employees working on active timber management activities;
C. Maintenance and repair facilities for trucks and equipment used in the management and harvesting of timber of the landowner;
D. Erection, construction, alteration or maintenance of gas, electric, water or communication transmission facilities following review by the planning commission as may be required by Chapter 17.18;
E. Management for watershed;
F. Management for fish and wildlife habitat;
G. Noncommercial recreation uses (reasonable fees may be charged for maintenance):
   1. Hunting and fishing in accordance with applicable federal and state law including Chapter 9.44 of this code,
   2. Day use for picnicking, riding, hiking, and
   3. Temporary camping;
H. Mineral resources removal and processing for road building when incidental to and in conjunction with timber producing and harvesting;
I. Raising and grazing of livestock, poultry and other animals;
J. Signs warning against trespass, hunting or shooting on the premises;
K. Signs indicating the name of the owner, the property and the agricultural products produced on the premises; provided, that no more than two such signs shall be erected on each parcel under separate ownership and no such sign shall exceed thirty-two square feet in area;
L. Sale of products produced on the premises. (Ord. 3606 §57, 1986; prior code §9432(C))

17.44.040 Uses requiring special use permit. The following uses are allowed only after obtaining a special use permit therefor from the planning commission or zoning administrator:
A. Commercial mineral resources removal and processing when not incidental to timber production and harvesting;
B. Permanent structure for the processing and packaging of agricultural and timber products and the necessary support facilities required therefor;
C. Gas and oil wells and/or exploration therefor;
D. Other sign sizes and applicable general provisions as itemized in Chapters 17.14, 17.16 and 17.18;
E. Heliports and their accessory uses and structures;
F. Such additional uses which in the opinion of the planning commission are compatible with the production and harvesting of timber. Comments shall be solicited from the agricultural commission. (Prior code §9432(D))

17.44.050 Criteria for residential use.
A. Residential use of timberland is in general inconsistent with growing and harvesting of timber. However, it is recognized that in certain situations such as intensively managed minimum size acreages, nurseries, etc., in private ownership, living quarters and outbuildings are necessary in connection with the management and protection of the property. Therefore, by recommendation of the agricultural commission acknowledging that three consecutive years of intensive management of his lands have been shown by the landowner, the zoning administrator may grant a special use permit for construction of one owner or caretaker occupied single-family detached dwelling or a mobile home on an approved foundation.
B. The following criteria will aid the agricultural commission in determining what constitutes intensive management and must be in any case considered in granting a special use permit for a residence.
C. Where a landowner has:
   1. A timber inventory of his stand;
   2. Conducted commercial harvesting operations;
   3. Provided legal and physical access to his property so commercial operations can be carried out;
   4. Made a reasonable effort to locate the boundaries of the property and has attempted to protect his property against trespass;
   5. Conducted disease or insect control work;
   6. Performed thinnings, slash disposal, pruning and other appropriate silvicultural work;
   7. Developed a fire protection system or has a functioning fire protection plan;
8. Provided for erosion control on existing roads and skid trails and has maintained existing roads;
9. Planted a significant portion of the understocked areas of his parcel. (Ord. 3153 §1, 1981: prior code §9432(E))

17.44.060 Development standards. The following area and building regulations shall apply in TPZ districts unless a variance is first obtained from the planning commission or zoning administrator.
A. Minimum parcel area:
   1. Any use permitted in Sections 17.44.040 or 17.44.050 shall be allowed on any existing parcel of record as of October 12, 1976;
   2. Any use permitted in Sections 17.44.040 or 17.44.050 shall be allowed on a parcel of not less than one hundred sixty contiguous (as defined in Section 51100(b) of Article 7, Chapter 6.7 of the Government Code) acres or the equivalent of a quarter of a section or sections within which the parcel is located, whichever is less, where the parcel is created after October 12, 1976;
B. Minimum setback, one hundred feet on any side;
C. Maximum building height shall not exceed fifty feet, nor shall buildings exceed any applicable height restrictions imposed by airport approach districts. (Ord. 3452 §1, 1984: prior code §9432(F))

17.44.070 Forest management plan required. Parcels which meet the criteria set forth in subsection B of this section shall be eligible for inclusion in the timberland preserve zone.
A. The applicant shall submit a map annotated to show the legal description on the assessor's parcel map of the property to be zoned, together with a copy of the owner's deed.
B. The applicant has submitted a plan for forest management for the property prepared or approved as to content by a professional forester registered in the state.
The forest management plan will include a discussion and recommendations on at least the following:
   1. Commercial harvesting, a history of past operations and recommendations for the future;
   2. Provisions for legal and physical access to the property so commercial operations can be carried out;
   3. A reasonable attempt to locate the boundaries of the property and attempts to protect his property against trespass;
   4. Disease or insect control work;
   5. Thinnings, slash disposal, pruning and other appropriate silvicultural work;
   6. A fire protection plan including a fuels management program;
   7. Erosion control on existing roads and skid trails and maintenance of existing roads;
   8. Planting of a significant portion of the understocked areas of his land.
C. 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 for the district in which the parcel is located or the owner must sign an agreement with the board of supervisors to meet the stocking standards and forest practice rules by the fifth anniversary of the signing of the agreement. If the parcel is subsequently zoned as timberland preserve, then failure to meet the stocking standards and forest practice rules within this time period provides the board of supervisors with a ground for rezoning the parcel.
D. The owner shall continuously comply with at least six of the criteria required in the forest management plan in order to continue to be eligible for the timberland preserve zone. (Prior code §9432(G))

17.44.080 Notice of classification. Within ten days of final action to include within or delete (rezone) from any timberland preserve zone, the clerk of the board of supervisors shall cause to be recorded an instrument which will serve as constructive notice to prospective buyers of the zoning action. (Prior code §9432(H))
Attachment F: State TPZ Statutes
51100. This chapter shall be known and may be cited as the California Timberland Productivity Act of 1982.

