



**COUNTY OF NEVADA
COMMUNITY DEVELOPMENT AGENCY
PLANNING DEPARTMENT**

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**NEVADA COUNTY BOARD OF SUPERVISORS
Board Agenda Memorandum**

MEETING DATE: July 11, 2023

TO: Board of Supervisors

FROM: **Brian Foss, Planning Director**

SUBJECT: Public Hearing to consider the Meeting of Nevada County Planning Commission's May 25, 2023 unanimous vote (Vote 3-0) (2 absent) recommending the McDermott Rezone project including: 1) Finding the adoption of the timberland preserve zone statutorily exempt), and; 2) Adoption of the Ordinance amending Zoning District Map (ZDM) #151 to rezone APN 013-410-001 and APN 013-410-002 from Forest-160 (FR-160) to Timberland Production Zone-160 (TPZ-160) (District V).

RECOMMENDATION:

The Planning Commission, on May 25, 2023, voted to recommend that the Board of Supervisors take the following actions:

- I. Environmental Action: Find the adoption of timberland preserve zones statutorily exempt from the requirement to prepare an EIR or Negative Declaration pursuant to Section 15264 of the California Environmental Quality Act (CEQA) Guidelines.
- II. Project Action: Zoning District Map Amendment (RZN23-0001): Adopt the attached Ordinance amending Zoning District Map (ZDM) #151 to rezone APN 013-410-001 and APN 013-410-002 from Forest-160 (FR-160) to Timberland Production Zone-160 (TPZ-160), based on the findings contained with the Ordinance (*Attachment 1*).

FUNDING:

The project would reduce the annual property tax of APNs 013-410-001 and 013-410-002 from \$2,588 to \$904. No budget amendments are required.

ATTACHMENTS:

1. Draft Board Ordinance: Zoning District Map Amendment (RZN23-0001)
 - a. Exhibit A: Existing and Proposed ZDM No. 151
 - b. Exhibit B: Conditions of Approval
 2. Draft Notice of Timberland Production Zoning for Recordation
 3. Zoning, Vicinity and Public Notice Map
 4. Forest Management Plan
 5. May 25, 2023 Draft Planning Commission Minutes
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PROJECT DESCRIPTION: Proposed amendment to the zoning designation of two contiguous parcels of 47.12 (APN: 013-410-001) and 59.38 (APN: 013-410-002) acres in size for timberland preservation (RZN23-0001). This would result in an amendment to Zoning District Map #151 to change the parcel's zoning from Forest-160 (FR-160) to Timberland Production Zone-160 (TPZ-160). The project is a rezone legislative action only and does not include any development.



