CALIFORNIA COASTAL COMMISSION NORTH COAST AREA 5 FREMONT, SUITE 2000 SAN FRANCISCO, CA 94105-2219 (415) 904-5260



Date Filed: November 17, 1997 60th Day: January 16, 1998 Staff: James Muth Staff Report: December 19, 1997 Hearing Date: January 13, 1998 Commission Action:

TO: Commissioners and Interested Parties

- FROM: Peter M. Douglas, Executive Director Steven Scholl, Deputy Director Robert Merrill, North Coast District Manager James Muth, Coastal Planner
- SUBJECT: Del Norte County LCP Amendment No. 3-97 Major, (Swisher TPZ Rezone) (For Commission consideration at the meeting of January 13, 1998 in San Luis Obispo.)

#### SYNOPSIS

#### Amendment Description.

Del Norte County is requesting that the  $76\pm$  acre, coastal-zone portion of a five parcel,  $116\pm$  acre property be rezoned from CT (Coastal Timber) to TPZ (Timber Preserve). The subject property, consisting of APN's 127-070-25, 26, 27, 28, & 29, is located on Lonesome Road, west of Highway 101, near the popular Trees of Mystery visitor attraction, about four miles north of Klamath in Del Norte County.

Summary of Staff Recommendation.

Staff recommends that the Commission, upon completion of the public hearing, approve the LCP Amendment as submitted. The Implementation Plan, as proposed to be amended, conforms with and is adequate to carry out the certified Land Use Plan because the proposed TPZ (Timber Preserve) zone is consistent with the Coastal Timber Land Use Plan (LUP) designation for the site. In addition, rezoning the property from Coastal Timber to Timber Preserve will be more protective of the long-term productivity of soils and timberlands on the property consistent with the forestry policies of the LUP. Furthermore, the proposed LCP amendment meets the requirements for establishing a Timber Production Zone under Section 21.13.050 of the County's coastal zoning ordinance.

#### Analysis Criteria.

To approve the zoning map amendment, the Commission must find that the Implementation Plan (IP), as amended, conforms with and is adequate to carry out the Land Use Plan (LUP) policies and map designations of the County's LCP.

#### Additional Information.

For further information, please contact James Muth at the North Coast Area Office or call (415) 904-5260. Correspondence should be sent to the California Coastal Commission at the above address, attention "James Muth".

# I. STAFF RECOMMENDATION FOR THE LCP AMENDMENT.

Staff recommends that, following a public hearing, the Commission adopt the following resolutions and related findings:

#### A. APPROVAL OF THE ZONING MAP AMENDMENT AS SUBMITTED.

The resolution is properly introduced by the following motion:

"I move that the Commission reject the zoning map amendment in LCP Amendment No. 3-97 (Major) to Del Norte County's Implementation Plan as submitted by the County."

Staff recommends a NO vote, and adoption of the following resolution and findings. Only an affirmative (yes) vote on the motion by a majority of the Commissioners present can result in rejection of the amendment.

#### **RESOLUTION:**

The Commission hereby certifies LCP Amendment No. 3-97 (major) to the Implementation Program of the Del Norte County LCP for the specific reasons discussed in the following findings on the grounds that the zoning ordinances, zoning district maps, and other implementing materials as amended conform with and are adequate to carry out the provisions of the land use plan as certified. As submitted, the amendment does not have a significant adverse impact on the environment within the meaning of CEQA.

II. FINDINGS TO APPROVE THE ZONING MAP AMENDMENT AS SUBMITTED.

#### A. <u>Site Description and LCP Amendment Request</u>.

The subject property is owned by Ronald and Pamela Swisher and consists of a five parcel,  $116\pm$  acre property (APN's 127-070-25, 26, 27, 28, & 29). The property is located off of Lonesome Road, west of Highway 101, near the Trees of Mystery, a popular visitor attraction located about 4 miles north of Klamath in Del Norte County. See locational Exhibits No. 1 and 2.

The subject property is bisected by the coastal zone boundary. The majority of the property, approximately 76 acres, is located within the coastal zone and is the subject of this Implementation Plan amendment. See Exhibit No. 3.

The property is bounded on its east and south sides by forested parcels, including an 85.65-acre parcel (APN 127-070-23) owned by the Swishers and a 190-acre parcel (APN 127-070-15) and a 39.2-acre parcel (APN 127-070-16) owned by Simpson Redwood Company. The property is bounded on its west and north sides by Redwood National Park. Finally, the property is bounded at its northeast corner by Motel Trees, which is located between Highway 101 and the subject property. See Exhibit No. 4.

The proposed LCP amendment would amend a portion of Zoning Area Map E-16 by rezoning the portion of the subject property within the coastal zone from CT (Coastal Timber) to TP (Timber Preserve). The LCP amendment was submitted to the Coastal Commission by the Del Norte County Board of Supervisors under Resolution No. 97-099 and Ordinance No. 97-015. See Exhibits No. 5 and 6.