51101. The Legislature hereby finds and declares all of the following:
   (a) The forest resources and timberlands of this state, together with the forest products industry, contribute substantially to the health and stability of the state's economy and environment by providing high quality timber, employment opportunities, regional economic vitality, resource protection, and aesthetic enjoyment.
   (b) The state's increasing population threatens to erode the timberland base and diminish forest resource productivity through pressures to divert timberland to urban and other uses and through pressures to restrict or prohibit timber operations when viewed as being in conflict with nontimberland uses.
   (c) A continued and predictable commitment of timberland, and of investment capital, for the growing and harvesting of timber are necessary to ensure the long-term productivity of the forest resource, the long-term economic viability of the forest products industry, and long-term stability of local resource-based economies.

51102. (a) The Legislature further declares that to fully realize the productive potential of the forest resources and timberlands of the state, and to provide a favorable climate for long-term investment in forest resources, it is the policy of this state to do all of the following:
   (1) Maintain the optimum amount of the limited supply of timberland to ensure its current and continued availability for the growing and harvesting of timber and compatible uses.
   (2) Discourage premature or unnecessary conversion of timberland to urban and other uses.
   (3) Discourage expansion of urban services into timberland.
   (4) Encourage investment in timberlands based on reasonable
(b) The Legislature further declares that it is the policy of this state that timber operations conducted in a manner consistent with forest practice rules adopted by the State Board of Forestry and Fire Protection shall not be or become restricted or prohibited due to any land use in or around the locality of those operations.

51103. It is the intent of the Legislature to implement the policies of this chapter by including all qualifying timberland in timberland production zones.

51104. As used in this chapter, unless otherwise apparent from the context:
(a) "Board" means the board of supervisors of a county or city and county, whether general law or chartered, which establishes or proposes to establish a timberland production zone pursuant to this chapter.
(b) "Contiguous" means two or more parcels of land that are adjoining or neighboring or are sufficiently near to each other, as determined by the board or council, that they are manageable as a single forest unit.
(c) "Council" means the city council of a city, whether general law or chartered, which establishes or proposes to establish a timberland production zone pursuant to this chapter.
(d) "County" or "city" means the county or city having jurisdiction over the land.
(e) "Timber" means trees of any species maintained for eventual harvest for forest products purposes, whether planted or of natural growth, standing or down, on privately or publicly owned land, including Christmas trees, but does not mean nursery stock.
(f) "Timberland" means privately owned land, or land acquired for state forest purposes, which is devoted to and used for growing and harvesting timber, or for growing and harvesting timber and compatible uses, and which is capable of growing an average annual volume of wood fiber of at least 15 cubic feet per acre.
(g) "Timberland production zone" or "TPZ" means an area which has been zoned pursuant to Section 51112 or 51113 and is devoted to and used for growing and harvesting timber, or for growing and harvesting timber and compatible uses, as defined in subdivision (h).
"timberland preserve zone" means "timberland production zone."
(h) "Compatible use" is any use which does not significantly detract from the use of the property for, or inhibit, growing and harvesting timber, and shall include, but not be limited to, any of the following, unless in a specific instance such a use would be contrary to the preceding definition of compatible use:
(1) Management for watershed.
(2) Management for fish and wildlife habitat or hunting and fishing.
(3) A use integrally related to the growing, harvesting and processing of forest products, including but not limited to roads, log landings, and log storage areas.
(4) The erection, construction, alteration, or maintenance of gas, electric, water, or communication transmission facilities.
(5) Grazing.
(6) A residence or other structure necessary for the management of land zoned as timberland production.
(i) "Parcel" means that portion of an assessor's parcel that is timberland, as defined.
(j) "Anniversary date" means the anniversary of the date on which zoning is established pursuant to Section 51112 or 51113 takes effect.
(k) "Tax rate area" means a geographical area in which there is a unique combination of tax levies.
(l) "Nonconforming use" means any use within a TPZ which lawfully existed on the effective date of zoning established pursuant to Sections 51112 and 51113, and continuing since that time, which is not a compatible use.

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.

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 parcel(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 assessor's 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 enfor
cably restricted within the meaning of Section 3(j) of Article XIII of the Consti
tution 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.
Attachment G: TPZ Zoning Regulations Proposed Revisions
The Timberland Production or TPZ Zone is intended to provide standards and restrictions for the preservation of timberlands for growing and harvesting timber. (Former Section INL#314-10; and INL#314-11; Ord. 1099 Sec. 1, 9/13/76; Amended by Ord. 1842, Sec. 5, 8/16/88; Amended by Ord. 1907, Sec. 1, 8/21/90; Amended by Ord. 2166, Sec. 11, 4/7/98; Amended by Ord. 2189, Sec. 1, 2/9/99; Amended by Ord. 2214, 6/6/00)

### Principal Permitted Uses
Growing and harvesting of timber and accessory uses compatible thereto.

Accessory agricultural uses and structures listed at Sections 314-43.1.3 (Permitted Agricultural Accessory Uses) and 314-69.1.1 (Permitted Agricultural Accessory Structures). (Added by Ord. 2189, Sec. 1, 2/9/99; Amended by Ord. 2214, 6/6/00)

