

NEVADA COUNTY PLANNING COMMISSION
STAFF REPORT

APPLICANT: Nevada County

HEARING DATE: March 23, 2017

OWNER: United States Forest Service

FILE NO: PLN16-0084; GPA16-0001;
RZN16-0001; EIS16-0003

PROJECT DESCRIPTION: GENERAL PLAN LAND USE MAP AMENDMENTS (GPA16-0001), ZONING DISTRICT MAP AMENDMENTS (RZN16-0001) and ADOPTION of the NEGATIVE DECLARATION (EIS16-0003) for the USFS GPA/REZONE PROJECT (PLN16-0084). Recommendation to the Board of Supervisors for General Plan Land Use Map amendments (GPA) and Zoning District Map amendments (Rezone), changing the County’s primary land use designation of 19 specific Tahoe National Forest parcels, 18 of which are currently zoned for General Agriculture (AG), and one parcel is currently zoned Residential Agriculture (RA) uses. The proposed GPA/Rezone project would re-designate and rezone all 19 parcels, totaling approximately 1,791 acres, to the County’s Forest land use designation. The project is a GPA/Rezone legislative action only and does not include any additional development or disturbance.

LOCATION: 19 parcels, totaling approximately 1,791 acres, organized into six different sites due to their various locations in the Tahoe National Forest and unincorporated Nevada County (see Figure 1, below).

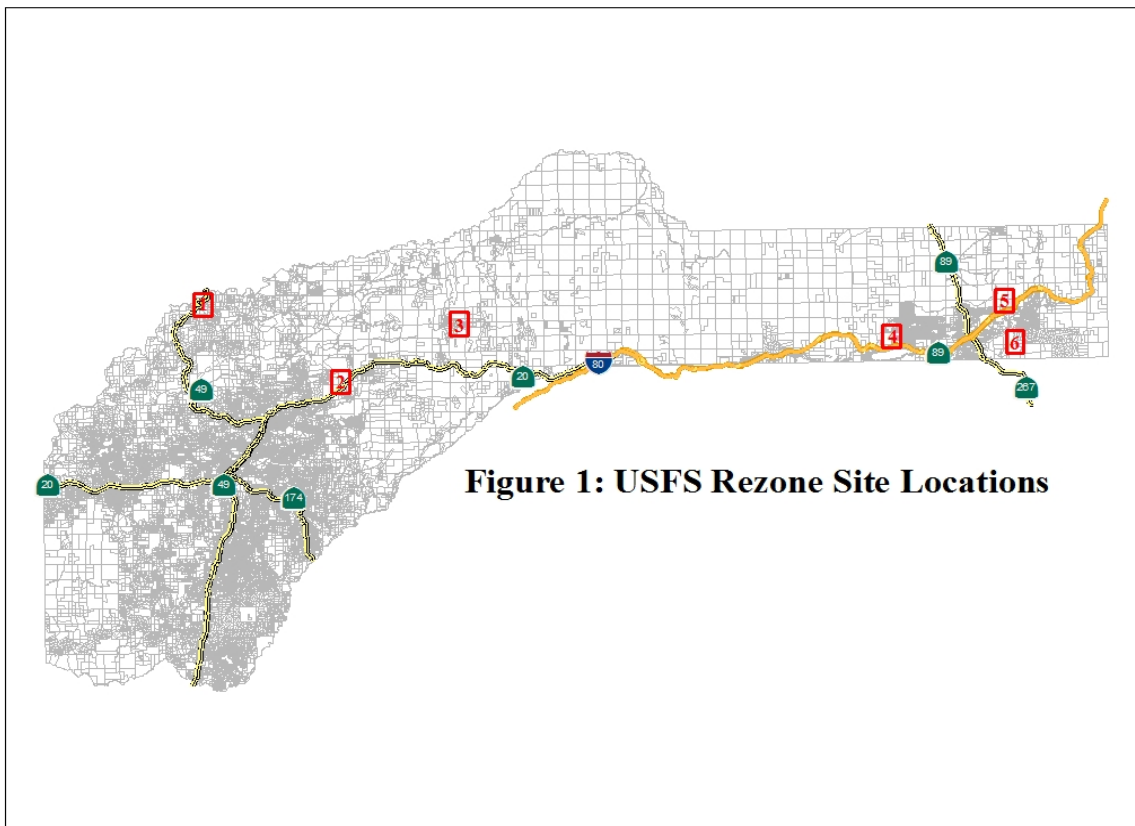


Figure 1: USFS Rezone Site Locations

ASSESSOR'S PARCEL NUMBERS: 60-010-01, 60-020-01, 60-030-02, 60-030-04, 60-330-01, 60-330-02, 60-330-13, 34-110-04, 34-110-05, 34-120-04, 34-120-05, 34-120-06, 34-360-27, 38-050-02, 64-050-06, 17-020-18, 17-020-19, 48-080-84 and 49-330-08.

PROJECT PLANNER: Patrick Dobbs, Senior Planner

ATTACHMENTS:

1. ~~Draft Board Resolution: Initial Study/Proposed Negative Declaration (EIS16-0003)~~
2. ~~Draft Board Resolution: General Plan Land Use Map Amendments (GPA16-0001)~~
3. ~~Draft Ordinance: Zoning District Map Amendments (RZN16-0001)~~
4. Letters from Trout Unlimited and Truckee River Watershed Council
5. Letter from Tom Quinn, former Tahoe National Forest Supervisor
6. Zoning, Vicinity and Public Notice Maps

RECOMMENDATION:

- I. Environmental Action: Recommend the Board of Supervisors adopt the attached Resolution (EIS16-0003) approving a Negative Declaration for the USFS GPA/Rezone project, pursuant to Section 15074 of the California Environmental Quality Act Guidelines based on the findings contained in the Resolution (*Attachment 1*).
 - II. Project Actions:
 1. General Plan Land Use Amendments: Recommend the Board of Supervisors adopt the attached Resolution (GPA16-0001) for the General Plan amendments to change the land use designation of 19 Tahoe National Forest parcels based on the findings contained in the Resolution (*Attachment 2*).
 2. Zoning District Amendments: Recommend the Board of Supervisors adopt the attached Ordinance (RZN16-0001) amending Zoning District Maps (ZDM) #23, #36, #64, #75, #76, #94, #129, #138 and #139 to rezone 19 Tahoe National Forest parcels to correspond with the amended General Plan land use designations of those parcels, based on the findings contained with the Ordinance (*Attachment 3*).
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BACKGROUND:

