

# Attachment 1

## FINDINGS

### Rezone Z18-0007/Cabodi Planning Commission/September 27, 2018

#### 1.0 CEQA FINDINGS

- 1.1 This project has been found to be exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines which states that CEQA applies only 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.

Rationale: Staff recommends that the Planning Commission find that there is no possibility that the activity in question may have a significant effect on the environment. The rezone from TPZ to FR-160 does not change the primary uses allowed at the site because the FR zone is applied to lands containing valuable timber or having the potential for timber production, similar to TPZ criteria, but are not subject to the provisions and intent of the California Forest Taxation Reform Act of 1976 (as amended). As there is no development proposed or anticipated as part of this project, there will not be any change of use resulting in new or intensified impacts. No structures are proposed, there will be no earthwork or grading of the site, and the use of the property is restricted to those uses allowed by the Zoning Ordinance.

- 1.2 The documents and other materials that constitute the record of proceedings upon which this decision is based are in the custody of the Planning and Building Department at 2850 Fairlane Court, Placerville, CA, 95667.

#### 2.0 GOVERNMENT CODE FINDINGS FOR IMMEDIATE REZONES

##### 2.1 The project is consistent with Government Code Section 51131.

Section 51131 states that a timberland production zone may not be immediately rezoned except by request of the landowner.

Rationale: The landowner submitted a written request for an immediate rezone to the County on August 3, 2018 (Exhibit G).

##### 2.2 The project is consistent with Government Code Section 51133.

If an application for (timberland) conversion is required as part of the project, Section 51133 identifies four specific criteria that must be satisfied prior to approval of immediate rezones.

Rationale: No application for conversion is proposed as part of the project. The project will not remove or impact existing timber resources.

### 2.3 **The project is consistent with Government Code Section 51134.**

Section 51134 allows for immediate rezones when an application for conversion is not required pursuant to Section 4621 of the Public Resources Code. However, this Section requires approval by a four-fifths vote of the full Board and only if the Board makes written findings that all of the following circumstances exist:

1. The immediate rezoning would be in the public interest.

Rationale: An immediate rezone is required to correct a documented mapping error on the adopted Zoning Map. Although the County's Zoning Map depicts the project parcel's zone as Timber Production (TPZ), County records 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"). Further, County records also indicate the project parcel was on a list of parcels to be excluded from TPZ when this zone was first established by the County Board of Supervisors in January 1978.

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

Rationale: No change of use is proposed as part of the project. The project does not affect the continued timber growing use or open space use of other land as timberland production within one mile of the exterior boundary of the project parcel.

3. The soils, slopes, and watershed conditions will be suitable for the uses proposed by the applicant if the immediate rezoning is approved.

Rationale: No development is proposed as part of the project. There is no impact on soils, slopes or watershed conditions.

4. The immediate rezoning is not inconsistent with the purposes of subdivision (j) of Section 3 of Article XIII (Revenue and Taxation) of the California Constitution (Exempt property – immature forest trees) and of this chapter.

Rationale: Property tax exemptions under subdivision (j) do not apply to this project as the project parcel is not being assessed under the TPZ restricted value provisions in the California Revenue and Taxation

Code. The project parcel is being assessed according to Article 13 A of the California constitution (“Proposition 13”).

5. The existence of an opportunity for an alternative use of the land shall not alone be sufficient reason for granting a request for immediate rezoning pursuant to this Section. Immediate rezoning shall be considered only if there is no proximate and suitable land which is not zoned as timberland production for the alternate use not permitted within a timberland production zone.

Rationale: There is no alternative use of the land proposed as part of the project.

6. The uneconomic character of the existing use shall not be sufficient reason for the approval of immediate rezoning pursuant to this Section. The uneconomic character of the existing use may be considered only if there is no other reasonable or comparable timber-growing use to which the land may be put.

Rationale: There is no development or non-timber related use proposed as part of the project.

7. Immediate rezoning action shall comply with all the applicable provisions of state law and local ordinances.

Rationale: The rezone action is consistent with all applicable provisions of state law and local ordinances.

8. The county or city may require the payment of a fee by the landowner for the cost of processing the application and recording the necessary documentation.

Rationale: The County’s adopted Fee Resolution No. 105-2017 includes payment to the County for the cost of processing typical development applications, including rezone requests. However, as this project will correct an error on the adopted Zoning Map, no fee will be required from the landowner.

### **3.0 GENERAL PLAN FINDINGS**

#### **3.1 The project is consistent with General Plan Policy 2.2.1.2.**

Policy 2.2.1.2 identifies Natural Resource (NR) lands containing economically viable natural resources and to protect the economic viability of those resources and those engaged in harvesting/processing those resources. Listed natural resources include forested areas, mineral resources, important watershed, lakes and ponds, river corridors, grazing lands and areas where the encroachment of development would compromise these natural resource values. Policy 2.2.1.2 applies this designation to parcels 40 acres or larger in size which contain one or more important natural resource. In timber producing

areas, this designation supports residential densities as one dwelling unit per 160 acres or larger.

Rationale: No development is proposed as part of the project. The proposed rezone will allow for continued production and harvesting of existing timber resources consistent with this policy.

**3.2 The project is consistent with General Plan Policy 2.2.5.2.**

All applications for discretionary projects or permits including, but not limited to, General Plan amendments, zoning boundary amendments, tentative maps for major and minor land divisions, and special use permits shall be reviewed to determine consistency with the policies of the General Plan. No approvals shall be granted unless a finding is made that the project or permit is consistent with the General Plan. In the case of General Plan amendments, such amendments can be rendered consistent with the General Plan by modifying or deleting the General Plan provisions, including both the land use map and any relevant textual policies, with which the proposed amendments would be inconsistent.