### Principal Permitted Uses Compatible with Timber Production
The following accessory uses are deemed to be compatible with the growing and harvesting of timber provided they do not significantly detract from the use of the property for, or inhibit, growing and harvesting of timber: (Former Section INL#314-11)

- Management for watershed.
- Management for fish and wildlife habitat.
- A use integrally related to the growing, harvesting and processing of forest products; including but not limited to roads, log landings, and log storage areas (portable chippers and portable sawmills are considered a part of “processing”).
- The erection, construction, alteration, or maintenance of gas, electric, water, or communication transmission facilities.
- Grazing and other agricultural uses.
- One-family dwelling or manufactured home and normal accessory uses and structures for owner or caretaker subject to the special restrictions of the following subsection, Special Restrictions Regarding Residences.
- Temporary labor camps, less than one (1) year in duration, accessory to timber harvesting or planting operations.
- Recreational use of the land by the public, with or without charge, for any of the following: walking, hiking, picnicking, swimming, boating, fishing, hunting and skiing. (Former Section INL#314-11(h); Ord. 1099, Sec. 2, 9/13/76; Amended by Ord. 1907, Sec. 2, 8/21/90)

### Uses Permitted with a Use Permit
Note: Permits authorized under this section cannot be approved if such use will significantly detract from the use of the property for, or inhibit, growing and harvesting of timber. (Former Section INL#314-10(b)(1-2); Ord. 1099, Sec. 1, 9/13/76; Amended by Ord. 1907, Sec. 1, 8/21/90; Amended by Ord. 2166, Sec. 11, 4/7/98)

- Timber production processing plants (buildings) for commercial processing of wood and wood products, including but not limited to sawmills, lumber and plywood mills, but not including a pulp mill.
- Incidental Camping Area, Tent Camp, Temporary Recreational Vehicle Park, Special Occupancy Parks, and similar recreational uses. (Amended by Ord. 2166, Sec. 11, 4/7/98)

Any use not specifically enumerated in this Division, if it is similar to and compatible with the uses permitted in the TPZ zone.
7.4.1 **Other TPZ Regulations.**

7.4.1.1 Provisions of Article 1 "General Provisions" (Section 51100); Article 2 “Establishment of Timberland Production Zone” (Subsections 51110 and 51119.5); Article 3 "Rezoning" (Subsection 51120 and 51121); Article 4 “Immediate Rezoning” (Subsection 51130-51134); and Article 5 "Removal from Zone" (Subsection 51140-51146) of the Government Code of the State of California as it now reads, or may be hereafter amended, shall apply. (Former Section INL#314-12(a); Ord. 1099, Sec. 2, 9/13/76; Amended by Ord. 1907, Sec. 3, 8/21/90)

7.4.1.2 An owner of real property may petition the Board of Supervisors to zone land as Timberland Production or TPZ Zone. The Board, by ordinance, after the recommendation of the Planning Commission pursuant to Section 51110.2 of the Government Code, and after public hearing, shall zone as a Timberland Production or TPZ Zone all parcels submitted to it by petition pursuant to Section 51113 which meet all of the following criteria: (Former Section INL#314-12(b))

7.4.1.2.1 A map shall be prepared showing the legal description or the assessor's parcel number of the property desired to be zoned Timberland Production or TPZ Zone. (Former Section INL#314-12(b)(1))

7.4.1.2.2 A plan (or a timber management guide) for forest management of the property must be prepared or approved as to content by a registered forester. Such plan shall provide for the eventual harvest of timber within a reasonable period of time, as determined by the prepared of the plan. (Former Section INL#314-12(b)(2))

7.4.1.2.3 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 for the district in which the parcel is located, or the owner must sign an agreement with the Board of Supervisors to meet such stocking standards and forest practice rules by the fifth anniversary of the signing of such agreement. The agreement shall provide that if the parcel is subsequently zoned as Timberland Production or TPZ and fails to meet the stocking standards and forest practice rules within the time period, the Board of Supervisors shall rezone the parcel to another zone pursuant to Section 51113(c)(3) or 51121 of the Government Code. (Former Section INL#314-12(b)(3))

7.4.1.2.4 The land to be rezoned Timberland Production or TPZ shall be in the ownership of one person, as defined in Section 38106 of the Revenue and Taxation Code, and shall be comprised of a single parcel or a unit of contiguous parcels as defined in Section 51104
of the Government Code, which is eighty (80) acres or one-half of one-quarter section in size or larger. (Former Section INL#314-12(b)(4))

7.4.1.2.5 The land to be included in the Timberland Production or TPZ Zone shall be timberland as defined by Section 51104(f) of the Government Code. (Former Section INL#314-12(b)(5); Ord. 1126, Sec. 1, 3/12/77; Amended by Ord. 1907, Sec. 3, 8/21/90)

7.4.1.2.6 The land shall be in compliance with the land use standards of the Timberland Production or TPZ Zone. (Former Section INL#314-12(b)(6))

7.4.1.3 Minimum parcel size:

7.4.1.3.1 160 acres; or (Former Section INL#314-12(c)(1))

7.4.1.3.2 40 acres if the provisions of Government Code Section 51119.5 are met. (Former Section INL#314-12(c)(2))

7.4.1.4 Special Subdivision Provisions For Mixed Zone Parcels. Parcels containing Timberland Production or TPZ zoned land may be subdivided below the minimum parcel size allowed pursuant to subsection 314-7.4.1.3 where TPZ zoned land of a smaller size already exists and all of the following requirements are satisfied: (Former Section INL#314-12(d))

