

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

STATE OF CALIFORNIA
COUNTY OF MARIPOSA
PLANNING COMMISSION

Resolution
No. 2005-22

**A resolution conditionally approving Land Division Application
No. 2005-25, Robert and Sheila Bruner, applicants. Assessor
Parcel Number 008-340-031.**

WHEREAS an application for a land division was received on February 10, 2005 from Robert and Sheila Bruner for a property located at 5782 East Whitlock Road, also known as Assessor Parcel Number 008-340-031 and

WHEREAS the land division application was to subdivide a 20.12- acre parcel into one parcel of 5.05 acres and a remainder of 15.07 acres. The remainder is developed with a single family residence, appurtenant structures, well, and septic. Future development on Parcel A will be served onsite well and septic systems. The subject property is zoned Mountain Home, with a minimum parcel size of five acres, and has a General Plan designation of Mountain Home; and

WHEREAS the County Zoning Codes and Subdivision Ordinance provides for the subdividing of land into five acre parcels in the Mountain Home Zone, and

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

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

WHEREAS during the Initial Study environmental review there was identified a potential impact related to possible adverse affects to riparian vegetation along an onsite drainage, a mitigation measure was imposed to reduce this potential impact to a less than significant level, and

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

WHEREAS a duly noticed public hearing was scheduled for July 22, 2005; 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 Initial Study and 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 adopt a Mitigated Negative Declaration; and

BE IT THEREFORE FURTHER RESOLVED THAT the Planning Commission of the County of Mariposa does hereby approve LDA 2005-25; 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.

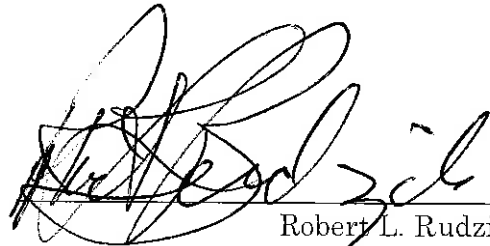
ON MOTION BY Commissioner Ludington seconded by Commissioner Skyrud, this resolution is duly passed and adopted this 22nd of July, 2005 by the following vote:

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

NOES:

EXCUSED:

ABSTAIN:



Robert L. Rudzik, Chair
Mariposa County Planning Commission

Attest:

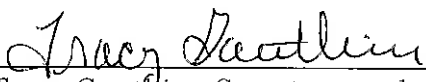

Tracy Gauthier, Secretary to the
Mariposa County Planning Commission

EXHIBIT 1
PROJECT FINDINGS
FOR
LAND DIVISION APPLICATION #2005-25

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

EVIDENCE: Based on site inspection, existing issued development permits, and the proposed division of the existing parcel into one parcel and a remainder 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: The Initial Study prepared for the project found that based on the approved project description with mitigation measures would have a less than significant effect on the environment. According to the Department of Fish and Game's Natural Diversity Data Base and Areas of Special Biological Importance Map for Mariposa County, there are no special, rare, or endangered animal or plant species or wildlife resources located on the project site and the surrounding area that would be affected by approval of this project. The land is currently and will continue to be used primarily for residential purposes. The project may have an adverse impact on wildlife resources and potential habitat areas, and is therefore

subject to the California Department of Fish and Game filing fees of (\$1,250) for a negative declaration as required by AB 3158 and a County Clerk fee of (\$25).

3. **FINDING:** A 25 foot drainage easement for Sherlock Creek, as measured from the centerline is appropriate for this project.

EVIDENCE: While the standard drainage easement for a blue line stream is 50 feet from centerline, a 25 foot from centerline drainage easement is appropriate in this unique case due to the unusual configuration of Parcel A. Parcel A has limited design options for development because East Whitlock Road bisects Parcel A. The applicant has proven their ability to build on Parcel A in accordance with all applicable Building, Zoning, and Health codes if a 25 foot easement is applied. In addition, a very small portion of Sherlock Creek runs through Parcel A.

4. **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 wells and sewage disposal systems. The proper location and implementation of these improvements will ensure that serious health problems will not occur on the site.

5. **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.

6. **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 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.

7. **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 AND MITIGATION MEASURES
FOR
LAND DIVISION APPLICATION #2005-25.

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.