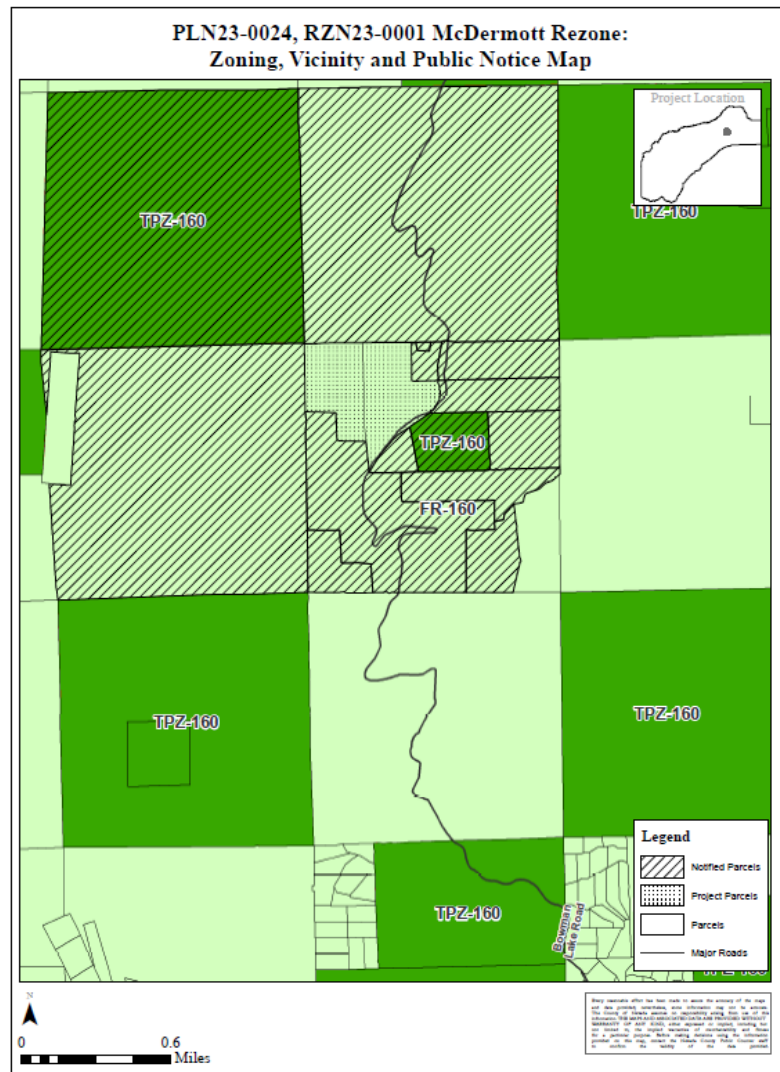
Figure 1: Site Plan

Project Location and Surrounding Area Details:

The project is located approximately seven miles west of California State Highway 20, off of Bowman Lake Road. The property is two parcels of a seven-parcel subdivision that was recorded in August of 1976. In October of 1998 the boundaries of parcels 5,6, and 7 were adjusted with LA98-030. The two project parcels are in a very rural, low-density portion of Nevada County in Section 31 of Township 18 North, Range 12 East. The project parcels are mostly surrounded by large FR-160 zoned parcels, but there are parcels zoned TPZ-160 to the northwest and southeast. The parcel to the southeast (013-410-008) was rezoned from Forest to Timberland Production Zone in 2004 by Z03-105. There are structures built on parcel 013-410-006 to the east and a residence and agricultural structures on parcel 013-410-009 to the southeast. Each of the parcels in the Sections surrounding Section 31 are around 640 acres in size and are owned by either Sierra Pacific Land and Timber Company, the United States Forest Service, or the University of California. These parcels in the surrounding Sections are undeveloped. See Figure 1, below, which shows area zoning. The General Plan for the entire area is Forest-160.

Background:

According to the Forest Management Plan, the property was clear cut in around 1900 and was harvested an unknown number of times in the 20th century. A cut that occurred around 1990 left a stand of white fir and cedar primarily. The current landowners purchased the property in 1996 and operated a Less Than 10% Dead, Dying, and Diseased exemption on 10 acres in 1997, removing approximately 25,000 board feet of white fir. They replanted Ponderosa, Sugar Pine, and Douglas-fir in this area. In 2008, the Fall Fire burned through about 75% of the property during May and June with low intensity. The landowner and the Bear Yuba Land Trust entered into a conservation easement in 2012. The conversation easement allows for the commercial harvest of timber and has the stated conversation values of “ timber productivity, wildlife and plant habitat, and water resources that the Property currently



possess”. At present, the property has a cabin, horse corral, and a well-developed network of maintained and unmaintained roads, skid trails, and landing areas. The forest stand is composed of Sierra mixed conifer species. The overstory is dominated by white fir and incense cedar, but also includes ponderosa pine, sugar pine, red fir, and scattered black oak.

Project Discussion:

The project is a request to rezone the property to a zone intended for timber producing properties. This zone is assessed and taxed at a lower annual rate than other zoning districts in the County, which is balanced by the collection of taxes later, based on harvest sales.

The existing zoning designation is Forest (FR); a zone meant for the protection, production and management of timber and timber support uses. The Nevada County Timberland Production Zone (TPZ) adopted pursuant to the Forest Taxation Reform Act of 1976, is intended to provide for and encourage prudent and responsible timberland resource management. The TPZ district is a more restrictive zoning district with fewer potentially allowable uses than the FR zoning district.

