
STATE OF CALIFORNIA
COUNTY OF MARIPOSA
PLANNING COMMISSION

Resolution

No. 2010-011

A resolution conditionally approving Land Division Application No. 2008-173, Virginia C. Scott, Trustee, applicant. Assessor's Parcel Number (APN) 009-060-027.

WHEREAS an application for Land Division Application No. 2008-173 was received on September 24, 2008 from Virginia C. Scott, Trustee for property located in the Jerseydale area at the intersection of Scott and Best roads, identified as APN 009-060-027; and

WHEREAS Land Division Application No. 2008-173 proposes the division of a 158.35-acre parcel into four parcels ranging in size from 33.09 to 38.93 acres and a 15.35-acre Remainder, and

WHEREAS the Planning Department circulated the application among trustee and responsible agencies, interested public organizations, and others as appropriate; and

WHEREAS a duly noticed public hearing was scheduled for July 9, 2010; and

WHEREAS the Planning Department prepared environmental documents in accordance with the California Environmental Quality Act and local administrative procedures; and

WHEREAS a Staff Report and Initial Study were prepared pursuant to the California Government Code, Mariposa County Code, California Environmental Quality Act, and local administrative procedures; and

WHEREAS the Initial Study/Proposed Mitigated Negative Declaration was distributed to affected state agencies through the State Clearinghouse process under State Clearinghouse Number 2010061019, and

WHEREAS the Planning Commission considered all of the information in the public record, including the Initial Study and Staff Report, testimony presented by the public concerning the application, and the comments of the applicant; and

WHEREAS the Planning Commission took action at their meeting on July 9, 2010 to approve the project with amended conditions and mitigation measures; and

WHEREAS this action was "preliminary" based on subsequent events; and

WHEREAS as a result of the Planning Commission's action on July 9, 2010, staff prepared a draft resolution with amended conditions and discussed the amendments with the project agent; and

WHEREAS as a result of the discussion with the project agent, there were questions regarding the Planning Commission's intent and actions on the amended conditions; and

WHEREAS based on the questions, the Planning Department brought back an action to the Planning Commission at their meeting on August 6, 2010 to approve the format for the

Resolution approving the project as the Planning Commission had not seen the final text of the amended conditions at their meeting on July 9, 2010; and

WHEREAS the action taken by the Commission on August 6, 2010 approves the format of the resolution adopted by the Planning Commission on July 9, 2010 and effective on this same date; and

WHEREAS this resolution is the final and formal action on the matter.

NOW THEREFORE, BE IT RESOLVED THAT the Planning Commission of the County of Mariposa does hereby adopt a Mitigated Negative Declaration for the project.

BE IT FURTHER RESOLVED THAT the Planning Commission of the County of Mariposa does hereby approve Land Division Application No. 2008-173.

BE IT FURTHER RESOLVED THAT the project is approved based upon the findings set forth in Exhibit 1, with the terms, conditions and mitigation measures set forth in Exhibit 2.

BE IT FINALLY RESOLVED THAT project mitigation measures will be monitored as shown in Exhibit 3.

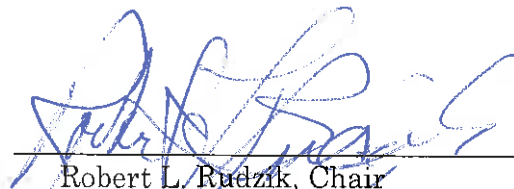
ON MOTION BY Commissioner Marsden, seconded by Commissioner Francisco, this resolution is duly passed and adopted, effective on the 9th day of July 2010, by the following vote:

AYES: Francisco, Ross, Tucker, Marsden

NOES: Rudzik


EXCUSED: None

ABSTAIN: None



Robert L. Rudzik, Chair
Mariposa County Planning Commission

Attest:



Judy Mueller, Secretary to the
Mariposa County Planning Commission

EXHIBIT 1
PROJECT FINDINGS
FOR
Land Division Application No. 2008-173

1. **FINDING:** The site is physically suitable for the type and density of development.

EVIDENCE: The proposed project is located within the Mountain Home zone and the Residential Land Use Classification of the General Plan. The subdivision density is designed in accordance with the Mountain Home zone and the Residential classification.

