

Mariposa County
Planning Department
P.O. Box 2039
Mariposa, CA 95338-2039

STATE OF CALIFORNIA
COUNTY OF MARIPOSA
PLANNING COMMISSION

Resolution

No. 2006-03

**A resolution conditionally approving LDA 2005-164 Jerry
Ferober, applicant. Assessor Parcel Number Jerry Ferober.**

WHEREAS an application for LDA 2005-164 was received on September 7, 2005 from Jerry Ferober for a property located at 3808 Ben Hur Rd, also known as Assessor Parcel Number 017-280-023; and

WHEREAS the project proposes to divide a 12.20 acre parcel into 2 parcels. Parcel 1 is 5.84 acres and Parcel 2 is 6.63 acres. Subject property is zoned Mountain Home with a minimum parcel size of 5 acres. Proposed Parcel A is developed with a single family residence, appurtenant structures, well and septic. The applicants are proposing residential development within the standards established by the Mariposa County General Plan; 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 February 3, 2006; and

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

WHEREAS the Planning Commission did find that the project is exempt under section 15315 of the CEQA guidelines from the review procedures established by the California Environmental Quality Act; and

WHEREAS a Staff Report was prepared pursuant to the California Government Code, Mariposa County Code, and local administrative procedures; and

WHEREAS the Planning Commission did hold a public hearing on the noticed date and considered all of the information in the public record, including the Staff Report, testimony presented by the public concerning the application, and the comments of the applicant,

NOW THEREFORE, BE IT RESOLVED THAT the Planning Commission of the County of Mariposa does hereby approve LDA 2005-164; and

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

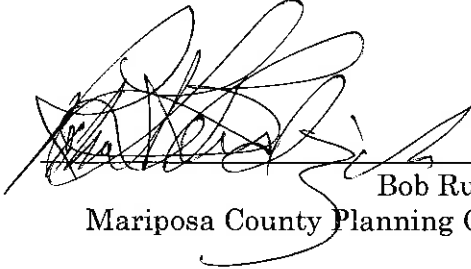
ON MOTION BY Commissioner Skyrud, seconded by Commissioner Ludington, this resolution is duly passed and adopted this by the following vote:

AYES: Commissioners Ludington, Rudzik, Ross, Skyrud, and De Santis

NOES: None

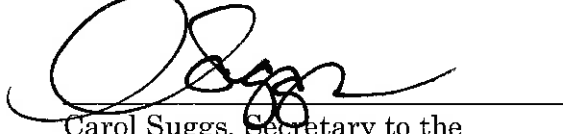
EXCUSED: None

ABSTAIN: None



Bob Rudzik, Chair
Mariposa County Planning Commission

Attest:



Carol Suggs, Secretary to the
Mariposa County Planning Commission

EXHIBIT 1
PROJECT FINDINGS
FOR
LDA 2005-164

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

EVIDENCE: Based on site inspection and the proposed division of the existing parcel into two parcels that are five acres or greater, the site is physically suited for low-density homes and appurtenant improvements such as septic systems. The proposed project is located within the Mountain Home zone. The subdivision density is designed in accordance with the Mountain Home zone.

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 project is exempt under section 15315 of the CEQA guidelines. This is a minor land division that will result in the creation of 2 parcels. Additionally, Parcel 1 is already developed and no major road improvement is required.

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. Future residential uses

will be required to comply with all Building Code regulations and Health Department standards for the proper installation of sewage disposal systems. Parcel 1 is served by onsite well and septic, future development on all parcels will utilize onsite wells and septic. The proper location and implementation of these improvements will ensure that serious health problems will not occur on the site.

4. **FINDING:** The proposed map is consistent with applicable general and specific plans as specified in Government Code Section 65451.

EVIDENCE: The land division is the initial step in the process to help accomplish the General Plan's Housing Element overall goal to "...provide an adequate supply of sound, affordable housing units in a safe and satisfying environment for the present and future residents of the County..." The land division satisfies the following Housing Element Policy: "to ensure that there are adequate sites and facilities available to support future housing needs." 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 proposed by the project is consistent with standards contained in the General Plan and the Zoning Ordinance. The land division's design substantially 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.

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 project and have not objected to the proposal.

EXHIBIT 2
CONDITIONS OF APPROVAL AND MITIGATION MEASURES
FOR
LDA 2005-164

The following conditions of approval and mitigation measures were approved for this project in order to ensure compliance with county codes and policies. A completed and signed checklist indicates that the conditions have been complied with and implemented, and fulfills the County of Mariposa's Monitoring requirements.