The property contains a variety of slope, soil, and site conditions. The highest elevation of the property is about 800 feet above sea level near the ridge top area along the south side of the property. The ridge top area has well drained soils that are about two feet deep. The lowest elevation of the property is about 80 feet above sea level near the flat area west of Motel Trees. The flat area has well drained soils that are about soils that are about five feet deep. The property has an average slope of 45 percent (i.e. a rise or fall of 45 feet within every 100 horizontal feet) and a northern aspect. A survey of the property for archaelogical resources and a records search at Sonoma State University were conducted. No archaeological or historical sites were discovered.

A plan to manage the forestry resources on the property was prepared by a registered professional forester. See Exhibit No. 8. According to the plan, the original old growth stand was harvested in the early 1900's. A second growth with scattered residuals has been partially harvested at least twice since then, the last time in 1992. Present stand conditions show that the area currently supports a varied stand of grand fir and that the area currently meets the timber-stocking standards of the Forest Practice Act 14 California Code of Regulations 912.7. A survey of the site productivity determined that the area had a site class II timber growing potential. This conclusion was based on the observation that increment borings of trees within the proposed parcels are relatively uniform, which is a way of identifying their timber growing potential when soil information for the area is not available. Although the plan indicates that periodic thinning of the forest will be necessary as the timber matures, there will be no planned timber harvests in the immediate future (i.e. within the next 10 years). The plan does call for the eventual harvesting of the site after 10 years. The registered professional forester who prepared the plan concluded that rezoning the property to Timber Preserve "will have a positive effect of supporting a viable timber stand." See Exhibit No. 8, page 4). The positive effect will

result because (a) the contractual obligations of the TPZ program reduce the possibility that the property will be converted to some other non-forestry use within the near future, and (b) implementation of the management plan will ensure the long term productivity of the soils and timberlands on the property will be protected. The California Department of Forestry and Fire Protection indicates it has as no comments on the rezone at this time.

# B. Applicable LCP Policies.

Maintaining the long-term productivity of commercial forestlands within the coastal zone is emphasized by the Coastal Act. Section 30243 of the Coastal Act requires in applicable part that the "long-term productivity of soils and timberlands be protected." The policy language of Section 30243 is restated in LUP Forestry Policy No. 1. LUP Forestry Policy No. 1, found on page 200, states in applicable part that: "The long-term productivity of soils and timberlands shall be protected...."

LUP Forestry Policy No. 5, found on pages 200 and 201, provides a definition of what constitutes "soils and timberlands" that are to be protected pursuant to LUP Forestry Policy No. 1. The policy states in applicable part that:

Soils and timberland may also include lands not presently zoned Timberland Preserve. These lands include ... Forested parcels of Class II or better which comprise a parcel of 20 acres or larger...."

Table A in the County's LCP establishes a "Land Use Plan and Zoning Map Consistency Matrix." The matrix indicates that the CT (Coastal Timber) and the TPZ (Timber Preserve) zones are both consistent with the Non-TPZ (Coastal Timber) and the TP (Timber Preserve) LUP designations. See Exhibit No. 7.

The subject property is currently zoned as Coastal Timber, and as described in LCP Section 21.14.010 on page 44 of the County's coastal zoning ordinance, the intent of the Coastal Timber Zone, is to:

Protect forested lands within the California Coastal Zone which have not been designated as timber preserve zones (TPZ) but which are considered of commercial value. These include forested areas with Class III or better timber which comprise a parcel of twenty acres or larger.

The subject property is proposed to be rezoned to Timber Preserve. The Timberland Preserve Zone is intended to encourage timberland production by requiring property owners who request the zoning to enter into a 10-year contract which restricts the use of the property to which the zone is applied to timber production and related purposes. In exchange, the contract allows the land to be valued for property taxation only on the basis of growing and harvesting timber, thereby reducing the owners tax obligation. Additional timber yield taxes are paid at the time of harvest. Conversion of lands designated TPZ to other than forestry use is subject to review by the California Department of Forestry. As described in LCP Section 21.13.010 on

page 41 of the County's coastal zoning ordinances, the intent of the Timber Preserve Zone, is to:

Provide for timberland zoning and restrictions for a minimum ten-year period as a "timberland preserve." Such zoning allows land to be valued for property taxation, in general, on the basis of its growing and harvesting timber only. Beginning in fiscal year 1977-78, timber would be exempt from ad valorem taxation; however, a yield tax would be imposed at such time the timber is harvested. Changes of district from timberland preserve zone district to another classification are to be made only where such uses are in accord with the General Plan or adopted specific plan.

Aside from the method in which the property will be taxed, the proposed LCP amendment is likely to result in little or no change in the manner to which the property is utilized. The principally permitted uses within the Timberland Preserve Zone are limited to the growing and harvesting of timber and uses accessory (i.e. compatible) thereto. The same principally permitted uses that are allowed within the TPZ zone are also allowed within the Coastal Timber zone, except that the CT zone has no contract provision. In addition, both zones are limited to the same conditionally permitted uses.

