



# COMMUNITY DEVELOPMENT SERVICES PLANNING AND BUILDING DEPARTMENT LONG RANGE PLANNING

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Date: August 14, 2018  
To: Planning Commission  
Agenda Date: September 27, 2018  
From: Tom Purciel, Project Planner  
Subject: **Rezone Z18-0007/Cabodi; Assessor Parcel No. 040-080-06**

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**RECOMMENDATION:** Staff recommends the Planning Commission forward a recommendation to the Board of Supervisors to take the following actions:

1. Find that the project is exempt pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3);
2. Find that the project is consistent with Government Code Sections 51131 through 51134, the General Plan and Zoning Ordinance as presented;
3. Approve an immediate rezone for Assessor's Parcel Number (APN) 040-080-06; and
4. Adopt an ordinance to rezone APN 040-080-06 from Timber Production (TPZ) to Forest Resource, 160-Acre (FR-160).

**LOCATION:**

The project site is located approximately one (1) mile north of State Highway 88, approximately four (4) miles east of the intersection of State Highway 88 and North South Road in the Mount Aukum / South County area, Supervisorial District 5 (Exhibit A).

APN: 040-080-06 (Exhibit B)  
Acreage: 45.25 Acres  
General Plan: Natural Resource (NR) (Exhibit C)  
Zoning: Timber Production (TPZ) (Exhibit D)  
Supervisorial District: District 5

## **BACKGROUND**

On August 3, 2018, County staff received a formal request from the current landowners of APN 040-080-06 requesting an immediate rezone from Timber Production (TPZ) to Forest Resource, 160-Acre (FR-160). Subsequently, staff reviewed County records associated with APN 040-080-06 and determined that this parcel was likely zoned Timber Production (TPZ) in error.

In January of 1978, the Board of Supervisors (Board) adopted Ordinance 1861 to rezone certain lands to TPZ consistent with the California Forest Taxation Reform Act of 1976. Documents on file with Ordinance 1861 include 1978 County Assessor's records documenting specific APNs to be included in TPZ and specific APNs to be excluded from TPZ. The project parcel (APN 040-080-06) was originally part of a larger parcel, APN 040-080-03, which was on the list of parcels proposed to be excluded from TPZ. However, when the Board adopted TPZ zoning maps in 1978 associated with Ordinance 1861, the project parcel was incorrectly depicted as TPZ.

County Assessor's records from 1978 to the present date indicate the project parcel was never assessed under the TPZ restricted value provisions in the California Revenue and Taxation Code and is currently being assessed according to Article 13 A of the California constitution ("Proposition 13"). Property tax details are referenced in the County Assessor's letter dated June 4, 2018 (Exhibit E). In 1993, the Board evaluated parcels under TPZ tax assessment and confirmed that the project parcel was not included on the TPZ tax rolls. Therefore, all evidence to date indicates the TPZ Zone District was never applied to this parcel and was depicted on the adopted Zoning Map in error.

Based on historic property tax records showing non-TPZ assessment of this parcel, the property owner was unaware that the project parcel was zoned TPZ when purchased in 2000. However, in 2016, the owner was informed that the property was depicted as TPZ on the adopted Zoning Map (Exhibit D). To correct this error, the owner has requested an immediate rezone (Exhibit F) as allowed for in Government Code Section 51131, which states the following: "A timberland production zone may not be immediately rezoned except pursuant to a request by a landowner..."

## **CONSISTENCY WITH GENERAL PLAN**

The project is consistent with all applicable General Plan Policies including but not limited to Policy 2.2.1.2 (General Plan Natural Resource [NR] Land Use Designation), Policy 2.2.5.2 (requirement for General Plan consistency), Policy 2.2.5.3 (density evaluation for future rezones), Policy 8.3.1.1 (protection/encouragement of timber production on lands zoned TPZ or FR), and Policy 8.3.2.2 (minimum parcel sizes for timber production lands above 3,000 feet in elevation). For details, refer to the General Plan Findings (Attachment 1, Section 3.0).

