

DEPARTMENT: Planning

By: Jean Clark, Planner III

Phone: 966-0304

RECOMMENDED ACTION AND JUSTIFICATION:

(Policy Item: Yes___ No_X_)

Adopt an ordinance approving a change in the Official County Zoning Map in accordance with ZA 2001-4.

This action is based upon the introduction of the ordinance July 10, 2001. Staff needed a correct copy of the executed owners declaration prior to scheduling the second reading. Although Planning does not yet have the final declaration, this is the last day the ordinance can be approved so that the property owners can get the tax benefit in the next tax year. Staff expects the final signed declaration to be received momentarily.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The Board of Supervisors approved the rezone from Mountain General to Timber Exclusive on July 10, 2001 and waived the first reading and introduced an ordinance approving a change in the Official County Zoning Map in accordance with ZA 2001-4.

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

ALTERNATIVE: 1) Deny the application.

NEGATIVE ACTION would result in the property owners not obtaining a tax benefit in the next tax year.

COSTS: (X) Not Applicable

A. Budgeted current FY \$ _____

B. Total anticipated Costs \$ _____

C. Required additional funding \$ _____

D. Internal transfers \$ _____

COSTS: () 4/5th Vote Required

A. Unanticipated revenues \$ _____

B. Reserve for contingencies \$ _____

C. Source description: _____

SPECIAL INSTRUCTIONS:
List the attachments and number the pages consecutively:

- Memorandum to Board with Attachments:
1. Draft Ordinance
 2. Minute Order, July 10, 2001

Balance in Reserve Contingencies, If Approved:
\$ _____

CLERK'S USE ONLY

Res. No.: _____ Ord. No.: 968

Vote - Ayes: 5 Noes: _____

Absent: _____ Abstained: _____

Approved Denied

Minute Order Attached No Action Necessary

The foregoing instrument is a correct copy of the original on file in this office.

Date: _____
ATTEST: _____
MARGIE WILLIAMS, Clerk of the Board

By: _____
Deputy

ADMINISTRATIVE OFFICER'S RECOMMENDATION:

This item on agenda as:

_____ Recommended

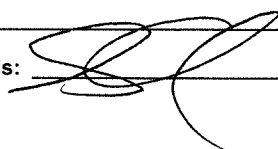
_____ Not Recommended

_____ For Policy Determination

_____ Submitted for Comment

_____ Returned for Further Action

Comment: _____

A.O. Initials: 

ACKNOWLEDGMENT

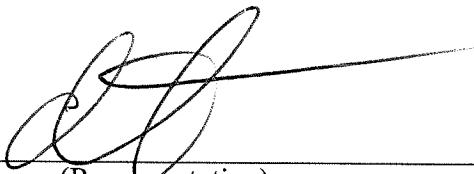
RE NEWSPAPER PUBLICATION

[Instructions: Please have a representative with the MARIPOSA GAZETTE complete the following acknowledgment of receipt regarding legal publications. Please forward the billing request to the Mariposa County Board of Supervisors, Post Office Box 784, Mariposa, California 95338. Should you have any questions, please contact our office (attention: Margie) at (209) 966-3222. Thank you.]

I, DAN TUCKER hereby acknowledge
(Print Name)

receipt of the following document for legal publication in the December 26, 2001, issue of the "Mariposa Gazette", on this 21st day of December, 2001.

Ordinance No. 968
Timber Exclusive Overlay Zone Amendment


By: _____
(Representative)

MARIPOSA COUNTY ORDINANCE NO. 968

(Not to be Codified)

**AN ORDINANCE REZONING PROPERTY FOR INCLUSION INTO THE
TIMBER EXCLUSIVE OVERLAY ZONE (TEZ)
AND AMENDING THE MARIPOSA COUNTY ZONING MAP**

WHEREAS, Mariposa County has received Zoning Amendment Application No. 2001-4, Alan and May Grupe, applicants, requesting that an 80 acre portion of a 119 acre parcel, as described in “Exhibit B,” be rezoned for inclusion into the Timber Exclusive Zone (TEZ) and that the Mariposa County Zoning Map be amended accordingly; and

WHEREAS, Zoning Amendment Application No. 2001-4 has been determined to be exempt from environmental review in accordance with Section 15264 of the California Environmental Quality Act, and a Notice of Exemption has been adopted for the project; and

WHEREAS, the Mariposa County Planning Commission and Board of Supervisors have held duly noticed public hearings on the amendment in accordance with State Law and County Code; and

WHEREAS, the Mariposa County Planning Commission has recommended approval of the amendment.

NOW THEREFORE, the Mariposa County Board of Supervisors does hereby ordain as follows:

SECTION I

The property described as the South half of the Southeast quarter of Section 28, Township 2 South, Range 17 East, M.D.B. & M., is hereby zoned as being in the Timber Exclusive Zone (TEZ) as provided by Chapter 17.04.030 of Mariposa County Code.