LCP Section 21.13.040(C), found on pages 42 and 43 of the coastal zoning ordinance, allows a property owner to apply for a TPZ rezone if certain criteria are met. LCP Section 21.13.040(C) states in applicable part that:

After November 1, 1977, owners of timberland not included on List A (Section 51110.1 of the Government Code) or List B (Section 51110.1 of the Government Code) may petition the board to zone his [sic] land as timberland preserve, provided all criteria to be adopted are met.

LCP Section 21.13.050, found on page 43 of the coastal zoning ordinance, sets five basic criteria for approving the rezoning of a proposal to TPZ. The ordinance indicates that an applicant who petitions the county to zone his land as timberland preserve shall submit the appropriate information to meet the following requirements:

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

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

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 or council to meet such stocking standards and Forest Practice Rules by the fiftieth anniversary of the signing of such agreement. If the parcel is subsequently zoned as timberland preserve under subdivision (a), failure to meet such 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.

D. The land area to be zoned timberland preserve 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 which constitute twenty acres or more in size.

E. The land to be included in timberland preserve shall be Timber Site IV or better.

#### C. LCP Amendment Analysis.

The Commission finds that the proposed rezoning of the property from Coastal Timber to Timber Preserve conforms with and is adequate to carry out the certified LUP.

As noted above, Table A of the LCP shown as (Exhibit No. 7) indicates that both the Coastal Timber and the Timber Preserve zoning districts are consistent with the Coastal Timber LUP designation that applies to the site. Therefore, the proposed Timber Preserve zoning for the site is consistent with the existing, Non-TPZ (Coastal Timber) LUP designation given to the site in the LUP.

The proposed zoning amendment is also consistent with the forestry policies of the LUP. Pursuant to Forestry Policy No. 5 of the LUP, the subject property meets the definition of soils and timberlands as the five parcels involved are each over 20 acres in size and have Class II or better timber growing potential. The proposed rezoning of these soils and timberlands to Timber Preserve is fully consistent with the provision of Forestry Policy No. 1 of the LUP that the long-term productivity of soils and timberlands be protected, because rezoning the property to TPZ imposes additional restrictions against converting use of the land from forestry to other uses and provides for management of the resources. As discussed above, rezoning timberlands to TPZ requires the property owner to sign a contract obligating the owner to reserve the use of the property for forestry and related accessory uses for at least a 10-year period and to manage the forestry resources of the site in accordance with an approved management plan. In addition, any conversion of lands designated TPZ to other than forestry use is subject to review by the California Department of Forestry. Therefore, the proposed rezoning of the property to TPZ will better ensure that the long-term productivity of soils and timberlands will be protected as called for by Forestry policy No. 1 of the LUP.

The LCP amendment also complies with the five criteria to establish a TPZ zone as required by Section 21.13.050 of the County's coastal zoning ordinance. First, a map has been prepared that shows the legal description of the

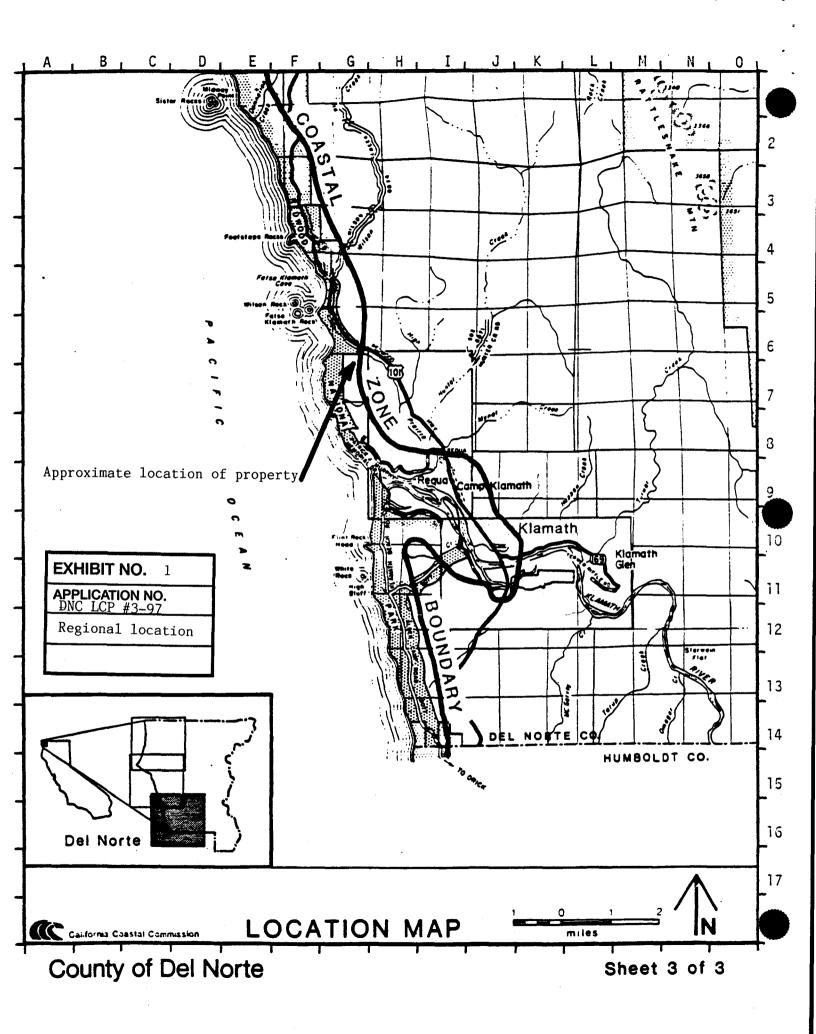
assessor's parcel numbers of the subject property to be zoned as TPZ. Second, a forest management plan has been prepared for the subject property by a registered professional forester. Third, the subject property meets the timber-stocking requirements as set forth in the Forest Practice Rules. Fourth, the land is under one ownership as defined in Section 38106 of the Revenue and Taxation Code and is comprised of contiguous parcels which are each twenty acres or more in size. Fifth, as established in the plan that was prepared by the professional registered forester, the Class II timber growing potential of the subject property is equal to and better than the Class IV timber growing potential required by Section 21.13.050(E) of the coastal zoning ordinance.