## **CONSISTENCY WITH ZONING ORDINANCE (TITLE 130)**

The project is consistent with all applicable provisions of the Zoning Ordinance (Title 130), including Sections 130.21.010 (Zones Established; Applicability), 130.21.020 (Matrix of

Allowed Uses) and 130.21.030 (Agricultural, Rural Lands and Resource Zones Development Standards). For details, refer to the Zoning Ordinance (Title 130) Findings (Attachment 1, Section 4.0).

Although the minimum lot size for the FR-160 Zone District is 160 acres, the project parcel is a substandard size at 45.25 acres. The parcel was evaluated for consistency with Section 130.61.060 (Legal Nonconforming Lots) and was found to be legally created at 45.25 acres, as verified by the County Surveyor's Office on May 8, 2018. Therefore, the parcel is consistent with the requirements of this Section. Due to the parcel's nonconforming size, no future subdivision will be allowed.

## **ENVIRONMENTAL REVIEW**

The California Environmental Quality Act (CEQA) requires analysis of agency approvals of discretionary "projects". CEQA Guidelines Section 15061(b)(3) sets forth the general rule exemption, which provides that CEQA only applies to projects which "have the potential for causing a significant effect on the environment, where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA."

The proposed project involves the rezoning of APN 040-080-06 from Timber Production (TPZ) to Forest Resource, 160-acre (FR-160) to correct a documented mapping error. The proposed rezone does not significantly change the allowed uses on the site and there is no development proposed or anticipated with this project as a result of this action. The rezone from TPZ to FR-160 does not result in any new or intensified impacts and use of the property would be restricted to uses allowed by the Zoning Ordinance. Therefore, the proposed project will not have the potential to result in individual or cumulative significant effects on the environment. Furthermore, no special circumstances exist that would create a reasonable possibility that approving the project would have a significant effect on the environment. Thus, the proposed rezone is exempt from review under CEQA pursuant to CEQA Guidelines Section 15061(b)(3).

## **STAFF ANALYSIS**

The County Zoning Ordinance Title 130 establishes criteria and regulations applicable to the Timber Production Zone (TPZ) subject to the Forest Taxation Reform Act of 1976 (California Government Code Section 51110, et seq.). The Forest Resource Zone (FR) is applied to lands containing valuable timber or having the potential for timber production, but are not subject to the TPZ zoning requirements. Similar to TPZ, the FR Zone also encourages timber production and associated activities, and limits noncompatible uses from restricting such activities. Other than differences in tax assessment between the two zones, the primary difference between TPZ and FR is single-family dwellings are allowed by Conditional Use Permit (CUP) in TPZ and allowed by right in FR. (Refer to Section 130.40.350 [Timber Production Zone: Criteria, Regulations, and Zone Change Requirements] and Section 130.21.010.C.5 (Matrix of Allowed Uses, Forest Resource)).

Staff supports the rezone of APN 040-080-06 from TPZ to FR-160 as surrounding parcels are also zoned FR-160, regardless of parcel size, to protect existing timber resources. Substandard parcel sizes are also supported by General Plan Policy 8.3.2.2 for existing parcels located in areas designated NR on the General Plan Land Use Map above 3,000 feet (*refer to General Plan Findings, Attachment 1, Section 3.5*). In summary, the proposed rezone is consistent with all applicable General Plan policies and provisions of the Zoning Ordinance and corrects an identified mapping error to the Zoning Map.

**ENVIRONMENTAL DETERMINATION**

Exempt pursuant to Section 15061(b)(3) of the CEQA Guidelines.

**SUPPORT INFORMATION**

Attachment 1 .....Findings

Exhibit A .....Location Map

Exhibit B .....Assessor’s Parcel Page

Exhibit C .....General Plan Land Use Map

Exhibit D .....Zoning Map

Exhibit E .....County Assessor Letter, June 4, 2018

Exhibit F.....Property Owner Rezone Request, August 3, 2018

Exhibit G.....Draft Rezone Ordinance