In 2014, the Nevada County Planning Department received letters from the conservation groups Trout Unlimited and the Truckee River Watershed Council (*Attachment 4*), recommending the land use designation for a specific parcel in eastern County (APN 48-080-84, labeled as Site #5 for this project) be changed from its current zoning of General Agriculture-10 acre min. parcel size (AG-10), to Open Space (OS) zoning. The property is a USFS owned 277 acre parcel below the Prosser Reservoir Dam, through which Prosser Creek flows to the Truckee River. This stretch of Prosser Creek is important because it is one of the few tributaries to the Truckee River that provides significant spawning and rearing habitat for trout. This is a waterway that draws anglers from across California and Nevada. It is valued highly by those who fish it and by those concerned with the ecological health of the Truckee River.

Because the Prosser Creek parcel (APN 48-080-84) is managed by the USFS, District V Supervisor, Richard Anderson, asked Mr. Tom Quinn (former Tahoe National Forest Supervisor)

for his support in changing the inconsistent General Plan land use designation and zoning of the Prosser Creek parcel. In July, 2015, Mr. Quinn wrote Supervisor Anderson (*Attachment 5*) in support on amending the County's land use designation for the Prosser Creek parcel, but he also expanded his request for removal of General Plan/zoning inconsistencies to other Forest Service parcels in the County, stating the "Open Space" land use designation best matches the USFS management of National Forest System lands within the Tahoe National Forest.

About that same time in 2015 the Planning Department was working on an unrelated project to analyze the distribution and appropriateness of the County's Business Park (BP) land use, and the Planning Department was considering folding the rezoning of the Prosser Creek parcel into the BP project because it also included proposed zoning amendments, and County General Plans can only be amended up to four times each calendar year. At the Planning Commission's public meeting on July, 23, 2015, staff asked for direction from the Commission as to whether the rezoning of the Prosser Creek parcel should be included with the Business Park analysis project. The Planning Commission supported analyzing and possibly recommending changes to the land use designation and zoning of the Prosser Creek parcel, however, the Commission saw no real nexus between the Prosser Creek parcel rezone and the BP analysis and recommended that staff consider the Prosser Creek parcel rezone as a stand-alone project in the future.

Prior to the annual Board of Supervisors priority project setting workshop for 2016, District V Supervisor, Richard Anderson, asked Planning staff to look at the current zoning of all USFS owned property in the unincorporated areas of Nevada County and to coordinate with the USFS to ensure the County land use designations conform to the Forest Service's stated preference for "Open Space" zoning on their parcels. Planning staff met with USFS staff, overlaid County zoning districts with Tahoe National Forest Management Areas, and developed two maps (one for western County and one for eastern County) that displayed the location and current zoning of approximately 20 parcels that seem to meet the general criteria for inconsistency in land use designation that Mr. Quinn noted in his letter. At their January, 2016, work program priority workshop the Board of Supervisors voted the USFS GPA/Rezone a "Priority B" project and directed the Planning Department to work with USFS staff to recommend amendments to the County's zoning, as appropriate, to better align the County's land use designation of USFS parcels with the intended land use and resource management of National Forest lands.

At a meeting with the USFS in July, 2016, USFS staff suggested that the County consider zoning all federally owned National Forest lands to the Forest (FR) zone district because the purpose of the FR District is to provide for the protection, production and management of timber and other natural resources, as well as recreational uses and open space, which encapsulates the various land uses and activities used by the USFS to manage the Tahoe National Forest. However, the consequences of changing the County's zoning of all National Forest lands to the Forest (FR) zone district would have broader consequences, including removing Timberland Production Zone (TPZ) protections on tens of thousands of acres, all of which was beyond the scope of the Board of Supervisors direction that had originally contemplated rezoning a single parcel. Having collaborated with the USFS and analyzed the current General Plan land use designation and surrounding zoning of their parcels, staff is recommending amending the General Plan land use and zoning for 19 parcels that are currently has zoned for General Agriculture (18 parcels) or Residential Agriculture (1 parcel) uses, changing the designation and base zoning district for all 19 parcels to the County's Forest land use designation.

STAFF COMMENT:

There is no construction activity or new disturbance proposed, and no specific additional development or entitlements for a future development project are evaluated with this project. All of the project parcels are currently vacant except APN 34-120-04 (Site #2), which is developed with the State's Department of Correction and Rehabilitation, Washington Ridge Conservation Camp.

Jurisdiction: National Forest System lands are not subject to county general plans. Legal jurisdiction over federal lands rests solely with the federal government. However, it is clear that National Forests have major impacts on the lands around them, on their value and the environment. At the same time, National Forests are strongly affected by the uses on adjacent and intermingled lands. If, in the future, the USFS were to sell or exchange any of the 19 project parcels to non-governmental entities (i.e., private), the County's zoning would then apply and regulate future land use and development of those parcels.

Land Use: Future use and management of the project parcels is most likely to be forest uses. Based on the blanket request for Open Space (OS) zoning from former Forest Supervisor Tom Quinn (*Attachment 5*) Planning staff contacted the USFS in the beginning of 2016 to see if they were interested in the County analyzing the zoning pattern of National Forest System lands at this time. USFS staff responded with appreciation for the opportunity to coordinate with the County, however, because of the varied public uses and management, including administrative sites like Ranger Stations and Work Centers, USFS staff suggested that instead of Open Space (OS) zoning as previously suggested in Tom Quinn's letter, the County's Forest (FR) zoning best encompasses the range of protection, production, and management of resources (e.g., open space) and activities (e.g., recreation) within the Tahoe National Forest.

