



**COUNTY OF SAN MATEO**  
Inter-Departmental Correspondence  
Planning and Building



**Date:** March 24, 2016  
**Board Meeting Date:** April 12, 2016  
**Special Notice / Hearing:** 10-Day Notice  
**Vote Required:** Majority

**To:** Honorable Board of Supervisors

**From:** Steve Monowitz, Community Development Director

**Subject:** Public hearing to consider (1) a General Plan Map Amendment changing the land use designation of one parcel from Open Space to Timber Production, (2) a Zoning Map Amendment to rezone same parcel from Resource Management (RM) to Timberland Preserve Zone (TPZ), and (3) Williamson Act contract non-renewal.

County File Number: PLN 2014-00459 (Stoddard Trust)

**RECOMMENDATION:**

1. Adopt a resolution amending the San Mateo County General Plan Land Use Map to change the land use of one parcel from "Open Space" to "Timber Production," in the unincorporated South Skyline area.; and
2. Adopt an ordinance amending Chapter 2 of Division VI of the San Mateo County Ordinance Code (Zoning Annex) to revise the Zoning Maps, Appendix A, to change the zoning of one parcel from "Resource Management" (RM) to "Timberland Preserve Zone" (TPZ), in the unincorporated South Skyline area; and
3. Adopt a resolution authorizing the Planning and Building Department to file a Notice of Non-Renewal of California Land Conservation Contract pursuant to the California Land Conservation Act of 1965 (Williamson Act) for the identified parcel.

**BACKGROUND:**

During the County's Williamson Act Program Uniform Rules and Procedures (Program) update, the Board of Supervisors (Board), at its March 25, 2014 public hearing, considered the inclusion of timber harvesting as a qualifying Williamson Act agricultural use. After considering public testimony and staff's analysis, a decision was reached to exclude timber harvesting from the Program as an agricultural use, though it remains a compatible use.

As a result of this action, two parcels used for timber harvesting became ineligible to remain under Williamson Act contracts since no other qualifying agricultural use is present on the properties. In recognition that this would necessitate non-renewal of the contracts and a subsequent increase in property taxes, it was observed that the landowners have the option of applying to rezone the parcels from Resource Management to Timberland Preserve, and if approved, would result in a property tax formula that is similar to the method used to for Williamson Act contracted lands.

To date, the applicant is the only landowner that has requested to rezone a parcel from "Resource Management District" to "Timberland Preserve Zone," and re-designate the land use from "Open Space" to "Timber Production" as a result of the updates to the County's Williamson Act Program.

Staff's research of the land use activities on the Stoddard property have identified a 1972 timber harvesting permit (SM-4-72) and 2010 Non-Industrial Timber Management Plan<sup>1</sup> (1-10NTMP-006SMO (permit withdrawn)) and also notes harvesting prior to the 1930s. The landowner has indicated a continued interest in timber harvesting and has signed a contract for future timber harvesting with a local timber operator in anticipation of a future timber harvest plan submittal.

If approved, the project will rezone one parcel from "Resource Management District" to "Timberland Preserve Zone" and re-designate the land use from "Open Space" to "Timber Production."

The economic effect of exiting the Williamson Act Program and rezoning to Timberland Preserve Zone, as assessed by the Assessor's Office, is comparable to the current property tax benefit of the Williamson Act contracted Resource Management designated parcel.

The California Land Conservation Act requires that the County file a Notice of Non-renewal for the Williamson Act contract upon approval of the rezone.

Report Prepared By: Melissa Ross, Senior Planner, Telephone 650/599-1559

Applicant/Owner: Jeffrey Hunt Stoddard Trust

Location: 24707 Highway 9, La Honda (South Skyline Area)

APN: 085-170-010

Size: 40 acres

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<sup>1</sup> Non-Industrial Timber Management Plan (NTMP) is defined as a timberland owner with less than 2,500 acres and who is not primarily engaged in the manufacture of forest products (Public Resources Code Section 4593.2(b)). NTMPs are long term multiple harvest forest management plans compared with Timber Harvest Plans (THP) which are single harvest permits.

Existing Zoning: Resource Management

General Plan Designation: Open Space

Existing Land Use: Single-family residence, barn, outbuildings and timber harvesting

Williamson Act: Contracted (AP72-13)

Water Supply: Existing well

Sewage Disposal: Existing septic

Parcel legality: Legal parcel. Residence constructed in 1935 prior to the County's jurisdiction over building permits.