SECTION II

The County shall cause to be filed with the County Recorder a notice of Timber Exclusive Zone status with the appropriate map. The official Zoning Map of Mariposa County shall be modified to reflect the property described in Section I as being included in the Timber Exclusive Zone (TEZ). This action of the Board is based upon the findings contained in "Exhibit C."

SECTION III

The property described in Section I may not currently meet the timber stocking standards established by Section 4561 of the Public Resources Code. The County shall cause to be filed with the County Recorder an agreement signed by the property owners stating that the property shall meet the timber stocking standards as set forth in Section 4561 of the Public Resources Code by the fifth (5th) anniversary of the signing of the agreement. In accordance with the agreement, the property owner shall provide a report prepared by a registered professional forester verifying that the property meets the minimum timber stocking standards by the fifth (5th) anniversary of the signing of the agreement. In accordance with the agreement, if the report does not verify that the parcel meets the minimum State timber stocking standards, the project shall be rescheduled for public hearing before the Planning Commission for

consideration of rezoning to the Mountain General zone or, if that zoning no longer exists, a comparable residential zoning. If the report does not verify that the parcel meets the minimum State timber stocking standards because of action beyond the control of the landowners (such as catastrophic wildfire or prolonged drought), then the public hearing described in the previous sentence shall be conducted, and the Planning Commission shall extend the time required for meeting the timber stocking standards. The extension shall be to a date as determined to be reasonable by the registered professional forester preparing the report. All costs associated with the public hearing and required processes shall be the responsibility of the property owners, as shall be any penalties for early withdrawal. A copy of the agreement (Owners Declaration) is attached as "Exhibit A."

SECTION IV

This ordinance shall become effective thirty (30) days after final passage pursuant to Government Code Section 25123.

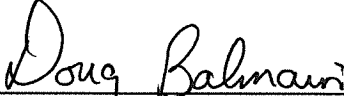
PASSED AND ADOPTED by the Mariposa County Board of Supervisors on this 18th day of December, 2001, by the following vote:

AYES: Balmain, Parker, Pickard, Reilly, Stewart

NOES: NONE

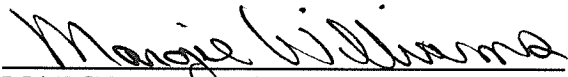
ABSTAINED: NONE

EXCUSED: NONE



DOUG BALMAIN, Chairman
Mariposa County Board of Supervisors

ATTEST:



MARGIE WILLIAMS, Clerk of the Board
Mariposa County Board of Supervisors

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:



JEFFREY G. GREEN
Mariposa County Counsel

EXHIBIT A

OWNERS DECLARATION

Alan and May Grupe, or successors in interest, being the owners of the property described in EXHIBIT B (a portion of APN 004-250-008), hereby agree to meet the timber stocking standards as set forth in Section 4561 of the Public Resources Code (as amended from time to time) by the fifth (5th) anniversary of the signing of this declaration. In addition, Alan and May Grupe, or successors in interest, agree to provide a report to the Mariposa County Planning Department prepared by a registered professional forester verifying that the parcel meets the minimum State timber stocking standards at the fifth (5th) anniversary of the signing of this declaration. If the report does not verify that the parcel meets the minimum State timber stocking standards, the project shall be rescheduled for public hearing before the Planning Commission for consideration of rezoning to the Mountain General zone or, if that zoning no longer exists, a comparable residential zoning. If the report does not verify that the parcel meets the minimum State timber stocking standards because of action beyond the control of the landowners (such as catastrophic wildfire or prolonged drought), then the public hearing described in the previous sentence shall be conducted, and the Planning Commission shall extend the time required for meeting the timber stocking standards as described in the first sentence of this declaration. The extension shall be to a date as determined to be reasonable by the registered professional forester preparing the report. All costs associated with the public hearing and required processes shall be the responsibility of the property owners, as shall be any penalties for early withdrawal.



Property Owner Signature

12-12-01

Date



Property Owner Signature

12/12/2001

Date

(Staple notary certificates of owners)

**PLEASE SEE ATTACHED CALIFORNIA
ALL-PURPOSE ACKNOWLEDGEMENT
BY NOTARY PUBLIC**

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of SAN JOAQUIN

} ss.

On December 12, 2001, before me, JASON LEGASPI

Date

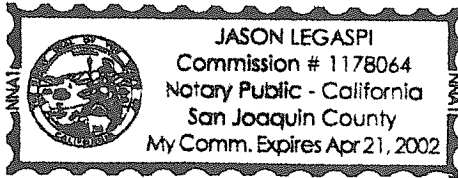
Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared ALAN AND MARY GRUPE

Name(s) of Signer(s)

- personally known to me
 proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) ~~is~~/are subscribed to the within instrument and acknowledged to me that ~~he~~/she/they executed the same in ~~his~~/her/their authorized capacity(ies), and that by ~~his~~/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Place Notary Seal Above

[Signature]
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: ALAN AND MARY GRUPE'S DECLARATION

Document Date: December 12, 2001 Number of Pages: 2

Signer(s) Other Than Named Above: NONE

Capacity(ies) Claimed by Signer

Signer's Name: _____

- Individual
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Attorney in Fact
 Trustee
 Guardian or Conservator
 Other: _____

Signer Is Representing: _____

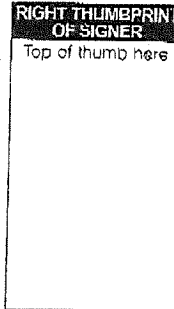


EXHIBIT "B"

The South half of the Southeast quarter (S1/2 SE1/4) of Section 28, Township 2 South, Range 17 East, M.D.B. & M., Mariposa County, State of California.