The primary difference between the AG, RA, and FR zone districts is described in the intent and purpose of each district. The FR District is intended to protect and manage timber with increasing emphasis on recreation, compared to the AG District where agricultural uses are of primary importance and all other uses are secondary, or the RA District where both residential and agricultural uses are priorities in the district. Aside from the described differences in the intended purpose of each district, there is little variation between the permissible uses in the AG, RA, and FR zones. Some examples where allowed uses deviate amongst districts are Retail Plant Nurseries which requires a Use Permit in the AG zone and is not permitted in the other zones, or Ski Tow Facilities which are permissible, subject to a Use Permit, in the FR District and not allowed in the AG and RA zones. Otherwise most other low-density and low-intensity uses are permissible in the AG, RA, and FR zone districts, requiring the same levels of approval for the different types of uses.

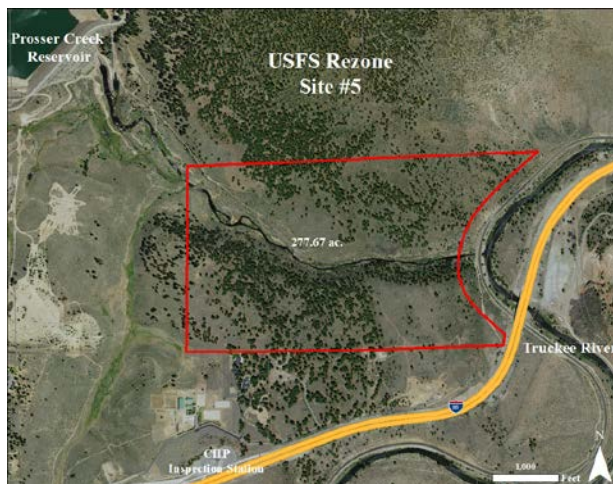
Minimum Parcel Size/Development Potential: Large tracts of land are more suitable for forest-related uses such as timber production and recreation. Accordingly, the Forest land use has larger minimum parcel size designations than any other County land use. Minimum parcel sizes affect the residential density and subdivision development potential of a property, thus, amending the land use and zoning of the project parcels with larger minimum parcel size designations results in a reduction of some development potential from what currently exists today. All of the project parcels are adjacent to, or nearby, other existing Forest zoning and, depending on the site, the proposed FR zoning minimum parcel size is generally consistent with the surrounding existing Forest (FR) zoning minimum parcel sizes, or is proposed to have the minimum parcel size

closest to their current General Agricultural (AG) minimum parcel size to preserve some of the existing residential density potential. The maximum potential primary single family dwelling allowed under the current General Agricultural (AG) and Residential Agricultural (RA) is 83 dwelling units. The total single family dwelling potential in the various proposed Forest (FR) minimum parcel size designation is 38 units, a reduction in the potential of 45 residential units.

General Agricultural (AG), Residential Agricultural (RA) and Forest (FR) zone districts all have the same building setbacks. Other site development standards such as maximum impervious surface and road frontage are more restrictive in FR zone; one exception is that maximum building height in FR is greater than RA. The existing zoning of two of the parcels in Site #2 includes the Scenic Corridor (SC) Combining District to protect and preserve for public benefit, the high scenic quality adjacent to Highway 20, and the SC Combining District protections are carried over with the proposed FR-40-SC zoning of those specific parcels. Site #4 includes the Planned Development (PD) Combining District which is intended to ensure comprehensive, innovative and creative design and flexible site development standards and is not aligned with the USFS uses and goals for these properties; therefore, the PD Combining District on Site #4 is no longer necessary and is not proposed to be retained with the Forest rezone.

Coordination with Other Agencies: USFS and Planning staff worked closely to develop the proposed land use amendments and discussed other opportunities where overlapping issues relating to forest management, such as biomass facilities, that could benefit from coordinated

planning. Pursuant to General Plan Policy 1.8.2, the County worked closely with the Town of Truckee regarding Sites #4, #5, and #6 which are all located within the Town's sphere of influence. Despite LAFCO "pre-zoning" two of the parcel for the Town's Residential Cluster (10 acres) land use, Truckee staff concurred the proposed "less-intense" land use designations were appropriate given the steep topography and/or water bodies and Truckee's interest in these parcels is for protection purposes, and not future development.



ENVIRONMENTAL REVIEW:

The proposed USFS GPA/Rezone project is group of legislative land use amendments and does not propose any specific development projects. Pursuant to CEQA Guidelines, Planning staff prepared a draft Initial Study and proposed Negative Declaration which is attached to the draft Resolution (*Attachment 1*), for the Planning Commissions' consideration and recommendation to the Board of Supervisors. The draft Initial Study and proposed Negative Declaration was circulated for public comment from February 17 through March 20, 2017. The draft Initial Study was posted on the Planning Department website and the Notice of Availability/Notice of Intent to adopt a Negative Declaration was sent to several local stakeholder and special interest groups, in addition to state agencies including the State Clearinghouse. No comments were received regarding the adequacy of the Initial Study. Since the proposed USFS GPA/Rezone project will not result in any physical disturbance, and based on the supporting rationale in the draft initial study, staff determined that a Negative Declaration is the appropriate environmental document for this project.

SUMMARY:

The USFS willingly acknowledges its obligation to coordinate national forest management with local governments is as much an agency duty as a political necessity. The USFS GPA/Rezone project is a legislative action to change the County's General Plan land use designation and zoning of 19 federally owned parcels to reduce potential land use inconsistencies and better align the County's land use designation of National Forest lands to be consistent with USFS objectives and resource management of those public lands, and the surrounding areas. National Forest System lands are not subject to county general plans, however should any of the project parcels be sold or exchanged to a private entity in the future, the County's zoning would then regulate land use and development of those sites. Because the project is consistent with the General Plan and the proposed land use and zoning amendments are appropriate to the character of the USFS project parcels and their environs, and there will be no environmental impacts, staff recommends that the Planning Commission recommend the Board of Supervisors approve the USFS GPA/Rezone project by adopting the Resolutions and Zoning Ordinance described below.

RECOMMENDATION:

- I. Environmental Action: Recommend the Board of Supervisors adopt the attached Resolution (EIS16-0003) approving a Negative Declaration for the USFS GPA/Rezone project, pursuant to Section 15074 of the California Environmental Quality Act Guidelines based on the findings contained in the Resolution (*Attachment 1*).
- II. Project Actions:
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Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Brian Foss", is written over a horizontal line.