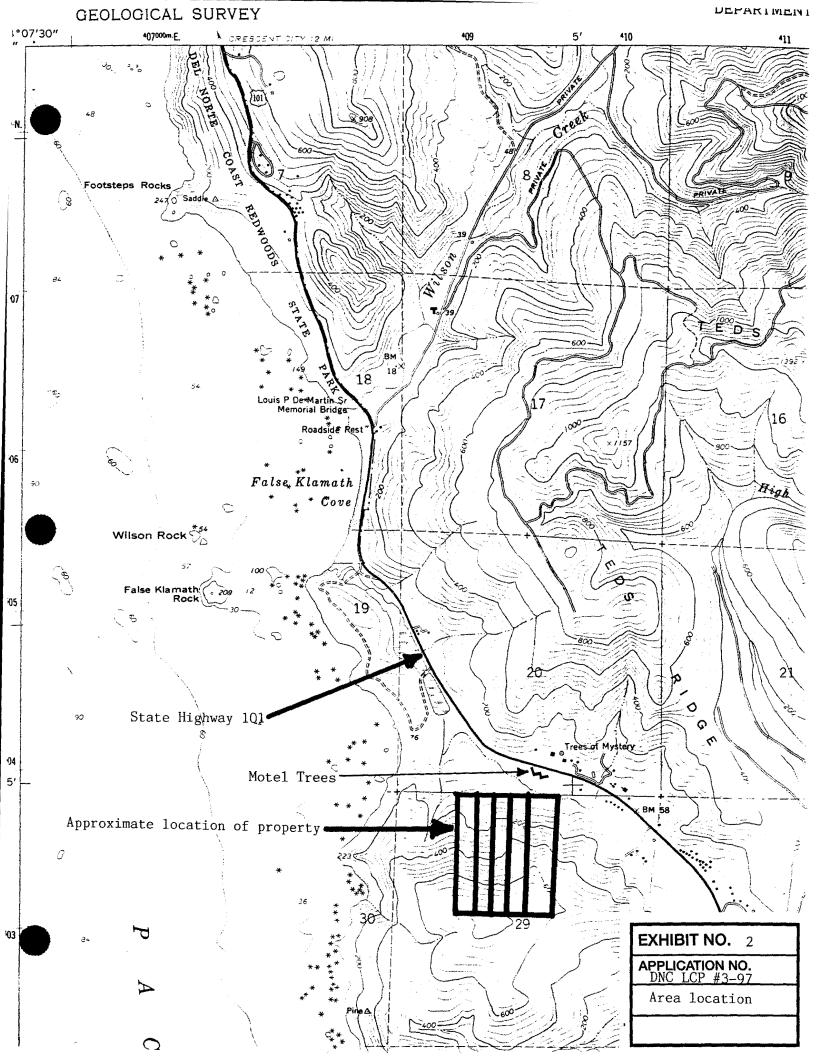
In summary, the Commission finds that the Del Norte County Implementation Plan, as amended to rezone the subject property from Coastal Timber to Timber Preserve, conforms with and is adequate to carry out the certified LUP because: (1) the proposed TPZ zone is consistent with the Non-TPZ (Coastal Timber) LUP designation for the site, (2) the rezone is consistent with the forestry policies of the LUP as the RPZ zone and will be more protective of the coastal timber resources on the site than the current Coastal Timber zone on the property due to the contract restrictions associated with the TPZ zone, and (3) the proposed LCP amendment meets the requirements for rezoning lands to TPZ under Section 21.13.050 of the County's coastal zoning ordinance.