Project Name: Jerry Feroben File Number: LDA No. 2005-164

Project Approval Date: February 3, 2006

Sign-Off Checklist for List of Conditions of Approval and Mitigation Measures		
	Monitoring Dept.	Verified Implemented
CONDITIONS OF APPROVAL / PUBLIC WORKS DEPARTMENT		
<p>1. A shared encroachment easement shall be shown on the parcel map and located on both sides of property line between Parcels 1 and 2 and adjacent to Ben Hur Road. The encroachment shall be made 60 feet by 60 feet and non-exclusive and shall be designated as access for the use and benefit of the subject parcels. Provisions for a public utility easement along the access easement shall be made; the public utility easement shall be offered for dedication to the County of Mariposa and shall specifically state that the dedication is for public utility purposes only. Prior to recordation of the map, the location and width of the easement shall be approved by the County Engineer (Public Works Department Recommendation).</p> <p>The Planning Commission recommends that the Public Works Director accept the offer of dedication for public utilities purposes</p>	Public Works	

<p>only.</p>		
<p>2. A variable width dedication of a minimum of 30 feet from the centerline of Ben Hur Road shall be offered to the County of Mariposa. The offer of dedication shall be non-revocable and specifically state on the parcel map that the dedication is for "public road and public utility purposes." The location and width of the offer of dedication shall be approved by the County Engineer (Section 16.12.150, County Subdivision Ordinance; Section II.A.3, Road Improvement and Circulation Policy).</p> <p>The Planning Commission recommends that the Public Works Director accept the offer of dedication for public access, maintenance and utilities for Ben Hur Road.</p>	<p>Public Works</p>	
<p>3. The shared encroachment easement on Parcel 1 shall be improved to a Rural Class 1 SRA "A" standard and shall meet this standard at the time of parcel map recordation. The improvement shall be contiguous with the western boundary of Parcel 2 for a distance that Public Works in consultation with CDF determines to be sufficient for the construction of a driveway built to CDF standards. The required road improvements shall be completed in accordance with the Road Improvement and Circulation Policy and the County Improvement Standards and shall be approved by the County Engineer prior to the recordation of the parcel map. The County Engineer may require engineered improvement plans prepared by a Registered Civil Engineer for any improvements required as a condition of approval for this project. If engineered improvement plans are required, the plans shall be approved by the County Engineer prior to commencement of construction work on the required road improvements (Section 16.12.170, County Subdivision Ordinance; Chart A and Section II.D.2.a, Road Improvement and Circulation Policy).</p>	<p>Public Works</p>	
<p>4. An encroachment permit shall be obtained from the Mariposa County Public Works Department prior to any work being done on or adjacent to Ben Hur Road. In addition, all grading and road improvement work required as a condition of approval of this project shall comply with the Mariposa County Improvement Standards and all requirements contained therein. The County Engineer may require engineered improvement plans prepared by a Registered Civil Engineer for any improvements required as a</p>	<p>Public Works</p>	

<p>condition of approval for this project. If engineered improvement plans are required, the plans shall be approved by the County Engineer prior to commencement of construction work on the required road improvements (Chapter 11, County Improvement Standards).</p>		
<p>5. Access to parcel 1 and parcel 2 shall be limited to proposed easement; No further encroachment permits to Ben Hur Road for these parcels will be granted. A declaration shall be recorded with the parcel map, referenced on the parcel map and made appurtenant to Parcel 1 and 2. The declaration shall state the following:</p> <p>“Approved access for residential development of Parcels 1 and 2 as shown on the Parcel Map for _____ recorded in Book _____ of Parcel Maps at Page _____ M.C.O.R is from the shared easement.”</p> <p>The County Engineer will confirm that this condition has been complied with prior to map recordation.</p>	<p>Public Works</p>	
<p>6. Prior to the commencement of any road improvements, road construction or other road building or maintenance activities required as a condition of approval for this project and prior to issuance of any encroachment permit for the required improvements, a consultation meeting with the Public Works Department, CDF, the applicant, the agent, and the road contractor shall occur. This meeting shall be conducted on-site. This consultation meeting shall be setup by the applicant and/or agent. Any and all costs associated with the consultation shall be the responsibility of the applicant. The County engineer shall verify that this condition has been met prior to issuance of any road improvement or encroachment permit required for this project and prior to the scheduling of any on-site inspection of road improvements.</p>	<p>Public Works</p>	