Brian Foss
Director of Planning



David Lass
California Field Director, Trout Unlimited



August 15, 2014

Brian Foss
Planning Director
Nevada County Planning Department
950 Maidu Avenue
Nevada City, CA 95959-8617

Re: Prosser Creek Parcel 48-080-84

Dear Brian:

This letter transmits the recommendations from Trout Unlimited, Inc. (TU), Sac-Sierra Chapter of Trout Unlimited, Feather River Chapter of Trout Unlimited, Sagebrush Chapter of Trout Unlimited, Truckee River Chapter of Trout Unlimited, El Dorado Chapter of Trout Unlimited and the Tahoe Truckee Fly Fishers (TTFF) regarding Nevada County's General Plan to designate parcel 48-080-84 for the RUR-10 land use.

General Comments

TU and the undersigned parties are opposed to Nevada County's current General Plan to designate parcel 48-080-84 for the RUR-10 land use, which, with a density of one home per 10 acres, would allow a minimum of 27 homes in this popular local fishing stream. The County should invest in Prosser Creek as a unique resource that adds to the quality of life in the area, not propose new residential development.

After reviewing the planning department plans for Prosser Creek and parcel 48-080-84, the undersigned parties believe Nevada County should consider the following observations and recommendations as they develop their General Plan update. These recommendations are not meant to stall the project or delay implementation, rather they are merely considerations we feel will protect important fish habitat and preserve local recreation access.

Trout Unlimited: America's Leading Coldwater Fisheries Conservation Organization
Truckee Office: 10356 Donner Pass Rd. Truckee, CA 96161
Direct: (530) 587-7110 • Cell: (530) 388-8261 • Email: dlass@tu.org • www.tu.org



We are interested in Prosser Creek because of the significant aquatic communities it supports and the benefits it provides to the mainstem Truckee River wild trout fishery. Prosser Creek is a very popular fishery for local and regional anglers. The popularity of Prosser Creek can be attributed to its ability to consistently support some of the largest wild trout found within the immediate Tahoe region. Many of the undersigned members refer to Prosser Creek as the 'secret gem' of the Truckee River watershed. Cold water and abundance of food is what makes Prosser Creek fishery so productive, and public access is what brings anglers to its banks from all over the region.

This very special place has the opportunity to become even more exceptional. It should be noted that the water and habitat types found in Prosser Creek are also what make the Truckee River wild trout fishery so productive. Truckee River fish find refuge in Prosser Creek from extreme thermal thresholds in the Truckee River during hot summer and cold winter months. Think of Prosser as the perfect place to grow and produce large trout.

The County's General Plan currently designates the parcel that encompasses this section of Prosser Creek - Assessors's Parcel Number 48-080-84 - for rural-residential development, and TU and the undersigned parties feel that this designation is completely inconsistent with the ecological and social resource values outlined above.

Furthermore, the parcel is owned by the United States Forest Service, and after consulting with both the Tahoe National Forest Supervisor and Truckee District Ranger, the Forest Service has no plans to develop or sell the property, and therefore we would prefer it be designated for Open Space in the updated General Plan to add more consistency to the direction of the current land owner.

By providing comments from a national organization, along with robust local and regional grassroots groups, we can show that there is considerable opposition to this land use designation – from within the County and outside the immediate project area – for negative impacts it could potentially bring to this local fishery.

The undersigned parties anticipate that our comments will be taken into full consideration by Nevada County. We feel that we have adequately stated our opposition for the designation of parcel 48-080-84 for the RUR-10 land use. On behalf of the wild trout of Prosser Creek and the Truckee River, and of hunters and anglers nationally and in the States of California and Nevada who access these waters, we thank you for your time and consideration in regards to our comments as Nevada



County updates its General Plan. We look forward to working closely with Nevada County to improve this wonderful community resource.

Sincerely,

A handwritten signature in black ink, appearing to read "David Lass".

David Lass
Trout Unlimited
California Field Director
10356 Donner Pass Rd.
Truckee, CA 96161

Brian Johnson; Senior Attorney/Trout Unlimited California State Director
4221 Hollis Street
Emeryville, CA 94608
(510) 808-7524

John Jewett; President
Truckee River Chapter of Trout Unlimited

Frank Pisciotta; President
Tahoe Truckee Fly Fishers

Jason Barnes; President
Sagebrush TU (Reno)

Dan Brosier; President
Sac-Sierra Chapter TU

Tim Kurdupski; President
Feather River Chapter TU

Bernie Bahro; President

530.550.8760

P.O. Box 8568
Truckee, CA 96162
truckeeriverwc.org



Truckee River Watershed Council

Collaborative solutions to protect, enhance and restore the Truckee River Watershed

California Department
of Fish and Wildlife

California Department
of Parks and Recreation

California Department
of Water Resources

California Fly Fisher
Magazine

Glenshire Homeowners
Association

DMB/Highlands Group, LLC

East West Partners

Friends of Squaw Creek

KidZone Museum

Lahontan Regional
Water Quality
Control Board

Mountain Area
Preservation

Nevada County

North Lake Tahoe
Resort Association

Northstar California

Placer County

Placer County Water
Agency

Sagehen Creek Field
Station - UC Berkeley

Sierra Business Council

Sierra County

Sierra Watch

Sierra Watershed
Education Partnerships

Squaw Valley and
Alpine Meadows

Tahoe Truckee
Sanitation Agency

Town of Truckee

Trout Unlimited

Truckee Donner
Land Trust

Truckee Donner Public
Utility District

Truckee Meadows
Water Authority

U.S. Army Corps of
Engineers

USDA Forest Service
Tahoe National Forest

Brian Foss
Planning Director
Nevada County Planning Department
950 Maidu Avenue
Nevada City, CA 95959-8617.

RE: General Plan Update - Parcel No. 48-080-84 Prosser Creek below the Dam

Dear Brian,

Thank you for the opportunity to comment on the Nevada County General Plan Update.

The Truckee River Watershed Council works to bring the community together for the Truckee, to protect, enhance, and restore the Truckee River watershed.