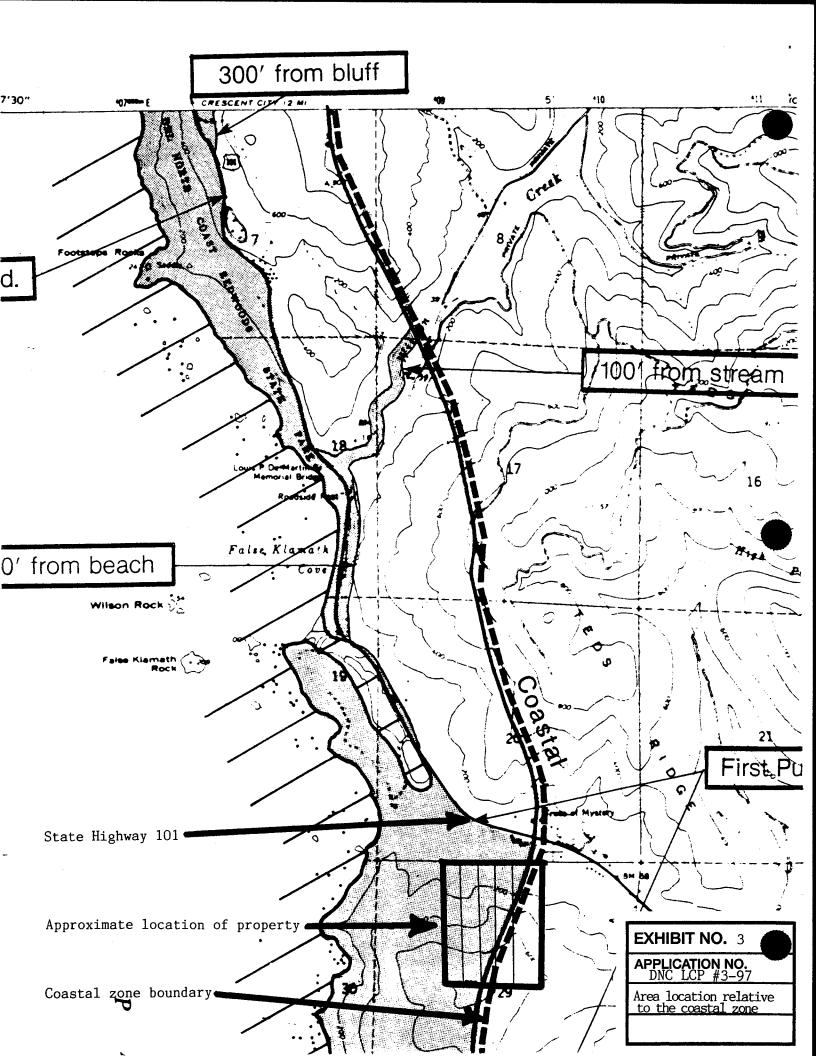
#### D. <u>California Environmental Quality Act</u>.

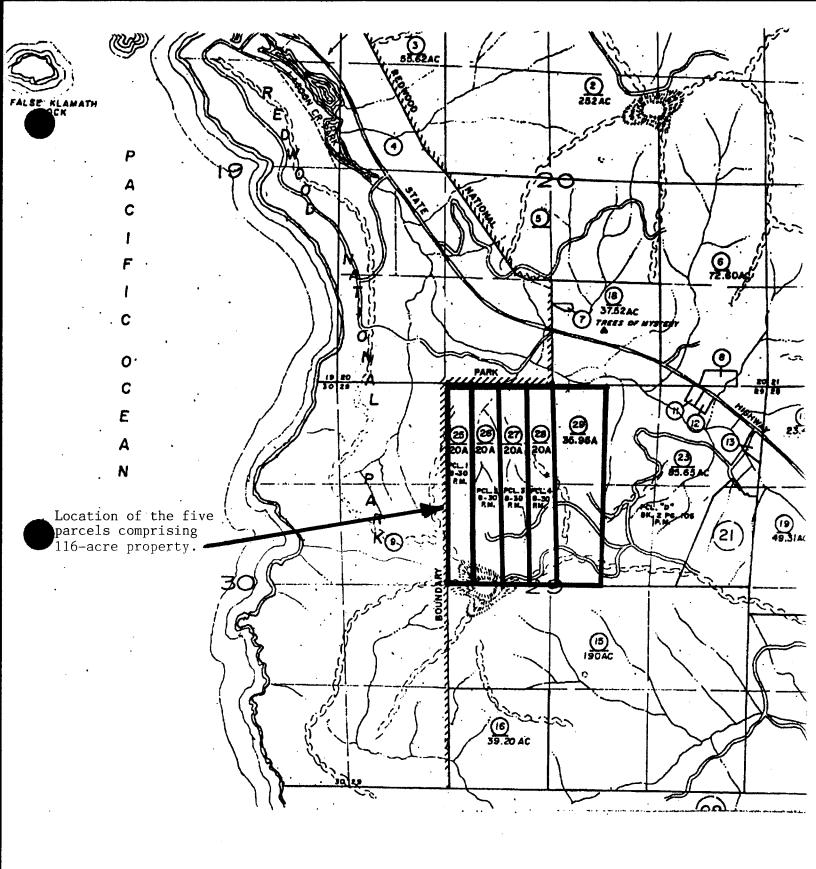
The County prepared and adopted a Negative Declaration as lead agency for the TPZ rezone under CEQA. In addition, the Coastal Commission's LCP process has been designated by the Secretary of Resources as the functional equivalent of the EIR process. CEQA requires the consideration of less environmentally damaging alternatives and the imposition of mitigation measures to lessen significant adverse effects. The Commission finds that the LCP amendment, as submitted, conforms with and is adequate to carry out the forestry policies of the County's LUP. The Commission further finds that it need not consider alternatives or mitigation measures as approval of the LCP amendment, as submitted, will have no significant adverse effects on the environment within the meaning of CEQA.