2. **FINDING:** The design of the subdivision or the proposed improvements is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

EVIDENCE: This land division will not cause adverse environmental damage; however, impacts to wildlife resources and habitat may occur incrementally over time with future residential development of the parcels such that Mariposa County has established mitigations that address the ultimate impacts of this land division. This land division is subject to the California Department of Fish and Game filing fees of \$2,010.25 for a mitigated negative declaration as required by AB 3158 and Senate Bill 1535 and a County Clerk fee of \$50. The amended conditions/mitigation measures approved on August 6, 2010 reflect the Planning Commission's overall intent with respect to content and consistency, and are in compliance with state law.

3. **FINDING:** The design of the subdivision or the proposed improvements is not likely to cause serious public health problems.

EVIDENCE: This land division and its subsequent use for low-density residential purposes are not likely to cause serious health problems to humans. Future residential uses will be required to comply with all Building Code regulations and Health Department standards for the proper installation of wells and sewage disposal systems. The proper location and implementation of these improvements will ensure that serious health problems to humans will not occur on the site.

4. **FINDING:** Based on comments received from affected agencies, the proposed map is found to be consistent with applicable general and specific plans as specified in Government Code Section 65451.

EVIDENCE: The proposed project's parcel sizes are in compliance with the County Zoning Ordinance and the General Plan. Proof of water is required as a condition of approval. A biological study was performed on the property in conformance with

General Plan policies. On-site sewage disposal systems will be required to meet the standards of the Health Department. There is no Specific Plan governing this property.

5. **FINDING:** The design or improvement of the proposed subdivision is consistent with applicable general and specific plans.

EVIDENCE: The minimum parcel size, minimum density, and building intensity proposed by the project are consistent with standards contained in the Residential Land Use Classification of the General Plan and the Mountain Home zone of the Zoning Ordinance. The land division's design complies with the County Subdivision Ordinance's maximum 4:1 length to width ratio for parcel configuration. The project site is not in an area governed by a Specific Plan.

The project was reviewed in accordance with the Road Capacity and Access Requirements ('adequate capacity' requirements) established by the Mariposa County General Plan Section 5.3.02.E(1). The first 200 feet of Best Road, as measured from its intersection with Scott Road, is maintained and has adequate capacity for the potential traffic volume generated by the total number of existing lots and those which are created by this project. If driveways to serve residential development on parcels C and D are taken anywhere beyond the first 200 feet of Best Road, the 'adequate capacity' requirements will not be met based upon the current width of Best Road."

6. **FINDING:** The design of the subdivision or type of improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision.

EVIDENCE: The project will not conflict with any public easement. Affected utility companies have reviewed the proposed project and have not objected to the proposal.

EXHIBIT 2
CONDITIONS OF APPROVAL/MITIGATION MEASURES
FOR
Land Division Application No. 2008-173

CONDITIONS OF APPROVAL / PUBLIC WORKS DEPARTMENT	MONITORING DEPARTMENT	VERIFIED IMPLEMENTED
<p>1. A variable width dedication of a minimum of 30 feet from the centerline of Best Road and Scott Road within the project site (including the Remainder) shall be offered to the County of Mariposa. The offer of dedication shall be non-revocable and non-exclusive and specifically state the dedication for "public road and utility purposes." The location and width of the offer of dedication shall be approved by the County Engineer. The offer of dedication shall include all dedication required to encompass the existing slopes.</p> <p>(Section 16.12.150, County Subdivision Ordinance; Section 11.A.3, Road Improvement and Circulation Policy)</p>	PUBLIC WORKS	
CONDITION OF APPROVAL / MARIPOSA PLANNING	MONITORING DEPARTMENT	VERIFIED IMPLEMENTED
<p>2. Project approval is valid for a period of three years from July 9, 2010. This approval shall expire on July 9, 2013.</p> <p>(MARIPOSA COUNTY SUBDIVISION CODE SECTION 16.12.430)</p>	MARIPOSA PLANNING	
<p>3. The Property Owner shall indemnify, protect, defend, and hold harmless the County, and any agency or instrumentality thereof, and officers, officials, employees, or agents thereof, from any and all claims, actions, suits, proceedings, or judgments against the County, or any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof to attack, set aside, void, or annul, any approval of the County, or any agency or instrumentality thereof, advisory agency, appeal board, or legislative body, including actions approved by the voters of the County, concerning the project and the approvals granted herein. Actions concerning the project and approvals granted shall include, but not be limited to, the environmental determination made pursuant to the California Environmental Quality Act (CEQA). Furthermore, Owner shall indemnify, protect, defend, and hold harmless the County, or any agency or instrumentality thereof, against any and all claims,</p>	MARIPOSA PLANNING	