<p>7. Immediately upon completion of the required road and encroachment improvements, the applicant shall re-vegetate all exposed soils and install other erosion control as recommended by the Natural Resource Conservation Service/Resource Conservation District (NRCS/RCD) or Public Works. The applicant shall also contact the NRCS/RCD or Public Works for an inspection. Inspection fees shall be the responsibility of the applicants. A letter shall be submitted to the County Surveyor by NRCS/RCD or Public Works stating that the re-vegetation and erosion control provisions have been completed.</p>	<p>Public Works</p>	
<p>8. A Verification of Taxes Paid Form, acquired no sooner than 30-days prior to the recordation of the parcel map, shall be submitted to the County Surveyor.</p>	<p>Public Works</p>	
<p>9. A road maintenance association shall be formed to provide for the maintenance of the road in easement number 1. Maintenance shall include, but not be limited to, drainage and erosion control devices, fuel modification, and upkeep of road surfaces. The Road Maintenance Association provisions shall be developed by the applicant so those parcels served by the easement roads shall be responsible for road maintenance. These provisions shall be reviewed and approved by the County Engineer prior to recordation of the parcel map and shall:</p> <p>a. Be in effect for a period of not less than thirty (30) years unless said maintenance is taken over by the County, a special district, or other governmental entity.</p> <p>b. Provide for annual maintenance and the immediate correction of emergency and hazard situations.</p> <p>c. Include 100% of the parcels in the subdivision served by the access road.</p> <p>d. Provide a mechanism for the road maintenance association to collect delinquent payments or assessments for the maintenance</p>	<p>Public Works</p>	

<p>described above by filing a lien on the delinquent properties with the power of sale.</p> <p>e. Provide a mechanism for new parcels to be added to the association.</p>		
<p>10. A declaration or covenant of non-protest for road maintenance of the onsite easement road shall be recorded concurrently with the parcel map and shall be referenced on the parcel map. The declaration or covenant shall be made appurtenant to each parcel and shall state that the owner or future owners of the parcels waive their right to protest the formation of a zone of benefit or assessment district within Countywide County Service Area No. 1 for road improvements, road upgrades, and/or maintenance of the easement road. The declaration or covenant shall be approved by the Public Works Director prior to recordation.</p>	Public Works	
<p>11. All required signs shall be installed on metal, break-away type posts prior to map recordation. The design and placement of signs shall be approved by the County Engineer prior to installation.</p>	Public Works	
<p>12. A road name sign for the on-site easement road shall be placed at the intersection of the easement road and Ben Hur Road prior to map recordation. The design and specifications of the sign shall be in accordance with the Mariposa County Improvement Standards and shall be approved by the County engineer prior to installation.</p> <p>(Section 16.12.175, County Subdivision Ordinance).</p>		
<p>13. A stop sign shall be placed at the intersection of the on site easement and Ben Hur Road. The design and placement of signs shall be approved by the County engineer prior to installation.</p>	Public Works	

<p>14. A sign stating "THIS ROAD IS NOT COUNTY MAINTAINED" shall be installed at the intersection of the easement road and Ben Hur Road prior to map recordation. The design and specifications of the sign shall be in accordance with the County Improvement Standards and shall be approved by the County engineer prior to installation.</p> <p>(Section III.A.4, Road Improvement and Circulation Policy).</p>	<p>Public Works</p>	
<p>Condition of Approval / Mariposa Planning</p>		
<p>15. Project approval is valid for a period of three years from February 3, 2006. This approval shall expire on February 3, 2009.</p> <p>§16.12.430, Mariposa County Subdivision Code</p>	<p>Mariposa Planning</p>	
<p>16. The onsite easement road shall be named in accordance with the criteria of County Resolution No. 92-541. A Road Name Request application shall be submitted to the Planning Department and be approved by the Planning Director. The name of the road shall be shown on the parcel map</p> <p>(County Resolution No. 92-541).</p>	<p>Mariposa Planning</p>	
<p>17. 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 County Clerk fee of \$25 for the Notice of Exemption shall be paid by the applicant within five (5) working days of the approval of the application, because if the fee is not paid within 5 working days, the environmental determination is not operative, vested, or final (Section 21089(b)</p>	<p>Mariposa Planning</p>	

<p>Public Resources Code).</p> <p>The County Clerk requires that one check be submitted to cover this fee, for a total of \$25.00, 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 who will file this fee and the Notice of Exemption with the County Clerk.</p> <p>§16.12.390, Mariposa County Subdivision Code; 711.4(c) of the State Fish and Game code</p>		
<p>18. 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, 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>Mariposa Planning</p>	