Flood Zone: Zone X (areas of minimal flooding). FEMA Community Panel 06081C0384E; effective October 12, 2012.

Environmental Evaluation: Rezoning – California Environmental Quality Act (CEQA) statutory exemption Section 15264 (Timberland Preserves); local agencies are exempt from the requirement to prepare an Environmental Impact Report (EIR) or Negative Declaration on the adoption of timberland preserve zones under Government Code Section 51110 et seq. (Gov. Code, Sec. 51119).

Williamson Act contract non-renewal – California Environmental Quality Act (CEQA) Section 15061(b)(3); no potential for causing a significant effect on the environment, therefore, not subject to the California Environmental Quality Act.

Setting: The 40-acre parcel is densely forested and improved with a single-family residence and barn and located 0.25-mile from the Santa Clara County border and 2.69 miles from the Santa Cruz County border. Two unnamed tributaries flow through the property northward to Oil Creek. Access to the property is via an easement from Highway 9. Tree species on the parcel include a mix of redwood, Douglas fir, tan oak and other conifers and hardwoods; the parcel has an average 31% slope.

#### Chronology

<u>Date</u>	<u>- Action</u>
March 25, 2014	- Board of Supervisors public hearing to consider timber harvesting as a qualifying agricultural use under the updated Williamson Act Program. The Board determined that such a use is not agriculture for purposes of the Program. Two properties are affected by this determination and have the option to rezone.

- December 2, 2014 - Application to rezone submitted.
- May 13, 2015 - Planning Commission public hearing. Item continued to a date uncertain for additional documents and analysis, see Section A.4 of this staff report for discussion.
- January 13, 2016 - Planning Commission recommends approval.

## **DISCUSSION:**

### **A. KEY ISSUES**

#### **1. Conformance with the General Plan**

##### **Rural Land Use Policies**

Policy 9.4 (*Land Use Objectives for the Rural Lands*) aims to protect and conserve vegetation, water, fish and wildlife resources, and resources for forestry while carefully managing and enhancing the use, production or extraction of such resources.

No development is proposed at this time. However, the landowner is under contract to prepare a timber harvest plan which will be submitted to the California Department of Forestry and Fire (Cal-Fire) for the required Timber Harvest Permit. As a reviewing agency, the San Mateo County Planning and Building Department will be provided a copy of the initial timber harvest plan for conformance review with the County's Forest Practice Special Rules and zoning regulations. Timber harvest plans submitted to Cal-Fire serve as the functional equivalent of a California Environmental Quality Act Environmental Impact Report and require mitigation of potential significant environmental impacts and alternative project analysis thereby reducing potential significant impacts and providing protection to vegetation, water, fish and wildlife resources during harvesting operations in conformance with Policy 9.4.

Policy 9.32(e) (*Encourage Existing and Potential Timber Production Land Uses*) focuses on evaluating timber production designation for lands containing valuable timber resources that are presently designated General Open Space during future review of area plans.

Though no area plan is proposed, re-designation of the Stoddard's property to Timber Production from Open Space is appropriate given the historical use and intent of the policy to encourage existing timber production uses on lands containing productive timber resources, and is further supported by Table 9.1P (*Appropriate Land Use Designations, Densities and Locational Criteria in Rural Areas*), which utilizes the Timber Production designation for

lands within timber production zoning districts and those used for harvesting under California Department of Forestry and Fire Protection permits.

## 2. Zoning Regulations Compliance

During the late 1970s, the Board of Supervisors adopted the TPZ District and rezoned certain RM District parcels having identified timberlands for the protection of timber and forest resources. Though the Stoddard's property was not rezoned during this process, rezoning at this time is consistent with the intent of the Timberland Preserve Zone in that the land meets the definition of timber<sup>2</sup> and timberland.<sup>3</sup>

Permitted uses for the current and proposed zoning district share some similarities; however, certain uses will no longer be available to the landowner upon approval of the rezone. Below is a list of the development and uses for each district (subject to applicable permits).