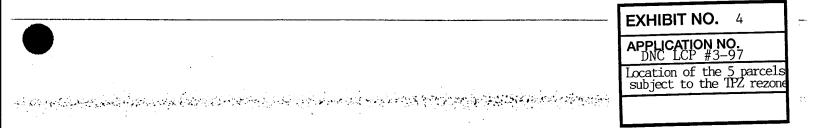
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# COUNTY OF DEL NORTE STATE OF CALIFORNIA

# **RESOLUTION NO. 97-** 099

# A RESOLUTION OF THE DEL NORTE COUNTY BOARD OF SUPERVISORS SUBMITTING AN ORDINANCE AMENDING ORDINANCE NO. 83-08 AND COUNTY CODE TITLE 21 BY DELETING COASTAL ZONING AREA MAP E-16 AND ADOPTING NEW COASTAL ZONING AREA MAP E-16 (SWISHER) TO THE COASTAL COMMISSION AS AN LCP AMENDMENT

WHEREAS, the County of Del Norte has adopted an ordinance amending the local Coastal Plan and Title 21 Coastal Zoning Ordinance; and

WHEREAS, this amendment has been reviewed and processed pursuant to the provisions of the Local Coastal Plan and Title 21 (Coastal Zoning); and

WHEREAS, the project is exempt from the California Environmental Quality Act; and

**WHEREAS**, this ordinance is intended to be carried out in a manner in conformity with the Coastal Act and the implementing Local Coastal Plan; and

**WHEREAS**, this amendment shall take effect and be enforced thirty (30) days after the date of the passage of the companion ordinance, and after approval of the amendment by the Coastal Commission, whichever is later.

**NOW, THEREFORE, BE IT RESOLVED**, that the Board of Supervisors of the County of Del Norte, State of California do hereby approve the changes as outlined by the attached Ordinance; and

**BE IT FURTHER RESOLVED**, that by submission of such changes to the Coastal Commission for certification, the Board of Supervisors is requesting the subject amendments be identified as requiring rapid and expeditious action.

**PASSED AND ADOPTED** this 26 th day of August 1997, by the following polled vote:

AYES: Supervisors

Reese, Finigan, Eller, McClure and Clausen

NOES:

None

ABSENT:

None

ausen AUSEN, Chairman

Board of Supervisors

BOOK EXHIBIT NO. 5 APPLICATION NO. DNC LCP #3-97 County resolution

ATTEST:

KAREN L. WALSH, Clerk of the

Board of Supervisors, County of Del Norte, State of California

# **BOARD OF SUPERVISORS COUNTY OF DEL NORTE** STATE OF CALIFORNIA

**ORDINANCE NO. 97-** 015

# AN ORDINANCE AMENDING ORDINANCE NOS. 83-08, 67-10, AND COUNTY CODE TITLES 21 AND 20.06.050 BY DELETING **COASTAL ZONING AREA MAP E-16 AND ADOPTING** NEW COASTAL ZONING AREA AND NON-COASTAL ZONING MAPS E-16 (SWISHER)

The Board of Supervisors, County of Del Norte, State of California, does ordain as follows:

- SECTION I: Section 2.D.2 of the Coastal Zoning Enabling Ordinance No. 83-08, County Code Title 21 and County Code Title 20 are hereby amended by deleting therefrom Coastal Zoning Area Map E-16 and Non-Coastal Zoning Area Map E-16 by replacing same with a new Coastal Zoning Area Map E-16 and Non-Coastal Zoning Area Map E-16 as specified in attached Exhibit "A".
- This Ordinance shall take effect and be SECTION II: enforced thirty (30) days after the date of its passage or after approval of the rezone by the Coastal Commission whichever is the later.

This Ordinance is passed and adopted based FINDINGS OF upon the findings cited in the Staff Report FACT: and the Board of Supervisors hereby makes said findings as more particularly described in said Staff Report, which is herein incorporated by reference (Section 65804(c) (d) of the Government Code).