§16.36.030, Mariposa County Subdivision Code		
Condition of Approval / California Department of Forest and Fire Protection		
<p>19. Prior to Parcel Map recordation, the applicant shall have complied with all applicable SRA Fire Safe Regulations. A document shall be recorded and referenced on the Parcel Map that states:</p> <p>“Future residential development on Parcels 1 and 2 as shown on the Parcel Map for _____, recorded in Book _____ of Parcel Maps at Page _____ M.C.O.R. shall be required to conform with all applicable SRA Fire Safe Regulations (Public Resource Code 4290 and 4291). Furthermore, the development of the parcels is subject to all applicable SRA Fire Safe Regulations and the risk of fire hazards shall be reduced through compliance with Public Resource Code 4291.”</p> <p>Evidence that this condition has been satisfied shall be in the form of a letter from the California Department of Forestry (CDF) to the County Surveyor.</p>	California Department of Forest and Fire Protection	

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Condition of Approval / Mariposa County Health Department

<p>20. Soil profile holes shall be excavated on Parcel 2 to the standards of the County Health Department and in the presence of the County Sanitarian, his authorized representative, or an authorized consultant to verify the feasibility of installing an on-site septic system on the parcels. If the County Sanitarian approves the parcel for septic disposal based on the soil profile holes, a letter from the County Sanitarian stating no additional tests are required and this condition has been fulfilled for that parcel shall be submitted to the County Surveyor.</p> <p>If the results of the soil profile holes do not demonstrate to the approval of the County Sanitarian that a conventional septic system can be installed on the parcel, percolation tests and additional soils analysis tests shall be performed on the parcel in accordance with Health Department rules and regulations. The results of these tests shall be submitted to the Mariposa County Health Department and be approved by the County Sanitarian prior to recordation of the parcel map. A letter from the County Sanitarian shall be submitted to the County Surveyor stating that approved percolation tests and soils analysis tests have been performed on the parcel(s). A statement shall be recorded in Official Records concurrently with the parcel map and referenced on the parcel map as follows:</p> <p>"Approved percolation tests and soils analysis tests have been performed on Parcels ___ as shown on the Parcel Map for _____, recorded in Book ___ of Parcel Maps at Page ___, Mariposa County Records, to verify the feasibility of installing an on-site septic disposal system. A map identifying the location of the approved percolation tests is on file in the County Health Department. If an on-site septic system is proposed for a portion of a parcel that has not had approved percolation tests, additional percolation tests and design recommendations may be required.</p>	<p>Mariposa County Health Department</p>	
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(Section 16.12.330, County Subdivision Ordinance; Health Department Recommendation)		
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Agency Contact List				
AGENCY	CONTACT	PHONE NUMBER	SITE ADDRESS	MAILING ADDRESS
		EMAIL		
Mariposa Planning	Wes	209-742-1218	5100 Bullion Street	P.O. Box 2039
	McCullough	wmcullough@mariposacounty.org	Mariposa CA 95338	Mariposa CA 95338
Public Works	Jerry Freeman	209-966-5356	4639 Ben Hur Road	Same as site
			Mariposa CA 95338	
Health Department	Dave Conway	209-966-2220	5100 Bullion Street	P.O. Box 5
			Mariposa CA 95338	Mariposa CA 95338
Mariposa County Resource Conservation District	Jerry Progner	209-966-3431	5009 Fairgrounds Rd	P.O. Box 746
			Mariposa CA 95338	Mariposa CA 95338
County Assessor	Eddie Ellis	966-2332	4982 10th Street	P.O. Box 35
			Mariposa CA 95338	Mariposa CA 95338
County Fire	Blaine Shultz	209-966-4330	5082 Bullion Street	P.O. Box 162
			Mariposa CA 95338	Mariposa CA 95338
Cal. Dept of Forestry	Dennis Townsend	209-966-3622	5366 Highway 49 North	Same as site
			Mariposa CA 95338	

Certificate of Completion:

By signing below, the environmental coordinator confirms that the required conditions of approval and mitigation measures have been implemented as evidenced by the "Schedule of Tasks and Sign-Off Checklist", and that all direct and indirect costs have been paid. This act constitutes the issuance of a *Certificate of Completion*.

 Environmental Coordinator

 Date

Explanation of Headings:

Monitoring Dept: Department or Agency responsible for monitoring a particular mitigation measure.

Verified Implemented: When a mitigation measure has been implemented, this column will be initialed and dated.