Existing Zoning District: Resource Management District	Proposed Zoning District: Timberland Preserve Zone
Similar Uses List	
Commercial timber harvesting	Commercial timber harvesting
Agricultural uses/accessory structures/on-site agricultural sales	Agricultural and recreational animal uses/accessory structures
Single-family/Multi-family residence	Residential housing*
Second dwelling units	Second dwelling units*
Keeping of pets	Keeping of pets*
Animal fanciers	Animal fanciers*
Kennels/catteries	Kennels/catteries*
Confined animals	Confined animals*
Scientific/Technical research and test facilities	Scientific/technical research and test facilities*
Livestock raising and grazing	Grazing*
Large residential child day care	Large residential child day care*
Temporary trailer parks/farm labor housing	Limited trailer housing for laborer
Oil and gas exploration, production and storage	Mineral hydrocarbon production*
Public and commercial recreation	Campgrounds/overnight recreation

<sup>2</sup> Timber, as defined in Zoning Regulations Section 6710.11, means trees of any species maintained for eventual harvest for forest products purposes excluding nursery stock.

<sup>3</sup> Timberland, as defined in Zoning Regulations Section 6710.12, means privately owned land which is devoted to and used for growing and harvesting timber, or for growing and harvesting timber and compatible uses. It must also be capable of growing an average annual volume of wood fiber of at least 15 cubic feet per acre. The 2010 Timber Management Plan indicated a rate of 70-110 ft.<sup>3</sup>/acre/year.

Existing Zoning District: Resource Management District	Proposed Zoning District: Timberland Preserve Zone
Dissimilar Uses List	
Home occupations	Outdoor education activities*
Hotels, motels and restaurants	Energy resource development*
Churches	On-premise signs
Schools	Stables
Fire stations	Watershed management*
Public and private clubs	Wildlife habitat land management*
Wineries	Recreation management (e.g., fishing)*
Dairies	Use integrally related to the growing, harvesting and processing forest products*
Exotic animals	Gas, electric, water, communications, transmission facilities*
Veterinary hospitals for small/large animals	On-site manufacture/sale of minor quantities manufactured products (e.g., 100,000 board feet)
Quarries and waste disposal	
* Defined as a timber harvesting "compatible use" (Zoning Regulations Chapter 34 Section 6710.1); all other TPZ listed uses are defined as "minor development" (Zoning Regulations Chapter 34B Section 6754).	

In addition, commercial timber operations in the RM District carry one requirement not found in the TPZ in the form of a 1,000-foot buffer provision that prohibits timber harvesting operations within 1,000 feet of an existing dwelling without prior written consent of the affected landowner. Two parcels under common ownership abut the Stoddard's property; one vacant parcel to the east and one developed (1922 cabin) parcel to the west. In 2010, the Stoddard's submitted a Non-Industrial Timber Management Plan to harvest the entire 40 acres. Though withdrawn, the plan did not identify any dwelling units within the 1,000 buffer zone; therefore, removal of this requirement by way of rezoning is not expected to affect adjacent landowners.

a. Entry by Petition Requirements

Chapter 34A (*Zoning, Rezoning, Land Division in the Timberland Preserve Zone*) Section 6721 (*Entry by Petition*) requires the following to be met, and to which staff has determined each requirement to be satisfied:

- (1) *A map shall be prepared with scale not less than 1-inch equals 1,000 feet (scale 1:12,000) showing the legal description or the*

Assessor's Parcel Number of the property desired to be zoned. The map shall show all permanent roads, improvements, and developments. The map shall show approximate location of vegetation type boundaries if vegetation other than timberland is present.

Plan maps submitted meet this criteria. Refer to Attachment C.

- (2) *A Timber Management Plan meeting the requirements of Section 6770 must be prepared or approved as to content for the property by a registered professional forester.*

Section 6770

- (a) *The Plan shall be sufficiently detailed and specific to achieve the intent and purpose of this ordinance and to coordinate and integrate the uses, and shall be prepared and/or approved by a licensed forester.*

The required Timber Management Plan, dated September 15, 2015, was prepared by Joseph Culver, Registered Professional Forester (RPF), and is included as Attachment C. It identifies the existing uses (single-family residence, watershed and wildlife habitat) and outlines existing conditions (species composition, net volume), stocking and recommended harvesting intervals. The Plan concludes that this property is well suited for timber management and the existing uses on the property (single-family residence) are compatible to timber harvesting and do not pose a conflict with timber operations and management.