7.4.1.4.1 TPZ zoned land within the parcel is not being divided or separated by the subdivision; and (Former Section INL#314-12(d)(1))

7.4.1.4.2 Adequate access is available for timber management for the TPZ zoned land; and (Former Section INL#314-12(d)(2))

7.4.1.4.3 A timber management guide for the TPZ zoned land approved by the County Forestry Review Committee has been submitted for the subdivision; provided, however, that such a timber management guide shall not be required if the subdivision is restricted to prohibit residential or other development from the TPZ portion of the parcel; and (Former Section INL#314-12(d)(3))

7.4.1.4.4 The subdivision meets all other regulatory requirements applicable to subdivisions; and (Former Section INL#314-12(d)(4))

7.4.1.4.5 The parcel in which the TPZ zoned land will be contained is no smaller than the minimum parcel size for the adjacent non-TPZ portion of the parcel. (Former Section INL#314-12(d)(5))

7.4.1.5 Minimum yard setbacks*: (Former Section INL#314-12(e)(1-4))
7.4.1.5.1 Front: Twenty (20) feet;
7.4.1.5.2 Side: Thirty (30) feet;
7.4.1.5.3 Rear: Thirty (30) feet;
7.4.1.5.4 For Flag Lots, the Director, in consultation with the Public Works Department, shall establish, in addition to a required minimum front yard setback, the minimum yard that is required for a vehicular turn around on the parcel.

*Note: Setbacks may be modified by other provisions of this Code or State law. For example, see Section 314-22.1: “Alquist-Priolo Fault Hazard” and the “Fire Safe” Regulations at Title III, Division 11.

7.4.1.6 Special Restrictions Regarding Residences.

7.4.1.6.1 The total residential density shall not exceed one (1) dwelling unit per twenty (20) acres, that specified in the general plan. (Former Section INL#314-12(f)(1))

7.4.1.6.2 Parcels smaller than forty (40) acres shall not have second or secondary dwelling units. (Former Section INL#314-12(f)(2))

7.4.1.6.3 Residences and the associated accessory structures and uses shall not exceed two (2) acres per parcel. (Former Section INL#314-12(f)(3))

7.4.1.6.4 Credible evidence has been provided that demonstrates that the residence is necessary for the management of the timberland.

7.4.1.6.5 That the residence does not significantly detract from the use of the property for, or inhibit, growing and harvesting of timber.

7.4.1.6.6 For non-industrial properties, the property has an approved non-industrial timber management plan (NTMP) or other suitable timber management plan.

7.4.1.6.7 A right to harvest acknowledgement is secured for the property and runs with the land.

7.4.1.6.8 That the residence is found to be consistent and compatible with any applicable or adjacent Habitat Conservation Plan.

7.4.1.6.9 That the residence is not part of a larger project which would increase residential densities.
7.4.1.6.10 Where the finding that the residence is necessary for the management of the timberland cannot be met, a residence may be approved, subject to reasonable restrictions, where a 10-year slide out of TPZ has been approved and the zone to which the land will become subject to at the end of the 10 year period supports the residential use proposed.

7.4.1.6.11 Adequate structural fire protection can be provided as determined by the responsible fire agency.

7.4.1.6.12 In any watershed listed as temperature impaired, sufficient water storage shall be required to prevent the need for water withdrawals during low flow periods.
<table>
<thead>
<tr>
<th>313-7.2</th>
<th><strong>TC: Commercial Timber</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Principal Permitted Use</strong></td>
<td>Commercial Timber Principal Permitted Use (See Section 313-163.1.9 for description)</td>
</tr>
<tr>
<td><strong>Conditionally Permitted Use</strong></td>
<td>Single Family Residential, <em>where found necessary for the management of the timberland</em>. A Use Permit is required for a second single family residence.</td>
</tr>
</tbody>
</table>

**Residential Use Types**
- Where found necessary for the management of the timberland, a Use Permit is required for a second single family residence.

**Civic Use Types**
- Essential Services
  - Solid Waste Disposal; subject to the Solid Waste Disposal Regulations
  - Oil and Gas Pipelines; subject to the Oil and Gas Pipelines Regulations
  - Major Electrical Distribution Lines; subject to the Electrical Distribution Lines Regulations
- Minor Generation and Distribution Facilities

**Industrial Use Types**
- Timber Products Processing
- Aquaculture
- Cottage Industry; subject to the Cottage Industry Regulations
- Agricultural Related Recreation
- Surface Mining - 2; subject to the Surface Mining Regulations
- Oil and Gas Drilling and Processing; subject to the Oil and Gas Drilling and Processing Regulations
- Metallic Mineral Extraction; subject to the Surface Mining Regulations
- Coastal Access Facilities

**Agricultural Use Types**
- Family and Group Residential
- Cottage Industry; subject to the Cottage Industry Regulations
- Agricultural Related Recreation
- Surface Mining - 2; subject to the Surface Mining Regulations
- Oil and Gas Drilling and Processing; subject to the Oil and Gas Drilling and Processing Regulations
- Metallic Mineral Extraction; subject to the Surface Mining Regulations
- Coastal Access Facilities

**Extractive Use Type**
- Surface Mining - 2; subject to the Surface Mining Regulations
- Oil and Gas Drilling and Processing; subject to the Oil and Gas Drilling and Processing Regulations
- Metallic Mineral Extraction; subject to the Surface Mining Regulations
- Coastal Access Facilities

**Natural Resource Use Types**
- Fish and Wildlife Management
- Water Supply
- Watershed Management
- Wetland Restoration

**Use Types Not Listed in This Table**
- Any use not specifically enumerated in this Division, if it is similar to and compatible with the uses permitted in the TC zone.