Prosser Creek below the dam is a high priority area for habitat, wildlife, and water quality. For example, in 2015, the Watershed Council will be completing a substantial stream restoration project in partnership with the US Forest Service immediately upstream of Parcel No. 48-080-84. The restoration project will improve fish habitat and protect water quality. Our decision to fund and implement the project is in part based on downstream land uses consistent with the restoration site.

The County's General Plan currently designates the parcel for rural-residential development. Residential development would not be consistent with the resource values of by Prosser Creek and its environs.

The parcel is owned by the US Forest Service and it is our understanding that the Forest Service has no plans to develop or sell the parcel.

For all these reasons, we are requesting that parcel 48-040-84 be designated for open space as part of the Nevada County General Plan Update.

Thank you for your consideration.

Lisa Wallace
Executive Director



United States
Department of
Agriculture

Forest
Service

Tahoe
National
Forest

631 Coyote Street
Nevada City, CA
95959-2250
530-265-4531
530-478-6118 TDD
530-478-6109 FAX

File Code: 1920

Date: July 31, 2014

Richard Anderson
District V
Nevada County Supervisor
950 Maidu Avenue
Nevada City, CA 95959

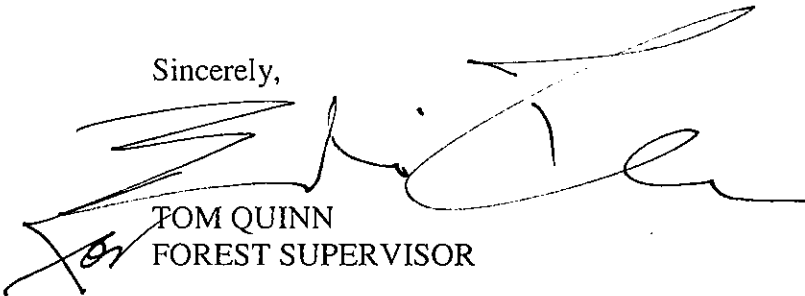
Dear Richard Anderson,

Thank you for inviting our input regarding Nevada County's General Plan update. The National Forest Management Act (NFMA) and its implementing regulations require the Forest Service to coordinate land management planning for the National Forest System with land management planning conducted by State and local governments. This coordination allows the Forest Service to exchange information with counties regarding the development of management plans for the National Forests and the development of plans for the county.

While National Forest System lands are not subject to county general plans, the Forest Service strives to create as much consistency as practical and appropriate between our plans and county general plans. Based on the definitions in the Land Use Element of the Nevada County General Plan, the "Open Space" classification of Land Use best matches the management for National Forest System lands within the Tahoe National Forest.

If I can be of further assistance or provide any additional information regarding the Nevada County General Plan update process, please let me know.

Sincerely,

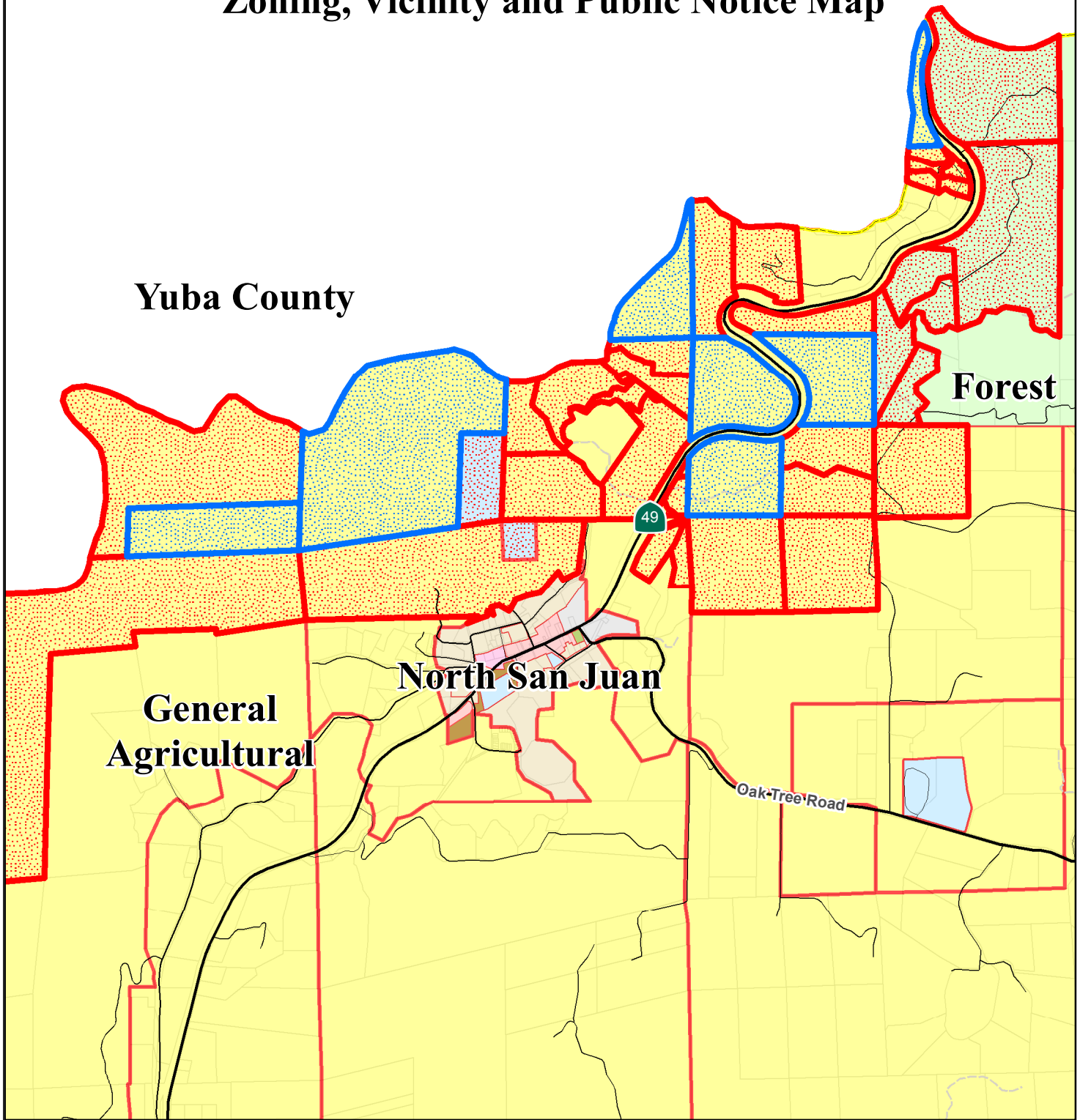


TOM QUINN
FOREST SUPERVISOR

Cc: Brian Foss, Nevada County Planning
Director





**USFS Site #1 GPA/Rezone to Forest
(PLN16-0084; GPA16-0001; RZN16-0001; EIS16-0003)
Zoning, Vicinity and Public Notice Map**