PASSED AND ADOPTED this 26th day of August 1997, by the following polled vote:

AYES: Supervisors NOES: ABSENT:

None None

Finigan, Reese, Eller, McCiure and Clausen

BARBARA P. CLAUSEN, Chairman **Board of Supervisors** 

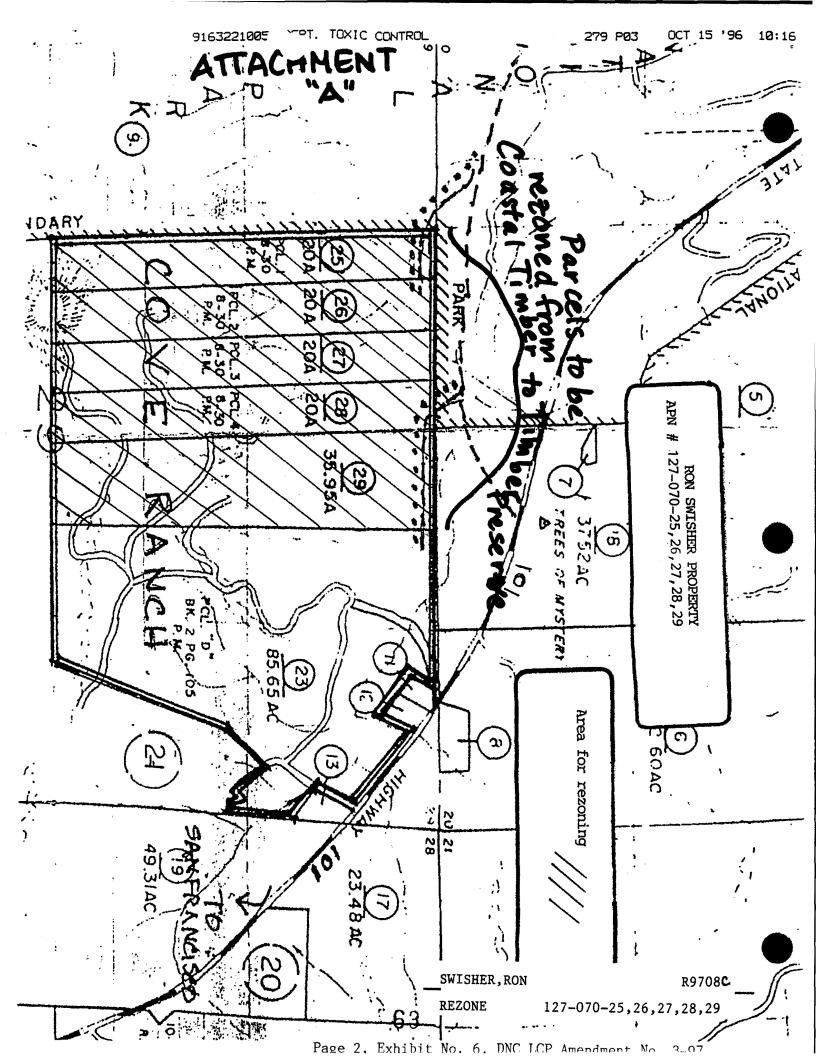
ATTEST:

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KAREN L. WALSH, Clerk of the Board of Supervisors, County of Del Norte, State of California

EXHIBIT NO. 6
APPLICATION NO. DNC LCP #3-97
County ordinance

BOOK



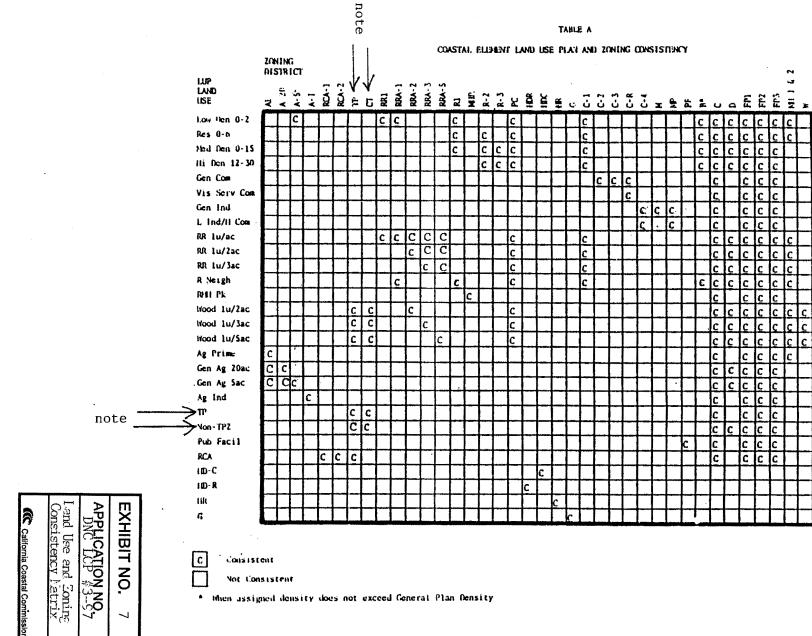


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(Del Norte County 9/87)

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ELLER & ASSOCIATES

# FOREST MANAGEMENT PLAN

# RON SWISHER PROPERTY Del Norte County, California May 19, 1997

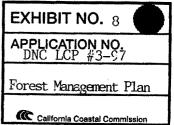
This Forest Management Plan has been prepared to serve as a guide is assessing forest productivity concerns pertaining to a change into Timber Productivity Zone (TPZ) of 115.95 acres of a 201.6 acre parcel. The county assessors parcel number for the areas to be rezoned are 127-070-25, 26, 27, 28, 29 and is located in Section 29 T14N R1E H.B.&M.