Among the requirements for inclusion into the TPZ District is the preparation and approval of a Forest Management Plan (FMP) prepared by a registered professional forester. The FMP must include a timber inventory that demonstrates the site meets timber stocking standards set forth in PRC Section 4561; proof of regular commercial harvesting operations; proof of legal and physical access; disease and/or insect control; a thinning and slash disposal program; a fire protection program; and an erosion control program. The applicant’s FMP (Attachment 2) meets the requirements for inclusion into the TPZ District.

An FMP is not a Timber Harvest Plan (THP). An FMP is a written plan to provide landowners information about their property and the ecological, economic, and legal environment around it. This knowledge helps owners determine how best to manage their forested property. A THP is an environmental review document, the functional equivalent of an Environmental Impact Report, intended to protect the productivity of a timber harvest site and the surrounding environment from damage. According to the California Government Code Provisions Relating to Timberland (Chapter 6.7, Article 2, Section 51115.1), there is a presumption that timber operations may reasonably be expected and will occur on lands zoned as timberland production. In the future, when the applicant wishes to sell, barter, or trade timber produced on the project site, he will need a Registered Professional Forester to prepare the THP and submit the plan to California Department of Forestry for review and approval.

Land approved for the TPZ Zoning District will be restricted to TPZ standards for a minimum of 10 years. After such time it will continue in perpetuity on an annual basis. The benefit to the applicant of rezoning into TPZ is a reduction in property taxes established via a reassessment of the land value based on the growing and harvesting of the timber.

As such, the property must meet specific qualifications in order to be considered for a TPZ district. These include meeting 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. Additionally, the parcel shall be a Site IV or higher quality class. There are five general site classes based on ability of the site to produce wood growth on trees. Site I is considered the most productive, Sites II and III are areas of intermediate productivity and Sites IV and V are areas of low productivity. The project FMP contains the required timber inventory demonstrating that the parcel meets the requirements for consideration as TPZ. The timber site class of the project site is Site II and the parcel exceeds the minimum average point count of 150 per acre and exceeds the minimum average residual basal area of 50 square feet per acre as shown in Section III.3.i of the FMP.

The Nevada County Assessor's Office noted that the current assessed value of APN 013-410-001 is \$142,047 and the current assessed value of APN 013-410-002 is \$101,558, as FR-160 properties. The current taxes for 013-410-001 are \$1,527.64 annually and the current taxes for 013-410-002 are \$1,060.36 annually. Approval of the requested rezone to TPZ is estimated by the Nevada County Assessor's Office to reduce the assessed property valuation to \$78,656 (APN 013-410-001) and \$5,517 (APN 013-410-002) with respective projected annual taxes of \$846 and \$58. This is based on the consideration of the parcel as a Site II timber productivity classification, which the California State Board of Equalization lists at \$93.00 per acre. This results in an \$1,684 reduction in annual taxes between the two properties.

ZONING AND GENERAL PLAN CONSISTENCY:

The project is consistent with the intent of the property's underlying General Plan designation – Forest (see Land Use Element Policy 1.2.4.o, below). The requested rezone is also consistent with several of the goals and policies of the County's General Plan, which are outlined below:

Land Use Element:

- Policy 1.2.4.o. describes the Forest General Plan designation in part as an area intended to provide for production and management of timber resources, including timber harvesting. The proposed rezone into the Timberland Production Zone is intended for this same purpose, forest management.

Economic Development Element:

- Policy 2.5 and 2.7 in part, seek a balance of land uses through appropriate land use designations to provide balanced job to housing ratios. This includes balancing resource management and production to support a broad range of economic development opportunities, thus promoting a balanced economy. The proposed TPZ rezone is consistent with these goals, providing an appropriate land use designation for the management of timber on lands capable of producing commercial timber.