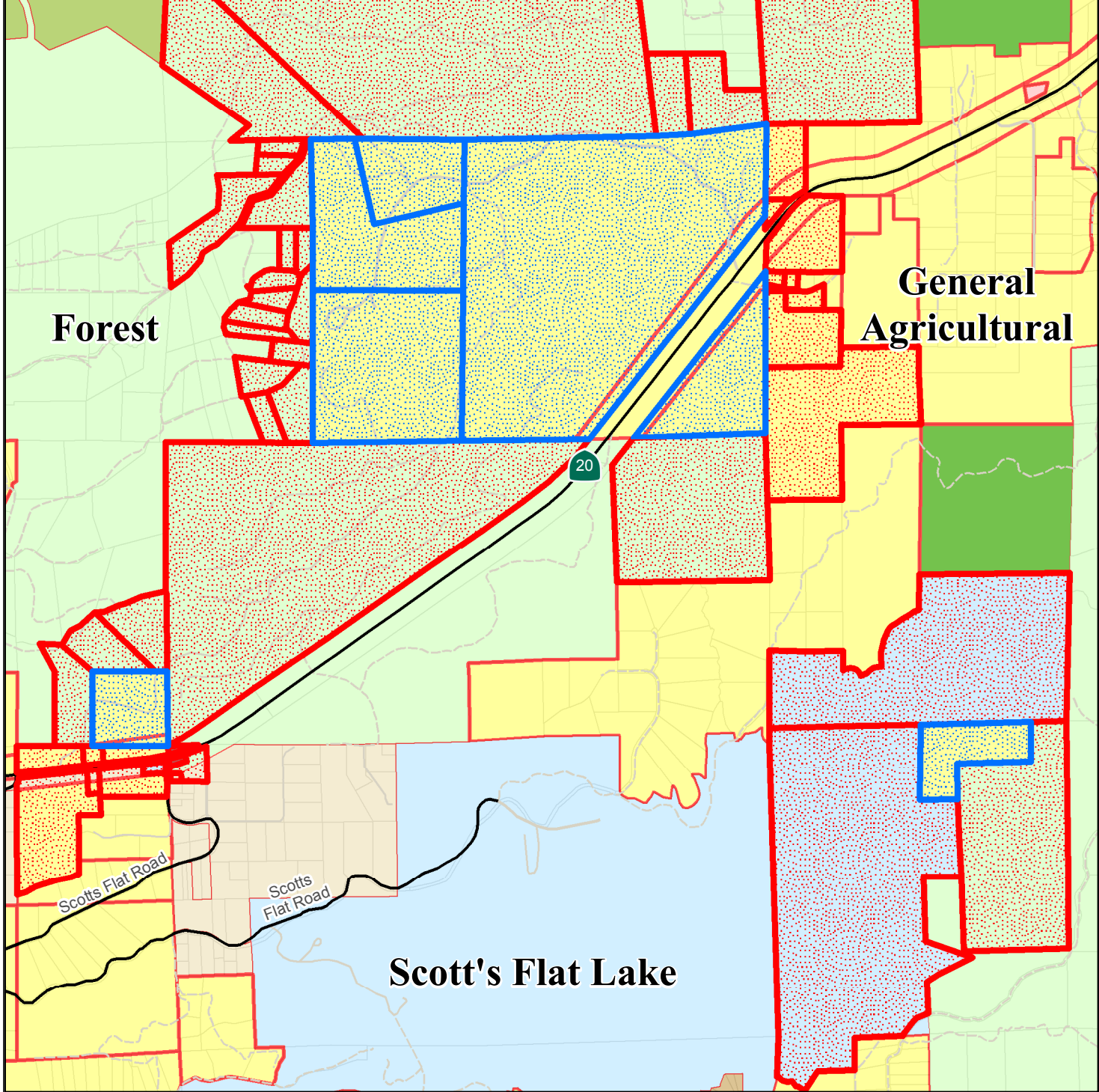
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

-  USFS Project Parcels
-  Parcels Noticed

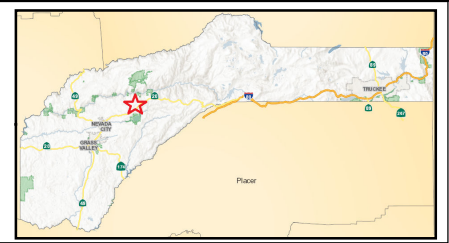


**USFS Site #2 GPA/Rezone to Forest
(PLN16-0084; GPA16-0001; RZN16-0001; EIS16-0003)
Zoning, Vicinity and Public Notice Map**