CONDITIONS OF APPROVAL FOR Land Division Application #2005-25	Monitoring Dept.	Verified Implemented
CONDITIONS OF APPROVAL / PUBLIC WORKS DEPARTMENT		
<p>1. A dedication of a minimum of 30 feet from the centerline of Whitlock Road within the project site 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.</p> <p>Staff recommends that the Planning Commission recommend that the Public Works Director accept the offer of dedication for public access, maintenance and utilities for Whitlock Road.</p> <p>§16.12.150, Mariposa County Subdivision Code; Section II.A.3, Road Improvement and Circulation Policy.</p>	Public Works	

<p>2. 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>§16.12.395, Mariposa County Subdivision Code</p>	<p>Public Works</p>	
<p>CONDITION OF APPROVAL / MARIPOSA PLANNING</p>		
<p>3. A drainage easement shall be established and shown on the Parcel map for Sherlock Creek. The width of the easement shall be 25 feet from the centerline on each side of the creek, to protect native plants and amphibians and allow deer movement. 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;">“No structure shall be constructed within the open space easement as shown on the Parcel Map for _____ recorded in Book _____ at Page _____, Mariposa County Records. No portions of a sewage disposal system shall be constructed within the open space easement. No grading shall be allowed within the easement, except that which is necessary for access to building sites. A well or wells, water pipes, underground and above ground power lines, fencing, and other similar structures or improvements may also be constructed within the open space easement subject to approval by the Planning Director. This easement shall be in perpetuity and shall restrict the use of the land within the easement.”</p> <p>Mitigation Measure</p>	<p>Mariposa Planning</p>	
<p>4. Project approval is valid for a period of three years from July 22, 2005. This approval shall expire on July 22, 2008.</p> <p>§16.12.430, Mariposa County Subdivision Code</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 (\$1,250) and County Clerk fee (\$25) should be paid 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) Public Resources Code.).</p> <p>The County Clerk requires that one check be submitted to cover both of these fees, for a total of \$1,275.00, 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 other required documents 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>Mariposa Planning</p>	
<p>6. 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 _____ recorded in Book ____ at Page ____, Mariposa County Records, in accordance with Section 16.04.030 of Mariposa County Code."</p> <p>§16.04.030, Mariposa County Subdivision Code</p>	<p>Mariposa Planning</p>	
<p>7. 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</p>	<p>Mariposa Planning</p>	

<p>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>§16.36.030, Mariposa County Subdivision Code</p>		
<p>CONDITION OF APPROVAL / CALIFORNIA DEPARTMENT OF FOREST AND FIRE PROTECTION</p>		
<p>8. A declaration shall be recorded with the parcel map and shall be referenced on the parcel map:</p> <p>" All new residential development on parcels as shown on the Parcel Map for _____ recorded in Book ____ at Page _____, Mariposa County Records, will maintain fire protection or firebreaks within 100 feet from buildings or structures or to the property line unless an alternative mitigation measure is approved by CDF at the time of issuance of a residential building permit"</p> <p>Public Resource Code 4291</p>	<p>CALIFORNIA DEPARTMEN T OF FOREST AND FIRE PROTECTION</p>	

REMAINDER CONDITIONS		
<p>9. Upon completion of all conditions applied to the Remainder, a Certificate of Compliance shall be recorded on the Remainder, in accordance with Section 16.04.030, County Subdivision Ordinance. Fees associated with the recordation of the certificate of compliance shall be paid by the applicant. If the Remainder is not shown on the parcel map, a legal description prepared by a land surveyor or other qualified individual will be required.</p> <p>§16.04.030, Mariposa County Subdivision Code</p>	<p>Mariposa Planning</p>	
<p>10. If the remainder is not shown on the recorded parcel map, then the applicant or agent shall provide the County Surveyor with a legal description (typed, stamped and signed legal descriptions along with lot closure computations) of the remainder.</p> <p>Planning Department Recommendation</p>	<p>Public Works</p>	
<p>11. If the 30 -foot wide area adjacent to the centerline of Whitlock Road within the remainder is not offered for dedication at the time the parcel map is recorded, then these areas shall be offered for dedication prior to or concurrent with issuance of the certificate of compliance for the remainder, and a legal description(s) (typed, stamped and signed legal descriptions along with lot closure computations) of this 30-foot wide area shall be provided to the County Surveyor. The format of the offer of dedication document shall be as required and approved by the County Surveyor.</p> <p>§16.12.150, Mariposa County Subdivision Code</p>	<p>Public Works</p>	

RECOMMENDATION ON OFFERS OF DEDICATION		
Staff recommends that the Planning Commission recommend that the Public Works Director accept the offer of dedication for public access, maintenance and utilities for Whitlock Road.	Public Works	