Forest Element Goals & Policies:

- Goal 15.1 seeks to identify and maintain sustainable timberlands and resources, consistent with the intended result of this TPZ rezone.
- Policy 15.4 recognizes Forest land use designations as one of the major timber-producing land use designations. This rezone would allow continued use of the property as a timber producing parcel.
- Policy 15.5 encourages providing for the use of the Timberland Production Zone in Rural, Estate, and Forest land use designations on lands with significant commercial timber value. The McDermott property has a Forest General Plan designation, and the Forest Management Plan states the project area is has Site II production capability, which is moderately high timber productivity.
- Policy 15.6 recognizes the benefits of Nevada County's forests and encourages the use of the TPZ zoning district to provide an efficient and cost-effective means of harvesting and using forestlands.

Safety Element Goals & Policies:

- Policy FP-10.8.8 states that in areas outside Community Regions, which are identified as having a high to very high fire hazard severity and/or lack adequate year-round fire protection facilities, low-density land use designations (Rural or Forest) be maintained in order to minimize the potential fire hazard. The proposed rezone will maintain the low-density Forest General Plan Designation (FOR-160).
- Policy FP-10.10.4 directs the County to support fuel modification across public and private forestlands to reduce the potential for catastrophic wildfires, with the highest priority directed toward reducing hazardous fuel levels in the Wildland Urban Interface. The landowner's primary objective for the property is high-severity fire prevention. The primary ways this is planned to be done is by reducing fuels to limit the rate of spread and intensity of wildfire, reducing ladder fuels to overstory trees, and removal of slash and understory brush.

Zoning District - Timberland Production Zone:

The TPZ zoning district is intended to provide land devoted to the growing and harvesting of timber, and for compatible uses that do not significantly detract from the use of the land for the devoted purpose, through prudent and responsible forest resource management. Consistent with the intention of the district, the tax reduction resulting from a re-assessment of value based on reasonable expectation of harvest would allow continued use of the property for timber production as prescribed by the Forest Taxation Reform Act.

This request is also consistent with the 2004 Board of Supervisors approval for TPZ zoning of the southeastern parcel located within the same subdivision as the subject property. Staff routed the project to all applicable agencies for comment; no adverse issues were identified and all requirements for inclusion into the TPZ district have been satisfied.

ENVIRONMENTAL REVIEW: This project is exempt from environmental review pursuant to CEQA Guidelines Section 15264, which exempts local agencies from preparing an Environmental Impact Report or Negative Declaration for adoption of Timberland Production Zones. Future harvest will be subject to the Non-Industrial Timber Management Plan, an environmental review document approved by the California Department of Forestry in 2010.

PLANNING COMMISSION ACTION:

On May 25, 2023, the Nevada County Planning Commission held a duly noticed public hearing to consider the McDermott TPZ Rezone project; no issues were identified and the Commission unanimously (3-0 Vote), two absent, recommended that the Board of Supervisors approve the project.

SUMMARY:

The proposed Timberland Production Zone rezone aligns with the landowner's objective to reduce fire susceptibility by reducing fuel loading while increasing forest health through forest management. In addition to these positive benefits, future forest management will provide jobs to contractors who specialize in timber extraction, fire hazard reduction, forestry and natural resource management. Managing the property's forest resources and maintaining undeveloped open space is cost effective and provides long-term benefits to surrounding properties, the general public, and the environment. The benefit to the applicant of rezoning into TPZ is a reduction in property taxes established via a reassessment of the land value based on growing and harvesting of the timber found thereon. Based on the long-term benefits to the general public and the environment, along with the project's consistency with the County General Plan and Zoning Ordinance, the Planning Commission recommends the Board of Supervisors take the project actions described below.

RECOMMENDATION:

- I. Environmental Action: Find the adoption of Timberland Preserve Zones statutorily exempt from the requirement to prepare an EIR or Negative Declaration pursuant to Section 15264 of the CEQA Guidelines.
- II. Project Action: Zoning District Map Amendment (RZN23-0001): Adopt the attached Ordinance amending Zoning District Map (ZDM) Number 151 to rezone APNs 013-410-001 and 013-410-002 from Forest-160 (FR-160) to Timberland Production Zone-160 (TPZ-160), based on the findings contained within the Ordinance (*Attachment 1*).

Item Initiated by: David Nicholas, Associate Planner

Approved by: Brian Foss, Planning Director