- (b) *The Plan shall indicate volume, rotation and cutting cycle, vegetation types, other resources and resource development and utilization.*

The current stand conditions include 35% second growth redwood, 30% residual redwood and 35% Douglas fir as volume per acre for the 40-acre parcel. Harvest rotation (timing) is recommended at 12-year to 20-year intervals; it is recommended that the harvesting rotation (operations) be managed as one unit (40-acre parcel). No other development or use of the parcel is proposed.

- (c) *The Plan shall show existing and planned road and major skid road locations, and permanent stream crossings;*

sequence of harvesting, timing of harvesting (if relevant) and method of avoiding conflicts with timber uses. The Community Development Director must be notified and may, for reasons, approve minor changes in the Plan. Substantial changes in the rotation, cutting cycle, and uses shall require approval of the Planning Commission.

Existing roads and skid trails are sufficient for future harvesting; two water crossings are existing and identified on the attached plan maps. No harvesting is proposed at this time. Future harvesting, sequencing, timing and potential conflicts (e.g., presence of protected wildlife) will be reviewed by the California Department of Forestry and Fire Protection (Cal-Fire) and the Planning Department, as a reviewing agency, when plan submittal is accepted for filing by Cal-Fire. It is expected that the entire 40 acres will be harvested using selective harvesting methods occurring at 12- to 20 year intervals.

- (d) *The Plan shall include a topographic map with scale of at least 1-inch equals 1,000 feet (1:12,000), which includes the significant information from the Plan.*

Plan maps submitted meet this criteria. Refer to Attachment C.

- (3) *The timberland area 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 southern area of the Coast Redwood District, 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. Failure to meet such stocking standards and Forest Practices Rules within this time period shall be grounds for rezoning of the parcel.*

Both Public Resources Code Section 4561 and adopted Forest Practice Rules Section 912.7 Resource Conservation Standards for Minimum Stocking provide two stocking standard measurement options for minimum acceptable stocking. The Forest Practice Rules utilize the non-district specific standards of the Public Resources Code Section to apply to the southern Coast Redwood District. Of the two options available, the following option has been chosen by the Registered Professional Forester:



The average residual basal area<sup>4</sup> measured in stems 1-inch or larger in diameter, is at least 85 sq. ft. per acre on Site I, and 50 sq. ft. per acre on lands of Site II classification or lower. Site classification shall be determined by the RPF who prepared the plan.

The RPF has classified the site as Site II<sup>5</sup> which requires a minimum stocking of 50 sq. ft. per acre. The property is overstocked at 287 sq. ft. per acre. Because the stocking standard is met, no separate agreement between the landowner and Board of Supervisors is required.

- (4) *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 consisting of at least 30 acres.*

The 40-acre single parcel is currently under one owner as recorded with the Assessor's Office: Jeffrey Hunt Stoddard Trust.

### 3. County Williamson Act Program Uniform Rules and Procedures

Under the current Program, timber harvesting is excluded from the list of agricultural uses (Uniform Rule 2 (Types of Contracts)), thereby disqualifying the land from the Williamson Act. Since no other agricultural uses are present on the Stoddard's property that would otherwise qualify for a contract under the current zoning, and the landowner has no intention of introducing other agricultural uses that would allow entry into a new contract, the contract must be non-renewed.

Pursuant to California Land Conservation Act of 1965 (Section 51246(b)) and the County's Program, lands zoned for timber production are ineligible for new contracts and existing contracts shall not be renewed; a Notice of Non-Renewal has been prepared (Attachment G). Filing of the Notice of Non-Renewal will begin the 9-year non-renewal contract phase out until contract expiration on December 31, 2025.

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<sup>4</sup> Basal area per acre is defined as the sum of the cross-sectional areas at breast height of the tree stems of commercial species per acre; 2013 California Forest Practice Rules Section 4528(a) *Additional Definitions*.

<sup>5</sup> Site classification is defined as the classification of productive potential of timberland into one of five classes by board [California Department of Forest and Fire Protection] regulation, consistent with normally accepted forestry practices. Site I shall denote sites of highest productivity, Site II and Site III shall denote sites of intermediate productivity potential, and Site IV and Site V shall denote sites of lowest productivity potential; 2013 California Forest Practice Rules Section 4528(d) *Additional Definitions*.

Pursuant to Government Code Section 51113(a)(1): any owner who petitions the Board to zone his or her land as timberland production, after advice of the Planning Commission, shall have zoned as timberland production all parcels submitted to it by petition, provided all adopted criteria discussed above are met. Staff interprets this to mean that the Planning Commission may advise against rezoning on the basis that the adopted criteria have not been met, but if the adopted criteria are met, rezoning is not discretionary with the Board of Supervisors.