## **CONCLUSION:**

The changing to a zoning of Timber Production Zone (TPZ) will have a positive effect on the timber harvesting and timber growing potential of the property. The parcels to be zoned TPZ have adequate access and stocking to be considered a timber growing site.

SIONAL FORES SCOTT R. J. Felle FELLER Registered Professional Forester #) 95( of CALIFORNIA No. 1950

Land Management Plans - Timber Harvest Plans - Timber Cruising - Appraisals - Log Brokering - Logging Supervision 207 Price Mall Suite 100 P.O. Box 769 Crescent City Ca. 95531 Phone (707) 464-3866 Fax (707) 465-8343 EXHIBIT NO



## FOREST MANAGEMENT PLAN

Property Owner:

Ron Swisher 256 Hillside Ave. Klamath Falls Or. 97601

Location: Klamath area across from Trees of Mystery Section 29 T14N R1E H.B.& M. approximately 200 Acres.

Assessor's Parcel Numbers: 127-070-25,26,27,28,29 for TPZ Acres: 115.95

## **Property Description**:

The property is located on a creek tributary to the old mill pond next to the Pacific Ocean. Access is provided by highway 101 and rocked roads to the inhabited structures on the property. The rest of the roads have native material surfacing. Property lines were identified onsite. There are four structures on the property of which two are inhabited. There are several residences around the property and the Trees of Mystery is located within 1000 feet.

### Stand History:

The original old growth stand was harvested in the early 1900's. The resulting second growth with scattered residuals has been partially harvested at least once since then and again in about 1992. As a part of the THP process an archeological research of records at Sonoma State University and a site survey were conducted. No archeological or historical sites were discovered.

# **Present Stand Conditions:**

The area currently supports a varied mosaic of primarily Spruce and Redwood with scattered douglas fir and grand fir in this stand. There are scattered residual conifers within the riparian areas. These trees have provided an abundant seed source for the second growth stand that occupies the area. The area is currently stocked by the standards of the forest practice act 14 . CCR 912.7. The associated vegetation consists of California Laurel, tanoak, poison oak, and various forbes, shrubs, and grasses. There is red alder and pappus grass invading the open areas.

Land Management Plans - Timber Harvest Plans - Timber Cruising - Appraisals - Log Brokering - Logging Supervision 207 Price Mall Suite 100 P.O. Box 769 Crescent City Ca. 95531 Phone (707) 464-3866 Fax (707) 465-8343

Page 2, Exhibit No. 8, DNC LCP Amendment No. 3-97

## Site Productivity:

Soil vegetation maps were not available for this area. Increment borings of trees within the proposed parcels are relatively uniform in establishing a site class II timber growing potential. The second growth trees less than thirty feet high had good to excellent internodal growths for the last five years averaging over a foot a year while on some trees there were two foot lengths. The only non forest producing soil type are the roads with their rockier soils.

# **Topography:**

The area contains a variety of slope conditions. The area adjacent to the ridge tops have shallow soils while the area in the flats on the lower end has deeper soils. Soil depths range from two feet to over five feet. The average slopes for the parcel was 45% with a distinguishable flat next to a class I creek adjacent to the highway 101. The predominate aspect is easternly with some northern aspects. The majority of the area had well drained soils. The area appeared to be stable with no open sores or areas of accelerated erosion. Beds and banks of the creek appeared stable and in good shape.

#### Access:

The property has good access from highway 101. The property is roaded with over thirty percent of the road length having a high rock content. The roads provide a transportation system that is adequate for the removal of traditional forest products.

#### **Other Concerns:**

There is an invasion of red alder and pappus grass taking place within the open areas created from the logging of a few years past. This may preclude natural regeneration in these small areas. This is not an uncommon occurance for this area.

# Present Objectives:

The present objectives of providing a continuous crop of forest products is primarily being met by the use of the recent Timber Harvesting Plan and a stewardship program on the property. There are no planned harvest in the immediate future (10 years). Current growing stock will continue to mature. Natural regeneration is taking place as evidenced by the unusually large number of sitka spruce seedlings (less than three feet tall) that are found throughout the timbered area of the property.

# **Future Stand Treatments:**

In approximately ten years a precomercial thinning and latter a commercial thinning should be executed. A fuelwood harvest of the hardwoods should continuously take place on a small scale to maintain the open space for conifer release. The red alder and pappus grass should be controlled to insure conifer regeneration and site occupancy. The highest priority is to maintain the existing stand while enhancing its attributes.

## Conclusion:

The proposed rezoning of this property into timber Production Zone will have a positive effect of supporting a viable timber stand.