**Compatible Uses Permitted with a Special Permit**
- Labor Camp
- Timber Related Recreation
- Fish and Wildlife Management
- Watershed Management
- Wetland Restoration

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*See, Industrial Performance Standards, Section 313-103.1.
**See, “Classifying Uses Not Specifically Mentioned in Use Type Descriptions,” Section 313-165.
(From Section CZ#A314-11(B); CZ#A313-30(A-C); amended by Ord. 1853, 12/20/88, amended by Ord. 2167, Sec. 22, 4/7/98; amended by Ord. 2376A, 7/25/06)
### TPZ: Timberland Production Zone

#### Principal Permitted Use
Timber Production Principal Permitted Use (See Section 313-163.1.9 for description)

#### Conditionally Permitted Use
- Single Family Residential, where found necessary for the management of the timberland. A Use Permit is required for a second single family residence.

#### Residential Use Types
- Single Family Residential, where found necessary for the management of the timberland.
- Use Permit is required for a second single family residence.

#### Civic Use Types
- Essential Services
  - Solid Waste Disposal; subject to the Solid Waste Disposal Regulations
  - Oil and Gas Pipelines; subject to the Oil and Gas Pipelines Regulations
  - Major Electrical Distribution Lines; subject to the Electrical Distribution Lines Regulations
  - Minor Generation and Distribution Facilities

#### Industrial Use Types*
- Timber Products Processing
- Aquaculture
- Cottage Industry; subject to the Cottage Industry Regulations
- Agriculture-Related Recreation
- Surface Mining - 2; subject to the Surface Mining Regulations
- Oil and Gas Drilling and Processing; subject to the Oil and Gas Drilling and Processing Regulations
- Coastal Access Facilities

#### Agricultural Use Types
- Extractive Use Type
- Surface Mining - 2; subject to the Surface Mining Regulations
- Oil and Gas Drilling and Processing; subject to the Oil and Gas Drilling and Processing Regulations
- Coastal Access Facilities

#### Natural Resource Use Types
- Use Types Not Listed in This Table**
  - Any use not specifically enumerated in this Division, if it is similar to and compatible with the uses permitted in the TPZ zone.

#### Use Types Not Listed in This Table**
- Labor Camp
- Timber Related Recreation
- Fish and Wildlife Management
- Watershed Management
- Wetland Restoration

*See, Industrial Performance Standards, Section 313-103.1.
**See, “Classifying Uses Not Specifically Mentioned in Use Type Descriptions,” Section 313-165.
(Former Section CZ#A313-31(A-C); Section CZ#A314-11(B); amended by Ord. 1853, 12/20/88; amended by Ord. 2167, Sec. 23, 4/7/98; amended by Ord. 2376A, 7/25/06)
TPZ Amendments-Second Units & Nonconforming Uses

County Coastal Zoning Regulations

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87.1.2 Second Residential Units Permitted with Coastal Development Permit or Special Permit. A second residential unit use type, as defined in this Code, may be permitted with a Coastal Development Permit in RS and RA zones if all the criteria of subsection 313-87.1.4, Development Regulations and Standards, are met. Except in TPZ zones, As second residential unit that cannot meet all the criteria in subsection 87.1.4 may be permitted with a coastal development permit and Special Permit pursuant to subsections 313-87.1.7 through 313-87.1.10 so long as the second unit meets the criteria of section 87.1.4.8 – 87.1.4.12. (Former Section CZ#A314-31(B); Amended by Ord. 2167, Sec. 30, 4/7/98)

131.6 Termination of Nonconforming Use. If any nonconforming use ceases for any reason for a continuous period of one year (1yr) or more in TPZ zones, or two years (2yr) or more in any other zone, or is changed to or replaced by a conforming use, the land previously devoted to such nonconforming use shall become subject to all the current land use regulations for the zone in which such land is located, in the same way as if it would if the nonconforming use had been expressly abandoned. (Former Section CZ#A314-25(I))

132.5 Expansion, Reconstruction, Structural Alteration or Replacement of Nonconforming Structures and Manufactured Homes.

132.5.1 Structural Alterations, Reconstruction, and Expansion to Existing Nonconforming Structures. Except in TPZ zones, The Director or Hearing Officer may approve the structural alteration of an existing structure not conforming with development standards. Approval of a variance or other discretionary permit shall not be required for “one-for-one” structural alterations. A structural alteration changing a flat roof to a pitched roof where no expansion of floor area is involved is determined to be a “one-for-one” structural alteration. A variance will be required for the total replacement or expansion of structures where such replacement or expansion of structures would not conform with development standards. Within TPZ zones, construction on nonconforming structures shall be limited to repair and maintenance, and shall not include alterations that tend to make the use or structure more permanent. (Former Section CZ#A314-25(G)(1))

132.5.2 Reconstruction of a Nonconforming Structure that is Damaged by any Casualty. The Director may approve a Special Permit for the reconstruction of a nonconforming structure that is damaged by any casualty if application is made within two (2) years after such destruction or damage and if the Director makes all of the required findings in Chapter 2 of this Code. (Former Section CZ#A314-25(G)(2))
132.5.3 Replacement of Nonconforming Manufactured Homes. The Director may approve a Special Permit for the replacement of an existing nonconforming manufactured home by a newer manufactured home. The replacement manufactured home shall be set up on a standard foundation as required by the County Building Regulations, and the currently effective version of the Uniform Building Codes. (Former Section CZ#A314-25(G)(3))