<p>actions, suits, proceedings, or judgments against another governmental entity in which Owner's project is subject to that other governmental entity's approval and a condition of such approval is that the County indemnify and defend such governmental entity. County shall promptly notify the Owner of any claim, action, or proceeding. County will further cooperate in the defense of the action.</p> <p>An agreement on a form approved by Mariposa County Counsel shall be executed within twenty (20) working days of the date of project action. Non-compliance with this condition may result in revocation of project approval by the county.</p> <p>(COUNTY ORDINANCE NO. 1017)</p>		
<p>4. Subdivision Map Act Section 66434.2 applies to the recordation of the parcel map for this project.</p> <p>(Planning Department Recommendation)</p>	<p>MARIPOSA PLANNING</p>	
<p>5. Prior to recordation of the Parcel Map, all fees associated with the County's processing of the map and filing of associated documents shall be paid. The Department of Fish and Game filing fee (\$2,010.25 as of 1/1/10) and County Clerk fee (\$50 as of 1/1/10) should be paid within five (5) working days of the approval of the application (by Friday, July 16, 2010), because if the fee is not paid within 5 working days, and the Notice of Determination is not filed with the County Clerk prior to close of business on Friday, July 16, 2010 the environmental determination is not operative, vested, or final (Section 21089(b) Public Resources Code.).</p> <p>The County Clerk requires that one check be submitted to cover both of these fees, for a total of \$2,060.25 (effective 1/1/10), and that it be in the form of a cashiers check or money order payable to "Mariposa County." The County Clerk will not accept a personal check for these fees. Submit the check to Mariposa Planning to file this fee and other required documents with the County Clerk.</p> <p>Note, the filing fees are adjusted annually, effective January 1st of each year, pursuant to Fish and Game Code.</p> <p>(Section 16.12.390, Mariposa County Subdivision Code; 711.4(c) of the State Fish and Game Code)</p>	<p>MARIPOSA PLANNING</p>	
<p>CONDITIONS OF APPROVAL/ HEALTH DEPARTMENT</p>	<p>MONITORING DEPARTMENT</p>	<p>VERIFIED IMPLEMENTED</p>
<p>6. A notice shall be recorded concurrently with the parcel map and referenced on the final map stating:</p> <hr/> <p>"Soils testing to verify the feasibility of installing an on-site</p>	<p>HEALTH</p>	

<p>sewage disposal system has NOT been conducted on Parcels A, B, C, and D as shown on the Parcel Map for ___, filed in Book ___ of Parcel Maps at Page ___, Mariposa County Records . Soils testing must be conducted to the satisfaction of the Mariposa County Health Department in compliance with Section .061 of the Health Department Rules and Regulations governing on-site sewage disposal systems prior to obtaining a development permit. This requirement may be waived by the Health Department for a permit to do grading or a permit to drill a well.”</p>	<p>DEPARTMENT</p>	
<p>7. Prior to recordation of the parcel map, the applicant shall prove to the satisfaction of the Health Department that Parcels A, B, C, and D have a supply of potable water meeting requirements for quantity and quality. Proof is as follows:</p> <ul style="list-style-type: none"> a. an approved connection from an approved public water provider; or b. a proposed connection to a shared well which has been pre-approved by the Health Department; or c. a well, for which appropriate permits and inspections have been approved by the Health Department, has been drilled on the subject property and developed with appropriate casings, and for which improvements may or may not include permanently installed pump equipment; or d. a demonstration that there can be a source of water capable of producing a sustained potable water supply with storage of at least 1,000 gallons per twelve (12) hour day per dwelling unit , which will be contained within any combination of (a) a potable water storage tank, (b) a static water supply in the well; or e. other satisfactory proof and wells drilled and tested prior to sale to demonstrate the quantities described in “Section d.” above. <p>Additionally, if the property is to be served in the future by a well, the applicant shall record a disclosure statement concurrently with the map and referenced on the map stating the following:</p> <p>“Water supplies for residential lands are derived from private wells on Parcels A, B, C, and D as shown on the Parcel Map for ___, filed in Book ___ of Parcel Maps at Page ___, Mariposa County Records. Mariposa County groundwater supplies are found in fractures in the bedrock. The costs associated with drilling and developing a private well is highly variable because it is unknown how much or if any additional water can be found on these parcels. There is no guarantee additional potable water supply of adequate quality or quantity can be found or sustained on any parcel shown on this map.”</p> <p>(Mariposa County General Plan, Section 5.3.02.E(4))</p>	<p>HEALTH DEPARTMENT</p>	