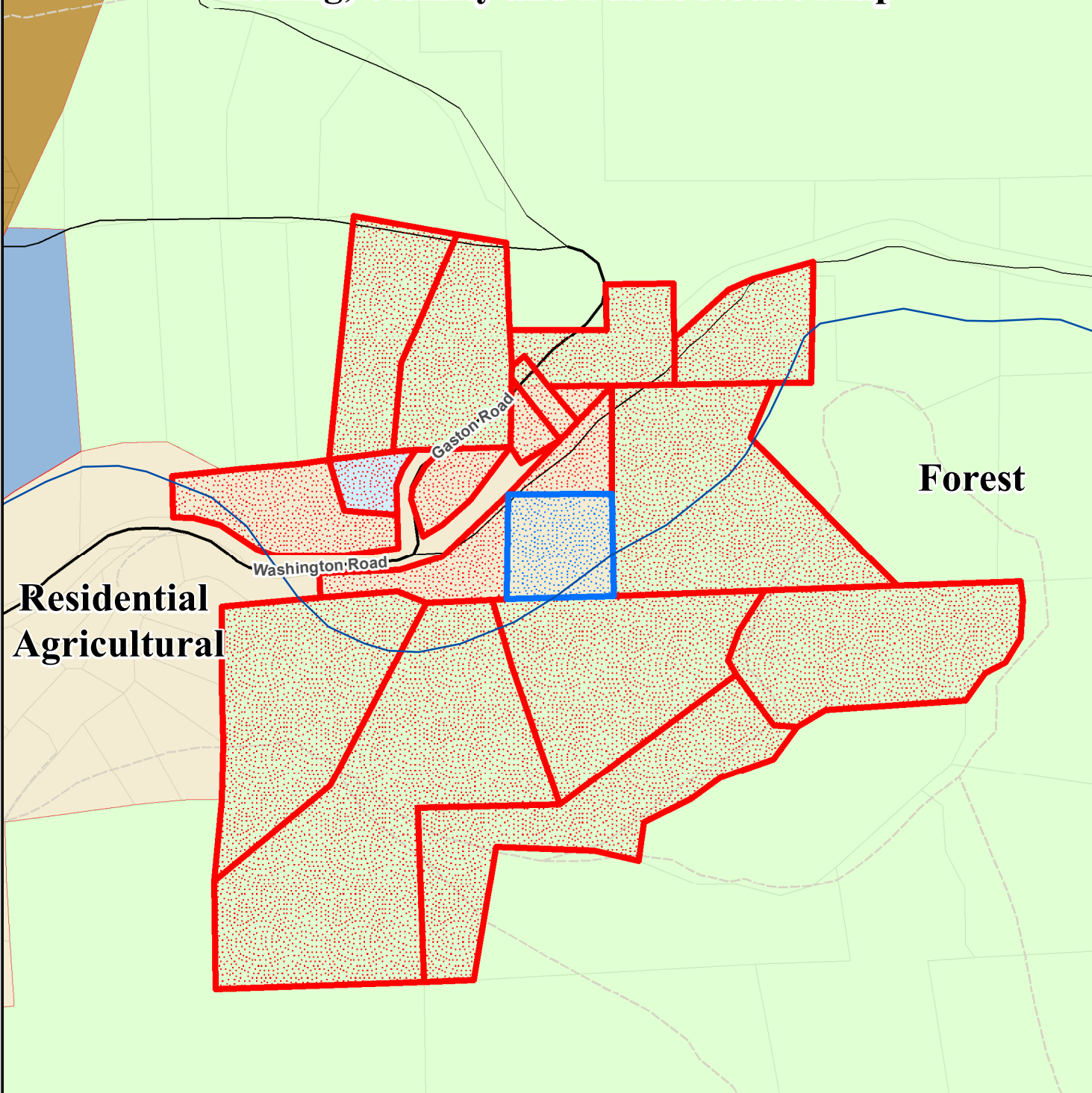


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-  USFS Project Parcels
-  Parcels Noticed



**USFS Site #3 GPA/Rezone to Forest
(PLN16-0084; GPA16-0001; RZN16-0001; EIS16-0003)
Zoning, Vicinity and Public Notice Map**



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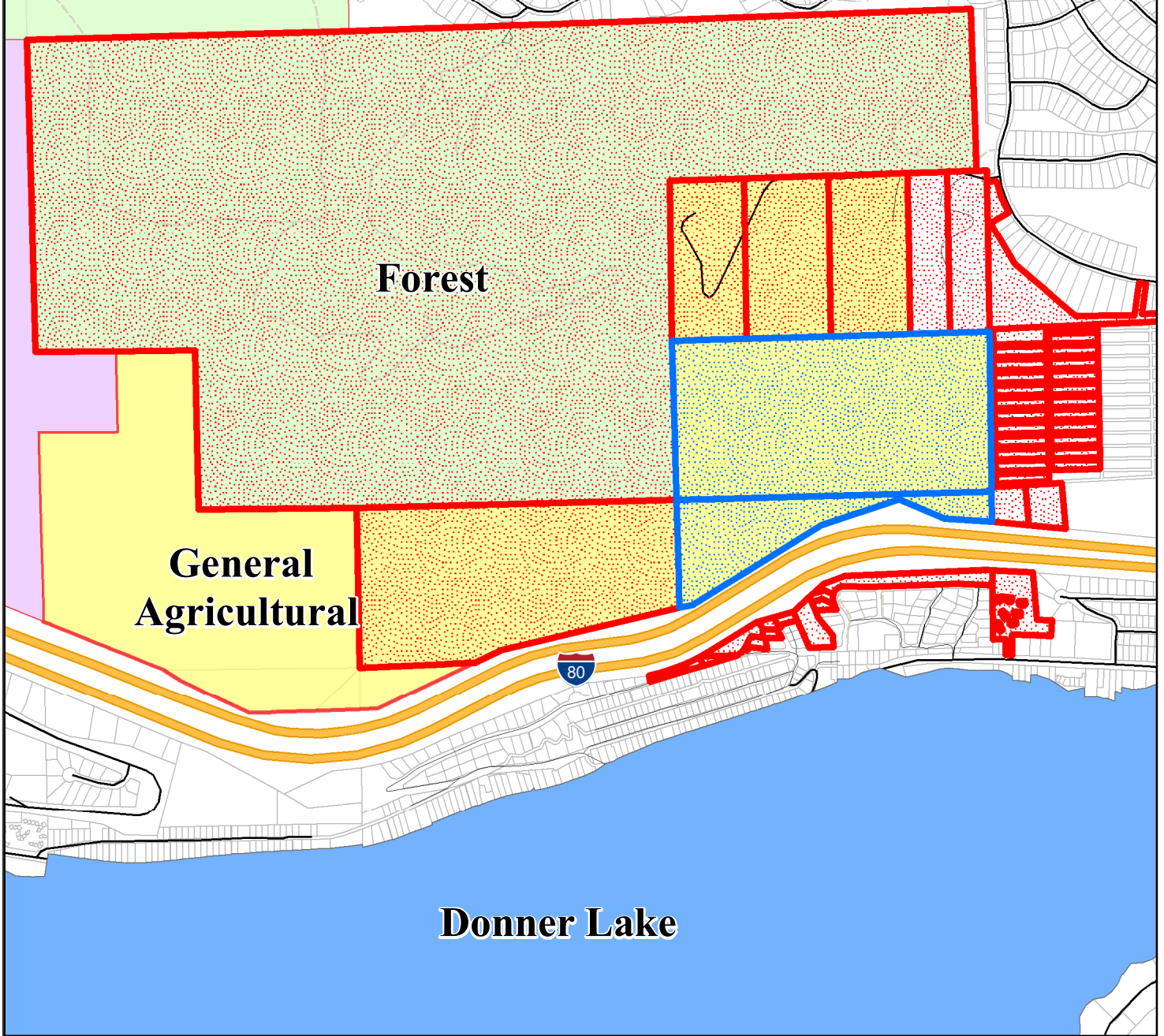
-  USFS Project Parcel
-  Noticed Parcels
-  South Yuba River