Rationale: The project has been reviewed in accordance with General Plan Policy 2.2.5.2 and has been found to be consistent with all applicable policies of the General Plan.

**3.3 The project is consistent with General Plan Policy 2.2.5.3.**

Policy 2.2.5.3 requires that the County evaluate future rezoning: (1) To be based on the General Plan's general direction as to minimum parcel size or maximum allowable density; and (2) To assess whether there are changes in conditions that would support a higher density or intensity zoning district. The specific criteria to be considered include, but are not limited to, the following nineteen criteria:

1. Availability of an adequate public water source or an approved Capital Improvement Project to increase service for existing land use demands;

Rationale: The project does not involve new development or increased service for existing land use demands requiring additional water supply.

2. Availability and capacity of public treated water system;

Rationale: The project does not involve new development or increased service for existing land use demands requiring a public treated water system.

3. Availability and capacity of public waste water treatment system;  
Rationale: The project does not involve new development or increased service for existing land use demands requiring a public waste water treatment system.
4. Distance to and capacity of the serving elementary and high school;  
Rationale: The project does not create any lots and would not result in a zone that would allow the creation of new lots. As such, there is no impact on school capacity.
5. Response time from nearest fire station handling structure fires;  
Rationale: There is no proposed development at the site so the project does not affect acceptable fire service ratios, response times, or other performance objectives.
6. Distance to nearest Community Region or Rural Center;  
Rationale: The nearest Rural Center is Grizzly Flat, approximately eight miles to the Northwest along Grizzly Flat Road.
7. Erosion hazard;  
Rationale: There is no proposed development at the site, so no erosion is anticipated.
8. Septic and leach field capability;  
Rationale: No new septic systems are proposed.
9. Groundwater capability to support wells;  
Rationale: No wells are proposed, and the development does not impact groundwater supply.
10. Critical flora and fauna habitat areas;  
Rationale: There is no proposed development at the site and no disturbance of critical biological resources is anticipated.
11. Important timber production areas;  
Rationale: The project allows continued timber production and associated activities on site; there is no significant change to important timber production areas.

12. Important agricultural areas;  
Rationale: The project is not located near and does not adversely affect agricultural (non-timber) areas.
13. Important mineral resource areas;  
Rationale: The project is not located near and does not adversely affect mineral resource areas.
14. Capacity of the transportation system serving the area;  
Rationale: The project does not include any development that would affect transportation system capacity.
15. Existing land use pattern;  
Rationale: The project is consistent with existing timber production uses in the vicinity and all adjacent parcels are zoned for timber production and harvesting.
16. Proximity to perennial water course;  
Rationale: The site is located adjacent to the Middle Fork Cosumnes River. The rezone does not affect this water course, as there is no proposed development at the site.
17. Important historical/archeological sites; and  
Rationale: There is no proposed additional development at the site. There are no known historic/archaeological sites that are affected by the project.
18. Seismic hazards and present of active faults.  
Rationale: There are no active faults or extraordinary seismic hazards in the vicinity of the project.
19. Consistency with existing Conditions, Covenants, and Restrictions.  
Rationale: The project does not cause any physical changes to the site that could create conflicts with any existing Conditions, Covenants and Restrictions.

3.4 **The project is consistent with General Plan Policy 8.3.1.1.**

Policy 8.3.1.1 requires lands designated as Natural Resource (NR) on the General Plan Land Use Map and zoned either Timber Production Zone (TPZ) or Forest Resource (FR)

be maintained for purposes of protecting and encouraging production of timber and associated activities.

Rationale: The proposed rezone from TPZ to FR-160 will allow for continued production of timber and associated activities.

**3.5 The project is consistent with General Plan Policy 8.3.2.2.**

Policy 8.3.2.2 requires timber production lands within areas designated Natural Resource above 3,000 feet in elevation maintain a 160-acre minimum parcel size or larger, except where smaller parcels already exist, in order to ensure viability of long-term operations and maximize economic feasibility for timber production or otherwise meet the parcel size requirements of the Natural Resource (NR) Designation.

Rationale: The project parcel is located at approximately 4,600 feet in elevation. Although only 45.25 acres, the parcel was legally created at a nonconforming size, as verified by the County Surveyor's Office on May 8, 2018 (Document No. COC 94-0112). Any future subdivision would not be allowed.

**4.0 ZONING ORDINANCE (TITLE 130) FINDINGS**

**4.1 The project is consistent with Chapter 130.21 (Agricultural, Rural, and Resource Zones) in Title 130 (Zoning) of the County Code of Ordinances.**

Rationale: With the exception of minimum lot size as discussed in Finding No. 4.2 below, the proposed rezone from TPZ to FR-160 is consistent with 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), including minimum lot width and building setbacks.

**4.2 The project is consistent with Chapter 130.61 (Nonconforming Uses, Structures, and Lots).**

The project parcel has been analyzed in accordance with Zoning Ordinance Section 130.61.060 (Legal Nonconforming Lots) for applicable development standards regarding minimum lot size, widths and building setbacks.

Rationale: Minimum lot size for the FR-160 zone is 160 acres. However, the project parcel was legally established at 45.25 acres, and is therefore consistent with Section 130.61.060 (Legal Nonconforming Lots). With the exception of parcel size, the project parcel will accommodate the required development standards for the FR-160 Zone District, as shown on Table 130.21.030 (Agricultural, Rural Lands and Resource Zones Development Standards).