<p align="center">CONDITION OF APPROVAL/ CA DEPARTMENT OF FOREST AND FIRE PROTECTION</p>	<p align="center">MONITORING DEPARTMENT</p>	<p align="center">VERIFIED IMPLEMENTED</p>
<p>8. A document shall be recorded and referenced on the Parcel Map that states:</p> <p>“Future residential development on Parcels A, B, C, and D as shown on the Parcel Map for ___, filed in Book ___ of Parcel Maps at Page ___, Mariposa County Records, may be subject to SRA Fire Safe Regulations (Public Resource Code 4290 and 4291).”</p> <p>(Planning Department Recommendation)</p>	<p align="center">COUNTY SURVEYOR</p>	
<p align="center">CEQA MITIGATION MEASURES</p>	<p align="center">MONITORING DEPARTMENT</p>	<p align="center">VERIFIED IMPLEMENTED</p>
<p>9. A statement shall be recorded in Official Records concurrently with the parcel map and referenced on the parcel map as follows:</p> <p>“Parcels A, B, C, and D as shown on the Parcel Map for ____, filed in Book ____ of Parcel Maps at Page ____, Mariposa County Records, are located in an area that has the potential to provide habitat for great gray owl (state Endangered species), California spotted owl (state Species of Special Concern/federal Species of Concern) and other raptors. To avoid disturbance to active nests of these species any tree removal or tree pruning on these parcels that is necessary for the construction of driveways, building pads, structures, septic systems and similar residential uses should occur from October 1 to January 31, the time-frame which is outside of the general avian nesting season and the extremity of the nesting season for the California spotted owl. Should such tree removal or tree pruning occur from February 1 to September 30 a survey for active raptor nests shall be conducted prior to tree removal or tree pruning. If such nests are found the tree or trees in which raptor nest(s) are located shall not be removed or disturbed until the young have fledged.”</p> <p>(Mitigation Measure 4.a.1)</p>	<p align="center">MARIPOSA PLANNING</p>	
<p>10. A statement shall be recorded in Official Records concurrently with the parcel map and referenced on the parcel map as follows:</p> <p>“Before a structure is constructed and before grading or disturbance of any kind occurs within the west-to-east drainage channel and its tributary south-to-north drainage channel, located adjacent to and parallel to Best Road on Parcel C as shown on the Parcel Map for ____, filed in Book ___ of Parcel Maps at Page ___, Mariposa County Records, and within 50 feet of the centerline of the drainage channels, the owner of said parcel may</p>	<p align="center">MARIPOSA PLANNING</p>	

<p>be required to obtain permitting as described below.</p> <p>Depending on the location and nature of the construction, grading, or disturbance within the areas described above, the parcel owner may be required to have a wetland delineation prepared by a qualified wetland scientist and to obtain from the Army Corps of Engineers permitting under Section 404 of the Clean Water Act. Depending on the location and nature of the construction, grading, or disturbance within the areas described above the parcel owner may be required to file a State Fish and Game Code Section 1602 Streambed Alteration Notification with the California Department of Fish and Game. The parcel owner may be required to enter into a Stream Alteration Agreement with the California Department of Fish and Game.”</p> <p>(Mitigation Measure 4.b.1)</p>		
<p>11. A statement shall be recorded in Official Records concurrently with the parcel map and referenced on the parcel map as follows:</p> <p>“Prior to any grading or construction activities occurring within 25 feet of the centerline of, or construction of residential driveways across, the drainage on Parcel A as shown on the Parcel Map for ____, filed in Book ____ of Parcel Maps at Page ____, Mariposa County Records, the owner of said parcel may be required to file a State Fish and Game Code Section 1602 Streambed Alteration Agreement with the California Department of Fish and Game. The parcel owner may be required to enter into a Stream Alteration Agreement with the California Department of Fish and Game.”</p> <p>(Mitigation Measure 4.b.2)</p>	<p>MARIPOSA PLANNING</p>	
<p>RECOMMENDED CONDITIONS FOR REMAINDER</p>		
<p>12. A declaration shall be recorded with the parcel map and shall be referenced on the parcel map:</p> <p>“A Certificate of Compliance must be obtained prior to issuance of a development permit on the designated Remainder as shown on the Parcel Map for ____, filed in Book ____ of Parcel Maps at Page ____, Mariposa County Records, in accordance with Section 16.04.030 of Mariposa County Code.”</p> <p>Fees associated with the application for and recordation of the certificate of compliance shall be paid by the applicant.</p> <p>(Section 16.04.030, County Subdivision Ordinance; Planning Department Recommendation)</p>		