The above described tract of land is subject to any rights-of way or easements of record or legally acquired.

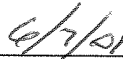
This description is prepared pursuant to the requirements of Re-Zone Application Number 2001-4 on file at the Mariposa County Planning Department.

Prepared by:



Richard A. Seaman, LS 5339

License Expires 12/31/03



Date



EXHIBIT C

Finding No. 1: *The amendment is in the general public interest and will not have a significant adverse effect on the general public health, safety, peace, and welfare.*

The zoning change provides an area which will be restricted for a minimum of 10 years for the growing and harvesting of timber. The zoning will encourage long-term commitment to prudent forest management. A portion of the acreage was harvested less than four years ago under a CDF timber harvest plan. The peace and welfare of the general public will not be detrimentally affected by the change in zoning from the Mountain General Zone to the Timber Exclusive Zone (TEZ).

Finding No. 2: *The amendment is desirable for the purpose of improving the General Plan with respect to providing a long term guide for County development and a short term basis for day-to-day decisionmaking.*

The amendment will provide preservation and protection of forest production land to the extent that agricultural development of such land is economically viable and is to the long range economic benefit of the community as a whole.

The General Plan states that "Mountain General" is applied to lands characterized by terrain that is less suitable for high or moderate residential densities or intense use or is remote from established service centers. "Timber Exclusive Zone" is defined in County Code as a timber preserve zone for the growing and harvesting of timber for those uses which are an integral part of a timber management operation.

Finding No. 3: *The amendment conforms with the requirements of State law and County policy.*

The Zoning Amendment application has been processed in accordance with the requirements of State law and County regulations and established policy. The project is exempt from environmental review by statute (Section 15264. Timberland Preserves, CEQA Guidelines).

Finding No. 4: *The amendment is consistent with other guiding policies, goals, policies, and standards of the General Plan.*

The amendment has been reviewed for consistency with the policies and standards of the Mariposa County General Plan.

Silviculture (the development and care of forests) is a permitted use on the parcel. The Conservation Element (Section 6.402.5) of the General Plan states that the County shall encourage timber production practices on lands which exhibit forest resource potential and include such lands, with approved timber management plans, in the TEZ regardless of the land use designation. This parcel is specifically identified as having good forest resource potential for the growth, management, and production of timber.

Timber production has been identified as an appropriate use for the parcel based upon the timber management plan developed for the parcel by a registered professional forester. Inclusion of the land into the TEZ will protect the land from being converted to other uses which is consistent with the policy and objectives of the Conservation Element (Section 6.502.B.3) of the General Plan.

The Open Space Element (Section 7.301.A) of the General Plan states that potential production of timber is a resource worthy of protecting and developing.

The amendment is consistent with, or will have no negative effect on the other goals, policies, and standards of the Mariposa County General Plan. This finding is made in accordance with Section 2.600 et seq.

Finding No. 5:

The amendment is for a parcel which is physically suitable (including, but not limited to access, provision of utilities and infrastructure, compatibility with adjoining land uses, and absence of physical constraints) for the requested land use designation and the anticipated land use development.

Access to the 80 acre portion of the parcel to be zoned TEZ is by a logging road off a County road. The Timber Management Plan recognizes that a permanent watercourse crossing will have to be constructed to allow access to the subject property. There is no reason to expect that this operation will create or exacerbate maintenance or traffic problems on these roads above those that any other timber operation of similar size or log load trips/day frequency.

The site, proposed for Timber Exclusive zoning, abuts parcels zoned Mountain Home (5 acre minimum), Agriculture Exclusive (160 acre minimum) and Public Domain. The TEZ is compatible with the Public Domain (National Forest land) and Agriculture Exclusive zones as the TEZ provides open space as do National Forest lands and agricultural lands. Because noise from timber harvesting is sporadic and short lived, the project site is compatible with the Mountain Home parcels in the area.

The gentle slopes do not provide physical constraints to timber harvesting.

Finding No. 6: *The proposed zoning is logical and desirable to provide expanded employment opportunities or basic services to the immediate residential population or touring public.*

The rezone to a zone encouraging timber production will provide potential employment opportunities to the residential population in Greeley Hill and Coulterville, making the proposed zoning logical and desirable.