163.1.9 Principal Permitted Uses These are uses that are allowed without a conditional use permit and that are considered the “principal permitted use” for purposes of appeal to the Coastal Commission (with the exception of (a) Single Family Residential, Second Agriculture or Commercial Timber Production Residence (on a lot sixty (60) acres or larger in size), or Cottage Industry uses in the Agriculture Exclusive zoning district as enumerated in Section 163.1.9.9 below, and (b) Single Family Residential or Cottage Industry uses in the Timber Production zoning district as enumerated in Section 163.1.9.11 below). Subdivisions, including lot line adjustments, are not considered a principal permitted use in any zoning district in the coastal zone. (Added by Ord. 2367A, 7/25/06, Amended by Ord. 2383, 2/27/07)

163.1.9.11 Timber Production

The Timber Production Principally Permitted Use includes the following uses: Single Family Residential, Timber Production, Cottage Industry; subject to the Cottage Industry Regulations, and Minor Utilities to serve these uses. Single Family Residential and Cottage Industry use types do not require a conditional use permit, but are not considered the principal permitted use for purposes of appeal to the Coastal Commission pursuant to Section 212.12.12 of the coastal Zoning Ordinance and Section 39632(c)(4) of the Coastal Act. (Added by Ord. 2367A, 7/25/06, Amended by Ord. 2383, 2/27/07)

177.11 Residence Incidental to Agriculture or Commercial Timber Production. (See Agriculture or Commercial Zoning Designations, Principal Permitted Uses.)

177.12 Second Agriculture or Commercial Timber Production Residence. (See Agriculture or Commercial Zoning Designations, Principal Permitted Uses.)
County Inland Zoning Regulations

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87.1.2 Second Dwelling Units - Criteria.

87.1.2.1 A second dwelling unit not restricted as to size shall be permitted with a Special Permit in TPZ, in AE zones which implement an Agricultural Rural General Plan Land Use designation, and in Unclassified Zones, which implement General Plan Land Use designations of Agricultural Rural, Agricultural Lands, Agricultural Grazing, Timberland, or Agricultural Exclusive, if in conformance with the provisions of this chapter and all of the following criteria: (Former Section INL#316.1-2(a); Added by Ord. 1865, Sec. 1, 5/30/89)

87.1.2.3 A Special Permit shall be required for second units in TPZ and U zones and for a third unit in AE zones, when such units are in conformance with the applicable general plan density criteria but do not conform with all of the criteria of subsection 87.1.2.1. (Former Section INL#316.1-2(c); Added by Ord. 1865, Sec. 1, 5/30/89; Amended by Ord. 2166, Sec. , 4/7/98)

87.1.7 Permits for Existing Secondary and Second Residential Units.

87.1.7.1 After the effective date of this Chapter, the owner of record, or his or her authorized agent, of any legally created lot on which a second dwelling unit was constructed or partially constructed prior to the effective date of these regulations may apply for a Special Permit pursuant to the provisions of this chapter. (Former Section INL#316.1-7(a); Ord. 1633 Sec. 1, 3/13/84; Amended by Ord. 1726, Sec. 3, 3/4/86; Amended by Ord. 1865, Sec. 1, 5/30/89; Amended by Ord. 2214, 6/6/00)

87.1.7.2 The application shall comply with the procedures set forth in Section 314-87.1.6. (Former Section INL#316.1-7(b); Ord. 1633, Sec. 1, 3/13/84; Amended by Ord. 1726, Sec. 3, 3/4/86; Amended by Ord. 1865, Sec. 1, 5/30/89)

87.1.7.3 Upon receipt of a completed application, an inspection of the dwelling shall be made by the appropriate county official(s). If the official(s) determine(s) that the requirements of the applicable codes, including modifications thereof, have been met or substantially met, to the extent that no abnormal risk to health or safety will result from occupancy of the dwelling and the dwelling otherwise conforms to this Code, the
314-131 NONCONFORMING USES

131.1 QUALIFICATION OF NONCONFORMING USE

Notwithstanding any other provision, a building or use shall not be deemed a nonconforming use if:  (Former Section INL#317-61; Ord. 1104, Sec. 3, 10/5/76; Amended by Ord. 1876, Sec. 12, 9/26/89)

131.1.1 Such use would otherwise be a conforming use under the current provisions of this Code section except that it does not meet the lot size or yard requirements of the zone in which it is located. Such a use may be continued, altered, added to, or enlarged provided that any addition or enlargement shall comply with all of the regulations of the zone in which it is located; or  (Former Section INL#317-61(a); Ord. 1104 Sec. 3, 10/5/76; Amended by Ord. 1876, Sec. 12, 9/26/89)

131.1.2 Such use is allowed in the zone in which it is located as a conditional use. However, no such use shall be enlarged, increased or structurally altered, nor be extended to occupy a greater area than that existing on the effective date of the application of these regulations to the subject property until a Special Permit for such use is first obtained.  (Former Section INL#317-61(b); Ord. 1104 Sec. 3, 10/5/76; Amended by Ord. 1876, Sec. 12, 9/26/89)

131.2 REGULATIONS CONTROLLING OTHER NONCONFORMING USES

131.2.1 No accessory use to a principal nonconforming use shall continue after such principal use shall cease or terminate.  (Former Section INL#317-63(g); Ord. 1104, Sec. 3, 10/5/76)