RECOMMENDATION ON OFFERS OF DEDICATION		
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Staff recommends that the Planning Commission recommend that the Public Works Director accept the offer of dedication for public road, utility and maintenance purposes.	PUBLIC WORKS	
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EXHIBIT 3
MITIGATION MONITORING
FOR
Land Division Application No. 2008-173

Mitigation Measure No.	Mitigation Measure	Mitigation Monitoring
4.a.1	<p>A statement shall be recorded in Official Records concurrently with the parcel map and referenced on the parcel map as follows:</p> <p style="padding-left: 40px;"><i>“Parcels A, B, C, and D as shown on the Parcel Map for ____, filed in Book ____ of Parcel Maps at Page ____, Mariposa County Records, are located in an area that has the potential to provide habitat for great gray owl (state Endangered species), California spotted owl (state Species of Special Concern/federal Species of Concern) and other raptors. To avoid disturbance to active nests of these species any tree removal or tree pruning on these parcels that is necessary for the construction of driveways, building pads, structures, septic systems and similar residential uses should occur from October 1 to January 31, the time-frame which is outside of the general avian nesting season and the extremity of the nesting season for the California spotted owl. Should such tree removal or tree pruning occur from February 1 to September 30 a survey for active raptor nests shall be conducted prior to tree removal or tree pruning. If such nests are found the tree or trees in which raptor nest(s) are located shall not be removed or disturbed until the young have fledged.”</i></p>	<p>This mitigation measure will be monitored by the Mariposa County Surveyor or a designated representative and the Mariposa County Planning Department through the parcel map filing process.</p>
4.b.1	<p>A statement shall be recorded in Official Records concurrently with the parcel map and referenced on the parcel map as follows:</p> <p style="padding-left: 40px;"><i>“Before a structure is constructed and before grading or disturbance of any kind occurs within the west-to-east drainage channel and its tributary south-to-north drainage channel,</i></p>	<p>This mitigation measure will be monitored by the Mariposa County Surveyor or a designated representative and the Mariposa County Planning Department through the parcel map</p>

	<p>located adjacent to and parallel to Best Road on Parcel C as shown on the Parcel Map for _____, filed in Book _____ of Parcel Maps at Page _____, Mariposa County Records, and within 50 feet of the centerline of the drainage channels, the owner of said parcel may be required to obtain permitting as described below.</p> <p>Depending on the location and nature of the construction, grading, or disturbance within the areas described above, the parcel owner may be required to have a wetland delineation prepared by a qualified wetland scientist and to obtain from the Army Corps of Engineers permitting under Section 404 of the Clean Water Act. Depending on the location and nature of the construction, grading, or disturbance within the areas described above the parcel owner may be required to file a State Fish and Game Code Section 1602 Streambed Alteration Notification with the California Department of Fish and Game. The parcel owner may be required to enter into a Stream Alteration Agreement with the California Department of Fish and Game."</p>	<p>filing process.</p>
<p>4.b.2</p>	<p>A statement shall be recorded in Official Records concurrently with the parcel map and referenced on the parcel map as follows:</p> <p>"Prior to any grading or construction activities occurring within 25 feet of the centerline of, or construction of residential driveways across, the drainage on Parcel A as shown on the Parcel Map for _____, filed in Book _____ of Parcel Maps at Page _____, Mariposa County Records, the owner of said parcel may be required to file a State Fish and Game Code Section 1602 Streambed Alteration Agreement with the California Department of Fish and Game. The parcel owner may be required to enter into a Stream Alteration Agreement with the California Department of Fish and Game."</p>	<p>This mitigation measure will be monitored by the Mariposa County Surveyor or a designated representative and the Mariposa County Planning Department through the parcel map filing process.</p>