**USFS Site #4 GPA/Rezone to Forest
(PLN16-0084; GPA16-0001; RZN16-0001; EIS16-0003)**

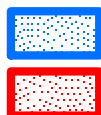
Zoning, Vicinity and Public Notice Map

Town of Truckee



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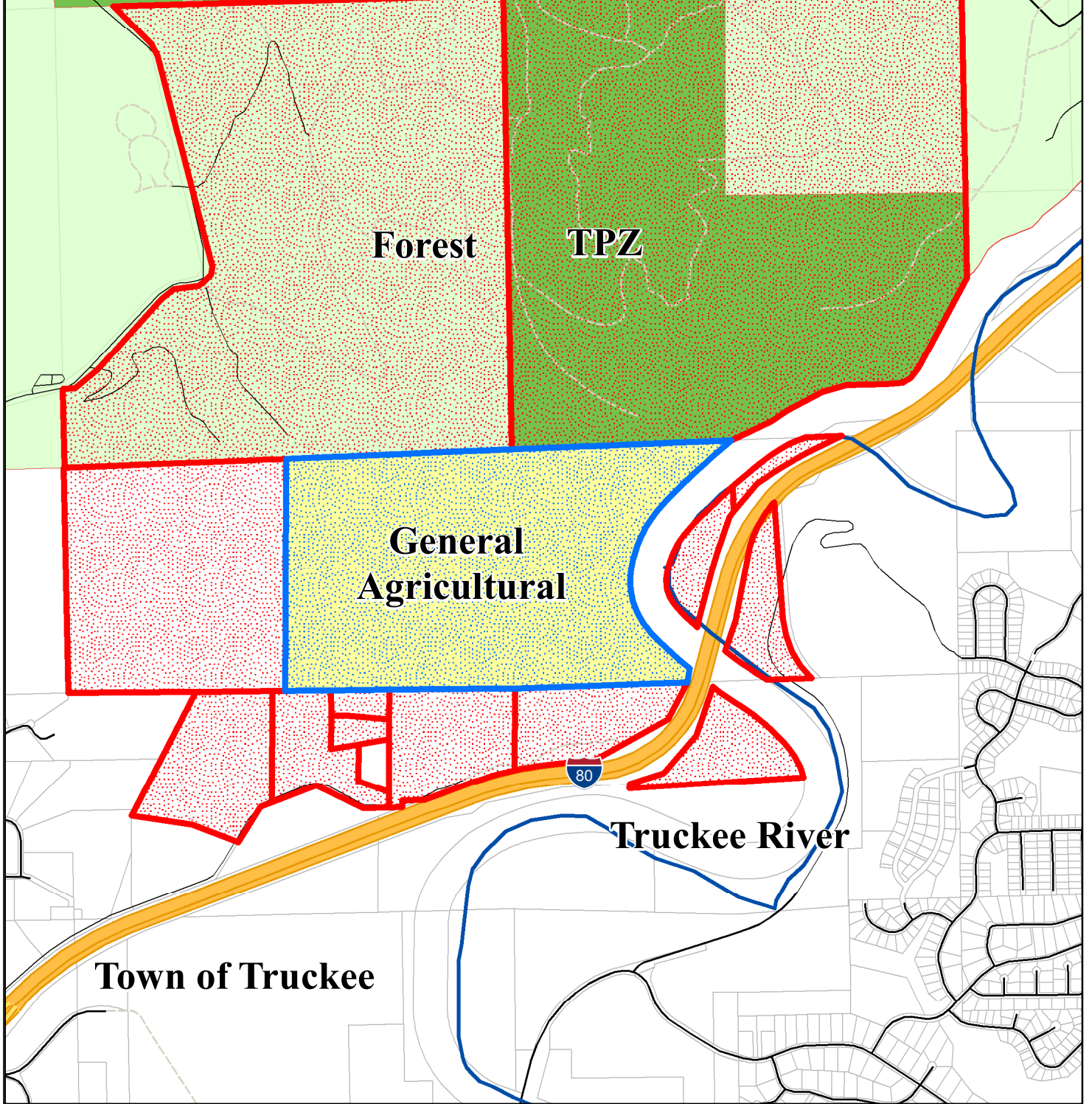


USFS Project Parcels



Noticed Parcels

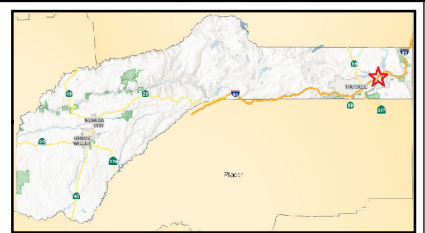


**USFS Site #5 GPA/Rezone to Forest
(PLN16-0084; GPA16-0001; RZN16-0001; EIS16-0003)
Zoning, Vicinity and Public Notice Map**



0.5
Miles

-  USFS Project Parcel
-  Noticed Parcels



**USFS Site #6 GPA/Rezone to Forest
(PLN16-0084; GPA16-0001; RZN16-0001; EIS16-0003)
Zoning, Vicinity and Public Notice Map**

**Town of
Truckee**

Martis
Creek

**General
Agricultural**

Open Space

**Interim Development
Reserve**



0.5

Miles



USFS Project Parcel



Noticed Parcels