131.2.2 The rights pertaining to a nonconforming use shall be deemed to pertain to the use itself, regardless of the ownership of the land or building on or in which such nonconforming use is conducted.  (Former Section INL#317-63(h); Ord. 1104, Sec. 3, 10/5/76)

131.2.3 All of the foregoing provisions relating to nonconforming uses shall apply to all nonconforming uses existing on the effective date of these regulations and to all uses that become nonconforming by reason of any Amendment thereof. However, any use established in violation of law, regardless of the time of establishment, is not a nonconforming use and shall not benefit from the
provisions in this section. (For nonconforming buildings, see Section 314-132, Nonconforming Structures.) (Former Section INL#317-63(i); Ord. 1104, Sec. 3, 10/5/76))

131.2.4 In TPZ, 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.

314-132 NONCONFORMING STRUCTURES

132.1 QUALIFICATION OF NONCONFORMING STRUCTURE

Notwithstanding any other provision, a structure shall not be deemed a nonconforming structure if: (Former Section INL#317-61; Ord. 1104, Sec. 3, 10/5/76; Amended by Ord. 1876, Sec. 12, 9/26/89)

132.1.1 Such structure would otherwise be a conforming structure under the current provisions of this Code section except that it does not meet the lot size or yard requirements of the zone in which it is located. Such a structure may be continued, altered, added to, or enlarged provided that any addition or enlargement shall comply with all of the regulations of the zone in which it is located; or (Former Section INL#317-61(a); Ord. 1104, Sec. 3, 10/5/76; Amended by Ord. 1876, Sec. 12, 9/26/89)

132.1.2 Such structure is allowed in the zone in which it is located as a conditional use. However, no such structure shall be enlarged, increased or structurally altered, nor be extended to occupy a greater area than that existing on the effective date of the application of these regulations to the subject property until a Special Permit for such structure is first obtained. (Former Section INL#317-61(b); Ord. 1104 Sec. 3, 10/5/76; Amended by Ord. 1876, Sec. 12, 9/26/89)

132.2 ENLARGEMENT OF NONCONFORMING STRUCTURES

132.2.1 Notwithstanding any other provisions, the Hearing Officer may approve a Special Permit for the enlargement, alteration or remodeling of the following nonconforming structures: (Former Section INL#317-62(a); Ord. 1726, Sec. 6, 3/4/86)

132.2.1.1 A one-family detached dwelling in a Commercial (C) or Industrial (M) zone; or (Former Section INL#317-62(a)(1); Ord. 1726, Sec. 6, 3/4/86)

132.2.1.2 Any commercial structure located in any commercial zone in which either a principal use, permitted use or a conditional use is conducted; or (Former Section INL#317-62(a)(2); Ord. 1726, Sec. 6, 3/4/86)

132.2.1.3 Any commercial structure located in an Unclassified (U) zone
where the General Plan designates the area for commercial development. (Former Section INL#317-62(a)(3); Ord. 1726, Sec. 6, 3/4/86)

132.2.2 Approved enlargements of nonconforming structures specified in subsection 314-132.2.1 may not exceed: (Former Section INL#317-62(b); Ord. 1726, Sec. 6, 3/4/86)

132.2.2.1 Twenty-five percent (25%) of the area of land occupied by such nonconforming structure; or (Former Section INL#317-62(b)(1); Ord. 1726, Sec. 6, 3/4/86)

132.2.2.2 Twenty-five percent (25%) of the gross floor area of the existing nonconforming structure; or (Former Section INL#317-62(b)(2); Ord. 1726, Sec. 6, 3/4/86)

132.2.2.3 The maximum ground coverage prescribed for the zoning district in which the nonconforming structure is located, whichever is less. (Former Section INL#317-62(b)(3); Ord. 1726, Sec. 6, 3/4/86)

....

132.2.3 The fair market value of approved enlargements, structural alterations or remodeling of a nonconforming structure specified in subsection 132.2.1 may not exceed fifty percent (50%) of its current appraised value according to the records of the Assessor's Office. (Former Section INL#317-62(c); Ord. 1726, Sec. 6, 3/4/86)

132.2.4 One-family detached dwellings remodeled, extended, expanded or enlarged in accordance with the provisions of Sections 314-132.1 through 314-132.3 shall not be used to accommodate a greater number of dwelling units than such structure accommodated prior to any such work. (Former Section INL#317-62(d); Ord. 1726, Sec. 6, 3/4/86)

132.2.5 Replacement of Nonconforming Manufactured Homes. The Director may approve a Special Permit for the replacement of an existing nonconforming manufactured home by a newer manufactured home. The replacement manufactured home shall be set up on a standard foundation as required by the County Building Regulations. Replacement manufactured homes in Residential Zones (RS, R-1, R-2, R-3 and R-4) without a T Combining Zone shall have:

132.2.5.1 A roof overhang of not less than six inches (6") for the entire exterior perimeter; and (Former Section INL#317-62(e)(1); Ord. 1726, Sec. 6, 3/4/86; Amended by Ord. 1738, Sec. 4, 5/20/86)

132.2.5.2 A roof of composition shingles, wood shingles or shakes or other materials compatible with the majority of dwellings in the neighborhood; and (Former Section INL#317-62(e)(2); Ord. 1726, Sec. 6, 3/4/86; Amended by Ord.
132.2.5.3 An exterior wall covering of natural or man made materials of a non-reflective nature. (Former Section INL#317-62(e)(3); Ord. 1726, Sec. 6, 3/4/86; Amended by Ord. 1738, Sec. 4, 5/20/86)