4. Planning Commission Recommendation

At its May 13, 2015 public hearing, the Planning Commission considered the rezone and continued the item for staff and the applicant to address the following:

- a. *The applicant and staff to discuss the option of cancelling the Williamson Act contract instead of the County initiating the non-renewal.*
- b. *The applicant to submit a Timber Management Plan meeting the requirements of the Zoning Regulations Section 6770 prepared or approved as to content by a registered professional forester (RPF).*
- c. *Staff to provide additional analysis on the four criteria for entering into the Timberland Preserve Zone as outlined in Section 6721 of the Zoning Regulations.*
- d. *Staff to provide information about possible options to rezoning.*

The Planning Commission then heard the item and supplemental staff report at its January 13, 2016 public hearing. In summary, cancellation of Williamson Act contracts may only occur at the request of the landowner; the landowner does not desire to cancel the contract due to the costs associated with cancellation. The applicant has submitted a Timber Management Plan compliant with Sections 6770 and 6721 of the Zoning Regulations; criteria are listed and addressed in the staff report. Staff has provided information regarding options to rezoning; no other options are available to the landowner other than a no project option.

The Planning Commission recommended approval of the rezone.

5. Findings

- a. That the General Plan Land Use Map Amendment is compatible with adjacent land uses and will not be in conflict with the policies of the General Plan.

Surrounding land use designations are a mix of heavily forested developed and undeveloped Open Space and Timber Production designated lands with both types abutting the Stoddard's parcel. Continued timber harvesting is consistent with applicable General Plan policies that encourage existing timber production in a manner that protects natural resources while managing extraction of timber resources. Existing development and uses also remain consistent with applicable General Plan policies including Rural Land Uses.

- b. That the proposed rezoning of the subject parcel meets the public necessity, convenience, and the general welfare of the community.

Forest resources and timberlands are a valuable natural renewable resource and proper forest management can enhance the quality of the forests in the County while respecting the landowner's right to develop his/her property with compatible uses. Rezoning the Stoddard's property further encourage the continual use of the land as timberland.

B. ENVIRONMENTAL REVIEW

Rezoning: California Environmental Quality Act statutory exemption Section 15264 *Timberland Preserves*. Local agencies are exempt from the requirement to prepare and EIR or negative declaration on the adoption of timberland preserve zones under Government Code Sections 51110 et seq., (Gov. Code, Sec. 51119). Section 51110 declares forest resources, timberlands and industry to substantially contribute to the health and stability of the state's economy and environment.

Government Code Section 51119 exempts any action of the Board undertaken to zone a parcel as timberland production pursuant to Section 51113 from the requirement of Public Resources Code Section 21151 (environmental impact report on any project the local agency intends to carry out or approved which may have a significant effect on the environment).

Government Code Section 51113 provides the mechanism for a landowner to petition the Board to zone his/her land to timberland production provided adopted procedures and criteria are met. Adopted procedures include the initiating, filing and processing of such requests, and the criteria include submittal of a map, forest management plan, timber stocking standards and land under one

ownership. These adopted procedures and criteria are found in Chapters 34, 34A and 34B of the Zoning Regulations and compliance is discussed in Section A.2.a of this staff report.

Williamson Act contract non-renewal: California Environmental Quality Act (CEQA) Section 15061(b)(3); no potential for causing a significant effect on the environment, therefore, not subject to the California Environmental Quality Act

## C. REVIEWING AGENCIES

County Counsel

County Counsel has reviewed and approved the Resolutions and Ordinance as to form.

Approval of the rezoning contributes to the 2025 Shared Vision outcome of a Livable Community because the proposal is consistent with the County's land use regulations and encourages the protection and potential best use of forestry resources within the County.

### **FISCAL IMPACT:**

The economic effect of exiting the Williamson Act Program and rezoning to Timberland Preserve Zone, as assessed by the Assessor's Office, is comparable to the current property tax benefit of the Williamson Act contracted Resource Management designated parcel.

### **ATTACHMENTS:**

- A. Recommended Findings
- B. Location Map
- C. Timber Management Plan
- D. Notice of Non-Renewal of California Land Conservation Act Contract