132.3 REGULATIONS CONTROLLING OTHER NONCONFORMING STRUCTURES

132.3.1 Any nonconforming structure, except as permitted by Section 314-132.2 shall not be enlarged or extended where an intensification or increase in the nonconformity would result. The hearing officer may approve the structural alteration of an existing structure not conforming with development standards. Approval of a variance or other discretionary permit shall not be required for "one-for-one" structural alterations. A structural alteration changing a flat roof to a pitched roof where no expansion of floor area is involved is determined to be a "one-for-one" structural alteration. A variance will be required for the total replacement or expansion of structures where such replacement or expansion would not conform with development standards. In TPZ, 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. (Former Section INL#317-63(a); Amended by Ord. 1848, Sec. 21, 9/13/88)

132.3.2 If a structure in which a nonconforming use is conducted is moved for any distance whatever, for any reason, then any future use of such structure shall be in conformity with Sections 314-132.1 through 314-132.3. (Former Section INL#317-63(b); (Ord. 1104, Sec. 3, 10/5/76)

132.3.3 If any structure in which any nonconforming use is conducted is hereafter removed, the subsequent use of land on which such structure was located and the subsequent location and use of any structure thereon shall be in conformity with the regulations specified by Sections 314-132.1 through 314-132.3. (Former Section INL#317-63(c); Ord. 1104, Sec. 3, 10/5/76)

132.3.4 Nothing in Sections 314-132.1 through 314-132.3 shall be deemed to prevent keeping in good maintenance and repair a nonconforming structure or a structure in which a nonconforming use is conducted, but no such structure that is declared by any authorized County official to be a public nuisance by reason of physical condition shall be restored, repaired or rebuilt. (Former Section INL#317-63(d); Ord. 1104, Sec. 3, 10/5/76; Amended by Ord. 1234, Sec. 4, 6/13/78)

132.3.5 A nonconforming structure or a structure in which a nonconforming use is conducted that is destroyed or damaged by any casualty to an extent not exceeding sixty percent (60%) of its current appraised value according to the records of the Assessor's Office, exclusive of foundations, may be restored within
two (2) years (one (1) year in TPZ) after such destruction or damage but shall not be enlarged except as provided in Section 314-132.2 of this Code. If any such structure is so destroyed or damaged to an extent exceeding sixty percent (60%) of its value as above, it shall not be reconstructed except: (Former Section INL#317-63(e); Ord. 1104, Sec. 3, 10/5/76)

132.3.5.1 For a conforming use; (Former Section INL#317-63(e)(1); Ord. 1104, Sec. 3, 10/5/76)

132.3.5.2 If the structure is used for agricultural purposes and the floors and foundation walls are of concrete and/or other masonry and are not practical to move; or (Former Section INL#317-63(e)(2); Ord. 1104, Sec. 3, 10/5/76)

132.3.5.3 If the nonconforming location is necessary to meet any requirement or regulation of the Health Department. (Former Section INL#317-63(e)(3); Ord. 1104, Sec. 3, 10/5/76)

132.3.5.4 If the total floor area of the structure to be restored does not exceed that of the damaged or destroyed structure by more than ten percent (10%) and the sewage disposal system is in compliance with all applicable State and local standards. (Former Section INL#317-63(e)(4); Added by Ord. 2166, Sec. 32, 4/7/98)

132.3.6 If any nonconforming structure ceases to be used for any reason for a continuous period of two (2) years or more (one (1) year or more in TPZ), or is changed to or replaced by a conforming structure, the land and nonconforming structure shall become subject to all the regulations as to use for the zone in which such land and structures are located as if such nonconforming structure had been expressly abandoned. (Former Section INL#317-63(f); Ord. 1104, Sec. 3, 10/5/76; Amended by Ord. 1234, Sec. 4, 6/13/78; Amended by Ord. 1876, Sec. 13, 9/26/89)

132.3.7 The rights pertaining to a nonconforming structure shall be deemed to pertain to the structure itself, regardless of the ownership of the land on which such nonconforming structure is located or the nature or the tenure of the occupancy thereof. (Former Section INL#317-63(h); Ord. 1104, Sec. 3, 10/5/76)

132.3.8 All of the foregoing provisions relating to nonconforming structures shall apply to all nonconforming structures existing on the effective date of these regulations and to all structures that become nonconforming by reason of any amendment thereof. However, any structure erected in violation of law, regardless of the time of erection, is not a nonconforming structure and shall not benefit from the provisions in this section. (Former Section INL#317-63(i); Ord. 1104, Sec. 3, 10/5/76)

132.3.9 If a nonconforming manufactured home or recreational vehicle is removed from a designated flood-prone area of the County, the same manufactured home or recreational vehicle may be relocated on the same site within six (6) months
and installed in accordance with the applicable regulations in effect at the time of the unit’s original installation. (Former Section INL#317-63(j); Ord. 1104, Sec. 3, 10/5/76; Amended by Ord. 2166, Sec. 32, 4/7/98)

132.3.10 **Special Provisions Concerning Nonconforming Manufactured Homes.** Each existing manufactured home placed on an individual lot in accordance with the then applicable laws and Code sections may remain at the existing location without the construction of a foundation. The Use Permit for such manufactured home shall run with the land and shall be transferable to subsequent purchasers. If such manufactured home is moved to another individual lot not within a manufactured home park it must be placed upon a foundation. (For more information on Manufactured Homes, see Section 314-81.1, Manufactured Homes and Recreational Vehicles.) (Former Section INL#316-11; Ord. 1092, Sec. 1, 8/10/76)